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CONGRESSIONAL RECORD:

CONTAINING

THE PROCEEDINGS AND DEBATES

OF THE



FORTY-FIFTH CONGRESS, SECOND SESSION.

VOLUME VII.

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CONGRESSIONAL RECORD.

FORTY-FIFTH CONGRESS, SECOND SESSION.

of cases, and therefore I ask by unanimous consent the bill be referred to the Committee of Claims instead of to the Committee on the Post-Office and Post-Roads.

There was no objection, and it was ordered accordingly.

THOMAS MONTGOMERY.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, relative to the claim of Thomas Montgomery to certain lands in Fort Thomas military reservation, Arizona; which was referred to the Committee on Military Affairs.

ANALOSTAN ISLAND CAUSEWAY.

The SPEAKER also, by unanimous consent, laid before the House a letter from the commissioner of the District of Columbia, relative to the causeway connecting Analostan Island with the Virginia shore of the Potomac; which was referred to the Committee for the District of Columbia.

BALAAM A. BRIDGES, OF GEORGIA.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, relative to the claim of Balaam A. Bridges, of Georgia; which was referred to the Committee of Claims.

PRINTING FOR WAR DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, relative to printing necessary to be done for his Department during the current fiscal year, and transmitting estimate of appropriation for the same; which was referred to the Committee on Appropriations.

CHIPPEWAS OF LAKE SUPERIOR AND MISSISSIPPI.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, in response to House resolution of the 11th instant, requesting that the Committee on Indian Affairs be furnished an itemized statement of account with the Chippewas of Lake Superior and Mississippi; which was referred to the Committee on Indian Affairs.

INDIAN AND SUBSISTENCE DEPARTMENTS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a statement showing the difference in the prices paid for flour and beef by the Indian and Subsistence Department; which was referred to the Committee on Indian Affairs.

FORT PECK AGENCY, MONTANA TERRITORY.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, relative to reappropriation of unexpended balance for the benefit of Indians at the Fort Peck agency, Montana Territory; which was referred to the Committee on Appropriations.

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. SYMPSON, one of its clerks, announced the passage of the following House bills, with amendments in which concurrence was requested:

An act (H. R. No. 2371) to amend an act entitled "An act for the support of the government for the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes;" and

An act (H. R. No. 3846) to provide for a deficiency in the miscellaneous fund of the House of Representatives.

HOWARD UNIVERSITY.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, inclosing copy of a communication from Rev. William W. Patton, of the Howard University, relative to the claim for arrears of rent due the trustees of that institution for buildings used as the Freedman's Hospital; which was referred to the Committee on Appropriations.

IMPROVEMENT OF MOBILE BAY.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting report of a board upon the improvement of the harbor and bay of Mobile; which was referred to the Committee on Commerce.

SAMUEL McCULLOUGH.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting testimony taken in the investigation of Samuel McCullough; which was referred to the Committee on Expenditures in the Treasury Department.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:
To Mr. DWIGHT, for two weeks, on account of important business.
To Mr. BRAGG, indefinitely, on account of a death in his family.
To Mr. ERRETT, for two weeks, on account of important business.

JOHN A. OVERMAN.

Mr. YEATES, by unanimous consent, introduced a bill (H. R. No. 4094) for the relief of John A. Overman; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

QUINTON MITCHELL.

Mr. YEATES also, by unanimous consent, introduced a bill (H. R. No. 4095) for the relief of Quinton Mitchell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EDWARD WOOD.

Mr. YEATES also, by unanimous consent, introduced a bill (H. R. No. 4096) for the relief of Edward Wood; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ECONOMIC SURVEY OF PUBLIC LANDS.

Mr. GAUSE, by unanimous consent, introduced a bill (H. R. No. 4097) to provide for the more economic and accurate survey of the public lands; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

WILLIAM WOOD.

Mr. BANKS, by unanimous consent, introduced a bill (H. R. No. 4098) for the relief of William Wood; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

And then, on motion of Mr. EDEN, (at three o'clock and forty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. BAKER, of New York: The petition of the Board of Trade of Oswego, New York, against transferring the life-saving service to the Navy Department—to the Committee on Commerce.

Also, the petition of boiler-makers, machinists, and others, against any increase of the duty on wrought-iron lap-welded boiler flues and tubes—to the Committee of Ways and Means.

By Mr. BREWER: The petition of Frederick Carlisle, for relief—to the Committee on the Judiciary.

By Mr. BRIGGS: The petition of Moody Currier and 27 other citizens of Manchester, New Hampshire, against the revival of the income tax—to the Committee of Ways and Means.

By Mr. BUTLER: The petition of A. T. Peck and 5 others, of Danbury, Connecticut, for the establishment of a national bank, with branches throughout the Union—to the Committee on Banking and Currency.

Also, the petition of Charles Metzmarker and 48 others, inhabitants of the United States, for a loan of \$750 each—to the same committee.

Also, the petition of L. W. Faulkner & Son and others, against relieving the income tax—to the Committee of Ways and Means.

Also, the petition of William W. Hawkins, for a pension—to the Committee on Invalid Pensions.

Also, the petition of John Mitchell, to be allowed to preach in the city of Baltimore, Maryland—to the Committee on Education and Labor.

By Mr. COX, of New York: The petition of Simson Reinhard, for a pension—to the Committee on Invalid Pensions.

By Mr. CRAVENS: The petition of citizens of Hot Springs, Arkansas, for relief—to the Committee on Public Lands.

By Mr. CULBERSON: The petition of George A. Dailey, postmaster at Honey Grove, Texas, and others, that he be credited in the settlement of his accounts with the Government with a certain amount of money stolen from him—to the Committee on the Post-Office and Post-Roads.

By Mr. FIELD: The petition of William Rawson and 54 others, against reviving the income tax—to the Committee of Ways and Means.

By Mr. FINLEY: Resolutions of the Ohio State Grange, opposing any reduction of the tariff on wool—to the same committee.

Also, resolutions of the Cleveland (Ohio) Board of Trade, opposing the transfer of the life-saving service and revenue marine service to the Navy Department—to the same committee.

By Mr. FORNEY: The petition of J. S. Maddox and others, of Easonville, Alabama, for the creation of a fund from the proceeds of the sales of public lands and other sources for distribution among the several States in aid of popular education—to the Committee on Education and Labor.

By Mr. GOODE: The petition of the heirs of Langley B. Culley, late a naval constructor, for compensation for services rendered by said Culley—to the Committee on Naval Affairs.

Also, the petition of John C. Thomas, for compensation for seven barrels of brandy improperly seized and sold by United States officials—to the Committee of Ways and Means.

By Mr. HARRIS, of Georgia: Resolutions of the city council of Augusta, Georgia, favoring the passage of the Texas Pacific Railroad bill—to the Committee on the Pacific Railroad.

By Mr. HARRIS, of Massachusetts: The petition of Commodore Parker and 35 other naval officers, for the passage of the bill (H. R. No. 3344) authorizing the appointment of apothecaries as warrant officers in the United States Navy—to the Committee on Naval Affairs.

By Mr. HART: The petition of citizens of Penfield, New York, for the establishment of postal savings-banks—to the Committee on Banking and Currency.

Also, papers relating to the claim of John Thompson—to the Committee on Claims.

By Mr. HENDEE: The petition of J. S. Brown and Daniel Breed, relative to the bill providing for a form of government for the District of Columbia—to the Committee for the District of Columbia.

By Mr. HEWITT, of New York: The petition of J. O. Whitehouse, Magovern & Co., Alexander Studwell & Co., Lee & Co., and others, against the repeal of the bankrupt law as to involuntary bankruptcy—to the Committee on the Judiciary.

By Mr. HOUSE: The petition of J. W. Yeatman, professor of physics and chemistry in the University of Nashville, Tennessee, and others, that microscopical slides and lenses be allowed to be transmitted through the mails—to the Committee on the Post-Office and Post-Roads.

By Mr. HUNTON: The petition of the administrator of Lawrence Foster, for compensation for property taken by the United States Army—to the Committee on War Claims.

Also, (by request,) the petitions of R. E. Adams, Armstead M. Bufington, Henry E. Butts, Elzey Chamlin, William Clendening, John W. Demory, Sophia E. Demory, Thomas W. Dorrell, Philip Fry, Albert Green, John Grubb, jr., William Grubb, Edward Harding, Samuel Hough, Mary A. Jones, Benjamin Leslie, A. M. Miller, Emma K. Moore, agent, &c., E. Potts, E. H. Potts, F. M. Potts, Henry Reed, James W. Ridgway, Joseph L. Russell, Richard Tavenner, John H. Thompson, Tabitha Waters, and John F. W. Waters, all of Virginia, for compensation for stock driven off by order of General Sheridan—to the same committee.

By Mr. JOYCE: The petition of citizens of Vermont, against reviving the income tax—to the Committee of Ways and Means.

By Mr. LANDERS: The petition of G. H. Hoyt and 47 others, of Stamford, Connecticut, of similar import—to the same committee.

By Mr. LORING: The petition of L. B. Harrington and others, of Salem, Massachusetts, of similar import—to the same committee.

By Mr. MACKEY: The petition of Bernard Brady, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. MCMAHON: The petition of John R. Reynolds, for compensation for property purchased and taken by the United States Army—to the Committee on War Claims.

By Mr. MORSE: The petition of citizens of Boston, Massachusetts, against any tax upon incomes—to the Committee of Ways and Means.

By Mr. PHELPS: The petition of Edwin D. Judd, relating to a pending resolution regarding the pay of officers in the Army—to the Committee on Military Affairs.

Also, the petition of William S. Benjamin, of Salem, Connecticut, for a duplicate certificate of discharge from the First New York Marine Artillery—to the same committee.

By Mr. POTTER: The petition of Georgine Thomas, widow of General Charles Thomas, for a pension—to the Committee on Invalid Pensions.

By Mr. REILLY: The petition of James B. F. Randall, for an increase of pension—to the same committee.

By Mr. ROSS: Resolutions of the Legislature of New Jersey, opposing the transfer of the life-saving service to the Navy Department—to the Committee on Commerce.

By Mr. SCHLEICHER: The petition of S. P. Gambia, to be reimbursed for expenditures while postmaster at San Antonio, Texas—to the Committee on the Post-Office and Post-Roads.

By Mr. SHELLEY: The petition of citizens of Lowndes County, Alabama, for the creation of a fund from the proceeds of the sales of public lands and other sources for distribution among the several States in aid of popular education—to the Committee on Education and Labor.

By Mr. SINICKSON: The petition of Edward S. Bettle and other citizens of Camden, New Jersey, against reviving the income tax—to the Committee of Ways and Means.

Also, the petition of the publisher of the Cape May (New Jersey) Wave, for the abolition of the duty on type—to the same committee.

By Mr. STEELE: The petition of the publisher of the Piedmont Press, Hickory, North Carolina, of similar import—to the same committee.

By Mr. TOWNSEND, of New York: The petition of Peter A. Allendorf, for compensation for the loss of potatoes through acts of officers of the United States Army, in 1864—to the Committee on War Claims.

By Mr. TOWNSHEND, of Illinois: A paper relating to the pension claim of George W. Long—to the Committee on Invalid Pensions.

By Mr. TURNEY: The petition of citizens of Greene County, Pennsylvania, for the immediate repeal of the resumption act; the remonetization and free coinage of the standard silver dollar of 412½ grains; the gradual but speedy withdrawal of all national-bank currency and the substitution of Government notes or greenbacks instead thereof to be made receivable for all debts, public and private; and that the bonds now held by the Government as security for national-bank notes shall be paid for in Government notes and destroyed—to the Committee on Banking and Currency.

Also, a petition of citizens of Greene County, Pennsylvania, against any reduction of the tariff on wool—to the Committee of Ways and Means.

By Mr. VANCE: Papers relating to the claims of Levi Jones and the heirs of John C. Garland—to the Committee on Military Affairs.

By Mr. WHITTHORNE: Papers relating to the claim of A. J. Reed—to the Committee on War Claims.

Also, the petition of H. S. Wetmore, for a pension—to the Committee on Invalid Pensions.

Also, the petitions of A. Osborne and 86 others, citizens of Iowa; of Manooch Metz and 78 others, citizens of Maryland; of W. J. Andrews and 35 other citizens of Tennessee; and of Will. M. Kellogg and 81 other citizens of Illinois, for the amendment of the postal laws so as to allow the transmission of living bees through the mails—to the Committee on the Post-Office and Post-Roads.

By Mr. WILLIAMS, of Alabama: The petition of citizens of Seale, Russell County, Alabama, for the creation of a fund from the proceeds of the sales of the public lands and other sources for distribution among the several States in aid of popular education—to the Committee on Education and Labor.

By Mr. WILLIAMS, of Delaware: The petition of citizens of Kent County, Delaware, for an appropriation for a preliminary survey of Missippion River, in Kent County, Delaware—to the Committee on Commerce.

Also, the petition of 52 citizens of Wilmington, Delaware, against a tax on incomes—to the Committee of Ways and Means.

By Mr. WILLIS, of Kentucky: The petition of John T. Moore and other citizens of Louisville, Kentucky, of similar import—to the same committee.

Also, resolutions of a mass-meeting of citizens of Louisville, Kentucky, asking further financial legislation—to the Committee on Banking and Currency.

By Mr. YEATES: Papers relating to the war claim of Z. Rough-ton—to the Committee on War Claims.

IN SENATE.

TUESDAY, March 26, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

COST OF SIOUX WAR.

The VICE-PRESIDENT laid before the Senate a message of the President of the United States, transmitting, in answer to a resolution of the Senate of December 7, 1877, additional reports from the military division of the Missouri on the subject of the cost of the Sioux war; which was ordered to lie on the table and be printed.

INTERMENT OF HON. J. E. LEONARD.

The VICE-PRESIDENT laid before the Senate the following resolution received yesterday from the House of Representatives; which was read:

Resolved by the House of Representatives, (the Senate concurring.) That a special joint committee of six Representatives and three Senators be appointed to meet the body of Hon. JOHN EDWARDS LEONARD, late a Representative of Louisiana, upon its arrival at New York, and escort it to the place of interment at West Chester, Pennsylvania.

Resolved, That the Clerk of the House be directed to communicate this resolution to the Senate.

Ordered, That Mr. ELLIS of Louisiana, Mr. MULLER of New York, Mr. TURNER of Kentucky, Mr. STEWART of Minnesota, Mr. CALKINS of Indiana, and Mr. WARD of Pennsylvania, be the said committee on the part of the House.

Mr. EUSTIS. I move that the Senate concur in this resolution, and that the President of the Senate be authorized to appoint the committee on the part of the Senate for the purpose stated.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. KERNAN presented the petition of John R. Porter and others, members of the New York Bar Association, praying for an increase in the number of circuit judges in the second circuit, comprising the States of Vermont, Connecticut, and New York; which was referred to the Committee on the Judiciary.

Mr. KERNAN presented the petition of Ives, Beecher & Co., and others, merchants and wholesale liquor dealers in the city of New York, praying for the passage of the House bill extending the time that whisky may remain in bond; which was ordered to lie on the table.

Mr. BAYARD. I present the memorial of Edward Betts, Edward T. Bellah, and 50 others, citizens of Wilmington, Delaware, and including both political parties, remonstrating against the passage of an act imposing a tax on incomes. I move that it be referred to the Committee on Finance.

The motion was agreed to.

Mr. FERRY presented the memorial of Peter W. Hornbach and 146 others, citizens of Point Saint Ignace, Michigan, and vicinity, fishermen, remonstrating against the passage of House bill No. 3689, to establish a board of fish commissioners to regulate and protect the fisheries of the great lakes; which was ordered to lie on the table.

Mr. CAMERON, of Pennsylvania, presented the petition of Mary and Albert F. Lavalette, executors of the estate of Rear-Admiral Elie A. F. Lavalette, deceased, praying compensation for the use of and

damage to their property while occupied by United States military authorities at Memphis, Tennessee, during the late war; which was referred to the Committee on Claims.

Mr. BLAINE presented the petition of Messrs. Nasmyth & Sons, of New York City, and Abner Stetson, of Damariscotta, Maine, owners of the ship *Alleghanian*, captured and sunk in the Chesapeake Bay in 1862 by armed boats under the command of John Taylor Wood, an officer of the confederate navy, praying to be remunerated for the loss of their ship from the unappropriated moneys of the Geneva award; which was referred to the Committee on the Judiciary.

Mr. McPHERSON presented a resolution of the board of free-holders of Hudson County, New Jersey, in favor of making Jersey City, in that State, a port of entry; which was referred to the Committee on Commerce.

Mr. VOORHEES presented the petition of Edward Lowery and others, citizens of Iowa, praying for the recognition by Congress of the claims of many pensioners who are sufferers by an unwise limitation law; which was referred to the Committee on Pensions.

Mr. OGLESBY presented a petition of J. W. Hall and 210 others, citizens of Fairmount, Illinois, praying for the repeal of the resumption act; which was referred to the Committee on Finance.

Mr. McMILLAN presented resolutions of the Chamber of Commerce, of Saint Paul, Minnesota, in favor of the passage of the bill introduced in the Senate by Mr. COCKRELL for the improvement of the navigation of the Mississippi River, and suggesting an amendment to the same so that the contemplated improvement will include the entire river from Saint Paul to the Gulf; which were referred to the Committee on Commerce.

Mr. THURMAN presented resolutions of the Board of Trade of Cleveland, Ohio, remonstrating against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which were ordered to lie on the table.

He also presented a resolution adopted by the Ohio State grange, Patrons of Husbandry, protesting against any reduction of duties on wool or woolen goods; which was referred to the Committee on Finance.

Mr. SARGENT. I ask leave of the Senate to present with a little care an important petition from certain of my constituents. I will not occupy its time long, but I should like to have the Senate understand the grounds of the relief for which the petitioners pray. Like many of the memorials from California it is addressed to the delegations in both Houses, and it commences:

The undersigned, your immediate constituents, would respectfully represent that we are residents of the town of Truckee and of other places near the summit of the Sierra Nevada Mountains, or are engaged in business at such places; that we are citizens of the United States; that we were formerly residents of Maine, New Hampshire, Wisconsin, and Michigan, and other timber States of this Union; that most of us were educated to the business of logging and of cutting up timber by saw-mills.

We would further represent that when the grant was made to the Central Pacific Railroad Company many of us were induced to take contracts for the supplying of ties, bridge-timber, and other timber and wood necessary in the construction of that road; that we were informed that the act making the grant to the railroad company gave the privilege to said company and employees to take timber, wood, stone, or other material for said construction from any of the public lands of the United States.

That was a provision of that legislation.

Under contracts with this company some of us erected saw-mills and supplied the timber necessary for the construction of said road; that there was required and used in such construction, and in the erection of about forty miles of snow-sheds, an amount of timber estimated at about three hundred millions of feet; that there has been required to keep said road in repair and to rebuild the snow-sheds an amount of timber annually of about twenty millions of feet; that all this timber has been supplied from the slopes of the said Sierra Nevada Mountains. Before the road was completed, the silver mines of Nevada were so far developed as to require for timbering seventy millions of feet of square timber annually.

The construction of the road through Nevada and Utah developed other mines, which required, in addition, six millions of feet annually. Besides this, Nevada not being a timber State, all the supplies of lumber for the construction of towns in that State also came from the Sierra Nevadas. When, by the completion of the railroad, the right to cut timber on public lands for the purpose of construction ceased, the undersigned, and others interested in the lumber trade, applied to our Representatives in Congress for the passage of some act under which we might obtain title and pay the Government for these timber lands, so as to obtain sufficient quantity to continue our business and supply the necessities of this section of the country. We found that there was no way under the law to obtain title to timber lands except under the pre-emption and homestead laws, and these were understood as designed especially for settlers whose object is to cultivate the land. But the soil at this great elevation in the Sierra Nevadas is unfitted for agricultural purposes, and is covered each year for more than six months by snow. An attempt, therefore, to take such lands under the pre-emption or homestead law would be a delusion and a fraud, and a possible premium on perjury. We therefore petitioned our Representatives in Congress for the passage of some law by which title could be obtained legitimately to these lands, so that, as law-abiding and loyal citizens, we might pursue our occupations, build up our homes, establish churches and schools, and train our children in habits of industry, loyalty, and virtue.

All our efforts were in vain. No such law was passed.

I should like to say upon that matter that a bill answering the desire of these petitioners passed the House in the Forty-first Congress and again in the Forty-third Congress, and the identical bill passed the Senate in the Forty-fourth Congress; so that each House has once passed a bill for the relief of these parties and one House has passed it twice. A bill similar in its provisions, almost identical with it, I have introduced at the present session and sent to the Committee on Public Lands.

Still, being desirous of following our occupations, (the greater portion of the undersigned being unfitted for any other,) some of us purchased portions of the odd-

numbered sections of timber land granted to the railroad company, and supplied the annual demand from this resource. When the act known as the "soldiers' additional homestead act" was passed many of us, in good faith, invested in the purchase of these claims a great portion of our means, and caused the same to be located on the lands contained in even-numbered sections, which, in many cases, were lands adjoining those we had purchased from the railroad company.

After some months, when the papers relating to these additional homesteads reached the General Land Office at Washington, the parties making the locations of these claims learned to their dismay that most of them were fraudulent, and that they had been swindled out of the money invested in them. Those of us who are lumbermen have also found that there has been a grievous misapprehension as to the rights of pre-emptors and homestead settlers in the matter of cutting and removing timber from the lands on which they have settled. It is charged that in some instances these settlers have cut and removed timber from these claims and sold the same to the proprietors of the saw-mills, and that these purchasers are responsible for the alleged violation of law on the part of the settler. The settler may have acted in good faith, supposing he had the right to the timber. We do not charge the fact to be otherwise; but we do say that those of us who bought the timber understood that the settler owned the land and timber, and had the right to sell the same. We certainly acted in good faith, and without any intention of violating any law of the United States. We find, however, that under a strict construction of the law, and without a full knowledge of all the facts, the grand jury of the United States, sitting at San Francisco, has indicted some of us for cutting, and causing to be cut, and removing, and causing to be removed, timber from these lands of the United States.

The indictments in these cases appear to be founded on section 2461 of the Revised Statutes of the United States, and under section 4751 of the same statutes the severe pecuniary penalties denounced by the former action are to be distributed, one-half to the informer and the other half to the Navy pension fund. This great inducement to the informer is believed to be at the bottom of this prosecution, and, if permitted to further direct the action of the Government in these and other cases, must necessarily ruin thousands of industrious, law-abiding people, for the benefit of a system of espionage foreign to the principles of our form of government.

Now, although we had no knowledge of any violation of law, and certainly no intention to deal with parties that had committed trespass or violated the law, we are nevertheless, under these indictments, liable to imprisonment and to pay fines aggregating a half million of dollars, and, in addition to this, subject to civil suits for the value of the timber cut. These indictments have paralyzed all business in the mountains. If pressed it will stop the business of mining in Nevada, stop the construction of dwellings, mills, and other structures in the State of Nevada and Utah, and involve all classes in a general ruin. If title to timber lands on the Sierras cannot be obtained except by pre-emption, and the seeming perjury necessary to take the same as agricultural lands, this section of the Union must revert to its original state of barbarism.

If we are to be fined and imprisoned, our mills and logging teams confiscated, leaving our wives and children to starve in their cabins in the snow in the Sierras, because our Government will not provide the means by which a necessary, honest, and legitimate business may be pursued and the improvement and development of the country continued, we can only regret our fate, and hope that the next generation may be blessed with more enlightened legislation. With honest intentions, as law-abiding citizens, with wives and children looking to us for support and maintenance, cheerfully paying all taxes and assessments for the support of the Government of the United States, the State, and county, and readily contributing to the support of churches and schools for the advancement of morals and the upholding of civilization, in good faith believing we were complying with the law and acting legitimately, we have engaged in our various pursuits.

Some of us have invested our money in good faith and with a desire to acquire title to some of these timber lands, and what is the result? We have been defrauded out of most of the money so invested; we have been indicted for an alleged violation of law; ruin stares us in the face; the stigma of offenders against the laws of the United States threatens to attach to our names and to the names of our children.

We do not know where to turn for relief from this great wrong but to you. We therefore ask that you will cause a special act to be immediately passed for relief, not merely for us individually, but for this community and its important interests, providing, in substance, that the open timber lands on the Sierra Nevada Mountains be duly segregated, and that those of us who may desire be allowed to purchase the same at a reasonable price; that the parties indicted or subject to be indicted for trespass on said lands may, upon any trial for such offense, whether civil or criminal, be allowed to show that they have entered and paid for such lands, and that the receipt of the proper officer of the Government showing such payment shall be a bar to further proceedings, and such cases shall thereupon be dismissed.

We further ask that in all cases where other claims, under the present laws of the United States, have so far intervened as to vest title in others than those who have committed trespass, that the parties committing such trespass shall be allowed to settle all liabilities by the payment to the Government of a reasonable stumpage, not exceeding the acreage price of the land.

Mr. President, this is really a very hard case. It appeals to the justice and sympathies of Congress. These men have tried for years to buy this land. Under a mistaken policy, Congress supposing it could be taken up under the pre-emption and homestead laws, both Houses have neglected at the same time to pass a bill for their relief. We passed a bill authorizing an additional soldiers' homestead. They invested their money in those claims only to find they had been swindled out of it and that the claims were fraudulent. They tried to take them under the pre-emption and homestead laws and were refused in that. Their industry has supplied the timber necessary to carry on the great mines. The Bonanza mines would shut down to-morrow if it were not for this industry. The Bonanza mines, with their shafts and drifts two thousand feet deep, hold up with their solid timbering Mount Davidson as Atlas was fabled to hold up the earth. The timbers, as large and square as these desks, are put close together in the worked-out drifts, layer on layer, but so great is the pressure of the overhanging mountain that these solid layers of timber are ground to powder, and shafts are closed up unless constantly retimbered. The working of these great mines would have to be entirely abandoned if they could not obtain the timber from the Sierra Nevada Mountains. The only way they can obtain it is through this milling industry.

Furthermore, all the farming industry, all the residences throughout the mountains, and I might say those in San Francisco and throughout the State, are supplied by this industry. It is an actual necessity for the existence of the State and for the existence of the State of Nevada, at any rate as a mining community.

Now, they have exhausted every possible means in their power by

appealing to Congress for their relief. A bill answering their purposes, paying the Government the highest price it had ever charged for land, is now before the Committee on Public Lands of the Senate, and I do hope, I do plead, that the prayer of these men may be granted, and that they may be relieved upon the payment of the acreage price of the land from this prosecution which they could not avoid for pursuing an industry which they supposed they had a right to carry on. They are indicted under peculiar circumstances, relieving them certainly from the charge of being timber thieves or plunderers, because they supposed that where a man took up the land under pre-emption he had a right to clear it for the purpose of tillage, as the man also believed who took up the land under the pre-emption act. These men indicted are the ones who bought of the men who cut the timber under the pre-emption, and by a decision of the Department they had no right to cut the timber, so that thus without any intention on their part they find themselves by a construction of law, probably correct, entrapped and indicted. A large number of citizens of the State have united with them in these prayers. The petition presented in the other House was signed by the governor of the State and a large number of the State officers, the registers and receivers of the land office, &c., agreeing with this petition, and by many of our best and most careful citizens of the State. The petition which I hold in my hand contains this private indorsement in writing from a large number of citizens, some of whom are personally known to me as men of high character, as follows:

The undersigned, citizens of California, doing business in said State, and deeply interested in matters relating to its prosperity and the welfare of its people, and being intimately acquainted with the persons who have already been indicted, and whom we know to be loyal and good citizens, respectfully urge that such measures should be immediately adopted in accordance with the prayer of this petition as will secure the Government and at the same time protect the accused and our citizens from present and further prosecutions and litigations, criminal or civil.

I would even venture longer upon the patience of the Senate, which has been so kind in this instance to give me so much time, provided I could add anything to the eloquence of the petitioners and the facts which they present. I move that this petition be referred to the Committee on Public Lands, and I really hope that the committee will give us an early report.

The motion was agreed to.

Mr. SARGENT. I present the petition of a large number of citizens of Pennsylvania, praying Congress to take steps to amend the Federal Constitution by adding the following article:

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

I move the reference of this petition to the Committee on Privileges and Elections.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of War, recommending the repeal of section 1233 of the Revised Statutes; which was referred to the Committee on Military Affairs, and ordered to be printed.

REPORTS OF COMMITTEES.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (S. No. 281) for the relief of Captain Gaines Lawson, of the United States Army, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. PLUMB, from the Committee on Military Affairs, to whom was referred the bill (S. No. 644) for the relief of Dwight W. Hakes, reported it without amendment, and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 713) for the relief of Martin Clark, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

He also, from the Committee on Public Lands, to whom was referred the bill (S. No. 859) for the relief of Charles L. Davenport, reported it without amendment, and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 801) to amend section 2403 of the Revised Statutes of the United States, in relation to deposits for surveys, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (S. No. 741) for the relief of Christopher H. McNally, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 260) for the relief of H. A. Myers, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 334) for the relief of William Bowlin, late of Company L, Second Arkansas Cavalry, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, to whom was referred

the bill (S. No. 454) granting a pension to Stephen C. Herndon, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. HAMLIN. The Committee on Foreign Relations, to whom were referred a memorial of merchants and others in the Chamber of Commerce in the city of New York; a memorial of the Boylston Insurance Company and others, merchants of Boston; and a memorial of Philip & Thomas Collins, merchants of Pennsylvania and others, and memorials of various other parties; and also a communication from the Secretary of State, recommending the re-establishment of our diplomatic relations with the State of Colombia, have directed me to report the same, and ask to be discharged from their consideration. The committee, however, are favorable to the restoration of diplomatic relations with that government, and had prepared an amendment to be offered to the diplomatic bill, but the Committee on Appropriations wisely, as the Committee on Foreign Relations believe, have anticipated our action and have prepared such an amendment to the bill. On behalf of the Committee on Foreign Relations, therefore, I move that they be discharged from the further consideration of these memorials.

The motion was agreed to.

Mr. WALLACE, from the Committee on Foreign Relations, to whom was referred the bill (H. R. No. 923) supplementary to the act entitled "An act to carry into effect the convention between the United States and China, concluded on the 8th day of November, 1858, at Shanghai," approved March 3, 1859, and to give the Court of Claims jurisdiction in certain cases, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

He also, from the Committee on Finance, to whom was referred the bill (S. No. 55) for the relief of John W. Douglass, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, to whom was referred the bill (S. No. 604) for the relief of John Bowles, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 161) for the relief of Charles W. Biese, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. CHRISTIANCY. I am instructed by the majority of the Committee on the Judiciary to report back the bill (S. No. 35) to repeal the bankrupt law, and I wish to say in behalf of some members of the committee who have united in the report that an honest effort has been made for some time past to see if some amendments could not be adopted which would render the act satisfactory to the public; but in that effort it has been found that the opinions are so opposed to each other that it has been impracticable to agree upon any system of amendments; and yet some members who unite in the report do not wish to have the report made with any recommendation. For one member of the committee, I will say that I have all along been in favor of the entire repeal, saving all rights in actions pending; but as other members of the committee do not now wish to commit themselves by a recommendation, I move that the bill be placed on the Calendar.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

BILLS INTRODUCED.

Mr. OGLESBY. By the request of a citizen of the District of Columbia, I ask leave to introduce a bill.

By unanimous consent, leave was granted to introduce a bill (S. No. 991) to legalize a suit now pending in the supreme court of the District of Columbia between the eastern and western Cherokee Indians, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 992) for the relief of Columbus F. Perry and Elizabeth H. Gilmer, of Chambers County, Alabama; which was read twice by its title, and referred to the Committee on Finance.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 993) for the relief of Murphy Jones, Lizzie Massie, and Fanny Thames; which was read twice by its title, and referred to the Committee on Claims.

Mr. JOHNSTON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 994) for the relief of Albert Ordway; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. BAILEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 995) for the relief of T. A. Kendig; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 996) granting a pension to Edmund Woog; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

ACCOUNTS OF INTERNAL-REVENUE COLLECTORS.

Mr. DAVIS, of West Virginia, submitted the following resolution; which was ordered to lie on the table and be printed:

Whereas on the 18th day of February, 1871, the Secretary of the Treasury, in obedience to a resolution of the House of Representatives, adopted December 13,

1870, made a statement (Executive Document 140, third session, Forty-first Congress) showing balances due from collectors of internal revenue who were out of office on the 30th day of June, 1870, from which it appears there was due on that day from collectors not in office the sum of \$20,700,983.33: Therefore,

Be it resolved, That the Secretary of the Treasury be, and he is hereby, directed to report to the Senate what amount or portion of this sum has been since collected and paid into the Treasury; what amount, if any, has been settled by compromise, and the facts touching such compromise made, by whom recommended, and the amount realized; what amount or portion of said sum of \$20,700,983.33 remains unpaid, and if any balance is still due, what steps have been taken to enforce payment of the same. Also to report the amounts due by internal-revenue collectors on the 1st day of July, 1875, and how much, if any, of such amounts remain unpaid.

THE M'GARRAHAN CLAIM.

On motion of Mr. OGLESBY, it was

Ordered, That there be printed for the use of the Senate the testimony taken before the Committee on Public Lands, having under consideration the memorial of William McGarrahan for relief.

SENATOR FROM SOUTH CAROLINA.

Mr. CAMERON, of Wisconsin. Some time ago I presented the petition of Mr. D. T. Corbin, of South Carolina, touching the matter of his claim to a seat in this body. The petition at my request was laid on the table. I now move that the petition be taken from the table and referred to the Committee on Privileges and Elections.

The motion was agreed to.

THE FISHERIES COMMISSION.

Mr. BLAINE. I move, Mr. President, that the correspondence between the American and British Governments in regard to the appointment of Mr. Delfosse on the Halifax commission be taken from the table and referred to the Committee on Foreign Affairs. I beg at the same time to call the attention of the Senate to the fact that the correspondence more than justifies all I said in regard to the very extraordinary efforts of Lord Granville to force Mr. Delfosse upon our Government. I would particularly direct attention to the letter of Sir Edward Thornton, of August 19, 1873, and to Mr. Fish's reply on the 21st of the same month.

When the resolution calling for this correspondence was before the Senate, I agreed with my honorable colleague, the chairman of the Committee on Foreign Affairs, that the award would be paid, not because it was just or was founded upon any fact or evidence submitted to the Halifax commission, but simply because it was an award which for honor's sake we might pay though we got nothing for the large sum required. And if the payment of five and a half millions were the end of the matter I should be willing to vote it in silence and bury the whole matter out of sight. But the truth is that this award is only the beginning of trouble. The period for which it pays will be ended in five years and then our privilege for inshore fishing must be negotiated afresh. It was well known at Halifax during the session of the commission that the Canadian authorities were striving not simply for the large sum in hand but for the fixing of a rate by which to assess the price of the inshore fisheries in future. It is our duty to show that the rate fixed by the Halifax commission has no foundation whatever in truth or in fact and that no evidence was before the commission to justify the award. I hold in my hand some statistics of very great interest bearing on the question, from which it appears that the total value of the catch in the inshore fisheries by American fishermen during the four years the treaty has been in operation was only \$435,170, on which the profit was probably \$100,000. This covers the entire catch for which we obtained the right under the treaty. During the same four years the duties on Canadian fish and oil remitted by our Government amounted to a million and a half of dollars in gold, and now under this treaty we are compelled to pay half a million per annum in addition or two millions of dollars in gold coin for the four years. In other words, by remission of duties and the payment of cash from the Treasury our Government is called upon to pay three and a half millions of dollars in gold coin for the privilege of permitting our fishermen to make a profit of \$100,000 on the inshore fisheries of Nova Scotia.

Considerable comment has been made in the country on the point suggested by me that the Washington treaty required the unanimous verdict of the Halifax commissioners before a legally valid award could be made. I quoted some eminent English authorities in support of this position. Since then a friend has shown me a copy of the London Times of July 6, 1877, containing an elaborate editorial article in regard to the fishery commission then about to assemble in Halifax. In discussing the powers of the commission, the Times said:

On every point that comes before the fishery commission for decision the unanimous consent of all its members is, by the terms of the treaty, necessary before an authoritative verdict can be given.

And the Times then points out the difference between the Geneva tribunal and the Halifax commission, showing that a majority could decide at Geneva but affirming that the United States would have a perfect right to demand unanimity in the verdict at Halifax.

It is also well known that the Halifax commission was discussed by the Canadian ministry in 1875, after the negotiations for a reciprocity treaty had failed. On that occasion Mr. Blake, the minister of justice, remarked that the "amount of compensation we shall receive must be an amount unanimously agreed upon by the commissioners." I mention these facts to show that I spoke with full authority when I suggested that the verdict rendered at Halifax was not legally binding under the terms of the treaty. Its payment must be justified on

other grounds, and I have already intimated more than once that considerations entirely outside of the legality or the justice of the award might constrain us to assent to its payment. But it should never be paid without such protest as will forever prevent its being quoted as a precedent or accepted as a standard to measure the value of the inshore fisheries in future negotiations.

The motion was agreed to.

ARMS TO THE MILITIA.

Mr. COKE. I ask that the bill (S. No. 104) amending section 1661, title 16, (The Militia,) of the Revised Statutes of the United States be made the special order for Monday next after the morning hour. The bill was reported from the Committee on Military Affairs by my colleague, [Mr. MAXEY.]

The VICE-PRESIDENT. Is there objection to the request of the Senator from Texas?

Mr. MORRILL. The reading of the title of the bill does not indicate what the subject is at all.

The VICE-PRESIDENT. The bill will be reported at length, or so much of it as may be necessary to give the information desired.

The bill was read.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Texas? The Chair hears none, and the order will be entered.

Mr. COKE. I ask permission to offer an amendment to the bill as it has been reported by the committee; and I move that the amendment be printed.

The amendment was received and ordered to be printed.

TAX ON DISTILLED SPIRITS.

Mr. BAYARD. I am instructed by the Committee on Finance, to whom was referred the joint resolution (H. R. No. 133) to prescribe the time for the payment of the tax on distilled spirits, and for other purposes, to report it back without amendment. I ask for its present consideration.

Mr. HARRIS. I inquire if the bill (S. No. 855) for the relief of Warren Mitchell, which was under consideration at the expiration of the morning hour yesterday, does not come up as the unfinished business?

The VICE-PRESIDENT. There is no unfinished business in the morning hour. The only unfinished business is that which was pending at the adjournment of the Senate. The Secretary will report at length the joint resolution reported by the Senator from Delaware.

The joint resolution was read.

The VICE-PRESIDENT. Is there objection to the present consideration of this resolution? The Chair hears none and it is before the Senate as in Committee of the Whole.

The joint resolution provides that the tax on all distilled spirits hereafter entered for deposit in distillery warehouses shall be due and payable before and at the time the same are withdrawn therefrom, and within three years from the date of the entry for deposit therein; and warehousing bonds hereafter taken under the provisions of section 3293 of the Revised Statutes of the United States shall be conditioned for the payment of the tax on the spirits as specified in the entry, and the interest on the tax, if any has accrued under the provisions of this resolution, before removal from the distillery warehouse, and within three years from the date of the bonds.

The time within which distilled spirits heretofore entered for deposit in distillery warehouses are required to be withdrawn therefrom pursuant to the conditions of any warehousing bond, taken within one year prior to the passage of this resolution, upon the entry of such spirits into warehouse under the provisions of section 3293 of the Revised Statutes, shall, on written request being made, be extended for a period not exceeding three years from the date of the entry of such spirits into the warehouse; but such extension shall not be made in any case unless there shall be indorsed upon, or appended to, the warehousing bond a written request therefor, and an acknowledgment of their liability, under the terms of the bond, for the period for which the extension is granted, together with interest on the tax, if any has accrued under the provisions of the resolution, as if the same were inserted in the body of the bond, to be duly executed by the principal and sureties in the bond, and acknowledged by each of them before a collector or deputy collector of internal revenue, or some other officer authorized by law to take the acknowledgment of deeds; and the sureties on the bond are to be, at the time of such request, satisfactory to the collector, and, if not satisfactory, or if the sureties shall refuse to make the request and acknowledgment required an additional or new warehousing bond, with sureties satisfactory to the collector, shall be given.

In case of the non-payment of the tax on any distilled spirits within one year from the date of the original warehousing bond for such spirits, interest shall accrue upon the tax at the rate of 5 per cent. per annum from and after the expiration of the year until the tax shall be paid.

The joint resolution was reported to the Senate without amendment.

Mr. CONKLING. Is this resolution reported by the Committee on Finance?

The VICE-PRESIDENT. The Chair so understands. It has been so stated by the Senator from Delaware.

Mr. BAYARD. Yes, sir.

The joint resolution was ordered to a third reading, and read the third time.

Mr. MORRILL. Mr. President, this resolution received the consideration of the Committee on Finance and it is reported favorably. At the same time I feel it my duty to say that I am somewhat doubtful whether the resolution will do more good than harm. It will delay the receipt of taxes to a considerable amount in the Treasury Department. At the same time there seems to be a very pressing demand for its immediate passage. There are, as it was stated by the Commissioner of Internal Revenue, some five or six million gallons of spirits that are now in bond that are likely to be seized for non-payment of duties by the United States and sold at an immense sacrifice. Under the circumstances I do not desire to interpose against the passage of the measure, while I am extremely doubtful whether it will prove beneficial or not.

The joint resolution was passed.

FORT FETTERMAN MILITARY RESERVATION.

Mr. PLUMB. I move to proceed to the consideration of Senate bill No. 901.

The motion was agreed to; and the bill (S. No. 901) to authorize the Secretary of War to relinquish certain portions of the United States military reservation of Fort Fetterman, Wyoming Territory, was considered as in Committee of the Whole. It authorizes the Secretary of War to relinquish and transfer to the custody and control of the Secretary of the Interior, for disposition under the existing laws of the United States relating to the public lands, such portions of the reservation at Fort Fetterman, in the Territory of Wyoming, as may no longer be required for military purposes, together with the whole of the old "wood and timber" reservation near that post, declared by executive order dated August 29, 1872.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JOSIAH H. PILLSBURY.

Mr. KIRKWOOD. I move to take up for present consideration Senate bill No. 659.

The motion was agreed to; and the bill (S. No. 659) for the relief of Josiah H. Pillsbury was considered as in Committee of the Whole. It provides for the payment to Josiah H. Pillsbury, postmaster at Manhattan, Kansas, of \$476.96, of which he was robbed on the night of the 28th of June, 1877, and which he has accounted for to the Government, the robbery having occurred without neglect or other fault on his part.

The Committee on Post-Offices and Post-Roads reported the bill with an amendment in line 5, after the words "sum of," to strike out "\$476.96 being the amount of post-office funds," and insert "\$323.95."

Mr. KERNAN. Is there a written report?

The VICE-PRESIDENT. There is.

Mr. KERNAN. Let it be read.

The Chief Clerk read the following report, submitted by Mr. KIRKWOOD on the 4th instant:

The Committee on Post-Offices and Post-Roads, to which was referred the bill (S. No. 659) for the relief of Josiah H. Pillsbury, have considered the same, and report:

That said Pillsbury, on the 28th day of June, 1877, was, and yet is, postmaster at Manhattan, Riley County, Kansas; that on the night of that day the post-office at Manhattan was entered by burglars, the safe therein, in which were kept the moneys and stamps of the Post-Office Department, and registered letters, was broken open and robbed of money-order funds, postal funds, and registered letters, containing money to the amount of about \$476.96, which amount the postmaster has since made good to the Department.

The special agent sent by the Post-Office Department to investigate the matter reports, among other things, as follows:

"The post-office is kept in a frame building in the principal business street, and was entered by the robbers through a side window near the back part of the room in which the office is kept. The safe used by the postmaster is one of Hall's patent combination four-tumbler locks, and weighs about seven hundred pounds, and was entered by means of a sledge-hammer weighing ten and three-quarter pounds.

Mr. Pillsbury, the postmaster, is considered by the citizens of Manhattan as a very worthy and careful postmaster, and I am satisfied that he took the same care of the Government property that he did of his own."

It also appears that the safe broken open and robbed was furnished by the postmaster at his own expense, and was such a one as the Government furnishes to second-class officers.

Mr. Pillsbury, immediately after the robbery, gave notice thereof to the proper officer of the Department, and promptly paid over the amount of money stolen.

The post-office at Manhattan is of the third class; the population of the town is about twelve hundred; and it contains two private banks, but no national bank.

In his report the special agent says:

"While Mr. Pillsbury took every precaution, under the circumstances, to secure the door and window of said post-office, yet I am of the opinion it was very unsafe to risk \$500 in money and valuable letters, not knowing the value of contents, in a safe which was not burglar-proof, in a frame building which was not occupied by any one at night. Mr. Pillsbury being the custodian of public money and Government property, and being paid for the care of said money and property, did not show any desire to shirk the responsibility resting upon him, but paid the losses reported herein."

The same report shows that of the amount stolen \$288.40 was money-order funds, \$155 postal funds in money, and \$35.55 contents of registered letters.

Your committee are of the opinion that, upon these facts, the postmaster should be reimbursed the amount of money-order funds and the amount contained in registered letters, and that he should not be reimbursed the amount of postal funds. They therefore propose to amend the bill by striking out, in lines 5, 6, and 7, the words "four hundred and seventy-six dollars and ninety-six cents, being the amount of post-office funds," and inserting in lieu thereof the words "three hundred and twenty-three dollars and ninety-five cents;" and recommend that the bill, so amended, be passed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his Secretaries, announced that the President had on the 25th instant approved and signed the joint resolution (S. R. No. 21) filling an existing vacancy in the Board of Regents of the Smithsonian Institution.

The message also announced that the President had this day approved and signed the act (S. No. 611) to extend the charter of the Franklin Insurance Company of the City of Washington.

THE PACIFIC RAILROADS.

The VICE-PRESIDENT. The morning hour has expired, and the Senate now proceeds to the consideration of its unfinished business, being the bill (S. No. 15) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act, on which the Senator from North Carolina [Mr. MERRIMON] is entitled to the floor.

Mr. MERRIMON. Mr. President, I am without motive and I am not conscious of any desire to deprive the railroad companies mentioned in the pending bill of any measure of justice to which they may be fairly entitled, or to impose upon them any unreasonable burdens. I am willing that they shall have all which of right belongs to them. In my efforts to learn what their rights are in their relations to the Government, I wish to pay due regard to the rights and interests of the latter, and I will not allow my judgment and my action to be controlled by empty declamation, false notions of public generosity, and a misapprehension of facts and law. Nor will I consent to be driven into the support of one measure and from the support of another, by oft-repeated threats, whether made in or out of this Chamber, of long-protracted and expensive litigation. My fixed purpose is, to seek and find the pathway of truth, justice, and sound policy and to walk steadily in it, trusting confidently that fruitful and wholesome results will follow.

The corporations named, now as in the past, assert with defiant confidence and insolent self-sufficiency what they and their friends are pleased to call their rights and advantages as against the Government. It is pertinent and worth while to inquire with some particularity into the merits of the claims and pretensions of these corporations and the conduct and practices of those who control them and see whether or not these are really meritorious and well founded; or whether, on the contrary, the controlling corporations have been and are for the most part utterly without merit; have grossly and persistently perverted and prostituted their corporate powers and perpetrated stupendous frauds upon the Government, and thereby unjustly and greatly enriched themselves and others at the expense of the people of the Union. In my judgment, it is not only pertinent, but likewise very important to make these inquiries and learn the spirit and practices of these corporations from the beginning of their existence down to the present time, in order that we may learn and appreciate the absolute necessity for the adoption of the measure proposed by the Committee on the Judiciary, or one more stringent, if upon due inquiry the Constitution and the state of the law will allow of it. In view of the vast interests of the Government and the people, peculiarly and otherwise, involved in the subject before the Senate, I must be pardoned for expressing my surprise that the committee in their report have failed to call attention specially to the practices of these corporations. I undertake to say and shall briefly endeavor to show, that these have been monstrous, without a parallel in this or any country, and shocking to the moral sense of the American people.

Mr. President, I do not question the usefulness, the public benefits derived from and the general importance of corporations. They serve great purposes in the economy of society, and have contributed largely, within the last century, to the advancement of civilization and the promotion of the prosperity and happiness of mankind. They are the chief means for organizing and making efficient co-operative effort in the employment of capital and labor. Through them capital is aggregated, organized, consolidated, and brought within the control of small numbers of intelligent and powerful, unhappily, sometimes, very corrupt men, and thus it is made effective for great good, too often for evil. But if they have vast capabilities for the advancement of the prosperity of great communities, they likewise afford opportunity to do, and often do them, great harm. Their history shows that, uniformly, when they are unregulated, unrestrained, and uncontrolled by the strong arm of Government they corrupt public men, foster and establish burdensome monopolies, and often become tremendous engines of illicit power and wide-spread oppression. Through such instrumentalities, the cupidity and avarice of designing men achieve their most signal triumphs.

In this country corporations have multiplied wonderfully within the last fifty years. They may be numbered by the thousand, and they embrace nearly every branch of industry and business, and embody the great mass of capital. Well authenticated statistics show

that there are now in the United States more than two thousand national banks, all corporations embodying and controlling nearly \$2,000,000,000, more than forty-five hundred banks, most of them corporations other than national banks, aggregating \$225,000,000 of capital stock, and deposits amounting to more than \$1,350,000,000; that there are more than fifteen hundred railroad corporations embodying and controlling \$5,000,000,000. There are several thousand other manufacturing and business corporations that control several hundreds of millions of dollars. That a large percentage of this vast number of corporations, embracing some of the largest and most influential, have not been wisely and sufficiently guarded and restrained by law; that they have in many instances prostituted their corporate powers for their own illicit gain, and to the grievous detriment of the Government, State and Federal, and the people generally; that they have unduly and arbitrarily combined and confederated to direct and control industries, trade, travel, and commerce; that they have virtually destroyed the trade of one town or locality in order to build up another to serve selfish purposes of gain; that they have in some instances combined to exact oppressive freights and fares from the producing classes of the country, and in others, in the absence of competition, have exacted them; that they have debauched and unlawfully controlled legislative bodies and hundreds of public men in and out of official stations; that these evils have been flagrant and prevailed to an alarming extent, that they now prevail to a greater or less degree, no intelligent observer can deny: their existence has been made manifest by legislative and judicial investigations, and the newspapers of the country daily teem with accounts of them.

The facts are patent. These vicious practices have not only affected injuriously the substantial interests of the Government and the people, they have likewise given rise to disgraceful public scandals that have brought open reproach upon the good name of this country at home and abroad. These things have not been done in a corner: they have prevailed in all sections and have afflicted the people in every quarter of the Union. It seems to be taken for granted that corporations are not only soulless but, as well, that they have no moral responsibility, and that no person is or can be morally responsible for the character of their acts. This latter view is certainly false and pernicious, but it shows the greater necessity for careful and stringent legislative control of such artificial bodies.

Mr. President, I do not hesitate to declare my conviction, that one of the great rising public dangers in this country now is the undue, ever-increasing power and influence of corporations over the material, moral, and social interests of the people.

This subject ought to attract a large share of public attention and engage the serious consideration of every legislative body. I do not underrate the advantages and benefits, public and private, of railroad corporations. I recognize them. I am not hostile to them. I would not, I will not hesitate to protect them in all their just rights, but I see and know and appreciate the high importance of keeping them well guarded by proper legislation and in subordination to government. They have great capacities for evil as well as good. They are close to the people and affect them materially in almost all the relations of life. Much the greater part of the evils to which I have made reference have been the fruits of the vicious practices of railroad corporations and their agents. Every intelligent observer knows that they have in large measure dominated the industries, the trade, the travel, the commerce, the legislation, the public men, and the press of this country. Not infrequently they have debauched members of Congress and members of State Legislatures, they have repeatedly subsidized numbers of powerful newspapers, they have set up and pulled down public men, they have walked boldly and insolently into the Halls of Congress and undertaken to dictate measures of legislation. Nay, sir, if one may trust what he reads almost daily in the newspapers and hears on every hand, their agents and lobbyists through the corridors and lobbies, and have for months, of this Capitol, in reference to the very measures now under consideration.

Sir, are these things true? Are they substantially true? Alas, they are too true! The mind sickens with disgust at the thought of them! The recital of them must fill every honest man with indignation.

Mr. President, there could scarcely be a more striking illustration of the truth and force of all I have said than the history and practices of the two corporations involved in this discussion. I propose to make some reference to them in the course of my further remarks, for the purpose, specially, of showing the necessity for passing the measure before the Senate, and, generally, the importance of guarding here and elsewhere against the evils to which I have in a very general way directed attention.

Mr. President, the corporations whose nature, rights, and obligations are under discussion are not ordinary ones, nor do they in the eye of the law stand exactly on the same footing as do ordinary ones. They have been created by virtue and in pursuance of acts of Congress. Congress has no power to create corporations for ordinary purposes. It has, indeed, been questioned whether it has power to create them at all; but the courts have decided otherwise, and I think correctly. But it can only create them in aid of the execution of some power in or purpose incident to and necessarily connected with the Government. They can be created only for national purposes, purposes of the Government. The Government of the United States

was instituted for certain general purposes common to all the States composing the Union, and these purposes and the powers in aid of them are plainly expressed in a written Constitution. We look in vain for any provision or power express or implied, authorizing Congress or any other authority in the Government to create a corporation in the ordinary sense or for ordinary purposes. The existence of such a power is unnecessary. In reason, it contravenes the genius, the spirit, the nature of our Federal system. All corporations created by Congress are therefore, without any express statutory provision, very like public corporations.

I will not now say—it is not necessary for my present purpose that I do so—that such corporations are absolutely public corporations and subject at all times to be abolished, changed, and modified by Congress, but in many respects they are so subject to the will of Congress. This much, however, is true beyond question, that Congress cannot divest itself of the power at all times to control and direct such corporations in all reasonable ways in aid of the purposes for which they were created; this power exists, and that too without any reservation of power in the act of incorporation; the power is absolutely and forever in Congress; it cannot part with it; Congress cannot abdicate a power of government. And whoever becomes a corporation in such a corporation does so agreeing by necessary legal implication that Congress may always exercise such power; that is, the power to change, modify, or abolish the corporation, having due, reasonable regard for the personal rights of the corporation. And so in the cases now before us, without any reservation of power in the acts creating and authorizing the corporations, Congress might change, add to, amend, modify, abolish the corporations in aid of the execution of the powers, the essential powers of government, which Congress cannot impair or barter or bargain away. If this were not so, Congress might impair, render nugatory, practically destroy an essential power of government by bargain—contract. This cannot be, in the very nature of things. The powers of this Government are essential powers to be employed in the execution of government, as contradistinguished from those powers of government employed in regulating the ordinary business transactions, rights, and relations of society.

The acts of Congress creating the corporations named in the bill rest upon and recognize the principles of the Constitution to which I have adverted.

Mr. SARGENT. Which corporation does the Senator refer to, those named in the bill?

Mr. MERRIMON. The Union Pacific Railroad Company and the Central Pacific Railroad Company.

Mr. SARGENT. Is not the Senator aware that the latter was not created by Congress?

Mr. MERRIMON. I am aware that originally the company was a corporation created under the laws of California.

Mr. SARGENT. It is, and operates under the laws of the State of California.

Mr. MERRIMON. But I take it the State of California has assented to the legislation of Congress, and at all events the acts of Congress, so far as they affect that corporation, are under the control of Congress. And besides, that corporation, I apprehend, derives much of its powers in the State of California and in the State of Nevada from the force and life-giving power of the two acts of Congress under discussion.

Mr. SARGENT. I only wanted to draw the Senator's attention to the fact that he apparently was confounding a corporation created under the laws of a State, having all its functions from that State, with another created under the laws of the United States.

Mr. MERRIMON. I was perfectly advertent to the fact, and I have considered it. If the State of California authorized the creation of a corporation and Congress co-operated with the State of California to create that corporation for the purposes of the Federal Government, and the State of California and the corporation accepted the legislation of Congress and agreed to act under it, then they are under the control of Congress, certainly to the extent of the legislation in that behalf.

Mr. SARGENT. I do not wish to disturb the Senator, but I hope he will allow me to make a remark.

Mr. MERRIMON. Certainly.

Mr. SARGENT. The corporation was born in the State of California, derives all its powers as a corporation, all its franchises from the State of California. It contracted with the Government of the United States under certain legislation passed by the Congress of the United States, and to that contract the State of California by subsequent legislation assented; but it is not true that the Central Pacific Railroad Company derives any of its corporate functions from the Congress of the United States; and if it does, I ask the Senator to refer to the clause of any statute of the United States which gives any additional corporate function to the Central Pacific.

Mr. SAULSBURY. The road was authorized by Congress to go through the Territory of Nevada.

Mr. SARGENT. It unquestionably owns a railroad which runs from San Francisco through to Ogden, and a large portion of it was built under this contract, projecting it into the Territories. Of course it was built under this contract, which was according to the laws of Congress.

Mr. BAILEY. I ask if the Central Pacific Railroad Company exercised any of its faculties or could have made any progress whatever

in respect to that portion of its road which lay without the State of California without the consent of the Congress of the United States; or in other words, whether in respect to that portion of its road lying east of the eastern boundary of the State of California it does not derive all its authority and all its franchises from the act of Congress?

Mr. SARGENT. No, sir; it does not derive any authority or any franchise from Congress, except the mere authority to build a railroad in the Territories, which was done, as I say, under a contract, they agreeing to do it within a certain time and in a certain manner, that it should be open to Government uses for certain purposes, and the Government contracted therefor to issue so many bonds. That was all. It was a matter of contract; but it was not a part of the functions of the corporation in any sense; it then was a complete corporation in every sense. It might as well be said that a company owning a line of steamers and receiving a subsidy to run from New York or somewhere else to Brazil derives its corporate powers from the fact of a subsidy being given by Congress. It is simply a contract.

Mr. BAILEY. The capacity to exist as a corporation unquestionably was derived from the State of California. The capacity to construct this road through the Territory or the present State of Nevada and into Utah certainly could not have been derived from the State of California.

Mr. SARGENT. I am not denying that there was a contract.

Mr. BAILEY. That franchise, that right, that power to extend its road and to collect tolls and transact business, could not be conferred there by the State of California; and this being a foreign corporation to the United States as to the Territories, I ask the Senator from California if the corporation did not derive its powers there from the United States.

Mr. SARGENT. The Senator simply uses the word "franchise" in a different sense from myself. I admit that a contract was made between this corporation and the Government of the United States, by which a railroad was built in the Territories under certain conditions. But the Senator from North Carolina in his argument spoke of these two corporations as creatures of Congress, and said that Congress could not divest itself of the right to strangle these, its children, at their birth or any subsequent time. I called his attention to the fact that one of them derived its powers from the State of California and that there was no right on the part of the General Government to strangle it.

Mr. MERRIMON. Mr. President, I was perfectly advertent to the fact that the Central Pacific Railroad Company was originally a corporation created by and under the laws of California; it was a State corporation, and by its corporate powers as a State corporation it had no authority to build a road across Nevada, then a Territory, or any part of the territory of the United States anywhere. The legislation of Congress supplemented the legislation of the State of California, and by virtue of the act of 1862 and the act of 1864 that corporation constructed its road in the State of California, as well as by virtue of the legislation of California, through the State of Nevada and other portions of the territory of the United States. It received large corporate powers—I know what that word means—it received large additions to its corporate powers from these two acts of Congress; it exercised them; it received large grants of public land; it received a large subsidy, as I shall have occasion to show, from the United States; and although Congress may not have power to abolish that corporation, yet there can be no question in law that Congress has control of its own legislation so far as it affects this corporation created by the State of California.

Mr. SARGENT. It has a right to take back all its gifts or executed contracts! That is the Senator's logic. Congress has power to break a contract!

Mr. MERRIMON. The grants conferred upon the Central Pacific Railroad were contained in the same acts which granted corporate powers to the Union Pacific road and a half dozen other railroad companies, exactly alike. The two acts authorized the existence of the Union Pacific Railroad Company; they likewise authorized the enlarged existence of the Central Pacific Railroad Company and a half dozen other corporations, and by the same law which conferred powers and benefits upon the Union Pacific Railroad Company and other railroad companies, benefits were conferred upon the Central Pacific Railroad Company.

Mr. SARGENT. Allow me to say a word. The legislation that the Senator refers to being put together would not change the relations of the various corporations. That legislation decided this—I think I remember it for I wrote it myself—that the Central Pacific Railroad Company of California, a corporation existing under the laws of said State, is hereby authorized to build a road—that was all—and then it went on and stated that which the Government would give it if it would build the road and that which it would require if the corporation did build the road. Now, says the Senator, because another corporation or several others were created in the same act, therefore the Government of the United States has a right to come in years after it is executed, years after the corporation has done everything that was required by the legislation except one point which is now in dispute in the courts, and say "why, here we subsidized you and we will take back our subsidy; we provided that you should pay in a certain way; we require you to pay three times as fast; we made certain conditions with you; we take them all

back, and vary them, because we are powerful, because we are a sovereign and you are a subject." That is the doctrine of the Senator, and I say as between any ruler and any subject, that is the expression of tyranny.

Now the Senator will excuse me for saying further that my interest in this matter arises from the danger of an overtax of the Western States and the Pacific States by the burdens which you are endeavoring to put upon them, and furthermore the danger that by overcharging them you may have a dilapidated railroad instead of one to carry out the original objects.

Mr. MERRIMON. Mr. President, the Senator assigns me a position which I do not occupy, and he makes an argument and attributes it to me that I have not made in substance or spirit. Taking it that the Central Pacific Railroad Company is a corporation under the laws of California and that it accepted certain benefits and rights and obligations under the legislation of Congress, if the doctrine which I am now contending for exists, there can be no question that Congress has power to control whatever right, or obligation, or benefit it did confer, and to so control it would be no impairment of a contract, would be no exercise of a power of tyranny; and why? For the very reason that by force of the Constitution of the United States, if the doctrine I am contending for is correct, it was incorporated into the contract at the time it was made, in the same measure as if the words had been written in the grant, that Congress shall have the power at all times to change, modify, repeal, or abolish the legislation whereby these rights, obligations, and benefits were conferred. But, sir, in this case—and I will refer to that view of it now—not only by force of the Constitution is it so, but by the very terms of the grant it was provided, as I shall have occasion to show in the course of my argument, that Congress should have the right to change, modify, add to, or abolish the contract afterward, if, in its judgment, it should see fit. How, then, could there be any impairment of a contract or the obligation of a contract?

Mr. SARGENT. Now, if I am not troubling the Senator too much, if the Senator's argument had gone to the extent he now states and no further, as did that of the Senator from Michigan, [Mr. CHRISTIANCY,] I should not have interrupted him by asking a question. Of course I have my own judgment as to the force of that argument. But when he went outside and claimed jurisdiction over a corporation created by the State of California, upon the ground that it was created by our legislation, I desired to call his attention to the facts.

Mr. MERRIMON. I do not care to go into the question as to how far Congress has control of the corporation absolutely. It is not material to my purpose. It is only material to me to show here that Congress has control of that corporation so far as powers, rights, obligations, and duties were conferred and imposed upon it by the legislation of Congress, and I understand that the Senator does not deny that as to that extent, *pro tanto*, that Congress has the power.

Mr. SARGENT. That is in violation of the contract.

Mr. MERRIMON. It is no violation of the contract. I cannot make myself understood by the Senator, it seems. I say it is not so, because it was a part of the agreement at the time it was made—an agreement made as much as if the corporator had written it down in writing, that Congress should have this power. It entered into the contract, made a part of it, it was the very life of it, that Congress should control the exercise of the powers granted, and the corporations took them subject to this right of Congress.

Mr. SARGENT. Does the Senator refer to the provision in the acts of 1862 and 1864 as to the power to repeal, or does he refer to some unwritten law?

Mr. MERRIMON. I am now on the first branch of the subject. I am making an argument to show that this power is inherent in Congress and that Congress cannot divest itself of it. I am coming to the other view of the case afterward.

Mr. SARGENT. I simply say I do not agree with the Senator at all.

Mr. MERRIMON. The Senator has only anticipated me a little. I say that, if there was no reservation in these acts at all, corporations created by Congress, if they are not absolutely so, are very like public corporations, always subject to the control and power of Congress. If it were not so, Congress might in creating a corporation abdicate the powers of government and destroy the Government. It is one of those essential powers which, whenever the contract is made operates, and if Congress were to stipulate expressly in the act that a subsequent Congress should not exercise this power the stipulation would be absolutely void. It is one of the absolute powers, absolute rights of the Government, that cannot be destroyed; it exists while the Government exists, and it is always ready to be exercised; and the citizen, when he becomes a corporator under a corporation created by Congress, becomes a corporator with the stipulation as expressly made as if it were written in words, "Congress shall from time to time see to the exercise of the power, modify, change, control it, as may suit the interests and convenience of the Government." I have no doubt that power does exist and in the way I have indicated.

Mr. HILL. Will the Senator yield to me for a moment that I may ask a question?

Mr. MERRIMON. I will.

Mr. HILL. If the power is claimed for the Government over the corporate franchise I can understand it. But do you hold that a con-

tract of loan by the Government to the companies is either a franchise in the companies or a corporate privilege granted by the Government?

Mr. MERRIMON. I say that the Government can grant a franchise for the purposes of corporations. It can grant a subsidy.

Mr. HILL. That is not the question.

Mr. MERRIMON. I see the point the Senator is making and I think I shall come to it in a moment. I do not mean to say that by virtue of the rights conferred on a corporation by the Government the Government can arbitrarily take property from the corporation. I do not mean to say that, because that would violate the spirit of the Constitution; it would violate the express letter of the Constitution in one respect. But what I mean to say is, that Congress has the power to direct the corporation in the exercise of all its rights and all its property, and it may abolish the franchise and may abolish all the powers conferred in the interest of the Government, and therefore I put in the words a moment ago "with due, reasonable regard to the rights of the corporators." It was a part of the agreement that Congress should have the power to control, direct, and regulate the exercise of the rights and powers and property of the corporation. The corporator agreed to that when he became a corporator. And if that is not true, then Congress can abdicate a sacred power of government by creating a corporation, which is plainly impossible consistently with reason. Congress cannot by any act, I do not care what device may be adopted, divest itself of the power to raise an army or to construct a post-road or a military road; it cannot divest itself of a power of government. It may employ these powers and may employ agents to execute these powers, but whoever engages as an agent or a corporation to execute these powers, engages that Congress may control his property in that behalf in order to accomplish the great purpose of the Government. But, sir, this will be made more manifest in the course of my argument. The question of the Senator from California has anticipated much of what I was going to say.

Before we go further let us get a correct notion of the motive and purposes of the acts under discussion.

Congress passed an act approved July 1, 1862, entitled as follows, to wit: "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean"—and what? The words I am about to read now are very material—"and to secure to the Government the use of the same for postal, military, and other purposes."

This title plainly indicates the purpose of Congress—a purpose of Government and in aid of the execution of a power, an essential power of the Government. It was to create a military and postal road. And not merely to authorize and construct such a road for the use of the Government, but to *secure*—that is the important word—the use of the same to the Government. The word *secure* is a material, significant, and important one; it means to give the Government the use of it; not at the will of the corporation, but at the will and pleasure of the Government, not for an occasion, for a day or a year, but perpetually; not affected by the whim or fortune of the corporation, but absolutely, and to *secure*, to establish, indefinitely, perpetually, such use of the road to the Government. How *secure* such use? Plainly by all such reasonable, apt, sufficient means as Congress may from time to time, according to circumstances, direct and provide. And this right and power and use is not in any way affected by the pecuniary rights of the Government, or the indebtedness of the corporations; when they shall pay all the debts due and to come due to the Government, the latter will still have the right, undiminished, to *secure* to itself the use of the road for all lawful Government purposes.

The wording, the phraseology, the reason, the spirit of the act and all acts amendatory of it, all alike indicate, establish the right of the Government to such use of the roads and the right to *secure* such use of them. It is provided that the Government shall have directors, who shall own no stock in the companies. The right of way and alternate sections of land are donated to the companies "for the construction of said railroad and telegraph line, * * * to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores thereon." When forty miles of the road shall be completed, "the President shall appoint three commissioners to examine the same and report to him in relation thereto," &c. Again, it is provided "that, for the purposes herein mentioned, the Secretary of the Treasury shall, upon the certificate in writing of said commissioners," &c., the commissioners appointed by the President, issue bonds of the Government to the companies. It is further provided that, "on refusal or failure of the said company to pay said bonds, or any part of them," &c., the road, property, and unsold lands, &c., "may be taken possession of by the Secretary of the Treasury for the use and benefit of the United States;" not to be sold and the Government to be reimbursed, but "for the use and benefit of the United States," the purpose being to *secure* the use of the road for the established and only for lawful purposes of the Government.

The grants of land, the "bond-subsidy," were all made on condition that the companies "shall keep said railroad and telegraph line in repair and use, and shall at all times transmit dispatches over said telegraph line, and transport mails, troops, and munitions of war, supplies, and public stores upon said railroad for the Government whenever required to do so by any department thereof," &c. The

companies are required to make reports to the Secretary of the Interior. For the purposes of the Government, the lines of railroad are to be continuous. If the companies should fail to complete these roads respectively, or to keep the same in repair, Congress may legislate to this end, "and may direct the income of said railroad and telegraph line to be thereafter devoted to the use of the United States," &c.

Congress passed an act amendatory of the act just commented upon, approved July 2, 1864, the title of which reads as follows:

An act to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862.

The same purpose is indicated in this title as in the first one, and all the provisions of the act steadily point to the exercise of all such power by the Government as may be deemed by Congress necessary and wise to secure the perpetual use of the roads for Government purposes.

These are some of the reasons that lead me to conclude that Congress has the power, without any express reservation providing for the same, to change, modify, amend, and abolish the rights, duties, and powers of the corporations named, having due, reasonable regard for the rights of the corporators.

It is said this would impair the obligation of a contract; that it would change, make anew a contract without the consent of one of the contracting parties. I do not stop to discuss the question whether Congress has the power to expressly impair the obligation of a contract. If it has such a power, I would not invoke it, and I trust Congress will never do so. But the objection is not well founded. The exercise of the power I have been discussing does not impair the obligation of a contract or force the corporator to accept a new contract, because at the time he became a corporator, he agreed, by necessary legal implication in law, that Congress should have the power to change the rights, duties, and obligations of the corporations to the Government in respect to the purposes of the corporations, at will, having reasonable regard to the rights of the corporator, be so agreed, just in the same measure as if he had so expressly stipulated in the charter of incorporation. The spirit, the principle of the Constitution permeated the charter just as much as if the same had been expressed in terms in it and the corporator must be bound by it.

I cannot doubt the substantial correctness of the views I have expressed. But it is not necessary in the case before us to invoke the power of the Constitution, to which I have referred. Putting these corporations upon the footing of ordinary ones, Congress has power to impose the reasonable obligations on them proposed by the bill reported by the Committee on the Judiciary. Section 18 of the act of 1862 among other things provides as follows:

And the better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the Government at all times (but particularly in time of war) the use and benefits of the same for postal, military, and other purposes, Congress may at any time—having due regard for the rights of said companies named herein—add to, alter, amend, or repeal this act.

Mr. MAXEY. I ask the Senator from North Carolina, supposing that Congress has the power to impair the obligation of a contract, now, is that the pivotal point of this case? Is it necessary to rest the Judiciary Committee's bill upon that ground?

Mr. MERRIMON. I have said expressly it is not. It is not material to the discussion of this question at all.

Mr. MAXEY. I wish to understand that.

Mr. MERRIMON. As I have just said, if Congress has power to impair the obligation of a contract, I, for one, would never invoke it and I trust Congress never will in any case.

Mr. MAXEY. I mention that for the reason that I propose to support the bill; but if it turned on that point I would not support it, because I do not believe that doctrine.

Mr. SARGENT. It would surprise me if it was not necessary to sustain the Judiciary bill by the declaration of a power to violate contracts and impair their obligations, so much time has been taken up by the friends of that bill in asserting that power. There certainly has been a great deal of time spent in that endeavor.

Mr. MERRIMON. I am not responsible in any sense for what other gentlemen have done; but I do not remember—and I have been paying pretty close attention to this discussion—that any one has wasted much time in discussing that view of the case. It is not material here at all. The bill proposed by the Committee on the Judiciary goes upon an entirely different ground, and rests upon an entirely different principle. But to get back, I was discussing the reservation clause in the act of 1862. Now the power reserved, treating the act as a contract between the United States and the corporators, is a material part of the contract—the corporators agree that the Congress may "add to, alter, amend, or repeal this act." These words—this provision—cannot be treated as nugatory and mere surplusage; they must be given some effect according to their intent and meaning.

What is that? It is that "Congress may add to, alter, amend, or repeal this act" * * * the better to accomplish the object of this act." What is the object of this act? The great purpose, the leading object of it is to construct and establish on solid and enduring foundations in every respect, a great government military and postal road, and the power reserved may be exercised in any reason-

able way looking to that end. The clause reserving power, after stating the purpose in general terms, "the object of this act," then specifies some, not all, of the things that make up the object of this act. One of these things is, "to promote the public interest and welfare by the construction of said railroad and telegraph line and keeping the same in working order." It is said the companies have done this. But this implies more than keeping it in "working order" for this month or this year; it means keeping it so indefinitely, perpetually. Are the companies in condition to do this? Can they do it? Will they do it? Are their circumstances such as they will be able to do it? Can any one say so in view of their vast indebtedness? Even some of their officers have expressed great doubt as to their ability to pay their debts, as I will show presently. Then is it not plain that Congress may, ought to, exercise the power to "add to, alter, amend, or repeal this act," to compel these companies to provide prudently for the payment of these vast debts which constitute liens on their roads and all the property connected with them, to the end they may in all the future, be reasonably in condition to keep the roads in "working order"? Especially, when the companies have taken no steps to prepare to pay their debts?

Another of the things specified in the reservation of power to Congress and which goes to make up "the object of this act" is, "to secure to the Government at all times, (but particularly in time of war,) the use and benefits of the same for postal, military, and other purposes." The companies say they have done this. But do they say so truly? Granted that they have not made default. This is not all that is plainly implied and required. The companies must keep themselves in reasonable condition to secure to the Government for the future, indefinitely, the use of the roads and telegraph lines. The Government cannot reasonably allow these companies to let a burden of debt accumulate upon them which they cannot easily manage, so that after awhile the mortgages must be foreclosed and the roads embarrassed and allowed to go to ruin and decay in the hands of themselves by reason of their insolvency, or in the hands of irresponsible purchasers. We know it is not denied that the companies owe vast, embarrassing debts which they cannot pay at maturity unless they begin now to make reasonable preparations to do so. Then, it is plainly the duty of Congress to this end, for this manifest purpose, to exercise the power reserved to "add to, alter, amend, or repeal this act."

But there is another thing that goes to make up "the object of this act," that is, to provide for the payment to the Government of a sum of money equal to the principal and interest of the bonds of the Government issued to the companies, when they shall mature and be paid by the Government. It is expressly provided that such sum of money shall be paid to the Government and it has a second mortgage to secure such payment. The general terms, "the object of this act," embraces this by all rules of construction; and to secure the payment of that debt Congress may in a reasonable way "add to, alter, amend, or repeal this act."

The words in the clause reserving power to Congress, "having due regard for the rights of said companies named herein," imply that Congress shall not take the property of the companies for nothing or deprive them of their rights, but Congress may direct and control them in the use and exercise of the same, because the corporations agreed that Congress might do so. The words "add to, alter, amend, or repeal this act" must mean something; they must have some effect. What other can they have than that I have assigned them? I cannot see.

The act of 1864 is by its terms amendatory of the act of 1862, and the two must be construed together as one act. This is the plain legal effect, and the Supreme Court so decided in *Kansas Pacific Company vs. Prescott*, 16 Wall., 603. It is provided by the twenty-second section of the act of 1864 "that Congress may at any time alter, amend, or repeal this act." This reservation of power is as broad as language can make it. The two acts being in effect one and construed together, this reservation of power must apply to both acts—this is the legal effect and the manifest intention of Congress. Can any one suppose that it was intended to reserve power to repeal the act of 1864 alone? To repeal the act of 1864 would leave the act of 1862 in many respects inoperative. Then this clause applies to both acts, reserves to Congress the fullest power to "at any time alter, amend, or repeal this [both] act." It is not proposed to take from the companies any property or money; it is only proposed to direct and control them in the exercise of their rights. This they have agreed that Congress may do, and there cannot therefore be any impairment of right.

It seems to me that these views are reasonable and just, that I have stated the law as it arises upon the two acts under discussion. I beg now to cite some authorities in support of the views I have submitted, and especially to show to what extent the power reserved to the Legislature in the charters of corporations may be exercised.

I cite first, *Pierce on the Law of Railways*. At page 36 he says:

The power to amend, alter, or repeal the charter may be reserved by the Legislature by a provision to that effect inserted therein, or in a general law declared applicable to all acts of incorporation afterward passed; and the right of the Legislature to alter or repeal the charter is thus made a part of the contract. The charter of the company is, by such a reservation, subject to any reasonable amendment or alteration which the Legislature may make, and any reasonable additional obligations may be imposed on the company. Thus, it may be required by virtue of such reservation to abandon the use of steam-power in propelling its cars through cities, or to raise or lower highways where its track crosses them when directed by the municipal authorities. The Legislature under this power may increase the

liability of the stockholders, who will not thereby be exonerated from liability on their subscriptions for stock. The subscriber has been held not to be released, where the Legislature, in pursuance of such a reservation, granted to the company the power to change its route. There being a general statute of Missouri reserving the power to alter or amend acts of incorporation, an act of its Legislature making companies previously incorporated liable to laborers employed by contractors for the work done by them on their roads has been held constitutional.

That is the general law as laid down by an elementary writer in this country on this subject. In the case of *The Northern Railroad Company vs. Miller*, 10 Barbour, 292, the court say:

It was competent for the State, having the power to grant or to withhold the charter, to annex such condition to the grant, or to make such reservation as it pleased. The directors, trustees, or other managing agents, by whatever name they are called, by accepting the charter became bound by this condition or reservation; and every individual who subscribes to the stock of the company thereby makes himself a party to the contract, subject to the conditions and reservations of the charter. In effect he stipulates, at the time he subscribes, that the Legislature may alter or repeal the law, and thus change the obligation of his subscription or defeat it altogether. It cannot therefore with truth be said that the amendatory act, which is complained of in this case, was an alteration of the defendant's contract without his assent. It was merely such alteration as he himself, by becoming a party to the contract, had agreed that the Legislature might make. He is as much bound by it as if he had signed a petition to the Legislature requesting the passage of the act in question. Whatever modification is thus effected in the obligation created by his subscription is made by his own agreement, entered into at the moment he became a party to the contract, and is as binding upon him as if it had been accomplished by his own solicitation and procurement. It surely cannot be necessary to cite authorities to prove that what a man authorizes another to do is as obligatory upon him, when done, as if it had been performed by himself.

In *Tomlinson vs. Jessup*, 15 Wallace, 454, the court say:

The object of the reservation, and of similar reservations in other charters, is to prevent a grant of corporate rights and privileges in a form which will preclude legislative interference with their exercise, if the public interest should at any time require such interference. It is a provision intended to preserve to the State control over its contract with the corporations, which without that provision would be irrevocable and protected from any measures affecting its obligations.

In *Miller vs. The State*, 15 Wallace, 498, the court state in broad and strong terms the extent of the power. They say:

The reserved power may be exercised, and to almost any extent, to carry into effect the original purposes of the grant or to secure the due administration of its affairs so as to protect the rights of its stockholders and of creditors, and for the proper disposition of the assets.

That is the language of our own Supreme Court, and it is as broad and comprehensive and efficient as language can make it. But cases might be cited indefinitely, all going the full length of the proposed exercise of power as now proposed.

It has been said that the Supreme Court, in the case of the *United States vs. Union Pacific Railroad Company*, (1 Otto, 72,) have held that Congress could not exercise the power reserved as now proposed. This is a grave misapprehension of the ruling of the court. The court said plainly that Congress in the respect then under consideration had not undertaken to exercise the power, but suggest strongly by implication that it might do it. I read a material extract from the opinion of the court. I shall now read what the court say bearing upon this subject, and I read it because it has been cited over and over again, as conclusive to the point that Congress cannot exercise this power. The court decided to the contrary, as I think; they suggest by implication very strongly that Congress can do it; and this paragraph is material to show that I am correct. The court say:

Another act was subsequently passed by virtue of which this suit was instituted by the appellee. [Act of March 3, 1873, 17 Statutes, page 508, section 2.] It is contended that this act repeals that portion of the charter of the company which contains the provisions we have discussed. But manifestly its purpose was very different. Although it directs the Secretary of the Treasury to withhold all payments to the companies on account of freights and transportation, it at the same time authorizes any company thus affected to bring suit in the Court of Claims for "such freight and transportation;" and in such suit "the right of such company to recover the same upon the law and the facts shall be determined, and also the rights of the United States upon the merits of all the points presented by it in answer thereto by them." This means nothing more or less than the remission to the judicial tribunals of the question whether this company and others similarly situated have the right to recover from the Government one-half of what they earned by transportation; and this question is to be determined upon its merits.

The merits of such a question are determined when the effect of the charter is ascertained and declared. It is hardly necessary to say that it would have been idle to authorize a suit, had Congress intended to repeal the provision on which alone it could be maintained.

Is it not plain to the simplest mind that what the court said was, that Congress had not in that case undertaken to exercise the power, and that they suggest strongly by implication that Congress may exercise it? So it appears conclusively that Congress has lawful power to pass the bill proposed by the Committee on the Judiciary, and one more stringent if deemed necessary.

Then ought Congress to exercise this power and in the way proposed? If we consider the relations of these corporations to the Government, their history, their vast debts, their circumstances, their earnings, and the disposition of them, their practices and manifest, studied purpose not to make any reasonable provision for paying the debt due the Government, it seems to me that there can be only an affirmative answer to the question just propounded.

I propose now to bring to the attention of the Senate some considerations that, in my judgment, point strongly to the necessity for prompt and vigorous action on the part of Congress toward these corporations. By virtue of the acts of Congress just referred to the *Union Pacific Railroad Company* was authorized to construct and maintain a railroad and telegraph line from a point on the one hundredth meridian of longitude west from Greenwich in the Territory

(now State) of Nebraska to the western boundary of the Territory (now State) of Nevada. This line of road is 1,085.88 miles in length.

By virtue of the same acts the Central Pacific Railroad Company—a corporation created and existing under the laws of the State of California—was authorized to construct a road and telegraph line from San Francisco to the eastern boundary of California, there to connect with the railroad and telegraph line of the Union Pacific Railroad Company, the two to make one continuous line of road, which continuous line is 1,776.18 miles in length.

In aid of the purposes provided for in said acts other companies of less magnitude and importance were authorized by them, to wit: the Kansas Pacific, the Central Branch Union Pacific, the Western Pacific, and the Sioux City and Pacific.

The Government granted the right of way through the public lands "to said company [naming the Union Pacific Railroad Company and the others as well] for the construction of said railroad and telegraph line;" "the right, power, and authority" was given "said company to take from the public lands adjacent to the line of said road earth, stone, timber, and other materials for the construction thereof; said right of way is granted to said railroad to the extent of two hundred feet in width on each side of said railroad where it may pass over the public lands, including all necessary grounds for stations, buildings, workshops and depots, machine-shops, switches, side-tracks turn-tables, and water-stations."

The Government likewise granted, gave, donated "for the purpose

of aiding in the construction of said railroad and telegraph line, and to secure the safe and speedy transportation of the mails, troops, munitions of war and public stores thereon, every alternate section of public lands, designated by odd numbers, to the amount of five [increased to ten] alternate sections per mile on each side of said railroad, on the line thereof and within the limits of ten miles on each side of said road," &c. All mineral lands were excepted, except that timber on the same and coal and iron in them were granted and not excepted. This grant of lands to the several companies mentioned embraced about thirty millions of acres. In a letter dated March 8, 1876, the Commissioner of the General Land Office says:

1. The amount of land to which each company is supposed to be entitled under acts of July 1, 1862, and July 2, 1864, is as follows:

	Acres.
Union Pacific.....	12,000,000
Central Pacific, including late Western Pacific, now consolidated.....	9,100,000
Kansas Pacific.....	6,000,000
Denver Pacific.....	1,100,000
Central Branch Union Pacific.....	245,166
Burlington and Missouri River, in Nebraska.....	2,441,600
Sioux City and Pacific.....	45,000

These figures are from approximate estimates merely, the adjustment of the grants not having been so nearly completed as to justify an attempt to state accurately the amount of lands inuring to each.

By virtue of the acts mentioned "for the purposes" in them mentioned and specified, bonds of the United State were issued to the railroad companies named respectively as follows, to wit:

Name of railway.	Authorizing acts.	Rate of interest.	When payable.	Interest payable.	Principal outstanding.
Central Pacific.....	July 1, 1862, and July 2, 1864.	6 per cent.	30 years from date.	January and July.	\$25,885,120.00
Kansas Pacific.....	July 1, 1862, and July 2, 1864.	6 per cent.	30 years from date.	January and July.	6,303,000.00
Union Pacific.....	July 1, 1862, and July 2, 1864.	6 per cent.	30 years from date.	January and July.	27,236,512.00
Central Branch, Union Pacific.....	July 1, 1862, and July 2, 1864.	6 per cent.	30 years from date.	January and July.	1,600,000.00
Western Pacific.....	July 1, 1862, and July 2, 1864.	6 per cent.	30 years from date.	January and July.	1,970,560.00
Sioux City and Pacific.....	July 1, 1862, and July 2, 1864.	6 per cent.	30 years from date.	January and July.	1,628,320.00
Total.....					64,623,512.00

The aggregate of the bonds so issued as appears, is \$64,623,512. These bonds were not a gift to the companies; it is expressly provided in the act that, "to secure the repayment to the United States, as hereinafter provided, of the amount of said bonds so issued and delivered to said company, together with all interest thereon which shall have been paid by the United States," that the United States should have a first mortgage on all the property of all kinds of the companies. This mortgage was afterward by the act of 1864 changed to a second mortgage.

It was provided that—

All compensation for services rendered for the Government shall be applied to the payment of said bonds and interest until the whole amount is fully paid. Said company may also pay the United States, wholly or in part, in the same or other bonds, Treasury notes, or other evidences of debt against the United States, to be allowed at par; and after said road is completed, until said bonds and interest are paid, at least 5 per cent. of the net earnings of said road shall also be annually applied to the payment thereof.

This provision was modified by the act of 1864, as follows:

And that only one-half of the compensation for services rendered for the Government by said companies shall be required to be applied to the payment of the bonds issued by the Government in aid of the construction of said roads.

By the act of 1864 the companies named are authorized respectively to "issue their first-mortgage bonds on their respective railroad and telegraph lines to an amount not exceeding the amount of the bonds of the United States, and of even tenor and date, time of maturity, rate and character of interest with the bonds authorized to be issued to said railroad companies respectively."

The first-mortgage-bond debt created by the companies in pursuance of the last-mentioned provision of the act of 1864, is about the same in amount as the amount of the Government bonds issued, and they are a *first lien* on all the property of the companies.

Under a decision of the Supreme Court United States *vs.* Union Pacific Railroad Company, 1 Otto, 72, these several companies are not bound to pay the interest which the Government has paid and may pay, until the bonds issued by the Government to the companies shall mature. These bonds will mature about the year 1900.

At the expense of being a little tedious, I deem it important now to read some interesting extracts from a report made to the House of Representatives April 25, 1876, by the Judiciary Committee on the subject of a *sinking fund* for the railroad companies, to which I have made reference. The committee say:

The railroad companies now claim that they are not bound or liable to pay any of the interest advanced or to be advanced by the Government until the maturity of the "subsidy bonds," thirty years from their date, except as the application of (1) one-half of the charges for transportation and other services may be so applied, with also (2) the application of 5 per cent. annual net earnings of the roads. But these will fall far short of paying the interest.

There is no law which in such cases gives to the United States interest on advances made in paying the interest on the "subsidy bonds," nor, indeed, on any liability of any company to the Government. The effect, therefore, will be, if the claim of the railroad companies prevails, and even if they should at the maturity of the subsidy bonds, about twenty years from this time, then repay any balance of advances, the Government would be without compensation for the use of the money advanced and not so reimbursed. This loss to the Government would in value and amount reach many millions. The Government pays currency interest

at 6 per cent. per annum, payable half yearly. Assuming this rate which the Government actually pays as the value, the actual cost to the Treasury of the advances made and to be made, compounding the interest thereon to the maturity of the "subsidy bonds," would be \$316,112,571.79, as follows:

Here is an interesting table. This report seems to have been gotten up with great consideration, and I take it it is very accurate. It is a report on the subject of a sinking fund for the several Pacific Railroad Companies made to the House of Representatives during the Forty-fourth Congress by Mr. Lawrence, of Ohio, and it is report No. 440, Forty-fourth Congress, first session. I present the following table which I find in it:

Statement of the amount of bonds issued to the Pacific Railroad Companies, with interest computed thereon half-yearly at 6 per cent. per annum.

The interest in this statement is compounded.	
Union Pacific Railroad Company:	
Amount of bonds issued.....	\$27,236,512.00
Interest due at maturity, September 3, 1897.....	133,230,306.66
Central Pacific Railroad Company:	
Amount of bonds issued.....	25,885,120.00
Interest due at maturity, November 18, 1897.....	126,619,733.30
Kansas Pacific Railroad Company:	
Amount of bonds issued.....	6,303,000.00
Interest due at maturity, November 17, 1896.....	30,831,774.36
Western Pacific Railroad Company:	
Amount of bonds issued.....	1,970,560.00
Interest due at maturity, September 5, 1898.....	9,639,197.41
Sioux City and Pacific Railroad Company:	
Amount of bonds issued.....	1,628,320.00
Interest due at maturity, January 1, 1898.....	7,965,095.16
Central Branch Union Pacific Railroad Company:	
Amount of bonds issued.....	1,600,000.00
Interest due at maturity, October 20, 1896.....	7,826,564.96
Total principal.....	
Total interest.....	\$316,112,571.79
Grand total.....	
380,736,083.79	

The principal of the "subsidy bonds" is, as already stated, \$64,623,512, with an annual interest of \$3,877,410.72, which, for the thirty years the bonds are to run from their date, will aggregate \$116,322,321.16.

If no part of the interest should be reimbursed by the companies to the Government until the maturity of the subsidy bonds, the actual loss to the public Treasury would be \$199,790,250.63, being the difference between the face of the advances, \$116,322,321.16, and their amount, with interest thereon compounded, \$316,112,571.79.

Let it be remembered that the Government is not only not to be reimbursed until its bonds issued to the companies mature, but not then, until the first-mortgage bonds of the companies are discharged, because they are a *first lien*. There is no provision made by the companies to pay the vast debt of the Government against them when it shall mature. They have not created any sinking fund or set apart any fund or means whatever with which to do so. They manifest no purpose to do so; and, judging the future by the past, they never will

voluntarily make any such provision. In 1865, the president of the Union Pacific Railroad Company broadly intimated that the Government might lose its debt. It now looks as if their purpose was to continue to make large dividends until the Government debt shall mature, and then let their first-mortgage creditors take the roads, or leave the Government to pay the first-mortgage debt and take the roads, the stockholders in the mean time having realized enormous profits in the shape of dividends on stock that cost most of them almost a nominal sum, as will appear presently.

The following extract from the report read from a moment ago will give some notion of what may be expected from the companies if Congress shall not take action. I read from page 19 of the report:

It has already been shown that the Government has been reimbursed from earnings only \$5,455,169.53 in a period of nine years, and that the same source will probably not average over half a million of dollars a year.

From what has been said it will be seen that, according to the claim of the companies, the Government cannot expect to realize more than about \$800,000 per annum from the 5 per cent. of net earnings.

The total of these two sources, then, on this basis, would be about \$1,300,000 per year. But it is not probable the services will continue so large as heretofore.

The total sum realized by the Government to the maturity of the "subsidy bonds," including the amount heretofore received, would reach probably about \$36,000,000.

The principal of the subsidy bonds is	\$64,623,512
Interest to maturity without compounding or counting any interest on advances of interest	116,322,321
Total claim of Government	180,945,833
The amount provided to meet this, as above stated	36,000,000
Deficiency	144,945,833

And as the law now stands, the Government, unable to collect interest on its dues, and the companies steadily refusing to pay what they concede to be legally and justly payable, with a probability that they will continue to pursue the same course, the real deficiency to meet the acknowledged indebtedness, with interest thereon, would be many millions more, but the exact amount of course cannot be accurately stated.

And if the companies are permitted to go on refusing, as they do, to pay their acknowledged indebtedness, all this will increase the loss to the Government.

There is an imperative necessity for prompt and decisive action to secure the just demands of the Government and to save it from loss.

The president of the Union Pacific Company, in a letter to the Secretary of the Treasury dated February 9, 1875, says:

"The mortgage held by the Government, in its terms and by judicial decision of the United States circuit court, cannot be enforced until the maturity of the bonds, which is near the close of the present century.

"The bonds are accumulating an interest account, also uncollectible until the principal is due. The principal and interest when due will amount to the very large aggregate of over seventy-seven millions of dollars, though the actual amount advanced by the Government was only \$27,236,512.

"For this very large amount the Government has only a second mortgage, and if it be allowed to accumulate, without any provision being made to meet it, the company will probably be utterly unable to pay it.

"At the same time it is equally manifest that the Government will be unable to collect it, except upon the assumption that it will advance the money to discharge prior mortgages, and run the road on Government account—a policy which wise statesmanship could not advise.

"By standing still, therefore, the company has a load of debt accumulating for which no provision is made, and the Government is drifting further and further from the opportunity to secure a just return for its advances. To do nothing is to injure both the Government and the company, perhaps irretrievably to both."

The committee in their report say further:

This statement is fully justified by the existing indebtedness of the company. The bonded indebtedness of the Union Pacific Company is \$79,457,912, of which there is owing to the United States for "subsidy bonds" \$27,236,512. Of the residue, \$52,221,400, about \$27,236,512 are first-mortgage bonds, and the residue are income, sinking fund, and land grant bonds, the latter secured by mortgage on the land grant of the company. It is quite apparent that the road is in a condition in which it never can and never will pay its liabilities to the United States if they are permitted to accumulate until the maturity of the "subsidy bonds." This is the fact, whatever may be its cause.

I read again from page 21:

The lands will doubtless be sold out under the land-grant mortgage. If the stockholders should lose their stock and all bonds be paid but the first-mortgage bonds, this company would, at the maturity of the subsidy bonds, owe as follows:

First-mortgage bonds	\$27,236,512
Subsidy bonds due the Government	27,236,512
Interest on subsidy bonds	32,683,814
Total	87,156,838

This is equal to \$80,254 per mile. To pay this, the Government may find only a worn-out road, which, put up at auction, would not pay the first-mortgage bonds. And if these should happen to be in the hands of those who now control the road, they would doubtless become the purchasers and sole owners, for the objection to a Government purchase would be so great it would never be made, and there could be no other competitor who would be formidable as a purchaser. If there could be danger of this, the managers of the road could permit the interest to accumulate on the first-mortgage bonds to any amount requisite to secure their purpose to become owners of the road without paying any of its debt to the Government. The necessity for prompt measures to secure the Government cannot be doubted.

I read again from page 29 of the report:

That it is the duty of the companies to provide a sinking fund to meet the payment of the subsidy bonds at maturity, and that there is an urgent necessity for it must be manifest.

The president of the Union Pacific Company, in a letter to the Secretary of the Treasury dated February 9, 1875, says:

"The mortgage held by the Government, in its terms and by judicial decision of the United States circuit court, cannot be enforced until the maturity of the bonds, which is near the close of the present century.

"The bonds are accumulating an interest account, also uncollectible until the principal is due. The principal and interest when due will amount to the very large aggregate of over \$77,000,000, though the actual amount advanced by the Government was only \$27,236,512.

"For this very large amount the Government has only a second mortgage, and if it be allowed to accumulate without any provision being made to meet it, the company will probably be utterly unable to pay it.

"At the same time it is equally manifest that the Government will be unable to collect it, except upon the assumption that it will advance the money to discharge the prior mortgages and run the road on Government account; a policy which wise statesmanship could not advise.

"By standing still, therefore, the company has a load of debt accumulating for which no provision is made, and the Government is drifting further and further from the opportunity to secure a just return for its advances. To do nothing is to injure both the Government and the company, perhaps irretrievably to both."

The committee proceed and say:

The duty to provide the means of paying these bonds is an obligation prior to any claim of stockholders for dividends, yet the two principal companies are making large dividends and providing no sinking fund.

I now wish to direct attention to what was done with the vast sums of money which these companies got possession of under the legislation to which reference has been made.

The law required that the capital stock of the several companies should be paid for in money at par. In fact, it was paid for at not exceeding thirty cents in the dollar in work on the road. It is said that no cash was paid for the stock of the Union Pacific Railroad Company capital stock, except about \$400,000, and it seems it is not certain that sum was paid.

I read from the report of the House Judiciary Committee, at page 18:

Union Pacific Railroad Company.—Stock subscribed, \$36,783,000; paid in, \$36,762,300. The bonded indebtedness, \$79,457,912, of which \$27,236,512 is due to the United States.

Central Pacific Railroad Company.—Stock subscribed, \$62,608,600; paid in, \$51,275,500. Indebtedness, \$86,163,681, of which \$27,255,680 is due to the United States. This company now comprises, by consolidation, the Western Pacific, the California and Oregon, the San Francisco, Oakland and Alameda, and the San Joaquin Valley Companies, in addition to the original Central Pacific Company.

Central Branch, Union Pacific Company.—Stock subscribed, \$1,000,000; paid in, \$800,600. Indebtedness, besides \$1,600,000 to the United States, is \$303,902.63.

Kansas Pacific Company.—Stock subscribed, \$9,992,500; paid in, \$9,659,950. Total indebtedness, \$30,965,975.41, of which \$6,303,000 is due the United States.

Sioux City and Pacific Company.—Stock subscribed, \$4,478,500; paid in, \$1,791,400. Bonded indebtedness, \$3,256,320, of which \$1,628,320 is due the United States. The floating debt is \$60,571.67.

The stock was not in fact paid for as reported. I read from the same report, at page 20, a striking statement, which must strike with great force the mind of every one who wants to do his duty upon this measure:

In a report made to the House on the 20th February, 1873, (House Report No. 78,) by a committee thereof, it was said of the Union Pacific Company:

"That the moneys borrowed by the corporation, under a power given them only to meet the necessities of the construction and endowment of the road, have been distributed in dividends among the corporators; that the stock was issued not to men who paid for it at par in money, but who paid for it at not more than thirty cents on the dollar in road-making; that of the Government directors, some of them have neglected their duties, and others have been interested in the transactions by the provisions of the organic law have been evaded; that at least one of the commissioners appointed by the President has been directly bribed to betray his trust by the gift of \$25,000; that the chief engineer of the road was largely interested in the contracts for its construction; and that there has been an attempt to prevent the exercise of the reserved power in Congress by inducing influential members of Congress to become interested in the profits of the transaction. So that of the safeguards above enumerated none seems to be left but the sense of public duty of the corporators."

The report shows that in fact the men engaged in this enterprise never risked a dollar of their own capital by the possibility of loss, and that they not only constructed the road from the resources which came from the Government, but that they made enormous profits from these, thereby leaving the United States with no adequate security for the reimbursement of the subsidy bonds.

I read further from the same report, beginning at page 14:

From this it will be seen these companies, on their own showing, are making large profits, and are abundantly able to pay and indemnify the Government against future loss, and pay liberal dividends besides on the par value of stock which, as has been shown by a committee of the House as to the Union Pacific Company, cost its original holders "not more than thirty cents on the dollar in road-making, which road-making itself paid enormous profits—profits realized through the notorious Credit Mobilier of America. These net earnings, as reported by the companies, are over 16 per cent. on the nominal capital stock of the Union Pacific Company, or, in fact, about 50 per cent. for the year 1875 on the real cost of the stock; while as to the Central Pacific Company, the net earnings are nearly 15 per cent. on the nominal capital stock, and how much on the real cost of the stock is not disclosed.

I wish now to read a striking extract or two from a report made to the House of Representatives by a select committee on the 20th of February, 1873. This is a report made by Mr. Wilson. It is report No. 78, Forty-second Congress, third session. The committee say:

The Government never consented to trust its property to men who had not put their own money into the enterprise. It never consented to take security for its reimbursement at the end of thirty years, solely on the property it had advanced. It never expected to rely for the performance of these great public duties upon a company whose debts equalled its whole property. The law-making power, if its mandates are to be obeyed or respected hereafter, cannot accept as an excuse for disobedience to its express directions, by the corporation it has created, that the members of that corporation have decided that those directions were unreasonable and unnecessary.

And this is the important point in the extract I am now reading:

In this case the provision of the charter requiring the stock to be paid for in money has been grossly violated; because, as is apparent, nearly the whole of the stock that has been issued represents no value to the railroad company; or, to state it differently, was issued without any consideration whatsoever.

I read further from page 21 of the same report:

The result of these proceedings was this:

1. While the charter of the Credit Mobilier required its affairs to be managed by a board of directors and its principal business office to be in Philadelphia, the actual conduct of its affairs was wholly by the men acting as a board of trustees and in the city of New York, so that this unlawful arrangement attempted to disguise, and did in effect disguise, these persons by means of a fictitious and pretended and not a real use of the corporate powers of the Credit Mobilier.

2. While the charter of the Union Pacific Railroad Company required its corporate powers to be wielded by a board of fifteen directors, ten of whom should be bona fide holders of stock and should be elected by stockholders representing capital which had been actually paid in full and in money, this contrivance virtually placed all the power and control of said railroad corporation, its property and franchises, in the hands of the same persons, and beyond the management provided by law, thereby disguising and intending to disguise an unlawful seizure of the powers of the company, an unlawful use of its name in the issue of stock, bonds, and scrip, and an unlawful distribution of its property among the parties.

3. While the United States subordinated its own lien to secure reimbursement of the loan of its bonds to a mortgage to secure the bonds of the company for a like amount for the purpose of constructing the road, moneys have been in fact borrowed under the privilege so conferred and distributed as dividends.

4. The statute requiring the capital stock to be paid for in money at par, it has in fact been paid at not exceeding thirty cents on the dollar in road building, excepting, perhaps, the sum of about \$400,000.

5. Instead of securing a solvent, powerful, well-endowed company, able to perform its important public functions without interruption in times of commercial disaster and in times of war, and able to maintain its impartiality and neutrality in dealing with all connecting lines, it is now weak and poor, kept from bankruptcy only by the voluntary aid of a few capitalists who are interested to maintain it, and liable to fall into the control of shrewd and adroit managers, and to become an appendage to some one of the railroad lines of the East.

To give some notion of the cost of building the Union Pacific Railroad and how the Government was robbed, I read the following further extract from the same report on page 17:

In this connection the committee calls attention to the following facts:	
First-mortgage bonds issued.....	\$27,213,000 00
Sold at a discount of.....	3,494,991 23
Net proceeds.....	23,718,008 77
Government bonds issued.....	\$27,236,512 00
Sold at a discount of.....	91,348 72
	27,145,163 38
Aggregate net proceeds of both classes.....	\$50,863,172 05
Cost of whole road to the contractors.....	50,730,958 94
	142,213 11

And attention is also called to the time of the receipt of Government bonds, as shown by schedule thereof set forth in the evidence.

It appears, then, speaking in round numbers, that the cost of the road was \$50,000,000 which cost was wholly reimbursed from the proceeds of the Government bonds and first-mortgage bonds; and that from the stock, the income bonds, and land-grant bonds, the builders received in cash value at least \$23,000,000 as profit, being a percentage of about 45 per cent. on the entire cost.

I read further from pages 4, 7, and 8, showing the spirit of what was called the Hoxie contract:

The first contract for the construction of the road was made with one H. M. Hoxie, who seems to have been a person of little pecuniary responsibility. His proposal to build and equip one hundred miles of the railroad and telegraph is dated New York, August 8, 1864, signed H. M. Hoxie, by H. C. Crane, attorney. It was accepted by the company September 23, 1864. On the 30th of September, 1864, Hoxie agreed to assign this contract to Thomas C. Durant, who was then vice-president and director of the Union Pacific Railroad Company, or such parties as he might designate. On the 4th of October, 1864, the contract was assigned to the one hundredth meridian, an additional one hundred and forty-six and forty-five hundredths miles, the agreement for extension being signed by Crane as attorney of Hoxie. Hoxie was an employé of the company at the time, and Mr. Crane, who signed as Hoxie's attorney, was Durant's "confidential man," as Durant himself expresses it.

By this contract and its extension, Hoxie agreed to build two hundred and forty-six and forty-five hundredths miles of road, to furnish money on the securities of the company, to subscribe \$1,000,000 to the capital stock, and he was to receive \$30,000 per mile for the work.

On the 11th day of October, 1864, an agreement was entered into by Durant, Bushnell, Lombard, McComb, all directors of the Union Pacific Railroad Company, and Gray, a stockholder, to take from Hoxie the assignment of his contract, (which assignment he had previously bound himself to make to such persons as Durant should designate,) and to contribute \$1,600,000 for the purpose of carrying the contract out.

This Hoxie contract and its assignment were a device by which the persons who were the active managers and controllers of the Union Pacific Railroad Company caused said corporation to make a contract with themselves for the construction of a portion of its road, by which also they got possession of all the resources which it would be entitled to by the completion of said portion, and by which they evaded, or sought to evade, the requirement that the capital stock should be fully paid in money, by substituting for such payment a fictitious or nominal payment in road building and equipment, each share being treated as being worth much less than its par value. That this was the substance of the transaction will more fully appear when we come to speak of a subsequent arrangement of the same nature, but on a larger scale.

On the 26th day of March, 1864, by an act of the Legislature of the State of Pennsylvania, the name was changed to "The Credit Mobilier of America."

By the terms of purchase of the charter, an agency was to be established in the city of New York, and when the subscription was made it was upon the condition that the full powers of the board of directors should be delegated to the New York agency, and that a railway bureau should be established at said agency, of five managers, three to be directors of the company, (afterward changed to seven managers,) who should have the management of railway contracts, subject to the approval of the president. By these means this Pennsylvania corporation, so far as the management of its affairs was concerned, substantially expatriated itself, and, clothed with the extraordinary powers acquired from the State of Pennsylvania, it proceeded to take upon itself the control of the Union Pacific Railroad Company in the manner following:

It purchased the outstanding stock of that corporation, amounting to about \$2,180,000, on which about \$218,000 had been paid to the railroad company, the Credit Mobilier paying for this stock the amount already paid. At the time of this purchase the shares of Union Pacific stock were \$1,000 each. After the act of 1864 was passed these shares were canceled, and a release was made in shares of \$100 each. The release was made to the stockholders of the Credit Mobilier, and by this process the stockholders of the two corporations were made identical. By this means the persons who under the guise of a corporation that was to take the contract to build the road held complete control of the corporation for which the road was to be built.

These things accomplished, they took charge of construction under the Hoxie

contract, and the portion of the road lying between Omaha and the one hundredth meridian was constructed under it.

This contract cost the Union Pacific Railroad Company.....	\$12,974,416 24
It cost the Credit Mobilier.....	7,806,183 33
Profit.....	5,168,233 91

This profit is a profit in stock and bonds estimated at par. Their actual value will appear hereafter.

The next event in this history is as follows, and it is stated here to show the animus of those who were managing this great trust:

The Hoxie contract had been completed, finishing the road to the one hundredth meridian, a distance of two hundred and forty-six and forty-five hundredths miles. An agreement was then made, (November 10, 1866,) by Thomas C. Durant, vice-president of the Union Pacific Railroad Company, with a Mr. Boomer for the construction of one hundred and fifty-three and thirty-five hundredths miles west from the one hundredth meridian. By the terms of this agreement Boomer was to be paid \$19,500 per mile for that portion between the one hundredth meridian and the east bank of the North Platte, and for that portion lying west of the North Platte within the limits of the agreement \$20,000 per mile, the bridge over the North Platte, and station-buildings equipment, &c., to be an additional charge.

This contract was never ratified by the company, but under it the work progressed, and fifty-eight miles of road had been completed and accepted by the Government. The books of the company fail to show what this fifty-eight miles had cost the company; but from the best evidence that could be procured your committee believe that the cost had not been to exceed \$27,500 per mile for construction and equipment, the excess over the contract price being for station-houses, equipment, &c. Inasmuch as the charter required that the station-houses, equipment, &c., should be built and furnished before acceptance by the Government, and inasmuch as the records of the Department show that the fifty-eight miles had been accepted, your committee feel warranted in finding that this had been done and that the cost of the whole was not to exceed \$27,500 per mile. But notwithstanding this, on the 5th day of January, 1867, the board of directors by a resolution extended the Hoxie contract over this fifty-eight miles of then completed road, thereby proposing to pay to the Credit Mobilier the sum of \$22,500 per mile for this fifty-eight miles, amounting to the sum of \$1,345,000, without any consideration whatever.

The following is the resolution of date January 5, 1867:

"Resolved, That the Union Pacific Railroad Company will, and do hereby, consider the Hoxie contract extended to the point already completed, namely, three hundred and five miles west from Omaha, and that the officers of this company are hereby authorized to settle with the Credit Mobilier at \$50,000 per mile for the additional fifty-eight miles."

That it was proposed to give the Credit Mobilier this profit, if that is the proper word to be used in such a connection, is verified by the fact that subsequently the sum of \$1,104,000 was paid to the Credit Mobilier on account of this fifty-eight miles, for the construction of which it never had even the semblance of a contract. Of this \$1,104,000 further mention will be made hereafter.

I read further from page 13, of same report, to show the like spirit of the "Oakes Ames contract:"

This contract extended over one hundred and thirty-eight miles of road completed and accepted. No work was done under it until after its assignment. That portion already completed had cost not to exceed \$27,500 per mile, and by embracing this one hundred and thirty-eight miles in it these trustees derived a "profit," if such a term is admissible in such a connection, which enabled them to make a dividend among the stockholders in less than sixty days after the assignment, namely, on the 12th of December, 1867, as follows: 60 per cent. in first-mortgage bonds of the Union Pacific Railroad Company, \$2,244,000; 60 per cent. in stock of the Union Pacific Railroad Company, \$2,244,000.

This was mainly, if not entirely, derived from the excess of the contract price over what the one hundred and thirty-eight miles had cost.

The trustees proceeded to construct the road under this contract, and from a balance-sheet taken from the books it appears that the cost to the

Railroad company was.....	\$37,140,102 74
And the cost to the contractors was.....	27,285,141 99

Profit.....	29,854,141 99
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The nature of this profit, as in case of that on the Hoxie contract, will appear hereafter.

Again I read a further extract from pages 13 and 14 in further illustration of the spirit of the corporators:

DAVIS CONTRACT.

This was a contract made with J. W. Davis, a man of but little, if any, pecuniary ability, (and not expected to perform the contract,) for the construction of that part of the road beginning at the western terminus of the "Ames contract," and extending to the western terminus of the road, a distance of one hundred and twenty-five and twenty-three hundredths miles. It was upon the same terms as the Ames contract, and was assigned to the same board of trustees. Under it the residue of the road was constructed, and, from a balance-sheet taken from the books of the railroad company, it appears that it—

Cost the railroad company.....	\$23,431,768 10
And, from a balance-sheet taken from the books of the trustees, that it cost the contractors.....	15,620,933 62

Profit.....	7,860,834 48
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Your committee present the following summary of cost of this road to the railroad company and to the contractors, as appears by the books:

Cost to railroad company.	
Hoxie contract.....	\$12,974,416 24
Ames contract.....	57,140,102 94
Davis contract.....	23,431,768 10
Total.....	93,546,287 28

Now see the other side of the books:

Cost to contractors.	
Hoxie contract.....	\$7,806,183 33
Ames contract.....	27,285,141 99
Davis contract.....	15,620,933 62
	50,730,958 94

	42,823,328 34
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To this should be added amount paid Credit Mobilier on account of fifty-eight miles.....	1,104,000 00
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Total profit on construction.....	43,925,328 34
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I might spend the day in reading extracts from these reports, all going to show the enormity of the frauds practiced upon the Government. Surely what I have read will serve to show that Congress ought to hasten to do now what ought to have been done long since—to protect the Government against a corporation that has thus robbed it.

The testimony against the Central Pacific Railroad Company is not so complete, but the practices of that company have been far from what was just and fair toward the Government. I read an extract from a speech made by Hon. William A. Piper, of California, in the House of Representatives, April 8, 1876. Among other things he says:

The Central Pacific Railroad of California in 1870 became consolidated with the Western Pacific, the San Joaquin Valley, and the San Francisco, Oakland and Alameda Railroad Companies, under the name of the Central Pacific Railroad.

With a desire to own every pass and natural avenue to the Pacific, the directors, by well-known means, also secured control of the Southern Pacific Railroad Company, a corporation formed October 11, 1870, by the consolidation of the San Francisco and San José, the Southern Pacific of California, the Santa Clara and Pajaro Valley, and the California Railroad Companies. The Southern Pacific Railroad of California should not be confounded with the Southern Pacific Railroad of Texas.

The schemes of these men to secure immense profits in the construction of roads to the Pacific were similar to those of the Credit Mobilier of America.

He then refers to a suit in California relating to the Central Pacific, and says:

Under these circumstances, the account given by Samuel Brannan, the plaintiff in this suit, may be considered as substantially true. He asserts that C. P. Huntington, Leland Stanford, Mark Hopkins, Charles Crocker, E. B. Crocker, and others, being a majority of the directors of the Central Pacific, formed themselves into a company styled the Contract and Finance Company, for the purpose of taking contracts for the construction of the road at rates largely in excess of the sum at which the work could have been let out to responsible parties. The said directors then entered into a contract with themselves, as member of this fictitious corporation, for the construction of the Central Pacific, and transferred to the Contract and Finance Company the entire subsidies of land, money, and bonds granted by the United States, the States of California and Nevada, and various municipal corporations of California in aid of the enterprise. They also granted to Wells, Fargo & Co. the exclusive right of running express trains for the transportation of freight, packages, and bullion over the Central Pacific, and received as pay for the concession stock in that company. They also bought up the stock of competing railroads, and, receiving the subsidy bonds from the United States, appropriated to themselves the profits of said roads. They so managed their operations, principally through the Contract and Finance Company, as to earn immense profits, recklessly increasing the cost of building the Central Pacific to double or treble the amount necessary.

In order to obtain these immense grants of land and money, and to procure the reorganization of the competing railroads purchased by them, and to secure their reelection as officers thereof, they expended vast sums of money in lobbying; and in carrying out their schemes generally they rode rough-shod over the people of the Pacific coast, using every conceivable mode of oppression. These grave charges are substantially confirmed by the reluctant testimony of Richard Franchot and C. P. Huntington, given in the early part of 1873 before the special committee of this House appointed to investigate the operations of the Central Pacific.

These companies now have the ability to make reasonable provision to pay the debt of the Government. Their earnings are immense. They make larger dividends than any railroad companies in this country. If the bill before the Senate should become a law, they can, as appears by the report of the committee, pay to the stockholders from 4½ to 6 per cent. dividends on the nominal value of the capital stock. And when we consider the market value of the stock, and then further what it really cost most of the stockholders, such dividends would be enormous.

The bill of the Committee on the Judiciary is compulsory in its provisions. This we have seen is absolutely essential. It makes adequate—not more—provision for paying the debt of the Government, principal and interest, when it shall mature, leaving the stockholders reasonable, under the circumstances extravagant dividends. And in case the earnings of the company shall not in any year be adequate for the purposes of the bill, ample provision is made for giving relief. The bill requires no duty, imposes no obligation impossible of performance; it is reasonable and practicable in all its provisions.

With all due respect to the Committee on Railroads, I must say that the bill reported by them, by its terms and according to their own showing, is inadequate to the due protection of the rights of the Government. It does not provide for the payment of the debt of the Government at maturity, it is not compulsory, and in view of what we have seen of the practices and spirit of these corporations, it is practically an indefinite postponement of the rights of the Government and the people. It is wholly unacceptable, if it is seriously the purpose of Congress to afford substantial protection for the Government.

Mr. President, the great importance of the subject under consideration must be my apology for detaining the Senate so long. Congress has certainly been remiss in reference to it in the past; I trust it will be so no longer. Justice, right, prudence, the country, alike demand our prompt and efficient action.

Mr. THURMAN. The Senator from Minnesota, [Mr. WINDOM,] the chairman of the Committee on Appropriations, desires that this bill be laid aside informally, not to lose its order, that the Senate may take up the consular and diplomatic appropriation bill.

Mr. HILL. I should like to get the floor for to-morrow on the pending bill.

Mr. THURMAN. Take it now.

Mr. HILL. Very well.

The PRESIDING OFFICER, (Mr. MITCHELL in the chair.) The

Senator from Georgia will be recognized as entitled to the floor to-morrow when the consideration of this bill shall be resumed.

Mr. THURMAN. I consent that the bill be laid aside informally in order that the appropriation bill may be taken up.

The PRESIDING OFFICER. The Chair hears no objection, and that will be the understanding.

Mr. THURMAN. I wish to say, however, that I hope it will be the pleasure of the Senate to proceed with the funding bill with somewhat more of industry than it has heretofore. I have no complaints to make; but I hope that we may be able to get to a vote on the bill by the last of this week or very early next week, and therefore that those who desire to speak upon it will be content that there may be two or even three speeches made in a day hereafter. I only express this as my wish; of course, it will be for the Senate to say. My friend from Connecticut [Mr. EATON] says it ought not to be hurried, as it is an important measure; but if it is to pass at this session of Congress we ought not to spend too much time on it. I shall not make any unreasonable pressure, and every Senator will have an opportunity to speak on it who desires. I do not propose to take the time now, but will only say that I will request the Senate to come to a vote on this bill, if not at the end of this week, then by the middle of next week at the farthest.

Mr. MATTHEWS. When I addressed the Senate on the subject of the funding bill I announced my intention on taking my seat to move that the bill reported by the Railroad Committee should be substituted for the bill reported by the Committee on the Judiciary.

Mr. THURMAN. I thought my colleague had made that motion.

Mr. MATTHEWS. But the motion was not formally entered, and I desire to have it so entered in order that that may be the pending question.

Mr. THURMAN. Let that be moved now.

The PRESIDING OFFICER. By unanimous consent, the amendment reported from the Committee on Railroads will be considered as the pending question.

The amendment of Mr. MATTHEWS is to strike out all after the enacting clause of the bill and insert:

That in order to establish a sinking fund for the purpose of liquidating the claims of the Government on account of the bonds advanced under said act of July 1, 1862, and the acts amending the same or supplemental thereto, to the Central Pacific Railroad Company of California, and the Western Pacific Railroad Company, and to the Union Pacific Railroad Company, the Secretary of the Treasury of the United States is hereby authorized to carry to the credit of a sinking fund for the Central Pacific Railroad Company, a corporation organized and existing under the laws of the State of California, the successor by consolidation of the said Central Pacific Railroad Company of California and the Western Pacific Railroad Company, and to the credit of a sinking fund for the Union Pacific Railroad Company, the amount due, or which may be due, the said companies respectively, for the carriage and transportation of the mails, troops, munitions of war, supplies, and public stores for the Government, under the acts aforesaid, up to and including the 31st day of March, 1878, which, if not amounting at said date to the sum of \$1,000,000, shall be made up by the respective companies to that sum each.

SEC. 2. That the said Central Pacific Railroad Company and the Union Pacific Railroad Company shall each pay into the Treasury of the United States, to the credit of said sinking fund, either in lawful money or in any bonds or securities of the United States Government, at par, annually, the sum of \$1,000,000, in equal semi-annual installments, on the 1st day of April and October in each year, commencing on the 1st day of October, 1878, and continuing such payments until the 1st day of October, in the year 1900. Interest on all sums placed to the credit of the sinking fund shall be credited and added thereto semi-annually, at the rate of 6 per cent. per annum. Any balance remaining due from either of said companies at the date last aforesaid, after deducting the amount standing to the credit of said sinking fund from the amount of said bonds, together with all interest thereon which shall have been paid by the United States, and interest on the principal of said bonds from the maturity thereof, respectively, to the 1st day of October, A. D. 1900, shall be then divided into fifty equal semi-annual installments, to be paid by said companies respectively, one of which shall be paid on the 1st day of April, and one on the 1st day of October in each year, with all accrued interest from October 1, A. D. 1900, on said balance remaining unpaid at the date of maturity of each installment at the same rate per annum paid by the United States on the larger part of its public debt, on the 1st day of January preceding the date of payment of the several installments: *Provided, however,* That on the failure or refusal of said companies, or either of them, to make any payment in accordance with the provisions of this act for the period of six months, then the provisions hereof in regard to the liquidation of said bonds and interest shall thenceforth, at the option of the United States, become inoperative as to such defaulting company; and the rights and powers of the United States in relation thereto, under the acts to which this is amendatory, shall be in full force and effect as if this act had not been passed, except as hereinafter provided. Or the United States may, in case of default aforesaid, retain as payment on account thereof to the credit of said sinking fund any sum or sums that may accrue to said company in default on account of the carriage and transportation of the mails, troops, munitions of war, supplies, and public stores until said default is removed.

SEC. 3. That the payments so to be made by said companies shall be in lieu of all payments required from said companies under said act and the amendments thereto in relation to the reimbursement to the Government of the bonds so issued to said corporations: *Provided, however,* That said companies shall not in any manner be released from their present liabilities to keep the said railroads and telegraph lines constructed under the acts of Congress aforesaid in repair and use, and to transmit dispatches over said telegraph lines, and transport mails, troops, munitions of war, supplies, and public stores upon said railroads for the Government, whenever required to do so by any Department thereof, at fair and reasonable rates of compensation, (said rates not to exceed the amounts paid by private parties for the same kind of service,) the whole amount of which shall be paid by the Government to said companies on the adjustment of the accounts therefor, and that the Government shall at all times have the preference in the use of the same for all the purposes aforesaid.

SEC. 4. That the mortgage of the Government created by the fifth section of the act of July 1, 1862, amended by the act of July 3, 1864, shall not be in any way impaired or released by the operations of this act until the whole amount of the principal of said bonds, with the interest thereon paid by the United States as aforesaid, shall be fully paid; but said mortgage shall remain in full force and virtue, and, upon the failure of either of said companies to perform the obligations imposed upon them by this act, said mortgage may also be enforced against such defaulting company for any such default; the Government, however, duly credit-

ing and allowing to the company upon said mortgage all payments which may have been made in part execution of this act, and interest thereon to be credited and added thereto semi-annually as hereinbefore provided.

Sec. 5. That this act shall take effect upon its acceptance by said railroad companies, or, if accepted by only one of said companies, then as to the company so accepting the same, which acceptance shall be filed with the Secretary of the Treasury within four months from the passage of this act, and shall show that said company or said companies have agreed to the same at a meeting of stockholders; and if said companies shall make punctual payment of the sums herein provided for and perform all the conditions hereof, this act shall be deemed and construed to be a final settlement between the Government and the company or companies so performing the same, in reference to all matters relating to a reimbursement to the Government by said companies; but in case of failure so to do, Congress may at any time alter, amend, or repeal this act as to such company so making default.

Sec. 6. That all acts and parts of acts inconsistent with this act are hereby repealed.

ORDER OF BUSINESS.

Mr. WINDOM. I am prepared to take up the consular and diplomatic bill so far as the Committee on Appropriations is concerned, but the Senator from Maine, [Mr. HAMLIN,] the chairman of the Committee on Foreign Relations, requested this morning that the bill should go over until to-morrow. He wishes to make some suggestions with reference to it, and as the request came from the chairman of that committee whose duties are peculiarly related to the consular and diplomatic bill, I consented that it might go over until to-morrow.

Mr. THURMAN. Then the Senator from Minnesota will not call up the consular and diplomatic bill until after the Senator from Georgia [Mr. HILL] has been heard on the funding bill.

Mr. WINDOM. We will pursue the usual course in reference to it. I ask that it may be taken up by consent after the Senator from Georgia shall have concluded.

The PRESIDING OFFICER. That will be the understanding.

Mr. THURMAN. That will be the understanding, and then the funding bill will be passed over informally.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they were thereupon signed by the Vice-President:

A bill (S. No. 525) to authorize the Worthington and Sioux Falls Railroad Company to extend its road into the Territory of Dakota, to the village of Sioux Falls; and

A joint resolution (H. R. No. 133) to prescribe the time for the payment of the tax on distilled spirits, and for other purposes.

EXECUTIVE SESSION.

Mr. BAYARD. Understanding that the Senator from Minnesota will call up his bill to-morrow, I move now that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and fifty-six minutes spent in executive session the doors were reopened, and (at five o'clock and ten minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, March 26, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

PERSONAL EXPLANATION.

Mr. FINLEY. I rise to a personal explanation. On yesterday when the votes were taken on the motions of the gentleman from Virginia [Mr. GOODE] and the gentleman from Kentucky [Mr. DURHAM] to suspend the rules I announced a pair of the gentleman from Indiana [Mr. CALKINS] with the gentleman from New Jersey, [Mr. ROSS.] I did so at the request of the gentleman from Indiana. He said to me he was going away, and that he and Mr. ROSS were paired and that he desired I should make the announcement. I notice by this morning's RECORD that Mr. ROSS voted on each of those occasions. He desires me to say the pair he had with the gentleman from Indiana, as he understood it, was on political questions, and that the questions on which the votes were taken yesterday were not political questions, and were not questions on which he was paired. I desire to state this in justice to the gentleman from New Jersey. I simply did what I was requested to do by the gentleman from Indiana.

The SPEAKER. Does the gentleman desire that the name of the gentleman from New Jersey [Mr. ROSS] shall continue in the record of yeas and nays?

Mr. CALKINS. I do. I desire to say, Mr. Speaker, that I did ask the gentleman from Ohio [Mr. FINLEY] to announce the pair between myself and the gentleman from New Jersey, [Mr. ROSS.] I did understand that the pair extended to these questions. Mr. ROSS did not so understand; and I now relieve him from any embarrassment he may feel on that question, and ask that his name may stand as recorded.

W. F. AND G. E. WILLARD.

Mr. ALDRICH, by unanimous consent, introduced a bill (H. R. No. 4099) for the relief of William F. Willard and George E. Willard, of Ferrysburg, Michigan; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

L. L. RICE.

Mr. MONROE, by unanimous consent, introduced a bill (H. R. No. 4100) authorizing L. L. Rice to locate land warrant No. 79099, issued under act of March 3, 1855, in his own name, or to sell and assign the same; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

SALE OF TIMBER LANDS.

Mr. PAGE, by unanimous consent, introduced a bill (H. R. No. 4101) for the sale of timber lands in the States of California and Oregon and in Washington Territory; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

UNITED STATES BARGE OFFICE, NEW YORK.

Mr. MULLER, by unanimous consent, submitted resolutions and accompanying documents relative to the construction of a United States barge office on the battery extension in the city of New York; which were referred to the Committee on Public Buildings and Grounds.

PROTECTION AGAINST UTE INDIANS.

Mr. PATTERSON, of Colorado. I ask unanimous consent to submit for present consideration the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Secretary of War is hereby requested to communicate to this House what steps, if any, have been taken to protect residents of the western part of Colorado from any threatened outbreak on the part of the Ute Indians; and also whether or not the present military post known as Fort Garland is located so as to afford the best protection from such Indians; and if not, at what point such a post should be established to afford such protection; also, whether or not with the establishment of a new post for protection against the Utes the maintenance of Fort Garland would be longer necessary, with such other information possessed by the Department as is pertinent to the subject.

Mr. HALE. I object if this is to occupy any time.

Mr. PATTERSON, of Colorado. It will not take any time.

Mr. HALE. If the gentleman can put it right through without taking up time, I will not object.

The SPEAKER. The resolution will be again read.

The resolution was again read.

There being no objection, the resolution was adopted.

Mr. PATTERSON, of Colorado, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOSEPH E. WILSON.

Mr. GIDDINGS, by unanimous consent, from the Committee on War Claims, reported back the bill (H. R. No. 670) for the relief of Joseph E. Wilson, and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee of Claims.

The motion was agreed to.

SUFFERERS BY GRASSHOPPERS.

Mr. FINLEY, by unanimous consent, from the Committee on Agriculture, reported, as a substitute for House bill No. 1468, to provide for the relief of persons suffering from the ravages of grasshoppers, and House bill No. 1739, for distribution of seeds for sufferers by grasshoppers, a bill (H. R. No. 4102) for the relief of persons in the county of Taos, New Mexico; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

HENRY W. MARTIN.

Mr. CALDWELL, of Tennessee, by unanimous consent, introduced a bill (H. R. No. 4103) to correct the military record of Henry W. Martin; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed without amendment the joint resolution (H. R. No. 133) to prescribe the time for the payment of the tax on distilled spirits, and for other purposes.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 659) for the relief of Josiah H. Pillsbury; and

A bill (S. No. 901) to authorize the Secretary of War to relinquish certain portions of the United States military reservation of Fort Fetterman, Wyoming Territory.

INFECTIOUS DISEASES.

Mr. HARTRIDGE. On Friday last the House gave unanimous consent that on the next day, Saturday, after the morning hour, the Committee on Commerce should be authorized to report back the bill to prevent the introduction of infectious diseases into the United States, and that one hour should be devoted to the debate and consideration

of the bill. The House adjourned over Saturday, so that that order could not be executed. I now ask unanimous consent that the Committee on Commerce be allowed one hour for the same purpose and under the same restrictions to-morrow after the morning hour.

Mr. HALE. The gentleman had better say after the reading of the Journal, for there may be no morning hour.

Mr. HARTRIDGE. Very well; I will do so.

The SPEAKER. Is there objection to the proposition of the gentleman from Georgia, [Mr. HARTRIDGE.]

Mr. JONES, of Alabama. I have no objection, if there can be some understanding as to the time.

The SPEAKER. The time proposed is one hour, and the Chair presumes that that hour will be divided equally between the friends and the opponents of the bill.

There being no objection, it was so ordered.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS, from the Committee on Appropriations, reported a bill (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1879, and for other purposes; which was read a first and second time.

Mr. EDEN. I desire to reserve all points of order on the bill.

The SPEAKER. They will be reserved.

Mr. ATKINS. I do not think the gentleman will find anything in the bill subject to points of order. I move that the bill be printed, and referred to the Committee of the Whole; and I give notice that on Tuesday next I will ask for its consideration, and from day to day until disposed of, if the House will so consent.

The motion of Mr. ATKINS was agreed to.

ORDER OF BUSINESS.

Mr. EDEN. I now call for the regular order.

The SPEAKER. The regular order being called for, the morning hour will begin at—

Mr. RIDDLE. I ask the gentleman to allow me to make a report from the Committee on Invalid Pensions, to which I think there will be no objection. If there is, I will ask that it be referred to the Committee of the Whole.

Mr. EDEN. I will not object to that.

PENSIONS.

Mr. RIDDLE, from the Committee on Invalid Pensions, reported as a substitute for House bills No. 1990 and No. 2043 a bill (H. R. No. 4105) to amend an act entitled "An act to increase pensions in certain cases," approved June 18, 1874; which was read a first and second time.

The substitute provides for amending the act of June 18, 1874, so as to extend its provisions to all persons who are now or were at the time of the passage of said act entitled to pensions under existing laws, and who have lost an arm below the elbow or so near the elbow, or a leg below the knee or so near the knee, as to destroy the use of the elbow or knee joint, and such persons shall be rated in the second class and shall receive a pension of \$24 per month.

Mr. RIDDLE. I ask that that bill be now considered.

Mr. EDEN. I do not object to the report being made at this time; but I understood that it was for reference to the Committee of the Whole.

Mr. RIDDLE. Then I will ask that the substitute be printed and referred to the Committee of the Whole on the public Calendar.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. EDEN. I now insist upon the regular order.

The SPEAKER. The regular order being called for, the morning hour will begin at twenty-three minutes before one o'clock.

Mr. SINGLETON. I have a report from the Committee on Printing, which I think is privileged at any time.

Mr. BANKS. That is privileged, and therefore should not come in during the morning hour.

The SPEAKER. It will be received as a privileged report prior to the beginning of the morning hour.

AGRICULTURAL REPORT FOR 1877.

Mr. SINGLETON, from the Committee on Printing, reported back, with an amendment, the following resolution:

Resolved by the House of Representatives, (the Senate concurring.) That there be printed 300,000 copies of the report of the Commissioner of Agriculture for 1877; 224,000 copies for the use of the House of Representatives, 56,000 copies for the use of the Senate, and 20,000 copies for the use of the Department of Agriculture.

The amendment was to add to the resolution the following:

Provided, however, That the number of pages of said report shall not exceed five hundred.

Mr. SINGLETON. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to, and the resolution, as amended, was adopted.

Mr. SINGLETON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT ON FORESTRY.

Mr. SINGLETON. I am further directed by the Committee on Printing to report back the resolution which I send to the Clerk's desk, with an amendment.

The resolution was read, as follows:

Resolved by the House of Representatives, (the Senate concurring.) That there be printed 5,000 copies of the report upon forestry transmitted by the President to Congress from the Commissioner of Agriculture on the 13th day of December last, 3,000 copies thereof for the use of the House of Representatives, 1,500 for the use of the Senate, and 500 copies for the Commissioner of Agriculture.

The amendment was to add to the resolution the following:

Provided, however, That the total number of pages of said report shall not exceed 650.

Mr. AIKEN. Is not the resolution open to amendment?

The SPEAKER. It is.

Mr. AIKEN. I move, then, to amend it by striking out "five thousand" and inserting in lieu thereof "twenty-five thousand," and upon that amendment I propose to say a few words.

Mr. HARRIS, of Virginia. I would ask whether debate is in order upon this question during the morning hour? If this resolution is likely to lead to debate I must insist upon the morning hour.

The SPEAKER. The gentleman from Virginia is not entitled to the floor; the gentleman from South Carolina is on the floor.

Mr. EDEN. I call for the reading of the amendment.

The SPEAKER. The amendment is to strike out "five thousand" and insert in lieu thereof "twenty-five thousand."

Mr. GARFIELD. I understood that the regular order had been called for.

Mr. AIKEN. A resolution of this kind cannot pass without a word of explanation and protest.

The SPEAKER. The Chair will give the gentleman all his rights under the rule.

Mr. GARFIELD. Certainly, the Speaker had already announced that the morning hour had begun.

The SPEAKER. But the gentleman from Mississippi [Mr. SINGLETON] antagonized that announcement.

Mr. AIKEN. Mr. Speaker, some explanation is necessary to acquaint the House with the subject before them that they may vote understandingly upon the report of the Committee on Printing.

In the spring of 1874, a memorial was presented to Congress from the "American Association for the Advancement of Science," asking for such legislation as would tend to encourage the cultivation of timber and the preservation of forests. That memorial was referred to the Committee on Public Lands, who, after maturely considering its merits, reported favorably and presented a bill authorizing the appointment by the President of the United States of a Commissioner of Forestry, who should make investigations upon this and all kindred subjects. This commissioner was subsequently appointed, and he is the agent of the Government who now presents to this body the result of his investigations in the shape of a Report upon Forestry, and of which report I ask the publication of 25,000 copies, instead of 5,000 as proposed by the Committee on Printing.

I am not here, sir, to defend this agent, for I never knew him until I met him before the Committee on Agriculture; but he is a man of national reputation and I presume has his reputation somewhat at stake in submitting this report. He has labored assiduously for two years to fulfill the order of Congress in making these investigations upon the subject of forestry, forest culture, and all other questions incidental thereto.

The printing of this report was maturely considered by the Committee on Agriculture, consisting of eleven members. The manuscript is sufficient to fill two volumes, one a volume of closely printed matter of perhaps six hundred and fifty pages, the other a volume of statistical matter, comprising about three hundred and fifty or four hundred pages. Your Committee on Agriculture believe it would be prudent, wise, and proper to publish the entire report, making perhaps a thousand or eleven hundred pages. But by a peculiar rule of this House, to which I am not now offering an objection, after the consideration of the subject by the committee of eleven members, we have the matter again submitted for the consideration of the Printing Committee, which is composed of but three members, who in their wisdom decide that the Committee on Agriculture were 95 per cent. wrong. To my mind, sir, this is a most remarkable conclusion.

Now, Mr. Speaker, I ask the chairman of the Committee on Printing if he has delved into this mass of manuscript matter? Has he a conception of the magnitude of this work, and of its importance to the people of this country? If he has I would ask why is it that his committee have suggested the printing of only 5,000 copies? Is it because printing a large number would not be "in the line of economy?" If this is the purport of his report, and it should be approved by this House, I shall on a proper occasion introduce a resolution, to be referred to an appropriate committee, asking for a definition of that oft-repeated cry, harped upon this floor so constantly, "it is not in the line of economy."

It will require but \$5,000 to print 5,000 copies of this report, and instead of spending a larger amount for the benefit of the great agricultural interests of our country the Committee on Printing favor that economy which would almost smother the report and prevent a single copy from falling into the hands of the farmers. Sir, compare

this species of economy with that which appropriates for a defunct Navy or for an inefficient Army more millions of the public money than we are asking for thousands. Yes, sir, we give more as an annual salary to a single commodore or general than is asked for to spread information among the people.

This is the first time during this session that the agricultural interests have asked that some benefit shall accrue to them from the appropriations made to develop the resources of the country.

Mr. FINLEY. Will the gentleman from South Carolina allow me to make a suggestion in the way of an inquiry?

Mr. AIKEN. Certainly.

Mr. FINLEY. The gentleman stated that it would cost \$5,000 to print 5,000 copies of this report. Now, is it not true that it would only cost \$15,000 to print 25,000 copies?

Mr. AIKEN. I can print 25,000 copies for \$11,000.

Mr. Speaker, I undertook to rummage through this mass of manuscript to satisfy myself about its contents; and having learned its supposed contents by an examination of the captions to the various chapters, I ask the privilege of stating them to the House.

The first chapter contains an account of the distribution of forests throughout the United States, and their extent in the respective States and Territories.

The second chapter is captioned "The methods of preserving and increasing these forests;" the third speaks of the method of planting out forests, and describes the trees best adapted to different localities. Fourth, "Wood as a material for paper-making." Fifth, "The manufacture of charcoal and its uses, with wood-gas for illumination and other purposes." Sixth, "The consumption of wood by railroads, the respective consumption for fuel and for cross-ties." Seventh, "The comparative value of different kinds of wood for heating purposes." Eighth, "The resinous products of our forest, and the European method of preserving resinous trees."

Now, Mr. Speaker, it is a well-known fact that the resinous industries of the Southern States, in which so much money is annually invested, are being seriously injured by the suicidal policy adopted in this country of extracting as much turpentine from the trees as possible in the shortest practicable time. This gradual but certain destruction of this immense industry should be averted, and it can only be done by furnishing our citizens with the information contained in this chapter. If investigation has proven to the people of Europe how this industry can be continued for generations, and yet not exhaust the means of supply, it will be worth more than the cost of publishing this report to our citizens, if we by this means inform them of this method. And, sir, unless something be done to check the present system, this great industry, which at present seems exhaustless, must in a few years be confined to a very contracted area.

The next chapter treats of the tanning materials to be found in this country. Can anything be more important, Mr. Speaker? I imagine not. This industry, by the importation of raw hides without duty, has enabled the United States to export annually eight million dollars' worth of leather, and if it were known whence we could obtain the material to enable us to tan leather at a still less cost, our exports might be increased twofold to the advantage of that portion of our laboring population.

"The results of forest fires and their occurrence and prevention" is the caption of another chapter, and I would only ask, if there are not towns and villages in our Northwestern States that would have paid the cost of printing this report could they have been allowed within the past four years to circulate this chapter among their neighbors?

The next chapter speaks of the "insect ravages of forests, diseases, and other destroying agencies." What can be of more immediate interest to the agricultural communities of our country? Entire forest belts are sometimes swept out of existence by insects, and if in this chapter we are to be advised of a remedy, that alone will be worth the cost of publication.

Next comes the question of the "importance of forests to agriculture." A vital question; none more so. To-day the thoughtless farmer sells his forests with the hope and prospect of immediate gain, never for one moment believing that the great cause of agriculture is injured just to the extent that he assists in denuding the earth of the covering nature gave it. If, by reading this chapter, he can be restrained and induced to preserve and indeed increase his forest area, will we not be amply repaid for the appropriation? From almost every section of our country comes the wail that the climate has changed or some other cause exists that prevents our lands producing as they did years ago. Who can say that the destruction of our forests is not the cause of this mysterious change? Perhaps there are data enough in this chapter to satisfy the thoughtful agriculturist.

This is followed by a chapter or dissertation upon the manner in which the forests of Europe are managed. Are we too old to learn from these experienced scientists? Years ago the farmers of Europe were as reckless and thoughtless as are the farmers of America, and to-day they realize the folly of their recklessness. The annual freshets of the Po and other European rivers are national calamities. Their cause is directly described to be the destruction of the forests upon the adjacent hillsides. No one can tell how many millions of acres of fertile low lands have in this country been rendered hopelessly barren from the same cause. Torrents of rain-fall are annually washing from our denuded hillsides gulches of barren sand upon our irre-

vocably ruined bottom lands, while the soluble fertility is swept by the river's current into the ocean. Let us learn from those more experienced a lesson as to how to arrest this accelerated progress to destruction. If Europe has discovered that a preservation of her forests is a preservation of her soil let us become adepts in this school of learning. If the luxuriant leaves of our forest trees check the fall, and the myriad rootlets retard the flow of rain-water that frequently pours from our summers' clouds at the rate of an inch in depth to a minute of time, then let us cherish the trunks that bear those leaves and encourage the growth of those miniature rootlets.

Europe has her schools of forestry, and the next chapter in this report treats of that subject. Are we too learned to receive instruction from this source also? If this report tells us what Europe is doing, let us know the fact, and let our farmers learn what older nations are doing upon a subject of such vital importance to their vocation.

But the last chapter is perhaps the most important, and that treats of the influence of forests on climate. Mr. Speaker, who can tell us to-day what effect this denudation of our country has upon our climate? Why the sudden and unprecedented changes in our climate in almost every section of this broad land? Whence the cause of the periodic droughts annually experienced nowadays throughout our cotton belt? No one can say that denudation and consequent rapid evaporation is not the cause.

Mr. Speaker, these are the various topics treated of in the first volume of this report. The second volume is one of statistics, which we do not ask to have published, but which, I believe, should appear with the other as information for the people.

I have made a calculation of the cost of publishing 25,000 copies of this report provided it covers no more than 650 pages. It will not exceed \$11,200.

Mr. SINGLETON. Did you get that from the Public Printer?

Mr. AIKEN. Yes; and I can state another fact for the benefit of this House, and I beg the members to hear and remember it. While 25,000 copies of this report, if published by the Government printing establishment here in Washington, where house rent, fuel, and gas are supplied at the expense of the Government, will cost \$11,200, I can take the very same job to Philadelphia and have it done by private parties for \$9,000. Fifty thousand copies of this work will cost but \$21,000, and 100,000 copies would not cost as much as you pay to three or four officials of this Government in the shape of annual salaries, and it was for the printing of this last number that the Committee on Agriculture asked in their report. I submit, Mr. Speaker, that the report of the Committee on Printing, proposing to publish only 5,000 copies of this volume, which contains so much invaluable information upon the agricultural and manufacturing industries of our country is unreasonably economical, and I trust the House will adopt my amendment proposing to publish 25,000 copies.

Mr. SINGLETON. The Committee on Printing have no feeling about this matter. I desire to lay before the House what the Committee on Agriculture did. The gentleman has told but a part; I wish to tell the balance. The committee recommended to the House the publication of 100,000 copies of this report, embracing eleven hundred and fifty pages, three hundred and fifty pages of which the Committee on Printing propose to strike out because the gentleman who prepared the work states that it is not necessary they should be published, as they contain mostly matters which are embraced in other reports accessible to everybody. Now, it seems to me that to publish 100,000 copies of this work at the enormous expense of \$100,000 would be in the present state of our finances an extravagant expenditure of money, and unless the House shall take the responsibility of publishing that number, or even 25,000, as proposed by the amendment of the gentleman from South Carolina, [Mr. AIKEN,] it will not be done.

What did your Committee on Printing do? When the matter came before us we considered it in all kindness toward the gentleman who made the report from the Committee on Agriculture. We had Professor Hough, who prepared the work, before us, and, after a thorough examination, came to the conclusion that we ought to publish about 5,000 volumes and have the work stereotyped. If, after examination, the House should find it really so valuable, it will be a very easy matter to strike off any number that we may think the value of the work will justify. That is exactly what the Committee on Printing have done. We did not follow the recommendation of the Committee on Agriculture for the publication of 100,000 volumes, containing eleven hundred and fifty pages each, of which three hundred and fifty pages contain nothing but statistics as to the amount of lumber shipped from one country to another, &c. If the House thinks proper to print 25,000 copies of this work, it will be the act of the House, and not of the committee. We have just agreed to print 300,000 of the Agricultural Report, showing our interest in agriculture.

I now call the previous question.

The previous question was seconded and the main question ordered; which was upon the amendment of Mr. AIKEN to strike out "5" and insert "25," so as to provide for printing 25,000 copies.

The amendment was agreed to, there being ayes 130, noes not counted.

Mr. AIKEN. I ask, by unanimous consent, that the resolution be further amended so as to harmonize with the amendment just adopted,

and in accordance with the proportion of the resolution reported by the Committee on Printing I move to amend so it will provide 15,000 for the use of the House, 7,500 for the use of the Senate, and 2,500 for the use of the Agricultural Department.

There was no objection, and the amendment was agreed to.

The concurrent resolution, as amended, was then adopted.

Mr. SINGLETON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. PRUDEN, one of his secretaries, announced that the President had approved and signed bills of the following titles:

A bill (H. R. No. 305) granting a pension to Mrs. Rebecca C. Maxwell, widow of the late Colonel O. C. Maxwell, One hundred and ninety-fourth Ohio Volunteer Infantry;

A bill (H. R. No. 2584) granting a pension to Margaret R. Coloney, widow of the late Major Josiah B. Coloney, First Maryland Infantry Volunteers;

A bill (H. R. No. 2686) making appropriations for fortifications and for other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1879, and for other purposes;

A bill (H. R. No. 2887) to authorize the granting of an American register to a foreign-built ship for the purposes of the Woodruff scientific expedition around the world;

A bill (H. R. No. 3104) granting a pension to Kate Louise Roy, widow of J. P. Roy, late lieutenant-colonel United States Army; and

A bill (H. R. No. 3721) to remove the political disabilities of Robert H. Chilton.

MORNING HOUR.

The SPEAKER. The morning hour begins at one o'clock, and the call of committees for reports rests with the Committee on the Library.

LIBRARY OF CONGRESS.

Mr. COX, of New York, from the Committee on the Library, reported back a bill (S. No. 648) to constitute a commission to consider and report a plan for providing enlarged accommodations for the Library of Congress, with the recommendation that it do pass.

The bill was read.

The first section provides that the two chairmen of the Joint Committee on the Library of Congress on the part of the Senate and House, the chairman of the Senate Committee on Public Buildings and Grounds, the chairman of the House Committee on Public Buildings and Grounds, and the Librarian of Congress shall constitute a commission to consider the whole subject of providing enlarged accommodations for the Library of Congress, and to report a plan for such accommodations, together with an estimate of the cost.

The second section appropriates \$2,500, or so much thereof as may be necessary, out of any money in the Treasury not otherwise appropriated, for procuring such plans as the commission may prescribe in furtherance of the provisions of the act.

Mr. FORT. Mr. Speaker, does not that bill under the rule go to the Committee of the Whole on the state of the Union?

Mr. COX, of New York. I trust the gentleman from New York will let me make a short statement in reference to this matter before he insists on his point of order.

Mr. FORT. I withdraw the point of order temporarily so the gentleman from New York may be heard.

Mr. COX, of New York. I simply desire to state to this House, Mr. Speaker, that six times the Librarian of Congress has recommended some provision for the protection and preservation of our books. We ought either to abolish the Library or provide greater accommodation. The Library is growing, both as to books and readers. It has already 331,118 books, or had January 1, 1878; 110,000 pamphlets; making 441,118. Of these over 39,000 are law-books, not to mention maps, &c. There is shelf-room in the Library for only 260,000 volumes. Seventy thousand volumes have no place; they are choking up the Library, rendering it a place of destruction, not of preservation. The Library is suffocated. Something ought to be done in order to save the books already there.

There has been an increase the past year of 20,021 volumes and of maps, &c., 2,622:

Derived from these sources:	Books.	Pamphlets.
By purchase	7,682	849
By copyright	8,932	5,340
By deposit of the Smithsonian Institution	2,231	2,154
By donation, (including State documents)	1,030	390
By exchange	126	655
Total	20,021	9,348

Besides room is desired for the purposes referred to the Library by Congress, as to indexing of debates, documents, &c.

I hope the gentleman from Illinois, since our committees cannot agree on any plan or appropriate place for the building, will at least

allow this simple appropriation to go through for the purpose of ascertaining what can be done to relieve the Library.

I could show to the House if I had the time just exactly what this Library has to do. We have given them a great deal to do. We add eight thousand volumes yearly by reason of our copyright law. We ought to provide for the annual increase of twenty thousand volumes or repeal the copyright law and stop buying books. We would have a large increase even if we should fail to appropriate money to buy new volumes. The Librarian has often asked for some enlarged accommodation for these books which are being ruined.

The Committee on the Library on June 8, 1876, through Mr. Senator HOWE, reported to the Senate a bill and a report, (No. 387, Forty-fourth Congress, first session.) From that report reasons may be gathered against any grudging upon so interesting a subject as this Congressional Library. I quote:

But in a strictly economic sense the necessity of larger accommodations for our Library is urged upon us. The Library already holds fifty thousand volumes (1876) which are stacked up upon its floors simply because they cannot be placed upon its shelves.

They do not serve the purpose for which they were designed, simply because they are inaccessible. They are scarcely more available stacked up within the Library room than if they were still in the book-stalls from which they were gathered. The evil is not limited merely to closing the books which are excluded from the shelves. They block the way to books which are upon the shelves. The whole work of the Library is embarrassed. The Library is being suffocated. The evil is constantly growing with every year's accumulations. That growth cannot be prevented even if we refuse further appropriations for the purchase of books. The copyright laws of themselves bring to the Library annually about eight thousand books, seven thousand periodicals, together with musical and dramatic compositions, photographs, engravings, chromos, maps, charts, drawings, and prints, which number in the aggregate about twenty-seven thousand. The accessions from the Smithsonian Institution add largely to this number every year. It is incredible that Congress should exclude from its use these rich accessions by refusing to provide space for their accommodation.

But these accumulations must be excluded or additional room must be supplied.

The Senate has never passed on the measure then reported. Here, therefore they have asked for an appropriation of \$150,000. We propose no such an amount, and just now no amount at all; all we ask is that a commission shall be raised and plans sent in, in addition to other plans which have accumulated in the room of the Library Committee, for the purpose of seeing how this plethora of books can be accommodated. I trust the gentleman from Illinois will withdraw his point of order so the measure may be considered.

Mr. HALE. I understand the bill in no way commits the House to either of the plans or either of the places proposed, but leaves it all open, so that on the final report of this commission the two Houses may decide. Let me ask the gentleman whether it does commit the two Houses either to any plan or any place.

Mr. COX, of New York. It does not. The Joint Committee on the Library are committed to no particular plan and no particular place. All they ask is examination may be made by this commission composed of gentlemen who are responsible to their respective committees.

I will say to the gentleman from Illinois that I do not believe his point of order is well taken in reference to this bill. This is a Senate bill, and although the decision does not meet with my concurrence, nevertheless it has been held in this House that a point of order like that made by the gentleman from Illinois does not lie to a Senate appropriation bill.

Mr. FORT. I have no objection to the bill proposed by the gentleman from New York. I merely called attention to the point of order, because I believe all bills making appropriations of money should be sent to have their first consideration in Committee of the Whole. Out of consideration, however, for the gentleman from New York I will withdraw the point of order.

Mr. COX, of New York. I thank the gentleman. Before calling the previous question I will, with the permission of the House, insert the recommendation of the Librarian of Congress, so that when members read the RECORD in the morning they may be satisfied they have done exactly right in passing this bill. From the Librarian's report for 1867 I extract the following:

The Librarian renews, for the sixth time, his earnest appeal through this committee to the judgment and patriotism of Congress that this body will no longer permit the great collection of literature and art confided to its care to suffer injury and loss in its present narrow and inconvenient quarters. The space, which five years ago was too small for this Library, is now, through the accumulation of nearly one hundred thousand additional volumes, utterly inadequate, not only to store the books, pamphlets, maps, charts, engravings, and other works of art, but it is at times uncomfortably crowded by those persons laudably seeking to make the best use of its rich and overflowing stores. A new library building has become a positive and immediate necessity to furnish room for the readers, to say nothing whatever of room for the books, nearly seventy thousand volumes of which are now piled upon the floors in all directions. It is within the knowledge of the Librarian and has formed a frequent subject of painful regret that students, and especially ladies, are deterred from frequenting the Library of Congress, because of the difficulty of procuring seats therein, while some schools of the city, whose pupils once resorted to its halls to examine the sources of English literature in volumes not elsewhere to be found, can no longer enjoy the possibility of such improvement. It is, moreover, well known to all who come to the Library that its own rules, adopted by the committee for the protection of students, are subject to compulsory violation, and that the measure of silence which should be enforced for the protection of readers is rendered impossible for want of space in which members of Congress or other investigators can be isolated from the crowd of sight-seers which sometimes throng every public place within the Capitol. "The still air of quiet and delightful studies" which should mark the halls of every library becomes further and further removed from those of the Library of Congress with each advancing year. While it may be said in extenuation that it is no function of the Library of Congress to supply the public, whether residents of Washington or the scholars of the country, with facilities for information, it cannot be forgotten that Congress

has itself invited such frequentation by the liberal policy of accumulating a great library at the seat of Government and throwing open its doors to all. It has also taken in charge the rich scientific library of the Smithsonian Institution as a probably permanent deposit, with the contingent responsibility of making its stores contribute to the diffusion of knowledge among men. And it would little comport with the theory or the practice of our popular institutions and form of government that any new bars should be placed in the path of the widest diffusion of intelligence. When it is considered that, from the nature of the case, the embarrassment of producing books and information from these accumulated heaps is constantly growing; that Congress, by the act of 1870 requiring two copies of every publication protected by copyright to be deposited in the Library of the Government, settled the question of its possible permanent shelter in the Capitol in the negative; that this building, overcrowded in all its departments, so that several committees have to occupy the same room, is crowded worst of all in the Library department, to which no possible outlet or addition of room can be procured; that the mere arithmetical computation of the growth of the country's literature proves that space must be provided for a building at least two-thirds the size of the Capitol within the century; that there is no large capital in Europe in which the library of the government can be or is provided for under the same roof with its legislature; that in our case, and in ours alone, there is added to the great Government Library the extensive and growing bureau of cop rights and copyright business for the whole country; that the attempt to get along with this double difficulty has already produced great injury to the books, with partial exclusion from their benefits, and must ultimately curtail the usefulness of the Library to an incalculable degree; that even if the remedy authorizing new space to be provided were immediately applied, some years must elapse before the requisite building accommodations could be completed: the case becomes one of such pressing emergency, not to say distress, that argument upon it should be unnecessary. Suffice it to say that it scarcely becomes a Government representing a nation of such wealth, intelligence, and power to treat the assembled stores of literature and art of the country, which its own laws have caused to be gathered at the capital and thrown open to the people, with such indignity as to subject them to injury and destruction or to equally reprehensible exclusion from their benefits. Of the mode and manner of providing for the care and permanent preservation of this treasury of knowledge Congress is properly the sole judge; but should another session of that body be suffered to pass without proper provision being in some way made for its protection, Congress will hardly be held to have discharged the trust reposed in it as the custodian of what President Jefferson called with prophetic wisdom the Library of the United States.

From all which, Mr. Speaker, it will appear that either our books have to go to waste or we must repeal the copyright and other laws devolving duties on the Library; or else that the very object of the Library must fail. It is with no pleasure that any one having pride in thought, or love for books, can see this splendid library go to ruin. It is not economy thus to allow our books to perish. A book has been called a reasonable creature. It bears "a life—a life beyond life—an immortality rather than a life." Let these precious lives be preserved!

I now call the previous question.

Mr. YOUNG. I desire to say a word, if the gentleman from New York will yield to me.

Mr. COX, of New York. I yield to the gentleman.

Mr. YOUNG. I agree entirely with the gentleman from New York about the importance of this building and I am prepared to give my cordial sanction and indorsement to the bill, with this exception: we have a Supervising Architect of the Treasury and a whole corps of architects already in the Government service at a very considerable expense, and I suggest to the gentleman if it is necessary for an appropriation of \$2,500 to be made simply to pay for plans that might be prepared by architects already in the service; it occurs to me that that item of expenditure might very properly be saved.

Mr. COX, of New York. In reply to the gentleman I will say that if it is found not necessary to expend that sum the gentlemen of the commission will not do it. I think they may well enough be trusted with the expenditure of \$2,500.

Mr. YOUNG. I do not dispute that; but I do not see the necessity of this expenditure on public buildings when we have already a corps of architects in the public service drawing stated salaries who can do the work.

Mr. COX, of New York. The committee is already crowded with plans, and it has been thought that the best method of determining as to the plan is that proposed in the bill. I ask for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. COX, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DUTIES ON IMPORTS.

Mr. WOOD, from the Committee of Ways and Means, reported a bill (H. R. No. 4106) to impose duties upon foreign imports, to promote trade and commerce, to reduce taxation, and for other purposes; which was read a first and second time.

Mr. WOOD. I presume that under the rules this bill will necessarily go to the Committee of the Whole.

The SPEAKER. The rules so require.

The bill was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. CONGER. I desire to reserve all points of order on the bill.

Mr. WOOD. I am directed by the committee to report the resolution which I send to the desk and on it I demand the previous question. It is the unanimous report of the committee.

The Clerk read as follows:

Resolved, That the bill reported from the Committee of Ways and Means entitled "An act to impose duties upon foreign imports, to promote trade and commerce, to

reduce taxation, and for other purposes" be made the special order for Thursday, April 4, after the morning hour, and to continue from day to day until disposed of.

Mr. O'NEILL. I move that the bill be laid on the table.

The SPEAKER. The bill is not before the House. It is in Committee of the Whole on the state of the Union.

Mr. CONGER. I make the point of order that the resolution which has just been read is not in order as a report from the Committee of Ways and Means.

The SPEAKER. Why not?

Mr. CONGER. Because it is not a report of the committee on any business to be acted on by this House. It is not a report which can be made in the morning hour.

The SPEAKER. Reports from committees are undoubtedly in order.

Mr. CONGER. But this relates to the order of business in the House.

The SPEAKER. The Chair thinks it is a report nevertheless. It is for the House to determine.

Mr. CONGER. Is that report subject to amendment?

The SPEAKER. It is if the demand for the previous question is not sustained.

Mr. WOOD. I will state to the gentleman from Michigan there were no differences of opinion in committee on this question. I assume that it is the desire of this House to dispose of this bill by passing it as speedily as possible. Therefore we have desired to fix as early a day as practicable for its consideration, so as to give ample opportunity for discussion and that we may come to a final vote on the bill itself.

Mr. CONGER. I venture to say to that gentleman that I believe it is the opinion of the majority of the House that that bill should not even be considered.

Mr. WOOD. I am quite willing to test the sense of the House upon that question. Therefore I have demanded the previous question upon the adoption of the resolution.

Mr. CONGER. And I hope it will be voted down.

The SPEAKER. The Chair, in corroboration of his position, directs the reading of Rule 151.

The Clerk read as follows:

It shall be the duty of the Committee of Ways and Means to take into consideration all reports of the Treasury Department and such other propositions relative to raising revenue and providing ways and means for the support of the Government as shall be presented or shall come in question and be referred to them by the House, and to report their opinion thereon by bill or otherwise—

The SPEAKER. That is enough. The language of the rule is, "by bill or otherwise."

Mr. CONGER. Then I hope the previous question will be voted down. I still submit this changes the rules of the House, and therefore this is not a report which the committee is authorized to make. If the Chair considers it is, I will not press the point further.

The SPEAKER. The Committee of Ways and Means, under the rule just read, have a right to report by bill or otherwise. The Chair has never known it to be successfully questioned as to bills of this character. In fact in 1872 the then occupant of this chair [Mr. BLAINE] decided that the committee had that right even though the bill came in for committal only under another rule.

Mr. CONGER. Suppose the committee reported a motion to suspend the rules. Does the Chair hold that they would have the right to do that?

The SPEAKER. This is not a proposition to suspend any rule.

Mr. CONGER. But it changes the order of business.

The SPEAKER. It is the constant practice of the House to limit debate and to instruct the Committee of the Whole as to what shall be done with a bill in Committee of the Whole.

Mr. BUTLER. Will the Chair allow me to make a single suggestion?

The SPEAKER. Certainly.

Mr. BUTLER. The Committee of Ways and Means have a right to report their opinions on matters of revenue by bill or otherwise; but they have not a right to report their opinions, I submit, on questions of order or on questions of how the business of the House shall be conducted, by bill or otherwise. The rule provides that they may report their opinions upon financial and revenue measures.

The SPEAKER. There is nothing in the rules that prohibits it, and the practice has been to allow it as to this class of legislation. In 1872, when Mr. DAWES was chairman of the Committee of Ways and Means, a tariff bill was reported from that committee, not as now under the regular call of the committees in the morning hour, but outside of the morning hour, under the provisions of the rule that allowed them to report at any time for committal, and was made a special order in Committee of the Whole on the state of the Union.

Mr. SAMPSON. Does this resolution propose to make the bill a special order?

Mr. WOOD. It proposes to make it a special order.

The SPEAKER. The resolution will again be read.

The resolution was again read.

Mr. CONGER. That is a motion.

The SPEAKER. Well, if it be a motion it is in order; but it is a report from a committee, which gives it more force.

Mr. CONGER. Then I hope the previous question will be voted down.

Mr. JONES, of Ohio. Would an amendment in the nature of a substitute be now in order?

The SPEAKER. Not unless the previous question be voted down. Mr. BURCHARD. This resolution simply fixes a time for the consideration of the bill, and if it is not passed the bill will stand upon the Calendar, and when the House goes into Committee of the Whole on the state of the Union it cannot be reached until all the bills preceding it upon the Calendar have been disposed of or laid aside.

Mr. CONGER. We all understand that.

Mr. BURCHARD. This is a resolution fixing a time for the special consideration of the bill, so that we may have an early opportunity to consider it in committee, and then any member may move to strike out the enacting clause and bring the House to a vote upon it.

Mr. O'NEILL. But suppose members do not want to waste the time of the House by considering it at all?

Mr. BURCHARD. The bill will stand upon the Calendar of the Committee of the Whole, even though this resolution be not adopted. [Loud cries of "Vote!" "Vote!"]

The question was put upon seconding the call for the previous question; and on a division there were—ayes 126, noes 99.

Mr. CONGER. I call for tellers.

Tellers were ordered; and Mr. CONGER and Mr. WOOD were appointed.

The House again divided; and the tellers reported—ayes 123, noes 107.

So the previous question was seconded.

The main question was then ordered, being upon the adoption of the resolution.

Mr. CONGER. I call for the yeas and nays upon the adoption of the resolution.

The yeas and nays were ordered.

Mr. BUTLER. I rise to make a parliamentary inquiry. Will the effect of this order be to exclude all other business, including the appropriation bills?

Mr. WOOD. I will state to the gentleman from Massachusetts that there is no antagonism between the two committees as to this measure.

Mr. CONGER. I object to debate.

The SPEAKER. The gentleman from Massachusetts asked a question, and the Chair permitted the gentleman from New York to answer it.

Mr. CONGER. I believe the previous question is prevailing?

The SPEAKER. It is.

Mr. CONGER. Then I object to any debate.

The question was taken; and there were—yeas 137, nays 114, not voting 40; as follows:

YEAS—137.

Acklen,	Crittenden,	House,	Roberts,
Aiken,	Culberson,	Hunton,	Robertson,
Atkins,	Davidson,	Jones, Frank	Saylor,
Bacon,	Davis, Joseph J.	Jones, James T.	Scales,
Bagley,	Dibrell,	Kenna,	Shelley,
Banning,	Dickey,	Ketcham,	Singleton,
Bell,	Douglas,	Kimmel,	Slemmons,
Benedict,	Durham,	Knot,	Smalls,
Bicknell,	Eden,	Landers,	Smith, William E.
Blackburn,	Elickhoff,	Ligon,	Southard,
Bliss,	Ellis,	Lockwood,	Springer,
Blount,	Felton,	Luttrell,	Starin,
Boone,	Finley,	Lynde,	Steele,
Bouck,	Forney,	Manning,	Stephens,
Bright,	Fort,	Martin,	Swann,
Brogden,	Garth,	Mayham,	Throckmorton,
Buckner,	Gause,	McCook,	Townsend, R. W.
Burchard,	Gibson,	McMahon,	Tucker,
Cabell,	Giddings,	Mills,	Turner,
Cain,	Gunter,	Money,	Vance,
Caldwell, John W.	Hamilton,	Morgan,	Veeder,
Caldwell, W. P.	Hardenbergh,	Morrison,	Waddell,
Cannon,	Harris, Henry R.	Morse,	Warner,
Carlisle,	Harris, John T.	Muldrov,	Whitthorne,
Chalmers,	Harrison,	Muller,	Whittington,
Chittenden,	Hart,	Phelps,	Williams, A. S.
Clark, Alvah A.	Hartbridge,	Phillips,	Williams, James
Clark of Kentucky,	Hartzell,	Potter,	Williams, Jere N.
Clark of Missouri,	Henkle,	Quinn,	Willis, Albert S.
Cobb,	Heary,	Rainey,	Willis, Benjamin A.
Cook,	Herbert,	Rea,	Wood,
Covert,	Hewitt, Abram S.	Reagan,	Young,
Cox, Jacob D.	Hewitt, G. W.	Rice, Americus V.	
Cox, Samuel S.	Hiscock,	Riddle,	
Cravens,	Hooker,	Robbins,	

NAYS—114.

Aldrich,	Cole,	Hale,	Lathrop,
Baker, William H.	Collins,	Hanna,	Lindsey,
Ballou,	Conger,	Harmer,	Loring,
Bayne,	Crapo,	Harris, Benj. W.	Mackey,
Blair,	Cummings,	Haskell,	Marsh,
Brentano,	Cutler,	Hayes,	McGowan,
Brewer,	Danford,	Haselton,	McKinley,
Bridges,	Davis, Horace	Hendee,	Metcalfe,
Briggs,	Deering,	Henderson,	Mitchell,
Browne,	Denison,	Hunter,	Monroe,
Bundy,	Dunnell,	Humphrey,	Neal,
Burdick,	Eames,	Ittner,	Norcross,
Butler,	Ellsworth,	James,	Oliver,
Calkins,	Evans, I. Newton	Jones, John S.	O'Neill,
Camp,	Field,	Jorgensen,	Overton,
Campbell,	Foster,	Joyce,	Patterson, G. W.
Cladin,	Frye,	Keifer,	Peddie,
Clark, Rush	Gardner,	Keightley,	Pollard,
Clymer,		Killinger,	Pound,

Powers,	Sapp,	Thornburgh,	White, Harry
Price,	Shallenberger,	Tipton,	White, Michael D.
Pugh,	Sinnickson,	Townsend, Amos	Williams, Andrew
Randolph,	Smith, A. Herr	Townsend, M. I.	Williams, C. G.
Reed,	Stenger,	Turney,	Williams, Richard
Reilly,	Stewart,	Wait,	Willits,
Rice, William W.	Stone, Joseph C.	Walsh,	Wren,
Robinson, Milton S.	Stone, John W.	Ward,	Wright.
Ryan,	Strait,	Watson,	
Sampson,	Thompson,	Welch,	

NOT VOTING—40.

Baker, John H.	Elam,	Hatcher,	Pridemore,
Banks,	Errett,	Hubbell,	Robinson, George D.
Beebe,	Evins, John H.	Hungerford,	Roos,
Bisbee,	Ewing,	Kelley,	Schleicher,
Bland,	Franklin,	Knapp,	Sexton,
Boyd,	Freeman,	Lapham,	Sparks,
Bragg,	Fuller,	Maish,	Van Vorhes,
Candler,	Garfield,	McKenzie,	Walker,
Caswell,	Glover,	Page,	Wilson,
Dwight,	Goodo,	Patterson, T. M.	Yeates.

During the roll-call the following announcements were made:

Mr. MAISH. I am paired with Mr. MCKENZIE, of Kentucky, who has been called home by sickness in his family. If he were present, he would vote "ay" and I would vote "no."

Mr. SOUTHARD. My colleague, Mr. VAN VORHES, is paired with Mr. WILSON, of West Virginia.

Mr. BEEBE. I am paired generally with my colleague, Judge LAPHAM. I do not know how he would vote if he were here; but I do not feel at liberty to vote in his absence.

Mr. FULLER. I am paired with my colleague, Mr. SEXTON. If present, he would vote "no" and I would vote "ay."

Mr. AIKEN. My colleague, Mr. EVINS, is absent. If present, he would vote "ay."

Mr. BAKER, of Indiana. On political questions I am paired with Mr. SPARKS, of Illinois. As this seems to be treated as a political question I desire to withdraw my vote. I will state that if Mr. SPARKS were present I presume he would vote "ay;" I would vote "no."

Mr. O'NEILL. My colleague, Mr. FREEMAN, is paired with Mr. YEATES, of North Carolina. If they were present, Mr. FREEMAN would vote "no" and Mr. YEATES would vote "ay."

Mr. BOYD. On all political questions I am paired with my colleague, Mr. KNAPP. This seems to be viewed as a political question, and I desire therefore to withdraw my vote. If Mr. KNAPP were present, he would vote "ay" and I would vote "no."

Mr. PATTERSON, of Colorado. I am paired on this question with Mr. ERRETT, of Pennsylvania. If present, he would vote "no" and I would vote "ay."

Mr. FRANKLIN. On this question I am paired with the gentleman from New York, Mr. DWIGHT. If present, Mr. DWIGHT would vote "no" and I would vote "ay."

Mr. CONGER. Before the Chair announces the result of the vote, I desire to raise a point of order upon it.

The SPEAKER. The Chair should announce the result before any point of order can well be taken upon it.

The result of the vote was then announced as above stated, and that the resolution was adopted.

Mr. CONGER. I now desire to raise this point of order: that the resolution just voted upon proposes to make a special order of the business of the House, and therefore it requires a two-thirds vote for its adoption. I would call the attention of the Chair to page 315 of the Manual, which says:

Special orders are made under a suspension of the rules.—Journal, 1, 31, p. 1176. [And of course, (unless unanimous consent is given for the purpose—Journal, 1, 30, p. 580,) can only be made, except in the case of appropriation bills, when a motion to suspend the rules is in order. Most of the "special orders" of late years have been made by unanimous consent, and it is of rare occurrence that a special order is made by a suspension of the rules requiring a two-thirds vote.]

The House may at any time, by a vote of a majority of the members present, make any of the general appropriation bill a special order—Rule 119, p. 129; but in all other cases it requires a two-thirds vote to make a special order, it being a change of the established order of business.

Mr. WOOD. That point of order was made before the resolution was voted upon, and the Chair decided it.

The SPEAKER. The Chair desires to hear the point of order.

Mr. CONGER. This point of order has not been made before.

The SPEAKER. The gentleman from Michigan, [Mr. CONGER,] the Chair thinks, is mixing the rule with a decision of a former occupant of the Chair. The Chair would suggest that if the gentleman would read Rule 119 he will find that it does not contain the words he has quoted; yet from his reading of them the House might gather the impression that they constituted a part of the rule.

Mr. SPRINGER. Has the morning hour expired?

Mr. WOOD. I desire to have referred to the Committee on Printing a resolution to print extra copies of the tariff bill.

Mr. CONGER. Rule 119—

Mr. WOOD. If the gentleman—

Mr. CONGER. If the gentleman from New York [Mr. WOOD] will insist upon interrupting, I will call for the regular order, as the morning hour has expired.

The SPEAKER. The previous question is still operating.

Mr. CONGER. So I supposed. Rule 119 says:

General appropriation bills shall be in order in preference to any other bills of a public nature unless otherwise ordered by a majority of the House.

And the House may, at any time, by a vote of a majority of the members present, make any of the general appropriation bills a special order.

Now, I suppose that it is not claimed that this bill reported from the Committee of Ways and Means is a "general" appropriation bill. I will now read what I proposed to read from the rule.

The SPEAKER. The gentleman appears to be coupling a decision with the rule.

Mr. CONGER. I have read the rule, which I suppose does not apply to the case of a report from the Committee of Ways and Means, but only to appropriation bills and those "general appropriation bills." The decision which I have read, and which I suppose is at least good by way of argument, is:

The House may at any time, by a vote of a majority of the members present, make any of the appropriation bills a special order; but in all other cases it requires a two-third vote to make a special order, it being a change of the established order of business.

I made that point of order, the Chair will remember, when the resolution was reported. I now make the point of order, the resolution having been voted upon, that it requires a two-third vote to adopt it. I read further from the Manual:

The usual form of resolution for making a special order is, "that the (here describe the bill or whatever else it may be) be made the special order for the — day of —, and from day to day until the same is disposed of."

I cannot find in the decisions of the Chair (I presume the Chair has the journal to which reference is made) anything which indicates that a report from the Committee of Ways and Means of a bill which is not in any sense of the term an appropriation bill, and especially is not a "general appropriation bill," may be made a special order by a majority vote. I therefore make the point of order which I have indicated.

The SPEAKER. The point of order raised by the gentleman from Michigan, [Mr. CONGER,] as the Chair understands it, is that it requires a two-third vote to pass the resolution which has just been reported from committee and adopted. That is the common-sense mode of approaching the question.

Mr. CONGER. Yes, sir.

The SPEAKER. The very rule to which the gentleman refers does not contain any directory words in the direction he desires, and the gentleman relies upon a decision which was made by Speaker Stevenson, in the first session of the Twenty-third Congress, upon the motion to make the bill (H. R. No. 443) regulating the deposit of the money of the United States in certain local banks a special order in the House at a certain hour, and which, as will be seen, applied to a direction in the House as to what should be done by the House. This resolution, in addition to being a report from a committee and subject to the action of a majority of the House in this respect, is in the nature of an instruction to the Committee of the Whole how to proceed; and clearly a majority of the House has that matter within its control. The Chair will cause to be read his own decision on this point when heretofore raised.

The Clerk read as follows:

Mr. BANKS made the point of order that the last clause of the resolution, namely, "to send for persons and papers," changed the rules of the House, and was not now in order.

The Speaker overruled the point of order on the ground that on the motion to commit or refer it was in the power of the House to commit or refer with instructions, and that conferring that power upon a committee was merely directing its mode of procedure.—*House Journal*, second session Forty-fourth Congress, page 297.

The SPEAKER. This decision was appealed from; and the House sustained the decision—yeas 146, nays 78. The Chair desires further to read from the Manual:

A motion to commit may be amended by the addition of instructions. (Page 186.)

But the Chair would refer to a case precisely in point, when a similar bill to this, a tariff bill, was submitted under report for commitment in 1872. The Chair will cause to be read the proceedings which then occurred and the decision of the then Speaker thereon.

The Clerk read as follows:

Mr. DAWES, from the Committee of Ways and Means, reported a bill (H. R. No. 2323) to reduce duties on imports and internal taxes, and for other purposes; which was read a first and second time.

Mr. DAWES. I move, Mr. Speaker, that this bill be printed, and that it be committed to the Committee of the Whole, and made a special order for Tuesday next after the morning hour, and from day to day thereafter until disposed of, to the exclusion of all other business.

The SPEAKER. There can be no conflict with the Committee on Appropriations. A special order in Committee of the Whole does of itself take precedence of all subsequent orders. The Chair is under the impression, although he has not consulted the Calendar, that only two special orders in Committee of the Whole are now pending, the West Point appropriation bill and the fortification appropriation bill, which will probably take a very short time. These will necessarily take precedence, and then the bill reported by the chairman of the Committee of Ways and Means will be considered, to the exclusion of other business.

This is an assignment which the rules entitle the Committee of Ways and Means to have. It is merely having a bill reported from that committee referred to the Committee of the Whole on the state of the Union; and it may by a majority vote be made a special order.

Mr. WOOD. There was a minority report in that case from the same committee.

The SPEAKER. This ruling of the Chair was not appealed from; it was accepted as a correct construction of the rule. The present ruling of the Chair is in accord with the decision in that case, and it seems to be also in accord with the plain, practical, common-sense principle that the House, having referred a bill to the Committee of

the Whole, has the right to instruct that committee as to its procedure.

Mr. BANKS. Mr. Speaker, I desire to say a word on this question of order. I did not vote upon the question before the House because elsewhere I did not dissent from the resolution, although I am not altogether in favor of it. But inasmuch as the ruling upon this question is likely to be a precedent in this House hereafter, I desire to say that the resolution reported from the Committee of Ways and Means changes the order of business to such an important extent that if closely adhered to it would exclude every appropriation bill from consideration until this bill shall be disposed of. The order of business in this House cannot be changed except by a suspension of the rules, which requires a two-third vote in every case except one; that is, any of the general appropriation bills may at any time be made a special order by a majority vote.

Mr. GARFIELD. The gentleman will, of course, remember one other exception—that we can, by a majority vote, suspend the rules to go to business on the Speaker's table.

The SPEAKER. In answer to the gentleman from Massachusetts [Mr. BANKS] the Chair will say—

Mr. BANKS. I had not finished.

Mr. SAYLER. Will the gentleman allow me to ask him one question?

Mr. BANKS. In one moment. The proceedings read (from the *GLOBE*, I presume) do not meet this case at all. There is no decision of the Speaker there; he makes an argument that the pending proposition would not interfere seriously with the business of the House. But my point is that the order of business in this House can only be changed by a two-third vote, except in those cases where the power to suspend the rules is expressly given to a majority; and there is no such power given as to reports from the Committee of Ways and Means.

The SPEAKER. If the language of the Speaker in 1872 is not a ruling, the Chair is at a loss to understand the meaning of language. The Speaker said then:

This is an assignment which the rules entitle the Committee of Ways and Means to have. It is merely having a bill reported from that committee referred to the Committee of the Whole on the state of the Union, and it may by a majority vote be made a special order. But of course the special order does not supersede unless the House goes into committee.

The gentleman from Massachusetts [Mr. BANKS] himself took part in that discussion; and no point of order was raised by any one in the House upon that affirmation of the Speaker. It is clearly correct that the House has the right by a majority to refuse to go into Committee of the Whole, or, having gone into committee, may refuse to proceed to the consideration of a particular bill and take up matters as the committee may see fit, by passing over the bills in regular order on the Calendar.

Mr. WOOD moved to reconsider the vote by which the resolution reported from the Committee of Ways and Means was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WOOD moved that 5,000 extra copies of the bill just reported be printed; which motion was referred, under the law, to the Committee on Printing.

ORDER OF BUSINESS.

Mr. SPRINGER. I rise to call up a question of privilege—the report of the Committee of Elections in the case of Dean *vs.* Field, from the third congressional district of Massachusetts.

Mr. CONGER. Mr. Speaker, I understand that the friends of the contestee in this case are not prepared to go on to-day, or at least would prefer to have the case postponed until to-morrow. I ask the gentleman from Illinois [Mr. SPRINGER] to let the District of Columbia bill, which is a special order, be considered to-day, this case going over till another day.

The SPEAKER. The gentleman from Michigan, [Mr. CONGER,] the Chair presumes, raises the question of consideration. The Chair is bound to recognize the gentleman from Illinois to call up this case, as it is the highest question of privilege known to the rules after the election of a Speaker.

Mr. SPRINGER. I dislike to discommode any gentleman, but this case has been postponed some two weeks or ten days for the purpose of accommodating members on both sides of the House, and I cannot yield to further requests.

Mr. HENDEE. I raise the question of consideration on the ground that the House having assigned an early day for the consideration of the tariff bill, the probability is the District of Columbia bill may not be passed unless it is pressed at every possible moment, and I raise the question of consideration so the House may determine as between the election case and the consideration of the District of Columbia bill.

Mr. SPRINGER. So far as the question of consideration is concerned, as I understand the rules, the question of consideration cannot be raised on a matter of this kind, this being of the highest privilege. It is in order unless the House postpones it or lays it aside for the present.

The SPEAKER. The question of consideration can be raised. The Chair is bound to recognize the gentleman from Illinois, because he rises to move to proceed to the consideration of business of the high-

est privilege, but the majority of the House may lay it aside, preferring that the unfinished business proceed first.

Mr. SPRINGER. Of course the House may vote not to take it up.

The SPEAKER. The vote may as well be taken on the motion of the gentleman from Illinois as in any other way. Those who do not desire to proceed with the consideration of the contested-election case can vote against the motion to take it up for present consideration.

Mr. CONGER. It has been so often agreed to on the one and the other side of the House to postpone a case of this sort in order to suit the convenience of the opposite side that it seems to me a suggestion merely on the part of the sitting member's friends that they were not prepared to go on with the case to-day would be sufficient to postpone its consideration.

Mr. SPRINGER. I have yielded so often to the postponement of this case that I am obliged to insist on my motion to proceed with its consideration at the present time.

The House divided; and there were—ayes 110, noes 105.

Mr. CALKINS demanded tellers.

Tellers were not ordered.

So the House determined to proceed with the further consideration of the contested-election case.

MASSACHUSETTS CONTESTED-ELECTION CASE.

The SPEAKER. The House now resumes the consideration of the following resolutions reported from the Committee of Elections.

The Clerk read as follows:

Resolved, That Walbridge A. Field is not entitled to a seat in this House as the Representative from the third congressional district of the State of Massachusetts.
Resolved, That Benjamin Dean is entitled to a seat in this House as the Representative from the third congressional district of the State of Massachusetts.

Mr. LUTTRELL. I hope the gentleman from Illinois will state at what time he proposes to call for a vote on this question.

Mr. SPRINGER. I cannot answer at this time, but at the earliest practical moment I shall demand the previous question, and hope it will be this afternoon some time.

Mr. LUTTRELL. Does the gentleman propose to take a vote to-day?

Mr. SPRINGER. I do, if it is possible; but the previous question will be called to-day at least.

Mr. GARFIELD. I wish the gentleman from Illinois would state what is the prospect of a vote being had to-day.

Mr. SPRINGER. It will not be earlier than five o'clock the previous question will be called.

Mr. GARFIELD. I suppose the Chair has a list of those who desire to speak on the question, and from that it can be judged whether we will reach a vote to-day or not.

The SPEAKER. The Chair has not been furnished with the list, or it is mislaid.

Mr. SPRINGER. The previous question will not be moved earlier than five o'clock.

Mr. GARFIELD. I hope it will be agreed the previous question will be considered as pending at the end of the day's session and that the vote shall not be taken to-day, but some time to-morrow. If we are going to wait until five o'clock before calling the previous question, we cannot get a vote to-day.

Mr. SPRINGER. I accept the proposition of the gentleman from Ohio, that the previous question will be called immediately after the reading of the Journal to-morrow.

Mr. FRYE. I hope that will not be done.

Mr. SPRINGER. I will say, then, after the morning hour.

Mr. KILLINGER. That time has already been set for the consideration of another bill.

Mr. SPRINGER. Then let it be understood that immediately after the morning hour to-morrow the previous question will be moved.

The SPEAKER. The House has given unanimous consent for the consideration to-morrow, after the reading of the Journal, of the bill to be reported from the Committee on Commerce in reference to contagious diseases. If the previous question is demanded and sustained to-night this will go over and come up immediately after the reading of the Journal to-morrow as the unfinished business, under operation of the previous question.

Mr. FRYE. I hope the gentleman will not insist on the previous question being demanded to-day. There is a gentleman relied on to make a speech who is now absent on account of sickness and will be absent throughout the day.

Mr. SPRINGER. I desire to accommodate any gentleman in that condition, and therefore give notice I will not call the previous question until to-morrow.

Mr. CONGER. After the morning hour?

Mr. SPRINGER. No, sir; but we begin to-morrow after the reading of the Journal with this as the unfinished business.

Mr. KILLINGER. That time has already been fixed for another question.

Mr. SPRINGER. In order that there may be no misunderstanding, I will state it is not the intention to call for a vote on this question to-day, but that to-morrow it will be called up immediately after the reading of the Journal as the unfinished business.

Mr. CONGER. After the morning hour?

Mr. SPRINGER. No, sir; after the reading of the Journal. There will be at least an hour's discussion to-morrow owing to the fact there

will be an hour after the main question is ordered, and members will have ample time to reach the House before the vote is taken.

The SPEAKER. There has been, by unanimous consent of the House, authority given to the Committee on Commerce to report to-morrow morning a bill relating to the introduction of contagious diseases.

Mr. SPRINGER. Immediately after the morning hour.

The SPEAKER. Immediately after the reading of the Journal.

Mr. SPRINGER. I did not so understand. I will ask the Clerk to refer to the Journal to see if the order is not immediately after the morning hour.

The SPEAKER. The Chair recollects it quite distinctly that the order was immediately after the reading of the Journal.

Mr. SPRINGER. That will only take one hour. I will then call up the election case immediately afterward.

Mr. CONGER. I suggest that the gentleman call it up after the morning hour. Let us have a morning hour.

Mr. SPRINGER. There will be a morning hour after the election case is disposed of.

Mr. MILLS. There are two claimants for the seat of Representative from the third congressional district of Massachusetts. Each of them claims the seat by virtue of the judgment of a tribunal created by law. This is all the testimony we have to determine our judgment. There is no question about fraud. There is no question about ineligibility of electors; and the right to the seat must be determined alone by the consideration that we may give to the judgment of one or the other of these two tribunals. One of them is created by State authority alone. The other one is created by the joint action of the Federal and State governments. These two tribunals cannot both be supreme. One must speak by authority and the other without authority. Their judgments must carry weight or not in proportion as they speak by the authority of law.

Now, it is a familiar principle with all lawyers that a court having jurisdiction of a subject and the jurisdiction having attached, its judgment imports absolute verity, it speaks by inspiration, it cannot be called in question. It is another principle that where a court is without jurisdiction or its jurisdiction has not attached, its record imports absolute nullity. Now, if one of the courts speaks by authority of law and the other without, we must look to that tribunal that speaks with authority of law and whose judgment carries with it unquestioned verity.

As this is a Federal office we must look to that law that proclaims itself to be the supreme law of the land, "anything in the constitution or law of any State to the contrary notwithstanding." The Constitution of the United States is the highest law. What has it to say upon the subject of this election? Let us see. It says that the States may prescribe the times, manner, and places of holding elections for Representatives; but that Congress shall have the right by law to make or alter such regulations. The State has a primary right to regulate the elections of these Federal officers; but the Congress of the United States have the supreme supervising power over that. What for? For the preservation of the Federal House of Representatives. The States may be allowed, if their conduct be not inimical to the Federal Government, to go on with these regulations; but the Federal Government may at any time it pleases encroach upon the State regulations and make its own prescriptions either by abolishing the whole State regulations or by altering so much of it as it pleases.

Accordingly we see from the commencement of our Government that the Federal authority has encroached upon the State authority in various ways. Formerly some of the States elected by general ticket, others elected by districts; and that was a State regulation prescribed by the State authority. But how is it now? The Congress of the United States have prescribed that all the States shall elect by district. There is an interference with the "manner." Just in proportion as the Congress have advanced upon the State authority the State authority is superseded. Formerly it was the case that some of the States voted *viva voce*, others by ballot. But how is it now? The Congress of the United States, in obedience to that provision of the Constitution, requires that every State shall vote by printed or written ballot. What is the result? The State authority to that extent is superseded. And I might go on and enumerate other provisions of the State regulations that have been superseded by the Federal Government. In these cases will any one say that an election held by general ticket was legal? Will any one say that an election held *viva voce* is legal when the law of Congress, the paramount law, has "altered" the State regulation? Formerly the States prescribed different times, but now Congress prescribes a uniform time of holding elections. Will any one say that an election held under State law at a time different from that fixed by Congress is legal?

And now the Federal Government has prescribed, as a supervisory power over the State government, that a Federal representative shall be present at each polling-precinct to take care of the election, to guard the ballot-box, to superintend and supervise the count. For what? A Federal law of Congress says "to the end that each candidate for Congress shall receive every vote that has been cast for him." And the Federal Government says that he shall remain until the votes are deposited, watch the ballot-box, remain with it, demand the right to be present with it, by the authority of the Federal Government, until every vote is counted and the canvass is "wholly completed." Congress requires the circuit court of the United States

to open before the election and remain open till after the election, that its jurisdiction may be exerted to guard the election of a Federal Representative. It requires the judge to appoint two supervisors for each voting-precinct, to be of different parties, if applied for. It authorizes and requires the supervisors to attend at all times and places fixed for registration, to challenge persons offering to register, to make return to the chief supervisor of the list of registered voters, to "inspect and scrutinize" the registry, to "detect and expose" the improper removal or addition of a name; to attend at all "times and places" fixed for holding elections and for counting the votes; to remain where the ballot-boxes are kept at all times. At the closing of the polls they are required to place themselves in such position as to enable them to engage in the work of canvassing the ballots, and remain "till every duty in respect to the canvass, certificates, returns, and statements have been wholly completed;" they are to remain in the presence of the officers holding the election and "to witness all their proceedings including the counting of the votes and the making of a return thereof." For what purpose are these regulations prescribed, altering as they do the former "manner" of conducting elections? Congress answers the question, "to the end that each candidate for Congress shall have every vote cast for him." Are these regulations necessary to secure that result?

Congress thought so. Congress prescribed them to guard the election of Representatives, because it was thought the State authority was either not able or not willing to protect the elective franchise and see a full and fair election.

What do all these carefully prescribed regulations mean? They mean something or nothing. If the State authority of Massachusetts can nullify them they mean nothing. But if they have any meaning at all it is that this power is exerted for the purpose of protecting the ballot and determining a fair and free election. It says so in terms. It commences back with the registration. It requires the supervisor to be present at the registration to challenge illegal names, to see that no legal names are stricken from the list. It authorizes and requires them to be present at the election.

For what purpose? What does the law say? To detect and expose, to guard and supervise. That is the language of the law. And it keeps them in the presence of the ballot-box till the election is closed, the result declared, and the whole canvass "wholly completed." It is the judgment, therefore, of a court created partly by State law and partly by Federal law. The State law appoints certain officers in the several wards: clerks, judges, and others. If afterward the State authority of Massachusetts can intervene, can nullify the whole Federal authority, can trample it under foot, it can render nugatory all these regulations made by Congress to secure a free and fair election. If the State can do this Congress is manifestly, without the power to make these regulations and without the power to preserve itself. If the State can disregard its supervisors it can disregard the day of election fixed by Congress, it can disregard the manner of voting by ballot as fixed by Congress, and the power so carefully retained in the Federal Constitution to supervise the State regulations for the protection and preservation of the House of Representatives is utterly nugatory and idle.

This is no new doctrine; this is the doctrine of Judge Story in his Commentaries on the Constitution. In commenting upon this article of the Constitution he says:

A discretionary power over elections must be vested somewhere. There seemed but three ways in which it would be reasonably organized. It might be lodged either wholly in the National Legislature, or wholly in the State Legislatures, or primarily in the latter and ultimately in the former. The last was the mode adopted by the convention.

Not only to invest the State governments primarily with the guarding of elections of members of Congress, but ultimately to place the power in Congress whenever it sees proper to take charge of elections of Federal Representatives; just to that extent the Federal Government intervenes and encroaches upon the State authority, inhibits the State authorities, and for the manifest reason, as Judge Story says, for the protection and preservation of itself.

Gentlemen have asked during this debate this question: suppose the supervisors do not attend; suppose they are appointed, and an election is held without their aid, as is the case in many districts throughout the country, does that necessarily nullify the election and render it void? Most unquestionably not. Certainly not. It is a privilege, and a privilege may be waived by the parties for whose benefit it is created; but when the privilege is asserted, and you deny to these parties who assert it their rights, every act is null and void. Take the elective franchise; every man is a unit in the sovereignty of the country and has a right to express his views at the ballot-box. But suppose two-thirds of the electors of a district remain away from the polls of their own volition, is the election void? Unquestionably not, because they did not see proper to exercise that privilege.

But suppose that all the electors come to the polls and two-thirds of them are forbidden to cast their ballots. Will you say that the election was legal? Unquestionably not? The privilege is conferred upon the citizen to vote, and it rests with him to assert that privilege or not to assert it. But when he claims it and is not allowed to exercise it, then the election is illegal. This principle of guarding great privileges runs all through the Constitution and our system of government. A man has a privilege accorded him to protect him

against being tried twice for the same offense. That is a privilege. Suppose he is indicted the second time for an offense for which he has already been tried and he does not come into court and plead his former acquittal and protect himself by producing the record of that acquittal: will any one say that the judgment of the court condemning him a second time is illegal? Unquestionably not. But if he does come and present the record of his former trial and acquittal and presents the record of the court that tried him, and the court still proceeds to try him and convicts him, will any one say that the judgment of that court is not without authority?

Take another case. A citizen of New York is sued by a citizen of Pennsylvania in a State court. Suppose he comes into court and does not plead to the jurisdiction, will anybody say that the judgment of the court is void? Unquestionably not. But suppose he does come into court and plead to the jurisdiction and demand that the case be carried to a Federal court, and is overruled and judgment pronounced, who will say that the judgment of the court is according to law? These are privileges, and privileges conferred on the citizen when asserted in the manner provided by law; but if not recognized and judgment is rendered against them, to that extent the privileges are denied and the judgment is absolutely null and void.

Such are the facts in the case now before us. The Federal law provides by statute, in the language of Judge Story, for the appointment of Federal supervisors. Judge Story says there is a supervising authority in Congress, and the Congress of the United States in passing this law called them supervisors. Both seem to have understood the authority of Congress alike. Then to the extent the Federal authority advances upon the State authority it obliterates the State authority and the Federal Government may, as Judge Story says, take jurisdiction of the whole matter and regulate the election in every district as to time, place, and manner of holding elections.

It may take from the States the whole control of the elections of Representatives in Congress. So far Congress has gone as far as to appoint supervisors to assert the presence and supremacy of the Federal Government at the polls in the election of Federal Representatives.

Now it is the determination of that tribunal, partly State and partly Federal, which determines the question with authority of law and whose record imports absolute verity, that the judgment of the State tribunal which attempts to nullify the Federal authority and take from it the power to regulate the time, place, and manner of holding elections for Representatives is without authority of law and null and void, and its judgment imports absolute nullity. By the determination of the State tribunal Mr. Field is elected by 5 votes, but its judgment being without authority of law and in violation of the paramount law, its judgment is meaningless and constitutes no evidence of claim whatever.

By the determination of the joint tribunal, Mr. Dean is elected by 7 votes. This being the tribunal created by paramount law, and having proceeded in obedience to law, its judgment is the highest evidence of title. To seat Mr. Dean is to declare that Congress has the right to prescribe such regulations as its wisdom may suggest to protect the election of its Representatives, and that such regulations must be respected and obeyed, "anything in the constitution or laws of any State to the contrary notwithstanding." To seat Mr. Field is to declare that the regulations of the elections of Representatives by Congress is inferior and subordinate to the regulations of the State, and the States have the rightful power to nullify the Federal regulations and wholly disregard them. I am a State-rights democrat, but not of the nullification school.

Mr. EDEN. Mr. Speaker, Mr. Dean, the contestant in this case, claims the seat by virtue of the returns of the ward officers holding the election in the several wards composing the congressional district, the correctness of which returns is also shown by the certificates of the United States supervisors of election. These returns give Mr. Dean a majority over all of 4 votes. Mr. Field, the sitting member, claims the seat by virtue of a recount of the ballots made by three aldermen, acting as a committee for the board of aldermen for the city of Boston. The recount gives Field a plurality of 5 over Dean, but, counting the scattering votes, he has 4 votes less than a majority of the whole vote cast.

These ward officers are, for each ward, three inspectors of election, appointed by the mayor with the approval of the board of aldermen, and one warden, one clerk, and three inspectors of election, chosen by the qualified voters of the several wards, and whose duty it is to hold the elections, canvass the votes, and certify the returns to the city clerk. It is made the duty of the mayor and aldermen and city clerk—

To examine the returns made by the returning officers of each ward in the city, and if any error appears they shall forthwith notify said ward officers thereof and require of them new and additional returns, which, together with the original returns, shall be included in their return of the result of the election.

It will be observed that the mayor and aldermen have nothing to do with counting the ballots. In fact the ballots are not before them. If upon examination they find an error in the returns, they are not to correct it, but must summon the ward officers to make the correction. Their sole duty is to examine the returns, if any error is discovered to cause it to be corrected, and to certify to the secretary of state a copy of the record of the returns attested by the clerk of the city. The returns of the ward officers, so corrected and certified to

the secretary of state, are the only evidence upon which the governor and council can act in giving the certificate of election.

Now, sir, I will state a remarkable fact in this case. The election was held by the proper officers and every requirement of the law was observed; the ballots were not only counted by the proper ward officers, but by the supervisors of election appointed by the United States circuit court, and the returns were certified in accordance with all the forms of law. Mr. Dean had a clear majority of 4 votes over all. No one has ever alleged that the officers of the election were guilty of any fraud. No one has ever pointed out an error in their returns. There has been no attempt to show that a single ballot was put in any box with the name of Mr. Field on it that was not counted and credited to him. It has not been charged that the officers of election counted a vote for Mr. Dean that was not given him by a legal voter.

It is a conceded fact that the returns made by the ward officers to the city clerk give truly the result of their count of the votes.

In order to retain his seat, Mr. Field must set aside the result of the election, legally held and legally declared by the proper ward officers, without even a charge of fraud or misconduct on their part and without specifying any error committed by them. He attempts to do this by substituting for the lawful returns a recount made by a committee of the board of aldermen of the city of Boston and a return made by the board on that recount of the ballots. Upon the theory of the sitting member, to entitle him to his seat, he must show that the recount and the return thereon were made in compliance with the law. He does not go outside of the record and attempt to prove his case. He relies upon a purely technical title. He sets up no equity in his own behalf and charges no wrong on the part of his adversary.

Judged by the record, whose title is best? The law says that—

The votes in elections for national, State, county, and district officers shall be received, sorted, and counted by the selectmen and by the ward officers, and public declaration made thereof in open town and ward meetings. The names of persons voted for, the number of votes received by each person and the title of the office for which he is proposed shall be entered in words at length by the town and ward clerks in their records.

The ward clerks shall forthwith deliver to the city clerk certified copies of such records, who shall forthwith enter the same in the city records.

The third congressional district of Massachusetts is wholly within the city of Boston. There is no question that the returns made by the ward officers, certified copies of which were forwarded by the ward clerks to the city clerk, give to Mr. Dean a majority of the votes of the district. The mayor and aldermen and the city clerk are required to examine the returns; if any errors appear the ward officers are to be notified and required to make new and additional returns in conformity to truth. The original and additional returns, if any, are to be examined by the mayor and aldermen and made part of the returns. The ward officers were never notified of any error in their returns, nor were they called on to make any corrections. Unless superseded or set aside by subsequent proceedings these returns must stand. Contestant claims that they have been invalidated by a recount made by a committee of the board of aldermen. The statute under which the recount and new returns was made is as follows:

If within three days next following the day of any election ten or more qualified voters of any ward shall file with the city clerk a statement in writing that they have reason to believe that the returns of the ward officers are erroneous, specifying wherein they deem them in error, said city clerk shall forthwith transmit such statement to the board of aldermen or the committee thereof appointed to examine the returns of said election. The board of aldermen or their committee shall thereupon * * * open the envelope and examine the ballots thrown in said ward and determine the questions raised; * * * and the envelope, sealed as aforesaid, shall be returned to the city clerk. Said city clerk, upon the certificate of the board of aldermen, shall alter and amend such ward returns as have been proved to be erroneous, and such amended returns shall stand as the true returns of the ward.

In each one of the ten wards included in the congressional district a statement was filed with the city clerk reciting by ten or more voters of the ward that they have reason to believe that the returns of the ward officers of said ward for member of Congress in said congressional district at the election of November 7, 1876, are erroneous, in that all the ballots cast for Walbridge A. Field as member of Congress were not counted and credited to him, and that more ballots were credited to Benjamin Dean as member of Congress than were cast for him. Thereupon a recount of the ballots in all the wards of said district was made by a committee of aldermen, and the result reported to the board. Upon that report the board passed an order directing "that in the certificate to be sent to the secretary of the Commonwealth the number of ballots for Mr. Field be returned as follows," &c., giving the number. The return made by the board of aldermen increased Dean's vote 7, and Field's 14. That return is the only evidence of title upon which the sitting member occupies a seat on this floor.

Mr. Speaker, I take the position that neither the board of aldermen nor their committee have the right to make the returns of the election upon which the certificate of election is to be issued. The ward clerks are required forthwith to deliver to the city clerk certified copies of the returns of the ward officers, and the city clerk is required forthwith to enter the same in the city records.

When upon examination by the board of aldermen, or their committee, upon charges by ten or more voters that errors in the returns were made by the ward officers, any such errors are discovered, the city clerk, upon the certificate of the aldermen, is required "to alter and amend such ward returns as have been proven to be erroneous,

and such amended returns shall stand as the true returns of the ward."

The aldermen have no right to manufacture returns. They may direct the city clerk to "alter and amend such ward returns as have been proven to be erroneous." Under the authority to "alter and amend," the board of aldermen took the report of their committee in lieu of the returns of the ward officers, and amended that report by directing the city clerk to certify to the number of ballots received by Mr. Field, not in accordance with the report of their own committee, and entirely ignoring the returns of the ward officers. The clerk complied with the illegal order of the board of aldermen and forwarded to the secretary of state the illegal returns made by the aldermen. Upon that return the certificate of election was issued to the sitting member, and this is the purely technical title set up here in bar of the right of Mr. Dean, who brings before us the returns of the officers holding the election and making the returns, against whose conduct there is not a suspicion of fraud nor a specific charge of error.

It is claimed that the aldermanic count and return are valid under the fourth and fifth sections of chapter 188 of the laws of Massachusetts, passed in 1876, heretofore referred to. The statement made by the voters of the several wards under which the recount was made charges but two errors: First, that all the ballots cast for Field were not counted and credited to him; second, that more ballots were credited to Dean than were cast for him. These two questions could alone be determined by the aldermanic committee upon an examination of the ballots, for no other questions were "raised" by the voters making the statement on which the action was founded. The jurisdiction of the aldermen is limited by law to the questions "raised." As the "statement in writing" of the voters does not specify in what manner the error in counting by the ward officers occurred, nor specify the number of ballots or the particular ballots they failed to count and credit to Field, or how they happened to credit Dean with ballots he never received, it is difficult to perceive how the aldermen by examining the ballots could determine the questions raised. The committee of aldermen seem to have fully appreciated this difficulty, for they made no attempt to point out any errors by the ward officers. They reported none to the board of aldermen, and neither the committee nor the board made any attempt to correct any error in the returns of the ward officers.

The aldermanic committee, seeing that no error in the returns of the ward officers had been specified which upon examination of the ballots they could determine one way or the other, concluded that they would usurp the functions of the ward officers and count the ballots. This they did without any authority of law. But they found no ballots that had been legally cast for Mr. Field and not counted and credited to him, neither did they find that Dean had been credited with any ballots not cast for him. They did not point out in their report to the board of aldermen wherein the ward officers had committed any error. They simply counted over the ballots in the boxes, came to a different result from that found by the ward officers, reported to the board of aldermen the result of their count. The board substituted that unlawful count for the legal returns of the ward officers; changed the report so as to suit their own views and insure the certificate to Mr. Field. And this is claimed as a purely technical title, bare of every element of equity, to be used to overthrow the election of Mr. Dean as shown by the lawful and unimpeached returns of the officers whose sworn duty it was under the law to hold the election and count the ballots.

Mr. BUCKNER. Mr. Speaker, there are several questions of law as well as of fact involved in the correct decision of this case. I do not propose to look at all into the questions of fact; I leave them for others. I propose merely to examine into the authority under the law of Massachusetts by which this case, in my judgment, must be decided. We are here, as my friend from Georgia [Mr. CANDLER] said—and unfortunately he is absent to-day—we are here not as voters but as judges to decide the rights of these parties according to the law of Massachusetts.

Now, if the gentleman can show any decision of the judicial tribunals of Massachusetts construing the law which is here relied upon by either party, I would bow in humble acquiescence in that judgment. But as long as it is a question for the judgment of members of this House, as lawyers and as judges, I must be permitted to have my opinion as to what are the legal rights of these parties growing out of the laws of the State of Massachusetts.

I shall not go into a discussion of the question as to what are the powers of the supervisors appointed under United States law; I pass that by. According to my view those supervisors are not judicial officers empowered to determine the rights of these parties; nor do they get their power under the fourth section of the first article of the Constitution in reference to elections of members of this House. They derive their powers purely and simply from that provision of the Constitution which gives Congress the power to enforce by appropriate legislation the provisions of the fifteenth amendment of the Constitution.

Passing that by, leaving that for others, with merely this expression of my opinion, I say that there are in this case two counts, one of which is right and the other is wrong. It is claimed for Mr. Dean that he is entitled to the seat upon this floor on the ground that the ward officers, the proper officers, by their count gave him a majority

of the votes. On the other hand it is claimed that Mr. Field is entitled to the seat here because of the action of the supervisory or revisory or appellate tribunal.

Now, there is no doubt but what if there had been no revision by the aldermanic board Mr. Dean would be entitled to a seat here. No one questions but what the ward officers were authorized by law and under the law to specially decide the question as to who received the majority of the votes cast, or rather who were elected at that election. The burden is therefore upon Mr. Field to show that the tribunal by which that election, or rather the count of the ward officers, was set aside was authorized by law; that the authority of the aldermanic board was beyond all question, and that the facts upon which they claim to act were supported by proper testimony.

I hold that under no fair construction of the act of Massachusetts, in pursuance of which the aldermanic board assumed control of this matter, had they any authority to act upon it at all; therefore their entire action is null and void.

Gentlemen have referred to what has been the practice in Massachusetts. I know nothing about that practice. A practice may have grown up there, in cases where there is a close vote, of allowing a recount as a necessary incident to the rights which belong to every candidate. I say that is no fair construction of this law. I call attention to the wording of the law.

After the officers appointed by law—the officers whom the law designates as the proper parties to determine this question—have decided what is the vote at the election, what then? As I said before, their decision is final, unless it is impeached. How? By anybody who may choose to come forward and ask the privilege of having a recount? Is that the meaning of the law? Has any candidate who imagines that the count has been false or is not correct, has he a right to come forward and ask the aldermanic board to make a recount to determine the question? Is that the meaning of this law? There is not a gentleman on this floor who will hold that doctrine.

Will any one contend that under the law of Massachusetts it is the right of any individual, without the specification of any facts charging fraud, or the statement of any circumstances showing that the election was unfair or improper, to ask for a recount upon the simple allegation that there is doubt in regard to the correctness of the announcement of the result? Nobody will affirm that proposition. Yet in point of fact that is the very ground upon which this case is to be determined in behalf of Mr. Field. It is in fact claiming that any man whom the returns show has been defeated can demand a recount upon a mere affirmation that there has been an error, without the specification of what that error is.

Hence it was that I asked my distinguished friend from New York, a member of the Committee of Elections, [Mr. HISCOCK,] if he must not necessarily strike out of the law the words "specifying wherein they deem them in error." I asked him if according to his construction those words were not necessarily eliminated, and that if they did not go upon the idea that no specification of error was to be made. I say that it is attempted here to give a construction to the law which the law-makers of Massachusetts, if they knew what language they were using, must have known could not be given to the language of the law which they passed. What is that law?

If within three days next following the day of any election ten or more qualified voters of any ward shall file with the city clerk a statement in writing that they have reasons to believe that the returns of the ward officers are erroneous, specifying wherein they deem them in error, said city clerk shall forthwith transmit such statement to the board of aldermen or the committee thereof appointed to examine the returns of said election.

Now suppose you strike out the words "specifying wherein they deem them in error;" do you not then state the ground of the argument upon the other side? You must necessarily eliminate those words from the law, in order to give the aldermanic board authority to make the recount which was made in this case.

By giving this statute a construction which amounts to nothing more than that where the vote is close either party may try a recount and take the chances, you open a door to fraud; you open a door to frivolous contests in order to determine whether the return of the officers appointed under the law, whose duty it is to see that the parties are properly dealt with, shall be set aside and another tribunal acting without authority in this matter shall determine the election. I say that such a construction is in fraud of the law.

The report of the minority in favor of Mr. Field says:

It is the opinion of your committee that these statements were sufficient in law to authorize the examination and count of the ballots cast in the several wards, by the board of aldermen.

What are the specifications? Merely that there had been an over-count on one side and an under-count on the other. Why, sir, if these 25 votes cast for Mr. Field as a member of Congress from the fourth district had been specified as the ground for a recount, there would have been reason for an examination as to that particular fact. But unless facts be asserted which give jurisdiction to the aldermanic board, I hold that their action in undertaking a recount is absolutely void. When the question is whether we shall give a seat here to a man who has received the majority of votes as returned by officers properly authorized, whose duty it was to examine and make such report, as against a man who is returned by persons assuming jurisdiction without authority, I cannot hesitate in my judgment, unless there can be shown some controlling decision of the

courts of Massachusetts or some other tribunal authorized to decide this question. For my life I cannot see upon what legal ground the election is claimed for Mr. Field; for, as I have said, the aldermanic board in my opinion had no authority, under a proper construction of the law, to make the recount.

The gentleman from Georgia [Mr. CANDLER] remarks that this was the same sort of proceeding which took place in the case of Abbott vs. Frost in the last Congress. That may be so; I know nothing about it. But I say that if such is the practice in Massachusetts it is an improper practice, a practice not justified by the statute; and no court in Christendom will hold it to be a proper construction of the law, that upon a general allegation of an over-count on one side and an under-count on the other, where the election is close, a recount can be had in order to take advantage of any possible mistake that may have been made. If upon such an allegation a recount can be had, then you can have a recount in any case; and you might as well strike out the words of the statute requiring the party to specify the grounds upon which he asks a recount.

Why, sir, there is a principle of common sense applicable here; a principle upon which the Committee of Elections in this very Congress acted in determining an application made in the case of Frost vs. Metcalfe. The application there was to open and recount the ballots where there was some dispute of about 10 or 15 votes; and the committee, as I understand, refused to order the recount until specific facts were shown to justify that action. This is in accordance with the law as laid down by McCrary. It is a principle applicable to all questions of this sort. Where the law imposes certain duties upon public officers, the legal presumption is that they have acted according to law; and in order to overturn that presumption you must make substantive allegations, and not mere vague suggestions; you must make statements of fact, which can be controverted or sustained before the tribunal which is to try them.

If the construction relied upon by the sitting member is correct, then in such case as this there is no necessity to do anything else than simply to ask the aldermanic board to make a recount, because the election is close and there may have been some mistake on one side or the other. I understand Mr. Field's title to depend exclusively upon that position; and I hold that such a position has not a particle of law to sustain it. I might on this question cite the decisions of the courts of Massachusetts in which they have affirmed the same general principle that, in order to reverse the action of an officer having jurisdiction by law to do a particular thing you must show affirmatively some grounds which will invalidate that action. I say no such grounds are shown here; and the parties might just as well have said: "Here is a close vote; we are in doubt who is elected, and therefore we ask for a recount." Is that the meaning of the statute? Will any gentleman from Massachusetts say that such is the practice in his State? [Here the hammer fell.]

Mr. SCALES. Mr. Speaker, in this election there have been two counts, the warden count and the aldermanic count. The aldermanic count is the last count, and if authorized by law is the final count, upon which the *prima facie* case is made out. Was this count, then, a legal count? And to determine this we must look at the statute which authorizes it, as well as the objects and purposes of those who framed it.

For more than one hundred years, by the law of Massachusetts, there had been but one count, and that was the first count in this case—the count at the polls known as the ward count. This had been deemed amply sufficient in the election of her governors, her Representatives, her State senators, and all other State officers, from the time she became a State down to 1833, and there had been no complaint. Why was the change made, and what was its purpose? Not to provide for another count in the absence of complaint, and most certainly not to provide for another count with proper complaint unless there could be added greater facilities for testing and verifying the original count.

If the first count, that had so long governed and controlled all elections in the State, was to be set aside, surely it would not be done simply because another and later count had reached a different result. All things else being equal, the last count could no more prove the first count erroneous than the first count would prove that the last count was erroneous. A counts \$100 and hands it over to B to count, and B makes it ninety-five; who is right and who is wrong? A and B being equally honest and equally qualified in all respects, the count of one proves no more than the other, and leaves the mind in doubt, which must be settled in some other way. But if C should stand by while A counted, and say, "I have reason to believe that A made a mistake, and my reason is that I saw A count ten bills. Nine were ten-dollar bills, and the last was a five-dollar bill; and that A counted this last as he did all the others as a ten-dollar bill, and thus made up the \$100." This was a good reason; and should be considered, and might well and sensibly form the basis of an appeal to B. Calling his attention to a specified error, B would count with special reference to this, and if he found that there was one five-dollar bill in the roll of notes every one would say at once the last count was the true one, the error was specified, pointed out and found to exist just as C had witnessed it, and therefore all the presumptions are in favor of it.

So in our case. The Legislature did not intend to do anything so absurd and unreasonable as to appeal from one count to another without investing the last count with something, either in the quali-

fication of those who counted or in the circumstances under which the count took place, which would bring conviction that the last was the better and true count. Any other construction of the law would be a slander upon the legislative body, and I stand ready to vindicate it, if such vindication were necessary; but it is not needed; the language of the act vindicates it to every unprejudiced mind. In her great jealousy over the ballot-box, and in her great desire that every vote should not only be counted but that all should be satisfied it was counted fairly, the State provides, in 1863, more than one hundred years after the first and only count was established, that if within three days next following the day of any election ten or more qualified voters of any ward shall file with the city clerk a statement in writing, that they have reason to believe that the returns of the ward officers are erroneous, specifying wherein they deem them in error, said city clerk shall forthwith transmit such statement to the board of aldermen or the committee thereof appointed to examine the returns of said election.

Now, if ten voters shall say in writing that they have reason to believe that the returns are erroneous and shall specify the error, then the first count, so long the true and unaltered count in the history of Massachusetts, shall be subjected to a revisory count. They must have reasons, and not only must they have them but they must state they have them, and not only must they state they have them but they must specify the reasons themselves, and thus point out the special error, as required by the statute, that the appellate board of count should have their attention called to the specific complaint, and try that and that alone, and when that is done there would be reason, good and satisfactory reason, to believe the last count would be correct.

Now, let us see whether this law has been complied with; if not, then the last count is void; for the statute must be strictly complied with, and without this compliance it would be nothing more nor less than an appeal from the count of A to the count of B, which must leave, if they differ, the whole in doubt, and will deprive the people of all confidence in the "result of any election" thus obtained.

The notice says in so many words that the count was erroneous in that all the ballots cast for W. A. Field were not counted and credited to him, and that more ballots were counted for Benjamin Dean than were cast for him. Does this specify the error? Could the complaint be in more general terms? One received too many and the other did not receive enough. Or, in other words, the count was wrong. But they were required to state that they had reasons to believe that the count was wrong. What were the reasons for the supposed wrong? The law demands them and will not be satisfied without them, and without them there can be no ground for an appeal and no sense in a recount. With them the error will be sufficiently specified.

The assertion is that there was error, and that they have reason to believe there was error. Can it satisfy the law to say there was error, for the reason that there was error? Surely the bare statement will refute any such idea. But the reason for the belief that there is a wrong is what we want, what the law demands, and no proceeding is valid without it. Give us that. Let the aldermen know them, and then let them test these reasons, and all will bow to the recount and abide by it. It is contended by the advocates for the last count that the notice was in compliance with the law. Let us test it again by the language itself of the law. *The count was erroneous, for the reason that one got too many votes and the other too few*; but what we want is the reason for believing, which you said you had, that one got too many and the other got too few. Will it, can it be insisted upon that such an absurdity was intended by the law? Surely not. In support of our view we have the cases cited by the gentleman from Illinois, [Mr. SPRINGER,] which are in point, Carpenter's case and Kneass's case, decided in Pennsylvania. In these cases the court says in substance:

We were forced as soon as the law passed giving this court appellate jurisdiction to the necessity of assimilating all such to other legal proceedings. We demanded of the parties seeking to impeach an election return preciseness and exactitude of allegation, refusing to recognize all general charges.

[Here the hammer fell, and, upon motion of Mr. SPRINGER, Mr. SCALES was allowed by unanimous consent of the House to proceed.]

If these decisions apply to our case, then it is settled. Why do they not apply? I have listened in vain for anything that approaches an answer. Indeed the statute uses almost the same language as the court, and surely there is no error in giving it the same construction. Next we are supported beyond successful refutation by the legislative cases also cited with so much point by the distinguished gentleman from Illinois. These cases declare that unless the petitioner shows a reasonable ground for supposing an error in the count other than the mere closeness of the vote the committee will not recount the ballots. The force of these decisions is felt by the learned gentleman from New York, [Mr. POTTER,] and he attempts to parry it by saying that these precedents requiring such specification relate to legislative recounts and not to the statutory one in question. But the gentleman does not condescend to tell us why the Legislature should insist so much upon the specification when they recount, and yet require no specification when it makes a law providing for another count. The same reasoning applies to both, and there certainly is as much reason for specification in the aldermanic count which has only a restrictive jurisdiction as in the legislative account that had full and complete jurisdiction of the whole matter. Consider it for a moment. In 1863 the Legislature pass a law, according to the gentleman from New York, and re-enacts it in 1876, which changes a law of count that is now one

hundred years old, upon a general statement of any ten voters that they believe the count is wrong, and yet in 1872 and before and afterward the same Legislature says of itself, "We will not recount unless the error is precisely and specifically pointed out." In other words, "We will allow to the board a greater license than we claim ourselves." They meant no such thing, they said no such thing; their language shows it; to insist upon it is to charge the Legislature with folly.

Again, we are supported by the only construction given so far as I know in the State, and that is the construction of the city solicitor in Lynn. In this case the grounds for the recount as given were much more specific, to wit, that "they believed the returns to be erroneous, as we learn that three or four counts were made and no two agreed;" and yet in this case the solicitor says:

They have wholly failed to specify wherein they deem them in error, and in want of such specifications there is no question for the aldermen or committee to determine.

This is unmistakable, and, if right, should settle the case. This view is also fully sustained by McCrary on Elections. Indeed, it does seem to us not only that there is an entire absence of respectable authority to sustain the view contended for by the friends of Mr. Field, but it is directly in the face of sound reason and common sense. If the law has not been complied with in giving the notice, then the board of aldermen had no jurisdiction and their count or that of the committee is simply void, and that is the end of this case.

Mr. HARRIS, of Massachusetts. Mr. Speaker, I propose to discuss this case entirely upon its merits and as if it were about to be decided by a wholly just and impartial tribunal; and I trust I do not rely too confidently upon the hope that there is to be found in this House a spirit of exact justice. If the House were evenly divided between the two great political parties, I might expect little success from such a mode of argument, but this House is so decidedly in the control of one party that there would seem to be little temptation for that party to do wrong for the sake of a single additional vote.

The other party is in such an infirm minority that it can hardly be tempted, for the purpose of securing an additional vote, to forget the obligations of justice.

Mr. Speaker, the contestants here I assume to be gentlemen seeking not their own personal success, but that the cause of their constituents shall be decided justly and according to the law and the fact. To assume that either of them would be willing to accept and occupy a seat upon this floor to which the people of his district had not legally and constitutionally called him, would be to presume him utterly unworthy of so great an honor. This is the people's contest and not theirs, and we are to endeavor to settle it with reference to the rights of the people alone.

Now, sir, by the laws of Massachusetts, and by the laws of most of the States, if not all, a plurality of ballots elects a member of Congress, a law recognized by the States, by the United States, and by Congress; and a plurality of 5 votes is as sacred under the law as a plurality of 100 votes. This House is the judge, under the Constitution, of the election and qualification of its own members. In coming to this judgment it may properly and wisely follow precedent, but no precedent can control the conscience and judgment of this House. It has a right to exercise the utmost freedom. It is at perfect liberty to make the investigation as broad and as wide as it pleases, and if it follows precedent and makes investigation solely with a purpose to do exact justice, it is safe in that liberty.

The Constitution, article 1, section 4, provides:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

This provision of the Constitution is mandatory upon the States. The power reserved to Congress is merely permissive, and I suppose no gentleman on this floor will claim that when a Commonwealth of this Republic has, under the mandatory clause of the Constitution, provided a system of laws calculated to secure a fair and free and pure election, and that an election held in accordance with such system has been conducted honestly and fairly, and a result has been determined according to the law, that such result ought to be disregarded here. Such a result so reached will certainly be respected unless Congress has exercised its reserved power and changed the law. I assume so much. Now, Massachusetts, loyal to the Constitution in this as in other respects, has provided a system of laws for the election of Representatives to Congress. That system was evidently established for the purpose of securing the freedom of the elector, and of gathering up at the end the result of the election with unflinching certainty and truth.

The laws of Massachusetts provide, first, as to who shall be voters. Every native-born citizen of twenty-one years of age and every naturalized citizen who can read and write, and who has within two years of the day of the election paid a tax, municipal, county, or State, shall have the right to vote for all officers, State, county, town, city, and national. The registration of the voters shall take place before the day of election, and under our law in all cities the aldermen, who take charge of the election, are not allowed to put on the voting-list the name of a single individual whose right to vote has not been determined at a meeting held prior to the day of election. We then come to the election itself. The law provides that in cities there shall be at each ward a warden who presides at the election, three

inspectors elected by the people, and for greater security three inspectors appointed by the mayor of the city, and a clerk.

On the day of voting ordinarily, I believe, in the city of Boston there are three ballot-boxes in each ward-room, and at each ballot-box there are stationed two inspectors, one with a section of the checklist in his hand, whose duty it is to find and check the name of the voter before he is allowed to deposit his ballot, and the other in charge of the ballot-box, the warden presiding over all, and the clerk is present to make a record, and assist as his services may be required in sorting and counting the votes.

Now, sir, under a system guarded like this we may naturally conclude and expect that the result of the election will be the expression, and the exact expression, of the will of the people. But what next? When the ballots are all in they shall be sorted, counted, sealed up, record of them made in open ward meeting, and the declaration of the vote made before the election can be declared concluded and finished.

The statute is in the following words:

SEC. 15. The votes in elections for national, State, county, and district officers shall be received, sorted, and counted by the selectmen and by the ward officers, and public declaration made thereof in open town and ward meetings. The names of persons voted for, the number of votes received for each person and the title of the office for which he is proposed shall be entered in words at length by the town and ward clerks in their records. The ward clerks shall forthwith deliver to the city clerks certified copies of such records, who shall forthwith enter the same in the city records.

SEC. 17. City and town clerks shall, within ten days from the day of an election for governor, lieutenant-governor, councilors, senators, secretary, treasurer, and receiver-general, auditor, attorney-general, Representatives in Congress, commissioners of insolvency, sheriffs, registers of probate and insolvency, district attorneys, or clerks of courts, transmit copies of the records of the votes, attested by them, certified by the mayor and aldermen or selectmen and sealed up, to the secretary of the Commonwealth.

The clerk must make a transcript of his record and that transcript must be sealed and sent to the city clerk. What more? After all this has been done the warden reads the record thus made in the presence of the voters there assembled, which makes the public declaration that the law requires. The ballots themselves must be sealed up in order that there may be no chance that any fraud shall be committed upon the voters of any ward in the city, and the ballots thus sealed up must be transmitted on the night of the election to the city clerk to be placed by him under lock and key in the city hall. For what, Mr. Speaker? Why transmit the record and the ballots also, and require them to be kept under lock and key? Why, if that election can never be inquired into for any reason?

Mr. Speaker, there is no question that every act required by the laws of Massachusetts in these respects was honestly, intelligently, and faithfully executed, so that at the close of the election on the 7th day of November, 1876, there had been no act committed by any man connected with that election which can hereafter be referred to as a dishonest or fraudulent act. The ballots were all in the city hall. The record was in the city hall; and nobody denies it to-day.

Mr. Speaker, my friend who makes the majority report from the committee makes wonderful confusion in regard to the language "recorded in words at length." He tells us in his report that the result of the election must be "recorded in words at length in the ward record." I agree to that. He says next it must be "recorded in words at length in the city record." I deny that. He next states that it must be "copied in words at length" in the return to the governor of the Commonwealth; which I also deny.

Mr. Speaker, the Commonwealth of Massachusetts recognizes in making returns municipalities, towns and cities; not wards or parts of towns. The ward clerk must make his record in the ward record-book before the election is closed, and he must do it in "words at length," and there it is to remain forever and cannot be changed. There is no power in the Commonwealth to change a ward record. But the law requires that the ward records shall be transcribed and the copy sent to the city clerk. The city clerk makes the final record of the election. He makes the record of a unit, of a city, not of a ward, and no law requires him to record in wards at length the voluminous transcripts of the records of the ward clerk. He will gather under their appropriate heads the ballots for governor and record them, taking item by item from the ward records; he gathers under one head the votes for Representative of Congress from the third congressional district, taking them from the ward records as they come in and tabulating them upon his record necessarily.

The city clerk of Boston well understands his duty and how to truthfully record upon the city records the returns which come up to him from the several wards. Extracting from these returns every item of fact which they are intended to furnish him with, he places these items each in its proper place and under its proper heading, so that when his record is completed it shows at a glance, and with as great simplicity as would a town record in which there was but one polling-place, the result of the election in the whole city. Such a system tabulates as well as records. If it is a correct record it is in accordance with law, for while the law has specified how a ward clerk shall make his record it has not descended to the absurd details of directing the mode of keeping a city record. The city clerk must "forthwith enter" the ward returns in the city record, but to enter is not equivalent to "recording in words at length." The ward returns are of course entered by him as a part of the city record and may always be referred to, but to copy them entire into the city record would serve no good purpose.

Mr. McCleary, the city clerk of Boston, has had twenty-five years' experience, has been elected almost unanimously by both parties, is respected by everybody, and this is perhaps the first time that his judgment as to the modes of keeping the records of his great city has ever been questioned. The expression "words at length" occurs but once in the law, and when the gentleman undertakes to spread those words further he certainly makes a great error. But I pass over what I believe to be a misquotation of the committee or a misinterpretation of the meaning of the law.

Now, Mr. Speaker, the ward officers finished their duty and transmitted their ballots and their record to the city hall. But is that the end of an election in Massachusetts? Is that the complete execution of the law in Massachusetts? The proposition contended for here to-day is that the law of Massachusetts shall not go on to its final and complete execution; that we shall be obliged to take this ward count with all its errors upon its head; that we are stopped from ever finding what the voters said.

Mr. Speaker, I hold in my hand the city record, the record of the aldermen of the city of Boston, and I turn to page 745 for the year 1877. It is a recount for representative to the house of representatives of Massachusetts, and I find a recount under this law which we are now trying to execute.

I find in one ward, ward 8, the following to have been the result of the recount: Francis Granger in ward 8 is returned by the ward officers as having 788 votes; the official count returns 667. I will read the ward and then the official counts: Thomas L. Locke, 605; 625. Dennis O'Connor, 621; 526. I turn to ward 12: Edward J. Jenkins, 702; 712. Patrick Hamlin, 585; 592. And if gentlemen would take pains to investigate the various recounts which have been had under this law in Massachusetts they would find there are numerous errors detected every year in the ward counts which are corrected precisely as the errors in this count were corrected. It is the system. Everybody knows, no gentleman here need be told, that at the close of a hotly contested election in a great city with from one hundred to five hundred people hustling around the ballot-box, often excited and turbulent, errors innumerable are committed. The Commonwealth of Massachusetts recognized the fact and the danger, and provided a system of law by which these inevitable errors could be corrected. And yet this House says or may say that that effort of Massachusetts to secure purity of election shall be disregarded.

Mr. Speaker, the official count took place at the city hall. It is said against it by the committee, and I think it has been said upon this floor by some gentlemen, that this count was had in secret. In secret at the city hall! Sir, it was held in the city hall of Boston, in a spacious apartment near to the vault in which the ballots were kept, the only proper place for the discharge of so important a duty, under a blaze of gas-light so bright as to make the "midnight outshine the noon-day sun." In secret! that in the proposition. The recount was made by the three aldermen authorized by law to make it, and the presence of any unauthorized person would have rendered it, if not unlawful, yet of questionable authority.

The city clerk was called upon for the ballot-boxes. He brought them with their seals unbroken. Of the aldermen two were democrats and one republican, and there is no gentleman upon this floor who would question the integrity or honesty of either of them. Each one was counting for himself, and they never ceased until they all agreed.

But, Mr. Speaker, it is said that the count took place partly in the night-time. It took place in the night-time only because the sun set before their arduous labors could be completed; and there never was a more honest, straightforward act performed than that which was performed by those three aldermen in that city hall.

But, Mr. Speaker, what did they count? Gentlemen on the other side claim, and I presume they rely upon it, that the ward counts were perfectly correct and that therefore the aldermanic count cannot be correct. Let us look at the ward count as made, made as I have said, under circumstances such as I have recounted. The record was made, the ballots sealed up.

Gentlemen say that the men who counted the votes in the wards assert that their count is right. Grant that they thought so, but they say something more: all the ward clerks and two inspectors swear that they sealed up all the ballots cast at that election. If that is true, their testimony proves too much. It is no use to say that they counted correctly and rest there, for they also say they "sealed up all the ballots cast and none other;" therefore, unless you believe that the aldermen who made the recount did not count correctly in the city hall, you must concede that the ward officers committed errors in their count. The committee of aldermen counted the ballots which had been furnished to them by the ward officers "and none others," and they counted them exactly as the law of Massachusetts required, according to its letter, and then they made a declaration of the result and caused it to be recorded by the clerk, and a copy as prescribed by law was sent to the governor. The law of Massachusetts was executed in every feature and in every particular.

Now, if that is true, and nothing has been done by the authorities of Massachusetts but to execute the law which the Constitution of the United States by its mandate required the State to enact, then I ask why not accept the voice of Massachusetts, thus constitutionally uttered?

But this House, as I have said, has a right, independent of all other questions, to inquire which of the contestants had the most ballots,

and in determining that question may disregard all counts and all forms. If it be true, as is claimed, Mr. Dean had the most, he is entitled to this seat, and Mr. Field ought to surrender it to him. This count of the aldermen was made with great care and deliberation, under circumstances favorable to accuracy. They were making it with full knowledge of its importance, and that upon its accuracy depended the question of who should hold a seat in this House. They had admonition wanting to the ward officers when they made their count. They found errors in the count in every one of the ten wards composing the third district. The total number of errors was 84.

By the official count Mr. Dean gained 2 in ward 13, 25 in ward 14, and 1 in ward 17, a total of 28. He lost 7 in ward 16, 6 in ward 18, 1 in ward 19, 3 in ward 20, 2 in ward 21, and 2 in ward 24, a total of 21. So that by the official recount he made a net gain of 7 votes over the ward count.

Mr. Field gained 6 in ward 13, 11 in ward 14, 4 in ward 16, 3 in ward 18, 2 in ward 21, and 1 in ward 24, or a total gain of 27. But he lost 2 in ward 15, and 6 in ward 20, a total of 8, leaving him a net gain of 19.

By the ward count Mr. Dean had been found to be elected by a plurality of 7. In the re-count Mr. Field made a net gain of 12 more than Mr. Dean, which wiped out Dean's plurality of 7 and left him with a plurality of 5. If this was a true and honest count it settles the question of who had the most votes, and therefore who is entitled to a seat on this floor. I have heard no one deny that the aldermen counted correctly the ballots which were found sealed in the boxes which the city clerk brought to them. I think that is an undisputed fact, if not indeed an admitted one.

But it has been said by the gentleman from Missouri [Mr. BUCKNER] that there was no jurisdiction for the official count, that it was not justified by law, and that however correct it may have been it ought not to have been made, and that therefore it cannot bind us. He urges with great persistence and with great apparent confidence that the notice which was given by Mr. Field's friends was not adequate to give jurisdiction to the aldermen to make the recount.

Here is the law of Massachusetts on the subject:

SEC. 4. If within three days next following the day of any election ten or more qualified voters of any ward shall file with the city clerk a statement in writing that they have reason to believe that the returns of the ward officers are erroneous, specifying wherein they deem them in error, said city clerk shall forthwith transmit such statement to the board of aldermen or the committee thereof appointed to examine the returns of said election. The board of aldermen, or their committee, shall thereupon, and within five days, Sunday excepted, next following the day of election, open the envelope and examine the ballots thrown in said ward, and determine the questions raised; they shall then again seal the envelope, either with the seal of the city or a seal provided for the purpose, and shall indorse upon said envelope a certificate that the same has been opened and again sealed by them in conformity to law; and the envelope, sealed as aforesaid, shall be returned to the city clerk. Said city clerk, upon the certificate of the board of aldermen or their committee, shall alter and amend such ward returns as have been proved to be erroneous, and such amended returns shall stand as the true returns of the ward.

SEC. 5. The board of aldermen shall not declare the result of an election until the time specified in the preceding section for filing a request for a recount of ballots shall have expired, or, in case of such request having been made, until the said ballots have been examined and the returns amended, if found erroneous, any provision in the charter of any city or in any act in amendment thereof to the contrary notwithstanding.

It must be borne in mind that this was a recount provided for by law as a part of the process provided for determining the result of an election, one of the steps to be taken when demanded for that purpose.

A recount by a legislative body is quite another thing, and he cites in defense of his position the action of the Legislature of Massachusetts upon certain cases in which a legislative recount was asked for. And yet legislative counts are quite proper in cases where it can be made certain that all the ballots cast are at hand and have been had long after an election has been concluded.

What precise allegation of fact might be proper in a petition for a recount by a Legislature I cannot say; but the statute of Massachusetts declares exactly what shall be sufficient under her election laws, as we have seen.

In this case it appears Mr. Field offered to allow the ballots which had been brought here for the use of the committee to be recounted at this late day, and to abide by the result. His offer was not accepted.

The friends of Mr. Field complied strictly with the law, and made use of this form of notice:

To the CITY CLERK of the City of Boston:

The undersigned, qualified voters of ward 13, in the third congressional district, hereby state that they have reason to believe that the returns of the ward officers of said ward for member of Congress in said congressional district at the election of November 7, 1876, are erroneous, in that all the ballots cast for Walbridge A. Field as member of Congress were not counted and credited to him, and that more ballots were credited to Benjamin Dean as a member of Congress than were cast for him; and they ask for a recount of the vote of said ward for member of Congress, in accordance with the provisions of section 4 of chapter 188 of the acts of the year 1876.

My friend says that is too general. Judge Abbott, who has done us the honor to lay his printed argument upon our tables, has taken that position at last. Let me say here, however, that before the return was finished and decided upon in the city hall after the recount, the distinguished gentleman from Massachusetts, Mr. Abbott, was himself before the board of aldermen, and there he did not question the right of that board to make the recount. There was then no question about the jurisdiction of those officers. There were 25 votes which had been cast in ward 18 for Walbridge A. Field for the fourth

district. By striking those votes out the recount by the aldermen would have had no effect; Mr. Dean would still have been declared elected. By counting them for Mr. Field, he would have been elected.

The struggle then was to strike out those 25 votes entirely from Mr. Field's credit, although no man anywhere, who knows anything about elections, doubts that they were honest votes cast for Mr. Field by legal voters. The honorable Committee of Elections of this House has reported here that those 25 votes should be counted for Mr. Field. The struggle in Boston was to wipe those honest votes out of existence.

Now, I claim that no words could more clearly state the proposition than those used in this petition. How could you say that more votes had been cast for Mr. Field than had been counted for him except by the use of the language here employed? What language would you use to say that Mr. Dean had too many votes counted for him than had been cast for him except the precise language used in this notice? Would it have helped the matter to have stated precise numbers? If the facts stated were true, a recount was demanded by every principle of justice. The law of Massachusetts has declared that if ten voters had reason to believe it true, they had a right to a recount upon making the allegation in writing as of their belief.

But perhaps this House desires democratic authority. I believe I might appeal to my friend Mr. Morse to admit that in his district at the last election there was a recount of the ballots cast for the different candidates upon precisely this notice. During the last Congress Mr. Abbott, who places his argument in this case upon our tables here, was a member of this House. He had a recount under the statute of 1874. His friends made application to the city government of Chelsea, one of the cities of Massachusetts. What was the language used? The following is a copy of the petition, omitting the names:

To SAMUEL BASSETT, Esq.,

City Clerk of the City of Chelsea:

We, the undersigned, being legal voters of ward one in said Chelsea, notify you that we have reason to believe that the returns of the ward officers in said ward are erroneous, in that they give too many votes for Rufus S. Frost for Representative to Congress for the fourth district and too few votes for Josiah G. Abbott as Representative to Congress for the fourth district, and they demand a recount of said votes and an examination of said returns.

It will be noticed that the difference is slight and more in form than in substance. That Mr. Field's case regards the courtesies of official station and requests a recount, while the other demands it as if sure he was right and entitled as of right to a recount. The difference, in manner and substance, is in favor of Mr. Field, "in that they gave too many votes for Rufus S. Frost for Representative of Congress for the fourth district and too few votes for Josiah G. Abbott."

That was their understanding of the law. I do not believe that any gentleman upon this floor will have the audacity to tell me that Judge Abbott did not understand those words, and did not see the language before it was made use of in his case. It was good enough for Judge Abbott and for Chelsea, but it is not good enough for my distinguished friend, Mr. Field, and the city of Boston. Sir, what was good enough for Judge Abbott and Chelsea ought to be good enough elsewhere in the Commonwealth of Massachusetts.

Mr. SPRINGER. Will the gentleman allow me to ask him a question?

Mr. HARRIS, of Massachusetts. I have but a few minutes left. You have already had your hour, and you have discussed this proposition; I only reply.

Mr. SPRINGER. I yielded to you frequently.

Mr. HARRIS, of Massachusetts. Yes, you did, and I will yield to you.

Mr. SPRINGER. The gentleman has stated that Judge Abbott was responsible for the petition in the Chelsea case.

Mr. HARRIS, of Massachusetts. I beg your pardon; I made no such statement.

Mr. SPRINGER. That was the inference that I drew. That was a petition of ten electors in that ward. And if the petition of ten electors is to be brought before the House as of equal authority with the decision of a court binding upon this House as to the construction of a statute, then I yield the point.

Mr. HARRIS, of Massachusetts. I do not see that any question has been put to me. I made the statement that I believed no one would say that Judge Abbott was not consulted upon the language used in that petition; that is all I mean to say. Judge Abbott came into Congress, not by a recount, he had other resources; he was admitted here for other reasons. Yet so far as I know he never manifested any hostility to the proposition that it was wise for Congress to "go behind the returns" in order to get at the honest result of an election.

Now if we are honestly seeking to ascertain what was the voice of this congressional district of Massachusetts, it seems to me that we are at liberty to go behind any returns or any count made by anybody, and to seek for the real vote by whatever means in our power.

The majority of the committee asks this House to adhere to the ward returns, which, upon the most conclusive proof, are shown to have been erroneous; and to shut our ears to the testimony given according to law, having the same authority as that authorizing the ward count, and declared to be final and conclusive.

Now here we have a tribunal acting under the law of the Commonwealth of Massachusetts, selected beforehand by the aldermen of the city of Boston, who are charged with all matters relating to the election. The aldermen selected two very respectable democrats and

one republican. That is the tribunal which declares that the count made in the city hall is the honest, true, and just count, and that Mr. Walbridge A. Field was elected. That count takes no votes from Mr. Dean, but gives him seven more than the ward count; and it takes none from Mr. Field, but gives him nineteen more than the ward count.

Mr. McCrary, in his book upon elections, says:

Before the ballots shall be allowed in evidence to overturn official counts or returns it should appear affirmatively that they have been safely kept by the proper custodian of the law, and that they have not been exposed to the public or handled by unauthorized persons, and that no opportunity has been given for tampering with them.

That is the law, as quoted by the committee, and by it we are willing to be tried. When this House remembers the care with which these ballots were preserved, that a few days only elapsed before they were recounted, that they were counted by three men, two of whom desired a different result, counted by gentlemen against whom no man makes the charge of having counted wrongly, it would seem that the question of who had the most ballots can no longer be an open one.

I claim that the election as provided by the law of Massachusetts was lawfully and honestly conducted; that every requirement of the law was obeyed; that every vote of everybody entitled to vote was counted, and that the result showed that Walbridge A. Field was elected the constitutional representative of the third congressional district of the Commonwealth of Massachusetts.

I leave this branch of the subject believing that according to the law of Massachusetts there is no taint upon the title of the sitting member. I now turn to a consideration of that provision of the Constitution of the United States which authorizes Congress to make or alter the regulations of the respective States with reference to the times, places, and manner of holding elections for Representatives in Congress. I admit that Congress has the power reserved to it in the Constitution. I care not where we find the power to make any regulation governing the manner of holding elections for Representatives in Congress, and it does not seem to me important that I should stop and decide the question as to the precise place in the Constitution where that power may be found. I grant that it exists.

But, sir, to say that a power exists in the Constitution is not equivalent to saying that the power has been exercised. I deny that there has been any legislation of Congress changing the "manner" of holding elections in the State of Massachusetts. The manner of holding those elections has been fixed by that State, and it exists to-day as it did on the 7th of November, 1876, as the State had fixed it, unless Congress has made some law changing it. Let us examine and see whether there has been any such change. I presume it will not be claimed that Congress has provided by law a system under which an election could have been held in Massachusetts. What has the law of the United States provided about the registry of voters, about the place of voting, the manner of voting, the check-lists of the officers who preside at elections? Not one word anywhere. I hold that under the provision of the United States Revised Statutes no election could have been held in the State of Massachusetts. Congress has not provided the "manner" of holding elections, &c.

But it may be asserted that the Revised Statutes have in some way altered the law of the State, taking something from it or adding something to it. This position also I think is incorrect. To alter a law is to change in some respects its substance; and a law of the United States which undertakes to change in every State the law regulating elections ought to be specific. It certainly ought to have the same application in one county of the State that it has in another and the same application at one hour in the afternoon as at another hour. But I shall show hereafter, I think, that the law of Congress, if it varies or repeals the State law at all, does so according as the inspector happens to be attending to his business. But it may be claimed that if the United States law has not repealed the State law absolutely it has provided for its temporary suspension at times and in certain places at the will of ten voters, and this seems to me to be the extent which can be claimed for it; and this is no more tenable than the other.

If this is the position, the United States has not exercised a power under the Constitution to make a regulation by law altering a State law, but, leaving the State law intact, it has provided that ten voters in any locality may obstruct its execution if their caprice so dictates. This is a mode of altering a State law unheard of before, and I think never contemplated by the Constitution.

The sections of the Revised Statutes which are relied upon to establish the repeal or suspension of the State law are the following. I put in italics the expressions which seem to me to declare the purpose of the law:

SEC. 2011. Whenever, in any city or town having upward of twenty thousand inhabitants, there are two citizens thereof, or whenever, in any county or parish, in any congressional district, there are ten citizens thereof, of good standing, who, prior to any registration of voters for an election for Representative or Delegate in the Congress of the United States, or prior to any election at which a Representative or Delegate in Congress is to be voted for, may make known, in writing, to the judge of the circuit court of the United States for the circuit wherein such city or town, county or parish, is situated, their desire to have such registration, or such election, or both, guarded and scrutinized, the judge, within not less than ten days prior to the registration, if one there be, or, if no registration be required, within not less than ten days prior to the election, shall open the circuit court at the most convenient point in the circuit.

SEC. 2012. The court, when so opened by the judge, shall proceed to appoint and

commission, from day to day and from time to time, and under the hand of the judge, and under the seal of the court, for each election district or voting-precinct in such city or town, or for such election district or voting-precinct in the congressional district as may have applied in the manner hereinbefore prescribed, and to revoke, change, or renew such appointment from time to time, two citizens, residents of the city or town, or of the election district or voting-precinct in the county or parish, who shall be of different political parties and able to read and write the English language, and who shall be known and designated as supervisors of election. (See sections 5521, 5522.)

SEC. 2013. The circuit court, when opened by the judge as required in the two preceding sections, shall therefrom and thereafter, and up to and including the day following the day of election, be always open for the transaction of business under this title, and the powers and jurisdiction hereby granted and conferred shall be exercised as well in vacation as in term time; and a judge sitting at chambers shall have the same powers and jurisdiction, including the power of keeping order and of punishing any contempt of his authority, as when sitting in court.

SEC. 2014. Whenever, from any cause, the judge of the circuit court in any judicial circuit is unable to perform and discharge the duties herein imposed, he is required to select and assign to the performance thereof, in his place, such one of the judges of the district courts within his circuit as he may deem best; and upon such selection and assignment being made, the district judge so designated shall perform and discharge, in the place of the circuit judge, all the duties, powers, and obligations imposed and conferred upon the circuit judge by the provisions hereof.

SEC. 2015. The preceding section shall be construed to authorize each of the judges of the circuit courts of the United States to designate one or more of the judges of the district courts within his circuit to discharge the duties arising under this title.

SEC. 2016. The supervisors of election, so appointed, are authorized and required to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for a Representative or Delegate in Congress, and to challenge any person offering to register: to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they may deem proper to be so marked; to make, when required, the lists, or either of them, provided for in section 2026, and verify the same; and upon any occasion, and at any time when in attendance upon the duty herein prescribed, to personally inspect and scrutinize such registry, and for purposes of identification to affix their signature to each page of the original list and of each copy of any such list of registered voters, at such times, upon each day when any name may be received, entered, or registered, and in such manner as will, in their judgment, detect and expose the improper or wrongful removal therefrom or addition thereto of any name.

SEC. 2017. The supervisors of election are authorized and required to attend at all times and places for holding elections of Representatives or Delegates in Congress, and for counting the votes cast at such elections; to challenge any vote offered by any person whose legal qualifications the supervisors, or either of them, may doubt; to be and remain where the ballot-boxes are kept at all times after the polls are open until every vote cast at such time and place has been counted, the canvass of all votes polled wholly completed, and the proper and requisite certificates or returns made, whether the certificates or returns be required under any law of the United States, or any State, territorial, or municipal law, and to personally inspect and scrutinize, from time to time, and at all times, on the day of election, the manner in which the voting is done, and the way and method in which the poll-books, registry-lists, and tallies or check-books, whether the same are required by any law of the United States, or any State, territorial, or municipal law, are kept.

SEC. 2018. To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting-precinct cast, whatever may be the indorsement on the ballot or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as each officer may direct and require, and to attach, to the registry-list, and any and all copies thereof, and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by any law of the United States, or of any State, territorial, or municipal law, any statement touching the truth or accuracy of the registry or the truth or fairness of the election and canvass, which the supervisors of the election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known.

SEC. 2019. The better to enable the supervisors of election to discharge their duties, they are authorized and directed, in their respective election districts or voting-precincts, on the day of registration, on the day when registered voters may be marked to be challenged, and on the day of election, to take occupancy, and remain in such position, from time to time, whether before or behind the ballot-boxes, as will, in their judgment, best enable them to see each person offering himself for registration or offering to vote, and as will best conduce to their scrutinizing the manner in which the registration or voting is being conducted; and at the closing of the polls for the reception of votes, they are required to place themselves in such position, in relation to the ballot-boxes, for the purpose of engaging in the work of canvassing the ballots, as will enable them to fully perform the duties in respect to such canvass provided herein, and shall there remain until every duty in respect to such canvass, certificates, returns, and statements has been wholly completed.

I maintain that these provisions of law were intended to secure the perfect and complete execution of the State law—nothing else. Section 2011 provides that a certain number of voters may have inspectors appointed, if they make application within a certain time, where they desire to have the election "guarded and scrutinized." This is the language of the law: "guarded and scrutinized." These supervisors are to "guard" the election, how? Under the laws of Massachusetts "scrutinize" what? Scrutinize the acts of the officers of Massachusetts and see that no crime is committed, no fraud perpetrated. Is not this the meaning of the section? and does it attempt anything more or authorize the supervisors to do anything else than guard and scrutinize an election provided for and proceeding under a State regulation?

Then it is provided in section 2016 that the supervisors shall attend at all times and places fixed for the registration of voters, when the names of registered voters may be marked for challenge. They may also on election day challenge voters. Challenge them under what law? Under the law of Massachusetts, of course. And when the registration is going on they have a right to be present to mark for challenge on the ballot-list; and they have a right to put their names upon the list so that it may be identified afterward. The nature of their duties is summed up in these words:

In such manner as will in their judgment detect and expose the improper or wrongful removal therefrom or addition thereto of any name.

In other words these gentlemen were to see that the State law was executed honestly, faithfully, fairly. This was to be the scope of their power at the election.

Section 2017 requires the supervisors to attend at all times and places for holding elections; and it has been maintained here that they are bound to stay by until the last legal act of the State is completed. But this clause certainly must refer to the proceedings at the polls and on election day. It says that they shall—

Personally inspect and scrutinize from time to time and at all times on the day of election.

My friends on the other side have undertaken to make this provision go further, and to say that the supervisors are bound to attend all the way through until everything provided for by the State law has been done.

Again, they are required to observe—

The manner in which the voting is done, and the way and method in which the poll-books, registry-lists, and tally or check books, whether the same are required by any law of the United States or of any State, territorial, or municipal law, are kept.

Now section 2019, the last to which I shall refer, goes on to state what shall be done. It declares that these officers shall—

Place themselves in such position in relation to the ballot-boxes for the purpose of engaging in the work of canvassing the ballots as will enable them to fully perform the duties in respect to such canvass provided herein, and shall there remain until every duty in respect to such canvass, certificates, returns, and statements has been wholly completed.

The law puts them at the ballot-box and then says they shall there remain until all the work has been completed.

Now, Mr. Speaker, may I not well claim that this law intends nothing more than that on the day of the election the officers appointed under the United States law shall be present to witness every act, to watch and scrutinize, to protect the rights of voters, and that when the sun goes down and the result of the election is declared by the proper officers the duty of the supervisors is completed? May I not assume that the Congress of the United States, in passing that law and guarding the ballot-box until the close of the election, felt itself safe in allowing the legally constituted authorities of the Commonwealth, the dangers of violence, ballot-stuffing, and frauds being passed, to complete the remaining duties, and figure out the general result, and make the final declaration?

Mr. Speaker, the recount was as carefully provided for by the State law as was the count at the polls. In Massachusetts the same system has existed and been practiced for several years, and before the United States law was passed. Congress has neither provided a substitute for it nor forbidden it and it ought therefore to be assumed that, the statute having only provided for an enforcement of the State law at the polls on the day of the election and to secure the means of punishing all violations of that law committed up to the close of election day, Congress intended to leave to the State to complete the work and find out the result. It will not do to assume that Congress intended more than it said; and it has not said, even by implication, that any act done in accordance with the State law should be void. It made no provision for any act to be done by the supervisors after the election was closed except to make a report to the chief supervisor of the district; and if any defect exists the defect is in the law of the United States appointing supervisors. Because the United States law stops in its execution, is it to be assumed the State law shall stop also? When an inspector is at the polls to watch the election and fails to do his duty, shall it be said the election shall stop? The election under the State law begins without waiting for a supervisor, and it does not stop when he leaves. Is the law of Massachusetts repealed? Is that the way to repeal provisions of the statute established under the mandate of the Constitution, designed to protect the ballot?

Is the State law repealed when the supervisor is faithfully watching and scrutinizing and not repealed when he neglects his duty or goes away? The State law is enforced and not repealed everywhere except where supervisors have been appointed, and where they have been appointed and do not do exactly what the law points out for them as their duty, they are as if they were not; and therefore it comes down to this: that the repeal of the State law is or is not, now is and now is not, as they are attentive or listless, watchful or neglectful. To appeal to the Constitution to shield such a repeal seems monstrous, not to say ridiculous and absurd.

Now, Mr. Speaker, I think I have conclusively shown the whole object of the law of the United States was to enforce and carry into complete execution every provision of the act of Massachusetts. To enforce the law is not the same as to repeal it, and the assumption of the committee is a mere assumption, if the committee hold that Massachusetts cannot complete her elections because the United States law does not provide for it.

The law of the State neither having been repealed nor modified by Congress and having in a lawful and orderly manner declared Mr. Field elected, we as candid and just men, deciding this case on the law and the evidence, can have no legal or just excuse for reversing the decree of the people, thus lawfully uttered. We have the power, Mr. Speaker, to set aside the decree of a State, thus lawfully made. We have the power to do wrong. This House is invested with the power to judge of the election and qualification of its own members. By a perversion of that power and by disregarding the voice of the people as legally ascertained we may elect the members

of this House; but, sir, when that day comes that Union and that liberty of which we as a people are so apt to boast will have perished together.

Mr. WALSH. Mr. Speaker, I have not been able to concur with the report of the majority of the committee in this case. I do not like, when I can avoid it, to differ with a committee of this House in the conclusions at which it arrives; and if this were upon a question of policy or a question of expediency, I might surrender my own judgment to that of the committee. But it is not upon a question of that kind; it is a question of law I am to pass upon as a sworn judge, and I am bound by every obligation that can tie the conscience of man to the Almighty who created him to render that sworn judgment according to my own convictions of the law, and not according to those of anybody else.

Mr. Speaker, I do not particularly desire to control the judgment of any other man, but I do desire to occupy the attention of this House for a short time, while I state, as briefly as I can, some of the reasons which compel me to vote against the conclusions of the majority of the committee.

By the Constitution of the United States in article 1, section 4, it is provided that—

The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof.

The times, places, and manner shall be prescribed in each State by the Legislature thereof—

Mr. SPRINGER. Read the rest of it.

Mr. WALSH. The rest of the paragraph states that Congress may alter such regulations, and I want to see whether it has done so or not. It says:

But the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

Now, sir, the Congress of the United States has made two laws upon this subject, and those are all: a law requiring the election for Representatives in Congress to be by districts and not at large, and a law requiring the elections of Representatives to be all held on the same day throughout the United States. To prescribe the times, the places, and the manner of holding the elections is, then, a sovereign right of the State of Massachusetts, and of every other State in this Union, except in regard to those two matters where Congress has come in with its paramount power and fixed and regulated them.

The great question in this case, and the only question in it, is whether the State of Massachusetts has the right to prescribe the mode and the manner of conducting her elections and of ascertaining the result by the processes which she has enacted into law upon her statute-book. That is the only question. The effort has been made here to get rid of this recount provided for under the laws of Massachusetts; in the first instance, upon a mere technicality that is not applicable to these proceedings, had among the people in regard to the result of elections, and that would not hold good in this case even in a court of record and of law; and, in the next place, by exaggerating and magnifying the authority of the United States supervisors appointed by a law passed, not under that provision of the Constitution, but under the provisions of the fifteenth amendment, to protect certain classes of voters at the polls. Well, sir, I cannot concur in either of those reasons for getting rid of the recount. The law of Massachusetts says—and I will quote the law in my printed remarks—that the voters have a right to petition within a certain number of days for a recount. The State of Massachusetts had a right to say that. It is a right that she had the absolute power to give to her voters if she chose, and she did give it to them. And the law of Massachusetts says that the first count, which is made upon the election day at the polls, shall go for nothing, shall determine nothing, and that no result shall be announced or declared from it until the number of days have elapsed within which the right is secured to the citizens to have a recount of the vote. The first count amounts to nothing until this time elapses; the whole process is incomplete. The whole election process is yet unfinished until that time elapses, and if within that time any ten citizens choose, or any greater number of citizens, as prescribed in the law, choose to petition for a recount, the aldermen are bound to examine the ballots.

Mr. HARRIS, of Virginia. I desire at this point—

Mr. WALSH. I decline to be interrupted.

Mr. HARRIS, of Virginia. I wish to correct my friend. I am sure he does not mean to misstate the law or to misrepresent the law of Massachusetts.

Mr. WALSH. I have declined to yield to the gentleman.

Mr. HARRIS, of Virginia. I want to correct the gentleman in regard to the law. If the gentleman declines to be corrected—

Mr. WALSH. The gentleman can correct me to-morrow.

Mr. HARRIS, of Virginia. I want to correct you while it is yet time, that you may be converted before you go too far into error. To-morrow will be too late.

Mr. WALSH. I read the gentleman's report, and if he could have corrected me on the law I would have found the correction there. And I cannot make any error in the law, because, as I have said, I will quote the law at length in my remarks in the RECORD, where the House can see it.

Mr. HARRIS, of Virginia. But the House will not hear the gentleman's remarks, as he says he will set them out in the RECORD.

Mr. WALSH. What I say now will be set out, as I say it, in the RECORD, but the law will be set out as it is in the statute-book.

Mr. HARRIS, of Virginia. I want you to give the law as it is in the statute-books to the House in your remarks now, and not leave it to be done in the RECORD afterward.

Mr. WALSH. I am giving it as it is in the statute-book. The law prohibits the declaration of the result until the time for the recount has passed. I repeat it again, and there is no mistaking of it. It says that these aldermen shall examine the ballots. Some gentleman said that did not mean a recount. Well, what does it mean? What do you mean by examining ballots? Do you mean by that looking at the color of the paper, whether they are printed in black ink or in red ink? What do you mean by ascertaining the result of an election, by examining the ballots, if it is not to find for whom the ballots are cast, whose names are on them, and how many they amount to when all are added together? But the fifth section of the law expressly says that there shall be a recount.

Extract from Election Laws of Massachusetts, act of 1874, chapter 376.

SEC. 40. In all elections in cities, whether the same shall be for United States, State, county, city, or ward officers, it shall be the duty of the warden or other presiding officer to cause all ballots which shall have been given in by the qualified voters of the ward in which such election has been held, and after the same shall have been sorted, counted, declared, and recorded, to be secured in an envelope, in open ward meeting, and sealed with a seal provided for the purpose; and the warden, clerk, and a majority of the inspectors of the ward shall indorse upon the envelope for what office and in what ward the ballots have been received, i. e. date of the election, and their certificate that all the ballots given in by the voters of the ward, and none other, are contained in said envelope.

SEC. 41. The warden, or the presiding officer, shall forthwith transmit the ballots, sealed as aforesaid, to the city clerk, by the constable in attendance at said election, or by one of the ward officers other than the clerk; and the clerk shall retain the custody of the seal, and deliver the same, together with records of the ward and other documents, to his successor in office.

Act of 1876, chapter 188.

SEC. 4. If within three days next following the day of any election, ten or more qualified voters of any ward shall file with the city clerk a statement in writing that they have reason to believe that the returns of the ward officers are erroneous, specifying wherein they deem them in error, said city clerk shall forthwith transmit such statement to the board of aldermen, or the committee thereof appointed to examine the returns of said election. The board of aldermen, or their committee, shall thereupon and within five days, Sunday excepted, next following the day of election, open the envelope and examine the ballots thrown in said ward, and determine the questions raised; they shall then again seal the envelope, either with the seal of the city or a seal provided for the purpose, and shall indorse upon said envelope a certificate that the same has been opened and again sealed by them in conformity to the law; and the envelope, sealed as aforesaid, shall be returned to the city clerk. Said city clerk, upon the certificate of the board of aldermen, or of their committee, shall alter and amend such of the ward returns as have been proved to be erroneous, and such amended returns shall stand as the true returns of the ward.

SEC. 5. The board of aldermen shall not declare the result of an election until the time specified in the preceding section for filing a request for a recount of ballots shall have expired, or in case of such request having been made, until the said ballots have been examined and the returns amended if found erroneous, any provision in the charter of any city or in any act in amendment thereof to the contrary notwithstanding.

Well, now, my friend from North Carolina, [Mr. SCALES,] whom I esteem highly, says, as other gentlemen say, that the law was not complied with in applying for the recount and that therefore the recount goes for nothing, because it is necessary to get the recount out of the way by an alleged defect in the petition or else by relying upon the absence of the United States supervisors. It is claimed that the application for a recount did not state sufficient to justify it.

My friend said that it did not state the reasons for a recount. Why, sir, pleadings do not state reasons, the courts do not try reasons. The pleadings state facts, not reasons; and it is facts upon which the courts determine rights. Now, what did the petition of these friends of Mr. Field for a recount say? I have here the petition, and they say:

To the CLERK City of Boston:

The undersigned, qualified voters of ward 13, in the third congressional district, hereby state that they have reason to believe that the returns of the ward officers of said ward for member of Congress in said congressional district, at the election of November 7, 1876, are erroneous.

Now, it does not stop there in specifying in what the returns were erroneous, but proceeds and points out the error "in that all the ballots cast for Walbridge A. Field as member of Congress were not counted and credited to him, and that more ballots were credited to Benjamin Dean as member of Congress than were cast for him; and they ask for a recount of the vote of said ward for member of Congress, in accordance with the provisions of section 4 of chapter 188 of the acts of the year 1876." (Signed by 15 voters of the ward.)

It states the reasons, the grounds, the facts on which the recount was asked, namely, that more ballots were cast for one candidate than were counted in his favor; and that a fewer number were cast for the other than were counted in his favor. Could anything be more definite than that? If that statement does not justify a recount under the law, then a recount never could be made, unless indeed you could get some one to watch the ballots as cast and specify the number of ballots supposed to be illegal.

Mr. HARRIS, of Virginia. Will the gentleman allow me to ask him a question?

Mr. WALSH. I have declined to yield for the reason that I have not the physical constitution that will enable me to stand here much longer at this late hour in the afternoon.

Mr. HARRIS, of Virginia. The gentleman says that nobody can

know how many erroneous ballots were cast. If that be so, how can any one know that any erroneous ballots were cast?

Mr. WALSH. Suppose these gentlemen who petitioned for a recount had said that 9,000 votes had been illegally counted for one of the candidates; it would have been a mere guess upon their part. It would not have made any better case either before a court of law or before sensible men anywhere. They stated everything that could be stated according to the nature of the transaction, and that was all that they could be required to state in any place, namely, that there had been errors in the count by crediting one man with votes which he did not receive, and by not crediting another man with votes that he had received at the election of that day. That settles, I think, the point as to the jurisdiction for the recount.

The next thing is in regard to the supervisors. Now, no one in the United States, until it got into the heads of the committee, or of the gentleman who drew up this report of the majority, ever supposed that these supervisors of elections, who may be called into operation or may not be accordingly as a few men in particular districts desire, can overrule all the regulations of the State law, and take charge of the ballots, or that they may make the returns and ascertain the results, and that the governor, or the State officers who issue the certificate of election, had to act not upon the authority of the election officers appointed by the law of the State but upon what these supervisors said.

Now, the reading of the law shows that it does not mean anything of that kind. These supervisors are there to inspect the voting and to stay until the count is completed, and they have nothing to do with the return excepting to make it to some head supervisor.

Their count is not returned to the governor who issues the certificate, it is not returned to any State officers connected with the elections; and I say it is an absurdity to talk here before the lawyers of this House about its superseding anything which the State in her sovereign capacity under the Constitution of the United States has prescribed as to the mode of counting the ballots and ascertaining the result of an election.

Sir, that law covers everything. If you take it up you will find that it is a law to enforce the rights of citizens of the United States in elections. It relates to all elections, State elections, town elections, every little election held; it is not confined to any one class of elections under the terms of the law; but the Supreme Court of the United States in the case of *Cruikshanks vs. The United States* pretty well knocked the bottom out of that law. Whatever is left of it I do not know, but I know that it never was intended to interfere with the power of the States over elections for Representatives to Congress contained in the fourth section of article 1 of the Constitution of the United States.

Now, then, sir, there stands the law of Massachusetts regulating her elections, and the most careful law, the most particular, the most minute law; and that law was honestly and fairly executed in this case according to the concession of all parties; and when the law of Massachusetts has been executed what right have we in this House to trample down that law and say that this legal and constitutional mode which she has adopted for ascertaining the result of an election in her jurisdiction shall not prevail, but that the count by the little petty officers of wards, counts made in the hurry and excitement of an election, shall prevail, and that we will walk over the laws of that State providing for the ascertainment of the result of an election in a manner clearly within her constitutional power? Or else that these United States supervisors, who may be called in or may not be called in, shall be elevated to the grand importance of overruling all the laws and regulations of a State in connection with elections. I say that there is no authority in the law, no authority in the Constitution for any such proposition as that. I say that we, acting in this House, are not bound by any of their counts if there is anything to impeach or disturb them; we are bound by none of them. We have a right to get at the real truth of the matter.

But it is conceded in this case that there is nothing before us but the counts, and that we must take the one or the other of those counts. Whether we shall override the law of Massachusetts and give all significance to that count which was made in the primary stages of the election because it will yield a result that would be pleasant to us, and cast aside the final and revisory count that was in pursuance of the law of Massachusetts, that is the question for us to consider.

I do not think that any party ever gained in the long run by doing violence to law or to strict right. I believe that the masses of the American people are honest and intelligent. They hold parties to strict accountability when they come to understand that anything wrong has been done by them. I have never understood that the republican party in the long run reaped any particular advantage from any of the abuses that it committed upon the rights of the people and the rights of the States in the days when it had unlimited and absolute power in every part of the Union. I never knew that any party in the long run ever reaped any benefit from acts wrongfully committed, from violence done to right. And I thank God, Mr. Speaker, that the people of the United States are so intelligent, so honest, that they are able to sit in judgment upon parties and to bring them to the bar of accountability, and to cast them aside when they fail to discharge the high trust with which the people have commissioned them.

I have collected all the testimony in regard to these different counts,

every important particle that is in the record relating to them. I call attention to that testimony in order that those who may take an interest in how I may vote will understand why it was that I could not sustain the report of the majority of the committee in this case.

COUNT OF WARD OFFICERS.

Fury, deputy United States marshal, ward 16, says, page 63:

Interrogatory 11. Were the ballots in ward 16 all carefully counted and the full number ascertained?

Answer. I think they were.

Cross-examination by William G. Russell, esq., of counsel for the incumbent:

Cross-interrogatory 1. By whom?

Answer. By the warden and the supervisors.

Cross-int. 2. By any one else?

A. I think not.

Cross-int. 3. Did not the clerk count them?

A. I did not see the clerk count them.

Cross-int. 4. Did you see the warden count them?

A. I did.

Cross-int. 5. All of them?

A. Not all of them.

Cross-int. 6. Did you not see the clerk count any of them?

A. No.

Cross-int. 7. Nor any of the inspectors?

A. None of the inspectors.

Leavitt, inspector, ward 15, democrat, says, page 44, he and one Smith counted the scratched tickets.

Patrick M. Denon, ward 16, inspector, democrat, says, page 58, fifteen cross-interrogatory, did not assist in counting the votes. Had charge of the ballot-box all day.

William H. Thomas, ward 18, inspector, democrat, says, page 76, his position was at one of the check-lists; "I had nothing to do with the counting."

Nicholas W. McGee, clerk of election, ward 13, says, page 163, he helped Mr. Hanscom count the great majority of the ballots.

C. B. Hunting, clerk, ward 16, says, page 166, counted the ballots as carefully as he could.

HOW THE UNITED STATES SUPERVISORS COUNTED.

William Swinson, United States supervisor, ward 18, republican, says, page 60:

Interrogatory 6. What ward officers counted the ballots for members of Congress?

Answer. The warden—I think only one person at a time, with the assistance of the clerk—they kept a very correct method, a regular debit and credit account, so that there was no chance for mistakes. One inspector also counted, and as they were counted they were passed to our table and we counted. The whole counting was done by two persons at a time; the others were attending at the boxes.

Page 61, Swinson says he was absent some time, but not at dinner. Daniel P. Sullivan, United States supervisor, ward 18, democrat, says, page 45:

Interrogatory 3. Will you describe as fully as you can the manner in which the votes cast in that ward for member of Congress on November 7, 1876, were counted by you and the other officers in that ward?

Answer. The system was the warden, clerk, and one of the inspectors did the counting. The warden and clerk were present at the counting of each lot taken out, and the inspector was absent when one lot was being counted. After they counted all the ballots for all the candidates on the tickets, they tied the ballots together; they had the republican ballots in one lot and the democratic in another and the prohibition in another, and they tied a string round each bundle, and marked on each bundle, on a ballot, the vote for Mr. Dean and for Mr. Field; then they were handed to the supervisors, Mr. Swinson and myself. Mr. Swinson would count the ballots and I would watch him, and after he got through he would hand them over to me and he would watch me counting. In some cases I counted them over two or three different times to see if the figures compared with the ward officers' count, and each time I found them to be correct.

Sullivan says Swinson was at dinner. Swinson was absent half hour to forty minutes: pages 46, 49.

Abraham J. Lamb, United States supervisor, ward 16, says, page 68, he was a democrat and Daly a republican; were United States supervisors; counted all the ballots. They put all they counted in the box, and no other.

John H. Daly, United States supervisor, ward 16, says, pages 69 and 70, he and Lamb counted all the ballots and put them in the box and saw them sealed. The warden and clerk counted them first. Their count always corresponded.

William H. Thomas, democratic inspector, ward 18, says, page 76:

Cross-interrogatory 3. Did the United States supervisors in your ward personally examine and count the votes for members of Congress?

Answer. I think not.

Cross-int. 4. Did neither of them count and scrutinize those ballots?

A. I didn't see either count a vote, they seemed to do the heavy standing round.

Cross-int. 5. Was not the last count of the ballots at the election of November 7, 1876, made just before depositing them in the boxes to be sent to the city hall?

A. The clerk and the warden keep a tally on the sheet of paper, and the warden and one of the inspectors, whom the warden details to assist in counting, keep the ballots so closely counted that in ten minutes after the polls are closed the vote can be declared.

Cross-int. 6. And were they never again counted in the ward meeting after the count you have thus described?

A. They were not; there was no necessity for it; they were all carefully counted and laid aside; tied up in bundles of a hundred.

Albert Thayer, clerk of ward 19, says, page 168:

Interrogatory 8. State whether said supervisors personally scrutinized, canvassed, and counted all the ballots for Representative to Congress cast in said ward at said election.

Answer. I should say not carefully scrutinized. Mr. Pickering personally counted every ballot, but I should say he didn't scrutinize it to find out just what names were on the ballots. Mr. Riley, I think, made no attempt in that line.

Cross-int. 3. Mr. Pickering examined the ballots carefully enough to see what names were on them for member of Congress, did he not?

A. I should think not. After I had counted the piles he merely took the piles and counted them to see how many there were in each pile, without scrutinizing them. As to Mr. Riley, if his intentions had been ever so good, I don't think he could have done anything; the space was so small there where the tables were that there wasn't room for anyone else to get in.

McGee, clerk, ward 13, says, page 163:

Interrogatory 7. State who acted as United States supervisors in said ward at said election.

Answer. J. J. McNamara and Frank Hanscom.

Int. 8. State whether said supervisors personally scrutinized, canvassed, and counted all the ballots for Representative to Congress, cast in said ward at said election.

A. I couldn't say they counted all of them; they helped count some of them; they supervised things generally and kept an eye on the boxes. Mr. Hanscom counted a great majority of them with myself. I overlooked all that he counted.

Goodwin, clerk, ward 14, says, page 163:

Interrogatory 8. State whether said supervisors personally scrutinized, canvassed, and counted all the ballots for Representative to Congress cast in said ward at said election.

Answer. They were very particular to do so. I think Mr. Reddy counted every ballot cast. I remember it very distinctly, because he was of different politics from me, and was very particular to have them carefully counted, especially for Representative to Congress.

Reddy was democratic United States inspector, and William S. Crosby the republican, at ward 14. In this ward they left out 25 votes for Mr. Dean and 11 for Field.

Alban S. Green, clerk, ward 15, says, page 164:

Interrogatory 7. State who acted as United States supervisors in said ward at said election.

Answer. I couldn't give their given names; there were two; one was a Mr. Osgood, I think; the other was McCarty. I work in the same room with him; have forgotten his first name.

Int. 8. State whether said supervisors personally scrutinized, canvassed, and counted all the ballots for Representative to Congress cast in said ward at said election.

A. They did personally scrutinize the counting, but did not count all the ballots; they did not scrutinize every ballot.

Kemp Kimball, clerk, ward 17, says, page 167:

Interrogatory 8. State whether said supervisors personally scrutinized, canvassed, and counted all the ballots for Representative to Congress cast in said ward at said election.

Answer. The supervisors sat by the table where they were being counted, within the rail, watching the counting as it proceeded, and, I think, in a few cases counting certain piles of ballots. The entire counting for all officers was done in their presence, and they had free access to all the proceedings. I do not think they counted all the ballots for Representative to Congress.

WHO M'CLEARY, CITY CLERK, IS.

Hugh O'Brien, democratic alderman, says, page 55:

Interrogatory 7. Did your committee take any evidence with regard to the challenged votes above referred to?

Answer. We took no evidence.

Int. 8. To what political party does Mr. Samuel F. McCleary, the city clerk, belong?

A. That's a question I couldn't answer. I think he is very indifferent about such matters. I never heard him express an opinion about those matters.

William H. Thomas, democratic inspector, ward 18, says, pages 75 and 76:

Interrogatory 14. According to common reputation in ward 18, to what political party in national politics does Mr. McCleary, the city clerk, belong?

Answer. He never makes much demonstration as a politician, but he has always been classed as a republican.

Cross-examination by William G. Russell, esq., of counsel for incumbent:

Cross-int. 1. Do you know for whom Mr. McCleary has voted at any presidential election, or what has been his vote for governor at any election?

A. No; I can't positively swear. I think the last time he voted he put his vote in a sealed envelope, in the city election.

Cross-int. 2. Has he not for twenty years and upward been elected to the present office by the voters of both parties?

A. He has.

THE SAFE WHERE M'CLEARY KEPT THE BALLOTS.

O'Brien says, page 153:

Cross-interrogatory 10. Please describe what sort of a safe it is, and where it is. Answer. It is on the lower floor of city hall, the basement, adjoining the office of the board of health; you enter it after opening two iron doors, but when you get inside it is a well-lighted apartment; there is a barred window which lights it up. I asked if it was entirely fire-proof and a good place to deposit records. The city clerk answered the question by saying it was immediately under the vault of the treasurer's office.

No one suspected they were tampered with. O'Brien says, page 157:

Interrogatory 36. Have you any suspicion, or reason for suspicion, that in the case of the election of November 7, 1876, the envelopes or ballots were in any way tampered with before they were recounted by your committee?

Answer. None whatever.

Int. 37. Did you ever hear a suggestion of any such suspicion?

A. Never.

It is agreed the boxes with the ballots were delivered to McCleary on election day, page 171:

It is agreed that these envelopes were duly transmitted from the several wards to the city clerk of said city, on the day of the election, November 7, 1876, sealed with the seals of the several wards, and bearing the certificates now appended thereto, copies whereof are hereto annexed, and that the several parties signing the said certificates were the ward officers, acting in the several capacities in which they appear by such certificates to have acted on the day of such election.

W. G. RUSSELL,
Of Counsel for Walbridge A. Field.
S. A. B. ABBOTT,
Of Counsel for Benjamin Dean.

HOW MCCLARY RECEIVED AND KEPT THE BALLOTS.

Mr. McClary says:

Interrogatory 2. How long have you held the office, and did you hold this office on the 7th of last November?

Answer. I have held the office for twenty-five years, and held it on 7th of November last.

Int. 3. Please state whether or not on that day the envelopes containing the ballots for member of Congress for the third congressional district were received by you at your office and from whom, and whether sealed or not, and what was done with them?

A. The said ballots were received by me on that day in sealed envelopes, as required by law, from the several constables appointed for the different wards, at my office. I then placed them in my safe and locked them up.

Int. 4. What were the seals upon the envelopes, and in what condition were they when received by you?

A. The seals were of wax, stamped with the seals of the several wards, and they were unbroken at the time of their reception in my office.

Int. 5. From what wards in this congressional district were they so received by you?

A. Wards Nos. 13, 14, 15, 16, 17, 18, 19, 20, 21, and 24.

Int. 7. Please state what certificates there were, if any, upon each of the boxes when they were received by you, as testified.

A. There were certificates on each of the boxes in the same form as the blank here produced and marked "W. W.—K.," and each certificate was signed by the warden, clerk, and a majority of the inspectors for the ward from which it came; differing only in the numbers of wards and districts, as indicated by the blanks in the form here produced. The original certificate is pasted upon each box here produced.

Int. 8. State whether or not the said envelopes, containing the ballots, were retained in your care; and, if so, where and in what condition and to what time.

A. They were; they continued locked up in my safe, under my care, with the seals unbroken, until examined by the committee of the board of aldermen (appointed for that purpose) in accordance with petitions presented for a recount of the votes for member of Congress for the third district. I have furnished a copy of the proceedings of the board of aldermen upon a recount of said votes to be annexed to the depositions in this case, and also of the petitions on which said proceedings were had.

Int. 9. Please state what took place as to the recount, so far as you know.

A. At the request of the committee, I delivered the envelopes containing the votes for Representative to Congress for the third congressional district to them for the purpose of a recount, and they opened the envelopes and counted the votes in an adjacent room, within five days of the election, and returned the boxes to me with a certificate upon each box, sealed with the seal of the city, and signed by the committee, setting forth that the boxes were opened for that purpose. I annex a copy of the certificate referred to. The certificates only varied in this respect, that some were dated November 10 and some November 11, according as the day on which the count was made varied. The certificates for wards 13 to 17 inclusive were dated November 10, and wards 18 to 24 inclusive November 11. (The copy referred to is marked "W. W.—L.")

HOW RECOUNT WAS MADE.

S. B. Stebbins, alderman, page 124:

Interrogatory 4. State what then took place; from whom the committee received the envelopes containing the ballots; in what condition these envelopes were when received by the committee, and what was then done by the committee in respect to a recount.

Answer. The first meeting of the committee was on Friday afternoon, November 10, in one of the committee rooms in the city hall. The committee received the envelopes containing the ballots from the city clerk; they were in proper form and order and sealed with the several ward seals, and the seals were unbroken. The committee were all present and commenced their labor with ward 13 first. The envelope was opened by the chairman of the committee, myself, in presence of the other members of the committee. The ballots were carefully taken from the envelopes and carefully placed upon the table, and were then first counted by the chairman of the committee for candidates for member of Congress from the third congressional district. Each member of the committee made a separate count and each member arrived at precisely the same result, and each member made a record of the result; the ballots were then resealed in the envelope. There was an application for a recount for member of the Legislature for that ward, I think, and, before sealing them, I think we made a recount of that vote also.

McClary, page 132:

Redirect 15. Which count of ballots was made first, the count for member of Congress from the third district or the count for State officers, referred to in your cross-examination as being made about the same time?

Answer. The count for member of Congress was made first by the committee,

and at the conclusion of their count the count was made to verify the election for State officers; it was the same in each ward.

Int. 23. In the cases which you have referred to, where a count was made by Messrs. Priest, Lee, and Clapp of the votes for members of the State Legislature, while the boxes were open for the purposes of counting the ballots for member of Congress from the third district, which count was made first, that by the committee of ballots for member of Congress, or that which was made by the assistants for members of the Legislature? State the whole course of proceeding.

A. I think I have already stated the envelopes containing the ballots cast for member of Congress for the third congressional district was, in every instance, opened and counted by the committee before the count was made for members of the Legislature.

Alderman Viles, page 135:

Interrogatory 7. What seals, if any, were upon the envelopes when they were so brought in, and in what condition were the seals?

Answer. The city seal was upon them and always whole.

Int. 15. Was this recount for State officers in wards 13 and 14 made before or after the recount made by the committee of the board of aldermen for member of Congress for the third district?

A. Made after.

O'Brien, democratic alderman, page 151:

Interrogatory 12. What seals, if any, were upon the envelopes when you received them, and in what condition were the seals?

Answer. The seals of the ward officers and the condition of them were perfect. One seal was a little out of place, broken little by moving the boxes round, not broken so as to indicate opening. I don't know whether that was at this count or the others.

Int. 13. How did the committee proceed to count? State fully and particularly all that was done.

A. After breaking the seal, we generally put as many ballots together of one kind as we could conveniently get at, and then counted in piles of twenty-five each. Alderman Stebbins commenced the count, followed by Viles, and then by myself, and each member of the committee made their count agree. Each member of the committee counted every vote separately, not relying upon each other. If the democratic votes came up first in the box we took those out and counted them, and then took the others out.

Int. 14. Whether you counted the ballots contained in each envelope severally before beginning on any other?

A. We counted the ballots in each box separately, and before commencing on any other that box was sealed up and put away. Before we sealed up the box we made a record of the ballots in it, and the count of all three agreed before we sealed it.

Int. 18. Whether or not this recount of ballots for State officers was made before or after the same ballots had been counted by you for member of Congress and the recount recorded by you?

A. Made after.

NO STICKERS FELL OFF.

Stebbins says, page 133:

Interrogatory 22. Whether or not you are familiar with what are known as pasters or stickers, and whether your committee carefully examined the boxes to see if there were any such detached from the ballots, and the result of such examination?

Answer. I am familiar with them; they are names of candidates printed upon paper prepared with gluten, to paste over other names upon election ballots. Great care was exercised by the committee, and no pasters for candidates for Congress were found detached from the ballots.

Viles says, page 137:

Interrogatory 25. Did you look to see whether there were any pasters or stickers in the envelopes separated or detached from the envelopes?

Answer. I did in every instance, in every box, and also on the floor where Mr. Stebbins sat. Stebbins was chairman, and no one ever took any ballots out of the envelopes, except Stebbins.

Int. 26. Did you find any such stickers or pasters remaining in the envelopes or upon the floor or the table?

A. I did not.

O'Brien says, page 151:

Interrogatory 16. Did you satisfy yourself that you counted all the ballots, and did you look to see whether there were any stickers or pasters in the boxes?

Answer. I am satisfied that I counted every ballot. I don't remember that any pasters or stickers were in the boxes for Mr. Field or Mr. Dean. I always looked to see.

Result of both counts in the third congressional district.

	Ward returns.										Totals.
	13.	14.	15.	16.	17.	18.	19.	20.	21.	24.	
Benjamin Dean	1,495	1,075	855	896	862	579	1,126	1,038	547	895	9,368
Walbridge A. Field	219	939	753	621	1,131	1,410	614	897	1,331	1,361	9,276
Walbridge A. Field, (4th district)						25					25
— A. Field							1				1
— Field							1				1
Samuel D. Smith									1		1
	Official count.										Totals.
	13.	14.	15.	16.	17.	18.	19.	20.	21.	24.	
Benjamin Dean	1,497	1,100	855	889	803	573	1,125	1,035	545	893	9,315
Walbridge A. Field	225	950	751	625	1,131	1,413	614	891	1,331	1,363	9,295
Walbridge A. Field, (4th district)						25					25
Wm. A. Field				1							1
— Field							3				3
Leopold Morse											1
Rufus S. Frost				2							2
Francis M. Weld								1			1
Field gains	6	11		4		3			2	1	27
Dean losses			2					6			8
Dean gains	2	25			1						28
Dean losses				7		6	1	3	2	2	21

I will briefly allude to that testimony. It shows that at this election, when the ballots had been counted at the ward precincts, they were put into a package, or envelope, or box, which was sealed up with a seal, and that seal was kept in the pocket of the ward clerk. A paper indorsed by the inspectors of elections of the ward was then pasted upon the box and those boxes were taken to the city hall and there placed in a vault. Under the law the constables are directed to take the boxes to the city hall. The election was over about four o'clock in the day, and the counting was completed about half an hour later. Then, in the broad, open day-light, these ten ward constables of the ten wards of Boston constituting this congressional district carried the boxes through the streets of Boston to the city hall, the boxes thus sealed and indorsed, upon the evening of Tuesday, November 7, 1876.

The constables delivered those boxes into the custody of the city clerk. According to the record these boxes were so delivered to the proper officer, who put them into the vault upon that Tuesday evening, and there they remained until Friday morning, when this recount began. But two days intervened—Wednesday and Thursday—from the time the boxes were put into the vault until the time when this recount began. One of the witnesses, Mr. McCleary, swears that that vault was locked; that the key was kept in his pocket; that the vault was not open during that time; that no one went into it until the boxes were taken out by himself on the Friday morning for the recount.

Mr. McCleary, according to the record, is an old gentleman, who has been clerk of the city of Boston for over twenty-five years, unchanged and undisturbed amid all the convulsions of parties, personal animosities, and everything of that kind. According to the testimony he is a man who was so pure and free from political bias that none of the witnesses knew what were his politics.

Mr. HARRIS, of Virginia. They say that he voted the republican ticket.

Mr. WALSH. Well, he had a right to do that.

Mr. HARRIS, of Virginia. I do not deny it.

Mr. WALSH. And a republican may be honest.

Mr. HARRIS, of Virginia. I do not deny that either. But you said nobody knew what were his politics.

Mr. WALSH. Upon this Friday morning these boxes were brought out one by one, not all at a time. It is proved that the seals on them were unbroken, that the indorsements upon them were unchanged. Each ward box was opened and the ballots in that box were counted before any other box was opened. The boxes were taken out of the vault one at a time, and only the votes for member of Congress were counted; not the whole twenty-seven or thirty names which were on the ballots.

That count was made by three aldermen, and of those three aldermen two were democrats. They made this recount, they swear that they made it carefully, that they made it correctly, that they counted all the ballots in the boxes, and that the result which they have given you is what was the result of those ballots in the boxes.

Mr. HARRIS, of Virginia. Did not those three men give the plurality—

Mr. WALSH. I cannot yield to the gentleman now; he will have his time to-morrow.

Mr. HARRIS, of Virginia. Did not those three men give the plurality to Dean?

Mr. WALSH. I have no time to be interrupted.

Mr. HARRIS, of Virginia. Did they not give it to Dean?

Mr. WALSH. No; those three men did not give the majority to Dean?

Mr. HARRIS, of Virginia. The plurality.

Mr. WALSH. The contest was whether 25 ballots for Field, with the designation of another congressional district, should be counted for him or not. That was all the contest upon which commenced this whole proceeding now before us here. It is only since the case has come here that this new ground has been taken.

The whole contest there was whether those 25 votes for Mr. Field, giving a wrong designation of the district, should be counted for him or not. These three aldermen, appointed by the democratic mayor of the city of Boston, two of them democrats, swear that the recount was correctly made; that it brings out the result of the ballots which were put in the boxes, and all the testimony shows that the boxes were not tampered with; that no ballots were changed, none put in and none taken out. Where, then, I ask, is there ground for any man to stand upon and say that we shall overthrow the law of Massachusetts and unseat a member who has his certificate like all the rest of us, upon testimony that does not impugn the final count upon which he received that certificate, except by setting up the preliminary count to which the law of Massachusetts does not intrust the ascertainment of the result? Any one who will look at the table of the result of the recount (which I publish with my remarks) will see that there was no tampering with the ballot-boxes. Mr. Dean gains two or three votes in one ward and loses two or three in another, and the case is the same with Mr. Field. Mr. Dean actually gains 25 votes by the recount in ward 16. Now, if any one were tampering with the ballot-boxes he would not do it by making these little changes and going all through the different wards. The ballot-box stuffer would not break open all the boxes, but would put in or take out enough ballots in one of the boxes to give his friend the election. But in this case we have only little fragments of difference, the result

of the little errors and accidents that would necessarily happen in the making of the first count. I believe there are very few elections where the first count is absolutely correct, though in general the majority for one party or the other is so large that a recount would be unimportant. But I never yet knew of a recount anywhere where the result was exactly the same as on the first count, because on the recount there is more time to make the computation accurate; the officers are freer from excitement and their attention is not diverted by loud and angry conversation and by hurrahing by the different parties, and all the other things that disturb them on the day of the election. A recount rarely or never corresponds exactly with the original count; and the only reason why a recount is not oftener made is because the majority is generally so large that a recount would not affect the result in any way. Where all possibility of tampering with the ballots is excluded by the testimony, as in this case, we may very safely determine the result by the recount.

Somebody has given great importance to the fact that one vote for a man named Smith was not found in the box on the recount, although it is given in the return of the ward officers. Well, sir, this is a very small feather to overturn the official count made under the laws of Massachusetts, and sworn to as correct by the men who made it, two of them men of my own party. Why, sir, that vote for Smith was not visible to the eyes of the United States supervisors; it does not appear in their count at all. They did not return it because they did not see it.

Mr. SPRINGER. They returned no scattering votes.

Mr. WALSH. I know that they returned no scattering votes; but their papers or returns do not state that they found such votes and did not return them. They are sworn according to law to see that every man gets the votes that are cast for him. Why did they not see that this man Smith received that one vote cast for him for member of Congress? If there was a vote cast for Smith, and if the ward officers saw it, it did not get into the box; for the United States supervisors did not see it, and the three aldermen did not see it. How can the grand sum total of the result of this election be affected by a little question like that, whether one vote for a third party was in the ballot-box or not?

Mr. HARRIS, of Virginia. There was only a difference of 4 votes either way.

Mr. WALSH. Well, this vote for Smith could not go to either of these parties. Smith is not here complaining. The question as to his vote is brought in only because "drowning men catch at straws." When in the trial of a great cause you find men hanging around the outskirts of the great central question for scraps of irrelevant matter it shows, in my view, that they lack weightier matters reaching to the merits to dwell upon.

Now, it has been said that there were "stickers" or "pasters" upon some tickets with Mr. Dean's name on, and that on the recount these may have fallen off. Well, of course, anything may have happened provided it is not a natural impossibility. But the merits of causes like this are not determined by guesses and conjectures. Unfortunately, however, for this wild conjecture, the witnesses all swear—the three aldermen, the city clerk, and everybody who was present—that at the recount "pasters" or "stickers" were carefully looked for, that none were found in the boxes and none fell upon the floor. That disposes of the question as to "stickers."

I have looked at this case carefully and conscientiously, with no desire, of course, to reach a conclusion against my own party friend. I do not profess to be free from party bias. I am a democrat, have always belonged to the democratic party, and always hope to belong to it. I believe it to be the grandest political party that was ever known in the history of the world.

I cannot read the history of the United States without seeing that the democratic party sat at its cradle, and that it was to its statesmanship, its watchfulness, its fidelity to the trust of human liberties committed to it, that the Republic is indebted for the grand and glorious position it now occupies. Sir, I would not do anything to injure the democratic party, but, on the contrary, I would do all I could in honor and in truth to sustain it, to elevate it, and restore it again to the control of the Government. But gentlemen who do not see very far sometimes make great mistakes. They think in their day and generation they are accomplishing a great deal, but it is the man who looks to the outcome of the more distant future who, in my judgment, is to be considered the wisest. However that may be, I shall vote to retain the sitting member in his seat, not certainly from any party predilection for him, but because I honestly believe, under the law and facts which govern me in this case, he is entitled to the seat.

ARMY COOKING.

The SPEAKER *pro tempore*, (Mr. POTTER in the chair,) by unanimous consent, laid before the House a letter from the Secretary of War, recommending the repeal of section 1233 of the Revised Statutes; which was referred to the Committee on the Judiciary.

WASHINGTON ARSENAL.

The SPEAKER *pro tempore* also, by unanimous consent, laid before the House a letter from the Secretary of War, relative to the disposition of the Washington Arsenal; which was referred to the Committee on Military Affairs.

PROTECTION OF FUR SEALS.

The SPEAKER *pro tempore* also, by unanimous consent, laid before

the House a letter from the Secretary of the Treasury, relative to sending a vessel to Alaska for the protection of seal, and asking an appropriation for the same; which was referred to the Committee on Appropriations.

FEEES FOR COPIES OF OFFICIAL PAPERS.

The SPEAKER *pro tempore* also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, in reference to the expenses of furnishing certified copies of official papers for purposes in which the Government has no interest, and suggesting the propriety of some provision authorizing a charge to cover said expenses; which was referred to the Committee on Appropriations.

LEAVE OF ABSENCE.

Mr. FREEMAN, by unanimous consent, was granted leave of absence for the remainder of the week, on account of important business.

SWAYNE, HOWARD & CO.

On motion of Mr. CRAVENS, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Swayne, Howard & Co., no adverse report having been made on it.

JAMES SUTLISE.

On motion of Mr. SMITH, of Georgia, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers accompanying House bill No. 240, for the relief of James Sutlise, no adverse report having been made on it.

J. D. BINFORD.

Mr. PRICE moved, by unanimous consent, to withdraw from the files of the House the papers accompanying House bill No. 704, granting a pension to J. D. Binford, reported adversely from the Committee on Invalid Pensions.

The SPEAKER, *pro tempore*. Under the rule the application will be referred to the Committee on Pensions.

ENROLLED BILL AND JOINT RESOLUTION.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 133) to prescribe the time for the payment of the tax on distilled spirits, and for other purposes; and

An act (S. No. 528) to authorize the Worthington and Sioux Falls Railroad Company to extend its road into the Territory of Dakota, to the village of Sioux Falls.

LUCINDA ROBINSON.

Mr. TIPTON, by unanimous consent, introduced a bill (H. R. No. 4107) granting a pension to Lucinda Robinson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NAVY OF THE UNITED STATES.

Mr. KIMMEL, by unanimous consent, from the Committee on Naval Affairs, reported back a bill (H. R. No. 2240) to amend sections 1416, 1417, 1418, 1419, 1420, and 1624 of the Revised Statutes of the United States, relating to the Navy; which, with the accompanying report, was ordered to be printed, and recommitted, not to be brought back by a motion to reconsider.

NORMAN WIARD.

Mr. BANKS, by unanimous consent, introduced a bill (H. R. No. 4108) for the relief of Norman Wiard; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

DISTRICT TAXES.

Mr. WILLIAMS, of Michigan. I move, by unanimous consent, to take from the Speaker's table an act (H. R. No. 2371) to amend an act entitled "An act for the support of the government for the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes," returned from the Senate with amendments. This bill relates to the new assessment for the District of Columbia, which was passed by the House some time ago, but has been delayed to the present time in the Senate. The amendments of the Senate merely strike out "July" where it occurs and inserts "August." It is important the bill should pass at once, and I hope there will be no objection to concurring in the Senate amendments.

There was no objection, and the amendments of the Senate were concurred in.

Mr. WILLIAMS, of Michigan, moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEORGE CLENDENIN, JR.

Mr. MAGINNIS, by unanimous consent, introduced a bill (H. R. No. 4109) for the relief of George Clendenin, jr.; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

And then, on motion of Mr. HISCOCK, (at five o'clock and three minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: The petition of printers, engravers, booksellers, electrotypers, and others, of Philadelphia, Pennsylvania, for the imposition of a duty on electrotype printing plates—to the Committee of Ways and Means.

Also, the petition of Mary N. De Haven, for a pension—to the Committee on Invalid Pensions.

By Mr. BELL: Resolutions of the Augusta (Georgia) Cotton Exchange, favoring the passage of the Stephens Pacific Railroad bill—to the Committee on the Pacific Railroad.

Also, the petition of 393 citizens of Hall County, Georgia, of similar import—to the same committee.

By Mr. BLACKBURN: The petition of citizens of Frankfort, Kentucky, for the repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. BLAIR: The petition of O. C. Hatch and 37 other citizens of Littleton, New Hampshire, of similar import—to the same committee.

By Mr. BLISS: The petition of J. J. Vail, Thomas D. Hudson, J. P. Crawford, Alexander Underhill, J. N. Christmas, George H. Eageman, Robinson Gill, and other citizens of Brooklyn, New York, against a revival of the income tax—to the Committee of Ways and Means.

By Mr. CALDWELL, of Tennessee: The petition of Ferdinand M. Tuck, for compensation for a horse lost in the United States service—to the Committee on War Claims.

By Mr. CHALMERS: The petition of James M. Swearagin, executor, &c., for compensation for property taken by the United States Army—to the same committee.

By Mr. DAVIS, of California: The petition of citizens of San Francisco, California, against an increase of duty on boiler-tubes—to the Committee of Ways and Means.

By Mr. FELTON: The petition of citizens of Cobb County, Georgia, for Government aid to the Texas Pacific Railroad, provided it is constructed on the thirty-second parallel—to the Committee on the Pacific Railroad.

By Mr. FOSTER: The petition of citizens of Ohio, against the passage of the Williams bill for the protection of fish—to the Committee on Commerce.

By Mr. GAUSE: The petition of citizens of Lee County, Arkansas, in relation to the improvement of L'Anguille River—to the same committee.

By Mr. HARTZELL: Memorial and resolutions of the city council of Cairo, Illinois, favoring the passage of the Texas Pacific Railroad bill—to the Committee on the Pacific Railroad.

Also, memorial and resolutions of the city council of Cairo, Illinois, for the adoption of such measures for the improvement of the Mississippi River and the protection of the country bordering on it as will speedily afford relief from the dangers of its navigation and its excessive floods—to the Committee on Commerce.

By Mr. HASKELL: The petition of the publisher of the Republican Daily Journal, Lawrence, Kansas, for the abolition of the duty on type—to the Committee of Ways and Means.

By Mr. HERBERT: The petition of Hon. A. N. Worthy and other citizens of Troy, Alabama, for aid to the Texas Pacific Railroad—to the Committee on the Pacific Railroad.

By Mr. HISCOCK: The petition of citizens of New York, against the revival of the income tax—to the Committee of Ways and Means.

By Mr. HUBBELL: The petitions of the publishers of the *Manistee* (Michigan) *Times and Standard*, of the *Wexford County* (Michigan) *Pioneer*, of the *Evart* (Michigan) *Review*, of the *Reed City* (Michigan) *Weekly Clarion*, and of the *Otsego County* (Michigan) *Herald*, for the abolition of the duty on type—to the same committee.

Also, the petition of Peter W. Hornback, Stephen R. Rhodes, and 150 other citizens of Point Saint Ignace, Michigan, against the passage of the bill to regulate and protect fisheries—to the Committee on Commerce.

By Mr. JONES, of Alabama: The petition of citizens of Choctaw County, Alabama, for the distribution of the proceeds of the sales of public lands among the States in aid of popular education—to the Committee on Education and Labor.

By Mr. LORING: Papers relating to the claim of Thomas Niles, of Massachusetts—to the Committee on War Claims.

By Mr. LUTTRELL: The petition of Sarah L. Knox, of San José, California, for the removal of her political disabilities—to the Committee on the Judiciary.

By Mr. MAISH: Papers relating to the pension claim of Mary Wade—to the Committee on Invalid Pensions.

By Mr. MCKINLEY: The petition of 130 citizens of Stark County, Ohio, against any change in the tariff on wool and woolens—to the Committee of Ways and Means.

Also, the petition of 35 citizens of Columbiana County, Ohio, against any change of the tariff on wool and woolen goods and against any change of the tariff laws—to the same committee.

Also, resolutions of the Ohio State grange, Patrons of Husbandry, of Castalia, Ohio, opposing any reduction of the tariff on wools and woolens—to the same committee.

By Mr. MORRISON: The petitions of the publishers of the *Daily* and *Weekly Gazette*, East Saint Louis, Illinois, and of the *Highland*

(Illinois) Courier, for the abolition of the duty on type—to the same committee.

By Mr. MORSE: The petition of citizens of Boston, Massachusetts, against any tax upon incomes—to the same committee.

By Mr. NEAL: The petition of T. M. Cherry and 50 other citizens of Hocking County, Ohio, against any change in the tariff—to the same committee.

By Mr. O'NEILL: Memorial of the Philadelphia Board of Trade, for the adoption of certain amendments to the bankrupt law, making it uniform, decreasing expenses, &c—to the Committee on the Judiciary.

By Mr. PUGH: Resolutions of the Board of Freeholders of Hudson County, New Jersey, in favor of making Jersey City a port of entry—to the Committee on Commerce.

By Mr. SAYLER: The petition of Allison, Smith & Johnson and other printers, stereotypers, and others of Cincinnati, Ohio, in regard to the duty on type and stereotype or electrotype plates—to the Committee of Ways and Means.

By Mr. SINGLETON: The petition of John A. Park, for a pension and land warrant—to the Committee on Invalid Pensions.

Also, the petition of Purifay Tingle, for compensation for stores taken by the United States Army—to the Committee on War Claims.

By Mr. STARIN: The petition of John W. Thompson and others of Ballston Spa, New York, and of N. M. Estebrook and others of the same place, for the repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. STEPHENS, of Georgia: Memorial of the Cotton Exchange of Augusta, Georgia, in favor of the Texas and Pacific Railroad bill introduced in the House by Mr. STEPHENS, of Georgia—to the Committee on the Pacific Railroad.

Also, memorial of Professor L. H. Charbonnier, of the Georgia State University, in the behalf of Athens, Georgia, as a proper place for the location of a branch mint of the United States—to the Committee on Coinage, Weights, and Measures.

By Mr. YOUNG: The petition of J. C. Johnson and others, of Memphis, Tennessee, and of James N. Falls, administrator, &c., for the refunding of taxes collected from them on rope and bagging—to the Committee of Claims.

Also, the petitions of F. M. Mendenhall and of James R. Wray, for compensation for property taken by the United States Army—to the Committee on War Claims.

IN SENATE.

WEDNESDAY, March 27, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.
The Journal of yesterday's proceedings was read and approved.

INTERMENT OF HON. J. E. LEONARD.

The VICE-PRESIDENT. Under the provisions of the concurrent resolution of the House of Representatives relating to the subject, the Chair appoints Messrs. EUSTIS, SAUNDERS, and CONOVER as the committee on the part of the Senate to meet the body of Hon. JOHN EDWARDS LEONARD, late a Representative from the State of Louisiana, upon its arrival at New York, and escort it to the place of interment at West Chester, Pennsylvania.

PETITIONS AND MEMORIALS.

Mr. FERRY presented a memorial of M. M. Locke and others, citizens of Michigan, merchants, fishermen, &c., remonstrating against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which was ordered to lie on the table.

Mr. HOAR presented the memorial of James William and others, of Massachusetts, and the memorial of Edward Lawrence and others, of Boston, remonstrating against the passage of any act imposing a tax on incomes; which were referred to the Committee on Finance.

Mr. HOAR. I present the memorial of Alexander H. Rice, governor, the lieutenant-governor, all the members of the executive council, and the secretary of State of the Commonwealth of Massachusetts, expressing their opinion that the efficiency of the life-saving service will be greater if left with the Revenue-Marine Bureau than if the same be transferred to the Navy Department, and they most respectfully recommend that such transfer should not be made. I move that the memorial lie upon the table.

The motion was agreed to.

Mr. MATTHEWS. I present the memorial of Wilcox Brothers and others, vessel-owners, masters, and agents, of the city of Toledo, Ohio, respectfully and earnestly remonstrating against the passage of the bill to transfer the life-saving and coast-guard service from the Treasury to the Navy Department, and stating that in their opinion the life-saving service under its present administration has given satisfactory proof of efficient management, and any interference, as contemplated, they regard as dangerous, wild, and speculative. I move that the memorial lie upon the table.

The motion was agreed to.

Mr. BOOTH presented the petition of James C. Horton and others, citizens of Kansas, praying that Congress may pass an act for the re-

lief of Alexander McDonald who purchased eight hundred and seventy-two acres of land from the Leavenworth, Lawrence and Galveston Railway Company, and from the Missouri, Kansas, and Texas Railway Company, being a part of the Osage ceded tract, so that the same may be granted to him; which was referred to the Committee on Private Land Claims.

Mr. WITHERS. I present a joint resolution of the General Assembly of Virginia, requesting certain Congressional action upon the award of the commissioners for settling the boundary line between Virginia and Maryland. As the Legislature of Maryland has not yet acted upon that matter, I move that for the present the resolution lie upon the table.

The motion was agreed to.

Mr. CAMERON, of Pennsylvania, presented a petition of the Board of Trade of the city of Philadelphia, praying for the adoption of certain amendments therein mentioned to the bankrupt laws; which was ordered to lie on the table.

Mr. HAMLIN presented the memorial of S. J. Abbott and others, citizens of Waterville, Maine, remonstrating against the passage of any act imposing a tax on incomes; which was referred to the Committee on Finance.

Mr. BECK presented the memorial of John W. Story and others, citizens of Louisville, Kentucky, remonstrating against the passage of any act imposing a tax on incomes; which was referred to the Committee on Finance.

Mr. THURMAN presented the petition of George R. Herrick, of the District of Columbia, praying to be reimbursed a certain amount of money paid by him under an order of the board of police commissioners on account of the robbery of his office safe while he was property clerk of the Metropolitan police of the District of Columbia; which was referred to the Committee on Claims.

Mr. CONKLING. I present the memorial of Archibald Turner & Co., Jacob Lorillard, Isaac Bell, and a large number of other prominent merchants, bankers, and ship-owners in the city of New York, remonstrating against the proposed change of the life-saving service from the Treasury to the Navy Department. I move that this memorial lie upon the table.

The motion was agreed to.

Mr. CONKLING presented the petition of William F. Rogers and others, citizens of the city of New York, engaged in the business of printing, remonstrating against the removal by Congress of duties on foreign imports; which was referred to the Committee on Finance.

Mr. CONKLING. I present also a memorial signed by a large number of active business men of New York, remonstrating, for very abundant reasons, as I think, against the reimposition of the income tax. I move the reference of this memorial to the Committee on Finance.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on Claims, to whom was referred the bill (S. No. 342) for the relief of Henrietta Groesbeck, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 471) for the relief of M. S. Draughn, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, to whom was referred the bill (H. R. No. 1224) for the relief of Will R. Hervey, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. MORGAN, from the Committee on Claims, to whom was referred the bill (S. No. 378) for the relief of William L. Hickam, of Missouri, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the petition of William L. Adams, late collector of customs at Astoria, Oregon, praying to be relieved from all liability on account of money stolen from him while being transported to San Francisco, submitted a report thereon, accompanied by a bill (S. No. 997) for the relief of William L. Adams.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. MITCHELL, from the Committee on Claims, to whom was referred the petition of George R. Dennis, of Maryland, praying compensation for damages to his schooner, William J. Dennis, alleged to have been caused by her being run into and sunk by the Government steamer General Meigs, submitted a report thereon, accompanied by a bill (S. No. 998) for the relief of George R. Dennis, of Maryland.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mrs. Eliza E. Hebert, of Louisiana, praying compensation for commissary and quartermaster stores alleged to have been taken by order of Brigadier-General Halbert E. Paine in 1863, submitted a report thereon, accompanied by a bill (S. No. 999) for the relief of Mrs. Eliza E. Hebert.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. CAMERON, of Wisconsin. I desire to state that the chairman

of the Committee on Claims, the Senator from Minnesota, [Mr. McMILLAN,] and I dissent from the report of the majority just submitted by the Senator from Oregon.

Mr. MITCHELL. That is correct.

Mr. TELLER, from the Committee on Claims, to whom was referred the petition of George M. Hazen, of Tennessee, praying compensation for the use and occupancy of his property by United States military forces during the late war, submitted a report thereon accompanied by a bill (S. No. 1000) for the relief of George M. Hazen.

The bill was read twice by its title, and ordered to be printed.

Mr. McMILLAN, from the Committee on Claims, to whom was referred the bill (H. R. No. 3068) for the allowance of certain claims reported by the accounting officers of the Treasury Department, reported it with amendments.

Mr. WINDOM, from the Committee on Appropriations, to whom was referred the joint resolution (H. R. No. 142) making an appropriation for filling up, draining, and placing in good sanitary condition the grounds south of the Capitol, along the line of the old canal, and for other purposes, reported it with an amendment.

Mr. BRUCE, from the Committee on Pensions, to whom was referred the bill (S. No. 246) to correct commencement of renewal of pension of Anna Brasel, widow of David Brasel, sergeant in Captain Gordon's company, Colonel Neal's regiment, Illinois Mounted Volunteers, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

BILLS INTRODUCED.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1001) extending the jurisdiction of the circuit court of the United States, and for other purposes; which was read twice by its title.

Mr. MITCHELL. I move that that bill be referred to the Committee on Patents. It relates exclusively to patent business.

The motion was agreed to.

Mr. KERNAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1002) granting pensions to Indians who were in the service of the United States in the war of 1812 as scouts, guides, or warriors; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1003) to establish an educational fund and apply a portion of the proceeds of the public lands to public education, and to provide for the more complete endowment and support of national colleges for the advancement of scientific and industrial education; which was read twice by its title, and referred to the Committee on Education and Labor.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1004) appropriating moneys for improvement of Harlem River between Randall's Island and Hudson River; which was read twice by its title, and referred to the Committee on Commerce.

ATLANTIC AND NORTH CAROLINA RAILROAD.

Mr. MERRIMON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War communicate to the Senate all such information as may be in the War Office in relation to when the Government took possession of the Atlantic and North Carolina Railroad; how long the Government had possession of the same; what rates of fares and freights it established, and what were the gross receipts of money received on account of freights and fares from the 1st day of May, A. D. 1865, to the 26th of October, A. D. 1865.

COLONIAL CHARTERS AND CONSTITUTIONS.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the copies of the charters and constitutions heretofore ordered to be printed by the Senate be bound.

REPORT ON FISH AND FISHERIES.

The VICE-PRESIDENT laid before the Senate a communication from the Commissioner of Fish and Fisheries, transmitting his report for the year 1876-77; which was ordered to lie on the table, and be printed.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring.) That there be printed 5,000 extra copies of the report of the Commissioner of Fish and Fisheries for the year 1876-77, of which 1,500 shall be for the use of the Senate, 2,500 for the use of the House of Representatives, and 1,000 copies for the use of the Commissioner of Fish and Fisheries.

AMENDMENT TO APPROPRIATION BILL.

Mr. ANTHONY, from the Committee on Printing, reported an amendment intended to be proposed to the bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

JOHN RAY AND WILLIAM L. McMILLEN.

Mr. HOAR. I move to take up the resolution of the Senate for the payment of John Ray and William L. McMillen.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted by Mr. KELLOGG, January 15:

Resolved, That the Secretary of the Senate be, and he is hereby, directed to pay out of the contingent fund of the Senate full compensation and mileage as Sena-

tors to John Ray and William L. McMillen for the unexpired term of WILLIAM P. KELLOGG in the Forty-second Congress.

The resolution was reported from the Committee on Privileges and Elections with an amendment to strike out all after the words "contingent fund of the Senate" and insert "the sum of \$1,000 each to John Ray and William L. McMillen, as full compensation for their expenses as contestants for a seat in the Senate for the unexpired term of WILLIAM P. KELLOGG in 1873;" so as to read:

Resolved, That the Secretary of the Senate be, and he is hereby, directed to pay out of the contingent fund of the Senate the sum of \$1,000 each to John Ray and William L. McMillen, as full compensation for their expenses as contestants for a seat in the Senate for the unexpired term of WILLIAM P. KELLOGG in 1873.

Mr. HOAR. If the Senate will listen to a statement which will take about a minute, I think there will be no opposition to the resolution, and that it will save the necessity of reading the report; but if any Senator calls for the reading of the report, it can be read. The facts of the case are these: upon the resignation of Governor KELLOGG as Senator from Louisiana on the 13th of January, 1873, there were two rival bodies then claiming to be the State Legislature of Louisiana; one of them elected Mr. Ray and the other elected Mr. McMillen; and these gentlemen appeared and applied for the seat severally. The committee before whom they appeared, after a long investigation, occupying more than a month, reported that there was no State government in Louisiana. That resolve was rejected by the Senate, and the Senate adjourned without taking any action upon the claim of these two rival claimants to the seat.

The rival claimants appeared as counsel before the committee and conducted, with other gentlemen, an examination into the entire history of the election in Louisiana, the entire question between the two rival State governments, and all the great public questions with which the Senate are familiar, which grew out of that matter. But their claim to the seat was never determined by the Senate. The Committee on Privileges and Elections are agreed that the contest was a fit contest for each party to make, and that it was proper that their claim should be presented to the Senate. The unbroken usage in such cases of the Senate has been to allow contestants under such circumstances the full salary and mileage, which in this case would amount to about \$2,700. On making their application the then committee in 1873 reported that that was a vicious practice, and submitted a resolution that these gentlemen be allowed their actual expenses and no more. That resolution was not acted upon at all by the Senate. It was reported some eighteen months after the contest. Afterward the Senate went back in other cases to the old practice, and in the Alabama case of Mr. Sykes allowed the full salary and mileage, amounting to a very large sum. The Committee on Privileges and Elections in the present case are unanimously agreed not to follow that precedent, but to limit these gentlemen in the present case to their actual expenses and disbursements. But the committee thought, as the rule of the Senate had been otherwise and these gentlemen had no notice whatever of a rule which would have required them to preserve vouchers and minute specific accounts of all their expenses, that it was not reasonable to require of them at this distance of time such vouchers, which they say they did not preserve and are unable to furnish; and we reported that the sum of a thousand dollars apiece was a reasonable and moderate estimate of their actual charges and expenses under the circumstances.

They traveled here from Louisiana; they performed a service which they would have been warranted in employing distinguished counsel to perform and charging it to the contingent fund of the Senate if their expenses and disbursements were to be allowed. One of them was an eminent lawyer, Mr. Ray, the republican claimant, who laid aside his professional business and was attendant here for a month, and the other gentleman, Mr. McMillen, though I believe not a lawyer, is an eminent and able man who rendered important service in the investigation not only of his claim to a seat, but in the general investigation in which the Senate and the committee were engaged.

Under these circumstances the Committee on Privileges and Elections are unanimous in the belief that a reasonable disposition of the question is to allow them a thousand dollars apiece.

Mr. BAYARD. I do not propose to make opposition to the action of the committee who have no doubt intelligently and carefully considered this case, or to oppose my discretion of the allowance to these parties to theirs. I very well remember the tangled skein of politics that came to us from Louisiana. It seems to me that after the credentials of Mr. McMillen were before the Senate and the presence of those credentials was urged as a cause of rejection of the credentials of Pinchback who came here claiming his place, Mr. McMillen had placed himself so in the hands of a Senator then upon the floor from Louisiana, Mr. West, that he felt authorized to rise and withdraw Mr. McMillen's credentials in order to make way for Mr. Pinchback.

Mr. HOAR. Will the Senator from Delaware permit me to say that that related to another and a different term. This contest was in relation to the unexpired term of the then Senator KELLOGG, who afterward became governor of the State.

Mr. BAYARD. I do not wish to oppose myself to any fact found by the Committee on Privileges and Elections in this case, but to state that which arises to my mind, that at the time Mr. McMillen's credentials were withdrawn the idea prevailed, I cannot say precisely upon what proof, that there had been an accommodation of these rival claims which had resulted in such compensation to Mr. McMillen for his withdrawal of his papers as would have made the present

reimbursement for his expenses superfluous. I do not know the fact. I remember this was stated at the time; and I remember that Mr. McMillen's claims were in the hands of a gentleman entirely opposed to himself here in politics, so that he apparently could withdraw them at his will, and he did so, and the idea here, as in another branch of Congress, was that the contestants had settled the matter among themselves and that the one receiving his pay had paid a due proportion of it over to the other. Mr. Pinchback's claim I think was the modest sum of sixteen or eighteen thousand dollars, which was paid to him when he never had sat in this body one hour or rendered one farthing of service, but on the contrary a good deal on the other side to the people of this country.

I do not wish to oppose the discretion of a committee who are composed of intelligent members of this body, but I must confess that I regret that their discretion has tended to believe that there should be compensation in this case.

Mr. HOAR. I repeat that the information as to facts, which the Senator from Delaware has, relates to a wholly different term. Of course, the committee have not investigated, and could not investigate, any such matter; but in regard to this term, the then Committee on Privileges and Elections, I believe without any dissent, reported eighteen months after the occurrence that these contestants were entitled to be paid their charges and expenses. There was no dissent then, as far as I am aware, from that report, except by those who thought they ought to be paid, under the usage of the Senate, the full salary and mileage. The only difference between the present report and that is, that while we limit them to the smaller sum, we think, under the peculiar circumstances, it is not just to require of them vouchers as to every detail, but have made an estimate.

Mr. GARLAND. I call for the reading of the report.

The VICE-PRESIDENT. The Senator from Arkansas calls for the reading of the report of the committee.

Mr. JOHNSTON. I should like to ask the Senator from Massachusetts whether Mr. McMillen was not elected twice, for two different terms?

Mr. HOAR. The legislatures, as I understand, the rival bodies, undertook to elect Ray and McMillen for the unexpired term of Mr. KELLOGG. Then they undertook to elect severally McMillen and Pinchback for the following full term, which began on March 4, 1873. This report relates wholly to the contest for the unexpired term.

Mr. COCKRELL. Are the claims for the other terms before the committee?

Mr. HOAR. They were disposed of by the Senate; and, if I am not mistaken, the Senate proceeded on the old and more liberal theory of giving the claimant, though they denied him the seat, full salary and mileage, which amounted, as the Senator from Delaware says, to the sum of \$16,000 or \$17,000.

Mr. MERRIMON. Over \$18,000.

Mr. GARLAND. The report is not long. Let us have the report read.

The VICE-PRESIDENT. The Secretary will read the report.

The Chief Clerk read the following report, submitted by Mr. HOAR on the 22d instant:

The Committee on Privileges and Elections, to whom was referred Senate resolution to pay John Ray and William L. McMillen compensation and mileage, report as follows:

The full term of WILLIAM P. KELLOGG, Senator from Louisiana, expired March 3, 1873. He resigned January 13, 1873.

At the last-named date there were two bodies in Louisiana claiming to be the legal Legislature of that State. One of these bodies elected John Ray to fill the unexpired term; the other elected William L. McMillen. Their respective credentials in due form were presented to the Senate on the 22d day of January, 1873. Those of John Ray were certified to by WILLIAM P. KELLOGG, governor; those of William L. McMillen were certified to by JOHN MCENERY. Both sets of credentials were, on the day of their presentation to the Senate, referred to the Committee on Privileges and Elections.

On the 20th of February, 1873, the Committee on Privileges and Elections reported—

1. That there is no State government at present existing in the State of Louisiana.

2. That neither John Ray nor W. L. McMillen is entitled to a seat in the Senate, neither having been elected by the Legislature of the State of Louisiana.

The first proposition was submitted by the committee to the Senate by virtue of a resolution passed January 16, 1873, in the following terms:

"Resolved, That the Committee on Privileges and Elections be instructed to inquire and report to the Senate whether there is a legal State government in Louisiana, and how and by whom it was constituted."

As part of the committee's report of February 20, 1873, a bill was submitted ordering an election in Louisiana. This measure was considered at great length by the Senate, and was rejected February 27, 1873. A motion to reconsider was laid on the table March 1, 1873.

No decision was ever made by the Senate of the question whether there was or was not, at the time specified, a legal State government in Louisiana, but the Senate rejected the bill ordering a new election to be held in Louisiana.

The second proposition submitted by the committee, that neither Ray nor McMillen was entitled to a seat in the Senate, was never acted upon by the Senate, as the term for which they claimed to be elected expired without the question having been considered.

Throughout the investigation made by the Committee on Privileges and Elections, by order of the Senate, of the affairs of the State of Louisiana, both Ray and McMillen were in constant attendance, aiding the committee by their knowledge of the case and by their testimony in the discharge of the duty imposed upon it.

In the Forty-third Congress a resolution that Ray and McMillen be paid as Senators for the unexpired term to which they were elected was referred to the Committee to Audit and Control the Contingent Expenses of the Senate. Mr. Carpenter, of Wisconsin, who made the report on the Louisiana case from the Committee on Privileges and Elections, was chairman of the Committee on Contingent Expenses. He submitted the following report upon the resolution giving compensation:

"Owing to the fact that in the State of Louisiana, in 1872 and 1873, there were

two bodies claiming to be the Legislature of that State, one known as the McEnery and the other as the Kellogg legislature, John Ray and William L. McMillen each claimed the seat made vacant in the Senate by the resignation of Hon. WILLIAM P. KELLOGG, and appeared and presented their credentials to the Senate, and attended before the Committee on Privileges and Elections, charged with the investigation of their claims. The committee reported against seating either of them, but both had incurred expenses in the prosecution of their claims.

"By analogy to the precedents of the Senate, your committee are of opinion that both Ray and McMillen would be entitled to the salary of a Senator from the time of their election until the disposition of their claims respectively by the Senate; but regarding this precedent as vicious, your committee recommend the adoption of the following resolution:

"Resolved, That the actual expenses necessarily incurred by John Ray and William L. McMillen, claimants to a seat in the Senate from the State of Louisiana, in the Forty-second Congress, in presenting their respective claims to a seat in the Senate, be paid out of the contingent fund of the Senate; which expenses shall be presented itemized and verified by the oath of the said Ray and McMillen respectively, and the amounts shall be audited by the Committee to Audit and Control the Contingent Expenses of the Senate."

No action was ever had by the Senate upon this recommendation: it was not made until eighteen months after the respective credentials were presented. The claimants to the seat could not have been expected to preserve an account of items of their expenditure, nor could they have anticipated that a proposition would be submitted so entirely at variance with the idea of compensation attending Senatorial service, and so contrary to the uniform practice of the Senate.

The chairman of the Committee on Contingent Expenses of the Forty-third Congress was entirely familiar with the claims of Ray and McMillen. He made the report from that committee that they were entitled to compensation, but he proposed an innovation upon the precedents of the Senate in the manner of that compensation. The proposition to change the usages of the Senate did not meet with favor, and by the action had upon the cases of Mr. Pinchback, of Louisiana, and of Mr. Sykes, of Alabama, occurring and passed upon subsequently, the Senate confirmed its uninterrupted usage. In acting upon the two last-cited cases the Senate stipulated, "That in no case shall any pay be allowed to a Senator to begin earlier than the date of his election or appointment."

Upon the foregoing facts we are of opinion that each of the contestants was justified in making the contest for the seat. If the usage of the Senate in such cases be followed, each should be allowed the sum of \$1,334.67, being the amount of compensation and mileage from the date of his alleged election to the end of the term. But we do not recommend such an allowance, but prefer to allow to each claimant only his actual and reasonable expenses incurred in making the contest. Under the circumstances, however, it would be clearly unjust to refuse to the claimants an itemized account of such expenses. They allege that they kept no such account, relying on the unbroken usage of the Senate to allow salary and not compensation, and that they cannot now furnish either items or vouchers. It appears, however, that each of these gentlemen traveled from New Orleans to Washington, remained here more than a month, laying aside all other business, and wholly devoting himself to this contest. The question required an elaborate and thorough examination of the history of the Louisiana election and the claims of the rival State governments. In this examination the contestants acted as counsel, and rendered a service in which, if they had employed other suitable counsel, they might properly pay a large fee, which should be reimbursed by the Senate.

On the whole, we recommend the payment to each of the sum of \$1,000, which is considerably less than the salary and mileage, and is a moderate estimate of the actual cost and expense incurred by each.

We therefore recommend that the resolution be amended by substituting therefor the following, and that, so amended, the same be adopted: Strike out all after the words "contingent fund of the Senate," and insert "the sum of \$1,000 each to John Ray and William L. McMillen, as full compensation for their expenses as contestants for a seat in the Senate for the unexpired term of WILLIAM P. KELLOGG in 1873."

Mr. SAULSBURY. Mr. President, as a member of the Committee on Privileges and Elections, if I had not felt bound by the precedent in other cases I should not have voted for this resolution; but under all the circumstances I thought the compensation of \$1,000 proposed to each contestant was proper, controlled as our action was necessarily controlled to some extent by the precedents which had taken place in this body with reference to other contestants. I gave my assent to it on that ground. We all know that when that contest was made these gentlemen were here, that they were taking part in that examination for some six weeks perhaps or longer, each one of them claiming that he was entitled to a seat in the Senate of the United States. I do not say now that either of them ought to have been here, but they were here making a contest and necessarily incurred expenses in that investigation; and the unbroken precedent of the Senate heretofore has been to allow contestants some compensation. This is the smallest that has ever been allowed to any. If we had no precedents to control our action I would vote against this resolution, but I cannot do it in justice to these men without at once saying that I will pursue that course in reference to all contestants hereafter.

When that contest was made some of us said that Mr. McMillen was entitled to a seat on the floor of the Senate and others said that Mr. Ray was entitled to it. There was a division of opinion in the body. I know that at that time a number of gentlemen with whom I acted believed that Mr. McMillen was entitled to a seat on this floor; other gentlemen on the other side of the Senate as conscientiously believed that Mr. Ray was entitled, but neither of them took the seat, and by the lapse of time the question was disposed of. The contest was, however, made, and on that ground I give my vote, because there are precedents that control our action in cases of this kind.

Mr. GARLAND. I ask the Senator from Delaware if this was a unanimous report?

Mr. SAULSBURY. There was no objection made to the compensation of \$1,000.

Mr. GARLAND. Was there no minority report?

The VICE-PRESIDENT. The Chair understands the report to be a unanimous report of the committee. The question is on the amendment proposed by the Committee on Privileges and Elections.

Mr. COCKRELL. I think in this time of civil-service reform it would be exceedingly opportune to stop these bad precedents in the Senate by which so many Senators say they are bound. Now, I am opposed to this resolution. I am opposed to paying any contestant for a seat upon this floor either a salary or expenses; and I hope

there will be enough of the Senators join me in this opposition at least to call for the yeas and nays on the passage of the resolution.

The VICE-PRESIDENT. The question is on the amendment reported by the Committee on Privileges and Elections.

The amendment was agreed to, yeas 37, noes not counted.

The VICE-PRESIDENT. Will the Senate agree to the resolution as amended?

Mr. COCKRELL. Now I hope the yeas and nays will be given us on the passage of the resolution.

The yeas and nays were ordered.

Mr. WADLEIGH. I wish, Mr. President, before the vote is taken, to say a single word upon the question before the Senate. At the time these two contestants came here claiming a seat there was a long struggle between them and much division in the minds of the Senate as to whether either of them was entitled to a seat here. Many Senators believed that the one was entitled to the seat and many that the other was entitled. It was never decided by the Senate that neither of these gentlemen was entitled to the seat. The lapse of time deprived the question of importance. The period for which they had been elected had elapsed, and consequently there never was any decision by the Senate that either of the gentlemen was entitled to the seat. They rendered to the Senate important service in the investigation of the question before the Senate. They came here and performed that service; they assisted the Senate in coming to a judgment upon the question, to which, however, it never actually came; and in view of all the precedents and as a matter of justice, considering the doubt there was as to which was entitled or whether either was entitled, the Committee on Privileges and Elections believed it just and right that this allowance should be made and they unanimously reported in favor of it.

I trust, Mr. President, that the resolution reported by the committee will be adopted.

Mr. DAVIS, of West Virginia. May I ask the Senator a question? Was McMillen paid for any previous contest to the one now being paid for? In other words, has McMillen received any money at any time from the Senate or from Congress in any form or manner from either House other than this?

Mr. WADLEIGH. I do not understand that he has. I have never heard that he has and I have no information that would lead me to believe that he has.

Mr. DAVIS, of West Virginia. I would ask the Senator from Massachusetts who has charge of the resolution whether he knows.

Mr. HOAR. I understand not. I am not sure, but I think I cannot be mistaken when I say that neither of them has ever received any compensation whatever for any previous contest and that neither of them has received any for any subsequent contest; that is, for the contest to which the Senator from Delaware [Mr. BAYARD] alluded, for the full term where McMillen's claims are said by him to have been withdrawn, there was no compensation paid.

Mr. DAVIS, of West Virginia. My question related to any term.

Mr. HOAR. I understand it; I meant to cover that question fully. I have heard of no such thing, and I do not believe that any such thing has ever happened.

Mr. CONKLING. The order of the yeas and nays upon this resolution induces me very briefly to give the reason for my vote. It has long seemed to me that the usage in each House was an abuse. That usage has been, regardless of the merit of the particular party, whether the contestant or the person seated, to give to both equally the entire compensation and mileage intended by the law to be attached to the office and not to unentitled claimants of the office. I have endeavored heretofore to vote so as to indicate my dissent from that usage. Now I hear the honorable Senator from Missouri [Mr. COCKRELL] say that he will vote against this resolution for a reason which it seems to me goes much too far. I understand the honorable Senator to say that he would vote no compensation and no expenses to any one who unsuccessfully claims a seat in the Senate. I submit to my honorable friend that that will hardly do. If I as a private litigant come into court claiming money or rights of him, and I am defeated, it is not unnatural, and it is usual, that I should pay the costs of that attempt; but if he, or I, appear before the Senate to uphold the claim of a State, to insist that by the voice and behest of a State a seat belonging to that State in the Senate should be awarded to one of us, it can hardly be said that we are mere private claimants conducting a personal and individual venture of our own the results of which should fall wholly on us.

If I be right in this, I doubt if a case has occurred which more clearly falls within the principle I seek to indicate. Here was not a personal question. The Constitution says that the Senate "shall be the judge of the elections, returns, and qualifications of its own members." There was no question of qualification here; there was no personal question of election; but the question concerned the existence of a State, the statehood of a State, or to borrow Mr. Lincoln's phrase, the question was largely whether this State was in proper practical relations with the Union so that its voice might be uttered here. Surely that is not a question which can be likened to a mere personal claim moved by personal and individual interests of the party who makes it or in whose name it is made.

Now the committee, as it seems to me with much discernment and circumspection, state in the first place that these parties were well warranted in pursuing this contest. That is a mode of stating that

it was the duty of each of them to pursue it; it is a statement of good faith. Further the committee say that they relied on the usage—which I believe they do not call immemorial but they might have so called it—under which mileage and compensation was the measure of rendition in any event, and relying upon that they did not keep an exact account and preserve vouchers so as to be able to state exactly their disbursements; and the committee arriving at that as nearly as they have been able to do say, "No, we will not pay mileage and compensation," which I see according to the report would amount to \$1,334.67, "but we will pay \$1,000, which amount we find on the facts before us to be as nearly as we can state it the actual disbursements and expenses of the parties."

Mr. President, I do not see how any Senator, even if he feels as I have felt, for one, heretofore about this practice—and I suppose that my judgment has been as adverse to it as that of almost any Senator—I do not see how any Senator looking at this case can say, unless he disputes the accuracy of the finding on the question of amount, that the actual expenses of those concerned in a contest so important, so unusual in its character as this, should not be paid. I need not remind the Senate that so close was the question that the very smallest of majorities determined it, and that the different sides of this controversy were espoused by equal numbers and perhaps by equal weight of judgment and character in the Senate, as near as equality could exist with any ultimate preponderance.

Mr. THURMAN. I am like the Senator from New York in saying that the call for the yeas and nays compels me to say a word in explanation of the vote I shall give.

Long ago the Senate inaugurated a practice which I am free to confess ought to be abolished unless under very peculiar circumstances, and which I am glad to see the report of the committee in this case in effect disregards, of paying compensation and mileage to unsuccessful contestants for seats on this floor. The number of cases in which that has been done is much more numerous than any Senator would suppose who has not looked into the question. They were brought before the attention of the Senate, very notably in the case of Pinchback, by the chairman of the Committee on Privileges and Elections, the late Senator from Indiana; and that rule obtained to such an extent that it was very seldom, if ever, that such a claim was rejected. In Pinchback's case the Senate went further. The principle on which the Senate had gone before was that if a man was elected or apparently elected to the Senate by the Legislature of a State, it was his duty to present his claim to the Senate, and if it were found defective for any reason, such as his own ineligibility, or irregularity in his election, or the like, yet respect for the State and for a claim which had its origin in the action of a State Legislature ought to entitle him to compensation. In Pinchback's case the Senate went further, for the Senate, by the rejection of Pinchback, decided that the body which professed to elect him was not the Legislature of the State of Louisiana; and that same Legislature which elected him for the full term elected Mr. Ray for the short term.

The Senate has committed itself by paying Pinchback to the principle that there was such uncertainty in the State of Louisiana at that time as to which was the lawful Legislature that it presented a fair question which might be decided one way or the other, and that Pinchback, who was elected by what was called the Pinchback Legislature, had such color of title as to entitle him to compensation and mileage, or at least to some compensation. If that decision were correct, it is manifestly impossible that the like measure of justice shall be refused, if we are to act consistently, to Mr. Ray who was elected by the same legislature.

Now, in respect to McMillen he was elected by what was called the McEnery legislature, and certainly I believed and certainly a large majority of those who voted against Pinchback believed that the McEnery legislature was the true Legislature of Louisiana.

Under these circumstances and without intending to perpetuate a usage which I think ought to be abolished, and holding myself perfectly free hereafter to vote against any compensation, in this particular case I do feel that it is my duty to vote for this compensation, and I do so the more readily for the reason suggested by my friend from Delaware, [Mr. SAULSBURY.] There never was a more important question before the Committee on Privileges and Elections, and seldom before the Senate, than the question what was the legal government of Louisiana in that year upon which the Committee on Privileges and Elections by the hands of Mr. Carpenter made a most elaborate and valuable and useful report. It is known to those who were on the committee at that time and to other members of the Senate, that those two gentlemen, Mr. Ray and Mr. McMillen, represented before that committee the opposite sides of that question, and rendered to the committee immense service in their investigation of it. They presented evidence *pro* and *con*; they made the arguments *pro* and *con*; and I do think under these circumstances they rendered vast aid to a committee of this body upon a great question which of itself commends this claim to the consideration of the Senate.

Being ready as anybody can be to put an end to a usage that has heretofore existed and which I think ought to be either abolished or greatly limited, I feel bound in this particular case under the peculiar circumstances to vote for the resolution.

The VICE-PRESIDENT. The question is on the passage of the resolution.

The question being taken by yeas and nays, resulted—yeas 51, nays 7; as follows:

YEAS—51.

Allison,	Conover,	Ingalls,	Morrill,
Anthony,	Davis of West Va.,	Johnston,	Oglesby,
Armstrong,	Dennis,	Jones of Florida,	Paddock,
Bailey,	Dorsey,	Kernan,	Randolph,
Maine,	Eustis,	Kirkwood,	Rollins,
Booth,	Ferry,	Lamar,	Saulsbury,
Bruce,	Garland,	Matthews,	Samuelson,
Burnside,	Gordon,	McCreary,	Spencer,
Butler,	Grover,	McMillan,	Teller,
Cameron of Wis.,	Hamlin,	Maxey,	Thorman,
Cameron of Pa.,	Hereford,	Merrimon,	Windom,
Chaffee,	Hill,	Mitchell,	Withers,
Conkling,	Hoar,	Morgan,	

NAYS—7.

Cockrell,	Eaton,	Sargent,	Whyte,
Coke,	McDonald,	Wallace,	

ABSENT—18.

Barnum,	Dawes,	Kellogg,	Sharon,
Bayard,	Edmunds,	McPherson,	Voorhees,
Beck,	Harris,	Patterson,	Wadleigh,
Christiancy,	Howe,	Plumb,	
Davis of Illinois,	Jones of Nevada,	Ransom,	

So the resolution was adopted.

THOMAS BAYNE.

The VICE-PRESIDENT. The morning hour has expired and the Senate resumes the consideration of the unfinished business of yesterday, on which the Senator from Georgia [Mr. HILL] is entitled to the floor.

Mr. ROLLINS. Will the Senator yield for a moment to enable me to take from the table a Senate bill with House amendments and concur in them. It will occupy but a moment. It is a very trifling affair. If it leads to debate I will withdraw it.

Mr. HILL. If it will only take a moment, I yield.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 349) to authorize the commissioners of the District of Columbia to refund a certain tax erroneously collected.

The amendments of the House of Representatives were as follows:

Insert after the words "Thomas Bayne" in second line, the following: "And the heirs or legal representatives of Joseph W. Beck, deceased."

Strike out in the third line the word "he" and insert the words "they are."

In line 4, strike out the word "him" and insert "them."

Insert after the word "Bayne" in the last line the words "or said Beck."

Mr. McMILLAN. What is the effect of the amendments, I should like to know?

Mr. ROLLINS. There was an error in passing the bill in the Senate. There were two small lots of land improperly taxed on the northeast corner of the Capitol grounds. These amendments merely correct the error which was made in the passage of the bill in the Senate.

The amendments of the House of Representatives were concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a resolution for the printing of 300,000 copies of the report of the Commissioner of Agriculture for 1877; in which the concurrence of the Senate was requested.

The message also announced that the House had passed a resolution for the printing of 25,000 copies of the report upon forestry, transmitted by the President to Congress from the Commissioner of Agriculture on the 13th day of December last; in which the concurrence of the Senate was requested.

The message further announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 2371) to amend an act entitled "An act for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes."

The message also announced that the House had passed the bill (S. No. 648) to constitute a commission to consider and report a plan for providing enlarged accommodations for the Library of Congress.

THE PACIFIC RAILROADS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 15) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act, the pending question being on the amendment submitted by Mr. MATTHEWS.

Mr. HILL. Mr. President, we have before us two bills, each proposing to establish a sinking fund the better to secure the repayment of a loan made by the United States to the Union Pacific and the Central Pacific Railroad Companies. The comparative merits of the two bills as sinking-fund measures I have not yet considered and shall not now discuss. I especially wish it distinctly understood that nothing I may say in the way of dissenting from the bill reported by the Judiciary Committee is to be taken as implying that I will support the bill reported from the Committee on Railroads. I repeat I have not

considered and much less formed an opinion upon either of these bills as measures of wisdom, economy, or expediency. I have thus far confined my investigations, and shall now confine my remarks, to a constitutional question, a question of congressional or legislative power which is raised by these two bills.

The bill reported from the Railroad Committee proposes to establish a sinking fund with the assent of the companies as matter of agreement between the creditor and the debtor. The bill reported from the Judiciary Committee proposes to establish a sinking fund by legislative act only, by the sovereign will of the creditor, not only without the assent of the debtors, but by a command a failure or refusal to obey which by the debtors shall work a forfeiture of estate and subject them or their agents to a criminal prosecution. Such an exercise of power is, in my judgment, not only unauthorized and unconstitutional, but is actually subversive to the great purposes to secure which the Government itself was instituted.

In order to understand clearly the issue presented, I will state the material facts bearing upon the case, and I shall state the contracts as they were finally agreed to:

First, by the act of 1862, Congress created a corporate being, a body-politic, and named it the Union Pacific Railroad Company.

Second, this corporate being, thus created, Congress endowed with all the powers, privileges, and franchises usually granted to corporations, and especially authorized and empowered it "to lay out, locate, construct, furnish, maintain, and enjoy a continuous railroad and telegraph, with the appurtenances," between designated points.

Third, to this being, thus created and endowed, the Congress also granted certain privileges, such as the right of way through the public lands without compensation and through other lands with compensation, and also certain property, and especially alternate sections of the public lands amounting to several millions of acres. All these rights, powers, privileges, and grants were granted without money and without price by the sovereign grace and favor to the child thus born of the sovereign's loins.

Fourth—and I ask the Senate to mark the difference—after thus creating this corporate being, and after thus clothing it with powers and with authority to contract and be contracted with, the Congress itself proposed to authorize at once a contract with it in behalf of the United States. The Congress deemed that the construction of a railroad to the Pacific Ocean would be a great benefit to the Government in the way of saving in transportation, would greatly increase the wealth and power of the people, and perhaps maintain the integrity of the Union. To enable the Union Pacific Railroad Company to construct, equip, and maintain its portion of this railroad and telegraph line to the Pacific Ocean, Congress proposed to make it a loan in bonds, and to secure the completion of the entire line Congress made a like offer of loan to the Central Pacific Railroad Company, a corporation created by the State of California, and also authorized the latter company to extend its line east until it should meet the Union Pacific line going west.

It is important now to understand with accuracy the terms and conditions of this loan, for these terms and conditions formed the inducement to accept the offer and thus enter into the substance of the contract. The material terms and conditions are these: The bonds were to be issued directly by the Government and delivered to the companies. The Secretary of the Treasury was authorized to deliver the bonds as the roads were completed in sections. The bonds were to mature after thirty years to bear interest at the rate of 6 per cent. per annum payable semi-annually. The loans were to be repaid to the Government as follows: Previous to the maturity of the bonds the companies were to pay to the Government 5 per cent. of their net earnings and one-half the sums due by the Government for transportation over the road; and it is especially stipulated that the Government shall at all times have the preference in the use of the road and telegraph "for all the purposes aforesaid," that is, "to transmit messages and transport mails, troops, munitions of war, supplies, and public stores," and "at fair and reasonable rates of compensation not to exceed the amount paid by private parties for the same kind of service." Whatever balance should remain unpaid by this 5 per cent. and the half of the Government transportation, the companies were to repay at the maturity of the bonds. It is so expressly nominated. To secure its repayment it is stipulated that:

The issue of said bonds and delivery to the company shall *ipso facto* constitute a first mortgage on the whole line of the railroad and telegraph, together with the rolling-stock, fixtures, and property of every kind and description, and in consideration of which said bonds may be issued.

And in case of default by the companies, the Secretary of the Treasury is directed to take possession of the property so covered by mortgage "for the use and benefit of the United States."

I am stating the contract of loan as finally made. In the first offer in 1862 the United States were to have a first lien. In 1864 the offer was changed by Congress, so that other bonds might be issued by the companies of like amount with those of the Government, and the lien of the Government was to be subordinated to those bonds of the companies, and in this form the offer was accepted.

The entire railroad and telegraph from the Missouri River to the Pacific Ocean were completed in all respects as required, and all the conditions precedent to the issue and delivery of the bonds under the contract of loan were complied with, and the bonds were actually issued and delivered in execution of the authority; and all the rights

of the creditor and all the liabilities of the debtor thus became complete, definite, and fixed, and so, as I shall prove, became unchangeable, except by consent of the parties, by every rule of law known, administered, and respected in every just government under the sun. That no power, executive, legislative, or judicial, can, under any pretext whatever, by reservation or otherwise, change, add to, alter, or rescind this contract, except upon allegation and proof of mistake or fraud in its procurement, and that no power or department of Government can grant any remedy or relief touching this contract, its payment, or further security, or can listen to any complaint touching it by either party, except upon allegation and proof of default in some respect by the other party, is the proposition I propose now to establish.

"As the tree falleth, so it must lie," and equally certain is it that as competent parties legally and knowingly contract, so must they abide their contract, and Government has no power to interfere except to protect and enforce on default such contracts according to their terms. In my opinion the bill reported from the Judiciary Committee does propose to interfere with this contract, does propose to affect and even to change the rights and liabilities of the parties to this contract, and without any allegation of default, without any pretense of default, either real or intended, and it proposes that this interference shall come from the most unauthorized of all Departments of the Government, the Legislative Department.

I have examined this bill carefully, and in all its long string of whereases it alleges no default of any kind or character as the reason for its passage. It meets the question boldly and fearlessly and is a broad assertion that Congress, by virtue of its power alone, has authority to change the contract in the manner proposed by the bill. I have listened with anxious attention to the various Senators who have so ably advocated the passage of this bill. I have listened to them all the more anxiously because I desire to co-operate with them in all efforts to secure the Government in the premises, and I am ready to vote for any plan looking to that security which Congress has the constitutional power to adopt.

The advocates of the bill do not agree among themselves in the reasons which they assign for the power claimed. After carefully considering them I am satisfied that all the advocates of this bill are embraced in the three following classes:

1. One class contends that the bill does not change or alter the contract of loan nor the rights or liabilities of the parties to it.
2. A second class insist that the mortgageors are in possession of the property under a trust, first for the benefit of creditors and afterward for the benefit of the owners, and that if the *corpus* of the property covered by the mortgage is insufficient to secure the debt and the mortgageors have become or are likely to become insolvent, the mortgagees have a right to have a sufficiency of the income or earnings dedicated to pay the debt before dividends shall be retained and to accumulate the income or earnings by a sinking fund until the debt shall be discharged.
3. A third class claim that in this case Congress has the power to alter, amend, add to, or rescind this contract in order to secure the debt. Some claim this power as inherent in the Government, and others claim it under the provisions of the acts of 1862 and 1864 which expressly reserve to Congress the right to "alter, add to, amend, or repeal" each of said acts. On this last ground the bill itself is based. But as there are Senators who do not concur with that reason for the power claimed but insist upon one or the other of the two reasons I have previously specified, it is proper that I should notice all these grounds, and I will consider them in their order.

First, does the bill reported from the Judiciary Committee in fact alter, or propose to alter, or will it have the effect to alter this contract of loan or the rights and liabilities of the parties to it? It is certain that the bill does not propose to alter or in any manner affect either of the acts of 1862 and 1864, except those provisions which relate to this debt and which authorize and prescribe the terms of the loan by which the debt was created. The whole bill relates to the establishment of a sinking fund to secure the ultimate payment of the debt, the manner of accumulating that sinking fund, the custody and final distribution of the fund so accumulated, and prescribes the penalties that shall be visited on the company or companies failing or refusing to pay the amount required into that sinking fund. So that, if the bill alters or amends anything in these acts or either of them, it can only be those provisions to which this bill alone refers; that is, those provisions which authorized this loan and the terms and stipulations of it. You nowhere propose to change a single franchise; you nowhere propose to withdraw a single power or privilege granted to these companies; you nowhere propose to interfere with the regulation and administration of the franchise. It is a naked proposition to secure the debt and prescribe such terms as in your judgment will secure the debt without the assent of the companies, and without alleging any default or maladministration by the companies or either of them.

Now, let us look, first, to the title of the act. What does that propose? I am now discussing the question, mark you, whether the bill does propose to alter and change the contract, for there are Senators around me who have said that they did not look upon it as a bill to alter and change the contract. Let us look, first, to the title of the act itself. In terms it is "a bill to alter and amend" the act of 1862, and also "to alter and amend" the act of 1864. "Alter and amend"

what? There is not a provision of this Judiciary Committee bill that refers to anything but the contract and the debt, and you have made your bill an act to "alter and amend." So, again, the preamble says that "the rights of said several companies, respectively, as mentioned in said act of 1862, as well as just security to the United States in the premises, and in respect of all the matters set forth in said act, require that the said act of 1862 be altered and amended as hereinafter enacted." And that "by reason of the premises also, as well as for other causes of public good and justice, the powers provided and reserved in said act of 1864 for the amendment and alteration thereof ought also to be exercised as hereinafter enacted." "Hereinafter enacted" how? You do not hereinafter enact a single alteration or change in a franchise, a power, or privilege of the companies. You hereinafter enact nothing on earth but an alteration of the debt and the terms of its payment. All the alterations and amendments thus proposed relate exclusively to contract of loan and none to the franchises granted in the acts.

Then again the thirteenth section of the bill is in these words:

That each and every of the provisions in this act contained shall severally and respectively be deemed, taken, and held as in alteration and amendment of said act of 1862 and of said act of 1864, respectively, and of both said acts.

Thus in the most emphatic manner the Judiciary Committee bill declares its purpose to be "to alter and amend," and every alteration and amendment proposed is of the contract of loan and of the rights and liabilities of the parties to that contract. Not only are the liabilities of the debtors changed, but their burdens are added to by this bill. Thus, under the original contract it is distinctly stipulated that until the bonds mature the debtors shall only pay the creditor 5 per cent. of the net earnings and one-half of the Government transportation, and in the fifth section of the act of 1864 the word "only" is used; "shall only pay." Under this bill you require all the Government transportation to be paid and large sums in addition, so that the whole payment shall amount to 25 per cent. of the net earnings. It is no answer to say the additional sums paid are not to be actually or formally applied to the debt until the bonds mature. The burden upon the debtors is to pay. The fact that the creditor does not formally credit the debt does not lessen the burden of the payment. Besides, the payment is to be made into the treasury of the creditor by the act and order of the creditor; and how can you pay the creditor except by payment into his treasury? and the payment therefore is as legally and actually complete as if the money paid were formally applied and credited on the bonds or the debt.

So the eighteenth section of the act of 1862 can have no meaning except that the stockholders shall have 95 per cent. of the net earnings after deducting all expenditures, and that the Government shall not interfere to regulate the rates of fare and freight until such 95 per cent. of the net earnings shall exceed 10 per cent. of the cost of the road. This bill reduces that 95 per cent. to 75 per cent.

Again, this bill not only creates new obligations upon the companies, but provides penalties for their violation. You not only create additional obligations on the companies but you decree by virtue of your own legislative will penalties for the disregard by the companies of these obligations. The bill creates new and additional defaults to authorize the seizure of the road by the Government, and acts which are perfectly legal under existing laws are made illegal under this bill and subject the parties committing them to criminal prosecutions.

Will any man tell me that this is not a bill changing all the terms of this contract? It changes the stipulations; it changes its obligations; it prescribes additional penalties; and it makes acts which are now legal and proper and according to the stipulations of the contract actual crimes for which the parties or their agents can be prosecuted in a court of justice. You not only decree by your sovereign will a change of the contract, but you decree that the agents of the defendants who shall be faithful to the contract already made shall be criminals.

It is needless to add further statements to show that the Judiciary Committee bill does really propose to change and does in effect change the terms of the contract of loan—terms, too, which were offered as inducements to the companies to accept the loan and undertake the construction of the road. To offer terms as an inducement to a party to do a work or take a risk, and then withdraw or change those terms after the work has been done or the risk taken, would be declared fraud if done by an individual, and surely it cannot be denominated less than tyranny and oppression when done by a government.

The second class that support this bill of the Judiciary Committee upon a theory of a trust—and I invite the lawyers in this body to hear this argument—are, I must say, in my judgment easily answered. In the first place, if the power claimed exists at all, it is clearly a judicial and not a legislative power. But the position to justify this bill could not be sustained under the facts of this case, as far as they have been presented to the Senate, even in a court of equity. The rule upon this subject is familiar to lawyers and has been decided in a great number of cases. To authorize courts to interfere in the manner proposed by this bill, three facts must clearly appear: first, that the *corpus* of the property mortgaged is insufficient to pay the debt; second, that the mortgageor is insolvent; and, third, that the mortgageor is in default. Now, mark me, I do not say that the only default is non-payment at the maturity. Any act of the debtor which is wrong and which threatens to destroy the *corpus* covered by the lien of the

mortgage is a default. Without the last fact the first two will not be considered. It matters not that the mortgagee is insolvent; it matters not that the property which the creditor selected to secure his debt is insufficient to pay it; those were circumstances he ought to have looked to before he made the contract. Suppose added to these two conditions there must be default, some wrongful act or failure to act by the debtor. There can be no remedy where there is no wrong, and there can be no wrong where there is no default, and courts have no right to anticipate and much less to redress a default which has not occurred. This rule is strongly stated by Mr. Thomas in his work on mortgages, in the following language:

The right of entry by the mortgagee having been abolished, the mortgagee is, both at law and in equity, entitled to the complete enjoyment of the mortgaged premises and of their rents and profits until the debt is due, unless such rents are expressly pledged for the payment of the debt. If no proceedings are taken for the appointment of a receiver, his right to the rents continues until it has been divested by a foreclosure sale, and until the purchaser has become entitled to possession under the sheriff's deed. Where, however, the security is insufficient and the mortgagee or other person who is personally liable for the payment of the debt is insolvent, the mortgagee may apply for a receiver of the rents and profits of the mortgaged premises which have not yet been collected, and this relief will be granted, unless the person in possession shall give security to account for such rents in case there shall be a deficiency.

The right to this relief does not result from the relations of the parties, but from equitable considerations alone. It is not a matter of strict right, and each application is addressed to the sound discretion of the court.—*Thomas on Mortgages*, pages 301 and 302.

In support of this authority and this rule Mr. Thomas refers to a large number of cases, every one of which I have examined, and every one of them was a case of foreclosure after default in payment; and I challenge any gentleman to produce a book where a case has ever been decided in which the court took jurisdiction to require additional security or to take the rents, issues, and profits from the mortgagee before default, however insufficient the property might become in the natural course of events, or however insolvent the mortgagee might become. Insolvency in law may be a misfortune; it is not a fault that furnishes a remedy unless it be accompanied by actual waste and wrong to the creditor. The rule is thus stated in the case of the Syracuse City Bank *vs.* Tallman and others, in 31 Barbour, and it is well stated in this decision:

Unless there be a special clause to that effect, in a mortgage, the mortgagee has no lien upon the rents and profits; and as a general rule the mortgagee, until the sale, is entitled to remain in possession.

But courts of equity, under certain circumstances, will, after default in an action for foreclosure and sale, anticipate the final judgment by the appointment of a receiver, and in effect put the mortgagee in possession and allow him to divert the rents and profits of the mortgaged premises from the hands of the mortgagee, and hold them as additional security for the payment of the mortgage.

To entitle him to this relief it must appear that the mortgaged premises are an inadequate security for the debt, and that the mortgagee, or other person liable for the mortgage debt, is insolvent.

This relief does not grow directly out of the relations of the parties or the stipulations contained in the mortgage, but out of equitable considerations alone. It is not a matter of strict right, but is addressed to the sound discretion of the court.

It seems that when the mortgagee is insolvent, and fails to pay at the day appointed, and the mortgaged premises are an inadequate security, as between the mortgagee and mortgagee it is within the equitable discretion of the court to allow the latter to intercept the rents and profits, for his better protection from loss. And that this is the utmost extent to which the relief has been granted, or to which it can be granted, within any admitted principle of equity.—*The Syracuse City Bank vs. Tallman and others*, 31 Barbour's Supreme Court Reports, 201.

This judge says the farthest the rule has ever gone is, that after a default and before judgment of foreclosure, a court of equity will appoint a receiver and divert the rents and profits to the payment of the debt until that judgment of foreclosure and sale under it, if the premises are insufficient to pay the debt, if the mortgagee is insolvent, and if the mortgagee is in default; and I challenge any lawyer on this floor to present a case on record to the contrary where any proceeding was taken in law or equity to divert rents, issues, and profits or earnings, which are not expressly included in the lien, from the mortgagee to the mortgagee until after default by the mortgagee. Whether I am justified in quoting legal rules to a body of men who claim to be bound by no law is a question I will consider directly.

The Government as a creditor can have no more rights than other creditors. That is the next proposition I propose to establish. When the Government loans money and enters into trade with individuals or corporations, it does so, not as a sovereign, but as a civil corporation, and is subject to all the laws of contract like other persons; and I ask the attention of Senators to this point who tell me that this Government is sovereign; that it has a right in contracts that individuals have not; that you are not bound by the rules of law like individuals.

In *Smoot's case*, 15 Wallace, 36, the court held "that in the construction and enforcement of contracts made by private parties with the Government, the court is bound to apply the ordinary principles which govern such contracts between individuals." So in the case of *Elliot vs. Van Voorst* and others, reported in 3 Wallace, jr., and decided by Mr. Justice Grier, that eminent justice said:

The Government of the United States, though limited in its powers, is supreme in its sphere of action. But its rights as a sovereign, and its prerogatives as such, are coextensive with the functions of government committed to them, and extend no further. Its position as to prerogative is anomalous, owing to our peculiar institutions.

When the Government, in the exercise of the rights and functions of a civil corporation, purchases lands to secure a debt, the accident of its sovereignty in other

functions cannot be set up to destroy or affect the rights of persons claiming a title or lien on the same lands. Thus, when the Government of the United States becomes a partner in a trading corporation, such as the United States Bank, it divested itself, so far as concerned the transactions of that company, of its sovereign character, and took that of a citizen; consequently its property and interests were subject to the decrees and judgments of courts equally with that of its co-partners.

It may be broadly asserted that no case can be found in all the books where a court of equity has entertained an application to do what this bill proposes to do, unless the debtor was in default; and when the Government, abandoning its own courts, seeks to use its sovereign legislative power to enforce, to alter, or even to protect its rights as a civil corporation or contract creditor, it is guilty of the grossest possible usurpation, tyranny, and oppression. The Government is a contractor in the loan of money as a civil corporation. It cannot resort to its sovereign power as a legislative body to claim rights in the construction or remedies in the enforcement of that contract which are not common to the humblest individual in the land. Legislation may authorize contracts to be made, but after they are made legislative power over them ends, I care not whether made by Government or citizen. Courts alone can construe them; courts alone can reform them; courts alone can enforce them; and courts alone can administer them; and even courts can construe them, or reform them, or enforce them, or administer them only as made and agreed to by both the parties.

Let us next proceed to examine the position taken by the third class who support this bill reported from the Judiciary Committee. These are they who take the bold position that Congress has the power by legislation to "add to, alter, amend, or repeal" this contract of loan between the Government and the railroad companies. And, first, I will notice those of this class who hold that this power is inherent in the Government. "One Congress cannot bind another Congress," we are told. "What one Congress can do, another Congress can undo," is repeated. That I believe is the position of my friend from North Carolina, [Mr. MERRIMON.] It is true as to general laws; but a contract is not a law. The law is the authority to make the contract, mark the distinction, and nothing more. Congress may repeal the authority to make the contract; it may change or modify the authority to make the contract; and, if the authority be repealed before the contract is made, the authority ceases, and the contract cannot afterward be made. But if the contract be made and rights under it vest or obligations by it are incurred, the subsequent repeal of the authority cannot annul or impair the contract or its rights and obligations. I think much of the confusion in this case has grown out of confounding the law which authorizes the contract with the contract itself. And I will say at this point that Congress is not the Government and Congress is not the party to the contract in question. Congress did authorize the contract to be made and did prescribe the terms on which it should be made; but one Congress did not make the contract, and another Congress cannot undo it. It was not the acts of Congress, but the loan of the bonds and their acceptance by the company that constituted the consideration of the contract. It was the completion of the work in the manner prescribed that entitled the companies to the issue and delivery of the bonds. The act for that purpose would have been a dead-letter, would have formed no contract, if the work had not been done; and it was not Congress, as seems to be so commonly supposed, but the "issue and delivery of the bonds that *ipso facto*" constituted the mortgage to secure the repayment of the bonds.

Congress can repeal the authority, and Congress can do it without reserving the power; but can Congress annul the acts done and the rights vested under the authority before its repeal? Can Congress repeal or annul the issue and delivery of the bonds? Can Congress repeal or annul the work done, which entitled the companies to the issue and delivery of the bonds? But the contract cannot subsist independently of its terms. The terms of the contract authorize, constitute the contract itself, as the blocks of marble in this building make the building. Take away those blocks, and the building will not exist. As Congress cannot repeal, annul, impair, or change the contract, so Congress cannot repeal, annul, impair, or change the terms of the contract; and the time of payment, the manner of payment, the terms of payment, the quantities of payment, the security for payment, and the penalty for default in payment are included among the essential, material terms of the contract.

It is suggested as a query in the report made by the Judiciary Committee in support of their bill whether Congress may not impair the obligations of a contract other than by a uniform law of bankruptcy. It is suggested that the inhibition in the Constitution to impair the obligation of contracts is upon the States, and not upon Congress. Is an inhibition upon the States a delegation to Congress? Can Congress do anything because it is not prohibited from doing it? Congress may do many things from which the destruction or impairment of contracts may result. Congress may lay embargoes and declare war, and this may impair or destroy the value of contracts; but does it follow that Congress may therefore enact laws to impair and annul contracts? Congress may declare war, and war does destroy life and liberty as well as property. Can Congress therefore pass laws enacting that the homes of the people shall be burned, or that the citizens shall all be imprisoned or enslaved, or that their heads shall be taken off? Yet all these things may result from a war which Congress has power to declare. If Congress has power directly to declare the re-

sult which may come from another power than Congress may declare that our homes shall be burned, that ourselves shall be imprisoned and our heads taken off at the block. The mission of government, it can never be too often repeated, is to preserve and protect life, liberty, and property, and not to destroy or impair either, except it be necessary to expose some to loss or hazard that all may be protected and defended.

I affirm to-day without qualification that no legislative power in this country, State or Federal, can pass any act with intent to annul or impair the obligations of contract; and even the power to pass a bankrupt law forms no exception to this rule, as that power stands on a different principle. I affirm that this power would not exist even if the prohibition in the Federal Constitution upon the States in this regard did not exist.

A few days ago the Senator from Ohio [Mr. THURMAN] in a colloquy with the Senator from Oregon [Mr. MITCHELL] made the remarkable statement in this Senate that "not one lawyer who argued the Dartmouth College case pretended for one single moment that, if it were not for the provision in the Federal Constitution that no State should make any law impairing the obligation of a contract, the act of the New Hampshire Legislature would not have been perfectly valid." That is the exact language of the honorable Senator from Ohio. Coming from such a distinguished source, this startling statement ought to wake up this Senate to the dangerous mistake we are asked to make in the passage of this Judiciary bill, when the great Ajax in favor of its passage intimates by such a statement so roundly made that Congress has the power to impair the obligation of contracts, and that the States would have held that power but for the provisions in the Federal Constitution. He says that no lawyer pretended to assert the contrary in the Dartmouth College case. Now, sir, Mr. Webster was one of the great lawyers who argued that Dartmouth College case. Hear what he said. Mr. Webster said:

It will be contended by the plaintiffs that these acts—

Of the New Hampshire Legislature—

are not valid and binding on them without their assent: 1. Because they are against common right and the constitution of New Hampshire. 2. Because they are repugnant to the Constitution of the United States.

Then after stating that it was only that clause in the Constitution which enabled the Federal courts to get jurisdiction of the question he adds these grand words, which I commend to the distinguished Senator from Ohio and to the country, in this time, it seems to me, of demoralization on this question.

Mr. Webster said:

It is not too much to assert that the Legislature of New Hampshire would not have been competent to pass the acts in question, and to make them binding on the plaintiffs without their assent, even if there had been in the Constitution of New Hampshire or of the United States no special restriction on their power.

Why?

Because these acts are not the exercise of a power properly legislative. Their object and effect is to take away from one rights, property, and franchises, and to grant them to another. This is not the exercise of a legislative power. To justify the taking away of vested rights, there must be a forfeiture; to adjudge upon and declare which, is the proper province of the judiciary.

Even Chief-Justice Marshall, in pronouncing the decision of the court, said almost as much, for he uses this strong language:

A repeal of this charter—

The Dartmouth College charter, granted by the King in 1769—

A repeal of this charter at any time prior to the adoption of the present Constitution of the United States would have been an extraordinary and unprecedented act of power.

So the distinguished Senator from Ohio was clearly mistaken.

In the forty-fourth number of the Federalist Mr. Madison declared that "laws impairing the obligation of contracts are contrary to what? Contrary to the first principles of the social compact and to every principle of sound legislation." The prohibition was not inserted in the Federal Constitution to take from the States a power they would possess without the prohibition. They might arbitrarily exercise a power they did not possess and oppress a citizen. Mr. Madison speaks of it as only an "additional fence" against the danger of invasion of the "first principles of the social compact" and the proper fundamental charters of natural rights. This prohibition, this "additional fence" was placed in the Federal Constitution to bring the citizen within the protection of the Federal jurisdiction against such dangerous and unnatural legislation in the States. What a commentary upon this purpose of protection it will be if the Federal Government shall itself turn upon the citizen it takes into its protection and itself make him the helpless victim of this dangerous legislation against the first principles of the social compact and the fundamental charters of natural rights! This would be saving the dear lambs from exposure by fencing them for slaughter.

I will proceed now, sir, to the last stronghold of the supporters of this Judiciary bill, and I do so with a confident conviction that it is the weakest of all the positions assumed to justify the bill. It is that Congress derives the power claimed from these provisions of the acts of 1862 and 1864 which expressly reserve to Congress the right at any time "to add to, alter, amend, or repeal" said acts. I invite the attention of the Senate to several considerations, either one of which is and in its nature must be a complete and conclusive negative to the proposition that Congress retains or can have at this time any power whatever to interfere with these contracts as against the

companies by virtue of these reservations in the acts named. In the first place, the power reserved must be legislative power. Congress possesses no other power in the matter. But the making of a contract is not a legislative act. So the enforcing of a contract is not a legislative function.

Mr. EDMUNDS. May I ask the Senator from Georgia, then, where we got the power to make the contract which is in this law which we propose to amend?

Mr. HILL. If the Senator will listen, I will answer that question. You get the power to authorize the contract and you do by law authorize the contract to be made; but it is expressly decided that not the Congress but the Government is the party to the contract and not a party in its sovereign character but as a civil corporation.

Mr. EDMUNDS. But, if the Senator will pardon me, he has stated that it is no part of the function of the legislative power to make a contract. Now, then, the only power that has been exerted in respect of these railroads by the acts of 1862 and 1864 was a power exerted by Congress, and the Senator says that that made a contract.

Mr. HILL. I do not so understand that the acts are all. I say here now that if nothing had been done but to pass the acts there would have been no contract. Would there? Answer that. The Senator says there was nothing done but to pass the acts. If there had been nothing done but to pass the acts there would have been corporations created; those corporations would have been vested with corporate powers and privileges, because that is done by the direct act of Congress; but if the acts had been passed and if nothing else had been done would there have been any contract?

Mr. EDMUNDS. No, if the Senator will again pardon me, no more than if I write to my friend and ask him to lend me a hundred dollars and he does not reply, there is no contract; but if he sends me the money there is a contract that I am to repay him.

Mr. HILL. Ah! precisely so, sir. It was the act of the party under the judgment and adjudication of the executive department and the issue and the delivery of the bonds in compliance with the authority of Congress to make the contract that created the obligations and the rights. That is the point. Congress gives the authority to make the contracts. I grant that without the authority the contracts cannot be made, but equally the authority without the other acts makes no contract. Legislation only authorized the contracts to be made. Legislation did not complete the roads nor determine when the roads were completed; nor did legislation issue or deliver the bonds. The acts of Congress constituted the power of attorney which authorized all these things to be done, which prescribed the manner of doing them, and the terms and conditions upon which they should be done. I admit that power of attorney was in its nature and by its terms revocable at will. Note that. Congress can revoke the authority as a mere act of power, but Congress cannot annul the acts done under that authority before that revocation.

Suppose I give the Senator from Michigan [Mr. CHRISTIANCY] a power of attorney to sell a piece of land and in that power prescribe, as I have a right to do, the terms upon which he shall make the sale, and I also say in the power what it is not necessary to say, that it is revocable at will. Is that power of attorney a contract? Without the power the Senator would have no authority to make a contract, but is that power of attorney a contract? Will any man say so? The Senator proceeds, under that power, and on the terms therein prescribed, sells the land to the Senator from Vermont, places the Senator in possession and takes his promissory note due at a distant time. After this sale and before the purchase-money is paid, suppose I undertake to revoke the power to sell or change the terms of the sale. Does that revocation annul or impair the sale? Can I even complain that the terms of the contract as required by my own power of attorney do not sufficiently secure me, and demand a change in the terms, or additional security before there is any default in payment by the purchaser? Congress reserved the power "to add to, alter, amend, or repeal the acts" of 1862 and 1864. We reserved no right or power "to add to, alter, amend, or repeal" the contracts made in pursuance and under the authority of these acts. I am dwelling upon this because I consider it important. When so good a lawyer as the Senator from Vermont, the chairman of the Judiciary Committee, intimates that an act of Congress is the contract when it is the authority for the contract, it is time, I think, for us to watch the distinction. The contract was made, the work was done, the obligations were all incurred, the promises were all made and the bonds were all issued and delivered according to the authority and by virtue of the authority, and while the authority remained unrevoked. The proposition that, under a reserved power to change or revoke the authority, to make the contracts, Congress can change or interfere with the contracts made, or can do anything that will affect to the weight of a hair the rights or liabilities of the other parties to the contracts without their consent and before their default, is most monstrous in its character, and can find nothing to excuse or palliate it in good faith, just precedent, or sound law.

Sir, Congress can do nothing, absolutely nothing, touching these contracts against the other parties thereto without their consent and before their default.

The view I am presenting is, if possible, rendered still more conclusive when we apply to it another well-settled principle which I have before stated upon authorities cited, and which could be strengthened by a great number of decisions. It is that the Government is

not a party to contracts like these contracts of loan in its character as a sovereign but only as a civil corporation. As a sovereign the Government does not lend money. As a civil corporation it does not legislate. As a civil corporation it is subject to the law of contracts precisely as are individuals. When, therefore, the Government as a civil corporation enters into such contracts it cannot reserve the right to use its legislative power as a sovereign to alter, change, or annul that contract to which it is a party. As a civil corporation it can reserve no power which in its character as a civil corporation it does not possess.

Mr. THURMAN. I wish to understand my friend, but will not put a question if it interrupts him at all. He has spoken repeatedly of the Government lending this money as a civil corporation and of what rights the Government has as a mere corporation. I can understand very well how that may be applied were the Government a shareholder in a bank, as in the old United States Bank, or a shareholder in a railroad, or the like; but I am totally at a loss to understand what my friend means by speaking of the Government in granting a loan of its credit acting as a private or mere civil corporation apart and distinct from its character as a government.

Mr. HILL. I will answer the Senator by referring to the decision made that I have just read, by Justice Grier, in which he announced that when the Government purchased land and took a deed to it, it was a party to that contract only as a civil corporation and it so acted, and that its sovereignty had nothing to do with it.

Mr. THURMAN. This was a Government loan.

Mr. HILL. It is the same thing whether the Government loans money or takes a deed. The judge added that whenever the Government becomes a trader it trades only as a civil corporation. Its authority is derived from Congress, it is true. The civil corporation has no authority to make a contract unless Congress grants it, but it is a party to the contract only in its character as a civil corporation. That is what I mean, and I tell the Senator I am using the language of the court; and if the Senator takes issue with it he makes as great a mistake as he did in the colloquy with the Senator from Oregon, when he said that no lawyer in the argument of the Dartmouth College case pretended that but for the provision in the Federal Constitution the laws of New Hampshire would not have been valid.

The power reserved in the acts of 1862 and 1864 is a legislative power to alter, amend, or repeal legislative acts, and not to alter or rescind contracts, though made by the authority of legislative acts. It was a power reserved by and for the benefit of the sovereign, and was not and could not be reserved by or for the benefit of the civil corporation as such. To say that the Government reserves the right to alter or rescind a contract made, because it reserves the right to alter or repeal the legislative act which authorized the contract to be made, is to utterly ignore the distinction between the sovereign and the civil corporation and absolves the Government from all the law and all the obligations of contracts.

Mr. THURMAN. If it does not interrupt the Senator, will he let me ask him a question?

Mr. HILL. Yes, sir.

Mr. THURMAN. Will the Senator tell us what there is in these acts of 1862 and 1864 that Congress can amend, add to, alter, or repeal?

Mr. HILL. Oh, I will do that. I am going to show that.

Mr. THURMAN. I should like to have the Senator do so.

Mr. HILL. I assure the Senator I will do that with a great deal of pleasure, and I shall leave that question I trust as clear as the other, although I am afraid that like that it will not be clear to the distinguished Senator from Ohio.

The Congress is vested by the Constitution with express authority "to borrow money on the credit of the United States." It borrows in its character as a sovereign, and for that reason cannot be sued without its consent, because that express power is given in the Constitution. The difference is between the authority which created the Government. There is no sovereign power conferred to lend money, and when the Government does lend money it does so as a civil corporation upon the authority of sovereign power, and, in case of default, must come to the courts like other individuals or corporations, and can there be impeached like the humblest citizen in the land. This may seem anomalous, but nevertheless it is true. Judge Grier, in the decision referred to, spoke of the anomalous character of our institutions.

The allusion by the Senator from Michigan [Mr. CHRISTIANCY] to mail contractors and the powers of the Government over their contracts has no relevancy whatever to the question before us. Surely that Senator is too good a constitutional lawyer not to see the difference between the relations of the Government with its servants, employés, officers, and agents, and with those who do not sustain that relation.

And now, Mr. President, what is the true meaning of the reservation to "add to, alter, amend, or repeal," found in slightly varying phraseology in both the act of 1862 and the amendatory act of 1864? I shall come directly to answer the question of the Senator from Ohio, and I will show him to what these words do apply, to what they can only apply; and I affirm it with very great confidence. This point in the case I deem important and I have studied it thoroughly to the best of my humble ability. I say I will prove to the Senate, I trust, (I have certainly satisfied my own mind beyond the shadow of a

shade of doubt) that these words do not only not apply to these contracts of loan but in their nature cannot be made to apply to the contracts of loan or to the portions of the charter relating to the contracts as such. These words have a meaning and a history which identifies that meaning beyond the possibility of mistake. First, these words are never used in ordinary legislation because such use is wholly unnecessary. The right to "add to, alter, amend, or repeal" legislative acts is an inherent part of ordinary legislative power. The legislation, then, in which it is necessary to retain such a reservation, must stand upon some peculiar footing by reason of some peculiar character different from ordinary legislation. When we find this peculiarity of legislation we shall be able to comprehend the true purpose, application and meaning of this reservation. The habit of making this reservation is of modern origin, and has grown into its great importance and general use by a great and enlightening experience.

This peculiarity of legislation applies only to the creation of corporations and to the granting and regulating the exercise of the privileges, powers, and franchises of corporations. In every constitutional provision, and—I invite the Senator's attention to this—in every act of legislation, general or special, in which this reservation is found, it relates to corporations. Every case which has been read or referred to in this debate, and every case reported in which these words of reservation have been brought before the courts for adjudication, is a case of a corporation, a case involving questions relating to the franchises of a corporation, the franchises proper, granted by direct fiat of the legislative will, not by the intervention of executive authority. By the law of inductive reasoning, then, we are brought to the conclusion that there is some peculiar reason in the character of the legislation creating corporations and fixing and regulating their franchises which makes this reservation wise or necessary, and which reason does not apply to ordinary legislation. Now, let us find this reason. What is it that is deemed necessary to reserve the power to alter, amend, or repeal and add words which are never found necessary to be used in any other legislation? Evidently it is because of some peculiarity in the nature of the legislation creating corporations and granting corporate powers and franchises. The creation of artificial persons and the granting of powers, privileges, and functions to such persons is a prerogative, a sovereign prerogative power. In England it formerly rested in the Crown; in this country it rests in the States, to be exercised by the Legislature, or by such other power or body as the people in the constitution may direct.

I will not stop now to inquire whether or to what extent it may be exercised by Congress. The exercise of this prerogative power is an act of sovereign grace and favor. It is not bought. There is no consideration for it passing from the favored grantee to the sovereign grantor; but there is generally an inducement for the exercise of this power by the sovereign. That inducement is the public good—a public good which is to be secured and promoted by the manner in which the grantee, the corporation, shall exercise the franchises graciously bestowed upon it. It was held even in England that the sovereign having once granted a charter of incorporation could not revoke it. Having called the child into life it could not destroy it without a judgment of its peers, the courts. Parliament, under a claim of omnipotent power, did sometimes revoke charters, but even this power was not cordially conceded. Thus a corporation once created (except corporations exclusively political) could not afterward be dissolved, except by a judgment of a competent court, after trial, that the franchises had been forfeited, either by a nonuser or misuser of the charter. That was the case in England when the colonies were part of that country.

Early in our history, after the formation of our constitutional system, it was decided both by State courts and the Federal courts that a charter, not political, once granted and accepted, could not be changed or revoked by the legislative power without the consent of the corporation. I quote several cases for that. See *University vs. Fox*, 2 Haywood's Reports; *Terrill vs. Taylor*, 9 Cranch; *Pawlett vs. Clarke*, 9 Cranch. But the great struggle was made in the case of the Trustees of Dartmouth College vs. Woodward, 4 Wheaton, 518. That case was elaborately argued, and has since been accepted as settling this question. Settling what question? That the charter once granted could not be changed or altered by the granting power, although freely granted, as an act of favor simply, for the public good, and not altogether or chiefly for the personal good of the grantee.

But the creation of corporations and the grant to them of franchise powers and privileges is a voluntary grant by the legislative power, and the only consideration for such exercise of this prerogative power is the public good. The grant being thus voluntary, it followed from a well-established principle that the grantor when making it could qualify the grant according to his will, and, among other qualifications, could reserve the right to alter, amend, or withdraw the franchise, and this reservation would become a condition of the grant. Just like an individual person, if he makes a conveyance for value he must follow the terms of the contract. If he makes a voluntary conveyance, if it is a mere grant without consideration, even though it may be for natural love and affection, the grantor can prescribe such terms as he pleases; and in the case of a mere voluntary grant at any time before execution and delivery it can be revoked. The object of the grant being the public good, it was wise and proper that the

grantor should retain this control over its exercise, so as to secure more certainly and effectively this object. In this way the habit of making the reservation we are considering originated, and I repeat these words of reservation are only found in charters granted to corporations and they apply to nothing but franchises granted to corporations. The fact that there is something else included in the act which creates a charter besides the franchise does not apply the words of the reservation to those other matters. The words of reservation are put in under this law of necessity to reserve the right to revoke, alter, or change the charter if the grantee, who is the recipient of sovereign power, does not execute the grant to accomplish the object for which it was made. The wonderful increase in the number, kind, and power of corporations in late years has made this reservation all the more important in character and the more frequent in its exercise. This reservation is now to be found in nearly all the States of the Union, sometimes in the constitutions, sometimes as provisions of general laws, and often in special charters; but in all cases the reservations are made to apply to corporations and special legislative grants, and to them only. To apply them to any other kind of legislation is utterly unwarranted and cannot be justified by principle, precedent, reason, or authority.

Now, let us apply these principles to the acts of 1862 and 1864 creating these corporations, and I will tell the Senator from Ohio what, in all those acts, is subject to the power of Congress to alter, repeal, modify, add to, or change. The corporations are created by direct fiat of the legislative will. All the usual and special corporate powers, privileges, and franchises are granted, in like manner, to the corporations so created, and they are granted directly. None of these grants are to be executed by the Secretary of the Treasury or by the executive department. I call the Senator's attention to that. None of these grants in the creation of the corporation, the granting of the corporate privileges, powers, and franchises, are to be executed by the Secretary of the Treasury or by the executive department. They are perfect and complete the moment that they are passed. They are made so by the very act. They are complete and perfect, and executed by the legislative act, and are not made so by another power under authority of the legislative act.

Mr. THURMAN. Let me understand the Senator, if I do not interrupt him too much? If I understand my friend, he makes this distinction, that because these bonds issued by the Government were required to be signed by the Secretary of the Treasury and handed over by the Secretary of the Treasury, that was a different thing from a contract made by Congress on behalf of the Government of the United States.

Mr. HILL. The Senator will hear me. My point is that those provisions of the act of 1862 and 1864 which authorized a loan of money do not perfect any right in anybody. They simply authorized the executive department to do certain things to be done by the department. But I say the creation of the corporation itself, the granting of the franchises to that corporation, is complete by a simple act of legislation without the intervention of executive agencies.

Mr. THURMAN. Now let me put a question to my friend, for he does not seem to have considered it, at least I have not heard it. I ask him when Congress passed this act and promised this loan of bonds, whether the moment the company accepted the charter that was not, according to his view of the case, a contract between the Government and the company, and that in good faith the Government was bound then to issue the bonds, the company doing what would entitle it to the bonds? I ask him, further, whether any executive officer of this Government had the slightest discretion in the world in the business to refuse to issue the bonds or not; whether the Secretary of the Treasury was not bound to issue them according to the mandate of Congress if the company complied?

Now, may I ask the Senator one further question, whether or not in that respect there is the slightest difference between the franchises granted by the charter and this loan promised by the Government? The franchises granted by the charter were not granted upon the mere approval by the President of the act. They did not take effect until the company accepted them, for you cannot force a grant on anybody. Therefore, it required two to make those franchises come into being, just as much as it required two to make this loan come into existence.

Mr. HILL. And the point is that it requires more than two to give effect to this legislation for the loan. My point is that the corporation is created and the franchises conferred by the act of Congress, of course by consent of the other party, and that no executive agency intervened for any purpose; that it becomes complete in the parties by the passage of the act.

Mr. THURMAN. Now let me ask—

Mr. HILL. But I will answer the Senator. Just wait and see if I do not. I answer the Senator that the passage of those provisions of these laws authorizing the loan do not make the loan. It created a right to have a loan, but I say to the Senator before the right to those loans could accrue not only must the company accept the proposition, but they must go to work and earn the consideration which entitled them to it; and the executive department and not the legislative is to determine by its judgment whether they have complied with the contract. The corporations might act until doomsday and they might have had a thousand acts by Congress, but if the executive department had not pronounced and adjudged that they had complied with

their contract their right would have been only inchoate and not perfect to the loan. So there is a difference and I want the Senate to note it. It is the difference in the books; it is the difference upon reason. It is the very secret of these reservations in these charters. In a charter granted directly by the sovereign power nothing is required to perfect the grant except the acceptance from the grantee, whereas authority to lend money, an act of Congress to lend money, is only a power conferred to one of the Executive Departments. It is true they must obey authority as they do in every other case, but it is true, as the courts have often decided, that they are the judges whether the acts are complied with, and they must adjudge and determine that the work has been completed in the manner required before any right to the loan can vest in these corporations.

Mr. THURMAN. I ask the Senator if the corporation does the work, fully and fairly entitling itself to the loan, and a Secretary of the Interior or of the Treasury should refuse willfully and without cause to issue the bonds, whether a mandamus would not lie?

Mr. HILL. Certainly, if the Secretary of the Treasury adjudged that the work was complete; but suppose the executive authority denied that the work was complete. How then? Suppose they will not issue the bonds, will a mandamus lie? Certainly a mandamus will lie where the right is perfect and complete and it is conceded, but what is needed is for the bonds to be issued, signed, and delivered.

But suppose the judges of the contract will not execute it. Suppose the Secretary of the Treasury and the Secretary of the Interior in the respective parts they have got to perform in this agency adjudged that the work is not completed according to the contract, would a thousand acts entitle them to the bonds, would a thousand mandamuses secure them? Sir, it is expressly decided by the Supreme Court in the celebrated case of *Decatur vs. Spanning* and others, that the Department is the judge of the evidence in such cases; that while we have to command the Department they have a right to judge in certain matters; that when it is referred by Congress to them to judge when a contract had been executed, when a right has become vested which Congress has strictly authorized, the courts cannot interfere with that question; but if the Executive Department says, "You have complied but I am not bound to obey the act of Congress," then the courts will come in by mandamus and compel obedience, but the courts cannot interfere with the judgment of the Secretary or of the Executive Department. I do say to the Senator that before these parties are entitled to this loan they not only had to do the work but the Executive Department had to adjudge the work as rightfully done under the act. Therefore in the matter of this loan another department of the Government was introduced to perfect it and it does not take place upon the mere grant of incorporation and the granting of the franchises to the companies. The Legislature grants those, and the grant is not dependent on the executive authority or any judgment or adjudication by the executive authority for the absolute and unconditional vesting of their rights.

Mr. THURMAN. If the President does not approve the bill, I do not think they will have it.

Mr. HILL. Oh, well, of course that is a part of the legislation. I say the legislation is completed, and when I say that of course I mean the approval of the President or the passage of the bill by two-thirds over his veto. My friend from Ohio is getting decidedly hypercritical.

How different are the contracts of loan authorized by these acts. Here the legislation becomes mere authority to the Executive Department. The loans are for a valuable consideration. The inducements which make the Congress willing to authorize the loans are all set out. The terms and conditions of the loans are prescribed. What shall be done to entitle the corporations to the loans; how the loans shall be secured and how repaid; what shall be the liabilities of the corporations accepting the loans; and when, in what manner, and on what terms the loans shall be repaid are all declared. But all these provisions are nothing but directions to the Executive Department, who are authorized by these legislative provisions—these powers of attorney—to complete the work and deliver the bonds, or adjudge that they shall not be delivered as the case may be, and Congress actually has nothing to do. The executive power is to ascertain and determine when the corporations have completed the roads in sections; the executive authority is to determine and make known when the entire roads are completed. The Secretary of the Treasury is to issue and deliver the bonds, and here is a point to which I challenge the attention of Senators. It is in that very act of 1862 declared to be the "issue and delivery of the bonds" that constitute the mortgage. You may have a thousand acts, and without all this executive agency intervening, and the actual execution, issue, and delivery of the bonds there would be no mortgage.

Without these executive acts there were no contracts, no loans, and no obligations created, and none could have existed, although by the legislative acts they were all authorized to be made and created. The legislative acts created the corporations and invested them with corporate powers, privileges, and franchises without any intervening executive agency; but the legislative acts did not make but only authorized the contracts of loan to be made by the intervention of executive agency, and without the actual execution of that agency the contracts would have had no existence.

Without the reservations "to add to, alter, amend, or repeal the acts," the charters granted and the franchises conferred could never have

been changed or revoked. The reservations were only necessary to retain legislative control over the corporations and their franchises, and for that purpose only were they made. It was not necessary to reserve the right to alter or repeal the authority to make the loans.

There is another distinction to which I call the attention of the Senator from Ohio: under the Dartmouth College decision and under all the decisions of all the courts, State and Federal, it was necessary to reserve the right to alter, repeal, or change the franchises granted to a corporation, but it was never held by any court that it was necessary to reserve the right to alter or change the authority to make a loan. The Congress had inherent power to change or repeal the legislative authority, to make the loans, but Congress has and can have no authority inherent or reserved to alter or rescind the contracts of loan after the authority to make them had been executed. From the moment of that execution the authority became exhausted, dead, and the contract became instinct with life which life it will be crime to destroy by force. From that moment the loans became plain contract debts which no power can destroy or impair save the power that made them, the consent of both parties. As the Supreme Court justly say in a recent case (3 Otto, 255:) "Two minds are required to make a contract or to change its terms and conditions after it is executed."

It can make no difference that the authority to make the loans was created in the acts granting the corporate charters, and that is where all this trouble has come from. These gentlemen have never got the true view, because the offer to loan was included in the acts granting the charter. That fact cannot change either the nature or the law of the contracts as made. They stand precisely as if the authority had been given by separate and independent acts of Congress.

Thus, sir, I have shown:

First. That the bill reported from the Judiciary Committee, under the form of altering the acts under authority of which these contracts were made, does in fact seek to alter and change the contracts themselves, and without the consent of the parties to those contracts.

Second. That such legislative power cannot be found in the theory of trusts. That the power to interfere under that theory exists only in the courts, and that even the courts can exercise such a power only after default.

Third. That the reservations "to alter, amend, or repeal," contained in the acts of 1862 and 1864, apply, and were intended to apply, and can only apply to the corporate existence, powers and franchises of the railroad companies created and confirmed by those acts. That the reservations were not needed or intended to give to Congress the power to alter or repeal the authority to make the loans provided for in those acts, and that no authority can exist in Congress, inherently or by reservation, to alter or rescind the contracts actually made under that authority after that authority had been executed, after the contract had been made, and after the rights and liabilities of the parties to those contracts had become vested and fixed.

I beg to call the attention of the Senate to some considerations upon the assumption, for argument's sake, that the words "to alter, amend, or repeal" do apply to the contract, to the authority to make the contract, and to the terms of the contract, as well as the creation of the corporation and the granting of the franchise. First, I want to call the attention of the Senate to this point: If this reservation to alter or amend does apply, for instance, to that stipulation in the contract which says that one-half of the transportation by the Government shall be paid before the maturity of the bonds, suppose that power to change that is retained by the act of 1862 or the act of 1864. Here is the act of 1871, which expressly directs that that half transportation shall be paid, and that act reserves no right to alter or amend. I wish the Senator from Ohio to hear this. I wish him to reply to it if he can. I say the act of 1871, being the ninth section of an act making appropriations for the support of the Army for the year ending June 30, 1872, and for other purposes, provides that—

The Secretary of the Treasury is hereby directed to pay over in money to the Pacific Railroad Companies mentioned in said act, and performing services for the United States, one-half of the compensation at the rate provided by law for such services heretofore or hereafter rendered.

And it distinctly says:

Provided, That this section shall not be construed to affect the legal rights of the Government or the obligations of the companies, except as herein specifically provided.

Now, here is the act of 1871, which enacts and declares that the half of this transportation shall be paid by the Secretary of the Treasury to the companies, and no power is reserved in the act of 1871 to alter, amend, or repeal that act. Take the case proposed by my friend here from the Judiciary Committee, and you see that the bill provides in the fourth section—

That there shall be carried to the credit of the said fund, on the 1st day of February in each year, the one-half of the compensation for services hereinbefore named, rendered for the Government by said Central Pacific Railroad Company, not applied in liquidation of interest.

Mr. THURMAN. Do I understand the Senator from Georgia to say that that act of 1871 is irrevocable?

Mr. HILL. I say it is after the parties have acted under it.

Mr. THURMAN. That is all I wanted to know, if the Senator so stated.

Mr. HILL. I do. Is it not part of the contract?

Mr. THURMAN. Part of what contract?

Mr. HILL. Part of the contract authorized by the acts of 1862 and 1864.

Mr. THURMAN. Now the Senator is coming precisely to where I wanted him to come. He has now got beyond the loan, and I want him to tell me this—

Mr. HILL. I am now arguing the case upon the assumption that the words "to alter, amend, or repeal" apply.

Mr. THURMAN. Then I want to know what in the world it is in that charter which can come within that power of amendment, alteration, or repeal.

Mr. HILL. The Senator does not see the point. I am arguing the case now upon the assumption that the word "alter" applies to everything there. Do you not perceive? But by the act of 1864 Congress agreed that one-half the transportation should be paid to the companies. Congress reserved the right to alter, as the Senator says, in the acts of 1862 and 1864, and for some reason the Government did not pay it. Then you come in with the act of 1871 and re-enact that they should have that one-half.

Mr. BAYARD. May I ask the Senator a question? Does he consider that the power reserved to the Government to amend the law of 1864 at will is exhausted by making an amendment in 1871?

Mr. HILL. I certainly do as to that particular thing, because the last act repeals the first. I think if you in a subsequent act make a direct enactment and do not reserve the power to repeal you cannot afterward alter or change that act.

Mr. THURMAN. The Senator himself, if he will allow me to interrupt him, has stated the matter which shows what the act of 1871 was. Under the act of 1864 the companies were entitled to receive pay for half the transportation account. The Secretary of the Treasury refused to pay them that half under an opinion of Mr. Attorney-General Akerman. The matter was referred to Congress; that is to say, the companies petitioned Congress on the subject. The Judiciary Committees of the Senate and the House reported that under the act of 1864 the companies were entitled to this money, half the transportation account, and the act of 1871 was passed to compel the Secretary to execute the law, not to change the law or to make any new law, but simply to compel him to execute it.

Mr. HILL. No; but you did declare in the act of 1864 that one-half of the transportation shall be paid with a reservation.

Mr. THURMAN. What reservation?

Mr. HILL. The reservation of the right to alter. That is what you say. I am arguing on that assumption now, which the Senator from Ohio does not seem to take. I am arguing upon the assumption that you are right, and yet I show that your bill is unconstitutional; for I say that afterward you enacted again that these companies should have the half transportation without reservation, and that they should not only have it for the past but should have it forever. That is the act of 1871.

Mr. EDMUNDS. Will the Senator read the act of 1871 which shows that?

Mr. HILL. I have just read it.

Mr. EDMUNDS. I wish he would read it again for general information.

Mr. HILL. It is as follows:

The Secretary of the Treasury is hereby directed to pay over in money to the Pacific Railroad Companies mentioned in said act, and performing services for the United States, one-half of the compensation at the rate provided by law for such services, heretofore or hereafter rendered.

And lest this act might be construed to interfere with the reservation in the act of 1864 in some other point besides this, you go on and provide—

That this section shall not be construed to affect the legal rights of the Government or the obligations of the companies, except as herein specifically provided.

That is as to the half transportation account.

Mr. BAILEY. May I ask the Senator a question?

Mr. HILL. Yes, sir.

Mr. BAILEY. The Senator says the act of 1871 exhausted the power to amend or repeal the act of 1864.

Mr. HILL. As to this particular provision.

Mr. BAILEY. Will the Senator point out in what particular the act of 1871 alters, amends, or repeals the act of 1864?

Mr. HILL. It re-enacts. Gentlemen will not understand me. In the act of 1864 you enacted a right with a reservation, and you claim the right to change it by virtue of that reservation. In the act of 1871 you enacted the same right without reservation. That is the point; and I defy any lawyer to get over it. Is not the right without a reservation an amendment and improvement upon a right with a reservation? Is not an absolute right better than a qualified right?

Mr. EDMUNDS. May I ask the Senator whether he thinks the act of 1871 became a contract by the mere passage of it?

Mr. HILL. I did not say so. On the contrary, I have previously said that I take it for granted that the companies have been acting under this act.

Mr. EDMUNDS. Now the Senator, who is so very careful about taking nothing for granted, had better not take that, because the companies have not got a cent under that act.

Mr. HILL. They have accepted the act, and therefore have got their rights under it.

Mr. EDMUNDS. I should be glad to see the proof that they have

accepted it. They have not got the money, and that is all the act says.

Mr. HILL. There is no proof that shows that they have accepted any act. If the Executive Department has not done its duty, then under the position of my friend from Ohio the companies ought to apply for a mandamus. I say the right became complete upon the passage of the act and its acceptance by the companies.

Mr. EDMUNDS. Yes; but the difficulty about the Senator's argument is, whatever there is of it, and I will express no opinion about that—

Mr. HILL. It makes no difference what the Senator's opinion is about it.

Mr. EDMUNDS. The difficulty about it is that according to his previous proposition these acts do not become contracts or authorized contracts in any effective sense until they are accepted by the other side; it takes two minds. A corporation can only act, not by the general force of nature, but by some corporate performance. Now, then, if the Senator will only look at the published reports officially made to us, he will see in the reports and the evidence that none of the money mentioned in the act of 1871 has been paid to any of the companies; it is in the Treasury still. Therefore, the payment of the money does not raise any implication that the company has accepted this new contract. Where, then, does the Senator get the authority to say that this new contract, as he calls it, is binding, and therefore prevents our amending the act of 1864?

Mr. HILL. I have no evidence that any act passed in relation to these companies has been accepted.

Mr. EDMUNDS. If the Senator will look into the reports, he will find it.

Mr. HILL. I have no evidence myself that the acts of 1862 and 1864 have been accepted. I understand they have been, and as those acts are all published and there has been no protest against them I assume that they have been accepted, and as it was for the benefit of the companies and not their injury, a formal acceptance was not necessary. I take it for granted they have accepted them. If the act of 1871 passed and they accepted it by acting on it, the right became perfect, whether the Secretary of the Treasury paid the money or not.

Now, the Senator from Vermont wants to get to the point that the Secretary of the Treasury must pay the money. If there had been a condition of this grant which made the Secretary of the Treasury the judge as to whether he should pay it, then I grant your position; but as there is no condition to the grant, as the act is absolute and unconditional and without reservation, all that is necessary to make it a contract is for the companies to accept it; and indeed a formal acceptance is not necessary as it is for their benefit. Of course I admit that if the companies have not accepted it or rejected it, it is no contract. An act of Congress is never a contract *per se*. Sometimes it is called so, and in common parlance sometimes spoken of as such; but no lawyer when he comes down to technically correct language would call an act of Congress a contract. It is an element of it of course.

But I go on to another point. Even if the general reservation to alter and repeal applied to the contract and its terms, then I say it cannot be used to take away a specific gift or provision, but only to aid such specific grant. I call the attention of the lawyers of the Senate to this position. The reservation is general; the grant of the authority to make the loan is specific. Mr. Sedgwick says:

But a particular thing given by the preceding part of a statute shall not be taken away or altered by any subsequent general words.—*Sedgwick on Statutes*, pages 60, 61.

I say these words "to alter, amend, or repeal" cannot be used to destroy any specific stipulation. There is one case in which the repeal may be, and that is where the object of the grant is not carried out, where there is a forfeiture of the charter; but while the companies comply with the contract, while they on their part comply with the specific stipulations, Congress cannot under the general power of reservation negative or destroy a specific grant. The Senator from Indiana [Mr. McDONALD] laid down the direct reverse of that proposition the other day, and he will find on examination of the authorities that he is incorrect.

Mr. EDMUNDS. I do not wish to interrupt the Senator to his annoyance at all, but I desire to ask him a question with his permission.

Mr. HILL. Certainly.

Mr. EDMUNDS. I am interested in the observations of the Senator, and wish to get at precisely what he means. Do I understand him to mean on this last point he has advanced, that if Congress grant a charter for a particular national bank, to be called the National Bank of North America in the District of Columbia, for twenty years, and that bank accepts the charter and complies with every provision in it, there being at the end a section which says Congress may repeal this act at any time, Congress cannot repeal it within the twenty years unless the company have violated some of the provisions of the charter?

Mr. HILL. That is just exactly my position.

Mr. EDMUNDS. Then I understand the Senator.

Mr. HILL. And I state it precisely in the language, almost, of Chief-Justice Shaw, of Massachusetts.

Mr. EDMUNDS. Not applied to any such subject as that.

Mr. HILL. But he says that these reservations to alter, amend, and repeal, though unlimited in terms, are not unlimited in effect, and one of the limitations is that they must be used to effectuate the original purpose. That is what it is done for. The history of this reservation shows that that is exactly why it was made. The courts had decided that where a charter was once granted it could not be revoked, even though they did not comply with the terms; you had to go to the courts to get a judgment of forfeiture. These reservations are made to meet that difficulty; and I need not stop here to discuss it; but I do say to the Senator from Vermont, although that is not material to this discussion, whenever this question comes to be firmly and finally settled—and the courts are now struggling with it—wherever a corporate charter or privilege has been specifically granted and accepted and the company is complying with it in good faith, the power to repeal does not authorize its destruction, and you can use that power to repeal only to carry out the original purposes of the grant. If the companies, for instance, did not build this road, if they did not keep it up, if they did not accomplish the object the United States had in granting them the franchise, then the United States reserved the right to take back the franchise and give it to persons who would carry out the object. That is the purpose of it exactly.

Mr. CHRISTIANCY. Or refuse to give it to anybody?

Mr. HILL. Certainly; or refuse to give it to anybody.

Mr. CHRISTIANCY. I can see how amendments might be made to the charter for the purpose of carrying out the original purposes of the charter; but when you come to repealing it, it seems to me that is a very different thing.

Mr. HILL. I have just stated it. I can give the case to the Senator again. Suppose the company does not build the road; suppose the company does not keep up the road.

Mr. CHRISTIANCY. The original purpose of the grant.

Mr. HILL. That is it. What is the original purpose of the grant? The original purpose of the grant was to construct the road and keep it up.

Mr. CHRISTIANCY. How will repeal do that?

Mr. HILL. The repeal and giving the right to somebody else would do it. This is not original with me; it is stated in the books. The very purpose of this reservation is to enable Congress to keep it within its power to complete the purposes of the grant; and if it had selected an unfortunate grantee in the first place, one who does not carry out the power, then Congress may revoke the grant and grant it to another, or not grant it at all if it abandons the purpose. But I do say, and I am not going to shrink from it, because the courts have said so, that, though this reservation be unlimited in terms, you cannot construe it to destroy the rights of the company as long as they are faithful to the purposes of the grant.

Mr. EDMUNDS. Has the Senator any case in mind in which any supreme court of any State or country has decided that in such a case as he has been supposing and as I have supposed, an out-and-out repeal of the charter would be unconstitutional?

Mr. HILL. No, sir.

Mr. EDMUNDS. I should think not.

Mr. HILL. Simply because I never knew a Legislature that would do it where other parties were complying with the terms. Therefore that case has never been made. But I will tell the Senator what I have seen. I have not the case here before me, but one of the best decisions ever made upon the meaning of these words to alter, amend, or repeal, and the extent to which the power goes, was made by Chief-Justice Shaw under this very kind of language, the unlimited language used in Massachusetts.

Mr. EDMUNDS. That was the fish-way case.

Mr. HILL. And he says that the object is to secure the original purpose of the grant.

Mr. EDMUNDS. That was the fish-way case.

Mr. HILL. I do not remember the name of it.

Mr. EDMUNDS. Has the Senator seen the latest decision of Chief-Justice Shaw in the insurance case where the Legislature provided that an insurance company should accumulate a sinking fund to pay its debts, and which he held was lawful legislation?

Mr. HILL. Certainly; I can understand that.

Mr. EDMUNDS. Very well.

Mr. HILL. It stands upon a different principle altogether.

Mr. EDMUNDS. Then the Senator ought to understand this.

Mr. HILL. To be sure; and I do. Perhaps the Senator from Vermont is not as wise as he imagines.

Mr. EDMUNDS. No, I presume not.

Mr. HILL. If he is all-wise, some of the courts are not and some of the highest judges in this country. I am not at all intimidated when I stand before these lawyers of the committee, when I heard one of them here the other day say that no lawyer in the Dartmouth College case ever made such and such a declaration. And I say that when learned members of the Judiciary Committee come in here, learned and able as they are, and tell me that in this country, under a Government of limitations upon its powers, there is a right to impair the obligation of a contract, I am not prepared to concede that they are infinitely wise, though they be wiser than I.

Mr. EDMUNDS. The Senator will give me leave to suggest to him that I was not expressing any opinion of my own; I was only asking him, as he had referred to a decision of Chief-Justice Shaw in respect

of the fish-way case, what view he took of the later decision of the same court respecting the insurance case, where the Legislature had required the accumulation of a sinking fund to pay its debts.

Mr. HILL. Certainly, and I can perfectly understand that, but I do not wish to stop now to argue it.

Mr. EDMUNDS. Very well.

Mr. HILL. But there is a broad difference between an insurance case and a contract of loan to a railroad corporation; a very broad difference. The very object and terms and conditions of the creation of an insurance company are that it shall be safe for the people to take risks in. That is the very object of a grant to an insurance company, that it shall be safe to the people, and the Government is but effectuating its object and carrying out the purpose of the grant to an insurance company when it sees to it that it makes it perfectly secure for the people to insure in. The business of an insurance company is to take risks; the business of a railroad corporation is not to take risks upon life or fire either.

Mr. EDMUNDS. But is it not its business to pay its debts that the law authorized it to contract?

Mr. HILL. Certainly, according to the terms of the contract; certainly, when the debt is due.

Mr. EATON. Just what the insurance company did not do.

Mr. HILL. Precisely, for the insurance company stands on a wholly different principle. The very purpose of incorporating it is to enable it to take risks, and it is the duty of the Government to see that it is safe for the people to insure in it. This is a different thing.

Mr. BAILEY. May I ask the Senator is it not also the duty of the railroad company so to manage its affairs that it may be able to perform the functions for which it was organized?

Mr. HILL. Yes, sir.

Mr. BAILEY. And remain in a state of solvency and preserve its railroad to the corporation?

Mr. HILL. Certainly; and does anybody allege here that this corporation is not doing this? Does anybody here allege that this corporation is not keeping up the road?

Mr. BAILEY. Does not the direction of the road in its communication to the Judiciary Committee state that unless there shall be a sinking fund this corporation will become insolvent and the road will pass into other hands?

Mr. HILL. Supposing it does; is that insolvency to result from the administration of the road or from the natural course of events and the natural shrinkage of property? The debtor is not responsible for natural shrinkage in the value of his property. He is not responsible for misfortunes; he is only responsible for default. If this company will say that by reason of their management they are destroying the corporation, that its insolvency is resulting from their maladministration, I can concede the case, because then there is default.

Mr. BAILEY. Permit me to ask another question. Does not the company avow that it is distributing from year to year its assets, its income or net earnings, and that that course of procedure will bring about the very condition which it predicts in the future?

Mr. HILL. I do not know what the companies have said nor do I care; but I do say that, if the companies are paying their debts as they fall due, and paying the interest as it falls due, and keeping up the road and operating the road justly, they have a right to the dividends, because the eighteenth section of the charter says so; but, because the mortgagee is insolvent and because the property mortgaged is insufficient to pay the debt, that does not give the creditor a right to the earnings before his debt is due. I admit and contend that the earnings uncollected when this debt falls due the court may seize and apply to the debt; but I defy the Senator to find a case where there is no default or maladministration where a debtor is compelled to apply the income of the property to the payment of his debt before the debt falls due.

But this view can be made still stronger. If under the general reservation to alter or amend Congress retained the power to change or annul the specific terms of the contract, then Congress has reserved the power to commit a fraud on the companies, and this cannot be true. Now, I put it to the Senate, I put it to my friend the able Senator from Michigan, a man whose mind is so able and whose heart is so just, why did the Government agree to these liberal terms with the companies?

Mr. CHRISTIANCY. I will answer, if the Senator will allow me, exactly why they agreed to them: because they reserved all the power they ever had and parted with none of it.

Mr. HILL. Then I understand the Senator to say that the Government agreed with the companies, "If you will take the risk, undergo the labor, and build a road which the Government desires built, which is important to the integrity of the Union, which is important for the uses of the Government, and the Government therefore needs that road; if you gentlemen will go forward and build this road, we will advance you so much money and we will not require you to pay that money back for thirty years, except half transportation and 5 per cent. of the net earnings;" and I understand the Senator to say that, when the Government said that to the companies as an inducement for them to take the contract and build the road, the moment the road is built the Government can take back the inducement. Do I understand any man to say that?

Mr. CHRISTIANCY. I understand that the Government understood and that the corporators understood that their rights under

such a reservation of power would rest upon the sound discretion of Congress, and I see no absurdity in any man trusting to that sound discretion of Congress.

Mr. HILL. Mr. President, if the subject had been bound to trust to the discretion of a legislative body, our fathers acted unwisely when they declared independence of Great Britain, who asserted the right to levy a tax but would not do it. Sir, the Revolution was fought upon the assertion of a power, and not solely upon the manner of its exercise; and I put it to the Senator, and I put it to the Senate, when this contract was made and the Government agreed to take only one-half the transportation to apply to the interest before the maturity of the bonds, was it not an inducement to the companies to build the road? When they actually built the road, have you a right to take the whole compensation away from them? That is the point. You say "trust to the discretion of Congress!"

Mr. BECK. Will the Senator allow me? I do not desire to interrupt the Senator but I wish to have information. In the case of *Miller vs. The State*, 15 Wallace's Reports, the court say:

Power to legislate, founded upon such a reservation in a charter to a private corporation, is certainly not without limit, and it may well be admitted that it cannot be exercised to take away or destroy rights acquired by virtue of such a charter, and which, by a legitimate use of the powers granted have become vested in the corporation, but it may be safely affirmed that the reserved power may be exercised, and to almost any extent, to carry into effect the original purposes of the grant.

Mr. HILL. Exactly.

Mr. BECK. "Or to secure the due administration of its affairs."

Mr. HILL. Certainly.

Mr. BECK. "So as to protect the rights of the stockholders and of creditors, and for the proper disposition of the assets."

Mr. HILL. Certainly.

Mr. BECK. Now the question I desire to ask is what is there in the bill of the Judiciary Committee that goes beyond the authority asserted in this opinion that may be exercised for the purpose of protecting the rights of the creditors of the companies?

Mr. HILL. I will tell the Senator. Those words are used in that book according to their legal signification. Now, then, the Government has no right to interfere to protect creditors except where there is a default of the debtor; then there must be "a proper disposition of the assets."

Mr. BECK. Under the authority reserved to alter, amend, or change, which was a part of the grant of course, if the power is as comprehensive as this opinion says, and if it is admitted that the companies are not only looking to insolvency but so far dividing the earnings as to become certainly insolvent when this debt matures, under the decision of the Supreme Court which I have just read, is it not certain that Congress not only has the power but ought to protect the creditors against that probability?

Mr. HILL. Whenever the creditors need protection and whenever protection is extended according to the contract. That is what it means. It says "proper," that is according to the rights of both parties. You cannot protect the creditor by destroying the rights of the debtor. It does not mean that the creditor shall have protection against a bad contract by making it a good one. He is entitled to protection according to his contract, against default or breaches by the debtor.

Mr. BECK. The great object in making the loan by the Government was to have this road perpetually held by the corporation for their use. Now if that be true, and if the companies show themselves that in the near future they will be certainly insolvent, that the road will be sold out and bought in by other people who will be under no such obligation and thereby the Government will not have the perpetual use of it and the Government will not get its money, either its principal or interest, unless there is some means taken to so regulate the administration of the road as to protect the creditors of the companies, have we not a right to resort to such means?

Mr. HILL. I will say to the Senator that may be all true, but you cannot protect the creditors by denying the stockholders or the owners of the road as the debtors the rights they are entitled to. You must protect the creditor by proper means; you must protect the creditor by such means as the existing law authorizes, as existing remedies permit. You cannot resort to extraordinary remedies; you cannot violate the charter; you cannot protect the creditor by destroying the rights of the debtor. You must do it in a way that is consistent with the original purposes of the charter. This bill does not allege the acts the Senator states. It does not allege the companies are doing anything to lessen the value of the security the Government agreed to take. Show me that the companies are doing such wrongs and I will show ample remedies. Even other purchasers would get no new rights other than the charter.

Mr. BECK. The original purpose of the charter was to secure a perpetual road; another was to pay the debt of the companies; another purpose was of course to protect the stockholders; but those stockholders have no rights until the debts are paid; and if the administration are dividing out the assets of the road to stockholders, to the absolute, certain destruction of the debts of the companies and the rights of the Government, ought we not to interfere by legislation before they go further?

Mr. HILL. The Senator will see the mistake he has made. He says the stockholders have no rights until the creditors are paid.

Mr. BECK. No ultimate rights.

Mr. HILL. They have immediate rights. They have a right by the very terms of the charter to 10 per cent. dividends.

Mr. BECK. I mean that to the ultimate profits they have no right, and therefore they can destroy the security by the course I have indicated.

Mr. HILL. If they are doing anything to destroy the security, if the destruction of the security is the result of their act, all right; then they are in default and then you can take the road out of their hands and put it in the hands of a receiver for the protection of the creditors, if you want to. That is all that case is; it is all any case is. If there is default, then the thing can be done; but I tell the Senator there is no case on earth where the proper protection of the creditor means anything but always the proper discharge of the duties of the debtor; and this contract, which says they are entitled to the 10 per cent., was made with the distinct knowledge of the fact that the road might be insolvent before the debt became due. The power to alter was reserved; but it must be resorted to so as not to impair or destroy vested rights.

Mr. BECK. I ask the Senator what part of the bill of the Judiciary Committee destroys any vested right?

Mr. HILL. It destroys a vested right in this: it distinctly provides that they shall pay 25 per cent. of the net earnings instead of 5; it distinctly provides that they shall pay the Government the whole of the Government transportation instead of half, and the charter distinctly said they should not pay but 5 per cent. net earnings, and the charter distinctly stipulated that they should not be required to pay but half the Government transportation. Now, take the law as you find it, make any act you please to carry out the original purpose of the charter, to protect the creditors from the wrong of the debtor, but do not protect the creditor because the creditor made a bad contract. There is no such law as that. You are proposing to protect the creditor because he made a bad contract at first; you are not proposing to protect the creditor against any maladministration of the debtor. Nobody alleges that it is the bad management of the road that is bringing about this result; it is the mere opinion of the natural course of events. I take this occasion to say that for myself I think the road is worth the money or will be in thirty years or by the time these bonds are due; but that is a mere matter of opinion. You would have no right to take charge of a corporation and administer its assets because twenty years hereafter it may be in default. It is an absurdity.

Again, the rule is distinctly laid down that the conditions or reservations in a contract "which are repugnant to the grant or gift by which they are created or to which they are annexed are void." (2d Story's Equity Jurisprudence, section 1304.) If the reservation would be void if literally repugnant, much less can you put a construction on the reservation which would make it repugnant. Now, you put a construction on this right reserved which negatives a specific right granted in the charter. The law is that if the reservation literally meant that, it would be void; and now you seek to put a construction on it to make it mean that. That you cannot do.

Still again, you cannot use or construe this reservation to "alter, amend, and repeal" so as to defeat or annul the known meaning or understanding of the parties at the time the contract was made; and upon this subject I have authorities here from Judge Kent that are very explicit and clear.

Judge Kent, after citing Bacon's rule, says:

The modern and more reasonable practice is to give to the language its just sense and to search for the precise meaning and one requisite to give due and fair effect to the contract without adopting either the rule of a rigid or of even indulgent construction. * * * The true principle of sound ethics is to give the contract the sense in which the person making the promise believed the other party to have accepted it, if he in fact did so understand and accept it.—2 Kent's Com., 556, 557.

That is also the rule of construction of treaties, says Vattel.

The mutual intention of the parties to the instrument is the great and sometimes the difficult object of inquiry when the terms of it are not free from ambiguity. To reach and carry that intention into effect the law when it becomes necessary will control even the literal terms of the contract, if they manifestly contravene the purpose; and many cases are given in the books in which the plain intent has prevailed over the strict letter of the contract.—2 Kent, 555.

Now I put to every Senator here, when these debtors accepted this charter with a distinct stipulation that the Government, until the maturity of the bonds, would not exact from them anything in payment but half the Government transportation and 5 per cent net earnings, was it understood by either party that the Government should change that and exact all or exact more? For if you have power to exact more you have power to exact all. How did the companies understand it? How did the Government say they understood it? How have the Supreme Court decided they understood it? They understood it according to its very language. That is the way they took it. Now for you to exert a general power of reservation to destroy the sense of a specific grant, to destroy the sense in which both parties understood it, in which especially the debtor understood it—to exert that general power to destroy that specific grant on that specific stipulation, is a fraud in law, say the books, and you have no power to do it. I admit the full force of the decision read by the Senator from Kentucky, and I wish the Senator from Vermont had heard it. It shows that the reservation of the power to alter, amend, or repeal is to be used to effectuate the original purpose of the grant.

Chancellor Kent continues:

So the mutual intention of the parties to the instrument is the great and sometimes the difficult object of inquiry when the terms of it are not free from ambiguity, and to reach and carry that intention into effect, the law, when it becomes necessary, will control the literal terms of the contract, and if manifestly the contrary is the purpose, and many cases are given in the books in which the plain intent has prevailed over the strict letter of the contract.

Why? Because if you induce a man to undertake a risk, to perform a labor under a promise which was specifically given that he shall reap certain rewards, and after he has performed the labor and taken the risk, for you, under your reservation of a general power which means to carry out the original purpose, destroy that specific grant, you commit a fraud. See what an absurdity. Here the Supreme Court has decided that under this contract no interest is to be paid except the 5 per cent. of the net earnings until the maturity of the debt. Now, you come in here by legislative power, contrary to the adjudicated intention of the parties, (for the Supreme Court of the United States in their decision adjudicated the original intention and understanding,) and attempt to unsettle the adjudication by declaring that in some form an amount shall be paid more than was stipulated. The Supreme Court say the original intention of the parties was that nothing but half transportation and 5 per cent. should be paid. Here Kent says, you cannot by a general reservation alter the original intention, you must carry out that original intention and understanding of the parties, and you by this very bill seek to defeat and destroy that original intention.

In his able argument the Senator from Michigan [Mr. CHRISTIANCY] said in substance that it was no argument against the existence of this power to show it might be injudiciously used. So I tell that Senator it is no argument in favor of the existence of the power to show it might be wisely or even usefully used. If the power does not exist it cannot be used either wisely or unwisely.

If Congress can change this contract in any respect it can change it in all respects. If this general reservation to alter or amend gives Congress power to compel the payment of one dollar more than the stipulations require before the maturity of the bonds, then Congress can require every dollar to be paid before maturity.

Can Congress by legislation declare that the interest shall be more than 6 per cent? I ask the Senator from Kentucky that question. The original act declares that the interest shall be 6 per cent. Can Congress now by virtue of its reserved power alter that interest and say it shall be 8 per cent on 10 per cent? Can it declare that the bonds shall be due now? The original contract said the bonds should be due in thirty years and the debt should be paid at the maturity of the bonds. Can you under this power to alter or amend declare that the bonds shall be due to-morrow? If you have the power to declare that the whole transportation shall be paid when the contract requires that only one-half shall be paid, then you have power to declare that the interest shall be 10 per cent. though the contract says 6; then you have the power to declare that the bonds shall be due to-morrow though the contract says they shall be due in thirty years from their date.

But I appeal to gentlemen on another point, and I wish they would answer the question: Can Congress repeal the act of 1864 and reinstate the first lien of the Government bonds? If so, that is what you ought to do. If the position occupied by the gentlemen of the Judiciary Committee, an able committee I concede, is true, as one of them intimates, that the act of 1864 was a fraud—one of them has intimated even that it was the result of bribery—if that be true, why not repeal the act of 1864?

Mr. CHRISTIANCY. The rights of third persons would be affected.

Mr. HILL. The bondholders are not third persons. The bondholders took under that act; the bondholders took with notice of that act. That act was part of their rights. Now, when the bondholder took his bond, he took it with notice in the law that Congress had a right to change the lien that was given in his bond. That is what you say you cannot get rid of. Everybody who takes that bond takes it with notice of that law; he takes it with notice that there is power to alter, amend, or repeal; and if you have power to alter, amend, or repeal anything in that act, you have a right to repeal it all, and I put it to the Senator, can you now repeal the act of 1864 and reinstate the first lien of the Government debt? You can if you can do what you propose here. If you can change the contract in one respect you can change it in all. If you can say that the whole transportation shall be paid when the contract said only half, you can say that the first lien, which was given by the act of 1862 and subordinated to other bonds by the act of 1864, can be reinstated, because every man that bought these bonds purchased them with notice of the law, with the law before him; and if the construction the gentlemen put on the law be correct, he buys it with distinct notice that his bond may be destroyed to-morrow. It is perfectly legitimate to say that you have not the power when the power is absurd. You cannot escape the argument that if you have power to change in one respect you have power to change in all. You reserved the power in the act of 1864 to repeal that act; now let any lawyer answer me, will the repeal reinstate the first lien of the Government bonds?

Mr. CHRISTIANCY. No man says that it would.

Mr. HILL. I say it is so if the other position is correct, and you cannot show the difference. The bonds may be in the hands of the stockholders; the bonds may be in the hands of the corporation; I

cannot tell. I do not care where they are; whoever took them took them with notice of the law; and on the terms of the law if you can change the contract in one respect by reason of that reservation, you can change it in all. If you can change it in all, you can change it in any. You must abide the contract or not.

Mr. BECK. The act of 1864 gives the right to alter, amend, and repeal. In your mind that is an absolute nullity on that position.

Mr. HILL. I say those words apply to the exercise of the corporate franchise; but they are an absolute nullity as applied to the contract. The Senate does not understand me. I have already made a long argument to show that the words "alter, amend, or repeal," retain the power to the Government to see that the original purpose of the charter is carried out.

Mr. BECK. And one purpose is, of course, to protect the creditors; and now you say we have no power to protect them, although the management of the corporation may come and admit that they intend to make it impossible to pay its debts. The Senator's position is that under the power to alter, amend, or repeal we have no right to require any security of the corporation.

Mr. HILL. I am not aware that this body acts on assertion. The Judiciary Committee has not informed us that the company said they intend to make the property insolvent. Show me that, and put your bill on that ground.

Mr. BECK. They have proved by the treasurer of the company himself that that would be the effect.

Mr. HILL. Then I ask the Senate to amend the bill and put this legislation on that ground. But I tell the Senator, if that is true, his remedy is not here. That decision says "by proper means the creditor shall be protected." If it be true that these corporations are using the property for the purpose of destroying its value, for the purpose of preventing the collection of its debts, I tell you you have got an ample remedy. Go into the courts and the courts will restrain them, and the courts will require them to give an additional security. What I am arguing against is this monstrous claim of legislative power to exercise judicial functions. There is no trouble about protecting creditors. I admit the creditors are entitled to protection. The Senator is wrong when he says I deny that. I admit it, but it is protection known to the law; it is protection given according to the forms and rules of law under the remedies provided by law, and not by the exertion of an extraordinary legislative power.

If Congress can do what is proposed, it can do all these things; if it cannot do all these things, it can do none of them. Mr. President, take it as you please, this is the most remarkable bill that has ever been introduced into a legislative body, and I say it with profound respect for the distinguished members of the Judiciary Committee. I believe the doctrine I am laying down here to-day will be sustained thoroughly by the Supreme Court if you pass this bill. I have come to the conclusions I have announced contrary to my will. I took it for granted that I should vote with the Judiciary Committee; I took it for granted that they were correct in their construction of power until the discussion sprang up and I got possession of the question and investigated it for myself. I do say with all due deference to that committee that this bill asserts a most monstrous power. What do you propose to do? Why, sir, speaking in the language of a lawyer, this is a bill filed in a legislative body to construe the contract. How? By declaring the words "net earnings" shall mean what the legislative will shall declare them to mean and not what the law says they do mean.

Mr. CHRISTIANCY. Will the Senator allow me?

Mr. HILL. Yes, if I am wrong.

Mr. CHRISTIANCY. The committee have not by the bill endeavored to define what "net earnings" mean under the original law at all.

Mr. HILL. Certainly.

Mr. CHRISTIANCY. They have simply provided what they shall mean hereafter.

Mr. HILL. That is exactly what I understand. It is claimed by the Senator from Ohio that here is an existing contract where the words "net earnings" are used, and that you can by legislation after that contract was made give a new meaning to the words. That is the proposition.

Mr. CHRISTIANCY. We can amend the law.

Mr. HILL. Amend and destroy.

Mr. SARGENT. A case is now pending in the Supreme Court, brought in obedience to legislation of Congress, for the Supreme Court to define what "net earnings" mean, and this bill simply provides that this decision or definition of the Supreme Court shall apply to matters heretofore, but hereafter the will of Congress shall be substituted for the rule the Supreme Court shall lay down.

Mr. CHRISTIANCY. But under the power of amendment we require them to proceed hereafter on the basis fixed by law.

Mr. HILL. Precisely; that you can provide by the legislative will that hereafter net earnings shall mean gross earnings. You cannot do that. That is the power claimed. There is no escape from it. Will you tell me that the legislature can legislate absurdity into truth? And yet, if your position is true that you have the right to declare what "net earnings" shall be in the future and that you shall give to these words a meaning which the law never heretofore gave them, and which was not the meaning when the parties agreed to

these words, you declare that you have a right to say that "net earnings" shall hereafter mean gross earnings. That is your bill.

This is not only a bill to construe the words not according to the meaning the words have by law and in the lexicons, but what the legislative will shall say they ought to have; but it is, in the second place, a bill filed to reform the contract by inserting in it not what the parties intended, but what Congress now wills shall be the contract.

Mr. CHRISTIANCY. Under the power to amend.

Mr. HILL. Ah! The decision read by the Senator from Kentucky, which I am glad he read—a wise decision—says that the power to alter and amend must be exercised to carry out the original purpose, and not to destroy it.

Mr. CHRISTIANCY. That is only one of them.

Mr. HILL. And to do everything in accordance with the laws of the land in the protection of the rights of all companies and creditors. But you are doing now what is a destruction of the contract. If you have a right to say now that you can reform the contract by an act of Congress, why can you not repeal the act of 1864 and reinstate the first lien of the Government bonds? You say you cannot do that. Why? Where is the limitation, and why can you do one and not the other? Why can you not say the companies shall pay 10 per cent. interest instead of 6? Why can you not say they shall pay 50 per cent.? You say you have the power to do it. If you can change the meaning of words, if you can change legal definitions, if you can make a new contract, not according to the intention of the parties when the old contract was made, but you can make a contract according to your will now, what is it you cannot do? There is no pretense that anything was omitted which the parties intended to insert or that anything was inserted which was agreed to be omitted; and yet you bring into this legislative body a bill to reform a contract and make a new one, and you give no earthly reason for it but that you made a bad bargain and now you want to make a good one. The one you made by consent and agreement you say is a bad one, and you will make another by your own act without consent or agreement.

Again, it is a bill filed to foreclose a mortgage before the mortgagee is in default, and to collect the debts of other mortgagees without their request or authority and without their foreclosure in the courts. Here is a remarkable provision of this bill of the Judiciary Committee. These other mortgages of the companies, of course, have to be foreclosed in the ordinary way, if the companies shall be in default when they are due; but you propose to command these companies to pay money into your Treasury, and which money shall be paid to these bondholders when they become due without a foreclosure; that is, you assert not only your own rights and the rights of others, but relieve the other mortgagees of the obligation to foreclose their mortgages according to the law and the contract.

Then, again, it is a common-law action of debt to collect a debt before it is due. It is a bill, I repeat, to make the acts of the debtors crimes, which acts the contract stipulated they might do and which were offered them as inducements to make the contract. Sir, I affirm that the legislature of England in the time of James I never asserted a more absolute power. Here certain things that these corporations might do were provided for in the charter; you stipulated that they might do them; and now you come in by this bill and propose to make it a crime if they do them! Was such a monstrous power ever heard of to be exercised by legislators? Surely, if this be true, the legislative power of this body is indeed omnipotent.

In plain language, I repeat what I have said: it is a bill to make a good contract without agreement solely because the Government apprehends it made a bad contract by agreement, and after the chief inducements to the Government to make the contract have been fully realized.

It is a bill which can find no precedent in the courts of law, no authority in the powers of legislation, and—I say it respectfully—in my judgment, no justification in the forum of conscience.

Mr. President, fortunately for me I was not here when this contract was made. I had no agency in it nor connection with it. I am not going to visit criticism upon those who did make it. I can see one marked difference between the temper of the gentlemen here now and those who were here then when this contract was made. I see the great purpose of the Government then was to get the roads constructed. The great purpose of the Government was to link together the Union, to get cheap transportation and keep up those works, and it was said over and over that the Government to do that was willing to make this loan, even if it lost it. Now the road is built, now the road is kept up, now the labor and the risk have been taken, now the Government has accomplished its great object, now the Union is saved and bound together by bonds of iron from sea to sea, now all this is done, suddenly there wakes up a new spirit to say that the whole principle of the loan shall be changed. Precedents are to be disregarded, courts are to be abandoned, and rights are to be trampled upon, powers unknown to the British Parliament in its most omnipotent days are to be exercised, and acts, just in themselves, are denounced as crimes, to enable you to collect your debt before it is due. Fortunately for me, I have no prejudices *pro or con*; I regard myself in this matter as a judge; but, if I should exhibit the passion and temper against these corporations that some gentlemen have exhibited on this floor, I should think I was not a proper judge. I should be afraid

that I was acting under some influence of bias or prejudice. Sir, if the Government has made a bad contract so far as the money venture is concerned, let it abide that contract.

I do not share the apprehensions which some gentlemen have uttered on this floor of danger from these corporations. The learned Senator from Alabama [Mr. MORGAN] said if we did not govern these corporations the corporations would soon govern the country. I have no apprehension of that kind. The Senator from North Carolina [Mr. MERRIMON] also pursued that line of argument. The idea that a few moneyed corporations are to govern this country! Sir, is there no power to control these corporations? I concede that under this reservation you have the power to control these corporations in the exercise of the franchises; you have the power to preserve the road; you have the power to keep up the road; you have the power to regulate the freights; you have the power under the act and the decisions of the courts to protect the people from unjust oppression. All these things you can do; but it does not follow that you can make a new contract, that you can break an old contract, and that you can collect your money before it is due, or that you can take steps against a debtor unknown to the courts of any civilized country.

Sir, you can control these corporations; you have power to control them; the interest of the country will control them; the natural loss of trade will control them; competition will affect them. There are a thousand agencies at work that will control these corporations, and I tell you this great Government with its forty-five million people will not become a sick and fainting Caesar to cry to these corporations "Give me some drink, Titinius!"

But while I have no fear that these moneyed corporations are going to subjugate this great Government, I have a fear, I do dread the principle asserted in this bill, which is to give Congress a perpetual right of interference with these companies. If you have a right to pass this bill, you have a right to change your notions next session, and pass another, and the next session to pass another, and the next session to pass another, and so with all bills in relation to the contract. If you find at the next session that you think the money you ought to have paid into the sinking fund is not enough to secure the debt, then you will pass a bill to get more, and what is the result? You keep these companies constantly in legislative litigation; you keep them constantly uneasy, you keep them constantly paralyzed; you keep them constantly interested in coming here to control legislation. Sir, I tell you, if you would stop the evils of which you complain, take these companies out of Congress, take these companies out of politics; do not make it the interest of these companies to have an active part in every presidential and congressional election; do not subject the companies to keep agents here at every session of Congress to watch and prevent interference by Congress with their rights.

My reflections lead me strongly to the conclusion that the best way to secure your debt, the best way to relieve the country of the scandals connected with these corporations, is to say to them, "Go, keep your contract; operate your roads just as you contracted; keep up your work, fulfill your contract in all respects, and pay your debts when they become due, and Congress will not interfere with you. Do not be afraid of Congress as long as you keep your contracts." Whenever they do not do it, then you have the power to interfere. I concede it; but you cannot administer relief in anticipation of default; you must wait till the default comes. That is the power you have over them. They will know that if they violate the charter, if they get extravagant, if they are not just to the people, then you will step in and interfere; but you do not put this bill on this ground. If the Judiciary Committee would put this bill upon the ground of default in the companies in any sense, of malfeasance by the companies, of maladministration by the companies, I would yield, except to say that as to this loan the proper remedy would be in the courts, but I would admit there ought to be some interference either by the courts or by the Legislature; but so far as the franchises are concerned, if they do not execute them, you have a right to interfere by legislation, and you have that power always. That is the power you have; that is the power you intended to have.

Sir, there is another thing I dread in addition to this perpetual interference of Congress with these corporations—the very source of infinite scandal if you do not get rid of it. I am for non-intervention until the contract is violated; then I am for intervention, and upon the ground of the violation of the contract. But this I dread. It looks like a will on the part of the Government to repudiate its contracts. Sir, if there is any influence in this country that is more demoralizing than another, it is the idea that has gone abroad that shows a weakening in the sense of obligation of contracts. If the Government would have the people be faithful to their contracts, let the Government be faithful to its own; but if the Government has made a bad contract, so long as the contractor complies with the terms of that contract, abide by it. It is better to submit to a wrong than to do a wrong; it is better to lose money than to exercise an ungranted power, a doubtful power. It is better to lose your interest than to keep up a perpetual congressional interference with these railroad companies and compel them to come here, subjected to the necessity by your action of pandering to cupidity to avert the oppression of power. You drive them into the courts and you are yourselves weakening the corporations by exhausting the fund in useless litigation which ought to be accumulated for the debt. You have already sent these companies to the courts before and the courts have decided

against you. You are constantly proposing to send these companies to the courts with new expenses to be incurred, and yet you complain that the companies are likely to be insolvent. Sir, if this system of perpetual interference by Congress is to continue you will work their insolvency.

But, sir, I have said I do not dread these corporations as instruments of power to destroy this country, because there are a thousand agencies which can regulate, restrain, and control them; but there is a corporation we may all well dread. That corporation is the Federal Government. From the aggressions of this corporation there can be no safety, if it be allowed to go beyond the well-defined limits of its power. I dread nothing so much as the exercise of ungranted and doubtful powers by this Government. It is in my opinion the danger of dangers to the future of this country. Let us be sure we keep it always within its limits. If this great, ambitious, ever-growing corporation become oppressive, who shall check it? If it become wayward, who shall control it? If it become unjust, who shall trust it? As sentinels on the country's watch-tower, Senators, I beseech you watch and guard with sleepless dread that corporation which can make all property and rights, all States and people, and all liberty and hope its playthings in an hour, and its victims forever.

Mr. THURMAN. Mr. President, before the Senator from Tennessee [Mr. BAILEY] takes the floor, as I understand he will do, to speak on this bill when it comes up to-morrow, I wish to make a few, a very few observations.

Mr. President, the Senator from Georgia [Mr. HILL] has indulged in some very sweeping denunciations of this bill, so sweeping that if they are true and well founded the first duty of the Senate is to disband its Judiciary Committee and appoint another. If the criticisms of the speech on the bill of that committee are true, the members of that committee who reported the bill are either idiots or villains. I do not think they are villains, and I do not think they are idiots. One of them was a distinguished judge in his own State for many years and a more distinguished judge for almost a generation in the Supreme Court of the United States. Three other members of that committee have been chief-justices of their States; and the other three were the leading lawyers of their States when they came to this body; and all of them have been placed and continued upon the Judiciary Committee of the Senate for these many long years. They ought to know the law, and if they have reported a bill which shocks the moral sense, which violates every principle of civilized government, which is in plain antagonism to the Constitution of the country, which shocks every idea of right and justice, and which imperils the safety of the people of the United States in their contracts and their business, it is the bounden duty of this Senate to dismiss that committee and appoint better men in their stead.

Mr. President, the time will come for some one of that committee to vindicate it against these accusations. The time will come to show that in the heat of speaking a Senator can make accusations against a committee that sound judgment and calm reason cannot approve. I think that time will come before this debate is at an end, and I think when it shall come it will be found by the decision of this Senate that the committee charged with the investigation of the law by this body does know something of law and that the Government of the United States is more powerful than any corporation that can exist in the Republic.

Mr. President, so much I feel impelled to say now, for I confess, with the kindest feelings toward the Senator who has just spoken with so much earnestness and so much ability, that there were things which dropped from his mouth that wound a man who has endeavored to discharge his duty honestly and does not think himself subject to such criticisms. But it was not for the purpose of speaking on that that I rose just now. I wish once more to say that in view of the adjournment of Congress, which it is hoped is to take place sometime, and not too far in the future, and of the other measures that must occupy the attention of Congress, and of the necessity that we are under of giving way from time to time to the appropriation bills which have a claim to precedence over all other business, I must ask the Senate, and I hope it will be its pleasure, to come to a vote on this measure on Wednesday next.

Mr. HILL. Mr. President, I am not aware that I have made the slightest accusation against the Judiciary Committee or any member of it. The second time after the Senator from Vermont [Mr. EDMUNDS] had made a slighting allusion, as I considered it, to some of my positions which I was taking from the books, I simply repelled it by an imputation that he was not perhaps wiser than the courts. That was simply a reply to the remark of the Senator from Vermont, as I understood him to intend it, nothing else. If there was anything else harsh in my speech, I am not aware of it. I made no accusation against that committee; but I have stated, and I have endeavored to give my reasons upon authority, that in my judgment the Judiciary Committee have made a mistake and have claimed for Congress the exercise of a power which it does not possess. If that is to wound, if that is to be offensive, I trust that the grand Achilles of this body will start his javelins at more worthy game than myself who have said the same thing. It seems that this Judiciary Committee or some other Judiciary Committee have made decisions heretofore in relation to these very railroad companies and their rights under these charters, and the question who was right, the Judiciary Committee or the companies, has been referred to the Supreme Court, and the Supreme

Court has sustained the companies. I was not aware that it was at all offensive for a member of the Senate to differ with the Judiciary Committee on a question of legislative power. Really I did not know that it was. If that is a crime, I have committed a crime. I have committed nothing more. Homer was said to have nodded, and I am not aware that Homer or any of his disciples ever took it as offensive, as an accusation against him, that it was said that he nodded. If the great Homer nodded, the Judiciary Committee now and then may nod.

I have respect for the Senator from Ohio, very great respect for that Senator; I have respect for the Judiciary Committee, very great respect for the Judiciary Committee, but it has made a mistake, in my judgment, from my stand-point. That is my honest conviction. Am I to follow my convictions, or has this Senate not only the power to violate contracts, but has its Judiciary Committee the right to command my homage and obedience against my convictions on a mere question of power? Personal respect is unbounded; official respect is unlimited; there is no office in the gift of the people that perhaps either one of the Judiciary Committee could not fill with honor to himself and benefit to the people. Nevertheless I do enjoy, and I expect to continue to enjoy, the proud privilege of acting and speaking in this body according to my own honest convictions of what are the powers of this Government.

Mr. THURMAN. If the Judiciary Committee has ever claimed infallibility, that claim never was heard by me. That the Judiciary Committee may have committed errors in its judgment, I am as free to admit as anybody can be to assert it. That every Senator has a right to criticize the judgment of that committee, I certainly have never denied. I would assert my own right to criticize the judgment of that committee; and what I assert for myself I accord to every one else. But it did seem to me that when it is said that a measure reported by that committee—I do not pretend to use the precise words of the Senator from Georgia, but I do convey his ideas—shocked the moral sense, was a violation of the principles of all civilized government, was a flagrant violation of the Constitution of the United States, and similar expressions, it was about time for that committee, if such was the opinion of the Senate, to be disbanded or for its members to resign.

But, Mr. President, I am not very sensitive about such things; I am not quick to take offense at all. I have the highest respect for the ability and integrity of my friend from Georgia, and also for his urbane manners and disposition. I do not think, therefore, that he intended the offense, and I make very great allowance for the heat—

Mr. HILL. You need make no allowance.

Mr. THURMAN. Very well then, I will not say anything about that. But I will say once more that I do not think a measure reported by this committee twice, first two years ago and again after its *personnel* had been in some measure changed, deserved quite such a characterization as it has received. But let that pass. I will not take offense at all; but I will endeavor, when the proper time comes, to answer by argument, and not by assertion, by reason, and not by prejudice, the positions taken by the Senator from Georgia. I only wish now once more to repeat that I hope the Senate will come to a vote next Wednesday.

Mr. HILL. It is proper for me to say that the language to which the Senator refers, but which he does not quote, was quoted by me from Mr. Madison. He said that the power claimed to impair the obligation of contracts was in violation of the social compact and the fundamental principles of sound legislation and the charter of natural rights. That was about as strong language as I used, and I used similar language from another authority, and I am sorry that I did not state at the time more specifically where the language came from. I said that in my judgment this power claimed had no precedent in law and no justification in authority, and I do not think the Senator himself can find that such a bill was ever before brought into such a legislative body as this is; but he claims it under a special reservation, and he and I differ upon the legal question. But the strongest language I used was quoted from others, and was not original; it was the product of some of the greatest minds this country has ever produced against the enormous pretensions of a legislative body to impair or destroy the validity of a contract after that contract has been made upon any pretext.

Mr. BAILEY. Mr. President—

Mr. WINDOM. I believe, by unanimous consent, the appropriation bill was to be taken up at the close of the speech of the Senator from Georgia.

The PRESIDING OFFICER, (Mr. MITCHELL in the chair.) That was the understanding.

Mr. WINDOM. I have no objection to the Senator from Tennessee taking the floor for to-morrow, if he desires.

The PRESIDING OFFICER. The Senator from Tennessee has the floor on the unfinished business to come up to-morrow. The Senate will now proceed to the consideration of the consular and diplomatic appropriation bill.

Mr. THURMAN. Does the Senator from Minnesota propose to go on with the consular bill now?

Mr. WINDOM. I understand it is before the Senate. I think if the Senate will give its attention to it for half an hour or three-quarters of an hour we can pass it.

Mr. THURMAN. Then the funding bill will be laid aside informally.

Mr. WINDOM. Informally.

The PRESIDING OFFICER. It will be laid aside informally, to be the unfinished business for to-morrow.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3064) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1879, and for other purposes.

Mr. WINDOM. Mr. President, I will explain in a very few words the amendments proposed by the Committee on Appropriations. The total additions to the bill amount to \$100,400, and they are made up almost exclusively of the restoration of salaries now required by law and also the restoration of two or three of our missions which have been stricken out and of one or two other foreign representatives, *chargés d'affaires*, consuls-general, &c. The committee have also recommended the restoration of ten consuls at \$1,000 each, consuls that have existed heretofore but were stricken out in 1876. I think I shall be able, if any of the Senators desire, to show the reasons for this restoration.

We have also added \$10,000 to the appropriation for the relief and protection of American seamen. This sum will not be used unless it becomes necessary by some emergency when it is deemed advisable to have the money ready. The addition in that case cannot be an expenditure unless it shall be absolutely needed by the exigencies of the service.

We have reduced the bill \$21,200, so that the net additions are \$79,200. The reductions are one clerk to the legation at Spain \$1,200, and a general appropriation for diplomatic and consular service under the direction of the President of \$20,000. The committee recommend the striking out of those items, so that the total increase is \$79,200.

The reason which induced the Committee on Appropriations to recommend the reinstatement of salaries is one which has been very frequently given to the Senate and as frequently received its sanction. The law fixes the salaries of our foreign representatives. This question was discussed very thoroughly two years ago and again in 1877. The attention of the Committee on Foreign Relations and Foreign Affairs of the Senate and the House of Representatives was called to the subject, and no movement, no effort has ever been made by the proper committees to procure legislation changing the law which now fixes these salaries, and the Committee on Appropriations deemed it to be their duty under these circumstances to appropriate the money required by law. That is about all there is to this bill with the exception of two or three items which I will call attention to as the reading progresses.

The PRESIDING OFFICER. The Secretary will read the bill.

Mr. WINDOM. I ask to have the amendments of the committee acted upon as we proceed; and if there be no objection I ask that the five-minute rule be applied to debate on this bill.

The PRESIDING OFFICER. The Chair hears no objection, and the five-minute rule is applied.

The Chief Clerk proceeded to read the bill. The first amendment of the Committee on Appropriations was in lines 10 and 11, to increase the appropriation "for salaries of envoys extraordinary and ministers plenipotentiary to Great Britain, France, Germany, and Russia," from \$15,000 to \$17,500 each, and to increase the total amount of the appropriation from \$60,000 to \$70,000.

The amendment was agreed to.

The next amendment was in lines 14 and 15, to increase the appropriation "for salaries of envoys extraordinary and ministers plenipotentiary to Spain, Austria, Italy, Brazil, Mexico, Japan, and China" from \$10,000 to \$12,000 each, and to increase the total amount of the appropriation from \$70,000 to \$84,000.

The amendment was agreed to.

The next amendment was in lines 17 and 18, to increase the appropriation "for salaries of envoys extraordinary and ministers plenipotentiary to Chili and Peru" from \$8,000 to \$10,000 each, and to increase the total amount of the appropriation from \$16,000 to \$20,000.

The amendment was agreed to.

Mr. WINDOM. The next paragraph, lines 19, 20, and 21, the committee move to strike out. I will make an insertion afterward.

The PRESIDING OFFICER. The lines proposed to be stricken out will be reported.

The Chief Clerk read as follows:

For salary of envoy extraordinary and minister plenipotentiary to the Argentine Republic and Paraguay and Uruguay, \$2,000.

Mr. WINDOM. I am instructed by the committee to move to strike out that paragraph in order that we may insert afterward the mission to the Argentine Republic at \$7,500, as it has heretofore existed, and also that we may reinstate the Paraguay and Uruguay appropriation, which the House had stricken out. They consolidated them. We desire to reinstate them. I move first to strike out that paragraph for the purpose of reaching the amendment that will be proposed hereafter.

The amendment was agreed to.

The Chief Clerk continued the reading of the bill.

The next amendment of the Committee on Appropriations was in line 22, after the words "resident at," to insert the words "Belgium, Netherlands;" and in line 25, after the word "each," to strike out the words "thirty-seven" and insert "fifty-two;" so as to read:

For ministers resident at Belgium, Netherlands, Sweden and Norway, Turkey, Venezuela, Hawaiian Islands, and the United States of Colombia, at \$7,500 each, \$52,500.

Mr. WINDOM. To carry out the amendment which I proposed a moment ago, I move to insert in line 23, after the word "Venezuela," the words "Argentine Republic;" in line 25, to strike out "fifty-two," and insert "sixty;" and after the word "thousand" strike out the words "five hundred;" so as to make the clause read:

For ministers resident at Belgium, Netherlands, Sweden and Norway, Turkey, Venezuela, Argentine Republic, Hawaiian Islands, and the United States of Colombia, at \$7,500 each, \$60,000.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The Chief Clerk continued the reading of the bill.

The next amendment of the Committee on Appropriations was in line 33, to increase the appropriation "for minister resident and consul-general to Hayti" from \$5,000 to \$7,500.

The amendment was agreed to.

The next amendment was in line 35, to increase the appropriation "for minister resident and consul-general to Liberia" from \$2,500 to \$4,000.

The amendment was agreed to.

The next amendment was in line 39, after the word "Portugal," to insert the words "Denmark and Switzerland, at," and in line 40, after the word "dollars," to insert the words "each, fifteen thousand dollars;" so as to read:

For salary of chargés d'affaires to Portugal, Denmark, and Switzerland, at \$5,000 each, \$15,000.

Mr. WINDOM. As a part of the same amendment made a moment ago, I move to insert after the word "Denmark" the words "Paraguay and Uruguay," and in line 40 to strike out the word "fifteen" and insert the word "twenty;" so as to make it read:

For salary of chargés d'affaires to Portugal, Denmark, Paraguay and Uruguay, and Switzerland, at \$5,000 each, \$20,000.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Appropriations was in line 49, after the word "Austria," to insert "Brazil," and in line 50, after the word "each," to strike out "\$7,200" and insert "\$9,000;" so as to read:

For salaries of the secretaries to the legations at Austria, Brazil, Italy, Mexico and Spain, at \$1,800 each, \$9,000.

The amendment was agreed to.

The next amendment was to strike out lines 55 and 56, in the following words:

For salary of a clerk to the legation at Spain, \$1,300.

The amendment was agreed to.

The next amendment was in schedule B, line 68, to increase the appropriation "for the agent and consul-general at Cairo" from \$3,000 to \$4,000.

The amendment was agreed to.

The next amendment was in schedule B, line 71, to increase the appropriation "for the consuls-general at London, Paris, Havana, and Rio de Janeiro" from \$5,000 to \$6,000 each, and to increase the total amount of the appropriation from \$20,000 to \$24,000.

The amendment was agreed to.

The next amendment was in schedule B, line 75, to increase the appropriation "for the consul-general at Melbourne" from \$4,000 to \$4,500.

The amendment was agreed to.

The next amendment was in line 79, to increase the appropriation "for the consul-general at Berlin" from \$3,000 to \$4,000.

The amendment was agreed to.

The next amendment was in lines 82 and 83, to increase the appropriation "for the consuls-general at Vienna, Frankfort, Rome, and Constantinople" from \$2,500 to \$3,000 each, and to increase the total amount of the appropriation from \$10,000 to \$12,000.

The amendment was agreed to.

The next amendment was in lines 88 and 89, to increase the total appropriation "for salaries of consuls, vice-consuls, commercial agents, and thirteen consular clerks," from \$290,000 to \$310,600.

The amendment was agreed to.

The next amendment was after line 90 to insert:

CLASS I.—At \$4,000 per annum.

Great Britain.—Hong-Kong.

Hawaiian Islands.—Honolulu.

The amendment was agreed to.

The next amendment was after line 95 to insert:

CLASS II.—At \$3,500 per annum.

China.—Foochow; Hankow; Canton; Amoy; Tien-Tsin; Chin-Kiang; Ningpo.

Peru.—Callao.

The amendment was agreed to.

The next amendment was to strike out lines 103, 104, 105, 106, and 107, as follows:

China.—Foochow; Hankow; Canton; Amoy; Tien-Tsin; Chin-Kiang; Ningpo. Peru.—Callao.

The amendment was agreed to.

The next amendment was in line 109, after "Demerara" to strike out "Hong-Kong."

The amendment was agreed to.

The next amendment was to strike out lines 111 and 112, in the following words:

Hawaiian Islands.—Honolulu.

The amendment was agreed to.

The next amendment was after line 122 to insert:

Barbary States.—Tripoli; Tunis; Tangier.

Japan.—Nagasaki; Osaka and Hiogo.

Siam.—Bangkok.

Chili.—Valparaiso.

The amendment was agreed to.

The next amendment was to strike out lines 144 to 151, in the following words:

Barbary States.—Tripoli; Tunis; Tangier.

Japan.—Nagasaki; Osaka and Hiogo.

Siam.—Bangkok.

Chili.—Valparaiso.

The amendment was agreed to.

Mr. PADDOCK. I wish to call the attention of the chairman of the Committee on Appropriations to the consulate at Chemnitz, Saxony, Germany. The exports from that port are very much larger than they are from very many of the ports where there are consuls in Germany, except one, and it is placed in the fifth class. It is the second most important consulate in Germany. I should like to inquire upon what theory these amendments are made, whether it is to conform to the law as it now stands regulating salaries, or whether it would be possible, in accordance with that theory, to make such a change in reference to Chemnitz as is due to its importance.

Mr. WINDOM. The theory upon which we have changed the classification of the bill as it came from the House was to conform to the existing law, and Chemnitz is, as I believe it is by law, placed in the fifth class. We could not, without violating the principle upon which all the amendments to the bill are made, change this to any other class, although the facts may be as stated by my friend from Nebraska.

Mr. PADDOCK. To illustrate: I should like to call the attention of the chairman of the committee to the fact that last year the exports from Chemnitz were \$14,658,576, and from Dresden, which is in the fourth class, a class ahead of Chemnitz, the exports were only \$2,746,115; and the same disparity exists throughout.

Mr. WINDOM. I have no doubt that such cases frequently exist in the bill, but the Committee on Appropriations do not feel it to be their duty or their privilege even to revise these consulates and fix the compensation all over the country, but simply conform to the law.

Mr. PADDOCK. There ought certainly at some time, somewhere, to be a revision to correct such inequalities and disparities. This consulate certainly ought to be in the second class instead of the fifth. The Chief Clerk resumed the reading of the bill.

The next amendment of the Committee on Appropriations was in schedule C, line 223, under the head of "Great Britain," after "Gaspé Basin" to insert "Southampton; Turk's Islands;" so as to read:

Great Britain.—Ceylon; Gaspé Basin; Southampton; Turk's Islands; Windsor, (Nova Scotia.)

The amendment was agreed to.

The next amendment was after line 224 to insert:

Germany.—Stettin.

French Dominions.—Nantes.

Spanish Dominions.—Valencia.

Danish Dominions.—Santa Cruz.

Italy.—Milan; Venice.

China.—Swatow.

The amendment was agreed to.

The next amendment was in line 246, after "Para," to insert "Maranham;" so as to read:

Brazil.—Para; Maranham; Rio Grande del Sul.

The amendment was agreed to.

The next amendment was in line 248, after "Truxillo," to strike out "to reside at Utila;" so as to read:

Honduras.—Ruatan and Truxillo.

The amendment was agreed to.

The next amendment was under the head of "commercial agencies," schedule B, in line 275, after "Manchester," to insert "Beirut."

The amendment was agreed to.

The next amendment was in line 277, after "Leith," to insert "Naples."

The amendment was agreed to.

The next amendment was in line 299, to increase the appropriation "for consular officers not citizens of the United States" from \$3,000 to \$5,000.

The amendment was agreed to.

The next amendment was in line 302, to increase the appropriation "for salaries of the marshals for the consular courts in Japan and

China, Siam, and Turkey, including loss by exchange," from \$7,000 to \$7,500.

The amendment was agreed to.

The next amendment was to strike out the following words, from line 313 to line 328:

And it shall be the duty of consuls to make to the Secretary of State a quarterly statement of exports from, and imports to, the different places to which they are accredited, giving, as near as may be, the market price of the various articles of exports and imports, the duty and port charges, if any, on articles imported and exported, together with such general information as they may be able to obtain as to how, where, and through what channels a market may be opened for American products and manufactures. In addition to the duties now imposed by law, it shall be the duty of consuls and commercial agents of the United States, annually, to procure and transmit to the Department of State, as far as practicable, information respecting the rate of wages paid for skilled and unskilled labor within their respective jurisdictions.

Mr. SARGENT. I move to perfect the section before the question is taken on striking out by amending the clause so as to read:

Every consular officer shall furnish to the Secretary of the Treasury, or to such officers of the customs as he may direct, as often as may be required, the prices-current of all articles of merchandise usually exported to the United States from the port or place in which he is stationed; and authority is hereby vested in the Secretary of the Treasury to require a compliance with this provision.

The reason why the Committee on Appropriations struck out the provision as contained in the House bill is because it is believed that section 1712 of the Revised Statutes contains power on the part of the Secretary of State to require information upon this and all other matters. That section reads:

Consuls and commercial agents of the United States in foreign countries shall procure and transmit to the Department of State authentic commercial information respecting such countries, of such character, and in such manner and form, and at such times as the Department may from time to time prescribe.

It will be observed that in a very condensed and direct form the Revised Statutes now give the power and enjoin the obedience of the consuls for all such information. Unfortunately, however, there is no means by which consular agents can be required to transmit necessary information to the Treasury Department. Consuls are in one sense the mere agents of the Treasury Department; their chief function is to guard the Treasury, and unless they can communicate directly to the Treasury Department such information as may be required, and do it speedily and at frequent intervals, it is of no value. After the information gets old it is of no value at all to the appraisers. It would be well if the consular system were put under the charge of the Treasury Department. That, however, would be too radical a change to discuss upon this bill, and I would not propose anything of the kind. I have here in my hand, and I think I can read in the five minutes allotted to me, a letter from the Secretary of the Treasury and one upon which that is based coming from his Department. He says:

TREASURY DEPARTMENT, March 12, 1878.

SIR: I beg leave to call your attention to a letter from the supervising special agent of this Department of the date of March 11, a copy of which is inclosed.

I approve the recommendation in this letter, and in compliance therewith have written to the Secretary of State such a communication as is suggested, but it seems to me that it would be proper to embody this recommendation as a provision of the consular and diplomatic bill for the next fiscal year. The importance of prompt, accurate, and direct information from consuls to the appraisers of the leading ports is so manifest that I think it would be better to require it, by express provision of law, from our consuls.

In pursuance of our conversation of to-day, I submit the matter to your judgment.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. A. A. SARGENT,
United States Senate.

This is the letter to himself:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., March 11, 1878.

SIR: The appraisers of merchandise at New York and at other ports are at all times greatly embarrassed in the discharge of their duties for the want of prompt and reliable information from the foreign markets in which goods appraised by them are originally sold for export to the United States.

Of some classes of staple goods no sales are made in the foreign markets to merchants in this country, but all such goods are consigned by the foreign manufacturers to their agents in the United States for sale, and in such cases, where the goods pay ad valorem duties, it may be said to be a regular practice to invoice them below their true market value abroad.

This system of consignment instead of actual sale is growing year by year, and the revenue is being defrauded of millions by foreign manufacturers, who thus escape payment of full duties, and, at the same time, cripple competing American industries. The appraisers, with their present sources of information, are unable to stem the tide of undervaluation when it has become so general and overwhelming. If an invoice of consigned goods is advanced by the appraiser and a reappraisal is had, the consignees are always able to produce a dozen witnesses to swear that the invoice values are correct. These witnesses are usually persons connected with commission houses engaged in the business of receiving foreign goods on consignment; and as American merchants do not buy the goods abroad, having been driven out of the foreign markets by the system referred to, testimony to prove the true value can seldom be obtained.

To obviate in some measure these difficulties in appraisements, I respectfully recommend that the subject be brought to the attention of the honorable Secretary of State, with the suggestion that the consuls of the United States at the principal commercial centers of Europe be instructed to forward at least twice a month direct to the appraisers at New York, Boston, Philadelphia, Baltimore, New Orleans, San Francisco, Chicago, Cincinnati, and Saint Louis, or to such ports as receive the bulk of the commodities embraced in invoices certified by such consuls, respectively, and also through the Department of State to this Department a statement showing the prices at which actual sales are made to other countries of the leading articles of export to the United States, without regard to values stated in invoices passing through the consulates. If printed prices-current can be obtained they

should be forwarded to the appraisers; if not, the information desired should be obtained from the best sources available.

As to staple goods, such as black silks, ribbons, velvets, gloves, woollens, &c., the consul's statement should embrace full information respecting the value of raw materials, the cost of labor, and the whole cost of manufacture.

With full reports of this character before them, received regularly twice a month direct from the foreign markets, the appraisers would be placed upon an equal footing with importers as to knowledge of foreign values, and not be compelled as now to seek and act upon information from persons interested in maintaining undervaluations.

A file of such reports from consuls in this Department would be of great value in the investigation of cases of fraudulent undervaluation and the equalization of appraisements at the several ports.

Very respectfully,

A. K. TINGLE,
Supervising Special Agent.

Hon. JOHN SHERMAN,
Secretary of the Treasury.

To send this information through the State Department requires it to pass through five hands before it can reach the appraisers. It is then too late to do any good. It is like last year's newspapers so far as news is concerned. This amendment is directly in the line of the purpose of the House in this matter, and I trust it will be adopted. It certainly can do no harm to furnish this information to the Treasury Department, especially as the Secretary of the Treasury says the Government loses millions by undervaluation.

Mr. WINDOM. Mr. President—

Mr. SARGENT. I hope the Senator will not oppose this amendment.

Mr. WINDOM. This proposition made by the Senator from California was made in the Committee on Appropriations and almost unanimously voted down.

Mr. SARGENT. That is a very unfair statement of the case.

Mr. WINDOM. In what particular?

Mr. SARGENT. I will allow my friend to get through.

Mr. WINDOM. And it was voted down for the reasons which I will give—

Mr. SARGENT. There was no discussion of this matter in the Committee on Appropriations. A moment or two before it adjourned I asked leave to read these papers to the committee and time did not allow. I did not have the amendment prepared, had not yet received it from the Treasury Department, but reserved the right to move it in the Senate. Now, if the Senator can state that there was any intelligent discussion of it in the Committee on Appropriations or that it is improper legislation, let him say so. I say there was no such expression on the part of the Committee on Appropriations.

Mr. WINDOM. I have not the slightest feeling about this matter, and I hope my friend from California will not have any. I did not understand that he was to move it in the Senate. When he says there was no intelligent discussion of it, I will say that the very letter which he has read here to the Senate this afternoon, and upon which he bases his application for his motion, was read in the Committee on Appropriations and considered. The very statute which he read, and which I will again read to the Senate, was read and discussed, and the reason that this proposition was voted down was stated in the committee and is this. Section 1712 provides as follows:

Consuls and commercial agents of the United States in foreign countries shall procure and transmit to the Department of State authentic commercial information respecting such countries, of such character, and in such manner and form, and at such times as the Department may from time to time prescribe.

The Committee on Appropriations struck out the provision in the House bill, for the reason that the section of the statutes just read is broader than the provision of the bill itself. It gives to the Secretary of State full power to require any reports that may be necessary for the public service, and all the Secretary of the Treasury need do is to call upon the Secretary of State to procure such reports as are proposed to be given by the amendment of the Senator from California. Now, if there does not exist that confidence between the Secretary of the Treasury and the Secretary of State that the one may call upon the other for information necessary to save many millions of dollars, then it is time there was some change in one or the other of those Departments.

Mr. SARGENT. The Senator knows very well that the discussion to which he refers, if it took place in committee at all, was while I was going to another committee-room to obtain these papers, and when I returned I had barely time to read these papers and then the committee was just about adjourning, and I said I would move it in the Senate. I have no doubt other Senators can remember it. No good reason has been given why the proposition I propose here shall not go into this bill. I myself showed in the remarks I made that the Revised Statutes give all the power to the Secretary of State that is necessary, but the object is to have this information reach the Treasury Department directly, instead of passing through five hands as it does now. Of course the Secretary of State on the request of the Secretary of the Treasury will get any information that is needed, but it has to be received by the Secretary of State and then sent to the Treasury Department, and then passing through different hands finally reaches the appraisers when it is too late to save undervaluation. As I said before, it is like reading last year's newspapers or last year's prices-current. You cannot compete with this fraudulent undervaluation under these circumstances. The Treasury Department appeals for legislation which will enable it to get this informa-

tion, and I say again the Committee on Appropriations never passed on the merits of this proposition. The amendment never was before them. I received it myself to-day by telegram from the Secretary of the Treasury; and I had to inquire of my friend from Iowa the section of the statute which was read in my absence while I was out from the committee-room, gone in search of the letter he had written me; and here is the telegram I have received. If any one says that was discussed in the Committee on Appropriations and unanimously voted down, I assert that he says so under an error. I say it was not discussed.

Mr. WINDOM. I do not know that the particular amendment in the words the Senator has suggested here to day was discussed, but the proposition was discussed; the letter of the Secretary of the Treasury was read, but that is not a matter that the Senate cares anything about one way or the other. It is a question what it will decide. Now I think the Committee on Appropriations fully understood it. I certainly understood it from the statement made by the Senator from California in the committee precisely as I understand it to-day. I understood him, and I see other members of the committee assenting to the same thing, to argue it fully, almost as fully as he has done here to-day, and the whole question was as fully understood to my mind and to the minds of other members of the committee as it is now.

I do not find any fault with the Senator from California offering this provision. I think he is unnecessarily nettled at my opposing it. I am simply representing the committee in this matter. It was distinctly voted down in the committee because it was unnecessary and because the Secretary of State, as was said in the committee, had full power now to get this information and all the Secretary of the Treasury had to do was to call on him for it, and it was not necessary to legislate on that subject. I have no choice whether the Senate passes it or not.

Mr. SARGENT. Mr. President—

The PRESIDING OFFICER. Senators will bear in mind that the five-minute rule has been applied to this bill.

Mr. INGALLS. I ask for the application of that rule.

Mr. SARGENT. I ask leave of the Senate to say a few words.

The PRESIDING OFFICER. The Senator from California asks unanimous consent of the Senate to be heard. The Chair hears no objection.

Mr. SARGENT. The Senator shows that this proposition was not discussed in the committee by discussing another proposition, and that is as to the powers of the Secretary of State. That was the proposition which was discussed and discussed in my absence. There is no doubt that the Secretary of State has power in this matter; but the point is that his exercise of power does not help the Treasury Department; the information gets there too late. That matter was not discussed. How much time the other point was discussed while I was hunting up these papers and had to leave the committee-room for them, I do not know. I objected that the Senator should attempt to crush out this amendment by stating that the Committee on Appropriations had decided against it, that it had discussed it and decided against it, and therefore it was not to be considered here. I deny that this proposition was ever considered in the Committee on Appropriations either verbally or otherwise, and it stands on its own merits before the Senate.

Mr. ALLISON. I should be glad to arbitrate the question between my two friends.

Mr. WINDOM. My friend from Iowa is always an arbitrator.

Mr. ALLISON. When this point was reached, as the Senator from California will remember, he left the committee-room to find some papers; I believe the very papers read here. In his absence this question was discussed in the committee.

Mr. WINDOM. In that the arbitrator is entirely mistaken, for this section was left and another proceeded with, and it was not touched during the absence of the Senator from California.

Mr. ALLISON. Then I will accept the statement of my friend from Minnesota.

Mr. SARGENT. They were discussing it on my return.

Mr. ALLISON. However, this is immaterial for what I desire to say. I object to the amendment of the Senator from California, but I do not put the objection on the ground that this matter was disposed of in committee. Under section 1712 of the Revised Statutes the Secretary of State has ample power to make full and complete regulations, and in the exercise of that power he has made more complete regulations than are to be found in this section as it stands, coming from the House, or as proposed even by the Senator from California.

I object to the amendment proposed by the Senator from California for another reason, that it makes these consuls subject to the orders and directions of two Departments. First, the Secretary of State has power under the law to make regulations and require reports; and, secondly, under this proposition, the Secretary of the Treasury has the right to direct the consuls. These regulations may conflict; we do not know; and thus the consuls may be required under two Departments of the Government to make reports and make reports separately to each. Even under the proposition of the Senator from California the Secretary of the Treasury may give a list of public appraisers at the several ports of the United States, and the consuls will be required to make reports to these appraisers and they may be

changed semi-monthly or monthly, as the case may be. It seems to me that this amendment as proposed by the Treasury Department, as stated by the Senator from California, would only create confusion in reference to this very subject about which we need information. My friend from California suggests that it will save millions to the Treasury.

Mr. SARGENT. The Secretary of the Treasury suggests that.

Mr. ALLISON. It is most remarkable, if we have lost millions by reason of the fact that the Secretary of State has neglected his duty in this regard, that the discovery has not been made before. I do not believe it will make a difference of a farthing to the Treasury except that it will compel these consuls to pay double postage, first to the State Department, second to the Treasury Department, and be subjected to two heads, the Secretary of State and the Secretary of the Treasury. If we are to change the law in this matter, let us place the consuls under the control of the Secretary of the Treasury and let him require the reports to be made to his Department, and not to the Department of the Secretary of State.

Mr. BECK. I agreed with the committee in striking out what the House had put it, believing that the provisions of the Revised Statutes were ample for the purpose; but I want to say now that I shall vote for the amendment of the Senator from California because it is an extremely valuable one. Really, the only way I know of to make the consular service useful is to require it to keep the Treasury Department advised of the very things it now seeks to get informed about. While the Secretary of State ought to so advise his consuls to do whatever the Secretary of the Treasury requires them to do in this respect, he may not always do it, and I can see no harm growing out of the fact that the Secretary of the Treasury may call on an officer of another Department to give him certain specific information bearing upon the duties of the Treasury Department.

Mr. ALLISON. But these consuls are not to report to the Treasury Department, but to the appraisers of the several ports.

Mr. SARGENT. That is a mistake; let the amendment be read again.

Mr. BECK. The amendment of the Senator from California I should like to hear read again.

The VICE-PRESIDENT. The amendment will be read.

The Chief Clerk read the amendment of Mr. SARGENT.

Mr. BECK. "The Secretary of the Treasury, or such officer as the Secretary of the Treasury may direct," but it is all to be done under the direction of the Secretary of the Treasury. Now we know that much valuable information can be given at very important times in that way. I cannot see what harm can come from it. Although I agree with the committee that the provisions of the Revised Statutes were ample, I think this amendment is proper, and therefore I shall exercise the privilege of voting against the committee and for the amendment of the Senator from California.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California, to insert certain words in lieu of those proposed to be stricken out by the Committee on Appropriations.

The question being put, there were, on a division—ayes 21, noes 16; no quorum voting.

Mr. WINDOM. I call for the yeas and nays.

Several SENATORS. Let us adjourn.

Mr. WINDOM. I hope there will be no adjournment. This is the last disputed question on the bill, and I would rather permit the amendment to go in than have a quorum broken up. I do not regard it as of any sort of importance, except that it is unnecessary, and therefore ought not to be put in.

The PRESIDING OFFICER. Is there objection to this amendment?

Mr. ALLISON. I object.

The PRESIDING OFFICER. The yeas and nays are called for.

Mr. MORRILL and others. Let us have a second count.

The PRESIDING OFFICER. A second count is called for on the amendment of the Senator from California. The Chair will put the question again.

The question being again put, the amendment was agreed to; there being on a division—ayes 27, noes 19.

The PRESIDING OFFICER. The question recurs on the motion of the Committee on Appropriations, to strike out the clause as amended. The motion was not agreed to.

Mr. ALLISON. Now, I should like to know how the provision stands. Is the proposition of the Senator from California substituted for the language of the House bill?

The PRESIDING OFFICER. That is the effect of the vote just taken.

The Chief Clerk continued the reading of the bill.

The next amendment of the Committee on Appropriations was in line 356, to increase the appropriation "for relief and protection of American seamen in foreign countries" from \$50,000 to \$60,000.

The amendment was agreed to.

The next amendment was to strike out the clause from line 367 to line 372:

And the salaries provided in this act for the officers within named respectively shall be in full for the annual salaries thereof from and after the 1st day of July, 1878; and all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

The amendment was agreed to.

The next amendment was to strike out lines 378 and 379, in the following words:

For diplomatic and consular service, to be expended in the discretion of the President, \$20,000.

The amendment was agreed to.

Mr. SPENCER. I offer the following amendment. After the word "seventy-eight," in line 330, I move to insert:

Provided, That before any part of the appropriation provided for in this act shall become available the appointments in the consular and diplomatic service shall be so arranged as to be equally distributed between the several States of the United States, Territories, and the District of Columbia, according to population.

Mr. WINDOM. I think that proposition needs no discussion. I move to lay it on the table.

The PRESIDING OFFICER. The Senator from Minnesota moves to lay the amendment on the table.

The motion was agreed to.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. Will the Senate concur in the amendments made as in Committee of the Whole?

Mr. ANTHONY. I ask to except the last amendment striking out the appropriation of \$20,000 for diplomatic and consular service to be expended in the discretion of the President.

Mr. SARGENT. On the suggestion of several Senators, in order to be sure that by the amendment already adopted on my motion the provisions of section 1712 of the Revised Statutes are not impaired, I wish to add this in the Senate to the amendment which I offered.

But this provision shall not have the effect to impair the provisions of section 1712 of the Revised Statutes.

Mr. WINDOM. I have no objection to the adoption of that amendment, and I think with it the bill will be about as good as it was before the Senator from California moved his amendment. It is about the same thing; so I have no objection.

Mr. SARGENT. I think it is infinitely better.

Mr. WINDOM. I think it is about as good.

Mr. SARGENT. I have no doubt I could satisfy the Committee on Appropriations, if I had a hearing.

The amendment of Mr. SARGENT was agreed to.

Mr. ALLISON. On line 313 I move to strike out "fifteen" and insert "twenty;" so as to increase the appropriation for contingent expenses of United States consulates from \$115,000 to \$120,000.

Mr. EDMUNDS. We have not yet agreed to the amendments made in Committee of the Whole. This is an amendment to the text as it stands.

Mr. ALLISON. I beg pardon.

The PRESIDING OFFICER. The question is on concurring in the amendments agreed to in Committee of the Whole, except the one reserved at the suggestion of the Senator from Rhode Island, [Mr. ANTHONY.]

The amendments were concurred in.

The PRESIDING OFFICER. The question now is on the amendment reserved by the Senator from Rhode Island, [Mr. ANTHONY.]

Mr. ANTHONY. It strikes me that clause should not be stricken out. It places a very moderate sum at the disposal of the Executive for unforeseen diplomatic and consular exigencies. Cases are constantly arising in which diplomatic employment is necessary, and the sum is so small that I think it should remain as the House has put it.

Mr. WINDOM. This appropriation has not been usual in appropriation bills. It was inserted two years ago when a large number of consulates was stricken out, for the purpose of partially providing for the deficiency, as I understood. The Senator from California had charge of the bill at the time, and he knows why it was put in. We have reinstated ten of the principal consulates, and in the opinion of the committee it was not necessary that this general fund should be appropriated. It is certainly the worst possible way to appropriate money; and as we have reinstated the principal consulates, we thought the item had better be stricken out.

Mr. SARGENT. I think we have restored every consulate that would be required to draw upon any such fund.

Mr. EDMUNDS. I am rather inclined to agree with the Senator from Rhode Island. Although we make specific provision for all the consuls named and for the ministers named, yet the amount that is appropriated specifically for that service is for salaries. Now, it must happen in the course of the diplomatic intercourse of the United States and in the consular service that there are exigencies that suddenly arise from time to time where the obtaining of information by some special mission or agent or in some way that the statutes would not wish to state in specific terms, but which is left to the discretion of the Executive always, would be of great use to the United States; and I think we can trust the President of the United States with this small sum of money as a contingent fund, so to speak, for this service.

Mr. ALLISON. This sum of \$20,000 was inserted in the House on the motion of Mr. HEWITT, of New York, if I may allude to it, and because the House had struck out the missions to Belgium, the Netherlands, Denmark, Switzerland, and Greece, and I think one or two other small missions, and it was proposed to give a general fund to the Secretary of State, in other words to substitute for those missions struck from the bill in the House a general fund for diplomatic service. Now the Senate has restored every one of those missions specifically, so that the reason originally for this provision has passed

away. Hereafter if the House adheres to its position this last sum will be necessary. If it agrees to what the Senate has done, this sum will not be necessary. It was put in for a specific purpose; that is, to take the place of the missions struck out by the House bill. That is all there is of it.

Now if this sum is necessary in addition to all that we have appropriated, so be it; but it is sufficient to say that the Secretary of State has never asked it, and it has never been estimated for. He does not ask for any such appropriation, and it is usual here to object to appropriations that are not estimated for. So it seems to me there is no reason why it ought to be inserted, if we retain the bill as reported by the Committee on Appropriations of the Senate.

Mr. EDMUNDS. It is usual here to object to appropriations that are not estimated for unless the Senate can see a good reason why the appropriation ought to be made. I have no right to know, and I do not know, the motives that influenced the House of Representatives or the discussion which led to the introduction of this particular clause, and I do not wish to refer to them at all because I think it is very improper, not in this particular instance but in general; it leads to difficulties, for if one side refer and another side refer to such matters they finally get to saying things that are disagreeable.

Mr. ALLISON. It is perfectly palpable on the face of this bill that the House did refuse to appropriate for six or seven missions, and we have inserted them all.

Mr. EDMUNDS. That is palpable, and that is a perfectly correct and fair argument for what it is worth. My proposition is that having restored or created sundry missions in South America, some that the House has not provided for, there is still in the present condition of the industry and trade of the United States and of the fields where the United States may find markets for its commodities, notwithstanding all these additions, a reason why the President of the United States should have some money at his discretion to employ agents for information and inquiry and everything that an energetic magistrate could do besides what has been done specifically in the way of salaries to see what can be done to promote the interests of the United States with foreign countries. I hope no Senator will be afraid to trust this small sum with the President of the United States.

Mr. WINDOM. For one, I have no fear to trust this sum to the President of the United States, if he wants it; but I do not wish to thrust it upon the President of the United States and the Secretary of State when they have not asked for it and, so far as we know, do not want it.

Mr. EDMUNDS. They will not draw it if it is not wanted.

Mr. WINDOM. As the Senator from California has said, there is no estimate for this sum. The Committee on Appropriations requested the State Department to appear and make such recommendations as they desired before the committee. The representative of the State Department was sent to us, and nothing of the kind was asked for by him. Since this bill has been reported by the committee—

Mr. EATON. Let me say that the representative of the State Department said it was not necessary.

Mr. WINDOM. That is a fact which I had forgotten.

Mr. EATON. After the amendments which we had made to the bill, he said it was entirely unnecessary.

Mr. WINDOM. I now remember that distinctly. It had escaped my memory when I made the remark I did a moment ago. Since the bill was reported by the Committee on Appropriations a copy has been sent to the State Department showing this item to be stricken out. Now, I do not think we are so anxious to appropriate money that we will thrust it on them when they say it is not wanted, say it is not necessary, and after it has been stricken out do not protest against the striking out.

The PRESIDING OFFICER. The question is on concurring in the amendment striking out the appropriation in lines 378 and 379.

The amendment was concurred in.

Mr. ALLISON. In line 313 I move to strike out "15" and insert "20," so as to increase the appropriation for contingent expenses of all the consulates from \$115,000 to \$120,000. I offer this amendment in view of the amendment which has been agreed to in reference to the reports to be made to the Secretary of the Treasury. I do not know that any additional sum will be necessary, but I think in order to make proper inquiry we should gather jurisdiction of that particular clause.

Mr. EDMUNDS. This last clause that the Senate has stricken out with such great unanimity for fear the President, who did not want it, would take the money for his private use, or the Secretary or somebody else, would have covered that very thing. That is one of the things that the money might have been used for.

Mr. ALLISON. Allow me to beg the Senator's pardon. I do not see how it could be so used. This is a specific appropriation for the contingent expenses of consuls.

Mr. ANTHONY. Does that amendment come from the Committee on Appropriations?

Mr. ALLISON. No, sir.

Mr. ANTHONY. Then it is not in order. It increases the appropriation.

Mr. EDMUNDS. That is so. That is the end of the amendment.

Mr. ALLISON. I will withdraw it, of course.

Mr. EDMUNDS. You need not withdraw it; it is out of order.

The PRESIDING OFFICER. Is the point of order insisted upon?

Mr. EDMUNDS. Certainly.

The PRESIDING OFFICER. The point is well taken, in the opinion of the Chair.

Mr. ALLISON. I do not think the Senator from Rhode Island would object to it if he understood my object. We have added largely to the incidental expenses of these consulates, and the proper officer of the State Department stated that the amount allowed by the House was very small. Now, we have imposed upon all these consuls an additional burden, namely to report to the Secretary of the Treasury as well as to report to the State Department. It may be that no further fund for incidental expenses will be required. If not, of course in conference the amendment can be stricken out, but without knowing the precise effect of the amendment of the Senator from California, I think this contingent fund ought to be increased. I only made the motion *pro forma*, in order that the conference committee might have jurisdiction of the subject. I do not care about it.

Mr. PADDOCK. I should like to inquire if it be in order to move an amendment to transfer one consulate to another?

The PRESIDING OFFICER. An amendment is in order.

Mr. PADDOCK. I wish to offer an amendment to transfer a consulate from one class to another.

The PRESIDING OFFICER. The amendment will be stated.

Mr. EDMUNDS. It can be transferred from a higher to a lower grade; as that would not increase the appropriations in the bill.

Mr. PADDOCK. No; I want to make a transfer from a lower to a higher class.

Mr. SARGENT. That would be liable to a point of order.

Mr. PADDOCK. That is the question I was asking.

Mr. WINDOM. That would increase the appropriation.

The PRESIDING OFFICER. It would be in violation of the rule, in the opinion of the Chair.

Mr. PADDOCK. The increase would not be material. It would be only \$500.

Mr. ANTHONY. The Senator from Iowa [Mr. ALLISON] can accomplish his object by moving to reconsider the vote by which the appropriation of \$20,000 was rejected, and that appropriation will answer the purpose for which he desires the increase to the consular contingent fund.

Mr. ALLISON. That will not answer at all. If that appropriation were made it could not be used for this purpose.

Mr. EDMUNDS. Why not?

Mr. ALLISON. Because this relates to the contingent expenses of officers existing.

Mr. EDMUNDS. That is a little odd. Here is the way it reads:

For contingent expenses of United States consulates, such as stationery, book-cases, arms of the United States, seal, presses, and flags, rent, freight, postage, and other necessary miscellaneous matters.

Now, at the end, you add a provision:

For diplomatic and consular service, to be expended in the discretion of the President, \$20,000.

I should like to know on what principle of law or justice it is that the President cannot, for other miscellaneous matters, in his discretion make use of some part of the \$20,000.

Mr. SARGENT. I do not think there is any necessity for increasing the item for contingent expenses of the consulates because they are required to send a newspaper once or twice a month containing the prices-current. That would be a very slight expense, and as they only have to send them from some of the principal cities in which business is done abroad and to some of the principal cities of America a half dozen each, I do not believe that is an argument for increasing the appropriation for contingent expenses.

The PRESIDING OFFICER. Does the Senator from Rhode Island move a reconsideration?

Mr. ANTHONY. I voted in the affirmative and I cannot move a reconsideration. I suggested that the Senator from Iowa might move a reconsideration.

Mr. ALLISON. If it accomplished the purpose, I should be glad to do so.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

NAVIGATION OF MISSISSIPPI RIVER.

Mr. WINDOM submitted an amendment intended to be proposed by him to the bill (S. No. 863) to provide for the organization of the Mississippi River improvement commission, and for the correction, permanent location, and deepening of the channel and the improvement of the navigation of said Mississippi River; which was referred to the Committee on Commerce, and ordered to be printed.

FUNERAL OF HON. J. E. LEONARD.

Mr. CONOVER. I desire to offer a resolution, and ask for its present consideration.

Mr. EDMUNDS. I call for the regular order, to get at the unfinished business.

Mr. CONOVER. I think the resolution will not be objected to if it is heard.

Mr. EDMUNDS. I merely want to get the regular order under consideration.

The PRESIDING OFFICER. The regular order is Senate bill No.

15, which will be considered, the unfinished business having been laid aside informally.

Mr. CONOVER. I now offer the following resolution:

Resolved, That the Secretary of the Senate is hereby directed to pay out of the contingent fund of the Senate the necessary expenses of the committee of the Senate appointed to attend the funeral of the late Hon. John E. Leonard, on vouchers to be approved by the chairman of the committee.

The resolution was considered, by unanimous consent, and agreed to.

Mr. EDMUNDS. I move that the Senate adjourn.

The motion was agreed to; and accordingly (at five o'clock and twenty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 27, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read.

WITHDRAWAL OF PAPERS.

Mr. PRICE. I understood from the reading of the Journal that the request I made last evening for the withdrawal of certain papers from the files of the House was referred to the Committee on Invalid Pensions.

The SPEAKER. Certainly.

Mr. PRICE. That was not my understanding at the time.

The SPEAKER. There being an adverse report on the case, the request for the withdrawal of the papers, under the rule, had to go to the committee for consideration. The rule will be read.

Mr. PRICE. I am satisfied with the statement of the Chair. I do not desire to hear the rule read.

The Journal was then approved.

PENSIONS.

Mr. JOYCE, by unanimous consent, introduced a bill (H. R. No. 4110) for the relief of persons entitled to pensions; which was read a first and second time.

Mr. JOYCE. I ask that the bill may be read at length.

The bill was read at length, and referred to the Committee on Invalid Pensions.

SALE OF TIMBER ON MENOMONEE RESERVATION.

Mr. STEWART, (by request,) by unanimous consent, introduced a bill (H. R. No. 4111) to provide for the sale of certain timber on the Menomonee Indian reservation in Wisconsin, and to pay certain claims against said tribes out of the proceeds thereof; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

COMPENSATION TO NORTH CAROLINA.

Mr. DAVIS, of North Carolina, by unanimous consent, introduced a bill (H. R. No. 4112) to compensate the State of North Carolina for the use and occupation of certain grounds and buildings by United States troops; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

PRINTING OF MAP.

Mr. EICKHOFF, from the Committee on Printing, reported back, with a favorable recommendation, the following resolution:

Resolved, That the Committee on Foreign Affairs be authorized to have a map printed to accompany their report on the Mexican troubles.

The resolution was adopted.

Mr. EICKHOFF moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARGARET KEARNS.

Mr. BLISS, by unanimous consent, introduced a bill (H. R. No. 4113) granting a pension to Margaret Kearns; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HANNA STREETS.

On motion of Mr. CARLISLE, by unanimous consent, the bill (S. No. 873) granting a pension to Hanna Streets was taken from the Speaker's table, read a first and second time, ordered to be printed, and referred to the Committee on Invalid Pensions, not to be brought back on a motion to reconsider.

CENTENNIAL INTERNATIONAL EXHIBITION.

Mr. PEDDIE, by unanimous consent, presented a joint resolution of the Legislature of the State of New Jersey, in reference to closing up the centennial international exhibition, to ascertain the balance due to subscribers, and to prepare and support an act appropriating the sum from the Treasury of the United States; which was referred to the Committee of Ways and Means.

LIEUTENANT GARDNER P. THORNTON.

Mr. BROWNE, by unanimous consent, introduced a bill (H. R. No. 4114) for the relief of Lieutenant Gardner P. Thornton, late of the

Fourteenth Regiment of Colored Troops; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

AUGUST MARMER.

Mr. BROWNE also, by unanimous consent, introduced a bill (H. R. No. 4115) granting a pension to August Marmer, late a private in Company B, Forty-ninth Regiment of Indiana Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BATTLE OF GETTYSBURGH.

Mr. BLAIR, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Military Affairs.

Resolved, That the Committee on Military Affairs be requested to ascertain and report to the House the proper measures to be taken for the preservation and publication of the materials for the description and detailed history and maps of the battle of Gettysburgh, prepared by Colonel John B. Batchelder and now in his possession, and recommend such action to the House as in their judgment may be necessary in the premises.

PROPERTY OF SOLDIERS' HOME AT HARRODSBURGH, KENTUCKY.

Mr. DURHAM. I ask unanimous consent to introduce at this time and have put upon its passage a bill authorizing the sale of the property belonging to the Soldiers' Home at Harrodsburgh, Kentucky, in my district. I present with the bill the recommendations of the Secretary of War and of the board of commissioners for the sale of the property immediately, so that the proceeds may be invested in other property.

Mr. SAMPSON. From what committee does the bill come?

Mr. DURHAM. It does not come from any committee. I ask unanimous consent that it may be put upon its passage at this time.

The SPEAKER. The bill will be read for information; after which the Chair will ask for objections, if any.

The bill was read.

Mr. DURHAM. I ask that the letters of the Secretary of War and of the board of commissioners recommending this sale be read.

Mr. SAMPSON. Why not send the bill to a committee?

Mr. DURHAM. It is desirable that the sale be made immediately, and that the delay which would result from sending the bill to a committee should be avoided. But of course, if objection is made, the bill will have to go over. I present it because of the recommendation of the Secretary of War and the board of commissioners, the property being in my own district.

Mr. TOWNSEND, of New York. Let us hear what they say about it.

The Clerk read the letters from the Secretary of War and from the board of commissioners of the Soldiers' Home recommending the sale.

Mr. CONGER. Before being asked to consider this bill I think we should have some more information. I wish to say, Mr. Speaker—

The SPEAKER. The gentleman cannot enter upon a discussion of the bill until the consent of the House is given to its present consideration.

Mr. CONGER. I do not propose to enter upon a discussion of the bill, but I propose to state in a word why I object.

The SPEAKER. If the gentleman objects, that is all that is necessary.

Mr. DURHAM. If the gentleman from Michigan objects, I withdraw the bill and throw the responsibility on him.

Mr. CONGER. The gentleman may throw that responsibility upon me as much as he chooses.

Mr. DURHAM. All right.

The SPEAKER. Objection being made to the present consideration of the bill, does the gentleman from Kentucky ask to have it referred?

Mr. DURHAM. Yes, sir; to the Committee on the Judiciary.

There being no objection, the bill (H. R. No. 4116) authorizing the board of commissioners of the Soldiers' Home to sell certain property at Harrodsburgh, Kentucky, belonging to the Soldiers' Home, was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

DECORUM IN THE HALL.

Mr. DUNNELL. I ask that Rule 65 be read.

The Clerk read as follows:

65. While the Speaker is putting any question or addressing the House, none shall walk out of or across the House; nor in such case, or when a member is speaking, shall entertain private discourse; nor while a member is speaking, shall pass between him and the Chair. Every member shall remain uncovered during the session of the House. No member or other person shall visit or remain by the Clerk's table while the yeas and noes are calling, or ballots are counting. Smoking is prohibited within the bar of the House or gallery.

The SPEAKER. The gentleman from Minnesota has requested the Chair to have that rule read, particularly as to smoking. The Chair notices with regret that members will constantly come into the Hall with lighted cigars in their mouths, emitting smoke all over the Hall. Unless this practice on the part of members is stopped the Chair will have to take the liberty of sending pages to them and notify them in person that they break the rule.

INFECTIOUS DISEASES.

Mr. HARTRIDGE. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the bill which the gentleman from Georgia [Mr. FELTON] has been

instructed to report from the Committee on Commerce and which, by unanimous consent, has been set for consideration at this time.

Mr. FELTON. Under the authority heretofore granted, I report back, with an amendment from the Committee on Commerce, the bill (H. R. No. 3739) to prevent the introduction of contagious or infectious diseases into the United States.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no vessel or vehicle coming from any foreign port or country where any contagious or infectious disease may exist, and no vessel or vehicle conveying any person or persons, merchandise or animals, affected with any infectious or contagious disease, shall enter any port of the United States or pass the boundary line between the United States and any foreign country, except in the manner and subject to the regulations to be prescribed as hereinafter provided.

SEC. 2. That whenever any infectious or contagious disease shall appear in any foreign port or country, and whenever any vessel shall leave any infected foreign port, or, having on board goods or passengers coming from any place or district infected with cholera or yellow fever, shall leave any foreign port, bound for any port in the United States, the consular officer or other representative of the United States at or nearest such foreign port shall immediately inform the supervising surgeon-general of the marine-hospital service thereof, and shall report to him the name, the date of departure, and the port of destination of such vessel; and the consular officers of the United States shall make weekly reports to him of the sanitary condition of the ports at which they are respectively stationed; and the said surgeon-general of the marine-hospital service shall, under the direction of the Secretary of the Treasury, be charged with the execution of the provisions of this act, and shall frame all needful rules and regulations for that purpose, which rules and regulations, with the approval of the President, shall have the force and effect of law until modified in the same manner.

SEC. 3. That it shall be the duty of the medical officers of the marine-hospital service and of customs officers to aid in the enforcement of the national quarantine rules and regulations established under the preceding section; but no additional compensation shall be allowed said officers by reason of such services as they may be required to perform under this act, except actual and necessary traveling expenses.

SEC. 4. That the surgeon-general of the marine-hospital service shall, upon receipt of information of the departure of any vessel, goods, or passengers from infected places to any port in the United States, immediately notify the proper officer or officers at the threatened port of destination of the vessel, and shall prepare and transmit to the medical officers of the marine-hospital service, to collectors of customs, and to the State and municipal health authorities in the United States, weekly abstracts of the consular sanitary reports and other pertinent information received by him.

SEC. 5. That the provisions of this act shall not be so construed as to prevent the establishment and maintenance by States or municipalities of port health regulations and quarantine measures, in addition to or furtherance of the rules and regulations established under this act; and such local systems and their appendages shall remain under the control of the respective local authorities; but any local law or regulation interfering with or obstructing the due execution of the national rules and regulations, as approved by the President under this act, shall be null and void.

SEC. 6. That wherever, at any port of the United States, any State or municipal quarantine system may now exist, the officers or agents of such system shall, upon the application of the respective State or municipal authorities, be authorized and empowered to act as officers or agents of the national quarantine system, and shall be clothed with all the powers of United States officers for quarantine purposes, but shall receive no pay or emolument from the United States. At all other ports where, in the opinion of the Secretary of the Treasury, it shall be deemed necessary to establish quarantine, the medical officers or other agents of the marine-hospital service shall perform such duties in the enforcement of the quarantine rules and regulations as may be assigned them by the surgeon-general of that service under this act.

SEC. 7. That this act may be quoted as the national quarantine act of 1878.

SEC. 8. That all acts or parts of acts inconsistent with this act be, and the same are hereby, repealed.

The SPEAKER. Will the gentleman from Georgia [Mr. FELTON] indicate whether he desires to yield to any one for amendments?

Mr. FELTON. I do. I move now, by instructions from the Committee on Commerce, to strike out the fifth section of the bill, and I also yield to my colleague [Mr. HARTRIDGE] to offer amendments.

The SPEAKER. The Chair thinks it is desirable that the amendments designed to be offered be presented at this time.

Mr. HARTRIDGE. I propose to offer three amendments, which I send to the Clerk's desk to be read.

Mr. HALE. As the time is limited for the consideration of this bill, which is an important one, I suggest that it would be better, after such time has been consumed in debate as may be desired, that the bill be read by sections for amendment and then any member can offer such amendments as he desires.

The SPEAKER. The Chair thinks the suggestion of the gentleman from Maine [Mr. HALE] a very wise one.

Mr. HARTRIDGE. I think so too.

Mr. HALE. I ask, then, that that course be adopted.

The SPEAKER. The Chair will pursue that course when whatever debate that is desired shall have been concluded, but the amendments will now be read.

The Clerk read the amendments of Mr. HARTRIDGE, as follows:

In line 9, after the word "country," insert the words "contrary to the quarantine laws of any one of the United States, or."

In section 4, after the word "proper" in line 4, insert the words, "State or municipal and United States."

In section 2, in line 20, add after the word "manner" the words "but such rules and regulations shall not conflict with or impair any sanitary or quarantine regulation by State or municipal authority."

Mr. O'NEILL. I desire to submit an amendment which I think will be accepted by the gentleman who has the bill in charge.

The SPEAKER. The gentleman having the bill in charge has no right to accept any amendment; but it may be read for information.

Mr. O'NEILL. I ask that it be read.

The Clerk read the amendment, as follows:

After the word "vessel" in the eleventh line of section 2, insert the words "and shall also make the same report to the health-officer of the port of destination in the United States."

The SPEAKER. These several amendments are now being read for information, and while the discussion and consideration of the bill is going on any gentlemen who are interested in this question will have an opportunity of examining them.

Mr. O'NEILL. I have another amendment, to come in at the end of section 5, and I will send the same to the Clerk's desk to be read.

The Clerk read as follows:

Provided, That there shall be no interference, in any manner, with any quarantine laws or regulations as they may exist or may hereafter be adopted under State laws.

Mr. COX, of New York. I shall move, at the proper time, to strike out the second section of the bill.

Mr. FELTON. Mr. Speaker, by authority of the committee I move to strike out the fifth section of the bill. I do this that the rights of the States may not even apparently suffer encroachment.

Upon all questions relating to the public health within their territorial limits the States are absolutely sovereign. We must guard most carefully upon all occasions these sacred and very precious rights of the States. We could not permit these rights impaired even if their infringement should temporarily produce valuable results, because these reserved rights of the States are the safeguards of life and property, and above all they secure the liberty of the citizen against the centralizing tendencies of the age. In the outset, then, I hope this section will be stricken from the bill that nothing may remain therein seemingly in conflict with the right of a State to control its own health regulations. The Committee on Commerce has considered the bill, seeking to establish a general and uniform system of quarantine by the Federal Government, the direct object being to prevent the introduction into the United States of contagious or infectious diseases, and after a thorough investigation they report unanimously in favor of its passage.

We have had before us the memorial of a convention composed of delegates from the municipalities of Norfolk, Charleston, Port Royal, Savannah, Darien, Brunswick, Saint Mary's, Fernandina, Jacksonville, Saint Augustine, Cedar Keys, and Pensacola, the proceedings of which convention are indorsed by James A. Stewart, commissioner of health for the city of Baltimore. This convention assembled in Jacksonville, Florida, on the 14th day of February, 1878, for the special purpose of considering the establishment of a uniform and effective system of quarantine on the Atlantic and Gulf coast, as the only reliable means of protection against the importation of contagious and infectious diseases from foreign countries.

It is seen from the proceedings that the convention with remarkable unanimity united in a petition to Congress for the establishment of such a system.

Other cities are equally interested in this matter with those represented in this convention, and we have a letter from Dr. Samuel Choppin, president of the board of health, State of Louisiana, in which he says:

I am favorably impressed with the idea of asking Congress to take some action to the end of bringing about a uniform system of quarantine along the whole seaboard for the protection of our inhabitants against the importation of infectious diseases. The experience of our board of health since 1855 has convinced most of the medical men and other citizens of Louisiana that our comparative immunity from yellow fever for the last ten years has been due chiefly to a strict and intelligent enforcement of our quarantine system, in which latterly thorough disinfection is so much relied upon that detention of vessels and crews is, in most instances, reduced to a few hours.

We have also a resolution passed by the Board of Trade of Mobile, Alabama, October 9, 1873, in these words:

Resolved, Inasmuch as no quarantine measures of our sea-ports can be effective against the importation of diseases without uniformity in time and method, that Congress be memorialized to establish a uniform system of quarantine under national supervision.

Indeed, all the southern cities express a desire for more effective quarantine laws and regulations and will cordially co-operate with the governmental authorities in devising and perfecting some system that will shield our exposed coast cities and inland towns "from the pestilence that walketh in darkness and the destruction that wasteth at noonday."

There are two diseases against which the provisions of this bill are designed particularly to guard our people, and the ravages of which two diseases in the United States have been appalling. These diseases are Asiatic or Indian cholera and yellow fever.

Cholera is caused by the access of a specific organic poison to the alimentary canal, which poison is developed spontaneously only in certain parts of India.

Science has located the very birthplace of this disease, and has demonstrated that it never appears spontaneously outside of these well-defined boundaries. It is indigenous only in the territorial region mentioned, and we are absolutely certain that whenever it appears outside these specified limits it is an exotic.

We can safely assert that no case of malignant cholera has ever occurred in any portion of the globe which was not produced by contact with a pre-existing cholera virus generated originally in Hindostan.

If we could trace accurately this terrible scourge we would see a chain composed of infectious links extending from every case which occurred in this country in the years 1832, 1849, 1854, and 1873, to its natural and endemic home, India.

This well-established fact encourages the hope that an efficient and uniform system of quarantine may in time shut out this disease from

our country. It must cross oceans before it can find a lodgment on our shores. It must be conveyed on ships, the particles of a specific poison actively at work or concealed in the clothing, bedding, or other personal luggage of migrants must be entered at some of our ports.

The ocean is the great highway, not only of commerce but of this and other destructive diseases. The General Government can and does regulate this commerce, and surely with the assistance of science it can in some measure control this terrible concomitant of our foreign commercial intercourse. The leading positions here assumed in regard to Asiatic cholera are equally applicable to yellow fever.

It may be endemic in some places on our coast, but nine-tenths of the medical profession in this country believe that it is always imported.

Indeed since 1668, when the disease made its appearance in this country, down to 1877, when a few cases developed themselves in Florida, embracing seven hundred and forty-one appearances of the disease that has spread to two hundred and twenty-eight cities and towns, that has extended to twenty-eight States in the Union, and that has caused 65,311 deaths counted—besides the innumerable deaths of which no record is made—of all these appearances of this disease, about 45 per cent. are clearly traceable to foreign origin.

Many of the remaining epidemics have a very probable connection with foreign ports in which the disease was at the time prevalent and with which the afflicted cities on our coast were at the time in frequent commercial intercourse.

The other epidemics while they may seem to be endemic, springing into existence without any explained cause or attributed, as was usual in former days, to local causes, such as decaying vegetable and animal matter, general filthiness of the city, long-continued disregard of hygienic laws, a temperature ranging above eighty degrees, a low altitude, a humid atmosphere, and frequent and decided meteorological disturbances, yet we must remember that the germs of this contagion are so occult, and have so successfully escaped the most delicate detectives of science, that they may in these last-mentioned epidemics have been lying dormant in some well-concealed *nidus* and only awaiting favorable climatic and local surroundings for their development.

They may have thus remained, concealed and dormant, during an entire winter—hid away in some uncleaned hospital, some *fomites*—in the hull or bilge of some infected ship and only waiting for a few heavy blows from the carpenter's hammer or the ripping off of some defaced boards (as was the case with the ship Ben Franklin at Norfolk) and favorable exciting causes, to kindle a pestilence that shall sweep a city or an entire sea-coast.

We can safely assert of yellow fever, as we have stated of cholera, that it comes from without, and that there is no place in the United States where it has yet been naturalized. It is true that no great distance separates its home from our shores—the West Indies, the Bahamas, the South American coast, and possibly Vera Cruz in Mexico. These are its birthplaces, and from these neighboring lands it almost every summer invades our seaboard cities, and occasionally produces a desolation indescribable. Business is suspended; wharves are deserted; harbors never receive a vessel; men, women, and children become refugees; the homes of the rich and poor are alike draped in the habiliments of grief, "because man goeth to his long home and the mourners go about the streets."

Sometimes after nearly all the citizens have abandoned the plague-stricken city the number of deaths and the amount of personal suffering are appalling.

A writer describing the scenes that occurred at Norfolk, Virginia, during the ravages of yellow fever in that city in the year 1855, says, "that the number of deaths reported were about eighty per day," but to his own knowledge they largely exceeded that number. He often saw a large number of coffins lying in different parts of the cemetery awaiting interment. It was common to see in the potter's field piles of coffins and rough boxes, such as they were compelled to substitute for coffins, piled up like cord-wood as high as a man could conveniently reach to pile them, while close by men were digging a pit to cover them out of sight. Sometimes four were put in a box, and he was told that numbers were carried out to the pit wrapped in the blankets on which they died, then placed in layers in the pit to await the resurrection morn. It was stern necessity that compelled the people thus to bury their dead; thus only could they keep the tainted air from being so deeply infected that none could survive the plague. It was the harvest season of the Great Reaper and the living did toil and sweat in binding and carrying home the sheaves after his sickle.

These scenes have been equaled or surpassed in New Orleans, in Savannah, in Charleston, and other Atlantic and Gulf cities.

My friend from New York [Mr. Cox] is nobly engaged in an effort to improve the life-saving service, and the Committee on Commerce will aid him in these humane purposes. But what is that service, if perfected, compared with this quarantine as a life-saving instrumentality? Here and there a few may be rescued from such ill-fated vessels as the *Huron* and *Metropolis*, but this national quarantine intelligently proposes to rescue entire cities and even States from the two fell destroyers of our race.

The commercial losses from these invasions of yellow fever have been incalculable.

The memorial accompanying this bill from the convention at Jacksonville asserts that the losses produced by the epidemic which raged

in the city of Savannah in 1876 have been estimated at \$5,800,000, or nearly one-half the present value of the whole taxable real estate of that city. Occurring in this city during the cotton season, and it being as a cotton market the third in importance in the United States, who can estimate accurately all the money losses to the city, to the State, and to the General Government? Now, multiply this particular loss by the many similar losses almost annually occurring in our cotton ports for the last century, and we may approximate the startling result. All this occasioned by a disease of foreign birth, by an importation, brought hither by ships under the control of the Federal Government and which cannot be controlled by State or municipal authority. Yet the Federal Government has never exercised its constitutional right, has never made an effort to suppress this destroyer of life and property.

Congress has the authority to regulate commerce with foreign nations and among the several States. This imported disease is part and parcel of our commercial intercourse with foreign nations. Why, then, this apathy on the part of the Federal Government? When the southern cities most deeply interested in this matter are here memorializing Congress for the establishment of a uniform system of quarantine why should any Representative hesitate? None need apprehend a conflict between the national quarantine system and the State or municipal quarantine regulations. The State law of quarantine remains supreme within the jurisdiction of the State, and under the provisions of this bill the State quarantine officials may upon their request be made officials of the national quarantine system, the health officers of the city becoming officials under this act. Why delay to make the experiment in bringing about co-operation between the State and General Government in this matter, an experiment which promises such triumphant success?

If there was an armed foe annually threatening our coast and sometimes devastating with fire and sword our most beautiful cities, there are a million of men who in a day would spring to arms, and Congress would vote millions of dollars for their defense. Why, then, fail to defend as far as practicable from this foe, more terrible than "an army with banners?" We hear it said: "Oh, leave it to the States—leave all matters relating to the public health to the cities." We answer, that with three exceptions, namely, New York, Charleston, and New Orleans, the quarantine regulations of our seaboard cities are inefficient and worthless. They have proven themselves in times of danger utterly helpless. They are frequently without organization, without information, without that preparation which is so essential to an efficient quarantine. But it is not proposed to exercise any direction over local health boards. We propose to strike out the fifth section of the bill, so that there may be no seeming conflict between the State and national systems of quarantine, for, I repeat, the State law is supreme on all questions of public health.

The object of the bill is the exclusion from the United States of contagious or infectious diseases—any vessel, goods, or passengers after entering port or already within the United States may be, and will be, subject to the local health boards, if any exist. The sanitary measures contemplated by the bill apply to vessels arriving from without before the vessel, passengers, or merchandise can in any way become subject to State or municipal health rules or regulations. Our friends from California are here seeking to arrest the importation into this country of Chinese immigrants. But pray, if the treaty with China authorizing such immigration were annulled, would the General Government have power to regulate such an appendage of our foreign commerce and at the same time have no power to shut out diseases which our commerce brings into this country?

I notice one of the Senators from Kentucky the other day presented to the Senate a petition from the cattle-breeders of that State, asking the Government to protect their interests against the importation into this country from foreign ports of diseased cattle. It is right; for what power has Kentucky to protect its interests in this particular at the port of New York? But pray, shall we establish a national quarantine against rinderpest, which we have a right to do, and at the same time be powerless to interfere in preventing the introduction of cholera and yellow fever?

The memorial of the quarantine convention held at Jacksonville calls attention to the great losses to commerce from vexatious and unnecessary detentions of vessels in quarantine, detentions which could be relieved by appliances for disinfection which attach to properly equipped quarantine establishments, and which are now entirely wanting in a great majority of the sea-ports and which they are unable to procure.

But the loss to commerce is the least of the evils attending delays of infected ships, as the poison is surely propagated and its virulence increased by such detention. One object of a national quarantine system is to correct, as far as practical, this pernicious practice.

It should be borne in mind that the rules and regulations to be prepared under the provisions of this bill, should it become a law, do not apply to nor can they interfere with health rules for municipalities or States.

Quarantine, so far as the General Government is concerned, can only apply to commerce—to ships—and in this sense comes clearly within the provision of the Constitution, the adoption of which was largely influenced by the motive to regulate commerce, to place under the protection of uniform laws those vital agencies of commerce, "ship-building," the carrying trade, and the protection of seamen.

Speaking of vexatious delays and the loss therefrom, both to life and commerce, we are impressed with the value of this national system of quarantine in relieving the country, by its influence and co-operation, of the present disjointed, inefficient, and often cruel and barbarous systems now in existence. In olden times forty days (*quarantina*) constituted the period of separation. Sometimes the sick and exposed were driven from the habitations of men, and attending physicians were murdered to prevent them from communicating leprosy, plague, and other contagions to communities. Even now in some ports merchandise is detained, in some cases destroyed, passengers and sailors confined for weeks to certain localities, guarded as rigidly as if they were felons.

What has science, in the management of quarantine, accomplished in this direction? Let us take the quarantine at New York City, as described by Dr. Vanderpoel. In summer, when a ship arrives with yellow fever on board and from a port in which yellow fever prevails, the vessel discharges her cargo in lighters in the stream before going to dock, and is cleansed carefully, and her bilges washed, besides being thoroughly disinfected and ventilated, and by their hospitals and arrangements on Hoffman Island and Dix Island, and by placing those who have been exposed under circumstances favorable for the suppression of the disease, and those attacked being treated for it in a place suitable for cure, there results the least detention and fatality possible under the circumstances.

All the advances made in the New York quarantine have had for their motive the reduction of the detention and annoyance of delay in cases of disease, while at the same time commerce should be as little embarrassed as possible. The health officer of the port is sustained in all his official acts by the commercial interests of New York which find in his pass a protection from the dangers to trade which would follow a commerce in which there was no sanitary restriction. Thus the apparently incongruous interests, quarantine and commerce, are united at this port upon a system which is satisfactory to and adequate for both.

New Orleans is about equal in this respect to New York, and by fumigation, carbolic acid, and other disinfectants, ships, merchandise, and passengers are detained but a few days at quarantine.

The commercial interests of this country demand that the same intelligent and efficient system be extended to every port in the United States, modified of course according to local necessities and requirements and the wishes of State and municipal authorities.

The experience of the medical profession and the sound deductions of science authorize the following conclusions, and which are so well established that they may be regarded as professional axioms, namely:

Asiatic cholera and yellow fever may be excluded from the United States—

First. By a thorough system of sanitation.

Second. By an efficient and uniform system of quarantine.

Both are essential, and a neglect of one may defeat the good results of the other. The first is entirely under the control and direction of State and municipal government, being one of our domestic concerns, over which the Federal authorities must not intermeddle. But it is believed when the local health boards voluntarily become officials of the national system and when the interest and energy and intelligent purposes of the local authorities are awakened by a uniform organization, that increased attention and more liberal expenditures of money and labor will be devoted to local sanitation.

The second means of exclusion, "quarantine" at the entrance of our ports, on the line between States and the high seas, in connection with ships, as a part of our commerce, can certainly be greatly strengthened and perfected by the co-operation of the General Government with the local State officials, and this quarantine in my judgment can never be effective until the Federal Government does co-operate intelligently and decidedly.

This is true for the reason that the information which is essential to a safe and perfectly reliable quarantine can only be obtained through the consular and other commercial agents of the United States at the foreign ports with which we trade.

Here I will read from the report of Dr. Woodworth, supervising surgeon of the marine hospital service, made on the cholera epidemic of 1873. Dr. Woodworth says:

What is needed is that the National Government, through its consular officers, at least at each port of departure, shall acquire the necessary information, and then promptly and intelligently furnish it to the ports and localities exposed. This is entirely aside from a national quarantine board, a national bureau of health, or other specific organization, concerning the present wisdom and expediency of which opinion is at least not unanimous. It is a simple utilization of already existing machinery on the part of the General Government, for the acquisition of knowledge indispensable to the general welfare. Such knowledge cannot through its own agents be acquired by a State or by a municipality; and yet upon such knowledge are the city and the State alone qualified or competent to take action; and upon such knowledge and action does the future immunity from cholera of the country at large depend. A circular-letter from His Excellency the President, through the Department of State, instructing consular officers to place themselves in communication with health authorities of their respective localities; to advise promptly, by cable if necessary, of the outbreak of cholera (or other epidemic disease) at their ports or in any section in communication therewith; and to inspect all vessels clearing for United States ports with reference to the original and intermediate as well as to the final points of departure of emigrants thereon; and to report, always by cable, the sailing and destination of any such vessel carrying infected or suspected passengers or goods; this should be the first step. And the next would be equally simple: a medical officer, selected for his good judgment and attainments in sanitary science, should collate and digest the information thus obtained, and transmit direct to the threatened ports, as well as through the public press, the note of warning. Thus advised, the threatened community

would have ample time for preparation, and the publicity given to the warning would be the most efficient means of insuring proper precautionary measures. International sanitary action is too remote, and the steps toward it have been too vacillating in the past to admit of much hope from it for the near future. But the acquisition and diffusion of general sanitary knowledge is a matter in which each nation for itself may engage, and when such knowledge becomes sufficiently widespread all else may be safely left to local and individual effort. Let the General Government do its share in collecting and publishing the information—a work which it alone can do—and the various and varying details of inspection, disinfection, isolation, &c., will be most efficiently, economically, and satisfactorily performed by those most directly and vitally interested—the people themselves.

As it is the custom of emigrants bound for America from the continent of Europe to embark at healthy ports when cholera prevails on the continent, this country is exposed to the introduction of this disease through the personal effects of such emigrants, sailing on healthy vessels from healthy ports. In 1873 three distinct outbreaks of the disease occurred at widely remote points of the United States from poison packed and transported in the effects of emigrants from Holland, Sweden, and Russia. These people and the vessels in which they were carried had been perfectly healthy and the people remained so until their goods were unpacked at Carthage, Ohio; at Crow River, Minnesota; and at Yankton, Dakota, respectively. Within twenty-four hours after the poison particles were liberated the first cases of the disease appeared, and the unfortunates were almost literally swept from the face of the earth.

If the health officer at New York, for instance, had been aware of the facts which were subsequently ascertained concerning the emigrants from Holland, Sweden, and Russia, there is no reason to doubt that such measures would have been resorted to on the arrival of these people as would have effectually prevented the transportation of the cholera poison in their effects half-way across the continent.

Section 2 of the bill provides for the acquisition of the necessary information and section 4 provides that such information shall be promptly communicated to the ports and localities exposed. Such knowledge cannot through its own agents be acquired by the State or by a municipality, and yet upon such knowledge and action does our future immunity from cholera and yellow fever largely depend. The utmost dispatch is an absolute essential condition to the successful and effective execution of the law, and it is accordingly provided that the reports shall be sent direct to the officer charged with the prompt communication of needful warning.

This bill simply provides for the proper utilization of the already existing machinery of the General Government for the protection of the general welfare. The marine hospital service of the Treasury Department already deals with sick seamen, who are usually the importers or first victims of contagious or infectious disease, and its medical officers are necessarily stationed at the ports of entry; and the learning, skill, and indomitable energy of the distinguished gentleman who is at the head of this service, Dr. John M. Woodworth, gives assurance of success.

To the many able published reports of this gentleman upon cholera and yellow fever and to personal interviews, I am greatly indebted.

I know it is customary with some to depreciate the suggestions of medical and sanitary science, denouncing them as empirical and the dreams of theorists.

Let us remember they have always been in the forefront of progress, and that all which has been done for the prolongation of human life has come from that science: quarantine, vaccination, improved drainage, disinfectants, prophylactics, hospitals, character and treatment of disease; besides, it makes subsidiary the whole world of scientific research, and when the nations are lifted from the pit of their ignorance and placed upon the pillar of their grand future no branch of human learning will have contributed more to its glory and happiness than medical science.

Let us make the experiment, and if we fail it will be in one of the noblest efforts that ever science suggested or humanity prayed for. [During Mr. FELTON's remarks, his fifteen minutes having expired, Mr. POTTER said: Does the gentleman from Georgia desire an extension of time?

Mr. FELTON. I do, if my colleague [Mr. HARTRIDGE] and those who are opposed to the bill will have an opportunity to be heard.

Mr. POTTER. I ask, then, that the time of the gentleman from Georgia [Mr. FELTON] be extended a half hour.

Mr. HARRIS, of Virginia. I do not think there will be any objection to extending the time of the gentleman; but he only asked in the first instance for a half hour.

No objection was made, and Mr. FELTON continued and concluded his remarks.]

Mr. HARTRIDGE. Mr. Speaker, it is hardly necessary for me to enter upon any extended remarks in reference to the beneficent purpose at which this bill is aiming. I take it for granted that there is no gentleman upon this floor who would not give not only his sympathy, but his aid, his material aid to accomplish the objects which this bill proposes. There is no gentleman upon this floor, and there is no community represented by any gentleman upon this floor which would not cheerfully give its assistance, as he would give it, to prevent the importation of these diseases which have been such a scourge to our country. Many of you gentlemen have never been in contact with this pestilence. Many of you have no knowledge of how prostrating it is, of the injury it does, of the suffering it causes. Nor, on the other hand, are you aware of the benefits that it brings; I say benefits that it brings. For the past experience of those who live in communities

which have been afflicted with these scourges is that it has shown us that a touch of nature makes the whole world kin. It has shown us that the people of this country have always been ready to aid with their hearts and their efforts the afflicted of their fellow-citizens.

When this scourge has come upon one of our communities, we have seen the hearts of our whole people throb with sympathy. We have seen money almost without stint poured out alike from the coffers of the rich and the hard-earned hoards of the poor. We have seen men retiring, modest, almost timid in the daily walks and duties of life, assume the full proportions and exhibit all the elements of physical and moral heroism. We have seen even woman, retiring and shrinking by nature and by habit, under the demands of pity and charity, throw aside those coverings of her nature, take part in the battle with pestilence and carry consolation to the sick and to the death-bed of many a sufferer, smoothing the pillow of pain and lighting the pathway of death.

With this experience for us to look to, I know I have no occasion to call upon members of this House to respond with sympathy and with every effort in behalf of the object for which this bill is introduced. The only question to be presented is, is this bill constitutional; have we the right to pass such a measure? And if we have the right to pass it, is it practical in its details and will it be practical in its results? These are the only considerations upon which I propose to touch in the few minutes allotted to me, for they are the only considerations which it is necessary to dwell upon before an audience like this.

I have proposed various amendments to this bill, and for this reason; I did not prepare this bill originally. As gentlemen have heard from my colleague, [Mr. FELTON,] there was a convention held a month since at Jacksonville, Florida, consisting of representatives from all the southern sea-port towns, to consider this question of what they called "national quarantine regulations." They appointed a committee who came to Washington, and after consultation with the medical authorities here they prepared this bill. When the bill was handed to me to introduce, I expressed some objections to it; but as time was essential, and as it was absolutely necessary that the bill should be acted upon at once, I introduced it in its then condition. I have the permission of the Committee on Commerce to present amendments to the bill which will remove from it difficulties and objections which suggest themselves to my mind, and doubtless to the minds of many members on this floor.

We have no right, as this original bill would do, to infringe at all upon the police regulations of a sovereign State. We have no right, as the original details of this bill would do, to interfere with the sanitary or quarantine regulations of any State or of any municipality under the laws and the power and the leave of that State. This is a doctrine which no gentleman on this floor will endeavor to controvert. It is almost as old in its exposition and declaration as the Constitution itself. As long ago as the case of Gibbons against Ogden, in 9 Wheaton's Reports, we find Chief-Justice Marshall, speaking for a unanimous court, a man who always claimed for the Federal Government the extreme powers that any construction of the Constitution could give to it—we find him using this language:

That inspection laws may have a remote and considerable influence on commerce will not be denied; but that a power to regulate commerce is the source from which the right to pass them is derived cannot be admitted.

They form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government; all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State and those which respect turnpike roads, ferries, &c., are component parts of this mass.

So that the quarantine regulation is a right which a State has for itself. By the amendments which I propose I do not ask Congress to impair or to antagonize or to interfere in any way with these reserved rights of the States. I propose by these amendments that the Federal Government shall be an auxiliary to aid the laws of the State in keeping out these infectious diseases; that the Federal power shall be exercised only for the good of the whole people, as an aid to the power exercised by the States respectively for themselves.

If gentlemen will listen to me I will show the purport of these amendments. The first amendment is to insert in section 1, after the words "any foreign country," the words "contrary to the quarantine laws of any one of said United States or;" so that the section, if amended, will read:

That no vessel or vehicle coming from any foreign port or country where any contagious or infectious disease may exist, and no vessel or vehicle conveying any person or persons, merchandise or animals, affected with any infectious or contagious disease, shall enter any port of the United States or pass the boundary line between the United States and any foreign country, contrary to the quarantine laws of any one of said United States, or except in the manner and subject to the regulations to be prescribed as hereinafter provided.

Mr. BUTLER. If it will not annoy the gentleman from Georgia [Mr. HARTRIDGE] I would ask his attention to line 6 of section 1 of this bill, where it reads "merchandise or animals, affected with any infectious or contagious disease." According to that, until the disease has actually broken out on board the vessel, that vessel could not be "stopped."

Now I need not tell the gentleman, with his knowledge and experience of this disease, that a vessel coming from an infected port may have the disease upon it latent until it reaches the port to which it

is destined. Therefore I would suggest to him to insert before the word "affected" the words that "may be." That will give the quarantine officer a little wider range.

The reason why I call attention to this matter is that I once had something to do with the yellow fever. I found that a vessel would come into port without any apparent infection on board, and yet in the course of ten days the disease would develop itself. Now if I could not have stopped that vessel, could not have waited to see whether the disease would develop itself, I would not have been able to protect the city against its introduction. For instance, a vessel would come from Havana to New Orleans—that is a short trip—and during the trip nobody would be sick, yet ten days afterward dozens of those who came on that vessel would be taken sick.

Mr. HARTRIDGE. I think the distinguished gentleman from Massachusetts [Mr. BUTLER] misinterprets the language of this section. It says:

Whenever any vessel shall leave any infected foreign port—

There the word "infected" applies to the port—

or having on board goods or passengers coming from any place or district infected with cholera or fever.

There the word "infected" refers to the place or district, not to the goods or passengers, with all deference to the gentleman from Massachusetts.

Mr. BUTLER. If that is the construction, I am content.

Mr. HARTRIDGE. But I am perfectly willing to accept any amendment that may be required to make the provision plain. I am willing to accept any suggestion from any gentleman on this floor that will carry out the view upon which I am now dwelling, that this bill shall not by any of its provisions infringe upon the rights of any State or any community.

My next proposition of amendment is to insert after the word "manner," in the twentieth line of section 2, the words "but such rules or regulations shall not conflict with or impair any sanitary or quarantine regulations of any State or municipal authority."

Mr. COX, of New York. Will the gentleman allow me to suggest to him to insert after "regulations" the words "now existing or that may hereafter be enacted?"

Mr. HARTRIDGE. Certainly. Now, Mr. Speaker, the ports of New York and New Orleans are fully able to take care of themselves. They have perfected a system of sanitary and quarantine regulations, and no friend of this bill has any desire or intention to invade the precincts of their power or to impair the regulations which they have established.

My next amendment is to insert in line 4, section 4, after the word "proper," the words "State, or municipal, or United States;" so that the section will read thus:

That the surgeon-general of the marine hospital service shall, upon receipt of information of the departure of any vessel, goods, or passengers from infected places to any port in the United States, immediately notify the proper State or municipal or United States officer or officers at the threatened port of destination of the vessel.

Now, Mr. Speaker, having shown that we are not seeking at all to impair the rights of States or municipalities under the Constitution, let me call attention to what good this bill will do by making the Federal power and the Federal authorities auxiliary to the State. The information provided for in this bill from consular authorities is an element worthy of consideration. Intelligence is to be conveyed to every sea-port in this country so soon as a vessel leaves a district or place infected with any contagious or infectious disease. This information is not left to come as it now comes, by the slow process and often through the false medium of a bill of health coming with the vessel itself. But it is made the duty of these consular agents to communicate, if need be, on the wings of the lightning, underneath the sea itself, to all the authorities of all seaports of this country, that a certain vessel has left an infected district and is bound for a certain port. Then the authorities, State, municipal, and Federal, are all upon their guard to adopt such measures as will prevent the infection from coming within their borders. This, I say, is enough to arrest the attention of the House, to call for its sympathy, to demand its aid, if the bill contained nothing else.

But, as I have said, there is more in the bill. While New York and New Orleans are able to take care of themselves, many of our southern cities are not. They demand aid from the Government. They petition the representatives of the States to give them assistance through the Federal power. Why, sir, let me take for illustration my own State. Savannah, Brunswick, Darien, and Saint Mary's are all liable to this scourge. In no one of these places have we perfected such a system of quarantine as can protect us. Our past experience, melancholy and mortal in its nature, has taught us that the hand of the Government is necessary to aid us; and this aid can be given without infringing upon the rights of any State or municipality. The Government can enable us to take sick people out of an infected vessel and carry them to Fort Pulaski or some other place near the mouth of the harbor, where there are suitable land and buildings. The Government can authorize us to use its disinfecting machines, to call on its officers in every shape and form in aiding us in doing what, unassisted, we cannot do.

Again, this bill provides that the officers of the State may for this purpose be made officers of the United States, so that they may have

all the power of the Federal Government at their command and still be State officers.

Now, Mr. Speaker, this is the simple object and scope of the bill. Its design is to relieve us, if possible, from danger of infection and contagion; to give us new life; to keep away from us that over-hanging cloud of danger which is now threatening us all the time, threatening not only our material interests, but threatening to destroy by thousands the very best of our citizens. This is the sole object of the bill. I intend to make no appeal to the hearts of this House, for none is necessary. I have sought to show the judgment and mind of the House that the measure is constitutional and practicable, and this being so, I think there is no man on the floor who will refuse to give it his vote. At any rate, Mr. Speaker, until I hear dissent, until I hear some argument worthy of refutation against the bill, I shall, so far as I am concerned, leave the measure in the hands of the House.

Mr. JONES, of Alabama. Mr. Speaker, the gentleman from Georgia who has charge of this bill has advocated its passage on the ground that it is necessary to establish a national system of quarantine in order to protect the Atlantic and Gulf ports against the importation of contagious and infectious diseases. He has described the frightful ravages of yellow fever, and depicted the great destruction to life and property that has followed in its trail. He has told us that the quarantine laws of the several States are inefficient and inadequate. And for these reasons he insists that Congress should establish a uniform and effective system of quarantine as the only reliable means of protection against this terrible epidemic.

Now, Mr. Speaker, I concede that there is a great deal of truth in what the gentleman has said about the fearful nature of this disease; and it may be true that the quarantine laws of the States and of the localities liable to invasions from this epidemic are not altogether perfect.

But, admitting this to be so, does it follow that on this account Congress has the right or power to interpose and pass quarantine laws? Do our powers depend on the failure of the States to exercise powers properly belonging to them? In this country and under our system of government sanitary regulations are purely police regulations. In England they are made by acts of Parliament, and are not police regulations. The English Parliament is said to be omnipotent. It is restrained by no constitutional limitations. It legislates upon all local internal affairs. The Government of the United States is different. It can exercise only such powers as have been delegated. And in one of the amendments to the Constitution it is expressly declared that—

All powers not delegated to the United States are reserved to the States respectively or to the people.

The Supreme Court of the United States in numerous decisions has held that questions like that involved in this bill belong to these reserved powers of the States and cannot be exercised by Congress. In *Gibbons vs. Ogden*, 9 Wheaton, 203, Marshall, C. J., held that—

Inspection laws, quarantine laws, &c., are a portion of that immense mass of legislation which controls everything within the territory of a State not surrendered to the General Government, all which can be most advantageously administered by the States themselves. No direct general power over these objects is granted to Congress, and consequently they remain subject to State legislation.

The police of the cities and the States of the Union is entirely within the power of the States, and the United States are without any power over the subject. It is not given by the Constitution to the General Government, and it necessarily remains in the States, and the Supreme Court of the United States has held that this power over internal and municipal affairs is exclusively in the States:

That all those powers which relate to merely municipal legislation, or what may, perhaps, more properly be called internal police, are not thus surrendered to the General Government; and that consequently in relation to these the authority of a State is complete, unqualified, and exclusive.—11 *Peters*, 129.

If, then, this power to frame quarantine regulations has not been surrendered by the States to the General Government, and if moreover it is included among those powers reserved by the States, then there is no warrant or authority for such legislation as that proposed by this bill.

But the gentleman from Georgia contends that the power to legislate for this purpose is derived from that provision of the Constitution which declares that "Congress has power to regulate commerce with foreign nations," &c. But the legislation proposed in this bill is not a commercial regulation in the sense contemplated in the Constitution. It is a mere police regulation.

"Congress may regulate commerce." What is the extent of this power? It comprehends traffic, buying and selling, the interchange of commodities; it may comprehend navigation; Congress, under this provision, may prescribe the rules by which commercial intercourse may be governed. But it is a confusion of terms to say that commerce includes quarantine. If commerce does not include quarantine, if on the contrary quarantine is a matter of internal police, then the Government of the Union has no direct power over that subject and cannot establish a national quarantine system. But if the gentleman can show that this power to regulate commerce includes the power to establish quarantine regulations he would prove too much, for, if this were so, it would follow that the power in the General Government could not be concurrent with the same power in the States but is exclusive of the same power in the States. In the case of *Gibbons vs. Ogden*, 9 Wheaton 198, 199, 200, &c., it was settled that this power is exclusive in the Government of the United States.

The power to regulate commerce is exclusive in the United States, and if the power to pass quarantine regulations falls under the power to regulate commerce, it must likewise be exclusive in the Government of the United States. But we know that the United States courts in deciding questions of this kind have repeatedly held that quarantine laws, though affecting commerce, are not regulations of commerce. These powers are entirely distinct in their nature from the power to regulate commerce.

These powers are entirely distinct in their nature from that to regulate commerce; and though the same means are resorted to for the purpose of carrying these powers into effect, this by no just reasoning furnishes any ground to assert that they are identical. Among these are inspection laws, health laws, &c., all of which when exercised by a State are legitimate, arising from the general powers belonging to it, unless so far as they conflict with the powers delegated to Congress. They are not so much regulations of commerce as of police; and may be truly said to belong, if at all to commerce, to that which is purely internal. (2 Story on Constitution, sections 1070, 1072.)

The exclusive authority of State legislation over this subject is strikingly illustrated in *City of New York vs. Milo*; 11 Peters, 102. The defendant in that case was prosecuted for failing to comply with a statute of New York, requiring every master of a vessel arriving to report the names of all his passengers, their ages, &c. It was argued that this act was an invasion of the exclusive right of Congress to regulate commerce. And it cannot be denied that this act affected commerce. But the court held that it was an exercise of the police power properly within the control of the State.

But to contend that because Congress has the power to regulate commerce it can regulate everything that is connected with commerce, such a construction would throw upon Congress a mass of legislation which it could not perform, and the legislative power of the States would be at an end. They would become mere municipal corporations. It would be a stretch of Federal power never dreamed of by the most latitudinarian Federalist. Marshall and Story did much by construction to enlarge the powers of the General Government, but they shrunk from making such a claim as this. Like Aaron's rod it would swallow up the reserved powers of the States.

Therefore it is, Mr. Speaker, that I oppose this bill. I find no authority for it in the Constitution. It has a tendency to centralize power in the General Government. It would add another bureau to the Government, and would be an uncalled-for and unwarrantable interference with the local self-government and the police affairs of the States. The amendments do not cure the defects in this bill. I think I see the poison under its wings.

But gentlemen say the people want this legislation; that they are clamorous for some such protection from the ravages of a disease that assails their lives, health, and property.

Mr. Speaker, this is not the first time people may have asked this Government to do something it has no constitutional authority to do. It is a matter of regret that the people are so forgetful of the true principles of our Government and are so prone to regard it as a paternal government, whose chief object is to relieve them in times of need and in times of distress. Let them be involved in trouble or threatened with disease or vexed with a labor-strike, and immediately they appeal to the General Government for help and protection. This, sir, is not the theory of our Government according to my understanding. The States are clothed with the powers of self-government and they are expected, and it is their duty, to exert these powers to promote the public good and to secure the public safety.

Mr. STEPHENS, of Georgia. I wish barely to state to the gentleman from Alabama, whose argument I have listened to with great pleasure, that I do not understand the bill now before the House, with the proposed amendments of my colleagues, [Mr. FELTON and Mr. HARTIDGE,] to interfere in the slightest degree with the doctrine and principles laid down by the Supreme Court of the United States in the decisions referred to, or with the doctrine or principles set forth by Judge Story in his commentaries on the Constitution of the United States. That doctrine and those principles are right. This bill does not interfere in the slightest degree with the powers reserved to the States in reference to quarantine notice or inspection laws. Congress has the power to regulate commerce. All this bill does, as I understand it, when amended as proposed, is that Congress, in the regulations of commerce, in reference to which they have the exclusive power, shall not permit vessels coming from foreign ports to bring disease into any ports of any of the States of our Union against the laws and quarantine regulations of the several States. The object is not to violate but to aid the execution of the reserved powers of the separate States. That is all of it.

Mr. JONES, of Alabama. In reply to what the distinguished gentleman from Georgia has said I need only refer to what I have already read from adjudicated cases of the United States Supreme Court, and from Judge Story's Treatise on the Constitution. Judge Marshall and Judge Story never stickled at enlarging the powers of the General Government by construction, and yet they shrunk from asserting such a claim as that Congress had power over matters of internal police. Now, if State or local quarantine regulations should interfere with commerce, Congress may, under its "power to regulate commerce," control or remove these regulations, but it does not therefore follow that it may establish quarantine regulations.

But this bill is very objectionable in another respect. It provides that—

The surgeon-general of the marine-hospital service shall, under the direction of

the Secretary of the Treasury, be charged with the execution of the provisions of this act, and shall frame all needful rules and regulations for that purpose, which rules and regulations, with the approval of the President, shall have the force and effect of law until modified in the same manner.

This is an abdication by Congress of its power of legislation, and a delegation of that power to a single individual.

If these rules and regulations should be passed by Congress we could see that they were properly passed, that they were in conformity to the Constitution, that they did not interfere with trade, that they did not discriminate unjustly against the ports of any State. The Constitution of the United States, article 1, section 9, paragraph 6, provides

Now, what guarantee have we that this individual, the surgeon-general of the marine hospital, on whom this bill confers legislative powers, will not frame rules and regulations "which will give a preference to the ports of one State over those of another," or that he will not by his rules and regulations "oblige vessels bound to one State to enter at another?"

An act of Congress, to have the force and effect of law, is required to be passed in conformity to rules, constitutional and others, is considered in committee, &c. But these rules and regulations of the surgeon-general of the marine hospital, under this bill, have the force and effect of law without these formalities and safeguards; and then they cannot be modified, except in the same manner.

It is well enough that the consular and diplomatic agents of the United States should be required by law, as provided in this bill, to make weekly reports of the sanitary condition of the various ports where they are located and advise the proper authorities of the departure of vessels from infected places; and this information should be communicated to the various State or local boards of health. But this is as far as the United States should or can go in the matter. I am utterly opposed, for the reasons I have assigned, to the United States Government engaging in this police business. I am opposed to the United States policing the States with soldiers or with doctors.

I yield now to the gentleman from New York, [Mr. COX.]

Mr. SPRINGER. Mr. Speaker, has not the time allotted to this bill expired?

The SPEAKER. By unanimous consent, there was an extension of the time.

Mr. SPRINGER. How much?

The SPEAKER. Thirty minutes.

Mr. FELTON. Or longer.

The SPEAKER. The Chair is advised that five minutes additional were desired.

Mr. HARRIS, of Virginia. I objected to more than thirty minutes.

Mr. SPRINGER. Has not that time expired?

Mr. HARRIS, of Virginia. It was the understanding there should be an extension only of thirty minutes. The gentleman from Georgia will not deny that. I objected to more than thirty minutes.

Mr. SPRINGER. How much time remains?

The SPEAKER. On that understanding the time will expire twenty minutes past two.

Mr. JONES, of Alabama. I yield now for ten minutes to the gentleman from New York.

Mr. COX, of New York. Mr. Speaker, the gentleman who represents the Mobile district of Alabama [Mr. JONES] has made a very handsome presentation of his views on this question. I remember that one of his predecessors in the first session of the Forty-third Congress, Mr. Bromberg, introduced a bill here for a similar purpose. It had a unanimous report from the Committee on Commerce. It was a so-called national bill, overriding all State regulations of municipal and quarantine laws. It was not unlike this bill, when it was first introduced. It did not reserve any local rights. The author of that bill, as will appear by the debate, (CONGRESSIONAL RECORD, first session, Forty-third Congress, page 4562,) urged it on the grounds of mercy. He represented boards of trade. He presented memorials from southern cities, who were imperiled by the terrible visitations of imported plagues. He invoked the national arm. In that arm alone he contended was the remedy. He made sad pictures of the danger and its malignancy. He argued the inadequacy of the local authorities. There were no imaginary fears in his presentation of the dangers, inland and coastwise. He portrayed the poverty of the Southern States. He held that his measure was only an extension of the customs regulations. But his bill had one capital defect. What was it? He forgot the dangers of central or national power; he was oblivious to the grand work of the States and coast cities in protecting our shores.

That bill was fought by me from the beginning of the session to the 4th of June, when it came before the House for action. It was defeated again and again because of its one capital defect. All the objections which have been made by the gentleman from Alabama were made by myself in that debate (page 4564) against that measure. That bill was a purely national or Federal measure. I preferred that no mere bureau or commission should override all local precautions and provisions. That bill went so far as to make it a felony for a quarantine officer to act under a State law. I then quoted the very decisions quoted by gentlemen on both sides, holding that, while commerce in a constitutional sense was exclusively a matter of Federal government, yet our quarantine, inspection, and other laws were peculiarly local in their nature and scope. I referred to the case in 9 Wheaton, (Gibson vs. Ogden,) to the opinions of Webster, Wirt, and Chief-Justice Marshall, that certain health regulations should be of domestic and municipal regulation. I said that "I did not care to

discuss then whether the power was concurrent or not." It was enough for me that an amendment I then offered reserved and secured all local rights. No one seemed to deny that the States had ample power to protect by all suitable health laws their inhabitants from imported contagion.

What was the amendment proposed to guard against all trouble on this head? The amendment which I proposed is as follows:

That the provisions of this act shall not be so construed as to apply to the health regulation and quarantine measures maintained by States or municipalities; and such local systems and their appendages shall remain under the control of the respective local authorities.

Mr. Bromberg accepted that amendment. That amendment was adopted. It was incorporated in the bill. No objection was made after its acceptance. The bill passed the House *unanimously*. It never, however, passed the Senate. Now the new and accomplished member from the Mobile district [Mr. JONES] disclaims any intention or desire to have the Federal Government interfere with their local matters. What has happened since that time? I hope I may congratulate my friend from Alabama that by State laws and domestic regulations they have at last obtained a good local system of quarantine. It would seem so from his satisfaction with his local affairs in this regard and his jealousy of Federal intervention.

The object of my amendment at that time was that the admirable systems of Massachusetts, New York, Pennsylvania, and Louisiana (in the latter established with the aid of the distinguished gentleman from Massachusetts, [Mr. BUTLER]) should not in any wise be interfered with by our Federal system. To-day the gentleman from Georgia [Mr. HARTRIDGE] who spoke last, with so much grace and sense and to whom must be accorded the honor of the bill, has accepted the suggestion and amendment which I made to him. He thus saved his measure. He has gone further. He holds and he has agreed by his amendment that the Federal system shall be only subordinate and auxiliary to the State system; that these local systems shall not in any way be interfered with by any Federal power. He agrees that neither the laws now in existence with reference to quarantine nor those that may hereafter be enacted shall ever be entrenched upon by congressional legislation. What more can the most careful and logical adherent of State rights desire? What application can be made of decisions looking to State and local supervision as exclusive? Why may we not all agree to assist the unassisted and impoverished cities of the Gulf and South? Groundless are all fears under this amendment, and if it passes I can do, as I did with the former bill in 1874, give it cheerful acquiescence.

I do not care now to consider at length the argument *ad misericordiam*. I am satisfied we have the power to assist by our Federal instrumentalities the sanitary regulations connected with commerce. When the gentleman from Alabama [Mr. JONES] who last spoke conceded that we might use our consular and diplomatic systems for the purpose of helping and protecting health in this country from foreign plagues, he conceded in my judgment the whole question. He thus at once concedes this Federal authority, in spite of the case of Gibbons against Ogden, in spite of the decision of Attorney-General Wirt, in spite of other decisions jealously guarding State powers, which I quoted at the time of the former argument upon the Bromberg bill. All concede this, by accepting the construction given before and by accepting the amendment I proposed that there can be no collision, but rather much helpful aid between the Federal and State systems for sanitary purpose.

I am not prepared, and shall never be, I fear, to say that the Federal Government ought to take entire charge of this subject. I could not say that to-day, even if there were State failure and neglect. The power may not inhere in the power to regulate commerce. But one thing is sure: that this bill is not obnoxious to the charges made by the gentleman from Alabama. It is not centralization. It decentralizes. I would not disturb in one jot or tittle the splendid local systems of the States, already established or to be established; certainly not that of the great metropolis of this country. It has cost us in New York many years of scientific and medical study and trouble to avert malignant visitants like cholera and yellow fever. It has cost us two or three millions of dollars' expense. We have saved, by our cautious vigilance over vessels arriving at our great port, not only our seaboard cities but the inland towns. By our espionage and careful hygienic system in regard to these quarantine regulations, we have, with unmatched skill and care, contributed to the general welfare.

Quarantine, sir, is nothing new in the history of commerce. It is as old as the fifteenth century, as old as the plagues of mankind. It came out of the old Italian word "quarantina," which, as my friend from Georgia [Mr. FELTON] said, signified forty days. The intention was to save from the ravages of pestilence and contagious disease. It rendered small-pox, fever, and other epidemics innoxious by detaining ships, passengers, &c., until the danger of contagion passed. I hope, therefore, all the objections based upon a refinement of construction of the Constitution as to the commercial powers of a Federal nature and as to the reserved powers of a State nature may be all brushed aside. We should do it for the purpose of reaching the great evil. Since our Constitution was made, steam has developed this country. Railroads run from seaboard to seaboard and compass and traverse all the inland. The course of disease can be traced along the railroad tracks for hundreds of miles into the interior, almost as

perfectly as you can trace it within the limits of one block or one square of a city. Time and space have been annihilated, and a new application of government powers seems to be a necessity. Surely this can be vindicated in the light of mercy as well as wisdom.

Let me illustrate: Yellow fever comes from Cuba; it strikes Savannah; next day it may be at Atlanta; then it is found at Saint Louis, and then in Dakota, and where not in this country, owing to the peculiar nature of certain contagions and owing to our vast system of internal communication. Hence, though we may for some purposes have State quarantine regulations—regulations made for one section owing to its situation, exposed to peculiar dangers from peculiar diseases—yet for great general purposes this bill may be immensely useful. What would suit New Orleans, or Mobile, or Savannah would not, perhaps, suit so well the kind of immigration, importation, or shipping that comes to New York or Portland, or crosses the Canadian frontier. Certain local circumstances may require certain local laws and remedies. Therefore, it is wise to unite the Federal with the State system, in so beneficent a work, especially when the Federal is auxiliary to the State system and when the State system is made by this bill paramount to the Federal.

[Here the hammer fell.]

The SPEAKER. The gentleman from New York [Mr. POTTER] has the floor for five minutes.

Mr. POTTER. Mr. Speaker, no one disputes the importance or the necessity of quarantine regulations. Some portions of the country are more exposed to malignant infectious diseases like yellow fever and cholera than others, and it is said that at the southern Atlantic and Gulf ports there are no sufficient State quarantine regulations. The movement of which the bill now before the House is the outcome was a movement in that section of the United States for the protection of the people of those ports.

As the bill comes here from the committee it provides for a uniform national system of quarantine regulations. It has been said repeatedly in this debate that there are several ports which have already wise and well-matured systems of quarantine regulations, as New York, New Orleans, Mobile, and other ports; and the bill as it is proposed by the committee would break up all those systems and make them subordinate to the system to be established here by this proposed national bureau. Now, it is impracticable to have a uniform system of quarantine regulations, because different places, as my colleague [Mr. COX] has just said, require different provisions; because, further, different ports are differently exposed to infection. The length of voyage which will leave a vessel coming from Cuba dangerous at Charleston may make a voyage at the same time to New York or Philadelphia or Portland safe. And therefore it has been regarded that quarantine regulations were to be considered as police regulations and were to be left to the States. I should therefore consider a bill which proposed to establish a uniform national quarantine system, to override State quarantine regulations, as objectionable and unwise.

But if I understand correctly the force of the amendments which have been proposed here this morning by the committee or by the gentleman from Georgia, with the assent of the committee on Commerce, they are designed to take from this bill this objectionable feature. They make it a system of consular information, and, as the gentleman from Georgia called it, a system auxiliary to and not one controlling the existing State systems. The bill, if amended as proposed, will provide that such regulations as shall be established by this national bureau shall only be operative where they do not interfere with the regulations made by the States and where operative are to be carried out by the State authorities, where the State furnishes authorities to that end. I am inclined, therefore, to think that, if the bill is amended as proposed by the committee and by the gentleman from Georgia, [Mr. HARTRIDGE,] by the assent of the committee, it will be found useful in that section of the country where this movement originated and will not interfere with the regulations established by State authorities in cases where the States have laws upon this subject. I have an instructive letter upon the subject from the health officer of New York, which I send to the Clerk's desk to be read.

The Clerk read as follows:

HEALTH OFFICER'S DEPARTMENT,
Quarantine, Staten Island, March 21, 1878.

DEAR SIR: Your note inclosing memorial relative to the establishment of quarantine and a bill based upon the representations of the memorial have been received.

While there is crying necessity for the establishment of some rational system of quarantine so far as southern ports are concerned, its application to this port hardly seems called for. This State is amply organized in that respect, and has all necessary appliances. If you will look at the proposed law you will notice the great power given the surgeon-general of the hospital marine service. He may publish rules and regulations which would so contravene the workings of our law as almost to render it nugatory. So far as his department can impart reliable information concerning the health of infected localities, such information would be very desirable, though we are supposed to acquire the same through the consular bill of health which every vessel is compelled to bring.

Quarantine rules and regulations adapted to one port cannot be blindly applied to another. All of them must be indirectly based upon the time occupied in transit between the two points. One applicable to southern ports, near the indigenous home of yellow fever, would be different from our own. All regulations must be based upon our knowledge of the natural history of the disease, its period of incubation, its modes of transmission, its susceptibility to external impressions.

If, therefore, the action or interference of the General Government in carrying out proper restrictions was based upon the inefficiency or incapacity of the State authorities, and in so far was made subordinate to them, probably a harmony of action would ensue and the different communities be so much the better protected.

It would seem to me better to base action upon some such condition rather than make it as sweeping as proposed in the bill.

Respectfully, yours,

S. O. VANDERPOEL,
Health-Officer.

Hon. CLARKSON N. POTTER.

Mr. POTTER. I only desire, Mr. Speaker, to add that I always feel alarm at any movement to set up a Federal bureau in Washington. No matter how small the beginning of such Federal action, if it is only then as the little grain of sand, it grows year by year. The Federal Government has absorbed already all the printing of the Government, and I do not know but that it will presently absorb the making of arms and shoes and clothing for the Army and Navy. Here is a city of one hundred and fifty thousand inhabitants that exist mainly by the centralization here of Federal expenditure and patronage, and I always feel uneasy at any new movement that may add to this centralization.

I am glad to believe that the gentlemen who have charge of the bill do not intend to lay the foundation by it for more of that Federal expenditure and patronage which has already so aggregated in this city, and I trust that the amendments of the committee and the gentleman from Georgia will be adopted; otherwise I shall feel compelled to oppose this bill.

[Here the hammer fell.]

Mr. HALE. I wish I could agree with the Committee on Commerce and support the bill. I think that the idea of it is that there is a grave and honest apprehension that at certain southern ports some regulations are needed to protect the inhabitants from diseases that may be brought from foreign countries and so far as the measure goes in that direction of course it is meritorious. But, Mr. Speaker, as I examined the bill I am afraid of it, because of the great and unqualified powers that it lodges in the administrative officials of the Government. It is a delicate question at any time to interfere with State legislation where the subject has been taken into consideration by so many States. But when we do meddle in State legislation in matters that have been admittedly given to the States by Federal legislation, we ought to know how far we are going, and this bill is a wide charter to the Surgeon-General of the United States and the Secretary of the Treasury under the approval of the President, to enact what shall have the force of law about which we know nothing.

In the first section it provides that the whole subject-matter shall be under the control of the surgeon-general subject to regulations to be approved by the Secretary of the Treasury with the approval of the President of the United States.

The whole subject is left in that way.

Now, after reading section 1, I followed the bill carefully, expecting to find what regulations we are to agree to, but I find the chart in the last six lines of section 2 in these words:

And the said surgeon-general of the marine-hospital service shall, under the direction of the Secretary of the Treasury, be charged with the execution of the provisions of this act, and shall frame all needful rules and regulations for that purpose, which rules and regulations, with the approval of the President, shall have the force and effect of law until modified in the same manner.

Now, Mr. Speaker, throughout the whole bill in its seven sections the whole subject of the entry of vessels, of the restrictions that are to be laid upon them, the number of days that they shall be in quarantine, and the inspection is no more considered in this bill than if the subject had never been brought before the House. It simply provides that the consuls shall report and health officers co-operate; but the subject matter of the bill is turned over to three officials of the Federal Government.

I would not dare, on a question so delicate as this, to trust the Surgeon-General of the United States with these powers, though he may be an able and competent man. I would not dare to trust the Secretary of the Treasury, though he is an able, competent, and high officer of the Government. I am not willing even to delegate this power to the President, although he is chief magistrate of the United States, but when we embark in a question of interfering with old-time usages and old-time regulations, let us have a chart before us; let us know how far we go, so that we may be assured of our safety.

It was said by the gentleman from Georgia that the State authorities are to co-operate with the Federal Government, and that State regulations are not to be interfered with. My answer is, that under the sweeping authority given to the executive officers of the Government we have no guarantee that the regulations established will be such that the State officials can co-operate in. No man can tell but what the regulations of the State may be contravened and controlled by the regulations of the Federal Government, and there may be a conflict of jurisdiction in every State and in every port in the country.

Mr. FELTON. I call the previous question.

Mr. HARRIS, of Virginia. I call for the regular order of business. The time allowed for this bill has expired.

The SPEAKER. The Chair reserved enough time for the sense of the House to be tested upon this bill. The gentleman from Georgia has a right to have the sense of the House tested upon this bill; otherwise it would have no place in the House whatever in the future.

Mr. COX, of New York. Was it not intended that these sections should be read for amendment and for five-minute debate?

The SPEAKER. The Chair does not understand that there was to be debate under the five-minute rule. The understanding was that the sections should be read and amendments appropriate to each sec-

tion offered and voted upon. The question is upon seconding the demand for the previous question.

The previous question was seconded and the main question was ordered.

The SPEAKER. The bill will now be read by sections for amendment.

The first section was read, as follows:

That no vessel or vehicle coming from any foreign port or country where any contagious or infectious disease may exist, and no vessel or vehicle conveying any person or persons, merchandise or animals, affected with any infectious or contagious disease, shall enter any port of the United States or pass the boundary line between the United States and any foreign country, except in the manner and subject to the regulations to be prescribed as hereinafter provided.

Mr. HARTRIDGE moved to amend the section by inserting after the words "any foreign country" the words "contrary to the quarantine laws of one of said United States."

The amendment was agreed to.

No further amendment being offered, the second section was read, as follows:

SEC. 2. That whenever any infectious or contagious disease shall appear in any foreign port or country, and whenever any vessel shall leave any infected foreign port, or, having on board goods or passengers coming from any place or district infected with cholera or yellow fever, shall leave any foreign port, bound for any port in the United States, the consular officer or other representative of the United States at or nearest such foreign port shall immediately inform the supervising surgeon-general of the marine-hospital service thereof, and shall report to him the name, the date of departure, and the port of destination of such vessel; and the consular officers of the United States shall make weekly reports to him of the sanitary condition of the ports at which they are respectively stationed; and the said surgeon-general of the marine-hospital service shall, under the direction of the Secretary of the Treasury, be charged with the execution of the provisions of this act, and shall frame all needful rules and regulations for that purpose, which rules and regulations, with the approval of the President, shall have the force and effect of law until modified in the same manner.

Mr. HARTRIDGE moved to amend the section by adding the following:

But such rules and regulations shall not conflict with or impair any sanitary or quarantine regulations of any State or municipal authority.

Mr. COX, of New York. I move to amend the amendment by inserting after the word "quarantine" the words "laws or;" and also to add to the amendment the words "now existing or which may hereafter be enacted."

Mr. HARTRIDGE. I am willing to accept that amendment.

The SPEAKER. The gentleman has no right to accept it; the House may adopt it.

The amendment to the amendment was agreed to, and the amendment, as amended, was agreed to.

Mr. O'NEILL. I move to amend the section by inserting after the words "the port of destination of such vessels," near the middle of the section, the words "and shall also make the same report to the health officer of the port of destination in the United States."

Mr. HARTRIDGE. I hope that amendment will be adopted.

The amendment was agreed to.

Mr. HALE. I move to further amend the section by striking out the words "with the approval of the President, shall have the force and effect of law until modified in the same manner," and to insert in lieu thereof the words "shall be subject to the approval of the President."

Mr. POTTER. Let that portion of the section be read as it is proposed to amend it.

The Clerk read as follows:

And shall frame all needful rules and regulations for that purpose, which rules and regulations shall be subject to the approval of the President, but such rules and regulations shall not conflict with or impair any sanitary or quarantine laws or regulations of any State or municipal authorities now existing or which may hereafter be enacted.

The amendment was agreed to.

No further amendment being offered to section 2, section 3 was read, as follows:

SEC. 3. That it shall be the duty of the medical officers of the marine-hospital service and of customs officers to aid in the enforcement of the national quarantine rules and regulations established under the preceding section; but no additional compensation shall be allowed said officers by reason of such services as they may be required to perform under this act, except actual and necessary traveling expenses.

No amendment being offered to section 3, section 4 was read, as follows:

SEC. 4. That the surgeon-general of the marine-hospital service shall, upon receipt of information of the departure of any vessel, goods, or passengers from infected places to any port in the United States, immediately notify the proper officer or officers at the threatened port of destination of the vessel, and shall prepare and transmit to the medical officers of the marine-hospital service, to collectors of customs, and to the State and municipal health authorities in the United States weekly abstracts of the consular sanitary reports and other pertinent information received by him.

Mr. HARTRIDGE moved to amend section 4 by inserting between the word "proper" and the word "officer" the words "State or municipal and United States;" so that it will read, "notify the proper State or municipal and United States officer or officers."

The amendment was agreed to.

No further amendment being offered to section 4, section 5 was read, as follows:

SEC. 5. That the provisions of this act shall not be so construed as to prevent the establishment and maintenance by States or municipalities of port health regulations and quarantine measures, in addition to or furtherance of the rules and regulations established under this act; and such local systems and their appendages

shall remain under the control of the respective local authorities; but any local law or regulation interfering with or obstructing the due execution of the national rules and regulations, as approved by the President under this act, shall be null and void.

Mr. FELTON moved to strike out the section.

The motion was agreed to.

Section 6 was then read, as follows:

SEC. 6. That wherever, at any port of the United States, any State or municipal quarantine system may now exist, the officers or agents of such system shall, upon the application of the respective State or municipal authorities, be authorized and empowered to act as officers or agents of the national quarantine system, and shall be clothed with all the powers of United States officers for quarantine purposes, but shall receive no pay or emolument from the United States. At all other ports where, in the opinion of the Secretary of the Treasury, it shall be deemed necessary to establish quarantine, the medical officers or other agents of the marine-hospital service shall perform such duties in the enforcement of the quarantine rules and regulations as may be assigned them by the surgeon-general of that service under this act.

Mr. COX, of New York. I move to insert before the word "exist," in line 2 of this section, the words "or may hereafter;" so as to make it correspond with an amendment already made to section 2 of this bill.

The amendment was agreed to.

Mr. O'NEILL moved to further amend the section by adding to it the following:

Provided, That there shall be no interference in any manner with any quarantine laws or regulations as they now exist or may hereafter be adopted under State laws.

The amendment was agreed to.

No further amendment being offered to section 6, section 7 was read, as follows:

SEC. 7. That this act may be quoted as the national quarantine act of 1878.

Mr. COX, of New York. I move to strike out that section.

The motion was agreed to.

The last section of the bill was read, as follows:

SEC. 8. That all acts or parts of acts inconsistent with this act be, and the same are hereby, repealed.

The bill, as amended, was then ordered to be engrossed and read a third time; and it was accordingly read the third time.

The question was taken on the passage of the bill; and upon a division there were—ayes 103, nays 21.

Before the result of this vote was announced,

Mr. HALE called for the yeas and nays.

The yeas and nays were not ordered, there being 23 in the affirmative, not one-fifth of the last vote.

So the bill was passed.

Mr. HARTRIDGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the House of the following title; when the Speaker signed the same:

An act (H. R. No. 2371) to amend an act entitled "An act for the support of the government for the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes."

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced concurrence in the amendments of the House to the bill (S. No. 349) to authorize the commissioners of the District of Columbia to refund a certain tax erroneously collected.

It further announced concurrence in the resolution of the House for the appointment of a special joint committee to meet the body of Hon. John Edwards Leonard, late a Representative of Louisiana, upon its arrival at New York and escort it to the place of interment at West Chester, Pennsylvania, and had appointed Senators JAMES B. EUSTIS, A. SAUNDERS, and SIMEON B. CONOVER as such committee on its part.

It further announced that the President had notified the Senate of his approval of the following joint resolution and bill:

Joint resolution (S. R. No. 21) filling the existing vacancy in the Board of Regents of the Smithsonian Institution; and

An act (S. No. 611) to extend the charter of the Franklin Insurance Company of the City of Washington.

ELECTION CONTEST—DEAN VS. FIELD.

Mr. SPRINGER. I now call up the unfinished business of yesterday, being the contested-election case of Dean vs. Field, from the third congressional district of the State of Massachusetts.

Mr. COX, of Ohio. Mr. Speaker, in the very few moments allotted to me I shall not have time to enter into anything like an argument upon this case. I propose, therefore, to state as briefly as I can the impressions made on my own mind and the conclusions to which I have been brought by an examination of the testimony and of the reports which have been filed.

We have had recently before us a case which in some respects is analogous to this—the case from Louisiana—in which the question chiefly turned upon a recount of the votes which were cast, which recount was had, as was claimed, in accordance with law. In that case I agreed with the majority, that when the question was fairly considered there seemed to be reason why the recount should be held to be final; why it seemed to be accurate; why, on the whole, justice

seemed to be done by it. In trying to compare the two cases, and especially in trying to think how gentlemen of candor on the other side of the House would view this matter, it seemed to me that the same reasoning must of necessity bring them to the same conclusion. Here more than there the recount was prompt—much prompter; here more than there it was in accordance with the law of the State; here more than there it was made under a scrutiny which gave both parties full opportunity of knowing whether it was rightfully done or not; here certainly as clearly as there the result is honestly reported by those who made the recount; and consequently the recount ought to be final in this case, if it was right to treat it so in that.

The argument which has been presented in support of the contestant's claim, based purely upon technical law, as I understand it, with regard to the manner in which the United States statute in reference to supervisors of elections would affect the case, is one that I have not time to go into; nor would I care to do so if I had time, because my purpose is not to address myself particularly to gentlemen on this side of the House to whom alone that argument could be addressed, but to present to those of the other side of the House whom I believe to be candid reasons that should influence their action. For I take it that there at least there will be no disposition to strain the construction of a Federal law so as to take away authority from a State, or to bring it in any way into collision with the statutes of Massachusetts. What might be the force of that argument under other circumstances I will not now undertake to say. It does not, however, so far as I have heard it presented, seem at all conclusive to my mind. The Federal law does not annul the election laws of the State, either in terms or by implication, but only provides witnesses to the honesty of the enforcement of State laws for the protection of purity at the elections, and guarantors of redress in case force or fraud shall enter into the election of a member of this House, or other officer to whose case the act of Congress may properly apply.

In this case I may fairly assume, as it seems to me, that the right to a recount is clearly established. Not only gentlemen who have argued from a theoretical stand-point, like the gentleman from Georgia [Mr. CANDLER] and other gentlemen on that side of the House, but those who have been all their lives familiar with the question, like the gentleman from Massachusetts [Mr. HARRIS] who spoke yesterday, have sufficiently shown that here was an instance in which, according both to law and to established custom in Massachusetts, the recount was a proceeding which was common, was well understood by the people, was regular, and was in all respects such a revision of the election returns as occurs every year in that State and in that same city of Boston.

Under these circumstances I have felt that we were justified by every rule of consistency in saying that those at least who believed that the Louisiana case was rightfully determined upon a recount are bound in common honesty to say that the same is true here. I feel that I should not do justice to my own convictions if I failed to say that now, if ever, the question is presented to gentlemen upon the other side of the Chamber whether any case can possibly arise in which arguments from consistency, fairness, and justice shall make them admit that anybody returned as a republican is entitled to a seat upon this floor if it is contested. In this I do not at all overstate the strength of my own feelings; for knowing as I do that no case can arise in which doubt is impossible, I shall be forced to conclude that it is only necessary to give notice of contest and thus make a pretext for the doubt which is to be followed by its determination in favor of the party represented by the majority on the floor.

As proof of the tendency of men's minds to see everything warped by partisan feeling, it is only necessary to refer the House to the manner in which this subject has been treated by the majority of the committee; for I read in the report of the majority that which seems to me to indicate a state of mind so far removed from the judicial balance which I think ought to exist that the mere quotation of portions of their report is conclusive against the fairness of their judgment. I refer now to that portion of the report on page 22 where reference is made to what are called "stickers" or "pasters" in the ballot-boxes, these being, as I presume everybody understands by this time, blank pieces of paper or pieces of paper with names on them, which have been pasted or stuck over the names of candidates upon the ticket in order to change a vote.

The majority of the committee say:

In addition to this, the testimony is that stickers or pasters (that is, the names of the candidates printed on separate pieces of paper) were used in great quantities and pasted over the names of the rival congressional candidates. The testimony also is that these stickers or pasters came off in some cases. And there is a great probability that some did come off after they were counted in the ward room and before the counting of the aldermanic committee.

I desire this statement to be noticed because I intend briefly to call attention to the testimony which the majority of the committee themselves refer to. They say further:

On pages 152 and 153 of the record, Alderman O'Brien testifies that there were a few loose stickers in the boxes with only the names of the candidates on them, the office not being indicated, but the names did not appear to be the names of the contestant or contestee. In some of the wards the changes by the coming off of stickers between the two counts is so apparent that to state the facts is to prove the case.

They then give two cases in which there was a change of one or two votes apparently from one side to the other. In other words, the difference between the second count and the first count must be that which always occurs in such cases, when there were too many votes

counted on one side or too few on the other; and having simply shown that the first count gave one or two more votes to Mr. Field in a particular ward than the second, or *vice versa*, they argue that this proves that "stickers" or "pasters" must have fallen off the ballots after the first count. I think that every gentleman who has read that passage of the report has been led to believe that all that is here said about "stickers" and "pasters" and changes of names in this way, refers to the congressional candidate, with the simple qualification that the names of the contestant and contestee here were not the names that were found upon these loose pieces of paper.

But so far from that being the case the testimony before them, and to which they refer, was perfectly explicit, and in terms declared that this had not reference to the congressional contest at all, but to candidates for other offices upon the tickets at that election. Yet it is from that statement of the case, from that condition of facts, that the argument is made here that we are to conclude those changes were made in this manner, instead of assuming, as is every way most natural and probable, that the changes were owing to the discovery of errors in the first count, as the proper officers reported and have testified.

The House will pardon me for asking members to refer to the testimony on pages 151, 152, and 153. Hugh O'Brien, one of the aldermen, is being examined, and interrogatory 16 is as follows:

Interrogatory 16. Did you satisfy yourself that you counted ~~all~~ the ballots, and did you look to see whether there were any stickers or pasters in the boxes?

Answer. I am satisfied that I counted every ballot. I don't remember that any pasters or stickers were in the boxes for Mr. Field or Mr. Dean. I always looked to see.

Still further along, cross-interrogatory 6 is as follows:

Cross-interrogatory 6. Were there or not loose stickers in the boxes for persons other than those voted for as members of Congress?

Answer. There were a few loose stickers in the boxes for persons other than members of Congress. I don't remember who the persons were.

Still further along he is asked whether he had previous experience in other years in regard to recounting of votes, and he answers that he had, and that at such recounts occasionally stickers and pasters were found in the boxes.

Then cross-interrogatory 12 is as follows:

Cross-interrogatory 12. In your previous counts did you or not find many stickers in the boxes?

Answer. Well, there were always a few stickers to be found in the boxes—as a general thing I should say, not always. These stickers are sometimes put on carelessly and I have known sometimes in counting the votes it would remove a sticker or so.

Mark you, the question is with reference to former years. He has testified explicitly and directly as to the examination of this year. He testified that in this case he examined the whole of the ballots and there were no loose "stickers or pasters" found. What he thus stated as part of his experience in former years the majority of the committee have incorporated into their report in such a manner as to make it descriptive of the election we are now examining, and they use the language of the witness in such connection as fairly to imply they understood the testimony as to careless counting to refer to this year, and the loose pieces of paper spoken of to be those which had covered the name of Mr. Field and had fallen off in the ballot; when in fact the testimony is as direct and fall in denying this as it is possible for language to make it.

The whole passage of the report is so plainly colored by the prejudices of the gentlemen who made it as to give strongest evidence that there was no such fair balance of judgment as ought to have weight in the final decision of the case. If there were time it would be easy to show that the same failure to keep an equipoise is visible in every part of the summing up in the majority report, and that it is not unfair to it to judge the whole from the sample which I have given. [Here the hammer fell.]

Mr. BANKS. Mr. Speaker, a few words will answer my purpose in this discussion. The city government of Boston in 1876 was chosen in the autumn of 1875. It was a government as free from partisan passions or prejudices as any government that ever existed. It was chosen a few months after the memorable demonstration which took place on the 17th of June, 1875, at the celebration of the centennial anniversary of the battle of Bunker Hill. The mayor of the city was a life-long democrat and the members of the two branches of the city government, whether republicans or democrats, were independent men. The city clerk, Mr. McCleary, of whom so much has been said in this discussion, was a sort of Roman officer who had held that position for more than twenty years under republican or democratic administrations, against whom not a word of reproach had ever been uttered and whose official or personal integrity had never been questioned. It was such men as these and the persons appointed by them that were called upon under the laws of the city and State to preside over the congressional election of 1876 and decide the contest between the sitting member, Mr. Field, and my friend, Mr. Dean, who contests his seat.

There never was a more independent or impartial tribunal created for the direction of a national or State election. It would be a singular but not unnatural result if the course of a city government like this, acting under the clearly defined and well-understood laws of the State of Massachusetts for the election of a member of this House,

should be considered or settled here upon technical, not to say capitious, grounds, by an absolutely partisan majority on one side or the other. But I hope it will not be so considered or so decided.

What I have to say, Mr. Speaker, concerns, in the first place, the functions of the supervisors of election and the manner in which their duties were discharged in this election now under investigation. Much has been said on the other side in regard to this question, and there is a passage in the report of the majority of the committee which seems to imply that failure of the supervisors to do their duty was sufficient ground to unseat the member whose credentials gave him a seat upon this floor.

I understand the supervisors of election to have been created under the law of Congress of February, 1871, for the protection of the Government of the United States, and not in any sense for the purpose of controlling or directing the action of State officers in the election of members of Congress in the several States. Elections of members of Congress are still to be decided according to the laws of the States, and by the officers appointed under them, and the supervisors of elections are only placed at the polls to oversee and examine, or, as their official title indicates, to "superintend" and to report in the first instance to the chief supervisor and to the House of Representatives through the Clerk of the House the results of their observations and action, the character of the election in which they were engaged, the manner in which the laws were administered, and how far the people were protected in the exercise of their political rights. This is the purpose and the character of the statute of 1871, creating boards of supervisors of election, wherever they should be called for or appointed, according to the provisions of the statute.

That I may not be in error, I will briefly state what their duties were as defined by the law itself:

They were to be appointed in cities and towns of more than twenty thousand inhabitants; to be of different political parties; to be in attendance at the times and places of registration; to challenge persons offering to register or vote who are not properly qualified; to make and verify registration and voting lists; to personally inspect and scrutinize registers; to be at places of election, and at the times and places of counting votes; to remain where the ballot-boxes were kept; to scrutinize the manner of voting and keeping tallies; to personally inspect, scrutinize, count, and canvass each ballot; to make and forward certificates and returns to the chief supervisors; to attach to the register a statement of the accuracy and fairness of the election; to occupy any place at the polls, and to remain there until every duty was completed; to report any interference with the rights of electors; and the chief supervisor, having investigated the truth of these reports, where necessary, was to make his report of the character of the election at which he was stationed to the Clerk of the House of Representatives of the Congress of the United States. These provisions are embraced in sections of the Revised Statutes, No. 2011 to 2019, inclusive.

Now there is nothing in this specification of duties that requires the supervisors to interfere with or control the action, in the slightest degree, of the State officers. The law was not framed for that purpose nor are its provisions intended to produce any such result. Their duty and function is to observe, verify, and report the facts as they occurred. If there is any injustice or wrong in the course of the election they are to take note of it and make a report and in the end bring their report to the House of Representatives, so that this House may act in regard to any election affected thereby or depending thereon exactly as if the members of the House stood at the polls themselves and had observed the process of the election. And their duty ends with the election and the day of the election. The election in question here occurred on the 7th day of November, 1876. There is no doubt that the supervisors, in this case at least, did their whole duty. Nobody complains that they did not on that day do everything that was required. They made their report and they did not say and could not say anything improper took place at that election because it was agreed on all sides it was a peaceful, orderly, legal, and perfectly honest election. The count of votes and the declaration of the result of the polls in the congressional district in question were in favor of the contestant, Mr. Dean, and against the sitting member, Mr. Field, by a majority of something more than 20 votes.

Now it is contended by the committee and by every gentleman who has spoken on the other side that these supervisors should have followed this count beyond the day of election, beyond the closing of the polls; that they were required to go to the board of aldermen and supervise the count made there; and if they were required to go to the aldermen, then they would have been required to go to the governor and council and supervise their count, because the governor and council, under the laws of Massachusetts, have the right to count, and it became their duty to count, these votes, for on the count of the governor and council depends the certificate of election; and because the supervisors did not do this it is argued, in substance, that the election is null and void. That is the argument substantially as it is stated in the majority report of the committee and as it is presented here.

I submit, Mr. Speaker, to the members of the House if any such doctrine as this can be sustained. These supervisors of election are appointed for the protection of the Government of the United States. If they did not attend to their duty they may be prosecuted and pun-

ished. If they did not attend to their duty the United States suffers, but the people of the State ought not to suffer, and still less the officers of the State government or its representatives. There is no principle of law upon which you can say that an officer appointed by the Government of the United States, who does not attend to his duty, because of his failure, is to deprive the people of a State or a district of their rights. Why, sir, did they not attend the count of votes made under the laws by the board of aldermen of the city of Boston? Because it was not necessary for them to attend. The election for which they were appointed was ended. What the aldermen had to do was done in the way of a revision of the results of the election as reported by the officers of the election of the State, just exactly as the governor and council had a right to revise the proceedings of the election according to the law and the constitution of that State.

And can it be said that the supervisors have the right to follow up this counting from the election on the 7th of November to the aldermanic count, two or three days after, and then to the governor and council, and thus to secure the election of the man who they thought ought to be elected, or, if they could not secure the election of that man by their attendance, they could stay away and thus defeat the election of his opponent? Is that the law of the United States? And yet that is what the argument of the gentlemen on the other side and the report of the committee assume: that if they fail to attend either one of these counts, on account of that failure the election is void and the sitting member ought not to retain his seat. That is the way in which I understand the argument. And if they are required to attend the revisory count by the aldermen and the count by the governor and council they are equally required to attend here; because this election will not have been ended or settled until we have decided who was elected, and the law requires them to make their report here. Where is their report? They never made any report here. Why not? Because there was nothing of which to complain. The law had been fulfilled. Everything had been done that the law of the United States and the law of Massachusetts required. The election was legal. The whole proceeding was correct and honest, and they had therefore no report to make. And therefore because they make no report these gentlemen say the election is to be void.

Gentlemen on the other side make another point. They say that this second count by the aldermen was not in accordance with the law of the State and that it was not in proper form. The law, as they give it, correctly no doubt, on page 26 of the report, is as follows:

If within three days next following the day of any election ten or more qualified voters of any ward shall file with the city clerk a statement in writing that they have reason to believe that the returns of the ward officers are erroneous, specifying wherein they deem them in error—

there shall then be a recount of the votes. If ten qualified voters make "a statement"—that is the law of Massachusetts—in writing, showing wherein they deem this count to have been in error, they are entitled to a recount by the board of aldermen. That is all. Now, the gentlemen on the other side say because of some failure in the form or the manner in which this statement is presented, there is no validity in the count. Who is to judge whether the statement is sufficient or not, according to this law? Why, the aldermen, to whom the appeal is made. The board of aldermen are to judge whether or not the statement in writing is sufficient. If they decide that it is sufficient and make the count it answers the purpose of the law. The reason the qualified voters assigned for this recount was that Mr. Field had less votes given to him in the count on the 7th of November than he had received, and that Mr. Dean had more votes given to him in the count than he had received, and that an examination and recount of the votes would prove their statement to be true. That was their specification, and the result of the examination and recount showed they were right. Mr. Dean had been credited with more votes than he had received at the polls, and Mr. Field, the sitting member, had received more votes at the polls than the returning officers had accorded to him, and they wanted the record corrected so as to be in accord with the facts. Was it not their right?

That was their specification. The board of aldermen opened the ballot-boxes, as they were required by law to do, and counted the votes and found that that was the fact, that the specification that these ten qualified voters, or more, had made as to different polls was sustained, and that Mr. Dean had received less votes than had been counted for him and that Mr. Field had received more votes than had been counted for him they made that declaration upon that ground, and the certificate was given to Mr. Field.

Now, sir, in this the State of Massachusetts and the city of Boston have done just exactly what has been done in all other matters of the same kind. It does not call for any very specific and exact form. There are gentlemen who seem to have such aristocratic notions as to require that the laws should be so framed that none but an astute city lawyer or some learned jurist, who, as Juvenal says, "takes provoking gold on either side and puts it up," can interpret it. But that is not the idea of Massachusetts. She makes laws so that everybody can understand and administer them, and it is in that spirit that her laws are made and administered everywhere and always.

I remember a case in the supreme judicial court of that State that illustrates that principle. Many years ago, when I was a much younger man, I saw a young fellow apparently from one of the shops in the neighborhood of the court-house enter the supreme court room

during the session. He waited a long time and, when the court adjourned and the chief-justice and the associate justices had left their seats, were going out of the court-room, presented to the chief-justice a paper, which the judge received. It was Chief-Justice Shaw, a man who had no superior in his day in that State, scarcely any superior in his own time in any country. The chief-justice said to the young man, "What is this?" He said it was a request for a writ of *habeas corpus*. The chief-justice said "Why did not you present it to the court during its session?" The boy replied, "Sir, I am not a lawyer." The chief-justice said, "Oh, you are not a lawyer; then come with me, I will hear your case." He might have told him, as these aristocratic gentlemen would have done no doubt, to go to some leading member of the bar and pay him \$50 or \$100 or \$200 to have his petition presented in proper "form." But the chief-justice did not do that. He said in the spirit in which Massachusetts laws and government are administered, "I will hear your case." It is exactly in that spirit that the election laws of Massachusetts are framed and in that spirit that they are administered and they ought so to be accepted by this House. This makes a part at least of her glorious record. It was of such a state that Lord Bacon said:

Her laws are deep, not vulgar; not made out of the spur of the occasion for the present, but out of providence for the future, to the end that the estate of the people may be more and more prosperous, after the manner of legislators in ancient and heroic times.

Mr. BUTLER. Mr. Speaker, I would that I need not take part in this debate. My judgment and sense of right compel it. There are many things in this case most highly creditable to the Commonwealth of Massachusetts, and there is nothing in it that can call a blush of shame to the cheek of any one of its sons. There is nothing in this case to excite either emotion or passion. There is nothing of consequence in it except to find the right, as we can see and know the right. There is no charge of fraud or intentional wrong against any officer or any parties having concern with this election. There is no possible imputation upon either of the learned and able gentlemen who received suffrages of the people of their district within five votes of each other, upon any count for a seat in this House. There will neither be any disfranchisement of a large constituency by any judgment which we may give here, but five men in majority in any event are not to have their choice. I can therefore see no occasion for heat or for anything but a just judgment.

I do not perceive any occasion for assuming that any claim should be made for a gentleman on the other side of the House who has agreed with this side of the House in his judgment of high patriotism for voting in favor of retaining Mr. Field in his seat, nor do I see any reason why any gentleman on this side of the House, who came to an equally honest conclusion that Mr. Field is not elected, should have any imputation cast upon him. I cannot understand how it is that whenever the republican side of the House vote solidly for republicans we are always patriotic, just, honest, and unpartisan, and whenever, in a similar contest the democratic side of the House votes solidly for one of their own number in an election case they should always be deemed to be partisan, unfair, and unjust, or *vice versa*. But so it is. When a man steps out from either side of the House, differing with his party in its view of the law or facts in an election case, he immediately gets, or attempts to get, the character of being entirely unpartisan and acting from the highest possible motives.

Now, sir, I am a strong partisan. I am going to speak to this case from a partisan standpoint to sustain a law passed by a republican Congress, for which I fought for two years against a united democracy, to sustain the purity of elections, and I was then sustained by gentlemen on the republican side who now seem, for the purpose of getting one more vote where we have so few, willing to fritter away that law, and argue that it is not binding or of any effect as against State laws regulating elections. To that I desire to enter my protest. If action by officers under our law contravenes action of the State officers in election of members of Congress, the latter must give way.

Before I go further, I desire to say one word right here, and it is, that in my belief all the machineries of election, all the counting, sorting, and declaring of votes, making returns, are all for no other purpose save to reach this result: to show who had by a fair preponderance of evidence the highest number of votes; and when that result is reached I am ready to brush away all the machinery of counting, declaring, or returning votes. That machinery has performed its office, and is useless further, and controls no further.

If I believed upon the fair preponderance of evidence so derived, as it strikes my mind, that Mr. Field received the larger number of votes at this election, he should have my vote to retain his seat here. But I should be very unwilling to be brought to that conclusion upon the ground that the evidence provided for by the laws of Congress and furnished by the supervisors was established to be set aside because that United States law was not made in pursuance of the constitutional power of Congress "to make and alter" State regulations in regard to Federal elections.

What specially attracted my attention to this case was the reading of the report of the minority of the committee, where I found that four gentlemen of the republican side of this House in the exercise of non-partisan views had signed their names to the declaration, after they had quoted the various provisions of the law passed by the Con-

gress of the United States providing for supervisors of Federal elections and prescribing their duties—to the following declaration:

These provisions of law were not enacted by Congress in pursuance of its constitutional power to "make or alter" regulations as to the manner of holding elections for Representatives in Congress.

Now, if I should vote in accordance with this report without entering my protest against this declaration I would be considered as agreeing to that exposition of constitutional law, and I do not mean even to seem to agree to that. There were two sets of laws passed by Congress: one for the enforcement of the right to vote of citizens heretofore disfranchised because of race or color; the other, not made to affect that class of people at all, but to affect cases like the frauds on the ballot-boxes in the city of New York, where Tweed had proclaimed that it was not the ballots but the counting that determined elections in the city of New York. And an election in that city might determine the election of a President, because New York city controlled the State, and the large number of electoral votes of the State controlled or might control the election of President. It was in view of that, in the interest of fair elections, in view of honest counting, that I for one voted for, and the House and the Senate passed and the President signed, a law which provided that whenever any ten citizens believed that there was not likely to be a fair election at any polling-place they could apply to the circuit court—for what? For the appointment by the judge of two supervisors, one of each political party. These supervisors were to be appointed by the judge, a life officer, and they were to stand together at the polls—to do what? To scrutinize every vote cast, to see to the challenges, to count, sort, and return a true account of every vote to their chief, the chief supervisor of election, to be within the potentiality of those officers or bodies having the determining of Federal elections, i. e. to electoral votes and to votes for members of Congress.

That law was in the interest of the purity and fairness of elections. Whatever we may do to-day to attempt to get rid of that law will return to plague the inventors, for some day or other all of us may have to call upon these supervisors, appointed indifferently one of each party, to stand between the violence or passions of a mob, or the frauds of bribed officers, and the true and fair result of the election. Now, I cannot agree that that law is unconstitutional. Yet, believing it to be constitutional, the mere fact that the supervisors are not present on a certain day, or that they were not present when the aldermanic count was made, or anything of that sort, would not stand in the way of my judgment, because all such matters are merely technical, and should not be considered as controlling. But the count of the supervisors appointed under the authority of Congress, selected by the court indifferently from both parties, should be received by this House as the highest evidence until something more than a count by somebody else, afterward made under a State law, is set up in place of this official Federal count.

You may show that these supervisors made mistakes, that they did wrong; you are at liberty to show that. Their count is not conclusive. But, in my mind, it is conclusive against any evidence that is not of a higher character. And a subsequent count by State officers without such is not higher or better evidence. This is what I claim for this count of the supervisors in this case.

It has been said here that these supervisors constituted a sort of a machine by which somebody was to be oppressed. I have given you the whole history and scope of the law; no man will doubt it. Now, whenever a man signs his name to the declaration that it is not constitutional, under the right to alter and regulate by Congress the manner of elections in a State, to pass a law providing for the appointment of officers to see that there is a fair count, then I must make my protest here, now, and ever.

What, then, is this case? There was an election held in this district, precisely as every other election has been held in Massachusetts since 1780, with this single exception that there were no cities in Massachusetts in 1780. And I almost wish that there were none in Massachusetts in 1878; for I believe with Thomas Jefferson, that great cities are great sores upon the body-politic. I have heard here so much talk about the uselessness and want of correctness of a count by ward officers during the day-time on election day, and that we must set aside the count by the ward officers because of want of validity. I go back to the fathers. Here is the provision of our State constitution, made in 1780, which I ask the Clerk to read.

The Clerk read as follows:

ARTICLE 3. Those persons who shall be qualified to vote for Senators and Representatives, within the several towns of this Commonwealth, shall, at a meeting to be called for that purpose on the first Monday of April, annually, give in their votes for a governor to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the last Wednesday in May, &c.

Mr. BUTLER. Now, that constitutional law, so far as voting in every town in our State is concerned, is the law to-day. Every vote must be sorted and counted on election day, and declared and the return thereof sealed up in the presence of the people before the election is over, or before the meeting is dissolved.

For every town in the State there can be no recount. Now, we have

been told that a different principle should apply towards the city. But in point of fact when Massachusetts began to establish cities in 1820 our law, which is a general law, provided that the ward officers should do in the wards exactly what is required of town officers at an election in a town-meeting. In wards everything is done by the ward officers in the same manner as by the selectmen of a town in a town meeting. So that our whole election system, except in cities, depends solely upon the count of votes on election day.

Mr. HARRIS, of Virginia. Will my friend state whether in using the word "towns" he refers to towns proper or to rural districts, known generally as "townships?"

Mr. BUTLER. Our State is divided differently from many others. When we speak of a town we mean a certain territorial district having a municipal government for itself.

Mr. GARFIELD. What we call a township.

Mr. BUTLER. Our town is a regular municipal corporation—what is called a township in some States. It is a municipality, having the entire control of its own municipal affairs. In each of these towns on an election day all the inhabitants of the town having certain qualifications come together at one place to vote. This being the condition of things, when we established cities we required the ward officers of cities to do in the wards precisely what the selectmen do in the towns: to receive, sort, count, declare, return, and seal up the votes before the ward meeting is dissolved. Some gentlemen—notably my friend from Ohio, [Mr. COX,] a member of the Committee of Elections—say that in Massachusetts we have been accustomed all our lives to this recounting process in cities. I beg to correct the gentleman. This custom is not as old as my youngest boy; hardly as old as my eldest grandchild. It is a new-fangled notion which originated lately.

I would remark also that in no congressional district in Massachusetts can there be by law a recount of all the votes cast except in the district under consideration. Why? Because this district is composed wholly of wards of a city, portions of the city of Boston; and all the other congressional districts are composed partly of cities and partly of towns. The recount applies only to cities; there cannot be a recount in towns. Our Legislature will not hear a call for a recount in towns. The constitution is against it.

Under these circumstances how is the election conducted? The inspectors—the ward inspectors chosen by the people and others appointed by the city authorities—go to the polls and hold the election. Two watch the box, one watches the check-list. A man comes up and gives his name; his name is checked off and his vote is put in the box. At intervals of an hour during the day the box is "turned," as it is said; that is, the ballot-box is carried to a table and the votes emptied thereon to be counted. Then the warden and inspectors of elections begin the count. We have a requirement of law that no officer shall give information how the vote stands during the progress of this count, so that A or B may not rally his friends in the afternoon to change the result. The officers silently count. As a rule the unscratched votes are laid aside in packages of 25, as was done in this case. Then the scratched votes are taken up, counted and laid aside in like packages. This process is gone over every hour with each box, the different officers changing from time to time, and revising each other's count until the last hour, when there are usually very few votes cast, during which the count is finished. As soon as the box is turned finally the last votes are counted up, and the return made and declared to the people present, so that they may see whether there has been fair play. The returns of the votes are then sealed up and sent to the city clerk of the city—not to be recounted unless there is some charge of fraud or wrong, but to be tabulated by the city clerk and the tabulated returns sent to the governor and council, who are the final certifying officers in some cases as in the present. My colleague [Mr. BANKS] was, I think, in error in supposing that the governor and council ever count the votes. They examine the tabulated returns and declare the result.

Mr. BANKS. The language of the law is that they shall count the votes.

Mr. BUTLER. But they never see the votes themselves, only the returns. Therefore "counting votes" in Massachusetts means one thing at one time and another thing at another. It is for this reason that I have called attention to this matter. Counting votes at one time means counting ballots, when applied to one set of officers, and making statement of the votes from tabulated returns when applied to another set of officers who have that duty.

We have heard a good deal about the "rough counts in wards." Why, sir, the counts in the wards are exactly the same as the counts in the towns. We have some three hundred and sixty-odd towns—I forget how many, we make them so fast—all holding elections in precisely the same way as do the wards, and none of them can have a recount. But it so happens that this district is wholly in Boston, and there has been a recount here of a congressional vote of a whole district, which can never be done in any other district.

Now, the ward officers swear that they made their official count. In addition to that the supervisors appointed under the law of Congress made a count in all the contested wards, and made a return. The latter count does not vary substantially from that of the ward officers. The result is the same—the election of Mr. Dean. The supervisors then go home and make their return to the chief supervisor. Afterward there was a count by a subcommittee of the board

of aldermen, and this last count came out differently from the other two counts. Why? I do not believe the ballot-boxes were tampered with. The "stickers," as they are called, dropping off, or other cause, may account for this different result in one way. One would suppose that three sets of men could count these ballots, which did not amount to only about two thousand, without any substantial difference in the result. Impressed with this idea, since this case came up I have been searching to find any explanation how this discrepancy in the count could have happened without fraud being imputed. I do not believe that Alderman O'Brien or any other of the board of aldermen would deliberately falsify the count. The question is upon what principle did they count? Did both ward officers and aldermen count on the same basis? We have official reports of all the doings in the board of aldermen. I hold in my hand a copy of that official report, under date of November 15, 1876, nine days after this election was held. The question came up between Alderman Stebbins, the chairman of this subcommittee who counted Mr. Dean's votes, and Alderman Thompson, who was on the other side, as to the theory on which the committee counted votes at this same election. It does not appear whether they were talking about these votes but about this very election, and the manner in which they recounted the votes given at this election. As to the manner of the official recount by the aldermen, I will send and have read the following from the official record.

The Clerk read as follows:

Mr. Alderman THOMPSON. I would like, for my own information in regard to those returns of votes, to know whether it was not the custom of the committee in counting those votes where the name appeared with no office designated, whether it was their custom to strike it out and count it as a blank. I would ask the chairman of the committee to inform me upon that subject.

Alderman STEBBINS. Whenever a name upon a ticket was covered by a pasteur in such a manner that the office could not be designated or seen by the committee, it was treated by the committee as a blank vote and not counted.

Alderman STEBBINS. The cases he cites are not the same. I stated that whenever a ballot was so pasted as to entirely cover the office for which somebody intended to vote, the committee rejected it. The committee could not know whether it was for one office or another. It was utterly impossible for the committee to know the office under the pasteur without tearing it, the pasteur covering up not only the name but the office. In the other case the office was plain.

Mr. HISCOCK. May I interrupt the gentleman from Massachusetts?

Mr. BUTLER. If the House will only give me time enough.

The SPEAKER. Does the gentleman yield?

Mr. BUTLER. I cannot at present, but I will deal with what you wish to refer to. I am going to deal with that point. I shall do no good to attempt to deceive the House by omitting it.

Now, then, Alderman Stebbins was chairman of this subcommittee who recounted the votes here, and he tells us whenever a pasteur was so broadly pasted on as to cover the name of the office for which the candidate ran, then they counted that vote as blank. I have a vote here, one of the original ballots of Mr. Field, [holding up the paper to be seen by the House.] I have one of the original ballots of Mr. Field, and you will see "Walbridge A. Field" is in large type, and "for Representative to Congress" in small letters close to it above, between those two black lines. Now, then, I want to vote for Mr. Dean, for instance. I put a sticker, as it is called, with Dean's name on, paste it over Mr. Field's name, but so wide as to cover up "for Representative to Congress," and I would have to be careful if I did not, because "for Representative to Congress" is close to Mr. Field's name in small letters. Alderman Stebbins says, though, I may paste Benjamin Dean's name over Walbridge A. Field's name in the place on the ballot made for the congressional vote and where the alderman knows what is under it as well as Alderman Stebbins knows his own nose—[laughter]—he says he counts that a blank. And there were forty-four blanks found by the aldermen. The ward officers did not return nor do the inspectors return any.

Now my friend who is so anxious to interrupt will remember that I have not forgotten his point at all. Alderman O'Brien was called as a witness. Nobody asked him how he made blanks by counting. All he said was there were forty-four blanks. I wish my friend from Ohio to remember this: in the recount for Representative the aldermen returned forty-four blanks. The ward officers returned none. Now, Mr. O'Brien says—

The SPEAKER. The gentleman's time has expired.

Mr. BUTLER. How much time have I had?

The SPEAKER. The gentleman's thirty minutes have expired.

Mr. SPRINGER. If the House will allow the gentleman from Massachusetts to continue the same length of time will be given to the gentleman from Maine on the other side.

Mr. MCCOOK. I object.

Mr. SPRINGER. The gentleman cannot object, for I will move the previous question at such time as I desire. Under the rule the gentleman from Massachusetts has an hour, and can proceed.

Mr. BUTLER. Who follows me?

Mr. SPRINGER. The gentleman can proceed.

The SPEAKER. The gentleman from Illinois has handed to the Chair a list, and the allotment of time to the gentleman from Massachusetts is marked down at thirty minutes. That time has now expired.

Mr. SPRINGER. That does not prevent me extending the time if I postpone the hour at which I shall demand the previous question.

The SPEAKER. In that case the Chair would feel obliged to give an equal amount of time to the other side.

Mr. BUTLER. I am content, sir. I will not trespass unnecessarily upon the time of the House. But I will take a moment out of my time to thank the gentleman from New York for the high compliment he pays me by interposing his single negative in the attempt to gag me. [Laughter.]

Now then I was about saying that Mr. O'Brien swears—

Mr. MCCOOK. Mr. Speaker—

The SPEAKER. Does the gentleman from Massachusetts yield?

Mr. BUTLER. No, sir; I object. [Laughter.]

Mr. MCCOOK. I wish to say—

The SPEAKER. The gentleman from Massachusetts is entitled to the floor.

Mr. MCCOOK. Mr. Speaker—

Mr. BUTLER. I object.

Mr. MCCOOK. Well, Mr. Speaker, I ask—

Mr. BUTLER. I object. [Laughter.]

The SPEAKER. For what purpose does the gentleman from New York rise?

Mr. MCCOOK. I made the objection to the gentleman from Massachusetts continuing. I supposed that that was all that was necessary to do. But I did not persist in it. I now renew that objection.

The SPEAKER. The gentleman is too late.

Mr. MCCOOK. How was I taken off my feet?

The SPEAKER. The gentleman was never on his feet through having any title to the floor. He did not even persist in his objection.

Mr. MCCOOK. I had a right to object.

The SPEAKER. Only in the mere matter of an objection to the extension of time; as to which there was subsequently an amicable arrangement between the two sides, and the Chair stated he would feel himself obligated to give to the minority of the committee an amount of time equal to that granted to the gentleman from Massachusetts.

Mr. MCCOOK. Can the Chair do that over my objection?

The SPEAKER. That was done by an arrangement of the House, and the House has vastly greater authority than the Chair in that respect. In fact every power.

Mr. MCCOOK. I do not know what right the gentleman from Massachusetts had to say that I desired to gag him.

Mr. BUTLER. I object to a speech from the gentleman.

Mr. MCCOOK. The gentleman objected the other day when I wished to vote; the most discourteous thing ever done in this House.

The SPEAKER. The gentleman from Massachusetts has the floor.

Mr. BUTLER. *Tantane animis celestibus ira?* [Laughter.]

I was about saying, Mr. Speaker, that this Alderman O'Brien swears when he was examined some months afterward before the committee to account for these blanks, that he thought they were only blanks where the names of persons voted for, for Representatives to Congress, were cut out or scratched out. But the difficulty with that proposition is, if this had been the case, then the ward officers would have been bound to have noticed these same cuttings and scratchings as blanks. But the ward officers may have acted, and I have no doubt did act, upon the true theory; where they found a pasteur over the Representative to Congress, with the name of Benjamin Dean or the name of Walbridge A. Field on it, they counted that for either, as the case might be.

Now gentlemen on the other side say that cannot be so, because there are only a very few more votes found with the exception of two packages, one containing 25 votes for Dean and another containing 25 votes for Mr. Field in the fourth district. So that Alderman Stebbins was in this condition of mind: he counted 25 votes for Walbridge A. Field for the fourth district, where he was not nominated for member of Congress, which the officers of the election would not count, and Stebbins would not count votes for Walbridge A. Field at all when his name was pasted over the place where Congressmen were voted for, if the pasteur did not disclose what office Field was running for. When the vote disclosed that he was a candidate for an impossible office, Stebbins would count the votes thrown for Field, but when this vote was for Field to an office he might fill, then Stebbins would not count it unless the voter said what the office was. That is, when the voter said he voted for Field for an office for which he could not vote for him, then Stebbins counted the vote; but when the voter did not say the wrong office, then Stebbins would not count the vote. Now this, in my judgment, shows me it is safest I should stand, as the fathers of the Commonwealth stood, on the constitutional first count in open town meeting, done by the officers where there is no fraud alleged, and that witnessed by the supervisors of election where both sets of officers, State and Federal, agree substantially. Now the question becomes one of probabilities and nothing but probabilities upon this evidence. Well, when I was a boy, Mr. Speaker, we used to insist when there was any mistake made to be governed by the best two in three. When any one said, "That is not fair," the answer was, "Try it over again; the best two in three." Here are two counts made at the times before they ought to be made, by State and Federal officers—the stickers had dropped off—made in open town meeting, with the whole people looking on. Those two counts agree. An after-count was made by a committee of the board of aldermen through Alderman Stebbins, who declares that he counted on an entirely technical and unjust basis. This last count altered the re-

sult 5 votes; it might have been 40. Now I had rather, for my part, pin my faith on the supervisors and the ward officers in their accuracy than pin my faith on the man who says he will not count votes for a candidate, although he knows, for he cannot help knowing, for whom the voter intended to vote, and returns those votes as blanks only when they were not blank votes, because they had a name upon them of a candidate before the meeting.

I think the balance of evidence is this side of the question; and it is upon that evidence only can we act. This is all there is before us to satisfy the judgment.

I do not ask any of the gentlemen on the other side to put it as an unpartisan judgment, a high act of stepping out of the lines of party on an election case, and thereby getting great glory as a judge; because it is no such thing. I am a strong partisan. I look upon this question as a partisan question, and it is a partisan question; unless my friends upon the other side will agree it is best for the whole of this country that we should have an overriding law in every congressional district to see to it that every man votes just once and no more, and his vote is counted just once and no more for the man for whom it is given. I think that is right to all and just to all, and in good time every man will agree it is good for all. Certain it is if we made that law for partisan purposes, our man is the first man that got squeezed by it; so it would not seem worth the while to make a law or overthrow it for any such purpose. Make laws to compel what is right and for the good of the whole and then live up to them. Therefore I take the ward counts made by from eight to twelve men, each counting over these ballots, as against the count of three men made afterward and acknowledged by one of them to be made on a wrong basis.

Thanking the House for their courtesy with one exception, I have no more to say.

Mr. FRYE obtained the floor.

The SPEAKER. The gentleman from Maine by the agreement has control of forty minutes.

Mr. FRYE. Mr. Speaker, like the distinguished gentleman who has just preceded me [Mr. BUTLER] I do not believe that we are all patriotic if we vote together on one side, or that all ought to be damned who vote together on the other side; but, sir, I do believe that when this House has committed to its Committee of Elections evidence in a contested case covering perhaps two thousand closely written pages of matter, and that committee has gone over that testimony by its subcommittee, it does not involve partisanship on either side of the House to stand by the report of its own side. I do not blame the democratic side, nor do I charge it with being partisan, if seven democrats on the committee, after hearing and investigating thoroughly an election case, report unanimously in favor of the contestant or the contestee and they sustain that report, and I do not blame the republicans for standing by the four republicans on the committee if they unite, yet I bristle all over with prejudice against the democratic party. Neither do I claim that I am to be elevated into the great high priesthood of conscience because I see differently from the whole of my side, differently from all the republican members of the committee. We are engaged on other committees and it is utterly impossible for us to investigate for ourselves each case. We must depend upon those of the Committee of Elections in whom we have confidence.

Sir, the report made in this case is not that of which I have been speaking. This case was committed to the gentleman from Illinois, [Mr. SPRINGER,] the gentleman from Georgia, [Mr. CANDLER,] and the gentleman from New York, [Mr. HISCOCK,] as a subcommittee. They examined it with great care. They heard all the testimony. They heard all the arguments, and two of them reported in favor of Mr. Field, one [Mr. SPRINGER] in favor of the contestant.

Now, what I say is this: that fact ought to put the democratic side of this House to a careful, thorough, and complete examination of the evidence and of the law of the case; and if they cannot afford the time to make that examination, it ought at least to provoke doubts in their minds as to the right of the contestant to the seat, and the sitting member, having the *prima facie* case, should have the benefit of those doubts.

The gentleman from Georgia [Mr. CANDLER] has had the reputation of being a fair man in this House, and I will not say that the gentleman from Illinois [Mr. SPRINGER] has not had and is not entitled to the same reputation. I certainly would not say it if I had not heard his speech the other day. But that speech either emanated from blind partisan prejudice or from profound ignorance of the law. Why, sir, he maintained deliberately here upon the floor of this House that under the existing law in the State of Massachusetts, disregarding entirely the supervisor law, there could be no recount, under any circumstances, of the votes in those ballot-boxes. Said he, all that they can have a right to do is "to examine," no matter what the allegation is in the case, even though it be that 200 votes were not counted in one ward or that all the votes were miscounted; the gentleman insisted that the only power of the aldermen under the law was to examine the votes—look at them, I suppose.

Mr. SPRINGER. I hope the gentleman does not wish to misrepresent me.

Mr. FRYE. No, sir.

Mr. SPRINGER. I stated that there might be allegations sufficient to require the aldermen to examine even all the ballots.

Mr. FRYE. I asked the gentleman if they did not have the right

to recount the ballots, and he said no, only to examine them; and he says no more now.

I now take one step further. I am very sorry, indeed, to be obliged to charge the gentleman from Massachusetts, my personal friend, [Mr. BUTLER,] with partisanship; and yet I must, or else refrain entirely from charging the gentleman from Illinois [Mr. SPRINGER] with partisanship. I think I shall risk charging the gentleman from Massachusetts with it for the purpose of pursuing my argument against the gentleman from Illinois. I heard the gentleman's speech. I did not hear one word in that speech, not one word, in relation to this matter which the gentleman from Massachusetts thinks he has sprung upon this House. I did not hear the gentleman from Illinois quote in the House the words of Alderman Stebbins which have been repeated to-day by the gentleman from Massachusetts, and yet upon taking up his reported speech I find that a member of the committee, the gentleman who had the majority report in charge, and I presume drafted it, deliberately stepped away outside of any evidence or arguments in the case and repeated the language of Alderman Stebbins made in relation to the senatorial count in one of the districts of the city of Boston, and not in relation to the count of the vote for Representative in Congress, and that he quoted it with this introduction:

I find in the official proceedings of the board of aldermen of the city of Boston an explanation by Alderman Stebbins, one of the committee who made the aldermanic count in this case, which explanation throws much light upon the recount. Alderman Stebbins said:

"Whenever a name upon the ticket was covered by a poster in such a manner that the office could not be designated or seen by the committee, it was treated by the committee as a blank vote and not counted."

And then he commented on it, as follows:

This explanation, stated in different words, is this: Wherever a poster had by accident covered the greater portion of the letters on the ticket designating the office, the aldermen regarded the designation of the office as erased and returned the ballot as a blank. Just how many ballots were found in this condition is not stated by the alderman in that connection; but on pages 184-7 of the record will be found Alderman Stebbins's minutes or tally sheets kept during his aldermanic count. A careful examination of the tally lists will show that the aldermanic committee found forty-four ballots which they returned as blank as to a candidate for Congress. Just how many of these blanks appeared on democratic tickets does not appear; but it is in evidence that Mr. Dean's friends used a great number of posters during the election, and the differences which the aldermen make in the count can be explained upon this hypothesis more clearly than in any other way. The ward officers evidently counted the ballots so as to give effect to the intention of the voters, and where Mr. Dean's name was found pasted over the place on a republican ticket where the office of Congressman was designated, even if the greater portion of the designation of the office should be obscured by the poster, the ballot must doubtless have been counted for Mr. Dean. But the aldermanic committee, in counting the same ballot according to the rule laid down by Mr. Stebbins, would return such a ballot as a blank. Here we have a partial explanation of the differences of the respective counts, and if we are to give effect to the intentions of the voters, the ward officers' count and the count of the United States supervisors, made before the result of the election could be known, is entitled to the greater weight.

Now I submit if it is not a fair implication from that remark that the gentleman found that somewhere in this case? The gentleman from Massachusetts [Mr. BUTLER] did not find it in the case, but he may have found it in the speech of the gentleman from Illinois, [Mr. SPRINGER.] The gentleman from Illinois did not find it anywhere in the case. I assert upon my honor as a member of this House that I have examined this testimony, and that nowhere from the beginning to the end is it to be found. I have read these arguments and I assert that nowhere from the beginning to the end of the arguments is there any allusion whatever to this statement made by Alderman Stebbins. Nowhere was it before the committee; nowhere was it before the House; nowhere was notice given of it, and nowhere could notice have been taken of it. It is brought in *aliunde*, entirely outside of the case on trial; it is forced in here improperly and unjustly. Now I submit, does not this indicate partisanship at least on the part of the member of the Committee of Elections who had the majority report in his charge, and ought it not to put the democrats disposed to seat Mr. Dean on guard?

Mr. SPRINGER. Will the gentleman allow me—

Mr. FRYE. Oh, yes.

Mr. SPRINGER. I read from the same papers that the gentleman from Georgia [Mr. CANDLER] read from in his remarks in this case; the identical papers. One was used frequently before the committee, and has never been disputed as an official record of the board of aldermen of the city of Boston.

Mr. FRYE. Did you read it in your speech?

Mr. SPRINGER. I did not.

Mr. FRYE. That is what I thought.

Mr. SPRINGER. But I took the liberty of inserting it in my speech when I came to revise it, as is often done by members, and notably by the gentleman from Maryland [Mr. WALSH] who addressed the House yesterday.

Mr. FRYE. The gentleman from Massachusetts [Mr. BUTLER] thought he had invented or discovered this bonanza. But the gentleman from Illinois [Mr. SPRINGER] had shrewdness enough to beat the gentleman from Massachusetts at his own game and to discover that bonanza first!

Mr. SPRINGER. I claim no right of pre-emption.

Mr. FRYE. Now, if the gentleman from Illinois, instead of bringing into this case something which was entirely outside of it, which had no business here whatever, had seen fit to take the testimony which was before the committee, and had read that in connection with his remarks, perhaps I would not have been justified in saying

that he was partisan in his statements. He knew perfectly well that Alderman O'Brien had testified distinctly and positively before the committee in relation to these blank votes; and that Alderman O'Brien alone of the witnesses before that committee was questioned upon that point. Does the gentleman think that Mr. Dean would not have discovered that if it had taken place? Would not O'Brien have discovered it; would not Alderman Viles have discovered it? They met there and discussed step by step every question raised. Would not the gentleman from Massachusetts [Mr. BUTLER] have discovered it if it had taken place? Would not the counsel of Mr. Dean, Judge Abbott, have discovered it? Would it have remained deep in the bosom of silence and secrecy to be found only in the room of the gentleman from Illinois, [Mr. SPRINGER,] where he wrote it out as a part of his speech, if it ought to have had any existence as a fact in the case now on trial?

I call attention to the testimony of Alderman O'Brien in regard to blank votes:

Cross interrogatory 13. What is meant by the word "blanks" which appears on your memorandum of the count?

Answer. In every ballot there were more or less votes where the name for Representative to Congress was scratched out with a pen or pencil, or sometimes cut out, and no other name substituted.

Cross int. 14. Will you state as nearly as you can the number of those blanks which you found, and the wards in which you found them?

A. In ward 29 I should say—blanks, five; in ward 21, nine; in ward 24, two; in ward 13, four; ward 14, five; ward 16, eight; in ward 17, (presumed to be 17,) four. That's all I can tell from my memoranda.

Cross-int. 15. How many of those blanks were cut, as well as you can recollect?

A. Very few, so far as my recollection goes; my impression is a large portion was marked with a pencil; in fact, that is the convenient way of altering ballots at the ward room.

Now I submit that is the only testimony legitimately before this House; it is the only testimony whatsoever in relation to blanks before the Committee of Elections. And neither the gentleman from Illinois nor the gentleman from Massachusetts is at all justified in bringing that outside matter before this House after the testimony in the case has been closed. Why did they do it? Didn't they think to take the friends of the contestee entirely by surprise and thus gain an unfair advantage? It proves an inglorious failure.

I desire to make a part of my remarks an affidavit signed by Alderman Stebbins, and I will ask the clerk to read it. It was taken since the gentleman from Illinois sprung his trap and before the gentleman from Massachusetts [Mr. BUTLER] set his.

The Clerk began the reading of the paper, but was interrupted by Mr. SPRINGER, who said: I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. I submit that this case has been heard and the evidence all submitted to the committee, [laughter,] and that it is not in order for the gentleman from Maine [Mr. FRYE] to introduce into this case *ex parte* evidence when it is being argued in the House. The gentleman himself will not say so. If it was done in a court of justice any judge presiding would prohibit it being read. And we are here acting as a court, and the gentleman has no right to introduce an affidavit of one of the witnesses in the case for the purpose of influencing the judgment of this House. [Great laughter.] I make that point of order. The record to which I referred was the record of the official debates and proceedings of the board of aldermen, and as much a public record as the CONGRESSIONAL RECORD of this Congress. But this paper is evidence in no sense of the word.

Mr. FRYE. Mr. Speaker, the debate to which the gentleman refers was not at all in relation to the election of Representative to Congress; it was a debate in relation to the election of senators in the State of Massachusetts. Besides I make this affidavit a part of my speech, and it certainly relates to the case I am discussing.

The SPEAKER. Does the gentleman from Illinois make a point of order?

Mr. SPRINGER. I make the point of order that in settling this question we are acting as a court, acting in a judicial capacity, and that to introduce new evidence at this time is not in order, is unprecedented; and I do not think the gentleman from Maine will insist upon it.

Mr. GARFIELD. I insist that my friend, Judge SPRINGER, cannot object to Judge FRYE making a speech, even if he should read a document as part of it.

Mr. SPRINGER. I have not appealed to the judge from Ohio; I have appealed to his honor the Chair.

The SPEAKER. The Chair thinks it is not within his power to prevent the reading of a respectful paper, which a member of this House may desire to have read as a part of his remarks. The House itself can judge as to the propriety of its introduction as well as the Chair.

The Clerk resumed the reading. The entire document is as follows:

Deposition of Solomon B. Stebbins.

I, Solomon B. Stebbins, having been duly sworn, do depose and say that among the ballots counted by me as alderman of the city of Boston on the 10th and 11th of November, 1876, in compliance with the petitions of voters in the third congressional district, asking for a recount of the votes cast for member of Congress in that district, were certain ballots reported as blanks and voted as blanks in the memorandum produced by me and annexed to the deposition given by me in the contested election case of Benjamin Dean vs. Wallbridge A. Field. These blanks were the ballots of both political parties where the name of either Mr. Dean or Mr. Field had been erased generally by pencil or had been cut out by the voter. In some instances ballots were found where the entire lower portion of the ballot had been cut off, leaving only the presidential electors and gubernatorial candidates or

simply the presidential electors. These ballots were recorded by the committee in the count for Representative to Congress as blanks. There was no case, to the best of my recollection, where a paper containing either the name of Benjamin Dean or Wallbridge A. Field was so pasted over the ballot as to cover the name of the office for which he was voted for, that is to say, Representative to Congress, and I know that no vote was counted a blank on that account. The pasters were in no instance large enough to cover the space occupied by the names of the candidates and the office, the printing of both the names of the congressional candidates and the office being in good-sized type. I am confident an inspection of the ballots themselves will show this.

My attention has been called to certain remarks made by me in the board of aldermen November 15, 1876, quoted by Mr. SPRINGER, as published in the CONGRESSIONAL RECORD, in which I was discussing the election in the second State senatorial district, the contest being between Marcellus Day and Caleb Rand. Certain ballots were cast in this district which did not appear to have been prepared by the regular political parties, but in the interest of Manning, a candidate for the court clerkship, and was voted largely in that district. This ticket contained the words "For senator, Marcellus Day" in such small type and the office and name so closely compacted that an ordinary paster for Rand covered both name and office. I have been able to find one of these ballots and annex it to this affidavit, marked A W W.

It was to this and this only that my observations in the board of aldermen applied, as the succeeding paragraphs in the record of the debate will show, and not to the contested election between Messrs. Dean and Field. There was no vote in the whole count which bore the name of Benjamin Dean either printed as part of the original ballot or upon a paster which was counted as a blank, or which was not counted for Benjamin Dean as member of Congress.

SOL. B. STEBBINS.

DISTRICT OF MASSACHUSETTS, ss:

On this 22d day of March, 1878, personally appeared the above Solomon B. Stebbins, known to me to be such person, and made oath that the foregoing affidavit by him subscribed was true.

Before me.

[SEAL.]

WINSLOW WARREN,
Commissioner of United States Circuit Court.

And I certify that the within ballot, marked A W W, was so marked by me for identification.

WINSLOW WARREN,
United States Commissioner.

A W W.

REPUBLICAN TICKET.

WARD 5.

1876.

HAYES AND WHEELER.

RICE AND KNIGHT.

FOR PRESIDENTIAL ELECTORS.

At large.

Thomas Talbot, of Billerica.

Stephen Salisbury, of Worcester.

By districts.

1. Warren Ladd, of New Bedford.

2. Theodore Dean, of Taunton.

3. John Felt Osgood, of Boston.

4. Martin Brimmer, of Boston.

5. Samuel C. Lawrence, of Medford.

6. George W. Morrill, of Amesbury.

7. Carroll D. Wright, of Reading.

8. James Russell Lowell, of Cambridge.

9. John C. Whitin, of Northbridge.

10. W. B. C. Pearsons, of Holyoke.

11. Richard Goodman, of Lenox.

FOR GOVERNOR,

Alexander H. Rice, of Boston.

FOR LIEUTENANT-GOVERNOR,

Horatio G. Knight, of Easthampton.

For Secretary of the Commonwealth—Henry B. Peirce, of Abington.

For Auditor—Julius L. Clarke, of Newton.

For Treasurer and Receiver General—Charles Endicott, of Canton.

For Attorney-General—Charles R. Train, of Boston.

For Representative to Congress—Richard Frothingham, of Boston.

For Councilor—Francis Childs, of Boston.

For Clerk of the Supreme Judicial Court—John Noble, of Boston.

For Clerk of the Superior Court for Criminal Business—John P. Manning, of Boston.

For Clerk of the Superior Court for Civil Business—Joseph A. Willard, of Boston.

For Register of Deeds—Thomas F. Temple, of Boston.

For Senator—Marcellus Day.

For Representatives to the General Court—Francis E. Downer, Retire H. Parker.

Mr. FRYE. Now take the testimony of O'Brien, take the testimony of Stebbins, and I ask the House where is the evidence against it. If the argument is to rest, as the gentleman from Massachusetts rested it, upon this point alone, where stands the case in the minds of fair men? Says Stebbins: "No vote was counted a blank because the name of the office was pasted over." Says the gentleman from Illinois and the gentleman from Massachusetts: "The whole difference comes from these blanks." Is it difficult to see who has the right of it?

The gentleman from Massachusetts went one step further. He stated that he had looked all around to see how the discrepancy between the ward count and the aldermanic count could have happened, who was right and who was wrong; and he had found conclusively who was wrong and how. He found conclusively that the aldermanic count was wrong, because Alderman Stebbins, in talking about a senatorial vote, declared that there were some 44 blanks which were not counted.

Now if you turn to the evidence you will find that taking the vote of Mr. Field and Mr. Dean together, they received 26 more votes each than the whole count of the ward officers gave to both of them. If those 44 blanks occurred by reason of names being covered up, then 44 were stricken out; and that would reduce the aggregate count of these two men by 44. But instead of that the count increases the vote of each of them 26. What then becomes of the gentleman's "conclusive" theory on this point.

But, says the gentleman from Massachusetts, "I care nothing about this case; I only speak in behalf of the supervisor's law, the law of

the United States; I want to save that." Why does the gentleman from Illinois [Mr. SPRINGER] also suddenly become so anxious about this supervisor law.

Mr. SPRINGER. Because it is the law of the land.

Mr. FRYE. Because it is to save Mr. Dean, the gentleman thinks; and the gentleman is asking his democratic associates on this floor, (though every one of them who was in the Congress that enacted the law declared squarely that it was unconstitutional, and I have no doubt every one of them to-day if asked privately would declare it unconstitutional,) is asking them in order to save Mr. Dean to declare the law constitutional; and many of them are prepared to do it. The gentleman from Massachusetts is supplicating the republican side for Heaven's sake not to declare this law unconstitutional. A singular dilemma we are getting into, we on this side declaring that law unconstitutional, and you democrats declaring it constitutional—we declaring it unconstitutional in order to seat Mr. Field, you declaring it constitutional in order to seat Mr. Dean. What valuable men these gentlemen from Massachusetts must be on the floor of the House to entitle them to this immense consideration at our hands.

Now, I join issue with the gentleman from Massachusetts. I say that the minority of the committee have never asserted anywhere, from the beginning of their report to its close, a sentence, a line under which the gentleman from Massachusetts is justified for a single moment in declaring that the minority of the committee held this law to be unconstitutional; nor is there an intimation in the arguments made by Mr. Field's counsel capable of being tortured to this end. What do the committee say?

These provisions of law were not enacted by Congress in pursuance of its constitutional power "to make or alter" regulations as to the manner of holding elections for Representatives in Congress.

"To make or alter" being in quotation marks. To what does that refer? It refers to the provision in the first article of the Constitution. Now, sir, the Constitution of the United States has been amended again and again. When as the result of the logic of war we believed we were compelled to give the black man the ballot—I sometimes wish we had not given it, because to-day it is only putting increased power into the hands of the South and none into the hands of the colored men—fearing that the rights of the colored man under the amendments of the Constitution would be interfered with we enacted this law authorizing supervisors, not for the protection of New York City, as the gentleman from Massachusetts [Mr. BUTLER] asserts. If the law was designed to protect New York City, what is the meaning of this clause which I find in the law?

Supervisors of election appointed for any county or parish, on the request of any ten citizens, shall supervise the elections, &c.

What is the meaning of this language, if the law was made for New York City alone? I say that the supervisor's law (and the declaration of the committee goes no further than this) was not passed under the first article of the Constitution. The fourteenth and fifteenth constitutional amendments, both designed to protect the rights of citizens of the United States, require Congress to enact the necessary legislation to enforce those rights, and this law was enacted in response to those requirements.

I believe this law was the result of a necessity which Congress believed to exist; that it was passed in order to enforce the fourteenth and fifteenth amendments to the Constitution of the United States. This committee say no more than that. They do not declare it to be unconstitutional. I believe it to be constitutional, and so does every republican on this floor. What was its scope? I doubt not the gentleman from Massachusetts has defended it on the stump. I have many times. You on that side of the House have attacked it on the stump over and over again, and what has been our reply to you? It was this: that the United States Government in that law was simply putting itself near the ballot-box; that these two supervisors were to be the Government's eyes and ears—eyes to see wrong and ears to hear wrong—the eyes and the ears of the Government of the United States. And for two purposes: first, to deter from crime at the ballot-box and, secondly, if crime was committed to bear testimony against the criminals. I say in my judgment that was the only purpose Congress at that time had.

Now, Mr. Speaker, I will call the attention of the House for a moment to the discussion when the law was passed. That law was discussed before the House extensively, and Mr. Kerr, Mr. Cox, Mr. Voorhees, and almost every prominent member on the democratic side declared the law to be unconstitutional. Mr. Cox asked Judge Bingham, who was chairman of the Judiciary Committee having the bill in charge, this question:

Mr. Cox. Will my friend say that the laws of Massachusetts and Rhode Island are not changed by this law?

Mr. BINGHAM. That question has nothing to do with my position. It does not touch the matter I am discussing. There is not a law of any State regulating an election which is not left in full force and effect by this bill.

That was at the time the bill was introduced from the Judiciary Committee into the House and in answer to the question of the gentleman from New York. The intent, the purpose of the law, was then known, and Judge Bingham then declared when the bill was under consideration that it did not interfere with any law or any regulation of any State of this Union; that such was not its purpose.

What did it do then? It put, as I said, the Government's eyes and ears at and near the ballot-box, so that crime should be prevented.

Mr. SPRINGER. Let me call the gentleman's attention to section 2018 of the Revised Statutes, in which it is provided "to the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot," &c. What crime does that prevent or punish?

Mr. FRYE. The gentleman has discussed that himself. His argument is before the House and I will waste no time on it. The gentleman from Massachusetts said he would be willing to disregard the law provided he was satisfied Mr. Field had a majority of the votes cast. So say gentlemen of the committee.

The gentleman from Massachusetts says how is it that the aldermanic count should be more perfect than the count of the ward officers? How is it the fathers did not provide for recounts? Were they not content with one count? The supervisor law, which the gentleman thinks so much of, was not the creation of the fathers. There has been some improvement since the days of the fathers, notwithstanding we insist on the dollar of the fathers. [Laughter.] Why is it to-day in Massachusetts they provide for recounts? The law is created from necessity, demanded by experience. The very fact the law is made is as strong an argument as we can have that circumstances existed in Massachusetts which absolutely required its enactment.

But let me say it is in evidence here that in the thirty-eight recounts made during the last four years no one of the ward counts was found to be correct. You remember when Mr. Abbot, the contestant for Mr. Frost's seat—

Mr. CHALMERS. Will the gentleman allow me to ask him a question?

Mr. FRYE. I cannot stop right here. When Mr. Abbot was contestant for Mr. Frost's seat, he sought this same remedy in Massachusetts. He went from the wards to the board of aldermen, demanding a recount. He did it in a form not nearly so formal as the one the gentleman from Illinois objects to in this case. The recount was had. Correction after correction was made, but not enough to seat Judge Abbot, and he came in here on a question of fraud in some Navy votes. In every election in the city of Boston of every officer there has been a recount, and the ward counts have never been found correct.

I will now summon as a witness Mr. Dean himself. I have the report of an authenticated election case where Benjamin Dean was chairman of the committee and made the report. Mr. Dean says:

It is impossible to compare the returns of the ward officers in this case with the count made by the city clerk and his assistants, for the committee, without a feeling of deep solicitude for that almost fireside right, the right of the citizen of each ward to have their elections presided over by officers of their own choosing. It is a valuable right and justly prized; but a continuance of such inexcusable errors will weaken our regard for it, and will tend to the introduction of appointed in the place of elected officers; or it will reduce their duties to the mere ministerial one of receiving ballots, and devolve the counting and declaring of them upon others. Already, by the act concerning elections in cities passed in 1863, an important step has been taken in that direction. Unless care is taken to elect capable officers, and greater correctness is found in their returns, we shall in vain deprecate interference with the right of the people to choose those officers for themselves, we shall in vain point out the danger of giving the appointment of those officers to persons already in office. The power is now with the people, where it belongs; and all they have to do, to retain it, is to prove their appreciation of its value by the efficiency of the officers of their choice.

The justice of the foregoing remarks is manifest from the following comparison of the two counts:

Names of candidates.	Count by ward officers.	Count by city clerk.	Difference.
William H. Palmer.....	193	258	55
Lewis Rice.....	178	243	63
N. J. Bean.....	256	327	61
William C. Burgess.....	214	275	61
P. H. Farren.....	308	361	53
John F. Flynn.....	210	263	53
Allen Riley.....	216	272	56
Hugh E. Whitney.....	203	249	46

In heaven's name, gentlemen, was not Mr. Dean right when he said that there needed to be provision of some kind or that there would be provision of some kind by which correct count should be made? And Massachusetts, finding an absolute necessity existing, provided by this law for a recount; and to-day the ward count is worse than it was before the law was enacted, because it relieves the ward officers from all responsibility. In the heat of the moment, to answer the demands of impatience, they come as near as they can. They count in haste to announce the result within half an hour after the polls are closed. They know they are to be followed, if it is a close election, by a recount. Every recount shows the inaccuracy of the ward count and shows the necessity of a recount. And yet the gentleman from Massachusetts thinks that these ward officers, assisted by supervisors who only testify that they actually counted in two wards, are correct. We must remember in this House when we judge of that question that two of these men who made that recount were democrats and one was a republican; we must remember that all

three knew absolutely that the election of Mr. Dean or Mr. Field depended, as the gentleman from Massachusetts said, upon four or five votes. They must have known that absolute certainty of that count must be had, and they testify one after the other how they made it. With regard to the necessity of the count, let me give further testimony. Mc Cleary says:

Recounts have been had of the original ballots by the proper officers every year since the passing of the law in 1867 in this city. In most cases there is a variation, more or less, between the two counts; it would be very seldom that they would concur in any one ward in the count and recount. (Page 119.)

O'Brien says:

My experience has been that they seldom agree. (Page 157.)

Stebbins, who had been a member of the committee to recount ballots for three or four years, says:

These recounts recur every year, usually at the national, State, and city elections, the last occurring at a different time from the two former. There is usually a discrepancy of a few ballots in every ward, sometimes reaching a number large enough to change the reported result of an election. (Page 134, inters. 25 and 26.)

Dickinson says:

It has seldom happened that a recount of votes in a ward has tallied exactly with the count of the ward officers. (Cross-int. 4, p. 144.)

Now, I submit that, under all the circumstances, the count on election day, the count in the presence of the multitude, an excited multitude, the count, knowing that a recount will be made, is not entitled to any reliance whatsoever as compared with that made after the fact, made when all the circumstances are known, made when the counters are to elect by their count one or the other of these gentlemen to Congress; that it was not half so reliable, even though it had been made, not by a division of parties, but by three republicans.

[Here the hammer fell.]

Mr. SPRINGER. I now move the previous question.

The previous question was seconded, and the main question was ordered.

Mr. SPRINGER. I yield the floor to the gentleman from Virginia, [Mr. HARRIS.]

Mr. HARRIS, of Virginia, rose.

Mr. GARFIELD. Was not the hour of the gentleman from Illinois used at the opening of the debate?

Mr. HARRIS, of Virginia. No, sir; there was an equal division of time and an hour was left on our side, which I propose to occupy in closing debate.

Mr. GARFIELD. By the ruling of the Chair, as I understand it, when a gentleman in charge of a bill uses his hour in opening he is not entitled to an hour after the previous question is seconded.

The SPEAKER. The Chair did not decide that point in regard to a running debate, which covers days. If the gentleman from Ohio will examine the decision he will find it as the Chair states. This is by an agreement that there should be an equal time given to each side, and should always be so arranged.

Mr. HARRIS, of Virginia. We have tried to run the debate so as to have an equal time for each side.

The SPEAKER. It will be remembered that the gentleman from Georgia [Mr. CANDLER] had his time extended. The Chair would suggest to the gentleman from Ohio to read the decision to which he referred.

Mr. HARRIS, of Virginia. Mr. Speaker, I am very reluctant to occupy the time of the House at an hour so late as this; but the position I occupy compels me to do so, and at the same time makes me speak under great embarrassment. In the discussion of this case I desire and hope I shall have the attention of the House, especially of those gentlemen who have doubts as to how they will vote; for I think when this question is understood fairly and impartially that no gentleman of the political party to which I belong can hesitate as to his line of duty.

I admit, sir, technically speaking, these are judicial questions. But when we reflect on the mode in which cases are brought before the Committee of Elections, when we reflect that a committee of this House is required by its duty to examine a case covering fourteen hundred pages, which no member of the House has time to examine, unless he is a member of the committee; when we reflect that the democratic party must look to this committee to think, to digest, and to report for them, while the republican party look to their Representatives on the committee to do the same for them—it is not surprising then that gentlemen take sides according to the reports of their respective friends upon the subject.

Then, sir, it is no evidence of partisan spirit that gentlemen find themselves upon opposite sides in such cases. I admit there are cases when the scale is so equally balanced as regards the evidence, and the law is so uncertain that a man's political prejudices will turn the scale though he is perfectly honest about it. And I respect the man who, having no information on the subject and not being in a position to acquire it, follows the lead of those of his own party who have the time and the opportunity to examine and report upon the case. All should be honest; all should strive to do right, and all seek the truth, but, as Pope says,

"Tis with our judgments as our watches, none
Go just alike, yet each believes his own."

My friend from Georgia [Mr. CANDLER] said he had nothing to say to those who would vote as partisans. I indorse that sentiment and

add, to those of either party who make up their minds without reading the record or understanding the case and who are looking for excuses to deviate from the line of their party on frivolous pretexts, I have nothing to say, because, Mr. Speaker, when I remove one objection they will find another.

Again, my friend and namesake from Massachusetts [Mr. HARRIS] said yesterday that if this were a close House, where one vote might decide the result, he would expect a party vote, or in other words he would expect Mr. Field to be unseated and Mr. Dean seated. I tell him that if he looks to the history of this House he will find that he is mistaken. With but one single exception, in every case which has come before the House every republican has voted for the republican, while we have a number of democrats who usually vote to seat the republicans and against the party recommended by their committee. We have some democrats who have voted twice in three votes for republicans, and after they shall have voted to-day, will be three times for republicans to once for a democrat. Thus my friend will see if parties were very close in the House the republicans, by the aid of democrats would always win, while the republicans, like drilled veterans, never break.

Mr. Speaker, I shall show in this case that Mr. Dean is entitled to his seat, not by virtue of the Federal count, but by virtue of the State count, and there is where the error sprung up. That was the point at issue between the gentleman from Illinois [Mr. SPRINGER] and the gentleman from Georgia [Mr. CANDLER.] The gentleman from Illinois is in favor of the Federal law being supreme and controlling the State law. I do not concur with him in that, neither does the gentleman from Georgia, and therefore we split on that issue, and then my friend from Georgia did not go further into the facts of the case to see if Mr. Dean had been elected by the State count. That was the diverging point. The error is in the supposition that the committee rely upon the Federal count and not upon the State count. I do not do it. I rely upon the State count and the State count alone. But I ask my friends upon the republican side of the House to reverse the picture. Suppose that the State count had given a majority for Mr. Dean and the Federal count had given a majority for Mr. Field, would not they assert that the Federal law was supreme? My friend from Massachusetts, [Mr. HARRIS,] who spoke yesterday, said that the supervisors are not required to make any returns. They are required, under the law, to make a return to the general supervisor and he is required to make a return to the House of Representatives, and that return is here under the operation of the law; but, as I have said, suppose that the Federal returns had elected Mr. Field and the State returns had elected Mr. Dean, where would our friends on the other side be. I venture to predict that they would be in favor of the Federal returns.

The returns of the United States supervisors are in evidence and they show Dean is elected by 4 majority, thus corroborating the ward count, which shows the same. Now, I submit that these returns of the United States supervisors being before us, we are bound to take notice of them, and as to what weight they shall have I leave each gentleman to judge. According to my view it is not necessary to rely on them to elect Dean, therefore I will not discuss that branch of the question. But I will show from the law and evidence that Mr. Dean was elected under the laws of the State. I will first show that there was no authority for the second count, and then I will show that the second count was not made in pursuance of the laws of Massachusetts, and I want my democratic friends, who stand upon State rights, to listen to me.

I will here quote the election laws of Massachusetts as applicable to the mode of counting:

Sec. 15. The votes in elections for national, State, county, and district officers shall be received, sorted, and counted by the selectmen, and by the ward officers, and public declaration made thereof in open town and ward meetings. The names of persons voted for, the number of votes received for each person, and the title of the office for which he is proposed, shall be entered in words at length by the town and ward clerks in their records. The ward clerks shall forthwith deliver to the city clerks certified copies of such records, who shall forthwith enter the same in the city records.

Sec. 17. City and town clerks shall, within ten days from the day of an election for Representatives in Congress, transmit copies of the records of the votes, attested by them, certified by the mayor and aldermen or selectmen and sealed up, to the secretary of the Commonwealth.

Sec. 4. If within three days next following the day of any election ten or more qualified voters of any ward shall file with the city clerk a statement in writing that they have reason to believe that the returns of the ward officers are erroneous, specifying wherein they deem them in error, said city clerk shall forthwith transmit such statement to the board of aldermen or the committee thereof appointed to examine the returns of said election. The board of aldermen or their committee shall thereupon, and within five days, Sunday excepted, next following the day of election, open the envelope and examine the ballots thrown in said ward, and determine the questions raised; they shall then again seal the envelope, either with the seal of the city or a seal provided for the purpose, and shall indorse upon said envelope a certificate that the same has been opened and again sealed by them in conformity to law; and the envelope, sealed as aforesaid, shall be returned to the city clerk. Said city clerk, upon the certificate of the board of aldermen or their committee, shall alter and amend such ward returns as have been proved to be erroneous, and such amended returns shall stand as the true returns of the ward.

I say that the second count was not made in conformity to the laws in any particular, and I challenge my friend from New York [Mr. HISCOCK] to contradict me if I am wrong in the statement I am making. I allege in the first instance that the second count was not only not made in compliance with the law, but that not one of the requirements of the law was complied with. But admitting that it was, I will show from the evidence that the second count was unreliable be-

cause it was made in such a manner as to render it impossible that it could be correct. I will show that Alderman Stebbins and his committee counted ten thousand votes in nine hours, and that there were three counts going on in the room at the time; some members of the committee were counting the senatorial votes, some the congressional votes, and as a question of fact it can be shown that the first count was more reliable than the second.

I maintain the second count was not authorized by the law of Massachusetts, because the proper foundation had not been laid for it, and I do not wonder that my friend from Maryland [Mr. WALSH] refused to be interrupted yesterday, because he argued as if any ten men had a right without cause to have a recount. The law which I have quoted says that they shall specify wherein the returns are erroneous. I will now give the statement in writing made by the ten qualified voters under the fourth section:

To the CITY CLERK of the City of Boston:

The undersigned, qualified voters of ward 13, in the third congressional district, hereby state that they have reason to believe that the returns of the ward officers of said ward for member of Congress in said congressional district at the election of November 7, 1876, are erroneous, in that all the ballots cast for Walbridge A. Field as member of Congress were not counted and credited to him, and that more ballots were credited to Benjamin Dean as a member of Congress than were cast for him; and they ask for a recount of the vote of said ward for member of Congress, in accordance with the provisions of section 4 of chapter 188 of the acts of the year 1876.

Now, the chairman of the republican committee in Boston says that he wrote this certificate in his own office and sent it out to the various wards for signatures. He said that it was his duty, not because he believed there were errors, but that it was his duty to the republican party to have a recount. He wrote the papers and sent them out, and when he was interrogated and asked if he knew of any errors, he said "I knew of none; but there was a possibility that in so large a count there might be some mistake." Was that within the spirit of the law?

If the law intended to give a peremptory and absolute right for a certain number of electors to demand a recount, why impose conditions? But when conditions are imposed and are not complied with, then the recount goes for nothing.

I will now proceed to show how Massachusetts understands this law for a recount by the adjudications made by the very body which enacted the law. In political matters the construction given by the Legislature of laws passed by themselves certainly ought to have great weight, and I invoke the members from Massachusetts to listen to me and, if I am wrong, to correct me. The Legislature of Massachusetts has adjudicated this question ten to fifteen times, and in every case they have said the closeness of the vote is not sufficient ground for a recount. I have the cases before me but have only time to quote the following:

January 20, 1872, in the case of *Burt vs. Babbitt*, the rule was laid down and adopted as follows:

The rule is this: That, in the absence of any proof or evidence of fraud in the acts of the selectmen, or of illegality in the manner of calling, holding, or conducting the meeting at which the election is held, or in the manner of ascertaining the election of Representative, unless the petitioner shows a reasonable ground for supposing an error in the count as made and returned by the selectmen other than the mere fact of there being but a few votes between the number thrown for the contestant and the sitting member, the committee will not recount the ballots that may have been preserved.

No other evidence, therefore, having been offered before your committee in support of the petitioner's claim other than the fact that there is but four votes difference in the number of votes cast for William Babbitt, the sitting member, and the contestant, the committee report that the petitioner have leave to withdraw.

A. G. SINCLAIR.
A. J. BAILEY.
E. L. BIGELOW.
WILLIAM A. ADAMS.
HENRY JONES.
T. M. CARTER.

HOUSE OF REPRESENTATIVES, April 21, 1877.

The foregoing report was accepted in the house of representatives January 22, 1872.

W. S. SOUTHWORTH,
Assistant Clerk Massachusetts House of Representatives.

In the case of *Davis vs. Murphy*, February, 1872, the House committee report as follows:

No evidence was introduced to show fraud or that the ballots had been tampered with previous to the recount by the aldermen, but your committee were of the opinion that if they overlooked this violation of the law and judged that the aldermen had a legal right to recount the ballots, it would be establishing a dangerous precedent, tending to uncertainty and fraud in elections. Therefore, believing that the recount by the aldermen was illegal, and it was tampering with the ballots, your committee are of the opinion that it would be neither right nor just to take the recount by the aldermen as the correct result of the election; neither would it be right or just to take the ballots as they now are, purporting to be some and all that were cast at the last State election in the third Essex representative district, and count them at the present time.

I will not detain the House by reading the other cases. They but reaffirm and requote the doctrine just read.

And yet gentlemen tell us, gentlemen who are State-rights men, that they go by the State count. Then if you go by the State count you must take the construction that the State puts upon its own law and not force a construction that does violence to the law.

Mr. HISCOCK. Does the gentleman say that any court or Legislature of Massachusetts has decided that under this law the closeness of the vote is no reason for a recount?

Mr. HARRIS, of Virginia. The Legislature of Massachusetts has admitted—

Mr. HISCOCK. Understand my question. Do you say that they have decided that under this law—I do not mean under the general principles applicable to a recount—that under this law they have decided that the closeness of the vote is no reason for a recount?

Mr. HARRIS, of Virginia. I say that since the passage of this law—

Mr. HISCOCK. The gentleman does not answer my question. I will concede that it was since the passage of this law; but were they construing this law?

Mr. HARRIS, of Virginia. I will answer my friend if he will allow me. They construed this law in the various cases to which I have referred. So they go on through eight or ten cases. The last case is where they opposed the aldermanic count. It is a case where the aldermanic count was before the Legislature, where they had opened the envelopes and recounted the ballots. And when you speak of envelopes in this case, it means nothing but a ballot-box a foot square. They decided that the recount was illegal and tampering with the ballot. That is what the Legislature decided.

Mr. HISCOCK. Will the gentleman allow me again?

Mr. HARRIS, of Virginia. I have but an hour.

Mr. SPRINGER. Do not be interrupted.

Mr. HARRIS, of Virginia. I will yield to the gentleman, for he is always perfectly fair, though very adroit.

Mr. HISCOCK. Does the gentleman know that that language was used with reference to the legislative examination by a legislative committee, and not with reference to a committee of aldermen?

Mr. HARRIS, of Virginia. The aldermanic count was before the Legislature for revision, as the aldermanic count is before this House for revision in this case. They said that it was illegal in another case, (and recollect it is the Legislature of Massachusetts that is speaking.)

Now there is a case precisely in point, where they say that the count was illegal and void because no error had been alleged in the notice applying for a recount. Now having shown that the recount was unauthorized, I will run a parallel for a moment as a matter of fact. I am glad to see my friends on both sides of the House listening to me, and especially my friend from Maryland, [Mr. WALSH,] who yesterday rose above the claims of party and assumed the high stand-point of an impartial statesman. He said he would copy into his speech all the testimony on both sides. I read his speech this morning, and I find he has copied the evidence so far as it sustains his views, but the evidence on the other side he has left out. I will show that as I proceed, and he cannot gainsay it. He had the floor yesterday and would allow no interruption. I have it to-day, but I will not do him injustice.

Now, Mr. Speaker, we come to the question of the reliability of the two counts, and we must decide between them. I will premise by saying, all else being equal, I would give credit to the count which was made at a time and under circumstances which are free from all temptation to fraud. Two men of equal character and standing make directly opposite statements touching the same transaction. One has neither motive nor feeling to do wrong, the other has every possible motive which could influence the human mind to make a wrong statement; which would you believe? Who can hesitate to believe the former? The first count was made at ten different places at the same time, when no one knew the result of the election, for it had not been ascertained. The second was made some days after the election, at one time and by the same parties. Then they knew that a change of 4 votes would elect Field and perhaps decide the complexion of the House in the Forty-fifth Congress, for, it will be remembered, for some days after the election it was undecided which party would have a majority in this House. Therefore the latter had the strongest temptation to err.

First, let us look at the manner in which this ward count was made. Let the officers of that election speak for themselves. D. P. Sullivan says:

The system was, the warden, clerk, and one of the inspectors did the counting. The warden and clerk were present at the counting of each lot taken out, and the inspector was absent when one lot was being counted. After they counted all the ballots for all the candidates on the tickets, they tied the ballots together; they had the republican ballots in one lot and the democratic in another and the prohibition in another, and they tied a string round each bundle, and marked on each bundle, on a ballot, the vote for Mr. Dean and for Mr. Field; then they were handed to the supervisors, Mr. Swinson and myself. Mr. Swinson would count the ballots and I would watch him, and after he got through he would hand them over to me and he would watch me counting. In some cases I counted them over two or three different times to see if the figures compared with the ward officers' count, and each time I found them to be correct.

I cannot read all the testimony in this case, but if I do not quote it correctly or quote it partially I call upon my friends to correct me.

The ward officers are required, one hour after the polls are opened, to begin the count. Remember Massachusetts has eight officers at each voting-place, enough to record and count the votes at the same time. They go over them again and again, the ballots passing through several hands.

They are then passed over to the United States supervisors, consisting of one democrat and one republican at each voting-place. They in turn count them. If any discrepancy is discovered they retrace their steps, count them over and over until the error is de-

tected and their sheets tally. That is what was done in this case at each of the ten wards constituting the congressional district. Moreover, Mr. Speaker, these ward officers had more time than the aldermanic committee, as I will presently show. They had from early morning until night to count an average of less than 2,000 votes, for the count goes on all day. The whole vote of the district in round numbers was 20,000; divided into ten voting-places would give an average of 2,000 to each. There were ten officers at each voting-place, making one hundred divided into squads of ten. Thus each ward had the whole day in which to count 2,000 votes; and while these several officers were thus counting, each ward separate and distinct from the other, they did not know that the aggregate of their several counts would elect Dean by 4 majority; hence they were free from all motive of fraud or wrong in the premises. To prove these ward counts correct I will read the testimony in part on that subject, and I desire to call especial attention to the fact that there is no conflict between democratic and republican witnesses:

Deposition of William Swinson.

APRIL 19.

WILLIAM SWINSON, a witness for Benjamin Dean, the contestant, being first duly sworn, in answer to interrogatories proposed by S. A. B. Abbott, esq., of counsel for contestant, testified as follows, namely:

Interrogatory 1. Please state your name, age, residence, and occupation.
Answer. William Swinson; fifty-nine; 76 Rutland street, ward 18; merchant; am out of business now.

Int. 2. What office, if any, did you hold on November 7, 1876?

A. United States supervisor in ward 18, to represent the republican party. I had lived in the ward thirty-five years; have been warden and inspector when it was ward 11; have not been much of a politician since the old whig party.

Int. 3. Did you attend at the polls on that day, November 7, 1876, and discharge your duties?

A. I did.

Int. 4. Did you carefully count the ballots cast for Representative to Congress in that ward?

A. I did.

Int. 5. Did Mr. Sullivan, the other United States supervisor, also carefully count the same ballots?

A. I think he counted a good part, or was there present most of the time. I can't say whether he personally counted all the votes; I have an impression that he did.

Int. 6. What ward officers counted the ballots for member of Congress?

A. The warden—I think only one person at a time, with the assistance of the clerk—they kept a very correct method, a regular debit and credit account, so that there was no chance for mistakes. One inspector also counted, and as they were counted they were passed to our table and we counted. The whole counting was done by two persons at a time; the others were attending at the boxes.

Int. 7. Did the counts made by you and Mr. Sullivan agree with that made by the ward officers?

A. They did.

Int. 8. How long have the warden and clerk been ward officers in ward 18?

A. That I cannot state positively; I think three years.

Int. 9. Were they or not persons fitted for performing the duties required of a warden and a clerk?

A. I think they were; have no doubt of it.

Deposition of Charles B. Hunting.

CHARLES B. HUNTING, a witness for Walbridge A. Field, the incumbent, being first duly sworn, in answer to interrogatories proposed by J. Lewis Stackpole, esq., of counsel for the incumbent, testified as follows, namely:

Interrogatory 1. State your name, age, residence and occupation.

Answer. Charles B. Hunting; forty one; Boston, Massachusetts; ward 16; clothing dealer.

Int. 2. Were you acting as clerk of ward 16 at the election of November 7, 1876?

A. Yes, sir.

Int. 7. State who acted as United States supervisors in said ward at said election.

A. John F. Daly and Abraham J. Lamb.

Int. 8. State whether said supervisors personally scrutinized, canvassed, and counted the ballots for Representative to Congress cast in said ward at said election.

A. They counted them; can't tell how carefully they scrutinized them.

Cross-examination resumed:

Recross-interrogatory 6. You counted all the ballots in your ward as carefully as possible, did you not?

Answer. Yes, sir.

Recross-int. 7. Did you not believe, after the count was finished, that the returns made by you to the city hall represented the true number of ballots cast in your ward for Mr. Dean and Mr. Field, respectively?

A. I did.

Recross-int. 8. Don't you now believe the count made by you is the true count of the votes cast for Mr. Dean and Mr. Field, respectively?

A. I believed it then, and believe it now.

Deposition of Abraham J. Lamb.

APRIL 20.

ABRAHAM JOHN LAMB, a witness for Benjamin Dean, the contestant, being first duly sworn, in answer to interrogatories proposed by S. A. B. Abbott, esq., of counsel for contestant, testified as follows, namely:

Interrogatory 2. What office, if any, did you hold in ward 16 on November 7, 1876?

Answer. United States supervisor of election, representing the democratic party.
Int. 3. Did you attend at the polls on that day and faithfully discharge your duties as such supervisor?

A. I did.

Int. 4. Did you count the ballots cast for member of Congress carefully, and make a true return of the number cast for each candidate to the chief supervisor?

A. Yes, sir.

Int. 5. Did Mr. Daly, the republican supervisor, also count the same ballots?

A. He did.

Int. 6. Have you any doubt that you counted for Mr. Dean and Mr. Field all the ballots actually cast for them, respectively?

A. I have none.

Int. 7. Did you know of any error or mistake being made in this ward on November 7, 1876, in the count and return of votes cast for member of Congress?

A. No, sir; I did not.

Cross-examination by William G. Russell, esq., of counsel for Mr. Field, the incumbent:

Cross-int. 1. Did you discover any error in the count of the warden and clerk?

A. No, sir.

Cross-int. 2. Did you remain until the ballots were put into the boxes and sealed up?

A. Yes, sir.

Deposition of John F. Daly.

APRIL 20.

JOHN F. DALY, a witness for Benjamin Dean, the contestant, being first duly sworn, in answer to interrogatories proposed by S. A. B. Abbott, esq., of counsel for contestant, testified as follows, namely:

Interrogatory 2. What office, if any, did you hold in ward 16 on November 7, 1876?

Answer. United States supervisor of election, representing the republican party.
Int. 3. Did you attend at the polls in ward 16 on November 7, 1876, and faithfully discharge your duties as United States supervisor?

A. To the best of my knowledge and ability I did.

Int. 4. Did you count the ballots cast for member of Congress carefully, and make a true return of the number cast for each candidate to the chief supervisor?

A. To the best of my knowledge and belief I made an accurate count, and returned the same to the commissioner, the chief supervisor.

Int. 5. Did Mr. Lamb, the other supervisor, also count the same ballots?

A. He did.

Int. 6. Have you any doubt that you counted for Mr. Field all the ballots actually cast for him?

A. None whatever.

Now, Mr. Speaker, having disposed of the manner in which the ward counts were made and having offered the highest evidence of their correctness, let us consider for a few moments how the second or committee's count was made.

McCleary, clerk of the court, says:

Interrogatory 8. How did the committee proceed to count? State fully and particularly all that was done.

Answer. Stebbins, being chairman of the committee, would take the box, place it upon the table before us, take his knife and break the seal, and open the box in our presence, lay the ballots out upon the table, part at a time as required; he would sort them out, count them in twenty-fives, pass them to me; I would count them, hand them to O'Brien; he would lay the packages on the end of the table, in packages of twenty-five at a time, one package across the other, so if there was an error in the count we could easily go back of the packages and correct it. Occasionally I would find a package of twenty-four as it came from Stebbins. We were counting for member of Congress, third district, in this way, and I would hand it back to Stebbins, and he would recount it and place another ballot with it, and occasionally one with twenty-six; I would pass that to him, and one would be taken from it; then I would recount it, and pass it to O'Brien. I think in one or two instances a package would pass me, and O'Brien would detect the error. That was the *modus operandi* in regard to all the ballots.

The House will observe. Stebbins handles the ballots first and then passes them on. See what he says about the counting of other elections in the same room and at the same time:

Cross-interrogatory 40. When were the votes for Mr. Denny's senatorial district counted?

Answer. I should have to look at one of my boxes not here to determine. I have ascertained that they were recounted on the 11th of November.

Cross-int. 41. Was it not during the counting of the ballots for Representative to Congress from the third district?

A. It must have been, because the committee had not finished their count.

Cross-int. 42. And in the same room?

A. Yes, sir; in the same room.

Cross-int. 43. Were not the ballots for some of the wards of the fourth congressional district for Representative to Congress counted at the same time, and by whom?

A. Yes, the ballots for Representative to Congress for the fourth district, for wards 1, 2, 6, and 12, were recounted during the period occupied by the committee in counting the ballots for the third district; the ballots were counted by other parties than the committee, but under their direction.

(Witness here states that before signing he would like to state in answer to cross-interrogatories before put to him.)

I desire to state that the ballots for ward 1 in the fourth district were counted Saturday evening, November 11, by Messrs. Priest, Lee, and Clapp, and not by the committee, though in our presence, and the same is true of wards 9, 11, and 12. Ward 10 was counted by the committee. These counts were for members of the State Legislature.

Int. 13. Did your committee compare the number of votes found in the envelopes from the several wards with the number of names checked upon the check-lists or tally-sheets in those wards?

A. We did not. Wards 13, 14, 15, 16, and 17 were counted on November 10, 1876; wards 18, 19, 20, 21, and 24, November 11, 1876.

SOLO. B. STEBBINS.

The aldermanic committee say that they commenced counting on Saturday evening at two o'clock and closed the count at twelve o'clock midnight for five of the wards, which five wards added together give 10,000 votes. Now, Mr. Speaker, that is the size of the ballot, [exhibiting a ballot.] Think for a moment of three men counting 10,000 of such votes in nine hours. That is the time stated by Mr. Stebbins; and I know gentlemen on the other side will not contradict him. Is it physically possible that 10,000 of these votes could have been counted in nine hours? And Mr. Stebbins says that while they were doing this, two other committees were in the same room handling the same tickets and counting for senate and for the fourth congressional district. A pretty set of men to decide upon the rights of the people! Alderman Stebbins with his committee and two other committees handling the same ballots at the same time! Very naturally they got matters mixed; and consequently Stebbins reports some votes for Mr. Morse and some for Mr. Frost—candidates in another district. Why? Because these different committees were handling the same tickets got them intermixed.

One other point: Stebbins, to be very particular about it, says that each one handled the tickets more than once. But I say even if they handled the tickets but once, they must in those nine hours have counted 133 votes per minute, not counting the time they stopped for refreshments; for my friend from Massachusetts [Mr. HARRIS] says they do drink occasionally even in Massachusetts. Remember,

they began on the five wards at two p. m. and closed at twelve. This would make ten hours; but the witnesses all agree that one hour was lost in consultation with the city attorney, thus leaving only nine hours in which to count 10,000 votes.

Was that not going on with a rush? Is it upon such a count that my friends on this side are asked to abandon their party and go with gentlemen on the other side?

Mr. Daly and Mr. Larnier both testified that they took the greatest possible pains in the ward count. A republican ward officer being examined and asked whether the ward count was correct, says: "Yes, I believed it was correct then and I believe it is correct now," notwithstanding the count of Mr. Stebbins.

I want to show who this Mr. Stebbins is. My friend from Maryland [Mr. WALSH] said yesterday that the majority of this aldermanic committee belonged to the same political party with himself. Well, sir, Stebbins, the republican member of the committee and its chairman, being asked to what political party the members of the committee belonged, says: "I am a republican, O'Brien is a democrat, and Viles is a democrat with republican tendencies." Now, I want my friend from Maryland to say to which of those parties he belongs.

Mr. Speaker, when the second count was called for, who made the motion for the appointment of the committee? I read from the minutes of the board of aldermen, November 6, 1876:

On motion of Alderman Stebbins, Mr. Stebbins, Mr. Viles, and Mr. O'Brien were appointed the committee.

Mr. Stebbins, on his own motion, was appointed chairman of the committee, and he selected the other two men to act with him! Stebbins is shown to be one of the shrewdest politicians in Boston; and, sir, let me go into the republican party and pick my men, and I may get men who will co-operate with me just as well as if they belonged to my own party.

Let us see again what Stebbins does. We read in the minutes that "after hearing of arguments of counsel, &c., Mr. Stebbins moved" this and "Mr. Stebbins moved" that. Mr. Stebbins was the committee. The other two were no doubt clever men, but comparatively ignorant, acting under the adroit and sleight-of-hand Stebbins, who could handle a ticket as a sportsman would a playing-card.

Now, how did they count the votes? Stebbins says that he took them out of the ballot-box, counted them out in twenty-fives and passed them to the other members of the committee. Stebbins was the first to handle the tickets. How easy it would have been for him while handling them to slip off some of the pasters. When he has handed over one lot of twenty-five to Viles and while Viles is counting those, what is Stebbins doing? He says that he is getting together another twenty-five; but how easy it would be for him to pull off some of those pasters without O'Brien and Viles knowing anything about it.

Mr. HISCOCK. I desire to ask the gentleman whether the fact that the vote for each candidate was increased by the aldermanic count does not prove that pasters were not removed.

Mr. HARRIS, of Virginia. No, sir. They increased the vote of each one a little; but they took good care to increase Mr. Field 4 votes more than Mr. Dean. When men want to cheat or to do a mean thing it often appears that they came very near doing right, but missed it by only a little; just enough to effect the object. Do you tell me that Stebbins could not have slipped those pasters off when he knew he had only to make a change of 4 votes? Do you tell me that a man who comes here with this supplemental affidavit after he has given his testimony is not capable of doing so? Do you tell me that he had not the motive? No wonder the gentleman from Maine [Mr. FRYE] did not want the affidavit of Mr. Stebbins read in full, for in a long practice at the bar I never knew a case where a man undertaking a statement of this kind, even though his lawyer might write it for him or although it might be written in the city of Washington and sent to Boston for him to swear to, did not make some slip.

Here is the trip Mr. Stebbins makes. I read from his testimony. I mean his voluntary affidavit made since the argument of this case began to meet some of the weak points presented in the progress of the case. He says it was not possible for the pasters to cover both the words "for Representative in Forty-fifth Congress" and the name of the candidate, for both were printed in very large letters. Here is the ticket, twelve inches long by six wide. I hope the printer may be able to give a fac-simile of so much as refers to Congress:

For Representative to Congress,

WALBRIDGE A. FIELD.

It will be seen how difficult it was in pasting the name of Dean over Field to keep the paster from concealing "for Representative to Congress." If perchance it did, Stebbins tells us his committee counted it blank, while he and our committee give Mr. Field 25 votes cast for the fourth district, because we thought the voters meant to vote for him for the third district.

Where is Mr. Field's name? Here it is, and just above it, "For Representative to Congress;" and it is in the very smallest sized type I think except one known to the printing art. I should like to have

this ticket passed over to my friend from Maryland, who made the speech yesterday, and to ask him to compare Stebbins's testimony with the fact, so he can judge for himself. Stebbins said that the words, "For Representative to Congress," were printed in the very largest type, when, as the gentleman can see from this paper, it is rather in the very smallest. That shows he was trying to make a case without having the facts before him. This was brought in not by Mr. Dean's friends but by others.

Now, I would like to pursue this matter a little farther. This same man Stebbins, who first handled all the votes, testifies it was two o'clock at night before the result was known. The evidence shows that Mr. Stebbins, this impartial officer of the law, at two o'clock in the morning, rushed breathless to the house of his friend, Mr. Field, aroused him, and informed him that he had been elected by 4 votes.

Was that the conduct of an impartial, fair-minded man after ascertaining the result to run off and wake up his friend and inform him of the result? Was it not more like the act of a partisan?

To show the utter rottenness, the utter contempt with which that second count ought to be considered, let me read further from the testimony in reference to the tally and check lists:

Interrogatory 13. Did your committee compare the number of votes found in the envelopes (ballot-boxes) from the several wards with the number of names checked upon the check-lists or tally-sheets in those wards?

Answer. We did not.

The tally-list and the check-list, where every man's name is recorded, should have been before that board to see whether there were too many or too few ballots in the box, for if there were more ballots in the box than there were names on the check-list, *prima facie* there was something wrong. These gentlemen seem to have utterly disregarded that important feature in the case. They were asked whether they compared the number of names on the check-list or the tally-list in these wards with the number of ballots found in the ballot-box, and they say they did not compare them.

Mr. HARRIS, of Massachusetts. Do you understand the check-list would show how many ballots had been cast for any one candidate?

Mr. HARRIS, of Virginia. The check-list would have shown how many ballots were cast, and if the number of ballots exceeded or fell below the check-list there was *prima facie* evidence of fraud or mistake somewhere.

Mr. HARRIS, of Massachusetts. The check-list would show how many voted.

Mr. HARRIS, of Virginia. That is true; that is what I complain of, that the check-list was not compared with the number of ballots found in the boxes. When you increased the number of votes at some of the wards, there was no comparison made between the check-list and the number of votes found in the ballot-boxes. If there had been found any discrepancy, it would have been proof of fraud or mistake. There has already been reference made to the manner of counting adopted by the board of aldermen. If the sticker covered "For Representative to Congress," the vote was not counted, and it was put down as a blank. Now, what is the fact? Mr. Field brings the proceedings of the aldermanic board here and my friend from Maine complains that we use it. If he [Mr. FRYE] will hand it to me, I will show him wherein the recount made by the aldermen is discredited. I will read from the minutes of the aldermen wherein the committee are explaining how they made the recount. From which it will be seen if a vote were cast for "Mr. Dean" it was thrown out by the chairman of the committee, (Stebbins.) I read:

Alderman O'BRIEN. There were also votes for Mr. Morse, Mr. Dean, Mr. Frost, and all the candidates for Representatives in Congress in every ward in Boston. Mr. Frost received votes in almost every ward, and so did Mr. Dean and Mr. Morse, and all those votes were thrown out. But still, such things were illustrated to us to-night as an impossibility. It is not an impossibility, because it was done in our city in the last election in almost all the wards, and I presume the intention was to express a preference for Mr. Dean, or Mr. Morse, or Mr. Frost, under all circumstances. There were many cases of the kind cited by the aldermen, and which the chairman of the committee threw out.

Mr. FRYE. The gentleman leaves off when if he had continued he would have found they counted them further on separately. Let the gentleman read further.

Mr. HARRIS, of Virginia. I will read further on:

Alderman STEBBINS. I am certain the alderman would not do me an injustice. Those votes were returned to the city clerk. I have my original minutes here, and in every instance those votes were returned to the city clerk.

Alderman O'BRIEN. I did not mean to contradict that; but I mean to say we did not count them. They were counted separately, the same as the 25 votes for Walbridge A. Field were counted. We did not add a vote to Mr. Morse's returns. They were sent to the city clerk, as for Rufus S. Frost, of Boston, and Leopold Morse, of Chelsea.

So my friend will see I was right. I did not deny they were returned—returned blank—my complaint was that votes cast for "Mr. Dean" were not counted for contestant. Then the finding of ballots for the adjoining district proves that while the other committee was counting the votes in the fourth district between Frost and Morse the tickets of the two districts became mixed, and that the latter count, therefore, was entirely unreliable; when it is remembered that a change of three votes would have changed the result.

And where are those ballots now? They have not been added to Dean's vote. How many there were God only knows. The committee do not tell us. That was on a wrong principle. Now, if that committee acted wrong then the whole case falls to the ground; and they tell you under oath they would not count a vote for Dean if it was "Mr. Dean."

Now, gentlemen, which set of counters is entitled to the more credit? Those sworn officers who had a whole day to count deliberately fifteen hundred or two thousand, as the case may be, or this committee. I want to show now how, while this committee composed of Mr. Stebbins and two men of his own choosing were counting the votes of the third district, it happens that the votes of the fourth district got into the third.

How easy it would have been, when these counters from the fourth district were counting for Morse and Frost, to take a few votes from Dean and to put a like number from the fourth district into the third district, and thus deprive Dean of his return; Mr. Stebbins and his committee acting with a carelessness which was inexcusable either in the facts or the law of the case.

All I ask of our friends is to examine the two counts and see which is entitled to the more credit. I wish to refer to the law in regard to the count made by the aldermen; and I want my friend, the gentleman from New York, [Mr. HISCOCK,] to come where he may hear what I have to say, for I know he will not contradict me. I want to bring him here to the law on that question. I promised to show that the law was not complied with in a single particular by this committee, and I am going to make that promise good. The law says that the city clerk shall forthwith enter the returns from the wards upon

his records. I ask my friend did he do it? Did he comply with the law?

Mr. HISCOCK. I will answer the gentleman's question by saying this: if the filing of the records in the office is an entry of them, then he did it.

Mr. HARRIS, of Virginia. The boxes were carried there, but never opened, so far as we know, and no entry was made upon the record as the law directs. Carrying the boxes to the clerk's office was no entry on the records. It is the failure of the clerk to make the entry which constitutes the violation of the law. Again, the law says the aldermen, if they make the count, or the committee, if they make the count, shall send the corrected returns to the clerk. Did they do it? I ask my friend the question, Did the committee after they made their count send their returns to the clerk?

Mr. HISCOCK. They corrected the returns. As I understand it, they complied literally with the act.

Mr. HARRIS, of Virginia. To whom did they send them?

Mr. HISCOCK. They were corrected in the office.

Mr. HARRIS, of Virginia. No, sir; my friend cannot contradict it. The law says the committee shall send their return to the clerk; and the committee in this case made their return to the aldermen, and by that return they elected Dean, as the following table will show:

	Committee's count.										Totals.
	13.	14.	15.	16.	17.	18.	19.	20.	21.	24.	
Benjamin Dean.....	1,497	1,100	855	889	803	573	1,125	1,035	545	803	9,315
Walbridge A. Field.....	225	950	751	625	1,131	1,413	614	891	1,333	1,361	9,326
Walbridge A. Field, (fourth district).....						25					25
Wm. A. Field.....				1							1
Field.....							3				3
LEOPOLD MORSE.....				1							1
Rufus S. Frost.....				2		1					3
Francis M. Weld.....								1			1

At this point I will read the returns from the ward officers, in order that the House may see the difference in the two:

	Ward returns.										Totals.
	13.	14.	15.	16.	17.	18.	19.	20.	21.	24.	
Benjamin Dean.....	1,495	1,076	855	896	802	579	1,126	1,038	547	805	9,306
Walbridge A. Field.....	219	939	753	621	1,131	1,410	614	897	1,331	1,361	9,326
Walbridge A. Field, (fourth district).....						25					25
A. Field.....							1				1
Field.....							1				1
Samuel D. Smith.....									1		1

But as the committee reported to the aldermanic board instead of to the clerk, the former undertook to and did revise the result as given by the committee, though two out of three of the committee who made the count voted against it. This the board did in open violation of law, for if they had not counted they had no power to revise the count of the committee. Had the law, the count, and the report of the committee been observed, Mr. Dean would have had his seat. But Stebbins and his friends voted them down and had the 25 votes transferred from the fourth to the third district and had the certificate given to Mr. Field. I allege that in not one single particular did they comply with the law. Yet our friends here are asked to go against the report of their committee, disregard the popular will as ascertained through the legal channels of Massachusetts, and to continue a gentleman in his seat who holds it by the means I have described. Will they do it?

Mr. HISCOCK. I desire to ask the gentleman if this difference was not over the language used in the certificate with reference to the 25 votes?

Mr. HARRIS, of Virginia. Yes, sir; I stated that. I stated that the committee who counted these votes returned Mr. Dean elected by a plurality of votes. And it was not in the power of the aldermen to change it. If the aldermen made the count they can make the correction. But if the committee made the count the committee alone can make the correction. This House might have corrected the error, but the aldermen could not correct it. But they took high-handed measures and made the change and gave the seat to the gentleman who now occupies it and our friends are now called upon to sustain and sanction this outrage upon the people of Massachusetts, and refuse the seat to my friend Mr. Dean, who now sits on my right. The law, as the gentleman from New York admits, has not been complied with in a single particular; with every motive that could influence a partisan pressed upon Stebbins to make a change of an honest count made by a hundred men when they had no motive to make any other than the true returns.

If this recount was to be had and the law authorized it, then the law ought to have been followed in all its details. I allege again, and I call upon my friend and namesake from Massachusetts to correct me if I am wrong, that the law was not complied with in any

single particular. That being the case, and confessedly so, from the fact that my friend from New York [Mr. HISCOCK] virtually confesses it, I leave the case with the House. If it should be their will to retain Mr. Field in the seat which he fills with so much dignity and ability, I shall feel no regrets. His conduct throughout this case has been that of a cultivated and honorable man, and if I have said anything in the heat of debate which might be construed to reflect on him, I beg to assure the House I did not so intend it; that the warmth exhibited in debate springs from no unkind feeling to him.

The SPEAKER. The Clerk will now read the resolution reported by the committee.

The Clerk read as follows:

Resolved, That Walbridge A. Field is not entitled to a seat in this House as the Representative from the third congressional district of the State of Massachusetts.

Resolved, That Benjamin Dean is entitled to a seat in this House as the Representative from the third congressional district of the State of Massachusetts.

Mr. SPRINGER. I call for the yeas and nays; but first I would inquire if the minority of the committee did not report resolutions as an amendment to the resolutions of the majority, and if a vote ought not first to be taken upon them.

The SPEAKER. The Chair was not aware that the resolutions of the minority had been offered.

Mr. SPRINGER. They should first be voted upon; but I suggest that the members of the minority withdraw that amendment, and let us take one vote upon agreeing to the resolutions reported by the majority.

Mr. HISCOCK. I have no objection. I would just as soon that a vote be taken on the resolutions of the majority as upon those of the minority.

The SPEAKER. The Chair did not understand that the gentleman from New York had yet presented the amendment.

Mr. FRYE. I rise to a point of order. I supposed that the only resolution pending is the resolution declaring that Mr. Dean is entitled to his seat, and the previous question is operating upon that.

The SPEAKER. The Chair would state to the contrary: that by agreement between the parties, the resolutions offered by the minority are first to be voted on. The gentleman from New York, however, states his willingness to withdraw the amendment and allow a vote to be taken directly upon the report of the majority.

Mr. FRYE. My point of order is simply this: the previous question is in operation and suppose it should turn out that the resolutions of the majority should not be adopted, then as a matter of course the other resolution reported by the minority will be voted upon immediately after.

The SPEAKER. If the resolutions of the majority are not adopted then the Chair thinks that it would leave the gentleman from Massachusetts [Mr. FIELD] in his seat.

Mr. HISCOCK. To save trouble I ask that a vote be taken on the amendment; of course the yeas and nays will only be called once.

The SPEAKER. The amendment will be read.

The Clerk read as follows:

Resolved, That Walbridge A. Field is entitled to a seat in this House as a Representative in the Forty-fifth Congress from the third district of Massachusetts.

Resolved, That Benjamin Dean is not entitled to a seat in this House as a Representative in the Forty-fifth Congress from the third congressional district of Massachusetts.

The SPEAKER. Unless there be a division called for of the amendment, the vote will be taken upon the two resolutions together.

Mr. SPRINGER. I call for the yeas and nays on the adoption of the amendment.

The yeas and nays were ordered.

The question was taken; and there were—yeas 120, nays 119, not voting 52; as follows:

YEAS—120.

Aldrich,	Danford,	Jones, John S.	Reed,
Bacon,	Davis, Horace	Joyce,	Rice, William W.
Bagley,	Deering,	Keifer,	Robinson, Milton S.
Baker, John H.	Denison,	Keightley,	Ryan,
Baker, William H.	Dunnell,	Kelley,	Sampson,
Ballou,	Eames,	Lindsey,	Sapp,
Banks,	Ellsworth,	Loring,	Shallenberger,
Bayne,	Evans, James L.	Marsh,	Sinnickson,
Bibbee,	Evans, I. Newton	McCook,	Smalls,
Blair,	Fort,	McGowan,	Starin,
Brentano,	Foster,	McKinley,	Stenger,
Brewer,	Frye,	Mitchell,	Stewart,
Briggs,	Gardner,	Monroe,	Stone, Joseph C.
Brogden,	Garfield,	Neal,	Stone, John W.
Browne,	Hale,	Norcross,	Strait,
Burchard,	Hanna,	Oliver,	Thompson,
Burdick,	Harris, Benj. W.	O'Neill,	Thornburgh,
Cain,	Hartridge,	Overton,	Tipton,
Calkins,	Haskell,	Patterson, G. W.	Townsend, Amos
Camp,	Hayes,	Peddie,	Townsend, M. I.
Campbell,	Hazelton,	Phillips,	Wait,
Cannon,	Hendee,	Pollard,	Walsh,
Cladin,	Henderson,	Potter,	Ward,
Clark, Rush	Herbert,	Pound,	Watson,
Cole,	Hiscock,	Powers,	Welch,
Conger,	Hunter,	Price,	White, Michael D.
Cox, Jacob D.	Humphrey,	Pugh,	Williams, C. G.
Crapo,	Ittner,	Rainey,	Williams, James
Cummings,	James,	Randolph,	Willits,
Cutler,	Jones, James T.	Rea,	Wren.

NAYS—119.

Acklen,	Davidson,	Jones, Frank	Ross,
Aiken,	Davis, Joseph J.	Kenna,	Saylor,
Bell,	Dibrell,	Kimmel,	Scales,
Benedict,	Dickey,	Knott,	Schleicher,
Bicknell,	Douglas,	Ligon,	Shelley,
Blackburn,	Durham,	Lockwood,	Singleton,
Bland,	Eden,	Luttrell,	Slemmons,
Bliss,	Elam,	Lynde,	Smith, William E.
Blount,	Ellis,	Mackey,	Southard,
Boone,	Ewing,	Maish,	Springer,
Bouck,	Felton,	Manning,	Steele,
Bright,	Finley,	Mayham,	Swann,
Buckner,	Forney,	McKenzie,	Throckmorton,
Butler,	Franklin,	McMahon,	Townsend, R. W.
Cabell,	Garth,	Mills,	Tucker,
Caldwell, John W.	Garth,	Moncy,	Turner,
Caldwell, W. P.	Gibson,	Morgan,	Vance,
Carlisle,	Giddings,	Morrison,	Veeder,
Chalmers,	Glover,	Morse,	Waddell,
Clark, Alvah A.	Gunter,	Muldrov,	Warner,
Clarke of Kentucky,	Hamilton,	Muller,	Whitthorne,
Clark of Missouri,	Hardenbergh,	Phelps,	Wigginton,
Clymer,	Harris, Henry R.	Quinn,	Williams, A. S.
Cobb,	Harris, John T.	Reagan,	Williams, Jere N.
Cock,	Hartzell,	Reilly,	Willis, Albert S.
Cox, Samuel S.	Hewitt, A. S.	Rice, Americus V.	Willis, Benj. A.
Cravens,	Hewitt, G. W.	Riddle,	Wood,
Crittenden,	Hooker,	Robbins,	Wright,
Culbertson,	House,	Roberts,	Yeates.
	Huntton,	Robertson,	

NOT VOTING—52.

Atkins,	Errett,	Hungerford,	Robinson, George D.
Banning,	Evins, John H.	Jorgensen,	Sexton,
Bebee,	Field,	Ketcham,	Smith, A. Herr
Boyd,	Freeman,	Killingier,	Sparks,
Bridges,	Goode,	Knapp,	Stephens,
Bundy,	Harmer,	Landers,	Van Vorhes,
Candler,	Harrison,	Lathrop,	Walker,
Caswell,	Hart,	White,	Harry,
Chittenden,	Hatcher,	Metcalfe,	Williams, Andrew
Covert,	Henkle,	Page,	Williams, Richard
Dwight,	Henry,	Patterson, T. M.	Wilson,
Eickhoff,	Hubbell,	Pridemore,	Young.

During the roll-call the following announcements were made:

Mr. MCMAHON. I desire to state that my colleague, Mr. BANNING, is paired upon this question with Mr. WHITE, of Pennsylvania.

Mr. TUCKER. I desire to say that my colleagues, Mr. PRIDEMORE

and Mr. JORGENSEN, are paired upon this question, and I desire to state also that my colleague, Mr. GOODE, is paired with the gentleman from Pennsylvania, Mr. HARMER.

Mr. HART. I desire to announce that I am paired upon this question with my colleague, Mr. HUNGERFORD. If he were present, he would vote "ay" and I should vote "no."

Mr. LOCKWOOD. I desire to state that my colleagues, Mr. BEEBE and Mr. LAPHAM, are paired.

Mr. MARTIN. I am paired with Mr. HUBBELL, of Michigan.

Mr. WILLIS, of New York. My colleagues, Mr. EICKHOFF and Mr. CHITTENDEN, are paired.

Mr. BRIDGES. I am paired with Mr. DWIGHT, of New York. If he were here, I presume he would vote "ay;" I would vote "no."

Mr. HENRY. On this question I am paired with my colleague, Mr. HENKLE. If present, he would vote "no" and I would vote "ay."

Mr. HARTRIDGE. My colleague, Mr. CANDLER, informs me that on this question he was paired with Mr. TURNEY, of Pennsylvania. If here, my colleague would vote "ay."

Mr. AIKEN. My colleague, Mr. EVINS, is absent, and paired with Mr. WILLIAMS, of Oregon. If present, my colleague would vote "no."

Mr. METCALFE. I am paired with Mr. SPARKS, of Illinois. If he were present, he would vote "no" and I would vote "ay."

Mr. FULLER. I am paired with my colleague, Mr. SEXTON. If he were here, he would vote "ay" and I would vote "no."

Mr. LANDERS. I am paired with Mr. ROBINSON, of Massachusetts. If present, he would vote "ay" and I would vote "no."

Mr. HISCOCK. My colleagues, Mr. COVERT and Mr. KETCHAM, are paired. If present, Mr. KETCHAM would vote "ay" and Mr. COVERT "no."

Mr. WAIT. I have been requested to announce that Mr. WILLIAMS, of Oregon, is paired with Mr. EVINS, of South Carolina. My friend from South Carolina [Mr. AIKEN] did not state how Mr. WILLIAMS would vote if present. I desire to state that he would vote "ay."

Mr. O'NEILL. My colleague, Mr. HARMER, is paired with Mr. GOODE, of Virginia. If present, Mr. HARMER would vote "ay" and Mr. GOODE "no." My colleague, Mr. KILLINGER, is paired with Mr. HARRISON, of Illinois. If present, Mr. KILLINGER would vote "ay" and Mr. HARRISON "no." My colleague, Mr. FREEMAN, is detained from the House by illness.

Mr. WILLIAMS, of New York. On this question I am paired with Mr. HATCHER, of Missouri. If he were present, I would vote "ay."

Mr. WILLIAMS, of Wisconsin. On this question my colleagues, Mr. CASWELL and Mr. BRAGG, are paired. If present, Mr. CASWELL would vote "ay" and Mr. BRAGG "no."

Mr. PAGE. On this question and on all political questions I am paired with Mr. WALKER, of Virginia. If present, he would vote "no" and I would vote "ay."

Mr. LATHROP. On this question I am paired with Mr. YOUNG, of Tennessee. If he were present, I would vote "ay" and he would vote "no."

Mr. VAN VORHES. On this question I am paired with Mr. WILSON, of West Virginia. If he were present, I would vote "ay."

Mr. SMITH, of Pennsylvania. I am paired on this question with Mr. ATKINS, of Tennessee. If present, he would vote "no" and I would vote "ay."

Mr. PATTERSON, of Colorado. On this question I am paired with Mr. ERRETT, of Pennsylvania. If present, he would vote "ay" and I would vote "no."

Mr. HENDERSON. My colleagues, Mr. BOYD and Mr. KNAPP, are paired. If present, Mr. BOYD would vote "ay."

Mr. SPRINGER. My colleague, Mr. HARRISON, is paired with Mr. KILLINGER, of Pennsylvania. If present, Mr. HARRISON would vote "no" and Mr. KILLINGER, I suppose, would vote "ay." I also desire to announce that Mr. STEPHENS, of Georgia, is paired with Mr. BUNDY, of New York. If present, Mr. STEPHENS would vote "no" and Mr. BUNDY "ay." I have voted in the negative; I now change my vote to the affirmative. [After a pause.] I will not change my vote, but let it stand as I first gave it, in the negative.

Mr. FRYE. You had better change it again.

Mr. SPRINGER. No; I am voting according to my judgment.

The SPEAKER. Upon this vote the yeas are 120, and the nays 119. The Chair votes in the negative, making—yeas 120, nays 120. [Applause on the democratic side, promptly checked by the Speaker.] The substitute is lost. The question now recurs upon the resolutions reported by the majority of the committee, which the Clerk will read.

The Clerk read as follows:

Resolved, That Walbridge A. Field is not entitled to a seat in this House as the Representative from the third congressional district of the State of Massachusetts.

Resolved, That Benjamin Dean is entitled to a seat in this House as the Representative from the third congressional district of the State of Massachusetts.

Mr. CONGER. I move the House now adjourn.

The motion was agreed to; and accordingly (at five o'clock and fifty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: Joint resolution of the Legislature of New Jer

sey, in reference to closing up the centennial international exhibition held at Philadelphia in 1876—to the Committee on Appropriations.

By Mr. CAMP: The petition of citizens of Lyons, New York, for the repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. COLE: The petition of John Rust, for a pension—to the Committee on Invalid Pensions.

By Mr. CRAPO: The petition of R. B. Forbes, J. Alexander, Matthew Bartlett, and 29 other citizens of Boston, Massachusetts, and of Jonathan Bowme, Andrew G. Pierce, Edward Kilburn, and 108 other citizens of New Bedford, Massachusetts, against the transfer of the life-saving service to the Navy Department—to the Committee on Commerce.

By Mr. CUTLER: Resolutions of the board of freeholders of Hudson County, New Jersey, in favor of Jersey City as a port of entry—to the same committee.

By Mr. DAVIS, of North Carolina: The petition of 1,580 citizens of North Carolina, relating to the distribution of the proceeds of the sales of the public lands among the States for educational purposes—to the Committee on Education and Labor.

By Mr. DEERING: The petition of citizens of Frederika, Iowa, for the equalization of bounties—to the Committee on Military Affairs.

By Mr. EICKHOFF: The petition of George Finker and William Smith, of Saint Louis, Missouri, sureties on the bond of Louis Teuscher, for relief—to the Committee on the Judiciary.

Also, the petition of Adolph Bookeler, Charles Hoppe, Conrad Seibel, and John H. Rottman, of Saint Louis, Missouri, sureties on the bond of Rudolph U. Ulrici, for relief—to the same committee.

By Mr. FOSTER: The petition of citizens of Hudson County, Ohio, for the equalization of bounties—to the Committee on Military Affairs.

Also, the petition of dealers in wines in Ohio, that the present specific duty of forty cents per gallon on still wines be retained—to the Committee of Ways and Means.

By Mr. GAUSE: The petitions of the publishers of the *Oseola* (Arkansas) Times and of the *Augusta* (Arkansas) Bulletin, for the abolition of the duty on type—to the same committee.

By Mr. HARDENBERGH: The petition of operative potters of Trenton, New Jersey, for the reduction of the tariff on crockery—to the same committee.

By Mr. HASKELL: Papers relating to the claim of Andrew Carnes—to the Committee on Appropriations.

By Mr. HENRY: Papers relating to the claim of Joseph Bradshaw—to the Committee of Claims.

By Mr. KETCHAM: The petition of citizens of Kinderhook, New York, for the equalization of bounties—to the Committee on Military Affairs.

By Mr. LUTTRELL: The petition of Laura De Force Gordon, of Oakland, California, for the removal of her political disabilities—to the Committee on the Judiciary.

Also, the petition of Maria E. Laird, of Mayfield, California, of similar import—to the same committee.

Also, resolutions of the Legislature of California, asking appropriations for the erection of a post-office and other Federal buildings in the city of Stockton, California, and for the improvement of the San Joaquin River—to the Committee on Public Buildings and Grounds.

Also, resolutions of the Legislature of California, asking an appropriation of \$20,000 for the improvement of the Mokelumne River and for an appropriation for the improvement of the harbor of San Luis Obispo, California—to the Committee on Commerce.

Also, resolutions of the Legislature of California, asking appropriations for the erection of a post-office and other Federal offices in Sacramento, California, and for the improvement of the Sacramento and Feather Rivers—to the Committee on Public Buildings and Grounds.

By Mr. MANNING: The petitions of Charles G. Baker, Bronson Bookout, Matthew L. Casey, Stephen H. Childress, John C. Craig, James Colyer, John J. Collier, Abraham Guyton, Rolly C. Horton, Isaac James, Isaac Joyner, F. H. Linebarger, Leroy Luker, Mrs. Prudence McNeill, Joseph B. Morgan, Samuel Y. Ragan, William L. Reynolds, Mrs. Sarah E. West, Granville A. Woods, Granville A. Wood, trustee, &c., and William T. Young, for compensation for property taken by the United States Army—to the Committee on War Claims.

By Mr. MCKENZIE: The petition of citizens of Louisville, Kentucky, that the sessions of the United States district court for the western portion of Kentucky be held at Hopkinsville instead of Paducah—to the Committee on the Judiciary.

By Mr. MCKINLEY: The petition of 130 citizens of Mahoning County, Ohio, against any change of the tariff on wools and woolens and against any change in the tariff laws—to the Committee of Ways and Means.

By Mr. McMAHON: The petition of John Cassidy, for a pension—to the Committee on Invalid Pensions.

By Mr. MONEY: The petitions of Jacob Baker, W. E. Estis, agent, Seaborn J. Miller, Mary Parker, and Benjamin F. Smyth, for compensation for property taken by the United States Army—to the Committee on War Claims.

By Mr. MONROE: The petition of the publisher of the West Salem (Ohio) Monitor, for the abolition of the duty on type—to the Committee of Ways and Means.

By Mr. MULDROW: The petitions of Joseph Betts, John H. Craige, Peter Dawkins, Eli Gordon, James E. Miller, and Charles M. Saxon,

for compensation for property taken by the United States Army—to the Committee on War Claims.

By Mr. MULLER: The petitions of Louis Franke, F. Leschorne, and others, against the revival of the income tax—to the Committee of Ways and Means.

By Mr. OVERTON: The petition of the publisher of the Tunkhannock (Pennsylvania) Republican, for the abolition of the duty on type—to the same committee.

By Mr. PHILLIPS: The petition of Lucy Buckingham, for arrears of pension—to the Committee on Invalid Pensions.

By Mr. ROSS: Joint resolution of the Legislature of New Jersey, in reference to closing up the centennial international exhibition held in Philadelphia, Pennsylvania, in 1876—to the Committee on Appropriations.

Also, resolutions of the board of freeholders of Hudson County, New Jersey, in favor of Jersey City as a port of entry—to the Committee on Commerce.

Also, the petition of the New Jersey Microscopical Society, for the removal of the restrictions preventing the transmission of microscopical slides and lenses through the mails—to the Committee on the Post-Office and Post-Roads.

By Mr. SINGLETON: The petitions of Jane H. Lee, Lee P. Murrell, Jesse M. Pace, John E. Pearson, and Jesse M. Pearson, for compensation for property taken by the United States Army—to the Committee on War Claims.

By Mr. THORNBURGH: Papers relating to the claim of Charles Wagon—to the same committee.

By Mr. TOWNSEND, of Ohio: The petition of M. Barnet, J. F. Clark, A. H. Quinn, Frank Lynch, H. C. Lockwood, and 200 other citizens of Cleveland, Ohio, against reviving the income tax—to the Committee of Ways and Means.

By Mr. TUCKER: The petition of Samuel T. Williams, administrator of John C. Rives, deceased, and others, for the purchase of copies of the Congressional Globe by the United States—to the Committee on Printing.

By Mr. VANCE: The petition of M. A. Chandley and 50 other citizens of Madison County, North Carolina, that the western judicial district of said State be not abolished—to the Committee on the Judiciary.

Also, papers relating to the claim of Paulina Jones—to the Committee on Military Affairs.

By Mr. WHITTHORNE: The petition of S. F. Cones, medical director United States Navy, and 16 others, for the passage of the bill (H. R. No. 3344) making apothecaries warrant officers—to the Committee on Naval Affairs.

Also, the petition of W. G. Adkisson, of Giles County, Tennessee, for pay for a horse lost in the Mexican war—to the Committee of Claims.

By Mr. WILLIS, of Kentucky: The petition of John W. Story and other citizens of Louisville, Kentucky, against reviving the income tax—to the Committee of Ways and Means.

By Mr. WILLIS, of New York: The petition of William T. Strong and 100 others, printers, against any change in the tariff laws—to the same committee.

Also, the petition of the New York Bar Association of the City of New York, for additional circuit judges in the second circuit—to the Committee on the Judiciary.

IN SENATE.

THURSDAY, March 28, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a message from the President of the United States, transmitting, in answer to a resolution of the 14th ultimo, copies of correspondence between the governments of the United States and China respecting the Ward claims and the claim of Charles E. Hill; which was ordered to lie upon the table, and be printed.

REPORT ON FORESTRY.

The VICE-PRESIDENT laid before the Senate the following concurrent resolution from the House of Representatives; which was read:

Resolved by the House of Representatives, (the Senate concurring.) That there be printed 15,000 copies of the report upon forestry transmitted by the President to Congress from the Commissioner of Agriculture on the 13th day of December last; 15,000 copies thereof for the use of the House of Representatives, 7,500 for the use of the Senate, and 2,500 copies for the Commissioner of Agriculture: *Provided, however,* That the total number of pages of said report shall not exceed six hundred and fifty.

The VICE-PRESIDENT. The resolution will be referred to the Committee on Printing.

Mr. DAVIS, of West Virginia. I suppose it should go to the Committee on Agriculture, as the subject has been before that committee.

The VICE-PRESIDENT. This is a mere matter of printing, and

the Chair supposes that under the rule the resolution must go to the Committee on Printing.

Mr. DAVIS, of West Virginia. That is true, but the subject of forest cultivation has been before the Committee on Agriculture. It is highly probable that after the examination of the resolution by the Committee on Agriculture it would then at the request of that committee be referred to the Committee on Printing. The chairman of the Committee on Agriculture [Mr. PADDOCK] is not now in, and I have no objection to having the resolution lie on the table until he comes in, in order to see what his wishes are.

The VICE-PRESIDENT. There is a similar resolution from the House of Representatives in relation to the report of the Commissioner of Agriculture and both resolutions will lie on the table for the present.

Mr. PADDOCK. Subsequently said: I understand that there are two resolutions here from the House of Representatives, one relating to the printing of the report of the Commissioner of Agriculture and the other relating to the printing of the report of a special commission on forestry, and upon being laid before the Senate, at the suggestion to the Senator from West Virginia, that these resolutions should go of the Committee on Agriculture, they were laid on the table temporarily until I should come in, the Senator from West Virginia thinking it might be proper that they should go to the Committee on Agriculture. I understand from the chairman of the Committee on Printing that the law is that such resolutions shall be referred to the Committee on Printing, and therefore I ask their reference to that committee.

The VICE-PRESIDENT. The Chair so understands, according to the rule.

Mr. PADDOCK. I will state that the subject of forestry has been considered by the Committee on Agriculture, and reports and papers and communications in reference to that subject, as well as with reference to the subject of the report of the Commissioner of Agriculture, are before us.

The VICE-PRESIDENT. The resolution to print the report on forestry will be referred to the Committee on Printing.

AGRICULTURAL REPORT FOR 1877.

The following concurrent resolution from the House of Representatives was referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed 300,000 copies of the report of the Commissioner of Agriculture for 1877; 254,000 copies for the use of the House of Representatives, 56,000 copies for the use of the Senate, and 20,000 copies for the use of the Department of Agriculture: Provided, however, That the number of pages of said report shall not exceed five hundred.

PETITIONS AND MEMORIALS.

Mr. THURMAN presented the memorial of H. B. Payne and others, citizens of Cleveland, Ohio, remonstrating against the passage of any act imposing a tax on incomes; which was referred to the Committee on Finance.

Mr. THURMAN. I present the memorial of Thomas Worthington, late colonel of the Forty-sixth Ohio Volunteers, complaining of injustice done him by the improper conviction of a court-martial which was afterward annulled, and praying relief by reason of the premises and for other reasons stated in the memorial. I move the reference of this paper to the Committee on Military Affairs.

The motion was agreed to.

Mr. THURMAN. I also present another memorial from the same person in reference to a claim which he had upon the Government, and asking a re-examination of it by the Committee on Claims. I ask its reference to that committee.

Mr. McMILLAN. I understand the Senator from Ohio to ask that the memorial which he presents be referred to the Committee on Claims.

Mr. THURMAN. Yes, sir.

Mr. McMILLAN. Will the Senator state what it is?

Mr. THURMAN. It is the claim of Colonel Worthington. The case was once before the Committee on Claims and was reported adversely. He asks a reconsideration of it and the consideration of further testimony, which he submits.

Mr. McMILLAN. Very well.

The VICE-PRESIDENT. The memorial will be referred to the Committee on Claims.

Mr. McPHERSON presented the memorial of the Microscopical Society of New Jersey, in favor of an amendment of the postal laws so as to allow the transmission through the mails of microscopical slides and objectives; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of the Presbyterian church and the Congregational church of Newton, New Jersey; the petition of the Presbyterian church of Stewartville, New Jersey; the petition of the Belleville Avenue Congregational church of Newark, New Jersey; and the petition of the First Reformed church of Orange, New Jersey, praying for the appointment of a commission of inquiry concerning the alcoholic liquor traffic; which were ordered to lie on the table.

He also presented a resolution of the Legislature of New Jersey, in favor of the passage of a law for the ascertaining of the balance due to the subscribers to the centennial board of finance, and making an appropriation for the payment of the same from the Treasury of the United States; which was referred to the Committee on Finance.

Mr. McMILLAN presented a joint resolution of the Legislature of Minnesota, in favor of the passage of a law granting lands to the Territory of Dakota to aid in the construction of a railroad from Bismarck and Fort Lincoln to the Black Hills; which was referred to the Committee on Railroads.

Mr. EDMUNDS presented the petition of Aaron Davis and others, citizens of Orange County, Vermont, praying for the passage of a law for the equalization of bounties; which was referred to the Committee on Military Affairs.

Mr. OGLESBY presented the memorial of R. P. Lane and others, citizens of Rockford, Illinois, remonstrating against the passage of any act imposing a tax on incomes; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. SAULSBURY, from the Committee on Post-Offices and Post-Roads, to whom was referred the petition of Nathaniel Kuykendall, of Hampshire County, Virginia, praying compensation for extra service for carrying the mail, reported adversely thereon, and the Committee were discharged from the further consideration of the petition.

Mr. FERRY, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. No. 536) for the relief of W. C. Snyder, of Illinois, reported it with amendments, and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 3987) to regulate the advertising of mail-lettings, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 2291) for the relief of Thomas W. Collier, reported it with an amendment.

Mr. CHRISTIANCY. The Committee on the Judiciary having reported the bill to repeal the bankrupt law, I move that the committee be discharged from the further consideration of certain petitions, memorials, and remonstrances on that subject.

The motion was agreed to.

Mr. TELLER, from the Committee on Railroads, to whom was referred the bill (S. No. 655) to incorporate the National Pacific Railroad and Telegraph Company, reported it with amendments.

Mr. BURNSIDE, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. No. 2884) for the relief of Samuel H. Canfield, postmaster at Seymour, Connecticut, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

BILLS INTRODUCED.

Mr. KERNAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1005) for the relief of Patrick H. Jones; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. WALLACE (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1006) declaratory of the meaning of the amendment to the bankrupt law approved June 22, 1874; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1007) granting a pension to Walter S. Handley; which was read twice by its title, and referred to the Committee on Pensions.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1008) to provide for the survey of the private claim in Arizona called the rancho of "El Paso de los Algodones;" which was read twice by its title.

Mr. EDMUNDS. I introduce this bill on the suggestion of the gentlemen interested in the claim, and of course have no knowledge as to the rectitude of the matter itself. I move its reference to the Committee on Private Land Claims.

The motion was agreed to.

Mr. OGLESBY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1009) for the relief of Peter Phillips; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. EATON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1010) to allow American registry to foreign-built vessels; which was read twice by its title, and referred to the Committee on Commerce.

Mr. WINDOM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1011) for the relief of Basil Moreland; which was read twice by its title, and referred to the Committee on Claims.

Mr. ROLLINS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1012) authorizing the commissioners of the District of Columbia to abate a certain tax erroneously assessed; which was read twice by its title, and referred to the Committee on the District of Columbia.

PAPERS WITHDRAWN AND REFERRED.

Mr. HAMLIN. I move that all petitions, memorials, or other papers on the files of the Senate relating to an international system of metrical weights and measures be taken therefrom and referred to the Committee on Foreign Relations.

The motion was agreed to.

BILL RECOMMITTED.

Mr. DORSEY. I reported Senate bill No. 600 the other day from

the Committee on the District of Columbia, but since that time I understand that persons desire to be heard in reference to some of its provisions, and I ask that it be recommitted.

Mr. EDMUNDS. What is the bill?

Mr. DORSEY. Senate bill No. 600.

Mr. EDMUNDS. What is it about? What is the title?

Mr. DORSEY. It is a bill in relation to certificates of assessment for special improvements in the District of Columbia. We desire it to be recommitted to the committee for the purpose of giving certain persons a right to be heard.

Mr. EDMUNDS. Very well.

The VICE-PRESIDENT. The question is on the motion to recommit the bill.

The motion was agreed to.

PENSION BILLS.

Mr. KIRKWOOD. I move that the Senate proceed to the consideration of the bill (S. No. 221) granting a pension of \$50 a month to Mary Kirby Smith Eaton during her widowhood.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Interior to place on the pension-roll the name of Mary Kirby Smith Eaton, widow of the late General Amos B. Eaton, and to pay her a pension of \$50 a month, from the date of the passage of the act, during her widowhood.

The bill was reported from the Committee on Pensions, with an amendment in line 7 before the word "dollars" to strike out "fifty" and insert "thirty;" so as to read, "a pension of \$30 a month."

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting a pension to Mary Kirby Smith Eaton during her widowhood."

Mr. KIRKWOOD. I move that the Senate proceed to the consideration of the bill (H. R. No. 467) restoring the name of Thomas Crawford, a soldier of the Mexican war, to the pension-roll.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Interior to restore to and place upon the pension-roll the name of Thomas Crawford, of Indiana, a soldier of the Mexican war, whose name was stricken from the roll upon his enlistment in the United States Army during the late war against the rebellion.

Mr. McMILLAN. Is there a report accompanying the bill?

Mr. KIRKWOOD. Yes, a written report from the House committee.

The VICE-PRESIDENT. The report will be read.

The Chief Clerk read the following report, submitted by Mr. RICE, of Ohio, of the House of Representatives, December 7, 1877:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 2451) restoring the name of Thomas Crawford to the pension-roll, after a careful consideration, respectfully report:

That Thomas Crawford was regularly enrolled on the pension-roll of the United States on the 30th day of July, 1864, on account of a gunshot wound received in the line of his duty as a private in Company K, Second Regiment United States Infantry, in the Mexican war. Although his wound still disabled him, he enlisted in the late war on the 28th December, 1863, in Company B, Thirteenth Regiment Indiana Cavalry; he was accepted and mustered in, according to the testimony of Major Stout, by whom he was enlisted on account of his military knowledge and experience, but never was able for actual service. In the capacity he was enlisted for he did his whole duty well, but in long marches he was necessarily dropped out, and left in the hospitals. At the muster-out he was not with the regiment, and hence appears on the muster-out of the company as deserted, this being on the 18th November, 1865. On this account the Pension Bureau decline to restore his name to the roll; this, we think, is no sufficient ground for refusal to restore his name to the pension-roll. His desertion, if it were true, would prevent his obtaining a pension if his application was on account of injury received in the last war; but as he had a certificate by right for his services in the Mexican war, there is no provision of law that desertion, even if it existed, which is by no means admitted by the claimant in this case, should work a forfeiture of a prior right. A right to an invalid pension is as distinctly defined a legal right as a right to a farm or any personal chattel, and unless there is distinct legal ground for forfeiture there can be no forfeiture by implication; hence your committee would report back the bill and recommend its passage.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. KIRKWOOD. I move that the Senate proceed to the consideration of the bill (H. R. No. 2516) granting a pension to Fannie E. Records, widow of Albert B. Records, late a private in Company G, Fifteenth Regiment Maine Volunteers.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. COCKRELL. I move that the Senate proceed to the consideration of the bill (S. No. 931) granting a pension to James Shields.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Interior to place on the pension-roll the name of James Shields, late a brigadier-general of the United States Army, at the rate of \$50 per month, in lieu of the pension which he now receives.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WARREN MITCHELL.

Mr. HARRIS. I ask the indulgence of the Senate to make Senate bill No. 855 the special order for to-morrow immediately after the morning hour.

Mr. INGALLS. What bill is that?

Mr. HARRIS. It is a bill for the relief of Warren Mitchell. It involves pretty large interests and perhaps will take an hour or more to consider it. It is important that it be decided one way or the other, and I should be glad if the Senate would consent to make it a special order for to-morrow immediately after the expiration of the morning hour.

Mr. INGALLS. To displace the railroad bill?

Mr. HARRIS. I wish the Senator in charge of the railroad bill to consent that it be informally laid aside for the consideration of this measure. Of course I do not desire to displace it except in an informal way.

The VICE-PRESIDENT. The rules provide for the unfinished business of the Senate, and a special order would not interfere with it.

Mr. HARRIS. As I say, I do not desire to interfere with the unfinished business except in an informal way.

Mr. THURMAN. I did not hear the proposition of the Senator from Tennessee. Will he state it again?

Mr. HARRIS. I should like simply to take up Senate bill No. 855 and make it the special order for to-morrow immediately after the expiration of the morning hour, laying aside the consideration of the Senator's bill informally.

Mr. THURMAN. What is Senate bill No. 855?

Mr. HARRIS. A bill for the relief of Warren Mitchell, of Kentucky, which will take perhaps an hour or an hour and a half to consider.

Mr. EDMUNDS. It is a claim of \$120,000.

Mr. THURMAN. I will say to my friend that it will do no good to make the bill a special order. The unfinished business, of course, overrides it.

Mr. HARRIS. I understand; and I do not desire to have the bill taken up unless the Senator from Ohio will consent to let the railroad bill be passed over informally.

Mr. THURMAN. I suggest to the Senator from Tennessee that he would be very much more likely to get the bill considered if he would have it taken up in the morning hour or by waiting until all who wish to speak in any given day upon the railroad bill shall have spoken, and then get it up at the end.

Mr. HARRIS. If any Senator desires to speak on the railroad bill on Friday I am perfectly willing to make this bill the special order immediately after such argument shall have closed to-morrow, subordinating the bill to that extent to the railroad bill.

Mr. THURMAN. I am very willing to do anything to facilitate the wishes of the Senator from Tennessee, and I shall make no objection to his request; but I really do not think he would gain anything by making it a special order. If the Senate is disposed to take it up, a majority can take it up at any time, and if they are disposed not to do so they can overrule a special order at any time. If the Senator watches his opportunity, he will be just as likely to get along with the bill without having it made a special order.

Mr. HARRIS. I will make no motion, but simply give notice that to-morrow if there be no gentleman who desires to be heard upon the railroad bill I shall ask the Senate to take up for consideration the bill of which I spoke. If there is any gentleman who wishes to address the Senate upon the railroad bill, I shall ask the Senate to consider this bill at the conclusion of his remarks.

Mr. CONKLING. What is the bill the Senator wishes to take up?

Mr. HARRIS. It is a bill for the relief of Warren Mitchell, of Kentucky, that involves a pretty large interest and that I think it important should be decided one way or the other. Therefore, I shall ask the Senate to consider it to-morrow. There is a majority report and a minority report in the case, and its consideration will take an hour, or an hour and a half perhaps.

OTOE AND MISSOURIA RESERVATION.

Mr. PADDOCK. I move that the Senate proceed to the consideration of the bill (S. No. 373) to amend an act to provide for the sale of a portion of the reservation of the Confederated Otoe and Missouria and the Sac and Fox of the Missouri tribes of Indians in the States of Kansas and Nebraska.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. PADDOCK. I suggest that the Clerk read the amendment which was offered by instruction of the committee after the bill was reported. The amendment is in the nature of a substitute, and it was authorized by the committee to be reported in place of the bill.

The VICE-PRESIDENT. The substitute will be reported at length.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause of the bill and insert:

That section 3 of the act of August 15, 1876, chapter 308, entitled "An act to provide for the sale of a portion of the reservation of the Confederated Otoe and Missouria and the Sac and Fox of the Missouri tribes of Indians" be, and the same hereby is, amended so as to read as follows:

"That after the survey and appraisement of said lands the Secretary of the Interior shall be, and is hereby, authorized to offer one hundred and twenty thousand acres from the western side of the same for sale, through the United States public land office at Beatrice, Nebraska, for cash, to actual settlers, or persons who

shall make oath before the register or receiver of the land office at Beatrice, Nebraska, that they intend to occupy the land for authority to purchase which they make application, and who shall within three months from the date of such application make a permanent settlement upon the same in tracts not exceeding one hundred and sixty acres to each purchaser: *Provided*, That if, in the judgment of the Secretary of the Interior, it shall be more advantageous to sell said lands upon deferred payments, he may, with the consent of the Indians expressed in open council, dispose of the same upon the following terms as to payments, that is to say, one-third in cash, one-third in one year, and one-third in two years from date of sale, with interest at the rate of 6 per cent. per annum: *And provided further*, That no portion of said land shall be sold at less than the appraised value thereof, and in no case less than \$2.50 per acre: *And provided further*, That whenever a settler on any of the lands subject to sale under the act to which this is amendatory shall apply to purchase a tract containing a small excess over one hundred and sixty acres, owing to the legal subdivisions being made fractional by boundary line of reservation, township line, or other cause, his application shall not be rejected on account of such excess; but, if no other objection exist, the purchase shall be allowed as in other cases."

Mr. EDMUNDS. Does that amendment come from any committee, Mr. President?

Mr. PADDOCK. Yes, sir; from the Committee on Public Lands.

Mr. EDMUNDS. I should like to hear it explained.

Mr. PADDOCK. I will state the case. The act to which this is amendatory was passed at the first session of the Forty-fourth Congress, providing for the sale of one hundred and twenty thousand acres off the west end of the reservation of the Otoe and Missouri tribe of Indians. Section 3 requires that the lands shall be sold to actual settlers in tracts not exceeding one hundred and sixty acres. Under the ruling of the Commissioner of the General Land Office, under whose direction this land is being sold in accordance with the provisions of the act, actual settlers are construed to be those who must be upon the land when they make their application to purchase one hundred and sixty acres. This has led to infinite trouble, to many antagonisms, and to much inconvenience. It is proposed simply to amend in that respect so that parties may declare their intention, may file, so to speak, upon one hundred and sixty acres of land and have three months in which to put up their improvements and show that they are to become actual settlers. That is all there is of that.

Then there is another amendment that relates to fractional excesses over one hundred and sixty acres, which will of course be less in area than a quarter of a quarter section. This reservation was irregular in shape, and there are some fractional pieces—less, of course, necessarily than forty acres—sometimes ten acres, sometimes fifteen acres, and there is no authority or way to dispose of them, and it was thought best that authority should be given by this amendment to allow parties to take not only one hundred and sixty acres but one hundred and sixty-five or one hundred and seventy-five or whatever it may be if the land is contiguous. That is all there is in it. This amendment does not change the law in any other particular.

Mr. EDMUNDS. I notice that the act of the 15th August, 1876, for some reason or other, did not receive the approval of the President although it became a law by the expiration of ten days without its being returned.

Mr. PADDOCK. Will the Senator from Vermont allow me, before he proceeds, to read to him exactly the amendment that is proposed?

Mr. EDMUNDS. Yes.

Mr. PADDOCK. He has the law before him. After the words "actual settlers," this is inserted:

Or persons who shall make oath before the register or receiver of the land-office at Beatrice, Nebraska—

Which office is charged with the responsibility of conducting the sale—

that they intend to occupy the land for authority to purchase which they make application, and who shall within three months from the date of such application make a permanent settlement upon the same, in tracts not exceeding one hundred and sixty acres.

And then the other amendment is the last clause, the additional proviso at the end of the section. I will read it:

And provided further, that whenever a settler on any of the lands subject to sale under the act to which this is amendatory shall apply to purchase a tract containing a small excess over one hundred and sixty acres, owing to the legal subdivisions being made fractional by boundary-line of reservation, township-line, or other cause, his application shall not be rejected on account of such excess; but, if no other objection exist, the purchase shall be allowed as in other cases.

Mr. EDMUNDS. What could be the "other cause," if I may ask the Senator, besides the fractional boundary line? Is the "cause" that the man wants a little more, or what?

Mr. PADDOCK. I do not know of any particular "other cause." This is the language of an experienced land officer. I simply adopted it as it came to me from him. "Other cause" might relate to other irregularities of the survey.

Mr. EDMUNDS. To begin with, then, I move to amend the amendment by striking out the words "or other cause," which might lead to what you call in the West I believe "skull-duggery" on the part of some speculator, that the Senator would not want more than any body else.

Mr. PADDOCK. It would be a very small exercise of "skull-duggery" to take a fraction connected with one hundred and sixty acres which must necessarily be less than forty acres. It could have that extent and no more; the authority given could have no further scope.

Mr. EDMUNDS. If that were true the Senator would be right, but as I read the last proviso it would hardly bear that construction:

That whenever a settler on any of the lands subject to sale under the act to which this is amendatory shall apply to purchase a tract containing a small excess over one hundred and sixty acres.

There the limitation is not "a small excess" within the fractional boundary lines, but is an indefinite small excess which may be owing to fractional boundary lines, and in that case it would be of course a small excess, but any "other cause." Therefore if you read it being in the alternative "a small excess over one hundred and sixty acres arising from any cause," then you have an indefinite expansion, as the democratic phrase used to be about the Territories of the United States. I do not think we can be too careful in respect of protecting the public lands for the benefit of actual settlers in small parcels to guard as far as we can against speculative purchasers of large quantities. I move to strike out those words "or other cause."

Mr. PADDOCK. I have no objection to the amendment.

The amendment to the amendment was agreed to.

Mr. OGLESBY. My attention has not been called to this bill until this very morning.

That whenever a settler on any of the lands subject to sale under the act to which this is amendatory shall apply to purchase a tract containing a small excess over one hundred and sixty acres, owing—

The "excess" is owing—

to the legal subdivisions being made fractional by boundary-line of reservation, township-line, or other cause.

Made fractional by that cause. It does not apply this qualification of "other cause" except to the legal excess, made so by boundary-line of the reservation.

Mr. PADDOCK. I do not know that those words are essential. The bill was drawn by the land officers and sent to me in that form.

Mr. OGLESBY. But I do not see any trouble in this matter.

Shall apply to purchase a tract containing a small excess over one hundred and sixty acres, owing to legal subdivisions being made fractional by boundary-line of reservation, township line, or other cause.

That is, the legal subdivision is made so, which creates that excess. But the idea in the mind of the Senator from Vermont was that a man might not only get an addition to his one hundred and sixty acres because of a fractional excess, but that he might for some other cause. I think "the other cause" refers to the fractional excess and to nothing else. It was so understood by the committee.

Mr. EDMUNDS. I do not doubt it; I am not criticising the committee; I am only trying to exercise the humble privilege of one Senator in considering a measure that is proposed for my consideration; that is all; and I make these suggestions in the same interest that I know animates the heart and mind of my friend from Illinois, and that is the protection of the public lands to the actual settlers in small farms, which is the basis of success in any community as I believe.

Now "other cause" being out, to guard against the possibility that has been suggested by the Senator from Illinois, I move to insert after the word "township" the words "or section;" so as to read:

Owing to the legal subdivisions being made fractional by boundary-line of reservation, township, or section lines.

So as to cover every possible case of legal subdivisions.

The amendment to the amendment was agreed to.

Mr. EDMUNDS. I do not know but that this amendment is safe enough on the subject of the quantity of land purchased, taking it altogether as it now stands; but there is a change in the phraseology from the third section as it stands in the law to this, which looked at alone I think would be a little dangerous. The third section as it now stands is that the officer may sell—

One hundred and twenty thousand acres from the western side of the same for sale * * * for cash to actual settlers only, in tracts not exceeding one hundred and sixty acres to each purchaser.

There the limitation is on the sale of the tracts just as it ought to be and just as this amendment intends that it should be. I have no doubt as to the matter of intention, but when you read the amendment as it is proposed, you will see that the authority is—

To offer one hundred and twenty thousand acres from the western side of the same for sale, through the United States public land office at Beatrice, Nebraska, for cash to actual settlers, or persons who shall make oath before the register or receiver of the land office at Beatrice, Nebraska, that they intend to occupy the land for authority to purchase which they make application, and who shall within three months from the date of such application make a permanent settlement upon the same, in tracts not exceeding one hundred and sixty acres to each purchaser.

That going so far is plainly to my mind susceptible of the construction that a man may purchase as much as he likes provided that within three months he settles upon a tract of one hundred and sixty acres. Of course the Senator does not mean that; and taken in connection with the limitations at the bottom as to excesses, I do not think it probable that the courts of law certainly—I do not know what the Interior Department would do—would give it that construction; but I call the attention of the Senator to a possible danger that there may be in leaving the phraseology in that form.

Mr. PADDOCK. I do not see that there is any change in that respect from the original section under which the rulings have all been made.

Mr. EDMUNDS. The change is this: in the original section it is perfectly clear that the officer is to sell to actual settlers in tracts of not exceeding one hundred and sixty acres. Now by the amendment he is to sell to actual settlers one hundred and twenty thousand acres provided the purchasers of these one hundred and twenty thousand acres within three months afterward make a permanent settlement in tracts of one hundred and sixty acres each. Your limitation of one hundred and sixty acres is to the settlement upon the land and not to the purchase.

Mr. PADDOCK. I am ready to accept any amendment that the Senator desires to make in that respect, if he considers it necessary in order to guard it more carefully. I am only interested myself in securing the actual settlement of the tract of country spoken of. It happens to lie in the county in which I live, and I framed the bill with a view of getting settlers upon it and keeping off speculators.

Mr. EDMUNDS. Undoubtedly. It is entirely in a friendly spirit I make these suggestions.

Mr. PADDOCK. I accept them in that spirit.

Mr. EDMUNDS. I move to amend by inserting after the word "Nebraska," in line 13, the words:

In tracts not exceeding one hundred and sixty acres.

That then applies the sale to tracts, so that there can be no doubt about it.

The amendment to the amendment was agreed to.

Mr. TELLER. I should like to inquire of the Senator who has the bill in charge what there is to prevent a party going on to-day and purchasing to-morrow—that is what is done to a great extent—and then have the land abandoned?

Mr. PADDOCK. I will state that under the ruling as the law now stands it is required that persons should have become trespassers upon the land, and that they should have been trespassers long enough to have built a house upon it in order to put themselves in an attitude to purchase at all. It is to relieve that embarrassment and difficulty that this amendment is proposed. It certainly cannot be obnoxious to the objection my friend raises in the particular named by him. It is an actual requirement that they shall become settlers upon the particular quarter section of land before they shall have authority to purchase. The only extension of privilege to the settler is that he may have three months to save himself from becoming a trespasser and make this settlement.

Mr. TELLER. It seems to me that before men should purchase they should be required to become settlers, and to have been settlers for some fixed period. Under this act they may settle to-day and purchase the land to-morrow.

Mr. PADDOCK. The object of the bill is to remove the necessity of those who wish to purchase becoming actual trespassers and being precluded unless they are trespassers.

Mr. TELLER. Why not amend it so that they may become settlers? Mr. KIRKWOOD. I should like to ask the Senator from Nebraska are these timber lands or prairie lands?

Mr. PADDOCK. A very small proportion of the tract is timber land. I think the timber lands are practically all disposed of.

Mr. KIRKWOOD. If that is so, I do not see the trouble in it; but if there is a large body of timber lands here, I am afraid that under this bill parties might go on and in three months strip them of their timber and leave them, not intending to make a permanent settlement at all.

Mr. PADDOCK. Quite a considerable proportion of the whole tract has already been disposed of.

Mr. KIRKWOOD. If there is no timber land, or very little, I see no trouble.

Mr. PADDOCK. I do not think there is a quarter section of timber on this tract left unsold; there is certainly very little, if any.

The VICE-PRESIDENT. The question is on the amendment reported by the Committee on Public Lands as amended.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

INTERMENT OF R. F. LEHMAN.

Mr. BURNSIDE. The Committee on Military Affairs, to whom was referred the bill (S. No. 767) authorizing the Secretary of War to allow the interment, in the national cemetery at New Berne, in the State of North Carolina, of the remains of the late R. F. Lehman, lately a commissioner of the United States circuit court in the eastern district of North Carolina, have instructed me to report it back without amendment. I would ask for immediate action on this bill. It is recommended by the committee unanimously.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

PENSION BILLS.

Mr. WALLACE. I move to take up Senate bill No. 547.

The motion was agreed to; and the bill (S. No. 547) granting a pension to Caroline M. Egbert was considered as in Committee of the Whole. It provides for placing upon the pension-roll the name of Caroline M. Egbert, widow of Medical Director Daniel Egbert, United States Navy, to take effect from the date of his death.

Mr. EDMUNDS. That ought to be explained a little. The chairman of the Committee on Pensions or my friend from Pennsylvania should explain why this pension is to be antedated.

Mr. INGALLS. If the bill contains that provision it was reported inadvertently. The Committee on Pensions in no case allow pensions except from the date of the passage of the act.

Mr. EDMUNDS. That is what I understand to be the rule.

Mr. INGALLS. I move that the bill be so amended as to make the pension take effect from the passage of the act.

Mr. WALLACE. I have no objection to that.

Mr. WITHERS. It was evidently an inadvertence.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. INGALLS. As there are a few moments left of the morning hour, I desire to avail myself of the occasion to call up a few private pension bills. I move first to take up Senate bill No. 76.

The motion was agreed to; and the bill (S. No. 76) granting a pension to Mary Ann McFarland was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of Mary Ann McFarland, widow of Peter McFarland, late captain of Company C, First Kansas Infantry.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. INGALLS. I move to take up Senate bill No. 712.

The motion was agreed to; and the bill (S. No. 712) granting a pension to William London was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of William London, late a private in Company C, Second Illinois Cavalry.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. INGALLS. I move to take up Senate bill No. 687.

The motion was agreed to; and the bill (S. No. 687) granting a pension to William H. Bagley, was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of William H. Bagley, late a private in Company I, Eighty-eighth Regiment Pennsylvania Volunteers.

The bill was reported to the Senate.

Mr. SAULSBURY. I should like the chairman of the Committee on Pensions briefly to state the merits of this case.

Mr. INGALLS. It is impossible for me to keep in my head the particulars of every claim that has come before the Committee on Pensions. In every case there is a written report, and if the Senator desires it to be read, of course it will be done by the order of the Senate.

Mr. SAULSBURY. I shall not call for the reading of the report.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. INGALLS. I move to take up Senate bill No. 929.

The motion was agreed to; and the bill (S. No. 929) granting a pension to Hiram Howard, was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Hiram Howard, late private in Company I, Second Regiment Kansas State Militia.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. INGALLS. I move to take up Senate bill No. 930.

The motion was agreed to; and the bill (S. No. 930) granting a pension to Mary B. Marsh, was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Mary B. Marsh, widow of W. R. Marsh, late surgeon of the Second Regiment Iowa Infantry.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. INGALLS. I move to take up House bill No. 436.

The motion was agreed to; and the bill (H. R. No. 436) granting a pension to Adam Stinson, was considered as in Committee of the Whole. It proposes to place upon the pension-roll the name of Adam Stinson, a private in Company I, Sixteenth Regiment of Infantry, who was enlisted to serve during the war with Mexico.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

The VICE-PRESIDENT. The morning hour has expired.

Mr. WITHERS. Let us have unanimous consent to pass two other pension bills.

Mr. INGALLS. There are but two more on the Calendar, and I would like to have them disposed of. I move to take up House bill No. 1948.

The VICE-PRESIDENT. The Chair hears no objection to the motion.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1948) granting a pension to Bridget T. Hopper. It proposes to place on the pension-roll the name of Bridget T. Hopper, widow of Edward C. Hopper, late a captain of Company G, of the Fifth New Jersey Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. INGALLS. I move to take up House bill No. 142.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 142) granting a pension to George McCoy. It proposes to place on the pension-roll the name of George McCoy, some time acting assistant surgeon United States Army, at Emory Hospital, Washington, District of Columbia.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THE PACIFIC RAILROADS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 15) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act, the pending question being on the amendment submitted by Mr. MATTHEWS.

Mr. BAILEY. Mr. President, the executive department of the United States and the officers representing the Union Pacific and Central Pacific Railroad Companies agree that the public interests as well as the prosperity, indeed the very solvency of these great corporations, demand that some action shall be taken by Congress to settle existing disputes and secure the repayment of the enormous loans made under the acts of 1862 and 1864 to aid in building the great continental railway. The President and the Secretary of the Treasury have repeatedly called the attention of Congress to the fact that the security held by the Government is not sufficient, and the accredited officers of the two companies, flushed with the success of their efforts to control legislation in the past or confiding in a supposed legal advantage, have reminded us in significant language that these great interests are exposed to the extremest danger and with apparently conscious power to impose their own terms, they have submitted a basis of settlement so exacting as to shock the moral sense of all who have considered it. In order that we may fully appreciate the danger that threatens the Government and people of the United States of losing the hundreds of millions of dollars advanced and to be advanced in building this great highway of commerce, I beg to call the attention of the Senate to an extract from a letter written by Mr. Dillon, president of the Union Pacific Railroad Company, on the 9th of February, 1875, addressed to Mr. Bristow, then Secretary of the Treasury, in which he says:

The mortgage held by the Government, in its terms and by judicial decision of the United States circuit court, cannot be enforced until the maturity of the bonds, which is near the close of the present century.

The bonds are accumulating an interest-account, also uncollectible until the principal is due. Principal and interest, when due, will amount to the very large aggregate of over \$77,000,000—

And he is writing about the Union Pacific Railway indebtedness alone—

though the actual amount advanced by the Government was only \$27,236,512.

For this very large amount the Government has only a second mortgage, and if it be allowed to accumulate, without any provision being made to meet it, the company will probably be utterly unable to pay it.

At the same time, it is equally manifest that the Government will be unable to collect it, except upon the assumption that it will advance the money to discharge prior mortgages, and run the road on Government account—a policy which wise statesmanship could not advise.

By standing still, therefore, the company has a load of debt accumulating for which no provision is made, and the Government is drifting farther and farther from the opportunity to secure a just return for its advances. To do nothing is to injure both the Government and the company, perhaps irretrievably to both.

In this dilemma, I venture to make a proposition, which offers, on the part of the company, all it can possibly do, and secures to the Government a substantial return for its advances.

This intimation of probable insolvency of the Union Pacific Railroad Company, and consequent loss to the Government, is repeated in a communication addressed to the Senate Judiciary Committee on the Judiciary on the 12th of November, 1877, by Mr. Dillon, and Mr. Huntington, the vice-president of the Central Pacific Railway, who joined with him in saying as to both companies what I will ask the indulgence of the Senate to listen to:

Nearly three years since the officers of the Union Pacific and Central Pacific Railroad Companies called the attention of the Secretary of the Treasury to the fact that contrary to the general expectation at the inception of the enterprise—

And I ask attention to this phraseology—

a balance of accounts in his ledger was accumulating against them which, unless some remedial legislation was soon had, would amount, by the time it became due and payable, to a sum which it might be embarrassing to the companies to pay simultaneously with their first-mortgage debt, and greater than the value of the subordinated lien of the Government on the properties themselves.

But as if this deliberate declaration was not sufficient to warn the Senate of the danger that threatens, Mr. Huntington, who appeared before the Judiciary Committee, takes occasion to say in an address delivered to that committee:

By the time—

Speaking of the Government debt and the first-mortgage debt, equal in amount to the principal of the Government bonds issued to these railroad companies—

By the time both mature and become payable it is not at all likely the property will be worth their aggregate sum, and if the shrinking and settling of prices should continue further it may happen that it will not suffice to pay more than the first mortgages.

These carefully considered statements are accompanied by equally well-considered declarations to the effect that by the terms of the acts of 1862 and 1864 the officers of the two companies have the moral as well as the legal right to distribute the earnings of the two roads to the stockholders, and although this course will certainly lead to the insolvency of the corporations, as they agree, they very plainly threaten that unless the Government will yield to their terms they will manage affairs solely with regard to the interests of the corporations and without regard to the just claims of creditors.

In order to give greater force to these extraordinary claims they have submitted to the Senate of the United States and also to its Committee on the Judiciary a proposal for a settlement in the shape of a bill by which each of the companies offers to reconvey to the Government six million acres of land derived from the Government bounty for the sum of \$1.25 per acre, payable immediately, and making in all \$15,000,000. This money is to be carried into a sinking fund and the interest to be compounded at 6 per cent. semi-annually until the 1st of October, 1905. They propose that to the credit of the sinking fund shall be carried any sum now due to them from the Government, and if the amount shall not equal \$1,000,000 to each company it shall be made equal to that sum. They propose further that each company, in proportion to its deficiency, shall pay into the Treasury, to the credit of this fund, on the first days of April and October in each year, commencing the 1st of April, 1878, and ending the 1st of October, 1905, such sum of money as shall be ascertained by the Secretary of the Treasury to be sufficient, with the interest thereon compounded semi-annually, when added to the other sums to the credit of the sinking fund, to pay off and extinguish the bonds with 6 per cent. interest thereon from their respective dates to the 1st of October, 1905.

That we may properly understand the nature of this offer, and the advantage to the corporations and loss to the Government to follow its acceptance, it becomes necessary briefly to refer to the contract between the parties embodied in the acts of 1862 and 1864.

By the terms of this contract the Government loaned to these companies its bonds to the amount of \$55,000,000, payable thirty years after date, and bearing interest at the rate of 6 per cent. per annum. These bonds were declared to be a mortgage lien on all their property, but the lien was made subordinate to another lien of \$55,000,000 bonds issued by the companies themselves. On their part the corporations agreed that they would pay annually into the Treasury 5 per cent. of their net earnings, and that the Government should retain one-half the sums due from it from year to year for services rendered, and that those sums when received should be applied to the extinguishment of the debt. They further agreed to pay the principal of the bonds at maturity and all interest thereon, less the sum of 5 per cent. net earnings and one-half the sums retained for services to the Government as aforesaid.

It is agreed on all sides that some of these bonds will become due before and others after the 1st day of January, 1898, but that the mean time of payment will be on that day, and it is shown by the Judiciary Committee report that 5 per cent. of the net earnings of the two roads and one-half the service rendered the Government in the last two years have averaged the sum of \$1,166,000 per annum. Nor is there any reasonable ground upon which to base a belief that the sum will be less in the future. Now, a very simple calculation will show that the \$15,000,000 demanded as the price of the twelve million acres of land and to be carried to the sinking fund, placed at interest at 6 per cent. per annum, with annual rests as they require, will swell by the 1st of October, 1905, to a sum exceeding \$75,000,000, and the interest on the sum of \$1,166,000 per annum, being the 5 per cent. of net profits and one-half the transportation account of the Government, will by the same time equal the sum of \$48,000,000, these two sums aggregating more than \$100,000,000.

But not content with these enormous gains the railroad companies demand that the time of payment of the debt shall be extended from the 1st of January, 1898, to the 1st of October, 1905, a period of seven years and nine months, and their bill directs that they shall pay simply interest only on the bonds of the United States from their respective dates of maturity to the day of settlement. The Supreme Court of the United States has decided that when these bonds shall become due the principal and interest become a debt against the corporations which they are bound in law as well as in morals then to pay. The principal and interest on the 1st of January, 1898, after deducting the payments heretofore made, will amount to the sum of \$142,000,000; but according to the terms of the bill, although the principal will bear interest, \$86,000,000 of interest which at that time will also be a debt and should bear interest will be barren seven years and nine months although all payments to the fund made by the corporations will be at compound interest for that length of time. The loss to the Government on this score will amount to a sum exceeding \$49,000,000.

Now, let us for a moment go back and see what sacrifices these gentlemen who in their addresses to the Senate Judiciary Committee say the real question is a business one and that they speak from a business stand-point demand as a condition of settlement. They require the Government to pay \$15,000,000 for twelve million acres of land, a gift from the Government, and that this sum shall be placed at interest while they pay none until it shall swell to the sum of \$75,000,000. Next, they demand that their annual payments of \$1,166,000 shall be placed at interest, and that compounded, until the interest shall reach \$48,000,000. But, not satisfied with these exactions, they demand that for seven years and nine months the Government shall receive no interest on \$86,000,000, making a further loss of \$49,000,000, or a total of \$172,000,000—exceeding the entire debt, principal and interest, that will be due from them to the Government at that time.

And this, Mr. President and Senators, is the "business proposition" which they have submitted to the Senate of the United States, the most august deliberative assembly upon earth. The extravagant claims of these gentlemen have met with no encouragement here; but,

in view of the apprehension of loss to the Government and to provide methods of securing payment of the constantly increasing debt, two measures have been presented. One of these measures is the bill under consideration, presented by the Judiciary Committee, and the other is the bill presented by the Senator from Ohio, [Mr. MATTHEWS,] from the Railroad Committee. The two measures differ not only in methods but also in the fundamental principles upon which they are based.

The bill presented by the Judiciary Committee asserts the right and power of Congress to regulate the business of these corporations created by it and to compel them to render obedience to law. The bill presented by the Senator from Ohio [Mr. MATTHEWS] assumes that Congress by contract has yielded its powers of legislation and that any settlement must rest upon a consent of the parties. If the bill presented by the Senator from Ohio [Mr. MATTHEWS] will secure to the Government the sum of money to become due and shall be accepted by the corporations, the question whether we shall adopt the one bill or the other is of little importance.

Let us, then, examine the particulars of the two bills and ascertain in what essential points they differ. The acts of 1862 and 1864 granted a charter of incorporation to the stockholders of the Union Pacific Railroad Company and, recognizing the Central Pacific Company, a corporation chartered by the Legislature of the State of California, authorized the two companies to construct a railroad from the one hundredth meridian west of Greenwich to the Sacramento River, and, as we have seen, donated a large body of land and loaned its bonds to them for more than \$50,000,000. We have seen that these bonds, with the interest thereon, were declared to be a lien on the property of the companies, but subordinated to another lien of equal amount. The two companies have made enormous earnings; they have paid large dividends to the stockholders; but, notwithstanding their debt to the Government is constantly increasing and by the time the bonds shall mature will equal \$118,000,000 or \$120,000,000 after deducting all payments made or hereafter to be made under the existing contract, they refuse to create a sinking fund to meet this obligation and their officers openly confess the belief that this course will end in bankruptcy.

Now, the bill reported by the Railroad Committee directs that each of these companies shall pay into the Treasury the sum of \$1,000,000 annually, and these sums, together with \$1,000,000 claimed to have been improperly retained from each, shall constitute a sinking fund, and be placed at interest with semi-annual rests until the 18th day of October, 1900, when the accumulated sum shall be deducted from the sum of the principal of the bonds with interest to the same time, and the remainder thus ascertained to be due shall be divided into fifty payments, one of which with interest thereon shall be paid each half year until the debt shall be extinguished.

It is to be noted, first, that the companies are released from the payment of 5 per cent. of net profits and one-half the transportation account; second, that the time of payment is extended from the 1st of January, 1898, to the 1st of October, 1900, or a period of two years and nine months; and, third, that the Government is required to account for interest on the \$1,000,000 claimed now to be due. By the first change the Government, instead of receiving the 5 per cent. net earnings and one-half the transportation account, in payment of so much of the debt, receives a smaller sum and is required to pay it into the sinking fund, where it is put at interest compounded semi-annually.

The Judiciary Committee estimates that this payment should be \$1,166,000 per year, and the interest on this sum calculated with annual (not semi-annual) rests until the year 1900 will be more than \$30,000,000.

The interest that will have been paid on the 1st of January, 1898, by the Government in excess of all repayments by the corporations will not be less than \$86,900,000, and according to the principles settled by the Supreme Court of the United States in the case in 1 Otto will bear interest from that day.

This interest for two years and nine months, for which time the payment is postponed, by the provisions of the Railroad Committee bill, will be \$15,180,000, which added to the \$30,000,000 above, makes a total exceeding \$45,000,000 to be relinquished by the Government.

But assuming that the Judiciary Committee is mistaken and has estimated the payment too high, and that it should be one million per annum instead of \$1,166,000, the gift to these companies would still amount to a sum exceeding \$41,000,000.

The Government has already been too bountiful in its favors to these corporations, and it can afford to make no other such gifts to them as have been made in the past. I take it that surely the representatives of the people of the United States, those who are here acting to-day as their trustees, charged with the disbursement of moneys taken from their earnings and with the duty of preserving and protecting their rights and interests, are not prepared, in view of the present condition of these corporations, of their enormous wealth present and prospective, of the fact that they are able to declare and have for two years each declared dividends and paid to their corporators from 8 to 10 per cent. per annum upon the nominal amount of stock, a fictitious stock as I believe and as is believed by the country—surely then, I say, here representing the people, the Senate is not prepared to enact this bill into a law.

Then the only question remaining is, shall Congress adopt the Judi-

ciary Committee bill? It proposes to compel each of these corporations to pay into a sinking fund a sum which, including the 5 per cent. of net earnings and one-half the transportation account, will be \$2,000,000 for each year, but the payments to be made in all shall not exceed 25 per cent. of their net earnings. The committee proposes this legislation for the reason that the two companies, after paying the operating expenses and all interest on their bonded debt, have a net income exceeding \$13,000,000 per annum and have been paying dividends of 8, 9, and 10 per cent. upon a stock account which it is believed does not represent capital actually paid down. With enormous incomes, they refuse to make any provision for the payment of the Government bonds when they shall become due. At that time the mortgage debt of the two companies and having a prior lien will be \$55,087,000; the Government debt, principal \$55,000,000, and the interest, if no part of the 5 per cent. or one-half transportation account shall be paid, will amount to \$85,000,000 more, making a total of \$197,000,000, which at 6 per cent. interest will require payments each year to the amount of \$11,824,000. The directors themselves say the revenues of the companies will not be sufficient to pay these sums and the stock will be entirely lost. As a consequence the mortgage will have to be foreclosed, the property sold and passed from these corporations to strangers, not in privity with the Government nor intrusted with the great work and duty of managing and controlling this important highway, to which the country has attached in the past, attaches to-day, and will in the future attach so much importance.

It is objected, however, that Congress has not the right to enact the Judiciary Committee bill; that it is powerless to defeat the meditated fraud, and must quietly permit its complete consummation. It is said by some that by the provisions of this bill an attempt is made to make a new contract between the Government and the corporations. They affirm that by the terms of the acts of 1862 and 1864 the debt of the Government will not become due until 1898, and that the bill in substance and effect makes it payable to-day. Others maintain that by the terms of these acts or by implication of law the corporations have a right to distribute the earnings of the road without regard to the claims of creditors; that this is a vested right which cannot be taken from them by Congress, either in virtue of its powers as a legislative body or by force of the reservation of authority "to alter, amend, or repeal" the acts.

If these affirmations be true I will agree that there is no power in Congress, there is no power anywhere that will authorize or justify or excuse the legislation that is proposed. But what does this bill propose to do? I do not see anywhere, in any clause, a change in the terms of the contract. I find only that, warned by the declaration that the officers of the companies have made of the danger, indeed of the almost certain insolvency to follow the unwise course of distributing from year to year all the earnings of the companies, Congress simply requires not that they shall pay any part of the debt, but shall establish a sinking fund, into which a part of the earnings shall go. The distinction between the payment of a debt or a portion of a debt and establishing a sinking fund to provide for its future payment is not a mere verbal distinction. It has been recognized by every government and by every people. In requiring this, Congress only requires these corporations to do that which our own Government is doing to-day; only that which every corporation, largely in debt, whose affairs are managed with any prudence and skill, has adopted, not alone with a view to save it from insolvency but to strengthen its credit and increase its usefulness. The Treasury of the United States has been selected as the place of deposit simply because it secures perfect security. The Treasurer of the United States has been designated as the person to manage the fund because of his relation to the Department.

The Judiciary bill does not change the terms of the contract, and the only question, as it seems to me, that is presented for our consideration is whether Congress, having created one of these corporations and granted to the other the right to certain franchises to be used within the Territories of the United States, has the power to legislate for and control them in the use of these franchises and prescribe rules and regulations for their government to the same extent that the Legislature of a State possesses over corporations of its creation or the people subject to its jurisdiction.

It cannot be said that Congress has by contract relinquished its right to exercise its original and inherent power to legislate upon any matter connected with these corporations. The acts of 1862 and 1864 have been subjected to the most searching examination, and have been analyzed in all their parts, section by section and clause by clause; yet no person has been able to find, either in their spirit and meaning as a whole or in any of their separate parts, aught that indicates even by implication a purpose to yield the sovereign power to regulate, govern, and in all things control their affairs; but to the contrary, and as if to guard against the very pretension made here to-day, we do find an express reservation of power to Congress, at any time and in its discretion, to "alter, amend, or repeal" the acts in question. The force of these words and their effect have been discussed by other Senators and will again be referred to by those who will follow me in this debate, and I will not detain the Senate with an argument to prove that the reserved power is sufficient without more to authorize the legislation proposed. And yet I would not be true to my own convictions if I were not to say that the power to

"repeal" these acts, and, by consequence of their repeal, to strip these corporations of all their franchises, and then compel the marshaling of all their property and assets and the payment of all their debts, is too clear for argument. And it is equally clear to my mind that the power to "alter and amend" does necessarily refer to the exercise of the franchises and privileges granted, and confers upon Congress the right, in its discretion, to interpose, and, as settled in the case of *Miller vs. The State*, 15 Wallace, 498, give directions "that will carry into effect the original purpose of the grant or secure the due administration of its (the corporation's) affairs, so as to protect the rights of the stockholders and of creditors and the proper disposition of its assets."

Now, for what purpose were these corporations created and clothed with the important franchises enumerated in the acts in question? Why did Congress with such lavish bounty bestow lands greater in extent than principalities and advance its credit upon terms without precedent in the history of this or any other Government? The answer is given in the act of 1864. In was done "for the purpose of aiding in the construction of said railroad and telegraph line and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores thereon." This was the view that dominated the minds of the Representatives and Senators at that time. The building of the road was regarded as a necessary work. The necessity of keeping the road at all times in condition to serve the Government is recognized in every part of the act. The grants were made "on condition that the corporations would pay the bonds at maturity and keep said railroad and telegraph lines in repair and use, and at all times transmit dispatches over said telegraph line and transport mails, troops, and munitions of war supplies and public stores for the Government whenever required to do so by any Department thereof." This was a great national work, of the highest importance to the sovereign power, promoted by it upon political and public grounds. Government was at that time engaged in war with the confederacy; the commerce of the country on the ocean and open seas was threatened by confederate cruisers; almost every coaling station reaching in the direction of the Isthmus of Panama was under the control of a foreign power then regarded as unfriendly to the United States. Apprehensions were felt that the great distances separating the States on the Pacific slope from the Eastern States, coupled with the difficulty, delays, and uncertainty of communication, might bring about another division of States. Inspired by these considerations and impelled by a sense of public duty, and not for the purpose of aiding a mere commercial enterprise, Congress inaugurated the great work. I cannot so well express the motives that controlled its action as it has been done by the Supreme Court of the United States:

Many of the provisions in the original act of 1862 are outside of the usual course of legislative action concerning grants to railroads, and cannot be properly construed without reference to the circumstances which existed when it was passed. The war of the rebellion was in progress, and owing to complications with England the country had become alarmed for the safety of our Pacific possessions. The loss of them was feared in case those complications should result in an open rupture; but, even if this fear were groundless, it was quite apparent that we were unable to furnish that degree of protection to the people occupying them which every government owes to its citizens. It is true the threatened danger was happily averted; but wisdom pointed out the necessity of making suitable provision for the future. This could be done in no better way than by the construction of a railroad across the continent. Such a road would bind together the widely separated parts of our common country and furnish a cheap and expeditious mode for the transportation of troops and supplies. If it did nothing more than afford the required protection to the Pacific States, it was felt that the Government, in the performance of an imperative duty, could not justly withhold the aid necessary to build it.—*The United States vs. The Union Pacific Railroad Company*, 1 Otto, 79, 80.

This was a great national enterprise. It was one that was worthy of the great Government of the United States. It was a work necessary to be done. It is a work necessary to be preserved. The Government of the United States has made a contract with these corporations by which they have agreed, and, so far as the idea of personality can attach to corporations, by which they have personally agreed, that they will maintain and keep this road in order and sufficient at all times to render distinct services to the United States that are pointed out in the charter of their existence.

This railroad is a great agency and the corporations are agents of Government. They occupy that relation to the Government, not because they are subjects, but because of the contract they made. It has become, then, the high and solemn duty, it is upon their part a great public trust, one which they cannot neglect without a violation of their most solemn agreement and obligation, at all times to keep themselves in a condition that will enable them to render to the Government the services which they have contracted to render, and to protect, preserve, and keep for the use of the people of the United States this great highway which the Government has made such great sacrifices to build. I say that here is sufficient grounds for the exercise of the power that Congress now claims in regard to these corporations. Here is a sufficient authority to justify, indeed to demand of the Congress of the United States that this bill shall be enacted into a law. I have heard the contrary opinion expressed by no Senator, and I would yield my own opinion to the larger experience, the greater learning, and the greater ability of the eminent lawyers who sit with me in this Chamber, but I believe that the distinct purpose, openly avowed to the officers of the United States, and the committees of this body, by the management of these corporations, to reduce them

to a state of insolvency, and thus render the corporations incapable of keeping their solemn engagements and performing the great public trust they assumed, would authorize the courts of the United States to entertain a bill *quia timet* to prevent the threatened violation of trust; but, however that may be, Congress has now the right and power, and it has become a duty by law, to guard against the danger, and it may order into a sinking fund a sufficient amount of their annual earnings to secure the payment of the principle and interest of the debt these companies owe the Government.

Mr. HILL. May I ask the Senator a question? If there has been a violation of the trust, and that violation gives us a right to go to the courts—and I concur with the Senator that that is the case—is it not better that we should go to the courts? Why make a case here and turn that over to the courts? Why not turn the case we have got over to the courts, if that is a good case, rather than attempt to make another case and turn that over to the courts?

Mr. BAILEY. I have expressed my opinion; I may be in error—
Mr. HILL. I say to the Senator that I concur with him fully that if there is a violation of the trust and danger of an annihilation of the road, the remedy is ample before the courts. I agree that remedy would extend to taking the road out of the hands of the corporation. I think the Senator is right in that, that if a violation of the trust exists, or such a condition of things as amounts to a violation of the trust, you have a right to go to the courts.

Mr. BAILEY. I understand the Senator, then, to agree with me that, if I have correctly stated the facts, my conclusion in regard to the rights of these parties on the one hand and their obligation on the other are correct, and that the Government of the United States has the right to-day to appeal to its courts for the purpose of protecting its interests and compelling the performance of this trust?

Mr. HILL. I have said this, that if the Senator is right in his statement that the action of these parties amounts to a violation of the trust, the United States has ample remedy in the courts of justice.

Mr. BAILEY. Then certainly the Senator and I will not differ very widely; for, if we are agreed about that, certainly as doubt exists in so many minds, and instructed as both of us have been by our experience as lawyers in construing statutes and in devising remedies, he will join with me in improving the law, and make the remedy more perfect.

Now, Mr. President, I agree with very much that was said yesterday by the Senator from Georgia in the very able speech to which we all listened with so much pleasure. These acts of 1862 and 1864 are naturally divisible into two parts: First, those portions of the acts which create one corporation and give within the Territories of the United States franchises to the other, which give to both their rights, their privileges, their immunities, their powers. Another division is that portion which proposes after the corporations are created to make a contract with them. I agree with the Senator that a corporation can be created and franchises granted only by the sovereign, and that in contracting with the creatures it has called into being for a loan of money or bonds the sovereign occupies no higher position and has no rights other than will be awarded to a citizen. I agree with him further that the reserved right to alter, amend, or repeal these acts does not necessarily give to Congress the power at all times and without regard to change of circumstances to change the contract made under the second division to which I have referred.

It seems to me that when this law was enacted the corporations had a right to organize their companies but were under no obligation to accept the bounty of the Government. The two propositions were essentially distinct. Organized, they might have undertaken with their own capital or capital borrowed elsewhere to build this great line of railway, but the proposition having been submitted to them by the Government of the United States for a loan of \$55,000,000 of bonds they could accept it or not as they might deem expedient or in accordance with their interests. If accepted, I agree with the Senator from Ohio [Mr. THURMAN] that Congress could the next day have withdrawn the proposition or at any time before the work was begun upon the line of railway; but whenever a single section of the work was completed and the bonds were delivered that were due from the Government upon that section, to that extent there was an executed contract between the two parties and that contract, and the obligations and rights of the parties in respect to it rested secure under the sanction of the good faith of the Government and the intelligence and civilization of the age. I say nothing about the power of Congress in the absence of a constitutional inhibition. That question is not before us; but without regard to that, this contract rested under the sanction and protection of a wise policy, of a just policy, and is, as it seems to me, (I say it respectfully to those who differ from me,) under the protection of the consciences of the people of the United States. I do not think the contract could be disturbed, but as to the remainder of the work not yet done the offer might have been withdrawn, and not until the work was finished was the contract executed in all its parts upon the part of the corporations or beyond the control as to the unfinished parts of Congress. When finished the rights of the corporations and of the Government of the United States became fixed and established; neither could disturb it. Nor, in my opinion, does the power that is reserved to alter, amend, or repeal the act give the power to Congress to interpolate a new term into the contract which had been executed. A contract is an agreement between two or more persons in regard to some particular thing. The very definition im-

plies that there shall be a consenting of minds, that there shall be an agreeing of minds, that there shall be two parties at least to the agreement. But in the estimation of the Senator from Georgia [Mr. HILL] this bill proposes to interpolate a new term into the contract. If I believed this to be so I would vote against the bill. I would vote against it because I do not believe that Congress has the power, acting for the Government and people of the United States and against the will of a person who has contracted with it, under such a reservation as this, to make a new term in the contract. But this view interposes no obstacle to my hearty support of the bill which has been presented by the Judiciary Committee. I hold that the power of Congress in respect to matters that are properly subject to its legislative control is commensurate with the wants and the interests of the people of the United States. I hold that within its constitutional limit the Congress has the same power that a Legislature has to change the law from time to time in order to meet the varying wants and exigencies that may be developed in society.

These corporations, resting in fancied security under the protection of the law, which, as it now stands, gives to them power to distribute all their earnings to stockholders and to disregard the just claims of creditors, assert that they have a vested right in the law as it is, and that no change can be made that will interfere with their power to distribute the earnings so unwisely and so unjustly.

It is generally understood among statesmen and lawyers and laymen that the legislature may, from time to time, change the law to meet the necessities of each generation and of each state of society. The Legislature of Massachusetts or of Tennessee, looking to surrounding circumstances and conditions, will amend their laws to suit the wants of their own people. We are an English-speaking race, and of course a practical race. Our laws are practical in effect, and are made from day to day and from year to year to meet the exigencies that arise in the actual experience of our people. As a practical people we have established governments whose power reaches to every relation. It interposes in our domestic life and enters into the very privacy of our homes; it regulates the relations of husband and wife, of father and child, of neighbor and neighbor; it prescribes the laws of marriage and divorce; it directs the disposition of our estates after death, regulates the terms and conditions on which wills may be made, and points out the legal successors to lands and houses and goods; it controls the business affairs of men and makes laws for their government; it commands their services in peace and in war, and compels service in offices of public trust or in deadly battle.

There is no limit to this power other than that imposed by the people themselves by constitutional barriers. And yet it is said here to-day that great and all-reaching as is this power, however potent to regulate the most delicate and important relations of life or to interfere with the business affairs of mankind, however absolutely it may control our property or command the services of the citizen, it is robbed of all its greatness in the presence of a creation of its own and cannot forbid it to consummate a meditated wrong.

I cannot bring myself to believe that these corporations have any other or greater privileges and immunities than belong to citizens of the United States, unless they have been conferred by the Government; and where in their charters is to be found any warrant that the Government will not undertake to regulate and control their business affairs as it regulates and controls the affairs of the citizen? In my State and the State that is represented by the honorable Senator from Georgia we have a law providing that, if a debtor in anticipation of the time of payment of a debt is making a fraudulent conveyance of his property with a view to evade the payment of that debt, the creditor may sue out an attachment and impound the property and hold it under the jurisdiction of the courts until the debt shall become due. This is statutory law; but has anybody ever questioned the power of the Legislature to enact such?

Mr. HILL. I will say to my friend that, so far from questioning it, I concede it fully. I admit it is the law now that if these companies, or either of them, shall attempt to make a fraudulent conveyance of this property, or shall by their own act impair the value of this property, or shall in any way by their own act seek to destroy the security of the United States upon this property, you have an ample right to go into court and restrain them, and a perfect right to take the property out of their possession to that extent.

Mr. BAILEY. I suppose, then, the Senator from Georgia would rest the power of Congress to legislate on this subject upon the fact that there was or was not a fraud in the conduct of these parties?

Mr. HILL. I rest it upon the fact that there was or was not a breach of the trust. I do not rest the power of Congress to legislate; I rest the power of the courts to interfere; and I say your remedy is ample. I say Congress can provide remedies that the courts must administer.

Mr. BAILEY. This debt is not due—

Mr. HILL. Whether these companies have been guilty of fraud or guilty of a breach of trust is a judicial question.

Mr. BAILEY. That is not now the subject of inquiry. I am speaking now of the power of Congress as a legislative body to prescribe laws to control the conduct and business affairs of those who are subject to its power as a legislative body. I illustrated the idea that I was attempting to advance by referring to a species of legislation that is very familiar in the gentleman's State and in my own. He contends that Congress has no power to enact into a law the bill that

is presented by the Judiciary Committee, and what does that do? It simply undertakes to regulate and control the action of a person who is subject to the legislative will of Congress, and not more so nor less so than the citizen of Georgia who undertakes to make a fraudulent conveyance of his property. The gentleman spoke yesterday of default, and I suppose the idea is in his mind to-day that there can be no action without a default. The citizen of Georgia who is or will become indebted in the future is not in default, although he actually conveys his property, until the debt actually becomes due.

Mr. HILL. I do not agree with the Senator. There may be several kinds of default. There may be a default in payment, which can only occur after the debt becomes due; but that is a worse default which by fraud seeks to destroy the debt before it becomes due. In the first place, where the default is one of payment and occurs after the debt becomes due, the remedy is in a court of law. If it occurs by fraud in advance of the debt becoming due and endangers the existence of the debt, then the remedy is in a court of equity.

Mr. BAILEY. The test of it then is the danger of losing the debt, as I understand.

Mr. HILL. If that danger is caused by the act of the party. If that danger is the mere result of the natural course of events, a natural depreciation of property, there is no remedy, for no debtor is responsible for the act of God or the king's enemies or the natural course of events. The debtor is responsible for his own act, and if by his own act he brings the property into disrepute, destroying the value of the property, or wasting the property, or seeking to make a fraudulent conveyance of the property, then a court of equity will intervene and restrain him. But the simple fact that the debt is not due, the simple fact that the property is insufficient to pay the debt, the simple fact that the debtor is insolvent, are all misfortunes; they are not crimes; they are not frauds.

Mr. BAILEY. Or, the gentleman should have added, if he is dividing out his estate, or if a corporation is dividing out its assets among its stockholders without regard to its obligations to pay its debts, then there is a default.

Mr. HILL. I concede that if the stockholders are dividing out that which is included in the mortgage, that which is covered by the lien, it is a fraud.

Mr. BAILEY. Mr. President, the rights of creditors do not rest upon any idea of forfeiture of a mortgage. In the case supposed, provided for by the law of Georgia, there is no mortgage, but the Legislature interposes. Why does it interpose? The debtor is not under a legal obligation to pay the debt *eo instanti*, at that moment. No more is this corporation under any obligation, moral or legal, to pay to-day its prospective debt to the United States Government; but the debt is imperiled by reason of the action or conduct of the debtor, and the Legislature interposes and the legislative power changes the law and gives the creditor a new remedy. For what purpose? To protect the creditor, to compel the performance of the contract, to require the debtor to remain or to suffer his property to remain in a condition where it will be subjected to the payment of the debt; and when the gentleman concedes that that sort of legislation is constitutional and valid and right, he concedes all that we contend for here.

Mr. BECK. Will the Senator from Tennessee permit me to say that the legislation is applied to debts that existed before that legislation was had, and as to which there was no such right of interference, just as well as to those debts which were incurred afterward?

Mr. HILL. And I will say to the Senator from Tennessee further that all the legislation to which he refers in his State and mine does not interfere with the contract; it does not require the debtor to pay one cent before the debt becomes due. It simply says the property shall be held; that the debtor shall not fraudulently convey it; that he shall hold it in *statu quo* until the debt becomes due.

Mr. BAILEY. We propose nothing more than that here. There is no change of this contract at all. I say that it is impossible for the Senator from Georgia, with all his ingenuity, with all his ability, with all his mastery of the principles as well as of the technics of the law, to show in what particular or that in any particular this bill in requiring the creation of a sinking fund changes the contract between these parties or expedites one day the payment of the debt that will become due in the future from these corporations to the Government of the United States.

Mr. HILL. The contract requires the corporations to pay one-half of the compensation for Government transportation. This bill requires them to expend the whole of it on the debt.

Mr. BAILEY. Not at all.

Mr. HILL. You require them to pay it into a sinking fund, which sinking fund is placed in the Treasury of the creditor. You take the money away from the debtor. The law to which the Senator refers in Tennessee and Georgia does not take a dollar from the debtor before the debt is due.

Mr. BAILEY. It takes his property from him.

Mr. HILL. It does not take his property from him; it only holds it.

Mr. BAILEY. What difference does it make whether this sinking fund is in the Treasury of the United States or in a bank in New York? The Treasury is adopted for that purpose, not alone because it is a Government agency, but because it is supposed to be the safest to all parties. If a dollar shall be lost by reason of the defalcation of officers of the United States, the Government will, not in law but in honor, be bound to make that loss good. For that reason, because

it is safer and more convenient, the Treasury of the United States is selected as the custodian of this fund.

Mr. HILL. How does it lessen the burdens you impose by this bill upon the debtor to pay this additional half of the transportation account simply because the creditor takes the money and holds it but does not pay it out to the creditor until the debt becomes due?

Mr. BAILEY. It is no burden to a man to pay a debt.

Mr. HILL. It is a burden to pay a debt before it becomes due.

Mr. BAILEY. The whole argument proceeds upon the assumption that a creditor has no rights in respect to the earnings of his debtor, upon the assumption that the debtor if he can under some legal technicality escape the payment of a debt may legally and properly do so. We take nothing from this company that it is not under the highest moral obligation to devote to the payment of the debt, and we simply propose to convert that moral obligation into a legal obligation. The case is not in one particular different, in the view in which I am now considering this subject, from the case that was supposed a while ago of a debtor in the State of Georgia who proposed to transfer, or attempted to transfer, his property for the purpose of avoiding the payment of a debt. The Government, or rather the law, seizes the property in that case—the law enacted by the Legislature, that undertakes to regulate and control the relations of man with his fellow-man in their business transactions. The law seizes it and dedicates it to the payment of a debt, or rather, it impounds it and holds it until the debt shall become due. His property is taken from him just as we propose to take money from the vaults of these great corporations and place it in the Treasury of the United States as security for the payment of debts payable *in futuro* and which the officers of the company have declared that they cannot and will not pay.

But, Mr. President, I believe it is the law in the State of Georgia, as it is the law to-day in Tennessee and in most of the States of the Union, that if a debtor offers to remove himself and his property from the State where the debt was created, in advance of the time for payment, that property may be seized, it may be impounded, and may be held until the debt shall have become due. Upon what principle does that legislation rest? Why is not that unconstitutional? Why does not that work a change in the contract between the parties?

Mr. HILL. That goes exactly upon this definite principle, that the debtor after he has made the debt is endangering its collection by his own act, not by the act of another, and he is changing the jurisdiction of the debt; he is traveling beyond the jurisdiction in which he created his debt.

Mr. BAILEY. Then the power of the Legislature rests not upon the fact that it is a Legislature. It is not an inherent power; it is not a power derived from the people; but the power is derived from the act of the absconding or fraudulent debtor.

Mr. HILL. The necessity for the legislation is derived from that act.

Mr. BAILEY. The necessity for the legislation? Who shall judge of its necessity? If the Congress has the right to enact laws on the subject, who can judge or inquire into their wisdom or necessity?

Mr. HILL. It would be unconstitutional for a Legislature to pass an act authorizing the property of a debtor to be seized before the debt is due, if he is not changing his situation, if he is not removing; and the legislation itself in this bill only seeks to have vitality upon the ground that he is not changing his jurisdiction.

Mr. EDMUNDS. Suppose he were wasting it?

Mr. HILL. Certainly; if he were wasting it, that would be the same thing.

Mr. EDMUNDS. Now what is the difference as to a corporation paying money to its stockholders, whence it never can come back, which it is confessedly necessary to get to pay its debts?

Mr. HILL. Ah, you have got no lien upon that income, no lien upon the earnings. You have a lien upon the *corpus*, and you would have a right, a perfect right, to proceed against that in such a case.

Mr. EDMUNDS. If I do not interrupt the Senator from Tennessee, may I ask the Senator from Georgia if every creditor of the corporation has not a lien upon every dollar of its income, by the nature of a corporate lien?

Mr. HILL. After the debt becomes due.

Mr. EDMUNDS. Have you not before the debt becomes due?

Mr. HILL. Not unless he is endangering the payment of the debt by his own act.

Mr. EDMUNDS. That is the very question, whether he is not endangering it by dividends to the stockholders when confessedly if it goes on there will be nothing to pay the creditors with.

Mr. HILL. Confessedly, the creditor has elected his own security, confessedly the creditor has dedicated the *corpus* of the road to pay the debt; and confessedly the debtor is doing nothing to endanger that security.

Mr. EDMUNDS. But the Senator from Georgia carefully leaves out the proposition that I put to him, that upon the universal principles of law applied to corporations, no matter whether you have a mortgage security or not, every dollar of the assets and income of a corporation is a trust-fund for the payment of its creditors first, and for division among its stockholders afterward. Therefore, if a corporation, without regard to whether there is a mortgage lien or not, divides up its earnings among its stockholders to the danger of its creditors, it is violating the law of its existence.

Mr. HILL. I do say emphatically that no creditor of the road has any right as a legislature to pass acts and to administer a law to pre-

vent the debtor from using the income of his property before the debt becomes due. He has a right to use the rents, issues, and profits of the property, and no law ever arrested it or can ever arrest it unless by so doing he is violating a contract. If he has included the rents, issues, and profits of the property in a mortgage, then he is bound. If he has not, then there is not any court on earth that can impound the income of a man's property in advance of the debt being due; nor was it ever done. I say broadly it never was done. It cannot be done in the nature of things, because when a man dedicates the *corpus* of the property to the payment of the debt, to that the creditor must look. The creditor has elected his security; the creditor has dedicated his security; he has fixed the debt on that security and he must rely on it. There is no lien in favor of an ordinary creditor against a debtor—none in the world. But I beg pardon of the Senator from Tennessee for having interrupted him.

Mr. BAILEY. Although that may never have been done by a court, yet such is the temper, and such are the convictions of the American Congress to-day, that it cannot hereafter be brought as a reproach against the courts of the United States that they will not entertain jurisdiction where a debtor has publicly and solemnly announced to his creditors that his purpose is so to administer his affairs as not only to bring a debt to mature at a future day in peril, but to bring it to absolute, positive, and certain loss—

Mr. HILL. Of course the unauthorized announcement of an officer amounts to nothing, but if there is any announcement by the corporation that they intend to bring this debt in danger by their act, the courts will give you ample remedy to restrain them.

Mr. HARRIS. Will the Senator not admit the fact that by reason of the dividends that have been paid and are being paid the ultimate security of this debt is not only hazarded, but it is rendered almost certain that it will prove a loss to the Government?

Mr. HILL. On the contrary, I say that by the appropriation of the income, the security selected by the Government for its debt is not only not impaired, is not only not lessened one dollar, but I say emphatically in this very contract which the Government made it has stipulated that the company shall use those earnings. It stipulated that as an inducement, in the eighteenth section, for them to build this road. Who supposes that anybody would have undertaken to build this road on an agreement that for thirty years there should be no earnings from it? Who supposes that any men would undertake to build the road on a distinct stipulation that they were to have no earnings for thirty years? There is a stipulation to pay the Government; but there is no stipulation that they shall have no earnings for thirty years. But the danger the courts will remedy; the future will give you a remedy not lessening the security which the contract has dedicated to the payment of your debt. I beg pardon of my friend for having interrupted him so long.

Mr. BAILEY. Not at all. I am very much obliged to the Senator. I was a little fatigued, and it gave me an opportunity to rest.

But the Senator asks in his concluding sentence who supposes that the parties contemplated that the Government of the United States would take all the earnings of these companies and leave nothing for them to distribute to their stockholders as a compensation for the capital that they have invested. I do not understand that to be the case. I understand from the reading of the bill presented to us by the Judiciary Committee of the Senate and the report which accompanies the bill that even after making these appropriations to the sinking fund there will be left from year to year to the stockholders of one of these companies a dividend of 6 per cent., and to the stockholders of the other not less than 4½ per cent.

Mr. HILL. Have you any more right to take half the income than you have to take the whole of it?

Mr. BAILEY. Not a bit of it. We have a right to take it all if necessary to prevent this meditated fraud. The Senator seems to suppose that because under the law as it exists—

Mr. TELLER. I ask the Senator if he will submit to an interruption? When the Senator says they have a right to take it all to avoid this meditated fraud, I should like to know to what he refers.

Mr. BAILEY. I refer to what they have announced; to the extracts from letters and speeches I have already read.

Mr. TELLER. I should like to know what they have announced.

Mr. BAILEY. They have announced it to be their purpose to divide their net earnings as between themselves and to leave this debt of the Government of the United States to accumulate; and they declare that the consequences and the natural consequences, the almost necessary consequences of their acts, will be to bring these companies to absolute bankruptcy and to cause the Government to lose a great part if not all of the debt that will be due in the future.

Mr. TELLER. Will the Senator answer this question: When the Government took this lien and postponed the payment of the debt until the maturity of the bonds, interest included, did they not guarantee not only by that provision but by a special provision that the companies might take these dividends? Are they not then living strictly within their contract when they take these dividends?

Mr. BAILEY. Considering the question from the point of view that I have now presented, I do not say that they have not the legal right to distribute this money. They have the legal right; I will concede that.

Mr. TELLER. I understood the Senator to say that they had not the legal right. Then I misunderstood the Senator.

Mr. BAILEY. I say they have a legal right to do it, but I say not-

withstanding that it is a fraud that they contemplate perpetrating upon the Government of the United States by withdrawing what they may have the legal right to withdraw in the present state of the law, and without the remedial legislation that is proposed from the payment of their debts, and appropriating it to a division among themselves. But I am arguing here to prove that the Congress of the United States has a right to control them and to make that illegal which they claim is legal to-day.

Mr. TELLER. And which you admit is legal now, and yet you say this legislation does not change the contract?

Mr. BAILEY. Not at all. The Government has guaranteed nothing. The Government of the United States does not guarantee to its citizens that the law shall never be changed. In a case in 4 Otto, the very same claim was made that is made here to-day by a corporation chartered in the State of Illinois, that it had a vested interest in some way in the existing law, and although the Legislature of the State of Illinois changed the law, it was said the action of the Legislature was illegal and unconstitutional. The legislation was intended to change that which before had been right in a legal sense into what the law pronounced to be wrong. Chief-Justice Waite of the United States Supreme Court in commenting upon that says:

But a mere common-law regulation of trade or business may be changed by statute. A person has no property, no vested interest, in any rule of the common law.

You have no vested interest in that rule that gives you a right to distribute these earnings among the stockholders of this corporation as against the creditors.

That is only one of the forms of municipal law, and is no more sacred than any other. Rights of property which have been created by the common law cannot be taken away without due process; but the law itself, as a rule of conduct, may be changed at the will, or even at the whim, of the Legislature, unless prevented by constitutional limitations.—*Munn vs. Illinois*, 4 Otto, 135.

But there is another reason which has been alluded to by the Senator from Vermont, or which was alluded to a few moments ago, why this legislation may take place. He stated, and he stated what is unquestionably the law, that the property of every corporation is a trust fund for the payment of its debts, made so by intentment of law. The corporators are exempted in their natural persons and in their individual property from either arrest or seizure under execution, and from all the processes by which payment is compelled as between individuals in their contracts with each other; and when these corporators have paid into their treasury or have conveyed to the corporation money or property which is intended for the corporate use, from that moment it is dedicated to the corporate purposes and becomes a trust fund.

Judge Story rendered a decision in the case of *Wood vs. Dummer*, 3 Mason's Reports, in the year 1824, where the stockholders of a corporation had met together and their directors had distributed to them the money of the corporation, leaving the creditors unpaid. A bill was filed to compel them to refund the money and they were compelled to restore it.

Mr. TELLER. It was capital stock.

Mr. BAILEY. It may have been capital stock, but it was the property of the corporation. Do you mean to say that net earnings or profits are not property? Do you mean to say that no obligation rests upon the corporation to provide for the payment of a debt in the future? I will read a few lines from this decision.

The individual stockholders are not liable for the debts of the bank in their private capacities. The charter relieves them from personal responsibility and substitutes the capital stock in its stead. Credit is universally given to this fund by the public as the only means of repayment. During the existence of the corporation it is the sole property of the corporation, and can be applied only according to its charter; that is, as a fund for payment of its debts, upon the security of which it may discount and circulate notes. Why, otherwise, is any capital stock required by our charters? If the stock may, the next day after it is paid in, be withdrawn by the stockholders without payment of the debts of the corporation, why is its amount so studiously provided for and its payment by the stockholders so diligently required? To me this point appears so plain upon principles of law, as well as common sense, that I cannot be brought into any doubt that the charters of our banks make the capital stock a trust fund for the payment of all the debts of the corporation. The bill holders and other creditors have the first claims upon it, and the stockholders have no rights until all the other creditors are satisfied.

The capital stock was the subject of litigation in that particular case, and hence he was speaking of capital stock; but the idea, the reason, applies to property of every description. The decision made by Judge Story in this case of *Wood vs. Dummer* has been upheld by the courts of nearly every State in the Union. The position has been adopted and made the basis of frequent decisions by the Supreme Court of the United States, one of which is very well known to some of us in the South, the case of *Curran vs. The State of Arkansas*, reported in the fifteenth volume of Howard's Reports. Here is a trust fund dedicated to the payment of debts. Here is an obligation resting upon these people to make provision for the payment of this great debt. They say, however, that they will not do so and resist the attempt on the part of Congress to compel by law that to be done which they rest under the highest obligation to do. They say that there is no law that will authorize a bill in chancery to be filed to enforce this obligation. Then, sir, we will make a law: the obligation shall no longer be imperfect; legislatures are established to enact laws, and to correct defects in the written or unwritten law, whenever these defects may be discovered or the business affairs of life shall bring them to notice.

Now, the jurisdiction of courts of equity in regard to trust funds of

this kind is unquestioned. It is usually exercised in cases of an insolvent corporation or one whose charter has expired, been annulled, or revoked; but the principle settled by the case of *Wood vs. Dummer* and the case of *Curran vs. The State of Arkansas* is, that property of a corporation is a trust fund for the payment of debts. The principle stands whether the corporation be solvent or insolvent, whether its charter continues in force or has been annulled or has expired by lapse of time. It may be that under the present state of the law where a corporation in the full possession of its franchises shall from year to year divide its earnings between the stockholders in such a manner as to imperil the rights of creditors whose debts are not due, the court will not feel authorized to interfere to control the action of its officers, but the refusal to exercise jurisdiction in such a case is because the creditors cannot maintain an action until the debt becomes due. Notwithstanding this, however, the property is a trust fund, and the highest moral obligation rests upon the officers to so administer its affairs as to protect the rights of creditors who are entitled to priority of payment over the stockholders, and this becomes a legal obligation whenever a right of action accrues to the creditors.

Now, may not the remedy be advanced without injustice to the stockholders? If the conduct of the officers manifests an unmistakable purpose to bring the corporation to a state of bankruptcy, if they shall refuse to be governed by the ordinary rules of business prudence and care, and when the necessity is obvious refuse to provide a sinking fund for the payment of debts to mature in the future, that cannot otherwise be paid, can they with any propriety object that the law-making power shall require them to do so or shall provide a remedy that will protect the creditor against a meditated wrong?

It is objected that such legislation will divest vested rights. What right is taken away? What vested interest is disturbed by such legislation? The corporation is left in the undisturbed possession of all franchises and all its property. It continues to transact its legitimate business and to make such profits as that business will fairly earn, but is required to do what every government and every corporation whose affairs are managed with any regard to prudence or the just rights of creditors will voluntarily undertake to do.

Is the power to perpetrate a fraud, to be recognized as a vested right? If the law be defective, shall it not be amended and made to conform to the wants and exigencies of society?

Mr. BLAINE obtained the floor.

The PRESIDING OFFICER. (Mr. INGALLS in the chair.) The question is on the amendment offered by the Senator from Ohio, [Mr. MATTHEWS.]

Mr. HAMLIN. I apprehend that Senators who are not in their places do not expect to vote upon the pending question at the present time, and I move that we now proceed to the consideration of executive business.

The PRESIDING OFFICER. The Senator from Maine moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and thirty-three minutes spent in executive session, the doors were reopened.

ADJOURNMENT TO MONDAY.

On motion of Mr. EDMUNDS, it was

Ordered, That when the Senate adjourns to-day it be to meet on Monday next.

REPORT OF COMMITTEE.

Mr. TELLER, from the Committee on Railroads, to whom was referred the bill (S. No. 927) to authorize the construction of a narrow-gauge railroad from Bismarck to the Black Hills, reported it with amendments.

BILL INTRODUCED.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1013) granting a pension to Mrs. Susan Nussar; which was read twice by its title, and referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. ALLISON, it was—

Ordered, That the petition and papers relating to the claim of John S. Logan be taken from the files and referred to the Committee on Claims.

WATER-FRONT AT VICKSBURG.

Mr. LAMAR submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and he is hereby, instructed to transmit to the Senate copies of the report of a board of engineers on the preservation of the water-front at Vicksburg, Mississippi, and of the letter of the Chief of Engineers submitting the same, with the maps and estimates in relation thereto which have been prepared by said board.

CLAIM OF CHAUNCEY M. LOCKWOOD.

Mr. FERRY submitted the following order; which was considered by unanimous consent, and agreed to:

Ordered, That 50 copies of the argument in relation to the claim of Chauncey M. Lockwood be printed for the use of the Committee on Post-Offices and Post-Roads.

Mr. ALLISON. I move that the Senate do now adjourn.

The motion was agreed to; and (at four o'clock and ten minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, March 28, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.
The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, with amendments in which the concurrence of the House was requested, a bill of the following title:

A bill (H. R. No. 3064) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1879, and for other purposes.

ORDER OF BUSINESS.

Mr. SOUTHARD. I hope the House will give unanimous consent to change the reference of a bill.

Mr. HALE. I demand the regular order of business.

The regular order being demanded, the question recurred on the following resolutions, reported by the majority of the Committee of Elections:

Resolved, That Walbridge A. Field is not entitled to a seat in this House as the Representative from the third congressional district of the State of Massachusetts.
Resolved, That Benjamin Dean is entitled to a seat in this House as the Representative from the third congressional district of the State of Massachusetts.

Mr. SPRINGER. The House is not full at this time, and, if there be no objection, I hope there will be a morning hour before the unfinished business of yesterday is taken up for consideration. I ask by unanimous consent that there be a morning hour for reports from committees.

Mr. HALE. I demand the regular order.

Mr. SPRINGER. I rise to ask unanimous consent that there be a morning hour this morning, as the House is now thin.

Mr. HALE. Let us have the regular order, Mr. Speaker.

Mr. SPRINGER. It would enable us to have a full House to allow the morning hour to intervene before proceeding with the election case.

The SPEAKER. The main question has been ordered, and, the regular order being demanded, the question recurs on the resolutions reported from the majority of the Committee of Elections which have just been read.

Mr. TOWNSEND, of New York. I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The Chair desires there shall be perfect order during the roll-call for reasons which must be manifest to every person on the floor. If there be any noise the Chair will direct the call to be suspended until order is restored.

Mr. SPRINGER. Is it in order to move the House do now adjourn? I am advised there are a number of members absent, and I make the motion for the purpose of giving them an opportunity to come in. Is the motion in order?

The SPEAKER. It is.

Mr. SPRINGER. Then I move that the House do now adjourn.

Mr. STEPHENS, of Georgia. Let the gentleman move that there be a call of the House.

Mr. FRYE. Had not the call commenced?

The SPEAKER. It had not.

Mr. SPRINGER. If the motion be in order, I will move that there be a call of the House, and on that motion demand the yeas and nays.

Mr. HALE. Is that motion in order while the main question is pending?

The SPEAKER. The motion to adjourn is in order. In reference to the question of order raised by the gentleman from Maine, [Mr. HALE,] whether at this time, the main question having been ordered to be now put, the motion that there be a call of the House is in order, the Clerk will read a part of Rule 132.

The Clerk read as follows:
A call of the House shall not be in order after the previous question is seconded, unless it shall appear, upon an actual count by the Speaker, that no quorum is present.

The SPEAKER. The motion that there be a call of the House is not in order at this time.

Mr. SPRINGER. I move, then, that the House do now adjourn, and on that motion demand the yeas and nays.

Mr. FORT. What is the object of the gentleman in moving the House to adjourn?

Mr. SPRINGER. The House is not full, and I desire to give members who are not present an opportunity to come in before the vote is taken on the election case.

Mr. THOMPSON. Who is absent?

The yeas and nays were ordered.
The question was taken; and it was decided in the negative—yeas 4, nays 231, not voting 56; as follows:

NAYS—231.

Acklen,	Dickey,	Joyce,	Robinson, Milton S.
Aiken,	Douglas,	Keightley,	Ross,
Aldrich,	Dunnell,	Kelley,	Ryan,
Bagley,	Durham,	Kenna,	Sampson,
Baker, William H.	Eames,	Ketcham,	Sapp,
Baldou,	Eelen,	Kimmel,	Saylor,
Banks,	Eickhoff,	Knott,	Scales,
Bayne,	Elam,	Landers,	Schleicher,
Beebe,	Ellsworth,	Lathrop,	Shallenberger,
Bell,	Evans, I. Newton	Ligon,	Shelley,
Bicknell,	Evans, James L.	Lindsey,	Singleton,
Blackburn,	Ewing,	Lockwood,	Sinnickson,
Blair,	Felton,	Loring,	Slemous,
Bland,	Finley,	Luttrell,	Smalls,
Bliss,	Forney,	Lynde,	Smith, William E.
Boone,	Fort,	Mackey,	Southard,
Bouck,	Foster,	Maish,	Springer,
Brentano,	Franklin,	Manning,	Staria,
Brewer,	Freeman,	Marsh,	Steele,
Briggs,	Frye,	Martin,	Stenger,
Bright,	Fuller,	McCook,	Stephens,
Brogden,	Gardner,	McGowan,	Stone, John W.
Browne,	Garth,	McKenzie,	Stone, Joseph C.
Buckner,	Gause,	McKinley,	Strait,
Bundy,	Gibson,	McMahon,	Thompson,
Burchard,	Giddings,	Mills,	Thornburgh,
Burdick,	Glover,	Money,	Tipton,
Butler,	Goode,	Monroe,	Townsend, Amos
Caldwell, John W.	Gunter,	Morgan,	Townsend, Martin I.
Caldwell, W. P.	Hale,	Morrison,	Townsend, R. W.
Camp,	Hamilton,	Morse,	Tucker,
Campbell,	Hanna,	Muldrow,	Turney,
Carlisle,	Hardenbergh,	Norcross,	Vance,
Chalmers,	Harmer,	Oliver,	Van Vorhes,
Chittenden,	Harris, Henry R.	O'Neill,	Veebler,
Chadlin,	Harris, John T.	Overton,	Walker,
Clark, Alvan A.	Harrison,	Page,	Watson,
Clark of Missouri,	Hart,	Patterson, G. W.	Welch,
Clark, Rush	Hartridge,	Peddle,	White, Harry
Clarke of Kentucky,	Hartzell,	Phelps,	White, Michael D.
Cobb,	Haskell,	Phillips,	Whitthorne,
Cole,	Hayes,	Pollard,	Wigginton,
Collins,	Hendee,	Potter,	Williams, A. S.
Conger,	Henderson,	Pound,	Williams, Andrew
Cook,	Henkle,	Price,	Williams, C. G.
Cox, Jacob D.	Henry,	Pugh,	Williams, James
Cox, Samuel S.	Hewitt, Abram S.	Quinn,	Williams, Jere N.
Crapo,	Hewitt, G. W.	Raney,	Williams, Richard
Cravens,	Hiscock,	Randolph,	Willis, Albert S.
Crittenden,	Hooker,	Reagan,	Willis, Benjamin A.
Cummings,	House,	Reed,	Willits,
Cutler,	Humphrey,	Reilly,	Wilson,
Davidson,	Hunter,	Rice, Americus V.	Wood,
Davis, Horace	Huntton,	Rice, William W.	Wren,
Davis, Joseph J.	Ittner,	Riddle,	Wright,
Deering,	James,	Robbins,	Yeates,
Denison,	Jones, Frank	Robertson,	Young,
Dibrell,	Jones, John S.		

NOT VOTING—56.

Atkins,	Caswell,	Hungerford,	Pridemore,
Baker, John H.	Clymer,	Jones, J. T.	Rca,
Banning,	Denford,	Jorgensen,	Robinson, George D.
Benedict,	Dwight,	Keifer,	Sexton,
Bisbee,	Ellis,	Killinger,	Smith, A. Herr
Blount,	Errett,	Knapp,	Sparks,
Boyd,	Evins, John H.	Lapham,	Stewart,
Bragg,	Field,	Mayham,	Swann,
Bridges,	Garfield,	Metcalfe,	Turner,
Cabell,	Harris, Benj. W.	Mitchell,	Waddell,
Cain,	Hatcher,	Muller,	Wait,
Calkins,	Hazelton,	Ned,	Walsh,
Candler,	Herbert,	Patterson, T. M.	Ward,
Cannon,	Hubbell,	Powers,	Warner.

So the House refused to adjourn.

During the vote,

Mr. TUCKER said: I desire to announce that my colleague, Mr. CABELL, who is detained from the House by illness, is paired with Mr. PUGH, of New Jersey; and that Mr. PRIDEMORE is paired with his colleague, Mr. JORGENSEN.

Mr. MCMAHON. I desire to state that my colleague, General BANNING, who is detained from the House by sickness, is paired with Mr. WHITE, of Pennsylvania.

Mr. BRIGHT. My colleague, Mr. ATKINS, is detained at home by sickness. I understand he is paired.

Mr. SMITH, of Pennsylvania. I am paired with the gentleman from Tennessee, Mr. ATKINS, who is absent on account of sickness. If he were here, I should vote "no." How he would vote I do not know.

Mr. BAKER, of Indiana. I am paired on all political questions with the gentleman from Illinois, Mr. SPARKS. I do not know whether this is to be regarded as a political question, but I refrain from voting. I will add, that while I am paired with that gentleman on political questions I am not paired upon the contested-election case of Dean vs. Field.

Mr. PATTERSON, of Colorado. On all votes connected with this case I am paired with the gentleman from Pennsylvania, Mr. ERRETT.

Mr. WHITE, of Pennsylvania. I was paired yesterday with General BANNING, of Ohio. I do not know whether he is here this morning or not. I understood the pair to be only for yesterday; but I want to be entirely fair about the matter. I vote "no" on this question.

YEAS—4.

Bacon,	Covert,	Culberson,	Throckmorton.
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Mr. BOYD. I am paired with my colleague, Mr. KNAPP.

Mr. BANKS. The gentleman from Pennsylvania, Mr. KILLINGER, requested me to say that he is paired upon this election case with the gentleman from Illinois, Mr. HARRISON.

Mr. EVANS, of Pennsylvania. I am authorized to announce that my colleague, Mr. WARD, is paired with the gentleman from New York, Mr. MULLER. If Mr. MULLER were present, Mr. WARD would vote "no."

Mr. ACKLEN. My colleague, Mr. ELLIS, is absent, and is paired with the gentleman from Minnesota, Mr. STEWART.

The result of the vote was announced as above stated.

The SPEAKER. The question now recurs on the resolutions reported by the majority of the Committee of Elections, on which the yeas and nays have been ordered.

The question was taken; and there were—yeas 124, nays 123, not voting 45; as follows:

YEAS—124.

Acklen,	Davis, Joseph J.	Jones, Frank	Saylor,
Aiken,	Dibrell,	Jones, James T.	Scales,
Banning,	Dickey,	Kenna,	Schleicher,
Bell,	Douglas,	Kimmel,	Shelley,
Benedict,	Durham,	Kuott,	Singleton,
Becknell,	Eden,	Ligon,	Stemons,
Blackburn,	Eickhoff,	Lockwood,	Smith, William E.
Bland,	Elam,	Luttrell,	Southard,
Bliss,	Ewing,	Lynde,	Springer,
Blount,	Felton,	Mackey,	Steele,
Boone,	Finley,	Maish,	Stephens,
Bouck,	Forney,	Manning,	Swann,
Bright,	Franklin,	Mayham,	Throckmorton,
Buckner,	Garth,	McKenzie,	Townsend, R. W.
Butler,	Gause,	McMahon,	Tucker,
Caldwell, John W.	Gibson,	Mills,	Vance,
Caldwell, W. P.	Giddings,	Money,	Veeder,
Carlisle,	Glover,	Morgan,	Walker,
Chalmers,	Goode,	Morrison,	Warner,
Clark, Alvah A.	Gunter,	Morse,	Whitthorne,
Clark of Missouri,	Hamilton,	Muldrow,	Wiggin,
Clarke of Kentucky,	Hardenbergh,	Phelps,	Williams, A. S.
Cobb,	Harris, Henry R.	Quinn,	Williams, Jere N.
Collins,	Harris, John T.	Reagan,	Willis, Albert S.
Cook,	Hartzell,	Reilly,	Willis, Benjamin A.
Covert,	Henkle,	Rice, Americus V.	Wilson,
Cox, Samuel S.	Hewitt, Abram S.	Riddle,	Wood,
Cravens,	Hewitt, G. W.	Robbins,	Wright,
Crittenden,	Hooker,	Roberts,	Yeates,
Culbertson,	House,	Roberts,	Young,
Davison,	Huntton,	Ross,	The Speaker.

NAYS—123.

Aldrich,	Danford,	Joyce,	Reed,
Bacon,	Davis, Horace	Kelifer,	Rice, William W.
Bagley,	Deering,	Keightley,	Robinson, Milton S.
Baker, John H.	Denison,	Kelley,	Ryan,
Baker, William H.	Dunnell,	Ketcham,	Sampson,
Ballou,	Fames,	Lathrop,	Sapp,
Banks,	Ellsworth,	Lindsey,	Shallenberger,
Bayne,	Evans, I. Newton	Loring,	Sinnickson,
Bisbee,	Evans, James L.	Marsh,	Small,
Blair,	Fort,	McCook,	Starin,
Brentano,	Freeman,	McGowan,	Stenger,
Brewer,	Frye,	McKinley,	Stone, John W.
Briggs,	Gardner,	Mitchell,	Stone, Joseph C.
Brogden,	Garfield,	Monroe,	Straff,
Browne,	Hale,	Neal,	Thompson,
Bundy,	Hauna,	Norcross,	Thornburgh,
Burchard,	Harmer,	Oliver,	Tipton,
Burdick,	Harris, Benj. W.	O'Neill,	Townsend, Amos
Cain,	Hartridge,	Overton,	Townsend, M. I.
Camp,	Haskell,	Page,	Van Vorhes,
Campbell,	Hayes,	Patterson, G. W.	Wait,
Cannon,	Heddes,	Peddie,	Walsh,
Chittenden,	Henderson,	Phillips,	Watson,
Chaffin,	Henry,	Pollard,	Welch,
Clark, Rush	Herbert,	Potter,	White, Harry
Cole,	Hiscock,	Pound,	White, Michael D.
Conger,	Humphrey,	Powers,	Williams, C. G.
Cox, Jacob D.	Hunter,	Price,	Williams, James
Crapo,	Ittner,	Rainey,	Willits,
Cummings,	James,	Randolph,	Wren.
Cutler,	Jones, John S.	Rea,	

NOT VOTING—45.

Atkins,	Errett,	Killinger,	Smith, A. Herr
Beebe,	Evins, John H.	Knapp,	Sparks,
Boyd,	Field,	Landers,	Stewart,
Bragg,	Foster,	Lapham,	Turner,
Bridges,	Fuller,	Martin,	Turney,
Cabell,	Harrison,	Metcalfe,	Waddell,
Calkins,	Hart,	Muller,	Ward,
Candler,	Hatcher,	Patterson, T. M.	Williams, Andrew
Caswell,	Hazelton,	Pridemore,	Williams, Richard
Clymer,	Hubbell,	Pugh,	
Dwight,	Hungerford,	Robinson, George D.	
Ellis,	Jorgensen,	Sexton,	

So the resolutions were adopted.

During the roll-call the following announcements were made:

Mr. HART. I am paired with my colleague, Mr. HUNGERFORD. If he were present, he would vote "no" and I should vote "ay."

Mr. TURNEY. I am paired with the gentleman from Georgia, Mr. CANDLER, who, if present, would vote "no," while I should vote "ay."

Mr. HARRISON. I am paired with the gentleman from Pennsylvania, Mr. KILLINGER.

Mr. MARTIN. I am paired with the gentleman from Michigan,

Mr. HUBBELL. If he were here, I should vote "ay." I do not know how he would vote.

Mr. BEEBE. I am paired generally with my colleague, Judge LAPHAM. I do not know how he would vote on this question; but in his absence I refrain from voting.

Mr. TUCKER. My colleague, Mr. PRIDEMORE, is paired with my other colleague, Mr. JORGENSEN. My colleague, Mr. CABELL, who is detained from the House by sickness, is paired with Mr. PUGH, of New Jersey.

Mr. WHITTHORNE. My colleague, Mr. ATKINS, is detained from the House by sickness, and is paired on this question with the gentleman from Pennsylvania, Mr. SMITH.

Mr. RIDDLE. I am requested to state that the gentleman from Pennsylvania, Mr. BRIDGES, is paired with the gentleman from New York, Mr. DWIGHT. Mr. BRIDGES, if present, would vote "ay," and Mr. DWIGHT, I presume, "no."

Mr. LANDERS. I am paired with Mr. ROBINSON, of Massachusetts. If he were present, he would vote "no" and I would vote "ay."

Mr. PUGH. I am paired with Mr. CABELL, of Virginia. If he were present, he would vote "ay" and I would vote "no."

Mr. WILLIAMS, of Oregon. I am paired with Mr. EVINS, of South Carolina. If he were present, he would vote "ay" and I should vote "no."

Mr. EVANS, of Pennsylvania. I am requested to state that my colleague, Mr. WARD, is paired with Mr. MULLER, of New York. If they were present, Mr. WARD would vote "no" and Mr. MULLER would vote "ay."

Mr. POSTER. On this question I am paired with Mr. WADDELL, of North Carolina. If he were present, he would vote "ay" and I would vote "no."

Mr. ACKLEN. My colleague from Louisiana, Mr. ELLIS, who is absent, is paired with Mr. STEWART, of Minnesota. If present, he would vote "ay" and Mr. STEWART would vote "no."

Mr. WILLIAMS, of New York. I am paired with Mr. HATCHER, of Missouri. If he were present, he would vote "ay" and I would vote "no."

Mr. WILLIAMS, of Wisconsin. My colleague, Mr. HAZELTON, is paired with Mr. CLYMER, of Pennsylvania. If present, Mr. HAZELTON would vote "no" and Mr. CLYMER would vote "ay." I desire also to announce that on this question my colleagues, Mr. CASWELL and Mr. BRAGG, are paired. If they were present, Mr. CASWELL would vote "no" and Mr. BRAGG would vote "ay."

Mr. METCALFE. I am paired with Mr. SPARKS, of Illinois. If he were present, he would vote "ay" and I would vote "no."

Mr. SMITH, of Pennsylvania. I am paired with Mr. ATKINS, of Tennessee. If he were present, he would vote "ay" and I would vote "no."

Mr. BOYD. I am paired with my colleague from Illinois, Mr. KNAPP, who, if present, would vote "ay" and I should vote "no."

Mr. PATTERSON, of Colorado. On this question I am paired with Mr. ERRETT, of Pennsylvania. If he were present, he would vote "no" and I should vote "ay."

Mr. JORGENSEN. I am paired with my colleague from Virginia, Mr. PRIDEMORE. If he were present, he would vote "ay" and I would vote "no."

Mr. BAYNE. Mr. DWIGHT, of New York, is paired with my colleague from Pennsylvania, Mr. BRIDGES. If present, Mr. DWIGHT would vote "no" and Mr. BRIDGES would vote "ay."

Mr. O'NEILL. Mr. HARRISON, of Illinois, and my colleague from Pennsylvania, Mr. KILLINGER, are paired. If present, Mr. HARRISON would vote "ay" and Mr. KILLINGER would vote "no."

Mr. FULLER. I am paired with my colleague from Indiana, Mr. SEXTON. If he were present, he would vote "no" and I would vote "ay."

Mr. CARLISLE. My colleague from Kentucky, Mr. TURNER, is absent from the city and is paired with Mr. CALKINS, of Indiana. If present, Mr. TURNER would vote "ay" and Mr. CALKINS would vote "no."

Mr. RICE, of Ohio. I desire to announce that Mr. ELLIS, of Louisiana, on this question is paired with Mr. STEWART, of Minnesota, and that Mr. MULLER, of New York, is paired with Mr. WARD, of Pennsylvania.

Mr. JONES, of Alabama. Mr. Speaker, upon the resolution voted upon yesterday declaring that Mr. FIELD was entitled to a seat in this House, I voted "ay" under the belief that he had been elected according to the laws of Massachusetts. But the House decided against this view of the law. Therefore, under this decision by the House, upon the pending resolution declaring Mr. Dean entitled to a seat, I vote "ay." [Applause from the democratic side.]

The SPEAKER. The Chair desires that perfect order may prevail while the Clerk reads the names, so that gentlemen may know exactly how they are recorded.

Mr. CONGER. The applause was not on this side of the House.

The SPEAKER. The Chair thinks the noise is a little on both sides of the House and wishes to prevent it on each side.

Mr. CONGER. I said the applause was not on this side of the House.

The SPEAKER. On this question the Chair desires to cast his vote and directs the Clerk to call his name.

The Clerk called the name of Mr. RANDALL.

The SPEAKER. I vote "ay."
The result of the vote was then announced as above recorded.
Mr. SPRINGER moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.
Mr. SPRINGER. I now ask that the oath be administered to Mr. Dean.

The SPEAKER. The gentleman will step forward.
Mr. CONGER. Has the question been put on the motion to lay the motion to reconsider on the table?

The SPEAKER. It has.
Mr. CONGER. I do not think that anybody heard it.
The SPEAKER. That is not the fault of the Chair.

Mr. CONGER. I have stood here waiting to hear that question put, that I might call for the yeas and nays upon it.

The SPEAKER. The Chair stated the question distinctly.
Mr. CONGER. Then the Chair spoke in a very low tone.
The SPEAKER. The Chair did not.

Mr. CONGER. The Chair must have spoken in a very low tone. [Cries of "Order!"]

Mr. SPRINGER. I heard the Speaker state the motion distinctly.
Mr. KENNA. And it was heard distinctly even in this distant part of the Hall.

Mr. DEAN then appeared and qualified by taking the oath prescribed by section 1756 of the Revised Statutes.

ORDER OF BUSINESS.

Mr. HARRISON. I rise to a privileged question, and it is to call up the report of the Committee on Reform in the Civil Service, in the matter commonly known as the Polk matter.

Mr. BLAIR. I hope before the gentleman presses that motion he will allow me to report a bill for the purpose of having it printed, as one of the committees of the House desires to consider it to-morrow morning and the printing of it will greatly facilitate their labors.

Mr. CONGER. I insist upon the regular order. I want nothing to intervene between these two matters.

Mr. EDEN. I submit that the report of the Committee on Reform in the Civil Service has not yet been made.

Mr. HARRISON. I call for the reading of the report.

Mr. EDEN. My understanding is that the report was ordered to be printed and recommended to the committee, and that therefore it is now in the committee.

The SPEAKER. The report was made and recommended to the committee, and ordered to be printed; and the Chair supposes that the gentleman from Illinois [Mr. HARRISON] now intends to report it back to the House.

Mr. SCALES. Is it in order to raise the question of consideration?

The SPEAKER. It is.

Mr. SCALES. If so, I raise it, for I desire to move that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of taking up the bill transferring the Indian Bureau from the Interior Department to the War Department.

Mr. DURHAM. I desire to antagonize that motion with an appropriation bill.

The SPEAKER. The gentleman from Illinois, [Mr. HARRISON,] from the Committee on Reform in the Civil Service, presents the report of that committee touching on the matters referred to it, as to the Doorkeeper of this House, and the gentleman from North Carolina [Mr. SCALES] raises the question of consideration, and he gives notice that if this subject be not considered by the House he will move that the House resolve itself into Committee of the Whole on the state of the Union, and to lay aside the bills upon the Calendar until the committee shall reach the bill relating to the transfer of the Indian Bureau to the War Department.

Mr. DURHAM. Now I desire to antagonize that by asking the House to consider the report of the Committee on Appropriations and the amendments of the Senate to the bill authorizing the employment of additional clerks, &c.

The SPEAKER. The Chair cannot present the question in that shape. The question of consideration must be between two subjects.

Mr. DURHAM. You are right, sir; but I desire to notify the House that I shall endeavor to call up the bill to which I have referred.

Mr. HENDEE. I desire also to give notice that I desire to call up the District of Columbia bill, that it may be considered at this time.

Mr. HEWITT, of Alabama. And I desire to give notice, too, that if the House goes into Committee of the Whole on the state of the Union, I shall press the consideration of the bill in relation to the pensions of the soldiers of the Mexican war.

Mr. BEEBE. I rise to make a parliamentary inquiry. Is not the question of consideration merely upon the motion of the gentleman from Illinois, [Mr. HARRISON,] and not as between that and any other proposition?

The SPEAKER. Each member must vote as his judgment dictates. The question immediately before the House is whether the House will now consider the report of the Committee on Reform in the Civil Service in relation to the Doorkeeper of the House. If that be voted down, then the Chair will be in duty bound to recognize the gentleman from North Carolina [Mr. SCALES] to make his motion, as the Chair has already recognized him as antagonizing the motion of the gentleman from Illinois, [Mr. HARRISON.]

Mr. BEEBE. Would it be competent, in case the report of the gentleman from Illinois should not be considered, to raise the question of consideration by the motion of the gentleman from North Carolina, [Mr. SCALES?]

The SPEAKER. It would be; but not until the prior question is disposed of.

Mr. EDEN. I desire to make a parliamentary inquiry.
The SPEAKER. The gentleman will state it.

Mr. EDEN. Would not it be in order to—
Mr. THOMPSON. I call for the regular order.

Mr. EDEN. I am rising to a parliamentary inquiry.
The SPEAKER. The gentleman from Illinois [Mr. EDEN] is rising to a question which he has a right to put.

Mr. EDEN. Would not it be in order for the gentleman from Kentucky [Mr. DURHAM] to move to go into Committee of the Whole on the state of the Union for the purpose of considering an appropriation bill?

The SPEAKER. The Chair has already recognized the gentleman from Illinois, [Mr. HARRISON,] and the most direct way to reach the views of the House is the way provided for by the gentleman from North Carolina [Mr. SCALES] when he raises the question of consideration.

Mr. TOWNSEND, of New York. This question of the Doorkeeper has an important bearing on appropriations. [Laughter.]

Mr. HARRISON. I object to debate.

The SPEAKER. A question relating to the priority of business is not debatable.

The question was put upon Mr. HARRISON's motion; and on a viva voce vote the Chair announced that the yeas had it.

Mr. JAMES. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 107, nays 123, not voting 61; as follows:

YEAS—107.

Aldrich,	Cutler,	Lindsey,	Sampson,
Bacon,	Davis, Horace	Lockwood,	Sapp,
Bagley,	Deering,	Loring,	Shallenberger,
Ballou,	Denison,	Lynde,	Sinnickson,
Banks,	Eames,	Mackey,	Smalls,
Bayne,	Evans, James L.	Marsh,	Springer,
Bell,	Fort,	McCook,	Starin,
Bisbee,	Freeman,	McGowan,	Steele,
Bonck,	Frye,	McKinley,	Stone, John W.
Brewer,	Gardner,	Mitchell,	Stone, Joseph C.
Briggs,	Gardfield,	Monroe,	Strait,
Brogden,	Hanna,	Morgan,	Thompson,
Browne,	Harris, Benj. W.	Norcross,	Townsend, Amos
Buckner,	Harrison,	Oliver,	Townsend, M. I.
Bundy,	Hart,	Overton,	Van Vorhes,
Burchard,	Hayes,	Patterson, G. W.	Wait,
Burdick,	Henderson,	Peddle,	Walker,
Cain,	Henkle,	Phelps,	Warner,
Camp,	Hiscock,	Phillips,	Watson,
Canon,	Hunter,	Pollard,	White, Harry
Chittenden,	Humphrey,	Potter,	White, Michael D.
Clark, Rush	Ittner,	Wiggin,	Williams, Andrew
Cole,	Jones,	Rainey,	Williams, C. G.
Conger,	Jones, John S.	Randolph,	Williams, Richard
Covert,	Keifer,	Reed,	Willits,
Cox, Jacob D.	Keightley,	Rice, William W.	
Cummings,	Lathrop,	Robinson, Milton S.	

NAYS—123.

Acklen,	Eden,	Jorgensen,	Roberts,
Aiken,	Elam,	Joyce,	Robertson,
Baker, William H.	Ellsworth,	Kenna,	Ryan,
Bicknell,	Ewing,	Ketcham,	Saylor,
Blackburn,	Felton,	Knott,	Scales,
Bliss,	Finley,	Landers,	Schleicher,
Boone,	Forney,	Ligon,	Shelley,
Brentano,	Franklin,	Luttrell,	Singleton,
Bright,	Garth,	Maish,	Slemmons,
Butler,	Gause,	Manning,	Smith, William E.
Caldwell, John W.	Gibson,	Mayham,	Southard,
Caldwell, W. P.	Giddings,	McKenzie,	Stenger,
Campbell,	Goode,	McMahon,	Stephens,
Carliele,	Gunter,	Metcalfe,	Swann,
Chalmers,	Hale,	Mills,	Throckmorton,
Cladin,	Hamilton,	Money,	Tipton,
Clarke of Kentucky,	Harmer,	Morrison,	Townsend, R. W.
Cobb,	Harris, Henry R.	Morse,	Tucker,
Collins,	Harris, John T.	Muldrow,	Turney,
Cook,	Hartridge,	O'Neill,	Vance,
Crapo,	Hartzell,	Page,	Walsh,
Cravens,	Haskell,	Patterson, T. M.	Welch,
Crittenden,	Hendee,	Powers,	Whitthorne,
Culbertson,	Henry,	Price,	Williams, A. S.
Davidson,	Herbert,	Quinn,	Williams, James
Davis, Joseph J.	Hewitt, G. W.	Rea,	Williams, Jere N.
Dibrell,	Hooker,	Reagan,	Willis, Albert S.
Dickey,	House,	Reilly,	Wilson,
Douglas,	Huntton,	Rice, Americus V.	Yeates,
Dunnell,	Jones, Frank	Riddle,	Young,
Durham,	Jones, James T.	Robbins,	

NOT VOTING—61.

Atkins,	Cabell,	Eickhoff,	Hewitt, Abram S.
Baker, John H.	Calkins,	Ellis,	Hubbell,
Banning,	Candler,	Errett,	Hungerford,
Beebe,	Caswell,	Evans, I. Newton	Kelley,
Benedict,	Clark, Alvah A.	Evins, John H.	Killing,
Blair,	Clark of Missouri,	Foster,	Kimmel,
Bland,	Clymer,	Fuller,	Knapp,
Blount,	Cox, Samuel S.	Glover,	Lapham,
Boyd,	Danford,	Hardenbergh,	Martin,
Bragg,	Dean,	Hatcher,	Muller,
Bridges,	Dwight,	Hazelton,	Neal,

Pridemore, Pugh, Robinson, George D. Ross, Sexton,	Smith, A. Herr Sparkes, Stewart, Thornburgh, Turner,	Veeder, Waddell, Ward, Willis, Benjamin A. Wood,	Wren, Wright.
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So the House refused to proceed to the consideration of the report in the case of the Doorkeeper.

During the call of the roll the following announcements were made: Mr. MARTIN. I am paired with Mr. HUBBELL, of Michigan. If he were here, I would vote "no" and I presume he would vote "ay."

Mr. BAKER, of Indiana. On political questions I am paired with Mr. SPARKES, of Illinois. If here, he would vote "no" and I would vote "ay."

Mr. SMITH, of Pennsylvania. I am paired with Mr. ATKINS, of Tennessee. If here, he would vote "no" and I would vote "ay."

Mr. FOSTER. I am paired with Mr. WADDELL, of North Carolina. I am in doubt whether the pair would reach this case, but I prefer not to vote in his absence.

Mr. HAZELTON. I am paired with Mr. CLYMER, of Pennsylvania. I do not know how he would vote on this question if he were here; therefore I prefer not to vote.

The result of the vote was then announced as above stated.

ORDER OF BUSINESS.

Mr. SCALES. I now move that the House resolve itself into Committee of the Whole, for the purpose of taking up and considering the bill for the transfer of the Indian Bureau to the War Department.

Mr. FOSTER. I ask the gentleman to yield to me, to bring up a matter which should be considered at once.

Mr. SCALES. I will yield for matters that give rise to no debate.

CONTINGENT FUND OF THE SENATE AND HOUSE.

Mr. FOSTER, from the Committee on Appropriations, reported back the bill (H. R. No. 3846) to provide for a deficiency in the miscellaneous fund of the House of Representatives, with the Senate amendment thereto.

The amendment of the Senate was read, as follows:

After line 4 insert:

That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to meet the contingent expenses of the Senate, namely:

For miscellaneous items, \$20,000.

For folding books, speeches, and pamphlets at the prices specified in the legislative act for the current fiscal year, \$1,500.

Mr. FOSTER. The Committee on Appropriations recommend that the amendment of the Senate be concurred in.

The amendment of the Senate was concurred in.

Mr. FOSTER. The Senate also make an amendment to the title.

The amendment of the Senate to the title was concurred in, so as make the title read: "An act to provide for deficiencies in the miscellaneous fund of the Senate and of the House of Representatives."

Mr. FOSTER moved to reconsider the votes just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. HAMILTON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the Senate of the following titles; when the Speaker signed the same:

An act (S. No. 349) to authorize the commissioners of the District of Columbia to refund a certain tax erroneously collected; and

An act (S. No. 648) to constitute a commission to consider and report a plan for providing enlarged accommodations for the Library of Congress.

NORTHERN PACIFIC RAILROAD.

Mr. BLAIR, by unanimous consent, introduced a bill (H. R. No. 4117) to facilitate the early judicial construction of the fifteenth section of the act of July 2, 1864, entitled "An act to amend an act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes, approved July 1, 1862;" which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

AMERICAN REGISTRY FOR FOREIGN-BUILT VESSELS.

Mr. POTTER, by unanimous consent, introduced a bill (H. R. No. 4119) to allow American registry to foreign-built vessels; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

Mr. SINGLETON. I ask unanimous consent that House bill No. 3064, making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1879, and for other purposes, which has been returned from the Senate with sundry amendments, be taken from the Speaker's table, referred to the Committee on Appropriations, and printed with the Senate amendments. The motion was agreed to.

HATTERAS INLET, ETC.

Mr. BROGDEN, by unanimous consent, presented the proceedings of a large convention of delegates appointed at public meetings of several of the counties in Eastern North Carolina, accompanied by a memorial of several hundred citizens and tax-payers of said State,

praying Congress to make an appropriation of \$150,000 for the improvement of the navigation near Hatteras Inlet, the Neuse and Trent Rivers and their tributaries, and for the removal of obstructions near the confluence of said rivers, near New Berne, North Carolina; which was referred to the Committee on Commerce.

PACIFIC RAILROAD COMMISSIONERS.

Mr. RICE, of Massachusetts, by unanimous consent, introduced a bill (H. R. No. 4118) to establish a board of Pacific Railroad commissioners; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

DAVID H. CONNELL.

Mr. BAKER, of Indiana, introduced a bill (H. R. No. 4120) for the relief of David H. Connell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MERCHANTS' NATIONAL BANK, WASHINGTON.

On motion of Mr. BUCKNER, by unanimous consent, the Committee on Banking and Currency was discharged from the further consideration of the letter of the Secretary of the Treasury, transmitting a communication from the Comptroller of the Currency in relation to the recovery of \$46,878.52 in a suit brought in the name of the United States vs. Bayne and others to recover money lent by the Merchants' National Bank, of Washington, District of Columbia, and the same was referred to the Committee on Appropriations.

LANDS IN ALABAMA FOR SCHOOL PURPOSES.

On motion of Mr. SOUTHWARD, by unanimous consent, the Committee on Education and Labor was discharged from the further consideration of the bill (H. R. No. 2272) granting lands to township 18, range 3 east, and townships 18, 19, and 20, range 4 east, in the State of Alabama, for the use of schools; and the same was referred to the Committee on Public Lands, not to be brought back on a motion to reconsider.

REMOVAL OF DESKS FROM THE HALL.

Mr. YOUNG. I am instructed by the Select Committee on the Ventilation of the Hall to present a report and accompanying resolution and to ask that they be printed in the RECORD. I desire to give notice, by instruction of the committee, that after the morning hour on Tuesday next, I will call up this report for action.

There being no objection, the following report and accompanying resolution were laid on the table and ordered to be printed in the RECORD:

The Committee on Ventilation of the Hall of the House of Representatives, to which was referred House resolution passed March 4, 1878, directing them to "inquire and report whether or not the removal of the desks from the Hall is in any way necessary in arranging for the proper ventilation of the same, and how far such removal will conduce to the convenience of members and the dispatch of public business," beg leave respectfully to report:

That they have given a careful consideration to the two questions presented in the resolution, and are of the opinion that the removal of the members' desks is not absolutely essential to a thorough and perfect ventilation of the Hall; except in this respect, that such removal would give space for larger openings for the admission of fresh air, though it is possible that this object might be attained by other methods, but they would be less convenient and more expensive. It is believed by the committee that the plan of ventilation adopted by the commission created for that purpose during the Forty-fourth Congress, and which has been in a great measure carried out, will, when completed, afford as perfect ventilation as can be procured with the present architecture of the Hall, even without any interference with the desks, though their removal would doubtless aid this plan in the way suggested.

In regard to convenience of members and the proper dispatch of public business, the committee are of opinion that it is very desirable that the desks should be removed. The effect of this would be to so narrow the circle of seats as to bring the outer row thirteen feet nearer the Speaker's stand, leaving that much of space between the rear seats and the iron railing which now surrounds them. For the convenience of writing it is proposed to place a row of tables of suitable length and height for the purpose in the rear of the members' seats, immediately inside the railing, where it is believed members will find it more agreeable to write than at their desks as is at present done, while it is also proposed to attach to each chair a small board or flange for the purpose of such writing as members may desire to do at their seats. In case these suggestions should be adopted the committee think it would be desirable that a small table, three or four feet square, should be placed in each of the four sections into which the space occupied by the seats is divided, from which members who desired to do so could speak.

The committee think it probable that some inconvenience would be felt at first should the desks be removed, but this would soon pass away and be overcome, as the committee is fully convinced, by the many advantages which would result from the change.

A diagram of the floor of the Hall is submitted with this report, which shows in detail the alterations and changes which it is proposed to make. The committee therefore respectfully recommend the passage of the resolution which is herewith submitted.

Very respectfully,

CASEY YOUNG.
C. M. SHELLEY.
ADDISON OLIVER.
J. W. STONE.
J. G. CARLISLE.
JAMES M. COVERT.

Be it resolved by the House of Representatives of the United States of America, That the architect of the Capitol extension is hereby directed to make such alterations and changes in the Hall of the House of Representatives, under the direction of the Committee on Ventilation, as are set out and suggested in the report of said committee this day presented and adopted: *Provided*, The cost of such alterations and changes shall not exceed the sum of \$1,500, to be paid out of the contingent fund of the House.

ELIZABETH BURRIS.

Mr. ROBERTSON, by unanimous consent, introduced a bill (H. R. No. 4121) for the relief of Elizabeth Burris; which was read a first

and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

UNION PACIFIC AND KANSAS PACIFIC RAILROADS.

Mr. WILLIS, of New York, by unanimous consent, submitted the following resolution; which was referred to the Committee on the Judiciary:

Resolved, That the Judiciary Committee of this House be directed to ascertain all the facts and circumstances relating to the making of the two certain contracts between the Union Pacific Railroad Company and the Kansas Pacific Railway Company, bearing date respectively on or about the 23d and 23d of April, 1875, and to report such facts and circumstances to this House with the additional fact whether such agreements are now respected by the parties thereto and the opinion of said committee whether such agreements were in contravention of the general laws governing such cases or the special laws under which said railroad companies are conducted; that said committee for the purpose of carrying this resolution into effect have the usual power to send for persons and papers.

GEORGE CHORPENNING.

On motion of Mr. MONEY, by unanimous consent, the Committee on the Post-Office and Post-Roads was discharged from the further consideration of the petition of George Chorpennning, for compensation for transporting the mails between Salt Lake City and points in California from 1851 to 1862; and the same was referred to the Committee on the Judiciary, not to be brought back on a motion to reconsider.

Mr. CONGER. I suppose that none of the papers now being referred can be brought back on a motion to reconsider.

The SPEAKER. Bills introduced by unanimous consent cannot be brought back; but as to matters reported from committees, there must be an understanding stated that they shall not be brought back.

Mr. CONGER. I move, then, to reconsider the various votes by which bills, petitions, &c., reported from committees have been referred or committed; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRIVATE LAND CLAIMS.

Mr. MCGOWAN, by unanimous consent, introduced a bill (H. R. No. 4122) to provide for ascertaining and settling private land claims in certain States and Territories; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

GERMAIN H. MASON.

Mr. KEIGHTLEY, by unanimous consent, introduced a bill (H. R. No. 4123) for the relief of Germain H. Mason, of Michigan; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

HEIR OF COUNT PULASKI.

On motion of Mr. MCCOOK, by unanimous consent, the Committee on Military Affairs was discharged from the further consideration of the bill (H. R. No. 3158) for the relief of the heir of General Count C. Pulaski, and the same was referred to the Committee of Claims, not to be brought back on a motion to reconsider.

LAND ON SOUTH CAROLINA COAST SOLD FOR DIRECT TAXES.

Mr. AIKEN. I ask unanimous consent to submit for reference to the Committee on the Judiciary the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Committee on the Judiciary be, and they are hereby, instructed to inquire into the present status of lands on the sea-coast of South Carolina sold by the United States Government under the direct-tax sales in the year 1862, and subsequently; and that in conducting said inquiry the said committee is hereby empowered to send for persons and papers.

Resolved, That said committee report the result of its investigations to the House with such recommendations as will best subserve the interests of all parties concerned.

Mr. CONGER. I object to that part of this resolution authorizing the sending for persons and papers.

Mr. AIKEN. If the House will allow me just one word, I will state why that clause is put in. The Government is now erecting a light-house upon one of the points mentioned in the resolution; but operations have been suspended from the simple fact that it cannot establish a claim to the land on which the light-house is being built.

The SPEAKER. This is for reference only.

Mr. CONGER. I thought it was for action, giving the power—

The SPEAKER. It is only for reference.

The resolution was referred to the Committee on the Judiciary.

Mr. CONGER. Not to be brought back by a motion to reconsider.

The SPEAKER. It will be so ordered, there being no objection.

VINCENNES UNIVERSITY, INDIANA.

Mr. COBB, by unanimous consent, introduced a bill (H. R. No. 4124) to amend an act approved March 3, 1873, entitled "An act authorizing the award to the Vincennes University of certain vacant and abandoned lands in Knox County, Indiana;" which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

WILLIAM HOGUE.

Mr. COBB also, by unanimous consent, introduced a bill (H. R. No. 4126) for the relief of William Hogue, of Bruceville, Indiana; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WEATHER OBSERVATION STATIONS, NORTH CAROLINA.

Mr. VANCE, by unanimous consent, introduced a bill (H. R. No. 4127) to establish weather-observation stations of the signal service, United States Army, in the State of North Carolina; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

PAULINA JONES.

Mr. VANCE also, by unanimous consent, introduced a bill (H. R. No. 4126) for the relief of Paulina Jones, widow of Alexander Jones, deceased, Company E, Second North Carolina Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHARLES BOMBONNEL.

Mr. MANNING moved, by unanimous consent, that leave be granted for the withdrawal from the files of the House of the papers in the case of Charles Bombonnel, reported adversely by the Committee on War Claims in the Forty-third Congress.

The SPEAKER. The application, under the rule, will be referred to the Committee on War Claims.

MARY E. LACIA.

On motion of Mr. WOOD, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Mary E. Lacia, no adverse report having been made.

JOHN A. SUTTER.

On motion of Mr. SCHLEICHER, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of John A. Sutter, no adverse report having been made.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. KILLINGER, for one week.

To Mr. BRIDGES, for one week, on account of important business.

To Mr. WADDELL, until Monday next, on account of important business.

To Mr. STEELE, for ten days, on account of his health.

To Mr. HANNA, until Thursday next, on account of important business.

To Mr. HAYES, for two weeks, on account of important business.

To Mr. THORNBURGH, indefinitely, on account of sickness.

R. G. HATFIELD.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a claim for compensation for services rendered by R. G. Hatfield, architect of New York City, in 1877, upon order of United States grand jury; which was referred to the Committee on Appropriations.

METRICAL SYSTEM.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, relative to the adoption of the metrical system of weights and measures; which was referred to the Committee on Coinage, Weights, and Measures.

APPROPRIATIONS FOR SIOUX INDIANS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the acting Secretary of the Interior, relative to certain Indian appropriations heretofore asked; which was referred to the Committee on Appropriations.

LEASING THE WRIGHT BUILDING.

The SPEAKER also, by unanimous consent, laid before the House a letter from the acting Secretary of the Interior, asking that authority be conferred on that Department to lease the building corner of Eighth and G streets, known as the Wright building, now temporarily occupied by said Department, for one year from June 30th, next, and asking an appropriation to pay the rent therefor; which was referred to the Committee on Appropriations.

SOLDIERS MONUMENT, AVON, NEW YORK.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a report of the Chief of Ordnance in connection with House resolution No. 129, authorizing the Secretary of War to deliver to the town of Avon, Livingston County, New York, four cannon for the soldiers' monument in said town; which was referred to the Committee on Military Affairs.

RECORDS OF SURGEON-GENERAL'S OFFICE.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting reports of the Adjutant-General and the Surgeon-General to transfer records to the Pension Office; which was referred to the Committee on Military Affairs.

EDMUND T. RYAN.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, relative to Edmund T. Ryan; which was referred to the Committee on Military Affairs.

PRESIDENTIAL APPOINTMENT OF CADETS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Attorney-General, in response to House resolution of

March 16, 1878, as to the appointment of cadets to Naval and Military Academies by the President; which was laid upon the table and ordered to be printed.

JAMES REA.

Mr. CONGER, by unanimous consent, presented the memorial of James Rea, late United States consul at Belfast, asking relief; which was referred to the Committee on the Judiciary.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from North Carolina [Mr. SCALES] moves that the rules be suspended and that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. CONGER. I submit that the regular order is the morning hour, and that as against the morning hour the motion of the gentleman from North Carolina is not privileged.

The SPEAKER. The motion to go into Committee of the Whole on the state of the Union is in order at all times.

Mr. CONGER. Not till after the morning hour.

The SPEAKER. The motion is in order at any time. The gentleman from Michigan is confounding with this the motion to go to business on the Speaker's table. The motion to go to business on the Speaker's table is only in order after the morning hour. The motion that the House resolve itself into Committee of the Whole on the state of the Union is in order at any time.

Mr. CONGER. Then I raise the question of consideration on that motion in order that we may have the morning hour.

The SPEAKER. The Chair will read Rule 104:

The House may at any time, by a vote of a majority of the members present, suspend the rules and orders for the purpose of going into the Committee of the Whole House on the state of the Union; and also for providing for the discharge of the Committee of the Whole House and the Committee of the Whole House on the state of the Union.

Mr. DURHAM. I rise to a privileged question.

The SPEAKER. The gentleman will state it.

Mr. DURHAM. I desire to make a privileged report from the Committee on Appropriations, and raise in that way the question of consideration on the motion of the gentleman from North Carolina.

Mr. CONGER. I make the point of order that the House was dividing on another proposition.

The SPEAKER. There is a matter already pending. The Chair will recognize the gentleman from Kentucky [Mr. DURHAM] at the proper time. The gentleman from North Carolina moves that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. DURHAM. Does the Chair not recognize me to raise a privileged question?

The SPEAKER. The Chair states that there is a motion already pending and does not recognize the gentleman from Kentucky at present to make his motion.

Mr. HEWITT, of Alabama. Pending the motion of the gentleman from North Carolina I move that when in the Committee of the Whole on the state of the Union we shall again consider the bill (H. R. No. 257) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, all debate upon the pending section and amendments thereto be closed in ten minutes.

Mr. HENDEE. I rise to a parliamentary inquiry. If all these motions be lost will it then be proper to move to take up the District of Columbia bill?

The SPEAKER. The Chair thinks the District of Columbia bill is in the position of unfinished business; and the Chair understands that these motions are made with the consent of the gentleman from Vermont [Mr. HENDEE] provided that the unfinished business shall not lose its priority when he shall see fit to demand the consideration of it. These motions in fact are raising the question of present consideration as against the District of Columbia bill; and if the House shall vote affirmatively, the effect will be to bring up other business than the unfinished business, which is the District of Columbia bill, but it will not lose its place as unfinished business.

Mr. HENDEE. I understand that; but I continually call attention to this bill because I am afraid it will be forgotten.

The SPEAKER. The Chair thinks not. The Chair thinks the gentleman from Vermont is very vigilant. [Laughter.]

The question being taken on the motion of Mr. HEWITT, of Alabama, there were—ayes 55, noes 93.

Mr. HEWITT, of Alabama. I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were ayes 22.

So (the affirmative not being one-fifth of the last vote) the yeas and nays were not ordered, and the motion of Mr. HEWITT, of Alabama, was not agreed to.

The SPEAKER. The question recurs on the motion of the gentleman from North Carolina, [Mr. SCALES] that the rules be suspended and that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. WRIGHT. I move that the House adjourn.

The question being put, on a division, by sound, the Speaker announced. The yeas have it.

Mr. WRIGHT. The yeas appear to have it. [Laughter.]

The SPEAKER. The yeas have it. The question is on the motion of the gentleman from North Carolina.

Mr. CONGER. On that I raise the question of consideration for the purpose of having a morning hour.

The SPEAKER. The gentleman from Michigan reaches his object by voting against the motion. He states that he votes against the motion of the gentleman from North Carolina because he wants to have a morning hour.

The question being taken on the motion of Mr. SCALES, there were—ayes 43, noes 95.

So the motion was not agreed to.

Mr. HENDEE. I now call up the unfinished business, being the consideration of the bill providing a form of government for the District of Columbia.

Mr. DURHAM. I move that the House proceed to consider the Senate amendments to the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making appropriations for detecting trespasses on public lands, and for bringing into market public lands in certain States, and for other purposes.

Mr. CONGER. I do not wish to antagonize the appropriation bill. Therefore I do not insist on the morning hour.

The SPEAKER. The gentleman from Vermont [Mr. HENDEE] is demanding his right, which is the consideration of the unfinished business, being the bill providing a permanent form of government for the District of Columbia.

The question being taken on Mr. HENDEE's motion, there were—ayes 71, noes 70.

Mr. EDEN. A quorum has not voted.

The SPEAKER. A quorum not having voted, the Chair will order tellers, and appoints Mr. SCALES and Mr. HENDEE.

The House again divided; and the tellers reported—ayes 78, noes 68.

So the House agreed to proceed with the consideration of the unfinished business.

The SPEAKER. The gentleman from Maine [Mr. HALE] will take the chair as Speaker *pro tempore*.

GOVERNMENT OF THE DISTRICT OF COLUMBIA.

The House, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 3259) providing a permanent form of government for the District of Columbia.

Mr. EDEN. I wish to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. EDEN. After general debate is closed on this bill, will it then be read by sections and be subject to debate and amendment as in Committee of the Whole?

The SPEAKER *pro tempore*. The House is considering the bill as in Committee of the Whole, and after general debate is terminated the bill will be read by sections for amendment as though in Committee of the Whole.

Mr. EDEN. Can that be prevented by calling the previous question?

The SPEAKER *pro tempore*. The Chair thinks not. The gentleman from Illinois [Mr. BRENTANO] has the floor.

Mr. BRENTANO. Mr. Speaker, whatever the differences of opinion in the committee in regard to the details of this bill may have been, I can state that it was the unanimous desire of the committee to give the District of Columbia an honest and efficient government and to divide the expenses of the District government between the United States and the tax-payers of the District in a fair proportion. In regard to the features of the bill to which I could not agree, the most obnoxious, I am glad to hear, will be amended by the gentleman from Kentucky, [Mr. BLACKBURN,] and that is the provision in the bill that when contracts are let the military member of the District of Columbia commissioners shall have a veto power. This provision of the bill is an extraordinary one in a country where the principle prevails that the military power shall always be subordinate to the civil power. I would never consent to vote for the bill if this provision were not stricken out.

Mr. Speaker, all we want and all I desire in the government of the District of Columbia is an honest and efficient non-partisan government. At the present time we have a temporary government, organized by the act of 1874, by which three commissioners are intrusted with the administration of the government of the District, and these commissioners are appointed by the President of the United States, by and with the advice and consent of the Senate.

The bill now pending provides also that three commissioners shall form the government of the District, but they shall not be as now appointed by the President of the United States. One is to be elected by the Senate, one by the House of Representatives, while the third one shall be a military officer of the Engineer Corps of a certain rank detailed, not appointed, but detailed by the President.

Now, Mr. Speaker, I ask why shall we take away from the President his constitutional power to appoint the officers who are to form the Government in this District? Why shall we put the election of two of them into the hands of Congress and only leave the President to detail as the third commissioner an officer of the rank in the Army which is prescribed in the bill?

If we look at the Constitution of the United States we find that the Government is divided into three separate branches: the first one, the legislative; the second, the executive, and the third, the judicial.

The Constitution defines the powers of Congress. It gives to Con-

gress the power to exercise legislation in general, and to exercise exclusive legislation in all cases whatever over the District of Columbia and over all places purchased for the erection of forts, magazines, dock-yards, and arsenals of the United States.

While the powers of Congress are restricted to legislative acts, the appointment of officers belongs to the President, and, except in such cases as are otherwise provided for in the Constitution itself, the President has to make all appointments.

I have therefore a grave constitutional doubt whether Congress can, by a law such as this bill, take away from the President the power of appointing the officers who are to form the government of the District of Columbia.

But even if no constitutional doubts existed in my mind it would still be for me a question whether it was good policy to give the selection of two commissioners, one to the House of Representatives and one to the Senate. In this connection I desire to refer to Story on the Constitution where he says:

The suggestions already made upon the treaty-making power, and the inconveniences of vesting it in Congress, apply with great force to that of vesting the power of appointment to office in the same body. It would enable candidates for office to introduce all sorts of cabals, intrigues, and coalitions into Congress, and not only distract their attention from their proper legislative duties, but probably in a very high degree influence all legislative measures. A new source of division and corruption would thus be infused into the public councils, stimulated by private interests and pressed by personal solicitations. What would be to be done in case the Senate and House should disagree in an appointment? Are they to vote in convention or as distinct bodies? There would be practical difficulties attending both courses, and experience has not justified the belief that either would conduce either to good appointments or to due responsibility.

The same reasoning would apply to vesting the power exclusively in either branch of the Legislature. It would make the patronage of the Government subservient to private interests, and bring into suspicion the motives and conduct of members of the appointing body.

I maintain that in the interest of an honest and efficient government for the District of Columbia we should keep out of the Halls of Congress the election of commissioners for this District.

In regard to the provision authorizing or directing the President to detail as a third commissioner, for the term of three years, an officer of the Engineer Corps, whose lineal rank shall be above that of captain, I have also great constitutional doubts. If the President has the authority to appoint such officer to a civil office certainly we have no right to restrict him in that appointment. We have no right to tell the President from what class of citizens he shall appoint to this or any other officer. We have no right to confine him in his selection of officers for the District of Columbia or for any other purpose to a certain class of military officers.

But, Mr. Speaker, how does this provision of the bill correspond with the principle which is laid down in the constitution of every State of this Union, that the military power shall always be kept in strict subordination to the civil power? And yet here it is proposed that the President shall select a military officer and none other as one of the officers at the head of the government of the District of Columbia.

These are some of my objections to this portion of the bill; but I have other objections. I find in this bill a provision that those District commissioners which are to be selected by the Senate and House of Representatives shall be taken not only from the citizens of the United States but from actual residents of the District who have resided here for at least ten years previous to their election, and who have during that period claimed no residence elsewhere.

I have looked over the constitutions of the several States of the Union, and I find that in no one of them is an actual residence of ten years required from a candidate for the highest executive office in any State. I find that the time of residence required to make a person eligible to the office of governor of a State varies from seven years down to one year. For instance, it is seven years in Arkansas, six years in Delaware, five years in California, two years in Illinois and Indiana, and only one year in Minnesota.

Now, if for the high office of governor of a State, who is clothed with far greater powers than one of the triumvirs of the District of Columbia, a man is eligible after from one to seven years' residence in the State, why should we require that a member of the board of commissioners for the District of Columbia shall be an actual resident of the District for at least ten years?

Even with the lesser restriction of residence of from one to seven years required in the various States to render a man eligible to the office of governor, it should be borne in mind that that restriction is a restriction of the universal suffrage of the right of the citizens to select their rulers.

But when it is proposed in this bill that when the Senate and House of Representatives shall each elect one of these District commissioners we, the Representatives of the States and of the people, shall restrict ourselves in that selection to such citizens as have been actually residents of this District for ten years, I say that is a restriction put upon the highest legislative body of the nation without any cause whatever. If the States can intrust every voter to select for governor any person who has resided in that State from one to seven years, according to the constitution of the State, why should we restrict ourselves to the selection of persons who have resided in this District for at least ten years?

But, Mr. Speaker, there are some other reasons why we should not be restricted in our judgment in this way. This bill proposes

that the United States shall pay 50 per cent. of all the expenses of the government of the District of Columbia. Now, when we propose that the Government of the United States shall pay one-half of the expenses of this District, should we restrict ourselves in the election of the men intrusted with its government to the actual settlers of this District, who have resided here for at least ten years? Or shall we not have the right to select as commissioners men among the citizens of the United States wherever we can find them, if they are only good, honest, and reliable—men who will act in the interest of the District and at the same time have the interest of the Treasury of the United States at heart?

I have asked myself what could be the reason why in this bill should be inserted a clause requiring the commissioners to have been actual residents of this District for ten years, thereby excluding good men from being selected to those responsible offices. Should it be possible, what I can hardly believe, that the object and purpose was to exclude certain persons from being selected as commissioners of this District? Since the administration of the present President began, Mr. Thomas B. Bryan has been appointed as one of the commissioners of this District. Mr. Bryan has not been a resident of this District for any length of time, but he is considered one of the best, one of the most efficient, one of the most honest men who could have been selected for the office of commissioner of this District.

Mr. Speaker, if we should pass this bill as it now stands, we would be prohibited from electing such as Mr. Bryan, upon whom I look with pride as one who by his many public virtues has once been an honored citizen of Chicago, where he enjoyed the reputation of a man of integrity, of a man of the best intentions, a man of the strictest honesty, whom once a great party honored by the nomination as their candidate for the office of mayor of our city; and when I came here and saw that the citizens of this District hold Mr. Bryan in the same high regard, I felt not only proud, but I congratulated the District on the acquisition they had made in my former townsman. Why, then, should we bind our hands here and give up the power of selecting a man like Mr. Bryan as one of the commissioners of this District because he has not resided here ten years, although nearly all his worldly interest is invested in the city of Washington?

These two are my main objections to this bill. I object to the bill because it takes the power of selecting these high officers for this District from the President, who now has the power to appoint the commissioners of the District just as he has the constitutional right to appoint the judges, the recorders, and several other officers of this District. I maintain that there is no cause why we should take away from the President his constitutional prerogative. Even if the House should be of the opinion that the Constitution does not forbid that the Congress should elect such officers, it seem to me very impolitic to throw such elections, and with them all the evils which Story so vividly described, in the two Houses of Congress. I shall have occasion when we come to consider the bill by sections to offer some amendments in the sense indicated by me, and hope that the bill may be stripped of the obnoxious features so that I can vote for it.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed, without amendment, bills of the House of the following titles:

- A bill (H. R. No. 142) granting a pension to George McCoy;
- A bill (H. R. No. 436) granting a pension to Adam Stinson;
- A bill (H. R. No. 467) restoring the name of Thomas Crawford, a soldier of the Mexican war, to the pension-roll;
- A bill (H. R. No. 1948) granting a pension to Bridget T. Hopper;

and
A bill (H. R. No. 2516) granting a pension to Fannie E. Records, widow of Albert B. Records, late a private in Company G, Fifteenth Regiment Maine Volunteers.

The message further announced that the Senate had passed bills of the following titles; in which he was directed to ask the concurrence of the House:

- A bill (S. No. 76) granting a pension to Mary Ann McFarland;
- A bill (S. No. 221) granting a pension to Mary Kirby Smith Eaton, during her widowhood;
- A bill (S. No. 373) to amend an act to provide for the sale of a portion of the reservation of the confederated Otoe and Missouria, and the Sac and Fox of the Missouri tribes of Indians, in the States of Kansas and Nebraska;
- A bill (S. No. 547) granting a pension to Caroline M. Egbert;
- A bill (S. No. 687) granting a pension to William H. Bagley;
- A bill (S. No. 712) granting a pension to William London;
- A bill (S. No. 767) authorizing the Secretary of War to allow the interment in the national cemetery at New Berne, in the State of North Carolina, of the remains of the late R. F. Lehman, late a commissioner of the United States circuit court in the eastern district of North Carolina;
- A bill (S. No. 929) granting a pension to Hiram Howard;
- A bill (S. No. 930) granting a pension to Mary B. Marsh; and
- A bill (S. No. 931) granting a pension to James Shields.

GOVERNMENT OF THE DISTRICT OF COLUMBIA.

The House then resumed the consideration of the bill in relation to a permanent form of government for the District of Columbia.

Mr. COX, of Ohio. Mr. Speaker, I agree in many respects—perhaps in all respects—with the gentleman from Illinois [Mr. BRENTANO] who has just spoken. I approach this bill, however, from a standpoint which seems to me radically different from that of those who brought it here. Whenever the time shall have come for Congress to consider what should be the permanent government for the District of Columbia, we need to examine the subject in a totally different manner from that in which this bill presents it.

I am one of those who believe that the government of the District by a commission was, at the time such a government was determined upon, a necessity; but I wish to be distinctly understood as putting that necessity upon the basis of other measures which grew necessarily out of the war. Washington was for a long time the headquarters of a great army. It was a fortified camp. It was the place of refuge for those colored people of the South who collected here from the whole district of Virginia over which the Army of the Potomac was campaigning. It was also the place of refuge for many white people who claimed no permanent establishment here. The result of this was, as we all know, that there was here a large floating population, much of it a pauper population. It was dependent for its subsistence upon rations issued by the Commissary Department of the Army. It was dependent, a little later, either upon the charity of the local government or upon the employment which was made by the District authorities in order to give to these people the daily means of life.

Under these circumstances the problem of a safe government was one of no ordinary difficulty. It was met as an exceptional one. It was solved as a war measure, so far as it was solved at all; and we have been simply waiting for the time to come when the ordinary conditions of peace would be so far restored that we might have here the opportunity of re-establishing a government which should be in accordance with the democratic principles of the Constitution of the United States. Such a government we have not had.

The power of Congress over all subjects of legislation for the District implies also the responsibility for the right solution of this problem. We might consent that what was a war measure only shall continue until we are quite sure what ought to be substituted for it. We may, we ought to improve as far as we can this system which has been accepted provisionally, removing from it some of the inconsistencies which have crept into it or were originally there.

For instance, I grant that the independence of the board of health, and also, I believe, of the Metropolitan police, with respect to the commissioners, are obstacles in the way of good government, which ought not to continue; and even though this provisional form of government is to remain in force still longer, these things ought to be corrected.

But since this bill is brought forward as a definite settlement of the District government it must necessarily be examined, not as a mere palliative of some of the evils in this provisional organization, but as an attempt on the part of the Congress of the United States to establish here a government which deserves to be permanent; and I insist that if we pass this bill we shall give a severe shock to the faith of our people all over the land in our ability as a Congress of the United States even to understand what belongs to a municipal organization.

The problem is a difficult one everywhere. If we take the great city of New York as an example, we know full well that thinking men of all parties have been greatly puzzled with the question how in such a city, with a large floating population, much of it dependent perhaps upon charity, not having any permanent residence, giving none of the guarantees of intelligence or even of honesty that may be required to make a good popular government, we may still have one which shall be at once republican and safe, which shall accord with the general democratic principles of our Constitution, and at the same time give us the necessary provision for order, security, and economy of administration.

If in like manner we go to the cities of the South, the same problem is presented, with only a variation of conditions. We shall be judged, and rightly judged, by the world as having here chosen what we think a satisfactory form of government for a municipality, adapted alike to New Orleans, to Mobile, to Savannah, to Richmond. We are here undertaking to decide what should be the method of governing cities in which there is a large element of ignorant and dependent people, of different races, tendencies, and prejudices—an element which, in the opinion of many honest and intelligent persons, makes an unsafe population and one unfit to have full control of local government, local taxation, and local expenditures.

Mr. MAYHAM. Will the gentleman from Ohio allow me a question?

Mr. COX, of Ohio. Certainly.

Mr. MAYHAM. Does not the gentleman from Ohio recognize a difference in the condition of this District and that of the city of New York or New Orleans—a constitutional difference?

Mr. COX, of Ohio. I certainly do, and I am going to speak on that in a moment. The difference, Mr. Speaker, is precisely this, that here the Congress of the United States acting in its wisdom has absolutely full legislative power to establish just such a form of government as ought to be established, to seek the ideal free from any trammels whatever—to come as near what is exactly the right thing as is possible for the wisdom of this body.

Mr. MAYHAM. But is there not a further objection which the gentleman has not considered? Does not the Constitution of the United States devolve upon Congress the duty to legislate on all matters in reference to this District? Is not all legislation in reference to this District of Columbia intrusted by the Constitution itself in the hands of the Congress of the United States?

Mr. COX, of Ohio. Yes, sir.

Mr. MAYHAM. And is there not in that a difference from the case of the city of New York or the city of New Orleans?

Mr. COX, of Ohio. In only one respect. Nobody pretends that Congress can give a municipal charter to the city of New York, but this body occupies in regard to the city of Washington exactly the position that the Legislature of the State of New York occupies to the city of New York. The State Legislature has by the constitution of the State, which is the fundamental law, the right to legislate in general in such way as it may think wise; and I insist we may do here precisely what the Legislature of the State of New York may do in regard to legislating a charter for that city.

Mr. MAYHAM. But can the Congress of the United States invest the municipality of the city of Washington or the District of Columbia with the legislative power which has been delegated by the Constitution to Congress alone?

Mr. COX, of Ohio. The cases are exactly parallel. If the Constitution of the United States delegates to Congress unlimited legislative power (as the State constitution does to the State Legislature) it gives it power to make such a charter for this municipality as it pleases, provided it comes within the general description of a government republican in form. That is all that is needed. It is precisely because of these reasons that whenever Congress approaches this subject anew, as it is now doing, it is bound to make its action say by strongest implication, "We are offering you our idea of what should be a municipal government for a city with such a mixed population." We are free from great difficulties which would embarrass the Legislature of a State. If you were acting in New York you would have a vast population of the city to which the members of the Legislature would be directly responsible. The ordinary local, political, ambitions and influences would then have full play, and the class which has fattened upon the plunder of the city would resist every effort to diminish its power. Every member of the Legislature who was acting on the question would be there influenced more or less by the question how it would affect his own political standing and his political future. But here, having had the experience we have, the people of the country having acquiesced in this provisional government which was formerly made, and being only anxious to see what the wisdom of Congress can provide as a model government for this city and its suburbs, the field is all open to you. You have nothing but the ordinary problem of giving local government to a city. The limits of the District of Columbia since the Virginia part has been cut off are those only of an ordinary town. When you have included every acre of ground in the District, it does not begin to be as large as the municipal territorial limits of a dozen of the cities of the country. The responsibility for action is, in kind, precisely the same. The question propounded is not simply how you will patch up the difficulties which have grown out of the provisional government, (I will help to do that with all my might,) but how you shall establish with a view to permanence a city government for Washington for which you will be willing to be judged. I insist on it, we shall be held before the country to have declared the utter failure of republican institutions as applied to municipal organizations if we pass at this time such a bill as this. There is no other conclusion which can be reached.

Let us look for a moment at the manner in which the problem has been grappled with elsewhere. They have had an able commission in New York to consider the subject, and the report submitted to the governor is full of instruction and suggestion. Propositions of various minds have been submitted by other investigators of the subject. With American citizens it will always be a desideratum to depart as little as possible from our established principles of popular government and to recognize as fully as possible the right to the elective franchise in the people. In trying to harmonize these principles with the necessary conditions of honest and economical administration the question has been raised whether there should be a limitation to suffrage, and, if so, of what kind? Again, if there is to be such a limitation, whether it shall apply to elections of one or both the usual bodies in the municipal council; whether there shall be a popular body elected by universal suffrage, and another elected by restricted suffrage based on property, based on intelligence or on any other limitation which may tend to keep corrupt rings or mobs from running away with the municipality and plundering it as they please. It is claimed for such a system, as the one last suggested, that by the union of an unrestricted popular voice in one chamber of the council, with the conservative effect of the representation of paid taxes in the other, and the necessary consent of both to all levies of assessments and the expenditure of money, the best expression of both popular enterprise and prudent economy will be reached, and the spirit of our national institutions will be best preserved. It certainly is worthy of careful study and consideration.

Now, here in this District we have full opportunity to do the thing that may be wise. There is no limit upon us whatever except to seek that which is right and prudent. And shall we not be rightly held responsible, as I said, for having determined that popular gov-

ernment is unfit for any municipality when we, after a lapse of so many years, turn the provisional government of the war period into a regular and lasting organization such as this bill provides. Gentlemen on the other side of the Chamber must know that what I say is literally true as they have recently gone through the experience of provisional governments; oftentimes speaking of them in no flattering terms; and they and we both have recognized the truth that the time must come when every such transition period must end. Has the time come when the provisional government for the District of Columbia must cease, and a municipal government according to the Constitution of the United States and the established custom of all the several States, shall be established?

Mr. BUCKNER. Will the gentleman allow me to interrupt him?

Mr. COX, of Ohio. Yes, sir.

Mr. BUCKNER. The gentleman speaks of the provisional government as a war measure. Am I correct in so understanding him?

Mr. COX, of Ohio. As a measure resulting from the war; yes.

Mr. BUCKNER. The provisional government was established in 1874, long after the war. The government of the District of Columbia which that set aside was the government originated in the war, and the provisional government was to cure that.

Mr. COX, of Ohio. I am of course as well aware of that as the gentleman from Missouri. But what I said is none the less true that stumbling on with our experiments of this kind, we went from one to another during a period longer possibly than was wise or necessary, but still this act of 1874 was only one of the series, and every one of its characteristics shows that it was merely provisional. I earnestly believe, Mr. Speaker, that there are abundant means by which, in entire accord with safety and with good government, we may do that which this city needs. It is all nonsense for us to pretend we have saved the principle of popular election by a bill like this. It simply makes a farce of it. A recent historian of the French Empire has called attention to the manner in which the first Napoleon by means of imperial decrees, such as he saw fit to make, took away all real power from the legislature while he pretended to leave it in possession of its functions, so that it should become the mere registrar of his decrees and have in fact no power of any sort whatever. The form was saved, but the essence was destroyed. There was the outline of a form of republican government, but the substance, the spirit of it was absolutely gone. We seem to have turned back to imitate those old provisions of the Napoleonic imperialism, and by a singular parody of popular institutions this bill comes as nearly as possible to a reproduction of by-gone forms of despotism, which were deliberately framed for the purpose of cheating the public into the belief that they had republican government when in fact they had nothing but the decrees of an autocratic ruler.

In all this I am as far as possible from intending to argue that it is necessary to return at once and by a single step in the District of Columbia to a government of universal suffrage, controlling the expenditures, the legislation, and the whole local administration of the city. I simply say we have the power and the opportunity both combined to determine here just what may be best; to try just such an experiment as we are willing to say we would have New Orleans or Mobile or New York or Boston follow; that we are willing, and the people of the United States are willing, to limit suffrage in this District, if necessary, just as far as is necessary and just as long as is necessary; and that we may, by a system of gradual approaches to the most popular form of local government, basing our qualification of electors on education or on taxation, soon bring about that condition of things in which we may have a municipality here that shall be a model for similar cities everywhere. It is because this bill seems to me to depart radically from such an idea, because it seems even to turn its back upon municipal governments such as we are accustomed to, that I am convinced we ought not to pass it. I, for one, would not be willing to be responsible for the result, whether it be looked at as a matter of theory or one of practical business.

When we leave general principles and come to look at the details of this bill there are many very astonishing things in it. The gentleman from Illinois [Mr. BRENTANO] who has just taken his seat has referred to some of them in very proper terms. I agree with him that it is no recommendation to the bill that it provides for detailing an officer of the Army to act as one of the commissioners who are to act as civil governors of the District. I have as much faith, Mr. Speaker, in the officers of the Army as any one, and from long personal association and intimate friendships among them am not likely to underestimate their excellent qualities. I believe, however, that like other men they are mortal and human. I believe they are fallible. I believe that the experience of this District is the one experience of all others to which hostile critics of the Army would refer to prove that an engineer officer of the Army colluding with a contractor may make the very worst condition of things in such a municipality that can possibly exist; such a condition of things that this bill of 1874 might be a necessity to rid the District of it. Therefore it will not do to argue that necessarily the appointment of an Army officer to supervise the local administration is to secure purity. It will generally do so if he is appointed, and if he is employed under the sanction, the restraints, the kind of subordination, the appeal to his honor, to which he is commonly subjected. But when you put him into totally new and untried circumstances, he is all the more likely to fail because he is unaccustomed to civil administration. He is and

should remain a military officer as contrasted to a civilian. The considerations which have most weight in his mind are not those which a civilian would give equal importance to. His methods will be different, his ideas of rule and of subordination will be different, his relations to his equals and his inferiors in the civil administration will not and cannot be those demanded by our political life. He would cease to be a soldier if in these respects he should become a political governor. The history of our Army, like that of the whole world, establishes this.

If he is to be simply a civil engineer and surveyor, in supervision of the public improvements of the District, there is no more reason here than in New York why he should be at the head of the city government, instead of being a scientific employé of it.

This bill, then, provides for three commissioners of the District of Columbia, one of whom shall be an officer of the Engineer Corps, who shall be detailed for a term of three years and until his successor shall be appointed and qualified, and who shall be assigned to no other duties during said term. In this there is no provision whatever for removal or for putting an end to the detail. When he has once been appointed he is dictator practically for three years over the affairs of the District. His opinion as to the improvements to be made, the style and cost of sewerage, of paving, of the grades of streets, will all be in practice the law for the city. I think it will be at once apparent to any one who has taken the trouble to run over the newspapers for a month or two past and read the paragraphs going the rounds of them, in which this officer of the Army or the other officer is declared to be in favor of one kind of pavement for the city or another, that contractors are already forecasting the probable appointment, and are mustering a lobby to secure influences for the designation of an officer known to favor the use of patents which they control, and the conflict of rival interests has already begun.

The bill also provides for the election of one commissioner by each House of Congress. I will not spend a moment on this provision of the bill, except to say that I perfectly accord with the gentleman from Illinois [Mr. BRENTANO] in the opinion that the election by Congress of such officers is a violation of the Constitution of the United States. The appointing power is not here, and it seems to me like a mere juggle with words to say that the legislative power means the appointing power. The legislative duties are those which pertain to the making and passing of laws, and are as far as possible from the duties which belong to the Executive in the appointment of officers who are to administer the laws.

Then I concur also in the objection which the gentleman from Illinois raises to the long period required for residence in the District of Columbia before a man can be elected a commissioner.

Mr. BLACKBURN. I do not wish to interrupt the train of argument of the gentleman; but I would like, if he has no objection, to ask him a question.

Mr. COX, of Ohio. Certainly; I yield with pleasure.

Mr. BLACKBURN. Seeing that the gentleman is leaving that branch of the discussion, I wanted to ask whether he does not predicate that portion of his argument upon the assumption that the commissioners of the District of Columbia are not municipal officers, but Federal officers? Does he not assume that they are officers of the United States, as in contradistinction to being municipal officers or officers of a corporation?

Mr. COX, of Ohio. I do not know exactly how to answer the question of the gentleman from Kentucky, for this reason: that since these officers are appointed by the Government of the United States, I do not know myself how they can be other than United States officers; for if the Congress of the United States can appoint any officers other than United States officers I am greatly at a loss to know what those officers would be.

Mr. BLACKBURN. The gentleman will remember that the statute of 1807, under which the government of this District went into operation, which has been supplanted by the present form of government, expressly declares that the territory embraced within this District shall hereafter be known as the corporation of the District of Columbia, making it a municipality.

Mr. COX, of Ohio. That is what it ought to be, and that is the thing that we ought to make it by law, although I do not see that we are going to do it by this bill. Our duty is to create, by law, a self-governing municipality, as they are created within the States by State legislation; and we have here an opportunity analogous to that which an agriculturist would have when a model farm is put in his charge. You may and should have a model municipality. You are supposed to have here in Congress the collected wisdom of the country; men who have seen the working of municipalities in all parts of the nation, both North and South, and can compare the advantages and defects of all; and I would be glad to see an effort made in earnest to present to the country the model which the experience of a century of wonderful growth and variety of circumstances would construct.

But what I was going to remark was that the provision making ten years' residence the qualification of a commissioner of the District of Columbia, whatever might have been the intent of the framers of the bill, must be regarded as simply marvelous.

Some of us remember what Washington was ten years ago. It was then only beginning to recover from the effects of the war. Up to that time we might properly call it a petty country town. Within

the last ten years nearly every important block of buildings along the avenue has been put up. Within ten years capital from the North has built the great Central market-house, and perhaps others in different parts of the city. Within ten years nearly every prominent building in the city, except the Government buildings, have been built. You may pass through the streets of the city into the north-western section of it, where miles of noble avenues are lined with beautiful residences, or may go eastward on Capitol Hill, and you will find that ten years ago the land on which these solid blocks now stand was open, vacant country lots. Within ten years a city has been built up more beautiful and more regular than any other on the continent of its size. Within ten years the money needed for these improvements has been brought into the District of Columbia by enterprising citizens of other parts of the Union. Everybody knows that it has come from the North. They were northern capitalists who reconstructed and rebuilt this city on the ruins of what it was before. The money for this purpose was not here, and the South, poverty-stricken by the scourge of war, did not possess it. But whether it had come from South or North the anomaly and the wrong would be the same, when those who have rebuilt the town by the liberal expenditure of their wealth are told that everybody who has had any hand in these improvements, everybody who has brought capital here and co-operated in the labor and the cost of making the new Washington, shall be excluded from a seat in its government; that we must go back to the time when it was a dull country town and seek the men who were here then to fill the chief municipal offices to-day. The mere statement of the thing shows the absurdity of it.

Mr. HUNTON. Will the gentlemen allow me to interrupt him for a moment?

Mr. COX, of Ohio. Certainly.

Mr. HUNTON. What I desire to say is in regard to the right of Congress to name the officers to govern this District instead of making them presidential appointments. I desire to call the attention of the gentleman from Ohio to a case that was decided in the State of Pennsylvania:

The constitution of Pennsylvania, in force in 1817, provided "that the governor shall appoint all officers whose offices are established by the constitution or shall be established by law, and whose appointments are not herein otherwise provided for." The court in construing this article of the constitution of that State, in the case of *Lieuman vs. Sutherland*, (3 Sergeant and Rawle, 149,) used the following language: "The word office is of very vague and indefinite import. Everything concerning the administration of justice, or the general interest of society, may be supposed to be within the meaning of the constitution, especially if fees or emoluments are annexed to the office. But there are matters of temporary and local concern which, although comprehended in the term office, have not been thought to be embraced by the constitution. And when offices of that kind have been created, the Legislature have sometimes made the appointment in the law which created them, sometimes giving the appointment to the governor, and sometimes giving the power of removal to others, although the appointment was left to the governor. The officers of whom I am speaking are often described in acts of Assembly by the name of commissioners—such, for instance, as are employed in laying out roads and canals and other works of a public nature. Yet all these perform a duty, or, in other words, exercise an office. So, likewise, officers within the limit of a corporation are generally appointed by the corporation unless they concern the administration of justice." The opinion from which I have just quoted was delivered by Chief-Justice Tilghman, and concurred in by Gibson and Duncan.

I would say to the gentleman from Ohio that in the Forty-fourth Congress this question of a permanent government for the District of Columbia was submitted to a joint committee of both Houses of Congress, of which I had the honor to be a member. When this question of the appointment of commissioners came up before the joint committee, counsel learned in the law appeared before the committee to argue and determine whether this mode of appointment was constitutional or no. We had the opinions of counsel upon the subject, and the committee came to unanimous conclusion, I believe, (there certainly was only one exception,) that Congress had the right to appoint the commissioners for the District of Columbia in the manner prescribed by this bill. I think if my friend will examine the authorities on the subject he will come to the same conclusion.

Mr. COX, of Ohio. I am not sorry to have the interruption of the gentleman from Virginia, [Mr. HUNTON,] although it has perhaps gone rather beyond the limits usually allowed in such cases. The report, which was certainly an ingenious one, made by the committee of which the gentleman was a member, and prepared, as I believe, by himself, has been before me, and I have examined it. Mr. Speaker, I have been too long at the bar not to know that it is often easy to find a piece of special pleading in a judicial decision which will seem to go on all fours with the argument we may wish to make and which may yet be quite contrary to the general current of decisions on the subject and contrary also to sound legal principles and to common sense.

I still insist that, under the Constitution of the United States, the distinction between the legislative power and the appointing power of the Executive has been so fixed, so clearly stated, from the earliest days of the Government to this time, that it would work an absolute revolution to admit the correctness of the principle stated by the gentleman in the report from which he has read. Such a principle would cover all appointments by the President of every kind, from the Pacific to the Atlantic. It would cover the appointment of every officer of a Territory, of every collector of a port, of every revenue officer in the Treasury Department. They might as well be appointed by Congress, under the authority of the case in the State of Pennsylvania which has been read, as the officers of the District of Columbia.

No, sir, the fact remains, and will remain, that the authority of Congress over the District is limited to legislation by the Constitution, which excludes the power of appointing its officers.

But I am using time, Mr. Speaker, (and the gentleman from Virginia is of course partly responsible for it,) which I intended to devote to other things. Let us consider another provision of this bill. In the sixth section of this bill is a provision that no person shall be eligible as a member of the council which is to be established unless he shall have property of the assessed value of \$3,000 or more. When we endeavor to ascertain what the duties of this council are we find that they are practically *nil*. It is to have no legislative power; it cannot pass an ordinance; it cannot make a police regulation; it has simply the power to pass upon appropriations and estimates, approving or rejecting, but neither originating them nor changing their character. It may have the negative power of a veto, if you please, upon expenditures; but what does that amount to in such a council? A council with no legislative powers, with no pay for its services, whose interest it would therefore be to do nothing, unless contractors in whose favor appropriations are submitted by the commissioners could make it for the interest of the members to attend and vote for their approval. To guard against the temptations to corruption thus skillfully offered the property qualification of \$3,000 is supposed to be sufficient.

There may be those who think that the property qualification of \$3,000 is one which will be sure to bring into such a council men of real character and standing; but I fancy that no gentleman familiar with municipal government or with the value of city property needs to be told that \$3,000 would be a very low estimate of the value of any common restaurant, or saloon, or drinking-shop which you may find upon any corner of the streets throughout the city.

Therefore in regard to the class of men which are most commonly held up to view as those whom the citizens should most avoid, those who would be most familiar with the "machine" methods of seeking and obtaining control of your city politics and city improvements, this provision will practically be no exclusion at all; it would be a monstrous absurdity to talk of it as an exclusion.

Do we need to be told that it is easy for irresponsible persons to have property in their names, not paid for, or upon which next to nothing has been paid, covered by mortgages equal to or beyond its value, to the extent of more than \$3,000? It seems to me exceeding clear that if this bill shall become a law this part of it would be a mere sham, and you would have all the odium which could attach to a limiting of the rights of citizens to hold office, without a particle of protection. You would probably have a council that would be in the market for every rich contractor who should see fit to buy its votes in favor of his appropriations or would levy black-mail upon those who did not offer to buy them.

It is also proposed—and upon that I shall perhaps spend a few moments by and by—to provide that of the expenditures for the District government a given proportion, say 50 per cent., shall be borne by the United States. Now, while from one point of view there are arguments which make that proposition appear just, there are things implied in it which a moment's consideration would show to work incalculable mischief.

For example, suppose it is thought desirable to enter into contracts for paving V street or Z street, or some other street far out beyond the present boundaries of the city. The people owning property there, who may be interested in having the street paved, will be told that the Government of the United States is to pay for half of the expenditure, and therefore they may just as well have an expensive pavement as any other. It would be said to them, let us have a costly pavement, for it will only cost you as much as the very cheapest would if the Treasury of the United States did not pay half of the expenses. Unfortunately, according to the common history of these things, the council, which seems to be specially planned for such a work, will be easily brought to yield their assent for a consideration. You will have the interest of the locality to make an extravagant expenditure of money, getting their improvements, as they will, at half price, and we shall witness a revel of contractors to which the days of former "rings" and "bosses" will be as nothing, winding up with new disgraceful explosions and new efforts to organize a local government to repeat the same experiences in different form until we return to the sound principles of self-government under proper checks and restraints, and with such limitations upon the power of running into debt as shall force the application of John Randolph's "philosopher's stone"—"pay as you go."

Of course the committee which has presented this bill would deplore as much as any of us such results as I have described; but it seems to me that they would inevitably follow from the adoption of the measure as it stands.

Mr. HUNTON. I am sure my friend does not wish to misstate the provisions of the bill; and if he will allow the interruption—

Mr. COX, of Ohio. Certainly.

Mr. HUNTON. I will say that if the gentleman had read the bill carefully he would have found that the commissioners are to make out an estimate in detail—

Mr. COX, of Ohio. I am perfectly well aware of that.

Mr. HUNTON. And that no street in the city of Washington can be paved or otherwise improved unless that item of appropriation shall pass both Houses of Congress and be signed by the President.

So that at last the matter is left entirely within the control and under the jurisdiction of the Congress of the United States.

Mr. COX, of Ohio. The extent to which the Congress of the United States will give its attention to the minute details involved in these improvements is a thing about which gentleman may, if they please, console themselves with the idea that it will be sufficient. I do not. I find that practically when you have such a government as this the statement will be, "You must trust this local government." There was exactly this same power in Congress in 1874; exactly the same power in 1870 or in 1867. The question is, how far that power was in fact exercised; whether we shall undertake to do the details of the work and thus fill our lobbies with those who have an interest in these matters, or whether we shall content ourselves with the belief that we have a city government which we must trust and thus will turn over to it all such questions? I am not deceived, I think, in believing that the alternative will be this: either we must do all the details of the work with the lobby filled with contractors clamoring for contracts, or we must turn the matter over to the city government. I assume that the latter will be done as being the natural, indeed the only practicable thing to do.

We have, then, the provision that no person holding any office under the United States or the District of Columbia shall be eligible as a member of the council. Why exclude those persons who are here in the Departments? They are respectable men and they have an interest in the welfare of the city. Many of them are among the most permanent of its citizens.

We next come to the qualifications of those who may vote for councilmen. It is provided that the voter shall have been an actual *bona fide* resident of said District of Columbia for the three years and of the election precinct in which he offers to vote for the six months last preceding the election at which he offers to vote, claiming no residence elsewhere during that time, and who shall have paid the poll tax imposed upon him by law.

Whether this limitation will exclude those whom you wish to exclude is a question about which I think we may rationally have very great doubts. The bill provides for a residence of three years; but many of the class that you will most seek to avoid as voters in the District are those who have been here for more than three years. My own opinion is that in this District, as in the States generally, the true theory of the limitation as to the term of residence necessary to qualify a person for the use of the elective franchise is naturally and only that of time enough to prove his *bona fide* intention to remain as a resident. For example, in the State of Ohio we say that any citizen of the United States who may have been in the State a year shall have the right to vote. Why a year? Simply because, in making a change of abode from one portion of the country to another a period like this seems to be a sufficient guarantee that the residence is not merely temporary; that the person does not come merely to work through harvest and then go away again; that he comes to reside. When he has remained more than a year he has the right to act as a citizen of the State of Ohio in the exercise of the elective franchise. On the same principle we proceed in regard to changes of residence within the State itself, where the shifting of population is more rapid and less stringent tests of *bona fide* residence are necessary. In changing from one county to another, or from one city to another, we require only a month's residence, and as to changes from one ward to another, only ten days; thus reducing the period in order to accommodate it to those smaller changes of abode which are constantly occurring in our population. The intent is simply to test the residence. The right resides in the citizen as a citizen. It is by virtue of his being a citizen of the whole United States that he has the right within a State to exercise local citizenship, after removing to it from another State. I insist that this is a wise rule, and the only wise rule. Here is no question of the naturalization of foreigners; it is only the exercise of the right of locomotion by citizens of the United States, to whom the Constitution guarantees the right of citizenship in each and all of the States, and *a fortiori* in the Territories and Districts over which the United States may have unqualified control.

But of all limitations that of residence is the least reliable for any such purposes as that for which, in this case, you desire to use it. If you will make a limitation based upon education or upon property by the requirement of payment of a certain amount of tax, you adopt a test to which all resident may be alike subjected, and can thus sift out the population that you intend shall be the voting constituency of the District. Such a plan will be at least intelligible, and would no doubt tend to correct many of the evils which led originally to taking the government entirely out of the hands of the people. It would certainly be a much nearer approach to a useful discrimination as to the right to vote than the test of mere length of residence.

But lest I should weary the House, I will notice only one or two points more. I am informed that in the bill as printed the provision for the organization of the commission is somewhat different from that which the committee have determined finally to present to the House. The provision as it stands in the bill is that—

All contracts for the construction, improvement, alteration, or repairs of the streets, avenues, highways, alleys, gutters, sewers, and all work of like nature shall be made and entered into only by and with the official consent of a majority of the commissioners of the District, of which majority—

I beg the House will give its attention to this—
of which majority the commissioner appointed from the Engineer Corps of the

Army shall be one. And the entire control and supervision of the execution and fulfillment of all contracts entered into, and the preparation of all plans, specifications, and estimates for work as above mentioned, shall be vested in and exercised by that commissioner of the District of Columbia appointed from the Engineer Corps of the Army, as hereinbefore provided.

Now I am told that in the amendment proposed (if I am wrong the gentleman from Vermont, I trust, will correct me) it is intended to require the unanimous agreement of the commissioners. I wish simply to say that in my judgment this does not alter the objectionable character of this provision; for it will be observed the entire control and supervision of the execution and fulfillment of the contracts is in the engineer officer.

Mr. HENDEE. That is stricken out.

Mr. COX, of Ohio. How is it as to the provision that "the preparation of all plans, specifications, and estimates shall be vested in and exercised by that commissioner appointed from the Engineer Corps?"

Mr. HENDEE. That is retained.

Mr. COX, of Ohio. Let us see, then, how it will stand. The engineer commissioner will be the only one who by law can make estimates of plans; the only one, therefore, who can submit them. If he chooses to say, "I will not estimate for this street or avenue; I will not make a plan for that sewer or improvement," the other members of the commission are absolutely powerless. They may present that which he makes estimates or plans for; nothing else shall they think of; nothing else shall go to the council for their approval.

Now, what is the result? If you must have the unanimity required you leave it in the power of this one commissioner to say, "Nothing shall be done except as I will. I make your plans; I make your estimates. If I say that I dissent from you you can do nothing." The other two may stand as they please. "You have to do what I wish or nothing can be done." The engineer officer can say, "You shall do it or you cannot budge one inch." If that is what you call a government of three, it strikes me we will have to go to France again for its likeness, and seek its prototype under the First Consul when he had two colleagues who shared the power with him nominally under the law, but only in name, for Napoleon Bonaparte was the first and last and only real government. And he was, if not an engineer officer, an officer of the artillery and ordnance, which is the next thing to it.

We have also a provision that no member of the council shall receive anything for his services, which I must insist is only enlarging the temptation to accord with the estimates which may be made, and to grant just such appropriations as are asked, only as contractors and others may make it for their interest to do so.

The assumption that the council may be expected to be made up of pure men only is entirely gratuitous. If that were sure to be so, we ought to give them the whole power at once. Mr. Speaker, the more carefully we consider this bill the more thoroughly I think we shall find that if we should adopt it we shall be drifting away from everything that we have hitherto marked in this country as the insignia of real popular government and from that which we have regarded as the proper type of municipal government. Grant that evils have originated in nearly all our city governments; grant the necessity for reform—I not only grant it, I insist on it—but we still have to face the question, "How we are going to govern consistently with the general exercise of the elective franchise?"

Here in this city of Washington you have your model farm, to use the simile I have before applied, and if we cannot, now that we are attempting to make a thorough revision of the organic law of the District, provide something that approaches nearer to popular government than this we had better give it up. We can still remove some of the present inconsistencies and anomalies. We can put the board of health and the municipal police under the control of the existing commissioners, as they are now appointed. We can thus take away many of the practical obstructions to responsible administration now found to exist. We can then run on till we are ready with a better plan of government; and I must repeat it, we shall not in my opinion do our duty, if we undertake at any time a thorough revision of the government of the District of Columbia without grappling squarely with this question: "What ought to be the municipal government for a city of some two hundred thousand inhabitants made up of the mixed population we have here?" Such a government the citizens of Washington have a right to. The fact that Congress may, if it will, play the petty part of a city council, does not make it either necessary or right to do so. The fact that it may, if it will, disfranchise the people, is no justification for doing so. They have an inalienable right to the freest, the most popular form of municipal organization which is compatible with the safety of life and property, with the preservation of good order, and the security of the national property which is here. For us to give them less, will be to be false to the most fundamental principles of American liberty.

Mr. CLAFLIN. Mr. Speaker, the committee in approaching the consideration of this bill was I believe actuated by a desire to give to this city and the District of Columbia a non-partisan government, and in pursuit of that object it has labored during the past four months. This bill was brought before the committee by the gentleman from Vermont, [Mr. HENDEE,] who, in conjunction with the gentleman from Virginia, [Mr. HUNTON,] had been considering it for the last two years.

Why should this bill be brought into the House at this time? In 1874, Congress in a moment of desperation, owing to the ill condition

of affairs in the District, struck down its then existing government and placed the administration of its affairs in the hands of a commission. It also instituted a board of audit, consisting of two high officers of the Treasury Department, with the power to audit all claims against the District of Columbia and to issue certificates for those claims exchangeable in 3.65 District bonds.

After two years' experience it was found that this board of audit was going on at a reckless rate and in a moment of desperation Congress checked its operation, stopped appropriations for the improvement of the District, and imposed a penalty upon the commissioners in case they attempted to increase the debt of the District; yes, Mr. Speaker, imposed a fine of \$10,000 and imprisonment for one or more years if they increased the debt of the District one dollar. All these years the people of the District have expected some permanent form of government to be established. But nothing has been done, and why? Simply from the inherent difficulty of making any improvement in the situation of affairs in the present condition of things. By the Constitution the affairs of this District are placed exclusively in the hands of Congress just as a fort or any public improvement belonging to the United States, and it is for that reason Congress came forward, and by a commission took the power from the hands of the people and establishes this temporary form of government until a better one can be substituted.

The gentleman from Ohio [Mr. Cox] finds fault with the form of the commission. He says we should take great pains to establish a form of civic government here which should be a model for the whole United States. Where is there another piece of land in the United States that is situated as the District of Columbia is? Where have we another territory that is exclusively in the hands of Congress? Why is it in the hands of Congress? Simply because it belongs to the United States as its capital; the same as the land of a fort belongs to the United States for the purposes of a fort. No other city in the United States is in any such condition. After so long experience it is thought best that the commission, or something like the commission, should stand as the motive or as the executive power in the District. No other plan has ever yet been broached which is acceptable to Congress. The gentleman from Ohio himself who criticizes this bill so fully does not place before you any form of government. He only says we should get up some sort of a municipal government; which is a self-evident fact, surely, long since patent. This incorporated in our bill is the best the committee can establish for the present time, and worthy of the fullest consideration.

The first thing that the bill does is to take away from the various heads of Departments in the District of Columbia the power which they now possess and place it in the hands of the commissioners. You certainly should have some head in the District. There is none now. Here are five or six boards, acting independently of each other, coming to Congress for increase of power, coming to Congress for money, doing these things without responsibility to any one; appointing their men and discharging them without any accountability except that in an indefinite way the House may give them attention for half an hour some odd morning.

Now the first thing that strikes the eye of any one in considering this matter is the want of responsibility of this commission. You cannot have it here in Congress. You cannot take time to consider the details of the affairs of this District. They will be running to waste constantly. The people have no idea of what is going on in a secret commission, as all these things are done necessarily in secret by three persons. There is no way of having any curtailment of their desires or their plans. The committee then thought it was better to substitute a council. The gentleman from Vermont [Mr. Hendee] dislikes the council because it savors of the old board, he says, in which there were twenty-four men. Now there are twenty-four men in almost every Territory of the United States acting as the council. That is the usual number and it is very convenient. By this bill the council is elected for two years, one-half one year, and the other half next year, thus giving a continuous body of experienced men.

On the one side they say this council has no power. It seems to me it has a great deal of power. Not a dollar of tax can be laid without the consent of this council. Not a dollar of money can be raised without its consent. No man can be appointed under the bill to an office of which the salary is over \$1,500 without the concurrence of this council. Every contract for repairs of streets, lanes, avenues, alleys, and for public buildings—every item of expense must come before this council before a dollar can be expended.

It seems to me that is considerable power. I can assure this House if there had been any such power as that in the old board of public works there would not have been a debt of \$25,000,000 saddled upon this little community to-day, made by the authority of Congress; made by a board of public works, which was in effect responsible to nobody; appointed by the President, it is true, but in reality responsible to nobody. They had the whole care of the streets and alleys and avenues of the city and of the District buildings; and after they had once run the District in debt, that debt must be paid through the action of Congress, as we have found to our cost.

That is the power of the council in the negative form. We have substituted the board of commission for the council as the usual motive power. In cities the council commonly initiates taxes and plans public works. We simply reverse that. We place the power in the hands

of the commission. Why? Because the United States must pay one-half the expenses of this District or the people here must repudiate. And if Congress or the country pays one-half the expenses they certainly should keep a very sharp lookout as to how those expenses are incurred.

Some of the details of the bill have been referred to, especially the length of residence in the District, that proposed being longer, I think, than in any other city or State in the Union. This bill is a compromise. Some of the gentlemen on the committee wished to have five years; some wished to have one; some wished to have three. In all small communities it has been found necessary to limit the residence more closely than they do in large ones. The good State of Rhode Island, which is so small in territory that people run into it very easily from surrounding States, has fixed the term of citizenship two years. Here is a District into which people can run from Maryland and Virginia and nominally settle and nobody knows them. They may be here in a corner of an adjoining State, just over the line of the District, and no one knows but that they have a residence in it. It was thought that if a residence of three years was required it would be easily ascertained whether people were residents here or not. It was also thought essential and fitting that known residents should administer the affairs of the District, and for that reason a term of three years was placed in the bill. I care not what the term is: three or two or one years. Three, perhaps, will answer the purpose best. The great thing is to give the people the power by vote to stop the expenditures, to regulate their affairs, to take care of their schools, their streets, their highways. They have no such power now. In the whole Union there is not a place with a population of one hundred and fifty thousand where the people are not allowed to vote.

Gentlemen think that the right to vote provided for in this bill does not go far enough. Let us begin by adopting this form of government, and if we find it imperfect it can very easily be changed; but unless we begin we shall never have a government here that is acceptable to the people of the District or to the people of the country.

Mr. Speaker, I will not go into the details of the bill, because when we come to consider it under the five-minute rule they can be discussed; but I will simply say that the great purpose of the committee was to establish here a commission that should be non-partisan and to enable the people by their votes to stop unnecessary expenditures and to watch over their affairs; and another object of the committee was to establish at some rate or other the proportion the United States Government shall pay toward the expenses of the government of the District and what proportion the people of the District shall pay.

Now, practically for the last four or five years the people of the District have paid one-half of the expenses of its running expenses, but of course they never know whether they are expected to pay one-half or the whole. It is impossible for the people to pay the whole, for it would make a tax from 4 to 5 per cent. on all the property in the District and would lead to the creation of a debt which the people of the District would in the end have to repudiate.

Virginia stands to-day considering whether it will pay its public debt, which only amounts to \$30,000,000, while the people of this District are already saddled with a debt of \$25,000,000. I wish I could say positively that that amount would cover the whole debt. I fear not, but I think that Congress should establish what proportion it would pay for the government of the District, or everlasting disgrace must come upon it.

Gentlemen may say possibly "we can make the appropriation from year to year," but nobody will then know whether the appropriation will be made or not. It should be one of the fixed appropriations so as to enable the people of the District to regulate their affairs accordingly.

I know that it is the desire of the House to consider the bill by sections, therefore I will no longer occupy its time upon the question of its merits as a whole.

Mr. LATHROP. Before the gentleman takes his seat I desire to ask him one question. I should like to know if it is the purpose of the committee by this bill to abolish the municipal corporation of the District of Columbia?

Mr. CLAFLIN. There is none; there is only a commission composed of three men.

Mr. LATHROP. When was the municipal corporation abolished?

Mr. CLAFLIN. In 1874.

Mr. LATHROP. Then there is no municipal corporation here now?

Mr. CLAFLIN. There is none; there was a municipal corporation from 1802 to 1874.

Mr. LATHROP. Then do I understand the gentleman as saying that the committee have recommended a mere private corporation for the government of this District?

Mr. CLAFLIN. It is not private.

Mr. LATHROP. It must be either private or municipal. I understood the gentleman to say that it was the purpose of the committee to abolish the municipal corporation.

Mr. CLAFLIN. No, I said it was the object of the committee to abolish the present temporary government and establish the municipal government, in which the United States is one party and the people of the District another.

Mr. LATHROP. Does the gentleman know of any precedent for

creating the corporation for the government of a municipal body separate in existence, as is proposed in the third section of the bill?

Mr. CLAFLIN. I know of no other community situated as this one is.

Mr. LATHROP. Then this is to try an experiment in government?

Mr. CLAFLIN. It is not an experiment, because it has been tried here for seventy years practically. This district was governed by a municipal council, the lower body of which was elected by the people, the upper body, the aldermen, were appointed by the President.

Mr. LATHROP. Pardon me a moment. I find that section 2 of the revised statutes for the District of Columbia reads as follows:

The District is created a government by the name of the District of Columbia, by which name it is constituted a body corporate for municipal purposes, and may contract and be contracted with, sue and be sued, plead and be impleaded, have a seal, and exercise all other powers of a municipal corporation not inconsistent with the Constitution and laws of the United States and the provisions of this title.

Now, I submit that that language is entirely omitted in this bill and this provision is substituted:

SEC. 3. That the said commissioners of the District of Columbia shall be, and they are hereby, constituted a body corporate, by the name of "The Commissioners of the District of Columbia," and by that name shall have perpetual succession, and be capable in law to sue and be sued in any court whatsoever, and may have and use a common seal, which may be altered at pleasure; may acquire, rent, hold and property; may contract and be contracted with, (in all cases authorized by law) and may in appropriate ways, in court and elsewhere, consistent with this act, assert, defend, and maintain its rights and interests to the same extent that it would be lawful if the said commissioners of the District of Columbia were a municipality.

Is it the purpose of the committee to abolish the corporation of the District of Columbia and substitute three commissioners?

Mr. CLAFLIN. Three commissioners and a council.

Mr. LATHROP. Can you tell me whether the council so created are officers of the last corporation or officers of some other institution?

Mr. CLAFLIN. They are officers of the corporation which is created by this act.

Mr. BUTLER. The bill making them capable of suing and being sued like any other corporation.

Mr. HENDEE. I desire some arrangement for fixing the time to close general debate on this bill. I understand that there are two or three gentlemen who desire to speak, but for how long a time I am not aware. Unless there is objection, I would propose that general debate be closed in one hour from this time.

Mr. TOWNSEND, of New York. I desire to reserve to myself the right to speak for perhaps thirty minutes.

Mr. RAINEY. I object to any limit for general debate being now made; this is a very important bill and should be fully discussed.

The SPEAKER *pro tempore*. The remedy is with the House at any time. The gentleman from Vermont [Mr. HENDEE] will be recognized by the Chair at any time to submit a proposition to the House for limiting general debate upon this bill.

Mr. HENDEE. I will not ask for any limit now, but will allow the general debate to run a while longer.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. TOWNSEND] is recognized and entitled to the floor.

Mr. TOWNSEND, of Illinois. I desire to say something in reference to some of the features of this bill; but at the request of the gentleman from West Virginia [Mr. WILSON] I have agreed to yield, in order that he may bring up a bill pending here in regard to the distribution of the Mexican award fund.

Mr. HENDEE. The gentleman from West Virginia advised me that he would not ask to have his bill taken up at this time.

Mr. CARLISLE. The bill is in Committee of the Whole anyway.

Mr. TOWNSEND, of Illinois. If the gentleman from West Virginia [Mr. WILSON] does not desire the floor at this time for that purpose, I will proceed to say something in regard to some of the features of this bill.

There are some things in this bill upon which I have not yet received sufficient information to warrant me in coming to the conclusion that I ought to cast my vote in its favor without material amendment. When I review the past history of the District of Columbia, when I remember the charges that have been made, and well supported by testimony, of the corruption that has been found in the creation of the debt which now rests upon this District, I hesitate to record my vote in favor of that section of this bill which proposes to make that debt a permanent obligation upon the Federal Government. The section to which I refer is number 8 of this bill.

We are called upon to provide by that section a permanent appropriation for the payment of the annual interest on this debt without opportunity on the part of this House to ascertain whether that debt has been properly or improperly created. I have been left to my own industry in looking into former reports made to this House, for no report accompanies this bill, to ascertain whether the debt is of such a character as should be fixed upon the National Treasury. Limited as my time has been, my investigation has caused me to hesitate, and has determined me to withhold my vote from sanctioning that section of this bill.

It has been said by the gentleman from Massachusetts [Mr. CLAFLIN] and also by the gentleman from Ohio [Mr. COX] that this debt will exceed perhaps \$25,000,000. When we come to look into the past history of this District, to its population and the taxation imposed upon it, there are reasons which should cause any prudent man to hesi-

tate before fixing upon the National Government and our constituents a debt of this magnitude, created by the method and in the manner to which it owes its origin.

We know that during the past few years there has been a prodigality, an extravagance in the creation of municipal debts in this country which is unparalleled in the history of the world. But I challenge any one to show me the record of any city in the Union which will exhibit so rapid an increase of its debt as is shown in the history of the city of Washington since 1860.

We are sometimes startled by the amount and the character of the debt of the city of Chicago; of the debt of the city of Saint Louis; we are appalled at times by the figures presented in regard to the debt of the city of New York; but if gentlemen will look at the figures of those cities and compare them with their population and the wants and needs of those cities they will find that the debt of the city of Washington is far in excess of the debt of any other city in the Union.

It has been said at times that we should seek to establish here a model municipality, a model city government, in order that other cities of the Union may pattern after it. Sir, if the government of the city of Washington is to be regarded as a pattern for other American cities, then those who live in those cities may well shudder at the future before them if the attempt is made to imitate it.

In a lecture read recently by Mr. Robert P. Porter, of Chicago, before the American social science congress at Boston, I have found some important figures in regard to municipal indebtedness and taxation, which show the marvelous rapidity with which they have accumulated within the last few years in one hundred and thirty American cities. The totals are as follows:

	1876.	1866.
Municipal debt of 130 cities.....	\$644,378,663	\$221,312,009
Assessed value of property of the same.....	\$6,175,092,158	\$3,451,619,381
Annual taxation of same.....	\$112,711,275	\$64,060,098
Population of the same.....	8,576,249	5,919,914

From this it appears that the debt of one hundred and thirty cities of the United States is upward of \$644,000,000, and that the debt has increased during the last decennial period from \$221,312,009 in 1866 to \$644,378,663 at the close of the year 1876, showing a total increase of upward of \$420,000,000 and an annual increase of \$42,000,000.

I will give a statement of the total debt and population, with the amount *per capita*, of three of the principal cities of this country:

New York:	
Population.....	1,249,668
Debt, about.....	\$149,000,000
Amount <i>per capita</i>	\$121
Boston:	
Population.....	341,109
Debt.....	\$42,000,000
Amount <i>per capita</i>	\$120
Philadelphia:	
Population.....	860,000
Debt.....	\$66,000,000
Amount <i>per capita</i>	\$76

Now look at the condition of this District and you will find a much more startling array of figures:

The population, estimated, about.....	150,000
Debt, about.....	\$25,000,000
Amount <i>per capita</i>	\$150

The three cities first named have much larger valuation of property for assessment and a larger tax-paying population than can be found here.

If we compare the increase of population in the District to the increase of taxation, we will find the ratio of increase of taxation to the population much greater than elsewhere. The population of this District in 1860 was 75,080. In 1870, according to the census returns, the population of the District was 131,700. During those ten years the increase of population was 56,660, or an increase of 57 per cent.

In 1860 the annual taxation levied in the District of Columbia was \$260,218. In 1870, according to reports which I have been able to find, the annual taxation of the city of Washington was \$1,581,569; an increase per annum over that of 1860 of \$1,321,351. As I have already said, the increase of population during that time was 57 per cent.; but the increase of taxation was over 700 per cent.; and the amount of taxes in the District has since 1870 swollen to the sum of \$3,000,000 per annum.

Now, these are facts which it seems to me should at least arrest the attention of members of this House when they come to determine whether we should provide for imposing an annual taxation of \$3,000,000 upon the people of this District and the General Government, as required in the estimates submitted to us by the District commissioners.

I desire now to look a step further into this District debt. I was not here when the board of public works was in authority, therefore I am not so familiar as many members here with its well-doing and its misdoing; but in looking over the report made by an investigating committee of this House, I have been able to gather a few facts that I wish to present in order that the House may have a specimen of some of the items that go to make up this debt which has been

fastened upon the District, and which the eighth section of this bill will fasten as a permanent obligation upon the General Government.

In 1872 the board of public works presented to the President of the United States a report, which he sent to Congress, accompanied with the statement, (in order not to occupy too much time I will particularize only as to one street,) there was required for the purpose of improving New York avenue from Ninth street to Fifteenth street, a distance of only six blocks, the sum of \$121,471.84. This was the sum fixed upon by the board of public works, and the sum which the President declared was necessary for the completion of that work. The same report contained a tabulated statement of the cost of improvement on this street; and although in the body of the report the sum required for New York avenue was stated at \$121,471.84, yet in the tabulated statement it appeared that the amount required for this purpose was \$123,552.26.

The table found on pages 247 and 248 of the report to the Forty-second Congress, was as follows:

General fund	\$67,219 74
Private property	33,609 87
To other streets	5,568 80
Street railways	2,214 40
To United States five-sixes	14,939 45
Total	123,552 26

I do not refer to this discrepancy in order to dwell upon a difference of two or three thousand dollars in the figures. I merely call attention to it for the purpose of showing what the board of public works and the President said it was necessary for the Government of the United States to pay toward this improvement. In that table I find that the United States Government is charged with the sum of \$14,939 which the board of public works said was all that was needed or required from the Government under the law, the balance of the cost being apportioned upon property abutting on the street, or upon the general fund, or from the tax-payers of the District at large, &c.

Now, Mr. Speaker, in an investigation which afterward took place, of which Senator ALLISON was chairman, the officers and employees of the board of public works were brought before the committee and were examined on oath. I have here the figures which Mr. Oertley, the engineer of the District, swore were the amounts charged against the Federal Government; in which investigation he stated that the sum charged against the Federal Government and collected for this improvement on the same six blocks of New York avenue was \$83,187.02. At another time the same Mr. Oertley, the engineer of the board of public works, states in his sworn testimony, on page 2293 of the report, that there had been collected from the Federal Government for the improvement of these six blocks on New York avenue the sum of \$99,028.85. Although these parties made three different statements of the cost of this particular work, yet it will be seen that there was charged against the Federal Government and collected from the National Treasury \$84,088.90 more than the board of public works in their official report, sent to Congress under the sanction of the President of the United States, declared was required to be paid by the Government for this improvement. It also appears that the board charged and collected from the owners of private property abutting on the street and from the General Government, &c., \$19,000 more than the entire cost of the improvement, and in addition thereto the sum of \$67,219.74 was charged to the general fund and is embraced in the funded 3.65 bonds. Thus the board of public works received in all \$207,640.42 for an improvement which only cost, according to its own report, \$123,552.26. What became of the excess collected over and above the cost of the work?

Having collected from the General Government and private citizens, &c., they proceeded and did file against the general fund of this District a claim for this improvement of over \$67,000, which has been funded into 3.65 bonds. These are the figures in regard to a portion of a single street in this city; and it is a sample of the charges for improvement on many if not all the other streets.

Facts like these have caused me to rise in my seat and protest against the passage of this bill containing the section to which I refer, until some satisfactory explanations are made in this House. Persons familiar with the facts in regard to these matters will tell you that a very large part of the amount funded into the 3.65 bonds is a fraud upon the tax-payers of the District, and that if we pledge the National Government to the payment of the sum already funded, we will fasten a fraudulent debt upon the National Treasury to the extent of the amount included in these 3.65 bonds.

I do not intend to take up time in arguing this question further than to say that in my judgment until there has been such an investigation as will ascertain what is the honest, true, and just debt of the city of Washington, we should not fasten the debt as a permanent obligation on the General Government. I am not, however, opposed to fixing an equitable and fair proportion of taxation to be paid by the General Government. I am not able to say at this time what is a fair proportion.

Sometimes I hear persons residing here, and sometimes persons from abroad, say that notwithstanding the misdoings and frauds of the board of public works, they have given us one of the best paved cities in the Union; that they have made Washington one of the most beautiful cities in the world. I say to you, Mr. Speaker, if I were a taxpayer of Washington, I should much prefer to have the old cobble-

stone streets and the old grades of Washington as in 1860, when but \$260,000 were required to support the municipal government, than to have as now fastened upon this city a debt of \$25,000,000, requiring an appropriation of \$3,000,000 per annum to pay the interest on it and to carry on the city government.

Now in regard to the manner in which the commissioners of the city are selected I wish to say that I agree with my colleague [Mr. BRENTANO] that if we sanction the first section of this bill we will in effect subvert one of the most familiar and favorite principles upon which our Government is founded, that is, the principle that the military power shall be subordinated to the civil. What does this section do? It utterly and completely subordinates the civil to the military power in this municipal government. Here are three commissioners to be created for the purpose of performing mere civil duties, and yet this bill virtually makes an engineer of the Army the dictator in this District of Columbia. So far as contracts for improvements, &c., are concerned, section 6 provides that all contracts, &c., shall be made and entered into only by and with the official consent of a majority of the commissioners of the District, of which majority the officer appointed from the Engineer Corps shall be one. I have not yet, sir, become convinced that there are no honest men save those who are in the military service of the Government. I am willing to grant there are as many honest men in proportion to numbers in the military department as may be found elsewhere. Perhaps temptation to become corrupt is not so great as in some other departments, as they do not have very extensive control over the collection or disbursement of public funds. I believe three honest men may be found in the District of Columbia familiar with its wants and affairs who may be able to administer the duties assigned these commissioners without calling in the aid of those who belong to the engineer department of the Government.

I believe, Mr. Speaker, a better method can be provided for selecting those officers. The Constitution has granted to Congress the exclusive right of legislating for this District. Unlike that of any municipality in the Union, we find the Constitution has made Congress the legislative body for the District. If Congress is the sole legislative body chosen for the District of Columbia, and it is made its duty to legislate for this city, I hold that Congress has no right to delegate that power to three commissioners or to the council provided in this bill or any other body. When the seat of Government was established in this District, those who entered into the contract originally made, whereby, in consideration of the location of the capital here, they conceded to the General Government certain portions of property, and all those who then resided in the territorial limits of the District yielded to the Federal Government all legislative and municipal power provided in the Constitution. In other words, they accepted their citizenship here on the conditions provided in the Constitution that the American Congress should exercise exclusive legislation in all cases over the District. They had no common council at that day, no board of aldermen; they had no mayor. Congress, in the beginning of its assumption of control in this District, through its committee, exercised all the functions of legislative and municipal control in this city.

The District of Columbia has a grander governing body than any municipality in the Union. The whole American Congress forms its common council. It is true, sir, coming here with the multifarious affairs that each of us have to attend to, we make but poor councilmen for the District. We do not fully understand or appreciate its wants, and perhaps could not legislate as wisely in its affairs as some of the citizens of this District. But the duty has been placed upon our shoulders as the sole and exclusive governing power in the District.

I will not now stop to inquire the reasons for thus placing the District under the supreme, continual, and exclusive control of Congress. At the very beginning of the Government a mob in the city of Philadelphia had given Congress such annoyance that it was compelled to take refuge in the State of New Jersey in order that the councils of the nation might be held in safety and peace. This, perhaps, had much to do in determining that for the future the seat of government should be under the exclusive control of the Federal Government. But I will not dwell further here. I am convinced Congress has the power to appoint officers and legislate for the District of Columbia or provide any sort of government that in its wisdom it may consider proper. There is nothing in the Constitution, in my judgment, which prohibits or prevents Congress from exercising the power to appoint officers for the District.

Congress has the right not only to choose one or two, but the entire number of such commissioners as it may provide for the District of Columbia. And believing that, I feel it would be better for the people here that we should secure as such officers men as free from political bias as can be found, or give both parties a voice in the government of the District. If you leave it to a democratic House to choose them, it will be said they will only choose democrats to fill these positions. If you leave it to the Senate, it will be said that the Senate while a republican body will only choose republicans for that position. If you leave it to the President, he will be governed by his political feeling in the selection of those who shall compose the board of commissioners.

Now, I wish to call the attention of the House to a provision introduced into the constitution of the State of Illinois, which is the most

effectual means of giving the minority a voice in the representation of the people as well as the majority. I refer to minority representation by means of cumulative system of voting. The most ready illustration I can give of it is this: in each of our legislative districts there are three members of the Legislature to be chosen. When the voter goes to the polls he has the privilege of casting a ballot for each of the candidates to fill these positions or he has it in his power to divide his three votes equally between any two candidates, or he has it in his power to mass all his votes upon one single individual as a representative of that legislative district in the State Legislature. What is the result of it? In a district where the republican party is in the minority the republicans of that legislative district concentrate their votes upon the republican candidate for the Legislature, and by that means secure at least one representative in the State Legislature; whereas under the old system, the district being a democratic district would only be represented by democratic members of the Legislature. The democrats of the district being in the majority, and knowing that they have not strength enough to elect three members of the Legislature, concentrate their votes perhaps upon two members of the Legislature, and the district is consequently represented by two democrats, as representatives of the majority of the voters of the district, and one republican, representing the minority of the district.

I would introduce that feature here in choosing commissioners for the District of Columbia, bring the two Houses of Congress into joint convention and let these three commissioners be chosen by the two Houses of Congress in joint convention. By that means whatever party is in the minority here will have power to choose a representative in the board of commissioners of the District of Columbia, and the party which happens to be in the majority will have a majority in that board. I am impelled to advocate this for the reason that during the time that the board of public works was rioting here in corruption and in fraud—when, sir, they were forming a mortgage upon the property of the District of Columbia which was appalling to every honest tax-payer here—it has been said if it had not been for the fact that but one party had control of the Government of the District the fate of the city would have been otherwise than what we find it. In other words it is said that if both parties had been represented in the board of public works at the time of the creation of this debt the frauds which took place would not have occurred. I do not undertake to say, sir, that all the honest men are found in one political party or in the other. My experience and observation has taught me that there are dishonest men in all political parties as there are hypocrites in all churches; but there is more probability of honest and economical administration when both parties have a voice in the government.

I would provide a way by which at least the voice of both political parties may be represented in the board which performs the important duty of making contracts and forming the estimates for taxation.

I do not like, Mr. Speaker, to antagonize this bill coming as I find it does from a committee composed of gentlemen of such eminent ability and integrity; it is an unpleasant task to antagonize a bill that comes from their hands, and after careful deliberation receives their sanction; but I felt it to be my duty, as a Representative, to give my views upon these two sections of the bill. There are other features of the bill which I desire to discuss; but I will not occupy the time of the House further this evening.

Mr. TOWNSEND, of New York, obtained the floor.

Mr. HENDEE. If the gentleman from New York [Mr. TOWNSEND] will yield to me, I will move that the House do now adjourn.

Mr. TOWNSEND, of New York. I will yield for that purpose.

LEAVES OF ABSENCE.

Leaves of absence were granted in the following cases:

Mr. CAMP, for eight days;

Mr. SMITH, of Pennsylvania, upon business of importance, until Wednesday next.

Mr. HENDEE. I now move that the House adjourn.

The motion was agreed to; and accordingly (at four o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BEEBE: The petition of the publisher of the Republican and Standard, Montgomery, New York, for the abolition of the duty on type—to the Committee of Ways and Means.

By Mr. BUNDY: The petition of Henry W. Best and others, of New York, for the amendment of the pension laws—to the Committee on Invalid Pensions.

By Mr. COBB: The petition of Charles E. Cregas, for relief—to the Committee on War Claims.

By Mr. COX, of New York: The petition of J. J. Little & Co. and 475 other printers, stereotypers, and electrotypers, that a duty of thirty cents per pound be levied on all stereotype and electrotype plates—to the Committee of Ways and Means.

By Mr. DAVIDSON: The petition of 400 citizens of Florida relating to the distribution of the proceeds of the sales of the public lands among the States for educational purposes—to the Committee on Education and Labor.

By Mr. DAVIS, of California: Resolutions of the San Francisco Chamber of Commerce, for legislation concerning pilotage—to the Committee on Commerce.

By Mr. ELLSWORTH: The petition of the publisher of the Saint Louis (Michigan) Herald, for the abolition of the duty on type—to the Committee of Ways and Means.

By Mr. HEWITT, of Alabama: The petition of D. D. Sanderson, Joseph W. Taylor, W. P. Webb, and other citizens of Greene County, Alabama, for the distribution of the proceeds of the sales of public lands among the States for the promotion of education—to the Committee on Education and Labor.

By Mr. JONES, of Alabama: The petition of citizens of Mobile County, Alabama, of similar import—to the same committee.

By Mr. LINDSAY: The petition of S. J. Abbott and 38 others, citizens of Waterville, Maine, against reviving the income tax—to the Committee of Ways and Means.

By Mr. LUTTRELL: Resolutions of the Legislature of California instructing the Senators and requesting the Representatives in Congress from that State to use all honorable means to secure the passage of the bill introduced in the House by Hon. CHARLES M. SHELLEY, to restrict Chinese immigration, &c.—to the Committee on Education and Labor.

By Mr. MCKINLEY: The petition of 95 citizens of Beloit, Ohio, against any change in the existing tariff on wool and woolens—to the Committee of Ways and Means.

By Mr. MORSE: The petition of J. S. Blanchard and others, of Boston, Massachusetts, against the revival of the income tax—to the same committee.

By Mr. SHELLEY: The petition of Washington Gwathmey, of Alabama, for the removal of his political disabilities—to the Committee on the Judiciary.

By Mr. SINGLETON: The petitions of J. S. Portwood and of Samuel Johnson, for compensation for stores and supplies taken by the United States Army—to the Committee on War Claims.

By Mr. STEPHENS, of Georgia: The petition and memorial of the mayor and city council of Athens, Georgia, in behalf of that city as a suitable location for one of the new branch mints—to the Committee on Coinage, Weights, and Measures.

By Mr. WHITTHORNE: The petition of John T. Wilson, attorney on behalf of minor heirs of Calvin Halstead, for a pension—to the Committee on Invalid Pensions.

HOUSE OF REPRESENTATIVES.

FRIDAY, March 29, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. EDEN. I call for the regular order.

The SPEAKER. The regular order is the morning hour and the call of committees for reports of a private nature.

Mr. MORGAN. I desire to introduce a bill for reference.

Mr. EDEN. I understand that there are one or two gentlemen who desire to introduce bills for reference, and I have no objection to that.

ISAAC D. JOHNSON.

Mr. MORGAN, by unanimous consent, introduced a bill (H. R. No. 4128) for the relief of Isaac D. Johnson; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

NAVAL OBSERVATORY.

Mr. HARRIS, of Massachusetts, by unanimous consent, reported from the Committee on Naval Affairs as a substitute for the bill S. No. 493, a bill (H. R. No. 4129) to appoint a commission to ascertain the cost of removing the Naval Observatory, which was read a first and second time, and, with the accompanying report, ordered to be printed and recommitted to the committee, not to be brought back on a motion to reconsider.

The motion was agreed to.

TELEGRAPHIC COMMUNICATION WITH FOREIGN COUNTRIES.

Mr. MONROE, by unanimous consent, from the Committee on Foreign Affairs, reported a bill (H. R. No. 4130) relating to telegraphic communication between the United States and foreign countries; which was read a first and second time, recommitted to the committee, and ordered to be printed, not to be brought back on a motion to reconsider.

SERGEANT CONDON AND OTHERS.

Mr. BAKER, of Indiana, by unanimous consent, from the Committee on Appropriations, reported back the memorial of Sergeants Condon, Hughes, and Delany, asking for increase of pay, and moved that the Committee on Appropriations be discharged from the further consideration of the same, and that it be referred to the Committee on Military Affairs.

The motion was agreed to.

POTTAWATOMIE INDIANS.

Mr. PAGE, by unanimous consent, from the Committee on Indian Affairs, reported back, with a favorable recommendation, the bill (H. R. No. 316) to carry into effect the tenth article of the treaty with the Pottawatomie Indians of February 27, 1867, and moved that the same be referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

The motion was agreed to.

MISCELLANEOUS FUND, HOUSE OF REPRESENTATIVES.

Mr. SINGLETON, by unanimous consent, from the Committee on Appropriations, reported a bill (H. R. No. 4131) to provide for a deficiency in the miscellaneous fund of the House of Representatives for the service of the fiscal year ending June 30, 1878; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. CONGER. I demand the regular order.

The SPEAKER. The regular order of business being demanded, the morning hour commences at twenty-four minutes past twelve o'clock, and the call of committees for bills of a private nature are in order, and the call rests with the Committee on the Post-Office and Post-Roads.

PATRICK T. MANION.

Mr. McMAHON, from the Committee on the Judiciary, reported a bill (H. R. No. 4132) for the relief of Patrick T. Manion, of Saint Louis, Missouri; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

REMOVAL OF POLITICAL DISABILITIES.

Mr. HARTRIDGE, from the Committee on the Judiciary, reported back the following bills for removal of disabilities; there being a petition in each case; which were severally ordered to be engrossed, read a third time, and passed, (two-thirds voting in favor thereof):

A bill (H. R. No. 3893) removing the political disabilities of Oscar F. Johnston, of Catoosa County, Georgia;

A bill (H. R. No. 3903) to remove the political disabilities of Isaac A. Read, of Louisiana;

A bill (H. R. No. 2931) to remove the political disabilities of Henry G. Thomas, of Virginia;

A bill (H. R. No. 3314) to remove the political disabilities of John T. Mason, of Virginia;

A bill (H. R. No. 3667) to remove the political disabilities of Philip Stockton, of Texas;

A bill (H. R. No. 3610) to remove the political disabilities of W. B. Sinclair, of Virginia; and

A bill (H. R. No. 3612) to remove the political disabilities of R. L. Page, of Virginia.

During the consideration of these bills,

Mr. THOMPSON called for the reading of the petition in the case of Isaac A. Read.

The petition was read, as follows:

NEW LONDON, CONNECTICUT, February 13, 1878.

SIR: I have the honor to petition the Congress of the United States of America to remove, by special act, my political disabilities, imposed upon me by the fourteenth amendment to the Constitution of the United States of America.

ISAAC A. READ,
Of the Parish of Orleans, State of Louisiana.

To the honorable SPEAKER,
Of the United States House of Representatives,
Washington City, District of Columbia.

Mr. BURDICK. I would inquire if these reports from the Committee on the Judiciary are unanimous.

Mr. FRYE. They are; we always report in favor of these requests, if application is made signed by the party for whose relief the bill is to be passed.

Mr. HARTRIDGE, from the Committee on the Judiciary, also reported a bill (H. R. No. 4145) to remove the political disabilities of Washington Gwathmey, of Alabama; which was read three times and passed, two-thirds voting in favor thereof.

WILLIAM B. ISAACS & CO.

Mr. BUTLER, from the Committee on the Judiciary, reported a joint resolution (H. R. No. 145) in regard to the claim of William B. Isaacs & Co.; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

E. A. WILLIAMS.

Mr. STENGER, from the Committee on the Judiciary, reported back, with a favorable recommendation, the bill (H. R. No. 1875) for the relief of E. A. Williams; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

CHARLES A. PERRY & CO.

Mr. KNOTT, from the Committee on the Judiciary, reported, as a substitute for House bill No. 557, a bill (H. R. No. 4133) to authorize the Court of Claims to hear and determine the claim of Charles A. Perry & Co.; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM BATTERSBY.

Mr. FRYE, from the Committee on the Judiciary, reported, as a substitute for House bill No. 2083, a bill (H. R. No. 4134) for the relief of William Battersby; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

SCHOONER DON PEDRO.

Mr. FRYE also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 2518) granting jurisdiction and authority to the Court of Claims in the case of the schooner Don Pedro; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

AWARDS OF COMMISSIONERS OF CLAIMS.

Mr. EDEN. I am instructed by the Committee on War Claims to report back, with sundry amendments, House bill No. 3548, making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871. If gentlemen desire to reserve points of order upon this bill, I would be glad to be allowed to make a brief explanation of the bill; and then if there is no objection I will ask that the bill be put upon its passage.

The bill the title of which has just been read makes an appropriation for the payment of the claims that have been awarded by the commissioners of claims. It does not embrace any item of appropriation whatever except for a claim upon which the commissioners of claims have acted favorably. In no single case is there any increase of the amount awarded by the commissioners and in some cases there is a slight diminution.

It has been usual to pass bills of this character without requiring them to go to the Committee of the Whole on the Private Calendar, for the reason that all the claims incorporated in these bills have been carefully considered by the commissioners of claims and have received careful consideration from the Committee on War Claims of this House, and in this case that committee unanimously recommends the passage of this bill. Should this bill go to the Committee of the Whole on the Private Calendar, I apprehend that there is no gentleman on the floor, not connected with the Committee on War Claims, who would have the time or the inclination to make any investigation in reference to the claims. And as the bill after it passes this House must necessarily go to the Senate for consideration there, it is important that it should be passed here as early as possible.

This bill simply carries out the law approved March 3, 1871, under which three commissioners were appointed by the President, with the approval of the Senate, who have jurisdiction to hear claims of loyal citizens of the South for supplies taken by or furnished to the Government during the war. The bill embraces no claims except those of citizens in the South who have been found loyal by these commissioners of claims.

Unless some gentleman wishes to ask some question on this subject, I do not deem it necessary to make any further explanation.

Mr. JONES, of Ohio. I wish to ask whether or not all these claims to which the bill refers were not barred by statute of limitations passed by Congress in 1873.

Mr. EDEN. No one of these claims has been barred by any statute of limitations. The law of 1871 organizing this commission and under which these claims have been adjudicated limited the time for filing claims to two years, which time expired March 3, 1873; but every one of these claims was filed within the time limited by law. Consequently there is no statute of limitations affecting any one of them.

Mr. JONES, of Ohio. These were all filed prior to 1873?

Mr. EDEN. Every claim. The commissioners do not report any claim unless it was filed within the time prescribed by law.

The SPEAKER. Is there objection to the present consideration of the bill? The Chair hears no objection.

Mr. JONES, of Ohio. I would like to ask another question of the gentleman from Illinois.

Mr. EDEN. I am willing to answer questions.

Mr. JONES, of Ohio. I wish to ask whether, under a provision attached to the appropriation act of 1874, the Treasury Department is not considering claims filed after 1873.

Mr. EDEN. The act of 1874 has nothing to do with this class of claims at all. That act applies only to claims that were referred to the Quartermaster-General and Commissary-General, under the act of July 4, 1864. These claims arise under the act of March 3, 1871, and are an entirely different class of claims.

Mr. POTTER. I desire to ask the gentleman from Illinois whether I am right in supposing that Congress, in order to get rid of the determination of certain claims, established a court in which they should be tried, and whether the awards or judgments of that court are now brought here and we are asked to appropriate money to pay them?

Mr. EDEN. That is it.

Mr. POTTER. That is all there is of it?

Mr. EDEN. Yes, sir.

There is a single section proposed by the committee by way of amendment which it is due to the House I should explain before proceeding further. On the 3d of March last, in order to have these

claims disposed of at as early a day as possible, there was inserted, upon my motion, in the bill extending the term of the commissioners, a provision limiting the time for taking testimony by claimants to the 10th of March, 1878. The claimants being scattered over so wide a territory, it took a very considerable length of time for them to have notice; and there is complaint made that some of them did not get notice in time to complete the taking of their testimony. Hence we propose to amend this bill by giving them until the 1st of January next to complete the taking of testimony. But this provision does not permit the filing of any additional claims; it merely allows claimants to complete the taking of testimony in reference to cases that have already been filed. I have no doubt that it will be for the best interests of the Government that the time should be extended; otherwise, claims will be left upon the hands of Congress to be disposed of after the commission shall have gone out of existence.

Mr. WHITE, of Pennsylvania. Have all these claims been passed upon by the commission?

Mr. EDEN. Every one of them. Now, Mr. Speaker, if there be no further question, I will ask that the bill and amendments be read, excluding the mere list of claims.

The bill, with the amendments proposed by the committee, was read. The amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. EDEN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOSEPH R. SHANNON.

Mr. EDEN, from the Committee on War Claims, reported a bill (H. R. No. 4135) for the relief of Joseph R. Shannon; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. THOMPSON, by unanimous consent, presented the views of the minority of the committee upon the bill just reported; which were ordered to be printed with the report of the committee, and referred to the Committee of the Whole on the Private Calendar.

HEIRS OF CLAUDE N. JOHNSON.

Mr. CALDWELL, of Kentucky, from the Committee on War Claims, reported back adversely a petition for the relief of the heirs of Claude N. Johnson, of Lexington, Kentucky; which was laid upon the table, and the accompanying report ordered to be printed.

Mr. CALDWELL, of Kentucky, moved to reconsider the vote by which the petition was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LUCIE A. JAMESON.

Mr. CALDWELL, of Kentucky, also, from the same committee, reported a bill (H. R. No. 4136) for the relief of Lucie A. Jameson, of Shelby County, Tennessee; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

E. P. McNEAL.

Mr. CALDWELL, of Kentucky, also, from the same committee, reported a bill (H. R. No. 4137) for the relief of E. P. McNeal, of Hardeman County, Tennessee; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN T. STRATTON AND OTHERS.

Mr. SHELLEY, from the Committee on War Claims, reported a bill (H. R. No. 4138) for the relief of John T. Stratton, Edgar McDavitt, and Samuel H. Dunscomb, of the city of Memphis, Tennessee; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

W. R. BOICE.

Mr. SHELLEY also, from the same committee, reported a bill (H. R. No. 4139) for the relief of W. R. Boice, of Danville, Kentucky; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

SAMUEL M. BLAIR.

Mr. SHELLEY also, from the same committee, reported back, with a favorable recommendation, a bill (H. R. No. 2462) for the relief of Samuel M. Blair, of Boston, Massachusetts; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

HENRY S. FRENCH.

Mr. OLIVER, from the Committee on War Claims, reported, as a substitute for House bill No. 363, a bill (H. R. No. 4140) for the relief of Henry S. French, of Nashville, Tennessee; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

A. H. HERR.

Mr. OLIVER also, from the same committee, reported, as a substitute for House bill No. 1319, a bill (H. R. No. 4141) for the relief of A. H. Herr; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

LEGAL REPRESENTATIVES OF JOSHUA HILL, DECEASED.

Mr. OLIVER also, from the same committee, reported, as a substitute for House bill No. 2373, a bill (H. R. No. 4142) for the relief of Harriet C. Hill and James N. Hill, heirs at law of Joshua Hill, deceased; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN ADAMS AND OTHERS.

Mr. OLIVER also, from the same committee, reported, as a substitute for House bills Nos. 2589, 2590, 2591, 2592, 2593, and 3087, a bill (H. R. No. 4143) for the relief of John Adams, William B. Clift, David Dunsceath, William Killinger, J. F. Scott, (administrator of the estate of Obediah Scott, deceased,) Davis C. Peak, Charles Linderman, James Linnane, Patrick Carey, John McMahon, and James Gorman, (administrator of the estate of Patrick Gorman, deceased;) which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CLAIMS OF DAKOTA VOLUNTEER FORCES.

Mr. OLIVER also, from the Committee on War Claims, reported back, with a favorable recommendation, the bill (H. R. No. 1189) to extend the time one year for presenting the claims of Dakota volunteer forces, as examined and reported upon by General Hardie, under the special act of Congress approved February 20, 1874, to the proper accounting officers for approval and payment.

The bill was read. It extends for one year from the passage of the act the time for presenting the claims of Dakota volunteer forces, as examined and reported upon by Inspector-General James A. Hardie, under the special act of Congress for that purpose, approved February 20, 1874, to the proper accounting officers of the Treasury to pass upon, approve, and pay.

Mr. OLIVER. Some time since, on the 3d of March, 1875, Congress made an appropriation for the payment of these volunteers. The commission had already examined the claims and ascertained them, and an appropriation was made for their payment; but the time for proving up the claims was limited to one year, and the money has already been drawn out of the Treasury under the appropriation and is in the hands of the disbursing officer.

These services were rendered in 1862. Owing to the long time that had elapsed between the time the services were rendered and the time of the appropriation, many of the parties had ceased to be citizens of the Territory, many of them had died, and about seventy claims were not presented for payment within the time. This bill simply proposes to extend for one year the time for presenting those claims for payment. The claims have already been passed upon, and the money has been appropriated for their payment and is in the hands of the disbursing officer.

If no further explanation is desired, I move the previous question. The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. OLIVER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN T. NEALE.

Mr. ROBINSON, of Indiana, from the Committee on War Claims, reported back, with a favorable recommendation, the bill (H. R. No. 1286) granting relief to John T. Neale, an employé of the Provost-Marshal-General's department in 1861, for injuries sustained in the line of his duty; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM FALLS.

Mr. ROBINSON, of Indiana, also, from the same committee, reported a bill (H. R. No. 4144) for the relief of William Falls, of Alexandria County, Virginia; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

J. J. CUMMINGS.

Mr. KEIFER, from the Committee on War Claims, reported back, with an adverse recommendation, the bill (H. R. No. 416) for the relief of J. J. Cummings, of Tennessee; and the same was laid on the table, and the accompanying report ordered to be printed.

Mr. KEIFER moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RANCHO LAS CRUCES LAND CLAIM.

Mr. DENISON, from the Committee on Private Land Claims, reported back, with amendments, the bill (H. R. No. 2401) to authorize the claimants to certain lands in Santa Barbara County, California, to submit their claim to the United States district court for that State for adjudication.

The bill was read. It permits and authorizes the claimants to lands situated in Santa Barbara County, California, known as the Rancho Las Cruces, who derive title through the original Mexican grantee of said rancho, to present their claim to said lands to the district court of the United States for the district of California for examination; and provides that if, upon the hearing of said case, it shall appear to said court that the claim of the original grantee was good and valid under Mexican laws relating to such cases, the said court shall by decree confirm said claim; and also provides that no lands shall be confirmed to said claimants by said decree to which there are any valid claims existing under the pre-emption or homestead laws of the United States at the date of the passage of the act.

The bill in its second section provides that in case said claim is rejected by said court, then said claimants are thereby granted the right of appeal to the Supreme Court of the United States, within the time and in the manner now provided by law in like cases.

The bill in its third section directs the United States surveyor-general for California, upon the filing in his office by said claimants of a certified copy of a final decree of confirmation, under the provisions of the act, to cause said claim to be surveyed as other claims of like nature are now surveyed under existing laws; and provides that upon the approval of said survey by the Commissioner of the General Land Office a patent shall issue to said claimants in the usual form.

The amendments of the committee were read, as follows:

In section 1, line 13, after the word "decree" insert "exceeding in area eighty-eight hundred and eighty-eight acres, nor any lands."

Add to section 2 the words "The said courts in the examination of the claims presented by any person under this act shall be governed so far as applicable by the provisions of the act passed March 3, A. D. 1851, entitled 'An act to ascertain and settle private land claims in the State of California.'"

Mr. DENISON. In 1833, Miguel Cordero went into possession of about two leagues of land called the Rancho Las Cruces, in Santa Barbara County, California. He remained in possession of that land until 1837. In that year it was granted to Cordero by the Mexican government. Immediately thereafter he took juridical possession, having been in actual possession all the time from 1833 until 1837. He continued in possession till March 3, 1851, the date of the statute by which claimants presented their claims to the commissioners. A few days after March 3, 1851, he died in possession of that land. He had built houses, he had cultivated, he had planted vineyards, he had planted orchards, and his family, a wife and nine children, were residing there at the time of his death. He still remained in possession till his death and after that his heirs remained in possession and continued in possession and do still, the land never having been divided in any way, the land belonging to his heirs and their grantees. The land is still in their possession, the possession of these grantees and the heirs, nobody claiming any right whatever to it.

It will be perceived that it was almost impossible for anybody claiming under it to know of the passage of the law of March 3, 1851, they all being ignorant of the English language and out in that wild region having no information whatever of the proceeding of Congress. No one claims the land. No one claimed it then nor has claimed it since; so that no one had any occasion then to press a claim against these parties. That is the condition of the land now. And all they ask is to be permitted to go before the courts under the law of 1851 to set up their claims. That is the object of the bill, and I hope it will be passed without being referred to the Committee of the Whole.

The amendments reported by the committee were adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DENISON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BRIGHT. Has the morning hour expired?

The SPEAKER. It has.

ENROLLED BILL SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 3846) to provide for a deficiency in the miscellaneous fund of the Senate and of the House of Representatives.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. PRUDEN, one of his secretaries, communicated to the House a message in writing.

The message further announced that the President had approved and signed the joint resolution (H. R. No. 133) to prescribe the time for the payment of the tax on distilled spirits, and for other purposes.

CORRECTION OF REFERENCE.

The SPEAKER. The gentleman from California [Mr. PAGE] this morning reported a bill to carry into effect the tenth article of a

treaty with the Pottawatomie Indians, which was referred to the Committee of the Whole on the Private Calendar. Upon consultation with the gentleman from California, the Chair thinks that it should be referred to the public Calendar. The bill will therefore be referred to the Committee of the Whole on the state of the Union.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. DOUGLAS, for ten days;

To Mr. DEAN, for one week;

To Mr. STENGER, for four days, on account of important business; and

To Mr. HAMILTON, for one week from Monday next, on account of important business.

GALVESTON AND CAMARGO RAILROAD.

Mr. MCKENZIE, by unanimous consent, from the Committee on Railways and Canals, reported back the memorial of M. R. Jefferts in relation to the Galveston and Camargo Railroad, and moved that the same be recommitted to the committee and ordered to be printed, not to be brought back by a motion to reconsider.

The motion was agreed to.

Mr. CONGER. I move to reconsider the several votes by which references have been made; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

METRIC SYSTEM.

Mr. STEPHENS, of Georgia. I ask unanimous consent to have printed the letters of the Secretary of the Treasury to the Speaker of the House of March 26, 1878, in reply to the resolution of the House of Representatives asking for opinion as to the introduction of the metric system, with accompanying papers, which were referred to the Committee on Coinage, Weights, and Measures.

There being no objection, it was so ordered.

Mr. STEPHENS, of Georgia, also, (by request,) by unanimous consent, introduced a bill (H. R. No. 4146) to promote the general use of the metric system; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

REFUND OF TONNAGE DUES.

Mr. WILSON. I desire unanimous consent in behalf of the Committee on Foreign Affairs to offer the following resolution:

Resolved, That the Committee on Foreign Affairs be authorized to have printed its additional report on House bill 1118, a bill providing for the refund of tonnage dues.

The resolution was agreed to.

ORDER OF BUSINESS.

Mr. BRIGHT. I move that the House resolve itself into Committee of the Whole on the Private Calendar.

Mr. GOODE. Pending that motion I move that all debate on the bill pending in Committee of the Whole be restricted to forty minutes. It is a bill for the relief of the Bartholomew County Agricultural Society of the State of Indiana, and it has been partially heretofore considered on two Fridays.

Mr. CONGER. I object. When we go into Committee of the Whole on the Private Calendar to take up the bill we can judge as to the necessity of closing debate upon it.

Mr. GOODE. I ask the order of the House, notwithstanding the gentleman's objection.

Mr. TOWNSEND, of New York. It is an important bill, involving an important principle, and should be well considered.

The SPEAKER. This bill occupies an unusual position, for it has already been engrossed.

Mr. EDEN. It was once reported favorably from the Committee of the Whole, and afterward sent back to the Committee of the Whole upon a single objection.

The SPEAKER. If the bill is in Committee of the Whole the House has a right to limit the debate thereon.

Mr. GOODE. I make the motion to limit the debate to forty minutes.

The question was taken upon Mr. GOODE's motion; and there were—ayes 82, noes 44; no quorum voting.

Tellers were ordered; and Mr. GOODE and Mr. RYAN were appointed.

The House again divided; and the tellers reported—ayes 114, noes 45. So the motion was agreed to.

The question recurred on Mr. BRIGHT's motion; and it was agreed to. The House accordingly resolved itself into Committee of the Whole on the Private Calendar, (Mr. BEEBE in the chair.)

BARTHOLOMEW COUNTY AGRICULTURAL SOCIETY OF INDIANA.

The CHAIRMAN. The first business before the Committee is the consideration of the bill (H. R. No. 1894) for the relief of the Bartholomew County Agricultural Society of the State of Indiana.

Mr. SHELLEY. I ask for the reading of the bill.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of \$1,500 be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be paid to the Bartholomew County Agricultural Society, in full payment and satisfaction

for the use and occupation of the fair grounds of said society for military purposes, from September, 1863, to June, 1865.

Mr. SHELLEY. I now call for the reading of the report.
The Clerk read the report, as follows:

It is shown by the evidence that the grounds were occupied under a written lease for military purposes from September, 1863, to June, 1865. The lease on the part of the United States was executed by Thomas O. Wilson, first lieutenant and quartermaster for Third Congressional District Indiana Volunteers, and on the part of the society by its president, treasurer, and secretary. The rent was to be \$100 per month. Upon the recommendation of the Provost-Marshal-General \$536.66 of the rent was paid on the 24th day of February, 1865. On the 31st of January, 1872, the chief quartermaster of the Department of the Lakes referred the residue of the claim to the Adjutant-General, who on the 4th of April, 1872, decided that his department could not entertain the demand for damages, at the same time remarking that Congress alone could afford relief. He further says that the matter of damages had been considered with the claim for rent, and that Colonel Stansifer, the provost-marshal for that district, had reported in 1865 that \$100, as agreed upon for the use of the ground, was intended to cover all claims for damages. No such report from Colonel Stansifer is found among the papers. Colonel Stansifer is one of the principal witnesses supporting the demand, the unpaid balance of rent and damages. There is no evidence that when \$536.66 was paid on the rent the matter of damages was included, estimated, or considered. On the contrary, it clearly appears that such could not have been the fact, for that sum was paid for the use of the ground from October 25, 1863, (the date of the lease,) to April 6, 1864, a period of five months and eleven days, and was the exact sum that would be required to pay the rent for that period at the rate of \$100 per month.

The lease contains a clause which provides that the United States shall repair all damage that may be occasioned to the grounds or buildings while so used and occupied. It is claimed by the Adjutant-General that this clause has been inserted since the execution of the instrument, and in proof of this, in addition to the appearance of the lease itself, he produces a copy of the same containing no such words, made out and certified to as a true copy on the 4th day of October, 1865, by James B. Mulky, then provost-marshal of that district. In this connection it is well to state that Lieutenant Wilson, who executed the lease on behalf of the United States, testifies on behalf of the society, very fully and clearly sustaining the claim for rent and damages, and in his affidavit he makes special mention (as if he regarded the same valid and binding) of the clause about damages. Assuming that this provision was not in the lease originally, nor afterward inserted with the consent of any person competent to bind the Government; still it would seem that the latter would be required by the law to restore the grounds to the society as they were when possession was taken, making reasonable allowance for wear and decay.

The Adjutant-General says nothing more should be paid for rent. He says that the claim for \$536.66, and a claim for \$123.23, presented thereafter in October, 1864, together cover a period of only six months and nine days. There is no force in this point, for the reason that the statement upon which the \$536.66 was paid, as also the claim for \$123.23, which was never paid, were both for only such periods of time as the grounds were occupied for the rendezvous and organization of the One hundred and fortieth Regiment of Indiana Volunteers, prior to complete organization and muster. The society had the right to believe, and probably did believe, from an opinion which had been expressed by the Quartermaster-General, (as appears from papers on file,) that a distinction should be kept up between the times the grounds were used for collecting, organizing, and drilling volunteers and other periods for which they may have been otherwise used.

At the second session of the Forty-third Congress the Committee on War Claims reported favorably upon this claim, and reported a bill appropriating \$1,550 in payment thereof, and at the first session of the Forty-fourth Congress made a similar report, and reported a bill appropriating \$1,500 in full satisfaction of said claim.

Your committee find from the evidence that the society should be allowed the sum of \$1,500 for unpaid rent, and accordingly report the accompanying bill appropriating that sum in full payment and satisfaction of the claim.

Mr. SHELLEY. I yield twenty minutes to the gentleman from Ohio, [Mr. FINLEY.]

Mr. FINLEY. Mr. Chairman, I have taken some pains to examine into the character of this claim, and if I can have the attention of the committee for a few moments I think I shall be able to show that the claim should not be paid, not only because it is a stale claim, but as I think I will be able to show, because it is, if not a fraudulent claim, a fishy one, to say the least of it.

Now, the very first sentence in the report of this committee is an error. The committee state that these grounds were occupied for military purposes from September 1, 1863, under the contract. Now I have the original contract here, and it is dated October 25, 1863. I have taken some pains to get all the papers in the case, and I ask the attention of gentlemen to the facts as developed by an examination of those papers.

On the 25th day of October, 1863, Lieutenant Thomas C. Wilson, a quartermaster in the service of the State troops of Indiana, a gentleman whom the War Department says had no authority whatever to make a contract to bind the Government, not being in the service of the United States, undertook to, and did make a contract, as the contract says.

Mr. BRIGHT. I wish to ask the gentleman if the testimony which he now proposes to detail is embodied in the evidence before the Committee on War Claims, or is it outside of that testimony?

Mr. FINLEY. I do not know. I will say to the gentleman from Tennessee [Mr. BRIGHT] that I derive all my information from the original papers in the case, furnished to me by the Adjutant-General. This Wilson undertook to and did make a contract, and I call attention to the wording of the contract. He undertakes to contract in behalf of the United States and of the State of Indiana. By the terms of that contract he agrees, in behalf of the United States and of the State of Indiana, that they will pay to the Bartholomew County Agricultural Society the sum of \$100 per month, while they were organizing the regiments that were then being organized at that place, the One hundred and twentieth and One hundred and twenty-fifth Regiments of Indiana Volunteers.

On the 3d day of May, 1864, that organization was complete, and the Bartholomew County Agricultural Society made out a bill for the use of the grounds, which bill I hold in my hand. That bill is for \$633 for the use of the grounds of the society from the day the con-

tract was made, October 25, 1863, to May 3, 1864, the time when the organization of the regiments was completed. That bill upon examination by the Department was found to be erroneous in regard to the time of occupation. On the 25th day of February, 1865, the Department paid \$536.66 in full for the use of the grounds, and I have here the bill and receipt, which is as follows:

The United States to the stockholders of the Bartholomew County fair ground, Columbus, Indiana, Dr.

1864.

May 3. For six months and ten days' rent of the Bartholomew County fair-ground with building, &c., occupied as a camp of rendezvous for the third congressional district of Indiana Volunteers and the Tenth Indiana Cavalry. (One hundred and twenty-fifth Indiana Volunteers,) commencing October 25, 1863, and ending May 3, 1864, (inclusive,) at \$100 per month. . . . \$633 33
Allowed by Paymaster-General from October 25, 1863, to April 6, 1864, at \$100 per month, five months, eleven days, \$536.66 . . . 633 33

I certify that the above account is accurate and just; that the ground above enumerated was occupied as specified, and that its occupation was absolutely necessary for the public service for troops raised for the United States who were actually mustered into the United States service.

Approved from October 25, 1863, to April 6, 1864.

T. G. PITCHER,

Brigadier-General Volunteers; Superintendent Volunteer Recruiting Service.

Approved:

THOMAS C. WILSON,

First Lieutenant and Quartermaster Third Congressional District Regiment, Indiana Volunteers.

S. STANSIFER,

Commandant of Camp Third District, Indiana.

Received at Indianapolis, Indiana, this 24th of February, 1865, of Major S. B. Hayman, Tenth Infantry military and division officer, the sum of \$536.66 in full of the above account, which has not been previously paid by the United States or the State of Indiana.

B. F. JONES,

Treasurer Bartholomew County Fair Ground.

Sent check No. 318 to B. F. Jones, treasurer, at Columbus, Indiana, as directed by letter.

The Adjutant-General says, as appears from an indorsement on one of the vouchers, that that payment completed the contract. He said that Wilson had no power to make it in the first place, but as the United States had had the use of the grounds it was proper to pay for them, and it was paid, and the contract was closed and ended.

What next followed? On the 19th day of October, 1865, one year and eight months after this bill had been paid, the Bartholomew County Agricultural Society again presented a bill. What for? For the use of these grounds from September 7, 1864, to October 4, 1864. They made no account of the interim between May 3, 1864, and September 7, 1864, and made no charge for the use of the grounds during that period. I desire members of this committee to notice that. The amount of their second claim was \$123.23, and when they presented this second bill it was accompanied by what purported to be the contract made by this man Wilson. On the back of that contract is the certificate of the provost-marshal in charge, that it was a correct copy. That copy of the contract they forwarded with the bill; and the Adjutant-General rejected the bill and the War Department approved that rejection on the ground that there was no authority for this contract, that the United States had not had the use of the property under any contract, and was not liable for the payment of this second bill. The following is what was decided; which I will print with my remarks:

Brigadier General T. G. Pitcher refers account of the Bartholomew County Agricultural Society (B. F. Jones, treasurer) for rent of grounds for camp of rendezvous—amount \$123.33—for the One hundred and fortieth Regiment Indiana Volunteers.

Respectfully returned to Brigadier General Pitcher. This is a matter about which I have no information except that derived from the inclosed papers. It was under the sole control of the State authorities, and mainly if not wholly in contradiction of the orders of the War Department. I can therefore neither approve nor disapprove.

JAMES G. JONES,

Late Colonel and Acting Assistant Provost-Marshal-General.

From the indorsement of Colonel Jones, the then superintendent of volunteer recruiting service for the State of Indiana, it appears that no authority was ever given by the United States to rent these grounds.

If the commandant of camp of rendezvous, third district of Indiana, was authorized by the State to rent the grounds, then the State becomes responsible for the rent and claimant must look to that source for payment.

The person appointed commandant of the camp of rendezvous by the governor of the State was so appointed in direct conflict with General Orders No. 79, of 1864, from the Adjutant-General's Office, dated February 29, 1864.

This account is rejected as a claim against the United States.

By order of the Provost-Marshal-General:

C. McKEEVER,

Assistant Adjutant-General.

PROVOST-MARSHAL GENERAL'S OFFICE, October 20, 1865.

Official:

E. D. TOWNSEND,

Adjutant-General.

I will have this contract read as a part of my argument, and I ask the attention of the Committee of the Whole to the fact that when this certified copy was sent in along with the voucher the words were not in it which appear in a copy of the contract which was subsequently furnished. This copy closed with the words "Witness our hands and seal the day and year within," and it is signed by Thomas P. Wilson, Thomas Davies, B. F. Jones, treasurer, and W. W. Herod, secretary.

This copy of the contract, certified by the provost-marshal to be a correct copy of the original in his possession, and which was sent by

the Bartholomew County Agricultural Society in support of its claim, reads as follows:

This article of agreement, made and entered into this 25th day of October, A. D. 1863, between First Lieutenant Thomas C. Wilson, quartermaster Third Congressional District Regiment of Indiana Volunteers, of the one part, and Thomas Hays, Benjamin F. Jones, and William W. Herod, on the part of the stockholders of the Bartholomew County Fair Grounds, of the county of Bartholomew and State of Indiana, of the other part, witnesseth, that the said Lieutenant Thomas C. Wilson, for and on behalf of the State of Indiana and the United States, and the said Thomas Hays, Benjamin F. Jones, and William W. Herod, for members and the said stockholders and their heirs, executors, and administrators, have covenanted and agreed with each other as follows:

The said Thomas Hays, Benjamin F. Jones, and William W. Herod do hereby lease and rent to the said Lieutenant Thomas C. Wilson, for the use of the State of Indiana and the United States, the grounds, with all the buildings thereon, known as the fair grounds of Bartholomew County, Indiana, situated about one mile east-southeast of the town of Columbus, for a camp and rendezvous for the ——— Regiment of Indiana Volunteers, now organizing in third district of Indiana, at the price of \$100 per month, and at the rate per day for every day over and above equal months, to be held and occupied for the purpose aforesaid, and for the wants of the service generally, so long as it may be needed.

Witness our hands and seals the day and year above written.

THOMAS C. WILSON,
First Lieutenant, Quartermaster Third Congressional
District Regiment Indiana Volunteers.
THOMAS HAYS,
President Bartholomew County Agricultural Society.
B. F. JONES,
Treasurer Bartholomew County Agricultural Society.
W. W. HEROD,
Secretary Bartholomew County Agricultural Society.

PROVOST-MARSHAL'S OFFICE, THIRD DISTRICT INDIANA,
Columbus, October 4, 1865.

I certify that the within is a true copy of the lease with the Bartholomew County Agricultural Society, and that a copy of the same is now on file in the War Department.

JAMES B. MULKEY,
Captain and Provost-Marshal Third District Indiana.

Five years and seven months after the presentation of the first bill, to wit, on the 25th day of January, 1870, the bill which is now before this committee was presented by or through Mr. Holman, then a member of this House. That bill went clear back to the beginning, and I have it here. It reads as follows:

The United States to the Bartholomew County Indiana Agricultural Society, Dr.
June 1, 1865. For occupation of ground for military purposes from September 1, 1863, to date, as per contract herewith \$2,100
To damage to buildings, fences, &c., as set forth in affidavit herewith 2,000
4,100
March 1, 1864. By cash on account of rent 533
3,567

It will be seen that the bill presented on the 25th of January, 1870, was a bill for the use of the grounds of this society from the 1st day of September, 1863, to June 1, 1865. Gentlemen will bear in mind that the first bill presented and paid was from October 25, 1863. But when the bill was presented in 1870 it goes back and charges for the use of the grounds, commencing at a period more than a month before the contract was made and runs to the 1st day of September, 1863. The charge in that bill is for the use of the grounds from September 1, 1863, to June 1, 1865, \$2,100; for damages to the property, \$2,000.

With that bill comes what purports to be the original contract made October 25, 1863. But in that contract, immediately above the signatures of the parties, is written a clause that the United States shall be responsible and pay for all damages to the grounds. This clause, which is inserted immediately above the signatures in the contract and which was not in the original copy sent to the War Department, reads as follows:

And the said Wilson, on behalf of the State of Indiana and the United States, undertakes to repair all damage that may be occasioned to said fair grounds or buildings while used and occupied for the purposes specified in this lease.

When that bill was presented to the Quartermaster-General he refused to allow it on the ground, first, that the United States had paid for the use of the grounds for the time they had used them under the contract and, secondly, because the contract had been altered. I send to the Clerk's desk to be read what he said about it at that time.

Mr. EDEN. Will the gentleman allow me to ask him a question?

Mr. FINLEY. Certainly.

Mr. EDEN. Is the gentleman not aware that the bill now before the House does not propose to pay one cent for damages to the property, but simply for the time it was occupied by our troops?

Mr. FINLEY. I will come to that in a moment. It is true that the Committee on War Claims of this House have thrown out the claim for damages. But the point I desire to make is that the parties who presented this bill undertook by the alteration, if they did alter and forge the contract, to procure from the United States the sum of \$2,100 by reason of the alteration that they themselves made.

Mr. THOMPSON. Will you allow me to ask you a question in this connection?

Mr. FINLEY. I will.

Mr. THOMPSON. In your view of the matter, do you resist the payment of this bill on the ground of its merits or on the legal ground that the change of the agreement, as you allege, destroys the effect of the contract?

Mr. FINLEY. I resist the claim because there is nothing due.

Mr. THOMPSON. Then what has the question whether there is an alteration or not to do with the case?

Mr. FINLEY. Simply as showing the animus of persons who would forge a contract and attempt to get \$2,100 out of the United States in that way.

Mr. ROBINSON, of Indiana. Does the gentleman charge that these men forged the contract?

Mr. FINLEY. I do not. I say simply that it is a question to be determined by this House, as it was determined by the Adjutant-General, whether the contract was altered or not.

Mr. EDEN. Does the gentleman say that the men connected with the Bartholomew Agricultural Society had anything to do with the change of the contract?

Mr. FINLEY. I will explain the testimony when we come to it. I ask the Clerk to read the decision of the Adjutant-General which I have sent to the desk.

The Clerk read as follows:

On June 8, 1864, a claim for the rent of those grounds from October 25, 1863, to May 3, 1864, amounting to \$633, was received in this office from Captain J. H. Farquhar. It was fully investigated, and on February 24, 1865, Major S. B. Hayman paid the amount allowed, \$536.66, that being all that was deemed a proper charge against the appropriation for collecting, drilling, and organizing volunteers.

A certified copy of the records in the case is herewith, marked "A," which fully explains the action had and the evidence upon which said claim was allowed; also a certified copy of the voucher paid by Major Hayman, marked "B."

On October 19, 1865, another account was received in this office for the rent of the same ground from September 7, 1864, to October 4, 1864, based upon the same contract, amounting to \$123.33, and was rejected for the reasons set forth in the endorsement thereon. The papers and evidence presented in support of this claim are herewith, in package marked "C."

It will be observed that the first claim commences October 25, 1863, date of lease, and runs to May 3, 1864. In September, 1865, another claim is made for rent from September 7, 1864, to October 4, 1864. In the latter claim no mention is made of the occupation of the grounds from May 3 to September 4, or from October 4, 1864, to June, 1865, although the claim was made out in September, 1865.

If the parties had intended to claim compensation for these periods, they should have done so at that time, and not have waited for five years to elapse. In view of these facts the claim was rejected.

By reference to the original lease filed with the account presented by Mr. Holman, it will be observed that a clause has been inserted as follows: "And the said Wilson, on behalf of the State of Indiana and the United States, undertakes to repair all damages that may be occasioned to said fair grounds or buildings while used and occupied for the purposes specified in this lease." This has evidently been inserted since the lease was executed, and since October 4, 1865, for we have a certified copy of the lease made on that date by Captain James B. Mulkey, provost-marshal of the third district of Indiana, and said copy does not contain the clause above referred to. (See copy in package marked "C.")

The facts sworn to by Wilson, Stansifer, and Jones are incorrect, especially in the case of Stansifer. He reported in 1865 that the \$100 rent to be paid was intended to cover all claims for damages enumerated in his report, and now in 1871 he swears that no provision was made by the United States for the payment of damages to said grounds. It is recommended that the rejection of the claim be adhered to.

E. D. TOWNSEND,
Adjutant-General.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
April 4, 1872.

Rejection adhered to by the Secretary of War.
By the Adjutant-General:

THOMAS M. VINCENT,
Assistant Adjutant-General.

APRIL 13, 1872.
Official:

E. D. TOWNSEFD,
Adjutant-General.

Mr. KEIFER. I believe the time for debate on this bill was limited to forty minutes; and my colleague [Mr. FINLEY] has already occupied twenty or twenty-five minutes.

The CHAIRMAN. The gentleman from Alabama [Mr. SHELLEY] was recognized by the Chair and yielded twenty minutes to the gentleman from Ohio, [Mr. FINLEY,] who still has some ten minutes of his time remaining.

Mr. FINLEY. And I do not desire this to be taken out of my time.

Mr. KEIFER. I still insist that the time was to be divided between the friends and the opponents of the bill.

The CHAIRMAN. The Chair is informed that there was no arrangement in the House for a division of the time. That will be a matter to be settled between the gentleman from Alabama and those desiring to speak.

Mr. KEIFER. I understood there was an agreement that would entitle the friends of the bill to at least a few minutes to answer a gentleman who seems to know nothing about the case.

Mr. SHELLEY. There was an agreement that the time should be equally divided, the gentleman from Ohio [Mr. FINLEY] to use half the time and the friends of the bill the other half.

The CHAIRMAN. No such agreement was brought to the knowledge of the House or the Chair.

Mr. SHELLEY. That was the agreement between the majority of the committee and the opponents of the bill.

The CHAIRMAN. The gentleman from Ohio [Mr. FINLEY] will proceed.

Mr. FINLEY. Mr. Chairman, I do not charge, because I do not know, that this contract was altered by interested parties or by anybody else. All that I know about it is what I find by inspecting the contract which I hold in my hand and from what is said by the Adjutant-General. I have my own opinion upon the question, but that makes no difference. I desire to say that when this first copy was certified as correct by the provost-marshal the clause to which I have referred was not in it as the Adjutant-General says.

Mr. COBB. If the gentleman will permit me, I want to say that I know personally every man whose name is signed to that paper; and

I say that those gentlemen are men of as high honor as any man in the State of Indiana or Ohio either. The gentleman in his present remarks is doing them great injustice. They are men belonging to both political parties, who stand above suspicion in the neighborhoods in which they live.

Mr. FINLEY. I decline to yield further. I do not want a speech injected into my remarks. I wish to say once for all that I am making no charge against those gentlemen or against their personal integrity. I am simply stating what I find in the papers. I am simply giving to the House what the Adjutant-General himself reports, and his opinion upon the matter. These men may be gentlemen of the highest character for all I know; I know nothing about that; but I have this paper before me and I have found nothing in the testimony that has explained to my satisfaction this discrepancy between the original and the copy that was certified to be correct.

Now, Mr. Chairman, when that contract went to the Adjutant-General, Colonel Stansifer, who was an officer at that time in charge, certified that the first bill was to cover the whole claim, damages and all. Yet the committee say that no such report from Colonel Stansifer is found among the papers. I have that report here in my hand; it does state in substance what I have just mentioned. I will print it as a part of my argument; and it is here for any gentleman who desires to examine it. It reads as follows:

Respectfully returned to Colonel James G. Jones, acting assistant provost-marshal-general for Indiana, with the following information as to the reasonableness of the annexed claim of the stockholders of Bartholomew County fair grounds:

The fair ground indicated contains twenty-two acres, and at the time of its first occupation by troops was well fenced in by a board fence. The interior was substantially arranged with seats, stock and exhibition sheds, wells, and all the ordinary improvements incidental to fair grounds. The grounds were also peculiarly well shaded. To properly arrange the ground suitable for a camp of rendezvous, the stock sheds and seats were removed and the exhibition sheds were converted into barracks, thereby destroying all the inside arrangements for exhibition purposes. The circle fence around the race-track was destroyed. The shade trees were much injured by the hard tramping of the ground and being packed by the soldiery. The outside fencing was much injured; the pumps attached to the wells were destroyed; the committee-rooms and offices belonging to the grounds were also much injured, so much so as to render new buildings absolutely necessary. The herbage upon the ground was wholly destroyed. The amount charged I do not think unreasonable, the charge being made with the view of covering the foregoing and other injuries to the property. It is proper for me to state, however, that I am a stockholder to a small amount in the association.

S. STANSIFER,

Captain and Provost-Marshal Third District Indiana.

COLUMBUS, INDIANA, September 1, 1864.

Subsequently Colonel Stansifer makes an affidavit saying that he has no recollection of making that kind of a report; but the report is here to speak for itself.

Now, sir, this claim the payment of which is now sought was first presented in 1870 after all previous bills had been presented and after the first had been paid, the only one that was a legal claim against the United States. The only testimony offered in support of this bill is the testimony of Colonel Stansifer, and of Mr. Jones, and of Lieutenant Wilson who made the contract, a gentleman who has since died. Stansifer testifies that he is a stockholder in the society. Mr. Jones is the secretary of the society. All the affidavits I have before me here in my hands. The first one, dated August 3, 1871, is by Stansifer; the second, dated January 1, 1867 by Stansifer and Jones; the third, bearing date April 17, 1877 by Stansifer; the next, dated June 27, 1877, by Stansifer and Jones; the next, dated April 17, 1877, by Jones; and the last, by Stansifer. I have examined each of these affidavits. They were given in support of the first claim. Then they took a second swear at the second claim, and a third swear at the third claim; yet, Mr. Chairman, I have been unable to see in all the testimony anything to justify me in voting for this stale, "fishy" claim.

Mr. EDEN. Why does the gentleman omit to refer to Lieutenant Wilson?

Mr. FINLEY. The gentleman asks me why I omit Lieutenant Wilson. There is nothing in his testimony that throws any light on this claim. He says that he made the contract; but he notably omits to say that the contract had a clause in it making the United States responsible for damages.

The CHAIRMAN. The gentleman's time has expired.

Mr. SHELLEY. I yield for ten minutes to the gentleman from Indiana, [Mr. BICKNELL.]

Mr. BICKNELL. Mr. Chairman, the claim as allowed by the committee is a claim for rent only due upon a written contract made with the quartermaster, ratified by the United States by twenty months' occupation, and still further ratified by payment for the first five months according to the terms of the contract.

Mr. LATHROP. On the gentleman's statement I would like to know why the Clerk of this House has not sent this claim to the Court of Claims, according to the provisions of section 1060 of the Revised Statutes of the United States, which requires all such cases shall be sent to the Court of Claims for adjudication. There has been no resolution, as I understand, of the House directing otherwise. If so, when was it?

Mr. EDEN. The law expressly forbids the Court of Claims considering this class of cases.

Mr. LATHROP. The law expressly confers jurisdiction upon the Court of Claims.

Mr. BICKNELL. I suppose this will not be taken out of my time. The CHAIRMAN. It certainly will.

Mr. BICKNELL. I cannot yield any more.

I said it was a claim for rent only. There is no question of damages now connected with it. There was a question of damages originally, and upon that a dispute arose as to what was contained in the contract. That dispute led to a great deal of litigation and a great deal of delay; but when the case came up the committee struck out the claim for damages and reported the claim for rent only.

The question is, how long were the premises occupied? It is shown by the evidence and it is stated in the report, and this report itself furnishes a complete answer to everything which the gentleman from Ohio has alleged. It is shown by the evidence the grounds were occupied, under a written lease, for military purposes, from September, 1863, to June, 1865. Then there was a payment for five months and a few days. It is said by the gentleman from Ohio that was in full for the entire claim. That also is explained in the report:

The society had the right to believe, and probably did believe, from an opinion which had been expressed by the Quartermaster-General, (as appears from papers on file) that a distinction should be kept up between the times the grounds were used for collecting, organizing and drilling volunteers, and other periods for which they may have been otherwise used.

This payment which was made was payment for the time only when they had been used for collecting, organizing, and drilling volunteers, and they were used for military purposes for the whole fifteen months. It is the balance only of that fifteen months which the committee here have allowed. That is all there is in the claim.

As to the authority of the quartermaster to make a contract, we know what Governor Morton's condition was when he was raising troops: called upon every day for troops; sending them across the river daily to Kentucky, across the mountains to Virginia, and over the prairies to Missouri; and in order to have those troops taken care of he had to employ his own quartermaster. And now they say he had no authority to make this contract! All Governor Morton's energetic action in the war was founded on the faith he had the Government would pay this expense. But now gentlemen say, when these men went to the field and gave their lives to the country, the country is not to pay for their lodging. That is the substance of it; that is all there is in the case.

I yield the remainder of my time, if I have any, to the gentleman from Illinois, [Mr. EDEN.]

Mr. EDEN. The gentleman from Alabama was compelled to leave the Hall, and before leaving placed this case in my hands. I yield now to the gentleman from Indiana, [Mr. ROBINSON.]

Mr. ROBINSON, of Indiana. Mr. Chairman, I do not wish to advocate this or any other claim against the General Government which I think is unjust; but this claim was reported by the unanimous consent of the Committee on War Claims as being a just claim, predicated upon a contract which was entered into between the authorized agent of the Government and this agricultural society.

I wish now simply to advert to a point which has been made by the gentleman from Ohio, [Mr. FINLEY,] by which he has attempted to cast some suspicion upon the manner in which this contract between the Government and the agricultural society was executed. If the gentleman from Ohio was acquainted with either of the gentlemen who signed that contract I take it he would be far from attempting to cast any suspicion whatever upon them. They are honorable gentlemen, and if he had taken the trouble to examine the testimony of these gentlemen he would have ascertained that it was clearly shown by that testimony that the interlineation he objects to in the contract was made before it was signed, but by an oversight it was not written in the contract executed in duplicate which was filed with the proper authorities of the Government.

Now, sir, this was a contract. It was entered into in good faith. It was carried out in good faith. It was between honorable parties who have a just claim against the Government of the United States. It is in no sense of the word, sir, a war claim; but it was an absolute engagement to pay \$100 a month rent for the occupancy of the agricultural society's grounds, which the evidence shows beyond any kind of controversy were occupied for that space of time, and for that rent alone was allowed.

Now, the words that were interlined in the contract were provided that the Government should be liable for any damages that would occur by the use of the grounds in the recruiting of troops. It is shown in the testimony that damages by reason of fire, to the extent of \$2,000, were done to the fair-ground in the destruction of its property. But as there was a controversy upon that subject the committee refused to allow the amount of damages, and simply reported the bill for the balance of the rent which is due.

This matter was fully investigated in the last Congress by Judge New, who represented that congressional district, and the bill passed this House. The claim also, I believe, was investigated and reported favorably in the previous Congress; and the validity and honesty of the claim have never been questioned until this present session of Congress.

I have no doubt that, upon the contract and the evidence, we will be doing an act of injustice if this bill is not passed and the claim paid.

I wish to say just one other word, and then I suppose my time will have expired. The gentleman from Ohio [Mr. FINLEY] has, by innuendo and by intimation, attacked the character of men who I have no doubt would, anywhere upon the broad face of the globe, if the

question of character were at stake, have as good a character and as good a reputation as the gentleman from Ohio or any other man upon this floor. There was no such intention, no such purpose as he ascribes to them; and there is nothing in the evidence in this case to justify the intimation that any wrong, any forgery, has been attempted by the men who made that contract, or that there was on their part any fraudulent intent or purpose. I say, therefore, that this is a just claim; and the Committee on War Claims were unanimously of the opinion, under the evidence and under the contract, that it should be paid; and it would be a want of good faith on the part of the General Government if it was not paid.

A question was asked why the claim was not referred to the Court of Claims. The answer is, for the reason that the Court of Claims and the southern claims commission have no jurisdiction of this class of claims. If this claim had been referred to them it would simply have been dismissed. The parties have no remedy except by act of Congress.

Mr. RICE, of Ohio. I desire to ask the gentleman a question. Is there any question about the length of time the troops occupied the premises?

Mr. ROBINSON, of Indiana. No, sir; there is no question about that under the evidence.

[Here the hammer fell.]

Mr. SHELLEY rose.

The CHAIRMAN. Of the time allowed for general debate but three minutes remain. The time occupied in reading the report was eight minutes, and the Chair is informed by the Clerk that that is considered as part of the time for general debate.

Mr. BRIGHT. I do not think it is usual to consider the time occupied in reading the bill and report as part of the time allowed for general debate.

The CHAIR. The Chair is so informed by the Clerk. But if there be general consent the eight minutes occupied in reading the report will not be deducted.

There was no objection.

Mr. SHELLEY. When authority was given by the General Government to the State governments to organize and drill troops in the different Northern States an appropriation was made for that purpose. When this contract was made the troops had occupied these fair-grounds for nearly a month. The contract was agreed upon at the rate of \$100 a month, and signed by the officers of the Government and the owners of the fair-grounds. When their claim was presented it was found that it was for a time that was not covered by the organization and drilling of the troops; and therefore it was rejected, the appropriation being confined to the organization and drilling of the troops.

This explains the presentation of the two accounts that were presented to the quartermaster for payment. The only claim that could be recognized was for such time as the fair-grounds were used by the State officers in the organization and drilling of these troops.

The evidence shows that the fair-grounds were continuously occupied as a hospital and for other purposes; but, as the officers of the United States had no authority to pay for the occupation of grounds as a hospital out of the appropriation made for other purposes, the claim was rejected.

There is no evidence to show there was any fraud in this matter at all. The interlineation of the lease in possession of the officers in the fair-grounds is explained by the fact that it was drawn up and signed by the officers of the Government and presented to the officers of the fair-grounds for their consideration and acceptance. They returned the lease to Lieutenant Wilson, suggesting this change in the contract providing for the payment of damages. It was inserted in the contract which was delivered to them and not in the duplicate which was filed in the papers of the Department. But whether it was interlined or not makes no difference as to the equity and merits of the claim. The evidence is conclusive, showing the grounds were continuously occupied for twenty-one months; the evidence is conclusive, showing the rate per month agreed upon by the Government and these parties was \$100 per month; and the evidence is conclusive, showing the amount paid by the Government on account of rent. That amount, deducted from the amount due, leaves the balance which appears in the bill reported by the committee.

I believe, Mr. Chairman, this is a just and equitable claim.

Mr. CALDWELL, of Tennessee. Will the gentleman yield to me for a question?

Mr. SHELLEY. Yes, sir.

Mr. CALDWELL, of Tennessee. This claim I believe originates in the State of Indiana. It originated in a period extending from 1863 to 1865. The question I desire to put to the gentleman from Alabama is this: Is there any evidence in this record anywhere as to the loyalty of the owners of this property? I understand it was alleged that during the war there was an organization in the State of Indiana known as the Knights of the Golden Circle. Certain gentlemen supposed to belong to that organization were taken up and tried by a military commission; and before I vote on this bill I want to know whether the loyalty of the gentlemen who are the claimants here is beyond a doubt. [Laughter.]

Mr. COBB. If the gentleman will allow me, I will state that two of these gentlemen were republicans during the war and the other was a democrat who had never been charged with disloyalty.

Mr. SHELLEY. The question of loyalty was not investigated in connection with this claim. I had not been informed that citizens of the State of Indiana were required to prove their loyalty, and therefore I did not go into that question; but if they were disloyal I would nevertheless report on this claim favorably, for I believe it to be a just one. I now yield the remainder of my time to the gentleman from Ohio, [Mr. KEIFER.]

Mr. KEIFER. I might answer the inquiry just made by the gentleman in regard to the loyalty of these persons in this way: that in an unreported case recently in the Supreme Court of the United States, that court held that where there was a contract to pay a party, made by the United States, which was valid, it was not important whether the party was loyal or not loyal. I refer to the case of *Clark vs. The United States*. I have no doubt about the loyalty of these men, but I need not stop to discuss that matter. The sole question involved here is whether this contract was binding on the Government. If it was, then if we refuse to pass this bill to pay this society for, as the report states, the time that the grounds of the society were occupied as a rendezvous for the organization of troops, we simply say that we repudiate Government contract.

Now, one word further. It has been intimated that this contract was a forgery in this: that it was interlined so as to attach additional obligations to the General Government after it had been executed. Now, any person who will examine the contract, the original of which the gentleman from Ohio [Mr. FINLEY] holds in his hand, will be able to see, on the most casual inspection of it, that the signatures, or at least some of them, were written over that part which is claimed to have been interlined. It is clear beyond doubt that the name of Thomas Wilson was written there after the interlineation was made, for it extends over a part of that interlineation. Now it happened in this way: the contract, without those words, was sent to Washington by the officers of the Government who were authorized to make this contract; but the society refused to make with the Government any such contract as was proposed. The Government subsequently, through its officers, put in conditions that the society was willing to have put in and then the contract was executed. The Government occupied these lands before the change was made in the contract, and they are now bound to pay for that use of the property. It ought to be distinctly understood by the House that the society, by virtue of the language claimed to have been interlined in the contract, gains nothing under this bill.

Mr. JONES, of Ohio. I desire to ask the gentleman one question, for I want to get at the truth in this matter. I would ask the gentleman whether it is not a fact that this agricultural society filed its claim for the use and occupancy of its property up to May, 1864, and then, whether they did not file another claim in October, and whether both claims were paid or not? I ask now further, whether the society did not, at that time, concede that the General Government occupied their grounds from May to October, five months, and whether this bill does not propose to pay them for that time?

Mr. FINLEY. I desire to ask my colleague [Mr. KEIFER] a question. Does not this committee undertake to pay this agricultural society for the use of these grounds for one month and twenty-eight days before the contract was ever made?

Mr. KEIFER. I am informed in relation to the last question asked me, that the contract was sent out and the society surrendered their grounds to the United States, and the Government occupied them for quite a time while there was a little controversy about the execution of the contract, and that explains that trouble. But the gentleman from Ohio [Mr. JONES] asked me a question which I will endeavor to answer. I was not a member of the subcommittee which examined the papers, but my information is that no concession was made by this society that the Government had not occupied or controlled their grounds for any part of the time which it is now proposed to pay for. The gentleman is perhaps partly right when he says that some claims were presented and paid. That is true, and the committee have deducted that amount from the bill.

[Here the hammer fell.]

The CHAIRMAN. The time allowed for debate has expired.

Mr. SHELLEY. I move that the bill be laid aside to be reported favorably to the House.

Mr. BAKER, of Indiana. Are amendments in order?

The CHAIRMAN. They are.

Mr. BAKER, of Indiana. I move to strike out all after the enacting clause and to insert in lieu thereof the following:

That the claim of the Bartholomew County Agricultural Society, of the State of Indiana, for rent of the fair-grounds of said society, for military purposes, between the years 1863 and 1865, be, and the same is hereby, referred to the Court of Claims, which court is hereby empowered and required to take jurisdiction and cognizance of the same, and to hear and try said claim according to the ordinary rules of evidence obtaining in the trial of actions at law in the Federal courts, and that the United States shall not be permitted to interpose the statute of limitations against said claim on the trial thereof.

I desire to say a word or two upon that amendment.

The CHAIRMAN. The Chair is informed that debate upon this bill is closed and that no debate will be in order until the committee proceeds to consider the bill by sections for amendments.

Mr. BAKER, of Indiana. But there is only one section and that is now under consideration.

The CHAIRMAN. Then the bill will be regarded as under consideration for amendments at the present time.

Mr. BAKER, of Indiana. My purpose in offering this amendment is simply to enable this claim to be tried before a court that will be clothed with jurisdiction to hear all the evidence in accordance with the ordinary rules obtaining in the trial of actions at law in the Federal courts. The trial of a contested question of fact, in reference to a claim, before the committee of this House and before the House itself, is one of the most unsatisfactory that ever was devised by the wit of man; not only the most unsatisfactory, but I think the most dangerous.

I confess that after all the discussion of this case which I have heard, my own mind is still in doubt in reference to the question of what amount, if any, ought actually to be paid to this agricultural society. I have been trained myself to a respect for the administration of law, and in the belief that the placing of witnesses on the stand where they may be examined and cross-examined by counsel who are employed for that purpose is the most certain means of eliciting the truth. It is for that reason that I have offered the amendment which has been read, and which, if adopted, will do justice between the parties claimant and the Government of the United States.

I can see no objection to the transfer of this case to the Court of Claims. It is peculiarly a claim that ought to undergo judicial scrutiny and investigation. If I understand aright the contract that was originally made, it would seem that it was made for certain limited and specific purposes. After those purposes had been subserved, other and additional uses were made of the grounds of this society by organizing other and additional regiments on the grounds that had thus been rented.

Mr. BICKNELL. I would like to give the gentleman a little information on that very point.

Mr. BAKER, of Indiana. I would be glad to have it.

Mr. BICKNELL. There was an occupation of those grounds by the United States for the whole twenty months. During a portion of that time the grounds were occupied for the purpose of collecting, organizing, and drilling the volunteer soldiers. During the remainder of the time the grounds were occupied as a hospital and for other purposes; there were buildings there which were used for hospital purposes. The money which has been paid was paid only for the time during which the grounds were occupied for the purpose of organizing and drilling the volunteer soldiers.

Mr. BAKER, of Indiana. That is substantially as I understand it. When these grounds were first rented they were rented for certain limited and specific purposes. When those purposes had been accomplished the grounds were used for other and different purposes by those who were engaged in the military service of the United States.

Now, I do not mean to say that the Government of the United States ought not to pay for that use. But I do say that for one I am not sufficiently advised so that I feel it is safe for me or that it is safe for this House to pass upon this claim. I think this claim ought to go to a tribunal where it can be heard according to the rules of evidence, and whatever is right and just between the Government and this society may be awarded by a definite judgment upon a full and fair hearing of the case.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONGER. I rise to oppose the amendment. I suppose that were one to look back over the Northern States of the Union during the war, and should see the agricultural grounds, fenced in, with their buildings and their cattle-sheds and their horse-stables, he would probably find not one from Maine to Kansas but what some time during the war had been occupied by our volunteer soldiers. The patriotic farmers of the country said to the military authorities of the State, Take these grounds; take these buildings; use them while we are having no farms; use the stables and the sheds for your horses; use the other buildings for your men; raise your regiments and let our boys, our sons, who are coming in to form the regiments in our county, have our own fair grounds for their regimental organization and parades.

These fair-grounds were scattered broadcast in all the counties of the land. I thank God that there have been very few agricultural societies in the Northern States that have come clamoring to Congress for ten or twelve years for pay because the sons of the farmers of the county occupied the fair-grounds owned by their fathers.

This case stands almost alone. This agricultural society has already received over \$500 for any little damage to its buildings and its fences and for the trampling of the grass. But it wants a couple of thousand dollars more. In what part of Indiana were these fair-grounds? To what kind of people did they belong? Were they owned by the Knights of the Golden Circle?

Mr. COBB. If the gentleman will allow me, I will say that they were owned by as loyal men as the constituents of the gentleman himself, and probably much more so.

Mr. CONGER. I do not wish to give the gentleman any offense; I have not spoken of him.

Mr. COBB. No; but you spoke of my friends.

Mr. CONGER. I have not alluded to the gentleman nor to any gentleman on this floor. I have alluded to an ancient order of men long since extinct but not yet forgotten, [laughter,] the Knights of the Golden Circle, a myth of the past, who, thank God, have no representative on this floor to take offense at what I say. [Great laugh-

ter.] Therefore no one can call me to order or question what I say on that subject.

But, sir, I was saying that all over the North not only were agricultural grounds given freely to the soldiers as they were being organized into regiments, but the ladies of the land sent blankets and tables and food, and never asked for pay. Ay, sir, not only agricultural grounds used as such but once a year were thus given freely and heartily to the soldiers that were rallying to save their country, but private dwellings and public buildings, court-houses, churches, and school-houses all over the land were given for the same purposes. Ay, sir, this very Capitol, this very Hall, was filled during the war with stretchers, on which were wounded soldiers waited upon by hundreds of patriotic women, who thus served their country for nothing and succored these soldiers. But some place in Indiana had a fair-ground fenced in to keep the boys out and to keep the soldiers in; and the agricultural society that owned that ground must be paid for its use.

[Here the hammer fell.]

Mr. EDEN. I move to amend the amendment of the gentleman from Indiana [Mr. BAKER] by striking out the last word. Mr. Chairman, the only object of the Committee on War Claims in reporting this bill was to pay what seemed to be a just and valid claim. The only difficulty in reference to the payment of the claim was not on account of any uncertainty as to the time that the property was used by the Government, but was purely on account of a technical objection under which the War Department decided that it could not make payment. Hence there is no sort of necessity for referring this case to the Court of Claims. If the Government of the United States ought to pay (and so far as I am personally concerned I do not care a farthing whether it pays or not) for the use of property which by its duly authorized officers was admitted to be worth \$100 a month to the Government, the facts are all before the House as they were before the Committee on War Claims, and we can determine that question just as well as the Court of Claims can.

Mr. LUTTRELL. I would like to ask the gentleman one question. The gentleman from Michigan [Mr. CONGER] charges that these grounds were owned by the Knights of the Golden Circle; and he seems to be well posted on that subject. But it appears to be the fact that the gentleman from Indiana, [Mr. HANNA,] a republican member, introduced the bill. I want to know how the gentleman from Illinois [Mr. EDEN] reconciles those two statements.

Mr. TOWNSEND, of New York. You want to know "what is the matter with Hannah?" [Laughter.]

Mr. EDEN. During the last Congress when my friend from Michigan was a member of the Committee on War Claims the same committee reported by a unanimous vote the identical bill which is reported now. But I suppose the gentleman from Michigan during the course of that investigation found out that this property belonged to the Knights of the Golden Circle; and he was so derelict in his duty that he never reported that fact to the House.

Mr. LUTTRELL. Is he not a member of the order? [Laughter.] He seems to know more about it than anybody else.

Mr. EDEN. I fear that he is, for he must have ascertained these facts during the last Congress when he was a member of the Committee on War Claims, and when, in common with the other members of the committee, he reported the bill favorably, concealing from the House this fact which he now springs upon it. Therefore, I infer—I will not charge the gentleman with it—that he must have belonged to that secret and treasonable organization, [laughter;] and I suppose that he is desirous of breaking down the credit of the Government, and therefore does not want to pay a just and honest claim. That is all I have to say.

Mr. JONES, of Ohio. I rise to oppose the amendment of the gentleman from Illinois, [Mr. EDEN.] I desire to say just a few words about this matter. Of course I know nothing as to the status of these parties who hold this claim; but there is one fact connected with the claim which it seems to me the committee could not have had before it. Now, if I am mistaken about this I want to be corrected, because I wish to be right. I understand that the Committee on War Claims by their report propose that the Government shall pay \$100 a month for the use and occupancy of these grounds from September, 1863, up to some time in 1865. Now I want some man who is in favor of paying this claim to explain to me how it happens that this agricultural society, when they made out their first claim, brought it up only to May, 1863, and when they made out their second claim made that claim commence in September, 1863, claiming nothing for the time between May, 1863, and September, 1863. In other words, how does it happen that this society knows now more about the occupation of their fair-grounds ten or fifteen years ago than they knew in 1864, when they made out their first claim, regularly certified by an officer of the society?

Mr. EDEN. This bill is to pay the balance due for rent after deducting what was paid.

Mr. JONES, of Ohio. No, sir; that is where the gentleman is mistaken.

Mr. EDEN. I certainly am not mistaken. That is the precise fact as shown by the report and the evidence.

Mr. JONES, of Ohio. If some one will hand me a copy of the report I will show the gentleman that he is mistaken. This claim is for \$2,100 for occupation of the grounds from September 1, 1863, to

June 1, 1865. The committee go upon the basis of allowing the society \$100 a month from the time the contract commenced until it closed, making deduction of payments already made; but that includes five months for which the society did not claim pay in 1864.

Mr. EDEN. The gentleman does not understand the case at all. The committee do not report any such thing. It is not in the papers or in the evidence.

Mr. JONES, of Ohio. Well, the society so states it. What I claim is that in 1864 this society made out its account for the balance of rent then due, and that claim was paid.

Mr. EDEN. Does the gentleman mean to say the committee report here to pay that over again? That must be what he means, if he means anything at all. I say the committee does not report any such thing, and the evidence does not show any such thing; and it is not true, sir.

Mr. JONES, of Ohio. Let me say the claim of the society when first made out was paid by the Department.

Mr. EDEN. Paid by the Department for a portion of the time. This report is to pay for the balance of the time. That is the whole case.

Mr. JONES, of Ohio. Just wait a moment. I am going to talk about the second account. In October, 1864, the society made out an account for the balance of the rent due, and that was \$123. That was paid. That is what I mean to say. Who denies that?

[Here the hammer fell.]

Mr. EDEN. I move the committee rise for the purpose of closing debate.

Mr. FINLEY. The debate, as I understand, was limited by the House to forty minutes.

Mr. EDEN. The debate is now going on under the five-minute rule, and I move to rise to close all debate; the debate under the five-minute rule as well as the general debate.

Mr. FINLEY. Has not debate been exhausted on the pending amendments?

The CHAIRMAN. It has.

Mr. EDEN. Then let us have a vote. I withdraw my amendment to the amendment.

Mr. CONGER rose.

Mr. RICE, of Ohio. Let us have a vote.

The CHAIRMAN. Did the gentleman from Illinois withdraw his motion that the committee rise?

Mr. EDEN. I withdrew my amendment, but as my friend from Michigan desires to be heard, I will not insist on my motion that the committee rise. He hardly ever gets the floor and I am willing to give him a chance.

Mr. CONGER. The chairman of the committee says that I have obtained the chance—that he will give me the chance, and he says it with some feeling. I am sorry to see the chairman of the Committee on War Claims manifest any personal feeling about this matter.

Mr. EDEN. None on earth.

Mr. CONGER. I am sorry to see him manifest any such feeling.

Mr. EDEN. None at all, sir; none whatever.

Mr. CONGER. I am sorry to see him manifest it toward so old and good a friend as I have been to him. [Laughter.] I do not mind so much about it as regards myself, but I am sorry to see him manifest any feeling toward new members of the House.

Mr. EDEN. If I have said anything which my friend thinks showed any feeling toward him, I withdraw it. I did it unconsciously.

Mr. CONGER. But wait until I get done with it first. [Laughter.] The gentleman instead of discussing the merits of this bill, in a manner unusual for him and which from my great respect for him I sincerely regret to see, turns to personalities. He speaks of my connection with the Committee on War Claims. On another occasion he has highly commended me for the performance of my duties there. Now he says that this was before that committee in the last Congress and received unanimous consent—the assent of every member of that committee. I cannot think the gentleman means to misrepresent me and one or two other members of that committee. I cannot think that is intentional; it must have been a slip of the tongue, because the gentleman must remember we discussed it in committee very fully and I made some of the very remarks about agricultural societies charging for grounds in committee that I made here to-day in the House.

Mr. EDEN. Did the gentleman make a minority report?

Mr. CONGER. I did not make a minority report. Is it necessary a member shall make a minority report to show he is not in favor of a bill or that he does not agree with the rest of the committee in recommending a bill for passage?

Mr. EDEN. If the gentleman states he opposed it in committee I do not recollect it; but as a matter of course I accept his statement.

Mr. CONGER. I do say so.

Mr. EDEN. I will take the gentleman's statement, although I have no recollection of the fact.

Mr. CONGER. I dislike the gentleman to state things which go before the country in regard to my action which makes my action here inconsistent with what I do in committee.

Mr. EDEN. Let me say right here—

Mr. TOWNSEND, of New York. I wish to hear the gentleman from Michigan.

Mr. CONGER. And I have only five minutes.

Mr. TOWNSEND, of New York. We will hear the chairman by and by.

Mr. CONGER. The gentleman also said that I must have been a member of the Knights of the Golden Circle, and the gentleman from California wonders why I did not tell who they were. I respect the gentleman from California as a member on this floor too much to refer to him in that connection. [Laughter.] During some portion of the war, as I suppose, my friend was a loyal citizen of the United States. Believing as I do, from what I have heard, that he was so during most of the time, it did not become me to suggest there may have been a few days when he was wavering, and I will not do it. [Laughter.]

That is all I desire to say; first to set myself right in regard to not having joined the committee in a unanimous report for this bill in the last Congress, and to say, as a reason why I did not point out men here as having belonged to the Knights of the Golden Circle, when the gentleman from Illinois says I ought to know them, that they are considered by me so far by-gones that I will not wound the feelings of a great many gentlemen on that side of the House by pointing them out. [Laughter.]

[Here the hammer fell.]

Mr. SHELLEY. I rise to oppose the amendment. I am not a citizen of Indiana, and therefore cannot speak as to the loyalty or patriotism of these claimants. But from the records I find there was the One hundred and fortieth Regiment of Indiana Volunteers in the Federal Army; a fact which speaks very well for the devotion of the people of Indiana to the Federal cause.

As regards these claimants, their ground was not only occupied from day to day and from month to month, but their buildings were destroyed and the shade-trees all over the grounds were cut down and used for fire-wood. The property was absolutely destroyed and nothing was left except the grounds. This claim has been proven to my satisfaction. I have all the prejudices out of which might grow antagonism to this claim. While those troops were being drilled and organized on those grounds, I was in the confederate army, impelled by my convictions, the highest that control human action. I believed those men were wrong. And therefore I have to overcome all my prejudices to arrive at a disposition to pay this claim. But having done that, I come to the conclusion that it is a just and equitable claim, one that could be established in the courts of the country, one that ought to be paid, and I believe it would be downright repudiation for the Government to refuse to pay it.

Mr. LUTTRELL. I move to amend by striking out the last two words.

Now Mr. Chairman, my friend from Michigan [Mr. CONGER] has seen fit to attack my loyalty. I simply suggested that the gentleman seemed to know more of the Knights of the Golden Circle than any gentleman I had met before. I know nothing of them so far as I am concerned. But I want to say to the gentleman from Michigan that he and I belonged to the same regiment and the same company and were commanded by the same commander; we both stayed at home during the war, in the stay-at-home guards. We were willing to let our neighbors go and fight for the Union, and now he and I are standing here fighting our battles over again, the battles we did not fight during the war. [Laughter.] I will stake my loyalty with his. I shed as much blood during the war as he did. I shed it by keeping out of the way, as the gentleman from Michigan did. He never once responded to the call of his country; but he never lets an opportunity pass on which he can avail himself of hurling anathemas against the democratic party and declaring on all occasions that we on this side are disloyal. I want to say to the gentleman from Michigan that we will take our MORRISONS and McMAHONS and RICES and BRAGGS and WILLIAMSES and other Union soldiers on this side of the House and compare them with the brave men on your side that went out to battle for the Union and did not stay at home as you did. And I will say more, we will take the rebel soldiers that sit here and place them alongside your carpet-baggers that went South after the war.

Mr. TOWNSEND, of New York. You are a carpet-bagger to the North.

Mr. LUTTRELL. No, sir; I am not that. I have stood by the Union all the days of my life. And I will never vote for one of those war claims till I am satisfied it is just.

Mr. TOWNSEND, of New York. Did not the gentleman from California emigrate from the South to the North?

Mr. LUTTRELL. I emigrated from the South to the West. I worked my way across the Rocky Mountains.

Mr. TOWNSEND, of New York. Why, then, may you not be called a carpet-bagger as well as those who went from the North to the South?

Mr. LUTTRELL. I am informed that the gentleman who now interrogates me himself emigrated from Massachusetts to New York, so that, according to his own showing, he, too, is a carpet-bagger. I will say to the gentleman that I went to California, being one of the first who landed on its golden shores. I believe I ran the first threshing-machine that went into operation in that country, and now propose to run a machine to thresh all those who staid at home during the war or doubt my loyalty.

Mr. TOWNSEND, of New York. I found no fault with you. I am for encouraging such men, not abusing them.

The CHAIRMAN. The gentleman from New York is not in order.

Mr. LUTTRELL. I am entirely against this kind of discussion. I believe it to be the duty of members upon this floor to deal with measures such as this on their merits and not go off on side issues. We are tired of them. Let us do the work of the people who sent us here; and if this bill has merits let us pass it and not go off on these political issues with a view to opening questions of the past. [Cries of "Vote!" "Vote!"] I withdraw the *pro forma* amendment.

The CHAIRMAN. The question is on the amendment of the gentleman from Indiana, [Mr. BAKER.]

Mr. FINLEY. I ask that the amendment be read.

The amendment was again read.

The question being taken, there were—ayes 32, noes 91.

Mr. TOWNSEND, of New York. A quorum has not voted.

The CHAIRMAN. A quorum not having voted, the Chair will order tellers, and appoints the gentleman from Alabama, Mr. SHELLEY, and the gentleman from New York, Mr. TOWNSEND.

The committee again divided; and the tellers reported—ayes 32, noes 114.

So the amendment was not agreed to.

Mr. CALDWELL, of Tennessee. I move to strike out the enacting clause of the bill.

The question being taken, there were—ayes 91, noes 41.

Mr. EVANS, of Indiana. I make the point of order that a quorum has not voted.

The CHAIRMAN. A quorum not having voted, the Chair will order tellers, and appoints the gentleman from Tennessee, Mr. CALDWELL, and the gentleman from Illinois, Mr. EDEN.

The committee again divided, and the tellers reported—ayes 91, noes 45.

Mr. EDEN. I do not ask for further count. I do not insist on a quorum voting.

The report of the tellers having been announced from the Chair,

Mr. WHITE, of Pennsylvania, said: I make the point that a quorum has not voted.

The CHAIRMAN. The gentleman from Illinois, the chairman of the Committee on War Claims, which reports this bill, announced that he would not insist on a quorum. Does the gentleman from Pennsylvania insist?

Mr. WHITE, of Pennsylvania. I do.

The CHAIRMAN. The tellers will resume their places.

Mr. SHELLEY. I move that the committee rise.

The CHAIRMAN. The gentleman cannot move that the committee rise while the House is dividing. No quorum has yet voted, and the tellers will continue their count, for it is desired that a quorum shall be present and voting.

The tellers resumed their places, and the count was continued; and when concluded, the tellers reported—ayes 98, noes 54.

So the motion of Mr. CALDWELL, of Tennessee, was agreed to.

Mr. EDEN. I believe that under the rules it is necessary that the committee shall rise at once and report the action of the committee to the House.

The CHAIRMAN. That is the rule.

The committee then rose; and Mr. BLACKBURN having taken the chair as Speaker *pro tempore*, Mr. BEEBE reported that the Committee of the Whole on the Private Calendar had had under consideration the bill (H. R. No. 1894) for the relief of the Bartholomew County Agricultural Society of the State of Indiana, and had directed him to report it back, with the recommendation that the enacting clause be stricken out.

Mr. SPRINGER. I move that the House concur in the action recommended by the Committee of the Whole; and upon that motion I call the previous question.

The previous question was seconded and the main question ordered, and under the operation thereof the recommendation of the Committee of the Whole was concurred in and the enacting clause of the bill stricken out.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. No. 142) granting a pension to George McCoy;

A bill (H. R. No. 436) granting a pension to Adam Stinson;

A bill (H. R. No. 467) restoring the name of Thomas Crawford, a soldier of the Mexican war, to the pension-roll;

A bill (H. R. No. 1948) granting a pension to Bridget T. Hopper; and

A bill (H. R. No. 2516) granting a pension to Fannie E. Records, widow of Albert B. Records, late a private in Company G, Fifteenth Regiment Maine Volunteers.

Mr. BRIGHT. I move that the House now resolve itself into Committee of the Whole on the Private Calendar.

Mr. TOWNSEND, of New York. Pending that motion I move that the House do now adjourn.

Mr. BANNING. And pending the motion just made by the gentleman from New York [Mr. TOWNSEND] I move that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. WOOD. Oh, I hope not.

LEAVE OF ABSENCE.

The SPEAKER *pro tempore*. Pending these two motions the Chair will lay before the House applications for leave of absence.

By unanimous consent, leave of absence was granted—

To Mr. ROBERTS, for three days; and

To Mr. MACKAY, for two days.

The question was then put on Mr. BANNING's motion; and on a division there were—ayes 115, noes 56.

Mr. PRICE and others called for the yeas and nays.

The question was put upon ordering the yeas and nays, and 26 voted therefor.

Mr. CONGER. I insist upon a count of the other side.

The other side was counted, and there were 26 in the affirmative and 139 in the negative.

Mr. CONGER. I call for tellers on the yeas and nays.

Tellers were not ordered, only 23 members voting therefor.

So the yeas and nays were not ordered; and the motion of Mr. BANNING was agreed to.

Mr. BANNING moved to reconsider the vote by which the House agreed to adjourn over until Monday next; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question recurred upon the motion of the gentleman from New York, [Mr. TOWNSEND,] that the House do now adjourn; and the question being put, there were—ayes 97, noes 59.

Mr. GOODE and Mr. HOOKER called for tellers.

The question was put upon ordering tellers; and 26 members voted in the affirmative.

Mr. HOOKER. Upon this question I must demand the yeas and nays.

The question was put upon ordering the yeas and nays, and 27 members voted therefor, not one-fifth of the last vote.

So the yeas and nays were not ordered; and the motion of Mr. TOWNSEND, of New York, was agreed to.

And accordingly (at three o'clock and thirty-five minutes p. m.) the House adjourned until Monday.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: Memorial of the Legislature of Pennsylvania, opposing any legislation in relation to a change in the existing tariff law—to the Committee of Ways and Means.

By Mr. COBB: The petition of over 400 teachers of Indiana, for the enlargement of the scope and to strengthen the hands of the national Bureau of Education by such liberal appropriations as will enable it to meet the great and increasing demands made upon it by the educational interests of the country—to the Committee on Education and Labor.

By Mr. HARTZELL: The petition of Hon. N. R. Casey and 24 other citizens of Pulaski County, Illinois, that Congress pass the bill recently introduced by Hon. R. W. TOWNSHEND, restraining the removal of causes from the State to the Federal courts, and to repeal all laws now in force providing for such removal—to the Committee on the Judiciary.

By Mr. LIGON: The petition of the citizens of Clay County, Alabama, to create a fund for popular education from the sales of public lands—to the Committee on Public Lands.

By Mr. MITCHELL: Resolutions of the General Assembly of Pennsylvania, urging united opposition by the Representatives from that State to all changes in the tariff laws at the present time—to the Committee of Ways and Means.

By Mr. O'NEILL: The petition of Mary Ann Jones, for an extension of a patent—to the Committee on Patents.

By Mr. PUGH: Joint resolution of the Legislature of New Jersey, in reference to closing up the centennial international exhibition held in Philadelphia in 1876—to the Committee on Appropriations.

By Mr. RYAN: The petition of the publishers of the Winfield (Kansas) Courier, for the abolition of the duty on type—to the Committee of Ways and Means.

By Mr. SOUTHARD: The petition of Jesse Waterman and 80 other citizens of Muskingum County, Ohio, against any reduction of the tariff on wool—to the same committee.

By Mr. VANCE: The petition of L. F. Churchill, M. B. Freeman, and 93 other citizens of Rutherford County, North Carolina, in opposition to the abolition of the western North Carolina judicial district—to the Committee on the Judiciary.

By Mr. WILLIAMS, of Michigan: The petition of Mrs. Julia A. Roberts, for an appropriation in aid of the "penny lunch," a charitable institution for the distribution of food to the needy—to the Committee for the District of Columbia.

By Mr. WILLIAMS, of New York: The petitions of J. B. Angell, J. B. Hubbell, and others, for the amendment of the law to allow payment of bounty to soldiers discharged for disabilities contracted in the service—to the Committee on Military Affairs.

Also, the petition of G. G. Tobey, B. E. Wells, and others, for the amendment of the pension laws—to the Committee on Invalid Pensions.

IN SENATE.

MONDAY, April 1, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.
The Journal of the proceedings of Thursday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. CONKLING presented the petition of Elizabeth Lucas, of New York, praying for arrears of pension; which was referred to the Committee on Pensions.

He also presented the petition of Charlotte A. Cleveland, Lucy Ann Barlow, and others, citizens of Perry, Wyoming County, New York, praying an amendment of the Constitution inhibiting the States from disfranchising United States citizens on account of sex; which was referred to the Committee on Privileges and Elections.

He also presented the petition of a large number of citizens representing the national convention of the United States export trade, praying that Congress pass a general law for the promotion of American steamship lines to foreign countries; which was referred to the Committee on Commerce.

He also presented the petition of citizens of the State of New York and other States, representing the national convention of the United States export trade, praying that certain words in section 21 of the tariff bill recently before the Ways and Means Committee of the House be stricken out; which was referred to the Committee on Finance.

He also presented a memorial, signed by a considerable number of citizens of Albany, New York, engaged in the manufacture of iron, remonstrating against a change in the present tariff laws; which was referred to the Committee on Finance.

Mr. CONKLING. I also present two memorials, one very largely signed, and both representing much intelligence of the city of Brooklyn, New York, remonstrating for reasons cogently stated against any bill or scheme to reimpose the income tax. I move the reference of these memorials to the Committee on Finance.

The motion was agreed to.

Mr. CONKLING. I present also the proceedings, authenticated by its seal, of the Buffalo Board of Trade. These resolutions relate to the proposed change of the life-saving service from the Treasury Department to the Navy Department, and remonstrate strongly against it, for reasons assigned. I move that the paper lie upon the table.

The motion was agreed to.

Mr. FERRY presented the petition of Sarah C. Owens, of Ypsilanti, Washtenaw County, Michigan, praying for the removal of her political disabilities; which was referred to the Committee on Privileges and Elections.

He also presented the petition of Kate A. Long, Lavinia R. Walker, Grace W. Merrill, Chancy Luske, Jonathan Walker, and others, citizens of Muskegon, Muskegon County, Michigan; the petition of Sarah C. Owens and others, citizens of Ypsilanti, Washtenaw County, Michigan, and the petition of Augusta Pratt and others, citizens of Oakville, Monroe County, Michigan, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which were referred to the Committee on Privileges and Elections.

Mr. DORSEY presented the petition of Mrs. A. P. Walters, Mrs. E. B. Wilson, Julia A. Holmes, J. J. Walters, G. A. Schreiner, and others, citizens of Washington, District of Columbia, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which was referred to the Committee on Privileges and Elections.

Mr. EATON presented the petition of Fanny Stanton, George H. Blim, Laura Dickinson, Henry A. Stillman, and others, citizens of Wethersfield, Hartford County, Connecticut, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which was referred to the Committee on Privileges and Elections.

Mr. GARLAND presented the petition of D. E. Gilbert and others, citizens of Saline and Garland Counties, Arkansas, praying for the establishment of a post-route from Traskwood, in Saline County, to Whittington, in Garland County, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. HARRIS presented a memorial of the Chamber of Commerce, Cotton Exchange, and mass-meeting of citizens of Memphis, Tennessee, in favor of the passage of an act by Congress to secure the construction of a southern transcontinental railway to the Pacific Ocean, with Memphis as its eastern terminus, by the aid of Government credit; which was referred to the Committee on Railroads.

He also presented the petition of Mrs. Lizzie Baleran, of Memphis, Tennessee, praying compensation for a team of mules used by the quartermaster in the Black Hills expedition of General Custer; which was referred to the Committee on Claims.

Mr. McPHERSON presented the memorial of Allen T. Leeds and others, citizens residing along the coast of New Jersey and its immediate vicinity, remonstrating against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which was ordered to lie on the table.

Mr. KERNAN presented the memorial of Jewell, Harrison & Co.,

William F. Schott, F. P. Albert, and 143 others, members of the Corn Exchange, of New York City, and the memorial of the Buffalo Board of Trade, remonstrating against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which were ordered to lie on the table.

He also presented the memorial of the Providence Tool Company, remonstrating against the passage of the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes, if section 19 of that bill be allowed to stand as reported by the Committee on Patents; which was ordered to lie on the table.

He also presented the petition of John Wallis and others, citizens of Clinton County, New York, praying for an extension of the time of limitation for obtaining arrears of pension to the 4th of July, 1880; which was referred to the Committee on Pensions.

Mr. JOHNSTON presented the petition of H. A. Edmundson, of Virginia, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. BAILEY presented the petition of J. L. Burke and others, citizens of Gladeville, Tennessee, praying for the establishment of a post-route; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the memorial of George W. Saulpaw, of Calhoun, McMinn County, Tennessee, praying compensation for the destruction of the steamboat Alfred Robb by the confederate forces during the late war; which was referred to the Committee on Claims.

He also presented the petition of G. G. Williamson, of Fayette County, Tennessee, praying compensation for loss of horses, mules, &c., during the late war, and that the papers in relation to the claim now on file in the Quartermaster-General's Office, and in the office of the Commissary-General, filed October 29, 1874, be called for and made a part of the above petition; which was referred to the Committee on Claims.

Mr. WALLACE presented the petition of Samuel L. Webster, S. A. Goodwin, Ellie Kelton, William Ivenside, R. S. Kelton, and others, citizens of Jennersville, Chester County, Pennsylvania, and the petition of Cornelia H. Scarborough, Rebecca V. Thorpe, J. W. Scarborough, George A. Cook, and others, citizens of New Hope, Bucks County, Pennsylvania, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which were referred to the Committee on Privileges and Elections.

He also presented a memorial of the Legislature of Pennsylvania, against tariff legislation at the present time, as inopportune and injurious to business interests; which was referred to the Committee on Finance.

He also presented the memorial of William L. Rice and others, citizens of Luzerne County, Pennsylvania, remonstrating against any change in the tariff laws until a commission shall have inquired into and reported upon the subject; which was referred to the Committee on Finance.

He also presented the petition of Mary Ann Jones, of Philadelphia, Pennsylvania, praying for the passage of an act by Congress to enable her to apply for the extension of a patent granted to her brother, Alfred C. Jones, deceased, for an improved pipe-coupling; which was referred to the Committee on Patents.

He also presented the petition of Edward Stephen Offley, late consul at the port of Smyrna, in Turkey, praying compensation for judicial services rendered by him while holding that office; which was referred to the Committee on Foreign Relations.

The VICE-PRESIDENT presented the petition of Mrs. Mary F. McKeever, widow of Commodore Isaac McKeever, late of the United States Navy, praying to be allowed an increase of pension; which was referred to the Committee on Pensions.

Mr. KIRKWOOD presented the petition of Mrs. Ellen Holbrook, Hattie Cadwell, J. T. Stern, D. M. Harris, and others, citizens of Missouri Valley, Harrison County, Iowa; the petition of Mrs. Laura A. Nay, Mrs. George W. Thompson, H. B. Lyman, Mrs. R. L. Child, J. A. Nay, and others, citizens of Dunlap, Harrison County, Iowa; and the petition of Ella Vinack, Miss P. D. Kellogg, S. B. Kibler, T. P. Kellogg, and others, citizens of Woodbine, Harrison County, Iowa, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which were referred to the Committee on Privileges and Elections.

Mr. SARGENT presented the petition of Sarah L. Knox, Eliza J. Smith, Abigail Scott Dunniway, E. P. Reed, George Welch, and others, citizens of San José, Santa Clara County, California, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which was referred to the Committee on Privileges and Elections.

Mr. CHRISTIANCY presented the memorial of A. J. Gibbs and 400 others, citizens of Michigan, remonstrating against any reduction of the duties on foreign wool; which was referred to the Committee on Finance.

He also presented the petition of Catharine A. F. Stebbins, Lucinda Cady, Susie E. Smith, G. D. Clark, Jay O. Nelson, and others, citizens of Northville, Wayne County, Michigan, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which was referred to the Committee on Privileges and Elections.

He also presented the petition of Lucy L. Stout, of Detroit, Michigan; the petition of Catharine A. F. Stebbins, of Detroit, Michigan; and the petition of Harriet J. Boutell, of Detroit, Michigan, praying for the removal of their political disabilities; which were referred to the Committee on Privileges and Elections.

Mr. MORRILL presented the petition of Mary L. Hubbard, Ellen M. Smith, and others, of Guilford, Windham County, Vermont, praying for the removal of their political disabilities; which was referred to the Committee on Privileges and Elections.

Mr. MORRILL. I present resolutions of the Addison County (Vermont) Patrons of Husbandry, remonstrating against the passage of the House tariff bill. They represent that it would paralyze the business of the country, and would be equally injurious to commercial and national interests. I move the reference of these resolutions to the Committee on Finance.

The motion was agreed to.

Mr. TELLER presented the petition of Mary M. Gallup, Abbie S. Darling, David Boyd, S. G. Patten, and others, citizens of Greeley, Weld County, Colorado, and the petition of Mrs. Emma Hayford, William C. Nelson, Mary Foster, John W. Connor, and others, citizens of Wyoming Territory, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which were referred to the Committee on Privileges and Elections.

Mr. HOWE presented the petition of Susan H. Massure, Alwida A. Rockwell, H. G. Tracy, S. A. Rockwell, and others, citizens of Arcadia, Trempealeau County, Wisconsin, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which was referred to the Committee on Privileges and Elections.

Mr. WADLEIGH presented the memorial of John H. Bailey and 40 others, ship-builders, ship-owners, merchants, and citizens, of Portsmouth, New Hampshire, remonstrating against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which was ordered to lie on the table.

Mr. BUTLER presented resolutions of the city council of Charleston, South Carolina; which were referred to the Committee on Commerce, and read as follows:

CITY HALL, OFFICE CLERK OF COUNCIL,
Charleston, South Carolina, March 29, 1878.

Resolved, That in view of the importance to the health and commercial prosperity of the city of Charleston, of a uniform system of quarantine along the Atlantic and Gulf coast, that our Senators and Representatives in Congress be urgently requested to use their influence for the speedy passage of the bill now before the Senate and House of Representatives on this subject.

Resolved, That the clerk of council shall furnish a certified copy of this resolution to each of our Senators and Representatives at Washington.

I certify the foregoing to be a true and correct copy of resolution offered by Alderman W. E. Holmes and adopted by city council, March 26, 1878.

W. W. SIMONS,
Clerk of Council.

Mr. BUTLER also presented the petition of John Brown, Patrick Toner, and John Lacy, acting quartermasters United States steamer Pawnee, at Port Royal, South Carolina, praying to be allowed full sea pay while acting in the above capacity; which was referred to the Committee on Naval Affairs.

Mr. McMILLAN presented the petition of Lizzie Bailey, Albert Allee, Mrs. Eliza Simmons, S. L. Barton, and others, citizens of Reynolds, Todd County, Minnesota, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which was referred to the Committee on Privileges and Elections.

Mr. CAMERON, of Wisconsin, presented the petition of Richard Bailey and 100 others, citizens of La Crosse, Wisconsin, praying for the equalization of bounties; which was referred to the Committee on Military Affairs.

Mr. ALLISON presented the petition of A. A. Delong and others, citizens of Taylor County, Iowa, and the petition of W. S. Carpenter and others, citizens of Linn County, Iowa, praying the passage of a law for the equalization of bounties; which were referred to the Committee on Military Affairs.

Mr. INGALLS. I present the affidavits and remonstrances of certain settlers on the Osage ceded lands in the State of Kansas, protesting against the passage of the bill (S. No. 948) for the relief of Alexander McDonald. That bill, I think, is before the Committee on Private Land Claims, and the papers should therefore take the same reference.

The VICE-PRESIDENT. The papers will be referred to the Committee on Private Land Claims.

Mr. OGLESBY presented the memorial of William Baker and others, citizens of Chicago, Illinois, remonstrating against the passage of any act imposing a tax on incomes; which was referred to the Committee on Finance.

He also presented a resolution of the city council of Cairo, Illinois, in favor of the passage of an act by Congress for the improvement of the navigation of the Mississippi River; which was referred to the Committee on Commerce.

He also presented the petition of Ellen Devlin, widow of Patrick Devlin, late of Company C, Sixth Regiment United States Infantry, praying for a pension; which was referred to the Committee on Pensions.

Mr. McCREERY presented the petition of Ben Alsop, of Owensborough, Davies County, Kentucky, praying to be allowed a pension, he having served as a substitute for his father in the war of 1812; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. MITCHELL, from the Committee on Railroads, to whom was referred the bill (S. No. 238) to extend the time for the construction and completion of the Northern Pacific Railroad, and, by a readjustment of the grants, without increasing the appropriation, to secure the construction of the Portland, Salt Lake and South Pass Railroad, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

Mr. WINDOM. I ask leave to submit a minority report to be printed upon the bill just reported.

The VICE-PRESIDENT. To which the Chair hears no objection. Mr. WINDOM. I ask leave to submit it hereafter. The report is not prepared. It will take time to prepare it.

The VICE-PRESIDENT. Leave is granted.

Mr. ROLLINS, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 1012) authorizing the commissioners of the District of Columbia to abate a certain tax erroneously assessed, reported it without amendment.

Mr. INGALLS, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 694) to incorporate the National Security Life-Insurance Company of Washington, District of Columbia, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

Mr. BOOTH, from the Committee on Patents, to whom was referred the petition of George W. Hunt, administrator of the estate of Walter Hunt, deceased, praying an extension of reissue No. 5109 of the letters-patent of Walter Hunt for improvement in shirt-collars, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. CHRISTIANCY, from the Committee on the Judiciary, to whom was referred the bill (S. No. 242) in relation to the jurisdiction of district courts in the Territory of Utah in matters of divorce, reported it with an amendment.

INDEX TO REVISED STATUTES.

Mr. CHRISTIANCY. I am directed by the Committee on the Revision of the Laws to report a bill requiring the commissioner for preparing and publishing a new edition of the Revised Statutes of the United States to revise and perfect the index to the first volume of the same. It is a bill which I think will meet the unanimous concurrence of the Senate, and there is great reason for its speedy passage, as the book is now in process of printing. I ask unanimous consent of the Senate to have the bill taken up now and acted upon.

The bill (S. No. 1014) requiring the commissioner for preparing and publishing a new edition of the Revised Statutes of the United States to revise and perfect the index to the first volume of the same was read twice, and considered as in Committee of the Whole. It makes it the duty of the commissioner appointed under the act approved March 2, 1877, to revise and perfect the index to the new edition of volume 1 of the Revised Statutes mentioned in that act, under the direction of the Secretary of State, and it appropriates sufficient money for the necessary expenses thereof, including such reasonable additional compensation to the commissioner for this service as shall be allowed by the Secretary of State.

Mr. COCKRELL. I understand the bill increases the expenditures necessary to complete this work.

Mr. CHRISTIANCY. It simply provides for such additional expense as may be necessary in revising the index of the volume as it now stands.

Mr. COCKRELL. Was it not contemplated in the original act that the commissioner should do that as part of the work?

Mr. CHRISTIANCY. All the rest of the work was included in the \$5,000 given to the commissioner; but by the original act he was not required to revise the index.

Mr. EDMUNDS. I hope my friend from Missouri will not object to considering the bill at this time. I generally object myself when the consideration of a bill is asked upon being reported from a committee; but my attention was called to this matter accidentally four or five days ago, at which time I learned that the volume itself, which is only the first volume of the general statutes and not the District of Columbia volume, is entirely completed and is going through the press. I made inquiry respecting the index. The Senator knows, as everybody does, that the present index is altogether bad. I learned to my surprise that the commissioner and the Secretary of State had come to the opinion that the commissioner was not authorized to revise and perfect the old index, and that it had not been done; and on looking at the statute, that did not appear to have been named. It seemed to me that it would be a very great injury to everybody to have this new and permanent edition of the first volume put forth with an index so utterly insufficient as the present one. Therefore I suggested to the honorable chairman of the Committee on the Revision of the Laws to have an act like this bill provided, so that immediately the index could be perfected and the volume would be complete when we get it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FREEDMEN'S HOSPITAL.

Mr. EATON. I am directed by the Committee on Appropriations, who were instructed to investigate the management of the Freedmen's Hospital, to present its unanimous report, which I ask may be printed, and I move that the committee be discharged from the further consideration of the subject.

The motion was agreed to.

BILLS INTRODUCED.

Mr. WINDOM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1015) extending the time to construct and complete the Northern Pacific Railroad; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. DAVIS, of Illinois, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1016) to provide for the distribution of the awards made under the convention between the United States of America and the Republic of Mexico, concluded on the 4th day of July, 1868; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. TELLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1017) for the relief of Field & Hill; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1018) to create the office and define the duties of consulting naturalist and to regulate his appointment, pay, &c.; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Agriculture.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1019) for the relief of Francis M. Stroug and Thomas Ross; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Patents.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 22) providing for a place of deposit for the records and proceedings of the commission appointed under the act entitled "An act to provide for and regulate the counting of votes for President and Vice-President and the decision of questions arising thereon for the term commencing March 4, A. D. 1877," approved January 29, 1877; which was read the first time.

Mr. EDMUNDS. Ordinarily I should ask for the present consideration of the joint resolution, as it merely provides for the secretary of the commission, Mr. McKenney, the assistant clerk of the Supreme Court, transmitting these records to the Secretary of State, where they ought to be kept; but I am so much opposed to hasty legislation that I merely ask now that the joint resolution be read a second time and placed on the Calendar, and I will ask that it be taken up to-morrow. It is not necessary, I presume, to refer it to any committee.

The joint resolution was read the second time by its title and ordered to be placed on the Calendar.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1020) to provide for the sale of extra copies of public documents and for the distribution of the regular official editions thereof; which was read twice by its title, and referred to the Committee on Printing.

Mr. McMILLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1021) for the relief of certain settlers on the public lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1022) limiting the time within which claims may be prosecuted against, and suits brought by, the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1023) to remove the political disabilities of John H. Moore; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. McPHERSON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1024) to correct the revision of the laws of the United States; which was read twice by its title, and referred to the Committee on the Revision of the Laws.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1025) for the payment of compensation to Edward S. Oflley, late consul to Smyrna, Turkey, for judicial services rendered; which was read twice by its title, and referred to the Committee on Commerce.

Mr. McCREERY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1026) granting a pension to Ben Alsop; which was read twice by its title, and referred to the Committee on Pensions.

Mr. INGALLS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1027) to levy a tax on the sale of spirituous and malt liquors in bar-rooms and all places where intoxicants are sold by the drink in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. MATTHEWS asked, and by unanimous consent obtained, leave

to introduce a bill (S. No. 1028) declaratory of the law relating to descents and inheritance in the District of Columbia in certain cases; which was read twice by its title.

Mr. MATTHEWS. I am not certain whether the bill ought to go to the Committee on the Judiciary or to the Committee on the District of Columbia.

The VICE-PRESIDENT. The Chair will refer it according to the wishes of the Senator.

Mr. MATTHEWS. The bill contemplates an inquiry into the state of the law in this District and changes it. I think perhaps it had better go to the Committee on the District of Columbia now.

The VICE-PRESIDENT. The bill will be referred to the Committee on the District of Columbia.

NEW YORK POST-OFFICE BUILDING.

Mr. CONKLING submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire for what purposes the post-office building in the city of New York may lawfully be used, and whether any occupation of said building exists or is proposed not authorized; and meanwhile the Secretary of the Treasury is requested to take no action in regard to the occupation of said building until said committee shall report.

VACANCIES IN THE NAVY.

Mr. EDMUNDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be, and he hereby is, directed to report to the Senate the number of vacancies existing in the naval establishment above the grade of captain, with the dates when such vacancies occurred; and whether examinations for promotions to such vacancies have been had, and whether in any case re-examinations have been directed or had in respect of any such promotions, and if so under what circumstances and authority of law.

REVISION OF PATENT LAWS.

Mr. BOOTH submitted the following resolution; which was referred to the Committee on Printing:

Ordered, That 1,000 extra copies of the arguments on the bill to amend the statutes in relation to patents, before the Senate and House Committees on Patents, be printed for the use of the Senate Committee on Patents.

RECOMMITTAL OF A BILL.

On motion of Mr. HARRIS, it was

Ordered, That the bill (S. No. 532) to incorporate the Suburban Railway Company of Washington, in the District of Columbia, be recommitted to the Committee on the District of Columbia.

REPORT ON RAILWAY MAIL TRANSPORTATION.

On motion of Mr. FERRY, it was

Ordered, That the report of the special commission on railway mail transportation be referred to the Committee on Post-Offices and Post-Roads.

GROUND'S ALONG OLD CANAL.

Mr. WINDOM. I move that the Senate proceed to the consideration of the joint resolution (H. R. No. 142) making an appropriation for filling up, draining, and placing in good sanitary condition the grounds south of the Capitol, along the line of the old canal, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. WINDOM. I will say before the Secretary reports the joint resolution that I am instructed by the Committee on Appropriations to withdraw the amendment reported by it, so that unless some Senator desires to hear the amendment, let merely the original resolution be read.

The Chief Clerk read the joint resolution, as follows:

Resolved, *etc.* That the sum of \$15,000 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of employing the poor of the District in the work of filling up, draining, and placing in good sanitary condition the grounds south of the Capitol, along the line of the old canal. The commissioners of the District shall determine the plan of said work, shall see that it is properly conducted, and shall disburse the money: *Provided*, that a further appropriation be, and is hereby, made of the sum of \$5,000, out of any moneys in the Treasury not otherwise appropriated, for the purpose of providing medical attendance, medicine, and food for the sick and infirm poor of the District, and that the same shall be disbursed under the direction of the commissioners of the District of Columbia.

Mr. EDMUNDS. What are the amendments reported by the committee?

Mr. WINDOM. Let the amendment be reported.

The CHIEF CLERK. The Committee on Appropriations reported an amendment to strike out all after the resolving clause and to insert:

That the sum of \$25,000 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of filling up, draining, and improving the sanitary condition of the grounds south of the Capitol, along the line of the old canal, under the supervision and direction of the commissioners of the District of Columbia, who shall determine the plan of said work, see that it is properly conducted, disburse the money, and, as far as practicable in the execution of said work, give employment to the most destitute and deserving poor of the District.

SEC. 2. That a further appropriation be, and is hereby, made of the sum of \$5,000, out of any moneys in the Treasury not otherwise appropriated, for the purpose of providing medical attendance, medicine, and food for the sick and infirm poor of the District, and that the same shall be disbursed under the direction of the commissioners of the District of Columbia.

The VICE-PRESIDENT. The amendment, the Chair understands, is withdrawn by direction of the committee.

Mr. COCKRELL. Let us understand that.

Mr. WINDOM. I desire to state that the Committee on Appropriations

tions have instructed me to ask to withdraw the amendment, or to move to reject the amendment, as far as we can, simply for the reason that the amendment would make no change in substance, being a mere change in form, and its adoption would probably postpone the passage of the joint resolution several days, when there is urgent necessity for its speedy passage.

Mr. COCKRELL. I desire to ask the Senator who reported this resolution if the object is simply to give employment to the poor of the District?

Mr. WINDOM. No; it is not.

Mr. COCKRELL. That is stated in the joint resolution to be the object.

Mr. WINDOM. The purpose of the joint resolution is to perform a very valuable work, one which is necessary for the sanitary condition of the city, and which will incidentally give employment to the destitute poor of the District in doing the work. That is the object. I am free to say that the amendment proposed by the Senate Committee on Appropriations expresses the idea, in my judgment, better, and I think would meet the views of the Senate better; but at the same time it would postpone the passage of the joint resolution probably a week or two weeks, and there is an urgent necessity that this employment be given now. The work may be done as well now as at any other time, and it would do much greater benefit now than two weeks hence. Therefore the committee thought it better to waive the technical objections to the resolution as it came from the House and have it passed to-day.

Mr. COCKRELL. We have in the State that I have the honor in part to represent a great many persons who desire employment. If this resolution is to have expressed upon its face that it is to be passed for the purpose of employing the poor of the District in work, I desire to offer an amendment to include an appropriation for the State of Missouri for her poor, who are just as worthy and deserving as the poor here. I do not think we have any right to make any such appropriation for the object contemplated by this joint resolution.

Mr. WINDOM. Mr. President—

Mr. BECK. Will the chairman of the Committee on Appropriations allow me to say a word?

Mr. WINDOM. Certainly.

Mr. BECK. The Senate Committee on Appropriations were unanimously of opinion that the language used by us was better than that which came from the House, but the chairman has very well stated that we do not want to delay the passage of the joint resolution, and therefore, as there was nothing seriously objectionable to it as it came from the House except its phraseology, we agreed to withdraw the amendment and adopt the joint resolution as it passed the House.

I wish to say to the Senator from Missouri that ever since the new canal has been made (and I spent four hours going all over it the other day carefully) the old canal has been left until it is perhaps the worst place in the city of Washington for producing malaria. It is right south of the Capitol, where the winds that prevail blow into this very building three-fourths of the time. The tide comes in there and it leaves *débris* of all sorts, until it is making this portion of the city, especially around the Capitol, more unhealthy than it ever was. A body of men, actuated by philanthropic motives, employed the poor of the District at fifty cents a day to fill up a portion of that canal, and they spent twelve hundred and odd dollars in doing it. Any Senator can go on the south side of the Capitol and see the amount of work which was done, and he will see that it has been simply wonderful for that amount of money; but there were men who did not want to beg and who could not get employment and were willing to work for half a dollar a day.

They did the work faithfully and have closed up one of the worst portions of the old canal. Still, for nearly half a mile, the same thing is repeated. Every time the tide ebbs and flows, all that produces malaria rises from it. The Committee on Appropriations believed that it was far better to give employment to that class of men than to make appropriations to beggars, or to establish soup-houses, or to support lazzaroni hanging around the Capitol dependent upon charity. There are hundreds of men to-day who do not want to beg, who are willing to work for half a dollar a day, and who will improve this property and improve the sanitary condition of the city of Washington beyond any amount that can be spent in any other way. Besides, it is all our own property. It is a Government reservation, known as the "mint reservation." There are over five acres of it, which, when filled up and leveled, can be sold for twenty times the amount of this appropriation. There is no job in it. It is not helping any private citizen; it is not appropriating money for work on any private man's property, but it would improve the health of the District, improve our own property, and do what we ought to do, at the same time giving employment to men in a District over which we have absolute control and where there are very many poor brought here and who hang around the capital because the Government is here.

Mr. DAVIS, of West Virginia. It was made by us.

Mr. BECK. Certainly, that canal was made by ourselves; the Holland bonds, I believe, were taken up by ourselves, and we own all the property. I do not believe this case is analogous at all to the poor of Missouri. There are poor everywhere, but here is not only a perfectly legitimate work, but a thing that ought to be done, and at the same time it will give relief to poor men who are willing to labor eight

hours a day (for that is all they are required to work) for fifty cents, and doing an immense work for the city and the Government. It seems to me that we ought not to delay the measure one hour; and therefore, defective as the language of the House resolution is, it is far better to pass it in that form than that we should lose a day or an hour in doing the work.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1189) to extend the time one year for presenting the claims of Dakota volunteer forces, as examined and reported upon by General Hardie, under the special act of Congress approved February 20, 1874, to the proper accounting officers for approval and payment;

A bill (H. R. No. 2401) to authorize the claimants to certain lands in Santa Barbara County, California, to submit their claim to the United States district court for that State for adjudication;

A bill (H. R. No. 2931) to remove the political disabilities of Henry G. Thomas, of Virginia;

A bill (H. R. No. 3314) to remove the political disabilities of John T. Mason, of Maryland;

A bill (H. R. No. 3548) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871;

A bill (H. R. No. 3610) to remove the political disabilities of W. B. Sinclair, of Virginia;

A bill (H. R. No. 3612) to remove the political disabilities of R. L. Page, of Virginia;

A bill (H. R. No. 3667) to remove the political disabilities of Philip Stockton, of Texas;

A bill (H. R. No. 3739) to prevent the introduction of contagious or infectious diseases into the United States;

A bill (H. R. No. 3898) to remove the political disabilities of Oscar F. Johnston, of Catoosa County, Georgia;

A bill (H. R. No. 3903) to remove the political disabilities of Isaac A. Reed, of Louisiana; and

A bill (H. R. No. 4145) to remove the political disabilities of Washington Gwathmey, of Alabama.

The message also announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 3846) to provide a deficiency in the miscellaneous fund of the House of Representatives.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (S. No. 349) to authorize the commissioners of the District of Columbia to refund a certain tax erroneously collected;

A bill (S. No. 648) to constitute a commission to consider and report a plan for providing enlarged accommodations for the Library of Congress;

A bill (H. R. No. 142) granting a pension to George McCoy;

A bill (H. R. No. 436) granting a pension to Adam Stinson;

A bill (H. R. No. 467) restoring the name of Thomas Crawford, a soldier of the Mexican war, to the pension-roll;

A bill (H. R. No. 1948) granting a pension to Bridget T. Hopper;

A bill (H. R. No. 2516) granting a pension to Fannie E. Records, widow of Albert B. Records, late a private in Company G, Fifteenth Regiment Maine Volunteers;

A bill (H. R. No. 2371) to amend an act entitled "An act for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes;" and

A bill (H. R. No. 3846) to provide for deficiencies in the miscellaneous funds of the Senate and the House of Representatives.

ADVERTISING MAIL-LETTINGS.

Mr. FERRY. I move that the Senate proceed to the consideration of the bill (H. R. No. 3987) to regulate the advertising of mail-lettings. The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. FERRY. Mr. President, I will not take up time in the morning hour to explain the bill. It is short, simple, and explains itself. The object of it is to simplify and economize the cost of publishing the notices of mail-lettings; also to prohibit the subcontracting of mail contracts unless with the consent of the Postmaster-General; and further to regulate the price to be paid newspapers for the publication of such lettings. The present law of February 26, 1853, has received two constructions. It provides for the publication and payment of orders and notices at forty cents per folio. Under the then Attorney-General it was held by him that it applied simply to judicial notices and orders, and not to the Post-Office Department publications. The present Attorney-General, however, has since the contract of last spring ruled that it applies to all departmental notices. The Post-Office Department is in the predicament to-day of having made a contract under the usual construction of the statute and being unable to settle with the publishers, as they refuse to receive pay

under the late construction of the old law of 1853. That act was passed at a time when publishing rates were lower, and the papers at this time cannot afford and will not publish at those low rates.

The law also requires that at the seat of government in each State a paper shall publish the notices, and it was found that in two States, to wit, Kentucky and Alabama, there were no papers willing to publish at these rates. Section 3 of the pending bill provides that it shall be at the commercial rates such as individuals pay.

I think now by the reading of the bill it will explain itself with what I have said.

The VICE-PRESIDENT. The bill will be reported at length.

The bill was read.

The bill was reported by the Committee on Post-Offices and Post-Roads, with amendments.

The first amendment reported by the committee was after the word "contract," in line 3 of section 1, to strike out "other than those accepted by law for carrying the mails in any State or Territory, the Postmaster-General shall cause to be published in one or more, not exceeding ten, newspapers published in such State or Territory," and insert:

For inland mail transportation other than by railroads and steamboats, except for temporary service, as provided for in an act approved August 11, 1876, amendatory of subsections 246 and 251 of an act approved June 23, 1874, the Postmaster-General shall cause to be published in not exceeding ten newspapers published in the State or Territory in which such service is to be let.

Mr. FERRY. Before the Senate agrees to that amendment I desire to make a correction which has been omitted. After "251" I move to add "of section 12;" so as to read:

Amendatory of subsections 246 and 251 of section 12.

The VICE-PRESIDENT. The amendment will be so modified.

The amendment, as modified, was agreed to.

The next amendment was to amend section 2 so as to make it read:

Hereafter no subletting or transfer of any such contract shall be permitted without the consent in writing of the Postmaster-General; and whenever it shall come to the knowledge of the Postmaster-General that any contractor has sublet or transferred his contract, except with the consent of the Postmaster-General as aforesaid, the same shall be considered as terminated, and the service shall be again advertised, as herein provided for.

Mr. EDMUNDS. I wish to call the attention of the Senator from Michigan to the possible effect and what I think is the natural legal effect of this second section. If the contractor, who is prohibited from subletting except with the consent of the Postmaster-General, does sublet, the section proceeds to state that the contract shall be considered as terminated and the service again advertised for, &c. Now, if a contractor found that he was not making as much profit as he thinks he would like to make, all he would have to do under that section would be, although it is a four years' contract, after he had gone on for three months or a year, to sublet his contract. The statute then says that that subletting shall terminate it, which means in my opinion a legal termination, and his bond is no longer binding against him for damages for not fulfilling that contract. It would be equivalent, therefore, to allowing every contract to be terminated at the option of the contractor by the simple device of his subletting to some one else.

Mr. FERRY. The Senator from Vermont does not lose sight of the fact that that must be secured "with the consent of the Postmaster-General."

Mr. EDMUNDS. That is the very point I am commenting upon, that the subletting is prohibited, as it ought to be, without the consent in writing of the Postmaster-General; and then it says that whenever it shall come to the knowledge of the Postmaster-General that any contractor has sublet or transferred his contract, except with the consent of the Postmaster-General, the same shall be considered as terminated. That is, the very fact of a subletting without the consent of the Postmaster-General terminates the contract, and that terminates all liability of the contractor, as matter of law, I think, with it.

I move to amend, being friendly to the object in view, by striking out in the eighth line the word "terminated" and in the ninth line the word "shall" and inserting in the place of "terminated" the word "violated" and in the place of the word "shall" the word "may," so that this subletting without the consent of the Postmaster-General shall be considered as a violation of the contract, which shall authorize the Postmaster-General if he chooses to proceed to advertise again, and then I should be glad to add "and that the bond of the contractor shall be held for any damages to the United States by the same."

Mr. FERRY. It would be well to have that added if it is subject to that abuse. I cannot accept it for the committee, but I presume there will be no objection to the amendment proposed, followed by the other amendment suggested by the Senator from Vermont.

The amendment to the amendment was agreed to.

Mr. EDMUNDS. Now I move to add at the end of the section "And the contractor and his sureties shall be liable on their bond for any damages resulting to the United States in the premises."

Mr. FERRY. I see no objection to that.

The amendment to the amendment was agreed to.

Mr. FERRY. Before the Senate agrees to the amendment of the

committee, as amended, in line 3 the word "such" should be stricken out and "mail" inserted; so as to read:

Hereafter no subletting or transfer of any mail contracts shall be permitted.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Post-Offices and Post-Roads was to insert as an additional section the following:

SEC. 3. Hereafter, when any person or persons being under contract with the Government of the United States for carrying the mails, shall sublet any such contract or employ any other person or persons to perform the service by such contractor agreed to be performed, or any part thereof, he or they shall file in the office of the Second Assistant Postmaster-General a copy of his or their contract; and thereupon it shall be the duty of the Second Assistant Postmaster-General to notify the Auditor of the Treasury for the Post-Office Department of the fact of the filing in his office of such contract. Said notice shall embrace the name or names of the original contractor or contractors, the number of the route or routes, the name or names of the subcontractor or subcontractors, and the amount agreed to be paid to the subcontractor or subcontractors. And upon the receipt of said notice by the Auditor of the Treasury for the Post-Office Department, it shall be his duty to retain, out of the amount due the original contractor or contractors, the amount stated in said notice as agreed to be paid to the subcontractor or subcontractors, and shall pay said amount, upon the certificate of the Second Assistant Postmaster-General, to the subcontractor or subcontractors, under the same rules and regulations now governing the payments made to original contractors: *Provided*, That upon satisfactory evidence that the original contractor or contractors have paid off and discharged the amount due under his or their contract to the subcontractor or subcontractors, it shall be the duty of the Second Assistant Postmaster-General to certify such fact to the Auditor of the Treasury for the Post-Office Department; and thereupon said Auditor shall settle with the original contractor or contractors, under the same rules as are now provided by law for such settlements.

Mr. FERRY. Before agreeing to this amendment I move to insert after the word "shall" in line 3 the word "lawfully;" so as to read "shall lawfully sublet any such contract."

The amendment, as amended, was agreed to.

Mr. SARGENT. I should like to inquire if you do not want to use the word "lawfully" before "employ" in line 3 for the same reason.

Mr. FERRY. That is understood, but I have no objection to inserting that word.

Mr. SARGENT. It will not be understood unless it is inserted, though I suppose that is the meaning.

Mr. FERRY. That is the meaning. There is no objection to inserting the word.

The VICE-PRESIDENT. The word will be inserted.

The next amendment of the Committee on Post-Offices and Post-Roads was to insert as section 4 the following:

SEC. 4. Hereafter all advertisements, notices, proposals for contracts, and all other forms of advertising required by law for the executive and judicial departments of the Government may be paid for at a price not to exceed the commercial rates charged to private individuals; but the heads of departments, or their authorized agents, may secure lower terms at special rates whenever the public interest requires it.

The amendment was agreed to.

The next amendment was to insert as section 5:

SEC. 5. All newspapers or other publications in which said advertising shall be inserted shall file with each Department a certificate of their commercial rates as aforesaid, and all accounts against the United States for advertising shall be audited and paid at a rate not to exceed such certified rates on file: *Provided*, That all advertising in newspapers since the 10th day of April, 1877, shall be audited and paid at like rates.

The amendment was agreed to.

The next amendment was to insert as section 6:

SEC. 6. All laws or parts of laws inconsistent with this act are hereby repealed.

The amendment was agreed to.

Mr. FERRY. In line 36 of section 1, I move to strike out the word "said" and insert "miscellaneous;" so as to read:

And no other advertisement of miscellaneous lettings shall be required.

The amendment was agreed to.

Mr. FERRY. I have another amendment. I offer the following to come in as section 6, changing the present section 6 to section 7.

The VICE-PRESIDENT. The amendment will be reported.

The CHIEF CLERK. It is proposed to insert, as section 6, the following:

When for any cause it may become necessary to make a new contract for carrying the mails upon any water-route between ports of the United States upon which mail service has previously been performed, the Postmaster-General may contract with the owner or master of any steamship, steamboat, or other vessel plying upon the waters or between ports of the United States for carrying the mail upon said route for any length of time not exceeding four years, and without advertising for proposals therefor, whenever the public interest and convenience will thereby be promoted; but the price paid for such service shall in no case be greater than the average price paid under the last preceding or then existing regular contract upon the same route. And the Postmaster-General may contract with the owners or masters of steamships, steamboats, or other vessels plying upon the waters or between ports of the United States for carrying the mails upon such routes where no mail service has previously been performed, without advertising for proposals therefor; but no contract for such new service shall be for a longer time than one year.

No contract for carrying the mails between the United States and any foreign port shall be for a longer time than two years, unless otherwise directed by Congress.

So much of sections 3943, 3956, and 3970 of the Revised Statutes as is in conflict with the preceding section is hereby repealed.

Mr. FERRY. The object of this section is simply to harmonize conflicting features of present law and make it more certain. According to the sections that are referred to, the present law permits contracts to be made for one year, two years, and less than four years, and they necessarily are in conflict with each other. The Postmaster-

General in one case has contracted for two years' service upon the water, when there is a law apparently prohibiting the making of a contract for more than one year. Which law shall guide him? This provides that all contracts on the water, where service has previously existed, shall be for not exceeding four years between ports of the United States, and for service to foreign ports shall be for two years, and for new service between United States ports shall be for but one year.

The amendment was agreed to.

Mr. SARGENT. I should like to ask the Senator who reports the bill if he has considered that the effect of sections 2 and 3 may be to restrain competition very much in bidding for the carrying of the mail. I understand that some objections arise from the fact that persons located in a particular place bid for the carriage of the mails all over the country, and very frequently do it dishonestly, and cause complications which it is the purpose of this legislation to reform. Furthermore, that these persons sometimes contract with subcontractors and do not pay for the last quarter. The subcontractors have no means to recover that amount from the Treasury, it being taken by the fraudulent original contractor. Now, while those things are true and ought to be remedied, and perhaps this legislation does do so, I should like to ask if the committee have sufficiently considered whether by providing that there shall be no subcontracting except by leave of the Postmaster-General and under the close limitations made by this bill we may not find that only those persons will bid who are actually carrying the mails on the routes advertised for and have old stock. There is not much time between the advertising and the route going into service finally, and if men find they have got to carry the mails themselves or else bid under fear that they cannot subcontract, may they not be deterred from bidding, and the result be an increased cost of the mail service?

Mr. FERRY. I apprehend the object of the Senator in his allusion is not only to provide for publication and the rights of contractors, but also to secure the interest of the Government.

This does not conflict at all with that. It only interferes with the irregular practice of irresponsible parties taking contracts. If they find they are paying contracts, they execute them, and when otherwise they fail to fulfill them. The Senator will see by section 3 that subcontractors are protected, while under existing law they are not protected because under present statute the contractor is paid for the service whether he has one subcontractor or a dozen, and they have no remedy whatever except the fidelity of the contractor.

Mr. SARGENT. I think that part of the bill is very good.

Mr. FERRY. This bill provides that on the contract being sublet and the subcontractor filing a copy of the contract with the Second Assistant Postmaster-General and he notifying the Auditor of the Treasury for the Post-Office Department, the pay to the subcontractor is made certain and cannot be diverted. It is taken out of the proceeds due the contractor, and cannot be obtained except upon filing evidence that he has paid in full the subcontractor.

Now, so far as the publication is concerned, I think, on the examination of the bill a little further than the Senator has perhaps given to it, he will see that the publication has been broadened. Under the present law, for general service all publication is prohibited except by posting up schedules of the routes in the several post-offices of the United States. In addition to that this bill provides for these notices to be given in from one to ten newspapers, instead of one to five under present law, so that instead of curtailing publicity it has enlarged publicity and gives the public more knowledge of the desire on the part of the Government to make contracts for the mail service.

The bill was reported to the Senate, as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended by adding the words "and for other purposes."

ADMISSIONS TO THE FLOOR.

The VICE-PRESIDENT. The Chair desires to state that many Senators have called his attention to the daily violation of the sixtieth rule of the Senate, regulating the matter of admissions to the floor of the Senate. He now enjoins upon all officers of the Senate charged with that duty the strict enforcement of this rule, and he asks of Senators to co-operate with him to that end.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on the Judiciary:

A bill (H. R. No. 2931) to remove the political disabilities of Henry G. Thomas, of Virginia;

A bill (H. R. No. 3314) to remove the political disabilities of John T. Mason, of Maryland;

A bill (H. R. No. 3610) to remove the political disabilities of W. B. Sinclair, of Virginia;

A bill (H. R. No. 3898) to remove the political disabilities of Oscar F. Johnston, of Catoosa County, Georgia;

A bill (H. R. No. 3903) to remove the political disabilities of Isaac A. Reed, of Louisiana;

A bill (H. R. No. 4145) to remove the political disabilities of Washington Gwathmey, of Alabama;

A bill (H. R. No. 3612) to remove the political disabilities of R. L. Page, of Virginia; and

A bill (H. R. No. 3667) to remove the political disabilities of Philip Stockton, of Texas.

The bill (H. R. No. 3739) to prevent the introduction of contagious or infectious diseases into the United States was read twice by its title, and referred to the Committee on Commerce.

The bill (H. R. No. 1189) to extend the time one year for presenting the claims of Dakota volunteer forces, as examined and reported upon by General Hardie, under the special act of Congress approved February 20, 1874, to the proper accounting officers for approval and payment, and the bill (H. R. No. 3548) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, were severally read twice by their titles, and referred to the Committee on Claims.

The bill (H. R. No. 2401) to authorize the claimants to certain lands in Santa Barbara County, California, to submit their claim to the United States district court for that State for adjudication was read twice by its title, and referred to the Committee on Private Land Claims.

THE PACIFIC RAILROADS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 15) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act, the pending question being on the amendment submitted by Mr. MATTHEWS.

Mr. BECK. Mr. President, some days ago I requested the Senator from Ohio, [Mr. THURMAN,] the member of the Judiciary Committee in charge of this bill, to allow me a little time in which to present my views upon it. I confess the more I have examined the question, the more I have become satisfied that there is but little use and not much propriety in my speaking at all. The question seems to me so plain and the bill of the Judiciary Committee so moderate in its requirements and so just, that I can hardly discuss it. Still, as it is a matter of very great importance and as the precedent we are about to establish may be regarded hereafter as a guide to future Congresses, I desire to say a few words in relation to it. My argument will be based on three or four propositions, which are substantially as follows:

First. It being conceded that we are large creditors of the railroad companies, will our debt and interest be secure and will it be paid when due if we stand where we are under existing laws and do nothing?

Second. Are the railroad companies able, without serious embarrassment to the corporations, to secure our debt, if they are required to begin now to create a sinking fund for that purpose? And

Third. Are they making or proposing to make any effort to secure the payment of their debts? If not, and our debt is in danger, have we either by virtue of our inherent authority or under our agreement with them any other feasible plan except that proposed by the Judiciary Committee, which bill I propose to sustain?

I think, Mr. President, in whatever else Senators differ, there is no disagreement as to the justice of our debt, the solemn assurances given by the companies that it should be repaid with interest, the certainty that they never would have received the money or any part of it but for those assurances, and the equities which the tax-payers of the country have to demand of us, as their trustees, that it should, if possible, be secured, so that when due it may be collected and their burdens to that extent lightened. Nor is there any dispute as to the magnitude of the debt, at least up to a point which renders it conclusive that the first-mortgage bonds and the bonds of the Government will not only not be paid but that the companies do not intend to make any effort to pay them when due. In other words, the companies, while clamoring for the protection of what they call their vested rights, are wholly disregarding the vested rights of the people who have the debt and interest owing to them paid as it matures. I say vested right because although it is not payable now, the right to future payment is as certain as though it was. The first-mortgage bondholders do not care; the property will sell for enough to pay them, and therefore I am not speaking of or seeking to guard their rights. The directors and stockholders will take care that they themselves are the owners of those bonds long before they mature. There are net earnings enough to make that certain, and they can become the owners of the roads under sales to satisfy the first mortgage free from any of the embarrassment and limitations of the acts of 1862 and 1864. Their vested rights under such sales would perhaps then be entitled to respect.

To show that this is not an unreasonable apprehension of mine, I read from a report on this subject made by the Judiciary Committee of the last House of Representatives, which carefully considered the subject. The report is No. 440 of the first session of the Forty-fourth Congress. In that report that committee, speaking of the immense debt we hold against the railroads and what will become of it if we do not take steps to secure it, say:

To pay this, the Government may find only a worn-out road, which put up at auction would not pay the first-mortgage bonds. And if these should happen to be in the hands of those who now control the road, they would doubtless become the purchasers and sole owners, for the objection to a Government purchase would

be so great it would never be made, and there could be no other competitor who would be formidable as a purchaser. If there could be danger of this, the managers of the road could permit the interest to accumulate on the first-mortgage bonds to any amount requisite to secure their purpose to become owners of the road without paying any of its debt to the Government. The necessity for prompt measures to secure the Government cannot be doubted.

We—and by that expression I mean *we, the people*, the tax-payers of the country—acting through our agents, the then Congress and President of the United States, two of the three co-ordinate branches of the Government, granted and gave many valuable rights and a vast domain to these companies, and to further aid them loaned the Union Pacific Railroad \$27,326,000 and the Central and Western Pacific Railroads, now one company, \$27,855,000 for thirty years, agreeing to pay the interest on our own bonds during that period. After allowing all the credits obtained and obtainable under existing laws from half the Government transportation and 5 per cent. of the net earnings of the roads, it is safe to say (waiving all question as to our right ultimately to receive interest on the payments of interest from the time it was paid) the companies will owe us in the year 1900, as stated by the Senator from Indiana, [Mr. McDONALD,] \$122,305,000, of which the Union Pacific will owe over \$55,000,000 and the Central and Western Pacific \$67,000,000. If we are entitled, as the Attorney-General of the United States insists, to interest on the payments of interest from the time we paid it, the amount that will be due the people of the United States by these corporations will be \$174,000,000. I do not well see how the legality of that claim can be denied; its equity cannot be. But waiving that, all agree (and I desire to base my argument on undisputed facts) that they will owe us \$122,000,000. The companies and their friends insist upon their right to distribute all dividends or net earnings, up to the maturity of the bonds, among their stockholders, which means among themselves, free from any obligation to provide in advance for the payment of the debt thus maturing, even for the payment of any part of the principal of the first mortgage bonds, which, when due, will amount to \$55,000,000. The two roads jointly own nineteen hundred miles of railway, so that our debt of \$122,000,000 will alone be about \$65,000 a mile on the whole line of the road, or at least \$15,000 a mile more than it would cost now to build and equip a duplicate road and put it in good repair, which, of course, their roads will not be when the time of sale comes, especially if it is the interest of the managers to buy them in at a low price under the first mortgage bonds, no matter what steps we may take to interfere with them. They are masters of the art of delay. All they desire now is to get this controversy on their terms into the courts, and they are safe for at least five years, no matter how unjust or flimsy their defense may be. It must be apparent, therefore, from the admitted facts, that they, if let alone, mean to be hopelessly insolvent when our debt matures.

One of the recitals of the bill of the Judiciary Committee sets forth the facts as to their present condition very clearly in the following words:

Whereas the total liabilities (exclusive of interest to accrue) to all creditors, including the United States, of the said Central Pacific Company, amount in the aggregate to more than \$26,000,000, and those of the said Union Pacific Railroad Company to more than \$58,000,000.

Being an indebtedness now of nearly \$100,000 a mile on their nineteen hundred miles of railroad. It did not need the confessions of Mr. Dillon and Mr. Huntington to convince any Senator of their purpose to be insolvent when our debt matures. A simple calculation proves it. Still I desire to make this proposition plain, as it is the foundation of my views, and I cannot state it better than by reading from the very able speech of the Senator from Tennessee [Mr. BAILEY] on this subject. He said:

In order that we may fully appreciate the danger that threatens the Government and people of the United States of losing the hundreds of millions of dollars advanced and to be advanced in building this great highway of commerce, I beg to call the attention of the Senate to an extract from a letter written by Mr. Dillon, president of the Union Pacific Railroad Company, on the 4th of February, 1875, addressed to Mr. Bristow, then Secretary of the Treasury, in which he says:

"The mortgage held by the Government, in its terms and by judicial decision of the United States circuit court, cannot be enforced until the maturity of the bonds, which is near the close of the present century.

"The bonds are accumulating an interest-account, also uncollectible until the principal is due. Principal and interest, when due, will amount to the very large aggregate of over \$77,000,000."

And he is writing about the Union Pacific Railway indebtedness alone—

"Though the actual amount advanced by the Government was only \$27,236,512.

"For this very large amount the Government has only a second mortgage, and if it be allowed to accumulate, without any provision being made to meet it, the company will probably be utterly unable to pay it.

"At the same time, it is equally manifest that the Government will be unable to collect it, except upon the assumption that it will advance the money to discharge prior mortgages, and run the road on Government account—a policy which wise statesmanship could not advise.

"By standing still, therefore, the company has a load of debt accumulating for which no provision is made, and the Government is drifting further and further from the opportunity to secure a just return for its advances. To do nothing is to injure both the Government and the company, perhaps irretrievably to both.

"In this dilemma, I venture to make a proposition which offers on the part of the company all it can possibly do, and secures to the Government a substantial return for its advances."

This intimation of probable insolvency of the Union Pacific Railroad Company, and consequent to a to the Government, is repeated in a communication addressed to the Senate Committee on the Judiciary on the 12th of November, 1877, by Mr. Dillon, and Mr. Huntington, the vice-president of the Central Pacific Railway, who joined with him in saying as to both companies what I will ask the indulgence of the Senate to listen to:

Nearly three years since the officers of the Union Pacific and Central Pacific Railroad Companies called the attention of the Secretary of the Treasury to the fact that contrary to the general expectation at the inception of the enterprise—

And I ask attention to this phraseology—

"a balance of accounts in his ledger was accumulating against them which, unless some remedial legislation was soon had, would amount, by the time it became due and payable, to a sum which it might be embarrassing to the companies to pay simultaneously with their first-mortgage debt, and greater than the value of the subordinated lien of the Government on the properties themselves."

But as if this deliberate declaration was not sufficient to warn the Senate of the danger that threatens, Mr. Huntington, who appeared before the Judiciary Committee, takes occasion to say in an address delivered to that committee:

"By the time"—

Speaking of the Government debt and the first-mortgage debt, equal in amount to the principal of the Government bonds issued to these railroad companies—

"By the time both mature and become payable it is not at all likely the property will be worth their aggregate sum, and if the shrinking and settling of prices should continue further it may happen that it will not suffice to pay more than the first mortgages."

These carefully considered statements are accompanied by equally well-considered declarations to the effect that by the terms of the acts of 1862 and 1864 the officers of the two companies have the moral as well as the legal right to distribute the earnings of the two roads to the stockholders, and although this course will certainly lead to the insolvency of the corporations, as they agree, they very plainly threaten that unless the Government will yield to their terms they will manage affairs solely with regard to the interests of the proprietors and without regard to the just claims of creditors.

It will be observed that Mr. Dillon assumes that the debt of the Union Pacific Railroad Company will be much greater than the Senator from Indiana [Mr. McDONALD] stated. The Senator from Indiana said it would be at least \$55,000,000. Either statement is enough to justify my assertion as to the utter insolvency of the companies at the time our debt matures. I agree with both Mr. Dillon and Mr. Huntington in their statement that unless some remedial legislation is soon had, it may happen that it (the property of the roads) will not suffice to pay more than the first mortgage. I know, as they admit, that without some provision being made to meet our debt the companies will put it out of their power to pay it. I differ with both of them as to the necessary and proper remedial legislation to save the debt. I think the bill offered by the Committee on the Judiciary will give us a chance to do so; the bill submitted by the companies to the Senate is absolutely and certainly a substantial confiscation of it all. I cordially agree with Mr. Dillon that any attempt on the part of the Government to advance the money to discharge the prior mortgages and run the road on Government account is not only a policy which wise statesmanship could not advise, but would be destructive of all my ideas of republican government, and it is perhaps because they rely upon that being the view of members of Congress in the future that they are determined to push us to that contingency. They are willing to allow the first-mortgage bonds to accumulate, and make no provision for them, make no provision for the principal of our debt or for anything but a fraction of the interest on it, although they have solemnly obligated themselves to pay the principal and all the interest at maturity, which they confess they do not intend to do, admitting that without some remedial legislation it cannot be done, and substantially asserting that unless it is done they will not try to comply with their obligations. Their boldness and audacity commands a certain degree of respect; they seem to feel that they are strong enough to control or defy Congress, and their insolent avowal of a determination to disregard their obligations shows how confident they are of their power.

I am free to say that I would rather see all the debt and all the interest lost than to see this Government undertake to purchase the roads and become a great railroad manager. I will do nothing that will tend to bring about that contingency. We have centralization and consolidation and personal government enough—at least we have had it in the last few years—to warn us against that. I have seen this Government within the last ten years attempt to take possession of all the telegraph lines in the country. I have seen propositions before Congress to take Government control of all the railroad lines of the country and add another one hundred thousand to our one hundred thousand officials. Attach these great railroad lines to the Government and make them part of its political machinery and we will no longer have a Republic of coequal States; there will be Senators sitting on this floor by the dozen, the creatures of the Administration, whatever its politics may be, and of these railroad corporations, pledged to stand by them in all their contracts with the unorganized masses of tax-payers.

I read the other day in Mr. Spofford's book and was very much impressed with the wisdom of an article on this subject taken from a French journal, published in August, 1877. That country is making some efforts toward establishing a republican form of government, but is not as far advanced as we think we are. Speaking of government management of railroads, it uses arguments to my mind very forcible. After showing how private companies managed them, it said:

In the hands of the state, on the contrary, the railway falls into the jurisdiction of one of the ministers, and it is managed administratively. The state has to do with administration, and not with commerce.

In England and in Austria, where the railways are managed on the most commercial plan by the companies which own them, or which have obtained the charters, the commercial agents of these companies traverse the country to secure freights, just as the clerks of any merchant would travel to open up markets for the goods of their patron.

And then it proceeds to show how the Government will and can do none of these things.

Again:

One of the principles taught by political economy is that in the domain of labor, in that of industry and of commerce, the sphere of activity of the state begins

nearly where the rôle of the individual ends, or where the activity of private industry ceases. Wherever, in the vast field of industrial action, individual efforts can be successfully applied, the government should leave free room to that agency, and not enter into competition with it.

Let it not be said that if the state effects, on the one hand, a lower price for transportation by railway, it may well, on the other hand, increase the tax upon the people, and that a compensation will be arrived at in that manner. This might be true if the increase of tax sustained by each citizen were proportionate to the use he made of the railway. Such a distribution of the taxes is impossible in practice, and it would happen that he who could make little or no use of the railway would pay the tax for him who constantly uses it, which would be a gross injustice. The state is obliged in fairness to impose such a tariff upon railway traffic as will enable it, by the aid of the profits realized, to pay for the capital invested in the railways which it works. What, then, becomes of the theory of those who hoped that the government, if it were to buy up all the railways, would carry for the public at the mere cost of working the road?

From the moment that the railways should become the property of the government and be managed by it they would become subject to political influence. The minister of the railways would find himself absolute master in questions which touch industry and commerce most intimately; he would dispose of one of the most considerable elements of national wealth—transportation; he would be chief of an army of functionaries scattered over the whole country, and in continual contact with the whole nation; the railways would pass very probably into the rôle of propaganda, or the means of yielding a pressure of political influence in the hands of the minister or of a majority of the legislative body. Who would occupy himself with the development of traffic, with the increase of receipts, with the curtailment of expenses, with the proper and economic use of the railway *personnel*? From that day, the railways would have lost their essential character. They would have ceased to be an industry, they would become only a bureau, and would constitute only one section of the more or less complicated machinery of the government.

I am thoroughly convinced of the wisdom and statesmanship of these views, and will never consent that this Government, even to save a debt however large, shall become a great railroad monopolist or engage in any such competition with its citizens.

For such reasons as are stated in that article, and they are very many, the railroad companies know that as long as there is a democratic representative left in either the Senate or House of Representatives, and there seem to be a good many of them coming here now, the Government will in no event purchase on its own account or take charge of these railroads; and if their managers can only put them in a shape where they can purchase them to satisfy the first-mortgage bonds and defeat the collection otherwise of our just debts, they will vest themselves with all these great corporate rights and powers upon their own terms because they know that we will never undertake to purchase or run these railroads on Government account.

Therefore, I assume that the first proposition I made is plain, which was, that we being creditors, with a large *bona fide* debt at the mercy of these corporations, must take some step as our debt is in imminent peril; the companies obviously do not intend to pay it; we cannot afford to buy and run the roads, even to save ourselves, and therefore something has to be done, or the debt will be lost. The next question is, are the railroad companies able, without serious embarrassment to the corporations, to make our debt secure. If they are not, then they might present some equity, and we might settle by some equitable adjustment; but I assert, and the proof shows, that they are fully able without sacrifice to pay every dollar they owe. I will not go into detail on that subject. I desire, however, to call attention of the Senate and put upon the record some facts which I think will satisfy every Senator that they are able to pay all their debts. I shall begin with extracts from the report of the Committee on the Judiciary which accompanies this bill, which report makes this part of the case clear and conclusive. It shows that the railroad companies, even admitting that they will not continue to make as much by \$2,000,000 as they have made during the last fiscal year, which they will surely exceed on the average hereafter, but upon the average receipts of the last four years can pay all their interest, pay dividends upon the nominal amount of their stock varying from $4\frac{1}{2}$ to 6 per cent., supply all the sinking fund that the bill of the Committee on the Judiciary requires, and carry on their business without embarrassment. The extracts from that report prove it. Every Senator, I presume is familiar with them. If not, he ought to be.

Speaking of the Union Pacific Railroad and its property the committee, among other things, say:

We have seen that, for the last four years, the average annual net income of the company, deducting operating expenses alone from its gross receipts, has been \$6,547,149.91. We think that this income will be largely increased in the future by the increasing business of the company, the sales of its lands, and its immense coal-mines. In reference to these mines the report of the directors to the stockholders for 1874 says:

"The Union Pacific Railroad Company own, in Wyoming Territory, an area of coal-fields greater than the entire anthracite-coal fields of the State of Pennsylvania.

"The coal-fields of the company extend along four hundred miles of the road, and five million acres of its lands are within the coal measures. The coal is superior for ordinary fuel, and unequalled for making steam and for all manufacturing purposes.

"It will furnish cheap fuel to the company for its own traffic, and will afford large additional revenues from the sale and transportation of coal for domestic and manufacturing uses, to supply the country extending for nearly two thousand miles—from Omaha to the Pacific coast."

The coal from their mines cost them less than \$1.30 per ton.

The Government directors, in their report to the Secretary of the Interior, furnish the following statement:

The earnings of the road for the year ending June, 30, 1877, show a considerable

increase over the preceding year, and largely more than any other year in its history.

The gross earnings for the year ending June 30, 1877, were \$13,719,343.82
For the year ending June 30, 1876 12,113,990.69

Increase for the year 1877 over 1876 1,605,353.13

Operating expenses, as claimed by company, for year 1876 5,447,819.27
For 1877 5,402,252.24

Gain for 1877 over 1876 45,567.03

Net earnings for the year 1877 8,317,031.58
Net earnings for the year 1876 6,666,171.42

Increase for 1877 over 1876 1,650,920.16

This is a surprising result, considering the general depression which has rested upon the business of the country, and fully justifies the opinion expressed in former reports by the Government directors relative to the immense possibilities of this road.

The committee, in their extreme caution, do not base their calculations on the earnings of last year, but on the average of years past, as the following table from their report shows:

Average annual gross receipts, less operating expenses, as ante	.....	\$6,547,149.91
Deduct interest on first mortgage	.....	\$1,633,920.00
Five per cent. on net earnings, payable to Government	.....	245,661.00
One-half transportation, payable to Government under existing law, say	.....	421,311.87
Interest on company's sinking fund bonds, 8 per cent. on \$14,326,000	.....	1,146,080.00
Interest on income bonds, 10 per cent. on \$10,000	.....	1,000.00
Interest on Omaha bridge bonds, 8 per cent. on \$2,279,000	.....	182,320.00
One-half transportation account to be paid into the sinking fund as per bill	.....	421,311.87
Further sum to be paid to same as per bill	.....	850,000.00
		4,901,604.74

Leaving for dividends among stockholders 1,645,545.17

Being about $4\frac{1}{2}$ per cent. on the nominal amount of the stock, or $6\frac{1}{2}$ per cent. on its present market value.

As to the Central Pacific Railroad Company, the committee in their report say:

The gross earnings of the road, less the operating expenses, for the years 1873 to 1876, both inclusive, as stated in the reports of the directors to the stockholders, were as follows:

1873	.....	\$6,952,361.73
1874	.....	7,894,661.46
1875	.....	8,342,898.78
1876	.....	9,177,822.09
1876	.....	9,137,004.73
Total for five years	.....	41,504,828.77

Average annual net receipts 8,300,965.75

If we deduct the interest upon the first-mortgage bonds, as well as the operating expenses, from the gross receipts, the account of said five years would stand as follows:

Gross receipts, less operating expenses	.....	\$41,504,828.77
Deduct five years' interest on first-mortgage bonds, \$1,671,340.50 \times 5	.....	8,356,704.00
Net earnings for five years	.....	33,148,124.77

Average annual net earnings 6,629,624.95

After showing what is required by the bill to be paid into the sinking fund, the committee add:

That the company can make these payments and have a surplus sufficient for handsome dividends to its shareholders is easily demonstrated from the facts already stated. But the same thing is shown more concisely by its statements of profit and loss in the directors' reports for 1875 and 1876 to the stockholders.

By the report for 1875 it appears that, after paying all expenses and interest, the company paid to its shareholders dividends amounting to 10 per cent. on the nominal amount of the stock—amount paid, \$5,427,538—and it had a surplus of \$10,305,953 left.

In 1876, after paying all expenses and interest, it paid dividends amounting to 8 per cent. on the nominal amount of the stock—amount paid, \$4,342,040—and had a surplus of \$10,255,292.75 left. If we take these two years as a guide for the future—and we think that we may safely do so—the annual amount that will be divided among the shareholders, should no sinking fund be created, will be 9 per cent. on the nominal value of the stock, \$4,883,795.

If the bill we report become a law this amount would be diminished by the amount required to be paid into the sinking fund, say \$1,400,000, leaving \$3,483,795, after the payment of all expenses and interest and the payments into the sinking fund, to be divided among the shareholders, being 6.4 per cent. on the nominal value of their stock.

That is enough to prove my assertion that the companies are able to secure our debt without embarrassment, and being able every principle of justice requires that they should be compelled to do so.

The Secretary of the Interior, in his last report to Congress, he being the officer who is charged with the duty of having proper examination and report upon these subjects made, from pages 29 to 35 of his report to Congress not only shows that the companies will be insolvent, but that the money we have advanced and are obliged to pay will be lost unless some legislation is had and a sufficient sinking fund established. He gives a detailed statement of the earnings of the roads, the growth of their business, the value of their property. Among other things he says:

The Union Pacific Railroad Company and the Central Pacific Railroad Company did better than ever before in the year 1876, notwithstanding the fact that all other railroad companies suffered from the great depression of trade and industrial enterprise.

He takes from Poore's Manual, a standard authority on that subject, for 1877, these facts:

Gross earnings.....	\$31,033,803
Operating expenses.....	14,000,286
Net earnings.....	17,033,517
Bonded interest, paid.....	\$6,612,215
Eight per cent. dividend on stock.....	7,299,000
	13,911,215
Surplus.....	3,121,702

Leaving a surplus after doing all that of \$3,121,702. He then contrasts them with all other roads of the country and he shows conclusively that if they are required to lay aside a reasonable portion (and surely the portion required by the Judiciary Committee bill is a reasonable one) they can so far reduce that debt as to make it a very light burden upon them when the debt becomes due, one that this Government would be glad to extend after they had in good faith put themselves in such shape as to show that they were honestly trying to pay it. The necessity for this legislation now is that they are not honestly trying to lay up any fund to secure us, and they are defying our authority to require them to do it and are avowing that they do not intend to make even an effort to secure us, and still they are crying out loudly for "good faith" and "vested rights!" Good faith to the people who have borne all the burdens which have enriched them forms no part of their code of morals. I hope it will be regarded by their representatives here.

We have commissioners appointed to examine the condition of the Union Pacific Railroad. They are required by law to make a report to the Secretary of the Interior. They have done so, and they show that absolute insolvency, if the present course of these railroad directors is allowed to continue, is staring them in the face, though they are receiving such vast earnings. The commissioners, among many other things that I might read bearing upon the questions now before us, because they urge in every form the importance and absolute necessity of congressional legislation for the protection of our debt, say:

There ought to be no conflict between the United States and the owners of the road. There is no just reason why there should be. The United States advanced the bonds in the sum named, and has paid and is still paying the interest thereon. This is a debt which ought to be paid, but under the decision of the Supreme Court of the United States it will not become due until the maturity of the bonds, thirty years from the date of their issue. To let it run on, accumulating to the end of this time, will be the worst possible policy and ruinous at last. If a just accommodation can be arrived at, for the avoidance of this result, it would be wise for all the parties concerned to avail themselves of it.

They make calculations and exhibits as to the sinking fund required, which are substantially those made in the Judiciary Committee report. They add:

During the year covered by this report the company continued its policy of paying quarterly dividends of 2 per cent., making 8 per cent. per annum. In the report for 1876 this subject was referred to in the following language, namely: "The Government directors have not approved the dividend policy of the company. They have held that the amounts heretofore claimed as due to the Government on reimbursement account, under the several provisions of law establishing and regulating the same, should be regularly paid before the declaration of dividends." This position is here reaffirmed.

They show that large sums are taken from the earnings of these roads to the detriment of the Government and the diminution of its security to aid other railroads, such as the Utah Central, Utah Southern, Utah Northern, Republican Valley, and Colorado Central Railroads, while still others are in contemplation. But I have not time to dwell longer on this branch of the subject.

It must be borne in mind that the dividends I have spoken of are made on the nominal value of the stock, which in the Union Pacific amounts to \$36,762,300, in the Central Pacific to \$54,275,500, much the larger portion of which they never paid in any form thirty-three cents on the dollar for; stock, 66 per cent. of which in the Union Pacific Company, it is stated by the reports of the House committee, represented nothing but the fraud of the Credit Mobilier and other like frauds. I do not wish to make any statement on that subject except by authority. The Judiciary Committee of the House of Representatives, whose report I hold in my hand, say on page 21:

From this it will be seen these companies, on their own showing, are making large profits, and are abundantly able to pay and indemnify the Government against future loss, and pay liberal dividends besides on the par value of stock which, as has been shown by a committee of the House as to the Union Pacific Company, cost its original holders "not more than thirty cents on the dollar in road-making," which road-making itself paid enormous profits—profits realized through the notorious Credit Mobilier of America.

The committee gives extracts from the report of that committee. Here is a specimen:

In a report made to the House on the 20th of February, 1873, by a committee thereof, it was said of the Union Pacific Company:

"That the moneys borrowed by the corporation, under a power given them only to meet the necessities of the construction and endowment of the road, have been distributed in dividends among the corporators; that the stock was issued not to men who paid for it at par in money, but who paid for it at not more than thirty cents on the dollar in road-making; that, of the Government directors, some of them have neglected their duties and others have been evaded; that at least one of the commissioners appointed by the President has been directly bribed to betray his trust by the gift of \$25,000; that the chief engineer of the road was largely interested in the contracts for its construction; and that there has been an attempt to prevent the exercise of the reserved power in Congress by inducing influential members of Congress to become interested in the profits of the transaction. So that of the safeguards above enumerated none seems to be left but the sense of public duty of the corporators."

These men have issued stock to the amount of over \$36,000,000, stock obtained and issued, as that report shows, under such circumstances as these. The Central Pacific Company has issued stock to the amount of over \$54,000,000, and upon it they are paying and insisting upon continuing to pay dividends quarterly at the rate of from 8 to 10 per cent. per annum, leaving the debt of the Government absolutely unprovided for, and complain bitterly because we propose to do something in a very mild way to secure ourselves against their misappropriation of funds under such circumstances.

Mr. BAYARD. I should like to ask the Senator from Kentucky how much money was subscribed and paid in for the capital stock of the companies respectively.

Mr. BECK. I am not prepared to answer accurately. The reports made by Mr. Poland and Mr. Wilson to the House of Representatives set it forth with substantial accuracy; but I have not the figures in my mind at present, nor have I the reports before me.

Mr. MERRIMON. Four hundred thousand dollars cash.

Mr. BECK. I know it was a very small sum.

Mr. BAYARD. Then, upon a *bona fide* subscription of \$400,000 stock is now held to the amount, of how many millions does the Senator say?

Mr. BECK. Over \$36,000,000.

Mr. BAYARD. And upon those \$36,000,000 dividends to the amount of 8 per cent. per annum have been declared?

Mr. BECK. It was last year and for years preceding.

Mr. MERRIMON. May I read from the report made by Mr. Wilson?

Mr. BECK. I should be glad to have the exact figures.

Mr. MERRIMON. Here is one of the findings of the committee on page 21 of the report made by Mr. Wilson:

The statute requiring the capital stock to be paid for in money at par, it has in fact been paid at not exceeding thirty cents on the dollar in road-building, excepting, perhaps, the sum of about \$400,000.

Mr. BAYARD. The Senator will understand me. I am not referring now to the stock of the Credit Mobilier; I am referring to the capital stock of the Central Pacific Railroad and the Union Pacific Railroad.

Mr. MERRIMON. This is the Union Pacific alone.

Mr. BAILEY. In regard to the Central Pacific, it was stated at the last session of Congress by the Senator from California [Mr. BOOTH] that suit had been actually brought by some of the stockholders of the Central Pacific against the managers to recover the profits, and they had paid to each of these \$5.16 for every dollar they had subscribed to the capital stock in order to avoid the litigation.

Mr. BAYARD. Does the Senator speak of the stock of the Credit Mobilier or the capital stock of the railroad company?

Mr. BAILEY. I refer to the capital stock of the Central Pacific Railroad.

Mr. BECK. I had before me and thought I could lay my hand on it, but I cannot at this moment, a bill filed in the State of California against the Central Pacific Railroad Company, setting forth with great accuracy the frauds alleged to have been perpetrated by its construction company and the division of stock. I did not intend to refer to that specifically, because it may be that that was satisfactorily answered, but I read in the speech of my friend from North Carolina [Mr. MERRIMON] an extract of a speech made by Hon. William A. Piper, of California, in the House of Representatives, April 8, 1876, in which he made charges of the grossest frauds against them. If half of them are true these companies are entitled to but very little consideration. Not knowing whether they were absolutely sustained or not, and not desiring to reopen in this debate the questions of fraud except so far as necessary to repel intimations and charges of bad faith on our part, seeking to do no more than save the debt of the Government and embarrass the companies as little as possible, I did not desire specifically to go into any of the well-known corrupt practices connected with their original organization; nor to treat them for the purposes of this bill otherwise than as if all the stock they owned was *bona fide* stock, and their organization under the laws of 1862 and 1864 had been made in good faith.

I think I have established two of my propositions, that our debt will certainly be lost unless something is done and that the companies are absolutely and abundantly able, without any sort of embarrassment, to secure its payment if they desire to do so. I have shown, also, that they do not intend to do it, and they come now before the Senate with certain propositions, one of which is in the form of a bill introduced by the Senator from Arkansas, [Mr. DORSEY,] but which is in fact the proposition of the railroad companies as I find it *verbatim* in a pamphlet containing their argument, which some one sent to me. It there appears precisely the same as the bill introduced by the Senator from Arkansas. Therefore I say the bill that was referred to the Railroad Committee was their proposition. Looking at it as carefully as I can I am brought to the same conclusion that the Senator from Tennessee arrived at, that it was absolute confiscation of the debt to comply with the terms proposed by the companies in that bill. They offer to give us the land. But the Senator from Tennessee [Mr. BAILEY] stated it so well, I will read what he said about it; I cannot state it as well. He said:

They require the Government to pay \$15,000,000 for twelve million acres of land a gift from the Government, and that this sum shall be placed at interest while

they pay none, until it shall swell to the sum of \$75,000,000. Next, they demand that their annual payments of \$1,166,000 shall be placed at interest, and that compounded until the interest shall reach \$48,000,000. But, not satisfied with these exactions, they demand that for seven years and nine months the Government shall receive no interest on \$26,000,000, making a further loss of \$49,000,000 or a total of \$172,000,000, exceeding the entire debt, principal and interest, that will be due from them to the Government at that time.

They had the audacity—I might use a harsher term—to call that a business proposition and the best they could do in the face of such facts as I have just shown. They must have immensely overrated their own power of persuasion or influence or immensely underrated the business capacity of the men who are acting in this body as trustees for a people who in good faith loaned them the money under solemn pledges and assurances that it should be paid back to the uttermost farthing. That proposition was too ridiculous to be seriously considered, I hope, by any Senator.

The Railroad Committee did not adopt it but they offered a substitute, which was reported by the Senator from Ohio, [Mr. MATTHEWS,] which is a surrender of from forty-one to forty-five millions of our debt to these companies, and in my opinion is not worthy of the consideration of Congress on that account. But it is vicious legislation for other reasons. It is a proposition from Congress to the railroad companies which they have the right to accept or reject after retaining it for four months; it is a concession that we have no power over them under all the reservations of the acts of 1862 and 1864. It might be very well for Congress to consider a proposition made by railroad companies, but it is unworthy of Congress to be making propositions which we confess by the very act of making that we have no right to make and no power to enforce, and which it is for them to say whether they shall become laws or not. It is our business to make laws, not to propose bargains. Some Senators think the companies would accept it, some think they would not. Nobody professes to know; we are assured only of delay. I suppose they would accept it, as they could save by it forty-five millions which they justly owe us, rather than take the chances of the passage of the Judiciary Committee's bill or some other measure which does not suit them.

I shall vote to reject both these bills, that introduced by the Senator from Arkansas, and the proposition or attempt at a bargain and a surrender of our rights as well as the surrender of \$45,000,000 contained in the bill introduced by the Senator from Ohio, [Mr. MATTHEWS.] I would rather stand where we are even if we did lose money, than to be bargaining with corporations upon such terms, giving them four months to accept until this Congress adjourns and allow another year to run, when the proposition will perhaps have to be modified on some point and go over again for another session or be stifled in the next short session of three months. We either have the right to have our debt secured, or we have not. If we have, we ought to secure it; if we have not, let Senators tell the country why.

I propose now, as briefly as I can, to state my construction of the rights of the Government and the corporations under the acts of 1862 and 1864, waiving the question of the power of the Government, as such, over quasi-public corporations such as these, and looking at it simply as a contract. Congress under peculiar circumstances, which I will refer to, gave the lands, loaned the credit, and advanced the money of the people to these corporations upon certain specified conditions, for the accomplishment of certain purposes, chief among which were the following: That a great railway should be constructed and perpetually maintained by these corporations, over which the Government should have the perpetual right to transport everything it desired at rates not exceeding what private persons were required to pay for like service, and when necessary should have precedence and priority over all others in the use of the roads. Government directors were to be appointed to keep Congress advised as to all matters connected with their management, so that proper steps could be taken by such legislation as might be necessary to protect the Government against any acts which might tend to thwart this great object. All the property of these corporations was by these acts (subject to a prior incumbrance authorized by the act of 1864) mortgaged to the United States to secure the repayment of the bonds issued by the Government, and the interest thereon. Five per cent. of the net earnings and one-half of the charges for Government transportation were to be applied to the payment of the interest on the Government bonds. And to guard against all contingencies, and to enable the Government at any and all times to protect the people against any act or omission of the managers of these roads, which might either render it impossible for them to secure in perpetuity the Government's right of transportation or endanger the ultimate payment of the principal and interest of the bonds, section 22 of the amendatory act of July 2, 1864, provided "that Congress may at any time alter, amend, or repeal this act." That section was as much a part of the contract—and I am willing to regard it as such, in accordance with the principles laid down in the Dartmouth College case—as any other part of the contract.

The stockholders and their boards of directors accepted all the provisions of the act, received the lands and the Government bonds issued, and obtained the money on the first-mortgage bonds under it, and agreed in consideration of all these immense benefits that the Congress of the United States should have the right at any time to alter, amend, or repeal the act. Neither party, of course, knew what contingencies might arise or in what regard the provisions, objects, and purposes of the bill might require changes to be made; but it

must be apparent that Congress intended, and as trustee for the people whose money and property was being loaned and given away, demanded that the right to so legislate at any time as to protect and secure the perpetual use of the roads and the repayment of the bonds and interest by such alteration or amendment as the representatives of the people in Congress assembled might deem wise and just should be vested in them, and that the companies agreed to, and accepted that limitation and condition, without the acceptance of which they could not have received any of the benefits, rights, or privileges obtained by them under the act, especially of 1864. That was not a mere act either creating artificial persons or confined to the granting of purely corporate rights; it donated millions of acres of the public domain; it postponed the prior lien of the Government for over \$54,000,000, so as to enable the companies to obtain on a first mortgage \$54,000,000, which they could not have obtained but for that act, and it seems to me when Congress made such donations and concessions, it would have come far short of its duty as a public trustee if it had failed to retain power to so alter and amend the acts by which such gifts were made and such burdens imposed on the tax-payers of the country as to secure to them, by whatever legislation might become necessary, the repayment of the money and the enjoyment of the privileges which these companies undertook to pay and maintain; and it seems to me that it comes with a bad grace from these companies and their advocates to charge that as moderate, considerate, and conservative a measure as that proposed by the Committee on the Judiciary, is either a violation of contracts or in any manner harsh, oppressive, or unjust. It is conceded that the corporations will be hopelessly insolvent and that the people of the United States will be cheated out of the money they have paid for these companies, all of which they pledged themselves and their property to repay with interest, unless steps are taken now to require them to lay aside a fund for that purpose, and not divide out all their earnings among the stockholders, as they are now doing as though they owed no debts or never intended either to pay or provide for them.

The vice in the arguments of gentlemen on the other side consists in the assumption that the twenty-second section of the act of 1864 does not mean what it says. They boldly, clamorously, and, some of them, defiantly assert that, although the section expressly provides that Congress may at any time alter, amend, or repeal the act, and although the companies accepted it, agreed to it, and acted upon it, still they not only have the right to repudiate it now, but have the right to use the roads and their earnings for their own private benefit, in absolute defiance of the Government and the law. If the bill of the Judiciary Committee is as flagrant an outrage on their vested rights as they would have the Senate believe, the courts of the country are open to them, because, when the Attorney-General, under sections 10 and 11, seeks by judicial proceedings to enforce its provisions, all the rights of the corporations can be protected by judicial decisions. We are asked why we do not proceed in the courts now, without the intervention of Congress. The answer is twofold and either is satisfactory: we do not propose to embark in a five years' law-suit with them and allow them to be dividing during all that time millions on millions of dollars which, during these years of litigation, ought to be deposited for the security of the United States in the Treasury; and we do not intend at the suggestion or by the order of the companies to fail or refuse to enact such laws under the authority reserved to amend or alter the existing law as will enable us to present our claim before the courts with all the sanction that legislative authority can give. If that authority is invalid the courts will say so; if valid, the wisdom of our action as well as its legality will be vindicated. I have no doubt as to the right of Congress to pass the bill; indeed, in view of the known facts, it would, looking at them from my stand-point, be an obvious violation of our known duty if we failed to do it. I propose to waive all questions of power for the purposes of this argument and look at it as a contract, and I desire to say here that I believe the United States has no more right or constitutional warrant of authority to violate the obligation of contract than States have. I believe with Mr. Madison that—

Bills of attainder, *ex post facto* laws, and laws impairing the obligation of contracts are contrary to the first principles of the social compact and to every principle of sound legislation.

It never entered into his mind that the Federal Government would ever assert any such power, and I regret that the Committee on the Judiciary in their report should have intimated the possibility of the assertion of such a claim under any circumstances. I am voting for their bill, however, and not for any suggestions in their report. I would surrender all the bonds and all the interest on them before I would secure them by the exercise of authority in violation of the obligation of contracts. The grants of power to the Federal Government, though of great magnitude, were confined to general objects affecting all the people, such as war, coinage, taxation, commerce, and the like, and Congress was authorized—

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all others vested by this Constitution in the Government of the United States, or in any department or officer thereof.

There was no authority given anywhere for any department of this Government to violate the obligation of contracts, and that power was neither necessary nor proper for carrying into execution any of the powers granted. The States took care that there should be no

mistake as to the limitation of Federal power, by declaring in the tenth amendment that—

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

And they had all agreed that such laws should be prohibited as contrary to the first principles of the social compact and to every principle of sound legislation.

Mr. Madison, in further discussing this proposition and maintaining the wisdom of it, in the *Federalist*, No. 45, says:

The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will for the most part be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the state.

Mr. President, I have said this much on this subject, although I know that the bill of the Judiciary Committee contains nothing and the proposition submitted contains nothing which violates the obligation of contracts; but I wish to exclude all possibility of a conclusion that I recognize any such right in the Federal Government in its dealings with citizens or corporations whose rights are equal—no, not exactly. The private citizen may rightfully do anything which the law does not prohibit; the corporation can only do what it is by law expressly authorized to do; but in their respective spheres their rights are equally protected.

The Government can of course by legislation affect all obligations, and can make and repeal laws which in their operations enrich or ruin citizens and corporations, and no private rights can restrain or control such legislative action. We cannot change a tariff or internal-revenue bill without having that effect. All limitation laws change the obligation of contracts in a very important sense, and all new remedies do the same thing. The obligation of thousands of contracts may be impaired or destroyed by congressional enactments. Congress is presumed to look to the public interest and the general welfare. The rights and contracts of individuals must be determined and controlled by the changes and alterations of law demanded in the opinion of the law-making power for the welfare of all. Embargoes, blockades, non-intercourse acts, to say nothing of the effect of actual war, foreign or civil, are familiar illustrations. What I contend is, that when this Government makes a contract with any person, natural or artificial, and that person performs faithfully his part of the contract, the Federal Government has no more right to violate the obligation of the contract than a State or an individual has. To illustrate: If I contract with the Government to build a custom-house at Chicago, a post-office at New York, or a court-house at Cincinnati, and perform the contract on my part faithfully, the Government is bound, by every obligation that can bind a State or a citizen, to perform its part of the contract, and it is equally bound by any contract it has entered into with the Union Pacific and Central Pacific Railroad Companies. It will never be released from its just obligations to either of them by my vote, nor will I even admit that it has the right to be so released, and I shall insist with equal earnestness that the railroad companies shall not evade nor escape from their obligations to comply with their contract to the Government. Of course, before rights are vested under any Government contract, a repeal of the law would vacate it, if the repeal took place when the contract was partially executed. Congress or the Court of Claims would adjust the amount due to the citizen. We have no questions of that sort here, and Congress, in the charters it granted, in the gifts and loans it made to these companies, recognized the fact that it was necessary, in order to prevent all misunderstanding as to the rights of the parties, to insert into the contract and make a part of it the section reserving to Congress, without consulting the companies, the right at any time to alter, amend, or repeal the acts making the loans, donating the lands, and granting the rights and privileges therein provided for.

The decision in the Dartmouth College case had induced several States to incorporate into their constitutions provisions prohibiting the granting of charters to corporations unless the right to alter, amend, or repeal them was reserved; it had become a common provision in such grants by all the State Legislatures: the courts had determined the true meaning and effect of such reservations, so that neither the States nor the companies were in doubt as to the rights, powers, and duties of each under charters containing such reservations of power. It is mere folly to contend that such reservations of power in Congress or the State Legislatures mean nothing; that States like New York and Ohio were inserting useless and meaningless provisions into their State constitutions; that the decisions of the courts, State and Federal, sustaining and enforcing legislative acts, exercising authority under their power to alter, amend, and repeal charters, are mere *brutum fulmen*. And it is equal folly to contend that the power to alter, amend, or repeal the act did not mean the act, but only a part of the act.

When the acts of 1862 and 1864 were passed the full force and effect of the rights reserved to and by Congress were thoroughly understood by Congress and the companies, and were of course recognized and accepted as part of the contracts, just as much, Mr. President, as if I should borrow \$10,000 from you and give you a mortgage on my farm to secure it, and in the contract between us I further agreed that you

should have the right, at any time you saw fit to demand it, to require an additional mortgage on my house and lot, or, failing to do so, you might rescind the contract and demand your money and interest at once. The court would enforce your right to have the additional security, or compel me on refusal to pay the money.

So in the case under consideration Congress reserved the right in the contract to alter and amend it at any time or to repeal it at pleasure, with or without reason assigned, and the companies, relying on the wisdom and the justice of Congress, accepted the terms; so that there is, as I said, no pretense that we would violate any obligation of our contract by passing the bill proposed by the Committee on the Judiciary. It is remarkable principally for the moderation of its demands and the care with which the alterations and amendments it proposes guard all vested rights and the tenderness it exhibits for the interests even of the stockholders or corporators. The corporation is made up of stockholders. The directors are their servants and agents. They are the contracting parties, the persons with whom we made the agreement, and who are bound by the terms of the acts of 1862 and 1864. Their only vested interest is the residuum of the corporate property after all the debts are paid. Yet, as I think, at the risk of loss to the United States, the largest creditor, the bill is specially careful to give at least three-fourths of the net profits, which we might demand to be held as a sinking fund, to the members of the corporation for their own use. The only vested right which the stockholders have in all the property of these corporations is, as I said, to receive and hold the balance after the debts are paid. Creditors, as such, have vested rights which Congress cannot—certainly ought not to—interfere with, which this bill protects in every form. The people of the United States have a vested right to the payment of the debt and interest which these corporations owe them, and it is our duty to see that that right is protected and secured and to see that the rights of other creditors are not put in jeopardy. They were not parties to the contract, and all the rights acquired by them before Congress exercises its right to alter, amend, or repeal the grants ought not, I insist, to be interfered with by any act of Congress.

It has been urged here that the power claimed by this bill could with equal propriety be exercised to divest the first-mortgage bondholders of their priority. It is sufficient answer to say that no such power is claimed, and I believe the courts would declare the act unconstitutional if it was attempted. All rights of third parties acquired in good faith under existing laws are sacred, and this bill proposes to hold them so; it deals solely with the parties the Government contracted with, the corporators, and requires a portion of what they are now appropriating to their own use to be held in reserve for the protection of their creditors, and this is called fraud, oppression, and monstrous injustice by the zealous advocates of these corporations even in the face of their avowals that they do not intend to pay these debts, and are preparing to make their avowals good by a division of all their assets in order to be insolvent when the debts fall due, with ample means now to secure payment of all they owe. I never heard these epithets applied before to trustees who were, without any personal interest, making an honest effort to secure an honest debt for an otherwise unprotected and defenseless people from rich and profligate debtors who were squandering their estates for the express purpose of avoiding the payment of their just debts.

I confess, in view of the well-known history of these corporations, their Credit Mobiliers and construction companies, the false statements made as to the cost of their roads and the millions of spurious stock on which vast dividends are regularly paid, which represents nothing but the fraud that issued it, the withholding of the 5 per cent. of net earnings for many years after they had obtained our lands and bonds, and the subterfuges they have continually resorted to for the purpose of swindling the tax-payers of the country, from whose sweat and toil all these millions have been wrung, and in the face of the avowals that they intend to continue to take all, and save nothing to enable them to pay their debts, that it amazes me and alarms me to hear honest and able men in this body insist, and insist vehemently, that the effort we are now making to save something for the people, and to prevent the consummation of avowed frauds and breaches of contract, even when Congress on the very face of the contract reserved the power to do so, is a wrong and an outrage on the rights of these companies. I have long thought that the day was not far distant when the question would have to be settled whether the railroad corporations controlled Congress or Congress regulated them. This will perhaps be a test case; we could not have a better one. If they have power to defeat this proposition I see but one remedy left, and that is to repeal the charters and distribute the assets. The right to repeal cannot well be denied; it has been too often exercised and sanctioned; we can get something now out of the wreck; we will get nothing but corporation domination if we submit to the defeat of this bill. The Supreme Court at the present term, in the case of *Shields vs. The State of Ohio*, after sustaining fully such legislation as we now propose, among other things, said:

Where an act of incorporation is repealed few questions of difficulty can arise. Equity takes charge of all the property and effects which survive the dissolution and administers them as a trust fund primarily for the benefit of creditors. If anything is left, it goes to the stockholders. Even the executory contracts of the defunct corporation are not extinguished.

Mr. President, I said I was not in favor of any harsh measure. I am not. I would do these companies no injustice, but they must be made

to obey the law, secure their just debts, and submit to the legitimate authority of the Government, and I would repeal their charters and dissolve their powers and those of all like corporations before they should either cheat their creditors or dictate to Congress what its rights and duties are. I am not going to cite authorities in detail to support my views; the books are full of them; you can hardly lay your hands on a volume of reports of decisions, State or Federal, in the last fifteen years without finding a case sustaining the principles of the Judiciary Committee bill. I hold in my hand 15 Wallace Supreme Court reports; it contains three decisions from which I will read brief extracts; they have all been referred to before in this debate by the distinguished Senator from Illinois [Mr. DAVIS] and other Senators; several of them go much further than we propose to do now. In the case of *Tomlinson vs. Jessup*, a railroad corporation was created and its charter provided that it should be forever exempted from taxation.

The company organized. The road was built under that provision of law, or contract—call it what you will; all its rights were complete and vested under that agreement; but the provisions of the State constitution were that the Legislature might at any time alter, amend, or repeal all charters granted to railroad companies. It was by a subsequent act taxed heavily. The case came before the Supreme Court of the United States and Mr. Justice Field, delivering the opinion, among other things, said:

Immunity from taxation, constituting in these cases a part of the contract with the Government, is, by the reservation of power such as is contained in the law of 1841, subject to be revoked equally with any other provision of the charter whenever the Legislature may deem it expedient for the public interests that the revocation shall be made. The reservation affects the entire relation between the State and the corporation and places under legislative control all rights, privileges, and immunities derived by its charter directly from the State. Rights acquired by third parties, and which have become vested under the charter, in the legitimate exercise of its powers, stand upon a different footing; but of such rights it is unnecessary to speak here. The State only asserts in the present case the power under the reservation to modify its own contract with the corporations; it does not contend for a power to revoke the contracts of the corporation with other parties, or to impair any vested rights thereby acquired.

Nor does the bill of the Judiciary Committee. It deals only with the corporations. It does not even require them to do anything they did not agree to do by the contract, but simply provides that the property they are now taking and applying to their own use shall not be squandered but shall be held carefully, properly, and profitably for them without charge, so that it may accumulate for their benefit, to enable them to pay the debt which they are now seeking to avoid the payment of.

The case of *Miller vs. The State*, 15 Wallace, has been cited over and over again. The reserved power it was declared might be exercised, and to almost any extent, to execute the legitimate purpose of the grant or to secure the due administration of its affairs so as to protect the rights of its stockholders and of creditors, and for the proper disposition of the assets. In *Holyoke Company vs. Lyman*, 15 Wallace, 500, the court holds that—

The provision of the revised statutes of Massachusetts, chapter 44, section 23, and general statutes, chapter 68, section 41, declaring that acts of incorporation shall be subject to amendment, alteration, or repeal at the pleasure of the Legislature, reserves to the Legislature the authority to make any alteration or amendment of a charter granted subject to it, which will not defeat or substantially impair the object of the grant or any rights vested under it, and which the Legislature may deem necessary to secure either that object or other public or private rights.

At the present term of the Supreme Court this question was fairly presented in the case of *Shields against the State of Ohio*. The Lake Shore and Michigan Railroad Company refused to obey or conform to an act of the General Assembly of the State of Ohio, passed in 1873, which provided that railroad companies should not be allowed to charge over three cents per mile for passengers traveling on their roads over eight miles. Before that law was passed the directors had the right by their charter to charge whatever they deemed reasonable, and their charges exceeded three cents a mile. The constitution of Ohio adopted in 1851 gave the Legislature power to alter and amend railroad charters. The court held that the act was a valid and proper exercise of legislative power and authority. Justice Swayne, in delivering the opinion of the court, said:

It is urged that the franchise here in question was property held by a vested right, and that its sanctity as such could not be thus invaded. The answer is, *Consensus facit jus*. It was according to the agreement of the parties. The company took the franchise subject expressly to the power of alteration or repeal by the General Assembly. There is therefore no ground for just complaint against the State.

In the case of *Pick vs. Chicago and Northwestern Railway*, 6 Bissell's Reports, 181, Judge Drummond rendered a decision to the same effect, the constitution of Wisconsin giving the Legislature the right to alter, amend, or repeal charters. I might cite case after case from the supreme courts of the various States sustaining acts of their Legislatures altering, amending, and repealing all sorts of charters, under powers precisely analogous to those reserved by Congress in the acts of 1862 and 1864, in its grants to these companies, but I will not detain the Senate by doing so.

Pierce on the Law of Railways, page 36, states the principle thus:

The power to amend, alter, or repeal the charter may be reserved by the Legislature by a provision to that effect inserted therein, or in a general law declared applicable to all acts of incorporation afterward passed; and the right of the Legislature to alter or repeal the charter is thus made a part of the contract. The charter of the company is, by such a reservation, subject to any reasonable amendment or alteration which the Legislature may make, and any reasonable additional obligations may be imposed on the company. Thus, it may be required by virtue of

such reservation to abandon the use of steam-power in propelling its cars through cities, or to raise or lower highways where its track crosses them, when directed by the municipal authorities. The Legislature under this power may increase the liability of the stockholders, who will not thereby be exonerated from liability on their subscriptions for stock. The subscriber has been held not to be released where the Legislature, in pursuance of such a reservation, granted to the company the power to change its route. There being a general statute of Missouri reserving the power to alter or amend acts of incorporation, an act of its Legislature making companies previously incorporated liable to laborers employed by contractors for the work done by them on their roads has been held constitutional.

The principle is, that where a contract is made (placing the right on the broadest terms of contract) and the Legislature reserves the right to alter, amend, or repeal the act, that is as much a part of the contract, as Judge Swayne said in the case of *Shields vs. Ohio*, as any other part of it. *Consensus facit jus*. "You agreed to it; you acquired rights under it; you gave us the authority to change it; you cannot say that the Legislature had no power to change it."

The ultimate right to determine the constitutionality of all acts is vested in the courts. The bill we seek to pass provides for that; the Attorney-General is required to enforce our rights by judicial authority, and the companies can be fully heard. In view of the well-settled principles I have read, they do not want to go there under the proposed law; hence this struggle.

Mr. President, the bill which seems to shock the advocates of these companies is in full accord with the object and spirit of all legislation. One of the objects for which Congress convenes and for which Legislatures assemble is by appropriate acts to so alter and amend existing laws as to enable creditors to secure the payment of their just debts from dishonest debtors. New laws are enacted to that end every day. All the legislation which authorizes the seizure of the property of absconding debtors, of men who either have conveyed or are about to dispose of their property with the purpose or effect of hindering and delaying their creditors, are of recent origin. They apply equally whether the debts are due or not due. Attachment for rent not due is a familiar case. It is not many years since chases in action could be reached by legal process. In short, remedial legislation has to keep pace with the ingenuity of dishonest men, and remedies adequate and commensurate must be furnished by amending the laws. Every right must be protected or it is of no value, and punishment must follow violations of law or the law is useless.

We are told that there is no actual default by these companies and therefore we have no right in equity to proceed against them. Grant that to be the present state of the law as claimed by the Senator from Georgia, and it only proves the imperative necessity of the passage of the law we propose in order to furnish a much-needed remedy in such a case as this. There can be none of the hardships so loudly complained of in protecting the rights of honest creditors. When the history of these corporations is considered and the bad faith they have kept with this people ever since their organization is considered, the treatment they have received at the hands of Congress has been lenient and forbearing in the extreme.

In 1868 and 1869 when the Credit Mobilier developments were brought before Congress and such a state of things as was shown in the Poland and Wilson reports was proved to be the undoubted fact, would any man have denied that Congress had the undoubted right to say "we will absolutely repeal this charter because of the shocking dishonesty of the corporations and their agents; we granted it for a great purpose; we intended it to be organized and conducted honestly and in good faith to secure these great ends; you have perverted all the objects of it and are seeking to rob the people whose money is your capital; true you have built the road, but you have issued over \$36,000,000 of stock to men who are not entitled to more than a third, if to any of it; you are dividing the profits of the road among them when they have no right to them and are by giving out false obligations destroying our security; you are seeking to corrupt Congress; the very fountains of justice are being polluted by you; you are unfit depositaries of a trust of this kind and we will repeal it." Is there a court in the country that would have questioned the right to do it? I answer, not one.

I know of no higher evidence that Congress does not intend to deal harshly with these corporations than the fact that it has dealt so mercifully with them in the past; the fact that the Judiciary Committee bill is so careful to do nothing which can by possibility be tortured into a suggestion that they are being oppressed is the strongest evidence that this Congress does not intend to do anything harsh or oppressive; I confess under such circumstances I regard it as impertinent for them to come here and insist that we are violating the obligation of contracts by changing the law in order to prevent them from stealing our money; of course we are changing the law because swindling corporations have settled upon a plan to circumvent the law as it now stands, so as to rob all their creditors and defeat the objects of the Government in the grants, gifts, and loans made to them. We (I mean of course Congress) assumed at first that they would act honestly, and so trusted them, but took the precaution to guard against dishonest conduct by reserving the power to alter, amend, or repeal the contracts as events might develop the necessity for such action.

The time for prompt action has come, if Congress does not intend to surrender all the rights of the people. These men almost avow that they intend to violate their contract and destroy the vested rights of this people to the extent of \$122,000,000, a sum larger than was spent for the support of this Government from 1789 to 1812; and we

as trustees for the people would be co-conspirators with them if we did not so change the law as to prevent the consummation of this fraud on the rights of the tax-payers of this country whose money and property they have obtained, and whose money they avow they intend to use for their own purposes and never pay back a dollar of. Shall we stand with our arms folded and see all these great wrongs perpetrated? I trust we are not yet such abject slaves of these railroad kings.

It was said by the Senator from Ohio [Mr. MATTHEWS] the other day that by the act of 1873 we had given up all our power to amend or repeal former acts, and had thus lost our rights. When the decision in *1 Otto* was read, it showed conclusively by the emphatic language used in the decision of the court that no such idea was ever thought of, but that the reverse was true, and he had to abandon that position. The distinguished Senator from Georgia [Mr. HILL] the other day, to the amazement of everybody, insisted that the act of 1871 ordering payment of the one-half transportation was a re-enactment again of the act of 1864, without the reservation contained therein, and therefore the power to alter and amend no longer existed. It was a strange straining for help to support a bad cause.

There are Senators on this floor who were here at the time that act was passed. I have the RECORD lying before me and have examined the debate then had. The proviso "that this section shall not be construed to affect the legal rights of the Government or the obligations of the companies, except as herein specifically provided" was inserted at the suggestion of the Senator from Ohio, Mr. Sherman, to prevent the possibility of such a construction being given to the act. The companies came before us pleading that they were struggling to make a start, that they were poor, that they would be greatly embarrassed if the money was withheld, and that the great objects to promote which we had given them the grants and gifts and loaned our credit would be endangered, if not lost, unless they were relieved. Attorney-General Akerman had decided against their right; not very high authority with me, I confess. Some very distinguished lawyers in the Senate and in the other House had taken the same position; but the Judiciary Committee, on resolutions submitted to them for ascertaining simply what were the rights of the companies under existing laws, through Mr. Carpenter made a report, and an able one, stating that in their opinion, under the law as it then stood, the companies had the right to have the money paid over to them; and Congress passed a law ordering it to be so paid, and that is all there was of it. The RECORD shows it; the reports of the committees show it; the debates in both Houses show it. It stands on the face of the act self-apparent. Therefore my astonishment at the position of the Senator from Georgia in answer to the Senator from Tennessee, which was as follows:

Mr. BAILEY. Will the Senator point out in what particular the act of 1871 alters, amends, or repeals the act of 1864?

Mr. HILL. It re-enacts. Gentlemen will not understand me. In the act of 1864 you enacted a right with a reservation, and you claim the right to change it by virtue of that reservation. In the act of 1871 you enacted the same right without reservation. That is the point; and I defy any lawyer to get over it. Is not the right without a reservation an amendment and improvement upon a right with a reservation? Is not an absolute right better than a qualified right?

I have tried to avoid entering into any discussion of this question beyond what was required by the facts in the case, and I have tried to speak of it as if it was a question of contract and nothing else. I have no ill-will against these corporations. As I said, I would not, no matter what they had done in the past, injure them or diminish their usefulness in the future. When they undertook the building of these roads there was a great public necessity for the work. The Supreme Court of the United States, in the opinion in the case in *1 Otto*, states it very well; but it might have said much more, and might have shown that the purposes and objects of Congress gave these corporations quite as much of a public as of a private character. Military and post roads and post-offices had to be established and maintained across the continent, communication had to be kept up with the then distant States on the Pacific, and our commerce on that great ocean was at the mercy of foreign powers. Many of the privileges granted, gifts and loans made, could not perhaps be justified now, and may have been even then a strain upon constitutional power, but the position was as anomalous as the powers and grants were extraordinary; and the condition of things must be considered when the action is criticised. War was flagrant, a great civil war, which looked to the dismemberment of the Republic. The leading commercial nations of the world, envious of our growing greatness, were looking on, and without genuine sympathy for either side were glad to see the work of destruction progressing.

Great Britain, with the selfishness and far-seeing sagacity which has always characterized her and which has made her what she is, was appropriating to herself the ocean commerce of the world. We had up to 1861 been her most formidable rival. Before 1864 she had succeeded in obtaining almost complete control of the North and South Atlantic, the Mediterranean, and the Indian Oceans. She was consolidating and securing her power in India, excluding all competitors by obtaining or coercing exclusive rights to build railroads through Turkey and Persia by the valley of the Euphrates; she stood prepared and has succeeded in securing control of the Isthmus of Suez Canal; she had then and now, I believe, every coaling station on both sides of the coast of South America by treaty with those powers, so that neither we nor any other nation could without her consent sail a steamship from our Atlantic or Gulf ports to our possessions on the

Pacific Ocean, far less maintain either a fleet or a commercial marine there. The apprehension of English statesmen that we would reach and control the commerce of China, Japan, and Eastern Asia, and the great islands of the Pacific from our western coast was the main cause of her desire to see our commercial greatness and unity destroyed.

She had no genuine sympathy outside of interest with either side in our great struggle. I need not tell of the millions she spent during those years in building railroads in India, nor of her gigantic efforts there, in Abyssinia, and elsewhere to produce cotton and thus become independent of us in obtaining the great staple upon which her manufacturers depended; nor need I show how like a great spider she had extended her web to catch all the prey that was afloat in the world. She had Halifax on one side of us and Bermuda on the other; with Gibraltar and Malta she owned the Mediterranean; with St. Helena, the Cape of Good Hope, and the Mauritius she controlled the South Atlantic and the Indian oceans, and the mouth of the Bosphorus and the Baltic were sealed up by her and her retainers. If we remained united and our Pacific coast was open to our use her lucrative trade with Eastern Asia was in danger in its only vulnerable point, and it was about all we could surely look to in the near future for which to compete on a large scale.

Other nations were adding to our embarrassments. France, in defiance of our much vaunted Monroe doctrine, had sent great armies to Mexico and sought to establish an empire there; in short, it was painfully apparent that unless we succeeded in building and maintaining a transcontinental railway through our own territory beyond the reach of British ships not only was all trade and commerce on the Pacific Ocean an impossibility without her consent, but all the great States and Territories west of the Rocky Mountains were not only left without the protection they were entitled to demand, but they could at any time, if so disposed, defy Federal power and authority. Therefore, looking at the whole question as it appeared in 1862 and 1864, these enterprises partook largely of a public character, and as such were expected to be under the control of the Government for all its purposes, and subject to its orders. That may have induced the granting of such vast powers under these extraordinary circumstances. But I do not care to inquire into any of the acts then done, nor do I inquire what rights the Government may have under and by virtue of its paramount and sovereign authority over such military and postal highways; it is enough for my purposes to show that the right to alter, amend, and repeal the acts at pleasure was expressly reserved to Congress in the face of the grants—not the right merely to repeal, alter, or amend the chartered rights, strictly speaking, but the language is the right "to alter, amend, or repeal this act," the whole act, and every provision of it—to take back anything that was mismanaged, misapplied, or misappropriated. The companies agreed that that might be done, took these rights, and accepted them with that distinct understanding and agreement nominated in the bond.

It seems to me there can be no doubt about that. It has been argued that we acquired great benefits from these roads. We did. It was a regal undertaking, and we paid for it with princely liberality. Independent of the postponement of our vast debt to a private debt of \$54,000,000 we gave them, as the Judiciary Committee show in their report, coal lands alone, as their directors say, larger than all the anthracite-coal fields of Pennsylvania—coal that they can now obtain in inexhaustible quantities and put upon the road at \$1.29 a ton, and they are doing it, as our directors' report shows. We gave them twenty-one million one hundred thousand acres of land, or over thirty-three thousand square miles—more territory than is contained in the six States of Massachusetts, New Hampshire, Rhode Island, Connecticut, New Jersey, and Delaware, all of the vast domain being within ten miles of a great transcontinental line of railroad—more, I repeat, than six States represented by twelve Senators on this floor; and if these railroads are allowed now to defy our power they will perhaps in a few years have more than twelve Senators themselves. It is suggested to me by my friend the Senator from Ohio [Mr. THURMAN] that we gave them the right to all the material they wanted off the public lands and the right of way besides. Therefore I say we have paid, independent of the debt we seek to secure, for everything these corporations have done, and paid for it most lavishly. Perhaps our gifts in lands and other things are worth \$100,000,000. As the Senator from North Carolina [Mr. MERRIMON] now suggests to me, the territory is an empire of itself; and surely they ought to be required, when they solemnly covenanted to pay their debt to us, to so use their means as to make it reasonably certain that they will do so.

Complaint is made that we require them to pay the money for the sinking fund into the Treasury of the United States, the Treasury of the creditor. It is their Treasury as well as our Treasury. This Government is a representative Government, and these corporations and their individual corporators are as much part of it as any member of the Senate or House. Long before these bonds mature every member of the Senate will perhaps have passed away, from this place at least. Other men will be here, but they will only be the representatives and trustees of the people, the representatives of the tax-payers, as we are; and the Treasury of the United States is the Treasury of all of us. Can there be any other place as safe? Will the corporations themselves ask to be allowed to hold it? Nobody would suggest that. Can a better place be suggested? Will not the

fund be held sacredly? If it is invested in the bonds of the United States and the interest is compounded as rapidly as it is collected, so as to realize a sum equal to the interest we are now paying, how can they object if they intend to be honest? All they are entitled to is the corporate property and its profits after the debts are paid; they knew that when they took the stock. This will be a fund accumulated for the purpose of paying those very debts so as to increase the value of their property. But it seems as though these directors do not desire that the property should increase in value, do not intend that it should be kept up in perpetuity, but that they shall, when these debts fall due, have the power to force its sale and buy it in for perhaps the first-mortgage debt or less, knowing that we will never consent to run the roads ourselves, that nobody will ever pay our debt, and that there will be no fear of the men who now own the first-mortgage bonds combining against them, as they will take care to be the holders of them.

Mr. President, I have said all I desire and more than I intended to say on that subject. I know and fear the power of these great railroad corporations, and my apprehensions were increased by the speech made the other day by the Senator from North Carolina [Mr. MERIMON] whose cool judgment and judicial training seldom allows him to use severe language. Among other things he said:

Mr. President, I do not hesitate to declare my conviction that one of the great, rising public dangers in this country now is the undue, ever-increasing power and influence of corporations over the material, moral, and social interests of the people.

This subject ought to attract a large share of public attention and engage the serious consideration of every legislative body. I do not underrate the advantages and benefits, public and private, of railroad corporations. I recognize them. I am not hostile to them. I would not, I will not hesitate to protect them in all their just rights, but I see and know and appreciate the high importance of keeping them well guarded by proper legislation and in subordination to government. They have great capacities for evil as well as good. They are close to the people and affect them materially in almost all the relations of life. Much the greater part of the evils to which I have made reference have been the fruits of the vicious practices of railroad corporations and their agents. Every intelligent observer knows that they have in large measure dominated the industries, the trade, the travel, the commerce, the legislation, the public men, and the press of this country. Not infrequently they have debauched members of Congress and members of State Legislatures; they have repeatedly subsidized numbers of powerful newspapers; they have set up and pulled down public men; they have walked boldly and insolently into the Halls of Congress and undertaken to dictate measures of legislation. Nay, sir, if one may trust what he reads almost daily in the newspapers and hears on every hand, their agents and lobbyists throng the corridors and lobbies, and have for months, of this Capitol, in reference to the very measures now under consideration.

Sir, are these things true? Are they substantially true? Alas, they are too true! The mind sickens with disgust at the thought of them! The recital of them must fill every honest man with indignation.

That is a terrible arraignment. My apprehension is, it is only too true.

In my judgment, those corporations believe that they are almost omnipotent, and they are gathering around these corridors and in our galleries and lobbies everywhere, believing that they can convince all men that they have power to make and unmake Senators and Representatives; a large and influential portion of the press belongs to them, and they are now insolently demanding that they shall not be required to secure any of the people's debt, but shall be allowed to go on and use the roads, with all the profits of them, for their own benefit.

The Senator from Ohio [Mr. THURMAN] said truly the other day that the time perhaps had come when it was to be determined who were the strongest, the people or the corporations; and he expressed great faith in the power of an awakened people. I say to him and to the Senate that the fact is being rapidly developed that the people of this country intend to rise above all corporations and assert their rights against and their power over them; and the public man who thinks that any corporation, however rich or powerful, is going to control this body, and put down this people and sustains them in their efforts to do so, will be snuffed out like a candle, and he ought to be. We are the trustees of the people, and it is our solemn and sworn duty to protect their rights against all the combinations of wealth and power, and when a constitutional, honest, fair measure is devised and presented, whereby we can protect them and do no injustice to anybody, it behooves us, if we intend to be true to ourselves and true to the great trusts we represent, to see to it that they are protected. Believing that the Committee on the Judiciary have accomplished that purpose in an entirely proper and judicious way, I shall take great pleasure in supporting their bill.

Mr. COKE. Mr. President, I ask that Senate bill No. 104 amending section 1661, title 16, (The Militia,) of the Revised Statutes of the United States be now taken up for consideration. That bill was made the special order for to-day.

The PRESIDING OFFICER. (Mr. ROLLINS in the chair.) The Senator from Texas asks that the bill at present under consideration be informally laid aside and that Senate bill 104 be now taken up for consideration.

Mr. COKE. I ask that the amendment be read.

The PRESIDING OFFICER. Is there objection to laying aside informally the pending bill and taking up Senate bill No. 104?

Mr. CHRISTIANCY. I hope that will not be done. I have a few words to say on this bill, and may as well take this opportunity as put it off and prolong the discussion until to-morrow.

The PRESIDING OFFICER. The Senator from Michigan claims the floor on the pending bill.

Mr. COKE. Of course I give way.

Mr. CHRISTIANCY. Mr. President, I wish to reply very briefly to the argument of my friend the Senator from Georgia [Mr. HILL] upon the question of power involved in the bill from the Judiciary Committee, so far as I think it important that a reply should be made. I shall be very brief. If the premises upon which he reared his argument be correct, I grant that his argument was an able one; and whether, upon that hypothesis, I would agree with him in his conclusions, I shall not now stop to inquire. My effort will be to show that he is mistaken in his premises, and that these have no foundation in fact or law. And if I show this, I may spare myself the trouble of proving what all will at once admit, that all logical conclusions drawn from such false premises must themselves be as false.

The Senator, after some preliminary remarks, lays down four propositions as the basis of his argument, which I will read:

First, by the act of 1862, Congress created a corporate being, a body-politic, and named it the Union Pacific Railroad Company.

Second, this corporate being, thus created, Congress endowed with all the powers, privileges, and franchises usually granted to corporations, and especially authorized and empowered it "to lay out, locate, construct, furnish, maintain, and enjoy a continuous railroad and telegraph, with the appurtenances," between designated points.

Third, to this being, thus created and endowed, the Congress also granted certain privileges, such as the right of way through the public lands without compensation and through other lands with compensation, and also certain property, and especially alternate sections of the public lands amounting to several millions of acres. All these rights, powers, privileges, and grants were granted, without money and without price, by the sovereign grace and favor to the child thus born of the sovereign's loins.

Fourth—and I ask the Senate to mark the difference—after thus creating this corporate being and after thus clothing it with powers and with authority to contract and be contracted with, the Congress itself proposed to authorize at once a contract with it in behalf of the United States. The Congress deemed that the construction of a railroad to the Pacific Ocean would be a great benefit to the Government in the way of saving in transportation, would greatly increase the wealth and power of the people, and perhaps maintain the integrity of the Union. To enable the Union Pacific Railroad Company to construct, equip, and maintain its portion of this railroad and telegraph line to the Pacific Ocean, Congress proposed to make it a loan in bonds, &c.

Now, I wish to call attention to this point: looking at the Senator's language alone, the idea conveyed in these several propositions is that Congress first created, had actually completed the creation of the railroad company, before these various powers, franchises, privileges, and properties were conferred upon it. I should not have thought that such could be the meaning of the Senator, had he not, in answer to a question of the Senator from Vermont, [Mr. EDMUNDS,] used this language:

If there had been nothing done but to pass the acts, there would have been corporations created; those corporations would have been vested with corporate powers and privileges, because that is done by the direct act of Congress; but, if the acts had been passed and if nothing else had been done, would there have been any contract?

Here the idea is distinctly carried out that the simple passage of the act created the corporation.

Mr. HILL. Of course the Senator will understand that that included the acceptance of the company, of course.

Mr. CHRISTIANCY. I should infer not from the language used.

Mr. HILL. In the subsequent colloquy with the Senator from Vermont, I distinctly said so. Of course I admit you cannot force a franchise on anybody. The organization of the corporation is one thing.

Mr. CHRISTIANCY. The Senator himself clearly distinguishes between the acceptance and the charter merely; and the language, as he used it, clearly shows his idea that the corporation was created by the act without an acceptance.

Mr. HILL. Oh, no.

Mr. CHRISTIANCY. I will read it again in order to see what it is:

If there had been nothing done but to pass the acts, there would have been corporations created; those corporations would have been vested with corporate powers and privileges, because that is done by the direct act of Congress; but, if the acts had been passed and if nothing else had been done, would there have been any contract?

Certainly not without acceptance. And the Senator continues to follow out that idea. I may have misapprehended the real meaning of the Senator; but one thing is clear, he does endeavor to establish the idea that this corporation was complete before there was any contract for loan. So much is clear, and all the rest of the reasoning is in accordance with that proposition. But, as the Senator now disclaims any idea that a corporation can be created without acceptance, I will omit what I had proposed to say upon that point.

Mr. HILL. I think in the colloquy with the Senator from Ohio [Mr. THURMAN] he made the remark, "You cannot force franchises on anybody," and I said "of course." All I mean is that the corporation is created by the prerogative power, of course by the acceptance of the grantees, without any intervention of executive agency.

Mr. CHRISTIANCY. Precisely; and that is exactly what I said; and so we agree upon that.

Mr. HILL. But the passage of the act, and its acceptance by the corporation, does not make the contract, so far as the loan is concerned; it makes the contract of franchise, but does not perfect the contract of loan; and without subsequent acts, and without actual contract, and without intervention by the executive department of the Government, the contract of loan would amount to nothing. It would be a mere proposition. That is what I meant to say.

Mr. CHRISTIANCY. I will omit, then, what I had proposed to say in reference to that point, because I see that the Senator disclaims the meaning that I thought clearly derivable from the language.

But all the provisions, as well those in reference to the creation of the corporations and those giving the rights, powers, and franchises, as those agreeing to make the loan mentioned in the Senator's fourth proposition, are all contained in one and the same act, and all took effect together as an entire act, at one and the same time upon the acceptance by the corporations.

Mr. HILL. Now, I want to call the attention of the Senator to a clause in my remarks, so that this matter may be put perfectly right.

Mr. CHRISTIANCY. I will take the Senator's word for that. I make no question about it.

Mr. HILL. But if the Senator will allow me I wish simply to read a clause. The Senator from Ohio [Mr. THURMAN] said to me:

They did not take effect until the company accepted them, for you cannot force a grant on anybody.

That is in relation to the franchises.

Therefore, it required two to make those franchises come into being, just as much as it required two to make this loan come into existence.

Mr. HILL—

In reply—

Mr. HILL. And the point is that it requires more than two to give effect to this legislation for the loan. My point is that the corporation is created and the franchises conferred by the act of Congress, of course by consent of the other party, and that no executive agency intervened for any purpose; that it becomes complete in the parties by the passage of the act.

Mr. CHRISTIANCY. I see now what the Senator means. The Senator's fourth proposition conveys the idea that after the creation of the corporation had become complete and perfect Congress authorized it to contract and be contracted with, and now notice the change of idea to meet the argument he was about to make. "Congress," he says, "proposed to authorize a contract with it in behalf of the United States." "Congress proposed to make it a loan in bonds," &c. He then proceeds to put himself upon the ground, not that the provisions of the fifth section, in reference to the loan, created an actual contract to make the loan even by the acceptance of the company, but that it only authorized a loan to be made by the executive department of the Government; and that it was the issuing of the bonds to the company which created the contract of loan, and not the provisions of the fifth section when that became operative by acceptance. That I believe I state correctly. If not, I will yield to be set right.

Mr. HILL. I have not observed any error of statement.

Mr. CHRISTIANCY. The Senator thus makes this entire matter of the loan a kind of detached lever, a separate, independent, and subsequent contract, not contained in the act of Congress, which he calls only a power of attorney to make the contract. He thus seeks to take this matter of loan entirely out of the act. It is not, according to this, one of the terms or stipulations of an entire contract created by the act and its acceptance, and of course, if this view be correct, it did not constitute a dependent part or consideration of that entire contract, nor any part of it, and the rest of the act would be just as valid a contract with the provision left out, which he calls a mere authority to make a contract. It would not be very important to either party to the contract created by the act, it is true. For if a mere authority to the executive department to make a contract, then that department might refuse to make it. But let us see if the merely issuing of the bonds, and handing these over to the company, constituted the contract of loan. It is essential to the contract of loan that there should be a stipulation to repay in some manner. Where would this be, if the mere issuing of the bonds constituted the contract? There was no such stipulation in the bonds issued by the Government, of course. Was there, upon the issue of the bonds, an agreement taken back from the company to pay, and providing how and when payment should be made? Certainly not. Every one must at once see that both the agreement of the Government and obligation to make the loan, and that of the company to repay it, and all the terms of the whole matter, were fixed and settled by the act and its acceptance; that these agreements and terms are to be found nowhere else, and that they constitute the entire contract in reference to the loan. This might be illustrated in a great many ways, but it is unnecessary. Is it not perfectly manifest, that what the Senator terms the contract made by the executive department under the act of Congress as a mere power of attorney, consists of nothing more or less than executive acts in the execution and performance of the real contract created by the act and its acceptance—acts which the executive department was not merely authorized, but commanded, to perform in the execution and performance of that contract? To render all this clear I here read the fifth section of the act of 1862; of course I need not here speak of the act of 1864, which in no manner alters the argument:

That for the purposes herein mentioned the Secretary of the Treasury shall, upon the certificate in writing of said commissioners of the completion and equipment of forty consecutive miles of said railroad and telegraph in accordance with the provisions of this act, issue to said company bonds of the United States of \$1,000 each, payable in thirty years after date, bearing 6 per cent. per annum interest, (said interest payable semi-annually,) which interest may be paid in United States Treasury notes or any other money or currency which the United States have or shall declare lawful money and a legal tender to the amount of sixteen of said bonds per mile for each section of forty miles; and to secure the repayment to the United States, as hereinafter provided, of the amount of said bonds so issued and delivered to said company, together with all the interest thereon which shall have been paid by the United States, the issue of said bonds and delivery to the company shall *ipso facto* constitute a first mortgage on the whole line of the railroad and telegraph, together with the rolling stock, fixtures, and property of every

kind and description, and in consideration of which said bonds may be issued; and on the refusal or failure of the said company to redeem said bonds, or any part of them, when required so to do by the Secretary of the Treasury, in accordance with the provisions of this act, the said road, with all the rights, functions, immunities, and appurtenances thereunto belonging, and also all lands granted to the said company by the United States, which, at the time of said default, shall remain in the ownership of the said company, may be taken possession of by the Secretary of the Treasury for the use and benefit of the United States: *Provided*, This section shall not apply to that part of any road now constructed.

The Senator seemed to find something which he thought strengthened his argument in the provision, that the issuing and delivering of the bonds should, "*ipso facto*," constitute a first mortgage. But this is only providing for the execution of the contract and what effect its execution in this particular should have by way of security. And what, let me ask, but this section and the acceptance of the act by the company, gave the effect of a mortgage to the issue and delivery of the bonds? Not, certainly, any contract made by the Secretary of the Treasury when he delivered the bonds in execution of the agreement.

If the Senator had taken the ground, that the issue and delivery of the bonds carried the contract into effect, *pro tanto*, and claimed that the right to the loan, on the terms mentioned in the act, had become a vested right, I could at least have comprehended the drift of his argument, whether I should agree with him or not.

Mr. HILL. The Senator will allow me just a moment to show that he is arguing a point about which there is no controversy between us.

Mr. CHRISTIANCY. I hope the Senator will allow me to proceed.

Mr. HILL. I never pretended that the acts of the executive department alone created a contract or constituted a contract, but I went on to show that there could be no contract without these acts superadded. I ask the Senator to just allow me to read from my remarks.

It was the act of the party under the judgment and adjudication of the executive department and the issue and the delivery of the bonds in compliance with the authority of Congress to make the contract that created the obligations and the rights.

That is what you call vested rights. That is precisely what I mean.

That is the point. Congress gives the authority to make the contracts. I grant that without the authority—

I call the attention of the Senator to this—

I grant that without the authority the contracts cannot be made, but equally the authority without the other acts makes no contract. Legislation only authorized the contracts to be made, &c.

Mr. CHRISTIANCY. Undoubtedly; but he calls the act a proposition only, though accepted.

Mr. HILL. I say it takes all these acts to complete the contract. It takes the authority from Congress, it takes the act of the party, not only to accept but to comply with the terms, and it takes the act of the executive department, all to make the contract.

Mr. CHRISTIANCY. If the Senator pleases, it took the acts of the executive department to execute the contract which Congress had made by the act and the company had made by its acceptance. That is all the answer I wish to make to the Senator.

Mr. HILL. The executive department executes the authority which the act gives; it does not execute the contract.

Mr. CHRISTIANCY. Yes; and that was executing the contract. The contract gave the companies the right on certain conditions, when they had done certain things, to demand those bonds, and the bonds were given in performance of the contract. That is all there is of that point.

Mr. HILL. It was the performance of the authority that the act bestowed upon the executive department.

Mr. CHRISTIANCY. It was not, however, the contract, as the Senator's speech clearly indicated. But on this question of vested rights, the field of inquiry, just what has and what has not become a vested right, is a very broad one, and the landmarks are not so accurately defined as to put an end to all questions which may arise. The instances I gave, in my argument a few days ago, were merely examples about which there could be no dispute. I did not then and do not now insist that there may not be rights vested, growing out of the contract, besides the right to tangible property, and especially as between the Government, on the one side, and third persons on the other, who have dealt with the company before any amendment made in the acts.

It is not even necessary in this case to claim that, after these companies had received these bonds in part execution of the contract, and while they remained in the hands of the companies, Congress could, by an amendment, require the bonds to be given back, much less that the present owners of the bonds who have purchased them before amendments could be denied, by amendment, the benefit of their first mortgage or their rights be made subject to those of the Government.

If the Senator wishes to push my argument to that extent, I am not responsible for the argument by which he attempts it. I did not and do not push it to that extent here, nor shall I enter into any controversy upon such an attempted extension of the principles I have endeavored to lay down. It is sufficient for me to show that we have power to do what is proposed to be done by the bill of the Judiciary Committee; which is, not to take back the bonds which have been issued, nor to require the company to pay them one day earlier than required by the contract: but, under the power, at any

time, to alter, amend, or repeal these acts, subject to which and conditional upon which every provision and every right stipulated in the contract was given and accepted, the power only to compel these children of the "sovereign's loans," holding their existence or rights upon this condition, and for great public as well as private purposes, to conduct their affairs as well with reference to the public as to their private interests, as well with reference to the interests of creditors as to their own interests. In short, according to the dictates of honesty and prudence, upon such honest business principles as other great corporate enterprises of this kind are conducted by honest and prudent men, by beginning in time to make provision for the payment of their debts when they shall become due, instead of putting the entire income of this great enterprise into their own pockets, leaving nothing to pay their debts when due; and this too, when, by their confession, if the business shall continue to be carried on in this way until the Government and first-mortgage bonds become due, the property will be worth less than their debts.

But, coming back now to the matter of this loan, I think I have sufficiently shown that the whole contract in reference to it (if it be a contract at all, which for the sake of the argument I admit the whole of the act to be) was and is contained in the act of 1862 as amended by that of 1864. The Senator has treated the matter of the loan as a separate and independent contract, in some way, I suppose, growing out of the statute contract. Mr. President, there are, I believe, certain animals of an inferior order, or animalcula, consisting of several sections, and having the power, by a kind of self-scission, of propagating or cutting themselves up into as many separate and independent animals as there are sections.

And the Senator seems to me to have mistaken the entire contract created by the act and its acceptance, and composed of many provisions, for a creation somewhat of that kind, with the power of propagating independent contracts in the same manner. I propose to show him that it is a being of an entirely different kind, an organism more complex and more highly differentiated, to use the language of Herbert Spencer, both as to organs and functions; and, however numerous the sections, they are all but organs or parts of one whole, and incapable of separate and independent existence; that the matter of the loan is one of a great number of stipulations in a single contract—in the entire contract created by the acts and their acceptance, and taking effect at the same time and with, and only as a part of, the entire contract in reference to this great enterprise; that it never did and never can stand alone as an independent contract. And to prove this it is only necessary to state what will be at once apparent to every one who looks at these acts, which are to be treated as the contract, (if there be any,) and it will at once be seen that, after the provisions providing for incorporation and its general nature and purposes, the whole act is made up of a great number of provisions, part of them evidently intended to secure the interest of the United States, and the others for the benefit of the company; the one set of stipulations being the inducement or consideration for the other.

So that, as in most other contracts, every stipulation has a bearing upon every other; and we are compelled to presume that the assent of both parties to the contract could not have been given if any one of the provisions had been left out. And among these is the important provision without which the assent of the United States would not have been given and the act could not have been passed, and that is that "Congress may at any time alter, amend, or repeal this act;" not merely that portion of the act which created the corporation and gave it its corporate franchise, which the Senator from Georgia admits Congress can do under this reservation of power; not merely that Congress may, in case of a violation or failure of the company to perform the duties imposed upon it by the acts—as many corporation charters do expressly provide, and as this evidently would, if such had been the intention, unless we are to presume that Congress was incapable of finding language to express so simple a qualification.

No, Mr. President, this reserves no qualified powers, but the whole legislative power, without restriction. In other words, they reserved all their power in reference to this act which they had before it passed. They parted with none of it. Before its passage they might have inserted or refused to insert any provision they pleased, or refused to pass any act at all. And just that power they reserved, and the companies agreed to that reservation. There is therefore no limit to the power of amendment and repeal, except that such amendment or repeal cannot divest property or rights vested, as I have already endeavored to explain. And whatever doubts may be entertained as to what constitutes such vested rights or property, or whatever difficulty may be found in defining them, one thing at least is certain: and that is, that the company can have no such vested right in any provision of the contract, as such, contained in the act, the full power to amend or repeal which is thus reserved; nor can any right be thus vested which stands solely upon such provision, without some additional ground of right; for this would be to deny the right to amend any provision of the act, and to reduce the reservation of power to an absolute nullity; while the Senator himself admits that, under this power, Congress may amend or repeal the provisions giving corporate existence, or granting corporate franchises, as well as those "regulating the exercise of their powers, privileges, and franchises." And yet those things constitute the contract just as much as the provision in reference to the loan. That was decided as long ago as the Dartmouth College case.

Mr. HILL. I should like to ask the Senator a question there. Does the Senator hold that that contract of loan, to call it a contract of loan, is any part of the franchise?

Mr. CHRISTIANCY. I do not care what the Senator calls it.

That which we call a rose,
By any other name would smell as sweet.

It is a part of a contract contained in the charter, a part of a contract contained in those acts; and what the Senator calls a contract is simply the acts of performance of the contract.

Mr. HILL. I would ask the Senator the question if a contract to loan money is at any time, anywhere, between any parties on earth, a franchise?

Mr. CHRISTIANCY. Not between individuals, of course.

Mr. HILL. Is a contract of loan between the Government and individuals a franchise?

Mr. CHRISTIANCY. I do not care what you call it, whether you call it a franchise or anything else, it is a part of the act and a provision, subject to the power of repeal just as every other provision in the act is.

No, Mr. President, there is no other limitation upon the power to affect corporations by amendment in such a case than that which limits all other legislative power, that you shall not divest property or rights vested, as the power to do this is vested only in the judiciary. But the Senator, like most others who have denied this power of Congress, assumes that, if the power exists, it will and must be abused and so unjustly exercised as to destroy these companies. I have endeavored to expose this fallacy before, and I only wish now to render it a little more clear and to quiet the alarm he appears to feel at the existence of such a power. Let me say to the Senator that he and I have the physical power to do a great many wicked things. We have the physical power to kick or even to kill any child we may happen to meet along the streets of this city. But, as experience has shown that we are not particularly dangerous in that way, we have thus far been allowed to run at large in the full enjoyment of that physical power, and the presumption is that we will not abuse it. The parallel is complete; and, to carry the comparison a little further, while others might justly complain of any interference with their children, I think all would readily admit the entire propriety of so far interfering with our own children as to make them conform their actions to the principles of honesty and fair dealing and to prevent their becoming dangerous either to their parents or to others. And so I think the nation may do with (to use the Senator's figure) these "children" of its own "loans."

Mr. HILL. Then you think the nation can do anything in the world provided it does it wisely and prudently?

Mr. CHRISTIANCY. I think just what I have said. I am not responsible, as I said before, for any extension which the Senator or anybody else may seek to give to what I have said.

Mr. HILL. I thought Congress, to have any power, must have a legislative grant of power. If the Senator will allow me I should like to ask him a question. I thought Congress to have that power at all must have a legislative grant in the Constitution. Now, I ask the Senator this—

Mr. CHRISTIANCY. Then let me put a question there. Does the Senator hold that Congress had no power to pass that act at all?

Mr. HILL. No, I think Congress had the power to create the corporation; I am inclined to think so, though I do not say that I would extend that power in Congress very far. I think perhaps it has power to create a corporation as incidental or necessary to carry out certain other powers; for instance, the power to make war and the power to create post-routes. I will not discuss that point now; but I ask the Senator, does he hold that Congress anywhere possesses the power to impair the obligation of any contract?

Mr. CHRISTIANCY. Where that power is explicitly reserved to alter it in the act creating it, I do hold that Congress may alter it.

Mr. HILL. Then does the Senator hold that Congress can acquire a power by reservation which it does not have without the reservation? If Congress does not find the original power—

Mr. CHRISTIANCY. Wait one moment. I answered that question in what I supposed to be the Senator's sense. He asked whether Congress had a right to impair a contract.

Mr. HILL. As an original power.

Mr. CHRISTIANCY. In his sense I answered that question, that it could do so where the power was reserved, and on my ground, which I have explained over and over again, that where the power is reserved it constitutes a part of the contract, and there the contract is made subject to it, and to amend the contract is not, then, to impair it.

Mr. HILL. Then I ask the Senator to explain to me how it is that Congress can acquire a legislative power by a reservation in its own act.

Mr. CHRISTIANCY. It does not, and I have just stated that Congress held the entire power before, and by that act it never parted with any of it.

Mr. HILL. The power, though, to change the contract now is a legislative power. I want to know where Congress gets a power by a reservation to do what it had not the power to do originally. The power which the Senator claims for Congress here is legislative power.

Mr. CHRISTIANCY. Before Congress had originally passed any

act no such question could arise. I think that is evident, and when they did pass it, they passed it subject to this condition, that any provision might be amended.

Mr. COKE. Mr. President—

Mr. MORRILL. I desire to submit a few remarks upon this bill, but I do not wish to go on to-night. If the bill of the Senator from Texas be taken up informally, I will yield for that purpose.

Mr. COKE. I ask that the pending bill be informally laid aside that the Senate may now take up for consideration Senate bill No. 104.

The PRESIDING OFFICER. Is there objection to the proposition of the Senator from Texas? The Chair hears no objection to the present consideration of the bill indicated.

Mr. ALLISON. The bill is not to be put on its final passage to-day, I understand, but the Senator from Texas, I believe, wishes to submit some remarks. I have no objection, with that understanding.

Mr. COKE. The bill was made the special order for to-day, and I desire its consideration now, and that it be put upon its passage.

The PRESIDING OFFICER. The Senator desires action on the bill.

Mr. COKE. I desire action on the bill to-day.

The PRESIDING OFFICER. The Chair hears no objection, and the bill is before the Senate.

THE MILITIA.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 104) amending section 1661, title 16, (The Militia,) of the Revised Statutes of the United States.

The bill was reported from the Committee on Military Affairs with amendments.

Mr. COKE. I ask that the amendment submitted by me be read.

The PRESIDING OFFICER. The amendment will be reported.

The amendment heretofore submitted by Mr. COKE was read, being to insert as an additional section the following:

SEC. 2. The several States shall have the right, through their respective governors, to select the kind or character of arms and equipments to be issued to them respectively under this act: *Provided*, That the arms and equipments so selected shall not exceed in cost the *pro rata* of the State making the selection: *And provided, further*, That the arms selected may, in the opinion of the Secretary of War, be furnished without detriment to the public interest.

Mr. KERNAN. I wish to offer an amendment to the first section of the bill.

The PRESIDING OFFICER. The Chair will inform the Senator from New York that the amendments of the committee are first in order.

Mr. KERNAN. This is an amendment to the first section. I suppose the committee report a substitute for the original bill. In the ninth line of the first section, after the word "equipments," I move to insert, "and quartermaster stores, including camp and garrison equipage;" so as to read:

The annual sum of \$1,000,000 is appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the purpose of providing arms and equipments and quartermaster stores, including camp and garrison equipage, for the whole body of the militia, either by purchase or manufacture, by and on account of the United States.

If the Senator from Texas will permit me I will state in a word why—

The PRESIDING OFFICER. The Chair will inform the Senator from New York that the amendment which he proposes will not be in order until after the amendments reported by the committee shall have been acted upon.

Mr. KERNAN. This is an amendment to the amendment of the committee.

The PRESIDING OFFICER. The Chair understands it to be an amendment to the original bill.

Mr. KERNAN. Then I am wrong in supposing the amendments of the committee to be a substitute for the original bill. I ask the Secretary to reserve the amendment until it shall be in order.

Mr. COKE. Mr. President, I propose to submit a few remarks in explanation of this bill and the amendment offered. Section 1661 of the Revised Statutes, being the act of April 23, 1808, passed in pursuance of the constitutional power of Congress "to provide for organizing, arming, and disciplining the militia," makes an annual appropriation of \$200,000 "for the purpose of providing arms and equipments for the whole body of the militia, either by purchase or manufacture by or on account of the United States." The first section of the bill before the Senate is in the precise language of section 1661 of the Revised Statutes referred to, except that the words "two hundred thousand" are stricken out and "one million" inserted in their place. In other words, the annual appropriation of \$200,000 made by the act of 1808 for arming and equipping the militia is by the first section of this bill raised to \$1,000,000. The bill as originally introduced by myself made no other change in the existing law, but the Committee on Military Affairs, to which it was referred, added five clauses or sections, which in substance provide that the arms furnished to the States respectively shall remain the property of the United States, and requires an annual report accounting for them; also, for the condemnation and sale of such as shall become unserviceable or unsuitable, and for the liability of persons intrusted with them for loss or damage beyond ordinary wear and the accidents of service, &c.

I preferred the bill as introduced, Mr. President, without these

added clauses. They had not been deemed necessary by the framers of the law of 1808, and I cannot see why it is necessary to hamper the discretion of the authorities of the States, who are presumed to be desirous of conserving the public interests and to have the necessary intelligence to do so in dealing with the arms proposed to be furnished them. But the Committee on Military Affairs having ingrafted these amendments upon the bill, I support it as amended because satisfied it would be useless to attempt a defeat of the amendments.

The amendment which I now propose, and which has been read, makes no change in the bill as reported, except to permit the States to designate the kind and character of arms to be issued to them respectively, save when in the opinion of the Secretary of War it will be detrimental to the public interest to do so. The necessity for this provision arises in the fact that in different States the exigencies of the service will require different styles and character of arms; some of the border States, for instance, will desire a portion of their quota in arms suited for frontier and Indian warfare, not needed perhaps in the interior States, while all will doubtless prefer the privilege of choosing what they will have. Each State is left by this amendment to its choice of arms so far as the public interest will permit, to which there can be no objection.

This bill was reported by my colleague by the unanimous direction of the Committee on Military Affairs, and has the approval of the Secretary of War and the Chief of Ordnance. Indeed, for two years past, an amendment of the act of 1808 such as is provided for in this bill has been strongly recommended in the annual reports from the War Department.

When the act to which the pending bill is an amendment was passed in 1808, the population of the United States could not have exceeded seven millions; since, by the census of 1810, it amounted to 7,239,841. The population for which provision is now sought to be made is believed to be more than six times as great, the generally received estimate being forty-five million. The \$1,000,000 appropriated by this bill is less by nearly \$250,000 for the present population of the United States than was \$200,000 in 1808. The records of the War Department show that the organized militia in the United States numbered only 90,865, when there remains 2,875,469 unorganized. The Chief of Ordnance states in his last report that the existing appropriation of \$200,000 would arm and equip only eight thousand men.

These figures show that owing to changed conditions, and especially the great increase of population, the appropriation of 1808 has become manifestly inadequate for the purpose now for which it was regarded as not more than a reasonable provision then.

Under these circumstances it is apparent that the established policy of the Government, which has always been to foster and encourage the organization of a citizen soldiery as a bulwark of defense in time of war or public danger, and the only safe reliance of the civil authority for the suppression of domestic disturbance, imperatively requires for its maintenance a more liberal appropriation.

The regular Army must always be small, indeed numerically insignificant, compared with the numbers required for defense against invasion or for a foreign war. Popular jealousy of a standing army will never permit an enlargement of the regular force beyond the indispensable requirements for a skeleton organization and for frontier defense and the care and custody of forts, arsenals, arms, and military property. It was never intended that the Army should be more than a nucleus upon which the militia, in time of war, could be rallied and organized. Citizen soldiers—I say it without disparagement of the regular Army, of which every American is proud—achieved the independence of the country, have fought its battles ever since, and are its reliance for the preservation, undimmed in the future, of the glory achieved by American arms in the past.

The country, Mr. President, desires the constitutional power of Congress for the maintenance of the militia on an efficient footing earnestly executed, for the organization and arming of the body of the militia. The American mind recognizes the strongest guarantee of safety against foreign invasion as well as domestic insurrection, for enforcement of the laws and a perpetuation of civil liberty. The national sentiment on this subject is embalmed in those clauses of the Constitution which declare "a well-regulated militia necessary to the security of a free State," which empower Congress "to provide for organizing, arming, and disciplining the militia," and "for calling forth the militia to execute the laws of the Union, suppress insurrection and repel invasions." The truth of that axiom in our political theory which denounces standing armies isolated from the citizenship of the country, under the control and command of one supreme will, as dangerous to popular liberty, is deeply imbedded in the minds and hearts of the people. Tradition, history, and experience have alike impressed it upon them. Inseparably connected with that sentiment is a just and unalterable aversion in the public mind to the employment of regular troops in aid of the civil authorities for the suppression of domestic disturbances.

The feeling is one that should be fostered and encouraged. It is in harmony with the spirit and letter of the Constitution and the genius of the Government, and as long as it exists is an impregnable bulwark around the liberties of the country. The militia is the agency specifically pointed out in article 1, section 8 of the Constitution, as well as by the common sentiment and truly American instinct of the people, for the enforcement of the laws when by reason of social disorder the arm of civil power needs to be upheld: and recent expe-

rience warns us that this great element of national strength and internal security should at once be made capable of responding to all the exigencies that may arise. The National Government has been called on many times during the last decade by individual States for aid in the conduct of domestic administration, and notably during the prevalence of the extensive riots of the past summer, for the suppression of lawless combinations beyond the control of the ordinary civil agencies. Nothing, in my judgment, is more centralizing in tendency, more destructive of that confidence which every citizen should feel in the strength, the capacity, and the stability of his home government, or more insidiously subversive of the great principle of local self-government, than these confessions of weakness and incapacity of State governments.

Sad experience has taught us as well the demoralizing effect upon the people of the States whence these appeals for aid have come, as the peril to free institutions from habitual interference by the national authority with the domestic concerns of the States. The declaration reported to have been made by the governor of Ohio last summer when the peace of his State was gravely threatened by rioters, that he "would call on the National Government for troops only after the last man in Ohio had been whipped," was worthy of the governor of a great State, and the spirit which prompted the utterance such as the governors of all the States would do well to emulate.

An organized and disciplined militia in each State properly armed and equipped will furnish a reliable home force subject to the order of the State authorities sufficient for all emergencies, and take away all occasion or necessity for calls upon the national authority for aid. The period has arrived in the history of this country when by reason of the increased and rapidly increasing density of population, with its accompanying facilities for combination by the dangerous elements of society, when the general welfare requires that each State shall be possessed of the means for maintaining law and order and the security of life and property within its borders, no higher duty rests on Congress than that of placing within the reach of the States all the constitutional resources necessary to the attainment of this end. The passage of this bill will accomplish much in that direction.

Mr. MORRILL. I hardly, think, Mr. President, that this is the appropriate time to increase the expenditures of the Government \$200,000. The object aimed at, it seems to me, is one that can very well be postponed. We are not increasing the Army or the Navy, and we are appropriating very little for fortifications. Now, why should we expend this very large sum for arms that are not required by any present exigency, and which, if hereafter required, probably will have become entirely useless?

I shall move at the proper time to amend the first section by inserting \$200,000 instead of "one million;" which will leave the amount as the law now stands. If that amendment shall carry, I see no objection to the remainder of the bill; but certainly it seems to me extremely inopportune at this moment to make so large an appropriation when the revenues of the Government are decreasing largely. The internal revenue up to the present time has diminished something like \$5,000,000 from what it was last year, and certainly I cannot see any reason why a bill of this character should be pressed at the present time.

Mr. WHYTE. I move that the Senate now proceed to the consideration of executive business.

Mr. DAVIS, of West Virginia. I hope not. This bill is one that deserves some discussion.

The PRESIDING OFFICER put the question and declared that the ayes appeared to prevail.

Mr. DAVIS, of West Virginia. I shall ask for the yeas and nays if it is necessary; but I have a word to say—

Mr. HAMLIN. Oh, no; the question is not debatable.

The PRESIDING OFFICER. Debate is not in order upon a motion to proceed to the consideration of executive business.

Mr. DAVIS, of West Virginia. I suppose the Chair is right about that.

The PRESIDING OFFICER. Does the Senator from West Virginia call for a division?

Mr. COKE. I ask for the yeas and nays.

Mr. DAVIS, of West Virginia. The yeas and nays have been demanded. This bill is worthy of discussion by the Senate, and it ought to have it.

The yeas and nays were ordered; and being taken, resulted—yeas 32, nays 18; as follows:

YEAS—32.

Allison,	Conkling,	McDonald,	Sargent,
Anthony,	Dawes,	McMillan,	Saulsbury,
Armstrong,	Eaton,	Matthews,	Samuel,
Beck,	Ferry,	Mitchell,	Teller,
Burnside,	Haulin,	Morrill,	Thurman,
Butler,	Ingalls,	Oglesby,	Wadleigh,
Cameron of Pa.,	Kellogg,	Paddock,	Whyte,
Cameron of Wis.,	Kirkwood,	Rollins,	Windom.

NAYS—18.

Coke,	Grover,	Lamar,	Plumb,
Davis of W. Va.,	Harris,	McCreery,	Spencer,
Bustis,	Hill,	Maxey,	Wallace.
Garland,	Johnston,	Merrimon,	
Gordon,	Kernan,	Morgan,	

ABSENT—26.

Bailey,	Christiancy,	Hereford,	Randolph,
Barnum,	Cockrell,	Hoar,	Ransom,
Bayard,	Conover,	Howe,	Sharon,
Blaine,	Davis of Illinois,	Jones of Florida,	Voorhees,
Booth,	Dennis,	Jones of Nevada,	Withers.
Bruce,	Dorsey,	McPherson,	
Chaffee,	Edmunds,	Patterson,	

So the motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and five minutes spent in executive session the doors were reopened, and (at four o'clock and fifty-eight minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, April 1, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of Friday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at twenty minutes past twelve o'clock. This being Monday, the first business in order is the call of States and Territories, commencing with the State of Maine, for the introduction of bills and joint resolutions for reference to appropriate committees. Under this call joint resolutions and memorials of State and territorial Legislatures are in order.

INCREASE OF PENSIONS.

Mr. BANKS introduced a bill (H. R. No. 4147) increasing the rates of pensions to certain persons therein described; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NEW HAVEN, CONNECTICUT.

Mr. PHELPS introduced a bill (H. R. No. 4148) making an appropriation for the improvement of New Haven Harbor, in the State of Connecticut; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

W. AND W. H. LEWIS.

Mr. BLISS introduced a bill (H. R. No. 4149) authorizing William Lewis and William H. Lewis to make application to the Commissioner of Patents for the extension of their patent for new and useful photographic plate-holders; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

R. B. TALFOR AND H. C. RIPLEY.

Mr. BLISS also introduced a bill (H. R. No. 4150) for the relief of R. B. Talford and H. C. Ripley; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

REVISION OF THE TARIFF.

Mr. WARD presented the joint resolution of the Legislature of Pennsylvania, against the revision of the tariff laws as proposed in the bill recently reported from the Committee of Ways and Means.

Mr. HALE. Let that joint resolution be read.

The joint resolution was read, and referred to the Committee of Ways and Means.

VENTILATION OF THE HALL.

Mr. WRIGHT introduced a joint resolution (H. R. No. 146) relating to the ventilation of the Hall of the House; which was read a first and second time, referred to the Committee on Ventilation of the Hall, and ordered to be printed.

MARTHA NEIL.

Mr. EVANS, of Pennsylvania, introduced a bill (H. R. No. 4151) granting a pension to Martha Neil, mother of James Neil, deceased, late of the One Hundred and Fourteenth Regiment Pennsylvania Infantry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SCHOONER ADDIE B. BACON.

Mr. HENRY introduced a bill (H. R. No. 4152) referring the claim of the owners of the schooner Addie B. Bacon to the Court of Claims; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

JOHN A. LOVETT.

Mr. GOODE introduced a bill (H. R. No. 4153) for the removal of the political disabilities of John A. Lovett, of Virginia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SAMUEL BARRON.

Mr. GOODE also introduced a bill (H. R. No. 4154) to remove the political disabilities of Samuel Barron, of Virginia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

W. B. FARRAR.

Mr. FELTON introduced a bill (H. R. No. 4155) authorizing the Commissioner of Internal Revenue to refund to W. W. Farrar, of Whitfield County, Georgia, illegal taxes collected from him in the year 1877; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

SPECIE PAYMENTS.

Mr. STEPHENS, of Georgia, introduced a bill (H. R. No. 4156) for the financial relief of the country and to facilitate the return of specie payments without injuriously affecting the commercial business and industries of the people, and for other purposes; which was read a first and second time.

Mr. HALE. Let that bill be read in full.

The bill was read at length, referred to the Committee on Banking and Currency, and ordered to be printed.

Mr. STEPHENS, of Georgia. I desire to state that I intend this bill as a substitute for one introduced by me some time since.

MRS. A. SHIRLEY.

Mr. CHALMERS introduced a bill (H. R. No. 4157) for the relief of Mrs. A. Shirley; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

PACIFIC RAILROADS.

Mr. CHALMERS also introduced a bill (H. R. No. 4158) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; and also to alter and amend the act of Congress, approved July 2, 1864, in amendment of said first-named act; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. HALE called for the reading of the bill; and it was read at length.

MAIL CONTRACTS.

Mr. MONEY introduced a bill (H. R. No. 4159) regulating contracts for carrying the mails; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

Mr. MONEY called for the reading of the bill; and it was read at length.

F. W. TILTON.

Mr. GIBSON introduced a bill (H. R. No. 4160) for the relief of F. W. Tilton; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MARY E. BARROW.

Mr. GIBSON also introduced a bill (H. R. No. 4161) for the relief of Mary E. Barrow, of Saint Francisville, Louisiana; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ELIZABETH BRAY.

Mr. RICE, of Ohio, introduced a bill (H. R. No. 4162) granting a pension to Elizabeth Bray, widow of E. Bray, late private Eighth Tennessee Volunteer Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ISAAC BOGART.

Mr. RICE, of Ohio, also introduced a bill (H. R. No. 4163) granting a pension to Isaac Bogart, late private Company K, Fourteenth Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MODENA SMITH.

Mr. NEAL introduced a bill (H. R. No. 4164) to authorize the Secretary of the Interior to place upon the pension-roll the name of Modena Smith, widow of Robert Smith, deceased, late private Company B, Fifth Regiment United States Colored Troops; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY R. WHEELER.

Mr. BANNING introduced a bill (H. R. No. 4165) granting a pension to Henry R. Wheeler; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DISTRICT COURT AT PADUCAH, KENTUCKY.

Mr. BOONE introduced a bill (H. R. No. 4166) to fix the time of holding the district court of the United States for the State of Kentucky at Paducah; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CAPTAIN T. K. HACKLEY.

Mr. DURHAM introduced a bill (H. R. No. 4167) for the relief of Captain T. K. Hackley, of Garrard County, Kentucky; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

NATIONAL CURRENCY.

Mr. BRIGHT introduced a bill (H. R. No. 4168) to prevent the

reduction of national currency by fraudulently withdrawing legal-tender notes from circulation; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

CALVIN D. HUFF.

Mr. BICKNELL introduced a bill (H. R. No. 4169) granting a pension to Calvin D. Huff; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FLORA HEATH.

Mr. SEXTON introduced a bill (H. R. No. 4170) granting a pension to Flora Heath, of Jefferson County, Indiana; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FEES OF PENSION AGENTS AND ATTORNEYS.

Mr. FULLER introduced a bill (H. R. No. 4171) to amend section 4785 of the Revised Statutes regulating the fees of pension agents and attorneys; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HOT SPRINGS OF ARKANSAS.

Mr. FULLER also introduced a bill (H. R. No. 4172) declaring the waters of the Hot Springs of Arkansas forever free to all the people of the United States, and for other purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

GUSTAF FROM.

Mr. HENDERSON introduced a bill (H. R. No. 4173) for the relief of Gustaf From, of Rock Island, Illinois; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

REDUCTION OF POSTAGE.

Mr. SPRINGER introduced a bill (H. R. No. 4174) to facilitate letter correspondence; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

NORTHWESTERN TRANSPORTATION COMPANY.

Mr. HATCHER (by request) introduced a bill (H. R. No. 4175) for the relief of the Northwestern Transportation Company; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

W. W. WALDEN.

Mr. POLLARD introduced a bill (H. R. No. 4176) to pay W. W. Walden for building destroyed by fire while occupied by United States soldiers; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MARGARET POLAND.

Mr. GAUSE introduced a bill (H. R. No. 4177) for the relief of Margaret Poland, widow and administratrix of the late Alexander Poland, of Loudoun County, Virginia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

WILLIAM R. RILEY.

Mr. CRAVENS (by request) introduced a bill (H. R. No. 4178) for the relief of William R. Riley; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

BENJAMIN D. CARPENTER.

Mr. CRAVENS also (by request) introduced a bill (H. R. No. 4179) for the relief of Benjamin D. Carpenter; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

SARAH A. BUTT.

Mr. CRAVENS also (by request) introduced a bill (H. R. No. 4180) for the relief of Sarah A., widow of Richard Butt; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ELIZABETH BELL.

Mr. CRAVENS also (by request) introduced a bill (H. R. No. 4181) for the relief of Elizabeth Bell, widow of William Bell; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOHN G. NESTLE.

Mr. ELLSWORTH introduced a bill (H. R. No. 4182) for the relief of John G. Nestle, late private of Company I, Fifth Regiment New York Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CLAIMS OF OFFICERS, ETC.

Mr. WILLIAMS, of Michigan, introduced a bill (H. R. No. 4183) giving jurisdiction to the Court of Claims of claims of officers and soldiers of the late war; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MOSQUITO INLET, FLORIDA.

Mr. BISBEE introduced a bill (H. R. No. 4184) to establish a light-house at Mosquito Inlet, Florida; which was read a first and second

time, referred to the Committee on Commerce, and ordered to be printed.

JUDICIAL DISTRICTS, TEXAS.

Mr. GIDDINGS introduced a bill (H. R. No. 4185) dividing the State of Texas into two judicial districts, and fixing the time and places of holding court therein, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

INDEPENDENT SCHOOL DISTRICT, BURLINGTON, IOWA.

Mr. STONE, of Iowa, introduced a bill (H. R. No. 4186) confirming and vesting the title to a certain tract of land in Burlington, Iowa, in the independent school district of said city; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

ISAAC WOODMANSEE.

Mr. BURDICK introduced a bill (H. R. No. 4187) granting a pension to Isaac Woodmansee, late private Company B, Twelfth Regiment Iowa Infantry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN LAWRENCE.

Mr. BURDICK also introduced a bill (H. R. No. 4188) granting a pension to John Lawrence, late private in Company I, Ninth Regiment Iowa Infantry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOANNA W. TURNER.

Mr. CASWELL introduced a bill (H. R. No. 4189) for the relief of Joanna W. Turner, widow of Dr. William W. Turner, late surgeon and late colonel of the Eleventh United States Colored Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PLATE-IRON FOR THE NAVY.

Mr. LUTTRELL introduced a joint resolution (H. R. No. 147) to allow the Secretary of the Navy to purchase plate-iron and other material used in the construction of steam-boilers for the United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

RELIEF OF CERTAIN VOLUNTEERS.

Mr. LUTTRELL presented a joint resolution of the Legislature of the State of California, favoring the passage of a bill for the relief of certain volunteers who deserted or left the service of the United States prior to 31st day of December, 1848; which was referred to the Committee on Military Affairs.

DUTY ON MOHAIR.

Mr. LUTTRELL also presented a joint resolution of the Legislature of the State of California, opposing any reduction of the duty on mohair; which was referred to the Committee of Ways and Means.

DUTY ON WOOL.

Mr. LUTTRELL also presented a joint resolution of the Legislature of the State of California, instructing the congressional delegation to oppose the reduction of the duty on wool; which was referred to the Committee of Ways and Means.

MAIL-ROUTE FROM OROVILLE TO MOORETOWN, CALIFORNIA.

Mr. LUTTRELL also presented a joint resolution of the Legislature of the State of California, to establish a mail-route from Oroville via Enterprise to Mooretown, in Butte County, California; which was referred to the Committee on the Post-Office and Post-Roads.

DONATIONS OF PUBLIC LANDS.

Mr. WIGGINTON presented a joint resolution of the Legislature of the State of California, that no more of the public lands of the United States should be given away in subsidy or donated to corporations; which was referred to the Committee on Public Lands.

INDIAN RESERVATION IN CALIFORNIA.

Mr. WIGGINTON also presented a joint resolution of the Legislature of the State of California, asking that a permanent reservation be established for the several Indian tribes of San Diego County, California, and that said Indians be placed upon such reservation, &c; which was referred to the Committee on Indian Affairs.

MAIL-ROUTE IN FRESNO COUNTY, CALIFORNIA.

Mr. WIGGINTON also presented a joint resolution of the Legislature of the State of California, relative to a mail-route in Fresno County, in that State; which was referred to the Committee on the Post-Office and Post-Roads.

SITE OF CAMP INDEPENDENCE, INYO COUNTY, CALIFORNIA.

Mr. WIGGINTON also presented a joint resolution of the Legislature of the State of California, relative to the relinquishment by the United States of the site of Camp Independence, in Inyo County, California; which was referred to the Committee on Public Lands.

MAIL FACILITIES IN SAN LUIS OBISPO COUNTY, CALIFORNIA.

Mr. WIGGINTON also presented a joint resolution of the Legislature of the State of California, asking increased mail facilities in San

Luis Obispo County, California; which was referred to the Committee on the Post-Office and Post-Roads.

GOVERNMENT OF MEXICO.

Mr. DAVIS, of California, presented a joint resolution of the Legislature of California, relative to the recognition of the Diaz government of Mexico.

Mr. COX, of New York. I ask that that resolution be read.

The joint resolution was read, and was referred to the Committee on Foreign Affairs.

WILLIAM H. BALDWIN.

Mr. HASKELL introduced a bill (H. R. No. 4190) for the relief of William H. Baldwin; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

COMMUNICATION WITH NEIGHBORING REPUBLICS, ETC.

Mr. MARTIN (by request) introduced a bill (H. R. No. 4191) to establish and maintain speedy communication with neighboring republics, colonies, islands, &c., and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MAIL-ROUTE IN NEVADA.

Mr. WREN presented a joint resolution of the Legislature of Nevada, asking the establishment of a mail-route from Dayton to Belleville, in that State; which was referred to the Committee on the Post-Office and Post-Roads.

CONFIRMATION OF PRIVATE LAND CLAIMS.

Mr. ROMERO introduced a bill (H. R. No. 4192) to confirm certain private land claims in the Territory of New Mexico; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

FRANKLIN BENEDICT.

Mr. ROMERO also introduced a bill (H. R. No. 4193) granting a pension to Franklin Benedict; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WIDOW OF MICHAEL MCCARTHY.

Mr. MAGINNIS introduced a bill (H. R. No. 4194) granting a pension to the widow of Michael McCarthy, late private United States Army; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. If there be no objection, gentlemen who were not present when their States were called will now be recognized for the introduction of bills for reference.

There was on objection.

CIVIL-SERVICE REFORM.

Mr. HARRISON introduced a bill (H. R. No. 4195) to provide for a more efficient civil service in the United States; which was read a first and second time, referred to the Committee on Reform in the Civil Service, and ordered to be printed.

ELECTION OF REPRESENTATIVES FROM NORTH CAROLINA.

Mr. ROBBINS introduced a bill (H. R. No. 4196) relating to the election of Representatives from North Carolina to the Forty-sixth Congress; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. ROBBINS. I ask unanimous consent that the Committee on the Judiciary may have leave to report that bill back at any time.

The SPEAKER. The Chair cannot ask that privilege during the present call.

CENTENNIAL INTERNATIONAL EXHIBITION.

Mr. HARDENBERGH presented a joint resolution from the Legislature of the State of New Jersey in reference to closing up the centennial international exhibition held in Philadelphia in 1876; which was referred to the Committee on the Judiciary.

STEAM FOG-SIGNAL AT PORTSMOUTH, NEW HAMPSHIRE.

Mr. JONES, of New Hampshire, introduced a bill (H. R. No. 4197) to appropriate money for the rebuilding of the tower for the steam fog-signal on Whalesback, at the entrance of Portsmouth (New Hampshire) Harbor; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ASHBROOK & TUCKER.

Mr. CARLISLE introduced a bill (H. R. No. 4198) for the relief of Ashbrook & Tucker, of Covington, Kentucky; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

SAMUEL E. OGDEN.

Mr. CARLISLE also introduced a bill (H. R. No. 4199) to compensate Samuel E. Ogden, of the steamers Des Arc and Emma No. 2, for carrying the United States mail from Memphis, Tennessee, to Duval's Bluff, Arkansas, and intermediate places, twice a week, from the 27th November, 1863, to the 31st December, 1864, under peremptory orders of the officer of the United States Army then in command at the post of Memphis; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

NATIONAL ROAD IN MARYLAND.

Mr. WALSH introduced a bill (H. R. No. 4200) relating to the national road in the State of Maryland, and to give consent of the United States to a certain act of the General Assembly of Maryland in relation to said road; which was read a first and second time, referred to the Committee on the Post Office and Post-Roads, and ordered to be printed.

DELIAM COLLY.

Mr. TURNER introduced a bill (H. R. No. 4201) for the relief of Deliah Colly, of Breathitt County, Kentucky, widow of Harmon Colly, late a private of Company D, Sixth Regiment Kentucky Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOSEPH CRAFT.

Mr. TURNER also introduced a bill (H. R. No. 4202) for the relief of Joseph Craft, sr., of Letcher County, Kentucky; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

NAVAL CADETS.

Mr. COX, of New York, introduced a bill (H. R. No. 4203) to amend section 1393 of the Revised Statutes, as to cadet-engineers, &c; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

M'ALLISTER MACHINE GUN.

Mr. MANNING introduced a joint resolution (H. R. No. 148) to appropriate \$2,500, to make and test the McAllister machine gun; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

RICHARD H. PORTER.

Mr. BUCKNER introduced a bill (H. R. No. 4204) for the relief of Richard H. Porter; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

DISTRICT AND CIRCUIT COURT JUDGES IN NEW YORK.

Mr. HISCOCK introduced a bill (H. R. No. 4205) to adjust the salaries of the judges of the district and circuit courts residing in the State of New York; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PUBLIC BUILDING AT SYRACUSE, NEW YORK.

Mr. HISCOCK also introduced a bill (H. R. No. 4206) to provide for the erection of a public building at Syracuse, New York, for the use of United States courts and accommodation of internal-revenue officials and for other Government purposes; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

WILLIAM CRIM.

Mr. HARRIS, of Virginia, introduced a bill (H. R. No. 4207) for the relief of William Crim; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

STENOGRAPHERS IN THE UNITED STATES COURTS.

Mr. FRYE introduced a bill (H. R. No. 4208) to authorize the appointment of stenographers in the United States circuit and district courts; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MARY E. DAY.

Mr. RANDOLPH introduced a bill (H. R. No. 4209) for the relief of Mary E. Day; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LYDIA S. ROARK.

Mr. RANDOLPH also introduced a bill (H. R. No. 4210) for the relief of Lydia S. Roark; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. CANNON, of Illinois, introduced a bill (H. R. No. 4211) to amend section 4048 of the Revised Statutes; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

RETIRED LIST OF THE ARMY.

Mr. FREEMAN introduced a bill (H. R. No. 4212) to provide for promotions on the retired list of the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ELISA ELY.

Mr. TOWNSEND, of Ohio, introduced a bill (H. R. No. 4213) granting a pension to Elisa Ely, widow of James S. Ely, late private Company G, One hundred and eighty-eighth Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RAILROAD IN DAKOTA.

Mr. DUNNELL presented a memorial of the Legislature of Minnesota, asking for a grant of land to aid in the construction of a railroad in Dakota Territory; which was referred to the Committee on Public Lands.

HAMILTON GILLESPIE.

Mr. THOMPSON introduced a bill (H. R. No. 4214) granting a pension to Hamilton Gillespie, late of the Eighteenth Regiment Pennsylvania Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY KARHN.

Mr. THOMPSON also introduced a bill (H. R. No. 4215) granting a pension to Henry Karhn; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REVISION OF TARIFF.

Mr. THOMPSON also presented a joint resolution of the Legislature of the State of Pennsylvania, in opposition to any change in the present tariff; which was referred to the Committee of Ways and Means.

SLACK-WATER NAVIGATION IN PENNSYLVANIA.

Mr. WHITE, of Pennsylvania, introduced a bill (H. R. No. 4216) making an appropriation for the making of slack-water navigation in Kiskiminetas, Conemaugh, and Allegheny Rivers, in Pennsylvania; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JOHN W. GOODWIN.

Mr. WHITE, of Pennsylvania, also introduced a bill (H. R. No. 4217) for the relief of John W. Goodwin; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

H. R. FRAMPTON.

Mr. WHITE, of Pennsylvania, also introduced a bill (H. R. No. 4218) for the relief of H. R. Frampton, postmaster at Reidsburgh, Clarion County, Pennsylvania; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

B. H. SCOTT.

Mr. WHITE, of Pennsylvania, also introduced a bill (H. R. No. 4219) for the relief of B. H. Scott; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PAYMENT OF CLAIMS AGAINST THE UNITED STATES.

Mr. WHITE, of Pennsylvania, also introduced a joint resolution, (H. R. No. 149) proposing an amendment to the Constitution of the United States; which was read a first and second time.

Mr. WHITE, of Pennsylvania. I call for the reading of that joint resolution at length.

The resolution was read at length, referred to the Committee on the Judiciary, and ordered to be printed.

MRS. CATHARINE WHITE.

Mr. CAMPBELL introduced a bill (H. R. No. 4220) granting a pension to Mrs. Catharine White; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EVENING SESSION FOR DEBATE.

Mr. PRICE. I ask unanimous consent that there be a session of the House to-night at half-past seven o'clock for debate only, no business whatever to be transacted.

There was no objection, and it was so ordered.

CHIEF OF ORDNANCE BUREAU.

Mr. BUTLER introduced a bill (H. R. No. 4221) providing for the rank and tenure of office of the chief of the Bureau of Naval Ordnance; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

PRINTING AND BINDING DEFICIENCY.

Mr. SINGLETON. By mistake I reported the other day from the Committee on Appropriations the wrong bill. I ask consent now to report a bill as a substitute for that one and to take its place in Committee of the Whole.

There was no objection, and the bill (H. R. No. 4222) to provide for a deficiency in the appropriation for the public printing and binding for the current fiscal year was received, read a first and second time, referred to the Committee of the Whole, and ordered to be printed.

BRANCH MINTS.

Mr. STEPHENS, of Georgia. I ask unanimous consent that there be printed for the use of the House certain testimony taken by the Committee on Coinage, Weights, and Measures, in regard to branch mints.

There was no objection, and it was so ordered.

VENTILATION OF THE HALL.

Mr. BRIGHT, by unanimous consent, submitted the following resolution; which was referred to the Committee on Ventilation of the Hall:

Whereas the Hall of the House of Representatives is at present very impure; and
Whereas the warm weather of summer is approaching, and from past experience it is reasonably to be apprehended that in the progress of the season the air of this Hall will for the want of sufficient purification become more unhealthful and uncomfortable;

Be it resolved, That the Committee on Ventilation of the Hall be requested to make examination and trial of Professor R. B. Williamson's newly invented appa-

ratna for cooling and purifying the air, and report the expediency of introducing the same into this Hall for the purpose of securing it against the influences of noxious air.

JOHN ELLIS.

Mr. BRIGHT also, by unanimous consent, submitted the following resolution; which was referred to the Committee of Accounts:

Resolved, That there be paid out of the contingent fund of the House the sum of \$— per month, from the 15th of October, 1877, to —, 1878, to John Ellis for his services as messenger of the Committee of Claims.

HOT SPRINGS RESERVATION, ARKANSAS.

Mr. CRAVENS, by unanimous consent, introduced a bill (H. R. No. 4223) to revive and keep in force an act entitled "An act in relation to the Hot Springs reservation, in the State of Arkansas," approved March 3, 1877, and supplemental thereto; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

Mr. BURDICK called for the reading of the bill; and it was read at length.

REVISION OF THE TARIFF.

Mr. WARD. I ask unanimous consent that the joint resolution of the Legislature of Pennsylvania, which was presented by me this morning, be printed in the RECORD.

There being no objection, it was ordered accordingly. The resolution is as follows:

IN THE SENATE, March 14, 1878.

Whereas the bill known as the Wood tariff bill, now under consideration before the Ways and Means Committee of the House of Representatives, at Washington, will, if it should become a law, injuriously affect the producing and manufacturing interests of Pennsylvania; and

Whereas the agitation of this question at this time is calculated to further complicate the embarrassment of the manufacturing interest of this country, thereby increasing the distress of the people: Therefore,

Be it resolved by the senate, (the house concurring.) That any general revision of the tariff law as proposed by said bill is not demanded by the people, is most unwise, and will tend to prolong the present depressed condition of the business interests of the country.

Resolved, That we reiterate our conviction that the time is most inopportune for the agitation of any question involving the change of a law affecting the industries of the country, whereby the interests of capital and labor are in any way disturbed, jeopardized, or impaired.

Resolved, Therefore, that we hereby respectfully but most earnestly urge upon our Senators and Representatives in Congress the importance of united action on their part in opposing any change of the present tariff system, so far as the same affects the material interests of this State.

Resolved, That the governor is hereby requested to forward copies of these resolutions to our Representatives in Congress.

Extract from the journal of the Senate.

THOS. B. COCHRAN,
Chief Clerk.

IN THE HOUSE, March 20, 1878.

JNO. A. SMULL,
Resident Clerk, House of Representatives.

The foregoing resolutions concurred in.

Approved the 25th day of March, A. D. 1878.

J. F. HARTRANFT.

EXAMINATION OF PUBLIC PRINTING OFFICE.

Mr. FINLEY. I ask unanimous consent to offer for adoption the following resolution:

Resolved, That the subcommittee on public expenditures engaged in an examination of the Public Printing Office be authorized to have the testimony printed for the use of the committee as it progresses in said investigation.

Mr. CONGER. I desire to ask the gentleman why the subcommittee should have their testimony printed separately?

Mr. FINLEY. This is a subcommittee taking testimony in regard to the public printing. The request is that this testimony be printed for the use of the committee.

There being no objection, the resolution was considered and adopted.

PURCHASE OF STEAMSHIPS FOR THE GOVERNMENT.

Mr. WILLIS, of New York. I ask unanimous consent to submit for adoption the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Secretary of War be, and is hereby, directed to send to this House the names, age, capacity, and general condition of the steamships purchased of and owned in part or whole by Marshal O. Roberts, of New York, with the amount paid for each, (in 1862-63 or thereabouts); also, the names of the attorney or agent to whom the money was paid, and by whose authority the money was paid; also, copies of any correspondence between the Quartermaster-General, Montgomery C. Meigs, and the then Secretary of War, Stanton, relative to the actual value and general condition of the said steamships.

Mr. PRICE. Should not this inquiry be addressed to the Secretary of the Navy?

Mr. WILLIS, of New York. No, sir; these vessels were purchased through the Quartermaster-General's Office.

There being no objection, the resolution was considered and adopted.

WAR CLAIMS.

Mr. HARTZELL, by unanimous consent, introduced a joint resolution (H. R. No. 150) proposing an amendment to the Constitution of the United States forbidding the assumption or payment of any claim for loss or damage growing out of the taking, use, or destruction of property within the limits of the States engaged in the late rebellion; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SEIZURE OF STEAMER VIRGINIUS.

The SPEAKER laid before the House a message from the President

of the United States, transmitting, in compliance with a resolution of the House of Representatives of the 21st ultimo, a report from the Secretary of State, with copies of correspondence between the Government of the United States and Spain relative to the seizure of the steamer Virginus; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

PUBLIC BUILDINGS IN SAN FRANCISCO.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, in response to a resolution of the 19th ultimo asking information as to the use now being made of the custom-house and old appraisers' store in San Francisco, and the use proposed to be made of the new appraisers' building now in process of erection; which was referred to the Committee on Public Buildings and Grounds.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. CANON, of Utah, for two weeks from to-morrow, on account of important business;

To Mr. ROBINSON, of Massachusetts, for three days, on account of important business; and

To Mr. OLIVER, for two weeks, on account of important business.

TEMPORARY CLERKS, ETC.

Mr. DURHAM. I move to suspend the rules for the purpose of taking up and considering at this time the amendments of the Senate to the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making appropriation for the same; also making appropriations for detecting trespass on public lands, and for bringing into market public lands in certain States, and for other purposes.

Mr. CONGER. Is the gentleman entitled to make that motion now?

The SPEAKER. He is, but it will require a two-third vote to suspend the rules.

Mr. CONGER. The practice of the Chair would not let such a motion come in now, as I understand it.

The SPEAKER. The Chair has always stated to the House he would on Monday recognize any gentleman desiring to proceed to the consideration of general bills of the session, but that will require a two-third vote. Such has been the uniform practice.

Mr. SAYLER. The Chair has always made an exception in favor of public bills.

The SPEAKER. That is so.

Mr. DURHAM's motion was agreed to; and the rules were accordingly suspended.

Mr. DURHAM. I am directed by the Committee on Appropriations, to whom was referred the amendments of the Senate to a bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks and making an appropriation for the same; also making appropriations for detecting trespass on public lands, and for bringing into market public lands in certain States, and for other purposes, to report the same back to the House with the recommendation that the sixth amendment of the Senate be concurred in and that all the others be non-concurred in. I demand the previous question on the report of the committee.

The previous question was seconded and the main question ordered.

The SPEAKER. The question will be first put on the sixth amendment of the Senate, in which concurrence has been recommended.

The Clerk read as follows:

After the words "public lands" insert as follows:

And provided further, That where wood and timber lands in the Territories of the United States are not surveyed and offered for sale in proper subdivisions, convenient of access, no money herein appropriated shall be used to collect any charge for wood or timber cut on the public lands in the Territories of the United States for the use of actual settlers in the Territories, and not for export from the Territories of the United States where the timber grew: *And provided further*, That if any timber cut on the public lands shall be exported from the Territories of the United States, it shall be liable to seizure by United States authority, wherever found.

The amendment was concurred in.

Mr. DURHAM. I move non-concurrence in all the other amendments.

The SPEAKER. If it be the wish of the House the question will be put upon the remaining Senate amendments in gross.

Mr. DUNNELL. Is it in order to move concurrence in any one of the amendments?

The SPEAKER. That is the question before the House. Does the gentleman ask for a separate vote?

Mr. DUNNELL. I demand a separate vote on the first amendment.

The SPEAKER. The Committee on Appropriations recommend non-concurrence in that amendment.

Mr. WILLIAMS, of Oregon. We are acting here without knowledge. I have sent for a copy of this bill and have not been able to get it. We are, I think, unnecessarily precipitate in our action on these amendments.

Mr. DURHAM. The gentleman can send for the bills, as they are on file with the Senate amendments. It is not my fault that gentlemen do not get them.

Mr. WILLIAMS, of Oregon. I have not asked the gentleman for information. I applied to the Speaker. I have listened to dictation from that source long enough.

The SPEAKER. The question is on the first amendment of the Sen-

ate, which will be read by the Clerk, a separate vote having been demanded by the gentleman from Minnesota, [Mr. DUNNELL.]

Mr. DUNNELL. I hope, Mr. Speaker, that the amendment will be concurred in.

Mr. DURHAM. The Committee on Appropriations have recommended non-concurrence.

The Clerk read as follows:

Strike out "not exceeding twenty;" so it will read: That the Secretary of the Treasury be, and he is hereby, authorized to employ temporary clerks during the balance of the present fiscal year, &c.

The House divided; and there were—ayes 67, noes 76.

Mr. DUNNELL demanded tellers.

Tellers were ordered; and Mr. DUNNELL and Mr. DURHAM were appointed.

The House again divided; and the tellers reported—ayes 93, noes 80. Mr. DURHAM demanded the yeas and nays.

The yeas and nays were ordered.

Mr. DURHAM. The committee recommend non-concurrence in that amendment. The Senate propose to strike out the appropriation of \$6,500 made by the House and to make it \$20,000.

Mr. CONGER. I object to debate. The gentleman has demanded the previous question and cut off all explanation of these amendments.

The question was taken; and it was decided in the negative—yeas 100, nays 119, not voting 72; as follows:

YEAS—100.

Aldrich,	Conger,	James,	Reed,
Racon,	Cox, Jacob D.	Jones, John S.	Rice, William W.
Bagley,	Crao,	Jorgensen,	Robinson, Milton S.
Baker, William H.	Cummings,	Joyce,	Ryan,
Balton,	Dauford,	Kaifer,	Sampson,
Bayne,	Davis, Horace	Keller,	Sexton,
Bisbee,	Deering,	Ketcham,	Shelley,
Blair,	Denison,	Lathrop,	Sinnickson,
Boyd,	Dunnell,	Lindsey,	Smalls,
Brentano,	Eames,	McGowan,	Starin,
Brewer,	Ellsworth,	Metcalfe,	Stewart,
Briggs,	Evans, James L.	Mitchell,	Stone, John W.
Brogden,	Fort,	Monroe,	Stone, Joseph C.
Browne,	Freeman,	Neal,	Thompson,
Bundy,	Fry,	Norcross,	Tipton,
Burchard,	Gardner,	Pace,	Townsend, M. I.
Burdick,	Garfield,	Patterson, G. W.	Wait,
Cain,	Hamer,	Phillips,	Ward,
Calkins,	Harris, Benj. W.	Pollard,	Welch,
Campbell,	Haskell,	Pound,	White, Michael D.
Cannon,	Hendee,	Powers,	Williams, Andrew
Chittenden,	Henderson,	Price,	Williams, C. G.
Clafin,	Humphrey,	Pugh,	Williams, Richard
Clark, Rush	Hunter,	Rainey,	Willits,
Cole,	Ittner,	Randolph,	Wren.

NAYS—119.

Acklen,	Davis, Joseph J.	Herbert,	Rice, Americus V.
Aiken,	Dibrell,	Hewitt, Abram S.	Riddle,
Baker, John H.	Dickey,	Hewitt, G. W.	Robbins,
Banning,	Durham,	Hooker,	Rees,
Bell,	Eden,	House,	Saylor,
Bicknell,	Eickhoff,	Hunt,	Scales,
Blackburn,	Elam,	Jones, Frank	Singleton,
Bland,	Ellis,	Jones, James T.	Slemmons,
Bliss,	Felton,	Keightley,	Smith, William E.
Blount,	Finley,	Kenna,	Sparka,
Boone,	Forney,	Kuapp,	Springer,
Bouck,	Franklin,	Knott,	Swann,
Bright,	Fuller,	Ligon,	Throckmorton,
Buckner,	Garth,	Lockwood,	Townsend, R. W.
Cabell,	Gibson,	Lattrell,	Tucker,
Caldwell, John W.	Giddings,	Lynde,	Turner,
Caldwell, W. P.	Glover,	Manning,	Turney,
Carliele,	Goode,	Mayham,	Vance,
Clark of Missouri,	Gunter,	McKenzie,	Walsh,
Clarke of Kentucky,	Hale,	McMahon,	Warner,
Clymer,	Hamilton,	Money,	Wigginton,
Cobb,	Hardenbergh,	Morgan,	Williams, A. S.
Cook,	Harris, Henry E.	Morrison,	Williams, Jere N.
Covert,	Harris, John T.	Morse,	Willis, Albert S.
Cox, Samuel S.	Hart,	Muldrow,	Willis, Benjamin A.
Cravens,	Hartridge,	Muller,	Wilson,
Crittenden,	Hartzell,	Phelps,	Wood,
Culberson,	Hatcher,	Quinn,	Yeates,
Cutler,	Henkle,	Rea,	Young.
Davidson,	Henry,	Reagan,	

NOT VOTING—72.

Atkins,	Evins, John H.	Marsh,	Shallenberger,
Banks,	Ewing,	Martin,	Smith, A. Herr
Boebe,	Foster,	McCook,	Southard,
Benedict,	Gause,	McKinley,	Steele,
Bragg,	Hanna,	Mills,	Stenger,
Bridges,	Harrison,	Oliver,	Stephens,
Butler,	Hayes,	O'Neill,	Strait,
Camp,	Hazelton,	Overton,	Thornburgh,
Candler,	Hiscock,	Patterson, T. M.	Townsend, Amos
Caswell,	Hubbell,	Peddie,	Van Vorhes,
Chalmers,	Hungerford,	Potter,	Veeder,
Clark, Alvah A.	Killinger,	Pridemore,	Waddell,
Collins,	Kimmel,	Reilly,	Walker,
Dean,	Landers,	Roberts,	Watson,
Douglas,	Lapham,	Robertson,	White, Harry
Dwight,	Loring,	Robinson, George D.	Whitthorne,
Errett,	Mackey,	Sapp,	Williams, James
Evans, I. Newton	Maish,	Schleicher,	Wright.

So the amendment was non-concurred in.

During the vote,

Mr. MARTIN said: I am paired with Mr. HUBBELL, of Michigan. If he were here, I would vote "no."

Mr. MULDROW. My colleague, General CHALMERS, is paired with Mr. CASWELL, of Wisconsin. If he were here, he would vote "no."

Mr. EDEN. The gentleman from Pennsylvania, Mr. MAISH, is paired with his colleague, Mr. SHALLENBERGER.

Mr. WHITTHORNE. On this and all other political questions I am paired with the gentleman from Indiana, Mr. HANNA. If he were here, I would vote "no."

Mr. GAUSE. I am paired with Mr. SAPP, of Iowa. If he were here, I would vote "no."

Mr. AIKEN. My colleague, Mr. EVINS, is paired with Mr. McCOOK, of New York. If here, my colleague would vote "no" and the gentleman from New York would vote "ay."

Mr. WILLIS, of New York. My colleague, Mr. POTTER, is absent on account of important business. If present, he would vote "no."

Mr. HISCOCK. I am paired with Mr. CANDLER, of Georgia. If he were here, I would vote "ay."

Mr. MARSH. I am paired with Mr. CLARK, of New Jersey. If he were present, I would vote "ay."

Mr. EVANS, of Pennsylvania. I am paired with my colleague, Mr. MACKEY, on all political questions. I desire also to announce that my colleague, Mr. O'NEILL, is paired with my other colleague, Mr. STENGER.

Mr. HOUSE. My colleague from Tennessee, Mr. ATKINS, is detained by illness at his room.

Mr. BAKER, of New York. My colleague, Mr. CAMP, is paired with my colleague, Mr. BENEDICT. If Mr. CAMP were present, he would vote "ay."

Mr. CASWELL. My colleagues, Mr. HAZELTON and Mr. BRAGG, are absent, and are paired on all political questions. On this question Mr. HAZELTON would vote "ay" and Mr. BRAGG would vote "no." I am myself paired with Mr. CHALMERS, of Mississippi. If he were here, I would vote "ay."

Mr. VAN VORHES. I am paired with my colleague from Ohio, Mr. SOUTHARD. If he were here, I would vote "ay."

Mr. STRAIT. On all political questions I am paired with Mr. WILLIAMS, of Delaware. If he were present, I would vote "ay."

Mr. WATSON. I am paired on political questions with Mr. DOUGLAS, of Virginia. If he were here, I would vote "ay" and I presume he would vote "no."

Mr. BOYD. My colleague from Illinois, Mr. HAYES, is paired with Mr. STEELE, of North Carolina. If he were present, Mr. HAYES would vote "ay."

Mr. MITCHELL. My colleagues, Mr. OVERTON and Mr. REILLY, are paired.

Mr. FOSTER. I had a pair on all political questions with Mr. WADDELL, of North Carolina. I had supposed that the pair expired on Saturday, but as I understand the gentleman from North Carolina is not here I do not vote.

Mr. BAYNE. Mr. DWIGHT, of New York, is paired with Mr. BRIDGES, of Pennsylvania. If they were present, Mr. DWIGHT would vote "ay" and Mr. BRIDGES would vote "no."

Mr. LANDERS. I am paired with Mr. ROBINSON, of Massachusetts; and as this is considered a party question I do not vote.

Mr. PATTERSON, of Colorado. I am paired with Mr. ERRETT, of Pennsylvania.

Mr. SCALES. My colleague from North Carolina, Mr. STEELE, is absent by leave of the House. He is paired with Mr. HAYES, of Illinois.

Mr. HUNTON. My colleague from Virginia, Mr. DOUGLAS, is paired with Mr. WATSON, of Pennsylvania.

Mr. BEEBE. In my zeal for economy I forgot that I was paired with my colleague from New York, Mr. LAPHAM, and voted. I withdraw my vote.

The result of the vote was then announced as above recorded.

Mr. DURHAM moved to reconsider the vote by which the amendment of the Senate was non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The second amendment of the Senate, in which the Committee on Appropriations recommended non-concurrence, was read, as follows:

Strike out these words:

At a rate not exceeding \$2 per day each: *Provided*, That the whole sum to be expended for this purpose shall not exceed \$6,500.

And insert in lieu thereof:

And that the sum of \$20,000 be, and the same is hereby, appropriated for that purpose.

The amendment was non-concurred in.

The third amendment of the Senate, in which the Committee on Appropriations recommended non-concurrence, was read, as follows:

Add to section 1 the following:

Contingent expenses, Treasury Department:

For care and subsistence of horses for office and mail wagons, including feeding and shoeing, and for wagons, harness, and repairs of the same, being a deficiency for the fiscal year ending June 30, 1878, \$2,000.

The amendment was non-concurred in.

The fourth amendment of the Senate, in which the Committee on Appropriations recommended non-concurrence, was read, as follows:

Add to section 1 the following:

For gas, drop-lights and tubing, gas-burners, brackets and globes, candles, lanterns, and wicks, being a deficiency for the fiscal year ending June 30, 1878, \$2,500.

The amendment was non-concurred in.

The fifth amendment of the Senate, in which the Committee on Appropriations recommended non-concurrence, was read, as follows:

In section 2 strike out these words:

For diagrams, furniture, and repairs in the General Land Office, miscellaneous items, including two of the city newspapers, to be filed, bound, and preserved for the use of the office; for the actual expenses of clerks detailed to investigate fraudulent land entries, trespasses on the public lands, and cases of official misconduct, and for advertising and telegraphing, the sum of \$30,000.

And insert in lieu thereof:

For diagrams, furniture, and repairs in the General Land Office, miscellaneous items, including two of the city newspapers, to be filed, bound, and preserved for the use of the office, and for advertising and telegraphing, the sum of \$15,000; for the actual expenses of clerks detailed to investigate fraudulent land entries, trespasses on the public lands, and cases of official misconduct, \$5,000.

Mr. JONES, of Alabama. I move concurrence in that amendment.

The question being taken, there were—ayes 48, noes 89.

So (further count not being demanded) the amendment was non-concurred in.

The seventh amendment, in which the Committee on Appropriations recommended non-concurrence, was read, as follows:

Add to section 3 the following:

For salaries and expenses of collectors of internal revenue, being a deficiency for the fiscal year ending June 30, 1878, \$40,000.

Mr. SAMPSON. I move to concur in that amendment.

Mr. DURHAM. I desire to state that that \$40,000 is allowed in another bill.

Mr. SAMPSON. As the House has passed this amendment once, I see no objection to having it here. This bill will become a law before the other, and there is a necessity for immediate action.

The question being taken on concurring in the amendment, there were ayes 38, noes not counted.

So the amendment was non-concurred in.

The eighth amendment of the Senate was read, as follows:

Add to section 3 the following:

For railway mail-agents and postal clerks, \$20,000.

Mr. SAMPSON. I move concurrence in that amendment.

The question being taken, there were—ayes 61, noes 87.

Mr. WHITE, of Pennsylvania. I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were ayes 28.

So (the affirmative not being one-fifth of the last vote) the yeas and nays were not ordered, and the amendment was non-concurred in.

The ninth amendment of the Senate, in which the Committee on Appropriations recommended non-concurrence, was read, as follows:

Add to section 3 the following:

That the Secretary of War be, and he is hereby, authorized to employ in the record and pension division of the Surgeon-General's Office, during the balance of the present fiscal year, the following clerks and laborers in addition to the clerical force already provided by law, namely: One clerk of class 4; one clerk of class 3; two clerks of class 2; twenty-eight clerks of class 1; and two laborers, at \$720 each, and the sum of \$11,902.30, or so much thereof as may be necessary, is hereby appropriated for that purpose.

Mr. SAMPSON. I move concurrence in that amendment.

Mr. DURHAM. I desire to make a statement, if the House will listen to me half a minute.

Mr. WILLIAMS, of Oregon. The previous question is operating, and I object.

Mr. WAIT. I hope the gentleman from Kentucky will be permitted to explain.

Cries of "Regular order!"

The question being taken, there were—ayes 101, noes 60.

Mr. DURHAM. I call for tellers.

Mr. TOWNSEND, of New York. I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 184, nays 41, not voting 66; as follows:

YEAS—184.

Aiken,	Clark, Rush	Fuller,	James,
Aldrich,	Cobb,	Gardner,	Jones, Frank
Bacon,	Conger,	Garfield,	Jones, James T.
Bagley,	Cox, Jacob D.	Garth,	Jones, John S.
Baker, John H.	Cox, Samuel S.	Gause,	Joyce,
Baker, William H.	Crapo,	Giddings,	Keightley,
Ballou,	Cravens,	Glover,	Kelley
Banning,	Culbertson,	Goode,	Kenna,
Bayne,	Cummings,	Hamilton,	Ketcham,
Bell,	Cutler,	Hardenbergh,	Knapp,
Bicknell,	Danford,	Harmer,	Landers,
Bisbee,	Davidson,	Harris, Benj. W.	Lathrop,
Blair,	Davis, Horace	Harris, John T.	Ligon,
Bliss,	Davis, Joseph J.	Harrison,	Lindsey,
Boyd,	Deering,	Hart,	Lockwood,
Brontano,	Denison,	Hartbridge,	Luttrell,
Brewer,	Dickey,	Hartzell,	Manning,
Briggs,	Dunnell,	Haskell,	Marsh,
Brogden,	Eames,	Hatcher,	Mayham,
Brown,	Ellis,	Hazelton,	McGowan,
Buckner,	Ellsworth,	Hendee,	McKinley,
Bundy,	Evans, I. Newton	Henderson,	McMahon,
Burchard,	Evans, James L.	Honkie,	Metcalfe,
Burdick,	Ewing,	Hewitt, G. W.	Mitchell,
Butler,	Finley,	Hiscock,	Money,
Cain,	Fort,	Hooker,	Monroe,
Calhoun,	Foster,	Hunter,	Morgan,
Campbell,	Franklin,	Huntton,	Morrison,
Cannon,	Freeman,	Humphrey,	Morse,
Cladin,	Frye,	Ittner,	Muldrow,

Muller,
Neal,
Norcross,
Oliver,
Page,
Patterson, G. W.
Phillips,
Phelps,
Pollard,
Powers,
Price,
Pugh,
Quinn,
Raney,
Randolph,
Rea,

Reed,
Rice, Americans V.
Rice, William W.
Riddle,
Robinson, M. S.
Ryan,
Sampson,
Saylor,
Sexton,
Shelley,
Sinnickson,
Slemons,
Small,
Smith, William E.
Springer,
Starin,

Stewart,
Stone, John W.
Stone, Joseph C.
Strait,
Thompson,
Throckmorton,
Tipton,
Townsend, Amos,
Townsend, M. I.
Townsend, R. W.
Tucker,
Turney,
Van Vorhes,
Wait,
Walsh,
Ward,

Warner,
Watson,
Welch,
White, Harry
White, Michael D.
Williams, A. S.
Williams, Andrew,
Williams, C. G.
Williams, Jere N.
Williams, Richard
Willits,
Wilson,
Wren,
Wright,
Yeates,
Young.

NAYS—41.

Blackburn,
Blount,
Boone,
Bouck,
Bright,
Cabell,
Caldwell, John W.
Caldwell, W. P.
Carlsle,
Clark of Missouri,
Clarke of Kentucky,

Clymer,
Cook,
Covert,
Crittenden,
Dibrell,
Durham,
Eickhoff,
Elam,
Felton,
Forney,
Gunter,

Harris, Henry R.
Henry,
Herbert,
Hewitt, Abram S.
House,
Knott,
Lynde,
McKenzie,
Reagan,
Robbins,
Ross,

Scales,
Singleton,
Sparks,
Swann,
Turner,
Vance,
Wigginton,
Willis, Albert S.

NOT VOTING—66.

Acklen,
Atkins,
Banks,
Beche,
Bendict,
Bland,
Bragg,
Bridges,
Camp,
Candler,
Caswell,
Chalmers,
Chittenden,
Clark, Alvah A.
Cole,
Collins,
Dean,

Douglas,
Dwight,
Eden,
Errett,
Evins, John H.
Gibson,
Hale,
Hanna,
Hubbell,
Hungerford,
Jorgensen,
Keffer,
Killinger,
Kimmel,
Lapham,
Loring,

Mackey,
Maish,
Martin,
McCook,
Mills,
O'Neill,
Overton,
Patterson, T. M.
Peddie,
Potter,
Pound,
Pridmore,
Reilly,
Roberts,
Robertson,
Robinson, G. D.
Sapp,

Schleicher,
Shallenberger,
Southard,
Smith, A. Herr
Steele,
Stenger,
Stephens,
Thornburgh,
Veeder,
Waddell,
Walker,
Whitthorne,
Williams, James,
Willis, Benj. A.
Wood.

During the roll-call the following announcements were made:

Mr. SCALES. My colleague, Mr. STEELE, is absent by leave of the House, and is paired with Mr. HAYES, of Illinois.

Mr. FOSTER. I am paired with the gentleman from North Carolina, Mr. WADDELL, upon all political questions; not regarding this as such, I vote "ay."

Mr. BAKER, of New York. Upon all political questions my colleagues, Mr. CAMP and Mr. BENEDICT, are paired. If Mr. CAMP were present, he would vote "ay," and from my knowledge of Mr. BENEDICT I think he would also vote "ay."

Mr. HENDERSON. I am requested to state that my colleague, Mr. HAYES, is paired with Mr. STEELE, of North Carolina. If Mr. HAYES were present, he would vote "ay."

Mr. PATTERSON, of Colorado. I am paired upon this question with Mr. ERRETT.

Mr. STRAIT. I am paired with Mr. WILLIAMS, of Delaware, on all political questions. Not considering this such, I vote "ay."

The result of the vote was then announced as above stated.

Mr. RICE, of Ohio, moved to reconsider the vote by which the ninth amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DURHAM moved to reconsider the several votes by which the amendments of the Senate had been concurred in and non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ARREARS OF PENSIONS.

Mr. CUMMINGS. I move that the rules be suspended and the bill which I send to the Clerk's desk be passed.

The Clerk read as follows:

A bill to provide that all pensions on account of death, or wounds received, or disease contracted in the service of the United States during the late war of the rebellion, which have been granted, or which shall hereafter be granted, shall commence from the date of death or discharge from the service of the United States; for the payment of arrears of pensions and other purposes.

Be it enacted, &c. That all pensions which have been granted under the general laws regulating pensions, or may hereafter be in consequence of death from a cause which originated in the United States service during the continuance of the late war of the rebellion, or in consequence of wounds, injuries, or disease, received or contracted in said service during said war of the rebellion, shall commence from the date of the death or discharge from said service of the person on whose account the claim has been or shall hereafter be granted, or from the termination of the right of the party having prior title to such pension: *Provided*, The rate of pension for the intervening time for which arrears of pension are hereby granted shall be the same per month for which the pension was originally granted.

SEC. 2. That the Commissioner of Pensions is hereby authorized and directed to adopt such rules and regulations for the payment of the arrears of pensions hereby granted as will be necessary to cause to be paid to such pensioners, or if the pensioners shall have died, to the person or persons entitled to the same, all such arrears of pension as the pensioner may be or would have been entitled to under this act.

SEC. 3. That section 4717 of the Revised Statutes of the United States which provides that "no claim for pension not prosecuted to a successful issue within five years from the date of filing the same shall be admitted without record-evidence from the War or Navy Department of the injury or the disease which resulted in

the disability or death of the person on whose account the claim is made: *Provided*, That in any case in which the limitation prescribed by this section bars the further prosecution of the claim, the claimant may present, through the Pension Office, to the Adjutant-General of the Army or the Surgeon-General of the Navy, evidence that the disease or injury which resulted in the disability or death of the person on whose account the claim is made originated in the service and in the line of duty; and if such evidence is deemed satisfactory by the officer to whom it may be submitted, he shall cause a record of the fact so proved to be made, and a copy of the same to be transmitted to the Commissioner of Pensions, and the bar to the prosecution of the claim shall thereby be removed," be, and the same is hereby, repealed.

SEC. 4. That all acts or parts of acts so far as they may conflict with the provisions of this act be, and the same are hereby, repealed.

Mr. BEEBE. I would like to ask the gentleman from Iowa if he is prepared to state how many hundreds of millions of dollars this bill will take out of the Treasury?

Mr. CUMMINGS. Is debate in order?

Mr. BEEBE. I simply rise to make an inquiry.

Mr. CUMMINGS. I object to any inquiry unless it is a parliamentary one, and that of course should not be addressed to me.

Mr. RICE, of Ohio. I ask that the bill be referred to the Committee on Invalid Pensions.

The SPEAKER. That motion is not in order; the motion of the gentleman from Iowa is to suspend the rules and pass the bill.

Mr. RICE, of Ohio. I wish to state to the House—

Mr. CUMMINGS. I object to any debate whatever.

Mr. BEEBE. I desire to make an inquiry of the Chair.

The SPEAKER. The gentleman can make any parliamentary inquiry.

Mr. BEEBE. I would respectfully inquire of the gentleman from Iowa through the Chair how many millions of dollars this would take from the Treasury?

The SPEAKER. That is in the nature of an argument why the bill should not pass; the Chair cannot entertain it.

Mr. BEEBE. Then I withdraw it.

Mr. CLYMER. Would it be parliamentary to inquire whether this bill has been considered by any committee of the House?

The SPEAKER. The Chair cannot answer that question.

Mr. RICE, of Ohio. It has not.

Mr. CUMMINGS. I insist upon the regular order.

The SPEAKER. The regular order is the motion to suspend the rules and pass the bill which has been read.

Mr. McMAHON. I desire to inquire of the gentleman how this bill compares with the bill which has already been reported—

The SPEAKER. That is in the nature of debate.

Mr. CUMMINGS. I ask for the yeas and nays on my motion.

The yeas and nays were ordered.

Mr. RICE, of Ohio. I move that the House now adjourn, and on that motion I call the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 75, nays 148, not voting 58; as follows:

YEAS—75.

Beebe,	Eickhoff,	Hooker,	Robbins,
Bell,	Elam,	House,	Ross,
Bicknell,	Ellis,	Hunton,	Scales,
Boone,	Felton,	Jones, Frank,	Shelley,
Bouck,	Forney,	Jorgensen,	Singleton,
Bright,	Franklin,	Kenna,	Slemmons,
Caldwell, John W.,	Garth,	Knapp,	Smalls,
Caldwell, W. P.,	Gause,	Koert,	Smith, William E.,
Clark of Missouri,	Giddings,	Landers,	Sparks,
Clymer,	Glover,	Ligon,	Springer,
Cook,	Goode,	Lockwood,	Swann,
Cravens,	Gunter,	Lynde,	Throckmorton,
Crittenden,	Hardenbergh,	Manning,	Tucker,
Cutler,	Harris, Henry R.,	Money,	Turney,
Davidson,	Harris, John T.,	Morrison,	Vance,
Davis, Joseph J.,	Hartridge,	Muldrov,	Wigginton,
Dibrell,	Hatcher,	Muller,	Williams, Jere N.,
Durham,	Henry,	Reagan,	Yeates,
Eden,	Hewitt, G. W.,	Riddle,	

NAYS—148.

Acklen,	Campbell,	Freeman,	Lindsey,
Aiken,	Cannon,	Frye,	Luttrell,
Aldrich,	Carlisle,	Fuller,	Marsh,
Bacon,	Caswell,	Gardner,	Mayham,
Bagley,	Claffin,	Garfield,	McGowan,
Baker, John H.,	Clarke of Kentucky,	Hale,	McKenzie,
Baker, William H.,	Clark, Rush,	Hamilton,	McKinley,
Ballou,	Cobb,	Harmer,	McMahon,
Banks,	Cole,	Harris, Benj. W.,	Metcalfe,
Banning,	Conner,	Hartzell,	Monroe,
Bayne,	Covert,	Haskell,	Morgan,
Bebee,	Cox, Jacob D.,	Hazelton,	Neal,
Blackburn,	Crapo,	Hendee,	Norcross,
Blair,	Culbertson,	Henderson,	Oliver,
Bliss,	Cummings,	Henkle,	Page,
Boyd,	Danford,	Hewitt, Abram S.,	Patterson, G. W.,
Brentano,	Davis, Horace,	Hiscock,	Phelps,
Brewer,	Deering,	Humphrey,	Phillips,
Briggs,	Denison,	Hunter,	Pollard,
Brogden,	Dickey,	Ittner,	Pound,
Browne,	Dunnell,	Jones,	Price,
Buckner,	Eames,	Jones, James T.,	Pugh,
Bundy,	Ellsworth,	Jones, John S.,	Rainey,
Burchard,	Evans, I. Newton,	Joyce,	Randolph,
Burdick,	Evans, James L.,	Keifer,	Reed,
Butler,	Finley,	Keightley,	Rice, Americus V.,
Cain,	Fort,	Ketcham,	Rice, William W.,
Calkins,	Foster,	Lathrop,	Robinson, M. S.,

Ryan,	Stone, Joseph C.,	Wait,	Williams, Andrew
Sampson,	Strait,	Walsh,	Williams, C. G.
Sapp,	Thompson,	Ward,	Williams, Richard
Saylor,	Tipton,	Warner,	Willie, Albert S.
Sexton,	Townsend, Amos,	Watson,	Willis, Benj. A.
Sinnickson,	Townsend, M. I.,	Welch,	Willits,
Starin,	Townsend, R. W.,	White, Harry	Wilson,
Stewart,	Turner,	White, Michael D.	Wren,
Stone, John W.,	Van Vorhes,	Williams, A. S.	Wright.

NOT VOTING—58.

Atkins,	Errett,	Maish,	Robertson,
Benedict,	Evins, John H.,	Martin,	Robinson, G. D.
Blair,	Ewing,	McCook,	Schlesinger,
Blount,	Gibson,	Mills,	Shallenberger,
Bragg,	Hanna,	Mitchell,	Smith, A. Herr
Bridges,	Harrison,	Morse,	Southard,
Cabell,	Hart,	O'Neill,	Steele,
Camp,	Hayes,	Overton,	Stenger,
Candler,	Herbert,	Patterson, T. M.,	Stephens,
Chalmers,	Hubbell,	Peddle,	Thornburgh,
Chittenden,	Hungerford,	Potter,	Veeder,
Clark, Alvah A.,	Kelley,	Powers,	Waddell,
Collins,	Killingier,	Pridemore,	Walker,
Cox, Samuel S.,	Kimmel,	Quinn,	Whitthorne,
Dean,	Lapham,	Rea,	Williams, James
Douglas,	Loring,	Reilly,	Wood,
Dwight,	Mackey,	Roberts,	Young.

So the motion to adjourn was not agreed to.

During the call of the roll the following announcements were made:

Mr. HARRIS, of Virginia. My colleagues, Mr. PRIDEMORE and Mr. JORGENSEN, are paired on all political questions. Mr. PRIDEMORE is detained at home by illness in his family.

Mr. FOSTER. I am paired on all political questions with Mr. WADDELL, of North Carolina. As I do not regard this a political question, I will vote in the negative.

Mr. PATTERSON, of Colorado. I am paired with Mr. ERRETT, of Pennsylvania.

Mr. MARTIN. I am paired with Mr. HUBBELL, of Michigan.

The result of the vote was then announced as above stated.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, without amendment, a joint resolution of the House of the following title:

A joint resolution (H. R. No. 142) making an appropriation for filling up, draining, and placing in good sanitary condition the grounds south of the Capitol along the line of the old canal, and for other purposes.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House was requested, a bill of the House of the following title:

A bill (H. R. No. 3987) to regulate the advertising of mail-lettings.

The message further announced that the Senate had passed and requested the concurrence of the House in a bill of the following title:

A bill (S. No. 1014) requiring the commissioner for preparing and publishing a new edition of the Revised Statutes of the United States to revise and perfect the index to the first volume of the same.

ARREARS OF PENSIONS.

The question recurred on the motion of Mr. CUMMINGS to suspend the rules and pass the bill indicated by him.

Mr. SPRINGER. Has this bill been reported from the Committee on Invalid Pensions?

Mr. RICE, of Ohio. It has not been; the committee have matured a bill of like import.

Mr. CUMMINGS. I object to debate and insist on the regular order.

Mr. SPRINGER. In order that we may have an opportunity to ascertain what this bill is, I move that the House now adjourn.

The SPEAKER. That motion is not now in order.

Mr. SPRINGER. Business has intervened since the last motion to adjourn was decided.

The SPEAKER. What business?

Mr. SPRINGER. The bill has been read.

The SPEAKER. That was for the information of the House.

Mr. BEEBE. Has not the House received a message from the Senate since the last motion to adjourn? And is not that business of so much importance that it even necessitates the chairman of the Committee of the Whole leaving the chair?

The SPEAKER. The Chair will direct the Clerk to read Rule 161, which is very plain.

The Clerk read as follows:

Pending a motion to suspend the rules, the Speaker may entertain one motion that the House do now adjourn; but after the result thereon is announced he shall not entertain any other dilatory motion till the vote is taken on suspension.

Mr. SPRINGER. A motion to adjourn is not necessarily a dilatory motion.

The SPEAKER. The Clerk will read from page 151 of the Digest.

The Clerk read as follows:

A motion to adjourn may be repeated, although no question has been put or decided since the former motion, but there must have been some intervening business. Another motion submitted, progress in debate, or reading a paper by the Clerk, an order of the yeas and nays, &c., has been considered "such intervening business" as will authorize the repetition of the motion to adjourn.

The SPEAKER. The Chair does not think that a message from the Senate ever has been considered as "intervening business" in the sense of the rule.

Mr. SPRINGER. The reading of the bill is intervening business according to the rule.

The SPEAKER. The bill was read for the information of the House, being the bill upon which the House was about to vote, and it was entirely within the right of any single member to call for its reading.

Mr. WILSON. I desire to ask the gentleman offering this bill one question.

Mr. CUMMINGS. Regular order!

The SPEAKER. The gentleman declines to answer the question, and demands the regular order. The Clerk will call the roll.

The question was taken; and there were—yeas 146, nays 76, not voting 69; as follows:

YEAS—146.

Aldrich,	Deering,	Lathrop,	Sexton,
Bacon,	Denison,	Lindsey,	Sinnickson,
Bailey,	Diekey,	Lockwood,	Smalls,
Baker, John H.	Dunnell,	Luttrell,	Sparks,
Baker, William H.	Eames,	Marsh,	Springer,
Ballou,	Ellsworth,	McGowan,	Siarin,
Banks,	Evans, James L.	McKinley,	Stewart,
Banning,	Ewing,	McMahon,	Stoge, John W.
Bayne,	Finley,	Metcalfe,	Stone, Joseph C.
Bisbee,	Fort,	Mitchell,	Straight,
Blair,	Freeman,	Monroe,	Thompson,
Bliss,	Frye,	Morgan,	Tipton,
Bonck,	Fuller,	Morrison,	Townsend, Amos
Boyd,	Gardner,	Neal,	Townsend, M. I.
Brentano,	Garfield,	Norcross,	Townsend, R. W.
Brewer,	Hale,	Oliver,	Turner,
Briggs,	Hamilton,	Page,	Turney,
Brogden,	Harmer,	Patterson, G. W.	Van Vorhes,
Browne,	Harris, Benj. W.	Patterson, T. M.	Wait,
Burchard,	Hartzell,	Phelps,	Walsh,
Burdick,	Haskell,	Phillips,	Ward,
Butler,	Hazleton,	Pollard,	Warner,
Cain,	Hendee,	Pound,	Watson,
Calkins,	Henderson,	Powers,	Welch,
Campbell,	Hiscock,	Price,	White, Harry
Cannon,	Hunter,	Pugh,	White, Michael D.
Clavin,	Humphrey,	Quinn,	Williams, Andrew
Clark, Rush	Itiner,	Rainey,	Williams, A. S.
Clymer,	James,	Randolph,	Williams, C. G.
Cobb,	Jones, John S.	Reed,	Williams, Richard
Cole,	Jorgensen,	Rice, Americus V.	Willis, Benjamin A.
Conger,	Joyce,	Rice, William W.	Willits,
Craigo,	Keifer,	Robinson, M. S.	Wilson,
Cummings,	Keightley,	Ross,	Wren,
Cutler,	Keuna,	Ryan,	Wright,
Danford,	Ketcham,	Sampson,	
Davis, Horace	Knapp,	Sapp,	

NAYS—76.

Acklen,	Culberson,	Harris, Henry R.	McKenzie,
Aiken,	Davidson,	Harris, John T.	Money,
Bell,	Davis, Joseph J.	Hart,	Morse,
Bicknell,	Dibrell,	Hartridge,	Muldrow,
Blackburn,	Durham,	Hatcher,	Rea,
Boone,	Eden,	Henry,	Reagan,
Bright,	Eickhoff,	Hewitt, Abram S.	Riddle,
Buckner,	Elam,	Hewitt, G. W.	Robbins,
Caldwell, John W.	Ellis,	Herbert,	Scales,
Caldwell, W. P.	Felton,	Hooker,	Shelley,
Carlisle,	Formey,	House,	Singletton,
Clark of Missouri,	Franklin,	Huntton,	Slemmons,
Clarke of Kentucky,	Garth,	Jones, Frank	Smith, William E.
Cook,	Gause,	Jones, James T.	Throckmorton,
Covert,	Giddings,	Knott,	Tucker,
Cox, Jacob D.	Glover,	Ligon,	Vance,
Cox, Samuel S.	Goode,	Lynde,	Wigginton,
Cravens,	Gunter,	Manning,	Williams, Jere N.
Crittenden,	Hardenbergh,	Mayham,	Yeates.

NOT VOTING—69.

Atkins,	Dwight,	Mackey,	Smith, A. Herr
Beebe,	Errett,	Maish,	Southard,
Benedict,	Evans, I. Newton	Martin,	Steele,
Bland,	Evins, John H.	McCook,	Stenger,
Blount,	Foster,	Mills,	Stephens,
Bragg,	Gibson,	Muller,	Swann,
Bridges,	Hanna,	O'Neill,	Thornburgh,
Bundy,	Harrison,	Overton,	Veeder,
Cabell,	Hayes,	Peddie,	Waddell,
Camp,	Henkle,	Potter,	Walker,
Candler,	Hubbell,	Pridemore,	Whitborne,
Caswell,	Hungerford,	Reilly,	Williams, James
Chalmers,	Kelley,	Roberts,	Willis, Albert S.
Chittenden,	Killinger,	Robertson,	Wood,
Clark, Alvah A.	Kimmel,	Robinson, G. D.	Young.
Collins,	Landers,	Saylor,	
Dean,	Lapham,	Schleicher,	
Douglas,	Loring,	Shallenberger,	

So (two-thirds not voting in favor thereof) the rules were not suspended.

During the roll-call the following announcements were made:

Mr. AIKEN. My colleague from South Carolina, Mr. EVINS, is paired on all questions of this kind with the gentleman from New York, Mr. MCCOOK. My colleague, if present, would vote "no."

Mr. LANDERS. I am paired with the gentleman from Massachusetts, Mr. ROBINSON.

Mr. EVANS, of Pennsylvania. I am paired with my colleague, Mr. MACKAY. I desire also to announce that my colleague, Mr. O'NEILL, is paired with my colleague, Mr. STENGER. Mr. O'NEILL, if present, would vote "ay." My colleague, Mr. Smith, of Pennsylvania, is paired with the gentleman from Tennessee, Mr. ATKINS.

Mr. FOSTER. I am paired with the gentleman from North Caro-

lina, Mr. WADDELL. His colleagues have generally voted "no" on this question. If he were present, I should vote "ay."

Mr. BALLOU. The gentleman from Pennsylvania, Mr. SHALLENBERGER, is paired with his colleague, Mr. MAISH. Mr. SHALLENBERGER, if present, would vote "ay."

Mr. MITCHELL. My colleagues, Mr. OVERTON and Mr. REILLY, are paired.

Mr. BAYNE. The gentleman from New York, Mr. DWIGHT, is paired with my colleague, Mr. BRIDGES.

Mr. STRAIT. On all political questions I am paired with the gentleman from Delaware, Mr. WILLIAMS. This does not seem to be a party vote, and I vote "ay."

Mr. THOMPSON. I desire to announce that my colleague, Mr. ERRETT, is absent by leave of the House. If he were here, he would vote "ay."

Mr. MULDEROW. My colleague, General CHALMERS, is paired with the gentleman from Wisconsin, Mr. CASWELL.

Mr. CASWELL. If the friends of General CHALMERS regard this as a political question I withdraw my vote. I have voted "ay."

Mr. MARTIN. I am paired with the gentleman from Michigan, Mr. HUBBELL.

Mr. BOYD. My colleague, Mr. HAYES, is paired with the gentleman from North Carolina, Mr. STEELE. Mr. HAYES, if present, would vote "ay."

The result of the vote was announced as above stated.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. GARFIELD for one week.

J. B. CORNELL AND OTHERS.

Mr. BANNING, (by request,) by unanimous consent, introduced a bill (H. R. No. 4224) for the relief of J. B. Cornell and others; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

CASSA ANN COTTRILL.

Mr. WILSON, by unanimous consent, introduced a bill (H. R. No. 4225) granting a pension to Cassa Ann Cottrill; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

Mr. FOSTER. I move that the House now take a recess.

The motion was agreed to; and accordingly (at four o'clock and thirty minutes p. m.) the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

The SPEAKER. By order of the House, the House this evening is in session as in Committee of the Whole for debate only, no business whatever to be transacted. The gentleman from Iowa [Mr. PRICE] will occupy the chair as Speaker *pro tempore*.

PERSONAL EXPLANATION.

Mr. PHELPS. Mr. Speaker, I rise for a personal explanation. In the printed testimony which accompanies the report of the Committee on Civil Service Reform upon certain charges some time since preferred against the Doorkeeper of this House, I notice some allusions to his New England appointments, and to the action of myself and one or two other Representatives from New England with reference to them. I had no opportunity to appear before the committee, and until within a few days, and long since the close of the investigation and the publication of the testimony, had no knowledge of the statements which had been made. When they were brought to my attention I asked of the committee the privilege of testifying, and was informed it was then too late and advised to make my statement to the House, which I have been waiting to do when the report came up for consideration. The House on Thursday last refused to consider the report, and the chairman informs me it is very uncertain when it will be taken up. I therefore now ask the indulgence of the House for a few moments.

The matter to which I particularly wish to call attention has only an unimportant bearing on the question of the official propriety of Mr. Polk, and is not even noticed by the committee in their report, and I make the explanation only for the purpose of correcting several misstatements with reference to myself, my colleague, [Mr. LANDERS,] and my friend from New Hampshire, [Mr. JONES,] which appear in the printed document purporting to contain the testimony taken in the case.

So far as I have any knowledge of those appointments and of any matters connected with them, it is briefly this: immediately after Mr. Polk's nomination Mr. Holt called on me and stated that he was a friend of Mr. Polk and had assisted him in his canvass for the nomination, and that with the indorsement of the Connecticut delegation he could have an appointment as messenger. Upon this statement I was satisfied no other person from my district could obtain a place, and I interested myself so far as to procure the indorsement he asked for, and he was appointed.

The matter remained in that condition until, in consequence of an excess of appointments by the Doorkeeper, it became necessary to reduce the number and revise the roll, when I was shown by Mr. Polk a printed list, giving to New England three appointments, namely, a

soldier, a fireman, and a laborer. On this list the name of Mr. Holt appeared as a soldier and Mr. Prescott, of New Hampshire, and Mr. McDowell, of Connecticut, as fireman and laborer. I immediately stated to Mr. Polk that I thought Holt was incorrectly designated as a soldier, and that unless the mistake was corrected it would lead both himself and Holt into difficulty. He said Holt represented to him that he was a soldier and was entitled to that designation. I replied that I would see him and ascertain positively about it. I did so and found that my impression was correct. I reported at once to Mr. Polk, and he promptly made the necessary change by substituting the name of Prescott for that of Holt and entering Holt as fireman. In first placing Holt on the soldiers' roll, I have no doubt he acted in good faith. After the change was made, which considerably reduced the compensation of Holt, I stated to him I was confident Mr. Polk had done the best he could for him, and advised him to be satisfied. He said the pay was small, but he thought an arrangement could be made with McDowell and Prescott to equalize their salaries and have it satisfactory to them all.

Now, right in this place I wish to refer to the printed report of the testimony on page 100, in which Mr. Polk is represented as saying that he had several interviews with my colleague and myself in which we said to him that we would oblige Holt, Prescott, and McDonnell to equalize their compensation. I am unwilling to believe that Mr. Polk intended to misstate the facts and misrepresent my colleague and myself. In the number of his appointments, the variety of circumstances attending them, and the constant solicitation, annoyance, and vexation he experienced, it is not strange that he should have failed several months afterward to accurately remember with regard to this particular case. It is perhaps more strange that he should have been able to correctly remember and relate so much connected with the numerous parties and transactions involved in the difficult administration of his office. The truth, however, so far as I am concerned, is that there were no such interviews and statements, and my colleague assures me he knew of none and in that part of his testimony Mr. Polk is entirely in error. What he there says about another and prior agreement between Prescott and McDonnell to divide their compensation equally is something of which I never before heard and have no knowledge.

That whatever arrangements were entered into with regard to exchanging duties and equalizing pay were purely voluntary, and suggested and made wholly by and among the appointees, without the intervention of Mr. Polk, and without the advice, participation, or influence of any one else, seems clearly established. McDonnell and Prescott both testify to it. Holt appears to have stated differently, but in a recent conversation with me, in which I called his attention to the printed statement of his testimony, he said he was incorrectly reported, and was willing at any time to make affidavit that the arrangement was in fact entirely voluntary and among themselves, and that no one else suggested or advised or had any part in making it. I never saw Prescott but once, and then he was simply introduced to me, and nothing was said on this subject; and I never exchanged a word with either himself, McDonnell, or Holt with reference to any arrangement about their pay, and never counseled or advised any. My colleague informs me that the paper which was drawn by him after the parties had concluded their arrangement was written at the request of Prescott, and for the sole purpose of furnishing and preserving evidence of their mutual agreement in the event of a future misunderstanding between them.

The agreement appears to have been perfectly voluntary and satisfactory between the appointees, and so far as I can see was fair and just and was one which for their mutual interest and convenience they had both a legal and moral right to make. It can certainly reflect no discredit on Mr. Polk, and the committee have not found that it does; and having been made without the advice or participation of the gentlemen who as members of this House recommended those persons for appointment they cannot be justly prejudiced by it.

ORDER OF DEBATE.

Mr. ELLSWORTH. I am willing to yield to the gentleman from Iowa [Mr. CUMMINGS] if I can have the floor after him and do not lose my place beyond reach.

Mr. HEWITT, of Alabama. If the gentleman he is yielding to is to occupy an hour, I object, unless his name is down upon the list before mine.

Mr. ELLSWORTH. I only change places with him; that is all. It will not make any difference so far as the gentleman from Alabama is concerned.

The SPEAKER *pro tempore*. The names of the gentleman from Michigan and of the gentleman from Iowa are down before the gentleman from Alabama.

Mr. ELLSWORTH. It is only changing places.

SHALL SOUTHERN WAR CLAIMS BE PAID?

Mr. CUMMINGS. Mr. Speaker, we have loud and frequent professions of a desire to economize the expenditure of the people's money, and to reduce the burden of taxation, coming from the other side of this House. We have heard it time and again, loudest when the Army and Navy are under consideration, weakest when we have before us bills looking to the payment of southern claims, southern mail contractors, or voting money to be expended in that portion of our country lately in rebellion.

The other side of this House is striving with might and main to restore to the pension-roll pensioners of the Mexican war who were dropped because of their disloyalty, and this very day the democrats of this House defeated a proposition I had the honor to offer, to grant arrears of pensions to crippled and infirm Union soldiers, their widows and orphans.

Sir, it is time the country knows, if it does not already, of the thousands of demands growing out of the late civil war, or for the special advantage of Southern States, now made upon the Government. Why, Mr. Speaker, we are talking of repealing the bankrupt law, but if these claims and demands or a tithe of them are to be paid, it is time we were enacting a bankrupt law for the nation, for their payment will not only bankrupt the national Treasury, but half the taxpayers of the country. Deluge—ay, that is the right word—a deluge of claims has come upon us. Mr. Delano, afterward Secretary of the Interior, when a member of this House truly said, speaking of the payment of these claims:

It would result, I think, in shaking the credit of the nation. It would place us in a condition of liability, I imagine, vastly beyond our capacity of endurance.

I could not, sir, enumerate them all if I would; and, if I could, the hour allotted me would not be sufficient for the purpose.

STATEMENT OF THE SOUTHERN DEMANDS.

Permit me to particularize but a portion of them:

First came the demand for \$18,000 for the use during the war of a mill at Alexandria, Virginia.

Then the bill restoring to the pension-roll Mexican pensioners who were dropped because of their disloyalty.

The joint resolution to pay southern mail-contractors \$375,000 was fought for with savage energy. Defeated once in the House, it is again before the Committee of Claims.

A bill is before us proposing to restore to those who were in rebellion, on payment of principal, interest, and costs, their real estate the title to which vested in the Government under the laws it passed for the collection of taxes. This would restore to the heirs of the confederate leader, Lee, Arlington Heights, the burial-ground of the nation's patriotic dead, over whom is raised the nation's tablet bearing these everlasting words:

On fame's eternal camping-ground
Their silent tents are spread,
And glory guards with solemn round
The bivouac of the dead.

The Texas Pacific scheme, for the especial benefit of the South, represents \$30,000,000 or more.

Bills are pending for improvements of southern rivers and harbors, other than the Mississippi River, appropriating over \$5,000,000.

The refunding of the cotton tax involves \$68,000,000.

I give, in the following table, the amounts which would go to certain States under the bill:

Alabama	\$10,388,072 10
Arkansas	2,535,638 43
Florida	918,944 38
Georgia	11,897,694 38
Kentucky	553,337 45
Louisiana	10,098,501 00
Maryland	51,349 52
Mississippi	8,742,985 93
Missouri	592,098 36
North Carolina	1,959,704 87
South Carolina	4,172,420 16
Tennessee	7,873,460 71
Texas	5,510,401 25
Virginia	825,856 87
Iowa, (my own State)	27

The establishment of the doctrine now urged, that amnesty and pardon restores the right to compensation for the value of cotton seized by the Government, means how many millions upon millions? No one can tell. A bill is pending providing specifically for the payment for cotton seized since May 29, 1865, shortening the date now fixed as the end of the war, and it involves a large amount.

The demand for compensation for tobacco likewise seized is already looming up. Claims to the amount of over \$25,000,000 are pending before the southern claims commission.

The clamor for remission of the Federal tax imposed upon the Southern States, but not paid, will not be forgotten. A bill is before us to return such portion of that tax as has been paid by citizens of States which were in rebellion. Twelve thousand claims are pending in the Quartermaster-General's Office. I cannot tell how many are before the Departments.

The amount covered into the Treasury February 27, 1874, for captured and abandoned property was \$24,251,269. All this has found or will find claimants, and an effort is being made for its distribution by law. I am assured there were pending before the Committee on War Claims of this House on the 4th of March this year nearly twelve hundred special relief bills for independent war claimants from Southern States, involving the amounts stated:

Alabama	\$127,885
Arkansas	384,000
District of Columbia	156,000
Florida	32,000
Georgia	463,652
Kentucky	620,490
Louisiana	411,610
Maryland	228,254

Mississippi	189,908
Missouri	124,588
North Carolina	175,661
Tennessee	724,676
Texas	673,376
Virginia	232,662
West Virginia	247,730

And the end is not yet, for on every bill-day the number increases with wonderful rapidity.

It has been said our southern brethren wanted a "peace." Does it not look as if they were after the whole?

What means the antagonism to the southern claims commission? Is it because it is necessary to establish loyalty in that tribunal? Why propose an enlargement of the time for filing claims growing out of the war? Why attempt to designate an earlier date than now named as the end of the rebellion?

Is it not time for the country to become alarmed, and see to it that this House—as the other branch of the legislative department, after March 4, 1879, passes, without a doubt, under the control of the democracy—that this House has returned to it a majority of that party which resists this flood of claims? Is the defunct confederacy to be permitted in this way to make good the losses caused by the war? Is it to provide the means for such payment the democracy has, in the name of economy, in times like these, suspended necessary work upon public buildings and public enterprises, and, by throwing laborers idle, helped to make the cry for employment more loud?

As a step in the direction of paying these claims, is that the reason an effort is being made to repeal the law which provides that no one who aided the rebellion shall have a place upon the pension-roll; to declare by solemn enactment of law that hereafter loyalty shall in all cases be presumed?

A PRECEDENT TO BE MADE.

That the losses resulting from the war may find a legislative precedent for payment, it is sought under the guise of the Mexican pension bill to establish the doctrine that those who aided the rebellion are restored to all their lost rights; that the Constitution guarantees to those who are or were disloyal full compensation for property captured during war by the Government or used or destroyed by its armies?

The theory so ingeniously advanced by the Pension Committee will do this.

That report first asserts that the pensioners who were dropped from the pension-roll because of disloyalty have a *property right* in their pensions. The committee says:

The pensions of soldiers disabled in the line of duty are in no sense a gratuity. * * * It has every ingredient of a contract * * * and became a perfect vested right, as much as any bond he may have held on the Government or other choses in action which he may have owned.

Then, upon the effect of the general pardon granted by President Johnson in 1868, the committee adds:

It released them (those who were disloyal) not only from all penalties incurred by reason of their "participation in the rebellion against the authority of the United States," but it absolutely and forever "blotted out," "obliterated" and effaced the offense—

Wonderful admission!

the offense itself, and made them, in contemplation of law, wholly "innocent" and loyal citizens.

If it be true, as claimed, (but more of this hereafter,) that pardon closes the judicial eye, it is fortunate, indeed, that the Legislature did not go blind.

DEMANDED AS A CONSTITUTIONAL RIGHT.

The committee then makes this astounding declaration:

The obligation of the Government to pay the invalid soldiers of the South—

Those who fought, some for but fourteen days, to save the nation they for four long years afterward sought to destroy; who helped to impose upon the country our billions of national debt; who made necessary our grievous taxation; who precipitated upon our people the financial crisis now carrying so much of suffering to them.

But to return to the report:

The obligation of the Government to pay the invalid soldiers of the South their pensions for their disabilities incurred in its defense is as sacred and obligatory as its engagement to the widows and orphans of the soldiers who fell in the UNION ARMY. * * * Neither can be refused without national perfidy.

Is the country ready to make such a precedent? Will it submit to the establishment of the doctrine that pardon reinvests the title to property captured during the war in its former owner; that the Constitution provides that property taken by the Government for public use under such circumstances shall be paid for, that the "wholly innocent and loyal (by grace) citizen" shall have compensation; that every rail taken after a long and toilsome march through mud and rain, when no other fuel was at hand to build a fire to cook a cup of coffee or warm half-frozen soldiers, the Government shall pay for; that when rebel cavalry captured supply trains and our details drove in cattle or hogs to supply the loss and feed our soldiers, that these cattle and hogs shall be paid for; that when mules and horses had given out after long marches and much hard work, and their places were supplied by those taken by quartermasters from plantations whose owners were wearing the gray, they shall be paid for; that rent shall be paid for houses used to shelter sick or wounded or dying soldiers of

the Republic; that cotton piled up as a breastwork to shield the boys in blue from the rifle-ball of its owner shall be compensated for? I might go further, but I have gone far enough.

Those who sustained the Government in its great struggle are not ready for such an interpretation of law, nor to establish a precedent for such a following, and it is time their Representatives should awaken those who have been lulled to sleep by the siren song of "conciliation" to the dangers before them. They are willing to let bygones be bygones; they are willing to extend the hand of welcome back to loyalty; they are willing to greet you as brothers and move on together for a grander future for our common country; they are willing to "conciliate," but are not willing that the conciliation shall all be upon one side, and they will never—no, never—acknowledge that the gray was right; the wrong, the blue.

But, sir, is it true that the Government is under moral or legal obligation to pay these claims? Does the fifth amendment to the Constitution provide that war claims of this character shall be paid? I undertake to answer each of these questions in the negative, and I shall give my reasons therefor.

THE LAWS OF WAR RECOGNIZED BY THE CONSTITUTION.

The Constitution itself recognizes that when the condition of war exists *martial law is constitutional law*. Whiting, in his War Powers, (page 56,) thus states it:

In war, when martial law is in force, the laws of war are the laws which the Constitution expressly authorizes and requires to be enforced. The Constitution, when it calls into action martial law, for the time changes civil rights, or rights which the citizen would be entitled to in peace, because the rights of persons in one of these cases are totally incompatible with the obligations of persons in the other.

In other words, martial law, or the laws of war, when in force, are constitutional laws. You may assume, instead, that the Constitution recognizes during a state of war a law higher than itself, and it will only strengthen my argument. There are many authorities going to that extent. I may quote some of them.

Many rights held sacred by the Constitution are held in abeyance when war is raging. Freedom of speech may be suspended, freedom of the press interfered with, life taken without trial by jury, property seized without due process of law.

Here, then—

Says Lawrence, in his Law of Claims, (page 215)—
in the Constitution are two systems of laws, each having a purpose.

Says Whiting, (War Powers, page 51:)

Both systems of law cannot have full or exclusive force, effect, and operation at the same time and place over the same rights of persons and property.

On this Mr. Lawrence, in his Law of Claims, (page 216,) thus comments:

But where war is actually flagrant, or a state of war and the exercise of military authority exist, the laws of war prevail.

The Government of the United States recognized this doctrine when it clothed Andrew Johnson with military power, creating him an officer of the Army and appointing him military governor of Tennessee. The same was true when Mr. Stanley was made the provisional military governor of North Carolina. Other instances might be cited. The Articles of War for the government of the Army are a recognition thereof by the Congress of the United States. The President's proclamation of August 16, 1861, was based upon the idea that at war the civil law gives place to the laws of war.

The supreme court of Pennsylvania said as early as 1788, (1 Dallas, 362:)

Many things are lawful in that season (*flagrante bello*) which would not be permitted in time of peace.

The supreme court of Georgia held, (9 Georgia, 348:)

Those who seize the property are not trespassers, and there is no relief but by petition to the Legislature. * * * For example, the pulling down of houses and raising bulwarks for the defense of the State against the enemy; seizing corn and other provisions for the sustenance of an army in time of war; or taking cotton bales, as General Jackson did at New Orleans, to build ramparts against an invading foe.

The supreme court of New Jersey decided, (3 Zab., 605:)

The right arising out of extreme necessity is a natural right older than States. * * * It is the right of self-defense, of self-preservation, and has no connection whatever with the right of eminent domain. The one may be fettered by constitutional limitations; the other is beyond the reach of constitutions.

Says Whiting, (War Powers, p. 46:)

The law of nations is above the constitution of any government.

It is, then, to the law of nations we are to look, rather than to the Constitution, to determine whether these war claims are or are not in all good conscience to be paid.

THE REBELLION WAS A WAR.

The pertinent questions are: (1) Was the late rebellion a war? (2) Is a civil war governed by the law of nations? (3) What is the law of nations so far as the same is applicable to the question before us?

1. Was the late rebellion a war?

I need spend but few words upon this proposition. The Supreme Court in the prize cases, reported in 2 Black, 636, expressly held that the country was in a state of war. It was so recognized by the laws of Congress, foreign treaties, and by the executive authority of the United States.

2. Does the law of nations govern a civil war?

Vattel, in his Law of Nations, (section 374,) says:

Whenever a numerous party thinks it has a right to resist the sovereign, and finds itself able to declare that opinion, sword in hand, the war is to be carried on between them in the same manner as between two different nations.

Our Supreme Court has held, (2 Black, 636 :))

The present civil war between the United States and the so-called Confederate States has such a character and magnitude as to give the United States the same rights and powers which they might exercise in case of a national or foreign war.

Again:

It is not the less a civil war, with belligerent parties in hostile array, because it may be called an "insurrection" by one side, and the insurgents be considered as rebels or traitors.

The courts go further than this, even to say that rebels in a civil war are entitled to less rights than the foreign enemy. Lawrence states it thus, (Law of Claims, page 211:)

It may be proper to say, first, however, that the power of a nation over its own rebel citizens is greater in a civil war than over alien enemies, because over the former it "may exercise both belligerent and sovereign rights," [citing 2 Black 633, 4 Cranch 272:] that is, the belligerent rights of war, and the sovereign right to confiscate and punish for treason, while over alien enemies it can only exercise belligerent rights.

3. What is the law of nations?

Justice Grier, in the prize cases heretofore cited, says:

The law of nations is also called the law of nature; it is founded on the common consent as well as the common sense of the world.

Whiting adds, (War Powers, 47:)

In the great tribunal of nations there is a "higher law" than that which has been framed by either one of them, however sacred to each its own peculiar laws and constitution of government may be.

WHAT IS THE LAW OF NATIONS?

What, then, is the law of "common sense" bearing upon these war claims? What may a nation do in civil war? What are the laws of war?

Vattel gives this answer, (section 161:)

A nation has the right to deprive the enemy (still more one in insurrection against his government) for his possessions and goods. * * * All movable things belong to the sovereign making war. * * * His soldiers, and even the auxiliaries, are only instruments in his hands for asserting his rights.

Halleck says:

War * * * gives to one belligerent the right to deprive the other of everything which might add to his strength and enable him to carry on hostilities. (Page 447.)

In the first place we may seize upon private property by way of penalty for the illegal acts of individuals or of the community to which they belong. (Ib., ch. 19, section 14.)

In the second place we have a right to make the enemy's country contribute to the expenses of the war. (Ib., ch. 19, section 15.)

Says an eminent writer:

It seems clear that on the principles of the laws of war—the generally accepted law of nations—the Government has the right in an insurrectionary district or an "enemy's country" to take and use whatever may be necessary for the convenience or support of the army.

In the treaty of peace between the United States and Great Britain, following the Revolutionary war, two articles were agreed upon providing that further hostilities to the Tories should cease and that Congress should earnestly recommend to the States the restitution of their estates to such persons as could be proved to be real British subjects and such Americans as had not borne arms against the United States. This speaks volumes upon the question of the right to seize the estates of rebels and enemies and its duty to make compensation.

The gentleman from Massachusetts, [General BUTLER,] in a letter written to Hon. William Lawrence, then a member of this House, in 1874, said:

An army cannot hold a city without occupying some portion of it; and if they do so that is one of the incidents of war, and gives no contract, explicit or implied, against the Government of the occupying army.

The Supreme Court of the United States held, (2 Black, 671, 674:)

The right of one belligerent not only to coerce the other by direct force, but also to cripple his resources by the seizure or destruction of his property, is a necessary result of a state of war. Money and wealth, the products of agriculture and commerce, are said to be sinews of war, and as necessary in its conduct as numbers and physical force.

THE AMERICAN DOCTRINE.

Alexander Hamilton thus stated the early American doctrine upon this question of international law:

According to the laws and usages of nations, a State is not obliged to make compensation for damages done to its citizens by an enemy, or wantonly or unauthorized by its own troops.—*American State Papers, Claims*, 199.

Judge Kent, (1 Kent's Commentaries, page 59,) commenting upon the decision of the Supreme Court in *Brown vs. United States*, says:

The broad principle was assumed that war gave to the sovereign the full right to take the persons and confiscate the property of the enemy whenever found.

Halleck, in his *International Law*, (page 447,) states it thus:

It will hereafter be shown that a firm possession is sufficient to establish the captor's title to personal or movable property captured on land.

Whiting (War Powers, pages 48, 52) expresses himself in these words:

Capture passes title.

Nothing in the Constitution interferes with the right of confiscation of enemy's property.

Whatever of their rights of property are lost in and by wars are lost forever.

The Army regulations, enacted by Congress, provide:

All property lawfully taken from the enemy or from the inhabitants of an enemy's country instantly becomes public property, and must be used and accounted for as such.

We have thus reached these conclusions: The rebellion was civil war. Civil wars are governed by the law of nations. The law of nations gives to the captor property captured from an enemy. Property lost in war is lost forever.

Having controverted, it seems to me successfully, the premises insisted upon, the conclusion reached that the fifth amendment to the Constitution gives to pardoned rebels the right to demand compensation for their private property captured and taken for public use in the effort of the Government to subdue them as rebels and to crush out their rebellion cannot be true.

COMPENSATION NOT REQUIRED TO BE MADE AN ENEMY.

The original Constitution did not provide for compensation under any circumstances for private property taken for public use. That was done by way of amendment, but that amendment applies to a condition of peace. The rights guaranteed by the Constitution are different in peace than in war. We have instanced the freedom of speech, of the press, of personal liberty, trial by jury, and due process of law. That the fifth amendment is intended to confer a civil right, a peace power, see Halleck's *International Law*, page 124.

The supreme court of Georgia, (9 Georgia, 341,) in the case before referred to, wherein reference was made to the use by General Jackson of cotton bales, used these words:

It is not doubted but that there are cases in which private property may be taken for public use without the consent of the owner, and without compensation, and without any provision of law for making compensation.

I have been stating the general principles governing in a state of war. I do not controvert the position that a government through its legislature may modify these provisions, and that such modification would be binding upon its army. The Government by law could restore the proceeds of captured and abandoned property if it should so enact. Nor do I deny that conditions can be annexed to the offer of pardon. It has, however, been held (4 Wall., 381) that a pardon does not restore property or interests vested in others.

THE EFFECT OF THE PRESIDENT'S PARDON.

The pardon and general amnesty offered by President Johnson on Christmas, 1865, was not an unconditional one; it contained this important exception:

Except also as to any property of which any persons may have been legally divested under the laws of the United States.

It has been shown that the laws of nations are the laws of the United States during a state of war, and are recognized so to be by the Constitution itself; that capture legally divests title; it follows, therefore, that the assertion that the fifth amendment restores the right to demand compensation for private property taken by the public falls to the ground, if not for the reasons heretofore given, then for the further reason that in this respect it is expressly excepted by the pardon itself.

Sir, it is not an uncontroverted question that the law of nations gives even to a loyal citizen the right to demand compensation for property destroyed by his country's army, to say nothing of that destroyed by an enemy.

Whiting, in his *War Powers*, page 59, uses these words:

As a matter of expediency Congress may direct that no property of loyal citizens residing in disloyal States should be seized by military force, without compensation. This is an act of grace, which, though not required by the laws of war, may well be granted.

Alexander Hamilton, as already quoted, made this declaration:

According to the laws and usages of nations, a state is not obliged to make compensation for damages done to its citizens by an enemy.

It has been said again, (4 Court of Claims, 547:)

No Government, but for special favor, has ever paid for property of its own citizens, destroyed in its own country, on attacking or defending itself against a common public enemy.

MORE THAN THE COUNTRY WILL STAND.

This new demand upon the Treasury is more than the country ought to or will stand. Much has been forgiven. Upon this floor are now admitted those who a few short years ago constituted a part of the executive department, the cabinet, the legislative department of a government which sought to divide this fair land of ours, now participating in its destiny and making its laws. Is that not enough? Are we yet to pay the men who slew our sons, wasted our substance, depleted our Treasury, laid upon us a heavy taxation—are we yet to pay them, I say, for what they lost in bringing all this and more upon our people?

DANGEROUS TO REST THEM EVEN ON PROOF OF LOYALTY.

It is time to make haste slowly. Statutes of limitations should not be extended, jurisdictions should not be enlarged, the bars that are put up to shield the National Treasury should not be let down. Even the law which grants relief to loyal citizens is being made a step-stone for the payment of rebel claims. The commissioners of claims, in their first annual report, in 1871, truly said:

It is easier and more profitable to be loyal now than it was during the war, and much of the proof or disloyalty has perished or been forgotten in the lapse of time.

And again in 1872:

We find by experience that to form a correct opinion as to whether a claimant was or was not loyal during the war, we cannot safely rely upon the mere opinions of witnesses as to his loyalty and upon statements at this late day of conversations.

Mr. Delano, chairman of the Committee of Claims in this House in 1866, speaking of the ease with which loyalty can be proven and the danger of *ex parte* affidavits, said:

These and like considerations have brought the committee to the conclusion—that that conclusion was unanimous—that an effort to discriminate between the loyal and the disloyal would be an impracticability, and that the result of it would be to bring this House to the payment of all this class of claims.

FRAUDULENT CLAIMS NEARLY PROVEN.

In corroboration of the statement of the danger that the claims of those who were disloyal may be paid under pretense of loyalty, and the utter unreliability of the evidence in many cases offered, let me recount the history and evidence of three, not exceptional, cases before the southern claims commission as given to me by a member of that commission.

And first, of a citizen of New Orleans, a lady, who claimed as heir to a deceased father over half a million dollars for stores and supplies taken from him, a loyal man, by the Army. These allegations were sworn to by several witnesses before the commission, and a petition was presented to it, signed by over fifty Senators and Representatives, urging that the claimant was meritorious and that relief be granted her speedily. A special agent was dispatched to investigate the case on the spot. It was then proven beyond all question, beyond all doubt, that the father and daughter were bitterly disloyal; that he had been before the war, and during it, and at death a bankrupt, having had neither stores nor supplies for an army to seize.

Another claimant was a citizen of North Carolina, a dealer in ship-stores. He claimed over \$50,000 because of property seized. He testified to his loyalty during the war and produced a number of witnesses who also swore to it. The commissioners, with a wise prudence, thought it best to look over the rebel archives to ascertain if they would throw any light upon the claimant. Several letters signed with his name were found. He was recalled and the signatures (only) shown him and he testified they were his. One was a letter to Governor Letcher, of Virginia, complaining that the overseer on his brother's plantation was a Union man and had raised the Union flag. Another to the confederate government offered for a sum stated to purchase and fit out a vessel and command it as a blockade-runner. Still another, addressed to the same government, asked that his brother's plantation (Monticello) be given to him because of his loyalty to the confederacy and his brother's disloyalty, he being a commodore in the United States Navy.

In the third case, now pending, the claimant is the guardian for minor heirs. As the parents died shortly before the civil war, the question of loyalty did not enter. The claim was for something over \$125,000, and for Army stores and supplies said to have been taken by the Union Army from the plantation of his wards. He established the loss apparently beyond question by eight witnesses and that it was caused by the United States Army. A special agent was sent there to examine into the facts, and it was shown that a rebel command had passed over the plantation, that the guardian was himself an officer in the command, and that it had driven off the horses and cattle, burned the barns and cribs with their contents.

EVERY SAFEGUARD NEEDED.

Is it any wonder that Mr. Lawrence and his committee should doubt the expediency of granting relief, even in case of claimed loyalty? Has not the time come when it would be well to close our courts and committee-rooms to this class of cases?

But the probabilities are small that the doors will be closed; there is danger, if we may judge from the earnestness with which they are pressed, that the doors will be opened still wider; that those dropped from pension-rolls because of disloyalty will be restored; that mail contractors will be paid for service in States after they had declared their secession; that longer time will be granted in which to file claims; that the farce of proving loyalty will not even be required; that cotton taxes and tobacco taxes will be refunded; that the proceeds of captured and abandoned cotton will be distributed; that the doctrine will be established that compensation for all losses during the war shall be made.

And now, Mr. Speaker, allow me in conclusion to express the opinion to the people of our country that if they would guard the Treasury against this whirlwind of claims and schemes upon it, if they would not see the tax-payers of the country still further burdened to make good, so far as money can make it, the losses of the South, caused by its attempt to take the nation's life; if they would not see disloyalty honored as loyalty is honored; if they would not lose all that was gained by the triumph of the Union arms, in view of the certain change of the political complexion of the Senate in the next Congress, then make sure that the next House of Representatives is placed within the control of that party which sustained, maintained, and saved our glorious Republic.

I yield the remainder of my hour to the gentleman from Minnesota.

TRANSFER OF INDIAN BUREAU.

Mr. STEWART. Mr. Speaker, I assume that it is or necessarily will be the fixed purpose of the Government to require of the Indians inhabiting this country that they shall permanently locate upon lim-

ited tracts of land and that as soon as possible they shall undertake to support themselves by agriculture and the other industries which develop from cultivation of the soil. Therefore, being ignorant and unpracticed, they must be taught, not only how to labor but how to live by labor, and this involves the introduction among them of the methods, habits, ideas, and laws by which industry is stimulated and its results are economized in civilized communities. That is, these Indians must be civilized, and being civilized there will be no longer an excuse for holding them as either aliens or wards. The end of the Indian policy of the Government is the admission of Indians to equal citizenship. That ultimate conclusion, it seems to me, should be kept in view in all our dealings with the Indians.

But our Indian system, in important respects, is older than our Indian policy. It had its origin with the trading companies and was developed by the Army. Hence it has been an incongruous combination of the conciliatory practices of the traders with the arbitrary rule of the military; and though it is now undergoing change, it is yet far from being reformed or well adapted to the policy which is being inaugurated under it. Unfortunately, also, it rests upon a constitutional provision and laws which applied to a condition of things which is passing away and upon judicial decisions which were dictated by the expediency of a past time. Otherwise we might consider the expediency of subjecting the Indians by distribution among the whites and free association with them to those irresistible influences by which our civilization in every decade conquers an aggregate of ignorance, unthrift, and viciousness equal probably to all the savagery of all our Indian population; or we might consider the expediency of providing for the Indians through the agency of the several States and Territories in which they are located. Yet, though a radical change of the system cannot be made except by gradual progress through long time, it is on all sides asserted that reformation is necessary.

Men who are interested in the welfare of the Indians, especially those particularly interested in the always peaceful and submissive bands or tribes with whom the experiment of introducing civilized ways of self-support has been tried under the most favorable circumstances, complain that the results so far reached are not in proportion to the time and expenditure. Others, and the larger number, who regard the Indian question as a vexation, to be gotten rid of in the shortest, easiest way, while accusing the present Indian service of all the errors and crimes of the past as well as the present, propose not an improvement of the system, but to go back to the most faulty expedient which was resorted to during the time when we had no Indian policy except to serve the occasion and the time.

In pursuance of the policy of making the Indians a self-supporting, civilized people, ultimately to become citizens of the United States and participate in the government of States, it appears to me that the system of dealing with the Indians should be reformed or changed so that the most direct and economical way to the ultimate end may be pursued. Their isolation from the whites should be regarded as temporary, because high civilization cannot thus be attained. They should be located in communities of not more than a few thousand, on correspondingly small reservations, where white farmers and mechanics will be their near neighbors. The laws of the land should be extended over them and they should be enabled for that purpose, and to accustom themselves to our forms of government, to choose peace officers, serve on juries in courts to be held within their reservations when necessary, and, as they arrive at an understanding of the benefits of concerted action, with willingness to work or pay taxes for their common good, they should be enabled and encouraged to organize municipal governments.

The expediency, however, of arbitrarily setting aside their tribal forms is questionable. They would quickly and without friction be merged in our elective forms if we should seek to introduce them among the Indians. Existing treaties should be scrupulously carried out to the letter, and where possible final treaties be made providing for the full surrender of all claims of dependence on the one hand and on the other for full recompense for every past violation of treaties or usurpation of rights. (I am considering particularly the dealings with Indians who have not made war upon the whites and therefore cannot be claimed to have forfeited any right.) There should be a limit to the assistance promised or given any individual and any community. Extensive or expensive public improvements should not be undertaken with the public money. The Indians should be early taught to make their own roads and to unite for other common purposes. The plan of paying them for work for themselves should be abandoned or greatly modified. The man or family receiving largest permanent benefit from the common fund should understand that thereafter those who have received less or no assistance will have the greater claims on that fund. The rights of each individual to assistance should be clearly defined and limited by law or regulations having the force of law, and in this as in all respects possible where the rights of an Indian are concerned, little or nothing should be left to any one's discretion. Some one, say the governor of the State or Territory, or other persons not responsible to the Indian Bureau, ought to be the authorized agent or representative of the Indians before the Departments and Congress and its committees, and also in the courts until the courts can give to Indians the full rights of citizens. But the agents of the bureau with the Indians should not have their influence for good weakened by adding to the

number who will appear to the Indians to be their superiors in authority. Rather the agent should appear to the Indians under his charge as next in authority to the head of the bureau, so only that they have personal rights and privileges and know them and are subject not to the agent's caprices, but to the law which he represents.

As to the peace policy, so called, religion and politics, church and state, should be as independent of each other in the government of the Indians as of the whites. If we cannot for ourselves consent to have one scheme of religion more favored than another by law or government, we cannot afford to train our future fellow-citizens to associate church and state. In short, since it seems necessary that for some years at least the Indians being civilized should be to some extent isolated, so that the most forceful side of our civilization cannot be impressed upon them, we should improve their isolation by always impressing upon them the best side of civilization—its orderly methods, its security of person and property, its teachings of self-reliant industry and economy, the advantages of accumulated earnings, the good in education and social intercourse, and through the free co-operation of Christian churches, the comfort of religion.

But whether the system of operations be good or bad, much depends upon the agents, for it is not presumable that any system could be adopted which will dispense with the resident agent of the Government. This officer, in the communities forming upon the different reservations, is the exemplar of our civilization. The man thoroughly fit for the place will possess natural ability, be capable of conducting large business affairs or attending to their details; be generally familiar with the common industries, so that he can assist in them by advice, and he should be himself an industrious man. He should be a kind and patient man, a believer in human nature, without distinction as to the color of the skin, and he should be interested in his duties and in the Indian people. Withal, he should be diplomatic enough to be capable of winning and holding the confidence and influencing the minds of a people capricious and jealous as other ignorant people are. An approximation to such thorough fitness is only to be had by selection. The rule of the Army—to which it is proposed to transfer the Indian service—is routine detail, precluding selection.

While there are undoubtedly in the Army a number of officers of experience, education, and mental bent unitedly qualifying them for wisely working at great civil problems, yet these are not the men to whom Indian agencies would be assigned. Long service has entitled them to high rank and important commands. If they could be spared from Army service to take the places of civilians as agents, their large pay would be chargeable to the Indian service, where such expenses are not necessary. But the special and life-long education of the Army officer is not in the direction to qualify him for civil service. It is certainly not calculated to develop those qualities most essential for the Indian agent. He is trained to the rule of force. The agent has to train a people to self-government founded upon common interest and common consent. His profession is war. The agent has to lead a people too ready for war into the paths of peace. His presence merely would keep alive the savage idea that war is man's noblest occupation. It is the agent's duty to exalt the common occupations of mankind. His habits, according to the customs of the Army service, would not recommend work. It is the agent's duty to set an example of every-day work.

The Army officer would call soldiers to his assistance. Not to speak of the offense which placing them in charge of the Army would give to those Indians who have remained peaceable through many provocations, the bad effects of associating Indians and soldiers should be considered. More than is gained by the isolation of Indian bands from daily intercourse with settled communities of whites would be lost by quartering even a few soldiers among them. This objection can be shown to be a very serious one by reference to the present condition at Indian agencies where Army posts are maintained or by inquiry as to past experience.

But it is urged that the methods of accounting and contracting in the Army are perfect, and that the Quartermaster and Commissary Departments would economically supply the Indians. A criticism of Army methods as sharp and searching as the civil service is almost constantly exposed to, and which the Indian service has especially borne, would expose the fallacy of claims of superior excellence for the business forms of the Army. Army contractors and Indian contractors do not differ much; they thrive about alike. And, without disparagement of the good character of the body of officers of our Army, it may be remarked that the men who transact the business of the Army, who are mostly civilians or nominally attached to the Army, are as much indebted to the obscurity with which Army regulations and military observances surround their doings for the credit given their work as to any superiority of that work. In practice the Army is expensive. Enlist the six hundred able-bodied men on the White Earth and Red Lake reservations, Minnesota, as soldiers and they would cost the Government \$600,000 a year. Through the last three years, with crops failing and game scarce, this six hundred with their women and children have been supported for about \$50,000 a year. The Army, twenty-five thousand strong, costs \$30,000,000 a year. The Indian Bureau, having one hundred and fifty thousand or more Indians to partially support, costs \$7,000,000 a year. But the question of cost and economy is a subordinate one. It is a matter of detail which may be changed without affecting the main purpose.

The ruling question is whether we shall make the Indian service conform as exactly as possible to the wise and humane policy of civilizing the Indians or by committing them to the care of a non-civilizing agency abandon that policy and with it the friendship and gratitude due at least to the many thousands of red men who have never wronged or even resisted white men.

A separate department for the Indian service would be a most desirable measure of reform, because that would soonest bring about a thorough revision of the system. Next best doubtless would be the making the Indian Bureau independent under charge of a commission embracing the Secretaries of the Interior and War Departments. But without disturbing the bureau from its present position reform is possible and will come whenever Congress gives to the subject the investigation and consideration its importance entitles it to.

THE TARIFF—PROTECTION VS. FREE TRADE.

Mr. ELLSWORTH. Mr. Speaker, our country is trembling with fear to-day with reference to the threatened reduction of tariff rates. There is a general and wide-spread alarm all over the North, the East, and the West which amounts to almost a panic. It is absolutely unheard of in our history. There never has been anything like it upon the same subject, and the people cannot be quieted. They cannot be silenced. They want to know what it all means and where it is to end. They see only ruin and bankruptcy for those who have braved the financial storm thus far, and who by dint of great exertions and continued effort and a wise economy have kept their crafts afloat; and really it is not strange they are troubled, and waiting in painful suspense for the announcement of the result of the long deliberations of the members of the committee having in charge the tariff bill. All over the land men are anxious, and waiting breathlessly for the result; and why is it necessary for our people to be kept in this unpleasant, this disagreeable and unfortunate condition through long weary weeks and months of waiting and watching? I am confident, sir, no tariff bill reducing the tariff rates on articles of foreign nations which come into successful competition with home articles can be passed during this Congress, if ever; and if that be true, then why should we not relieve our people from this troublesome question and give them rest and quiet? Our business men certainly have had and will have quite enough to struggle through without any other and additional and unnecessary burdens for them to stagger and fall under. They need no more or weightier discouragements than they have now. Do not add any more. I beseech you do not help crush out the only hope of the survivors of financial wrecks scattered all over the country so painfully thick. It does seem as though an attempt at a revision of the tariff at this time could only result in injury to our people, and why is it attempted? Is there any great demand for it by any very considerable portion of our citizens? I do not think so. I am very sure they do not desire it. And why, I ask again, is an effort made here to revise it and reduce the tariff rates of the present time?

It is strange, indeed, that we can never have any permanency to our tariff in this country. It is strange that our people can never be allowed to know what they can depend upon for any considerable length of time. On this important matter, as often as about eight or ten years, it must be all overhauled and set adrift. What the country needs is permanency. Business men must know what they can depend upon for a series of years or they do not dare make large ventures in business; and the American policy has been, and is yet, to keep them constantly disquieted and uncertain as to the future; never knowing what the next day will bring forth; never knowing what will be the policy of the Government, and therefore never knowing what they can be reasonably sure of for a single year, and a man with a thimbleful of brains can see in a moment, if he will pause that length of time and contemplate the subject, that this is a very great hindrance to business; it in fact is a great paralyzer of business. This any man of observation and intercourse with business men knows full well. It is suicidal policy, and ought to be put away and a permanent policy adopted and lived to.

Why, sir, what is the matter with our people that our own national interests are not more carefully guarded and protected? Why can we not learn something from the other nations of the world? Why can we not see the success that has ever attended the nations who have been steady and constant in their protective policy? It only needs a brief survey of the field of the world to settle this very important question in favor of protection. The story is soon told, if we will but dispassionately and without partisan spirit look over the ground; and I therefore ask the attention of this House for a little time while I attempt to show to the House the vast importance of a thoroughly protective policy by our Government. I will deal as little as possible in dry statistics, but give in as few words as possible the history of protection and the result of free trade among the civilized nations of the earth, or the more important ones. It is a truth that no man in his sound mind will deny, that actual experience is worth more than all the speculations of all the theorists. In this you will readily admit I am correct. No man will venture to controvert it.

Our southern people are clamoring for free trade, and a large portion of them always have been. You would hardly think it modest in me to say you are laboring under the influence of a delusion; but such, I venture to assert, is the fact; and one single question will bring to your mind facts that will necessarily lead the mind to the truth of

my proposition: why is the wealth of the land to-day in the New England States so largely? Can you answer that question? Why are the people there in that cold, rocky, comparatively barren country, rich, while the South is poor—comparatively poor, I mean?

Now comes the reasoning, the argument of the case; and the mind of the thinker naturally runs on to the conclusion; it cannot help it. The country is barren and hard and poor; the South is rich and fertile and beautiful. Where, then, is the reason? One is a frozen land, with six months of winter; the other is a flowery land, with almost constant summer. Why the cold, hard, wintry country rich, and the land of perpetual spring and summer time impoverished and States going into liquidation? The great war and the consequent desolation of the country South, and the carpet-bag rule so often mentioned, will not account for the very great difference.

There is but one answer to this question, and it becomes the people of this country, North and South, to find what that answer is. The whole secret of the difference is in this fact: that the labor of the North, and especially the New England States, is greatly diversified; in the South it is not. The consequence has been in the North a great home market has been established, and the result of this home market is to build up and improve the country, to fertilize and enrich the lands. The building up of the great manufacturing establishments in the New England States has produced a home market for the farmer, for the lumberman, for the miner, for the mechanic, and for all the trades and occupations the world has to be supplied.

While the North have been giving their energies to adding to the many demands of the people for employment and so diversifying their calls for labor and skill in a thousand ways, thereby making it possible for the man with one hand and with no eyesight to work and earn handsome wages so as to be able to comfortably care for his family of little ones, the great South has given her attention alone to agriculture, which requires men of good strong limbs and constitutions and leaves all the old men and crippled men and children of no use comparatively. Am I right?

Why is it to-day that there are so many, many thousands of acres of once fertile and productive lands in the South thrown out to commons, all worn out and desolate, where not even a mullein stalk stands to testify to the strength of the soil? I have seen some of it and know how it looks. Why is this? It is simply and only for the reason that the fruits of the soil are continually moved away from the lands and never come back in any shape whatever. It is a constant drain upon the lands; and this process will make a desert of the richest country in the world if continued for a sufficient length of time. Cotton, the great staple of the South, is a great exhauster of lands, more so than almost any other vegetable grown in this country. Rice is not so bad by far. Sugar-cane is bad enough; but the great staple is cotton, and it is raised only to send to foreign markets, thus constantly impoverishing the soil where it is cultivated, and thus the cotton-grower must constantly look for new fields. He cannot remain by the century on the same lands and raise cotton in paying quantities and paying qualities. The market is a distant one, largely a transatlantic one, subject to all the delays, the hinderances, and the fluctuations of a distant market.

Suppose this whole matter was reversed. Suppose the South should encourage and build up a home market by building up and establishing manufactures. What would be the result? The labor of the South would be diversified. Then soon a large part of the South would be cultivated for other purposes than the raising of cotton and sugar-cane. All classes of people would find employment. A home market for all the productions of the country would be built up and then the South would demand protection from the wealth and influence of the Old World until we could successfully compete with the accumulated wealth of old England and France and Germany. You see New England is just what her enterprise and diversity of labor has made her. The reason why she is able to loan money to-day is because she has not confined her people to the raising of corn, rye, and cattle, and now her hills blossom with beauty and her towns and villages decorate her valleys everywhere, and a more independent and cultured people do not live upon the face of the earth. Hardy old New England has placed this country under everlasting obligations to her by the educated, intelligent, and highly cultivated men and women she has produced among her stony hills and sent out all over the land to lighten it with intelligence and culture. You will find her sons and her daughters everywhere and always at work; they are never idle; they are moving the world on and will not let it stand still.

HISTORY OF THE TARIFF.

The American colonies were held under restraint so absolute that beyond the common industries and the most ordinary mechanical employments no kind of manufactures were permitted by the mother country; not even a hatter-shop was allowed to transact business. In 1750 a hatter-shop in Massachusetts was declared a nuisance by the British government, and the poor hatter was closed out and not even permitted to vend the hats he then had on hand and already made at his own expense, and for which he had paid his own money.

In the same year an act was passed permitting the importation of pig-iron from the colonies. And why? Think of the reason; because charcoal, then exclusively employed in smelting the ore, was nearly exhausted in England. That was the reason the old country allowed to the child the poor boon of manufacturing and importing into

England pig-iron; but they forbade the erection of tilt-hammers, slitting or rolling mills, or any establishments for the manufacture of steel. In the same year the great Earl of Chatham, alarmed and troubled at the enterprise of the western colonies, declared that "they ought not to be allowed to manufacture so much as a hob-nail."

This was the kind of protection Great Britain threw around her people in that day; but compelled the colonies to open their ports freely to her, and so we had in that early day a taste of free trade that ought to satisfy us for all time.

And the navigation laws of England were in the same direction, and made so as to hold the colonies in utter subjection to the mother country. We were restrained in every possible way from diversifying our industries, and that policy toward us was the constant subjection of our industries to the rich manufacturing houses of Great Britain. And now we are being persuaded to voluntarily place upon the free limbs of the young Republic the same old fetters the tyranny from over the sea bound us with in our younger and more helpless days.

It so happened in the affairs of the world that this vassalage was destroyed, but not without a fearful and bloody war of years' duration; but that seven years of suffering and of agony threw off the shackles that had enslaved our industries and throttled our manufactures and gave freedom and life to our enterprise as a people, and gives us a lesson on the question of protection that is worthy of consideration.

A protective period followed. The commerce with England was necessarily broken off during the war, and the people were left free, of course, to supply their own necessities by their own skill and industry, untrammelled by the prohibitive laws of the mother country.

And what was the result of this freedom? How had the seven years of war affected our industries? It was found at the close of the war of the Revolution that we had advanced rapidly in the skilled industries that add rapidly to the wealth of a people and that enable nations to be independent and self-supporting, and the success that had then been attained in that direction encouraged Alexander Hamilton, and in 1791 he argued the practicability and the duty of encouraging our manufactures; and enumerated seventeen grand departments which were then well established, and they prevailed as well in the Southern as in the Middle and Northern States. You see the war gave us protection, the most perfect protection possible, and the country was rapidly recovering from the effect of the war thereby. Mr. Hamilton reported at that time that the manufacturing of household goods and furniture was very large, amply sufficient for the home wants of the people, and already affording textile fabrics for sale to foreign countries.

Now, what was the result when this protection was removed? Did our industries still continue to prosper? Let the facts answer.

Soon after the peace of Paris, 1783, all household industries and enterprises were effectually suppressed. And how? By an inundation of foreign goods. Our manufactures were crippled, and in a little time bankrupted and utterly destroyed by the flood of goods that poured in like a swelling river from the Old World, and our manufactures were thus ruined. In the first Federal Congress, a member, speaking of this period of free trade, said: "We bought, according to the doctrine of modern theorists, where we could purchase cheapest, and were soon drowned in a sea of foreign commodities." English goods were sold at lower rates in our maritime cities than in Liverpool or London.

And how did this destruction of our manufacturing establishments affect the agricultural interests of the country? Were the farmers and the consumers in any way benefited, by this fall of industrial houses? By no means, and here is where the people are deceived. When the manufacturing interests of any country are prosperous and in a way of adding to their wealth, then labor is lifted and feels the prosperity, and the farmer has a market for his produce. And why? Simply for the reason there is somebody able to buy and pay for his goods. So, thus early in our history, 1783, when we were without protection, and the foreigner flooded our markets, a general depreciation of real estate followed, and failures became the order of the day among landed proprietors.

Dr. Hugh Williamson, describing the distresses and disorders of the year 1786, says:

The scarcity of money is so great and the difficulty of paying debts has been so common that riots and combinations have been formed in many places, and the operations of civil government have been suspended.

Chief-Justice Marshall, in his life of Washington, speaking of this crisis generally, and particularly of the causes which led to Shay's rebellion, says:

On opening their ports an immense quantity of foreign goods was introduced into this country, and they were tempted by the sudden cheapness of imported goods, and by their own wants, to purchase beyond their capacity for payment.

And what was the inevitable result? What the certain consequences of this course? As soon as the policy had time to develop itself fully it brought its harvest of woes, and so he says further:

The bonds of men, whose competency to pay their debts was unquestionable, could not be negotiated but at a discount of 30, 40, and 50 per cent.; real property was scarcely vendible, and sales of any article for ready money could only be made at a ruinous loss.

And the distress was so great and so wide-spread that a disposition manifested itself everywhere to resist the laws. Such was the result of free trade in the early history of this country, and such will be

the history again if this theory is adopted. And the people soon saw and recognized the difficulties under which they were laboring, and protection against foreign manufactures became the prevailing sentiment of the day; the experience they had endured was a powerful and controlling influence.

In full sympathy with this sentiment, Washington wore a coat of domestic cloth on the day of his inauguration.

The first act protecting our home industries was passed July 4, 1789, and was followed by another the 10th of August, 1790, largely increasing the duties imposed by the first. And now the result of this first protection is all-important as a lesson to guide us yet down here in the year 1878. Why not? If the theory is right it will prove itself so, and if wrong it will do the same at all times. It lifted the cloud from the country in a single year. Only one short year and the cry of distress is silenced and the people are prosperous. It seems strange, but such is history.

Listen to the words of Washington, and I trust he is good authority everywhere in this land. In October, 1791, writing to La Luzerne, he held this language:

In my tour I confirmed by observation the accounts which we had all along received of the happy effects of the General Government upon our agriculture, commerce, and industry. The same effects prevail in the Middle and Eastern States, with the additions of vast progress in the most useful manufactures.

But the tariff of 1816 was quite too low. We had been aided up to this time by foreign wars, which, taken in connection with our tariff rates, until this time had afforded us nearly adequate protection; but now comes a time when there was comparative peace in Europe. The battle of Waterloo has been fought and the great disturber of the nations and the destroyer of thrones is confined on his lone, barren isle, and a general pacification has occurred between the leading nations of Europe, and England, France, and Germany went to work to regain their lost trade of the world and soon found a way into our markets, and the tariff of 1816, unsupported by the wars abroad, was wholly inadequate. Our prosperity, which had been so wonderful; our skies, that had been so suddenly cleared from all clouds and mists, were to be darkened again, and our prosperity went down under a flood of foreign importations, and from 1819 to 1824 the country presented another picture of distress that was absolutely appalling, and there were no shadings of light; it was quite as dark as before the light of prosperity had dawned upon us, and this distress came to us in a time of profound peace.

A few years, seven years of peace, with the country's labor undeffended, inflicted a hundred-fold more injury upon the people of the country than any such period of war had or could do. But this time of calamity was not without its value to the people. It was of use in the end. It brought them to see and know the cause of their distress. It was a lesson easily read and understood, and no sooner did the distress come than the people were brought to reflect, and they no sooner reflected than they saw the mischief and the folly of free trade, and then went directly to work to remedy the difficulty and bring the blessings of protection once more to the people. And a democratic Congress ordered the republication of Hamilton's report of 1791, on manufactures, and the tariff of 1824 was passed, and not being sufficiently protective this act was amended in 1828 and the nation again sprang from its couch of despair. The night of distress was again exchanged for a glad morning of sunshine, and once more the people rejoiced and were made glad, and the clouds drifted away from our financial sky. The whole national debt had been suddenly reduced, and the people came all too suddenly into general prosperity, and they soon forgot the lessons of the day, and they came to think the accumulations in the national Treasury would soon become unmanageable, unless they took measures to prevent its overflow. The nation became mad and wild again. How strange it seems when we stop and ponder upon it. Only a few short years since we were burdened with debt, and property of all kinds worthless comparatively in market, and real estate a drug and a hindrance to any man; want everywhere, and riots threatened on every hand; debtors utterly unable to pay, and bankruptcy universal. And now because the storm of desolation has passed away and the sun of prosperity has been shining in beauty for a few short years, the cry comes up once more: return to the blessings of free trade. We are too rich, too prosperous. Our wealth and plenty, our comfort and luxury will swamp us. South Carolina went into nullification. Virginia sanctioned the doctrine; Alabama and Georgia stood with them. And so to appease these discontented people, and I think mistaken people, a compromise was agreed upon, and we set sail again upon the free-trade craft, and on a pleasant and peaceful sea. And under the act of 1833, that abandoned the protection of domestic labor, the imports in the first three years of its operations averaged one hundred and twenty-two millions, against an average of seventy millions for the last five years under the act of 1828.

What followed? What was the result? How were the people brought to their senses again? Seven years of unprotected American industry, stretching from 1833 to 1840, brought the same old story of ruin to our manufacturers and consequent want of employment for the people. Property again depreciated. The country was once more flooded with the work of foreign hands, and the cry of distress was everywhere. Once more the people were brought to reflection and the party in power was swept from office by an indignant people, and free trade was replaced by a protective tariff passed in the year 1842,

which was the best protective tariff this country has ever been blessed with. In so short a time that it seems almost beyond belief that protection relieved the country from all its woes, and floated it out on to a prosperous sea once more, and the people rejoiced again. It really would seem as though they would never forget the repeated teachings of the past. In four brief years all was bright and prosperous, no distress among the people, no want, no suffering, no hunger, the national Treasury in healthful condition, and no discontent anywhere except in the cotton States. There was some uneasiness, and because of their want of diversity of labor, and in 1846, to please the South, the tariff of 1842, under which we had again emerged from our national troubles was modified by substituting largely ad valorem for specific duties, the worst of all tariff rates, for the reason it opens the door to innumerable frauds; and still under this tariff, bad as it was, the nation prospered, and with the aid of the discovery of gold in California, and the Crimean war, we went on successfully and well, and a full Treasury and general prosperity for a better time led the people to forget the dreary past and the bitter lessons of the years gone by, and in 1857 a reduction of 25 per cent. was made in our tariff rates, and this reduction was followed by another inundation of our country with foreign commodities, and with another suspension of specie payments.

The imports for consumption now went up \$11.82 per head of the population in place of \$5.42, more than double the average, and the banks issued an immense amount of bills, and loans increased rapidly, rising from three hundred and twelve to six hundred and thirty-four millions.

The public debt also rose in a very short time to almost double its former amount, and in a very short time to four times its former amount. And it is true, almost a certainty, that the panic of 1857 in 1860 or 1861 would have been followed by a general explosion if the great war of the rebellion had not displaced it, and it would have been the result of free trade, pure and simple.

The war, among the blessings it brought us, to say nothing of the woes, gave us the Morrill tariff, which was nearly as good for protection as the tariff of 1828. And this tariff carried us through the death-struggle with slavery and brought us out all safe and sound and richer than when the first gun was fired on Sumter. And the time had come in 1872 when the same old folly must be attempted again, and the tariff that had so faithfully served us and aided us in the time of our great trial must be reduced; and down it went 10 per cent. And then the panic came, the same old story; and now once more wise heads are in secret hatching out another brood of woes for the people, never heeding the lessons of the past. Learning nothing by all the sad experience, of the free trade experience of the fading years, they are now sitting in secret places incubating a list of calamities that will, if fathered by the Forty-fifth Congress, bring us yet again the same sorrowful harvest as the past has done.

I add, that the average of the pauper population at every series of years under free trade in our country has been much larger than during the same time under protection, and that all the almshouses in the country come to our aid in proof of this statement. I ask any man of judgment or brains to look at this history, this true history, all recorded on the pages of our country's annals, and tell me what it proves. There is but one answer, there can be but one; and protection must be the rule for us until we are possessed of more wealth than the old nations of the world. How can we expect to successfully compete in the great industries with nations who have twice our wealth? It cannot be unless we are protected from their competition. Our fathers knew something. Washington knew something, and he fully understood the wise policy, so wore the coat of homespun cloth to teach by his example. But the free-traders tell us tariff for protection is all well for the rich trader and the rich manufacturer but it is death to the poor man and the farmer, the consumer. This is the height of folly. The poor man is never so well dressed and fed, nor his family, as when the manufacturer is prospering, and thereby able to give him employment at good, fair wages. What use is free trade to the poor man now when he has no money with which to buy? Ten years ago he could have bought a coat at \$20 but now he cannot buy one at three. Why not? For the simple reason that the manufacturer cannot afford to employ him at any price. In 1868 the poor man could get his \$2 per day, now nothing, and the result is he cannot buy.

But who is clamoring for free trade? Who in this country desires it? The cotton States; they want it still, and the democratic party in Congress, to please them, are inclined to try the ruinous experiment again which has proved so disastrous to us so many, many times. Great Britain would like to have us indulge in this supreme national folly again, too. And why does she? Why did she not give us some of its blessings when we were feeble and needy colonies of hers? Answer that, my friends, if you can. Why did she close up the poor hatter down in old Massachusetts? If free trade is so good a thing, and so just, why did she not let the colonies enjoy it? These are hard questions to answer; hard for the free trader, but for no one else.

HISTORY OF THE TARIFF WITH OTHER NATIONS.

No nation has ever risen to be a power in the world, a power of any considerable consequence, that has not had some adequate system of national protection for its home industries. The history of all na-

tions proves this position to be a verity. England is one of the best examples we can take, and so we turn to her record on this subject.

England is a free trader now, so she claims, and yet she is not pure and simple. England desires free commerce with the world. Why does she? Because she claims to be the workshop of the world. Because she claims, and not without reason, to be the mistress of the seas, and can float her wares and her commodities everywhere without help from any nation or people. These are the reasons among others. But how came she to be the great work-house for the world? How came her mercantile marine to excel all others?

Let us look at her history and see. England occupies but a very small place on the map of Europe. It can be covered with a twenty-five-cent piece. And yet she stands to-day the foremost nation, commercially and industrially, in the world. But she did not gain this important place without a struggle, and a hard one. She has raised her commerce from the very lowest to the very highest position among the nations of Europe and of the globe. She never could have done this great work in an even-handed struggle with the peoples surrounding her. Any such attempt would have been a hopeless one, and her statesmen were wise enough to comprehend the folly of such an undertaking. She is to-day reaping the benefits of a bold, wise, and selfish policy. Many of the nations around her were far in advance of her when she entered upon her career, and the odds against her seemed almost too great to admit of the hope of overcoming.

And in face of these discouragements what did England do? Did she sit down and allow the peoples around to flood her little island with the handiwork of their people, and leave her own to starve for the want of work? Not by any means. She set herself to work to give employment to her poor. Did she entertain any free-trade follies? Did she listen to the dreaming schoolmen of her day? By no manner of means. Not a bit of it. She went to work manfully and well to protect her people from the richer nations by which she was surrounded, and even from the enterprise of competition of all, whether rich or poor.

She prohibited absolutely all competing imports, and prohibited her people from sending abroad the raw materials, and devised a system of bounties upon production and upon the exportation of manufactured goods, and extended active and generous aid to the immigration of artisans from the continent, and prohibited the emigration of her own skilled workmen; and prohibited the sending abroad of machinery which would in any possible way assist her rivals in competing with her for the trade of the world. She even made wars upon weaker peoples for the sole purpose of extending the field of her commerce and of controlling and supplying foreign and distant markets.

From 1731 way down to 1834 her woolen manufactures were steadily protected, beginning with fines, maimings, imprisonment, and death as the penalties for exporting native wool or importing foreign cloth, and maintaining these penalties for more than four hundred years, four times the life of this Republic.

Her tariff rates upon iron were absolutely prohibitive until 1834, and then only reduced to \$5 per ton.

How different has been our policy, and how far behind her in point of wisdom. England is not a cotton-growing country. She grows not a pound, and yet in 1860 the real value of her exports of cotton amounted to £52,000,000 sterling, while those of iron, steel, wool, machinery, and silk amounted to more than forty-one millions.

Nature did nothing for England compared with our own country; but by her steady protection of her people she comes now across the ocean and bears our cotton on her own steamers home with her, thus giving employment to thousands upon thousands of her people on the seas; works up the cotton thus obtained, thereby giving employment to hundreds of thousands of her people, while our own are suffering for the wages thus earned by the British laborers; then reship the same cotton, only changed to textile fabrics, and supplies our markets, thus meeting the risks of nine thousand miles of ocean travel and transportation, and still competes with us successfully for our trade in such goods. Strike off all protection and then look for the result. What will it be? The cheap labor of England and the vastly larger wealth of that old country will again flood our markets and cripple our industries, and send hundreds of thousands more of our people to the ranks of the unemployed.

What has been the policy of England? Never to leave any interest of her people unprotected until they were fully able to more than compete with any other nation. She has ever given to her subjects the most perfect and adequate protection anywhere to be found in history.

THE LITTLE KINGDOM OF BELGIUM.

Here is another illustration of the wonderful benefits to a people in the struggle for national life found in ample and steady protection.

My whole argument might be safely left resting upon the facts of the industrial and commercial history of this kingdom, not one quarter as large in territory as the State of New York, and she has in this small compass a population of about five millions. She has succeeded by a constant and adequate protective policy in maintaining her place among the nations, and has grown from a mere handful of people to be a rich and powerful kingdom. She secures a home market by defending herself against all competition. She fosters and encourages her skilled industries by barring out all rivals, and her people are consequently alive with industry, and are carrying away the iron trade of northern and eastern Europe from England.

Her foreign commerce grew under protective policy, until, in 1860 it was nearly double that of our own country; and Belgium will soon be willing to enter the field of free trade with England.

Let us direct our attention to France, sunny France, beautiful France, and we shall here find lessons of wisdom to direct our steps upon this question. France has maintained from the earliest period in her national life the most absolute protective policy of any nation, with possibly England excepted; and she holds steadily to it yet. It has carried her through all her revolutions and national wars, and brought her out on her feet. Every time she has found her protective policy her safety and savior.

France went so far as to pay a large royalty to every loom put in operation, and continued that bounty for many years in her early history; and the result is that she has largely the trade of the polite nations of the world to-day for her fine laces and delicate fabrics; and will anybody say her aid thus extended was not in the way of national economy?

Russia has also, like France, taken care of her labor interests against all competition; and has by this means risen from barbarism, liberated her twenty millions of serfs, and advanced to be one of the principal powers in the world; and to-day free-trade Turkey is prostrate at her feet, and the army of the Czar is marching on Constantinople.

Why the difference? Why is Turkey, the sick man of the Orient, at the feet of France now?

Let history, the great teacher, reply. England induced her to indulge in the supreme folly of free trade. She was prosperous and happy. Her towns were alive with industry; her looms were clicking all over the empire; and the red fabrics of the Turks were sent all over the world. Only a few years since, and they were in every American market, and found on the shelves of almost every store. But the Turk was beguiled into this great foolishness of competing with England in the markets of the world and in her own. And now the Turkish looms are still. The old manufacturing cities are silent and poverty is the result everywhere. And it was the same before the Czar sent his legions there. Of 2,000 weaving establishments in the city of Towmovo in 1812 there were only 200 in 1831. And the sick man was made sick by free trade, more than by anything else. Ireland has been utterly crushed out by the free trade forced upon her by Great Britain. The beautiful fabrics of the Emerald Isle, the gem of the ocean, were once sent all over the world where civilization had a home. The Irish linens and cottons went everywhere. And now look at the fearful result. In 1800 there were in Dublin alone 5,000 hands employed in woolen manufactures, in 1840 only 602. In the manufacture of carpets, 700 hands at work in Dublin in 1800, in 1840 none. And the like calamity had in the same time fallen upon the cotton-spinners, the calico-weavers, and the silk-weavers. And Ireland is a desolation to-day as the result of free trade with England, forced on her by that people. And not being able to force it on the stubborn and willful Yankee they would wheedle Uncle Samuel into the great mistake that has utterly destroyed the Irish and so sickened the Turk that he stands limp and dumb before his conqueror.

And the poor Hibernian has had to flee from his green isle, made desolate and dreary by the free-trade policy of England. And they have been pouring into our country for years in one steady stream like a mighty river, and thus Ireland is being depopulated and going back into the dark past, the home of the wild beast.

India presents another striking example of the happy effects of free trade. In 1813 the commerce of India was thrown open to the world and competition invited. At the end of only twenty years the men, women, and children had been driven from the workshops to the fields of agriculture, and all demand for labor was at an end except in tilling the soil. And many of the most fertile lands in India, under free-trade rule, have been exhausted, worn out utterly, and are now abandoned and have gone back to furnish homes for the wild beasts of the jungle. The industries of the people have been utterly destroyed and blotted out, and the Englishman supplies the Indian and bears away with him to his little island home the silver and the gold from India. And India is England's vassal, and bows in mournful submission to her Empress Victoria, the Queen of the Isles.

We turn back to Portugal, and what do we behold there to give us light on this vexed subject? Portugal, hardly remembered now as one of the nations, in 1703 was one of the leading commercial states of Europe; and that year—fatal year in the history of Portugal—she concluded a treaty with England by which she bound herself to admit English wares into her ports at 15 per cent. duty for the favor of an English tax upon her wines one-third less than that imposed upon the wines of France.

Mark the sad result to Portugal. Formerly Lisbon had about four hundred ships, of from five to six hundred tons burden, employed in the trade with South America, but now that trade is utterly ruined. And only now and then a straggling ship is seen in waters of South America, with the flag of Portugal flying at its head, and her produce sent to foreign countries is almost wholly carried in foreign bottoms. And Turkey and Portugal are worn out and ruined by their competition, even-handed with England. And yet we find intelligent American citizens, in the face of all this truthful history and these plainly written lessons, clamoring for free trade, clamoring for the subjugation of our great industries to the wealth and cheap labor of England. Shall we do this for England, our enemy? She let

loose her piratical ships when we were busy with a great calamity at home, and aided materially in sweeping our commerce from the markets of the world and our mercantile marine from the seas; and shall we recompense her for her friendly attentions at such a time by opening our ports for her to come and overwhelm our young industries, young and poor, too, compared with her own? Shall we do this silly thing? You know better, with all of this history of our own and other nations before you. You know it will be death to us. Death, sure and certain. England has twice our wealth, and she can flood us again, as she has done before, if we open the doors. We must not do it, if we care for our interests. If our welfare is of paramount importance to us to that of England, we will not again be lured by the friends of Great Britain into swinging wide open the doors of our country to the introduction of British wares at the expense of our own industries and our own people of all classes. We can only compete on equal grounds with England, in the manufacture of many kinds of commodities, by crushing our laboring population down to the level of the starving operatives of Manchester and Sheffield. Are we ready to do that in this country? I hope not. I trust not, sir.

Some will answer me by saying the true policy of all nations should be to give a free field to all; that it is a narrow and selfish rule that shuts out any from competition in the world's enterprises anywhere and everywhere, and that our people, in this land of free thought, free speech, and free action, should be free to buy where and when and of whom they please, untrammelled by any prohibitions or hindrances whatever. This sounds well, but there is a fatal fallacy in it. It will not, it never has resulted in the best good of any considerable class of our people.

The result has been to injure instead of benefit the consumer and the poor. It has and ever will result as follows: when the doors are thrown open the rich foreign manufacturers flood in their commodities and sell at small profit or no profit at all, if necessary, until they have crushed out competition and killed our industries. As soon as that is accomplished and the field is clear for them their prices rapidly rise until the people are forced to pay more for their goods than when they had the advantage of the competition that always springs up at home; and by the time this is done the laboring classes are out of employment and impoverished and must be supported largely by public charity. This has been the result in all the years before and will be in all the future. Why cannot all men see it? It is the simplest problem, to my mind, in the world.

It can be illustrated by the business of almost every town. Here is a man who has been in business for a long series of years. He has been successful; has grown rich. He can afford to squander for the present time a large sum of money in the sale of his goods if he can thereby strike out all competition and after that control the market. His neighbor is comparatively poor, but has opened business near him, and the man of wealth throws on the market for a year goods at a loss. What is the result? The man who dared to open business is soon ruined, his stock is gone, and he has no money with which to purchase any more, and his business is closed out. He is a bankrupt, and the old concern sends its prices up again and monopolizes the trade, and the working people afforded employment by this new man of business are all idle and out of employment, and soon they are unable to purchase at any price. Now, suppose the old concern had been prohibited from underselling and crushing out the new rival, then both would have stood equal and both would have lived; but such is not the law of trade.

Take another illustration, more apt: here is in one of our eastern cities an old manufacturing establishment worth millions. In an adjacent village springs up another of moderate means, but giving employment to a thousand men and making a market for the produce from a thousand farms near it. The wealthy concern in the adjacent town floods all the markets where our new concern has any hope of selling, at a loss or even at no profit whatever, for a sufficient length of time to swamp the new manufactory. And then what next? The old prices are resumed, and the thousand laborers are without work, and the thousand farms have no home market for their products, and suffering speedily finds its way to the homes of the idle men, and the farmers consume a large part of their profits as before in sending their goods to market. Now such is our case with Great Britain and France. They are in possession of double our wealth. They owe no foreign debt, and we owe largely beyond the ocean. The individual wealth of their great business men is such they can overwhelm us, and will be so for many years yet. But the time will come by and by when we can throw down the barriers and bid them enter and compete with us for the prize of success, but not yet. It is too soon, by far. We cannot do it now.

My constituents are largely engaged in the manufacture and sale of lumber and salt. There is no other so large a section of the Union, I think, represented by any one man on this floor, where can be found so much good pine lumber as in my district. There is vast wealth in our pineries, and our lumbermen are making lumber to-day at the merest possible living profit, and they can barely, by the dint of the utmost economy and industry, keep afloat with a tariff of \$2 per thousand feet upon foreign lumber. Do you want to kill their business? Do you wish to ruin the hundreds of enterprising men who are struggling through this fearful panic, cutting out the pine lumber in the State of Michigan and other lumber States? Do you want to see them sink and disappear from the sea of enterprise, for the benefit, too, of our British rival lying alongside of us? Our business

men now engaged in the lumber trade, if the tariff is taken off from lumber, will have to resort to one of three things: first, run over their pine lands and cut out the first-class timber, and leave the common timber for better times and better prices; or, second, cut down the pay of their laborers on a par with the Canucks of the Canadas, who live on pea-soup and potatoes and salt; or, third, continue their business under present wages, and soon be compelled to go into bankruptcy. They cannot, many of them, stop; they must go on. The absolute necessities of the poor people demand the prosecution of the business.

I beg of you, my friends, to take care of our people who are struggling along hoping for better and brighter times. Do not forsake them in this hour of their need. We want no reciprocity with the Canadas either. If they want to trade with us on an equality let them come into the American Union and share with us the blessings of a free government, and if they are not ready to do so let them stay out and stand or fall by their own merits. We can manage to live without them if they can without us.

Our salt interests in our State and other sections of the country are immense. Many millions of dollars are now actively employed in the business, and the competition in our own country is very intense indeed and so great as to reduce the price of salt to the lowest possible point at which it can be successfully manufactured without reducing the wages of the laborer down to such a point as to almost beggar him, and that should be avoided if possible, as the American doctrine has been and should be that the laborer is worthy of his hire and should be paid such wages as to render him a comfortable living. Then he will be contented and happy, and cannot be otherwise.

We have learned something, or at least ought to by our war, in relation to free trade in salt. At the commencement of that war we were sending millions of money out of our country annually more than we are now to pay for the labor of other nations. Therefore more than one-half of our salt was furnished to us by other nations. The great calamity gave us a tariff on salt and that stimulated that industry and gave work to thousands of our people. And yet to-day we are sending out of the country millions of money for the same article—money needed at home to give employment to other thousands of our idle men. And the true interest of our country demands an increase of the tariff on this commodity so that we may keep these millions at home for our own people.

The great saline deposits of West Virginia, Ohio, New York, Michigan, and the far West, are absolutely inexhaustible, and they only need the labor to supply our every want in this direction and keep our money and labor at home, and true wisdom demands it.

Another great interest among the many that must have protection is the wool interest. Our wool-growers have all the competition at home they can live under. The Michigan farmer, the Wisconsin farmer, the Ohio farmer, and all the farmers North have to compete to-day with the wool-growers of California, New Mexico, Texas, &c., where their flocks can be kept all the year with scarcely any expense compared with the wool-growers of the North, where they have from four to six months of winter to contend with, and the difference is very great indeed. You cannot ask them to meet any further difficulties. They cannot do it and survive. They will fall under any added weight. Do not venture to burden them any further. Any considerable reduction of the tariff rates on foreign wools would send every sheep in the Northern States to the slaughter pens. There would be, there could be no other course left for the farmers of that section of our country; and I repeat, do not cause such a fearful calamity to befall our people. It will not do.

Our iron interests are immense and must not be forgotten nor abandoned. We have had nonsense enough in the past on this subject. When we consider the fact that nearly if not quite fifty thousand miles of railroad iron has been laid down in the United States, brought three thousand miles across a dangerous ocean, for which this country has paid the gold and silver to England, when all of that money should have been kept at home and paid to our own people, giving employment to hundreds of thousands of men; when we remember, too, that by our fostering care of the iron interest latterly, we have so encouraged and strengthened the industry that a competition has grown up at home which has reduced the price of railroad iron from, say, \$90 per ton to \$35 to \$40.

Now, suppose we should throw down the bars and open all the gates so far as this one branch of business is concerned. What would become of our iron mills in a little time? What would be the result upon our extensive mining operations? They have all they can do now to stand under the stringency of the money market and the intense home competition. The old story would be told again. History would most certainly repeat itself. Old England, Germany, and Belgium would rush their iron and steel into our markets, at a loss if necessary, until the mills in America were silent and the forges cold, and then they would restore the old prices, or at least approximate them, and our railroad-builders would be driven to pay \$60 or \$70 per ton for railroad iron. Can any man who has kept his eyes open to the truth of history doubt this for a moment? But some friend says we only want a tariff for revenue. That is the policy of this Government. Oh, but what is a tariff for revenue? What does it mean? There is more mystery about this matter than necessary. The truth is that the revenue results from and follows the tariff. When the tariff is low the revenue is low, and always will be. When

the tariff is high the revenue is high, and will be so. This is the experience of the country from our earliest existence as a nation's unvarying experience. And why is it so? There is a good reason for this somewhere. It is simply because the result of it is to make the people rich, and the unchanging influence of free trade is to make them poor. And why? Why does protection make the people rich and the contrary impoverish? This is a simple problem and capable of being solved without difficulty. That the practical workings of theories is as above, the history of this country and others as above shown proves beyond a peradventure.

Now for the why and the wherefore. Because protection gives employment to the people, and the want of it leaves them in idleness. In other words labor is the great source of wealth; idleness the great source of poverty and want. Let your legislation be in such a direction as to give employment to the people and then you are safe. An industrious people, with ample work for the masses, at good wages, can never be in want to any great extent; and therefore wise legislation will seek to give work to the people and then they will take care of themselves. The only remaining question is how can this be done? Can it be done by legislating in the interest of labor over the sea? Can it be done by throwing hundreds of millions of dollars into the hands of British manufacturers, by which they can do the work our people are waiting for, and leaving them to wait and starve?

Free trade is the wildest nonsense in the world, and it seems that we have had enough of it to understand all about it.

Hear what the Duke of Wellington said about it over thirty years ago. He said:

That when free trade was talked of as existing in England it was an absurdity. There was no such thing, and there could be no such thing as free trade in that country. We proceed, says he, on the system of protecting our own manufactures, and our own produce, the produce of our labor and our soil; of protecting them for exportation, and protecting them for home consumption; and on that universal system of protection it was absurd to talk of free trade.

England is approaching more nearly a free-trade standard than in Wellington's time, but she is far from free trade to-day, but she does hope to lure this country into following her example just so far as possible, and far enough so that she can destroy us. She envies our position and influence in the markets of the world and longs to wipe us out as a commercial nation, and she can only do it—enticing us to embark on this free-trade ocean and then she can see us sinking, sinking out of sight. There is no success like success; so there is no wisdom like that purchased by experience. Knowledge gained by actual experience cannot be disproved. It cannot be denied to the man who solved the difficulty himself. What a supreme work of folly it would be to essay to prove to Captain Eads the impracticability of constructing the jetties at the mouth of the Father of Waters, he having himself constructed them. So I may say, with equal consistency, what foolishness to attempt to establish the fact to the American people that free trade is a good thing when the actual experience has proved the reverse; and how absurd to try to convince the nation that protection is unwise, when the opposite has been demonstrated by the actual workings of the system. Can we never be settled upon this question? Must we always be afloat and never know permanence and stability in this matter of protection? Where is our trouble on the tariff? South, nowhere else. Why so? Why not in other sections of the country? Because of the great foreign demand for cotton; that is all the trouble. Why should that demand stand in the way of a thoroughly protective system?

It grew up under the influence of slave labor, under the education of more than a hundred years of slave labor. There is no reason in the world, now that that old system of labor is ended, that the South should not manufacture her own great staple and supply the world largely from her own looms, the work of her own hands. She should not continue forever to pay tribute to old England or New England, but should do her own work and enrich herself and make her sunny land the beautiful land of the world. The wealth of the South is pouring into the two Englands to-day, and it ought not to be so. Southern interests demand a new departure. Swing open your doors to friendly competition in building Lowells and Manchesters along your great rivers, and the South will awaken to a new life undreamed of in the past. Put on the tariff and keep old England out, and keep your money in; that is the true policy of that section. That is the true policy financially, and politically as well. The old barrier between the North and South can never be entirely thrown down and scattered so as to never stumble on it again until this question of the tariff can be removed out of the way. This can never be done until the cotton States view their interests in a different light from the present. The North cannot prosper under free trade; neither can the South, except for the present. Sending abroad the products of the soil and leaving nothing behind to recuperate the exhausted lands, as has been the practice of the cotton States, is certain ruin to them in the long run, and wisdom calls for a change, which can only be done by building up manufactures there and diversifying the labor of the people, and thus the country can be nourished and sustained and barrenness will never come.

The lands in New England are improving every year. Let the same course be pursued in the South and it will become the garden of the nation in a century, and this disturbing element in our national councils will disappear forever. The unfortunate manner of doing business

South results in the cotton States constantly coquetting with England, our great rival and enemy. Could we but remove this disturbance we would go on to a greatness and unity that would astonish the world and ourselves as well; and this can only be accomplished by trade and the encouragement of manufactures in the South; so I say, build them up and let both of the Englands take care of themselves; make your own fabrics and supply the markets as you ought and then the tariff question will be settled, and we shall have no more trouble. This foreign market has ever been the discordant note in our music. It has made us all of our trouble, that and the slave labor; that has kept out manufactures. Once they come in, the trouble is ended. We hold, and the history of protection the world over proves, the correctness of our proposition: that the labor of a country should be diversified; that the industrial interests should be multiplied; that no country exclusively agricultural is a happy, prosperous, or rich country; agricultural countries are always poor and must be; that the best interests of every country demand that the production of all commodities should be encouraged which are capable of being produced; that all should be protected, and amply protected, too; that every branch of industry is more or less dependent upon all others, and that a proper system of protection is the legislation needed for all branches of industry.

The reasons for encouraging diversity of human labor are that all men are not fitted by natural faculties, neither are they by disposition or inclination, for the same pursuit or business. This is one of the wise provisions of all-wise and good Providence, and will work for the best good of all men in every age and clime. And there is hardly a country that is adapted but to one branch of labor or industry; and certainly our country is not one of them—any part of it. And it would seem as if a common-sense view of the matter would lead every candid mind to the conclusion that we should so manage our affairs as to make ourselves independent of every other nation, and be able to supply ourselves with the necessities of life and the means of defense.

The three great industries of this country—agriculture, manufactures, and commerce—are so connected that when one suffers they all suffer, and to aid any one of them is to aid all three. Their interests do not run in opposite directions, but in the same current. Some seem to think this is not true. Some seem to think they are in conflict. There could be no greater mistake. When one languishes the others sicken and languish too, and will; and you cannot help it.

No nation wholly agricultural or wholly commercial can be prosperous and happy. Our own country furnishes conclusive evidence of the fact that agriculture cannot prosper without manufactures. It was to relieve us from a state of dependence upon foreign nations for supplies of manufactured goods and to provide an additional market for our surplus agricultural products that the power of the General Government to encourage domestic manufactures was created. The wisdom of thus providing a home market for the products of agriculture stands vindicated by the opinions not only of the most eminent statesmen and ablest writers on political economy of the world, but the practice and experience of every civilized and prosperous nation. In proof of our position we cite Smith's Wealth of Nations, Hamilton's Report on Manufactures, Anderson on National Industry, Cooper's Principles of Political Economy, Chaptal, Washington, Jefferson, Madison, Monroe, Jackson, Buchanan, Clay, Webster, Stewart; and could multiply the number of great names almost indefinitely.

I yield the remaining fifteen minutes of my time to the gentleman from Massachusetts.

CURRENCY.

Mr. BUTLER. Mr. Speaker, I ought to apologize perhaps for troubling you at this time, but I am anxious to get a matter of very considerable interest before the House in the RECORD, because I propose on Monday next, if I can get the floor, to ask a two-third vote upon the measure, and I desire it should be open to examination before the House shall be called to vote upon it. I do not believe in passing bills affecting great interests by a two-third vote without discussion. And the measure I present will not be a bill. I propose a resolution which I will read and then explain the reason for it:

Resolved, That the Committee on Banking and Currency be instructed to report to this House forthwith a proper bill or bills—

First. To provide for the reissue of the fractional currency of the denomination of fifty and twenty-five cents; for the withdrawal of subsidiary silver coins of the same denomination now in circulation as fast as they may be received into the Treasury, and prevent further issue thereof.

Second. To provide for the printing and issue of twenty millions of legal-tender notes of the denominations of one, two, and five dollars, in equal proportions, to be paid from the Treasury for the current expenses of the Government for circulation among the people.

You will remember, sir, we withdrew the fifty and twenty-five cent fractional currency from circulation, and substituted therefor the silver half and quarter dollar. Now, I think the general opinion of the people of the country is that was the most convenient currency we ever had. There are many uses for which it is convenient which the silver half and quarter dollar do not have. For instance, all small sums to be transmitted by mail practically cannot be transmitted now. A silver half dollar breaks the envelope of its own weight. If it does not break it of its own weight it tells everybody it is there, and somebody else breaks it, and it does not reach its destination. [Laughter.] My attention was called to this by a very practical

man in Massachusetts, a large seed producer, who paid a very large postal revenue. In his business, which requires to be transmitted to him fifty and twenty-five cents for packages of seed all over the country, he found in a few months a loss as high as \$4,000 a month for the want of some means of sending the money to him in these small sums. And so small subscriptions for various publications and periodicals cannot be sent.

It may be said, Why not get a postal order? That postal order to send fifty or twenty-five cents would cost ten cents. Therefore we cannot transmit by mail, and any one who tries to transmit an uneven sum by mail will find, if he does not get a postal order, it will give him great trouble. Now, there would be no objection, it seems to me, to the remonetization of this most convenient of all convenient currency, which nothing but extreme folly, approaching in my judgment to idiocy, ever caused to be taken out of circulation.

I have not provided in the instructions to the committee there shall be any extension of what is called, I believe—it ought not to be so called—an increase of currency, but I have simply provided the silver half and quarter dollar shall be withdrawn. But I am not particular about that. You get the others out and these will go in of their own motion.

Then you observe there is another provision here; and that is that one, two, and three dollar greenbacks shall be issued to the amount of \$20,000,000. I do not care for inflation to that amount—although it is folly to talk about inflation for \$20,000,000. Currency is the money of retail, to do retail business; and one-hundred and five-hundred and one-thousand dollar bills are not money at all. They are simply large, convenient checks. It is supposed and believed by those who have examined the subject that 95 per cent. of all the business of the country is done by the check-book, the ledger, the bill of lading, and other forms of mercantile security, and that currency only does the business of retail of about 5 per cent. and it needs to be small for that purpose.

Banks under the old system used to be very fond of putting out their small bills, ones, twos, threes, and fives. Why? Because they went into circulation, were worn out, and lost. There was a great profit on them, and there being a great profit on them, the circulation being for a long time, they were a favorite issue for all banks. But now no matter what the size of the bill if it once gets out into circulation it never comes home to the bank, and it takes from three to five years to get in the bills of a national bank when it is wound up. And the banks have to pay for printing the bills. And it costs just as much to print a one-dollar bill as to print a thousand-dollar bill. Therefore the banks are withdrawing all their small bills and only issue large bills of ten, twenty, fifty, and five hundred dollars. And the consequence is that all over the country there is a great dearth of small bills; especially all over the agricultural portion of the country. And the design of this resolution is to have the Government provide those small bills as the banks do not issue them and do not care to issue them. And then the devil entered into somebody a year ago and there was an attempt to contract the currency by taking in all the small bills; and there have been about sixteen millions of them taken in. It was said that was the best way to begin to contract the currency—to contract the small bills. Now I want those set afloat again because I say again currency is the money of retail; and when men talk about an overflowing currency they have not, in my judgment, very much idea about what they are talking of.

We are told we have a great deal too much currency, because we have a great many large bills; and we have got money, we have got currency—meaning thereby bank-bills and greenbacks—to the amount of about six hundred and fifty millions. And it is said we do not need so much; that before the war we had only about two hundred and fifty millions, and we have not had any such increase of population as corresponds to the increase of currency. But did it ever occur to gentlemen that with this money of retail we are doing four, five, six, seven, eight times as much business, retail business, now as before the war? Let us take some examples. Before the war we had but twenty-seven thousand miles of railroad. Now we have seventy-seven thousand miles; and all railroad business, as far as the carrying of passengers is concerned, is done by currency, and largely the freight business also. The receipts of the Post-Office before the war were only about eight or nine millions; now they are forty millions, all done by currency. The telegraph had hardly got started before the war; now its receipts are sixty and seventy millions a year, all done by currency. The express companies had hardly got from large city to large city before the war. Now the express goes into every hamlet all over the country; and its business is all done by currency, and small currency at that.

As I have said, I do not reckon five-hundred-dollar and one-thousand-dollar bills as currency. They are only large checks. Therefore I have introduced this resolution, and I put it in the RECORD so that anybody who cares to do so may examine it; and I suppose everybody that cares anything about the convenience of the people will examine it; but those who have the convenience of bankers and brokers in their minds and that only, will not, or, if they do, it will not make any impression on their heads. I put it on the RECORD that all gentlemen may see it before they are called to vote upon it, and for no other purpose whatever.

[Here the hammer fell.]

Mr. WILLIAMS, of Wisconsin, addressed the House on the pay-

ment of arrears of pensions. [His remarks will appear in the Appendix.]

TEXAS PACIFIC RAILROAD.

Mr. DICKEY. Mr. Speaker, the bill proposed by the Committee on the Pacific Railroad is for the United States to aid in the construction of the Texas Pacific Railway by guaranteeing the payment of interest on the bonds of the corporation that desires to build a railroad from Fort Worth, in Texas, to Ship's Channel, in the Bay of San Diego, on the Pacific coast, being about fourteen hundred miles.

The guarantee asked for is \$20,000 per mile for eleven hundred and fifty miles, and \$35,000 per mile for two hundred and fifty miles. Also a guarantee of interest on a second series of bonds to the extent of \$5,000 per mile for the whole road. These bonds are to run fifty years, and the interest, in gold, to be paid by the United States half-yearly at 5 per cent. per annum for that time.

The total amount of bonds to be issued is \$38,750,000. This fixes the liability of the Government on the bonds of this corporation at \$1,937,500 annually for the period of fifty years, amounting in the aggregate to the sum of \$96,875,000, or the sum of \$69,196.42 per mile for the whole distance, to be given to this corporation, when it is claimed by the advocates of the measure that the road will cost not to exceed \$32,000 per mile.

But independent of this demand, I am opposed to the principle involved in the bill, and to all similar legislation. And were all doubts removed as to the principle involved, I should still oppose it on grounds of expediency, having before me the lessons of the past and the extraordinary demands of the present.

The schemes that have grown up under the congressional construction of the power "to establish post-offices and post-roads" and the measures now pending in this Congress under the pretense of "national necessity" and the public good are absolutely startling. It is a part of my purpose, in the remarks I now propose to make, to present to Congress and the country a brief synopsis of a few of the

MANY SCHEMES

pressed upon Congress, with a view of converting the Treasury of the United States into a loan office for the benefit of railroad corporations and making the Government their surety and bondsman.

Some of these measures propose to extend the time to insolvent corporations in which to complete their contracts and increase their liabilities. Others propose that the Government shall issue millions of greenbacks to railroad companies to enable them to construct their roads; and others still demand that they shall receive from the Treasury the bonds of the United States, to be secured to the Government by mortgage upon the road to be built; but all of them having the one general aim, and that, to reach down into the Treasury and still further involve an already overburdened people. Any one of these schemes is just as plausible as any of the others, and has just as much merit. And, if the principle is sound, there is no reason in the world why we should not at once organize and incorporate one grand "national railway company of the United States of America," with full power to lease or purchase and consolidate all the railways of the country into one, and to enter upon and condemn real estate that may be necessary for the great objects of the corporation.

All this can be done under the doctrine of the public good and "national necessity" with as great propriety as any of these bills can be passed; and it would have the effect of answering completely the argument of "national necessity," because of the want of competition, for then the Government would so regulate the rates as not to be oppressive upon the people.

UNJUST TAXATION.

But the whole doctrine is false and the plea of "national necessity" fallacious, having, as it has, for the basis of its existence the mere desires of stock-jobbers and railroad rings, which it seems to me is in fact its chief resting-place, and is not such a foundation as ought to move this body to recognize it.

I deny that the power to establish post-offices and post-roads is a power to aid corporations by granting them the public lands, indorsing their bonds, or loaning them money to build railways, over which the mails are to be carried, upon such contract as to price to be paid for such service as the corporation and the Government may afterward make.

The building of railways and the working of them are industries as much so as manufactories or any other business in which private citizens engage. In aiding these railways we take from the Treasury and patrimony of the people their money and property to advance the interests of an industry, in behalf of a certain class, without the remotest idea that it will ever be returned. It is in fact a tax. I know it is said "that if the Government effects, on the one hand, a lower price for transportation by railway it may well, on the other hand, increase the tax upon the people, and that a compensation will be arrived at in this manner." But this is not true. The increase of tax sustained by each citizen cannot be made proportionate to the use each may make of the railway. Such a distribution of the taxes is impossible in practice, for it would happen that he who could make little or no use of the railway would pay the tax for him who constantly uses it, which would be gross injustice; yet such is in fact the practical effect of these measures. But let us look at some of these bills

NOW BEFORE CONGRESS.

One of them is to provide for the construction of a railway from San Antonio to Eagle Pass, on the Rio Grande, and requires the Secretary of the Treasury to issue bonds of the United States to the Galveston, Harrisburgh and San Antonio Railroad Company to the amount of the cost per mile of the road, but not to exceed \$25,000 per mile for one hundred and sixty miles, which would require \$4,000,000. These bonds of the Government are to be given to the road in exchange for its bonds and are to bear interest at the rate of 4 per cent. in gold.

Another of these bills provides for the construction of the Southern Maryland Railroad, and requires the Secretary of the Treasury to indorse the guarantee of the United States upon the bonds of the corporation to the amount of \$15,000 per mile for eighty miles, amounting to the sum of \$1,200,000, the Government to be secured by mortgage on the road. The bill under consideration is an amendment to the act incorporating the Texas and Pacific Railway Company and to aid in its construction. This corporation by this bill is authorized to create and deposit with the Secretary of the Treasury its bonds to the amount of \$20,000 per mile of the whole road, except for the mountain country of two hundred and fifty miles; the bonds are to be to the amount of \$35,000 per mile, but the whole not to exceed \$31,750,000. A second series of bonds are to be issued, and in like manner deposited, to the amount of \$5,000 per mile, making a total of \$36,750,000, to be secured by mortgage on the road, and the land given to the corporation by the State of Texas.

The Secretary of the Treasury is required to indorse upon these bonds the guarantee of payment of interest at 5 per cent. in gold semi-annually by the United States. The corporation (the mortgagee) is then authorized to sell the mortgaged Texas lands at its own price, to create a sinking fund with which to redeem its bonds and pay back the interest so advanced by the Government. It is further provided that the corporation shall relinquish to the United States the grant of lands made to it in New Mexico, Arizona, and California, except the right of way, upon the express condition and for the express purpose that the Government shall sell said lands and appropriate one-half the proceeds to the use of said corporation in the payment of interest on its bonds. This corporation is also authorized to extend its line eastward to the east bank of the Mississippi River, under the same terms as to bonds to be guaranteed by the United States.

Another bill appropriates \$20,000 to make a survey for a railroad from Austin, Texas, to the Gulf of California.

Another appropriates out of the Treasury of the United States \$6,000 per mile, for a distance of three hundred and fifty-two miles, for the construction of its railroad, to the Galveston and Camargo Railway Company, making the sum to be paid in cash by the Government, \$2,112,000.

Another still is the creation of a corporation with authority to build a railroad from some point near New York to Council Bluffs, with branches to Chicago and Saint Louis. This grand corporation is to issue bonds and stocks and borrow money thereon to the amount of \$30,000 per mile for thirty-five hundred miles, making the sum of \$105,000,000 upon which the Government is to become surety. In addition to this the corporation may issue its certificates of stock to the amount of \$52,500,000, making a grand total of bonds, coupon stock, and certificates of stock of \$157,500,000; all this grand scheme, with the aid of the Government, to be consummated by this giant corporation without one dollar of its own money. Of course the Government is to have the privilege of a mortgage upon the proposed road.

I have noticed these few of the forty or fifty projects now before Congress, with a view to conveying some idea of the character and growing magnitude of these schemes and of the proposed legislation in their behalf. There is no distinction in principle between them. One is just as meritorious and as deserving of friendly consideration as another.

Suppose we make a more concise statement of these six modest demands:

Galveston, Harrisburgh and San Antonio Railway Company.....	\$4,000,000
Southern Maryland Railway Company.....	1,200,000
Texas and Pacific Railroad Company.....	38,750,000
Galveston and Camargo Railroad Company.....	2,112,000
Survey, Austin to Gulf of California.....	20,000
Railway from New York to Council Bluffs and branches.....	157,500,000
	203,582,000
Add bonds already issued Pacific Railroad.....	64,623,512
	268,205,512

Giving us the sum of \$268,205,512 in bonds, stocks, certificates of indebtedness, and cash, in which the Government is sought to be mixed and charged either as sponsor or principal or guarantor in some shape or other.

The money is to be directly appropriated from the Treasury, the bonds of the Government to be issued, or the interest on corporation bonds to be guaranteed by the United States, and so securing in advance a certain dividend to stockholders.

Sir, when we consider our immense debt of over \$2,000,000,000, the general distress and stagnation of business all over the land, and that bankruptcies are occurring among our business men at the rate of from eight to ten thousand annually, would it not be far more appropriate for the representatives of the people to give their undivided attention to those measures which propose relief to them, rather than

be considering measures like these, for the sole benefit of corporations, which, created and sustained by the strong power of the Government, invariably become the oppressors of the people.

ACTS OF 1862-'64.

When in 1862 the bill to construct "a railroad from the Missouri River to the Pacific Ocean" was under discussion in the Senate, Mr. Wilson, of Massachusetts, said:

I have studied the railroad system of this country, and its condition, and I make the prediction here to-day, and let it go upon the record, that the man is not born in this country, nor is there born the grandfather of the man in this country, who will ever see this nation get back this money. It is an impossibility. The road will never be worth it. * * * I do not expect any of our money back. I believe that no man can examine this subject and come to the conclusion that it will come back in any other way than is provided for in the bill; and that provision is for carrying of the mails and doing certain other work for the Government of the United States. In that way we are to get our compensation, and in my judgment it will be ample and complete. But the idea that the \$16,000 or the \$48,000 a mile we put into the road is ever to be received back into the Treasury of the United States, is as visionary as anything that ever entered the brain of any man.

And what he then uttered as a prediction is true now, for that road is in arrears on interest account with the Government many millions of dollars, and will be when the bonds fall due. The amount received by the Government for carrying the mails is all that any of these roads pretend to pay and all the Government ever will get for this vast expenditure of the people's money and property.

I do not believe the Government ever would have been involved in the construction of this Pacific Railroad in the manner it was, had not the project been pressed upon Congress by the great railroad lobby which took possession of that body during the days of our great civil war, when the doctrines of "national necessity" and "military necessity," subverted every idea of constitutional limitation.

Let us see what sprang out of the acts of 1862-'64: The Central Branch, Union Pacific Railroad Company; the Sioux City Pacific Railroad Company; the Kansas Pacific Railroad Company; the Central Pacific Railroad Company; the Western Pacific Railroad Company; the Union Pacific Railroad Company.

The Western Pacific Company became consolidated with the Central Pacific and is now known by that name.

The Government of the United States issued its bonds to the several railway companies, to run thirty years at 6 per cent. interest, payable semi-annually, (the Government paying the interest,) to the amount of \$64,623,512.

On these bonds we have paid, donated of the people's money, since 1864, interest to the sum of \$37,896,334.50 up to January 31, 1878.

These bonds, so issued in aid of the construction of "a railroad from the Missouri River to the Pacific Ocean," were secured to the Government by a first mortgage on the road to be built and its land. But having secured these subsidies, and not having completed the road, these corporations, by some secret legerdemain known on those in the ring, in June, 1864, procured such action of Congress as to permit the corporations to issue their own bonds to an amount equal to those of the United States, and secure them by a mortgage prior to that of the Government. Before this amendatory act of 1864 the Government seemed to be perfectly secured from loss or hazard even in this most extraordinary and doubtful conduct.

The effect of this act was to wipe out and destroy forever the last vestige of security held by the United States, and literally rob the people of these enormous sums of money for the benefit of corporations that constantly cry give, give.

Mr. Washburne, of Illinois, who opposed this swindle, said:

Now, it will be recollected that the fifth section of the existing law provides for the repayment of the bonds issued to the company, and declares that the issue and delivery of them to the company shall *ipso facto* constitute a first mortgage on the whole line of road and telegraph, together with the rolling-stock. This was the security which Congress had a right to demand of any company that should be organized. It was its duty to require it unless it was intended to surrender up everything and place the most gigantic interests at the feet of the company, without control and without challenge. We donated, as I have before stated, millions upon millions of acres of the public lands to the company for this purpose; then we agreed to give our bonds for the amount, with the interest thereon, of \$98,000,000, and if Congress had required less than a first mortgage as its security it would, in my judgment, have been derelict in its duty to the country, whose interests in this regard it can alone protect.

What is now proposed by this amendment? I demand that gentlemen shall look at it; let the mirror be held up to nature. Nothing less than the Government, with its liability of a hundred millions, shall relinquish its first mortgage and subordinate its lien to the liens of all the companies created for building the road. The bonds of the United States are to be issued to the company, and the Government is to have no prior lien for its security; but by this provision the company, representing as it may but 1 per cent. or a little over of the amount that the Government is liable for is to subordinate that Government to its own interests, raise money on the means that the Government has furnished, give a first mortgage for the security of that money, and leave the United States as a second mortgagee, obliged to pay off the first mortgage before it can be in a position to take advantage of any security there might by possibility be as a second mortgagee. But who is wild enough to believe that should the provisions of this section become a law the remaining security of the Government will be worth a straw?

It is worse than idle to contend that we shall have any security left for all our liability if this bill shall pass. And further, by the fifth section of the law bonds cannot be issued till forty consecutive miles of the road are fully completed and equipped. It is now proposed by this tenth section to strike out "forty" and make it "twenty." This company, not content with snatching from the Government the security it now holds for the bonds it issues, cannot even wait to finish the forty miles of road at present required before grabbing what is proposed to put into their hands, but they must cut it down so they can go in on twenty miles. Sir, on my responsibility as a Representative I pronounce this as the most monstrous and flagrant attempt to overreach the Government and the people that can be found in all the legislative annals of the country. When we look at the original law with all its liberal and just provisions, when we look at the company organized under it and see how far it has failed to meet its proper obligations, and consider the extraordinary amendments here proposed, are we not filled with astonishment at what

is demanded of us as the guardians of the people's rights? Indeed, may we now exclaim:

Can such things be,
And overcome us like a summer's cloud,
Without our special wonder?

But the amendment passed, and the Government had a secondary security, which in this case is equivalent to none. (See *Globe*, volume 53, pages 32, 67.)

The liabilities of these corporations upon these bonds alone may be stated in round numbers as follows:

Union Pacific.....	\$75,000,000
Kansas Pacific.....	25,000,000
Central Branch.....	3,000,000
Sioux City Pacific.....	3,000,000
Central Pacific.....	80,000,000
Total.....	186,000,000

Upon the maturity of the bonds of two only of these companies, the Union and the Central Pacific, the United States will have paid for their benefit in cash out of the Treasury the sum of \$154,258,137, and there is to-day no satisfactory plan or reasonable expectation of this money being repaid by these companies.

WHERE WILL IT END?

These astounding facts ought to create a wholesome apprehension in the Representatives of the people that would at least cause them to hesitate and inquire with an earnest seriousness becoming their responsibilities where this character of legislation will lead. Or have we gone so far that we shall say we are willing to adopt by degrees of this kind the theories of the imperialists of this country and acknowledge "that the people of the United States is an independent political society, with its own organization and government, possessing in itself inherent and absolute power of legislation; that the States do not possess, each in itself, absolute power in regard to anything; that the several States composing the Union are creatures of the one body-politic composed of the whole people of the United States?"

Sir, I had been taught the very reverse of this, and to believe that the Union was the creature of the States, possessing only such power and limited to such authority as the States had delegated to it. Will any one deny that Federal authority for legislative purposes is limited to certain enumerated cases, which fix a boundary line, beyond which Congress cannot legally go? Its business is not to legislate for the management of individual affairs, but to enact such general laws as concern all the States as members of the Union under the specified powers found in the Constitution. But this doctrine of "national necessity," "public good," and other vague phrases, sets up the broad, indefinite, and uncertain claim that such power belongs to the Federal Government as its Representatives adjudge belongs to it. If this be so, the limitations of the written Constitution are worthless, and we at once become an unlimited, imperial Government. This doctrine cannot be true and the Republic exist. Let us remember that we are a "Union of States and not a united state;" that one of the great objects of our written Constitution is to limit the power of the Federal Government and thus secure the people from that very character of power, tyranny, and despotism from which those who framed it had just emancipated themselves. They, sir, had suffered the oppressions of unlimited power, or rather that power which the British government adjudged belonged to itself, and emerging from the throes of revolution, the fathers of the Republic—

Guided Freedom in the path they saw
Led out of chaos into light and law,
Peace, not imperial, but republican,
And order pledged to all the Rights of Man.

Sir, there are two ways of destroying the Republic: that of force and military power, and the other by a "chain of usurpations and encroachments" upon the Constitution, under the guise of "public good" and "national necessity," and the first having failed, the latter, by legislation of the character of which I have spoken, is opening channels into the very citadel of our liberties and there creating and fostering a monster that in time will destroy us. There is no end, no limit, no boundary to the logic of power. If Congress has power to donate indirectly money or land to a corporation or to an agent, the creature of its own creation, for the purpose of constructing railways, may it not directly appropriate money and land to build the railway itself? If it may build railways under the power to establish post-roads, may it not with equal propriety establish and publish, at such points as Congress may fix, national magazines for the education of the people, under the "general welfare" clause, which may mean the power Congress shall adjudge belongs to itself? And if it may do these things, why may it not establish and maintain national infirmaries for the benefit of the millions of paupers and tramps which this class legislation has inflicted upon the country?

But what care stock-jobbers and gamblers for constitutions or constitutional limitations? They would see them torn into fragments, if they may only be permitted to seize and prey upon the Treasury and patrimony of the people.

Their very instinct seems to be debt and taxation, and they look upon our Government as though it was founded chiefly for the purpose of dividing money and distributing the public lands among soulless corporations.

CENTRALIZATION.

Since the accession of the republican party to power, we have witnessed the General Government occupying new and strange attitudes

toward the States. Unceasing efforts have been made to enlarge its powers, and in many instances, without warrant of law, acts have been committed by those in authority which must ever remain as blotches upon the pages of our nation's history.

The school of statesmen who took control in 1861 seem to have regarded the Constitution as conferring unlimited power upon the General Government, and acting upon this theory have ever since treated the States and the people as though all their rights, liberties, and privileges were derived from and in the keeping of a strong, unlimited central government, located at Washington. The doctrine of a double Government, that of the Union and the States, as established by the fathers and maintained by the democratic party, was to be totally abrogated and destroyed. The Federal Government had theretofore been administered for general purposes, and the State governments had been administered for the protection of individuals, their property, and homes, and each government, operating within its own well-defined sphere, had prospered as a people far beyond the glory of the nations of the old world. Each of these governments, carefully keeping within its constitutional jurisdiction, could not embarrass the other, and working harmoniously they were no burden to the people. Taxation fell so lightly that so far as the Federal Government was concerned it was neither felt nor seen by the people.

Upon this division of powers, and the necessity of continuing and maintaining them, I quote the following eloquent and forcible language of Webster:

The first object of a free people is the preservation of their liberty; and liberty is only to be preserved by maintaining constitutional restraints and just divisions of political power. Nothing is more deceptive or more dangerous than the pretense of a desire to simplify government. The simplest are despotisms; the next simplest monarchies; but all republics, all governments of law, must impose numerous limitations and qualifications of authority, and give many positive and many qualified rights. In other words, they must be subject to rule and regulation. This is the very essence of free political institutions. The spirit of liberty is indeed a bold and fearless spirit; but it is also a sharp-sighted spirit; it is a cautious, sagacious, discriminating, far-seeing intelligence; it is jealous of encroachment, jealous of power, jealous of man. It demands checks, seeks for guards; it insists on securities; it intrenches itself behind strong defenses and fortifies itself with all possible care against the assaults of ambition and passion. It does not trust the amiable weakness of human nature, and therefore it will not permit power to overstep its prescribed limits, though benevolence, good-intent, and patriotic purpose come along with it. Neither does it satisfy itself with temporary and flashy resistance to illegal authority. Far otherwise. It seeks for duration and permanence. It looks before and after; and, building on the experience of ages which are past, it labors diligently for the benefit of ages to come. This is the nature of constitutional liberty; and this is our liberty, if we will rightly understand and preserve it.

But a separation of departments, so far as practicable, and the preservation of clear lines of division between them, is the fundamental idea in the creation of all our constitutions; and doubtless the continuance of regulated liberty depends on maintaining these boundaries.

At the period of the formation of our Government there were two leading causes from which our ancestors apprehended danger. One was slavery, out of which a dissolution of the Union might grow, and the other was the spirit of encroachment which "tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of Government, a real despotism."

Thus were dissolution and centralization the recognized and arch enemies of our Republic from the very beginning; and although the one is destroyed by an appeal to war, the other from the very *débris* of his adversary's carcass springs up more active and dangerous than before. Dissolution and the right of secession occupied one extreme, while centralization and consolidation occupied the other; the one just as near the correct theory of our Government as the other, and both antagonistic to it. When both lived, they operated as checks upon each other; but now that the bolder of the two is dead, the survivor has redoubled its treacherous flatteries. Its lust for power is immeasurable, and its ambition unbounded. It is wily and stealthy, and comes in seductive and questionable shapes. It lurks in every proposition that comes from monopolies and corporations, and in many of its efforts has found ready assistance from that school of politicians who can see nothing in the Constitution except power to do as they please or such power as Congress may adjudge belongs to itself, and this is always done under the pretense of the "general welfare" and "public good."

Centralization is nourished and advanced by all class legislation and is fostered and encouraged when great corporations succeed in drawing the Government into a copartnership with themselves, thus enabling them to amass immense fortunes which necessarily reside in the hands of the few who, by the advantages they have gained, at length cease to ask, but command legislation in their behalf. This is true from the very nature of things, and history establishes what I have said. Legislation of this character is never in the interest of the people, but always adverse to them. It is a system of sapping and mining, stealing away, little by little it may be, but none the less certainly, the forms of settled government and the guarantees of liberty intended to be established by the Constitution for all times and under all circumstances.

Then is it not our duty, as the representatives of the people, to resist these forces by every means in our power, and to preserve to them their possessions, their rights, and their government? "Who shall keep watch in the temple if the watchmen sleep at their posts?"

Of the fundamental principles of the democratic party none is better settled than that the Federal Government is one of limited powers derived solely from the Constitution, and the grants of power shown therein ought to be strictly construed by all the Departments

and agents of the Government, and that it is inexpedient and dangerous to exercise doubtful constitutional powers; that the Constitution does not confer upon the General Government the power to commence and carry on a general system of internal improvements. The power to improve the great rivers, harbors, and lakes of the country is one thing, and the power to foster, build up, and enter into copartnership with great corporations and monopolies, or to become their surety and bondsman, is quite another.

WHAT THE REPUBLICAN PARTY HAS DONE.

But let us examine what has been done in this regard since 1861. The following table exhibits how the public domain has been squandered on corporations and monopolies:

Land grants to railroads.

Act of—	Name of corporation.	Number of acres.
1871.....	S. Alabama Railroad.....	376,000
1869.....	Alabama and Chattanooga Railroad.....	897,920
1871.....	New Orleans, Baton Rouge and Vicksburg Railroad.....	1,600,000
1866.....	Cairo and Fulton.....	966,706
1866.....	Memphis and Little Rock.....	363,539
1866.....	Little Rock and Fort Smith.....	458,771
1866.....	Iron Mountain Railroad.....	864,000
1866.....	Cairo and Fulton Railroad.....	182,718
1866.....	Saint Louis and Iron Mountain.....	1,400,000
1866.....	Burlington and Missouri River.....	101,110
1864.....	Chicago and Rock Island Railroad.....	116,276
1864.....	Cedar Rapids and Missouri River.....	342,406
1864.....	McGregor and Missouri River.....	1,536,000
1864.....	Sioux City and Saint Paul.....	256,063
1864.....	Sioux City and Pacific.....	389,000
1866.....	Jackson, Lansing and Michigan, (regrant).....	1,052,469
1865.....	Flint and Pere Marquette.....	586,828
1864.....	Grand Rapids and Indiana.....	531,200
1865.....	Bay de Noquet and Marquette.....	128,000
1865.....	Marquette and Ontonagon.....	243,200
1862.....	Chicago and Northwestern.....	375,689
1865.....	Chicago and Northwestern.....	188,800
1864.....	West Wisconsin.....	675,000
1864.....	Saint Croix and Lake Superior.....	359,000
1864.....	Bayfield Branch.....	215,000
1863.....	Chicago and Northwestern, (regrant).....	609,000
1864.....	Portage and Superior.....	750,000
1865.....	Saint Paul and Pacific.....	500,000
1865.....	Saint Paul and Pacific Branch.....	725,000
1865.....	Minnesota Central.....	290,000
1865.....	Winona and Saint Peter.....	690,000
1864.....	Saint Paul and Sioux City.....	150,000
1864-66.....	Lake Superior and Mississippi.....	800,000
1866.....	Minnesota Southern.....	735,000
1866.....	Hastings and Dakota.....	350,000
1863.....	Leavenworth, Lawrence and Galveston.....	800,000
1864.....	Atchison, Topeka, and Santa Fé.....	1,200,000
1864.....	Union Pacific, southern branch.....	500,000
1866.....	Saint Joseph and Denver.....	1,700,000
1866.....	Fort Scott and Gulf.....	17,000
1866.....	Southern Branch Union Pacific.....	1,203,000
1866.....	Placerville and Sacramento.....	200,000
1867.....	Central Pacific, Oregon branch.....	1,540,000
1866.....	Stockton and Copperopolis.....	320,000
1870.....	Oregon and California.....	1,660,000
1866.....	Oregon Central.....	1,200,000
1862-70.....	Union Pacific, Central Pacific, and Kansas Pacific.....	35,000,000
1864-70.....	Northern Pacific Railroad.....	47,900,000
1866.....	Atlantic and Pacific Railroad.....	42,000,000
1871.....	Southern Pacific Railroad.....	8,000,000
1862-64.....	Central Pacific Railroad.....	245,166
1871.....	Texas Pacific Railroad.....	13,400,000
Total number of acres given away.....		285,000,000

Two hundred and eighty-five millions of acres of land given away! What a vast area of the public domain! More land than the whole of the New England States, New York, New Jersey, Pennsylvania, Maryland, Ohio, and Indiana! And yet they still cry Give! Give! when we know the people of all parties everywhere have condemned and denounced these outrages.

Another method, and similar to the one now under consideration, is that of loaning the credit of the Government to these corporations, or becoming their surety for vast sums, which in the end the people will have to pay.

The following table shows what was done for us in this regard:

Bonds issued to Pacific Railway Companies.

Name of railway.	Authorizing act.	Principal.	Interest paid by the United States.
Central Pacific.....	1862 and 1864.....	\$25,885,120 00	\$14,910,465 67
Kansas Pacific.....	1862 and 1864.....	6,303,000 00	4,049,343 09
Union Pacific.....	1862 and 1864.....	27,236,512 00	15,969,801 45
Central Branch Union Pacific.....	1862 and 1864.....	1,600,000 00	1,021,508 26
Western Pacific.....	1862 and 1864.....	1,970,500 00	1,017,064 14
Sioux City and Pacific.....	1862 and 1864.....	1,628,320 00	936,951 89
Total.....		64,633,512 00	37,896,343 50

Showing that the Government has paid, advanced by loaning its credit and cash to these corporations, the sum of \$37,896,343.50, while by transportation of mails, &c., the companies have repaid but little over \$9,000,000 to January 31, 1878.

Upon the maturity of the bonds issued in aid of these several corporations the interest paid by the United States will be as follows:

On bonds for the Central Pacific.....	\$126,619,733 30
On bonds for the Kansas Pacific.....	30,531,744 30
On bonds for the Union Pacific.....	133,230,000 00
On bonds for the Central Branch.....	7,836,504 96
On bonds for the Western Pacific.....	9,639,197 41
On bonds for the Sioux City.....	7,965,035 16
Total interest.....	316,112,571 79
Add the principal of the bonds.....	64,633,512 00
Grand total.....	380,736,083 79

These alarming schemes, and this vast system, whose pecuniary extent cannot be foreseen, and whose corrupting influences both in and out of Congress have amazed and shocked the moral sense of our people everywhere, ought not now to meet with favor from a party whose watchword in the late presidential campaign was reform of these very abuses, and whose adherents from every stump in the land denounced these land grabs and subsidies as outrages not to be tolerated in the future, and demanded rigid economy in every department of the Government as the crying necessity of the times and of the people.

Sir, let us stand now by the position taken then, and let private capital, as it will, accomplish all the railroad building in this country that has the slightest prospect of being at all successful or profitable.

Let that great party, to whom the people look for relief from the evils and burdens that now oppress them, not be unfaithful or untrue to its ancient faith, nor deceive those who have trusted it. Let it strengthen their faith and encourage their hope.

These great wrongs upon the people of this country should stand as perpetual monuments of warning to this and all future Congresses, and these giant corporations, driven from their greedy land-grabbing schemes by the cry of the people, should not be permitted, in the light of these facts, in a roundabout manner to accomplish even more gigantic robberies.

Let us look more closely at the figures. I have shown that two hundred and eighty-five millions of acres have been donated to these roads. Now, putting this at \$1.25 per acre, and we have \$356,250,000. Now add to this the \$96,000,000 in bonds for which the Government is bound and we have the enormous sum of \$452,250,000 absolutely given of the people's property and money to build up corporations and monopolies, with colossal fortunes and powers, soon to become the oppressors of the people and masters of the Government. Their demands are unceasing and their arrogance unbounded. And while it is true the people have no remedy for these great wrongs, it is within our power and it is our duty to prevent further similar outrages. It is well said that crime ought always to be punished and suppressed; but it is far better by wise legislation to prevent it. No government can long sustain itself against the continued assaults of these mighty corporations. These the very creatures of its own creating become its most dangerous, subtle, and powerful enemies, for the reason that through their wealth they control and direct its legislation, utterly regardless of the people who are the rightful masters.

This Government was never intended as a mere sponsor and godfather for corporations and monopolies, which it is fast becoming through the unjust class legislation that has been almost its sole business for the past few years; and the sooner it shall be wholly divorced from this incubus which is crowding out the light of nobler works and purer laws, the sooner we may hope for lighter burdens and more prosperous days. When in the past has there been any legislation in behalf of the people or for their interests? Look over the statutes passed during the last ten years. What have been the great leading acts, and in whose interest has all legislation been conducted?

BONDHOLDERS' ACTS.

In addition to the stupendous wrongs to which I have called attention by which the people were robbed of both land and money, of the same character and as showing the same tendency to class legislation have been all the financial measures of the past ten years.

Prior to March, 1869, the bonds of the Government issued after 1861, payable in coin, amounted to but the sum of \$274,999,800, not payable in gold, but in coin of gold and silver; and these were all the bonds that were by the express language of the statutes creating them payable in coin.

The great mass of the public debt was in bonds issued under acts as follows:

Under the act of February 8, 1861.....	\$18,415,000
Under the act of March 2, 1861.....	1,080,850
Under the act of July 17, 1861.....	50,000,000
Under the act of August 5, 1861.....	139,321,200
Under the act of February 23, 1862.....	500,000,000
Under the act of March 3, 1864.....	11,000,000
Under the act of June 30, 1864.....	125,561,300
Under the act of January 28, 1865.....	4,000,000
Under the act of March 3, 1865.....	958,483,300
Total.....	1,907,871,650

This vast sum was payable in legal-tender notes. The several acts creating this vast debt did not provide that it should be paid in coin. But in March, 1869, an act was passed making this debt payable in coin. The bonds representing this debt stood in the market at eighty-eight cents until this act was passed and approved, when they instantly rose to one hundred and five cents, or an advance of seven-

teen cents on every dollar of the bondholder's investment, thus increasing the value of his bonds over \$300,000,000, and saddling that additional burden upon the people.

But it must be remembered that the act of 1869, infamous as it was, still left this debt payable in the coin of the country, gold and silver.

Now comes the fraud, which both Senators and Representatives of the time admit was stolen through Congress, not only without debate, but without their knowledge, in 1873 and 1874, by which silver was demonetized and made a legal tender for but \$5, when before it had been a legal tender for the payment of all debts, both public and private, to any amount. By that unjust and unwise act the people were deprived of their lawful right to pay their public debt in gold and silver coin, according to the terms of the contract, and the whole public debt became payable in gold coin alone, again adding vastly to the value of the property of the bondholder, at the expense of the people. Then followed that crowning act of infamy in 1875, requiring the resumption of specie payments on and after January 1, 1879, and this resumption to be necessarily in gold coin, to be accompanied and followed by a most violent and enormous contraction of the already too little currency, which must inevitably bring in its operations bankruptcy and ruin to thousands of our citizens.

THE SILVER BILL.

True, we have recently attempted to alleviate this condition by the passage of a bill to remonetize the silver dollar. And as I had no opportunity of expressing my views upon its passage I may be now permitted to briefly give my reasons for voting for the bill as amended by the Senate. I had voted for the bill as it passed the House, giving free and unlimited coinage. This I believe ought now to be the law. Silver should stand upon an equal footing with gold. This country, the greatest silver-producing country of the world, cannot afford, in debt as we are, to debase and destroy this great source of wealth and relief.

The bill, as amended by the Senate, limiting coinage of the silver dollar to the Government alone, and limiting the amount to \$48,000,000 per annum, and it may be but \$24,000,000, as it is to be executed by the most inveterate enemy of the silver dollar in the country—I mean the present Secretary of the Treasury—is by no means the bill as I would have it, neither is it what the country expects and requires. But the question was shall we take it in this restricted form or shall we reject it, and thus wholly defeat any hope of relief in any form? It is, I know, niggardly and bears upon its face the marks of the money power. It has been greatly dwarfed in its proportions since it left this House, but I believe it is the best that could be accomplished at the time. It is a clear advance in the interest of the people, and shows a breaking down to that extent of the hitherto formidable and irresistible money power.

It remonetizes the ancient silver dollar and makes it a legal-tender for all debts, public and private, thus re-establishing the law as it existed prior to the sneak-thief act of 1873.

I believe that supplementary and needful legislation will quickly follow and that silver and gold in this country will stand equal before the law. It was a clear, decisive victory in the interest of the people, and being unwilling to lose any opportunity to advance their cause I voted for the bill as amended.

WHY I CITED THESE ACTS.

I have thus briefly noticed these financial measures in this connection for the purpose of showing not only the character of the legislation to which the country has been subjected, but also for the purpose of showing the power and influence that has been controlling our legislation. It was my purpose to call the attention of the country particularly to the fact that the power of their Government is being used to build up an aristocracy of wealth, through class legislation, as well as monopolies of oppression by the creation and support of soulless corporations; that by such legislation the powers of the General Government are necessarily enlarged, to the great injury of the people, far beyond their proper limits, and that by these alliances and entanglements it is permeating every State, county, and township of the Union, dwarfing into insignificance the rights of the States and the people and becoming that consolidated despotism which the enemies of the Republic would make it.

And herein consists in my judgment the great remaining distinctive feature between the parties as such. It is upon the doctrine of local self-government, as its fundamental principle, that the democracy of this country has been enabled to withstand the shocks and battles of the past, and to that principle it owes its present proud attitude. It cannot afford to abandon it or falter in its constant support of that principle, and it must repel every assault upon it, come from where it may. Democracy, based upon any other idea, is a sham and a fraud. We are to judge of the party by its works. We have seen the republican party granting vast areas of the public domain to great corporations, loaning the public credit to monopolies for millions upon millions of dollars, passing act after act wholly in the interest of the money and banking power of the country, and constantly claiming and exercising most extraordinary and unconstitutional powers through the General Government, powers never dreamed to have an existence by the statesmen of the past.

In the days when internal improvements were a party question in this country, when De Witt Clinton had reached the height of his fame and popularity, when schemes of internal improvements were springing up on every hand, no one presumed to advocate the ex-

penditure of more than the surplus revenue of the Government. But now how different; without reluctance or hesitation men are willing, as in the past few years they have done, to still further plunge an already overburdened and overtaxed country deeper and deeper into the vortex of debt and destruction.

DUTY OF THE DEMOCRATIC PARTY.

I know it is diligently sought to keep these questions out of party politics; but the democracy, if true to its ancient doctrines, if it would continue to be the protector and defender of the rights and liberties of the people against the rapid encroachments of these combined powers, must set its face as flint against these and all other schemes of jobbery and corruption and consolidation, and repel the aggressor in whatever form he may appear. A party must and will exist in this country occupying that position, and it is of right the position of the democratic party. That party can and must rescue the Federal Government and its Departments from that reckless extravagance which of late years has marked and disgraced our country. It can and must bring the Government back to a rigid economy and arrest the wholesale plunder of the public Treasury by corporations, monopolies, and favored partisans. It can and must resist the theories of centralization that have had such rapid and alarming growth during the reign of the republican party. It can and must drive from the doors of Congress the money rings, the railroad rings, the whisky rings, and all other rings that have been organized but for plunder, and have been fostered and encouraged these last fifteen years until they have grown fat off the woes and distresses of an outraged people.

It can and must reform and correct the abuses admittedly existing everywhere in the civil service of the country and stay the flood of fraud and corruption which has so frequently startled the nation.

It must adhere to its doctrine that the Federal Government is one of limited power, derived solely from the Constitution, and that it is inexpedient and dangerous to exercise doubtful powers; that one branch of industry must not be fostered to the detriment of others; that every section of the country and every citizen is entitled to a perfect equality of rights and privileges and protection of property. It can and must be true to its ancient and liberty-extending doctrine of local self-government by the people and for the people.

Adhering to these pure principles, as taught and practiced by the fathers of the Republic, and under which our country was prosperous and happy and constitutional liberty sustained and advanced, no party can be wrong or long in rallying to its support the just and patriotic men of the Republic.

It was with gratitude that the country, a few weeks since, saw this House pass by such a large majority an anti-subsidy resolution. Did we mean it or was it a sham? Was it a hollow, demagogical bubble or was it the voice of earnest, honest men? For one I answer, I meant what I said. I go further. I would vote for a constitutional amendment, so as to put at rest this question, forever prohibiting Congress from granting an acre of the public domain to any corporation or permitting the Government in any way whatever to loan its credit or money, aiding corporations of any kind, and I propose at the proper time to submit an amendment to this effect.

CONCLUSION.

I am aware sir, that I am attacking what is called by some a great policy of the Government! But when we consider how and when this policy was adopted and put into execution; when we reflect upon the results that have and are likely to follow if it be pursued, is it not high time that it should be stricken from the catalogue of policies? It may be the policy of corporations and monopolists, but it is not the policy of the people of this country. It is a policy instituted and carried on, which seeks to drag the people after it in positive opposition to their desires. It is a policy of that class legislation which has done so much toward impoverishing and bankrupting the country. It is a policy that constantly devours the time of Congress, to the exclusion of legislation that ought to be devoted to those interests which have been the victims of abuses and wrongs, the necessary outgrowth of class legislation, that should be forever swept from the political arena. It is a policy contrary to the letter and spirit of our free institutions, and one which, from its inception to the present, has been productive of fraud, corruption, bribery, and oppression, that ought to condemn it and blot it out of existence.

INTERSTATE COMMERCE: THE POWER AND DUTY OF CONGRESS TO REGULATE THE RAILWAY CARRYING TRADE AMONG THE STATES.

Mr. TIPTON. Mr. Speaker, I desire to say one thing in connection with what has been said by the gentleman from Ohio, [Mr. DICKLEY.] It is wholly immaterial to me by what route he arrives at his conclusion. I am not disposed to differ about routes; but I concur in his conclusion, that it is the duty of Congress to vote no more subsidies to corporations. I was glad to hear his remarks, for I have had some suspicion in regard to the other side of the House, as to whether they voted for the resolution offered by the gentleman from Indiana, [Mr. BAKER,] to which the gentleman has referred, in good faith, saying that we will vote no more subsidies. In connection with what the gentleman has said upon that subject, I desire to discuss the question of the power of Congress to control the railroads that have already been built. We have, as has been said by the gentleman from Massachusetts [Mr. BUTLER] to-night, seventy-seven thousand miles of railroad in this country. In my judgment it is necessary that some

legislation should be had by this Congress—and by this Congress I mean the Forty-fifth Congress—by which the railroads in this country that have already been completed should be controlled by legislation. In other words, I desire to discuss the question of the power of Congress, under the Constitution of the United States, to control the interstate commerce of the country.

The power of State Legislatures and of Congress to regulate State and interstate commerce and to prohibit unjust discriminations by common carriers against individuals, communities, and States has agitated the public mind for years. In many of the States such legislation has been had that local discriminations are prohibited, but as yet no action has been taken by Congress tending to prevent discrimination against States or the regulation of interstate commerce.

Mr. Speaker, we have a population of forty-five millions of people, and as has been said, we have 77,470 miles of railroad, besides our means of transportation by water, and our internal commerce is estimated at \$25,000,000,000 per annum. It is only when we contemplate the magnitude of our country, its lines of transportation by land and water, and the vast resources of the country, that we are able to comprehend the importance of the commerce of the country. Railroad trains and steamers are constantly in motion, moving the products of the country from one portion of the Union to another. And this is called commerce and was so understood when the Constitution was adopted. The means of transportation were different then, but I shall show that the principle is the same. At the time of the adoption of the Constitution the carrying trade was small as compared with the trade of the present time.

Mr. Speaker, this vast commerce is now mostly carried by corporations organized by special State legislation and claiming certain vested rights by virtue of their charters, under which they claim the right to operate and control the commerce of the country without let or hindrance. That under this claim these corporations discriminate against individuals, communities, and States cannot and will not be denied. And the question now is whether the power of the people to protect themselves against this claim of power has been bartered away by State legislation.

Mr. Speaker, I hope to be able to satisfy Congress and the country by unquestioned judicial authority that these corporations are subject to governmental control, and that it is not within the power of legislative discretion to irrevocably dispose of or waive the right of the people to control the commerce of the country. In *Providence Bank vs. Billings*, 4 Peters, 563, it was held by the Supreme Court of the United States that—

The great object of an incorporation is to bestow the characters and properties of individuality on a collective and changing body of men. This capacity is always given to such a body. Any privileges which may exempt it from the burdens common to individuals do not flow necessarily from the charter, but must be expressed in it or they do not exist.

This principle has met the approval of the courts from that time to the present. Judge Redfield in delivering the opinion of the court in the case of *Thorpe vs. Railroad Company*, 27 Vermont, 150, after quoting the language of the Supreme Court of the United States just cited, said:

This is sufficiently explicit, and upon examination will be found, I think, to have placed the matter upon its true basis. In reason it would seem that no fault could be found with the rule here laid down by this great expounder of constitutional law. As to the legislative control it places natural persons and corporations upon the same ground. And it is the true ground and only one upon which equal rights and just liabilities and duties can be fairly based.

Again:

There is also the general police power of a State by which persons and property are subjected to all kinds of restraints and burdens in order to secure the general comfort, health, and prosperity of the State, of the perfect right in the Legislature to do which no question ever was or upon acknowledged general principles ever can be made, so far as natural persons are concerned. And it is certainly calculated to excite surprise and alarm that the right to do the same in regard to railways should be made a serious question.

And in the case of *The Bank of The Republic vs. The County of Hamilton*, the supreme court of Illinois says:

Corporations are artificial persons endowed with limited powers and capacities, and are subject to the general laws and legislation of the State, the same as natural persons. The natural man is born with sovereign powers and unlimited rights if he be beyond the limits of governments and societies. Upon entering these a portion of his rights are sacrificed against his consent if he objects either to a greater or less extent, as good government may be deemed to require. It would be absurd to suppose that the powers of government are greater over the rights of the being endowed by the Creator than over the one spoken into existence by human laws.

Mr. Speaker, I concede that at one time in this country the opinion obtained to some extent that property in a chartered corporation was more sacred than the property of the individual citizen, but in time this question was fully settled otherwise by the Supreme Court of the United States. In the case of *West River Bridge Company vs. Dix*, 6 Howard, 563, the court met the question as follows:

The opinion seems to have obtained that the right of property in a chartered corporation was more sacred and intangible than the same right could possibly be in the person of the citizen, an opinion which must be without any grounds to rest upon until it can be demonstrated either that the ideal creature is more than a person or the corporal being is less.

Mr. Speaker, from an examination of these authorities it is clear that the corporations of this country are subject to legislation the same as individuals, and that the property of the stockholder in a chartered corporation is held by the same right that the citizen owns his property.

Mr. Speaker, it is the province and duty of Congress to enact such laws as may be deemed proper upon this question and I deny the power of the Legislature of any State to grant any power to one of these corporations that will prevent Congress from passing any law authorized by the Constitution of the United States. The legislative authority of a Government is a trust which cannot be irrevocably delegated or abandoned, and in support of this view I cite a line of authorities that will command the respect of this House and the country. Judge Marshall asserted the doctrine that I am now contending for, as early as the case of *Fletcher vs. Peck*, 6 Cranch, 87. He said in this case that—

The principle asserted is that one Legislature is competent to repeal any act which a former Legislature was competent to pass, and that one Legislature cannot abridge the powers of a succeeding Legislature.

And this principle was again fully maintained by Chief-Justice Taney in *Charles River Bridge Company vs. Warren*, 11 Peters, 420, and in *Gosler vs. Corporation of Georgetown*, 6 Wheaton, 597; *East Hartford vs. Hartford Bridge Company*, 10 Howard, 534. In this last case the court refer to the case of *Gosler vs. Georgetown*, and add:

This case seems to settle the principle that a legislative body cannot part with its powers by any proceeding so as not to be able to continue the exercise of them. It can and should exercise them again and again as often as the public interests require.

Mr. Speaker, sovereignty is inherent in the people, and neither a State nor the General Government can transcend the power conferred by the State constitution and by the Federal Constitution and every State constitution in the Union. The departments of Government are instituted to exercise the functions of government, not to be disposed of, but to be exercised from time to time as the interest of the people may require. Nor can the civil power of a State or of the General Government be made the subject-matter of contract. And, again, the Supreme Court of the United States affirms this principle in *Trust Company vs. Debolt*, 16 Howard, 431; and Judge Cooley, in his work on Constitutional Limitations, reviews all the authorities, State and Federal, and sums up his conclusions as follows:

It would seem, therefore, to be the prevailing opinion, and one based upon sound reason, that the State could not barter away, or in any manner abridge or weaken, any of these essential powers which are inherent in all governments, and the existence of which in full vigor is important to the well-being of organized society.

Mr. Speaker, these authorities settle the question beyond doubt, and they are sustained by sound reason. I might cite numerous other authorities, but think those cited are sufficient to satisfy the mind of all; but if any man has any doubt upon this question, if he will call on me I will furnish him a brief of additional authorities that will furnish him good reading upon this subject during the balance of this session.

Mr. Speaker, I come now to the question of the power by proper legislation to establish regulation concerning commerce carried on by these corporations among the States and within the States, or, more properly speaking, State and interstate commerce.

Mr. Speaker, the railroads of this country are improved public highways, and were constructed by the aid of the right of eminent domain, and the corporations building and operating the same are public agents, created for the practical administration of the public property and franchises put into their hands to be administered in such manner as the law-making power of the Government may determine. Their use is public and they were created for the public good, for travelers and shippers. They are compelled by law and justice to transport passengers and freight according to the usages of the corporation and for a reasonable compensation. The power of the States to control these corporations within the respective States against unjust discrimination and extortion is now well settled, so far as the same may regulate the commerce of the State.

Now, Mr. Speaker, while the States may lawfully control and regulate their internal State commerce they have no power, as I shall show, to control the interstate commerce of the country. Among the powers expressly conferred upon Congress by the Constitution of the United States is the power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." It will not be denied that this clause of the Constitution confers upon Congress power to legislate upon the general subject of the regulation of commerce among the several States. The term commerce means now just what it meant when the Constitution was adopted. The word at that time evidently had a well-defined meaning, although its meaning has been perhaps more authoritatively defined since the adoption of the Constitution. The word simply means intercourse and exchange, both of persons and property, among the several States, and is governed by the enactment of laws prescribing general rules by which it is to be governed. Judge Redfield in his work on railways has this to say:

The natural import and construction of the terms of the Constitution would not seem to admit of much doubt, judging from the language merely. The meaning of the word "commerce" at the time the Constitution was adopted must have been definitely settled and well understood. The word, as well understood, is derived from the Latin *commercium*, and which is found almost in its original form in most of the languages of modern Europe. It means, in its most literal sense, intercourse and exchange both of persons and commodities. It is more nearly synonymous with "traffic" than with any other word in the language, probably. Its great natural divisions for ages have been foreign and inland. The regulation of all the former and that portion of the latter which extended beyond the limits of a single State was, as we have seen, by the organic law of our National Government secured to the nation, and the remainder was naturally left to the particular State where it exclusively existed. It is obvious that the purpose of the provision was not to be

confined to future commerce carried on in the same mode it then was, that is, by ship and boat navigation, propelled exclusively by wind. If that had been so, the provision could not have been applied to that large portion of commerce now carried on by steam-power which has already become very considerable, and is constantly increasing in a rapidly advancing ratio.

The fact that the entire subject of regulating all commerce among the different States, including all the means and appliances by which it was carried on, was committed to Congress, and that thereafter the States were to have no concurrent action in the regulation of the same, would seem to reduce the question of Congress having the power of regulating interstate railway traffic to the single inquiry whether it forms any portion of the commerce of the country which requires to be regulated at all. Those who assume to argue that Congress has no power to regulate the traffic upon these extended lines of railway reaching from one end of the Union to the other must, if they would meet the question fairly, either say the traffic on these extended lines of railways, amounting to many millions annually, probably ten times as much as the entire commerce of the country at the time of the adoption of the Constitution, is not commerce at all, or if it be, is not subject to any regulation whatever. For it is certain the States have neither the power nor capacity to regulate, to any purpose or with any efficiency, this interstate railway traffic. It must, then, come under the control of Congress or be left to its own devices and impulses—an experiment never tried in any other country.—*Redfield on Railways*, pages 720-722.

But we are not left to text-writers alone for the meaning of the term commerce; we have the definition of the Supreme Court of the United States in *Gibbons against Ogden*. In 9 Wheaton, page 1, the court say:

The subject to be regulated is commerce, and our Constitution being, as was aptly said at the bar, one of enumeration and not of definition to ascertain the extent of the power, it becomes necessary to settle the meaning of the word. The counsel for the appellees would limit it to traffic, to buying and selling, or the interchange of commodities, and do not admit that it comprehends navigation. This would restrict a general term applicable to many objects; to one of its significations commerce undoubtedly is traffic; but it is something more; it is intercourse. It describes the commercial intercourse between nations and parts of nations in all its branches, and is regulated by prescribing rules for carrying on that intercourse.

And again the court, in the same case, say:

To what commerce does this power extend: the Constitution informs us to commerce "with foreign nations, and among the several States, and with the Indian tribes." It has, we believe, been universally admitted that these words comprehend every species of commercial intercourse between the United States and foreign nations. No sort of trade can be carried on between this country and any other to which this power does not extend. It has been truly said "that commerce, as the word is used in the Constitution, is a unit, every part of which is indicated by the term. If this be the admitted meaning of it in its application to foreign nations it must carry the same meaning throughout the sentence and remain a unit unless there is some plain intelligible cause which alters it. The object to which the power is next applied is to commerce "among the several States." The word "among" means intermingled with a thing which is among others, is intermingled with them. Commerce among the States cannot stop at the external boundary-line of each State but may be introduced into the interior.

It is not intended to say that these words comprehend that commerce which is completely internal, which is carried on between man and man in a State or between different parts of the same State, and which does not extend to or affect other States. Such a power would be inconvenient, and certainly is not necessarily as comprehensive as the word "among" is. It may very properly be restricted to that commerce which concerns more than one. The phrase is not one which would probably have been selected to indicate the completely interior traffic of a State, because it is not an apt phrase for that purpose, and the enumeration of the particular classes of commerce to which the power was to be extended would not have been made had the intention been to extend the power to every description. The enumeration presupposes something not enumerated, and that something, if we regard the language or the subject of the sentence, must be the exclusively internal commerce of the State.

In the State freight-tax case, 15 Wallace, 232, in delivering the opinion of the court, Justice Strong said:

Beyond all question the transportation of freight or of the subjects of commerce for the purpose of exchange or sale is a constituent of commerce itself. This has never been doubted, and probably the transportation of articles of trade from one State to another was the prominent idea in the minds of the framers of the Constitution when to Congress was committed the power to regulate commerce among the several States. . . . nor does it make any difference whether this interchange of commodities is by land or by water. In either case the bringing of the goods from seller to the buyer is commerce.

And again the court say:

The rule has been asserted with great clearness that whenever the subjects over which a power to regulate commerce is asserted are in their nature national or admit of one uniform system or plan of regulation, they may be justly said to be of such a nature as to require exclusive legislation by Congress. Sure transportation of passengers or merchandise through a State or from one State to another is of this nature.

This power, like all other powers vested in Congress, is complete, and is only limited, if it be limited in any way, by the Constitution of the United States. Upon this point Chief-Justice Marshall in *Gibbons vs. Ogden*, already cited, uses the following language:

It is the power to regulate that is to prescribe the rule by which commerce is to be governed. This power like all others vested in Congress is complete in itself.

To the same effect, see *Story on the Constitution*, section 1067.

The rule is this, as I understand it, that all the external concerns of the nation and those internal concerns which affect the States generally are within this provision of the Constitution of the United States. But, on the other hand, all those concerns which are completely within a particular State and which do not affect other States are vested in the State. Incidentally the concerns of a State may become connected with interstate commerce, but not necessarily, and in *Munn vs. The State of Illinois*, (4 Otto, 155,) the Supreme Court held that until Congress acts in reference to their interstate relations the State may exercise all the powers of government over its domestic concerns, although in so doing it may indirectly operate upon commerce outside of the State.

Mr. Speaker, the line of demarcation drawn between the authority of the States and Federal Government is so clear that no man need err or be mistaken if he will take the trouble to inform himself. The

local commerce of a State is of course exclusively vested in the State, and that which belongs to more than one State belongs to Congress. The line which divides the State from the Federal jurisdiction is thus defined by the court:

The genius and character of the whole Government seem to be that its action is to be applied to all external concerns of the nation and to those internal concerns which affect the States generally, but not to those which are completely within a particular State, which do not affect other States, and with which it is not necessary to interfere for the purpose of executing some of the general powers of the Government. The completely internal commerce of a State, then, may be considered as reserved for the State itself.

This power of Congress to legislate does not stop at the jurisdictional lines of the several States, but may be exercised wherever the subject exists. Take a line of railroad leading from New York to Chicago, transporting goods from State to State and from foreign markets; it is the commerce, the transportation that is within the power of Congress to control, and this power can and should, as a protective and precautionary measure against wrongs daily perpetrated, be exercised at once. Every producer, every consumer, and every merchant will be benefited, thus making rates uniform and thus enable buyers to know, when they purchase a car of grain in the West, the cost of transportation to the city of New York. That such legislation in no way infringes upon the rights of the States is clear from all the authorities. Judge Cooley, in his work on Constitutional Limitations, states the question as follows:

Under the division of power between the United States and the individual States each has its sphere of sovereignty within which it moves and operates without let or hindrance from the other, and within that sphere it employs the eminent domain wherever needful to the complete and effectual exercise of its power, and with as little occasion or necessity for the permission or assistance of the other as if the two governments were wholly foreign to each other instead of being constructed as parts of one harmonious system.

The railroads and steamboats now enjoy the monopoly of the carrying trade, and there is no reason in law or morals why the same principle should not apply to one as to the other. It would not be just to control and regulate the tariff by steamboat and not by railroad. It is true that carrying by railroad has come into existence since the adoption of the Constitution, and in my judgment is subject to congressional legislation in the same manner as steamboats. It has never been doubted that the transportation of articles of trade from one State to another was and is commerce, and that the means of transportation is wholly immaterial.

In the granger cases the power of Congress to legislate upon and regulate freight and passenger tariffs is fully maintained. In one of the granger cases, *Munn vs. Illinois*, the court says:

In countries where the common law prevails it has been customary from time immemorial for the legislature to declare what shall be a reasonable compensation under such circumstances, or perhaps, more properly speaking, to fix a maximum beyond which any charge made would be unreasonable.

Mr. Speaker, I have thus argued and collated the authorities for the purpose of convincing this House and the country that one of our highest duties is to enact into law such rules and regulations as will prevent unjust discriminations against State, against extortion, and against all unjust combinations. All persons investing their capital in railroad property and all that deal with such corporations in any manner deal with them with this implied understanding: that the State Legislature and Congress under the Constitution may prescribe such rules and regulations as will insure justice to all the people and that the power of Congress to regulate commerce among the several States is exclusive. And the decisions of the Supreme Court of the United States in the case of *Gibbons vs. Ogden*, and down to the last granger case reported in 4 Otto, are to be respected, and the power of the General Government will be exercised in conformity to the Constitution of the United States as construed in those cases, that, in other words, the day for unjust discriminations and extortion has passed.

Mr. Speaker, it cannot be true, in the nature of things, that the Constitution must be construed to mean only such commerce as existed at its adoption. If so, the carrying trade by the railroads of the country is beyond the power of Congress to control; the commerce carried upon these immense lines is subject only to the dictation of these monopolies. If it be true that Congress has no such power, then it seems to me that we have in vain attempted to build up a commerce for the common benefit of the people. But, Mr. Speaker, this is not the law. The Supreme Court of the United States has decided otherwise, the State courts have decided otherwise, and all men not directly interested believe otherwise. Commerce among the States, carried on by railway transportation, is subject to the control and legislation of Congress, and the language of Justice Miller, in the *Clinton Bridge* case, is:

It seems to me that where these roads become parts of the great highways of our Union, transporting a commerce which embraces many States, and destined as some of these roads are to become the channels through which the nations of Europe and Asia shall interchange their commodities, there can be no reason to doubt that to regulate them is to regulate commerce, both with foreign nations and among the States, and that to refuse to do this is a refusal to discharge one of the most important duties of the Federal Government.

No State, Mr. Speaker, has the power to regulate the commerce carried on between New York and Chicago, nor between Chicago and San Francisco. These lines of commerce are either beyond the control of human laws or the power of their control is vested in Congress. The provision of the Constitution applies to every means of transportation, from the dray line to railroad trains, and this has been settled time

after time by the courts, the courts holding distinctly that it makes no difference whether the transportation is by land or water; and in support of this I might cite a large number of authorities, and allow me to say that upon these questions there can be but little chance for division of opinion. The purpose of this provision, as patent to all, was to vest in Congress the power to secure equality and freedom of commerce throughout the Union, without any unjust discrimination or extortion. Transportation is commerce; hence transportation among or between the States is commerce, and any obstacle to it or burden laid upon it by the States is void, and thus is created the absolute necessity of congressional action.

In the case of *The Hannibal and Saint Joseph Railroad Company* vs. *Husen*, not yet reported, the subject of the extent of the power of the State to control commerce between the States was again freely discussed. The question was as to the validity of a statute of the State of Missouri prohibiting the driving of cattle into the State of Missouri in certain months of the year, and it arose in the particular case with respect to the applicability of the statute to railroads. The court held in this case that the transportation of property from one State to another is interstate commerce, and that the statute was a direct interference with such transportation and a plain intrusion upon the exclusive domain of Congress.

Mr. Speaker, I have attempted to show that the internal commerce of the State is, and necessarily is, controlled by the State; that commerce between the States necessarily is and should be controlled by Congress; that State legislation is impossible, and the responsibility for the control of interstate commerce is with Congress.

Mr. Speaker, the advantages of railroad and water transportation cannot be overestimated. In fact, life is too short to abandon or in any manner cripple our great railway system; but while this is true, the system must not be allowed to destroy the commerce of the country or cripple the great interests of the country. This system, like all others, must submit to reasonable rules and regulations in the same manner as all other great enterprises of the country.

Mr. Speaker, I shall favor no provision of law that can tend to prejudice the railway interest of the country; but I do maintain that it is our duty to pass some reasonably stringent legislation for the protection of the people against this great system of land transportation. The bill reported from the Committee on Commerce is satisfactory to me, and I am disposed to give the bill my hearty support. It will prevent pooling; it will prevent all unjust discriminations; it will, in my judgment, prevent unreasonable charges and tend to establish uniformity of rates. I think the purpose of the bill a step in the right direction.

Mr. Speaker, it is the duty of Congress to enact such laws as will prevent any unjust discrimination or extortion in the carrying trade of the interstate commerce of the country. It does not necessarily follow that because charges are reasonable at one point and unreasonably low at another point, the discrimination may not be unjust. Take the grain trade of Illinois that is carried on by railroads leading to New York, grain merchants paying \$20 per car to the New York market, which, for the purpose of this argument, may be conceded to be reasonable, and suppose that grain shippers residing in Iowa should only be charged \$10 per car for a distance four hundred miles greater. This I submit would be an unjust discrimination against the State of Illinois, although the freight paid by the shippers of Illinois should be reasonable. This would give to Iowa a geographical as well as commercial advantage over Illinois shippers that would not be just. Under such a rule Illinois shippers would be unable to compete successfully with shippers residing in Iowa. We claim the geographical advantage of Illinois, and our people are compelled to sell their products in accordance with this fact. So of all the Western States. The demand is for uniform and cheap rates of transportation from the West to the East.

And can it be said that Congress has no power to prevent such discrimination? It is such discriminations throughout the country that are injuring our agricultural and commercial interests. The effect of such discrimination is the transfer by artificial means of the natural advantages possessed by one community to another less favorably situated, and to permit this is to tolerate a great wrong and subject the general interests of the country to the corporations by whose actions this unnatural effect is produced.

My purpose, Mr. Speaker, is to prevent, if possible, by legislation every combination tending to prejudice the shipper or the producer. It is my purpose, if possible, to prevent combination against ice in winter or free sailing in summer. We all know that the old idea of competition is a delusion. We all know that every tariff established between the East and the West is the result of combination, and that competition has little or nothing to do with the question. The people of the West have been greatly wronged by this system of arranging the tariff of both passenger and freight traffic. We prefer fair rates, controlled by law and uniform in their operation, to the tender mercies of these monopolies as administered by these corporations for the last twenty years.

Mr. Speaker, what the people of the West demand, and what we have a plain right to demand under the Constitution, is reasonable legislation, and such as will protect the producers and manufacturers of the West against wrong, extortion, or unjust discrimination against them. We want uniformity of rates between the East and West, and that these shall not be unreasonable rates at any time or under any circumstances.

The competing force of the interstate commerce of the country is not sufficient to overcome combination; it never has been sufficient in this country to prevent it, and never will be, in my judgment. Every rate or tariff that is fixed by these railways is the result of combination. If competition for a time is successful at a competing point, it is only temporary, and is, in fact, a discrimination against some other point. The only legitimate competition we have is the transportation by water, and nothing short of stern, legal rules, fairly enforced, will regulate and preserve fairly and justly the internal State commerce of this country. What remedy have we of the West to regulate or fix the tariff of a railroad company leading from Chicago to New York? Certainly none after it leaves the State save by congressional action.

We have in the State of Illinois fifty-one railroad companies with a total line of 15,241 miles, 7,433 miles of which are in the State, computing double track and siding of all the companies as a continuous line of 17,890 miles of single track. These companies have 3,319 locomotives, of all classes; and 1,449 passenger cars; 608 express, mail, and baggage cars; 43,076 box and stock cars; and 20,162 coal and flat cars, making a total of 65,295 cars of all classes. In addition, the American Express Company performs service on twenty-four of these roads, the United States Express Company on thirteen, and the Adams Express Company on twelve; and in some instances two companies perform service on the same road. The distance run by trains upon these roads last year was 75,567,712 miles. The proportion of mileage for Illinois was 21,925,552 miles, and carried 26,875,136 tons of freight, with 7,429,417 tons, as the proportion for Illinois. It will be noticed that only a little over one-fourth of the tonnage of these railroads is carried in Illinois. The total number of passengers carried was 20,394,027. I have no estimate by which I can give the proportionate number of passengers carried upon these roads in Illinois, but I presume that perhaps somewhere between one-third and one-fourth of the passengers carried were carried in that State.

These companies are constantly engaged in interstate commerce. I apprehend that a loaded train could not be sent out without taking goods destined for some other State, nor does a train run into Chicago or any station without taking goods from some other State. As we have seen, this is all interstate commerce, and no State under our Constitution can regulate it. I have given these items that all may understand the necessity of legislation by Congress on this subject, and when I add to this, as I have before said, that in the Union we have 77,470 miles of road being constantly operated and daily engaged in interstate commerce we can see the magnitude of the interstate commerce of this country and the necessity for legislation regulating it.

Mr. Speaker, our foreign trade must necessarily depend largely on our interstate commerce. I give the following table showing that the balance of trade in merchandise is now in our favor, but to show that this has not been uniformly the case I give the years for twenty years, including both merchandise and specie. And what we want, if possible, is to change the balance of specie in our favor. It can be done, and one of the things necessary to bring this about is to maintain steadily the balance of trade in our favor. The table shows that we have been compelled to export specie every year:

The balance of trade for twenty-two years, 1856-77.

[NOTE.—The figures given below represent the gold value of imports and exports of merchandise and specie into and from the United States in each fiscal year since 1856.]

Year.	Merchandise.			Specie		
	Imports.	Exports.	Excess.	Imports.	Exports.	Excess.
1856	\$310,432,310	\$281,219,423	Im. \$29,212,887	\$4,207,632	\$58,920,651	Ex. \$54,713,019
1857	348,428,342	293,823,760	Im. 54,604,582	12,461,799	71,995,399	Ex. 59,533,600
1858	263,338,654	263,338,654	Ex. 8,672,620	19,274,496	63,067,467	Ex. 43,792,971
1859	331,333,341	292,901,051	Im. 38,432,290	7,434,789	72,012,276	Ex. 64,577,487
1860	353,616,119	333,376,057	Im. 20,240,062	8,550,135	66,540,239	Ex. 57,990,104
1861	289,310,542	219,533,833	Im. 69,776,709	46,330,611	29,791,080	Im. 16,539,531
1862	169,356,677	190,670,501	Ex. 1,313,824	16,415,072	36,887,640	Ex. 20,472,568
1863	243,335,815	201,964,397	Im. 39,370,418	9,384,165	64,156,611	Ex. 54,772,446
1864	316,447,283	158,887,928	Im. 157,559,355	13,115,612	103,330,541	Ex. 90,214,929

The balance of trade for twenty-two years, 1856-77—Continued.

Year.	Merchandise.			Specie.		
	Imports.	Exports.	Excess.	Imports.	Exports.	Excess.
1856	238,745,580	162,013,500	Im. 76,732,082	9,810,072	67,643,236	Ex. 57,833,164
1857	434,812,006	348,850,522	Im. 85,962,544	10,700,092	26,044,071	Ex. 75,343,979
1858	395,763,100	297,303,653	Im. 98,459,447	22,070,475	60,868,372	Ex. 38,797,897
1859	357,436,440	281,952,899	Im. 75,483,541	14,188,368	93,784,102	Ex. 79,595,734
1860	417,506,379	286,117,697	Im. 131,388,682	19,807,876	57,138,380	Ex. 37,330,504
1861	435,958,408	392,771,768	Im. 43,186,640	26,419,179	58,155,666	Ex. 31,736,486
1862	520,323,684	442,820,178	Im. 77,503,506	21,270,034	98,441,988	Ex. 77,171,954
1863	626,593,077	444,177,586	Im. 182,417,491	23,743,689	79,877,534	Ex. 66,133,845
1864	642,136,210	522,479,217	Im. 119,656,898	21,480,937	84,008,574	Ex. 63,127,637
1865	567,406,342	586,283,040	Ex. 18,876,698	32,454,906	56,630,405	Ex. 38,175,499
1866	533,005,436	513,441,711	Im. 19,563,725	20,903,737	92,132,142	Ex. 71,228,405
1867	460,741,191	540,384,671	Ex. 79,643,480	15,936,681	56,506,302	Ex. 40,569,621
1877	451,323,126	602,475,220	Ex. 152,152,094	40,774,414	56,162,237	Ex. 15,387,823

Mr. Speaker, I give the foregoing table for the purpose of insisting that in time, with fair and just rates, from the interior to the seaboard, we can gradually and certainly, in my judgment, increase our exports and reduce our imports, and thereby cast the balance of trade largely in our favor. All the products of the country not demanded for local use should find a market in our foreign commerce. It is the duty of Congress to foster in every way our interstate and foreign commerce. Our ability to produce is great, and every effort should be made to encourage both our interstate and foreign commerce. We can best do this by legal rules that shall be understood by producers, shippers, and railroad companies alike, prohibiting drawbacks and rebates, giving equal advantages to all shippers with uniform rates. Producers and middle-men can know with reasonable certainty when and where to ship and when and where to make investments, and thus reduce the margin between the producer in Illinois and the consumer in New York or New England and the producer in New England or New York and the consumer in Illinois.

The difference between the price of a bushel of corn in Bloomington, Illinois, and the seaboard is of itself an argument that every farmer and producer in Illinois can understand, and the difference between the price of a pound of beef in a New England manufacturing town and an Illinois feed-lot can be fully understood by the mechanics and laboring-men of the East; it needs no argument to teach these facts, and the excessive rates charged must be paid by the producer or the consumer. The only hope of the people of the West against monopolies in the carrying trade is in congressional action. It is the only hope in law and in fact, and if Congress shall refuse to act longer the lingering hope of justice to the people that are toiling for themselves on Mondays, Wednesdays, and Fridays, and for the railroad companies on Tuesdays, Thursdays, and Saturdays will be blotted out; or, in other words, it costs now as much substantially to get a bushel of corn to market as it does to produce it. It does not quite reach this point to-day, but it is too much. Corn can be delivered in New York from any part of the State of Illinois for eight cents per bushel at present prices of labor and railway property, and give a fair profit to the carrier.

Now, Mr. Speaker, the provision of the Constitution concerning interstate commerce does not and will not execute itself. Congress must act. Congress must come to the rescue of our interstate commerce and throw around it the protecting shield of the Constitution and thus protect the people against all combinations that may tend to injure the interstate commerce of the country. The people of the West are in good faith pressing this matter to the attention of Congress and the country. The people in the West cannot concentrate their products at competitive points, in case advantageous contracts could be made at such points, but necessity compels them to stop at the nearest station. The people feel as if they are helpless to these wrongs against them, hence there is a prevailing feeling against the railroads that should not and would not exist if the railroad companies would deal fairly with the people. Moderate rates will increase the commerce of the country, create a friendly feeling, give more men work and better pay, and tend largely to the happiness of the whole people. I think, Mr. Speaker, one of the great mistakes of the railroad companies was their assumption that they were not subject to State or national legislation. This assumption makes congressional action absolutely necessary.

Mr. Speaker, the people of the West have but little sympathy for or with railroad corporations or stockholders of such companies, and the reason is plain and the fault is with the corporations, and not with the people. The people have been robbed by men engaged in building railroads of the bonds of almost every municipality in the country, by the frauds of adventurers, and as the bonds are now being paid, the people feel that the stock they received was a fraud, and that the money was not properly appropriated; and as the bonds of the companies mature and the holders of bonds take charge of the roads, their agents, representing the bondholders, put on a degree of importance that the people, who have been wronged, are unprepared to appreciate. They ride on railroads only as a matter of necessity and ship under compulsion. There is no disposition on the part of

the people under these circumstances to encourage the commerce of the country, either State or interstate.

The managers of these corporations that control the commerce between the East and West held a meeting at the Grand Pacific Hotel in Chicago a very few days ago. The purpose of this meeting, as I gather it from the newspapers, was to fix the rates of tariff between the East and West, and for a division of the spoils for the next three months between the various companies. It is this regulation by the railroad managers that the people object to. What the people demand is the right on the part of the public to fix these regulations, as they may lawfully do, in such manner as to insure at least substantial justice for all. The bill reported by the Committee on Commerce will aid in this direction greatly, and I hope it will be enacted into law.

Mr. Speaker, the question of the control of our interstate commerce will be an important factor in American politics until it shall be determined by Congress to enact such laws as will equalize the tariff on these great public highways. There is and can be no doubt of the power to regulate it between the States, and that this power is exclusively in Congress. The people understand this as well as we, and almost the universal opinion of the people is in harmony with the rulings of the Supreme Court of the United States on this subject. The people understand that the question has been settled and its settlement reaffirmed by the courts time and again. And the court understands it to be settled and so state in *Groves vs. Slaughter*, 15 Peters, 449. The court, after referring to *Gibbons vs. Case*, 9 Wheaton, 1, and *Brown vs. Maryland*, 12 Wheaton, 438, say:

If these decisions are not to be taken as the established construction of this clause of the Constitution I know of none which are not yet open to doubt, nor can there be any adjudications of this court which must be considered as authoritative upon any question if these are not to be so on this.

This power given to Congress by the Constitution to regulate commerce among the States has been deemed exclusive by the courts and by the people, and necessarily so from the very nature and objects of the power, and this is the doctrine of all the courts and the politics of the people. Against this regulation, I have no doubt, will be arrayed the associated wealth of these corporations, and every effort possible will be made to prevent legislation upon this subject, and when and wherever practicable men will be elected to Congress for the express purpose of defeating legislation of this kind, and railroad officers and railroad attorneys will be found in Congress elected expressly to defeat legislation by Congress on this subject.

Mr. Speaker, the agriculturist, the manufacturer, the mechanic, the laborer are all alike interested in this question. Until we have legislation upon this question capitalists, ever jealous, will not invest in business in any town where there is the slightest opportunity for discrimination.

Mr. Speaker, an equalized and just tariff of rates, uniform in its operation, will insure an increase in our interstate commerce, and will thus be one of the means of restoring to prosperity all the business interests of the country.

Mr. HEWITT, of Alabama. Mr. Speaker, I shall make no apology for occupying the time of the House in the further discussion of the bill now under consideration. I feel constrained to reply to the attack which was made by the gentleman from Maine [Mr. POWERS] upon the report of the committee which I had the honor to submit in this case.

I would not do justice to the committee, to myself, to the House, to the country, or to the old soldiers if I should remain silent and not lay bare the gross errors of facts and expose the sophistry of the arguments which have been made by the enemies of this measure.

The House will bear witness that this discussion has not been of my seeking; I would have gladly avoided it if I could, but the gentleman from Maine [Mr. POWERS] has forced it on me and I shall meet him boldly and will demonstrate the correctness of the conclusions of the committee to the satisfaction of all who will do me the honor to hear my remarks.

On the 4th day of January, 1877, I had the honor to present to the House a similar bill tendering a nation's gratitude to its old defend-

ers, when I took occasion to submit an argument favoring its passage which has not been answered by any gentleman upon this floor. That argument I shall not now repeat. I shall confine my remarks strictly in answer to the arguments of the gentlemen who have opposed the bill.

The objections of the gentleman from Maine and the gentleman from New Jersey were but the repetition of those which were made by the enemies of the pension acts of 1832 and 1871. These gentlemen have opposed this measure because, they say, it will establish a dangerous precedent. The enemies of the act of 1832 opposed that beneficent measure upon the same ground. The gentleman from Maine said that the bill opened up a new and wide door; that it was a departure from the old beaten path. This has been the cry of the enemies of the old soldiers against every pension act passed or proposed in Congress. I give to them the answer which was given by Foot and Frelinghuysen to Hayne, which New England gave to South Carolina in 1832; which Atkins and others gave to the enemies of the pension bill in 1858. It embraces no new principle; it establishes no new precedent; it opens no new door. The principle was established in 1818, extended in 1832, confirmed in 1871, and reaffirmed by the present Congress.

There is no principle or policy more firmly established by the Congress of the United States than that of extending the nation's bounty and gratitude by the way of pensions to its old defenders, and it is now too firmly rooted in the minds and hearts of the American people to be eradicated even by the eloquence of the gentleman from Maine, with all the aid his amiable friend from New Jersey may be able to give him. The military-pension system was adopted many years ago by our Government, and from then till now it has been steadily and constantly sustained by the people. There is no tax they pay with more cheerfulness than that which is applied to the maintenance of the old soldiers.

The first gratuitous-pension act was passed in 1818, only three years after the close of the war of 1812, when the country was heavily burdened with the debts of two wars. This act was passed thirty-five years after the close of the revolutionary war. The beneficiaries under it were sixty years of age. The Black Hawk war was forty-six years ago, and the survivors of that war are over seventy years of age. The Creek war was forty-two years ago, and the survivors are nearly seventy years of age. Forty years have come and gone since the Florida war, and the survivors must be over sixty-five years of age. The war with Mexico was thirty-one years ago, and the surviving soldiers are fifty-six years of age. The soldiers included in this bill will average over sixty-five years of age. The revolutionary soldiers covered by the act of 1818 were about sixty years of age. The act of 1818 was a gratuitous pension, so is the measure now under consideration. But suppose, Mr. Speaker, that the soldiers of the revolutionary war were seventy years of age before they were pensioned, does it follow that the soldiers of the Mexican war should wait until they are seventy before the Government recognizes its obligations to them for their heroic services in its defense? The revolutionary war was fought on our soil; the Mexican war was upon foreign soil and in a malarious climate. All citizens able to bear arms were engaged in the struggle for our independence and were exposed to its dangers and suffered its privations. If the act granting a pension to them had been passed at an earlier day the soldiers themselves would have been compelled to pay the greater portion of the money necessary to meet its demands. To have pensioned them at an earlier day would have been to tax themselves. While the Mexican war was in progress millions of our countrymen knew nothing of its perils, felt none of its privations, endured none of its toils, and saw none of its horrors. A few of our fellow-countrymen bore them all, for the good of all.

But the gentleman from Maine and the gentleman from New Jersey say that the act of 1818 restricted the pension to persons in need of assistance from the Government for a support. That is true. But I ask the gentlemen here and now, do they propose a pauper soldier roll? Will they vote for a measure which would require proof not only of an honorable service, but of poverty, to entitle the soldier to a pension? Do they propose to require the old soldier, "the country's stay in day and hour of danger," to produce the evidence of his poverty in order to receive that which is adjudged to be due him for his patriotic service? Sir, the people of this country long since compelled Congress to repeal this disgraceful restriction in the act of 1818, and thereby wipe out what I consider and what this country conceived to be a blot upon our beneficent pension system. I call the attention of the House and especially the gentleman from New Jersey to the able and eloquent remarks of a late Senator from his own State (Mr. Frelinghuysen) made in the Senate of the United States in 1832 in the advocacy of the repeal of this odious restriction in the act of 1818:

But there were two defects in the system even as thus liberalized. In the first place, it enacted the humiliating confession of absolute poverty; it required of the aged veteran that he should publicly, in the presence of the sons by the side of whose fathers he had fought and suffered, expose the wretchedness of his condition; that he should produce the proof of his pauperism and swear to it himself. I have seen these wretched in our public courts of justice exhibit an inventory of their poverty down to the items of cups and saucers. I have felt humbled for my country. Sir, a noble spirit would sometimes exclaim: "I would die in want first." If my country exacts such ignoble conditions let her withhold the miserable pittance. And who, sir, of this Senate does not honor this sentiment? It has been honored and vindicated by the manly feelings of this great community. Public

opinion would no longer brook such terms of national honor and gratitude, and by the concurring indications of legislatures and people we are invoked to release these hard conditions; and should a few partake of a favor that do not need it, better so than that even one deserving relic of times so dearly cherished should go down to the dust neglected and forgotten.

Such, Mr. Speaker, were the sentiments of New England in the better days of the Republic, and such are the sentiments of the American people to-day. I do not believe that any considerable number of the people of New Jersey and Maine to-day indorse the sentiments of their Representatives upon this floor who have favored a pauper-soldier pension-roll. I rebel for them the sentiments uttered by the gentleman from Maine and his friend from New Jersey. Nor do I believe that the people of New England are opposed to this bill. She has ever been the champion of the soldier's interest, both in this House and in the Senate. All our pension acts have been advocated by her Representatives; all have received their support. New England may be said to be the originator of our pension system. Nor can I believe, Mr. Speaker, what Hayne charged, that she favored this system for the purpose of an excuse for a high tariff for the protection of her manufacturing interests, and that she now proposes to go back upon her own work because that necessity no longer exists. Nor can I believe what Hayne charged in the debate of 1832, that New England advocated that pension act because her people would receive the larger portion of the pension, and that she opposes this measure because the West and South will be the greater beneficiaries, notwithstanding the gentleman from Maine took occasion to inform the House that the South was much more interested in this bill than his section. I believe that Foot, Frelinghuysen, Webster, and other representatives from New England advocated and voted for the pension acts of 1818 and 1832 from patriotic considerations, and not from any local or selfish purpose; and I cannot believe that the gentlemen from New England who have opposed this measure represent the sentiments of their constituents. But, Mr. Speaker, the House and country have been told that the acts of 1818 and 1832 were enacted to pay a debt to the soldiers of the revolutionary war. If so, why were they called pension acts? But the advocates of the measure argued that the country was indebted to those soldiers, and therefore, say the gentlemen, the act was passed, not as a pension act, but in the nature of an appropriation for the payment of their claims against the Government. The men who advocated the passage of the act to pension the survivors of the war of 1812, in the House in 1858, argued that the country owed these soldiers a debt, and that it should pay it to them. The distinguished gentleman from Tennessee, [Mr. ATKINS,] in discussing the bill in the House, said:

Gentlemen talk about this bill as a bounty, as a gift. We do not come as supplicants to this House; we do not ask it as a bounty; we demand it as a debt due to those brave old men for heroic service. Will any gentleman say that the debt has been discharged? Has \$5 per month and one hundred and sixty acres of wild land compensated them for the labors of the camp, the toils of the march, and the dangers of the field? Do you count as nothing the sacrifices they made, the leaving home with the thousand charms that cluster around it, the parting from wife, children, friends—all to brave the bloody terrors of the battle-field? Sir, it was not money; a higher, nobler sentiment controlled their action and animated their hearts—their love of country.

All of them were ready to make the great offering of their life upon the altar of their country's honor. Thousands fell, and their funeral dirge is now chanted as peans to the nation's glory, and shall their surviving comrades be less fortunate? Shall they linger out in obscurity and poverty the evening of a life the morning of which was illustrated by deeds of such noble daring? Will not the country wake to the high sense of the moral obligation and legal right which demands of it to protect these old men, now that many of them are unable to protect themselves?

Mr. Speaker, these were noble sentiments, worthy of the representative of the American people, and I commend them to the serious consideration of the members of this House.

Mr. Choate, of Massachusetts, speaking of the nature of a gratuitous pension, said:

I still think the pension we now bestow, and which this bill [act of 1832] proposes to bestow, are to be regarded rather in the light of compensation for services than as alms to the most meritorious poverty. Perhaps they partake of a mixed character. To some of those to whom we give them they are given merely in charity; to others of these greatest number they are nothing less than a long-deferred and inadequate wages of such service as no money could have compensated.

This, Mr. Speaker, is the true basis upon which our pension system rests; that the service of the soldier is such that no money could ever compensate, and that as his services were of such great value it becomes the imperative duty of the Government to take care of him in his old age. These soldiers, in a high and refined equity, are the creditors of the country. But that the acts of 1818 and 1832 were in a legal sense an appropriation to meet a claim which the old soldiers of the revolutionary war had against the Government for the depreciated currency in which they were paid, I must emphatically deny. All these claims for wages during that war had been paid. They had no legal demand whatever against the Government further than all her soldiers when old have on account of the nature of the services. And, fortunately for me and the House, the gentleman from Michigan [Mr. MCGOWAN] has furnished an authority sustaining this view of the subject, and I thank the gentleman for his kindness and generosity.

Some time [said Mr. MCGOWAN] subsequent to 1859 a case was heard by the United States Court of Claims involving this question. The opinion of the court, as delivered by Judge Loring, is so brief that I will read it:

"It is claimed by the petitioner that James Hooker, by complying with the requirements as to reduced circumstances, specified in the act of the 18th of May, 1818, acquired a vested right in the pension which it gave, which could not be divested without his consent by the subsequent act of the 1st of May, 1822. The

act of May 18, 1818, was not a contract for the particular evidence it specified. The pension it granted rested on no legal obligation, and was in fulfillment of none. It was a voluntary offering of a grateful country, and therefore the country might proscribe or modify its terms and determine its continuance. While it continued it was an annual gift to a certain class of persons."

This case decides that the act of 1818 rested on no legal obligation. If the Government was legally indebted to these soldiers, the pensions granted them did rest upon a legal obligation. It was, however, like the act of 1871, a voluntary offering of a grateful country to the men who had rendered such service as no money could compensate.

In vain were the efforts of the gentlemen from Maine and New Jersey to draw any distinction between the principle of the acts of 1818 and 1832 and the one now under consideration. They were both gratuitous pension acts, and established the principle upon which this bill is predicated, which principle has been approved by Madison, Monroe, John Quincy Adams, Jackson, Grant, and Hayes. And I repeat that this bill does not open any new door, nor does it establish any new principle. It proposes to extend the principle which has been established for over half a century to the soldiers of the wars named in the bill. It proposes to do exact justice to all our old soldiers, making no invidious distinctions between them. Have the soldiers of the Mexican war no claims upon the Government? Did they not in the hour of their country's need, and at her call, leave brother and sister, father and mother, wife and children, with the thousand charms that cluster around them, and march to a far-off land, unacclimated, in a malarious climate, where suffocating heat oppressed the frame, and there endure without a murmur or complaint the toils of the march, the privations of the camp, and the horrors of the hospital, and bravely bear themselves amid the dangers and perils of the battle-fields, and by their unparalleled prowess and gallantry acquire 937,875 square miles of territory of incalculable wealth, which opened up an overland highway to the Pacific Ocean by which the wealth and commerce of China and Japan are poured into our lap? And did not their gallant deeds at Resaca de la Palma, Buena Vista, Chapultepec, Cerro Gordo, and Molino del Rey reflect a blaze of imperishable glory upon the American name? Do gentlemen say that the country is under no obligation to the brave men who under Scott and Taylor marched through intolerable suffering and unparalleled dangers to the City of Mexico and there conquered and scattered to the four winds an army of five times their number?

Mr. Speaker, the gentleman from Maine intimated, when he addressed the House upon this bill, that all this magnificent territory acquired from Mexico was by virtue of several millions of dollars paid out of the National Treasury, thereby robbing the veterans of the Mexican war of the honor and glory of its acquisition. This, Mr. Speaker, "was the most unkindest cut of all." He not only refuses to vote them a pittance in recognition of their glorious and invaluable services, but he actually would snatch from them, if in his power, the honor and glory of having given the country, by their gallantry, California and New Mexico. Sir, I have read, I know not now where, of a stern old Englishman who, when the treaty was concluded between France and England at the peace of Amiens, disapproved of its terms as ignominious to England, and in the House of Commons said that if "King William could know the terms of the treaty he would turn over in his grave." Sir, if Scott and Taylor could have heard the gentleman from Maine when he attributed the acquisition of this territory to a few millions of dollars paid out of the National Treasury, they, too, would have turned over in their coffins. Why, sir, Clay, Yell, Butler, McKee, Hardin, Ringgold, Page, McIntosh, Graham, Ritchie, Walker, Grant, Ayres, Armstrong, Merrill, Gillespie, Allen, Benjamin, Smith, Morange, and thousands of others as brave and as good, but whose names do not appear upon the pages of history, but whose glorious deeds are enshrined in the hearts of the American people, gave freely their lives for its acquisition; the blood of these heroic men, together with the indescribable sufferings of the surviving soldiers of that war, were the incalculable price paid for this territory. This country owes them a debt of gratitude which it can never pay, and now when they come in their old age and many of them in actual want, and request a pittance for the "evening of a life, the morning of which was illustrated by deeds of noble daring" in their country's service, gentlemen upon this floor, Representatives of the American people, say to them, "We know you have been faithful and brave soldiers, and that the country is under obligations to you which it can never repay, but you must wait until more of you are dead, and then we will vote you a pension."

This, Mr. Speaker, is adding insult to injury. But, say the gentlemen from Maine, New Jersey, and New York, [Mr. TOWNSEND,] "the country is in debt and the condition of the Treasury is such that the amount of money which will be required to meet the pensions provided for under this bill cannot be spared." They tell us that when the acts of 1818 and 1832 were passed the country was out of debt. Why, Mr. Speaker, those very measures were opposed for the same reasons given by the gentlemen who oppose this bill.

The enemies of these measures said the country was in debt and could not afford to be generous until it had discharged its legal obligations. It is but the repetition of the objections which the enemies of our old soldiers have presented against every pension bill which has been presented to Congress in their behalf. Was the country out of debt in 1818? No. Do gentlemen forget that at that time the debts of two wars remained unpaid? Was it out of debt in 1832? No. Do not gentlemen remember that it was during that year that

Mr. Clay's pet measure for the distribution of the proceeds from the sales of the public lands passed, and that one of the reasons given by President Jackson in his able veto message for not approving the bill was that the proceeds from the sale of the lands had been pledged for the payment of the old revolutionary debt, and that that debt had not been paid?

Do not gentlemen also remember that Mr. Hayne and other opponents of the act of 1832 said that the country was largely in debt and could not afford to pay the pensions proposed by the bill? The same cry was made by the enemies of the act which passed the House in 1858, granting pensions to surviving soldiers of the war of 1812. The same arguments were made against it in the Senate, and, with the help of an extravagant estimate made by the then Commissioner of Pensions, claiming that the act would require \$30,000,000, it was defeated. I repeat, Mr. Speaker, that this objection has been urged against every pension act which has ever been passed or proposed in Congress. I meet the argument as the friends of the acts of 1812, 1832, and 1858 met it then: "When did any great measure intended to benefit the country or mankind originate that did not cost money? Will the young men of the country complain? No; they are all full of patriotic fire." Did these brave old veterans stop to count the cost when their country summoned them to bear its flag against a foreign enemy on foreign soil? Did they stop to count the cost when they rallied around Scott and Taylor upon the bloody fields of Mexico? The question as to the cost is wholly unimportant. The question, and the only question, is, "Is it right? Is it just? Is it humane? Is it magnanimous, and is it grateful?" Bring any charge you will against the Government. Say it is parsimonious; say it is false, unjust, oppressive; but do not subject her to the charge of ingratitude—"the foulest whelp of sin!"

The gentleman from Maine tauntingly asks this side of the House if this bill was in the line of retrenchment. I answer him it is not an unnecessary and extravagant expenditure of the public funds. The democratic party is in favor of rigid economy in the administration of Government in all its departments. It favors the lopping off of every expenditure not absolutely necessary for an efficient and economical administration of the Government. It proposes to relieve the country from its present distress and depression by cutting down expenditures; by amending the revenue laws so as to compel property and capital to bear their just proportion of the burdens of government; by giving free coinage of the silver dollar; and by repealing the resumption act, so as to prevent Sherman from adding to the distress by his ruinous policy of contraction. Will the gentleman from Maine and his party friends join us in this good work? I will go with him who goes farthest on this line. I will vote to-day to cut down all salaries 10 per cent., or more if need be, to relieve my distressed country; but I shall never refuse to do an act of justice to the men who in the hour of danger defended the honor and glory of my country under the pretended plea of economy. This country is not able, says the gentleman from New York, now to pension these old soldiers. But, Mr. Speaker, she is able to spend millions of dollars to beautify and adorn this Capitol and this city. She has millions of dollars to appropriate in the erection of public buildings in the different States, for the purpose of giving employment to men who have no claims upon the Government, and for the advancement of the political fortunes of the members who procure it. By combinations here millions of dollars will be wasted upon public buildings. There are millions of dollars for the improvement of rivers and harbors for the promotion of your commerce, but not one single cent for the brave men who opened up the Pacific Ocean to your commerce. There are many millions for Pacific railroads, but not a dollar to the brave men whose sufferings and valor conquered and gave you the country for your roads. But, Mr. Speaker, lest some gentleman should be deterred from voting for this measure on account of the \$7,000,000 which the gentleman from Maine has said it will cost, I shall proceed to show that the figures presented by the gentleman are wholly incorrect and unreliable. He estimates the survivors of the Mexican war at 45,600. He asserts that the whole number of deaths in Mexico of the volunteer Army was 7,088, as shown by the report of the Adjutant-General of the Army; and while holding in his hand the report from which he read I called his attention to the fact that the report stated upon its face that the loss would far exceed the number as given in the tables, owing to the number of missing rolls which could not be had.

The figures—

Said Mr. POWERS—

I rely upon the official report which he [the Adjutant-General] made after having taken time to insure that the report should be full and correct.

Mr. HEWITT, of Alabama. The gentleman will find that the number of killed and died of diseases in the Mexican war will far exceed the number given.

Mr. POWERS. I have found nothing of that kind. I have read his statement very carefully. I have here the statement of the Adjutant-General where he says he has complete information upon the subject. I have found nothing that induces me to believe there is an error here.

The gentleman, holding this very report in his hand and reading therefrom, tells the House and country that the report is full and complete. He gave the whole number who died of the volunteer Army in Mexico at 7,088, and said that he knew whereof he spoke because he had read the report carefully, and found nothing to induce him to believe that the losses were greater than given in the report. The gentleman, not intentionally, of course, deceived the House and

the country. The report which I hold in my hand, being the very report from which he read, page 4, reads as follows:

It is proper, also, to state that the discharges on account of disease or disability, and the number of ordinary deaths reported to the Adjutant-General's office, and exhibited in the table, must be much less than the actual loss, owing to the missing muster-rolls and returns, which could never be obtained although repeatedly written for to commanders of regiments and corps.

And again, in a note at the bottom of page 7 of the report is the following language:

The number of ordinary deaths, discharges, &c., exhibited in the statement (C) must be considerable under the actual loss, owing to the missing muster-rolls, which could never be obtained from some of the regiments, and from which alone the necessary information could be derived.

Here we have the most emphatic statements that the actual loss was much greater than given in the table, and that the roll of some of the regiments could not be had, from which alone the necessary information could be obtained. How the gentleman from Maine fell into this gross error I cannot understand, unless he failed to read the report for himself and relied upon the statement of the Commissioner of Pensions. The gentleman from Maine again, relying on the unofficial report of the Commissioner of Pensions, gotten up for a purpose (and given not under the obligation of the oath of office,) asserts that only five hundred and twenty-five of the soldiers of the Mexican war have been pensioned as invalids. Here, again, the gentleman fell into an error which was calculated to mislead the House.

The only official report as to the number who have been pensioned as invalids, which I have been able to find, is in the report of the Commissioner of Pensions for the year 1871, where the number is stated not at 6,525, but at 11,306. I prefer to rely upon this report, made under the sanction of an official oath, when no purpose was to be served save the interest of the country, than upon the unofficial verbal statement furnished to a member of Congress for the purpose of defeating a measure obnoxious to the extreme loyal sentiments of the Commissioner of Pensions. If the gentleman from Maine was seeking for information upon this subject, why did he not go to the official documents? Why seek the Commissioner of Pensions, the known enemy of this measure, and why take his statement, unsupported by the record, for the purpose of proving that his colleagues on the committee had, either through ignorance or design, misstated the facts, thereby deceiving the House?

Why did he not call the attention of the committee to the mistake, if he believed they had made such, and give them an opportunity to correct it? Did he desire to expose his colleagues upon the committee to the House and the country as ignorant and unworthy of trust?

If he had come to the committee and asked upon what authority they had stated the number of invalid pensions to be eleven thousand, he would have been informed that it was from official documents. The Commissioner of Pensions, in this case, is convicted of having given to a member of Congress false information, contradicting the official documents in his own office, and, according to the well-known rules of law, his statement, being false in one particular, cannot be relied on in any other.

The gentleman from Maine based all his calculations and estimates upon information informally and unofficially received from the Commissioner of Pensions, and, it having been shown clearly that in one particular this information is false, the whole fabric and superstructure erected thereon must crumble and fall.

The gentleman from Maine has asserted that the losses of the volunteer Army in Mexico did not exceed 7,088. I have shown that they were much greater from the official documents. The gentleman said that the report of the Adjutant-General had been carefully read by him, and was full and complete, and covered all the losses in Mexico. I have shown from the very report which he asserted he had read very carefully that the report was not complete and did not give all the losses in said war.

The gentleman from Maine, upon the authority of the Commissioner of Pensions, told the House and country that only 6,255 of the Mexican soldiers had been pensioned as invalids. I have shown from the official documents that the number was 11,308.

The gentleman from Maine has told the House, and the press has wafted it all over this country, and it has been reasserted time and again here in this House by the enemies of the old soldiers, that over forty-five thousand of the men who fought the battles of Mexico thirty-one years ago still survive and that it will require seven millions per annum to cover the expenditures of this measure.

Mr. Speaker, I propose to show that the gentleman's calculations are wholly unreliable; in fact, I have already shown that the figures upon which he has based his calculations in part are not in fact true, and his whole calculations must therefore necessarily be false and totally unreliable. Is there a man in this House who believes that over forty-five thousand of the men who went out to Mexico are alive to-day? Have gentlemen forgotten the horrible history of that war? Have gentlemen forgotten that it was fought on a foreign soil, in a malarious climate, under a tropical sun? Have gentlemen forgotten the sad news wafted upon the wings of every western breeze, while our little Army was in Mexico, of the sufferings of the soldiers and of the thousands who perished? No army ever suffered as ours in Mexico. Thousands perished there, and many more died on their way home, or in a short time after reaching home. Many died in New Orleans after they were discharged, and all came home with the seeds of disease in their systems, with their health and constitutions more or less shattered

and impaired by exposure incident to all wars, but more especially to the war in Mexico.

And, sir, it should be considered that this country, since their return home, has been cursed with a bloody and devastating fraternal strife, in which many of these old soldiers perished.

I submit, Mr. Speaker, that the Carlisle tables prepared for life insurance, where all who are diseased or whose families were subject to certain hereditary diseases are excluded and where none but the robust and the sound in mind and body are included, are not applicable to these old soldiers, and calculations based upon these tables are deceptive and unreliable.

How many of the volunteer Army survive to-day who are included in this bill? There were in round numbers 73,000 enlistments. The committee estimate that there were at least 13,221 re-enlistments, that is, that number who, after the expiration of their term of service re-enlisted and of course are duplicated on the rolls. This estimate is not questioned by any one. There were, as shown by the report of the Adjutant-General, 7,088 deaths in Mexico, but he adds that the loss would far exceed this number owing to a number of missing rolls from some of the regiments. What that number was he does not tell us, nor is there any official documents anywhere where it can be had.

But the returns from some of the regiments appear to be full and complete. Colonel Collins's Illinois regiment, Colonel Cheatham's Tennessee regiment, Colonel Seymour's Georgia battalion, and the Palmetto regiment are among the number which seem to have made full returns.

Now, it is reasonable to suppose that other regiments, in all things similarly situated and alike exposed, would have sustained as great a loss as these regiments.

Now, as the reports are not in full as to all of these regiments, and the number lost in Mexico cannot be ascertained by any official documents, and being compelled to resort to some other source for this information, I submit to the House if an estimate of the whole loss of the volunteer Army based upon the losses of the regiments named in which their losses are ascertained from official documents, is not a fair way to approximate the number.

Now, these regiments were twelve months' men, and of course it would not be fair to estimate the losses of those who served but three months by them. I therefore exclude the three months' men altogether from my calculation.

There were 12,610 held for three months, which, deducted from 73,000, leaves 60,390, who served for twelve months.

Colonel Collins's regiment of 1,000 men lost 237.

Colonel Cheatham's regiment of 1,000 men lost 210.

Palmetto regiment of 1,000 men lost 405.

Colonel Seymour's battalion of 403 men lost 184.

Total number of men in these regiments in Mexico, 3,403; total loss 1,036.

The loss of these regiments in Mexico was about one third of their number. The whole number of troops in the volunteer Army for twelve months, 60,390, one-third of which is 20,130, which number, under this calculation, represents the loss by deaths in the volunteer Army in Mexico.

There is still another way by which we may estimate the loss of the volunteer Army.

The reports of the losses in the regular Army are full and complete. Now, why would not an estimate based upon the known losses in this line of the service be a fair and legitimate mode by which to ascertain the loss of the volunteer Army?

It is a known fact, and, for reasons which suggest themselves to every gentleman acquainted with war and the Army, that our volunteers suffered far more than the regular troops, and that the mortality among the former is far in excess of the latter. Then there ought not to be any objection by the enemies of this bill to an estimate based upon the losses of the regular Army. There were engaged first and last during the war in the regular service in round numbers 27,000 troops. This arm of the service lost in Mexico by death and desertion, according to the official documents which I have in my possession, 8,667.

Now, if 27,000 give 8,667 what will 73,000 give? The problem is solved by the single rule of three. The solution gives us as the losses by death and desertion 27,578 of the volunteer Army. But, lest gentlemen object to this upon the ground that the regular troops served longer in Mexico than the volunteers, I will take what is known as the new establishment of the regular troops, as their service in Mexico was but little longer than the volunteer soldiers.

The new establishment numbered in round numbers 11,000 men. Their loss by deaths was 2,264. The same calculations will give the loss of the volunteer Army at 15,024 from deaths. These calculations of the losses are in excess of the estimates of your committee, and I submit to the House and the country if they are not fair and legitimate. The first estimate based upon losses of certain regiments gave the loss by deaths at 20,130; re-enlistments, 13,231; the number not serving sixty days—which is not questioned—4,709; number of desertions, as shown by the report of the Adjutant-General, heretofore mentioned, 3,876; pensioned as invalids, say 8,000; total, 49,946. This number, 49,946, deducted from the whole number of enlistments, will give the number of survivors thirty-one years ago who would have been entitled to pensions under this bill; the number of enlistments at 73,000; deduct therefrom 49,946 leaves 23,054.

Now, the gentleman from Maine tells us that the Carlisle tables say that 31 per cent. will die between twenty-five years of age and fifty-six years of age.

Now, if that be the percentage of persons in good health and with robust constitutions, what will be the percentage of persons whose constitutions were impaired and whose health was shattered by exposure in Mexico, and who have passed through another bloody war? Would it be at all unreasonable to estimate that 50 per cent. have died? I submit to the House and the country that, in my judgment, more than 50 per cent. have been taken off. If we deduct 50 per cent. from 23,054 the remainder is 11,527. This is the number of survivors of the volunteer Army.

Now, Mr. Speaker, the statistics of the Pension Office show that one-third entitled to pensions never make application therefor. There must therefore be a further reduction of one-third, in order to arrive at the number who will receive pensions under this bill.

This deduction will give 7,685 who would receive pensions. But if we take the estimate based on the losses from deaths and desertions from the regular Army, new establishment, the number who would be entitled to pensions would be 7,120. Have I not made a fair estimate?

These calculations and figures are in excess of the estimates given by the old soldiers themselves. They are in excess of the estimates of men who have been for years striving to ascertain, by actual count, the number of survivors. The National Association of Veterans of Mexico, with State associations in almost every State in the Union, has been for years, in conjunction with the State associations, endeavoring to ascertain the number of survivors. They have advertised in almost every newspaper in the United States, inviting the survivors to send up their names; and as an inducement they have been promised a medal of honor, and they have been told that Congress was about to give them a pension.

After extraordinary exertions upon the part of these associations the number, including the regular Army, invalid pensioners, and those who served less than sixty days, which has been reported, is only about eight thousand. General Morgan, of Ohio, himself an old veteran of the Mexican war, wrote, two years ago or more, to his comrades in arms in Ohio, that, after the maturest reflection, it was his opinion that less than six thousand of the men who served with him in Mexico then survived. The Illinois Association of Veterans of Mexico, after six years of extraordinary exertion, with the assistance of all the press of the State, have only found, residing in said State, five hundred and fifty-three of these old soldiers, which is less than 10 per cent. of the number of troops who were in the Mexican war from Illinois.

There is no doubt, Mr. Speaker, that I have overestimated the number of survivors. How many of twenty-seven thousand who were in the regular Army survive to-day? The official reports are full and complete as to this arm of the service. The loss by deaths and desertions in Mexico were 8,667. The number pensioned as invalids was 3,263. It must be considered that these soldiers were not discharged at the close of the war. Their term of service was five years, and I submit that it is not unreasonable to suppose that they continued in the service two years and a half, upon an average, after the close of the war. How many would have died and deserted during that time?

In 1848 that dread pestilence, the Asiatic cholera, broke out among the troops in Texas, and many perished. I do not think it at all unreasonable to estimate that at least twenty-five hundred died or perished before their term of service expired. These must all be deducted from the number serving in Mexico.

First. The number of deaths and desertions in Mexico, 8,667.

Second. The number heretofore pensioned as invalids, 3,261.

Third. The number dying and deserting after the close of the war prior to their discharge, 2,500.

Total, 14,425.

This number deducted from 27,000, the number in Mexico, will leave 12,572. Now, for the same reason, I deducted 50 per cent. from the surviving soldiers in the volunteer army as would likely die in thirty-one years. I subtract 50 per cent. from 12,572, who were honorably discharged from the service thirty years ago. That will give as the survivors of the regular Army, 6,286. Now deduct one-third of the number entitled to pensions, who never apply therefor, will give 4,199 who will receive a pension under this bill. The whole number, instead of reaching the figures given by the gentleman from Maine, 45,000, will only be 11,875.

This brings us to the Indian wars named in the bill. I will first show that the gentleman from Maine has not given us the correct figures as to the number of soldiers employed in these wars. The Commissioner of Pensions again misled the gentleman and caused him to give as facts and figures to this House that which the official documents, easily accessible to Hon. J. A. Bentley, do not sustain. And I must be permitted here to remark that if the Commissioner of Pensions will hereafter give more of his attention to the legitimate business of his office than in giving false information, whether ignorantly or intentionally, to certain members of Congress in his inexcusable effort to defeat this measure, it will be far better for the country and the poor pensioners who are under his care.

The Commissioner of Pensions and the gentleman from Maine say

that there were in the Black Hawk war 5,031 men. The official report of this war, made by Major-General Macomb, says:

Instructions were sent to General Atkinson, authorizing him to call on the governor of Illinois for such militia force as would, with the regular troops under his command, enable him to act efficiently.

Accordingly 3,000 mounted volunteers were ordered into the field by the governor. The campaign was opened on the 18th of June, 1832, with these troops and about 400 regulars.

There were near 1,100 other regular troops ordered to take part in this war under General Scott, but the Asiatic cholera broke out among them and they never reached the seat of war and never took any part in it. The whole number, therefore, was not 5,031, but 3,400 as shown by the official report of Major-General Macomb.

This was forty-six years ago. The average age of volunteer soldiers who took part in this war must have been thirty or thirty-five years, as they were generally men of families. They must now be at least seventy-five years of age, and there cannot now be surviving a greater number than is given by your committee; that is, 200.

The gentleman from Maine also says that there were in the Seminole war 5,911 troops. I have not examined the official reports to see whether this be true or not. That war is not included in the bill, and I cannot see why it was lugged into this debate. That war was in 1818, and most of the troops engaged in it were in the war of 1812, and were pensioned as such.

The gentleman from Maine, relying upon this information received from the Commissioner of Pensions, told the House that there were in the Creek war 13,418 troops.

There, again, he has been led into a mistake. The official documents do not sustain, but contradict this statement.

The number engaged was as follows: Regular troops, 1,500; militia, including friendly Creek Indians, 1,500 strong, 9,000; making 10,500, instead of 13,418 as asserted by the gentleman from Maine.

The official document from which I took these figures also shows that when General Jesup had subdued the Creek Indians the regular troops, 1,500 men, and the Tennessee brigade, 1,500 strong, were ordered into Florida, and that the others were disbanded.

Why did not the gentleman from Maine tell the House of these facts, or why did not Mr. Bentley, who is so anxious to keep that side of the House informed as to the facts of this case, inform his friend from Maine of them, so that he might have given them to the House?

The gentleman was certainly desirous of giving the House and country all the material information necessary to form a correct idea as to the number of survivors of these wars, and these were facts easily accessible to the gentleman from Maine or his friend, Mr. Bentley, and they were facts essential to know in order to form a correct conclusion as to the number engaged in these wars and as to the number who would likely receive a pension under this bill.

I cast no reflection upon the gentleman from Maine. I know him too well to believe that he would intentionally state anything here or elsewhere calculated to deceive; but I do reflect upon Mr. Bentley, who has gone out of his way from the legitimate duties of his office to give information to the enemies of this measure, which information in many particulars is false, and in others he has concealed material facts which he ought to have known and which should have been stated.

The regular troops, 1,500, and the Tennessee volunteers, 1,500 in number, which went into Florida and which are estimated in the number of troops in the Florida war, together with 1,500 Creek Indians, making in all 4,500, must be deducted from the 10,500, which will leave 6,000 instead of 13,418, as stated by the Commissioner of Pensions. A large proportion of this 6,000 did not serve thirty days, and of course will not be entitled to a pension. There were a large number enlisted who never reached the seat of war. There were fully half of the 6,000, I am satisfied, who were not in the service for thirty days, and will not be entitled to a pension. The number surviving can be but few, and they will average over seventy years of age, for it is a well-known fact that men who served in that war were men of families, and must have been upon an average of at least thirty years of age, which would now make them upon an average of seventy-two years of age.

This brings us to the Florida war.

Here again the gentleman from Maine has been misled by Mr. Bentley. He says there were engaged in the war 41,112 troops.

Where did Mr. Bentley obtain this information? I only know that if he had examined the report of one of his predecessors, made in 1871, he would have found that the number was given at 29,953. And I feel perfectly satisfied after examining the official reports of this war, that the number above given is largely in excess of the actual number enrolled.

It is utterly impossible to arrive at the exact numbers employed, from the official reports, but enough is given to enable us to approximate the correct numbers. The official reports show that the number of militia in Florida in 1836 was 1,800 and that the number of regular troops was 1,996. That in 1837 there were in the aggregate, militia, 4,078; regulars, 4,633; seamen, 100; Indians, 178. That in 1838 there were 355 militia and 3,088 regulars. That in 1839 there were 793 militia and 2,321 regulars. That in 1840 there were 250 militia and 2,722 regulars. That in 1841 there were about 100 militia and 2,722 regulars. That in 1842, the year the war closed, there were no militia employed, and there were only 1,300 regulars.

These figures are taken from the official reports, which show the number in November of each year. The number of militia, according to these reports, in Florida during said war was 7,406 and the number of regular troops 19,692; in all, 27,098; which number is less than the number given by the report of the Commissioner of Pensions in 1871 by over two thousand.

This calculation, it will be seen, includes the number of troops employed in each year during the war.

Now, the regular Army term of service was for three years, so that I may reasonably suppose that two-thirds of the regular Army are counted twice in this calculation.

The whole number of the regular Army employed during the said war was, as I have shown, 19,692, one-third of which is 6,564, which, added to the number of militia employed, will give 13,610 as the whole number of troops engaged in said war.

How many of these can now survive? They will average over sixty-five years of age. There has not been a single deduction in this calculation for desertion or death in the service. The troops in Florida suffered severely and many of them died. Can there now survive exceeding two thousand of these men? That is a liberal estimate. The survivors of the Creek war will not exceed 500; survivors of the Black Hawk war, 200; Florida war, 2,000—total, 2,700. Now deduct 33 per cent., who do not make application, and the remainder will be the number in the Indian wars who will receive pensions under this bill, which is 1,800. The number of sailors who now survive will not exceed 500, included in this bill.

Let us recapitulate: Number of survivors volunteer Army in Mexico, 7,685; number of survivors of the regular Army in Mexico, 4,190; number of survivors in the Indian wars, 1,800; number of sailors, 500—total, 14,175.

These will be entitled to \$8 per month, or \$96 per annum; which will give \$1,360,100 per annum. I have given you figures from official documents where they could be had. The calculations which I have made I do not pretend to say are altogether correct, but I do say they approximate the true number, and I believe the number of survivors will fall below my estimates. I have not gone to the Commissioner of Pensions for information; I have shown his statements and figures are not reliable. All the official documents which he could have been accessible to me in the Library of the House, and I have drawn from them.

I come now, Mr. Speaker, to the third objection; that is, that this bill is a departure from other pension bills, inasmuch as it proposes to pension soldiers of Indian wars. The gentleman from Maine and the gentleman from New Jersey both have said that the soldiers of the Indian wars have never been pensioned. The soldiers of the revolutionary war frequently fought the Indians. I remember reading recently the description of a battle between our troops under General Wayne and the Creek Indians, near Savannah, Georgia, during that war. The writer described it as one of the hardest-fought battles of the revolutionary war. These men were pensioned.

Who has not read with pride the history of the battle of the Horse Shoe, between the Creeks upon one side and our troops under Jackson on the other? There was fought neither upon the Gulf nor upon the lakes any battle during the war of 1812 more hotly contested or where our troops displayed greater prowess than at the Horse Shoe. Were not the soldiers who fought that battle as justly entitled to the gratitude and bounty of the country as the troops who fought the British, either at New Orleans or Plattsburgh? There is no just man who would not say they were, and the country has so thought, and has extended to them the same pension which it has given to the soldier who met the British.

Thus, while it may be true that the Government has not granted a pension to the soldiers of the Indian wars, it is not true that it never has granted pensions to soldiers who have fought the Indians.

The war against the Indians, in which our troops were engaged under Wayne, shortly after the close of the revolutionary war, was fought mostly by soldiers of the revolutionary war, and who were pensioned as such. The troops of the Seminole war of 1817 were soldiers who had been engaged in the war of 1812, and have been pensioned as such. There has been no other Indian war between 1817 and 1832 that assumed the proportions of a war.

The Government does not propose to pension the pioneer who pushed his way into the Indian country and there provoked hostilities in his own wrong, in which a few settlers are engaged, without a declaration of war and against the consent and approval of the Government, nor does the Government propose to pension the militia called out by governors of States, who were never in the service of the Federal Government; but when the country is involved in a regular war with the Indians and calls for volunteers, there is no good reason why any distinction should be made in the bestowal of the nation's bounty between them and any other soldiers of the country. Will the gentleman from Maine or the gentleman from New Jersey give a reason why it should be done?

The Florida war, Mr. Speaker, was one of flagrant and cruel aggression upon the part of the Seminoles. The cause which led to it I shall not stop to recount. There never was a more treacherous, ferocious, and cold-blooded origin to any war in the annals of the world. The bloody and savage history of its origin I shall not stop to repeat. The House and the country are familiar with its fiendish details. There never was a war which required an exhibition of all the soldierly

requirements to a greater extent. Their courage and discipline were exhibited against perils and toils which subjected courage and discipline to the severest test.

While this war was in progress, Mr. Benton, of the Senate of the United States, said:

And has there been any failure of patience, fortitude, courage, discipline, and subordination in all this war? Where is the instance of an order disobeyed, ranks broken, or confusion of corps? On the contrary, we have constantly seen the steadiness and the discipline of the parade maintained under every danger and in the presence of massacre itself. Officers and men have fought it out where they were told to fight. They have been killed in the tracks where they were told to stand. None of those pitiable scenes, of which all our Indian wars have shown some—those harrowing scenes in which the helpless prisoner or the helpless fugitive is massacred without pity and without resistance—none of these have been seen. Many have perished, but it was the death of the combatant in arms, and not of the captive or the fugitive. In no one of our savage wars have our troops so stood together and conquered together and died together as they have done in this one, and in this standing together is the soldier's character. Steadiness, subordination, courage, discipline, these are the tests of the soldier, and in no instance have our troops or any troops ever evinced the possession of these qualities in a higher degree than during the campaigns in Florida. . . . Courage and discipline have shown themselves throughout all its stages in their noblest forms. . . . The theater of war is of great extent, stretching over six parallels of latitude, all of it in the sultry regions below 31° of north latitude. The extremity of this peninsula approaches the tropic of Capricorn, and at this moment while we speak here the soldiers under arms at midday there will cast no shadow; a vertical sun darts its fiery rays direct upon the crown of his head; suffocating heat oppresses the frame; annoying insects sting the body; burning sands, a spongy morass, and sharp-cutting saw-grass receive the feet and legs; disease follows the summer's exertions, and a dense foliage covers the foe. The Secretary of War, in an official document, which may be found in the House library, said: "Several instances have occurred during the war with the Seminoles, in which our troops have nobly sustained the honor of the American name, and those who will dispassionately consider the events of the past year will find in the services of the Army many strong claims on the confidence and gratitude of the nation."

They were compelled to move their forces with the utmost caution in the face of a bold, active, and wily foe thoroughly acquainted with the passes of rivers and morasses which intersect the country and who hovered around their flanks, concentrating their numbers upon a point of attack with unexampled rapidity and flying from the open ground with a swiftness that baffled the pursuit of the white man. When it is considered that these difficulties had to be encountered and surmounted by raw, undisciplined troops in the face of an active enemy that destroyed unseen, delivering a deadly fire at an unexpected moment and disappearing in morasses impenetrable to the eye of the white man, the zeal and persevering courage of our officers and men are worthy of all praise.

Such is the testimony to the courage and valor of our soldiers in the Florida war, by the Secretary of War, and Thomas H. Benton, United States Senator from Missouri. The official reports are full of the highest commendations of our officers and men for their gallantry and endurance in this war. Tell me why there should be any distinction drawn between these soldiers and those of any other war? The service in which these soldiers were engaged was as dangerous and as arduous as that of any service to which our soldiers have been subjected. We have received from their services value far in excess of any compensation we propose by this bill. They conquered the Creeks and Seminoles, which gave us Alabama and Florida, and which removed these Indians west of the Mississippi, where, ever since, they have been at peace with us. Why do we give pensions at all? It is on account of the hazards encountered by the soldiers and the benefits which have resulted from these hazards to the country. It is on account of the nature of the service. If it is right to give pensions to the soldiers who encounter civilized men, it is surely equally right to give them to the soldiers who meet the savage in war. The gentleman from Maine quoted from the speech of the present Secretary of the Treasury delivered in the Senate of the United States when the pension act of 1871 was under consideration. I shall recall his witness to the stand for cross-examination. When in 1858 a bill was pending in the House to grant pensions to the soldiers of the war of 1812, John Sherman, then a member of the House from Ohio, not only advocated the passage of a bill to pension the soldiers of the war of 1812, but he absolutely advocated a measure to pension soldiers of Indian wars. This witness was called by the gentleman from Maine to prove that our soldiers should not be granted gratuitous pensions until they were eighty years of age; but his witness upon cross-examination has shown that he voted such pension to soldiers who did not average more than sixty-five years of age, and not only that, but to soldiers of Indian wars.

I regret exceedingly, Mr. Speaker, that the gentleman from Vermont, [Mr. JOYCE,] the gentleman from Michigan, [Mr. MCGOWAN,] and the gentleman from Illinois [Mr. HAYES] have seen proper to revive unpleasant memories of the late fraternal strife. Why should this bill be enlisted in the ungracious service of rekindling sectional hatred and tearing open old wounds well-nigh healed? I had fondly hoped that all would follow the patriotic and generous example of the gentleman from Maine [Mr. POWERS] and the gentleman from New Jersey, [Mr. SINICKSON,] and recognize alike the service of the brave men of the North and South who suffered and fought together under Scott and Taylor in Mexico. There were no sectional animosities then among them, and I thank God there is none among them to-day. There is not an old veteran at the North, republican or democrat, who would have his comrades at the South excluded from the provisions of this bill. I have had many letters from all parts of the North and West, from these old veterans, all condemning the effort to exclude their southern comrades from the benefits of the bill. I hold in my hand the memorial of the First Illinois Association of Veterans of Mexico, in which these words are found:

We cannot ask you to grant a pension unless the bill is broad enough to embrace all who served in the Mexican war, and through whose services the United States

is the greatest and richest nation in the civilized world. We desire and hope that sectional feeling will be cast aside in your action on this question. President Washington said in his retirement: "Sincerely hoping that the bonds of our Union may be strengthened by wise and just enactments, ours will indeed be a union of hearts and hands which no foreign foe can break."

This is but the sentiment which animates the hearts of all the veterans of the Mexican war. Sir, I firmly believe they would spurn your offered bounty if their southern comrades are not to participate in it with them. They were all the soldiers of the Union. They were all brave defenders of one common country. They alike suffered for a common cause. There were no "traitors" among them. There were no "rebels" in the American Army in Mexico. They were all patriots, faithful and true to their country. The atrocious crime of rebel and traitor charged against me and others in this House by the gentlemen from Vermont, Michigan, and Maine I shall neither attempt to palliate nor deny, but will let the country determine from our course here as Representatives as to whether or not these gentlemen are truer to the Constitution and the best interest of the people than those whom they denounce as criminals. By their works men prove their faith; by their fruits men are known. I do not propose, Mr. Speaker, to discuss with these gentlemen dead issues which ought not and which cannot be resurrected. Let the dead past bury its dead. The present and the future alone concern our country. To them alone the statesman should give his attention. I, too, have decided opinions as to the causes which led to the late unhappy civil strife, and as to the manner in which the war was conducted upon either side, and as to the guilt or innocence of the actors therein; but these opinions are not important to the country, nor would they serve to illuminate or illustrate the subject under consideration. I shall leave my action in the late war to the impartial historian, when passions shall have subsided and reason shall assume her way; and in whatever position I may be assigned for my participation in what you term the rebellion, whether traitor or patriot, I shall be satisfied. I shall patiently await the impartial judgment of posterity, firmly believing, whatever its judgment may be as to the wisdom of my course, I shall be acquitted of all crime.

If, Mr. Speaker, I were disposed to revive unpleasant memories of the unhappy past, I could remind the gentleman from Vermont of some dark spots in the history of the State he has the honor in part to represent. Her history is not without spot or blemish. But I take no pleasure in exposing the dark spots on the escutcheons of my country nor any of her daughters. I would rather, like the sons of Noah, cover her nakedness with a garment and hide it from the gaze of a vulgar and sensual populace. The gentlemen say that treason must be made odious, and the enormity of the crime of rebellion must be forever kept before the people; that the law must forever remind the southern people that they were rebels and traitors. Is this the sentiment which animates the republican party? I cannot and will not believe it. Sir, I will let Charles Sumner answer the gentlemen for me:

It is contrary to the usages of civilized nations to perpetuate the memory of civil war.

Hear, also, what a distinguished member of the republican party and now in the Cabinet of your President said, and I commend the sentiments to the members of this House as worthy of all acceptance:

No civilized nations, from the republics of antiquity down to our days, ever thought it wise or patriotic to preserve in conspicuous and durable form the mementos of victories won over fellow-citizens in civil war. Why not? Because every citizen should feel himself with all others as the child of a common country and not as a defeated foe. All civilized governments of our days have instinctively followed the same dictates of wisdom and patriotism. The Irishman when fighting for old England at Waterloo was not to behold on the red cross floating above him the name of the Boyne. The Scotch Highlander when standing in the trenches at Sebastopol was not by the colors of his regiment to be reminded of Culloden. No French soldier at Austerlitz or Solferino had to read upon the tricolor any reminiscence of the Vendée. No Hungarian at Sadowa was taunted by any Austrian banner with the surrender of Villagos. No German regiment from Saxony to Hanover charging under the iron hail of Gravelotte was made to remember by words written upon the Prussian standard that the black eagle had conquered them at Königgrätz. Should the son of South Carolina, when at some future day defending the Republic against some foreign foe, be reminded by an inscription on the colors floating over him that under this flag the gun was fired that killed his father at Gettysburg? Should this great and enlightened Republic, proud of standing in the front of human progress, be less wise, less large-hearted than the ancients were two thousand years ago and the kingly governments of Europe are to-day? Let the colors of the army under which the sons of the States are to meet and mingle in common patriotism speak of nothing but union—not a union of conquerors and conquered, but a union which is the mother of all, equally tender to all, knowing of nothing but equality, peace, and love among her children.

Such were the noble sentiments of Carl Schurz and Charles Sumner, and are to-day the sentiments which animate the hearts of a large majority of the American people. What no civilized nation from the ancient republics down to our day has ever done, the gentleman from Vermont, [Mr. JOYCE,] the gentleman from Michigan, [Mr. McGOWAN,] and the gentleman from Illinois, [Mr. HAYES,] would have this enlightened and Christian Republic do. These gentlemen will never be able to induce the American people to adopt measures which have been condemned by the concurrent action of every civilized nation on earth as unwise and unpatriotic.

The gentleman from Vermont [Mr. JOYCE] and the gentleman from Michigan [Mr. McGOWAN] oppose this bill, among other grounds, because it proposes to restore to the pension-rolls certain invalid pensioners who had been dropped therefrom on account of disloyalty. Now, both of these gentlemen admit that if the invalid pension is

in the nature of a contract and is a vested right, then, under the general pardon and amnesty proclamation of the President of December, 1868, all invalid pensioners are entitled to their pensions and should be restored to the rolls.

The only question, therefore, at issue between these gentlemen, and the committee as to this point is as to the nature of the invalid pensions. I hold, and the committee held, that an invalid pension is a vested right which the Government has no legal right to take away from the pensioner without his consent. That the Government had a right under the war-making power, from public policy, to suspend the payment of pensions to persons residing in the belligerent States during the late war, I have no doubt, for otherwise it might have been forced to contribute money to the enemy who carried on the war against it; but that it has any legal right, when the war is over and such a creditor becomes a citizen of the country, with all the rights and privileges of any other citizen, to refuse to pay the claim, I most emphatically deny. That it might do so, I admit, but such a refusal would be nothing less than downright repudiation.

Is an invalid pension in the nature of a contract? In the early days of our Government an act was passed which enacted that if any officer or private in the regular service, while in the service of the country, be disabled, from wounds or otherwise, in the line of duty, such officer or private soldier so disabled should be entitled to a pension; and if such officer or private in the line of duty should be killed, his widow or minor children should also be entitled to pension. This has been substantially the law ever since.

When the country was involved in the war of 1812, the act authorizing the President to call for volunteers enacted that all who volunteered in said service, if disabled by wounds or otherwise, should have a pension. The same promise, by authority of law, was made to those who volunteered in the Mexican war. When President Lincoln issued his proclamation in 1861, calling for seventy-five thousand troops to suppress the rebellion, he promised that if any so volunteering should be disabled in the service, they should have a pension; and when Congress afterward met, it passed an act ratifying and confirming the promise thus made by Mr. Lincoln.

Every soldier who volunteered in the war of '61 did so under a law which promised him a pension upon his disabilities incurred in the line of duty. So also every soldier who volunteered for service in the Mexican war did so under a law which made him a solemn pledge that if killed in the line of duty his widow or minor children should be pensioned; or, if he should be disabled in the line of duty, that on his return to his home he should be taken care of by the Government.

The pension is offered as an inducement to the soldiers to enter the service, and it is a part of the consideration for the service to be rendered. The country is in war. It is sorely in need of soldiers; it goes to the poor man, with a wife and houseful of children who depend upon him for their daily bread; it says to him: "Your country needs your services in the field; go join the Army, and you shall have \$8 a month to feed your wife and children." "But," says the man, "the service is hazardous and dangerous. If I should lose my life or be disabled, who is to feed and care for those dear ones?" The country says "Go, and if killed, they shall be the wards of the nation, a grateful country will take care of them; and if you are disabled in the line of duty, when you return to your home you shall receive a pension to support you and your family." The soldier accepts the terms, bids his dear ones farewell, and obeys the call of his country, and subsequently, in some bloody charge upon the enemy's line, he is pierced by a ball and falls—

With his back to the field and feet to the foe,
And leaving in battle no blot on his name,
Looks proudly to heaven from the death-bed of fame.

He expires with full faith that the country for which he gave his life would be true to its promise to him, and would tenderly care for his wife and dear little ones.

The gentleman from Vermont and the gentleman from Michigan say the country is under no legal obligation to take care of that soldier's wife and minor children. Sir, this is far more than any ordinary debt: it is a debt of the highest honor, and which could not be refused without the blackest national dishonor. The law has made this promise to every soldier who has been in the Army since 1812.

The condition upon which the pension is predicated is the soldier's disability in the service in the line of duty, and upon the happening of which the pension becomes a vested right. There can be no doubt upon this question, if a government can bind itself by any contract. Is the Government bound by its own laws having the attributes of a contract? Grotius says:

A government has its affairs and interest, it deliberates and becomes a simple person having understanding and will, and is susceptible of obligations and laws. Kent says:

A law embodying a contract duly passed and promulgated thenceforward becomes the law of the land, and it is as binding upon Congress as on any other branch of the Government, or as a contract would be binding upon the Government executed under the authority of law.

In 1780 the Continental Congress passed an act promising to the military officers who would remain in the Army until the close of the war a pension or half pay for life. This was a promise in the nature of a pension upon certain conditions—that is, the service during the war. This promise was made after the officers had enlisted, and was

no part of the consideration of enlistment, and is therefore not as strong a case as that of the invalid pension.

Washington, speaking of the nature of this promise, said:

It was part of their hire. I may be allowed to say it was the price of their blood and of your independence. It is therefore more than a common debt; it is a debt of honor; it can never be considered as a gratuity, nor canceled until it is fairly discharged.

The committee, Mr. Speaker, in support of their view of the nature of the invalid pension, quoted from the decision of William Wirt, when Attorney-General, in 1825, concerning a pension claim of a widow under the invalid-pension law. The gentleman from Michigan said that the Attorney-General did not mean to say that the pension was property, but all that he intended to say was that the widow had a right to apply for her pension. I do not know by what process the gentleman from Michigan has been able to discover that the Attorney-General meant to say something which he did not say, nor do I understand how the gentleman has discovered that the Attorney-General meant to say that which he did not say. Now, the gentleman says that there can be no such thing as a vested right to an invalid pension. William Wirt, who was one of the ablest lawyers which this or any other country has ever produced, in 1825 said:

Here is a certain right which, the law says, shall accrue to the widow upon the happening of a certain event—that of her husband having died by reason of a wound in the line of duty. The law does not require that either an application should be made by her, or that anything else should be done in order to consummate her right. It is consummated by the mere death of her husband under circumstances already mentioned. It is a vested right to so much money per annum for five years, subject, however, to be discontinued or defeated by her death or remarriage, but a vested and perfect right during the time she continues to live the widow of her deceased husband.

The gentleman from Michigan says it is not a vested right; but Wirt said it was not only a vested but a perfect right to the pension—not, as the gentleman says, a right to apply for the pension, but that the pension, or the promise made by the Government to the husband, became a vested and perfect right upon his death. This language is too plain for construction. Either Wirt was wrong or the gentleman from Michigan is wrong. Again, said Wirt:

It is in the nature of an absolute engagement or promise made by the Government to those officers and men that, if they fell in the service of their country, so much shall be paid to their widows and children.

What is an absolute engagement or promise but a contract? Will the gentleman from Michigan tell me what Wirt meant by this language?

Again he said:

It is bottomed only on this single condition—that the husband and father shall die in the service of his country, on the happening of which condition the public engagement becomes a debt, which is as much property of the widow and children as any bond which the deceased husband may have left them by his will.

What is that which becomes the debt? It is not the remedy given by law to recover the pension, but is contract made by the Government to the deceased soldier. It is not the right of the widow to apply for a pension, for the Attorney-General said it is a vested and perfect right, and is her property, whether she applies for it or not. This decision is conclusive upon the subject and cannot be construed away.

The gentleman from Michigan quotes from a decision of Judge Loring, of the Court of Claims, in a case arising under the act of 1818. That decision has no application whatever to the question at issue between the gentleman from Michigan and the committee. That decision was made under what is known as the gratuitous pension act, and not an invalid pension at all. The committee have nowhere claimed that a gratuitous pension was a vested right, and that the Government was under any legal obligation to give it, or continue it when given. It is no part of the contract, but is a mere matter of grace. Hence the decision to which the gentleman referred as an authority does not sustain him, for it does not involve the question at issue at all.

Now, Mr. Speaker, I have shown both by reason and authorities that the invalid pension is a vested and perfect right, and that it is property. Now was this right forfeited by the pensioners adhering to the Confederate States during the late war? This question I will let the report, which I had the honor to submit in this case, answer:

No such view is supported by the law. The law forbids the payment of the pension without proof of loyalty, but does not declare the right of pension forfeited. The abandoned and captured property act forbids the payment of the proceeds of the sale of such property without proof of loyalty. The Government became the trustee of the claimant of such proceeds, and upon proof of loyalty restored the same to him. So, in the case of the pension, it is not declared forfeited, but is held by the Government in trust, to be restored on proof of loyalty.

There was but one description of property during the late war which was forfeited without a proper proceeding and judgment of a court of competent jurisdiction, and that was the property of the Confederate States, or property employed in actual hostility on land. Chief Justice Chase, in Klein's case, 13 Wall., 136, says:

"The property of the insurgent States may be distributed into four classes:

"First. That which belonged to the hostile organization or was employed in actual hostility on land.

"Second. That which at sea became lawful subject of capture and prize.

"Third. That which became the subject of confiscation.

"Fourth. A peculiar description, known only in the recent war, called captured and abandoned property.

"Almost all property of the people in the insurgent States was included in the third description. But it will be observed that tribunals and proceedings have been provided by which alone such property could be condemned and without which it remained unaffected. It is thus seen that, except property used in actual hostility,

no titles were divested in the insurgent States unless in pursuance of a judgment rendered after legal proceedings."

The right of invalid soldiers to pensions has been shown to be a perfect vested right, and could only have been forfeited by the judgment of a court of competent jurisdiction in a proper proceeding therein. But, in addition to this, they are covered by the general pardon and amnesty of 1868.

What was the effect of this pardon so far as it related to them? It released them not only from all penalties incurred by reason of their "participation in the rebellion against the authority of the United States," but it absolutely and forever "blotted out," "obliterated," and effaced the offense itself, and made them, in contemplation of law, wholly "innocent" and loyal citizens. It supplies the proof of loyalty in all proceedings where such proof is required. It forever closes the eyes of all tribunals to the perception of the fact that they had "participated in the rebellion against the authority of the United States" as an element in the judgment in any proceeding for or against them. It renders section 4716 inoperative so far as it affects them. The effect of the general pardon of 1868 is no longer an open question. It has been settled in a number of cases by the Supreme Court of the United States. In the case of *ex parte Garland*, 4 Wall., 361, the court said:

"A pardon reaches both the punishment prescribed for the offense and the guilt of the offender, and when the pardon is full it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offense."

The committee refer to the case of Padelford against the United States, 9 Wall., 531.

The appellant was at the commencement of the war a citizen of the State of Georgia, and with most of the citizens of the South aided in its struggle for a separate existence. He subsequently availed himself of the pardon of December, 1863, by taking the oath and afterward observing the same. After the close of the war he brought suit in the Court of Claims to recover the proceeds of certain cotton captured by the Federal forces during the war. This suit was brought under the captured and abandoned property act. This act required the claimant to prove affirmatively that he did not give aid and comfort to the confederate cause. The court held that the pardon "purged him of whatever offense he had committed against the United States," and no offense connected with the rebellion "could be imputed to him," and that it "relieved him of whatever penalty he had incurred by reason of his having participated in the rebellion," and that the "law made the proof of pardon a complete substitute for proof that he had given no aid or comfort to the rebellion."

In Klein's case the court said:

"That pardon includes amnesty. It blots out the offense pardoned, and removes all its penal consequences."—13 Wall., 137.

Again, in the case of Carlisle:

"It is true the pardon and amnesty do not and cannot alter the actual fact that aid and comfort were given, but they forever close the eyes of the court to the perception of that fact as an element in its judgment. There has been some difference of opinion among the members of the court as to the cases covered by the pardon of the President, but there has been none as to the effect and operation of a pardon in cases where it applies. All have agreed that the pardon not merely releases the offender from punishment for the offense, but that it obliterates in legal contemplation the offense itself."—16 Wall., 151.

The court in all these cases held that pardon not only releases the offender from punishment, but wipes out of existence the offense itself; that no offense growing out of the rebellion can be imputed to any one covered by the general pardon and amnesty of December, 1868; that a full and unconditional pardon restores to the offender his property and rights to the same extent as if he had never offended. The only limitation to the effect of a pardon as thus stated is, "it does not restore offices forfeited and property or interest vested in third persons in consequence of the conviction and judgment." And this "benign prerogative of mercy," being conferred upon the President by the Constitution, is not subject to the legislative will, nor can it be "fettered by any legislative restrictions." In Klein's case, heretofore cited, the court said:

"The President's power of pardon is not subject to legislation. Congress can neither limit the effect of his pardon nor exclude from its exercise any class of offenders."

If section 4716 be enforced against invalid pensioners, then their property is confiscated, and they are punished for their participation in the rebellion, notwithstanding their pardon. How can this be done if the law, as expounded by the Supreme Court, is to be respected and obeyed by the Executive and his subordinates?

The Supreme Court, as it has been shown, has decided that their pardon releases them from all punishment, and that no crime growing out of the rebellion can be imputed to them. Then this section necessarily comes in conflict with the effect of their pardon, and, being a restriction of the pardoning power, is null and void, so far as it affects their rights. The law says that every soldier, without a single exception, disabled by wounds or otherwise in the line of his duty shall have a pension.

Why are not all, therefore, wounded or disabled in the line of duty entitled to a pension? The only answer is that many who would be otherwise entitled to a pension engaged in the late rebellion, and section 4716 forbids the payment of any pension to them; they are therefore excluded solely on account of an offense of which they have never been adjudged guilty by any court of competent jurisdiction, and which has been pardoned in full, blotted out of existence and wholly obliterated. These soldiers thus excluded are as justly entitled to their pensions under the law as a soldier who lost a limb or an eye in the defense of the Federal Union. While the committee does not censure the Commissioner of Pensions for enforcing the provisions of section 4716, yet they feel constrained to say that he has mistaken the law, and that he could have found high authority for disregarding said section and following the law as expounded by the Supreme Court. Whenever an act of Congress is decided to be inoperative by the Supreme Court it is not only the right but the imperative duty of every executive officer to disregard it. The Commissioner of Pensions should have followed the decision of the court, holding that the pardon forever closed the eyes to the perception of the offense pardoned as an element in his judgment, and substituted the pardon for proof of loyalty.

If the Government has restored the property captured by the Federal forces to the persons from whom it was taken, by virtue of their pardon, then it should restore the pensions, the property of its old soldiers who were disabled in battle gallantly maintaining its honor and upholding its flag. The Government has not confiscated the property of any other citizens of the South; why should it continue to confiscate the property of its old defenders? While a bill was pending in this House during the forty-third Congress, amending the act to pension the surviving soldiers of the war of 1812, Mr. BUTLER, of Massachusetts, offered the following amendment thereto:

"Provided, That the restoration and pension contemplated by this act shall take effect from the passage of this act."

And upon said amendment he submitted the following remarks:

"The section to which this amendment is appended proposes to remove from the pensioners the disability imposed by the act of 1864. [The act alluded to was incorporated in the Revised Statutes as section 4716.] Now, it seems to me manifestly unjust that we should confiscate the pension during the intervening time. While the war was going on, while the Union was still unrestored, it was a very proper thing to cut off the pension of those who were disloyal, but I cannot see why the pensions of those men should be confiscated by the Government while no other property is confiscated. * * * The pension was their property, inalienable except on account of their disloyalty while that disloyalty existed and while the

safety of the country required such a policy. But the time of danger is now passed, and I do not see why these old men should be deprived of their pensions while all other persons in the South are left to enjoy their property."

This patriotic speech made an impression upon the House, for Mr. BUTLER's amendment was carried by a "large majority." To refuse to restore these old soldiers to the pension-roll and to pay their pensions, on account of their "participation in the rebellion against the authority of the United States," would be a total and wanton disregard of that gracious prerogative of mercy reposed by the Constitution in the President, and a flagrant and unwarrantable violation of the Constitution itself, and a foul repudiation of the public engagement more dishonorable, if possible, than a refusal to pay the interest or principal on the bonded debt of the Republic. What would the country think if this committee should bring in a bill to repudiate the sacred obligation of the Government to the widows and orphans of the brave men who fell in the late war fighting for the perpetuity of the Federal Union? There is scarcely a man here or elsewhere in any section of our common country who would not denounce the measure as monstrous, and the members of the Committee as unfaithful servants of the American people.

The obligation of the Government to pay the invalid soldiers of the South their pensions for their disabilities incurred in its defense is as sacred and obligatory as its engagement to the widows and orphans of the soldiers who fell in the Union Army. Both have the pledged faith of the Government; if the one can be refused without dishonor, so may the other. But the committee say *with emphasis* that neither can be refused without a violation of a most sacred obligation, and without national perfidy. Wisdom and statesmanship alike dictate a repeal of all laws which make a difference, in the bestowal of national benefits, between fellow-citizens of one common country. How can it be expected that the southern people will love and respect this Government as they should, so long as an old soldier shows to the young men his scars and wounds received in many a hard-fought battle in defense of his country's flag, which now disowns him; and, with tears in his eyes and a sad heart tells them "These were all received in upholding my country's flag. My comrades in arms at the North, battle-scarred and wounded as I am, are all tenderly cared for by the Government, while I am left to starve or beg for sustenance because of my sympathy for my people and section in the late war." Is it right?

There can never be that unity of sentiment between the North and South in one common co-operation for the achievement of a common purpose so essential to the prosperity and glory of the country so long as the disabled soldiers of the North are pensioned, while their comrades in arms in the South, who shared with them the same toils, hardships, and dangers, wounded and disabled as they were, are refused this national bounty. Mr. Sumner well understood this when he introduced his famous resolution into the Senate of the United States to strike from the flags and Army Register the names of battles between fellow-citizens. Mr. Sumner said:

"The national unity and good-will among fellow-citizens can be assured only through an oblivion of past differences, and it is contrary to the usage of civilized nations to perpetuate the memory of civil war."

General Grant, too, well understood when, in December, 1873, he recommended to Congress a full and unconditional pardon and amnesty for all offenses growing out of the "rebellion," that a thorough and genuine national reconciliation could only come through an "oblivion of past differences." The administration of President Hayes has done much to restore confidence and rekindle the patriotic fires which once glowed with such warmth and fervor in every southern heart. Let Congress join in this good work, and "stimulate, not stifle the uprising of good feeling and affection" of the southern people for our common country. Let every trace of the civil war which is calculated to irritate our fellow-citizens in any part of the Republic, or which tends to perpetuate bitter memories of the fraternal strife, be erased and expunged from the public records of the National Government, "and the result will be peace, real and permanent peace, and a unity between the once alienated sections of the Republic"—a result which every patriot most ardently desires.

Now, Mr. Speaker, I have met the enemy, and have routed him all along the line. I have demonstrated the correctness of the conclusions to which your committee come in the report submitted with this bill. I have shown that the figures and estimates as to survivors of the war named in the bill submitted by the gentleman from Maine are not supported by, but contradicted by, the official documents, and are consequently totally unreliable. I have shown that this bill establishes no dangerous precedent; that it opens no new door; that it enacts no new principle; that it only extends the principle which was established more than fifty years ago to the soldiers named in the bill. I have shown that all these old soldiers have strong claims upon the bounty and gratitude of the country. I do not know, Mr. Speaker, what others intend to do, but I shall give this measure my hearty support, believing the whole country will sanction and approve of my action. Public opinion has decided in favor of this measure, and you cannot, you dare not, resist it. The people, before whose will we should all bow, demand this measure shall pass. Can any man doubt the fact? Look at the proceedings and instructions of State Legislatures. The states of Pennsylvania, Ohio, Illinois, Indiana, Wisconsin, Minnesota, California, Virginia, Alabama, Louisiana, Mississippi, Tennessee, and Kentucky, have all requested their Representatives to vote for this measure. There is no mistake in this. It speaks but the voice of the people, and the Representative who fails to heed it will be called before the bar of public opinion, when he returns to his constituents, to give a strict account for his refusal to obey their will. If the men who are here will not respect the wishes of their constituents, be assured that they will send Representatives who will. The servant should not be above his master. You cannot resist a measure which the people demand. There are ten or twelve thousand old soldiers, far advanced beyond the meridian of life, many of them in penury and want, who come to us as the representatives of the American people, for whom they sacrificed the morning of their life, and ask that they may be granted a small pittance to feed and clothe them for their very few remaining days. Can you refuse their request? If you do, I shall feel humbled for my country.

IMPROVEMENT OF NAVIGATION OF COOSA RIVER, ALABAMA.

Mr. LIGON. Mr. Speaker, early in the session I introduced a bill granting aid to improve the navigation of the Coosa River, in the State of Alabama. Being a local measure it is not to be presumed that the members of this body understand the real merits of the case and the necessity of the appropriation. I desire the attention of the

House in presenting a few facts and arguments in favor of said bill. The Coosa River is formed by the junction of the Oostenaula and Etowah Rivers at Rome, a thriving city in the State of Georgia, a few miles from the State line of Alabama. It flows through seven of the most important counties in Alabama and a short distance above the city of Montgomery, the capital of said State, joins the Tallapoosa River, and they form the Alabama River. In these seven counties any variety of soil and production may be found; the bottom lands are unsurpassed in fertility; corn, cotton, wheat, grain of all kinds are gathered in great abundance. But the real wealth along this river is undeveloped: coal, iron, marble, and other minerals may be had near its banks in any quantity and of the best quality.

Here is a grand river, running through two States, entirely the whole length of the State of Alabama north and south, a distance of seven hundred and fifteen miles, and thence through the upper part of Georgia over one hundred miles to the Coosawattee, and navigable this entire distance for steamboats, except from Greensport to the city of Wetumpka, a distance of only one hundred and thirty-seven miles. For the greater part of this distance this river is from three to four hundred yards in width of good depth of water and the clearest and most beautiful stream of all of our southern rivers.

It is strange that this great highway from the mountains in Georgia to the Gulf at Mobile should have been so long neglected by State and Federal governments. In the year 1867 the Legislature of the State of Alabama passed an act authorizing the governor to appoint a commission to examine and survey the Coosa River from the city of Wetumpka, in said State, to the city of Rome, in Georgia. This commission was appointed and the survey made and report sent to the Legislature, but, Mr. Speaker, while this was being done a new order of things was set up in our State by the authorities at Washington City, and we entered upon that dark page of our history known as the days of reconstruction. After that we were not able to open up or improve the navigation of any river, being involved and overwhelmed with debt by those who had no interest in the future prosperity of our State. When a change of administration was finally had in our State affairs, all questions looking to the improvement of our river navigation were lost in the work to extricate ourselves from financial embarrassment to adjust and compromise the State indebtedness. And now, after years of toil and strife, and with an earnest desire to build up our languishing industries and the waste places in our land, we appeal to the Federal Government for aid to accomplish this great work. This link of one hundred and thirty-seven miles between Greensport and Wetumpka, when finished, would open up a section of country now excluded from all markets, and place it in direct communication by water with the Gulf. A section of the State supplied with timber (pine and oak of the best quality, and in quantity sufficient it is said, by the surveyor, "to furnish one hundred million of feet per annum for export for one hundred years") may well attract the attention of the Federal Government which is the owner of a vast amount of public lands situated in these counties.

Should this ever be opened, coal could be delivered at Mobile at a low figure, and sawed lumber of the finest quality would find an outlet; both these articles would then add greatly to the prosperity and wealth of the country. The population of these seven counties is now over ninety thousand, the climate is mild and salubrious, and if this river was made navigable the water-power is sufficient to run all the factories in the South; the latitude exempts it from malarial diseases of the two States of Georgia and Alabama. Far back in the interior the Government would be protected in all its works and shops and munitions of war.

The time is coming when our steamers engaged in the South American trade or with the Pacific coast will do their coaling at the Gulf ports, and the coal-fields in Alabama will be the nearest point for this supply; barges will then be loaded on the Coosa, and, drifting down the river to the Gulf, will discharge their cargoes on board of vessels in the bays of Mobile and Pensacola, and returning will bring back the products of South America and other foreign countries.

Mr. Speaker, it was some time before I could understand why the coal men in Pennsylvania could ship coal down the Ohio and Mississippi Rivers to New Orleans and undersell those who were engaged in the same business living in my own State, Alabama, although not one-fifth the distance from New Orleans; the secret was not that mining could be done any cheaper in Pennsylvania than in Alabama, for the cost is about the same, but it was in the transportation and because the bulk was not broken until it was emptied into the vessels at New Orleans. Railroads cannot compete with water carriage in the article of coal.

Mr. Speaker, in my conception the Government could not make a better investment than spending judiciously a few hundred thousand dollars in improving the navigation of the Coosa River. Had this river been in the North that energetic population, ever looking out for its own interest, would never have allowed this grand stream to remain blockaded and closed with so much undeveloped wealth bordering on its shores. Long since it would have had the General Government at work on its shoals and removing all obstructions, and boats and water-crafts would have been traversing it from its head waters to the Gulf.

From the Coosawattee, the head of navigation, one hundred miles above Rome, Georgia, to the Bay of Mobile, is eight hundred and fifteen

miles, and is now navigated by steamers during nearly the entire year, except the one hundred and thirty-seven miles of river between Greensport and Wetumpka. There can be no doubt that the expenditure of money required to make this gap passable in the navigation will be more than justified by the great advantages to be had. That railroads are a great benefit to a country through which they run, affording speedy shipment of the products of one section to another, no one now questions; but it is an established fact that railroads cannot compete with water transportation, especially in heavy freights such as cotton, coal, iron, lumber, corn, wheat, and flour; all these commodities can be and are transported by canals and slack-water navigation at about one-third the cost charged by railroads. This has been demonstrated in the report of the auditor of the canal department of the State of New York to the Legislature of that State.

If canals and slack-water in northern latitudes, where they are ice-bound for nearly six months in the year, achieve such results, would it not be safe to state that a steamboat line of transportation, open every day in the year, from Rome, Georgia, to Mobile, Alabama, by river navigation, could move heavy freight at prices far below the charges made by railroad? Besides, the people would have competing lines of transportation, and each would tend to check the other in the imposition of heavy charges.

Mr. Speaker, there was an appropriation made by Congress in 1876 for the Coosa River of \$30,000, of which sum there was expended in 1877 \$15,732.45, leaving an unexpended balance in the Treasury of \$14,267.55.

The amount recommended by the Chief Engineer for the Coosa River for the year ending July 1, 1879, is \$100,000, which, with the unexpended balance in the Treasury, will be sufficient, it is thought, for making the required improvement up to that time.

When we consider, Mr. Speaker, the vast amounts of money and lands which the Federal Government has given to railroads, donating in fact vast empires of the public domain and with a lavish hand giving millions of money, is it not a little surprising that our grand rivers running through the heart of our country should be kept year after year sealed against navigation for the lack of a few hundred thousand dollars? We appeal to you gentlemen of the North and West to co-operate with us in our effort to vitalize interest which will result in great good to our common country. And the paralyzed industries of our State would gladly invite and welcome the life-giving influence of capital from your section of the Union.

Mr. HUMPHREY obtained the floor, but yielded to

Mr. BURDICK, who moved that the House adjourn.

The motion was agreed to; and accordingly (at ten o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: The petition of citizens of Philadelphia, Pennsylvania, pensioners under existing laws, opposing the passage of the bill (H. R. No. 3374) providing for the payment of pensions direct from the Treasury—to the Committee on Invalid Pensions.

Also, the petition of citizens of Hocking County, Ohio, in reference to the tariff—to the Committee of Ways and Means.

By Mr. BAKER, of New York: The petition of citizens of Phoenix, New York, for the repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. BANKS: The petition of Messrs. Wason, Pierce & Co., Thomas Dean & Co., and 30 others, of Boston, Massachusetts, wholesale dealers in tobacco, against the passage of any law which will permit, or which can be construed to permit, the re-establishment of bonded tobacco warehouses like those abolished by the act of June 6, 1878—to the Committee of Ways and Means.

By Mr. BANNING: The petition of the wholesale leaf dealers and cigar manufacturers of Cincinnati, Ohio, for the repeal of the bankrupt law—to the same committee.

By Mr. BEEBE: The petitions of the publishers of the Record, Jeffersonville, New York; of the Daily and Weekly Press, Middletown, New York; of the City and County, Nyack, New York; and of the Goshen (New York) Democrat, for the abolition of the duty on type—to the same committee.

By Mr. BLISS: The petition of A. K. Meserole, H. J. Olderning, jr., John Fallon, Thomas D. Jones, D. W. S. More, Farrell Logan, James R. Sparrow, jr., and other citizens of Brooklyn, New York, against the revival of the income tax—to the same committee.

By Mr. BOUCK: The petition of citizens of Wisconsin, that homesteads be granted soldiers of the late war—to the Committee on Public Lands.

By Mr. BREWER: The petition of David D. Fox and 50 other citizens of the sixth congressional district of Michigan, that soldiers discharged for sickness or disease receive the same bounty as those discharged for wounds—to the Committee on Military Affairs.

By Mr. BRIGHT: Papers relating to the claim of Ruth A. Fleming—to the Committee on War Claims.

By Mr. BUTLER: The petition of Everett P. Wheeler, Clifford A. Hand, and John K. Porter, committee of the Bar Association of New York City, relative to a reorganization of the Federal courts of that city—to the Committee on the Judiciary.

Also, the petition of Francis Gibbons and others, for legislation that will prevent the Secretary of the Treasury canceling any more bonds—to the Committee of Ways and Means.

Also, the petition of the publishers of the Banner of Light, Boston, Massachusetts, for the abolition of the duty on type—to the same committee.

Also, the petition of citizens of Blandford, Massachusetts, for the amendment of the pension laws—to the Committee on Invalid Pensions.

By Mr. CLARK, of Missouri: Memorial of the curators, faculty, and students of the Missouri State University, for the creation of a fund from the proceeds of the sales of public lands and other sources for distribution among the States in aid of popular education—to the Committee on Education and Labor.

By Mr. CONGER: The petition of Kate A. Long, Lavinia R. Walker, and others, of Muskegon, Michigan, for an amendment to the Constitution prohibiting the several States from disfranchising United States citizens on account of sex—to the Committee on the Judiciary.

By Mr. CORLETT: The petitions of Lydia E. McAuley, Mrs. W. P. Noble, and others, of Atlantic City, Wyoming Territory, and of Mrs. Emma Hayford, William C. Wilson, and others, citizens of Wyoming Territory, of similar import—to the same committee.

By Mr. COX, of Ohio: The petition of the scientific society of Dartmouth College, that microscopic specimens and lenses may not be excluded from the mails—to the Committee on the Post-Office and Post-Roads.

By Mr. DAVIS, of North Carolina: The petition of 515 citizens of North Carolina, for the creation of a fund from the proceeds of the sales of public lands and other sources for distribution among the States in aid of popular education—to the Committee on Education and Labor.

By Mr. FOSTER: The petitions of citizens of Margaretta, Erie County, and of citizens of Wyandot County, Ohio, against reducing the tariff on wools and woollens—to the Committee of Ways and Means.

By Mr. GIDDINGS: The petition of the Texas State Grange, for the improvement of Galveston Harbor and the establishment of steamship mail service between Galveston, Texas, and Vera Cruz, Mexico—to the Committee on Commerce.

By Mr. GOODE: Papers relating to the claim of William Bass, trustee of the Indiana Methodist Church, Norfolk County, Virginia—to the Committee on War Claims.

Also, the petition of James F. Carr, for compensation for lumber sold the United States in 1862—to the same committee.

Also, the petition of Mrs. M. T. Mallory, of Norfolk, Virginia, for arrears of pay due her son, F. Mallory, deceased, late second lieutenant Company I, Fourth Regiment United States Infantry—to the Committee on Military Affairs.

By Mr. HARDENBERGH: Resolutions of the common council of Jersey City, New Jersey, favoring the making of that city a port of entry—to the Committee on Commerce.

Also, resolutions of the board of freeholders, of Hudson County, New Jersey, of similar import—to the same committee.

By Mr. HARRIS, of Virginia: Joint resolution of the Legislature of Virginia, favoring the repeal of the 10 per cent. tax on State banks—to the Committee of Ways and Means.

Also, the petitions of the publishers of Our Sunday School, New Market, Virginia; of the Chronicle, Charlottesville, Virginia; of the Shenandoah Valley, New Market, Virginia; and of the Charlottesville (Virginia) Jeffersonian, for the abolition of the duty on type—to the same committee.

Also, the petition of farmers of Louisa County, Virginia, that prompt action be taken on the tobacco-tax question—to the same committee.

Also, the petitions of Jacob and John Harshbarger, and of James H., Preston S., and Elizabeth Humbert, for compensation for stock driven off by order of General Sheridan—to the Committee on War Claims.

Also, the petition of J. D. Hauger and others, for an appropriation for the erection of a building at Staunton, Virginia, for the uses of the Government—to the Committee on Public Buildings and Grounds.

By Mr. HARTRIDGE: Memorial of the mayor and citizens of Savannah, Georgia, in reference to light-houses on the coast of Georgia—to the Committee on Appropriations.

Also, memorial of the authorities and citizens of Brunswick, Georgia, of similar import—to the same committee.

By Mr. HUNTON: Papers relating to the claim of Henry Harrover—to the Committee on War Claims.

By Mr. JOYCE: Memorial and resolutions of the Addison County (Vermont) Council of the Patrons of Husbandry, that the tariff bill may be laid upon the Speaker's table so that the people may have rest and business enterprises an opportunity for revival—to the Committee of the Whole on the state of the Union.

By Mr. KEIGHTLEY: The petition of Lydia Kimble and others, of Kalamazoo County, Michigan, for a sixteenth amendment to the Constitution guaranteeing woman suffrage—to the Committee on the Judiciary.

By Mr. KNAPP: The petition of citizens of Jersey County, Illinois, for the passage of the bill restraining the removal of causes from the State to Federal courts—to the same committee.

By Mr. LANDERS: The petition of Cyrus Judd and 14 others, of New Britain, Connecticut, for a reduction of the tax on tobacco—to the Committee of Ways and Means.

By Mr. LUTTRELL: Memorial of General W. T. Sherman and several hundred pioneers and former residents of California, relative to the claim of General John A. Sutter—to the Committee of Claims.

By Mr. LYNDE: The petition of Susan H. Massure, H. G. Tracy, and 151 other citizens of Arcadia, Wisconsin, for an amendment to the Constitution prohibiting the several States from disfranchising United States citizens on account of sex—to the Committee on the Judiciary.

By Mr. MANNING: The petition of F. Moore, for compensation for services as assistant assessor of internal revenue for the tenth division third Mississippi district—to the Committee of Ways and Means.

By Mr. MITCHELL: Resolutions of the Legislature of Pennsylvania, requesting the Representatives from that State to vote for a bill to provide for equity in freight charges and to prevent unjust discrimination in such charges between the several States, and to give their influence and support to such measures as will establish commerce with other nations by providing for carrying the mails of the United States in American-built vessels—to the Committee on Commerce.

By Mr. MONROE: The petition of Professor Edward W. Morly, of Hudson, Ohio, that microscopic slides and lenses may not be excluded from the mails—to the Committee on the Post-Office and Post-Roads.

By Mr. MORGAN: The petition of Wah-pe-pin-gaugh or George Washington, for the shares of his wife and daughter in the tribal fund of the tribe of Indiana Miami Indians—to the Committee on Indian Affairs.

By Mr. PATTERSON, of Colorado: The petition of Mary M. Gallup, Abbie S. Darling, and other citizens of Greeley, Colorado, for an amendment of the Constitution prohibiting the several States from disfranchising United States citizens on account of sex—to the Committee on the Judiciary.

By Mr. PRICE: The petition of Hannah L. Ball, Elizabeth Campbell, and other citizens of West Branch, Iowa, of similar import—to the same committee.

By Mr. REAGAN: The petition of the publisher of the New Era, Palestine, Texas, for the abolition of the duty on type—to the Committee of Ways and Means.

By Mr. RICE, of Ohio: Papers relating to the pension claim of Elizabeth Bray—to the Committee on Invalid Pensions.

Also, the petition of Samuel Richner, for a pension—to the same committee.

By Mr. ROBERTSON: The petition of C. L. Browns and others, to establish a light-house at the mouth of Amite River, Louisiana—to the Committee on Commerce.

By Mr. ROMERO: A paper relating to the establishment of certain post-routes in New Mexico—to the Committee on the Post-Office and Post-Roads.

By Mr. STEWART: Joint resolutions of the Legislature of Minnesota, favoring the granting of certain lands to the Bismarck, Fort Lincoln, and Black Hills Narrow-Gauge Railway—to the Committee on Public Lands.

Also, the petition of citizens of Minnesota, for the amendment of the law relating to timber culture so as to reduce the amount necessary to be cultivated on each quarter section from forty to ten acres—to the same committee.

By Mr. STONE, of Iowa: The petition of Mrs. H. O. Stevens, Mrs. Angeline Dennis, and other citizens of Charles City, Iowa, for an amendment of the Constitution prohibiting the several States from disfranchising United States citizens on account of sex—to the Committee on the Judiciary.

By Mr. THOMPSON: The petition of Hamilton Gellespie, for a pension—to the Committee on Invalid Pensions.

By Mr. THROCKMORTON: The petition of Eli Ayres to quiet land titles under the Chickasaw treaty of May 24, 1834—to the Committee on the Judiciary.

By Mr. TOWNSEND, of New York: The petition of 2,000 citizens of Troy, New York, against the reduction of duties on articles coming in competition with American manufactures, and against imposing duties on necessary articles not coming into such competition—to the Committee of Ways and Means.

By Mr. TURNER: The petition of W. C. Gillis and other citizens of Whitley County, Kentucky, for extension of the time for the filing of claims for commissary and quartermaster stores—to the Committee on the Judiciary.

By Mr. VANCE: Papers relating to the claims of William B. Morrow, Margaret McDonald, and Dr. James B. Groomes—to the Committee on War Claims.

Also, papers relating to the pension claims of William P. Payne, Minerva Williams, Thomas D. Bumgarner, and Mary D. Williams—to the Committee on Invalid Pensions.

Also, the petition of the publisher of the Raleigh (North Carolina) Daily News, for the abolition of the duty on type—to the Committee of Ways and Means.

Also, papers relating to the petition for relief of Leverett H. Town—to the Committee on Military Affairs.

By Mr. VAN VORHES: The petition of M. A. Noyes, Walter Glozier,

and 24 other citizens of Lottridge, Ohio, against any reduction of the duty on wool and woolsens—to the Committee of Ways and Means.

By Mr. WARNER: The petition of John Tweedy, postmaster at Danbury, Connecticut, for relief—to the Committee of Claims.

By Mr. WIGGINTON: The petition of L. C. Granger and 210 others, that the title to the Rancho El Rio de Santa Clara 6 La Colonia, in Ventura County, California, be not disturbed—to the Committee on Public Lands.

By Mr. WILLIAMS, of Wisconsin: The petition of Mrs. Emeline S. Walcott and other citizens of Ripon, Wisconsin, for a sixteenth amendment to the Constitution guaranteeing woman suffrage—to the Committee on the Judiciary.

By Mr. WILLIAMS, of Michigan: The petition of James McKenzie, attorney in fact, on behalf of Mary Butler, M. G. Emery, and other citizens, claimants against the District of Columbia—to the Committee for the District of Columbia.

By Mr. WILLIS, of New York: The petition of W. A. Hall, S. P. Patterson, and others, against reviving the income tax—to the Committee of Ways and Means.

Also, the petition of H. B. Claflin & Co., Spring, Kayne & Co., and about 1,000 others, for the immediate repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. WREN: A paper relating to the establishment of certain post-routes in Nevada—to the Committee on the Post-Office and Post-Roads.

IN SENATE.

TUESDAY, April 2, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. McCREERY presented the petition of William J. Marshall, executor of John G. Holloway, deceased, praying for the passage of a law for the purchase of the Camp Chase (Ohio) burial lot and to make the same a national cemetery; which was referred to the Committee on Military Affairs.

Mr. OGLESBY. During my recent absence from the Senate, several memorials were received directed to my care to be presented to the Senate from citizens of Evanston, Illinois, and the vicinity of that place, protesting against the transfer of the life-saving service from the Treasury Department to the Navy Department; also from the late governor of the State, the lieutenant-governor, the president of the Northwestern University, together with a large number of citizens living in that community. I understand that the Committee on Naval Affairs have had the subject under consideration and have reported a bill to the Senate. I therefore move that these memorials lie upon the table.

The motion was agreed to.

Mr. JOHNSTON presented the petition of R. H. Logan, of Salem, Virginia, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. CAMERON, of Wisconsin, presented the petition of William S. Trowbridge, Margarette Souther, Caroline E. Wakeman, C. W. Newcomb, and others, citizens of Milwaukee, Milwaukee County, Wisconsin, and the petition of Mrs. Emeline L. Wolcott, Elizabeth Harris, Henry W. Wolcott, Almon Osborn, and others, citizens of Ripon, Fond du Lac County, Wisconsin, praying for an amendment to the Constitution of the United States, prohibiting the several States from disfranchising United States citizens on account of sex; which were referred to the Committee on Privileges and Elections.

He also presented the petition of Mrs. George M. Harrington, of Dunn County, Wisconsin, and the petition of Mrs. Susan Massure, of Arcadia, Trempealeau County, Wisconsin, praying for the removal of their political disabilities; which were referred to the Committee on Privileges and Elections.

Mr. FERRY presented the memorial of Simon O. Day and 95 others, citizens of Muskegon, Michigan, remonstrating against the transfer of the life-saving service from the Treasury Department to the Navy Department; which was ordered to lie on the table.

He also presented the memorial of William Willis and 73 others, citizens of Hamlin, Michigan; the memorial of Delos L. Filer and 100 others, citizens of Ludington, Michigan, and the petition of Robert Magnusson and 37 others, citizens of Ludington, Michigan, remonstrating against the passage of House bill No. 3689, to protect the fisheries on the great lakes; which were referred to the Committee on Commerce.

Mr. BURNSIDE presented the petition of Mrs. Mary F. McKeever, widow of the late Commodore Isaac McKeever, of the United States Navy, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. SPENCER presented the petition of Harmon Vann, of Huntsville, Alabama, praying for a pension on account of services rendered the Government by his son, Levi De Bow, late a private in the Seventeenth Regiment, United States Colored Troops; which was referred to the Committee on Pensions.

Mr. BUTLER presented the petition of George W. Williams and others, citizens of Charleston, South Carolina, praying for the establishment of a pension agency at Charleston; which was referred to the Committee on Pensions.

Mr. GORDON. I present a petition signed by the mayor of the city of Savannah, by the president of the cotton exchange, by the president of the Central Railroad of Georgia, and by the officers of a large number of banking institutions and other respectable citizens of Savannah, praying that the appropriation heretofore granted to the light-house at Tybee Island be not discontinued. I move that this petition be referred to the Committee on Commerce.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the joint resolution (H. R. No. 78) granting the use of artillery, tents, &c., at the national soldiers' and sailors' reunion to be held at Marietta, Ohio, reported it without amendment.

Mr. COCKRELL. The Committee on Military Affairs, to whom was referred the bill (S. No. 629) for the relief of Sidney S. McLane, have duly considered the same and report adversely, recommending that the bill be indefinitely postponed, that the claim be disallowed, and that the report be agreed to; all of which I hope will be duly entered upon the record, as this is the second time this adverse report has been made.

The VICE-PRESIDENT. The report will be so entered, and the bill will be postponed indefinitely, if there be no objection.

Mr. COCKRELL. The Committee on Military Affairs, to whom was referred the bill (S. No. 40) to authorize the President to restore George W. Smith to his former rank in the Army, have duly considered the same, report adversely, and recommend that the bill be indefinitely postponed.

The VICE-PRESIDENT. The order will be entered.

Mr. COCKRELL. I hope that the record will show that the reports in these cases have been adopted, so that we can bring to bear Rule 58 of the Senate hereafter.

The VICE-PRESIDENT. The record will so appear.

Mr. RANDOLPH, from the Committee on Military Affairs, to whom was referred the bill (S. No. 824) establishing the rank of the senior inspector-general, reported it with an amendment.

He also, from the same committee, to whom was referred the petition of Emma G. Nelson, daughter of and one of the executors of the estate of W. F. Nelson, deceased, late chaplain United States Army, praying to be allowed an amount of money equal to the amount of commutation for quarters and rations claimed to be due to her late father while on duty at Washington Park United States Hospital at Cincinnati, Ohio, in 1862, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. FERRY, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 51) for the relief of Albert Towle, postmaster at Beatrice, Nebraska, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. TELLER, from the Committee on Railroads, to whom was referred the bill (S. No. 213) to survey the Austin-Topolovampo Pacific route, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. SPENCER. I am directed by the Committee on Military Affairs, to whom was referred the message of the President of the United States, communicating, in answer to a Senate resolution of November 13, 1877, information in relation to the cause and probable cost of the late Nez Percé war, to report it back to the Senate without suggestion and for such action as may be deemed proper. I move that the committee be discharged from the further consideration of the subject.

The motion was agreed to.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the petition of William S. Benjamin, praying for the amendment and correction of his muster-rolls and for payment of back pay and bounty, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the bill (S. No. 156) for the relief of John M. Goodhue, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. PLUMB, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 1385) for the relief of the minor heirs of John H. Evans, deceased, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, to whom was referred the bill (S. No. 868) to provide for a code of Army regulations, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 2287) to authorize the Secretary of War to prescribe rules and regulations to be observed in the preparation, submission, and opening of bids for contracts under the War Department, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. MAXEY. I am also instructed by the same committee, to whom was referred the petition of C. J. Whiting, formerly lieutenant-colonel Sixth United States Cavalry, praying the passage of a law reinstating him to his former rank and position in the United States Army, to report it adversely. I wish to state to the Senate that the principle involved in this report applies to a great many officers. I move that the report be printed and the committee discharged from the further consideration of the petition.

The motion was agreed to.

Mr. MORRILL, from the Committee on Finance, to whom was referred the bill (S. No. 185) to amend section 2931 of the Revised Statutes of the United States so as to allow repayment by the Secretary of the Treasury of the tonnage-tax where it has been exacted in contravention of treaty provisions, reported it with amendments.

Mr. BOOTH, from the Committee on Public Lands, to whom was referred the bill (S. No. 926) for the sale of timber lands in the States of California and Oregon and in Washington Territory, reported it with amendments.

Mr. OGLESBY, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 1135) to authorize the issue of a patent of certain lands in the Brothertown reservation, in the State of Wisconsin, to the persons selected by the Brothertown Indians, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 984) for the relief of William H. Merritt, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

BILLS INTRODUCED.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1029) for the relief of John M. Lord; which was read twice by its title, and referred to the Committee on Pensions.

Mr. RANDOLPH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1030) donating material of war to the Washington Association of New Jersey; which was read twice by its title, and referred to the Committee on Military Affairs.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BOOTH, it was

Ordered, That the papers accompanying Senate bill No. 398, Forty-fourth Congress, for the relief of Luther Hall, be taken from the files of the Senate, and referred to the Committee on Patents.

On motion of Mr. ALLISON, it was

Ordered, That the petition and papers of the Cherokee delegation, in favor of the claim of Lewis Downing, Joseph McDaniel, and Evan Jones, on the files of the Senate, be referred to the Committee on Military Affairs.

AMENDMENT TO AN APPROPRIATION BILL.

Mr. TELLER submitted an amendment intended to be proposed by him to the bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

WRITS OF ERROR IN CRIMINAL CASES.

Mr. HARRIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be, and hereby is, instructed to inquire into the justice and propriety of securing to defendants in criminal and the higher grades of misdemeanor cases, the right to prosecute appeals on writs of error to the Supreme Court of the United States; and that the committee report by bill or otherwise.

AMENDMENT TO POST-ROUTE BILL.

Mr. BUTLER submitted an amendment intended to be proposed by him to the bill (S. No. 802) establishing post-roads in the several States and Territories; which was referred to the Committee on Post-Offices and Post-Roads.

THE BANKRUPT LAW.

Mr. EDMUNDS. I move to take up the joint resolution I offered yesterday about transferring the electoral records to the Secretary of State.

Mr. McCREERY rose.

Mr. EDMUNDS. If my friend from Kentucky rises to offer a resolution, I withhold my motion.

The VICE-PRESIDENT. For what purpose does the Senator from Kentucky rise?

Mr. McCREERY. I rise to ask unanimous consent to make Senate bill No. 35 the special order for next Friday.

Mr. ALLISON. What is the bill?

Mr. McCREERY. It is the bill to repeal the bankrupt law.

Mr. EDMUNDS. I object to all special orders, I do not care what the bill is.

Mr. ALLISON. It is the bill to repeal the bankrupt law.

Mr. EDMUNDS. It ought not to be made a special order. It can be moved after we finish the railroad bill, in the regular course.

The VICE-PRESIDENT. The Senator from Vermont had been recognized.

Mr. McCREERY. I thought the Senator would probably give way until I could get the permission of the Senate for this purpose.

Mr. EDMUNDS. I do not agree to special orders. It must be a very extreme case, I think, to warrant making a special order. The rules require two-thirds to do so, implying that it must be an extraordinary case.

Mr. MCCREERY. This bill was introduced more than five months ago, and by this time it ought to be entitled to some consideration.

Mr. EDMUNDS. Undoubtedly it is entitled to consideration, and I assure the Senator he shall have no difficulty, so far as my voice goes, in getting it up by a motion, as soon as we dispose of this railroad affair.

Mr. MCCREERY. But if I make the motion now, will it not answer?

Mr. EDMUNDS. No; because we cannot dispose of it in the morning hour.

Mr. MCCREERY. I do not want to dispose of it in the morning hour; I want to have it taken up next Friday.

Mr. EDMUNDS. The Senator can give notice that he will move to take it up then. I presume there will be no objection to it.

Mr. MCCREERY. I give notice that I shall move to take the bill up next Friday.

RECORDS OF ELECTORAL COMMISSION.

Mr. EDMUNDS. I move to take up the joint resolution (S. R. No. 22) providing for a place of deposit for the records and proceedings of the commission appointed under the act entitled "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," approved January 23, 1877.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs that these records and proceedings shall be deposited by the secretary of the commission with the Secretary of State, who shall preserve them among the archives of his office.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the chief clerk of the War Department, transmitting a copy of a resolution of the General Assembly of the State of Pennsylvania in relation to the graves of soldiers of the late war interred in the cemetery at Harrisburgh, in that State; which was referred to the Committee on Military Affairs, and ordered to be printed.

THOMAS J. CHOATE AND OTHERS.

Mr. PLUMB. I move to proceed to the consideration of Senate bill No. 333.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 333) for the relief of Thomas J. Choate, Erastus Foster, Milton Ladd, Clarence E. Haney, William A. Hill, Kneeland F. Huckaby, and William Blackburn, late privates in Company F, Third Regiment Arkansas Cavalry Volunteers. It authorizes the Secretary of War to amend their records by causing the charge of desertion to be removed.

Mr. EDMUNDS. Let us hear the report.

The VICE-PRESIDENT. Is there any report accompanying the bill?

Mr. PLUMB. There is a written report.

The VICE-PRESIDENT. It will be read.

The Secretary read the following report, submitted by Mr. PLUMB, March 19:

The Committee on Military Affairs, to whom was referred the bill (S. No. 333) for the relief of Thomas J. Choate, Erastus Foster, Milton Ladd, Clarence E. Haney, William A. Hill, Kneeland F. Huckaby, and William Blackburn, late privates in Company F, Third Regiment Arkansas Cavalry Volunteers, have had the same under consideration, and submit the following report:

This bill proposes to relieve the persons named by removing the charge of desertion from their military records. The company of which they were members was recruited in Yell County, Arkansas, in the fall of 1863. In September, 1864, while their command was stationed at the post of Lewisburgh, information reached the men that the locality of their homes, some forty miles distant, was being overrun by detachments of rebel soldiers and guerrillas, and that their families were being cruelly plundered and outraged. In their anxiety to do something for the relief of their friends they appealed to the commanding officer of the regiment to send a scouting party for that purpose, but a sufficient force could not be spared from the post. They then appealed to the commanding officer of the company, who, with the other officers, resided in the neighborhood spoken of, for leave to be absent for a few days for the purpose of extending relief to their suffering families, or removing them to a place of safety. Verbal permission was granted to this effect, and the men were authorized to be absent a week or thereabouts.

They failed to report for duty at the time specified. It is shown that after they had left for their homes the surrounding country became thoroughly infested with rebel parties. The troops at the post of Lewisburgh were compelled to abandon that place and fall back upon Little Rock. The men who had gone to the relief of their families had frequent conflicts with the enemy, and one of their number (Blackburn) was killed, as the evidence shows, prior to the expiration of his leave. From the testimony given by the survivors, corroborated by the officers of the company so far as the facts were within their knowledge, it appears that it would not have been practicable for the men to rejoin their commands at the time specified, and that had they undertaken to do so their capture by the enemy would have been almost inevitable. The thoroughfares and the country generally were so thoroughly under the control of the rebels at the time that the men were compelled to seek shelter and safety in the secluded mountains of that region, venturing out occasionally, when opportunity served, to minister to their own necessities or the wants of their families. So completely were they cut off from communication with the Union forces it appears that for a long period they did not even know where the command was.

These men voluntarily returned to their command in January or February, 1865. They gave satisfactory explanations of their prolonged absence, and were promptly assigned to duty. They received honorable discharges when their command was mustered out of the service. They state that they were not apprised that the charge of desertion appeared against them upon the record until after the passage of the additional-bounty bill in 1866, when they made ineffectual efforts to secure a share of its benefits. Much delay ensued by reason of the difficulty in securing testimony, but at length application was made to the War Department to relieve them from their disability, which was declined upon the ground that so long a time had elapsed it would be unjust to the Government to reopen cases which had been determined at the time when all the facts and circumstances were fresh in the knowledge of the proper authorities. It appears, however, that two men of the same company, Burk Johnson and Hugh M. Barnett, were in 1875, by the War Department, relieved from the charge of desertion incurred under the same circumstances, and upon testimony substantially the same as has been presented to your committee. The fact that these men had the verbal permission of their company commander to absent themselves, the condition of that section of country at that time, and their voluntary return to duty, seem to leave no reasonable doubt that they were without the slightest intention of deserting the service. That they had the permission spoken of, is conclusively shown by the testimony of the company officers, added to their own. It appears to be clearly established, also, that these men had been and subsequently were faithful soldiers, and thoroughly loyal to the Union cause.

The committee are therefore clearly of the opinion that the persons named are entitled to the relief sought, and they recommend the passage of the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM L. HICKAM.

Mr. COCKRELL. I move that the Senate proceed to the consideration of the bill (S. No. 378) for the relief of William L. Hickam, of Missouri. There can be no objection to the bill when the report is read. It is a bill which passed the Senate at the last Congress.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Interior to cause the pension agent at Saint Joseph, Missouri, to issue and deliver to William L. Hickam a duplicate check, numbered 61872, for the sum of \$1,616.33, in favor of William L. Hickam, for one lost in the mail November 30, 1876, if the Secretary of the Interior is satisfied that it has not been paid; and Hickam is to give bond, with security approved by the Secretary of the Interior, to hold the United States harmless against the payment of the original draft.

Mr. EDMUNDS. Let us hear the report.

The VICE-PRESIDENT. The report will be read.

The Chief Clerk read the following report, submitted by Mr. MORGAN, March 27:

The Committee on Claims, to whom was referred the bill (S. No. 378) for the relief of William L. Hickam, of Missouri, have had the same under consideration and report the bill with amendments, and recommend its passage.

From the evidence before the committee, which is submitted as part of this report, and is marked Exhibits A, B, C, and D, it satisfactorily appears that the said William L. Hickam is the lawful guardian of the minor children of Hillary J. Jenkins, late private of Company A, Sixth Regiment of Missouri State Militia, who are entitled to a pension, No. 175447 on the pension-rolls.

It appears from the letter of the pension agent at Saint Joseph, Missouri, that a check was drawn by W. T. Johnson, pension agent at that place, in favor of William L. Hickam, on the assistant United States treasurer at Saint Louis, Missouri, No. 61872, dated November 30, 1876, for \$1,616.33 for the first payment on said pension. It appears from the letter of A. E. Edwards, assistant treasurer of the United States, dated February 12, 1877, that check No. 61872 for \$1,616.33 in favor of William L. Hickam has not been paid, and that, at his request, payment has been stopped.

It appears from the affidavit of William L. Hickam that he never received said check, and that nothing has been paid on account of the same. Under the law no duplicate check can be issued in such cases in lieu of the original where the amount is over \$500. (See Revised Statutes, section 4770.)

It is therefore the duty of Congress to provide by law so that the money may be paid to the person entitled.

The bill that is herewith reported is believed to be guarded sufficiently to provide against the payment of the original draft.

The bill was reported from the Committee on Claims with amendments: in line 5, before the word "Missouri" to strike out "Saint Joseph" and insert "Saint Louis;" in line 9, after "William L. Hickam" to insert "as guardian of the minor children of Hillary J. Jenkins;" and in line 13, after the word "paid" to strike out—

And that said Hickam give bond, with security approved by the Secretary of the Interior, to hold the United States harmless against the payment of the original draft.

Mr. EDMUNDS. I should like to hear the last amendment reported again.

The CHIEF CLERK. At the end of the bill it is proposed to strike out—

And that said Hickam give bond, with security approved by the Secretary of the Interior, to hold the United States harmless against the payment of the original draft.

Mr. EDMUNDS. Why ought those words to be stricken out?

Mr. COCKRELL. For the simple reason that the draft never has been indorsed. It is payable by the subtreasury at Saint Louis, and written notice has been filed there that there has been no indorsement and no actual receipt of the draft, and payment has been stopped, and it cannot be paid at any other place. It would simply be to require the guardian of these minor children to do something that could be of no benefit whatever to the United States and no protection to it.

Mr. EDMUNDS. Apparently the only evidence that this draft was not received by Hickam and indorsed by him for value is his own affidavit. That, as I understand it, is the only evidence of that fact. Of course, if it never has been indorsed by Hickam and there is any way to prevent his indorsing it hereafter, there would be no need of

the bond; but as we only have to take Mr. Hickam's word for the fact that he has not already indorsed the draft or that he may not hereafter, it appears to me that the usual security that we always require in such cases ought to be given. Although he is a guardian, it is a business transaction.

Mr. COCKRELL. It is a business transaction, and the subtreasury has been notified, and that notice has been entered upon the books. I state as a proposition of law that if Mr. Hickam were, after the passage of the bill, to get his original draft and indorse it, the Government would not be liable to pay it.

Mr. EDMUNDS. Why, Mr. President, if this draft was drawn by the pension agent pursuant to law, as I suppose it was, the Government would be liable as a drawer as well as an acceptor; and therefore if Mr. Hickam received the draft at the time and indorsed it for value to somebody, no matter if payment has been stopped, when the holder of that draft presents it at the Treasury and the Government will not pay it, he then has a right to have recourse to the drawer, that is to say to the United States whose authorized officer drew the draft and drew it lawfully. So then the liability of the United States, after all, would turn upon the question whether Mr. Hickam has already indorsed the draft, though perhaps as it is so old a transaction an indorsement now would throw such suspicion upon it that the Government would not be liable as the drawer. I should not think it would myself, as at present advised; but I submit to my friend that as the only evidence we have that the draft has not already been passed for value to some holder is the statement of Hickam himself, we ought to apply, although he is a guardian, the universal precaution that this bill, as my friend originally introduced it, contained. Of course I do not wish to interfere with the committee; I only make these suggestions for safety.

Mr. COCKRELL. We considered that matter at the last session of the Forty-fourth Congress, which was very soon after this occurrence. Then the committee of the Senate put on this proviso as an amendment to the House bill. We considered this year that after this great lapse of time there was no occasion for putting in the requirement of a bond at all; that these minor children had been kept out of their money for nearly a year and a half, and that they ought to have it now without these conditions.

Mr. EDMUNDS. I think this is the first instance in which we have been asked to pay lost drafts without the giving of security, no matter whether the drafts were in favor of people who were not *sui juris*, as the saying is, or in favor of people who were acting as trustees; and I submit to my friend from Missouri, however clear the case may seem to him—and I do not doubt it does, and I have no reason to have any suspicion about it at all—that we shall depart from a wholesome rule in these cases of giving substituted drafts if we do it without the usual security.

Mr. COCKRELL. I am not particular about the matter at all. If it were not that the facts are just as they are, we should have adhered to that bill. I introduced it myself in that form, and at the last session of the Forty-fourth Congress I reported that proviso as an amendment myself; but we thought sufficient time had elapsed to justify the passage of the bill now without throwing any impediment in the way. It is a long distance from here to Lexington, Missouri, and there may be some trouble in filling a bond that the Secretary of the Interior will accept, and I think it would be a mere matter of justice to these minor children that they should have their money speedily.

Mr. EDMUNDS. That begs the very question.

The VICE-PRESIDENT. The question is on the amendments reported by the Committee on Claims.

Mr. EDMUNDS. I should like to have the vote on the last amendment taken separately up.

The VICE-PRESIDENT. The question will be put on all the amendments except the last.

The amendments were agreed to.

The VICE-PRESIDENT. The last amendment will now be reported.

The CHIEF CLERK. The committee report at the end of the bill to strike out:

And that said Hickam give bond, with security approved by the Secretary of the Interior, to hold the United States harmless against the payment of the original draft.

Mr. INGALLS. If this amount were not in excess of \$500, no matter at what time the draft had been issued or what period had elapsed since it was sent to the claimant, he would be obliged, in case of its non-receipt, to give an indemnifying bond such as the Secretary of the Treasury might prescribe. Section 4770 is the one that bears directly upon this subject, and it provides that—

In place of original checks issued for pensions, when lost, stolen, or destroyed, disbursing officers and agents of the United States are authorized, after the expiration of six months from the date of such checks, to issue duplicate checks, and the Treasurer, assistant treasurers, and designated depositaries of the United States are directed to pay such checks drawn in pursuance of law by such officers or agents, upon notice and proof of the loss of the original checks, under such regulations in regard to their issue and payment, and upon the execution of such bonds, with sureties, to indemnify the United States, as the Secretary of the Treasury may prescribe.

And as this sum is in excess of \$500 it would seem as if the same rule ought to be followed as would be followed in case this had come under the section of the statute. I am inclined to think that although the case is one that presents some strong features upon the sympha-

thies of Congress this is not an instance where we should depart from the rule laid down in the statute. I therefore hope the precedent will not be set of allowing this duplicate draft to issue without an indemnifying bond.

Mr. COCKRELL. I am certain that neither the Senator from Vermont nor the Senator from Kansas can desire more safeguards thrown around the legislation of the country than I do, and I shall make no captious effort to secure the adoption of this amendment. If the Senate think it should not be adopted they can adhere to the original bill. I have no objection to it at all, and I have consulted with the Senator who made the report and with his consent I will withdraw the proposed amendment.

The VICE-PRESIDENT. Is there objection to the withdrawal of the amendment? The Chair hears none, and the amendment will be regarded as withdrawn.

Mr. INGALLS. If that clause is to stand requiring an indemnifying bond to be given it should be amended by requiring the instruction to be made by the Secretary of the Treasury, and not the Secretary of the Interior, as it now stands in the bill.

Mr. EDMUNDS. That puts it on the same ground that the statute does.

Mr. INGALLS. The same ground as the statute.

Mr. COCKRELL. Does the present statute require that the bond in the case of a draft under \$500 shall be to the satisfaction of the Secretary of the Treasury?

Mr. INGALLS. Yes, sir.

Mr. COCKRELL. I have no objection to that.

Mr. INGALLS. I move to strike out "Interior" and insert "Treasury."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of William L. Hickam, of Missouri, the guardian of the minor children of Hillary J. Jenkins."

ENLISTMENTS OF COLORED SOLDIERS.

Mr. BURNSIDE. I desire to call up a bill which has been a special order on the Calendar for some time, the bill (S. No. 178) to remove all restrictions now existing in regard to enlistments of the colored citizen in any arm of the United States Army. I move to take it up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Military Affairs with amendments.

The first amendment was to strike out section 1, in the following words:

That hereafter the word "color" shall not be used to designate any soldier of the United States Army; that the colored citizen shall be entitled to all privileges and rights of any citizen to enlist in any arm of the United States Army, and no distinction shall hereafter be made in the assignment of the soldier on account of color or previous descent; that all arms of the service, engineers, artillery, cavalry, infantry, signal corps, irrespective of color, shall be open to him.

And in lieu thereof to insert:

That sections 1104 and 1108 of the Revised Statutes be, and the same are hereby, repealed.

The next amendment was to strike out the first paragraph of section 2, in the following words:

SEC. 2. That the President is authorized to fill the Ninth and Tenth Cavalry, Twenty-fourth and Twenty-fifth Infantry, with enlisted men without reference or distinction of color; that he shall use his discretion in keeping these regiments above the minimum strength required by law, assigning men from the general recruiting and general mounted service as they are required by the regiments, without regard to color.

The next amendment was in the beginning of line 8 of section 2 to strike out the word "and" and insert "that;" so as to read:

That nothing in the above act shall be so construed that the Ninth and Tenth Cavalry, Twenty-fourth and Twenty-fifth Infantry, are not part of the United States Army.

Mr. INGALLS. I hope we shall hear some explanation of this bill before we are called upon to vote on it.

Mr. BURNSIDE. The first section of this bill as originally offered by me reads as follows:

That hereafter the word "color" shall not be used to designate any soldier of the United States Army; that the colored citizen shall be entitled to all privileges and rights of any citizen to enlist in any arm of the United States Army, and no distinction shall hereafter be made in the assignment of the soldier on account of color or previous descent; that all arms of the service, engineers, artillery, cavalry, infantry, signal corps, irrespective of color, shall be open to him.

And the second section reads as follows:

SEC. 2. That the President is authorized to fill the Ninth and Tenth Cavalry, Twenty-fourth and Twenty-fifth Infantry, with enlisted men without reference or distinction of color; that he shall use his discretion in keeping these regiments above the minimum strength required by law, assigning men from the general recruiting and general mounted service as they are required by the regiments, without regard to color.

And nothing in the above act shall be so construed that the Ninth and Tenth Cavalry, Twenty-fourth and Twenty-fifth Infantry, are not part of the United States Army.

Upon examination it was found that the purposes of the bill could be accomplished by the repeal of sections 1104 and 1108 of the Revised Statutes; so the Military Committee recommend striking out all of

the first and second sections after the enacting clause and inserting in lieu thereof the following:

That sections 1104 and 1105 of the Revised Statutes be, and the same are hereby repealed.

They read as follows:

SEC. 1104. The enlisted men of two regiments of cavalry shall be colored men.

SEC. 1105. The enlisted men of two regiments of infantry shall be colored men. These two sections, Mr. President, are the only ones in the Revised Statutes which in any way affect the rights of colored men. It may be said that they in no way restrict their rights, that all arms of the service are open for their enlistment, because nothing in the statutes forbids it; but in point of fact they are not enlisted for any other regiments than the four referred to, and the implication is fair as long as these two sections remain on the statute-book that all arms of the service are closed to colored men except the infantry and cavalry, and that in those arms their enlistment is confined to these four regiments referred to by these sections.

Now, Mr. President, the position of an enlisted soldier in the United States Army is the only position not freely open to our colored citizens, and I can see no reason why they should not be as free in this respect as in all others. If the colored people are fit for soldiers at all they should be enlisted for any duty for which they may be personally qualified, and assigned to the corps when the public interests require their services. The mode of assignment should be left to the Secretary of War and the officers of the Army properly intrusted with such duties. It would be a waste of time after all the discussion of past years in reference to the rights of the colored people to enter into an elaborate argument to prove that they have the same rights of enlistment and assignment as other citizens. It is objected that the mingling of colored soldiers with white ones would be a hardship to the whites. I can see no justice in this argument. If it is a hardship to the white citizens of our country to associate with the colored citizens in the performance of public duties and if the rights of colored men are to be restricted, then the rule should apply to all public positions. The right to go to the polls, the right to hold State and national offices, the right to occupy a seat upon this floor, the right to occupy the presidential chair should rest in the white man. What would be thought of a statute which required that four specified States should be represented by colored Senators, particularly if by implication it took from the other States the right to send colored Senators? We have upon this floor an honored representative of the colored race, who is respected by all of us and with whom we are all glad to be associated; but he does not come here because of a law requiring that Mississippi should send a colored Senator. He is here because his fellow-citizens of that State have honored him by their free suffrages. Any other State in this Union can send here a colored Senator, and if he conducts himself honorably and properly he will be respected.

The right to enlist in the naval service of the United States has always rested with the colored people, and there is no disposition on the part of the naval officers to have that right restricted.

I grant, Mr. President, that there is a division of opinion in the Army upon the question of enlisting colored men in the Army; I mean upon the subject of mixing the white and colored men in the same regiment; but there is no difference of opinion as to the lack of wisdom in the present organization of the four regiments referred to in this bill. The General of the Army and the general officers in command of the departments in which these regiments serve agree in the opinion that the present system of enlisting colored men is bad. Among the evils of the present organization of these regiments is the great difficulty at times in keeping their ranks filled. Just now there is great trouble in getting colored recruits, so that the ranks of the colored cavalry regiment in New Mexico are but half filled, and, although white recruits are abundant, they cannot be assigned to this regiment.

But, Mr. President, I base my argument in this matter upon the high ground that the colored man should be allowed to enlist in any arm of the service he may choose, if he is found by the recruiting officer to be a suitable man, and that he should be assigned by the proper authorities to the corps for which he is best suited and in which his services will most conduce to the public good.

Mr. MAXEY. Mr. President, I was one of the members of the Committee on Military Affairs who dissented from the report of this bill, and it is but just to myself that I should give the reason which caused me to do so.

Under the law as it now stands, the Ninth and Tenth Regiments of Cavalry and the Twenty-fourth and Twenty-fifth Regiments of Infantry are required to be made up of colored troops. That act was doubtless carefully considered and thought to be a protection of the right of the colored people to enter the Army and at the same time a protection to the rights of the white recruits.

Mr. INGALLS. I would like to ask the Senator from Texas a question. Why cannot colored troops enlist in the Army without sections 1104 and 1105 of the Revised Statutes?

Mr. MAXEY. Before replying to the question I will finish what I began to say. The effect of this bill is to my mind a question of very great doubt. It is unquestionably the duty of the recruiting officer to select, without the slightest regard to color, the very best possible material that can be obtained for soldiers in the Army of the United

States. There can be no question about that. If the white man is the better man for the service, the white man should be selected; if the colored man is the better man for the service, the colored man should be selected. The best recruits that can be obtained for the service of the United States should be obtained by the recruiting officer.

The effect of mixing up white troops and colored troops in the same companies and the same regiments is, to my mind, of doubtful propriety. We know as a practical fact that there is a certain amount of what a great many persons see proper to call prejudice existing between the races; and when you take white troops and colored troops and mix them in the same companies, at the same messes, in the same tents, it is a very grave question whether or not the effect of that would not be to demoralize the entire Army.

Now, in reply to the question which was asked by the Senator from Kansas, were these sections stricken out what would prevent colored troops being enlisted in any of the regiments? I infer that the Senator refers to rights under the fourteenth amendment. My judgment about that is that enlistment is controlled by the clause of the Constitution which grants to Congress the power "to make rules for the government and regulation of the land and naval forces," and whatever may be considered by Congress as the better rules and better regulations Congress has a right to adopt. In the Engineer Corps, for example, a certain class of soldiers is required with certain acquirements not required of those in the other branches of the service. The rules and regulations are prescribed by Congress for the government of the Army and Navy, and if Congress believes that it would be a better rule and better regulation to keep the colored troops in regiments by themselves, I know of nothing in the spirit or letter of the Constitution which would prevent Congress from prescribing those rules and regulations; and I apprehend, without knowing, that that was the principle which actuated Congress when they adopted the law as it now stands.

Mr. ALLISON. But what is there now, may I ask the Senator, in the law to prevent colored men from being enlisted in other regiments than those specifically mentioned in the last section of this bill? What is there in the law that prohibits that?

Mr. MAXEY. There may be nothing in the strict letter of the law; I am not sure of that; but certainly there is in the spirit of that law as it has been construed by the recruiting officers of the Army. They have construed that act to mean that the colored recruits are to go to the Ninth and Tenth Cavalry and to the Twenty-fourth and Twenty-fifth Infantry, and no recruits have been sent to any one of the remaining eight regiments of cavalry or twenty-three regiments of infantry, save white recruits. That has been the construction, believed doubtless by the recruiting officers of the Army, and sustained by the Secretary of War and the General of the Army, to be a correct construction of the spirit of this act of Congress, which did specifically prescribe that these four regiments—two of the cavalry and two of infantry—should be filled up with colored troops, and I think this the correct construction.

Mr. INGALLS. Does not the Senator from Texas think that if this bill became a law it would result in the absolute exclusion of all colored soldiers from the Army?

Mr. MAXEY. That has been the very grave question to my mind as to what would be the effect. As I stated before, I am in favor of taking the very best recruits that can be obtained for the service; I believe the white troops to be the best; and if I were a recruiting officer I would without hesitation, not regarding it as a question of color at all but regarding it as a question of duty, select white troops because I believe them to be the best. If that construction were placed upon the law by the recruiting officers, my judgment is if the Senator desires my judgment about it, that you would have the Ninth and Tenth Regiments of cavalry and the Twenty-fourth and Twenty-fifth Regiments of infantry better than they are now. That is my judgment; but it is the fear which I have as to how this bill if passed as presented by the Senator from Rhode Island may be carried out by the recruiting officers that occasions me the slightest doubt as to my course. If I believed it would result in converting these two regiments of cavalry and two of infantry into good white regiments, the service would be bettered. On the contrary—and it is a very doubtful question as the Senator must see—if the effect of it would be to put colored troops all through the Army in all the various messes, companies, and regiments, in my judgment it would be exceedingly dangerous and demoralizing to the entire Army. It is a very grave question presenting two sides, and I have endeavored candidly to present it. If I believed it would have one effect, the ultimate replacement of the Ninth and Tenth Cavalry with white troops, because the best, I should certainly vote for it; if on the other hand it would have the other effect, I am against it.

I beg not to be misunderstood. Under the fourteenth amendment all persons born or naturalized in the United States, and subject to their jurisdiction, are citizens of the United States, but the halt, the lame, and the blind cannot, because citizens, claim entry into the Army. The recruiting officer looks under the Constitution and laws to that class of citizens which will make the best soldiers, without regard to nationality or previous condition. I believe the white man makes the best soldier.

Mr. ALLISON. I should like to ask the Senator from Rhode Island a question. If I understood his remarks on this bill aright, the effect would be precisely what is feared by the Senator from Texas,

namely, that all the regiments will be opened up to the enlistment of the colored troops. That I understand to be the object of the Senator from Rhode Island.

Mr. BURNSIDE. That is the object of the bill.

Mr. ALLISON. If that is the real object of the bill, then I suggest that it can be reached much more certainly and simply by providing that colored troops shall be enlisted in all the regiments. Then the Senator from Texas will have no doubt as to what the future effect of the bill will be, and it will carry out precisely the object of the majority of the committee; but as it is now I think it is open to the objection made by the Senator from Texas, namely, if it is construed one way it will exclude colored troops entirely from the Army, and he says that is the way he would like to have it construed; and if it is construed the other way, of course the Senator from Texas would not be pleased. If I understand the Senator from Texas, his object is to break up practically the four colored regiments that are now in the Army and to substitute in the place of those colored men white troops.

Mr. MAXEY. And for the reason—

Mr. ALLISON. You gave the reason.

Mr. MAXEY. Not on account of color, but because they are better troops.

Mr. ALLISON. You want more efficient troops. That is a question of fact on which I might differ very much with the Senator from Texas.

Mr. BURNSIDE. The Senator from Texas, of course, has his own reasons for acting as he proposes to do on this bill. I have my own reasons for desiring its passage, and I have stated them to the Senate. My purpose is to remove a restriction which rests upon the colored people of the country. A colored man now cannot enlist in the Engineer Corps; he cannot enlist in the artillery; he cannot enlist in any of the regiments of infantry except the two mentioned, nor in any of the regiments of cavalry except the two mentioned. My object is to open all the arms of the service to the enlistment of colored troops.

I do not mean to say that this is going to put a sprinkling of colored troops in all the regiments of the Army of the United States within six months or within a year, possibly not within six years; but a process is going on in the United States which makes it very clear to me that there will be a sprinkling of colored troops in all the arms of the military service in a very few years. The prejudices of our people are being overcome every day. You may enact laws "until the cows come home," and you cannot remove these prejudices by those laws alone; the people themselves have got to become intelligent and unprejudiced, and they will become so on this subject within a very short time, and we shall have colored troops—and efficient colored troops—in all the regiments of the service. Men will sit down at the mess-table with colored troops, just as I sit down now in the omnibus and the horse-car with the colored man, and just as I sit by him in other places where he could not have sat by me six or ten or twelve years ago. All of our people are overcoming these prejudices.

I based my argument on the broad ground that there should be no restriction. If we were to pass here to-day a law in the terms suggested by the Senator from Iowa, that colored troops shall be enlisted in all the regiments, there would be the same reason for passing a law that Germans should be enlisted in all the regiments, that Irishmen should be enlisted in all the regiments, or that native American citizens should be enlisted in all the regiments. I see no more reason for the one provision than the other as a positive requirement of law.

Mr. ALLISON. The Senator will pardon me a moment. As I understand the construction now given to the law by the officers of the Army, colored troops are enlisted only in certain regiments. Now, the way to remedy that is to remove the restriction simply, so that they may be enlisted in all the other regiments.

Mr. BURNSIDE. In my remarks I made the very suggestion the Senator from Iowa has now made; but they have the right now to offer for enlistment in all the regiments, and the recruiting officers have the right to enlist them, but by implication their enlistment is confined to these four regiments because the law says these four regiments shall be composed of colored men and colored men exclusively. I say it is a wrong upon the white man to declare by law that he shall not enlist in the Ninth Regiment of Cavalry. Suppose some intelligent, respectable white man from the locality of that regiment wants to enlist in it to serve three years; he comes up and says "I want to enlist as a soldier in the Ninth Cavalry;" the recruiting officer says "You cannot be received." "Why?" "Because you are a white man." The whole thing is unjust on its face. If our Army is in such a condition, if our people are in such a condition that they will not enlist in the same regiment with a colored man, that is something which we cannot meet by law; but I do not think that is the case—

The VICE-PRESIDENT. The morning hour has expired.

Mr. BURNSIDE. I can see nothing in the suggestion of the Senator from Iowa.

Mr. EDMUNDS. I suggest that the Senator from Rhode Island be allowed to finish his observations.

The VICE-PRESIDENT. The Chair hears no objection.

Mr. BURNSIDE. I have no more to say unless something be said by others in opposition to the bill.

Mr. EDMUNDS. I should like to ask the Senator, though I do not want to take up time, what is the object of this amendment? His

original bill as it stood, affirmatively declared that distinction in enlistment into the Army should not be made on the ground of color. That is right; that is the Constitution in its true sense I think; but now the committee has struck that all out and simply repealed two sections of the Revised Statutes which declare that there shall be two regiments of colored infantry and two regiments of colored cavalry, leaving the rest of the law just as it stands on the statute-book. The consequence is that the law which now compels the enlistment of four colored regiments is repealed, and the law is left under the interpretation—a wrong one in my opinion—that is said to have been given to it, that does not admit colored troops into any regiment at all. I think the Senator, if he is desirous to accomplish what I am sure he does, had better stick to his original bill. I should be very much afraid of the amendment.

Mr. BURNSIDE. I certainly have no objection to the original bill. I made this report myself. I do not know that it will be objected to in the committee.

The VICE-PRESIDENT. The morning hour has expired, and the bill goes over.

Mr. BURNSIDE. I move that this bill be recommitted to the Committee on Military Affairs.

The VICE-PRESIDENT. The Chair hears no objection to entertaining that motion.

The motion was agreed to.

Mr. BLAINE. Suppose you take the bill as reported and add to it—And hereafter colored men shall have the right to enlist in all arms of the service.

Mr. ALLISON. That will do.

Mr. BURNSIDE. Under the law they have that right, but we have in the statute-book two sections which restrict that right by implication only. Now, there is no reason why those sections should be on the statute-book, and I simply wanted to save time and trouble by recommending their repeal; but I have no objection to the bill going back to the committee.

The VICE-PRESIDENT. The bill has been recommitted to the Committee on Military Affairs.

Mr. BLAINE. I ask to have my amendment committed with the bill to the Committee on Military Affairs.

The VICE-PRESIDENT. That course will be taken. The amendment will be read.

The CHIEF CLERK. It is proposed to add to the amendment of the Committee on Military Affairs:

And hereafter colored men shall have full right to enlist in all the arms of the service.

Mr. BURNSIDE. If I can have the consent of the Senate to finish this bill, I will say now that I accept the amendment so that we can have the action of the Senate upon it.

The VICE-PRESIDENT. Is there objection?

Mr. WHYTE. I object.

The VICE-PRESIDENT. The unfinished business is before the Senate, on which the Senator from Vermont [Mr. MORRILL] is entitled to the floor.

PERSONAL EXPLANATION.

Mr. MITCHELL. Will the Senator from Vermont yield to me for a moment for a personal explanation?

Mr. MORRILL. Certainly.

Mr. MITCHELL. Mr. President, yesterday, under instructions of the Committee on Railroads, I reported an amendment in the nature of a substitute to the bill authorizing the extension of time for the completion of the Northern Pacific Railroad, and also submitted a report under instructions of the committee. At the time I did so the Senator from Minnesota [Mr. WINDOM] asked leave to submit a minority report, to which there was no objection and leave was granted. Subsequently, under the head of "Bills introduced"—I happened to be temporarily absent in the cloak-room—the Senator from Minnesota introduced a bill on the same subject, a bill providing for the extension of time to the Northern Pacific Railroad, and, as is usual on the introduction of a bill, it was referred at his instance to the committee designated by him, which in that case was the Committee on Public Lands. As I say, I happened to be absent in the cloak-room and had no knowledge of this until late in the afternoon yesterday. I only desire to call attention to the matter now, because it strikes me that the course taken was, to say the least, a very extraordinary one, that after the appropriate committee—and certainly the Committee on Railroads was the appropriate committee to consider that subject—had, upon a careful and thorough investigation of some two or three months, considered the whole subject and made a report with but one dissenting voice from the committee, then a bill on the same subject should be introduced and referred to another committee, not the appropriate committee in my judgment to consider the matter. I simply desire to call the attention of the Committee on Public Lands to the history of the proceeding, so that when they come to consider that bill they may understand the whole history of the case.

Mr. WINDOM. I was not aware that I was violating any rule of the Senate or was guilty of any impropriety in making this reference.

Mr. MITCHELL. I did not intimate that the Senator from Minnesota had violated any rule of the Senate, but I did intimate and do say that the course taken by him was, to say the least, a very extraordinary and unusual course.

Mr. WINDOM. Nor was I aware that it was so very extraordinary.

If I were to deal in terms that are not quite parliamentary, I should say the course taken by the honorable Senator in the Committee on Railroads was very extraordinary; but I shall not apply the language to him which he has applied to me.

Mr. MITCHELL. What does the Senator refer to, if he charges that I took a very extraordinary course in the Committee on Railroads?

Mr. WINDOM. I think it is not proper now to state it.

Mr. MITCHELL. Very well; the accusation is made, and I should like to know what it is. I am ready to meet any accusation of that kind made by the Senator from Minnesota or any other Senator.

Mr. WINDOM. One thing I say is extraordinary, and I will state what it is. The Senator says there was but one dissenting voice to the bill which he reported.

Mr. MITCHELL. And that is the fact.

Mr. WINDOM. I happen to know that there were at least three dissenting voices in the committee. I do not know whether the Senator knows it or not. I know that fact.

Mr. MITCHELL. The Senator will allow me. There was but one dissenting voice. I do not know that that was material. There are nine members of the committee, as long as the Senator has referred to that.

Mr. WINDOM. The Senator from Oregon referred to it first or I should not have done so.

Mr. MITCHELL. I referred to what took place in the Senate. I referred not to what took place in committee, because I knew it was improper to do so. I simply referred to the fact that the honorable Senator from Minnesota had asked leave to make a minority report, and that that was granted him, which was all proper. I will say, however, that the records of the committee will not bear out the statement made by the Senator from Minnesota, neither will the facts.

Mr. WINDOM. I shall not discuss what occurred in the Senator's committee. I am entirely willing to leave that to the recollection of members of the committee themselves, as to which of us is right on that subject.

Now, as to the reference of the other bill to the Committee on Public Lands, I can see no impropriety in it whatever. I think that committee may very fairly and very properly take the matter into consideration. In the first place it is certainly a committee to whom the matters relating to public lands should be referred. They understand that subject as well as anybody else. It is a committee that I take it will examine that bill without any prejudices but that will give us a fair report upon it, and that is all we want.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had agreed to the sixth and ninth amendments and disagreed to the other amendments of the Senate to the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making an appropriation for detecting trespass on public lands, and for bringing into market public lands in certain States, and for other purposes.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1271) establishing the salaries to be paid the collectors of customs of Plymouth and Nantucket, Massachusetts; and

A bill (H. R. No. 3123) extending the privileges of sections 2990 to 2997 of the Revised Statutes, inclusive, to the port of Bath, in the State of Maine.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 142) making an appropriation for filling up, draining, and placing in good sanitary condition the grounds south of the Capitol along the line of the old canal, and for other purposes; and it was thereupon signed by the Vice-President.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the act (S. No. 528) to authorize the Worthington and Sioux Falls Railroad Company to extend its road into the Territory of Dakota to the village of Sioux Falls.

THE PACIFIC RAILROADS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 15) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act, the pending question being on the amendment submitted by Mr. MATTHEWS.

Mr. MORRILL. Mr. President, the interests involved in the pending bills relating to the Pacific railroads are of such extraordinary magnitude that it is not astonishing that they have attracted the attention of more than one standing committee of the Senate. The legal and financial problems presented, even after the most elaborate

study, seem to afford the basis of widely different conclusions. My own conclusion will be very briefly stated, and it is that we should exercise our right, imbedded in the statutes, to "add to, alter, amend, or repeal" the charters of these companies in such a manner as not to destroy but to preserve this great thoroughfare forever for the use of the public, for the reimbursement of the United States to the full extent of its investments therein, and also for the permanent preservation of the property of the stockholders.

Can all this be harmoniously accomplished? This must be answered in the negative if the policy pursued by either the United States or the stockholders shall be to snatch all the current earnings of the companies for the next twenty years, and then leave the rest to the tender mercies of railroad wreckers. But, by a more far-sighted policy, it seems to me that the rights of all parties, moderately asserted, can be secured and the great highway thus be handed down to future generations as a public blessing, earning perennial dividends for those who may succeed to its ownership, and without fear of fore-ordained bankruptcy from excessive indebtedness.

Sound policy would seem to dictate that the United States should be a liberal rather than a harsh creditor, but not a weak nor a silly one; and that policy equally dictates that the stockholders should not be too eager for present profits; that they should forego something of immediate gains in order to preserve a long and prosperous life to their companies, and therefore that they should be willing to postpone something of fat dividends in order to diminish an indebtedness which threatens their ultimate extinction. If the vitality of the road and its obligations can be destroyed by extravagant demands on the part of the United States, it is not less certain that a continuance of the past omission on the part of these companies to provide for any reduction of their colossal indebtedness will, in twenty years, make both their present valuable capital stock, and the second mortgage of very doubtful value and possibly utterly worthless. The bare interest upon the first and second mortgages will become so ponderous and unmanageable as to swallow up all the net earnings, and from sheer necessity the property must then be foreclosed by the first-mortgage bondholders. The United States, holding the second mortgage, as a last resort, for its own protection, may be compelled to pay off the first mortgage, amounting to \$57,062,192, and take the slender chances of realizing any ultimate repayment; but the capital stock of the companies would be extinguished. Of course, should the United States not intervene, and a foreclosure be pushed by the first-mortgage bondholders, many of whom are present holders of stock, the first mortgagees would become the sole owners of the whole property, and any other lien would be forever barred.

I do not propose to consider at any length the legal questions arising in the bills which are pending, but I may be permitted to say that where the right has been reserved in terms of the most radical latitude by Congress to "add to, alter, amend, or repeal" a charter granted, it would seem that Congress, beyond all controversy, must have the whole of that right, with no great limitation to its exercise save the discretion of Congress itself. The party with whom discretion is lodged must use it and no other. "To add to, alter, amend, or repeal," were each and all exclusive rights reserved to Congress and not to the courts nor to the companies. Of course I do not mean to say that Congress can annul gifts or disturb the past; but it may regulate the future and may interdict gifts made at our expense, may reform abuses, and impose any additional safeguards upon the proper administration of the trust at its will and pleasure. Undoubtedly the Supreme Court disappointed some members of Congress—perhaps with sufficient reasons—by its decision that the interest paid by the United States annually on account of these railroad companies was a debt not due until the principal of the debt became due, or thirty years after the date of the bonds; but I do not understand that the Supreme Court have decided that upon these large sums, greater much than the face of the bonds, no interest will be due and chargeable when the principal of the bonds becomes due; nor do I understand, whether that be so or not, that the Supreme Court have decided anything only on the basis of the law as it stood at the time of the decision; and should the law be altered or amended by the legislative branch of the Government, with the approval of the Executive, it would be a gross mistake for any party to hope or expect any subsequent decision of the judiciary could be based upon anything but the law as amended.

If the power of Congress to touch these corporations were even held to rest upon the technical grounds of some default on the part of these companies, can it be said that they have been so clear in their great office as to be void of all offense? Has there been no default in the prompt payment of the 5 per cent. of their net earnings? Is it no default that they have received and issued, as has been often stoutly asserted, beyond the bonds of the United States to the extreme legal limit, their own first-mortgage bonds in excess of the amount actually required for the construction of the road, and have distributed the proceeds of this excess as though it were legitimate profits from earnings of the road—an excess, also, which must at once ascend into the bosom of the first mortgage to the prejudice and manifest detriment of the security of the United States? I do not know what the facts may be, but the charge has been made as I have stated it. Their grand subsidy was granted to secure the construction of the road, and we never contemplated an additional thirty years' tax upon our people to enable the companies to distribute

munificent dividends upon unpaid-for stock. Is it no default, that the law, which required the capital stock to be paid for in money at par, was notoriously disregarded?

Is it not some default that these companies have been long and regularly distributing larger dividends than they could have done except by the postponement of the repayment of the large sums paid out semi-annually on their account by the United States, and thereby steadily increasing their own indebtedness? Is it possible that there is no legal remedy for a policy of "stripping and waste" in the open and defiant grasp of dividends steadily derived from the United States Treasury to the amount of \$3,423,731 annually? Cannot Congress say that dividends must cease until they can be made without an increase of liabilities? Cannot Congress meet the exigency of impending insolvency by an adequate remedy?

In the case of the Central Pacific, their resources, including those of this indirect character, have been equal not only to 8 per cent. dividends, but they have a surplus of over \$10,000,000 with which they are said to be extending a monopoly by building another trans-continental railroad, upon which the United States will have neither first nor second mortgage security. With such an exuberance of means it would seem that running hopelessly in debt to the United States was wholly inexcusable, and, if they so persisted, that it would be such evidence of a purpose to incapacitate themselves for the future repayment of the debt as to justify a prompt and vigorous interference.

The original intention of the acts of Congress must be carried out; and that intention was, that the companies, if able, were to honestly pay honest debts. No one proposes to take from them an acre of granted land. No one at present proposes to interfere with their rates of freight and transportation. No one proposes to add to the number of Government directors. No one proposes to restore our second mortgage to the position it originally held as the first lien. No one proposes to reclaim the rich and extensive coal-fields. No one proposes to divert a dollar of the earnings of the road to any other use than to the strict and direct lasting benefit of the road; that is to say, to the ultimate extinction of some share of the rapidly accumulating debts of the companies. It seems to me that so far this would not be oppressive. What prudently managed corporation would not eagerly do the same thing? It would be but a slight change in the practical economy of the railroad companies, and such as might often result from a mere change in a board of directors. It is not a change of what is called the contract that is desired, but it is to ward off a fatal change threatened by the railroad companies, through a wrong and blindly selfish administration of their affairs, that is sought to be arrested. Unless the present stockholders regard a twenty years lease of the Pacific Railroad as more valuable than its ultimate perpetual ownership, free from debt, they cannot look with disfavor upon any measure calculated to diminish their indebtedness and to give them an unnumbered title to their property.

By the sixth section of the act of 1862 it is quite obvious that a greater payment than for services to the Government and 5 per cent. of the net earnings were contemplated, as will be seen from the following words:

Said company may also pay the United States, wholly or in part, in the same or other bonds, Treasury notes, or other evidences of debt against the United States, to be allowed at par.

But still more significant are the words which follow, by which it appears that 5 per cent. of the net earnings was only fixed as a minimum, as "the least" that should be paid, and that they might be required to pay, or might voluntarily pay, much more. The concluding part of the section reads as follows:

And after said road is completed, until said bonds and interest are paid, at least 5 per cent. of the net earnings of said road shall be annually applied to the payment thereof.

This lets in a flood of light and shows that from the net earnings to be annually applied to the payment of the bonds, as well as the interest, 5 per cent. was not to be anything more than "the least" that should be required.

As to the question of the power of Congress to pass the bill of the Judiciary Committee or that of the Railroad Committee, there is this difference in principle, that the latter bill assumes that Congress has no power to legislate upon the subject but with the consent of the railroad companies or that we are wholly at their mercy. That bill appears to have been projected upon the idea of making the consent of the companies certain by giving them better conditions than they now enjoy. The interests of the United States appear to me to be of sufficient magnitude to warrant Congress in claiming to be at least an equal party and not inferior to the railroad companies in the determination of the questions at issue. The bill of the Judiciary Committee assumes so much, perhaps rather more, and asks no questions.

For one, I would not use the power of Congress tyrannically, nor unjustly; but this power will be evoked when extravagant claims are presented, no matter by what astute argumentation they may be enforced; no matter how potential may be the array of private interests; and the managers of these roads, if they do not want their affairs, at some cost to themselves, perpetually sweltering in the Halls of Congress, should comprehend the point clearly, and promptly tender or accept such fair and equitable terms as would be ratified and confirmed forever by the people, and such as the railroad companies, upon "second sober thought," would cheerfully accept. Great

benefits were originally expected from the road, and these, let us cheerfully admit, have been realized in far cheaper transportation service and in the stronger ligament which binds the shores of the Atlantic and Pacific together; but these benefits were the inducements prophesied, which called forth unstinted liberality in advance, and there can be no well-founded demand for compensation a second time.

Have we been liberal or not with the Pacific Railroad Companies? By looking at what has been done, all can better judge what more should be done.

First. We have given to them, as estimated at different times by the General Land Office, from twenty million to thirty million acres of public lands, not wholly of much present value, but with abundant coal-fields of priceless value, exceeding even the inexhaustible anthracite-coal fields of Pennsylvania, and affording a large and marketable product as well as a supreme element in the cheap operation of the road.

Second. We aided by lending the companies our 6 per cent. bonds for thirty years to the amount of \$57,062,192, secured at the outset by a first mortgage, and these bonds now bring in the market over 18 per cent. premium. We gave our security and took theirs to cover an exactly equal amount.

Third. We consented to change the place of our mortgage security from the first place to that of a subordinate, and gave to the companies the privilege of issuing an equal amount with a prior lien.

Fourth. The whole of their charges for services in carrying the mails and other transportation accounts by the act of 1862 were to be at once applied on their indebtedness, but by the act of 1864 only one-half was to be so applied.

Fifth. In the first act all coal-mines were reserved to the United States, but in the last they were wholly surrendered to the railroads.

Sixth. We have thus far paid the accruing interest on the second-mortgage bonds (less the amount reimbursed) to the extent of \$24,343,712.36. We must continue the payment of this interest as it falls due for twenty years longer, or a further sum of \$66,110,620.40. Nothing of this will be due, according to the decision of the Supreme Court, until the principal is due. Simple interest upon these payments at 6 per cent. will amount to nearly or quite \$70,000,000. If this also is not a debt, when we are paying 6 per cent. upon a loan of millions, then it is a gratuity largely in excess of the original bonds, and one of those things never dreamed of in the philosophy of Congress.

The account stated as between merchant and merchant, or between man and man, would show that besides lands, besides coal-mines, besides credits, up to the year 1900, we shall have aided these companies, as already indicated, to the extent of not less than \$217,516,624.76. From this sum there should be deducted whatever sum has or shall have been repaid; but, if that should reach no higher figure than for the past ten years, it will be comparatively rather insignificant in amount. Through the aid of the United States these companies have issued certificates of stock representing for the Union Pacific, \$36,762,300, and for the Central Pacific, \$54,275,500, or \$91,037,800 of capital in all, upon which it would be a preposterous exaggeration to suppose that even 10 per cent. was ever paid at par in cash as capital; and upon this very rotund fiction the fortunate stockholders have been receiving dividends just the same as they would have done on a capital fully paid up at one hundred cents on the dollar. And yet, my friend the Senator from Ohio [Mr. MATTHEWS] is eloquently distressed at the idea of interference by Congress at any time before the dividends shall exceed 10 per cent. when, if they were to be restricted to 10 per cent. dividends upon the cash originally actually paid for each share of stock, one dollar per share instead of ten would be altogether too much for even a 10 per cent. dividend.

Here is where, as I think, there is fair ground for an equitable arrangement between the United States and the managers of these gigantic corporations. The stockholders must see that it will be for their interest in the long run to accept smaller dividends rather than to receive larger at the risk and cost of the United States, already perhaps an exasperated creditor. They might distribute 4 or possibly even 6 per cent. dividends and preserve their plant. Six dollars annually on shares costing even sixty or seventy dollars ought to make the owners contented. They have their choice: big dividends absolutely terminable after a brief period, or moderate dividends for a brief period and then larger ones in perpetuity. The Union pays 8 per cent. and the Central 8 per cent., with a very heavy and increasing surplus. The net earnings of the Union, after deducting operating expenses, in 1877 were \$4,317,091.58, and those of the Central in 1876 were \$9,137,004.73. Such a net revenue makes its own argument.

I know that some considerable part of these stocks have passed from the hands of the original owners, and now brings in market about \$70 per share for the Union and a good deal more than that for the stock of the Central, which, being owned by a small number of individuals, is rarely offered for sale, and yet ere long I fancy, even with dividends temporarily reduced, the stock of both companies would take its place, without a peer, as the best among all American railroad stocks. The through business has by no means yet reached its maximum, and the local business, along with the rapidly increasing local population, may be expected to double within a brief time after the country shall have once more arrived at the condition of its usual prosperity. I

have no doubt these companies will be able to contribute liberally to a sinking fund, and still make sure and respectable dividends, or with so little diminution as to cause only a slight and temporary depression in the price of their stock. They have been exceptionally successful and can afford, while mainly holding a stock with all the earmarks of a bonus, to be just toward a benefactor to whom they are indebted for fortunes of many millions, possibly too blindly bestowed.

But what is it that the bill of the Railroad Committee proposes to do, and which has been urged with so much pertinacity?

First. They propose that the United States shall pay, as we have paid, the coupon interest, and wait without interest until the whole debt matures.

Second. Instead of applying to their credit annually, as the law now compels them to do, the pledged 5 per cent. of their net earnings and the one-half of the transportation accounts against the Government, they propose to add 6 per cent. interest, compounded semi-annually, to the several sums, though the largest would be interest on the actual money of the Government, and then twenty years hence to apply it with all the accretions to their credit. With that method of borrowing and of payment, fat dividends might be paid by the railroads without any other business, although it would be much simpler and far more advantageous to the United States to provide that for every dollar paid by the railroad companies they should have a credit of \$2.

By the mode of computation proposed the compensation for Government services to the amount of say \$600,000 in 1876 would entitle the railroads in the year 1900 to an inflated credit of more than four times that amount, or to \$2,479,350.92, being \$1,879,350.92 in excess of what they would be entitled to under existing law. This is not wiping out their debt with a sponge, but it is the mode of wiping it out by the bill of the Railroad Committee, and entirely a new and rare gift to the companies. The Senator from Ohio on my right [Mr. MATTHEWS] has no doubt they will accept of it. It being a new and very large subsidy, I do not think he is any too confident.

Third. It is finally proposed that the railroad companies shall add to the 5 per cent. of net earnings and to the Government transportation account a sum sufficient to make altogether an annual contribution to the sinking fund of \$1,000,000, but the addition would be a supplement insufficient to offset the magnificent railroad arithmetic. The addition is a cipher only, but serves the magical purpose of hugely multiplying their credits.

It will be seen that the chief merit of this sinking fund is its semi-annual compound-interest fertility, while the semi-annual advances made by the United States are to be absolutely barren of interest. It is a new way of paying debts, by which a mole-hill overtops the mountain, and, if successful, the inventors should be rewarded with a compound-multiplying patent. If the companies are truly too poor ever to repay what they really owe, let us manfully proclaim the fact and release them to the extent of 50 per cent.; but do not let us vainly undertake to befog our constituents nor ourselves with this bald, if not impudent, system of book-keeping and arithmetic, which the merest school-boy would be ashamed not to discover reached a like result by a much less circuitous process.

As I understand it the 5 per cent. on net earnings and one-half of the services for Government transportation by the Union Pacific may be reckoned to average about \$666,972. This would leave \$166,514 as the pitiful sum to be semi-annually added to the sinking fund to make up the annual amount to one million, and this is the meager outcome of all the new and old advantages so hopefully tendered to the railroad companies. We are to settle and compound our debt and have very little to show for it but the pomp and sublimity of semi-annual compound interest. Beyond these telling advantages, proffered with as lavish a hand as though the railroad was yet un-built, there comes an appendix providing that, after the year 1900, we are to reloan to the railroad companies the same amount of capital for twenty-five years longer, to be repaid semi-annually in half-million installments, with no other nor better security and with the stipulation that no more than the lowest average rate of interest our public debt may then bear shall be exacted. If we should then owe no debt and be paying no interest, the inference might be that no interest could be charged; but with this bill as an example of our guardianship of the financial interests of the country, there need not be much apprehension that the country will be out of debt.

The bill of the Judiciary Committee may need some amendment—something less complicated and more direct might be better—and I should greatly prefer some changes that would, if possible, simplify the various propositions it contains; but I am very clear that the financial position of the United States relative to these railroad companies would not be improved by the passage of the bill of the Railroad Committee, and, rather than accept of its conditions, it would be wiser, as it appears to me, to wait until the managers of these roads—if we cannot act without their consent—find it for their interest to offer better terms. In fact, I cannot persuade myself that any of these managers could, with a sober face, ask those who are here, charged with the duty of protecting the interests of the United States, to vote for the bill of the Railroad Committee, as they must know that the cry for repeal would be sounded before the ink was dry upon the parchment. It may be true that the bill would send them along on the road to Paradise, but it is manifest that the interests of the Government would keep equal pace on the road to ruin.

Finally, if the Pacific Railroad Companies cannot keep their dividends up to the present rate and at the same time diminish their indebtedness, business forecast and reasonable prudence require the directors to make some temporary appropriation to this important end from their dividend funds. Nothing less will answer their purpose nor that of Congress; and perhaps the best thing the railroad companies can now do would be to ask their friends not to identify themselves with a bill which professedly aims to create a sinking fund but which instead proves to be only a mask to hide a fresh subsidy.

Mr. HARRIS. Mr. President—

Mr. TELLER. I should like to ask the Senator from Vermont [Mr. MORRILL] a question. I understand the Senator from Vermont to find fault with these companies for declaring large dividends on their stock. I would call the attention of the Senator to the eighteenth section of the act of incorporation, wherein it is specially declared that they are entitled to 10 per cent. on the whole cost of the road. I ask the Senator if he claims that that is repealed.

Mr. EDMUNDS. Read the section. Let us hear that special reservation.

Mr. CHRISTIANCY. Read the section, and see how much they are entitled to receive.

Mr. TELLER. The eighteenth section of the act of 1862 provides—

That whenever it appears that the net earnings of the entire road and telegraph, including the amount allowed for services rendered for the United States, after deducting all expenditures—including repairs and the furnishing, running, and managing of said road—shall exceed 10 per cent. upon its cost, (exclusive of the 5 per cent. to be paid to the United States)—

Then the Government may interfere.

Mr. EDMUNDS. May do what?

Mr. TELLER. Then the Government may interfere and fix the rates. That is a tacit declaration, at least, that they are entitled to receive that before the Government can interfere.

Mr. EDMUNDS. Before the Government could fix the rates; but, in the mean time, the Government wants to have this money kept to pay the debt.

Mr. TELLER. That is not the question, and I ask the Senator whether he thinks they are not entitled to dividends on their stock?

Mr. HARRIS. If there be no Senator who desires to continue the debate upon the railroad bill this evening, I move that it be informally laid aside, and that the Senate proceed to the consideration of the bill (S. No. 855) for the relief of Warren Mitchell.

Mr. THURMAN. I have every disposition in the world to oblige the Senator from Tennessee, but I do hope if Senators wish to speak on the railroad bill that they will proceed. I gave notice last week that I would ask for a vote to-morrow. If I had not given that notice I should ask for a vote to-day. I hope that we may get to a vote; but if we are to have only one speech a day on this bill, and sometimes a very brief one, (as the very brief discussion to which we have listened this morning, and none the less instructive because it was brief,) I do not know when we shall get to a vote upon the bill. I hope, if there is any Senator who is prepared to speak on the bill now and desires to do so, that he will proceed to-day. If he does not, I am sure he cannot complain if to-morrow I ask the Senate, and ask the Senate earnestly, to bring this discussion to a close, and to sit the bill out.

I propose to offer an amendment to the original bill to be considered by the Senate. I believe the bill can only be laid aside informally by unanimous consent.

The PRESIDING OFFICER. (Mr. ROLLINS in the chair.) The Senator from Tennessee asks that the funding bill be informally laid aside, and that the Senate take up for consideration—

Mr. MITCHELL. I suggest to the Senator from Ohio, as he desires to offer an amendment, that it be offered and printed, so that we can understand what it is if the bill is to be laid aside informally.

Mr. THURMAN. I have not the amendment prepared formally, but I can state its substance in a few words, so that the Senate may understand it.

Mr. HARRIS. I submit to the Senator from Ohio that I distinctly stated that, if there was any Senator who desired to continue the debate on the railroad bill this evening, I should not propose to interpose my motion; but, if there be no Senator who desires to be heard this evening upon the railroad bill, then I hope my friend from Ohio will consent that the railroad bill may be informally laid aside and the bill I suggest, Senate bill No. 855, be taken up for consideration.

Mr. THURMAN. Of course, as I gave notice that I should ask a vote to-morrow, I cannot press the bill to a vote to-day. If there is no Senator ready to proceed, of course I shall not resist the motion made by the Senator from Tennessee.

Mr. HARRIS. I make the motion indicated a moment since, subject to the wish of any Senator to be heard upon the railroad bill. I shall withdraw the motion instantly if any Senator announces such a purpose.

Mr. INGALLS. I should like to hear the amendment of the Senator from Ohio.

Mr. MITCHELL. I was about to say that if the bill is to go over until to-morrow I should like to hear stated the amendment which the Senator from Ohio proposes.

Mr. THURMAN. I will state now the amendment that I shall offer.

The third section of the Judiciary Committee bill provides as follows:

That there shall be established in the Treasury of the United States a sinking fund, which shall be invested by the Secretary of the Treasury in bonds of the United States; and the semi-annual income thereof shall be in like manner from time to time invested, and the same shall accumulate and be disposed of as hereinafter mentioned. And in making such investments the Secretary shall prefer the 5 per cent. bonds of the United States, unless, for good reasons appearing to him, and which he shall report to Congress, he shall at any time deem it advisable to invest in other bonds of the United States.

In opening the discussion on this bill I explained the reason why the committee directed the Secretary to prefer the 5 per cent. bonds. To repeat, and very briefly, the reasons were that the five percents are the only bonds not subject to call that will mature about the time that the subsidy bonds of the United States will mature, except the subsidy bonds themselves. But we did not think it wise to require the Secretary to invest in the railroad subsidy bonds because of the very high rate of premium that those bonds bear. Therefore we provided that he should give preference in making these investments to the five percents of the United States, especially as the five percents with compound interest upon them will make more interest than the interest which the railroad companies would have to pay upon the same amount of money thus invested at 6 per cent., they paying interest without rest and the five percents being compounded; so that perfect justice would be done to the companies by their investment in the five percents. But it has been suggested to us, and it strikes me with a great deal of force, that the difference between the market value of the first-mortgage bonds of the companies and the five percents is so little that it would be better for the sinking fund to allow the Secretary to invest in the first-mortgage bonds of the companies as well as in Government bonds, because the first-mortgage bonds of the companies bear interest at 6 per cent., whereas the bonds of the United States here mentioned bear interest at only 5 per cent. An investment, therefore, in the first-mortgage bonds would produce 1 per cent. more interest, and compounded it would produce a very considerable amount more interest than an investment in the five percents, while the security for the purposes of the sinking fund would be just as good as would be the five percents or any other bonds of the United States. I therefore give notice that at the proper time I shall move to amend the third section, so as to add the first-mortgage bonds of the companies as one of the securities in which the Secretary may invest the sinking fund.

Mr. MITCHELL. Giving the Secretary of the Treasury discretion to select the five percents of the Government or the 6 per cent. first-mortgage bonds of the companies?

Mr. THURMAN. Yes, the five percents or the first-mortgage bonds of the companies. Of course you have to give the discretion to somebody, and I think that everybody would be willing that it should rest in the Secretary of the Treasury. I have not prepared the amendment in words; it will require some little care, perhaps; but I give notice that I shall move such an amendment at the proper time.

Mr. BLAINE. I should like to ask the Senator from Ohio a question merely for information. In the way the sinking fund is proposed to be constituted in his bill, does it imply or require that the actual investments made shall themselves be retained for this purpose, that it shall be a specific fund, that these specific securities shall be deposited and their interest invested, the specific securities bought to be deposited?

Mr. THURMAN. Undoubtedly it does.

Mr. BLAINE. Suppose any accident or loss should occur to that fund, as occurred in the Interior Department with the Indian trust fund, which has never I believe been made up, upon whom would the loss fall?

Mr. THURMAN. I will say to my friend that we expect to get into power about the 4th of March, 1881, and then everything will be so honestly cared for that there will be no need of apprehension.

Mr. BLAINE. But it was under the Senator's own party that the loss occurred in the Interior Department, and it was just that possible dread that made me address the inquiry to the Senator from Ohio. I believe that nothing of that sort has happened since the republican party came into power, but it did once occur under the democratic party. Seriously, I wanted to know that, because it seemed to me that whatever you agree upon as the rate of the sinking fund the money should be paid in and should be credited to the companies. I do not know that the United States have ever held a sinking fund in any other way. The naval pension fund, which amounts to some \$13,000,000 I believe, is not held in any specific bond, nor is the Geneva award fund, I believe, so held now.

Mr. MORRILL. The Geneva award was put in a single bond of the United States.

Mr. BLAINE. Not now, I think.

Mr. MORRILL. It was originally held that way.

Mr. BLAINE. As long as it was in the State Department it was; but it has now been put into the Treasury, I suppose, though the Geneva award fund is not held in specific bonds, and, if any particular bonds happen to be stolen or burned, the Geneva award fund would not be considered to have vanished out of existence.

Mr. THURMAN. If I am not mistaken—the chairman of the Committee on Finance can tell me—the sinking fund of the public debt is held in the very bonds that are purchased.

Mr. MORRILL. No, it is not.

Mr. BLAINE. I think not.

Mr. BECK. They are all canceled.

Mr. EDMUNDS. It is theoretically a specific fund, but practically it is not.

Mr. BLAINE. Does the chairman of the Judiciary Committee or the Senator who reports this bill know of any fund in any Department of the United States Government that has ever been held this way except those funds in the Interior Department which took wings unto themselves and flew away?

Mr. EDMUNDS. Yes, there are heaps of them. But it is not necessary to go into that. This bill stands upon an entirely different principle, and that is the power of Congress, under these acts, and its regulating power, as States have, according to a dozen late decisions of the Supreme Court of the United States, to regulate the transactions of people who are engaged in transacting public interests, for the benefit of their creditors, to establish sinking funds, or to accumulate money in order to do one of the things that their authority compels them to do, and that is to keep their promises to their creditors.

Mr. BLAINE. The Senator is running beyond the point. I am not touching that point at all. I am not within a thousand leagues of it.

Mr. EDMUNDS. But if the Senator asks me a question he should give me time enough to answer; it may take a week.

Mr. BLAINE. I want the Senator to answer my question, and not some other one.

Mr. EDMUNDS. That is exactly what I am doing. It is just possible the Senator cannot perceive it, but I am. The Senator wants to know why we do not consider this as a payment into the Treasury.

Mr. BLAINE. No; I do not.

Mr. EDMUNDS. So that if any bonds are lost or stolen it will not be the loss of the companies. Is not that it?

Mr. BLAINE. Yes; practically.

Mr. EDMUNDS. Very well; practically that is it. I say that the foundation of all legislative jurisprudence, (which I think is an apt term for this kind of business of compelling people engaged in public pursuits and under public power to keep their obligations all around,) is the regulation and control to compel them to do their duties to their creditors as well as to the public in carrying the freights and passengers, and so on. Now, then, everywhere, in every State, and in every civilized country, the ordinary method of accumulating money to pay off debts is a sinking fund of some sort. The sinking fund is required by courts and by Legislatures and by Congresses and so on, to be invested in the best securities that can be found to accumulate the most money where the debtor furnishes the money; but where, as under the Railroad Committee bill, the United States furnishes the money, it might be a little different thing. That being the case the people who furnish the money, and the Government or the courts that control its security, doing their best to preserve it, if there happens to be a loss, that loss, as in all such cases, must fall upon the fund, upon the debtor. That is a principle of universal jurisprudence. But in this particular case, let me say to my friend from Maine, there is not any practically conceivable danger of loss, because this investment in bonds of the United States or in the first-mortgage bonds of the company, as is now suggested by the Senator from Ohio, is an investment in bonds that as they come into the Treasury can be and should be (if you have a Secretary of the Treasury that is good for anything as we have now) so indorsed and stamped that if all the thieves in Washington, which is saying a good deal, were to get into the Treasury and carry them off, it would not do the companies a bit of hurt or the thieves a bit of good. That is a practical answer, I suggest, to my friend.

Mr. BLAINE. Then I must say that is just tantamount to keeping the books, because you do not put into the sinking fund a negotiable security.

Mr. EDMUNDS. We do not intend to do that.

Mr. BLAINE. You simply put in that which shall appear on the books as a credit, because you destroy the character of the security as a negotiable piece of paper at once. It occurred to me in this wise, that the money which is paid in under this bill, if it shall become a law, will be paid in at stated periods. It can be anticipated, I suppose, with as much certainty as any other source of revenue, for instance, though this I suppose is not to be regarded as revenue. We have a very large amount of 5.20 bonds, unhappily too large, 6 per cent. bonds in gold that are payable on call. We can call them in at any time we choose on numbers, so that every dollar the railroad companies would pay in might be used to destroy for the time being or immediately a similar amount of 5.20 bonds on which we are paying 6 per cent. interest in gold; and you might credit it to the company just as you choose. If you regard the 5 per cent. as a sufficient interest or the 6 per cent. as a sufficient interest, whatever it is you credit them with that and call it that; but it seems to me that is its state now if you put in the 6 per cent. bond of the company, which I think is a good suggestion, because there is no thing you can invest in so good as your own notes in the shape of protecting your credit. If you put that in and then the 5 per cent. bonds and then give the Secretary of the Treasury discretion, as this bill does, to run down through the 4½ or 4 per cent. bonds according to his discretion, which

leaves the thing in a very uncertain attitude, you do not know exactly what it is going to be.

Of course while it is a very proper provision to put in the first-mortgage bonds, the Senator from Ohio knows even better than myself that that will at once very materially advance the value of those bonds. Nothing advances the value of any bonds so much as to have them bought for a sinking fund, and they may very soon of course be out of reach. It does seem to me that whatever you order it to be invested in, or whatever discretion you may invest the Secretary of the Treasury with in dealing with the question of the sinking fund, you ought as between the company that you are collecting the money from and the Government to agree upon a specific rate. You can very easily make it good. Whatever that rate may be in the judgment of Congress it should be specific and specified, and stand at that. Instead of hunting around for bonds at a premium, or this kind, or that kind, or the other kind, I think the wisest thing the Secretary of the Treasury can do when he receives this million or two million, or whatever it may be, semi-annually is to buy up the 6 per cent. securities of the United States, which are now out by hundreds of millions and which can be brought in on call any day you choose, and stop that much of gold interest. That is a privilege which will still be open to the Secretary of the Treasury for the next ten or twelve years, until the five-twenties are entirely exhausted. I do not know so valuable and so useful a mode in which the sinking fund should be administered, although I may be entirely mistaken in it.

Mr. EDMUNDS. I think the error, with great deference to my friend from Maine, into which he falls about this proposition is this: the duty of the United States as the trust company, so to speak, into which this sinking fund is to be paid, being the safest possible trust company, of course, is to make the most that it can as a trust company, so to speak, out of the money that is contributed by the debtor. That is a plain duty of right and of trust, as in the case of all sinking funds and trust.

Very well. Now, if my friend says then "Why do you not take the 6 per cent. bonds of the United States?" the answer is, that the Secretary, if he took those, would have the same right to call them as against the sinking fund and the companies that he has against the present holders. Just as soon as he can borrow money from the people at a reduced rate of interest he would be bound to call those very bonds. The consequence would be that you would drop down then to the lowest rate of interest at which Government securities can be got. The first business of a sinking fund is to have it absolutely safe, and therefore the duty of the person who holds the sinking fund, be he Government or bank or trust company, is to invest at the highest rate he can in a perfectly safe security, as far as human contrivance can make it safe, and of course the bonds of the United States are supposed to be that. Therefore, it does not do any good to the United States to take its 6 per cent. bonds and call them in, for the reason that just as soon as the Secretary of the Treasury can borrow that money at a lower rate of interest under existing laws he is to call them in; and it would be unjust to the United States to make the United States as the holder of this sinking fund pay a greater rate of interest to these companies than it paid to any other persons from whom it should borrow money; because in the attitude of a debtor, or a borrower, the United States has a right, and it is its duty, to borrow money at the lowest possible rate of interest. So the moment you separate the two ideas of the United States as a borrower of money upon bonds, and as the holder of a trust, and keep those two notions separate as they ought to be, there is no difficulty in the case. The money is paid in, as this bill provides, to be invested in the best securities you can, in order to make it accumulate the most. If they can be invested in the bonds of the United States which are the highest ones of safety, then invest them in those bonds that bear the greatest rate of interest that the United States is obliged to pay. But it is not obliged as we can all see now, unless we pass some more silver bills, and so on, to pay 6 per cent. interest. It can borrow money even now at $4\frac{1}{2}$ per cent., as we are told by the Secretary of the Treasury.

Mr. ALLISON. Since the silver bill passed?

Mr. EDMUNDS. Since the silver bill. The Secretary of the Treasury says so. Whether he is correct or not, I do not know; I hope he is. I hope we can borrow it at 4; I hope we can borrow it at 3, at the lowest possible sum, no matter what it is. But in respect of these companies our duty as a holder of a trust fund is simply to invest it, first, in securities that are absolutely safe, that is to say, the securities of the United States or these first-mortgage bonds, because they must be paid; but there is another difficulty about that which I will come to presently; second, to invest it at that rate of interest which will get the most money. But if the Secretary invests in United States bonds he must practically invest in those that bear the lower rate of interest; but the United States can now borrow money upon those bonds to pay off those of a higher rate.

Mr. ALLISON. Suppose he invests in the bonds issued to these companies, which are 6 per cent. bonds not payable until thirty years?

Mr. EDMUNDS. That is exactly what the Senator from Ohio has referred to.

Mr. ALLISON. I do not mean the first-mortgage bonds of the companies. I mean the bonds of the United States issued to these com-

panies which bear 6 per cent. interest and which are not payable until thirty years.

Mr. THURMAN. Does the Senator know what rate those bonds bear?

Mr. ALLISON. They are above par.

Mr. THURMAN. Let me tell the Senator that they are 118.

Mr. EDMUNDS. That is exactly the practical obstacle, if you take a piece of paper and figure out the interest, to investing in bonds ever so good, if they bear a very high rate of premium because you are obliged to charge your trust fund with the premium you pay and to reduce the profit to the debtor who is accumulating a fund by just that much; so that the only practical thing to do is to authorize the Secretary of the Treasury, as this bill does, to do the best he can in the public securities of the United States for the benefit of this fund, or in the first-mortgage bonds of the companies, which are paramount to ours.

The only practical objection that occurs to me as to the first-mortgage bonds is as to one contingency. Suppose there are now, in respect of these companies, about \$50,000,000, in round numbers, or \$54,000,000 or whatever it may be of these first-mortgage bonds. Suppose the Secretary of the Treasury invests these securities in those, and at the end of the period, 1895 or 1900, no matter what, he has caught up half of them. They are in bonds, they are not in money. Some disaster that nobody can foresee comes upon all this railway business, and the companies cannot earn money enough to more than pay the running expenses and keep up the road; it is a failure as many railway companies have been. I cannot foresee that; I do not think it at all likely to happen; but if it should, where would we be then? Here would have been a sinking fund accumulated, which, in respect of one half of these bonds that had been brought into the Treasury was very well, but how is it in respect of the other half that were outstanding and for the benefit of the holders of which this fund is accumulated, as well as of the other creditors of these companies in due order? How are you to produce equality between the holders of these bonds? You cannot take the bonds that you have bought in, which will not sell for anything in the case I have supposed, and divide them around among the other people. The consequence is that the man who has transferred his first-mortgage bonds to the Government at this rate, the present rate, at par and above, gets his full pay; the man who has not transferred, and who is entitled to be protected by this sinking fund gets no practical benefit from it. So, if you are to have a liquidation at that time and a liquidation in cash, as every liquidation must be theoretically and practically in almost every case, you cannot make a division. That is the objection to investing even for a sinking fund, except where the company itself is buying up its own bonds in the nature of payment, which is another thing—but as a sinking fund, the objection to such an investment is the possibility that at the end you will be unable to do equal justice to the creditors of that class. It may be in this instance, I dare say it is, that that possibility is so remote that practically there is not much danger in running the risk.

Mr. THURMAN. Mr. President, in regard to the last suggestion made by the Senator from Vermont, it does not strike me as being any very serious objection against the amendment that I indicated I would offer.

Mr. EDMUNDS. I have not suggested that it was, as I think the possibility very remote.

Mr. THURMAN. In the first place it is too remote a possibility, as it seems to me. I cannot conceive it possible that these two roads should ever be worth less than the principal of the first-mortgage bonds. My own opinion about them is that they will be worth a great deal more; but even if we were to suppose a case in which they were not, and in which their first-mortgage bonds would have absolutely no market value at all, and if at that time say one-half of those first-mortgage bonds constituted the sinking fund, I do not see that any particular injustice would be done by the cancellation of those bonds in the discharge of the sinking fund, because that would leave the road as a security for the remaining first-mortgage bonds, and those whose bonds had not gone into the sinking fund would be benefited and not be injured. But it is so remote a possibility that these companies would ever be unable to pay the interest on the first-mortgage bonds that I do not think it is necessary to speculate about it. If that time should ever come there will be a Congress here to take such steps as shall be necessary.

A word now in regard to the suggestion of the Senator from Maine. If I understood his suggestion, it was that the United States should take this money and not invest it in bonds or securities of any kind, but treat it as its own money and use it as its own money, paying it out for its own debts or liabilities or current expenses, but crediting it to the sinking fund and allowing a rate of interest upon it. That I understand to be the idea of the Senator from Maine. In the first place, it is perfectly plain that if the United States were to do such a thing as that, justice to the Government would require that we should fix the rate of interest at the very lowest rate that the United States can borrow money at. Anything else would be a gift or gratuity from the United States. That is one of the objections to the bill reported by the Railroad Committee. It in effect proposes two things: one, that we shall allow interest at 6 per cent., semi-annually compounded, on our own money; and secondly, that as to the portion of

the money which the railroad companies are to pay in, and which is their money, we shall allow interest at 6 per cent., compounded semi-annually, on that until the 1st day of October, 1900, a period of twenty-two years and more. In other words, that the Government shall make a loan for twenty-two years and more, diminishing year by year in point of time, and pay interest at the rate of 6 per cent. compounded semi-annually, when the Government can borrow every dollar that it wants at 4½ per cent., and can borrow in greenbacks, as the money is to be paid by these companies into the sinking fund, payable at 4 per cent., and the Government is now every day borrowing money at an average of nearly \$100,000 per diem at the rate of 4 per cent. I do not know that Senators have paid attention to the fact that scarcely a day passes over our heads, Sundays excepted, when the Government does not borrow from \$50,000 to \$100,000 at 4 per cent. interest.

Mr. ALLISON. The 4 per cent. bonds are above par.

Mr. THURMAN. The 4 per cent. bonds are above par; they were above par in gold yesterday in New York, being at 100½; so that it is wholly inadmissible that the Government should take this money and credit it to a sinking fund and agree to pay a stipulated rate of interest upon it higher than the Government can borrow money at. But then suppose the Government should do that; suppose I am right in that and the Government takes this money and agrees to pay 4 per cent., at which it can borrow all the money it wants. The 4 per cent. compounded annually would not be equal to the 6 per cent. without rest that the companies have to pay; it falls a little short of it. Four and a half per cent. is a little above it; 5 per cent. is very considerably above it, as the amount of interest that the Government would have to pay; but we should be guilty of the injustice, if we were to take this money and credit it with 4 per cent. interest, of taking the money of these companies and not making as much interest upon it as they are compelled to pay to us. That would not be fair to them, and there is no necessity for it.

In respect to the danger which the Senator from Maine suggested, and which I undertook to answer jocosely, and I believe got the worst of the poker in that business, the hot end of it, let us see whether there is any danger. In the first place, I do not know that I quite agree with my leader, the chairman of the Judiciary Committee, on the subject of the responsibility of the Government. I am strongly inclined to believe if the Government by the exercise of its own legislative power, *per vim*, as you may say, takes the money of these companies to invest in a sinking fund, that it becomes responsible for the sinking fund. It is rather my opinion that it becomes responsible for the safe keeping of that sinking fund, because the companies may be said to have paid it in *inveitum*, and where that has been the case, where we have by mere legislative power, and on that I rest this bill, and believe it as sound a foundation as the granite rocks of the mountains, on our power as a Congress of the United States; when we exercise that power and take this money and put it in a sinking fund in our own Treasury, it appears to me that we become guarantors for its safe keeping. I have not the least doubt in the world that the Government would make it good, whether the Government was absolutely liable or not; but there is no difficulty in making it safe, even where you invest it in bonds. What is to prevent every bond being stamped that is taken? What is to prevent your requiring it to be done, if necessary, by making a requisition in this proposed law to amend the bill so as to require that every bond which is thus purchased shall be stamped with the word "sinking fund," or any other appropriate designation, which would prevent its circulation, prevent its negotiation? Nothing is more common than to do that. I have seen with my own eyes, done with a machine, twenty millions of bonds and coupons stamped, every coupon stamped by a machine, so as to prevent their circulation, to show that they belonged to a court in which the litigation was pending. There is no difficulty at all about doing it. They can stamp all these bonds at the Treasury Department. They can stamp half a million of them in a day if they were to buy half a million. If any amendment is necessary to the bill to require that these bonds thus purchased shall be stamped and the coupons upon them too, so as to prevent their negotiation, and therefore to prevent their being stolen and used, I shall be very happy to join with the Senator from Maine, or any one else, in framing such an amendment to the bill, of course for the safety and security of the Government, and of the companies too, in respect of this sinking fund.

Mr. BLAINE. Mr. President, the Senator who reports the bill and the Senator from Vermont differ a little as to the responsibility of the United States in case of loss in the sinking fund. Both Senators, I think, a little misapprehend me in my position. I was not speaking at the time in an adversary sense at all to the Senator's bill. I was trying to perfect the bill if I could.

Mr. THURMAN. So I understood the Senator.

Mr. BLAINE. I will ask the attention of my friend from Vermont. I think both Senators leave out of view a consideration which has to my mind a great deal of what I may call equitable weight in this matter. I understand the theory of this bill to be that you establish a sinking fund out of the net earnings of this company for the protection of all the persons interested in it. Here is a first-mortgage bond, and a Government bond, and a land-grant bond, and a sinking-fund bond, and stockholders behind them all, and this bill proceeds on the theory, which I am not disposed to say is an unwise one, that the stockholders should not have the disposition of all the net earnings, and a wise provision should be made, which the stockholders are

themselves quite ready to make, for the security of the other persons interested in the roads.

Now, the stockholders say that they desire to make a sinking fund; that if they were permitted or if it were regarded as judicious or on the whole advisable for them to make and continue and administer that sinking fund that they could realize upon it at least 7 per cent., certainly beyond doubt 6 per cent., and some of them claim 8 per cent. In regard to the 5 per cent. of net earnings and the half transportation which belong to the Government under the acts of 1862 and 1864, there is no dispute at all here in this argument. The sinking fund is taken beyond that, out of something which the law does not now provide for and which they, if permitted themselves to put into a sinking fund, could realize very much more than you propose to allow them.

Mr. EDMUNDS. As they think.

Mr. BLAINE. As they think and as they believe, and they are very competent business men, whose opinion on that point probably would be better than that of the Senator from Vermont or mine—very much better than mine. They say that they could do it. We say that is not safe, because although we might be perfectly willing to trust those who are now administering these roads we have not the least idea who may happen to be directors and administrators of this great trust twenty years hence, and after forty or fifty or sixty millions or more may be accumulated in the sinking fund somebody may come in as successors and think they can devote it to wiser purposes, and it may take wings to itself just as the Indian trust bonds did in the Interior Department, and you would not find them when you come to look for them at the maturity of the mortgage.

Therefore it becomes of course a wise provision that the Government of the United States shall be and must be the custodian of this sinking fund; but does not there come in there just a grain of equity that we ought to pay some consideration to the fact that they could realize as business men far more for this fund if they were permitted themselves to administer it? If you confine the Secretary of the Treasury to a 5 per cent. or a lower bond in his discretion you really deprive him of doing that thing which is not only most advantageous to the sinking fund but which is most advantageous to the Government itself, because no one, I apprehend, will doubt that the very wisest use that can be made of any surplus that happens in the Treasury of the United States from any source is to buy the 5.20 bonds of the United States which are now bearing 6 per cent. interest. The Senator from Ohio, I repeat again, says if that should happen to be lost the Government is responsible. The Senator from Vermont [Mr. EDMUNDS] says it is not. The Senator from Michigan, [Mr. CHRISTIANCY,] who is an able lawyer, says he thinks the Government would be responsible. Here is a difference as to the responsibility, but there cannot be the slightest doubt in the world that you are entirely safe if you agree to take this money from the company and treat it just as you do the Geneva award, which is in your Treasury, which is answerable for any appropriation Congress may make, but which is swept into the general hopper and ground in with the entire grist, just as the naval pension fund is. We have a naval pension fund of \$13,000,000, but it is not in a separate safe, it is not in any separate bond; it exists as a credit to that fund, to be disposed of by Congress as they please. Why is it not the safest thing and the fairest thing both to the Government and to the sinking fund to treat that in the same way? That is what occurs to me.

One other thing, Mr. President. I am not disposed to think in looking at the bill reported from the Judiciary Committee that the sums which it exacts of the railroad companies are excessive. I do not think the sums included in that bill are more than the companies can fairly pay, but I wish to submit one thing to the consideration of those who are responsible for the bill and who are advocating it. The bill proceeds upon a theory which I will not here and now stop to discuss. It has been discussed, very ably and very elaborately, by the lawyers *pro* and *con*. The bill proceeds on the theory that under the reservation to alter, repeal, or amend Congress has the perfect right to dictate and direct what the companies shall do; that that rests in the discretion of Congress, and that in this bill which is now proposed Congress shall exercise that discretion. It is a "*sic volo, sic jubeo*." We have the power reposed in us, and, with the discretion which should of course characterize all votes and all actions in Congress, we are about to exercise that power. We take a white sheet of paper and we write down on it what these companies shall do, and, as I said, I am not disposed to say, for I have not examined as closely as I might, that what you demand the companies shall do is either excessive or oppressive. But in your discretion you say it shall be thus and so. Under your power to alter and amend and repeal you here demand and direct what the companies shall do. Then at the close of the bill—not willing to part in any wise with this power, not possibly exhausting it by any exercise of it—you still say that "nothing in this act shall be construed or taken in any wise to affect or impair the right of Congress at any time hereafter to further alter, amend, or repeal the said acts hereinbefore mentioned." Therefore you do not know that this settlement which you order or the thing which you direct the companies to do will last a single year. You propose to leave this open, greatly, I think, to the detriment of the companies, which we are not possibly first bound to consider, greatly to the detriment of the interest of sound legislation, greatly to the detriment of the dignity and propriety of legislation; you propose,

after you have written down exactly what you demand of them, that you will not say to them that that shall last over a twelvemonth.

Now I submit that in the full exercise of this power, which I am not debating and which I do not now assent to or deny, you yourselves, without asking the companies one way or the other, direct that they shall do this thing. Now, is it not fair, is it not a business proposition, is it not that which they have a right to expect and which we have a right to expect, that it shall for a time settle and remove this question from Congress? Do you want it here all the time? I ventured to say in a short debate last winter on a bill then pending somewhat similar to the present one, that for every one of the fifteen years I had had the honor to serve in either branch of Congress the Pacific Railroad had been, like the poor, always with us. It at least has that resemblance to the poor, that we have it always with us. I have some ambition to survive that condition of affairs. I want it away from here. I want it so directed, if you choose, that the Government shall get precisely what it thinks it should have, but that when you say that you shall also say to these companies "Do this as we direct, and you shall for a certain term have full power to operate your roads. Faithfully comply with all that we direct you, and it shall be held and taken, for the point at issue in reference to the debt, as a settlement between us."

Suppose you do not—I should like the attention of my honorable friend who reports the bill—suppose you do not do it, suppose you direct what is to be done here, and you pass the bill, but reserve the right at the next session of Congress, eight months ahead, to come here to reopen the question if you choose. You reserve to yourself the broadest power with the broadest possible intimation that you will exercise that power.

Now we are bound to take cognizance of current events; we are bound to take cognizance of what is likely to happen and in my judgment will inevitably happen. I think the Senator from Vermont [Mr. MORRILL] said that the stock of these two companies was \$91,000,000. You cannot have \$91,000,000 of speculative stock, for it necessarily becomes such, on the stock boards in New York without every shade of interest growing up that is known to the technology of Wall street speculators. There will be "bulls" and "bears" and "puts" and "calls" and "longs" and "shorts" on it all the time; one side will be interested in putting the stock far above and another far below its real value, and the very first scheme they will seize upon to effect their interest will be to get some legislation started in Congress, and Congress will be used perpetually under that clause as the bob-tail to the kite of Wall street speculations on this subject. All the scandal that grew out of the Pacific Mail subsidy, which was so serious at the other end of the Capitol, arose entirely from a dispute in Wall street that was adjourned from there to Washington to see if they could not get some legislation to affect favorably one side and unfavorably the other side. You will have that just as certain as the first Monday in December brings Congress together each year.

Just leave that open; just say as you say in this bill that, although we possess plenary and absolute power to provide what these companies shall do, we do not propose to say anything further, that we do not propose to say that we will not do anything for any consecutive ninety days, and you declare to every person outside who is interested in the agitation, "If you want a real lively row got up over these Pacific railroad stocks, the Senate and the House of Representatives at Washington furnish the place to start the machine going; just come here, and here we can have it any day you choose;" somebody will put in a memorial, somebody, possibly imposed upon, will put in a bill, somebody will move one thing or move another; you will have it on the anvil to be hammered the whole time.

I do not believe that it is the least in opposition to the theory on which even this bill goes (a theory which I am not now discussing) to add to the end of it, to section 12, what I shall indicate. I propose to offer an amendment that shall at least get the sense of the Senate, and I shall at least acquit myself of any future trouble that may come from that source. I shall have that satisfaction. The bill says—

That nothing in this act shall be construed or taken in any wise to affect or impair the right of Congress at any time hereafter further to alter, amend, or repeal the said acts hereinbefore mentioned.

Now I propose to add right there, striking out the remaining words of that section:

But so long as said Central Pacific and Union Pacific Railway Companies shall faithfully comply with the provisions of the said acts of 1862 and 1864, and of this act relating to payments to the United States on account of bonds advanced and of the sinking fund to be established as aforesaid, such compliance shall be deemed and taken as sufficient to meet the obligations of said companies on account of such bonds prior to the maturity thereof.

I limit it wholly to this question, limit it exactly to the point of the indebtedness on the bonds. Unless I have miswritten it or misconceived the meaning of it, I do not put it one particle beyond the case in hand, nor do I say what the Congress assembled here in the year 1900 shall do when the bonds mature. They will probably be as wise or possibly a good deal wiser than we are about that, and the companies will probably long before that have passed into other hands. Let the future deal with the future, but we have laid down what they shall do. Now let us say that, if they faithfully do it, the thing can run until the bonds mature. It will operate as a sinking fund. I think the Senator from Ohio considers it to go very near paying off the whole obligation. I have not made a calculation, but will take his figures.

Mr. THURMAN. Within about \$40,000,000.

Mr. BLAINE. That probably will not be very embarrassing; that can be dealt with as they of that day may choose; but, whatever you do, let us at all events not keep it as a running sore for the next fifteen or twenty years, as it has been for the last fifteen or twenty years.

Mr. THURMAN. Mr. President, I shall not go into an exhaustive answer to the Senator from Maine on his amendment to-day; but there are a few words that I want to say right on the spur of the moment.

The Senator imagines that if we do not make a finality from now until the maturity of the bonds, that is to say, for twenty years, for the average of the bonds will mature about July, 1898, there will be an eternal turmoil here in Congress; that men engaged in bullying or bearing this stock will come and pester Congress for more legislation and legislation inimical to the railroad companies. Now I want the attention of the Senator from Maine.

Mr. BLAINE. I will try to give it.

Mr. THURMAN. Experience is a complete answer to every word he said on that subject. For two years this subject has been before the Senate; for more than two years it has been before the Judiciary Committee of the Senate; and in all that time I have never seen or heard of one man hostile to the railroad companies lobbying Congress, not one. I have seen this Senate Chamber filled with the railroad lobby; I have seen the galleries filled; I have seen the corridors filled; I have seen the committee-room besieged; I have seen Senators besieged at their own houses by the railroad lobby; but never did I see one man or hear of one man here urging legislation hostile to these companies. The whole legislation on this subject has been the origin of the thoughts and feelings and sense of justice of members of Congress themselves in the discharge of their public duty, and there is not the least danger in the world such as the Senator from Maine supposes.

But now as to the proposition to tie us up for twenty years, if this bill should pass, irrespective of what change of circumstances may take place. If that is to be done, then I want a very different bill from this; I want a bill that will require a great deal more from these companies than this bill requires if our hands are to be tied for twenty years. Does the Senator know how much these companies will have to pay under this bill if it becomes a law, in actual cash in addition to the half-transportation account which we take? We put it in the bill that the Union Pacific shall pay \$850,000 a year, and the Central Pacific \$1,200,000 a year, or so much thereof as with the 5 per cent. and the whole transportation account shall make 25 per cent. of the net earnings of the roads as defined in the bill, and before we get net earnings we allow them to deduct from their gross expenses the interest on the first mortgage. I have had a calculation made to show how much they will have to pay in the future in addition to the half-transportation account which we take—how much additional cash they will have to pay upon the hypothesis that their earnings in the future shall be the same that they have been in the last six years on the average. The Judiciary Committee in their report show to the Senate that the half-transportation account and the 5 per cent. of net earnings of these two companies upon an average of their six years' business last past would be about \$1,166,000 per annum. I take it in round numbers at \$1,200,000 per annum, and upon that I submitted to the chief of accounts of the Treasury Department, who is perhaps the best expert in Washington, this question:

Taking "net earnings" as defined in section 1 of Mr. THURMAN's bill, and estimating the "5 per cent. of net earnings" and the "half-transportation account" in the future as follows, namely: Union Pacific, \$700,000 annually, and Central Pacific, \$800,000 annually; together, \$1,500,000 annually; what additional sum would each company have to pay into the sinking fund to make a sum equal to 25 per cent. of its net earnings?

Now, remember we only require 25 per cent. We put in the sum of \$850,000 for the Union and \$1,200,000 for the Central Pacific, but we only require so much of that sum as with the transportation accounts and the 5 per cent. of net earnings will make 25 per cent. of the net earnings of the companies; and how much do you suppose the companies will have to pay of additional cash beyond the half-transportation account which we retain? The Union Pacific only \$100,000 a year, and the Central Pacific only \$800,000 a year.

Now, are we to tie up our hands for twenty years, and as to the Union Pacific, no matter how great may be its gains, no matter how much its business and its profits may increase, say that if it will allow us to retain the half-transportation account which is now payable to it, about \$400,000 a year, and pay us \$100,000 more, making \$500,000, we will continue to pay for it \$1,600,000 every year in interest on its subsidy bonds?

Mr. MITCHELL. Will the Senator yield to me at that point?

Mr. THURMAN. Yes, sir.

Mr. MITCHELL. What is the difference, I want to ask the Senator from Ohio, between the amount then, if his calculation is correct, that is to be paid in by these companies under the Judiciary Committee's bill and under the Railroad Committee's bill.

Mr. THURMAN. I will tell the Senator.

Mr. MITCHELL. Before the Senator answers that, will he permit one other question? I understand the Senator that according to his expert the half-transportation account and the 5 per cent. of net earnings amount to about \$1,200,000 or a little less than that.



Mr. THURMAN. That is the estimate of the Judiciary Committee.

Mr. MITCHELL. I say according to the expert, under the Judiciary Committee bill, the amount of the 5 per cent—

Mr. THURMAN. No, the Judiciary Committee estimate that. This expert, this chief of accounts who has been detailed to the accounts of these railroad companies for the last two years, is of the opinion that the 5 per cent. and the half-transportation, instead of amounting simply to \$1,200,000, will amount to \$1,700,000.

Mr. MITCHELL. But the estimate of the Judiciary Committee is that it will amount to little less than \$1,200,000.

Mr. THURMAN. Yes.

Mr. EDMUNDS. Taking the companies' statement as evidence of it. He takes the companies' accounts.

Mr. MITCHELL. I simply wanted to understand the different estimates.

Mr. THURMAN. I put it to the Senate if they are willing to say that if this Union Pacific shall pay in the half-transportation account which we retain but which under existing laws it is entitled to receive and \$100,000 more, a half million dollars a year, for twenty years, while we are paying for it \$1,600,000 a year, we will not legislate any more on the subject; our hands shall be tied; we will not exercise the reserved power of Congress? No, Mr. President, that will not do. That proposition will not do at all. There is no necessity for it. These companies are in no danger from Congress if they will do what is right, and they know it perfectly well. The difficulty is even to get a bill that will make them do what is approximately right. That is the whole trouble. They are in no danger whatsoever. In the first place there is no hostility to them in Congress, and never has been. No measure has been proposed here in hostility to them. The only defect of the very bill of the Judiciary Committee—no, I will not say its "only defect," but its chief defect—is that it is too lenient to these companies; it is too conservative; it does not require what it ought to require. That is its chief defect; and to say that we shall take this measure, so lenient, so conservative, and abnegate the power that we possess to legislate as circumstances may require, tie up our hands for twenty years, is what I, for one, can never agree to. I would a great deal rather let the law stand as it is than agree to any such proposition.

Mr. EDMUNDS. Mr. President, I should like to add a word on this subject. The proposition of the Senator from Maine that Congress is to provide by law that these payments into this sinking fund shall be unchangeable for twenty years, is, in my opinion, founded upon an erroneous principle entirely. The attitude of Congress in respect of these great corporations and of their creditors, is not that of an adversary party who is making bargains with these people like a private citizen; it is not that of a hostile operator who wishes to speculate out of their stocks and their operations; but it is that of an impartial tribunal that, like a court of justice in respect of the subjects that it deals with, stands always ready to adjust its operations according to the condition of each particular case all the time. You might therefore, on principle, just as well require in a judiciary bill that a court of justice that had once made an order for the appointment of a receiver, or for an assessment upon stockholders when a case is in court that would warrant that, or whatever should treat it as a finality, and that never in the discretion of the court should it be changed according to changing circumstances and the necessities of justice as to make a provision of this kind. The principle that the Senator stands upon is a principle that was equally forcible when these very charters and acts of incorporation were passed. Why could it not then have been said "whatever you agree that these companies may do in your law as you have written it, let that be a finality; reserve no power to exercise future control according as public interest and public justice may from time to time require?" It would be the same principle exactly. That will not do, Mr. President. No State could live by such legislation as that; and the most that States in respect of corporations have found occasion to regret in the legislation of the last fifty years has been that they have been misled or entrapped into granting of privileges or conceding rights without a reservation of future control, by which the public interest and the rights of private creditors of such corporations have been greatly prejudiced and injured. Therefore, if I am right in my proposition—and I am sure it will commend itself to every Senator who hears me—that the attitude of Congress is that of perfect impartiality in the nature of a legislative tribunal controlling these great public corporations for the duties that they were designed to perform as well to their creditors as the public, that right of control is inherent all the time; and hence while we require particular things to-day, it may happen that in the near future it will turn out that the things which appear to be perfectly just and right now may need alteration and change even in eight months.

It may be that some great disaster will so affect these companies that even 25 per cent. ought not to be paid in; and, on the contrary, we ought to provide for giving them further aid in order to keep up the communication between the distant and still intimately connected parts of the Republic. It may be that their business will so develop or that their operations will be so carried on as that justice to the public and their creditors will require that this tribunal, just as a court would in a case it was administering before it, shall exercise its supreme and impartial power to require them to do more and different from what they are asked to do now. It is inherent in the

administration of our duties in respect of all such subjects. The same argument might be applied, as is pressed by the Senator from Maine, to every law that we pass about national banks, to every law that we pass about tariffs and internal revenue. They affect private interests as directly as this legislation affects private interests; and yet who would agree for a single moment to provide that the tariff should stay so and so for a given length of time, or that any of the operations of the Government that affect the welfare of the public and the rights of private citizens should be foreclosed from the free judgment of this great tribunal, Congress, at any moment its own sense of justice should call upon it to interfere?

That is the principle, Mr. President; and then, as the Senator from Ohio [Mr. THURMAN] has so well said, there is never any danger that private interests in corporations will be unduly pressed to the injury of those corporations by the action of either Legislatures or Congress. The pressure of the people for justice, for protection, for fair play, is always a slow and a diffused pressure. The pressure of corporations for favorable legislation, by bills, by lobbies, by subsidized newspapers, by that concentrated force that the Senator has alluded to and that has been seen here on more occasions than one, is always constant and is always ready. The danger, therefore, in respect of future legislation in this case and in every other is not the danger that the judgment of Senators representing the people and the public interests will lead them originally to propose injurious legislation; the danger is, as it always has been, that proposed legislation will come from this constant and concentrated selfish effort of corporations to press through Congress legislation favorable to them and injurious to the people and injurious to their creditors.

I have seen that in respect of these very companies when the danger to public interests and the danger to the credit of these companies in respect of all their creditors, including the United States, was first brought to the attention of this body, and a bill was about to be considered taking some first and mere initial step about it, I have seen the officers of the companies in this very Senate Chamber on the day a bill was to be up, distributing their passes with an ostentatious impudence that was amazing. I hope it did not affect any Senator; I suppose it did not. I have seen fifty cents a line paid to affect legislation in the editorials of newspapers. That is a very small price now. That was in old times. I suppose the present editorials are paid for at rather higher prices. But we shall find out by and by, by an inquiry, if the two Houses are willing to direct it—and perhaps the present Government directors may be able to look after it a little—how much money has been paid by these companies "to protect their rights," as they call it, at this present session of Congress; not to any Senator or Member of Congress—I beg everybody not to misunderstand me—but to pursue everybody to his house and appeal to his personal friendship for this director or that director, to appeal to his interest in protecting his constituent who sold some bonds or some other thing, to excite his prejudice, to mislead his judgment; everything that goes to make unjust influence upon legislation may have taken place to a greater or less degree.

So that the practical danger, Mr. President, in all cases of this kind is not the danger that after this bill shall have passed, as I hope it will, the Congress of the United States will suddenly take some steps which will embarrass these companies by new legislation unfavorable to them. That is a danger that never has happened and never will. The danger will be, as it always has been, that people interested in these great corporations that are said to control the politics of States and have been known to control the legislation of Congress in old times, when I could not muster a corporal's guard to vote for some of these earlier steps of inquiry and holding on until the Credit Mobilier exposure came out, and then everybody changed his views all at once. The danger is, I say, sir, quite in an opposite direction. There is therefore, in my judgment, neither sound principle upon which our hands can be tied up, nor the slightest danger to the real interests of these companies.

Mr. HARRIS. If there be no further discussion on the railroad bill—

Mr. SARGENT. I desire to say a few words.

The PRESIDING OFFICER. The Senator from California.

Mr. SARGENT. Mr. President, in all matters of any importance it is worth while to consider the stand-point. Congress in 1878 and Congress in 1862 stood in a very different attitude with reference to the Pacific Railroad measures. I had something to do with the legislation under which these Pacific railroads were built. The great difficulty in the House of Representatives when the original bills were considered was in satisfying members of that House that the legislation proposed would build the Pacific Railroad. Any one who will look at those debates will find running all through them evidence of the incredulity of members of the House and afterward of the Senate that the grants made by Congress would build the road. That incredulity, notwithstanding the predictions of those who favored the road and thought that the legislation was sufficient, seemed to have some warrant in 1864, when additional privileges were given to the Pacific Railroad Companies, and under those additional privileges the railroad was built.

At that time it was urged that Congress would be liberal with the companies in final settlement for advances, and the bill which originally passed the House made no requirement for the payment of the bonds and interest except by the transportation and the 5 per cent.,

the words the company "shall pay said bonds at maturity" being subsequently inserted in the Senate. There was a vast tract of unsettled country between the Missouri River and California, and the Government was paying millions for transportation annually, while our Pacific possessions were subject to great danger in case of foreign war. The enterprise seemed difficult, gigantic, and Congress was in a pleasant mood, and ready to make almost any contract that would secure the national advantages springing from such a road. Now we hear only curses and threats, often as unjust as undignified, against those who then accepted our smiles and promises, and the Government resolves itself into a hard creditor that makes Shylock respectable.

Is it well now for Senators to ignore the fact—the Senator from Vermont blinks it out of sight; the Senator from Ohio entirely omits to give any value to the fact—that there has been saved in annual expenditures to the Government of the United States by the yearly operation of this railroad millions of dollars? A value like that conferred upon the Treasury, is it not worth while to consider when we are determining the question whether we will put the screws a little tighter and reserve the right to screw them up a little more by and by? Against the debit side in argument here against the companies should go the credit that there has been an annual value to the Treasury of the United States by saving expenses for transportation of troops, of mails, &c., ever since the last spike was driven upon the Pacific Railroad of over \$4,000,000.

In 1862 it was provided that 5 per cent. of the annual earnings should be paid to the Treasury of the United States, and the whole transportation. Men who desired to embark in this enterprise came before Congress, and notably among others Horace Greeley, and represented that it was impossible for the enterprise to start. They had started it on the Pacific side and were toiling and working up toward the mountains under the original legislation; but upon the Atlantic side it was said that it was impossible to make an organization that could proceed with this work; and then Congress did what? It doubled the land grant by the legislation of 1864. It provided that one-half of the money for transportation might be retained by the companies, retained the clause still with reference to the 5 per cent., and made the Government bonds a second lien. Why was that? Was it understood by the companies and those who were enlisting in the enterprise that subsequently Congress should take back the original land which was given, or that they could subsequently make new conditions as soon as the road was built and was in operation, stating that the whole of the transportation should be paid to the Government and more than the 5 per cent. should be?

Mr. THURMAN. Certainly.

Mr. SARGENT. I say it was not, and obviously it was not, and for this reason: capitalists were induced to put their money in there to go on with the enterprise. The Government did not build the roads, but these persons did upon the faith pledged that only one-half of the transportation should be required; and to say that it was understood by those men that that was the meaning of the congressional enactment, that this provision should only last until they had put their money into it and built the road, is the height of absurdity; and, as much respect as I have for the Senator from Ohio, I believe that, aside from a very strong feeling that impels him to push this measure through, in his cool moments or deciding upon it judicially he would say that the proper construction was that that was a contract to run until the maturity of the bonds, and not until the mere completion of the railroad; otherwise, where was the value of the inducement held out to capitalists? The question answers itself: there was none.

Now he comes in and says that Congress has a right to exact 25 per cent. of the net earnings instead of 5 per cent. "Why not fifty?" suggests the Senator from Connecticut, [Mr. EATON,] and I ask why not fifty? Why not proceed and, as was suggested by the Senator from Georgia [Mr. HILL] the other day, reverse the priority of the lien of the bonds? For in the act of 1864 the Government lien was subordinated to what are now called the first-mortgage bonds. Why can you not erase that contract? The Senator from Ohio will probably say "why can you not do it?" in the same spirit that he replies to me when I ask how can you alter another part of the contract?

Mr. THURMAN. The Senator certainly does not wish to misrepresent me.

Mr. SARGENT. Not at all.

Mr. THURMAN. I have said nothing in the world that intimated that we could destroy the lien of the first-mortgage bonds and make the lien of the Government paramount under the right to alter, amend, or repeal. That exactly marks the line of distinction. Every holder of a first-mortgage bond has his vested right to that bond and to the lien created by it, and you can no more take it away from him than you can take away from a man to whom the railroad company sold a tract of land and made a conveyance for it, his land. That marks exactly the distinction. What I said in answer to the Senator's question was that it ought to have been understood, if it was not, that that provision in the act of 1864 that says one-half the transportation account shall be paid to the companies is subject to repeal. I did not touch the question of the lands; I did not touch the question of the lien of the first mortgage; but it is the right to repeal that provision which says one-half the transportation account shall be paid to the Government.

Mr. SARGENT. There is no distinction in the act and there is no distinction in morals between one part of that contract and another, and there is no distinction in right between the men who loaned their money to the men who built the road and the men who, building the road, put in their own money, as they did to a certain extent. I say there is no distinction in morals whatever, and there is no distinction in law, and to that point the logic of the Senator necessarily drives him. But if this obligation of these first-mortgage bonds is so perfect, why do we find in the whereases of this bill suspicion thrown upon them, that "if they are prior to the Government bonds," that "if they have priority," and phrases of that kind, the only effect of which can be to cast suspicion upon them in the public mind as connected with the reservation of power still to alter and amend contained in this proposed bill. It draws the supposition that your power to amend and repeal goes so far as to repeal the prior lien of these bonds.

Mr. THURMAN. Does the Senator want to know why that is in the preamble?

Mr. SARGENT. I do.

Mr. THURMAN. I think the Senator must have heard why it is in the preamble. Does not the Senator know that it has been asserted—I believe it has been sworn to—that more than two millions of these first-mortgage bonds never were issued by the companies at all, but were surreptitiously taken, or in plainer language stolen; that is, what would amount to stealing. I do not pretend to say who alleged it, because I do not undertake to show the fact was so. The draftsman of the preamble did not see fit to foreclose that business; but that the first-mortgage bonds lawfully issued are a paramount lien on the road has never been disputed and is fully admitted in the report of the Judiciary Committee. Out of abundant caution the Senator who drew the preamble used that language because of the fact I have stated; and if the Senator wants the evidence to be produced here, it will not be very difficult to produce the evidence; whether it is true or not I do not know.

Mr. SARGENT. A very practical question I think will arise from the explanation given by the Senator; and that is how, if the fact is as he states, that two millions of these bonds are surreptitious, what two millions are they? How are they to be segregated? How are you to arrive at them? Who swore to it the Senator does not state; nor who stole the bonds is not stated. Whether they were stolen or whether it has been sworn to or not, I do not know. Certainly the committee do not show it in any report which they have made on this bill; but the effect of it is, as I said before, to cast suspicion on the whole body of these bonds, and coupled with the further reservation of the power shows that there is an assumption on the part of Congress of a power to change the priority of the liens as between the Government and these parties, to take back one-half of the land, and why not? Why not take back one-half the land as well as reserve an additional half of the transportation? They are covenants running together, inducements for building the road, having exactly the same validity, found in the same statutes, and of the same nature. The courts will construe this legislation not by the Senator's speech or by mine, but by its language.

Mr. President, I am in favor of a sinking fund being created for these companies; I am in favor of legislation that will accomplish that object, but I am not in favor of a sinking fund being created of such a burdensome character that the commerce of the Pacific will be taxed beyond endurance, or that any inducement for the next twenty-five or thirty years to the men who have the road shall be held out to let it go into dilapidation and out of repair. The intention of Congress was that a first-class road should be built and maintained; and now comes in a provision, provisional, for the time being, that they shall pay 25 per cent. of their net earnings, provided the other 75 per cent. shall be sufficient to pay mere operating expenses and the interest on certain debts. If they are not able out of that 75 per cent. to realize one dollar on any investment they may have made in it, or one cent of compensation for their services or on their capital, nevertheless the 25 per cent. must be paid in to the Government, and the necessary effect must be one of two: either the road will go to dilapidation, will not be kept up, or commerce will be taxed so heavily that it cannot bear the burden. I do not know that it can be expected that the Senator from Vermont or the Senator from Ohio would look upon this matter as I do, representing a Pacific State. I desire to divest myself of any prepossession for or against the men who have built this road, but I cannot justly dispossess myself of the inclination in favor of my own people, of those whom I represent.

This bill does not propose to keep down the rates which will be collected by these companies, and if the burden laid upon them is excessive, the necessary effect and consequence of it is that the rates of toll for travel and transportation must be increased, or else there is an insufficiency of revenue and the road goes to dilapidation and decay. Now, there is a medium which can be reached; there is a course which will be just to the Government and just to the companies, and the great object of the Government ought to be to safely secure the ultimate payment of its debt, and not to compel it necessarily to be paid by a certain time.

There are vast amounts to be handled, and the Government can well afford to require that a sinking fund shall be made of such a character that it will ultimately receive principal and interest upon its debt, but to shorten the time and increase the burden is to pro-

duce consequences which are not to be desired in a fair spirit by Congress, and certainly injurious to the companies. If a compromise of this kind can be arrived at—and I do not say it is the Railroad Committee bill, for there are things in that bill which I think should be changed for the benefit of the Government, and I do not think it is the Judiciary bill as it stands, especially with this further claim of power to increase exactions on the companies—but if a compromise can be arrived at which will avoid litigation hereafter, certainly a great point is gained. The Judiciary bill is full of litigation, from beginning to end. There is scarcely a section in that bill that will not necessarily be litigated before the courts, and especially with the threat held out in the speech of the Senator from Ohio to-day. If Congress shall assert that it can change from time to time, as it sees fit, the obligations of the companies, and compel greater and greater payments, even to the whole amount of the revenues of the road, even to the extent of violating everything that was supposed to be a contract in 1864, then the railroad companies are compelled at the very start by every instinct of self-preservation to contest with all their power in the courts the admission of any such principle. I myself believe that the courts will never hold that there is power to violate the contract which was made in 1862 and 1864. I believe they will hold further, that those acts, where they relate to the power of Congress to repeal, are to be construed *in pari materia*, and that no more under the act of 1864 than that of 1862 can Congress alter, amend, or repeal without having due regard to the rights of the parties.

But, Mr. President, I did not intend at this time to enter into this debate. I thought what I have said was necessary after the declaration of the Senator from Ohio.

Mr. ALLISON. I move that the Senate proceed to the consideration of executive business.

Mr. BOOTH. One moment. Before the subject passes from the consideration of the Senate I wish to take the floor with a view of submitting a few remarks to-morrow.

Mr. ALLISON. Very well.

Mr. BLAINE. I ask that my amendment may be printed.

The PRESIDING OFFICER, (Mr. ROLLINS in the chair.) That order will be made.

METHODIST CHURCH SOUTH.

Mr. BAILEY. Before the motion of the Senator from Iowa is put, I ask the Senate that the bill (S. No. 910) for the relief of the book agents of the Methodist Episcopal Church South may be made the special order for this day week.

Mr. ALLISON. I have no objection to that.

Mr. BAILEY. Of course it is not to interfere with the bill which is now the regular order.

The PRESIDING OFFICER. It is moved that Senate bill No. 910 be made the special order for Tuesday of next week. Is there objection?

Mr. McMILLAN. I think that had better not be fixed as a special order for any time, but let the matter be brought up upon motion when the Senate is full. The Senate should be full on an occasion of that kind.

Mr. BAILEY. I asked that it be made the special order for that day in order that the Senate might have notice of the time fixed for it, and I trust the Senator will agree to it.

Mr. McMILLAN. I should not have any objection to taking it up at any suitable time, but I dislike to have it fixed as a special order for a particular day.

Mr. BAILEY. I ask that the Senate may fix it for that day, so that all Senators may know when the case will be presented who take an interest in the subject.

The PRESIDING OFFICER. The Senator from Tennessee moves that the Senate bill No. 910 be made the special order for Tuesday of next week.

The question being put, there were on a division—ayes 21, noes 12.

The PRESIDING OFFICER. The motion requires a two-third vote; the negative prevails.

EXECUTIVE SESSION.

Mr. ALLISON. I now insist on my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After thirty-six minutes spent in executive session the doors were reopened, and (at four o'clock and six minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, April 2, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

RAILROAD AND TELEGRAPHIC LINE IN DAKOTA.

Mr. KIDDER, by unanimous consent, introduced a bill (H. R. No. 4226) for the construction of a railroad and telegraphic line from Bis-

mark to Lake Kampeska, in the Territory of Dakota; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

PAY OF EMPLOYEES.

Mr. GLOVER, by unanimous consent, submitted the following resolution: which was read, considered, and agreed to:

Whereas the clerk and experts of the Committee on Expenditures in the Treasury Department, by an inadvertence, were not sworn into office at the date of their respective appointments and date of service, and for which reason payment is denied,

Resolved, That the Clerk of the House be, and hereby is, directed to pay out of the contingent fund of the House said clerk and experts from the date of their respective appointments as though they had been sworn into office at the proper time.

Mr. GLOVER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CLAIMS AGAINST THE POST-OFFICE DEPARTMENT.

Mr. CALDWELL, of Tennessee, by unanimous consent, introduced a bill (H. R. No. 4227) to provide for the auditing and adjusting of claims against the Post-Office Department, and for other purposes; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

EDUCATION OF THE BLIND.

Mr. HASKELL, by unanimous consent, from the Committee on Education and Labor, reported, as a substitute for House bill No. 1031, a bill (H. R. No. 4228) to promote the education of the blind, accompanied by a report in writing; which bill was read a first and second time, with the accompanying report, ordered to be printed, and re-committed to the Committee on Education and Labor, not to be brought back on a motion to reconsider.

P. S. RUSH.

Mr. CALDWELL, of Kentucky, by unanimous consent, introduced a bill (H. R. No. 4229) to place upon the pension-roll the name of P. S. Rush, captain of the Thirteenth Regiment of Kentucky Infantry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PRINTING OF TARIFF BILL.

Mr. BALLOU. I ask unanimous consent to submit for consideration and adoption at this time the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the Committee of Ways and Means be, and hereby are, instructed to prepare and have printed for the use of the House 2,500 copies of House bill No. 4106, to impose duties upon foreign imports, showing the changes proposed to be made in the law as it now stands by placing the present and proposed duties on imports in columns opposite each other.

Mr. HALE. I think there better be a larger number printed. There is a great demand for the bill, and when these emendations are made there will be a still greater demand. I would suggest that the number be increased to 4,000.

Mr. BALLOU. I will modify the resolution as suggested.

There being no objection, the resolution, as modified, was adopted.

Mr. BALLOU moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WORKS OF ART.

Mr. STEPHENS, of Georgia, by unanimous consent, introduced a bill (H. R. No. 4230) to provide for the free importation of works of art in certain cases; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

SALE OF PUBLIC LANDS.

Mr. GAUSE, by unanimous consent, introduced a bill (H. R. No. 4231) to provide for the more economic sale and disposal of the public lands; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

PATENT LAWS.

Mr. VANCE. I am directed by the Committee on Patents to ask unanimous consent to report for consideration at this time the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That 5,000 copies of the arguments and statements before the Senate and House Committees on Patents upon the bills to amend the statutes in relation to patents, and for other purposes, (H. R. No. 1612 and S. No. 300,) be printed for the use of the House of Representatives, as follows: 500 copies for the use of the Committee on Patents and 4,500 copies for the use of the House of Representatives.

Mr. EDEN. Let that be referred to the Committee on Printing.

Mr. VANCE. I think if the gentleman will hear me a moment—

The SPEAKER. The gentleman from Illinois objects to its present consideration.

Mr. VANCE. If the gentleman will hear me, I think he will have no objection. The Senate has ordered 2,400 copies to be printed.

Mr. EDEN. I call for the regular order.

Mr. VANCE. It is now in type, and it will cost very little to print these additional copies.

Mr. EDEN. I insist upon the regular order.
Mr. VANCE. Then let it be referred to the Committee on Printing.
There being no objection, the resolution was received and referred to the Committee on Printing.

ORDER OF BUSINESS.

The SPEAKER. The regular order being called for, the morning hour begins at half past twelve o'clock, and the first business in order during the morning hour is the call of committees for reports of a public character. The call rests with the Committee of Ways and Means.

DISTRICT OF COLUMBIA BONDS.

Mr. SAYLER. I am instructed by the Committee of Ways and Means to report back with a favorable recommendation House bill No. 1257, to prevent default or delay in the payment of the interest on the bonds authorized by an act of Congress approved June 20, 1874.

Mr. EDEN. I make the point of order on that bill that it contains an appropriation, and under the rule must receive its first consideration in Committee of the Whole.

Mr. SAYLER. I hope the gentleman will not insist on that point of order.

Mr. EDEN. I certainly will.
Mr. SAYLER. This bill might as well be considered now; there is no reason why it should not be. I am willing to give the amplest time for discussion of the bill upon its merits in the morning hour as in Committee of the Whole. If that is the only purpose the gentleman has in view—

Mr. EDEN. I shall certainly insist on this bill going to the Committee of the Whole.

Mr. SAYLER. The gentleman means, then, that he will take every technical advantage to delay the bill. I am as willing to give as full opportunity for discussing it in the morning hour as could be had in Committee of the Whole.

The SPEAKER. The gentleman from Illinois [Mr. EDEN] makes the point of order that the bill must receive its first consideration in Committee of the Whole. The Chair sustains the point of order.

Mr. BUTLER. I was about to call the attention of the Chair to the fact that this bill takes no additional money out of the Treasury, because this interest is already guaranteed by law and by the terms of the bond. It must be paid, and the only question is as to the manner of payment.

The SPEAKER. The Chair thinks that it not only takes money out of the Treasury for this year, but provides for taking it out for all time to come, until the principal of the bonds is paid.

Mr. BUTLER. The guarantee is as long as that.

The SPEAKER. The bill will be referred to the Committee of the Whole on the state of the Union.

Mr. SAYLER. I desire to give notice that at a very early day (not interfering with the business of the Committee on Appropriations) I will move to go into Committee of the Whole for the consideration of this bill.

PAYMENT OF INTERNAL-REVENUE OFFICERS.

Mr. BURCHARD, from the Committee of Ways and Means, reported back, with an amendment, the joint resolution (H. R. No. 105) authorizing the Secretary of the Treasury to pay certain officers of the internal-revenue service the amounts due them for their services as such officers previous to the time of executing their bonds and taking the oath of office as prescribed by law.

The joint resolution was read, as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in the cases of John C. Cartwright, of the collection district of Oregon; Clark Waggoner, of the tenth collection district of Ohio; Ellery M. Braxton, of the collection district of South Carolina; W. H. Wheeler, of the fifth collection district of North Carolina; William M. Woodcock, of the fifth collection district of Tennessee; Otis H. Russell, of the third collection district of Virginia; and Burt Van Horn, of the twenty-eighth collection district of New York, who were respectively appointed collectors of internal revenue for the districts mentioned during the recess of the Senate, which existed until the 15th day of October, 1877, and duly entered upon the discharge of the duties of such appointment, and were during the session of the Senate which began on the last-mentioned date nominated, and, upon confirmation by the Senate, appointed and commissioned as collectors for their respective districts, and continued in the discharge of their official duties, without having delivered the official bonds or taken the oaths prescribed by law, under the last-mentioned appointment, until subsequent to the adjournment of said session of the Senate, the Secretary of the Treasury is hereby authorized to pay such collectors the compensation and expenses belonging to their respective offices, and which would, according to law, have accrued to them, had they, before entering upon the discharge of their duties under their last appointment, or before the expiration of the said session of the Senate, given the bonds and taken the oaths prescribed by law: *Provided*, Such bonds shall have been given, and such oaths taken, prior to the passage of this resolution.*

Mr. BUTLER. I rise to a point of order. In the first place this is a private bill for the relief of certain gentlemen; and, secondly, it takes money out of the Treasury.

The SPEAKER. The first point is not valid; the second one is. The bill must receive its first consideration in Committee of the Whole. It will be referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

SAMUEL B. STAUBER AND OTHERS.

Mr. ROBBINS, from the Committee of Ways and Means, reported back, with a favorable recommendation, the bill (H. R. No. 1326) for the relief of Samuel B. Stauber and others; which was referred to the

Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

CUSTOMS COLLECTORS AT PLYMOUTH AND NANTUCKET.

Mr. BANKS, from the Committee of Ways and Means, reported back, without amendment, the bill (H. R. No. 1271) establishing the salaries to be paid the collectors of customs of Plymouth and Nantucket, Massachusetts.

The bill was read. It provides that there be allowed and paid to the collector of customs of the district of Plymouth, Massachusetts, a salary of \$150 per annum, and to the collector of customs of the district of Nantucket, Massachusetts, a salary of \$250 per annum from the 22d day of June, 1874, to the 27th day of February, 1877, provided that this salary shall not increase the maximum now provided by law.

Mr. BANKS. This bill makes an appropriation; but if the House will hear me one moment I think there will be no objection to it.

Mr. EDEN. I will reserve a point of order till I hear the gentleman's statement.

Mr. BANKS. This bill is designed to correct a mistake in the revision of the statutes. The salary for the collector of Plymouth was established in 1799 and that for the collector of Nantucket in 1824. One was established at \$150; the other at \$250. In the revision of the statutes the provision for the payment of these salaries was unintentionally omitted. In 1877 Congress passed an act to remedy the error in the revision of the statutes by appropriating money for the payment of these salaries, but that act only took effect from the date of its passage. The salaries have been paid from that date; but there was an interval from June 22, 1874, when the revision of the statutes was enacted, till February 27, 1877, when the act authorizing the payment of these salaries was passed; and there is no authority of law for the payment of the salaries for that interval. This bill is to remedy that difficulty.

Mr. EDEN. Does this bill provide for paying these officers during that interval at the rate fixed in the last appropriation?

Mr. BANKS. At the rate fixed by law, whatever it may be.

Mr. EDEN. The act of 1877, as I understand, made an appropriation to pay these salaries; but there is a period of time back of that for which payment has not been provided. Is the amount fixed in this bill the same amount fixed in the last appropriation bill?

Mr. BANKS. The amount fixed in this bill is the same that it was by law during the interval between 1874 and 1877.

Mr. EDEN. I understand that. But the appropriation bill passed in 1877 fixed the compensation for these officers; but I want to know whether this bill changes that rate of payment so that they are to receive a larger amount.

Mr. BANKS. I understand that it does not.

Mr. EDEN. If it does not change the amount, and does not give these officers more than they were allowed by the appropriation bill, I have no objection.

Mr. BANKS. I am unable to say precisely how that is, because I do not know how much of the interval between 1874 and 1877 would be covered by the appropriation. But I do not desire that there shall be any increase of salary.

Mr. SAYLER. As I understand, this bill simply legalizes the action of these officers during that time, and provides for paying them the same salary they would have been paid if the formalities of law had been observed.

Mr. BANKS. I am willing that the bill shall be amended so that these officers for the interval referred to shall receive no more than the amount authorized by the appropriation of Congress.

Mr. EDEN. Then I withdraw the point of order.

Mr. BANKS. On examining the bill, I find that it contains this proviso:

Provided, That this salary shall not increase the maximum now provided by law.

I think this covers the point suggested by the gentleman from Illinois, [Mr. EDEN,] and no amendment is necessary.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ST. GEORGE SOCIETY, PHILADELPHIA.

Mr. KELLEY. I am instructed by the Committee of Ways and Means to report a joint resolution (H. R. No. 151) directing the Secretary of the Treasury to refund to the Society of the Sons of St. George, established in Philadelphia, the sum of \$1,440.25 in gold, being the amount paid by said society upon the colossal statue of St. George and the Dragon.

The joint resolution was read a first and second time.

The joint resolution, which was read, directs the Secretary of the Treasury to cause to be refunded to the Society of the Sons of St. George, established at Philadelphia, the sum of \$1,440.25 in gold, being the amount paid by said society upon a colossal bronze statue of St. George and the Dragon imported by them and specially designed for the ornamentation of the building of said society in Philadelphia.

Mr. EDEN. I should like to ask the gentleman from Pennsylvania why this exception is made? Why not allow everybody to import these things free of duty?

Mr. KELLEY. The letter of the Secretary of the Treasury will explain the whole matter. I ask the Clerk to read the letter.
The Clerk read as follows:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., March 5, 1878.

SIR: I have the honor to transmit herewith a petition from the Society of the Sons of St. George, established at Philadelphia for the advice and assistance of Englishmen in distress, representing that said society has paid as import duty the sum of \$1,440.25 in gold on a colossal bronze statue of St. George and the Dragon, specially designed for that society, and which has been raised to its allotted place above the portico of the building of the society in Philadelphia, and praying Congress to remit and refund such duties.

I also transmit copies of certain papers on file in this Department bearing upon the subject matter.

The free list of the Revised Statutes exempts from duty statutory imported for the use of a society or institution incorporated or established for philosophical, educational, scientific, literary, or religious purposes, or for the encouragement of the fine arts, and not intended for sale.

It does not appear that this statue falls within the language of this exemption, the Society of the Sons of St. George not being of the character mentioned, but it does fall within the spirit and general purpose of the act. The statue is a work of art highly praised by persons of taste, and was imported by a charitable society of long standing, composed largely of naturalized American citizens who would seem to be entitled to the benefits of the exemption granted to works of art imported by municipal corporations, and I therefore recommend that Congress authorize a refund of the duty referred to.

Very respectfully,

JOHN SHERMAN, Secretary.

Hon. SAMUEL J. RANDALL,
Speaker of the House of Representatives.

Mr. COX, of New York. I understand this to be a proposition to remit the duty on the statue of St. George and the Dragon.

Mr. KELLEY. It is a proposition which has been sent to the committee through the Speaker from the Treasury Department.

Mr. COX, of New York. It is a free-trade bill.

Mr. KELLEY. It comes from the Treasury Department, recommending the refunding of the duty on the statue of St. George and the Dragon.

Mr. COX, of New York. I have no objection to any free-trade proposition.

Mr. KELLEY. Then do not make any.

Mr. COX, of New York. I do not, coming from that quarter. Mr. Speaker, I have no objection to the proposition.

Mr. KELLEY. I am only the organ of the committee.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question recurred on the passage of the resolution.

The House divided; and there were—ayes 58, noes 34.

So (no further count being demanded) the joint resolution was passed.

Mr. KELLEY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PORT OF BATH, MAINE.

Mr. BURCHARD, from the Committee of Ways and Means, reported back a bill (H. R. No. 3123) extending the privileges of sections 2990 and 2997 of the Revised Statutes, inclusive, to the port of Bath, in the State of Maine, with the recommendation that it do pass.

The bill, which was read, provides that the privileges of sections 2990 to 2997 of the Revised Statutes, inclusive, be extended to the port of Bath, in the State of Maine.

Mr. CONGER. What is this for?

Mr. BURCHARD. It simply provides that the privileges accorded to other ports by the sections of the Revised Statutes referred to of transportation in bond be extended to the port of Bath, in the State of Maine.

Mr. CONGER. That is one of the interior ports of entry, and I have no objection.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BURCHARD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WASHINGTON MONUMENT.

Mr. FOSTER, from the Committee on Appropriations, reported as a substitute for House joint resolution No. 76, a joint resolution (H. R. No. 152) to enable the joint commission to carry into effect the act of Congress providing for the completion of the Washington Monument; which was read a first and second time.

The joint resolution, which was read, provides that the joint commission created by the act of Congress entitled "An act providing for the completion of the Washington Monument," approved August 2, 1876, be, and they are hereby, authorized to apply a portion of the money appropriated by said act, not exceeding \$36,000, to give greater stability to the foundation, if they deem it advisable.

Mr. CONGER. Is that joint resolution open to a point of order?

The SPEAKER. The Chair will ask the gentleman from Ohio whether he understands correctly the purpose of the joint resolution to be to change the manner of the expenditure of the original appropriation?

Mr. FOSTER. Mr. Speaker, as I understand it, it does not change it.

It merely directs or authorizes the joint commission to do what they have some doubts about their having the right to do; that is to say, whether they have any right under the original appropriation to use a portion of it to strengthen the foundation of the monument.

The SPEAKER. Has the appropriation already been made?

Mr. FOSTER. Certainly.

The SPEAKER. This changes the manner of expenditure only, as the Chair understands, and does not contain an appropriation of any money.

Mr. FOSTER. That is all.

The SPEAKER. What point, then, does the gentleman from Michigan make?

Mr. CONGER. The original appropriation was for the erection of a monument, and this proposes to divert a portion of that appropriation to strengthen the foundation of the monument.

The SPEAKER. It does not embrace any appropriation or any increase of the amount already appropriated in any respect.

Mr. CONGER. By the original resolution the money could not be used at all, unless the foundation was found to be sufficiently strong. It has been found not to be sufficient, and it is now proposed to divert a portion of the money to make it sufficient. There was a limitation in the original act in this very direction. No appropriation was made for the foundation. The appropriation was expressly excluded from being used at all unless the foundation was found to be sufficient.

The SPEAKER. The Chair thinks that in the case of an appropriation, for instance for the collection of internal revenue, the number of collectors could be increased by law and yet the act increasing the number might not contain an appropriation and would not be subject to a point of order. Their compensation would be allowed to come out of a general appropriation already made for the purpose of the payment of the salaries of collectors, and that would not be subject to the point of order.

Mr. CONGER. But if the appropriation sought to be diverted by this joint resolution was made upon the condition that the foundation was already sufficient?

The SPEAKER. That runs to the merit; and the merit seems to be in the view of the Chair that it would be very inadvisable to put a monument anywhere that the foundation would not sustain.

Mr. CONGER. That is why the appropriation was limited, not to be used if found insufficient; and being found insufficient, this bill proposes to use it contrary to the provisions of the law.

The SPEAKER. The Chair is unable to see that the joint resolution is subject to the point of order.

Mr. CONGER. I move, then, that it be referred to the Committee of the Whole.

The SPEAKER. The Chair recognizes the gentleman to make that motion.

Mr. FOSTER. I move the previous question on the passage of the joint resolution.

The SPEAKER. The gentleman did not when he reported the joint resolution make any demand for the previous question. The sense of the House can as well be tested in the one way as the other.

Mr. FOSTER. It ought not to go to the Committee of the Whole. If this thing is to be done it is important that it should be done at once.

Mr. CONGER. It ought not to be done at all.

Mr. FOSTER. Let the House determine that now.

The question being taken on Mr. CONGER's motion to refer the joint resolution to the Committee of the Whole on the state of the Union, there were—ayes 59, noes 53.

Mr. FOSTER. I must ask for tellers.

The SPEAKER. A quorum not having voted the Chair will order tellers; and appoints the gentlemen from Ohio, Mr. FOSTER, and the gentleman from Michigan, Mr. CONGER.

Mr. FOSTER. Let the joint resolution be read again, that the House may understand what it is voting on.

The joint resolution was again read.

The House again divided; and the tellers reported—ayes 62, noes 84.

So the motion was not agreed to.

The question was on the engrossment and third reading of the joint resolution.

Mr. FOSTER. I yield five minutes to the gentleman from Michigan, [Mr. CONGER.]

Mr. CONGER. Mr. Speaker, my objection to diverting the appropriation as required by this joint resolution is that it is in the opinion of the engineers very uncertain whether the foundation of this monument is sufficiently strong to hold the intended superstructure as it is now or whether it can in any manner be made sufficiently strong. It is finished now but about a quarter of the way with perhaps a third or a half of the weight resting upon the foundation; and it is claimed that it has already become a leaning tower.

Now, sir, if this sum of \$30,000 or \$40,000 is appropriated to strengthen the foundation, the remaining superstructure will be completed upon it whether it is sufficient or not. It is the opinion of many gentlemen in this House that the true way and the most economical way to complete this structure, which I think we all desire to have completed, is to take that material down; and inasmuch as the object of such a structure is elevation, eminence, position, where it may be seen from all the surrounding country, to remove it to some

one of the high points around the city, some high point, for example in the grounds of the Soldiers' Home or in the neighborhood of the Scott Monument, where a good foundation can be obtained and where appropriations to build it can be secured in this House any day and any hour from all those who oppose the present transfer of this appropriation for this purpose, to build a monument worthy of the Father of his Country, and worthy of the American people to-day.

When the location down in the swamp was selected, it was supposed that the approach to this capital city would be mainly by water, on the Potomac. The modes of transportation and of travel since that time have entirely changed; and now the object in the construction of such a monument must be that it may be in view of the capital city, on some elevation which itself would be higher than or as high as the top of the monument where it is now being constructed. You should begin with an elevation as high as its top in its present situation, in full view of the city; and then the erection of a monument four hundred or five hundred feet higher would be a matter of pride to every American citizen, and it could be seen from every part of the city and from every part of the District, and for miles and miles around the country in every direction.

I desire, in common I believe with every patriotic citizen, that some monument to Washington may be erected and that it may stand while time lasts in memory of that great man. But the reason for fixing its location in the central view of the approach by the Potomac no longer exists. That never will be the great thoroughfare of approach to this city; and the effect of a massive monument which has only its massiveness and its height to commend it will be increased fourfold by placing it on some elevation. I believe it is the universal voice of those who visit this city when they see where that monument is situated that it is in a very inappropriate place; and I believe every member of Congress now or hereafter would vote for the completion of that monument, whatever sum might be necessary, if it should be taken out of the swamp and placed upon the hill.

That is my objection to the passage of this resolution, which proposes to divert a portion of the appropriation made by Congress and compel its use in completing the monument on this uncertain and insecure foundation, where it has been commenced. Now, the building of this monument was stopped years and years ago, because the engineers then believed, and still believe, those who have expressed an opinion upon it, that its foundation on the muddy bottom of the old Potomac where the land had once been washed out far deeper than has been reached now, was insecure. A foundation composed mostly of gravel, clay and mud, the mere filling up of the deposits from the river, cannot be made suitable for the foundation for a monument of this altitude of four hundred and fifty feet high.

Mr. HOUSE. Will the gentleman from Michigan yield to me for a moment?

Mr. CONGER. I will.

Mr. FOSTER. Has not the time of the gentleman from Michigan expired?

Mr. CONGER. It would not have expired; but for the interruptions.

Mr. HOUSE. I desire to ask the gentleman from Michigan this question: whether it would not cost more to take the monument down and remove it to some other location, than it would to strengthen the present foundation?

Mr. CONGER. I do not think it would cost more to take it down and remove if a proper temporary railway was constructed for that purpose, to the top of some elevation around the city than it would to strengthen the foundation.

Mr. FINLEY. Have not the foundations been found to be insecure?

Mr. CONGER. If gentlemen have visited the location they will know that around the monument the whole ground is honey-combed with borings to find what the material is upon which it rests, and the material brought up from those borings is composed of a filling in of gravel, clay, and alluvial deposits and decayed vegetable matter, such as fills up any place where there has been a washing out of a deep trench and its subsequent filling up with such deposits from the river as generally accumulate in such places.

I wish just to say this: that that is the sole reason why I have from time to time in this and former Congresses opposed an appropriation for the completion of this monument where it is. And I am very glad of the opportunity of saying that that is the only reason. I will join heartily with all other gentlemen in the House in any reasonable mode in securing a proper foundation for the erection of a monument which shall be an honor to the father of our country and an honor to all who may assist in its erection.

Mr. FOSTER. I now demand the previous question.

The previous question was seconded and the main question ordered.

Mr. FOSTER. This attempt to build a monument was first commenced in 1789, in the Continental Congress, I believe. It was renewed from time to time, and I think some time in seventeen hundred and ninety odd, General Washington himself selected the spot where this monument now stands. It was then in the exact geographical center of the District. It was in full sight of Mount Vernon and of the vessels approaching the city up the river. The present purpose is to build this monument four hundred and eighty-five feet high. I think with that height it can be seen above the tops of the hills in any approach to the city.

Now the gentleman from Michigan [Mr. CONGER] proposes to tear down this monument, carry it away, and put it on the top of some high hill in the neighborhood. Does he know that we have ceded jurisdiction over this ground on which the monument stands to the Washington Monument Society, and that every dollar that has been expended up to this time has been expended by that society.

We have no more control over the ground upon which this monument stands than we have over the ground across the river. It belongs to the monument society, and without their consent we are not able to touch it.

What I want to say further is this: that the society has gone on in good faith, and has honestly expended the sum of \$250,000, and have erected the monument now over 200 feet high, and that is more than half the work done already to-day. Perhaps the \$200,000 that we have appropriated may not complete it, but the question now arises as to whether the foundation is secure or not. I have read the reports upon this subject with great care, and the gentleman from Michigan [Mr. CONGER] is mistaken when he says that all the engineers in the past have condemned this foundation. That is not true, and that is not the reason why the Washington Monument Society have not continued on this work. The reason is the want of funds. If gentlemen will examine the reports of the engineers they will find that the weight of testimony is in favor of the sufficiency of the foundation to sustain the monument now proposed to be built upon it, but the board of commissioners, out of abundant caution, propose to use a portion of the money appropriated by Congress for the strengthening of the foundation.

Mr. CLYMER. Is it not a fact that the monument society have some \$60,000 in their treasury?

Mr. FOSTER. No, sir; they have nothing in their treasury, or very little.

Mr. CLYMER. I was told that they had \$60,000.

Mr. FOSTER. Not at all. You will find, if you will take the trouble to look at it, in the speech which I made two years ago when this appropriation was made, a full statement of the whole transaction from beginning to end; and I undertake to say, although the conduct of the monument association has not been brought in question here, but I have heard it brought in question in private, that their action has been perfectly square and straight and they cannot be assailed in any particular.

Now, all there is of this question is this: will this House permit a portion of the \$200,000 which we have appropriated, if in the opinion of the board of commissioners who have the matter in charge it is necessary to do so, to be used to strengthen the foundation of this monument? That is the whole question.

I now yield to the gentleman from Maine, [Mr. HALE.]

Mr. HALE. The trouble with me about this matter is that I believe if we do not complete this monument we shall not have any monument to General Washington in this city. It is all well enough to say it would be better to have it somewhere else than where it is now located. That might be an argument of some weight if we were just starting upon the enterprise. But a great sum of money has already been expended upon this monument, and the contributions failing, the enterprise came to a stand.

This whole subject was considered and discussed very carefully and thoroughly in a previous Congress, and we then appropriated the sum of \$200,000 to complete this monument. The gentleman from Ohio [Mr. FOSTER] omitted to state just now that when that appropriation was made the then Washington Monument Association turned over to the Government the whole matter. So that if we go on and spend upon this monument the money which has been appropriated we will have the entire control of it and the advantage of all the benefactions which have been given by the people in the years past. The whole matter will be entirely under our control.

When the change of management was made under the appropriation the representatives of the Government believed it necessary to take extra pains in order to ascertain whether there was any truth at the bottom of the statements which have been made from time to time that the foundation of this monument was insecure. It was determined to have an examination made by skillful engineers, and it was made. The conclusion of those engineers, derived from examination and from borings, is not that the foundation is insecure. The conclusion derived from their investigation is that even as the foundation now is, (and it is remarkable that if the foundation is so bad, as has been claimed, there has been no jarring or leaning of the monument,) it is a good one and the monument, if completed, would stand upon it for ages. But, as has been said, it is proposed to spend a portion of this money from extra precaution to make what is already certain doubly certain.

Now you may turn this enterprise awry, and say that we will have the monument somewhere else; but as sure as you do that we will still have this unsightly structure, this unfinished monument, with its bald, ragged, jagged top, staring us in our faces, an offense in the sight of every citizen that comes to Washington for years and years. But if this money which we have already appropriated is allowed to be spent, after due consideration, as it is proposed to spend it, then the shaft will arise and the monument will be completed; and although it will not attain such a height and will not tower so loftily as if it had been placed on Capitol Hill, for instance, still it will be a magnificent monument and an honor to the country. Every man

of us ought to feel ashamed that this monument was not completed years and years ago. I hope that the attempt, or perhaps the inclination only, to stop this enterprise and leave it where it is, for that is what it really amounts to, will not be permitted to prevail.

Mr. ITTNER. Will the gentleman allow me to ask him a question?

Mr. HALE. Certainly.

Mr. ITTNER. Has it been conclusively demonstrated that this monument does not lean? I have seen it repeatedly stated in the press of the country that it does lean, and it seems to me that if this monument does lean in the least degree, it would be unwise to progress further in its construction.

Mr. HALE. The engineers find, after examination, that there has been no material inclination of the monument, perhaps not even in the slightest degree; and even if there is the slightest inclination it is not of any account as indicating an insecure foundation. In fact it is claimed by some that there is no inclination whatever from the original design. And even by those who claim that there has been an inclination it is not claimed to amount to more than the seven-eighths of an inch.

Mr. FOSTER. I now yield to the gentleman from New York, [Mr. Cox.]

Mr. COX, of New York. I believe that it is generally conceded that all the ground in that part of the city, formerly called "the swamp," is made up of alluvial soil, and is very uncertain as a foundation. Not long since an attempt was made to test the soil down here in the Botanical Garden for the purpose of ascertaining if it would afford a proper foundation for the erection of a Congressional Library building; but it was found that it was oozy and wet and would furnish no stable foundation.

Now I have no doubt myself that the foundation of the Washington Monument is at best very insecure and uncertain; and anything which is uncertain will always call from me a negative vote on appropriations. One thing is very sure, and that is that if that monument is ever finished, it will still be almost as unsightly as it is today. It is not the kind of monument which we should erect in this city to the memory of George Washington. The proper monument would be an arch; and the material which is already collected there, if properly used, would make a splendid monument to Washington, a decoration to the city of Washington in every sense of the word.

We have already appropriated \$200,000 for the completion of this monument. The very fact that this bill is now brought in here indicates that these engineers are uncertain about the foundation of the monument, else why should they ask for this sum of money to be devoted to this special purpose? They are not sure of the foundation. And in fact no one can be sure in the strict sense of the word of the foundation of anything, either of ethics, philosophy, or politics, as gentlemen on both sides of this House have found out.

But, Mr. Speaker, I simply rose to say that if it were possible today I would vote to repeal the law giving \$200,000 for the purpose of completing this monument. I would vote to remove the material to one of these eminences around Washington, and there erect an arch or something else that would be a decoration to the city and an honor to the Father of his Country. But if we go on in this uncertain sort of way, if we divert a portion of this \$200,000 for a foundation, we shall find when the structure has been carried one hundred feet higher that we shall have nothing but a mere unshapely mass, having no significance in connection with the memory of George Washington. Therefore, without intending in any sense to impinge on the rights of the Appropriations Committee, I will move to lay this bill on the table, and at the proper time I will ask that the bill of my colleague [Mr. EICKHOFF] be taken up and considered, and that we shall provide that no more money shall be spent upon this matter until we are sure of our foundation.

Mr. BUTLER. With the leave of the gentleman from Ohio, [Mr. FOSTER,] I want to call attention to one point that seems to have passed *sub silentio*. It is assumed that this monument is down in a hole or a swamp. Now, I submit that any gentleman who will step out here to the west side of the Capitol and look out will find that the monument is on a very considerable elevation, the third or the fourth in height within the limits of the city of Washington. Although viewed from some points there may appear to be a depression, gentlemen will be very much surprised to find how high the base of the monument is.

There is another consideration. Washington knew where he wanted his monument a great deal better than I do, and I think he should be gratified, even at this late day, in having his monument on just the spot that he selected, and where he made a reservation for the purpose in laying out the city. If it is only going to cost \$26,000 to make a good foundation, I think we should certainly authorize the expenditure.

Some gentlemen have referred to the statement that the structure already built leans. One of the engineers told me that in a height of two hundred feet there was a variation of seven-eighths of an inch from a vertical line. Now, if any man who is building (and I have had some experience in that matter) has workmen engaged during twenty years and finds that in an elevation of two hundred feet the variation from a plumb line is not greater than seven-eighths of an inch, his workmen will have been better mechanics than are usually found.

But all this matter is to be left to the judgment of the commissioners. If they find that with this expenditure of money they can-

not make the foundation sufficient, they will not go on and complete the structure. What is wanted now, as I understand, is to put a concrete wall around on the outside of the monument, a circular, brace-like abutment, so as to prevent any possibility of any washing or giving away hereafter. This is what is wanted, as the engineer told me. I cannot conceive of any reason why we should not allow those to whom we have intrusted this matter—one of them at least a good engineer—to go on and build this monument, without undertaking here in this House to decide questions of civil engineering.

Mr. CLYMER. In the Forty-fourth Congress it was determined, in a fit of patriotic fervor, that we would give \$200,000 for the completion of the Washington Monument on condition that the foundations were found to be sufficient. Examination has demonstrated that the condition has failed; that the foundations are not sufficient to justify carrying that structure to the height originally contemplated.

Mr. FOSTER. That is not a settled matter.

Mr. CLYMER. It is so far settled that those to whom we have intrusted the determination of the fact have reported to us that they need \$36,000 to make good the condition without which we said we would not make the appropriation.

Now, Mr. Speaker, I do not believe that at any other time than in that exceptional year, the centennial year of which we have heard so much, Congress would ever have given one dollar to complete that monument. For thirty years it has been building. For thirty years the patriotism of the people has been appealed to; and while a considerable part of the original design has been accomplished, yet the structure has stood for twenty years untouched, and in the minds of many a disgrace and a shame to the American people. I am sorry to say that in my judgment and in that of many with whom I have held intercourse regarding this subject the structure, if finished, would be unworthy of our great nation as a monument to him who was "first in war, first in peace, and first in the hearts of his countrymen." It is meaningless; it is a mere shaft. There is nothing in the past like it; and I do not believe that the future will ever repeat an experiment of this kind. In the judgment of those in whose taste I have great confidence a monument to Washington should be something that would have a meaning; for instance, an arch, as the gentleman from New York [Mr. Cox] has suggested, on which there might be a colossal equestrian statue of Washington.

The difficulty is that the present monument belongs to an association, the Washington Monument Association, composed of excellent gentlemen, many of whom have devoted much time and attention to its erection and completion. And we, representing the Government, have no right to come in and say what shall be done with that pile. If the association cannot complete it, there it will stand always a disgrace, and they can only complete it by appealing to us. Therefore it is to be decided by this House to-day whether we will consent it shall so be completed on that spot and in that shape. If there was a condition annexed to the appropriation of \$200,000 that it should only be available provided the present structure should be razed to the ground and its material used for the erection of a memorial which would be approved by those who have refined judgment and taste in matters of art, I think this House would be doing what would be best. It should be removed to some higher point; and I have the judgment of others, sir, when I say it would cost less to take the present monument down and use the material in the erection of an arch upon some high point within this District than to complete the monument in its present shape.

Mr. BUTLER. Will the gentleman from Pennsylvania allow me to ask him a question?

Mr. CLYMER. Certainly.

Mr. BUTLER. It is whether in the history of the world any arch can be found built over a place where nobody goes? Can any arch be found anywhere at a place which leads nowhere? [Laughter.] I do not know of any place we want an arch over. And let me ask the gentleman another question, whether he wants any exhibition of modern taste in the building of a few monuments like the exhibition of taste we have in the present calico fence at the foot of the hill near Pennsylvania avenue? [Laughter.]

Mr. CLYMER. If mistakes are made it is not to be assumed we are to continue to make them. As to whether we have any place which would be appropriate for the construction of an arch, there may be a difference of opinion. I would suggest the approach to the eastern front of the Capitol, three or four squares off, and if we should there build a grand arch one hundred or one hundred and fifty feet high, with an equestrian statue of Washington, it would have a meaning, it would tell a story, it would be an honor to his memory and a credit to the generation which erected it.

Mr. HALE. Is there any objection to finishing the monument, and then if you want an arch building that afterward? There is no incompatibility between the two. I agree with what my friend from Massachusetts has said.

Mr. CLYMER. I have no doubt the gentleman will agree with me it would be impossible after completing the one to build the other, for if you waste money on the present monument we will never appropriate money for another.

Mr. HALE. It is just as easy to build the monument and then build the arch afterward, if we want it, as to take down the monument and build the arch now. It would cost no more to get the arch with the monument than without it.

Mr. WRIGHT. I will detain the House but a moment. I rise, Mr.

Speaker, for the purpose of vindicating history, the history connected with that monument. I was a member of Congress when the foundation-stone was placed under that monument. I was there, sir. The foundation is of hard, cemented gravel. I saw men testing the gravel-bed with crowbars, making an effort to enter the gravel at the bottom of the pit, and they could not effect it. The foundation of the monument itself is of huge rocks that weigh separately ten and fifteen tons. I saw one of the first of those huge rocks placed at the bottom of that monument.

Now, so far as regards the foundation, I will tell you what I know: I have no doubt in regard to the sufficiency of the foundation to support and sustain that monument. That is not the trouble, sir. The trouble is whether the material can stand the crushing weight of the designed height of the monument. I saw them making experiments at that time in crushing the material put in the monument to see what power of resistance it possessed and what weight it would sustain. That was the question when the monument was started, whether the material composing a single column five hundred feet high, of the size and dimensions proposed, could sustain the pressure brought by the accumulation of weight as the monument went up toward its full height.

That was the difficulty at that time. I have no doubt in my own mind, after the experiments made at the time which I saw, and from the opinion of experts then given, the monument can sustain itself; that is, the material of which it is composed will sustain the monument, notwithstanding the great pressure brought upon it.

I am in favor, Mr. Speaker, of completing the monument. I have no idea of abandoning it. If we now abandon the appropriation of \$200,000, that will be the end of it. If we could be sure the object would not be abandoned, I would be willing to yield the appropriation of money; but I believe if that be done it will be the end of this monument. And I got up for the purpose of telling, not what I read in the newspapers, not what scientists have said, but what I saw and what I know in regard to the beginning of this monument.

If I am a reliable man, I hope what I have said will be taken, therefore, as authority.

Mr. COX, of New York. Does not the gentleman know some time ago a convention of engineers was held in Baltimore, and that, after taking this matter into consideration, they decided the present monument was unstable?

Mr. FOSTER. No such thing ever happened.

Mr. WRIGHT. I have heard there was such a commission, and that commission recommended Baltimore as the spot where this monument should be placed. [Laughter.] I have so been informed. I cannot vouch for the truth of the assertion. [A VOICE. It is so.] Now, Mr. Speaker, I have an idea that there is solid ground in other parts of these United States as well as in and around Baltimore; and I believe the spot where that monument stands to-day is good enough for all the purposes it is designed to be used for, and the strength of the foundation is as I have stated. Is the gentleman from New York satisfied?

Mr. COX, of New York. I am so much satisfied that I will make a motion to lay the joint resolution on the table.

Mr. FOSTER. I demand a vote.

The question being taken on the motion to lay the joint resolution on the table, there were—ayes 51, noes 88.

So the motion was not agreed to.

Mr. COX, of New York. Would it be in order to move to reconsider the vote by which the main question was ordered so that this matter could be referred again to the committee?

The SPEAKER. The motion was not made to reconsider the vote ordering the main question and to lay that motion on the table. The motion to reconsider is therefore in order.

Mr. COX, of New York. I make that motion.

Mr. FOSTER. And I move to lay it on the table.

Mr. COX, of New York. Before I yield the floor I desire to say just a word.

Mr. FOSTER. Debate is not in order.

Mr. COX, of New York. I do not propose to debate, except to say to the House I propose to move to send this matter back to the committee that we may have this whole question as to the monument reconsidered in every way.

The question being taken, there were—ayes 94, noes 59.

So the motion to reconsider the vote ordering the main question was laid upon the table.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FOSTER moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution of the following title; when the Speaker signed the same:

Joint resolution (H. R. No. 142) making an appropriation for filling up, draining, and placing in good sanitary condition the grounds south of the Capitol along the line of the old canal, and for other purposes.

ORDER OF BUSINESS.

Mr. HARRISON. Has the morning hour ended?

The SPEAKER. It has.

Mr. HARRISON. I rise to a privileged question.

Mr. SCALES. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union. And I give notice that when we get into Committee of the Whole I will ask the committee to take up the bill to transfer the office of Indian Affairs from the Interior to the War Department.

Mr. DURHAM. Will the gentleman yield to me for a moment for explanation?

Mr. SCALES. Yes, sir.

Mr. DURHAM. The chairman of the Committee on Appropriations gave notice that on to-day he would call up the legislative, executive, and judicial appropriation bill. Mr. ATKINS is sick and unable to be here. He has been in bed now for eight or ten days; and I ask the House on his behalf to be quiet about this bill for two or three days till he can be here as I hope he will be. It is a matter of justice to him as chairman of the general committee and of the subcommittee which prepared this bill, together with the gentleman from Ohio [Mr. FOSTER] and myself, that he should be here and take charge of the bill.

The SPEAKER. The bill has a continuing privilege and right.

Mr. HARRISON. I rise to a privileged question.

The SPEAKER. The gentleman will state it.

Mr. HARRISON. I rise to report from the Committee on Reform in the Civil Service a report which was recommitted to that committee on the 19th of March, reserving, however, its privilege to be brought up at any time.

The SPEAKER. The gentleman has already reported from that committee, the Chair thinks. The Chair will examine the Journal to see whether that be so or not.

Mr. HARRISON. The report was recommitted, and when I asked to have it brought up the other day the House would not consider it. I now move to take it up.

The SPEAKER. The Chair supposed, when the matter was up the other day, the question was whether the House would consider the report; but the Chair will not cut off any rights from the gentleman. The House has the right to do that, not the Chair.

Mr. HENDEE. I raise the question of consideration.

The SPEAKER. As to what?

Mr. HENDEE. As to the proposition of the gentleman from Illinois [Mr. HARRISON] to consider the Polk business. I desire to have the unfinished business, which is the District of Columbia bill, taken up.

Mr. HARRISON. If the House determines not to hear a report from one of its own committees in regard to one of its own officers, charged with doing wrong, then let it go to the country and let the country understand it.

Mr. HENDEE. That is very eloquent; but let the gentleman wait a moment until I state—

The SPEAKER. Debate is not in order. The Chair listens to the statement of the gentleman from Illinois that he did not make the report the other day when the question of consideration was up; but the Chair has sent for the Journal, to see what are all the facts.

Mr. WHITTHORNE. I had risen to controvert that statement. The gentleman from Illinois has exhausted his privilege. He did report to the House, and the House refused to consider.

Mr. HARRISON. The Chair stated, and most emphatically, that the report did not lose its privilege.

A MEMBER. It is on the Calendar.

Mr. HARRISON. Yes, it is on the Calendar and before the country. The SPEAKER. The entry in the Journal of March 28 will be read.

The Clerk read as follows:

Mr. HARRISON, as a question of privilege, from the Committee on Reform in the Civil Service, to which was referred the resolution adopted January 31, 1878, directing it to inquire into the matters and things alleged against John W. Polk, the Doorkeeper of the House, submitted a report, accompanied by the following resolutions, viz:

Resolved, That the position of Doorkeeper of the House of Representatives be, and hereby is, declared vacant; and

Further resolved, That, until the appointment of a new Doorkeeper, the duties of the office be, and hereby are, devolved upon the Sergeant-at-Arms.

When

Mr. SCALES raised the question of consideration;

And the question being put, viz:

Will the House now consider the said report?

And it was decided in the negative.

The SPEAKER. The Journal shows that the gentleman from Illinois made the report; and the report went upon the Calendar. The entry on the Calendar will now be read.

The Clerk read as follows:

1878, March 28.—Mr. HARRISON.—Reform in Civil Service.—Report 422.

Resolved, That the position of Doorkeeper of the House of Representatives be, and hereby is, declared vacant; and

Further resolved, That, until the appointment of a new Doorkeeper, the duties of the office be, and hereby are, devolved upon the Sergeant-at-Arms.

Mr. HARRISON. Mr. Speaker, the resolution was not read. I simply asked that the matter be brought up. The RECORD will show what was done.

The SPEAKER. The Chair would like the gentleman from Illi-

nois to direct his attention to any statement of his on that day in which he said that the gentleman did not lose his rights.

Mr. FRANKLIN. I do not think the Chair made any such statement, nor will it be found in the RECORD.

The SPEAKER. The gentleman from Illinois a few moments ago said that the Chair had stated to him that he did not lose any rights, which would seem to be an intimation that the Chair would recognize him again to make this report.

Mr. HARRISON. I understood the Chair so to state; but I do not know whether it got into the RECORD or not.

Mr. FINLEY. That statement was made at the time the report was recommitted.

The SPEAKER. The Chair never altered anything connected with this matter, and the Chair will now facilitate the gentleman from Illinois in any way that the rules will permit to reach action on his report if the House so desire; but the gentleman from Illinois stated a few moments ago that the Chair had assured him that he would not lose any of his rights to report.

Mr. HARRISON. I so understood; but if I made a mistake, of course there is an end of it.

The SPEAKER. The Chair would like to have that alleged statement of his pointed out, because it is very material.

Mr. WHITTHORNE. If the Chair will allow me, I think I can state from recollection the way in which the matter occurred. When the gentleman from Illinois [Mr. HARRISON] made the report he moved to recommit it, and, as I remember, the Speaker stated that he would lose nothing by the motion to recommit, because he could bring it back before the House. Afterward, when the question came before the House on a motion to reconsider the committal, the question of consideration was sprung on him by the gentleman from Vermont [Mr. HENDEE] and others; whereupon in exercising what he deemed to be his right he abandoned the motion to reconsider and reported the resolutions to the House as a question of privilege, and in that way they came before the House.

The SPEAKER. The Chair desires to have read from the RECORD exactly what he did say.

The Clerk read as follows:

The SPEAKER. The report was made and recommitted to the committee, and ordered to be printed; and the Chair supposes that the gentleman from Illinois [Mr. HARRISON] now intends to report it back to the House.

The SPEAKER. The Clerk will now read another paragraph.

The Clerk read as follows:

The SPEAKER. The gentleman from Illinois, [Mr. HARRISON,] from the Committee on Reform in the Civil Service, presents the report of that committee touching on the matters referred to it, as to the Doorkeeper of this House, and the gentleman from North Carolina [Mr. SCALES] raises the question of consideration, and he gives notice that if this subject be not considered by the House he will move that the House resolve itself into Committee of the Whole on the state of the Union, and to lay aside the bills upon the Calendar until the committee shall reach the bill relating to the transfer of the Indian Bureau to the War Department.

Mr. HARRISON. What is the Clerk reading from; the Journal or the RECORD?

The SPEAKER. From the CONGRESSIONAL RECORD.

Mr. HARRISON. I find upon page 2109 of the RECORD, proceedings of March 28, the following:

Mr. HARRISON. I rise to a privileged question, and it is to call up the report of the Committee on Reform in the Civil Service, in the matter commonly known as the Polk matter.

Mr. BLAIR then said something, and after that I find this:

Mr. EDEN. I submit that the report of the Committee on Reform in the Civil Service has not yet been made.

Mr. HARRISON. I call for the reading of the report.

Mr. EDEN. My understanding is that the report was ordered to be printed and recommitted to the committee, and that therefore it is now in the committee.

I do not therefore know how it lost its privilege.

The SPEAKER. The report has not lost its privilege, but it has got into another position before the House as the report of a committee or bill undispensed of.

Mr. HARRISON. The RECORD does not show that it got into a new position, as will be shown if the Clerk will read what I have marked in the RECORD.

The SPEAKER. The gentleman had a right under the rule to make the report at any time, and the report was presented by the gentleman from Illinois.

Mr. HARRISON. On the 29th? I tried to present it, but the House refused to receive it.

The SPEAKER. The gentleman had a right to report at any time, and it was received, and the only question was one of priority of business, but the gentleman from North Carolina [Mr. SCALES] raised the question of consideration.

Mr. HARRISON. Did not the gentleman from Illinois [Mr. EDEN] take the position that the report had been recommitted, and was in the hands of the committee? That was the gentleman's position. I saw that the friends of Mr. Polk did not want the report brought up then, and therefore I yielded and made no antagonism.

A MEMBER. You called for the yeas and nays.

Mr. HARRISON. No, the yeas and nays were called for on the other side of the House; I never asked for them.

Mr. FRANKLIN. The Committee on Reform in the Civil Service had a right to report at any time. When the subject was recommitted he made the report, and he has now exhausted his privilege.

Mr. HARRISON. I would simply ask the Chair to decide whether I made the report or not. The gentleman from Missouri cannot decide it.

Mr. SPRINGER. I submit to the Chair that the question of consideration could not be raised if the report was still in the committee.

The SPEAKER. Certainly not.

Mr. SPRINGER. It could not have been raised unless the report was before the House for consideration.

The SPEAKER. The Chair will cause the rule to be read.

The Clerk read as follows:

When any motion or proposition is made, the question "Will the House now consider it?" shall not be put unless it is demanded by some member or is deemed necessary by the Speaker.

The SPEAKER. As stated by the gentleman from Illinois, [Mr. SPRINGER,] if the report had not been made, the question of consideration could not have been raised upon it; but having been made the question of consideration came up and the House voted that it would not then proceed to consider it. The House refusing to proceed to its consideration at that time, under the rules and practice of the House the report of necessity went to the calendar of reports of committees and bills undispensed of.

Mr. HARRISON. I appeal to the Chair to state if I did not several times ask him if the report was not of a privileged character, such that I could make it at any time, and the Speaker said that it was.

The SPEAKER. The gentleman from Illinois, on the very day after the House refused to consider the report, could have moved a reconsideration.

Mr. HARRISON. No, I could not; I voted with the noes and could not have moved a reconsideration. I am always voting wrong, it would seem. [Laughter.]

The SPEAKER. The Chair is not disposed to deny the statement that the gentleman from Illinois repeatedly came to him in regard to this subject; but the Chair is bound by the record of the proceedings of the House. The Chair will listen to anything that will facilitate the purpose of the gentleman to have the House proceed to the consideration of this report. It occupies the same situation exactly as a contested-election case in which a report has been made.

Mr. HARRISON. I wish to say to the Chair, in the language of Mr. Pennington, of New Jersey, that I have not sense enough to understand the rules and I must rely entirely upon the Speaker.

The SPEAKER. The Chair certainly has not said anything that would warrant the statement by the gentleman that the Chair has intimated that the gentleman did not understand the rules.

Mr. HARRISON. Oh, no; I say that myself. [Laughter.]

The SPEAKER. If the House desires to proceed with the consideration of the report of the Committee on Reform in the Civil Service, it can do so by voting down the other proposition, so as to enable the gentleman to reach it by proper motion. The remedy is not with the Chair, it is with the House.

Mr. COX, of Ohio. I desire to ask the Chair a question in regard to the provisions to be found on pages 287 and 289 of the Digest in relation to questions of privilege. At the top of page 289 will be found as one of the questions of privilege "alleged misconduct on the part of an officer of the House."

The SPEAKER. The Chair has not a doubt that this is a question of privilege, and the committee had the privilege of reporting upon it at any time. The committee did so report, and therefore their privilege, as alluded to in the report, is restricted in that respect to the right to report. When once reported, such report is in the House.

Mr. LUTTRELL. Was the vote taken upon the report?

The SPEAKER. The vote was upon the priority of business.

Mr. COX, of Ohio. Would it be in order now to move to proceed to the consideration of that report, so that a vote of the House can be had upon it?

The SPEAKER. It would, exactly as in a contested-election case, both being recognized as questions of privilege.

Mr. COX, of Ohio. Then I make that motion.

Mr. HARRISON. And I call for the yeas and nays upon it.

Mr. SCALES. I believe I have the floor, have I not?

The SPEAKER. The Chair desires to have the House express its wish upon the question. The gentleman from North Carolina [Mr. SCALES] has moved that the rules be suspended and the House now resolve itself into Committee of the Whole; and he states that in case that motion shall prevail he will ask the committee to lay aside all bills on the Calendar as they are reached until he can bring the committee to the consideration of the bill to transfer the Indian Bureau from the Department of the Interior to the War Department. The gentleman from Ohio [Mr. COX] gives notice that in case the motion of the gentleman from North Carolina is voted down he will then move to proceed to the consideration of the report he has indicated.

Mr. BURCHARD. Pending the motion of the gentleman from North Carolina, [Mr. SCALES,] is not the gentleman from Ohio [Mr. COX] entitled to make his motion as a question of privilege?

The SPEAKER. The Chair thinks that he is, if he insists upon that course.

Mr. COX, of Ohio. That is what I desire to do.

Mr. BURCHARD. And in that case the House will be first called upon to vote upon the motion of the gentleman from Ohio.

The SPEAKER. The House has and always should have within its power the right to say what business it will proceed to consider.

The Clerk will read from the Digest one of the questions of privilege as stated in the Digest.

The Clerk read as follows:

Alleged misconduct on the part of an officer of the House.—*Journal*, 1, 44, p. 862.

The SPEAKER. The Chair desires to state to the gentleman from Illinois [Mr. HARRISON] that he is mistaken in saying that the Chair informed him that he lost none of his rights. If the gentleman will look at the CONGRESSIONAL RECORD he will find that that statement was made on a prior occasion, to wit, on the 19th ultimo, in the following language:

The SPEAKER. The Chair understands that the gentleman from Illinois [Mr. HARRISON] wishes that the two reports shall be printed and recommitted. The gentleman is not divested of any of his rights by the recommittal. All he does now is to give notice to the House of his intention to call up the report.

Mr. HARRISON. I beg the Chair's pardon. The Chair misunderstood me.

The SPEAKER. That is all right. The gentleman has confounded my language on March 19 with the language used on the 25th ultimo.

Mr. COX, of New York. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. COX, of New York. My point of order is that the motion of the gentleman from Ohio [Mr. Cox] must be first put.

The SPEAKER. That is what the Chair proposes to do, the gentleman having insisted on having his motion first voted on. The gentleman from Ohio [Mr. Cox] moves that the House now proceed to the consideration of the report of the Committee on Reform in the Civil Service, in the matter of the charges alleged against the Doorkeeper of the House. The resolutions accompanying the report will be read.

The Clerk read as follows:

Resolved, That the position of Doorkeeper of the House of Representatives be, and hereby is, declared vacant; and

Further resolved, That, until the appointment of a new Doorkeeper, the duties of the office be, and hereby are, devolved upon the Sergeant-at-Arms.

The SPEAKER. The question is now upon the motion of the gentleman from Ohio, [Mr. Cox,] that the House proceed to consider the resolutions just read.

Mr. SCALES. In case that motion is voted down, will my motion be regarded as pending?

The SPEAKER. The Chair will consider that question when it occurs. The gentleman from Vermont [Mr. HENDEE] has indicated his desire to submit a proposition to the House antagonistic.

Mr. COX, of Ohio. I call for the yeas and nays on my motion.

The yeas and nays were ordered.

The question was taken; and there were—yeas 148, nays 79, not voting 64; as follows:

YEAS—148.

Aeklen,	Cutler,	Keightley,
Aldrich,	Davidson,	Kelley,
Bacon,	Davis, Horace	Kenna,
Bagley,	Deering,	Ketcham,
Baker, John H.	Denison,	Landers,
Baker, William H.	Eames,	Lathrop,
Ballou,	Eickhoff,	Landsey,
Banks,	Evans, James L.	Lockwood,
Bayne,	Evins, John H.	Lynde,
Bell,	Felton,	Maish,
Bisbee,	Fort,	Marsh,
Blackburn,	Foster,	Mayham,
Blair,	Freeman,	McKenzie,
Blount,	Frye,	McKinley,
Bouck,	Fuller,	McMahon,
Boyd,	Gardner,	Metcalfe,
Brentano,	Giddings,	Mitchell,
Brewer,	Glover,	Monroe,
Briggs,	Harris, Benj. W.	Morgan,
Brogden,	Harrison,	Neal,
Browne,	Hart,	Norcross,
Buckner,	Hartzell,	Patterson, G. W.
Burchard,	Haskell,	Patterson, T. M.
Burdick,	Hazleton,	Peddle,
Calkins,	Hendee,	Phelps,
Cannon,	Henderson,	Phillips,
Caswell,	Henkle,	Pollard,
Claffin,	Hewitt, Abram S.	Pound,
Clark of Kentucky,	Hiscock,	Price,
Clark, Rush	Honae,	Pugh,
Clymer,	Humphrey,	Rainey,
Cobb,	Hunter,	Randolph,
Cole,	Ittner,	Rea,
Conger,	James,	Reed,
Cox, Jacob D.	Jones, Frank	Roberts,
Cox, Samuel S.	Jones, John S.	Robinson,
Cummings,	Keifer,	Robinson, M. S.

NAYS—79.

Atken,	Cook,	Garth,	Joyce,
Banning,	Cravens,	Gause,	Knapp,
Bicknell,	Crittenden,	Goode,	Knott,
Bland,	Culbertson,	Gunter,	Ligon,
Bliss,	Davis, Joseph J.	Hardenbergh,	Luttrell,
Boone,	Dibrell,	Harris, Henry R.	Manning,
Bright,	Dickey,	Harris, John T.	Martin,
Butler,	Dunnell,	Harridge,	Morrison,
Cabell,	Durham,	Hatcher,	Muldrow,
Caldwell, John W.	Eden,	Henry,	Muller,
Caldwell, W. P.	Ellis,	Hewitt, G. W.	O'Neill,
Campbell,	Ellsworth,	Herbert,	Page,
Carlisle,	Ewing,	Hooker,	Reagan,
Chalmers,	Finley,	Hunton,	Rice, Americus V.
Clark, Alvah A.	Forney,	Jones, James T.	Riddle,
Clark of Missouri,	Franklin,	Jorgensen,	Robbins,

Ross,
Scales,
Shelley,
Singleton,

Smith, William E.
Sparks,
Tucker,
Turney,

Vance,
Whitthorne,
Williams, A. S.
Williams, Jere N.

Wilson,
Yeates,
Young.

NOT VOTING—64.

Atkins,
Beebe,
Benedict,
Bragg,
Bridges,
Bundy,
Camp,
Candler,
Chittenden,
Collins,
Covert,
Crapo,
Killing,
Dean,
Douglas,

Dwight,
Elam,
Errett,
Evans, I. Newton
Garfield,
Gilson,
Hale,
Hamilton,
Hanna,
Harner,
Hayes,
Hubbell,
Hungerford,
Killing,
Kimmel,
Lapham,

Loring,
Mackey,
McCook,
McGowan,
Mills,
Money,
Morre,
Oliver,
Overton,
Potter,
Powers,
Pridemore,
Quinn,
Reilly,
Rice, William W.
Robinson, G. D.

Sapp,
Saylor,
Schleicher,
Slemmons,
Smith, A. Herr
Southard,
Steele,
Stenger,
Stephens,
Stone, Joseph C.
Swann,
Thornburgh,
Tipton,
Veeder,
Walker,
Watson.

So the motion of Mr. Cox, of Ohio, was agreed to.

During the roll-call the following announcements were made:

Mr. SCALES. My colleague, Mr. STEELE, who is absent by leave of the House, is paired with the gentleman from Illinois, Mr. HAYES.

Mr. DIBRELL. On political questions I am paired with my colleague, Mr. THORNBURGH. As I do not consider this a political question, I feel justified in voting "no."

Mr. BEEBE. I am paired generally on all questions with my colleague, Judge LAPHAM.

Mr. HISCOCK. My colleagues, Mr. CAMP and Mr. BENEDICT, are paired. Mr. CAMP, if present, would vote "ay" and Mr. BENEDICT "no."

Mr. RYAN. The gentleman from New York, Mr. CHITTENDEN, is paired with the gentleman from Georgia, Mr. STEPHENS.

Mr. TUCKER. I am paired with the gentleman from Ohio, Mr. GARFIELD, on political questions; but not regarding this as a political question, I vote "no."

Mr. BAYNE. The gentleman from New York, Mr. DWIGHT, is paired on all political questions with my colleague, Mr. BRIDGES. Mr. DWIGHT, if present, would vote "ay."

Mr. MITCHELL. My colleagues, Mr. OVERTON and Mr. REILLY, are paired. Mr. OVERTON, if present, would vote "ay" on this question, as he did the other day.

Mr. PRICE. My colleague, Mr. SAPP, is detained from the House on account of sickness.

The result of the vote was announced as above stated.

The SPEAKER. The Chair asks consent of the House that he may insert in his remarks this morning a quotation from his remarks of March 19, which the gentleman from Illinois [Mr. HARRISON] somewhat confused with what occurred on March 25.

There was no objection.

Mr. LUTTRELL. When does the gentleman from Illinois [Mr. HARRISON] propose to call for a vote on this question?

Mr. HARRISON. I propose to allow four hours' debate, two hours on each side, before calling the previous question.

Mr. LUTTRELL. Does the gentleman propose to have a vote to-day or to-morrow?

Mr. HARRISON. That depends upon whether members are willing to stay here to-day until the vote is taken. My friends who concur in the report of the majority desire to occupy at least two hours and I wish the other side to have an equal time.

The SPEAKER. The Chair understands from the gentleman from Illinois that the majority of the committee desire to occupy two hours in debate and that he proposes to allow the minority of the committee to control two hours.

Mr. YEATES. Perhaps some others than members of the committee would like to speak on the question.

The SPEAKER. If the House desires to hear them it will vote down the call for the previous question.

Mr. EDEN. I do not understand that there is any arrangement being made; it is merely a suggestion.

The SPEAKER. That is all. The gentleman from Illinois states that at least four hours' debate will be allowed; that two hours will be claimed by the majority of the committee and that he desires to place two hours under the control of the minority, so that the debate shall cover at least four hours. Of course, if the House desires further debate, it will be within its province to vote down the previous question if that should be asked.

Mr. GIBSON. I desire to record my vote on the question just taken.

The SPEAKER. The gentleman can state how he would have voted.

Mr. GIBSON. I would have voted "ay."

Mr. LUTTRELL. We are anxious to have the gentleman having charge of the matter state at what hour he proposes to demand the previous question on this report. Many of us have business outside of the Hall which we would like to go and attend to.

The SPEAKER. The gentleman has not the power to say when the vote shall be taken. It is for the House to determine that.

Mr. LUTTRELL. The gentleman from Illinois can give notice when he proposes to call the previous question.

The SPEAKER. The gentleman can give notice when he proposes to make an effort to have a vote.

Mr. LUTTRELL. That is all I suggest: that he shall give notice now when he proposes to call for a vote.

Mr. HARRISON. I shall call the previous question at the end of four hours' debate.

Mr. LUTTRELL. Does the gentleman propose to call it to-day or to-morrow?

Mr. HARRISON. That depends upon how long the House sits here to-day. If the House adjourns before the debate has been concluded, I will call for a vote then to-morrow.

Mr. YEATES. Four hours' debate will only give opportunity to four persons of the committee to make speeches on this question. If the gentleman wishes every one of the facts to come out, then let us have a free debate.

The SPEAKER. If the House wants a free and long debate the remedy is to vote down the previous question.

Mr. FRANKLIN. The understanding is that the chairman of the committee will not call the previous question until after four hours of debate.

Mr. HARRISON. If I have the floor I now wish to say—

Mr. FRANKLIN. I believe I have the floor, and I only wish to state what I deem to be the understanding. It is that the chairman of the committee will not call for a vote until after four hours of debate, and it may be longer, but he certainly will not call for the previous question until after four hours of debate.

The SPEAKER. That is the understanding.

Mr. FRANKLIN. I think that is clear.

Mr. TOWNSEND, of New York. The sooner we get to work the sooner the previous question will be called.

Mr. HARRISON. I wish to say to gentlemen I have no desire to restrict debate on this matter. I was asked how short a time would be required, and I stated four hours as the shortest time. Beyond that I do not care how long the House takes.

Mr. FINLEY. I desire to make a personal explanation. I understand my vote is recorded "no." I voted no by mistake and ask that it be changed to "ay."

Mr. BROWNE. On this question I am paired with my colleague, Mr. HAMILTON. When the last vote was called I inadvertently voted. I desire now to withdraw my vote.

The SPEAKER. The Clerk will read the rule.

The Clerk read as follows:

29. No member shall vote on any question in the event of which he is immediately and particularly interested, or in any case where he was not within the bar of the House when the question was put. When the roll-call is completed, the Speaker shall state that any member offering to vote does so upon the assurance that he was within the bar before the last name on the roll was called: *Provided, however*, That any member who was absent by leave of the House may vote at any time before the result is announced. It is not in order for the Speaker to entertain any request for a member to change his vote on any question after the result shall have been declared, nor shall any member be allowed to record his vote on any question, if he was not present when such vote was taken.

The SPEAKER. The subject of pairs does not come within the province of the Chair at all. They are matters of personal convenience.

Mr. BROWNE. My vote would not change the result. I will be content to have it put on record that I voted inadvertently. I would not have done it had it occurred to my mind I was paired with my colleague.

The SPEAKER. The gentlemen have accomplished their purposes by the statements they have made.

CHARGES AGAINST THE DOORKEEPER OF THE HOUSE.

Mr. HARRISON. I now ask that the Clerk read the report which I have submitted.

The Clerk read as follows:

Your Committee on Reform in the Civil Service, to which was referred the resolution adopted January 31, 1878, directing it to inquire into the matters and things alleged against John W. Polk, the Doorkeeper of the House, having had the same under careful and patient consideration, most respectfully reports:

That it has caused to be brought before it all persons whose testimony it has reason to believe would bear materially upon the subject, (see Mis. Doc. No. 36,) and has come to the following conclusions:

First. That during the extra session of this Congress the said Doorkeeper did employ or permit to act as messengers, pages, and laborers in and about the House of Representatives, in excess of the number authorized by law, and over and above the so-called cloak-room men who clean this Hall, sixty-odd persons. (Mis. Doc. 36, page 392.) This was done with the full knowledge that such excess was without warrant of law, (pages 77 and 78,) and was not discontinued even after he had learned that the Committee of Accounts would not justify his acts in the premises, and would not make provisions for the payment of such illegal force. (Pages 361-395.) His manner of making appointments was such that he did not know the number employed or who had claims for services; the result whereof was that the sum of money voted by the House December 16th to pay this extra force, and which was based upon data furnished the Committee of Accounts by him, proved insufficient to pay all who had claims under him for services rendered, and they were forced to submit to a reduction of 20 per cent. from the pay they supposed themselves entitled to. (Pages 93, 95, 363 to 365.)

In extenuation Mr. Polk pleaded the necessity of an increased force, the practice under former Congresses, and specifically under the Forty-fourth Congress, and the pressure brought to bear upon him by members of Congress, (page 77.) In his testimony, however, he finally admits his mistake as to the necessity, admits that he was aware that the extra force under the Forty-fourth Congress was authorized by resolution, (page 315,) and corrects his statements as to pressure from members. (Page 106.)

Second. That up to a late day in this session he has authorized or permitted persons to perform services who at the time were borne on no roll, and continued others in service after striking them from the rolls, promising or suggesting that they would be paid under resolution or that they should be placed on a roll when his force should be increased. (Pages 59, 210, 212, 354.)

Third. That he employed on the floor of the House during the session in December fifty-six pages, just double as many as the law warrants, and although he had made up his page-roll on the 3d of the month, (pages 87, 88,) the boys thereon being notified of the fact, (pages 88, 277,) yet when the House took its recess he made a fictitious pay-roll, (page 96,) placing thereon twenty-eight pages as serving from the 1st to the 15th, and the other twenty-eight as serving from the 16th to the 31st, (pages 67, 87, 88;) the first twenty-eight being paid \$37.50 each, and the last twenty-eight being paid \$40 each. To justify this anomalous roll to the Committee of Accounts he represented that the boys on the roll for the last half of the month were to be his regular pages, (page 372;) yet on the January roll are found eleven of the pages who had been dropped on the 15th of December. (Page 71.) In extenuation, Mr. Polk pleads the poverty of the boys, the urgent appeals of parents and friends, the consent of the pages to their being so paid, and that it was "a work of charity." (Pages 303, 308, 312.)

Fourth. That he has continuously employed one mail and two riding pages over and above the number authorized by law, stating that they were indispensable, (pages 88, 371,) and that "the gentleman who framed that law" (the one fixing pages) "probably knew nothing about the management of the pages of the House or the necessities of the case." (Page 127.)

Fifth. That the Doorkeeper placed upon the soldiers' roll men who had never been in the Army, (pages 98, 43, 180;) one of them, "a boy," put on the roll for January "in order to give him his pay," and because there was "a vacancy on that roll for that month," (pages 44, 101, 316;) and yet one soldier, serving continuously from December 1, got no pay for the first half of January; another was dropped on the 15th, and a third was dropped on the 10th, and his name was replaced on the pay-roll the next month to enable him to draw the pay, which he did, and on the request of Mr. Polk paid it over to the man who had taken his place, but who was not qualified for the roll. (Pages 34, 50, 51, 35, 183.)

Sixth. That the Doorkeeper did receive money from two of his employes to be paid over to a third, who had been promised one or the other of their places, for the purpose of making his salary equal to the one promised. The testimony is that this was a voluntary contribution, and was afterward repaid. But the fact that Mr. Polk had let these parties know of his intention to make up this salary out of his own pocket taints the transaction. (Pages 157, 175, 178.)

Seventh. That while complaining of the insufficiency of his labor force he detailed some of his laborers to do other than laborer's services; and permitted several of them to hire substitutes to perform their entire work, they drawing the full salaries and paying their substitutes about one-fifth thereof. (Pages 190, 193, 135, 236, 249, and 325.)

Eighth. That he "created an office" at a high salary, without precedent, on the Doorkeeper's rolls, for the purpose of making a place for a gentleman who could not accept a \$1,200 place, for "it would not support him."

Ninth. That his manner of making up his rolls was such, that employes would find out only at the end of the month that their names were not on any pay-roll. One man appointed December 1, for the soldiers' roll, found at the end of the month that his name was left off the pay-roll for the first seven days; and, at the last of January, that he could not get his pay for the first half of the month, although his service was continuous. (Page 84.) The Doorkeeper gave divers persons notice of appointments, who, after performing services as they supposed under the law would find at the end of the month that they could not be put on any pay-roll. One colored man was employed by Mr. Polk and set to work by his assistant in October, was shown his name on a roll by the janitor, yet he was never put on a pay-roll. (Pages 143, 144.) These irregularities grew to a great extent, out of the habit of making up the regular rolls at the end of the month, and worked great injustice.

Tenth. That the testimony does not show that Mr. Polk is positively interested in any claims now pending in Congress. The Newfangled Paving Company owes him an unsettled balance, and has a bill for its rent before the House, (pages 116 to 118,) but he claims to have no interest in it. In connection with this company, prior to the second session of the Forty-fourth Congress, Mr. Polk seems to have employed, or continued in employ, a man because of his pretended claim to influence with a congressman. (Pages 118 to 120.)

Mr. Polk does not deny the major part of the things herein set forth, but in extenuation pleads the necessities of his department, his rawness in position, the clamors of needy applicants, and past custom.

Your committee believes that, with proper handling, the lawful force under the Doorkeeper has been quite sufficient, and that it was his duty to find out as early as practicable whether or not it was sufficient, and in no event to add to it until authorized so to do by resolution of the House; but that no rawness in office and no custom can be set up in defense of a palpable violation of known law.

The utter disregard of legal restraint shown by Mr. Polk, his open violation of known law, to say nothing of his inefficiency, as shown throughout the testimony, (only the more glaring instances being herein cited,) render him, in the opinion of your committee, unfit for the responsible and delicate position of Doorkeeper.

Your committee, therefore, recommends the adoption of the following resolution: *Resolved*, That the position of Doorkeeper of the House of Representatives be, and hereby is, declared vacant; and

Further resolved, That until the appointment of a new Doorkeeper, the duties of the office be, and hereby are, devolved upon the Sergeant-at-Arms.

GAETHER H. HARRISON,
Chairman of the Committee on Reform in the Civil Service.

Mr. BRIGHT. I now ask that the views of the minority be read.

The Clerk read as follows:

The undersigned, a minority of the Committee on Reform in the Civil Service, feel constrained to differ from the majority in the report made upon the resolution offered by Hon. JOHN H. BAKER, and referred to the said committee on the 1st of February, 1878. After long and tedious investigation and due consideration given the testimony, we find, as to the first allegation, that John W. Polk, Doorkeeper, did employ many persons in excess of the number authorized by law, who, together with others serving without employment or appointment by him, amounted to the number of sixty-three, and all of these were paid by resolution of the House adopted December 15, 1877, under the supervision of the Committee of Accounts; that this employment was notorious and public, Polk, on the 9th of November, 1877, having communicated the fact to the chairman of the Committee on Appropriations.

As to the second, that men had been employed by said John W. Polk, Doorkeeper, who were not borne on the roll of employes, as appears from the finding as to the first allegation; and that William H. Holt, and perhaps some others, were continued in service after being dropped from the roll, in expectancy of pay by the action of the House, or in lieu of others.

As to the third, that said John W. Polk has not been guilty of corruption in office or guilty of other malfeasance than the employment of persons in excess of the number required by law; and he is expressly exonerated from the charge of requiring employes under him to pay to other employes a part of the salaries to which they are entitled by law as a condition of their appointment or retention in office.

And as to the fourth and last, that they are unable to find from the evidence that John W. Polk, Doorkeeper, is interested in claims and bills pending or about to be brought before the House for action.

The evidence is voluminous and discloses numerous mistakes by the Doorkeeper, especially in the earlier part of his service, arising from inexperience, a desire to comply with the demands and supposed necessities of the House and its committees, and the belief on his part that his paramount duty was to perform and cause to be performed such services as were to his mind apparently necessary, trusting

to supposed precedents for appropriations to pay such force as he might employ for such purpose. Many of these are attempted to be magnified by the majority, and declared of the grossest class and character, but we feel confident in the assertion that the closest scrutiny of the testimony will fail to disclose a sordid motive underlying any of them, but, on the contrary, disclose the fact that they arose from a generous disposition to accommodate others. Moreover, the testimony shows that instead of any act being done by said Doorkeeper to unlawfully deprive the Treasury of a dollar or to fill his own pockets, he has undertaken in one case, at least, to pay from his own pocket for services rendered the House. The Doorkeeper's department we find at present in very good practical operation, being run on about as economical a scale as is usual.

We, without any sort of fear of the correctness of our position, unqualifiedly dissent from the resolution of the majority, because the committee was not authorized to so report by resolution, and for the manifest inconsistency of trying an officer upon a charge of corruption and finding him guilty of, and recommending a removal for, incompetency. It would be far more consistent to charge a party with larceny and find him guilty of an assault and battery; and a bench especially created for reform in the law would not be likely to do this, although in that case the offense charged and of which the party is found guilty are both criminal offenses defined by statute.

Incompetency, we are free to admit, is good ground for removal from office by the appropriate power, and the power of the House to remove any of its selections for such cause is not denied; but regarding each and every man's character entitled to as much protection by the law and law-makers as his person or property, we cannot, with the light we have upon the great subject of civil-service reform, agree with the majority that corruption and incompetency are equally criminal, so that a conviction may be had for the latter upon a charge of the former. The gravamen of the resolution of Mr. BAKER is corruption and malfeasance in office, from which it would be inferred by almost every one, if the Doorkeeper is found guilty, that an offense defined by law, common or statutory, had been committed, and at least by all that he had been guilty of illegal action from corrupt motives. No corruption being shown, nor even charged, in the report of the majority, directly, it would be a grievous wrong against Polk to adopt the majority report.

Respectfully submitted.

PHILIP COOK,
JORDAN E. CRAVENS,
WM. W. GAITH,
DAN'L M. HENRY.

Mr. HARRISON. Mr. Speaker, when the resolution of the gentleman from Indiana [Mr. BAKER] was referred to the Committee on Reform in the Civil Service it was so referred without any solicitation whatever on the part of that committee or of any member of it. It was a source of regret, as far as I have since been able to learn, to every single member of that committee that this investigation should have been sent to them.

Sir, seven of the eleven members of the committee are democrats, believing that the success of the democratic party is conducive to the success and prosperity of our country. We knew, whatever verdict that committee should render, there would be used by the party press of the country in opposition to us the fact that these charges had been made, to injure the party to which we were attached. We entered upon that investigation as a matter of duty, and not as a labor of love. Mr. Polk had from the beginning to the end as kindly, as fair an investigation as it is possible for any man to have by any committee not pledged to acquit regardless of the testimony. If there was one single feeling of party prejudice felt by any member of the minority of that committee, I have been wholly unable to discover it. I was present, sir, at every meeting of that committee. I presided over it at every single meeting and during every moment of time. I do say, if there was one single question, one single vote, one single conclusion arrived at by the republicans of that committee which was influenced by partisanship, I was too blind to discover it.

One of the first questions raised before the committee by Mr. Polk and by his very able counsel, Judge HANNA, was that the committee should confine itself to the resolution of Mr. BAKER as a petit jury should be confined to an indictment: that we should inquire and consider only into the technical charges made in that resolution and that we should give Mr. Polk the benefit of every technicality; that we should weigh no testimony which would not bear strictly upon the matters and things alleged in the resolution, and render a verdict simply upon the matters charged.

Sir, the resolution which gave that committee its existence is in these words:

Resolved, That a select committee of eleven members be appointed by the Speaker, whose duty it shall be to consider the civil service of the United States and measures to promote its efficiency, and that the committee shall have leave to report by bill or otherwise.

Now, sir, we believed and still believe that under the very resolution which gave us birth as a committee, we would have had the right and it would have been our duty to move in this matter as of our own motion. The only additional strength that was given us by the resolution was the power to send for persons and papers. We held and hold, that if during that investigation matters and things should have been proven against the Sergeant-at-Arms or against the Clerk of the House it would have been not only our right, but our duty to report to the House the facts as they came before us.

Therefore, sir, we did not feel that we were confined, as the minority say, in such a way that we could not report an assault and battery under an indictment for larceny. Sir, what a spectacle it would have been before this country if a committee on reform in the civil service of the country should have found proven before it facts showing that Mr. Polk had been guilty of some other wrong-doings or of crimes, other than those alleged, and we should have come in here and reported on the resolution referred to as not guilty and remained silent as to the facts brought out. Sir, we did not believe that that was our duty, and so we made our report.

What, sir, do we find? We find that Mr. Polk did, during the extra session, employ a large number of messengers, laborers, and pages, in

excess of the number authorized by law. The minority do not gainsay this, and admit even more than the facts justify: that there were sixty-three. In truth, however, by analyzing the pay-roll, on page 292, it will be found that a part of that pay-roll—some fifty—were employed at one time—

Mr. COOK. Will the gentleman allow me to ask him one question? Mr. HARRISON. Yes, sir.

Mr. COOK. Did not Mr. Polk report that fact to the Committee of Accounts on the 9th day of November?

A MEMBER. What fact?

Mr. COOK. That he had put sixty-three men on the pay-rolls, and asked the Committee of Accounts to take action in regard to them.

Mr. HARRISON. No, sir; he did not make such a report, for he did not have them at that time. I am sorry that the gentleman who was rarely present in the committee and yet signs the minority report shows he knows so little of the testimony.

Mr. FRANKLIN. Was there no member of the majority who signed the report who was not present at the meetings of the committee?

Mr. HARRISON. I am not aware of it.

Mr. FRANKLIN. Was the gentleman from New York [Mr. PORTER] present in the committee?

Mr. HARRISON. Ask him.

Mr. FRANKLIN. I am asking you for information.

Mr. HARRISON. Ask the gentleman from New York.

Mr. FRANKLIN. I did not expect to get much information from you when I put the question.

Mr. HARRISON. The gentleman from Missouri [Mr. FRANKLIN] seems determined to get me off my balance. I tell him he cannot move me just now. I am not under discussion; it is Mr. Polk.

Now, the facts are that fifty-five or fifty-six of this extra force were in employment at one time—not sixty-three, as the minority report admits—and we found that Mr. Polk was aware when he made this illegal employment of messengers, pages, and laborers that it was an illegal act. At page 77, in a written statement prepared with the advice of his counsel, not brought out in the excitement or heat of interrogatories put to him, but coolly and calmly made a part of his testimony and sworn to, Mr. Polk says this:

When I entered upon my position I found the force in my department, as authorized by the appropriation act, inadequate to an efficient management of it, and having from the 15th of October to the 1st of November to consider the matter, and having determined to make no general changes in the employes before that period, I had ample time to examine into the needs of my department, study its history, and consult with the democratic members as to the policy that should govern me. I found—

Not "find;" but that between the 15th of October and the 1st of November, the two weeks taken by Mr. Polk to study the history of his department, he "found"—

Mr. FRANKLIN. I desire to ask the gentleman from Illinois a question right there.

Mr. HARRISON. I am reading now from the testimony, and the gentleman will get more information if he will listen to it calmly than he will by asking me questions.

Mr. FRANKLIN. I am perfectly aware that if the gentleman continues reading I will get more information than I possibly can from himself.

The SPEAKER *pro tempore*, (Mr. CLYMER.) The gentleman from Illinois has the floor.

Mr. HARRISON. Will gentlemen please remember that my time is being extracted from me by this sort of process. I continue reading the statement by the Doorkeeper:

I found that the Doorkeeper's department of the House had never been worked with so small a force as was then and is now authorized by the law, and that the Forty-fourth Congress, which had fixed, in the legislative and civil appropriation bill, the number, character, and pay of the force, authorized by resolution of the House the employment of forty-seven extra employes under the Doorkeeper for the second session of that Congress.

Mr. Polk knew, during the two weeks taken by him to study up this matter, that he had so many employes assigned him by law, and he concluded to make a law unto himself. That is not all, sir. We found that Mr. Polk did not stop this matter when he found that the Committee of Accounts would not justify his acts. To prevent taking too much time I will simply refer to the testimony without reading it all. Mr. McMAHON, page 361, says that Mr. Polk came to the committee to get a justification of his acts. There was a question as to when exactly this thing was done. Mr. McMAHON says between the 1st and 8th; certainly between the 1st and 9th, because Mr. Polk, finding that the Committee of Accounts would not justify his acts, went to another tribunal, to another committee to have an appropriation made, the Committee on Appropriations. A letter addressed to its chairman, Mr. ATKINS, on the 9th of November, is given at page 78. At the time when he addressed that letter, Mr. Polk, in his own testimony, page 301, states this, speaking of this letter:

This letter was addressed to the committee on the 9th of November, after I had begun employing this extra force, and really before I had employed the whole of it, because the employment extended along through the month of November.

The Committee of Accounts would not justify him up to that time, so he goes to the Committee on Appropriations, and still continues to employ these men throughout a month more.

Mr. Donovan states on page 266:

On the 1st day of November this apportionment of Colonel Polk's was sent out, on which there were eleven men in excess of the law. During the month of November that excess was considerably increased by appointment of parties to places

On page 298, Mr. Polk, in speaking of the fact that a larger number were added to the list of his employés who were not regularly employed, in answer to the question how many persons were included in that statement that were not on the extra force said, "I think there were ten or eleven."

On page 299 he says:

I started out by not making many appointments on the 1st of November, probably not more than fourteen or sixteen all told.

Now, sir, there were fourteen or sixteen all told on the list, yet, says the minority of the committee, Mr. Polk has not robbed the Treasury. Now, by referring to page 392 you will find that he paid fifty-one employés from the 1st of November and two from the 2d of November. Only fourteen or sixteen were on the roll when he started out, and afterward (page 298) ten or eleven were added. This is from his own statement, and by Mr. Donovan's statement only eleven in excess were employed on November 1, (see page 266,) and yet he reports to the Committee of Accounts fifty-one men from the 1st of November, and the Government has to pay men for time not spent in its employ.

Let me recapitulate, Mr. Speaker. Mr. Polk says on November 1, or about that time, he had employed fourteen or sixteen extra men. Mr. Donovan, his assistant, says that on November 1 there were eleven on the rolls in excess of law. Then Mr. Polk and Mr. Donovan say he added to this list during the month. Yet fifty-one are paid from the 1st, and two from the 2d, on and through or partly through the month; afterward he says that ten or eleven were added to the pay-roll after the resolution of December 15 was passed. Now, give him the advantage of these ten or eleven and it gives about thirty who were paid from November 1. We know not when these twenty-nine or thirty went to work, anywhere during the month of November; yet they were paid from the 1st. And yet the minority say the Government lost nothing. It certainly lost what was paid to these men for the time they were not in its employ. Mr. Polk told the committee that he considered a promise to a member of a position the same as an employment, and thus accounted for the employment of part of this illegal force throughout November. This pay-roll looks as if he dates pay also from time of the promise being made.

Mr. Polk is a kind man, sir. I will say here in my place that when I went into that committee I went in with the resolution, if possible, to save Mr. Polk. I was desirous of saving him. I wanted to be not only fair, but I leaned toward the employé of my party. I had voted for him, not only on this floor but in caucus. He was my candidate. I was friendly disposed toward him. But Mr. Polk has employed men outside of the law; making a law to himself; disregarding the law. The democratic party has pledged itself by its platform to civil-service reform, and are they going to the country to tell it that our pledge and our platform was but a promise to be broken; that we will punish a republican for guilt or wrong, but we will spread whitewash over our own friends? I do not believe it; I never have believed it. If the party does that I am not one of them. I am not schooled in the whitewash business. I read our platform as an honest expression of my party. I read it as an honest promise to the people, a promise to be fulfilled to the letter, and I will do what I can to fulfill that promise, whether it be a democrat or a republican who gets hit, whether the wrong-doer be high or low. Never while I am a member of this body will I consent to cover up or overlook violation of law in any officer of the law.

Again I find Mr. Polk employing on the 31st day of December fifty-six pages. Twenty-eight of them he put upon the roll. On page 87 he says:

The Assistant Doorkeeper had a list of the twenty-eight pages that were intended to be employed all through.

33. Question. When did he have that list?

Answer. From the beginning of December.

34. Q. Were those boys then set at work by your authority?

A. Yes, sir.

35. Q. Which boys are they?

A. I cannot name them exactly. They are the boys that are now on the roll.

On page 88 he says:

106. Question. Then I understand you that on the 1st of December all the pages except twenty-eight were notified that they were discharged, and these were kept? Answer. All of them were discharged on the 1st of December, and I selected the twenty-eight that I expected to retain permanently as pages on the floor.

107. Q. Were they notified of that?

A. Yes, sir; and then there was a great scramble.

He had notified these little boys, twenty-eight of them, of the fact of their appointment. He notified these twenty-eight, the number that the law allows, but he had fifty-six here. The Government is rich, and Mr. Polk was the almoner of the party, and thinks that we employed him for that purpose, when I thought we employed him to perform duties around this House, as one of its officers. You will find by Mr. Polk's testimony on pages 87 and 88 and Mr. Donovan's on page 277, that he notified these boys who were on the regular roll for December, notified them December 3; yet, when this House went into recess on the 15th of December, weeping mothers and their little orphans came around him, and his heart could not stand it, and so he says that—

You have all the facts about the page-roll for December before you in the testimony. I have but little to say on that subject. When I discharged all the boys on the 15th of December, one-half of them finally, the other twenty-eight with the promise of reappointment on the 1st of January, it would have been just as easy for me to have made up my roll with the twenty-eight pages for the full month and appealed to them to divide their salaries with their little comrades (who had no hope of reappointment) as it was to arrange the roll in the manner I did; there

would have been no objection or murmuring on the part of the boys, as there has been none; but I preferred to have my public acts on record. I believed it was right and just, and I still believe so. I am persuaded that there is not one gentleman on this committee who, if he had witnessed, as I did, the tears of these sad-hearted little representatives of widowed mothers and orphan sisters and brothers, would not have taken some responsibility to comfort them, when he was doing no harm to the Government, costing it no more, and doing them great good.

Sir, I appreciate the kindness of heart which prompted him to take the pay which belonged to twenty-eight and to divide it with fifty-six, the pay of twenty-eight legally employed pages and to give the half of it to another twenty-eight who were not legally employed.

Sir, it is a good thing to be kind, but when a man is in an office and has sworn to obey the law, it is a better thing to be obedient to that law. It is a good thing to be charitable, but when a man gets into a position where his example may be followed all over the country—for the people are only too prone to look to persons in high places for example—when he is in such a position, charity is not the question; it is the performance of his duty and obedience to the law.

Mr. BRIGHT. Will the gentleman allow me to ask him a question?

Mr. HARRISON. Certainly, if it does not occupy too much time.

Mr. BRIGHT. Do I understand you to say that fifty-six pages were upon the roll at one time?

Mr. HARRISON. No; not on the proper roll, but on the floor at one time, and then put on the pay-roll, half of them the first half of the month and the other half the latter half of the month.

Mr. BRIGHT. On the floor? I understood you to say that they were borne on the roll.

Mr. HARRISON. I said that twenty-eight were put on the roll, and were notified of their appointment, while fifty-six were actually employed upon the floor until the House went into recess.

Mr. BRIGHT. Then there were twenty-eight more that were upon the roll for the same month, but not for the same time?

Mr. HARRISON. The testimony is that the whole fifty-six were on the floor doing duty from the 1st of the month.

Mr. BRIGHT. The question is, were they on the floor at the same time?

Mr. HARRISON. All on the floor at the same time.

Mr. BRIGHT. And all on the roll at the same time?

Mr. HARRISON. All upon the pay-roll, but not from the same date. By reference to the pay-roll it will be found that Leonard Nackman was paid from the 1st to the 15th of December \$37.50; T. K. Hackman was paid from the 16th to the 31st of December \$40. So the roll goes on all the way through, a boy from 1 to 15, then a boy from 16 to 31; one-half of the boys were paid \$37.50 each from the 1st to the 15th of December and the other half were paid \$40 each from the 16th to the end of December, (I hold the roll up so you can see it), although the House was in recess. But the plea was charity; weeping mothers and sad-hearted little representatives of widowed mothers.

Mr. ELLIS. Will the gentleman allow me to ask him a question?

Mr. HARRISON. Yes, sir.

Mr. ELLIS. Does the evidence show that the Government suffered at all by that arrangement?

Mr. HARRISON. No, sir. His intentions may have been good, but there is an old saying that hell is paved with good intentions.

Mr. ELLIS. I understand that. Let me ask the gentleman another question.

Mr. HARRISON. Very well.

Mr. ELLIS. Does not the evidence further show that that arrangement was by consent between the pages?

Mr. HARRISON. The gentleman asks if it was an arrangement consented to by the pages. These little minors were generous, but they were also powerless. Who were the boys entitled to a place on the regular roll? The twenty-eight boys who were on the roll on the 3d of December, and Mr. Polk says the same who were on the roll in January and February, those were the boys the Government had employed. But because of some weeping little boys, the sons of widowed mothers, he took the pay of these and gave half of it to other boys. Who was the widowed mother of John W. Polk, jr., who drew pay from the 1st to the 15th of the month, and has not been on any roll since? If you will go to the testimony you will find that Mr. Polk says that he never put his son on any roll, never had him on any roll.

Mr. YEATES. What page is that?

Mr. HARRISON. Pages 114 and 294. On page 294 he says, "My son has been continuously at work since about the 1st of December. He has worked two months and a half without any pay at all." He was testifying on the 28th of February. That was in answer to a question put to him by his own attorney. He says "My son has been continuously at work since about the 1st of December. He has worked two and a half months in my office without any pay at all." Then he says that his daughter has received one month and twelve days' pay, and that this was for the work of son and daughter.

Now, when I think of the little boys who were clustering around him, of the little boys who have widowed mothers, who were regularly on the roll on the 3d of December, I am constrained to think their tears ought to have been heeded. He says, in answer to the question who these boys were, that they were the boys who are now on the roll; that is when he was testifying; but his son has not been on any roll since December. On page 294 I find this:

By Mr. HANNA:

Question. Tell the committee about your daughter being employed by you as a clerk and your son as a page.

Answer. All there is about it is that my daughter did the work, and worked for a longer time than she was paid for. My son has been continuously at work since about the 1st of December. He has worked two months and a half in my office without any pay at all, and the two together have received—that is, my daughter has received—one month and twelve days' pay. She did all my work that I did not do myself. That is all there is of it. I considered that having both in my service one of them was entitled to some pay.

And he further says the boys who were on from the 16th to the 31st of December were to be his regular pages, (see Mr. McMAHON's testimony:)

Question. You understood distinctly that twenty-eight of those boys were discharged and that twenty-eight more were employed, and that those twenty-eight were considered by the Doorkeeper as his regular page force?

Answer. Unquestionably. I said to him, "Now I understand that these boys that are on this roll, from the 16th to the 31st, are your regular force; because, of course, we don't want to approve their pay in advance unless we know that they are your permanent pages," and he said, "Yes, they are my regular force." He made one reservation which I thought perfectly proper. He said, "Of course I don't feel bound to keep all these boys, if, on trial, I find any of them unfit for the service. I reserve the usual right to make a change here and there in my roll."

And yet, by looking at this page roll you will find eleven of the boys discharged on the 15th of December again on the roll for January. The twenty-eight pages notified on the 3d of December of their being on the roll were the lawful pages. Who are they? Mr. Polk says they were the pages who were on the roll in February when he was testifying, (see his answers on page 87:)

94. Question. Were those boys then set at work by your authority?

Answer. Yes, sir.

95. Q. Which boys are they?

A. I cannot name them exactly. They are the boys that are now on the roll.

96. Q. Are they the identical boys that are now on the roll or did you make changes afterward?

A. I think I make some changes in January.

97. Q. Did not you make some in December?

A. Perhaps I did. I make frequent changes.

His son is not one of them, for he says he was never on the roll. Therefore twenty-eight regularly employed boys were robbed of half of their pay, and that half was given to boys who were not properly employed. The Government is indebted to those regularly employed boys.

You shake your head, [turning to Mr. ELLSWORTH.] I will put a legal question to you. These little boys worked from the 1st to the 15th of the month, while the House was in session; the House then took a recess and were not in session for the remainder of the month. What right had these boys to be on the roll from the 15th to the 31st of the month and to be paid for that time? Was it not because they had been at work from the 1st to the 15th, while the House was in session? Yet we find that other twenty-eight of these boys were put on the roll and received the pay from the 16th to the 31st of the month.

Mr. ELLSWORTH. Now look here—

Mr. HARRISON. My time is running out fast.

Mr. ELLSWORTH. Then you ought not to fire at me.

Mr. HARRISON. Oh, I did not know that I was firing at you at all. However, what is it that you want to say?

Mr. ELLSWORTH. I say that there is nobody on that roll but who was paid for the month of December; and the Government is not liable to any one who was not on the roll.

Mr. HARRISON. No? A member of my committee, who for, I think, twenty years was a judge of the supreme court of New York, thinks that these boys are entitled to pay, because they performed the work and were told that they would be paid. I do not know how it is; I do not claim to be much of a lawyer.

Mr. Polk first put the blame on the Committee of Accounts. He said that they made up the rolls, and he put the blame on them. One day he says that the members of Congress are responsible for his extra roll, then he says the Committee of Accounts is responsible for the manner in which he makes it up, and, with a remarkable facility for correcting his testimony, he comes in the next day and corrects it and says he takes the responsibility.

Mr. YEATES. What does the gentleman mean by that?

Mr. HARRISON. Well, if you will look over the testimony you will find what I mean.

Mr. YEATES. I thought the gentleman was speaking as the chairman of a fair committee.

Mr. HARRISON. Mr. Polk says in his written statement, on page 77 of the testimony:

The foregoing considerations, backed by the incessant demands and importunities of the House for appointments of their friends, and the repeated assurances from them that my force should be increased to the necessary number, and all my appointments thereby legalized; the urgent requests of chairmen of the leading committees for special messengers for their committee-rooms, &c.

And then on page 103 is this testimony:

Question. There has been an impression given out that it was from pressure from members of Congress that all this difficulty arose in your department. Now, was not part of the difficulty owing to the fact that you appointed your own friends, and that then, having no ability to make the other appointments that were requested, you allowed this large pay-roll to grow up?

Answer. No, sir; that did not influence me. I believed that the force was insufficient, and I believe so yet.

Q. Then it was not the pressure of Congressmen that made you employ this extra force?

Mr. CRAVENS. Who asked that question?

Mr. HARRISON. Mr. MORGAN.

Mr. CRAVENS. Exactly.

Mr. HARRISON. (reading:)

Answer. Well, sir, there was a great deal of pressure by a great many persons, and a great many promises made. It is not to be expected that I am going to mention

the names of any members of Congress here, but I say generally that there were requests and promises made. You see it was in the nature of an argument all the time. I said to them, "I am not authorized by law to put these men on, but the precedent justifies me," and the universal reply, with hardly an exception, was—

Question. You do not mean to say, then, that the cause of your putting on these extra appointees was the pressure from members of Congress?

A. No; but I will tell you one cause, the promise that I would be justified by Congress, that they would confirm and legalize my acts.

Now, in another place—

Mr. ELLSWORTH. Will you let me ask you a question?

Mr. HARRISON. Yes, sir.

Mr. ELLSWORTH. I want to know whether you did not bring some pressure to bear on Mr. Polk yourself in regard to these appointments?

Mr. HARRISON. No, sir.

Mr. ELLSWORTH. You say here that you did not apply to him—

Mr. HARRISON. Ah!

Mr. ELLSWORTH. Oh! answer my question. Will you say to me that you did not apply to Mr. Polk for an appointment and did not succeed?

Mr. HARRISON. No, sir.

Mr. ELLSWORTH. You say you did not?

Mr. HARRISON. No, sir.

Mr. ELLSWORTH. Will you swear to that?

Mr. HARRISON. I applied for an appointment and got it.

Mr. ELLSWORTH. Yes.

Mr. HARRISON. It was given to my delegation. I asked Mr. Polk the question on page 104, "Did you ever intimate to me that he was on an illegal roll?" And he told me he did not, and that he did think me entitled to an appointment.

Mr. ELLSWORTH. Then you did apply to him?

Mr. HARRISON. I applied to him, of course, and got the position.

Mr. ELLSWORTH. Why did you say you did not?

Mr. HARRISON. I did not say so. I would advise the gentleman, as he cannot understand—

Mr. ELLSWORTH. Yes, I can understand.

Mr. HARRISON. I said "that I did not apply and not succeed." I also said, "I did not press Mr. Polk;" nor did I. Sir, it has gone out from this floor through the friends of Mr. Polk—

Mr. ELLSWORTH. Will the gentleman allow me another question?

The SPEAKER *pro tempore*. Does the gentleman yield for a question?

Mr. HARRISON. Well, if the gentleman wants to ask me a short question I will listen.

Mr. ELLSWORTH. It will be very short. Did you not apply for the appointment of one Whalen?

Mr. HARRISON. Yes, sir, and had him appointed.

Mr. ELLSWORTH. Have you not had him on a committee since?

Mr. HARRISON. Yes, sir.

Mr. ELLSWORTH. Then you did bring a pressure to bear on Mr. Polk, did you not?

Mr. HARRISON. No, sir. Mr. Polk notified my committee that to Illinois so many appointments would be due; and my delegation indorsed this appointment.

Mr. SPARKS. Oh, now, HARRISON, allow me! [Laughter.] Was not your man already appointed when we met? I simply want my colleague—

The SPEAKER *pro tempore*. The House will come to order. Gentlemen standing in the aisles will take their seats. The gentleman from Illinois will not proceed until order is restored.

Mr. TOWNSEND, of New York. I would like to ask the gentleman from Illinois whether he has not as many offices to give out as the Doorkeeper had? Members seem to be as thick around him as they were around Mr. Polk. [Laughter.]

Mr. HARRISON. Now, Mr. Speaker—

Mr. ELLSWORTH. I would like to ask another question.

Mr. HARRISON. Go on.

Mr. ELLSWORTH. Did not Mr. Polk discharge your man, Whalen, and since then have you not had him waiting upon the Committee on Civil Service Reform?

Mr. HARRISON. Now you have found a "mare's nest," have you not? [Laughter.] I think the gentleman had better go to the other side of the House. He does not get on well here. This side does not agree with him.

Mr. ELLSWORTH. Answer my question.

Mr. HARRISON. Mr. Whalen was appointed by Mr. Polk. During the examination of Mr. Polk I asked him the question—

Mr. ELLSWORTH. He was appointed at your request?

Mr. HARRISON. Wait a moment. I asked Mr. Polk the question, "You appointed a friend of mine, didn't you?" His answer was, "Yes, sir." I then asked, "Did you ever tell me or intimate to me that?"

Mr. ELLSWORTH. I did not ask you—

Mr. HARRISON. I am answering as I choose.

Mr. ELLSWORTH. I did not ask you what Polk said, but what you did.

Mr. HARRISON. (reading:)

Did you ever tell me or intimate to me that he was not on a force authorized by law?

Answer. I do not know. I know I felt that you were entitled to the appointment. I don't remember that I did tell you that; I don't think I ever did.

Mr. ELLSWORTH. I did not ask for the reading of the testimony.
Mr. HARRISON. But I am reading it. I have the floor.
I do not think that I did.

Mr. ELLSWORTH. Let me ask the gentleman—

The SPEAKER *pro tempore*. The gentleman from Michigan will not interrupt the gentleman from Illinois save by his consent.

Mr. HARRISON. Oh, I can stand a good deal of this sort of thing. [Laughter.] The gentleman has got over on the democratic side and feels so happy at being here that he is trying to stir up a little fun.

Mr. ELLSWORTH. Is that the way to answer a question?

Mr. EDEN. I insist that my colleague shall not be interrupted.

Mr. HARRISON. Mr. Whalen was appointed by Mr. Polk. When the extra session ended Polk dismissed him. After that Whalen came to me and I went to Mr. Polk, who told me his reappointment depended on an increase of the force. I went to the gentleman from Ohio [Mr. McMAHON] and asked him if the Committee of Accounts intended to give any increase of force. He replied that it did not. I then told my man to go home. Then when my committee met Mr. Thompson appointed him a deputy sergeant-at-arms to summon witnesses before that committee, and Mr. Polk requested Thompson so to appoint him, so I was informed.

Mr. FOSTER. Was that done at your request?

Mr. HARRISON. You have come over here too, have you? [Laughter.]

Now, Mr. Speaker, I remember seeing the gentleman from Ohio just after the election last fall when he came on in a director's car all to himself. [Laughter.] He rode from the interior of Ohio to the city of Washington, now and then coming out upon the platform for some of us democrats to look at him; but the election was over, sir, and he did not invite any democrat into that car. [Laughter.]

Mr. ELLSWORTH rose.

Mr. HARRISON. Just sit down for a while; I am now talking to the gentleman from Ohio, [Mr. FOSTER.] [Laughter.]

Mr. FOSTER. Did you pay to ride in that car?

Mr. HARRISON. No, and you did not either. [Laughter.] It was given to you to ride in to the city of Washington, you and your friends. We poor democrats could not get into it; we had not done anything for the railroads by which we could get such a favor.

Mr. FOSTER. Was this man appointed at your request or not?

Mr. HARRISON. I rather think I told Mr. Thompson if he had a place I would be glad to have a man there whom I could trust. [Laughter.] I did not want some of those whom you said were not to be trusted.

Mr. CHALMERS. Did you refuse to speak to Mr. Polk because he dismissed your man?

Mr. HARRISON. No, sir; that is not true. I remember speaking to Mr. Polk the very day or the day before Mr. BAKER's resolution was offered.

Mr. CHALMERS. I am told it is true.

Mr. HARRISON. Let the gentleman from Mississippi take my word for it, as a man and a gentleman, that it is not so.

Mr. CHALMERS and Mr. ELLSWORTH rose.

Mr. CLARK, of Missouri. I demand the regular order.

The SPEAKER *pro tempore*. The regular order is the preservation of order and that the Chair is desiring to do. Members will take their seats and order will be preserved in the Hall. The gentleman from Illinois has the floor.

Mr. HARRISON. Now let me read the testimony of Mr. Polk:

Question. Did not you say that the extra force was employed by the pressure of members of Congress?

Answer. No; I didn't mean to say that. If I did say it, I correct it.

Mr. BRIGHT. In justice to Colonel Polk I ask the gentleman from Illinois to continue to read what Colonel Polk said.

Mr. HARRISON. Very well; I will continue to read what Colonel Polk states:

I have tried to say this: that the force fixed by law is inadequate, and when I took charge of my department I found that the force was inadequate for the efficient and proper management of the department, and I had the precedent for employing some additional help.

I do not see that adds to it.

Mr. BRIGHT. It is only fair to read everything that Colonel Polk said in response to your interrogatory.

Mr. HARRISON. I will try to be fair. I know I have that disposition. We found, in addition to the page roll, that Mr. Polk continuously employed three riding-pages, or two riding-pages and one mail-page. It is unnecessary to refer to the precise page as to this, for it is not denied. We have shown now that Mr. Polk had disregarded law by his extra force. He disobeyed law when he put these fifty-six pages here and paid them in the way he did.

Now, let me read what he says in answer to a question of the gentleman from New York, [Mr. COX.]

By Mr. COX:

Question. The statute explicitly provides for three riding-pages on the regular list; how then can you say that you are authorized to put other people in their places, and then insist upon their being retained as extra force because of the necessity?

Answer. The law simply says, "three of whom shall be riding-pages." Q. Yes; but if you, as the officer in charge, say that certain pages shall be the riding-pages; that brings them within the statute, does it not?

A. Well, I think it is impossible to do the work with that force. The gentleman who framed that law probably knew nothing about the management of the pages of the House or the necessities of the case. Twenty-eight pages are not enough.

Mr. ELLSWORTH. What page is that?

Mr. HARRISON. That is on page 127. Mr. Polk was a law unto himself. He was above law.

Now, before going further, I believe it is understood, as I have yielded to these interruptions, that my time will be extended beyond the hour.

The SPEAKER *pro tempore*. The Chair can recognize no agreement. Every interruption of course comes out of the gentleman's time.

Mr. HARRISON. It has been agreed, I believe, that my time shall be extended.

Mr. CLARK, of Missouri. Let the gentleman proceed until his hour has expired, and then an extension will be granted to him.

Mr. HARRISON. Very well. Now, sir, these riding-pages were put on continuously. Mr. Polk put himself above law. He disobeyed law. We are asked to retain a man in place to whom law is no restraint. Sir, in a monarchy obedience to a king may be loyalty, but in a republic obedience to law is the only loyalty. The law demands this on the part of a citizen, and the citizen has a right to it on the part of an office-holder. How does Mr. Polk look upon law? Let me read from page 127 two questions and Mr. Polk's answers:

Question. The statute explicitly provides for three riding-pages on the regular list; how then can you say that you are authorized to put other people in their places, and then insist upon their being retained as extra force because of the necessity?

Answer. The law simply says, "three of whom shall be riding-pages."

Q. Yes; but if you, as the officer in charge, say that certain pages shall be the riding-pages; that brings them within the statute, does it not?

A. Well, I think it is impossible to do the work with that force. The gentleman who framed that law probably knew nothing about the management of the pages of the House or the necessities of the case. Twenty-eight pages are not enough.

Now, sir, when an officer rides over the law he sets an example to the people which the evil-disposed and the weak too readily follow, and which should not be set by one in position. He has no right to be kind at the expense of duty. His duty is to be just and to obey the law. Now, sir, Mr. Polk went on after this, and employed persons outside of the law, and disobeyed and violated the law. How?

Mr. ELLSWORTH. Will the gentleman allow me one question? I want to ask him a question as a lawyer?

Mr. HARRISON. Do you want me to answer as a witness?

Mr. ELLSWORTH. I want you to answer as a lawyer.

Mr. HARRISON. I am not a lawyer.

Mr. SPARKS. Then you can answer as a gentleman.

Mr. HARRISON. Ah! Very well, for I am one.

Mr. ELLSWORTH. Then you are all right. [Laughter.] My question is this: Do you hold this Government liable to pay for extra labor put in here by Mr. Polk or anybody else in violation of law? Was anybody liable but Mr. Polk himself?

Mr. HARRISON. I hold this—

Mr. ELLSWORTH. If you do not know anything about the law, then no matter.

Mr. HARRISON. I have not answered the gentleman's question yet.

Mr. ELLSWORTH. If you do not know the law I do not ask for an answer.

Mr. HARRISON. But you asked me a question as a gentleman and I will answer it as a gentleman, and will teach you a little law and a good deal of ethics.

Mr. ELLSWORTH. You said you did not know.

Mr. HARRISON. Not at all. I did not say so.

Mr. ELLSWORTH. Well, I will take your answer.

Mr. HARRISON. When the Government puts in a position a man who apparently has the right to employ others to labor, to work, under him, whether or not the Government is legally bound it is equitably bound to pay for the services those men rendered.

Mr. ELLSWORTH. Equitably, not legally.

Mr. HARRISON. I did not say legally. Therefore, a man placed in office should be doubly careful to guard against doing anything in excess of his authority, anything that is wrong.

Mr. ELLSWORTH. I desire to ask the gentleman another question. Could the Government be held in equity for the payment of that extra labor?

Mr. HARRISON. For some of it I think the Government could be held not only equitably but in law.

Mr. ELLSWORTH. Could they be held liable in any court by the rules of equity?

Mr. HARRISON. You cannot sue the United States in a court.

Mr. ELLSWORTH. Yes you can; in the Court of Claims.

Mr. HARRISON. Ah! you are learning.

Mr. ELLSWORTH. And that is the very place where they can be sued.

Mr. HARRISON. The gentleman from Michigan comes over here and argues as a lawyer. He ought to know you cannot sue the Government of the United States except upon a claim on which this Congress has passed.

Mr. ELLSWORTH. I say the Government can be sued in the Court of Claims.

Mr. HARRISON. If the gentleman is right, then I acknowledge my law is bad. Now, sir, let us go on.

There is what is known as the soldiers' roll. In the first place it consisted of disabled soldiers. This continued for years. Appropriations

were made to pay fourteen soldiers, the defenders of the country, as messengers on this floor. That is a law. Mr. Polk testified that in his own opinion the soldiers' roll meant disabled soldiers. A few weeks ago we had that question up on this floor and my colleague from Illinois [Mr. SPARKS] declared that we had democratic soldiers put in the place of republican ones. My colleague stated properly that there were democrats enough to fill the roll; that the North was full of democrats who had fought for the Union.

Mr. SPARKS. Was not that the fact?

Mr. HARRISON. Yes, sir; and we have got them. But it seems Mr. Polk could not find democrats enough coming from the Army.

Mr. ELLSWORTH. I desire to ask the gentleman just one question.

Mr. HARRISON. I hope the gentleman will keep his seat. I will not be interrupted any longer.

Mr. ELLSWORTH. I have a right—

Mr. HARRISON. If the gentleman has a right let him enforce it.

The SPEAKER *pro tempore*. The gentleman from Michigan is out of order.

Mr. ELLSWORTH. Will the gentleman not allow me to ask him one question?

Mr. HARRISON. No, sir.

Mr. ELLSWORTH. I want to ask you about those republican soldiers.

Mr. HARRISON. I have been exceedingly courteous and I think the gentleman has rather taken advantage of it. I am a very good-natured man except when moved. But I am like Othello—

Being wrought,
Perplex'd in the extreme.

Well, sir, the soldiers' roll is a law. Mr. Polk says he has thought it was more of a sentiment than anything else. (Page 101.) But he does not deny that, while a sentiment, it is a law. The law appropriates so many thousands of dollars to pay fourteen soldiers as messengers. In the first instance, soldiers who were disabled. Now, the law does not say "disabled;" but Mr. Polk says he admits that he considers it means disabled soldiers. Yet we find that Mr. Polk, in his testimony, (page 101,) says that he put on a lad by the name of Fitzhugh:

I had that vacancy, and as Fitzhugh had done this service in the folding room, and as he was very essential, I, under the impression that I was entitled to my full roll, without ever having appointed him on that roll, or notifying him in any way that I should appoint him on it, just took advantage of the fact that I was entitled to the full roll, and put him on it for that month in order to give him his pay.

And at page 316 you will find some interesting reading on that question. Here he says again:

Therefore, without ever appointing Mr. Fitzhugh on the soldiers' roll—that would be an absurdity, for he is a boy—I just had that vacancy there and I put him in there to pay him for his services.

Now, the Government had appropriated a hundred dollars to be paid in the month of January to a soldier. But this man had a vacancy and he just put this boy in to fill it.

If you will turn to the February roll in this book—the Clerk's book of pay-rolls—you will find this: Mr. Polk commenced his testimony on the 11th or 12th of February, just after Fitzhugh had been put on the soldiers' roll because there was a vacancy, for he put him on the last of January.

But when the roll comes to be made up in February that vacancy very conveniently remains, and Fitzhugh remained on the roll from the 1st to the 12th of that month.

[Here the hammer fell.]

Mr. COOK. I ask unanimous consent that the gentleman's time be extended.

Mr. LUTTRELL. For one hour.

Mr. FRANKLIN. Indefinitely.

Mr. SPARKS. My colleague has been very much interrupted, and I trust there will be no objection to extending his time.

The SPEAKER *pro tempore*. Is there objection to extending the time of the gentleman from Illinois? The Chair hears none.

Mr. HARRISON. Now, Mr. Speaker, this vacancy occurred and it continued to occur, and young Fitzhugh was a valuable boy; he was the best workman in the document-room and was indispensable, but there were plenty of other places where he could have been put. There were other places on other rolls. But Mr. Polk had no right to put him where he would take the place appropriated by law for a man who has periled his life for the cause of the Union. Sir, this law may be a sentiment, but it is a sentiment which goes to the heart of countless millions of Americans.

Sir, Mr. Polk is a kind-hearted man, but he cannot learn that the law of the land ought to prevail. He cannot see or understand that disobedience to law in the simple citizen entails a penalty only when the disobedience works an injury to some other person. But disobedience in an officer is itself a wrong and should be punished.

Now, sir, let us see some other case—some other persons that he has put on the soldiers' roll that were not properly soldiers.

Mr. Polk, when asked the question on page 316, "At that time were there any applications made for appointments as soldiers on that roll under the apportionment to delegations," said "No, sir."

He says that there were no applications under the apportionment, but Mr. Alcorn was here from Ohio, a gallant soldier who fought for

three years and nine months. He was the man who fired the first shot across the Potomac River during the war; he was here applying for a position, but because Ohio had already two employees Mr. Polk took a boy from the South, who was only nine years old when the war ended, and put him on the soldiers' roll. He could not put Alcorn on the roll, because he had given only one place on that roll to Ohio, so he put the boy in to fill a place which the law said a soldier should fill. Sir, will this House say to the country that there are not democratic soldiers to fill fourteen places? Will this democratic House forget that it is our boast that for every republican in the late war there was at least one democrat; that in the North-west the democratic soldiers were largely preponderating? Will this democratic House say its officer may violate the law with impunity?

But let us look still further. He put Mr. Prescott on the roll, but on the 10th of January Mr. Prescott was dismissed and Mr. Holt was put in his place, Mr. Holt who came to us and testified that he was a soldier. He was asked, "How long did you serve?" and he said "three years," and yet he stated on cross-examination that his campaigning was in a Boston militia company and never out of Massachusetts. He was a soldier in the militia of Massachusetts during the war, and he has been kept in employment when what he had sworn is known to Mr. Polk to have been false.

Mr. HEWITT, of Alabama. Has not the Doorkeeper since removed him?

Mr. HARRISON. Yes, sir; but he continued to work, and Mr. Polk got Prescott to let his name remain on the roll and to draw the pay and give it over to Holt.

Mr. FRANKLIN. Did not this man at the time of his appointment write to Mr. Polk that he was a soldier?

Mr. HARRISON. He told him he was a soldier; but what I am objecting to is that Mr. Polk continued him in office after he had thus deceived him. What I am blaming him for is keeping this man here drawing pay and turning away disabled soldiers who have come here qualified to fill the place and making a disabled soldier draw pay and hand it over to this valiant warrior who never smelled powder.

Mr. CRAVENS. I would ask the gentleman whether the appointment of these men from New England was not controlled by the members from that section and not by the Doorkeeper?

Mr. HARRISON. No; I understand that he keeps his own control. He may give patronage to members; but he never gives them the control of appointments.

Mr. HEWITT, of Alabama. Cannot a man be a soldier in Massachusetts? [Laughter.]

Mr. HARRISON. But he was merely a militia man.

Mr. FRANKLIN. Was not this man employed by request of the democratic delegation from New England?

Mr. HARRISON. Read Judge PHELPS's speech made in this Hall last night, and you will find that he denies the statement made by Mr. Polk. He stated that it was not so; that Mr. Polk was mistaken. Holt, it seems, had helped Mr. Polk in his election, and therefore he gave him a position.

Now, Prescott was put on the roll and discharged in ten days afterward and Holt put on in his place, as a soldier, as he claimed to be, and the ink was scarcely dry with which his appointment was written when it was found that he was not a soldier, and Prescott was told about the 16th of the month that he would be replaced in February, and on the last of the month Mr. Polk went and told him, "I have left your name on the roll drawing pay." And he did draw pay, not to keep, but to hand over to Holt. Why did he do this? Because, as he swears, Mr. Polk requested him so to do.

Again, sir, Mr. Knight, of Wisconsin, was here seeking for one of these positions. He was a soldier and was appointed in December and continued to work through January; but the last of the month, after he had been working all that time, he was told that, owing to some mistake or pressure, his name was dropped from the roll for the first fifteen days of the month; and yet Mr. Polk appointed this beardless boy from Texas to a place on the soldiers' roll, while this soldier was turned away. Alcorn was here idle, a gallant soldier. Knight was here, a good soldier, working and getting only half of his pay. Schulties was here, a soldier, and discharged on the 15th. But Mr. Polk's "attention was called, in the Clerk's office, to a place on the soldiers' roll that he was entitled to." So he just put this boy on it, and that place continued conveniently vacant in February, and the same boy was put on it, and not dropped from it until the second day Mr. Polk was on the stand before us, and the very day he gave this testimony about it.

Now, sir, let us look at another man, Mr. Dulin. His testimony is that he was an apothecary's clerk, or an apothecary in the Navy. His testimony is on page 180. Now this Mr. Dulin was put on the soldiers' roll, and continued on the soldiers' roll until in March. Who is this Mr. Dulin? He was appointed an apothecary of the first-class July 2, 1869, and served honorably under the following officers: Lewis J. Williams, medical director; William Johnson, medical director; Minian Pinckney, medical director; and soon, five years. An apothecary four years after the war was over. You will find it on page 181 of the testimony. That apothecary is put on the roll as a soldier. Mr. Polk put him on that roll, and he is on the roll for March. That is not all; there is Mr. Rodgers.

Mr. SPARKS. Will my colleague allow me to ask him a question?

Mr. HARRISON. Certainly.

Mr. SPARKS. Who appointed Mr. Dulin on the soldiers' roll?

Mr. HARRISON. My understanding is that Mr. Polk makes appointments of all the men under him.

Mr. SPARKS. Do you not know that the testimony shows that Mr. Patterson appointed Mr. Dulin, and he was in the place when Mr. Polk came into office.

Mr. HARRISON. This testimony to which I refer was taken in February. Why had Polk continued him?

Mr. SPARKS. I asked you the question whether or not Dulin was not in the place when Polk came into office?

Mr. HARRISON. He was.

Mr. SPARKS. And Polk simply kept him there.

Mr. HARRISON. Yes; but because Mr. Patterson did wrong that does not justify Polk for continuing the wrong.

Mr. SPARKS. Do you want to turn Polk out because he kept in a man that Patterson put in?

Mr. HARRISON. If Patterson violated the law, that is no excuse for Polk to continue the violation. It is no excuse for a man who is being tried for theft to say that somebody else before him has been stealing.

Mr. SPARKS. Does not the testimony show that this identical man who was put on the roll and kept there for a year or more by Patterson, Polk's predecessor, had been five years in the Union service?

Mr. HARRISON. An apothecary in the Navy from July 2, 1869, to September 2, 1874. Here is the testimony; he had been an apothecary.

Mr. SPARKS. Does not the testimony show that fact?

Mr. HARRISON. I am reading the testimony to you.

Mr. SPARKS. Does not the testimony show that he had been five years in the Union Army?

Mr. HARRISON. No, sir.

Mr. SPARKS. In the Union service, I mean; in the Navy?

Mr. HARRISON. Oh! in the Navy, as an apothecary. [Laughter.]

Mr. SPARKS. For five years.

Mr. HARRISON. Let us see what the gentleman, my colleague, himself thought about this matter awhile ago. Let us see what he thought in November. I read from his speech, November 22, 1877:

In a word, he has turned out some republican soldiers, who have been feeding at the public crib for many years, for the purpose of filling their places with crippled Union democratic soldiers, whose claims have been disregarded by former republican Houses. This much he has done and no more.

And further down he continues:

I know Colonel Polk well, and pledge myself, and I am responsible for the pledge, not only to that side of the House and to this side of the House, but to the country, that he will fill these places with Union soldiers. But I shall insist upon it that he fills them with solid, uncompromising democratic soldiers. We have abundant material to do it. The country is full of them.

Mr. SPARKS. That is just it; that is what I meant.

Mr. HARRISON. Ay; is this apothecary a "crippled Union democratic soldier" that you made that fine speech for?

Mr. SPARKS. He says he served for five years.

Mr. HARRISON. And you say "he has dismissed republicans"—that is your speech—"to put on crippled Union democratic soldiers." Was this apothecary in the Navy a Union democratic soldier?

Mr. SPARKS. I do not know whether he was a democrat or a republican.

Mr. HARRISON. Was he crippled?

Mr. SPARKS. I do not know.

Mr. HARRISON. Well, I know he was not.

Mr. SPARKS. He served for five years.

Mr. HARRISON. Now let us go on a little further. Not satisfied with this, you will find on the February roll, page 189, H. M. Rodgers as a disabled soldier. Now, Mr. Rodgers was before some of the committee this morning and said that he had never been in the Union Army.

Mr. CLARK, of Missouri. Did you say "this morning?"

Mr. HARRISON. Yes, this morning.

Mr. FRANKLIN. Did the committee take testimony this morning?

Mr. HARRISON. He was before the committee this morning.

Mr. FRANKLIN. I thought the case was closed.

Mr. HARRISON. I am stating facts.

Mr. FRANKLIN. We thought the committee had closed the case.

Mr. HARRISON. I am stating facts.

Mr. CRITTENDEN. Did you advise Mr. Polk that the case would be reopened this morning?

Mr. HARRISON. He was not there at that moment, though he was there part of the morning.

Mr. CRITTENDEN. This was a secret session and you did not advise Mr. Polk.

Mr. HARRISON. There was no secrecy at all.

Mr. CRITTENDEN. Did you advise Mr. Polk that the case would be opened?

Mr. HARRISON. It was not opened.

Mr. CRITTENDEN. You said awhile ago that the case was opened this morning.

Mr. HARRISON. I said nothing of the sort. But I am stating facts.

Mr. FRANKLIN. You acknowledged that you opened the case.

Mr. EDEN. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. EDEN. I insist that my colleague [Mr. HARRISON] has no right

after the case has been closed and submitted to the House to come in here and state what took place in his committee this morning.

Mr. HARRISON. I have a right to open this book.

Mr. CRITTENDEN. The committee has been a prosecuting body. Mr. FRANKLIN. Oh, he is a fair man, he would not do that.

The SPEAKER *pro tempore*. The Chair cannot say what the gentleman shall say in his speech.

Mr. HENDERSON. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. HENDERSON. There are some gentlemen on this side of the House who desire to hear what my colleague [Mr. HARRISON] is saying; and I insist that he shall be allowed to proceed without these interruptions.

The SPEAKER *pro tempore*. The House will please come to order.

Mr. HARRISON. I believe I can halloo them down.

Mr. FINLEY. There is a point of order pending.

Mr. HARRISON. What is the point of order?

Mr. FINLEY. I desire to say a word on the point of order.

The SPEAKER *pro tempore*. The gentleman will state his point of order.

Mr. FINLEY. I desire to speak upon the point of order now pending. The gentleman from Illinois [Mr. EDEN] made the point of order that his colleague [Mr. HARRISON]—

The SPEAKER *pro tempore*. The Chair has decided that the point of order was not well taken; that the Chair cannot undertake to decide what the gentleman from Illinois shall state in his speech.

Mr. FINLEY. I did not understand that the Chair had decided the point of order.

The SPEAKER *pro tempore*. The Chair had so decided. The gentleman from Illinois will proceed.

Mr. FINLEY. I desire, then, to make another point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. FINLEY. My point of order is this: I ask to have excluded from the RECORD the statement of the gentleman from Illinois as to what took place in his committee this morning. It does not appear in the evidence as presented to the House by the committee, but the gentleman is giving it as evidence.

Mr. HARRISON. I am giving you facts.

Mr. FINLEY. I do not know whether they are facts. I know what appears here in the record before us. I ask that so much of the gentleman's statement as purports to represent what was given in evidence before the committee this morning, but which does not appear in the evidence as it lies before us, be excluded from the RECORD.

The SPEAKER *pro tempore*. The Chair in deciding the point of order will say that it is not usual for any gentleman in debate to state what has occurred in committee, and it is against the rules to do so; yet the Chair cannot enforce the rule on this point and cannot exclude from the speech of the gentleman anything that he chooses to utter on this floor.

Mr. LUTTRELL. Then the gentleman from Illinois did act in an "unusual" manner.

The SPEAKER *pro tempore*. The gentleman from Illinois will proceed, and other gentlemen will not interrupt him without his consent.

Mr. HARRISON. "The gentleman from Illinois" is acting in so "unusual" a manner that he does not get offended at gentlemen getting up here and trying deliberately to confuse him.

Mr. CLARK, of Missouri. I ask the gentleman how many members of the committee were present at the meeting this morning.

Mr. HARRISON. If the gentleman had waited, he would have heard me state that.

Mr. CLARK, of Missouri. We shall be glad to know all about it.

Mr. HARRISON. I will state the matter precisely. I heard Mr. Rogers was not a soldier—

Mr. EDEN. I rise to a point of order.

Mr. HARRISON. I am giving the information which the gentleman from Missouri [Mr. CLARK] has asked for.

Mr. EDEN. My colleague certainly does not intend to violate the rules of the House.

The SPEAKER *pro tempore*. It is not the province of the Chair to interfere with any statement that the gentleman from Illinois may choose to make.

Mr. EDEN. But the gentleman has no right to make a statement of what occurred in committee.

Mr. HARRISON. I have a right to make a statement upon my own information on this floor.

Mr. EDEN. I do not object to that; but I object to a statement of what took place in committee.

Mr. HARRISON. Very good. I am giving my statements; and if you will only take care of your own honor, I will take care of mine. It is not for you to read me lessons of duty.

Mr. EDEN. I am trying to take care of the rules of the House.

Mr. HARRISON. The gentleman has no right to try to catechise me as to my duty in committee. I state here that Mr. Rogers is on the February roll. I take the book from the Clerk's office. I state that Mr. Rogers is not a soldier.

Mr. CLARK, of Missouri. What proof have you that he is not a soldier?

Mr. HARRISON. I will state it on my own assertion, and support it by his own statement, that he is not a soldier—

Mr. CLARK, of Missouri. Where and when? Tell us all about it.

Mr. HARRISON. That he was never in the Union Army.

Mr. CRITTENDEN rose.

Mr. HARRISON. I am giving my statement; believe it or not, as you choose. If you do not believe it, the majority of this House will believe me when I say that I know from this man's own statement that he is not a soldier.

Mr. CRITTENDEN. I want to know whether the evidence that he was or was not a soldier was not developed only this morning.

Mr. ALDRICH. I desire to know whether it is in order for more than two gentlemen from Missouri to interrupt my colleague at one time. [Laughter.]

The SPEAKER *pro tempore*. The Chair will state that it is not in order for any gentleman to interrupt the member upon the floor without his consent.

Mr. HARRISON. I will answer this question. Mr. Rogers is found on the soldiers' roll. When he was put there I do not know. I found him there for February. I went to Mr. Rogers to know whether he was a soldier.

Mr. CLARK, of Missouri. When?

Mr. HARRISON. Some time ago. Mr. Rogers told me he was. This morning he told me he was not.

Mr. FRANKLIN. Which statement did you believe?

Mr. HARRISON. The last. In addition to that, Mr. Rogers is no longer on the soldiers' roll for March; but Mr. S. J. Rogers, who is not here, is on the roll; and Mr. H. M. Rogers is filling his place with a power of attorney to draw his money. There are your books; the books from the Clerk's office containing the pay-rolls. Do not talk to me about my testimony. The books show what your Doorkeeper is doing and what he is continuing to do.

Mr. FRANKLIN. Is that in the testimony?

Mr. HEWITT, of Alabama. I raise the point of order that the prosecuting attorney has no right to testify in a case. [Laughter.]

Mr. HARRISON. Oh, I am not an attorney, my friend. I am a Congressman of the United States, who is sworn to do his official duty, and who has not yet learned to shield any public officer because he is a member of his own party. I come here sworn to do my duty as chairman of the Committee on Civil-Service Reform; and I care not whether a man be of my party or of another, he shall not do wrong with my knowledge without my bringing it to the attention of the House.

I present to you a part of the records of this House, the pay-rolls of this House. They are testimony. These are facts which have transpired since the testimony closed. They are the pay-rolls for February and March. And there are the names of men who were never in the Union Army on the pay-roll of "disabled soldiers." These things show that Mr. Polk is continuing to violate the law in February and March, as he did violate the law in January.

Mr. HEWITT, of Alabama. I make the further point of order that the chairman of the Civil-Service Reform Committee has no right to go outside of what the committee has done and come into this House with evidence that he has gathered himself, without any action of the committee.

Mr. HARRISON, (holding up a book.) There is your own record.

Mr. HEWITT, of Alabama. That record was never submitted to the committee.

Mr. HARRISON. I am making a speech, my friend, and I have the right to appeal to such documents as I please. I am not speaking as a lawyer.

Mr. FRANKLIN. It is not necessary for the gentleman to state that he is no lawyer.

The SPEAKER *pro tempore*. In response to the point of order of the gentleman from Alabama, [Mr. HEWITT,] the Chair will state that the gentleman from Illinois is speaking on his own responsibility and he has a right to proceed without interruption.

Mr. HARRISON. Now, sir, I am making a speech; I am arguing this question, and I have a right to bring in the facts. I have a right and it is my duty to tell this House anything I have of information which will enable them to come to a just verdict. If I heard this morning some facts having an important bearing upon this case I would be derelict to my duty if I did not tell the House those facts.

Mr. FRANKLIN. Would it not be your duty, then, if information came to you concerning this case since your committee closed the testimony and made its report, would it not be your duty to ask the House to allow your committee to reopen the case and to take further testimony? I do say here, Mr. Speaker, that the gentleman from Illinois has no right, as chairman of a committee of this House, to drag in information from sources other than the sworn testimony taken in the case which was delivered to him and to his committee to try and a just verdict render on the evidence.

A MEMBER. And when the Doorkeeper had no chance to cross-examine.

Mr. FRANKLIN. The gentleman from Illinois has no right to bring any facts here outside of the testimony in the case and when the Doorkeeper has had no opportunity to meet and disprove those statements.

Mr. HARRISON. I have the floor and I will go on.

Mr. LUTTRELL. The gentleman, however, promised to answer my question.

Mr. HARRISON. In a moment I will answer the gentleman from California.

Mr. LUTTRELL. I desire to ask the gentleman from Illinois a question, which I hope he will answer. He has stated to the House that Mr. Polk had employed a larger number than he was authorized by law to employ. I now ask him whether he, as chairman of the Committee on Reform in the Civil Service, has examined into what was done in the Forty-third and Forty-fourth Congresses on this very question, and whether he has made comparison between the expenses under Colonel Polk and the expenses under previous Doorkeepers in preceding Congresses—whether he has made a comparison between Mr. Polk's administration of this office and that of his predecessors, to see whether Colonel Polk's administration has not in reality been more economical than that of his predecessors? At least will the gentleman tell us what is the difference?

Mr. HARRISON. The committee of which I am chairman has not the dead past to rake up. We think it our duty to act within the living present and to remedy the wrongs which have now been done and which it is our duty to correct.

Mr. LUTTRELL. But that is not an answer to my question. My question is a legitimate one.

Mr. THOMPSON. No, it is not.

The SPEAKER *pro tempore*. The gentleman from Illinois has the floor, and the gentleman from California will not interrupt him unless by his consent.

Mr. LUTTRELL. But the gentleman yielded to me.

Mr. HARRISON. I yielded to the gentleman, but he takes up the whole time.

Mr. LUTTRELL. I wish an answer to my question, and it is this: the gentleman says the Doorkeeper has violated the law in employing a larger number than the law authorized him to employ. I wish to know whether the Doorkeeper in employing a number in excess of the law has expended a larger sum than was expended by his predecessors in the doorkeepership for a smaller number of employees?

Mr. HARRISON. Now, I should like to know whether it is any defense of Mr. Polk, and that he is to be justified in doing wrong, because somebody else has done wrong.

Mr. LUTTRELL. Oh, no; answer my question.

Mr. HARRISON. I would like to ask the gentleman whether if John Sherman were to pay money out for which there was no appropriation—

Mr. LUTTRELL. The gentleman is not answering my question. He proposes to put a question to me instead.

Mr. HARRISON. Suppose Mr. Sherman should pay a bill for which there was no appropriation—suppose he should pay a just claim even when there was no law providing for its payment, would not the gentleman have an investigation committee on him at once?

Mr. LUTTRELL. No, sir; that is not an answer to my question.

Mr. HARRISON. I tell the gentleman from California that if John Sherman, Secretary of the Treasury, had paid out the people's money in defiance of law, even if the claim were really a just one, the gentleman would have been one of the first to send articles of impeachment against him to the bar of the Senate.

Mr. LUTTRELL. That is an entirely different sort of affair. The gentleman dare not answer my question. He dodges the issue. Why not come up like a man and try this officer on his merits?

Mr. HARRISON. Why, sir, I should like to know whether it is a defense which can be set up in any court where a man is accused of stealing that he is to be acquitted because it is done in some other country by some other man?

Mr. HUBBELL. I would like to ask the Chair whether, when the gentleman from California puts a question to the gentleman from Illinois and he refuses to answer it, the gentleman from California can force him to do it. [Laughter.]

Mr. HARRISON. He can lead me to the branch to drink, but he cannot make me drink.

The SPEAKER *pro tempore*. The gentleman from California must confine himself to the legitimate purpose of asking a question, and he disregards the rule of the House when he retains the floor against the desire of the gentleman from Illinois.

Mr. LUTTRELL. I did not intend to be out of order. [Cries of "Order! Order!"] I simply asked a question, and wanted an answer to it.

The SPEAKER *pro tempore*. The gentleman is out of order at this moment.

Mr. HARRISON. I will just say this, in reply to the gentleman from California, that it is no defense for misconduct on the part of Mr. Polk that he had had predecessors.

Mr. LUTTRELL. I do not say it is.

Mr. HARRISON. It is no defense for violation of law on his part that he has saved money by illegal acts. Why, sir, a year ago, when Captain Eads was entitled to his pay for opening and deepening the mouths of the Mississippi River, he came to the Treasury of the United States to get his pay, but there was no appropriation made, and the Secretary of the Treasury refused to pay it. In the end we had to pay it, and we had to pay it in bonds which bore a large premium. And no one thought the Secretary of the Treasury wrong.

Mr. CRITTENDEN. Did you not vote against paying Captain Eads?

Mr. HARRISON. No, sir. It is no defense on the part of any man that somebody else has committed an equally heinous offense. It is no defense on the part of Mr. Polk that Mr. Patterson or Mr. Buxton

did wrong. It is true Mr. Buxton testified that in the Fortieth Congress, and before, the hiring of substitutes was notorious. Is the same thing to be justified on the part of Mr. Polk by this democratic House of Representatives, when the democratic party put in its platform at Saint Louis a civil-service reform plank?

Mr. LUTTRELL. Oh, yes, they put hard money in their platform, but they went back on it.

Mr. HARRISON. Because the republican party has done wrong, is that any excuse for us to do wrong?

Mr. LUTTRELL. Is the gentleman to go back on the hard-money platform?

Mr. HARRISON. Sir, I contend that it is the duty of the democratic party to carry out civil-service reform. We have gone to the people with a plank adopted by that party, that we would have civil-service reform. And as long as I am able to help the cause and to strike a blow for civil-service reform, whether it hurts a democratic Congressman, a democratic Doorkeeper, or anybody else, I am ready to do it. I do not believe in using whitewash. I do not believe it is the interest of the country or the party to cover up the wrong-doings of one of our own men. We have gone before the country with our honest pledge. I believe it was honest. It is for this House to determine whether it was honest or not. We have gone before the country pledged that we will uncover wrong and unearth iniquity wherever it is found, whether in high places or in low. We chased Belknap last year for doing illegal acts, and only illegal acts. We have now found that Mr. Polk has been guilty of illegal acts. I do not charge Mr. Polk with putting one dollar in his own pocket. That is not necessary. An officer of the law is amenable, not for making money out of his office, but for disobeying the law under which he is there to act; for disobeying the laws he has sworn to uphold. He may be pure, he may be kind, he may be charitable; but if he violates the laws he is unfit to hold office. I am a democrat because I believe the democratic party to be the party of law. It knows the Constitution and the laws of the land, and it believes in no doctrine of "higher law." When I find that party not the party of law I shall cease to be a democrat.

The democratic party, now springing into power and asking the people for a lease of power during the next four years, cheated out of its President at the last election and not likely to be cheated the next time, has pledged itself to the people that it will give an honest administration of affairs. And yet we are told this man, who has violated the law, who has despised the law, who has disregarded the law, and who disobeys the law, shall not be put out of this office because he has not taken money himself. Sir, you might as well say that the man who steals my purse for the sake of building up a church with it has committed no crime because his act was intended for a good purpose. You might as well tell me the man who robs my house and takes from it my furniture or my goods for the sake of giving them to a charitable institution is immaculate because his intentions were good. I appeal to the democratic party. We have gone before the country pledging ourselves to give civil-service reform. Do not let it be said that the first democrat who is caught in its clutches is going to escape because he is a democrat or because he is kind and charitable. You put out Fitzhugh because he spelt "bigger" with one single "g." But here is a man who is robbing the soldier of the pittance the Government has given him and putting in his place a man who is not a soldier, who is disobeying the law willfully because the law hampers him in his management of the affairs the law has devolved upon him. If you pass these things over, then I ask you if you can go to your constituents and justify the act.

Mr. Speaker, I have not covered half the testimony, but I have already wearied the House and I thank it for its kind indulgence.

Mr. ELLSWORTH. Before the gentleman sits down will he allow me to ask him a question?

Mr. HARRISON. I will hear it.

Mr. ELLSWORTH. I want to know whether the gentleman, after making this speech and after proving to this House that he went outside of his duty on the committee—

Mr. HARRISON. I deny it.

Mr. ELLSWORTH. And took this case into his hands without notice to Mr. Polk—

Mr. HARRISON. I deny it.

Mr. ELLSWORTH. Whether he still persists in being considered a friend of Mr. Polk.

Mr. HARRISON. Yes, sir; I am a friend of Mr. Polk and his family; but I am a friend to my country and to its laws.

Mr. ELLSWORTH. Then you do not deny it.

Mr. HARRISON. I would do as much for him as any man on this floor; but I would never consent to drag my party down to save any man, it makes no difference however kind and good he may be.

Mr. CRAVENS obtained the floor.

Mr. COOK. I move that the House do now adjourn.

T. W. SEGAR AND T. F. ALEXANDER.

The SPEAKER, by unanimous consent, laid before the House a letter from the chief clerk of the War Department, transmitting the military history of Thomas W. Segar and Thomas F. Alexander, Eightieth Illinois Volunteers; which was referred to the Committee on Military Affairs.

FUEL AND QUARTERS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the chief clerk of the War Department, transmitting report of the Quartermaster-General in relation to fuel and quarters; which was referred to the Committee on Military Affairs.

J. E. QUENTIN.

The SPEAKER also, by unanimous consent, laid before the House a letter from the chief clerk of the War Department, transmitting petition of J. E. Quentin for correction of his record in the volunteer service; which was referred to the Committee on Military Affairs.

NEWTOWN CREEK AND EAST RIVER.

The SPEAKER also, by unanimous consent, laid before the House a letter from the chief clerk of the War Department, transmitting reports relative to deposit near the junction of Newtown Creek and the East River; which was referred to the Committee on Commerce.

REMOVAL OF ROCKS IN GEORGETOWN CHANNEL.

The SPEAKER also, by unanimous consent, laid before the House a letter from the chief clerk of the War Department, transmitting report of Engineer Abert on cost of removal of rocks in Georgetown channel; which was referred to the Committee on Commerce.

WITHDRAWAL OF PAPERS.

On motion of Mr. BOONE, by unanimous consent, leave was granted to withdraw from the files of the House the papers in the case of M. Cook & Co., of Paducah, Kentucky, no adverse report having been made thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed bills and a joint resolution of the following titles; in which the concurrence of the House was requested:

An act (S. No. 333) for the relief of Thomas J. Choate, Erastus Foster, Milton Ladd, Clarence E. Haney, William A. Hill, Kneeland F. Huckaby, and William Blackburn, late privates in Company F, Third Regiment Arkansas Cavalry Volunteers;

An act (S. No. 378) for the relief of William L. Hickam, of Missouri, guardian of the minor children of Hillary J. Jenkins; and

Joint resolution (S. R. No. 22) providing for a place of deposit for the records and proceedings of the commission appointed under the act entitled "An act to provide for and regulate the counting of votes for President and Vice-President and the decision of questions arising thereon for the term commencing March 4, A. D. 1877, approved January 29, 1877."

JAMES A. GUTHRIE.

Mr. DEERING, by unanimous consent, introduced a bill (H. R. No. 4232) granting additional pension to James A. Guthrie; which was read a first and second time, with a joint resolution of the Legislature of the State of Iowa relating to the same subject referred to the Committee on Invalid Pensions, and ordered to be printed.

IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. HARTZELL. I ask leave to present and have printed in the RECORD the petition and memorial of 346 citizens of Union and Pulaski Counties, in the State of Illinois, asking Congress to pass the bill recently introduced in the Senate by Senator COCKRELL, providing for the appointment of a commission to devise plans for the survey and improvement of the Mississippi River and for the protection of such portions of the great Valley of the Mississippi as are now subject to inundation.

There was no objection, and leave was granted.

The petition is as follows:

To the honorable Senate and House of Representatives of the United States:

The undersigned, your petitioners, citizens of the State of Illinois, and others, interested in the navigation of the Mississippi River, recognizing the improvement of said river as of great national importance, and believing that the bill introduced by Senator COCKRELL providing for the appointment of a commission, under whose supervision the survey of the river and construction of the works for said improvement shall be carried on, will effectually provide the means for said improvement, respectfully request that your honorable bodies will, without delay, enact said bill into a law with a view to a speedy removal of the grievous burdens now imposed by the uncertainties and dangers of the navigation of said river and to a speedy protection of such portions of the great valley of the Mississippi as are now subject to inundation.

IMPROVEMENT OF THE APALACHICOLA RIVER.

Mr. DAVIDSON, by unanimous consent, introduced a bill (H. R. No. 4233) making an appropriation for the improvement of the mouth of the Apalachicola River, in the State of Florida; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ARREARS OF PENSIONS.

Mr. CUMMINGS, by unanimous consent, introduced a bill (H. R. No. 4234) to provide that all pensions on account of death, or wounds received or disease contracted in the service of the United States during the late war of the rebellion, which have been granted or which shall hereafter be granted, shall commence from the date of death or discharge from the service of the United States, for the payment of arrears of pensions, and other purposes; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ISSUE OF ARMS TO TERRITORIES.

Mr. FENN, by unanimous consent, introduced a joint resolution (H. R. No. 153) providing for issue of arms to Territories; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

DENNIS LOONEY.

Mr. GUNTER, by unanimous consent, introduced a bill (H. R. No. 4235) for the relief of Dennis Looney, of Washington, District of Columbia; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

SALE OF RESERVATION.

On motion of Mr. WREN, by unanimous consent, the bill (S. No. 373) to amend an act to provide for the sale of a portion of the reservation of the Confederated Ojibwa and Missouria and the Sac and Fox of the Missouri tribes of Indians, in the States of Kansas and Nebraska, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands, not to be brought back on a motion to reconsider.

Mr. CONGER. Are all these references subject to that order?

The SPEAKER. Yes, except those that come back under the rule.

Mr. CONGER. I move to reconsider the vote by which these various references have been made; and move to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. COOK. I now insist on my motion.

The motion was agreed to; and accordingly (at four o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BLAIR: The petition of A. J. Shepard and 235 other citizens of Raymond, New Hampshire, for an amendment to the Constitution prohibiting the manufacture and sale of distilled liquors after the year 1900, and for a commission of inquiry—to the Committee on the Judiciary.

By Mr. BUCKNER: The petition of R. H. Porter, for compensation for services rendered the United States—to the Committee of Claims.

By Mr. CASWELL: The petition of Mrs. George M. Harrington, for the removal of her political disabilities—to the Committee on the Judiciary.

By Mr. CHALMERS: The petition of Mrs. Nora Walsh, for compensation for property taken by the United States Army—to the Committee on War Claims.

By Mr. CHITTENDEN: The petition of 60 citizens of Brooklyn, New York, against reviving the income tax—to the Committee of Ways and Means.

By Mr. CLAFLIN: Resolutions of the Board of Trustees of the Boston Marine Society, favoring the introduction of Courtenay's automatic signal buoy—to the Committee on Commerce.

By Mr. CLARK, of New Jersey: The petition of Robert Brown, for the extension of letters-patent numbered 32556—to the Committee on Patents.

By Mr. CLARK, of Missouri: The petition of C. J. Walden, Thomas S. Carter, Kilby & Freeman, and H. E. Smith, against the adoption of the proposed tariff on type—to the Committee of Ways and Means.

By Mr. DANFORD: The petition of William Armstrong and others, citizens of Belmont County, Ohio, against any change of the tariff on wool—to the same committee.

By Mr. FULLER: The petition of the Evansville, Cairo and Memphis Packet Company, to be reimbursed for money expended in lighting, buoying, and staking the Ohio River in the interests of commerce—to the Committee on Commerce.

By Mr. GARTH: The petition of William D. Parks, John K. Childress, and other citizens of Jackson County, Alabama, in regard to the additional bounty land granted by the act of 1855—to the Committee on Military Affairs.

By Mr. HATCHER: Memorial of citizens of the fourth congressional district of Missouri, for the distribution of the sales of the public lands among the several States in aid of popular education—to the Committee on Education and Labor.

By Mr. HENDEE: The petition of James W. Ryan, for a pension—to the Committee on Invalid Pensions.

Also, the petition of Mary L. Hubbard and Ellen Smith, of Guilford, Vermont, for the removal of their political disabilities—to the Committee on the Judiciary.

Also, the petition of Mrs. A. P. Walters, Mrs. E. B. Wilson, and other citizens of Washington, District of Columbia, for an amendment of the Constitution prohibiting the several States from disfranchising United States citizens on account of sex—to the same committee.

By Mr. HEWITT, of Alabama: The petition of W. P. Webb and other citizens of Eutaw, Alabama, for Government aid to the Texas Pacific Railroad—to the Committee on the Pacific Railway.

Also, the petition of J. A. McLester, S. J. Gaines, and other citizens of Northport, Alabama, of similar import—to the same committee.

By Mr. HUBBELL: The petition of R. P. Hulbert, Horace A. N.

Todd, and 75 other citizens of Mackinac, Michigan, against the passage of the bill for the protection of fisheries—to the Committee on Commerce.

By Mr. JONES, of Alabama: The petition of Eliza W. Ogden, of Mobile, Alabama, for a pension—to the Committee on Invalid Pensions.

By Mr. JOYCE: The petition of citizens of Bennington, Vermont, for the amendment of the bounty laws—to the Committee on Military Affairs.

Also, the petition of citizens of Washington County, Vermont, of similar import—to the same committee.

By Mr. LANDERS: The petition of J. Francis Goodrich, for a pension—to the Committee on Invalid Pensions.

By Mr. LIGON: The petition of citizens of Rockford, Coosa County, Alabama, to raise a fund for popular education from the sale of public lands—to the Committee on Education and Labor.

By Mr. MCGOWAN: The petition of Mrs. F. L. Wright, Sarah E. Dart, and other citizens of Lansing, Michigan, for an amendment to the Constitution prohibiting the several States from disfranchising United States citizens on account of sex—to the Committee on the Judiciary.

By Mr. O'NEILL: The petition of citizens of Philadelphia, against the revival of the income tax in any form—to the Committee of Ways and Means.

By Mr. PATTERSON, of New York: Resolutions of the Legislature of New York, opposing the sale of the arsenal at Watervliet, New York—to the Committee on Military Affairs.

By Mr. PRICE: The petition of 23 citizens of Deadwood and vicinity, Dakota Territory, for a charter for the Whitewood Flume Company—to the Committee on Mines and Mining.

By Mr. RIDDLE: Papers relating to the pension claim of David McComb—to the Committee on Invalid Pensions.

By Mr. STRAIT: The petition of Lizzie Bailey, Albert Allie, and other citizens of Reynolds, Minnesota, for an amendment to the Constitution prohibiting the several States from disfranchising United States citizens on account of sex—to the Committee on the Judiciary.

By Mr. TUCKER: The petition of citizens of Richmond, Virginia, for the establishment of export tobacco warehouses—to the Committee of Ways and Means.

Also, the petition of citizens of Richmond, Virginia, against the establishment of export tobacco warehouses—to the same committee.

Also, the petition of H. H. Sibley, for leave to prosecute his claim against the Government under contract, in respect to the Sibley tent—to the Committee on the Judiciary.

Also, the petition of J. E. Merrill and others, postal clerks, route agents, and other postal officials, for an increase of their salaries—to the Committee on Appropriations.

By Mr. WALSH: The petition of Levi Price, for relief from payment of liquor tax, charged in excess of production—to the Committee of Ways and Means.

By Mr. WIGGINTON: The petition of L. Snodgrass and 42 other citizens of Ventura County, California, against the passage of a bill authorizing a resurvey of the Rancho El Rio de Santa Clara ó La Calonia, of that State—to the Committee on Public Lands.

By Mr. WILLIAMS, of Oregon: The petition of Mrs. Lydia A. Carter, Angela Brown, and others, of New Era, Oregon, for an amendment to the Constitution prohibiting the several States from disfranchising United States citizens on account of sex—to the Committee on the Judiciary.

By Mr. WILLIS, of Kentucky: Papers relating to the claim of Calhoun Benham—to the same committee.

By Mr. WILSON: The petition of L. Caywood and others, against any reduction of the duty on wool—to the Committee of Ways and Means.

IN SENATE.

WEDNESDAY, April 3, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. DAWES. I present the petition of the Board of Trade of Boston, praying that a law may be enacted for an equitable rule to authorize the correction of errors in the assessment of duties. I wish to say in regard to this petition that it not only comes from a very highly respectable body of men, but men of great experience in the matter to which it alludes, and who have as ardent a desire as anybody can for not only the honest collection of the revenues, but also for simplicity and the removal of all difficulties in adjusting questions which may arise between the Government and the importer. The need of such an act as they suggest here has long been felt by the merchants of Boston and of New York and all engaged in the import trade. I move the reference of this petition to the Committee on Finance, whose attention to it I invoke.

The motion was agreed to.

Mr. ROLLINS presented the memorial of George B. Chandler and others, citizens of Manchester, New Hampshire, remonstrating against the passage of any act imposing a tax on incomes; which was referred to the Committee on Finance.

The VICE-PRESIDENT presented a resolution of the Board of Trade of Buffalo, New York, and a resolution of the Board of Trade of Oswego, New York, against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which were ordered to lie on the table.

Mr. EATON presented the petition of J. H. Wolcott, executor of the last will and testament of Abbott Lawrence, deceased, praying the passage of an act authorizing the Secretary of State to pay to him interest on a certain sum of money exacted from Mr. Lawrence in violation of the treaty of 1815, as is alleged, by Great Britain between the years 1815 and 1822; which was referred to the Committee on the Judiciary.

Mr. KERNAN presented the memorial of Peter Cooper, W. H. Webb, A. A. Low & Co., and 70 others, of New York, merchants, ship-owners, and members of the New York Maritime Exchange and Chamber of Commerce, remonstrating against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which was ordered to lie on the table.

Mr. KIRKWOOD presented a joint resolution of the General Assembly of Iowa, in favor of the passage of an act granting a pension to James A. Guthrie on account of services rendered the United States during the Mexican war; which was referred to the Committee on Pensions.

Mr. McPHERSON presented a resolution of the board of aldermen of Jersey City, New Jersey, in favor of the passage of an act making that city a port of entry; which was referred to the Committee on Commerce.

Mr. INGALLS presented the petition of the Seneca Nation of Indians, praying for the passage of an act providing for the appointment of a commission to ascertain the value and divide the lands in the Cattaraugus, Allegany, and Oil Spring reservations, in the State of New York, between the individual Indians belonging to the Seneca Nation as their rights may appear; which was ordered to lie on the table.

Mr. SPENCER presented the petition of the Lowery Industrial Academy for the instruction of colored youths, of Huntsville, Alabama, praying for an appropriation for endowing that institution to aid in the growth and culture of silk; which was referred to the Committee on Education and Labor.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of War, transmitting, in compliance with a resolution of December 11, 1877, copy of correspondence and reports on the subject of the construction of a dry-dock on a portion of the United States property at Fort McHenry, Maryland; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting, in answer to a resolution of the 14th ultimo, a copy of the report of Special Agent J. F. Evans in relation to the claims of laborers and material-men arising out of the construction of the revenue-cutter Corwin, recently built at Albina, Oregon; which was ordered to lie on the table and be printed.

REPORTS OF COMMITTEES.

Mr. COCKRELL. The Committee on Claims, to whom was referred the bill (S. No. 834) for the relief of Mrs. Margaret A. Spencer, have considered the same and instructed me to report it back asking that the bill be indefinitely postponed and this report agreed to. I hope the Clerk will make the proper entry, so that it will be a bar to the subsequent presentation of the same thing.

The report was agreed to, and the bill was postponed indefinitely. Mr. COCKRELL, from the Committee on Claims, to whom the subject was referred, submitted a report accompanied by a bill (S. No. 1031) for the relief of the estate of E. Rouff, deceased.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. GARLAND, from the Committee on Public Lands, to whom was referred the bill (S. No. 951) relating to the Pagossa Hot Springs, in the State of Colorado, reported adversely thereon, and the bill was postponed indefinitely.

Mr. KIRKWOOD. I am instructed by the Committee on Pensions, to whom was referred the bill (S. No. 907) granting a pension to Louis Koerth, to report adversely thereon and ask to be discharged from its further consideration, the application not having been made to the Bureau of Pensions.

The bill was postponed indefinitely.

Mr. KIRKWOOD. I am also instructed by the same committee, to whom was referred the petition of the heirs of Anthony Schworer, late private of Company G, Twelfth Regiment Ohio Volunteer Infantry, praying for an adjustment of their claim for a pension, to ask to be discharged from its further consideration, as the Pension Bureau have since the pending of the petition here allowed the pension.

The report was agreed to.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the bill (S. No. 889) granting a pension to John Etzell,

reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

Mr. CHRISTIANCY, from the Committee on the Judiciary, to whom was referred the bill (S. No. 43) providing for taking testimony and collecting information to be used by Congress, reported it with an amendment.

Mr. McMILLAN, from the Committee on Claims, to whom was referred the bill (S. No. 487) for the relief of Mrs. Maria B. Wolfe, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 337) for the relief of Thomas H. Halsey, paymaster United States Army, reported it with an amendment.

Mr. CAMERON, of Wisconsin. The Committee on Claims, to whom was referred the bill (H. R. No. 622) for the relief of workmen employed in the construction of Poverty Island light-house, Lake Michigan, have instructed me to report it with a recommendation that it be indefinitely postponed. I am authorized by the committee to ask that the bill be placed on the Calendar.

The VICE-PRESIDENT. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. INGALLS, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 690) to amend an act entitled "An act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany reservations, and to confirm existing leases," approved February 19, 1875, reported it with an amendment.

Mr. HARRIS, from the Committee on Claims, to whom was referred the bill (S. No. 288) for the relief of Gibbes & Co., of Charleston, South Carolina, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. MITCHELL, from the Committee on Claims, to whom was referred the petition of James C. McBurney, late collector of internal revenue for the second district of Georgia, submitted a report thereon, accompanied by a bill (S. No. 1033) for the relief of J. C. McBurney.

This bill was read twice by its title, and the report was ordered to be printed.

Mr. MORGAN, from the Committee on Claims, to whom was referred the bill (S. No. 319) for the relief of the Metropolitan police force of the District of Columbia, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BURNSIDE. I am instructed by the Committee on Military Affairs, to whom was recommitted the bill (S. No. 178) to remove all restrictions now existing in regard to enlistments of the colored citizen in any arm of the United States Army, to report it with amendments. After the conclusion of the morning business I shall ask for the immediate consideration of this bill.

Mr. COCKRELL. As the report is just made and the bill as amended has not been printed, and as the Senator from Texas [Mr. MAXEY] and another Senator interested in the bill are not here, I suggest to the Senator from Rhode Island that the bill be printed as reported and that it be taken up to-morrow.

Mr. BURNSIDE. Very well.

Mr. SARGENT, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes, reported it with amendments.

BILLS INTRODUCED.

Mr. CHAFFEE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1032) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and the acts amendatory thereof and supplemental thereto; which was read twice by its title, and ordered to lie on the table.

Mr. KIRKWOOD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1034) granting additional pension to James A. Guthrie; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1035) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. SPENCER (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1036) to incorporate the United States Commercial Company; which was read twice by its title, and referred to the Committee on Commerce.

Mr. BECK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1037) for the relief of John B. Davis; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

JUDICIAL DISTRICTS OF MISSOURI.

Mr. COCKRELL. I move that the Senate proceed to the consideration of the bill (H. R. No. 596) to amend section 540, chapter 1, title 13, Revised Statutes of the United States. The bill is reported from the Committee on the Judiciary favorably. It merely changes one county in Missouri from the eastern to the western district.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which proposes to amend section 540 of chapter 1 and title 13 of the Revised Statutes, so as to read:

SEC. 540. The State of Missouri is divided into two districts, which shall be called the eastern and the western district of Missouri. The eastern district includes the counties of Schuyler, Adair, Knox, Shelby, Monroe, Pike, Montgomery, Gasconade, Franklin, Washington, Reynolds, Shannon, and Oregon as they existed January 1, 1857, with all the counties east of them. The western district includes the residue of said State.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CORRECTION OF ERRONEOUS ASSESSMENT.

Mr. ROLLINS. I move that the Senate proceed to the consideration of the bill (S. No. 1012) authorizing the commissioners of the District of Columbia to abate a certain tax erroneously assessed.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the commissioners of the District of Columbia to cause to be made, by the proper officers, a readjustment of the assessment of taxes upon property situated about two and one-half miles north of the Capitol, being the property of the estate of the late Chief-Justice of the United States, Salmon P. Chase, known as Edgewood, upon a valuation not to exceed \$18,000, including the property and improvements; which readjustment, when so made, shall be, to all intents and purposes, as effectual as if made at the date of the original assessment; and the commissioners are to abate so much of the taxes now due and unpaid upon the property as are in excess of such valuation, together with the interest and penalties for the four years prior to the passage of the act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM L. ADAMS.

Mr. MITCHELL. I move that the Senate proceed to the consideration of the bill (S. No. 997) for the relief of William L. Adams.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the proper accounting officer in the settlement of the accounts of William L. Adams, formerly collector of customs for the district of Oregon, to credit him with the sum of \$13,257.30.

Mr. McDONALD. Is there a report accompanying the bill?

Mr. MITCHELL. There is. The Senator from West Virginia [Mr. HEREFORD] made the report.

The VICE-PRESIDENT. Does the Senator from Indiana desire the reading of the report?

Mr. McDONALD. Yes, or a statement of the grounds on which this relief is proposed.

Mr. MITCHELL. The report is rather lengthy.

Mr. McDONALD. For my part I should like to have a statement of the grounds on which the bill rests. It directs the credit of a pretty large sum of money.

Mr. MITCHELL. The Senator from West Virginia understands the case thoroughly, and can make a statement perhaps briefer than the report.

Mr. HEREFORD. I will state briefly the facts in the case. This claim has been before Congress since 1866. Three reports have been made upon it, two by the committee of the Senate and one by the committee of the House of Representatives. A report was made from the Committee on Claims by Mr. Pratt, of Indiana, May 25, 1874, which report in its main statement of facts has been adopted by the committee in this case. The facts are briefly these: In 1866, Mr. Adams was instructed to carry from Astoria, in Oregon, to San Francisco, in California, for the purpose of depositing there with the United States assistant treasurer, the money belonging to the United States then in his hands as collector. The Senate will bear in mind that he was instructed to carry these funds from Portland to San Francisco in person. The amount that was in his possession then was \$46,500 in gold coin and a thousand dollars in currency. He obeyed those instructions and went on board of the steamer Oregon at Astoria on the 3d of February, 1866, and made the voyage to San Francisco. He placed the money in a trunk securely fastened and engaged a stateroom by himself, so that no other person could have access to it but himself. He was cautious in taking care of the money thus intrusted to him and which he had been ordered to carry in person to San Francisco. There is no allegation and no proof that there was any negligence or any default of any nature or kind whatever on his part. The trunk was taken from the steamer and carried to his hotel in San Francisco. When he went to take the money to the proper officer in San Francisco he found that there had been abstracted \$20,500. The detectives were informed of the fact and search was immediately made.

Without occupying the time of the Senate to go through all the details, I will state that it was ascertained beyond any doubt that this \$20,500 was taken from his trunk while he went to one of his meals a few hours before his arrival in San Francisco. A part of this money was recovered, some of it from one of the parties while in San Francisco and a part of it in New York. Mr. Adams now asks that the proper accounting officer be instructed to credit him with

the balance. There is no pretense whatever that he had any complicity in the robbery or that he did not use due diligence in carrying the money from one place to the other. He was instructed, as I said, by the Department at Washington City to carry the money in person, not being allowed to send it by express. It is true that under the decision of the Supreme Court of the United States he is not in law entitled to relief, and he and his sureties would be responsible upon their bond for the amount. Neither I nor the committee have any fault to find with the law or any fault to find with the construction of the law as placed upon it by the various decisions of the Supreme Court. We think the law is wise and that the construction placed upon it is the true construction; but, on the other hand, the committee think that in a case of this kind, where the money was taken from him without any negligence on his part whatever, the officer of the Government should be relieved.

Mr. McDONALD. I desire to ask the Senator from West Virginia if the bill credits him with just the amount of the actual loss and covers nothing for his expenses.

Mr. HEREFORD. It is exactly the loss that he incurred.

Mr. McDONALD. I understood that the bill provided a credit of a larger amount than the sum stolen. There was a certain part of the stolen funds recovered.

Mr. HEREFORD. A certain part of the stolen funds was recovered, and the bill is to instruct the proper accounting officers to allow him credit for the balance that was not recovered. The amount recovered was passed to his credit and the bill is to allow for the difference; in other words, for the amount of money that was never recovered.

Mr. HARRIS. I suggest to the Senator from West Virginia that if he will look at the facts I am inclined to think he will find that \$1,000, or some such amount, expended in San Francisco at the time the loss was first discovered, is allowed in this credit, and that therefore to that extent his expenses are included.

Mr. HEREFORD. About \$1,000 was paid out to employ detectives.

Mr. MITCHELL. But no part of his expenses in going to New York and in arresting the robbers is included.

Mr. HEREFORD. No part of his own expenses is included in the bill whatever; simply the money paid out to detectives in San Francisco and the money paid out to certain detectives in the city of New York. Part of the money was taken by the thieves to New York. They made their escape and went to New York, and part of it was recovered there, while part of it was recovered in San Francisco. Detectives had to be employed and were employed to hunt up this case, and he is allowed by the bill the money that was thus paid to them in detecting the thieves and in recovering this amount. In round numbers, about \$6,000 was thus recovered.

Mr. MITCHELL. I suggest to the Senate and to the Senator from Indiana that this bill has passed the Senate twice heretofore, and in precisely the shape it is in now.

Mr. HEREFORD. If the officers of the Government in a case of this kind are not to be relieved, I do not see how the Government is to get along at all, because, under the law and under the decisions of the Supreme Court, if Mr. Gillfillan, the Treasurer of the United States, and every officer in the Treasury were gagged to-night and confined, and every dollar in the Treasury taken from it without any fault whatever on his part or that of any of his subordinates, the Treasurer would be responsible in law for the untold millions that are in his charge. The committee think that in a case of that kind the officers of the Government should be relieved, and that is just this case. As all the testimony shows, Mr. Adams is in no way culpable. If anybody is to blame, certainly it seems to the committee—at least it did to me, who had the examination of the case and reported it—that the Government is more to blame than this officer for instructing him to carry that amount of money in person from Portland to San Francisco. A few days afterward they issued an order to him that he might send the money by express. If they had allowed him to do that, it would have been safe. There was an express company carrying money from Portland, Oregon, to San Francisco. But they would not allow him to do that. They directed him to carry it in person. If he had been left to exercise his discretion either to carry it in person or to send it by express, that would have made a different case; but that was not this case. In this case there is the order of the Department at Washington to carry this money in person from one of these places to the other, and also without delay. We say then, in a case of this kind, that the officer certainly should be relieved. As I said a moment ago, as the statutes of the United States now provide and under the decisions of the Supreme Court which I have examined in this connection, if the Treasury of the United States were robbed to-night of every dollar in it, the Treasurer of the United States would be responsible for it. I do not believe there is a Senator on this floor who would not say that a bill should be passed for the relief of the Treasurer in such a case as that.

These, Mr. President, are the salient points in the case. There is a report here which if Senators desire can be read. In making my report I adopted the report of Mr. Senator Pratt, made on a former occasion while a member of the Committee on Claims. I have come to a different conclusion from that arrived at by him, although we do not disagree about the facts.

Mr. McMILLAN. Mr. President, it is perhaps due to myself that I should say that while there is no minority report in this case, as I

did not think the facts called for that, I did not concur in the report as made.

Mr. HARRIS. I desire to say in reference to this claim simply that I could not concur in the opinions of the majority. While the facts as stated by the Senator from West Virginia are accurately and well stated, I was of opinion that this collector had not used that degree of care and diligence in the matter of putting twenty-odd thousand dollars in a trunk and depositing that in a state-room on a steamer that custodians of the public money should be held to by this Government, and as a general policy I am opposed to relieving custodians of public moneys unless it is shown that they have not only been diligent, but have used the highest degree of diligence and care to take care of the funds intrusted to their hands. For that reason I did not concur with the majority of the committee, and I cannot vote with the majority of the committee upon the proposition to pass the bill.

Mr. MITCHELL. Mr. President, I do not desire to prolong this discussion, but in view of what has been said I feel it my duty to say a word at least in response to what the Senator from Tennessee has just said.

The facts in reference to this matter of the robbery are simply as they have been very fully stated by the Senator from West Virginia. The collector of the port at Astoria, Oregon, Mr. Adams, the claimant here, was ordered by the Secretary of the Treasury to take a large amount of money—some \$50,000 or about that—in person and carry it from Astoria to San Francisco to the subtreasury there. In pursuance of that instruction he took the money in gold coin, placed it in large bags, put it in a trunk, a good solid trunk securely fastened, took it to his state-room and staid with it all the while, according to the testimony, with the exception of the time when it was absolutely necessary for him to leave his room in making the trip on the steamer from Astoria to San Francisco. On his arrival at San Francisco it was discovered, after the trunk had been carried to his hotel, that the parties who had charge of his room, as it was learned afterward, the boys who cleaned up the room, had taken out from the bottom of the trunk a section and extracted two of the gold bags, taking considerably less than one-half of the whole amount he had in his trunk. Detectives were set to work, and after a long hunt these men were arrested in the city of New York, brought back to San Francisco, confessed the crime, part of the money was found buried in the city of San Francisco, and Mr. Adams, after a very lengthy and expensive hunt, succeeded in getting this much of the money.

It was said by my honorable friend from Tennessee that he was not careful, that he had not acted as a prudent man. What more could he have done?

Mr. McDONALD. I should like to ask the Senator from Oregon if the loss of this money was not discovered until the trunk was carried up to the hotel?

Mr. MITCHELL. It was not.

Mr. McDONALD. How did it happen that one-half or more of this large amount in specie could have been taken from the trunk without the fact being discovered before he left the boat?

Mr. MITCHELL. That is a very pertinent question and I will tell the Senator why. The question occurred to me at the time the case was before the committee and I looked into it. The answer is this: the trunk with the whole amount in it was so heavy that it had to be handled by two men; two men put it on board and two men employed by Mr. Adams carried it off, different men; of course Mr. Adams could not carry the trunk himself. If he had been able to carry it either on board or from the steamship, he in all probability would have discovered the difference in weight, but he did not. He had two men to carry it up, and still it was a very heavy trunk. Mr. Adams did not discover any difference in the weight; but when he came to his hotel and opened the trunk, he then discovered that a part of the money was gone, and it was a mystery to him. He examined the lock, and the lock was all right.

Mr. HEREFORD. Will the Senator from Oregon allow me to read from the report right on that point?

Mr. MITCHELL. When I finish the sentence. It was with some difficulty that he satisfied himself as to how this money had been extracted.

Mr. HEREFORD. I wish to read from the report the testimony of Mr. Adams in that connection:

The trunk was heavy, weighing, probably, over two hundred pounds, and I could not, in my poor state of health, lift it. The men who carried the trunk from my room on the steamer to the Russ House coach acted as though it was still heavy enough to weigh over two hundred pounds. During the entire voyage I was seldom absent from my room, never leaving it except for my meals, walking on deck for exercise, &c., when I was careful to pass near or in sight of my room-door very frequently.

Mr. MITCHELL. I do not wish to add anything further than to state that Mr. Adams is one of our most respected citizens in Oregon.

Mr. GROVER. I wish to speak of the character of Mr. Adams. I have been acquainted with him more than twenty-five years, and I can state to the Senate that a man of higher character for honesty does not live in the State of Oregon or in any State, in my judgment. If he has been in fault in any respect, I am satisfied it was not an intentional fault, and I hope there will be favorable action on this bill.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS A. WALKER.

Mr. KIRKWOOD. I move to take up Senate bill No. 954.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 954) for the relief of Thomas A. Walker. It provides for the allowance to Thomas A. Walker, late register of the United States land office at Des Moines, Iowa, of \$5,117.75 on account of money paid out and expended by him as register for hire of clerks and office rent in his office during his incumbency.

Mr. HARRIS. I ask that the report of the committee be read. It states the facts very fully.

The Secretary read the following report, submitted by Mr. HARRIS on the 20th of March:

The Committee on Claims, to whom was referred the two petitions and accompanying papers of T. A. Walker, late register of the United States land office, at Fort Des Moines, Iowa, have carefully considered the same, and submit the following report:

In the petition No. 1, petitioner asks to be reimbursed moneys expended by him for clerk hire and office rent, rendered necessary by the unusually large quantity of land entered at his said office for the first two years of his official term.

And petition No. 2 asks to be reimbursed money expended by the petitioner for the hire of one additional clerk and the rent of a larger office, rendered absolutely necessary by the consolidation of the Iowa City land office with the Fort Des Moines office during the third and last year of his official incumbency.

Petition No. 1 was referred to the Senate Committee on Claims, second session of the Forty-fourth Congress, when the following report was made by said committee, which report your committee find, upon examination, well sustained by the evidence, and adopt the same, as follows:

Your committee wrote a letter of inquiry to the Secretary of the Interior, and received through him the following report from the Commissioner of the General Land Office, to wit:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 14, 1877.

SIR: I have the honor to acknowledge the receipt, by reference from the Department, of a letter from Hon. F. M. COCKRELL, for Committee on Claims of the United States Senate, dated the 8th instant, and in reply to the inquiries therein contained, respectfully state that Thomas A. Walker, late register of the United States land office at Fort Des Moines, Iowa, (bond dated June 1, 1854,) entered upon the duties of his office, June 15, 1854, and turned over to his successor the books, papers, &c., of the office September 15, 1857.

The public lands disposed of during his official incumbency, the amount of military bounty-land warrant fees collected, and the amount paid him, pursuant to a decision of the United States Supreme Court, January term, 1841, in the case of the United States vs. Dixon, receiver of Choctaw district, Mississippi, (15 Peters, 141,) for salary, commissions, and fees, were as follows:

Years.	Area sold for cash.	Area located with military bounty-land warrants.	Amount of military bounty-land warrant fees received.	Amount paid register as salary, commissions, &c.
1854, June 15 to December 31..	769,444.22	60,680.00	\$2,017.00	\$2,771.98
1855, January 1 to December 31.	908,794.09	732,740.35	18,818.87	3,000.00
1856, June 1 to December 31....	63,388.41	353,996.00	8,849.94	1,756.11
1857, January 1 to September 15.	400.00	2,815.85	.....	365.66
	1,682,026.72	1,190,232.20	29,685.81	7,892.75

It has been held that the entire amount of register's and receiver's fees collected for locating military bounty-land warrants is to be accounted for by the receiver, to be by him deposited in the United States Treasury, as other proceeds from the disposal of public lands; the said fees to be again paid out by warrant, with limitation as regards the legal maximum of compensation to the respective officers alluded to.

The fees received, amounting to \$29,685.81, referred to in the foregoing table to have been accounted for by the former receiver, and is presumed to have been paid into the Treasury, inasmuch as but a small balance appears against him upon the books of this office.

The following United States land offices were allowed for payment to clerks, rendered necessary in consequence of the magnitude of the sales of Osage and other Indian lands, the sums paid to them having been charged against the proceeds as expenses incident to the sale of such lands, namely:

David B. Emmert, receiver at Humboldt, Kansas.....	\$3,145.00
William Q. Jenkins, register at Wichita, Kansas.....	3,207.50
M. W. Reynolds, receiver at Independence, Kansas.....	2,041.66

The act of Congress of 7th July, 1876, allowed Ariel K. Eaton, late receiver, and James D. Jenkins, former register, at Decorah and Osage, Iowa, \$3,600 each on account of payments for the services of clerks, upon the ground that such employment was necessary, owing to the large number of entries of land at that office.

By act of 18th February, 1861, section 2255, Revised Statutes of the United States, the Secretary of the Interior is authorized to approve the employment for a limited period, and at a reasonable per diem compensation, of one or more clerks in the office of a register of a consolidated land office, &c.; but with this exception there is no direct authority of law for the employment of clerks at the expense of the United States in the offices of the registers and receivers of the United States district land offices.

I have not the data which enable me to state precisely what additional force was necessary or was employed at the Des Moines office during the period referred to, but know that the requirements were far greater than those of most other offices, on account of the large excess in sales of land over other offices, and it was during this period that it became a consolidated land office; and I know that clerks were employed, and the merits of a claim for reimbursement, therefore, are to my knowledge far superior to those of the Decorah and Osage offices, in regard to which the evidence was ample beyond all doubt.

The letter of Senator COCKRELL is herewith returned.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. Z. CHANDLER,
Secretary of the Interior.

"The following certificate accompanied the petition, to wit:

DES MOINES, IOWA, November 22, 1876.

I, F. G. Clarke, register of the United States land office at Des Moines, Iowa, do hereby certify that the records of this office show that while Colonel T. A. Walker was register of said office there was entered from the 15th day of June, 1854, to the 15th day of June, 1856, at said office, the following amount of public lands, to wit:

	Acres.
By military land warrants, various acts.....	1, 169, 831. 00
By cash entries.....	1, 558, 196. 75
Making a total entered, during said time, of.....	2, 728, 027. 75

I also certify that quite a proportion of said lands entered by warrants were small warrants, calling for forty and eighty acres each.

F. G. CLARKE,
Register.

"The claimant, in his petition, verified by affidavit, states that during his first two years he was obliged to employ a large clerical force to discharge the duties of his office and to accommodate the public, and that he did so believing that he and the receiver were entitled to the land-warrant fees received, and that during these two years he paid out \$5,340 for clerk hire and never received any allowance or compensation therefor, and only received his salary, \$3,000 per annum, and that the force of clerks hired by him was absolutely necessary to subserve the public.

"The facts stated are substantiated by the sworn evidence of many witnesses, who were present and had personal knowledge of what they say.

"The necessity for this course is so forcibly stated by Judge Love, of the United States circuit court, in his opinion in Babbitt's case, that your committee introduce the following extract from his opinion:

"The history of the land sales of 1855 will place the object of Congress, in passing the sixth section, (act of 1855,) in a clear and definite light. The rage of speculation had, during that year, nearly reached its height. Multitudes of people besieged the land offices, clamorously demanding the location of their warrants. Many millions of acres of land were disposed of in Iowa in an incredibly short space of time. Under these circumstances, it was manifest that no ordinary force of clerks and no ordinary means and appliances were sufficient to meet the exigencies of the service. The salaries of the officers were wholly inadequate to meet these expenses. Hence, Congress had either to provide the means of paying such expenditures out of the public Treasury, or of enabling the land officers to do it by authorizing them to receive fees adequate to that purpose from those for whose benefit the services were performed and the expenses incurred. Congress chose the alternative least burdensome to the public Treasury."

"Under the belief, which prevailed generally at that time, that the fees received for locating warrants belonged to him, the receiver, and were intended to compensate him for his services and expenses in locating warrants, Mr. Walker employed the necessary clerks, and incurred the other necessary expenses to enable him to transact the immense business crowding upon him promptly, correctly, and to the entire satisfaction of his customers and the Government.

"In the opinion above referred to Judge Love points out the greatly increased labor and responsibility of land officers under the land-warrant system. He says: "In cash sales the officer had but to count the gold and issue the certificate. In cash sales, one written application and one certificate were sufficient for a whole section. How different is it under the land-warrant system. In the location of warrants, the officers have to examine the assignments, oftentimes numerous, and sometimes by guardians, &c., and pass upon their validity. This is often a delicate and responsible duty. A separate application and separate certificate have to be written for every warrant. With one hundred-and-sixty-acre warrants, four applications and four certificates were required for a section of land, and with forty-acre warrants sixteen applications and sixteen certificates were required for the same quantity of land."

"No allowance whatever has ever been made him for any clerical or other expenses. Hence the officer has paid out of his own pocket all the expenses for running the office and transacting this large amount of business in so short a time.

"Under these circumstances, your committee are of the opinion that the Government ought to reimburse this officer for the money he thus necessarily paid out and expended for clerical assistance for the benefit of the Government and the public.

"In the case of Ariel K. Eaton and James D. Jenkins, receiver and register at Decorah and Osage, Iowa, referred to in letter of Commissioner of General Land Office, this Congress, at its first session, allowed each of them \$3,600. The claim of Mr. Walker is equally if not more meritorious."

Your committee therefore recommend that the petitioner be paid the sum of \$3,600, to reimburse him for money paid by him for clerk hire and office rent for and during the two years beginning June 15, 1854, and ending June 15, 1856.

In petition No. 2 petitioner asks to be reimbursed the sum of \$1,517.75, paid by him for the hire of an extra clerk and the rent of an additional room from April 15, 1856, at which time the Iowa City land office was consolidated with the Fort Des Moines office, to September 27, 1857, at which time petitioner retired from the office.

The petition, which is sworn to, recites—

"The undersigned, being register of the land office at Fort Des Moines, was compelled, in consequence of the increase of business, to remove his office into larger rooms and to employ an additional clerk, the vouchers for which are herewith transmitted. The additional business devolved upon the office by the consolidation rendered the employment of one additional clerk indispensable, as well as added to the labors and duties of the undersigned."

"The clerk employed, James A. Moore, (see voucher No. 1) was engaged upon business thrown into the office after its consolidation, and the room rent paid (see voucher No. 2) was paid for rooms occupied and rendered necessary by the consolidation, and at no time during the period charged for could the services of the additional clerk have been dispensed with or would suitable rooms have been obtained for less price."

This statement is corroborated by the vouchers referred to and various affidavits. The act of February 18, 1861, 12 Statutes at Large, 131, being section 2255 of the Revised Statutes, authorizes reasonable allowance for the hire of clerks, &c., on application to and approval by the Secretary of the Interior.

But the petitioner, being at the time ignorant of this statute and believing himself entitled to the fees collected, expected to and would have been abundantly able to pay all these expenses out of said fees, and reserved to himself after paying them a much larger compensation than the \$3,000 per annum allowed by law.

Hence, without consulting the Department, he incurred and paid these expenses out of his own funds, and subsequently paid into the Treasury, as he was required to do by law, the fees collected by him, amounting to over \$29,000, and received his salary of \$3,000 per annum.

Clear as the sworn petition and accompanying vouchers and affidavits seem to make this case, your committee addressed a letter to the Secretary of the Interior, asking such information as the records of that Department contained touching this claim, and received the following answer:

DEPARTMENT OF THE INTERIOR, OFFICE OF THE SECRETARY,
Washington, D. C., January 28, 1878.

SIR: Your letter of the 23d instant, calling for information concerning the claim of T. A. Walker, formerly register of the land office at Des Moines, Iowa, for allowance for office rent and clerk hire, was received and referred to the Commissioner

of the General Land Office. I have the honor to transmit herewith a copy of his report on the subject, received to-day.

I am, sir, very respectfully, your obedient servant.

C. SCHURZ, Secretary.

HON. ISHAM G. HARRIS,
United States Senate.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., January 26, 1878.

SIR: I have the honor to acknowledge the receipt, by your reference of the 24th instant, of a letter from Hon. ISHAM G. HARRIS, dated the 23d instant, requesting, on behalf of the Senate Committee on Claims, such information as the records of this Department afford touching the claim of T. A. Walker, esq., some time register of the Fort Des Moines (Iowa) land office, for an allowance of \$1,517.75 as reasonable compensation for expenses incident to the consolidation of the Iowa City office with his, in 1856, said claim being presented under act of February 18, 1861, 12 Statutes, 131, now embraced in section 2255 of the Revised Statutes.

Respecting this claim, I find from the records that it was duly filed for settlement in January, 1862, but for some unexplained reason was not acted upon at that time.

On February 2, 1877, J. M. Walker, esq., filed in this office a sworn statement, requesting that the matter be taken up for action; and on the 8th of the same month I addressed your predecessor as follows:

SIR: Herewith I have the honor to transmit an account of T. A. Walker, late register of the land office at Des Moines, Iowa, for clerk hire and rent paid by him under the terms of the act of Congress February 18, 1861, in relation to consolidated land offices.

This account was filed in this office on January 25, 1862, but has never been acted upon. It appears to be just and regular and is sustained by the affidavits of the register. Although held in abeyance for a long period, there seems to have been no sufficient reason why it should not have been allowed at the time, and if so, it is now doubly important that it be settled without further delay.

The third section of the act referred to indicates cases of this character, and in my opinion the account may be defrayed out of the appropriation for contingent expenses of local land offices for the current year.

I therefore submit the matter for your consideration, with the recommendation that this office be authorized to state the account and submit it to the Treasury Department for payment.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

To this communication the following reply was received:

DEPARTMENT OF THE INTERIOR, OFFICE OF THE SECRETARY,
Washington, D. C., February 20, 1877.

SIR: I have received your letter of the 8th instant, inclosing a claim of T. A. Walker, former register of the land office at Des Moines, Iowa, for office rent and clerk hire, amounting to \$1,517.75.

The account appears to have been filed in the Department and referred to your office in January, 1862. Why it has been permitted to sleep these fifteen years is not apparent from the papers; but I cannot reconcile it with my sense of official duty to approve it at this late day. The papers are herewith returned.

Very respectfully,

CHAS. T. GORHAM,
Acting Secretary.

HON. J. A. WILLIAMSON,
Commissioner General Land Office.

These communications seem to cover the matter now before me, and I have only to repeat what I at the first reported, that in my judgment Mr. Walker was justly entitled to the compensation which was especially provided by the act of 1861 for precisely such cases; and if by reason of long and obviously improper delay the claim has passed beyond the power of the Department to satisfy, it should be placed by Congress on its proper footing, and rendered capable of speedy adjustment.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

HON. C. SCHURZ,
Secretary of the Interior.

Being satisfied that the petitioner is entitled and should be reimbursed the sum of \$3,600 for clerk hire and office rent paid by him during the first two years of his official term and the sum of \$1,517.75 for clerk hire and office rent rendered necessary by the consolidation of the two offices during the third and last year of his term, and paid by him, the committee report the accompanying bill and recommend that it pass.

Mr. EDMUNDS. I wish the Senator who made this report would explain this long delay of twenty years, why this claim was not presented in the time of it and settled either by Congress or by the Department?

Mr. HARRIS. The application was made to the Department soon after, but, for some unexplained reason, it has been pigeon-holed and allowed to lie there. Some two or three years ago, as the report shows—I do not remember exactly the date—the application was made to Congress, but the claimant has been appealing to the Department to make the allowance. The facts of the case show that the claimant regarded himself as entitled to the fees on the various entries in his office. They aggregated over \$29,000. But on ascertaining the fact that the fees had to be paid into the Treasury, he was left on a salary of \$3,000 to pay all his clerk hire and all his office rent.

Mr. EDMUNDS. When was it ascertained that these fees must be paid into the Treasury? What I want to get at is how it happens that it is twenty years since these events occurred till Congress for the first time is called upon to go over these accounts of twenty years ago.

Mr. HARRIS. It was ascertained within a year or two of the period when the expenses were incurred, and then application was made to the Department, and it has been diligently pressed to give a decision. If the Senator will look to the letter of the Commissioner of the General Land Office he will find that the application has been pending and has been twice or thrice recommended by the Commissioner of the General Land Office, but for some reason or other unexplained the Secretary failed to approve the recommendation of the Commissioner. The Commissioner's recent letter reviewing the whole matter is filed with the papers showing these facts: that he has been

insisting upon the adjustment of his accounts by the Department, and some three or four years ago made his application to Congress for the relief that the Department had failed to grant him.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

REVISION OF PATENT LAWS.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print extra copies of the arguments before the Committees on Patents of the Senate and House of Representatives to amend the statutes in relation to patents, have instructed me to report it back and recommend its passage, and also to offer the following resolution preliminary to it:

Resolved, That the arguments on the bill to amend the statutes in relation to patents before the Senate and House Committees on Patents be printed and bound.

The resolution was considered by unanimous consent, and agreed to. The following resolution was also considered by unanimous consent, and agreed to:

Resolved, That 1,000 extra copies of the arguments on the bill to amend the statutes in relation to patents, before the Senate and House Committees on Patents, be printed for the use of the Senate Committee on Patents.

REPORT OF ENTOMOLOGICAL COMMISSION.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution of the House of Representatives to print 5,000 copies of the report of the United States entomological commission, have instructed me to report back the same without amendment, and recommend its passage. I ask for its present consideration.

The resolution was considered by unanimous consent, and concurred in, as follows:

Resolved by the House of Representatives, (the Senate concurring), That there be printed 5,000 copies of the report of the United States entomological commission, 5,000 copies of which shall be for the use of the House of Representatives, 1,500 for the use of the Senate, and 500 copies for the use of the commission.

Mr. ANTHONY. The same committee, to whom was referred a resolution to print 10,000 copies of the same report, have instructed me to report it back and ask to be discharged from its further consideration.

The report was agreed to.

JOHN A. DARLING.

Mr. SPENCER. I move that the Senate proceed to the consideration of House bill No. 1254.

The motion was agreed to; and the bill (H. R. No. 1254) for the relief of John A. Darling was considered as in Committee of the Whole. It authorizes the President to nominate, and, by and with the advice and consent of the Senate, appoint John A. Darling, late captain Second Artillery, a captain of artillery in the Army of the United States, with his former rank and date of commission; and said Darling is to be assigned to the first vacancy of his grade occurring in the artillery arm of the service.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred to the Committee on Commerce:

A bill (H. R. No. 1271) establishing the salaries to be paid the collectors of customs of Plymouth and Nantucket, Massachusetts; and

A bill (H. R. No. 3123) extending the privilege of sections 2290 to 2297 of the Revised Statutes, inclusive, to the port of Bath, in the State of Maine.

APPROPRIATIONS FOR DETECTING TRESPASS, ETC.

The Senate proceeded to consider the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making appropriations for detecting trespass on public lands, and for bringing into market public lands in certain States, and for other purposes.

On motion of Mr. WINDOM, it was

Resolved, That the Senate insist on its amendments to the said bill disagreed to by the House of Representatives and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the Vice-President.

The VICE-PRESIDENT appointed Mr. WINDOM, Mr. DORSEY, and Mr. BECK.

AMENDMENT TO POST-ROUTE BILL.

Mr. MITCHELL submitted an amendment intended to be proposed by him to the bill (S. No. 802) establishing post-roads in the several States and Territories; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

THE PACIFIC RAILROADS.

The VICE-PRESIDENT. The morning hour has expired, and the Senate resumes the consideration of the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 15) to alter and amend the act entitled "An

act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act, the pending question being on the amendment submitted by Mr. MATTHEWS.

Mr. THURMAN. Before the Senator from California [Mr. BOOTH] proceeds, I wish to submit an amendment which I shall offer. I ask to have it laid on the table and printed. I do not offer it now but only give notice of it.

The VICE-PRESIDENT. The amendment will be printed and lie on the table subject to the order of the Senator.

Mr. CHAFFEE. I should like to hear the amendment reported.

The CHIEF CLERK. The amendment is at the end of section 3, to insert:

All the bonds belonging to said fund shall, as fast as they shall be obtained, be so stamped as to show that they belong to the said fund, and that they are not good in the hands of other holders than the Secretary of the Treasury, until they shall have been indorsed by him and publicly disposed of, pursuant to this act.

Mr. BOOTH. Mr. President, this subject has been so long discussed that I can scarcely hope to say anything new; it has been so ably discussed that I can scarcely aspire to say any old thing better than it has already been said; but feeling impelled to say something, I shall at least study to be brief.

The immediate question before the Senate is the motion to substitute the bill reported by the Committee on Railroads for that reported by the Committee on the Judiciary for the creation of a sinking fund for the Union Pacific and Central Pacific Railroads; and the discussion involves necessarily a comparison of the merits or defects of both. The history of this whole subject is too familiar to require more than that passing reference which is necessary to continuity of speech.

By the acts of 1862 and 1864 grants of land and loans of the credit of the United States were made to the Union and Central Pacific Railroad Companies for the purpose of building a railroad from the Missouri River to the Pacific Ocean, and the right to alter, amend, or repeal was made as absolute as it could be in express words.

These loans were to be repaid as follows: Five per cent. of the net earnings of the road and one-half their accounts against the Government for transportation were to be applied from year to year and the residue was to be paid at the maturity of the bonds. Estimating this yearly payment by the average business of the roads since their completion, their indebtedness to the Government as shown by the Senator from Indiana [Mr. McDONALD] will amount in the year 1900 to \$122,305,000. Add to that the principal of the first-mortgage bonds, \$55,000,000, and we have the sum of \$177,000,000, for which the security is two thousand miles of railroad, or at the rate of \$88,500 per mile.

No one who has investigated this question will claim for a moment that this property is adequate or reasonable security for that amount of debt. The officers of the road themselves admit that it is not, and make that admission a claim for a settlement in the nature of a compromise. This admission, and the facts on which it is based, are utterly at variance with the representations of the companies as to the cost of this line of road. Their reports claim that there are \$90,000,000 of paid-up stock; that is that \$90,000,000 of actual capital has been paid into the treasuries of these companies and paid out in the construction of their roads. If that statement be true, the cost of construction would be about as follows:

Amount of the first mortgage	\$55,000,000
Amount of Government bonds	55,000,000
Amount of land mortgage	20,000,000
Capital stock paid up	90,000,000

Making in all 220,000,000
for the construction of these two thousand miles of road, four-fifths of the distance being over a country as favorable to the construction of a railroad as any on this continent; and then this line of road, which they allege has cost \$220,000,000, with a constantly growing business, with a constantly increasing value, in twenty-two years is not an adequate security for \$177,000,000! There must be some huge mistake upon one side of this question, and it is not difficult to see upon which side the mistake is made.

The bonds of the Government were the basis of the credit upon which the companies were enabled to place their first-mortgage bonds. These two classes of bonds, omitting all mention of the land bonds, amount to \$52,000 per mile to the Union Pacific and \$64,000 per mile to the Central Pacific, and they not only built the road, but left a large margin of profit aggregating millions of dollars. The \$36,000,000 of stock in the Union Pacific and the \$54,000,000 of stock in the Central Pacific do not represent money paid in. If it had been paid in, that with the land bonds alone would have built the road. This \$90,000,000 of stock claiming dividends, standing between the companies and their obligations to the Government, does not represent one dollar nor the phantom of a dollar nor the semblance of a phantom. If it represents anything, it is simply an arbitrary profit upon fraudulent contracts. The assumption that it is actual capital is a bare, naked assumption, without a fig-leaf covering of fact.

This is the character of the investment which the Senator from

Ohio on my right [Mr. MATTHEWS] says would not have been made except upon the faith that Congress would not alter in any particular an act which it reserved to alter in every particular! Over this, with the glamor of his genius, he attempts to throw the sanctity of vested rights! That bad system of building railroads for the sake of the profits to be made out of their construction by swelling the cost of construction to the largest possible amount, leaving the roads themselves burdened with debt for the benefit of an interior ring, found its culmination in the construction of these railroads.

On this condition of facts as to these two roads, so munificently endowed, earning now annually more than \$16,000,000 of net profits, with \$90,000,000 of stock which does not represent one dollar of actual capital while this Government is annually paying \$3,200,000 for the benefit of these roads and of that fictitious capital, that \$90,000,000 of stock claiming the right to absorb the whole of the enormous profits of the roads, leaving the Government without adequate security for the \$122,000,000 which is due and to become due, these two bills are reported for our consideration covering the same ground but differing widely in details and fundamentally in principle.

One notable difference in detail is that the bill of the Railroad Committee proposes to take the 5 per cent. of net earnings and the half-transportation account, which should be paid annually to the Government, and place it in a sinking fund for the benefit of the railroads upon which the compound interest is to be estimated annually at the rate of 6 per cent. It is not to be invested; a computation is simply to be made, and they are to receive credit for that. That is, we are to allow to these railroads 6 per cent. compound interest on our own money. I wonder if they could not be induced to allow us to keep our own money by paying them simple interest! Such a principle extended upon payments of this nature for one hundred years would bankrupt this Government; limited to twenty-two years it simply amounts to a gift to these companies of \$25,000,000.

Mr. THURMAN. Thirty-five million dollars!

Mr. BOOTH. Thirty-fivemillions! Then my calculation was wrong. Macaulay, I believe, relates—I am sorry I cannot quote his language accurately—that when Lord Clive was accused of rapacity he answered that when he remembered the princes who had been at his feet, the treasures that were open to him, his boundless opportunities for plunder, he only stood astonished at his own moderation!

The fundamental difference between these bills, however, is that the bill of the Judiciary Committee asserts the power of Congress, and proposes to enact a law; the bill of the Railroad Committee denies the power of Congress, and proposes to negotiate. The bill of the Committee on the Judiciary, if enacted, will require the companies to pay a sum which together with the sums they are now required to pay shall not exceed one-quarter of their net profits into a sinking fund, the accumulations of which shall belong to the companies but held in trust for the payment of their debts. This is the main purpose of the bill, and the very height and front of its offending. If any legislative body in this country should enact by a general law that all corporations under its jurisdiction and over which it held and reserved control should set apart one-quarter of its profits to secure creditors and protect itself from bankruptcy, I can scarcely imagine the character of mind which would not recognize this as wise, proper, and constitutional legislation. This provision, so wise, so honest, so moderate, applied to these companies, confessedly under the jurisdiction of Congress, companies that have been so munificently endowed, is denounced with the very vehemence of invective. It is pronounced a violation not only of the Constitution, but of those moral instincts and principles of natural justice which underlie society and make civilization possible.

Mr. President, there is something in this more than natural, if philosophy could only find it out.

Sir, the fact that the Government is a creditor neither adds to nor takes from the power of Congress to legislate on this subject. We legislate as a sovereign, not as a creditor. If the rights of these companies are not safe here under the protection of the majesty of the law, where are they safe? Sir, we are here to legislate, not to negotiate. The Senator from Ohio on my right [Mr. MATTHEWS] says, "I deny utterly the power of Congress to declare that a debt not due is due, and to make the debtor pay it before it is payable." He might deny any other proposition which he could state for the purpose of demolishing it; he could fight any number of imaginary battles and gain imaginary victories, and wear imaginary laurels; but he is able to fight real giants, and gain real victories, and should not waste his strength upon wind-mills. I assert the right of Congress to compel any corporation under its jurisdiction to provide a sinking fund out of its profits to protect its creditors, to maintain its solvency, and I emphasize the assertion when it is a quasi-public corporation and sustains relations to the public and Government to which its solvency is an essential condition. And I reassert that the fact that the Government happens to be a creditor of the corporation impairs no right of Congress over it. We are not disqualified from interest, and have lost no power because its exercise is necessary to protect the whole public. I deny the right, and I resist the power of any corporation to borrow the money of this Government and destroy its ability to repay by dividing the whole of its profits upon stock, whether that stock be real or fictitious, genuine or spurious, and I resent the language that we must accept such compromise as the company may offer or do worse.

I repeat, Mr. President, that the bill of the Judiciary Committee proposes legislation, the enactment of law as a matter of sovereign right. The bill of the Railroad Committee proposes negotiation, a kind of treaty between high contracting powers, the sovereignty of the Government on the one side and the sovereignty of these two corporations on the other. Suppose the bill of the Railroad Committee should pass and the President should approve it; it has then become a law so far as compliance with the constitutional forms can make it, but it is by its terms a law to take effect upon an uncertain contingency, and as that contingency is under the control of these railroad companies, it is virtually a law which vests a power of defeasance in the companies. Would it not simplify this matter if upon the passage of such a bill we should send it simultaneously to the President of the United States and to the presidents of the railroad companies, with power to them also to return it in ten days with their joint approval or objection?

But these railroad companies have more power in the premises than the President of the United States, for they can at any time after it becomes a law defeat its operation by their action or non-action. Suppose the act should pass and the companies accept it under section 5 of the act, and thereafter make default, refuse to pay, there is no power in the bill to compel compliance. Then section 6 repeals all acts and parts of acts in conflict with that act. The United States has surrendered the 5 per cent. of net earnings, the half-transportation account; and what is there left but the right to alter, amend, or repeal reserved in this bill in the very same words that it was reserved in the act of 1864. Then the Senator from Ohio to my right [Mr. MATTHEWS] and the Senator from Georgia who has spoken upon this question [Mr. HILL] argued that the reservation was worthless to provide a new remedy in the act of 1864, and if their reasoning is correct it is equally worthless in this.

Much stress is laid on the condition of default introduced in this bill; but a default does not enlarge the rights of the creditor so as to give him power to change the contract. It only entitles him to a remedy to enforce it.

If Congress has the right to reserve a power to change a contract after default, it has equally a right to reserve it to change it without default. It is a distinction without a difference, for Congress is made the judge of the default. It becomes simply a question, not of power, but of discretion, the proper exercise of power. The right is reserved, I repeat, to the sovereign, not to the creditor; and if these words "alter, amend, or repeal" are to have any value in the bill of the Railroad Committee, they must have just the significance which we ascribe to them in the act of 1864 as a part of the contract, entering into it, qualifying every term, one of the conditions upon which it is accepted by the party of the other part, an express reservation of jurisdiction in Congress over the whole subject. The right to alter, amend, or repeal is a right to alter every section, every line, word, and syllable of the act, subject only to such limitations as are in the Constitution of the United States. Outside of that, it is a question of discretion, of the sense of justice; it ceases to be a question of power.

Now, what provision of the Constitution is applicable? It is said the bill of the Judiciary Committee impairs the obligation of contracts. It is immaterial to me whether there be such a restriction in the Constitution or not, for I should recognize the obligation of morals to be as strong as though it were in express law. Can a law violate the obligation of a contract which simply compels corporations under the jurisdiction of Congress, quasi-public, creatures of the law, to make suitable provisions for the fulfillment of their contracts? To me this seems to be worse than a confusion of language; it is a perversion of terms.

Why, Mr. President, let us recur for one moment to the circumstances under which the act of 1864 was passed. The companies had been unable to proceed under the act of 1862. Then Congress came in and doubled the land grant; it extended the time for the completion of the road; it released one-half the account against the Government for transportation; it took a second mortgage to the Government in place of the first; it released the 25 per cent. reserved; it gave them coal lands, gave everything asked or that could be asked, and reserved the right to alter, amend, or repeal. The cost of this great undertaking was a matter of estimate, of guess; none knew how much it would cost or what the profit would be when it had been constructed. Congress might well say, "We are giving liberally; we are giving for a great purpose; we stand ready to give more, if more be necessary; but we reserve the right to alter, amend, or repeal, in order to protect the interest of the Government and the rights of the people."

The roads were finished at less real cost, I imagine, than any one conjectured; their profits have exceeded the most sanguine expectations of their projectors. How is it proposed to exercise this reserved power? By touching the rights of property acquired under that law? Not at all. By withholding any of the money? Not at all. Simply by requiring these companies, as Congress might require any other corporations under its jurisdiction, to pay one-quarter of their net earnings into a sinking fund to secure their creditors, to maintain their solvency, and enable them to fulfill their obligations and comply with the express conditions under which the grant was made. This is the outrage so monstrous in its proportions that it violates the Constitution of the United States, the moral instincts and the natural sense of justice which underlie society, and which frights

the souls of Senators from their propriety and shocks their moral sensibilities beyond the power of intelligible utterance!

The Senator from Georgia, (Mr. HILL,) in order to avoid the legal effect of the right to alter, amend, or repeal, as a part of the contract itself, attempted to show that the act was not a contract, but that it authorized a contract to be made; and there was about this portion of his argument a subtlety of metaphysics which I think would have delighted the heart of Thomas Aquinas or Duns Scotius. It is true, as he tells us, that the act contains the terms of the contract, (and they are to be found nowhere else,) but the contract itself is an ineffable something which exists outside and apart from the terms. The act, he insists, only gave authority to the Executive to make a contract. What contract did the Executive make? How did he make it? The law required the Executive to determine when the companies had complied with their contract. That was a duty imposed, and the only power conferred was one incident to that duty. Had the Executive any option in the matter? Was he at liberty to disregard the law or change its terms? He had but one duty, to execute the law. Had he refused to discharge this duty, had he exercised the power corruptly or vexatiously, the rights of the companies under the law would have been in no wise impaired, while the Executive would have been liable to an impeachment. Every act done by the Executive was done under the law, received its validity from the law, and became a part of it. Sir, this is a Government of law, and every act done by authority of law is the act not of the officer or Department, but the act of the law. If this Government be, as we believe, "perfect in every part and cannot but by annihilation die," it is because every part of it is permeated and vitalized by the spirit and potency of law.

The Senator from Georgia seems to me to proceed on the assumption that Congress cannot alter or amend the act of 1864, unless a court of equity on the facts presented would decree the specific relief sought by the amendment. Like a bold reasoner as he is—

Mr. HILL. Will the Senator from California allow me?

Mr. BOOTH. Certainly.

Mr. HILL. I am not aware that I have ever said on any occasion that Congress cannot alter, repeal, or amend the act.

Mr. BOOTH. I understand that this bill does propose to do that. I shall speak further on that subject and perhaps the Senator from Georgia may desire to—

Mr. HILL. I said it took the authority of Congress as well as the other things to complete the contract. Congress did not make the contract by the passage of the act. When that authority was executed, the rights and obligations of the parties were fixed. By compliance with the terms, then, the authority became executed. Congress by the repeal of the act could not annul the contract. I have always conceded that Congress could repeal the authority to make the contract.

Mr. BOOTH. Precisely, but I have been endeavoring to show, and if I have not shown that I have not shown anything, that this was not an authority to make a contract but was the contract when it was enacted and accepted by the companies.

Mr. HILL. Does the Senator from California hold that when these acts were passed and approved by the President, the contract was made and complete?

Mr. BOOTH. So far as it could be made by the Government.

Mr. HILL. Ah! So far as it could be made by Congress, the authority was complete, but the parties were not compelled to accept, the parties were not compelled to comply with it. No obligations or rights had been fixed.

Mr. BOOTH. The Senator will pardon me. But he has gone over this subject, and if we can ever understand him we do. I do not profess to be so skilled in metaphysical subtleties and dialectics as to be able to understand that proposition and I have not seen any one who does.

Mr. HILL. That may be.

Mr. BOOTH. Like a bold reasoner, the Senator from Georgia does not shrink consequences. He takes hedge, fence, and stone-wall at a flying leap and accepts logical results. In answer to the Senator from Vermont he avowed the proposition "that if Congress grant a charter to a particular national bank to be called the Bank of North America in the District of Columbia for twenty years, and that bank accepts the charter and complies with every provision in it, there being at the end a section which says Congress may repeal this act at any time, then Congress cannot repeal it within the twenty years, unless the company shall violate some of the provisions of the charter." This is the logical inference of the whole tenor of the argument against the power of Congress to enact the bill of the Judiciary Committee. Congress so exhausts its power in the creation of a corporation that it can reserve no right of control even by express words. Times and circumstances may change, a measure beneficent at its passage may become a stumbling-block, or an instrument of oppression; the corporation created by the law is fixed above the power of its creator.

There is a story told of an inventor who constructed a machine with such marvelous ingenuity that it became instinct with life, endowed with will and motion, but without a soul. This monstrous thing became the superior of its inventor. He could neither alter nor destroy it. It became his master and reduced him to a loathsome servitude. This fiction, so wild and weird it scarcely seems the

product of a sane imagination, if the construction of the Senator from Georgia be correct is to be realized in law.

The Senator from Georgia having proven to his satisfaction that the sections of the law which set forth the contract cannot be changed, and then that the provisions which constitute the charter cannot be changed, I have been at a loss to know what portion could be reached by the power to amend so plenary and absolute in terms. After much study and thought I have discovered one portion of the act which is not covered and protected by theegis of his construction. That portion is the title. We cannot change the thing; we are at liberty to-day to change the name of the thing, and I think we ought to do it.

Mr. HILL. I will ask the Senator if I did not concede that the reserved power related to the charter, the corporation, the franchises of the corporation, and I ask the Senator if the franchises are conveyed by the title? Are not the franchises conveyed by the body of the bill, and are not the regulations of the franchises contained in the body?

Mr. BOOTH. I believe I must claim the floor.

The PRESIDING OFFICER, (Mr. CORKRELL in the chair.) The Senator from California is entitled to the floor.

Mr. BOOTH. I was about to say, and I believe I will say, that I think we ought to exercise the power and change the title, for I am convinced that if the Senator from Georgia could make another argument as powerful and subtle as the first he would take away that power.

The bill of the Railroad Committee has been called a settlement. To my mind it is a surrender. The whole amount of money involved in this subject is of trifling importance compared with the principle which it proposes to surrender. Sir, the question is before us; let us not barter, let us not dicker; let us legislate. If we are as powerless as is contended on behalf of the Railroad Committee, let us learn that from the highest judicial authority, for if that be so there will be no more charters granted, nor aids bestowed while the world stands and the Congress remains sane.

The Senator from Georgia in his eloquent peroration said that these railroad companies are not the kind of corporations which he dreads. What he dreads is the great and growing power of the corporation of the Federal Government. I accept the term from his stand-point. From that point of view these corporations swell into the imperial proportions of sovereignty or in their overshadowing presence this Government dwarfs into the dimensions of a corporation. I accept the term. The stockholders in this corporation of the Federal Government are forty-five million free people entitled to share and share alike in all its benefits. Its charter is the Constitution of the United States. It holds in its hands the title deeds to liberty for countless millions yet to be. I trust it will ever be, as I believe it has ever been, full of grace, mercy, and loving-kindness to its friends; dreadful only to its enemies. Look upon this picture and then upon this. The record of the corporation he does not dread can be read in the transactions of the Credit Mobilier and the Contract Finance Companies. His election is not mine, but I thank the Senator for the boldness of his speech. He has cloven this subject to the center; he has cleft its heart in twain. It is a question as to where our allegiance is due. We cannot serve two masters. Which shall we serve?

Mr. PLUMB. I move to lay aside this bill temporarily and proceed to the consideration of Senate bill No. 913.

Mr. THURMAN. Mr. President, I hope that will not be done. I have tried again and again to speed this bill, which I think ought to be passed, and I hope it will be passed without further delay. If there are other Senators who wish to speak on this bill, surely some of them must be prepared to speak to-day, and I do not wish it to be laid aside. I have given notice time and time again that I would ask the Senate to sit this bill out to-day; but owing to the sickness of some Senators and the necessary absence of others I am compelled to refrain from doing that; but I shall certainly ask the Senate, most respectfully, but most earnestly, to sit this bill out to-morrow, and as that will leave comparatively but little time for Senators to speak upon it and consider all the amendments that may be offered to it, I do hope that those who wish to speak will speak to-day, as many of them as can. I beg leave most humbly to submit that this bill ought not to lie over from day to day for set speeches to be made. The great features of both these bills have been fully considered and we have got to that stage of the debate which is called the business stage of a debate, when we can get down to the concrete of these two bills, and I hope that therefore the consideration of the subject will be continued.

Mr. PLUMB. I had no design at all of interfering with the present consideration of this bill, but I supposed that we should probably proceed upon the theory which we have heretofore pursued of one speech a day and then an executive session.

Mr. THURMAN. I have been trying to defeat for a week this theory of one speech a day on this bill. If there are to be more speeches I hope we shall have two, three, or four of them to-day, so that we may come to an end some time or other. I know very well that these are corporations in perpetuity and we hope our Government is in perpetuity, but we are not perpetual, and I want to see this thing ended before I die.

Mr. PLUMB. I entirely agree with the Senator from Ohio as to the propriety of this bill being continuously considered until it shall be disposed of. I was only chafing somewhat under the delay which

had occurred through no fault of mine and no fault of his. I desired if this bill was not to be further spoken upon to-day that we might proceed to the Calendar and make some progress with it instead of adjourning or going into executive session. My suggestion was only made with the design of expediting business. Of course, if any Senator desires to speak presently upon this I will cheerfully withdraw my motion.

Mr. EDMUNDS. If none wish to speak, let us vote.

Mr. THURMAN. I will say one word more. If there is no Senator who wants to speak to-day, let us take the vote on the motion of my colleague to substitute the Railroad Committee bill. I am ready to take the vote on that now without one single word more on my side.

Mr. PLUMB. That is entirely agreeable to me. I cannot conceive of anything more so. I desire to have this question disposed of, and now will suit me better than any other time.

Mr. THURMAN. I am willing that the vote shall be taken on the substitute now without one single word from me or those who support the Judiciary Committee bill.

Mr. PADDOCK. I am one of those Senators who are not entirely satisfied with either of these bills. I understand that the Senator from Colorado [Mr. CHAFFEE] this morning introduced a bill as a substitute for both. That was ordered to be printed. I should be glad to see that bill before we proceed to action on either of these others. It is possible that after that bill is brought to the attention of the Senate and is laid before the Senate, I may wish to make a remark in relation to the whole subject.

Mr. EDMUNDS. The Senator might state to us now what his objections are to these two bills.

Mr. PADDOCK. I have not seen the bill; I cannot state.

Mr. EDMUNDS. No, but the Senator says he is not satisfied with the Judiciary Committee bill or the Railroad Committee bill.

Mr. PADDOCK. I am not ready at the present moment to state my objections to these bills, until I have seen the other bill and seen whether it is obnoxious to the same objections.

Mr. CHAFFEE. I was about to say that I hope the Senator from Ohio will not press a vote now. I have introduced to-day a bill upon this subject which will be printed within an hour and be here on the desks of Senators, and I desire very much that the Senate shall look at that bill. I intend to press that bill as a substitute for both of these bills, and I have enough faith at least to believe the Senate will agree to my bill in lieu of either of the other bills, and I should not be surprised if the Senator from Ohio [Mr. THURMAN] would agree to my bill himself. I believe him to be a just and fair man. I hope the Senator from Ohio upon a subject of this moment will not press us to a vote upon a single day, but at least allow the discussion to run until Saturday. I desire myself to make some remarks on these bills, but I am not ready to-day, and should like to have the discussion continue at least until Saturday.

Mr. THURMAN. The Railroad Committee reported a bill and my colleague moved to substitute it for the Judiciary Committee bill. The Senator from Colorado has this morning laid upon the table a substitute that he will offer when it is in order for him to offer it. The pending question is the motion of my colleague to substitute the bill of the Railroad Committee for that of the Judiciary Committee. Now, if there is any one who wishes to speak in favor of that substitution I hope he will go on. There have been a great many speeches made against it and in favor of the Judiciary Committee bill. There have not been many speeches made in favor of the Railroad Committee bill, and if there is any one who still stands by the Railroad Committee bill I hope he will speak. If not, let us vote upon the motion. That cannot affect the substitute proposed by the Senator from Colorado. His motion will come up as a distinct and substantive proceeding.

Mr. CHAFFEE. I am in hopes that the Senator from Ohio having charge of the Railroad Committee bill [Mr. MATTHEWS] will accept my bill, and I have the same hopes that the Senator from Ohio on my right [Mr. THURMAN] will accept it too, and therefore I wish to have the bill printed and laid on the table, and it will be here within an hour.

Mr. THURMAN. Well, in order to remove one of the grounds upon which my friend from Colorado wishes this bill laid over—his hope that the Senator from Ohio will consent to his bill—I must tell him at once that I have looked into it enough to know that I never can consent to it as a substitute for the Judiciary Committee bill. In the first place, it proposes to tack on to this bill his proposition to require these roads to prorate with the Kansas Pacific and perhaps some other road.

Now whatever may be my opinion in regard to the duty of the Union Pacific and the Central Pacific to prorate, I am totally opposed to connecting that proposition with this bill for the creation of a sinking fund. I want this proposition for the creation of a sinking fund to stand by itself, upon its own merits. I think every Senator will see that it ought to stand as a perfectly distinct and independent measure. Therefore my objection to the substitute of the Senator from Colorado, without at all committing myself against the prorating proposition, or expressing any opinion upon the one or the other beyond what I have heretofore done in the Senate, my fundamental objection to it is that it seeks to tie that to this sinking-fund bill, whereas the sinking-fund measure ought to stand alone. Each measure ought to stand on its own merits.

Then I have another objection to the sinking-fund provision of the substitute proposed by the Senator from Colorado. In some respects it is precisely like the Railroad Committee bill. The difference is that it requires a larger sum than the Railroad Committee bill requires and a less sum than is required by the Judiciary Committee bill.

Mr. CHAFFEE. I do not believe that the Senator from Ohio has read the substitute that I presented this morning. If he will examine it he will see that it proceeds upon the same theory exactly and recognizes the power of Congress to deal with these corporations.

Mr. THURMAN. I agree to that.

Mr. CHAFFEE. It surrenders no right the Government has at the present moment and proceeds upon the same theory as the bill of the Judiciary Committee. I had great hopes, therefore, that the Senator from Ohio would accept it.

Mr. THURMAN. I did not say that it surrendered the rights of the Government; but from the hasty glance that I have given to the bill, unless there are some provisions that have escaped my attention, it has a radical defect in it that is in the Railroad Committee bill. It takes our own money and allows these railroad companies interest upon our own money compounded every six months at the rate of 6 per cent., and it allows them interest upon all that they shall pay at the rate of 6 per cent. compounded annually for twenty-two years from this time, when we can borrow all the money we want at 4 per cent.

These are fundamental objections with me to the Railroad Committee bill and to the substitute proposed by the Senator from Colorado. I do not wish to speak of that substitute at any length until I shall have read it in print and seen that I perfectly understand it. But be that meritorious or not, let it receive ever so much or so little consideration, we have a pending question before us, the motion of my colleague to substitute the Railroad Committee bill for the Judiciary Committee bill. If any one wants to speak in favor of that motion to substitute, I pray him to speak now. If not, then let us have a vote on that pending proposition. I see so many guns in battery on my colleague's desk that I take it for granted he is prepared to speak, and I pray him to do so.

Mr. MATTHEWS. Mr. President, when the Senator from Michigan [Mr. CHRISTIANCY] addressed the Senate in support of the bill reported from the Judiciary Committee, I rose for the purpose of putting a question to him, to which he objected on the ground that I would have ample opportunity for future reply. I expect to make that reply, but I did not come here this morning fully prepared to do so, because I understood the arrangement was that the Senator from California, who has already spoken, would be followed by the Senator from Massachusetts, [Mr. DAWES]. I understand from that gentleman that he is too unwell to proceed with his argument to-day.

The gentleman may think this argument is exhausted. Perhaps it is; but certainly I am not willing that it should rest, so far as I am concerned, where it does now, having failed of the opportunity to correct gentlemen on the floor in regard to an understanding of my own position. I see no occasion for extraordinary haste about the matter. No time has been lost. We have transacted other business as though this measure was not under discussion. I think it but an exercise of ordinary courtesy that no attempt should be made to force either the debate or a vote at the present time. I have had no opportunity of considering the proposition I understand to have been made by the Senator from Colorado this morning. I had a brief conversation with him, in which he explained some of the leading features of his substitute. He has suggested that it might possibly furnish to my mind, and to those who like myself have been opposing the bill of the Judiciary Committee, a better substitute than we have offered. I should like time to consider that, but it cannot be done until his bill is printed and laid upon the table. I am ready to go on to-morrow; I am not entirely unprepared, if the Senate insist upon it, to go on to-day, but it would far better suit my convenience to postpone my remarks until to-morrow.

Mr. DAWES. Mr. President, I do not like to occupy the position of one advertised to make a speech. I had intended all along to submit some remarks before the debate closed, somewhat in the nature of criticism upon both these bills, and not as really the advocate of either. I did not come here to-day expecting to do so or feeling like doing so; but rather than have it supposed that I am taking time to prepare a speech, what little I have to say about this matter I would just as lief say to-day as at any other time. If it is agreeable to the Senate, if the Senate desire to continue the discussion to-day, perhaps it is just as well that what I have to say should be said now as at any time. I take no part in any struggle for mastery between different methods of accomplishing the same purpose now before the Senate. An intellectual tournament of that kind, however entertaining or instructive, nevertheless tends to lead those who participate in it into positions and arguments that, after it is over, it is difficult to sustain by sound reason.

The great amount of indebtedness of these railroad companies, as well on their prior mortgage bonds as to the Government itself, is such that it is utterly useless to expect a liquidation of that indebtedness without legislation. According to the reports of these two committees, that indebtedness will amount in twenty years from this time to the enormous sum of \$298,258,137, minus what the Government itself may receive in for the half-transportation account and the 5 per cent of the net earnings, whatever they may be. All are

agreed substantially that in 1898 there will be not far from \$175,000,000 to be met by these companies. That they will have on hand sufficient assets at that time accumulated of their own accord and lying in their treasury awaiting the time when this indebtedness shall become due, no one expects. To expect it is to expect of these corporations in their dealings with the public and with their stockholders and themselves a line of conduct that finds no parallel in any other business transaction. That they would accumulate in their treasury and have ready an idle capital of \$175,000,000 in 1898 to liquidate this indebtedness, no one, I say, expects. In looking to the means of meeting this indebtedness every one turns to a sinking fund. The Government directors of the Union Pacific Railroad have called the attention of the Government to the propriety and the necessity of such a fund. In the very last report they say:

If no definite plan for a permanent and final adjustment of the relations existing between the Government and company, relative to the full reimbursement of the former on account of the subsidy bonds issued to the latter, be adopted, then the Government directors would respectfully suggest that Congress be recommended to pass an act authorizing the Secretary of the Treasury to receive from the company, from time to time, such sums as it may elect to pay into his hands, for the establishment of a sinking fund for the extinguishment of the liability of the company to the Government on account of said bonds. It is believed that the company would at once, upon the determination of the 5 per cent. suit, avail itself of such a provision of law and commence payments under it for the purpose named. Such a plan would be a great improvement on the present want of one, and would be preferable to the establishment of a voluntary sinking fund, with its funds remaining in the hands of the company and subject to its control.

The Union Pacific Railroad Company itself, at its very last meeting, on the 6th day of March, passed this resolution:

Resolved, That the stockholders acknowledge the necessity for a sinking fund to provide for the final payment of the Government debt, and the delay in providing one has occurred from their belief that some proposition would come from the Government which they could accept and from a preference that the funds should be held by Government, as more satisfactory to both parties to the contract; that the company is willing to anticipate the debt upon any basis or plan submitted which will not be a burden upon its present and a menace to its future prosperity and business.

I do not know what action has been taken by the Central Pacific Railroad Company or what is its disposition in reference to this matter. This action of the Government directors of the Union Pacific and of the Union Pacific itself is in perfect unison and harmony with the object and purpose professed, and I have no doubt sincerely, in both of the methods proposed here. Therefore it is proper for us to consider what is the best method of establishing a sinking fund, and it is to that what little I desire to say this morning shall be addressed, leaving for others the discussion of the question what is the absolute and unqualified power of the Government over the subject-matter. With the companies ready to co-operate with the Government in the establishment of a sinking fund to be kept by the Government itself and with the Government impressed with the necessity of such a sinking fund, it does seem to me strange if it be not within the power of this Congress and these companies in co-operation so to adjust the questions and the basis and the terms of a sinking fund as to accomplish the end sought by the Government: the protection of the creditors of these companies upon terms least burdensome to the corporations themselves and most conducive to that prosperity and development of the country through which they run, which was one of the controlling purposes and objects of the original grant itself.

Now, sir, what are the elements that constitute a true and proper sinking fund? Evidently, as all will admit, first and above all is security to that fund. It is of no practical use, it is a broken reed upon which to lean, if it do not contain within itself the element of absolute security. To obtain absolute security is the first thing to be sought after in legislation here upon that point. Any legislation which fails of obtaining absolute security to this sinking fund fails in accomplishing the great end for which we should endeavor to legislate in this matter. We legislate not for to-day; we legislate for 1898. We cannot tell what may be the influences or what may be the conflicting and antagonistic elements which shall be encountered between this and 1898. We must provide for every possible contingency that human foresight can discover, or else we fail in the attainment of the object these bills profess to search for. Let me say that first of all no sinking fund has the element of security in it which is left under the control of the debtor. It is in essence no sinking fund which is left under the control of the debtor, subject to his will, his present gain, his present ideas of what is for his interest. It is equivalent to leaving the whole matter where it was before, subject only to his sense of propriety and the obligation of his contract with the creditor, if you leave your sinking fund under his control.

Equally so, Mr. President, if you leave your sinking fund under the control of the creditor alone. The sinking fund is the property of the debtor. It is his property, to be set aside for a purpose superior to present obligations. To put it into the hands of the creditor is to put it under his dominion and control, and actually to make it a present payment. There is no difference in essence, no difference in fact, between present payment and putting the property of the debtor under the absolute control of the creditor. Absolute control on his part implies the power to make such appropriation of it as he pleases. Absolute control on his part is to put in his power anticipation of payment; and not only is that in contravention of the obligation itself and of the faith which exists between debtor and creditor and the terms of the relation between them established by themselves,

but it makes war upon the very first principle upon which a sinking fund is to be founded, namely, security that that fund shall be in 1898 present, untouched, unimpaired, ready for that application for which it is founded, and for no other.

Then, if it is not to be put under the control of the debtor as being useless and idle and leaving the creditor with no possible additional security, and if it cannot be put under the absolute control of the creditor without violating the very terms of the contract for which provision is to be made in the future, it must be put either out of the control of both parties or under some joint arrangement or assignment of the sinking fund, so that neither can exercise control over it without the assent of the other. It is upon this principle that all sinking funds which have proved a success and not a snare have been established. The history of the philosophy of sinking funds lies in these two elements: absolute security against the debtor or the creditor alone and certainty that the accretions to the fund shall exceed the yearly accumulations of interest. Those two elements established in a sinking fund make it absolutely certain that the debt will be canceled. They do not make it absolutely certain that it will be canceled at one time or another, but those two elements of themselves make it absolutely certain that in due time the debt will be canceled. How those two elements shall be secured in a sinking fund for the payment of the debts of these railroad companies is a question to which the Senate ought to address itself, and I have no doubt supposes it is addressing itself. It is to that end that my vote shall be governed, and to that measure which shall best accomplish that end I propose to give my support.

In order to make the security most certain the present burden of a sinking fund must be most light. Just in proportion as you increase the present burden of a sinking fund, just in that proportion do you lessen the security of the fund. We can learn wisdom from the sinking fund which the United States established for the ultimate payment of the national debt itself. That was established when the debt was only a little over \$150,000,000, upon a plan measured by the amount of that debt; yet the debt itself to which the terms of the sinking fund were applied went on increasing to such an enormous extent as to make the yearly accretions to the sinking fund, coming in the shape of additional burdens upon the people, continually increasing until, if the sinking fund continue unimpaired, it will extinguish the whole of this great enormous public debt in a little over thirty years from the time it was contracted. No man dreamed at that time that the burdens of the sinking fund, the accretions to it, were of such an amount. And what has been the effect? Already we hear note of warning of attacks upon the integrity of the sinking fund itself. Bills in both Houses of Congress have been introduced for the purpose of abolishing that sinking fund; and to-day, if it were simply a fund of so many dollars and cents, actual funds of the United States, lying in the Treasury awaiting the final appropriation for the payment of the public debt of the United States, I hardly think any Senator would be bold enough to say that it would stand intact five years. Looking at the dangers coming to that sinking fund from the temptation to impair it—a fund of hundreds of millions of dollars accumulating so rapidly every year in the Treasury—Congress wisely, in 1870, extinguished the whole of that accumulation of wealth in the sinking fund and turned it all into the Treasury, canceled all the bonds held by it, and now so much of that sinking fund is safe. What it may be in the future, growing out of this very element of excessive accumulation, the discontents that it stimulates and aggravates, the desire to relieve the people from it that is growing every year and imperiling the fund itself, may have a lesson in it which we ought to heed in establishing this sinking fund, which is to run twenty years at least from this time. While the accumulations to this fund should be enough to secure ultimate liquidation, they should not be so much as to stimulate discontent and a disposition in any quarter to attack with hostile legislation a fund designed, like this, to be kept at least twenty years, for the purpose of the special liquidation of a particular indebtedness of and to the United States.

Let us, in view of these principles, upon which I conceive everybody will agree that a sinking fund ought to be based, in order to make it secure and certain, turn to the propositions of these two bills and see whether they meet these ends, and, so far as we can see, answer these two requirements. First, the Judiciary Committee propose to gather into a sinking fund enough to liquidate the first and second mortgage bonds in about twenty years—\$175,000,000 in twenty years. With the exception of the sinking fund to which I have alluded, which got its vast accretions without deliberate intention on the part of the Government, there is no sinking fund that I have ever read of that gathered into itself the vast amount of \$175,000,000 in the brief period of twenty years; and whence is it to come? It is, every dollar of it, to be gathered off the traffic upon these roads. It is, every dollar of it, to be charged to those who use these roads as passengers and as freighters. This burden is proper enough to be borne if properly distributed, if so adjusted as not to be made unreasonable and excessive, and yet to be made certain. It is proposed by the Judiciary Committee bill to gather up the whole of \$175,000,000 off the traffic over these roads in the short period of twenty years. That, sir, of itself is an element of insecurity. It is to be gathered substantially off the local traffic of these roads, for within five or six years there are to be two other roads competing with these for the

transcontinental freighting and passenger business which is to be done for all the time covered by this sinking fund.

Therefore, up to a certain limit it will be impossible for these roads to do transcontinental business and charge upon it an excessive burden to meet the obligation of this sinking fund. It must be charged, then, largely in the end upon the local traffic upon these roads; but whether charged upon the local or the through business of these roads it is a burden upon the people in the end.

I do not use this argument for the purpose of saying that the burden ought not to be imposed at all, but for the purpose of saying that care should be taken, that it should not be excessive, just as men now argue against provision for the yearly accretions to the sinking fund of the nation. It is better to extend it over a greater length of time, they say. We have paid, they say, our full share of the burden of the public debt, and it is better to extend it over a longer period of time and distribute upon those who come after us some of these burdens.

I submit that no sooner will it be enacted that these companies must gather from off their business enough money every year to amount to \$175,000,000 in twenty years from this time than you will begin to hear the mutterings of discontent in every part of the country that shall do business upon these roads. The whole cheap-transportation sentiment of the country, which has been so strong, and for aught I know is as strong now as ever, will be invoked against the terms of such an exactive sinking fund as this. Therefore, I submit that, in the interest of security and permanency to this sinking fund, without impairing the ultimate certainty of it, it is better that its exactions should be less and the time for its consummation be postponed for a few years, thereby not only lightening its burdens but rendering the fund itself more secure from a disposition to pervert it or to impair it or to repeal it.

The character of the sinking fund, the exactions of the sinking fund, are not all. What is the inevitable effect upon the roads themselves? I have not expressed thus far a doubt of the power to impose any obligation that Congress in its wisdom may see fit to impose. I am not here as the advocate of any of these roads or a defender of its past or an enlogizer of its future. I know none of the parties interested in either of them. I was in Congress when they started in 1862 and in 1864. I have watched as a legislator all that has been done. I am of the opinion that the accomplishment of the building of these roads in the time of war was one of the grandest of all the achievements of that war, whether you look at the grand character of the undertaking or the results obtained through it. Whatever was done that deserves criticism or condemnation in the manner of carrying out the powers granted by Congress, I have nothing to do with to-day. Here is a great transcontinental line to live by the side of two other equally grand transcontinental lines, and it cannot be treated wisely in any other way than by the establishment of a sinking fund that shall be absolutely secure and certain of the ultimate result, and yet so distributed in its burdens that it will not cripple this line by the side of competing roads nor exact unnecessary and unreasonable burdens from those who must patronize and use these roads. Otherwise the roads, as the Senator from California [Mr. SARGENT] has said, and in the very nature of things, must be abandoned to the mortgagees or so run that they will cease to fulfill the purposes for which these laws were passed and this money taken from the Treasury of the United States for the accomplishment of the great work. Yet with this enactment that \$175,000,000 at least shall be gathered by these roads off the traffic on them in twenty years, this bill goes further and for the security of this exaction mortgages every particle of property that these railroads now or hereafter may possess, not only for the fulfillment of the yearly exactions of this bill but for the ultimate payment of this debt in 1898. Let me read. The ninth section of the bill is in these words:

That all sums due to the United States from any of said companies respectively, whether payable presently or not—

That includes not only the yearly exactions but includes the ultimate payment in 1898 of all the bonds of these roads. All the sums due to the United States, "whether payable presently or not"—

and all sums required to be paid to the United States or into the Treasury, or into said sinking fund, under this act, or under the acts hereinbefore referred to, or otherwise, are hereby declared to be a lien—

That is, a mortgage—

upon all the property, estate, rights, and franchises of every description granted or conveyed by the United States to any of said companies, respectively or jointly, and also—

And this is what I particularly desire to call the attention of the Senate to—

and also upon all the estate and property, real, personal, and mixed, assets, and income of the said several railroad companies respectively, from whatever source derived, subject to any lawfully prior and paramount mortgage, lien, or claim thereon.

Therefore, sir, though the roads pay punctually and faithfully every dollar exacted by this bill year by year into the Treasury of the United States, still every dollar of the assets and of the income of each company is pledged, and must, or this act will be violated, be kept till the end. Not a dollar of dividend can be paid, though every obligation of this bill shall have been fulfilled to the letter year by year. Every dollar of income from these roads, if it is in the power of Congress to put a mortgage on another man's property without his will, is pledged and must be kept, and this law is violated if it be

not kept, till the end. Who is to run the roads? Who is to maintain them? Whose capital is to remain in these roads for twenty years idle and unremunerated? Certainly I do not exaggerate the meaning of the words of this bill, if I know what they are. The law before this bill provided that all the property received from the United States, but none other, should be under mortgage for the fulfillment of the companies' obligations, and then authorized the Secretary of the Treasury, only in case of default, to enter upon and take possession of such of the property as was then in the possession of the companies, leaving them to dispose of the land, leaving them to dispose of any other property that they might acquire, as they saw fit. But this not only puts a mortgage for twenty years upon all property derived from the United States in the language of the old law, and not only upon all property, in the ordinary sense of the term, acquired from whatever source, but upon all income by name, however derived. If I know what may be the force of a lien or mortgage, it sets it apart, renders it utterly impossible for either company, though it has fulfilled every other provision, every exaction of this bill, to make a penny dividend; it cannot sell an engine; it cannot part with a foot of land. Whatever it may acquire hereafter is stamped, if it be in the power of Congress to stamp it, although the highest courts of many of the States have declared it to be an impossibility for creditor and debtor together to put the stamp of a mortgage upon after-acquired property. The language of this bill and the power asserted in this bill go to the length, not only of covering every dollar of property now held, but all the companies' income.

With all these elements, the nature, effect, and tendency of which are to breed dissatisfaction and discontent with the sinking fund thus established, the Judiciary Committee by their bill, as if to mock certainty and security, as if to hold it up as a thing least to be sought after, and as if to make it certain as an invitation in every contingency that may hereafter arise to every spirit of gain or of hostility to this purpose, not only base their sinking fund upon the theory (with which I am not quarreling at this moment) that Congress has the absolute control over it, can create it and can unmake it at its pleasure, but lest anybody might infer the possibility that the sinking fund stood upon some more secure basis than that, they expressly provide in the bill that any future Congress may at its will turn it over, pervert it, repeal it, amend it, abolish it, appropriate its money to any other purpose they please.

Of course these do not seem to be very weighty objections in the mind of the Judiciary Committee, and they may not have any weight in the mind of any other Senator; but, sincerely desiring myself to accomplish the end sought by these bills and to be sure that it has been accomplished, I have found no other way that satisfied my mind so well as to vote a sinking fund, out of the control of either the debtor or the creditor alone, to make the accretions to it such as to be sure and certain that those accretions shall every year exceed the accumulations of interest and yet so moderate while keeping them certain that their burden shall not create discontent and dissatisfaction and that their exactions shall not tempt and provoke opposition and effort for relief from the sinking fund itself. And yet, sir, I find that the chief merit of this bill is—what? I hear Senators argue that they would rather give it up and lose the whole debt than to lose the very element of insecurity. I hear Senators say that rather than fix this sinking fund so that it shall be beyond the reach of a majority hereafter it were better for the Government to lose the entire debt. I have to ask Senators if really there is, in the idea that the Government of the United States can make a contract that shall bind it, anything so alarming to the liberties of this nation that it were worth while to give up so much rather than concede it? Is it, after all, the fact that no Congress can bind its successor, as I understood the Senator who reported this bill to say in the course of the debate, that no Congress can bind its successor; that it is not in the power of Congress to do so; that it is worth while to hold up to the people of the United States the fact that there is no force in the spirit of the express, positive inhibition in the Constitution of the United States against violating contracts, because it does not specifically apply to Congress? Have Senators quite considered how far this carries them; how little it is within our power to maintain the Government for an hour if we abandon the idea that it can make a contract that shall be inviolate in the future, that must be adhered to, if you adhere to good faith and honor? But Senators think that rather than admit—I do not say how at this time—the principle that the Government shall be able to bind itself and bind future Congresses so that they cannot in honor and in good faith violate that contract, they would give up this whole thing! I submit that it is within the power of Congress to fix this sinking fund upon a basis that will abide, which will abide, too, whatever may be the contingencies of the future; which will abide in the forum of the Supreme Court of the United States, where contracts are enforced; and I think it is our duty to so base it that it will stand.

The Judiciary Committee, in arguing in support of their measure and in support of the idea that the best element of it is the fact that it keeps the control of the matter in the majority of Congress, have sought to meet every suggestion that possibly the majority might be hostile to the bill itself and to the fund itself with ridicule and with denunciation. The Senator from Michigan [Mr. CHRISTIANCY] was eloquent in what he described and what he wished us to understand to be the confidence necessarily to be reposed in the majorities of

Congress, that everything under the Constitution rested upon majorities, and the presumption was that majorities acted justly and properly. And when the Senator from Ohio on my right [Mr. MATTHEWS] spoke of the danger of trusting individual rights to the caprice of the majority he turned in astonishment toward the Senator from Ohio and said that the Senator from Ohio had used the word "caprice" in a sense exceedingly offensive to any idea which the Senator from Michigan entertained of the actual tendencies of the majorities in Congress, and said that he might as well call majorities in Congress lunatics as to speak of any danger that might exist to the rights of individuals in the majorities in Congress. I should have been exceedingly impressed with the eloquence and force of the argument of the Senator from Michigan had he not been equally forcible and eloquent in denouncing the course of those same majorities in the past when he called attention to the fact that the majorities in the past had pursued a course which astonished the nation; and he even went so far as to hint at the fact that in 1864 Congress had been induced by bribery to the course which it had pursued. Sir, he broke entirely with me the whole force of any confidence which he might otherwise have inspired on my part in the action of future majorities by expressing his indignation at the course of majorities in the past.

Mr. EDMUNDS. May I ask the Senator from Massachusetts, who has been commenting on the ninth section of the bill reported from the Committee on the Judiciary as raising difficulties and doubts, and so on, to persons interested in these companies, to explain to the Senate the substantial difference between the ninth section of the bill reported from the Committee on the Judiciary and the fifth section of the act of 1862, which declares as to the money advanced by the United States that the very fact of its advance "shall *ipso facto* constitute a first mortgage on the whole line of the railroad and telegraph, together with the rolling-stock, fixtures, and property of every kind and description" of the companies?

Now the Senator says that this ninth section declares that the right of the United States to its debt as well as the sinking fund shall constitute a lien on all the property of the companies and on their income, which he seems to lay stress upon. The Senator of course can see that in respect of this sinking fund itself, the duty to pay into that is not provided for by the act of 1862, because the act of 1862 does not create the sinking fund, and therefore of course it is necessary, if you mean to be in earnest about this business, to say that this debt to the sinking fund of so much a year not to exceed 25 per cent. of the net earnings shall constitute a lien. But in respect of the other part of the debt to the United States, what is the difference between the ninth section of this bill and the fifth section of the act of 1862 which says that the money advanced by the United States shall constitute a first mortgage—now a second mortgage by the act of 1864—upon all the "property of every kind and description" of the companies? Is not the income of a company, that is its tolls, a part of its property; and is it not therefore merely re-enacting the fifth section of the act of 1862 with the addition that this duty to pay into the sinking fund shall be also a lien, bringing it all together?

Mr. DAWES. I will answer the Senator if he will first tell me what is meant by the next line after where he stopped: "and in consideration of which said bonds may be issued."

Mr. EDMUNDS. The next line where?

Mr. DAWES. You stopped at the word "description."

Mr. EDMUNDS. "And in consideration of which said bonds may be issued." Now before the Senator answers my question he wishes me to answer him one. Is that it?

Mr. DAWES. I ask the Senator what is his understanding of the meaning of this line?

Mr. EDMUNDS. After the Senator shall have explained to me, in answer to my question, I will try to explain to him.

Mr. DAWES. We will not stand upon the order. I understand the difference between the act of 1862 and the bill to be just this: that the act of 1862 proposed to make a mortgage upon everything that was obtained from the United States, and I infer it from these particular words:

Shall *ipso facto* constitute a first mortgage on the whole line of the railroad and telegraph, together with the rolling-stock, fixtures, and property of every kind and description, and in consideration of which said bonds may be issued.

Whatever the United States grant in consideration of the issue of the bonds is subject to the mortgage.

Mr. EDMUNDS. That, as the Senator states it, "in consideration."

Mr. DAWES. Will the Senator tell me what is the meaning of this line? He asked me the difference. The difference I think is—and I infer it from those lines I have read, which are very blind and hardly intelligible—that in 1862 Congress never undertook to put a mortgage on anything except that which they granted to the railroads and furnished them the capital to purchase. That is the form in which they undertook to express that idea in the line which I have read.

Mr. EDMUNDS. Supposing that to be so—and I do not say whether it is or not—what was it that the United States granted to the company? Was not one of the things that it granted to this company the power to take tolls, to gather in money for traffic? That was one of the franchises of the company. That even the Senator from Georgia, with his entirely novel views about the law, concedes to be within the power of Congress to regulate and repeal under the reserved power. What is this franchise, then? One essential part of

a franchise—it is not all of it, but the most valuable part of a franchise except that of taking private property—is the right of taking tolls from the public for doing a public business. The tolls, therefore, the right to take tolls, the money got from tolls, came from the authority of the privilege granted by Congress to these companies to build their railroad and to operate with the public and receive from the public an income for doing it. They are the tolls. Now the statute says that every kind and description of the property of the companies shall be the subject of this first lien of the United States, now by the act of 1864 the second lien. Now the Senator reads "and in consideration of which said bonds may be issued," and he says that is very blind. I do not think it is blind at all. That is to say, there is authority to the Secretary of the Treasury from time to time to issue the bonds of the United States in consideration of the fact which the law declares that every particle of the property of these companies, real and personal, franchises, everything that is property, tolls, and everything else, are the security, and that being so, the Secretary of the Treasury in consideration of that may issue these bonds.

It does not require a vast amount of scholastic education, as it appears to me, to understand that simple proposition. These bonds may be issued in consideration of what has been previously stated, and that is that everything that the companies may obtain in the nature of property is made subject to the duty that the law of corporations everywhere without it would make the duty of the corporation to devote to the payment of its debts. That is all there is to it.

My honorable friend, who is familiar with that excellent book in New England, Angell & Ames on Corporations, and that excellent English book, Kyd on Corporations, must know that according to those authorities and by the decisions of courts without a difference anywhere, every particle of the property of a corporation, whether it is in money, or in tolls, or in rights, or franchises, or whatever it may be, is a trust fund first devoted to the duty of paying its debts, after that to the duty of dividing it among the persons who have engaged in the operation.

Mr. DAWES. That is quite a different subject.

Mr. EDMUNDS. I do not think so. It is quite the same subject.

Mr. DAWES. I admit that the franchise was mortgaged.

Mr. EDMUNDS. Well, what was the franchise?

Mr. DAWES. Mortgaging the franchise does not mortgage what can be made out of the franchise. The franchise is held by the mortgagee for his use until default, and what he can make out of the franchise until default is his unless the terms of the mortgage cover not only the franchise but the income and use of it. I mortgage my farm to the Senator from Vermont and unless I expressly mortgage the income of that farm its income he cannot exact from me.

Mr. MITCHELL. I suggest to my friend from Massachusetts that the very act that authorizes the mortgage of the franchise does specially mortgage a special amount of the income, 5 per cent. and no more.

Mr. DAWES. Mr. President, it is perfectly plain, that without express words in the mortgage that the income of this road is also pledged to the fulfillment of the obligation in 1898, you cannot hold it and recover it out of the hands of a stockholder when paid in the form of dividends; and the Senator from Vermont knew that when he used the word "income" in this bill. He knew he had added something, and he knew that when he added "from whatever source derived" he had added something. He knew that he had made a broader mortgage because he had used broader terms. There is nothing in the terms of the statute of 1862 that can be construed by any fair interpretation to embrace any after-acquired property any more than income, and the Senator from Vermont does injustice to himself when he says that all these additional words are words of no effect, put in here without any occasion for their insertion.

Mr. EDMUNDS. I have not said anything of the kind, Mr. President. The Senator will excuse me. The Senator says that the act of 1862 is only a mortgage upon existing property at the date of the passage of the act. Now, at the date of the passage of the act, I take it that the existing property of the Union Pacific Company was *nil*. It had not even the land grant until it accepted it. It had not any railroad line. It had not the iron or the ties or the embankments or the cuts or the bridges or the grading.

Mr. DAWES. If I said "the passage of the act," the Senator must have understood me to mean when the act went into effect.

Mr. EDMUNDS. Very well; that is what I mean by the passage of the act, when it went into effect, of course. Very well. When it went into effect the company had not any track; it had not any cuts; it had not any bridges; it had not any cars or engines or anything whatever; and yet the statute says that this shall be a mortgage upon every description of the property of the company; and the Senator says that after-acquired property is not the subject of such a mortgage. I beg most respectfully to differ from the Senator. The plain import of this section is that everything that the company may have at any time, that it gets under the authority of the act that creates it, or in respect of the Central Pacific that authorizes it being an existing corporation of a State to go into the Territories of the United States and build a railroad, shall be the subject of this lien; and if the Senator says that after-acquired property does not fall within that section and is not therefore a security, he says in effect that there is no security at all. That will not do. The law about after-ac-

quired property, which has been settled over and over again in every court that has considered it, has been that where a railroad mortgage made to private citizens, to private persons, who advanced their money, in its terms went beyond the track and the line and the right to run the line, as distinguished from the tolls, and said that it should be a mortgage upon all the property of the railroad company of every description, it was a mortgage upon after-acquired property; that it spoke all the time; and that when one engine was worn out by the company and another one built, the new engine was just as much the subject of the mortgage as the old one.

And let me suggest to my friend also that courts of equity everywhere according to my information—I may be mistaken; I do not pretend to be so versed in the law as he is—have held that the income, by name, of a railway company is just as much in a court of equity the subject of a mortgage and is just as much to be devoted to the payment of its debts as its real estate. The only question would be in any of those cases whether that income was to be applied to the first mortgage or the second or to the general creditors, and in what order; but that every creditor according to his right and according to his priority had upon the general principles of the law of corporations a lien upon every item of property of the company, whatever you call it, never has been denied that I know of.

Mr. DAWES. Mr. President, I am aware that courts have decided that the income of a corporation can be mortgaged, and I think it was because the Senator knew that that he concluded he would mortgage it. He had not done it up to that time; the Legislature had not done it; the Senator was disposed to do it and he put it in the bill.

The Senator says that when the act of 1862 took effect the company had not any land, they had not any property, they had not any rolling-stock. Does not the Senator understand that the act took effect by sections; that they built a section of the road, and then had property, then had land, then had bonds, in consideration of the receiving of which and of property from the United States a lien was *ipso facto* fastened upon all the property which they themselves received, qualified, however, by this statement in the same section:

And on the refusal or failure of the said company to redeem said bonds, or any part of them, when required so to do by the Secretary of the Treasury, in accordance with the provisions of this act, the said road, with all the rights, functions, immunities, and appurtenances thereunto belonging, and also all lands granted to the said company by the United States, which, at the time of said default, shall remain in the ownership of the said company, may be taken possession of by the Secretary of the Treasury for the use and benefit of the United States!

Making the exception lost sight of in the bill before the Senate, extinguished by the bill before the Senate, that the property, after all, to be taken possession of for default of the company was the property undisposed of by the company, so far as its lands were concerned, at the time the default should occur. Now, sir, all of that property is by this bill put under a lien that cannot be lifted for twenty years. Every acre of its lands as well as every dollar of its income is put under a lien that fastens and holds it for twenty years; and the bill in another section provides further for making it a penitentiary offense in any director, officer, or stockholder who shall vote a dividend in violation of this act, and every dividend received by a stockholder in violation of this act may be recovered back in an action.

When I was interrupted I was calling attention to the perfect satisfaction which seemed to have taken possession of the minds of the Judiciary Committee, if they could impress upon the country that they had established a sinking fund that has no security against the future action of Congress. They have not only taken pains to base it upon the theory that it is impossible to make it so that any future Congress cannot undo it, but they have invited interference with it by express invitation in the act itself; and the Senator from Michigan has gone on eloquently to assert the perfect confidence he had in future majorities while condemning in denunciatory language the conduct of majorities in the past. The Senator from Ohio, who reported the bill, said that it was a perfect answer to this suggestion, that nobody in the interest of the people for the two or three years this bill had been before Congress, had ever shown himself here to lobby in favor of such a measure, while the lobbies and corridors of this end and the other of the Capitol were crowded with those who were exercising or attempting to exercise undue and improper and corrupt influence against this measure; and the Senator from Vermont, rising still higher in the argument, declared that the only danger that could possibly arise, that could possibly imperil this sinking fund, was the corrupt influence of these roads themselves, and their friends and the holders of their securities, and he went so far as to say that he had ascertained just what they had expended by the line and paragraph and column in the newspapers in influencing public sentiment against this bill, and said that the time would come when Congress would investigate it.

I go heartily with him in all that work. I have seen as much of it as the Senator; I denounce it as freely as the Senator; I will investigate it as long as the Senator; but I tell the Senator that the danger is not all on one side. The Senator has seen no other influence. Cannot the Senator see that those in the interest of competing railroads may derive an advantage by securing such burdens to rest upon the traffic on this road that it will be utterly impossible to compete with transcontinental roads that have no such burden, and the greater the burden the surer the success in competition against this road? The Senator can see and feel no influence around these corridors and upon

these halls that has a tendency to stimulate legislation that shall increase and make more grievous the burdens laid upon the traffic over this road for the advantage of competing roads! Sir, the innocence and confidence of the Senators that compose the Judiciary Committee who see no danger upon one side is equalled only by that of the ancient character in the fable who kept her blind side turned toward the sea ever and looked out for danger only upon the land. The fable tells us that nevertheless she fell, and I say to the Senators that, although now the public sentiment is such toward these roads that there may not be in this hour any danger except on the side of the land, yet in the disguises and devices and plans and schemes of the future neither they nor any one else can be quite sure that upon this very blind side itself may not be the very approach that will prove fatal to this whole scheme.

Sir, in attempting to establish this fund and to justify this legislation, the Senator from North Carolina [Mr. MERRIMON] brought forth an argument of another kind. He presented for the consideration of the Senate as a reason justifying severe measures toward these roads the fact that those who contracted with the companies to build them had cheated the roads themselves, and he paraded here in support of that argument the enormous profits made out of the roads themselves by those who contracted with the companies to build them. Precisely the same argument and for the same purpose was used here in another debate. You will find in a speech delivered by the Senator from Kentucky [Mr. BECK] on the 12th of January a table showing the enormous profits made out of the Government of the United States by those who dealt with the United States in the beginning in the purchase of her bonds. I do not know how accurate the table is; I think I have seen it in at least thirty speeches this winter. It had its origin five or six years ago, and it is always used with precisely the same aid to argument. The position, as I understood it, of the Senator from North Carolina was that those who contracted with these railroads had made enormous profits out of them, and that lent some sort of support to measures that otherwise would not be entirely justifiable. The table to which I allude shows that those men made the enormous profit of \$1,012,500,000 out of the United States in the purchase of the bonds of the United States; and upon the same parity of reasoning some support to a particular treatment by the United States of those bonds is derived from the fact that those men are alleged to have made an enormous profit out of them. So I understood the argument of the Senator from North Carolina to be that the men who built these roads for the roads themselves, no matter by what sort of unjustifiable machinery it was done, had made thereby enormous profits out of the roads, and we could well treat the roads in the light of that fact.

Mr. MERRIMON. I do not suppose the honorable Senator from Massachusetts desires to place me or anything I said in a false light. What I said was this, and I think it was legitimate, that it was proper that we should inquire into the history, the practices, and the spirit of these corporations in order to enable us to determine what measures we ought to take for the protection of the Government; and it was in that view that I referred to their history and their practices and to the spirit manifested by them. As I understand, the principal stockholders in the Central Pacific Railroad Company, particularly at the time the frauds were perpetrated on the Government, are the same stockholders now, and that in very large measure the stockholders in the Union Pacific are the same. But whether that be so or not, I maintain that it was fair, legitimate, and proper that the Senate should inquire into the history, the practices, and the spirit of these corporations in order to determine what legislation is necessary for the protection of the Government. If we find that they perpetrated frauds on the Government; if we find that they have been obstinate and are so now, that they are insolent in their demands, then surely that is an argument which addresses itself to us in favor of measures that are vigorous and strong and decisive; and it was in that view that I referred to their history. I did not desire to do them an injustice. I am very sure I did not. I would not deprive them of one dollar of their property to-day. But in the exercise of the power reserved to Congress, and which is in Congress even without reservation, I do say that Congress owes it to the Government and to the people of the Union to provide a measure by which they can be protected.

Mr. DAWES. I do not understand the explanation of the Senator from North Carolina to militate against anything I have said. I understood the purpose of the Senator to be, as he states it, to show that those who built the roads for the corporation had made enormous profits, and had done it fraudulently, out of the corporations.

Mr. MERRIMON. No, sir; I do not care what they made, if they made it legitimately they are entitled to be protected. That weighs nothing with me.

Mr. DAWES. To show how utterly unsafe a sinking fund of this character is if left to the changing sentiment of the majority, to which I have already alluded, I want to call the attention of the Senate to another fact. The Committee on the Judiciary themselves, since this matter came under their consideration, have changed their views three times. The first report from the Judiciary Committee upon the subject of the relations of the Government to these roads concluded in these words:

Your committee were not called upon to criticize the wisdom of these acts of Congress, but to answer as to their true construction; and, in discharging this duty, the committee is obliged to report the law as it is, without regard to what

they might desire it to be. It is proper, however, to suggest that the company is clearly bound to keep its road in repair and in use; and any failure of the company in this respect would authorize the Government to take possession of the road. The refusal of the company to perform the services for the Government provided for by the sixth section, or to appropriate 5 per cent of its net proceeds, would also authorize the Government to take possession. But while the company shall continue to comply with these requirements, the Government, if it has not all the security it might desire, has all it ever stipulated for, and has no right to complain. And at the maturity of the bonds, if the company fail to pay principal and interest, the Government may take possession of the road, which the company, in the mean time, must keep in use and repair.

Mr. EDMUNDS. Will the Senator be good enough to tell us in answer to what resolution of the Senate that report was made; whether it was not a resolution directing the Committee on the Judiciary to report the existing state of the law without any reference to any power of Congress to change it?

Mr. DAWES. Very likely it was.

Mr. EDMUNDS. "Very likely;" but you had better state it.

Mr. DAWES. I state it so far as I am able to state it from the report:

The Committee on the Judiciary, who were authorized by resolution of the Senate of December 9, 1870, to inquire and report whether the railway companies which have received aid in bonds of the United States are lawfully bound to reimburse the United States for interest paid on such bonds before the maturity of the principal thereof, and, if so, what legislation, if any, is necessary to compel such reimbursement; and by resolution of February 16, 1871, were instructed to inquire and report as to the right of the Treasury Department to retain all the compensation for services rendered for the United States by the Union Pacific Railroad and its branches, to apply on the interest of the bonds issued by the United States to aid in the construction of said roads, respectfully report.

And among other things they report this:

But, while the company shall continue to comply with these requirements, the Government, if it has not all the security it might desire, has all it ever stipulated for, and has no right to complain.

And its remedy is that—

At the maturity of the bonds, if the company fail to pay principal and interest, the Government may take possession of the road which the company, in the mean time, must keep in use and repair.

Mr. EDMUNDS. The peculiarity about my friend's reading, which he did not intend undoubtedly, is that he has imported from his own inner consciousness into his reading two or three words.

Mr. DAWES. What are those?

Mr. EDMUNDS. Where he proceeds to say that its remedy is at the end of the time to do so and so. I am not able to see that in the report.

Mr. DAWES. I wish to be entirely fair and frank—

Mr. EDMUNDS. I know my friend does, or I should not have interrupted him.

Mr. DAWES. I did not suppose anybody who was looking at me would presume when I said "that the remedy is" that I was reading those words from the book. I had once read the report of the committee, word for word, just as it is in the book already, and, after reading part of it again, I said "the remedy is," and then I read:

At the maturity of the bonds, if the company fail to pay principal and interest, the Government may take possession of the road which the company, in the mean time, must keep in use and repair.

If the Senator inferred that I meant to use those words "the remedy is" as part of the report, it is due to him that I should disabuse him of that impression.

Mr. EDMUNDS. I did not myself make that inference; but any person in the public reading the RECORD to-morrow would suppose that that committee has said that "the remedy," that is to say the only remedy that Congress had, if they were not satisfied with the existing state of things, was to wait until the bonds mature. That the committee never said and were never called upon to say and never intended to say.

Mr. DAWES. I want to read it once more, and if the Senator has not confidence in my reading he may look over me.

Mr. EDMUNDS. I have entire confidence when you read.

Mr. DAWES:

But, while the company shall continue to comply with these requirements the Government, if it has not all the security it might desire, has all it ever stipulated for, and has no right to complain. And at the maturity of the bonds, if the company fail to pay principal and interest, the Government may take possession of the road which the company, in the mean time, must keep in use and repair.

If that is precisely the same position that the Judiciary Committee occupies now, then I have misunderstood the two positions.

Mr. EDMUNDS. May I ask the Senator a question?

Mr. DAWES. Yes, sir.

Mr. EDMUNDS. In order not to misunderstand my honorable friend from Massachusetts, whose sincerity I do not doubt, I wish to ask him if he understands that report to mean, in answer to that resolution asking the committee to report what the state of the law then was, that Congress had no power to change the regulations that already existed in respect of security to the public interests and to private rights?

Mr. DAWES. I understand the report to mean precisely what it says.

Mr. EDMUNDS. That does not answer the question.

Mr. DAWES. When it said that the United States determined what security it would take for what it gave, and if it did not take enough had not any right to complain, I did understand it (and the Senator must take my answer as explicit) to mean the common notion that when they made their contract they ought to be satisfied with it.

Mr. EDMUNDS. The Senator entirely misunderstands the report, then.

Mr. DAWES. That was one position occupied by the Judiciary Committee. Two years ago the committee reported a bill—

Mr. THURMAN. I do not want to interrupt the Senator if it is disagreeable to him, but I should like to say one word on that first report.

Mr. DAWES. I shall be through this point in a moment and then the Senator can do so.

Mr. THURMAN. It is in reference to the report that he has just read from that I wish to say a word.

Mr. DAWES. Very well.

Mr. THURMAN. That report was made under these circumstances: under the law as it stood at that time and as it now stands, the Government agreed to pay to the companies one-half of the transportation account. That, I say, is the law, and that will continue to be the law if it should not be altered by Congress. Mr. Akerman, the Attorney-General, gave an opinion that the Government might offset against that half of the transportation account due by it to the companies an equal amount of the interest which it paid on the subsidy bonds upon the law of offsets. It was distinctly upon that ground as a right to offset what the Government had paid for the companies upon the subsidy bonds against what the Government owed the companies for transportation; and the question was whether the Government had that right of offset as the law then stood. That was the whole question that was referred to the Judiciary Committee. It involved simply a consideration of what was the law then, and no question whatsoever of what ought to be the law, no question whatever of the power of Congress to alter, add to, amend, or repeal the charter. No such question was in the remotest degree involved in that inquiry. The Judiciary Committee reported that as the law then stood the right of offset did not exist, that the companies were not bound to pay the interest until the maturity of the bonds.

The only question that was submitted to the committee was whether the Attorney-General's opinion was correct. The Judiciary Committee of the Senate reported that that opinion was erroneous and that under the law as it then stood the Government was bound to pay the half-transportation account to the companies annually, and they accordingly reported a bill requiring the Secretary of the Treasury to comply with the law. That bill passed this body. The Judiciary Committee of the House reported the same way, and the bill passed the House. Two years after, there being much dissatisfaction with the conclusion at which the two committees had arrived, and at which the two Houses had arrived, in order to raise the question for judicial determination, another act or resolution was passed, directing the Secretary of the Treasury to withhold the half-transportation account, and authorizing these companies to bring suit in the Court of Claims so as to test the question judicially. That was done. The money was accordingly withheld, simply for the purpose of making a judicial question for the determination of the courts. The Court of Claims decided as the two Judiciary Committees had decided, and as the two Houses had decided; and, on appeal, the Supreme Court affirmed that decision. That is all there is of it.

Mr. DAWES. Doubtless the Senator has stated the circumstances under which the Judiciary Committee submitted the report, and I think I have stated accurately the language of the report. I wish to call attention now to the fact that two years ago the Judiciary Committee reported a bill to this effect:

Be it enacted, &c. That the net earnings mentioned in said act of 1862 of said railroad companies, respectively, shall be ascertained by deducting from the gross amount of their earnings respectively the necessary and actual expenses of operating the same and keeping the same in a state of repair, and not otherwise, and excluding from consideration all sums owing or paid by said companies respectively for interest upon any portion of their indebtedness; and the foregoing provision shall be deemed and taken as an amendment of said act of 1862 as well as of said act of 1862.

Now, in the bill before us, they have changed their mind since then; they use the following language:

That the net earnings mentioned in said act of 1862 of said railroad companies, respectively, shall be ascertained by deducting from the gross amount of their earnings respectively the necessary expenses actually paid within the year in operating the same and keeping the same in a state of repair, and also the sum paid by them respectively within the year in discharge of interest on their first mortgage bonds, whose lien has priority over the lien of the United States, and excluding from consideration all sums owing or paid by said companies respectively for interest upon any other portion of their indebtedness.

The personnel of the Judiciary Committee has not changed more during the years that these three positions have been entertained by that committee than the personnel of Congress and the personnel of Congress in the future; and, if these three positions of the Judiciary Committee are not alike, it only shows that in the few years that have transpired since this matter has been before Congress for adjudication the Judiciary Committee have changed their minds and altered their ideas of what would be just and fair and proper for the sinking fund about to be created. Two years ago they were of opinion that the sinking fund should include the net earnings substantially, this very interest which they think now, for reasons they have given, ought to be excluded from the sinking fund.

Mr. THURMAN. May I interrupt the Senator there?

Mr. DAWES. Certainly.

Mr. THURMAN. If the Senator will look at the bill reported two years ago he will find that practically there is very little, if any, dif-

ference between that and the present bill in the particular to which he refers, because it was expressly provided in that bill that if in any year 75 per cent. of the net earnings of the road, as defined in the first section, should be insufficient to pay the interest upon the first mortgage, then the Secretary of the Treasury was bound to make an abatement so that that interest would be paid. Thus under that bill, and under this bill, the provision is complete for the payment of the interest on the first mortgage before there can be anything paid into the sinking fund.

Mr. DAWES. I understood the Senator himself to call the attention of the Senate to this change in the provisions of the bill and to give a reason for this change and modification. I do not speak of it in reproach or criticism. I only allude to the fact that even the Judiciary Committee of the Senate have changed their views in relation to what should constitute this sinking fund, and being at perfect liberty, as they say, in any year that is to come between now and 1898 to alter, amend, or repeal this law, what assurance can we have that Congress itself will not undergo as much change as the Judiciary Committee, whose personnel certainly is as conservative and as certain as that of Congress itself? That is the force of the argument, if there be anything in it.

The very treatment which this committee have given the subject is the evidence itself that in the years that are to come the changes in the relation of these roads and this fund to the public and to the United States are certain to be such as to tell upon its security and its permanency.

Before I sit down, I wish to call attention to the fact that in support of this bill the position is taken that it is necessary to provide protection against the contemplated acts of bankruptcy on the part of these roads. A bankrupt act cannot be enacted in Congress applicable to a single estate. A bankrupt act to be constitutional must be uniform and applicable to all estates and to all persons. Let me read what the Senator from Tennessee [Mr. BAILEY] gives as one of the reasons for justifying the enactment of this bill:

Now, may not the remedy be advanced without injustice to the stockholders? If the conduct of the officers manifests an unmistakable purpose to bring the corporation to a state of bankruptcy, if they shall refuse to be governed by the ordinary rules of business prudence and care, the necessity is obvious to refuse to provide a sinking fund for the payment of debts to mature in the future that cannot otherwise be paid. Can they with any propriety object that the law-making power shall require them to do so or provide a remedy that will protect the creditor against a meditated wrong?

That is an attempt to make applicable to a single estate the principles of the bankrupt law, and I can find no authority for the Government of the United States to enact any other than a uniform system of bankruptcy. The cases which the Senator cites from his own State and Georgia I desire to read to the Senate, and see whether they apply to this bill. The Senator says:

In my State and the State that is represented by the honorable Senator from Georgia, we have a law providing that, if a debtor in anticipation of the time of payment of a debt is making a fraudulent conveyance of his property with a view to evade the payment of that debt, the creditor may sue out an attachment and impound the property and hold it—

Hold it how, Mr. President?—

under the jurisdiction of the courts until the debt shall become due. This is statutory law; but has anybody ever questioned the power of the Legislature to enact such?

Most certainly not. If this Legislature should provide a tribunal into which these railroad companies could be summoned upon an allegation that they were about to make conveyance of their property for perversion of their funds, to the defrauding of their creditors, and the court should be clothed with power to pass judicially upon that question, it would meet the Tennessee and the Georgia statutes, and not otherwise. But that is not the proposition in this bill. The proposition in this bill is to find the fact here and adjudicate it here. It is based upon the allegation here in this body that these roads are about to make fraudulent conveyances and to commit acts of bankruptcy, and then to pass judgment here. The Senator from Vermont has brought this out more strongly in the manner in which he states it:

Mr. EDMUNDS. But the Senator from Georgia carefully leaves out the proposition that I put to him, that upon the universal principles of law applied to corporations, no matter whether you have a mortgage security or not, every dollar of the assets and income of a corporation is a trust fund for the payment of its creditors first, and for division among its stockholders afterward. Therefore, if a corporation, without regard to whether there is a mortgage lien or not, divides up its earnings among its stockholders to the danger of its creditors, it is violating the law of its existence.

And the Senator from Tennessee [Mr. BAILEY] adopts this language and says:

But there is another reason which has been alluded to by the Senator from Vermont, or which was alluded to a few months ago, why this legislation may take place. He stated, and he stated what is unquestionably the law, that the property of every corporation is a trust fund for the payment of its debts, made so by indentment of law.

True, but does that authorize Congress to administer the trust? Does that authorize Congress to constitute itself into a court and judicially decide whether the trustee is perverting the fund or not? It is perfectly competent, I doubt not, for Congress to erect, if there is none as yet, a judicial tribunal into which we can summon this corporation or anybody else clothed with a trust, upon an allegation that it is perverting the trust, but it is a judicial tribunal, and not a legislative one, that must administer trusts. The legislative authority may establish the trust, the legislative authority may define the

powers of the trustee, the legislative authority may declare that certain acts shall constitute a perversion of the trust; but whether those acts have been performed or not, whether that trust has been perverted or not, whether the trustee is false to his trust or not, is a judicial question and must be decided in a tribunal where the parties can be heard and can deny, if they please, the allegations upon which this whole bill rests, if it rests upon the claim of a trusteeship at all.

Mr. EDMUNDS. Mr. President, does not my friend's conclusion about that depend a little on an underlying question, as to whether the legislative authority over this corporation in this particular case and other corporations in other cases to declare a foundation for such a trust and require a duty of paying in it, is the exercise of constitutional authority; in other words, whether there does not reside in the legislative power of visitation of public corporations or quasi-public corporations created or authorized by it to do particular things, the authority to direct how much of the corporate funds shall be divided among the stockholders, and so taken away from the creditors, and how much, as in Massachusetts, shall be paid over to some hospital or whatever it may be? If there is the legislative power of visitation and requirement, then undoubtedly under that just as under this bill it remains for the judicial authority to carry into execution and enforce the provisions which the legislative authority has made.

Mr. DAWES. I had stated just exactly the qualifications which I understand the Senator from Vermont to restate for me in so much better language.

Mr. EDMUNDS. Then we agree.

Mr. DAWES. I stated that it is competent for the legislative power to define the trust, to declare what it shall be, to declare what shall be the penalty for the violation of it, what the trust has been established for. The relation between these roads and the Government, according to the theory of the Judiciary Committee bill itself, is that of a trustee and *cestui que trust*. The Government is to hold this fund in trust for the creditors and stockholders. It is to hold it according to established law and liability. No new liability not existing before can be imposed upon the companies inconsistent with the terms upon which they accepted the trust without violating the contract upon which they accepted it. I do not understand this requirement to be based upon any such ground as that, but upon the simple ground that they are trustees holding trust funds, and therefore, if they undertook, as the Senator from Tennessee said they were proposing to do, an act of bankruptcy, dividing up in the shape of dividends funds which belong to creditors and stockholders, doing that act or proposing to do that act which he styled an act of bankruptcy at one time and a perversion of trust at another, they are to be visited with this law. I say that if you have not a court of sufficiently broad jurisdiction to call them to an account, it is your duty to make the court, and not assume the judicial function here, because it depends upon questions of fact and of law, to be judicially determined, whether they have committed the act of bankruptcy or breach of trust, or contemplated committing either, which are made the foundation and justification for the law itself.

I have tired the Senate, I am conscious. I have very imperfectly presented what seem to me to be some objections lying essentially at the bottom to the sinking fund as proposed by the Judiciary Committee; not that I have the slightest desire to prevent the establishment of a sinking fund; but I desire that one shall be established which shall last after the disposition now prevalent universally in Congress shall have passed away. I wish to provide a sinking fund that shall outlive any temporary disposition; that shall withstand any change of public sentiment; that shall withstand any encroachments upon it that may be made through corrupt motives, through a false public sentiment, through a crowding of these corridors with the lobbyists of these railroad companies, against this bill or of competing roads for this or any other bill; that shall stand until the purposes of its creation have been accomplished, and the indebtedness of these roads liquidated and they stand unincumbered among the monuments of the courage of the United States manifested in time of peril, able to fulfill all of the functions and all of the powers devolving upon this and its sister roads across the continent, building up States, developing uninhabited places, making rich and strong the nation in the years that are to come.

Mr. EDMUNDS. If I correctly understand the Senator from Massachusetts he means to maintain that he believes this bill reported from the Judiciary Committee requiring the establishment of this sinking fund to be unconstitutional as a violation of private rights in undertaking to require these corporations, instead of dividing up their profits among their stockholders, to take a part of them and keep them in a safe place for the benefit of their creditors. I ask him if I am right about that?

Mr. DAWES. So far as I discussed the constitutionality of the bill, it was in this way: that if it were the intention of the bill to establish Congress into a court of equity to administer trusts, there was no authority in the Constitution for that purpose; and if it was the object of the bill to provide a special law of bankruptcy applicable to a single estate, there was no authority in Congress for the enactment of any such law.

Mr. EDMUNDS. But, Mr. President, the Senator has not answered my question. I am unable to know from what he states whether he

believes this bill to be constitutional or not constitutional. If he does not wish to express an opinion, that is one thing; if he does, I shall be glad to have him state it.

Mr. DAWES. I stated that it was endeavored by the Senator from Tennessee to find support for this bill in the statement that these roads were contemplating acts of bankruptcy and a conveyance of their estates to avoid paying their debts, and if that were so it was just like a law of Tennessee and of Georgia which summoned them into a court and impounded their property until they answered to that charge in court. I answered that reason for supporting this bill by saying that an act of bankruptcy could not be made applicable to this estate alone, and if it were an attempt to administer a trust it could not find any support in the Constitution. Thus far and no further have I discussed the question of the constitutionality of this bill. I do not desire to enter, as I stated in the beginning I had no intention of entering, into any contest or controversy with the Judiciary Committee upon the general power of altering or amending the law of 1862 or of 1864; I was desirous of co-operating with them in obtaining a sinking fund that would have in it two elements; I did not care much about the details beyond that; one element was absolute security, and the other was accretions yearly that would be sure to exceed the accumulations of interest, and with those everything else would follow that I cared for.

Mr. BAILEY. Mr. President—

Mr. EDMUNDS. If my friend from Tennessee will excuse me, I am not able now to understand, what the Committee on the Judiciary I have no doubt would so gladly know, what the opinion of my honorable friend from Massachusetts is as to the constitutionality of the bill, as he understands it, no matter how the Senator from Tennessee understands it or his grounds or mine; but I should be glad to know and the Senate would be glad to know, as the Senator has evidently studied the subject and is a master of all the objections to getting on, what his opinion is as to the constitutionality of this bill in the light in which he reads it. If he is willing to answer, I should like to have the benefit of his views; if he is not, of course I have nothing to say.

Mr. DAWES. Mr. President, I am somewhat weary and it is late in the afternoon. If I am to be put upon the witness stand under the cross-examination of the Senator from Vermont at any great length, I should like to have it done in the morning. If it is essential to understanding what I have said that what I have not said and what I have declined to argue shall be argued by me, in my poor way I will do as well as I can in the morning.

I will say to the Senator that in regard to some features of this bill I should like to have some more satisfactory reason given for their constitutionality than I have yet heard; and to follow his example a moment ago, I think I shall sit down until he has given a satisfactory reason for the constitutionality of some features contained in the Judiciary Committee bill.

Mr. EDMUNDS. Now, Mr. President, I am entirely satisfied with the answer of my friend, because it is perfectly luminous. If he would be only kind enough to point out the features that still are obscure to him, then the committee will endeavor to see what they can do in the way of relieving his doubts; but which particular lineament it is that troubles him just now under the Constitution, he has not been kind enough to tell us, and I suppose he does not want to. The real fact—

Mr. DAWES. I did not hear the last remark of the Senator; but I imagine that he insists upon my making my speech in the way he shall mark out.

Mr. EDMUNDS. Oh, no; far from that.

Mr. DAWES. I have submitted some views. I do not suppose they are worth anything; I did not suppose they were before I submitted them; but there were some reasons which governed me in trying to make a sinking fund that I thought good. I am not to be forced from that line of remarks by anybody asserting any control over me, whatever control he may have over corporations.

Mr. EDMUNDS. Far be it from me to exercise any control over my friend from Massachusetts. He had been kind enough to state that there were some features of this bill that he wished to hear a better reason for their constitutionality than he had yet heard, and my only attempt to exercise control over him, if that was it, was to invite him to tell us what those features were.

If that is offensive, then I apologize with the greatest possible humility. If the Senator has not yet discovered which the particular feature is, we can wait until to-morrow, until he can dig it over again and see where his trouble does lie, if he is not able now to find it. The trouble with the Senator's argument is that he has unhappily missed a discussion of the fundamental ground on which the bill stands even to his own mind, and that is the public power of this nation over public corporations and the particular power that these very acts creating one of these corporations and conferring privileges upon the other as a part of the contract, if you call it a contract, that the companies themselves have agreed to, that this tribunal should be at liberty according to its judgment and conscience to regulate their future conduct. That is it.

Mr. DAWES. Mr. President, then it is a power of visitation that is exercised here, is it, when you take the property of this corporation and all its future earnings, every dollar of them, and set them apart in a fund to hold for yourself until the end? That is a power of

visitation, is it? And that is a proper power for the Legislature to exercise? I supposed that was the very power for a judicial tribunal to exercise. I supposed that was one of the incidents of the supervising power of a court over a trustee. I did not suppose the Legislature would do that.

Mr. EDMUNDS. My friend seems to be—

Mr. MATTHEWS. Will my friend from Vermont allow me?

Mr. EDMUNDS. Not quite yet, if you please. I will take one at a time.

Mr. MATTHEWS. I merely wished to make an inquiry.

Mr. EDMUNDS. But let me dispose of the inquiry of my friend from Massachusetts first. My friend from Massachusetts seems to have studied every part of this question except the particular one to which I addressed my inquiry. Now he comes to the power of visitation, to which I referred, and says he understands that to be a judicial power. So it is in respect to corporations to which the judicial power applies; but if he will only be good enough to look into the works on corporations he will see that in respect of those quasi-public corporations and indeed private corporations that have dealings with the public as a public, like common carriers, millers, &c., there is a legislative power of visitation that does not undertake to decide in the judicial sense of a final winding up and distribution of the assets by an edict, but undertakes to prescribe the duties which such corporations shall perform toward their creditors and toward the public, and which, when that prescription is made, just as in this case when this is made, it will be the business of the judicial power to see is duly carried into effect. That is the distinction which in the haste of my friend's studies he has evidently overlooked.

Mr. DAWES. I suppose that the Senator from Vermont calls this the power of visitation in the first section of the bill, when he defines what shall be the net earnings of this road by providing hereafter the net earnings of this road shall be so and so. The United States lent these roads certain bonds due, say, in 1898, except so far as they should be paid presently by one-half of the transportation account and the 5 per cent. of net earnings. They are due presently to that extent, and as to the remainder in 1898. Now, the creditor steps in and says he has the power to define what shall constitute net earnings; that is, to say how much of these bonds shall be presently due and how much shall be left till 1898. The creditor can say that the net earnings, as the Judiciary Committee proposed in 1876, shall be all excluding interest on the first-mortgage bonds, and therefore they can make more of these bonds payable *in present* than in 1898. When they say that the net earnings shall not include the interest on the first-mortgage bonds, they say there shall not be so much due *in present*. That is to say, the creditor holding the obligation of the debtor is at liberty himself to say how much of this debt is due to-day and how much is due twenty years hence, and he can determine from year to year, the creditor holding the obligation, and I understand the Senator from Vermont to say that that is the power of visitation. It is the power of visitation with a vengeance!

Mr. EDMUNDS. Well, Mr. President, the power to define what is net earnings in 1876 that the Senator speaks of was in my opinion a clear power of Congress if there had been no provision in the charters and grants reserving the power to control and regulate the management of these corporations, and the Senator will find, if he will turn to the last volume of the reports of the Supreme Court of the United States respecting the exercise of similar powers by the Legislatures of the various States, a great many cases all in a row that arose between States and railroad companies of exactly that character. But there is no inconsistency either in point of theory or in point of practice between what was reported in 1876 and this. In this instance now the committee thought it better to put into what was the definition of net earnings what does not belong to net earnings under any just construction of that term; and if you look at all the railroad reports to their stockholders you will see that we are right about that; they do not put in the payment of interest as a deduction from earnings and strike out a balance. It was to put into that what did not belong to it naturally or legally, a power in these corporations to apply as a part of their net earnings, before the lien of the other creditors would come in, this money necessary for the payment of interest on the first-mortgage bonds, for the reason of simple policy and good sense that if this money was thus applied, as another section of this act provides it shall be, to the payment of the interest on the first-mortgage bonds, then they had applied it to the very uses to which it ought to be applied instead of dividing it among their stockholders; and so as a matter of convenience that addition to the true meaning of net earnings was put in. If the Senator has any fault to find with that as a practical matter, that is one thing; I do not suppose he has; but if he refers to it as an evidence that the opinion of the committee has changed at all in respect either of the theory or the policy of what these companies are not to divide among their stockholders but are to pay to their creditors, then he is vastly mistaken.

But now the Senator comes back again to the power of visitation which he calls the power of visitation with a vengeance. He says it is the right of the creditor at his will to say how much of the debt shall be due to-day and how much due to-morrow. Mr. President, I wish to state once more that the Senate of the United States, in my opinion, is not the creditor of these corporations any more than the judicial tribunal that sits next door to us is the creditor of these cor-

porations when it in the exercise of its functions has to deal with them. We are not the creditor of the corporations in any earthly sense, either theoretical or practical. We are, unless we have been dealt with as I am sure no Senator has by these corporations themselves, a perfectly indifferent and impartial tribunal, to whom the corporations that accepted these privileges and benefits and grants agreed in the very charters of their incorporations and grants of their privileges there should be always referred, as an impartial arbitrator between them and the Treasury and between them and their creditors, the regulation and control of their affairs. That is our attitude. It does not do, therefore, in my opinion, for the Senator to say that the creditor is undertaking to deal unjustly and arbitrarily with the debtor. The Congress of the United States does not stand in any such attitude in my opinion, and I think I may safely say in the opinion of my friend if he will think of it a minute.

But now let us go another step. The Senator says that this does not fall within the power of visitation which he seems to have remembered now does exist to some extent somewhere, and I am not surprised that he concedes that much because of the decisions of the highest tribunal of his own State, none more honorable, none more respected, none more learned, none more conservative. It was long since decided there by a unanimous court upon principles of solid jurisprudence that it was within the competence of the legislative power of that State to declare that an incorporated company which by its charter was required to pay a certain portion of its net earnings or net profits—I forget which was the phrase, but it is of no consequence now—to certain public hospitals in that State and to declare afterwards that the meaning of the term "net earnings" or "net profits" should be so and so, different from what its meaning was in the original charter, and that thus defined a certain balance and proportion of net earnings should be paid to those hospitals. The companies resisted (just as the companies here through their friends resist) most manfully and stoutly the constitutional right of the Legislature of that State having no power to impair the obligation of contracts to do anything of the kind; but the venerable Chief-Justice Shaw and the honored Mr. Justice Dewey and all the others, by a unanimous decision that has stood from that day to this without question and certainly without reproach, said that was an entirely untenable position because the general laws of that State had already provided that every act of incorporation hereafter granted should be subject to legislative control to alter, amend, or repeal, reserving to the Legislature, in spite of their having made a contract by such charter, this power of complete visitation and control. The court held, therefore, that there was nothing in the objection made by the companies that the Legislature had undertaken to put a new definition upon the term "net earnings" or "net profits" to make it to include a larger sum of the earnings of the corporation than had by the original charters been the true construction. If that is the law, as I have no doubt it is and as the Senator has no doubt it is, how can he say that we are transcending the just limits of constitutional authority or the just limits of the proper exercise of this power of legislative visitation to which I have called the attention of the Senator, when we say in almost the very same words that the net earnings of these companies shall be defined and understood to be what every report of every company to its stockholders has always defined them to be; and that is the result after the payment of the operating expenses of the company and not including the payment of its debt or the interest upon its funded debt. I should be glad to know how the Senator distinguishes. No distinction can be made in my opinion.

Mr. DAWES. Of course I yield my opinion to that of the Senator from Vermont.

Mr. EDMUNDS. I only state the opinion of his own supreme court.

Mr. DAWES. The Senator said no distinction could be made, in his opinion. I say I yield my opinion to his. I only say this, that when he can find a case in Massachusetts where the State of Massachusetts holding the obligation of any corporation or any individual payable *in presenti* by certain terms and *in futuro* as to the remainder, the supreme court of Massachusetts has decided that it is competent for the Legislature of that State to make the *in presenti* part of it just as large or just as small as they please, or change it when they please—when he shows me that the venerable Chief-Justice Shaw and Mr. Justice Dewey or any other justice has said that was in the power of Massachusetts, then I will admit he has a precedent; not till then.

Mr. EDMUNDS. That is exactly in substance what those venerable justices and that venerable court decided.

Mr. DAWES. It is not, I beg leave to say. The Senator will allow me to interrupt him. It is not that. There is all the difference in the world between this case and the one he cites. Here is the creditor assuming, because nobody can call it to account for so assuming, to interpret the contract that he has made with his debtor, and make what he has to pay to-day just as much as he pleases and making the balance to be paid twenty years hence just as small as the creditor pleases.

Mr. EDMUNDS. Yes, Mr. President, we will even take that case. What is a creditor? Is it not a person or a being, a corporation or a State, or whatever it may be, that according to the existing arrangement is entitled to have a certain sum of money paid to it? I take it that is what a creditor is. Now the State of Massachusetts in the

very instance to which I have referred, under the charter of incorporation of an insurance company I believe it was—but no matter what the company was—was entitled to have paid to it for certain purposes named, its hospital purposes, a certain percentage of the net earnings of the company. So it was a creditor of that company in the general sense of that term. It was a being entitled to receive from the company a certain sum of money a year. Now that same creditor in the sense in which the Senator speaks of it, the Legislature (which I say is not the creditor at all), the Legislature of the State of Massachusetts undertook to say "we will change the definition of net earnings upon which you are to compute the sum that you are to pay into our treasury or to our hospital, and so arrange it that by its meaning you are obliged to pay more than you were before."

That the company resisted, and said it violated justice, and violated the contract that had been made. The supreme court of that State said that that was a perfectly lawful and proper thing to do. The substance and effect of it was that by an act of legislative will in changing the definition of the terms used in the charter the company was obliged to pay money to-day that it was not obliged to pay yesterday. If that is not a parallel case—clear up to the hilt, as the saying is, I should like to know what is; and as my friend from Ohio suggests, it is still more. If the Legislature requires them to pay more than they would ever be bound to pay, as was the case in Massachusetts, because there was no ultimate debt to be paid, but it was a yearly stipend that was to be paid into this hospital fund, then according to the Senator it would be all right. True, that is not this case; but it goes a great deal further.

In this case this bill does not provide for making anything due to-day that is not due till to-morrow at all. It does not take a dollar of money from these companies of any kind, not a penny. It only says that they shall keep the money in a safe place until their debt is due, and then it shall be kept for the benefit of the creditors and applied accordingly. There is therefore no taking by this bill of money that is due next year and making it due to-day. It only says that the income of these companies derived from tolls and franchises, that Congress alone has empowered them to take, shall not be put where nobody can get it that is entitled to it in the fulfillment of their obligations, but it shall be preserved in order to meet those obligations.

Is that saying that a debt which is due next year is due to-day? Far from it. Is that saying that a debt that is not due at all shall be made a lien upon anything. Far from it. It is only saying that the people who are engaged in these public operations shall keep themselves in an attitude where, when the time comes that they are called upon to apply their assets to the payment of their debts, there shall be some assets to apply; and that the Senator says is taking the property of A, is an invasion of private rights, and undertaking to turn ourselves into a judicial tribunal to dispose of the assets of these companies. Nothing of the kind, Mr. President; that all rests in the inventive genius of the friends of these corporations who have instilled into the minds of Senators somewhere or somehow the notion that we are going to disturb the value of some of these subsequent securities where they are held: but instead of disturbing the value of subsequent securities we are conserving them by every step we take in this direction. Every million dollars that is saved and is not put beyond the reach of creditors by being divided among the stockholders is a million of dollars saved to the very lowest security there is that these railroad companies owe. No matter how far off the bond is, be it third or fourth mortgage, or be it merely a general creditor who has no special security at all, every dollar that is preserved and not divided up among the stockholders is a dollar for him.

Whether you apply it to the first mortgage or the second mortgage or any mortgage, just to that extent it increases the assets of the company to be distributed in due order, as this bill says, according to law and under a judicial administration, if necessary, to everybody that has a right. Is not that right? Is not that equitable? It appears to me that it is; and there is the difference between my honorable friend and myself.

Every court, and latterly and most the Supreme Court of the United States has now settled as far as judicial decision can settle the power of State Legislatures in respect of these public corporations; and as to every corporation, be it private or public in its nature, that has to deal with public affairs, the general welfare of the public as carriers or millers or warehousemen or whatever, there rests in the Legislature the power of conserving its management to the protection of public interests and to the protection of its creditors. That is all. So I repeat, Mr. President, that we do not propose to make a debt due next year due to-day; we do not propose to take a part of the money of A and give it to B; but we only say to these corporations under this plenary power reserved in these charters and grants and under the visiting power that I have described that is universally laid down in all the books, that they shall so regulate the future administration of their affairs that they shall not pocket the money that they have earned from tolls and franchise to the injury of their creditors. That is the whole case.

Mr. MATTHEWS. Will the Senator be good enough to inform me what case it is in the Massachusetts reports that he refers to? The case of the Hospital Life Insurance Company?

Mr. EDMUNDS. It is in 4 Gray; I do not remember the name of the case.

Mr. MATTHEWS. Now, I should like to inquire of the Senator what I rose to ask before, whether I understand him to mean that he justifies the bill of the Judiciary Committee upon an alleged power in Congress as the legislative authority to visit the corporation, and he cites the case in Gray and the cases in 4 Otto as instances of that power of visitation.

Mr. EDMUNDS. No, sir, I do not cite the case in Gray as an instance of that power of visitation, because by a previous act of the Legislature, a general act, it was provided that all corporations thereafter incorporated should have their charter subject to alteration, amendment, or repeal, and the case in 4 Gray was put without going into the question of visitation at all, because perhaps that was not a public corporation that dealt with the public except as private persons chose to deal with them in the way of insurance, which perhaps would not fall within the clause. The case there was put on the ground of exactly the words contained in the acts of Congress of 1862 and 1864, that the companies who had taken those charters and privileges had themselves contracted as a part of the contract that the Legislature should be the tribunal to decide as to their future management and operation, and therefore that it was competent for the Legislature in its discretion to decide what "net earnings" meant and what should be done with a certain percentage of them. And that would be entirely enough for this case, to say nothing of the power of visitation, which is the real power upon which rest the decisions in many of these later cases as it respects public corporations and as it respects private warehousemen, private individuals. But I do not put it on the ground of visitation alone; I think it may rest there with perfect safety. It is enough for my honorable friends from Ohio and from Massachusetts to say that instead of violating a contract or impairing it, in this instance we are doing precisely what the contract, if you call it that, provided we should do, and that is that we should alter, amend, or repeal these provisions according as the solemn and responsible judgment of Congress standing independent (just as much so as a judicial tribunal) between public interests and the private interests of creditors and these great corporations.

Mr. SARGENT. Mr. President, I think there might be more confidence felt in the emphatic declarations by the members of the Judiciary Committee as to what the law is if, in dealing with this subject heretofore, they had not come, sadly for themselves, so strongly into collision with the Supreme Court of the United States, and I think there might be more confidence in the fairness of their intentions if they were disposed, after having, as they said, submitted the case to the Supreme Court, to live up to the decision of the Supreme Court and to the rights of parties as ascertained by it.

Mr. THURMAN. What decision does the Senator refer to?

Mr. SARGENT. I intend to speak but a short time, and I will show the Senator fully before I get through.

Mr. THURMAN. I should like to know what the collision between the Judiciary Committee and the Supreme Court is.

Mr. SARGENT. That is exactly what I am going to show in my own way, and if I am not permitted to do that I will yield the floor to the Senator. In 1871 the question arose whether the interest on the bonds was presently due, and whether the whole transportation money should be kept in the Treasury of the United States in order to be applied upon that interest, instead of one-half of it being paid to these companies. At that time a Senator from Nevada [Mr. STEWART] offered the following amendment to an appropriation bill then pending:

In accordance with the fifth section of the act approved July 2, 1864, entitled "An act to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes,' approved July 1, 1862," the Secretary of the Treasury is hereby directed to pay over, in money, to the Pacific Railroad Companies mentioned in said act and performing services for the United States, one-half of the compensation for such services heretofore or hereafter rendered.

To that proposition the Senator from Ohio [Mr. THURMAN] offered an amendment which I will read, and he prefaced it with some remarks. Considerable debate having intervened, among others the present Secretary of the Treasury having spoken and insisted that there ought to be some judicial determination of the question whether this other half transportation should be retained in the Treasury or not, and covering that idea, the Senator from Ohio [Mr. THURMAN] offered his amendment, saying:

My colleague made a suggestion that there ought to be a judicial determination of this question. I am willing, for my own part, that Congress shall decide it, and decide it definitely; or I am willing that there may be a judicial determination, if that will be more satisfactory. Legal questions are much better argued in court than they are in legislative assemblies.

That was the opinion of the Senator in 1871.

I have, therefore, sitting here, drawn a rather crude substitute for the proposition of my colleague, which I will read, and perhaps he may be willing to adopt it instead of the amendment which he has offered. It is to insert after the amendment of the Senator from Nevada these words:

Provided, That for the purpose of procuring a judicial determination of the question whether the United States have a right to be repaid in full each installment of interest paid by them immediately upon the payment thereof, it shall be the duty of the Attorney-General to forthwith bring a suit against some one of said companies to recover an installment of interest paid by the United States, which suit shall be brought in the Court of Claims, and said court shall have jurisdiction thereof; and said suit shall have precedence on the calendar in said court over all other

suits or cases; and either party to such suit may appeal from the decision of said court to the Supreme Court.

Upon this amendment so pending the Senator from Vermont who last addressed the Chair [Mr. EDMUNDS] spoke as follows:

I confess that I like the amendment of the Senator from Ohio who sits farthest from me [Mr. THURMAN] rather better than any of these; and for one reason especially; that, as a matter of curiosity, I should be glad to find out what principles of construction are to be adopted by our courts in construing statutes, and how far the debates (which are undertaken to be foisted in here to determine what the statutes mean) have a place in modern jurisprudence.

The power of the Judiciary Committee, the power of Congress, has grown wonderfully since that time. To discuss these questions in Congress then, to attempt to pass upon them, was foisting them in. This bill, however, goes upon the theory that whatever the Supreme Court may have decided at that time, it is proper now to have this legislative jurisprudence, according to the newly invented term of the Senator from Vermont, and I suppose he does not now consider that that is being foisted in here:

I should be very glad indeed to have the Supreme Court of the United States determine what the law is on this question. If it determines it in favor of the companies, there is an end of the question.

The Supreme Court did decide it in favor of the companies, and that is the "end of the question." The Supreme Court decided that the companies had a right to have one-half the transportation money paid over to them, and that was the "end of the question," was it? They decided that the interest was not presently due. You mean to treat it as if it were presently due; indirectly you attempt to do what you are not allowed by the court to do directly. You were not allowed directly to lock it up in the Treasury and say it should not be paid over to these parties, and therefore you pass it from your right hand into your left; therefore you invent what you call a sinking fund, and claim a power over these corporations certainly not named in the original act, which enables you now to come in and take not only this but an amount equal to 25 per cent. of the net earnings of the companies. I ask where is the "end of the question?" The bill you here introduce and ask the Senate to adopt gives us a long vista of congressional action in the future, and the Senator himself declared with great heat last night, in reply to the Senator from Maine, [Mr. BLAINE,] that even if the companies lived up to this bill in all its terms in conscientiousness and exactness, it should not stay further legislation against them. It is complained that they come to Washington by their agents. But if they stay away from the city of Washington and never offend the Senator from Vermont by getting wearying constituents of his to go to his house and committee-room to plead that the security of bonds be not disturbed, that shall do them no good in restraining further aggression. It seems to be troublesome to be approached even in a respectful way, and we are not to be moved, even like the unjust judge of Scripture, by much asking. Though none of these importunities trouble the leisure of Senators hereafter, and the railroad companies stay away and keep away their friends, and do all that we demand of them, pay the 5 per cent. and the whole transportation, and hundreds of thousands of dollars besides, as we now with full light on the subject demand, nevertheless you insist that your action shall have no finality, but your demands shall be increased at your will until every right given to them by previous statutes is taken away if you so please. Oh, yes, that was to be the "end of the question!" It rather looks like the beginning. It would be better to make an end of it by confiscating the roads and punishing the men who dared to build them under the inducement held out by legislative contracts, not worth for their protection the paper they were printed on. A statutory contract, it seems, is of less sanctity than "legislative jurisprudence." The latter is used to destroy the former. It is a kind of *Flora McFlimsey* affair, which "is binding on you and not binding on me."

The Senator from Vermont goes on:

If it determines it in favor of the United States, as we cannot possibly suppose it will after the report of our learned brethren on the Judiciary Committee—

It seems to me that was rather like a sneer at "our learned brethren on the Judiciary Committee"—

then of course there will be an end of the question, and all parties will be satisfied.

That is, if the Supreme Court of the United States should decide that the other half of the transportation could be retained by the Government and that the interest was presently due and was paid, then the Government would be satisfied; and yet by this very bill there is a proposition to go even beyond that, when the Supreme Court has said exactly the other thing, and to pile up a sinking fund, not merely taking care of the interest, which is not due, but of the principal, and not merely the principal of the amount due to the Government but of the other debts that are owed by the companies and are secured by first-mortgage liens.

With what would all parties be satisfied? With the "end of the question" which gave to the Government its interest as it was paid. There was no talk here of repudiating contracts or amending or repealing them. It was a mere construction that was aimed at, and whichever way the Supreme Court might decide the question was ended.

But next to the amendment of my friend from Ohio farthest from me, [Mr. THURMAN,] or the substance of it, I think that of the Senator from Ohio near me [Mr. Sherman] is the one to which no man who is honest and just—and of course that includes every Senator—would object.

Now, to show the spirit of that debate and to show how far certain Senators went in declaring that the law as subsequently given by the Supreme Court could not be law, and how far Senators who sympathize with this present movement were then disposed to go in denouncing the action of the railroad companies in claiming the rights which they subsequently asserted in the Court of Claims, and which were vindicated by the United States Supreme Court, I want to read a remark made by the Senator from Delaware, [Mr. BAYARD.] I am aware that he is not a member of the Judiciary Committee, but still he is a lawyer, and I have no doubt will declare that this was his legal opinion at that time. I do him no injustice in recalling his remarks, although founded on an error in law. I observe he is absent. I refer to the Congressional Globe of 1872-73, No. 2, when the proposition came up again and an amendment of the same character was offered by the Senator from Vermont. The Senator from Delaware said:

The amendment offered by the Senator from Vermont, as it has been perfected and as last read by him, meets my entire approval, and I think it a most just and reasonable proposition that the Congress of the United States should now interpose and through its courts endeavor to have a proper solution of this question to save further outlays of public money, especially in the face of the inordinate and monstrous assumptions which have been made by the friends of these railway corporations for a postponement of the payment of their obligation to pay the interest upon the bonds issued by the United States.

That very monstrous and inordinate proposition—the Senator is now in his seat, and I am glad of it—was the very one that was submitted to the Supreme Court of the United States, and it decided that, under the contract made by Congress with these companies, the proposition was not monstrous and was not inordinate; that these had the right which they asserted; and yet it was the whole theory of the legislation favored by this Senator and the Senator from Vermont at that time, and the amendment of the latter meant just that, that the companies did not have any such rights. Therefore I say, as I said before, that if the members of the Judiciary Committee had been more fortunate in the conflicts which they have had with the Supreme Court of the United States in their interpretation of these contracts heretofore, there might be more confidence in the discretion with which they now decide upon these things. And, furthermore, if they had, after submitting this matter to the Supreme Court of the United States, allowed it to be an end of the thing, as the Senator from Vermont then declared, and as the Senator from Ohio, Mr. Sherman, from whose remarks I have not read, declared, and other Senators said, then I might believe that there is a desire for fair play in their positions at this time.

Mr. EDMUNDS. The Senator from California certainly does not mean to say that the Judiciary Committee has got into a difference of opinion with the Supreme Court on the law as it was, because the Judiciary Committee reported that the law was just as the Supreme Court have since said that it was.

Mr. SARGENT. I referred to members of the Judiciary Committee, and not to the Judiciary Committee itself.

Mr. EDMUNDS. Ah!

Mr. SARGENT. I referred to the Senator from Vermont, [Mr. EDMUNDS.] I referred to the Senator from Ohio, [Mr. THURMAN.] I referred to the Senator from Delaware, [Mr. BAYARD.] not a member of the committee. The member of the Judiciary Committee whom I named, Mr. Stewart, and the others have passed away. The Supreme Court vindicated their judgment notwithstanding the sneers of the Senator from Vermont.

Mr. EDMUNDS. But it so happens that the Senator from Ohio agreed with the Supreme Court of the United States, that the law as it stood did not require the companies to pay the interest that the United States paid from year to year as soon as the United States paid it. So I do not see that the Senator from Ohio is put into any very disagreeable position, nor the Judiciary Committee. It happens that one member of the committee, being myself, thought the law was otherwise, as I think it is still, with great deference to the Senator from Ohio and to the Supreme Court; and I suppose that is an opinion that I am entitled here to still have without being guilty of any violation of the Constitution of the United States. Now the Senator says that I stated that if they so decided there was an end of the thing, as he last put it. I did not say that. I said "there will be an end of the question." So there would be. The question was whether the law as it stood authorized the United States to sue these companies for the interest it paid every half year on these bonds. The Supreme Court having decided that it does not, there is an end of the question, because the United States must sue these companies on the law as it stands in the courts of justice and I assume they will decide as they did before although we have often seen that even the Supreme Court of the United States sometimes changes its mind on very important questions, and it is very far from being certain that if my friend from California could be permitted to argue the side of the people before that court on that very question they would not, as they did in the legal-tender cases and in a good many others, conclude that they had made a mistake the first time and decide otherwise.

But all that the Judiciary Committee was called upon to do was to tell the Senate what it thought the law was as it stood; and in order to have that question decided by the courts a provision was made for having it tried. It was tried. The Judiciary Committee was never called upon until now and until the bill of last year to advise the Senate as to what it was wise that Congress should do in respect of

controlling the management of these corporations for the protection of public and private interests. The Supreme Court has never yet decided or undertaken to decide that Congress has no such power. On the contrary, they have decided as to States, which certainly cannot have any greater power than Congress over such questions, that they have the fullest capacity to do this very sort of thing.

Mr. SPENCER. I move that the Senate do now adjourn.

Mr. THURMAN. Before that is done—

The PRESIDING OFFICER. Does the Senator from Alabama wish to draw the motion?

Mr. SPENCER. Yes, sir.

Mr. THURMAN. I want to know who proposes to speak to-morrow on the pending bill. If any one does, I hope he will take the floor to-night for that purpose.

Mr. MATTHEWS. Then, if it is agreeable to the Senate, I will speak to-morrow at one o'clock.

Mr. THURMAN. My colleague takes the floor for to-morrow.

The PRESIDING OFFICER. The Senator from Ohio on the left [Mr. MATTHEWS] has the floor.

Mr. THURMAN. After what has been said by the Senator from Vermont, I do not feel that it is necessary for me to waste the time of the Senate in noticing the remarks of the Senator from California except to say that instead of fulfilling his promise to show a collision—that was the very word he used—between the Judiciary Committee and the Supreme Court of the United States, the case that he cites is one of a perfect concurrence between the Judiciary Committee and the Supreme Court. He said that the Judiciary Committee had made out so badly in its former collision with the Supreme Court that it had some feeling on this subject, when the fact shows that the Judiciary Committee and the Supreme Court were exactly of the same opinion. I do not know how long it will be necessary for me to repeat that the only question that was then before Congress or before the committee or before the courts was the question of what was the then status of the law. And, in regard to the amendment I offered, why, Mr. President, I offered that amendment because, although I agreed to the report made by the Judiciary Committee, I did not like, if I could possibly help it, that we should positively legislate on this subject, when it could be submitted to a judicial tribunal to determine what the law then was. Therefore, I suggested that a case be made.

Mr. EATON. Can we not make one now?

Mr. THURMAN. What! make a case to determine what Congress shall do under its power to alter, amend, or repeal! Yes, we can make a case. Pass this bill of the Judiciary Committee, and if these companies see fit to contest it, let them do it; but do not let us decide that we will do nothing but what they demand and thereby make a case impossible. Until we assert the power we believe we possess, how will you have any case? If we are to resolve all doubts against the Government, if we are to resolve all scruples against the exercise of any power whatever, if we are to be astute to find out that we are absolutely helpless, how will you ever get a case? If the bill of the Judiciary Committee is unconstitutional, the courts will so decide it. But they never will decide it unconstitutional unless it becomes a law, because they never can have a case to decide it. But I do not wish to occupy the time of the Senate to-night.

Mr. SPENCER. I renew my motion that the Senate adjourn.

The motion was agreed to; and (at five o'clock and twelve minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 3, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

PRIVILEGES OF NEWSPAPER CORRESPONDENTS.

Mr. BANKS. I am instructed by the Committee on Rules to report back with an amendment the resolution referred to that committee in relation to the admission of correspondents of public journals to the halls and passage-ways adjoining the Hall of the House.

The resolution was read, as follows:

Resolved, That the Committee on Rules be instructed to consider the expediency of so amending the rules of the House as to provide "that one representative of each public journal that employs a permanent telegraphic correspondent for reporting the proceedings of Congress may be admitted, at the discretion of the Speaker, to the halls and passage-ways adjoining the Hall of the House."

Mr. BANKS. The Committee on Rules direct me to report an amendment striking out the word "telegraphic" before the word "correspondent," so that this shall apply to all permanent correspondents of public journals. I call the previous question upon the resolution and amendment.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

Mr. CARLISLE. This appears to be a resolution directing the Committee on Rules to inquire into the expediency of the amendment to the rules.

Mr. BANKS. The Committee on Rules reported back this resolution, with an amendment striking out the word "telegraphic," so as not to limit the privilege to telegraphic correspondents, but to let it be given to all public journals that employ permanent correspondents for reporting the proceedings of the House. The privilege granted by this resolution is not to admit any person to the floor of the Hall of the House, but to admit one correspondent of each journal described in the resolution to the passage-ways and halls adjoining the Hall of the House.

Mr. CARLISLE. The resolution is reported back in its original form as a direction to the committee to make an inquiry; and, if adopted by the House, will it be anything more than a repetition of the direction to make that inquiry?

The SPEAKER. The amendment of the rules proposed in the resolution is contained between quotation marks.

Mr. EDEN. Would these correspondents under this resolution be allowed to come in on the floor of the House?

The SPEAKER. They would not. On the contrary, the Committee on Rules maintain the voice of the House, as expressed heretofore, that no one shall be allowed on the floor of the House except those named in the rule. This resolution does not propose to change that rule.

Mr. BANKS. It does not admit any person to the chamber which we occupy, but to the halls and passage-ways adjacent to the chamber, so that these correspondents can go around the chamber which we occupy; nothing more.

Mr. WOOD. Is it designed to relax the existing rule so as to allow persons to come upon the floor of the House? If so, I am opposed.

Mr. BANKS. It does not authorize the Speaker to allow any person to come upon the floor of the House who has not that right under the rule of the House.

The SPEAKER. The Chair desires to state that the correspondents of the press of the country complain that they do not now have facilities for calling out members of Congress to give them information. They ask the right to come and go to and fro through the lobby immediately behind the chair of the Speaker.

Mr. BANKS. It does not admit any persons to the cloak-rooms or to any room opening from the Hall of the House.

The SPEAKER. Nor to the committee-rooms of the House, which are under the control of the committees respectively.

Mr. HARRIS, of Virginia. There should be no objection to that, I think.

The resolution, as amended, was adopted.

Mr. BANKS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. WOOD. I call for the regular order.

The SPEAKER. The regular order is the unfinished business of yesterday, being the resolutions reported from the Committee on Reform in the Civil Service.

CHARGES AGAINST THE DOORKEEPER.

The resolutions were as follows:

Resolved, That the position of Doorkeeper of the House of Representatives be, and hereby is, declared vacant; and

Further resolved, That, until the appointment of a new Doorkeeper, the duties of the office be, and hereby are, devolved upon the Sergeant-at-Arms.

The SPEAKER. The Chair understands that the gentleman from Arkansas [Mr. CRAVENS] is entitled to the floor.

Mr. HARRISON. So far as I could control the matter, the agreement was that the debate should continue for four hours, two hours being allowed to each side. Before I had finished my first hour, when I had spoken but forty minutes, the House extended my time. I occupied more than an hour.

The SPEAKER. The gentleman occupied one hour and thirty-five minutes.

Mr. HARRISON. I was given an extra hour, and I reserve the balance of that extra hour to use hereafter.

Mr. YEATES. Oh, no.

Mr. SPARKS. The time of the gentleman was extended indefinitely.

The SPEAKER. The House had power to extend his time for one additional hour, but not indefinitely.

Mr. HARRISON. That is what I said.

Mr. YEATES. It meant that he should occupy that hour at the time, not reserve it for some other time.

Mr. HARRISON. I have the right to reply to arguments which may be made.

The SPEAKER. Does the gentleman from Illinois [Mr. HARRISON] say that he did not surrender that twenty-five minutes which was left of his second hour?

Mr. HARRISON. I did not.

Mr. BRIGHT. There was nothing said of it, according to my recollection; no reservation.

The SPEAKER. Then the gentleman is entitled to go on this morning.

Mr. HARRISON. I do not intend to say another word till I move the previous question, and then I shall be entitled to an hour under

the rules of the House. I shall not attempt to call the previous question before half past three or four o'clock to-day.

Mr. BANNING. After that, I presume, there may be one hour's debate.

Mr. THOMPSON. I rise to a parliamentary inquiry. As I understood the arrangement yesterday each side was to have two hours of discussion. The gentleman from Illinois occupied yesterday an hour, and then by unanimous consent his time was extended until he had occupied a much longer period. Now I wish to inquire whether that extension of time is to be charged against the two hours originally provided for.

The SPEAKER. The Chair thinks it should not be, because the time, as the Chair understands, was previously assigned to other members.

Mr. THOMPSON. The reason I make the inquiry is that a few days ago the opposite ruling was made in Committee of the Whole, which I then thought and think now was not right.

The SPEAKER. The Chair has nothing to do with proceedings in Committee of the Whole.

Mr. THOMPSON. I know that.

Mr. PUGH. I think the arrangement was that the previous question was not to be called until four hours had been allowed for discussion.

The SPEAKER. There was no limitation.

Mr. PUGH. No limitation beyond that.

The SPEAKER. There was an intimation given, as stated by the gentleman from New Jersey, that the previous question would not be called until at least four hours had been allowed for debate. The Chair thinks that under the understanding there are yet three hours for discussion.

Mr. YEATES. Do I understand the Chair to say that there was an agreement about this?

The SPEAKER. The Chair stated that on yesterday the understanding was that the previous question should not be called until after four hours of discussion had been allowed—two on each side.

Mr. YEATES. The chairman of the committee said that he would not call the previous question till the expiration of four hours; but I stated that there were others besides members of the committee who wished to speak; and the Chair said that the previous question if called could be voted down.

Mr. HARRISON. That is for the House to determine.

Mr. YEATES. There was no agreement.

The SPEAKER. There was no agreement except that the discussion should occupy at least four hours.

Mr. HARRIS, of Virginia. Yes, sir; that is correct.

Mr. CLARK, of Missouri. I understand the gentleman from Illinois to say now that he will not call the previous question before four o'clock. I wish to inquire how the three hours and a half from now until that time are to be occupied?

Mr. HARRISON. The understanding was that another gentleman on my side of the question should occupy about an hour, and two hours should be occupied by the other side. There are three hours to run under the agreement before I will attempt to call the previous question.

Mr. WHITE, of Pennsylvania. May I ask the gentleman from Illinois how many hours still remain under the agreement?

Several MEMBERS. Three.

Mr. WHITE, of Pennsylvania. How are they to be divided?

Mr. HARRISON. It was agreed yesterday that the opponents of the report should have two hours out of four. Three of the four hours are unexpired.

The SPEAKER. The Chair will see justice done. The gentleman from Arkansas had better proceed.

Mr. CRAVENS. Mr. Speaker, the time has about arrived in the affairs of this House when, especially on this side, a little plain talk might be profitably indulged. I fear my extreme modesty will prevent me from indulging in it, yet my sincere judgment leads me to believe that this is a fit occasion for it.

The honorable chairman of the committee, in the opening of his remarks yesterday, read the resolution creating this committee as authority for making the sort of report which has been submitted by the majority. I now beg leave to call the attention of the House to the terms of that resolution:

Resolved, That a select committee of eleven members be appointed by the Speaker, whose duty it shall be to consider the civil service of the Government of the United States and measures to promote its efficiency; and said committee shall have leave to report by bill or otherwise.

Now, I submit to the House whether this resolution authorized the investigation of the Polk case or any other similar case of an individual officer, or whether, on the contrary, it does not refer to the general civil service of the Government of the United States. The chairman of the committee called attention to this resolution as militating against the position assumed by the minority of the committee, and in doing so he ignored altogether the order of the House under which this action was taken. Now, I desire the Clerk to read the resolution authorizing this investigation.

The Clerk read as follows:

Whereas it is alleged that John W. Polk, the Doorkeeper of the House, has employed sixty-three persons in the service of the House in excess of the number authorized by law; and

Whereas it is alleged that men have been employed by said Doorkeeper who were not borne on the roll of employes and that others have been continued in service after they had been dismissed and dropped from said roll; and

Whereas it is alleged that said Doorkeeper has been guilty of corruption and malfeasance in office, requiring employes under him to pay to other employes a part of the salary to which they are entitled by law, as a condition of their appointment or retention in office; and

Whereas it is alleged that he is interested in claims and bills now pending or about to be brought before the House for action: Therefore,

Resolved, That the Committee on Reform in the Civil Service be, and it is hereby directed to inquire into the several matters and things so as aforesaid alleged against said Doorkeeper, and to report at any time to this House whether said Doorkeeper is guilty of any of said alleged acts. And the committee is authorized to send for persons and papers.

Mr. CRAVENS. Now, Mr. Speaker, it will be observed that by this resolution the committee was authorized only to pass upon the case of the Doorkeeper as to the charges contained in the resolution. That was all. It will be remembered that at the time this subject was referred to the committee there was considerable side-bar discussion as to the proper committee to which to refer the matter. At that time, apparently, it was not clear that this was the appropriate committee. If this matter had been referred to the committee in the ordinary way, without any special resolution or any specification of charges, the question would have arisen whether we would have been entitled to make such a report as has been made here. It might, in that case, have been insisted with some plausibility that we would have been authorized to make such a report because the Doorkeeper's office might be considered a part of the civil service of the Government. But, sir, the House having given special directions in this resolution, our authority is limited by the terms of that resolution; and we, as a committee, have no right to pass on any other question than the truth or falsity of the charges referred to us for examination. Such are the views expressed by the minority in their report. Mark, sir, we are required only to pass upon the question of this officer's guilt. We are not called upon to make any recommendation as to the punishment that should be visited upon him. We have no such authority with reference to any officer under this Government.

Why, sir, if we could arrogate any such authority in this case we could exercise the same authority in respect to all officers, from the President of the United States down to the very least; but I apprehend no sane man upon this floor would take upon himself to insist that this House has any such right. But I will waste no more time on that subject.

What is the first allegation in the resolution offered by the gentleman from Indiana, [Mr. BAKER,] which was adopted by the House and under which this committee acted? It is that John W. Polk, Doorkeeper, did employ many persons in excess of the number authorized by law. The minority find that he did employ a number who, together with others serving without employment or appointment by him, amounted to the number of sixty-three; that all these were paid by resolution of the House, and that such employment was notorious and public, Colonel Polk, on the 9th of November, 1877, having communicated the fact to the chairman of the Committee on Appropriations. What is the second allegation? That men were employed by said John W. Polk, Doorkeeper, who were not borne on the roll of employes, &c. Full and satisfactory answer to this charge is made by the minority; besides, by reference to the records of the House full information can be gained not only as to this but the preceding charge also. There was no need of investigation upon these charges if the House had only taken cognizance of its own record. The records themselves acquit Colonel Polk.

The third allegation is that the Doorkeeper had been guilty of corruption and malfeasance in office, requiring employes under him to pay to other employes a part of the salary to which they are entitled by law, as a condition of their appointment or retention in office. This is the gist of all these charges, and is the only one requiring any sort of investigation further than that which could have been made by consulting the records of the House. The minority so state in their report. We felt called upon to pass upon his guilt or innocence as to this allegation, and the minority in their report say that he is expressly exonerated from the charge of requiring employes under him to pay to other employes a part of the salary to which they are entitled by law as a condition of their appointment or retention in office. The majority do not say otherwise.

The fourth allegation is that Colonel Polk is interested in claims and bills now pending or about to be brought before the House for action. We investigated that matter, and both the majority and minority declared him not to be guilty.

Now, the question to be determined here is whether Mr. Polk is guilty or not of any sort of corruption. It is the only thing amounting to a feather's weight in the charges preferred against him. Does the investigation by the committee show a single act performed by the Doorkeeper, Mr. Polk, from corrupt motives? Do the majority in their report indicate anything of the sort except by indirection and innuendo? Does the report charge malfeasance or corruption in the direct and manly way, in which truth would warrant its being made? Do the majority charge that Polk is interested in any claims now pending in Congress? They do not, but on the contrary he is exonerated and declared not guilty. Notwithstanding this they propose to visit upon Polk the severest punishment which could possibly follow a finding of guilty upon every charge made against him, and this House is called upon to take action upon such a report. I ask

members to read the minority report, where will be found direct answers to every one of the specifications and charges against Mr. Polk.

Now, as to the majority report, I wish for a moment to call the attention of the House to it. There are different statements made in that report, and I undertake to say they are as strongly made as they can be upon the testimony which has been taken. I do not say that a partisan view has been taken of the testimony in order to give foundation for the assertions made in the majority report, but I do say that the majority report takes the strongest possible view which can be taken of the testimony in the case.

In the first place the majority report states that—

During the extra session of this Congress the said Doorkeeper did employ or permit to act as messengers, pages, and laborers in and about the House of Representatives, in excess of the number authorized by law, and over and above the so-called cloak-room men who clean this Hall, sixty-odd persons. (Mis. Doc. 36, page 392.) This was done with the full knowledge that such excess was without warrant of law. (pages 77 and 78.) and was not discontinued even after he had learned that the Committee of Accounts would not justify his acts in the premises, and would not make provision for the payment of such illegal force. (Pages 361-393.) His manner of making appointments was such that he did not know the number employed or who had claims for services; the result whereof was, that the sum of money voted by the House December 16 to pay this extra force, and which was based upon data furnished the Committee of Accounts by him, proved insufficient to pay all who had claims under him for services rendered, and they were forced to submit to a reduction of 20 per cent. from the pay they supposed themselves entitled to. (Pages 93, 95, 363 to 365.)

They go on further to state that—

In extenuation, Mr. Polk pleaded the necessity of an increased force, the practice under former Congresses, and specifically under the Forty-fourth Congress, and the pressure brought to bear upon him by members of Congress. (Page 77.) In his testimony, however, he finally admits his mistake as to the necessity, admits that he was aware that the extra force under the Forty-fourth Congress was authorized by resolution, (page 315,) and corrects his statements as to pressure from members. (Page 106.)

There is no denial of the truth or proof of the falsity of what Colonel Polk asserts as to the practice of former Congresses. The proof bears him out in the assertion that heavy pressure was brought to bear upon him by members of Congress, and shows that what he did was done in the belief that it was his paramount duty to supply the demands and apparent necessities of the House. The encouragement given Polk by members of Congress led him to believe that he was perfectly justified in what he did. The proof sustains his assertions as to the encouragement given. The testimony will support his explanation of his conduct and that such employment has been the practice in former Congresses under like circumstances. Every gentleman upon this floor who has been in a legislative body before, or who has been a member of previous Congresses, knows there never has yet assembled a legislative body when persons were not employed under usage and for whose employment there was not the strictest warrant of law. There cannot be a single instance found in the records of any State from Texas to Maine or in any Congress where such has not been the case. So, then, I say there is some sort of excuse or apology for the action taken by Mr. Polk. Take the testimony of the gentleman from Ohio, [Mr. McMAHON,] a member of the Committee of Accounts, and it is there shown what was the pressure brought to bear upon Mr. Polk. He gives a description of the crowd of office-seekers hanging around here at the organization of the House, and of the practice which has grown up of persons discharging duties around this Hall whose names are not borne upon the roll.

Second. That up to a late day in this session he has authorized or permitted persons to perform services who at the time were borne on no roll, and continued others in service after striking them from the rolls, promising or suggesting that they would be paid under resolution, or that they should be placed on a roll when his force should be increased.

As a matter of course those men who were in the employ of chairmen of committees, hanging on here in expectancy of pay by resolution of the House, could not be borne on the roll.

Third. That he employed on the floor of the House during the session in December fifty-six pages.

Now, Mr. Speaker, this assertion is directly in the teeth of the testimony. The testimony is to the effect that there were twenty-eight pages on the floor of the House who had no sort of employment whatever, yet they actually served. They, together with those employed by Polk, made double the number authorized by law. Now, the venerable gentleman from New York and our honorable chairman think there was something terrible in the manner of making up the December page-roll. Those regularly employed by a fiction of law, although they had only served half a month, might have drawn pay for the whole month had the roll been so made up, while the others in law were entitled to no pay at all unless put upon the roll. Each class of these pages had only served half a month, the latter class having come upon the floor to wait upon members temporarily, in the hope that something might turn up whereby they might receive pay. Mr. Polk's own views as to the right of those to pay employed by him were that they were only entitled to pay for the time actually served. On consultation with officers familiar with making out pay-rolls it was ascertained they were entitled to pay for the whole month if he saw proper to put their names on for the whole time.

With the consent of the little boys employed by him, he was permitted to and did put the other little fellows on the roll for the remaining part of the month to draw pay. That is all. Ah! gentlemen, he whose heart is so steeled as that want creates no impression

upon it or whose ears are closed to the cries of widowhood and orphanage is neither fit to be a Doorkeeper here nor in the house of our Lord. This action on the part of Mr. Polk shows the generosity and magnanimity of the man. It is no sort of disparagement, nor does it indicate any sort of disqualification on his part to be a Doorkeeper. It does not indicate anything else than that he was a generous-hearted, magnanimous man. It was right; right as opposed to wrong.

Fourth. That he has continuously employed one mail and two riding pages over and above the number authorized by law.

True it is, Mr. Speaker, the proof sustains this allegation, this charge in the majority report. But I desire the attention of the House to this fact: that the testimony also shows that the Sergeant-at-Arms, to whom it is proposed to turn over this office, likewise employed a page without any sort of authority of law; and this House, subsequently to the making of this report, has passed a resolution for the payment of that page. So, then, sir, that charge falls to the ground.

You will remember, gentlemen, when the question was up here a few days ago, many of you on that side of the House took part in the discussion as to the payment of those men in the cloak-room; and there was not a man on the floor, so far as I heard any expression of opinion, who was not in favor of their payment. Yet it was known to each and every member of this House that they were there without any sort of authority of law by resolution or enactment either.

So it is always in legislative bodies. It ought not to be so; and if indeed this Committee on Civil-Service Reform can ever reorganize with any sort of harmony and get to work again, there ought to be a bill reported so that the number of employes of this House would be as permanently settled as the number of Representatives on this floor. But, sir, you know it has not been so in times past either here or elsewhere.

Fifth. That the Doorkeeper placed upon the soldiers' roll men who had never been in the Army.

The proof in this case shows that no man was put upon that payroll as to whom Mr. Polk had not good reason to believe from the statement of himself, as well as in many instances from his Representatives, that he was entitled to a position upon that roll, except in one case, and that was the case of Mr. Fitzhugh. And, sir, there is no sort of mention made by this majority report as to the excuse offered for that transaction. The testimony which you will find on page 316 is to the effect that he found at the end of the month that that roll had not been filled; and it was for the reason that members to whom he had awarded positions on that roll had not filled it. It will be understood that as he apportioned out a goodly part of his patronage to members they were to make the selections, and if there was any fault in regard to that matter at all the members of this House or some of them are the responsible parties, and not Mr. Polk.

Sixth. That the Doorkeeper did receive money from two of his employes to be paid over to a third who had been promised one or the other of their places, for the purpose of making his salary equal to the one promised.

The testimony is that this was a voluntary contribution and was afterward repaid. But the fact that Mr. Polk had let these parties know of his intention to make up this salary out of his own pocket taints the transaction.

Now that is the gravamen of the charges made in the resolution referred to this committee. And what is the proof in regard to this transaction? If Senator LAMAR is to be believed and if Mr. Bacon is to be believed, this charge cannot be sustained. Mr. Bacon stated he had notice of his permanent appointment on the roll two or three days before he had any knowledge of Mr. Polk's proposal to pay any money out of his own pocket.

Seventh. That while complaining of the insufficiency of his labor force, he detailed some of his laborers to do other than laborer's services; and permitted several of them to hire substitutes to perform their entire work, they drawing the full salaries and paying their substitutes about one-fifth thereof. (Pages 190, 193, 195, 206, 219, and 323.)

Now, unfortunately in the appropriation bills passed by this House the services to be performed by any of its employes are not set forth, so that that charge falls to the ground.

Eighth. That he "created an office" at a high salary, without precedent, on the Doorkeeper's rolls, for the purpose of making a place for a gentleman who could not accept a twelve-hundred-dollar place, for "it would not support him."

Well, now, gentlemen, in regard to that I will say that if Mr. Polk is at fault and is guilty of any crime the Committee of Accounts of this House are *particeps criminis*, and I do not want any member of that committee to be astonished at this suggestion on my part. I desire to call the attention of the House to the proof upon which I make the assertion. It is this: that when the House passed a resolution for the payment of these men that Committee of Accounts allowed one man more than any other man on that extra roll. I do not remember the exact page of the report on which that testimony is to be found, but it is there.

Ninth. That his manner of making up his rolls was such that employes would find out only at the end of the month that their names were not on any payroll. One man, appointed December 1 for the soldiers' roll, found at the end of the month that his name was left off the payroll for the first seven days; and at the last of January that he could not get his pay for the first half of the month, although his service was continuous. (Page 84.) The Doorkeeper gave divers persons notice of appointments, who, after performing services as they supposed under the law, would find at the end of the month that they could not be put on any payroll. One colored man was employed by Mr. Polk and set to work by his assistant in October, was shown his name on a roll by the janitor, yet he was never put on a payroll. (Pages 143, 144.) These irregularities grew, to a great extent, out of the

habit of making up the regular rolls at the end of the month, and worked great injustice.

If any gentleman will scrutinize the testimony in this cause he will find that many of these men supposed themselves to be upon the payroll, and, when examined minutely on the subject, it was found in almost every instance—in every one, I might say—that their being put upon the permanent roll depended upon the future action of the House; and each and every one of these men was serving in expectancy of compensation by resolution of this House.

Tenth. That the testimony does not show that Mr. Polk is positively interested in any claims now pending in Congress. The Neufchâtel Paving Company owes him an unsettled balance, and has a bill for its relief before the House, (pages 116 to 118,) but he claims to have no interest in it. In connection with this company, prior to the second session of the Forty-fourth Congress, Mr. Polk seems to have employed, or continued in employ, a man because of his pretended claim to influence with a Congressman. (Pages 118 to 129.)

Now, gentlemen, I undertake to say that there is not a single scintilla of testimony in this cause to warrant such an assertion as that contained in the majority report, and I say it because the proof distinctly shows, if you can trust the testimony of Mr. Polk himself—and his was the only testimony—he had not a dollar of interest or a dollar of demand against that company.

I have now called your attention to the particular items of the majority report, and I think I am borne out in the assertion that the strongest possible view is taken of this testimony against Mr. Polk by the majority of the committee.

There is some sort of mention made in this report as to Mr. Polk's connection with lobbying in times past and the intimation of a possibility of his being interested in claims now pending before this Congress. I say that the testimony does not show anything of the kind.

It is also asserted in the majority report that Mr. Polk continued in his employment a man because of his pretended claim to influence with a member of Congress. I say that on a careful consideration of the testimony, such as an honest jury would give to it, it does not warrant the assertion; it is false.

I say this because it is only by garbled extracts from the testimony of Mr. Polk that any such conclusion could be arrived at. If you take the context it discloses an entirely different state of affairs. The testimony shows that that man was a sort of hanger-on around Polk's room here, and that because of the promise of an interest in some future operations in Missouri Mr. Polk agreed to give this man, a Missourian, some sort of employment and share in such operations there.

It is true that Mr. Polk did state that at one time this man said that he had some influence with an honorable Representative upon this floor; but when that honorable Representative came before the committee, he stated that the man had never approached him on the subject, and that there was no need for him to approach him, because the bill then pending before the committee of which he was a member had only reference to providing for the pavement of the streets, without employing any particular person or company to do it, while Mr. Polk's undertaking seems to have been for the procurement of the contract under the law proposed after its passage.

Now, sir, there is a great deal of complaint made against Polk because he has employed and now employs men and allows them to employ others temporarily to perform their duties while they receive only a portion of the pay. I will say that if I am the true representative of any class upon this floor, it is of the great brotherhood of men who earn a living by the sweat of their brows—the democracy. I am as much opposed to the oligarchy of the few against the democracy of the many as any man in this House. It is my sincere desire to so dignify labor as that a man may pass from the plow-handle to the Presidency and back again, and be all the while in the line of American honor.

Yet with these exalted views on this subject, I can see no very great deal of harm, when a man has a hard job before him and has means to employ somebody else to do it, if he is allowed to do so. These men were employed on several occasions because of the absence of the regular employes of the House to perform their work. As shown by the testimony they were employed only temporarily. Now it seems to me that the committee on the great question of civil-service reform ought not to object to that, especially when it is known that the highest salaried officers of this Government, the Chief Executive and the members of his Cabinet, frequently go off for weeks at a time, as the newspapers term it "junketing" over the country. At this no sort of complaint is made here by me or anybody, so far as I know, with any degree of seriousness.

Mr. HARRISON. Will the gentleman allow me to ask him to read some testimony which I have here?

Mr. CRAVENS. You can read it yourself.

Mr. HARRISON. The gentleman used rather a harsh expression toward me.

The SPEAKER. Does the gentleman from Arkansas yield?

Mr. CRAVENS. He must do his own reading.

The SPEAKER. It will come out of the gentleman's time.

Mr. CRAVENS. Well, you will sit down, then. [Laughter.]

Mr. HARRISON. Very good; I will sit down.

Mr. CRAVENS. In conclusion I appeal to lawyers of this House from every quarter and section of this Union to say whether or not

the majority report in this case is in accordance with the instructions of the House; and whether the position taken by the minority report is not correct. Have these gentlemen of the majority reported upon the guilt of Mr. Polk in connection with these charges, as they were directed to do? I say they have not. I say that they have disobeyed the direct order of the House, to about the same extent a jury did the instructions of the court in a celebrated case in Alabama. In that case a party was accused of larceny, the property charged to have been stolen being a hog. The jury brought in a verdict of guilty in the first degree. The court instructed the jury that the value of the hog must be assessed, besides there were no degrees in larceny, and directed them to retire and bring in a verdict in proper form. The jury retired and there was some hot debate in the jury-room as to what was the proper form. But there happened to be an old Georgia justice of the peace on the jury who was the foreman and saw through the situation at once. He returned to the court with the following verdict:

We the jury unanimously find the defendant guilty in the sum of 1 dollar and a 1/2 in favor of the hog.

[Great laughter.]

There is just about such a disobedience of the direct order of the House in the report of the majority of this committee, barring the murder of the King's English, as there was disobedience of the instructions of the court in that verdict. I want the verdict of that jury to go down to posterity with the report of the majority of this committee. [Laughter.]

Mr. HARRISON. The gentleman said that my report was false. Will he look at the testimony I have marked here on page 118 of the book of testimony? I ask the gentleman to read it.

Mr. CRAVENS. I will read it:

Question. Was Mr. Silver interested in this matter jointly with you?

Answer. Indirectly. He had no kind of connection with the company.

Q. What was his connection with the matter?

A. His connection was through me.

Q. You employed him?

A. I employed him.

Q. What did you employ him to do?

A. I do not know. He claimed that he had some influence.

Q. With whom? Be frank about it.

A. With a member of Congress.

Q. What member?

A. Do you want me to name him?

Q. Yes.

A. Mr. HENKLE.

The context of the testimony which I before read shows that this occurred long subsequently to his employment. Now, I apprehend it is not in the power of the Committee on Civil-Service Reform or anybody else to prevent dead-beats and lobbyists from indulging in boastful talk as to their influence with members of Congress or other persons.

Mr. HARRISON. Do you want the Doorkeeper to employ men for that purpose?

Mr. CRAVENS. He has not employed them. Inasmuch as there are other members of the minority who desire to address the House, I will yield the remainder of my time to the gentleman from Maryland, [Mr. HENRY.]

The SPEAKER. There are twenty-five minutes of the gentleman's time remaining.

Mr. HENRY. As a member of the minority of the committee reporting upon the subject under consideration, I feel that it is incumbent upon me to say a few words in regard to the views expressed by the minority, and also in opposition to the conclusions which have been reached by the majority of that committee. I must do this very hurriedly in the short time allowed me.

How was this matter first presented to this House? It came here with a sinister aspect. Two persons, who had been justly removed from the employment of this House, in their disappointment and chagrin came forward and volunteered their affidavits. It seems that one of them, a day or two after he was removed, went to work to make out a memorandum of a conversation which occurred just before his removal. Having made this memorandum about the 5th day of January, on the 8th of January he made oath to it, as he says in order that his "memory might not fail, and in order to make it certain." This shows evidently that he was inclined to disbelieve his own statement in regard to the matter until it was fortified and accredited by an extrajudicial oath to convince him of its truth; otherwise he seemed to fear that he would not be able to maintain any faith or confidence in his own statement.

Notwithstanding his prudence in that respect, his statements are not sustained by any witness in the case; and his own extrajudicial oath is insufficient to establish the truth of them.

The other affiant contradicts himself; at least whenever confronted with witnesses who heard him make statements he takes back his denial of having made them with readiest facility. I must commend the majority of the committee for their high sense of propriety in this, that although these affidavits are the foundation upon which these charges are made, they in their elaborate report have not dignified either of these persons with a reference to either of them or to their testimony. Yesterday we were discussing in this House the foundation of a monument in honor of the Father of his Country. Now, can we erect a monument to civil-service reform upon the miry foundation of two such affidavits as these? Yet they are the only basis upon

which this investigation is founded. After their griefs had rankled for a month in their bosoms these malignant men finally gave them to the public through a gentleman of this House and make them a ground of charges against one of its officers. This is not a very promising aspect in which this matter presents itself at the very start.

But a great question arises here: What is the law applicable to this case? Before the committee, as appears by the report of the majority, the Doorkeeper relied upon custom and usage to a considerable extent for his defense in regard to many of the special charges against him. The majority of the committee speak very slightly of usage; yet, sir, what is usage? What is that great body of the common law, the proudest birthright of the Anglo-Saxon race, but the embodiment of customs which had their life and being in the hearts of a people determined to be free, before they were established by the broadsword and the battle-ax and written upon parchment and printed in the books of the law? Is the *lex non scripta* less intelligible than the *lex scripta*? Why, sir, the adolescent youth breathed this unwritten law at the fireside; he saw it in the field; he heard it in the forum; he felt it in the house of God; and it has come down to us as the very noblest embodiment of the principles of human right and regulated liberty, the grandest code of laws ever devised by the philosopher, the statesman, or the legislator of any nation, ancient or modern. Such is custom, such is our common law, the surest guarantee of all the rights that we enjoy.

Is custom of no avail in interpreting the law? Suppose the law is obscure or ambiguous, or suppose it is silent upon a particular subject; do we not refer to custom as the key to its interpretation? Do we not find out what the law means by consulting the practice and usage under it? Is not this the only certain mode by which we can ascertain what the law is? Surely every lawyer knows this to be the case.

If we apply these principles to the case now before us, we find that there is scarcely one of these imputed delinquencies which is not traceable to usage and which cannot to a great extent be justified by it.

My friend from Illinois, [Mr. HARRISON,] in the report of the majority, says:

Mr. Polk does not deny the major part of the things herein set forth, but in extenuation pleads the necessities of his department, his rawness in position, the clamors of needy applicants, and past custom.

Why, sir, is it wrong in a land of liberty, where the common law is the corner-stone of our institutions, that a man when put upon trial before an American Congress on charges affecting his official integrity should undertake to show that his conduct is legalized by custom? The chairman again says:

No rawness in office and no custom can be set up in defense of a palpable violation of known law.

Now, if the report had said "unknown law" it would have been nearer the truth, and I may say, without disrespect to my friend from Illinois, that the law in regard to this matter can only be known when considered in connection with the usage, practice, and customs which have accompanied and construed it from the very foundation of the Government.

Again, I find in the report of the majority this language:

The utter disregard of legal restraint shown by Mr. Polk, his open violation of known law, to say nothing of his inefficiency as shown throughout the testimony (only the more glaring instances being herein cited), render him, in the opinion of your committee, unfit for the responsible and delicate position of Doorkeeper.

Now, Mr. Speaker, what is the statute-law on this subject? If any known law has been violated by the Doorkeeper I challenge the gentlemen representing the majority of the committee to produce the statute and show that it has been violated either in letter or in spirit. I find in sections 32, 33, and 34 of the Revised Statutes an embodiment of the act approved February 21, 1867, being chapter 56 of the laws of that year. I will read from the Revised Statutes:

SEC. 32. In case of a vacancy in the office of Clerk of the House of Representatives, or of the absence or inability of the Clerk to discharge the duties imposed on him by law or custom relative to the preparation of the roll of Representatives or the organization of the House, those duties shall devolve on the Sergeant-at-Arms of the next preceding House of Representatives.

SEC. 33. In case of vacancies in the offices of both the Clerk and the Sergeant-at-Arms, or of the absence or inability of both to act, the duties of the Clerk relative to the preparation of the roll of the House of Representatives or the organization of the House shall be performed by the Doorkeeper of the next preceding House of Representatives.

To the extent therein stated we find in the statute law an express recognition of custom as regulating the action of the different officers of this House.

Then again we find in section 73 of the Revised Statutes the following:

SEC. 73. The Doorkeepers of the Senate and House of Representatives shall perform the usual services pertaining to their respective offices during the session of Congress, and shall in the recess, under the direction of the Secretary of the Senate and Clerk of the House of Representatives, take care of the apartments occupied by the respective Houses, and provide fuel and other accommodations for their subsequent session.

Now that is statute law upon the subject. There is another statute more singular in its phraseology which is embodied in section 53 of the Revised Statutes, and that begins in the words, "The following persons are employed in the service of the House of Representatives." It is taken merely from the appropriation bill of the preceding year, the act of March 3, 1873, chapter 226. It then goes on to give the list

of the officers in the employment of the House of Representatives and the appropriation for their salaries. It merely states "The following persons are employed in the service of the House of Representatives." That is remarkable phraseology, Mr. Speaker, to be used in so solemn an embodiment of the statute-law of this land. You do not find the language there, "the following persons shall be employed," but "The following persons are employed in the service of the House of Representatives." It is only a digest of the language used in the appropriation bill passed probably the year before; and it seems merely to be used in the way of recital, and not in the ordinary form of permanent enactment. And in the statute which enacts the Revised Statutes you will find that discrimination is made as to the effect of appropriation bills, that their retrospective operation is limited, and I think it is but fair reasoning that their future effect would also be considered as limited and controlled to some extent, at all events, because appropriation bills are intended to be but temporary in their nature and provide only for a single year.

I come now, Mr. Speaker, to refer to the parliamentary law, to see what the rules of the House have to say on this subject. I find on pages 218 and 219, under the heading of "Doorkeeper," what the rules provide in reference to the duties of that officer. First:

10. There shall be elected at the commencement of each Congress, to continue in office until their successors are appointed, a Clerk, Sergeant-at-Arms, Doorkeeper, and Postmaster, each of whom shall take an oath for the true and faithful discharge of the duties of his office, to the best of his knowledge and abilities, and to keep the secrets of the House; and the appointees of the Doorkeeper and Postmaster shall be subject to the approval of the Speaker; and, in all cases of election by the House of its officers the vote shall be taken *vice voce*.—March 16, 1860.

That is Rule 10, to be found on page 103 of the rules of the House.

He is also required by section 1756 of the Revised Statutes to take an additional oath, &c.

Then comes the following:

27. The Doorkeeper shall execute strictly the one hundred and thirty-fourth and one hundred and thirty-fifth rules, relative to the privilege of the Hall.—March 1, 1838. And he shall be required at the commencement and close of each session of Congress to take an inventory of all the furniture, books, and other public property in the several committees and other rooms under his charge, and shall report the same to the House; which report shall be referred to the Committee on Accounts, who shall determine the amount for which he shall be held liable for missing articles.—March 2, 1865. It is the duty of the Doorkeeper, ten minutes before the hour for the meeting of the House each day, to see that the floor is cleared of all persons except those privileged to remain during the sessions of the House.—March 31, 1869.

The Doorkeeper of the House of Representatives shall make out and return to Congress, on the first day of each regular session and at the expiration of his term of service, a full and complete account of all property belonging to the United States in his possession at the time of returning such account.—R. S., sec. 72.

The Doorkeeper shall perform the usual services pertaining to his office during the session of Congress, and shall, in the recess, under the direction of the Clerk, take care of the apartments occupied by the House, and provide fuel and other accommodations for their subsequent session.—R. S., sec. 73.

When a message shall be sent from the Senate to the House of Representatives, it shall be announced at the door of the House by the Doorkeeper.—Joint Rule 2, page 143.

Now, Mr. Speaker, I find that the compiler of this book, Mr. Smith, who of course had no authority to change the law, and whose whole duty was confined merely to embodying what were the statutes and the usages and customs on the subject—I find that he has inserted in brackets what I doubt not has been the law and usage of the House in respect to the position of Doorkeeper. He says:

[The Doorkeeper (with the aid of his appointees, namely, the superintendent of the "folding-room" and "document-room," messengers, pages, folders, and laborers) discharges various duties which are not enumerated in the rules, namely: he announces at the door of the House all messages from the President, &c.; keeps the doors of the House, folds and distributes extra documents, furnishes members with printed copies of bills, reports, and other documents; conveys messages from members, keeps the Hall, galleries, and committee-rooms in order, &c., &c.]

There are brackets within brackets and parenthesis within parenthesis.

And you will find three *et ceteras* in this enumeration of the duties imposed upon the Doorkeeper by usage and for which there is no express statute law. If there were but one of them it would give me Lord Coke, if he were here to-day, an opportunity to discourse most learnedly and profitably, I have no doubt, as to its meaning, but notwithstanding there are three of them I will only say that I consider them full of significance and as showing a vast field of unlimited power confided by usage and custom to the Doorkeeper of this House.

What is most striking on the examination of this law is that you do not find in any statute, in any rule, or in any embodiment of the custom as contained in this written compilation one single word which clothes the Doorkeeper with power to appoint a single officer.

That power is not expressly given to him; and he has no power at all upon that subject except what he has derived from usage under the supervision of this House. He has no appointing power whatever. It is recognized indirectly when it is provided that the appointees of the Doorkeeper—

Shall be subject to the approval of the Speaker.

And then it is provided that—

[The Doorkeeper (with the aid of his appointees, namely, the superintendent of the "folding-room" and "document-room," messengers, pages, folders, and laborers)]—

This being in double parenthesis—

discharges various duties which are not enumerated in the rules.

It is thus recognized that it had been the custom for him to appoint these men by usage, but not by the authority of any express statute

or written law of any nature or description whatever. That is the condition now in which we find the law. Shall we assume that we are wiser than our predecessors? I, for my part, have not the vanity or audacity to do it.

And I believe, while I would most willingly—and I hope we may do so—define the duties of the Doorkeeper and of all the officers of this House as far as it is possible to define them, that it is wise to leave to them a discretion in regard to certain matters and hold them responsible for the corrupt or dishonest exercise of it.

Now, sir, if we will look into this subject we will find that many of our most important officers, the civil officers in the States, have not their duties expressly defined; it is impossible to do it. How is it with your sheriffs, your coroners, and all that class of officers? Why, sir, how is it in the Departments here? Is there any law saying what each clerk shall do, what each employé shall do, at what desk he shall sit, how much he shall write, and all that sort of thing? Not at all. He is under the control of his superior and he may be transferred from one desk to another, may be assigned to other duties, or may be made to exchange with one of his fellow-clerks, just as the exigencies of the public service may require.

But there is this danger, and I presume it was foreseen, that on account of the exigencies which may arise in legislation, the contingencies which may happen, it would be hampering ourselves and stopping the progress of our important proceedings here if we regulated our officers by a Procrustean system to which they must adhere at all times and from which they could not depart. I would like to define their duties as far as it is possible to do so. I would like to give the express power that is required for the proper regulation of our proceedings here, and I would go as far as any one in regulating these matters in a definite way and as far as it is possible and expedient to do so. But it would be most unfortunate if in the effort to bring about this certainty we should find ourselves tied up in the hard knots of red tape or lost in the endless labyrinths of circumlocution at a time when important measures were pending before us which demanded our prompt action and which our constituents were anxious to see consummated. And if we go too far in this direction there will be many occasions when the time of this House, so important to our constituents, will be occupied in rapid discussions as to whether a little orphan boy, with a widowed mother and little brothers and sisters dependent on the pittance he receives and a thousand miles from home, shall be paid \$10 or \$20 during a short recess of this House or not, or perhaps in grave and profound disputations on a question better suited to a college of medieval schoolmen than to a body like this, intrusted with the legislation of a mighty and intelligent people, whether it be contrary to any law, human or divine, for a messenger or a laborer to employ a substitute or proxy to kindle a fire or wash a spittoon.

Our constituents will not tolerate this. They expect from us better things. They expect of us that we shall go on with the important business that is assigned to us, and that we shall attend to it, and that, so long as our officers act honestly, so long as they act with good intentions and under the eye and supervision of this House and its committees faithfully, we are not to take up the time that should be devoted to great public interests in the discussion of such petty and insignificant questions as would be constantly recurring if we required special legislation in reference to such trivial matters.

Mr. Speaker, I had proposed to refer briefly to some of the testimony in this case, but I fear that my time is so far advanced that I shall not have the opportunity to do it or to apply—

[Here the hammer fell.]

Mr. COX, of Ohio, obtained the floor, and yielded twenty minutes to Mr. FRYE.

Mr. FRYE. Some considerable time ago I had occasion to call the attention of this House to what was known as the soldiers' roll. Now I think every man on this floor knows what the soldiers' roll was. It was a roll of fourteen men receiving the highest pay for that class of service received by any men in the employment of this House, to wit, \$1,200 a year. They were to be "crippled and disabled Union soldiers." And during five or six Congresses you could see them at every door around that gallery, men without arms, men with one leg, men entirely crippled and disabled, whom "the wayfaring man though a fool" looking upon would recognize at once as "crippled and disabled soldiers." And, sir, I take it that no man can hesitate one moment in determining whether or not a man is a crippled and disabled soldier, whether or not he is entitled to go upon this roll. We here knew them, honored them, and tried to repay them for their great services and compensate them in part for their sacrifices.

Well, sir, I saw one after another of these soldiers disappearing. I saw able-bodied men taking their places. I saw the record of the appropriation bills changing and dropping "crippled," dropping "disabled," dropping "crippled and disabled Union soldiers." And I called upon the House to know what it meant, whether it was the purpose of the Committee on Appropriations to do away with the law creating the crippled and disabled soldiers' roll. And I demanded of them, if that was their purpose, to announce it like men, do away with the crippled soldiers' roll, save their \$2,800 extra pay, and put in their places able-bodied men. I distinctly stated at the time that it was not a question of politics with me; that I was perfectly willing, ay, more, that I expected, the democratic party, having power in the House, to remove the crippled and disabled soldiers of the

republican faith and put in their places crippled and disabled soldiers of the democratic faith. Ay, more, I went further. I said I do not personally object to your displacing these soldiers and even putting on that roll "crippled and disabled" confederates.

Now, sir, Mr. Polk, in his testimony, says that in this matter of crippled and disabled soldiers he thinks there may be a great deal of sentiment. But, sir, I do not look upon it as sentiment. These men are as able to perform the duties assigned to them as able-bodied men are. They have suffered where able-bodied men have not; and I say, unless the law is repealed, it is a high, conscientious, overpowering duty upon the democrats of the House, as it was upon the republicans to put upon the roll men who have been soldiers, men who have been crippled and disabled in the service of the country.

When I called the attention of the House to this, twenty men rose on the democratic side at once to their feet and declared with emphasis, "We will keep up the crippled and disabled soldiers' roll; we will turn out your republicans, but we will put crippled and disabled democratic soldiers in their places."

Sir, I made no objection to that. Thank God, there was loyalty enough in the democratic party at the North to send thousands, ay, tens and twenties of thousands of democrats into the service of the country, and they fought and were disabled. I honor them to-day as much as I honor (if not more) the soldiers of the republican faith who went into the Army, and no word either here on this floor, no word of mine on the stump or elsewhere, shall ever be uttered against the loyal democrat who forgot his party and remembered his patriotism; who in spite of his party and against the policy of its leaders, buckled on the armor and went forth to battle for his country.

How, sir, did the democratic side of the House carry out that proposition made on the floor on that occasion? Did they put in crippled and disabled democratic soldiers? I call the attention of the House to the testimony of Mr. Polk on page 93. I commence with New England, because there were democratic soldiers crippled and disabled from New England.

Go through her valleys, over her mountains, through her hamlets, her villages, her cities, you can find, I know, crippled and disabled democratic soldiers—ay, thousands of them. Were they found?

Mr. Polk says:

The New England delegation has always acted as a unit, (leaving out Massachusetts,) and they agreed among themselves to a distribution of the appointments apportioned to them as one delegation; that is, the members from New Hampshire and Connecticut so agreed. I am speaking, of course, of the democratic delegation from those States. In readjusting my roll I put down Mr. Holt to go on the soldiers' roll. Mr. Prescott was doing duty on the roll up to the 10th, and at the reassembling of Congress on the 10th I said to Mr. Prescott: "They insist upon Holt having the place; I can't give but so many places to New England, and only one on the soldiers' roll, and they insist upon his having that best place."

Now turn to page 61. Mr. Holt was on the witness stand:

Question. You have been a soldier?

Answer. Yes, sir.

Q. How long had you been in the service?

A. Three years.

Q. As an enlisted soldier from Massachusetts?

A. Yes, sir.

What did that mean? What did Holt mean when he replied in that way? He meant that he had been a soldier in the Army of the United States, fighting for his country for three years, from Massachusetts, or he meant nothing.

Now turn to page 65. He was again on the stand:

By Mr. Cox:

Question. Seeing that the matter has been referred to, I will ask you to state what was your military service in the Union Army during the war of the rebellion?

Answer. I did not do any. I belonged to an independent company in Boston.

Now Holt to-day is in the employ of the democratic party of this House, notwithstanding that he committed—in spirit, at any rate—perjury, and every man on that committee and every man in this House knows that in spirit he committed perjury. When he was put upon that roll he either deceived the members from Connecticut and New Hampshire or else he deceived Mr. Polk, and thus got himself put on the soldiers' roll. Is it worthy of the democratic party to keep that man from that time to this in the employ of the House? Is it New England democracy to do so?

Oh, you New England statesmen, could you not, hunting all over the democratic ranks of soldiers in all New England, find a single crippled and disabled democratic soldier, and were you compelled to take this man Holt who served three years in an independent company in Boston? [Laughter.] What had become of your promises? Were they ropes of sand?

Mr. FINLEY. Will the gentleman yield to me for a question?

Mr. FRYE. I have but a short time, and I will not yield to anybody.

I want to say further that Mr. Polk informed the statesmen from New England that Mr. Holt must go off the roll, and they held a meeting. They were terribly exercised. They consulted as to what should be done upon this quota to which New England was entitled. What was the quota? One laborer, one fireman, one soldier! Glorious old New England, stick for your quota! To be sure, you have not a single chairmanship, but you have a "quota." Meet together and consult about your "quota." To be sure, each of you represents one hundred and fifty thousand people. To be sure, you, each of you, represents millions of capital. To be sure, you are interested more

than any other part of the country in great financial questions. To be sure, the tariff is a matter of life or death to the industries of your districts. But, for God's sake, gentlemen, forget finance, forget the tariff, and stick to your "quota" of three employés!

What does Polk say further?

I did make out a partial roll with a few names, putting Prescott's name on the soldiers' roll, from the 1st to the 10th of January, and certified it. I went immediately, that same day, to Judge PHELPS and Mr. LANDERS, two members from Connecticut, and said to them, "I can't put Holt on the soldiers' roll; there must be some other arrangement made; you must find me a soldier to go on there." They were a good deal perturbed and annoyed about it, and they said, "Wait, let us see; let us fix something." The same day I notified Mr. Prescott that Mr. Holt could not go on the soldiers' roll, but inasmuch as Holt was there on the floor and more suited to the place than Prescott, I thought some arrangement would be made soon by which they both, perhaps, could get on the rolls. In the mean time I had stated in writing to Judge PHELPS and Mr. LANDERS, "The best I can do for you is to give you one man on the soldiers' roll. I will appoint Prescott on the soldiers' roll for you, and will appoint Holt on the fireman's roll, and McDonnell on the laborer's roll;" and knowing that they had before pooled the salaries of Prescott and McDonnell, I said, "Now, that is the best I can do for you and you can do just as you please with it." They got together and they came and informed me that they would make these men pool their salaries so as to give an equal division to each, and they asked me if I would consent to it. This arrangement was to go into effect on the 1st of February. I said that I could make no change then; that Mr. Prescott must remain on the soldiers' roll, but if he chose to let Holt do the duty I had no objection to that; that Holt was better qualified to do the duty on the floor, and that I had no objection to that arrangement, but that Prescott must remain on the roll and draw the money; that it was a question altogether among themselves, with which I had nothing to do. I went back several times to Mr. LANDERS and Judge PHELPS and said to them, "Gentlemen, I want it distinctly understood that I have nothing at all to do with this arrangement; I just consent to appoint these men, and what they do with their salaries is none of my business."

And they stuck to their quota of three, like good, faithful democratic Representatives. And what did they do? They concluded to take Polk's offer, that as Prescott, who was a fireman, had served in the Army, he should come over here and be put on the soldiers' roll; and that Holt, who had been a soldier in an independent military company in Boston, should perform the duties of Prescott on the soldiers' roll. Prescott must still act as fireman, but he might use Holt as his substitute.

Ah, but that will not do; Prescott will then draw \$1,200 salary. And here comes in the New England economy. What shall be done about it? Oh, we will fix that all up. The salary of Prescott on the soldiers' roll is \$1,200; the fireman's pay is \$900; the laborer's pay is \$750; we will add all three of the salaries together, and then we will divide the total by three and that will give \$940 each. And in that way the whole quota of all New England will be perfectly adjusted. [Laughter.] (It is just to say that Mr. PHELPS, of Connecticut, in a speech Monday evening, denies the statement of Mr. Polk as to his part in the play.)

They notified the Doorkeeper, Mr. Polk, and Mr. Polk said: Amen, gentlemen; it is as you say, and not as I say. And the New England statesmen were fully and completely justified. They had got their soldier on the soldiers' roll.

Oh, one-legged democrats, marching up to the polls to vote for my friend from Connecticut, [Mr. LANDERS.] Oh, one-armed democratic soldiers, fighting all day long in the beautiful old city of Portsmouth for my friend from New Hampshire, [Mr. JONES.] The next time you hobble along up to the polls, ask the Congressmen you vote for how their rabbit hunt for a crippled soldier ended thus lamely. [Great laughter.] So much for New England.

What comes next? I will not take delegation by delegation now; I shall not have time. There was a vacancy on the soldiers' roll, and a gallant horse-marine stepped forward for the place, [laughter:] William S. Dulin. Crippled? No. Disabled? No. Democrat? Yes, every time. [Great laughter.] You served, I suppose, in the Union Army? No, sir; in the Navy. You look quite young; when did you enlist in the Navy? In 1869, as apothecary's clerk. [Renewed laughter.]

Oh, you democrats, who are bound to fill up this soldiers' roll with crippled and disabled soldiers, where did you find Dulin, who was almost a babe at his mother's breast when the war broke out? Could not you find one wounded democratic soldier? Were you reduced to this maritime druggist?

William M. Patton. Crippled? No. Disabled? No. Democrat? Yes. Confederate? Yes. Ah, then, you democrats cannot find a crippled and disabled Union democratic soldier, and you resorted to the confederacy. Well, gentlemen, if you cannot succeed any better than you did in your grand hunt through old New England for crippled and disabled democratic soldiers, thank God, you turned your eyes to the confederacy, where you can find thousands and hundreds of thousands of poor, broken, crippled soldiers of the confederacy. I blame you not for going face-about, after such luck as that.

James G. Knight was a soldier; in 1861 "sprained his ankle" while drilling. Served until 1864 after he had sprained his ankle! A crippled and disabled democratic soldier!

T. J. Larry; never a soldier, always a democrat; put on the crippled and disabled soldiers' roll!

Jacob Fouke. Oh, what a terrible necessity there was upon my democratic friends who were so valiant for the soldiers of the Union. Jacob Fouke was in the war of 1812. [Laughter.] They could not find a crippled and disabled soldier of the late war against the Union, but were actually driven to the extreme necessity of going away back to the war of 1812, and bringing here a venerable old gentleman

eighty, ninety, or a hundred years of age, to help fill up the crippled and disabled soldiers' roll!

Mr. BUTLER. He may have served in the Mexican war.

Mr. FRYE. Oh, no; he was not in the Mexican war; too old for that. They got one Mexican soldier. They went over the rolls of every war this country ever had to get disabled soldiers; they took the revolutionary roll, but could not find a man who was able to travel to Washington; they got the roll of 1812 and examined that, and they hit a man who was in that war; they took the roll of the Mexican war and hit a man in that roll; and yet they were not happy; and yet the roll was not full; and yet the hunt continued.

Herman J. Scheellies: you will find his testimony on page 179. Were you in any way crippled or disabled? No, not by wounds received; I had a fever, [laughter,] and was discharged. Since the war have you been in tolerably good health? Well, I have suffered ever since, particularly from—the asthma. [Laughter.] What business have you followed? I have been in the General Land Office. The doctor in Wisconsin told me I ought to go to a warmer climate—to cure the asthma, I suppose. In what capacity were you in the Land Office? First-class clerk. I went there in 1866 and was discharged in 1867.

[Here the hammer fell.]

The SPEAKER. The time of the gentleman has expired. Does the gentleman from Ohio grant additional time to the gentleman from Maine, [Mr. FRYE?]

Mr. COX, of Ohio. Yes, sir.

The SPEAKER. How much?

Mr. COX, of Ohio. I will not limit the gentleman.

Mr. FRYE. I thank the gentleman from Ohio, and dislike to trespass upon his time, but desire very much to complete this roll of "crippled and disabled Union democratic soldiers." Now I go on to Michael G. Flannegan, [laughter,] "on the soldiers' roll."

Question. Were you a soldier in the United States Army during the war of the rebellion?

Answer. Yes, sir; I was sworn in for ninety days, in Pennsylvania, armed and equipped, in the Thirty-ninth Pennsylvania State Militia, Company G, Captain Samuel Harrison. We were sworn in for ninety days service when Lee came into Pennsylvania. I was out also previous to that, in 1862, but they decided that the troops would not go out of the State, but I am sure we were sworn in and mustered, and I have got a copy of the muster-roll.

Q. But you did not go out of the State in 1862?

A. No, sir.

Q. Where were you during the ninety days?

A. Around Chambersburg and down by Greencastle; some went out of the State and some did not.

Q. Your command, then, did not meet the enemy?

A. No, sir.

By Mr. MORGAN:

Q. You were not disabled, of course?

A. No, sir; I was not wounded, but I have had a disease for some years.

[Laughter.]

Now, sir, I have no doubt there are one hundred thousand democrats who have been diseased for a good many years. [Renewed laughter.] Who can blame Polk for overrunning in his appointments if every diseased democrat is to go on the soldiers' roll? Why, I always thought disease with that party was chronic.

I next come to the case of John K. Bennett—a soldier of the Mexican war, who received a flesh-wound in that war—a good soldier, I have no doubt, but having no more right on the soldiers' roll than I have; neither crippled nor disabled nor pretending to be.

Another man on the soldiers' roll was Isaac T. Moore—never in the Army at all; only a democrat! Another man on this roll is James P. Alcock—a first-class soldier, undoubtedly, but not disabled, never asking for a pension. Rogers also was on the roll. He never was disabled, never crippled, was not in the Army at all, but was a democrat. Remember, I am taking this from the sworn testimony before the committee. I have not time to read the evidence.

Another man on this roll was C. R. Faulkner, an old man with nothing to show that he was crippled or a soldier, and nobody knew that he was crippled. Swint was put on in place of Holman's one-legged soldier who had been here for years. There was nothing in the evidence to show that Swint was ever a cripple. But I must stop this, for I must not trespass upon the time and courtesy of the gentleman from Ohio [Mr. Cox] longer.

Now, even with men like these on the soldiers' roll, that roll got "hard up." Mr. Polk says in his testimony that he appointed Fitzhugh. On looking at Fitzhugh every member of the committee knew that he was not born when the war broke out; he could not have been a soldier. How he ever got on the soldiers' roll I do not know, unless on the same principle that we pension children of dead soldiers. Fitzhugh's father, the old Doorkeeper, that "bigger man than old Grant," was a dead democrat; there is no doubt about that. [Laughter.] It may be that he was put on the soldiers' roll because his father was a deceased democrat. But Polk does not say so. What does he say? He says "I yielded to the democrats of the House—the various delegations—this soldiers' roll to keep it full;" and he says "there was almost always a vacancy on it." Only think of that. Only fourteen positions on this roll and the whole United States to draw from; yet you gentlemen who promised to treat us fairly could not keep the soldiers' roll full to save your lives! You went to the revolutionary war, the war of 1812, the Mexican war, the confederate army, the Union Army, the street, the field. You picked up anybody you pleased. You went to the volunteer companies; you went to the in-

dependent companies. You visited the muster-field, you searched high and low, broad and deep; yet Polk says that you could not keep your soldiers' roll full, and because you could not keep it full he put on Fitzhugh.

Oh, spirit of the immortal Falstaff! give us one hour of thy time, and at tap of drum and squeak of fife drill this glorious battalion of democratic crippled and disabled soldiers. [Laughter.] See them fall into line! Here comes the venerable gentleman of the war of 1812. Then the Mexican war contributes its share; then the Navy sends in its boy; then the son of the dead Fitzhugh comes into view; then comes the Irish brigade with Michael J. Flannegan, "diseased for many years;" then the man that sprained his ankle when drilling in 1861; and then that asthmatic fellow. [Laughter.] So they march up to drill, one after another; and the spirit of Falstaff, disgusted with the display, takes heavenward its flight, [laughter and applause,] shouting back as it goes:

If I be not ashamed of my soldiers, I am a soused gurnet. I have misused the King's press damnably. * * * My whole charge consists of ancients, corporals, lieutenants, gentlemen, &c., and such as indeed were never soldiers. * * * I'll not march through Coventry with them, that's flat.

[Great applause on the floor and in the galleries.]

Mr. COX, of Ohio, obtained the floor and said: I yield for a moment to the gentleman from Texas, [Mr. REAGAN.]

RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN, by unanimous consent, reported from the Committee on Commerce a bill (H. R. No. 4236) making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted, not to be brought back on a motion to reconsider.

Mr. REAGAN. I ask that double the usual number of copies of this bill be printed.

The SPEAKER. The Chair hears no objection, and it will be so ordered.

DOORKEEPER OF THE HOUSE.

The House resumed the consideration of the resolutions reported from the Committee on Civil Service Reform relative to the Doorkeeper of the House.

Mr. COX, of Ohio. Mr. Speaker, I ask the attention of the House to a statement, as brief and compact as under the circumstances I shall be able to make, of the grounds upon which the majority of the committee have reported that they find the Doorkeeper guilty of the charges which have been made against him, (except one,) and that they think the office should be vacated. They thus report because they believe that the law of the land has been so plainly, so grossly, so persistently violated that unless we are prepared to say there shall be no responsibility upon the part of an officer in such a position we are absolutely obliged to enforce a penalty adequate to the offense, and such a penalty cannot be less than removal from office.

I propose to show by a very brief reference to the facts proven in the testimony before the House that this is not a matter which can be condoned on the ground that it was done under pressure; that it is not a matter with which the ordinary pressure for appointments has anything at all to do; that the offense of the Doorkeeper is one of which the blame must rest distinctly upon him, the responsibility being with himself alone; for though there may have been pressure to induce him to make appointments, he cannot shift the burden of making appointments contrary to law and conducting his office in violation of law upon others. Official responsibility would cease if this could be done.

Now, sir, it is agreed by both majority and minority of the committee that the Doorkeeper, without authority of law, and I think in plain violation of law, appointed in the early part of the session some sixty-three persons more than he was authorized to appoint. But that, Mr. Speaker, is only a small part of the offense. If the persons who were put upon the roll in violation of law had been simply told that they were there without real authority, that they might take their chance of the House hereafter paying them by its own volition and upon resolution, and a roll had been made of those who had been employed and became the servants of the House under some form of employment binding both the Government and them, the case would have been different, although I still think it would have then been one the House could not overlook. But it is necessary that gentlemen shall understand, if they attempt to be responsible for his acts and to condone that which the Doorkeeper has done, they must meet a state of facts wholly different from this.

These sixty-three persons who were appointed were in no way distinguished from the ordinary and regular appointees of the House. There was no roll made of regular employes and another of irregular employes. A man who was put upon that roll did not know whether he was to be paid or not. He was told that he was employed; he was sworn into office. In every case an oath was administered precisely the same in all cases. There was no discrimination made except in a few instances. In those instances the discrimination which was made was in favor of some who thought more formality had been used in their case; but it was only made to disappoint them more completely. This must be remembered. You had then double the number the law allowed of ordinary employes in the classes referred to about this House, no one of whom had the slightest means of

knowing or proving whether he had a contract of employment with the United States. They all believed they had. They were all in the same relation to the Government. An officer authorized to employ them told them they were employed, put them, as he said, upon the roll, swore them into office, and they went on holding the office. Some of them at the end of one month and some at the end of two months were told there was no provision for their payment; not because they were in any way discriminated against by law, but because the same Doorkeeper, acting in violation of law, at the end of one or two months chose to say to some, "You have no regular employment," and to others, "You will be paid." It was a mere matter of capricious determination on his part, without system or check.

That was then the fact. Mark you, he gave to none the evidence of their agreement with the Government to serve it. He left them in that situation purposely, in order that he might have the whole roll under his own control. Their utter helplessness was his strength, as we shall see. I insist upon it that these people, one hundred and twenty or more of them, had rights against the Government. The law provides that men shall be properly employed. It fixes their number. It provides that he who makes a false roll shall be regarded as guilty of embezzlement and punished by imprisonment in the penitentiary. Let us see what Congress in its wisdom has seen fit to enact upon this subject. We have in section 5438 of the Revised Statutes the provision that—

Every person who makes or causes to be made, or presents or causes to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, any claim upon or against the Government of the United States, or any Department or officer thereof, knowing such claim to be false, fictitious, or fraudulent, or who, for the purpose of obtaining or aiding to obtain the payment or approval of such claim, makes, uses, or causes to be made or used, any false bill, receipt, voucher, roll, account, claim, &c.—

Shall be held to be guilty of a fraud upon the Government, and—shall be imprisoned at hard labor for not less than one nor more than five years and fined not less than one thousand or more than five thousand dollars.

We have another provision in section 5483:

Every officer charged with the payment of any of the appropriations made by any act of Congress, who pays to any clerk, or other employé of the United States, a sum less than that provided by law, and requires such employé to receipt or give a voucher for an amount greater than that actually paid to and received by him, is guilty of embezzlement, and shall be fined in double the amount so withheld from any employé of the Government and shall be imprisoned at hard labor for the term of two years.

You have still another provision, section 5488, that every disbursing officer of the United States who transfers or applies any portion of the public money intrusted to him for any purpose not prescribed by law shall be deemed guilty of an embezzlement and shall be—

Punished by imprisonment with hard labor for a term not less than one year nor more than ten years, or by a fine of not more than the amount embezzled or less than \$1,000, or by both such fine and imprisonment.

You have still further, in section 5501, the provision that—

Every officer of the United States, and every person acting for or on behalf of the United States, in any official capacity under or by virtue of the authority of any Department or office of the Government thereof; and every officer or person acting for or on behalf of either House of Congress, or of any committee of either House, or of both Houses thereof, who asks, accepts, or receives any money, or any contract, promise, undertaking, obligation, gratuity, or security for the payment of money, or for the delivery or conveyance of anything of value, with intent to have his decision or action on any question, matter, cause, or proceeding which may, at any time, be pending, or which may be by law brought before him in his official capacity, or in his place of trust or profit, influenced thereby, shall be punished as prescribed in the preceding section.

Which also is by fine and imprisonment. You have made these provisions of law for the purpose of protecting the employés of the Government and for the protection of the Treasury. Every person who has intelligently read the testimony before us will find that except by the merest technicality it would be impossible for the Doorkeeper of this House to escape these penalties provided by your statutes if he were before a jury of the country. And why? In this matter of these employés was he not bound to put upon the roll of the House the men who were employed in accordance with law? The statute provided the number of messengers who were to keep the doors and wait upon committees, the number of laborers to serve under the janitor, the number of pages to do duty upon the floor. Mr. Polk made no such roll. He admits that he has employed a greater number than he had legal authority for, and he admits in his testimony that he has made no discrimination. Some of these employés had valid contracts with the United States. Who were they? How shall you find them? Where is the contract, or the valid entry of their appointment or list of their names? You look for it in vain. There is none.

He did not give you his lawful roll or make any record of the legal appointments. He has mixed the names on his lists and kept them mixed so that no man of them all till this time knew and no man at this time knows whether he is one of those who has a valid contract with the Government for his services, and for the lawfully established compensation.

Look a moment at one of the particular cases. We have the case of a poor colored man named Lyle who had been employed under the Doorkeeper of the preceding Congress, upon the understanding and with the assurance of the officers of the House that he was employed as a regular laborer at \$60 per month. The testimony shows that he had faithfully served as a laborer all the summer sweeping and scrubbing the hall and the corridors, doing all the menial work that he was called upon to do. Then at the beginning of the session the jani-

tor, who was in that respect the agent of the Doorkeeper, showed him his name on a list and told him those whose names were on that list were the regular employés of the House. Under those circumstances he served on till the 21st of December, and then was told there was no provision for his payment. That was his first discovery of the fact. He was further informed that as a mere gratuity from the House he might be paid \$1 a day for the time he had actually served prior to the regular session of Congress, and he was obliged to take that, not as payment of his contract with the United States Government, which had been made by its officers and solemnly repeated when he was sworn as their servant, but as a gratuity from this House, out of its contingent fund, under a resolution which we passed at the close of the called session, in order to give some money, as we were told, to those serving here without any regular or authoritative employment, no other means having been provided for their payment.

Notice, if you please, that this man was not a hanger-on; he was a man who had been at work in a regular manner, and whom the present Doorkeeper found at work; who had been informed by the janitor that he was regularly on the roll. Now where is the contract? Does it become this House to allow him to be treated as one having no lawful claim? But this was only one of the many instances proven in the evidence before the committee—and the more it was examined the worse the facts became—one of the flagrant instances in which the Doorkeeper having employed a man lawfully, and that man having faithfully done the work for which he was employed, he has failed to get payment of the amount due for his services. I do not care where the money has gone. I do not care what plea of poverty or of sympathy is set up by gentlemen as an excuse for unlawful employment of men who have got this man's money. The money which the United States had appropriated for that laborer to do its work was not for pay to men who idled about here and did no work. Whether such were on the regular roll or not, I care not. To put them there and leave this poor laborer off, was only to add insult to injury. His title to his pay was sacred, and we shall not be held blameless if we do not punish the officer who has applied this man's money to other purposes.

Here was a contract made by an authorized officer who could bind the Government, and who did bind the Government to the extent of his power; and instead of putting that poor man's name upon the roll, who had earned the money, he kept it off the roll and paid the money to somebody else. Under the statutes I have referred to, you would find it very difficult to defend any officer from conviction under an indictment for that offense and from a verdict which would send him to the penitentiary. It will not do to talk of these things as trifling. We had before us several other cases of a similar kind, testified to by witnesses of respectable appearance and apparent truth. John F. Edwards, a most respectable man so far as appearance goes, was in October regularly appointed on the annual roll at the rate of \$1,000 per year, and supposed he was secure in his place. Toward the last of November he was told that he was not on the roll, but to keep on at work and it would all be right. He did keep on under the personal direction of the Doorkeeper, who gave him a written promise of permanent employment, which was presented before the committee and was evidence of the fact that the Doorkeeper had given this man not only a verbal but a written engagement of permanent employment by the Government at the salary stated. But without any pretense of fault on his part, at the mere whim of his superior, or upon the "pressure" which is to excuse everything, he was summarily dismissed.

His pay at the rate of \$1,000 a year was \$83.33 per month, but at the time he was discharged he was paid at the rate of \$62.25. Twenty dollars a month of his pay was kept back and used for some other purpose; we are told it was to pay others who were irregularly employed; but whether or not that be true, (for it requires all our charity to believe it, as there is no conclusive evidence) the statute was violated and the money which was appropriated for his pay and which ought to have gone to this employé of the Government was used elsewhere.

We have then the case of a Mr. Alcorn, another apparently respectable man, who worked steadily from the beginning of the called session until the 24th day of December. He was paid up to the 15th of that month only, but received no official notice of discharge until the 15th of February. His member of Congress told him that Mr. Polk had promised to put him permanently on duty. Mr. Polk put him on duty, as he says, on the assumption that Congress would pass a special resolution to pay him. Now mark you, in these cases the men were not irregularly employed. There were not more than two or three men who were told that they must look out for their own pay. There was an instance of that kind in which the witness testified that he had been working, but that he knew all the time that he might get something or get nothing. He hoped that the general benevolence of the House would pay him for doing nothing, for sitting at the door of a committee-room where no one wanted him.

But the cases which I have cited are not such cases; they are cases of regular employment. What I want the House to understand is that in the case of the whole of these sixty-three their employment was as regular as that of a member of the House; they were sworn into office; they were told that they were employed by those who were authorized to act for the Government, and we cannot get around that

fact by declaring that these are irregularities. The roll in the Doorkeeper's department was made twice as large as it should be in the usual form under the law, and in some cases money was taken from some to be paid to others, as is alleged, though there is no book of accounts by which we can tell what men had claims and who had not. The Committee of Accounts tried to determine this in December, but were forced to rely upon such statements as the Doorkeeper chose to give them, for he testifies that he kept no time-book of the work done by men in his employ, and no regular list of appointments or discharges. None such has been produced.

Take next the pages' roll. The pages are employed under a statute which says that they shall be paid \$2.50 a day for the time that they are actually employed. In fixing a daily payment the statute intended to limit the claim to working days, but lax custom is said to have modified this. In the month of December double the number of pages authorized by law were actually employed, as the Doorkeeper himself testifies. What do the rolls show? Nothing that accords with the facts. The truth is this: the Doorkeeper employed during the first half of the month, when we were here in session, that is to say, until December 16, when we took Christmas recess, which lasted until the 10th of January, or fully three weeks, double the number of pages allowed by the statute. But when we come to examine the roll we find this state of facts certified to by the Doorkeeper, as he was bound to certify on his official truth and honor to his roll, namely, that there were twenty-eight pages employed from the 1st December down to and including the 16th of the month. That on the 16th day of December he discharged twenty-eight and employed twenty-eight others, whose names are given, and whom he officially certifies were employed during the remainder of that month. Now every member here knows that there was no session of Congress during the remainder of the month, and the roll, therefore, was a fiction, was a false roll within the statutory definition. You may say that it was a laudable and benevolent thing to make it, after the unlawful thing of appointing fifty-six pages had been done; but the fact remains that he certified to that which was false. The truth is that there were three or four boys detailed at their own wish to serve during the recess, and no others were here at all. This also is admitted by Mr. Polk in his testimony. What form of excuse is attempted for this?

The claim is made that a habit has grown up of allowing those who are employed by the day to be paid during short recesses; usually our recesses are for one or two days, or a week at most, and no attention had ever been formally called to the matter. So far as we know, no such long vacation as this three weeks' vacation had occurred before in the progress of the connected sessions of Congress. Mr. Polk pleads that he was informed that pay was usually given to employes for the recess, when they were serving continuously before and after such recess, and that his decision was not necessary to get the payment from the Treasury of this extra money. But it will be seen that this is very far from excuse or explanation. The officers consulted, the Clerk of the House and one of the Comptrollers, put the matter on the ground that if the Doorkeeper himself officially certified that he had employed certain persons during a given time they could not deny his certificate and could not refuse to allow his vouchers to be paid under the circumstances. He made a certificate which was false, for if he had made it in accordance with the truth the money could not have been drawn from the Treasury. If anybody was by custom or otherwise entitled to pay for the recess it could only be the twenty-eight who had served during the first half of the month and had been discharged on the 16th of December. They did all the service which was in fact performed in the month, if they were the only regularly employed pages during the time stated, namely, from the 1st to the middle of the month. The custom pleaded, if a real custom, (which is doubted,) gave those boys the pay for the month.

It was either that or no one was entitled to it. But what was done was that a roll which accorded with no facts whatever was made up, and this fictitious roll was used to give pay to those who had been appointed contrary to law and in excess of the number allowed. Now, will you, merely because there had been great pressure from members or others to have more boys assigned to duty as pages than were allowed by law, justify a falsification of the records of the House and say that this is a trivial thing, to be condoned and not in any way to be treated as a serious offense, which should be punished so severely as by declaring the office of Doorkeeper vacant? Then for consistency's sake let us repeal at once the statutes I have read which declare these things to be crimes.

The things which have thus been done are not matters for which the members of this House are nearly as much responsible as some gentlemen are inclined to assume. The members were not fully informed, or if any one was he owes it to himself and to the Doorkeeper to rise in his place here and say that he knew an appointment would be made at his request which the law did not allow, and that he and his employes were notified that the appointment was irregular and illegal. But no such information was given.

There was a pressure upon the Doorkeeper no doubt, as there always is upon every one having the appointing power, to appoint this man or that man, without inquiring whether the roll was full or not. Gentlemen here often feel obliged to go and do go to the Departments and ask for appointments. I wish it were not so, but so it is. They do not inquire personally into the condition of the rolls there. They

assume that the officer himself making the appointment shall be responsible for it; that he shall know whether there are any vacancies to be filled. They say to themselves that if he appoints the men it is because he knows he has legal authority to appoint them and a proper place in which to put them.

I will say in justice to members on this floor that I do not find in the testimony before us, and I am familiar with it all, that any member of the House deliberately asked to have an unlawful appointment made. I find that the Doorkeeper himself took these appointments into his own hands, determined how many he would make and made them merely to gratify his own feelings, to satisfy his personal friends, or to pay his political debts.

For example, we have the case of a man named Duffy, who made an affidavit at the beginning of this case. Upon his own testimony it appears that he was a member of the Pennsylvania State central committee of the democratic party; that he had served as chairman of his county and district conventions; that he bore such relation to his party as we may suppose pointed him out as a man fit to occupy a position here.

But he was not appointed for that reason. The Doorkeeper admits on the stand distinctly that he appointed him because he exerted his influence prior to his (Mr. Polk's) election in his favor, and with sufficient zeal and success to create what he regarded as a personal obligation. Mr. Polk therefore appointed Mr. Duffy, and subsequently quarreled with him and discharged him, and out of that quarrel grows a part of the exposure here. Duffy was to have a place with one of the larger salaries, \$2,000, he claimed. There were difficulties in Polk's way in keeping the bargain. It did not seem so easy after his election as it did before. He tried to arrange it by having Duffy take a place with a twelve-hundred-dollar salary, the remainder to be made up in some irregular way. Mr. Duffy testifies that Polk told him that he knew he could force the payment of their salaries to all the appointees he created, for he had a "corner on Congress," meaning thereby that members were so much under obligation to him for appointments and favors that he could secure the payment of all his irregular appointments by law or by resolution of the House.

Mr. Polk denies that; but he is contradicted by so many witnesses on so many points that I am justified in assuming that the testimony of those witnesses, who are not themselves charged with any offense, must be relied upon rather than his, when they conflict. We followed this matter up and we find that it is corroborated both directly and circumstantially. The whole of Mr. Polk's reckless system of procedure in disregard of law can be explained only by assuming that he was inflated with the belief that he could use his patronage to secure the legalizing of his unlawful acts and argued, with the foolish sharpness or sharp folly of wrong-doers, that the more he increased his list of employes the greater would be the number of the members of the House who would be interested in covering up what he had done.

This man Duffy was, as I have said, to be paid a larger sum than the law allowed to be paid to any such employé of the House. He was made a messenger on the floor, and in order to pay him what had been promised to him money was taken from the pay of two other employes of the House and handed over to him. One of those other employes, in his anxiety to shield Mr. Polk, attempted to swear that he gave up a part of his monthly salary without knowing that Polk needed it for any purpose, to be kept by him as a gratuity in appointing him to place.

Of course Mr. Polk repudiated that explanation, because it came so plainly under the statute referred to by me in regard to accepting payment for appointment to or continuance in office as to have made it a plain case under the criminal law of the land. This is the manner in which the thing was arranged: two of the employes each month gave up to Polk about \$16.66 each, in order that he could make up to Duffy a part of the salary which he had promised him for helping to secure his election as Doorkeeper of the House.

Although these men testified that they did it voluntarily, (everybody testifies that way under the same circumstances,) no one can doubt that the spirit of the law was violated. The thing was done under such circumstances as indicates, as the committee show in their report, that these men were coerced into paying over this money. Duffy swears that Polk told him that unless they paid that amount he would oust them from their places at once.

And so on through the whole of this case similar things are found to exist at every turn. Take the case of Holt, the militiaman from Boston, to whom the gentleman from Maine [Mr. FRYE] referred. The testimony shows that during the month of February Holt was paid the money which had been earned by Prescott, a disabled soldier. The testimony shows that Prescott did not know that his name was put on the roll after the 10th of January, when he was told he was discharged. Yet the name was put back on the roll without his knowledge. He was told that he was not on the roll, but that his name would be there from the 1st of February. Meanwhile the month expired, when Prescott was called upon to receive the amount of pay due to him according to the roll; but at the same time that he received for it, he was required to pay it over to this man Holt. He did so, and Holt received the money. On this point there is no difference among the witnesses.

Prescott did this under the direction of the Doorkeeper, acting by his command as the evidence showed, being in such a position that

he had no choice except to do it or to lose his place. The money that was due to him was taken from him and given to somebody else. But it is said that Holt had been doing the work and Prescott had not. Prescott had been here; was kept in idleness, it is true, during those days, but he had been on expense; he was in this respect not differently situated from a score of men around the House, while at the same time the money which the official record showed was due to him, and which he alone could receipt for, was handed over to Holt. Will any one pretend that the criminal law of the land was not violated in this? The roll with Prescott's name on it was a "false roll." The payment to Holt was making Prescott receipt for more money than he got. Both these acts are penitentiary offenses, as I have shown.

Now, to my astonishment, and I will also say to my satisfaction, when one of the gentlemen from New England [Mr. PHELPS] rose the other day for a personal explanation he stated that he had himself been told that this man Holt was to be appointed because he had helped Polk in his election; not because the delegation from New England wanted it, but because Polk had incurred such obligations to the man that he [Mr. PHELPS] felt that the only thing to be done was to acquiesce. We thus see that this careful arrangement by which Holt, who was the sham soldier, was to receive \$1,200, the highest pay given any class of messengers, and by which the money was to be taken from the real soldier, was not to gratify the New England delegation but to pay Polk's election debts incurred in his efforts to secure election as Doorkeeper of this House. I say this with pleasure in justice to the New England members.

We had also before us evidence which came out incidentally that Mr. Polk had said that these personal debts should be paid, he did not care where the men came from; that State or position made no difference; that he did not care if the men were from Patagonia, they should have the places, if they were among the friends to whom he had been indebted for active service among the members of the House in his favor prior to his election. When he wanted to use the public funds to pay these debts we were told that these men were necessary to the routine business of the House. The Committee of Accounts deserve great credit for their firmness (which I think in this respect has been almost unexampled) in insisting that they would recommend no payments except in accordance with law already enacted. It was this that brought the matter to a crisis. When it was found that the Committee of Accounts would not report in favor of payment, except where the appointment was made in accordance with law, an application was made from the Doorkeeper to the Committee on Appropriations to allow him a greater force, he stating officially, in a letter which you will find in the testimony, that the number of employes authorized was not sufficient to do the business of the House. Now, what do we know by experience?

Mr. HOOKER. Will the gentleman allow me to interrupt him by an inquiry?

Mr. COX, of Ohio. Yes, sir.

Mr. HOOKER. The gentleman has alluded to what was stated by the gentleman from Connecticut [Mr. PHELPS] in a personal explanation the other day. Now, on the very subject upon which the gentleman is speaking, Mr. PHELPS said:

The matter remained in that condition until, in consequence of an excess of appointments by the Doorkeeper, it became necessary to reduce the number and revise the roll, when I was shown by Mr. Polk a printed list, giving to New England three appointments, namely, a soldier, a fireman, and a laborer. On this list the name of Mr. Holt appeared as a soldier and Mr. Prescott, of New Hampshire, and Mr. McDowell, of Connecticut, as fireman and laborer. I immediately stated to Mr. Polk that I thought Holt was incorrectly designated as a soldier, and that unless the mistake was corrected it would lead both himself and Holt into difficulty. He said Holt represented to him that he was a soldier and was entitled to that designation. I replied that I would see him and ascertain positively about it. I did so and found that my impression was correct. I reported at once to Mr. Polk, and he promptly made the necessary change by substituting the name of Prescott for that of Holt and entering Holt as fireman. In first placing Holt on the soldiers' roll, I have no doubt he acted in good faith. After the change was made, which considerably reduced the compensation of Holt, I stated to him I was confident Mr. Polk had done the best he could for him, and advised him to be satisfied. He said the pay was small, but he thought an arrangement could be made with McDowell and Prescott to equalize their salaries and have it satisfactory to them all.

That is the statement of Mr. PHELPS.

Mr. COX, of Ohio. It is the statement of Mr. PHELPS; but it does not modify at all what I said, that the man was given the position to pay Polk's election debt and not at all to satisfy the delegation from New England. But further than that, (and the gentleman is too just to ignore the effect of this evidence,) after these facts had occurred and after Mr. Polk had thus been informed that this man was not entitled to be on the soldiers' roll, he produced him before the committee and had his counsel make him testify in the disgraceful manner exposed here by the gentleman from Maine, [Mr. FRYE.] He puts him on the stand to swear that he had been three years in the military service from Massachusetts. Mr. Polk's counsel put that question to the witness in order to draw out a statement which might excuse this nefarious employment. Things like this bear directly upon the question of the good faith, the credibility, and the honesty of your Doorkeeper in this matter. He could not innocently put the man on the stand to swear that he was a Union soldier from Massachusetts. It is evident that there was a deliberate design to cover these things up and to put them in such a guise as should not be at all in accordance with the facts, and should mislead the committee.

[Here the hammer fell.]

Mr. CLYMER. I ask that the gentleman's time may be extended.

Mr. YEATES. If time is to be extended to others also, I do not object. The SPEAKER. The time of other gentlemen has already been extended.

Many MEMBERS. Go on!

The SPEAKER. Is there objection?

Mr. YEATES. I shall not object if the same courtesy be allowed to others.

Mr. COX, of Ohio. I trust there will be no objection to that.

The SPEAKER. The Chair hears no objection to the extension of the time of the gentleman from Ohio, and he will proceed.

Mr. COX, of Ohio. I will not detain the House long, because my purpose is to touch only the outline of this matter. Nothing short of reading these four hundred pages of testimony could do it full justice. I call the attention of members to the fact that these are not things of which we can talk slightly. The majority of the House should understand that if they vote to sustain Mr. Polk they will be and ought to be held responsible for all the disgraceful facts that this book of testimony discloses. We have here before us evidence that the employes of the House as authorized by law are abundantly numerous to do the work. There has been no lack of service during the past two months. There have been one or two employes needed, who ought to have been taken from the list of those not doing any necessary work and transferred to the folding-room and elsewhere. You cannot get your Committee of Accounts or the committee whose report is now being considered to give any other information than that the employes of the House as authorized by law are in excess of its real needs. When, therefore, the Doorkeeper undertook to appoint twice as many subordinates as were necessary, thus extending his own patronage and power, he was doing it on his own responsibility. He owed it to the majority in this House, looking at the matter simply in a party point of view, as he had the credit of the party in his hands, to ascertain at the very earliest day the number of those already in his employ and see whether they were sufficient for the work. On the 9th of November, three weeks after this House was organized, he reports to the Committee on Appropriations that the force authorized by law was not enough.

That report, as all the evidence before us shows, was made without any authority of fact. It was made purely and solely to increase the patronage of that office. It was made when not one solitary man was needed. It was made when, if those who were allowed by law were diligently employed, your work would be thoroughly and easily done. Therefore we say there was no necessity for his action; that the necessity was manufactured and the appointees were manufactured also to suit the occasion.

But this is not all. We found upon examination that a class of the employes of the House engaged in the janitor's department were being allowed to employ substitutes. Now mark, there were two ways in which substitutes have been employed about the House of Representatives. The men who are engaged as messengers and have charge of committee-rooms have been often allowed to employ some other person on the Doorkeeper's list to do some small portion of the work, such as sweeping the room and the like. But the class I now refer to are the laborers of the House, about the corridor, scrubbing and cleaning, doing perpetual daily work requiring full daily time. The testimony before the House is that more than two-thirds of those now employed by the House are hiring substitutes at one-sixth of the pay which the United States gives them; that the work which is done under your janitor costs actually to those who do the work \$10 per month while the parties appointed to do it are receiving \$60 a month; that they are thus able to farm out at \$10 per month the actual work and to receive the other \$50 a month for themselves upon which they may live in idleness.

In this case there is no pretense the time is used otherwise. The men who are thus paid by the Government at a high rate are not doing any duty. The laborers who do it at \$10, as the janitor himself testified before us, do the whole labor required, working through the whole day, while the fortunate nominal laborers upon the "regular roll" receive \$60 a month. In other words, they get, after paying their substitutes, \$50 a month for doing nothing, and this enables them to live at ease upon the Government or to run into the temptations of a vicious kind, to which idle men about town are subject. Gentlemen who believe in economy must understand they have that to face. It is not a system of allowing a man in charge of a committee-room to have some work of a trivial character done by a fellow-laborer, but it is the absolute and complete substitution of men at \$10 a month to do the work for which another class who do nothing at all are paid from the Treasury \$60 a month. We have had testimony before us bearing upon the question whether this has been done in former Congresses.

Mr. YEATES. Let me ask the gentleman from Ohio whether it is not in the testimony that it has been done in preceding Congresses?

Mr. COX, of Ohio. I will tell you exactly what was the testimony before the committee. The Doorkeeper of the Forty-third Congress, Mr. Buxton, was brought before us and testified that in his time it never was permitted at all; that nothing of this class of substitution was allowed; that only a little trivial work was done by one for another, both being in the employment of the Government. This hiring of men to do full work at a small price for those who got the places as a piece of political patronage and letting these secure an idle living without labor was unknown and not permitted.

Mr. HARRIS, of Virginia. Let me ask the gentleman from Ohio whether the work was not done more economically under Mr. Polk than under his predecessors? What is the comparison between the two systems—which cost the most?

Mr. COX, of Ohio. I will answer that very gladly, because fallacies of that sort need to be exposed when made. It is not a question as to which cost the Government the most. It is the question whether you will take money out of the Treasury and employ a man at \$60 a month to do certain work while he gets some poor negro to do it for \$10 and puts the rest into his pocket, or whether you will see that the man who does the work gets his pay. If the work only brings \$10 a month to the man who really does it, it is too clear for argument that the remainder should stay in the Treasury and then five-sixths of all it now costs will be saved to the tax-payer.

Mr. FINLEY. Will the gentleman allow me to interrupt him with a question?

Mr. COX, of Ohio. Yes, sir.

Mr. FINLEY. I understood the gentleman to say the testimony shows nothing of that kind had been done before. Does it not show that some officer in charge of the statutory room of this Capitol, who was put in charge of it many years ago, and has continued to have charge of it, has a negro boy employed to do his work there for a less sum than he himself receives?

Mr. COX, of Ohio. I spoke simply of the Doorkeeper's employés. There has been a question raised which needs to be investigated to which my colleague has just referred. But the testimony before the committee was that the person spoken of neither is now nor ever has been in the employ of the Doorkeeper, and consequently it was no part of his case. It is uncertain whether the person is in the employ of any officer of this House. The payment has been by special resolution.

Mr. YEATES. If the gentleman from Ohio will allow me to interrupt him for a moment, I wish to call his attention to the evidence of Mr. McMAHON, a member of this House, page 363. He says:

There are a good many evils about the running of the House. There are men on the rolls who do not do any work, but who have other men do their work. That is not an evil that grew up in the present House; it is inherited from the past.

That is the evidence of Mr. McMAHON.

Mr. COX, of Ohio. But I beg to call the gentleman's attention to the fact that Mr. McMAHON does not testify to that as a matter within his own knowledge. He speaks of it precisely as I have heard scores of other gentlemen speak of it, and when you come to sift it by requiring witnesses to testify to what they know, you will find that the evil we are now talking of has grown up in this Congress, or the last at farthest, and had not existed for some years before that.

Mr. YEATES. The witness, Mr. McMAHON, further says:

The Committee of Accounts have been endeavoring to eradicate these evils, and I think that before we get through we will have entire success. This resolution was communicated to the Doorkeeper.

It was communicated to the Doorkeeper by the Committee of Accounts.

Mr. COX, of Ohio. Yes, sir; I have said the Committee of Accounts of this House have most nobly done their duty in endeavoring to stand between the House and this sort of raid upon the Treasury; and I have pleasure in saying this, because I know they have had to face all kinds of importunities and to act in the face of all sorts of statements as to what the custom had been. The plea of custom has been used to them, with every other ingenious plea that could be devised. What Mr. McMAHON has said is strictly true, as shown to us from other sources; and what I want is that the House shall stand by their Committee of Accounts and shall co-operate with them in their earnest effort to correct abuses. When that is done, I am satisfied this abuse will be corrected among others. But you will never do it except by putting the ax to the root of the tree. You will not do it by letting your Doorkeeper or any other officer put on his roll twice as many as are needed in order to make patronage for himself or places for your constituents. You will not do it by calling it a trifling and insignificant thing, when it is shown that work is done here for \$10 a month for which the Treasury pays \$60. You will not do it until you insist there shall be honesty and strictness of administration among all your officers, and by making it plain that, as you wish to investigate the Departments of the Government generally, so you are prepared to investigate your own officers and punish their malfeasancess.

Mr. YEATES. If the gentleman will look to page 325 he will find the testimony of Mr. Buxton, the former Doorkeeper. Being asked whether this was ever done before, he said it was:

Mr. COX. Fix the time.

The WITNESS. It was in the Fortieth Congress, I think. There was some trouble about the employment of substitutes, and the Committee of Accounts introduced a resolution that no man should be put upon the Doorkeeper's rolls unless he had actually performed the service, and they required the Doorkeeper; that is, they required me after I came into office, to certify that every man who appeared on the rolls had performed service except during the one month's holiday.

He says this was done in the Fortieth Congress, and there was a special resolution from the Committee of Accounts that prevented his continuing the practice. And there were none such here.

Mr. COX, of Ohio. The Fortieth Congress was ten years ago. This is the Forty-fifth Congress. What I ask is, are you so determined that abuses which existed prior to the Fortieth Congress shall be revived, that you will go back over a period of ten years and say that

because it can be shown they existed then and were corrected and prohibited, your Doorkeeper shall go acquit because of the precedent thus shown?

Mr. YEATES. Not at all. But the gentleman will bear in mind this was an abuse which crept in gradually, and there never has been any action on it heretofore except what has come from the Committee of Accounts. It has not been by any investigation of this House.

Mr. COX, of Ohio. But, as Mr. Buxton testified, in the Fortieth Congress the Committee of Accounts reported a resolution that the abuse should be corrected, and it was corrected; and during the time that gentleman was Doorkeeper it was not tolerated. And now it is no defense for Mr. Polk to urge that he can go back over a period of ten years and find prior to that time a similar abuse. You are not able to show that it has existed in the interim. The argument the gentleman urges would give license to every kind of corruption you can think of. Because it was corrected then, we are bound to see that it shall stay corrected, and that he who introduces it anew shall be held to a most rigid accountability.

Mr. CLYMER. I wish to ask the gentleman whether these abuses exist now?

Mr. COX, of Ohio. Yes, sir; I venture to say that they do, from the knowledge I have been able to get of the facts, as a member of the committee. The progress of the investigation has not even begotten caution for the moment in the practices of the Doorkeeper. The tolerance of substitutes, such as I have described, exists to-day. No regular method of employing or discharging subordinates has been adopted. Every man in the Doorkeeper's employ is in uncertainty now, as before, whether he is on any permanent roll. The Government has no contract with him and he has no contract with the Government upon which he can rely.

There have been within the last month, ay, within the last week, changes made in the rolls of those employed the previous month, putting off one man and putting on another, according as the Doorkeeper saw fit to regard the one or the other as an employé of the House.

I know that one man who worked here as fireman has been put upon the disabled soldiers' roll, and is credited with pay there, when he himself was not notified of the change at all when it was made, and did not know it was done till he drew his pay the present week. In this way the whole thing has been a mere sham and a cheat, in which the Doorkeeper claims to have the whole of his roll, as he calls it, to use as he pleases, and at the end of the month employés are in doubt as to whether they will find their names upon any roll or not.

What honesty is there in this treatment by the officer of the Government of the laboring man, after he has been employed and sworn into an office, to let him find at the end of a month or two that he has no claim at all upon the Treasury and his pay is simply a question of mercy or charity between him and the House.

It should be insisted upon that from the inception of the business the refusal to make a distinction between regular and irregular employés is a fraud upon the Government and upon every man whom the Government employs. He has a right to know whether he is in the employment of the House or not. Inquire among your constituents who have come here seeking appointments, and all of them will tell you that they came believing that their employment was as thoroughly valid and reliable as appointments to clerkships in the Departments; but afterward they found out that they had no appointment at all. Somebody cheated them, and it is no answer to say they were unfortunate for place. The Doorkeeper owed it to the House and to the country to tell applicants plainly and honestly that only so many could be appointed by law, and when the number was full to say so. The plea of good-natured yielding to pressure is, in plain English, a confession of having yielded to temptation to violate the criminal law of the land.

Mr. EDEN. I would like the gentleman from Ohio to point to the page in the testimony in reference to the removal of this fireman.

Mr. COX, of Ohio. I beg pardon of the gentleman; he was not listening to me. A question was put to me by the gentleman from Pennsylvania, [Mr. CLYMER], whether these things existed to-day, and I answered that they did and instanced this case as one of them.

Mr. EDEN. Where shall I find the evidence of that in the testimony, so that I may examine it?

Mr. COX, of Ohio. The gentleman is still misapprehending me. I have been answering a question as to my personal belief whether these things have continued since the committee has been making the investigation, and since the Doorkeeper was thereby put on his good behavior.

Mr. EDEN. Then you were not speaking of anything that appears in the testimony?

Mr. COX, of Ohio. I repeat that I am answering the question of the gentleman from Pennsylvania as to what has occurred since the investigation began. If gentlemen do not want me to refer to anything that has occurred since that time, they must not ask me questions about it, but if I am asked I must answer the question candidly.

Mr. Speaker, we have no rule, no order, no adhesion to law on the part of this officer of the House in the performance of his duties. I would therefore repeat my demand upon gentlemen to answer how the Doorkeeper could escape if he were before a jury under indictment, under the statutes which I have cited, by whose provisions to make a false roll is a penitentiary offense?

Every time the roll is juggled with and a man is told that he is employed, and afterward learns that he is not employed, a false roll is made, and for every time it is done an indictment would lie, under the statute, or else your statutes are not worth a copper.

Before I sit down I want to call the attention of the House for an instant to the singular position in which the minority of the committee have placed themselves here. They tell us at the outset of their report:

The undersigned, a minority of the Committee on Reform in the Civil Service, feel constrained to differ from the majority in the report made upon the resolution offered by Hon. JOHN H. BAKER and referred to said committee on the 1st February, 1878. After long and tedious investigation and due consideration given the testimony, we find, as to the first allegation, that John W. Polk, Doorkeeper, did employ many persons in excess of the number authorized by law, who, together with others serving without employment or appointment by him, amounted to the number of sixty-three, and all of these were paid by resolution of the House adopted December 15, 1877, under the supervision of the Committee of Accounts.

Now there is a fact, a substantive fact. They then go on to say:

That this employment was notorious and public, Polk, on the 9th November, 1877, having communicated the fact to the chairman of the Committee on Appropriations.

I put it to gentlemen upon this floor what does this language mean? Why was an open and notorious violation of the law any the less an offense because of its openness and notoriety? Yet these gentlemen who are defending the Doorkeeper admit, nay, they allege with emphasis, that it was open and notorious, and was even made known to the chairman of the Committee on Appropriations.

Has this House at any time said that it would strip itself of the power to punish this open and notorious violation of law? And will gentlemen rise here and tell us that the majority of your committee have not acted in accordance with their duty, when they have said, what is admitted by the report of the minority, that this open, notorious violation of the law is the very thing that was charged in the resolution that was presented by the gentleman from Indiana, [Mr. BAKER?]

Mr. CRAVENS. I wish you would read all that sentence.

Mr. COX, of Ohio. Some gentleman on that side can read it; or, if there is anything I have not read which should be read to make my statement of the case fairer and more plain, I will read it.

Mr. CRAVENS. Does it not further state that, with the knowledge that this so-called violation of the law was notorious and public, this House appropriated money for the payment of these persons?

Mr. COX, of Ohio. Let us look at that. That is precisely the kind of argument that you will always hear in such cases as this, and which demonstrates the necessity of such action as the majority of the committee recommend. What did this House do? On the 16th of December last, the Committee of Accounts brought in a resolution to appropriate the sum of \$3,800 to pay the poor men who had been serving here and who could not get their pay. Who were these men? They were men whom your Doorkeeper told they had been regularly employed. They were men who had been sworn into your service. They were men whom he, as the agent of this House, made your employes and then refused to pay them. Either his pretended appointment of them was a fraud upon them and upon you or his refusal to pay was a fraud; one or both.

Now, when we were told that these men had not been paid, what was done? Your Committee of Accounts would not make any recommendation, but only reported to the House the fact for its action, as your RECORD will show. They stated to us that certain men had been at work under employment not authorized by law, and presented a resolution appropriating \$3,800 to pay them, if the House desired to do so; but they did not recommend the passage of the resolution. In the hurry of the last hours of the session, with no time for inquiry, unwilling to have men go unpaid who had worked, even irregularly, the House passed the resolution.

What is argued from that? Why, that the House has justified the employment of these men! Now if my knowledge of either law, decency, or justice amounts to anything, I tell you that we shall be bound to pay a great many more men for work which they have done under contracts which have been made in the name of the Government by your authorized agent.

There is the poor colored man Lyle, who served all through last summer and never had a penny paid him. He was never informed that he was not regularly on the roll until the 29th of December last. He has a claim on you. You elected a man to make contracts for the Government; he is ostensibly clothed with authority to employ these men. It would be dishonorable to every man of us here if we did not pay them and then punish the one who put them falsely on the roll, or who refused to put them on the roll when they had performed the service. Instead of this being a condoning of the offense, it shows that the United States Treasury has already been mulcted in \$3,800 in consequence of this man's illegal acts. And yet gentlemen tell us that that is a condoning of the offense!

Mr. CRAVENS. It is very remarkable that a man should serve here for eight months, knowing that the employes of this House are paid monthly, and not find out in all that time that his name was not on the roll.

Mr. COX, of Ohio. Yes, it is very remarkable.

Mr. CRAVENS. The testimony in this case shows that each and every one of the men was paid by resolution of the House.

Mr. COX, of Ohio. The gentleman is surely mistaken. The testi-

mony shows that there are still some men who are served in that way. Various pretexes have been given them to keep them quiet and at their labor.

Mr. FRANKLIN. Who put this Lyle at work; Mr. Polk or Mr. Patterson?

Mr. COX, of Ohio. Both of them are responsible for it. There have been but two democratic Congresses here lately; and both of the democratic Doorkeepers are responsible for this man being in the service here. Patterson put him in, and Polk found him in and kept him in. Polk found him here, and swore him in anew into the same position on the 3d day of November. That is what was done.

Mr. REED. Ask him some other questions. [Laughter.]

Mr. COX, of Ohio. I say, then, that the fact amounts to this: absolutely without any necessity whatever, absolutely without law, as the gentleman who has just interrupted me [Mr. CRAVENS] has himself reported, in a manner that was a public, open, and notorious violation of law, you have been forced to pay \$3,800 out of the Treasury, and will have to pay much more, unless we dishonestly repudiate obligations which we gave this Doorkeeper the opportunity to impose upon us by clothing him with authority in the matter.

There is no distinction between these men. You cannot point to any of the testimony and show that one of these men has not as good a right as another to receive his pay. If you pay anybody whose name is on the roll, or who has been employed here in this House, you must pay them all, because they were employed here by the authority of your officer, who swore them into office and told them that they were to receive such and such wages for their service. There was never any possible opportunity given to them or to anybody else to learn that there was any difference between them.

Your Doorkeeper has used simply "his own sweet will" to employ and pay whom he liked. If a man he had employed offended him in any way he simply dropped his name from the roll at the end of the month, and the man had no redress and could get no pay for the labor already done. An examination of the rolls of the House will show that they have been scratched and rescratched, so that no employe could possibly tell whether he was on the roll or not.

In one instance, as the testimony shows, the attention of Polk was called to the fact that the name of one man that he favored was not on the roll. He simply scratched the name of another man off the roll and put the name of his friend in the place, saying that some one had to be off the roll, and it might as well be that one. The one whose name was scratched off had served during the month, had been promised his pay, and the pay was not given to him. When we asked him if he was authorized to put on the soldiers' roll the names of any except those who were really disabled Union soldiers, what was his answer? He said, No; he did not claim that at all; he thought, himself, that the law requires that disabled Union soldiers should be upon that roll; but he was driven to do it by his kind-hearted inability to do the right and lawful thing and stick to it.

When he was asked if he was authorized to make payments in the manner in which he had made them, and to make up his rolls as he made them for the month of December, for instance, he said, No; I do not think that was right. But I thought I ought to pay by the day those who were employed for so much a day, and not to pay them to the last of December, when the House was not in session. But the clerk told me I could do so and that the Treasury officers said I might do it.

But when your committee called the Clerk of the House and inquired of him in regard to this statement of Mr. Polk, they were told that when the Doorkeeper of the House on his responsibility as an officer submitted a certificate with his name signed to it that these men had served in the manner in which and for the time the roll indicated, they were not authorized to go behind his certificate but were compelled to pay the men as he certified.

If anybody believes that that takes the responsibility from Mr. Polk, they are welcome to the belief. Thus the matter stands. Do not try to laugh it down. I am dealing as a friend with gentlemen on the other side of the House in giving them the case on which their action will be judged by the country.

It cannot be said that this practice has been followed because there have been no warnings given.

Mr. Polk has been warned that neither the Committee on Appropriations nor the Committee of Accounts will favor the introduction of resolutions to pay unnecessary men, men not authorized by law to be employed here. And all honor to those committees for that.

Nor is this all. The Doorkeeper tells us in his testimony that he himself drafted a bill which he got the gentleman from Tennessee [Mr. YOUNG] to introduce here and have referred, to change the roll of his employes. If you will look at that bill you will see the manner in which he has attempted to profit by it. I have here the bill itself, and find this clause in it:

For salary of forty-six messengers, at the rate of \$400 each for the short session, and \$500 each for the long session of the House of Representatives, and at the same rate for extra sessions.

Here it is proposed to employ forty-six messengers when according to the present law there should be but thirty-two on the roll. Take another item:

For salary of forty-six pages, at \$2 per day while employed.

The law now authorizes the employment of twenty-eight pages, of whom three shall be riding-pages. This is the plan prepared by the

Doorkeeper himself, and introduced here into the House for the purpose of increasing his patronage and increasing the rolls of this House unnecessarily. Yet he was bound to know from the first week of his employment that he had more men than he needed for his work.

But this is not all. Under his idea of his "corner upon Congress," (for, whether he used that term or not, he acted upon the idea,) he appointed a man to an entirely new place, one not provided for by law. That man actually drew \$160 a month, although there was no law for the place and no authority for his employment. The Doorkeeper made the place for him; he enacted the law for you, and succeeded in getting pay for the man for at least one month, until the Committee of Accounts put its foot on that matter also. Thus the thing has gone on.

And now a word or two as to the charge of lobbying and I shall have done. Your committee has reported that we do not find that during the present session of Congress the Doorkeeper has an interest in anything commonly known as a lobby scheme. He deserves the full credit for that fact, whatever it may be. But since allusion has been made to the testimony on this point, I will say that there is here an instance as significant as you need ask for, showing how this system of giving the Doorkeeper such enlarged patronage has led to the employment of men who ought not to be tolerated about the House.

The Doorkeeper admits that he was concerned in one lobbying scheme during the last Congress.

We have his statement that he employed a man to assist him at that time, in part at least because that man claimed to have influence over a member of Congress who was also a member of the Committee for the District of Columbia. Now, if there is anything which members of Congress have learned to despise, about which they have rightly been sensitive, and toward which they are unwilling to show the least leniency, it is the lobbyist who trades upon the pretense of being able to control the votes of members. If there is one thing more than another which is not to be lightly condoned, which deserves execration from every man on this floor who is conscious of honesty, it is the conduct of him who makes profit by falsely pretending to have power to control the votes of members. Yet here is a man who admits, as though it were a trivial affair, that he did employ in a lobbying scheme assistance for that purpose, the member of Congress being named—a gentleman of such repute that the moment his name was given there was no trouble in the mind of the committee as to his freedom from any such influences. But the man who employed this person, guilty of falsely pretending to be able to sell out one of this body, is your successful candidate for Doorkeeper. Further than that, in the prosecution of his canvass, we find that this identical man was his confidential agent, carrying on the correspondence from which extracts have been made, in which he was assuring Mr. Coryell, who has been referred to, Mr. Duffy, and others, that Polk would stand by them though they came from Patagonia and that your democratic members of Congress should not control the patronage to their disadvantage, because they had made themselves useful to him. This is the person who was the confidential go-between of the Doorkeeper, managing his canvass for him.

These are facts which appear in the book of evidence. The majority of this House must face them, and had much better do so here than face them before the country by and by. If gentlemen on this floor choose to say "We did right in making this selection;" if they wish to say, as has been jocularly said, "We have about as honest a man as we are likely to get as things go;" if they want to sanction such uses of official patronage, such modes of employing and discharging, paying and refusing to pay, all they need do is to vote that the resolutions offered by the majority of the committee are not such as ought to pass; and the responsibility will be of course where we must assume that they as well as we shall be glad to have it.

Mr. EDEN. Mr. Speaker, I am not sure that I understand the precise question that the House is called upon to decide in this case. I had not supposed that we were to determine in this controversy whether Mr. Polk was the very best man that could be selected as a Doorkeeper, or whether he had done precisely right in every instance since he has filled that office, or whether he had corrected all the abuses that have grown up in that department of the House for the last twenty years. I had supposed we were called upon to determine the question whether or not he had been guilty of corruption and malfeasance in office that would justify this House in giving judgment against him, to deprive him of his office, and put the brand of disgrace upon his brow. If I understand the issue aright, it is simply whether Mr. Polk has been guilty of misconduct that would justify such a judgment by this House. Hence I shall not undertake to meet gentlemen who have discussed this question with the view of determining whether in every single instance Mr. Polk has done what was precisely right. Nor will I undertake to decide whether he has corrected all the abuses which we know have existed in his department for a long time past. This House, in submitting the subject to its committee, adopted a resolution reciting—

Whereas it is alleged that John W. Polk, the Doorkeeper of the House, has employed sixty-three persons in the service of the House in excess of the number authorized by law; and

Whereas it is alleged that men have been employed by said Doorkeeper who were not borne on the roll of employés, and that others have been continued in service after they had been dismissed and dropped from said roll; and

Whereas it is alleged that said Doorkeeper has been guilty of corruption and

malfeasance in office, requiring employés under him to pay to other employés a part of the salary to which they are entitled by law, as a condition of their appointment or retention in office; and

Whereas it is alleged that he is interested in claims and bills now pending or about to be brought before the House for action.

In view of these allegations the resolution directed the Committee on Civil-Service Reform to investigate the charges and report their conclusions to the House. The committee has investigated, and has submitted its report. The testimony, which I have examined with a great deal of care, fully bears out the statement of the report that there is no evidence whatever to convict Mr. Polk of any corruption or lobbying in reference to any legislation pending before this House, or to come before it. So far from any proof being presented that he was interested in such legislation, the proof is clear, conclusive, and overwhelming that he is not so interested.

Now, Mr. Speaker, I apprehend if there had been no charge made against Mr. Polk when this resolution was adopted except that he had been employing a force in excess of the number required, the committee would never have had anything to do with the case at all, because after the House had been informed by Mr. Polk and by the Committee of Accounts that he had employed an extra force, after the House had been asked to pay that extra force nearly \$4,000, after it had passed a resolution to that effect and the money had been paid, I do not suppose the House would have been guilty of the farce of referring that question to the Committee on Civil-Service Reform to make any investigation.

Mr. HOOKER. And it was passed by a unanimous vote.

Mr. EDEN. Yes, sir; it was passed by a unanimous vote of the House, without a dissenting voice. If it be true, then, that the only real charges preferred by this House and sent to the Committee on Reform in the Civil Service have not been sustained, but on the other hand have been disproved, I ask if we would be doing our duty as Representatives of the people and doing justice to Mr. Polk by finding him guilty, discharging him from office, and putting the brand of disgrace upon his brow?

Now, Mr. Speaker, I do not propose to shield myself for my responsibility for anything I have done on this floor behind Mr. Polk. I voted for this resolution to pay for this extra force with my eyes open and I understood exactly what my act meant when I did it. I presume other gentlemen on this floor understood it as I did, and I do not intend to try and sneak out of my responsibility by throwing it on Mr. Polk, whatever may have been my own opinion as to the necessity of this excessive force.

I do not seek to justify anybody, Mr. Speaker, by a wrong precedent. I do not intend to go very far back in the history of this House and show what the precedent has been. I do not think there is any politics in this question at all. We have heard a great deal said in this House about judicial questions. If we have ever had a judicial question before the House this strikes me as being one, because the effect of our verdict is to deprive the accused of a valuable office and to brand his name with infamy and disgrace. I do not think any gentleman upon this floor, no matter what may be his political predilection or what may be his opinion as to the qualifications of Mr. Polk for this office, can afford to give a judgment in this case other than such as he would give if he were sitting on the bench and trying the man under the rules of law.

The real charges being disposed of leaves but little more to be said. The gentleman from Ohio [Mr. Cox] referred to some statute (I have not time to refer to it specially just now) under which disbursing officers are not permitted to pay out money except in pursuance of appropriation made by law. Nor did Mr. Polk violate that law. He never paid out a dollar, and could not pay out a dollar, until the House authorized him by the resolution which we passed. Neither could he create any liability on the part of this House, or on the part of the Government of the United States, to pay for a single employé that he put on service about this House in violation of law. Mr. Polk is not a disbursing officer, as I understand it. There are certain specific appropriations made for payment of services under the Doorkeeper of the House, but not a dollar can be paid to any employé of the Doorkeeper except in pursuance of law.

A MEMBER. Payments are made to all these officers by the Clerk of the House.

Mr. EDEN. These officers are paid by the Clerk of the House, and not by Mr. Polk.

Now, Mr. Speaker, I say that whatever of abuse exists in the Doorkeeper's department in this House came to Mr. Polk by inheritance, and the fault has been more the fault of Congress than of the officers of the House, because Congress held in its own hands the power to correct whatever evils were found to exist, and it has not done so. What are the facts? In the last Congress—and I shall not go back further than that as I am not seeking any political advantage at all and I do not intend to go back and quote precedents of republican Congresses—going back to the last Congress, what do we find? We find in the last session of the last Congress, a short session which lasted but ninety-two days, this House by resolution paid \$8,959.21 for extra force under the Doorkeeper. We have appropriated \$3,832 under the present Doorkeeper for extra force, and if you intend to put this question before the country as a question of economy Mr. Polk has a right to claim a balance of \$5,127.21 in his favor. I do not think it would be civil-service reform if this system prevailed when Mr. Polk came into office by which this large amount was paid at the last session of the

last Congress—I do not think it would be good civil-service reform to turn him out because he had been more economical than his predecessors.

But that is not all, Mr. Speaker. I find that on the 15th day of December last, the same day the resolution passed to pay this extra force to which I have already referred, another resolution was passed to pay nineteen more employes of the House who had been at work during the recess when there was no law whatever authorizing their employment, and the whole amount appropriated by that resolution was over \$3,000, almost as much as was appropriated to pay this extra force employed by Mr. Polk. And who do you suppose opposed the passage of that resolution? I confess, Mr. Speaker, I was a little shocked myself when that resolution came in; and I was looking out for my leader in civil-service reform and in the practice of economy because ever since my distinguished colleague from Chicago [Mr. HARRISON] made that eloquent and glowing speech of his in favor of paying one and a half millions of the people's money to the centennial exhibition, and especially ever since he made that still grander effort in behalf of the marine band, I have always followed in his footsteps on these questions of economy and civil-service reform. And when this resolution came in I looked for the white plume of my distinguished colleague to lead the way in the path of retrenchment and civil-service reform, but did not see him. Before I got over the shock I found the resolution had passed the House by the unanimous vote of every gentleman in it. [Laughter.]

Now, Mr. Speaker, that was a resolution paying the employes of this House during the vacation between the close of the Forty-fourth Congress and the commencement of the Forty-fifth, men who were on no roll, men for whom the law made no provision, and for whose appointment Mr. Polk was not responsible. Let us see what was done in the last session of the Forty-fourth Congress.

On the 3d day of March, 1877, the House by resolution authorized the payment of sixteen laborers during the session which was then just closing at the rate of \$720 per annum, deducting what they had received. (See RECORD, volume 23, page 2244.)

On the 3d March, 1877, the same day, a resolution passed to pay Thomas Dugan, messenger, for two months, at \$60 per month. (See RECORD, same volume.) On the same day, as appears from the same page of the RECORD, a resolution was passed to pay a messenger for the post-office \$300.

On the 3d March, 1877, a resolution passed to pay William Deegan \$240 for services under the Doorkeeper. (See RECORD, volume 23, page 2244.)

On the 3d March, 1877, as will be seen by reference to the same volume and page, a resolution passed to pay Henry A. Olcott \$3.60 per day from January 1, 1877, as messenger to the Clerk. On the same day, as appears from the same volume and page, a resolution passed to pay Frank S. Donnelly \$193.60 for services as messenger.

On the 3d March, 1877, a resolution passed to pay Patrick Doran, as messenger to a committee, \$3.60 per day during the session. (See RECORD, volume 23, page 2250.)

On the same day there will be found on the same page of the same volume a resolution to pay Nathaniel S. Clark as messenger under the Doorkeeper from the 1st of September to December 4, 1876, at \$3.60 per day.

This makes twenty-three messengers and laborers, all but two of whom, I believe, were under the Doorkeeper, provided for just at the close of the last session, who had been employed and had already rendered service without authority of law.

Then in the case I have already referred to the appropriation was made for nineteen more laborers at the extra session of the present Congress, making over forty extra employes of the last House provided for by resolution after the services had been rendered.

Now, Mr. Speaker, Mr. Polk came here an entirely new man at the beginning of the extra session, and however honestly and anxiously he may have desired to make the number of employes correspond with what the law requires, I say it was utterly impossible in the first month or two of his service to break up this custom in that department which he found existing when he came. But he may well have believed from the precedents that he saw before him that a larger force than the number required by law was necessary, and that following those precedents he would appoint the force he regarded to be necessary and submit the matter to the House of Representatives for them to make the appropriation, as had been done in preceding Congresses.

This resolution of investigation passed on the 31st of January, and I verily believe from the examination that I have made of this testimony—and I have examined it very thoroughly—from the moment that Mr. Polk ascertained it was not the disposition of this House to continue the employment of this extra force, he has done the very best he could under the circumstances, with his inexperience in the office and in the business of the House, to try to make his rolls conform to the law. At all events, knowing as I do that he is not responsible for these customs, I do not propose to find a verdict against him and dismiss him in disgrace from the office to which we elected him, because he failed in the first two months of his service to correct all these irregularities.

Mr. Speaker, I do not wish to be understood as saying that all this extra force was necessary. I do not wish to be understood as saying that I am in favor of the employment of extra force at all.

On the other hand, I am of the opinion that the force ought to be fixed and prescribed by law in such a way that it would be impossible for any man to be paid whose name got upon the roll, unless the law authorized the payment and the employment before the service was rendered. I do not wish, I repeat, to be understood as saying that the employment of all this extra force was necessary, but I do insist that this House was responsible for the payment of this extra force by the unanimous vote of the House, the extra force that Mr. Polk employed at the beginning of the session, and that the last Congress and preceding Congresses are responsible for the custom out of which those appointments grew, and in the opinion of Congress the employment of such extra force was necessary. Should Mr. Polk, after having seen the determination and disposition of the House to have no more of this extra force, persist in going on and employing extra force in opposition to the known will and determination of the House, then I should be ready to vote to dismiss him from office, not upon the charge of corruption, but upon the charge that he has violated the will of the House and the law of the land willfully and defiantly, and therefore is not longer fitted to serve in that or any other capacity.

Now, Mr. Speaker, we have heard a good deal said here about the employment of persons on the soldiers' roll who were not entitled to it. Upon that subject I can readily conceive that Mr. Polk would be liable to be imposed upon in making up that roll. But I have yet to see the evidence that shows that he has been guilty of willful violation of the law in reference to the soldiers' roll. I have in my hand the soldiers' roll for the month of March last. There are five men on that roll who were on the roll before Mr. Polk came into office. I notice that two or three of them are republicans. I do not complain of that, for I think there ought to be no discrimination in that regard so far as the soldiers' roll is concerned; and I will state that, so far as the action of the Illinois delegation is concerned upon that subject, the man from that State upon the soldiers' roll is a republican, retained there at the request of the democratic delegation from Illinois.

The first man upon the soldiers' roll is from the Soldiers' Home, J. H. Ensign; then comes the name of S. H. Decker, a republican, with no arms; J. D. Hutton, one-armed; J. H. Knapp, disabled and a pensioner; John Ryan, one leg; C. E. Diemar, a republican, and one-armed; D. L. Payne, who has a surgeon's certificate of disability; W. H. Prescott, seriously wounded.

William S. Dulin is the next on the roll, and was employed from the 1st to the 7th of the month, only he was on the soldiers' roll when he was not entitled to be on it, but he was put on there by the predecessor of Mr. Polk in 1877, and Mr. Polk continued him on the roll until the 7th of March, when, owing to the fact of his being disqualified, he was discharged and another man, I think his name was Davenport, was put in his place, and he was disabled by two wounds.

Mr. PUGH. I would ask the gentleman from Illinois [Mr. EDEN] if Mr. Polk was not notified on the 9th of January that Dulin was not qualified for the position, and if after that notification he did not continue him on the roll until the 7th of March last?

Mr. EDEN. If the evidence discloses that fact it has escaped my attention; but at all events Mr. Polk found him on the roll when he came into office, and continued him there until the 7th of March. When he was first notified that Dulin was not qualified for the place I do not know, but if the gentleman from New Jersey [Mr. PUGH] asserts that fact of his own knowledge, of course I accept his statement.

The next name on the list is that of William Swint, who was employed from the 1st to the 8th, and had received two wounds.

The next name is that of J. I. McConnell, who has but one leg.

The next name is that of M. J. Flannegan, to whom reference has been made, and who served ninety days up in Pennsylvania, and was put upon the roll in May, 1877. I suppose that when Mr. Polk found these persons on the roll he had a right to assume that they were qualified for the position. He could not travel all over the country, up in Pennsylvania, Connecticut, and Massachusetts, and everywhere in order to ascertain whether the men he found on that roll were qualified or not.

But on the 7th of March Flannegan was removed and Mr. Knight was put upon the roll; and I have here his affidavit showing that he served during the entire war, and became disabled; and there is no doubt that he is qualified to fill the place.

So far as Rogers, who has been referred to, is concerned, I have here a certificate from the War Department stating that this man Rogers served during the war, and was honorably discharged at its close.

Mr. COX, of Ohio. Will the gentleman from Illinois [Mr. EDEN] allow me to interrupt him?

Mr. EDEN. Certainly.

Mr. COX, of Ohio. I wish to call his attention to the fact that the Mr. Rogers to whom he refers has not served here at all, but that his pay has been drawn by his brother, by power of attorney.

Mr. EDEN. I do not desire to go outside of the testimony. I have not seen that in the testimony, and I feel bound in this case, as I would be in a court of justice, to decide on the testimony that the gentleman from Ohio [Mr. Cox] and the other gentlemen on the committee saw fit to report to the House.

Mr. COX, of Ohio. My reason for interrupting the gentleman was to state that the appointment of this soldier was not made until the

testimony had been closed. The man who served on the soldiers' roll under the name of Rogers was not a soldier at all.

Mr. EDEN. I do not dispute that; but if it was desirable to bring these facts before the House for our information and judgment I think it would have been proper to have the case reopened and the new testimony brought before the House so that we could have read it for ourselves and judged of it, to see what effect it should have. I know that my friend from Ohio is too good a lawyer, if he were sitting on the bench trying a case, to allow somebody to come in with an *ex parte* statement after the evidence had been closed and to take that *ex parte* statement into consideration in making up his judgment without any opportunity for cross-examination.

I find that Mr. Eugene Durnin, who was on the roll in March, has a certificate of discharge.

Mr. HARRISON. Have you the certificate?

Mr. EDEN. I have not the certificate in that case, though I have in another case. I am speaking upon information which I credit. Mr. Bennet, who was on the roll at that time, served, according to the information that I have, in the Mexican war, as well as the late war; and if that is so I think he ought to be qualified to serve on the soldiers' roll.

Now some complaint has been made about Mr. Holt. The truth is that he never served a single day on the soldiers' roll. He was placed there, but almost immediately afterward, or, as Holt expresses it, "before the ink was dry," Mr. Polk learned that he was not qualified to serve on that roll and discharged him. Mr. Prescott, who was placed on the roll in lieu of Mr. Holt, is amply qualified for a position on that roll, according to the testimony.

I have not time to talk further about this soldiers' roll. I repeat, I have seen no evidence to convince my mind that Mr. Polk has willfully omitted to put proper persons on the soldiers' roll or that he has willfully placed there persons not entitled to be there. There are numerous instances given in the testimony where he did put on persons who were not qualified; but, so far as I know, as soon as the facts were brought to his attention, he discharged such persons from the roll and put others in their place.

But, Mr. Speaker, there is another peculiarity about the soldiers' roll. When this investigation was set on foot, when these charges were made against Mr. Polk, there was no charge that he had violated the law in reference to the soldiers' roll. There had been no complaint brought before this House that he had been derelict in his duty in that regard. If it was intended to go into an investigation in reference to the soldiers' roll, it was no more than right and proper that the matter should have been regularly laid before the committee and that Mr. Polk should have been allowed a fair opportunity to answer any charges in reference to the matter. Mr. Polk had a right to assume that he was only called upon to answer the charges that had been made against him by the affidavits filed in this case and recited in the resolution authorizing the investigation. The other side of the House may be more sensitive upon this subject of the soldiers' roll than I am; and yet if I were satisfied that Mr. Polk had willfully and intentionally violated the law in reference to the soldiers' roll, I would upon a proper presentation of the case before the House vote to dismiss him, because I think that when these gallant men who served their country in the hour of danger have been promised by the resolution of the House and the laws of Congress that they should have fourteen of the appointments under the Doorkeeper of the House, that promise should be sacredly kept.

But I will not turn a man out of office almost as soon as he has received the appointment because he has made some mistakes or perhaps has been imposed upon in some instances in reference to whether men upon that roll were qualified or not. I repeat that I believe Mr. Polk has in good faith attempted to carry out the law on this subject. At the same time I give notice to the House and to Mr. Polk that, if he is not removed under this proceeding and if it shall appear at any future time that he is willfully violating that law, I will, upon a fair investigation of the charges and upon proper evidence, vote to turn him out. Before I take my seat I intend to offer a resolution upon this very subject and upon some other questions which I think require the action of the House.

Now this whole proceeding is taken in the interest of civil service reform. This committee, composed of gentlemen for whom I have very high regard—especially my distinguished colleague from Chicago, [Mr. HARRISON]—is constituted for the express purpose of bringing to the attention of the House remedies for all the evils found in the civil service, not only in this House, but in all departments of the Government. They have found what they deem a very serious and crying evil in reference to the employment of extra force under the Doorkeeper of this House. They find that at the time of making their report eighteen men were nominally under the Doorkeeper and belonging to his department whom Mr. Polk did not appoint and whom he notified he had no right to pay. Ten of these persons are employed right under the noses of members of Congress; I refer to the "boys" who wait upon them in the cloak-room. These eighteen persons, according to the finding of the committee, are now employed in the Doorkeeper's department without any authority of law, and only three of them, the riding pages, are there by appointment of Mr. Polk. All the others he has notified that he has no power under the law to pay them, and that they must not look to him for pay.

Yet this Committee on Civil-Service Reform, seeing these facts and

seeing these evils which have grown up about the employment of an extra force—which have existed here so long that the memory of man runneth not to the contrary—instead of bringing in a law which would correct these evils, propose as a grand victory in the interest of civil-service reform to turn out old man Polk as Doorkeeper and to put in some one else, and then to start in with these eighteen officers without warrant of law, and I suppose as soon as they got him in to turn him out again to make way for some other. And that is the way civil-service reform is to be glorified in this country. I do not know that I have any reputation on this subject any how. I have been following the leadership, as I said awhile ago, of my distinguished colleague.

But, sir, there is one thing I do know: I endeavor on all occasions when I can, as a member of this House, to prevent extravagance in the appropriation or use of the money of the Government. But when you call upon me as a judge to pronounce sentence against a man because he has not performed a miracle and himself instituted and carried out reforms which could only be instituted and carried out by this House, I beg to be excused. It is a grave and serious matter to try a man for an offense which is to deprive him of a valuable office and consign his name to infamy. I have had some little experience in courts of justice. I used to be a prosecuting attorney, but I could never equal my colleague in the zeal he has shown in this case, and I have been considered a pretty good prosecutor; but I was a great deal younger then than I am now.

When I have seen men arraigned at the bar, the jury called, and the witnesses in the stand to testify to the truth, and the jury to decide according to the law, whenever I have seen anything wrong attempted against the accused, the slightest deviation from the rules of law, I have always taken prompt measure against it. Therefore, when you call upon me, upon charges which have been disproved, to find old man Polk guilty, I beg to be excused. If the democratic party cannot live and do justice to Polk it ought to die; and if my republican friends, sitting here as judges in this case, cannot do justice to Mr. Polk they ought to resign, because there is no partisan advantage to be found in the decision of this case one way or the other.

I say to you, Mr. Speaker, with all my prejudice, if you please, against extravagance in the expenditure of the public money, favoring the strictest and closest economy, when you call upon me to violate the law and rules of evidence, to consign a man, however humble he may be, to infamy and disgrace, I beg to be excused. I will have no part or lot in it. I will not attempt to shield my responsibility, if anything has been done by this House in reference to the payment of extra force, by making John W. Polk the scape-goat.

Before I take my seat I give notice I shall move the following as a substitute for the report of the committee:

Whereas neither the majority nor the minority of the Committee on Reform in the Civil Service, to whom was referred the charges against John W. Polk, Doorkeeper of this House, have found or reported that said Polk has been guilty of any corruption in the administration of said office, but have found and reported that he has in some instances placed upon the rolls a greater number of employes than was authorized by law, trusting to the House to ratify said action and provide compensation for said employes, which was in fact done, in part, by the House before any charges were made against said officer; and

Whereas it appears from the testimony taken before said committee and reported to the House that the names of some persons who were not in fact crippled or disabled soldiers have in some instances been, by mistake or otherwise, placed upon the soldiers' roll: Now, therefore,

Resolved, That in the opinion of the House it is essential to the proper and economical administration of said office that the number of its employes and the amount of its expenditures should at all times be regulated and controlled by the laws in force when the persons are employed and the expenses incurred, and hence the conduct of said Polk in making appointments in excess of the number authorized by law, and in placing even temporarily, under any pretext, on the soldiers' roll persons not entitled to be there, is hereby disapproved and censured; and that the said officer is hereby ordered and directed to examine and revise the soldiers' roll at the earliest practicable moment, and remove therefrom the names of all persons, if any yet remain, who are not crippled or disabled soldiers; and that he shall hereafter conform strictly to the statute and rules of the House in regard to the employes on said roll.

Resolved, That the report of the Committee on Civil-Service Reform relating to the charges against the Doorkeeper of the House be recommitted to that committee, with instructions to inquire into the organization of the employes serving under the Doorkeeper, and to ascertain the number necessary in each branch of that service, and what changes, if any, are demanded to secure greater efficiency and economy in transacting the business of the House under charge of the Doorkeeper; and what further legislation, if any, is required to prevent the employment or payment of any messenger, laborer, or other employe of the Doorkeeper in excess of the number authorized by law; and whether the appointment of laborers under the Doorkeeper should not be discontinued and the duties now performed by the laborers be turned over to a superintendent or janitor, with authority to hire, at the usual and fair price for labor, such persons as may be necessary to do the work required to be done by the laborers now appointed by the Doorkeeper; with leave to report at any time by bill or otherwise.

Mr. COBB. I desire to move an amendment to the substitute of the gentleman from Illinois, [Mr. EDEN,] just read.

The SPEAKER. The gentleman from Illinois stated that he had his substitute read for information, and that at the proper time, if permitted, he would offer it as an amendment to the report.

Mr. COBB. And at the proper time I will submit an amendment, if I am permitted to do so.

Mr. EDEN. If I have any time left I yield it to the gentleman from Georgia, [Mr. COOK.]

The SPEAKER. The gentleman from Illinois has ten minutes of his time remaining.

Mr. COOK. I wish to know if the time for this debate is limited.

The SPEAKER. The time has not been limited.

Mr. COOK. Then I propose to speak in my own right.

Mr. EDEN. I do not desire in any way to limit the gentleman from Georgia. I merely desired to place at his disposal the balance of my time.

The SPEAKER. The gentleman from Illinois [Mr. HARRISON] who made the report merely gave notice that the previous question would not be asked till the debate had occupied four hours.

Mr. HARRISON. I wish to know, when the gentleman from Georgia has occupied the ten minutes yielded to him, if I will then under parliamentary rules have the right to move the previous question.

Mr. BRIGHT. I hope that will not be done. There are other gentlemen who desire to be heard besides members of the committee.

The SPEAKER. The gentleman from Illinois who makes the report has the control of it.

Mr. EDEN. We have yielded time to gentlemen on the other side until they have occupied some four or five hours.

Mr. HARRISON. At the end of the ten minutes yielded to the gentleman from Georgia I propose to move the previous question.

Mr. COOK. Mr. Speaker, if I had not been one of the minority of the committee who made the report in this case I should not consume the time of the House. On the 31st day of January last this House by resolution referred to the Committee on Civil-Service Reform the following allegations:

Whereas it is alleged that John W. Polk, the Doorkeeper of the House, has employed sixty-three persons in the service of the House in excess of the number authorized by law; and

Whereas it is alleged that men have been employed by said Doorkeeper who were not borne on the roll of employes, and that others have been continued in service after they had been dismissed and dropped from said roll; and

Whereas it is alleged that said Doorkeeper has been guilty of corruption and malfeasance in office, requiring employes under him to pay to other employes a part of the salary to which they are entitled by law as a condition of their appointment or retention in office; and

Whereas it is alleged that he is interested in claims and bills now pending or about to be brought before the House for action: Therefore,

Resolved, That the Committee on Reform in the Civil Service be, and it is hereby, directed to inquire into the several matters and things so as aforesaid alleged against said Doorkeeper, and to report at any time to this House whether said Doorkeeper is guilty of any said alleged acts. And the committee is authorized to send for persons and papers.

It is a universal rule, Mr. Speaker, prevailing in all the courts of this country and I trust of all others, that whenever a man is charged with crime it shall be specified, he shall be notified distinctly of the charges and accusations made against him; and in most States—it is so in mine—the name of the accuser has to be upon the accusation or indictment and the person accused shall be furnished with a copy of it and with a list of the names of the witnesses who are to testify against him and he shall be confronted with them. I say I believe such a rule is universal in all countries where the rights of a citizen, his property, and his character are to be protected and vindicated; and where crime is to be punished the trial shall be public and he can be tried before no criminal court in this country upon any other accusation than that which is contained in the written charge preferred against him.

Now, sir, as to these specific charges referred to this committee by this resolution, I undertake to say that not a solitary one of them has been sustained by such evidence as any twelve men selected from this House upon a sworn jury would find sufficient to induce them to return him guilty. We are required by the specific terms of this resolution to inquire into these specific charges and to say whether he is guilty or not guilty upon those charges. That is the precise and the only verdict which we have to render in this case. It matters but little to this House or to this country whether one man or another be its Doorkeeper, provided he discharges the duty of that office in good faith to his country; but when a man has been elected and put in charge of that office it does amount to a great deal to him and his posterity whether he shall be degraded and driven in disgrace from our portals upon false charges and false accusations which he never was called upon to defend himself against. This man, sir, bears a name honored in the history of our country, the name of a man who presided in your place, to whom he is closely allied by blood, and who conducted as President of this country the only foreign war ever waged by us, adding to the distinction and renown of our arms and extending our borders to the Pacific Ocean. And I undertake to say on the evidence submitted here that this man has brought no disgrace and no discredit upon that name by any act or willful violation of law, by any act for his own personal benefit, by any act of corruption. He has committed blunders and such blunders have been committed and have been condoned by every Congress that has assembled here since this Hall was opened.

Now, sir, the first accusation in this bill of indictment against Mr. Polk is that he employed sixty-three persons in the service of this House in excess of the number authorized by law. The gentleman from Illinois, the chairman of the committee, said with a great flourish yesterday that our committee had discovered this fact.

If the gentleman or others who desire to read it will turn to the evidence in this case, to the prefix to it, they will see that as far back as the 9th of November Mr. Polk reported that fact to the House.

Remember that Congress assembled on the 15th day of October and on the 9th day of November, twenty days after, Mr. Polk reported the fact that these employes had come down upon him for their pay. They were Mr. Patterson's appointees who had remained during the absence of Congress in power and place; that they claimed that they

were rightfully and lawfully entitled to it, until the 1st of December and ought not to be turned out on the 15th day of October when the extra session assembled. That fact was reported to the House, and the House passed a resolution appropriating an amount of money to pay all these men, many of whom never saw Mr. Polk, but had been retained in power because they had been inherited from Mr. Patterson's administration. The committee, therefore, did not make that discovery; they could not make it; it was an open and notorious fact and had been reported to the House.

These men wish to speculate on their chances of drawing money from the Treasury of the people.

But Mr. Polk on the 9th day of November notified the Committee on Appropriations of this excess in the number of employes and of the claims of these men, and asked what he should do. Does that show bad faith? Does that show an utter disregard and contempt for the authority of law, as the gentleman from Ohio [Mr. Cox] with all his fairness insisted on so strenuously? On the contrary, does it not show the utmost good faith on his part and that he was calling the attention of Congress to the fact?

Why, sir, he testified that some of these men he could not kick off the floor; he could not drive them away; they were standing around at every threshold and in every corridor. No matter where you turned you were met by these men, who claimed that they were rightfully in office and were entitled to their pay. I say, therefore, that if that was wrong it was done before the Committee on Reform in the Civil Service had this matter committed to it; that the House had full notice of it and the committee discovered no such fact; it was discovered by Mr. Polk himself a month before the committee ever undertook to investigate the matter.

Now, sir, as to the other charge:

Whereas it is alleged that men have been employed by said Doorkeeper who were not borne on the roll of employes, and that others have been continued in service after they had been dismissed and dropped from said roll.

Now, Mr. Speaker, and I ask the attention of the gentleman from Ohio [Mr. Cox] to it, the evidence of every witness who was cognizant of the fact, Mr. McMAHON and the Clerk of the House swore to the fact that there was no law that required any roll to be made out until the end of the month, and that no roll has for years and years ever been made out of the employes of the House until the end of the month. The gentleman doubtless recollects that that was the testimony.

Mr. McMAHON, when before the committee, said:

We wanted this rule for various reasons, among others for the protection of the employes. The roll has been made up for years at the end of the month. If there is a roll in existence prior to the end of the month it is a secret affair in the desk of the Doorkeeper's office; it is not known to the law or to any outsider, so that you never can tell until the end of the month who is actually on it. We considered that that gave too much power to the officer.

The committee of which that gentleman is a member, offered a resolution, and it was referred to the Committee on Rules, requiring that every officer of the House should make out a roll of his employes on the 1st of the month and put the name of every employe upon it, and that proposed rule is before the committee yet. The Doorkeeper, therefore, has violated no law, because there is no law requiring that he should make out a roll at the end of the month. He had a right to dismiss any page, messenger, or laborer at any time during the month that he thought proper, without consulting anybody. He has the absolute power of appointment and dismissal. He could dismiss a man on the 10th day of the month and put a man in his place, who would draw pay from that date to the end of the month.

How, then, can it be said that he violated a law when there was no such law in existence, except in the opinion of the committee or of some gentleman on it, that it ought to be the law. And in that opinion I concur, but that never has been the law; it has never been the practice. So much for that accusation.

The gentleman from Illinois [Mr. HARRISON] made the statement, as did the gentleman from Ohio, which I was surprised to hear from him, though not from the gentleman from Illinois, because he does not know what fairness is; he has no knowledge of it; he has no more knowledge of it than he has of the precise location of the North Pole, and if it was suggested to the committee, I have no doubt he would start out in search of it in the interest of civil-service reform. [Laughter.] Another statement was in reference to the number of pages on the roll. I desire to say this, and I ask the gentlemen on the other side of the House to hear it: that while it is true that the Doorkeeper had upon his roll fifty-six names as testified to, he swore, and the Clerk of the House swore, and the man who pays the employes of the House swore, that but twenty-eight pages were paid for the month of December, the number which he was allowed by law, and that only the amount allowed them by law was paid them. And yet the press of the country have complained of the matter, and gentlemen upon this floor have come to me to-day and asked how it was possible to defend Mr. Polk from that charge when he had fifty-six names on his pages' roll. Yet the testimony is clear, as will be seen upon examination, that there were but twenty-eight pages paid for the month of December. Remember that on the 15th day of December Congress took a recess. Mr. Polk then had twenty-eight pages on his roll. He then notified them that they were no longer needed, and they were dismissed. He says that upon a conversation with the Clerk of the House, and with the approval of the Auditor

of the Treasury, who said that it had been the universal practice of the Government, and that the House was entitled to have twenty-eight pages during the recess, he put on the names of twenty-eight whom he expected to retain as permanent pages; and they were paid from the 16th to the 31st of December. That accounts for the fifty-six names that appear for the month of December. Mr. Polk had a right to discharge these pages on the 15th of December, and he did so.

I say that as the law required him to keep no roll he had a right to put on a man and to take him off when he pleased; and that he made up his roll according to the practice of every Doorkeeper of the House for years before him.

Mr. PUGH. Is it not a fact that he had fifty-six pages on the floor of the House at the same time?

Mr. COOK. No, that is not the fact. Mr. Polk said that members would come to him and get permits for boys to come on to the floor; that the sons of members would come up here and slip in on the floor by the doorkeepers and they could not prevent it; and being upon the floor, then members would call them up and send them out for documents and for other things as though they were pages. I have myself called upon a dozen little chaps here that I supposed were pages, and afterward found out that they were sons of members or of gentlemen who were visiting here. The Doorkeeper could not keep them out, they were brought in here by their fathers as they are brought in here to-day. Mr. Polk is not responsible for it, nor should he be censured for it.

The next charge against Mr. Polk is that he has been guilty of corruption and malfeasance in office. And the specification is that he has required employes under him to pay to other employes a part of the salary to which they are entitled by law, as a condition of their appointment or retention in office.

Now, I say that every witness that we examined upon that subject swore that that was an absolute falsehood. Take this New England delegation, the three men who were appointed from New England. Every one of them swears that when they pooled their salaries it was done without Mr. Polk's knowledge, consent, or suggestion. Prescott, Holt, and the other man swore unqualifiedly that Polk had no knowledge of it, that it was an agreement between themselves. They all testified that they never spoke to Polk about it until afterward. They say that the agreement was written at their suggestion by one of the members of this House, reciting that fact, about which Polk had no more to do than the man in the moon. That charge is absolutely false and unsustained by any evidence. Two other men, Mr. Payne and Mr. Bacon, pooled their salaries.

Mr. PUGH. I would like to call the attention of the gentleman to some testimony on page 47 of this testimony.

Mr. COOK. What is it?

Mr. PUGH. The question is there asked of Mr. Holt, "Did you ever speak to him (that is, to Colonel Polk) on the subject?" The answer is:

Not at all. I might remark here that my member suggested the arrangement to Colonel Polk, and it was agreeable to Colonel Polk that we would enter into it and arrange the places as we chose.

That is not only the testimony in this instance, but there is testimony in other places that Colonel Polk did know of this pooling arrangement.

Mr. COOK. That is after the agreement had been made between the parties; Polk had nothing to do with making the arrangement. When a man draws his salary, if he chooses to give it to me or to anybody else, what has Polk to do with it? He has nothing to do with the salary after it has been drawn. What authority has he to say whether a man shall pool his salary with another man or give it to his family as he ought to do? Nothing. The men did it because they had the right to do it. They felt that it was justice among themselves and to their delegation, and they agreed to do it. Polk had no knowledge of the agreement until after it was made. Then one of them asked Polk if he had any objection to it, and he told him that he had nothing to do with it. What control had he over a man's salary after he had drawn it? That is my reply to the gentleman.

Now what is the truth about Payne and Bacon? It seems that Mr. Polk had promised a worthless fellow a position here, and that is the only complaint I have against him.

He agreed to give this man Duffy some place that would be worth \$1,600 or \$1,800. In consequence of his annoyance and the pressure brought to bear upon him by persons for places, he found it necessary, in order to accommodate some of his friends, to give this eighteen-hundred-dollar place to some other man, as he swears. To keep from being annoyed by Duffy, what did he do? You will find if you will read the testimony that Duffy tracked him like a dog, hour by hour, day by day, in the hotels and on the highway, in his office and at his residence; wherever he went Duffy was forever pegging away at him for office and place. In order to shake him off Polk said to Duffy, "I cannot give you the place I promised to you, but I will give you another place, and I will pay you the difference out of my own pocket between the salary that that place will give you and the salary I was to give you." Had not Polk the right to do with his own money what he pleased? That is the fact about Mr. Duffy. He said, "Get that place and I will see that you get the difference—\$200; I will pay it;" and when Bacon and Payne found that Mr. Polk was going to pay this money they came up like men, and Mr. Bacon said, "Mr. Polk, we won't expect you to pay this \$200; we will pay it ourselves."

They paid him, I believe, one month, and Polk took the money and gave it to Duffy. But after that he went and told these men, "This is all wrong; don't pay Duffy another dollar." This is what they swear to; and the money was returned long before the resolution for this investigation was introduced.

He has proved himself utterly unworthy of credit. Why, sir, he was taken from the seat of a member on this floor in a drunken stupor and carried out of the Hall by the employes of the House. For that offense he was most properly and righteously dismissed from the service of the House, and Mr. Polk is censurable for suffering himself to be imposed upon by so trifling a man as Duffy.

When this House had Hallet Kilbourn in confinement Duffy, then an employe of this House, was put in charge of him, was his custodian, required under the obligations of his office to keep him in prison every night. What did he do? He swears himself that he took Kilbourn out at night to visit his family.

Now, Mr. Speaker, this whole proceeding was predicated upon the affidavit of Mr. Ingham Coryell. Now, any gentleman who examines the affidavit furnished by Coryell to the gentleman from Indiana [Mr. BAKER] as the foundation for this investigation, and then reads the testimony of Coryell before the committee, can arrive at no other conclusion than that Coryell swore to a lie from beginning to end. If gentlemen will take the trouble to follow me I will convince them of that. If the candidate from Chicago for this succeeds, I suppose that Coryell will be one of his aids. Here are the charges that Coryell swore to:

I charge John W. Polk, the present Doorkeeper of the House of Representatives, with being cognizant of and interested in bills now before or to be introduced in the present Congress.

In proof, I was offered by J. W. Polk, in consideration of my sending him my resignation as clerk, an interest in the several bills as aforesaid, by which, as he said, I could make more money than I could by the position and salary of clerk. This offer was made me in person by the said Polk, at his residence, on the evening of December 31, 1877.

The majority of the committee find no such fact to be true.

I further charge John W. Polk with having a large amount of money due him for lobby service from parties who had the contracts for paving Pennsylvania avenue during the past year, and that the payment of this money is now dependent on future appropriations by Congress, which makes him interested in aiding such further legislation and appropriations by the present Congress, of which he is Doorkeeper.

In proof of this charge I name H. A. Silver, of Mexico, Missouri, (who is interested with Mr. Polk in the matter,) Mat Taylor, of the city of New York, and General Averill, of this city, as witnesses.

INGHAM CORYELL.

I also charge that H. A. Silver, above named, told me that Mr. Polk, in consideration of Polk disappointing him in giving him (Silver) a position under him, made him (Silver) substantially the same offer he (Polk) made me, and refer to said Silver as a witness in proof.

INGHAM CORYELL.

JANUARY 28, 1878.

Sworn to and subscribed before me this 29th day of January, 1878.

ZACH. B. BROOKE,
Justice of the Peace.

Now, when Coryell was brought before the committee he does not sustain a single allegation thus made. He virtually shows that every statement in his affidavit is absolutely untrue.

Mr. HARRISON. In justice to Mr. Coryell, I will ask whether Mr. Silver does not confess that he led Coryell to believe these charges true?

Mr. COOK. Well, I believe he did. He said Coryell went down to draw his molasses, and he drew Coryell's molasses.

Mr. HARRISON. That is, he led Coryell to believe all these things that Mr. Coryell swore to in the affidavit.

Mr. COOK. Mr. Coryell does not swear upon information and belief; he swears positively.

Mr. HARRISON. But he says he will prove it by this man Silver.

Mr. COOK. But he does not do it. Silver swears that Mr. Polk was never interested to the extent of one cent in any measure before Congress.

But who is Coryell, to begin with? He was the clerk of Mr. Patterson, the former Doorkeeper, and to secure his place under Mr. Polk, when he thought his chances of an election were best, he goes to Polk's friends and tells them, "I am the private secretary of Mr. Patterson; I know his plans, his schemes, and his hopes; I know how he expects to be elected, and if Mr. Polk will help me I will put him or his friends in possession of every fact in regard to Colonel Patterson's movements." This he did. From day to day he kept Mr. Polk's friends posted as to every move, every step that Patterson was making to secure a re-election. This is a nice man to come to your committee and ask any decent man to believe him upon his oath!

Mr. WILLIS, of New York. Will the gentleman yield for a motion to adjourn?

Mr. COOK. Yes, sir; I yield for that purpose only.

Mr. WILLIS, of New York. I move that the House now adjourn.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. CALDWELL, of Tennessee, and Mr. FREEMAN, for ten days, on account of their duties as a subcommittee of the Committee on the Post-Office and Post-Roads.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, an-

nounced that that body insisted on its amendment to an act (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making appropriations for detecting trespass on public lands, and for bringing into market public lands in certain States, and for other purposes, and asked for a conference on the disagreeing votes of the two Houses, and had appointed Mr. WINDOM, Mr. DORSEY, and Mr. BECK as managers of said conference on its part.

It further announced the passage of the following bills without amendments:

An act (H. R. No. 1254) for the relief of John H. Darling; and
An act (H. R. No. 596) to amend section 540, chapter 1, title 13, of the Revised Statutes of the United States.

It further announced the passage of the following bills; in which concurrence was requested:

An act (S. No. 954) for the relief of Thomas A. Walker;
An act (S. No. 997) for the relief of William L. Adams; and
An act (S. No. 1012) authorizing the commissioners of the District of Columbia to abate a certain tax erroneously assessed.

It further announced concurrence in the resolution of the House to print 5,000 copies of the report of the United States entomological commission.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. ELLSWORTH, indefinitely, on account of important business;
To Mr. RAINEY, for three days, on account of illness in his family;
To Mr. EVANS, of Pennsylvania, for two days; and
To Mr. HUMPHREYS, indefinitely, on account of illness in his family.

ENROLLED BILLS.

Mr. ELAM, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 596) to amend section 540, chapter 1, title 13, Revised Statutes of the United States; and
An act (H. R. No. 1254) for the relief of John H. Darling.

ABOLITION OF THE FOURTH AND FIFTH AUDITORS' OFFICES.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, relative to the proposed abolition of the offices of the Fourth and Fifth Auditors; which was referred to the Committee on Appropriations.

POWELL'S REPORT ON ARID LANDS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting report of Major J. W. Powell, geologist in charge of the United States geographical and geological survey of the Rocky Mountain region, on the lands of the arid regions of the United States; which was referred to the Committee on Appropriations, and ordered to be printed.

HOT SPRINGS COMMISSION.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, announcing the time prescribed by the act authorizing the appointment of the Hot Springs commissioners has expired and urging Congress to take action to extend the time; which was referred to the Committee on Public Lands.

HOG CHOLERA.

Mr. SAMPSON. I ask unanimous consent to submit the following resolution for action at this time:

Resolved, That 10,000 copies of Senate Executive Document No. 35, second session, Forty-fifth Congress, being the report of the Commissioner of Agriculture on the subject of hog cholera, be printed for the use of the House.

The SPEAKER. This must under the law be referred to the Committee on Printing. The gentleman will lose nothing by its reference, as the Committee on Printing has the right to report at any time.

Mr. SAMPSON. It will not cost \$500.

Mr. CLARK, of Missouri. I demand the regular order of business.

Mr. SINGLETON. This resolution has not been heard by the House, and I hope it will be referred.

By unanimous consent the resolution was received, and referred to the Committee on Printing.

WILLIAM A. AND ADELICIA CHEATHAM.

Mr. HOUSE, by unanimous consent, introduced a bill (H. R. No. 4237) for the relief of William A. and Adelia Cheatham, for property taken and used in the construction of Federal defenses at Nashville, Tennessee; which was referred to the Committee on War Claims, and ordered to be printed.

And then, on motion of Mr. WILLIS, of New York, (at four o'clock and forty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: Resolutions of the Boards of Trade of Buffalo and Oswego, New York, against the transfer of the life-saving service to the Navy Department—to the Committee on Commerce.

By Mr. BAYNE: Memorial and resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, favoring the protection of American labor, commerce, ships, and manufactures—to the Committee of Ways and Means.

By Mr. BICKNELL: Memorial of Argus Dean, of Clark County, Indiana, relating to the improvement of the Mississippi River—to the Committee on Levees and Improvements in the Mississippi River.

By Mr. BRAGG: Memorial of the Wisconsin State Grange, against any reduction of the tariff on wool—to the Committee of Ways and Means.

By Mr. CALKINS: The petition of William Crawford and W. G. Wheelock, crockery dealers, against the proposed tariff on earthenware—to the same committee.

By Mr. CANDLER: The petitions of John D. George, Robert J. Mitchell, H. C. Home, J. J. Hunt, and 275 other citizens of Griffin; of Robert A. Alston, J. N. Wilson, John B. Wommack, and 135 other citizens of De Kalb County; of Campbell Wallace, A. Austell, P. Brown, V. R. Tomme, Lucius Gartrell, A. C. & B. F. Wyly, Garrett & Bro., Dunn, Ogletree & Co., Benjamin E. Crane, R. F. Maddox, E. P. Howell, Frank P. Rice, and 1,400 other citizens of Atlanta; and of R. C. Harris, J. G. Phinazee, D. G. Proctor, Jefferson Hogan, B. H. Napier, and 400 other citizens of Forsyth, Georgia, that Government aid be extended the Texas Pacific Railroad—to the Committee on the Pacific Railroad.

By Mr. DAVIS, of North Carolina: The petition of 96 citizens of North Carolina, for the creation of a fund from the sales of public lands for distribution among the States in aid of popular education—to the Committee on Education and Labor.

By Mr. ERRETT: Resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, opposing the passage of section 21 of the new tariff bill—to the Committee of Ways and Means.

By Mr. EWING: The petition of Samuel Barr and others, against the reduction of the duties on imports—to the same committee.

By Mr. GIDDINGS: The petition of citizens of Galveston and Harris Counties, Texas, for an appropriation to remove the bar at the mouth of Cedar Bayou, Galveston Bay, Texas—to the Committee on Commerce.

By Mr. HASKELL: The petition of citizens of Kansas, for the improvement of the Osage River—to the same committee.

By Mr. HISCOCK: The petition of citizens of Oswego, New York, and of Keokuk, Iowa, for the repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. HUBBELL: The petition of Henry T. Alcott, Charles T. Sprague, and 75 other citizens of Antrim County, Michigan, for an appropriation to build a ship-canal from Torch Lake, Michigan, to Lake Michigan—to the Committee on Commerce.

Also, the petition of 100 citizens of Moran township, Mackinac County, Michigan, against the passage of the bill to regulate fisheries—to the same committee.

By Mr. HUMPHREY: Memorial of the State grange of Wisconsin, for the protection of the wool-growers of the country—to the Committee of Ways and Means.

By Mr. KELLEY: The petition of Mrs. Margaret Snowden, Miss Margaret L. Buckley, Frank Shoop, and other citizens of Freeport, Pennsylvania, for an amendment to the Constitution prohibiting the several States from disfranchising United States citizens on account of sex—to the Committee on the Judiciary.

By Mr. LYNDE: The petition of 75 citizens and members of the Board of Trade of Milwaukee, Wisconsin, for the appointment of a joint committee to investigate the working of the interstate railroad system of the United States—to the Committee on Commerce.

By Mr. MANNING: The petition of S. P. Pool, for compensation for property taken for the use of the United States Army—to the Committee on War Claims.

By Mr. METCALFE: The petition of Thomas R. Cross, of Missouri, for a pension—to the Committee on Invalid Pensions.

By Mr. O'NEILL: The petition of Samuel B. Hutchinson, guardian, for the restoration of a pension for the benefit of Mary A. Shurlock, his ward—to the same committee.

Also, the petition of Frederick Heidelberg, for an increase of pension—to the same committee.

Also, the petition of Samuel L. Webster, S. A. Goodwin, Ellie Kelton, and other citizens of Jennersville, Pennsylvania, for an amendment to the Constitution prohibiting the several States from disfranchising United States citizens on account of sex—to the Committee on the Judiciary.

By Mr. PHELPS: The petition of Davis Hatch, of Norwalk, Connecticut, for an investigation of certain transactions between the United States Government and the Republic of Dominica, and for indemnity and compensation for personal injuries and loss of property—to the Committee on Foreign Affairs.

By Mr. RICE, of Ohio: Papers relating to the petition of John C. Douglass—to the Committee on Military Affairs.

Also, papers relating to the bill for the relief of John Hipp—to the Committee on the Post-Office and Post-Roads.

By Mr. SWANN: The petition of G. E. Langston, Henry S. Taylor, George T. Rosenteel, jr., and 42 others, against reviving the income tax—to the Committee of Ways and Means.

By Mr. TOWNSHEND, of Illinois: Petitions of citizens of Effingham County, Illinois, for the passage of the bill repealing certain

sections of the Revised Statutes in relation to the removal of causes from State to United States courts—to the Committee on the Judiciary.

By Mr. VANCE: The petition of Jearum Atkins, for relief—to the Committee on Education and Labor.

Also, the petition of W. H. Hartgrove, W. W. Stringfield, and 64 others, of Haywood County, North Carolina, for the abolition of the Western North Carolina judicial district—to the Committee on the Judiciary.

By Mr. WILLIAMS, of Wisconsin: Memorial of the Wisconsin State Grange, against any reduction of the duty on wool, and for specific instead of ad valorem duties—to the Committee of Ways and Means.

By Mr. YOUNG: The petition of Mary Beasley, (by James E. Beasley,) of Memphis, Tennessee, for the refunding of the amount for which her land sold for direct taxes in excess of tax and expense of sale—to the Committee on War Claims.

Also, the petition of Meshack Franklin, administrator, &c., for compensation for quartermaster stores taken by the United States Army—to the same committee.

IN SENATE.

THURSDAY, April 4, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.
The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in answer to a resolution of the 25th ultimo, a copy of the report of a board of engineers on the preservation of the water front at Vicksburgh, Mississippi; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a copy of letters and telegrams from Colonel B. H. Grierson, Tenth Cavalry, objecting to the reinstatement of officers dismissed from the Tenth Cavalry, &c.; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of War, transmitting the petition of certain officers of the Fifth Infantry, praying reimbursement for losses sustained by the sinking of the Government steamer Don Cameron; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of War, transmitting a letter of the Chief of Engineers and a copy of a report from Captain Charles B. Phillips, Corps of Engineers, upon the improvement of the Cape Fear Harbor, in North Carolina; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Navy, transmitting, in answer to a resolution of the 1st instant, a report showing the number of vacancies in the naval establishment above the grade of captain, &c.; which was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. MATTHEWS. I present the memorial of John G. Campbell and a large number of others, citizens of Prescott, Arizona, in reference to certain legislation in that Territory in aid of the Southern Pacific Railroad, in regard to which there is pending in the Senate a joint resolution disapproving of the same, and in favor of the passage of that measure. As the measure is before the Senate, I suppose the proper course is for the memorial to lie upon the table. I make that motion.

The motion was agreed to.

Mr. HILL. I present the petition (by request) of Thomas M. Bradford, Cornelius D. Harper, Thomas J. Hughes, and others, citizens of Clarksville, Habersham County, Georgia, praying for an amendment to the Constitution of the United States prohibiting these several States from disfranchising United States citizens on account of sex. This petition is signed by gentlemen, and it does not appear that any women want the privilege. I move its reference to the Committee on Privileges and Elections.

The motion was agreed to.

Mr. MORGAN presented the petition of Hon. N. H. Brown and others, citizens of Tuscaloosa, Alabama, praying for a grant of land to aid in the construction of the Warrior and Tennessee River Railway; which was referred to the Committee on Railroads.

Mr. WHYTE presented the memorial of William Woodward, William W. Taylor, and others, citizens of Baltimore, Maryland, remonstrating against the passage of any act imposing a tax on incomes; which was referred to the Committee on Finance.

He also presented the memorial of George B. Coale, president of the Merchants' Mutual Insurance Company; George J. Appold, president of the Boston and Baltimore Steamship Company; A. Schumaker & Co., C. Morton Stewart & Co., E. G. Merolla & Co., agents of the Transatlantic Steamship Company; and a large number of the leading merchants of Baltimore, Maryland, in favor of the passage of the bill proposing to transfer the life-saving service from the Treasury

Department to the Navy Department; which was ordered to lie on the table.

Mr. CONKLING presented the petition of George Hill and others, citizens of Steuben County, New York, praying for the passage of an act for the equalization of bounties; which was referred to the Committee on Military Affairs.

Mr. CAMERON, of Wisconsin, presented a memorial of the Wisconsin State Grange, remonstrating against any reduction of the duties on imported wools; which was referred to the Committee on Finance.

Mr. COCKRELL presented additional papers relating to the case of Dr. Edward Evers, late United States Navy, praying the passage of an act authorizing his reappointment as an assistant surgeon in the Navy; which were referred to the Committee on Naval Affairs.

Mr. SARGENT. I present a memorial of the Chamber of Commerce of San Francisco. This memorial recites that—

Whereas silver certificates issued by every subtreasury of the United States are redeemable in the city of New York, except those of the subtreasury of this city, [San Francisco:] and whereas this interferes with their free use and circulation throughout the United States, a privilege enjoyed by the certificates issued by all the other subtreasuries, and great injury is thereby done to the interests of this coast by this discrimination against us;

They therefore resolve—

That our delegation in Congress is hereby requested to use its influence to have this evil removed and to secure to us the same advantages which are granted under the law to the citizens of every other section of the country.

I wish to say briefly that I do not think silver certificates should be redeemed at any subtreasury except the one that issues them; otherwise the Government is put to the enormous cost of transporting a very heavy metal backward and forward. To allow certificates issued in the city of San Francisco to be redeemed in New York and those issued in New York to be redeemed in San Francisco would require the transportation across the continent of a great bulk of metal without any advantage or compensation to the Government, and it would soon wear away in effect the whole value of that metal in the hands of the Government by the way of expenses of transportation; and the same is true if they are issued at Buffalo or Cincinnati or any other place where there is a subtreasury and redeemed in New York. That is an objection to the silver-certificate system, and it will be intensified and enhanced provided the certificates are issued for silver bullion; but if the eastern cities are to have this advantage, then I join with the petitioners in claiming that the same privileges be extended to the city of San Francisco.

I move that the memorial be referred to the Committee on Finance.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. MORGAN, from the Committee on Patents, to whom was referred the bill (S. No. 475) authorizing the Commissioner of Patents to extend the patent of Horace A. Stone, for improvement in the manufacture of cheese, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 72) for the relief of the heirs of William A. Graham, reported it with amendments, and submitted a report thereon, which was ordered to be printed.

Mr. MORGAN. I am also instructed by the same committee, to whom was referred the bill (S. No. 231) for the relief of Herman E. Davidson, and the heirs of Charles H. Davidson, to report it adversely with a written report, and to ask that it be indefinitely postponed. Inasmuch as the Senator who introduced the bill [Mr. HOAR] is absent I move that it be placed on the Calendar with the adverse report of the committee.

The motion was agreed to.

Mr. SPENCER, from the Committee on Commerce, to whom was referred the bill (S. No. 134) making further appropriations for continuing the improvements of Galveston Harbor, and for continuing the work in Galveston Bay, State of Texas, reported it with amendments, and submitted a report thereon, which was ordered to be printed.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the petition of Jesse Turner and others, praying the passage of a law relieving them from liability as sureties on the bond of George W. Clarke, former agent of the Pottawattomie Indians, submitted a report thereon accompanied by a bill (S. No. 1038) for the relief of Jesse Turner and others, sureties upon the official bond of George W. Clarke, formerly Indian agent.

The bill was read twice by its title, and the report was ordered to be printed.

REPORT ON FORESTRY.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a House concurrent resolution to print the report of the Commissioner of Agriculture on the subject of forestry, reported it without amendment, and it was considered by unanimous consent and concurred in, as follows:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed 25,000 copies of the report upon forestry, transmitted by the President to Congress from the Commissioner of Agriculture on the 13th day of December last; 15,000 copies thereof for the use of the House of Representatives, 7,500 for the use of the Senate, and 2,500 copies for the Commissioner of Agriculture: *Provided, however,* That the total number of pages of said report shall not exceed six hundred and fifty.

BILLS INTRODUCED.

Mr. **WHYTE** asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1039) for the relief of Jacob Brandt, jr; which was read twice by its title, and referred to the Committee on Claims.

Mr. **CONKLING** (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1040) granting a pension to Richard Middleton; which was read twice by its title, and referred to the Committee on Pensions.

Mr. **GROVER** asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1041) to provide for the protection of attorneys doing business before the Patent Office and the other bureaus and Departments of the Government; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. **COKE** asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1042) to remove the political disabilities of R. T. Chapman, of Texas; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. **CHRISTIANCY** asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 23) providing for the distribution and sale of the new edition of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on Printing.

Mr. **BAILEY** asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1043) for the relief of William A. and Adelicia Cheatham; which was read twice by its title, and referred to the Committee on Claims.

Mr. **WHYTE**. I desire to introduce without previous leave, and ask unanimous consent to do so, a bill conforming to the suggestions of the War Department in relation to a dry-dock at Baltimore City.

By unanimous consent, leave was granted to introduce a bill (S. No. 1044) granting a site for a dry-dock in the city of Baltimore, upon certain conditions; which was read twice by its title, and referred to the Committee on Commerce.

PAPERS WITHDRAWN.

On motion of Mr. **McMILLAN**, it was

Ordered, That the papers relating to the claim of Elisha Boss, which was referred to the Committee on Claims, and whereon an adverse report was made, be withdrawn by the attorney in said case.

PRINTING OF TESTIMONY.

On motion of Mr. **CHAFFEE**, it was

Ordered, That the Committee on Territories be authorized to have the testimony printed in the investigation now pending in regard to matters in the Indian Territory.

TENTH CENSUS.

Mr. **MORRILL**. I offer the following resolution:

Resolved, That a select committee of seven Senators be appointed to take into consideration the propriety of making some provision for taking the tenth census, and report by bill or otherwise.

I merely desire to say that this is an important subject of legislation, and should be attended to at the present session. At the next session, which will be a very short one, there will not be time to properly consider a measure of this importance. I think it is none too early to take into consideration the propriety at least of this legislation, and, if the committee see fit, to report a proper bill.

The resolution was considered, by unanimous consent, and agreed to.

JAMES FISHBACK.

Mr. **HARRIS**. I move that the Senate proceed to the consideration of the bill (H. R. No. 2096) for the relief of James Fishback, late collector of internal revenue, tenth district, State of Illinois.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Treasury to pay to James Fishback, late collector of internal revenue of the tenth district of the State of Illinois, \$521.35; being the amount paid by him for services of a clerk in his office as collector for the period from July 1, 1873, to December 20, 1873, inclusive, and for which he has not been reimbursed.

Mr. **EDMUNDS**. Let us hear the report, Mr. President.

The **VICE-PRESIDENT**. The report will be read.

The Chief Clerk read the following report, submitted by Mr. **HARRIS** March 20:

The Committee on Claims, to whom was referred the bill (H. R. No. 2096) for the relief of James Fishback, report as follows:

Having carefully examined the evidence in the case, we adopt the report of the House Committee of Claims, as follows:

"That said James Fishback was collector of internal revenue from the 23d day of May, 1873, to the 16th day of August, 1876; that said collector employed in his office, as a clerk, George W. Balsley, from the 1st day of July, 1873, to the 20th day of December, 1873, and paid him for his services as such clerk for the time mentioned the sum of \$521.35; that said clerk was actually necessary to enable the said collector properly and faithfully to discharge the duties of his office, and was continuously and constantly employed in said office during the period named in making the reports required, keeping the records of said office, and performing other work clerical in character; and that during all the time stated said collector gave his constant personal attention to the duties of his office, and was occupied in the discharge of his official duties and in the supervision of his office.

"The committee further report that said collector had a large district, embracing ten large counties; that when said collector entered upon the duties of his said office on the 23d day of May, 1873, he found said clerk in the collector's office; that he was allowed pay for said clerk up to the 1st day of July, 1873; that after that time he continued said clerk, and did not know he was not to be allowed a clerk until the month of September, 1873; that then said collector instituted a correspondence with the Internal Revenue Office, with the view of satisfying the

Commissioner of the actual necessity of such clerk in his office, but, not succeeding, he finally discharged said clerk December 20, 1873.

"Inasmuch as it clearly appears that such services were actually rendered by said George W. Balsley, and were for the benefit of the Government, and that said clerk was absolutely necessary to a proper and faithful discharge of the duties of said office, and as the compensation of the collector was not large for the labor and responsibility of his office, being only \$2,500, out of which he had to pay all his traveling and other expenses, the committee believe said collector should be reimbursed the amount paid by him to said clerk.

"A letter from the Commissioner of Internal Revenue to the committee states that vouchers were filed with the accounts of said collector for the services of said clerk, and that the collector has not been reimbursed the amount paid for the same; that by the act of Congress of February 8, 1875, the Department is now debarred from making an allowance to cover this expenditure, more than a year having elapsed since the services were rendered; and the Commissioner recommends the passage of the bill.

"From the statement of said collector it further appears that, after his correspondence with the Internal Revenue Office, prior to the discharge of said clerk, December 20, 1873, the Commissioner of Internal Revenue became satisfied that a clerk was necessary, and allowed said collector to, and he did, re-employ the said Balsley as a clerk in his said office, and retained him while he held the office.

"The committee therefore report back the bill, and recommend its passage."

Mr. **MORRILL**. I desire to inquire of the Senator from Tennessee how much the compensation of this collector was during that time?

Mr. **HARRIS**. His salary was \$2,500 a year.

Mr. **MORRILL**. Then I merely wish to say that if this case shall be opened to further remuneration of the collector, I suppose there are thousands all over the country who have employed clerks and paid for them out of their own funds. It seems to me it would be setting a precedent that would perhaps plague us hereafter with a great many similar cases. There is a fixed and certain sum by law as the compensation of all these collectors throughout the whole country; and now if we are to treat one with this additional favor four or five years after the time, I am very sure that it would open a large batch of these accounts to be considered by Congress. Notwithstanding the recommendation of the Commissioner of Internal Revenue, I should feel very reluctant to open the door to a class of claims of this character.

Mr. **HARRIS**. While I quite concur in the general rule announced by the Senator from Vermont the case now under consideration does not fall within the rule that he suggests and which I concede is a very proper one. Under the law, a collector is not authorized to employ a clerk except with the permission of the Commissioner of Internal Revenue. When this collector was appointed this clerk had been in the employment of his predecessor under the authority of the Commissioner to so employ a clerk up to the 1st of July, 1873. The authority given by the Commissioner did not extend beyond the 1st of July. This collector supposing he had a right to employ the clerk, and finding it absolutely necessary to retain him, did retain him in the office. He supposed he had the right to do so, and was not aware of the fact that he did not possess such right until September, 1873. The collector then applied to the Commissioner for permission to employ a clerk. The Commissioner hesitated for some time, up to the 20th of December, when the collector discharged the clerk, having paid from the 1st of July to the 20th of December out of his own pocket for the services of the clerk. Immediately afterward the Commissioner of Internal Revenue became satisfied that a clerk was absolutely necessary to the proper discharge of the duties of the office. Under this authority the clerk was re-employed and was retained in the employment of the collector up to 1876, when the collector's term of office expired. The Commissioner had authorized the employment of this clerk and the predecessor of this claimant had his services in the office under the authority of the Commissioner, but that authority extended only to the 1st of July, 1873. The authority to employ the clerk was regranted in the latter part of December, 1873, but between July and December the collector had retained the clerk in his office without the authority of the Commissioner and therefore the collector was not reimbursed the salary paid the clerk for that time.

That the clerk was absolutely necessary appears clearly from the proof. The officer who had the clerk prior to July, 1873, was authorized by the Commissioner to employ him, and he was so employed. His services were absolutely necessary. The only question is whether the Government shall pay the salary of the clerk or whether it shall come out of the salary of the collector, who receives, in view of the responsibility of the office and the labor of the office, a very small salary, in my judgment, it being \$2,500 a year.

Mr. **MORRILL**. I still think it is a very bad precedent. The ignorance of the law on the part of the collector that this clerk was not authorized is no reason why the amount should now be paid, and it is not shown that the salary received by the collector was not an adequate one and full compensation for his services.

The bill was reported to the Senate without amendment, ordered to a third reading, and read the third time.

Mr. **MORRILL**. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. **McMILLAN**. The facts in this case have been very correctly stated by the Senator from Tennessee. It seems to me the facts stated in the report fully justify the conclusion at which the committee have arrived. The duties to be performed in this office of collector were so great and onerous as to require in fact the employment of a clerk. A clerk had always been employed with the consent of the Commissioner of Internal Revenue up to the 1st of July, 1873, a portion of which time the collector Fishback had been in office. Whether

it was from ignorance of the law or from the fact that he supposed the authority of the Commissioner would justify the retention of the clerk is not stated distinctly, but it does appear that the Commissioner of Internal Revenue assented to the necessity of the employment of a clerk in the office by his subsequent consent to the employment of this clerk by this collector, Fishback. Where the Commissioner has given his assent to the employment of a clerk on the ground of the necessity of such employment both before and after the period embraced in the time for which this allowance is to be made, I cannot see why it must not be inferred that there was a necessity for his employment at the time this collector paid him. It seems to have been merely an oversight upon the part of the Commissioner in withholding his assent to the employment of a clerk by the collector. The salary of the collector was but \$2,500 and he was compelled to pay this clerk, and did pay him out of his own means. The services were rendered to the Government, they were necessary, the Government received the benefit of the services, and I cannot see why the collector should be compelled to pay the clerk, and therefore I think the bill should pass.

Mr. DAVIS, of Illinois. Mr. President, I would be glad if the Senator from Tennessee would let this bill pass over. I have a letter here from a lawyer of standing in Jacksonville, Illinois, who has no objection to the passage of this claim. He does not know anything about it, but he states that Mr. Fishback was a defaulter and his bondsmen paid \$3,000 to relieve themselves from liability and he wants to get the benefit of this payment.

Mr. HARRIS. Will the Senator from Illinois inform me as to what position it is alleged Mr. Fishback was a defaulter in?

Mr. DAVIS, of Illinois. I do not know except what is stated in this letter. I gave the letter to the Senator from Alabama [Mr. Morgan] who is upon the Committee on Claims and requested him to show it to the committee. I do not know anything about it except what is contained in this letter. I do not know whether the defalcation grew out of the same transaction or not.

Mr. HARRIS. If this be a request that the consideration of this bill shall be postponed at the instance of some creditor of this claimant in order that he may intervene for the purpose of saving a debt—

Mr. DAVIS, of Illinois. That is all.

Mr. HARRIS. Then I am not inclined to consent to its going over; but if there be a question as to whether or not this claimant is a defaulter to the Government, either in the position of collector or in any other position, I shall most cheerfully consent to the bill going over.

Mr. DAVIS, of Illinois. I can read the letter, and that is all I know about it. The writer says:

It appears from the Senate proceedings, in the newspapers, that a bill has been reported for the relief of James Fishback, late collector of internal revenue for the tenth district of Illinois. I wish to inquire whether there is any proviso made as to the payment of his defalcation. If not, can you have it done? Mr. Fishback was a defaulter, and his bondsmen paid \$3,000 to relieve themselves from liability and settled with the United States.

Now, whether it was his bondsmen as collector or not who had to pay I do not know.

Mr. HARRIS. The bill is reported from the Committee on Claims, with the recommendation that it pass; but the claimant is a constituent of the Senator from Illinois, and if the Senator from Illinois desires that the further consideration of the bill shall be postponed, so far as I am concerned I shall consent to its postponement.

Mr. DAVIS, of Illinois. The only reason why I wanted the bill postponed is that I may ascertain whether the defalcation grew out of this same transaction, that is, if he was a defaulter to the Government as collector; then if he gets any money back from the Government it ought to go to the bondsmen.

Mr. EDMUNDS. You can find that out at the Treasury by letting the bill go over until to-morrow.

Mr. DAVIS, of Illinois. If there is no great hurry about it let the bill go over for a week, and I can find out.

Mr. McMILLAN. So far as the Committee on Claims is concerned this is the first intimation it has received that this collector was a defaulter or that Mr. Fishback was a defaulter in any other capacity. If he is a defaulter, perhaps it would be just that any allowance of this kind should go to his bondsmen; but I confess that it is not a very professional way of collecting a debt, as it seems to me, for an attorney to apply through the Senate of the United States.

Mr. DAVIS, of Illinois. The attorney is one of the men who has paid the money for him.

Mr. HARRIS. The Senator from Minnesota will allow me to call his attention to the fact with reference to this very claim, that the Committee of Claims of the House of Representatives corresponded with the Commissioner of Internal Revenue, and the answer of the Commissioner of Internal Revenue is here discussing this officer's connection with the Government, and there is not the slightest intimation of default to the Government upon the part of this officer; there is no intimation of any other than a faithful performance of duty, and that his accounts are all right with the Department. This is the first intimation that I have ever heard of this claimant being a defaulter in any sense or to anybody.

Mr. McMILLAN. Surely I have no objection to the case going over,

but I rose more to advert to the fact that this was an unusual mode of collecting a debt.

Mr. MORRILL. But the Senate, Mr. President, should know the facts as to whether he is at the present time a defaulter or not, whether it has been compromised with a smaller sum than was due to the Government, and all the facts in the case. I trust there will be no objection to allowing the Senator from Illinois to communicate and gather the facts.

The VICE-PRESIDENT. Does the Senator from Tennessee accept the suggestion that the bill go over?

Mr. HARRIS. So far as I am personally concerned, I do.

Mr. DAVIS, of Illinois. I take entire issue with the Senator from Minnesota. If any persons have paid money for this man, and they believe that if this claim is paid to him directly from the Government it will not be paid to them, and if the claim has grown out of this transaction, I think that the bill should pass with some proviso securing the bondsmen.

The VICE-PRESIDENT. The bill goes over.

Mr. MAXEY. Mr. President—

Mr. OGLESBY. Do I understand that the pending bill has gone over?

The VICE-PRESIDENT. It has gone over.

Mr. OGLESBY. By the consent of the Committee on Claims?

The VICE-PRESIDENT. The Chair understood the Senator moving the bill and advocating it to assent to its going over.

Mr. McMILLAN. In this connection I desire to state that I have just been called to the door by Mr. Fishback who says that his accounts are fully settled with the United States.

Mr. OGLESBY. Unquestionably, and settled long ago.

Mr. EDMUNDS. Yes, but by his sureties, they say.

The VICE-PRESIDENT. The bill is not before the Senate, unless recalled.

Mr. DAVIS, of Illinois. I ask the Senators to wait until I hear from my correspondent.

Mr. McMILLAN. I have no objection to the bill going over.

Mr. OGLESBY. I only want to state that, so far as my knowledge of this matter is concerned, it is utterly new to me. Mr. Fishback was one of the most competent and efficient officers the Government ever had in the revenue service, as I understand; and, finding that this claim had been passed upon by two committees and was indorsed by the Commissioner of Internal Revenue, I felt quite surprised that any serious objection should be made to the passage of the bill.

Mr. DAVIS, of Illinois. I want to reply to my colleague if he discusses the matter.

The VICE-PRESIDENT. The bill is not before the Senate.

Mr. OGLESBY. I will look at the letter to my colleague and see what it is.

WAR DEPARTMENT CONTRACTS.

Mr. MAXEY. I move that the Senate proceed to the consideration of the bill (H. R. No. 2257) to authorize the Secretary of War to prescribe rules and regulations to be observed in the preparation, submission, and opening of bids for contracts under the War Department.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of War to prescribe rules and regulations to be observed in the preparation and submission and opening of bids for contracts under the War Department; and he may require any bid to be accompanied by a bond in such penal sum as he may deem advisable, with good and sufficient security, conditioned that the bidder will enter into a contract agreeably to the terms of his bid, if the same be awarded to him within sixty days from the date of the opening of the bids, or otherwise pay the penalty. No bid shall be withdrawn by the bidder within the period of sixty days.

Mr. MAXEY. I will state in connection with the bill that it passed the House of Representatives on the 26th of February. It is stated by the Secretary of War to be necessary for the protection of the Government. It was sent to the Senate and by the Senate referred to the Committee on Military Affairs, unanimously concurred in by that committee, and reported here. The report is in writing, and, if desired, it can be read.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

DAKOTA SOUTHWESTERN RAILWAY.

Mr. WINDOM. I move that the Senate proceed to the consideration of the bill (S. No. 927) to authorize the construction of a narrow-gauge railroad from Bismarck to the Black Hills.

The VICE-PRESIDENT. The bill will be read for information.

The Chief Clerk read the bill.

Mr. CHRISTIANCY. I notice that the eighth section of this bill raises some new and unprecedented questions, and for myself I want a little time to consider them before taking up this bill for consideration. I will say that I am in favor of the general object of this bill, and, if the committee or the Senator having it in charge will allow it to go over until to-morrow or next day, it will give me the time I desire.

I would say further that in the three minutes remaining of the morning hour there will be no time to offer such amendments as strikes me are necessary.

Mr. WINDOM. In view of the remarks made by the Senator from Michigan, I will not press a vote now. I wish to say, however, that the particular purpose of this bill is to build a road connecting the Black Hills with the Northern Pacific Railroad at Bismarck, and it is believed that it can be built this summer if the right of way be given early and the corporation authorized to build.

Mr. SARGENT. Is there any subsidy in the bill?

Mr. WINDOM. There is no subsidy, no land grant, nothing in the world but the right of way.

Mr. WHYTE. Not in the way of money, but all the timber they need for cross-ties, I judge, could be obtained under one section of the bill.

Mr. EDMUNDS. That will take all the timber there is.

Mr. WINDOM. I am entirely willing if desired that that be stricken out, because there is no timber along that region of country.

Mr. SARGENT. There is very little timber there. I should not think there would be any objection to its being taken for the purpose if there was.

Mr. WINDOM. I give notice that I will try to call up the bill in the morning hour to-morrow. In the mean time the Senator from Michigan can prepare his amendments.

AMENDMENT TO POST-ROUTE BILL.

Mr. WINDOM submitted an amendment intended to be proposed by him to the bill (S. No. 802) establishing post-roads in the several States and Territories; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

NAVAL APPROPRIATION BILL.

Mr. SARGENT. I wish to say that, if I can have the consent of the Senate to-morrow morning after the strictly morning business shall have been concluded, I shall ask that during the remainder of the morning hour the Senate consider the naval appropriation bill. There are not many amendments to it, and those are not of an important character. I think we can get through with it in the morning hour, if there is no more than the usual amount of morning business, and not interfere with the unfinished business, at any rate not to much extent.

HOT SPRINGS RESERVATION.

Mr. DORSEY. I offer the following order:

Ordered. That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. No. 490) supplementary to an act entitled "An act in relation to the Hot Springs reservation, in the State of Arkansas," approved March 3, 1877.

Mr. EDMUNDS. I wish the Senator would explain what that means, as the bill passed the Senate two or three weeks ago, and the time for reconsideration has gone by.

Mr. DORSEY. The bill as it came from the Committee on Public Lands provided for the extension of the time for the commissioners appointed to dispose of the Hot Springs reservation. An amendment was put upon the bill by the Senate on my motion which seems to be objectionable to the committee of the House and also to some of the citizens at the Hot Springs. I hoped I might get unanimous consent that the bill be sent back to the Senate and then to have the amendment stricken out, and simply pass the bill extending the time of the commission. Early action is very important indeed. The time is now out, the commissioners are there with all the records in their hands, and nothing further can be done until some legislation is passed by Congress. I hope the Senator from Vermont will not object. I expected to get unanimous consent. Of course I can do nothing with it except by unanimous consent.

Mr. PADDOCK. I hope, if it is within the rules, that the resolution will prevail. The bill as reported from the Committee on Public Lands had simply the scope that the Senator has indicated. The amendment which he proposed, of course, related to a subject that the committee had not considered; they knew nothing whatever of it, and they accepted it from the Senator of that State, believing that he knew best what should be done in respect to it.

Mr. EDMUNDS. I do not think I shall object to the passage of this resolution, but I think it a very bad precedent to establish as one to be followed. Here a bill has passed the Senate two, three, or four weeks ago, whatever the time was, in a particular condition. It is now suggested that it be recalled for the reason that some of its provisions are understood not to be agreeable to the House of Representatives, and then to get unanimous consent to reopen the question and put it in a condition so that it shall be agreeable to that body. I do not think that is a very good precedent for legislation as between the two Houses; but as my friend from Arkansas wishes to do it at this time and as it is a local affair, I do not know that I shall undertake to make any great opposition to it, but I should not want it to be drawn into a precedent by a good deal.

The resolution was agreed to.

THE PACIFIC RAILROADS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 15) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Govern-

ment the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act, the pending question being on the amendment submitted by Mr. MATTHEWS.

Mr. MATTHEWS. Mr. President, it is with very great and sincere reluctance that I intrude again upon the attention of the Senate in this debate. I should not have done so but for a turn which it took, which it seemed to me made it necessary that I should have some words to say in reply.

The dignity of the debate (which is usually synonymous with its dullness) has been relieved to some degree by the entrance into it of what seemed to me to be some personal feeling and at least some extraneous matter. I was, for instance, somewhat taken by surprise when I ascertained that my distinguished colleague who has charge of the bill on behalf of the Judiciary Committee, [Mr. THURMAN,] whose organ for that purpose he is, seemed disposed to resent with some zeal and some indignation what appeared to me to be nothing more than proper opposition growing out of differences of opinion; and he seemed to think that, if what had been said by Senators as grounds and reasons for their opposition was true, it amounted to such a condemnation of the members of the Judiciary Committee as to indicate that they were no longer fit for their functions and that they would have nothing to do after such a sentence but to admit the judgment and resign.

I am unable to agree, Mr. President, with my distinguished colleague in his opinion construing the constitutional powers of Congress in their proposed application to this subject. Am I to be silenced on this floor because to speak makes me to differ with that committee? What becomes of the propriety of his complaint when in the same debate he accuses the other committee of this body with having brought in a bill which subsidizes these companies beyond the original grant? Certainly, Mr. President, I cannot yield to the argument which he made on the floor yesterday that it was sufficient ground to support his bill because it was unconstitutional; otherwise we could never have that question judicially settled! I think that it is a sufficient reason to vote against any proposed legislation that in my judgment it comes in conflict with the limitations of the fundamental law, and on such a question no Senator has a right to surrender his own personal convictions. I have unfeigned respect, which I take the utmost pleasure in publicly avowing, for the Judiciary Committee of this body and for each individual member of it, including my honored and distinguished colleague, whose value and worth as man, lawyer, judge, and citizen I have known so well and so long, but I cannot afford to yield one jot or one tittle of my own deliberate and considered opinions on a question of constitutional right out of mere deference to any person.

There was another matter referred to by several Senators, and I believe particularly by the Senator from Vermont who is on that committee, [Mr. EDMUNDS,] that I was very much pained to hear broached as the ground of argument in such a discussion; and that was that the corporations in reference to whose rights and interests this legislation was proposed were powerful bodies seeking to influence legislation in their favor by improper approaches and solicitations, the tread of whose messengers and agents it was said was to be heard on the very floor of the Senate, who were packing the lobbies and filling the galleries. Whatever grain of truth may be in such a statement, certainly the language is the language of hyperbole; and unless Senators are prepared to make distinct and specific charges involving the integrity of the body itself or of its members, the only possible effect of such insinuations, however guarded and professedly excluding accusations of impropriety of conduct on the part of public men, is, nevertheless, that they go forth to the world calculated, if not intended, to throw the cloud of suspicion upon those who for reasons satisfactory to themselves feel impelled to a course different from that approved by the committee. And my friend, the Senator to whom I allude, referred only yesterday afternoon to those who, like myself, found insuperable objections to supporting the bill of the Judiciary Committee as the friends of the railroad companies, as if the railroad companies were a public enemy and as if they, and they alone, were the defenders and the champions of the public interest and the public rights.

I repeat again my sincere respect not only for the wisdom and the learning, but for the disinterestedness and patriotism of the members of the Judiciary Committee. They are the select men out of this select body, "the expectancy and rose of the fair state." And yet, Mr. President, I cannot yield to them one particle in the advocacy of opinions and doctrines that however in this case in their application may seem to favor a corporate right, in my judgment nevertheless lie at the foundation of every right that is dear to a freeman.

But, Mr. President, it was reserved to my distinguished friend from Michigan [Mr. CHRISTIANCY] to direct the shafts of wit and argument intended for my exclusive and personal benefit. In form he was not otherwise than complimentary, and yet he represented me as making a great show of apparent law without any law at the bottom.

Mr. CHRISTIANCY. The Senator will excuse me for saying that I did not pay him quite that compliment of saying it was apparent law, but I said no man had succeeded in making a thing appear so much like law with so little law in it.

Mr. MATTHEWS. Of course, Mr. President, as usual and as always

my friend is literally correct, and if I had the same means of arriving at a knowledge of the truth which he informed us he possessed himself, I should be without that excuse for my error and shortcoming that I trust under the circumstances he will graciously allow me, because it appears from his own speech what his way of arriving at a knowledge of legal conclusions was, and it turns out to be an instinct; for, while reproaching me with having referred deliberately to all the authorities which were favorable to my view and as deliberately ignoring all those the other way, he spoke of that mental paralysis which had come over me when I stopped at the first volume of Otto and refused to make the Senate aware of that array of authorities contained in the fourth volume which it seems he had not himself at the time when I delivered my speech either read or studied.

Mr. CHRISTIANCY. I had read them.

Mr. MATTHEWS. Well, I find on the thirteenth page of his printed speech that in referring to these cases he said:

I read these cases when they first came out. But from that time until I had prepared all the foregoing portions of my argument, last Saturday evening, I never examined one of them.

Now the Senator from Michigan proceeds to inform us how he arrives at his conclusions. He says:

When I undertake to reason upon principle I prefer to carry out the principle first, without mixing up cases and authorities with the line of thought. Then I am in the habit, when I have the time, of looking into authorities to see how others have reasoned upon the same principle: and to see if there is any occasion to modify my own course of reasoning: and to correct myself, if I find I have been wrong. But in this case, having since looked carefully into those authorities, I find not one word to correct.

The wonder is that the courts have so often guessed the law as coincident with the instincts of the distinguished Senator from Michigan; but the most amazing part of the whole performance is that the authorities which I cited were the very cases quoted by the Judiciary Committee, and that I stated them as proving in the same sense the very conclusions which they reached and stated that the only difference between us was as to the application of the principles which they establish, for after citing the very extracts referred to by the Judiciary Committee from several cases I said:

These expressions constitute the best judgments attainable in our decisions upon this question, and I have quoted them because they constitute the common ground of our argument, as they are relied upon not only by myself but by the distinguished member of the Judiciary Committee who specially argued this question. The difference between us, then, is not so much what constitutes a true expression of constitutional law on this point as whether it is rightly applied in this case in the bill reported by the Committee on the Judiciary.

And now, Mr. President, I ask the indulgence of the Senate to listen again to the propositions which in point of fact and as matters of law I maintain as against the essential principle of the committee's bill. In the first place these corporations are private corporations. They are not public corporations in the sense in which this bill touches them, and in the sense put upon them in the argument. The fact that they were chartered or empowered by act of Congress impresses no public character upon them that would not have equally existed if they had been chartered by the general assemblies of the States through which they pass. They are not public corporations in any sense other than that in which all railroad companies are public. In respect to their proprietary rights, in respect to their contracts other than the public contract which constitutes the franchises of the corporation as a corporation and as a railroad company, they are as private in their artificial persons as either of us is in our natural person. They have the same rights of property and the same rights of contract and the same rights of defense, and this proposition I establish by the authority of the case in the eighteenth volume of Wallace's Reports, where the direct question was presented to the Supreme Court of the United States, the companies seeking to defend themselves against the State of Nebraska levying a tax upon their property on the ground that they were a public corporation chartered for the purpose of executing an agency on behalf of the Government, and therefore not capable of being taxed by State authority; but the Supreme Court of the United States held that for all the purposes of acquiring and possessing or using property they were private corporations and subject to the law of private persons. Of course they were called into being for a public purpose, for the purposes of the United States, for the purpose of constituting great highways of trade and travel between the Atlantic States and the Pacific border for military purposes, for commercial purposes, for postal purposes. But just as the Government could and might and does continually use private persons and private property in the execution of its public objects, here, rather than construct and operate these lines of road itself, it called into being artificial persons whom it endowed with existence and with certain rights in order to enable those persons to execute those uses.

So that, Mr. President, and it is one of the most significant features in this discussion, when it is proposed to adopt and apply to these artificial persons in that relation which they occupy to the United States Government by virtue only of their private powers and their private interests certain rules, it ought to be remembered that we are laying down the rules that govern every natural person situated in like circumstances and that if we are putting into force hostile rules directed against corporate authority the same rules will determine private rights. We cannot hereafter shield and protect and defend ourselves against the application of identical principles where no corporation has any interest. The doctrines which belong to this

case are the doctrines which belong to the case of every man and of every citizen, and affect equally and everywhere the interests of property and all that property means as well as the interests of corporations. It is a very cheap and easy thing to join in the hue and cry against unpopular things and people, but it is a very dangerous thing. No man knows how soon his curses may come home.

The next point which I wish to call attention to is this, and it was well and forcibly brought out by the Senator from California who spoke yesterday, [Mr. BOOTH,] and that is that the fact that in this case the United States is a creditor and that it is legislating in reference to its own interests as such is utterly immaterial and irrelevant. The fact that the United States has advanced these bonds which at some distant day these corporations are under the obligations of the contract contained in these laws to repay, neither gives to the United States nor takes away from its Government any right of legislation whatever.

The rights of the United States as a creditor, with the single exception of its statutory preference and priority in the distribution of an insolvent estate, are exactly alike and exactly equal to the rights of any other creditor. They are neither greater nor less; they are not other and different; they are the same. And the situation, Mr. President, is precisely as if these railroad companies did not owe to the United States, and were never bound to pay to the United States a single dollar; the situation is exactly what it would be if these companies owed their first mortgage to the bondholders secured by it, and their second mortgage to other bondholders scattered throughout this and other lands, private persons, and had never had a pecuniary transaction with the Government. If the United States Government has the right, by a change in the law, to anticipate the promised payment to itself, it would have the same right to make the same alteration of the law in favor of the first-mortgage bondholders or the second-mortgage bondholders, being private persons, and it would apply not only to these railroad companies but to every corporation created by the United States or subject to its jurisdiction, in respect to whom it had the power of general legislation. Now, I think there can be no reasonable doubt of this. It is the same principle which was announced and applied by the Supreme Court of the United States, in the case of *Davis vs. Gray*, in 16 Wallace, on page 232, in reference to a precisely similar state of things between the State of Texas—the Senators from that State know well the facts and the law of the litigation—between the State of Texas and the railroad corporation created by it; and the Supreme Court in referring to it said:

When a State becomes a party to a contract, as in the case before us, the same rules of law are applied to her as to private persons under like circumstances. When she or her representatives are properly brought into the forum of litigation, neither she nor they can assert any right or immunity as incident to her political sovereignty.—*Davis vs. Gray*, 16 Wallace, 233.

We are therefore in a situation in which we have a right to lay out of view as immaterial and irrelevant the fact that the United States has made an advance of bonds in reference to which there arises the ultimate right of repayment, and we are at liberty in this discussion to treat the case precisely as if some third person indifferent and a stranger was the holder of that lien and mortgage which in point of fact the United States now holds; so that all these exhortations in reference to the duty incumbent on us as members of the National Legislature to look carefully to the interests of the Government as a creditor, while perfectly just and appropriate, should not be allowed to carry us one inch further in the assertion of power and the exercise of authority than we would do if it was to secure the debt of the Senator from Kentucky or any other private person.

The United States as a creditor, as a co-contractor, has the right to negotiate, has the right to parley, has the right to treat, and if its debt is of present obligation to sue and to recover and to pursue with all the processes of the law; but it cannot while in that attitude and pursuing that interest put on the crown and the scepter of sovereignty and make use of those national rights and those powers of government given for the equal benefit of all the States and all the people for the petty purpose of collecting its own debt. It has a right to its debt when due according to the terms of the obligation; it has no more, and it cannot give itself any more. It is a mistake to suppose that the frame and instrument of government organized under the Constitution of the United States is an original and indefinite reservoir of power on which it can draw at any time for any purpose and to any extent under the plea of public necessities and public interest, and we ought to thank God that it is so, and not otherwise; for in spite of the exhortations of my learned friend the Senator from Michigan, I shall never live long enough and grow old enough to forget to be jealous of power wherever it is placed.

Why, he asks, not bestow generous confidence upon the public authorities and believe that they will not abuse unlimited power? Mr. President, do the records of history furnish an example of unlimited power that was not abused? What is the meaning of our Bill of Rights? What is the meaning of our several constitutional amendments? What is the meaning of our written ordinances of Government? It sounds like reciting axioms to repeat the plain and simple words that protect life, liberty, and property against the arbitrary exercise of the powers of Government. But, Mr. President, who can count the cost of those truths? How much treasure, how much blood have been shed in order to establish the simple and axiomatic prop-

positions that life, liberty, and property shall not be taken without due process of law, that private property shall not be taken for public uses without just compensation, and that it shall not be taken for private purposes at all under any circumstances and at any price? Why, Mr. President, the whole of civilized life is wrapped up in these simple axioms of political conduct, and it is no mere sentiment that extols Magna Charta as the most valuable possession of the English-speaking people. Let us take care that in assuming the protection of pecuniary public interests we are not overriding that higher, that greater, that more valuable public interest worth more than all the tons of gold and silver that come from the rich States of the Pacific.

Mr. President, it has been assumed by those who have argued in favor of the bill of the Judiciary Committee, without proof, that the reservation of power in the statutes which constitute the charters of these companies is unconditional and unlimited; that it is absolute, and dependent on the existence of no other fact than the mere will and pleasure of Congress. It is true that in the act of 1864 the language is simple and general and unconditional, a reservation without any qualifications in that section, of the right to alter, amend, or repeal what? That act, the act of 1864. But it is said by the Senators on the other side of the question that by a well-known canon of interpretation the two acts must be construed together because they are *in pari materia*. I admit it. What does that mean? It means that they must be construed as if, instead of being two separate statutes, they were only one actual statute; in other words, as if they had been passed at the same instant of time.

Now, then, they say that construing the two statutes in that way, as if they were but one, you must import the unconditional reservation of the right to repeal into the language and context of the act of 1862, so as to strike out of that act all the qualifications and conditions that are admitted to be in it; in other words, you must put the two statutes into one and then, merely for the purposes of construction and interpretation, you must blot out and erase and cut away from the section of the statute of 1862 the words and the language and the ideas and the restrictions which Congress put into it. By what right; by what authority? Here my learned friend from Michigan comes in with another one of those wise saws which I suppose were evolved by his instinctive knowledge of jurisprudence, of legislative jurisprudence; and that is that the section contained in the act of 1864, being the latest expression of the legislative will, must be construed as repealing all prior and inconsistent provisions. Latest! Latest expression of the public will; when, by the supposition, it was passed at the same instant! How can there be former and later when they were both brought forth *co instanti*?

Mr. CHRISTIANCY. I wish to inquire what that remark applies to?

Mr. MATTHEWS. To what?

Mr. CHRISTIANCY. Does the Senator apply that to the acts of 1862 and 1864 as taking effect at the same time?

Mr. MATTHEWS. If the Senator had been as intent upon hearing me he would not have needed to ask that question. I was replying to the argument made by the Senator that the repealing clause of the act of 1864 is a substitute for the repealing clause of the act of 1862, on the ground that they are to be construed as one act, and then, having gotten them together into one statute, which implies of course its passage as an integer at one moment of time, he substantiates his argument by speaking of the act of 1864 as the latest expression of the legislative will.

Mr. CHRISTIANCY. Then, if the Senator will permit me, if he will turn to my speech, he will find that I took a very different ground from that.

Mr. MATTHEWS. Well, Mr. President, the Senator's speech is quite convenient, and I will on that challenge exhibit the proof of what I say. I read from page 8 of the pamphlet edition of his speech, wherein he says:

And very clearly, according to well-settled principles of construction, if the power to alter, amend, or repeal, in the act of 1862, was a restricted power, then, the unrestricted power in the later act, covering the entire ground of the same subject-matter in the limited provision of the act of 1862, and even more, must repeal that limited provision; because being the later provision on the same subject it repeals it to the full extent of the difference. It is the last declaration of the legislative will upon that whole subject, and would operate as a repeal to this extent from the time of its adoption, whether declared to be an amendment or not.

Mr. CHRISTIANCY. That is not the point.

Mr. MATTHEWS. I do not propose to read the entire speech. Now, the only ground on which the repealing clause of the act of 1864 can be made to reach back to the act of 1862 at all is upon the ground of the canon of interpretation that requires them to be construed as one act, *in pari materia*, because the language of the clause in the act of 1864 expressly confines its operation to that particular statute. Now, then, Mr. President, I say conversely that construing the statutes in the way required, and welding them together as if they had sprung into existence at the same moment, the conditions and qualifications which belong to the right of repeal, as reserved in the act of 1862, immediately lay hold of and embrace and conform to themselves the otherwise unlimited and unrestricted section of the act of 1864.

Mr. CHRISTIANCY. Let me point to the Senator a part of the speech to which he has not alluded.

Mr. MATTHEWS. I am a little fatigued, and shall be more so,

and I humbly submit to my learned friend from Michigan that as far as I am concerned he shall have abundant opportunity to reply. There is nothing that I more desire than that this debate shall be prolonged sufficiently to enable every Senator thoroughly to understand the principles on which he is expected to act.

Now, Mr. President, what are the conditions and qualifications contained in the act of 1862? They are contained in the eighteenth section of that act. They are as follows:

That whenever it appears that the net earnings of the entire road and telegraph, including the amount allowed for services rendered for the United States, after deducting all expenditures, including repairs and the furnishing, running, and managing of said road, shall exceed 10 per cent. upon its cost, (exclusive of the 5 per cent. to be paid to the United States,) Congress may reduce the rates of fare thereon, if unreasonable in amount, and may fix and establish the same by law. And the better to accomplish the object of this act—namely, to promote the public interest and welfare by the construction of said railroad and telegraph line and keeping the same in working order, and to secure to the Government at all times (but particularly in time of war) the use and benefits of the same for postal, military, and other purposes—Congress may at any time—having due regard for the rights of said companies named herein—add to, alter, amend, or repeal this act.

The first qualification upon that right of amendment and repeal is that you shall not lay your hand upon the net earnings of this road until you have allowed the stockholders to have received from its operation, in addition to the 5 per cent. to be paid to the United States, 10 per cent. upon its cost, for the reservation is in Congress to change the rates of fare and freight established by the companies only when, and in the event of, the net earnings exceeding that amount; and in violation of that, in utter disregard of that solemn legislative pledge, the Judiciary Committee of this body call upon its members to vote away the entire control of these companies over their earnings to the extent of 25 per cent. of their net amount.

More than that: the power reserved to amend is described in this section as reserved for certain express and specific purposes and no others. It is to promote the public interest and welfare by certain means, and those means are first the construction of the railroad and telegraph line, second keeping the same in working order, and third securing to the Government at all times, but particularly in time of war, the use and benefit of the line for postal, military, and other purposes.

For those purposes you may add to, alter, amend, or repeal the act, and for no other; and these companies and all who either put their money originally into them or who have since become interested by the negotiation of their securities had a right to rely that whether Congress had the power abstractly and as a sovereign or not, here was a solemn legislative pledge that it should be used only in these contingencies and to accomplish these objects. And now on the invitation of our Committee on the Judiciary we are invited to the exertion of power which a Congress with equal power has agreed should not be exerted, and that to accomplish no purpose of the original act. It is not even professed or pretended to be for any one of the enumerated purposes contained in this section. No, Mr. President, the purpose is altogether different. Although it is not avowed, it is so plain that it cannot be disguised. The purpose of this enactment, if it becomes such, is that it may not so much alter, amend, or repeal these statutes as that it may reverse a judgment and decision of the Supreme Court of the United States. That court has decided that these companies do not at this present time owe the Government on account of interest a single cent, that nothing will become due until the maturity of the bonds themselves. If that decision had been otherwise, this proposed legislation would not have been thought of, there would have been no plausible pretext for it, and it is because there is nothing due, because there is nothing accruing, because the Supreme Court of the United States has so decided, that we are called upon, not by direct act, but by indirection, to put the companies into that position as if the Supreme Court had decided the other way.

Mr. President, every single authority that has been cited or that can be cited admits that even in reference to a reservation of a right of repeal in absolute and unconditional terms, nevertheless there is a limit. What that limit is is a more difficult question. That there is a limit, the authorities all say. That there is a limit must be, if our Government is a free Government, and if we are a free people. Otherwise, we are living under the dominion of absolutism, of that unlimited authority and power and government which, in old times, was supposed to be of divine origin, when kings ruled by right divine. That doctrine, which found so illustrious an exponent in Hobbes, and which is not altogether exploded even in modern times, and who describes it where he says, in endeavoring to demonstrate the origin of government in that consent and concord which constitutes the community as if it had but one will:

As if every man should say to every man, I authorize and give up my right of governing myself to this man, or to this assembly of men, on this condition: that thou give up thy right to him, and authorize all his actions in like manner. This done, the multitude so united in one person is called a COMMONWEALTH, in Latin CIVITAS. This is the generation of that great LEVIATHAN, or rather, to speak more reverently, of that MORTAL GOD to which we owe, under the IMMORTAL GOD, our peace and defense.—Hobbes's English Works, volume 3, page 158.

That is the doctrine of absolutism. Do Senators understand what that means? Do they suppose that that as an exploded theory of human duty and human right in the constitution of government has been relegated to the limbs of lost and unremembered things? It is living to-day. Its name is COMMUNISM. It means that the state absorbs unto itself all the power of all the individuals that

compose it, that there are no such things as separate or separable individual rights, that all rights are common rights, that the Government must own and regulate and operate all the railroads and all the telegraph lines, that it ought to own as common stock all the lands, no citizen having a right to acquire a fee, an inheritable estate, but only a tenancy, that the state shall control and own all the workshops and employ all the labor and fix all the wages and all the incomes of all its people.

It may be thought, certainly a few years ago it would have been thought, a very vain alarm to sound, that any such wolf as that was at our doors; but nevertheless, the offspring of poverty and hard times, of discontent and of ignorance, it is here, and is hunting everywhere for legislative precedents on which to build and found its theories and justify its vagaries, and when the time comes, as the time soon may, when the organs and representatives and exponents of such ideas and their authorized places in these seats or in the Chamber at the other end of this building, they will look a long time before they will find a case more completely in point to establish that theory of constitutional power in the Federal Government which they most desire and need, than in the very bill which we are considering, the bill which, in the minds of many of its advocates, does not need to rest upon reservations of power contained in express words in the statutes themselves, but rests upon an inherent right, a supreme power that cannot be subtracted from, no matter how much it is spent. But as lawyers, in undertaking to define, at least negatively, what limits there are upon such a power, there is as yet, so far as I have been able to discover, in point of doctrine theoretically no actual difference, for it is admitted by all who have spoken on the other side that, no matter how unconditional and absolute is the right in question, it cannot extend so far as to divest a vested right, and the question really is, what are vested rights, and how are they affected by this proposed legislation?

My learned friend the Senator from Michigan undertook to do what none of his colleagues attempted, and that is to draw the line; and in order that I may not misrepresent him I will refer to the language of his speech; I read from the eleventh page of the pamphlet edition:

I do not contend, I never have contended, that the power extended so far as to authorize Congress to divest property or rights which, though originally depending upon, or growing out of, that contract, have become so far vested as to be able to stand upon another foundation, without the direct present or future support of that contract. The lands which have been patented to the company, for instance, which might rest upon the patent, and so of any other rights not dependent for immediate support upon the contract, whether those rights are still vested in the companies or in third persons derived from them. Property or rights thus vested cannot, I admit, be divested by the legislative power.

Now, Mr. President, let us apply that rule, let us apply line and plummet, and see whether the learned Senator from Michigan has built square work. A right which, though originally springing from the law, has acquired another foundation than the law, is a vested right, but one which must continue to depend upon the continuance and subsistence of the law itself is not. That is the standard and rule.

Mr. CHRISTIANCY. The Senator will allow me. I put it on the ground not of the law as a law but as a contract.

Mr. MATTHEWS. Call it what you will, it is the thing which you are talking about repealing, and it is the contract though in the form of law. Now I premise, any man acquiring a right, for instance, under the contract between the United States and the railroad companies under the act of 1864 has no other, better, or higher rights than the corporations, for whoever takes takes under the law, by virtue of the law, through the medium of the law; he has notice of its provisions; he is not a stranger. There is a privity of title, of estate, of contract, so that his right has not become vested on this account; the repeal of the contract contained in the law takes it away just as thoroughly and effectually as it takes away unvested rights of the corporation.

Now one step further. The act of 1862 reserved in favor of the United States as security for the repayment of its advances of bonds a first-mortgage lien upon the property of the companies. The act of 1864 authorized the corporation to make an issue of first-mortgage bonds, and subordinated the lien of the United States, which by the prior act was a first lien, to the now first lien authorized under the act of 1864. That mortgage has been executed and those bonds are outstanding. Are the rights of the holders of those bonds vested, or are they not? Why, my learned friend from Michigan, I anticipate, will say, "Certainly they are." Certainly they are, as holders of a mortgage and bond against the corporation; but the priority of the lien of that mortgage is continuously, daily, hourly dependent on the continuing subsistence of the act of 1864. Take away the act: your mortgage is there, your bonds are there, but where is the priority of your right? Where is your first-mortgage lien? It is gone; gone by the repeal; gone—if the Senator from Michigan is right in his definition of what constitutes a vested right—because the distinction is between the claim of the bondholder against the company and his claim of priority as against the United States. The claim of the bondholder against the United States is dependent perpetually on the continued existence of the statute which constitutes the contract.

Mr. EDMUNDS. Does the Senator mean the first-mortgage bondholder?

Mr. MATTHEWS. Certainly. I am not arguing that they are sub-

ject to any such contingency, but I do argue, as I do most firmly believe, that if Congress has the power to compel the companies to do what they will be required to do by the terms of the pending bill, then Congress has equally the right to subvert the present priority of lien vested in the first-mortgage bondholders.

Mr. President, the contrast is so striking that it continually reverts to the fact that lately this Chamber resounded with appeals to the national honor and to the national faith to stand by contracts, where the contract as it was interpreted was against the express letter of the only laws under which it was claimed to have been made and based upon, an implication merely resting upon the expectation of the parties claiming the benefit of it. Those who were then arguing in favor of the contract as written, as expressed in the statute, were handled as breakers of the national faith, as violators of the national public pledges, as repudiators of the national credit. Some of the same Senators are now clamoring for the exercise of power in another direction, directed against other parties, upon the ground that it is derogatory to the dignity and honor of the nation to admit that it can be bound by its own pledges.

What are vested rights? An estate in land is a vested right; a title which gives right to a future possession, a contingent estate as distinguished from a mere expectancy, is a vested right; it cannot be taken. An estate in personal property, a right to its possession, present or future, cannot be taken. Are there none others? Certainly there are. A right of action is a vested right; a promissory note, though not yet due, an obligation to pay money held by another, is a vested right, and that right of action cannot be taken away. So a right of defense is a vested right. If one holds against another a right of action which has ceased by law to be such, as, for instance, where it has been barred by the operation of the statute of limitations, the right to plead that statute in bar of that action cannot be taken away. The right of action cannot be taken away by the passage of a statute of limitations which gives an unreasonably short time in which to bring the suit. A right of defense once perfected under an existing law is not affected by the repeal of the law.

Can the United States sue the railroad companies for the recovery of money to be put into a sinking fund? Can it sue these companies for the recovery of money due on account of the interest on these bonds? That has been tried and decided. It cannot sue to recover money to go into a sinking fund, because there is no such existing right. If it should bring any such suit as that, the company has a perfect defense to such an action for the recovery of any money on the ground that by the contract with the Government it owes nothing. Unless, indeed, it can be claimed that the right to a sinking fund is an implied incident to every debt payable in futuro. To state such a claim is to refute it.

You propose to take away that defense, you propose to alter that contract, you propose to change the relation between these parties established originally by their joint consent, so that now, without the consent of the defendant, the United States may lawfully bring an action for the recovery of money not due and never promised, and failing that, not merely to have judgment rendered for the specific sum with execution awarded, but to forfeit every other right, every right which by the existing law it has to all its possessions. That is what the distinguished Senator from Vermont calls *legislative jurisprudence*. Without intending offense, it is what I call legislative injustice, legislative wrong.

If what is proposed can be done, why cannot a law be passed declaring that, whereas the United States are largely in advance on account of the interest on these bonds, hereafter from this time, by virtue of this amendment and enactment, that amount of money shall become presently due from these companies to the United States? Why not do it in that express and direct way? For the objection is not to the form of the thing; it is to the thing itself. If you cannot do that I defy mortal man to point out a rational distinction, an intelligible, common-sense distinction, between that and that which is proposed.

It has been said by the advocates of the Judiciary Committee's proposition that they do not claim they have the right to make the debt now not due for twenty-odd years presently due. They admit that that would be divesting a vested right, but that although not due they can make the defendant pay it; for where is the difference between contributing annually to a sinking fund compulsorily exacted and required to be paid and piled up in the coffers and treasury of the other party, to be held there and applied by it when the time does come for the maturity of the debt, and to declare in express words that the debt is now due and to be collected? It would take a Damascus blade to draw the line of distinction. As it stands it is a clumsy subterfuge. It is not legislative jurisprudence, it is a legislative stratagem. It is doing one thing by indirection where there is neither the courage nor the manliness to do it outright. What is the difference between declaring an obligation due and payable which is not so and declaring that the obligor shall pay an obligation now which is not due for twenty years? What is a sinking fund but a mode of anticipating payment by paying before maturity? Or, if it be mere security, where is the right to demand security when the agreement was to lend without security?

What are the excuses put forth? On what pretenses founded in any system of jurisprudence is this thing based? My friend the Senator from Vermont said yesterday afternoon that it was sufficient to found

it on the right of visitation, and I understood him to express a little sort of impatience, not to designate it by any other name, at the Senator from Massachusetts for not knowing enough of the horn-books of the law to know that that was a plain and perspicuous ground upon which it could be based. Now, I read from a horn-book of the law, the second volume of the commentaries of Chancellor Kent, on the subject of the visitation of corporations, wherein he says:

I proceed next to consider the power and discipline of visitations to which corporations are subject. It is a power applicable only to ecclesiastical and eleemosynary corporations; and it is understood that no other corporations go under the name of eleemosynary but colleges, schools, and hospitals. The visitation of civil corporations is by the Government itself, through the medium of the courts of justice.

Again:

This visitatorial power arises from the property which the founder assigned to support the charity; and as he is the author of the charity, the laws give him and his heirs a visitatorial power; that is, an authority to inspect the actions and regulate the behavior of the members that partake of the charity. This power is judicial and supreme, but not legislative.

Again:

There is a marked and very essential difference between civil and eleemosynary corporations on this point of visitation. The power of visitors, strictly speaking, extends only to the latter.

Again:

The visitatorial power, therefore, with us, applies only to eleemosynary corporations. Civil corporations, whether public, as the corporations of towns and cities, or private, as bank, insurance, manufacturing, and other companies of the like nature, are not subject to this species of visitation. They are subject to the general law of the land and amenable to the judicial tribunals for the exercise and the abuse of their powers. The way in which the courts exercise common-law jurisdiction over all civil corporations, whether public or private, is by writ of mandamus and by information in the nature of *quo warranto*. It is also well understood that the court of chancery has a jurisdiction over charitable corporations for breaches of trust.—2 Kent's Commentaries, 363, 364, 367.

Now, three things appear: first, that the power of visitation applies only to corporations; secondly, it applies only to eleemosynary corporations, and not to civil corporations; and thirdly, that the power of visitation is not legislative but judicial. Yet, the learned Senator from Vermont cited the case in 4 Otto, of *Munn vs. Elevator*, as a case where the Supreme Court of the United States had decided that the power of visitation was rightfully exercised.

Mr. EDMUNDS. If the Senator will be good enough to read that part of my remarks, I should like to hear them, and they have not been changed.

Mr. MATTHEWS. I have not the remarks by me. If the Senator says he did not say so, that is enough.

Mr. EDMUNDS. No; I should like to have the Senator be sure.

Mr. MATTHEWS. The Senator had better be sure.

Mr. EDMUNDS. My observations are never doctored after the reporter takes them down. The Senator will find them, therefore, exactly as he heard them, if he heard them as stated. Now, if he will be good enough to turn to any place where I said the case of *Munn* (which I suppose is the one he refers to) had been decided by the Supreme Court on the ostensible ground of visitation, then I shall admit that I am wrong and he is right, because they did not decide it on that point.

Mr. MATTHEWS. I appeal to the Senate if the Senator did not speak of the case of *Millers* and others in the cases, of which there is a whole array in 4 Otto, as cases of visitation; for I was so astonished at the remark that I took special pains to interrogate the Senator as to his meaning. He said the power of visitation, though not the only ground on which the authority could rest, was a sufficient ground, and he cited the cases in 4 Otto as proof of the decisions of the court in the application of that doctrine. The leading case was the case of a private person where the Legislature of the State of Illinois first declared that his vocation was public and then because it was public that they had a right to regulate the rates of his charges to his customers. I do not purpose at this time on this occasion in this way to comment on the decision or on those which followed it in the same series of that volume of reports. The ground of the decision was not the right of visitation.

Mr. EDMUNDS. What was the ground?

Mr. MATTHEWS. The ground was that an elevator was property which by the act of the party had been dedicated to a public use, which vested in the public, represented by the Government, a certain interest coupled with the right to regulate that public interest according to its notions of the general welfare; and so they held in regard to the railroad corporations, in which it was held as to this very doctrine of the limitation on the right of repeal to be immaterial, for the reason that the court in the *Munn* case had already held that as to private property the same right of regulation existed, and nobody contended that the property of the corporation was in a better category than that of private persons. I think the only visitation that can appropriately be spoken of in this connection is a visitation of Providence in the concoction and urgency of this bill.

Mr. EDMUNDS. Certainly Providence had not anything to do with the Railroad bill.

Mr. MATTHEWS. It may have. Those on whom the tower of Siloam fell were perhaps not more unjust and wicked than those who escaped.

Mr. EDMUNDS. I do not remember that case.

Mr. MATTHEWS. No, sir; that is not a case in Gray. That brings me to a consideration of this famous case, cited with so much array

of conclusiveness from the fourth volume of Gray's reports, the case of the Massachusetts General Hospital against the Mutual Life-Insurance Company of Worcester. If I am not mistaken it was claimed that this case was a direct authority for the proposition that, under the general power of amendment of a provision in the charter of a corporation which defined net earnings in a particular way so as to require the payment of only a certain amount, the Legislature could subsequently pass another act giving another definition to net earnings so as to make the company responsible for another and a larger amount. It has to mean that to mean anything pertinent to this discussion, and it does not mean that. There is not one word in the case approaching it. The facts in the case are simply that, by the previous legislation of the State in the charter of the Massachusetts General Hospital, a life-insurance company was chartered who were required to devote one-third of their net profits to the support of the hospital. That charter contained a proviso that no other life-insurance company should thereafter be chartered except upon the like conditions. Subsequently, in 1844, a charter was given to the defendant company, which was a company on a mutual plan and had a guaranteed capital stock of a hundred thousand dollars, on which they had agreed to pay interest at the rate of 6 or 7 per cent. per annum as a security to the holders of the deposits. It was claimed by them that under this act they were not liable for the payment of any net profits at all, because they made none, it being a mutual company and the interest on the guarantee capital being a part of the expenses of operation. In order to make the charter of that company conform to the original contract between the State and the Massachusetts General Hospital and to supply the defect in the subsequent charters in respect to that obligation, for it took all its rights with the knowledge of the prior law, an amendatory act was passed declaring that they should pay one third of the net profits over and above the 6 per cent. of the guarantee. That is all there is to that case. It was not a case in which by an amendatory statute a new right was given to the State or any third person, or any new obligation imposed upon the defendants; but more clearly to require the subsequently organized company to conform to the very obligations which constituted the conditions of their corporate existence.

If I understood the argument correctly, this measure was justified on another ground, and that is that it was in the nature of a special act relating to bankruptcy, an act in prevention of bankruptcy, an act to provide for the distribution of the assets of this company, so as that it should not become a bankrupt, for the protection of creditors and stockholders. It is to be observed, in the first place that no creditor of the company, including the Government, has any lien by virtue of the existing law upon the income of the company derived from the use and operation of its property. The mortgages are confined to the body of the property, and do not express that they include the right to receive the income; and, even if they did, there could be no right to receive the income until after default made and until after the court had taken actual possession of the income by the acts of its officer, a receiver. That point has been expressly ruled by the Supreme Court in a case in 1 Otto, of *Gilman and others vs. The Illinois and Mississippi Telegraph Company*, to which I shall merely refer as establishing that proposition. Is there any ground of remedial justice that secures to a creditor or a stockholder of a corporation the right, upon any equitable principle, to intervene in advance upon the ground merely of his apprehension, and ask the court to protect him over and above and outside of the actual legal securities with which he is invested by the terms of his contract? The Senator from Massachusetts, [Mr. Hoar,] not now in his seat, when I first addressed the Senate on this subject, seemed to think that there was a ground on which intervention could be successfully justified, by providing a new remedy; but a new remedy implies an existing and ancient right. Under pretense of giving a remedy you cannot change and substantially alter actual obligations and duties and rights. There is a jurisdiction in equity at the suit of a stockholder, of a creditor sometimes, by invoking the preventive justice of that court to prevent the corporation from diverting their capital, from misapplying their property and income so as to defeat the legitimate purposes and objects of their existence; but that intervention is expressly limited to two classes of cases. There must be some sufficient and distinct acts alleged as justifying the grounds for the application, and they must be either, first, *ultra vires*, beyond the corporate power, and therefore null and void as against complaining stockholders or creditors, or else they must be breaches of trust. Beyond that, outside of those categories, there cannot be found, I venture to say, any reported case in which a court of equity has intervened to regulate the interior and domestic management of the affairs of a corporation. Wherever it has been attempted it has been refused. The principles on which the courts act in such cases are laid down by the Supreme Court of the United States in the case of *Dodge vs. Woolsey*, in the eighteenth volume of Howard. The court say:

The result of the cases is well stated in Angell & Ames, paragraphs 391, 393: "In cases where the legal remedy against a corporation is inadequate, a court of equity will interfere, is well settled, and there are cases in which a bill in equity will lie against a corporation by one of its members." "Though the result of the authorities clearly is, that in a corporation, when acting within the scope of and in obedience to the provisions of its constitution, the will of the majority, duly expressed at a legally constituted meeting, must govern; yet beyond the limits of the act of incorporation, the will of the majority cannot make an act valid; and the powers of a court of equity may be put in motion at the instance of a single shareholder, if he can show that the corporation are employing their statutory powers

for the accomplishment of purposes not within the scope of their institution. Yet it is to be observed that there is an important distinction between this class of cases and those in which there is no breach of trust, but only error and misapprehension, or simple negligence on the part of the directors."—*Is Howard's Reports*, 343.

I recur to an observation made in the prior part of this argument, important now to be noted, that we are called upon to act in this instance, not by virtue of any powers or rights belonging to the United States as a creditor, but as a legislative power, as sovereign; and that we have the same right to put in motion this species of legislation in behalf of other persons as creditors as though the Government was itself not a creditor at all. That is the principle on which the bill of the Judiciary Committee proceeds; for it does not apply the sinking fund to the technical payment of the debt due to the Government or to become due, but claims to preserve it for the general purposes of those to whom it may be assigned as creditors of the corporation. The same power invoked now would be lawful, if lawful here, over every other corporation within the purview of the jurisdiction of Congress.

But more, Congress has jurisdiction to pass a uniform law on the subject of bankruptcy, and that applies not to corporations merely, but to natural persons, to all persons. If in reference to corporations subject to its control Congress has a right to anticipate the possibility of insolvency at a future day by reason of that jurisdiction to require the accumulation of 25 per cent. of their net income, why may they not pass a bankrupt law far more efficient than that cumbersome machine which my distinguished friend, the Senator from Kentucky, [Mr. McCREERY,] who is listening to me now, desires to remove, which shall not undertake to *cure* bankruptcies but to *prevent* them, and to say in advance that in order to meet the case of possible insolvency 25 per cent. of the net income of every citizen of the United States shall be paid into the Treasury to accumulate as a sinking fund at such rate of interest as it may suit the interest of the United States to pay, in order to be distributed in the event of insolvency among the creditors of the party? Why not? Congress has jurisdiction of the person, it has jurisdiction of the subject, exclusive jurisdiction, and if this preventive legislative jurisdiction can be invoked to the extent and in the degree requisite to sustain the present measure, why not make it general and apply it to all cases of possible insolvency? My objection to this bill is that it takes away from a citizen his property for no public use where compensation is proposed, but for private use, for the use of his creditors, who have not yet any claim against him, and without his assent. It is said the land is not taken the visible and tangible property is not taken; it is only the income. But where you take away from property its profit, what valuable interest is there left in it? You take away a man's income and where is his capital? You take away a part; by what right can he maintain and defend the rest? It takes it away not only without his assent, but in spite of his protest and in violation of your agreement with him.

It takes it away, as I say again, for no public purpose but for a private purpose. That you cannot do in this country lawfully under any circumstances as against any man. You cannot buy a man's property against his consent; you cannot compel him to sell it at any price for anything except a public use, and it is a mere abuse, a perversion of words, to call the use public because it is to pay a debt due to the Government, for, as I have again to repeat, as a creditor the Government is a private person. There is no end of the fancies in which men may indulge as to what constitutes that public right which will furnish the excuse for invasions of private property. In the early days of Kentucky, when large bodies of land were unoccupied it was a great public necessity that population should be invited and that improvements should be made. Accordingly, in 1824 I think, a statute was passed by the Legislature of that State which required every holder of such a quantity of lands to put certain improvements upon them within a certain time, failing which any other person might enter, occupy, improve, and own. The validity of that statute, passed upon those apparent grounds of public policy, was questioned and decided as far back as the first volume of Dana's Reports in the case of *Gaines vs. Buford*, in which one of the judges, Judge Underwood, says:

I know of no principle which will allow the Government, any more than an individual, after fairly selling and conveying land, to take back the land and resume the title, at its own pleasure, against the assent of the grantee. Neither am I acquainted with any principle which will allow the Government to *annex new conditions*, unknown at the time of the original contract; and for a violation of them seize the land, divest the citizen of his title, and retain the consideration which the citizen paid or rendered, without remunerating him therefor.—*1 Dana's Reports*, 486.

So in modern times, (for I shall not continue to offend the intuitive sense of jurisprudence dwelling in the breast of my friend, the Senator from Michigan, by referring perpetually only to old cases,) in the case of *Palanet's* appeal, reported in the sixty-seventh volume of Pennsylvania State Reports, the Legislature of that State sought to cut up by the roots and destroy forever the estates in perpetual rents, ground rents, a favorite mode of investment in that State, and particularly in the city of Philadelphia. Accordingly they passed a statute which authorized a sale of the reversion upon the petition of the tenant. The Supreme Court of that State held that without the consent of the owner of the fee it was an attempt to take private property for a private use, although it was attempted to justify it upon the ground of a public policy, and that it was unconstitutional and void.

Therefore, Mr. President, the apprehension is not a vain one that legislative ingenuity is unlimited in seeking out unknown methods of undermining the foundations of private right, and that it is well after all to stand by the ancient landmarks of the law and not to go in quest of these new discoveries in legislative jurisprudence.

As to the details of any arrangement which can be come to between the Government and these companies, I am entirely indifferent. Whatever they can be induced to consent to pay, whatever they can lawfully be made to pay, consistent always with that higher public interest which is contained essentially in their permanence as great national highways of trade and travel for carrying men and merchandise to and fro, I am willing and desirous that they should pay; but I stand here to-day suitably impressed, as I believe, by the solemnity of the responsibilities, public and private, under which I rest and act, and say that if the Government has to lose all the millions it has invested in the advances to these companies, I think it had better lose them than for Congress to give its assent to the propositions contained in this bill, a bill which settles nothing and unsettles everything, which in effect and in intent upsets the consequences of the decision of the Supreme Court of the United States judicially determining the very right between these parties, and refuses again to enter into any bond and obligation, no matter how severe and onerous to the other party, simply because Senators are unwilling to give up the power to tease, to harass, to oppress, and impoverish. That may be regarded by some as a precious inheritance, the right to exert power merely to show that you have power, but my instructions in jurisprudence and political philosophy have taught me that power ought never to be exerted except upon justifying grounds and for beneficial and useful purposes.

When I addressed the Senate on a former occasion I announced my intention to move, and accordingly moved, that the bill reported from the Railroad Committee should be substituted for that reported by the Committee on the Judiciary. I now withdraw that motion in order that the vote when it comes to be taken may be taken directly and expressly upon the merits of the Judiciary Committee's bill.

THE PRESIDING OFFICER, (Mr. FERRY in the chair.) The amendment is withdrawn.

Mr. CHAFFEE. Mr. President, I move to substitute Senate bill No. 1032 for the bill of the Judiciary Committee.

THE PRESIDING OFFICER. The Senator from Colorado moves an amendment by way of substitute as stated. The Secretary will report the substitute.

THE CHIEF CLERK. It is proposed to strike out all after the enacting clause of the bill reported from the Committee on the Judiciary, and in lieu thereof to insert:

That in order to establish a sinking fund for the purpose of liquidating the claims of the Government on account of the bonds advanced under said act of July 1, 1862, and the acts amending the same or supplemental thereto, to the Central Pacific Railroad Company of California, and the Western Pacific Railroad Company, and to the Union Pacific Railroad Company, the Secretary of the Treasury of the United States is hereby authorized to carry to the credit of a sinking fund for the Central Pacific Railroad Company, a corporation organized and existing under the laws of the State of California, the successor, by consolidation, of the said Central Pacific Railroad Company of California and the Western Pacific Railroad Company, and to the credit of a sinking fund for the Union Pacific Railroad Company, the amount due, or which may be due, the said companies, respectively, for the carriage and transportation of the mails, troops, munitions of war, supplies, and public stores for the Government, under the acts aforesaid, up to and including the 31st day of March, 1878, which, if not amounting at said date to the sum of \$1,000,000, shall be made up by the respective companies to that sum each, and any amount so found due said respective companies over \$1,000,000 shall be paid over to said companies respectively.

SEC. 2. That the said Central Pacific Railroad Company and the said Union Pacific Railroad Company shall each pay into the Treasury of the United States, to the credit of said sinking fund, either in lawful money or in any bonds or securities of the United States at par, annually, the sum of \$1,250,000, in equal semi-annual installments, on the 1st day of April and October in each year, commencing on the 1st day of October, 1878, and continuing such payments until and including the 1st day of October, in the year 1900. Interest on all sums placed to the credit of the sinking fund shall be credited and added thereto semi-annually, at the rate of 6 per cent. per annum. Upon the maturity of the first-mortgage bonds of said companies, the Secretary of the Treasury shall pay the same or any part of said bonds remaining due and unpaid out of the said sinking fund: *Provided, however*, That the said companies, or either of them, shall have the right to fund said first-mortgage bonds into a new bond, upon such time and terms as may be agreed upon with the holders thereof, and the present lien to secure said bonds under existing law shall remain valid until said bonds are finally liquidated. Any balance remaining due the United States from either of said companies on the 1st day of October, A. D. 1900, after deducting the amount standing to the credit of said sinking fund from the amount of said bonds, together with all interest thereon which shall have been paid by the United States, and interest on the principal of said bonds from the maturity thereof respectively to the 1st day of October, A. D. 1900, shall be then divided into fifty equal semi-annual installments, to be paid by said companies respectively, one of which shall be paid on the 1st day of April and one on the 1st day of October in each year, with all accrued interest from October 1st, in the year 1900, upon said balance remaining unpaid at the date of maturity of each installment, payable at the same rate of interest per annum as paid by the United States on the larger part of the public debt on the 1st day of January preceding the date of payment of the several installments.

SEC. 3. That the payments so to be made by said companies shall be in lieu of all payments required from said companies under said act of July 1, 1862, and the amendments thereto, in relation to the reimbursement to the Government for the bonds so issued to said corporations. In case, for any cause unavoidable by said companies, or either of them, there shall not be net earnings made sufficient for such payment, and for the payment of the interest on the first-mortgage bonds for any one year, the payments hereby required shall be abated for such time: *Provided*, That no dividend shall be voted, made, or paid to any stockholder in either of said companies at any time when the said companies, or either of them may be in default in respect of the payments required to be paid into the said sinking fund, or in respect of interest upon any debt which may be a prior lien to that of the United States; and any officer or person who shall vote, declare, make, or pay,

and any stockholder who shall receive any such dividend, contrary to the provisions of this act, shall be liable to the United States for the amount thereof, which, when received, shall be paid into said sinking fund. And every such officer, person, or stockholder who shall knowingly vote, declare, make, or pay any such dividend, contrary to the provisions of this act, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding \$10,000 and by imprisonment not exceeding one year.

Sec. 4. That said sinking fund so established and accumulated shall, according to the interest and proportion of said companies respectively therein, be held for the protection, security, and benefit of the lawful and just holders of any mortgage or lien debts of such companies respectively, lawfully paramount to the rights of the United States, as well as for the United States, subject, however, to the provision in section 2 of this act, but the provisions of this section shall not operate or be held to impair any existing legal right, except in the manner in this act provided, of any mortgage, lien, or other creditor of either of said companies respectively, nor to excuse either of said companies respectively from the duty of discharging out of other funds its debts to any creditor except the United States.

Sec. 5. That said companies shall not in any manner be released from their present liabilities to keep the said railroads and telegraph lines constructed under the acts of Congress aforesaid, in repair and use, and to transmit dispatches over said telegraph lines, and transport mails, troops, munitions of war, supplies, and public stores upon said railroads for the Government, whenever required to do so by any Department thereof, at fair and reasonable rates of compensation (said rates not to exceed the amounts paid by private parties for the same kind of service,) the whole amount of which shall be paid by the Government to said companies on the adjustment of the accounts thereof, and that the Government shall at all times have the preference in the use of the same for all the purposes aforesaid.

Sec. 6. That the President of the United States shall forthwith nominate and, by and with the advice and consent of the Senate, appoint a person skilled in the management of railroads, to be styled "the Pacific Railroad commissioner," whose duty it shall be to establish, from time to time, rules and regulations (subject to the approval of the Secretary of the Interior) to govern the operation and use of the several roads of the Union Pacific Railroad Company and the branch companies, and to enforce the observance thereof so as to afford and secure to the public and the Government all the advantages of communication, travel, and transportation over the said road and branches, as stipulated and defined in the several acts of Congress relating to the operation and use of said roads as one connected, continuous line, as well as to secure and enforce the mutual rights and duties of said companies to each other; which rules and regulations shall govern said companies in the operation and use of their respective roads until the same shall be found to be inconsistent with the requirements of said acts of Congress by final decree of the courts of the United States, as hereinafter provided.

Sec. 7. That if said companies or any of them, shall neglect or refuse to conform to the said rules and regulations, the commissioner shall report the fact to the President of the United States, who, being satisfied of such neglect or refusal, shall, by his order, require said commissioner to direct the operation and management of the road of the company or companies so neglecting or refusing, and, if need be to take the absolute possession and control of and operate the same in accordance with such rules and regulations: *Provided, however,* That any of said companies may file a bill in equity against said commissioner and the other companies in the circuit court of the United States of any circuit within which any part of its road may be situated, praying a decree restraining the enforcement of such rules, regulations, or order, and declaring the rights and duties of the parties to such suit under the acts of Congress relating to said companies; and every such suit shall have precedence in the courts in which the same shall be pending, and service in such suit may be made anywhere in the United States by copy of the bill.

Sec. 8. That if the complainant, in any bill which shall be filed under this act, shall not implead all the other companies, any company omitted from such bill shall, upon its petition, be made a party defendant thereto.

Sec. 9. That such commissioner shall continue in office until he resigns, or until removed by the President, and his salary, which shall be fixed at — thousand dollars per annum, to be paid quarterly, together with all his reasonable and proper expenses for clerk hire, office rent, stationery, and other incidental expenses, to be approved by the Secretary of the Interior, shall be paid by the said several companies in proportion to the gross earnings of their respective roads, and as adjusted by said commissioner, after examination by him of the books and reports of said several companies.

Sec. 10. That it shall be the duty of said commissioner, from time to time, to report to the Secretary of the Interior in answer to any inquiries he may make of him touching the condition and management of said road and branch roads; and he shall communicate at any time such information as he may deem advisable to be in the possession of the Department, and he shall perform such other duties as are required under existing law to be performed by the five Government directors provided for by section 13 of the act of July 2, 1862, and that part of said section requiring the appointment of said five Government directors is hereby repealed.

Sec. 11. That upon the faithful compliance with, and performance of, all the requirements of this act relative to said sinking fund by said companies, or either of them, this act shall be deemed and taken as a final settlement between said companies, or either of them so complying, and the United States as regards the payment of said bonds and interest; in case of failure or neglect by either of said companies to perform all and singular the requirements of this act in regard to said payments as hereinbefore mentioned for the period of six months next after such performance may be due, such failure shall operate as a forfeiture of all the rights, privileges, grants, and franchises derived or obtained by it from the United States, and it shall be the duty of the Attorney-General to cause such forfeiture to be judicially enforced.

Sec. 12. That nothing in this act shall be construed or taken in any wise to affect or impair the right of Congress at any time hereafter to further alter, amend, or repeal the said acts hereinbefore mentioned or this act, except as provided in the preceding section; and nothing herein contained shall be held to deny, exclude, or impair any right or remedy in the premises now existing in favor of the United States; and each and every of the provisions of this act contained shall severally and respectively be deemed, taken, and held as in alteration and amendment of said acts of 1862 and 1864, and of the amendments thereto and supplemental acts thereof.

Mr. CHAFFEE. Mr. President, several months ago I had the honor of addressing the Senate upon the subject of the Pacific railroad system, and more particularly upon the manner of the operation of these respective roads one with the other, the main line with the branches. Speaking of the unjust discrimination practiced by the Union Pacific Company toward the branch companies, I used these words:

In my judgment it works a greater hardship than would be entailed by the entire loss of all the bonds loaned to the several companies, the ultimate payment of which the honorable Senator from Ohio [Mr. THURMAN] is so anxious to secure.

Sir, these were not idle words. I propose briefly to give some reasons why I used them then and why I repeat them now.

The Senator from Ohio, who sits near me, said yesterday that my prorate bill had no business with the funding bill, or words to that effect. I must beg leave to differ with my learned friend upon this

point. In my judgment it has much to do with this question, and very much to do with the welfare of the public and with the honor of the Government.

Let us inquire for one moment what were the objects of the acts of 1862 and 1864. Why were these munificent grants made? Why were \$64,623,512 in bonds of the Government issued and loaned to these corporations? Was it simply to enable the Senator from Ohio [Mr. THURMAN] to invent some plan by which the Government can be made more secure and ultimately to be repaid? Did the Government make this vast loan for the benefit of the interest upon the loan? Did Congress part with these bonds and agree to pay the interest on them for thirty years as a business transaction for profit and accept a second mortgage upon the roads as security? Yet my honorable friend from Ohio and his associates upon the Judiciary Committee seem to act upon the theory that the speedy repayment of this money overshadows every other consideration of public policy in relation to the management and conduct of these several companies. In order to arrive at a proper consideration of the subject before the Senate, I propose to inquire into the object of the legislation which called these corporations into existence. The act itself declares this purpose in the following words. I cite section 18 of the act of July 1, 1862:

And the better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the Government at all times (but particularly in time of war) the use and benefits of the same for postal, military, and other purposes.

Again, in section 6 of the same act the companies were required to keep the roads in repair, so that the Government can at all times transport troops, munitions of war, supplies, and public stores, and the mails upon said railroads, &c., so that we see that the declared object of the Government was to promote the public welfare, as well as to enable the Government to use the roads for its own necessities and benefit, that this aid was extended to these corporations.

Mr. President, the theory of the whole legislation had upon this Pacific railroad system is upon this principle, and the branches reaching to widely separated points upon the Missouri River were included in the subsidy so lavishly bestowed, in order to better accommodate the public and the Government. If these were not the main objects sought for, why subsidize any branch roads? Why subordinate the security of the Government for the bonds issued? It is specially provided that the "track upon the entire line of railroad and branches shall be of uniform width, so that, when completed, cars can be run from the Missouri River to the Pacific coast."

Section 12 of the act of 1862 provides that—

The whole line of said railroad and branches and telegraph shall be operated and used for all purposes of communication, travel, and transportation, so far as the public and Government are concerned, as one connected continuous line.

Then, again, in section 15 of the act of July 2, 1864, it is provided:

That the several companies authorized to construct the aforesaid roads are hereby required to operate and use said roads and telegraph for all purposes of communication, travel, and transportation, so far as the public and the Government are concerned, as one continuous line; and, in such operation and use, to afford and secure to each equal advantages and facilities as to rates, time, and transportation, without any discrimination of any kind in favor of the road or business of any or either of said companies, or adverse to the road or business of any or either of the others.

The idea of operating all of these roads as one family, without any discriminations of any kind, has never been lost sight of in any legislation had upon the subject. Now, sir, how has the object of the law been complied with in this respect? The Union Pacific Railroad Company has never complied with the law. On the contrary, it has openly defied the law and the Government by practicing the most unjust discriminations against the branches, utterly prohibiting them from any benefits of through traffic or travel and denying the public and Government any use whatever of the branches for transcontinental business. I do not intend to take up the time of the Senate now to show at any great length how the people of this country are damaged by the conduct of some of these companies; but I desire to read one or two letters from merchants in Denver to show how the State I represent in part upon this floor is practically embargoed by the unjust and unlawful discrimination of the Union Pacific Company:

DENVER, COLORADO, January 2, 1878.

DEAR SIR: I have read with much pleasure your speech upon the management of the Pacific roads. You are certainly on the right track, and I trust you will lay on vigorously and spare not until the laws of Congress shall be obeyed by all the Pacific roads, both in letter and spirit.

As an illustration of the unjust discrimination which has been practiced against Colorado business, I will state that the firm of Martin & Cornforth, of Denver, of which I am the senior partner, has been compelled to pay on fruit shipments for Denver, Sacramento to Cheyenne, \$425 per car-load; the same car would be taken, Sacramento to Omaha, (five hundred and sixteen miles more distance,) for the same sum, \$425. The rate to Chicago from Sacramento is \$500 per car-load. The rate per car-load Cheyenne to Denver is \$90, making the through rates from Sacramento to Denver \$515, to Omaha \$425, to Chicago \$590. This is but one illustration. There is the same kind of discrimination against Denver and Colorado whenever we wish to ship in dried fruits from California, or grain, fruit, or potatoes from Utah, and the same injustice in a marked degree on canned goods. The rates from the Pacific coast or Utah to Omaha, Chicago, Cincinnati and Saint Louis are less than to Denver. I may add that the same discrimination is practiced against us when we desire to travel, as their published tariff shows: Omaha to San Francisco, \$100; Cheyenne to San Francisco, \$100.

Yours, very truly,

J. H. MARTIN.

Hon. J. B. CHAFFEE,
United States Senator for Colorado.

I will read another letter dated January 3, 1878:

DENVER, COLORADO, January 3, 1878.

DEAR SIR: Your speech has attracted the attention of all the business men of Colorado, and fairly elicited the most satisfactory comment by all parties.

Denver and Colorado have been suffering from the discriminations of the Pacific roads ever since they were thrown open for business. The law, as we common business men understand it, has been openly and flagrantly violated. Hundreds of thousands of Colorado's best acres having been donated to the Pacific Railroad Companies by Congress upon certain conditions, one of them being that there should be no discrimination for or against the business of any of the branches, we believe we have a right to at least fair play in the handling of our business by the Pacific roads.

To illustrate how we have been treated, allow me to state the following case: Since the completion of the Colorado Central Railroad between Denver and Cheyenne, I applied for a rate on a car-load of Utah dried peaches from Ogden to Denver. They gave me the following quotations: Ogden to Cheyenne \$500; Ogden to Omaha, \$300—a discrimination of \$200 per car-load against business for Colorado. I did not accept the rate, but will be compelled to purchase in Kansas City or Omaha.

Another case in point: Some months since I purchased in San Francisco a car-load of canned goods, and shipped to Denver, paying freight \$300. The same car of goods, according to their advertised tariff, could have been delivered in Saint Louis for \$300. So that, as a matter of fact, I am compelled to go to Saint Louis or Chicago to buy California canned goods at the best rates for Denver market.

Another transaction: I purchased three car-loads of sirup in five-gallon kegs. Upon inquiry I found that the cost from there to Denver direct, via Cheyenne, would be \$4.10 per keg; but by shipping through to Omaha and down to Kansas City, consigned to an outside party, and from thence, via the Kansas Pacific road, to Denver, the sirup could be delivered for \$1.25 per keg. Of course I shipped by the latter roundabout route, the goods being subjected to about fourteen hundred miles extra and useless travel and my house liable to serious loss and vexatious delay incident to the numerous transfers.

I could make a long list of these discriminations against Denver and Colorado which have fallen under my personal observation, if it was necessary to do so. It is a matter of public notoriety that Utah potatoes can be shipped from Ogden to Omaha cheaper than they can be to Denver.

In traveling between Denver and Utah and the Pacific coast we are discriminated against in the same manner. Your Colorado friends desire you every possible success in your efforts to have the laws of Congress honestly and faithfully enforced in this matter, so that Colorado business interests may not be repressed and dwarfed by the very agency the Government intended should foster and build them up.

Very truly yours,

WOLFE LONDONER.

Hon. JEROME B. CHAFFER,
Washington, D. C.

I vouch for the truthfulness and respectability of these gentlemen; they are among our most respected citizens. The States of Kansas and Missouri are in the same situation. Indeed, sir, the people of all the States south of the Ohio River are compelled to go north to Omaha in order to reach the Pacific coast, instead of embarking at Saint Louis in a palace car and going over the Kansas branch so as to intersect the Union Pacific at Cheyenne. The entire half of this Union is compelled by the unlawful conduct of the Union Pacific Company to travel several hundred miles north to Omaha and traverse the entire line of that road in order to reach the Pacific coast.

But, Mr. President, I do not intend to cover the same ground that I went over upon a former occasion to show the unjust discriminations of these companies. That they exist is a fact as patent as is the fact that the debt of the Government is accumulating from year to year. That these abuses of power ought to be corrected I contend is more important than merely to devise a plan to secure the money advanced to construct the roads; yet my honorable friend from Ohio is willing to ignore the immediate commercial interests of the people for the greed of the almighty dollar. I claim that if any settlement is to be made between the Government and these companies, this *pro rata* question should be made one component part of it; and this brings me to the bill I introduced yesterday, and to which I now desire to call the attention of the Senate. I shall briefly discuss this portion of the bill relating to the legal and proper mode of operating the main line and branches before referring to the other part proposing a sinking fund for the ultimate payment of the amount that will be due the United States. The bill simply provides that, by and with the advice of the Senate, the President shall appoint one commissioner who shall establish rules and regulations, from time to time, to govern the use and operation of these roads with each other, in accordance with existing law, adding nothing whatever to the law in this respect. If any of the companies refuse to conform to such rules and regulations made by the commissioner and approved by the Secretary of the Interior, the President is authorized, if need be, to take possession of the road of such defaulting company and operate the same. I will read section 7 of the proposed act:

That if said companies, or any of them, shall neglect or refuse to conform to the said rules and regulations, the commissioner shall report the facts to the President of the United States, who, being satisfied of such neglect or refusal, shall, by his order, require said commissioner to direct the operation and management of the road of the company or companies so neglecting or refusing, and, if need be, to take the absolute possession and control of and operate the same in accordance with such rules and regulations: *Provided, however,* That any of said companies may file a bill in equity against said commissioner and the other companies in the circuit court of the United States of any circuit within which any part of its road may be situated, praying a decree restraining the enforcement of such rules, regulations, or order, and declaring the rights and duties of the parties to such suit under the acts of Congress relating to said companies, and every such suit shall have precedence in the courts in which the same shall be pending, and service in such suit may be made anywhere in the United States by copy of the bill.

Section 9 provides that such commissioner shall continue in office until removed by the President, and that his salary shall be paid by the respective companies according to the gross earnings of their respective roads.

Section 10 provides that the commissioner shall perform the duties

now required of the five Government directors, whose duties are nominal and wholly unnecessary in my judgment, and consequently it repeals the provision of the law requiring their appointment. I do not suppose the Judiciary Committee or any member of it will question the constitutionality of the power of Congress to authorize the President to take possession of any of these roads as provided in this bill.

I do not propose to enter upon any full or detailed exposition of the power of amendment reserved by Congress in the acts of 1862 and 1864. That has been conclusively done in the speeches which have been recently made in the Senate during the discussion of this question; and in all of the authorities cited upon the subject, it is conceded that the power of amendment, however it may be otherwise limited, extends so far as may be at any time necessary in order to accomplish the original purposes of the acts. This is very distinctly stated in *Miller vs. The State*, 15 Wallace, 498, in these words:

The reserved power may be exercised, and to almost any extent, to carry into effect the original purposes of the grant.

And again, in the *Holyoke Company vs. Lyman*, 15 Wallace, 500, it is said that the provision—

Reserves to the Legislature the authority to make any alteration or amendment of a charter granted subject to it, which will not defeat or substantially impair the object of the grant or any rights under it, and which the Legislature may deem necessary to secure either that object or other public or private rights.

The last expression of opinion by the United States Supreme Court on this subject is in the case of *Wright vs. The State of Ohio*, not yet reported. Mr. Justice Swayne, speaking for the court in that case, says that the power of amendment is not without limitation. He does not state the limits in terms, but instances cases on the one side and on the other, to indicate how far the power may go. On the one side, to show the limit of the power, he says "that it has been decided by the court in New York that the Legislature cannot under the power of amendment require a railroad to build a bridge which is not in any way connected with its works or useful to it in the transaction of its business." The reason is that it is beyond the power of the Legislature to divert the property of a company to any object entirely foreign to the purposes of its creation. An instance on the other hand, cited by the learned judge to show how far the power may go, is a case decided by the court in Massachusetts, where it was held that a railroad company may be required to erect a station-house at a certain point, remove its structures and its track thereto, and operate its road in connection therewith, the power there being exercised simply to accomplish a purpose of the creation of the corporation, namely, to afford to the public conveniences in connection with the use of the road. These instances are but applications in particular cases of the rule as laid down by the United States Supreme Court in the cases in 15 Wallace, namely, that amendment may be made to almost any extent in order to accomplish the original purposes of the charter. The proposed legislation in this bill seeks to do nothing further, and is therefore clearly within the power of amendment reserved in the act as defined by the Supreme Court in the adjudged cases. Many other cases might be cited, but these are sufficient to establish beyond cavil all that is necessary for my present purpose.

But it may be said that the remedy proposed is equivalent to the taking of property without due process of law. In support of this proposition it may be insisted that the Union Pacific Railroad Company occupies toward the Government and the public the relation simply of a private party, and that as such its property is protected by the constitutional provision mentioned. But the Union Pacific Railroad Company is not, in respect of its duties to operate its road with the branches as one continuous line, simply a private party and to be dealt with as such. The case of the Union Pacific Railroad Company *vs. Pennington*, 18 Wallace, 32, 33, was a bill of injunction filed by the company to restrain the taxes levied by the State of Nebraska upon its road, claiming to be exempt from such State interference because it was an agency of the Government. Mr. Justice Strong, delivering the opinion of the court in that case, states in very full and impressive language that this company is an agency of the Government for certain great public purposes, but the court holds that as such its property is not withdrawn from State taxation. In that case the court proceeded upon precisely the same view which was taken by it in the case of *The Merchants' Bank vs. The Commonwealth*, where the question was the right of the States to tax the national banks. Mr. Justice Miller, delivering the opinion of the court in that case, held that the national banks were the fiscal agents of the Government, but not in such wise as to withdraw them from State taxation. So that the railroad company and the banks stand upon precisely the same footing as agencies of the Government and as public servants. The same view of the Union Pacific Railroad Company is taken by the court in the case of *The United States vs. The Union Pacific Railroad Company*, 91 United States Supreme Court Reports, 72, and in several other of the cases to which that company was a party.

Statutes of the United States have from a very early period authorized most summary process against public officers and agents and their property when delinquent in respect of the performance of their duties. In 1813 an act was passed providing such a process against a public officer receiving public funds and in default in accounting therefor. The act was revised in 1820 and is now embodied in the Revised Statutes. It provides that if a public officer receiving public funds shall not

duly account therefor to the Treasury the First Comptroller shall state the account and certify it to the Solicitor of the Treasury, who shall thereupon issue his warrant directed to the marshal of the district in which the delinquent lives. Upon this warrant the marshal may seize the goods and chattels, lands and tenements of the alleged defaulter and also of his sureties and sell the same on short notice; and he may even seize the body of the delinquent. No judicial process is had by any officer on behalf of the Government, the act simply providing that if the debtor feel aggrieved by any of these proceedings he may enjoin the same upon bill filed in the proper United States court. The validity of this act was called in question in the case of *Murry's lessee vs. The Hoboken Insurance Company*, 18 Howard, 266. In that case it appears that Swauntont was collector of customs of the port of New York. Being delinquent in rendering his accounts to the Treasury, a warrant was issued against him and a certain lot of land was sold by the marshal upon it, and upon the one side title to the property rested upon the validity of this sale. Judgments were also recovered against him in the supreme court of the State of New York, upon which executions were issued to the sheriff of the county, who sold the same property to another party, which party claimed title under these judicial proceedings. The question was whether the proceedings upon the Treasury warrant were valid, two objections being taken thereto: first, that the statute vested in the Executive judicial powers; secondly, that the proceedings were had without due process of law. Both objections were resolved by the court in favor of the validity of the act of Congress and the Treasury warrant and the proceedings thereunder, and the title held thereby was sustained.

It is evident that the proceedings in the Treasury are in a certain sense judicial. The Comptroller must inquire whether the person sought to be charged is a public officer within the meaning of the act; whether he has received public funds, and, if so, how much; whether he has rendered his account therefor or for any part thereof; what the amount of his delinquency is, and generally whether the case is one upon which a warrant should issue against him and against his sureties. These inquiries are precisely the same as those which would be presented to the court in a suit upon the bond for its determination; but the court held that notwithstanding this it was competent for Congress to vest this judicial or quasi-judicial power in an officer of the executive department of the Government. The court further holds that the warrant and proceedings under it are "due process of law," and that in order that a proceeding may be "due process of law" it is not necessary that there should be any action by a court of justice. If the attempt be made to distinguish the case of a public officer charged with public funds from the case of the Union Pacific Railroad on the ground that the former occupies to the Government some special official relation, what has already been said in respect of the objects of Congress in the acts under consideration and the character of the Union Pacific Railroad and its relations to the Government and the public show that it stands upon precisely the same ground. Its duty to furnish to the Government the speedy transportation of its great mails, of its troops, and of the public stores is of just as high and just as pressing a character as the payment into the Treasury of public funds by a public officer.

But this is not the only instance in which acts of Congress provide for summary process without judicial intervention. If a collector of the customs finds that property is sought to be imported into this country from abroad in violation of the customs laws he may seize it and sell it summarily upon short notice. So, too, if a distillery be operated in violation of the internal-revenue laws, it may be seized and closed by the collector without judicial process. So, too, national banks, their property and business, may be taken from the hands of their officers and owners and placed in the hands of a receiver, who may proceed to close their business upon an *ex parte* showing, to an order by the Comptroller of the Currency. In all these cases the seizure is made and the property converted without any intervention by any judicial authority or upon any judicial writ.

There is also another class of cases in which the process is equally summary. Under what is called the police power, laws for the seizure, impounding, and sale of cattle, swine, dogs, or any other property which is a nuisance to the public, have been justified. Cases in large numbers are collected and explained by Cooley in his work on Constitutional Limitations. They are too familiar to lawyers in the Senate to need explanation here. To one of these cases, however, I will ask attention for a moment. It is *The Commonwealth vs. Alger*, reported in 7 Cushing, 53. Under a colonial ordinance of Massachusetts the owner of upland bordering on the sea had an estate in fee in the adjoining flats, with full power to erect wharves and buildings thereon at his convenience and to any extent. A statute was subsequently passed forbidding the enlargement or extension of a wharf beyond a certain water-line, abridging of course the enjoyment of his property by the owner of the uplands. The statute also provided that a structure erected in violation of its inhibition might be summarily removed without any judicial proceeding whatever. The question was whether such statute was valid against the owner of the estate. The court in an elaborate opinion sustained the validity of the statute and justified the exercise of the summary power of removal by the administrative officer. In the exercise of the same power railroads have been regulated in most important particulars. For instance, in respect of their grades and the crossings of the tracks of two companies and the

apportionment of the expense of the work, in respect of ringing their bells or blowing their whistles, in respect of the establishment of flag-stations and station-houses, in respect of fencing their tracks, and notably in one of the great granger cases (reported in 4 Otto) where the power of the State Legislature to reduce charges for fare and freights was sustained, first by the supreme court of Wisconsin and afterward by the Supreme Court of the United States. Many other cases of the same sort might be mentioned.

The rule to be extracted from all these cases is that, if a company or a party be charged with a public duty and should use their property so as to interfere with the public convenience, a summary remedy may be applied by the administrative department of the Government.

We have seen that the Union Pacific Railroad Company has been endowed by Congress with very large powers, and upon it have been imposed most important public duties. Its powers have been conferred upon it in order that it might discharge those duties. One of the objects of Congress has been to provide for different sections of the country, by means of the branches, equal advantages and facilities in all respects, one with another, in the enjoyment and use of a great transcontinental railroad, and the duty resting upon the company has been expressed in clear, comprehensive, and precise terms. For the more certain accomplishment of the great purposes of Congress in creating and endowing this company, the power to prescribe by way of amendment new rules, and especially new remedies, was reserved. The legislation here proposed is in every aspect of it within the principles above briefly expounded. It may be completely justified simply on the power of amendment reserved in the acts, and also upon that power of supervisory control which Congress has over its own public agent.

Thus it will be seen that the power to seize the property of any one of these companies, upon its refusal to obey the laws, which it is proposed in this bill to vest in the Executive, is not a new power, but it has been conferred before and in many cases. In the acts of 1862 and 1864, in certain contingencies, the President of the United States is authorized to take possession of the entire property of the Union Pacific Railroad Company. Section 5 of the act of 1862 provides as follows:

And on the refusal or failure of the said company to redeem said bonds, or any part of them, when required so to do by the Secretary of the Treasury, in accordance with the provisions of this act, the said road, with all the rights, franchises, immunities, and appurtenances thereunto belonging, and also all lands granted to the said company by the United States, which, at the time of said default, shall remain in the ownership of the said company, may be taken possession of by the Secretary of the Treasury, for the use and benefit of the United States, provided this section shall not apply to that part of any road now constructed.

Again, section 17—

Provided, That if said roads are not completed, so as to form a continuous line of railroad, ready for use, from the Missouri River to the navigable waters of the Sacramento River, in California, by the 1st day of July, 1876, the whole of said roads before mentioned, and to be constructed under the provisions of this act, together with all their furniture, fixtures, rolling-stock, machine-shops, lands, tenements, and hereditaments, and property of every kind and character, shall be forfeited to and be taken possession of by the United States.

Section 22 of the act of 1864 provides that "Congress may at any time alter, amend, or repeal this act." These stipulations are a part of the contract, and are as valid as any other stipulation in the contract. This bill provides that if any company refuses to operate its road according to the contract the President shall take possession of it and perform the contract for such defaulting company. If the provisions of the acts of 1862 and 1864 are valid, it is within the power of Congress now to confer the same authority by this bill.

But the Senator from Ohio may still say, what has this subject to do with the funding bill? I will tell the Senator something that I fear he has forgotten, which does in my judgment bear upon this funding question. Does the Senator not know that one of these branches of the Union Pacific Railroad system owes the Government an original amount of \$6,363,000 for bonds issued and loaned in the same manner and at the same time that the bonds were loaned the Union and Central Pacific Companies? This has been bearing interest ten years, which the Government has paid, making an amount now due the Government of over \$9,000,000.

Does the Senator not know that on account of the unlawful discrimination of the Union Pacific Company against the Kansas Pacific this branch is at the present time in the hands of receivers upon motion of the first-mortgage bondholders, for default in interest due, and will be sold out unless something is done immediately to prevent these discriminations and open this road as a part of the through line to the Pacific coast? If this is done this sum of \$9,000,000 can be saved to the Government. If it is not done the whole amount will be a total loss, and will aggregate over \$16,000,000 at maturity. Yet my honorable friend from Ohio thinks this has nothing to do with the question now before the Senate.

Then again, if the Union Pacific is compelled to prorate with the eastern branches, thus dividing the business on the eastern half of its road, that company may not be able to pay quite so much money annually as proposed by the Judiciary Committee bill, so that Senators may see that this prorate question has much to do practically with the question before the Senate.

Mr. President, I have thus far spoken in regard to that part of the bill introduced by me yesterday which relates to the question of discrimination against the branches. I propose now briefly to examine

the other portion of the bill relating to the funding question; and I may here remark that the first section of this bill is similar to and almost in the exact terms of the bill reported by the Railroad Committee.

The second section provides that each company shall pay into the sinking fund the sum of \$1,250,000 in semi-annual payments, which sum shall be in lieu of all other payments required of said companies under existing law:

Provided, however, That the said companies, or either of them, shall have the right to fund said first-mortgage bonds into a new bond, upon such time and terms as may be agreed upon with the holders thereof, and the present lien to secure said bonds under existing law shall remain valid until said bonds are finally liquidated.

It is well known by the Senate that the lien of the United States is subordinated to the lien for an equal amount which the companies were allowed to raise upon their own resources by the issuing of bonds. Now, this bill provides that at the maturity of these bonds, which occurs some two or three years prior to the year 1900, the time to which this funding system is to run, the companies, in case they desire and are able to fund these bonds into a longer bond, shall have the right to do so, and the same lien shall exist until the maturity and final liquidation of the new bonds as exists now under the present laws. In case the companies are able at the maturity of the first-mortgage bonds to fund them into new bonds, the amount in the sinking fund to be applied to the debt due the United States will be much larger; it will be equal to the amount of the par value of the bonds at maturity, which will be in round numbers about \$27,000,000 for each company.

The Senator from Ohio [Mr. THURMAN] claims that this theory of a funding bill is equal to a new subsidy to the companies. I do not see how he can establish such a proposition.

Mr. THURMAN. It is sponging out so much debt by mere computation.

Mr. CHAFFEE. It is true the companies are to receive compound interest until the year 1900. Then, if the companies succeed in funding their first-mortgage bonds, this accumulation will, of course, wipe out a larger proportion of the debt; but, if they do not succeed and the United States is compelled to pay those bonds out of the sinking fund, the companies propose and this bill proposes that the balance of the debt due the United States shall be paid off in equal semi-annual installments running fifty years, with interest upon all sums remaining unpaid, to be paid at the date of each installment. I cannot see any new subsidy in such a proposition.

This bill, as I said before, proposes that each of these companies shall pay a certain amount in round numbers, regardless of any half transportation or any 5 per cent. of net proceeds from the earnings of the road. I believe that that is a fair, plain, business-like view to take of the question. Let the companies pay a certain amount. If this is not enough, if the Senate shall think that \$1,250,000 each is too small an amount, let us make it more, but let us make it a finality, an ending of this question, and not undertake to pass a law by which controversy will be extended through all time to come.

Mr. THURMAN. If it does not interrupt the Senator from Colorado, I should like to say a word right here on the question where the new subsidy is.

Mr. CHAFFEE. Very well.

Mr. THURMAN. If I understand the Senator from Colorado, he thinks there is no new subsidy in this business because the sinking fund at the maturity of the bonds may be applied to pay off the first-mortgage bonds. That is his idea.

Mr. CHAFFEE. Yes, sir.

Mr. THURMAN. But let us see who is to pay them off.

Mr. CONKLING. Of which bill is the Senator speaking now?

Mr. THURMAN. The Railroad Committee's bill and the substitute of the Senator from Colorado. Let us see who is to pay them off. According to the Railroad Committee bill and according to the substitute of the Senator from Colorado, the Government is to take its own money—that is, the money which it is entitled to receive from these companies and which it is entitled to credit them with instantly each year, as it happens to be received, and which is only a credit for just that same amount—and the Government is to put that nominal sum into a sinking fund and compute interest on it at 6 per cent., compounded semi-annually, until the year 1900, the effect of which would be that the interest would be two and a half times more than the principal and the Government would stand debtor for that much money as belonging to the sinking fund; and, suppose it is paid off in discharge of the first-mortgage bonds, the amount of it is that the Government pays three and a half times as much as it receives.

Mr. CHAFFEE. The Senator says the Government pays its own money. It takes the money out of the sinking fund paid in by the companies.

Mr. THURMAN. But how is the sinking fund constituted according to the Senator's substitute?

Mr. CHAFFEE. It is constituted by requiring each of these two railroad companies to pay into the Treasury of the United States \$1,250,000 annually.

Mr. THURMAN. And allowing them interest upon that at 6 per cent., compounded semi-annually.

Mr. CHAFFEE. It enables the companies to pay the bonds.

Mr. THURMAN. But of the \$1,250,000 which you require each of

them to pay annually, two-thirds, under the existing law, is money of the United States, belongs to the United States.

Mr. CHAFFEE. The Senator does not know that. That he anticipates; that he estimates. That is a question for the business of the future. He does not know how much the net profits of these roads will be for any year hereafter; neither can he tell how much the half transportation will be. He estimates that. He can judge from the past, of course; but does not the Senator know that the Indian question, from which the larger amount of transportation for the Government over these roads has been derived, is now settled, or nearly so, and the prospect is that other roads may be built across the continent which will take away a portion of the business of these roads? The Government, as the Senator from California suggests, will have the same right to transport over those new roads, and of course it will undoubtedly divide a portion of its business according to the section where the transportation is desired with the other roads.

Mr. CONKLING. May I ask the Senator what is to be done with the bonds, on his theory, deposited as the representatives of the sinking fund?

Mr. CHAFFEE. There are no bonds deposited. The companies are to pay money.

Mr. CONKLING. So I thought until I heard the Senator from Ohio say that his remarks applied equally to either bill. I had the substitute of the Senator from Colorado yesterday, but somebody has carried it off so that I have not been able to read it to day. I was misled by the remark of the Senator from Ohio. I understood the Senator from Ohio to say that the proposal was to have bonds and the Government was to pay compound interest on those bonds, thus paying three and a half times the amount to be ultimately received back.

Mr. THURMAN. No; I only spoke about bonds in connection with paying off the first-mortgage bonds. I did not intend to say—if I did it was certainly a slip of the tongue, and I do not think I said it—that either the plan of the Railroad Committee or the plan of the Senator from Colorado contemplated any investment in bonds. It is mere book-keeping with both those plans.

Mr. CONKLING. Then, if I may be still indulged a moment in my dialogue with the Senator from Ohio, his objection, if I understand it, is that the payment of \$1,250,000 a year into a sinking fund would be composed in part of moneys which he says belong to the Government at the time.

Mr. THURMAN. Certainly.

Mr. CONKLING. That is the extent of his criticism.

Mr. THURMAN. Under the existing law.

Mr. CONKLING. Well, the moneys belonging to the Government at the time, belong to it, I take it, in order to liquidate and satisfy the obligations of the companies toward the Government; do they not?

Mr. THURMAN. To be sure, and they are presently applicable.

Mr. CONKLING. Then does the Senator from Ohio see any objection in the statement he makes if the object of the possession or custody of or right to these moneys by the Government is ultimately to indemnify and save harmless the Government against possible loss on account of the companies, does the Senator see in that fact an objection to any arrangement which insures that consummation? Let me state it again. Suppose the Senator could see in the bill proposed by the Senator from Colorado a mode in which, at a specified future day, absolutely as far as human foresight can be absolute in its vision, the Government would be indemnified, would be paid, reimbursed entirely, would it be an objection in his mind that the *modus operandi* was such that certain custody, by way of a sinking fund, was ascribed to moneys which currently, as they accrue under existing law, belong not to the corporation but to the Government?

Mr. THURMAN. Why, the Senator does not understand me, and he does not understand the proposition.

Mr. CONKLING. I seem to myself not to understand the Senator. I presume I do not. I wish he would make me understand him.

Mr. THURMAN. I will, if the Senator will sit down.

Mr. CONKLING. I always sit down when the Senator from Ohio speaks.

Mr. THURMAN. I hope we are not interfering with the Senator from Colorado.

Mr. CHAFFEE. The Senator is not interfering at all. He can make so much better a speech than I can, that I would rather he should go on.

Mr. CONKLING. I feel the same way.

Mr. THURMAN. If the Senator from New York held my note for \$10,000, and I should go to him and pay him a thousand dollars, which by the terms of the note he would be entitled to receive to-day, the rest of the note not being due for some time to come, and I should say to him "credit me, not with the thousand dollars that I have paid on this note, but put this thousand dollars into a sinking fund, make an entry on your books, and compound interest on it semi-annually at 6 per cent. for ten years" or twenty, as it is in this case, "and then credit me with the amount to become due," I might pay off my whole note with that thousand dollars. That is exactly what the proposition is.

Mr. CONKLING. Is that the Senator's mode of making me understand it?

Mr. THURMAN. I am trying to do it. If it is a defective mode, it is not for want of understanding in the Senator.

Mr. CONKLING. Mr. President—

Mr. MORRILL. I think, if the Senator from New York will permit me—

Mr. CONKLING. I wish the Senator from Vermont would let me try a moment now. This has come to a point where I think there is a hope of my being able to do something with it. [Laughter.]

Mr. President, analogies are always dangerous. Illustrations have no value at all unless they are true. A caricature may sometimes bring out a likeness, but a caricature always distorts and destroys a legal argument proceeding by parallels. Why does the honorable Senator from Ohio, if he believes as I stated that my purpose is to inform myself on this point, mislead me, turn away and confuse the Senate, unless other Senators understand much more about this matter than I do, by displacing entirely the considerations involved, by changing the whole thing, and if he will take no offense at it I will say by distorting the whole proposition. He says that it is as if I hold his note and he comes to me when the note is due and says "I propose to pay you a thousand dollars when the thousand dollars is due, but in place of allowing you, as the law allows you, to do as you choose with the thousand dollars that I pay, I ask you now to allow me to make a sort of special deposit of it, which shall withhold from you the right to use this money, the right to place it and appropriate its earnings, but which shall make you the mere manual custodian of this money to earn interest for me, and when it has earned that interest then I ask you to apply that upon the note." Mr. President, the Senator need not have stated half that proposition to state one which would shock the sense of a child, and a young child at that. Why did he not take the case of an obligation not due, an obligation not to become due except in a far future?

Mr. THURMAN. Because there is no such case here. That is the reason.

Mr. CONKLING. Does the Senator say that?

Mr. THURMAN. I do.

Mr. CONKLING. In spite of the decision of the court?

Mr. THURMAN. I say the decision of the court has nothing to do with the question.

Mr. CONKLING. Why has it nothing to do with the question?

Mr. THURMAN. Will the Senator hear me?

Mr. CONKLING. Always.

Mr. THURMAN. The Senator says it is not due. Why, by the very terms of the charter 5 per cent. of the net earnings and the half-transportation account are due every year and are a present payment with which these companies are entitled to be credited. It is not, therefore, getting money in advance of our being entitled to it under the law. We do not get a dollar in advance of what we are entitled to under the law. But here is a contract which says just as much as if it were in so many words, let us estimate the half transportation and 5 per cent. of net earnings as in the case of the Union Pacific at \$750,000 a year, and that will be about a fair estimate of the last six years—

Mr. CHAFFEE. Why does not the Senator from Ohio estimate it at a million?

Mr. THURMAN. I have not estimated it at a million, because I take what is most favorable to the company—the last six years. But let me go on.

Mr. CHAFFEE. It would be better for your argument if you estimated it at a million.

Mr. CONKLING. Do not be too stingy in helping yourself.

Mr. THURMAN. Now suppose that, instead of the sum being a mere matter to be found by experience, the charter had said "the Union Pacific Railroad Company shall pay every year \$800,000, which shall be credited to it at the time it is paid upon its indebtedness to the Government of the United States;" that would have been in principle exactly what it now is. The only difference would be that there the sum would have been fixed and here it is ascertainable. *Id certum est quod certum potest* applies. The case in principle would be precisely the same. Each of these substitutes proposes that \$800,000 (which by the charter is payable annually and which by the charter is to be annually credited to the company, simply the amount paid) shall, instead of being put to the credit of the company, be received by the Government, used by the Government, and disposed of as it pleases, but that the Government shall allow credit not simply for that sum, but shall make a book account for twenty years, and allow credit not only for the amount to which the company was entitled to credit, but also for twenty years' compound interest. If that is not a new subsidy, I do not know what is.

Mr. CONKLING. The honorable Senator wanders from the point which I was endeavoring to state. I asked him why he did not take the case of an obligation not due. In place of meeting that question he says that a certain portion of the obligation is due.

Mr. THURMAN. Well.

Mr. CONKLING. I deny that as he states it, although it is quite beside my purpose. I asked him why he did not take an immature obligation for his illustration. He said there was no such case here. What is due? The bonds? The debt? The whole debt which the Senator says he wants to secure to the United States? Is that due? No; that is not due, and that is what I am talking about; that is the correlative of the note in his supposed case.

But I have another objection to the Senator's answer. He says 5 per cent. of the net earnings is due. How does he know that? He

has explained in several productions which the world will not willingly let die what he believes "net earnings" to be. Every court to whom it has been submitted differs with him. He has stated what he understands the obligation to be of amassing funds by withholding transportation compensation; and as far as I know every court that has passed upon the question differs with him. Therefore I deny that even that part which the Senator refers to of this obligation is due in any sense which entitles him to affirm it as something which we must accept and act upon.

Mr. President, nothing could have been further from my purpose than to be drawn at this moment, if at any moment, into a general discussion of this question. I shall not be drawn into any general discussion, particularly as I am intruding upon the Senator from Colorado. I will go back, however, to state what moved me when I rose. After hearing the distinguished Senator from Ohio, (and nobody will ever state more clearly than he has stated one side of these propositions,) I cannot understand, dismissing all question of constitutional power, disregarding all considerations of good faith, looking at the single question what is best in money interest, any reason why we should discard an arrangement because it contains something less injurious to the other contracting party than another might, provided it is certain in the end to work out the result. I cannot comprehend why that arrangement is not the best for the Government which is best for these corporations, provided it gives bond and assurance that the advance made by the Government for the building of these roads and the interest meanwhile shall be rendered back in the end to the utmost. Creditor or sovereign—discussion has been waged to ascertain which—what interest has the United States in inflicting needless injury upon these parties? If none, then if the Senator from Colorado has a scheme which I mean to understand better than I do—I repeat, I had his bill yesterday; I believe he gave it to me himself; and somebody wanted it more than I and carried it away and I have not been able to possess myself of another copy; I will try to understand it before the Senate meets again—if he has a scheme which indemnifies the Government in the end, and the only objection to it is that it does it by an arrangement less austere than some other, I am for that bill.

Now, Mr. President, while I am on my feet, if the Senator from Colorado will indulge me a moment in that connection, I beg to state two or three things. I will never vote knowingly as I would not vote if these parties were not corporations. That is one thing I will guard myself against. I will never inflict upon these artificial persons that which I would not insist upon against a natural person. Gold may be bought too dear; and we cannot afford to do that against a party unpopular, odious, and hateful to-day, which we would not be willing to abide by to-morrow in the case of the most cherished favorite of the Senate. I see that amuses the honorable Senator from Ohio.

Mr. THURMAN. It does.

Mr. CONKLING. He says it amuses him. Mr. President, I am speaking of the fact that the law is no respecter of persons, that the law shall be the same, whether for the man who is clothed in purple and fine linen and fares sumptuously every day, or for the man who lives in a hut and has nobody to befriend him; and the honorable Senator from Ohio says he is amused at that!

Again, I will never give a vote knowingly, prompted or incited by the fact that these corporations have made money and have not lost money. I have heard over and over again statements here of the profits which they have earned, the dividend they have divided. Mr. President, on this question in this forum are we to measure or withhold from them any modicum of justice or results because in the venture and vicissitude of this great work the time has come when profits, and not losses, have fallen to them? I hope not. If not, then again I say that the fact that a particular proposition consists with the interest of these parties, in place of condemning, commends it, if it be one which indemnifies the Government and answers the purpose; and it will not do to treat this as in a supposed case like an obligation the whole of which is due, all of which we may demand, and speak of all terms as lenity and concession.

A moment ago I was looking at the report made by the Senator from Ohio, and one thing struck me to which I will call his attention before I sit down, because he had spoken of our right to this 5 per cent. of net earnings. This report recites in brief phrases what few of us have forgotten, that we sent these corporations by direction of statute to the judicial courts to ascertain whether the 95 per cent. of net earnings to which they were entitled meant 95 per cent. of gross earnings or 95 per cent. of net after all expenses were paid. That circumstance is alluded to. I do not discover here any allusion—perhaps it is here—to the fact that the court said (I do not mean the Supreme Court, but the other court, the court below) that the rail way companies were right and we were wrong upon that question.

Mr. THURMAN. What case does the Senator refer to?

Mr. CONKLING. In which the court said that?

Mr. THURMAN. Yes, sir.

Mr. CONKLING. My impression is the Court of Claims said that.

Mr. THURMAN. Not a bit of it.

Mr. CONKLING. Did it not?

Mr. THURMAN. No, sir; it never did.

Mr. CONKLING. I will deduct, then, from what I was saying. I thought the court had recently given a broad intimation—

Mr. THURMAN. I know exactly what case the Senator refers to.

It is a mere *pro forma* decision of the circuit court in Iowa, and it shows on the record that it is *pro forma*.

Mr. CONKLING. But I drop that part of my statement. The Senator rises to make it still appear on the principle I suppose on which the English always fire a gun when the flag is down, to remind everybody of their victory. I drop that part of my statement and I come to this: the honorable Senator having alluded to that drops this little observation in this report:

As to the past we leave the question upon the law as it now stands to the decision of the Supreme Court in the case pending before it.

As to the past, upon this vital and essential matter of agreement he proposes to leave the court to determine this case which we ourselves sent there agreeing to abide the event, agreeing to it not only by the act but by the implication. As to the past he proposes to allow the court to render a decision; but as to the future, he proposes to make a new law to dispose of this very important question which he and the other constituents of the two Houses once agreed to submit not merely to arbitration but to the decision of the national courts, themselves the creatures of the Constitution and statutes of the United States.

Mr. President, for one I am willing to admit, in the presence of that proposition as there stated, that I will vote to enunciate such a doctrine and to petrify it into a law, if I ever do vote for it, when I have ascertained that milder means, not departing so far from the ancient ways, are insufficient to secure the Government what will ultimately be the Government's due; and certainly I will never vote for it in preference to any plan which is certain and to which no objection can be made other than objections of the kind alluded to by the distinguished Senator from Ohio.

Now, Mr. President, I beg pardon of the Senator from Colorado for taking so much time. I see the danger of asking a question, and I am very sorry that I interrupted him so far.

Mr. THURMAN. I only want to say that when I can have the floor without interfering with the Senator from Colorado I will try and show the point so clearly that even the Senator from New York, who seems to know nothing at all on the subject, will be able to comprehend it.

Mr. CHAFFEE. Mr. President, if the proposition made by the Senator from Ohio is true, I am ready to admit that my bill and my theory of the sinking fund are absurd. He states substantially that this amount is now due the Government, and upon that theory my bill would be an absurdity, it would be a subsidy as he claims; but is that the fact? The Supreme Court has decided that the interest is not due until the principal is due; that both the bonds and the interest become due and payable at the maturity of the bonds.

Mr. THURMAN. Will the Senator allow me to say that the Supreme Court has not decided any such thing? The Supreme Court has not decided as broadly as he states it.

Mr. CHAFFEE. Then I should like to ask the Senator why he proposes the same theory in his bill?

Mr. THURMAN. No, I do not.

Mr. CHAFFEE. He proposes a sinking fund to run at 5 per cent. until the maturity of the first-mortgage bonds.

Mr. THURMAN. If the Senator will hear me he will see that he is wrong. The Supreme Court have only decided this, that except so far as the 5 per cent. of net earnings and the half-transportation account (which are applicable annually) extinguish the interest, there is no obligation to pay the interest until the end of the maturity of the bonds.

Mr. CHAFFEE. The 5 per cent. of the net earnings and the half-transportation account are not only to apply to the interest but to apply to the bonds.

Mr. THURMAN. If sufficient.

Mr. CHAFFEE. They apply to the bonds equally with the interest. The law says so.

Mr. THURMAN. But how much is applicable, I ask the Senator?

Mr. CHAFFEE. Is it applicable whenever it is paid, annually?

Mr. THURMAN. Certainly; annually.

Mr. CHAFFEE. I am willing to admit that the half-transportation account and the 5 per cent. of net earnings are to be paid annually into the Treasury of the United States. By the substitute which I propose the payment required of each company of \$1,250,000 annually is in lieu of those payments which they are now required to make. But upon the 1st day of October in the year 1900 a balance is made, and whatever remains due the United States, after taking therefrom the amount accumulated in this sinking fund, is to be paid, dollar for dollar, and interest upon every dollar, which is equivalent to the payment of the whole debt in the year 1900; because the United States may as well receive the bonds from this company or receive the payment of interest equal to the interest that the United States has to pay upon its debt, as you have the money paid into the Treasury of the United States.

Mr. President, if there is to be any ending of this Pacific Railroad question, if the suits that are pending in the courts and which have been pending from the time the road was completed, and which will be pending, in my judgment, if the theory is adopted of the Senator from Ohio, until the maturity and final payment of the bonds—if these suits are to be ended, why not say pay so much into the Treasury of the United States in lieu of all other debts? Let us end this vexed question of what are the net earnings of the roads.

I see no objection to the substitute which I propose. I see nothing wrong in principle in it. The Senator may say that the amount required by the Government from these companies annually is not large enough, but I can see no reason why he should condemn the theory of the measure, because it is based upon the same theory as his own bill, except that in his bill the 5 per cent. of the net earnings and the half transportation are paid annually into the Treasury of the United States.

Section 4 of my bill is substantially a section from the bill of the Senator from Ohio providing for the security of all creditors who have priority to the Government of the United States.

Section 5 provides that the companies shall not in any manner be released from their present liabilities to keep the railroads and telegraph lines, constructed under the acts of Congress, in repair and use. It is substantially the same as the provision of the bill of the Senator from Ohio.

Mr. BURNSIDE. Will the Senator from Colorado allow me to ask him a question?

Mr. CHAFFEE. Yes, sir.

Mr. BURNSIDE. Does the Senator's bill contemplate that the payment of one-half the transportation and 5 per cent. of the net earnings shall be made into the Treasury of the United States annually as a payment without reference to drawing interest in a sinking fund?

Mr. CHAFFEE. The bill that I introduce provides that the half-transportation account shall be paid to the companies and that the payments required of the companies shall be in lieu of all other payments, as the Senator will see by reading the second section.

Mr. BURNSIDE. If the Senator will look at it a moment he will see that there is very little difference between his bill and the bill proposed by the Railroad Committee. Suppose the Government of the United States has no claim upon either of these railroad companies for its issue of bonds; in other words, suppose that the issue of bonds were a gift to the company by the Government of the United States, and the company agreed for a period of years to pay to the Government 5 per cent. of its net earnings and one-half of its transportation. Then to determine what that is worth to the Government, the Government would simply have to take that money as it is paid in annually and invest it in its own securities, to simply open an account with an equal number of securities and find what the Government would have to pay, principal and interest, at the end of twenty years for just exactly that amount of money paid in, in principal and interest. This one-half of the transportation account and 5 per cent. of the net earnings is certainly due the Government each year. That certainly should be paid to the Government and there should be no interest allowed upon that to the parties paying it in. If anybody is to gain interest upon that the Government of the United States should gain the interest by investing it in its own interest-bearing securities.

Mr. CHAFFEE. It is a question for the Senate to decide which is the better way to arrange this matter. I say the better way is to receive so much money from the companies in lieu of all other payments.

Mr. BURNSIDE. I am trying to get as a starting point at the obligation which the companies owe to the United States. They are to pay to the United States every year 5 per cent. of their net earnings and one-half of the transportation account, without reference to any other indebtedness, without reference to the bonded indebtedness at all.

Mr. CHAFFEE. There is no dispute about that.

Mr. BURNSIDE. If the Senator will allow me, that amount certainly belongs to the Government of the United States and no interest should be allowed to the companies for that sum. That money is to be used by the Government for just what it pleases, for its current expenses or for the liquidation of its own indebtedness. When the Government liquidates its own indebtedness it applies its interest-paying securities; and that certainly should form no part of the fund on which the companies are drawing interest. There is no mode of reasoning by which that can be claimed, that I can see.

Mr. CHAFFEE. I do not dispute the position taken by the Senator from Rhode Island. One-half the transportation due these companies from the United States is to be retained by the United States, also 5 per cent. of the next earnings of the companies, under existing law. The proposition by my bill is to receive a certain amount annually until the year 1900 in lieu of these payments, which shall be put into the sinking fund and compounded, as proposed by the Senator from Ohio. [Mr. THURMAN.]

Mr. BURNSIDE. I should like to ask the Senator a question. This money is due the Government of the United States in payment. The Government does not want anything in lieu of it; it wants the payment. The Senator proposes to settle the question by putting in more money and establishing something like a sinking fund and having an equitable arrangement made.

Mr. CHAFFEE. That is exactly my bill. If the Senator will look at the bill he will see that is exactly what the bill proposes. In lieu of these payments, each company is required to pay a much larger sum than the half-transportation account and 5 per cent. of the net earnings.

Mr. BURNSIDE. The companies are to pay in a much larger sum and the companies are to be allowed interest on that sum all the time.

Mr. CHAFFEE. Certainly.

Mr. BURNSIDE. Why should they receive interest? They should not receive interest on that part of the amount paid in which would be equal to 5 per cent. of the net earnings and one-half the transportation, because that is to be paid in any event. That much is due to the Government of the United States from the companies. The Senator seems to lose sight of the fact that, notwithstanding the Supreme Court of the United States has decided that the bonded indebtedness is not due until a certain period, twenty years or more hence, there is still due to the Government of the United States from the companies a certain amount every year. That amount should be counted as due the Government and it should be paid to the Government. It should form no part of any sinking fund and should not be taken into contemplation in making a sinking fund.

Mr. CHAFFEE. It is simply a question for the judgment of every Senator whether it is better for the Government to retain its present position and receive the half transportation and this 5 per cent. or whether it is better to receive a certain amount, as proposed by my amendment. For my part I believe that it would be better to settle all these questions and receive a stipulated sum per annum.

Section 11 of the bill which I propose as a substitute provides:

That upon the faithful compliance with, and performance of, all the requirements of this act relative to said sinking fund by said companies, or either of them, this act shall be deemed and taken as a final settlement between said companies, or either of them so complying, and the United States as regards the payment of said bonds and interest; in case of failure or neglect by either of said companies to perform all and singular the requirements of this act in regard to said payments as hereinbefore mentioned for the period of six months next after such performance may be due, such failure shall operate as a forfeiture of all the rights, privileges, grants, and franchises derived or obtained by it from the United States; and it shall be the duty of the Attorney-General to cause such forfeiture to be judicially enforced.

It will be observed that the provision in the bill of the Senator from Ohio leaves the question open, so that if the companies or either of them conform strictly to all the provisions of his bill any Congress hereafter may step in and increase that amount. It is no settlement; it is no ending of this matter.

Mr. MORRILL. May I ask the Senator from Colorado if he has entered into any computation as to what the result would be? That is to say, has he entered into any computation to show whether the Government would not lose more by receiving, say, \$1,200,000 annually, in a lump sum, and giving interest, compounded semi-annually upon it, than it would to retain the average amount that we have received for the transportation account and the 5 per cent. of net earnings? I think if he has done it he will have ascertained that the Government would give away more in allowing semi-annual compound interest upon the 5 per cent. of net earnings and the half of the transportation than the whole sum that he proposes to add to the transportation account.

Mr. CHAFFEE. I have made no computation of the kind. I claim that the Government loses nothing, because this sum is paid into the sinking fund before the amount required is due, with the exception, however, of the compounding of the interest upon the amount of half transportation and 5 per cent. of the net earnings, which I admit that the Government would lose. But the Government can invest this money. It can invest it in Union Pacific Railroad bonds and accumulate interest on them at the rate of 6 per cent. per annum. It loses nothing, except upon the half transportation and the 5 per cent. now due the Government.

Mr. MORRILL. Yes; but my point is that we lose more on that than what we gain by the additional sum proposed to be added.

Mr. CHAFFEE. I have made no computation of the kind, nor do I conceive that that result would be possible.

Mr. MORRILL. The Senator will find that it is possible if he makes the computation.

Mr. CHAFFEE. Nor do I conceive it possible for any Senator to say exactly what the half-transportation account or the 5 per cent. of net earnings would be. It is merely a conjecture.

Section 12 provides:

That nothing in this act shall be construed or taken in any wise to affect or impair the right of Congress at any time hereafter to further alter, amend, or repeal the said acts hereinbefore mentioned or this act, except as provided in the preceding section.

That is to say, if the companies comply with the provision in regard to the sinking fund, and pay in regularly every six months \$625,000 each, that is to be a final settlement as far as the funding bill is concerned, and it ought to be. I cannot conceive upon any principle of justice how any Senator could support or advocate any other proposition. If the companies comply with all the requirements why should it not be a final settlement of the question. If they do not comply, the substitute which I propose provides that it shall operate as a forfeiture of their franchises. The penalty is severe.

Such, Mr. President, are the provisions and purposes of this bill, which I offer as a substitute for the two funding bills recently reported—the one from the Judiciary Committee and the other from the Railroad Committee—and which I now urge upon the favorable consideration of the Senate. I believe it is a fair, honest, business-like measure, one that is perfectly plain and easy to understand, and one that can be complied with by all the companies without misunderstandings involving the Government and the companies in endless suits and controversies. The scheme of this great transcontinental railroad system, binding together all parts of our common country in the bonds of social and commercial union, was, as I have said, a

grand one and worthy the statesmen who conceived it. But the history of the frauds connected with its construction and the wrongs practiced upon the public in its operation have shocked the moral sense of our own people and caused the finger of scorn to be pointed at us as a nation. It is high time that the power of this Government was employed to compel all these companies to respect and faithfully carry out all the obligations incurred by them to the public and the Government. Let there now be a final ending of this question on the principles of justice to all concerned, and let the executive power of the Government be invoked to maintain the majesty of the law.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Colorado, [Mr. CHAFFEE.]

Mr. THURMAN. Mr. President, I gave notice yesterday that I would ask the Senate to sit this measure out to-day, but I have been appealed to by Senators who say that they wish to speak and cannot speak to-day with any convenience to themselves or any justice to the Senate. I have no disposition certainly to insist upon any course that would cut Senators off in the expression of their opinions upon this measure; but I must renew the expression of the hope that to-morrow we shall sit the bill out.

Mr. WHYTE. I desire to ask the Senator from Ohio a question. I want some information before voting on his bill. I desire to ask him if there is any legal impediment to our requiring these railroad companies to pay in full the interest semi-annually paid by the United States hereafter upon the bonds issued to the companies?

Mr. THURMAN. There is a certain amount which is payable under the existing law and applicable to reimbursing the United States that interest. Undoubtedly, in my judgment, it would be competent for us to say that they shall pay annually such an additional sum as, with the half-transportation account and the 5 per cent. of net earnings now applicable under the existing law, would make the amount of interest which the Government annually pays on the Government loan. The object of the Judiciary Committee bill is to require that and something more.

Mr. WHYTE. So I understand.

Mr. THURMAN. The object is to require that and also to require on an average of the last four year's business of the companies a payment of what would amount, if my recollection is right at this moment, (I have not my figures before me,) to something like \$300,000 or \$350,000 a year.

Mr. WHYTE. Three hundred thousand dollars.

Mr. THURMAN. This is to be required from each of the companies toward the principal. A very small sum it may seem, and yet it amounts to a good deal in the end with the compounded interest upon it.

Mr. WHYTE. That is just my difficulty. I am rather opposed to this sinking-fund theory, and I supposed there was no impediment to requiring the companies to pay, in addition to the 5 per cent. and the half-transportation account, a sum which would be equal to the whole interest paid semi-annually by the Government.

Mr. ALLISON. And apply it now to payment?

Mr. WHYTE. Certainly, apply it now.

Mr. THURMAN. I beg to call the Senator's attention to what in my judgment, and in his I think, as a lawyer, is an insuperable obstacle to that proposition. So far as the 5 per cent. of net earnings and the half-transportation account, which under existing law are applicable annually, to use the very language of the act, to reimburse the Government the interest which it pays are concerned, there is no difficulty whatsoever; but to take a further sum and apply that presently to the payment of the interest of the debt due to the Government, would be to make the bill obnoxious to the charge that we are requiring money from these companies before it is due.

Mr. BLAINE. Why cannot Congress alter the law in that respect?

Mr. THURMAN. Does the Senator mean that we shall alter the law and make the whole debt payable now?

Mr. BLAINE. Under the Senator's theory, where is the particular point at which the Senator from Ohio stops in his volition to alter the law? That is what I want to be instructed upon.

Mr. THURMAN. If the Senator needs instruction it is because he has not listened to me or anybody else who has spoken in favor of the bill of the Judiciary Committee.

Mr. BLAINE. I have listened with a great deal of interest.

Mr. THURMAN. If we had the power, I for one would not be willing to exercise it; but we have never asserted the power to make that which is payable thirty years hence, or now twenty years hence, payable to day. We have never asserted any such power yet, and I do not think we ever shall.

Mr. CONKLING. May I ask a question of the Senator?

Mr. THURMAN. I want to answer the Senator from Maryland, and I hope the Senator from New York will wait until I get through with that.

Mr. CONKLING. The Senator, I know, is so competent to answer that he will not object.

Mr. THURMAN. I know the Senator from New York has a way of making speeches in the middle of other peoples' speeches. I think I am the best tempered man in the world, and I am always willing to allow him to inject one of his speeches into mine, because it ornaments it very much; it gives it a beautiful halo.

Mr. CONKLING. The Senator cannot wonder that I wish to associate my name with his speech whenever he makes one, and then he

should not refuse me. I was going to ask him this question, if he will allow me—

Mr. THURMAN. I believe I will not allow the Senator just now. Just sit down. I will allow him when I get through answering the Senator from Maryland.

There is still another reason why the Judiciary Committee bill is framed as it is. The Judiciary Committee bill does not take one dollar from the companies and apply it to the debt due to the Government or to other creditors which, under existing law, is not so applicable. The sinking fund is composed entirely of money which is not, under existing law, applicable to the payment of the Government claim. That being the case, that sinking fund, as my friend from Maryland, who is so good a lawyer, well knows, ought to be held sacred for the security of the claims against the companies in the order of their priority, so that the fund may be ultimately distributed, precisely as a chancellor marshals the assets of a corporation or of an individual and divides them among the creditors. That is the theory of our bill. Two sums, the half-transportation account, which under existing law is to be paid to the companies and not to be retained by the United States, and an additional sum in money, constitute the sinking fund under the Judiciary Committee bill, and that with its accumulations is to be ultimately distributed among the creditors of the companies, the United States included, exactly as a chancellor would distribute them according to the legal and equitable priority of the creditors.

Mr. CHAFFEE. Before the Senator sits down I should like to ask him one question. Does he mean to apply this sinking fund to the junior creditors?

Mr. THURMAN. I will tell the Senator if these companies should be so honest as to pay off their first creditors so that they would have no claim on the sinking fund, and if they should be so honest as to pay off the Government of the United States so that it would have no claim, then this sinking fund would cover the very next lien-holder and be paid to him, and so on to the end of the chapter.

Mr. CHAFFEE. But is it not *pro rata* in the Senator's bill?

Mr. THURMAN. If there is enough to pay off the whole of one class of lien-holders who have priority, the sinking fund must be applied to pay them all. If it is not enough to pay off all of them, then it must be applied *pro rata*; in other words, you are to use it just as a chancellor would.

Mr. WHYTE. I would ask the Senator from Ohio, as he speaks about our not applying this money immediately to the payment of the debt, whether or not he has any doubt that when these bonds were originally ordered by Congress to be delivered to these companies, Congress expected the interest to be paid as it matured; and whether it was not because of an omission in the law that that was not decided by the Supreme Court of the United States to be the true construction of the agreement between the parties?

Mr. THURMAN. I am glad my friend from Maryland asked me that question.

Mr. BLAINE. Mr. President—

Mr. THURMAN. I can only answer one question at a time.

Mr. BLAINE. I beg pardon.

Mr. THURMAN. And I cannot answer that as long as everybody else is talking. The Senator asks me whether I do not believe that when the act of 1862 and the act of 1864 were passed Congress expected that the companies would reimburse annually the Government outlay by a payment in discharging the interest on the subsidy bonds. Now I cannot answer that question except by the law. I know of no other way of getting at it.

Mr. SARGENT. We can change the law, you say.

Mr. WHYTE. Yes, that is the very point. I did not ask for a judicial opinion. The Supreme Court gave us that. I ask for a legislative opinion, whether we as legislators can now change this law to conform to the original intention of the Government.

Mr. THURMAN. If I were to undertake that, how would I get at it? I cannot issue subpoenas and call up all those who voted for the bill and make them testify what was their opinion, what was their intent, what they expected. A great many of them have gone to

The undiscovered country, from whose bourn
No traveler returns,

and among them some of the most prominent who were engaged in this business. I cannot do that. If I turn to the debates I am in inextricable confusion, for I find that there was one at least, and I do not know but more than one, in the House of Representatives among those who voted for this bill and for this subsidy who said they never expected the Government to get a dollar of it back; that they never expected to get a dollar of either principal or interest back; that it was all a sham and a humbug; that the Government could well afford to give all that money and more to have the building of the road, and that as for themselves they never expected a dollar of it to be paid back. I do not attach any importance to that. I do not believe, because one or two members may have said such was the intention, that it shows what was the intention of the House of Representatives. The intention of the House of Representatives is conclusively proved, the intention of Congress is conclusively established, by what Congress enacted into law. If Congress did not intend that this money was to be repaid to the Government there would have been no enactment for its repayment. If Congress did intend that the interest

should be repaid annually to the Government or that the companies should themselves pay the interest on the subsidy bonds without any intervention on the part of the Government, the legal presumption is that Congress would have said so. Not having said so, I am obliged to take the law upon its face, and, taking it upon its face, I am obliged to say that Congress did not intend that the money should be paid any faster than Congress in the act has declared.

Mr. JOHNSTON and Mr. BLAINE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Virginia yield to the Senator from Maine?

Mr. BLAINE. I simply wish to ask a question of the Senator from Ohio.

Mr. JOHNSTON. I only desire to take the floor on this bill for tomorrow.

Mr. BLAINE. I will yield in a moment. If the Senator from Virginia will allow me, I want to ask the Senator from Ohio a question to solve an honest doubt which came into my mind and which was suggested by a question of the Senator from Maryland. The Senator from Ohio some years ago, in 1871, took the ground that half of the Government transportation was undoubtedly payable to the railway companies. Two years later he took the ground that it would be well and wise to submit that question to the Supreme Court.

Mr. THURMAN. I took that ground from the very first.

Mr. BLAINE. Well, the Senator voted in 1871 to make it payable, and in 1873 the question came up and then he voted to let them have it decided in the courts.

Mr. THURMAN. I do not know whether I voted for that at all. I do not remember whether I was in the Senate when the act of 1873 was passed.

Mr. BLAINE. The Senator spoke in favor of it anyway.

Mr. THURMAN. I do not think I said a word about it. I was always in favor of the court deciding it.

Mr. BLAINE. That does not make the point. I think, however, the Senator did so vote. The court then decided that the half transportation was undoubtedly payable to the companies.

Mr. THURMAN. As the law then stood.

Mr. BLAINE. As the law then stood. The court has also decided that as the law now stands the interest is not payable until the bonds mature.

Mr. THURMAN. Oh! no; the half transportation and the 5 per cent.

Mr. BLAINE. They have so decided, I say. Now the Senator comes in with a bill declaring that the half transportation which the court decided was payable to the companies shall not be paid to the companies under the prior law. Then by the same power why not say that the interest which the court decided is not payable until 1900 shall be payable presently? Do I understand the Senator to say we can do that?

Mr. THURMAN. When the Senator gets through I will answer him.

Mr. BLAINE. I will take the answer now.

Mr. THURMAN. I say that, under the reserved power to alter, amend, or repeal, we can say that that half transportation which by the act of 1864 is to be paid to the companies shall be paid into a sinking fund instead of being paid directly over to the companies. We do not in that way advance the debt of the companies to the Government one day or one minute. We simply provide that in regard to a certain sum, this half transportation, instead of the Government paying it to the companies and then requiring them to pay it back in a gross sum, which would be absurd, the Government shall retain that half transportation account and turn it into a sinking fund and the company shall pay so much additional; that is all.

Well, now, let us see in regard to this half transportation. How comes the provision that the half transportation should be paid to the companies? It was not in the original act. By the original act the whole transportation account was to go to the credit of the companies annually, and the Government to get the benefit of it annually, to reimburse its annual payments of interest; and if there was anything over it was to go to the principal of the bonds. That is the act of 1862; but the act of 1864 relinquished our right to apply the whole of the transportation account to the payment of the interest as we paid it, and said that we would only apply one-half, and the other half we would pay over to the companies. That is in the act of 1864, and that act contains words which are as broad as the English language will admit that Congress shall have the power to add to, alter, amend, or repeal this act; and those who have undertaken to restrict it have only undertaken to restrict it to the act of 1864, and have said that that broad power of amendment or repeal only applied to that act. If that were so the provision that the half-transportation account shall be paid over to the companies annually instead of being paid to the Government, as it formerly was, is in this very act of 1864, which the Government has thus reserved the right, without limitation, to alter, add to, amend, or repeal.

Mr. BLAINE. The Senator still travels over a great deal of ground not covered by my question. Where does the Senator limit that power?

Mr. THURMAN. The power of alteration, amendment, or repeal? Well, Mr. President, I must be a very uninteresting speaker to speak on this question so often and not make myself understood on that point.

Mr. BLAINE. Why can you not by parity of reasoning—
 Mr. THURMAN. If any one will give me the report of the Committee on the Judiciary on this bill, I will answer the question.
 Mr. BLAINE. I have read that report.
 Mr. THURMAN. I want to answer it in the language of the Supreme Court of the United States.
 Mr. BLAINE. I thought the Supreme Court of the United States was only deciding the law as it then was.
 Mr. THURMAN. The question which the Senator asks me is really what is the effect of a reservation of the right to alter, amend, or repeal.

Mr. BLAINE. That is not my question.
 Mr. THURMAN. What is it?
 Mr. BLAINE. The Senator entertains no doubt whatever in setting aside the decision of the Supreme Court in regard to the half transportation and with regard to annual income.

Mr. THURMAN. I do not set aside the decision.
 Mr. BLAINE. Instead of paying, you retain the half transportation.

Mr. THURMAN. I do not set aside the decision at all.
 Mr. BLAINE. You refuse to pay that which the court say is payable.

Mr. THURMAN. There is not one word in the decision of the Supreme Court that touches the question of the right of Congress to alter, amend, or repeal.

Mr. BLAINE. No; but did not the Supreme Court say the half transportation should be paid to the companies?

Mr. THURMAN. Yes.
 Mr. BLAINE. This act says it shall not be paid to the companies, but it shall be retained.

Mr. THURMAN. Let us see how that matter is. If this bill said that the half-transportation account that has heretofore accrued before the decision made by the Supreme Court should, contrary to that decision, be seized upon, there might be some foundation for the Senator.

Mr. BLAINE. I am not speaking on that.
 Mr. THURMAN. But there is not a word in the decision of the Supreme Court that conflicts with this bill of the Judiciary Committee, not one word in it which militates against the idea that Congress may by an alteration of the law require that that half transportation shall be paid.

Mr. BLAINE. Still the Senator does not come to the point. Why is it not in the power of Congress to make, as the Senator from Maryland asks, the interest, which is decided not to be due until 1900, payable presently, if Congress so chooses?

Mr. THURMAN. If I cannot get the Senator from Maine—
 Mr. BLAINE. The Senator has not got to the point. He has said a great deal about things which I did not ask for, but he has not answered what I did ask.

Mr. THURMAN. State it again, and I will try to answer.
 Mr. BLAINE. The Senator asserts the power to be absolutely unlimited to alter, amend, or repeal these acts. The Supreme Court having decided that the interest due under the act of 1864 is not payable until the maturity of the bonds, what, under the Senator's theory, hinders Congress from declaring that from this day forward it shall be paid presently when it falls due, and not wait until the maturity of the mortgage?

Mr. THURMAN. Now, if the Senator will take his seat—
 Mr. BLAINE. I can listen standing.
 Mr. THURMAN. Very well. I answered that question a while ago perfectly well. I said then that nobody had asserted the power to make a debt which was not due until twenty years hence, due to-day.

Mr. BLAINE. Then the Senator—
 Mr. THURMAN. Let me proceed, because I wish to answer the question. But I said further that if we had the power, nobody was disposed to assert it. That is exactly what I said before, and that the requisition to put so much money into a sinking fund is no assertion of any such power at all. It does not advance the payment of the debt which is due to the United States one day.

And now I wish to say, in answer to the question of the Senator from Maine, and in answer to a world of words that have been uttered in this debate, that I am not going to set up men of straw to knock down, nor am I going to answer arguments against men of straw that have been set up in order to be knocked down by those who set them up. I am not going to trouble the Senate with much question about how far the power of amendment, alteration, or repeal goes. Whether it goes to impairing the obligation of a contract or not, it is sufficient for me that there is not one word in this bill that impairs the obligation of any contract, and that all talk about impairing the obligation of contracts from the beginning of this debate to the end of it has been as foreign to the bill as would be a discussion of where is the North Pole or of the transit of Venus.

Mr. EATON. You are entirely wrong on that, and I can show it.
 Mr. THURMAN. If my friend will interrupt me in a senatorial way by rising and stating his position, very well. I have certainly a very different opinion from him. He asserts his and I assert mine. Whenever he or anybody else shall show me that this bill is the thousandth part of a hair the violation or impairment of a contract, then I will try to show authorities to do it, but I will not argue a question which is not before the Senate.

As to the power of amendment, alteration, or repeal which it is sought to fritter away and make nothing, this power, so important that it has been put by constitutional enactment into the constitutions of three-fourths of the States for the very purpose of giving the Legislature control over these creations, so that the Government should be their master, and not they the masters of the Government, this power that has been of so much importance that it has been struggled for for thirty years, and put into every new constitution that has been formed within that time, is now frittered away to nothing, made absolutely useless, made a mere abuse of words and terms, made to be nothing but the right to alter, amend, or repeal for the benefit of the corporations, instead of to retain control over them. When the time comes I may have something to say upon the extent and proper effect of that power. I, however, for the present need only stand on the truest, most concise, and most comprehensive definition of that power that has ever yet been spoken by man, the decision of the Supreme Court of the United States in the case of Tomlinson. Gentlemen seem to be horrified about the idea of a violation of contract, as if it was any violation of a contract, forsooth, for the Legislature to alter or amend a charter when it had reserved the right to alter or amend it. My friend from Georgia the other day said, "Why, you cannot reserve a right to alter or amend a contract," as I understood him, because—

Mr. HILL. I never said you could not reserve the right to alter or amend the charter of a corporation or the right to regulate and control the exercise of its franchises and privileges; but I did say that the contract of loan was not a franchise and was not included in those grants to corporations.

Mr. THURMAN. I have heard my friend explain it at least a dozen times.

Mr. HILL. You do not seem to understand it, notwithstanding.
 Mr. THURMAN. Just let us see how that is. Why can you not do it in regard to the loan? I agree that you cannot do it in regard to the loan—

Mr. HILL. Very well.
 Mr. THURMAN. Or at least it is doubtful whether you can do it in regard to the loan; but upon what ground does the Senator put it? That the loan is a contract? Is not that it? And he says that Congress has no original power to impair the obligation of a contract; ergo, Congress cannot get by a reservation in a charter a power it does not originally possess—I think I state the Senator's argument fairly—that Congress has no original power to impair the obligation of a contract and it cannot obtain by a reservation in a charter or any law that it may pass a right to do that which it has not original constitutional power to do.

Mr. HILL. Now, if my friend will bear with me, I have endeavored to explain the distinction between a grant, a voluntary grant by a grantor, and a contract for a consideration. The charter is granted by the Government as a prerogative power, freely granted, of favor. It has no consideration but the public good. In the charter there is a grantor and a grantee. In the contract of loan the consideration is different, in this: in a charter there is no valuable consideration passing from the grantee to the grantor, but in a loan there is a valuable consideration, and it rests wholly on a different footing. I showed that under the English law and the American law a voluntary grantor, even a private voluntary conveyancer, can convey with any condition he pleases, can reserve any right he pleases; and it is proper that the legislative power, which is exercising simply the prerogative of granting corporate franchises, should reserve the power to control them and secure the end for which they were intended; that is, the public good; but a contract of loan is not a grant; it is an agreement. It is not a grant for favor; it is not a grant for the public good; it is an agreement for a valuable consideration.

That is what I say, and I say further that when the Government made a contract with this corporation to lend it money, and the obligation of the company was to repay that money, and the consideration was a money consideration, that stands upon a wholly different footing. One is a grant by the sovereign power, and the other is an agreement for value. Every grant, it is true, is in one sense a contract; but every contract is not a grant; and there is the difference. I challenge the gentleman to show any case on earth where it was ever held that this reservation of the right to alter, amend, or repeal, was ever applied to anything but a franchise, and that upon the distinct ground that that is a grant and not an agreement. It is a contract in one sense, it is true, but not a contract in the sense that it is for a valuable consideration. An agreement must have the assent of both parties, and the terms are agreed to by both parties, and the obligation is to repay.

The Senator refers to the Constitution and the statutes. I say here, and I challenge him to show to the contrary, that every constitution and every statute, general or special, in which this power to alter, amend, or repeal is reserved, relates solely to a corporation and to the franchises proper of a corporation, and he cannot show a case on record where there was ever a power reserved to alter or amend a contract founded in a valuable consideration for the loan of money; and that is the distinction.

Now, sir, having disposed of that question, I want to put one more to the Senator from Ohio.

Mr. BLAINE. One moment. My question is all lost sight of. [Laughter.] The Senator from Ohio did not answer it. He went off

into a long argument and did not touch it, and that provokes another argument from the Senator from Georgia who does not touch it. The Senator from Ohio simply says I am erecting a man of straw and he does not propose to fight him. That is a very convenient way of avoiding to answer a question which it is not entirely agreeable to answer. But still the Senator from Ohio has not answered, I think, to the satisfaction of the Senate, I trust it may be to his own satisfaction, at what point under his construction the power to alter, amend, or repeal stops. It ceases when you strike the point of making the interest payable now that the Supreme Court has decided is payable twenty years to come.

Mr. THURMAN. I will not argue hypothetical cases. As I have told the Senator, life is too short for that. The Senator has many more long years of usefulness than I have. Life is too short for me to stand up here as if we were in one of those schools of dialectics in the middle centuries to answer all questions, challenge all comers to put any question and answer it. I am no Admirable Crichton to stand up and be catechised in that way, but a plain, practical man who does his duty sufficiently when he defends a measure he reports to the Senate and leaves other measures and questions to wait their coming up.

Now, Mr. President, I could put a question, too, but I do not want to interrupt what I have got started on very unexpectedly, for I did not expect to say a word on this subject to-night and should not but for this scattering fire. When the time comes—I do not ask him to do it now—I want the Senator from Maine to answer this question: whether he denies the right of Congress to compel these companies to provide a sinking fund. I will give him until to-morrow to think over that.

Now, Mr. President, one word to my friend from Georgia. The point started by the Senator from Georgia must be an exceedingly favorite thing with him, because he has presented it to the Senate I think at least six or eight times.

Mr. HILL. Still you will not get it right.

Mr. THURMAN. Whenever you try to state it right the Senator overwhelms you with words, with distinctions, and the like. I stated this proposition and I appeal to the whole Senate if I did not state it fairly. The Senator said you cannot reserve a right to alter, amend, or repeal a contract; that reservation is good for nothing because you cannot obtain, by reserving, that which you do not possess under the Constitution. To use his own language, you must have that as an original power; that is, a power under the Constitution, or you cannot possess it at all; and to use an illustration, a reservation of that power would be of no more value than would be a reservation of a power to take private property for public use without just compensation or a reservation of power that Congress might commit murder. That is the Senator's argument. The answer to it is complete in this: that where that reservation exists in a charter it is a part of the contract itself, and you never do impair the obligation of the contract by exercising that power. It is not, therefore, a reservation of a power to impair a contract; it is a reservation of a power which prevents your law from being the impairment of a contract. That is a complete answer. If the Senator's argument were true you could not amend the franchise, you could not alter the franchise. Is not a grant of corporate franchise, when accepted by the corporations, a contract? Was not that the very foundation of the Dartmouth College case? Has not every decision since been to the same effect? Must not a charter be accepted before it becomes effectual, and when it is accepted is it not a contract, ay, a contract in regard to every franchise in it? For instance, take these very charters; what authorizes these chartered companies to take tolls? The right to take tolls is a royal prerogative. It is granted to these companies.

Mr. HILL. I ask the Senator—

Mr. THURMAN. No; let me proceed; I do not wish to be interrupted now. The right to take tolls is a franchise; it is granted, and the charter is accepted. That is a contract that they shall take the tolls; and if there is no reservation of the power to alter that either in the Constitution of the country or in the charter itself and it is a State charter, you cannot take that away from them, because that would impair the obligation of the contract. You cannot lessen the tolls, you cannot reduce the tolls, if it is in the charter and comes within the provision of the Constitution of the United States where there is no reserved right to alter, amend, or repeal, and nothing in the constitution or laws of the State which gives the right to alter and amend the law. That right to take tolls is a part of the contract; you cannot touch it. But does anybody deny, can anybody deny that where the right to alter, amend, or repeal exists, then the Legislature may reduce the amount of tolls which the company otherwise would be entitled to take?

The Supreme Court has decided it at this very session, since we have been talking on this bill, in a case from my own State where the Legislature of the State, under its right to alter, amend, or repeal, reduced the tolls that a railroad company might take more than one-third. Now if the Senator goes upon the theory that Congress has no power to alter or amend the contract whatsoever, and therefore that to reserve that right is perfectly ineffectual, then he must go the whole length and say you cannot touch one single one of the franchises of this corporation. A complete answer to him, as I said before, is that there is no impairment of the contract, that the power reserved prevents there being any impairment of the contract at all.

I hardly think it necessary to go further, though while I am on

this subject I may as well say a word more, as I shall not refer to it again, as the Senate seems to be in a good humor although it is nearly dinner-time. I will say a word upon the idea of the Senator from Georgia that there was some third party intervening here which made this loan somewhat different from the other charter privileges. I submit that the contract of loan is in the charter and in the acceptance by the companies. If I were to agree to a written contract with my friend from Georgia—

Mr. HILL. Do you hold that the contract of loan is one of the franchises granted by the act?

Mr. THURMAN. Never mind whether it is a franchise or not; I say that is a part of the contract. If my friend from Georgia and I were to sit down and write out a contract and both sign it, and by that contract I should agree that if he would build a house within thirty days and my agent, Senator EATON, should say that it was built according to the terms of the contract, then and in that case EATON, as my attorney in fact should deliver to him my negotiable note for a thousand dollars in payment for that house, payable at ninety days, or ninety years, I do not care which, I should say that the contract rested in the paper that he and I had signed and not at all in anything that EATON did in the business; and I should say here that when the United States said to these companies, "If you will build so much road we will lend you so much money, and our servant, the Secretary of the Treasury, shall issue our bonds for the money," and when the company accepted that charter, it had a contract-right to those bonds if it performed the conditions—that is, if it built the road; and I should say that when it built so much of the road as entitled it to a certain amount of the bonds it was the duty of the President of the United States to ascertain the fact, and it is to be presumed he would do it honestly, and having ascertained the fact then it was a positive duty—not a discretionary duty but a positive duty—to issue the bonds of the Government, and I should say that all that grew out of the contract the Government had made, that it would issue the bonds if the conditions were performed.

Mr. President, now to come to what I said I would quote, the language of the Supreme Court of the United States upon this subject.

Mr. HILL. Will the Senator allow me? I do not want to overwhelm him with words—

Mr. THURMAN. No; I just wish to say this and I will sit down, and then the Senator may take all night if he chooses, and I should be very glad to sit this bill out to-night if I could. Your committee say:

What, then, is the power thus reserved, that is to say, the general power to alter amend, or repeal the charter?

It was defined by the Supreme Court of the United States in the case of *Tomlinson vs. Jessup*, (15 Wallace, 458.)

And now I pray the attention of the Senate to this language of the Supreme Court:

The power reserved to the State by the law of 1841 authorized any change in the contract as it originally existed—

That is, any change in the charter, for in that case the charter was the contract—

or as subsequently modified.

Which is an answer to what the Senator from Georgia said the other day that when we passed the act of 1871 that exhausted the power of amendment. The Supreme Court did not think so:

The power reserved to the State by the law of 1841 authorized any change in the contract as it originally existed, or as subsequently modified, or its entire revocation. The original corporations or subsequent stockholders took their interests with knowledge of the existence of this power and of the possibility of its exercise at any time in the discretion of the Legislature.

And this puts it all upon the true ground and the only true ground which makes that reservation worth the paper on which it is printed or written. Now, further:

The object of the reservation, and of similar reservations in other charters, is to prevent a grant of corporate rights and privileges in a form which will preclude legislative interference with their exercise if the public interest should at any time require such interference.

I stop there to say out of my own mouth that the Legislature is the judge of the occasion, and that no court can review its decision as to whether the public interest requires it or not. The court go on:

It is a provision intended to preserve to the State control over its contract with the corporations, which without that provision would be irrevocable and protected from any measures affecting its obligation.

But with that provision it is repealable and subject to legislation which does affect its obligation.

Mr. President, it will be a sad day in the jurisprudence of this country when these words so industriously put into charters, when these words so industriously put into constitutions, shall come to have no meaning at all. It is in vain that the people for thirty years have been struggling to retain that control over their creatures, that control over their contracts which the Supreme Court has said this reservation does secure to them, if it is all to be frittered away and to amount to nothing at all.

Mr. HOWE. I move that the Senate do now adjourn.

Mr. HILL. Just five minutes.

Mr. HOWE. Will you renew the motion?

Mr. HILL. I will renew the motion.

Mr. HOWE. It is a bargain.

Mr. HILL. I desire the attention of the Senate a moment on the point between the Senator from Ohio and myself, and I will endeavor

to be a man of as few words as he himself, and he is most distinguished for being a man of few words.

The distinction I draw and insist on is the distinction between a contract which is the corporation contract, that is, the contract that creates the corporation and clothes it with franchises and which is a grant by the State, and a contract subsequently for a consideration and which is not a franchise. That is the difference. No case better illustrates the distinction—I want to call the attention of the Senator from Ohio to it—than the very case to which he has alluded, and that is the case of *Miller vs. The State*, and, as that case is exactly in point and I rest upon it the distinction I make, I call the attention of the Senate to it for a moment. What was that case? The Legislature of New York chartered a railroad company and there was a provision in the railroad charter which authorized the city of Rochester, which subscribed \$300,000, I think, of stock, to have four of the directors and the other stockholders to have seven or nine. The city of Rochester subscribed \$300,000 of stock. It was expected that the miscellaneous stockholders would subscribe much more, and that the road as chartered would be built a good long distance. The city of Rochester paid her \$300,000 that she subscribed and was allowed four directors in the board. The other stockholders were allowed either seven or nine; but instead of paying the whole amount that the private stockholders subscribed they paid a less amount than the \$300,000.

The original idea of the charter was to give the city of Rochester and the other stockholders power in the board of directors in proportion to their subscription to the stock. As the other stockholders did not subscribe the amount that they had agreed to subscribe, and as the stock paid in by the city of Rochester exceeded all the stock paid in by the others, there was an injustice in this, that a minority of the stockholders controlled the board of directors. Therefore the Legislature of New York, under the general power given in their constitution, and by general legislation also, to alter, repeal, or change at will corporate charters, passed an amendatory act by which they gave to the city of Rochester an additional number of directors in the board and lessened the number of directors to which the other stockholders were entitled. The other stockholders objected to that amendment, and they said that the original article included in the charter allowing the city of Rochester four directors and giving the other stockholders seven or nine was a contract and that the city of Rochester was therefore bound by it. The city of Rochester insisted that it was part of the franchise and that therefore the Legislature had a right to make the amendment and give her the increase in the power of directors by legislative act and reduce the number of directors to which the other stockholders were entitled according to the original intent.

What was the question before the court—and I challenge the attention of the Senator from Ohio to it—and what was the decision made by the Supreme Court of the United States, for it finally came to this court? The supreme court of New York and I believe the court of appeals both held that it was a contract, not a franchise, that was made with the city of Rochester; that it was a contract not with the city, but a contract between the city of Rochester and the other stockholders, and that therefore the amendatory act was void because it violated a contract. That was the way the State courts held. That case was brought, if my recollection is right, to the Supreme Court of the United States, and it is reported in 15 Wallace, the case of *Miller vs. The State*. I think the State courts of New York decided as I say, but I shall not be sure about that, but it makes no difference now. The case was brought to the Supreme Court of the United States, and what was the question there? The question was whether this provision in the charter giving the city of Rochester four directors, and the other stockholders seven or nine, was such a contract, independent and separate from the franchise, as that the Legislature under that reservation could not change it. That was the only question. The whole court agreed that if it was a contract separate and independent from the charter, although included in the charter, if it was in its nature a separate contract and not a franchise and not a part of the franchise, the Legislature had no power to alter it; and the Supreme Court divided on that question. A majority of the Supreme Court held that it was a part of the franchise, that the arrangement between the city of Rochester and the other stockholders was a part of the corporate franchise from the Legislature, and, therefore, the amendatory act changing it was constitutional. Judge Field and Judge Bradley dissented from that opinion because, they said, in their judgment it was a contract separate and independent from the franchise, and was not a part of the franchise. But I repeat, sir, although that was included as a provision in the charter, there was not a judge on the bench who intimated once that if that arrangement with the city of Rochester was a contract separate and independent from the franchise the Legislature could interfere with it, and they decided that the Legislature could interfere solely because it was a part of the franchise and corporate privilege granted.

Mr. BAILEY. Did they decide that the Legislature could not have interfered if it had been a separate grant?

Mr. HILL. They decided that the Legislature could interfere because it was a part of the franchise. Of course it was not necessary to say the Legislature could interfere if it had not been a part of the franchise. The dissenting judges put their dissent solely on the ground that they differed with the court in saying that it was a part of the franchise. They said it was a contract separate from the

franchise, though included in the charter; and therefore being a contract separate from the franchise, though included in the charter, the Legislature had no power to alter it, and that is what I insist here, that though this contract of loan is included in the charter, it is a contract that is separate from the franchise; it is not a part of the franchise; it is an independent contract which could have been as well made by a separate and independent bill as in the original bill; and therefore not being a part of the corporate franchise it was not within the power reserved to alter, amend, or repeal.

Mr. KERNAN. The Senator I think is wrong in saying that the court of appeals of New York held that law unconstitutional.

Mr. HILL. I said I might be mistaken about the decision of the court of appeals of New York.

Mr. KERNAN. They affirmed the right of the city to elect directors under the new law.

Mr. HILL. I do not remember what was the decision of the various courts of New York. I do not know whether they all maintained the constitutionality of the act or denied it. The question was brought to the Supreme Court of the United States, and I think the Senator from New York will bear me out that the whole question in that case was whether the arrangement with the city of Rochester was a part of the franchise or a contract separate from it.

Mr. KERNAN. I have not examined that point and cannot say. The Supreme Court of the United States affirmed the decision of the court of appeals of New York.

Mr. THURMAN. I want the Senator from Georgia to answer me a question. Suppose the Government never had loaned these companies a dollar, does the Senator deny that Congress could under its reserved power, if not in any other way, require these companies to provide a sinking fund for the benefit of their creditors?

Mr. HILL. I do.

Mr. THURMAN. You do?

Mr. HILL. Yes, I do beyond the provisions of the act; but I say it is not necessary for me to take that position here, for I say that Congress cannot under a general reservation require anything to be done which is inconsistent with the specific stipulations of the contract.

Mr. THURMAN. The Senator does not answer my question. It is, whether Congress would have the right, suppose there had been no Government loan at all, to require this corporation to provide a sinking fund for the protection of its creditors? I submit to the Senator from Georgia that that right cannot be destroyed because one of these creditors is the Government of the United States, no matter how the contract of loan was made.

Mr. HILL. In relation to the establishment of a sinking fund I will say this: as I understand the authorities, and surely the Senator from Ohio cannot disagree with me, that is a judicial question. Whenever there is a stipulation in a mortgage that a sinking fund shall be provided the courts will order it; whenever there is no such stipulation in a mortgage, and the mortgagee is insolvent, and the property insufficient to pay the debts, the mortgagee becomes in default and then a sinking fund will be provided or even the rents, issues, and profits will be applied. That is a different question altogether. I want to confine the Senator to the question. I say here—you may say I repeat it; I do repeat it—there is not a decision on earth that ever has held that the legislative power could change a contract which was not a franchise, a contract based on a valuable consideration. A franchise is not based on valuable consideration. The very decision the Senator read speaks of the importance of the Legislature that grants franchises retaining power over them to promote the public good. Why? Because the very object of granting a franchise is to promote the public good; the franchise is voluntary; and, of course, the Legislature having power to grant the franchise, and granting that franchise voluntarily, has a right to grant it on terms and prescribe just such terms as it pleases. There is no doubt about that.

Mr. KERNAN. Will the Senator allow me to get information by putting a question? Suppose a State passes a charter authorizing a corporation to be formed, and providing that on its being formed and putting up certain securities for the protection of policy-holders it may do a business of life insurance. They make this reservation in that charter. Suppose the Legislature becomes satisfied that the holders of the policies are not safe because the stockholders in the company do not put up enough security, could it not require them to put up more under that reservation?

Mr. HILL. Unquestionably.

Mr. KERNAN. There was not the only contract, "if you advance and put up with us"—as they do in New York—"certain securities, you may do the business for fifty years." In ten years we may say to them "you must put up as much more." Can the Legislature do it?

Mr. HILL. I say they can; but the distinction is very patent. The very franchise of an insurance company is to take risks and make the policy-holders secure, and it is the duty of the Government that grants that franchise to see that the corporators carry out the original purpose. Now, the object of creating a corporation to build a railroad is to build and keep up a railroad.

Mr. THURMAN. And keep up its credit?

Mr. HILL. You gentlemen go on the idea—

Mr. KERNAN. If we say to a railroad company, "if you do certain things you shall have certain lands," or "we will loan you certain money," if that is put in the charter and they comply, may we not,

on the same ground, if we find that they are becoming insolvent and not paying their debts, regulate their affairs so that they shall be able to pay?

Mr. HILL. Certainly not. The difference is just this: a railroad company is not incorporated for the purpose of paying its debts. That is not one of the objects of its creation.

Mr. THURMAN. Oh!

Mr. HILL. The particular object of a railroad company is to build a railroad and keep it up, and it may pay its debts or it may not pay its debts; but the courts will compel it to pay its debts, not the legislative power. If a railroad company fails to pay its debts and goes into liquidation, that does not destroy the corporation. The railroad lives, the corporation is immortal. Gentlemen talk as though the peril of this debt was the peril of the road. By no means. The debt may fail to be collected and yet the road be kept up.

I admit that Congress has reserved power over the corporation. I admit that it has reserved power over the regulation of the franchises of the corporation. It can require the road to be kept up. It requires the purposes of the creation of the corporation to be carried out and secured; but the contract of loan is simply a contract debt, nothing more nor less, in which there is no franchise and to which the Government on the one part and the railroad company on the other are parties as simple contract debtors and creditors for a consideration of a loan and nothing more.

Now, sir, I move that the Senate adjourn.

The motion was agreed to; and (at six o'clock p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, April 4, 1878.

The House met at twelve o'clock m. Prayer by Rev. S. DOMER, St. Paul's English Lutheran church, corner of Eleventh and H streets, Washington, D. C.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. FRANKLIN. I demand the regular order of business.

Mr. CALKINS. I hope the gentleman will withdraw his demand until I can make a personal explanation.

Mr. BUTLER. And until I shall have introduced a bill for reference only.

Mr. FRANKLIN. I withdraw the demand for the present.

PERSONAL EXPLANATION.

Mr. CALKINS. Mr. Speaker, a few days ago when the committee was appointed on the part of the House to proceed with the body of the late Judge Leonard, of Louisiana, it was understood the members of the committee should pair, as they were composed of the same number from each political party. I notice that several votes were taken in the House during their absence, but for some reason the announcement of the pair was not made.

The SPEAKER. There were individual announcements, but not in reference to the entire committee.

Mr. CALKINS. Myself and Judge TURNER, of Kentucky, were paired on all political questions, as well as Mr. ELLIS and Dr. STEWART and Mr. WARD and Mr. MULLER. I desire to have this statement go into the RECORD.

The SPEAKER. The announcement in reference to the pair of Mr. ELLIS and Mr. STEWART was made, but not of the others. The statement will, as a matter of course, go into the RECORD.

TEMPORARY CLERKS, ETC.

Mr. DURHAM. I move, by unanimous consent, to take from the Speaker's table the message from the Senate insisting on its amendment to an act (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making appropriation for detecting trespass on public lands, and for bringing into market public lands in certain States, and for other purposes, disagreed to by the House, and asking for a conference on the disagreeing votes of the two Houses thereon, and that the House agree to the conference asked on the part of the Senate.

There was no objection, and it was ordered accordingly.

Mr. DURHAM moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER appointed as conferees on the part of the House Mr. DURHAM, Mr. BLOUNT, and Mr. BAKER of Indiana.

THILO SCHULTZE AND OTHERS.

Mr. BANNING. I am directed by the Committee on Military Affairs to present the following communication from the Secretary of War, and to move that the request be granted.

The Clerk read as follows:

The Secretary of War has the honor to transmit to the Speaker of the House of Representatives the copy of a request from the Acting Second Comptroller of the Treasury, that certain papers in the matter of the claim of Thilo Schultze and others, heretofore transmitted for the information of the Committee on Military

Affairs, be returned for the use of the accounting officers before whom the claim is now pending.

GEORGE W. MCCRARY,
Secretary of War.

WAR DEPARTMENT, February 14, 1878.

Mr. BANNING. This matter was before the House last year and favorably considered by the Military Committee and reported to the House. It is now pending in one of the Departments, and the Secretary asks that the papers be returned. I move the request be granted.

The motion was agreed to.

CURRENCY FOR MINOR BUSINESS TRANSACTIONS.

Mr. BUTLER, by unanimous consent, introduced a bill (H. R. No. 4238) to supply a convenient currency with which the minor business transactions of the people may be done; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

LAND LOCATED ON MILITARY WARRANTS.

Mr. SAPP, by unanimous consent, introduced a bill (H. R. No. 4239) to authorize the Secretary of the Interior to ascertain the amount of land located with military warrants in the States described therein, and for other purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

MICHAEL SULLIVAN.

Mr. BLACKBURN, by unanimous consent, submitted the following resolution; which was read and referred to the Committee of Accounts:

Resolved, That there be paid out of the contingent fund of the House the sum of \$100 per month from the 23d day of October to the 3d day of April, 1878, to Mr. Michael Sullivan for his services as messenger to the Committee for the District of Columbia.

THOMAS A. WALKER.

On motion of Mr. CUMMINGS, by unanimous consent, the bill (S. No. 954) for the relief of Thomas A. Walker was taken from the Speaker's table, read a first and second time, ordered to be printed, and referred to the Committee of Claims, not to be brought back on a motion to reconsider.

ORDER OF BUSINESS.

Mr. WOOD. I demand the regular order.

Mr. ELLSWORTH. I ask the gentleman not to insist upon that for a few moments that I may make some reports from the Committee of Claims, as I am about to be absent from the House for some time.

Mr. WOOD. I will yield to the gentleman if the reports are not for action at this time.

WILLIAM C. EDMONSTON.

Mr. ELLSWORTH, by unanimous consent, from the Committee of Claims, reported back, with a favorable recommendation, the bill (H. R. No. 1346) for the relief of William C. Edmonston; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MILTON B. DUFFIELD.

Mr. ELLSWORTH also, by unanimous consent, from the same committee, reported back, with an adverse recommendation, the petition of Milton B. Duffield, late United States marshal in the Territory of Arizona; and the same was laid on the table, and the accompanying report ordered to be printed.

Mr. ELLSWORTH moved to reconsider the vote by which the petition was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. MARY O'LOUGHLIN.

Mr. ELLSWORTH also, by unanimous consent, from the Committee of Claims, reported back, with an adverse recommendation, the bill (H. R. No. 2499) for the relief of Mrs. Mary O'Loughlin; and the same was laid on the table, and the accompanying report ordered to be printed.

Mr. ELLSWORTH moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ESTATE OF HENRY K. SANGER.

Mr. ELLSWORTH also, by unanimous consent, from the Committee of Claims, reported a bill (H. R. No. 4240) for the relief of the estate of Henry K. Sanger, late United States depositary at Detroit, Michigan, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

N. BOYDEN.

Mr. ELLSWORTH also, by unanimous consent, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 685) for the relief of N. Boyden; and the same was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

COMMITTEE ON EXPENDITURES IN THE TREASURY DEPARTMENT.

Mr. GLOVER, by unanimous consent, submitted the following reso-

lution; which was read, and referred to the Committee on Expenditures in the Treasury Department:

Resolved, That the Committee on Expenditures in the Treasury Department have leave to report at any time for the purpose of printing and commitment.

ORDER OF BUSINESS.

Mr. WOOD. I now insist upon the regular order.

The SPEAKER. The regular order is the unfinished business of yesterday, being the resolutions reported from the Committee on Reform in the Civil Service.

CHARGES AGAINST THE DOORKEEPER.

The resolutions were as follows:

Resolved, That the position of Doorkeeper of the House of Representatives be, and hereby is, declared vacant; and

Further resolved, That, until the appointment of a new Doorkeeper, the duties of the office be, and hereby are, devolved upon the Sergeant-at-Arms.

The SPEAKER. The gentleman from Georgia [Mr. Cook] is entitled to the floor and has thirty-five minutes of his time remaining.

Mr. COOK. Mr. Speaker, when the House adjourned yesterday I was discussing Mr. Coryell's affidavit as compared with the testimony which he gave before the committee, showing its utter worthlessness and its utter unreliability; how positively and emphatically he swore when he was furnishing the honorable gentleman from Indiana with his affidavit, and how differently he swore as to the same facts when he went before the committee. I ask the attention of those gentlemen who are disposed to sustain the majority report predicated upon the evidence of this man to the charges in the affidavit which he made and to his evidence before the committee. In his affidavit he swears positively and emphatically to every charge he makes himself, and then in confirmation of them he refers to Mr. Silver as a witness to sustain him in these accusations. His affidavit is found on the first page of the evidence.

Now, when he comes before us, and the charges are read to him, after giving his age and place of business, and previous history to some extent, he is asked:

By the CHAIRMAN:

Question. Is that all the testimony you have to give?

Answer. In regard to that letter.

Q. In regard to the first charge you have made here?

A. That is all. That embraces the first charge. I have made a charge that Mr. Silver was made substantially the same offer.

Q. Did you hear Mr. Polk make an offer to Mr. Silver?

A. No, sir; I have it from Mr. Silver's mouth; that is all.

He had Mr. Silver subpoenaed and put upon the stand as a witness to prove the charge; and Mr. Silver swore emphatically and positively that no such offer was ever made to him by Mr. Polk.

Now, sir, there is a universal rule of evidence that when you put a man on the stand as your witness, you cannot, except under extraordinary circumstances, impeach or discredit him. That is a principle of law well known to every lawyer upon this floor. I read further from the testimony of this witness:

Question. Then do you know anything personally about those claims?

Answer. All that I know I learned a day or two or three afterward, through Mr. Silver. We had a conversation, and Mr. Silver told me that Mr. Polk had made him substantially the same offer.

Further on in his testimony is this:

Question. Have you had any other conversation with Mr. Polk about claims before Congress, or an interest in them, than that which you have already stated?

Answer. No, sir; I have never had any other.

Q. You charge here that Mr. Polk has a large amount of money due him for lobby services; how do you know that?

A. I am not quite ready for the evidence in proof of that yet. It is only the first and the third charges that I am prepared for.

And he never did get ready to offer proof to show that Polk was interested or that there was any other ground for his other charge. He was permitted by the committee to read a memorandum which he had made of a conversation with Mr. Polk. He had reduced to writing five or six days after the conversation took place certain matters, from which writing he was permitted to refresh his memory. When he was asked if that written memorandum contained all the conversation between him and Mr. Polk, he frankly said that it did not. This conversation occurred on the 31st day of December, and it was on the 5th of January that Coryell reduced it to writing. He was permitted to use the memorandum to refresh his memory, and he was asked:

Question. Does that memorandum contain all the conversation that occurred between you?

Answer. Oh, no, sir; the conversation lasted, probably, half or three-quarters of an hour; I merely condensed it because I did not suppose you would want to know all the little remarks and conversation that took place.

It would appear, then, that he merely condensed the conversation; put down what he thought proper. Now, I submit to every lawyer on this floor if there ever yet was a written memorandum of a conversation purporting to have taken place between two men, where the party offering the memorandum testifies himself that it does not contain the entire conversation, but simply what he considered the gist of it—was such a memorandum ever admitted as evidence before any court or jury? The universal law is that if you go into a conversation you must give the whole of it. That is a principle unvarying and universal in the courts. Yet this man here testifies that five days after the conversation took place he reduced the substance of it to writing. And he swore to that memorandum. I suppose the reason that he swore to his written statement was that he was afraid

he would not believe it himself when called upon to present it. To establish the fact that it was true, he makes out what purports to be the memorandum of a conversation, and swears to it for no other reason than that he would probably not believe it when he looked at it again, if it was not sworn to. He says:

I merely condensed it, because I did not suppose you would want to know all the little remarks and conversation that took place.

Who did not want to know? Mark you, this conversation purports to have taken place more than a month before the committee was organized. He says that the conversation took place on the 31st day of December, and that it was the 5th day of January that he made the little memorandum of the substance of it, because he did not suppose the committee would want to know all the little remarks and conversation that took place. I say that this whole evidence is illegal and improper and ought to be ruled out of these proceedings.

He is again asked:

Question. Does the memorandum contain all the conversation?

Answer. No, sir; it is merely a synopsis of it, giving the gist, as I supposed, of the conversation.

The witness was asked in regard to this conversation, which he says took place on the 31st of December, who was present besides Mr. Polk and himself, and he replies, "Not any one; we were alone in his office in his house." And it was very fortunate for him that he was alone. I read further from his testimony:

Question. Did Mr. Polk tell you that he was interested in bills now pending or to be introduced into the present Congress?

Answer. He told me that he knew all about them and could put me "inside the ring." That is the term he used.

In his affidavit he swears that Polk was interested in bills pending before Congress. I read from the affidavit:

I further charge John W. Polk with having a large amount of money due him for lobby service from parties who had the contracts for paving Pennsylvania avenue during the past year, and that the payment of this money is now dependent on future appropriations by Congress, which makes him interested in aiding such further legislation and appropriations by the present Congress, of which he is Doorkeeper.

He also says in his affidavit:

In proof, I was offered by J. W. Polk, in consideration of my sending him my resignation as clerk, an interest in the several bills as aforesaid, by which, as he said, I could make more money than I could by the position and salary of clerk. This offer was made me in person by the said Polk, at his residence, on the evening of December 31, 1877.

He first charges that the Doorkeeper of the House is interested in bills now before or to be introduced into the present Congress. But he says in his testimony that Polk never told him so, and he refers to a man whose testimony I will read that discredits every word of his statement. I read the testimony of Coryell. See Silver's testimony. And Polk in his entire conversation disclaims any interest whatever in these bills before Congress.

I now refer to the evidence of Mr. Silver, a witness subpoenaed at the instance of Coryell; and every question asked him by the gentleman from Ohio [Mr. Cox] was I believe suggested not from any knowledge or information of his own, but by Mr. Coryell, believing all the time that it would develop some plot or scheme on the part of Mr. Polk, some improper interest in these transactions. I read from the evidence of Mr. Silver:

Question. In the affidavit made by Mr. Coryell he states that you told him that Mr. Polk, the Doorkeeper of the House, in consideration of his appointing you as to a position under him, made you substantially the same offer which he had made to Mr. Coryell, which was that he would put him in a position whereby he could make more money than he could in the position of a clerk; what did you tell Mr. Coryell in regard to that matter?

Answer. I did not tell Mr. Coryell what he states in that paper there. Mr. Coryell was in the habit of visiting my room. I was sick when I first came on here, and he used to come there a good deal.

He disavows ever having made any such statement:

Question. What did you say from which he could draw an inference such as he has sworn to in this affidavit?

Answer. Well, Mr. Coryell couldn't understand why I had no position under Colonel Polk. He knew I was Mr. Polk's friend, and he couldn't understand that; and I told him that Colonel Polk had told me that he was not going to appoint any man to any position under him that had anything to do with lobbying in any way, shape, or form.

This is what Mr. Coryell's witness swears that Polk told him; that he would appoint no man to any position under him who was interested in any shape or form in lobbying:

I told him distinctly that Colonel Polk told me so. Mr. Polk's presumption about me was, at one time, I presume, that I had something to do with those matters; and he stated to me distinctly that he was not going to appoint anybody to any position who had anything to do with lobbying in any way or shape; that he had himself touched nothing and that he didn't intend to touch anything.

Question. Did Mr. Polk make such a statement to you or make you such an offer?

Answer. I say no.

By the CHAIRMAN:

Q. Did you ever apply to Mr. Polk for a position?

A. Well, yes; I think I did. I think he wrote me a letter before we came here saying that he would take care of me as his friend, and I presumed he would.

Further on he testifies as follows:

Question. Did Mr. Polk ever offer you as a reason, or as a compensation for not giving you a position, that he would give you an interest or put you in a "ring" connected with any matters now before Congress?

Answer. He never did.

This is the sworn evidence given before the committee by Mr. Silver, who was the witness referred to to confirm Mr. Coryell's statements.

Question. Or that he would aid you as a lobbyist?

Answer. He never did.

Q. Or that he would assist you in getting any bill through in which you were interested?

A. He never did.

Q. Or that he would exert his influence on any member of Congress?

A. He never did.

Q. Did he offer at any time to aid you in any of these matters?

A. No, sir.

Q. It is stated in these charges that you and Mr. Polk were interested in some measure now before Congress; are you and Mr. Polk now interested in any measure now before Congress or in anything growing out of any appropriation to be made by Congress?

A. Not one dollar. I distinctly say, not one dollar.

Yet this man swore that Silver told him so. He had Silver subpoenaed and put upon the stand as a witness; yet Silver contradicted him from the beginning to the end of his testimony.

There is one part of Coryell's evidence that I desire to read, for I think it has about as much truth in it as anything else that he testifies to. And I ask the attention of my democratic friends to this statement. Those who are now disposed to condemn this man, those who are disposed to break down their party so far as they can by dismissing from the service of this House in shame and disgrace an officer who was the nominee of their own party caucus and elected by their votes, should listen to this testimony:

Question. You copied these extracts for him, did you?

Answer. I suggested it to him, showing him the excuses he might give for making these appointments, if any were necessary.

Here is this man Coryell advising Polk to make appointments.

It is necessary that I should explain that. When Mr. Polk was being besieged and in a great deal of difficulty I came up here one Sunday night and went over all the applications, giving a statement of the number of applicants, which, if I recollect right, amounted to six or seven hundred over and above the positions he had to fill, and I think at the same time I made those extracts from letters begging appointments. I did it in order that he might have some support or excuse for this extra force that he was putting on. He was in need of it; it was about the time that the thing began to blow out. I did it in a spirit of kindness.

This man advised him to put on this extra force, and he did it because he said there were six or seven hundred applications beyond the number of positions authorized by law and because the applicants were persistent and unceasing in their importunities. A fact more discreditable to the democratic party than anything that Polk has done is, in my judgment, that we should have put him into this position and then hounded him to death for office for our importuning friends, and, after he had sought to accommodate our friends as best he could, that we should turn against him. There is more truth perhaps in that statement of Coryell than anything else he has testified to.

There is one feature in this investigation that is a little remarkable. The only two gentlemen who have spoken on this floor against Mr. Polk have alluded to evidence in their possession which has never been before the entire committee and was never heard of until the gentleman from Illinois [Mr. HARRISON] in making his speech alluded to it. I say that in all fairness to Mr. Polk the whole evidence should be before the committee. This whole matter ought to be re-committed so that the committee might have the benefit of this testimony and that Colonel Polk might have an opportunity to meet it. The gentleman from Ohio [Mr. COX] who really wants to be fair-minded has been led by his extreme aversion to wrong and corruption in the Doorkeeper's office and by his deep and anxious solicitude for the welfare of the democratic party to depart from the fairness which ordinarily distinguishes him. I thank him for his interest in the welfare of our party; but when he shall quit his own political associates and come over among us, we will appreciate better his interest in our behalf.

Mr. BRIDGES. Will the gentleman allow me a moment?

Mr. COOK. Yes, sir.

Mr. BRIDGES. I understand that the gentleman's effort has been to weaken, if not entirely destroy, the testimony of Mr. Coryell. Now I would say to the gentleman and to the House that I have been for many years acquainted with this man, and I pronounce him as honest a man as there is upon this floor.

Mr. COOK. Then I am sorry for the rest of them, God knows! [Laughter.]

Mr. BRIDGES. I have known his parentage, and he is descended from as honest a family as ever lived within the limits of the United States.

Mr. COOK. If you will read the evidence you will change your opinion of him.

Mr. BRIDGES. No, sir; I would believe his evidence in preference to that of any other man, for I know him to be perfectly honest and a man who would never swear to what was untrue.

Mr. COOK. The gentleman rose to ask me a question and has delivered an eulogium on Mr. Coryell.

The SPEAKER. The Chair supposed that the gentleman from Georgia [Mr. Cook] yielded.

Mr. COOK. No, sir; I have not yielded. Now the gentleman from Ohio [Mr. COX] had a great deal to say yesterday about the appointment of Rogers on the soldiers' roll, who was not a soldier, and the

circumstances under which he was removed from office. All the evidence in reference to that was taken on Monday in the presence of three members of the committee only, without notice to Mr. Polk or to any member of the minority of the committee, nor did we hear that the case was being continued and evidence taken until it was mentioned yesterday by the gentleman from Ohio, [Mr. COX.] Does that show fair-mindedness? Does it illustrate open, candid, fair play in this transaction? But so far as Rogers and the soldiers' roll is concerned, I say that on such testimony as was taken it showed that this man Rogers represented himself as a soldier and was put on the soldiers' roll, and a few days ago when Mr. Polk ascertained the fact that he was not a soldier he dismissed him and put his brother upon the roll who is a disabled and discharged soldier and a pensioner of the Government.

Mr. Polk would have testified to that if he had been notified that the case was reopened. This crippled soldier who has been substituted for his brother came to the Capitol hurriedly and qualified, and then left his brother here to discharge his duties while he returned home to arrange his affairs. Now, I appeal to every fair-minded man on this floor if there was any fraud or corruption and wrong upon the Government in this transaction? Now, I appeal to gentlemen on the other side of the House if upon charges of this character it is fair to crush a man who is thus placed within your power, and upon these charges that are presented here to reflect forever upon the character of himself and family, and on account of the transactions so elaborated by the gentleman from Ohio [Mr. COX] and others to stigmatize him as an outlaw?

I want to call the attention of the gentleman from Indiana [Mr. BAKER] who introduced this matter into the House, and I think every gentleman will bear me witness, that when he did it he showed that degree of earnest solicitude for economy in the House and the proper management of its affairs that he was utterly overwhelmed, that his voice was crushed and he could hardly speak, and the tears streamed down his cheeks when he read these affidavits and asked to have the resolution passed that he offered. He was so shocked at the ruin and destruction that the Doorkeeper was about to inflict upon the country that he was utterly overwhelmed; his whole nature gave way under the shock.

Now, sir, the last Congress appropriated for the year ending June 30 next \$105,210 to defray the expenses of the Doorkeeper's department. I want to call the attention of the gentleman from Indiana [Mr. BAKER] to the fact that in the year 1870 \$164,894 was appropriated by that Congress to defray the expenses of the Doorkeeper's department, and this included only the employes on the regular roll and not those provided for by special resolution. In 1871 the amount of \$183,709 was appropriated to cover the same expenses, and that did not include the extra men or those who were paid by special resolution. In 1872 the amount appropriated was \$183,042.53 for the same purpose, and not including the extra men paid by special resolution. In 1873 the amount appropriated was \$177,518.89, and that did not cover the employes who were paid by special resolution, and so it goes on.

Now, when you consider that we have reduced the expenses of this department from \$188,000 and \$183,000 down to about \$105,000 the Treasury has not suffered much at our hands. The gentleman was shocked at another fact, that such frauds and corruption should exist here. Now, since I have been a member of this House I have seen a man brought in here and placed in a chair in the area, from which he fell, and who was sent to jail because he refused to testify, and finally he came forward and said that the Doorkeeper, who stood at the door to my left, a one-armed loyal soldier who fought for your Union and followed your flag as a soldier, for his loyalty he received \$11,000 from those interested in the Pacific mail subsidy, and the Doorkeeper who was in charge of the Hall received \$4,500 for his valuable services at one time, and the Postmaster here, an officer of this House, had received \$125,000 for his valuable services in aid of the same subsidy. That is a part of the written history of our country and our legislation. I have got the evidence here in that case. If gentlemen have any curiosity on the subject they can see it.

Mr. BAKER, of Indiana. Will the gentleman from Georgia yield to me a portion of his time to reply to what he has said in reference to me?

Mr. COOK. No, sir; the gentleman from Illinois [Mr. HARRISON] can yield a portion of his time to you when he comes to close the debate.

Mr. BAKER, of Indiana. I think it hardly fair for the gentleman to make such charges and then refuse me an opportunity to reply.

Mr. COOK. Mr. HARRISON can do that.

Mr. BAKER, of Indiana. I can assure the gentleman that I shall make an effort to get the floor to reply to him.

Mr. COOK. Very well. So far as the record in this case is concerned as to the matter of corruption, it amounts to nothing whatever compared with the history of previous Congresses under republican rule.

There is not a scintilla of evidence to show that Mr. Polk received one dollar from any employe of this House or that he is interested in any manner or in anything connected with it. Importuned as he has been by many more hundreds of applicants for appointments than he had places to put them in, he did make some indifferent appointments, and one of the very worst things he did was to appoint this

man Coryell. My old friend over there from Pennsylvania [Mr. BRIDGES] has testified to his character. He knew Coryell in his better days. Judas was a good man until he fell. He followed our Saviour through thick and thin as one of His disciples and stood by Him and adhered to Him up to the very last, but then he fell. So it is in reference to this man Coryell. When my friend from Pennsylvania knew him I have no doubt he bore the character to which he testified. Any one who will read his affidavit and then read his evidence will see that the one contradicts the other, and must come to the conclusion that either in one or the other he has sworn to a lie from the beginning to the end.

Now, the gentleman from Ohio [Mr. COX] yesterday rose to some degree of sympathy and pathos in dwelling on the hardships of Mr. Lyle, a poor colored man who was cruelly outraged. Here is the certificate of the clerk of the Committee of Accounts showing that Mr. Lyle received \$260 from the 1st of April to the 15th of October, 1877. He charged that Mr. Polk withheld money these men were entitled to. It cannot be shown that he ever withheld one dollar to which these men were entitled.

Mr. COX, of Ohio. Will the gentleman let me ask him a question?

Mr. COOK. Certainly.

Mr. COX, of Ohio. Do you say the amount you have stated was the laborers' wages, established by law for that purpose?

Mr. COOK. No, sir. I say it is the amount allowed by this committee, which investigated the matter, out of the appropriation made for the purpose. Mr. Polk, from the 15th of April to the 15th of October, when Congress assembled, had no more to do with Mr. Lyle than he had with the north pole. He was not an officer of the House. He was not connected with the House in any way. He was not responsible in the slightest degree for what was due Lyle or anybody else. When Mr. Polk came into office on the 15th of October, from then to the 15th of December this man was paid enough to cover more than the wages of a laborer for that time.

Now, sir, the gentleman from Ohio stated yesterday as his personal belief, although he said there was no evidence for it, that all the evils, errors, and irregularities of this office of Doorkeeper were still going on to-day. It is my personal belief there is not one solitary one existing to-day in the Doorkeeper's department. My personal belief is that the department is being run in accordance with the law, and that the Doorkeeper is now and has been from the beginning discharging his duties under the law, fulfilling all his obligations to the House and to the country. Such, Mr. Speaker, is my belief. Gentlemen on the opposite side of the House believe differently. Such is his belief, but he has no proof for it. Is he upon that belief justified, without any evidence to prove the fact, in asking this House to discharge the Doorkeeper from his office? I think not.

Now, sir, my time is about out and so am I. [Laughter.] But before taking my seat I have this to say to the democratic party: two years ago we had another difficulty with a Doorkeeper. We had a simple-minded man here who wrote a letter that he was "a bigger man than old Grant," and he spelled it wrong. [Laughter.] My friend from New York [Mr. COX] was chairman of the committee which reported a resolution to expel him from his office.

Mr. COX, of New York. I was merely the organ of the Committee on Rules, and acting under the instruction of that committee, when I reported the resolution to which the gentleman refers.

Mr. COOK. I was never able to find out whether we expelled Fitzhugh because he was a "bigger man than old Grant" or because he spelled the word wrong. [Laughter.] I was among the nineteen men who stood here and voted to sustain him, even if he was a "bigger man than old Grant" and could not spell exactly right. [Laughter.] But when that charge was made against the democratic party they went off instantly into a stampede. No Texas herd of cattle were ever equal to it in the rapidity with which they rushed Fitzhugh out of the insignificant office of Doorkeeper. To-day, too, they are frightened, many of them. They say they cannot stand such a shock. [Laughter.] They say they cannot afford to keep a Doorkeeper in office who has put a few more men into office than he was entitled to, although he was importuned very frequently by these very members of Congress themselves to do it. [Laughter.] They say they cannot stand the shock of his keeping men on the soldiers' roll who were not soldiers. Mr. Polk testified in every case the men themselves represented they were soldiers. Take Holt's case, for instance. He told him he was a soldier; that he had served three years in the Army. He is a decent, genteel-looking man. I do not know whether he asked him to exhibit his papers or not. It turned out, however, that the service he rendered was in Boston as one of the State militia. Well, the people of Boston have been alarmed for many years for fear Bob Toombs, of Georgia, would call the roll of his slaves at the foot of the Bunker Hill monument, and I suppose this militia was kept up there for the purpose of saving that monument from any such desecration. [Laughter.] I have no doubt that he was rendering his country valuable service and the city of Boston especially, and that he was protecting that great monument, sacred in the history of our country, commemorative of its great events, from that great desecration which my friend from Georgia has so long been charged with attempting to perpetrate upon it.

[Here the hammer fell.]

Mr. PUGH. How about that apothecary?

Mr. COOK. That apothecary in the Navy served five years in the

Ordinance Department of the Army. I have got the letter in my pocket, but I do not offer it, because I am a little more bashful than those gentlemen. He was fourteen years old when he went into the Union Army, was present at the fall of Richmond, and rendered valuable service.

Mr. HARRISON. I rise now to move the previous question.

Mr. COOK. Does the gentleman propose by moving the previous question to cut off the amendment offered by the gentleman from Illinois, [Mr. EDEN?]

Mr. HARRISON. I have reported the resolution and have no authority from the committee to admit any amendment.

Mr. BAKER, of Indiana. I rise to ask the gentleman from Illinois to withhold his demand for the previous question now in order that I may have an opportunity to be heard on this case. I have been arraigned here by the last speaker, and I think I should have some opportunity to reply. If the gentleman from Illinois does not accede to my request I trust the demand for the previous question will be voted down.

Mr. SAYLER. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SAYLER. I wish to know whether the substitute of the gentleman from Illinois [Mr. EDEN] has been brought before the House.

The SPEAKER. It has not.

Mr. SAYLER. Then in order to bring it before the House it will be necessary to vote down the demand for the previous question.

Mr. HARRISON. I have no objection for my own part to admit that amendment to be voted upon by the House, but as from my committee I have no authority to do so.

Mr. SAYLER. The gentleman's committee has nothing to do with it.

The SPEAKER. The gentleman from Illinois [Mr. HARRISON] demands the previous question. If the demand for the previous question is voted down the Chair will then recognize the gentleman from Illinois in front of the Chair [Mr. EDEN] to submit his amendment and will further recognize the gentleman from New York [Mr. JAMES] as entitled to the floor as a member of the committee reporting.

Mr. HOOKER. If any time is to be extended to the other side I hope the House will extend the same courtesy to some on this side who have not the good fortune to belong to the committee, and have been excluded from participation in this debate because they do not belong to it.

The SPEAKER. Up to this time three hours have been occupied on each side: three hours on the side of the majority report and three hours on the side of the views of the minority. If the demand for the previous question is sustained the Chair understands one-half of the last hour would be given to each side.

Mr. FRANKLIN. Let us vote the previous question down.

Mr. EDEN. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. EDEN. Will it be in order for me to ask my colleague to yield as he indicated to me he would, in order that this amendment may be offered?

The SPEAKER. The gentleman can ask that question of his colleague.

Mr. EDEN. Will my colleague yield for that purpose, that this amendment may be offered?

Mr. HARRISON. I have no objection personally.

Mr. EDEN. You have perfect control of the matter.

Mr. HARRISON. No, sir; I am directed by the Committee on Civil-Service Reform to report certain resolutions. I have done so, and I consider my power then as gone.

Mr. EDEN. Have you not the right to yield for the purpose of allowing an amendment to be offered?

Mr. HARRISON. If the Chair decides I have that power—

The SPEAKER. The Chair has nothing to do with the question of offering amendments. The gentleman from Illinois [Mr. HARRISON] has control of the majority report, and the Chair recognizes him until an adverse vote occurs on his motion.

Mr. EDEN. I understand my colleague to say that if the Chair states he has the right to yield for that purpose he will do so in order that I may offer my amendment.

The SPEAKER. The gentleman has the right to yield for that purpose, as is constantly the practice.

Mr. HALE. What is the regular order?

The SPEAKER. The regular order is the demand made by the gentleman from Illinois [Mr. HARRISON] for the previous question.

Mr. HARRISON. If the House so desires I have no objection to the debate running another hour before the previous question is called—

Mr. EDEN. I am not asking time for debate.

Mr. HARRISON. Provided it is agreed that at the end of that hour no further extension of time will be required.

Mr. SAYLER. I rise to a parliamentary inquiry—a question of right. The gentleman from Illinois on my left [Mr. HARRISON] does not control the floor for the exclusion of the amendment offered by the gentleman from Illinois on my right, [Mr. EDEN.] The gentleman from Illinois [Mr. HARRISON] yielded the floor yesterday after the exhaustion of his hour. With the exception of his reserved right in the closing hour he has no more control of the floor than I have or any other gentleman; and he not having demanded the previous question his colleague has a perfect right to offer his amendment.

The SPEAKER. But the gentleman from Illinois [Mr. HARRISON] has demanded the previous question.

Mr. SAYLER. When?

The SPEAKER. This morning.

Mr. SAYLER. Yes; not until after the gentleman from Illinois [Mr. EDEN] had offered his amendment.

The SPEAKER. The gentleman from Illinois [Mr. EDEN] yesterday submitted his amendment as part of his remarks.

The gentleman from Ohio is perfectly well aware that the practice is to give the control of a report from a committee to the member of the committee who makes it.

Mr. SAYLER. That is very true.

The SPEAKER. The Chair uniformly recognizes the gentleman who has charge of a report, to demand the previous question on such report, so as to bring the House to a direct vote on the question and test the sense of the House thereon; but there is no difficulty whatever in the case; if a majority of the House desires to vote upon this amendment or desire longer debate, then the previous question will be voted down.

Mr. EDEN. I understood my colleague to yield to me to offer the amendment.

Mr. SAYLER. He has not the right to yield.

The SPEAKER. The Chair differs with the gentleman from Ohio as to that; but the remedy is to vote down the previous question.

Mr. HARRISON. I wish to call attention to the fact that I did not yield to my colleague.

Mr. SAYLER. I wish to call attention to the fact that he could not yield because he did not hold the floor.

The SPEAKER. The control over a report undoubtedly rests with the member who reported it, as the gentleman from Ohio is very well aware.

Mr. EDEN. I ask my colleague if he will yield to me to offer the amendment, as he agreed both last night and this morning that he would do?

Mr. THOMPSON. I demand the regular order.

Mr. HARRISON. I have no recollection of agreeing to allow my colleague to offer that amendment; I said I had no objection to it personally. Do not gentlemen suppose that I know my own mind?

The SPEAKER. The Chair desires to state that on yesterday the gentleman from Illinois [Mr. EDEN] submitted as a part of his remarks the amendment which he seeks to offer. The Chair will have read what he stated at the time.

The Clerk read as follows:

The SPEAKER. The gentleman from Illinois stated that he had his substitute read for information, and that at the proper time, if permitted, he would offer it as an amendment to the report.

The SPEAKER. The words are "if permitted," and the gentleman from Illinois [Mr. HARRISON] now insists on his motion for the previous question.

Mr. EDEN. I said that my colleague was willing to yield to me.

Mr. HARRIS, of Virginia. By taking the vote on the previous question we can decide the matter very soon.

Mr. HARRISON. So far as I am personally concerned, I have no objection to the gentleman offering the substitute; but I would say further, that I think the best plan that can be adopted is to have one hour longer for debate, and divide it between the two sides.

The SPEAKER. Does the gentleman demand the previous question or not?

Mr. EDEN. Will the gentleman yield to me to offer the amendment which he agreed to allow me to offer?

The SPEAKER. Does the gentleman demand the previous question or yield for the amendment?

Mr. HARRISON. I demand the previous question.

The question was put upon seconding the previous question; and on a division there were—ayes 63, noes 110.

So the previous question was not seconded.

Mr. JAMES obtained the floor.

Mr. EDEN. I now offer as a substitute for the resolutions reported by the committee those which I had read yesterday, as a part of my remarks.

The SPEAKER. The previous question having been voted down, the Chair recognizes the gentleman from New York [Mr. JAMES] for further debate; but the Chair will first entertain the amendment of the gentleman from Illinois.

Mr. EDEN. I will state that I made some slight changes in the amendment after it was read in the House; but it is correctly copied in the RECORD, and had better be read again.

The Clerk read the amendment, as follows:

Whereas neither the majority nor the minority of the Committee on Reform in the Civil Service, to whom were referred the charges against John W. F. Polk, Doorkeeper of this House, have found or reported that said Polk has been guilty of any corruption in the administration of said office, but have found and reported that he has in some instances placed upon the rolls a greater number of employes than was authorized by law, trusting to the House to ratify said action and provide compensation for said employes, which was in fact done, in part, by the House before any charges were made against said officer; and

Whereas it appears from the testimony taken before said committee and reported to the House that the names of some persons who were not in fact crippled or disabled soldiers have in some instances been, by mistake or otherwise, placed upon the soldiers' roll; Now, therefore

Resolved, That in the opinion of the House it is essential to the proper and economical administration of said office that the number of its employes and the amount of its expenditures should at all times be regulated and controlled by the laws in force when the persons are employed and the expenses incurred, and hence the conduct of said Polk, in making appointments in excess of the number authorized by law and in placing, even temporarily, under any pretext, on the soldiers' roll persons not entitled to be there, is hereby disapproved and censured; and that the said officer is hereby ordered and directed to examine and revise the soldiers' roll at the earliest practicable moment, and remove therefrom the names of all persons, if any yet remain, who are not crippled or disabled soldiers; and that he shall hereafter conform strictly to the statute and rules of the House in regard to the employes on said roll.

Resolved, That the report of the Committee on Civil-Service Reform relating to the charges against the Doorkeeper of the House be recommitted to that committee, with instructions to inquire into the organization of the employes serving under the Doorkeeper, and to ascertain the number necessary in each branch of that service, and what changes, if any, are demanded to secure greater efficiency and economy in transacting the business of the House under charge of the Doorkeeper; and what further legislation, if any, is required to prevent the employment or payment of any messenger, laborer, or other employe of the Doorkeeper in excess of the number authorized by law; and whether the appointment of laborers under the Doorkeeper should not be discontinued and the duties now performed by the laborers be turned over to a superintendent or janitor, with authority to hire, at the usual and fair price for labor, such persons as may be necessary to do work required to be done by the laborers now appointed by the Doorkeeper; with leave to report at any time by bill or otherwise.

The SPEAKER. The hour of the gentleman from New York [Mr. JAMES] commences now, and the amendment is pending.

Mr. JAMES. I yield twenty-five minutes to the gentleman from Indiana, [Mr. BAKER.]

Mr. BAKER, of Indiana. I do not know that I should have cared to say anything upon this question, had it not been for a remark which fell from the gentleman from Georgia, [Mr. COOK.]

Mr. EDEN. I rise to a parliamentary inquiry. Is there any understanding or agreement about this matter or is a demand for the previous question now in order?

The SPEAKER. The demand for the previous question was voted down by the House and the action of the House was adverse to the report of the committee, and the effect of such vote is, as far as the Chair can gather the disposition of the House, that the House desired another hour's debate and also desired to have an amendment offered.

Mr. CARLISLE. I understand that the gentleman from Illinois [Mr. EDEN] has control of the matter.

The SPEAKER. At the expiration of the hour the Chair will recognize the gentleman from Illinois [Mr. EDEN] to call the previous question.

Mr. BAKER, of Indiana. The gentleman from Georgia [Mr. COOK] saw fit to complain of the manner that I exhibited when I introduced the proposition to investigate the Doorkeeper of the House. I am aware that the subject of Doorkeepers is a tender one with the democratic party. I believe that for the last thirty or forty years that party never has had a democratic Doorkeeper who has not needed investigation and chastisement at the hands of that party or some other party.

I had the right, however, to assume that the gentlemen on the other side of this Chamber, in these latter days, since the upheaval in 1874, had amended somewhat in that regard, and that they were now honest in their pretenses of being in favor of honesty in the civil service of the Government. I do not know whether the decision of to-day will be confirmatory of that supposition or whether it will prove to be like so many other pretenses of that party, merely a sham, intended to delude the people; "a good enough Morgan until after election."

I had expected that gentlemen on that side of the Chamber who speak as my friend from Georgia [Mr. COOK] did when alluding to the Army as "your Army," and who when they speak of the Union of the States characterize it as "your Union," and especially that class of gentlemen on the other side of the Chamber who could not wind up an eulogium on Fitzhugh or on Polk without drawing a beautiful and chaste picture of the virtues of the late Judas Iscariot—I say I had expected that they would be found railing at the complaints made by me with reference to the Doorkeeper of the House. In this I am not disappointed.

One would almost infer that my friend from Georgia [Mr. COOK] regrets the fact that an untimely rope shortened the career of Judas Iscariot. One would think that he regretted that a kind Providence had not lengthened his years in order that he too might be a candidate for Doorkeeper as a successor in a democratic House, of the illustrious Fitzhugh, and his still more illustrious successor, Mr. Polk.

I have now said all that I desire to say in reference to matters that are purely personal to myself. Whether or not I shed tears over the sins and iniquities of that side of this democratic House, as intimated by the gentleman from Georgia, [Mr. COOK,] is a matter of very little moment. A contemporary of Judas had occasion to shed tears over the sins of Jerusalem. I think there is equal occasion to-day for the country to shed tears over the sins and shortcomings of gentlemen on the democratic side of the Chamber.

If I can comprehend the arguments in favor of Mr. Polk's acquittal on the democratic side of the Chamber, there seems to be two principal reasons why he should be retained in the office he has disgraced. It is argued with a great parade of learning that this grand inquest of the nation, the House, sits as a justice's court, and that because the indictment I drew, and which, after the bitterest opposition and attempts to evade the issue on the part of democratic gentlemen on the other side of the Chamber, I succeeded in getting passed, is not sufficiently broad and comprehensive to meet the criminal facts

testified to before the Committee on Reform in the Civil Service. In other words, they seem to be of the opinion that while Mr. Polk is proven guilty the indictment has a flaw in it, and therefore we are to exhibit the spectacle to the country and to the world of allowing Mr. Polk to escape on a little trivial technicality.

Now it may be that my democratic friends are ambitious of the sort of reputation that is to be gained by voting on such a pretense as that to sustain Mr. Polk. But if they are, I want to say to them that their pretense of an honest desire to reform the civil service of the Government will be valued by the country at what it is really worth. The country believes and will believe that their pretenses of desiring such reform are absolutely worthless and deceptive.

There seems to be another ground why democrats stand by Mr. Polk, and the argument which they urge I think has much more weight than their technical plea of an insufficient indictment. The reason urged why Mr. Polk ought not to be condemned by the democratic side of the House, and why it is necessary for the champions of Mr. Polk to turn around and with clenched fist and with trembling voice, with all the energy and power they have, try by the application of the party lash on the backs of their party friends to drive them to vote to screen this man who is arraigned as a criminal at the bar of the House for judgment, and who has already been tried before the bar of public opinion of this nation and found guilty by every honest man from ocean to ocean; that reason, that excuse, is that while they cannot deny that Mr. Polk has got the "pork" in violation of law, still he ought to be acquitted because sundry pieces of the bacon are found hanging out of the pockets of some honorable gentlemen on the democratic side of the Chamber. [Laughter.] That may be a good excuse, and I do not know but it will be a sufficient excuse to justify gentlemen on that side of the Chamber in voting to acquit Polk. And it is suggested near me that perhaps there may be some on this side of the House in the same situation. I trust, however, that will not be found to be the fact.

It is true—and the country will take notice of it—that there are gentlemen on the other side of the House who have some of the fruits of the crimes for which Mr. Polk to-day is on trial at the bar of the House. Democratic greed and pressure for office had much to do with Mr. Polk's offense.

I do not propose to spend my time this morning in discussing the question as to whether or not the indictment is drawn as it ought to be drawn. I do not feel that I am acting here as one might act who was defending a thief who had been arraigned before a trial court. I feel that it is our duty here and now, in the broad light of heaven and before the country, to decide this question according to the law and the facts as they have been developed.

I do not care whether the evidence brought out against Mr. Polk has been brought out in strict conformity to the technical rules of evidence or not. It is before us and we must deal with it as becomes us. I say here that if I have the time to go through the testimony I will establish three or four propositions so absolutely and conclusively, out of the mouth of Mr. Polk himself, that his blindest partisan, although Colonel Polk may have filled his pocket with the "pork," cannot deny them, nor can he escape the proof that sustains the charges that I will make.

I propose to show in the first place that Mr. Polk, your Doorkeeper, was a lobbyist when elected, and was just as fit a man for that position as any other of the rotten lobbyists who prowl like foul birds of prey, to the disgrace of the country and to its disgust, too, around the corridors and avenues of this Capitol. I propose to show further that Mr. Polk, when he had first emerged from his obscurity and appeared upon the arena of politics here as a lobbyist, came in contact with a man by the name of Silver, who seems to pride himself in testifying to his own infamy as a lobbyist. This man, self-confessed lobbyist as he is, was made by Polk, when he set on foot his campaign for obtaining the position of Doorkeeper, his especial confidant, his go-between, his "man Friday." I propose to prove further that Mr. Polk, deceiving you gentlemen on the other side of the House, had farmed out by corrupt and corrupting bargains nearly all the positions under the Doorkeeper about this House as a reward for service that I shall not stop to characterize. I propose to show also that this man Polk had a competitor for Doorkeeper by the name of Wedderburn, who conveniently dropped out of the list as a rival candidate against him, and on the 16th of October last, the day after Polk's election, as a reward for something he had done, was promoted to the position of "superintendent of passes" at a salary of \$2,500 a year. The sworn evidence shows that without a shadow of law for it this man Wedderburn received for one month \$165.50 as payment for his services in an office which, with its salary and emoluments, had been created by Polk alone. I propose further to show that all the crimes that have been brought up in array against this man Polk have been committed first in violation of the law, and secondly in defiance of a solemn resolution passed by the Committee of Accounts about the 2d day of November, 1877. I shall not have time (nor would I weary your patience in that way) to specify item by item the crimes that he has committed in violation of law and in defiance of the resolution unanimously passed by the Committee of Accounts of this House at the extra session of this Congress.

I have said I would prove, in the first place, that this man Polk was a self-confessed lobbyist. To establish this I ask the Clerk to read from page 116 and the top of page 117 of the evidence.

The Clerk read as follows:

Question. Were you interested in any measure pending before the Forty-fourth Congress?

Answer. I was.

Q. Were you interested as the agent for any company in any measure pending before the Forty-fourth Congress?

A. Not exactly as an agent, sir.

Q. Were you employed by any company to work for their interests before Congress? In other words, were you employed as lobbyist for any paving company?

A. Never as a lobbyist. I was employed as a counsel, an adviser.

Q. You were employed as counsel and adviser for a paving company.

A. Yes, sir; for the Neufchâtel Paving Company.

Q. They had measures then pending in Congress?

A. No, not yet. It was proposed—I don't know from what source the proposition came—to bring a bill before the Committee for the District of Columbia and get an appropriation to pave Pennsylvania avenue.

Q. Did you represent that company before the Committee for the District of Columbia?

A. Never, sir.

Q. Were you employed to do so?

A. No, sir; I was employed as a counselor to advise them, and I used to direct them as to what I thought would be the proper course for them to pursue.

Q. Are you a lawyer by profession?

A. No, sir; not a lawyer.

Q. State the nature of the service you rendered or agreed to render that company.

A. Well, I really can hardly explain everything to your satisfaction probably. It was supposed, you know, that I might be able to serve them by my judgment and influence. Of course that would be the inference. It was their own impression rather than mine. They sought me. I didn't seek them.

Q. What did they require you to do?

A. Well, to help them to shape the bill. Of course the proposition was that I should use the influence that was necessary to help to secure a contract for them.

Q. Influence over whom?

A. Generally; any one, no one in particular.

Q. Did you receive during the last Congress money from any paving company, or the agents of any paving company, or the promise of any money or compensation from any such company or its agents?

A. Define what you mean.

Q. I say from any paving company during the last Congress?

A. I received a small amount from Mr. Taylor.

Q. What was that for?

A. Well, it was for assisting him generally. . . . They awarded me, my recollection is, \$1,400. This much he got for his lobby services from one source.

Mr. BAKER, of Indiana. On page 118, which I incorporate as a part of my remarks, will be found evidence showing that during the Forty-fourth Congress this man Polk employed or procured the services of one Silver as his agent, because Silver while acting as a messenger for the Committee on the District of Columbia, pretended that he could influence the vote of a democratic member of Congress who was upon that committee. Here is Mr. Polk's own testimony on that subject:

Question. Was Mr. Silver interested in this matter jointly with you?

Answer. Indirectly. He had no kind of connection with the company.

Q. What was his connection with the matter?

A. His connection was through me.

Q. You employed him?

A. I employed him.

Q. What did you employ him to do?

A. I do not know. He claimed that he had some influence.

Q. With whom? Be frank about it.

A. With a member of Congress.

Q. What member?

A. Do you want me to name him?

Q. Yes.

A. Mr. HENKLE.

Q. Was Mr. HENKLE on the Committee for the District of Columbia?

A. He was.

Q. Did Mr. Silver claim to have any influence with any other member on that committee?

A. I don't know that he did. I think not. I never heard him.

Q. Then you employed Mr. Silver on account of his supposed influence with the members of that committee?

A. No, sir; not in the first place. This matter grew gradually. I do not think I knew at first that he knew of this thing. Mr. Silver was a Missourian, and a very intelligent man, and he was friendly with me, and he did not seem to be doing anything; he used to come to my room very often, and I don't know how it actually did come about; it just grew into that kind of an arrangement. He was entirely dependent on me for his interest. There was never any specific amount promised him, but he was depending on me entirely, and when the whole thing broke down that ended it. I never paid him anything.

Q. What was your original contract? Was there anything specific?

A. Yes; originally with Mr. Creevey there was.

Q. What was it?

A. It was a verbal contract. We talked about a great many things. I was to take an interest, and they calculated that there would be so much profit and my interest would be \$10,000, and I would go on and understand the thing and get more work after we got it established as the pavement adopted in Washington City, and we were going to make a big enterprise of it.

Q. Did you receive, during the last Congress, money from any paving company, or the agents of any paving company, or the promise of any money or compensation from any such company or its agent?

A. Define what company you mean.

Q. I say from any paving company during the last Congress?

A. I received a small amount from Mr. Taylor.

Q. What was that for?

A. Well, it was for assisting him generally. I must tell you the whole thing, so you may understand it. We had previously agreed that if the Neufchâtel was a successful company I should become interested in its business. After they failed to get as big a contract as they expected awarded to them by the commissioners, I claimed that I was entitled to some pay for my time and services and my traveling expenses. The whole thing had broken down entirely, but they awarded me, my recollection is, about \$1,400.

Q. And paid you that?

A. No, sir; not all of it.

Q. How much did they pay you of that \$1,400?

A. My recollection is that I received about \$1,100.

Mr. Polk either knew that the pretense of this man Silver was false or he believed that in hiring him he would be able to bribe a member of this House to do something that was in violation of his duty. In

any event, Mr. Polk's conduct was equally infamous. Of course I know that the gentleman in question is a man of such high character that the pretense that he could be influenced by such a man as Silver was utterly false. Still this evidence illustrates the character of the lobbyist Polk and his friend Silver. It shows that Polk was ready and willing to use instruments of that vile character for the purpose of furthering his wicked ends.

By reference to page 119 of the evidence, which I also incorporate in my remarks, it will be found that Mr. Polk, until the year 1877, had an interest in these lobby measures which he testified about. The testimony of Mr. Polk is as follows:

Question. Then you held this claim during the winter of 1876-'77?

Answer. In the last session of the Forty-fourth Congress I had it.

Q. Were you in the employ of the Government during any portion of the same time?

A. No, sir. Oh, yes, I was, a little while, as assistant sergeant-at-arms at New Orleans.

Q. Then you were an assistant sergeant-at-arms during the time you held this claim?

A. Yes; I suppose so; but I had ceased to think of it as a claim; I felt pretty sure there was nothing in it.

So far as the testimony shows, Mr. Polk appears to have held this lobby claim when he became Doorkeeper. This testimony of Mr. Polk explains the evidence of Mr. Coryell that Polk proposed to put him in the lobby ring, where he could make more money than as a messenger.

It appears by the testimony of Mr. Coryell, on page 5, that Polk had an interest in lobby rings here about this House during the present Congress. Mr. Coryell testifies as follows:

Question. Do you say now, under your oath, that I told you that I was familiar with or interested in a number of bills or measures before Congress, and that I made use of the term "ring," and said that I could put you in the ring?

Answer. Yes, sir.

Q. You state that positively here?

A. Yes.

I was very glad to hear the gentleman from Pennsylvania [Mr. BRIDGES] speak of the high character of Mr. Coryell. In order to show what kind of a man he is I desire to incorporate in my speech the evidence on that point upon page 5. It will show that Mr. Coryell is a man of the highest and most distinguished character. That evidence is as follows:

Question. What has been your occupation in the past?

Answer. I have been in active business all my life; I have been a manufacturer; I have built mills and conducted business; I have been the president of a large rolling-mill company; I served the Government for four years during the war as a quartermaster, disbursing millions of dollars, and nobody ever made a charge against me. At the end of the war I went to the Treasury and Quartermaster-General's Office and settled my accounts to a cent, after having had probably a hundred million dollars in money and property pass through my hands.

This evidence shows how fit a man the late lobbyist Polk was to make the proposition to put Mr. Coryell or anybody else in a "ring" about this House during the present session while he held the position of Doorkeeper. This evidence fixes the brand of lobbyist upon Mr. Polk so firmly that it will never be removed.

Not only did Mr. Polk violate the law with reference to the employment of men on the soldiers' roll, as was shown yesterday, but it will be found by reference to page 78 of the evidence that he prepared a bill, which I hold in my hand and which he procured to be introduced into this House by the gentleman from Tennessee, [Mr. YOUNG.] This bill shows his sentiments in reference to the soldiers of the country. It proposes to get rid of the soldiers' roll by wiping it absolutely from the statute-book. No wonder he thought the law creating a disabled-soldiers' roll a "matter of mere sentiment."

On page 361, by the testimony of the gentleman from Ohio, [Mr. McMAHON,] it appears that the Committee of Accounts was organized on the 1st or 2d of November, within two weeks of the organization of the extra session of Congress. It is shown that this man Polk came before that committee (having first been before the Committee on Appropriations) asking for authority to enlarge the force on his roll, and that the committee unanimously passed a resolution declaring that they would authorize or recommend no additional appropriation, but would stand by the law as it was. Mr. Polk was notified of this. Yet in the face of that resolution he goes to work and commits these crimes which have been fixed upon him, one by one, by those who have preceded me in this discussion. That evidence of Mr. McMAHON is as follows:

The Committee of Accounts was organized about the 1st or 2d day of November. As soon as it was organized, or shortly afterward, Colonel Polk appeared before us and stated that he had not a sufficient force; that he had been around to the different rooms, that valuable property was missing, and that he could not get along without more force than he had; that it was needed not only for the protection of the property, but for the proper running of the House; and he said he wanted to know in advance what he could depend upon from the Committee of Accounts. This, I suppose, must have been in the first week in November. We talked about the matter in a joking way, the chairman intimating that the more employes there were to look after the property the more property there would probably be missing. We generally require parties to leave the room before we take action on any matter, unless it is merely formal, and Mr. Polk left the room, and after he left I offered a resolution in about these words:

"Resolved, That the chairman be instructed to inform Colonel Polk that so far as the Committee of Accounts is concerned he can expect nothing from it in the way of allowances except what the law authorizes."

We had been looking at the statutes, and I, as a "new broom," felt that the best way was to follow the law strictly, especially in money matters. That resolution was agreed to by the committee unanimously, and, as I learned subsequently, was communicated by the chairman to Colonel Polk. We told him that if he wanted any increase of force he must seek it from that committee which had in-

creased the force of the House, the Committee on Appropriations; that we could not take the responsibility of making an increase, and, for my own part, I had always thought that the force was sufficient, and I still think so.

There is no pretense, there can be none, that Mr. Polk acted in this matter innocently or honestly.

He was notified by the Committee of Accounts that he must call a halt, as early as the 2d or 3d of November. In the face of that he tramples on the statute-book of the country and he tramples on the resolution of the Committee of Accounts. He goes on in disregard of law and puts those men in the service of the House—not on the roll, but in the service of the House. You will find by reference to his testimony on page 127, when he was asked why he violated the law in reference to the three riding pages, that he said he did not think the gentleman who framed the law knew anything about the pages or the necessities of the case. Here is his testimony:

By Mr. COX:

Question. The statute explicitly provides for three riding pages on the regular list; how, then, can you say that you are authorized to put other people in their places and then insist upon their being retained as extra force because of the necessity?

Answer. The law simply says three of whom shall be riding pages. Q. Yes; but if you, as the officer in charge, say that certain pages shall be the riding pages, that brings them within the statute, does it not?

A. Well, I think it is impossible to do the work with that force. The gentleman who framed that law probably knew nothing about the management of the pages of the House or the necessities of the case. Twenty-eight pages are not enough.

It may be true, sir; it is the judgment of a democrat on the last democratic House, and I am not going to quarrel with him about it. But I am not arraigning Mr. Polk for that. True, he says you democrats who served in the Forty-fourth Congress had not sense enough to get up a page roll for the House; yet you sit here and pretend you are able to legislate for the interest of forty-five millions of people!

Now, then, Mr. Speaker, these riding-pages I have alluded to are required by law to be three of the twenty-eight provided by statute. These young men were not on any roll at all. They were left off the regular roll and had to take their chance of getting an appropriation through the House to pay them for services they have rendered because Mr. Polk refused to obey the law and put them on the roll, as he was required by the statute to do.

But there is another thing which Mr. Polk did, and I do not know but the gentlemen on the democratic side of the House may be pleased with it: Mr. Polk agreed, before he was elected to the office of Doorkeeper, that he would divide among the "bummers" and "dead-beats" he had working up his cause the offices in his department. He promised them that he would reward them with offices, and then if there was anything left, the balance of the patronage you gentlemen on the democratic side might have. He said the services of his friends, if they came from Patagonia, were too valuable to be forgotten, and he would remember them when he came into his little kingdom. Then if there was anything left from the table of this lord, who when he was once elected had got a "corner on Congress" in the matter of appointments, he graciously proposed that the democratic majority of the House might "farm out" the balance of the fragments among themselves. [Laughter.] I call attention to the evidence on page 26. I will incorporate that part I have alluded to in my remarks. Here it is:

In my last I may have used expressions that would lead our Washington friends to believe their chances for places would rest on the will of their Representatives. In their case, sir, I don't care if they hail from Patagonia, their services are too valuable to be forgotten. They can rely upon me. I shall just appoint whom I please, and divide up the remainder fairly among my democratic friends. I have but few promises to fulfill; that is to say, provided I am elected. I don't feel scared a bit, but believe the elements are at work to elect me.

Ah! this sort of reform caused all the trouble. There was only a certain amount of patronage to be distributed and he had agreed with his "bummers" and "dead-beats," of whom Silver was the chief among ten thousand and the one altogether lovely, that he would put them into office. He agreed that he would give each of them an office, and then you democratic members, who on the spoils theory were the rightful lords of the offices, might have the paltry drippings which were left. When he had done that, when he had got the offices all full and the democratic members of Congress came around hunting for places for their men the natural and logical result was he had so many employes that each was tumbling over the other and every member who went about the House looking after an office for his friend was tumbling over the horde already employed. [Laughter.]

[Here the hammer fell.]

Mr. JAMES. I yield the remainder of my time to the gentleman from Maine, [Mr. HALE.]

Mr. HALE. Mr. Speaker, this book which I hold in my hand entitled Testimony taken by the Committee on Reform in the Civil Service in the investigation of charges against John W. Polk, Doorkeeper of the House of Representatives, contains what Horace Greeley would have called "mighty interesting reading." It is a book, I trust, which will not be forgotten even when this discussion has passed away. It is the reading of this book somewhat fully which has led me to attempt to present a phase of this case to which not much reference has been made; for the book shows the tremendous struggle that the great democratic party has passed through in grappling with the administration of a single branch of the Government not larger than many bureaus in the Departments. It is a striking comment on the capacity of that great party which is early and late urging upon the

American people that to it shall be intrusted all the destinies of the Republic. [Laughter.]

The Doorkeeper of the House, Colonel Polk, is the creature of his party; what he is his party made him, and what we now see is the spectacle of his party seeking a scapegoat upon whom to visit the sins of the party. [Laughter.]

The Doorkeeper came into the House, as he says in his statement before the committee, at an unfortunate time for his peace and comfort. [Laughter.] And in giving the reason why there was this lack of peace and why this discomfort centered about him, the Doorkeeper, in a very appropriate brief which he has submitted to the committee, says that he was embarrassed by the "small amount of Federal patronage in the gift of the democratic party, there being but about two hundred subordinates, one-half of whom are in the Doorkeeper's department of the House." It is a key to the troubles which gathered about and beleaguered this man.

The democratic party, Mr. Speaker, failed in the national election of 1876 to secure the Presidency. [Laughter.] It failed to secure the rewards which would have followed from the election of its candidate in the patronage of the Government, and the only place in Washington which any hungry expectant could cast hopeful eyes upon was the Doorkeeper's force of one hundred men.

Mr. WRIGHT rose.

Mr. HALE. I cannot yield.

And when the Forty-fifth Congress, Mr. Speaker, assembled in October the democratic party was represented fully in the crowd that gathered in Washington and besieged the Doorkeeper. Every class of the able-bodied democracy was here in force. The voter who in the fall elections gravitated between the shore of Kentucky and Indiana with no bigotry as to where his vote was cast was found in this throng that set toward Washington. The repeaters of New York and the bawled repeaters of Cincinnati swelled the multitude. The bulldozer from the South was here. The Texan borderer, who had passed his life in maintaining the credit of the flag on the Rio Grande by prompt reprisals on Mexico, was here. The expert from Ohio, who was taken from the flouring-mill and developed here into an expert in printing, came with others. The man who loafed about the House seeking a "soft place" where he would have plenty of pay and nothing to do was counted in. The man who—I think at page 137 of the report—says he has staid here until this time, although turned out because he had no money to get home, was along; all of these went to swell the army of office-seekers that gathered in Washington, and the set of the crowd was to the Doorkeeper's office.

Now, is it much wonder, Mr. Speaker, that Colonel Polk lost his head? Nay, the trouble went further than this. He might have retired to his room and closed his door and refused to listen to the petitions of the hungry throng of mendicants that gathered on the outside. But this refuge was not left to him. Deeper than the cries of the eager crowd about him lay the root of all his woes. There was no man in that hungry company who had not some Representative whom he could call upon to open the door when the Doorkeeper sought to shut himself up. I have been interested in watching this crowd which has assembled about this House from day to day, waiting for something to turn up in the Doorkeeper's office. The habits and life of those who go to make it up are not difficult to guess at. My friend from Ohio [Mr. FOSTER] characterized the portion of them belonging to his own State as "Ohio dead beats." It was a throng evidently like that described by a late English novelist, who says of one of his characters that "to meet him was to know him, to know him was to drink with him, and to drink with him was unfortunately to pay for him." [Laughter.]

The Doorkeeper could not have taken care of one-fifth part of them, even if they had not been backed by their Representatives. How they were backed is found in this book, which shows that all the supplications, all the entreaties for office were given importance and force by the participation of the entire party. Why, sir, this book is full of this. On page 146 one of the witnesses says:

Before the 1st of November Mr. Donovan sent for me, and wanted to know where did I come from. I told him I came from Maryland. He wanted to know what congressional district, and I told him I came from the fifth. Said he, "Who is the member?" I told him Hon. Mr. HENKLE. "Then," said he, "you men that is employed about this building, the matter of your continuance depends upon the Congressmen of your districts."

The whole matter seems to have been sent to the delegations, as was stated yesterday by my colleague [Mr. FRYE] in his pungent comments on the case of the New England appointments. The delegations were invited to send their men and the whole thing was thrown upon them. The Doorkeeper, the creature of his party, took the voice of his party as to his course.

I turn now to page 129. Here I find a Mr. Rogers seeking an appointment from the Doorkeeper, and his manner of seeking it was to marshal his party at his back, and the demand that was made upon the Doorkeeper for a good place, as is said in some part of the testimony, "one which had not much work to do but good remuneration," had no potency whatever from the mouth of Mr. Rogers. But the Doorkeeper was unable to resist the pressure of the document that was presented to him setting forth the qualifications of Mr. Rogers as follows:

In view of the very valuable services he has rendered the party during the past two years in Indiana, Ohio, and Illinois, that you assign him to as remunerative a position as possible.

"Remunerative" being in italics. This demand is indorsed by Senator McDONALD of Indiana, by Senator VOORHEES of Indiana, by three, four, five, or six members from Indiana, and others from Ohio, winding up with Governor WALKER, from Virginia.

I was curious to see what kind of man this was that the magnates of the democratic party were crowding on to this House and turning over to the Doorkeeper; and so I turned back a little to get the record of this man and see what he had done in the great campaigns of Indiana and Ohio. I find upon page 115 the following easy reading. The questions are addressed to Colonel Polk:

Question. Is not Mr. Rogers an appointment of the Post here?

Answer. No, sir.

Q. Was he not appointed through Mr. Hutchins?

A. Partly.

Q. Is he Mr. Hutchins's appointment?

A. No, sir.

That is all right. I do not know why Mr. Hutchins had not as much right to be heard as anybody; but he goes on to say:

The very night of the caucus, after the caucus nominations were made at Willard's Hotel, a great many gentlemen, I don't know how many, came to me and asked me to appoint Mr. Rogers. I had never seen Mr. Rogers until I saw him there at the piano, singing, and he sang a good song. The Ohio democrats were here in strength at that time, and they claimed that Rogers had given them material aid in their canvass by his singing. I remember it was stated to me that he could sing to ten thousand people in the open air. A great many members of Congress and others asked me to appoint him, and among them Mr. Hutchins, of the Post. Then there was presented to me an application to appoint Mr. Rogers, with a great many names, I don't remember how many, but I know that there were a great many leading prominent democratic names on it.

Mr. Speaker, that is a case which goes to the bottom of this whole Doorkeeper question. It shows the raid that the party made on that officer; the demands made to put men upon his roll; the demands made to increase the force; the demands made for remunerative places, in which the leading members of the party all joined. Now, let us go to the Alabama "quota," as my colleague called it yesterday, on page 251. Mr. Polk sent to the Alabama delegation this notice:

HOUSE OF REPRESENTATIVES,
Washington, D. C., October 31, 1877.

DEAR SIR: All appointments in the Doorkeeper's department, except those made by myself, will expire with the close of this day.

I herewith submit to your delegation a list of the places apportioned to your State. Please give me the names of the persons you desire me to fill them with, and I will appoint and assign to duty.

Very respectfully,

JNO. W. POLK.

Doorkeeper House of Representatives.

HON. W. H. FORNEY,
Chairman Alabama Delegation.

Then follows a list of the men, four in number, whom the delegation could dictate, two messengers, two laborers, and one page.

The Alabama delegation do not seem to have been delayed in attending to this matter by business affecting the country generally; they were not so preoccupied by the affairs of their constituents or so engrossed in the great questions coming up that they delayed or postponed action in the matter, for on the following day, November 1, I find this reply:

HOUSE OF REPRESENTATIVES,
Washington, D. C., November 1, 1877.

SIR: In reply to your late favor, I am directed by the delegation from Alabama to recommend the following persons, namely: annual messenger, Phil. D. Sayre; session messenger, Joseph Baumer; laborer, Thomas W. Steele; laborer, Albert P. Wood; page, Colin Lindsay.

I am, dear sir, your obedient servant,

WM. H. FORNEY.

Colonel JNO. W. POLK,
Doorkeeper House of Representatives.

And yet, after following up what has been done here, the majority report, instead of putting the responsibility where it belongs, instead of attributing it to the ineradicable difficulty on the part of the democratic party to wisely administer this department of the Government, makes the Doorkeeper the scape-goat in order to save his party and put the punishment upon him. Whatever the result may be of our action in the Doorkeeper's case, he sinks out of the controversy compared with the other considerations shown in this book of testimony, taken by a democratic committee, and that is the demonstrated inability of the party to administer any branch of the Government. I say that the Doorkeeper sinks into insignificance, and for that reason I find fault, as I think I have reason to do, with the report of the majority of the committee. Why, it is a report which comes to us upon civil-service reform, a subject which we have heard much about of late years, when so many efforts have been made to explore the hidden causes of corruption, malfeasance, and misfeasance in office. Now, all the discussion I have heard upon the subject has been based upon the foundation idea that in some way civil-service reform must check the abuses occasioned by the influences which control patronage. That is the sum and substance of it. It is for that purpose that commissions are appointed, boards constituted, and rules promulgated to cut off the undue influences of Senators and members and politicians. The civil-service reformer does not content himself with finding fault with the men who may have been appointed; he lays the ax to the root of the tree, and he seeks to destroy the influences which control the appointment.

But I do not find anything in the report proposing that anything shall be done that shall in the future prevent such scenes as the one now before us and such transactions as we have heard of and seen

during this Congress. Why, sir, there is nothing said here about the influences which induced the Doorkeeper to do what he has done; there is no attempt found in it to remove the evil; but the fault is throughout laid upon the Doorkeeper. That has not been our example or our instructions heretofore. In cases where wrong appointments are made by the executive branch of the Government, nobody talks of beheading the Secretary or impeaching the President; but it is sought to prevent improper influences of Congressmen by keeping them away from the Departments and letting them only be received when sent for.

But here, when a democratic Doorkeeper has been guilty of infraction of law and scandal has thereby been brought upon the country, the Committee on Reform in the Civil Service labor in travail for week after week and finally bring forth a simple resolution "that the position of Doorkeeper of the House of Representatives be, and the same is hereby, declared vacant."

The whole punishment is brought down upon the head of the Doorkeeper. I have reason to find fault with the report of the Committee on Civil-Service Reform, and the gentlemen who made it, that they have narrowed this issue as it has never been narrowed in any other case.

It cannot be possible that civil-service reform has exhausted itself in other quarters and that no attempt is to be made here except to turn out a man who was driven and driven and driven by his party to do what he did. Is it possible that there is no balm in Gilead? Has civil-service reform exhausted itself so that all that can now be done is to turn out an officer, letting the influences remain? I say I have reason to find fault with this report that it has not gone wider and deeper.

No, Mr. Speaker, I decline to accept the conclusion of the report of the majority of the committee. It has left out the essential part that should have been submitted to the House. Moreover, the responsibility in this matter lies with the other side of the House. As I said in the beginning, the Doorkeeper, whatever he is, is what he has been made by his party. You cannot by expelling him make him the scapegoat for all the sins of his party. For one I decline to be the instrument of a portion of that side of the House, who, as is shown by this report, do not mean to reform in the future, have made no provision for it, but who simply desire that a new deal shall be had; that the old Doorkeeper shall be kicked out and that in a democratic caucus and under democratic auspices another Doorkeeper shall be nominated, and then this House shall be treated again to the scenes which we have witnessed here and which we witnessed twice in the Forty-fourth Congress.

I for one decline to be in complicity with any movement of that kind. I do not know whether Colonel Polk, in the administration of his office, has succeeded in extricating himself from the domination of the delegations of his party or not. I have been on no committee that has investigated the subject. I know nothing of the man personally; I never spoke to him half a dozen times in my life. I only know that, running as he does now, made as he is, the responsibility for his being kept here or his being expelled ought to lie at the doors of the men who made him.

Why, sir, if this report had provided and said that, after the system pursued in his party, it had become evident that it was impossible for a democratic caucus to nominate and force through a Doorkeeper who would obey the law, and therefore the committee recommended that there should be no democratic caucus, but that the whole matter should be thrown into the House, and this side of the House as well as that side, without caucus dictation, should have a voice in deciding who would be our officer in the future, then I might feel differently. But I cannot forget the fable of the suffering fox and the gorged swarm that gathered about him. If we aid the otherside to expel Mr. Polk and elect a new man, what guarantee have we that we will not be treated again to the performances with which every new democratic Doorkeeper has regaled the House since it got possession here in 1875?

I want no new experiments in this direction, and shall take no part in voting Colonel Polk either in or out, but leave the responsibility where it belongs.

Mr. Speaker, one would think, from some of the exhibitions which we have had here, that there would be a modesty on the part of our friends on the other side in setting up as reformers. This book discloses a party that is ever and always talking about economy; but it is an economy, when they control the offices, that multiplies places, that increases salaries, that pays no more attention to the appropriations that are made than to the wind that blows. It is a party that claims to be a reform party; yet everything that kills reform is found in these pages.

It is a party that claims to be patriotic, to be the friend of the soldiers. But, as my colleague [Mr. FRYE] instanced yesterday, it searches the country all over and cannot find democratic crippled soldiers enough to fill a roll of only fourteen men, and so puts on outsiders. There has been nothing like it told either in poetry or in history or in the mimicry of the stage. Falstaff as a soldier, Christopher Sly as a monarch, Nick Bottom as a lover, Dundreary as a philosopher, Mulberry Sellers as a capitalist, Cronin as a presidential elector, none of these, all of these, cuts any such figure as the democratic party cuts masquerading before the country as a civil-service reform party and demonstrating itself as incapable of administering any branch of our Government, no matter how small.

I yield the remainder of my time to the gentleman from New York, [Mr. BAKER.]

Mr. BAKER, of New York. I send to the Clerk's desk a couple of amendments which I desire to offer to the substitute moved by the gentleman from Illinois, [Mr. EDEN.]

The SPEAKER. The gentleman from New York sends to the desk two amendments, which will be read as a part of his remarks and for the information of the House; and he gives notice that if he has the opportunity he will move those amendments to the substitute offered by the gentleman from Illinois, [Mr. EDEN.]

The first amendment was to insert after the words "in some instances," in the first paragraph of the preamble of the substitute, the words, "at the earnest solicitation of certain democratic members of this House."

The second amendment was to add to the first resolution the following:

And in so doing he is instructed to disregard in the future the solicitations of democratic members who have heretofore urged him to place upon the soldiers' roll other than disabled soldiers.

Mr. BAKER, of New York. I ask that the preamble and resolution be read with my amendments incorporated.

The preamble, as proposed to be amended, was read, as follows:

Whereas neither the majority nor the minority of the Committee on Reform in the Civil Service, to whom was referred the charges against John W. Polk, Doorkeeper of this House, have found or reported that said Polk has been guilty of any corruption in the administration of said office, but have found and reported that he has in some instances, at the earnest solicitation of certain democratic members of this House, placed upon the rolls a greater number of employes than was authorized by law, trusting to the House to ratify said action and provide compensation for said employes, which was in fact done, in part, by the House before any charges were made against said officer.

The resolution, as proposed to be amended, was read, as follows:

Resolved, That in the opinion of the House it is essential to the proper and economical administration of said office that the number of its employes and the amount of its expenditures should at all times be regulated and controlled by the laws in force when the persons are employed and the expenses incurred, and hence the conduct of said Polk, in making appointments in excess of the number authorized by law and in placing even temporarily, under any pretext, on the soldiers' roll persons not entitled to be there, is hereby disapproved and censured; and that the said officer is hereby ordered and directed to examine and revise the soldiers' roll at the earliest practicable moment, and remove therefrom the names of all persons, if any yet remain, who are not crippled or disabled soldiers; and that he shall hereafter conform strictly to the statute and rules of the House in regard to the employes on said roll; and in so doing he is instructed to disregard, in the future, the solicitations of democratic members of this House who have heretofore urged him to place upon the soldiers' roll other than disabled soldiers.

Mr. EDEN. I understand that these amendments are not formally offered, but only read for information.

The SPEAKER. They are read for information in the time of the gentleman from New York [Mr. BAKER] as part of his remarks, and he gives notice that he will offer them if he has the opportunity. The hour of the gentleman from New York [Mr. JAMES] has expired.

Mr. EDEN. I now demand the previous question.

Mr. CONGER. If the previous question is seconded will that cut off a vote upon the amendments that have been offered?

The SPEAKER. By the gentleman from New York, [Mr. BAKER?]

Mr. CONGER. Any of the amendments.

The SPEAKER. There is only one amendment before the House, the substitute offered by the gentleman from Illinois, [Mr. EDEN.]

Mr. FOSTER. Is not that amendable?

Mr. CONGER. I understood the gentleman from New York to offer these amendments.

The SPEAKER. In the five minutes allowed him for debate he had then read for information, and gave notice, as the gentleman from Illinois [Mr. EDEN] did yesterday, that if he had the opportunity he would offer them.

Mr. CONGER. Then, if the previous question is seconded, the amendment of the gentleman from Illinois and the amendments of the gentleman from New York cannot be offered?

The SPEAKER. The amendment of the gentleman from Illinois is pending. The two amendments of the gentleman from New York are not pending.

Mr. CONGER. Then the previous question would cut off the amendments of the gentleman from New York?

The SPEAKER. It would.

Mr. CONGER. Then I hope the previous question will not be seconded.

Mr. HALE. The previous question having once been voted down, what reason is there why the amendments of the gentleman from New York are not before the House? Why could not any one offer amendments?

The SPEAKER. Because the Chair stated he would recognize the gentleman from Illinois to demand the previous question at the end of the hour allowed the gentleman from New York, [Mr. JAMES.]

Mr. HALE. But he did not do so until these amendments were offered.

The SPEAKER. They are not yet offered; they are not before the House.

Mr. HALE. Did not the gentleman from New York offer them?

The SPEAKER. He did not. He stated that he would offer them, if he had the opportunity.

Mr. HALE. I yielded to the gentleman for the purpose of allowing him to offer the amendments, and I understood that he did so.

The SPEAKER. The gentleman had no right to yield for that purpose. The understanding when the gentleman from New York, [Mr.

JAMES,] who controlled the hour, took the floor was that he took it for debate; and the Chair stated distinctly that he admitted the amendment of the gentleman from Illinois, and that the Chair would recognize the gentleman from Illinois to demand the previous question at the end of the hour for debate.

Mr. EDEN. Yes, sir.

The SPEAKER. The gentleman from New York [Mr. JAMES] will confirm what the Chair states.

Mr. FOSTER. Is the amendment of the gentleman from Illinois amendable?

The SPEAKER. It will be if the previous question is voted down; not otherwise.

Mr. FOSTER. I hope the gentleman from Illinois will allow me to offer an amendment.

Mr. EDEN. I think we had better have a vote on the previous question.

The previous question was seconded and the main question ordered.

Mr. EDEN moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. EDEN. I believe I now have the floor for an hour.

The SPEAKER. The gentleman is entitled to the floor.

Mr. EDEN. I yield thirty minutes to the gentleman from Ohio, [Mr. McMAHON.]

Mr. CONGER. I ask a division of the question, so as to have a separate vote upon the two resolutions reported by the majority of the committee.

The SPEAKER. A separate vote can be had on those resolutions unless the substitute proposed for them should be adopted.

Mr. EDEN. I now yield thirty minutes to the gentleman from Ohio, [Mr. McMAHON.]

Mr. CONGER. I understood the Speaker to state a few moments ago that the previous question had been demanded and that the debate since was subsequent to the previous question, otherwise there could be no reason why the gentleman from New York, [Mr. BAKER,] being on the floor, should not have the right to offer an amendment when the previous question was not pending.

The SPEAKER. The committee made their report. The Chair maintained the right of the committee to have control of the measure until there was a vote of the House adverse to the committee; then the control of the measure, according to the practice, was transferred.

Mr. CONGER. I submit that while the debate was going on amendments could only be cut off by a motion to recommit. Unless the previous question was ordered, how could any member be prevented from offering an amendment?

The SPEAKER. The previous question was demanded, but not sustained. Then, of course, the control of the subject passed from the hands of the gentleman who had demanded the previous question and who was not sustained in his demand.

Mr. CONGER. Then it gave the control of the subject to the opponents of the report.

The SPEAKER. It gave the control to the one who had offered the substitute for report of committee.

Mr. CONGER. For one hour?

Mr. BURCHARD. The Chair does not hold that after the previous question is sustained any gentleman other than the member of the committee reporting the resolution can have the right to occupy an hour. My colleague [Mr. HARRISON] would have that right; but I think the rule expressly provides that no one shall occupy time in debate after the previous question is sustained but the gentleman who reported the pending measure.

The SPEAKER. The gentleman from Illinois [Mr. EDEN] is the proposer of the substitute.

Mr. EDEN. And I have not been heard on it.

Mr. BURCHARD. That does not come within the rule. The ruling has been that it is not the adoption of the motion for the previous question, but the adoption of a substitute by the House, that transfers the control of the measure to the gentleman moving the substitute. Until the substitute is adopted, the control of the subject, in accordance with usage, is with the gentleman who moves the original resolution.

Mr. EDEN. Gentlemen on the other side had one hour by consent. I do not think they ought to resist our occupying this hour.

Mr. BURCHARD. I am now speaking upon the question of parliamentary right. As a matter of courtesy or fairness I would, of course, have no objection to my colleague having an hour.

Mr. EDEN. The hour was conceded to me without any objection.

Mr. HARRISON. But you are demanding it as a right.

Mr. BURCHARD. So far as the parliamentary rule is concerned, the decision of the former Speaker was in accordance with the point I now make. It will be remembered that on one occasion the gentleman from Maine [Mr. HALE] had control of a measure reported from a committee, and until the substitute was adopted he still had the control. The sustaining of the previous question does not take away the control of a measure from the committee that reports it.

The SPEAKER. The Chair will cause Rule 60 to be read.

Mr. JAMES. Mr. Speaker, I wish to call attention to the fact that when the vote was taken on the motion made by the gentleman from Illinois, [Mr. HARRISON,] and his proposition was voted down, I un-

derstood the Chair to announce before it was taken if it was voted down the floor would belong to myself. It was voted down, and then this substitute was offered by the gentleman from Illinois, [Mr. EDEN.] The call for the previous question was made at that time. I had the floor and he could not take the floor to call the previous question until my hour had expired. The gentleman from Indiana [Mr. BAKER] was speaking in a part of my hour when he offered that substitute as an amendment.

The SPEAKER. The Chair is nothing more than the voice of the House. The wish of the House was very manifest to-day, first in the direction of allowing the gentleman from Illinois [Mr. EDEN] to submit his amendment, and next in the direction of allowing an hour's debate so as to allow the gentleman from Indiana, [Mr. BAKER,] who originally introduced the proposition of investigation, to be heard. The Chair conformed strictly in his action to the will of the House. The arrangement made this morning by the gentleman from Illinois and the gentleman from Ohio, [Mr. Cox,] with the Chair, was that if the previous question was sustained then the last hour should be under control of the majority and minority. The gentleman from Ohio assented to that proposition, which the Chair thought to be entirely fair to both sides.

Mr. BURCHARD. That would be an arrangement which would have to be made with my colleague who reported the resolution. If that be so I have no objection to it.

The SPEAKER. The gentleman from Illinois is willing to make some arrangement, as the Chair understands.

Mr. EDEN. I wish to state—

Mr. BURCHARD. The gentleman is not entitled to the floor to make any such arrangement.

The SPEAKER. The Chair will cause the rule to be read.

The Clerk read as follows:

No member shall occupy more than one hour in debate on any question in the House or in committee; but a member reporting the measure under consideration from a committee may open and close the debate: *Provided*, That where debate is closed by order of the House, any member shall be allowed in committee five minutes to explain any amendment he may offer; after which any member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate on the amendment; but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to the amendment; and neither the amendment nor an amendment to the amendment shall be withdrawn by the mover thereof unless by the unanimous consent of the committee: *Provided further*, That the House may, by the vote of a majority of the members present, at any time after the five-minutes debate has taken place upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph, or, at their election, upon the pending amendments only.—Rule 60.

The SPEAKER. The Chair this morning supposed, in asking the gentleman from Ohio to divide the last hour, that he conformed strictly to the rule. The reading of the rule shows he has not the power to award one hour to the gentleman from Illinois, under the circumstances, and he makes haste to correct the error into which he fell.

Mr. HOOKER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. HOOKER. It is this—

Mr. BURCHARD. I rise to a point of order.

Mr. HOOKER. I have the floor and wish to be heard. When the gentleman from Illinois, chairman of the committee, was about to call the previous question this morning the mover of the resolution of investigation, the gentleman from Indiana, [Mr. BAKER,] rose on the opposite side of the Chamber and insisted he had the right and should have an opportunity to be heard, and the gentleman from Illinois, chairman of the committee, did not object to the extension of the time.

The SPEAKER. Yes.

Mr. HOOKER. No, he did not; and it was distinctly understood by the opposite side and by this side that the time should be extended for two hours, the one to be controlled by the opposite side and the other by this side. When the gentleman from Illinois was asked whether he yielded to allow his colleague to offer a substitute he did decline that, but he did not object to the extension of time and it was so understood on the opposite side.

Mr. HARRISON. It was not.

Mr. HOOKER. It was understood on this side that an hour should be allowed on each side.

The SPEAKER. The Chair thinks it was the understanding the time should be divided. The condition of the debate is the majority have had four hours while the minority have had but three.

Mr. HARRISON. A word. [Laughter.] The majority have not had four hours. The last gentleman who spoke [Mr. HALE] spoke in favor of the minority.

Mr. EDEN. But it was in the time of a gentlemen of the majority. He spoke in the time of a member of the committee who acted with the majority.

Mr. HARRISON. I think under the ruling of the Chair I have the right to the floor.

The SPEAKER. The Chair thinks not.

Mr. HARRISON. Has not the Chair ruled it so?

Mr. EDEN. Only that I am not entitled to the floor for debate.

The SPEAKER. The only point in controversy to which the gentleman from Illinois has directed the attention of the Chair is that his colleague [Mr. EDEN] not having reported the proposition, but merely submitted a substitute for it and then having demanded the

previous question, is not under the rule entitled to an hour in which to close the debate.

Mr. EDEN. Was it not distinctly understood that I should have an hour?

The SPEAKER. It was; and the Chair is as much to blame as any one in having it so understood.

Mr. HARRISON. Will the Chair listen to me one moment?

The SPEAKER. The Chair will hear the gentleman.

Mr. HARRISON. I made a proposition that if it were agreed to take an additional hour and then have the previous question called, I would make no objection. That was objected to, but I am still willing to make the proposition.

Mr. EDEN. I did not have any understanding at all with my colleague; but it was distinctly understood and stated by the Chair when I rose to demand the previous question that that side was to have an hour to be controlled by the gentleman from New York, and after the previous question was seconded there should be an hour on this side.

The SPEAKER. The Chair stated that; but being forced to the rule, the Chair states he was in error; and he subsequently recognized and corrected his error. But the Chair thinks the hour ought to be allowed by the House.

Mr. HARRISON. I am willing on my side to yield it.

Mr. THOMPSON. If in order, I will move as the sense of the House that an hour be granted to the gentleman who offers the substitute. [Cries of "Vote!" "Vote!"]

Mr. HARRISON. I wish to ask if it be not understood that the gentleman from Maine spoke on the side of the gentlemen of the minority?

Mr. CALKINS. I think the point of order raised by the gentleman from Mississippi [Mr. HOOKER] is well taken. It was the understanding that there should be an extension of two hours of the time allowed for debate.

Mr. TOWNSEND, of New York. Then how came the motion for the previous question? If there was such an understanding nobody knew of it. [Laughter.]

Mr. THOMPSON. I think that fairness requires the motion to be made; not that the rule allows but that the House ought to consent to it.

Mr. HANNA. Mr. Speaker, can we not reach the result by a majority vote? If the House is in favor of yielding to the gentleman from Illinois [Mr. EDEN] one hour, can it not do so by a majority vote?

Mr. HARRISON. Not without giving me my right under the rule to reply.

The SPEAKER. The Chair thinks a majority cannot change now the action which has been taken, the main question having been ordered.

Mr. HAZELTON and Mr. SAYLER called for the regular order.

Mr. CALKINS. I raise this point of order, that when the House consented that there should be two hours of debate equally divided that cannot be changed by a majority vote.

The SPEAKER. If the House had agreed that there should be two hours for debate equally divided, then the gentleman from Illinois would have a right to an hour.

Mr. CALKINS. I submit to the House whether that was not the agreement.

Mr. THOMPSON. There has been a mutual understanding to that effect, and having been acted on thus far fairness and good faith require that it should be carried out.

The SPEAKER. The Chair entirely concurs with the gentleman from Pennsylvania [Mr. THOMPSON] that good faith and fair play ought to induce the House to give to the gentleman from Illinois [Mr. EDEN] control of an hour for debate.

Mr. CALKINS. I move that the House extend the time for one hour.

Mr. FRANKLIN. The majority have had two hours more time than the minority. I protest against the vote being taken until we are further heard in behalf of the minority report. Several other gentlemen desire to speak.

Mr. SPRINGER. I suggest that we can reconsider the vote by which the main question was ordered.

The SPEAKER. The motion to reconsider has been made and has been laid on the table.

Mr. COX, of Ohio. I desire to make a parliamentary inquiry. Who was recognized as properly in control of the measure?

The SPEAKER. The gentleman from Illinois [Mr. EDEN] was recognized as controlling the substitute. If the substitute were voted down, then the question would come up on the majority report.

Mr. CALKINS. I desire to submit my motion.

The SPEAKER. The gentleman from Indiana [Mr. CALKINS] asks consent that there may be one hour allowed to the gentleman from Illinois, [Mr. EDEN.]

Mr. CONGER. I object. The gentleman from Illinois moved the previous question—

Mr. TOWNSEND, of New York. And when the main question was ordered he moved to reconsider the vote ordering the main question and had the motion to reconsider laid on the table. If he tripped himself up let him lie there. [Laughter.]

Mr. EDEN. If the agreement cannot be carried out in good faith let us have a vote.

Mr. CLYMER. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CLYMER. Suppose the proposition of the gentleman from Illinois [Mr. EDEN] is voted down, then will not the question be open for amendment?

The SPEAKER. The Chair understood the motion of the gentleman for the previous question was to cover the entire subject.

Mr. EDEN. Yes, sir.

Mr. CLYMER. That was not my understanding. I supposed if the proposition of the gentleman from Illinois [Mr. EDEN] was voted down the question was open for amendment again.

Mr. EDEN. The other side has had two hours more than we have had; but we are ready to vote.

Mr. TOWNSEND, of New York. When the gentleman from Illinois had the floor he chose to make the motion for the previous question. The House sustained it and ordered the main question. He then moved to lay the motion to reconsider on the table. That was done. He has exhausted his rights according to his own acknowledgement, and now he cannot complain of his own acts.

Mr. CLYMER. I desire to suggest that the gentleman from Illinois only demanded the previous question on the substitute offered by him.

The SPEAKER. On the contrary, he demanded the previous question, which, in the manner he demanded it, would cover everything before the House.

Mr. CLYMER. If that be so, then there is no remedy.

Many Members called for the regular order.

Mr. CONGER. As I objected to the proposition for further debate—

Mr. ROBBINS. I call for the regular order.

Mr. SCALES. I hope we shall have a vote.

The SPEAKER. The gentleman from Michigan desires to make a proposition which will satisfy both sides.

Mr. CONGER. My proposition is that the gentleman from Illinois [Mr. EDEN] be allowed one hour for debate, and that the amendment of the gentleman from New York [Mr. BAKER] be admitted and voted upon. [Cries of "Regular order!"]

Mr. CARLISLE. I call for the yeas and nays upon agreeing to the substitute of the gentleman from Illinois, [Mr. EDEN.]

The yeas and nays were ordered.

The amendment was again read, as follows:

Resolved, That in the opinion of the House it is essential to the proper and economical administration of said office that the number of its employees and the amount of its expenditures should at all times be regulated and controlled by the laws in force when the persons are employed and the expenses incurred; and hence the conduct of said Polk in making appointments in excess of the number authorized by law, and in placing, even temporarily, under any pretext, on the soldiers' roll persons not entitled to be there, is hereby disapproved and censured; and that the said officer is hereby ordered and directed to examine and revise the soldiers' roll at the earliest practicable moment, and remove therefrom the names of all persons, if any yet remain, who are not crippled or disabled soldiers; and that he shall hereafter conform strictly to the statute and rules of the House in regard to the employees on said roll.

Resolved, That the report of the Committee on Civil-Service Reform relating to the charges against the Doorkeeper of the House be recommended to that committee, with instructions to inquire into the organization of the employees serving under the Doorkeeper, and to ascertain the number necessary in each branch of that service, and what changes, if any, are demanded to secure greater efficiency and economy in transacting the business of the House under charge of the Doorkeeper; and what further legislation, if any, is required to prevent the employment or payment of any messenger, laborer, or other employee of the Doorkeeper in excess of the number authorized by law; and whether the appointment of laborers under the Doorkeeper should not be discontinued and the duties now performed by the laborers be turned over to a superintendent or janitor, with authority to hire, at the usual and fair price for labor, such persons as may be necessary to do the work required to be done by the laborers now appointed by the Doorkeeper; with leave to report at any time by bill or otherwise.

Mr. BUTLER. There are two separate resolutions upon which we are to vote.

The SPEAKER. The gentleman from Michigan [Mr. CONGER] demands a division.

Mr. CONGER. I did not demand a division between the resolutions and the substitute, but upon the resolutions reported by the majority of the committee.

The SPEAKER. If they are reached.

Mr. CONGER. If they are reached; but I do demand a separate vote on the resolutions and the preamble.

The SPEAKER. That is the gentleman's privilege.

Mr. CONGER. I have no desire for a separate vote upon the resolutions.

The SPEAKER. The gentleman from Michigan demands a division between the preamble and the resolutions. The first question will be upon the adoption of the resolutions which are a substitute for the report of the committee.

The question was taken; and there were—yeas 95, nays 135, not voting 61; as follows:

YEAS—95.

Aiken,	Clark, Alvah A.	Eden,	Giddings,
Banning,	Clark of Missouri,	Elam,	Goode,
Blackburn,	Cook,	Ellis,	Gunter,
Bliss,	Cravens,	Ewing,	Hardenbergh,
Boone,	Crittenden,	Felton,	Harris, Henry R.
Bright,	Culberson,	Finley,	Harris, John T.
Butler,	Davidson,	Forney,	Hartridge,
Calwell,	Davis, Joseph J.	Franklin,	Hatcher,
Caldwell, John W.	Dibrell,	Garth,	Henry,
Carlisle,	Dickey,	Gause,	Herbert,
Chalmers,	Durham,	Gibson,	Hewitt, Abram S.

Jewitt, G. W.
Hooker,
House,
Huntton,
Jones, Frank
Jones, James T.
Jorgensen,
Kenna,
Knapp,
Knott,
Landers,
Ligon,
Luttrell,

Manning,
Martin,
Money,
Morrison,
Muldrow,
Muller,
Patterson, T. M.
Phelps,
Quinn,
Reagan,
Riddle,
Robbins,
Ross,

Saylor,
Scales,
Schleicher,
Shelley,
Singleton,
Slemmons,
Smalls,
Smith, William E.
Sparks,
Swann,
Throckmorton,
Townshend, R. W.
Tucker,

Vance,
Waddell,
Welch,
Whitthorne,
Wigginton,
Williams, A. S.
Williams, Jere N.
Willis, Albert S.
Wilson,
Wood,
Yeates,
Young.

NAYS—135.

Acklen,
Aldrich,
Bacon,
Bagley,
Baker, John H.
Baker, William H.
Ballou,
Banks,
Bayne,
Bell,
Bicknell,
Blount,
Bouck,
Boyd,
Bragg,
Brentano,
Brewer,
Bridges,
Briggs,
Brooklyn,
Buckner,
Bundy,
Burchard,
Burdick,
Calkins,
Campbell,
Candler,
Cannon,
Caswell,
Chaffin,
Clark, Rush
Clymer,
Cobb,
Cole,

Conger,
Cox, Jacob D.
Cox, Samuel S.
Crapo,
Cummings,
Cutler,
Davis, Horace
Deering,
Denison,
Dunnell,
Eames,
Eickhoff,
Evins, John H.
Fort,
Frye,
Glover,
Hanna,
Harmer,
Harris, Benj. W.
Harrison,
Hartzell,
Haskell,
Hazelton,
Hendee,
Henderson,
Henkle,
Hiscock,
Hubbell,
Hungerford,
Hunter,
Itner,
James,
Jones, John S.
Joyce,

Keifer,
Keightley,
Kelley,
Killing,
Lathrop,
Lindsey,
Lockwood,
Loring,
Lynde,
Mackey,
Maish,
Marsh,
McCook,
McGowan,
McKinley,
Mitchell,
Monroe,
Morgan,
Neal,
Norcross,
O'Neill,
Patterson, G. W.
Peddie,
Phillips,
Potter,
Pound,
Price,
Pugh,
Randolph,
Rea,
Reed,
Robertson,
Robinson, G. D.
Robinson, M. S.

Ryan,
Sampson,
Sapp,
Sexton,
Shallenberger,
Sinickson,
Springer,
Starrin,
Stenger,
Stone, John W.
Strait,
Thompson,
Tipton,
Townsend, Amos
Townsend, M. I.
Turner,
Turney,
Van Vorhes,
Wait,
Walker,
Walsh,
Ward,
Warner,
White, Harry
White, Michael D.
Williams, Andrew
Williams, C. G.
Williams, James
Williams, Richard
Willis, Benj. A.
Willits,
Wren,
Wright.

NOT VOTING—61.

Atkins,
Beebe,
Benedict,
Blasbee,
Blair,
Bland,
Browne,
Cain,
Caldwell, W. P.
Camp,
Chittenden,
Clark of Kentucky,
Collins,
Covert,
Danford,
Dean,

Douglas,
Dwight,
Ellsworth,
Errett,
Evans, I. Newton
Evans, James L.
Foster,
Freeman,
Fuller,
Gardner,
Garfield,
Hale,
Hamilton,
Hart,
Hayes,
Humphrey,

Ketcham,
Kimmel,
Lapham,
Mayham,
McKenzie,
McMahon,
Metcalf,
Mills,
Morse,
Oliver,
Overton,
Page,
Pollard,
Powers,
Pridemore,
Rainey,

Reilly,
Rice, Americus V.
Rice, William W.
Roberts,
Smith, A. Herr
Southard,
Steele,
Stephens,
Stewart,
Stone, Joseph C.
Thornburgh,
Veeder,
Watson.

So the substitute was not agreed to.

During the roll-call the following announcements were made:

Mr. MACKEY. I am paired with my colleague, Mr. EVANS, but if

he were present he would vote "no," and therefore I vote "no."

Mr. SCALES. My colleague, Mr. STEELE, is paired with Mr. HAYES.

Mr. LOCKWOOD. I desire to announce that my colleague, Mr.

HART, is confined to his room by sickness.

Mr. CLARKE, of Kentucky. I am paired upon this question with

Mr. RICE, of Ohio. If he were present, he would vote "ay" and I

should vote "no."

Mr. YOUNG. My colleague, Mr. CALDWELL, is paired with Mr.

FREEMAN. If present, Mr. CALDWELL would have voted "ay" and Mr.

FREEMAN "no."

Mr. BEEBE. I am paired with my colleague, Mr. LAPHAM. I am

not advised how he would vote. If I were at liberty to vote, I should

most unhesitatingly vote "ay."

Mr. MAYHAM. I am paired with the gentleman from Wisconsin,

Mr. HUMPHREY.

Mr. CANDLER. My colleague, Mr. STEPHENS, is absent because of

sickness. He is paired upon this question with Mr. CHITTENDEN. If

Mr. STEPHENS were present, he would vote "ay" and Mr. CHITTENDEN

"no."

Mr. BRIDGES. I am paired with Mr. DWIGHT, of New York, on

several questions, but not on this, and therefore I vote "no." If he

were here, he would vote the same way.

Mr. HISCOCK. My colleagues, Mr. BENEDICT and Mr. CAMP, are

paired. If present, Mr. BENEDICT would vote "ay" and Mr. CAMP

would vote "no."

Mr. HARRIS, of Virginia. My colleague, Mr. PRIDEMORE, is de-

tained at home by the illness of his wife.

Mr. EVANS, of Pennsylvania. I am paired on this question with

Mr. SHELLEY, of Alabama.

Mr. BROWNE. I am paired with my colleague, Mr. HAMILTON. If

he were present, I would vote "no."

Mr. SAMPSON. My colleague, Mr. OLIVER, is paired with Mr.

MCKENZIE, of Kentucky. If Mr. OLIVER were present, he would

vote "no."

Mr. SMITH, of Pennsylvania. I am paired with Mr. ATKINS, of

Tennessee, who I understand is still sick. If he were here, I would

vote "no," and I understand that he would vote "ay."

Mr. WATSON. I am paired with Mr. DOUGLAS, of Virginia, on all

political questions.

Mr. O'NEILL. My colleague, Mr. FREEMAN, is paired with Mr.

CALDWELL, of Tennessee.

The SPEAKER. That has already been announced.

Mr. MORSE. I am paired with my colleague, Mr. RICE.

The result of the vote was then announced as above stated.

The question recurred upon the preamble of the substitute, and it

was not adopted.

The question then recurred upon the resolutions reported from the

Committee on Civil-Service Reform.

The resolutions were read, as follows:

Resolved, That the position of Doorkeeper of the House of Representatives be

and hereby is, declared vacant; and

Further resolved, That, until the appointment of a new Doorkeeper, the duties

of the office be, and hereby are, devolved upon the Sergeant-at-Arms.

Mr. WILSON. I ask unanimous consent to offer a substitute.

Mr. TOWNSEND, of New York. Let us finish one thing at a time.

Mr. WILSON. I ask that it be read for information.

Many MEMBERS. Regular order.

The SPEAKER. The regular order being called for, the question

is upon the resolutions which have been read.

Mr. CONGER. I call for a division of that question, and ask that

the vote be first taken on the resolution declaring the office of Door-

keeper vacant.

The SPEAKER. The gentleman has a right to demand that.

Mr. LUTTRELL. And upon that question I call for the yeas and

nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 139, nays 80, not

voting 72, as follows:

YEAS—139.

Acklen,
Aldrich,
Bacon,
Bagley,
Baker, John H.
Baker, William H.
Ballou,
Banks,
Bayne,
Bell,
Bicknell,
Blount,
Bouck,
Boyd,
Bragg,
Brentano,
Brewer,
Bridges,
Briggs,
Brooklyn,
Buckner,
Bundy,
Burchard,
Burdick,
Campbell,
Candler,
Cannon,
Caswell,
Chittenden,
Clark, Alvah A.
Clark, Rush
Clymer,
Cobb,
Cole,
Conger,

Cox, Jacob D.
Cox, Samuel S.
Cummings,
Cutler,
Deering,
Denison,
Dunnell,
Eames,
Eickhoff,
Evans, James L.
Evins, John H.
Fort,
Frye,
Glover,
Hanna,
Hardenbergh,
Harmer,
Harris, Benj. W.
Harrison,
Hartzell,
Haskell,
Hazelton,
Hendee,
Henderson,
Henkle,
Hewitt, Abram S.
Hiscock,
Hubbell,
Hunter,
Hungerford,
Itner,
James,
Jones, John S.
Joyce,
Keifer,

Keightley
Kelley,
Killing,
Landers,
Lathrop,
Lindsey,
Lockwood,
Loring,
Lynde,
Mackey,
Maish,
Marsh,
McCook,
McGowan,
McKinley,
Mitchell,
Monroe,
Morgan,
Neal,
Norcross,
O'Neill,
Patterson, G. W.
Patterson, T. M.
Peddie,
Phillips,
Pollard,
Potter,
Pound,
Price,
Pugh,
Randolph,
Rea,
Reed,
Robertson,

Robinson, G. D.
Robinson, M. S.
Ross,
Ryan,
Sampson,
Sapp,
Shallenberger,
Sinickson,
Springer,
Starrin,
Stenger,
Stone, John W.
Strait,
Thompson,
Townsend, Amos
Townsend, M. I.
Turner,
Turney,
Wait,
Walker,
Walsh,
Ward,
Warner,
White, Harry
White, Michael D.
Williams, Andrew
Williams, C. G.
Williams, James
Williams, Richard
Willis, Benj. A.
Willits,
Wood,
Wren,
Wright.

NAYS—80.

Aiken,
Banning,
Blackburn,
Bliss,
Boone,
Bright,
Cabell,
Garth,
Gause,
Gibson,
Giddings,
Goode,
Gunter,
Harris, Henry R.
Harris, John T.
Hartridge,
Hatcher,
Henry,
Herbert,
Hewitt, G. W.
Hooker,
Durham,

Eden,
Elam,
Ellis,
Ewing,
Fornely,
Franklin,
Garth,
Gause,
Gibson,
Giddings,
Goode,
Gunter,
Harris, Henry R.
Harris, John T.
Hartridge,
Hatcher,
Henry,
Herbert,
Hewitt, G. W.
Hooker,
Durham,

House,
Huntton,
Jones, James T.
Jorgensen,
Kenna,
Kimmel,
Knapp,
Knott,
Ligon,
Luttrell,
Manning,
Martin,
Money,
Morrison,
Muldrow,
Quinn,
Reagan,
Riddle,
Robbins,
Saylor,

Scales,
Shelley,
Singleton,
Slemmons,
Smith, William E.
Sparks,
Swann,
Throckmorton,
Townshend, R. W.
Tucker,
Vance,
Waddell,
Welch,
Whitthorne,
Wigginton,
Williams, Jere N.
Willis, Albert S.
Wilson,
Yeates,
Young.

NOT VOTING—72.

Atkins,
Camp,
Benedict,
Blasbee,
Blair,
Bland,
Boyd,
Browne,
Butler,
Cain,
Caldwell, W. P.

Calkins,
Camp,
Clark of Kentucky,
Collins,
Covert,
Crapo,
Danford,
Davis, Horace
Dean,
Douglas,
Dwight,

Ellsworth,
Errett,
Evans, I. Newton
Felton,
Finley,
Foster,
Freeman,
Fuller,
Gardner,
Garfield,
Hale,

Hamilton,
Hart,
Hayes,
Humphrey,
Jones, Frank
Ketcham,
Lapham,
Mayham,
McKenzie,
McMahon,
Metcalf,

Mills,	Pridemore,	Sexton,	Stone, Joseph C.
Morse,	Rainey,	Smalls,	Thornburgh,
Muller,	Reilly,	Smith, A. Herr	Tipton,
Oliver,	Rice, Americus V.	Southard,	Van Vorhes,
Overton,	Rice, William W.	Steele,	Veeder,
Page,	Roberts,	Stephens,	Watson,
Powers,	Schleicher,	Stewart,	Williams.

So the resolution was adopted.

During the call of the roll the following announcements were made:
Mr. CLARKE, of Kentucky. I am paired on this question with General RICE, of Ohio, who is absent on account of sickness in his family. If he were present, he would vote "no" and I would vote "ay."

Mr. FINLEY. I am paired with Mr. CALKINS, of Indiana.

Mr. HUNTON. My colleague, Mr. DOUGLAS, is absent by leave of the House, and is paired with Mr. WATSON, of Pennsylvania.

Mr. BLISS. I am paired with my colleague, Judge LAPHAM.

Mr. HISCOCK. My colleagues, Mr. CAMP and Mr. BENEDICT, are paired.

Mr. SEXTON. I am paired with my colleague, Mr. FULLER. If he were here, I should vote "ay."

Mr. VAN VORHES. I am paired with my colleague, Mr. SOUTHARD, who is absent by leave of the House.

Mr. SMITH, of Pennsylvania. I am paired with Mr. ATKINS. If he were here, I should vote "ay" and he would vote "no."

Mr. WATSON. I am paired on all political questions with Mr. DOUGLAS, of Virginia. If he were here, I would vote "ay" on this question.

Mr. SAMPSON. My colleague, Mr. OLIVER, is paired with Mr. MCKENZIE, of Kentucky. If Mr. OLIVER were here, he would vote "ay."

Mr. MITCHELL. My colleagues, Mr. OVERTON and Mr. REILLY, are paired. If Mr. OVERTON were here, he would vote "ay."

Mr. BROWNE. I am paired with my colleague, Mr. HAMILTON, on this and all other questions.

Mr. MAYHAM. I am paired with Mr. HUMPHREY, of Wisconsin.

The result of the vote was then announced as above stated.

Mr. HARRISON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had concurred in the resolution of the House of Representatives to print 25,000 copies of the report of the Commissioner of Agriculture on the subject of forestry.

The message also announced that the Senate had passed without amendment the bill (H. R. No. 2287) authorizing the Secretary of War to prescribe rules and regulations to be observed in the preparation, submission, and opening of bids for contracts under the War Department.

BILLS APPROVED.

A message from the President of the United States by Mr. PRUDEN, one of his secretaries, announced that the President had approved and signed a joint resolution and bills of the following titles:

Joint resolution (H. R. No. 142) making an appropriation for filling up, draining, and placing in good sanitary condition the grounds south of the Capitol, along the line of the old canal, and for other purposes;

An act (H. R. No. 3846) to provide for the deficiencies in the miscellaneous funds of the Senate and of the House of Representatives; and

An act (H. R. No. 2371) to amend an act entitled "An act for the support of the government for the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes."

CHARGES AGAINST THE DOORKEEPER.

The question then recurred upon the second resolution reported by the Committee on Civil-Service Reform; which was read, as follows:

Further resolved, That until the appointment of a new Doorkeeper the duties of the office be, and hereby are, devolved upon the Sergeant-at-Arms.

Mr. CONGER. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 122, nays 115, not voting 54; as follows:

YEAS—122.

Acklen,	Clymer,	Gause,	Knott,
Banning,	Cobb,	Giddings,	Landers,
Bell,	Cox, Jacob D.	Glover,	Ligon,
Benedict,	Cox, Samuel S.	Goode,	Lockwood,
Bicknell,	Crittenden,	Hardenbergh,	Lynde,
Blackburn,	Cutler,	Harris, Henry R.	Mackey,
Bliss,	Davidson,	Harris, John T.	Maish,
Blount,	Davis, Joseph J.	Harrison,	Manning,
Boone,	Dibrell,	Hartbridge,	Martin,
Bouck,	Dickey,	Hartzell,	Mayham,
Bragg,	Durham,	Hatcher,	McMabon,
Bright,	Eden,	Hewitt, Abram S.	Mills,
Buckner,	Eickhoff,	Howitt, G. W.	Money,
Calwell,	Elam,	Hooker,	Morgan,
Caldwell, John W.	Evins, John H.	House,	Morrison,
Candler,	Finley,	Hunton,	Morse,
Carlisle,	Forney,	Jones, Frank	Muldrow,
Chalmers,	Franklin,	Jones, James T.	Muller,
Clark, Alvah A.	Garth,	Kenna,	Neal,
Clarke of Kentucky,		Kimmel,	Patterson, T. M.
Clark of Missouri,		Knapp,	Phelps,

Potter,
Quinn,
Rea,
Reagan,
Riddle,
Robbins,
Roberts,
Robertson,
Ross,
Saylor,

Scales,
Schleicher,
Singleten,
Stemons,
Smith, William E.
Sparks,
Springer,
Stenger,
Swann,
Throckmorton,

Townshend, R. W.
Tucker,
Turner,
Turney,
Vance,
Wadocell,
Walsh,
Warner,
Whitthorne,
Williams, A. S.

Williams, James
Williams, Jere N.
Willis, A. S.
Willis, Benj. A.
Wilson,
Wood,
Wright,
Yeates,

NAYS—115.

Aiken,
Aldrich,
Bacon,
Bagley,
Baker, John H.
Baker, William H.
Ballou,
Banks,
Bayne,
Bisbee,
Brentano,
Brewer,
Briggs,
Brogden,
Bundy,
Burchard,
Burdick,
Butler,
Cain,
Calkins,
Campbell,
Canon,
Casswell,
Chittenden,
Claffin,
Clark, Rush
Cole,
Conger,
Cook,

Crapo,
Cravens,
Culberson,
Cummings,
Davis, Horace
Deering,
Denison,
Dunnell,
Eames,
Ellis,
Errett,
Evans, James L.
Foster,
Frye,
Gunter,
Hale,
Hanna,
Harmer,
Harris, Benj. W.
Haskell,
Hazelton,
Hendee,
Henderson,
Henry,
Hiscock,
Hubbell,
Hungerford,
Hunter,
Ittner,

Jones, John S.
Jorgensen,
Joyce,
Keifer,
Keightley,
Killingier,
Lathrop,
Lindsey,
Loring,
Luttrell,
Marsh,
McCook,
McGowan,
McKinley,
Metcalfe,
Mitchell,
Monroe,
Norcross,
O'Neill,
Page,
Patterson, G. W.
Peddie,
Phillips,
Pollard,
Pound,
Price,
Pugh,
Randolph,
Robinson, G. D.

NOT VOTING—54.

Atkins,
Beebe,
Blair,
Bland,
Boyd,
Bridges,
Browne,
Caldwell, W. P.
Camp,
Collins,
Covert,
Danford,
Dean,
Douglas,

Dwight,
Ellsworth,
Evans, I. Newton
Ewing,
Fort,
Freeman,
Gardner,
Garfield,
Gibson,
Hamilton,
Hart,
Hayes,
Henkle,
Herbert,

Humphrey,
James,
Kelley,
Ketcham,
Lapham,
McKenzie,
Oliver,
Overton,
Powers,
Pridemore,
Rainey,
Reed,
Reilly,
Rice, Americus V.

Robinson, M. S.
Ryan,
Sampson,
Sapp,
Sexton,
Shallenberger,
Sinnickson,
Smalls,
Starin,
Stewart,
Stone, John W.
Strait,
Thompson,
Tipton,
Townsend, Amos
Townsend, M. I.
Wait,
Ward,
Welch,
White, Harry
White, Michael D.
Wigginton,
Williams, Andrew
Williams, C. G.
Williams, Richard
Willits,
Wren,
Young,

So the resolution was adopted.

During the roll-call the following announcements were made:

Mr. MAYHAM. I am requested to state that on this subject my colleague, Mr. COVERT, is paired with my colleague, Mr. KETCHAM.

Mr. BRIDGES. I am paired with the gentleman from New York, Mr. DWIGHT. If he were present, I should vote "ay."

Mr. VAN VORHES. I am paired with my colleague, Mr. SOUTHARD, who is absent by leave of the House.

Mr. SMITH, of Pennsylvania. I am paired with the gentleman from Tennessee, Mr. ATKINS. If he were here, I should vote "no."

Mr. WATSON. I am paired with the gentleman from Virginia, Mr. DOUGLAS. If he were present, I should vote "no."

Mr. SAMPSON. My colleague, Judge OLIVER, is paired with the gentleman from Kentucky, Mr. MCKENZIE.

Mr. O'NEILL. My colleague, Mr. FREEMAN, is paired with the gentleman from Tennessee, Mr. CALDWELL. Mr. CALDWELL would vote "ay" and Mr. FREEMAN "no."

The result of the vote was announced as above stated.

Mr. BANNING moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. EDEN. I move that the House now adjourn.

Mr. HALE. I rise to a question of privilege.

The question was taken on the motion to adjourn. Before the result of the vote was announced—

Mr. HALE. My question of privilege is that the House proceed to the election of a Doorkeeper.

Mr. EDEN. I call for a division on the motion that the House now adjourn.

The question being again taken, there were—ayes 117, noes 110.

Mr. HALE. I call for the yeas and nays on the motion to adjourn. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 121, nays 113, not voting 57; as follows:

YEAS—121.

Acklen,
Banning,
Bell,
Bicknell,
Blackburn,
Bliss,
Blount,
Boone,
Bouck,
Bragg,

Bright,
Buckner,
Cabell,
Caldwell, John W.
Candler,
Clark, Alvah A.
Clark of Missouri,
Clarke of Kentucky,
Clymer,
Cobb,

Cook,
Cox, Samuel S.
Cravens,
Crittenden,
Culberson,
Cutler,
Davidson,
Dibrell,
Durham,
Eden,

Eickhoff,
Elam,
Ellis,
Evins, John H.
Felton,
Finley,
Forney,
Franklin,
Fuller,
Garth,

Gause,
Giddings,
Glover,
Goode,
Gunter,
Hardenbergh,
Harris, Henry R.
Harris, John T.
Harrison,
Hartbridge,
Hartzell,
Hatchey,
Henkle,
Henry,
Hewitt, Abram S.
Hewitt, G. W.
Hooker,
House,
Huntton,
Jones, Frank
Jones, James T.

Kenna,
Kimmel,
Knapp,
Knot,
Ligon,
Lockwood,
Lynde,
Mackey,
Maish,
Manning,
Martin,
Mayham,
McMahon,
Mills,
Money,
Morgan,
Morrison,
Morse,
Muldrow,
Muller,
Patterson, T. M.

Phelps,
Potter,
Quinn,
Rea,
Reagan,
Riddle,
Robbins,
Roberts,
Robertson,
Ross,
Saylor,
Scales,
Schleicher,
Singleton,
Smith, William E.
Southard,
Sparks,
Springer,
Stenger,
Throckmorton,
Townshend, R. W.

Turner,
Turney,
Vance,
Waddell,
Walsh,
Warner,
Whitthorne,
Wigington,
Williams, A. S.
Williams, James
Williams, Jere N.
Willis, Albert S.
Willis, Benj. A.
Wilson,
Wood,
Wright,
Yeates,
Young.

NAYS—113.

Aiken,
Aldrich,
Bacon,
Bagley,
Baker, John H.
Baker, William H.
Baldou,
Banks,
Bayne,
Bisbee,
Blair,
Boyd,
Brentano,
Brewer,
Briggs,
Brogden,
Bundy,
Burchard,
Burdick,
Butler,
Calkins,
Campbell,
Cannon,
Caswell,
Cladin,
Clark, Rush
Cole,
Conger,
Cox, Jacob D.

Crapo,
Cummings,
Danford,
Davis, Horace
Deering,
Denison,
Dickey,
Dunnell,
Errett,
Evans, James L.
Fort,
Foster,
Frye,
Hale,
Hanna,
Harmer,
Harris, Benj. W.
Haskell,
Hazelton,
Hendee,
Henderson,
Hiscock,
Hubbell,
Hunter,
Hungerford,
Itner,
James,
Jones, John S.
Joyce,

Keifer,
Keightley,
Killinger,
Lathrop,
Lindsey,
Loring,
Luttrell,
Marsh,
McCook,
McGowan,
McKinley,
Metcalfe,
Mitchell,
Monroe,
Neal,
Norcross,
O'Neill,
Page,
Patterson, G. W.
Peddie,
Phillips,
Pollard,
Pound,
Price,
Pugh,
Randolph,
Reed,
Robinson, G. D.
Robinson, M. S.

Ryan,
Sampson,
Sapp,
Sexton,
Shallenberger,
Simickson,
Siemons,
Smalls,
Stewart,
Stone, John W.
Strait,
Thompson,
Tipton,
Townsend, Amos
Townsend, M. I.
Van Vorhes,
Wait,
Ward,
Welch,
White, Harry
White, Michael D.
Williams, Andrew
Williams, C. G.
Williams, Richard
Willits,
Wren.

NOT VOTING—57.

Atkins,
Beebe,
Benedict,
Bland,
Bridges,
Browne,
Cain,
Caldwell, W. P.
Camp,
Carlisle,
Chalmers,
Chittenden,
Collins,
Covert,
Davis, Joseph J.

Dean,
Douglas,
Dwight,
Eames,
Ellsworth,
Evans, I. Newton
Ewing,
Freeman,
Gardner,
Garfield,
Gibson,
Hamilton,
Hart,
Hayes,
Herbert,

Humphrey,
Jorgensen,
Kelley,
Ketcham,
Landers,
Lapham,
McKenzie,
Oliver,
Overton,
Powers,
Pridemore,
Rainey,
Reilly,
Rice, Americus V.
Rice, William W.

Shelley,
Smith, A. Herr
Starin,
Steele,
Stephens,
Stone, Joseph C.
Swann,
Thornburgh,
Tucker,
Veeder,
Walker,
Watson.

So the motion was agreed to.

During the vote,

Mr. SCALES said: My colleague, Mr. STEELE, is paired with Mr. HAYES.

Mr. EWING. I am paired with my colleague, Mr. GARDINER.

Mr. MCKENZIE. I am paired on this question with Mr. OLIVER. If he were here, I would vote in the affirmative.

Mr. HALE. On this vote Mr. GARFIELD is paired with Mr. TUCKER.

Mr. WATSON. I am paired on all political questions with Mr. DOUGLAS.

Mr. DAVIS, of North Carolina. I am paired with Mr. ELLSWORTH, of Michigan. If he were here, he would vote "no" and I would vote "ay."

Mr. STARIN. I am paired on all political questions with my colleague, Mr. VEEDER.

Mr. SMITH, of Pennsylvania. I am paired with Mr. ATKINS.

On motion of Mr. TOWNSEND, of Ohio, the reading of the names was dispensed with.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases.

To Mr. LAPHAM, for one week, on account of important business;
To Mr. KIDDER, for twenty days, on account of sickness in his family; and

To Mr. WARNER, for ten days, on account of important business.

C. G. TACHAN.

On motion of Mr. WILLIS, of Kentucky, by unanimous consent, leave was granted for the withdrawal of the papers in the case of C. G. Tachan, no adverse report having been made thereon.

FLUSHING BAY, NEW YORK.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a report relative to the improvement of Flushing Bay, New York; which was referred to the Committee on Commerce.

STEAMER DON CAMERON.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the petition of officers for payment for losses sustained by the sinking of the steamer Don Cameron; which was referred to the Committee of Claims.

DISMISSED OFFICERS, TENTH CAVALRY.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting objections to reappointment or reappointment of officers dismissed from the Tenth Cavalry; which was referred to the Committee on Military Affairs.

LIEUTENANT THOMAS B. KELLEY.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting report on House bill No. 3197, for the relief of Lieutenant Thomas B. Kelley; which was referred to the Committee on Military Affairs.

NEW MILITARY POST, TEXAS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting recommendation for an appropriation of \$60,000 for a new military post in Texas; which was referred to the Committee on Appropriations.

LIEUTENANT GEORGE M. WELLS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Navy, recommending an appropriation of \$645 to pay First Lieutenant George M. Wells, United States Marine Corps, for the amount due him on account of difference between furlough pay and retired pay; which was referred to the Committee of Claims.

The vote was then announced as above recorded.

And then (at four o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BAYNE: The petition of W. J. Hammond and 140 other iron and tin-plate workers of Pennsylvania, that the duty on tin-terne and tagger's tin-plates and tagger's iron may be made two and a half cents per pound—to the Committee of Ways and Means.

By Mr. BICKNELL: The petition of Stephen S. Cole, for a pension—to the Committee on Invalid Pensions.

By Mr. BRENTANO: Papers relating to the claim of Beers and others for pay for loss of mules at the Big Horn Crossing—to the Committee on Indian Affairs.

By Mr. BROWNE: The petition of Franklin B. Hunt, esq., an attorney at law, and citizens of Wayne County, Indiana, stating that he was, by the Commissioner of Patents and the Secretary of the Interior, disbarred as an attorney of the Interior Department without having any notice that charges were made against him and without having an opportunity for making a defense; that a hearing and an appeal have been denied him; and asking for an investigation and relief—to the Committee on the Judiciary.

By Mr. CONGER: The petition of John Donahue, of Michigan, for relief in the matter of forty acres of land patented to him by the United States, and afterward, when he had improved the same and made it a valuable homestead, taken from him as swamp lands under a title from the State—to the Committee on Public Lands.

By Mr. COX: The petition of John Hillen, for a pension—to the Committee on Invalid Pensions.

By Mr. DAVIS, of California: Resolutions of the San Francisco Chamber of Commerce, relative to silver certificates and the coinage of trade-dollars—to the Committee on Coinage, Weights, and Measures.

By Mr. DEERING: The petition of the publisher of the Howard County (Iowa) Times, for the abolition of the duty on type—to the Committee of Ways and Means.

By Mr. GARTH: The petition of Hon. George S. Houston, Colonel B. F. Allen, Colonel J. N. Malone, and other citizens of Athens, Alabama, in reference to the male academy at Athens, Alabama—to the Committee on Education and Labor.

By Mr. GOODE: Papers relating to the Indiana Methodist church claim—to the Committee on War Claims.

By Mr. HENKLE: Papers relating to the claim of the trustees of the Washington City Orphan Asylum—to the Committee of Claims. Also, papers relating to the claim of Mary S. Welch—to the Committee on War Claims.

By Mr. HEWITT, of Alabama: The petition of Hon. N. N. Clements, Colonel W. J. Foster, Colonel H. M. Somerville, Hon. N. H. Brown, Hon. J. M. Martin, and 100 other citizens of Tuscaloosa, Alabama, that such judicious aid be granted the Texas Pacific Railroad as will secure its early completion, and that its eastern terminus be located upon the east bank of the Mississippi River at Vicksburg, and that it be so guarded by restrictions as shall forever compel it to be and remain a competing line from the Atlantic to the Pacific seaboard—to the Committee on the Pacific Railroad.

By Mr. KENNA: The petition of citizens and workmen of Raymond City, West Virginia, against the passage of the pending tariff bill—to the Committee of Ways and Means.

By Mr. MILLS: Resolutions of the State Grange of Texas, favoring the repeal of the resumption act, the remonetization of silver, the payment of the national bonds in greenbacks, the repeal of the national-bank law, and the making of greenbacks a legal tender for all debts and dues, private and public, exports and imports—to the same committee.

By Mr. MONROE: The petition of Captain John Whiteford, for compensation for services and expenses during the war—to the Committee on War Claims.

Also, the petitions of S. C. Munson and others; of G. N. Daniels and others; and of T. G. Loomis and others, all citizens of Medina County, Ohio, that there be no reduction of the tariff at the present session of Congress—to the Committee of Ways and Means.

By Mr. THROCKMORTON: The petition of the bar of Graham, Texas, for the passage of the bill creating a new Federal judicial district in Texas—to the Committee on the Judiciary.

By Mr. WILLIAMS, of Alabama: The petition of Benjamin B. Davis and E. B. Tullis, of Eufaula, Alabama, for the reduction of the duty on earthenware—to the Committee of Ways and Means.

IN SENATE.

FRIDAY, April 5, 1878.

Prayer by Rev. E. W. MATTHEWS, of Antwerp, Belgium.
The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House insisted upon its disagreement to certain amendments of the Senate to the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making appropriations for detecting trespass on public lands, and for bringing into market public lands in certain States, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. M. J. DURHAM of Kentucky, Mr. J. H. BLOUNT of Georgia, and Mr. J. H. BAKER of Indiana managers at the conference on its part.

The message also announced that the House had passed the following joint resolutions; in which it requested the concurrence of the Senate:

A joint resolution (H. R. No. 151) directing the Secretary of the Treasury to refund to the Society of the Sons of St. George, established at Philadelphia, the sum of \$1,440.25 in gold, being the amount paid by said society upon a colossal statue of St. George and the Dragon; and

A joint resolution (H. R. No. 152) to enable the joint commission to carry into effect the act of Congress providing for the completion of the Washington Monument.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (H. R. No. 596) to amend section 540, chapter 1, title 13, Revised Statutes of the United States; and

A bill (H. R. No. 1254) for the relief of John A. Darling.

PETITIONS AND MEMORIALS.

Mr. ALLISON presented the petition of Annie Schultz, Ann Bartlett, Willis A. Myers, A. W. Knight, and others, citizens of Missouri Valley, Harrison County, Iowa, and the petition of Lucy M. Stonebreaker, Addie Mead, E. Johnston, R. D. Prescott, and others, citizens of Shell Rock, Butler County, Iowa, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which were referred to the Committee on Privileges and Elections.

Mr. MORRILL presented the petition of L. W. Bissell, D. F. Cushing, Jr., J. Farnsworth, and others, citizens of Rockingham, Windham County, Vermont, praying for the passage of a law for the equalization of bounties; which was referred to the Committee on Military Affairs.

Mr. PLUMB presented the petition of John Gilda and others, citizens of Osage County, Kansas, praying for an appropriation to improve the navigation of the Osage River in Missouri and Kansas; which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. OGLESBY, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 88) for the relief of James W. Richard and J. S. Brown & Brother, of Denver, Colorado, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

Mr. JONES, of Florida, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 797) for the relief of Acting Master Robert Platt, United States Navy, reported it without amendment.

Mr. WINDOM. I present the minority views of the Committee on Railroads on the bill (S. No. 238) to extend the time for the construc-

tion and completion of the Northern Pacific Railroad; and, by a readjustment of the grants, without increasing the appropriation, to secure the construction of the Portland, Salt Lake and South Pass Railroad, for which leave was granted some days ago. I submit this minority report now that it may be printed.

The VICE-PRESIDENT. The paper will be printed.

BILLS INTRODUCED.

Mr. JOHNSTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1045) to provide for the administration of the oath of office to collectors and other officers of the customs in the district of Alaska; which was read twice by its title.

Mr. JOHNSTON. This bill is accompanied by a letter from the Commissioner of Customs explaining the necessity for it and recommending the passage of the bill. It was prepared by him. I do not know whether it should be referred to the Committee on Finance or the Committee on Commerce. I ask the Chair to refer it to the proper committee, and I request the Committee to act upon it promptly.

The VICE-PRESIDENT. The Chair thinks the bill should properly be referred to the Committee on the Judiciary.

Mr. JOHNSTON. Very well.

The VICE-PRESIDENT. It will be so referred.

Mr. BRUCE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1046) for the endowment of the "Lowery Industrial Academy" in the State of Alabama, and to accept a donation of buildings and lands in aid of the same, and for other purposes; which was read twice by its title, and referred to the Committee on Education and Labor.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1047) regulating the appointment of cadet midshipmen in the Naval Academy at Annapolis; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. HARRIS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. N. 1048) for the relief of Ethan A. Sawyer; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MCPHERSON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1049) to facilitate letter correspondence; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

THOMAS W. COLLIER.

Mr. FERRY. I move that the Senate proceed to the consideration of the bill (H. R. No. 2291) for the relief of Thomas W. Collier.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

The bill was reported from the Committee on Post-Offices and Post-Roads with amendments, in lines 3 and 4, before "cents," to strike out "one thousand and eighty-six dollars and fifty-two," and insert "nine hundred and thirty-eight dollars and seventy-two," and in line 6, after the word "postage-stamps," to strike out "postage-stamp funds;" so as to make the bill read:

Be it enacted, &c., That the sum of nine hundred and thirty-eight dollars and seventy-two cents, to reimburse Thomas W. Collier, postmaster at Coshocton, Ohio, for postage-stamps and money-order funds stolen from his office at that place on the night of May 23, 1877, be appropriated out of any fund not otherwise appropriated.

Mr. KERNAN. Is there any report accompanying the bill?

Mr. FERRY. There is a report.

The VICE-PRESIDENT. The report will be read.

Mr. SARGENT. Is the report lengthy?

Mr. FERRY. It is not very lengthy.

Mr. SARGENT. Cannot the Senator make a brief explanation of the bill?

Mr. FERRY. It is simply to pay for the robbery of postage-stamps and money-order funds.

Mr. SARGENT. I gave notice that I should call up the naval appropriation bill this morning.

Mr. FERRY. In the discretion exercised by the Postmaster-General an agent of the Department was sent to investigate the case. The facts show that the burglary was committed, and it comes within the rule adopted by the committee.

Mr. KERNAN. What was the amount taken of each?

Mr. FERRY. The report sets out facts in full. It is not very lengthy and will not occupy long if the Senator desires to hear it read. The bill comes within the general rule adopted by the committee, and I think there can be no objection to it.

Mr. KERNAN. I desire to inquire what was the amount taken in postage-stamps and what in money?

Mr. FERRY. That is stated in the report.

Mr. SARGENT. How much is it?

Mr. FERRY. The report is at the desk.

Mr. SARGENT. I ask that the bill be laid aside until after I call up, and the Senate shall pass, the naval appropriation bill. I gave notice yesterday that I would ask, after the regular morning business was concluded to-day, that this should be done, and I trust the Senator will allow this bill to be laid aside until it is done. These little private bills certainly can wait for a great appropriation measure.

Mr. FERRY. This is a very short bill, and it will take but little time. I have deferred from interrupting the Senator at any time in

the consideration of appropriation bills, and this little bill will be out of his way in a moment.

Mr. SARGENT. The Senator is not sufficiently familiar with his report to answer the plain question of the Senator from New York.

Mr. FERRY. The report states the precise sum. The Secretary has the report. I ask the Secretary to read from the report the amount of postage-stamps and the amount of money-order funds stolen, as asked by the Senator from New York.

The Chief Clerk read as follows:

T. W. Collier makes affidavit that he was the regularly appointed postmaster at Cohocton at the time of the burglary; that there was deposited in the safe in the post-office at the time the burglary was committed postage-stamps of the value of \$75.15, of money-order funds the sum of \$143.57, and of postage-stamp funds the sum of \$147.50, and that all of the same was stolen.

Mr. FERRY. I will state to the Senator from New York that the postage-stamp funds when converted into currency the committee have stricken out. They have adopted the rule that whenever any postage-stamps have been converted into money the postmaster holding 60 per cent. of that amount for his salary should run the risk himself. The bill as amended only covers the amount of stamps and money-order funds actually taken by the burglars.

The VICE-PRESIDENT. The question is on the amendments of the Committee on Post-Offices and Post-Roads.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ORDER OF BUSINESS.

Mr. SARGENT. Mr. President—

Mr. FERRY. There is a like bill, if the Senator will allow me to get it up.

Mr. SARGENT. No, sir. According to notice, and feeling it due to the Committee on Appropriations, whom I represent in the matter, and in the interest of the public business, I now call up House bill No. 3822, being the regular naval appropriation bill.

Mr. SAULSBURY. Was the Senator's notice not given that this bill would be called up after the morning hour?

Mr. SARGENT. I gave notice that I should ask to have the bill considered in the morning hour.

The VICE-PRESIDENT. The Chair feels compelled to recognize the Senator from California, he having given notice that at the conclusion of the regular morning business he would ask the Senate to proceed with the naval bill.

Mr. FERRY. I wish to say in this connection that it has been customary to allow the remainder of the morning hour, after the routine business, to be devoted to the small bills denominated private bills. I have been always ready to yield to the Senator anything he asked of this nature and I do not very often interrupt the Senate in this respect, but I have been pressed very much to have these bills disposed of. One relates to a case in Illinois and the other is from Ohio. The one from Ohio has been disposed of. However, I give way.

Mr. SARGENT. It has been the universal custom of the Senate to allow the regular appropriation bills to proceed.

Mr. SAULSBURY. I think there is serious objection to calling up an appropriation bill at this time. It appropriates a large amount of money, and there are but few members of the Senate present. I think the Senate should consider such an important measure when there is a full Senate.

Mr. SARGENT. There is more danger in calling up private bills in the absence of a quorum than there is in pressing a great appropriation bill when every item has been estimated by the Department and when it has been thoroughly sifted by both Houses in Committee of the Whole. There is much less danger in passing upon these great matters than on private bills under such circumstances. Furthermore, it has been the universal custom of the Senate, amounting to common law, to make a right of way for the Committee on Appropriations; because unless their business is finished Congress cannot adjourn. Another reason is that I do not wish to interfere with the Senator from Ohio and the railroad bill, which will take all the time from the close of the morning hour to the adjournment of the Senate. But if the Senate is willing to lay aside that business and take up the appropriation bill to-day after the conclusion of the morning hour, I am willing that private bills shall come in and be considered now. Otherwise I shall ask to proceed with this bill.

NAVAL APPROPRIATION BILL.

The VICE-PRESIDENT. The Senator from California moves to take up for consideration the naval appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes.

Mr. SARGENT. Before the Secretary proceeds with the reading of the bill perhaps I can save time and obviate the asking of some questions by making a short general statement.

The estimates for the service of the Navy for the next fiscal year are \$16,233,234.40. This bill as it passed the House of Representatives appropriated \$14,038,584. The total appropriated by Congress

for the current fiscal year was \$13,541,024.40. Therefore the bill as it passed the House and came to us was somewhere about half way between the amount appropriated last year and the estimates for the next fiscal year. The Senate committee have made additions to this bill of \$197,844.70, a very small percentage of increase on a fourteen-million-dollar bill. I do not know that I have ever before been instructed to report a naval bill from the Senate committee when there were such slight additions as are made to this bill. But these additions are not made except in an instance or two upon discretionary items, and in those instances only where we thought it absolutely necessary; but they are generally made on account of salaries fixed by law. Where both office and salary are fixed by law we have complied with the law in making the necessary amendment.

That accounts for nearly the whole of the \$197,000 additional. The bill as we report it is larger than the amount appropriated by the act for 1878 by \$395,404.30, of which about \$500,000 is the increase of the House, and as reported it is less than the estimates \$1,996,805.70.

The items of increase made by the Senate committee are for pay of the Navy, (net pay because we have made some deductions as well as increase,) \$80,850; for preparation of the Nautical Almanac, \$1,000; for equipment of vessels, \$70,000; and contingent expenses of Bureau of Equipment and Recruiting, \$15,000. This \$85,000 is on account of the large expenditures of stores, though a less expenditure of money, making a necessity in that particular bureau of their being replenished. For repairs of the naval laboratory and hospitals we appropriate \$10,000 in addition. Much of this is necessary at the hospital at Norfolk which is in an extremely dilapidated condition. For the maintenance of hospitals, \$15,000. For the secretary of the Naval Academy, \$1,800, which is left out of the bill of the House apparently by an oversight. By a general provision of law which they have inserted in the bill, and to which with a slight modification we assent, the result is to abolish an officer who has been for some twenty-six years discharging the important functions of secretary of the academy, keeping the account of standing of the different graduates or pupils, &c., and whose services are absolutely indispensable. We have made some slight restoration of pay of watchmen, mechanics, and others in the Naval Academy. I will only remark in addition that one of the amendments restores a quartermaster of the Marine Corps, which was stricken out. If there is any question made in reference to that when we reach it, in the latter part of the bill, I will explain it more fully. I ask that the amendments be passed upon as the clerk proceeds with the reading of the bill.

The VICE-PRESIDENT. The Secretary will report the bill and the amendments will be acted upon as reached.

The Chief Clerk proceeded to read the bill.

The first amendment of the Committee on Appropriations was in line 20, before the word "ensigns," to strike out "seventy-one" and insert "one hundred," and after "ensigns" to strike out seventy-one thousand six hundred before "dollars" and insert "one hundred and seventeen thousand;" so as to read:

One hundred ensigns, \$117,000.

The amendment was agreed to.

The next amendment was in lines 48, 49, 50, and 51, to strike out the words "two hundred and fifty-six cadet midshipmen, \$147,550; eighty-eight cadet engineers, \$44,000," and in lieu thereof to insert:

Three hundred and six cadet midshipmen, \$153,000; additional for seventy-nine of the above cadet midshipmen, when at sea, \$29,625; sixty-one cadet midshipmen, to be admitted in 1878, \$30,500; eighty-eight cadet engineers, \$44,000; additional for fourteen of the above cadet engineers, when at sea, \$5,250; twenty-five cadet engineers, to be admitted in 1878, \$12,500.

Mr. BECK. I hope the Senator from California who has charge of the bill will read the letter of Admiral Rodgers that it may be put on record, so as to let the Senate and House see why that increase is made.

Mr. SARGENT. These amendments which are proposed by the Senate Committee on Appropriations make the bill conform with the law, and unless we abolish the Naval Academy or provide by law for decreasing the number of cadet engineers that shall attend it, it is necessary to make the appropriation proposed by this amendment, the amendment having been prepared by the Secretary of the Navy. The letter referred to by my friend from Kentucky is dated March 18, 1878, at the United States Naval Academy, Annapolis, Maryland, and written by Rear-Admiral Rodgers, who has charge of the Academy.

Mr. BECK. Perhaps it is better to have it put in the RECORD; I want the RECORD to show why this is done.

Mr. SARGENT. I will let it accompany my remarks.

The letter is as follows:

UNITED STATES NAVAL ACADEMY,
Annapolis, Maryland, March 18, 1878.

SIR: A copy of the Navy appropriation bill (H. R. No. 3822) for the next fiscal year having come into my hands, I have carefully examined its provision for the pay of the naval cadets, and I find the sum mentioned as inadequate to their payment, that, should the bill pass as it now stands, the sum appropriated will be exhausted long before the end of the fiscal year.

After an examination I am led to believe that the cadet midshipmen in service, as named in the Navy Register, published last July, have been assumed as the basis from which the estimate for the pay of their grade was to be computed. This basis is not reliable, from the fact that forty-three additional cadet midshipmen were admitted in the following September, and that fifteen cadet midshipmen, who had been found deficient, or had passed out of the service in June, were reinstated by the Department after the Register was published. Of those cadet midshipmen named in the July Register, six have left the service, as have two of those appointed

in September. In fine, there are now at the Naval Academy fifty more cadet midshipmen than those enumerated in the July Register.

It has further escaped the notice of the committee that the present first class, containing thirty-six cadet midshipmen and fourteen cadet engineers, will graduate in June, and during the next fiscal year will, while employed afloat, receive the pay of nine hundred and fifty instead of five hundred dollars a year.

The law under which cadet midshipmen are continued in that grade, after they complete their course at the Naval Academy, went into operation last June, and during the next fiscal year there will, for the first time, be two classes affected by this statute. (Section 1530 Revised Statutes, 1875.)

It should not be forgotten that these young gentlemen are cadet midshipmen only in name; they have completed the full course of studies at the Naval Academy, and they do the same duty afloat that has been done by all midshipmen who graduated before them. The title of "cadet midshipmen" was continued in their case in order that they might make no vacancies until six years after their admission, thus decreasing the number of cadets at this school, but leaving to them the full and long-established duties of midshipmen.

I beg to inclose an exhibit showing the number of cadet midshipmen and cadet engineers now in service afloat and at the Naval Academy, and also the vacancies at present existing, to fill which members of Congress and the Executive are entitled to make nominations. The exhibit also shows the sum proposed by the Appropriation Committee and the sum it will actually cost to pay the cadets, should all vacancies be filled.

From this it will be seen that the sum proposed will not even pay the cadets now in service, and does not at all provide for those to be admitted in June and September next.

There are now fifty-one vacancies in the congressional districts and Territories to be filled by members of the House of Representatives. To these may be added the ten "appointments at large" in the gift of the Executive, and should the Department admit twenty-five new cadet engineers, as has been usual, there will be eighty-six new cadets to enter at the beginning of the next academic year, whose pay is not provided for in the naval appropriation bill now under consideration.

I have the honor to be, very respectfully,

Your obedient servant,

C. R. P. RODGERS,
Rear-Admiral, Superintendent.

Hon. R. W. THOMPSON,
Secretary of the Navy, Washington, D. C.

Exhibit showing amount of pay required for cadet midshipmen and cadet engineers in service afloat and at the Naval Academy for the fiscal year July 1, 1878, June 30, 1879.

Cadet midshipmen, class of 1877, 43, at \$950	\$40,850 00	
Cadet midshipmen, class of 1878, 36, for two months after leaving Academy, at \$500	\$2,999 52	
For ten months at sea, at \$950	28,501 50	
		31,501 02
Cadet midshipmen, class of 1879, 43,		
Cadet midshipmen, class of 1880, 72,		
Cadet midshipmen, class of 1881, 112,		
— 227, at \$500	113,500 00	\$185,850 72
Cadet engineers, class of 1878, 14, for two months after graduation, at \$500	1,166 48	
For ten months at sea, at \$950	11,083 80	
		12,250 28
Cadet engineers, class of 1879, 23,		
Cadet engineers, class of 1880, 22,		
Cadet engineers, class of 1881, 25,		
— 74, at \$500	37,000 00	49,250 28
Total amount pay required as per heading above		245,101 00
The appropriation bill (H. R. No. 3822) provides for 256 cadet midshipmen	\$147,350 00	
The appropriation bill (H. R. No. 3822) provides for 88 cadet engineers	44,000 00	
		191,350 00
Deficiency in provision for cadet midshipmen and cadet engineers in service afloat and at Naval Academy		43,751 00
The bill makes no provision for the class to enter in June and September next, for which there are 761 vacancies, which if filled will render necessary, at \$500 each, an additional sum of		30,500 00
And should there be appointed to the next class, as is usual, 25 cadet engineers, there will also be required, at \$500 each		12,500 00
Total estimated deficiency in provision for cadet midshipmen and cadet engineers for ensuing fiscal year		86,751 00

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in lines 66 and 67, to increase the total amount of the appropriation "for the pay of the Navy, for the active list," from \$3,698,750 to \$3,822,875.

Mr. SARGENT. That is merely a footing to correspond with the previous amendments.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, after the word "require," in line 118, to strike out "five hundred and twenty-five thousand" and insert "four hundred and eighty-one thousand seven hundred and twenty-five;" so as to make the clause read:

For clerks to fleet-paymasters, paymasters of vessels, clerks at inspections, navy-yards, and stations, and extra pay to men enlisted under honorable discharge; exchange and mileage, and for the payment of any such officers as may be in service, either upon the active or retired list, during the year ending June 30, 1879, in excess of the numbers for each class provided for in this act, and for any increase of pay arising from different duty, as the needs of the service may require, \$481,725.

Mr. SARGENT. That is a reduction.

The amendment was agreed to.

The next amendment was, in line 121, after the word "the," to strike out "passage of this act" and insert "1st day of July, 1878;" and in line 125, after the word "and," to strike out "a line officer" and insert "an officer;" so as to read:

That on and after the 1st day of July, 1878, there shall be no appointments made

* Congressional, 51; at large, 10—61.

from civil life of secretaries or clerks to commanders of squadrons nor of clerks to commanders of vessels; and an officer not above the grade of lieutenant shall be detailed to perform the duties of secretary, and one not above the grade of master to perform the duties of clerk to a rear-admiral or commander, and one not above the grade of ensign to perform the duties of clerk to a captain, commander, or lieutenant-commander when afloat.

Mr. SARGENT. On behalf of the committee at the commencement of line 124, before the word "commanders," I want to put in the words "the Admiral, Vice-Admiral, or."

Mr. BECK. How will it read then?

Mr. SARGENT. It will read:

There shall be no appointments made from civil life of secretaries or clerks to the Admiral, Vice-Admiral, or commanders of squadrons, &c.

We had to take one of two courses: either to make special provision for these gentlemen or put them in the same category as all the rest. We chose them in the latter as more economical if not more just.

The amendment was agreed to.

Mr. SARGENT. Now I move to strike out the word "or," in line 124, and insert "or;" so as to read:

Of clerks to commanders of vessels, &c.

The VICE-PRESIDENT. That amendment will be made, if there be no objection.

Mr. SARGENT. After the word "secretary," in line 126, I move to insert "the Admiral, Vice-Admiral, and;" so as to read:

An officer not above the grade of lieutenant shall be detailed to perform the duties of secretary and one not above the grade of master to perform the duties of clerk to a rear-admiral or commander, &c.

The VICE-PRESIDENT. That is to conform to the former amendment. The Chair hears no objection, and that amendment will be made.

The reading of the bill was continued.

The next amendment of the Committee on Appropriations was, at the end of line 130, to insert:

Provided, That the secretaries and clerks in service on the 1st day of July, 1878, on vessels abroad shall continue as such until such vessel shall return to the United States.

Mr. SARGENT. The proviso is inserted because it will cost a great deal more to transport these clerks back to the United States, where they are serving on vessels, than it will do to allow them to perform their duties and return with their vessels. For that reason it is inserted both in the way of justice and economy. It would be very hard on these men to be suddenly dismissed from the service at Yokohama or the north pole or wherever they might be.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was after the word "Navy," in line 135, to strike out "Department;" so as to read:

For contingent expenses of the Navy, namely, &c.

The amendment was agreed to.

Mr. SARGENT. On behalf of the committee I move, in line 140, after the word "recording," to put in the words "expenses of naval prisoners at penitentiaries;" and a subsequent amendment will provide for this by increasing the gross appropriation in this paragraph \$3,000, and the reason for it is that before the adoption of the Revised Statutes the duty of paying the expenses of persons sentenced to penitentiaries by courts-martial was devolved upon the Department of Justice and they were paid out of the judiciary fund. That was omitted by the Revised Statutes probably by mistake. It is just as well, however, to provide for it in this way, as by the repealing clause of the Revised Statutes the Department of Justice cannot pay it out of that fund hereafter. Therefore it is necessary that provision should be made for it, and the Attorney-General called the attention of the Secretary of the Navy to that fact, and sent us a communication with his recommendation that it be provided for under the head which I now move. I send to the Chair the communications to which I have referred.

The communications are as follows:

NAVY DEPARTMENT, March 12, 1878.

SIR: I have the honor to inclose herewith a copy of a communication, dated the 26th ultimo, addressed to me by the Attorney-General of the United States, in relation to the expenses of prisoners sentenced by naval courts-martial to confinement in a penitentiary.

The expenses of such prisoners, as the Attorney-General states, have heretofore been a charge upon the Department of Justice, under an old statute not embodied in the Revised Statutes, and therefore obsolete.

It is necessary, therefore, that some provision should be made for the expenses of the class of prisoners in question, and I have therefore the honor to suggest that an appropriation of \$3,000 be made for that purpose for the fiscal year ending June 30, 1879, either as a separate item or by inserting in the items of the naval appropriation bill, under a head of "Contingent Navy," the words "expenses of naval prisoners in penitentiaries," and increasing the aggregate amount of the appropriation \$3,000.

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. S. J. RANDALL,
Speaker House of Representatives.

NAVY DEPARTMENT,
Washington, April 4, 1878.

SIR: I have the honor to transmit herewith a copy of a communication addressed by this Department to the Speaker of the House of Representatives on the 12th ultimo, and copy of the communication of the Attorney-General therein referred to, suggesting that provision be made in the naval appropriation act for the maintenance of naval prisoners confined in State penitentiaries.

There are now four or five prisoners who have been sentenced by court-martial to imprisonment for one or more years in such penitentiary as the Secretary of the Navy may designate, and the Department is embarrassed as to approving the sentence and carrying it into execution, having no appropriation on which to draw for the expenses attending such imprisonment.

I therefore respectfully suggest that the naval appropriation bill now before the Senate may be amended in the manner indicated in my letter to the Speaker of the House of Representatives.

I am, sir, very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. A. A. SARGENT,
Of Committee on Appropriations, United States Senate.

DEPARTMENT OF JUSTICE,
Washington, February 26, 1878.

Sir: It is the conclusion of this Department that the fund under its control for defraying expenses of suits in which the United States are concerned ought not to bear the expense of supporting prisoners of the United States sentenced by naval court-martial to confinement in a penitentiary. It is understood that heretofore such expense has been borne under section 3, page 373, volume 13, United States Statutes at Large. This section being omitted from the Revised Statutes, while the other sections of the same act are retained, is now repealed by section 5596, page 1691, of the Revised Statutes.

Under this view, some other provision must be made for their support.

Very respectfully,

CHARLES DEVENS,
Attorney-General.

Hon. R. W. THOMPSON,
Secretary of the Navy.

The amendment was agreed to.

Mr. SARGENT. On line 163, after the word "eighty" I move to insert "three," being for the object which I have just stated and for which I have sent the documents to be read at the desk. The effect is to make the total appropriation for contingent expenses of the Navy \$83,000 instead of \$80,000.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the head of "Bureau of Navigation," in line 209, after the word "price," to strike out "to" and insert "of paper and printing paid by;" so as to read:

Provided, That all charts hereafter furnished to mariners or others not in the Government service shall be paid for at the cost price of paper and printing paid by the Government.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in the appropriations "for expenses of Naval Observatory," in line 218, after the word "three," to strike out the word "assistants" and insert "assistant astronomers;" so as to read:

For pay of three assistant astronomers at \$1,500 each, \$4,500; and one clerk, at \$1,600.

The amendment was agreed to.

The next amendment was, in line 239, to increase the appropriation "for pay of computers and clerk for preparing for publication the American Ephemeris and Nautical Almanac" from \$18,000 to \$19,000.

Mr. SARGENT. I present a communication from the Department on that subject.

The communication is as follows:

NAUTICAL ALMANAC OFFICE,
Washington, D. C., April 2, 1878.

Sir: The naval appropriation bill, as passed in the House of Representatives, makes a reduction of \$2,000 from the estimates for the work of this office. I therefore respectfully request that the following statements be communicated to the proper committee of the Senate.

First. Before the civil war the usual annual appropriations for the preparation of the Almanac was \$25,890. Deducting \$4,000, the average cost of printing, the sum of \$21,890 was left as applicable to computations and office expenses. The corresponding sum asked for now, when services of all kinds are more expensive, is \$20,500, the item for planets discovered by American astronomers being an additional work assigned to the office in 1872.

Second. It has heretofore been the practice to issue the Almanac without any independent check upon the accuracy of the results obtained by the computers, and the frequency of errors has, in consequence, been such as seriously detract from the character for accuracy which such a work should maintain. To remedy this it is necessary to employ two or three additional computers.

Third. With the approval of the Department I have made considerable reductions in the prices paid for computations, but these reductions will be more than absorbed by the above requirements of additional force.

Fourth. The improvement in the Almanac recently approved by the National Academy of Sciences will involve some extraordinary expenses during the next fiscal year, which, however, will not be permanent.

Very respectfully, your obedient servant,

SIMON NEWCOMB,
Superintendent Nautical Almanac.

To Hon. R. W. THOMPSON,
Secretary of the Navy.

[Indorsement.

Copy of a letter from the Superintendent of the Nautical Almanac to the Department, April 2, 1878.
Respectfully forwarded and recommended to the favorable consideration of the Department, April 3, 1878.

D. AMMEN,
Chief of Bureau of Navigation.

Respectfully communicated to the Committee on Naval Affairs of United States Senate, with the recommendation that the committee grant what is desired.

R. W. THOMPSON,
Secretary of the Navy.

MARCH 3, 1878.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was under the head of "Bureau of Equipment and Recruiting," in line 276, to increase the total appropriation "for equipment of vessels" from \$800,000 to \$870,000.

Mr. BECK. I ask the Senator from California if it would not be well to lay before the Senate or put upon record what is said by that bureau about the necessity of that increase.

Mr. SARGENT. Yes, sir. The Secretary of the Navy sends to me a statement from Commodore Shufeldt, who is the head of the Bureau of Equipment and Recruiting in the Navy Department, and certainly one of the most accomplished and careful officers in the whole service, in which he shows the reasons why this appropriation should be increased. This bureau is the only one, (except that of medicine and surgery, and there only for absolute necessities,) where we have made any increase at all. The Bureaus of Engineering and Construction, which ordinarily engross so much of the money appropriated by Congress, are left by us as the House left them. If it is desired, I will have this letter read at the desk or will incorporate it in my remarks.

Mr. BECK. I merely want it put in the RECORD.

Mr. SARGENT. Very well. It is referred to in a general letter of the Secretary; but I send the letter of the head of the bureau to be inserted in the RECORD.

The letter is as follows:

NAVY DEPARTMENT,
BUREAU OF EQUIPMENT AND RECRUITING,
Washington, March 28, 1878.

Sir: Referring to appropriation "Equipment of vessels," for 1878 and 1879, as lately passed by the House of Representatives for \$800,000, the bureau respectfully requests that Congress may be asked to have this appropriation increased to \$900,000, as in its opinion the former sum will not be sufficient for the operations of the coming fiscal year. By reference to the annual report of this bureau for the fiscal year ending 30th June, 1877, it appears that in addition to \$620,000 expended from the sum of \$570,000 appropriated for the year 1876-77, there was expended in materials from stock on hand at the several navy-yards, \$461,245.99, making in reality the expenditure under appropriation "Equipments," for the year 1876-77, amount to over \$1,000,000.

The bureau has therefore to state that the stock on hand has been greatly depleted, and requires to be replenished for the coming wants of the service.

The fact that this bureau was able on the 30th June, 1877, to cover into the Treasury a large amount of its appropriations for the fiscal year ending that date, was owing principally to the want of funds in several bureaus of the Navy Department to continue its work of repairs on vessels, in consequence of which this bureau was obliged to stop its work.

The bureau would also request that its "contingent" in said bill may be increased from \$50,000 (as passed) to the sum of \$60,000, owing to the many contingencies of expenditures arising under the said appropriation.

I have the honor to be, very respectfully, your obedient servant,

R. W. SHUFELDT,
Chief of Bureau.

Hon. R. W. THOMPSON,
Secretary of the Navy.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 287, to increase the appropriation for contingent expenses of the Bureau of Equipment and Recruiting from \$50,000 to \$65,000.

The amendment was agreed to.

The next amendment was under the head of Bureau of Medicine and Surgery, in line 346, to increase the appropriation for necessary repairs of naval laboratory, hospitals, and appendages, including roads, wharves, out-houses, steam-heating apparatus, sidewalks, fences, gardens and farms, cemeteries, furniture, head-marks for graves, from \$20,000 to \$30,000.

Mr. SARGENT. In explanation of that item and of the following, "for maintenance of the several naval hospitals," I will state that the committee are satisfied that the condition of repair of a great many of these hospitals, cemeteries, &c., especially the one at Norfolk, requires this expenditure, and that to employ the nurses and pay all the other expenses which are necessary in the second item, which the clerk has not yet read, but which I speak of at this time for convenience, it is absolutely necessary to increase the appropriation there \$15,000. Upon this point I ask to incorporate in the RECORD a letter from the bureau and which I send to the reporter.

The letter is as follows:

NAVY DEPARTMENT,
BUREAU OF MEDICINE AND SURGERY,
March 28, 1878.

Sir: The naval appropriation bill for the fiscal year ending June 30, 1879, as it passed the House of Representatives, has reduced the estimates of the bureau as follows:

For "surgeons' necessities and appliances" from \$48,000 to \$45,000.

For "civil establishment of naval hospitals and laboratory" from \$38,000 to \$25,000.

For "repairs and improvements of hospitals" from \$51,300 to \$20,000.

For "contingent" from \$25,000 to \$15,000.

I respectfully beg leave to state that experience has shown that the hospitals and laboratory cannot be conducted efficiently with an appropriation for the civil establishment of less than \$50,000.

The amount estimated for "repairs and improvements of hospitals" is absolutely necessary to preserve the several buildings from decay, and to furnish the naval hospital at Norfolk with steam-heating apparatus and to improve its sanitary condition by providing improved water supply and sewerage.

Very respectfully, your obedient servant,

W. GRIER,
Surgeon-General, United States Navy.

Hon. R. W. THOMPSON,
Secretary of the Navy.

The amendment was agreed to.

The next amendment was, in line 350, after the word "laboratory," to strike out "\$25,000" and insert "\$40,000;" in line 351, after the word "naval," to strike out the words "hospitals at Washington and" and insert the words "hospital at;" and in line 352, after the word "same," to strike out the word "are" and insert "is;" so as to read:

For the civil establishment at the several naval hospitals and naval laboratory:

For the maintenance of the several naval hospitals and naval laboratory, \$40,000; and that the naval hospital at Annapolis be, and the same is hereby, discontinued.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the head of "Naval Academy," in the clause making appropriations for pay of professors and others, in line 406, to insert:

Secretary of the Naval Academy, \$1,800.

Mr. BECK. I desire to say but a word about the Naval Academy, not by way of criticism of this bill, because I believe we are obliged to make all the appropriations here made, but we have a Naval Academy which is turning out young officers for the Navy far in excess of what the needs of the country require. The law as to it is different from the law governing West Point; it not only authorizes but I believe requires the President to send ten cadets there each year, so that we are obliged to keep up forty at large, whereas at West Point we allow only ten at any one time, but the word "annually" is used in the Annapolis law. Many of the changes we were compelled to make in this bill grew out of the number of these young officers.

All I rise for now is to call the attention of the Naval Committee, of my friends from New Jersey and California and Maryland, who are on it, to the importance of looking into that and seeing what amendments ought to be made and seeing also what can be done with an exceedingly expensive retired list. That is all I desire to say.

Mr. SARGENT. I concur entirely with the remarks of my friend from Kentucky. I should like to say, however, as a member of the Naval Committee, that it has been my sad experience that the time of the committee is so much taken up by applications from officers to be changed about on the naval list or to secure some old bill twenty to thirty years old for services which they now find the Government did not pay them at that time as much as they ought to have been paid, that there is very little time left to the committee for general reforms in the service.

Mr. BECK. I am not complaining of the Committee on Naval Affairs; but I do hope if we adjourn over again for a few days they will make it a specialty to see what reforms can be made, as they are very much needed.

Mr. SARGENT. I do intend, as far as I am concerned, to try to get some measure that shall secure some reform. I never have appreciated human selfishness, or emulation if that is a better term, [a laugh,] so much as I have by observing the crowds of officers of all degrees from ensigns to admirals dissatisfied with their places on the retired list, or the pay they receive or have received from the Government, seeking petty advantage either over each other or over the Treasury.

Mr. COCKRELL. I simply desire to concur with the remark of the Senator from California, and apply it to the Army. I think it will not be long until every officer in the Navy and in the Army will be appealing to Congress for some relief, and I think it is time to give them relief, permanent relief, relief which will place them quietly in the discharge of the duties which the law has imposed upon them, and outside of applications to Congress.

Mr. SARGENT. I am in favor of that, provided it can be done without crippling the arm of defense, either land or naval, of the Government.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 428, to increase the total appropriation for pay of professors and others at the Naval Academy from \$50,718 to \$52,518.

The amendment was agreed to.

The next amendment was, in the clause making appropriations for pay of watchmen and others at the Naval Academy, in line 435, after the word "dollars" to insert "and fifty cents;" after the word "at," in the same line, to strike out "\$2.50" and insert "\$3;" in line 436 after the word "dollars" to insert "and fifty cents;" in line 437 after the word "each" to strike out "three joiners, two painters, and two masons," and insert "one foreman of joiners, one foreman of painters, and one foreman of masons, at \$3.50 per day each; two joiners, one painter, and one mason;" and in line 444 after the words "in all" to strike out "\$23,085.75" and insert "\$25,905.75;" so as to make the clause read:

Pay of watchmen and others: Captain of the watch, at \$2.25 per day; four watchmen, at \$2 per day; foreman of the gas and steam-heating works, at \$3 per diem; ten attendants at gas and steam-heating works of academy, one at \$3.50, one at \$3, and eight at \$2.50 per day each; one foreman of joiners, one foreman of painters, and one foreman of masons, at \$3.50 per day each; two joiners, one painter, and one mason, at \$2.50 per day each; one tinner, one gas-fitter, and one blacksmith, at \$2.50 per day each; and for one steam-pipe fitter, \$547; in all, \$25,905.75.

Mr. SARGENT. In explanation of the several amendments which appear upon that page, I desire to read from a letter addressed to the committee by the admiral in charge of the school:

In the appropriation bill, as it passed the House, the master-laborer's pay has been reduced from \$2.28 a day to \$2. I ask most earnestly that the master-laborer may receive the pay he has received for many years past, of \$2.28 a day. He has charge of all the laborers, whether on the permanent or temporary rolls; of the teams and teamsters, of the grounds and shrubberies; of the wharves and roads, and sea walls; of the sewers and drainage; of the Naval Cemetery; and of the large tract adjoining it, and his office is one of the most exacting that we have, and requires a man of good head, and tact and industry. I have never seen a more faithful and efficient man in the public service than the present incumbent of this office; he came here as a lad, has held his place for many years, and is worth his weight in gold.

If all the mechanics cannot be paid as they were last year, I hope that the fore-

man of joiners, and of masons, and of painters, and the machinist, boiler-maker, and pattern-maker may receive the pay they received last year: \$3.50 a day; also, that the ten attendants at the gas and steam-heating works of the academy may receive the same pay as they did last year, namely, one at \$3.50, one at \$3, and eight at \$2.50 a day, each.

These men have contracted to work twelve hours for a day's work and they divide the twenty-four hours between two gangs, each gang working twelve hours. During the greater part of the year this work is very severe.

The foremen of whom I have spoken have charge of the workshops and tools of their department and are men of especial skill, long employed here and have frequently many men employed under them on the temporary rolls while improvements are being made.

The machinist, &c., are special men, of much value in the workshops where the cadet engineers are taught the use of tools.

In addition to that the committee are informed by the Secretary of the Navy that these foremen are instructors of engineers; of course, I do not mean foremen of laborers, but foremen of machinists, mechanics, &c.; they instruct them in the use of tools, in the construction and use of machinery, &c., and they are necessarily men of intelligence. They cannot be ignorant men or mere mechanics, but must have a good education outside of it, and they have secured such men. This is simply to pay them what was allowed last year, though we have not restored the pay of mechanics generally, and with some shamefacedness I admit that, because I do feel a mental twinge at cutting down the pay of mechanics in this great appropriation bill. Still while we have not done that we have complied with the request of Admiral Rodgers to restore these foremen to the amount received last year. The same remark applies to all the amendments in this paragraph. They amount to very little money in the aggregate.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was in the clause making appropriations for pay of mechanics and others at the Naval Academy, in line 450, after the word "dollars," to insert the words "and twenty-eight cents;" so as to read:

One master-laborer, to keep public grounds in order, at \$2.28 per diem.

The amendment was agreed to.

The next amendment was, in line 458, to increase the total appropriation for pay of mechanics and others at the Naval Academy from \$16,013.75 to \$16,115.95.

The amendment was agreed to.

The next amendment was in the clause making appropriations for pay of employés in the department of steam-engineery at the Naval Academy, in line 462, after the word "for," to strike out "machinist, at \$3 per day" and insert "master-machinist, boiler-maker, and pattern-maker, at \$3.50 per day each;" in line 465, after the word "blacksmith," to strike out "one boiler-maker, one pattern-maker;" and in line 468, to strike out "\$6,752.50" and insert "\$7,665;" so as to make the clause read:

For pay of employés in the department of steam-engineery: For master-machinist, boiler-maker, and pattern-maker, at \$3.50 per day each; one machinist, one blacksmith, one molder, at \$2.50 per diem each; and two laborers, at \$1.50 per diem each, \$7,665.

Mr. WHYTE. I do not wish to make any objection at this time, but I desire to say that I shall offer a substitute for the proposition of the committee when we get into the Senate.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, after the word "return," in line 457, to strike out the words "and shall, in addition, receive \$5 per day for expenses during each day of his service at the academy;" so as to make the clause read:

For expenses of the Board of Visitors to the Naval Academy, \$2,600: *Provided*, That each member of the Board of Visitors shall receive not exceeding eight cents per mile for each mile traveled by the most direct route from his residence to the academy and return.

Mr. SARGENT. I wish to make a remark in reference to that. In the debate in the House upon this point, in explanation of the proviso it was stated by the gentleman who reported the bill that this \$5 a day was inserted here in order to make the same provision for these visitors as for those to the Military Academy at West Point; but it seems not to have been understood that at West Point there is a hotel within the grounds of a decent character, where a person can obtain his living and defray his expenses probably at \$5 a day, while at the Naval Academy at Annapolis there is no hotel within the grounds at all, and visitors will be compelled to go entirely outside the grounds, which will be very inconvenient, to sleep and get their meals.

For that reason some years ago what was called a "board-house" was erected within the academy grounds and the amount which we appropriate from year to year, and which is the same in this bill as in previous bills, has been used for the expenses of that board-house as well as for the amount of mileage allowed to the visitors. On account of the very different circumstances and the extreme inconvenience there it would be at Annapolis to apply the rule which is very applicable to West Point, we have recommended this change striking out the latter part of the proviso.

But furthermore there is danger that the proviso, if it remains as it came from the House, would be construed to allow them not merely their expenses at the board-house, but \$5 a day additional as compensation for their services. That would be very far from economy. The whole matter is explained in some letters which I send to the desk.

The letters are as follows:

NAVY DEPARTMENT.
Washington, April 2, 1878.

Sir: I have the honor to submit herewith a copy of a letter from the Superintendent of the Naval Academy, dated the 30th ultimo, inclosing one from Paymaster Kenny, the commissary at that institution, in relation to the clause in the naval appropriation bill providing for the expenses of the Board of Visitors, which if not amended is likely to produce much embarrassment.

I would suggest, if no other amendment occurs to the committee, that after the word "academy," line 459, page 19 of the bill, the following be added: "If not furnished with board and lodging at the board-house within the grounds; but if so furnished the per diem shall be allowed to the commissary at the academy."

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. J. A. SARGENT,
Chairman Committee on Naval Affairs, United States Senate.

UNITED STATES NAVAL ACADEMY,
Annapolis, Maryland, March 30, 1878.

Sir: I beg leave to submit a letter, just received from Paymaster Kenny, the commissary of the Naval Academy, in relation to that part of the naval appropriation bill passed by the House of Representatives which provides for the expenses of the Board of Visitors at the Naval Academy. As I fully concur in the opinion of Paymaster Kenny, I must beg to call the attention of the Department to them. Should the provision as it now stands become a law, much embarrassment and grave dissatisfaction will, I think, ensue.

I have the honor to be, very respectfully,

C. R. P. RODGERS,
Rear-Admiral, Superintendent.

Hon. R. W. THOMPSON,
Secretary of the Navy, Washington, D. C.

UNITED STATES NAVAL ACADEMY,
Annapolis, 25th March, 1878.

ADMIRAL: In accordance with your desire, I beg to set forth some considerations concerning the clause in the naval appropriation bill (H. R. 3822) which provides for the traveling expenses and entertainment of the annual Board of Visitors to the Naval Academy.

The bill as passed by the House appropriates as traveling expenses eight cents per mile for each member of the board to and from his home, coupled with a proviso that each member shall receive \$5 per diem for his expenses during his attendance as a member of the board. In the debate in Committee of the Whole, just before the passage of the bill by the House, it was stated by Mr. CLYMER, who reported the bill, that the same provision was in the West Point bill and that this was copied from that. I desire now to call your attention to the different methods which, owing to different circumstances, prevail here and at West Point in the entertainment of the respective Boards of Visitors.

At West Point there is a hotel within the academy limits, where, as there is no other provision for them, the members of the board are compelled to go. Their per diem expenses are therefore justly provided for by a special clause in the bill. Here, however, there being no hotel within the grounds, the Government has erected a "board-house," especially for the accommodation of the yearly boards, where they have for many years been entertained, the expense having been defrayed from the appropriation for the purpose. Such a house was a necessity, owing to the unwillingness of nominees to serve if compelled to rely upon the very indifferent hotels at Annapolis for their accommodation.

Judging by the experience of past years, it would be impossible to open the "board-house," furnish the necessary staff of steward, cooks, and servants required for their entertainment and comfort, besides making from time to time the necessary renewals in the furniture, room and table linen, and tableware out of the limited sum of \$5 per diem for each member, particularly as the members are generally accompanied by their wives or others of their families.

Moreover, even if that sum is deemed sufficient by Congress for any necessary outlay in their behalf, a technical difficulty is presented in the mandatory character of the act, which provides that each member "shall receive \$5 per diem for expenses during each day of his service at the academy."

It would seem perhaps, under the strict wording of the bill, that each member should receive, in any event, \$5 per diem for expenses, even if provided with board and lodging at the "board-house," though the debate shows that such was manifestly not the intention of the House in passing the bill.

Should the bill become law in its present form, great embarrassment will necessarily arise in making proper provision for the Board of Visitors, owing to its being framed to meet a state of things which does not exist here.

I am, very respectfully, your obedient servant,

A. S. KENNY,
Paymaster Commissary, Naval Academy.

Rear-Admiral C. R. P. RODGERS,
Superintendent.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the head of "Marine Corps" in the clause making appropriation for "pay of officers," in lines 509 and 510, to strike out "one assistant quartermaster, \$2,700," and insert "two assistant quartermasters, \$5,400," and in line 512, before the word "captains," to strike out "twenty-one" and insert "twenty," and after "captains" to strike out "\$49,140" and insert "\$46,800."

Mr. SARGENT. I wish the Senate to understand the reasons for the action of the committee. I have here as part of a letter from the Secretary of the Navy an explanation of this proposed action. He says:

The proviso commencing on page 21, line 510, abolishes one assistant quartermaster of the Marine Corps. By law there are only three officers, a major and two captains, belonging to this branch of the service; and their duties combine those of quartermaster, commissary and ordnance. The Marine Corps consists of two thousand men, rank and file. So that at present these three officers do the duty of provisioning, arming, equipping, transporting, and clothing this body of men. They construct and repair all barracks and quarters for the corps, besides meeting all contingent expenses arising at nine regularly established commands. To deprive the Quartermaster's Department of one of these officers would, in my opinion, embarrass it to such an extent that if from any cause, sickness or otherwise, one of the two remaining officers was unable for a time to be upon duty, the duties of the department could not be performed as the law requires, as there would then be only one boarded officer left, and he could not possibly do all the duties.

The only difference in the bill by retaining him is \$360; that is, the pay of one captain, who by the House bill is restored to the line,

is while in the line \$360 more than while acting as assistant quartermaster. The great inconvenience to the corps and the service is not compensated for by the saving of that small amount of money.

I desire to present for information the letter from the Secretary of the Navy covering this subject and others involved in our amendments to the bill.

The letter is as follows:

NAVY DEPARTMENT.
Washington, March 29, 1878.

SIR: In reference to the naval appropriation bill (House bill No. 3822) I desire to make the following suggestions:

The provisions in reference to the pay of the Navy do not embrace the full number of all the classes. Inasmuch, however, as the appropriation of \$525,000 is designed to remedy this, it is perhaps better to leave the bill as it is, in order that the plan for which it provides may be tried. If insurmountable difficulties should arise, the remedy can be applied at the next session of Congress.

There is, however, an exception to this in the case of ensigns on the active list. On page 2, line 19, they are put down at 71, whereas there are 109, and their present pay is as follows:

12 at sea, (after 5 years,) at \$1,400.....	\$16,800
71 at sea, (first 5 years,) at \$1,200.....	85,200
7 other duty, at \$1,000.....	7,000
10 waiting orders, at \$800.....	8,000
	117,000

Appropriated in bill.....76,400

Short of present duty pay.....40,600

It will therefore be best to increase this appropriation to the proper amount, as the specific charges against the \$525,000 may so nearly exhaust that amount as to render it impracticable to make up this difference, with others that may occur.

I suggest that on page 5, line 108, the words "passage of this act" be stricken out and the words "beginning of the next fiscal year" be inserted; also, the following proviso after the word "aforesaid," page 6, line 116: "Provided, That the secretaries and clerks in service on the 1st July in vessels abroad shall continue as such until such vessels shall return to the United States." To discharge them in a foreign country would involve large expenditures for transportation home.

In line 117, page 6, the word "Department" should be stricken out, as the contingent fund of the Navy, included in this part of the bill, is different from the contingent fund of the Navy Department, which is only for the office of the Secretary of the Navy and bureaus, for stationery, &c.

On page 9, line 191, it is provided that charts shall be furnished at "the cost price." If this shall include the whole cost, it will introduce a new practice, not customary with other governments. It would be more in consonance with former custom to strike out the word "to" and insert the words "of paper and printing paid by."

I do not think it advisable to abolish the Naval Hospital at Washington, as provided in lines 331 and 332, page 14. Upon this subject I inclose a letter from the Surgeon-General.

In reference to the Naval Academy, I refer the committee to the letter of Rear-Admiral C. R. P. Rodgers, which I handed you at our interview yesterday. I concur in his views.

It has been customary to fix the wages of laborers at the Academy at Annapolis, and I have no wish to have this plan departed from. This, however, is the only case in which it is done in this Department, and it is proper that I should suggest the difficulties which arise in my mind. Does it not violate the rule which prevails with reference to laborers in the navy-yards, &c., that wages shall be fixed by prices outside? The law on this subject has been omitted from the Revised Statutes, but, as it is an equitable rule, I have followed it. I understand that mechanics at Annapolis get \$2.50 a day and work ten hours and unskilled laborers \$1. Does not this bill discriminate against these, inasmuch as the wages fixed by it are greater than theirs? That is, if the term "per diem" in the bill is to be construed as not requiring more than eight hours of labor, according to the statute. In my opinion it does.

The proviso commencing on page 21, line 510, abolishes one assistant quartermaster of the Marine Corps. By law there are only three officers: a major and two captains, belonging to this branch of the service, and their duties combine those of quartermaster, commissary, and ordnance. The Marine Corps consists of two thousand men, rank and file, so that at present these three officers do the duty of provisioning, arming, equipping, transporting, and clothing this body of men. They construct and repair all barracks and quarters for the corps, besides meeting all contingent expenses arising at nine regularly established commands. To deprive the Quartermaster's Department of one of these officers would, in my opinion, embarrass it to such an extent that if from any cause, sickness or otherwise, one of the two remaining officers was unable for a time to be upon duty, the duties of the department could not be performed as the law requires, as there would then be only one boarded officer left, and he could not possibly do all the duties.

I inclose letters from the chiefs of the Bureau of Equipment and Recruiting, Medicine and Surgery, Provisions and Clothing, and Steam Engineering, all of which are approved by me. In my opinion, they present sufficient reasons for an increase of the appropriations therein referred to.

If any increase shall be made in the bill it would be necessary to change the last line of the bill, which states the total sum. According to my calculation it is erroneous as it now stands, being \$10,100 less than the amount stated.

I have the honor to be, very respectfully, your obedient servant.

R. W. THOMPSON,
Secretary of the Navy.

Hon. A. A. SARGENT,
Subcommittee on Appropriations, United States Senate.

P. S.—I have omitted a suggestion in reference to secretaries and clerks to commanders of squadrons and vessels. If it shall be deemed expedient to give these positions to officers and thus compel them to employ their time otherwise than in the pursuit of their professional studies, (which is of doubtful expediency,) then the words "a line" in line 111, page 5, should be stricken out, and the word "an" inserted, as there is no reason why they should not be taken from the staff as well as the line.

R. W. T.

The amendment was agreed to.

The next amendment was, in line 540, to increase the total amount of the appropriation for pay of officers of the Marine Corps from "\$614,455" to "\$614,815."

The amendment was agreed to.

The next amendment was to strike out the following proviso, beginning in line 542:

Provided, That hereafter there shall be but one assistant quartermaster, and that the junior captain now holding that grade shall be restored to his place in the line,

and that no more promotions shall be made to the grade of captain until the number is reduced below twenty.

The amendment was agreed to.

The bill was reported to the Senate, as amended.

The VICE-PRESIDENT. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. WHYTE. I wish to offer a substitute for one of the amendments of the committee. I move to strike out from line 461 down to 470, and insert in lieu of that the proposition I send to the Secretary to be read.

The Chief Clerk read as follows:

For pay of employes in the Department of Steam Engineering: for machinist at \$1,095 per year, one machinist, one blacksmith, one boiler-maker, one pattern-maker, one molder at \$912.50 each per year and two laborers at \$1.50 per day each \$6,752.50.

Mr. WHYTE. The Senate will see that instead of my proposition increasing the amount of the appropriation, it leaves it precisely the same as it came in the bill from the House of Representatives. The only difference is that instead of increasing the pay per day of some of these parties it makes the pay payable per annum, dividing the appropriation among them according to the scale in the bill as it came from the House. The employes in this department of the Naval Academy are equal to instructors; they teach the young cadets who are sent there as cadet engineers their whole education for future service in the Navy; and inasmuch as almost every other officer and every other employe of that grade in the Navy is paid by the year, I propose that these men be paid by the year, and it will not increase the appropriation as it came from the House a single dollar, and they will be perfectly satisfied with it as they have told me.

Mr. BECK. I should like to ask the Senator if these men are absent for a month at a time on leave of absence will they not be paid for the year? The difficulty about changing the system is that it furnishes men whose pay goes on when they are off duty, whereas if paid by the day, deducting for absence, they are not absent or idle. I should like to have that control over them. Besides, all the money now appropriated, if they are idle and do not work, goes back to the Treasury, whereas if a year's salary is voted it is gone from us whether they work or not. These reasons I think make the present condition of things better than the amendment.

Mr. WHYTE. If the Senator from Kentucky in the Committee on Appropriations had seen that before, why did he not apply the same rule to the various seamen that are teaching in the different departments? They are paid by the year.

Mr. BECK. Because they are enlisted men.

Mr. WHYTE. That may be.

Mr. BECK. And there is a general law for their payment.

Mr. WHYTE. These men are under the control of the Naval Academy superintendent.

Mr. BECK. But they can retire at any time they please, and the seamen cannot.

Mr. WHYTE. If they remain away from the Academy for a month, the superintendent need not take them back, but can put somebody in their place. That is the advantage of it.

Mr. SARGENT. The trouble is that where they get a yearly salary there will be leaves of absence for a month or two months. So in reference to the force of clerks; every one supposes he has a right to go away and stay a month and be paid the same as if he stayed right on, whereas if a man is paid by the day absence is deducted. That is the control we have. It is very strange that these employes are willing to take a reduced pay. There must be some advantage in it that I do not understand, some eat in the meal that I do not perceive.

Mr. WHYTE. There is an advantage in it. They get paid for Sundays; that is the advantage of it, whereas under the per diem they do not get paid for Sundays. You are willing to increase their pay and increase the appropriation to give them what they would get under this amendment.

Mr. SARGENT. We do not increase their pay one dollar; we simply put them at the amount they received before, which they fairly earned. If they do not work Sundays they ought not to be paid for Sundays.

Mr. WHYTE. You increase them over the pay fixed in the House bill.

Mr. SARGENT. We simply restore the amount we appropriated last year and every other year, and it is not any more than they deserve.

Mr. WHYTE. But what I want is to pay them by the year. They do not get a dollar more than you propose by that.

Mr. SARGENT. The Senator from Kentucky pointed out some excellent reasons, and I certainly could supplement them with others.

Mr. WHYTE. Is it not a good reason for it that you can discharge a man if he fails to attend to his duty and put some one in his place immediately.

Mr. SARGENT. We can do that under either system. If a man works by the day he can be discharged as well as if he works by the year, and more readily.

Mr. WHYTE. No doubt of that; but that is not any objection to my proposition; it is equally against yours.

Mr. SARGENT. Where a man works by the year for the Government, he thinks he is entitled to a leave of absence, and that system has grown up and will never cease unless a law shall be passed that it shall cease.

Mr. WHYTE. We are paid by the year ourselves.

Mr. SARGENT. The Senator objects that we increase over the House appropriation. We increase it on the House system. The House contemplates their payment by the day. Does the Senator contemplate their payment for week days and Sundays?

Mr. WHYTE. I only apply to them precisely the rule we apply to a seaman in the department of seamanship, and to the armorer, corporal, and all these men who are paid by the year. These men are instructors; they are not ordinary laborers; I do not apply it to mere laborers.

Mr. SARGENT. That is one reason why I do not want to cut down their pay.

Mr. WHYTE. I want to pay them by the year, and I do not cut down their pay because now they do not get paid for Sundays.

Mr. SARGENT. It is very strange arithmetic that these men get as much pay under an item of \$6,000 as if we appropriated \$7,000, unless, as the Senator from Kentucky suggests, if a man lays off duty he does not get pay under the present system and the money goes back to the Treasury; but he wants to be above the contingency by having a yearly salary. The armorers, seamen, and the others to whom the Senator has referred are enlisted men and they receive, besides their enlisted pay for that sort of general service which they render in the Navy, an additional amount per annum. It is an entirely different system. These men are not enlisted men. They can leave the service whenever they see fit. They are under no contract for continuous service of any kind whatever as seamen are; they are under no naval discipline unless they commit a breach of the peace on the Academy grounds, and therefore might be liable to some peculiar proceedings of which I am not aware. In every respect they stand like citizens.

Mr. WHYTE. How are your professors?

Mr. SARGENT. The professors are officers of the Navy; they are appointed by the President and confirmed by the Senate as officers of the Navy, and not one of them stands on any other footing. We even call the teacher of languages a professor of mathematics in order to keep up that system which the Senator, I think without the consideration he usually gives to such matters, proposes to interfere with.

Mr. WHYTE. How about the clerks to the Superintendent; what is the difference there?

Mr. SARGENT. We always pay clerks by the year.

Mr. WHYTE. These men are instructors and they ought to be paid by the year.

Mr. SARGENT. They are only instructors incidentally, not principally; they are principally mechanics.

Mr. WHYTE. They teach the cadet engineers all they learn.

Mr. SARGENT. Then the cadet engineer learns very little by the course of instruction at the academy; that is all I say. The cadet engineer studies a great many departments of knowledge, and among others mathematics, which these men do not teach and are not capable of teaching.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Maryland.

The amendment was rejected.

The VICE-PRESIDENT. The question now is on concurring in the amendments made as in Committee of the Whole.

The amendments were concurred in.

Mr. ANTHONY. I should like to ask the Senator in charge of this bill why on page 14 the expenses of the Naval Asylum at Philadelphia are to be paid out of the income of the naval pension fund. Has that been customary?

Mr. SARGENT. Yes, sir. The bill does not make any change in that respect.

The amendments were ordered to be engrossed and the bill to be read a third time; and the bill was read the third time, and passed.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a copy of a letter from the Quartermaster-General relative to the appropriation for the service of his office as made by House bill No. 4104; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of War, transmitting a communication from the Paymaster-General forwarding an estimate for collection and payment of bounty, prize-money, and other claims of colored soldiers and sailors and also a communication from the Adjutant-General on the same subject; which was referred to the Committee on Appropriations, and ordered to be printed.

HOUSE BILLS REFERRED.

The joint resolution (H. R. No. 151) directing the Secretary of the Treasury to refund to the Society of the Sons of St. George, established at Philadelphia, the sum of \$1,440.25 in gold, being the amount paid by said society upon a colossal statue of St. George and the Dragon, was read twice by its title, and referred to the Committee on Finance.

The joint resolution (H. R. No. 152) to enable the joint commission to carry into effect the act of Congress providing for the completion of the Washington Monument was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M.

ADAMS, its Clerk, announced that the House had passed the following bill and joint resolution:

A bill (S. No. 691) to amend an act entitled "An act to provide for the sale of certain New York Indian lands in Kansas," approved February 19, 1875; and

A joint resolution (S. R. No. 22) providing for a place of deposit for the records and proceedings of the commission appointed under the act entitled "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," approved January 29, 1877.

The message also announced that the House had passed a bill (H. R. No. 3924) to authorize the survey of the Cattaraugus Indian reservation, in the State of New York, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the enrolled bill (H. R. No. 2287) to authorize the Secretary of War to prescribe rules and regulations to be observed in the preparation, submission, and opening of the bids for contracts under the War Department; and it was thereupon signed by the Vice-President.

THE PACIFIC RAILROADS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 15) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act, the pending question being on the amendment submitted by Mr. CHAFFEE.

Mr. BAYARD. Mr. President, it is difficult to overrate the importance to the people of this country of a proper decision of the measure proposed by the Committee on the Judiciary, and that importance is the only excuse I shall offer for continuing the debate, which has been so thoroughly conducted on both sides of the question, yet I feel a responsibility attaching to the action of each member of the Senate in regard to so far-reaching and important a subject and from which he cannot divest himself.

The amount of money alone involved has been stated, and as I believe correctly, at simple interest will amount to the enormous sum of \$120,000,000, or if subjected to the custom of merchants, and the rests in the calculation of interest were made that are common in the business transactions of this country, it would reach the mighty sum of \$170,000,000 at the maturity of the bonds issued by the Government to these companies. I know that of late days the people of this country have had their ears accustomed to the repetition of sums, the force and meaning of which are but little comprehended. If the morality of a people is bound up, as I believe it to be, with a reasonable degree of prosperity, then I say that such enormous debts as have been so recklessly created, and are oftentimes so lightly discussed, are incompatible with that prosperity which is the necessary associate of political morality. It will be vain to sing paeans to public credit and to public honor, and disregard those practical rules of economy, of self-denial, of rigid observance of contracts, which are essential to their preservation.

But there is, even irrespective of this vast sum of money, a still greater, because it is a more continuing, question raised as to the legislative power of Congress, by way of amendment or repeal, to correct the errors or the impolicies of preceding legislation. In this case we find the question raised as to the power and duty of the Government of the United States toward two artificial persons, who have been placed in charge, for public purposes, of a vast amount of public property, to further a great public end, in the construction and maintenance of a continuous line of railways binding together the Pacific and Atlantic coasts of this continent. The creation of these railways was not simply for the development of the central portion of the continent, and to make a new route of commerce between Europe and Asia conducted through the United States; but there was a great political object, to strengthen the bands of union between distant portions of this great Republic, and to effectuate this, two acts of Congress were passed, one in 1862, and the other in 1864, amending and enlarging the means whereby this great work was to be accomplished through the agency of two corporations, one then created by Congress, and the other claiming existence under the laws of the State of California employed in co-operation, with extended and renewed powers beyond the scope of its original charter from the State of California.

Sir, this was called by the Supreme Court in the case in 1 Otto at page 81 "a national undertaking for national purposes," and "a national work originating in national necessity and requiring national assistance." To this end the credit of the people of the United States and their Government was loaned by scores of millions of dollars; the public lands, the property of the American people and the generations who are to succeed them, was granted on a scale and to an extent truly imperial. To whom did this vast property and dominion belong? It was wholly the property of the nation. Under whose control was this negotiation made? By the governmental agencies

of the American people who had no jot or tittle of power to part with one acre of land or one dollar of money excepting for a public use.

There seems to me throughout this debate to have existed in the minds of some Senators a confusion, that whereas private property may at all times be taken for public use upon just compensation being rendered, the converse of the proposition is wholly untrue, and under no pretense can public property be justly taken for private use.

But, Mr. President, I do not propose to weary the Senate by repeating the history of these gigantic grants, or to criticize the spirit and means through which they were enacted into law. The time of their enactment was not favorable to serenity or calm judgment. The people of America were in the throes of a dreadful strife in which human passions and emotions were excited to the utmost for good or for evil, and the temper and tone of the hour extended itself in a great degree to their representatives in the Halls of Congress. It is to be expected that in times of great popular excitement a great deal will necessarily creep in that calm retrospection would disapprove, that calm inspection at the time would have excluded.

But, sir, we must not forget, in considering the proposition now before the Senate, the true origin and history of these undertakings, what was the paramount and continuing object of the creation of these corporations and their endowment, and learn, so far as we may, what has been their action in the past, in order that we may know how to adjust our action to the probabilities of the future. It is therefore with the intent only of gaining light from the past history of the action of these corporations, that I propose to refer to an examination, thoroughly and carefully made by a responsible branch of the Government a few years since.

In 1873 a select committee of the House of Representatives was appointed under a resolution to make inquiry in relation to the affairs of the Union Pacific Railroad Company, the Credit Mobilier of America, and other matters specified in said resolution and in other resolutions referred to the committee; and they submitted their report on the 20th of February of that year, being No. 78 of the third session, Forty-second Congress.

At page 2 of the report I find so well stated the objects of the acts of 1862 and 1864 that I shall employ the language of the committee in preference to my own:

The purpose of the whole act was expressly declared to be "to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the Government at all times, but particularly in time of war, the use and benefit of the same for postal, military, and other purposes."

Your committee cannot doubt that it was the purpose of Congress in all this to provide for something more than a mere gift of so much land and a loan of so many bonds on the one side, and the construction and equipment of so many miles of railroad and telegraph on the other.

The United States was not a mere creditor, loaning a sum of money upon mortgage. The railroad corporation was not a mere contractor, bound to furnish a specified structure and nothing more. The law created a body politic and corporate, bound, as a trustee, so to manage this great public franchise and endowments that not only the security for the great debt due the United States should not be impaired, but so that there should be ample resources to perform its great public duties in time of commercial disaster and in time of war.

This act was not passed to further the personal interests of the corporators, nor for the advancement of commercial interests, nor for the convenience of the general public alone; but in addition to these the interests, present and future, of the Government, as such, were to be subserved. A great highway was to be created, the use of which for postal, military, and other purposes was to be secured to the Government "at all times," but particularly in time of war. Your committee deem it important to call especial attention to this declared object of this act, to accomplish which object the munificent grant of lands and loan of the Government credit was made. To make such a highway, and to have it ready at "all times," and "particularly in time of war," to meet the demands that might be made upon it; to be able to withstand the loss of business and other casualties incident to war and still to perform for the Government such reasonable service as might under such circumstances be demanded, required a strong solvent corporation, and when Congress expressed the object and granted the corporate powers to carry that object into execution, and aided the enterprise with subsidies of lands and bonds, the corporators in whom these powers were vested and under whose control these subsidies were placed were, in the opinion of your committee, under the highest moral, to say nothing of legal or equitable obligations, to use the utmost degree of good faith toward the Government in the exercise of the powers and disposition of the subsidies.

Congress relied for the performance of these great trusts by the corporators upon their sense of public duty; upon the fact that they were to deal with and protect a large capital of their own which they were to pay in in money; upon the presence of five directors appointed by the President especially to represent the public interests, who were to own no stock; one of whom should be a member of every committee, standing or special; upon commissioners to be appointed by the President, who should examine and report upon the work as it progressed; in certain cases upon the certificate of the chief engineer, to be made upon his professional honor; and lastly, upon the reserved power to add to, alter, amend, or repeal the act.

Here let me advert to the second section of the act of 1864, which provides—

That the Union Pacific Railroad Company shall cause books to be kept open to receive subscriptions to the capital stock of said company, (until the entire capital of \$100,000,000 shall be subscribed,) at the general office of said company in the city of New York, and in each of the cities of Boston, Philadelphia, Baltimore, Chicago, Cincinnati, and Saint Louis, at such places as may be designated by the President of the United States, and in such other localities as may be directed by him. No subscription for said stock shall be deemed valid unless the subscriber therefor shall, at the time of subscribing, pay or remit to the treasurer of the company an amount per share subscribed by him equal to the amount per share previously paid by the then existing stockholders. The said company shall make assessments upon its stockholders of not less than \$5 per share, and at intervals of not exceeding six months from and after the passage of this act, until the par value of all shares subscribed shall be fully paid; and money only shall be receivable for any such assessment, or as equivalents for any portion of the capital stock heretofore authorized.

This important fact is emphasized by the learned judge who delivered the opinion of the court in *The United States vs. The Pacific*

Railroad Company, 1 Otto, who, in considering the mutual rights and duties of the company and of the United States Government, at page 81, says:

The policy of the country, to say nothing of the supposed want of constitutional power, stood in the way of the United States taking the work into its own hands. Even if this were not so reasons of economy suggested that it were better to enlist private capital and enterprise in the project by offering the requisite inducements. Congress undertook to do this in order to promote the construction and operation of a work deemed essential to the security of great public interests.

Here was a comprehensive statement of the purview with which this undertaking was commenced, not only its objects but the means whereby they were to be attained. How has this company executed its part of this undertaking? I shall let the committee speak in their own forcible language, and will here give their names, well known to the country for intelligence and character—one of whom, Mr. Shellabarger, of Ohio, will be hereafter cited by me, as he now appears professionally engaged in opposition to the plan proposed by the Judiciary Committee to protect the company against insolvency. The members who signed this report were J. M. Wilson, of Iowa; Samuel Shellabarger, of Ohio; GEORGE F. HOAR, of Massachusetts; THOMAS SWANN, of Maryland, and Henry W. Slocum, of New York. At page 3:

Your committee find themselves constrained to report that the moneys borrowed by the corporation, under a power given them, only to meet the necessities of the construction and endowment of the road, have been distributed in dividends among the corporators; that the stock was issued, not to men who paid for it at par in money, but who paid for it at not more than thirty cents on the dollar in road-making; that of the Government directors some of them have neglected their duties and others have been interested in the transactions by which the provisions of the organic law have been evaded; that at least one of the commissioners appointed by the President has been directly bribed to betray his trust by the gift of \$25,000; that the chief engineer of the road was largely interested in the contracts for its construction; and that there has been an attempt to prevent the exercise of the reserved power in Congress by inducing influential members of Congress to become interested in the profits of the transaction.

And at page 19, in reference to the provision that *nothing but money* should be paid for the capital stock—and paid in full:

In this case the provision of the charter requiring the stock to be paid for in money has been grossly violated; because, as is apparent, nearly the whole of the stock that has been issued represents no value to the railroad company; or, to state it differently, was issued without any consideration whatsoever.

At page 21 they say:

The statute requiring the capital stock to be paid for in money at par, it has in fact been paid at not exceeding thirty cents on the dollar in road-building, excepting, perhaps, the sum of about \$400,000.

Why, Mr. President, this "road-building" was more than one-half clear profit. To speak more properly that stock was not paid for building the road; it was gratuitously issued as profits to those who contracted to build it. And who contracted to build it? At page 9 of this report the testimony of Mr. J. M. S. Williams, who was one of the contractors, is given:

Question. Then what purpose had you to propose to build a road that had already been built by the company at a cost to them of less than the amount mentioned in your proposition?

Answer. We were identical in interest. The Credit Mobilier and the Union Pacific Railroad Company were the same identical parties. We were building it for ourselves, by ourselves, and among ourselves. There was not \$20,000 outside interest in it.

Mr. President, I do not propose to repeat the sad and shocking history of that Credit Mobilier corporation and its complete identification with the Union Pacific Railroad Company. It is a stain, that will never be wiped out, upon republican institutions. It is something for which conscientious men who, from patriotic motives voted to enact these laws of 1862 and 1864, must ever feel themselves responsible to the people of this country that so much of money the result of human toil was poured into a gulf of riotous corruption and ruinous results. Contracting with themselves, the very corporators, the trustees into whose hands this property of the American people had been so generously given in the sacred trust and confidence that they would use it honestly and only for the great public ends, and in the manner prescribed by the acts of Congress, how did they use it? Availing themselves of this creation of the law by which a mere corporate title shall stand instead of a real person, they dealt with themselves. They dictated their own profits, they sold out the powers for their own aggrandizement that were intrusted to them so generously, so munificently, for the benefit of their fellow-countrymen and succeeding generations.

At page 14 of the report is a short table which I will read, showing the cost to the railroad company of three contracts, and the real cost to the contractors for doing the work; that is to say, the cost that the corporators, directors and officers, knowingly paid to themselves and their associates by way of profit:

COST TO RAILROAD COMPANY.	
Hoxie contract.....	\$12,974,416 24
Ames contract.....	57,140,102 94
Davis contract.....	23,431,768 10
Total.....	93,546,287 28
COST TO CONTRACTORS.	
Hoxie contract.....	\$7,806,183 33
Ames contract.....	27,255,141 99
Davis contract.....	13,629,633 62
Total.....	50,730,955 94
To this should be added amount paid Credit Mobilier on account of fifty-eight miles.....	42,825,328 34
Total profit on construction.....	1,104,000 00
	43,929,328 34

There are other tables here, showing the dividends in stock made by this company to these "contractors" in the Credit Mobilier under the pretense of paying them. I find at page 14 of the report, one Mr. Ham, one of the accountants and experts, explained how upon the balance sheet the aggregate profit of the Ames and Davis contracts was \$37,657,095.43. He was asked how much of it was money, how much bonds, and how much stock. He gave an exhibit, in which \$24,000,000 of stock of the Union Pacific Railroad Company was paid as profit to "contractors" by themselves. At page 24 the committee say, after repeating again the cost of the road:

But we think the corporation and the United States sustain the relation of trustee and cestui que trust. The United States have placed in the hands of the corporation large properties to be managed for a public purpose, for which management the corporators are to be compensated by the gains lawfully made in the employment.

The committee do not doubt that the proceeds of these lands and bonds, as well as of the first-mortgage bonds which the Government has provided to secure by a lien prior to its own, are held as an express trust by this company, and applicable alone to said declared purposes of the acts. Any distribution of the proceeds of either of these funds as profits or dividends to stockholders is illegal as violative of the declared purposes of the trust.

We have, then, the case of a corporation which is a trustee, in the management of persons who have divided the trust funds among themselves, who have promised to pay for its capital stock in cash, which promises they have not kept, and on which they are still liable, and which the corporation neglects to enforce, and who have made contracts with themselves in reference to the trust fund, the profits on which contracts they ought in equity account for to the trust fund upon the most ample principles of equity.

Again, on page 23:

We think the facts we have stated would furnish ground for judgment of forfeiture of all the franchises of the corporation, including the principal franchise, to be a corporation on proper process. According to the American decisions, judgment of forfeiture on *quo warranto* is not followed by an absolute forfeiture to the Government of all the property of a corporation, as was the earlier English practice; but a court of equity in such case has jurisdiction to divide the assets among the creditors or stockholders.

I here call the attention of Senators to this expression:

We have no doubt also of the right of Congress to repeal the charter, which is expressly reserved in the act of 1862, and that on such repeal equity would distribute the assets in like manner. But the objection to either proceeding is twofold: first, it would be harsh and unjust to forfeit the rights of the present stockholders, a large majority of whom have bought their stock in good faith in the market, for the wrong-doing of their predecessors; second, in either case above supposed, equity could only distribute the assets as in case of bankruptcy or death; neither court nor Congress could compel the present owners to embark their property in continuing the exercise of the same franchise under a new organization. The railroad must then stop or be operated by the Government, or be sold at a forced sale in the market. To either of these proceedings there are grave public objections.

Certainly, Mr. President, there were grave public objections, the chief of which would have been, that it destroyed the great object for which these companies were organized, and for which they were endowed with these enormous powers flowing from the property committed to their hands.

I have read this much that we may see the case from testimony which cannot be disputed, for this report is founded upon abundant testimony which accompanies it and which sustains every allegation. No dissenting views were expressed, and it stands to-day as the recorded judgment, accepted and acted upon by the House of Representatives of the United States, after the fullest consideration and examination of all the facts. But the Government did not proceed, as it had a right to do, according to the opinion of this committee, to revoke this charter, to annul any privilege, to deprive them of any right. Proceedings I believe were taken in one of the courts of the United States, to recover from some of these corporators individually, the money which they had transferred to their own pockets in violation of their trust. For some reason or other that effort seems to have been unsuccessful. I care not now to criticise the vigor or the ability of the prosecution, although I have heard both questioned. But we see what has been done in the past, confessedly proven to be done, the complete destruction and perversion of the objects for which these two laws were passed; and what is our condition to-day? Has any remedy been furnished; has any portion of this money been refunded? Have the other provisions of the law been carried out satisfactorily to Congress? No, sir. I do not care to repeat the statements which have been made by the honorable Senator who reported this bill from the Judiciary Committee or his able associates, which stand unchallenged by any minority report or upon the floor of the Senate; but it seems that the sinking fund provided for in the sixth section of the act of 1862 is as yet without one dollar. I mean that up to the 1st of last January not a farthing had been paid, but under a construction of the company or that of their private counsel, which they so readily obey, "net profits" are held to mean whatever the will of the company shall define them to mean, that everything shall be paid in preference to the sum of 5 per cent. net profits.

As to the past this bill proposes no interference, but I believe an adjudication is now pending before another branch of the Government which shall so far as the past is concerned decide the question. As to the future this bill proposes an amendment. It proposes in terms, which have been read in detail in debate, that a sinking fund, a regular annual or semi-annual accumulation of the funds of the corporation shall be established, all of which, be it remembered, are the proceeds of Government bonds or Government lands held by the company in trust for the effectuation of one great object. For whose use is this accumulation to take place? For the sole use of the company itself. It is not proposed that one dollar more shall reach the Treasury of the United States at this time. It is not pro-

posed to hasten the payment of the debt one day, nor to alter the terms of payment, either as to the time of payment or the sum to be paid. It seeks only to provide security, that when the principal and interest shall become due in 1898, or in twenty years from this time, the means of payment shall then be ready to meet and discharge both; so that twenty years hence the company shall be solvent and capable of prosecuting the great object for which it was created and which if insolvent it would be incapable of doing.

This proposition of the Judiciary Committee, which I shall not detail at greater length, has been denounced as an attempt to impair the obligation of a contract, and so to be in conflict with the spirit, not the letter, of the Constitution. Never was there a more palpable misdescription of the object and effect of this measure. It is not an act to impair in any degree the obligation of a contract, but rather an act to assist and promote the performance of a contract, by averting a state of things which will render impossible the great and paramount object for which the contract was entered into, and whereby these corporations are made the agents of the Government and trustees of the public lands and money in order to effectuate it. If no steps shall be taken, and taken promptly, to arrest the present course of the companies, who are selling and dividing everything they can among their stockholders, in twenty years from now no alternative will be presented to the people and the Government of the United States, but that of losing their entire loan, which with simple interest would amount to a sum over \$120,000,000, or else taking into their hands a railway two thousand miles long, subject to a prior lien of first mortgages, the principal of which alone is far more than the cost of building a new road. The United States cannot become the operator of a railway. No government however consolidated in executive power has yet done so successfully; and individual interest and enterprise and the spur of individual profit are essential for the proper management of such undertakings.

Then I ask, can Congress, as the guardian of the money and the interests of the American people, stand by and allow the great object of this work to fail? Can they suffer this road to be sold and pass out of the hands of corporators with whom there is such a contract? It seems to me it would be the clearest default in duty, to which every man among us would be and ought to be held strictly answerable to his constituency. The act of 1862 was altered and amended by the act of 1864; the land grants were doubled; half of the Government transportation was released; the iron and coal, those twin giants of industry and of necessity to a people, on all the lands were given for the purposes of this act; and for what object? For the profit of those corporators, to enrich the stockholders? No, sir. They were given to enable the companies to fulfill and accomplish the great object of their agency.

The honorable Senator from Georgia [Mr. HILL] yesterday said that this company was "not incorporated for the purpose of paying its debts;" but I would say it *was* incorporated to be and remain a solvent instrument capable of performing the objects for which it was created. Its solvency and its ability to pay its debts are essential for the performance of the great object of its creation; and the power that made it can promote the object, by compelling such an administration of its affairs as will enable that corporation to do its duty under the law that brought it into being and by force of which alone it can exist.

I say if from any cause, dishonesty, incapacity or simple misfortune, the great object of the law is imperiled, it is within the inherent as well as expressly reserved power of the Government to protect the object by amendatory legislation, if it be requisite to accomplish that end. Mr. Huntington, the president of the company, admits, as I understand, in his statement before the Judiciary Committee, that insolvency is threatened, but whether he says so is not the question. It is within the competency and the discretion, and the plain duty of the Congress of the United States, to ascertain such facts for the information of its own conscience, and to act as to it shall seem meet and proper under all the circumstances.

Mr. President, the charge that this bill impairs the obligation of a contract, is not only serious as a matter of law, but even more serious as affecting the moral character of the American people. I do not stand here to inquire whether the Constitution, which contains so clear an inhibition to a State, affects in any way by intentment the functions of the General Government. I prefer to make a broader statement.

That property is the creation of law and can securely exist only under a government of laws is certain, and therefore, when by law a right of possession and enjoyment of property has been fairly acquired, it would be wholly subversive of every principle, to admit that it was competent in the law-making power to destroy that which it was designed to create and protect. All such pretensions are met and overthrown by reference to the fundamental principles upon which a government of laws is founded. Hence flows the duty of government, State and Federal, not to impair the obligation of contracts, which means, of course, the moral and legal binding force of laws in existence and under which the contract was created. The right to take private property for public use upon the payment of just compensation is, of course, excluded from this.

The interpretation of contracts is to carry into effect the mutual intent of the parties, and to do this the language they have used, in its just sense and meaning, is taken as the controlling guide. Where the contract is expressed in the words of a statute, the courts are

bound to take the act as they find it, or to use the figure of the honorable Senator from Georgia, [Mr. HILL.] "As the tree has fallen there must it lie."

The binding force of statutes upon courts of justice is well stated at page 85 of 1 Otto, the case of the United States against the Union Pacific Railroad Company. I read the language of Justice Buller in an early case in the King's Bench, cited by the learned Judge DAVIS:

We are bound to take the act of Parliament as they have made it: a *casus omnis* can in no case be supplied by a court of law, for that would be to make laws; nor can I conceive that it is our province to consider whether such a law that has been passed be tyrannical or not.

And Lord Chief Baron Eyre, in a case in 1 Henry Blackstone's reports, said:

I venture to lay it down as a general rule respecting the interpretation of deeds, that all latitude of construction must submit to this restriction; namely, that the words may bear the sense which by construction is put upon them. If we step beyond this line, we no longer construe men's deeds, but make deeds for them.

Then said the Supreme Court:

This rule is as applicable to a statute as to a deed.—1 Otto, 85, 86.

Whether "the law be tyrannical or not" the court must construe it as they find it. Chief Baron Eyre says that "the words may bear the sense" which by construction is to be put upon them. No word can be superadded, and *e converso* none may be subtracted.

Mr. President, such was the rule laid down to the admiration and perfect satisfaction of the Pacific Railroad Companies, in a suit against them by the United States Government, to collect the interest upon the subsidy bonds loaned by the Government, and theretofore paid out of the public Treasury; and it was then, for want of a few simple and customary words to secure the repayment of interest upon bonds payable in thirty years and which had been regularly paid every six months by the United States, that the American people were informed, to what I believe was the astonishment of every one excepting the select few who had been parties to the drafting and passage of those acts under which the decision was reached, that on a loan of its credit by the Government for thirty years, during which time the interest would amount to more than double the principal, no interest whatever should be paid by the party to whom the loan was made, but all payments of interest should be postponed until the principal itself became due!

Is not such a result out of the usual course of business? May I not appeal to the common sense and experience of every man who hears me? What would be the fate of a counsel, of a conveyancer, of any simple scrivener, who should permit his client to make such a loan, in which the interest was so far more important than the principal, and make no provision in the instrument taken for its security for the payment of the interest as it should fall due? It is saying not too much to say that such an agent would be strongly suspected of infidelity to his client, and if not condemned as unfaithful, would be judged so incompetent that employment in similar cases would never happen to him again. I do not desire to criticise the opinion of the court under the law as they found it. It was so interpreted according to the strict letter of the statute, and all through the decision, as rendered by the learned jurist who is at present a member of this body and one of those who favor the present bill, will be found the expression showing that he held himself bound by the letter of the law as it stood, and he sought from no fact to obtain a construction, which would relieve the legislature from the effect of the language which they had seen fit to adopt.

I ask shall not the same rules of interpretation and construction be accepted now? If a single word could not be interpolated in the *casus omnis* of the act of 1862, what is to be said of the proposition now made by the opponents of this bill, to subtract an entire, independent, concluding, and controlling section of an act from its just place and weight in the construction with the remainder? By what canon of interpretation can warrant be discovered to drop an entire section from a statute, and control a statute without having reference to all its parts? Section 22 of the law of 1864 provides:

And be it further enacted, That Congress may at any time alter, amend, or repeal this act.

We are now gravely asked to read that law with that section blotted out. It seems to me not more unreasonable, if the holder of any mortgage should, by the same methods of so-called interpretation, convert it into a deed in fee simple, simply by dropping out the clause of defeasance. One would be just as reasonable, and in my judgment just as successful, when urged before a court learned in the law.

These words "alter, amend or repeal" are words of common use and undoubted signification. Lexicographers give them. They are almost synonymous. Worcester says that alter means, "to change partially, to make otherwise or different, to vary, to modify." "Amend," he says, is "to reform, to correct, to make better, to rectify, to improve, to amend." "To repeal" is "to call back, to recall, synonymous with to abolish," and "to abolish," means "to make void, to annul, to abrogate, to revoke, to repeal." I will not agree that these words can be deprived of any of their usual force and meaning as defined in their common acceptance. I ask with confidence of those who hear me, in the language of Lord Chief Baron Eyre, are they to be permitted "to bear their sense," the sense that universal use and acceptance has always assigned to them? If this reasonable and admitted rule be adopted, is not this question lifted out of all doubt? For if these words are permitted to bear their sense, then the act of Congress of 1862 or of

1864 is open at any time at the will of Congress to alteration, amendment, or repeal.

But, sir, I have sought light from every quarter in this case. There were made before the Senate Judiciary Committee, on behalf of the railroad companies, many able arguments by distinguished men, to whose arguments I have given careful examination, having been supplied with them in printed form, and having read them with the respect to which the character and standing of their authors entitle them. One of the counsel, Mr. Shellabarger, of Ohio, who has so full knowledge of the affairs of this Pacific Railroad, shown by the report in which he joined and from which I gave copious extracts at the beginning of my remarks, undertakes to find a reason why this twenty-second section does not apply to the loan of its credit by the Government, and the honorable Senator from Georgia [Mr. HILL] has taken the same position. At page 56 of the pamphlet of arguments before the Judiciary Committee, printed for the use of the company, from which I now read, Mr. Shellabarger asserts, that the effect of this law compelling the creation of a sinking fund for the protection of the debt, and the preservation of the solvency of the company in order that it may be able to perform its duties under the act, is in effect making a loan due thirty years from the date immediately due; or, in his own words, converting "a thirty-year loan into a call loan," thereby impairing the obligation of a contract, and in order to overcome the power expressly reserved to Congress to alter, amend, or repeal the act he makes this criticism:

First of all, let it be carefully kept in mind that the parts of these acts which tender this loan and fix its terms are in no proper sense parts or elements of the charter or incorporation, and, as such, defining the nature of the corporate life, power, and relations to the public, but, on the contrary, these parts of the act making the loan and fixing the date of its payment are severable and distinct parts of the acts, directed to the tender and making of a loan to the corporation, and to fixing its exact terms. These loan clauses are no more part of the charter proper than they would be, were they embodied in a separate statute, as they might have been.

And again, at the next page:

The parts of these acts which fix the terms of the loan and tender it to us are, in a legal sense, no part of the charter proper, but are in the nature of a commercial and personal contract between two parties, as borrower and lender, having its own distinct and fixed terms as a contract, such parts of these acts are not subject to the same rules of interpretation as are those parts directly creating the corporation and bestowing its powers, and which more immediately affect the public, as public laws.

And following in the track of the counsel for the railroad companies, the honorable Senator from Georgia at page 32 of the speech delivered by him on the 27th of March spoke in reply to a question by Mr. BECK:

Mr. BECK. The act of 1864 gives the right to alter, amend, and repeal. In your mind that is an absolute nullity on that position.

Mr. HILL. I say those words apply to the exercise of the corporate franchise; but they are an absolute nullity as applied to the contract.

Mr. President, by what authority Mr. Shellabarger and the honorable Senator omit the language of the act I do not know. The repealing clause of the act of 1864 does not give to Congress the power at any time to alter, amend, or repeal the incorporation of the company or any of its franchises. It gives to Congress the right to "repeal this act." I ask by what authority is it that you are to apply a different rule of interpretation to one section of an act than to another. It is a rule of construction never doubted, that a law must be read each part having reference to every other part. It is without warrant of any rule of construction known to me, that a concluding and interpreting section of an act is to be read in different senses when applied to different parts of the same law. At page 59 of his argument, Mr. Shellabarger says:

"The provision making this loan," the Supreme Court says, "are outside of the usual course of legislative action concerning grants to railroads, and cannot be properly construed without reference to the circumstances which existed when it was passed."

But nowhere has the Supreme Court said that any one provision or section of this law was to be construed "outside" of the act in which it was contained. It is, with all due respect to the honorable Senator and the able counsel who urged this defense, a perversion and misapplication of the language and meaning of the court. At page 79 the judge said this:

Many of the provisions of the original act of 1862 are outside of the usual course of legislative action concerning grants to railroads, and cannot be properly construed without reference to the circumstances which existed when it was passed.

Will it be believed that this language of the court, construing an act by the surrounding facts of contemporaneous history, should gravely be sought as an authority to control the interpretation of one portion of the act of 1864 by wholly omitting another portion of the act? Judge DAVIS, who delivered this opinion, nowhere suggested the idea that there was anything special or different, more or less restrained, in the power of the Government over one section of that act than over any other section or part. On the contrary, so far as the expression of one thing shall be held the exclusion of another thing, Judge DAVIS did intimate throughout the whole of the opinion that if that power of amendment had been exercised, and words had been found in a statute passed in pursuance of the power, his decision would not have been that which it was. It is the act of 1864 that we are construing; and this expression of the court, which Mr. Shellabarger has forced from its natural meaning, and the phrase which he has torn from its context, when you come to read it, would have application only to the act of 1862, and then only in regard to the con-

struction to be given to the entire act in reference to historical events. I do not dispute the ingenuity of this proposition but altogether deny its soundness or relevancy. Mr. Shellabarger says it "might as well have been a separate act." My answer is that it was not a separate act. It was a single act containing many provisions, but all subject to the final section. The power of the Government to alter, amend, or repeal ran just as much to one part of the act as to any other.

Therefore, to say what it might have been as a separate act is, of course, to state a new case. Nor did the Supreme Court say that any provision of the statute or any section of the statute was "outside" of it, but merely that the whole statute was "outside the usual course of legislation concerning grants to railroads." Nowhere in the whole opinion can any warrant be found for saying that a different rule of interpretation is to be applied to one as against another provision of the act. The honorable Senator from Georgia [Mr. HILL] says at page 14 of the same speech:

It is that the Government is not a party to contracts like these contracts of loan in its character as a sovereign but only as a civil corporation. As a sovereign the Government does not lend money. As a civil corporation it does not legislate. As a civil corporation it is subject to the law of contracts precisely as are individuals. When, therefore, the Government as a civil corporation enters into such contracts, it cannot reserve the right to use its legislative powers as a sovereign to alter, change, or annul that contract to which it is a party. As a civil corporation it can reserve no power which in its character as a civil corporation it does not possess.

But surely the fountain of authority to pass every part and all the parts of this statute is one and the same. The law-making power originated every franchise, every grant, every authority for every contract, and all in the same capacity as the legislative branch of the Government. It reserved to Congress the same right to alter and amend every feature alike, and has the same power over all, and can repeal one or all with equal right and power.

At page 78 of the same book of arguments on behalf of the railroad companies is a letter from Mr. Sidney Bartlett, of Boston, a gentleman so well known and conspicuous for his professional ability, whose powers of discrimination in the use of language are admitted and admired by all and excelled by none. This letter was produced by Mr. Shellabarger in aid of the view he had taken, and in which Mr. Bartlett criticises the power of Congress under this power to alter, amend, or repeal the act of 1862 or 1864 which he restrainedly declares are "debatable if not difficult questions." He uses these words:

The next question raised by the proposed legislation is the following: Under the power to alter or amend, can legislation be sustained which shall make a debt already incurred, and by contract—that is, by charter—made payable with interest in thirty years, payable immediately, in part or in whole?

I merely refer to the use of language by this careful master of the art of language, to show that he uses the charter and the contract as convertible terms, and that, when he speaks of the charter he speaks of the contract, and when he speaks of the contract he speaks of the charter. I submit that this is also the language of the Supreme Court of the United States in the case in 1 Otto; that the contract which is referred to by the court is the contract that was created by the granting of a franchise, and the acceptance by the corporation, or of any act performed by the corporation under the authority of the charter; that you cannot separate one from the other; you cannot detach the contract from the charter; for the charter and its acceptance constitute the contract; the contract was formed by the passage of the law and the assumption of duty under it by the party who accepts the franchise.

No, Mr. President, these arguments are ingenious but they are met by the plain legislative language which cannot be frittered away or argued out of its natural and just force. No case has been cited, or can be cited, all the way from the Dartmouth college case to this day, which contains any such facts as the present. No court ever decided that such an express power of amendment and repeal could not be exercised; but on the contrary, the Supreme Court by a unanimous opinion, in the case of Tomlinson vs. Jessup, 15 Wallace, which has been referred to, have given the fullest effect to the power of reservation of a charter and of all the contracts under it. I read from page 459. The case has been cited before but I read now from it in order to sustain the position which I have taken:

The power reserved to the State by the law of 1841 authorized any change in the contract as it originally existed, or as subsequently modified, or its entire revocation. The original corporators or subsequent stockholders took their interests with knowledge of the existence of this power, and of the possibility of its exercise at any time in the discretion of the Legislature. The object of the reservation, and of similar reservations in other charters, is to prevent a grant of corporate rights and privileges in a form which will preclude legislative interference with their exercise if the public interest should at any time require such interference. It is a provision intended to preserve to the State control over its contract with the corporators, which without that provision would be irrevocable and protected from any measures affecting its obligation.

Immunity from taxation, constituting in these cases a part of the contract with the Government, is, by the reservation of power such as is contained in the law of 1841, subject to be revoked equally with any other provision of the charter, whenever the Legislature may deem it expedient for the public interests that the revocation shall be made. The reservation affects the entire relation between the State and the corporation, and places under legislative control all rights, privileges, and immunities derived by its charter directly from the State.

There was also a more restrained power of amendment and repeal contained in section 18 of the act of 1862, and I am disposed to believe with the committee of the House, that there might have been full warrant for the present law or for the repeal under that. But looking

at the fact, as stated by the Supreme Court in *1 Otto*, that the enterprise languished and virtually had failed, and but for the act of 1864 would have had no vitality, is not clearly one of the considerations for the passage of the law of 1864 and its acceptance by the company, with all its enormous grant of money and land, the expressed and unrestricted reserved right "to alter, amend and repeal," with no limit but the discretion of Congress, enlightened by reason and justice, and acting in subordination to the great first principles of the social compact for the protection of property lawfully acquired?

Mr. President, there seems to me a strange insensibility on the part of the American people to the immense practical importance of this legislation. The apparent indifference with which they witness the enactment of laws, by force of which they and their posterity are saddled with debts of enormous magnitude, amazes me—nor is my surprise lessened to see members of either branch of Congress, who desire and expect to be maintained in their positions as popular representatives, so hastily and recklessly dispose of the hard-earned property of the people, and yet expect to retain their confidence and approval. When I contrast the coolness and indifference with which measures involving such enormous pecuniary interests to the whole people are acted upon, with the excitement I have seen in this Senate and in the other House over some such comparatively small matter as the payment of a few thousand dollars more or less to the Chief Magistrate of the Union; when I have seen special bills brought in here, and valuable public time occupied, and an immense degree of interest excited and sensational attention given by the press and people to the question whether the Chief Magistrate of this country should receive \$50,000 a year or \$25,000, or whether the Supreme Court judges should receive two or three thousand dollars more or less of salary, or whether the Cabinet officers should be advanced to a rate that would support them a little more independently without draining their private resources to maintain the official hospitalities expected from them, or when members of Congress themselves are to have their pay advanced so that there shall be an equalization of receipts by all, as based upon the present mileage allowance—when I see all this popular interest and excitement on such subjects and then see votes given and bills passed which carry away from the public Treasury, and into the coffers of corporations and the pockets of skillful lobbyists—not money by thousands—but millions, such sums as by comparison render the expenses of the executive branch mere drops in the bucket, I cannot but be amazed. Here we are in this bill dealing with sums so great, that the question of executive or legislative or judicial salaries is utterly dwarfed in comparison, and yet there seems to be no popular comprehension, and sometimes I think very little congressional comprehension, of the gravity of the amounts involved and the consequences to our Government.

We were discussing here a few years ago the question of the pay of the Chief Magistrate, and some Senators were asserting that that which barely paid the actual expenses of George Washington in 1789 was quite enough and more than enough for his successor in 1876; and I happen to turn to a bit of testimony found on the second page of the report on this same *Credit Mobilier* subject, in which the salary paid to one Mr. Franchot as an agent for one of these companies is stated, upon whom was devolved the onerous duty and incredible hardship of spending the winter in Washington and "watching the interests of the Central Pacific Railroad Company" for which service the small remuneration of \$20,000 a year was allowed! I know not what may be the allowances of the presidents and high officers of these great corporations, but I suppose they all are in the same proportion; and such sums are mere flea-bites, so to speak, compared to the millions taken every year from the Treasury of the United States in the payment of interest on these subsidy bonds, every dollar of which represents some human being's toil from sunrise until sunset.

Mr. President, these great debts, which are being piled upon the toiling masses of this country in total disregard of the sufferings which are causing one universal groan to arise all over the land, are greatly to be deplored and dreaded in their results—but still more formidable is the question of the inroads upon and the overthrow of the great republican idea of disintegration, and distribution of power. The possession of irresponsible power never failed in human history to corrupt its possessor. Well did our forefathers know it. They knew that power, like jealousy, grew with what it fed upon, and in many modes in building up this Government they sought to check its growth.

They did not intend that the individual should wither, but by encouraging individuality they sought to encourage the growth of men. They sought, not strength by massing weakness, that atom might protect atom, but, by creating the greatest number of vigorous integers, to make the state strong. Out of individuality grows competition; out of consolidation grows monopoly. Hence their political institutions, the abolition of rank and title, abolition of the rule of primogeniture, an equal division of estates without regard to sex, the subjection of lands to the payment of debts, the equality of all men before the law, wide-spread suffrage, destruction of entailed estates, limitation upon devises, all tending to facilitate the distribution of wealth and power and to prevent perpetuities. And yet the doctrine and practice of incorporation was suffered to creep in, destroying as it does individuality, consolidating as it does all power and making its owners morally irresponsible, creating artificial beings who never die and whose estates are never to be distributed, but are perpetual.

Mr. President, the consequences of this may be remote, but to my eye they are certain. It is the creation of power without moral and legal responsibility, and that is fatal to any form of government under which it shall be encouraged or permitted to exist.

The consequences of this measure now proposed are intended not for to-day so much, as for a future time when few or none of those of us who now discuss it will be here. It is for the future that this law is prepared; it is for generations perhaps yet unborn that this law is demanded. I hold it to be the duty of Congress to assert, and to exercise in the spirit of high and wise discretion, its reserved power over the great public interests touched by these corporations. I hold that nothing can justify the release of any portion of that power. I hold that no compromise of any kind can be discussed in relation to that power. This is no mere grant of land, it is no mere grant of money, because the grants of both have reached such a magnitude, that the power contained in their possession becomes political power; and it may well be that, in the generations yet to come, the vast population who are to inhabit the grand territory traversed by these railways, to fill it with American activity and enterprise, over whose necessities of transportation, over whose necessities for fuel, over whose necessities for the arts and occupations of life as connected with iron, the great working metal of the world, and coal its necessary coadjutor—it may be that those people will come to ask whether they are to live under the principles of a free constitution or under the by-laws of a corporation, which is without restraint except those limitations that human endurance will ever put upon power, let it assume what shape it may.

Sir, I hope and pray that this Congress will not release one iota of its power of amendment, alteration, or repeal over the acts which brought into being these artificial persons and created them the agents of the American people, to use the money and the property of that people for the public welfare and not for private profit. It is my sense of the importance of this bill, of the magnitude of the consequences involved in the decision of the Senate that has induced me to detain it so long.

Mr. JOHNSTON. Mr. President—

Mr. THURMAN. Before the Senator from Virginia proceeds, I rise to give notice that I shall ask the Senate to sit this bill out to-day.

Mr. EATON. I hope the Senate will not do anything of that kind. This is a matter too large to be sat out to-day, in my judgment.

Mr. PADDOCK. Do I understand the remark of the Senator from Ohio to be more than a suggestion that we shall sit it out to-day?

The PRESIDING OFFICER. (Mr. INGALLS in the chair.) The matter rests wholly with the Senate.

Mr. PADDOCK. There is no motion.

Mr. JOHNSTON. Mr. President, before proceeding to discuss the two bills reported respectively from the Committees on the Judiciary and Railroads, touching the debts due from the Central Pacific and the Union Pacific roads to the United States, I consider it appropriate to make a brief statement of the

FACTS OF THE CASE.

The first law authorizing the construction of a railroad from the Missouri River to the Pacific Ocean was passed July 1, 1862, and reserved to Congress the right at any time to add to, alter, amend, or repeal the act. The United States were to issue their bonds for the use of the companies, bearing 6 per cent. interest, which aggregated for the Union Pacific \$27,236,512. These bonds constituted *ipso facto* a first mortgage upon the roads and all their stock, &c. On the 2d July, 1864, another law was passed which contained a proviso differing only from that in the law of 1862 in that it omitted the words "add to." This last permitted the companies to borrow money and issue their bonds for it to an amount not to exceed the bonds issued by the Government and displaced the first mortgage of the Government and gave these last-named bonds the priority.

Under this authority the Union Pacific issued its 6 per cent. bonds for \$27,232,000, which are a first mortgage. The annual interest on the bonds issued by the Government is \$1,634,190.72, payable semi-annually. The annual interest on the first-mortgage bonds is \$1,643,920.

To indemnify the Government for the interest paid by it annually the law allowed the retention of one-half of the amount due each year from the Government to the roads for transportation of troops, supplies, mails, &c., and also required the companies to pay each 5 per cent. upon their net earnings. As was only to be expected, a difference arose between the roads and the Government as to what constituted net earnings. The Government said that net earnings were what remained after deducting from the gross income nothing but operating expenses. The roads said that net earnings were only the residuum of income after paying all just and lawful obligations. The 5 per cent. on net earnings payable to the Government under existing laws is in round numbers \$250,000 and the one-half transportation amount \$421,000, which together make \$671,000. The interest paid by the Government annually on its Union Pacific Railroad bonds is as stated above \$1,634,190.72. Deducting the sum received by the Government from the interest it pays and we have \$863,190 paid out each year by the Government in excess of what it is entitled to and can take under the present law. The whole interest paid by the Government to this time is \$15,969,801.45, of which \$5,134,327.84 have been repaid by the company in the manner prescribed by law, leaving \$10,835,473.61 still unpaid. But the company claims further credits

amounting to \$2,899,652, which if allowed will leave the balance due the Government of interest paid by it of \$7,935,216.1.

The condition of the Central Pacific is very similar. The loan to it and to the Western Pacific is \$27,555,120 at 6 per cent., the interest paid by the Government in semi-annual installments being \$1,671,340.80. The interest paid by the Government and not refunded is \$13,508,338.65.

The half-transportation account for the past warrants an estimate for the future of \$200,000 each year, and the 5 per cent. of net earnings may be put upon the same basis at \$300,000, making half a million in all. Taking this from the interest paid by the Government, it leaves the road in arrear each year about \$1,170,000.

The Committee on Railroads, in the elaborate and able report presented by them on this subject, estimate that at the maturity of the bonds issued by the Government to the two roads, the Union Pacific and the Central Pacific, principal and interest, will amount to \$154,258,137. If no sums are paid to the Government by the roads except as now provided by law, the committee estimate that after deducting credits already given and those to be annually received, the roads will be in arrear the enormous sum of \$120,000,000 to the Government alone. Add to this the principal of their first-mortgage bonds—for they are paying the interest on them—which is in round numbers \$55,000,000, and we find that twenty-two years hence—not a long time in the existence of a government or a great public corporation—the debt of the two roads will be \$175,000,000.

THIS IS A SITUATION FULL

of peril to the Government and to the stockholders of the road themselves. There is danger that the Government may lose the whole or at least a large part of its debt or be forced into the purchase of the roads, and I would consider this last alternative a greater evil and a result more to be deplored than the loss of all the money. I would never be willing to see the United States become owners and managers of a large railroad corporation. Carried on as it would have to be by an immense corps of officers and employes, it would never be profitable. It would add to the already overgrown patronage of the Executive, afford another opportunity for official plunder and dishonesty, swell and enlarge the powers of the General Government. It would be an utterly irresponsible corporation, doing absolutely as it pleased and liable to nobody for damages for anything. No session of Congress could occur in which its affairs would not be the subject of debate and probably of legislation.

On the other hand the purchase of the roads by either Congress or any other party for any sum less than the lien upon them would destroy the stock and be attended with its total loss to the stockholders. So that

BOTH THE PARTIES

have every interest to agree upon some measure. The stockholders ought to strive to save their stock and retain control of the road, and the Government to save itself if it could without having to buy and carry on a railroad.

THE ENDS TO BE ATTAINED ARE:

1. To save the Government as far as possible.
 2. To interfere as little as may be with the control of the road.
 3. Not to disturb any vested rights.
 4. Not to destroy the stock, but to leave the roads at the end of the century free of debt, the stock unimpaired in value, and the stockholders in the complete possession and enjoyment of their property.
- If these things can be accomplished everybody ought to be satisfied. Much has been said of the

POWER OF THESE CORPORATIONS

and the fear has been expressed that they would become so powerful as to defy the Government or even govern the Government. But I do not share these apprehensions. To enable companies to accomplish great results great powers must be given them. Without these the enterprises which excite the admiration of the world and affect the commerce, trade, and wealth of all civilized nations would never be completed or even undertaken.

And upon this point

A HISTORICAL RETROSPECT

may not be unprofitable. Under the Stuarts in England monopolies very similar in their powers and appliances to the modern corporation grew up and acquired a control not only of the government but of the whole business of the people, far greater than these companies are likely to do. Their powers were exercised entirely for private advantage, without any regard for the public good. Hume has described their birth and growth, the evils they inflicted upon the country. He says:

James had already, of his own accord, called in and annulled all the numerous patents for monopolies which had been granted by his predecessor, and which extremely fettered every species of domestic industry. But the exclusive companies still remained; another species of monopoly, by which almost all foreign trade, except that to France, was brought into the hands of a few rapacious engrossers, and all prospect of future improvement in commerce was forever sacrificed to a little temporary advantage of the sovereign. These companies, though arbitrarily elected, had carried their privileges so far that almost all the commerce of England was centered in London; and it appears that the customs of that port amounted to £100,000 a year, while those of all the kingdom beside yielded only £17,000. Nay, the whole trade of London was confined to about two hundred citizens, who were easily enabled, by combining among themselves, to fix whatever price they pleased both to the exports and imports of the nation. The committee appointed to examine this enormous grievance, one of the greatest which we read of in English history, insist on it as a fact well known and avowed, however contrary to

present received opinion, that shipping and seamen had sensibly decayed during all the preceding reign. And though nothing be more common than complaints of the decay of trade even during the most flourishing periods, yet is this a consequence which might naturally result from such arbitrary establishments, at a time when the commerce of all other nations of Europe, except that of Scotland, enjoyed full liberty and indulgence.

And referring to a period a quarter of a century later, he says:

Monopolies were revived—an oppressive method of levying money, being unlimited as well as destructive of industry. The last Parliament of James, which abolished monopolies, had left an equitable exception in favor of new inventions, and on pretense of these and of erecting new companies and corporations was this grievance now renewed. The manufacture of soap was given to a company who paid a sum for their patent. Leather, salt, and many other commodities, even down to linen rags, were likewise put under restriction.

It is affirmed by Clarendon that so little benefit was reaped from these projects that of £200,000 thereby levied on the people scarcely fifteen hundred came into the king's coffers. Though we ought not to suspect the noble historian of exaggerations to the disadvantage of Charles's measures, this fact, it must be owned, appears somewhat incredible. The same author adds that the king's intention was to teach his subjects how unthrifty a thing it was to refuse reasonable supplies to the crown.

It would seem that these monopolies had acquired such power and were so securely fixed that they could control both king and Parliament and could never be shaken off. Yet not only were they overthrown and broken into pieces, but some of the best safeguards of English liberty grew out of them in the end. In describing the

FINAL CONFLICT

between them and the people, we seem to be narrating the history of the last few years of our own country. Investigating committees flourished in that day even more than now. In Anderson's History of Commerce it is told that in the Parliament which assembled on the 3d of November, 1740, "debates and speeches on the nation's grievances ran extremely high. The grievances complained of were so many and so various, both public and private, laid before the commons, by complaints and petitions, that there were above forty several committees appointed by that house for examining them; and of all those grievances, that of monopolies gave such offense that the house of commons expelled four of their own members who had been concerned in them, and many other members thereupon voluntarily withdrew themselves from Parliament and others were elected in their stead. In consequence of all which strict inquiries a law was passed which the king was obliged to consent to, 'that a parliament should be held at least once in three years for the future, even although the king should neglect to call it.'"

So these mighty institutions were destroyed, and free parliaments grew out of their ruins.

THE ISSUE

between the Government and the railroads and between the Judiciary Committee and the Committee on Railroads relates to the powers of Congress. It is claimed by the Judiciary Committee, and their bill embodies that idea, that, putting aside all consideration of the general power of Congress over corporations created by themselves, and looking only at the laws passed in regard to these two companies, the right reserved in the acts of 1862 and 1864 to add to, alter, amend, or repeal them, gives the right to pass the bill reported by them. On the other hand, the Railroad Committee insists that the acts referred to and the acceptance and performance of the conditions embraced in them gave the companies vested rights and constituted a contract between the United States and the corporations, which the former was bound by and could not violate; that the parties might make a new voluntary contract, but nothing more, unless the companies were guilty of such default as gave the courts jurisdiction to interfere, and that the words in the law, "add to, alter, amend, or repeal," are mere surplusage and mean nothing.

There is no occasion for claiming that Congress has power to invade vested rights or to impair the obligation of contracts. The bill of the Judiciary Committee does neither. Even the advocates of the bill of the Railroad Committee admit that touching certain matters and in certain events Congress may legislate as to these roads. The distinction seems to me to be very clear. If the proposed legislation is contrary to the original purpose of the charter and does not seek to carry it out, it should not be passed. But if it is only in the line of the first purposes of both parties and intended to execute their original intention and contract, then it is entirely within the powers of Congress. The case of the Holyoke Company *vs.* Lyman, 15 Wallace, quoted by the Senator from Ohio, [Mr. MATTHEWS,] clearly defines and well expresses this. The court says:

Vested rights, it is conceded, cannot be destroyed or impaired under such a reserved power, but it is clear that the power may be exercised, and to almost any extent, to carry into effect the original purposes of the grant and to protect the rights of the public and of the corporations, or to promote the due administration of the affairs of the corporation.

Power to legislate, founded upon such a reservation, is certainly not without limit, but it may safely be affirmed that it reserves to the Legislature the authority to make any alteration or amendment in a charter granted subject to it that will not defeat or substantially impair the object of the grant or any rights which have vested under it which the Legislature may deem necessary to secure either the object of the grant or any other public right not expressly granted away by the charter.

Under this decision it is only necessary to inquire whether the bill of the Judiciary Committee interferes with vested rights or "carries into effect the original purpose of the grant, protects the rights of the public and of the corporations, and promotes the due administration of the affairs of the corporation."

What vested right does it interfere with? It leaves the lands sold

by the companies in the undisputed possession of the purchasers; it leaves the whole management and control of the road in the hands of its owners. It is not a vested right in the stockholders to pay themselves the profits of the road in the form of dividends and leave the debts of the road unprovided for. The original purposes of the grant were the construction of a great highway for the benefit of the public and the promotion of trade and commerce, the loan of large sums by the Government, the repayment of these sums by the roads, and the management in such a manner as to enable them to make the repayment. If the bill will accomplish these things or tends to accomplish them, then according to the Supreme Court it is entirely within the powers of Congress.

Unless the railroad companies deny their obligation to repay to the United States the bonds loaned them, with the accruing interest, they cannot deny the right of Congress to take such steps as may be necessary to secure ultimate payment, if such ultimate payment seems to be endangered. That it is so endangered the roads themselves admit, as has been clearly demonstrated by the Senator from Tennessee in his very able speech.

The Senator from Ohio [Mr. MATTHEWS] says that he "utterly denies the power of Congress to declare that a debt not due is due and to make the debtor pay it before it is payable." The bill of the Judiciary Committee does not declare that the debt owing by the companies is due now to the United States, nor does it attempt to make them pay it before it is payable. When the companies accepted the terms tendered to them by the Government they accepted all the terms—each and every provision of the laws. They could not then be permitted to say, nor can they now, that they took so much as suited them and rejected the rest. Section 5256 of the Revised Statutes, part of the act of March 3, 1873, is as follows:

The books, records, correspondence, and all other documents of the Union Pacific Railroad Company, shall at all times be open to inspection by the Secretary of the Treasury, or such persons as he may delegate for that purpose. The laws of the United States providing for proceedings in bankruptcy shall not be held to apply to said corporation. No dividend shall hereafter be made by said company but from the actual net earnings thereof; and no new stock shall be issued or mortgage or pledges made on the property or future earnings of the company without leave of Congress, except for the purpose of funding and securing debt now existing or the renewals thereof. No director or officer of said road shall hereafter be interested, directly or indirectly, in any contract therewith except for his lawful compensation as such officer. Any director or officer who shall pay or declare, or aid in paying or declaring, any dividend, or creating any mortgage or pledge prohibited by this act, shall be punished by imprisonment not exceeding two years, and by fine not exceeding \$5,000.

Now, Mr. President, suppose the attempt should be made to throw the Union Pacific into bankruptcy, no other corporation and no individual in the whole nation being entitled to that exemption, would not the railroad company protect itself under this section? And could it do this without admitting and yielding to the force of all the other provisions of the act? This section contains this provision very applicable to the present condition of things:

And no new stock shall be issued, or mortgages or pledges made, on the property or future earnings of the company without leave of Congress, except for the purpose of funding and securing debt now existing, or the renewals thereof.

When they agreed that Congress might add to, alter, amend, or repeal the acts, they agreed to a certain extent to put Congress in the place of the courts and to allow that body to protect the Government by legislation instead of by appeal to judicial tribunals. Having agreed to this they cannot now plead to the jurisdiction of Congress. They said in substance that "We consent that you may add to, alter, amend, or repeal our charters, and we do this in order to put it in your power as a legislative body to protect the Government in the large loan now made to us, and to compel us to carry out in good faith all our obligations and duties, and especially the duty of repaying the advances made to us. To effectuate these things we are willing to substitute you for the courts."

Their agreement that Congress may do this is part of their contract, since it is insisted so strongly that a contract exists between the Government and the companies.

The view taken of the powers of Congress by the Judiciary Committee receives countenance from the provision of section 5256 of the Revised Statutes, which exempts the Union Pacific from the operation of the bankrupt law. This was probably done because it was considered that the Government had ample means of protecting itself under the provisions of the acts of 1862 and 1864. There is no other reasonable explanation of this feature of the act of 1873. When the Government as a creditor surrendered its right to throw the road into the bankrupt courts it must have been because it had in its own hands the means of self-protection.

The right of Congress to take steps for present protection to avoid ultimate loss is only the right secured to the creditor by statute law in every State in the Union, and is also one of the best-established features of equitable jurisdiction. If a man owes a debt not due for years to come and is absconding or removing his property an attachment lies to seize upon the property and hold it for the security of debt. The debt is not due, and the court does not so declare, yet the court sees that it is secured or that the debtor's property shall be held to answer it as far as it will go.

It is upon this same principle that courts seize upon railroads, displace the directors, and put the whole in the hands of receivers; that foreign attachments in equity lie; that injunctions are awarded; that bills "quia timeo" are maintained. We proceed now against these

railroad companies because "we fear" that if we do not the Government will sustain a loss. And we fear so for the best of reasons; at least for a reason that the companies cannot dispute; that they themselves have told us so.

Now are there any special facts which justify the interference of Congress? I insist that there are.

The first duty of every corporation is to provide for the payment of its debts and to apply its means to that end. They should not be permitted in the same breath to declare and actually pay large dividends and to proclaim their own insolvency. Law and good faith both require them, if their income and assets are not sufficient to pay both debts and dividends, that the former should be paid to the exclusion of the latter. But that is not the mode of procedure of the companies. They seem inclined to say, dividends first, debts afterward; that is, if there is anything left after paying dividends. And this not only gives the right but makes it the imperative duty of Congress to interfere.

But this is not the only reason. The law of 1864 declared that the bonds loaned by the Government should constitute a lien upon all the property of the companies. This is the provision:

And to secure the repayment to the United States, as hereinafter provided, of the amount of said bonds so issued and delivered to said companies, together with all interest thereon which shall have been paid by the United States, the issue of said bonds and delivery to the companies shall, *ipso facto*, constitute a first mortgage on the whole line of the railroad and telegraph, together with the rolling stock, fixtures, and property of every kind and description, and in consideration of which said bonds may be issued.

Suppose the roads take their means and instead of paying their debts divert their means to other purposes and invest them in property not subject to the mortgage of the United States; what then? Would not this make a just case of interference? It is no matter how profitable to the roads themselves this may be, because their profits derived from this source do not help the Government. They could keep on indefinitely; could continue to invest in other property which would add to their own means and give them increased dividends. They could in this way gradually but surely slip from under the Government mortgage as to much of their assets. That this process is going on, we find from the report of the Secretary of the Interior to this session of Congress, and the documents accompanying it. On the subject of branch roads the Government directors in their report of 1878 say:

With regard to the advances which the Union Pacific Company has made in aid of the roads mentioned, we can but repeat what we said in our report of 1872: "We do not question the wisdom of a policy which tends to secure to the trunk line the business which the said several roads may command. It could not well afford to have said business diverted from it. The policy, however, should be ordered as not to interfere with whatever present or future claim the Government may have for reimbursement." The ability of the company to make the advances referred to shows that it could have returned more to the Government than it has, and raises the question of the power of the company to divert its means into channels not authorized by the law.

The total advances made and the companies aided appear in the following table and those in last year's report:

Investment in Summit County Railroad Company: \$134,500 bonds; 622 shares full-paid stock; 2,759 shares assessable stock, and valuable coal-lands. Estimated value and cost, \$60,000.

Colorado Central Railroad has been aided to the extent of..... \$1,610,497 86
Credits secured by Union Pacific Railroad Company 767,156 20

Balance without interest 843,341 66

The investments in the Utah Central, Utah Southern, and Utah Northern Companies have not been increased during the past year, and remain as stated in the report of the Government directors for the year ending June 30, 1876.

The statement of investments in the Republican Valley Railroad has not yet been received, and will not be in time to be embraced in this report. The Union Pacific Company's investment in this road is regarded as a safe and remunerative one, as very considerable aid has been secured from the counties into which it has been constructed, and the country will supply it with a large local business. The Utah Central, Utah Southern, and the Colorado Central are the most important of the roads aided. These, and the Utah Northern, are reported quite fully in the reports of the Government directors for the years 1872, 1873, and 1876. The Republican Valley road in Nebraska, and the Summit County Road in Utah, involve investments of more recent date.

Aid to other roads is in contemplation by the company; one to the Black Hills region, and one to secure the business of Montana. The Government directors believe that this policy of the company should at all times be held subordinate to its obligations to the United States.

These extracts show not only how extensive have been the investments of the Union Pacific in other roads, but indicate what is to be the policy in the future in this respect. However profitable this may be to the road itself and beneficial to the country at large, still it is, nevertheless, a divergence from the original charter, an enlargement of the powers of the road, and a withdrawal of the assets to purposes not contemplated.

It is admitted by the counsel for the roads, who put in a printed argument before the Judiciary Committee, that the clause reserving the right to amend, alter, or repeal has some meaning and significance, because he says that it "was inserted to protect the rights of the Government in case the companies should fail to build the roads, as was then not improbable that they would do, and the Government should be obliged to take up the unfinished work itself, or so alter the law as to bring in other parties to complete it."

There is nothing whatever in the law to justify this restricted interpretation. If this was the only purpose of the reservation the right to repeal need not have been reserved. But this is a concession on the part of the companies that the reservation is not entirely surplusage,

but that it actually had vital force and means something. And if it is once conceded that the Congress could alter the law for failure to comply in any one respect, it is an admission that it could be legally altered or amended on account of any other failure of duty. If the companies are voluntarily doing anything to impair their ability to pay the Government or if they are putting any of their means out of the reach of the Government, unquestionably they are failing in the performance of one of the duties imposed by the laws.

But while I agree that we can constitutionally impose terms upon the roads and have power to pass the bill reported by the Judiciary Committee, still I do not altogether approve all its provisions. The provision as to net earnings may give right to disputed constructions of the law and litigation in the courts, a thing to be avoided if possible. It would be better to require the roads to pay semi-annually a sum in gross, so many dollars, dependent upon no question of earnings or transportation, but such a sum as the roads could pay without serious injury and as would indemnify the Government in a reasonable time. This sum ought to be paid not in money but in bonds of the United States. There is now a premium upon the 5 and 6 per cent. bonds of the United States, which is likely to continue. If money is paid in, this premium will disarrange all our calculations about the sinking fund, for a million of money will not buy a million of bonds, and thus the sinking fund will fall short of realizing what is expected and desired. But if the companies, instead of paying in money are required to pay bonds, no such difficulty will arise and the effect of the fund can be easily estimated and a calculation will tell with certainty how much it will make by a given period.

Mr. SARGENT. Mr. President, it is conceded on all sides that a sinking fund is necessary, or at any rate desirable. An important difference arises, however, as to the question whether such sinking fund shall be obtained by further contract between the Government and these parties, or shall be the result of the exercise of the will of one of the parties. The extraordinary claim of power to repeal not only the provisions of the charter but legislation affecting property rights, has been perhaps sufficiently discussed. I do not intend to go at any length into that question although I may refer to it incidentally as I proceed in my remarks; but I wish to call the attention of Senators to the fact, and specifically to the fact, that this bill furnishes the occasion for the fattest lawyers' fees, for the most glorious prospects in the legitimate pursuit of their profession, of any legislation in my memory that has ever passed Congress. It certainly cannot be called a statute of repose. It promises no rest either to the Government or the railroad companies.

There is a provision in this bill contingent upon the amount that shall be necessary to pay other obligations besides those due to the Government that the amount required for the sinking fund may be reduced, and one of the elements of calculation is put entirely within the power of the Secretary of the Treasury, who is to allow more than 75 per cent. or less as he may see fit; and one of the points which he is to decide upon is what are the necessary repairs of the Pacific roads. What does this term include? I have no doubt if the question were asked the Senator from Ohio who reports the bill [Mr. THURMAN] and the Senator from Vermont who sustains it [Mr. EDMUNDS] what is meant by "repairs," their definitions would be very different; certainly it would be very different between those who have unfriendly feelings toward these companies and desire to punish them, in the parlance of the prize ring to "punch them," and those who wish to deal fairly with them.

Do these "repairs" include the replacing of worn-out rails or not; and, if so, are iron rails to be replaced with steel rails? A common carrier is liable for accident upon his road unless he uses the very best appliances known to his business. Does this term "repairs" include the substitution for old appliances of those which experience or invention has produced in order to observe the common law in this regard? Does it mean the replacing of wooden bridges and trestle-work, which time makes more and more frail and infirm, by iron bridges as good business sense and tact would require should be done; or is a quarrel to be raised before the Secretary of the Treasury on this question every time a wooden trestle is taken away and an iron one put in place of it?

There is scarcely one of the details of the bill that is not liable to the same criticism. In fact, the bill prepares for an annual contest between the companies and the Government by that clause which goes upon the assumption that 75 per cent. of the net earnings may not pay their operating expenses and their interest on the first mortgage. They must make this manifest to the Secretary of the Treasury, and then he can allow them to retain more than 75 per cent. How make it manifest? Suppose he will not act on this reasonable showing? Suppose he will not take the responsibility of deciding any doubtful point in their favor, for fear of popular clamor or congressional censure? This is likely to happen. It did happen when the Secretary of the Treasury refused to pay one-half of the transportation account, illegally, according to the Supreme Court, and did so before the act of Congress authorizing him to retain it until action by the courts. This power confided to the Secretary of the Treasury supposes a duty on his part, and a right in the companies, which can be enforced in the courts, or should be, and hence it is the theory of the bill that there may be as many suits as there are years before the maturity of the bonds—suits depending upon a complicated tissue

of facts and not upon mere questions of law that a single case would settle.

The first section of the bill goes upon the principle that not only the contract of the companies with the United States can be waived off under this right of amendment, but even any decision that the Supreme Court may make of the contract in favor of the companies may be disregarded. The Senator from Ohio [Mr. THURMAN] explains for the Judiciary Committee the reason why this provision was inserted in the bill, namely, "This section shall take effect on the 30th day of June next, and be applicable to all computations of net earnings thereafter; but it shall not affect any right of the United States or of either of said railroad companies existing prior thereto," by saying:

The reason of this last clause is that a suit is now pending in the Supreme Court of the United States, in which a judicial determination is sought as to what is the meaning of that provision in the charter which provides that the United States shall receive 5 per cent. of the net earnings, and very dissimilar views are taken of the right of the United States under that clause by the law officer of the Government on the one side and by the companies on the other. The law officer of the Government insists that there should be deducted from the gross receipts of the companies nothing but their operating expenses, in order to ascertain the sum upon which the 5 per cent is payable to the Government; in other words, that "net earnings" in that clause of the charter consist of gross receipts, less operating expenses alone. On the other hand, it is contended by the companies that "net earnings" are only what remains to each company after it has paid all its interest upon its debt which is inferior in lien to that of the United States, as well as that which is superior, and all other expenses of every kind and description; that, after deducting all these from the gross receipts, what remains and would be distributable as dividends to the shareholders is the sum upon which 5 per cent. is to be computed and paid.

The Senator says the bill proposes to leave that question to the Supreme Court as far as the past is concerned, but for the future the bill is to substitute the meaning of Congress for what the Supreme Court may say is the proper interpretation of a contract to run by its terms until 1900. By this provision a serious legal question is raised, going to the very root of this legislation, that the Supreme Court must ultimately decide, and that is whether the right of amendment of the charter or contract, "having due regard to the rights of the companies," gives to Congress the power to impair rights vested under it, and which have been judicially ascertained by the highest tribunal of the land.

In short, a contest arises that goes to the very root of the matter. Have we the legal power to pass this bill? The question is by no means the clear one assumed by the Judiciary Committee. The decisions of the courts, from *Marbury vs. Madison*, guard rights vested under legislation against invasion under subsequent legislation and limit the effect of a legislative reservation to alter and amend within boundaries that protect private and corporate rights.

The force of these decisions and of this principle was amply recognized in 1862, when the power to alter, amend, and repeal was limited by the condition that due regard should be had to the rights of the parties. The power conferred by the act of 1864 related to the same subject-matter, and must be construed *pari materia* with that of 1862. In any event, in my judgment, it must be so construed as not to impair the obligation of existing contracts. Sound morals so require. I differ with my colleague in his position on this matter. I do not deem it ridiculous to hold that the nation owes the same honorable dealing to its debtors and creditors that a private man owes to his. We are stronger. We love to call ourselves sovereign. But how long has it been that might makes right or excuses violated faith? And Congress has no more right to violate its promises, either in letter or spirit, to an artificial person, like a corporation, than to a natural person. It has no more right to take back its promises to a corporation that it has created than to one which it has not. While arraigning these corporations for acting in bad faith, let us keep our legislative garments clean.

Undoubtedly any State can enact as part of its general corporation law that all corporations organized under it shall set apart 25 or 50 per cent. of their net earnings for the security of creditors, and if corporations organize under it they cannot complain. But that is not the case here. The Government is a contracting party; in the language of the Supreme Court, it held out inducements for capital and enterprise to embark in this undertaking, one of which was that the interest should not be exacted until the maturity of the bonds, and one-half transportation and 5 per cent. of net earnings should be annually applied on it. Now, after the inducements have had their effect, and capital and enterprise have accepted and built the road, it is proposed to repeal the inducements, to break the promises; and this is justified on the ground of power. I concur with those Senators who say that this is not only a violation of the Constitution by impairing the obligation of contracts, but of those moral instincts and principles of natural justice which underlie society and make civilization possible; and it is not philosophy which finds anything unnatural in this position.

But all these questions are to be decided by the Supreme Court, and we may find ourselves back again where we started, as we were so recently set back.

My colleague objected to the assent of the companies being asked to the modifications of the contract contained in our legislation, and said, as he did in his speech two years ago, that the bill on that theory ought to be transmitted for approval to the presidents of the companies as well as to the President of the United States. The ob-

ject of such assent is to avoid litigation. Such an assent was sought in 1862 and 1864. I do not know that it was then claimed that it was illegal, illogical, unconstitutional, or unfair to submit the bills in that form to the companies for their assent. Section 7 of the original act provided as follows:

And be it further enacted. That said company shall file their assent to this act, under the seal of said company, in the Department of the Interior, within one year after the passage of this act, and shall complete said railroad and telegraph from the point of beginning, as herein provided, to the western boundary of Nevada Territory, before the 1st day of July, 1874.

Where is the impropriety of submitting the present act to the companies for their assent? The subsequent act of 1864 had the same provision for such assent, requiring it to be filed within a year, under the seal of the company. If that act was an exercise of power complete when it sprang from the legislative will, as it is claimed that a law is, that we legislate and do not contract, why require this assent of the companies to its validity, to its going into effect? New conditions are to be now required, and old modes of securing them, if now asked for, are denounced as unusual, unconstitutional, and infringing the dignity of Congress, or submitting to a corporation that which only can be submitted to the Executive. Why, sir, in the State law-books statutes will be found, over and over again, that where modifications are made in the privileges granted to corporations, or restrictions are made on them, the companies are required to file their assent to the act. They might be piled up by the dozen and hundreds to show that I am correct in my remark in that particular.

The Supreme Court of the United States said with reference to this matter that there was not merely a charter but a contract, referring to the Union Pacific Railroad. It might have said with reference to the Central Pacific road that there was no charter but a contract, for the charter was derived from the State of California, and subsequently from the State of Nevada, and those two States, embracing nearly the whole length of its road, authorized it to construct the road through their territories so far as the franchise was concerned. Only one hundred or one hundred and fifty miles toward Ogden were built under any assumed franchise from the Government of the United States. The laws we have passed on this subject, the laws of the State Legislatures, have never gone upon the presumption that it takes only one party to make a contract, or one party to alter it. Or is the animus of this legislation mere persecution, and that which the companies will assent to, however fair, liberal, and just, is to be rejected because they assent to it, to find something that will be distasteful to them? That is worse than the pitilessness of Shylock, for he did not seek to enforce a contract that Antonio had not assented to, or to vary one by his own will. He only asked what was nominated in the bond. Senators are so sensitive when it is suggested that a senatorial majority may be unjust, which by the way it sometimes is, and misinformed and inconsiderate, that they might repel the intimation that the duke made to the merchant of Venice if made by some observer to the railroad companies:

I am sorry for thee; thou art come to answer
A stony adversary, an inhuman wretch
Uncapable of pity, void and empty
From any dram of mercy.

To justify this state of feeling Senators have lashed themselves into fury over the presence of the officers of the companies, at a time when the very life of the enterprises committed to them may be in peril, and have raked over the muck of forgotten slanders for motives for a heat that cannot be disguised. I do not care to go over that beaten track. If there is sufficient motive to be found in the acts of the Credit Mobilier for what would otherwise be inexcusable in this legislation, you stop short of your duty. It seems to me that this contract must be treated as subsisting, or as violated. Either forfeit the property to the Government and administer on it, or cease railing at the men who created it under contract with you while allowing them still to hold it. But this bill, with its declared purpose of still further agitation, gives no promise that these companies can be permanently dismissed from Washington. I fear they will still come between the wind and our nobility. They must do so in self-defense.

But there is a fairness to be observed even in such arraignments. When my colleague computes the cost of the roads as if the full value of the various bonds had been available for their construction and deduces therefrom that no money was paid for stock, he overlooks very discernable facts. It is well known that these roads were built during the period of the greatest depression of the Government credit. Government currency bonds were not worth more than ninety cents on the dollar. Mr. Dillon says that some of their income bonds, for which they have now a sinking fund, were sold at forty cents on the dollar. Labor and material had to be paid for in gold on the Pacific side, and at one period gold was bought at the rate of \$220 in paper, and was always at an enormous premium. The debt now stands in magnified proportions compared with the value of the money loaned by the Government. Thus the proceeds of the twenty-five million eight hundred and eighty-five thousand one hundred and twenty dollars' worth of Government bonds issued by the Government to the Central and Western Pacific Road was but \$19,119,552.92; an enormous shrinkage. Yet the whole amount of nearly \$26,000,000 stands charged against those companies and is to be repaid in full by them in current money when due with the interest. I do not know whether

it will be admitted that any equitable considerations arise therefrom; that the Government should consider that it advanced depreciated money and receives by its contract good money. But it is not fair to assume that the fearfully depreciated money of that day had the purchasing power of good money, or was as much aid in the enterprise as its nominal value indicated.

Again, not only was currency so greatly depreciated as compared with gold, but all articles needed in building railroads were at abnormal prices. Thus rails cost \$100 per ton. Steel rails can now be bought at \$40. Locomotives, of which the Government was a large competing buyer, cost \$32,500 apiece, that can now be bought for \$7,000. All iron, rails, and material for the building of the Central Pacific had to be sent round the Horn or across the Isthmus. Freight which are now \$5 per ton cost from \$25 to \$33 per ton. The freight on a locomotive was \$4,000, nearly its present price. Insurance was at war risks, 17 per cent., that is now 2½ per cent. The road was built through an uninhabited and mountainous country, where was nearly no timber, water, fuel, food, or forage, the Pacific side thousands of miles distant from the real base of supplies. Supplies for man and beast had to be hauled long distances. Even water had to be so hauled, there being none to be had for miles. It was the same with fuel, which had to be hauled eastward over six hundred miles for the use of trains. It is a standing wonder that the road was built at all, considering the engineering difficulties of the Sierras, the depreciation of the currency loaned, and the great cost of all necessary articles.

But after the track was laid across the mountains it was a matter of doubt whether it could be kept open through the winter snows. Ten first-class engines were necessary to a single snow-plow in some storms. Forty miles of snow-galleries were built, as solid in construction as timber and iron could make them, story on story against the sides of the mountains, to catch and carry over the avalanches that swept from the heights above. The cost of these structures on the average was \$100,000 per mile, making the cost of that forty miles for snow-sheds alone as much as building two hundred and fifty miles of road would cost in a prairie country. But add to that the cost of the long tunnels, the deep cuts, the rock-ribbed mountains, which were deeply furrowed to make a bed for the iron track, with the expenses of equipment, stations, and other outlays, and some idea can be formed of the cost of the Central Pacific road across the Sierra Nevada Mountains.

Such a road could not be built without substantial Government assistance. Enterprising men could not have been induced to undertake it and push it through unless the Government had held out prospects of profit to them both in building and running the road; and the Government was liberal in promises, even if the currency in which it redeemed its immediate engagements was subsequently depreciated by the progress of the war. It did not seek to make a close bargain. Viewed from the stand-point of to-day, and now that the country has become accustomed to the benefits of the road so much that it has forgotten the great necessities that induced it, it made a bad bargain. The Judiciary Committee said in 1873 that it was a bad bargain, but there was no help for it.

I am not at all satisfied with the commentary that was made upon this opinion of the Committee of the Judiciary submitted February 24, 1871, by the Senator from Vermont, [Mr. EDMUNDS,] when attention was called to it the day before yesterday by the Senator from Massachusetts, [Mr. DAWES.] This decision or opinion of the Judiciary Committee of that day says as plainly as the English language can say it that there was this bargain made between the companies and the United States, in effect that it was a bad bargain, but that there was no remedy except according to the terms of the contract. I venture to say that not a single man who assented to that report of the Judiciary Committee had an idea that the contract could be avoided by legislation. The very resolution of instruction which led to the report required the committee to ascertain "what legislation, if any, is necessary to compel reimbursement to the Government." They did not suggest any legislation, not a line of it; it is new light which they have acquired since, and this report is entirely in opposition to the report which they have submitted on the pending bill and to all the theories which they have advanced in this debate. They had then something to say about what would be honest on the part of the Government. Their solicitude on that point seems to have vanished; they are now only solicitous about the honesty of the corporations. The honesty and good faith of the Government does not seem to be within their guardianship as it was at that day. On page 4 of that report they say:

It is questionable, however, whether, in a case like this, where the Government, by its legislation, has encouraged the investment of capital in a work of national importance, it would be quite honest or becoming the dignity of the Government to shelter itself behind this technical rule of judicial construction. The stockholders of this company might well say that they understood these acts as they were understood by the two Houses of Congress at the time of their passage. It would be rather harsh treatment to twist out of these acts, by refinement of criticism, a construction unfavorable to the company, and directly opposed to what everybody in Congress and out of it understood to be their meaning at the time they were passed and the money invested.

But what difference does that meaning make under the present theories of this same committee? All they have to do is to pass a ten-line bill and vary it or repeal the whole thing. They may call it all a charter, divested of the character of a contract by their theories, and remedy the whole matter at will.

But furthermore they say :

Your committee were not called upon to criticize the wisdom of these acts of Congress, but to answer as to their true construction ; and in discharging this duty the committee is obliged to report the law as it is, without regard to what they might desire it to be.

And yet they were instructed to report further legislation provided it was necessary. They seemed then to think it was necessary to give it true construction to these laws. Why ? You can wipe out the law and the contract by substituting something else in place of it, under the power to amend and repeal, say the Judiciary Committee at the present day. Why then construe what is so easily obliterated ? They say, then :

It is proper however, to suggest that the company is clearly bound to keep its road in repair and in use ; and any failure of the company in this respect would authorize the Government to take possession of the road.

But nothing short of that would authorize them to do it. Until there was a default they could not proceed, through the courts or otherwise, to wind up the affairs of the corporation.

The refusal of the company to perform the services for the Government provided for by the sixth section, or to appropriate 5 per cent. of its net proceeds, would also authorize the Government to take possession.

All these things the company does, and these are the only contingencies, say the committee of that day, which would authorize the taking of such possession or dealing harshly with the companies.

But while the company shall continue to comply with these requirements, the Government, if it has not all the security it might desire, has all it ever stipulated for, and has no right to complain. And at the maturity of the bonds, if the company fail to pay principal and interest, the Government may take possession of the road, which the company, in the mean time, must keep in use and repair.

Any one who assumes that that opinion can be made consistent with the present position of the Judiciary Committee will be able to demonstrate that black is white, that good morals are bad morals, or any other proposition whatever, no matter what its absurdity. The whole report goes upon the presumption that there is a contract to be construed and not to be violated or set aside, and that the Government must be satisfied with the security which it took at that time and cannot enlarge the security, and if it made a bad bargain it must abide by it.

The Court of Claims in the case of the Union Pacific *vs.* The United States also said it was an improvident bargain but treated it as a bargain binding in the future as in the past. On page 583 of 10 Nott and Hopkins's Court of Claims Reports in the opinion of the court in that case is found the following :

But beyond the confines of all disputed construction there remains one uncontroverted provision in the statute, which seems decisive of the legislative intent. The only party to whom an option was reserved by the act is the Government, and that option is the important right of making the company's services as little or as great as it pleases. If it requires these services, the company cannot withhold them ; if it refuses all employment, the company cannot exact it. As the compact originally stood the Government could keep down this interest without the expenditure of any ready money, by simply furnishing to the company this employment, and it might push the advantage to an unlimited extent, even to carrying the earnings of the road to the liquidation of the debt before it had matured. The subsequent statute, which substituted a half for the whole of the earnings, did not affect the legal import of the Government's reserved discretion nor change the legal relations of the parties, nor vary the construction applicable to the original statute. It was an alteration in degree and not in kind, and still left the company in this matter of service entirely subject to the orders of the Government. In contemplation of law, the wrong and injury of which the Government complains are entirely of its own choosing. Courts of law cannot be invoked to aid persons where they themselves possess the means of redress. If an ordinary party were to come into another court with such a complaint, he would be told : " Either you have willfully withheld this employment from the other contractor or you have been unable to furnish it to him. If the former supposition is the fact, then the fault is your own, and you cannot ascribe wrong to one who, you confess, has always been willing to repay you in the manner which your agreement prescribes. If the latter is the fact, then, because the sources of payment which you provided disappoint you, and because the payment in kind which you elected to take gives you more of the transportation service than you really require, you are trying to shift your loss to other shippers than your own. Your misfortune is really this, that you made an improvident bargain."

I pause here to say that the Government has acted a most unbusiness part toward these companies by not giving them all its transportation instead of shipping by way of the isthmus, where it has had to pay all cash from the Treasury, when it could thereby have applied at least one-half of the cost to the extinguishment of this debt. It is not the fault of the companies, for they have always stood ready to do that transportation as low as for private parties. The interest could have thus been kept down, and perhaps extinguished. As the Court of Claims say, it is a wrong, and one of the Government's own choosing, and it ought not to complain of the accumulation of interest and make it an excuse for rigorous measures, when it had the remedy in its own hands under the contract, and to neglect that remedy was an expensive loss to itself and a gross injury to the companies. Congress should long ago have directed this to be done, and not have left the different Departments, which had transportation to be done but no particular interest in the reduction of this debt, to use other modes of transportation to the Pacific, which took large annual appropriations from the Treasury. The neglect of Congress has partly arisen from the jealousy of rival Pacific Railroad schemers, who feared to have such a law passed lest it would injure the interests of their projected roads when completed. But under the circumstances the accumulation of interest is not an argument against the companies.

But, resuming my train of remark, where is the great misfortune in making an " improvident bargain " provided the bargain may be varied in any way by the legislative will ? Certainly it is a very tem-

porary misfortune. I should like to ask upon that theory where was the use of sending this to the Court of Claims and the United States Supreme Court at all ? Why was it necessary to go through all this machinery to get the construction of a law which was to be repealed as soon as it was construed, and the legislative will substituted for the construction of the courts ? These parties were sent to litigate this matter in the Court of Claims ; they were allowed to do so, and in the Supreme Court ; and these courts sent them back, or sent the United States back, with the assertion that you made an improvident bargain and you must abide by it. How do we propose to abide by it ? By this legislation, by exacting that which we did not exact before, by enlarging the terms of the bargain on behalf of the United States and shrinking them so far as the companies are concerned. That is the logic of the whole proposition. The Supreme Court unanimously confirmed this judgment of the Court of Claims, which was for \$512,632.50 in favor of the company, and no one can read the opinion of the court, delivered by Justice Davis, and not see that the idea is carried all the way through it that a contract binding on the respective parties is being construed one to run till the maturity of the bonds, and not a mere moot case, the decision of which had no binding force on the future relations of the parties.

The court proceed to show that the enterprise was considered a national undertaking, for national purposes, and that the public mind was directed to the end in view rather than the particular means of securing it ; that the road was a military necessity, and that there were other active reasons for it, the protection of an exposed frontier, &c. ; that there was a vast unpeopled territory lying between the Missouri and the Sacramento Rivers, practically worthless without the facilities afforded by a railroad for the transportation of persons and property ; that its construction would develop the agricultural and mineral resources of those regions, bring them forward and make great States of them, turn them first as they have been into organized Territories, and some of them, like Nevada and Colorado, into States. This was pointed out by the Supreme Court as a reason for the bargain which the Government made at that time. They then go on and speak of the difficulty of building the road considered by many persons as insurmountable, building a railroad two thousand miles in length over deserts, across mountains, through a country inhabited by Indians jealous of intrusion upon their rights, and they say :

It is nothing to the purpose that the apprehended difficulties in a great measure disappeared after trial, and that the road was constructed at less cost of time and money than had been considered possible. No argument can be drawn from the wisdom that comes after the fact. Congress acted with reference to a state of things believed at the time to exist ; and, in interpreting its legislation, no aid can be derived from subsequent events. The project of building the road was not conceived for private ends ; and the prevalent opinion was that it could not be worked out by private capital alone. It was a national work, originating in national necessities, and requiring national assistance.

The policy of the country, to say nothing of the supposed want of constitutional power, stood in the way of the United States taking the work in its own hands. Even if this were not so, reasons of economy suggested that it were better to enlist private capital and enterprise in the project by offering the requisite inducements. Congress undertook to do this, in order to promote the construction and operation of a work deemed essential to the security of great public interests.—1 Otto, 81.

The Supreme Court directly recognizes that inducements, extraordinary inducements, were held out because there was an extraordinary work in hand, of great public utility, which the Government could not build properly except through private hands. Now, when the road is completed, these inducements, which undoubtedly were understood by the capitalists whose energy and capital were brought in play to be promised until the maturity of the bonds, these inducements, I say, which the Government then held out are now to be withdrawn and we are to say to them, " Why, we of course got you into this ; we have got you to labor for it ; in the language of the Supreme Court we got you to put your money into it ; but we only meant it until you got firmly fastened into the enterprise and then we would take it away from you ; then we would lay down new and exacting conditions, of which if we had notified you in advance you would not have taken a step toward building the road ; now we will pass a new law and not rest upon the judicial construction of the contract under which you operated. We will pass a new law varying these terms, which will remove the inducements under which you acted." I say every line of this decision goes upon the theory that that is improper, that it is unfair, unjust, contrary to public morals and in violation of the Constitution of the United States. The court say :

It is true, the scheme contemplated profit to individuals ; for, without a reasonable expectation of this, capital could not be obtained, nor the requisite skill and enterprise.

And yet by this bill all hope of profit would be cut off except in a certain contingency ; and the reasonable expectation which grew out of the legislation of that time is to be disappointed by taking away the opportunity of contemplated profit to individuals.

But this consideration does not in itself change the relation of the parties to this suit. This might have been so if the Government had incorporated a company to advance private interests, and agree to aid it on account of the supposed incidental advantages which the public would derive from the completion of the projected railway. But the primary object of the Government was to advance its own interests, and it endeavored to engage individual co-operation as a means to an end, the securing a road which could be used for its own purposes. The obligations, therefore, which were imposed on the company incorporated to build it must depend on the true meaning of the enactment itself, viewed in the light of contemporaneous history.

And further along in this decision they show what these companies

can be required to do, which they say are three things, and three things only:

First, to pay said bonds at maturity; second, to allow the Government to retain the compensation due the corporation for services rendered, and apply the same to the payment of the bonds and interest until the whole amount is fully paid; third, to pay over to the Government, after the road shall have been fully completed, 5 per cent of the net earnings of the road, to be appropriated to the payment of the bonds and interest.—1 *Id.*, 85.

On page 88 the court say:

Compelled as it—

The Government—

was to incorporate a private company to accomplish its object, it proffered the terms on which it would lend its aid. If deemed too liberal now, they were then considered, with the lights before it, not more than sufficient to engage the attention of enterprising men, who, if not themselves possessing capital, were in a position to command the use of it. These terms looked to ultimate security rather than immediate reimbursement, inasmuch as the corporation would require all its available means in construction; and to require it, while the work was in progress, to keep down the interest on the bonds of the United States, might seriously cripple the enterprise at a time when the primary object of Congress was to advance it. There could, however, be no reasonable objection to the application "of all compensation for services rendered for the Government" from the outset, and of "5 per cent. of the net earnings after the completion of the road" to the payment of the bonds and interest. These exactions were accordingly made.

Mr. EDMUNDS. May I ask the Senator a question?

Mr. SARGENT. Yes, sir.

Mr. EDMUNDS. I notice that he reads very fairly the part of the decision that he thinks applies to his views, but I notice one phrase there that he reads, where the court say that the thing arranged for was looking to ultimate security. Now I wish to ask my honorable friend—

Mr. SARGENT. Will the Senator please read the passage? [Handing book.]

Mr. EDMUNDS. I heard the Senator read it. I have no doubt the words "ultimate security" are there. It is at the bottom of the page, I see:

These terms looked to ultimate security rather than immediate reimbursement, inasmuch as the corporation would require all its available means in construction.

I wish to ask my honorable friend what there is in this proposition of the committee for a sinking fund but exactly that thing, ultimate security for the performance of a duty, which I believe everybody agrees rests upon these corporations, to meet their obligations to their creditors, including the United States, when they became due?

Mr. SARGENT. The Senator is very readily answered. Whatever Congress then did in making this contract looking to ultimate security is binding, but it has no right to come in now and enlarge the terms in favor of the United States, in order to still further look to ultimate security. That is all. I was reasoning from the late decision and showing that the court treated it as a contract between the parties; but because the Government has power, through its National Legislature, to express its will in proper cases by law, it is no more potential, in morals or justice, than a private individual dealing with another private individual, to avoid its contracts. It cannot tear up the parchment containing its stipulations and deny to the party of the other part the benefit of them because it can make laws. By what right can it, after having entered into an engagement, accepted by its creditor or debtor, declare that it will be bound differently from the terms of the engagement?

Mr. EDMUNDS. Then "ultimate security" being the thing, and not present payment, that Congress was to look out for, the contract (as the Senator well styles it, an arrangement or contract) provided that the supreme legislative tribunal of the Union, standing indifferent between the people who furnished the money and the people who took it, should have the right in the future to change the constitution of the arrangement. Why is not that a pure exercise of the right of "ultimate security" which the companies themselves agreed to just as much as they did to that part of it which said that they should have the bonds?

Mr. SARGENT. The Senator goes off into another branch of the subject.

Mr. EDMUNDS. Not at all.

Mr. SARGENT. I have no objection to discussing that fully. I have already referred to it. I do not believe that when, in 1862, it was provided that Congress should have the right to alter, amend, or repeal the act, having due regard to the rights of the parties, and subsequently, when, in 1864, they reserved the right to repeal or amend in order to carry out the objects of the act, which were the building and maintenance of a railroad, &c., that they thereby ever reserved or that it was thought by Congress that it reserved the power, or that it was understood by the companies that Congress reserved the power to say the Government will make the interest presently due, when it was to be due only when the bonds became due, or the bonds should be required to be paid before they matured, or more than the 5 per cent. should be retained, as this bill proposes swelling it to 25 per cent., or any other of the exactions which are now proposed could be made. In other words, I believe the power to amend, alter, and repeal was simply to provide that if these parties did not carry out their contract and build a good road, a first-class road, and keep it in repair and give the Government preference in the use of it, the Government would have the right to take it out of their hands and put it in the hands of men who would build it and run it properly. It was simply in reference to those matters that the power to amend or repeal was applied and understood by the parties at the time, and

not to the taking back of the "inducements" which motivated private parties to enter into the contract.

And I repudiate the idea that Congress stands in the impartial relation to these parties which is claimed. Congress is the mere organ of the Government for certain purposes. It does not stand as an umpire between the Government and those who contract with it. In effect it is one of the parties to be bound by Government contracts, and has no right to deny or impair their obligations.

Mr. EDMUNDS. If my friend will allow me, because I have entire faith in the sincerity of his convictions, it seems to me that he does not present the case that is presented by the bill now in hand. He says that it was not understood that Congress should require these people to pay their debt before it was due, as if this were the proposition. But it does not appear to us that this is the proposition. The proposition is, when you strip it of its flounces and furbelows, that each of these corporations shall not put its tolls into the pockets of its stockholders in such a way and to such an extent that it is confessedly impossible for it to meet its engagements; that is all.

Mr. SARGENT. The legislation provided for profits to the extent of 10 per cent. to the corporators and that one-half of the net earnings should be retained by the Government. The Senator's bill provides that the whole of the net earnings shall be paid to the Government—

Mr. EDMUNDS. Oh! no.

Mr. SARGENT. I do not mean the net earnings; I mean the compensation—

Mr. EDMUNDS. No, sir; not the compensation.

Mr. SARGENT. I cannot yield to be interrupted by the Senator unless he lets me complete a sentence before another interruption.

Mr. EDMUNDS. Certainly not. I am only making a suggestion by the courtesy of my friend, and I will not interrupt him to his annoyance for a moment.

Mr. SARGENT. The Senator certainly interrupts me when I am trying to complete a sentence.

Mr. THURMAN. The Senator from California ought not to mistake the bill.

Mr. EDMUNDS. I apologize, because I am acting by the grace of my friend entirely.

Mr. SARGENT. Not merely that; the Senator knows that I am never slow to allow interruptions, even if they come by compleats, as in this case, when the two prominent members of the Judiciary Committee unite their forces. That I have no objection to, only I desire that I may have an opportunity of completing my sentence, and not to be interrupted in the middle of it.

Mr. EDMUNDS. I beg the Senator to believe that I am not disposed to complain of his right to take his own method to discuss the measure.

Mr. SARGENT. I was only going to say, and I will say, if allowed to do so, that by the original contract between these parties, as modified in 1864, it was provided that only one-half of the compensation for transportation should be retained by the Government, the other half to be paid over to the companies. So stated the Supreme Court when the question was submitted to it. That was not only the language but the meaning of the act, as construed by that tribunal, which was appealed to. Now comes in this proposition, and that not merely one-half the transportation money shall be retained in the Treasury of the United States, but that the other half shall be retained there also. Of course it is said it shall be treated as if it were the money of the companies. They shall not be allowed to use it; but we say we will allow them about two-thirds of the interest they could make upon it if they were allowed to handle it themselves; we will seize upon it and put it into our strong box, or put it into our bonds, and the lowest bonds we can devise, and they shall have the benefit of the interest so made, whereas they themselves claim, and unquestionably with truth, that the money in their hands will be worth a great deal more than the interest the Government will allow for it. I am perfectly willing, now that I have completed my sentence, to have the Senator say if that is not a fair statement of the original contract and the modification to be made by this bill.

In view of this decision, which so strongly emphasizes "the inducements held out" by the Government "to procure the requisite capital and enterprise," I again ask, as I did a day or two ago:

Was it understood by the companies and those who were enlisting in the enterprise that subsequently Congress should take back the original land which was given, or that they could subsequently make new conditions as soon as the road was built and was in operation, stating that the whole of the transportation should be paid to the Government and more than the 5 per cent. should be?

To that question the Senator from Ohio [Mr. THURMAN] replied from his seat, "Certainly." Then were these "inducements" mere mockery. Then was the most stupendous confidence game played the world has ever seen; and the submission of any such question to the Supreme Court was a roaring farce. Suppose the Government should now pass an act guaranteeing to the Texas Pacific Company a stipulated interest on its bonds, so many thousand dollars per mile, if the road should be built in such a manner and with such speed, and exacting a mortgage on the completed road as security, reserving a right to alter and amend the act, would it be said, if it left the act unamended until after that company had completed its road, as required, that the Government could refuse to pay the interest, or any part of it, or compel the company to refund the interest as fast as

it was paid, or forgo all dividends to deposit in its hands annually a sum of money not originally stipulated for, as a sinking fund or security? And yet why not, on the principle claimed by the majority of the Judiciary Committee? On that principle no company can rely on retaining the benefits of an executed contract. I warn my friends who are interested in the Texas Pacific road that you may assent to a principle that by and by may destroy you; for who would take your bonds with such practical repudiation insisted on by the Congress of the United States?

My colleague assumes that it is admitted that Congress has a right to alter a contract after default, if I correctly understand him. Everyone will admit that in its original legislation it had a right to reserve any power, and the assent of the companies to the legislation made the reservation binding on them. But it is not admitted that a reservation was made in that original legislation to withhold the promised consideration of an executed contract, but only to retain power to compel the completion and due maintenance of the road, to carry out the objects of the legislation. There is no more power to change a contract after than before a default, but there is a present power to seize property and revenues in case of default which does not exist before default. The assumption that "the right to alter, amend, or repeal is the right to alter every section, every line, word, and syllable of the act, subject only to such limitations as are in the Constitution of the United States," means nothing in view of the limitation contained in the last part of the sentence, or it is flatly denied by the able lawyer who reported this bill from the Judiciary Committee, [Mr. THURMAN,] in reply to the question of the Senator from Maryland, [Mr. WHITE.]

Mr. WHITE. I am rather opposed to this sinking-fund theory, and I supposed there was no impediment to requiring the companies to pay, in addition to the 5 per cent. and the half-transportation account, a sum which would be equal to the whole interest paid semi-annually by the Government.

Mr. ALLISON. And apply it now to payment?

Mr. WHITE. Certainly, apply it now.

Mr. THURMAN. I beg to call the Senator's attention to what in my judgment, and in his I think, as a lawyer, is an insuperable obstacle to that proposition. So far as the 3 per cent. of net earnings and the half-transportation account, which under existing law are applicable annually, to use the very language of the act, to reimburse the Government the interest which it pays are concerned, there is no difficulty whatsoever; but to take a further sum and apply that presently to the payment of the interest of the debt due to the Government, would be to make the bill obnoxious to the charge that we are requiring money from these companies before it is due.

Mr. BLAINE. Why cannot Congress alter the law in that respect?

Mr. THURMAN. Does the Senator mean that we shall alter the law and make the whole debt payable now?

Mr. BLAINE. Under the Senator's theory, where is the particular point at which the Senator from Ohio stops in his volition to alter the law? That is what I want to be instructed upon.

Mr. THURMAN. If the Senator needs instruction it is because he has not listened to me or anybody else who has spoken in favor of the bill of the Judiciary Committee.

Mr. BLAINE. I have listened with a great deal of interest.

Mr. THURMAN. If we had the power, I for one would not be willing to exercise it; but we have never asserted the power to make that which is payable thirty years hence, or now twenty years hence, payable to-day. We have never asserted any such power yet, and I do not think we ever shall.

Mr. CONKLING. When was this debate?

Mr. SARGENT. Last night.

A line of that legislation made the debt due in thirty years, and both as a lawyer and an honest man the Senator from Ohio recoils from altering or amending it. The same principle, I submit, and for the same reasons, should protect other stipulations put in the legislation as "inducements to capital and enterprise" to build the road.

Mr. President, in summing up the great favors which these companies have received from the Government of the United States, the great grants which have been given to them, described in such exaggerated language, it may be worth while to reflect whether those considerations presented by the Supreme Court of the difficulties almost insurmountable, considered by many as too insurmountable to be overcome, should not be considered, and also the fact that the Government for years before and during all the time that the Pacific railroads were being built was taxed for transportation, necessary transportation, far more than the whole amount of annual interest which it pays upon these bonds.

Mr. PADDOCK. Was it not nearly double the amount?

Mr. SARGENT. Yes, sir. The Senate is not in want of official information on this point and has not been for years. Suppose by the loan which the Government made to these companies, which costs it annually \$3,000,000, it has saved \$6,000,000; is not that to be taken into account? Suppose the whole amount of expenditure on account of these roads, if never a dollar was paid upon them, funded up to 1900, is not more than half the amount that the rate of expenditure which the Government was paying at that time, funded into a sum, would reach, I ask if there is not an immense balance on behalf of the Treasury on account of the dealings of the Government with these companies? The Government, says the Supreme Court, wanted to cheapen its immense cost of transportation over these deserts, widely separating the inhabitable parts of the country, and it succeeded in that. A Senate committee in 1871 laid all the facts in reference to this matter before the Senate, and showed that the cost of the mail service to the Pacific coast had been annually increasing for several years before the opening of the road. The committee says:

From June 30, 1860, to June 30, 1861, the cost of the overland route from the Missouri River to California alone was \$354,855.15. From June 30, 1861, to June 30, 1864, the same service from the Missouri River to Placerville, was \$3,210,000, or,

per annum, \$1,070,000. To these sums should be added the steamship service, which averaged, including incidental charges for agents, &c., at least \$300,000 per annum, and the cost from Placerville to San Francisco, about \$50,000 per annum.

Against these enormous sums, which the Government was then annually paying out, and which it would be paying to-day, and even greater sums, were it not for the Pacific railroads, is to be put the present cost, which is about \$250,000 a year. The statement itself is startling, but it is entirely waived aside in the eager desire, the eager rush, headed by the Judiciary Committee, to put their hands upon all the money which the men may have earned who carried out the enterprise under the inducements of the Government, contrary to the contract by which this great saving in the matter of mails alone has been effected. The committee proceeds as follows:

It will thus be seen that the average cost of mail transportation for four years, previous to June 30, 1864, was \$1,296,213 per annum.

It costs now less than the odd figures.

With the increased cost of labor and materials, the cost of this service was greatly increased after 1864. The effect of the railroad will be shown by a comparison of the cost of mail service in 1868 with the year 1870.

And then they give a table showing the total cost from June 30, 1867, to June 30, 1868, \$2,129,550. Be it understood furthermore that this mail service as then rendered was always uncertain, interrupted, liable to be broken up by Indians, toilsomely going over barren plains. I do not know that the cost was greater than the expense of it to those who carried it or much greater; but at any rate it was a very precarious and uncertain service. The shortening of the time is of great importance to the business of the country. Instead of twenty-five days, the mail is now carried across in seven or in six and a half. There are other incidental advantages besides the immense reduction of cost to the Government, besides the immense added amount which is left in the Treasury of the United States to be devoted to other purposes, which, had it not been for this enterprise, would have been annually taken from it. The committee show by their report made in 1871 that the contract price for Government transportation before the war was \$1.30 per hundred pounds for each one hundred miles, and the prices increased after that greatly. The highest price of transportation paid to the railroads in 1871, and it is less now, was not more than twenty-five cents per hundred pounds for one hundred miles; that is to say, less than one-sixth of the amount that it was before the construction of the road and much less than one-sixth of the amount it was during the time of the construction of the road.

The amount which the transportation—for which \$4,178,967.90 was paid—would have cost, at the rate of \$1.30 per one hundred pounds per one hundred miles, is therefore—

Says this committee—

a matter of mathematical calculation. That sum would have been, \$21,730,633.80, showing a saving of \$17,551,666—

Up to 1871—

which would pay all arrears of interest now due upon the bonds issued to the Pacific railroad companies more than three times over.

Oh, there was no advantage to the Government in building the road! There was a deceitful pretense of munificence to certain private parties, under false inducements held out, intended to be repealed, to get them into it, to get all this great saving of millions afterward to the Government, and then to draw back any promise the Government had given. It was no advantage to the Government, of course! Seventeen millions and over up to 1871 lying in the Treasury of the United States, or used for other beneficial purposes, before that time would have been paid out for transportation, but is saved by the operation of the road. Oh, let us grind them down; let us be hard-hearted to them; let us exact the most that we can; take away their profits, and rail at them because they made money out of the construction of the road. That is the animus of the legislation, it seems to me. I say it is unjust and unfair and harsh, and well merits a comparison with the language of the Duke of Venice to Antonio that he deals with—

A stony adversary, * * *
Uncapable of pity, void and empty
From any dram of mercy.

Then the committee proceed and say:

The Secretary of War on the 15th of February, 1871, in answer to a resolution of the Senate, estimates the cost of the military service, through the War Department, in guarding the overland route from the Missouri River to the Pacific Ocean, from the acquisition of California to 1864, a period of sixteen years, at about \$100,000,000, and states that this sum "is rather below than above the true cost of the service." This sum would equal \$6,250,000 per annum for the entire period. As this expense was constantly increasing, the annual cost at the time of the opening of the Pacific Railroad must have been much greater.

The expenses of the Indian service for the same period, as shown by the report of the Commissioner of Indian Affairs, was over \$500,000 per annum, and the mail service averaged a little less than \$1,000,000 per annum for the whole time, but in the year 1864 it had reached \$1,296,000 per annum, and was increasing with the population of the Pacific coast. These sums together make an average annual cost, from 1841 to 1864, of over \$8,000,000.

These statements fully corroborate the statement of Secretary Stanton and of the chairman of the Senate Committee on the Pacific Railroad, made in 1862, that the cost of this Government service at that time was about \$7,500,000 per annum, and that this cost was annually increasing.

The whole amount of the bonds issued in aid of all the Pacific Railroads is \$64,618,832. The annual interest on the same is \$3,877,129.92. The earnings thus far have paid about 30 per cent. of the interest, which, deducted from the annual interest, leaves the net annual expenditure for interest \$2,713,991.

The net result to the United States may be thus stated:

The cost of the overland service for the whole period from the acquisition of our Pacific coast possessions down to the completion of the Pacific Railroad was over \$8,000,000 per annum, and this cost was constantly increasing.

The cost since the completion of the road is the annual interest—\$3,877,129—to which must be added one-half the charges for services performed by the company, about \$1,163,138 per annum, making a total annual expenditure of about \$5,000,000, and showing a saving of at least \$3,000,000 per annum.

Mr. President, with a saving of \$3,000,000 per annum to the Government ever since the road went into operation, there is certainly a strong reason why the Government should be considerate in its dealings with the companies, why it should, while it can, secure adequate security that this debt and its interest shall be ultimately paid, yet not require that it shall be paid at a too short specific time with the accumulations of interest, to the danger of breaking up the road, throwing the company into bankruptcy, or causing the roads to become dilapidated, or overburdening Pacific commerce. The Government should not do these things, but instead it should give such time and such terms to the companies as will enable them to discharge their obligations.

Mr. CONKLING. Mr. President, the Senator from California is kind enough to yield to me to make a suggestion. I heard the Senator from Ohio suggest that he would ask the Senate to wait and "sit out" this bill to-night. It seems to me there is as little reason for submitting the Senate to a night session upon this bill as upon almost any bill I can think of. The Committee on Appropriations, pending the bill, with the consent of the Senate, take up their appropriation bills *seriatim* as they are ready, and it therefore is hindering no legislation which is urgent; and, inasmuch as there are some twenty years, I believe it has been frequently stated, in which to accomplish this purpose, certainly a day or two will not be valuable in its consideration. For the convenience of a number of Senators, I venture to suggest to the Senator from Ohio that we have an understanding that on Monday, if he thinks it is important that it should be Monday rather than Tuesday, some time during the day we shall take a vote on the bill. I know there are several Senators who mean to be heard upon the bill, and I would ask if Tuesday is not as well as Monday; and if Tuesday were fixed as the day, I would ask my friend from Connecticut [Mr. EATON] whether that would not, in his opinion, so far as he knows the views of Senators, give a reasonable time for such a debate as may be desired.

Mr. EATON. My own impression is that upon a great measure of this character there ought not to be any haste. This matter has twenty years to run; it would not make any essential difference if the bill were not passed at all this year or if it were passed next year rather than this. I would suggest that Wednesday or Thursday be fixed upon to take the vote as giving time enough, so that the measure may be thoroughly discussed, and then there will be ample time to explain our legislation and understand it well. I see no reason why the matter should be hurried in the way suggested by the Senator from Ohio.

Mr. CONKLING. Two Senators, the Senator from Connecticut [Mr. EATON] and the Senator from North Carolina, [Mr. RANSOM], suggest Wednesday, and that suggestion I submit to the Senator from Ohio and ask him to hear a remark in connection with it. I have been told since I rose, and indeed I knew before, that several members of the Senate have gone or are compelled to go away between now and Monday, who will not be back before Tuesday, and possibly not before Wednesday next. I know also that they would be very glad to be here in reference to the vote on this bill; indeed I have made with one a conditional pair myself to answer his convenience, as he was hurried away and had no time to arrange affairs. I was very reluctant, I confess, to pair on the bill, but I did it under the circumstances, saying that if a vote were pressed between now and Monday I would see that his vote counted by pairing with him myself. That is not agreeable to him, and it is not agreeable to me.

As the Senator from Connecticut says, and as I believe I said, I think a case can well be supposed in which a day or two of time is not important in the decision of the final question upon the bill. That such is the case the Senator from Ohio will admit, and I would suggest that that arrangement will save our remaining here for some hours and wearing out each other in attempts on one side to keep the Senate in session on Friday night, which is not a fortunate night for the purpose, and on the other side in attempts to defeat that purpose.

The Senator from Ohio knows also, without my referring to it especially, that a considerable number of members of both parties have taken to-morrow to attend an observance which it would be a little hard unexpectedly to attempt to deny to anybody who feels disposed to go.

Under all the circumstances, I hope the Senator from Ohio, either without a definite time being fixed or fixing some day agreeable to others, will not ask us to stay here longer to-day. If that suggestion is convenient to the Senator from California, he will retain the floor to continue his remarks when the Senate meets again, and we can now adjourn until Monday. The acceptance of this suggestion by the Senator from Ohio would enable him to do what he is always willing to do, and that is something very agreeable to the views of a majority of the Senate.

Mr. THURMAN. I understand the Senator from New York to say that to-morrow there will be a ceremony or something of that kind, or words to that effect.

Mr. CONKLING. Words to that effect.

Mr. THURMAN. He intimates that as Parliament adjourns for the Derby we ought to adjourn for that ceremony. I believe that ceremony is the launching of a ship.

Mr. CONKLING. If the Senator will allow me, I am sorry that he sees any similitude between a horse-race and the launching of a great ship that carries the flag of the country.

Mr. THURMAN. Undoubtedly my fancy is not as good as that of the Senator from New York, and he sees in the flag and the ship and all that a great deal that I would not see; and I and my friend from North Carolina [Mr. RANSOM] see a great deal more in a horse-race than he does. That is a western kind of fondness that I shall not deny. But all joking apart, I was going to say to the Senator that if he will let me launch my little ship to-day I am perfectly willing that he may go to see his big ship, with the flag flying, launched to-morrow.

Mr. CONKLING. But suppose the Senator sinks his little ship?

Mr. THURMAN. No Senator will say that I ever pressed him to sit a bill out, staying here all night. I never had charge of a bill yet that required me to do that, I must say; and therefore I can take no merit for not having done so. But I know this: that in nine years' experience here I scarcely ever have seen a hotly contested measure that we did not have to sit out. I have sat here many and many a time—sometimes when there were but seven or eight of us on our side—and helped to make a quorum and sat the whole night long that measures might be passed. We have no previous question and I hope we never shall have, at least while I am in the Senate; and therefore our only method is to sit a bill out or to do another thing which is attended with very great inconvenience, and that is to fix a time at which a vote shall be taken. The great objection to that is this, as Senators know: if we agree that the vote shall be taken at a particular time without any reference to amendments that may be offered, then a Senator may offer the best amendment in the world and one that the Senate would see was the best if the mover had an opportunity to explain it; but his mouth is sealed, he cannot say a word to show its necessity or its propriety. On the other hand, an amendment may be offered that is the worst in the world, and which could be demonstrated to be so if a Senator could rise and expose its weakness or its vicious tendency; but his mouth is sealed and we must vote without any discussion or explanation whatever.

So we have been compelled from time to time, when we fixed a particular hour of a particular day to vote on a bill, to make an exception in favor of amendments, allowing a five-minute debate on amendments that should be offered; but that five-minute debate may run for ten or twelve hours, because you can offer as many amendments as you please. Any Senator can offer an amendment, and you can go on in that way and speak almost *ad libitum*. Therefore, practically I think I am right in saying that the experience of the Senate has been against fixing a particular time to vote upon any subject where there were amendments to be offered or where amendments were likely to be offered; and we are compelled to sit the bill out.

Now one word in reply to the remark of my friend on my right, [Mr. EATON,] that he saw no necessity of hastening this bill or pressing this bill in this way. I submit to him that there has been no undue pressure of this bill. Let us look for a moment into the facts—

Mr. SARGENT. I was on the floor and only gave way temporarily.

Mr. THURMAN. Just let me finish what I have to say; and I shall be but a minute or two. Let us look a moment at the facts. On the 10th day of July, 1876, now nearly two years ago, the Judiciary Committee of the Senate reported a bill in all its main features identical with the bill which is now before the Senate. The only difference is that the bill now before the Senate is not quite so exacting as was the bill reported at that time. I tried to get that bill up, having been charged with reporting it to the Senate, at that session. I could not get it taken up; it was toward the close of the session; the appropriation bills occupied time, and I was defeated in every attempt to get it up. At the next session, December, 1876, that bill was taken up and it was before the Senate, according to my recollection, for several weeks and underwent much discussion, but the incidents connected with the count of the presidential vote prevented any vote from being taken on the bill; but it was discussed. That was in all its main features just the bill we now have before us. On the second day of the last October session, on the 16th day of October, I introduced that identical bill and had it referred to the Committee on the Judiciary. Why it was not reported from that committee for a long time is a chapter of history that I do not care to go into; it is one that would not reflect much credit on some men who imposed on that committee. But so it was. The bill was at length reported on the 8th day of March, now nearly a month ago, and I gave notice that on the succeeding Monday I would ask the Senate to proceed to its consideration. The Senate did so, and it has now discussed this bill nearly four weeks; more than three weeks this bill has been under discussion. Now, four-fifths of the Senators—I think I am right in saying—have spoken upon it. My own belief is that every Senator has made up his mind one way or the other how he will vote upon it. Under these circumstances and after the very full and exhaustive arguments that have been made both upon the legal aspects of the case and upon the economical and the business aspects of the bill, it does seem to me that I am not obnoxious to any censure for asking the Senate to proceed with the bill.

Mr. SARGENT. Mr. President, I have no objection to going on and concluding my remarks—

Mr. CONKLING. If the Senator from California will yield to me, I should like to make a motion.

Mr. SARGENT. I will do so after submitting some amendments to the bill, which I ask may be printed.

The PRESIDING OFFICER. The amendments will be received and ordered to be printed, if there be no objection.

Mr. SARGENT. I send to the Secretary's desk the following amendments to the bill, which I shall propose at the proper time. Let them be read.

The Chief Clerk read, as follows:

Strike out section 1.

Amend section 3 by striking out the last word on line 6, and lines 7, 8, 9, 10, and 11, and inserting in lieu thereof: "Interest on all sums placed to the credit of the sinking fund shall be credited, and added thereto semi-annually, at the rate of 6 per cent. per annum."

Strike out section 4, and insert the following in lieu thereof:

SEC. 4. That there shall be carried to the credit of the said fund, on the 1st day of March and September in each year, the one-half of the compensation for services hereinbefore named, rendered for the Government by said railroad companies respectively, not applied in liquidation of interest; and, in addition thereto, each of said companies shall on said days in each year pay into the Treasury of the United States, to the credit of said sinking fund, such a sum as, with the said half of the amount earned by it as compensation for Government service, and the 5 per cent. of the net earnings payable to the United States under said act of 1862, shall amount in the aggregate to the sum of \$1,300,000 per annum: *Provided*, That the amounts so credited and paid into said sinking fund each year, under the provisions of this section, shall not be less than \$600,000 for each company.

Strike out section 5.

Mr. CONKLING. To enable the Senate (meaning a majority of the Senate) to determine whether it sees any reason for a session to-morrow or a night session to-night to struggle over the question whether this bill shall pass, if it is to pass, an hour sooner or an hour later, I move that the Senate do now adjourn until twelve o'clock on Monday next.

Mr. THURMAN. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. MATTHEWS, (when his name was called.) I agreed with the Senator from Michigan [Mr. CHRISTIANCY] to pair with him on this bill until six o'clock. If my colleague thinks that that pair extends to this vote, I shall not vote.

Mr. THURMAN. I think it does, for this reason, that the Senator from Michigan knew perfectly well that we could not get to the final vote by six o'clock.

The PRESIDING OFFICER. Pending the roll-call, debate is not in order.

Mr. THURMAN. I know that the Senator from Michigan would vote "nay" if he were here.

The roll-call was concluded.

Mr. PADDOCK. Before the vote is announced I should like to understand whether the Senator from California still retains the floor.

The PRESIDING OFFICER. No debate is in order pending the roll-call.

Mr. SARGENT. I have not concluded my speech.

The result was announced—yeas 32, nays 31; as follows:

YEAS—32.

Allison,	Conkling,	Ingalls,	Rollins,
Anthony,	Conover,	Jones of Florida,	Sargent,
Barnum,	Dawes,	Lamar,	Sanders,
Blaine,	Dorsey,	Mitchell,	Spencer,
Bruce,	Eaton,	Paddock,	Teller,
Burnside,	Ferry,	Patterson,	Voorhees,
Cameron of Wis.,	Gordon,	Plumb,	Whyte,
Chaffee,	Hill,	Ransom,	Windom.

NAYS—31.

Armstrong,	Davis of Illinois,	Howe,	Merrimon,
Bailey,	Davis of W. Va.,	Johnston,	Morgan,
Bayard,	Edmonds,	Kernan,	Morrill,
Beck,	Eastis,	McCreery,	Oglesby,
Booth,	Gariand,	McDonald,	Saulsbury,
Butler,	Grover,	McMillan,	Thurman,
Cockrell,	Harris,	McPherson,	Wallace,
Coke,	Hereford,	Maxey,	

ABSENT—13.

Cameron of Pa.,	Hoar,	Matthews,	Withers.
Christiancy,	Jones of Nevada,	Randolph,	
Dennis,	Kellogg,	Sharon,	
Hamlin,	Kirkwood,	Wadleigh,	

So the motion was agreed to; and (at five o'clock and four minutes p. m.) the Senate adjourned until Monday next at twelve o'clock.

HOUSE OF REPRESENTATIVES.

FRIDAY, April 5, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, requested the return to the Senate of the bill (S. No. 490) supplementary to and entitled "An act in relation to the Hot Springs Reservation in the State of Arkansas," approved March 3, 1877.

SESSION ON SATURDAY FOR DEBATE.

Mr. O'NEILL. I rise to a question of privilege. I move that when the House adjourns to-day it be to meet on Monday next.

Mr. LUTTRELL. Would it be in order to move as an amendment that the House meet to-morrow for debate only?

The SPEAKER. It would not; but the proposition of the gentleman from California can be agreed to by unanimous consent.

Mr. LUTTRELL. I ask unanimous consent that the House meet to-morrow for debate only.

Mr. O'NEILL. I will accept that as a modification of my motion. The motion, as modified, was agreed to.

Mr. LUTTRELL. I move to reconsider the action just taken; and also move that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

RECORDS OF ELECTORAL COMMISSION.

Mr. HUNTON. I ask unanimous consent to take from the Speaker's table, for present consideration, the joint resolution (S. No. 22) with regard to keeping the records of the electoral commission.

The SPEAKER. The joint resolution will be read; after which the Chair will ask for objections, if any.

The joint resolution (S. No. 22) providing for a place of deposit for the records and proceedings of the commission appointed under the act entitled "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," approved January 29, 1877, was read.

The joint resolution directs that the records and proceedings of the commission appointed under the act entitled "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," approved January 29, 1877, shall be deposited by the secretary of the commission with the Secretary of State, who shall preserve the same among the archives of his office.

There was no objection; and the joint resolution was taken from the Speaker's table, and read three times, and passed.

Mr. HUNTON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. BAKER, of Indiana. I rise to a question of personal privilege. The SPEAKER. The gentleman will state it.

Mr. BAKER, of Indiana. I find in a sensational sheet published in this city an article entitled "Mr. BAKER's falsehood," which I send to the clerk's desk and ask to have read.

The Clerk read as follows:

MR. BAKER'S FALSEHOOD—A FLAT CONTRADICTION FROM MR. GEORGE C. WEDDERBURN.

In his speech in the House yesterday, on the great Doorkeeper question, Mr. BAKER, of Indiana, made use of the following language:

"I propose to show also that this man Polk had a competitor for Doorkeeper by the name of Wedderburn, who conveniently dropped out of the list as a rival candidate against him, and on the 16th of October last, the day after Polk's election, as a reward for something he had done, was promoted to the position of 'superintendent of passes' at a salary of \$2,500 a year. The sworn evidence shows that without a shadow of law for it this man Wedderburn received for one month \$165.50 as payment for his services in an office which, with its salary and emoluments, had been created by Polk alone."

Last night Mr. George C. Wedderburn, the gentleman referred to by Mr. BAKER, called at the office of The Post to correct the false statement. He said to a reporter for the paper: "It is due to Mr. Polk, and especially to myself, to say that this statement is false. I was never promoted to the position of superintendent of passes, at a salary of \$2,500 a year; and I did not receive \$165.50 for one month as alleged. The gentleman from Indiana has simply made a false statement, and that is all that is necessary to say about this lunatic."

Mr. BAKER, of Indiana. Mr. Speaker, if either here or elsewhere I make any statement in reference to anybody that I find is incorrect I trust that I shall have the manhood and courage whenever I ascertain that to be the fact to do justice to the man that I have thus wronged. The remarks that I made on yesterday in reference to Mr. Wedderburn in the heat of debate I find on review to be substantially accurate in every respect except the little non-essential in reference to the amount of compensation. And I desire to say in reference to that matter that I was led into error from the fact that I had not computed the amount that it would aggregate at the rate I found he was paid for his services as certified to by himself in one of the months during the extra session of Congress. The gravamen of the charge that I made, Mr. Speaker, was that this man Wedderburn was a competitor and rival candidate against Mr. Polk and that he conveniently dropped out of the list of candidates. That is the first charge that I made.

Mr. HARRIS, of Virginia. I know my friend does not desire to misrepresent anybody.

Mr. BAKER, of Indiana. No, sir.

Mr. HARRIS, of Virginia. As regards what is stated about compensation, I know nothing and have nothing to say. But so far as regards the gentleman's information that Mr. Wedderburn dropped out of the canvass in consequence of having formed a combination with Mr. Polk, I beg to tell him—and my means of information are far superior to his—that Mr. Wedderburn dropped out simply because of want of votes. He was before the caucus three times, and when he had no longer any votes he was dropped from necessity.

Mr. BAKER, of Indiana. I cannot yield for the purpose of speeches being interjected into mine. I propose to show, however, by the sworn testimony of Mr. Polk, that the gentleman from Virginia has been entirely misled, and I propose to show I commented very mildly on the damaging facts that are testified to in the record which I hold in my hand and from which I read on page 109. This is the testimony of Mr. Polk:

By Mr. COX:

Question. I asked you yesterday whether Mr. Wedderburn was not one of your personal appointments?

Answer. Mr. Wedderburn never has been appointed by me to any position except some time in January. During the democratic caucus that nominated the officers of the House * * * promises were made to Mr. Wedderburn without my knowledge, but which were fully authorized. * * * It was promised that he should have some place, provided his friends, at a certain point in the balloting, should support me. After that Mr. Wedderburn came to me to get me to redeem that promise. I told him I had no place that would pay him a better salary than \$1,300 a year, and he said he could not accept that, that it would not support him; and then there was a suggestion, coming I believe originally from a Missouri member, not my own Representative, which was talked over in a conference of leading members of the House, that an officer should be created to take charge of the passes and of the ladies' reception-room.

This extract proves, Mr. Speaker, that Mr. Wedderburn not only, as I charged on yesterday, conveniently dropped out of the canvass against Mr. Polk, but that he did it in virtue of an arrangement that had been made that he should be compensated by an office at the hands of Mr. Polk after Mr. Polk had been elected.

The next charge is as to the rate of compensation. I admit frankly that the amount was not \$2,500 a year, but \$1,800. That, however, was not the gravamen of the charge that I made. The charge that I made, and the charge that I intended to make, was that by a bargain an arrangement had been made, by virtue of which, if Polk succeeded, Mr. Wedderburn was to have a place. My charge was that he was appointed to a place which was unknown to the law, and that for his services in that place he was awarded a compensation largely in excess of the amount provided by any law on the statute-book of the country. That was the gravamen of the charge.

Now, it is trifling with the charge that I made for this man to say that I was mistaken as to the amount being \$2,500 a year. I admit that the amount was \$1,800 and I also admit that I was mistaken to the extent of ten cents in the amount which I said that he received. I stated that he received \$165.50; I find that he received \$165.60. That is the head and front of the error I committed. Now, let us see whether or not I am mistaken with reference to the fact that he served as superintendent of passes in the ladies' reception-room. I do not know but what this gentleman may feel indignant because I did not contribute sufficient honor and rank to his position. The truth is that he was not only the superintendent of passes in the ladies' reception-room, but his all-embracing grasp took in the press-gang of the country in addition. If he feels at all sensitive because I did not allude to that fact yesterday, I will now apologize for it and make the *amende honorable*.

I read from page 391 of the testimony. There is given there a list of those who received the \$3,840 that we appropriated to pay for this extra force which was foisted upon the House and upon the Treasury of the country without any authority of law. I read the following:

We, the subscribers, acknowledge to have received from George M. Adams, Clerk of the House of Representatives of the United States, the sums opposite our respective names, in full of our salaries in the employment of the House of Representatives, for the month of ———, 187 :

I will not read the whole list, but I read from it the following:

George C. Wedderburn, October 16th to 30th November, superintendent of passes, \$165.60.

Now, sir, that is the testimony. I say that with the single exception of mistating the amount, the evidence is clear and conclusive that by virtue of some bargain that was made with Mr. Polk, at the instance of Mr. Wedderburn, he did drop out of the canvass and was rewarded by having given him an office with a compensation higher than that provided by law, and that the matter was fixed up for his accommodation.

When Mr. Polk suggested to him that he would reward him with a twelve-hundred-dollar position, such as the law permitted, Mr. Wedderburn, the late candidate for Doorkeeper of the House and a present candidate for Doorkeeper of the House, and who I suppose expects to reward Mr. Polk when he himself comes into the office to-day or to-morrow, replied to Mr. Polk in substance that he was not that sort of a man. He said he could not take a twelve-hundred-dollar place; that was not his size; he wanted a larger place. And Mr. Polk, for some reason, I do not know whether because of Mr. Wedderburn's gallantry and politeness or not, made him superintendent of passes in the ladies' reception-room.

Now I have done with this matter. I admit that in reference to the amount I made a mistake. I find on figuring it up that the rate of compensation which he was actually paid was \$150 a month, \$1,800 a year. But the gravamen of the charge remains, everything of it remains. As well might a man who was indicted for the larceny of a hundred dollars in bank-bills, and was proved guilty of having stolen say \$50, that the indictment was false as for a man to go around slandering those who tell the truth merely because an immaterial and incidental matter, that has no bearing or effect on the gist of the transaction, happens to have been inaccurately stated.

Mr. HARRIS, of Virginia. I do not desire to be misunderstood. I

did not wish to interrupt my friend from Indiana [Mr. BAKER] in his personal explanation. Reference was made to the withdrawal of Mr. Wedderburn on account of some understanding that Mr. Polk would reward him. I only want to say that, so far as I know and so far as his friends from Virginia know, there was no such arrangement. We voted for him until we saw that he was beaten and that he had no votes. That was the whole of it. Where he or his friends went next, and what they did, I have no knowledge.

Mr. BAKER, of Indiana. It is due that I should say that I did not mean to insinuate nor did I charge that any gentleman on this floor from Virginia was a party to this secret understanding.

Mr. EDEN. I think the time of the gentleman from Indiana [Mr. BAKER] ought to be extended, to let him give his full and entire view of this Polk case.

Mr. FRYE. I rise to a question of personal privilege. It is to correct a wrong impression which may have been made by a part of my speech in this House a day or two since. I hold in my hand a letter from J. G. Knight, who was on the soldiers' roll. He concludes it thus:

What I desire to say is that it was no fault of mine that I was on the soldiers' roll. I was put there without my knowledge, and kept there against my protest.

Very respectfully,

J. G. KNIGHT.

I do not desire to do injustice to Mr. Knight or to any other person. Therefore I read this letter.

ELECTION OF DOORKEEPER.

Mr. BUTLER. I rise to a question of privilege.

The SPEAKER. The gentleman from Massachusetts [Mr. BUTLER] rises, as he states, to a privileged question.

Mr. BUTLER. I desire to have passed this resolution for the purpose of completing the organization of this House.

The SPEAKER. In what respect is this a question of privilege?

Mr. BUTLER. In this—that I desire to proceed now to the election of a Doorkeeper of this House, and have embodied what I desire in the resolution which I send to the Clerk's desk, which will explain itself.

Mr. CARLISLE. I raise the question of consideration, and call for the regular order, which is the calling of committees for reports of a private nature.

Mr. REED. Let the resolution be read.

Mr. COX, of New York. I raise the point that this is not a question of privilege.

Mr. BUTLER. How can the gentleman tell till he hears the resolution?

Mr. COX, of New York. The gentleman has stated that it relates to the election of a Doorkeeper.

Mr. BUTLER. Perhaps its terms may bring it within the definition of a question of privilege. Let the resolution be read.

The SPEAKER. It will be read.

Mr. COX, of New York. No one objects to the reading.

The Clerk read as follows:

Resolved, That the House proceed to the election of a Doorkeeper, and that the true Union, maimed soldier, Brigadier-General James Shields, of Missouri, be chosen to that place.

Mr. COX, of New York. I would not interfere with any honors to a distinguished soldier like General Shields; but in some contingencies we must pursue the rules of the House. For reasons which the gentleman well knows, connected with our party relations, (he is a partisan himself,) we would prefer to postpone the settlement of this matter till to-morrow. Meanwhile the office is being filled by the Sergeant-at-Arms in pursuance of the order of the House.

Mr. BUTLER. If I believed that the majority of the House on the other side desired to caucus on the merits of General Shields, I would certainly not press my motion now. He was shot through the lungs in the Mexican war; he had his arm shattered in the late war; and he is now an old man. He has been a member on the floor of this House; he has been a Senator of the United States. He is now without means of support; and he comes within the law of the land, which says that in filling civil offices a maimed soldier shall be preferred.

Mr. MORRISON. Why have you not preferred him in all these years?

Mr. COX, of New York. One of the virtues of General Shields is that he is a democrat; we all know that. But we on this side prefer to attend to our business without interference from the other side.

The SPEAKER. The resolution is not now open to discussion on its merits. The point is that raised by the gentleman from New York, [Mr. Cox,] whether it is a question of privilege.

Mr. COX, of New York. As the gentleman from Massachusetts has made some remarks, I wish to say in reply that there shall be no dishonor, as there is no intention to throw any dishonor, upon the distinguished fame of General Shields by action on this side of the House. Gentlemen on the other side have had for years the dispensation of more than ninety thousand offices, but they have never sought to honor this distinguished soldier until this little emergency when they seek to do it at our expense. It gives no credit to General Shields and none to the other side of the House for him to be honored in this peculiar way.

Mr. MORRISON. When General Shields was elected to this House by a majority of thousands gentlemen on the other side drove him out and put in a man who was not elected.

Mr. TOWNSHEND, of Illinois. Will the gentlemen from Massachusetts allow me to ask him a question?

Mr. BUTLER. Yes, sir.

Mr. TOWNSHEND, of Illinois. I desire to know whether the gentleman has any authority from General Shields to offer his name for the position of Doorkeeper.

Mr. BUTLER. I never ask any authority to do honor to a gallant maimed soldier. I consider that I have a general power of attorney in that respect. [Laughter.]

Mr. EDEN. I ask the gentleman from Massachusetts whether he was here and helped to drive General Shields away from this Hall and seat a republican in his place when General Shields had a majority of thousands in his favor?

Mr. BUTLER. My answer to that is that nobody suggested his name—

Mr. EDEN. The people of his district suggested his name.

Mr. BUTLER. The difference was this: that was a question of election; a question which of two candidates had legally been elected to this House.

Mr. EDEN. I suppose that three or four thousand majority to gentlemen on the other side was not enough to seat him.

Mr. BUTLER. Well, do not howl. That was a question of election, and men sometimes have acted according to their partisan ideas. [Laughter.]

Mr. EDEN. Would the gentleman from Massachusetts vote according to his party predilection when a gallant soldier came here with a majority of three or four thousand in his favor?

Mr. BUTLER. If we did wrong then let us do right now. [Laughter.]

Mr. FRANKLIN. I desire to ask the gentleman from Massachusetts whether he repents of the wrong he did then.

Mr. BUTLER. I am sorry and will try to undo it. [Laughter.]

Mr. FRANKLIN. Do you repent of your action then?

Mr. COX, of New York. Mr. Speaker, if I can have the floor for a moment, I will say that everybody knows the distinguished soldier from Massachusetts has had the opportunity, time and again, to have honored General Shields, and has not done so. [Laughter.] This is not the way to honor him. He is worthier, far worthier, of a better and a higher honor—of an office other than this! It is almost a degradation to ask such a gallant soldier to come here and take the position of Doorkeeper of this House.

Who took the commission away from General Shields in the Army? Who, when he was proposed by the people as a Missouri Representative—who drove him from this House? Was it not the distinguished soldier from Massachusetts and his friends? [Laughter and applause.] Who was it, when General Shields came from the Mexican war, all battered and torn; who was it that fought him after having fought with Stonewall Jackson, laden with leaden bullets; who was it when he came here approved by the people, after many migrations and trials, came to ask for a seat upon this floor—who was it that drove him from this Hall, although fairly elected, and now tenders him at last, in his old and impoverished age, this small and unpleasant office? Is it not the distinguished soldier from Massachusetts? [Great laughter.]

Ah! Mr. Speaker, when the gentleman from Massachusetts becomes so irate on this subject, he must remember one thing: that it is not quite so honorable to give crumbs, when he and others had it in their power to give rich festivity for splendid honors!

Let us do honor to the old soldiers of the Mexican war; let us do them honor by passing, if you please, the pension bill in their favor. But is it fair for us at this time, in the emergency of filling this office, to undertake, by a little clap-trap, to make some little popularity by suggesting our most honorable democrat for this office at this time?

It is too late for the gentleman from Massachusetts to repent of being a partisan. [Laughter.]

Mr. BUTLER. I do not repent. [Renewed laughter.]

Mr. COX, of New York. The gentleman said just now, as I understood him, that if he had been wrong before, it was never too late to do right. Is he tired of his bad associates? Is he coming to the democrats after a little? [Laughter.] What does he mean by it? Is he going to leave the honorable association on the other side and come to us? [Great laughter.]

Mr. BUTLER, (coming over toward the democratic side.) Let me say—[Laughter.]

Mr. COX, of New York. While the lamp holds out to burn, the noblest statesman may return. [Great laughter and clapping of hands.] It is utterly wrong, utterly out of order, utterly unparliamentary for me to say that my distinguished friend from Massachusetts is gradually approaching the democratic breastworks, [laughter:] that he is making his military approaches so quietly and so steadily and so pleasantly by parallels, [laughter:] because I think the case of DEAN may be considered as a parallel to this other case of Polk. [Great laughter.] As he is coming into our camp, I would be the last man to call him the vilest sinner, because we on this side are so very virtuous! [Laughter.]

But, Mr. Speaker, I think this effort of the gentleman is intended to injure General Shields. So intricate, so strange, and so tortuous are the ways of politicians that I think the gentleman [Mr. BUTLER] means to damage our grand democratic General Shields. Who can tell why a democratic caucus should not, in a noble impulse, or even with a view of repairing its past errors as to doorkeepers and other

matters, select this distinguished soldier and elect him! For one, I would be glad to give him my vote, according to the rules and orders of my party. And when I see the gentleman from Massachusetts at this late day, when his hair is becoming silvered with age, and when we are all growing old, when we are all—or should be—on the stool of repentance, when I see that the honorable gentleman is reaching out for his first and early love again, [laughter,] I have no reproach for him; but I do think the regular order ought to be called. [Laughter and applause.]

Mr. BUTLER. I desire to say that when I left the democratic party it was an honored organization of brave, firm men who never put their sins on a scapegoat and destroyed a poor man to save themselves; and when the party regain their former prestige, I do not know but I may come back to it again if I am not dead.

Again, it has been said that I have attempted to make some clap-trap popularity by offering the name of a Union soldier here. I seek no such thing. I desire to make a provision in his old age for a Union soldier, and, if he is made Doorkeeper of this House, by no vote of mine should he ever be disturbed from that position so long as increasing age and infirmities will allow him to do, as he can do, his duties well. When we on this side of the House voted on a contested-election case he was then, so far as I knew, in good condition of health and circumstances, barring his wounds. Now the case is changed. Then it was almost a partisan question; as a rule, all election cases are, disguise it as we may. I did not think I should hear a reproach from the other side of the House that I had made them one or more votes because I followed the dictates of my conscience and judgment in an election case; and I did not think I should live to hear again in this House an attack upon me, to raise a laugh, from the gentleman from New York. I thought on a former occasion he had learned enough not to do that again. Therefore I grant him the mercy of my silence.

Mr. COX, of New York. You have said that very often here. But I do not want any mercy.

Mr. BUTLER. "Shoo fly! don't bodder me!" [Laughter.]

Mr. COX, of New York. Very original! This is not the first time you have said it. But I do not "shoo." [Laughter.]

Mr. BUTLER. Now let me say a word or two upon party relations.

The SPEAKER. The Chair desires to interrupt the gentleman. So long as he confines himself to the personal references made to himself—

Mr. BUTLER. Oh, I will keep right.

The SPEAKER. The Chair thinks so long as he does that he is entirely within the scope of fair play and right. But when the gentleman proceeds on a point of order as to a privileged question to indulge in the line of remarks he is now entering upon the Chair thinks it necessary to apprise and check him.

Mr. BUTLER. I will endeavor to follow very carefully the gentleman from New York. It is said by that gentleman that we have not done our duty here in not taking care of General Shields before. To that I answer that the democrats have had two Congresses, this one and another one, and they have had two caucuses where we did not interfere with them; why did it not occur to them to take that gallant man instead of the gentleman they so ungraciously destroyed yesterday?

Again, why need any caucus on this question? Why say we will do something for him some time? Now is the accepted time, now is the day of salvation for you upon this question of Doorkeeper. [Laughter.] It may never come again. It is only "while the lamp holds out to burn that the vilest sinner may return." Its flame is flickering now and low, and it may go out betwixt this and seven o'clock to-night, when your caucus is held, and there will be no place for repentance and the lament for this lost chance for repentance shall go up to heaven, "Gone, gone, gone forever!" [Laughter.]

Why do we debate this question? Is there a man who says Shields is unfit? No, sir. What is the objection? That he is too fit, too good, too noble, too high, and that the Doorkeeper's place is not fit for him. The only reason, Mr. Speaker, I have to believe he is not fit is because of the way his two predecessors have been treated. If it had not been for that I might think it might be entirely fit. Objection seems to have been answered by the text, "Better be a doorkeeper in the house of the Lord than dwell in the tents of the wicked." [Laughter.]

Now, then, I desire to know whether this House has power when it has not a Doorkeeper, only an acting Doorkeeper, to consider the question whether they will supply the deficiency? The gentleman from New York says he wants to vote according to the behests of his party; "orders" of his party was the word. I never vote according to the order of anybody under God. If I believe my party are wrong, whether I am a democrat opposing the extension of slavery or whether I am a republican opposing any wrong, I stand with those who stand with me and see the right as God gives me to see it, even if I stand alone.

Vote the old man down. Vote in caucus. But after you come out of caucus, if you do not bring the old man out, bring us in some honorable confederate soldier, with his leg off, who once showed his loyalty to the country by fighting in the Mexican war, and I will vote for him against any civilian that can be named.

Mr. Speaker, on the question of order one word, [laughter,] and that is this: it has been decided, ay, it is constitutional, that when the House has not a Speaker it may elect one. It has been decided

that when it has not a Clerk it may elect one, although somebody may act as Clerk. It has been decided that anything that pertains to the organization of the House is first in order. Therefore, when we meet here at the commencement of a Congress, we first proceed to organize by the election of a full corps of officers.

That being so, what I claim is, that it is always within the competency of the House to say whether it will consider the question of electing a Doorkeeper. I call for a vote upon the question whether the House will consider that subject, so that the fiat of the Speaker shall not stand between a maimed and disabled soldier of two wars (who will throw his influence for his brother veterans of the Mexican war on the Mexican war pension bill) and the vote of the House on both sides, which I believe will be substantially, and certainly ought to be substantially, unanimous.

Mr. COX, of New York. One word, Mr. Speaker, of a personal nature in reply to the gentleman from Massachusetts, [Mr. BUTLER.] The gentleman from Massachusetts I always knew to be rich in intrigues of a political nature. This proposition is perhaps one of them. But I never knew him before to have any poverty of wit, or to be obliged to repeat his stale wit. [Laughter.]

So far as the gentleman's independence is concerned, I have never known it to be shown until he was beaten in the Salem district. He has now become so independent. He has generally voted with his party. Yesterday he did not vote with his friends on that side of the House and I did not vote with many of my friends on this side of the House. So there is a parity between us.

So far as the gentleman's independence is concerned as to the extension of slavery, I am not too old to remember that he was a delegate to the Cincinnati democratic convention—

Mr. BUTLER. To the Charleston convention.

Mr. COX, of New York. To both conventions. He is doubly bad on the slavery question. [Laughter.]

I said, to the Cincinnati convention and Charleston convention, too. And that shows that the gentleman ought to be very tolerant to other people who were with him then, and as he gets older he ought to grow in grace day by day. [Laughter.] Let him come up to the anxious bench to be prayed for. There is no man for whom I would rather lift up a kindly prayer than for the distinguished and intellectual gentleman from Massachusetts. [Laughter.]

I do not say that he needs it more than some other members. I know the good parts of his character; I know his friendliness of heart. I know many things about him that the world does not know [renewed laughter] that do credit to his honor and to his integrity. [Continued laughter.] It is no laughing matter when I say this. But one thing I beg of the gentleman, and that is never to repeat the little piece of wit which he got off about me a short time ago. [Laughter.]

Mr. BUTLER. I will certainly promise not to do it, if you never give me the occasion.

Mr. COX, of New York. I will send you to your seat now, pardoned; go and sit down, [laughter,] and may the Lord God have mercy on your soul. [Great laughter.]

Mr. BUTLER. I do not see anything to reply to. [Laughter.]

The SPEAKER. The Chair would like to ask the gentleman from Massachusetts [Mr. BUTLER] a question. The gentleman from Massachusetts affirms that this matter of the election of a Doorkeeper is a question of privilege. The gentleman from New York [Mr. COX] makes the point of order that it is not a question of privilege. The gentleman from Massachusetts will be kind enough to direct the attention of the Chair to any decision by a Speaker, or any action on the part of the House, in the past, which indicates that the election of a Doorkeeper is a question of privilege.

Mr. BUTLER. If the Chair will indulge me a moment, there has never been such an occasion heretofore, except in this Congress and in the last Congress. We have never before turned out a Doorkeeper once elected by the majority, so far as I know. Therefore I do not know where to look for a precedent. You must adapt new cases to old principles, and not follow precedents.

The SPEAKER. It has been held that the election of a Speaker and the election of a Clerk were necessary to the organization of the House, and that no business could be transacted by the House prior to such election. But that has never been held in regard to a Doorkeeper. In 1860 a point of order was raised on this question—

Mr. FOSTER. Just a word here. How can the matter be reached except as a question of privilege?

Mr. BUTLER. The Chair will pardon me for a remark. We turned out the old Doorkeeper as a question of privilege. Can we not put in a new one as a question of privilege? The matter came before the House as a question of privilege.

The SPEAKER. Neither the election of a Doorkeeper nor any matter relating to the Doorkeeper is mentioned in the Manual under the head of privileged questions. But the Chair will submit the question to the House, in some such manner as indicated by the gentleman from Kentucky [Mr. CARLISLE] who raised the question of consideration, and which is equivalent in effect to the motion of the gentleman from New York, [Mr. COX.]

Mr. FOSTER. I asked my question in good faith. I would like to know if there is any other way of reaching this matter except as a question of privilege?

The SPEAKER. The Chair will examine that point.

Mr. SPRINGER. I rise to a parliamentary inquiry. The question

of consideration is raised on this resolution. Does not that take it for granted that the resolution is pending for consideration?

The SPEAKER. The Chair desires to submit to the House the question whether the resolution presents a question of privilege. The Chair does not find in the rules or in the Manual anything specifying the election of Doorkeeper as a question of privilege. In reply to the remark of the gentleman from Massachusetts, [Mr. BUTLER,] that turning out a Doorkeeper was a question of privilege, the Chair remarks that the "alleged misconduct of an officer of the House" is specifically enumerated among questions of privilege, as referred to the other day by the gentleman from Ohio, [Mr. COX.]

Mr. HALE. Why does not this case come under the general principles always applied to the organization of the House?

The SPEAKER. The House is already organized, and it has an acting Doorkeeper.

Mr. HALE. But it is not completely organized in respect to having all its offices filled. For instance, suppose that by any calamity all the officers of the House should be removed by death, if the filling of those offices were not a question of privilege I do not see how they could be filled except upon the report of a committee, which might have to wait its time, and that might be days or weeks, notwithstanding we might be confronted with such a necessity, as everybody would admit, for having the offices filled.

The SPEAKER. The Chair desires to submit to the House the question whether this is a matter of privilege. At the same time he states that this is a very different question from that raised the other day upon the resolution declaring the Doorkeeper's office vacant; for the Manual expressly declares "alleged misconduct on the part of an officer of the House" to be a question of privilege.

Mr. COX, of New York. Will the Chair allow me to say one word? For the election of a Doorkeeper there is no compulsion. The rules do not require it to be absolutely done. We can devolve the duties of the office upon either the Clerk or the Sergeant-at-Arms. There is no occasion to fill the office unless the House chooses. There is no urgency and there is no question of privilege in the matter. I hope, therefore, the Speaker will take the responsibility of deciding this question himself, and then let gentlemen of the other side take an appeal if they choose.

Mr. BANKS. I desire to say a word on this question. Whether the office of Doorkeeper is mentioned in the rules or Manual or is not mentioned, it has been held from the beginning of the organization of the House that this is one of the necessary officers whose election is requisite to complete the organization of the House. At the beginning of every session the election of this officer is accepted without question as a matter of privilege necessary to the organization of the House. The office is not now filled. By the terms of the resolution adopted yesterday the discharge of the duties are devolved upon the Sergeant-at-Arms only until the House shall have an opportunity to fill the office. It cannot be filled in any other way than as a question of privilege, as a matter necessary to complete the organization of the House. This has never been questioned before and it ought not to be questioned now.

The SPEAKER. The Chair desires to state, in reply to the gentleman from Ohio [Mr. FOSTER] who asked how the election of a Doorkeeper could be brought before the House except as a question of privilege, that through the agency of the Committee on Rules, who have the right to report at any time, a resolution could be reported for the election of a Doorkeeper. The Chair does not himself consider that there is now existing an actual vacancy in the office of Doorkeeper. If there were an actual vacancy in that office and the convenience of the House or the transaction of its business required an immediate election, then the point might have weight that such election was a question of privilege. But the House yesterday in the exercise of its judgment provided for this very contingency and declared that another officer of the House should perform the duties of Doorkeeper until a new Doorkeeper was chosen.

Mr. BANKS. The Chair will allow me to say that the office of Doorkeeper is vacant. The man who occupied that office has been removed; and no man has been appointed in his place. There never was a session of this House in which there was not some person filling the office of Doorkeeper. The temporary assignment of his duties to another officer does not fill that office, nor does it deprive the House of its absolute right as a question of privilege to proceed to fill this office, which is just as important to the organization of the House as that of Clerk or Speaker or any other of its officers.

Mr. THOMPSON. The Chair suggested that there was no vacancy in the office of Doorkeeper. If that were true there would be force in the suggestion.

The SPEAKER. No vacancy exists as to the administration of the office.

Mr. THOMPSON. But is there not an actual vacancy? When a new Congress convenes there is no Speaker, and under our rules the Clerk acts as Speaker for the time being. Therefore, under the theory of the Chair, there is in such a case no vacancy in the office of Speaker, because a person has been indicated to perform in the interim the duties of Speaker. So here another gentleman has been indicated, not as Doorkeeper, but to perform the duties temporarily. That means that he will discharge the duties in his station precisely as the Clerk performs the duties of presiding officer before the Speaker is elected, that is, pending the organization of the House. But there is a vacancy in both positions and both vacancies must be filled. There-

fore, from the very nature of the case, the question does arise, and I think it would be a good objection, if there was a proposition made this morning to proceed to any other business, for any gentleman on this floor, as a matter of privilege, to rise and object and urge the imperfect organization of the House, and demand as a question of privilege no other business should be transacted until the organization of the House was fully perfected.

Mr. BANKS. Let me call the attention of the Chair to Rule 10.

Mr. COX, of New York. The Chair has recognized me. The Doorkeeper is not, Mr. Speaker, at all essential to the organization of the House. The House can sit without a Doorkeeper. We can abolish the office of Doorkeeper and still have an organization of the House; but we cannot do it without a Speaker. The Doorkeeper can be dispensed with. In this case we have provided for a temporary Doorkeeper by order of the House.

Mr. BANKS. I wish to call the attention of the Chair to Rule 10. I will call the attention of the gentleman from New York to it as well. Rule 10 provides that there shall be elected at the commencement of each Congress, to continue in office until their successors are appointed, a Clerk, Sergeant-at-Arms, Doorkeeper, and Postmaster, each of whom shall take an oath for the true and faithful discharge of the duties of his office to the best of his knowledge and abilities.

The SPEAKER. It provides "There shall be elected at the commencement of each Congress," &c.

Mr. BANKS. Certainly, at the commencement of each session of Congress. We elected a Doorkeeper at the commencement of this session of Congress as a matter of privilege and because it was necessary to the organization of this House. Yesterday also, as a matter of privilege, we removed him because he was unfaithful to his trust. Now it is incumbent upon us to fill that office by the election of another person. It is necessary to the organization of the House. It is necessary that another Doorkeeper shall be elected before we can proceed with business.

The SPEAKER. Has not a successor *pro tempore* been appointed?

Mr. BANKS. Not at all, sir.

The SPEAKER. It has been done by a vote of the House.

Mr. BANKS. No Sergeant-at-Arms can fill the office of Doorkeeper.

Mr. BURCHARD. As the Speaker has indicated his intention to submit the question to the House for its decision, I wish to say a word. It seems to me it is important as a question of precedent that this should be settled upon the proper ground. It is much more necessary that should be done than action in reference to the Doorkeeper should be taken at the present time. The whole subject is within the control of a majority of the House. If they are opposed to action at this time they can vote down the motion to proceed to perfecting the organization of the House by electing a Doorkeeper, or they can vote for a postponement of that question until another time.

But, sir, as a question of parliamentary law the question to be submitted is what will be the decision of the House when an office established by your rules—established by the rules of this House, the same as the office of clerk or the office of postmaster—when that office is vacant shall it be filled at once as necessary to perfecting the organization of the House? The question presented for our decision is whether it is a question of privilege to call up the filling of that vacancy. It seems to me the House has now the power as a question of privilege to proceed to elect a Doorkeeper, and that it is a question of privilege and perfectly in order to move to fill the vacancy. Of course the majority of the House can dispose of it as they see fit. If they do not care to vote on it at this time they can postpone it, or they can vote it down.

The SPEAKER. There is wisdom in the suggestion of the gentleman from Illinois, who has just taken his seat. The Chair finds himself without any example to follow in the past. In this case, therefore, the House will establish a precedent for the future.

In the judgment of the Chair, under the resolution adopted yesterday, an officer was appointed to discharge temporarily the duties of Doorkeeper. It is stated in the Manual that when a proposition is submitted which relates to the privileges of the House, it is the duty of the Speaker to entertain it, at least to the extent of submitting the question to the House as to whether or not it presents a question of privilege. The Chair now proposes in this instance to allow the question to be determined by the House itself, and now submits the same to the House, so that in the future the question may be regarded as one the settlement of which has not been by the single voice or judgment of the Speaker, but by a majority vote of the House itself. The question, therefore, now before the House for its decision is whether the question here presented involves one of privilege or not.

Mr. CALKINS. Before the vote is taken, Mr. Speaker, I desire for a moment to call attention on page 221 of the Manual to a statement there found in parenthesis:

(Ordinarily it has been held that the election by the House of any of its officers is a question of privilege.)

The SPEAKER. The very language the gentleman reads shows the compiler, who inserted it as a statement of his own, was himself in doubt on the question.

Mr. CALKINS. Then there is a further parenthesis:

(See also President, Speaker, Clerk, Sergeant-at-Arms, Doorkeeper, Postmaster, and Printer, Public.)

Mr. BEEBE. I rise to inquire whether it would be in order—

Mr. CALKINS. I only desire to call attention to the fact that it

seems to have been stated by the compiler of this Manual that it had been by common consent heretofore taken as a question of privilege.

Mr. BEEBE. I desire to know whether it would not be in order to move to postpone the question of consideration of a question of privilege until Monday next. If in order I desire to make that motion.

The SPEAKER. That would be in order. And it would be equivalent to the House refusing now to consider the resolution on a preliminary question.

Mr. BEEBE. I move to postpone the question of privilege as submitted by the Chair until Monday next; and on that motion I call the previous question.

Mr. CARLISLE. Is it in order for a member to move to postpone a question of consideration which is pending before the Speaker and which the Speaker has submitted to be determined by the House?

Mr. BEEBE. The motion to postpone just answers to that case. The Speaker has stated that it has become the duty of the Chair to submit the question to the House. Now it seems to me very proper that the House should take time to consider the question. It is not such a question that the House should be forced to its immediate consideration. This is a new point.

Mr. CALKINS. If the gentleman from New York has made a motion which is in order and has called the previous question on his motion, is it in order for him to go on and debate it?

The SPEAKER. The Chair would make this suggestion: if the House desires time to examine into the question of privilege the Chair would suggest that the House can test the sense of its members by the motion of the gentleman from New York.

Mr. SPRINGER. On the question of consideration as to whether this is a privileged question or not.

Mr. BEEBE. I rise to a point of order. I understood I was recognized by the Speaker. I asked the Chair whether my motion was not in order, and the Speaker said it was. I then made the motion, and if in order it seems to me to be the present duty of the House to dispose of it.

Mr. BUTLER. I desire to call the attention of the Speaker to this: that if you can postpone the consideration of a question of privilege then it is no longer a question of privilege.

The SPEAKER. Not at all. It would come up again when the time arrived to which it was postponed as a question of privilege, just as election cases are allowed to be interrupted by other business.

Mr. BUTLER. But whether the House would again exercise its privilege after having postponed it for other business is another question.

The SPEAKER. The House always has to decide as to the priority of business.

Mr. BEEBE. I call the regular order. I made a motion which the Speaker recognized as in order, and I ask that the question be taken on that motion. I do not want as a member of this House to be compelled to vote on this proposition precipitately.

The SPEAKER. The very suggestion which the Chair made gives time; and the Chair would prefer to have the issue in the House made in that way.

Mr. BEEBE. With all deference to the Chair I want to avoid any point which might be implied by action with reference to this resolution.

Mr. CALKINS. I rise to a question of order. I wish to know whether it is in order to move to postpone a question of consideration to a day certain.

The SPEAKER. It is, to postpone to a day certain any question. It is embraced in the very terms of the rule.

Mr. BEEBE. The reason why I do not desire to be forced to vote on the question of consideration is that I do not want to be before the country as taking a position that I will not consider this proposition. All I want is in reference to the question of privilege to consider that and to leave the question of the resolution of the gentleman from Massachusetts as a subsequent matter.

Mr. CARLISLE. I desire to ask the Chair this question: If the question of order which the Chair has proposed to submit to the House, whether or not this is a question of privilege, should be decided by the House in the affirmative—that is, if the House should decide that the motion made by the gentleman from Massachusetts is a question of privilege—would not the vote then have to be taken as between that question of privilege and the motion I have made?

The SPEAKER. If the House should declare this is a question of privilege then the further point could be raised whether the House would consider it at this time.

Mr. POTTER. Yes, Mr. Speaker, but, if the motion of my colleague from New York [Mr. BEEBE] should prevail, then the determination of the question whether the motion of the gentleman from Massachusetts be a question of privilege would be deferred until Monday. So that we should thus have until Monday to consider that question.

The SPEAKER. The Chair understood from several members what he supposed to be the disposition of the House—that is, not to be precipitated into a decision on the part of the House as to whether this is a question of privilege or not. And therefore the gentleman from New York made the motion that the consideration of the question of privilege be postponed until Monday next. The Chair entertained that motion because it was in order. When any question is up for consideration the rule declares exactly what shall be in order:

When any question is under debate no motion shall be received but to adjourn, to lie on the table, for the previous question, to postpone to a day certain.

Now, it was competent, therefore, for the gentleman from New York [Mr. BEEBE] to make the motion to postpone to a day certain.

Mr. EDEN. The effect of the motion, if carried out, will be to carry the whole subject over until Monday.

The SPEAKER. It will.

Mr. THOMPSON. I wish to make a suggestion. I think that the Chair, in entertaining the motion of the gentleman from New York, [Mr. BEEBE,] is not correct. If the motion of the gentleman from New York will be entertained, he can move to postpone until Monday, or until Christmas, with the same propriety.

The SPEAKER. That is a question for the House to decide.

Mr. THOMPSON. It is a question for the House if the original motion is pending and properly pending. I think that a motion to postpone until next Christmas the question of privilege proves its absurdity in my judgment.

Mr. CALKINS. If the Chair decides that it is a question of privilege, then a motion to postpone is in order.

The SPEAKER. The Chair submits the question to the House, and it is before the House from the Chair.

Mr. CALKINS. What question is before the House?

The SPEAKER. The question whether this resolution is a question of privilege.

Mr. CALKINS. Certainly then the question of privilege is not before the House, and therefore a motion to postpone it cannot be in order.

The SPEAKER. The Chair has directly submitted the question to the House to determine whether or not it be a question of privilege.

Mr. CALKINS. When the question is decided then the motion to postpone will be in order.

Mr. BEEBE. I rise to a question of order. Having made a motion which the Chair has entertained as in order, and upon that motion having called the previous question, it is now too late to discuss the question of order or the propriety of the motion.

Mr. BUTLER. Upon that question I call for the yeas and nays.

Mr. FOSTER. Before that question is put—

Mr. BEEBE. It is not in order to debate it.

Mr. FOSTER. Before that question is put I desire to have read the Journal in the case when Mr. Patterson was elected Doorkeeper. I maintain that the Journal will show that the election of Patterson was introduced as a motion of privilege.

Mr. BEEBE. That is in the nature of debate.

The SPEAKER. The Chair thinks the Journal ought to be read.

Mr. BEEBE. I do not want to antagonize the Chair.

Mr. CALKINS. I desire the judgment of the Chair upon my question of order, which is: that the motion of the gentleman from New York is premature; that it cannot be considered or entertained until the first question is decided, whether this is a question of privilege or not. The House having determined that question, then it will be in order to move to postpone.

The SPEAKER. Pending the determination of the House that it is a question of privilege, the gentleman has a right to make the motion to postpone, and that question is before the House.

Mr. BURCHARD. I understand that the motion which the gentleman from Indiana excepts to is the motion to postpone the consideration of the question of privilege.

Mr. CALKINS. Yes, sir.

Mr. BURCHARD. Now, it seems to me, this is one of the questions that has risen incidentally that must be decided immediately. Here is a question that interrupts the order of business of the House. It is stated to be a question of privilege; it stops all other business. Now is it a question of privilege? The Speaker can decide the question, but he may submit it to the House and the House must decide it.

The motion of the gentleman from New York, therefore, is premature. He cannot postpone this question any more than the Speaker can postpone a question of order without the consent of the House. It appears to me, therefore, that the point of order on the immediate consideration of the question of postponement is well taken, but after the question of whether this is a question of privilege is disposed of by the House, then a motion to postpone the question of privilege will be in order.

Mr. CALKINS. I do not seem to have made myself understood, and I will repeat my point of order. It is: that the motion of the gentlemen from New York is to postpone the consideration of the question of privilege to a day certain. Now it has not yet been determined, either by the Chair or the House, whether the motion of the gentleman from Massachusetts [Mr. BUTLER] is a question of privilege, and until that is determined there is nothing that can be postponed, and the question must be determined summarily.

The SPEAKER. On the contrary, the rule says "question;" and the Chair having submitted to the House whether the House will determine that it is a "question" of privilege, it is a "question," and it can be postponed under the rule and practice and other business be proceeded with if postponed.

Mr. CALKINS. Does the Chair hold that when the Chair submits a motion of this kind to the House it is a question within the meaning of Rule 42?

The SPEAKER. It is a question just as much as any other motion under the rule.

Mr. CALKINS. Then suppose the Chair determined it and did not submit it to the House. I understand the Chair may determine it

peremptorily or refer it to the House. Neither is a question within the meaning of the rule.

The SPEAKER. Where the question is whether a resolution is a privileged question to be offered at any time, and the Chair has submitted it to the House it is a question before the House, and it is competent for any member to move to postpone it to a day certain.

Mr. CALKINS. The question before the House, then, is the question submitted by the Chair.

Mr. BEEBE. By the force of the rule authorizing the Speaker to submit it.

Mr. COX, of New York. The House can postpone it or decide it forthwith.

The SPEAKER. The gentleman from Indiana [Mr. CALKINS] will hardly contend that when a motion is submitted by the Chair to the House as to the character of a resolution that it is not a question before the House, and, if a question, then it is competent for the gentleman from New York [Mr. BEEBE] to move to postpone it to a day certain.

Mr. CALKINS. Allow me another suggestion. Let us take another case to illustrate the matter. Suppose a gentleman raises the question of consideration between two bills and the Chair submits the question to the House, and then a gentleman moves to postpone the question of consideration to a day certain, and then somebody still moves to postpone that question to a day certain and so on, *ad libitum*—where would it stop?

The SPEAKER. The House has it within its power to decide questions of priority of business.

Mr. CALKINS. It seems to me a *reductio ad absurdum*.

Mr. COX, of New York. Could not the House adjourn now?

Mr. CALKINS. Certainly.

Mr. FOSTER. I ask that the Journal of May 26, 1876, relating to the election of Mr. Patterson as Doorkeeper, be read.

Mr. CALKINS. Do I understand the Chair to overrule my point of order?

The SPEAKER. The Chair did not understand that the gentleman from Indiana made any point of order. That part of the Journal referred to by the gentleman from Ohio [Mr. FOSTER] will now be read.

The Clerk read as follows:

Mr. Teese, as a question of privilege, submitted the following resolution; which was read, considered, and agreed to, namely:

Resolved, That John H. Patterson, a citizen of the State of New Jersey, be, and he is hereby, elected Doorkeeper of the House of Representatives of the Forty-fourth Congress, for the unexpired term thereof.

Mr. Teese moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

The said John H. Patterson thereupon appeared, and, having taken the oath of office prescribed by section 1737 of the Revised Statutes, and Rule 10 of the House of Representatives, entered upon the discharge of the duties of said office.

The SPEAKER. It seems in that case to have been admitted as a question of privilege by consent, but in this case it is contested, and the Chair therefore submits the question to the House to determine, as provided for in the Manual of the House.

Mr. POTTER. And pending the question of consideration it is in order to move to postpone.

Mr. BEEBE. I insist upon the previous question.

Mr. TOWNSEND, of New York. I insist upon the regular order in the interest of private claimants against the Government.

The SPEAKER. The Chair is very anxious that the Private Calendar shall be reached.

Mr. FRANKLIN. If the motion of the gentleman from New York [Mr. BEEBE] prevails, then on next Monday the House will be called upon to consider whether this subject is a question of privilege or not, if I understand it correctly.

The SPEAKER. The question is upon determining the point of order as to whether the resolution is privileged, and not of the merits of the resolution.

Mr. BEEBE. Of course I contemplated that the question should come up promptly after the reading of the Journal.

Mr. FRANKLIN. There seems to be a disposition on this side of the House a little different from that which prevailed yesterday. There was no objection yesterday to the other side of the House participating in this Doorkeeper matter, but there seems to have been a change. I do not think that they have a right to select a Doorkeeper or turn one out.

The SPEAKER. The question before the House to be voted upon is the motion of the gentleman from New York to postpone the question submitted for the decision of the House by the Chair, whether under the circumstances existing at this time a motion to proceed to the election of a Doorkeeper, as proposed, is a question of privilege.

Mr. BUTLER and Mr. LUTTRELL called for the yeas and nays.

The yeas and nays were ordered.

Mr. SPRINGER. To what hour on Monday is it proposed to postpone this matter?

Mr. BEEBE. Immediately after the reading of the Journal.

Mr. BUTLER. I rise to a parliamentary question, and it is, whether the matter will come up for a vote the first thing on Monday, after the reading of the Journal.

The SPEAKER. The Chair understands that to be the motion of the gentleman from New York, as modified.

Mr. BUTLER. Then, according to that, it will come up immediately after the reading of the Journal on Monday next.

Mr. BEEBE. Unless it is again postponed.

Mr. SPRINGER. I suggest to the gentleman from New York that he modify his motion so that this matter will come up immediately after the morning hour, and in that way we can have a morning hour on Monday.

Mr. BEEBE. I cannot agree to that now; it is too late.

Mr. BUTLER. Oh, no; we want to attend to this Doorkeeper business as soon as possible.

The question was taken; and there were—yeas 125, nays 112, not voting 54; as follows:

YEAS—125.

Acklen,	Eden,	Jones, James T.	Scales,
Aiken,	Eickhoff,	Kenau,	Schleicher,
Banning,	Elam,	Kimmel,	Shelley,
Bell,	Ellis,	Knapp,	Singleton,
Benedict,	Evins, John H.	Knott,	Slemmons,
Bicknell,	Ewing,	Landers,	Smith, William E.
Blackburn,	Felton,	Ligon,	Southard,
Blount,	Finley,	Lockwood,	Sparks,
Boone,	Forney,	Lynde,	Springer,
Bouck,	Franklin,	Malah,	Stenger,
Bragg,	Garth,	Manning,	Throckmorton,
Bright,	Gause,	Martin,	Townsend, R. W.
Buckner,	Giddings,	McKenzie,	Turner,
Cabell,	Glover,	McMahon,	Turney,
Caldwell, J. W.	Goode,	Mills,	Vance,
Candler,	Gunter,	Money,	Waddell,
Carlisle,	Hardebergh,	Morgan,	Walker,
Clark, Alvah A.	Harris, Henry R.	Morrison,	Walsh,
Clark of Missouri,	Harris, John T.	Morse,	Whitthorne,
Clark of Kentucky,	Hartbridge,	Mulder,	Wigington,
Clymer,	Hartzell,	Muller,	Williams, A. S.
Cobb,	Hatcher,	Patterson, T. M.	Williams, James
Cook,	Henkle,	Pelphs,	Williams, Jere N.
Covett,	Henry,	Potter,	Willis, Albert S.
Cox, Samuel S.	Herbert,	Quinn,	Willis, Benj. A.
Cravens,	Hewitt, Abram S.	Rea,	Wilson,
Crittenden,	Hewitt, G. W.	Reagan,	Wood,
Culberson,	Hooker,	Riddle,	Wright,
Davidson,	House,	Robbins,	Yeates.
Dickey,	Huntton,	Roberts,	
Durham,	Jones, Frank	Robertson,	
		Ross,	

NAYS—112.

Aldrich,	Crapo,	Keightley,	Robinson, G. D.
Bacon,	Cummings,	Ketcham,	Robinson, M. S.
Bagley,	Danford,	Killing,	Ryan,
Baker, John H.	Davis, Horace	Lathrop,	Sampson,
Baker, William H.	Deering,	Lindey,	Sapp,
Ballou,	Denison,	Loring,	Sexton,
Banks,	Dunnell,	Luttrell,	Shallenberger,
Bayne,	Eames,	Marsh,	Sinnickson,
Beebe,	Errett,	McCook,	Smalls,
Blair,	Evans, James L.	McGowan,	Stewart,
Brewer,	Fort,	McKinley,	Stone, John W.
Briggs,	Foster,	Mitchell,	Stone, Joseph C.
Brogden,	Frye,	Monroe,	Strait,
Bundy,	Hale,	Near,	Thompson,
Burchard,	Hanna,	Near,	Tipton,
Burlick,	Harris, Benj. W.	O'Neill,	Townsend, Amos
Butler,	Haskell,	Page,	Townsend, M. I.
Cain,	Hazelton,	Patterson, G. W.	Van Vorhes,
Calkins,	Hendee,	Peddie,	Wait,
Camp,	Henderson,	Phillips,	Ward,
Campbell,	Hiscock,	Pollard,	Welch,
Cannon,	Hungerford,	Pound,	White, Harry
Caswell,	Hunter,	Powers,	White, Michael D.
Chittenden,	Itiner,	Price,	Williams, Andrew
Clark, Rush	Jones,	Pugh,	Williams, C. G.
Cole,	Jones, John S.	Rainey,	Williams, Richard
Conger,	Joyce,	Randolph,	Willits,
Cox, Jacob D.	Keifer,	Reed,	Wren.

NOT VOTING—54.

Atkins,	Dibrell,	Hubbell,	Saylor,
Beebe,	Douglas,	Humphrey,	Smith, A. Herr
Blair,	Dwight,	Jorgensen,	Starin,
Bliss,	Ellsworth,	Kelley,	Steele,
Boyd,	Evans, I. Newton	Lapham,	Stephens,
Brentano,	Freeman,	Mackey,	Sward,
Bridges,	Fuller,	Mayham,	Thorburn,
Browne,	Gardner,	McKee,	Tucker,
Caldwell, W. P.	Garfield,	Oliver,	Veeder,
Chalmers,	Gibson,	Overton,	Warner,
Claffin,	Hamilton,	Pridemore,	Watson,
Collins,	Harmer,	Reilly,	Young.
Davis, Joseph J.	Hart,	Rice, Americus V.	
Dean,	Hayes,	Rice, William W.	

So the motion to postpone was agreed to.

During the call of the roll the following announcements were made: Mr. DAVIS, of North Carolina. I am paired with Mr. ELLSWORTH, of Michigan. If he were here, he would vote "no" and I would vote "ay."

Mr. LOCKWOOD. My colleague, Mr. MARSH, is confined to his room by sickness and is paired with Mr. OLIVER, of Iowa. If here, Mr. MARSH would vote "ay" and Mr. OLIVER would vote "no."

Mr. MACKEY. I am paired with my colleague, Mr. EVANS. If he were present, I would vote "ay."

Mr. SCALES. My colleague, Mr. STEELE, is paired with Mr. HAYES, of Illinois.

Mr. DIBRELL. I am paired with my colleague, Mr. THORNBURGH. Mr. YOUNG. My colleague from Tennessee, Mr. CALDWELL, is absent by leave of the House and paired with Mr. FREEMAN, of Pennsylvania. I have no intimation how either of those gentlemen would vote if here.

Mr. BEEBE. I am paired with my colleague, Judge LAPHAM.

Mr. MAYHAM. I am paired with Mr. HUMPHREY, of Wisconsin. If he were here, I would vote "ay."

Mr. TUCKER. I am paired with Mr. GARFIELD, of Ohio. If he were here, I would vote "ay."

Mr. BRIDGES. I am still paired with Mr. DWIGHT, of New York. If he were here, I presume he would vote "no;" I would vote "ay."

Mr. OVERTON. I am paired on this question with my colleague, Mr. REILLY. If he were present, I would vote "no," and I presume he would vote "ay."

Mr. BROWNE. I am paired with my colleague, Mr. HAMILTON.

Mr. HUNTON. My colleague, Mr. DOUGLAS, is absent by leave of the House and paired with Mr. WATSON, of Pennsylvania.

Mr. SMITH, of Pennsylvania. I am paired with Mr. ATKINS, of Tennessee, who, I understand, is absent on account of sickness. If he were here, I would vote "no."

Mr. O'NEILL. My colleague, Mr. HARMER, is paired with Mr. RICE, of Ohio. If they were here, Mr. HARMER would vote "no," and I presume Mr. RICE would vote "ay."

Mr. WATSON. I am paired on all political questions with Mr. DOUGLAS, of Virginia. If he were here, I would vote "no."

The result of the vote was then announced as above stated.

Mr. BEEBE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. TOWNSEND, of New York. I call for the regular order.

The SPEAKER. The regular order being called for, the morning hour will now begin at thirteen minutes before two o'clock. This being Friday, the first business in order is the call of committees for reports of a private nature.

Mr. BRIGHT. Would it be in order for me now to move that the House resolve itself into Committee of the Whole for the purpose of proceeding with the consideration of business on the Private Calendar, and that the morning hour of to-day be dispensed with?

The SPEAKER. That would require unanimous consent.

Mr. BRIGHT. I ask unanimous consent that the morning hour be dispensed with.

Mr. WHITE, of Pennsylvania. I object.

The SPEAKER. The first business in the morning hour—

Mr. DICKEY. When the resolution was submitted by the gentleman from Massachusetts [Mr. BUTLER] as a question of privilege, upon which the point of order was made, I had the floor to introduce a bill.

The SPEAKER. The gentleman asked unanimous consent for that purpose. The Chair will recognize the gentleman at a later period.

Mr. DICKEY. And I understood that I had unanimous consent.

The SPEAKER. The unanimous consent was interrupted by what was claimed to be a question of privilege. The Chair will recognize the gentleman later in the day.

Mr. DICKEY. Very well.

The SPEAKER. The morning hour begins at twelve minutes before two o'clock, and the first business in order is the calling of committees for reports of a private nature; and the call rests with the Committee on Private Land Claims.

PRIVATE LAND CLAIM IN NEW MEXICO.

Mr. BOUCK, from the Committee on Private Land Claims, reported back adversely House bill No. 1427 to confirm a certain private land claim in the Territory of New Mexico, accompanied by a report in writing.

The bill was laid on the table and the accompanying report ordered to be printed.

Mr. BOUCK moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ANNE M. CLARK.

Mr. MCGOWAN, from the same committee, reported back adversely the petition of Anne M. Clark, for relief, accompanied by a report in writing.

The petition was laid on the table, and the accompanying report ordered to be printed.

Mr. MCGOWAN moved to reconsider the vote by which the petition was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NEW YORK INDIAN LANDS IN KANSAS.

Mr. TOWNSEND, of New York, from the Committee on Indian Affairs, reported back, with a favorable recommendation, Senate bill No. 691, to amend an act entitled "An act to provide for the sale of certain New York Indian lands in Kansas," approved February 19, 1873.

The question was upon ordering the bill to be read a third time.

The bill provides that the period within which the thirty-two Indians referred to in the act to which this is an amendment, or their heirs, are required to prove their identity in order to entitle them to the benefits of said act shall be extended for two years from February 19, 1878.

Mr. TOWNSEND, of New York. I ask that this bill be now considered. All that it proposes is to allow two or three Indians, who have some interest in the moneys now in the Treasury from the sale of certain lands in Kansas, two years more time in which to prove their claims. Some of the witnesses are residents of the Dominion of Canada, and their evidence has not yet been obtained. There were originally thirty-two of these Indians, and all of the claims have been proved except two or possibly three. This bill simply extends the time for two years in which to prove their claims.

The bill was ordered to a third reading, read the third time, and passed.

Mr. TOWNSEND, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CATTARAUGUS INDIAN RESERVATION.

Mr. SCALES, from the Committee on Indian Affairs, reported back, with an amendment, the bill (H. R. No. 3824) to authorize the survey of the Cattaraugus Indian reservation, in the State of New York.

The bill was read. It authorizes the Secretary of the Interior to cause the Cattaraugus Indian reservation, in the State of New York, to be resurveyed in accordance with the original survey thereof and the exterior boundaries thereof to be marked by stone or iron monuments, the expense thereof not to exceed the sum of \$2,000, and to be paid by the Seneca Nation of Indians, who are authorized to select a surveyor, to be approved by the Secretary of the Interior.

The second section provides that the surveyor shall make plats in triplicate of the reservation, showing the lines of its exterior boundaries, streams of water, and public highways on or running through the reservation, and that the plats and field-notes of the survey shall be submitted to the Commissioner of the General Land Office for his examination and approval, and whose duty it shall be to furnish one copy thereof to the clerk of the county of Erie, in the State of New York, one copy to the Seneca Nation of Indians, and the third to be retained in the General Land Office.

The amendment reported by the committee was read, as follows:

Add to section 1 the following:

And the said Secretary may pay the said sum of \$2,000 to the person who makes the survey out of any moneys under his control belonging to said nation of Indians.

Mr. SCALES. I ask for the reading of a letter from the Commissioner of Indian Affairs, giving the reasons why the bill should pass.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, March 22, 1878.

SIR: I have received, by your reference of 14th instant, letter of same date from Hon. A. M. SCALES, chairman of House Committee on Indian Affairs, submitting for the views of the Department House bill No. 3824, a bill to authorize the survey of the Cattaraugus Indian reservation, in the State of New York.

This bill simply contemplates a retracing of the original lines of the out-boundaries of said reservation. I understand that no survey of the reservation has been made since about 1796, that the monuments of that survey have been obliterated, and that encroachments on the reservation are charged upon contentious proprietors, while such proprietors allege trespass by the Indians.

I am therefore of opinion, as the Indians propose to pay the expense of the survey, that it is advisable, and accordingly recommend the passage of the bill. Said letter and bill are herewith returned.

Very respectfully, your obedient servant.

E. A. HAYT, Commissioner.

Hon. SECRETARY OF THE INTERIOR.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCALES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

D. G. AND D. A. SANFORD.

Mr. MORGAN, from the same committee, reported a bill (H. R. No. 4241) for the relief of D. G. and D. A. Sanford; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. BOONE, by unanimous consent, presented in writing the views of a minority of the committee upon the bill just reported; which were ordered to be printed with the report.

EASTERN BAND OF CHEROKEE INDIANS.

Mr. MORGAN. The Committee on Indian Affairs, to whom was referred the bill (H. R. No. 228) to authorize and enable the eastern band of the Cherokee Indians to institute and prosecute a suit in the Court of Claims against the Cherokee Nation, have directed me to report back the same, with a recommendation that it pass, and to ask its present consideration.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That that portion of the Cherokee Indians residing east of the Mississippi River known as the eastern band of the Cherokee Indians, by that name and style be, and they are hereby authorized and empowered to institute, within one year from the passage of this act, and carry on a suit in the Court of Claims, and which court is hereby given jurisdiction of said subject-matter, against that portion of the Cherokee Indians residing west of the Mississippi River, by the name and style of the Cherokee Nation, for the adjudication and recovery of all claims, causes of action, or rights in law or equity, in relation either to lands, proceeds of lands, moneys, or other property, which said eastern band may now, or at

any time before the said adjudication, have against the said Cherokee Nation, arising out of any treaty or treaties heretofore made between the United States and the said Cherokee people, or any portion of them, or under any law of the United States, or under any treaty or agreement between said eastern band and said Cherokee Nation; and in such suit the said court shall adjudicate the said matters so involved according to law and equity, any statute of limitations, State or national, to the contrary notwithstanding.

SEC. 2. That in such suit service shall be effected upon said Cherokee Nation by publication in one newspaper published in the city of Washington, District of Columbia, and one to be designated by the chief justice of the said court which he may deem to have the largest circulation among the said Cherokee Nation, stating the penalty and objects of said suit; and such suit shall be governed by the practice and rules of procedure of said court so far as applicable; but such court shall have power to prescribe such rules for taking testimony and for other proceedings in the case as the court may find needful in the furtherance of justice.

SEC. 3. That the final judgments or decrees of such court in any such suit may be removed to the Supreme Court of the United States by appeal or writ of error; and in case of such removal, such cause shall have such precedence on the docket of the Supreme Court as is given to cases wherein the United States are a party in interest.

SEC. 4. That the Secretary of the Interior may be made a party to such suit; and it shall be his duty to execute and perform any interlocutory or other order, judgment, or decree of the said Court of Claims in the progress or upon the determination of said suit, touching or affecting the funds, securities, or other property which he holds, or which may hereafter come into his possession, as trustee, or custodian of the funds or property involved in such suit, or any portion thereof.

SEC. 5. That said eastern band of Cherokees are hereby empowered to employ, by written contract, one or more attorneys at law to prosecute said suit; which contract shall be subject to the approval of the chief justice of said Court of Claims.

SEC. 6. That in order to enable said eastern band of Cherokees to defray the incidental expenses of prosecuting any suit, as hereinbefore provided, the Secretary of the Interior is hereby authorized and directed, from time to time, to pay to their attorney or attorneys, on the order of the said Court of Claims, for such incidental expenses as may be approved by said court, other than attorneys' fees, amounts aggregating not exceeding the sum of \$10,000, out of any funds belonging to said eastern band of Cherokees.

SEC. 7. That the said eastern band of Cherokees, in commencing the suit authorized by this act, shall, in their petition, state and set forth the facts upon which they claim the right to recover, and shall verify the same by the oath or oaths of one or more of their chiefs, headmen, or members of their council; and no other fact or thing shall be necessary to be stated or verified in such petition.

Mr. CLYMER called for the reading of the report; and it was read, as follows:

The Committee on Indian Affairs, to whom was referred the bill (H. R. No. 228) to enable the eastern band of the Cherokee Indians to institute and prosecute a suit in the Court of Claims against the Cherokee Nation, respectfully submit the following report:

It appears that this bill provides for a settlement of a long-standing controversy between what are known as the "eastern band of Cherokee Indians" being those now residing east of the Mississippi River—and the western Cherokees or Cherokee Nation; in which controversy the eastern band claim a *pro rata* share of moneys derived from sale of lands and other tribal or national property belonging to the whole Cherokee people.

This claim is based upon the treaty between the United States and the Cherokee tribe or nation of Indians, concluded December 29, 1835, and the agreement made and executed on the 26th of May, 1836, by and between the representatives of that portion of the Cherokees who decided to go west of the Mississippi River and that portion who decided to remain east of said river, and which agreement was for the purpose of explaining the true intent and meaning of the said treaty of 1835, as to the rights of those Cherokees who desired to remain east of the Mississippi, and also upon the treaty between the United States and the Cherokee Nation, proclaimed May 23, 1846, supplemental and explanatory of the treaty of 1835, in reference to the subject-matter now in controversy between eastern and western Cherokees.

The question at issue between eastern and western Cherokees as to whether the eastern Cherokees are entitled to a *pro rata* share of all benefits accruing from the treaty of 1835 without removal to the West, being a condition precedent to sharing such benefits, has at different times been submitted to the proper officers of the Government for opinion. In 1845, Attorney-General John Y. Mason, and again in 1851, Attorney-General J. J. Crittenden, gave opinions upon this question, both of whom sustained the claim set up by the eastern Cherokees, that they were entitled to all the benefits accruing from the treaty of 1835 as other Cherokees without removal to the West. (The same opinion has been expressed by other officers of the Government to whom the subject has been referred for examination and report since the treaty of 1835.) The first opinion thereon being given by the Secretary of War in July, 1836, (the Indian Bureau then being under control of the War Department,) and the last by the Commissioner of Indian Affairs, E. P. Smith, in December, 1875.

The eastern band of Cherokees have determined to remain where they now reside in North Carolina and other States east of the Mississippi, and the western Cherokees—Cherokee Nation—having sold a large quantity of the land west of the Mississippi which belonged, in the language of the treaty, to the "whole Cherokee people," they (the eastern Cherokees) now desire to avail themselves of their *pro rata* share of the money received from said sales, which claim is controverted by the western Cherokees or Cherokee Nation.

Without going into a minute examination of the subject-matter involved in this controversy, the committee are of the opinion that a definite and final settlement of the issue should be had at an early day, and which can better be done by a court of competent jurisdiction wherein a deliberate and searching investigation can be made in the case, such as cannot well be done by Congress in its hurry and pressure of business.

The claimants are authorized to employ by contract attorneys to prosecute said claim in the Court of Claims, which contract must be approved by the chief justice of said court. The Secretary of the Interior being the custodian of the funds of the Cherokee Nation, is to be made a party defendant in the case. It is also provided that the incidental expenses of said suit, other than attorney fees, not to exceed the sum of \$10,000, shall be paid from time to time by the Secretary of the Interior out of any funds in his hands or under his control belonging to said eastern band of Cherokees.

The committee therefore report back the accompanying bill giving the Court of Claims jurisdiction to hear and determine said case, and recommend its passage.

Mr. EDEN. This strikes me as a very extraordinary bill. The Court of Claims was instituted for the purpose of examining claims against the Government; but this bill proposes to refer to that court a question between two bands of a certain tribe of Indians. We might just as well refer to that court any question between two citizens. The bill is so extraordinary that I think it ought to go upon the Calendar. It is very lengthy and should be examined before it is acted upon.

Mr. TOWNSEND, of New York. As a member of the committee I did not join in the report of the majority; and though I have not felt called upon to make an adverse report, I wish to say in justice to myself that I am opposed to the bill, and I will explain the reasons for my opposition at some future time.

Mr. BUTLER. I raise the point of order that this is a public bill, and cannot under the rules be reported to-day. If I understand it correctly it proposes to allow one nation with whom we might make a treaty to sue another nation with whom we might make a treaty. That is evidently a public affair.

Mr. EDEN. And the whole question of recovery depends upon the construction of a treaty.

The SPEAKER. If the Chair understands the object of the bill, it is to allow a portion of a tribe of Indians to bring a suit against the entire tribe.

Mr. MORGAN. And against the nation.

The SPEAKER. The Chair thinks that this bill is for the benefit of individuals as a class, and is therefore a private bill.

Mr. EDEN. If I understand the reading of the bill aright, it provides for determining a question that has sprung up between two separate bands of a single tribe of Indians, with whom the Government made a treaty in 1835, under which treaty the Government owes the tribe certain annuities. The question to be determined under that treaty is whether the Indians who remained on the east side of the Mississippi are to have any portion of the fund under that treaty.

The SPEAKER. If this were to recognize or ratify a treaty it would be beyond doubt a public bill.

Mr. EDEN. That is precisely what the bill provides.

Mr. VANCE. Under the treaty of 1835 certain annuities are held in trust by the Government. The eastern band of Cherokee Indians claim that they are entitled to a *pro rata* share under the treaty; and this bill proposes that the Court of Claims shall settle the dispute between the eastern and the western Cherokees.

Mr. SCALES. My understanding is—and I think the gentleman from Illinois [Mr. EDEN] is under a wrong impression—that this is a mere matter of the construction of a treaty; and the question is whether the Department shall construe it—

The SPEAKER. If that were so, the Chair would decide the bill to be a public one.

Mr. SCALES. I believe that to be the object of the bill—

Mr. MORGAN. It affects the rights of individuals, not of the whole tribe.

Mr. EDEN. It must necessarily affect the whole tribe, because the treaty is made with the tribe.

The SPEAKER. If gentlemen agree that the bill affects the construction to be put upon a treaty, it is undoubtedly a public bill.

Mr. TOWNSEND, of New York. Undoubtedly it relates to the rights of various branches of the Cherokees under treaty stipulations with the United States.

Mr. HOOKER. Mr. Speaker, on the point of order I desire simply to say that this bill refers to the right of individuals under treaty and not to the question of compact between the parties to the treaty.

The SPEAKER. That was the Chair's construction.

Mr. HOOKER. It refers simply to individuals and the rights of individuals, and as such it does come as a private bill before the House.

The SPEAKER. The Chair decided, under the view stated by the gentleman from Mississippi, that it was a private bill. Subsequently, however, the gentleman from North Carolina stated differently.

Mr. SCALES. The Chair did not allow me to finish my statement. I stated it was a construction of the treaty. I still repeat that, but before I went further the Chair stopped me, and said under that construction it was a public bill.

The SPEAKER. The Chair begs the gentleman's pardon.

Mr. SCALES. It is the construction of a treaty with regard to individual rights under that treaty.

The SPEAKER. Is this for the benefit of individuals under that treaty?

Mr. SCALES. It is, and nothing more.

Mr. EDEN. It is for the benefit of one band of these Indians.

Mr. SCALES. It does not affect the treaty as an independent measure.

Mr. EDEN. This tribe of Cherokees is divided into two bands. The question presented here is whether under the treaty one of these bands is entitled to this money. That is the question to be settled.

The SPEAKER. It is to give certain individuals embraced in one of these bands a mode of redress. As the Chair understands it is for the benefit of individual Indians.

Mr. SCALES. It does not affect the Government. The Government stands exactly where it did before, but it aids the Government in determining how this money is to be distributed, and to whom it is to be given. The Government does not pay one dollar more or one dollar less.

Mr. VANCE. I will say, Mr. Speaker, that in the Forty-fourth Congress this was regarded as a private bill, and was placed upon the Private Calendar. Such was the decision by one of your predecessors.

Mr. EDEN. Let it go to the Private Calendar or to the public Calendar and I will not make any further objection. I want it to go

where the House can have an opportunity to examine it. Let the report be printed. It is a lengthy bill and ought to be considered carefully.

Mr. WILLIAMS, of Oregon. Does not this bill enlarge the jurisdiction of the Court of Claims by allowing it to consider this matter which otherwise under the law would not be considered, and if that be so it must be considered as a public bill.

Mr. EDEN. It does give the Court of Claims jurisdiction in this case which it does not have now. The Court of Claims has jurisdiction of claims against the Government. This bill proposes to give that court jurisdiction to settle a claim between two bands of Indians.

The SPEAKER. It proposes to enlarge the jurisdiction of the Court of Claims for the benefit of these individuals.

Mr. VANCE. This fund is held by the Government of the United States in trust for the benefit of these Indians under the treaty, and jurisdiction is proposed to be given to the Court of Claims in order that it may be determined by the Court of Claims how the fund shall be distributed.

The SPEAKER. Does the gentleman from Missouri accept the proposition of the gentleman from Illinois?

Mr. EDEN. If the gentleman from Missouri will let the bill go either to the Private Calendar or the public Calendar in Committee of the Whole, I will withdraw further objection. I only want the bill and report to be printed and time given for their consideration.

Mr. MORGAN. I must insist on the present consideration of the bill.

Mr. HASKELL. I desire to ask the gentleman from Missouri a question.

Mr. MORGAN. I will yield for that purpose.

Mr. HASKELL. I should like to inquire whether this bill changes any of the provisions of the treaty?

Mr. MORGAN. It does not. I will explain the purport of the bill in a moment. A controversy has grown up between individuals of this tribe of Indians, and all the bill proposes is to give to the Court of Claims jurisdiction to determine that controversy. The fund is in possession of the United States, and it is necessary this determination should be made in regard to the distribution of that fund. It does not take one cent out of the Treasury of the United States, but as I have already stated, merely allows the Court of Claims to determine how this money shall be distributed under the treaty.

Mr. HASKELL. Does not the treaty provide how this money shall be paid?

Mr. MORGAN. It does not; for if that were the case there would be no necessity for this bill.

Mr. HASKELL. I wish to know whether or not this bill provides for a distribution of the fund of these Indians which will make it possible there shall be a distribution other than is provided for by the treaty itself between the United States and these Indians.

Mr. MORGAN. The bill merely provides for construction by the Court of Claims under the treaty as to how the fund shall be distributed.

Mr. HANNA. Do the Cherokees want this bill passed?

Mr. VANCE. Certainly they do.

Mr. MORGAN. I must insist, under my instructions from the Committee on Indian Affairs, on the present consideration of this bill. Therefore I move the previous question.

Mr. EDEN. I do not think this bill should be passed in that way, without any chance to consider it at all.

Mr. TOWNSEND, of New York. I hope the gentleman from Missouri will not press this. I certainly wish to be heard. This bill involves a grave question of public policy and I certainly feel as if we ought not to act upon it until we can act deliberately.

The SPEAKER. The Chair rules this is a private bill, and this ruling is in accord with the past practice of the House in like cases.

Mr. EDEN. Then I make the further point of order that it requires an appropriation out of the Treasury for the purpose of paying attorneys' fees.

Mr. HANNA. Are they to be paid out of the Treasury or out of the fund?

Mr. SPARKS. The treaty gives these Indians a certain amount of money. This bill makes provision simply for a disposition of that money among themselves.

Mr. HANNA. And they want this act passed?

Mr. MORGAN. Yes, sir.

Mr. TOWNSEND, of New York. I wish to make a statement as to that, so that there may be no mistake about it. A portion of the tribe which resides in North Carolina wants the bill. The remainder of the tribe have never assented to it, directly or indirectly. Nineteen-twentieths of the Cherokees have never assented, directly or indirectly, to the passage of the bill.

Mr. MORGAN. It is quite true that the Cherokee Nation proper have not assented to the bill. The bill is in the interest of course of the eastern Cherokees; and I contend it is for the benefit of both the eastern and western Cherokees that these controversies should be settled and the troubles ended. They go year after year before the Department. The Department has undertaken to settle the question. And now we propose to refer it to the court to settle it. How the question is likely to be settled I cannot say. I have not examined into the merits of the controversy. I only submit that it should be settled and the Court of Claims is the proper tribunal to settle it.

Mr. EDEN. As this is not a controversy to which the United States is a party at all, why should the question go to the Court of Claims?

Mr. VANCE. The Government is a party because it holds the funds.

Mr. PAGE. I wish to ask my colleague on the committee, the gentleman from Missouri, to permit this bill to go to the Private Calendar. I am satisfied after it is explained, as it will be when we consider it on the Calendar, there will be no objection to the passage of the bill.

Mr. MORGAN. Upon consultation with the gentleman who introduced the bill and at the request of members of the committee I agree that it shall be referred to the Committee of the Whole on the Private Calendar.

The bill was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

S. T. MARSHALL.

Mr. BOONE, from the Committee on Indian Affairs, reported back, with a favorable recommendation, the bill (H. R. No. 1614) for the relief of S. T. Marshall, of Lee County, Iowa; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JOHN KIERNAN.

Mr. BRAGG, from the Committee on Military Affairs, reported back, with an adverse recommendation, the bill (H. R. No. 1550) for the relief of John Kiernan; and the same was laid on the table, and the accompanying report ordered to be printed.

Mr. BRAGG moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WILLIAM MILLS.

Mr. BRAGG also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 2374) for the relief of William Mills; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

A. S. BLOOM.

Mr. BRAGG also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 1226) for the relief of A. S. Bloom, late a major in the Seventh Kentucky Volunteer Cavalry; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ADOLPHE VON HAACKE.

Mr. DIBRELL, from the Committee on Military Affairs, reported back, with an adverse recommendation, the bill (H. R. No. 2627) for the relief of Adolphe Von Haacke; and the same was laid on the table, and the accompanying report ordered to be printed.

Mr. DIBRELL moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JULIUS QUENTIN.

Mr. DIBRELL also, from the same committee, reported back, with an adverse recommendation, the petition of Julius Quentin, first lieutenant United States Army, for relief; and the same was laid on the table, and the accompanying report ordered to be printed.

Mr. DIBRELL moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS POULTNEY.

Mr. WILLIAMS, of Delaware, from the Committee on Military Affairs, reported back the bill (H. R. No. 1580) for the relief of Thomas Poultny, and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on Patents.

Mr. VANCE. What is the nature of the bill? I want to know whether it should properly go to the Committee on Patents.

The bill was read.

Mr. VANCE. I do not see any reason why that bill should go to the Committee on Patents. It has nothing to do with the extension of patents. It is a claim growing out of an alleged infringement of a patent. There is no extension asked in the case, and I do not know why it should go to our committee.

The SPEAKER. The Committee on Military Affairs have reported it back with the recommendation that it be referred to the Committee on Patents.

Mr. WILLIAMS, of Delaware. That is the recommendation of the Committee on Military Affairs.

The motion of Mr. WILLIAMS, of Delaware, was agreed to.

GEORGE A. ARMES.

Mr. MAISH, from the Committee on Military Affairs, reported back, as a substitute for House bill No. 1642, a bill (H. R. No. 4242) to authorize the restoration of George A. Armes to the rank of captain; which was read a first and second time.

The bill reported as a substitute was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That the provisions of law regulating appointments in the Army by promotion in the line are hereby suspended for the purposes of this act, and only so far as they affect George A. Armes; and the President can, if he so desire, in the exercise of his own discretion and judgment, nominate and, by and with the advice and consent of the Senate, appoint said George A. Armes, late captain in the Tenth United States Cavalry Regiment, to the same grade and rank of captain held by him on June 7, 1870, in any vacancy occurring in the grade of captain in said regiment: *Provided, however,* That no pay, compensation, or allowance whatever shall ever be given to said Armes for the time between June 7, 1870, and the date of appointment hereunder: *And provided further,* That the acceptance of any benefit under this act by said George A. Armes shall be taken and construed to be by his election a bar to any claim for pay or allowances from the date of his discharge to his acceptance of a commission, if one be granted him, and under the provisions of this act.

Mr. MAISH. I ask for the passage of the bill, and move the previous question upon it.

Mr. STRAIT. I make a point of order upon the bill.

The SPEAKER. The Chair will reserve the point of order.

Mr. PAGE. I would like to have the report read.

The report was read, as follows:

The Committee on Military Affairs, to whom was referred the bill (H. R. No. 1642) for the restoration of George A. Armes to the Army with the rank of captain, have had the same under consideration, and submit the following report:

The records of the War Department show the following facts: That George A. Armes entered the military service of the United States as a private in Company B, Sixteenth Regiment Virginia Volunteer Infantry, September 1, 1862; was appointed second lieutenant in the same regiment December 2, 1862; and was appointed captain in the Second Regiment New York Artillery October, 1864. On the 14th of December, 1864, he was mentioned in general orders for meritorious conduct, by General Miles, "for leading the charge and capturing the works at Hatcher's Run, Virginia, in the face of an entrenched enemy and over obstacles very difficult to surmount." Upon the recommendation of Generals Hancock, Auger, Griffin, Mott, Miles, and Thompson, he was appointed second lieutenant in the Second United States Cavalry. Soon after, he was appointed captain in the Tenth United States Cavalry, and his commission was dated back, upon the recommendation of General Philip St. George Cook, with the approval of General U. S. Grant, as a recognition of merit. March 2, 1867, he was brevetted major in the regular Army for gallant services, having been previously brevetted major of volunteers. On the 12th of November, 1866, the following general order was issued:

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebraska, November 12, 1866.

[General Orders No. 20.]

The commanding general announces to the Department that Lieutenant George A. Armes, Second United States Cavalry, being sent with twenty-five men of his regiment from Fort Sedgewick, October 23, in pursuit of a war party of Sioux Indians, which had driven off the previous day several hundred head of stock, found and followed their trail—under the difficulties of crossing two wide rivers, forks of the Platte, and of darkness—ninety-eight miles, from five o'clock a. m. to eleven o'clock p. m.; then he surprised the party, instantly attacked, killed, and wounded nearly all their superior numbers, captured twenty-two Indian horses, burned their camp, and brought off safely most of their stolen stock. Thus this young officer has set a fine example to the Department of overcoming difficulties that would have discouraged and stopped many without loss of credit, of bold determination to succeed, and of striking without stopping to count his enemies, and has presented to the profession, perhaps, the greatest cavalry feat heretofore recorded.

By order of Brevet Major-General Cooke.

G. LITCHFIELD,
Brevet Major, United States Army,
Aid-de-Camp, Acting Assistant Adjutant-General.

On the 20th of August, 1867, he was recommended by Generals Sherman and Hancock for the brevet of lieutenant-colonel, for hard and heroic services against the Indians, by whom he was wounded during an engagement. This is only a portion of the very meritorious and gallant conduct of this young officer to this date in his military history, which seems to have challenged almost the universal respect and confidence of the officers under whom he served. The records of the War Department further show that in 1869 charges were preferred against Major Armes. They were four in number. The first charge and its specifications were abandoned on the trial. Upon the third and fourth he was found not guilty; and upon the second charge, "conduct unbecoming an officer and a gentleman," he was found guilty and sentenced "to be dismissed the service." These charges were preferred by Captain George W. Graham. The main witnesses were Lieutenant B. F. Bell and Captain Charles G. Cox. Bell had already been tried, convicted, and cashiered for bribery and embezzlement of public property. Cox was, when called, undergoing trial upon charges previously preferred by Major Armes, and he was subsequently convicted and sentenced to be dismissed, cashiered, fined, and imprisoned in a penitentiary for three years. Graham, who was also called as a witness, was at the time awaiting trial upon charges preferred by Major Armes, which resulted in his conviction, and he was fined \$500 and sentenced to be confined two years in the penitentiary. He was afterward shot while attempting to rob and murder a United States paymaster, captured, brought to trial, and sentenced by the civil authorities to the penitentiary for a term of two years, and, upon serving out that sentence, was killed while attempting another daring robbery.

The testimony, viewed in the light of its own contradictions, and the character of the persons who testified, was all of the very worst quality. Many of the circumstances of his trial are remarkable. An officer who not only acknowledged that he entertained an opinion unfavorable to Major Armes, but had publicly proclaimed it, was allowed to sit as a member of the court, and of no objection or remonstrance on the part of Armes was of any avail. The trial of Cox was in progress when that of Armes was taken up, yet the trial of Cox was suspended, it would seem, that he could appear and testify before his inevitable conviction upon the charges preferred against him by Armes. The debased characters of these witnesses, Cox, Bell, and Graham, were no better before than after conviction, and if justice had been allowed to take its course and these two desperate villains had been tried before Major Armes was, as they should have been in the regular and due order of things, the trial of Armes and the terrible injustice that was done him would never have taken place. Here is a case of a brave and energetic young officer, with a most brilliant record, driven in disgrace from his profession upon the testimony of witnesses wholly unworthy of credit. Major Armes did nothing but his duty in bringing charges against Graham and Cox, and they connected the charges against Armes to save themselves. Two months after the charges preferred by him. He was moreover their senior in rank, showing that Armes was justified in bringing the charges and that he was actuated by proper motives. His conduct, therefore, entitles him to commendation. It has already been shown what characters Bell, Cox, and Graham sustained. The women who testified had been ordered off the reservation at Fort Harker by the commanding officer as persons of notoriously bad character. The testimony of the weak-minded boy who was a

witness against Captain Armes was so inconsistent and contradictory as to be entirely worthless. It is believed that every committee either of the House or Senate which has examined this case has reported in favor of Captain Armes. And the members of the Committee on Military Affairs of both the Senate and House in June, 1874, recommended his restoration to the Army in the following complimentary terms.

To the President:

The undersigned members of the Military Committee of the Senate and House of Representatives, earnestly recommend and request the reinstatement of George A. Armes, late captain United States Army, without loss of rank or pay. His case has had a thorough examination, and his innocence is proven; hence, his reinstatement, the least measure of justice, should be done at once.

POWELL CLAYTON.
GEORGE E. SPENCER.
JAMES K. KELLY.
P. M. B. YOUNG.
W. G. DONNAN.
J. M. THORNBURGH.
JOHN B. HAWLEY.
JOHN COBURN.

CHARLES ALBRIGHT.
B. WADLEIGH.
J. N. NESMITH.
EPPA HUNTON.
LEWIS B. GUNCKEL.
JOSEPH R. HAWLEY.
C. D. McDUGALL.

WASHINGTON, D. C., June 29, 1874.

Numerous testimonials from responsible and well-known citizens and officers of the Army and Navy, who have been associated with Major Armes from boyhood, show that he has always been upright and honorable. To any one who will examine the evidence and the subsequent character and history of the witnesses in the case, there can be no doubt that the charges against and conviction of Major Armes were the result of a conspiracy to disgrace and drive him from the Army, on the part of the desperate characters who figured in the trial. The record does not show that the proceedings in this case were reviewed and approved by the President as the law directs. The case was, therefore, not completed, and, in the opinion of your committee, this fact is sufficient to entitle the accused to a review and judgment on the record, which, on the evidence produced before your committee, would certainly be in his favor. But it appears that an act of Congress was passed in June, 1874, honorably discharging Major Armes from the service. This act had the effect to sever all connection Armes may have had with the Army. The action of your committee, therefore, is based entirely on the abstract merits of Major Armes's case. He was greatly wronged and the bill here recommended, should it become a law, will enable the President to restore him to the Army, and thus measurably repair the injuries he has suffered.

The committee report a substitute for bill H. R. No. 1642, and recommend the passage of the same.

Mr. STRAIT. I make the point of order that that bill contemplates an appropriation to pay money out of the Treasury.

The SPEAKER. The first clause of the bill reads: "and the President can, if he so desire, in the exercise of his own discretion and judgment, nominate and, by and with the advice and consent of the Senate, appoint said George A. Armes," &c.

Subsequently it is provided "that no pay, compensation, or allowance whatever shall be given to said Armes for the time between June 7, 1870, and the date of appointment hereunder."

It provides further: "That the acceptance of any benefit under this act by said George A. Armes shall be taken and construed to be by his election a bar to any claim for pay or allowance from the date of his discharge to his acceptance of a commission."

It seems to the Chair that an appropriation would be a very remote contingency, requiring the President in his discretion to appoint and the Senate to confirm the appointment.

Mr. WHITE, of Pennsylvania. I move that the bill be referred to the Committee of the Whole on the Private Calendar.

Mr. MAISH. I have demanded the previous question on my motion.

The SPEAKER. The Chair thinks that there is no appropriation contained in this bill, and that the ruling has been the same in similar cases, and the Chair recognizes the gentleman who reported the bill to make the motion for the previous question; if it be voted down, then the Chair will recognize the gentleman from Pennsylvania [Mr. WHITE] to move to refer the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; it was accordingly read the third time.

Mr. BRAGG. I desire to say something about the merits of this bill.

Mr. BANNING. The gentleman is too late.

The SPEAKER. The main question was ordered upon the engrossment and third reading of the bill, and was exhausted with the third reading of the bill.

Mr. BRAGG. Notwithstanding the courtesy of the chairman of the committee, his subordinate, who has charge of the bill, is willing to yield to him.

The SPEAKER. The main question was exhausted, the Chair repeats, on the engrossment and third reading of the bill.

Mr. BRAGG. I endeavored to be heard before the main question was ordered.

The SPEAKER. The Chair thinks that the gentleman is under a misapprehension. The main question was exhausted with the engrossment and third reading.

Mr. MAISH. I move the previous question on the passage of the bill.

The SPEAKER. The gentleman from Pennsylvania who has charge of the bill now demands the previous question upon its passage, and it is competent for him to yield to the gentleman from Wisconsin.

Mr. HENDEE. Has not the morning hour expired?

The SPEAKER. It has.

Mr. HENDEE. Then I call for the regular order.

The SPEAKER. The morning hour has expired and the bill goes over until the next morning hour for private business.

ENROLLED BILL SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 2287) to authorize the Secretary of War to prescribe rules and regulations to be observed in the preparation, submission, and opening of bids for contracts under the War Department.

PRIVATE CALENDAR.

Mr. BRIGHT. This being objection day, I now move that the House resolve itself into Committee of the Whole on the Private Calendar, for the purpose of considering the business on the Private Calendar.

The motion was agreed to; and accordingly the House resolved itself into Committee of the Whole on the Private Calendar, (Mr. THOMPSON in the chair.)

The CHAIRMAN. The House is now in Committee of the Whole on the Private Calendar, and, this being objection day, the Calendar will be resumed at the point where it was left off on the last objection day.

MRS. EMMA A. PORCH.

The first business on the Private Calendar was the bill (H. R. No. 1551) for the relief of Mrs. Emma A. Porch, of Centretown, Missouri, reported from the Committee on War Claims by Mr. OLIVER.

The bill was read. It directs the Secretary of the Treasury to pay to Mrs. Emma A. Porch, of Centretown, Missouri, the sum of \$700 for services rendered and losses sustained as a Union scout during the late war of the rebellion.

The report was read, as follows:

This claim was reported favorably in the Thirty-ninth Congress by the Committee of Claims, and passed the House; favorably in the Fortieth Congress, and passed the House; favorably in the Forty-first Congress; favorably in the Forty-second Congress, and passed the House, and was favorably reported to the Senate; favorably in the Forty-third Congress, and favorably in the Forty-fourth Congress. The Committee of Claims in the Thirty-ninth Congress made the following report of the facts:

"The petitioner was employed by order of General E. B. Brown as a scout and spy about the 7th of April, 1864, and during the 'Price raid.'

"The sworn statement of the petitioner, together with the affidavits of Martha Ostrander and Herman S. Bruns, and letters from General E. B. Brown and Governor Thomas C. Fletcher, all concur in proving that the petitioner rendered service as spy and scout; that such service was at great hazard to her life; that she thereby furnished the United States Government with valuable information, and that she was promised by the provost-marshal \$500 for the same.

"It also appears that she was thus employed from about the 1st of October until some time in November, 1864, during which time she was taken prisoner by the enemy.

"The character of the petitioner is esteemed as above reproach."

The Committee of Claims in the Forty-second Congress adopted this statement of facts and added the following:

"In the report of the Committee of Claims above referred to, the item of two horses lost is not considered at all, and seems to have been entirely overlooked. The evidence submitted establishes such loss to the satisfaction of the committee, and that said horses were worth \$150 each.

"In view of the fact (see Appendices A and B) that the services rendered by Mrs. Porch were of great value to the Union cause; that said services have seriously impaired her health; that she saved the life of a Union officer; that she has received no compensation for the horses so lost, to which your committee believe her to be entitled, and that nearly ten years have elapsed since the services were rendered, your committee are of opinion that Mrs. Porch is entitled to compensation for services rendered and losses incurred while acting as a Union scout, and also on account of her impaired health, and accordingly report the accompanying bill appropriating \$1,000, and recommend its passage."

APPENDIX A.

STATE OF MISSOURI, EXECUTIVE DEPARTMENT,
City of Jefferson, May 24, 1866.

The claim of Mrs. Emma A. Porch, late Miss Kate Smith, for services as scout rendered Brigadier-General E. B. Brown, United States Volunteers, commanding Central District Missouri in 1864, has been examined by me, and I am well satisfied that it is a just and meritorious claim, and should be paid. The United States is clearly liable for the same.

No appropriation has been made by the Legislature for the payment of this class of claims, to my knowledge.

THOS. C. FLETCHER.

APPENDIX B.

OFFICE OF THE CLERK OF THE UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF MISSOURI,
City of Jefferson, April 1, 1871.

I have known Mrs. Emma Porch (whose maiden name Emma Smith) since the early part of the late rebellion; knew her in 1864, and remember that her movements, as they came under my observation, seemed erratic and mysterious; that before and during the time of Price's raid she was going from place to place in this vicinity for some purpose then unknown to me; that while Price's forces were passing here she sought to borrow of me a horse to go in the direction of the raiders. I did not then know why.

Subsequently I learned that she had been then acting as a Federal spy, and was informed that she had been very serviceable. Prior to that time she wore the appearance of robust health.

Since that time she has worn the appearance of enfeebled health, and seems now to be in very poor health. The cause alleged for the loss of her health is the exposure she endured as a spy.

She is a woman of excellent character—exemplary in the various relations of life.

Unquestionably she is entitled to liberal compensation for her services to the Government, and I think it strange that she has not long since received it.

ADAMS PEABODY,

Clerk of United States District Court, Western District of Missouri.

"From documentary evidence it appears that the petitioner was a school-teacher in California, Missouri, for several years, and in 1864, in consequence of the raid of General Price, her school was broken up. She was subsequently employed in the Union Army as a spy, and rendered very efficient service, and was taken prisoner by the rebels, narrowly escaped hanging, and in consequence of great hardships and exposures while a prisoner became broken down in health.

"There is every reason to regard her statements as the exact truth, when she says that on one occasion, while she was a prisoner, 'the "Feds" shelled the train, the shells passing over my head, not to exceed two feet from me. The "Feds" were only half a mile from us. I thought my time had come. I became insane and knew not what I was saying; I only knew that I was a prisoner, guarded day and night by rebels. Time passed that way, with little variation, for three days and nights, when we arrived in Kansas. I had seen every line of battle that was formed from the first to the last, had seen the dead and wounded, both friend and foe, lying on the battle field, had been obliged to ride from thirty-five to fifty miles a day under two sets of guards; was worn out and nearly starved and completely jaded down."

"She gives various details and says: 'The next time we stopped at Little Osage, Kansas. There I formed the acquaintance of a conscript Federal, at whose house we stopped. He pretended to be getting ready to go on with us, (the rebels,) while all the time he was going to try to get to the "Feds." I gave him what information I could concerning the "rebs." He succeeded in making his escape, and got to our friends in time to give them important news. That night, had they time to dig their ditches, the five hundred prisoners would have been shot and buried, and then I was to have been hanged; but, thanks to Almighty God and the Federals, our boys came upon them before they could carry out their designs. That morning we started south again; went fifty-five miles before we stopped; reached Carthage that night. Here General Price was determined to be rid of me, so he ordered the provost marshal-general to tell me I should be shot in the morning as a spy.' Further details are given, and after a while she was unconditionally released. She states that the last supper she ate with the rebels was only a raw turnip not one-half as big as her fist, and for several days before she left them she was so weak they had to assist her to walk."

Your committee regard this case as possessing special merit and, in view of the fact that the health of the claimant is broken down, impaired as it was by exposure as a guide and scout, believe she is entitled to consideration at the hands of the Government, and therefore report the accompanying bill, appropriating the sum of \$700, that being the amount of \$300 promised by the military authorities at the time, and \$400 for the horses proven to have been lost, and recommend its passage.

There being no objection, the bill was laid aside to be reported favorably to the House.

JOHN C. RAY.

The next business on the Private Calendar was the bill (H. R. No. 1855) for the relief of John C. Ray, reported from the Committee on War Claims by Mr. OLIVER.

The bill directs the Secretary of the Treasury to pay John C. Ray, out of any money in the Treasury not otherwise appropriated, the sum of \$4,533.33, in full for services as pilot in the United States naval service during the late war, to take effect from and after the passage of this act.

Mr. WHITE, of Pennsylvania, called for the reading of the report. The Clerk read as follows:

In April, 1864, said Ray was employed, at a salary of \$400 per month, as pilot of the steamboat *Champion* No. 3, then employed in towing barges of coal for the army and navy of the Lower Mississippi. When the boat reached the mouth of Red River, about the 15th of April, she was ordered and compelled, against the protest of her officers and crew, to proceed up that river to Alexandria, about one hundred and twenty miles, and report to Commodore D. D. Porter with one barge of coal, and when she did so, she was then required and compelled, against the protest of officers and crew, to proceed about one hundred and twenty miles farther up the river to assist in raising the sunken United States vessel *Eastport*.

Commodore Porter accompanied the expedition in his flag-boat and commanded it. On the return they came to a confederate battery of nineteen guns, meantime erected near the mouth of Cain Creek, and in running the same, under the orders of Commodore Porter, the boiler of the *Champion* No. 3 was exploded by a shot, and only seven persons out of one hundred and seventy on board escaped with their lives. The *Champion* No. 3 was also totally destroyed and the survivors of both crews made prisoners of war and confined at Camp Ford, Texas, where they suffered privations and exposures scarcely paralleled in the history of the war. The claimant asks to be paid his wages during the time he was a prisoner.

This claim was presented to the accounting officers of the Navy for payment and rejected for want of authority to allow it, as appears by the following extract from a letter of the Second Comptroller of the Treasury, in reply to a request on behalf of your committee for information.

"I entered upon the examination with reluctance, for I had already become impressed that the claimant, as a survivor of the terrible disaster referred to and the dangers of the long and irksome incarceration, deserved substantial recognition at the hands of the Government, and I knew of no law that authorized the adjustment of his claim by the accounting officers of the Treasury. After examination of the case it was with regret that I came to the conclusion that his case is *casus omissus*."

Congress has directly provided (Revised Statutes, section 3483) that one who sustains damage by the destruction by an enemy of a vessel, while such property is in the military service, shall be paid the value of the vessel. And section 4693, Revised Statutes, has been construed to authorize the payment of a pension in a case where the terms of employment were the same as that under which claimant was engaged at the time of the disaster. I have examined carefully the regulations of the Army and of the Navy and the acts of Congress, together with the authorities cited by the claimant's attorney, and I am unable to find any like provision that would authorize the accounting officers of the Treasury to sustain this claim without further legislation.

I am, very respectfully,

W. W. UPTON,
Second Comptroller.

Your committee fully concur with the Second Comptroller as to the justice and merit of this claim.

Under the laws above referred to the owner of the vessel has been paid its value and the widows of the killed have been pensioned. No good reason exists why the survivors should not be paid wages during the time of their captivity. If their comrades who lost their lives were in the service of the United States so as to entitle their widows to pension, surely the survivors were in the service and entitled to pay. If the owner of the vessel, who risked his property in the service of the United States, was entitled to compensation for its loss, then *a fortiori* (as life and liberty are dearer than property) he who risked his life and lost his liberty in the service of the United States should at least have pay for the time lost in captivity. And such is the ruling and practice in auditing accounts for services in the Quartermaster's Department of the Army in precisely similar cases, as appears by the following letter received by your committee in reply to an inquiry addressed to the Third Auditor of the Treasury, who has charge of that duty in Army accounts:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
Washington, D. C., January 24, 1878.

In response to your letter of the 22d instant, asking as to the practice of this office in reference to claims filed by employees of the Quartermaster's Department for compensation as such employees while held as prisoners of war, you are informed that it has not been the custom of this office to make any allowance to such per-

sons merely as damages for detention while in captivity. The action of the office has been founded on the theory that persons hired by the Quartermaster's Department and carried on the rolls of that department continue to be the servants thereof during captivity, and are entitled to be paid at the rate of hiring until discharged from the service.

The favorable action of this office has not, however, been confined to persons in the service of the Quartermaster's Department under express contract, but has been extended to the crews of boats which have been impressed into the military service, which crews have been subsequently captured, upon the theory that by the impressment of the boat the Government make the employees of the owners its servants.

There is no special statute authorizing these allowances, but the act of 1817 (section 277, Revised Statutes), imposing upon the Third Auditor the duty of examining all accounts of the Quartermaster's Department, has been deemed to confer ample authority for the action taken.

In reference to compensation, the rule has been to continue to an employee the pay he was receiving from his employer at the time of the capture and to continue the same while he is actually held as a prisoner of war—that is to say, up to the time of his parole—allowing, in addition, a reasonable time for his return to the port of shipment.

I am, sir, very respectfully, your obedient servant,

HORACE AUSTIN, Auditor.

It would thus seem that in precisely similar cases pay is allowed in the Army and disallowed in the Navy. Your committee do not question the correctness of the ruling in either case. It is probable *casus omissus* in the case of the Navy, as the Second Comptroller suggests; but it is evident that the Government should be prompt to mete out the same justice to the gallant men who do the same services in time of danger, whether done in the Army or the Navy. Whether an act be performed under the orders of a general or of a commodore can make no possible difference either in its merit or its worth.

Your committee recommend that the bill do pass.

There being no objection, the bill was laid aside to be reported favorably to the House.

JOHN W. SKILES.

The next business on the Private Calendar was the bill (H. R. No. 1371) for the relief of John W. Skiles, reported from the Committee on War Claims by Mr. ROBINSON, of Indiana.

The bill directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$1,938.30 to John W. Skiles, being the amount expended and paid by him for the services of civilian clerks in the discharge of his duties as commandant of the draft and recruiting rendezvous for the State of Ohio, at Tod Barracks, Columbus, Ohio, during the years of 1864 and 1865, in the recruiting of the Army of the United States.

Mr. FINLEY. I call for the reading of the report.

The Clerk read as follows:

That John W. Skiles was major of the Eighty-eighth Ohio Volunteers during the late war. Having lost an arm in battle, he was assigned to duty as provost-marshal and commandant of the draft rendezvous at Tod Barracks, Columbus, Ohio, during a part of the years 1864 and 1865. That the duties performed by said Skiles were extensive, onerous, and responsible, and included, in addition to the duties of preserving order and discipline in and around the city of Columbus, and especially the barracks which he commanded, the duties also of receiving enlisted men, recruits, and deserters, properly providing for them, and forwarding them to their proper commands and to the armies in the field. That, among other duties imposed upon him, he was required to keep a descriptive list of all men passing into and out of said camp, to take from recruits and substitutes all sums of money in excess of \$20 to each man, to note upon the pay and descriptive roll the amount of money taken from each soldier or recruit, to forward the same with the rolls to the command to which the men were sent, and finally to make to the proper Department accurate and detailed accounts of all such transactions. That there passed through the barracks commanded by Major Skiles more than eighty thousand men, who were by him transferred to active duty in the field. That about \$1,400,000 were received and disbursed by him, by virtue of his position, into the numerous channels prescribed by the War Department. That he took \$71,647 from deserters and "bounty-jumpers," and, in accordance with orders, turned it into the public Treasury.

To properly discharge the onerous and many duties he was required to discharge, Major Skiles was compelled to employ the assistance of competent and skilled civilian clerks, from time to time, during the time he was in discharge of and assigned to the duties at said barracks, as aforesaid. That about two months after entering upon duty he informed the Provost-Marshal-General at Washington of such employment of civilians, and asked for authority to continue the clerks thus employed on duty. The Provost-Marshal-General informed him that the Department did not contemplate the employment of civilians in such positions, and that no payment could therefore be made to them. Being very greatly embarrassed, Major Skiles consulted with General Heintzelman, an officer of great experience, then in command of the Department of the Ohio, and with other officers of judgment and experience, as to his duty and as to the course he should pursue under the surrounding circumstances. The officers thus consulted fully comprehended the situation; the Army was in need of men, the demand was urgent from commanding officers in the field for more troops, thousands of reinforcements to the Army were being forwarded from Tod Barracks, and thousands of dollars went into the hands and were disbursed by and under the authority of Major Skiles. In the accomplishment of so many duties of such great responsibility none but competent and experienced clerks could make up the complicated and revised accounts and disburse the large amounts of moneys that went into the hands of the commandant. These officers, well understanding that the attention of the chief officers of the Government was absorbed in the events of the pending war, advised Major Skiles to continue the employment of his civilian clerks, and trust to a faithful and efficient performance of his duties for indorsement by the Government and for reimbursement for moneys expended by him necessarily in an earnest endeavor to forward his cause. From these considerations, and from the fact that expert civilian clerks were absolutely essential to a true and faithful performance of his duties, Major Skiles continued such of the civilian clerks in his service as could not be dispensed with for a number of months, until he had expended in their payment, of his private funds, the sum of \$1,938.30. This expenditure is clearly and conclusively proven by the receipts of the parties to whom the payments were made, and by the testimony of officers who were on duty at Tod Barracks at the time. The propriety of such payments is shown by the testimony of officers and citizens who were conversant with the facts, aware of the circumstances, and who knew and understood the difficulties and duties imposed upon Major Skiles. In addition to the testimony filed in this case, it is shown by the report of the Committee on War Claims in the Forty-fourth Congress, to whom this claim was referred, that General Heintzelman and Major Skiles were orally examined before that committee, and that the facts hereinbefore stated were generally substantiated by them. That committee made a favorable report on said claim.

Major Skiles, whose "empty sleeve" testifies to his devotion and sacrifices as a soldier, and whose superiors and comrades testify to his high character as a man,

was honorably mustered out of service in 1865. Soon after his discharge Major Skiles closed his accounts with the Government, and has filed with his claim certificates from the several bureaus of the War Department showing that he owes the Government nothing, and that his accounts have been closed to its satisfaction. He has at all times claimed from the Government the sum of \$1,938.30 paid out and disbursed by him, as stated, from his private means, and has used proper diligence and resorted to every honorable effort to have the proper Department reimburse him. All efforts to that end have proved unsuccessful, because it has been claimed that the employment of the civilian clerks was without right and voluntarily on his part; especially was it so after the Provost-Marshal General refused to sanction or authorize such employment. While your committee concede, as a matter of strict construction, technically the Department may have been right, yet, as a matter of justice, we think that Major Skiles should be repaid and reimbursed the amount expended by him in such evident good faith, in obedience to the exigencies of the service and in the honest discharge of the onerous and responsible duties imposed by virtue of his position upon him.

That Major Skiles would have hazarded a great deal in attempting to detail from the raw recruits, "bounty-jumpers," and deserters passing through his camp, men to have discharged the various complicated and responsible duties performed by the expert and reliable clerks employed by him, is apparent from the facts, and about which there can be no doubt. He discharged his duties faithfully and well, forwarded thousands of men to the armies in the field, disbursed nearly a million and a half of money to the satisfaction of the Government and all others interested, and saved and turned over to the Government near \$72,000 in money forfeited by deserters and others. True, it may be that he took upon himself in the employment of civilian clerks a responsibility not authorized by the strict letter of the law, but it was a responsibility dictated by a worthy desire to serve the Government in the most efficient manner. The Government received the beneficial results and ought now to bear the burden.

The committee therefore report the bill back to the House with the recommendation that it pass.

There being no objection, the bill was laid aside to be reported favorably to the House.

WILLIAM J. ALEXANDER.

The next business on the Private Calendar was the bill (H. R. No. 3289) for the relief of William J. Alexander, of Bloomington, Monroe County, Indiana, reported from the Committee on War Claims by Mr. ROBINSON, of Indiana.

The bill directs the Secretary of the Treasury to pay to William J. Alexander, of Bloomington, Monroe County, Indiana, the sum of \$27.50, out of any money in the Treasury not otherwise appropriated, in full for all services rendered by said William J. Alexander in the secret service of the United States in the State of Indiana during the year 1863, for which he was never paid.

There being no objection, the bill was laid aside to be reported favorably to the House.

ALDERSON T. KEENE.

The next business on the Private Calendar was the bill (H. R. No. 330) for the benefit of Alderson T. Keene, late first lieutenant of Company E, First Kentucky Cavalry, reported from the Committee on War Claims by Mr. KEIFER.

The bill appropriates the sum of \$325 to Alderson T. Keene, late first lieutenant of Company E, First Kentucky Cavalry, in the late war, the same being for forage and rations furnished by him in 1862 for a detachment of soldiers under his command while in the service of the United States.

There being no objection, the bill was laid aside to be reported favorably to the House.

JOHN ZUMSTEIN.

The next business on the Private Calendar was the bill (H. R. No. 3290) for the relief of John Zumstein, reported from the Committee on War Claims by Mr. KEIFER.

Mr. BRAGG. I object to that bill. I never knew a sutler who upon the next load did not make all the profit that had been lost upon the one stolen before.

There being objection, the bill was passed over.

HIRAM JOHNSON.

The next business on the Private Calendar was the bill (H. R. No. 3291) to refund to Hiram Johnson and certain other citizens of Tennessee taxes illegally collected from them by military orders, reported from the Committee on War Claims by Mr. CALDWELL, of Kentucky.

Mr. BREWER. I object to that bill.

The bill being objected to, it was passed over.

ROSA VERTNER JEFFREY.

The next business on the Private Calendar was the bill (H. R. No. 3292) for the relief of Rosa Vertner Jeffrey, of the State of Kentucky, reported from the Committee on War Claims by Mr. CALDWELL, of Kentucky.

Mr. BREWER. I object to that bill.

The bill being objected to, it was passed over.

MRS. ELIZA E. HERBERT.

The next business on the Private Calendar was the bill (H. R. No. 3293) for the relief of Mrs. Eliza E. Herbert, of the State of Louisiana, reported from the Committee on War Claims by Mr. CALDWELL, of Kentucky.

Mr. BROWNE. I object to that bill.

Mr. ROBERTSON. I hope the gentleman will withdraw his objection to this bill as it has been reported on favorably in two Congresses.

Mr. BREWER. Let the report be read.

Mr. WHITE, of Pennsylvania. I object to the bill.

There being objection, the bill was passed over.

A. L. H. CRENSHAW.

The next business on the Private Calendar was the bill (H. R. No. 3294) for the relief of A. L. H. Crenshaw, of Jackson County, Missouri, reported from the Committee on War Claims by Mr. REILLY.

Mr. KEIFER. I object to that bill.

There being objection, the bill was passed over.

DABNEY WALKER.

The next business on the Private Calendar was the bill (H. R. No. 1140) for the relief of Dabney Walker, which was reported from the Committee on War Claims by Mr. REILLY.

Mr. BREWER. Let the report be read.

The report was read.

Mr. ROBERTSON. I move that the committee now rise.

Mr. BRIGHT. I hope not.

The motion of Mr. ROBERTSON was not agreed to.

Mr. ROBERTSON. I object to the bill now under consideration.

Objection being made, the bill was passed over.

SEWELL B. CORBETT.

The next business on the Private Calendar was the bill (H. R. No. 3295) for the relief of Sewell B. Corbett, which was reported from the Committee on War Claims by Mr. THOMPSON.

Objection being made by Mr. BRAGG, the bill was passed over.

JOSEPH F. WILSON.

The next business on the Private Calendar was the bill (H. R. No. 2334) for the relief of Joseph F. Wilson, which was reported with amendments from the Committee on Private Land Claims by Mr. TOWNSHEND, of Illinois.

The bill, as proposed to be amended, was read, as follows:

Be it enacted, &c., That the Commissioner of the General Land Office, under the direction of the Secretary of the Interior, be, and he is hereby, authorized and required to issue to Joseph F. Wilson, or his legal representatives, a number of warrants equal to two hundred acres, in tracts not less than the subdivisions provided for in the United States land laws, to be located by the said Wilson, or his legal representatives or assigns, on any of the unoccupied and unappropriated public lands of the United States, subject to pre-emption or homestead entry, in lieu of the southwest quarter of section 29, in township 25 north, of range 4 west, situate in White County, Indiana, and the southwest quarter of the southwest quarter of section 35, in township 38 north, of range 4 east, situate in Elkhart County, Indiana; which said tracts of land were entered by and patented to William Voight, Josiah Smith, and John H. Smith, under and by virtue of the provisions of the acts of Congress approved June 8, 1872, and March 3, 1873, relating to additional homesteads, and by the said William Voight, Josiah Smith, and John H. Smith, after their said entry, sold and conveyed to the said Wilson, and of which the said Wilson was divested and dispossessed by the judgments and decrees of the circuit court of the United States for the district of Indiana, at the November term, A. D. 1876, thereof, by reason, as the said court held and decided, of a prior disposal of said lands by the United States to persons other than the said William Voight, Josiah Smith, and John H. Smith; and the said Wilson, or his legal representatives or assigns, after the location of the said warrants on such lands as he or they may select, shall be allowed patents for the lands so located.

And the lands taken, selected, and located, as authorized and provided by this act, shall be in full satisfaction of any claim, right, or benefit which the said William Voight, Josiah Smith, and John H. Smith may have, or may have had, under and by virtue of the said acts of Congress, as well as in full satisfaction of any claim which the said Wilson, as assignee, or grantee of the said William Voight, Josiah Smith, and John H. Smith, may have, or may have had, against the United States.

SEC. 2. And the patent for the southwest quarter of section 29, in township 25 north, of range 5 west, issued to James S. Chilton on his location of military bounty-land warrant No. 664, under the act of February 11, 1847, may be surrendered and duly relinquished to the United States, whereupon a patent shall be issued in the name of said James S. Chilton for the southwest quarter of section 29 in township 25 north, of range 4 west, being the tract intended to be located by him, and the entry of said tract in said range 5 by said Chilton be canceled. But nothing contained in this section shall be construed to limit or qualify the rights of said Wilson under this act, except that before the warrants herein authorized and provided for in his favor shall issue, he shall relinquish and reconvey to the United States the lands of which he was so divested and dispossessed.

There being no objection, the amendments were agreed to, and the bill, as amended, laid aside to be reported favorably to the House.

BENJAMIN E. EDWARDS.

The next business on the Private Calendar was the bill (H. R. No. 1119) to confirm the title of Benjamin E. Edwards, his heirs, assigns, or legal representatives, to a certain tract of land in the Territory of New Mexico, which was reported with an amendment from the Committee on Private Land Claims by Mr. STARRIN.

The bill, as proposed to be amended, was read, as follows:

Be it enacted, &c., That Benjamin E. Edwards, his heirs, assigns, or legal representatives, be, and are hereby, confirmed in the title to six hundred and forty acres of land, situate in the Territory of New Mexico, being the tract of land located by virtue of a certificate numbered 444, of the second class, issued by the board of land commissioners for the county of Bexar, and State of Texas, to one Andrew Flores, and dated the 16th day of August, A. D. 1847, and the same tract of land for which a patent was authorized to be issued by the act of the Legislature of the State of Texas, entitled "An act to require the commissioner of the general land office to issue patents for lands therein named," approved December 2, 1850, and which is more particularly described in the plat and field-notes accompanying the survey thereof, executed by R. S. Howard, deputy surveyor, and approved by the district surveyor for the district of Bexar, on the 30th day of November, 1849, which said survey is numbered 39 in section numbered 15, in what was then known as the Bexar land district for the State of Texas, and which is now on record in the office of the commissioner of the general land office in the State of Texas.

SEC. 2. That the Commissioner of the General Land Office, upon the receipt of the proper plat and survey, shall cause a patent to be issued to said Benjamin E. Edwards, his heirs, assigns, or legal representatives, for the lands hereby confirmed: *Provided, however,* That such patent shall only be construed as a relinquishment only of title on the part of the United States, and shall not affect the right of any third person.

Mr. GUNTER called for the reading of the report; and it was read, as follows:

The first section of the bill recites that a tract of land of six hundred and forty acres, situate in the Territory of New Mexico, was located by virtue of a certificate, numbered 444, issued August 16, 1847, to one Andres Flores, by the board of land commissioners for the county of Bexar, Texas, which land is more particularly described in the plat and field-notes accompanying the survey thereof, executed by R. S. Howard, deputy surveyor, and approved by the district surveyor for the district of Bexar, 30th November, 1849, said survey being numbered 38, in section 15, in what was then known as the Bexar land district for the State of Texas, and now of record in the office of the commissioner of the general land office in the State of Texas.

The second section provides for the issue of a patent by the Commissioner of the Land Office of the United States, upon the receipt of a proper plat and survey, to Benjamin E. Edwards, his heirs, assigns, or legal representatives, such patent to be construed as relinquishing only the title of the United States, and not to affect the right of any third person.

The papers presented have satisfied the committee that on the 16th of August, 1847, the land commissioners for the county of Bexar, State of Texas, did issue to one Andres Flores a certificate numbered 444, for six hundred and forty acres of land as a head-right; that on the 17th day of August, 1847, said Andres Flores conveyed all his rights and title to said certificate 444 to Benjamin E. Edwards; that said Benjamin E. Edwards caused the said certificate to be located, and such location to be certified to by R. S. Howard, deputy surveyor, approved by I. S. McDonald, district surveyor of Bexar district.

The history of the Territory in which this tract of land is situate, as reported by the committee of the Senate on Private Land Claims in 1856, is as follows: "By the act of congress of the Republic of Texas, approved December 19, 1836, the western boundary of Texas was declared to extend to the Rio Grande River. By a map prepared under the direction of the War Office, from the most reliable authorities, in 1844, the Rio Grande also is laid down as the western boundary of Texas. After the annexation of Texas to the United States, this Government recognized and maintained the boundaries of Texas as defined by the said act of Congress of the Republic of Texas, of December 19, 1836. Under and by virtue of the act of Congress approved September 9, 1850, the district of country in which this land is situate was acquired by the General Government from the State of Texas." The conclusion of said committee, which this committee adopt, was that the action of this Government subsequent to the annexation of Texas has conceded that the jurisdiction of Texas included the territory in question prior to the relinquishment of the same to the United States; so that, from the date of the certificate from the board of commissioners to a period beyond the location and survey of this tract of land, this part of the territory of the State of Texas was subject to location and settlement under authority from said State. Therefore, the committee find that the State of Texas having jurisdiction did, by its proper officers, issue a certificate of location to Andres Flores; that the same having been located and surveyed prior to the relinquishment of title by the State of Texas to the General Government, said Flores or his assignee only required a patent from the State of Texas to form a complete and perfect title to said tract of land.

It satisfactorily appears to the committee that the land embraced within the plat and survey of the claimant now lies within the Territory of New Mexico; also that at the time of the relinquishment of said Territory by Texas to the United States the claimant had an equitable title to the same under the United States, which under the well-settled principles of international law the General Government was bound to recognize and respect.

The provisions of the second section of the bill are proper and right. The tract of land referred to in the bill is described with reference to the public surveys of the State of Texas. The Commissioner of the Land Office states that no portion of the records of said State relating to titles or surveys of land embraced within the original Texas annexation have ever been transferred to this Government, and that office without a proper plat and survey would be unable to identify the particular tract referred to.

The committee are further of the opinion that while the United States Government is bound to recognize and respect the equitable title of the claimant to the land covered by the certificate, it is not bound to guarantee the title thereto, it can only be expected to relinquish its title thereto; and that fact should be expressed in the bill and in the patent to be issued.

The committee therefore report back the bill without amendment, other than a slight change of phraseology as noted on the bill, and respectfully recommend its passage.

There being no objection, the bill was laid aside to be reported favorably to the House.

JAMES M'GREGOR.

The next business on the Private Calendar was the bill (H. R. No. 888) for the relief of James McGregor; which was reported with an amendment from the Committee on Indian Affairs by Mr. GUNTER.

The bill, as proposed to be amended, was read, as follows:

Be it enacted, etc. That the Secretary of the Treasury be, and he hereby is, directed to pay to James McGregor, out of any money in the Treasury not otherwise appropriated, \$693.11, in full for services rendered by him at the Malheur Indian agency, in the State of Oregon, during the fiscal year 1874.

There being no objection, the amendment was agreed to; and the bill, as amended, was laid aside to be reported favorably to the House.

HENRY WARREN.

The next business on the Private Calendar was the bill (H. R. No. 689) for the relief of Henry Warren, reported from the Committee on Indian Affairs by Mr. HOOKER.

Mr. EDEN. Let the report be read.

The report was read.

Mr. EDEN. The gentleman refers to another report made in a former Congress. I would like to hear that other report read.

The CHAIRMAN. It is not here.

Mr. LATHROP. I object to the bill.

The bill was accordingly passed over.

F. B. CULVER.

The next business on the Private Calendar was the bill (H. R. No. 1476) for the relief of F. B. Culver, which was reported from the Committee on Indian Affairs by Mr. BOONE.

Mr. SMITH, of Pennsylvania, called for the reading of the report; and it was read:

Objection being made, (by Mr. KEIGHTLEY,) the bill was passed over.

Mr. SMITH. I move that the committee now rise.

The motion was agreed to; there being, upon a division—ayes 57, noes 35.

The committee accordingly rose; and the Speaker resuming the chair, Mr. THOMPSON reported that the Committee of the Whole had had under consideration the Private Calendar and had directed him to report sundry bills to the House, some with and some without amendments.

The following bills, reported from the Committee of the Whole without amendment, were severally ordered to be engrossed, read the third time, and passed:

A bill (H. R. No. 1551) for the relief of Mrs. Emma A. Porch, of Centretown, Missouri;

A bill (H. R. No. 1855) for the relief of John C. Ray;

A bill (H. R. No. 1371) for the relief of John W. Skiles;

A bill (H. R. No. 3289) for the relief of William J. Alexander, of Bloomington, Monroe County, Indiana;

A bill (H. R. No. 330) for the benefit of Alderson T. Keene, late first lieutenant of Company E, First Kentucky Cavalry; and

A bill (H. R. No. 1119) to confirm the title of Benjamin E. Edwards, his heirs, assigns, or legal representatives, to a certain tract of land in the Territory of New Mexico.

The following bills reported from the Committee of the Whole with amendments, were then taken up, the amendments agreed to, and the bills, as amended, ordered to be engrossed, read a third time, and passed:

A bill (H. R. No. 2334) for the relief of Joseph F. Wilson; and

A bill (H. R. No. 888) for the relief of James McGregor.

Mr. LUTTRELL moved to reconsider the various votes by which the above bills were passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADJOURNMENT TILL MONDAY.

Mr. LUTTRELL. I ask unanimous consent that the order of the House for a session to-morrow for debate only may be rescinded.

The SPEAKER. The Chair would entertain a motion that when the House adjourns to-day it be to meet on Monday next.

Mr. LUTTRELL. I make that motion.

The motion was agreed to, upon a division—ayes 102, noes not counted.

Mr. LUTTRELL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WASHINGTON MARKET COMPANY.

Mr. BLACKBURN, by unanimous consent, from the Committee for the District of Columbia, reported a bill (H. R. No. 4243) relative to the Washington Market Company; which was read a first and second time, ordered to be printed, and recommitted to the Committee for the District of Columbia, not to be brought back on a motion to reconsider.

VIRGINIA MILITARY DISTRICT, OHIO.

Mr. DICKEY. I ask unanimous consent to submit for consideration at this time the preamble and resolution which I send to the Clerk's desk.

The Clerk read as follows:

Whereas there are doubts and differences as to the true intent and meaning of an act to cede to the State of Ohio the unsold lands in the Virginia military district in said State, approved February 18, 1871; and

Whereas these doubts create an unsettled and disturbed condition of the titles to many farms which have been appropriated many years since by survey or entry founded upon military warrants and warrants upon continental establishment: Therefore,

Be it resolved by the House of Representatives of the United States in Congress assembled, That the accompanying bill, to wit, a bill to construe and define the act to cede to the State of Ohio the unsold lands in the Virginia military district in said State, approved February 18, 1871, and to further extend the time for selecting surveys on entries in said district, be and the same is hereby referred to a select committee of five to be composed of those members of Congress whose congressional districts, or parts thereof, lie within the said Virginia military district in said State, with leave to report at any time, not to interfere with the Committee on Appropriations.

Mr. BUTLER. Has this been before a committee?

The SPEAKER. It is proposed to create a special committee composed of those Ohio members representing the section of the State directly interested in the lands specified in the resolution.

Mr. DUNNELL. I object.

Mr. WHITE, of Pennsylvania. It should go to a standing committee.

Mr. DICKEY. If the resolution is properly understood, I think there will be no objection.

Mr. BUTLER. If any other State than Ohio were interested, I have no doubt that I ought to object. But I object anyhow.

Mr. DICKEY. This resolution is simply to refer the bill to a select committee of members whose districts lie within the Virginia military district, and who understand the condition of titles to those lands and the difficulty between the agricultural college and the citizens. The bill is to construe an act passed by the Congress of the United States ceding to the State of Ohio those lands.

Mr. CONGER. As I understand it is to construe a law of the United States in regard to rights granted by law.

Mr. DICKEY. This committee is to report a bill on the subject.
The SPEAKER. And the bill when reported will be entirely within the control of the House.

Mr. CONGER. The object seems to be to give to the Representatives of those districts where the land lies the power to frame a bill to get the lands from the United States to the State. But I will not object.

Mr. DICKEY. The object is not to get the land from the United States; it is already ceded to the States.

Mr. CONGER. I am willing to give those Representatives a fair chance.

The SPEAKER. Is there objection?

Mr. BUTLER. I object.

Mr. FINLEY. I move that the House now adjourn.

ELIZA K. ASHLEY.

Mr. MCKENZIE, by unanimous consent, introduced a bill (H. R. No. 4244) for the relief of Eliza K. Ashley, widow of John P. Ashley, deceased; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. CLAFIN, for one week, on account of important business;

To Mr. TOWNSHEND, of Illinois, for two weeks, on account of important business;

To Mr. GARDNER, for one week, on account of important business;

To Mr. AIKEN, for fourteen days from Monday next;

To Mr. MAYHAM, indefinitely, on account of illness in his family;

To Mr. HENRY, for three days, on account of important business; and

To Mr. BURDICK, for two weeks, on account of important business.

SCHOONER FLIGHT.

On motion of Mr. KIMMEL, by unanimous consent, the bill (S. No. 814) to refer the record of the proceedings of the naval court of inquiry as evidence in the case of the collision of the schooner Flight with the United States steamer Tallapoosa before the Court of Claims was taken from the Speaker's table, read a first and second time, and referred to the Committee on Naval Affairs, not to be brought back on a motion to reconsider.

BOUNTY, ETC., OF COLORED SOLDIERS AND SAILORS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a communication from the Paymaster-General, forwarding an estimate for the collection and payment of bounty, prize-money, and other claims of colored soldiers and sailors for the period from January 1, 1879, to June 30, 1879; which was referred to the Committee on Military Affairs.

WILLIAM S. HANSELL & SONS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting information in regard to the claim of William S. Hansell & Sons, of Philadelphia, Pennsylvania; which was referred to the Committee on Military Affairs.

APPROPRIATIONS FOR QUARTERMASTER'S DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a communication of the Quartermaster-General relative to the legislative, executive, and judicial appropriation bill; which was referred to the Committee on Appropriations.

POWELL'S REPORT ON ARID REGION OF UNITED STATES.

Mr. HENDERSON, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring therein.) That there be printed 5,000 copies of the report on the lands of the arid region of the United States by G. W. Powell; 1,000 for the use of the Senate, 2,000 for the use of the House of Representatives, and 2,000 for the use of the Department of the Interior.

Mr. TOWNSEND, of New York. I call for the regular order.

The question being taken on the motion of Mr. FINLEY that the House adjourn, it was agreed to; and accordingly (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. CHALMERS: Memorial of the Cotton Exchange of Vicksburg, Mississippi, as to the improvement of the Mississippi River—to the Committee on the Pacific Railroad.

By Mr. DENISON: Memorial of the Vermont Copper-Mining Company, of Vershire, Vermont, opposing any reduction of the duty on copper ore—to the Committee of Ways and Means.

By Mr. FELTON: The petition of Daniel Dietz, for compensation for stores and supplies taken by the United States Army—to the Committee on War Claims.

By Mr. HARTZELL: The petition of Colonel R. R. Townes and 38 other citizens of Union County, Illinois, for the passage of the bill recently introduced by Hon. R. W. TOWNSHEND, restraining the removal of causes from the State to the Federal courts—to the Committee on the Judiciary.

By Mr. HUNTON: Papers relating to the pension claim of Mary W. Jones—to the Committee on Invalid Pensions.

By Mr. KETCHAM: The petition of H. Meigs and others, for the refunding of certain taxes, as provided in House bill 3406—to the Committee on the Judiciary.

By Mr. JANDERS: The petition of the publishers of the Hartford (Connecticut) Times, for the abolition of the duty on type—to the Committee of Ways and Means.

By Mr. LUTTRELL: The petition of John P. Haines and others, relative to the rights of settlers on the public lands on the Klamath River, California—to the Committee on Public Lands.

Also, the petitions of Elizabeth T. Schenck, Sarah J. Wallis, and Clarinda J. Howard Nichols, of California, for the removal of their political disabilities—to the Committee on the Judiciary.

Also, the petitions of Silas Tate, Sallie Tate, and other citizens of Princeton, California, and of Philip Cowen, Mrs. R. M. Works, and other citizens of Petaluma, California, for an amendment to the Constitution prohibiting the several States from disfranchising United States citizens on account of sex—to the same committee.

By Mr. MANNING: The petitions of Asa R. Chilton, William A. French, and 27 other citizens of Mississippi, and of John Robertson, of De Soto County, Mississippi, for the reference of their claims for stores, &c., taken by the United States Army to the southern claims commission—to the Committee on War Claims.

By Mr. MULBROW: The petitions of A. A. Garner and James W. Mitchell, for compensation for property taken by the United States Army—to the same committee.

By Mr. QUINN: The petition of citizens of Albany, New York, against the reduction of the tariff and the imposition of a tax on tea and coffee—to the Committee of Ways and Means.

By Mr. STEVENS, of Arizona: Two petitions of citizens of Arizona, for the improvement of the Colorado River—to the Committee on Commerce.

By Mr. WILLIAMS, of Alabama: The petition of citizens of Dale County, Alabama, for the distribution of the proceeds of the sale of the public lands among the States for educational purposes—to the Committee on Education and Labor.

Also, a paper relating to the establishment of a post-route from Elba, Alabama, to Uchee Anna, Florida—to the Committee on the Post-Office and Post-Roads.

By Mr. WILLIAMS, of Delaware: The petition of citizens of Smyrna, Delaware, for a survey of Duck Creek, Delaware, with a view to the improvement of the same—to the Committee on Commerce.

By Mr. WILLIS, of New York: The petition of merchants and business men of New York, against the passage of the tariff bill—to the Committee of Ways and Means.

By Mr. WILLITS: The petition of Catharine A. F. Stebbins, of Detroit, Michigan, for the removal of her political disabilities—to the Committee on the Judiciary.

IN SENATE.

MONDAY, April 8, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.
The Journal of the proceedings of Friday last was read and approved.

HOUSE BILL REFERRED.

The bill (H. R. No. 3824) to authorize the survey of the Cattaraugus Indian reservation, in the State of New York, was read twice by its title, and referred to the Committee on Indian Affairs.

CREDENTIALS.

The VICE-PRESIDENT presented the credentials of George H. Pendleton, chosen by the Legislature of the State of Ohio a Senator from that State for the term beginning March 4, 1879; which were read and ordered to be filed.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, recommending an appropriation of \$20,000 for the purpose of purchasing records of the late so-called Confederate States of America; which was referred to the Committee on Appropriations, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. KERNAN presented the memorial of W. J. Mooney and others, business men of the city of New York, remonstrating against the passage of any act imposing a tax on incomes; which was referred to the Committee on Finance.

He also presented resolutions of the common council of the city of Brooklyn, New York, in favor of the passage of a law authorizing the erection in that city of a building for the use of the post-office and other Government purposes; which were referred to the Committee on Public Buildings and Grounds.

Mr. KERNAN. I present the preamble and resolutions of the Board of Trade of Oswego, New York, remonstrating against the imposition of duties on raw material and letting the product in free. They refer

to the proposed tariff law as imposing a tax on wheat and letting flour in free, a tax on malt much less than on barley, and they remonstrate against such legislation. I move the reference of these resolutions to the Committee on Finance.

The motion was agreed to.

Mr. MATTHEWS presented the memorial of R. C. Clark and others, citizens of Cleveland, Ohio, remonstrating against the passage of any act imposing a tax on incomes; which was referred to the Committee on Finance.

Mr. McPHERSON presented the memorial of W. H. Curtis and others, citizens of New Jersey, remonstrating against the passage of any act imposing a tax on incomes; which was referred to the Committee on Finance.

The VICE-PRESIDENT presented the petition of Maria Hart, widow of James Hart, late of Company I, One hundred and fifty-eighth New York Volunteers, praying for a pension; which was referred to the Committee on Pensions.

He also presented the petition of John Folkmann, praying Congress to legislate for the benefit of the working classes of the United States, and suggesting certain ways in which the large cities may be freed from "trampers;" which was referred to the Committee on Education and Labor.

He also presented the petition of John T. Caine, of Salt Lake City, Utah, praying for the establishment of a mint, assay, and refining office in that city; which was referred to the Committee on Finance.

Mr. SPENCER presented the petition of General W. W. Loring, of Florida, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

He also presented the petition of Ethan A. Sawyer, of Jefferson County, East Tennessee, praying compensation for services as scout, guide, and recruiting officer, and for property taken by the United States forces and appropriated to their use during the late war; which was referred to the Committee on Military Affairs.

Mr. WINDOM. I present a memorial of the Board of Trade of the city of Minneapolis, Minnesota, in reference to the improvement of the Mississippi River, in which they express their opinion that it is of the utmost importance to the whole country that the Mississippi River from its sources at the north to its mouth, at the earliest possible day, be so improved by the General Government as to insure the utilization of its navigation to its utmost capacity, thereby giving to all citizens in perpetuity an open highway to the ocean unfettered by tolls, and freed from railway combinations. They heartily indorse the plans of the Government engineers for providing reservoirs at the headwaters of the river, and also respectfully and earnestly urge their delegation in Congress to use all proper efforts to secure the passage of a bill making an appropriation necessary for those purposes. I move the reference of the memorial to the Committee on Commerce.

The motion was agreed to.

Mr. BOOTH presented the petition of E. M. Ross and others, citizens of Los Angeles, California, praying the passage of a law authorizing the holding of at least one term a year of the United States courts for the district of California at that place; which was referred to the Committee on the Judiciary.

Mr. INGALLS presented the petition of James Rose, late private in the Ninth Light Battery Wisconsin Volunteers, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. JOHNSTON presented the petition of John T. Tucker, of Virginia, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. CONKLING presented resolutions of the Chamber of Commerce of the State of New York, remonstrating against a change of the life-saving service from the Treasury to the Navy Department; which were ordered to lie on the table.

Mr. CONKLING. I present also the petition of citizens of New York, representing the business interests, praying for the passage of a law promoting American steamship lines to foreign countries. I move its reference to the Committee on Commerce.

The motion was agreed to.

Mr. CONKLING presented the memorial of James T. Allen & Co., and others, furniture dealers of New York City, remonstrating against the repeal of the bankrupt law and in favor of its amendment; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on the District of Columbia, to whom was recommitted the bill (S. No. 532) to incorporate the Suburban Railway Company of Washington, in the District of Columbia, reported it with an amendment.

Mr. ROLLINS, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 933) to authorize the commissioners of the District of Columbia to refund a certain tax erroneously collected, reported it with an amendment.

Mr. THURMAN. The Committee on the Judiciary, to whom was referred a paper indorsed by the Secretary of the Senate "Petition of Guerry & Sons, praying for the repeal of joint resolution of March 2, 1867, requiring oath of loyalty before receiving bounty land," have directed me to report it back. On examining it we find that it is nothing but a private letter from Guerry & Sons to a Senator and

not a petition in any sense of the term and does not come even within the most liberal rule that the Senate has ever adopted in receiving papers as petitions. The Committee on the Judiciary therefore instruct me to report the paper back and suggest that it be taken from the files and referred to the Senator to whom the letter was addressed. The VICE-PRESIDENT. The order will be entered.

BILLS INTRODUCED.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1050) to amend sections 177 and 178 of the Revised Statutes relating to the temporary filling of vacancies in the offices of the several Executive Departments; which was read twice by its title, and, with the accompanying letter from the Postmaster-General, referred to the Committee on the Judiciary.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1051) for the relief of Hardie Hogan Helper; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SPENCER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1052) to remove the political disabilities of William W. Loring; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1053) providing for a survey of the mouth of the Columbia River; which was read twice by its title, and referred to the Committee on Commerce.

Mr. CHAFFEE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1054) to authorize the United States to secure a title to certain military and timber reservations; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1055) for the relief of the sureties of J. W. Smith, late additional paymaster in the United States Army; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1056) relating to the rank of certain retired Army officers; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MORRILL (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1057) in relation to the promotion of officers in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

RELATIONS WITH COREA.

Mr. SARGENT asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 24) authorizing the President of the United States to appoint a commissioner to the King of Corea to arrange a treaty of amity and commerce between the United States and the King of Corea, and to appropriate the necessary expenses in making such treaty; which was read the first time at length, as follows:

Whereas the Kingdom of Corea is recognized as completely independent by the treaty of 1856, between Japan and Corea; and

Whereas the King of Corea has shown a disposition to enroll his great country among the family of nations, and to allow it to enjoy the reciprocal advantages of peace and commerce with other nations; and

Whereas the United States desires to remain in relations of peace with all peoples: Therefore,

Resolved by the Senate and House of Representatives in Congress assembled, That the President of the United States be, and hereby is, authorized to appoint a commissioner to represent this country in an effort to arrange by peaceful means, and with the aid of the friendly offices of Japan, a treaty of peace and commerce between the United States and the Kingdom of Corea, and the sum of \$50,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated to defray the expenses of said commission.

The joint resolution was read the second time by its title.

The VICE-PRESIDENT. The resolution will lie on the table, subject to the call of the Senator from California.

Mr. SARGENT. Yes, sir. I wish merely to remark that the population of that country is variously estimated at from twelve million to twenty million, and that, as this is a very important question, I want to present some considerations to the Senate before the joint resolution is referred.

AMENDMENTS TO BILLS.

Mr. ANTHONY, from the Committee on Printing, reported an amendment intended to be proposed to the bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. MITCHELL submitted an amendment intended to be proposed by him to the bill (S. No. 802) establishing post-roads in the several States and Territories; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. MATTHEWS. I desire to give notice of my intention to offer an amendment, by way of substitute, to the bill (S. No. 35) to repeal the bankrupt law, introduced by the Senator from Kentucky, [Mr. McCREERY.] I ask that the amendment be now received and laid upon the table.

The VICE-PRESIDENT. The amendment will lie on the table and be printed.

GOVERNMENT BUILDING AT TOPEKA.

Mr. DAWES. I move that the Senate proceed to the consideration of the bill (S. No. 180) to provide for a building for the use of the post-office, the United States circuit and district courts, and other Government offices at Topeka, Kansas.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Public Buildings and Grounds with amendments.

The first amendment was in line 7 of section 1, before the word "hundred," to strike out "three" and insert "two;" so as to read:

At a cost not exceeding \$200,000.

The amendment was agreed to.

The next amendment was, in line 12 of section 1, before the word "hundred," to strike out "three" and insert "two;" so as to read:

Beyond the said sum of \$200,000.

The amendment was agreed to.

The next amendment was to insert at the end of section 1 the words:

And until the State of Kansas shall cede to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of any civil processes therein.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ENLISTMENTS OF COLORED CITIZENS.

Mr. BURNSIDE. I move that the Senate proceed to the consideration of the bill (S. No. 178) to remove all restrictions now existing in regard to enlistments of the colored citizen in any arm of the United States Army.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The bill was reported from the Committee on Military Affairs with amendments.

The first amendment of the committee was to strike out the first section of the bill in the following words:

That hereafter the word color shall not be used to designate any soldier of the United States Army; that the colored citizen shall be entitled to all privileges and rights of any citizen to enlist in any arm of the United States Army, and no distinction shall hereafter be made in the assignment of the soldier on account of color or previous descent; that all arms of the service, engineers, artillery, cavalry, infantry, signal corps, irrespective of color, shall be open to him.

And in lieu thereof to insert:

That sections 1104 and 1108 of the Revised Statutes be, and the same are hereby, repealed.

The next amendment of the committee was to strike out lines 1 to 7, inclusive, of section 2, in the following words:

That the President is authorized to fill the Ninth and Tenth Cavalry, Twenty-fourth and Twenty-fifth Infantry, with enlisted men without reference or distinction of color; that he shall use his discretion in keeping these regiments above the minimum strength required by law, assigning men from the general recruiting and general mounted service as they are required by the regiments, without regard to color.

The next amendment was in line 8, of section 2, to strike out the first word "and" and insert "that," and to add at the end the words "and hereafter colored men shall have full right to enlist in all the arms of the service;" so as to read:

That nothing in the above act shall be so construed that the Ninth and Tenth Cavalry, Twenty-fourth and Twenty-fifth Infantry, are not part of the United States Army. And hereafter colored men shall have full right to enlist in all the arms of the service.

Mr. INGALLS. What became of the amendment offered by the Senator from Maine [Mr. BLAINE] to this bill when it was up on a previous day?

Mr. BURNSIDE. That is the last amendment reported from the committee, the amendment to the last clause of the second section.

Mr. INGALLS. Was that amendment accepted by the committee?

Mr. BURNSIDE. It was accepted by the committee and embraced in the bill as re-reported.

Mr. BAYARD. I should like to ask the Senator from Rhode Island whether this bill makes it compulsory upon the part of any recruiting-officer or person in charge of a recruiting station to accept and dispose of a recruit in any branch of the military service that the recruit may indicate; in other words, whether when recruits offer themselves the officers in charge of the stations or the officers in charge of the department where the soldier is to be employed are deprived of control over the branch of the service in which the recruits are to be employed. I should like to know whether the bill takes from the officers in charge of the Army the discretion as to the branch in which the recruit shall be employed.

Mr. BURNSIDE. No more than the law takes the discretion away from the officers now. The bill leaves the recruiting officer just as he is at this time. A recruiting officer can reject a man if he feels disposed and there is no reviewing or revising authority that I know of. A man can go before a court and claim his right as a citizen to enlist in the Army of the United States the same as a man can claim

his right to enter into any voluntary public employment, or just as he could claim his right to vote.

Mr. BAYARD. May I ask whether this proposed amendment of existing law has been recommended by the General of the Army or by the War Office?

Mr. BURNSIDE. Yes, sir; it has been recommended by the General of the Army. The General of the Army is in perfect accord with this bill. I have his indorsement of the measure not only in black and white, but I have had his approval verbally half a dozen times. He is in perfect accord with the bill; and although I do not have it directly from the officers in command of the departments where these regiments serve, I am satisfied from what the General of the Army has told me that they are in accord with the bill also. I can see no reason why this bill should prove embarrassing to anybody. It simply removes from the statute-books sections which create four regiments entirely of colored people, and assures them the right to enlist in all corps of the United States Army.

They have that right now under the law. They can offer to enlist in the artillery regiments to-day, and they will have the right to do so if the bill becomes a law. This measure will in no sense change the law in that respect. There is nothing in the statutes that prevents a colored man from going to a recruiting station and demanding to be enlisted as an engineer soldier, or as an artillery soldier, or as an infantry soldier.

Mr. BAYARD. Is there anything in the existing law now that prevents that?

Mr. BURNSIDE. Not a thing. There is nothing in the law now that prevents that. Any colored man can go this day and enlist in any of these corps if the recruiting officer will let him.

Mr. BAYARD. That is precisely the question. I have no doubt at all that every government has a right to utilize every means in its power for self-defense and aggression, and I have no question that every element of power in a country should be utilized wisely for the purpose of defense. If, therefore, the military arm or the naval arm shall be strengthened by the infusion of negroes, or men of negro descent, in it, by all means let it be done; but I think there is nothing in the existing law that makes this proposed amendment of it necessary. I know nothing under our law or nothing under the Constitution as it is amended that prevents the freest entry of service to a colored man as much as to a white man. I know of no disability, I know of no discrimination, I know of no right to discriminate. Therefore I ask why is it that this present amendment of the law is proposed to be put into the statutes giving to colored men a full right to enlist in all arms of the service? Why, have they it not now? Have they it not now quite as much as the white men of the country?

Mr. President, I say respectfully to my friend from Rhode Island that I think these things had better run as they are. All that you can hope to make justly under the laws is an equal opportunity of enlistment. You cannot by further discrimination aid deficiencies that may exist, and you have no right to give advantages which are not open to all. If the present laws of this country do not make a discrimination against one class of citizens over another, then I submit the amendment now proposed is not necessary; and I think that the Senator has gone rather further in this proposition than any previous law of the United States has done by insisting that one description of citizens shall have a fuller right to enlist in all arms of the service. I am under the impression that there is no law on the statute-book to-day, and that no just construction can be given to any law upon the statute-book to-day, that discriminates against any citizen by reason of race, color, or previous condition; so that I think this measure is really unnecessary.

Mr. BURNSIDE. Mr. President, I will say to the Senator from Delaware that the bill before the amendment was attached to it by the Senator from Maine simply did away with the two sections which require that two regiments of infantry and two regiments of cavalry shall be composed of colored men. Now, in order to be perfectly consistent, the Senator from Delaware should say that he desires to give white men all their rights, and that there shall be no section of the statutes depriving white men of their rights. Now, the sections which I propose to repeal by this bill deprive white men of the right to enter the Ninth and Tenth Cavalry and the Twenty-Fourth and Twenty-Fifth Regiments of Infantry. No white man in the United States can enter those regiments as a private soldier. The law deprives him of that privilege. If the Senator from Delaware desires to be consistent, let him vote for the repeal of those two sections and then every white man who desires to enlist can go to the recruiting officer and make known his wishes, and every colored man can do the same thing, and the statutes will be homogeneous in that respect. As it is now, they are not.

Mr. BAYARD. May I ask the honorable Senator whether any white men have made complaint that they were not allowed to enlist in the colored regiments?

Mr. BURNSIDE. I do complain myself.

Mr. BAYARD. Have they complained?

Mr. BURNSIDE. The law is distinct that these regiments shall be composed of colored men.

Mr. BAYARD. Has there been any complaint that that privilege has not been allowed to white men?

Mr. BURNSIDE. I complain myself that they are not allowed to enlist in these regiments, and my complaint is that the regiments are

less efficient for the reason that white men are not allowed to enlist in them. The General of the Army complains of it; the generals in command of departments complain of it.

Mr. INGALLS. The Senator from Rhode Island said a moment ago that the General of the Army was in complete accord with the purposes of this bill.

Mr. BURNSTIDE. Yes, sir.

Mr. INGALLS. From which I judge that he is acquainted with his sentiments upon the question of the enlistment of Africans in the Army. Will the Senator inform the Senate whether the General of the Army favors the enlistment or the exclusion of persons of African descent from the regular Army?

Mr. BURNSTIDE. Yes, sir; I will with great pleasure.

Mr. INGALLS. The reason why I ask that question is this: whatever may be the objects of this bill, I have no doubt that the results of it will be, if it is passed into a law, that within five years there will not be a colored man in the United States Army.

Mr. BLAINE. Within two years.

Mr. INGALLS. The Senator from Maine says "two years." I accept the amendment. As the law and Constitution now stand, there is an absolute right on the part of colored as well as white men to enlist in the Army; but, as was developed in the debate the other day, there is, from some cause or other, a prejudice on the part of the officers of the Army, those who have charge of the recruiting service, so that colored men are excluded when they offer themselves; and now, if you abolish and abrogate this portion of the law that sets apart four regiments where they can be received, the result will be that this prejudice, this hostility to the enlistment of colored men, will be so great that they will have no place whatever in this branch of the public service. That, I believe, will be the actual result of this bill, whatever may be its purposes and its objects.

Mr. BURNSTIDE. Well—

Mr. BLAINE. The Senator from Rhode Island will pardon me now—

Mr. INGALLS. I should like to know whether the General of the Army favors the enlistment of colored men or is opposed to it.

Mr. BURNSTIDE. I will yield to the Senator from Maine. If he desires to speak, I will not interpose.

Mr. BLAINE. I will not interrupt the Senator.

Mr. BURNSTIDE. I am in no hurry.

Mr. BLAINE. The Senator from Delaware certainly is one of the Senators who object to any possible admixture under the civil-rights bill of white and colored children in the schools in the South. That sentiment is very general throughout the South, that there cannot be and shall not be an admixture. There has been before Congress for the last ten years a petition, with which I have had some sympathy, for the up-building by appropriations from Congress of the old College of William and Mary which was destroyed as one of the results of the peninsular campaign. There has never been a time when the friends of that institution would take the aid from Congress, no matter how munificent, upon the simple condition that colored citizens should be admitted; never. Now, we are bound to look, not at what may be the mere abstract reading of the law, but the positive and palpable effect of repealing these sections will be that thenceforward the colored man is just as much excluded from service in the Army as he is from the halls of William and Mary College. The prejudice in the Army is strong against him. There is not a recruiting officer that would be sent out, unless he should be picked exactly for the purpose, who would enlist one. Possibly the admixture in the regiment would not conduce to their efficiency. I do not believe that a regiment made up of half white and half black would be half as efficient as a wholly colored regiment. It is better for the interest and efficiency of the service that the law be left as it now is, in my judgment, and in so far as the colored man has any right to enter the service of the military arm of the nation, it is secured to him alone in these sections, and if you repeal them and leave it to this grand right that he is an American citizen and everybody has got the same right under a general gush, he will be absolutely left out, just as much as if he was on the extreme end of the north pole; you will never hear of one in the service again. The question then is, shall it be considered a fair policy at this day to exclude him from the military service of the country? That is the whole of it.

Mr. BURNSTIDE. The Senator from Maine is entitled to his views on this subject. I differ with him very much. I am not so reliant, though, upon my own wisdom in making predictions as the Senator from Maine, and therefore I shall not make any such positive prediction as he has made. I believe in the principle of doing right and letting results follow.

Now this bill is in the right direction, and the sections as they stand on the statute-book are wrong. I beg to predict that there will be within a very short time a strong sprinkling of colored troops in the United States Army, a full representation I may say *per capita*; certainly within ten years; and I think within four or five years there will be a great many. The General of the Army I believe agrees with me. At any rate he says "let colored troops come along; let them be enlisted; we will take care of them; they are good for the service and will be well taken care of, and we shall be glad to receive them." That is what the General of the Army says.

As these four regiments stand now they are inefficient, and I say it

is our duty to repeal those sections and make four efficient regiments of those colored regiments. As they are now they are inefficient. I believe in being consistent. Let us do right though the heavens fall. To say that two regiments of infantry and two regiments of cavalry shall be made up of colored men is not right; you might as well say they shall be made up of Germans, or of Chinese, or of Spaniards.

Mr. BLAINE. When the Senator from Rhode Island was himself at the head of the United States Army, it was not very inconsistent to have one hundred thousand colored troops made up in their own regiments.

Mr. BURNSTIDE. It was not.

Mr. BLAINE. We did not a bit see the inconsistency of it when two hundred thousand of them came to the relief of the Union Army in regiments of their own color solely.

Mr. BURNSTIDE. We were very glad to have them; but the necessity for a thing of that kind has passed. It was not inconsistent to have German regiments, it was not inconsistent to have the Irish brigade; but how inconsistent to-day would it be to have a regiment in the United States service made up of Irishmen altogether. We had German brigades and divisions, and Irish brigades and divisions, and we resorted to everything then to get troops in the field, and a great many means were resorted to then that would not be fair means now. We are now on a peace footing; we should try to get our country into a condition that prejudices will be allayed, that people will cease to think of the war more than is necessary to do justice to those who fought gallantly in it. There is no occasion for bringing these things up constantly. My object is to make the statutes on the subject homogeneous and right.

Mr. BAYARD. I am heartily in favor of the destruction of prejudice of every sort, especially when we come to deliberate upon public interest; but I cannot understand how the best way to allay a prejudice is to legislate violently for its suppression. Now, it is plain, as the honorable Senator from Rhode Island says, that there are several regiments already known as colored regiments, the rank and file of which are composed solely of men of that race, and yet their ranks cannot be kept full. By what species of reasoning is it that if a few regiments cannot be maintained to their proper numerical standard, you are to presume that by opening still other regiments for the admission of the same class of persons, and doing that by compulsory legislation that does not apply to the Army at large, you are to have them full. Now, as I say, taking the very theme of the Senator from Rhode Island, I desire to see the Army of the United States, the Navy of the United States, and any other branch of service of the United States filled with those men who are most competent for the duties in question. If any class of men shall prove themselves fitter for a place than others, I wish to see them have the advantage which their powers, natural or educated, shall permit them to take. It would be the blindest and most short-sighted policy for us to deny the merits or capacities of a man who seeks to exert both in the defense and in the service of the country. I should be ashamed to subscribe to a doctrine of that sort; but it is plain to me that the anxiety of the honorable Senator to do away with what he calls prejudice is really doing something to create it and he is stepping beyond the fair measure of right as laid down by law and is discriminating in favor of one class and against others.

The Army as it now stands is open for enlistment to any one, as I understand, not simply to American citizens, but others may enlist who can pass the standard morally, physically, and intellectually that may be set up for them. That I wish to see continued, and I wish to see no rigidity of legislation interposed to control the high and wise discretion of the officers in charge of the American Army over the selection of recruits for various service. I think if we undertake to interpose our discretion instead of theirs, we shall do what will be detrimental rather than serviceable, and there will be nothing gained by simply producing this attrition which the Senator seems to fear of prejudice in the various branches of the public service. I do believe the law as it stands gives equal opportunity, and I do not think that any laws in a nation professing to be governed by equal laws should do more.

Mr. BURNSTIDE. Will the Senator from Delaware tell me how the law regulating the enlistment of private soldiers will be changed in the least degree by the repeal of these two sections; how the right of enlistment, in other words, will be changed in the least or affected in any way whatever by the passage of this bill?

Mr. BAYARD. I do not think especially it would be, and therefore I think these amendments are unnecessary.

Mr. BURNSTIDE. The bill as originally presented does not refer to that.

Mr. BAYARD. May I ask, if the bill does not change the law, what is the use of this legislation?

Mr. BURNSTIDE. The use of this legislation is to do away with the four colored regiments as colored regiments, and give white men the right to enlist in them. I am for the rights of the white men, if the Senator will allow me to say so, as well as for the rights of the colored men.

Mr. BLAINE. How many regiments of white men exclusively have we now?

Mr. BURNSTIDE. All the regiments are composed of white men except these four.

Mr. BLAINE. And yet the Senator thinks it is necessary for the rights of white men that they should have a right to enlist in the others?

Mr. BURNSIDE. Yes, sir. I think if a white man wants to enlist in the Ninth Cavalry he should have the right to do it, and I am willing to stand on that ground. I can say to the Senator from Maine that that is very substantial ground to stand upon.

This bill, it seems to me, occupies a very unfortunate position, and I suppose it will be defeated because some of our friends here are very much afraid it will let colored troops into the white regiments, and others are afraid it will do away with the right of the colored men to enlist. I am not frightened about anything of that kind. Colored sailors enlist constantly, are shipped constantly, and have been for years, and hardly a ship goes out of port that has not colored sailors on board, some of them a great many. That right has existed for a long time. Now, I wish to put the Army on the same footing that the Navy is upon, and has been for years, and I see no reason why it should not be so.

Mr. THURMAN. I do not rise to make a speech for or against this bill, but to try to get some information that will enable me to vote understandingly and I shall endeavor to be as brief as I can.

As I understand the law as it now exists, there is no distinction whatever made on account of color in regard to enlistments in the Army of the United States. The Army is just as open to colored men as to white men; and if it should so happen, if such a thing were possible, that all the enlistments were of colored men, that no white men would enlist, the consequence would be that the whole Army would in time become an Army of colored men under the law as it now stands.

The sections of the statute in regard to enlistments are very brief, and I will read them:

SEC. 1115. There shall not be in the Army at one time more than thirty thousand enlisted men.

That has been reduced since.

SEC. 1116. Recruits enlisting in the Army must be effective and able-bodied men, and between the ages of sixteen and thirty-five years at the time of their enlistment. This limitation as to age shall not apply to soldiers re-enlisting.

SEC. 1117. No person under the age of twenty-one years shall be enlisted or mustered into the military service of the United States without the written consent of his parents or guardians: *Provided*, That such minor has such parents or guardians entitled to his custody and control.

SEC. 1118. No minor under the age of sixteen years, no insane or intoxicated person, no deserter from the military service of the United States, and no person who has been convicted of any criminal offense shall be enlisted or mustered into the military service.

SEC. 1119. All enlistments in the Army shall be for the term of five years.

These are the sections, and I believe all of them, that relate to enlistments. They make no distinction on account of race, color, or previous condition of servitude, so that enlistments in the Army now are as free to the colored citizen as to anybody else, and nobody doubts that the colored citizen ought to be allowed to enlist. The Government owes protection to all its citizens, and they owe the correlative duty of military service if they are of suitable age and possess the necessary physical and mental qualifications. No one, therefore, could be opposed to the military service of any class of our citizens. In old Rome nobody, in the best days of the republic, was allowed to serve in the army unless he was a citizen; aliens and slaves were not allowed to enter the army at all; but in this country the colored men are citizens, and even according to the system introduced in the old Roman republic they would be entitled to enlist in the Army of the United States. Nobody disputes the legality of that or its propriety.

That being the case, let us see what is this bill. In the first place I want to call the attention of my friend from Rhode Island to a part of this bill where it seems to me there must be a misprint. The first amendment is, after striking out nearly all of the original bill:

That sections 1104 and 1108 of the Revised Statutes be, and the same are hereby, repealed.

Section 1104 is:

The enlisted men of two regiments of cavalry shall be colored men.

Section 1108 is:

The enlisted men of two regiments of infantry shall be colored men.

The object of the repeal of those sections is perfectly plain; for, as the law now stands, it is mandatory that four regiments, two of them of cavalry and two of them of infantry, shall be composed exclusively of colored men. The object of this bill is to repeal that mandatory provision of the law. And suppose it were repealed, Mr. President, what then would be the case? I suppose the Senator from Rhode Island knows far better than I do that the brigading and regimenting, to use such a word, and assigning to companies and so on of the recruits is within the control of the President of the United States under such rules and regulations as he may see fit to prescribe where there is no positive provision of law on the subject. If I am right in this, you might repeal those two sections and then it would be a question within the discretion of the President of the United States whether the colored recruits should be put by themselves in companies or regiments or brigades by themselves, or whether they should be mixed up with white troops. I suppose that would be a matter for executive regulation if those two sections were repealed. The objection of the Senator from Rhode Island to those two sections, as I understand it, is that they make it obligatory upon the President to do that which the President in his discretion might think it was unwise to do. They take

away his discretion, and therefore he proposes that those two sections shall be repealed, and then, if I am right in saying that the President may by rules and regulations prescribe the assignment of recruits, that would leave it to the President to assign them according to his own best judgment, according to the peculiar circumstances of the case. Whether that be wise or not, I do not know. I am strongly inclined myself, however, to believe that it is not a wise provision to keep up these distinct negro or colored regiments. I am rather inclined to think it is not. At the same time it might well be that the President in his discretion would see fit to assign colored recruits to particular companies or regiments or brigades of the Army. I do not know how that might be.

But now I wish to call the attention of the Senator from Rhode Island to what follows in his bill. The provision I have read, "that sections 1104 and 1108 of the Revised Statutes be, and the same are hereby, repealed," is perfectly plain. Then comes:

That nothing in the above act shall be so construed that the Ninth and Tenth Cavalry, Twenty-fourth and Twenty-fifth Infantry, are not part of the United States Army.

These are the colored regiments.

"Nothing in the above act." What is meant by the "above act?" I do not know. The only words to which that could apply would be "the Revised Statutes," and I do not see that anything in those statutes could be so construed that the Ninth and Tenth Cavalry and the Twenty-fourth and Twenty-fifth Infantry "are not part of the United States Army," for those statutes expressly make them part of the United States Army. I do not therefore see what the meaning of this is. I think it is a mistake. It must have been intended to read, "nothing in this act."

Mr. BURNSIDE. I will state to the Senator from Ohio that that is the fact. It should be "nothing in this act." This must be a misprint.

Mr. THURMAN. Then comes the last clause, to which, I think, some exception may well be taken:

And hereafter colored men shall have full right to enlist in all the arms of the service.

They have that right now generally. That is to say a man may enlist in the artillery, or the infantry, or the cavalry, as the law now stands. But—and when you amend a law you are presumed to mean something different from the existing law—if it is meant that a colored man enlisting can choose the company in which he is to serve, or the regiment in which he is to serve, and can thus of his own volition, and without regard to the will of the President of the United States in assigning recruits, force himself in a white company of infantry, or of cavalry, or the like, then it is worthy of consideration whether you are not taking a step that may be very troublesome in the future.

I mention these considerations only as showing my own ignorance of the subject and my doubts upon it, and I hope the Senator from Rhode Island will allow this bill to go over until to-morrow that it may be further reflected upon.

Mr. BURNSIDE. This bill has been lying on the table for some time. I do not choose to press it or anything else on the Senate. I desire to say to the Senator from Ohio that the amendment on which he has commented here was not in the original bill and was not originated by me. It was originated by the honorable Senator from Maine. I have no objection to voting for this amendment. I think it is simply declaratory; it amounts to nothing more than a declaration. That is my opinion; but still it ought not to affect the original bill. If we as Senators feel that those sections of the Revised Statutes should be repealed, that the efficiency of the service and justice both require that they should be repealed, then we should act upon them. If the Senate choose to vote down the amendment, I think no harm will be done, but I can vote for it; I am free to say that; but the Senator from Maine is big enough to take care of himself and he can defend the amendment.

Mr. BLAINE. I hope the Senator from Ohio will be good enough to give me his attention, as I am always glad to catch him on a point of law. I wrote the amendment. It reads:

And hereafter colored men shall have full right to enlist in all arms of the service.

The Senator asks does that mean that a man shall choose his regiment or company. By no means. It means, however, that a man has the right, when he enlists, to say whether he enlists for the cavalry service, or the infantry service, or the artillery service.

Mr. THURMAN. He has that now.

Mr. BLAINE. The Senator was criticising that language as meaning that the man who was enlisting might have the right to say "I am going to enlist for such a regiment and such a company." It does not mean so. It means simply what it says, that the right to enlist in "all the arms of the service" shall be open to the colored citizen. It does not mean that the colored citizen shall have the right to choose the regiment and company he will serve in, but it means to say that if there were recruits being received for the engineer service he should have the right to enlist in that service; if there were recruits being received for the artillery, he should have the right to enlist in the artillery; if for cavalry, the right to enlist in the cavalry; if for the infantry, in the infantry. It applies to all arms of the service.

Mr. THURMAN. Will the Senator allow me to interrupt him right there? He certainly did not think carefully on what I was saying.

Mr. BLAINE. I tried to.

Mr. THURMAN. There is no conflict now between what he is saying and what I said. I said that, if this meant simply that a colored man had a right to enlist in the cavalry, or the infantry, or the artillery, at his own volition, that was nothing more than the existing law, and that when you propose to amend or change a law you are presumed to have made some change in it, and it would then be a question whether this did not mean something more than the existing law, whether it did not mean that he might choose the company in which he might enlist.

Mr. BLAINE. It is quite interesting to watch the gradations of this bill. My excellent friend from Rhode Island, whose kind-heartedness we all know, and who, I am sure, meant no injustice to any colored or white citizen, wrote it thus:

That hereafter the word "color" shall not be used to designate any soldier of the United States Army; that the colored citizen shall be entitled to all privileges and rights of any citizen to enlist in any arm of the United States Army, and no distinction shall hereafter be made in the assignment of the soldier on account of color or previous descent; that all arms of the service, engineers, artillery, cavalry, infantry, signal corps, irrespective of color, shall be open to him.

He meant evidently to widen the sphere in which the colored man should have the right, by affirmative declaration of Congress, and that posted up in the recruiting rooms of all the men who were sent out to recruit would have been a specific direction that they were not at liberty to refuse a colored man when he offered. That bill went to the Committee on Military Affairs; I do not know what took place in that committee, but—

Mr. BURNSIDE. Will the Senator from Maine allow me to say one word? This bill just as it stands now, without his amendment, was what I reported to the Committee on Military Affairs and not one word was spoken to any member of the committee on the subject. The bill was referred to me and I made the amendment myself without consultation with a single member of the committee, and it was not whittled down in any way in the world. I just saw by an examination of the statutes that the whole thing could be accomplished by repealing those two sections, and I thought that was the sensible way to do it, and therefore took it.

Mr. BLAINE. I said that I knew nothing of what took place in committee; I only knew that those broad, generous, extensive words to enfranchise and extend the rights of the colored and proscribed class came out of the committee in these words:

That sections 1104 and 1108 of the Revised Statutes be, and the same are hereby, repealed.

It did not leave a recognition anywhere in the laws of the United States that the colored man could enlist anywhere. Now the constitution of the two cavalry regiments and the two infantry regiments mentioned in those sections was a concession to the prejudice of color in the Army. I know very well that I was a member of the committee that reported the bill to put it in. I happened to be a member of the Military Committee of the House of Representatives, and with the chairman, General Schenck, I had something to do with framing the bill. We heard a vast amount of testimony on that question.

The VICE-PRESIDENT. The morning hour has expired.

Mr. BLAINE. One minute longer, and I shall be through. We had a very great amount of testimony on that question, and the testimony of the leading officers of the Army uniformly was to the good conduct of the colored troops in their own regiments; and they suggested that it might not be so well for the efficiency of the Army to have them mixed up. That provision of law was the result of a compromise, to give the colored man the right to enlist in the Army of the United States, and not to raise unnecessarily the question of caste, and color, and prejudice in the Army. A great number of creditable and honorable colored soldiers came before the committee and testified to the same thing. They wanted it, and the white soldiers wanted it; and it has stood for the last twelve years. The act was passed on the 28th of July, 1866.

If it were still within the hour I should like to have a test of the Senate by moving that the bill be indefinitely postponed, although I will withdraw the motion in deference to the Senator from Rhode Island, if he desires to speak.

Mr. BURNSIDE. I have no objection to the question being put in that way.

The VICE-PRESIDENT. The morning hour has expired, and the Senate resumes the consideration of the unfinished business, on which the Senator from California [Mr. SARGENT] is entitled to the floor.

Mr. BURNSIDE. I hope the Senator from California will allow the vote to be taken on this bill. I am willing to allow a vote on the motion to postpone indefinitely.

Mr. SARGENT. I have no idea that it can be taken within an hour.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1551) for the relief of Mrs. Emma A. Porch, of Centretown, Missouri;

A bill (H. R. No. 1855) for the relief of John C. Ray;

A bill (H. R. No. 1371) for the relief of John W. Skiles;

A bill (H. R. No. 3289) for the relief of William J. Alexander, of Bloomington, Monroe County, Indiana;

A bill (H. R. No. 330) for the benefit of Alderson T. Keene, late first lieutenant of Company E, First Kentucky Cavalry;

A bill (H. R. No. 1119) to confirm the title of Benjamin E. Edwards, his heirs, assigns, or legal representatives, to a certain tract of land in the Territory of New Mexico;

A bill (H. R. No. 2334) for the relief of Joseph F. Wilson; and

A bill (H. R. No. 888) for the relief of James McGregor.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by O. L. PREDEN, one of his secretaries, announced that the President had, on the 3d instant, approved and signed an act (S. No. 648) to constitute a commission to consider and report a plan for providing enlarged accommodations for the Library of Congress and the act (S. No. 349) to authorize the commissioners of the District of Columbia to refund a certain tax erroneously collected.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on Claims:

A bill (H. R. No. 888) for the relief of James McGregor; and

A bill (H. R. No. 3289) for the relief of William J. Alexander, of Bloomington, Monroe County, Indiana.

The following bills were severally read twice by their titles, and referred to the Committee on Military Affairs:

A bill (H. R. No. 330) for the benefit of Alderson T. Keene, late first lieutenant of Company E, First Kentucky Cavalry;

A bill (H. R. No. 1371) for the relief of John W. Skiles; and

A bill (H. R. No. 1551) for the relief of Mrs. Emma A. Porch, of Centretown, Missouri.

The bill (H. R. No. 2334) for the relief of Joseph F. Wilson, was read twice by its title, and referred to the Committee on Public Lands.

The bill (H. R. No. 1855) for the relief of John C. Ray, was read twice by its title, and referred to the Committee on Naval Affairs; and

The bill (H. R. No. 1119) to confirm the title of Benjamin E. Edwards, his heirs, assigns, or legal representatives, to a certain tract of land in the Territory of New Mexico, was read twice by its title, and referred to the Committee on Private Land Claims.

THE PACIFIC RAILROADS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 15) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act, the pending question being on the amendment submitted by Mr. CHAFFEE.

Mr. SARGENT. Mr. President, when the Senate adjourned on Friday last I was discussing the question of the great annual saving to the Treasury that had been caused by the construction of the Pacific railroads, and showed it by the report of the Senate Committee on Railroads made in 1871. It was a principal object of the legislation of 1862 and 1864 to gain that advantage to the Treasury, and I contended that we ought not to overlook the fact that that object was secured and millions less annual expense have ever since been incurred, in deciding upon the treatment to be meted out to the companies. The Railroad Committee estimated that saving as at least \$3,000,000 per year on the scale of expense when the roads were commenced, but as the expenses annually became greater as the country became settled up, the Indians became more troublesome, mails heavier, &c., the annual saving became still more and probably reached nearly \$6,000,000 annually. In 1867 a single contract to carry that part of the Pacific mails not carried by the Isthmus was made for the space between the advancing termini of the roads, which it was supposed had years to run, at the rate of \$1,750,000 per annum. Forty or fifty times that weight of mails is now carried over the same distance for \$140,000 per annum. From the facts I have cited in this connection it may be safely asserted that the Treasury will be better off in 1900 from the savings to the Government even if the debt is never paid. It is better off to-day. The speedy completion of the road added greatly to its cost to the companies, but it more quickly relieved the Treasury of enormous drains for transportation. The men in Congress who favored the passage of the Pacific Railroad bills, and argued in favor of the "inducements to capital and enterprise" to embark in the enterprise, looked upon the Government investment as a good one even if the bonds or interest were never paid.

No fact is more apparent from a perusal of the debates in 1862 than that it was not contemplated that either the bonds or interest should be paid until the maturity of the bonds.

And I am led to this remark by the position taken by the Senator from Delaware [Mr. BAYARD] in the remarks which he recently addressed to the Senate. Referring to a quotation from Justice Butler, used in the case of the United States vs. The Pacific Railroad, in 1 Otto, 53, he expressed the opinion that the failure in the former legislation to provide for the payment of the interest by the companies to

the Government as it was paid by the Government was a *casus omisus*. The quotation which he read as I recollect—I am sorry I am not able to verify my recollection by his remarks, which are not yet in the RECORD—was as follows:

"We are bound," said Justice Buller in an early case in the King's Bench, "to take the act of Parliament as they have made it: a *casus omisus* can in no case be supplied by a court of law, for that would be to make laws; nor can I conceive that it is our province to consider whether such a law that has been passed be tyrannical or not."

I do not understand that the object of the court in making the citation was to express even an opinion that there was a *casus omisus* in that case. Perhaps they were not at liberty, as we are, to refer to the debates at the time of the passage of the act in order to understand whether such omission was made or not; but there is nothing clearer to any one who will refer to these debates than that Congress intelligently left out any provision for the payment of the interest by the companies as it was paid by the General Government. This was so necessarily as a matter of principle; for what assistance would it have been to the companies for the Government to lend them its bonds to be paid by the companies at maturity and the companies each year to pay all the interest that accrued on these bonds? It would be no advantage whatever that anybody can see. The companies could just as well borrow, if they could borrow it at all, from somebody else on those terms. It was a loan of its bonds by the Government and not an indorsement of the bonds of the company. I desire to call attention to an amendment offered by Mr. White, of Indiana, in the House of Representatives in 1862 upon the opposite theory which he pre-
faced by saying:

It will be observed by reference to the section that there is no provision in reference to the payment of the current interest. I therefore move to amend by adding to the section the following:

And then comes the section which he offered:

It is declared to be the true intent and meaning of this section that the current interest on said bonds shall be chargeable to said company, to be by them reimbursed to the United States within one month after each semi-annual payment thereof by the United States; and a default therein shall subject the said company to the same liability and forfeiture above provided for in case of the non-redemption of the bonds at their maturity.

It will be observed that this amendment was aptly drawn for the purpose of supplying the omission if there was a *casus omisus* in the bill up to that time, and he gives his reasons further for offering this amendment:

The section as it now stands does not make any provision for the payment of the current interest as it accrues semi-annually. It may or may not have been the intention of the committee that the interest should be paid by the company. Probably it was; but if not, then this amendment, of course, will involve a principle which the committee have not sanctioned. If it was the intention of the committee, and it is the intention of the Committee of the Whole, that the railroad company shall pay the current interest, then, to avoid the difficulty and uncertainty which creditors will have, and to insure its prompt payment by the United States, this amendment provides that the Government shall first pay it, and the company reimburse it to the United States within one month. Of course, it will be a little gain of the company, to the extent of the interest upon the interest.

A wonderfully small gain that would have been! I am tempted to use the favorite Latin maxim of my friend from Ohio, *de minimis non curat lex*.

This is the only way the interest can be promptly secured to the creditors.

To this Mr. Campbell, of Pennsylvania, who was chairman of the Pacific Railroad Committee in the House, replied:

I suppose, of course, that the gentleman from Indiana is acting in perfect good faith, but I am clearly of opinion that the gentleman has not studied faithfully the provisions of this bill. It has been demonstrated to this House that the cost to the Government of transportation to our forts in the Territories is more than double the amount of the entire interest upon all the bonds proposed to be issued, and the bill is based upon the supposition that the transportation of Government supplies over the road will be equal to, if not greatly exceed, the annual interest upon the bonds issued from year to year. It is not the intention of the bill that the interest shall be paid semi-annually to the Government. It is not supposed that, in the first instance, the company will reimburse the interest to the Government. It will reimburse it in transportation, but if the transportation does not meet the interest, then the Government is to have a mortgage on the entire road for the full amount of principal and interest. I hope, therefore, that the amendment will not pass.

Mr. WHITE's amendment was rejected, and thus there was an intelligent vote by the House of Representatives, after argument *pro* and *con*, that this was not a *casus omisus*, that they would not supply a provision requiring the interest on these bonds to be paid before maturity. I could quote still further from these debates remarks made by Judge KELLEY, of Pennsylvania, and other remarks by Mr. CAMPBELL, and some submitted by myself at that time, all explaining this same feature of the legislation, showing that the House of Representatives clearly understood that the provision was that the Government should pay the interest, but the companies should repay the interest only at the maturity of the obligations and at the same time that they paid the principal.

The Senator from Ohio [Mr. THURMAN] and others have dwelt upon the enormous amount of the debt of these companies to the Government. Taking the decision of the Supreme Court as correct, as we must, the interest is not payable, and neither is the principal, until the maturity of the bonds. That was, as I have shown, a boon to the companies, intelligently and purposely given. It is therefore necessary, in estimating the present real amount of the debt, to ascertain its present value. I have had this done by an able statistician in the Treasury Department. By his showing the present value (July 1, 1878) of the net interest (or interest less estimated 5 per cent. of net earnings and the half transportation) for thirty years, (from January

1, 1868, to January 1, 1898,) such net interest being considered as due at maturity of principal, (January 1, 1898,) or the sum, which reinvested semi-annually at the rate of 5 per cent. per annum from July 1, 1878, to January 1, 1898, will amount to such net interest, is, in the case of the Union Pacific Railroad Company, \$11,842,000; Central Pacific Railroad Company, \$15,128,000.

If at the rate of 6 per cent. per annum such present value is, in the case of the Union Pacific Railroad Company, \$9,794,700; Central Pacific Railroad Company, \$12,503,000, the present value of the principal and such net interest together, under the above conditions, when the annual rate of interest for the semi-annual reinvestments is 5 per cent. per annum, in the case of the Union Pacific Railroad Company, is \$22,228,000; Central Pacific Railroad Company, is \$25,761,000.

If the annual rate is 6 per cent., such present value is, in the case of the Union Pacific Railroad Company, \$18,394,000; Central Pacific Railroad Company, \$21,308,000.

These figures, which, as I say, were prepared for me by an able statistician in the Treasury Department, removed from any motive for misrepresentation, and I have no doubt with actual verity, show the small present value of this debt compared with the exaggerated statements which are made in regard to it. The companies would have a right to pay it off under proper legislation by Congress, giving the full value of it at the rate which I have just stated.

When the Pacific Railroad bill passed the House of Representatives, after a discussion that ran over several weeks under the five-minute debate and a discussion under the hour rule of several weeks, as it came to the Senate it did not provide that these companies should pay either principal or interest except by the whole of the transportation and the 5 per cent. of their net earnings, and the words were inserted in the Senate on the motion of the then Senator from Vermont, Mr. Collamer, that they should "pay said bonds at maturity." The theory of the House of Representatives really was that a substantial boon was to be given to these companies in order to induce them to overcome what were admitted to be enormous difficulties in the way of their undertaking and to overcome the lethargy of capitalists; but the Senate took a more stringent view of the matter and required that the bonds should be paid at maturity. Upon that head I should like, to show the theory upon which the House went, to read a short extract from a speech made by Mr. White, of Indiana, from whom I quoted a few moments ago. The proposition pending was that the Government should have representation upon the board of directors, an amendment moved by him. Upon that he says:

I now submit the second amendment indicated by me in respect to the Government being represented in the board of directors. I will take this opportunity to say that it is very true that this bill does provide for the repayment of these advances by the Government.

The method of that repayment was, as I have stated, by means of the transportation and the 5 per cent. of net earnings until after the bill had been considered in the Senate, where it was made more stringent.

The gentleman from California lays stress on his objection, especially upon that fact, and for that reason he objects to providing for Government directors. Now, sir, I contend that although this bill provides for the repayment of the money advanced by the Government, it is not expected that a cent of money will ever be repaid. If the committee intended that it should be repaid, they would have required it to be paid out of the gross earnings of the road, as is done with the roads in Missouri, Iowa, and other States, and not the net earnings. There is not perhaps one company in a hundred where the roads are most prosperous that has any net at all. I undertake to say that not a cent of these advances will ever be repaid, nor do I think it desirable that they should be repaid. This road is to be the highway of the nation, and we ought to take care that the rates provided shall be moderate. I think, therefore, that this will turn out a mere bonus to the Pacific Railroad, as it ought to be. The Government, then, ought to be considered as having an interest in the road, and it should have a voice in the management of its affairs.

That shows the temper of Congress at that time.

Mr. EDMUNDS. May I ask the Senator what book he is reading from, and what page, so that I can look at it?

Mr. SARGENT. Yes, sir.

Mr. EDMUNDS. Or will the Senator just give me the book?

Mr. SARGENT. It is the Congressional Globe, part 2, 1861-62. I will hand the Senator the book containing the extracts from the Globe.

Congress, however, did not assent to the idea that this should be a mere gratuity. Anxious as I was at that time for the passage of legislation that would build the Pacific railroad, enthusiastically anxious as I was, bringing to bear upon it whatever of strength and courage under great difficulties which I possessed, still I did not think it should be a gratuity. I believed that the time would come when there would be a dozen States intervening between the Pacific border and the Missouri River; that the Territories would be rapidly developed by means of this very road; that an immense business would grow up which would be very prosperous; that the net earnings provided for in the bill would amount to a very large sum; and that the transportation for the Government, which at that very time amounted to about \$5,000,000, would still amount to a very large sum, and that the Government would have wisdom enough, instead of sending its goods by Panama and paying all cash, as it has done since that time, because it might get transportation a cent or two a ton cheaper, although it would consume much more time and run greater risks; I believed that these resources would keep down the debt, and that when it became due it would be within such compass that the roads thus prosperous, doing such business, would be able to repay it; and

therefore I was in favor of the 5 per cent. clause, and of applying all the transportation. And I desire to say here and now that it was my judgment in 1864, when I noticed the debates in the House of Representatives, of which I was not then a member, having gone out of my own volition at the close of the previous Congress, that I did not then think, and do not now think, that I ever would have voted to double the land grant or take off half the transportation from present application to the interests on these bonds. However, it was done. The Court of Claims said a bargain was made. It was "an improvident bargain," but you must stand by it; and such I take to be the spirit of the Supreme Court in that matter.

The only conclusion I draw from the saving to the Treasury by the aid that has been extended to these roads is that it should not now legislate as if it had been mere gratuity, and not mutually advantageous, though there has been profit in both the construction and operating the roads. I do not aver that a sinking fund of an adequate character should not be secured. I think it should be, and I believe the prospect of congressional hostility and endless, expensive litigation will induce the companies to assent to whatever comports with the wants of the Government, which require not only the repayment of principal and interest, but the maintenance of a first-class road. I believe the companies have made large gains in building the roads and now find the operating of them profitable. Out of these profits they should pay a proper annual sum, besides that reserved by the original legislation, to put their debt in the process of ultimate extinction. This is to the benefit of the credit of the companies and just to the Government. It could not reasonably be asked, if there were no profit to them in their enterprise, and it ought not to be pressed to such point as to take away all prospect of future profit. If that is done the owners of the roads will be apt to get out from under the burden of maintenance and let the Government do its will with the roads; and for many reasons that is undesirable. The attention of Congress has been repeatedly called to all the features of the Credit Mobilier of the Union Pacific and to the Contract and Finance Company of the Central Pacific, although the latter was very different in its characteristics and never gave or sold its stock to Congressmen. I called the attention of the Senate some years ago to the latter and offered in the House of Representatives the resolutions of censure which were passed upon the former. But Congress has seen fit to condone whatever was wrong in either, and in consequence of that condonation other parties have invested in both the stock and bonds of the company. It is not now just to either the old or new parties to make matters so condoned the excuse for measures that may imperil the proper maintenance of the roads, take away all object to attend diligently to their affairs, or make them too heavy a burden on transportation.

Mr. THURMAN. Will my friend allow me to interrupt him a moment to understand his remark? What does he say Congress has done?

Mr. SARGENT. Congress investigated at very great length all the matters in connection with the Credit Mobilier, the result of which was certain resolutions of censure on parties now dead. It never took any steps upon that matter in any way or shape for the benefit of the Government.

Mr. EDMUNDS. It passed a bill to institute a suit.

Mr. THURMAN. And the suit is pending now.

Mr. SARGENT. I say Congress never took any action toward the forfeiture of the rights of these companies, as was provided for by the original legislation in case of the violation of their faith with the Government; and not having done so, they ought not to make these things now an excuse for varying a bargain to the injury of these parties and upon the strength or assertion of legislative will.

Mr. THURMAN. Because Congress did not exercise its extreme right of repealing the charter, which it might have done according to the report of the committee, and I think a very correct report, but saw fit to take a more mild course, the institution of a suit to compel these people to disgorge what the committee reported were ill-gotten and illegal gains, and that suit is now pending, my friend ought not to say that Congress has ever condoned those offenses.

Mr. SARGENT. My recollection of that suit is that the money is to be paid back, not to the Treasury of the United States, but into the treasury of the Union Pacific Railroad Company. So far as itself was concerned, the Government condoned these offenses, if they were offenses, and upon exactly the same principle that offenses are considered condoned in every divorce court in the land, and wherever the principle of condonation is applied. Subsequent dealings with the companies, subsequent association, cohabitation with the companies, if you see fit, worked the condonation to which I referred.

By as plain a stipulation as any in the contract Congress provided that it would not reduce the rates of travel and transportation unless the profits of the corporations exceeded 10 per cent. annually. In view of that provision Pacific commerce is likely to be beyond the relief of Congress when to the present demands on the company are added several millions of annual payments to the Treasury, which must soon exhaust any previous accumulation of profits, and become a serious charge on the transportation of freight and passengers. On behalf of the people of the Pacific, and of the Territories traversed by this road, I protest that under the claim of protecting the Government you do not impose too heavy burdens on their commerce. That which is exacted beyond a reasonable limit comes solely from

the people of those States and Territories. If the rates are too heavy through business will take the route by the isthmus, a gain perhaps to New York, which will have the benefits derived from the flush days of Panama and Pacific-Mail steamer traffic, but the Iowa roads and Chicago will suffer proportionably. But local business cannot help itself, and will be crushed down; the shipment of low-grade ores, the running of slightly productive mines and general prospecting will be stopped from the enhanced cost of transporting machinery and supplies. So far as this legislation affects California I claim the right to speak freely and to be heard. All the States get the benefit of reduced cost of Government transportation of mails and Government troops and supplies, this reduction exceeding by two millions annually the whole amount of yearly interest, with security against costly Indian wars, and the benefit of peace in the center of the continent. In case of foreign war the benefit to the nation of the Pacific Railroad in facilitating the defense and preservation of its Pacific possessions will be incalculable. In this view it is equitable that the entire nation, and not California alone, should bear the load until the development of the interior, the creation of new States along the line of the road, and the increase of business consequent thereon enable the Pacific roads to carry out the original intention of Congress, and discharge their obligations "at maturity;" and if further arrangements are to be made by which the burden is to be localized, and put upon a State principally that has but about one-seventieth of the population and 2½ per cent. of the property of the United States, the measure should look rather to gradual reduction of the debt and its ultimate security, than to rapid payment from a mere desire to punish the companies. It is better to give a longer time to pay the great debt rather than arrest development of the Western States and Territories, destroy the roads, or make them a burden rather than a blessing to the people of the Territories and the Pacific.

But while I ask this forbearance toward the Pacific States and intervening Territories I am willing to exact justice from these railroad companies to the Government. It was plainly named in the original contract that 5 per cent. of the net earnings and the whole amount for transportation for the Government, subsequently reduced to one-half, should be applied as fast as earned upon the interest and principal of the bonds. I do not believe in any funding scheme that will eliminate that feature from the contract. That money belongs to the Government as much as any other that can be paid into the Treasury, as the proceeds of taxation or otherwise, and should be employed to extinguish this Pacific Railroad debt so far as it will go, and not be put into a sinking fund, which would compel the Government to pay interest upon its own money. I have all along considered this as a serious defect of the Railroad Committee's bill. But the other half of the transportation should go into the sinking fund and draw a reasonable rate of interest, compounded at reasonable intervals, because neither the debt nor the interest upon it is now due or payable or collectible by the United States. And to this should be added such a sum, to be paid regularly by the companies, as will bring their debt to the Government within moderate control in 1900. I do not think that we should exact 10 per cent., or 25 per cent., or 50 per cent. of their net earnings, refusing to allow them any profit for running the road unless they can derive it from the percentage left of the net earnings. There is, however, much in the criticism of the Senator from Ohio, [Mr. THURMAN,] that with a possible increase of the amount of transportation done by the companies, &c., the amount of money over and above that might decrease the sum which the companies would be required to pay from other sources to almost nothing. In the amendment which I have submitted to section 4, I propose that the amount to be credited and paid into the sinking fund each year shall not be less than \$600,000 for each company, and it may be as high as the highest amount of money named in the Judiciary Committee's bill, if the 5 per cent. and half transportation do not make it up to that sum.

I object to the first section of the Judiciary Committee bill for reasons which I have heretofore given, and have moved an amendment to strike out that section. I think it is unjust and harsh, needlessly so. I further cannot see the propriety of submitting to the Supreme Court the question "what are net earnings?" to ascertain this judicially, as they will soon do, and then lay down a congressional rule which may be a departure from that decision and from the contract with the companies originally made and against their will.

I think section 3 should be amended by striking out lines 7, 8, 9, 10, and 11 and inserting in lieu thereof the words "interest on all sums placed to the credit of the sinking fund shall be credited and added thereto semi-annually at the rate of 6 per cent. per annum," and I have moved such an amendment. It is true the Government can now borrow money at a less rate than 6 per cent., but money is worth more than 6 per cent. to these companies and to business men. The Government gets money low because its bonds are exempt from State and national taxation. But the obligations of private parties have no such privilege, and the value of money to them is not to be fairly measured by its value to the Government. I insist in this connection as in others, that the rights and interests of the companies are to be considered as well as those of the Government; for they are parties to a contract with the Government, binding in law and conscience. If the legislative will can set that aside it can set aside any other contract, and the national debt can be lawfully repudiated, especially such portions of it as are held by national banks, or other corporations created or con-

tracted with by the Government. At such doctrines "reason stands aghast and faith herself is half confounded."

One feature of this discussion is remarkable. The members of the Judiciary Committee have so much apparent pride of authorship or opinion and bring so much heat and zeal into the advocacy of their bill that anything like accord or consultation seems impossible. Propositions of amendment or dissent seem to be resented as personal aggression. In fact it is whispered that no amendments of any character, not emanating from the sponsors of the measure, are to be allowed, but are to be voted down, no matter by whom else proposed and independently of the merits. This is not the temper in which legislation should be conducted, and is not likely to secure accuracy or justice. The purpose will not succeed unless the Senate is ready to admit the omnipotency of the Judiciary Committee, and that the omnipotency claimed by that committee for Congress resides wholly in that worthy and industrious committee. While according to them all the purity of motives that they can claim and admitting their great ability, I cannot and will not blindly follow them where the good faith of the Government, in my judgment, is concerned, as well as the interests of the people of California and the Territories.

Mr. BLAINE. Mr. President, I gave notice last week of an amendment which I intended to offer, and I now formally move the following: In section 12 of the bill of the Judiciary Committee strike out all after the word "mentioned," in line 4, and insert in lieu thereof:

But so long as said Central Pacific and Union Pacific Railroad Companies shall faithfully comply with the provisions of the said acts of 1862 and 1864 and of this act, relating to payments to the United States on account of the bonds advanced, and of the sinking funds to be established as aforesaid, such compliance shall be deemed and taken as sufficient to meet the obligations of said companies on account of such bonds prior to the maturity thereof.

I do not know, Mr. President, that there is any particular choice where this provision should come in. I happened to put it in just at that point, because it seemed to come in connectedly. I do not know that I have any particular preference, however, to having it here rather than putting it in at the end of the section. If it should commend itself to any person more by having it put at the end of the section than at the point where I have moved it, I shall be very glad to make the change. I do not think it really interferes with the point I desire to cover by my amendment as to which particular place it comes in.

I had a little conversational interchange with the honorable Senator from Ohio who has charge of this bill [Mr. THURMAN] on Thursday last in the Senate, in which the following took place:

Mr. BLAINE. Well, the Senator voted in 1871 to make it—

The other half transportation—

payable to the railroad companies, and in 1873 the question came up and then he voted to let them have it decided in the courts.

Mr. THURMAN. I do not know whether I voted for that at all. I do not remember whether I was in the Senate when the act of 1873 was passed.

Mr. BLAINE. The Senator spoke in favor of it anyway.

Mr. THURMAN. I do not think I said a word about it.

I thought as I had recently read the debate over I could not possibly be mistaken. I have since looked up the matter and I find that there was a debate covering some thirty-eight columns of the Globe and that my honorable friend from Ohio appeared in that debate I think thirty-two times, covering about seven or eight columns of the Globe in what he said. The Senator from Ohio speaks so well and so easily that I can well conceive that, as the man who would overlook a million-dollar check, so vast was his fortune, he might well forget a very important utterance that was five years old; but it was fresh from the reading of that debate that I ventured to offer the amendment which I have now formally moved to the twelfth section of the bill, and it was after all the instruction which I derived from what the honorable Senator from Ohio had said that I framed that amendment.

I had conceived, as I ventured to remark, that whatever settlement might be made by Congress with these railroad companies, whatever in the judgment of Congress was a fair and a right thing to do, it ought to have somewhat the element of permanency in it. And I ventured to point out that in my judgment if we pass this bill of the Judiciary Committee just as it is, reserving in it the strongest possible right to alter, amend, and repeal immediately, or in eight months if you choose, or in a year if you choose, as the Senator from Vermont [Mr. EDMUNDS] admitted might be done, it was impossible to have \$90,000,000 of a speculative stock under a still larger amount of bonds of various descriptions and denominations, subject at all times to whatever action Congress might choose to take in regard to it, with Congress threatening to take action at any time—it was impossible, I said, to prevent Congress being used or attempted to be used by Wall street and by speculators and by stock-gamblers to influence the value of stock and bonds either favorably or unfavorably, and I believe that to be the most serious evil of this bill.

I do not claim any originality for that conception, because I read from the honorable Senator from Ohio in 1873 in this debate in which he forgot that he had taken any part whatever. It is said in the Arabic proverb the speaker is one, and the hearer is another, and the reader a third, and he that most easily forgets is the speaker. The Senator says on page 874 of the Congressional Globe, part 2, third session Forty-second Congress:

Now it is admitted on all hands that there ought to be some judicial decision of this question, and I agree that there ought to be. The interest of the Government

requires that there should be, and the interest of these companies requires that there should be, for this matter ought not to be at loose ends in this way. What was the effect of its being at loose ends before?

Mr. ALLISON. Who said that?

Mr. BLAINE. The Senator from Ohio.

Mr. ALLISON. On what question?

Mr. BLAINE. It was on the question of referring to a court the matter of half transportation. I have stated that the honorable Senator in 1871 concurred in a report from the Judiciary Committee affirming that it belonged to the companies, and then that the honorable Senator took the ground in 1873 that it should go to the courts for decision, and in urging the passage of that bill the Senator from Ohio said what I was reading. I resume the quotation from his remarks:

The interest of the Government requires that there should be, and the interest of these companies requires that there should be, for this matter ought not to be at loose ends in this way. What was the effect of its being at loose ends before? I saw a statement the other day, and I believe it is correct, that when this decision was made by the Secretary of the Treasury not to pay the one-half transportation, the stock of the Union Pacific Railroad went down to 9 per cent—nine cents on the dollar. After the decision by Congress that it should be paid, that same stock went up to thirty cents on the dollar. The Senator from Nevada [Mr. Stewart] nods his head. He is more familiar with the facts than I am. I saw that statement the other day in what appeared to be an authentic form. Thus it will be seen that the stock-gamblers were enabled to speculate in that stock to the amount of twenty-one cents' profit on an investment of nine cents; on an investment of nine cents to make twenty-one cents profit. It seems that there is nothing that concerns this company that is not the subject of immense stock-gambling and stock speculation and unlawful profit. That was the effect of tampering with the thing before? Now, I do not wish to have any more tampering with it, if I can help it. What I want is what the Senator from Vermont wants, a speedy decision, both for the public interest and for the interest of everybody who is concerned; and the question is, how is that speedy decision to be arrived at?

It was directly after reading that, taking my instruction, as I am always glad to do on matters that are not partisan, from the honorable Senator from Ohio, that the amendment which I have offered suggested itself to me. He pointed out the evils of having stock-gambling in this matter; he pointed out that you could not have any legislation going on about this, but it was immediately the subject of "immense stock-gambling" and "unlawful profit." He said it should not be left "at loose ends;" he said that he was opposed to "tampering" with it, and that there should not be "any more tampering with it if he could help it." He wanted to close the whole door on matters of that kind. I derived my amendment from that position and from those remarks of the Senator and I was immensely surprised when the honorable Senator himself—I know it was from a total forgetfulness of what he said in 1873—came forward and opposed my amendment, and I believe intimated that he would rather lose the bill than to have incorporated into it the exact doctrine which he so forcibly put five years ago.

Mr. THURMAN. Which the Senator thinks I put, but which I did not.

Mr. BLAINE. I have not interpolated nor changed a solitary word the Senator said. The Senator spoke of the evils of having this matter "at loose ends;" he spoke of the evils of leaving it open to "stock-gamblers" and to "stock speculation," and that we could not do anything about this road that was not immediately the subject of vast "stock-gambling operations;" he spoke of the great evils of "tampering" with it, using that very word, a most significant and emphatic word. Now if the Senator himself sees any difference in that meaning from that which I quote, I should be glad to hear him explain it. If there be any other possible meaning, I should be glad to hear it.

Mr. THURMAN. I have not one word that I then said to take back; I stand to-day by every word that I then said; but it has no more application to this bill in my humble judgment, though it has in the superior intellect of my friend from Maine, than the eastern question has.

Mr. BLAINE. I do not think the Senator could have heard me when I read it.

Mr. THURMAN. I did.

Mr. BLAINE. I think the Senator's forgetfulness of what he said in 1873, when he said he did not take part in the debate at all, must pursue him even at this moment, because the very arguments that I presented, every one that I offered, every one on which my amendment can possibly rest are included in the short, pithy, pointed, and forcible paragraph which I read from the Senator in his debate of 1873. In that debate the Senator from Ohio and all others engaged in it maintained—and I could read passage after passage in support of my assertion—that the object was to reach a decision, that the object, according to the Senator from Ohio, was to get it where it was not to be made the basis or the ground or in any wise the occasion of stock-gambling operations. Now, if there is a different meaning, if there is something so hidden and occult, I think the Senator has rather placed himself in the position of not being so impartial a judge of that possibly as the reader, because he did not remember that he had even made a remark, he did not remember that he had made a solitary allusion to the bill, and yet I find him thirty-two times on his feet during the debate and of his remarks the most significant was the one which I have read.

Now, Mr. President, I maintain that great as was the danger at that time, pointed and large as were the inducements for stock-gamblers to use the power of Congress to keep this thing "at loose ends" and to keep "tampering with it," they are all infinitely greater now. At

that time the Senator from Ohio had never taken the ground that Congress could alter, amend, or repeal these contracts at pleasure. At no time during the debate in which he rose so often did he intimate by the remotest possible hint that this power existed, and even with that restriction and speaking from that restricted stand-point of no power to interfere with the contract the Senator found these great dangers lurking. With Congress having a power so narrow and so limited and so restrained as the honorable Senator then seemed to infer it possessed he saw these great evils of stock-gambling and stock operations and everything of that evil character besetting legislation. Now I ask him to reflect what will be the character of that when it goes forth that on every feature of this legislation, on every single section, paragraph, and line and period of the acts of 1862 and 1864, the power of Congress is ample to step in at any moment and change, alter, amend, repeal, or destroy as they please. Why you have given a thousand inducements for interference from outside to where one existed before. You have given a thousand temptations to stock-gamblers. The Senator then found that the stock-gamblers could make a profit of twenty-one cents on an investment of nine cents.

Mr. THURMAN. Will the Senator allow me a question?

Mr. BLAINE. Certainly; with great pleasure.

Mr. THURMAN. Is not the power to amend, alter, or repeal now in the charters?

Mr. BLAINE. Yes.

Mr. THURMAN. Is it put any more in the charters by the Judiciary Committee bill than it is now in the charters?

Mr. BLAINE. I am talking of how the Senator then construed it.

Mr. THURMAN. No matter about that. The Senator is speaking about some better foundation for his amendment than what a Senator said, I think.

Mr. BLAINE. There could not be a stronger one than is found in what the Senator said. I could not possibly have a stronger one than the Senator gave me.

Mr. THURMAN. The Senator is putting it on the ground of the danger of stock gambling and the like, and that arises from the fact that the charter is subject to amendment or repeal. I ask him if it is not now subject to amendment or repeal?

Mr. BLAINE. The Senator probably does not understand me aright. Let me make myself intelligible.

Mr. THURMAN. Is not the power to alter and repeal in the law now?

Mr. BLAINE. Certainly; but allow me to make myself intelligible. At that time the Senator from Ohio had not taken the cross-cut and the near track of outrunning any possible judicial decision by simply substituting an act of Congress.

Mr. THURMAN. Because there was no such question before Congress.

Mr. BLAINE. Nor did he ever intimate in that debate that such a question could come before Congress; never. In that whole discussion, participated in by the Senator now chairman of the Judiciary Committee, [Mr. EDMUNDS,] by Senators remarkable for their legal ability and legal experience on both sides of the Chamber, including on the opposite side the honorable Senator from Ohio himself, *primus inter pares*, there was never an intimation of the power which the Senator says now is so plain and palpable that no person disputes it; and at that time, I want to ask the honorable Senator what in the world was the sense of asking the Supreme Court of the United States, the highest judicial tribunal we have, to decide whether the half transportation should be retained or paid out; what was the sense of waiting eighteen months or two years for a judicial investigation and decision, if at a single bound of the legislative will you could settle the whole thing?

Mr. THURMAN. Does the Senator want an answer now?

Mr. BLAINE. Yes, I will take it now.

Mr. THURMAN. Because if the Supreme Court had sustained the opinion of the Attorney-General, that the Government had a right to set off the interest which the Government pays against the half transportation which by the act of 1864 we agreed to pay to the companies, then no legislation could have been necessary upon the subject of the half the transportation at all, for the right of set-off would have settled that whole matter. Therefore it was perfectly right that we should ascertain what was the opinion of the Supreme Court of the United States upon the law as it then stood. That being ascertained, we could prepare such appropriate legislation as might be necessary.

Mr. BLAINE. Ah! but the Senator already had the opinion of the Attorney-General, and by a single statute he could have secured to the United States the money to which it was just as much entitled then as it is to-day.

Mr. DAWES. The committee differed with the Attorney-General.

Mr. BLAINE. The Attorney-General's opinion, to be sure, differed, and the Senator from Ohio overrode the Attorney-General's opinion. There was the opinion of the law officer of the Government that we were entitled to half the transportation; the Secretary of the Treasury was retaining it, and the Senator from Ohio lent his powerful name and powerful aid to the overthrow of that decision, and to the order that that money should be paid back to the companies. Two years later he changed his ground, and said upon the whole he would refer that to the court. Then he referred it to the court, but

two years after he said, "We will not abide by the decision of the court." In the first place the Attorney-General said that the companies were not entitled to it, and the Senator from Ohio said they were. Then he agreed to submit it to the court, and the court said they were entitled to it, and now he says they are not entitled to it.

Mr. THURMAN. Do I say they are not entitled to it?

Mr. BLAINE. In this bill.

Mr. THURMAN. There is nothing in this bill which says they are not entitled to it, unless you alter the law.

Mr. BLAINE. Ah, unless you alter the law! That brings me back to the original question. If this power was then, in the mind of the Senator from Ohio, so ample and conclusive and absolute that all you had to do was to write and it was done, why all this delay? Why did the Senator speak with such gravity and with such seriousness as to the effect of a judicial decision if the judicial decision was not to be worth anything more than the paper on which it was printed? Where was the point? The point of my amendment was to relieve the Congress of the United States, and the Government and the companies of just the evils which this change has wrought, as the Senator from Ohio himself stands as the most illustrious example. In seven years the Senator from Ohio has occupied four different positions on this question. Four different positions as to the legislation necessary, the Senator has held in seven years! I am very sure that, if this bill passes as he supports it, with the power to alter, amend, and repeal, with every invitation for everybody to come in and demand it, you will find some person, not probably so eminent as the Senator from Ohio, but even more changeable, I think, who will change seven times in four years, and we shall have the thing repeated indefinitely. It will be shuttlecock and battledore between the two Houses, between Wall street and Congress. It will be a perpetual and never-ending agitation upon the question. Now, what is the necessity of this? The bill of the Judiciary Committee, as I intimated, does not in my judgment ask of the railroad companies more than they are able to pay. I do not think it asks any more than we have the right to demand of them. I do not think that the bill would be in its amount an oppressive one upon the railroad companies, and it is so adapted that it forms a sliding scale. They have adopted a sliding scale of 25 per cent., so that the more of net earnings the companies make the more the Government will get. The Senator from Ohio has spoken I believe publicly, he has very freely in conversation, to the effect that the operation of the bill would leave about \$20,000,000 due from each company at the maturity of the bonds. If that be true, what is the need of our saying that we reserve the power to interfere every year?

Mr. EDMUNDS. We do not say it.

Mr. BLAINE. Then why keep the power all the time?

Mr. EDMUNDS. Because the power is requisite always in such a case.

Mr. BLAINE. That is stating that the world is round because it is round.

Mr. EDMUNDS. And that is the very reason why the world is round.

Mr. BLAINE. I want now to go into a little calculation, and I do this for the benefit of my friend from Wisconsin [Mr. Howe] who sits next to me. If the Senator from Ohio (and I have taken his figures implicitly) is correct, there will, under the operation of this bill, be \$20,000,000 remaining of Government mortgage and \$27,000,000 of the first-mortgage bonds on the Union Pacific Railroad when the bonds mature. I take the two railroads apart, and am speaking of the Union Pacific. I believe the Central is regarded as a still stronger corporation. There will be at the end of the mortgage \$47,000,000 due on the Union Pacific. Does my friend who sits near me have any doubt that they will be able to pay that amount?

Mr. HOWE. I doubt whether they will.

Mr. BLAINE. The Senator doubts whether they will pay it. Now let me give just one little calculation. The Union Pacific Railroad Company is to-day paying more than 6 per cent. on \$90,000,000 and there are ahead of you twenty years of increase and development of business, and a road to-day which, with all its obligations of first-mortgage bonds, of sinking-fund bonds, of land-grant bonds, and of stock, is absolutely showing net earnings enough for a dividend on \$90,000,000—cannot that road be trusted to pay \$47,000,000 with twenty more years added of development and increase of business and enlarged connections in all directions? If this bill does not give the absolute security to the Government for every solitary dollar that it ever laid out upon it, then it is entirely impossible for the wit of man to devise absolute security. By the time the bonds mature, according to the ordinary development of the country and especially of the new country, with its varied and various interests, through which that road runs, the fair presumption would be that its intrinsic value would at least be double what it is to-day. The fair presumption I say is that it would be double. There is not a banker in London or New York, there is not a financier on either continent who would not accept that as absolute security and come under any amount of obligation to anticipate its bonds for a proper consideration.

Therefore I say that the Judiciary Committee, having provided according to their own claim for the absolute repayment and security to the Treasury of every dollar that the Government has advanced, are yet unwilling to trust their own work, but want it to be open to repeal, amendment, and modification, and agitation, and petition, and memorial, and investigation every year for the next fifteen years, as

it has been for the last fifteen. I am opposed to that, and I cannot conceive how any one can be in favor of it.

One of the great reasons that I have heard from Senators for keeping open this power to legislate is that there is such a startling peril from corporations in this country that the United States is in great danger of being literally overriden by corporations. I should like any lawyer of experience on this floor to tell me how many corporations exist to-day by charter from the Government of the United States. I do not count the national banks, which were organized under a general law and about which there is no question as to the right of repeal, but I refer to corporations that exercise any of this power that you dread. I should like my honorable friend from Vermont, [Mr. EDMUNDS,] who is a walking dictionary on all the statutes from Rome and Greece down to Vermont and Maine, to tell me how many there are of these gigantic corporations which threaten and imperil the safety of the Government of the United States. Can any Senator tell me enough of them to cover the fingers of two hands? Congress has been always sparing in its acts of incorporation. Even in this little District of Columbia, where the congressional legislation is as exclusive as the legislation of a State is within its own limits, we have not averaged one act of incorporation per annum since the foundation of the Federal Government, and I include fire companies, and banks, and Sisters of Charity, and benevolent societies, and Dorcas societies, and steamboats to run from Alexandria to Georgetown. Putting them all together they have not averaged one a year of the little private corporations for the District of Columbia. Does any gentleman on this floor know of any railroad company that was ever organized by the United States with the exception of the Union Pacific? I pause for answer and for correction if I am wrong. I do not assert it as a fact but can any gentleman tell me that Congress ever at any time in the past organized by charter a railroad company, with the solitary exception of the Union Pacific? Yet that is the corporation that is in danger of swallowing all the liberties of this people, and which must be open to the watchful eye of everybody who wants to get an amendment in for every year of its existence. Although you have got legislation under which they would repay every dollar to you, you must keep the question open and well stirred up, keep the company where they can be punched and reminded that the Government of the United States is in great peril from the corporation if we do not continue to assure our safety by perpetual agitation.

In connection with that I will say that this question is scarcely ever debated, there is scarcely ever a reference made to the gigantic corporation and to the danger to the United States from its operation, that there is not some open or covert censure of the Congress and of the men who composed the Congress that gave the charter to this company. Well, I was one of the offenders. I voted to subordinate the mortgage of the United States to the mortgage of the company. My honorable friend from Vermont furthest from me [Mr. MORRILL] voted with me, and so did every Senator on this floor who was at that time a member of the House of Representatives with the single exception of the Senator from New Hampshire, [Mr. ROLLINS,] who voted, I believe, against that provision and against the whole bill, and possibly my friend from Indiana, [Mr. VOORHIES,] of whose record I do not at this moment have a specific recollection. I was about to say that every Senator voted for that. I do not think in the Senate of the United States there was a solitary negative vote from New England on that provision. The immediate predecessor of my honorable friend, the chairman of the Judiciary Committee, certainly voted for it, [Mr. Foot,] My recollection is not precise as to the affirmative vote; but I do assert that not one New England Senator voted against it; and New England then had William Pitt Fessenden, and Charles Sumner, and Jacob Collamer; and the honorable Senator from Rhode Island, [Mr. ANTHONY,] who is here still, was then a member of the Senate. They voted for every provision of the bill, or at least did not vote in the negative. Nor was it a party measure. It was a measure of patriotism. Very prominent democrats voted for it. The gentleman who is at the present time Speaker of the House of Representatives, prominent in the councils of the democratic party, voted, I am very sure, with me to subordinate the Government bonds. It was regarded at that time as a measure for the safety of the Union; and all the exaggerated notions that have since been put forward that there was an immense lobby and a tremendous pressure brought to bear, and that members were besought and besieged and crowded into a vote of this kind, is purely a work of the imagination. There is nothing of it. The vote was given at that time without the slightest confidence that these roads would be built under the act, without the confidence that the legislation would produce their construction. If, as I have often said, and I will say it here, any person had come forward of responsibility enough to make his guarantee reliable and said to the United States (and I should like my honorable friend from Vermont [Mr. MORRILL] to contradict me if he disagrees with me; he was then in the House with me) "We will build this road from the Missouri River to the Pacific Ocean, the whole two thousand miles, without one dollar from you until we put a locomotive over it and it is accepted by the Government commissioners, and then we ask you to give us \$50,000,000 in gold coin as a free gift," it would have been voted, in my judgment, unanimously, so eager was the desire for the road, so slight was the faith in the power to get it through at that time. It would itself in with all the patriotic impulses of that day. It would itself in with the warm desire to fasten the Pacific coast to

the Union with hooks of iron, if not of steel. The vote was not given to benefit a company or even for great commercial purposes. It was a large, patriotic, Union-saving, outstretching arm of the Government of the United States to hold together in strong political union the great communities that bordered the two oceans.

That was the spirit of that day, and it has turned out well. It has turned out far better than we expected, and we are going to receive back every dollar that we ever put in it. As the matter stands to-day, I for one would not vote here to give to these companies a single privilege that I would not give were I a private owner of what the Government holds. I would govern my vote as representing the Government, as the circumstances now are, precisely by what I would regard my duty as a wise administration of a private trust.

We are going to receive all the money back; but if the Senator from Ohio will permit me, I will state that I think there has been a great deal of exaggeration made about the enormous aid that the roads received. It was great; it was very great; it was probably greater than will ever be given again to a road, because you would have to repeat the extraordinary circumstances that induced that grant to have it repeated. But it is always stated as though the roads had received hundreds of millions. The two roads received \$19,000,000 apiece in gold. They were building on a gold basis, and they received just what would have been equivalent to this sum if the Government of the United States had handed them out \$19,000,000 in gold coin. Yet the Senator from Ohio states this question before the Judiciary Committee, as reported in the pamphlet which I hold in my hand and which I presume is authentic—it was circulated among all the members, placed on the desks, and I read from it—the Senator from Ohio states that the Government is out of pocket on account of these roads \$500,000,000. Do I state the Senator's language correctly?

Mr. EDMUNDS. What paper is it the Senator reads from?

Mr. BLAINE. Here is a report put upon all the desks of members purporting to give a verbatim account of the hearings before the Judiciary Committee, and during the address of Judge Trumbull, formerly of this body, who appeared there as counsel for one of the companies, this occurs—

Mr. EDMUNDS. Just tell us what that book is.

Mr. BLAINE. I know nothing about it except from its title: "Arguments before the Committee on the Judiciary, United States Senate, on Senate bill No. 15." I presume the Senator received a copy. I saw them lying around on the desks of Senators. It has been commonly circulated.

Mr. EDMUNDS. Oh, it is one of the railroad publications, I imagine.

Mr. BLAINE. I read from it as follows:

Senator THURMAN. Thirty years' interest on that would be 180 per cent., which would be \$117,000,000 to be paid by these roads at the end of the thirty years, which would liquidate principal and interest. Now the Government pays the interest semi-annually, and therefore, so far as Government is concerned, it is like compounding interest, and that will make over \$500,000,000 that the Government pays. The Government is out of pocket, I mean, \$500,000,000.

Is that a correct account of what the Senator said?

Mr. THURMAN. I cannot say whether it is or not. But, if the Senator wants to know exactly how much I was speaking about, I can find the figures.

Mr. BLAINE. That is, the Senator substantially, I believe, admits it.

Mr. THURMAN. It would be big enough to swamp three or four such railroads.

Mr. BLAINE. Undoubtedly. Now, what I observe to the Senator is that this is hardly a fair way of reckoning. If the Senator should happen himself, in the generosity of his heart, to make a present to two young men and to hand one of them \$10,000 which he happened to have in bank, and to the other \$10,000 that was raised on a note, and at the end of eleven years he meets them and says, "I gave one \$10,000, but I gave \$20,000 to the other because I count it up with compound interest." That would be the spirit of the calculation indulged in by the Senator, and I beg to say that it utterly befogs and confuses the whole subject. The Capitol under whose Dome we sit to-day cost a thousand million dollars according to that mode of calculation at the very least; and if you will compound the interest of the small sum which Queen Isabella realized for her jewels the discovery of America was the most miserable speculation that ever any European went into in the world. If you take the feather that was on Columbus's hat, worth a gold florin, and compound it at what Western farmers pay on their mortgages, the whole real estate of North and South America to-day would not be sufficient to pay it. So, when the Senator says the Government advanced \$500,000,000 to these companies, he is dealing in mere figures of speech, and not in figures of arithmetic. What we paid them was this amount of bonds, and they are obligated in their mortgage to pay back that amount of bonds with all the interest at the maturity of the bonds. I believe the Senator from Ohio and the Senator from Vermont both admit that that is the law of the case to-day, and that is what we are providing for.

I have not seen the report of the speech of the honorable Senator from Delaware, [Mr. BAYARD,] but I think he stated that there was nothing in the debates to show that there was not a *casus omissus* in regard to the interest, that there was no such expression to be found. Did I understand the Senator to say that there was no expression by which the intent and meaning of the act could be inferred?

Mr. BAYARD. No; I made no such statement that I remember.

Mr. BLAINE. The Senator spoke of its being a *casus omnisus*, I think. I have not seen his speech, as it has not appeared in the RECORD.

Mr. BAYARD. It was sent to the RECORD office on Saturday morning but I find it will not be published until to-morrow. The words "*casus omnisus*" were found by me in an opinion cited in 1 Otto by the court in which Mr. Justice Buller, in speaking of the duty of the court to take a law as they found it, said that even a *casus omnisus* or a tyrannical law would still be executed by the courts. What took place in the debate in reference to a provision for paying the interest by the companies *pari passu* to the payment by the Government, I did not refer to. I believe the Senator from Ohio [Mr. THURMAN] did refer to that.

Mr. BLAINE. I did not listen to the honorable Senator on that point; but certainly it was plainly apparent in the debates of Congress—

Mr. BAYARD. I will say this to the Senator: I did say that when by the judgment of the Supreme Court the American people discovered that this vast amount of interest, double the amount of the principal of the debt, could not be paid until the debt itself matured, it created universal astonishment except with those, and those few, who knew that the law had been so drafted. I did not consider it a *casus omnisus*. I considered that the law which postponed a debt for thirty years and made none of the ordinary provisions that the interest should be payable semi-annually or annually in the progress of time between the contraction of the debt and its payment, was something extraordinary, and that had it occurred at the hand of a private agent he would have been suspected of infidelity to his client or of great incapacity.

Mr. BLAINE. Then if I understand the Senator he means that it was not the understanding of Congress that the law meant that the payment of the interest should be deferred?

Mr. BAYARD. I did not pretend to say what was the understanding of Congress, because I had not the debate before me. Those laws were passed when I was not in Congress, in 1862 and 1864, and I had not referred to the debate to know how it was that such language was arranged; but I spoke of the effect of the language, which would be to postpone the payment of a hundred million of dollars until \$55,000,000 became due, and to say that \$100,000,000 of interest should not be paid until \$55,000,000 became due was very startling.

Mr. BLAINE. Now, the Senator will hear that during the pendency of the bill a very careful gentleman from Indiana, Mr. White, well known to Senators on this floor, since deceased, moved an amendment pending the bill; and if the attention of the Senator has not been called to it before I will be glad to have him give attention to it now. Mr. White says:

It will be observed, by reference to the section, that there is no provision in reference to the payment of the current interest. I therefore move to amend by adding to the section the following:

"It is declared to be the true intent and meaning of this section that the current interest on said bonds shall be chargeable to said company, to be by them reimbursed to the United States within one month after each semi-annual payment thereof by the United States; and a default therein shall subject the said company to the same liability and forfeiture above provided for in the case of the non-redemption of the bonds at their maturity."

That amendment was rejected. That amendment was offered by Mr. White and explained by him, and he was answered by Mr. Campbell, of Pennsylvania, then of the House of Representatives, who reported the bill, and it was rejected.

Mr. BAYARD. I have not examined the debate. I ask the Senator was it there proposed that the interest should be postponed until the principal became due?

Mr. BLAINE. No, it was rejected on the assumption that the 5 per cent. and the half transportation would pay it. It was rejected on the ground that they had put enough into the bill to secure the Government.

Mr. BAYARD. To secure the payment of the interest?

Mr. BLAINE. Yes. Now the significance is this: that amendment was offered when the act of 1862 was pending, which was a much more stringent law than the measure of 1864, because under the act of 1862 the companies gave up and could not build the road. It makes it all the more significant, as the Senator will observe, that the amendment was rejected on that bill.

Mr. BAYARD. I fully admit the intentment of the Senator's suggestion, but it seems to me that at the time this amendment of Mr. White was offered, perhaps from excessive caution, if you please, from greater caution, it was considered that the repayment of the interest by the company *pari passu* to the Government was sufficiently protected by the language already in the measure, and they voted it down. I will say further that when the case came before the Supreme Court, in 1 Otto, and was there argued, it was very strenuously and forcibly held that it never could have been the intent to postpone the payment of the interest until the principal became due, not simply because it was out of the ordinary line of transaction, but because by the very act the Government lien and the Government bonds were to give way to a prior lien of the company similar in tenor and amount. The similarity in tenor and amount was shown by their issuing bonds for the same amount, or within a very small proportion less, of a tenor that prescribed for the semi-annual pay-

ment of the interest as the time passed on. Therefore it was a matter, as I say it is now, of very great surprise to me, as merely one of the great body of the American people, that the provision for the repayment of interest paid out of the public Treasury for the use of a company should not have been protected by a provision to repay to it at the time the interest was due from the company.

Mr. BLAINE. The Senator from Illinois, [Mr. DAVIS,] who was then on the supreme bench and delivered the opinion, took, I think, the very sensible view, both as a lawyer and a business man, that it never could have been conceived by Congress that the road at the very instant of its completion could pay the interest on the Government bonds. It was not a practicable thing as a business arrangement, and the Senator from Delaware will observe that there would have been no boon in the grant, there would practically have been no advantage in the grant had that been the construction. There would have been no beneficence on the part of the Government if they had been held instantly to pay that interest, because the Government would have been just as hard a creditor as the first-mortgage bondholder was. There would have been no beneficence on the part of the Government whatever in that case, and the Supreme Court so decided.

Mr. BAYARD. They did so decide, undoubtedly. I am not finding fault with their decision as a matter of reasoning upon the law they found before them, but I submit to the honorable Senator from Maine that nowhere in this opinion that I have been able to see is there anything suggesting the idea that the court were not deciding upon the *litera scripta* of the statute as they found it, but there is in this opinion a suggestion that if the law had provided otherwise that expression would have been found on the face of the law, and the court would certainly have executed it; but as to the reasonableness, or the unreasonableness of a provision for the payment of the interest as the interest fell due, there is nothing in this opinion that I have been able to discover whatever. Here is the opinion; I have looked it over and read it carefully.

Mr. BLAINE. I have not read it lately, but it seems to me the honorable Senator from Illinois, (then on the Supreme Bench,) whom I regret is not in his seat, proceeded at length to show the great character of the enterprise, and what the Government was intending to do in regard to it and what the motive of the Government was.

Mr. BAYARD. He did, no doubt.

Mr. BLAINE. I think the Senator from Illinois delivered what would be a most extraordinarily good speech in the Senate on that point, and which was much clearer to my mind than the one which he delivered afterward in the Senate on the subject.

Mr. BAYARD. I said merely what they claimed to decide was the language used by the Legislature, but as to the reasonableness or unreasonableness of it, as to the improvidence or providence of it, the court said nothing.

Mr. BLAINE. I have not the decision here and of course cannot refer to it.

Mr. BAYARD. I have it here, and I think that the Senator will not find anything in it in the shape of an opinion that any legislation to have provided for the payment of interest would have been wise or otherwise.

Mr. BLAINE. I do not see that that is material at all.

Mr. MATTHEWS. If the Senator from Maine will allow me a moment, I think he is entirely correct in this fact at least, that the Supreme Court went into the question of the history and utility of the enterprise to fortify the reasonableness of their construction of the law.

Mr. BAYARD. As they found it. They said they had nothing to do with the wisdom of it or otherwise; that they simply decided it according to their duty, (I forget the precise phrase); that they interpreted the language of the Legislature as they found it and after that they had no duty to perform.

Mr. BLAINE. I have not 1 Otto here, but if I had I should like to read the opinion of the court, because I think if my memory is not at fault it travels very far outside of the literal and exact point that the Senator from Delaware would rein it down to.

Mr. BAYARD. I think the Senator will find stronger words than I have used there.

Mr. BLAINE. That may be. I now have the opinion. Now I will read briefly from it:

Many of the provisions in the original act of 1862 are outside of the usual course of legislative action concerning grants to railroads, and cannot be properly construed without reference to the circumstances which existed when it passed. The war of the rebellion was in progress; and owing to the complications with England, the country had become alarmed for the safety of our Pacific possessions—

I am reading from the opinion of the Supreme Court—

The loss of them was feared in case those complications should result in an open rupture; but, even if this fear were groundless, it was quite apparent that we were unable to furnish that degree of protection to the people occupying them which every government owes to its citizens—

That is setting forth more tersely and eloquently than I did the exact position under which I gave my vote for that act—

It is true the threatened danger was happily averted; but wisdom pointed out the necessity of making suitable provisions for the future. This could be done in no better way than by the construction of a railroad across the continent. Such a road would bind together the widely separated parts of our common country, and

furnish a cheap and expeditious mode for the transportation of troops and supplies—

I am surprised to see how accurately and even literally I interpreted Judge DAVIS—

If it did nothing more than afford the required protection to the Pacific States, it was felt that the Government, in the performance of an imperative duty, could not justly withhold the aid necessary to build it; and so strong and pervading was this opinion that it is by no means certain that the people would not have justified Congress if it had departed from the then settled policy of the country regarding works of internal improvement, and charged the Government itself with the direct execution of the enterprise.

Mr. BAYARD. At page 81 the Senator will find the language to which I referred.

Mr. BLAINE. Oh! that may be. I did not at all deny that what the Senator quoted was correct, but I stated that the whole opinion was based on precisely the argument I submitted that justified Congress in the passage of the act, the whole of it.

Mr. BAYARD. And when the court came to construe this statute they used language such as I stated.

Mr. BLAINE. The court construed the language taking in all the circumstances which surrounded the act as wise courts always will, of course. We are not to-day disputing practically about the payment of the interest. The Senate is pretty well agreed that these companies can repay it. I think the companies are quite willing to pay it. At all events Congress is quite resolved that they shall pay it. But I return simply to the point I set out upon. After you have laid down your own terms, after you have written upon a white sheet of paper the precise exactions that you demand of these companies, while you stand in the full possession of a power which you will not permit even to be questioned, why do you not accompany it with at least the assurance that the exercise of that power shall be with a fair and honorable understanding that if the companies faithfully comply with your conditions, they shall be allowed to go forward to do their own work, to build up their own great enterprise, and pay off their entire obligations to the Government without fear of interference, without being threatened or menaced or disturbed or hurried or worried. It seems to me that that is the wise course for Congress to take, and it is wholly in that spirit that I have offered the amendment which is now pending.

Mr. SARGENT. I understood the Senator from Delaware to state that at this decision of the Supreme Court everybody was surprised.

Mr. BAYARD. I did not say everybody. I said that I believed it took the great body of the American people by surprise.

Mr. SARGENT. I am surprised at that statement when the fact is apparent by the records of the Senate that the Judiciary Committee of the Senate as early as 1871 took exactly the same position that the Supreme Court did in this decision.

Mr. BAYARD. I know the Judiciary Committee of the Senate or a portion of it came in here with a report, which astounded me at the time, to the effect that this interest-money, paid out semi-annually from the Treasury, could not be recovered from the railroad companies for thirty years. Although that opinion was given, yet it was not for some time afterward that an amendment to an appropriation bill, which I think was prepared by the Senator from Vermont, provided that these companies should come into the Court of Claims and prove their right to receive one-half of the transportation-money which had been withheld.

Mr. THURMAN. Two years afterward.

Mr. BAYARD. I voted for that because I could not believe that when they came before the court such a decision would be reached. My ignorance was probably owing to my want of familiarity with the terms of these statutes, passed long before I came into Congress. When the Supreme Court, affirming the decision of the Court of Claims, came to the conclusion they did I was one of the very many people of this country who were amazed and sorrowed to find that while \$3,000,000 annually and upward were passing away from the Treasury of the United States for the benefit of the stockholders of these corporations, there was to be no means of repayment upon that vast sum until thirty years had elapsed. Yet I believe the Supreme Court, following the statute as they found it, construing it strictly as they did, were unable, as the power to "alter, amend, and repeal" had not been exercised by Congress, to come to any other conclusion. That is what I meant, by saying that I was surprised at the result.

Mr. SARGENT. The Senator from Ohio, [Mr. THURMAN,] who reports this bill, concurred with that report of the Judiciary Committee in 1871. So far as I can find out, only one member dissented from it, and that was the Senator from Vermont, [Mr. EDMUNDS.] But in his altercation or discussion the other day with the Senator from Massachusetts [Mr. DAWES] the Senator from Vermont seemed to object to the construction which the Senator from Massachusetts put upon that opinion of the Judiciary Committee of 1871. Any one who looks at the running debate that took place at that time will find himself somewhat puzzled to know whether the Senator from Vermont believed in the report of the committee or did not believe in it. But where the law committee of this body report that the view which the Supreme Court subsequently took was the correct one I do not see the ground of surprise of Senators that the Supreme Court should subsequently take a position which agreed with that of the law committee of the body. The legislation which subsequently took place was entirely in accordance with the opinion of that committee, because it did not legislate, as has been asserted here over and over

again, that this money should be paid, but simply submitted the question to the Supreme Court whether or not it should be paid until the maturity of the debt.

One single remark further. It has been said over and over again, and the Senator from Delaware now repeats it, that the United States is out \$3,000,000 annually and that there is no way to get this money back before the maturity of the bonds, &c., and he looks upon that as a great hardship. Without the railroad the Government would be out \$8,000,000 annually, with no power ever to get it back, because the amount of transportation has been done so much more cheaply to the Government on account of the security against Indian wars, on account of the cheap and rapid transmission of the mails, to say nothing of the new States and Territories. The Senator from Delaware talks about enhancing the resources of the Government. The great amount which was saved by the Government would have been otherwise paid in transportation of various kinds, necessary to be carried on upon an immense scale, and not a dollar of it ever would have come back to the Government except in the incidental advantage derived from the transportation. Therefore I say, when the finger is continually pointed to the fact that the Government, under the terms of this contract, is paying some \$3,000,000 or more interest annually, which is not to be repaid until the maturity of the bonds, its consideration for doing that was that the companies would render to it the great benefits which have been realized from the road, and which are named in the decision of the Supreme Court as the exciting motive of Congress in granting the aid.

Mr. BAYARD. With due respect to the honorable Senator from California, who has followed out to-day very much the same train and track of his remarks of Friday last, he seems to consider that these companies have created, and generously given to the people of the United States, the enormous advantages of transportation for their mails and their war supplies, to which he has referred. Whose property was this road built by? Whose land did it pass through? Whose bonds paid for it? The people of America were the owners of all that property, and if they have gained advantage it has been by the use of their own estate. These roads were not chartered for the benefit of individuals; they were chartered for the development of national resources and for national ends. Therefore just as well might we thank the man who would pay over to another a small portion of his honest debt, and say how generous it was without pausing to say whose money and whose estate was the object of all this liberality. Of course the Government has availed itself of these roads. Of course the great agency of steam, and the intercommunication, has enabled it to transport mails, and troops, and supplies for those troops, at great advantage; but is that due to these corporations whom it has employed to develop its own resources? You might as well credit them with the invention of steam itself, as to give them credit for this money so saved. Whatever they have done and done faithfully, I am disposed sincerely to admit and acknowledge and thank them for; but it does seem to me that the great underlying idea, in aid of which the companies were incorporated and these national grants made, is constantly overlooked. It was the use of the people's money for the sake of the people. So far as the agent, the trustee, shall faithfully execute his trust, let him be thanked by the people, rewarded by their gratitude and their confidence given him, or if already given, continued; but let it not be forgotten, that we are dealing from first to last with the property of the people of the United States, put in trust for their use. If this investment shall redound to the benefit of the United States as a Government, as well as to its citizens as individuals, then it has been amply successful. If those persons employed in the agency shall receive large profits from it, I shall be exceedingly pleased. I am not disposed to begrudge them any advantage, any honor, any thanks that may be due them; but from the first to the last, I shall endeavor to keep in my mind in voting in regard to this bill and the great subject to which it relates, the fact that it is a public measure, the great object of which is public welfare, and that everything else is subordinate and purely incidental.

Mr. THURMAN. Mr. President, I do not rise to make anything like a set speech, and I should not rise at all but for some remarks that were made by the Senator from Maine, [Mr. BLAINE.] I shall dispose of them, and then I shall take my seat.

I found myself duly notified in the morning papers that my scalp was to be taken to-day and hung at the belt of the Senator from Maine; but feeling my head now it feels very sound indeed, I think, both inside and out; and I think, Mr. President, that it will be a good while before the Senator from Maine can get what little hair there is on my head by mousing around among the Congressional Globes and CONGRESSIONAL RECORDS to try and find something inconsistent between what I may have once said and what I say to-day. I submit to that Senator that such an occupation is totally beneath his great powers. I am a very Lilliputian man to him now; but yet with what little brains God has granted to me, I should feel infinitely humiliated if I went searching around among the CONGRESSIONAL RECORDS and Congressional Globes to try and convict a Senator of some inconsistency of speech or thought in the haste of language in debate as a means of defeating a great measure that ought to stand or fall on its own merits and not on the personal consistency of an individual. I do think there is something else that was a little remarkable in the observations of the Senator from Maine. Last Thursday, at the close of the day, when more than half the Senators

had started home, and when I was about to start too, and the farthest thing in the world from my thoughts was that I should enter into any discussion, the Senator from Maine and two or three others got around me and stood up and put questions to me as if I were subject to a cross-examination by the whole Senate upon what was the law of the land, and what were ethics, and what was history, and what was everything else, until at last I had to tell the Senator that we were not in the Middle Ages when a man went to a city and published a defiance to everybody to come and debate with him and put questions to him, he affirming that he would answer them all. I was compelled to tell the Senator that I was no Admirable Crichton to be catechised in that way. In the heat of that discussion I confess that for a moment I lost my temper, so much so that I was perhaps guilty of a little rudeness to my most estimable friend who sits on my right [Mr. EATON] and which I have regretted ever since. Because at that very moment I did not recollect that I had taken any part in the debate of 1873, the Senator now comes forward to convict me of what? Of a failure of memory under such circumstances as that, and, to make the failure the more significant, he says that I spoke thirty-one times on that act of 1873. How does he count up his thirty-one times? I will give the Senate a specimen of how he makes out thirty-one speeches.

Mr. BLAINE. "Appeared" was the word I used.

Mr. THURMAN. Oh, well, "appeared." I appeared all the time; I was here all the while.

Mr. BLAINE. Not in the Globe.

Mr. THURMAN. I appeared here in my own person. But here is the kind of speeches that the Senator from Ohio made which served to make up the thirty-one times:

Mr. THURMAN. The Senator is entirely mistaken. The amendment was moved by the Senator from Nevada in the Senate. I am speaking of the amendment of 1871.

That was an observation to correct my friend, Mr. Stevenson, and that is one of "Mr. THURMAN's" speeches. Again further on, after Mr. Stevenson had spoken again, "Mr. THURMAN" said:

Not at all. It was moved by the Senator from Nevada on my right, [Mr. STEWART.] It was very largely debated.

That is speech No. 2. Then going along further, Mr. Stevenson still speaking, "Mr. THURMAN" said:

If my friend will allow me to get through he will find that he is jumping before he gets to the stile. If the House did not agree to this amendment, how in the name of sense did it become a law?

That is speech No. 3. Then further along, Mr. Stevenson still speaking, "Mr. THURMAN" said:

No, I do not.

That is speech No. 4. Then further "Mr. THURMAN" said:

I have not given up the floor yet.

That is speech No. 5; and so on. There are several other of these speeches which perhaps I ought to read. Here is one where I said:

Where is that?

And another:

On what page of the Globe?

This is the way in which the Senator from Maine attempts to defeat the Judiciary Committee's bill by using more arithmetic in a count of the number of times my name appeared in the Globe than he does in answering the Judiciary Committee's bill.

So much, Mr. President, for that. I have regretted to see in this debate from the beginning that scarcely any one has opposed the bill of the Judiciary Committee without in some way or other seeming to cast reflections upon that committee. I alluded to it once, and it was intimated that certainly I did not claim that Senators were not to exercise their own judgment. Certainly I never did claim any such thing. I said then that I claim no infallibility for the Judiciary Committee. Every Senator has a perfect right to disagree with it, and it is his duty to express his opinions if he does disagree with it. Neither that committee nor any member of the committee has assumed any superiority in this body, if I know it. I certainly have not observed it; but yet there was in the tone in which the committee was spoken of and in which the measure was spoken of, and of late, I am sorry to say, in which its *personnel* is spoken of, something that is a little unusual in this body. This morning, not content with an attack upon the committee generally, the Senator from Maine has seen fit to come in and single out the Senator from Ohio and to some extent the Senator from Vermont, and he has said in his peculiarly forcible and dramatic style that the Senator from Ohio has occupied four positions on this subject within the last seven years, and then by way of witticism he intimates that if this bill passes the Senator from Ohio may occupy seven different positions in the next four years.

Mr. BLAINE. Oh, no, I said that some other Senator may.

Mr. THURMAN. "Some other Senator." Well, he might just as well have said "the Senator from Ohio," for if the Senator from Ohio has shown such a facility for changing, and can change four times in seven years, the probability is that he would be the man who would change seven times in the next four years.

Mr. BLAINE. But I did not say that.

Mr. THURMAN. Mr. President, I defy any man in the world who reasons fairly to point out the slightest inconsistency between my course to-day and that on any previous occasion. There is none whatever. It is all in the imagination of the Senator from Maine. About what were we talking when I spoke the words that he read to the

Senate to-day? We were talking about the right of the Government to withhold the half-transportation account then due to these companies. We were not in the slightest degree talking about any amendment to the charter. Not a word about that were we talking of. Mr. Akerman had given his opinion as Attorney-General that the Government had a right to set off the interest which it paid against the half-transportation account, which by the act of 1864 was to be paid to the companies. The companies denied that that was the law. They petitioned Congress on the subject. The matter was referred to the Judiciary Committee of the Senate. That committee, by a vote of 6 to 1, decided that Mr. Akerman was wrong, that there was no such right of set-off on the part of the Government, and accordingly they reported a resolution directing the Secretary of the Treasury, who had withheld the half-transportation account to pay it to the companies to whom it belonged under the then existing law. The Senator says that I agreed to that report. So I did; and I stand by it to-day, and say that it was good law. It has been affirmed by the Judiciary Committee of the House, by both Houses of Congress, by the unanimous decision of the Court of Claims and the unanimous decision of the Supreme Court of the United States. I think that is sufficient to establish that it was good law. I stand by that.

But then he said I was inconsistent with that because afterward I was in favor of submitting the question to a judicial determination. I was in favor of submitting it to a judicial determination from the first. When the resolution was under consideration, reported by the Judiciary Committee in 1871, I drew up an amendment to submit the question to the Court of Claims, so that it might not rest upon any legislative interpretation of the law but upon a judicial determination.

In 1873 I did nothing more than what I attempted to do in 1871, to have a judicial determination not of the question whether Congress could alter, amend, or repeal—I should have as soon thought of denying the Decalogue as to deny that—but a judicial determination of what were the rights of the companies as the law then stood to the money which was in the Treasury of the United States, and which was claimed by the companies, but refused to be paid over by the Secretary of the Treasury; that was all. That resolution passed. It gave great dissatisfaction; it gave such dissatisfaction that in 1873 some Senator, and I think it was the Senator from Vermont or my late colleague, Mr. Sherman, for they were both very much opposed to that opinion of the Judiciary Committee, proposed that that thing should be litigated, and consequently introduced a bill to repeal that direction of the act of 1871, the money still not having been paid over, and to make a case for the courts to decide. Of course I was in favor of that. Of course as I was in favor of it in 1871 so I was in favor of it then. So that instead of there being any inconsistency whatever I was perfectly consistent throughout the whole consideration, both in 1871 and in 1873.

Then, where is there any inconsistency now? There is not one word in the bill of the Judiciary Committee that is inconsistent with the resolution of 1871 or with the decision of the Supreme Court of the United States. Those who are opposed to this bill have been challenged again and again to show one line, one letter in the decision of the Supreme Court in the interest case in 1 Otto that conflicts in the slightest degree with the bill which is now before the Senate, and nobody has ever shown any such thing.

I am not accustomed to waste the time of the Senate with talks about myself, and much less about my own consistency. The only complaint that ever has been made against me, so far as I know, connected with political life, is that I have been too consistent, that I have been too hard-headed, well-baked an old democrat and not given to change. That is the only thing complained of, that I am too obstinate an old fellow in that respect and not given to change according as the current may flow or the wind may blow.

But if I were disposed to be a little personal, which I am not, if I were disposed to drag personalities into this discussion, I should like the Senator from Maine to explain this little record which I hold in my hand. Two years ago, on the 7th day of July, 1876, the House of Representatives passed a sinking-fund bill known as the Lawrence bill and sent it to the Senate. It was a bill upon which that committee had worked very long, very long indeed, and made a most elaborate report as early as April 25, 1876. That bill finally came to a vote three months afterward. That committee had reported a bill far more severe than the bill now before the Senate, far more severe than the bill subsequently reported by the Judiciary Committee of the Senate—Senate bill No. 15, which I introduced last October, and had again referred to that committee. They reported that bill far more severe, I say, though it asserted as fully as it could possibly assert the right of Congress to alter, amend, or repeal this charter, and imposing on these companies conditions far more onerous than any bill that ever has been reported to the Senate. That bill passed the House of Representatives on the 7th day of July, 1876, by a vote of yeas 159, nays 9. But, Mr. President, where was the eloquence of the Senator from Maine then? Why was it not exercised, he who exercised such great power in that body over which he had presided so long? Why did he not thunder then? If that bill, which asserted so strongly the right of alteration, amendment, or repeal, and preserved it, was wrong, why did he not then tell the House, "You will make this a foot-ball of stock-gamblers of all sorts and descriptions for all time to come if you pass this bill?" Why did he not warn them of

these dangers which he has so eloquently depicted to-day? No, Mr. President, he was mute as the lamb before the shearer. Not one word do I find that he ever uttered against that bill, and when it came to the voting he was like Job's friends. He said that his friends were like the waters of the brook: "What time they wax warm they vanish; when it is hot they are consumed out of their place." He did not vote at all, and I should not be—no, I will not say that—but it may possibly happen that when the vote comes on this bill the Senator from Maine may have business elsewhere, or, which God forbid, may not be in a good state of health!

Mr. President, if we were to go into personalities, which I eschew, I do not want to go into, I might refer to my friend from California. I am sorry he is not here. He has been a little warm on the subject of this Judiciary Committee bill, and he seems to think that we are a very exacting set of fellows, and that we are going a good deal too far. Why, Mr. President, how did the Judiciary Committee of this body ever get jurisdiction of this subject? Who first gave it jurisdiction? Who gave it jurisdiction before that Lawrence bill came from the House? Months before that bill came from the House, who gave it jurisdiction? I will read and show you. On the 6th day of January, 1876—

On motion of Mr. SARGENT, it was
Resolved by the Senate—

Now, I beg the attention of Senators to what was the resolution—
That the Committee on the Judiciary—

Not the Railroad Committee. He did not want them to have anything to do with it—

That the Committee on the Judiciary are instructed to inquire what legislation, if any, is necessary to secure indemnity to the United States for advances of interest paid and to be paid by the Government on account of subsidy bonds issued to the several Pacific Railroad Companies, and to secure indemnity against liability to pay the principal of such bonds—

By what? Now, mark you, by what—

by requiring the creation of sinking funds, or otherwise. Also, whether the issues of the companies' mortgage bonds under the act of 1864 were in excess of the amount necessary for the completion of said roads; and, if so, whether such issues are a first lien upon the roads. Also, whether any of the bonds of the United States issued in aid of said roads are a first lien on the same. And that the committee report by bill or otherwise.

He set us to work to find out what was necessary to indemnify the Government of the United States for the interest paid and to be paid, and also to secure it against loss. And not only that, but he started an investigation or attempted to start it, to see whether or not these first-mortgage bonds, instead of being used as necessary for the construction of the road, had not been actually put into the pockets of the shareholders, and therefore were not in equity or morale, or perhaps in law, a first lien on the road at all, and whether we ought not to assert that the Government debt was the first lien. But now, now forsooth, when we talk about getting indemnity; now when we talk about a repayment of the principal and interest of the subsidy bonds, we are told that Mr. White or some other pale-colored individual in the House of Representatives in 1862 or 1864 thought in his wisdom that the Government might as well make these roads and lend this money and never ask repayment. What if Mr. White or Mr. Black or Mr. Brown or Mr. Yellow or Mr. Red did think so? The answer to that and to all talk about how much the Government has saved by the construction of this railroad in its transportation account is that Congress took that into consideration. But that was not all. Congress took these patriotic motives into consideration, to which the Senator from Maine has alluded. But that was not enough. Congress was not willing to be paid in patriotism. It is not legal tender or current coin in the transaction of business. Congress was not willing to be paid in savings on its transportation account. It gave enough for patriotism, and in that respect did wisely; it gave enough bonus in land and in the advantages of this loan with no rests in the calculation of interest for all the benefit that the roads could be to the Government in saving transportation, and having given enough it said to these companies, "You are to repay this money which we loan to you, both principal and interest." So it is said in the law, and there is the end of the whole matter.

Now, Mr. President, the Senator from Maine says that we have written down here in this Judiciary Committee bill on a white sheet of paper what we demand; why not make it a fixed finality at least until the maturity of the bonds? I tell him the bill is framed upon no such idea. If it were the terms of this bill would be very different from what they are. What would he have? Does he know what is to be the operation of this bill if it should pass, say, for instance, upon the Union Pacific? Taking its business for the last six years and supposing its business in the future to be the same, how much will it have to pay into the sinking fund? Only a little over a half million dollars. The half-transportation account on the past average will amount to \$421,000, and it will have but \$100,000 in cash to pay. Now the Senator, upon such a payment as that into the sinking fund, the payment of half a million dollars a year, proposes that Congress should tie up its hands for twenty years and make a bargain with this company that shall be irrevocable. If such an amendment as that of the Senator from Maine should be inserted in this bill, it would be the best bargain this company ever made. The idea will not do at all.

But, Mr. President, away down below that lies the principle of the

thing. I affirm, as I have affirmed before, that this Government had better lose every dollar due and all that is to become due to it by these companies than to give up that right which it has to alter, amend, or repeal the charter. The amendment of the Senator from Maine is the worst attack upon this bill that could be made. He knows very well that with that provision fastened on to this bill the bill would not only not be worth the paper on which it is written, but it would be far worse than nothing; he knows that that would be a fatal death-blow given to this bill.

Mr. President, let no one deceive himself about this; let no one imagine he can be a friend of the Judiciary Committee bill and at the same time a friend to the amendment of the Senator from Maine. The amendment of the Senator from Maine is prussic acid to this bill. It cannot survive a day, not an hour perhaps, after that amendment is adopted. It is a stab at the very heart of the bill; it is as fatal as any stab could possibly be. I hope, therefore, the friends of this bill, those who mean to make these companies live up to their obligation, do what they assumed to do; those who mean that these companies shall know that the Government is their master and they are not the masters of the Government, will see that no such poison is taken into this bill as the amendment of the Senator from Maine.

Mr. BLAINE. Mr. President, when I rose this morning I intended only to correct by the Senator's own record what he so positively, of course through lack of memory, denied on Thursday last. I had hoped to do it on Friday, and seeing the Senator on Friday afternoon about to leave the Chamber as I thought, I said to him that I was intending to make a remark personal to himself. He had been busily engaged polling the Senate on the Judiciary bill with a list of the yeas and nays in his hand. I notified him that I was going to make the allusion and he took notice and said that he would be in his seat. The Senator nods remembrance of that. The next thing I heard of it, it appeared in the democratic paper this morning that I was going to take his scalp, which I supposed was a modest way of the Senator advertising through his own party organ that he was going to take mine.

Mr. THURMAN. The Senator forgets—

Mr. BLAINE. Certainly he does not suppose I was on such terms with the Washington Post as to secure that favorable notice. It must have grown out of the intimacy he has with that paper.

Mr. THURMAN. That is very clever; but the Senator must remember that on this question the Post is on his side and against me.

Mr. BLAINE. That may be; but the Senator will see that the Post is not on my side politically. As I happen to read that lively sheet every morning, I discover a great many adulatory comments on the Senator from Ohio; but the keenest eye has thus far failed to disclose any of that kind of references to myself; so that I think the judgment of the Senate will be that that notice did not get into the Post through me.

The Senator talks about this mousing around in the records! What do we have records for? What do we preserve the Globe for? The Senator went elaborately over all the little speeches he delivered in that debate. He says one speech was merely calling the attention of Mr. Stevenson to this, and another speech was calling the attention of the Senator from Vermont to that. Why, the speeches of the Senator from Ohio, recalled with some humor, show that, in addition to his long speeches which he did not quote, he was wide-awake during the whole debate, and that he was interpolating a remark here and there in everybody's speech. But not only did he fail to remember his long speeches which he did not refer to during the whole of his remarks just delivered, but he was putting a finger in everybody's pie, correcting Mr. Stevenson on one point, suggesting another point to my friend from Vermont, prompting the Senator from Delaware in another place, and generally, if I might use a coarse phrase, bossing the debate; and five years afterward, when I ventured modestly to remind the Senator of his declarations, he says: "I never said a word at all in that debate." Then when he attempts to put me down in the Senate by his absolute denial, and I bring the Globe in, he says he would not go mousing around; and, finally, he puts in my personal record by showing what I did or failed to do on Mr. William Lawrence's bill in the House of Representatives on the 7th of July, 1876. I think the Senator did leave a little wicket of escape open for himself on that personal charge, but he did it in so indirect and blind a manner that the Senate would not exactly comprehend it, but did it, I think, enough to suggest to me, unimportant as is my personal history, that I had not then for a month been in the House of Representatives; that I was on a bed of sickness from which some friends at last thought I might never rise, and that, so far from having anything to answer for about the bill of Mr. William Lawrence, I did not know that it or any other bill was pending in the House of Representatives. So much for that.

And now the Senator says he would rather lose this bill than have my amendment; that it is prussic acid to it. I went to the honorable Senator in the confidence of the friendly relations which across the political line have existed between us, and had a full and frank talk with him about this bill. I asked him "How near will this bill come to paying this mortgage by the maturity of the bonds?" He said it would leave some \$20,000,000 to each road.

Mr. THURMAN. No; about \$35,000,000 for the two. I said nearly \$40,000,000 for the two.

Mr. BLAINE. Then I am correct; about \$20,000,000 for each road. I took the Union Pacific because it is regarded as the less strong of

the two roads. The Central Pacific is the wealthier, and I was illustrating on that. I said then, taking the Senator's own figures, this only leaves at the maturity of the mortgage, counting in the first mortgage above the Government, \$47,000,000 on a road that is absolutely now paying 7 per cent. on \$90,000,000, and I said that security must be ample; and then the honorable Senator will remember that, endeavoring to be as frank as I could, I suggested this amendment to him in my own house. I said "Your bill has many good features. The amount of it I think is not exorbitant. You state that what will remain is so small as to be beyond peradventure secure. Now make your bill a finality and you will get a large vote for it." I suggested that to the Senator.

Mr. THURMAN. Yes; but the Senator will do me the justice to say that I did not agree at all to his amendment.

Mr. BLAINE. Of course it is dangerous ground and I will not venture any further on private conversations. I think the Senator was not half so obdurate then as he is in the Senate now.

Mr. EDMUNDS. Was it after dinner?

Mr. BLAINE. No, sir; it was before dinner.

Mr. THURMAN. I can only say to the Senator that his recollection is at fault, for I told him I never could agree to such an amendment.

Mr. BLAINE. Does the Senator desire me to state what my recollection of that conversation is?

Mr. THURMAN. The Senator can state what he pleases about it if he thinks proper to do so; but I do affirm that I told the Senator then I could never agree to that amendment and never would.

Mr. BLAINE. I never desire to refer to a private conversation, although my recollection of it does not wholly agree with that of the Senator. The Senator, as I say, stated to me—let us take the points that are public which affect that—there would be only \$20,000,000 left. Then I said to him, "You ought to make it a finality, because you have got ample security." Now he says it is prussic acid and he would rather lose the bill than agree to it. I admit it is prussic acid to all agitation of the subject; it is prussic acid not only to Wall-street agitation but to political agitation; it ends the whole matter. The stalking horse of "great corporations" dies instantly. There is nothing left of it if this amendment is put in, and the Senator himself knows that I offered the amendment in perfect and entire good faith, else why should I have consulted him the very first man about it?

Mr. THURMAN. I have not impeached the good faith of the Senator.

Mr. BLAINE. I offered it in entire good faith, and rather than have any suspicion this moment that something remarkable was withheld of the private conversation which has been referred to, I desire to say in all frankness that I understood the Senator to object to my amendment, but not to object to it as strenuously as he does now, and that he said it would in any event be impossible ever to get the chairman of the Judiciary Committee [Mr. EDMUNDS] to agree to it, and that that made the thing impossible. That is what I understood that conversation to be, and that was all of it.

Mr. THURMAN. That is like your inference of my inconsistency.

Mr. BLAINE. That is the way I understood the conversation to be. It is better to have it out than to have it merely intimated with exaggerated inferences. It was a very innocent and honorable conversation, and the Senator will remember it was entirely friendly, as certainly I mean no remark I made this morning to be otherwise. Every solitary word that has been said in this debate since, every exposition of this bill that has been made since, everything that has been suggested *pro* and *con* has enforced upon my mind with still more urgency and still more strength the propriety of taking a bill that does pay off everything but \$20,000,000, leaving the amplest security for that \$20,000,000, and calling it a finality. Absolute in any event? Not at all; but absolute if the companies faithfully comply. Who is to be the judge of that? Congress; and it is a finality only as respects the debt. In every other respect Congress possesses the right to alter and amend and repeal just as if my amendment had never been suggested. This amendment does not touch it at all. It merely says that this settlement will, in a money point of view, secure the Government. We have looked it all over; and if your companies shall pay these sums the Government will be entirely secure in its mortgage debt. If you will do that and will faithfully comply with these provisions, you may go on until the maturity of the bonds, we reserving the right to legislate in any other direction that our sense of duty may call upon us to do, and reserving of course the right to see that the faithful compliance which we exact of you in these provisions shall not be a meaningless term, but shall be one that we will hold you to by all the powers of the Government. Is that an unreasonable proposition? Is not that the way to encourage the companies to be faithful in their compliance? Is not that the way to make the payment effective and to bring money in the Treasury of the United States? Is it not also the way to make those roads efficient—to make them carry out the great end for which they were incorporated, to carry out the great commercial development of the vast country which they traverse, and in short to secure all the ends aimed at when the Government gave its munificent bounty and imposed upon the railway companies their great responsibilities?

Mr. KERNAN. Mr. President, I shall not ask the indulgence of the Senate for any considerable length of time. The important question presented to us is, has Congress, under the power to alter, amend, and

repeal, reserved in these acts the right to legislate as is proposed by the bill of the Judiciary Committee, and, if it has, is it wise and proper that Congress should now bargain that power away to the extent mentioned in the amendment of the Senator from Maine, [Mr. BLAINE.]

Sir, I have no doubt that Congress has the power under this reservation, and I do not think it would be wise or proper for Congress to contract it away for twenty years or any other length of time as proposed.

Has not Congress power to legislate as is proposed by virtue of this reservation to alter, amend, and repeal? I do not understand this corporation created by these acts to be what is ordinarily known in the law as a *private* corporation. It is not in its character like a corporation created to carry on some private business, like the making of engines, or the manufacturing of cotton or wool. It is a quasi-public corporation, created, and only rightfully created, by Congress, because it was to carry out a public purpose and object. The intent in making this munificent grant of lands which belonged to the people of the United States, of making this most advantageous loan of the people's money, to these corporations was to effect a public, not a private purpose. Had Congress the right to donate to a private corporation, in the ordinary sense, twenty-one million acres of the public lands of the people, of great value? Had Congress any right to loan to *private* corporations over \$50,000,000 of money upon most advantageous terms to them, as the law is adjudged by the court to be? I do not understand that Congress had or has any such right, acting for the people of the United States; but Congress may have authority to create a corporation, to delegate to it the right of eminent domain, which cannot be granted to any individual or purely *private* corporation, to empower it to take a citizen's property without his consent to effect a public purpose. Had Congress a right to make the grants which it did to these corporations, except and because they were agencies of the Federal Government to construct and maintain a public highway from the Mississippi to California, upon which should be transported soldiers, public stores, mails, &c., for the Government, and which should be a quasi-public highway for the people of the United States for all time?

In dealing with this question it has seemed to me important to bear in mind that the corporation was created, and rightfully created, only because it was to effect a great public purpose, and that to enable it to effect this purpose the franchises were granted and the donations and loans were made.

I think, sir, when we come to exercise this power reserved in the comprehensive language which we find in these acts of Congress in reference to a corporation of this character, we certainly have a right to legislate and so control and so regulate its action that it shall subserve the end for which it was created. When we do that we are, as has been well said, legislating to keep it in the very line of duty for which it was created and endowed with property and privileges. Congress in the original charter or acts of Congress creating the corporation did reserve in clear language the right at any time to alter, amend, and repeal those acts. The obvious intent by this reservation was that if the corporation failed to perform the duty which it assumed and was obligated to perform, Congress could add limitations, restrictions, and regulations, and make it perform that duty. To aid the corporation Congress by the act of 1864 allowed it to borrow money on a mortgage which is a prior lien on the road to the lien of the United States.

Now, if Congress ascertains that instead of doing what prudent business men would do, what a well-managed corporation would do, these grantees are misapplying the means in their hands, what is to be done? The debt owing to the United States in the year 1900, as it is computed, will be over \$123,000,000, principal and interest; and if the corporations are proceeding to divide their earnings and make no provision for paying that debt, and the other large debt, which comes due at the same time and is secured by a first lien on the property, the road will be sold out on the prior lien and not only will the Government lose its money which was loaned, but the object and purpose of the acts of 1862 and 1864 and of the land grant and loan will be defeated. The corporation was created and the grants made that the people of the United States, not for twenty years but for all time, should have this great highway maintained for the benefit of the Government and people of the United States as well as the stockholders. If now Congress see, as any man must see, that if the corporation refuses to create a fund to pay this \$123,000,000 which will be due the Government in the year 1900, refuses to accumulate or provide a fund to pay the debt due the first-mortgage bondholders, the road will be lost for the beneficial purposes which were intended to be derived from it by the Government under the provisions of the charter, and if that is so, if there is danger of this, then under the right to alter, amend, or repeal we can interfere. If the Congress that passed the law did not guard sufficiently against such a result, then if the power reserved means anything of value to the Government, may we not now by amendments require the corporations to set apart as a sinking fund such portion of their annual earnings and of their income as shall pay off the first-mortgage debt at maturity, and which will pay to the Government at least a reasonable portion of this \$123,000,000 that will be due for the money loan?

In my judgment we have the right to do so. In my judgment if Congress should grant such an amount of property and such rights

and franchises and make such a loan without reserving control over the corporations and their directors to compel them to administer the property so that the road should be preserved and the debts paid, Congress would have failed to do its duty to the Government and people of the United States. It would have neglected to provide any reasonable security to compel the corporations to maintain and operate the railroads and prevent their sale on the first mortgage.

In the proposed legislation Congress will not, in my judgment, violate in letter or spirit the contract contained in the acts of Congress. This legislation is to protect the property of the corporations and compel them to perform their duty to the Government and the public, and I, with great respect to others who may differ from me, cannot see how we impair any contract we made with them by the bill reported by the Judiciary Committee. We granted them all these things for this great purpose, this beneficial purpose to the Government and to all the people, that there might be built across this great country connecting the East and the West a great road which should be kept up. And now when a law is proposed which simply says "we are going to require you to administer your affairs and your means so that you shall pay your honest debts, and thereby preserve this road," I cannot understand how this justly can be said to be a breach of any contract made by the acts of Congress with these corporations. We simply make them do what every prudent board of directors should do which means to pay its debts and protect its property; we simply make them do what every prudent business man ought to do who means to pay his debts, not to divide among stockholders or partners all the income from the property, and then when the debt to the Government runs up to over \$123,000,000, principal and simple interest, and the first-mortgage debt is due and unpaid to over \$50,000, allow the railroad and its appurtenances to be sold. Because Congress will not permit this to be done and proposes to control the action of the boards of directors so there shall be annually set apart a portion of their income as a sinking fund to pay these debts or a portion of them at maturity, it is said we propose to violate the contract made by the Government in creating and making loans to these corporations.

I insist we do no such thing in the sense claimed by the opponents of this bill. The fact that the money for this sinking fund is to be paid into the United States Treasury is in no sense requiring the debt to be paid to the Government before it is due by the contract. The proposed law requires the corporations to pay into the United States Treasury annually a portion of their income, to be invested at semi-annual interest and the interest to be reinvested as it accrues, to make a sinking fund to pay these debts when due. The corporations have the benefit of interest on their money in the sinking fund, compounded semi-annually, while the Government is only to have simple interest on its debt, paid when that debt becomes due in 1900. This is not making these corporations pay the Government debt now or at any time before it is due by the contract. I agree that if a sinking fund is created by act of Congress, as is proposed by this bill, and if through any mismanagement of the Treasury Department the money should be lost, the Government should be the loser. Therefore it is right toward the corporations and wise for the Government and other creditors to have the contributions for this sinking fund paid into the Treasury of the United States and invested by it in a mode which will keep it at interest safe. We are not attempting to make the debt due now and applying the money on the debt, but the money is paid into the United States Treasury as a fund belonging to the corporations, and we give them the benefit of its reinvestment every six months and they will get interest on the interest until the debts are due. I do not think this is breaking the contract or impairing the contract, or acting in bad faith or unfairly toward these corporations. It is a reasonable and proper exercise of the power reserved to the Congress "to alter, amend, or repeal" by the acts of 1862 and 1864.

Sir, the question as to what may be legitimately done by legislation by virtue of a power like this reserved in an act creating a corporation is important to this Government as to the great corporations under consideration in which the Government and people of the United States have so large an interest. It is important in reference to other corporations which have been or may be chartered by Congress. It is important in reference to the creation of corporations by State Legislatures. All the States have granted charters, reserving in some form the right to alter, amend, and repeal them at pleasure. It is a power that has been regarded as of great importance to the welfare of the people, and is often exercised to their advantage, and I know of no case where it has ever been used to destroy the just rights of those incorporated. It has been often exercised to secure the fulfillment by especially these quasi-public corporations of their duties to the public and to their creditors. The very fact that the power exists is a great safeguard to the public and a wholesome restraint upon those controlling corporate powers.

Now, sir, I wish to call the attention of the Senate to some cases which have arisen in the State of New York, which have been adjudicated by the courts of that State, and which adjudications have been affirmed by the United States Supreme Court; and I will ask then whether this bill of the Judiciary Committee is as broad and far-reaching an exercise of this reserved power to "alter, amend, and repeal" as was exercised by the Legislature of New York in enacting statutes which have been held to be valid and constitutional by the courts. These statutes were passed by State Legislatures, which are

expressly inhibited by the Constitution of the United States from passing any law impairing the obligations of contracts. I will refer to only one or two authorities, because the question has been very fully debated.

In 1838 the Legislature of New York passed an act to authorize the business of banking. I need not state the details of it. It authorized persons to associate and organize a corporation under and by virtue of the act, to deposit securities with the comptroller of the State to secure the payment of the bills issued to circulate as money, and do the business of banking. Now, observe what a contract the Legislature made with the persons who accepted the law and organized a corporation under it. It provided:

That any number of persons may associate to establish offices of discount, deposit, and circulation upon the terms and conditions and subject to the liabilities prescribed in this act. (Section 15 of the act.)

This is a pretty strong provision, that the corporators are to be subject only to the personal liabilities prescribed in the act. It then provides for articles of association to be signed, acknowledged, and filed, and then comes section 23. Now mark it. Here is the contract which the corporators, the stockholders, accept from the State in reference to individual liability:

No shareholder of any such association shall be liable in his individual capacity for any contract, debt, or engagement of such association, unless the articles of association by him signed shall have declared that the shareholder shall be so liable.

The State says to the shareholders, you shall not be personally liable unless you have expressly agreed that you would be for the debts of the corporation.

In 1844 Oliver Lee & Co.'s bank was organized, and the associates in express language provided in the articles of association that they should not be liable in their individual capacity for any of the debts of the corporation, and went into business. The law contained the reservation, which is in this language:

The Legislature may at any time alter or repeal this act.

In 1846 New York adopted a new constitution, one provision of which declared that dues from corporations shall be secured by such individual liability of the corporators as may be prescribed by law.

In 1849 the Legislature passed a law to enforce the responsibility of stockholders in certain banking corporations and associations as prescribed in the Constitution, and providing for the prompt payment of debts against such corporations and associations. This provided that where any banking corporation issued bills after the 1st of January, 1850, its stockholders should be individually liable to the amount of their stock, respectively, for the debts contracted after that time. In 1857 the bank became insolvent and proceedings were taken under the law of 1849 to enforce the personal liability of the stockholders. Here is a case where the Legislature made a contract in plain terms, and which, but for the reservation contained in the law to alter, amend, and repeal, the Legislature could not have changed, or impaired, never could have imposed any personal liability on the stockholders. The power to alter, amend, and repeal was reserved, and the Legislature subsequently did impose personal liability on the stockholders for the debts of the corporation. The supreme court of New York held the law constitutional as a legitimate exercise of this reserved power. The court of appeals without dissent, if I recollect aright, affirmed that judgment. The case is reported in 21 New York Reports, 9. The case was brought to the Supreme Court of the United States and the judgment was affirmed. (1 Black's United States Reports, 587.) The only question before the United States court was whether the law imposing the personal liability on the stockholders was constitutional or not. Each of the courts held that under the power reserved the Legislature had authority to pass the law of 1849. Mr. Chief-Justice Denio, a very conservative and able judge, delivered the opinion of the court of appeals of New York. He and the court held that under this reserved power the Legislature had authority to pass the law imposing upon the stockholders this personal liability for the debts of the corporation. In his opinion, he says:

The question before us is, therefore, narrowed to a consideration of the effect of the provision in the general banking law by which the right is in terms reserved to the Legislature to alter or repeal it at any time.

The court held that the Legislature could by virtue of this reserved power alter and change the contract made by the charter with the corporators, that they should not be individually responsible for the debts of the corporation so as to make them responsible for such debts. The court of appeals of New York decided in this case that the provision of the general banking law reserving to the Legislature the power to alter or repeal formed a part of the contract with every association organized under that act, and that the State could modify it without infringing the Federal Constitution against laws impairing the obligations of contracts. It was urged upon the court that some of the stockholders in corporations organized prior to 1850, had become such, relying on the provision of the charter that they were not to be individually held for the debts of the corporation; and that they could not prevent the corporation continuing to circulate bills after January 1, 1850. But the court answered this, saying in substance, that although they could not prevent the corporation from continuing to issue bills, after January 1, 1850, by which the personal liability attached under the act of 1849, nevertheless the latter act was one which the Legislature by virtue of the power reserved in the charter had constitutional power to pass.

There is another case decided by the courts of New York. This arose under a special charter. In 1834 the Legislature created by a special act what was known as one of the safety-fund banks. The charter was in the ordinary form, creating and granting power to the corporation to carry on the business of banking without any individual liability of the stockholders for the debts of the corporation. The act of incorporation contained a provision that the Legislature might at any time alter, modify, or repeal the same. This corporation continued its business after this law of 1849 and became insolvent; and the stockholders were made liable under the last-mentioned law. The case was decided after the court had decided the case of the Oliver Lee & Co.'s bank above referred to but before that decision had been affirmed by the United States Supreme Court. It is reported in 22 New York Court of Appeals Reports, 9. In delivering the opinion of the court in this case, Mr. Justice Comstock says:

Within the power here reserved the Legislature would have the right to pass the statute of 1849 and to impose the very liability now in question, even if the constitution of 1846 had never been adopted. This proposition was necessarily involved and was determined in the case of Oliver Lee & Company's Bank. In holding that a personal liability could be lawfully imposed upon the shareholders in that bank the decision was placed upon the reserved right to alter or repeal the general act under which it was incorporated.

These cases were decided by the court of appeals of New York and by the United States Supreme Court on the ground that the reservation of a power to the Legislature to alter, amend, and repeal the act under which the corporation is organized and by which the government grants and the corporation accepts and receives rights and privileges authorizes the Legislature subsequently to change the law and impose heavy liabilities upon the corporation and its stockholders from which they were in express terms exempted by the act of incorporation.

Now, sir, looking at these adjudications as to State laws and remembering that here the question is simply whether Congress may require this corporation to so manage its business, to so husband its earnings or a portion of its earnings and income that it shall maintain and operate the road forever and shall pay back when it becomes due the large loan made to it by the Government with simple interest, it seems to me that the bill of the Judiciary Committee is clearly within the scope of the power reserved to Congress by the acts of 1862 and 1864 if anything of value is retained by the reservations. The Judiciary bill merely controls the corporation in the administration of its property. Certainly when you remember that the United States courts have decided that a State may legitimately require a railroad corporation to take less fare or freight than was authorized by the charter, being a State law under which it was organized, we are simply legislating so that the corporate property shall be preserved for the benefit of the public as well as the stockholders, so that the debts of the corporation shall be paid when due, and the railroad shall not be sold on the first mortgage, to the detriment of creditors and stockholders. It is for the benefit of both creditors and stockholders that there should be a sinking fund created from the annual receipts of the corporations to meet the debts when these enormous debts become due at a future day.

This is a measure of common prudence; one which, if the stockholders could not or would not inaugurate, through their board of directors, their entire property might be sold and sacrificed without even paying the just debts of the corporation. The property would have to be sold on the mortgage, and we all know how a few men of large wealth can then become the owners of a railroad at less than one-half of its real value.

I submit, therefore, that this bill is right and should become a law. It is not a law in violation of the contract of loan made by the Government with these corporations. This bill does not assume to make that debt due now or a day sooner than it is payable by the terms of the act of Congress, which is the only contract on the part of the Government. It is a law in aid of carrying that act into effect, promoting the performance of the obligations and duty which the corporations assumed and which the public good demands. If Congress had loaned this money, payable with simple interest in the year 1900, to the amount of \$123,000,000, and had not reserved power to regulate and control the corporations so they should not waste the property or divert it from the public use for which it was intended, then Congress, in my judgment, would have failed in its duty to the people of the United States.

I have only a suggestion or two more to make. I believe that Congress should not have passed the acts of 1862 and 1864 without reserving this power over the corporations created and granted privileges and property thereby for an important public purpose and to promote the public good, I do not think we should now bargain or contract this power away. The power in Congress to control and regulate these corporations should be retained that these corporations may be required by the exercise of this power, if necessary, to discharge all the obligations they assumed to their creditors and to the public. There is no danger that there will be harsh or unjust legislation by Congress toward them. There should not be. I would not unite in any legislation that looked to me like dealing unjustly or unfairly with either of these companies. It is dealing justly with them and right toward the people of the United States not to permit them to make large dividends to stockholders while they make no provision for paying their just debts at maturity. They cannot complain of Congress requiring them out of their income to provide

a sinking fund which shall pay the Government and all other creditors the amounts owing them at maturity.

I think we owe it to those we represent, we owe it to the Government, we owe it to the stockholders, that Congress should retain the power to intervene where it is necessary to preserve the property, to preserve the road, to have it kept in running order, to have the stockholders own it after the debts are paid, and to prevent its being sold on the mortgages. I shall therefore vote against the amendment proposed by the Senator from Maine, [Mr. BLAINE,] by which it is proposed to contract by this bill with these corporations in reference to the exercise of this reserved power by Congress in the future. I believe that Congress has legitimate power to pass the bill reported by the Judiciary Committee, and that it is important for the public good and just to these corporations that this bill shall become a law, and hence I shall vote for its passage.

THE PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The question is on the amendment of the Senator from Maine [Mr. BLAINE] to the twelfth section of the bill.

Mr. EDMUNDS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. EDMUNDS. Mr. President—

Mr. THURMAN. With my friend's permission, I wish to say that several Senators who are quite unwell and wish to go home, have asked me if I would request a vote to-day. Knowing that there are several Senators who want to speak, and who are not well enough to sit out the bill to-night, I said to them that I should not ask for any vote either on the bill or on the amendments to-day, but would ask the Senate to-morrow to finish the bill.

Mr. DAVIS, of Illinois. I move that the Senate adjourn. The Senator from Vermont does not want to go on till to-morrow.

THE PRESIDING OFFICER. The Senator from Illinois moves that the Senate do now adjourn.

Mr. CONKLING. If the Senator will give way I move that the Senate proceed to the consideration of executive business.

Mr. DAVIS, of Illinois. I prefer not; but I will withdraw my motion that the Senator may test the sense of the Senate.

Mr. SARGENT. I wish to say a few words.

Mr. CONKLING. I withdraw my motion for a moment to renew it after the Senator from California concludes.

Mr. SARGENT. During my temporary absence from the Chamber the Senator from Ohio [Mr. THURMAN] called attention to a resolution I introduced in January, 1876, which he seemed to consider somewhat inconsistent with the position I have taken on this bill. Before I left the Chamber I had heard the Senator declare that he did not intend to use the amount of brains that God had given to him for the purpose of mousing through the RECORD; that he would consider himself humiliated if he turned over the pages of that venerable volume for the purpose of detecting inconsistencies in his opponents, and he thought a great measure like this ought not to be opposed by such means. I am compelled to the inference that my friend thinks it is perfectly right to oppose amendments to the bill by the same process of mousing through the RECORD, and his mousing has been rewarded by the discovery of the resolution to which he refers. That, however, is entirely a matter of taste. I do not myself think there is any impropriety in looking over the RECORD to find out what Senators themselves or others may have said in reference to measures, and occasionally a great deal of information may be obtained upon the merits of the subject under discussion in that way.

But I wish to say that the Senator will find, by reference to the remarks I made before he made those to which I now refer, that I spoke, with some earnestness at least, in favor of the establishment of a sinking fund for the protection of the Government, insisting at the same time that it would be better for the credit of the companies; and I also said in those remarks that I did not think it was right to take the one-half transportation and the 5 per cent. net earnings, which belonged to the Government, and put them in the sinking fund, for the Government ought not to be required to pay interest on its money for the benefit of these companies, and therefore I objected to the Railroad Committee bill for that reason. I, however, did indicate such amendments as I thought the Judiciary Committee bill should receive.

Now, sir, in my judgment and according to my best recollection, there is nothing inconsistent in the position which I have taken on this matter with that which I proposed in the resolution which gave original jurisdiction to the Judiciary Committee, as the Senator said. I do not object to this measure because it emanates from the Judiciary Committee, for I have a very high respect for that body of gentlemen. I think they are able and believe them to be conscientious. That being so two years ago, as now, I was in favor of their reporting a bill, but I certainly did not commit myself to any bill which they might report, no matter how harsh it might be or how extreme, or upon whatever theory it might proceed. I reserved to myself the right in that as in all matters to exercise my own judgment and cast my votes as I saw fit, and to advance such arguments in favor of those votes as it seemed to me was due to myself to explain my position. I therefore say, Mr. President, that there was nothing in that matter at all inconsistent, in my judgment.

In that same resolution I did propose that the Government should look into certain matters with reference to the twenty-four-million-dollar contract of the Contract and Finance Company, and that I

referred to also in the remarks I made this morning and called attention to the fact that I did so, but I said with reference to that that as such investigation was not made, as Congress had for years passed the thing over, and then when their attention was specifically called to it and the legal committee of the Senate were directed to institute such investigation as was necessary, still it was not done, and that now it ought not to be brought in at this late day, when other parties had invested in this stock and in these bonds, to make weight against them.

If, however, the Senator can find any comfort in the consideration that he has convicted me of inconsistency, he is welcome to any comfort of that kind. I desire to say, however, that I prefer to do what I think is right at the present moment or at any moment which may be presented; that I am not bound to follow any convictions I may have had heretofore, provided I have seen reason to change them. I believe in the old adage that the wise man changes often; another class never changes. I am open to conviction and learning, and if any one can have listened to this long debate and not have acquired any ideas either for or against the measure, then his ears are certainly deaf.

Mr. BAYARD. I understand the Senator to insist upon retaining and exercising his power to "alter, amend, and repeal" at any time?

Mr. SARGENT. I do not. I believe it must be by contract with these companies in the same spirit as by the act of 1864, when there were modifications made in the law of 1862, the assent of the companies was required. That course is followed in all State Legislatures, and in all the legislation of Congress relating to such things. I do not believe we have a right, simply because we are, as we call it, sovereign—although we are far from it in some respects, the States being much more so than we are—I do not believe that for that reason where we are contractors we stand in any different relation than private parties would stand to each other.

Mr. THURMAN. Mr. President, if my friend from California had heard the remarks I made, he would have found that I referred to his resolution for a wholly different purpose from that which he attributes to me.

Mr. SARGENT. I read the Senator's remarks from the Reporter's notes.

Mr. THURMAN. I do not think it was for the purpose of convicting him of any particular inconsistency or condemning him for a change of opinion, if such a change had taken place. I fully concur with him that a man is made of very poor stuff who may not alter, amend, or repeal, as my friend from Delaware suggests, his confirmed convictions. That is a suggestion of my friend from Delaware, and I think a very wise and philosophical one.

Mr. SARGENT. I agree with the Senator, if that was his meaning.

Mr. THURMAN. Mr. President, what I alluded to the resolution of the Senator from California for was this: as I had said I thought there had been an attempt here on the part of those who opposed the bill to censure the Judiciary Committee for going too far, and I cited the resolution of the Senator from California which first gave that committee jurisdiction of the subject to show that that resolution went further than the bill which is now under consideration. That is all. I certainly have no disposition to make a debate upon a measure which ought to stand upon its own intrinsic merits depend at all upon any personal consideration. I never have advocated or opposed a measure on any such ground, and I never shall.

As to what the Senator has said about the power to amend, alter, or repeal, that that is with the assent of the companies, if that was all, it might as well be stricken out of the charter at once, because without it we could make any legislation we pleased that the companies saw fit to assent to.

I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty minutes spent in executive session the doors were reopened, and (at four o'clock and twenty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, April 8, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev W. P. HARRISON.

The Journal of Friday last was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage of the following bills, with amendments; in which concurrence was requested:

A bill (H. R. No. 2291) for the relief of Thomas W. Collier; and An act (H. R. No. 3822) making an appropriation for the naval service for the year ending June 30, 1879, and for other purposes.

ELECTION OF DOORKEEPER.

The SPEAKER. The first business in order this morning is whether the resolution offered by the gentleman from Massachusetts, [Mr.

BUTLER,] that the House proceed to the election of a Doorkeeper, involves a question of privilege.

Mr. EDEN. Mr. Speaker, I wish upon that question to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. EDEN. I understand the resolution, if it is before the House—

Mr. WHITE, of Pennsylvania. We cannot hear a word that is said.

Mr. EDEN, (after a pause.) I understand, Mr. Speaker, that the resolution is not before the House, but only the question submitted by the Speaker, whether it presents a question of privilege or not. If the resolution itself is before the House, then I wish to make a point of order on it.

The SPEAKER. The resolution is not before the House.

Mr. EDEN. That answers my present purpose.

Mr. CONGER. Does that come in before the morning hour? I understood it was postponed until to-day.

The SPEAKER. It was postponed, as the Chair remembers, immediately after the reading of the Journal. But the RECORD will show.

Mr. SPRINGER. There was nothing said as to the time. I tried to have that settled.

Mr. DUNNELL. The RECORD states that it was postponed until after the morning hour.

The SPEAKER. The Chair distinctly stated on Friday the question would be postponed until this morning after the reading of the Journal.

Mr. CARLISLE. A proposition was made to postpone it until after the morning hour, but the gentleman from New York [Mr. BEEBE] declined to modify his motion in that regard.

The SPEAKER. It would come up naturally after the reading of the Journal. The question now before the House is whether the resolution of the gentleman from Massachusetts presents a question of privilege or not. The Chair has decided that the resolution does present a question of privilege.

Mr. CONGER. Before the question is put I wish to say this: this question has been considered by the House and by the Chair of sufficient importance to be postponed till to-day in order that it may be made a precedent. I think in order it may have any force as a precedent there should be a full record of the vote.

Mr. BUTLER. There should be a rising vote at least.

Mr. CONGER. There should be a rising vote at least.

Mr. BUTLER. I demand tellers.

Tellers were ordered; and Mr. BUTLER, and Mr. COX of New York, were appointed.

Mr. TOWNSEND, of New York. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 220, nays 4, not voting 67; as follows:

YEAS—220.

Acklen,	Crittenden,	Hungerford,	Phillips,
Aldrich,	Culberson,	Hunter,	Pollard,
Bacon,	Cummings,	Hunton,	Pound,
Bagley,	Cutler,	Ittner,	Powers,
Baker, John H.	Danford,	James,	Price,
Baker, William H.	Davidson,	Jones, Frank	Pugh,
Bailou,	Davis, Horace	Jones, James T.	Rainey,
Banks,	Dean,	Jones, John S.	Randolph,
Banning,	Deering,	Joyce,	Rea,
Bayne,	Denison,	Keifer,	Reagan,
Bell,	Dickey,	Keightley,	Reed,
Bicknell,	Douglas,	Kelley,	Reilly,
Bisbee,	Dunnell,	Kenna,	Rice, Americus V.
Blackburn,	Durham,	Ketcham,	Riddle,
Blair,	Eames,	Kimmel,	Robbins,
Blount,	Eden,	Knapp,	Robertson,
Boone,	Elam,	Knott,	Robinson, G. D.
Brentano,	Ellis,	Landers,	Robinson, M. S.
Brewer,	Errett,	Lathrop,	Ross,
Bridges,	Evans, James L.	Ligon,	Ryan,
Briggs,	Evins, John H.	Lindsey,	Sampson,
Bright,	Felton,	Lockwood,	Sapp,
Browne,	Finley,	Loring,	Saylor,
Buckner,	Forney,	Luttrell,	Scales,
Bundy,	Fort,	Lynde,	Schleicher,
Burchard,	Foster,	Mackey,	Sexton,
Butler,	Franklin,	Maish,	Shallenberger,
Cabell,	Frye,	Manning,	Shelley,
Cain,	Garth,	Marsh,	Singleton,
Caldwell, John W.	Gibson,	Martin,	Slemmons,
Calkins,	Giddings,	McCook,	Smalls,
Camp,	Goode,	McGowan,	Smith, William E.
Candler,	Hale,	McKinley,	Southard,
Cannon,	Hamilton,	McMahon,	Sparks,
Carlisle,	Hanna,	Metcalfe,	Springer,
Caswell,	Hardenbergh,	Mitchell,	Stenger,
Chalmers,	Harris, Henry R.	Money,	Stewart,
Chittenden,	Harris, John T.	Monroe,	Stone, Joseph C.
Clark, Alvah A.	Harrison,	Morgan,	Strait,
Clark of Missouri,	Hartridge,	Morrison,	Thompson,
Clark, Rush	Hartzell,	Morse,	Townsend, Amos
Clarke of Kentucky,	Haskell,	Muldrow,	Townsend, M. L.
Clymer,	Hatcher,	Neal,	Turner,
Cobb,	Hazelton,	Norcross,	Turney,
Cole,	Hendee,	O'Neill,	Vance,
Conger,	Henderson,	Overton,	Waddell,
Cook,	Henkle,	Page,	Wait,
Cox, Jacob D.	Herbert,	Patterson, G. W.	Walker,
Crapo,	Hewitt, G. W.	Patterson, T. M.	Walsh,
Cravens,	House,	Peddie,	Watson,
	Hubbell,	Phelps,	Welch,

White, Harry
White, Michael D.
Whithorne,
Wigginton,

Williams, A. S.
Williams, Andrew
Williams, C. G.
Williams, James

Williams, Jere N.
Willis, Albert S.
Willits,
Wilson,

Wood,
Wren,
Wright,
Yeates.

Bland,

Mills,

Throckmorton,

Young.

NOT VOTING—47.

Aiken,
Atkins,
Beebe,
Benedict,
Bliss,
Bouck,
Boyd,
Bragg,
Brogden,
Burdick,
Caldwell, W. P.
Campbell,
Chaffin,
Collins,
Cox, Samuel S.
Davis, Joseph J.
Dibrell,

Dwight,
Eickhoff,
Ellsworth,
Evans, I. Newton
Ewing,
Freeman,
Fuller,
Gardner,
Garfield,
Gause,
Glover,
Gunter,
Harmer,
Harris, Benj. W.
Hart,
Hayes,
Henry,

Hewitt, Abram S.
Hiscock,
Hooker,
Humphrey,
Jorgensen,
Killinger,
Lapham,
Mayham,
McKenzie,
Muller,
Oliver,
Potter,
Pridemore,
Quinn,
Rice, William W.
Roberts,
Sinnickson,

Smith, A. Herr
Starin,
Steele,
Stephens,
Stone, John W.
Swann,
Thornburgh,
Tipton,
Townshend, R. W.
Tucker,
Van Vorhes,
Veeder,
Ward,
Warner,
Williams, Richard
Willis, Benj. A.

So the question was decided in the affirmative.

During the vote,

Mr. DAVIS, of North Carolina, said: I am paired with Mr. ELLSWORTH, of Michigan. If he were present, I would vote in the affirmative.

Mr. SCALES. My colleague, Mr. STEELE, who is absent by leave of the House, is paired with Mr. HAYES.

Mr. DIBRELL. I am paired on all political questions with my colleague, Mr. THORNBURGH.

Mr. YOUNG. My colleague, Mr. CALDWELL, who is absent by leave of the House, is paired with Mr. FREEMAN, of Pennsylvania. I do not know how either would vote on this question.

Mr. HOUSE. My colleague, Mr. ATKINS, is still confined to his rooms by illness.

Mr. COVERT. My colleague, Mr. MAYHAM, is paired with Mr. HUMPHREY.

Mr. HARRIS, of Massachusetts. I am paired with Mr. STEPHENS, of Georgia. If he were present, I would vote in the affirmative.

Mr. SAMPSON. My colleague, Mr. OLIVER, is paired with Mr. HART, of New York, and my colleague, Mr. BURDICK, with Mr. BENEDICT.

Mr. BAYNE. My colleague, Mr. DWIGHT, is paired with Mr. BRIDGES. If present, he would vote in the affirmative.

On motion of Mr. WILSON, by unanimous consent, the reading of the names was dispensed with.

The vote was then announced as above recorded.

The SPEAKER. The House has decided that the resolution presented by the gentleman from Massachusetts does present a question of privilege. The resolution will be read.

The Clerk read as follows:

Resolved, That the House proceed to the election of a Doorkeeper, and that the true Union, maimed soldier, Brigadier-General James Shields, of Missouri, be chosen to that place.

Mr. CLYMER. I desire to offer the following as a substitute.

Mr. BUTLER. Have I not the floor?

The SPEAKER. The Chair will recognize the gentleman. The substitute will be read.

The Clerk read as follows:

Resolved, That the House proceed to the election of Doorkeeper.

Mr. BUTLER. I desire in the first place—

Mr. CONGER. Is that all of it?

The SPEAKER. That is all of the substitute.

Mr. CLYMER. I offer this as a substitute for the resolution of the gentleman from Massachusetts.

Mr. BUTLER. I desire now, Mr. Speaker, if I can speak a moment without interruption, to say that the exact state of this question is before the House; and I would suggest to the gentleman from Pennsylvania, as we are men of business, that we come directly to the matter in hand. I understand that since the last adjournment there has been a caucus of the democratic members and they have put forward a candidate of their choice. Why does not the gentleman add to his substitute the nomination also, and let one vote determine between the two resolutions?

Mr. CLYMER. If the gentleman from Massachusetts will withdraw the nomination contained in his resolution we can arrive at this thing by a single vote. But if he does not, I prefer adhering to the substitute as I have offered it, which, if it be adopted, will throw the question open for nominations, as is provided for by the rule of the House.

Mr. SAYLER. I submit the resolution is one which may be divided.

The SPEAKER. The resolution of the gentleman from Massachusetts is unexceptible of division.

Mr. SAYLER. That is the point I make. We can vote for the first portion of it and then vote as we see fit on the other.

Mr. EDEN. I understand under Rule 11 every gentleman in the House if he chooses has a right to nominate a candidate for the position of Doorkeeper. I submit, therefore, that the resolution of the gentleman from Massachusetts is not in order at all. Rule 11 provides:

In all cases where other than members of the House may be eligible to an office by the election of the House there shall be a previous nomination.

The only resolution that is in order is the resolution of the gentleman from Pennsylvania, to proceed to the election of a Doorkeeper. And when that resolution is adopted any and every gentleman in the House has a right to make a nomination.

The SPEAKER. Does the Chair understand the gentleman from Ohio [Mr. SAYLER] to demand a division on the first resolution?

Mr. SAYLER. I do, unless the substitute of the gentleman from Pennsylvania is admitted. If that is admitted I do not care.

Mr. CLYMER. I very well understand that without the permission of the gentleman from Massachusetts I have not the floor to offer the substitute and that the only way my resolution could come in would be by voting down the previous question. But it seems to me and to other gentlemen the most direct method of arriving at this thing is to vote for the substitute. If the gentleman does not yield for the substitute to be offered I call for a division of the resolution.

The SPEAKER. The gentleman from Massachusetts, the Chair thinks, did assent to the substitute being offered.

Mr. BUTLER. I do not wish to go into any business of catches and parliamentary rules.

Mr. CLYMER. I so understand.

Mr. BUTLER. I wanted to meet the question presented fairly in the face; and therefore I suggested to the gentleman from Pennsylvania to offer a resolution similar to mine because the House has just voted by 220 to 4 that my resolution in its present form and shape is a privileged question. That is settled. Now make another one just like it and it will be a like privileged question, for which I will yield with pleasure.

Mr. CLYMER. The House has not decided that the resolution offered by the gentleman from Massachusetts is a privileged question. It has decided that the election of Doorkeeper is a privileged question.

Mr. BUTLER. Oh! no; pardon me. The House has decided that my resolution is privileged.

Mr. CLYMER. Not at all. Do I understand the gentleman has yielded for the purpose of my substitute being offered?

The SPEAKER. The Chair understood the gentleman from Massachusetts to yield to allow the gentleman from Pennsylvania to submit his amendment.

Mr. BUTLER. Yes, sir.

The SPEAKER. And then the Chair recognized the gentleman from Massachusetts because the Chair understood the gentleman desired to speak briefly to his resolution.

Mr. BUTLER. I yielded to the substitute being offered, and only made a suggestion.

Mr. CLYMER. Then if the gentleman yields to me to offer the substitute I demand the previous question.

Mr. BUTLER. Oh! Pardon me; I did not yield for that. That is a trick. That will not do.

Mr. CLYMER. The gentlemen from Massachusetts has no right to accuse me of desiring to perpetrate a trick on the House.

The SPEAKER. The effect of that would not be to cut off the gentleman from Massachusetts.

Mr. BUTLER. I did not yield for a motion for the previous question. But if the gentleman did not mean to use the privilege for that purpose I withdraw the expression.

Mr. CLYMER. I certainly intended no trick. The gentleman from Massachusetts had expressed the desire that we should reach a result immediately, and in furtherance of that desire I moved the previous question.

The SPEAKER. The Chair did not consider the gentleman from Massachusetts cut off by the motion for the previous question.

Mr. BUTLER. But it cuts off any other amendment. I want to show how it will operate. If I yield to the gentleman from Pennsylvania to call the previous question, and it is sustained, that prevents the gentleman from Illinois from nominating a candidate; and so with other gentlemen all over the House. I want to have the fullest right of nomination preserved.

But I was about to say, Mr. Speaker, that I trust the resolution I have offered will pass. A question was raised on Friday whether I had a right to appear here and offer that resolution on behalf of General Shields. Upon that point I desire to submit as part of my remarks a letter from General Shields.

The Clerk read as follows:

CREIGHTON HOUSE,
Boston, Massachusetts, March 30, 1878.

DEAR GENERAL: I have spent the winter in New England, and have been generally treated everywhere, and nowhere more so than in your district and by your friends, who are the industrial sinews of that part of New England. But my present purpose in troubling you is a selfish one. I see a bill has passed the Senate to give me a pension of \$50 a month. You of all men could make that \$100 a month. Others who have suffered less and not done more are on the retired list. This would not injure you in New England.

Sincerely, your friend,

JAS. SHIELDS.

HON. BENJ. F. BUTLER,
House of Representatives, Washington.

Mr. BUTLER resumed the floor.

Mr. EDEN. I suggest to the gentleman from Massachusetts to bring in his amendment to the Senate bill making General Shields a pensioner to the amount of \$100 per month right now, and I think we will all vote for it upon this side of the House.

Mr. BUTLER. Oh, yes. I was saying, Mr. Speaker, that I held it a justification, when I found an office vacant, but I had not anything

to do with making the vacancy, instead of leaving this old veteran of the Mexican war to eat the bread of pension and of dependence, that I would give him an office, so far as I was concerned, in which he could earn his living, a high and honorable office, an office concerning which the only complaint that I have heard is that from the gentleman from New York, [Mr. Cox,] who insists that he was too good for it, that he was too high and the office too low, and this letter was my warrant for doing it. I do not know that I would not have done it for any good soldier in the same condition; indeed I am quite sure I would. Now here is a Union general, a general of the Mexican war, who was twice wounded in the glorious campaign for the capture of the city of Mexico, a man without reproach, a man not seeking the office of Doorkeeper, but a man who is now traveling through the New England States to earn by lecturing his living. He presented himself before me seeking the poor pittance of \$100 pension per month; he now gets but \$30; and I see a place where he can get more than \$200 per month, and earn it honorably and fairly. Have I not done right in bringing him before the House?

Mr. STENGER. Does the gentleman from Massachusetts not know that the office of Doorkeeper would only last about one year, while the pension would be for life? [Laughter.]

Mr. BUTLER. Pardon me; if he is capable and if somebody does not lie him down by lying that he is eighty-five years old when he is only sixty-seven, he will remain here many years, and this will last him two years at any rate, and after that I know that if we get into power we will keep him here and give him the position, and I know that the other side will do so too unless some confederate division general wants the place more than Shields does.

Mr. EDEN. I ask the gentleman if he does not think that General Shields would be better fitted to fill the position of Postmaster-General than that of Doorkeeper, and whether with his great influence with the Administration he does not think that he can succeed in getting him in there? [Laughter.]

Mr. BUTLER. Oh! my great influence with the Administration! The gentleman who makes that suggestion certainly must have hardly got over the festivities of Saturday. [Laughter.]

Mr. EDEN. I did not go to Chester.

Mr. BUTLER. I did not have sufficient influence with the Administration to nominate a disabled soldier as postmaster for a small town. Those who have now the ear of the Administration nominated a confederate general as Postmaster-General, a very good man; and it seems that it is the desire of the House of Representatives to nominate a man of the same antecedents for Doorkeeper. The President and the democratic majority of the House of Representatives agree on the question. [Laughter.] I do not. Now the opposing nomination to General Shields is the nomination of a gentleman by the name of Field, a good, true, loyal confederate soldier, who did his duty as he understood it to the rebellion faithfully and well and who fought well. I happen to know one occasion where he fought well. I have not a word to say against his meritorious services for his country as he chose it, but they were not done for my country, and therefore I cannot reward those services by electing him to office because he tried to destroy his country. I am willing that he shall have all the rights in the country which he forfeited, but I do not think the time has come for him to have the honors until our soldiers who fought in the service of their country have passed away; when that time comes I shall be very glad to have him appointed to office, but not till then.

Mr. YEATES. Will the gentleman allow me to remind him of what he said on Friday?

Mr. BUTLER. Oh, certainly.

Mr. YEATES. The gentleman said on last Friday in his speech, that if we would not elect General Shields and would nominate a good confederate who had fought and been wounded he would support him.

Mr. BUTLER. One word there; I think the gentleman had better look at the Record.

Mr. YEATES. That is what you said.

Mr. BUTLER. Pardon me; I did not say that. What I did say was that I would vote for such a man against any civilian.

Mr. YEATES. That is right; that is what you said; but for a wounded confederate.

Mr. BUTLER. That is what I said, and I stick to it.

Mr. YEATES. Then I ask you why you say that this man did not fight for your country and therefore is not entitled to your support?

Mr. BUTLER. The difference is between loyalty to the flag of the Government that educated him and brought him up, and treason to that flag, for which he ought to have been hanged. [Applause.]

Mr. YEATES rose.

The SPEAKER. Does the gentleman from Massachusetts yield further?

Mr. BUTLER. No, sir. The gentleman will allow me to finish my sentence. The penalty for his treason was death by all law, human and divine; but the clemency of the country relieved him from that penalty. I have the unfortunate pre-eminence of being about the only man that ever did enforce that penalty; and I stand by the act.

After the war Mr. Field left this country and sought another. He made himself the servant of an Egyptian prince and a subject of the Sultan of Turkey, because the Sultan of Turkey does not allow any man to go into his army as a high officer who does not swear allegiance to him; and most of those entering his service have to swear

allegiance to the Prophet Mahomet as well. Now, we have within two months removed the disabilities imposed by the fourteenth amendment of the Constitution upon General Field; and having relieved those disabilities I am waiting, before I vote for him, to hear whether the Sultan of Turkey or the Khédive of Egypt has removed his disabilities as their subject. I want to hear from the Khédive on this point; I want to know whether he has said, "I am willing to give up this subject of mine." I do not want a man to forswear his country in order to take service under a foreign prince and then return hot-footed from that service to be chosen a Doorkeeper in the House of Representatives, which ought to be next in rank to the position of "doorkeeper in the house of the Lord."

Mr. HUNTON. Will the gentleman from Massachusetts yield to me a moment?

Mr. BUTLER. Certainly.

Mr. HUNTON. I desire to state for the information of the House and of the gentleman from Massachusetts that General Field never accepted service under any foreign prince or potentate in such a manner as to interfere at all with his allegiance to the Government of the United States. He went to Egypt and accepted service under the Khédive under a contract; and the same contract which General Field signed was signed by four officers of the United States Government, officers of the Federal Army, and two of whom are now in that Army. I presume that these officers of the United States Army did not forfeit any citizenship or allegiance to the Government of the United States under which they were holding commissions; and if they did not forfeit it, I would like to know the process of reasoning by which it is forfeited in General Field's case. I have before me a list of those four officers.

Mr. BUTLER. I know them.

Mr. HUNTON. Yes, sir; and you know two of them are now in the Army.

Mr. BUTLER. In the Khédive's army?

Mr. HUNTON. No, sir; in the Army of the United States.

Mr. BUTLER. "The more's the pity." [Laughter.]

Mr. HUNTON. They went to serve the Khédive under leave of absence from the War Department; and in the case of one of these Federal officers of the United States Army that leave was extended in order that he might recover from a wound received in fighting for the Khédive. They were Union soldiers in the Federal Army when they went to Egypt, and two of them are in the Federal Army today. If this fact does not impose a disability upon these two officers of the United States Army, tell me, I pray you, how it imposes any disability upon General Field.

I desire to give the names of these four officers, as given by the War Department:

Assistant Surgeon William J. Wilson, one year's leave.

In his case, if I mistake not, his leave was extended in order that he might recover from a wound received in fighting for the Khédive in Egypt.

First Lieutenant R. M. Rogers, Second Artillery.

He also was on one year's leave.

Charles F. Loshe, Eighth Infantry, one year's leave.

Eugene O. Fehet, Second Artillery, one year's leave.

Mr. CONGER. I wish to say that the officer last named did not join the army of the Khédive in any manner.

Mr. HUNTON. He obtained leave of absence, I understand, for that purpose, and I was informed that he joined the Khédive's army.

Mr. CONGER. He never joined the Khédive's army, as I personally know.

Mr. HUNTON. It is a matter of no importance.

Mr. CONGER. If it is important enough to be asserted, it is equally important to dispute the assertion if it is incorrect.

Mr. HUNTON. Now these officers left the country and served the Khédive under a contract in the same manner that General Field did. They all signed the same contract and agreed to render the same service.

Mr. BUTLER. Now, Mr. Speaker, I am always glad to hear from the learned gentleman from Virginia, because he always speaks to the point.

Mr. HUNTON. I beg leave to say another thing before the gentleman resumes, and I do so with his permission—

Mr. BUTLER. What is it, a letter?

Mr. HUNTON. No, sir; I desire to state another fact.

Mr. BUTLER. All right; go on.

Mr. HUNTON. Mr. Speaker, in the contract entered into between these officers and the Khédive, as I am informed, they contracted to serve the Khédive in any wars against his enemies, and unless there should come a complication with the United States of America, in which case they were to be relieved.

Mr. BUTLER. Now, Mr. Speaker, I will address myself to that. Four gentlemen, it is said, one a surgeon, took a contract to serve the Khédive temporarily and got leave from their government to go and do it for one year, they being young and subordinate officers, an assistant surgeon and lieutenants. And they made a contract that they would not serve against the United States. Now, then, I distinguish Mr. Field's case in two regards: first, did he ask leave of the President of the United States to go out and expatriate himself and serve under the Khédive of Egypt? There is no evidence of that.

Secondly, did he get leave? Was he a citizen of the United States at the time he left four years ago? No. My friend from Virginia says it did not violate his allegiance to go out there. No, I know it did not—he did not then have any allegiance to his country. [Laughter.] He had broken it. He had forfeited it. He had forfeited all rights and all claims upon it; and his country had disabled him from all his political rights as a citizen. He went there years ago to serve indefinitely. He did not ask leave to serve for one year, but he took leave to serve, and he did serve in a high office just as long as he chose, or just as long as the Khédive chose to have him.

Now, where is Mr. Field's contract, to show whether he became the Khédive's officer and subject or not? These young men's contracts are good apparently and very proper, but where is Field's contract? He has a copy of it. It was not so heavy, surely, it could not be brought up Capitol Hill. [Laughter and applause.] Why bring up these young men's contract when Fields will not show up? They are not before us. When they are I should like to ask them some questions. But they are not here. The case of this gentleman is brought here by the other side—is here. Where is his contract? [Laughter.]

I ask the members of the democratic party in closing not to do this thing. We are a little sore yet, some of us, up North. There are a great many green graves dotted all over our villages, the waving grass hardly grown over them yet; we are going to decorate them with flowers and offerings on the 30th of next May, these graves of men who fought and died to save the Union. Do not send the sorrowing widows and weeping orphans to their fathers' and husbands' graves bowed down with the thought their dear ones' veteran comrade is so soon by the Representatives of their Government put behind one who led the armies of the rebellion in the battles of which their loved and mourned ones were slain, husbands and fathers all now sleeping in quiet graves. Do not press us so fast. We will get perhaps educated and conciliated up to it pretty soon. We may go a little slowly at first. Be a little tender with us as yet. Do not hurry us so. We are sad at our great losses. We may learn by and by, perhaps, how to moan in music and to shriek in melody, but we have not reached quite that perfection yet. Let me tell you, men of the South—and I speak now in all friendliness and kindness, and I have never attempted to excite hard feeling on this floor upon these questions—I tell you, men of the North, that this action is a small matter; it is typical; it represents an idea; it establishes a principle; it crushes a sentiment. The first gun fired at Sumter. It did no harm to the fort, but it raised up a feeling which almost destroyed your country and the effects of which you are feeling yet. Let me say this to you, men of Pennsylvania—that State so true, so staunch to the flag in times of trouble—let me say to you that this will light up among the hill-tops of that glorious old State and among her loyal people a bright and burning flame of loyalty, which, like the fiery cross of Rhoderick Dhu, will flash from hill-top to hill-top until you shall see the tribes of true men gathering as in '61. This will not be a great while a political question.

The men of the North will march again before they will see their dead dishonored and sterling veterans spurned.

I pray you now, in all sincerity, in a spirit of all friendliness, do not do this thing. You have shown by the election of the Postmaster in the regular course of business you have chosen to give a recognition to the confederates, and we bore that too, because in that matter you were organizing your House in your own way. Now, by visitation of God, (if the vote of the House the other day can be called that,) you have cut down a Doorkeeper, and here is brought forward for his place a veteran maimed Union soldier whom you may honor. If you do not like to honor him for what he did in the war of the rebellion, you may honor him for that glorious charge which he made at Cerro Gordo. If you do not want to stand by him because of the wound he received from Stonewall Jackson's brigade, you may stand by him because of the copper bullet he received though his lungs from the Mexicans.

Do not strike him down again; show that you prefer courage and brave conduct when shown on the battle-field in behalf of patriotism, loyalty to the flag, to the Government, rather than the same traits devoted to treason and rebellion.

When such a man, so true, so brave, so loyal, is presented to you, do not attempt to strike him down, to elevate one who sought to destroy his country.

Mr. EDEN. Will the gentleman allow me to ask him a question?

Mr. BUTLER. Certainly.

Mr. EDEN. Did the gentleman from Massachusetts make any complaint against President Grant for the appointment of General Longstreet to an important office?

Mr. BUTLER. I will answer the gentleman. I made no objection to the appointment of General Longstreet; and I do not know that there was any one-armed Union soldier who was seeking for the office given him at the same time.

Mr. EDEN. Does not the gentleman from Massachusetts know that General Shields is not seeking for this office now?

Mr. BUTLER. Pardon me, I thank God he is not. But let me say further, General Longstreet had long before repented of the part he took in the rebellion. [Laughter on the democratic side.]

Mr. EDEN. His repentance consisted, I suppose, in his joining your party. If a confederate general joins your party he is fit for office; but so long as he remains a democrat he is unfit.

Mr. BUTLER. Pardon me again, I never knew General Longstreet had joined our party. I do not care whether he did or not. But he not only repented, but he gave works meet for repentance. More than that, I think I have lived too long—my friend from New York said the other day I was growing old—I have lived too long when I have lived to hear in the House of Representatives of the Congress of the United States the fact that a man repented of treason to his Government sneered at and with derisive laughter.

Mr. CLYMER. Will the gentleman yield to me for a few moments?

Mr. BUTLER. Yes, sir; for how long?

Mr. CLYMER. For five or ten minutes.

Mr. BUTLER. Very well.

Mr. CLYMER. The important business before this House is the election of a Doorkeeper to fulfill the responsible and arduous duties connected with that office. Our experience in the past has not been fortunate, and we are here to-day about to endeavor, in the person of some one, to repair past mistakes.

The gentleman from Massachusetts would have us, the majority on this floor, elect a person of his choosing. I will join him in doing all honor to the man who served with high distinction in two wars, who was a Senator from two States, and who in every relation of life has performed his duties admirably and well. But, sir, we do need in the officer about to be elected personal ability to perform the duties of the place. And let me ask the gentleman from Massachusetts when he speaks here of the pension to be granted to General Shields, whether he knows the fact that within the last five weeks, when that question was before the Senate Committee on Pensions, it was increased from \$30 to \$50 per month upon the ground, in proof before that committee, that General Shields was not only so personally disabled that he could not earn a livelihood for himself, but that in addition he required the services of some one to take care of him. Does he not know that that was the very ground upon which the pension was increased from \$30 to \$50?

Now, sir, I say to the gentleman from Massachusetts that when that bill which is now upon our Calendar shall come up I will join with him in granting the request of General Shields to make the pension \$100 per month. And, sir, I will go further. I will, if the gentleman from Massachusetts will join me, vote for a bill to place him on the retired list of the Army of the United States, which will give him over \$3,000 a year for life. And, sir, I will go further still, and I will vote to pay him for the services which he would have rendered in that Congress from which he was ejected, although elected by a majority of over 3,000 votes, by the republican party, headed by the gentleman from Massachusetts. [Applause.]

But, sir, I wish to say to the gentleman from Massachusetts that I do not propose as a member of the majority on this floor to allow the minority to dictate to us who shall be our officers. I wish also to ask the gentleman when in his past history or in the past history of the party to which he belongs has he honored a soldier when that soldier was a democrat? Did not he and those who follow him drive McClellan in shame and disgrace from the Army? Did they not send Hancock into exile? When all along the whole line of brave men who suffered for the Union cause have you ever honored them or given them place and position if they were democrats? Never in all your history; and neither would you now if you did not conceive that at this hour you could drive a wedge into the democracy and rend it in pieces. But, Mr. Speaker, we are neither to be controlled nor frightened. And when the gentleman appeals to me or to others from the State of Pennsylvania I tell him that the red flag which he attempts to flaunt here in our eyes to-day has no terror for me or for the people I represent. With them, sir, the war is ended. To them peace has come, and that people cannot be driven from their love of peace and the enjoyment of its blessings by any agitator such as the gentleman from Massachusetts has proven himself to be in this hour on this floor.

Now, Mr. Speaker, we are here to elect a proper person for Doorkeeper of this House. We will not elect one who is utterly and totally unable by reason of political disability to perform its duties, but we will elect one, if our party is united, as I confidently believe it will be, who is capable, who is honest, and who will be faithful to the high trust which this House shall impose upon him, undeterred by the threats of the gentleman from Massachusetts or those with whom he acts.

Mr. BUTLER. As to General Shields's ability to fill the place, I send to the Clerk's desk and ask to have read a copy of his petition which is on file in one of the committees of this House, and upon which he asks a pension, a petition written by his own hand every word of it.

The Clerk read as follows:

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The petition of James Shields, of Carroll County, State of Missouri, sheweth: That your petitioner was formerly a brigadier-general United States Army, and served as such in the Mexican war; that, at the battle of Cerro Gordo, Mexico, on the 18th day of April, 1847, while leading his brigade against the reserve of the Mexican army, under the immediate control of General Santa Anna in person, he was shot down in front of a Mexican battery of five guns by a large grape-shot, supposed to be a copper ball, passing through his body. The ball entered his right side, just under the nipple, and passed out on the same side about an inch from his spine behind. From this wound he recovered sufficiently to enter the valley of Mexico at the head of his brigade, with the rest of the Army, and with this wound partially healed, but still open, he led his brigade through the battles of Contreras

and Churnbuse, and was again severely wounded in the left arm by a musket-ball at the storming of Chapultepec. As he continued to press forward to the City of Mexico, neglecting his wound until the city was taken, his arm began to mortify, and he came near losing his life in consequence. For those two wounds he was allowed a pension of \$30 a month after he withdrew from public life. He was placed in the field again in the last war, and received another wound, in 1863, at the battle of Winchester, in Virginia, a fragment of a shell having shattered his arm from the elbow to the shoulder. As he is now sixty-seven years of age, these several severe wounds are telling terribly upon his health, strength, and constitution. This induced him to apply to the bureau for an increase of pension, for having a family and his private means being limited he found that \$30 a month were inadequate to his support. The bureau refused to allow the increase on the ground that he is not totally helpless, though he is helpless to labor or to earn a livelihood either for himself or his family by labor. He is not totally helpless. On the contrary, he does everything he can to help himself, and will continue doing so as long as he lives, and he receives what he needs, the personal assistance of kind friends wherever he goes. But age is making him more helpless every day, and as his years cannot be many now, he appeals hopefully and respectfully to the liberality of the American Congress for such an increase of pension as will save him from want in his old age.

JAS. SHIELDS,
Ex-Brigadier-General, United States Army.

Mr. BUTLER. Mr. Speaker, there is the old man's story, and there is no evidence to overthrow it on earth. He says that while he is totally helpless to earn his living by his hands, he is still able to earn a large part of it for himself and family, having but \$30 a month pension from the Government, and that he receives the assistance of friends. He is now lecturing in New England acceptably to our audiences, as neither of the three last Doorkeepers could have done. [Laughter.] He is not expected to stand guard here and hold the door. We have one-armed men—no, I take that back—we had one-armed men here, and a man without hands opening the doors and performing the active duties of doorkeeper. The question we have to consider is, is he honest? One good and honest man, as certified to by both the majority and the minority of the Committee on Reform in the Civil Service, your last Doorkeeper, you incontinently turned out. [Laughter.]

The office demands capacity of affairs, brains, and executive ability, and all that General Shields has. Those of you who met him in the field know that.

Now, then, let me turn to another matter. Much has been said against the republican Congress because we did not give him a seat in this House. I hold in my hand the record in the case of the contested election to which General Shields was a party, and as I have but little time, I will state it rather than read it. A report was made by the majority and minority of the Committee of Elections to that Congress, and it was only claimed that there was a majority of 663 votes for General Shields, not thousands. Mr. Burr, who advocated General Shields's claim on the other side of the House, admitted this. It was alleged by the republican member contesting his seat that there were frauds in the voting although Mr. Shields had nothing to do with them. The committee reported he was not therefore entitled to the seat. So satisfied were the democratic party of that day with that report, that although the now Speaker of the House, then on the floor, took charge of how the vote should be put, there was no division even called, not even a stand-up vote on the question whether General Shields was entitled to his seat, but only upon the last resolution, and that was that James Shields, the contestant, should be paid \$5,000 for his time and expenses of the contest, and upon that question I voted "ay." And in a House that was republican by two-thirds majority the resolution passed by a two-third vote.

Mr. FINLEY. Will the gentleman allow me to ask him a question?

Mr. BUTLER. Yes, if you will be very quick.

Mr. FINLEY. Does not the RECORD show that a yea and nay vote was taken upon the question whether Shields was entitled to his seat, and did not the gentleman vote "no?"

Mr. BUTLER. No, sir.

Mr. FINLEY. The gentleman has the RECORD before him. If he will turn to it he will find that that is the case.

Mr. BUTLER. I am certain I am right. I will refer to it later on if I have the time. I have another thing to say. I should have voted "no" on his title to his seat if I had been called upon to vote. Let there be no mistake about that. I did not have a chance to vote. Now, then, I will yield the balance of my time to the gentleman from Maine. [Mr. FRYE.]

Mr. FRYE. Mr. Speaker, it is not so necessary that I should occupy the floor as it was before the last few remarks made by the gentleman from Massachusetts. The gentleman from New York [Mr. COX] attacked the gentleman from Massachusetts on Friday, and charged that a republican House had rejected General Shields, although he had received a large democratic majority in Missouri. The gentleman from Massachusetts did not then seem to be prepared with a reply. Now I have examined that matter in order to find what the reply was, and I desire to say that the republican side of this House was entirely and completely justified in the course which it took at that time, and if they had taken any other course they would have stultified themselves and violated the law of the land.

I find that in the State of Missouri when that election took place there was a constitution in force which provided that no man who had engaged in the confederate army, or in any possible way given aid, counsel, or encouragement to those in arms against the Government, should be entitled to registry as a voter. I cite the provision of the constitution on that subject:

At any election held by the people under this constitution, or in pursuance of

any law in this State, or under any ordinance, or by law of any municipal corporation, no person shall be deemed a qualified voter who has ever been in armed hostility to the United States, or to the lawful authorities thereof, or to the government of this State, or has ever given aid, comfort, countenance, or support to persons engaged in any such hostility, or has ever in any manner adhered to the enemies, foreign or domestic, of the United States, either by contributing to them or by unlawfully sending within their lines money, goods, letters, or information, or has ever disloyally held communication with such enemies, or has ever by act or word manifested his adherence to the cause of such enemies, or his desire for their triumph over the arms of the United States, or his sympathy with those engaged in exciting or carrying on rebellion against the United States; or has ever, except under overpowering compulsion, submitted to the authority or been in the service of the so-called "Confederate States of America," or has ever left this State and gone within the lines of the armies of the so-called "Confederate States of America" with the purpose of adhering to said States or armies, or has ever been a member of or connected with any order, society, or organization inimical to the Government of the United States or to the government of this State; or has ever been engaged in guerrilla warfare against loyal inhabitants of the United States, or in that description of marauding commonly known as "bushwhacking," or has ever knowingly and willingly harbored, aided, or countenanced any person so engaged.

I find that General Shields was nominated by the democrats in a district in the State of Missouri where the democratic party, under the constitution then in force, were in an utterly helpless minority; and they knew it.

Mr. CRITTENDEN. Will the gentleman allow me to make a statement right here?

Mr. FRYE. No, sir; I have but five minutes.

Mr. CRITTENDEN. This side of the House will give you as much time as you desire, if you will give me two minutes.

Mr. FRYE. I decline to yield.

The SPEAKER. How much time did the gentleman from Massachusetts allow to the gentleman from Maine?

Mr. BUTLER. Five minutes.

Mr. CRITTENDEN. I ask only two minutes.

Mr. FRYE. I do not yield.

Mr. CRITTENDEN. I venture to say that members on this side will grant the gentleman an extension.

The SPEAKER. Does the gentleman from Maine yield?

Mr. FRYE. No, sir; I decline.

The democratic party nominated General Shields, then a Union general, when they were in a helpless minority and when they knew that they were. I find that in the report on the election contest as determined in this House, a report in which all the republican members of the committee joined, the following conclusions were reached:

The committee think the evidence establishes that the appointment of Payne, Dowd, and Monroe, by whom the registration in Jackson County was made, was the result of a corrupt arrangement made by Phelan with Charles Dougherty, the democratic candidate for sheriff in Jackson County, and his political friends, and that one, at least, of the persons so appointed, and who seems to have been one of the most active and influential members of the board of registration of the county, Milton J. Payne, was a party to that corrupt arrangement. The board thus appointed seem to have acted throughout in disregard of the first and most important duty imposed upon them by the law. The language of the law is, "They shall, before entering the name of any person on the registry of qualified voters, diligently inquire and ascertain that he has not done any of the acts specified in the constitution as causes of disqualification."

The evidence seems to establish conclusively that all that was required in order that a person's name should be put upon the list of qualified voters was that he should take the oath of loyalty found in the sixth section of the second article of the constitution of Missouri.

The result of this registration was that 5,186 were registered as qualified voters in 1868, while only 2,284 were so registered at the prior registration in 1860, and only 2,967 at the subsequent registration made in 1869.

Charles F. Quest swears that fifty-six of the persons so registered by this board as qualified voters were disfranchised for cause in 1860 by the board of which he was a member. He further testifies that Phelan told him that there were not over a dozen legal voters at the most in Fort Osage township; yet that township was so registered that 183 qualified voters were returned as cast at the election of November 3, 1868, of which 174 were cast for the contestant, and only 9 for the sitting member. A. L. H. Crenshaw, who was one of the judges of the election at Blue Springs in Suibar township at the election in November, 1868, testifies that six persons were registered as qualified voters in that township who were "bushwhackers" in the late rebellion; that seven others were so registered who were in the southern army, as they themselves had informed him, and that twenty-five others were so registered in the same township who were open sympathizers with the rebellion, and three of whom were known to him to have been in the rebel army.

Jacob S. Boreman testifies that he was present at the meeting of the board of review, and that sixty names attached to the copy of the oath of loyalty, said to have been received by mail, were entered upon the qualified list without any proof of residence or loyalty, or other matter outside of the oath of loyalty, and not more than a half dozen of whom were known to any member of the board, as stated by them at the time.

The evidence seemed thus to establish conclusively that all that was required in order for a person's name to be put upon the list of qualified voters was that he should take the oath of loyalty; that in Jackson County 5,168 persons were registered as qualified voters in 1868 when this election was held, while only 2,284 were registered at the prior election in the same district, and 2,967 at the next election following. So that, as shown by the registration, there was a cheat and a fraud of some thousands by admitting to registration democratic voters who had no right under the constitution to vote. I find that in a single parish 183 men were registered where there were not a dozen voters authorized to vote under the constitution. The case was the same in parish after parish, precinct after precinct. The committee wisely and justly concluded that the republican candidate, on the legal votes cast, had a large majority.

I find further from history that when these restrictions in the constitution of Missouri were removed and the democratic party was put into an overwhelming majority, this same district did not love the gallant Union soldier, General Shields, enough to renominate him;

but they did nominate a man who could not have voted as a citizen of that State under the constitution in force in 1868.

Mr. BUTLER. I now call the previous question.

Mr. CRITTENDEN. I ask the gentleman to yield to me for five minutes.

The SPEAKER. Does the gentleman from Massachusetts yield?

Mr. BUTLER. Yes, sir, if I have five minutes.

The SPEAKER. The gentleman has more than five minutes remaining.

Mr. BUTLER. I yield five minutes to the gentleman from Missouri.

Mr. CRITTENDEN. Mr. Speaker, I was a resident of Missouri immediately after the war and was cognizant of the facts which transpired at the time of which the gentleman from Maine [Mr. FRYE] has spoken. I will state that under the Drake constitution there were but few men in the State who were permitted to vote. That constitution was gotten up for the purpose of disfranchising not only those who had been in the rebel army but those who had sympathized with those who had gone off—as if men could control their sympathies. Not only this; that constitution was gotten up to disfranchise men like myself, who were democrats during the war and after the war. Under that constitution they undertook to disfranchise me, to prevent me from voting, although I had followed the flag of the Union through three long and bloody years of the war. Although they did defeat General Shields by the action of those infamous registrars, who had their birth under that constitution, they did it in secret; they did it at night when honest men were asleep; they did it by striking from the list of voters men who were authorized even under that infamous constitution to vote. Thus Van Horn was seated as a member of this House, not by the votes of the people, but by the infamous acts of an infamous set of registrars, whose acts were conceived in wickedness and born in iniquity. That is the way General Shields was beaten—beaten by the iniquities of the republican party at a time when his mouth was closed in this House and he was not permitted to say a word in defense of himself. Such was, such is republicanism.

That constitution, with its disfranchising clauses and its inquisitorial oaths, striking alike at the democratic party and the Catholic Church, has long since passed into nothingness and been overthrown by the people of Missouri. Had General Shields's votes not been tampered with, not been discarded by the registrars at midnight, at the time when evil deeds are executed, he would have received his certificate and been seated, as he should have been. But, sir, his offense to republicanism was that he was a democrat, and that party then spurned him, and drove that gallant old man from this House, charged with fraud and branded as a fraud. His crime was democracy then, and it is too late now for these same gentlemen to pretend that they are his friends by voting for him for Doorkeeper of this House. Such an act adds insult to past injuries. They vote for him to-day, not because they love him, but because they hope to use him as an instrument to defeat his own party. It will not do, gentlemen; the trick is too apparent. Had you the majority in this House, you would see him doubly damned before you would vote for him.

Never do good that evil may come from it. General Shields is loved in Missouri—yea, over the whole country. He is a man of ability, honesty, and great worth. If here, he would never permit his name to be used with such an intent and for such a purpose as to defeat his old party. You mistake him, gentlemen, greatly, and you are now disporting idly with his honor. He is a democrat of too stern a stuff to be caught by such trifles. Lift your visions to other days, and you will have his standard. He was a Senator twice in character; he is a Senator yet, and will ever be.

It is true that General Shields was beaten in a democratic convention, as charged by the gentleman from Maine, for Congress; but the honorable member now in Congress from the district of Missouri, [Mr. CLARK,] the successful gentleman, was not a candidate before the convention. After a long contest between General Shields and others, the convention, in a spirit of reconciliation, took up the present member from that district and nominated him, doing honor alike to the State and to the district. General Shields was supported in that convention by confederates, and they clung to him with a wonderful tenacity. The brave always love the brave, wherever found, upon the one side or the other, and they despise the cowards who skulked during the war and since its close have bravely come forth to wage a war of words and kindle up flames of political and civil contention around our own fireside.

Mr. BRAGG. I ask the gentleman from Massachusetts to yield to me.

Mr. BUTLER. I will yield to the gentleman for three minutes.

Mr. BRAGG. Three minutes is all I desire.

Mr. BUTLER. Very well.

Mr. BRAGG. Mr. Speaker, I do not desire to be second to the gentleman from Massachusetts in signifying my love and respect and reverence for the distinguished and gallant Union soldier whose name he has introduced into this House for the nomination of the minor office of Doorkeeper. I have always loved and respected General Shields, not only for his service in the Army, but for his service as a statesman, the representative in the Senate of the United States of two States.

And I am glad to see the other side at this late day signifying they are returning to their senses so that they are willing now to recognize his virtues. But I learned, sir, in my boyhood *timeo Danaos et*

dona ferentes; and I doubt very much, Mr. Speaker, whether this be really for the benefit of General Shields or whether it is not merely for the purpose of a little political claptrap. [Laughter and applause.] For the purpose of testing the sense of the other side and the interest of the gentleman from Massachusetts in the testimony he bears to General Shields and his virtues, I now signify my purpose here to do him justice, not by making him Doorkeeper of the House, and placing him in a menial position as the representative either of the democratic or republican party, but (and I ask the gentleman from Massachusetts to yield to me for the purpose) to offer a joint resolution as a substitute for his to-day, and I ask it be passed here by the House, not as northern and southern men, but as Union men, loving and respecting a man who has as fine a record as any one in the United States. [Applause.]

Mr. BUTLER. I cannot yield for a substitute except on the subject of Doorkeeper.

Mr. BRAGG. I ask to have my joint resolution read as a part of my remarks.

The SPEAKER. The joint resolution will be read by the Clerk as a part of the gentleman's remarks.

The Clerk read as follows:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That James Shields, late brigadier-general of volunteers, be, and he is hereby, placed on the retired list of officers of the United States Army, with the rank and pay of a brigadier-general on the retired list.

[Applause and clapping of hands.]

Mr. BUTLER. I now take the floor.

The SPEAKER. The time of the gentleman from Wisconsin has expired.

Mr. BRAGG. Does the gentleman from Massachusetts permit my substitute to be offered?

Mr. BUTLER. Oh, no!

Mr. BRAGG. I thought when the test was applied he would not.

Mr. BUTLER. I resume the floor now.

The SPEAKER. The gentleman from Massachusetts declines to allow the amendment to be offered.

Mr. BUTLER. I decline to be interrupted. Now, when a man gets up and talks about claptrap and introduces such a resolution as that—[laughter and applause.]

Mr. BRAGG rose.

Mr. BUTLER. Out of the abundance of the heart the mouth speaketh. [Laughter and applause.] Even the last Doorkeeper knew that amendment was not in order. [Laughter.] We are electing a Doorkeeper now, and when we have finished that and come to the other proposition in order, when you wake up to your duty to Union soldiers, I will vote for that resolution; but you cannot put it in now. You cannot put it in here now to save a confederate general. [Laughter.] No confederate general ever could ride into office on old General Shields's back, and he never shall by my vote. [Laughter and applause.] Now, as my time is up, I demand the previous question.

The SPEAKER. The gentleman's time has expired.

Mr. CLYMER. Do not second the demand for the previous question.

Mr. BUTLER. Well, debate it all day if you want to. I am good for three weeks. [Laughter.]

Mr. CLYMER. We will see.

The House divided; and there were—ayes 105, noes 111.

Mr. CONGER demanded tellers.

Tellers were ordered; and Mr. BUTLER and Mr. CLYMER were appointed.

The House again divided; and there were—ayes 110, noes 120.

So the House refused to second the demand for the previous question.

Mr. CLYMER took the floor. I yield now to the gentleman from New York, Mr. COX.

Mr. COX, of New York. I do not propose to detain the House for more than five minutes.

Mr. Speaker, from what fell from the distinguished gentleman from Massachusetts, [Mr. BUTLER,] who honors me now with his proximity, I judge that I must have made some remark the other day which may have wounded his feelings. It was about his growing old. None of us are exempt from the lapse of time. I sincerely regret having said anything to wound the feelings of the gentleman, especially in that regard. As we grow older we need to cultivate more toleration. In all our affairs, in all our legislative business especially, and conspicuously in all our governmental functions, if we would unite and elevate our patriotism, we should learn the blessed lessons of fraternity. Let the dead past bury its dead.

It was in this spirit that I offered an amendment to a resolution in the first session of the Forty-fourth Congress. On the 14th December, 1875, the gentleman from Illinois, my eminent friend, [Mr. FORT,] had offered the following resolution:

That in all subordinate appointments under any of the officers of this House it is the judgment of this House that wounded Union soldiers who are not disabled from performance of duty should be preferred.

To that I offered the following amendment:

Resolved, That, inasmuch as the Union of the States has been restored, all the citizens thereof are entitled to consideration in all appointments to office under this Government.

That resolution passed this House by 168 yeas to 102 nays. Many

straightforward and liberal gentlemen on the other side voted for my proposition. I propose to do again as I have endeavored to do in my votes and voice here, to stand on that proposition. The war is over. We have scarcely the ashes of it left. Why should not all the States and all the citizens thereof have an equal chance to the honors and emoluments of public service under our common Government? Are we never to have that peace which comes of concordant hearts—the peace that with some passeth understanding? Are we forever, sir, by debate and wrangle, to keep open the old wounds of the war? Are they forever to be kept green and bleeding? Or shall we not pour oil of healing and benefaction into the wounds? Why, why, since our destiny is one and inseparable, why may we not come together in a spirit of fraternity, the gray along with the blue, rejoicing with pride, a common sentiment: *idem sententia de republica*. Why is it, that at this year, this year of so many since the war was flagrant, that we must have these bitter and most unnecessary contests so often renewed and renewed in this House where all sit together from every section, having common duties?

We have only copied, in choosing certain confederates for office here, the practices of your republican administrations. You, on that side, have chosen men of distinction from the confederate army. In a former republican administration you had an Attorney-General; and you have had other distinguished men from the South in office. Your administration under Grant as well as your administration under Hayes appointed confederate officers. Every day men of these antecedents, but of present patriotism, are being appointed to places of trust and eminence. If you have business to transact with the Postmaster-General you have to do it with an ex-brigadier-general in the confederate service. Are we to be reproached when we select for Doorkeeper a gentleman of similar biography?

All that can be asked of a candidate for office is this: does he now stand before the country as having a common sentiment with us concerning the Republic? Need we go further than that as to the qualifications for office in this regard, either within or without this House? If we do, then our professions of conciliation and mutual regard are as empty as the wind and as fruitless of results, save results of disaster.

But, sir, the gentleman from Massachusetts seemed at first to come here to-day, as I supposed, with a general power of attorney from General Shields to present his name for this appointment. When he sent the letter of the veteran general to the Clerk's desk to be read, I supposed of course that it was a letter acquiescing in the nomination, or may be that he was anxious or willing to take the office from the House of Representatives as the Doorkeeper. But the letter had no such import. It was simply a request for the increase of his pension; and to-day when the gentleman from Wisconsin [Mr. BRAGG] proposes that we shall ignore this reproach of making this ex-United States Senator and ex-general of two wars a mere Doorkeeper, and give to his name intrinsic and proper splendor in the line of his military history, and that, too, by doing the very thing which General Shields requested of the gentleman from Massachusetts, is it to be put down as "claptrap"? Is the request to be refused as a substitute for the resolution because not germane in an orderly point of view? Let us at once to-day, when we can suspend the rules by a two-third vote, honor this distinguished general by giving him his old position in the Army, honored on the retired list of our generals. This will be indeed an honor and a reward. It may not be adequate to his services and his merits, but it will be much nearer it than the position of custodian of our doors. Will not that content the gentleman from Massachusetts? Will not that fill his letter and power of attorney? What more can he ask than that? If he is not bent on mere partisan and political objects, should he not be entirely satisfied with this House giving that kind of pecuniary aid which gives no tarnish to his epaulettes or service, and which General Shields in such a manly way himself requested?

It was said in the debate the other day I was not exactly fair in attributing to that side of the House the repulsion of General Shields from the House when he came here as a member-elect to Congress from the State of Missouri. And the gentleman from Maine [Mr. FRYE] goes back to the old report and brings it out to parade it—what for? To show that General Shields came here as a fraud? That he was elected by a fraud? There is no other meaning attributable to his remark. After all your attempt to honor this statesman and soldier you are compelled to say this day you drove him from the House because of fraud.

Mr. BUTLER. Not his fraud.

Mr. COX, of New York. Ah! Not his fraud. But he came here with a credential based on fraud—so it is stated—and my friend from Massachusetts voted to give him \$5,000; for what? For a fraudulent case? For no case at all except one based on fraud. Coupling the remarks of the gentleman from Maine with those of the gentleman from Massachusetts this is the dilemma. You paid him for a fraudulent case—paid him \$5,000. I never consent here to pay the contestant in such cases. It is not the rule, and it is not the right.

Is it not a general rule of right and practice in this House when a tainted case comes here that we do not pay the contestant? What was this \$5,000 for? I voted with the honorable gentleman from Massachusetts to give this \$5,000 to General Shields after he was repelled by the republican majority. We all voted for it except some 63 republicans, who would give him nothing; but 108 voted to give

him his \$5,000 in a case based, as the gentleman from Maine [Mr. FRYE] says, on fraud. If my friend will look at that list of 108 he will find that all the democrats voted that way except one, Mr. Benjamin, of Missouri.

Mr. FRANKLIN. He was a republican.

Mr. COX, of New York. Then all the democratic members voted for it, and carried it with the aid of a number of generous gentlemen on the other side of the House. You turned General Shields out of the House on the ground that his election was fraudulent, and then gave him a little *douceur* of \$5,000 to save his feelings—did you? Oh, Mr. Speaker, as we pursue this matter it becomes too evanescent; it is too attenuated as you approach with analysis.

One thing in conclusion: this democratic House has not been unfair to Union soldiers. How is the House now organized? We have a northern man for Speaker, we have a Union soldier from Kentucky as Clerk, we have a gentleman from Ohio, north of the Ohio, who was and is a Union man, as Sergeant-at-Arms. The confederates, so called, on this side of the House are about equal to the Union men on this side in numbers, and yet they only have—how many leading officers? The Postmaster and the Doorkeeper. Are we then aggrandizing power in behalf of the "confederacy"? Are we discriminating in favor of the southern section? Why all these complaints from the gentleman from Maine that we have not acted fairly? Could we have done otherwise, sitting here as we do representing the unity of the country and the majority of the people? Could we while representing a large majority, if properly counted, at least 2,000,000 in advance of the other side, have done less without injustice? The country is bound together once more in amity. Kindness and conciliation should knit it more closely with each revolving year. I trust we are one—one, never to be severed again, as I trust in God, the blue and gray hereafter, to decorate the graves of their dead in gentle unison and saddening though harmonious memories of equal prowess; and in such a condition of patriotic felicity why are we reproached because we see fit to choose a man for the office of Doorkeeper who is peculiarly fitted for the place; and why should he be voted down because he fought upon the other side during our terrible struggle for the preservation of the Government—a struggle whose perils he shared so gallantly, but a struggle whose animosities all good men should desire to be buried beneath the waves of oblivion forever.

Mr. CLYMER. I now yield ten minutes to the gentleman from Maine, [Mr. HALE.]

Mr. HALE. I do not wonder that gentlemen on the other side of the House hesitate to vote on this question. It is not surprising that points of order are made and the previous question voted down, because the democratic party is confronted with a question which shows its bias. The tracks of that party are all one way; they are in a direction upon which the country is profoundly alarmed, the domination in it of the old confederate element. The gentleman from New York [Mr. COX] asks us why the dead past is not allowed to bury its dead, and the answer is that as fast as he and his associates gain power and have patronage to dispose of they will not let the dead past rest, but that whenever any act can be done that is offensive to the loyal sentiment of the North in the disposition of patronage it is done.

It was for this that in the last Congress the Committee of Ways and Means took for its clerk Mr. Hambleton, a man who had named his child after the assassin of President Lincoln; it was because of this that the party chose the ex-sergeant-at-arms of the confederate house of representatives as Doorkeeper of the Forty-fourth Congress, and had to get rid of him at last because he was incompetent; it was because of this that this winter a southern man was taken as Doorkeeper, and when he failed, as his letter in the *Post* shows to-day, to do the behests of the leaders of his party, he was turned out, and when that party went into caucus again, if the report of the newspapers is correct, they were confronted with the nomination of a Union soldier, General Shields, who had been wounded in the Mexican war, and whom we now support upon this side of the House in opposition to a confederate soldier.

Mr. SOUTHARD and Mr. FRANKLIN rose.

Mr. HALE. I cannot yield to the gentlemen. They may reply if they choose when I am through.

General Shields was an equally good democrat (nobody having ever shown any aberration from party fealty on his part) with the gentleman who was nominated. He was equally a southern man residing in Missouri, where the late Doorkeeper came from. He was true in every respect to his party and was as good a man as General Field. But he was overslaughed by a vote of 5 to 1, and the democracy chose to nominate a man whose record as given before me from a democratic paper is that, educated at the expense of the Government at West Point, an officer in the United States Army when the rebellion broke out, being then of mature age, not urged by the excitement and effervescence of youth, (for he was then a captain in the Union Army,) he broke the bonds of loyalty and went into the rebellion, carrying to that cause the advantages that he had gained by being educated at the expense of the country. He fought continuously through the war and gained rank and recognition upon the side of the confederacy, all of which is appreciated by the democracy. At the end of the war, failing in business, he expatriated himself and went to a foreign clime, and transferred to a foreign potentate whatever of ability and education this country had given him. But for

some reason, on the accession of the democratic party to power he returns here; and the only piece of patronage that the party has in its present control is given to him rather than to the gentleman from Missouri who was a Union soldier, who bears upon his body wounds received in the service of his country, and who is to-day presented on this side of the House. His competitor has only asked for and received amnesty within the last few months. Is not this hot haste?

Now, Mr. Speaker, I do not expect—no man on this side expects—the gentleman from Massachusetts [Mr. BUTLER] who nominated General Shields does not expect—that if he shall be elected by the votes of this side and a minority of the democratic party he will ever be anything but a democrat. There is no man on this side who expects in the way of patronage the pittance of a pageship or a messengership or a folder. We expect that his patronage will be distributed in the interest of the democratic party, for General Shields has nothing to recommend him on this side but his ability and his loyalty and his services during the war.

But, Mr. Speaker, as surely as tides and sunrise come the party upon the other side must take this cup to their lips, must decide whether or not there are any influences in their party that permit, in fair competition, a Union soldier, who is a democrat, who lives in the South, to gain a place of this kind as against a confederate, who deserted the flag, who went back upon his military *alma mater*, who went into the service of the rebellion, and whose only record and only strength with the democratic party is because of that fact. This issue cannot and shall not be blinked. It is a thing that that party is responsible for, and it must take the responsibility.

Mr. BLACKBURN. Before the gentleman from Maine takes his seat will he allow me to suggest to him that the very contest which he describes was settled by this House when a confederate from Alabama was beaten for a more important position than the Doorkeeper's office by as gallant a Union soldier as wore the uniform of your Government, beaten in the contest for Clerkship, which was decided, not by the assistance of republican votes, but in a democratic caucus. A majority of the democrats on this floor, although in sympathy with the defeated candidate, gave the position to the Union man.

Mr. HALE. Allow me to suggest to the gentleman that before any other interruptions or any further speech-making on his part, he should get over an apparently inveterate habit which I notice on the other side in referring to the Government of the United States when addressing this side of the House, as "your Government." [Laughter and applause.] It is a matter which I am free to say is somewhat offensive to me. I do not like such distinctions. I wish that the gentleman himself could allow the "dead past to bury its dead" sufficiently to make him willing now to call it "our Government," as we do on this side. [Applause.]

Mr. BLACKBURN. Mr. Speaker, if the gentleman from Maine had listened to my sentence he would have found that when I spoke of "your Government," I referred to a time when this was not "my Government." I was fighting against it. I said that the man who succeeded in that democratic caucus in obtaining the Clerkship of this House had been a gallant supporter of his Government at the time that his competitor was as gallant a supporter of my government. I was referring to that period of four years of war when I drew the distinction; I was not referring to the present time. But even if I were to indulge in such an expression now it would hardly create wonderment in this House, for from the way the gentleman from Maine is accustomed to disport himself here, modesty might well assume that the Government was in his individual and exclusive keeping. [Laughter and applause.]

While on the floor I wish to add a word in answer to a suggestion of the gentleman. I deny that I or any man belonging to the element with which I have been identified in the past can be proven by the record ever to have uttered a word on this floor that looked toward the opening of issues that should have been buried in the war that gave them birth. If one word of a sectional character has ever come from this side of the House it has been when manhood and patience exhausted, and spurning further insult, drove the party to its utterance in self-defense. I despise the man here or elsewhere who seeks to make either personal profit or political capital out of revamping issues that belong to the darkest period of this country's history. It is the part of ghouls and hyenas to delve into trenches where bloody carcasses lie buried, and drag them out to batten and fatten upon the feast. They have been brought out here again to-day.

Have they been broached from this side of the Chamber? It was reserved to the gentleman from Massachusetts and that gentleman from Maine who has just taken his seat, to refuse to allow a subordinate officer of this House to be elected without fighting over the war again. Charges false have been hurled against us, and not for the first time either. We have been told here to-day, sir, that the candidate nominated in the democratic caucus for the Doorkeepership of this House deserved by every law, human and divine, to have been hanged. We have been told, using him as an average specimen of that element embracing eight millions of the people of this land, that they were all breathing a miserable existence, at sufferance, and were indebted for their poor wretched lives to the magnanimity of the republican party! That has been told to us over and over, and it is told to us to-day. It is false, and the falsehood should wither and die upon the lip that last uttered it. How is it possible, I ask, for a

man that belonged to the armies of the confederacy to have been hanged after the terms of surrender and capitulation had been agreed upon? Do you mean to say that the well-earned reputation for prowess, gallantry, courage, and manhood, which the soldiers of the Union Army had illustrated by overwhelming and conquering the people, was to be blotted and blurred for the first time in the history of civilized warfare by this Government ignoring the conditions of surrender and hanging the unarmed men it had agreed to protect as an inducement to lay down their arms?

Mr. BUTLER. Will the gentleman yield to me?

Mr. BLACKBURN. Certainly.

Mr. BUTLER. Have I uttered any such sentiment?

Mr. BLACKBURN. I submit to every candid man upon this floor, whether he sits on that side or on this, as to whether I have not quoted him correctly.

Mr. BUTLER. Have I said or hinted that after they laid down their arms they ought to have been hanged? The time was before.

Mr. BLACKBURN. The statement he made was this—

Mr. BUTLER. The way was to hang them as long as they bore arms.

Mr. BLACKBURN. How were men to be hanged in the confederate service while they were standing in line of battle with bristling bayonets upon their country's battle-fields, bidding defiance to your armies? When a member of this House asserts that this nominated candidate of the democratic party for Doorkeeper deserved by every law, moral, human, and divine, to be hanged, and when that utterance is coupled with the boast that he alone stood by that law and executed it, I would like to know what interpretation or construction could possibly be given except that they were to be hanged when the power to hang was conferred.

Mr. BUTLER. Not after we agreed not to.

Mr. BLACKBURN. It is time this should stop. It is time false charges should cease to be made—that truth should be observed; and it is time it should be admitted that without doing violence to the plighted faith which your country—then your country, if that will suit you—executed through its generals commanding its several armies, to restore the men who wore our uniform to every personal right, privilege, and prerogative of citizenship so long as they observed the conditions of their parole, no hanging could be done and no punishment be inflicted—it is time it should be admitted that we and each of us then and now, sir, were not only entitled to every right of personal liberty and property under the Constitution of this country, but became the object of protection at the hands of the dominant party itself. We had your solemn promise; we had your word deliberately given; we had laid down our arms; we had ceased to war upon the Government on the condition stated and a condition precedent that could not be violated except to tarnish, to blacken, to disgrace, to render infamous the men who dared to violate it.

I am sorry, Mr. Speaker, it was found necessary by a member of this House to remind us while boasting of that which he chose to term clemency, but which impartial history will denominate but common fairness—I am sorry, in illustrating this magnanimity for which he claims such credit for his party, it was found necessary for him to parade before us boastfully the execution of an unarmed and helpless prisoner—the only man I believe upon the confederate side that the history of that war shows was ever killed or injured by the warrior from Massachusetts. [Laughter.]

The SPEAKER. The gentleman from Pennsylvania has twenty-five minutes of his hour remaining.

Mr. CLYMER. I will yield the balance of my time to the gentleman from Ohio, [Mr. McMAHON.]

Mr. CALKINS. May I have the indulgence of the House for a moment?

Mr. CLYMER. I have yielded the balance of my time to the gentleman from Ohio.

Mr. CALKINS. I ask the gentleman from Ohio to yield to me for two or three minutes.

Mr. McMAHON. Not now; I may at the close.

Mr. CALKINS. I hope I will have the consent of the House for one or two minutes.

Mr. McMAHON. Mr. Speaker, if we were to believe the professions of a republican Congressman we should imagine that his love for the Union soldier surpassed the love of woman, of which we read so much in poetry and in prose. If he would be less ostentatious in his professions and let concealment feed a little more on his damask cheek we might be more charitable in our belief in his honesty. But when it is paraded in public, on numerous small occasions and upon small provocation, it becomes tainted with the hideous leprosy of hypocrisy which was so sternly denounced eighteen hundred years ago by Him whom we regard as the fountain of all high virtues.

I do not come forward at this time, Mr. Speaker, claiming any special prominence as the soldier's friend or the advocate of his rights. I try to do my duty in this particular, as most of us do. But I come forward because the wants of my constituents make me more familiar with the record of the democratic party upon these questions than any other man probably upon the floor of the House. And I do not want that party grossly misrepresented. I want it judged by its record as a party, not by the mistakes or misfortunes of its Doorkeepers or subordinate officers. And its fidelity to the Union is not to be tested by the question, Who shall be elected to the office of Doorkeeper?

Nor do we need to fly in apprehension when the enemy propose the election of General Shields to this small and petty office. We propose, at the proper time, to do more for this gallant officer. He was twice a Senator of the United States. He would have been a member of the lower House, some years ago, if his republican lovers had not turned him out, notwithstanding his large majority. We do not propose to dishonor him at the bidding of republican politicians by asking him to accept the subordinate position of opening and shutting the doors of this Hall and bowing obsequiously to an army of Congressmen who shall be his masters. No; he is too great, too old, too venerable a man to have this affront put upon him. He deserves better of his countrymen; and when this election is over, if our enthusiastic republican friends will only keep their enthusiasm at fever heat, we will give them an opportunity of helping us in a great and good work, and we will put this devoted friend of his country in a high position and far beyond the reach of want or the vicissitudes of party.

I have said this much, Mr. Speaker, to show that the record we will make on this side of the House in the coming election is not a record against the Union soldier, but will be a record in his favor. The party, I have said, can stand upon its record in Congress. And I wish to devote my attention for a few moments to the comparative records of the republican and the democratic parties upon the question of justice to the Union soldier, not some particular Union soldier here, but to the grand army of Union soldiers scattered all over the United States; for all the stuff we have had on this question for some days amounts to nothing if it does not prove that the democratic party is hostile to the Union soldier. In 1865, at the close of the war, the republican party was naturally full of love for the Union soldier, and it passed the following law, to be found in the Revised Statutes, section 1754. It has become so obsolete in practice that I doubt if many members have a recollection that such a law was ever passed:

Sec. 1754. Persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty shall be preferred for appointment to civil offices, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such offices.

How has that law been kept? Go through the Departments of the Government and see for yourself. Out of the eighty-five thousand men in the employ of the republican party, how many are disabled or crippled veterans? I venture to say that, compared with the army of lusty politicians that are to be found stowed away in the fat places, you can almost count the disabled soldiers on your fingers and toes.

Mr. CALKINS. Will the gentleman allow me to ask him a question? I know that in his fairness he does not wish to misrepresent.

Mr. McMAHON. I yield to the gentleman if it does not come out of my time.

Mr. CALKINS. Does not the gentleman know that more than half of the appointees in the Departments here in Washington were Union soldiers, and, including their widows and orphans, that the proportion is largely more than one-half?

Mr. McMAHON. But the law says that in *all* cases such persons shall be preferred.

Mr. CALKINS. But you said that the persons so appointed could be counted on your hands.

Mr. McMAHON. I say that one-half of those in the employment of the Government are not Union soldiers; and if the gentleman will go round with me some summer afternoon and count the eighty-five thousand, we will see who is right; and I reiterate my statement, that of these eighty-five thousand men, so few are disabled soldiers that you might, comparatively speaking, count them on your fingers and toes. My friend from Maine the other day laid great stress upon the absence of crippled soldiers from the soldiers' roll. What can he say about their employment not only under this administration but under that of General Grant? He made much sport the other day about "diseased democrats." I say to him it would be well if there were more of this class of men in your public offices. The gentleman is not well posted in the troubles that afflict the men of an army. And it is easy to be seen that he never set a squadron in the field. If he had, he never would have fallen into the error that a soldier can be disabled only by the loss of a leg or the loss of an arm. He never would have made light of a "diseased" soldier. The trouble with our friends upon the other side is that they always want something conspicuous. There is no merit to them in a "diseased man." He may have been a gallant soldier and have lost his health in the service of his country. But he does not show off well.

They want a man without an arm, or a leg—one that gets around with some trouble. Then they sit back in their chairs with all the unction of men who have performed a great and a noble work, and say to the world: "See what we have done. See the fourteen cripples we have on the soldiers' roll. We are not like those bad fellows on the other side." And with this their love for the Union soldier becomes exhausted, and they never take pains to inquire how many of the eighty-five thousand of their own officeholders are disabled or "diseased" men, when the law requires them all to be, for I take it for granted that for every office in the gift of the Government there can be found a disabled Union soldier competent to fill it under the provisions of the section I have read.

Now, let us pass from the consideration of republican unfaithfulness to this law; and see what else they have failed to do for the

Union soldier. Their party had power in both Houses from 1865 to 1875, ten years. Did they ever pass the bill for the equalization of bounties? It passed this House repeatedly. It always failed in the Senate. You had both branches and the President for ten years. Your pretended friendship always failed at some point. Once it went through the Senate by the casting vote of Vice-President Wilson. But General Grant did not sign the bill. You never did more than keep up a respectable pretense.

Mr. DUNNELL. The gentleman is mistaken; General Grant never vetoed the bill. It was never sent to him.

Mr. McMAHON. The bounty bill to which I refer was passed by the Forty-third Congress. The President's veto was upon the bill. In the Forty-fourth Congress this same bill was in the hands of my colleague's [Mr. BANNING's] committee. It came to the House and passed the "confederate" House, as it was then called, and when it went over to the Senate they blackballed it there.

Mr. DUNNELL. The bill never was sent to the President.

Mr. McMAHON. You are entirely mistaken.

Mr. DUNNELL. I am not mistaken. I know precisely what the record is. It was laid upon the table in the Senate.

Mr. McMAHON. The bill that was sent to the President, or failed to become a law, to which I refer was the bill that passed the Forty-third Congress. The Vice-President gave the casting vote in its favor.

Now let us pass on and consider another part of this comparative record. A bill has been pending for years in the House to pay arrearages of pensions. Have you ever passed it yet? We brought it up in the Forty-fourth Congress, and it was then in charge of a gallant soldier from Ohio, my colleague, [Mr. RICE.] It passed the House under a suspension of the rules in the so-called "confederate" House, and was sent to the Senate, and there it slept the sleep of death in the republican household—lost in the House of its professed friends.

Mr. FOSTER. You defeated it last Monday.

Mr. McMAHON. I thank thee for that word. We defeated the bill then offered, because my colleague's [Mr. RICE's] committee has a better bill for the same purpose on our Calendar to-day ready to be passed. It was reported to the House on the 13th of February last, and we are assured by General RICE and his committee it is a much better bill than was offered last Monday, and we did not then propose and do not propose now that demagogues upon the other side of the House shall steal our political thunder and in an underhand way appropriate the work of our committee. [Laughter.]

Mr. FOSTER. But you have neglected to press that bill although a day has been assigned for its consideration.

Mr. McMAHON. This is a charge against my colleague, General RICE. If my colleague desires to put his record as a soldier against that of my colleague, [Mr. RICE,] I want the two records lifted up before the country. I think General RICE may be trusted to look after the interests of the wounded soldier. He is one himself.

Mr. FOSTER. Put your record against Mr. RICE's.

Mr. McMAHON. No, sir; you and I belong to the same army, the stay-at-home guards.

Mr. FOSTER. Certainly I do. Put your record against that of Mr. RICE's.

Mr. McMAHON. No, sir; but I put yours against his because you have undertaken to impeach his faithfulness. It is his record and not mine that is assailed.

Now let me proceed to another historical fact. A bill was reported here for pensioning the soldiers of the war of 1812—old, decrepit men who had fought in that war; men who had stood up for their country against a foreign enemy when certain men in another part of the country, which I will not now mention, were not standing up for their country as well as they should have done—indeed, not at all. Who voted against that measure? Twenty-five men upon the other side of the House recorded their votes against pensioning these few old patriots who had fought in the war of 1812 because perchance some of them might have sympathized with some of their sons or grandsons or nephews in the rebellion. I would not have that spot on my record. I would rather hide myself behind the thickest oak in the forest than have cast so unfeeling a vote. But the old soldier of the war of 1812 rejoices to-day, and he has the gratification of knowing that he is pensioned for the remainder of his days by a unanimous democratic vote and in spite of the votes of some of the political descendants of the blue-light patriots.

Who are now endeavoring to pension the soldiers of the Mexican war? An almost solid phalanx on this side of the House is trying to pass that bill. It may be too liberal, but I would rather err upon the side of liberality than on the side of parsimony in such matters. The gentleman from Vermont [Mr. JOYCE] read us a long and deliberate essay against that bill because there may be some one included in its provisions who was against the Union during the late war. Who have voted to bring up that bill every time and all the time? We upon this side; and I for one propose to have the pleasure of voting for the bill either in its present shape or in some modified form. That does not meet the narrow views of gentlemen on the other side, who are almost unanimous against this bill. Such a thing as an enlarged love for the soldier never seems to penetrate them. There must be some politics in it before their love comes to the surface, and if they can only get astraddle of a poor Doorkeeper from the Confederate States they maul him unmercifully; and then the republican party rises to a moral grandeur it never reaches on any

other occasion, and proclaims its hypocritical love for the soldier. It will not pension the Mexican soldier because it hopes to make political capital out of the fact that the bill may pension a few who were not on the Union side.

So now, gentlemen on the other side, thinking it an opportunity for political capital, without sincerity, undertake to make a foot-ball of this poor old man, General Shields, whose name they use without authority, whom we are willing to take in hand and do all we can for, and to do for him as for one of our own. We will "see" all that you choose to do, and "go a little better." [Laughter.]

I do not disparage the motives of the gentleman from Massachusetts, [Mr. BUTLER,] for I believe that in this matter he is sincere; but when he finds supporters on the other side gentlemen must permit me to doubt their sincerity or honesty. When I find republicans coming up and voting solidly for an Irish Catholic democrat then I know there is a "cat in the meal-tub." [Laughter,] for I know that if the republicans had a majority of but one in this House they would see the gallant old hero in the bottomless pit before they would give him an office.

But let us go on in the investigation of facts. We have seen that the bills for the equalization of bounties and the arrearages of pensions have both passed a democratic House in times past. The importance of these votes is more apparent when we consider that the democratic party came here in the interest of retrenchment and reform. Have we ever cut down the pension bill? Have we ever listened to the oft-repeated charge that the pension list is too large; that fraudulent claims are on it; that it should be revised? No, we prefer to err on the side of the soldier or his suffering family. We have cut everywhere else; we have retrenched in every direction but in that. We vote for no increased expenditures except for the Union soldier.

And what has been the democratic record in the passage or recommendation of private bills for pensions? In the last Congress the democratic committee reported favorably to the House two hundred and seventy-seven private pension bills. Of these nearly every one that was reached was passed. When they went to your republican Senate, not one in five was passed by that body. And in the present House your democratic committee has already favorably reported one hundred and forty-six private bills. What has been our daily experience on Fridays, the day set apart for that work and all private business? Our confederate friend [Mr. BRIGHT, of Tennessee] regularly rises and moves that the House resolve itself into a Committee of the Whole on the Private Calendar. He knows perfectly well that, when a southern claim is reached on that Calendar, every patriot on the other side rises at once to pound it, and that it has not the ghost of a chance. But he does his duty as chairman of his committee. And when a pension bill is reached providing for some Union soldier or his family, when one single objection from the democratic side would suspend the passage of that bill for two weeks, is that one democrat to be found? Never! These denounced "confederate" enemies of the soldier never once take their revenge. They never once put in an objection. All the insult, the injury, and the misrepresentation to which they are compelled to submit in silence in the interest of their party organization never once betrays them into an objection to the pension of a Union soldier. Why? Because they honor and respect the men who fought against them. Because they accept the results of the war and know that pensions are due to the soldiers of the prevailing side. Now let us have further facts on the record of the two parties.

In the Forty-fourth Congress a bill of general application was reported from the Committee on Military Affairs by that clever confederate general, the gentleman from Georgia, [Mr. COOK.] I refer to the bill to repeal the limitations upon all applications by officers for lost horses. This bill, covering a large number of officers' claims, was passed by this House. But when it went to the republican Senate, what fate did it there meet? In that body it "slept the sleep of death." Was this republican love for the Union officer?

What more? In the same Congress we passed in the House a bill to extend the provisions of the law providing for commutation for artificial limbs to certain persons who were excluded by the express provisions of a previous bill. We had no trouble to pass it in the House. It went to the Senate. There the very essence of the bill was taken out by amendment offered by the chairman of the Pension Committee; and the bill was vigorously fought. The bill was substantially destroyed by the vote of the Senate. The "confederate" House insisted on its law for the Union soldier; and the republican Senate was finally compelled to yield to the confederate House; and the law of August 15, 1876, became a law by confederate obstinacy in the interest of the Union soldier.

That same confederate House passed another bill, which became a law in February, 1877, increasing the pension of soldiers who had lost one hand and one foot from \$24 to \$36 per month. There is now ready for report to this House from your Committee on Pensions a bill to increase the pensions of all persons who have lost both eyes, or both hands, or both feet, to the sum of \$72 per month, the pension now allowed by law being a little over \$30 a month. This bill will pass. No one on this side will raise his voice against it. Pity for these poor unfortunate men, and a desire to help them in their terrible distress, is just as powerful and just, as honest and true upon this side as it is upon the other.

This is our record. We do not parade it except in self-defense.

We do not proclaim upon the highways, except when our position is misrepresented. We let our acts speak, and not our professions.

Upon this record we are willing to go to the country and to be judged by it. If there is hostility to the Union soldier in one line of it I do not observe it. If we are behind the republican party I do not know it, nor does the country perceive it. We may not be so pretensions, so clamorous, so talkative on the subject, but we have given proof that no reasonable measure for the relief of the Union soldier has ever suffered any damage at the hands of a democratic Congress.

Let us be judged by this record, not by the alleged shortcomings of a good-natured Doorkeeper. And when we vote for General Field to-day instead of General Shields—the confederate democrat instead of the Union democrat—the country will know that we have reserved higher and better and more appropriate honors and emoluments for the gallant soldier who has spent the best days of his life in the service of his country. And when the time comes for conferring these honors and emoluments upon General Shields, as it may come to-day, I pledge every democratic vote on this side of the House, and every "confederate" general, as one man to stand by gentlemen on the other side, if they sincerely wish to do him a favor. We do not wish him who has represented two States in the Senate of the United States to stoop to the insignificant and trying position of Doorkeeper of the House. His country would be ungrateful to ask him to accept the place. Let him go into an honorable and glorious retirement as an officer of the Army of the United States, and spend the remainder of his days in the quiet and competence that his great services and advanced age require. This will be a reward worth having.

Now, Mr. Speaker, I have done. I hope that we are about through with the insincere professions which are the stock in trade of the other side. The country is tired of them. If gentlemen think they have advanced the interests of the country, or promoted the prospects of their party by recent demonstrations, I for one believe that they are mistaken. There is too much good sense in the people not to discern insincerity, and too much honesty not to despise hypocrisy.

Mr. CLYMER. I demand the previous question.

Mr. CALKINS. I wish to say one thing— [Cries of "Vote!"] I wish to say in justification of myself before the question is put— [Cries of "Vote!"]

The SPEAKER. Does the gentleman rise to a parliamentary inquiry?

Mr. CALKINS. I do not; I wish to say a word by leave of the Chair and by leave of the House.

Mr. CLYMER. I demand the previous question.

The SPEAKER. The gentleman from Pennsylvania declines to yield.

Mr. CALKINS. I ask unanimous consent.

Several MEMBERS. I object.

Mr. SPRINGER. I ask the gentleman to yield to a motion to postpone this until to-morrow morning after the reading of the Journal. [Cries of "No!"]

Mr. CALKINS. I have a right to know who objects to my being heard.

The SPEAKER. Quite a number of voices objected.

Mr. CALKINS. No one extends more courtesy to members than I do and I wish to know who objects.

Mr. WIGGINTON. I am one who objects to the gentleman.

Mr. CALKINS. I am glad to know it.

The previous question was seconded and the main question ordered.

The SPEAKER. The first question recurs on the substitute moved by the gentleman from Pennsylvania, [Mr. CLYMER,] that the House now proceed to the election of Doorkeeper.

Mr. BUTLER. I rise to a question of order.

The SPEAKER. State it.

Mr. BUTLER. As the Chair has decided that the resolution introduced by me is divisible, and as its division would make the first clause of the resolution and the substitute identical, I ask whether the gentleman will not reach what he desires by voting on my proposition.

The SPEAKER. The question first recurs on the amendment in the nature of a substitute.

Mr. BUTLER. All right; that is a substitute for the whole of my resolution.

The SPEAKER. Certainly.

Mr. BUTLER. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative— yeas 123, nays 108, not voting 60; as follows:

YEAS—123.

Acklen,	Caldwell, John W.	Crittenden,	Finley,
Banning,	Candler,	Colberson,	Forney,
Bell,	Carlisle,	Davidson,	Franklin,
Bicknell,	Chalmers,	Dibrell,	Fuller,
Blackburn,	Clark, Alvah A.	Dickey,	Garth,
Bland,	Clarke of Kentucky,	Douglas,	Gause,
Blount,	Clark of Missouri,	Durham,	Gibson,
Boone,	Clymer,	Eden,	Giddings,
Bouck,	Cobb,	Elam,	Glover,
Bragg,	Cook,	Ellis,	Goode,
Bright,	Covett,	Evins, John H.	Gunter,
Buckner,	Cox, Samuel S.	Felton,	Hamilton,
Cabell,	Cravens,		Hardenbergh.

Harris, Henry R.	Landers,	Rea,	Throckmorton,
Harris, John T.	Ligon,	Reagan,	Turner,
Harrison,	Lockwood,	Reilly,	Turney,
Hartridge,	Lynde,	Rice, Americus V.	Waddell,
Hartzell,	Mackey,	Riddle,	Walker,
Hatcher,	Maish,	Robbins,	Walsh,
Hewitt, Abram S.	Manning,	Robertson,	Whitthorne,
Hewitt, G. W.	Martin,	Ross,	Wigginton,
Hooker,	McKenzie,	Saylor,	Williams, A. S.
House,	Mr. Mahon,	Scales,	Williams, James
Hunt,	Mills,	Schleicher,	Williams, Jere N.
Jones, Frank T.	Money,	Shelley,	Willis, Albert S.
Jones, James T.	Morgan,	Singleton,	Wilson,
Kenna,	Morrison,	Siemona,	Wood,
Kimond,	Muldrow,	Smith, William E.	Wright,
Knapp,	Patterson, T. M.	Southard,	Yeates,
Knott,	Pelphs,	Sparks,	Young.
	Potter,	Stenger,	

NAYS—108.

Aldrich,	Danford,	Keightley,	Robinson, G. D.
Bacon,	Davis, Horace	Kelley,	Robinson, M. S.
Bagley,	Deering,	Ketcham,	Ryan,
Baker, John H.	Denison,	Lathrop,	Sampson,
Ballou,	Dunnell,	Lindsey,	Sapp,
Banks,	Eames,	Loring,	Scotton,
Bayne,	Errett,	Marsh,	Shallenberger,
Bisbee,	Evans, I. Newton	McCook,	Sinnickson,
Brewer,	Evans, James L.	McGowan,	Smalls,
Briggs,	Fort,	McKinley,	Springer,
Brown,	Foster,	Mitchell,	Stone, Joseph C.
Bundy,	Frye,	Monroe,	Stone, John W.
Burchard,	Hale,	Neal,	Strait,
Butler,	Hanna,	Norcross,	Thompson,
Cain,	Harmer,	O'Neill,	Townsend, Amos
Calkins,	Haskell,	Overton,	Townsend, M. I.
Camp,	Hazelton,	Patterson, G. W.	Van Vorhes,
Campbell,	Hendee,	Peddie,	Wait,
Cannon,	Henderson,	Phillips,	Watson,
Caswell,	Hiscock,	Pollard,	Welch,
Clark, Rush	Hubbell,	Pound,	White, Harry
Cole,	Hungerford,	Powers,	White, Michael D.
Collins,	Ittner,	Price,	Williams, Andrew
Conger,	Jones, John S.	Pugh,	Williams, C. G.
Crapo,	Joyce,	Rainey,	Williams, Richard
Cummings,	Keifer,	Randolph,	Willits,
Cutler,		Reed,	Wren.

NOT VOTING—60.

Aiken,	Cox, Jacob D.	Hunter,	Smith, A. Herr
Atkins,	Davis, Joseph J.	Jorgensen,	Starn,
Baker, William H.	Dean,	Killing,	Steele,
Beebe,	Dwight,	Lapham,	Stephens,
Benedict,	Eickhoff,	Luttrell,	Stewart,
Blair,	Ellsworth,	Mayham,	Swann,
Bliss,	Freeman,	Metcalfe,	Thorburgh,
Boyd,	Gardner,	Morse,	Tipton,
Brentano,	Garfield,	Muller,	Tucker,
Briggs,	Harris, Benj. W.	Oliver,	Townshend, R. W.
Brogden,	Hart,	Page,	Vance,
Burdick,	Hayes,	Pridemore,	Veeder,
Caldwell, W. P.	Henkle,	Quinn,	Ward,
Chittenden,	Henry,	Rice, William W.	Warner,
Chadlin,	Humphrey,	Roberts,	Willis, Benj. A.

So the substitute was adopted.

During the vote,

Mr. DAVIS, of North Carolina, said: My colleague, Mr. BROGDEN, is confined to his room by illness since Saturday and is not able to be here to-day. I wish further to announce that I am paired with Mr. ELLSWORTH, of Michigan.

Mr. MORSE. I am paired with my colleague, Mr. RICE.

Mr. YOUNG. My colleague, Mr. CALDWELL, who is absent by leave of the House, is paired with Mr. FREEMAN, of Pennsylvania. If present, he would vote in the affirmative.

Mr. LOCKWOOD. My colleague, Mr. HART, is paired with Mr. OLIVER, of Iowa, and my colleague, Mr. BENEDICT, is paired with Mr. BURDICK.

Mr. TUCKER. I am paired on all political questions with Mr. GARFIELD. If he were present, I would vote "ay."

Mr. EDEN. My colleague, Mr. TOWNSHEND, is paired with my other colleague, Mr. TIPTON, on all political questions.

Mr. COVERT. My colleague, Mr. MAYHAM, is paired with Mr. HUMPHREYS, of Wisconsin, and my colleague, Mr. QUINN, is paired with his colleague, Mr. BACON.

Mr. EVINS, of South Carolina. My colleague, Mr. AIKEN, is paired with Mr. WARD, of Pennsylvania. If he were present, he would vote in the affirmative.

Mr. DEAN. I am paired with my colleague from Massachusetts, Mr. CLAFLIN. If he were present, I would vote "ay."

Mr. BLAIR. I am paired with Mr. ROBERTS, of Maryland. If he were present, I would vote "no."

Mr. BAKER, of New York. I am paired with my colleague, Mr. QUINN. If he were present, I would vote "no" and I suppose he would vote "ay."

Mr. PAGE. I am paired on this question with the gentleman from New York, Mr. WILLIS. If he were present, I should vote "no."

Mr. HARRIS, of Massachusetts. On this question I am paired with the gentleman from Georgia, Mr. STEPHENS. If he were present, he would vote "ay" and I should vote "no."

Mr. SAMPSON. My colleague from Iowa, Mr. BURDICK, and Mr. BENEDICT, of New York, are paired.

Mr. SMITH, of Pennsylvania. I am paired with Mr. ATKINS, of Tennessee. If he were here, I would vote "no."

Mr. BRENTANO. I am paired with Mr. MULLER, of New York. If he were here, I would vote "no."

Mr. JORGENSEN. On all political questions I am paired with my colleague from Virginia, Mr. PRIDEMORE.

Mr. ALDRICH. My colleagues, Mr. TIPTON and Mr. TOWNSHEND, are paired. Mr. TIPTON would vote "no."

The result of the vote was then announced as above recorded.

Mr. CLYMER. I move to reconsider the vote by which the substitute was adopted; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The question recurs on the resolution as amended by the adoption of the substitute.

The question being taken, the resolution, as amended, was adopted.

Mr. CLYMER moved to reconsider the vote by which the resolution, as amended, was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CLYMER. I now nominate Charles W. Field, a citizen of the State of Georgia, for the office of Doorkeeper of this House.

Mr. BUTLER. I nominate the gallant, Christian, maimed, loyal, tried, and true Union soldier, James Shields, brigadier-general United States Army, a citizen of the State of Missouri.

Mr. WHITE, of Pennsylvania. I desire to ask my colleague a question.

Mr. CLYMER. I decline to yield.

Mr. WHITE, of Pennsylvania. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WHITE, of Pennsylvania. We are about to vote for an officer of this House—

Mr. EDEN. That is not an inquiry.

The SPEAKER. The gentleman from Pennsylvania stated he rose to make a parliamentary inquiry. The Chair of course recognized the gentleman for that purpose.

Mr. WHITE, of Pennsylvania. I am about to state it. I was saying we are about to vote for an officer of this House—

Mr. EDEN. That is not a parliamentary inquiry.

Mr. WHITE, of Pennsylvania. I desire to know whether Mr. Field, who has been nominated by my colleague for this office, has been relieved of his political disabilities?

The SPEAKER. That is not a parliamentary question.

Mr. WHITE, of Pennsylvania. I am informed that he has not.

Mr. CLYMER. He has been; and I will say further that he is now holding office under the commissioners of this District.

Mr. WHITE, of Pennsylvania. When did the bill pass?

Mr. CLYMER. He has been holding office for some time under the republican commissioners of this District.

The SPEAKER. The Chair will give the gentleman from Pennsylvania every privilege as long as he adheres to his statement that his inquiry was a parliamentary one.

Mr. WHITE, of Pennsylvania. I protest I did adhere to my statement.

The SPEAKER. The Chair did not say the gentleman did not.

Mr. WHITE, of Pennsylvania. According to my understanding of the rules I think I have a right to know for whom I am voting.

Mr. RANDOLPH. I nominate for Doorkeeper a Union soldier, a gentleman who fought three years in the war, who acquitted himself with great honor and credit, and who bears the marks of lead upon his body. I nominate John H. Trent, of the town of Morristown, in the State of Tennessee.

The SPEAKER. If there are no further nominations the Clerk will call the roll.

Mr. SPRINGER. Would it be in order to move that the House do now adjourn?

[Cries of "Regular order!"]

The House proceeded to vote *viva voce* for Doorkeeper, with the following result:

Whole number of votes cast, 232; number necessary for a choice, 117; of which Charles W. Field received 123 votes; James Shields received 101 votes; and John H. Trent received 8 votes.

The following is the vote in detail:

For Charles W. Field—Messrs. Acklen, Banning, Bell, Bicknell, Blackburn, Bland, Boun, Boone, Bouck, Bragg, Bright, Buckner, Cabell, John W. Caldwell, Camiller, Carlisle, Chalmers, Alvah A. Clark, John B. Clarke of Kentucky, John B. Clark, Jr., of Missouri, Clymer, Cobb, Collins, Cook, Covert, Samuel S. Cox, Cravens, Crittenden, Culberson, Cutler, Davidson, Dickey, Douglas, Durham, Eden, Elam, Ellis, John H. Evans, Felton, Finley, Forney, Franklin, Fuller, Garth, Gause, Gibson, Giddings, Glover, Goode, Gunter, Hamilton, Hardenbergh, Henry R. Harris, John T. Harris, Hartridge, Hartzell, Hatcher, Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Herbert, Hooker, House, Hunt, Frank Jones, James Taylor Jones, Kenna, Kimmel, Knapp, Knott, Landers, Ligon, Lockwood, Lynde, Mackey, Maish, Manning, Martin, McKenzie, McMahon, Mills, Money, Morgan, Morrison, Muldrow, Thomas M. Patterson, Potter, Rea, Reagan, Reilly, Americus V. Rice, Riddle, Robbins, Robertson, Ross, Saylor, Scales, Schleicher, Shelley, Singleton, Siemona, William E. Smith, Southard, Sparks, Stenger, Throckmorton, Turner, Turney, Vance, Waddell, Walker, Walsh, Whitthorne, Wigginton, Alpheus S. Williams, James Williams, Jere N. Williams, Albert S. Willis, Wilson, Wood, Wright, Yeates, and Young—123.

For James Shields—Messrs. Aldrich, Bacon, John H. Baker, Ballou, Banks, Bisbee, Brewer, Briggs, Browne, Bundy, Burchard, Butler, Cain, Calkins, Camp, Campbell, Cannon, Caswell, Chittenden, Rush Clark, Cole, Conger, Crapo, Cummings, Danford, Horace Davis, Deering, Denison, Dunnell, Eames, James L. Evans, Fort, Foster, Frye, Hale, Hanna, Haskell, Hazelton, Hendee, Henderson, Hiscock, Hubbell, Hunter, Hungerford, Ittner, James, John S. Jones, Joyce, Keifer, Keightley, Kelley, Ketcham, Lathrop, Lindsey, Loring, Marsh, McCook, McGowan, McKinley,

Mitchell, Monroe, Neal, Norcross, Overton, George W. Patterson, Peddie, Phillips, Pollard, Pound, Powers, Price, Pugh, Rainey, Reed, George D. Robinson, Milton S. Robinson, Ryan, Sampson, Sapp, Sexton, Shallenberger, Sinnickson, Smalls, Springer, Stewart, John W. Stone, Joseph C. Stone, Strait, Thompson, Amos Townsend, Martin I. Townsend, Van Vorhes, Walt, Watson, Welch, Michael D. White, Andrew Williams, Charles G. Williams, Richard Williams, Willis, and Wren—101.

For John H. Trent—Messrs. Bagley, Bayne, Errett, I. Newton Evans, Harmer, O'Neill, Randolph, and Harry White—8.

During the roll-call the following statements were made:

Mr. BUNDY, (when his name was called.) I vote for General James Shields, who never had occasion to ask Congress to remove his political disabilities.

Mr. HAMILTON, (when his name was called.) I vote for Charles W. Field, a former major-general in the confederate service.

Mr. MORSE. I am paired with my colleague, Mr. RICE.

Mr. LOCKWOOD. My colleague, Mr. HART, is paired with Mr. OLIVER, and my colleague, Mr. BENEDICT, is paired with Mr. BURDICK.

Mr. DIBRELL. Upon all political questions I am paired with my colleague, Mr. THORNBURGH. If he were here, I should vote for Mr. Field.

Mr. TUCKER. I am paired upon all political questions with the gentleman from Ohio, Mr. GARFIELD. If he were present, I should vote for Mr. Field.

Mr. EDEN. My colleague, Mr. TOWNSHEND, is paired upon all political questions with Mr. TIPTON.

Mr. COVERT. My colleague, Mr. MAYHAM, is paired with Mr. HUMPHREY, of Wisconsin. If my colleague were present, he would vote for Mr. Field.

Mr. DEAN. I am paired with my colleague, Mr. CLAFLIN.

Mr. EWING. I am paired with my colleague, Mr. GARDNER. If he were present, I should vote for Mr. Field.

Mr. BAKER, of New York. I am paired with my colleague, Mr. QUINN. If he were present, I should vote for Mr. Shields.

Mr. HARRIS, of Virginia. My colleague, Mr. PRIDEMORE, is detained at his home by illness in his family. If he were present, he would vote for Mr. Field. He is paired with Mr. JORGENSEN.

Mr. PAGE. I am paired upon all political questions with Mr. WILLIS, of New York. If he were present, I should vote for Mr. Shields.

Mr. BRENTANO. I am paired with Mr. MULLER. If he were present, I should vote for Mr. Shields.

Mr. HARRIS, of Massachusetts. I am paired with Mr. STEPHENS, of Georgia. If he were present, I should vote for Mr. Shields.

Mr. SMITH, of Pennsylvania. I am paired with Mr. ATKINS, of Tennessee. If he were present, he would vote for Mr. Field, and I should vote for Mr. Shields.

Mr. JORGENSEN. I am paired upon all political questions with my colleague, Mr. PRIDEMORE.

Mr. HENDERSON. My colleague, Mr. BOYD, is absent from the House on account of indisposition.

Mr. COLE. I desire to announce that Mr. WARD, of Pennsylvania, is paired with Mr. AIKEN, of South Carolina. If they were present, Mr. WARD would vote for Mr. Shields, and I suppose Mr. AIKEN would vote for Mr. Field.

Mr. YOUNG. My colleague, Mr. CALDWELL, is paired with Mr. FREEMAN.

Mr. ALDRICH. My colleague, Mr. TIPTON, is paired with my other colleague, Mr. TOWNSHEND.

Mr. BRIDGES. I am paired with Mr. DWIGHT, of New York. If Mr. DWIGHT were here, he would vote for Mr. Shields and I should vote for Mr. Field.

Mr. DAVIS, of North Carolina. I desire to say that I am paired with Mr. ELLSWORTH, of Michigan. If he were present, I should vote for Mr. Field. I desire also to announce that my colleague, Mr. BROGDEN, is confined to his room by sickness.

Mr. BLAIR. Upon this matter I am paired with the gentleman from Maryland, Mr. ROBERTS. If he were present, I should vote for Mr. Shields.

The result of the vote was then announced as above stated.

The SPEAKER. Charles W. Field having received a majority of the votes, is duly elected Doorkeeper of the House of Representatives.

Mr. CLYMER. I ask that the oath of office be now administered to the Doorkeeper-elect.

CHARLES W. FIELD appeared and qualified as Doorkeeper of the House of Representatives by taking the oath of office prescribed by law.

GENERAL JAMES SHIELDS.

Mr. CLARK, of Missouri. I ask unanimous consent to introduce and have passed at this time a bill authorizing the President of the United States to appoint James Shields, of Missouri, a brigadier-general in the United States Army on the retired list. I ask that the bill be read.

Mr. WHITE, of Pennsylvania. I call for the regular order.

The SPEAKER. Does the gentleman decline to allow the bill to be read?

Mr. WHITE, of Pennsylvania. Yes, sir.

Mr. BANNING. I hope the gentleman will not object to the reading.

Mr. WHITE, of Pennsylvania. I call for the regular order.

Mr. CLARK, of Missouri. Is it in order for me to move to suspend the rules and pass the bill?

The SPEAKER. The Chair under his practice cannot recognize the gentleman from Missouri [Mr. CLARK] on the motion to suspend the rules. The right to make that motion rests either with the gentleman from California [Mr. LUTTRELL] or the gentleman from Missouri, [Mr. FRANKLIN.]

Mr. LUTTRELL. I move to suspend the rules and put upon its passage the bill of the gentleman from Missouri, [Mr. CLARK.] I want to know whether gentlemen on the other side mean what they say or not.

The SPEAKER. The gentleman from California moves to suspend the rules and pass the bill.

Mr. CONGER. That can only be done after the morning hour.

The SPEAKER. The Chair would like to direct the attention of the gentleman from Michigan [Mr. CONGER] to Rule 145.

The Clerk read as follows:

No standing rule or order of the House shall be rescinded or changed without one day's notice being given of the motion therefor; nor shall any rule be suspended except by a vote of at least two-thirds of the members present; nor shall the order of business, as established by the rules, be postponed or changed, except by a vote of at least two-thirds of the members present; nor shall the Speaker entertain a motion to suspend the rules, except during the last six days of the session, and on Monday of every week at the expiration of one hour after the Journal is read; unless the call of States and Territories for bills on leave and resolutions has been earlier concluded, when the Speaker may entertain a motion to suspend the rules.

The SPEAKER. The bill will be read.

The Clerk read as follows:

A bill authorizing the President of the United States to appoint James Shields, of Missouri, a Brigadier-General in the United States Army, on the retired list.
Be it enacted by the Senate and House of Representatives in Congress assembled—

Mr. WHITE, of Pennsylvania. I object to the reading of the bill until the question of order is decided.

The SPEAKER. What question of order?

Mr. WHITE, of Pennsylvania. The question of order raised by the gentleman from Michigan, [Mr. CONGER.]

Mr. CONGER. I raised no question of order.

Mr. WHITE, of Pennsylvania. Then I raise the question.

The SPEAKER. On the contrary, the Chair understood the gentleman from Michigan not to interrupt the passage of the bill.

Mr. CONGER. Yes, sir.

The Clerk (resuming) read as follows:

That the President of the United States be, and hereby is, authorized to appoint James Shields, of Missouri, formerly a brigadier-general and brevet major-general during the Mexican war and a brigadier-general of volunteers during the late rebellion and who was severely wounded in both said wars at the head of his command, a brigadier-general in the United States Army on the retired list, with rank and pay from and after the date of the passage of this act; and that all acts and parts of acts inconsistent herewith be, and the same are hereby, repealed, so as to enable the President to make said appointment.

Mr. COX, of New York. I call for the yeas and nays on the motion to suspend the rules and pass the bill.

Mr. WHITE, of Pennsylvania. I raise the question of order that this motion cannot be entertained under Rule 145.

The SPEAKER. The gentleman is too late with his point of order, for the bill has been read.

Mr. WHITE, of Pennsylvania. I rose a moment ago and objected to the reading of the bill.

The SPEAKER. The gentleman rose to state that the gentleman from Michigan had raised the point of order.

Mr. WHITE, of Pennsylvania. And I then said that I raised the question of order.

Several MEMBERS. Certainly you did.

Mr. WHITE, of Pennsylvania. I raise the question of order now. I take the responsibility of so doing. The passage of this bill is without a precedent in the history of our Government.

The SPEAKER. The Chair accepts the statement of the gentleman from Pennsylvania that he rose for the purpose of objecting and raising the point of order. He will now state the point.

Mr. WHITE, of Pennsylvania. My point is that under Rule 145 the motion to suspend the rules and put this bill on its passage cannot now be entertained by the Chair.

The SPEAKER. Why not?

Mr. WHITE, of Pennsylvania. Because the rule says so.

The SPEAKER. Will the gentleman point out the language of the rule which forbids the entertaining of this motion?

Mr. WHITE, of Pennsylvania. I raise the additional point that this motion cannot be entertained until after the expiration of the morning hour.

The SPEAKER. The gentleman will confine himself to the language of the rule.

Mr. WHITE, of Pennsylvania. Very well. I find the language to be this:

No standing rule or order of the House shall be rescinded or changed without one day's notice.

Then the next clause seems to contemplate the entertainment of the motion; but that is explained away by the concluding clause of the rule.

The SPEAKER. The gentleman will please read that part of the rule that he relies upon in connection with the point of order.

Mr. WHITE, of Pennsylvania. I rely upon the entire rule.

The SPEAKER. The Chair reads the only portion of the rule that really relates to the proceedings of Monday:

On Monday of every week at the expiration of one hour after the Journal is read.

Mr. HALE. I hope the gentleman from Pennsylvania will withdraw his point of order. At any rate it would only make a delay of an hour. The House will easily enough come to a vote on this proposition; and there is no advantage to be gained by insisting on the point of order.

Mr. WHITE, of Pennsylvania. I call for the regular order of business, which is the decision of my point of order.

The SPEAKER. The Chair will decide the point of order. The very letter of the rule says "on Monday of every week at the expiration of one hour after the Journal is read." The Journal was read and finished about a quarter after twelve o'clock; that is about three hours and three-quarters since.

Mr. WHITE, of Pennsylvania. Does the Speaker overrule my point of order?

The SPEAKER. The Chair does.

Mr. WHITE, of Pennsylvania. I submit.

Mr. FRANKLIN. And votes for General Shields. [Laughter.] The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 225, nays 6, not voting 57; as follows:

YEAS—225.

Aldrich,	Deering,	Horton,	Beilly,
Bacon,	Denison,	Itner,	Rice, Americus V.
Baker, John H.	Dibrell,	Jones, Frank	Riddle,
Baker, William H.	Dickey,	Jones, James T.	Robbins,
Bailou,	Douglas,	Jorgensen,	Robertson,
Banks,	Dunnell,	Joyce,	Robinson, M. S.
Banning,	Durham,	Keifer,	Ross,
Bayne,	Eames,	Keightley,	Ryan,
Bell,	Eden,	Kelley,	Sampson,
Bicknell,	Eickhoff,	Kenna,	Saylor,
Bisbee,	Elam,	Ketcham,	Scales,
Blackburn,	Ellis,	Kimmel,	Schleicher,
Bland,	Evans, I. Newton	Knapp,	Sexton,
Blount,	Evans, James L.	Knot,	Shallenberger,
Boone,	Evins, John H.	Landers,	Shelley,
Bonck,	Ewing,	Lathrop,	Sinclair,
Bragg,	Felton,	Ligon,	Sinnickson,
Brintano,	Finley,	Lindsay,	Slemmons,
Briggs,	Forney,	Lockwood,	Smalls,
Bridges,	Fort,	Loring,	Smith, William E.
Bright,	Foster,	Luttrell,	Southard,
Browne,	Franklin,	Lynde,	Sparks,
Buckner,	Frye,	Mackey,	Springer,
Bundy,	Fuller,	Maish,	Stenger,
Butler,	Garth,	Manning,	Stewart,
Cain,	Gause,	Marsh,	Stone, Joseph C.
Caldwell, John W.	Gibson,	Martin,	Stone, John W.
Calkins,	Giddings,	McCook,	Strait,
Camp,	Glover,	McKenzie,	Throckmorton,
Candler,	Goode,	McKinley,	Townsend, Amos
Cannon,	Gunter,	McMahon,	Townsend, M. I.
Carli le,	Hale,	Metcalfe,	Tucker,
Caswell,	Hamilton,	Mills,	Turner,
Chalmers,	Hanna,	Mitchell,	Turney,
Chittenden,	Hardenbergh,	Mosey,	Vance,
Clark, Alvah A.	Harmer,	Monroe,	Van Vorhes,
Clark of Missouri,	Harris, Benj. W.	Morgan,	Waddell,
Clarke of Kentucky,	Harris, Henry R.	Morrison,	Wait,
Clark, Ruah	Harris, John T.	Morse,	Walker,
Clymer,	Harrison,	Muldrow,	Walsh,
Cobb,	Hartbridge,	Neal,	Watson,
Cole,	Hartzell,	Page,	Welch,
Collins,	Haskell,	Patterson, T. M.	White, Michael D.
Conger,	Hatcher,	Patterson, G. W.	Wigginton,
Cook,	Haskellton,	Peddie,	Williams, A. S.
Covert,	Hendee,	Phelps,	Williams, Andrew
Cox, Samuel S.	Henderson,	Phillips,	Williams, C. G.
Cravens,	Henkle,	Pollard,	Williams, James.
Crittenden,	Hewitt, Abram S.	Potter,	Williams, Jere N.
Cullerson,	Hewitt, G. W.	Pound,	Williams, Richard
Cummings,	Herbert,	Powers,	Willis, Albert S.
Cutler,	Hiscock,	Price,	Willits,
Danford,	Hooker,	Pugh,	Wilson,
Davidson,	House,	Rainey,	Wood,
Davis, Horace	Hubbell,	Rea,	Wright,
Davis, Joseph J.	Hungerford,	Reagan,	Yeates,
Dean,	Hunter,	Reed,	Young.

NAYS—6.

Acklen,	Jones, John S.	Randolph,	White, Harry
Cox, Jacob D.	O'Neill,		

NOT VOTING—57.

Aiken,	Cladin,	Mayham,	Stephens,
Atkins,	Crapo,	McGowan,	Swann,
Bacley,	Dwight,	Muller,	Thompson,
Beebe,	Ellsworth,	Norcross,	Thornburgh,
Benedict,	Errett,	Oliver,	Tipton,
Blair,	Freeman,	Overton,	Townshend, R. W.
Blass,	Gardner,	Pridemore,	Veeder,
Boyd,	Garfield,	Quinn,	Ward,
Brewer,	Hart,	Rice, William W.	Warner,
Brogden,	Hayes,	Roberts,	Whitthorne,
Burchard,	Henry,	Robinson, G. D.	Willis, Benj. A.
Burckick,	Humphrey,	Sapp,	Wren.
Cabell,	James,	Smith, A. Herr	
Caldwell, W. P.	Killinger,	Starin,	
Campbell,	Lapham,	Steele,	

So (two-thirds having voted in the affirmative) the rules were suspended and the bill was passed.

During the vote,

Mr. DAVIS, of North Carolina, said: I am paired with Mr. ELLSWORTH, of Michigan, on all political questions; but, as this is not a political question, I vote in the affirmative. My colleague, Mr. BROGDEN is absent from the House on account of sickness.

Mr. TUCKER. I am paired with Mr. GARFIELD on all political questions. This is not one and I have therefore voted in the affirmative.

Mr. EDEN. My colleague, Mr. TOWNSEND, who is absent, is paired with my other colleague, Mr. TIPTON. I presume if they were here they would both vote in the affirmative.

Mr. EWING. I am paired with my colleague, Mr. GARDNER; but, as this seems not to be regarded as a political question, I vote in the affirmative.

Mr. SMITH, of Pennsylvania. I am paired with the gentleman from Tennessee, Mr. ATKINS. If he were here I would vote in the affirmative, and I presume he also would vote the same way.

Mr. ALDRICH. My colleague, Mr. TIPTON, is absent by leave of the House. I presume, if he were here, he would vote in the affirmative.

Mr. KENNA moved to dispense with the reading of the names.

Mr. WHITE, of Pennsylvania, objected.

The vote was then announced as above recorded.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. PRUDEN, one of his secretaries, announced that the President had approved and signed bills of the following titles:

A bill (H. R. No. 142) granting a pension to George McCoy;

A bill (H. R. No. 436) granting a pension to Adam Stinson;

A bill (H. R. No. 467) restoring the name of Thomas Crawford, a soldier of the Mexican war, to the pension-roll;

A bill (H. R. No. 596) to amend section 540, chapter 1, title 13, Revised Statutes of the United States;

A bill (H. R. No. 1254) for the relief of John A. Darling;

A bill (H. R. No. 1948) granting a pension to Bridget T. Hopper; and

A bill (H. R. No. 2516) granting a pension to Fannie E. Records, widow of Albert B. Records, late a private in Company G, Fifteenth Regiment Maine Volunteers.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage of a bill (S. No. 180) to provide for a building for the use of a post-office, the United States circuit and district courts, and other Government offices at Topeka, Kansas; in which concurrence was requested.

POST-OFFICE APPROPRIATION BILL.

Mr. BLOUNT. I am directed by the Committee on Appropriations to report a bill (H. R. No. 4246) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes.

The bill was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and ordered to be printed.

Mr. BLOUNT. I wish to give notice, Mr. Speaker, that I will call up the post-office appropriation bill for consideration immediately after the pension bill is disposed of.

CURRENCY.

Mr. BUTLER arose.

Mr. SAYLER. I do not wish to interfere with the gentleman from Massachusetts unless his business occupies too much time. I wish to move to adjourn.

Mr. BUTLER. It will not take much time.

Mr. REAGAN. I hope the gentleman will not move to adjourn, as I wish to report the river and harbor bill.

Mr. SINGLETON. And I wish to make a report from the Committee on Printing.

Mr. BUTLER. I move to suspend the rules and pass a bill (H. R. No. 4238) to supply a convenient currency with which the minor business transactions of the people may be done. I ask that the bill be read.

The Clerk read as follows:

That the Secretary of the Treasury is hereby authorized and directed to issue United States notes of denominations for the fractions of a dollar representing fifty and twenty-five cents each, only to the extent and according to the provisions of sections 3572, 3573, 3574, 3575, and 3576 of the Revised Statutes.

SEC. 2. And the same may be redeemed either in other notes of the United States, as provided in section 3574 of the Revised Statutes, or in coin.

SEC. 3. Any person paying into the Treasury either United States legal-tender notes or coin shall receive therefor such amount of said fractional currency as he may desire, equal to the amount so paid in, until the limit of issue of said fractional currency shall be reached.

SEC. 4. The Secretary of the Treasury shall pay out one-sixth of all payments made from the Treasury in redemption of national bank notes in United States legal-tender notes of the denominations of \$1, \$2, \$3, and \$5, each in equal proportions, and all payments for the current expenses of the Government in like proportion, until the amount of such notes in circulation shall be equal to one-sixth of all the legal-tender notes and bank-notes shown by the books of the Treasury to have been issued, and to remain uncanceled until the amount of one-sixth thereof shall be reached. And the Secretary of the Treasury shall, from time to time, thereafter pay out United States legal-tender notes of such small denominations, in payment of current expenses, in such proportion with the other notes as to maintain the proportion of one-sixth of small legal-tender notes to the whole amount of bank notes and legal-tender notes which shall appear to have been issued and to remain uncanceled by the books of the Treasury of the United States.

Mr. BUTLER. I now desire to have read a section of the Revised Statutes.

Mr. COX, of New York. I move the House adjourn.

Mr. BUTLER. You will not get rid of it that way.

The SPEAKER. It will go over until next Monday.
The motion was agreed to; and thereupon (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: The petition of citizens of Hancock County, Indiana, for an increase of the pension of Eli C. Francis—to the Committee on Invalid Pensions.

By Mr. BACON: The petition of Low, Harriman & Co. and other merchants of New York, against the passage of the tariff bill—to the Committee of Ways and Means.

Also, the petition of the common council of Brooklyn, New York, for the construction of a post-office building in said city—to the Committee on Public Buildings and Grounds.

By Mr. BAKER, of New York: The petition of Willard Johnson and 154 other business men of Oswego Falls, New York, against the passage of the tariff bill—to the Committee of Ways and Means.

By Mr. BRAGG: The petition of John Malloy, for a pension—to the Committee on Invalid Pensions.

By Mr. BREWER: A paper relating to the establishment of post-roads between Corunna and Hazleton, and between Elsie and Edgewood, Michigan—to the Committee on the Post-Office and Post-Roads.

By Mr. CAIN: The petition of the Agricultural Society of South Carolina, against reducing the duty on jute and jute bagging—to the Committee of Ways and Means.

Also, the petition of Samuel Lowery, for aid in the establishment of silk culture in Alabama—to the Committee on Education and Labor.

By Mr. CARLISLE: The petition of Mrs. S. B. Holton, for compensation for the use of property by the United States military authorities—to the Committee on War Claims.

By Mr. COLE: The petition of the tobacco manufacturers of Saint Louis, Missouri, against the establishment of bonded tobacco warehouses—to the Committee of Ways and Means.

By Mr. COOK: A paper relating to the establishment of a post-route between Montezuma, Evansville, Snow Drop, Henderson's, Green Hill, and Hawkinsville, Georgia—to the Committee on the Post-Office and Post-Roads.

By Mr. CRAVENS: The petition of citizens of Arkansas, for an appropriation of \$15,000 to clear obstructions in the Fourche la Pave River—to the Committee on Commerce.

Also, the petition of Wilson G. Gray, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. FELTON: The petition of citizens of Marietta and Cobb Counties, Georgia, for the establishment of a branch mint at Marietta, Georgia—to the Committee on Coinage, Weights, and Measures.

By Mr. FORT: Papers relating to the claim of Allen Harper, of Illinois—to the Committee on War Claims.

By Mr. FOSTER: Two petitions of citizens of Seneca County, Ohio, against reducing the tariff on wool—to the Committee of Ways and Means.

By Mr. FRYE: The petition of Gideon Bearse and others, that a pension be granted George C. Leighton—to the Committee on Invalid Pensions.

By Mr. FULLER: The petition of citizens of Perry County, Indiana, for a post-route from Carrollton to Leopold, Indiana—to the Committee on the Post-Office and Post-Roads.

By Mr. GIDDINGS: The petitions of the mayor and aldermen of Galveston, Texas, and of owners, masters of vessels, and others, for an appropriation to construct a light-house at the entrance of the inner harbor, port of Galveston—to the Committee on Commerce.

By Mr. HAZELTON: The petition of Montgomery Mills and 25 others, against changing the tariff on linseed-oil—to the Committee of Ways and Means.

Also, the petition of the State grange of Wisconsin, against reducing the duty on wool—to the same committee.

Also, the petition of Rowly Morris and 15 others, of Green County, Wisconsin, for the reduction of the duty on manufactured tobacco—to the same committee.

Also, the petition of the publisher of the Independent, Brodhead, Wisconsin, for the abolition of the duty on type—to the same committee.

Also, the petition of John A. Klindt and 24 others, for the repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. HEWITT, of New York: The petition of citizens of New York, relating to national export trade—to the Committee on Commerce.

By Mr. LUTTRELL: The petition of C. H. Caldwell and others, for the establishment of postal savings-banks—to the Committee on the Post-Office and Post-Roads.

By Mr. MACKEY: The petition of the Nebraska colony, of Altoona, Pennsylvania, for the passage of the bill for the relief of settlers upon western Government lands—to the Committee on Public Lands.

By Mr. MONEY: The petition of the publisher of The Advance, Winona, Mississippi, for the abolition of the duty on type—to the Committee of Ways and Means.

Also, the petition of citizens of Mississippi, for the refunding of the cotton tax—to the Committee on the Judiciary.

Also, the petition of Mrs. P. J. Leflore, for compensation for property taken by the United States Army—to the same committee.

By Mr. MONROE: The petition of John C. Biggs, of Ohio, and others, for the repeal of the limitation of time in the pension laws—to the Committee on Invalid Pensions.

By Mr. MORGAN: Papers relating to the claim of Mrs. Martha Cannon—to the Committee of Claims.

Also, the petition of Passed Assistant Engineer Absalom Kirby, United States Navy, for relief—to the Committee on Naval Affairs.

By Mr. MORSE: The petition of John Ritchie and others, against the imposition of an income tax—to the Committee of Ways and Means.

By Mr. PUGH: The petition of merchants and citizens of Trenton, New Jersey, for the establishment of ocean mail steamship service—to the Committee on the Post-Office and Post-Roads.

Also, the petition of citizens of Trenton, New Jersey, for the appointment of a joint committee of the two Houses of Congress to investigate the workings of the interstate railroad system of the United States—to the Committee on Railways and Canals.

Also, two petitions of workmen, of Trenton, New Jersey, against any reduction of duties which protect labor and against the reimposition of the war tax on tea and coffee—to the Committee of Ways and Means.

By Mr. SMITH, of Pennsylvania: The petition of workmen of Columbia, Pennsylvania, of similar import—to the same committee.

By Mr. SOUTHARD: The petitions of J. W. Manley and 100 other citizens of Muskingum County, Ohio, against any reduction of the tariff; of James Colville and 40 other citizens of Licking County, Ohio, against the reduction of the tariff on wool; and of D. H. Powers and 50 other citizens of Zanesville, Ohio, against any reduction of import duties on glass and other manufactured articles—to the same committee.

✓ By Mr. STEWART: The petition of citizens of Minnesota, for the amendment of the timber-culture act so as to reduce the number of acres necessary to be cultivated from forty to ten acres—to the Committee on Public Lands.

By Mr. TOWNSEND, of New York: Two petitions of citizens of Troy, New York, against reviving the income tax—to the Committee of Ways and Means.

By Mr. VAN VORHES: The petitions of John Parmeter and 23 other citizens of Meigs County; of M. B. Custer and 46 other citizens of Fairfield County, and of W. H. Hammond and 88 other citizens of Hocking County, Ohio, against any reduction of the tariff on wools and woollens—to the same committee.

By Mr. WAIT: Papers relating to the claim of J. George Harris, of Tennessee—to the Committee on War Claims.

By Mr. YOUNG: The petition of G. W. and Agnes Bumpass, of Tennessee, for the reference of their war claim to the southern claims commission—to the same committee.

IN SENATE.

TUESDAY, April 9, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. EUSTIS presented a concurrent resolution of the Legislature of Louisiana, in favor of an appropriation by Congress for the improvement of the navigation of the Red River; which was referred to the Committee on Commerce.

He also presented the memorial of A. M. Miller & Co., and others, foreign steamship agents, remonstrating against the passage of the bill (H. R. No. 2475) to amend certain sections of titles 43 and 52 of the Revised Statutes of the United States, concerning commerce and navigation and the regulation of steam-vessels, so far as the same relates to foreign vessels; which was referred to the Committee on Commerce.

Mr. FERRY presented the petition of Mrs. Nancy M. Richmond, of Pierson, Michigan, widow of Lyman A. Richmond, a soldier in the Mexican war, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of Sidney T. Holmes and 156 others, business men of Bay City, Michigan, praying for the unconditional repeal of the national bankrupt law; which was ordered to lie on the table.

Mr. CHRISTIANCY presented the memorial of George Rutson, D. H. Noyes, and 254 others, residents of the coast of Saginaw Bay, Lake Huron, remonstrating against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which was ordered to lie on the table.

Mr. COCKRELL. I present the petition of Hugo Osterhaus, United States Navy, praying that Master W. M. Wood, United States Navy, be restored to his proper rank. I move that the petition be referred, with the accompanying papers, to the Committee on Naval Affairs, and I trust that that committee will consider it in connection with the proposed promotion of Mr. Wood.

The motion was agreed to.

Mr. ANTHONY presented the petition of Lelia E. McCauley, widow of Commodore Charles S. McCauley, late of the United States Navy, praying payment for personal property lost at the abandonment of the navy-yard, Norfolk, Virginia, April 20, 1861; which was referred to the Committee on Claims.

Mr. JONES, of Florida, presented the petition of John H. Walker and others, citizens of Pensacola, Florida, praying for the construction of a southern transcontinental railway from the Mississippi River to the Pacific Ocean; which was referred to the Committee on Railroads.

He also presented the petition of Mrs. E. C. Long, of Florida, daughter of the late Richard K. Call, praying compensation for services rendered the Government by her late father, in accordance with a judgment of the northern district court of Florida, rendered on the 18th day of January, 1847; which was referred to the Committee on Claims.

Mr. OGLESBY presented the petition of Charles F. Tate, and other citizens of Illinois on his behalf, praying that he be allowed a pension; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. SPENCER, from the Committee on Military Affairs, to whom was referred the bill (S. No. 21) for the relief of Brigadier-General Alexander S. Webb, late of the United States Army, reported adversely thereon, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 864) to provide for the construction, maintenance, and operation of a military telegraph in Dakota and Montana Territories, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

Mr. MORRILL, from the Committee on Finance, to whom the subject was referred, reported a bill (S. No. 1058) to repair and put in operation the mint at New Orleans, authorizing the coinage of gold and silver thereat, and making an appropriation therefor; which was read twice by its title.

Mr. MORRILL. The bill just reported is in the nature of a substitute for two other bills, the bill (S. No. 916) to re-establish the mint at New Orleans, authorizing the coinage of gold and silver thereat, and making an appropriation therefor, and the bill (S. No. 768) to defray the expenses of the mint and assay-office at New Orleans, Louisiana, and making an appropriation therefor. I therefore move that these bills be indefinitely postponed.

The motion was agreed to.

Mr. MORRILL. I ought to add that the Committee on Finance deem this mint at New Orleans to be all that will be necessary to coin all the silver that is required under existing law.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (S. No. 375) for the protection of widows, orphans, and heirs at law of officers of the Army of the United States, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 592) for the relief of Captain P. A. Owen, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. OGLESBY, from the Committee on Public Lands, to whom was referred the bill (S. No. 1021) for the relief of certain settlers on the public lands, reported it without amendment.

Mr. BLAINE. I am directed by the Committee on Appropriations, to whom was referred the bill (H. R. No. 3740) to provide for the deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes, to report it with amendments. I will call it up at such time time as the business of the Senate may suggest a proper opportunity.

BILLS INTRODUCED.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1059) granting a pension to Jacob S. Hunt; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1060) directing the Secretary of War to erect headstones over the graves of soldiers interred in the cemetery at Monnd City, Kansas; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1061) to introduce industrial expositions into the public schools of the District of Columbia; which was read twice by its title, and referred to the Committee on Education and Labor.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1062) to introduce moral and social science into the public schools of the District of Columbia; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Education and Labor, and ordered to be printed.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1063) providing for the compensation to be paid for the transportation of the mails on railroad routes; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. COKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1064) for the relief of Henry Warren; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Indian Affairs.

Mr. BLAINE (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1065) for the relief of Toussaint Mesplie; which was read twice by its title, and referred to the Committee on Claims.

WITHDRAWAL OF PAPERS.

On motion of Mr. WALLACE, it was

Ordered, That Catharine T. Campbell have leave to withdraw her petition and papers from the files of the Senate.

On motion of Mr. ALLISON, it was

Ordered, That Andrew B. Battelle and George D. Evans have leave to withdraw their petition and papers from the files of the Senate.

BILL RECOMMITTED.

Mr. MITCHELL. On the 27th of last month the Committee on Claims instructed me to report to the Senate a bill (S. No. 999) for the relief of Eliza E. Hebert. This claim has been reported heretofore twice, favorably in both Houses, I believe; but from information which I have received from a prominent Senator within the last few days and also from some further information which I have received from other sources, I am impressed by the conviction that this claim should receive further consideration at the hands of the committee. I therefore move the recommitment of the bill to the Committee on Claims.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of the Navy, communicating, in answer to a resolution of February 13, 1878, information in relation to lands belonging to the United States in the State of Florida, reserved for naval purposes; which was referred to the Committee on Naval Affairs, and ordered to be printed.

ARMY REGULATIONS.

Mr. MAXEY. I move that the Senate proceed to the consideration of the bill (S. No. 868) to provide for a code of Army regulations.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of War to have prepared and to report to Congress at the next session, or as soon thereafter as is practicable, a code of regulations for the government of the Army and of the militia in actual service, which shall embrace all necessary orders and forms of a general character for the performance of all duties incumbent on officers and men in the military service, including rules for the government of courts-martial; and the existing regulations are to remain in force until Congress shall have acted on his report.

Mr. MAXEY. This bill comes from the Committee on Military Affairs, who instructed me on the 2d instant to report it back favorably, with this amendment: In line 4, after the word "Congress," to strike out the words "at the next session or;" and in line 5, after the word "soon," to strike out "thereafter;" so as to read:

That the Secretary of War be, and he is hereby, directed to have prepared and to report to Congress as soon as is practicable a code of regulations, &c.

The VICE-PRESIDENT. The question is on this amendment reported from the committee.

The amendment was agreed to.

Mr. MAXEY. I will state that there have been no Army regulations revised for fifteen years, since when the Army has been both increased and reduced. A great many laws have been passed affecting the Army, and many regulations and rules have been made which are not embraced in the revised Army regulations of 1863 but are scattered through many papers, and the inconvenience is apparent. The Secretary of War urges the passage of such a bill, the only question being whether the code should be published under the supervision of the President, without being placed before Congress, or whether it should be submitted to Congress. I will state that a bill like this passed Congress several years ago, but it contained the words "and to report to Congress at the next session." The report was not acted on by the end of the then next session, and the result was that we had no revision of the Army regulations under that measure. That was several years ago. The Committee on Military Affairs instruct me to say that in their opinion the clause of the Constitution which declares that Congress shall have power "to make rules for the government and regulation of the land and naval forces" necessitates the adoption of these rules, when made, by Congress; that an expert or experts may be employed in aiding this work, but the final act of judgment in the adoption of the rules must be by Congress. Hence the committee report the bill as it now stands.

Mr. McMILLAN. May I inquire of the honorable Senator from Texas whether the views of the War Department and of the General of the Army have been obtained upon this subject or can be communicated by the Senator?

Mr. MAXEY. I have already stated, but presume the Senator did not hear me, that the Military Committee referred the whole matter to the Secretary of War, who urges the bill.

Mr. McMILLAN. I had not heard the Senator. His remarks were indistinct in this part of the Chamber.

Mr. MAXEY. I took that precaution myself.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

W. C. SNYDER.

Mr. FERRY. I move that the Senate proceed to the consideration of the bill (H. R. No. 536) for the relief of W. C. Snyder, of Illinois.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Auditor of the Post-Office Department to credit the account of W. C. Snyder, as postmaster at Fulton, Whitesides County, Illinois, with \$175, on his money-order account, for that sum paid by him upon money-orders burned on the 26th of March, 1875; and the further sum of \$451 on his general account, being the amount of postage-stamps and stamped envelopes burned by the destruction of his office by fire, and funds of the United States stolen on that day, without his fault or negligence.

The bill was reported from the Committee on Post-Offices and Post-Roads, with amendments.

The first amendment of the committee was, in line 9, before the word "dollars," to strike out "451" and insert "381," so as to read:

And the further sum of \$381 on his general account, being the amount of postage-stamps and stamped envelopes burned in the destruction of his office by fire.

The amendment was agreed to.

The next amendment was, in line 12, after the word "fire," to strike out the words "and funds of the United States stolen;" so as to read:

Being the amount of postage-stamps and stamped envelopes burned by the destruction of his office by fire on the said 26th of March, A. D. 1875, without his fault or negligence.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

LANDS OF BROTHERTOWN INDIANS.

Mr. OGLESBY. I ask the Senate to proceed to the consideration of House bill No. 1135. This bill came from the House with a report which the Committee on Public Lands have had under consideration, and they recommend that it pass. The committee find in reading the bill that there is a clerical error which occurs in the engrossed bill of the House precisely as it appears in this printed bill. The object of the bill is to appoint a certain number of the Brothertown Indians trustees to sell a small portion of a township of public lands which belonged to the Brothertown Indians long, long ago, and which was under a law of Congress allotted to them in severalty, and upon the allotment being made to each of the Indians of the tribe they thereby became citizens of the United States. The township was disposed to each Indian in severalty, and the title all settled, and they became citizens. Subsequently it was discovered that there was an excess of about one hundred acres in the township which was not divided or allotted. The bill simply provides that the Brothertown Indians in their council may appoint four or five men, named in the bill as trustees to sell that hundred acres and divide the proceeds among the tribe; that is all. I wish the bill to be passed as proposed to be amended so that it may go back to the House to be corrected. It is a mere clerical error which compels us to send it back for the purpose of correction. But for that amendment the bill would pass here without hesitation, and immediately become a law. I therefore move that the Senate proceed to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1135) to authorize the issue of a patent of certain lands in the Brothertown reservation, in the State of Wisconsin, to the persons selected by the Brothertown Indians.

The bill was reported from the Committee on Public Lands with an amendment, in line 2 of section 2 to strike out the words "is hereby" where they twice occur.

Mr. OGLESBY. These words are simply repeated in that line.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

GOVERNMENT BUILDING AT KANSAS CITY.

Mr. COCKRELL. I move that the Senate proceed to the consideration of the bill (H. R. No. 3712) to provide for the erection of a public building in the city of Kansas, in the State of Missouri.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to purchase a site for and cause to be erected a suitable building, with fire-proof vault extending to each story, for the accommodation of the post-office, custom-house, bonded warehouse, internal-revenue offices, and other Government offices, at the city of Kansas, Missouri. The site and building thereon, when completed upon plans and specifications to be previously made and approved by the Secretary of the Treasury, shall not exceed the cost of \$200,000.

The bill was reported from the Committee on Public Buildings and Grounds with amendments.

The first amendment was to strike out lines 16, 17, and 18, in the following words:

Release and relinquish to the United States the right to tax or assess said site, or the property thereon, during the time the United States shall be or remain the owner thereof.

And in lieu thereof to insert:

Cede to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State, and the service of any civil processes therein.

So that the proviso will read:

Provided, That no money to be appropriated for this purpose shall be available until a valid title to the site of said building shall be vested in the United States, and until the State of Missouri shall cede to the United States exclusive jurisdiction over the same, &c.

The amendment was agreed to.

The next amendment was to insert as an additional section:

SEC. 2. That the sum of \$100,000 be, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be used and expended toward the construction of said building.

The amendment was agreed to.

Mr. KERNAN. I desire to inquire whether the requisite steps have been taken so that this will be all that the building will cost, or whether there are any plans and specifications?

Mr. COCKRELL. I will state that it was submitted to the Secretary of the Treasury and he estimated that \$200,000 would be sufficient to complete a building of the character which was needed at Kansas City, Missouri. This bill limits the cost to that amount.

Mr. KERNAN. Please state what are the necessities for a building there?

Mr. COCKRELL. I will state the necessities for a building at Kansas City. In the first place, the amount of clearings at the Kansas City clearing-house for 1875 was \$40,815,935.76; for 1876, \$62,840,608.76; and for 1877, \$69,213,011.51. The internal revenue paid by Kansas City alone, at the Kansas City office, not including the amount that was collected from the adjoining district, for 1874 was \$63,190.50; for 1875, \$72,144.95; for 1876, \$75,586.97; and for 1877, \$74,285.19. The post-office does probably a larger business than that of any of the western cities of anything like a similar size. The aggregate receipts from the sale of stamps, envelopes, and cards; for box rent, unpaid letters, waste-paper, and fees on money orders for 1875 were \$39,768.08; for 1876, \$52,000; and for 1877, \$64,221.51. The aggregate expenses of the office, clerk hire, rent, salaries, and carrier system altogether, for 1875 were \$25,813.85, leaving a net profit to the Government of \$13,954.23. For 1876 the expenses were \$23,446.51, leaving a net gain to the Government of \$25,553.49; and for 1877 the expenses were \$25,726.91, leaving a net gain to the Government of \$38,494.60. The money orders issued at that office amounted to \$125,123.45; the fees on the same to \$1,190.60. The certificates of deposit for money-order funds from the postmasters amounted to \$636,343.74, making the total receipts from these two resources \$763,657.79. The total number of pieces of mail matter delivered was 3,007,605. The total number of pieces of mail matter collected was 1,478,986. The number of letters sent was 1,25,000, and the number of letters delivered in the city 1,814,082.

It is one of the largest railroad centers west of Saint Louis, has nine railroads centering there, and has communication with all parts of the great West. I ask that this bill may be passed simply because it is a matter of economy to the Government to provide a building at that place for the transaction of its rapidly increasing business. The business now justifies the expenditure, and in a very few years the business will be double what it is now.

Mr. MORRILL. I desire to say, in addition to what the Senator from Missouri has said, that this matter was very fully investigated by the Committee on Public Buildings and Grounds and reported unanimously.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

DAKOTA SOUTHWESTERN RAILWAY.

Mr. TELLER. I move that the Senate proceed to the consideration of the bill (S. No. 927) to authorize the construction of a narrow-gauge railroad from Bismarck to the Black Hills.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The bill was reported from the Committee on Railroads with amendments.

Mr. WINDOM. This bill was read at length on a former occasion, and at the request of the Senator from Michigan [Mr. CHRISTIANCY] it was laid over that he might suggest some amendments. He has prepared a number of amendments which meet the approval of the members of the committee.

The VICE-PRESIDENT. There are some committee amendments which will be first disposed of. They will be reported.

The CHIEF CLERK. The first amendment of the Committee on Railroads is, in line 3 of section 1, to strike out "William Johnson"

and to insert "William A. Johnstone" as the name of one of the corporators.

The amendment was agreed to.

The next amendment was, in line 6 of section 1, to strike out "Loren" and insert "Lorain" in the name of "Lorain P. Hilliard."

The amendment was agreed to.

The next amendment was, in line 7, section 2, after the word "entire," to insert the word "line;" so as to read:

And complete, furnish, and equip, as herein provided, the entire line of its said main line within four years after the passage of this act.

The amendment was agreed to.

The next amendment was, at the end of section 5, to strike out the following words:

And when the business of said road shall seem to require it, the said company may change the gauge of said railroad to the ordinary and usual gauge of first-class trunk railroads.

The amendment was agreed to.

The next amendment was to strike out section 8, in the following words:

That Congress may at any time alter, amend, or repeal this act, having due regard to rights which may have become vested in said company.

And in lieu thereof to insert:

The said Dakota Southwestern Railroad Company may construct its main line and branches of such gauge as may be determined on by its board of directors. Congress reserves the right to alter, amend, or repeal this act until such time as the said railroad so to be built shall be, or the major part thereof shall be, within the limits of some State. And when the said railroad, or the greater part thereof, shall be within the limits of a State, the corporation hereby created shall in all respects be considered and treated as a corporation created by such State, whenever it shall have become subject to the laws thereof; and thereafter Congress shall not have any greater or other control over such corporation than if it had been created by the State.

Mr. SAULSBURY. I should like to inquire of the Senator who has the bill in charge whether he proposes to strike out that provision of the charter which gives Congress the power to alter, amend, or repeal.

Mr. WINDOM. The Senator from Michigan [Mr. CHRISTIANCY] will answer that question. He has an amendment prepared to meet that case.

Mr. CHRISTIANCY. Mr. President, I propose to leave the eighth section as contained in this bill, reserving the power, stricken out as it is, and then for the eighth section, which is printed as an amendment on the thirteenth page, I propose to offer the following as a substitute:

Whenever any part of the present Territory of Dakota through which said road may run shall be admitted into the Union as a State or States, so much of said railroad and its appurtenances and property as may be within any such State shall be subject to State taxation.

I propose that as a substitute for section 8 on page 13, the committee's amendment.

The VICE-PRESIDENT. Does the Senator from Michigan propose to amend the amendment reported by the committee?

Mr. CHRISTIANCY. Yes, sir. Then I propose to add as a new section:

This act, and every provision thereof, and every right, power, and privilege therein granted, are hereby declared to be subject to the condition that Congress may at any time alter, amend, or repeal this act or any provision therein contained.

The VICE-PRESIDENT. That amendment will be first acted upon.

Mr. WINDOM. I desire to say that, having charge of this bill, I have no objection to either of these amendments, and I hope they may be adopted. I am sure the last is strong enough for all purposes.

Mr. CHRISTIANCY. I wish the last amendment to come in at the close of the bill, as a ninth section.

The VICE-PRESIDENT. In that view the committee's amendment will be dealt with separately and first disposed of. It will be reported now in order that the Senate may vote upon it understandingly.

The CHIEF CLERK. The Committee on Railroads report to strike out section 8, in the following words:

That Congress may at any time alter, amend, or repeal this act, having due regard to rights which may have become vested in said company.

And in lieu of these words to insert:

SEC. 8. The said Dakota Southwestern Railroad Company may construct its main line and branches of such gauge as may be determined on by its board of directors. Congress reserves the right to alter, amend, or repeal this act until such time as the said railroad so to be built shall be, or the major part thereof shall be, within the limits of some State. And when the said railroad, or the greater part thereof, shall be within the limits of a State, the corporation hereby created shall in all respects be considered and treated as a corporation created by such State, whenever it shall have become subject to the laws thereof; and thereafter Congress shall not have any greater or other control over such corporation than if it had been created by the State.

Mr. WINDOM. I propose to have that struck out in order to accept the amendment of the Senator from Michigan.

The amendment was rejected.

Mr. CHRISTIANCY. The amendment I wish now to come in place of section 8 is the following:

Whenever any part of the present Territory of Dakota, through which said road may run, shall be admitted into the Union as a State or States, so much of said railroad and its appurtenances and property as may be within any such State shall be subject to State taxation.

Mr. CHAFFEE. I should like to inquire whether the railroad is

to be exempt from taxation until any portion of that Territory has become a State under the original bill?

Mr. TELLER. I will say that there is nothing in the bill that exempts the company from taxation. If there is anything of that kind in the bill I propose to strike it out.

Mr. CHAFFEE. If there is nothing in the bill to exempt the railroad from taxation I do not see the force of the amendment.

Mr. CHRISTIANCY. My amendment in no way affects the question of taxation between this time and the time when the Territory shall be admitted as a State. It neither affirms nor denies that power.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Michigan.

The amendment was agreed to.

Mr. CHRISTIANCY. Now, I move to insert as the last section the following:

SEC. 9. This act, and every provision thereof, and every right, power, and privilege therein granted, are hereby declared to be subject to the condition that Congress may at any time alter, amend, or repeal this act, or any provision therein contained.

The amendment was agreed to.

Mr. McMILLAN. I should like to inquire of the Senator from Michigan whether by the amendment offered and adopted at his instance there is any provision or implication in the bill which exempts the property of this railroad company from taxation during the time of the territorial existence of the country through which it passes?

Mr. CHRISTIANCY. None whatever, as I understand it. It only provides for the contingency when the Territory becomes a State or States.

Mr. WINDOM. I desire to suggest several amendments for the purpose of carrying out one object. The bill, as reported from the Committee on Railroads, provides for branch roads. I desire to strike out everything in the bill with reference to branches so as to make but a single line from Bismarck to the Black Hills. I first move, however, on line 20 of section 1, to strike out "narrow gauge."

Mr. SARGENT. That makes it a broad-gauge instead of a narrow-gauge road.

Mr. WINDOM. It leaves the company at liberty to adopt either as they may choose.

The amendment was agreed to.

Mr. WINDOM. In the same section, on line 24, I move to strike out, commencing after the word "corporation," the words:

With such branch or branches from the most advantageous place or places on the main line, to such other place or places in or near the Black Hills, as the said board may deem advisable.

Mr. SARGENT. Have the amendments with reference to striking off the branches the concurrence of the committee? I notice the Senator from Oregon [Mr. MITCHELL] is absent.

Mr. WINDOM. There are no specific branches mentioned, but by the bill as reported there is a general authority to build branches. It was not discussed in committee particularly, but upon consideration several of us in the Senate have thought it advisable to limit the power to authority to build a single railroad.

Mr. SARGENT. I see the Senator from Oregon is now here. I suppose he has no objection to the proposition.

Mr. MITCHELL. What is it?

Mr. WINDOM. The proposition is to strike out the branches of the little Bismarck and the Black Hills road, so as to authorize the building of only one line.

Mr. MITCHELL. I have no objection to that.

The amendment was agreed to.

Mr. WINDOM. On line 87 of section 1, I move to strike out the words "alter and repeal," and insert the words "any reasonable." I make the motion at the suggestion of the Senator from Michigan. It will then read:

Said company shall have power to make any reasonable by-laws, rules, and regulations.

The amendment was agreed to.

Mr. WINDOM. On line 93, in the same section, after the word "company," I move to insert—

And may alter or repeal the same.

The amendment was agreed to.

Mr. WINDOM. On line 7 of section 2, I move to strike out the words "said main line" and insert "road."

The amendment was agreed to.

Mr. WINDOM. In the same section, after the word "act," on line 8, I move to strike out the words—

And the said company shall locate its branch line or lines and file maps thereof in the office of the Secretary of the Interior within five years after the passage of this act, and shall complete, furnish, and equip all its branch lines within five years thereafter; and the said company shall be debarred from all right, power, and authority to construct any branch line which shall not be located within the time above limited thereafter.

Mr. THURMAN. Will the Senator state why he wants to strike those words out?

Mr. WINDOM. I said a moment ago that the bill as reported gives a sort of general authority to construct branch roads and equip them. On reflection, it is deemed advisable to confine them to a single line, as we do not know where they may wish to build branches, and if they do they can apply to Congress hereafter.

Mr. THURMAN. I quite agree to that if the Senate has stricken out the power to build branch roads.

Mr. WINDOM. This is for the same thing, in order to perfect the bill and make it conform to the action of the Senate in striking out the branches.

Mr. THURMAN. The question I asked was whether the antecedent provisions in regard to the branch roads had been stricken out.

Mr. WINDOM. They have been.

Mr. THURMAN. That is all right, then.

The amendment was agreed to.

Mr. WINDOM. On line 16 of the same section, after the word "railroad," I move to strike out the words "and branches."

The amendment was agreed to.

Mr. WINDOM. On lines 20 and 21 of the same section I move to strike out the words "narrow gauge."

The amendment was agreed to.

Mr. WINDOM. On line 26 of the same section I move to strike out the words "and branches" after "road."

The amendment was agreed to.

Mr. WINDOM. On the same line I move to strike out the word "mails." The purpose of that is to provide at the end of the section the following:

And shall transport the mails of the United States at rates not higher than the average rates which shall be paid on railroads in the State of Minnesota.

I move that at the suggestion of the Senator from Michigan, who has given this bill very careful consideration.

The amendment was agreed to.

Mr. WINDOM. On line 4 of section 3 I move to strike out the words "and branches."

The amendment was agreed to.

Mr. WINDOM. On lines 9 and 10 in the same section I move to strike out the words "and branches their entire length."

The amendment was agreed to.

Mr. WINDOM. On line 5, section 4, I move to strike out the words "and branches."

Mr. HEREFORD. Will the Senator allow me before he passes from section 3, to suggest an amendment there? I see by section 3, commencing with line 10, that the right of way is granted to the railroad and branches:

Their entire length through the public domain, including all necessary ground for station-buildings, workshops, engine-houses, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations.

It seems to me, and I suggest it to the Senator who is now offering amendments to this bill, that the amount of land donated to this railroad company for depots, &c., should be fixed. If it is not fixed the time will come when there will be an altercation between the railroad company and the people living around the depots. The company will claim an indefinite amount of land. There should be so many acres fixed; make it a liberal amount if you will; but make it positive and definite. The language is:

All necessary ground for station-buildings, &c.

They may say fifty acres or a hundred acres are necessary. My object is to restrict this railroad company within reasonable limits so that the citizens—it may be in a town or a town may grow up around the depot, and the citizens of that town or in and around that depot, want to be assured in their rights. After they have put up a building, unpretentious as it may be, they do not want the railroad company to come in and say "this is our ground; you must tear down your building and give away because it is necessary for this switch or this turn-out or this depot." Fix the number of acres. If the Senator does not make any suggestion, I would suggest a number of acres, but I prefer to leave it to the wisdom of the Senate.

Mr. WINDOM. That is a very difficult thing to do. I think it is not important to do it as the word "necessary" will confine them to the land that will be absolutely needed for the purpose.

Mr. HEREFORD. I think we should fix the number of acres; otherwise I will oppose the bill. I believe in granting the right of way to railroads through these Territories; I am liberal in that; but as to depot grounds, &c., the amount should be fixed and definite. Here is the right of way for a hundred feet in width granted on each side of the railroad—

Including all necessary ground for station-buildings, workshops, engine-houses, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations.

I should say myself that twenty acres would be enough for a depot. Twenty acres is a large amount of land. Twenty acres is more than is used for either one of the great depots here in Washington City. They have not the half of twenty acres. I suggest that section 3 be amended so as to confine the amount of land donated for the purposes specified in lines 11, 12, and 13, to "not exceeding twenty acres at any one station."

Mr. WINDOM. I think they would not get more than that as the bill now stands; but it is extremely difficult to limit it. I think if the Senator moves to do so at all, he should at least make the ordinary Government subdivision which is forty acres. I think that is more than they would get under the present language.

Mr. HEREFORD. I have no objection to forty acres. There should be some limit.

Mr. WINDOM. I think the bill is better as it is, but if the Senator makes that suggestion I have no objection to forty acres.

Mr. HEREFORD. I move to amend, then, by saying, "not to exceed forty acres at any one station."

The VICE-PRESIDENT. The question is on the amendment of the Senator from West Virginia.

Mr. CHRISTIANCY. If the Senator will allow me to say a few words as to that, I wish to accomplish what he wants to accomplish, and that is not to give any more to this company than is necessary for the purpose. In my opinion, if the language is left to stand as it is now, they not only would not get forty acres but they would not get twenty.

Mr. HEREFORD. I would ask the Senator from Michigan who is to determine what is necessary?

Mr. CHRISTIANCY. I suppose if any question arose it might be a question of law for the courts to decide, if they undertook to claim more than was necessary for the purpose. In the first instance probably the Secretary of the Interior would decide, or the Commissioner of the General Land Office.

Mr. WINDOM. I do not think it is very important, but I would rather take the vote on the motion of the Senator from West Virginia.

Mr. HEREFORD. The forty acres may not be worth \$40 now, but the time may come when it will be worth a great deal more, and a private citizen may have gone and built a house there, and through the power of the railroad company they may be able to control the jury and the jury may determine that a certain piece of property on which a private citizen has erected a house is necessary for railroad purposes; and there is no provision here made that that building thus put up by a private citizen shall be paid for by the railroad, because by the verdict it will have been ascertained that the land was necessary for railroad purposes; and if necessary for railroad purposes, then this private citizen ought not to have put his house thereon. I desire right now as this bill is passing through that it shall limit the amount. It has been usual in all bills like this to limit the amount that railroad companies shall have at each station.

Mr. WINDOM. Let us have a vote, Mr. President.

Mr. HEREFORD. I am informed by the Senator from Colorado, [Mr. CHAFFEE,] who is more familiar with such legislation than I am, that there is a general law now to that effect relative to the right of way.

The VICE-PRESIDENT. The question is on the amendment of the Senator from West Virginia.

The amendment was agreed to; there being on a division—ayes 24, noes 15.

Mr. WINDOM. On line 5 of section 4 I move to strike out the words "and branches."

The amendment was agreed to.

Mr. WINDOM. On line 3 of section 5 I move to strike out the words "and branches."

The amendment was agreed to.

Mr. WINDOM. On line 15 and line 18 of section 6 I move to strike out the words "and branches" where they occur respectively.

The amendment was agreed to.

Mr. WINDOM. I have no further amendment.

Mr. THURMAN. On page 8, after the word "court," in line 16 of section 4, I move to insert:

And in determining the amount of such compensation they shall not take into account any benefit or advantage to or increase in value of the land of such owner by reason of the construction of said road.

The way this bill is drawn these commissioners might offset the advantage to the land of the owner by reason of the construction of the railroad against the value of the land taken or the damage done. We had large experience in that in Ohio once in the construction of the Ohio Canal. The commissioners went for about forty miles down the Scioto Valley and never assessed one dollar of damages. Three commissioners, just as are here provided for, went up and down that valley, and for forty miles never awarded one single cent of damages, because, they said, owing to the construction of the canal there would be a general rise in the value of the land all along there, and that that would more than compensate the owner for the loss. To correct that the people of Ohio put in their constitution just what I offer here.

Mr. McDONALD. I wish to suggest to the Senator from Ohio that that amendment should be amended in this way:

That in estimating the value of the land taken they shall not take into account, &c.

If you estimate the consequential damages, may you not consider consequential benefits? If it is confined to the value of the land taken, it is all right.

Mr. WINDOM. There is no objection to the amendment proposed by the Senator from Ohio as modified by the Senator from Indiana.

The VICE-PRESIDENT. The amendment will be reported.

The CHIEF CLERK. After the word "court," in line 16, section 4, it is proposed to insert:

And in estimating the value of the lands taken they shall not take into account any benefit or advantage to or increase in value of the land of such owner by reason of the construction of said road.

Mr. THURMAN. I did not say "the value of the land taken."

Mr. McDONALD. I suggested that.

Mr. THURMAN. I prefer it in the way I had it first. I do not accept the suggestion of my friend from Indiana.

The VICE-PRESIDENT. The amendment will be read as proposed by the Senator from Ohio.

The CHIEF CLERK. The amendment as offered is in these words: And in determining the amount of such compensation they shall not take into account any benefit or advantage to or increase in value of the land of such owner by reason of the construction of said road.

Mr. McDONALD. I now suggest an amendment to the amendment to confine it to the value of the land taken. I move to amend the amendment in that way.

Mr. THURMAN. I have several other amendments to offer to this bill, not in the spirit of hostility to it at all, but I think that it is very important it should be amended—

The VICE-PRESIDENT. The morning hour has expired.

Mr. THURMAN. Therefore I ask for the regular order.

Mr. WINDOM. Let me say a single word. There is nothing in the world granted by the bill but the right of way and the right to form the company. It is believed the road can be built this summer if the bill is passed in reasonable time this spring. I am anxious to pass it as soon as possible.

Mr. THURMAN. I will help the Senator to pass it in the morning hour to-morrow.

Mr. WINDOM. I give notice to the Senate that I will try to call it up to-morrow in the morning hour.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 4245) authorizing the President of the United States to appoint James Shields, of Missouri, a brigadier-general in the United States Army on the retired list; in which it requested the concurrence of the Senate.

The message also announced that the House further insisted upon its disagreement to certain amendments of the Senate to the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making appropriations for detecting trespass on public lands, and for bringing into market public lands in certain States, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. M. J. DURHAM of Kentucky, Mr. J. H. BLOUNT of Georgia, and Mr. J. H. BAKER of Indiana managers at the conference on its part.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 3064) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1879, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they were thereupon signed by the Vice-President:

A bill (S. No. 691) to amend an act entitled "An act to provide for the sale of certain New York Indian lands in Kansas," approved February 19, 1873; and

A joint resolution (S. R. No. 22) providing for a place of deposit for the records and proceedings of the commission appointed under the act entitled "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," approved January 29, 1877.

THE PACIFIC RAILROADS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 15) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act.

Mr. EDMUNDS. Mr. President, I beg everybody to believe that I am not going to deliver an oration and to hope that I shall finish just as soon as a condensed statement of what it appears to the committee ought to be now stated can be made. This affair has prolonged itself so much, and so much of discursive learning and eloquence has been devoted to it that it is not at all surprising that a good many Senators may feel that it has come to be a bore; but there is, after all, this matter before us; there is the solemn responsibility which we as the rulers of the commonwealth of this country are bound to perform in doing justice between these corporations and the people of the United States; and in order to do that we must understand exactly how the case stands. The Senator from California [Mr. SARGENT] and some other Senators have, with the apparent purpose of producing impressions against the recommendations of the committee in the minds of Senators, dwelt with eloquence and with persuasiveness upon the great benefit that these companies have done to the people and to mankind at large by the construction of these roads, as if therefore either Congress has no power to regulate their future proceedings, or that we ought to condone (as the expression of the Senator from California was) this debt not only to ourselves but to all the other creditors of the corporations who stand just as we do, entitled to the protection of Congress for the preservation of their interest just as much as the people are entitled to the protection of Congress for the preservation of their rights which as tax-payers are now drawn into peril.

Mr. SARGENT. I presume the Senator does not wish to misrepresent me.

Mr. EDMUNDS. By no means.

Mr. SARGENT. Did the Senator understand me that there should be any condonation of this debt?

Mr. EDMUNDS. No.

Mr. SARGENT. I said nothing of that kind.

Mr. EDMUNDS. No; the Senator said nothing of that kind, but the Senator used the term "condonation" over and over again applied to one part of these transactions, which condonation, if agreed to and made, would have exactly the effect that I speak of, of diminishing the honest resources of these companies in a very large degree, and thereby diminishing the chances of their creditors, including the people of the United States.

Mr. SARGENT. Now, if my friend will allow me—I certainly do not wish to interrupt him causelessly—I did not use the word "condonation" once nor many times in that connection at all. I did not use it in reference to the debt, its disposal, or the manner of its being incurred. I simply said that with reference to certain alleged offenses which had been brought in here to make weight against the companies, by previous non-action of Congress there had been a condonation, but I did not argue that for that reason the debt should be forgiven or any part of it.

Mr. EDMUNDS. Then, Mr. President, I do not precisely understand the impulse which should have led the Senator from California and many others who have spoken of equalities of rights and of fair play, as they call it, to these companies, and of tenderness, of liberality, to press upon the Senate repeatedly and continually as affecting this question of law, of our right to amend these charters, and this question of business prudence and duty to the creditors of these companies to preserve their funds for their benefit, unless it was to effect some purpose or other. The Senator from California rarely talks without a purpose, never I may say. His mind is clear and far-reaching; and when he delivers to this body a speech like that which I had the pleasure of listening to, laying stress more upon the benefits that these companies have conferred upon the people of the United States and upon the Government in respect of cheapening transportation, it must have been for the purpose of leading Senators either away from the real question that my friend now admits is here, or of persuading them to mitigate and to blind the intellectual processes, by which, first, we are to understand the present condition of affairs and our rights, and, second, those wholesome regulations which prudence and justice require should be adopted. But I am glad to know that my honorable friend now, if he ever was suspected of occupying such an attitude, does not; and so we may dismiss, I take it, from the arena all these considerations, all that has been pressed upon us about the enormous benefactions which these great monopolies have bestowed upon the people of this country—exactly such benefactions as the Baltimore and Ohio Railway Company, as every railway company in every State has bestowed upon the people of its State, although in many instances (not in respect to the first company I have named but in many instances in all the States) we know that these benefactions have grown out of prodigious corruption, out of prodigious fraud on the part of the managers of these corporations, not only against the public in unjust and coercive rates, but against their own stockholders and creditors who have contributed the money by which the enterprises were inaugurated and carried on. And yet the benefit to public considerations is the same. A bankrupt and corrupt railway corporation that is only the spoil upon which its directors or its trustees or its receivers fatten, nevertheless carries your grain, and your coal, and your beef, and your wool, and your iron, and your citizens, from one part of the country to the other; and such companies are in that sense benefactors. So, Mr. President, in the same sense would be the benefactions of a mob or of a public enemy that might break into the Treasury of the United States to-day at New York—not here, I suppose, for there is not much money here, I presume—and seize the one hundred millions of gold that is there, and give it to the poor; there would be bread and clothing and shelter for the poor and there would be benefaction.

Then Mr. President, it does not do to have our minds warped or prejudiced in the least degree *pro* or *con* in respect to these affairs by the circumstance that these railways have diminished the total expense to the Government of the United States in transportation by their construction. It is not, by the way, a demonstrable problem that they have. There are many other things to be taken into the account if you were to strike a balance-sheet in reference to these things, because you will perceive that an estimate based upon military expenses of a given year in respect to the Indians or upon the cost of transportation of the mails may be entirely a fallacious one the next year. It depends upon the circumstances of each particular year; and if it be a benefaction, as I have said, the United States by the expenditure of very little more money than the face of these bonds that it gave to these companies could have built the line itself and it would have belonged to the people at this day, so that the benefaction part of the argument which is offered to convince us either that we have not the power to do the thing that is here proposed or that having the power we ought not to do it, may be entirely laid aside.

What, then, is the state of this affair? The first great question, and one which I shall only discuss very briefly, is the question of our power, in the constitutional sense, legally to make the requisitions upon these companies which the bill of the Judiciary Committee pro-

poses. My learned friend from Ohio, [Mr. MATTHEWS,] not in his seat, the honorable Senator from Georgia whom I see before me, [Mr. HILL,] and many others have maintained with pertinacity and with audacity—and I use that term in its best sense of courage that commands our admiration, however much it may lack our respect—that really the powers of Congress, as the grantor of all these privileges which the companies now exercise, by whose breath alone they can levy a dollar to obtain income, by whose authority alone they exclude similar enterprises, are absolutely beyond our reach. Arguments that have been advanced in the courts of the States by ingenious counsel, that have been advanced before legislative committees for the last twenty years by counsel and by lobbies as they have been here, arguments that have been advanced recently in the great tribunal of last resort near us, in cases coming from the States, are brought forward here and repeated as if they were fresh, and as if they were still potent for consideration when every one of them has gone down, one by one, before the calm authority of judicial reason and judicial decision. And yet this Senate appears to be treated as if it were really a backwoods jury that had never seen a law-book or a lawyer before, and to whom as before a justice of the peace once in the State of Vermont, counsel could go and urge that the bankrupt law of 1842 was totally unconstitutional, and therefore a note that had been entirely discharged and barred by that could be still recovered. That is what we are now treated to, Mr. President, and as I say, therefore, while I admire the courage of that sort of argument, I cannot give it the homage of my absolute respect.

These companies were authorized by the act of 1862 to do a great many things. I will take the Union Pacific for instance. The act of 1862 authorized the formation of that company; and in order to guard against what has happened since under the act of 1864,—the consolidation of its stock into the hands of three or four great operators who thus become the kings of the ring and the rulers of the corporation, and so the rulers of all that section of the country, in a certain sense, over which the railroad runs, the lords paramount of every hamlet and every city in the two thousand miles that stretch from the Mississippi to the Golden Gate—it was provided in the act of 1862 that no stockholder should hold more than two hundred shares himself of the stock, so that there could not be this consolidation of power that elects Senators, appoints members of Congress at conventions, regulates local elections in all the counties through which they go by their capacities of frequent intercourse with the people and by having a constant agent in the station-agent and in the trackman to do the electioneering which the President of the United States has lately advised members of his official household through all the offices not to do. But when we came to the act of 1864, which, by the way, was an amendment of the act of 1862, not with the assent of the company on the face of it, but which exercised the plenary power of Congress, bear in mind, that was reserved in the act of 1862 to amend, that was conveniently repealed, and we have since seen that the evil foreseen by the act of 1862 and guarded against has come, and that consolidated power (which is the essential theory of a monopoly) has come to be so potent that it is always against a stress of difficulties and a multitude of objections that the mere weight of justice and the interests of the people and the creditors of such corporations can make way at all. If these very companies at this moment were under the force of the act of 1862 requiring a diffusion of this stock, do you imagine, Mr. President, that the lobbies of this Senate would be filled with persons engaged to promote the interests of these companies and to defeat legislation that is not perfectly agreeable to them, at the expense of the stockholders, at the expense of the creditors of these corporations, at the expense of the Treasury of the United States? I imagine not, but it is done.

It was also provided in the act of 1862, made for these purposes to which I have alluded and which I need not further refer to of public benefit by a public corporation, and also for the private advantage of the enterprise of the people who engaged in it, that all the money advanced by the United States to these objects should be a first mortgage not only upon the road-bed and the track of the company when built, but upon every description of the property that the company might possess. I do not spend your time to read it but I know that I state it correctly; I believe that it has been stated before. It also provided—and that brings me to the first point in the short statement that I have to make about this affair in regard to the net earnings—that—

Said company may also pay the United States, wholly or in part, in the same or other bonds, Treasury notes, or other evidences of debt against the United States, to be allowed at par; and after said road is completed, until said bonds and interest are paid, at least 5 per cent. of the net earnings of said road shall also be annually applied to the payment thereof.

Not a limitation to which the legislative authority of the United States bound itself that no more than 5 per cent. of net earnings or exactly that should be paid to the Government, but as a command and declaration of duty on the part of this company that not less than 5 per cent. should be paid. What was the object of that clause? Let me take it upon the narrowest view that the Senator from Ohio [Mr. MATTHEWS] or the Senator from Georgia [Mr. HILL] or the Senator from California [Mr. SARGENT] can suggest. Here is a law which says that not less than 5 per cent. of the net earnings shall be paid in. Does not that imply that under circumstances which make it fit and proper, more than 5 per cent. may be required, when in the

very same act and as a part thereof, in the very same clause, it is provided that Congress may change the regulations of the operations of this company according to its own sense of justice and right in order that the great object of the act may be carried out, that the road may be perpetually kept up for the benefit of the people and the Government of the United States? And yet Senators say you are interfering with vested rights when you undertake not to increase the percentum of net earnings, but merely to define so that there shall be no more equivocations and higgling about it, what "net earnings" are, and when you undertake to define them according to the common sense of universal mankind, according to the same definition that if you will take the railway reports of 90 per cent. if not 99 per cent. of all the railway corporations in this country to-day you will find to be defined exactly as this bill from the Judiciary Committee defines them; and that is the clear balance that is left after paying the operating expenses of the concern.

I see here before me the Senator from Iowa, [Mr. ALLISON,] I saw only a day or two ago the annual report of the directors to the stockholders of that great corporation, the Chicago, Burlington and Quincy Railroad Company, that covers two States, not only Illinois but Iowa; at any rate it extends indefinitely westward from Chicago,—a corporation I am bound to say that according to all its history and all its reputation has been managed with high fidelity and with great advantage not only to itself and to its stockholders, but to the people of the country that it traverses. I happen to observe in that report that where they figure out the balance of net earnings, they figure it out and they have always done so, exactly in the manner that this bill of the Judiciary Committee defines "net earnings." They do not take out of their assets received from their various sources of income the interest that is due to their respective bondholders and creditors before they ascertain what are their net earnings, but they take "net earnings" to mean what every honest man who is not a lawyer would at once say they meant, what you get in net, taking out from that which you thus get in the expense you have been put to in getting it. That is what "net earnings" means, and I repeat without the fear of contradiction, although I do not do it upon an examination, that you may take 90 per cent. of the reports of all business corporations, railway as well as others, in the United States for the last twenty years, and you will find that the term "net earnings" has come to be understood just what it was understood to be in the dictionaries when the term was invented. It refers to the earnings, the clear earnings, not to the amount of money that may be due from the party that earned it. You might say upon the other principle that a farm that had a mortgage upon it for more than it was worth, and yet could raise fifty thousand bushels of wheat a year worth a dollar a bushel at an expense of \$20,000, had no net earnings, that the farm itself was absolutely worthless, although the man had borrowed on it five times what it was worth already and owed a debt for it which was greater than the value of the farm; yet the farm was utterly worthless because it could not get any net earnings! Of course that is not so; and yet Senators stand up here and say that we are violating the Constitution of the United States in defining "net earnings," and that in the face of this provision of the statute which authorizes us to call for 10 per cent. of the net earnings if the just judgment of Congress thinks that is proper and necessary. Notwithstanding that, they stand up here and contend that this definition which the committee endeavor by this bill to put upon "net earnings," to save disputes, to make it clear if by any ingenious sophistry any court could be persuaded that it now in point of law means something else, is really an outrage upon the rights of these corporations, that it does them injustice and wrong!

Mr. President, whatever may be believed here, the just judgment of mankind, to which we sometimes appeal, will, I am sure, vindicate the report of my honorable friend from Ohio [Mr. THURMAN] upon that subject. There are a good many other things, but I cannot spend your time to read them, that are of great interest in this first act of 1862. I have stated, I believe, that the act of 1864 is an amendment of the act of 1862, and that its going into effect did not, as my friend from California [Mr. SARGENT] stated yesterday, depend upon the assent of the companies. The act of 1864 is an act of affirmative and coercive legislation. There is no provision in it that the act of 1864 shall not take effect until either company assents to it, and there are half a dozen other amendatory acts in the book before me prepared by the companies themselves, all brought together for convenience, no one of which undertakes to leave its going into effect, or any part of it having force, to the assent of the companies. What does that mean? It means that until now it had not been thought by the lawyers and the statesmen of Congress, it had not been thought by the lawyers and counsel of these companies, that where in the acts of 1862 and 1864 the right of alteration, amendment, and repeal had been reserved, however otherwise it might have been, it depended upon the assent of the companies at all what changes Congress should make in the regulation of their affairs; and so, as I say, while the act of 1862 required the assent of the companies, because then nobody had been bound, and the act of 1862 could not go into effect until the companies did assent to it, because they were not bound to assume the responsibilities which the act imposed upon them, every act afterward, from 1864 to this day, contains no such provision; every act afterward, without question, in either House of Congress, has exercised calmly and serenely, sometimes and more often

in the interest of the companies, sometimes and rarely in the interest of the people and against their wishes, this power that the act of 1862 reserved, and which without it would exist, in my opinion, in respect of the objects we are now speaking of, to change the regulations upon which they stood.

The act of 1862 contains another provision that it is worth while to call attention to just now, and that is as to the number of directors, vital to the management of the operations of the company. The Union Pacific company was to have, I believe, thirteen, and the United States was to have two, appointed by the President. The act of 1864, passed, as I have shown you, not with the assent of the companies, not requiring their assent, provided that the number of directors on the part of the company should be fifteen, if I recollect correctly, and the number of Government directors should be five, altering the managing constitution of the company. Nobody ever questioned that power, I suppose; the power of amendment was reserved. It was questioned in the case of *Miller vs. The State of New York* referred to the other day, not upon the ground that if the Legislature had reserved that power in the charter between themselves and the corporation it would not have been good, but they said it had gone beyond that and that the city of Rochester only came in incidentally, and between herself and the company it was a contract that could not be changed. But the supreme court of New York and the Supreme Court of the United States overruled that. But in respect of the direct relations between this corporation and the United States, I suppose nobody can question, nobody has yet questioned, the propriety in point of law of the act of 1864 which changed the number of these directors.

I only refer to this as showing how complete the power of the United States is, not as an opposing party to a contract having hostile interests, but as a supreme and impartial judge controlling and regulating the exercise of these great monopolies and of the corporations who carry them on, to so constitute the management as to preserve justice and private and public rights; and therefore, if it should be found in respect of what is called the prorating question that the directors, as now organized, of the Union Pacific Railway Company do not carry out the true spirit of their charter in respect of this co-ordination of the resources of the company, it is within the competence and within the duty of the Government of the United States through its Congress to so change the management of that corporation by increasing the Government directors to a majority as to see to it that impartial and not selfish hands control the interests of these great corporations for the benefit of their creditors, and for the benefit of the public and equal justice to all. And the time may come, if the lobby still continues to be successful as it has been hitherto, a year ago and before—I do not speak of the lobby disrespectfully; it is a very good thing, no doubt, for those who use it—but if these companies, I will say, should be successful in now so entangling this legislation as to break it down by amendments proposed in their interest, or substitutes proposed in their interest, the time may come when the voice of the just judgment of the people will be heard in such a way that the management of this great corporation will be placed in the hands of impartial and fair and safe men, and that if our hands are to be tied for twenty-two years in respect of all the financial administration of these corporations touching not only the millions of our interest but the millions of the other debts that we are bound to protect, there will still be in the enforced sense of public justice from the people (which at last reaches us) a means of redress in regulating the management in such a way that the money will not then be squandered, and the stock run down or bulled or beared to affect interests *pro* or *con* to the injury of creditors.

But I only refer to this to illustrate how potent, how pervasive everywhere through these acts is this omnipotent resource of justice and of right reserved to the Congress of the United States, not as an interested party, not as an opposing litigant, but as an impartial tribunal to whom the persons now claiming rights under these charters agreed in the outset, when they assumed the responsibilities of them, should be referred every question respecting their future management and operation and the protection of persons who should deal with them. That is it. It is not, therefore, Mr. President, any invasion of private rights; it is not any invasion or violation of the sanctity of contracts, but the very reverse, when, if the state of the case calls for it, this tribunal, pointed out and agreed upon by the parties who availed themselves of the benefits of these acts, is called upon in its sense of justice to so readjust the administrative regulations of these corporations as that their funds shall be preserved to the very sacred use to which they were designed, the discharge of their obligations. That is all there is to it, and it is to that, therefore, that we ought to address ourselves.

I ought to say, though, before I leave that part of the topic, as a mere matter of self-defense—it is of no interest to the Senate—that I think my friend from Ohio [Mr. MATTHEWS] went a little wild the other day when he undertook to convict me on the authority of Kent's lectures to his students up at Albany or New York, or wherever it was, that the right of visitation that I spoke of as being a right of Congress did not apply to a civil corporation, that it only applied to what are called eleemosynary corporations, that is, corporations founded by some private person for a charity, or a school, or something of that kind, who, he conceded, had the authority to visit the corporation and see that it did what it ought to do, and to com-

pel it to do what it ought to do. Let me tell my good friend from Ohio in the first place that the power of visitation of a private corporation of the kind I am now speaking of is not a power that executes itself. The private visitor, the founder of a charitable corporation who has the right of visitation in its highest sense, is not able to go to a college or to a hospital and kick out the people who are then in by the force of his own personal strength. He has no more right to do that than you have who are the President of the Senate. His power of visitation is the power to require those things to be done which the true ends of the corporation call for, and when he has required and they do not obey what is the next step? The execution of it by himself? Not a bit of it. An appeal to the judicial arm of the Government to enforce the orders that he has made. That is visitation, as it is defined in the dictionaries and as it exists in common sense. Now, is there any such thing as it respects civil corporations? If my friend had looked a little further in Kent he would have found also the same thing I believe. I have not taken the trouble to look it up, but here is Angell & Ames; after speaking first of the eleemosynary part of it:

In this country, where there is no individual founder or donor, the Legislatures are the visitors of all corporations founded by them for public purposes, and may direct—

Just as this Judiciary Committee bill does—

and may direct judicial proceedings against them for abuse or neglects which at common law would cause a forfeiture of their charters.

And then they go on to speak of other inconveniences, and say:

If such inconveniences are found to be numerous and formidable in practice, the remedy, it is presumed, must be sought in legislative interposition.—*Angell & Ames on Corporations*, chapter 19, page 679.

Mr. President, that is a mere private matter between my friend and myself that the Senate does not care anything about, but as a lawyer much younger than my honorable friend from Ohio, who I am sorry to see is not here, of course I felt a little abashed to have the country that no doubt took a great interest in that question of definitions told that I had entirely missed my mark in saying that the power of the legislative sovereignty of the States and of the United States over corporations that they had established to regulate their affairs and compel them to do what the great objects of their charters called for by fresh legislation, was a power of visitation. Of course, as I say, I felt a little abashed to be told that that was an invention of my own, or that I had not read what he called the horn-books of the law. I dismiss that part of the subject as being of no interest to the Senate. It is entirely a question between my friend and myself.

Now I will take up just for a moment the question of net earnings again, and will be very brief about that. I had called the attention of the Senate in answer to the Senator from Georgia [Mr. HILL] and the Senator from Ohio [Mr. MATTHEWS] before, who were pressing upon your consideration the opinion of the supreme court of Massachusetts by Chief-Justice Shaw it is said, a later case than the one they referred to, of the Massachusetts General Hospital against the State Mutual Insurance Company of Worcester, which I had thought ran on all fours with this question of our power over the subject of net earnings, which as everybody agrees is the most difficult part of the bill in point of law. It comes nearer to the boundaries of our power in respect of controlling these corporations than any other part of it does, because this part of the Judiciary Committee bill requires a payment into the Treasury of the United States as a payment. It is not the preservation of the funds of the corporations, as the rest of the bill is, leaving them still the property of the corporations, and only operating as a legislative injunction against their dividing them up among the stockholders, but it requires a payment, and therefore there is great plausibility in the argument that says "if you make your definition of such a character that it requires the payment of a greater sum than the present want of a definition would require, then you are in effect requiring the payment of a greater sum than you did before, you are making us pay what is not due;" and that is the plausibility of the argument.

Now, see how easily it is answered by the case in 4 Gray's Reports. My learned friend from Ohio [Mr. MATTHEWS] thought it did not apply. Let me state it or read it partly so that you may see that it does, and then I shall have done with reading law-books to you. This was a bill "in equity for an account of one-third of the net profits made by the defendants from insurances on lives." The plaintiffs were incorporated in 1810 and were authorized to receive contributions and stock, &c., and so on, "for the purpose of making assurances on single lives, joint lives, and survivorships, with all the powers and privileges, and subject to all the duties and liabilities, contained in the thirty-seventh and forty-fourth chapters of the Revised Statutes, so far as the same may be applicable to this corporation." This corporation was thus founded on authority to make insurances upon lives upon the mutual plan. They were to have a guaranteed stock. "By section 7 of said statute 1844, chapter 187, it was provided that the defendants should, on the third Monday of January in every year, pay over to the plaintiffs 'one-third of the net profits, if any, which shall have arisen from insurance on lives made during the preceding year;' and by statute 1846, chapter 82, section 1, it was enacted that 'the net profits of the business of the mutual life-insurance companies incorporated in this Commonwealth, one-third of which they are required to pay to the

trustees of the Massachusetts general hospital, shall be taken to be the excess of the dividend over 6 per cent. annually, payable by the said companies respectively to the holders of the guarantee capital stock actually paid in."

By this same act of incorporation, which I have not read but will state to save time—it is here and my friend from Ohio will see that I state it correctly—by this same act of incorporation of the defendants' company, they were authorized to have \$100,000 of a guaranteed stock and were authorized to pay 7 per cent. interest upon that guaranteed stock. After that the Legislature by the act of 1846 said that in respect of mutual insurance companies that otherwise would not have any net profits at all, because they all went to the benefit of the people who were insured, the net profits mentioned in the old law should be considered to be the excess over a dividend of 6 per cent. annually upon that, thus cutting them down 1 per cent. and declaring that to be a net profit which in contemplation of law before was not net profit at all, nor anything like net profit. That was resisted, and the same kind of arguments advanced by my friends from Georgia and Ohio and all the rest on that side of this question were pressed upon the court and the counsel in stating it demonstrated just how it would work; he proceeded to say:

The statute of 1846, chapter 82, which undertakes to declare what shall be taken to be "net profits" in mutual companies, is unconstitutional, so far as it applies to the defendants, who did not assent to it; because it attempts to compel the assured members to pay annually the sum of \$166.67 more for the expense of insuring each other's lives than they were obliged by the terms of their act of incorporation to pay.

And he stated it exactly as it was. That was exactly how it would work out. Now hear what Mr. Justice Dewey says, after referring to some other questions in the case and working it down to this point:

It expressly declares that the net profits for this purpose "shall be taken to be the excess of the dividend over 6 per cent. annually, payable by the said companies respectively to the holders of the guarantee capital stock actually paid in."

The only question is, therefore, whether the statute of 1846, chapter 82, is a constitutional act. It is said by the defendants that this act is unconstitutional, because it violates the vested rights of the defendants acquired under their act of incorporation. If this were so, the act can have no effect. But all acts of incorporation, passed since the 11th of March, 1831, which contain no express provision limiting their duration, are, by the provisions of the statutes of the Commonwealth existing from that period to the present, subject to alteration, amendment, or repeal. The act incorporating the defendants was passed in the year 1844, long after the enactment of the revised statutes, and was of course accepted by the corporators subject to the provisions of those statutes. This seems to put at rest all further question as to the constitutionality of the statute of 1846, chapter 82, and this being so, the defendants are bound by it, and must govern themselves accordingly."—*Gray's Reports*, 233.

That was the end of the case of the Massachusetts General Hospital and the defendants. The judges who composed that court that thus unanimously decided were Hon. Lemuel Shaw, the great chief justice; Hon. Charles A. Dewey, who delivered the opinion; Mr. Justice Metcalf; Mr. Justice Bigelow, who until lately was an eminent judge of that court, and resigned not long since I believe; Mr. Justice Thomas and Mr. Justice Merriek, men all of them eminent, and deciding—and that is why I am almost inexcusable in reading such a case—deciding what every court in every State and at all times in respect of similar principles had already decided and have ever since, and this case is only interesting in the fact that it happens, not in respect of any new principle at all, to contain a state of fact which presents the exact point that this question of net profits does here, put in the strongest way that the Senators on the other side can put it.

So then, Mr. President, I think we may dismiss from our consideration any fear that we are going to be in danger of violating the Constitution of our country if we declare by this bill reported by the Committee on the Judiciary that the meaning of net profits shall be hereafter taken and understood to be the clear result, after paying the operating expenses of these roads, added to which—that has been referred to and answered already—for the mere purpose of convenience and as a matter that does not belong to it theoretically or philosophically at all, is the payment of the interest on the first-mortgage bonds, added, as I say, not because it diminishes what are the future net profits, but because as a matter of convenience between the Government and these people it is more convenient to put it in that way.

Then I wish to repeat to all gentlemen who doubt about our authority in point of constitutional law to pass this act, that everything that has happened in the history of these transactions contained in this little book which, as General Cass said, "I leave you to look upon"—everything that has happened since the act of 1862, which did require their assent, has been through the sovereign power of Congress reserved in the act of 1862 of alteration, amendment, and repeal, and after the act of 1864 reserved there, and that in no instance of legislation either favorable or unfavorable to these companies until now has it been proposed even to doubt the authority of Congress to act of its own supreme and just pleasure, or as the saying now is to make a bargain which is to tie up its hands for any length of time. It is reserved, Mr. President, to the Senator from Maine [Mr. BLAINE] to be the first man, and at this late period of time, to propose in any act regulating or creating a corporation or any part of its operations, the sovereign power of the great tribunal that imparts to it its gifts, that creates for it its monopolies, that is bound to stand between it and those dangers that monopolies always threaten people with—for the first time, I say, it has been proposed that an act

of administrative justice which calls for the accumulation of a sinking fund, and which is nothing but an administrative act for the future that changing events may change the aspect of from day to day as other lines are built, as other men come into the management, as the stock is either run down or run up to please "bulls" or "bears" for private interest, that the hands of this supreme tribunal shall be tied behind its back, not in respect of anything that it has received to discharge a debt, because there would be the end of it without any such provision, but in respect of the future administration of the affairs of these companies so far as it affects the interests of the United States connected with this debt. Well, how far is that? Can there be anything done in respect of the administration of the affairs of these companies that does not affect the interests of the United States in regard to this debt? The salaries of their directors affect the interests of the United States in this debt, because they are a part of the operating expenses. Counsel fees paid to lawyers, small sums to be sure, only \$50,000 last year so far as heard from at present, to defeat the bill of last year, spent here at the Capitol—counsel fees anywhere for any purpose affect the interests of the United States in this debt, but our hands are tied by the amendment of the Senator from Maine. There is not the smallest matter of expenditure, there is not the smallest or the greatest matter of policy that these directors may engage in, either of combinations or pools or hostilities with other roads, that does not run, (as all roads it was said always ran to Rome,) straight to the question of affecting the interest of the United States about its security; and therefore if you are to take the amendment of the Senator from Maine as it reads and as it plainly means—I know he did not design it so—if you are to take it as it would be construed in a court of justice and as it will certainly be construed by these corporations, there is not a single step that these companies may take that does not run straight to the question of affecting the interests of the United States about the reimbursement of its bonds, because every dollar of the corporate money, every step of the corporate policy affecting its financial interests, and every all must affect it, are tied up and bound.

Mr. President, I should prefer that would not be so, and I submit even to my honorable friend from Maine with some confidence as a statesman of experience and as a statesman desiring just ends and just policies, that when you bear in mind the distinction which exists between a bargain made between either public or private parties, which is executed and ended, and what this bill proposes to do, which is purely an administrative bill for the future, accumulating for the companies and by the companies only their resources for the discharge of their obligations, the extent and the necessity of which and the steps for the protection of which may change from day to day and from year to year, and undoubtedly will and must under the best of administrations, is it just—I appeal to him, to his good sense and mature reflection—is it safe, either for the stockholders of the companies or their creditors or the interests of the United States, to say that Congress binds itself for twenty-two years, almost a generation of human life, to interfere in no manner so far as it affects the reimbursement of these millions of money?

Mr. BLAINE. The Senator from Vermont has asked me a question, and in answer to the criticism which he has indulged in with regard to the amendment I have offered, I will say that every particle of the evil anticipated or suggested by him as possible to flow from it would be entirely averted by putting in a proviso that the amount paid by each company per annum during these years shall not be less than a given sum. He says it may entirely change. Put in such a proviso, and that would at once displace every suggestion of danger which the Senator has made.

Mr. EDMUNDS. Yes, Mr. President, a proviso! The suggestion of a proviso is pregnant of the suggestion of the danger of any such binding and final legislation.

Mr. BLAINE. Then, if the Senator will permit me, he has brought more danger into this body than any other member of it, for he has been more fruitful of provisos in our legislation than any other Senator that ever sat on the floor.

Mr. EDMUNDS. Mr. President, I have never been fruitful of provisos which tied up the hands of the Congress of the United States from the future exercise of its sovereign power. When I do, it will be time enough for the Senator from Maine to suggest that I am fruitful of provisos. He, as I said before, is the original father—there is no grandfather and no collateral relation—of a proposition in the legislation of this country of the Congress of the United States, since the time when the evil of the hands of States and of Congresses being tied up has been discovered in the last few years, to provide that in any respect or under any circumstances the hands of the legislative power shall be held off from the exercise of their legitimate and constitutional control over public corporations. If I was enabled to see any contingency in which an amendment of this character, a limitation of this sort, could work evil, I would not upon principle vote for a bill which should contain it, because if it be right in this instance in respect of this purely administrative affair, not a bargain between these companies and the United States, but a requirement that the sovereign will of Congress imposes as it has a right to impose upon these people to do, it is right in every case where we grant a new charter either to a bank or a railroad or an insurance company or whatever, because in the case of a new charter it is just as clear on the face of the bill what you expect the company to do, what the

company is required to do, and what it engages to do. Wherefore, then, do you reserve the right to alter, amend, or repeal? Why do you not give them their twenty years of existence upon the terms stated in their original charter? There is no doubt about what it means. You have fixed it just as you intend to have it. You cannot foresee now anything that will require you to change it during the period of their existence. Why do you always put in this potent and sovereign reservation? You put it in because you know that unexpected good or evil arises, unforeseen events occur as shifting fortune changes the scene, from day to day; you know that in human affairs there may be defections and difficulties in the administration of corporations. You know that within the strict letter of the law directors and counsel may be found astute enough to change the whole spirit of it. You know that unforeseen contingencies, not provided for, may arise where the highest interest of the community, the highest interest of justice calls upon you, if you have the power, to appear and protect these rights.

Now, what might happen under this very bill, saying nothing about provisions? This stock is transferable at the offices of these companies. It is said to be now all in a very few hands. It is said that one gentleman, whom I have long known as a very amiable and estimable gentleman, a man of extraordinary genius and ability, and a man who I believe is painted a great deal blacker than he is, owns more than a majority of the stock of one of the companies. He is under no obligation to hold it; he is a private citizen although a director and president for aught I know of one of the companies; but his ownership of the stock is his private property, and he is under no obligation to us or to anybody else to hold it for five minutes when he can sell it at a price that is satisfactory to him. If the management of that corporation is left with him and with his board of directors, we might all expect that this thing would go on smoothly and swimmingly, that fidelity to these requirements would be observed, that the income of the corporation would be as great as it is now and would increase, that the same energy and economy and prudence and skill that in his hands have made the company develop large profits much more than ever before will continue to go on; but if he chooses to sell out his stock to-morrow at the stock board in New York, have you any right to complain of him? Not the least. The stock is his private property. He can retire from the corporation when he likes. Suppose it fell into the hands of foreign stockholders, if you please, of such people as are now manipulating and fighting and seesawing over the Erie Railroad in New York—they may be good or they may be bad—but what becomes of the creditors? What becomes of the income? Receiverships and lawyers' fees and pools and oppositions and cuttings, as they call them, and other things run the income down to nothing and there is a default on the first-mortgage bonds. This act that we propose does not require them to pay the interest on the first-mortgage bonds; it leaves them just as they are in that regard. It does not forfeit the charter if they do not pay the interest on the first-mortgage bonds. Suppose they default. The stock runs down to nothing; the first-mortgage bonds run down to nothing, as they do always when there is a default. I do not mean the word "nothing" literally, but they go away down. What becomes of your second securities and your third, and your land-grant bonds, and your income bonds, and your sinking-fund bonds? They become like the third and fourth mortgage bonds of all other defaulting corporations *nil*, absolutely *nil*; and when Congress is appealed to by the constituents of my friend from New Hampshire who are said to hold sinking-fund bonds for protection, the United States is obliged to say "we have engaged to do nothing for twenty-two years; the money is still paid into the sinking fund, 25 per cent. of the net earnings if there be any, but there are not any, and that is no breach of the act; they have done just what they agreed to. They only agreed to pay in while they have net earnings, but they have so bedeviled the whole thing that there are not any net earnings; and if you will wait more than the lifetime of your grandchildren on the average, then we will appeal to Congress, and if after several sessions we can get public sentiment sufficiently waked up to it and against the press of the men who are engineering against you with plenty of money, we may be able to do something."

Are we going to throw away our power in that way, Mr. President? Have we any right to throw away our power in that way? Are we doing justice to the poorest creditor there is of these corporations? Are we doing justice to public interests? You cannot tell, sir, what will happen; you cannot tell who will manage these corporations; you cannot tell how long there will be any net income or not, depending not upon the fair progress of natural resources of development and natural competition, but depending upon the evil devilry of stock-boards and private jobs. There is the trouble about all these corporations; and yet my honorable friend from Maine, in that sweet innocence which characterizes his character, that sublime faith that everybody is as virtuous as he is, is willing to fold up his arms and be tied up in a bag by the Union Pacific and Central Pacific Railroad Companies for twenty-two years, merely because we require them to establish a sinking fund!

Mr. BLAINE. If I understand my friend's argument—and I do not mean to interrupt him—he desires to state that as long as Mr. Jay Gould (he did not call him by name but referred to him) shall own a majority of the stock the Government of the United States

may rest secure, but it might possibly pass out of his hands and then danger would come.

Mr. EDMUNDS. Mr. President, then my friend does not understand me. I did not desire to state anything of the kind. I desire now to state, as Mr. Jay Gould is referred to—my friend is fond it seems of referring to private conversations and to private men—

Mr. BLAINE. Why, the Senator referred to him. Did not the Senator refer to him, if not by name?

Mr. EDMUNDS. I have not mentioned Mr. Jay Gould at all.

Mr. BLAINE. Am I mistaken in saying that the Senator intended to refer to Mr. Jay Gould as the gentleman he spoke of?

Mr. EDMUNDS. I intended to say exactly what I did say, and I intend to respect the proprieties of this place sufficiently not to name private citizens by name unless there is a very urgent reason for it indeed.

Mr. BLAINE. Then the Senator did not refer to him at all?

Mr. EDMUNDS. I do not say what I did, except that I said exactly what I did say referring to the managers of this corporation.

Mr. BLAINE. But the Senator spoke of some gentleman holding a majority of the stock who was a very much better man than he is painted to be, and the Senate, I think, could have understood only that he referred to one gentleman, whom I am not referring to except with respect myself. I understood the Senator to say that as long as the stock or a majority of it was in his hands all would go smoothly, but the possibility of danger arose just when it might slip out of his hands and get into somebody else's. That is what I wanted to understand.

Mr. EDMUNDS. Why, Mr. President, my friend must be very much wide of the mark. Does he suppose that there is nobody else in the world than Jay Gould who is better than he is painted? There are a great many Senators that I have heard very severely denounced in connection with corporations and otherwise that I believe are a great deal better than the stories that are told about them. Therefore my description of an imaginary being or a real being as being a great deal better than he is painted does not make it necessary for my honorable friend to jump up and say that I am talking about Mr. Jay Gould at all.

Mr. BLAINE. Then, shall I understand that the Senator was not talking of him?

Mr. EDMUNDS. The Senator is entitled to understand exactly what he likes from what I say. I do not undertake to control my friend's understanding at all; he is entirely at liberty to understand anything that he wishes to understand, and I am at liberty to say anything that I wish to say within the proprieties of this place.

But, Mr. President, this jocoseness of my friend and myself about a particular person has very little to do with this question. The object I had in view was to point out to the Senate if I could what I feel very deeply myself—how dangerous it is, because a corporation happens to be prosperous at this moment and to be well managed at this moment—and I am bound to say for Jay Gould, if he has anything to do with it, (seeing that the Senator has mentioned him,) and the other gentlemen connected with the Union and with the Central Pacific roads, that they are well managed—how uncertain it is because at this present moment it happens that a corporation is well managed that you are to tie up your hands for twenty-two years and assume that it is going to be so for all time. That is the principle, that is the homily which I am trying to lay down and preach to those who are kind enough to listen. I am not undertaking to say that the present gentlemen who manage these corporations will always do it as well as they do now; but I am undertaking to say that in the course of human affairs, if they are managed well—which must be the theory of this amendment, or otherwise nobody would think of tying up our hands—the present managers may disappear honestly and properly from the scene to-morrow, and we know them no more; and into whose hands the management then goes, only those evil beings that rule our corrupt stock boards and combinations can tell. That is what I say, and yet the confidence of my honorable friend in the future is so great that he is willing to tie our hands.

But, Mr. President, this is not all. There are other things about this amendment the honorable Senator has proposed, and which I dare say he does not intend himself, which show again how unsafe it is to jump at amendments of this character which are to tie up the sovereign power of Congress, if we have any power to tie it up, which I deny in respect of this particular application of this amendment. This amendment strikes out all the provision in the Judiciary Committee bill of this being taken as still reserving the power of amending all these acts and this act itself; it strikes that all out, leaves no authority on the face of the bill to make any further amendment, and then on the theory of the Senator from Georgia we should have no authority to amend any part of the original acts, even so much as requiring a report twice a year instead of once a year; but I am bound to say that I do not think that is the law myself, and therefore I should not make any point upon that.

Mr. HILL. The Senator will allow me. I have no recollection that I have ever said anything or intimated anything that Congress had no power to change any part of the original act. On the contrary, I have said distinctly, and endeavored to impress on the Senate why I said it, that Congress did retain the right to amend, alter, or repeal the act of incorporation and the franchises of the company,

and the regulation of those franchises; but I endeavored to draw a distinction between the franchises of the company and the contract of loan. I have never said that Congress did not have authority to regulate the franchises of the company.

Mr. EDMUNDS. The contract of loan is the very thing that the gentlemen on the other side of this question are continually referring to as the thing we are trying to deal with and the thing that we have no power to change; and therefore if there is anything at all in the argument that we have no power to change an act that we do pass, and if we pass it it is binding because it refers to what they call the contract of loan—

Mr. HILL. The Senator will allow me to say that my very objection to the bill of the Judiciary Committee was that it professed to alter and amend the act, and yet every provision of the bill relates to the contract of loan, and not to the franchises of the company.

Mr. EDMUNDS. Exactly.

Mr. HILL. If you would introduce a bill to regulate or change the franchises of the company, I should concede its constitutionality; but I say that you have no right, in my judgment, to alter, amend, or change the contract of loan, especially after that contract has been perfected under the authority of Congress.

Mr. EDMUNDS. The Senator has said that three or four times, and we understood him perfectly. We understood him the other day. But I was saying that, on the Senator's theory, if we did pass this bill and did adopt this amendment which on the Senator's own theory we cannot vote for, nevertheless we were cut off entirely from any further legislation upon the subject, and I said that that was his doctrine because in referring to the act of 1871—if I am not greatly mistaken, I have it before me—the Senator did contend that the act of 1871 which commanded the Secretary of the Treasury to pay over the half transportation to the companies had foreclosed the power of Congress on the subject entirely inasmuch as there was no reservation in the act of 1871 of the power to alter, amend, or repeal.

Mr. HILL. I desire to say that, in relation to the amendment offered by the Senator from Maine, I do not see that there is anything in my theory that prevents me from voting for that amendment. That amendment, as I understand it, simply says that Congress shall not interfere with this contract again if the companies shall perform the obligations of this bill and the previous bills relating to the contract. That is the way I understand it. Now, I say frankly that I do believe myself that is the law already; I believe that the amendment offered by the Senator from Maine is the law now. I do not think Congress has any right or power to interfere with this contract after it has been made and executed. There is something in this country, in my opinion, of higher dignity and higher value than the legislative power of Congress, and that is the right of private parties to their contracts and their private property.

In relation to the act of 1871 I was simply replying to those gentlemen who derived all the power to pass this bill from the reservation of the authority to alter, amend, or repeal contained in the acts of 1862 and 1864. They said that, in relation to this half transportation, Congress had a right to change it and require the whole transportation to be paid into the Treasury under the power of amendment. Then I said there was a subsequent act to those of 1862 and 1864, that of 1871, in which Congress had commanded that the half transportation both heretofore and hereafter accruing should be paid to the companies, and there was no reservation to alter or amend that act. Therefore the argument that we derived the power to interfere with the half transportation from the reservation to alter or amend contained in the acts of 1862 and 1864 did not apply to the act of 1871 which ordered this half transportation to be paid over without any reservation of the right to alter and amend. That was all I said.

Mr. EDMUNDS. No Mr. President, it was not all the Senator said, but it was part of what he said.

Mr. HILL. All on that subject.

Mr. EDMUNDS. It was in the same direction I admit. I am sorry to go out of my way to go back to this constitutional question, which I take it is ended in this body. If we could get a direct vote on that question of our power, I should be greatly disappointed if we did not come rather more nearly being unanimous than we have lately been upon any question. But I do wish to suggest, in response to what the Senator from Georgia has said, that his distinction between the state of this affair as a contract and the state of the franchises is a most extraordinary one and is as novel as is the amendment of the Senator from Maine in the aspects to which I have alluded. The Senator says you may control the franchises, you may do everything except interfere with the contract. Now, what is the contract? As he puts it the contract was that the United States should lend to these people a certain amount of bonds and that the bonds should be repaid, principal and interest, at the maturity of the principal, not before, leaving out now the half transportation and 5 per cent. of net earnings to be applied. That is the contract. Very well. It is also the contract that they may issue first-mortgage bonds which shall be paramount to the Government loan, of exactly the same tenor, as the statute says, and legal effect, and the same security. Therefore, according to the theory of the Senator, the first-mortgage bonds would not be payable, principal or interest, until the end of the time the principal becomes due. But that is not the point to which I wish to refer. That is aside. There is the contract providing for the first-

mortgage bonds and for our mortgage. That is the contract. Now, what does this bill do? Does it undertake to say that that shall not be the contract? Not at all. It undertakes to say that the money of this company shall not be wasted and spent with its stockholders, but shall be kept in order to fulfill that contract.

Mr. HILL. Will the Senator from Vermont allow me to interrupt him just a moment?

Mr. EDMUNDS. No, sir, I cannot. I ask my friend to wait until I finish, as I wish to finish. My friend will have his opportunity afterward.

Mr. HILL. I beg the Senator's pardon.

Mr. EDMUNDS. The Senator does not need to apologize for asking leave to interrupt me, because that is perfectly proper; but as I am not at all well and am rather fatigued, he will excuse me.

Mr. HILL. I do so. I think these interruptions are very frequent any way.

Mr. EDMUNDS. They are never disagreeable; and but for my physical weakness I should be glad to submit to the interruption now.

That is the contract which I have described. This act of sovereign power, which does not put on the form of a contract and does not ask the assent of the companies to its passage, (it will ask the assent of the President of the United States, I trust not of the companies) merely says to these companies, "You shall not take the product of your franchise, the very thing which your franchise alone entitles you to have, income, and bury it out of the reach of your creditors and thereby defraud them of their rights, those creditors being the United States, and the first-mortgage bondholders, and the land-grant bondholders, and the sinking-fund bondholders, and the holders of the floating debt, and everybody else. It provides not that the United States shall take this money out of hand, but it provides that the money shall stand as a security for whoever in the courts of equity and justice is entitled to the preference of taking it of the shareholder. That is all that the bill does, and you tell us that that is a violation of a contract, by which we have agreed to take our money twenty-two years hence when we in the exercise of our sovereign power say what the companies themselves say. Both of them have said that "the time has come when it is apparent that it is totally impossible to pay this debt if we go on spending the money on our stockholders." We say then "You shall do it," and that is a violation of the contract! Mr. President, that confounds all distinctions that I understand anything about. I can only state such a proposition to make the best answer to it I am capable of.

Now I will come back to the amendment of the Senator from Maine and I shall close. The amendment of the Senator from Maine, as I was proceeding to say, besides these intrinsic and unchangeable objections that I have stated to it, that go to the very basis of the whole thing and that no sort of modification could get over, to my mind, has also this effect, or is in great danger of having the effect, to cut off the suit of the United States for the net earnings already due. You will understand that we have not yet had a cent of net earnings paid into the Treasury under the act of 1862, although these roads have now been completed from eight to ten years. Not a penny of this enormous sum of net earnings has been paid into the Treasury, although dividends in large percentages have been made to stockholders. It is true, the companies say, that since the act of Congress stopped the Treasury from paying out the one-half of the transportation account, they being entitled to that, it will accumulate enough to pay the percentage of net earnings when it is found out what is enough to pay them; but they have not paid in a cent yet and they are entitled to this half transportation. The effect of the amendment of the Senator from Maine is, to my mind, and it will be pressed immediately when you come to the court, that as we have tied up our hands in respect of everything relating to these roads on account of the bonds advanced and of the sinking funds to be established, these bonds and these sinking funds shall be taken as sufficient. This provision, as I am saying, makes an end, if they comply with the acts of 1862 and 1864, on account of advances to the United States, that these bonds and these sinking funds shall be taken as sufficient to meet the obligations of the companies on account of such bonds prior to the maturity thereof, a complete wind-up.

This amendment in an ordinary act, which did not take the pains to review the past just where it is, to meet objections, would be, so far as I am now speaking of, not objectionable; but the act proposed by the Judiciary Committee leaves the matter of net earnings in the past entirely behind and only provides for net earnings in the future, what they are defined to be, and requiring them to be paid in. The consequence would be, as would be contended, that in connection with that section of the bill of the committee this provision relieves the companies from the duty of paying any part of the old net earnings, because they have complied with the acts of 1862 and 1864 in connection with this proposed act as to the particulars mentioned.

But there is another thing that is still more doubtful about this amendment and which also is far away from the fundamental objections that I have stated. You are aware, sir, that under the act of 1873 the Attorney-General, in pursuance of the resolution introduced by the Senator from California [Mr. SARGENT] being carried into an act of Congress, was directed to institute suit against the Union Pacific Railroad Company, and the Credit Mobilier, and so on, for the purpose of ascertaining the true cost of the construction of that road,

which by the acts of 1862 and 1864 was to be the basis upon which bonds were to be issued as a first mortgage, and upon which tolls were to be taken and interest paid and all the regulations were to rest;—the cost of the road, the real true actual cost, not the amount of stock on which it might make dividends, but the cost, and also to bring back into the coffers of that company, for the benefit of its real stockholders and the benefit of its creditors all around, any moneys that had been unlawfully taken from it and to require to be paid into the coffers of the company any unpaid stock, because the act which created that company required payments by installments to be made in cash for the full amount of the stock until the capital should all be paid up, it being generally understood that the stock never was paid for in the Union Pacific Railroad Company, and that the Credit Mobilier business, made up of the directors, &c., had, as they say out West, "scooped the whole concern." What is the ground upon which the United States has intervened under these acts of Congress through the Attorney-General and is now prosecuting suits against this company to rectify this enormous fraud, as is charged, and which the Senator from California thinks has been condoned. Notwithstanding his own earnest efforts to prevent condonation, and notwithstanding Congress, in compliance with his resolution, has passed the necessary act to prevent a condonation; it is still condoned, he thinks.

Mr. SARGENT. Will the Senator allow me?

Mr. EDMUNDS. Mr. President, as our right of intervention is made to depend upon our interest in the fund as the holder of this second mortgage, what becomes of us as to that? What new complication will arise in those suits I should be glad to know, what new defenses will be interposed; but here is a real condonation. That is the spirit of the Blaine amendment, so called, which will be as famous in the future annals of railway and other corporate legislation as the Wilmot proviso, although made to rather a different end. What effect will that amendment have upon it, they will ask. "Why, this is a condonation. You have agreed that you will do nothing for twenty-two years to come in respect of any of this bond business but you try to interpose about the Credit Mobilier and everything after this money is tied up and is nothing to you; if any stockholders want to sue us, let them do it, if they can get an act to authorize them to do so." I do not say that in point of law it will necessarily have that effect although I greatly fear it. I only say it will furnish a rich field for the ingenuity of the very able and ingenious counsel that these companies employ in such numbers to put off to an indefinite date any vindication of the rights of the United States and the other creditors. So much for that.

Mr. President, in view of all this, when you look at the essential character of this legislation, which is sovereign and not a compact, which contains no bargain at all, which does not deal with the past but only deals with the future in a mere administrative way, I ask is it safe and wise for the Congress of the United States to put into this bill a provision that nothing more shall be done for twenty-two years? It does not appear so to me.

The honorable Senator from Ohio, [Mr. MATTHEWS,] and the honorable Senator from New York [Mr. CONKLING] to a certain extent, have urged upon us that we are invading the province of the Supreme Court, that the court has decided what the rights of these companies are, and therefore we cannot amend their charter. What is the force of that argument? Do the Senators mean to say that you cannot exercise your power to alter, amend, and repeal at all after you found out exactly what the clause means that you want to amend and repeal? That is what the court has done. The court has told us what the law means now, and the Senators say "inasmuch as you have now found out that this law does not mean what you think it ought to mean, your power to change it has gone, because the court has told you what it does mean and therefore anything that was so plain that you did not want the court to tell you what it means, you never can alter and amend." Mr. President, that would do for a justice's court, but it is hardly up, I think, to the status of the Senate of the United States. I may be mistaken. I speak with the utmost diffidence upon that point.

Then my honorable friends have urged upon Senators, and it perhaps has had some effect, the communism of this legislation, that we are assailing corporations; that the communism of this bill in assailing corporations is only furnishing powder and ball for the commune. The honorable Senator from Ohio [Mr. MATTHEWS] laid great stress upon that and warned you all, until perhaps your hair stood up as if you had seen a ghost, that you were embracing the commune by undertaking to interfere by the sovereign right of the people with these great monopolies; and the Senator from New York urged that they must have the same justice and the same fair play that the poor dweller in a hut by some river side who sweats for his daily fishing should have. Mr. President, that last is true. So they should. When the dweller in the hut of the Senator from New York comes to control two thousand miles of railway and all the station agents and the millions of income that arise from it, and comes to appropriate that money to his own use when his duty is to appropriate it to the payment of his debts, then I take it that he will be in the attitude of these corporations, and Congress would visit the same justice upon him. The idea that you cannot touch a corporation because it is entitled to the same justice as anybody else is also somewhat muddled, for the same reason that it is entitled to the same justice as other people, although much more difficult to

apply it, because private persons cannot exercise the power that corporations do, they have not the money and the agents to repress legislation; but when the same cases occur corporations and individuals stand upon the same grounds, undoubtedly. When, as I have said, an individual comes into this presence in such an attitude as these corporations occupy, I am sure that we shall have the aid of the Senator from New York in administering fair and equal justice to him.

But what is this commune, Mr. President, that we are guilty of promoting? Where is it in this bill? My honorable friend from Ohio [Mr. MATTHEWS] says this is a grand step toward communism because the representatives of the people interfere to redress their grievances from the overwhelming power and the really moral breach of the present obligations of these companies. Is that communism? I had the impression that the well-regulated administration of law in the interest of justice and equal rights, in the interest of the small stockholders of these corporations, if there be any, in the interest of the unsecured creditors of these corporations, as there are many, was a step far from communism. Every step that we take in legislation in protecting the interests of the people goes toward communism. Every step in getting away from arbitrary power is a step toward communism in exactly the same sense and no other than you, sir, [Mr. OGLESBY in the chair,] building a fire in your small cook-stove on the prairies of Illinois to cook your dinner is a step toward incendiarism. You have taken the first step and where are you going to end? If you have the temerity to boil your beef and potatoes and heat your toddy at night after you have plowed all day on the prairie you are an enemy to the community; you are going to communism; you will be an incendiary and have everything in common to-morrow and burn everything up! That is the danger my friend from Ohio feels about this bill. We are really going to interfere with the private right of these corporations to defraud creditors, and say they shall not do it, and we are to be charged as lending aid to that unhappy sentiment which is to be deprecated in western regions as well as in the eastern, and I hope the returning good sense of free and intelligent society will always secure society against evils of that kind.

Mr. President, I believe I have said what little I had to say, very desultorily; but I only want to say one thing more about this matter. I shall feel bound for one, with a complete sense of the responsibility of it, and I ask everybody who has the same purpose in view that I have, and feels it with the same intensity, to vote against this amendment of my friend from Maine; and if the Senate should please to adopt it, to vote against the bill itself, because I would much rather that the Congress of the United States, the representative of public justice and of public right, should wait for a year or two until "returning Justice lifts aloft her scale," than that we should commit ourselves to a piece of legislation that would be almost certain in the future to be fatal in respect of the very objects that the bill wishes to accomplish, besides being destructive of the sound principles upon which all such legislation at present rests.

Mr. VOORHEES obtained the floor.

Mr. BLAINE. Will the Senator from Indiana give me two minutes of his time? I wish to modify my amendment.

Mr. VOORHEES. With pleasure.

Mr. BLAINE. I desire to say that every solitary objection which the Senator from Vermont has made against the amendment which I submitted can be cured, and is fully answered, by adding to the end of it a simple proviso which he could write much more quickly than I, but which makes the amendment what I offered a much more conclusive measure than the bill itself as described by the Senator from Ohio who reported it, [Mr. THURMAN.] I have the right to modify my amendment, and all the imaginary bugaboos which the Senator from Vermont has constructed out of his fertile imagination in regard to the road all going to pieces, and the first-mortgage bonds coming into default, and the interest not being paid, and there being nothing but the stock board in its corruption proceeding from it, I propose to cut up by the roots. I also propose to remove utterly that still less well-based imagination that this amendment which I have offered in any wise interferes with any claim now existing of the United States. I venture to say that it takes what I heard Rufus Choate once describe as a double-forty-horse microscopic power of sight, possessed only by the Senator from Vermont, to discover any such waiver in that amendment. If I did not have such great respect for his legal ability, from which I am always glad to receive instruction, I should call it an absurdity, but I cut both those objections and all his objections up by the roots by adding at the end of my amendment the following proviso:

Provided, That the annual payment from each company, in addition to the half-transportation account and the 5 per cent. of net earnings presently applicable to the interest on the bonds, shall never be less than \$200,000 for the sinking fund; and that nothing in this act shall be construed to waive any claim of the United States against either of said railroad companies from whatever source arising.

I am obliged to the Senator from Indiana for yielding me the opportunity to modify my amendment.

Mr. VOORHEES. Mr. President, I do not propose at this late hour, in this protracted debate, to enter upon a general discussion of the subject before the Senate. In fact, until within the last few days it has been impossible for me to give it that close attention which its importance deserves. It has been my earnest desire to support the bill reported by the Judiciary Committee. It is conceded on all hands that some measure of adjustment between the Government and

the Pacific Railroad Companies should be adopted by Congress, and that it should be one, which, while securing to the Government all its pecuniary interests, would at the same time preserve all the contract rights which have accrued to the companies.

I desire, however, more especially, for the few minutes which I shall engage the attention of the Senate, to speak of the amendment offered by the Senator from Maine, [Mr. BLAINE.]

If the bill reported by the Judiciary Committee is what its friends claim it to be—a fair solution of the conflicting interests of the Government and the companies, and a guarantee to the Government of all that is due from the companies—then it plainly seems to me that it should be made a final and permanent act of legislation. The amendment offered by the Senator from Maine reads as follows:

But so long as said Central Pacific and Union Pacific Railroad Companies shall faithfully comply with the provisions of the said acts of 1862 and 1864, and of this act relating to payments to the United States on account of the bonds advanced, and of the sinking-funds to be established as aforesaid, such compliance shall be deemed and taken as sufficient to meet the obligations of said companies on account of such bonds prior to the maturity thereof.

This is a declaration on our part that so long as the companies faithfully comply with what we now demand we will make no new demand upon them. It is a declaration that we have faith in the sufficiency of the pending bill to secure to the Government all its rights and dues in the premises. We have been repeatedly assured, in the most earnest and positive manner, during the last four weeks, by the friends of the bill, that it would accomplish this great object. We have been strenuously urged to support it on that ground. If it has this merit and is worthy of our support it is solely because it will accomplish this result.

Mr. THURMAN. May I interrupt the Senator one moment?

Mr. VOORHEES. Yes, sir.

Mr. THURMAN. What friend of this bill has said that it would accomplish the payment of the debt according to the terms of the contract?

Mr. VOORHEES. Does the Senator from Ohio say that it will not accomplish that result?

Mr. THURMAN. I have always said so. It will not do it by within \$35,000,000. Perhaps more than that will remain due.

Mr. VOORHEES. Why, then, does not the Senator perfect a bill that will protect the Government in its rights?

Mr. THURMAN. Because I cannot pass it through this Senate.

Mr. VOORHEES. Ah!

Mr. THURMAN. If I cannot pass this measure how could I?

Mr. VOORHEES. The Senator should try before making such an assertion.

Mr. BLAINE. May I ask the Senator from Ohio a question with the leave of the Senator from Indiana?

Mr. VOORHEES. Yes, sir.

Mr. BLAINE. Does the Senator from Ohio doubt, and will he state he doubts, that the two railroads are not abundant security for that remaining \$35,000,000?

Mr. THURMAN. I do say that they are not, with their first-mortgage bonds on them, security, and they have said so themselves again and again.

Mr. BLAINE. I beg the Senator's pardon, with all due respect; they never said so at all. The Senator is utterly mistaken. They said that unless provision was made and the \$150,000,000 of sinking fund went on they could never pay it; but the Senator has a bill that provides for a sinking fund, and by the sinking fund he pays off \$120,000,000 of mortgage, which leaves only \$30,000,000, and he cannot, without disputing the arithmetic or the rule of three, doubt or deny that the security is more ample than the United States holds for any other obligation in the whole of its ownership.

Mr. VOORHEES. Sir, I was amazed on yesterday to hear the very able and very distinguished Senator from Ohio [Mr. THURMAN] exclaim that the adoption of the amendment under consideration would kill the pending bill. Can it be that an amendment declaring that a bill, when enacted into a law, should thereby become a permanent piece of legislation, destroys that bill? Can it be that an amendment which gives perpetual life to an act of Congress is, as the Senator from Ohio exclaimed, prussic acid to its existence?

This amendment says that the measure reported by the Judiciary Committee, if it shall become a law, shall live and be perpetual as long as the Pacific Railroad Companies faithfully perform their duties under it. And yet the honorable Senator from Ohio [Mr. THURMAN] asserts that such an amendment will destroy the life of the bill! The amendment proposes to accept the bill, and to require the Pacific Railroad companies to accept it also, and that when it is thus accepted, and as long as it shall be faithfully complied with, it shall not be disturbed. It proposes that this whole subject shall be taken out of Congress; that a final settlement shall be made, and adhered to.

A few years ago it was the earnest purpose of leading members of this body, I believe, including the Senator from Ohio, that a finality upon this subject should be obtained. It was then thought that a judicial finality was the most desirable. The question as to the time when the Pacific Railroad Companies, under existing laws, were liable for the payment of their debts to the Government, was submitted to the Supreme Court of the United States. It was there decided adversely to the views entertained by many and adversely to my own views and wishes. There is no higher resort, however, than the Supreme Court of the United States to find out what the law is. The

subject, however, has been reopened here, and, under a claim of power, on the part of Congress, far-reaching and to my mind questionable, it is now proposed to alter and amend the laws upon which the Supreme Court made its decision, and under which that court determined the time when the obligations of the companies became due. I have had from the first the gravest possible doubts of the existence of this power on the part of Congress, under the Constitution. I am not now about to enter upon the discussion or examination of the decisions of courts upon this point; that has been fully done by others, and as far as in my power I have enlightened my mind by their labors. But it is not in my nature nor has it been a part of my political education to take kindly to the great and unlimited stretches of power which Congress has so frequently put forth in the later years of our history.

During the last seventeen years I have heard this power invoked and seen it exercised to the destruction of every class of reserved and vested rights belonging not merely to corporations, but to great political commonwealths—to States that are sovereign in the control of all matters not expressly granted to the Federal Government. I have seen it rend States asunder; tear down States; reconstruct States; abolish State Legislatures; annul the legislative acts of States; unseat members of State legislative bodies, and seat others in their places. I have seen this unbridled power of Congress roam through the reserved rights of political communities like a wild boar ravaging fruitful vineyards. I have witnessed it act as the obedient servant of fanaticism; of willful, violent, unlawful desire to inflict injury, to strip people of their individual franchises, to destroy their property, and lay waste their homes.

It has run a career of iniquity and crime in this country which no crowned head upon the earth would dare attempt, or would remain crowned for a single day if the attempt were made. It obeyed the call of an enraged and baffled party in this Capitol, when the constitutional acts of a President were sought to be enacted into a crime by which to hurl him from his high office by impeachment. When, therefore, sir, I read the report which accompanies the bill from the Judiciary Committee, and found it there asserted that while the Federal Constitution prohibited States from violating the obligations of contracts, such a prohibition did not extend to the Federal Government itself, I instinctively recoiled from this new, and, to my mind, monstrous assertion of power upon the part of Congress.

I am willing, however, indeed desirous, to go as far as possible—to the very verge of my conscience, as a sworn legislator—sworn to uphold the Constitution according to my own convictions—with the Judiciary Committee. Where I have doubts I have aimed to give the Government the benefit of them. Where my mind has wavered in regard to conclusions, I have striven to follow those arrived at by the distinguished gentlemen who compose that committee. As lawyers, their ability and industry and integrity are all most cheerfully conceded. Their infallibility, however, is not conceded. I believe their bill should be amended. I believe that the amendment of the Senator from Maine [Mr. BLAINE] ought to be adopted.

If we are to admit that Congress has the power to adopt this bill, in my judgment we should say that this power shall not again be exercised as long as the companies gave no occasion for it by their failure to comply with the law.

This subject ought to be removed from Congress; it ought not to be a theme of perpetual agitation in these halls. The great interests at stake should not be made the playthings of stock speculators, brokers, and gamblers. Nor should they be left open for every adventurous, aspiring, restless member of either branch of Congress, to inaugurate a new agitation whenever his interests or his ambition might dictate. The scenes of the last four weeks in and about this Capitol should never be enacted again, if it is possible to avoid them. If the bill reported from the Judiciary Committee is not a sufficient one to protect the Government; if it is not sufficiently guarded; if it is so imperfect that it will be unsafe to declare it a finality, then let the Judiciary Committee do its work over again. It has the ability and experience to accomplish what we all so much desire. If that committee is not satisfied now to make this work of its hands permanent, let it try again; but let us have an end, let us have rest and quiet and repose on this subject.

It is true, of course, that one Congress cannot bind future Congresses, and the amendment of the Senator from Maine, [Mr. BLAINE], if adopted, may be disregarded hereafter. But the question is less likely to be reopened after such a legislative declaration as this amendment makes than it would be if it were not made. The declaration contained in this amendment will have the effect to prevent litigation and to encourage the companies to fulfill the law in the belief and hope that while they do so no future Congress will be so regardless of good faith and of the public interests as to disturb the present adjustment. I have therefore, after the most serious and, in some respects, painful consideration of this subject, determined, for myself, that it is my duty to vote for the pending amendment. No question of public policy ever appeared to me in a clearer or more commanding light. The advantages to flow from its adoption are very great and very obvious to the commonest understanding; while the evils which, in my judgment, will follow its rejection are equally plain and beyond the reach of estimate.

Mr. HOWE. Mr. President, I am not about to inflict upon the Senate a speech, but I shall not be able to vote for the bill reported by the Judiciary Committee, of which I happen to be a member. That

my reasons for withholding my vote from that bill are so radically unlike the reasons which others have assigned for their opposition to it, is the only excuse that I have for obtruding a remark into this debate. Whether these railroad companies are, as some have contended, great benefactors of the human race or common marauders, may be an interesting question, but it is not one that I shall discuss. Whether they are combinations of thieves or communities of saints might be very pleasant to know, but it seems to me the most interesting fact about these companies is one that nobody can dispute, and that is that they are debtors to the United States in very large sums, and whether they are honest or dishonest, the United States are alike interested in securing the repayment of that money. I say they are indebted to the United States in very large sums. Speaking only of millions, and referring only to a single company, that which is nearest to us, the Union Pacific, the principal of its debt is \$27,000,000. The interest on that debt when it shall mature will be \$49,000,000. Some portion of that interest will have been paid: no one has told and no one can tell precisely what portion of it. The probability is that it will be somewhere from \$25,000,000 to \$30,000,000 of the interest. That is only one of the companies. The other will owe quite as much. A hundred millions is probably not an overestimate of the amount the two companies will owe the United States in about twenty-two years from this time.

I say that is the interesting fact in this case. How are we to secure the repayment of that interest, the collection of these debts? It seems to me, in spite of what others have said, that if that money is ever to be paid at all, it must be paid out of the annual net earnings of the companies, that the property mortgaged to us will never secure the repayment of those sums. The Union Pacific Company, which will in twenty-two years owe the United States not less than \$50,000,000, I do not hesitate to say could be built now for \$18,000,000. How does any one hope to realize from a mortgage on eighteen million dollars' worth of property a debt of \$50,000,000, when prior to that mortgage there is another one to be paid of \$27,000,000? It seems to me that that is a hopeless indebtedness; but nevertheless, though the cost or the intrinsic value of the property mortgaged is so very low, it happens that the annual net earnings of the company are abundant to pay not only the United States, but all the debts the company has yet contracted, enormous as those debts are.

Mr. President, the Judiciary Committee have furnished us with a table showing the net earnings of these companies for each year during the last four years. The Union Pacific Company had net receipts in 1874 amounting to a little more than \$5,000,000; in 1875 to something more than \$6,000,000; in 1876 to something more than \$6,500,000; in 1877 amounting to \$8,317,091.58. The Judiciary Committee have concluded from that table that since the average earnings for the past four years were over \$6,500,000, we can rely upon the average earnings being hereafter fully \$6,500,000. Is that a correct or a probable estimate? If you weigh a boy one year and find that he weighs forty pounds, and the next year at the same date you find that he weighs fifty, and the next year sixty, and the next year seventy, it would show that the average weight for the four years was fifty-five pounds, but it would be a very crude inference to conclude from that that his average weight the next four years would be fifty-five pounds. These Pacific companies are infants; they are lusty but they are growing; they traverse empty empires; it is their office to fill those empires and then to carry for them. They have not yet begun to exhibit what they are capable of doing, what they are capable of earning; but if we were compelled to conclude that they had already attained to the maximum of their earnings, there was last year, as I have already stated, \$8,300,000 of net earnings at the disposition of the Union Pacific Company. That is a very large revenue. Many sovereign governments expend less than that in a year. Out of that revenue the Union Pacific Company can discharge all the interest due to all its creditors and still have a very large surplus in its treasury. The Government directors speaking of that company make the declaration that out of that balance a million can be taken for the 5 per cent. and for the half of the charges against the Government for transportation; all the interest due to all its creditors can be paid and 6 per cent. dividend can be declared on \$36,000,000 of stock, and still the company would have \$1,562,853.58 to spare.

If that company never grows an inch, but maintains the rate of earnings hereafter which it realized the last year, out of those earnings it is amply able to make provision for every debt it owes, whether to the Government of the United States or to anybody else. Now, ought the company to pay its debt? I find no one to dispute that. If it means to pay that debt, why should it not appropriate this surplus of annual earnings to the payment of it, instead of distributing it among its stockholders whom it does not owe? It is the fair thing for any man who owes money to hand his estate over to his creditors rather than to his children, whom he does not owe. It is the fair thing for the company to provide for its debts before it provides for its stockholders, and it is the interest of the company to make that disposition of its net earnings if it means to pay the debt. It is not a just thing to the stockholders to have the assets of the company squandered to the prejudice of the stock, or rather to endanger the stock. Why, then, should not provision be made to meet the whole debt of the companies out of their annual earnings? I have heard it said that they must pay some dividends to their stockholders. Why so? If the stock is earning money, is not that all that the stockhold-

ers can ask? If knowing the stock earns money, is it not just as much for the advantage of the stockholder that it should go to the surplus fund as that it should be divided among the stockholders? The Senator from Maine [Mr. BLAINE] who sits near me insists that the property of the company is abundant security for the debts of the company, if I understand him.

Mr. BLAINE. For what remains of the indebtedness.

Mr. HOWE. For what will remain of the debt; that it will be adequate security for the \$50,000,000 which will be due the United States and for the \$27,000,000 (I am speaking now of the Union Pacific Company) which will be due on the first mortgage.

Mr. BLAINE. Only \$20,000,000 will be due the United States, twenty millions by each company, forty on both, forty-seven millions in all on the Union Pacific.

Mr. HOWE. Then it would be \$47,000,000 due to the United States and twenty-seven millions due on the first mortgage. Then a road which can be built for eighteen million is considered good security for a debt of \$74,000,000!

Mr. BLAINE. How do you make seventy-four millions?

Mr. HOWE. Twenty-seven and forty-seven make seventy-four.

Mr. BLAINE. Oh, no; twenty-seven and twenty make forty-seven. It is only forty-seven million.

Mr. HOWE. Only twenty millions will remain due to the United States, the Senator means. I have not made these figures myself.

Mr. BLAINE. I took the figures from the Senator from Ohio; I have not made them myself.

Mr. HOWE. The conclusion of the Senator from Maine is that only twenty millions will be due to the United States, principal and interest, of this loan. Is that the conclusion of the Senator?

Mr. BLAINE. Yes, sir.

Mr. HOWE. It makes a very material difference and only leads us to this result, that instead of \$67,000,000 there will be \$47,000,000 due. The conclusion of the Senator is therefore that the road will be good security for \$47,000,000, though it might not be good security for \$67,000,000; and yet I cannot understand how a piece of property which can be duplicated for \$18,000,000 can likely be good security for \$47,000,000. Understand, the Senator will tell me that it is paying interest. He says it is paying 7 per cent. on \$90,000,000. I admit that and it actually paid last year over 8 per cent. on \$100,000,000, of net profit, and I firmly believe that if nursed, taken care of, not trampled upon, in five years from this time it can pay 12 per cent. on \$100,000,000. But the Senator would not loan money at that rate and on that security, simply because this company cannot be secured forever in the exclusive carrying of the immense tract of country for which it is doing business to-day. I will not say it is unconstitutional, that it is a violation of the Constitution of the United States, but it is a violation of the constitution of American society, to permit anybody for a series of years to reap such enormous profits out of so small an outlay of money.

Therefore I think the Senator will conclude himself, or at least if he does not conclude himself that this is inadequate security, I hope he will be able to convince me that it is adequate; for all I ask for the United States is that we shall take such measures as will secure the repayment of that money. The question of time is with me quite unimportant; but if I were the company, I know I would not distribute these net earnings among the stockholders. It seems to me, I know I would say to the United States, "Let me invest this in the debt I owe you;" and if I were in the place of the United States I would say to the company, "Yes, we are glad to have that investment made in this debt, because we consider this debt insecure, and we will pay you a more liberal interest for that investment than you can realize on your net earnings, let you invest them anywhere else you can." If it be conceded that the company means to pay these debts and that the United States means to ask no more than the payment of these debts, then I cannot for my life see why the interest of the companies and the interest of the United States are not identical. We want not to crush the companies but to encourage them, because they are our debtors, and they want to exhibit their good faith and their determination to meet what their real obligations are, because we are their creditors.

I do not therefore object, Mr. President, to this bill because it asserts a power over the companies which I am prepared to deny. I neither deny nor assert that power. I do not think it the proper time to raise that issue. When we have said distinctly to the companies, "all that we want is that you shall secure us in the repayment of what you owe," and when they shall say "we will not secure you to that extent," then it seems to me it will be time for us to see what are the reserved powers of the Government over these charters. But I would make an honest endeavor and a serious endeavor, as it seems to me, to see whether there could not be an agreement between the companies and the Government before I fell back on that power, and if driven to the assertion of the power at last, it seems to me I would not exert it to enforce the payment of a part of what is due, but I would enforce it to assert the ultimate and full rights of the United States.

The PRESIDING OFFICER, (Mr. OGLESBY in the chair.) The question is on the amendment offered by the Senator from Maine, [Mr. BLAINE.] On this question the yeas and nays have been ordered.

Mr. THURMAN. Mr. President, I have a few words to say on this amendment, but if there are other Senators who wish to speak now

I will cheerfully yield the floor. I want to get a vote on this bill to-day if it is the pleasure of the Senate to take the vote, as I hope it will be. I am willing to forego anything like a set speech in the conclusion of the debate, but I shall claim the right to be heard before the vote is taken. I consider the amendment as really determining the fate of the bill. If there is any Senator now who would prefer to speak further, I cheerfully give up the floor.

Mr. EATON. Mr. President, every Senator unquestionably feels the importance of the bill now before the Senate. In fact there are two bills before the Senate, a bill from the Judiciary Committee and a bill from the Railroad Committee. Under my obligations as a Senator I cannot vote for either of those bills as they now are. The bill introduced by the Judiciary Committee, in my judgment, asserts power that does not belong to the legislative department of this Government. God forbid, sir, that I shall ever subscribe to the doctrine of the omnipotency of Congress, and, with a very high regard for the Judiciary Committee, I do not believe in their omniscience. A bill is brought here and we are told, absolutely told, in words told that the wisdom of man is exhausted; this bill is to be taken with no t's crossed, no i's dotted; the Judiciary Committee is potent enough to require its passage just as it is.

Mr. President, in my judgment this bill is in violation of the Constitution of the United States. There has been a wheelbarrow-load of decisions of courts brought here and not one that sustains the claim of the Judiciary Committee. I do not propose to consume much of the time of the Senate, and therefore I will lay down what I regard as the law as decided by one of the highest courts in the United States, as decided by one of the purest courts in the United States.

In the first place, let me premise by saying that all the power possessed by Congress is by grant, and that grant is to be found in the Constitution of the United States. There is no other power possessed by Congress; and what is that power? It is intimated, more than intimated, that because the States of this Union are inhibited from passing a law impairing the obligation of contracts, Congress can do that same violation of common sense and common justice. I have not heard my distinguished friend the Senator from Ohio [Mr. THURMAN] claim that power, for he says he is a strict-construction, hard-headed democrat; I think I use his own language.

Now, then, can Congress pass a law impairing the obligation of a contract? They seek to do it. The bill of the Judiciary Committee seeks to impair the obligation of a contract, as I will try to show before I get through. First, then, what is a contract? That is the first point in the legal propositions to which I direct the attention of the Senate. "A contract within the Constitution of the United States is one relating to property or some object of value"—mark the language—"which imposes an obligation capable in legal contemplation of being impaired." That is a contract, relating to some object of value which imposes an obligation capable in legal contemplation of being impaired. Now, I assume that there is an executed agreement between the Government of the United States and these two railroad companies. I assume that that agreement is executed. I assume that there are objects of value connected with that contract.

Let me see whether I am right or not. If I am not right, I shall vote for the bill. If any Senator will disprove these propositions of law, I shall vote for the bill. No man has yet disproved them. Now, let us see what this agreement was. The United States said this—of course I have not the charter in my hands—the United States said to these Pacific Railroad Companies, "If you will transport the munitions of war of the United States, taking half our transportation as payment presently, build this road, keep it in absolute repair, with all its material in order, then we will loan you so much money, to be paid on a given, certain day, we in the mean time taking 5 per cent. of your net earnings and half the cost of the transportation you do for us."

There is an obligation of value: first a service to be performed by these companies, next a sum of money to be paid annually or semi-annually for these companies. There is your contract executed. Have I not stated it correctly? If I have not I should like to be corrected, because I have said that if these legal propositions fail me I shall vote for the bill.

One other legal point I direct the attention of the Judiciary Committee to. "A legislative enactment equivalent to a contract or agreement, which is perfected, requiring nothing further to be done in order to its entire completion, is a contract executed, and whatever rights are thereby created subsequent legislation cannot impair." I desire an answer to that legal proposition.

This is the argument of the supreme court of Connecticut when giants occupied her bench. No greater or purer men than Williams and Johnson and Huntington and Storrs ever sat on a bench anywhere. I commend this law, for it runs on all fours with my claim.

One other proposition. "A legislative act in the nature of an executory contract, which is supported by valuable and sufficient consideration, creates an obligation which a subsequent legislature cannot impair."

These three propositions I submit to the Senate as the positions upon which I stand, and as an honorable man, as a man standing by the constituted rights of the people and of the corporations created by the Government, I cannot avoid these positions. "Ah," but says the Judiciary Committee, "do you deny the right to do" what? To

repeal? It is in the charter. To amend? It is in the charter. "Do you deny it?" Certainly not. Whenever a corporation, the creature of a legislative body, violates the agreement which it has made with its creator, then the creator will take from it the power which he has given it, and never under any other circumstances. It never has been done in the United States and never will be done.

Mr. THURMAN. What is the use of the reservation?

Mr. EATON. I am glad my friend has interrupted me without rising. The use of the reservation is simple and easy: first, the right to amend, the right to alter, the right to repeal. The right to amend is absolutely necessary for the well-being of the corporation itself. The right to alter is necessary to the well-being and the proper carrying on of the corporation itself. Everybody knows it; everybody that has served, as I have, in the Legislature of a Commonwealth that is certainly a corporation-ridden as any Commonwealth ought to be, knows that without that power to amend not infrequently corporations themselves would be stopped. Let me ask my friend who just interrupted me, does he claim that without any fault on the part of one of these railroad companies, or any other corporation chartered by Congress, Congress possesses the absolute power to repeal the charter in despite of its vested rights? I ask if he claims any such right?

Mr. THURMAN. I do not know what the Senator means by "vested rights."

Mr. EATON. Suppose you let me tell, or guess, either.

Mr. THURMAN. I can say this, that Congress has the right to take away every franchise of that corporation at its pleasure.

Mr. EATON. I do not believe that. I do not believe that is the meaning of the right to alter, amend, and repeal. It would destroy any government on the footstool of the Almighty that undertook to exercise a right as violent to common sense and common justice as that. It is put there to alter when it becomes necessary either to the well-being of the public or for the necessities of the corporation. It is put there to amend when it is necessary to amend either for the well-being of the public or for the weal of the corporation, to secure the purposes of the grant as the Senator from Georgia [Mr. HILL] suggests. It is put there to repeal and take away the charter when that corporation violates itself the contract it entered into. It means nothing else, and there is not a one-horse court in the United States anywhere that has ever taken any other view. You of the Judiciary Committee have brought here a wheelbarrow-load of decisions that do not come within a thousand miles of touching the question.

I should be very glad to have somebody answer the legal propositions which I have had the honor to submit, and in submitting them I have stated that they come from a court renowned among the high courts of this country.

Sir, a great deal has been said here that I have been sorry to hear. Intimations have been made here—Senators have not dared to say on this floor that these roads were bribing Senators; that they did not dare to say—but they have thrown out intimations so that the public press have said that there has been something in that nature. Intimations have been made that the lobby has come here and chased men to their private doors and houses and libraries. Sir, I have not been troubled with any lobbyists. There are but two gentlemen who are connected with this railroad that have ever spoken to me and that but once apiece. It has been more than intimated—for the language has been used here—that those who ventured to differ from the Judiciary Committee in regard to this bill were the friends of the roads. What does that mean? I ask what it means? Is there anybody here who is an enemy of these roads? Is my friend from Kentucky, [Mr. McCREERY?] I trow not. Is my friend from Ohio, [Mr. THURMAN?] I trow not. Am I more a friend of the roads because I cannot see the constitutionality of the bill which was born of the Judiciary Committee than any other man ought to be? Sir, I stand by my own convictions always, here and everywhere else. Here is a bill that in my judgment destroys the constitutional rights of a corporation, the rights given it, and rights which by law cannot be taken from it except by its own default. Believing that as I do, am I to be called a friend of the roads as against my country?

Mr. President, figures have been submitted here—I do not know by what computation of interest payable semi-annually—showing that there will be \$200,000,000 due, more or less, by the time this loan becomes due, and the roads cannot pay it, and therefore we are to violate the contract and make them begin to pay it now! Good law! Sound morals! Now let me make a few figures. I beg to say in advance that it is a sorry business for me to make figures of this character. It is said—my friend from California [Mr. SARGENT] can tell me if I am correct—that the United States by the chartering of these companies has saved from two and a half to four million dollars annually since the roads have been in operation. Now, a little figuring. Suppose it should be from two and a half to four millions annually from now till the year 1900, at 6 per cent. interest, computed semi-annually, this would be more than \$500,000,000. When you make figures one way, take them the other way. The arithmetic I care nothing about, but it is simply as sound upon the one side as it is upon the other. If the Government, to illustrate, saved \$1,000,000 last year by means of this railroad, then if you put it at 6 per cent. interest, as you must, and it is an outlay of the Government for thirty years, what would the amount be? And so for every succeeding year from now until 1900.

But, Mr. President, that is not the question; and it is not the question either whether I would have voted to charter these roads, for I know I would not if I had been a member of this body. I would not have voted to give these powers to these companies. I do not believe the policy was a wise one at the time; but it was adopted; the contract was made; the agreement was entered into; the valuable consideration passed; it became an executed contract, and I have learned that it is best to stand by your agreements.

When were they to begin to pay? They ought to have begun to pay their interest when it was due, according to my view. The Supreme Court thought differently, that interest ought not to be paid until the thirty years had run. I confess that my opinion runs on all fours with that of the honorable Senator from Vermont [Mr. EDMUNDS] in that particular, doubtless wrong because the Supreme Court has said we were both wrong; but it has struck me that if the Supreme Court had happened to be able to have seen the law as I did, it would have saved us all this trouble. But one branch of the Government, the Supreme Court of the United States, has laid its hand upon what I believe to be the law and made a law for us all; and because the Supreme Court has said that this interest is not due, and need not and shall not be paid until a certain day when the bonds become due and payable, the Judiciary Committee say they will begin now and they do not even call it payment, they dodge, they call it putting it into a sinking fund. The difference between that and payment is not so great that a man cannot see it unless he has his spectacles on. I owe my friend from Maine a thousand dollars which is payable five years hence. He comes to me and says "Now I cannot make you pay this, but it will not be payment if you let me take \$100 a year and put it into a sinking fund; I will give you 5 per cent, interest on it and it will not be payment." "Oh," but I say to my friend from Maine, "Why, my brother BLAINE, I can make 10 per cent, by this money." Is it not payment? Is it not taking from me what I have a right to by law and appropriating it to pay a debt that is not due for ten years. It is not anything else. You may get around it by calling it any name you please, but it is payment, and forcing payment of money that is not due.

Mr. President, one of the desires of my heart is that these companies should proceed to do this thing. They can do it better now than they can twenty years hence; but it does not follow that you have got the power to make them do it. My eloquent friend from California, the Senator who sits farthest from me, [Mr. BOOTH,] drew a picture of graphic power—indeed it was eloquent, that here were two high contracting parties, the Government of the United States on the one side and these corporations on the other, that they were to meet diplomatically—I do not pretend to give his words—and they were to treat as two great powers. Well, why not? Strip it of its verbiage and use the language of a common-sense man, a plain man like I am, why not? It is done every day in every State in this Union where there are any corporations. Not once, but more than a hundred times in the Legislature of my State has a charter been altered and amended, to become the law when the corporation agrees to the amendment. The only way to get it is by agreement. The corporation desires to have its charter amended in a particular manner. What is to be done? The Legislature must authorize it. What next is to be done? In its corporate capacity, in its office, it must agree to the amendment and have the amendment entered upon its records. It is done everywhere. My friend from New Hampshire, my friend from Maine, every man that represents a manufacturing community, knows that this is the way in which the charters of corporations are always altered, and I know no reason—my friend from California may—why the Congress of the United States shall not agree with one of the railroad corporations, its own children, to alter and amend the charter so that it may begin to pay a debt that is not due for twenty years. On the contrary I know that it is good sense and wise statesmanship to do it. Nobody will gainsay it.

If my good friends here who now entertain no doubt of this power did entertain a doubt, they would not exercise it; if like me they entertained a doubt of the power, they would go with me in order to effect such an arrangement as that this debt might begin to be paid before it is due. That I shall try to do; that I shall not fail to do; and so far as any amendment can be added to this bill that will make a suitable bill for the acceptance of the people who are corporators under the laws of the United States, so far it will get my support. If this bill was defeated, I certainly could not vote for the bill of the Railroad Committee, unless great amendments were made to it, and because it does not strike me as a proper business bill. I will not talk any further on that subject at this time.

Now, Mr. President, but a word more, for I have already spoken longer than I intended when I rose. I desire to exercise all the power that I believe the Federal Legislature possesses in order to effect a good object so far as the payment of this debt of these railroad corporations is concerned. Further than that, I cannot, will not, go—cannot go without dishonor to myself. In the grant of power that governs me as a member of this body, I find no authority to take a corporation that is in default by the throat and violate the very contract and agreement which I entered into with it. I see no such power. Senators who do will exercise it. I do not. Therefore I must look to the next best thing, and that is to make an arrangement; and, as I said before, I repeat there is nothing dishonorable in it any more than there would be if it was a transaction between my friend from

Kentucky [Mr. McCREERY] and myself of \$20,000, no part of it being due for twenty years; if he and I could make an arrangement by which I could pay a portion of that debt before it became due, we ought to do it. As guardians of the public weal, having in hand the best interests of the people of this whole country, we ought to do that. To that I will direct myself at all times and in all places. If it is necessary I shall not hesitate to speak to the president of the railroad—I never saw him in my life that I know of. I may have seen him but not to know him. I may have passed him. I do not know that he has invaded the lobbies; I do not know that he has followed me to my home; but I never have seen him to know him. But, Mr. President, I shall not hesitate, as a Senator of the United States, to speak to the president of one of these corporations at any time and suggest to him what would be wisdom for him as well as for the United States. To use an ordinary expression, it would not let me down any. It is a duty that I owe to my people, to the State which has honored me with a seat on this floor, to do all that I may honorably to adjust the matters between these two companies and the United States, and so believing, so I will do; and while I will stand firm as a rock, firm as granite, against what I believe to be unconstitutional legislation, I will devote myself, heart and soul, to effecting a compromise between this Government and these corporations that shall be alike honorable to both.

Mr. MITCHELL. Mr. President, I do not rise for the purpose of making a speech, but I do rise for the purpose of calling the attention of the Senate to a decision of the Supreme Court of the United States which I believe to sustain fully the very doctrine enunciated by the Senator from Connecticut who has just taken his seat, [Mr. EATON.] This opinion of the Supreme Court of the United States has not been quoted at length nor has it been commented on very much by the able lawyers of the Judiciary Committee who have sought to sustain the bill reported from that committee by their able arguments. I refer to the decision of the Supreme Court of the United States in the interest case, in the case of *The United States vs. The Union Pacific Railroad Company*, reported in 1 Otto.

It will be remembered that in that case the Supreme Court of the United States held, all the judges of that great court concurring, on the point which had been disputed so long and so ably by the very members of the Judiciary Committee that now report this bill, that the interest that the Government of the United States is paying semi-annually for the benefit of these companies was not refundable by the companies to the Government until the maturity of the bonds. That had been a disputed question in the Senate; that had been a disputed question before the Judiciary Committee of the Senate. It is true the great body of that able committee held as the Supreme Court of the United States has decided. It is also true that the chairman of the Judiciary Committee, the honorable Senator from Vermont who addressed the Senate at length to-day, did not agree with that committee at that time, but held to an opinion entirely different from the majority of the Judiciary Committee and to an opinion moreover in direct conflict with that afterward announced by the unanimous decision of the Supreme Court of the United States.

But what I desire to call attention to now is this, that in that opinion reported in 1 Otto, the Supreme Court of the United States not only decided the question before them, which was simply the question whether the interest was payable before or not until the maturity of the bonds, but they intimated in the very strongest possible manner that under the contract as it existed under existing laws there was no power in Congress to create a sinking fund without the consent of the companies out of which and with which to meet the payment of these bonds at their maturity, and the Supreme Court in that decision placed the question as to the security that the Government had retained in its hands with which to meet the payment of these bonds, upon precisely the same plane, the same footing as a part of the contract as they placed the provision in relation to the payment of interest. They regarded the provision in the one case precisely similar to the provision in the other case; that is to say, the provision in the law which when construed by the Supreme Court of the United States was to the effect that interest was not to be refunded to the Government by the companies until the maturity of the principal of the bonds had the same relation to this contract as the other provision which stipulated what the security of the Government should be for the payment of the principal of the bonds at their maturity. And now I call attention to the language of the court upon that point to see if it is not just precisely as I state it. The court in speaking of this matter say:

They created no obligation to keep down the interest, nor were they so intended. The provision for retaining the amount due for services rendered, and applying it toward the general indebtedness of the company to the Government, cannot be construed into a requirement that the company shall pay the interest from time to time, and the principal when due.

Now I call attention to what follows:

It was in the discretion of Congress to make this requirement, and then, as collateral to it, provide a special fund or funds out of which the principal could be discharged. This Congress did not choose to do, but rested satisfied with the entire property of the company as security for the ultimate payment of the principal and interest, and in the mean time with special provisions looking to the reimbursement of the Government for interest paid by it, and to the application of the surplus, if any remained, to discharge the principal.

It was in the discretion of Congress to do what? "To make this requirement."—What requirement was the court referring to? The

requirement that these companies should refund to the Government the interest semi-annually. That was the requirement they referred to; and then the court proceeds:

As collateral to it—

To do what? To—

Provide a special fund or funds out of which the principal could be discharged.

Congress could not only have provided that the interest should be refunded semi-annually but they could have gone further, neither of which they did do, the court say. What further could they have done? They could have gone further and as the court say—

As collateral to it, provide a special fund or funds out of which the principal could be discharged.

But the Government did not do that. Congress did not do either of those things. It neither provided that the interest should be paid semi-annually, nor did it provide collateral to that, as the Supreme Court say, that "a special fund or funds" should be provided with which to meet the principal of the bonds at maturity. The Supreme Court say that Congress might have done either of these things, and then go on to say that they did not do either, place them both as twin provisions in this contract, place them precisely upon the same footing as part and parcel of this contract made between the Government and these companies, and then, after laying down the law in that shape, the court proceed to say:

This Congress did not choose to do, but rested satisfied with—

With what? What did Congress rest satisfied with? What was a part of the contract and one of its principal stipulations? Was it that the interest should be refunded semi-annually? Not at all. Was it that "a special fund or funds" should be provided with which to meet the maturity of the bonds? Not at all. What was it, then. Why, Mr. President, it was this, as stated by the Supreme Court of the United States:

This Congress did not choose to do, but rested satisfied with the entire property of the company as security for the ultimate payment of the principal and interest, and in the mean time with special provisions looking to the reimbursement of the Government for interest paid by it and to the application of the surplus, if any remained, to discharge the principal.

And now hear what the court say in addition upon the question as to what the companies might have been willing to do or not been willing to do under this contract:

The company, for obvious reasons, might be very willing to accept the bonds on these terms, and very unwilling to make an absolute promise to pay the interest as it accrued.

That is to say, while when the act of 1864 was passed originally the companies might have been willing to accept that act when the provision was not that they should create a fund with which to meet the maturity of the bonds, but that they should give security upon the entire property of the company to meet the maturity of the bonds, while, say the Supreme Court, the companies might have been willing to accept a charter containing these terms, they might not have been willing to accept a charter which provided that the interest should be refunded semi-annually or that they should create a fund or funds from year to year with which to meet the payment of the bonds at maturity.

And, Mr. President, no man, I care not how good a lawyer he may be, can successfully contend that the Supreme Court of the United States did not decide, so far as it had power to decide anything, that one of the essential terms of the original contract, one of the vital parts of the charter—I mean the act of 1864—was that the companies, instead of being compelled to provide a fund from year to year to meet the payment of the interest, were simply called upon to give security upon their entire property with which to meet that payment when the bonds should mature. The court say:

The company, for obvious reasons, might be very willing to accept the bonds on these terms and very unwilling to make an absolute promise to pay the interest as it accrued.

And does my honorable friend from Ohio believe for one moment to-day that if the charter, instead of providing as it did provide, had provided that the companies should pay into the Treasury of the United States 25 per cent. of their net earnings every year with which to meet the payment of the bonds at maturity, it would be the same kind of a contract or that the companies would have accepted that kind of a contract? It seems to me not, Mr. President. The court say further:

If it were in a condition, either during the progress or on the completion of the road, to earn anything, there would be no hardship in applying the compensation due it; but, as can be readily seen, if it were required to raise money every six months to pay interest when all its available means were necessary to the prosecution of the work, the burden might be very heavy. Congress did not see fit to impose it and thus place the company in a position to incur a forfeiture of all its grants in case of failure to provide the means to pay current interest. Besides, it is fair to infer that Congress supposed that the services to be rendered by the company to the Government would equal the interest to be paid. That this was not an unreasonable expectation is shown by the published statistics of the vast cost of transporting military and naval stores and the mails to the Pacific coast by the modes of transit then in use.

It has been said, and will be said again, that this point as to the power of Congress to create a sinking fund was not before the court in that case, and that the only point before the court was as to the extent of the payment of interest. However that may be, I have undertaken to show, and I think have shown, that the Supreme Court through its organ, Associate Justice DAVIS, in giving the opin-

ion in that case, intimated in the clearest possible manner that there was no power now, without the consent of the companies, to create a fund or funds with which to meet the payment of these bonds at maturity.

Mr. EDMUNDS. Will you read the clause in which that intimation appears?

Mr. MITCHELL. I have read it, and I will read it again. I have read this opinion carefully and I cannot come to any other conclusion.

Mr. EDMUNDS. I want to hear just that point you were speaking of, that we have no power.

Mr. MITCHELL. The court say:

The provision for retaining the amount due for services rendered, and applying it toward the general indebtedness of the company to the Government, cannot be construed into a requirement that the company shall pay the interest from time to time, and the principal when due. It was in the discretion of Congress to make this requirement—

What requirement? To refund the interest. That is what they were talking about there. But what follows?—

and then, as collateral to it, provide a special fund or funds out of which the principal could be discharged.

What I said a moment ago while the honorable Senator was out was this, that the Supreme Court of the United States treats of these two provisions as parts of the contract, treats them as twin provisions of this contract, namely, first the payment of interest, which was not to take place until the maturity of the bonds, and second, the kind of security that the Government retained in its hands or provided for when it passed this law.

Mr. EDMUNDS. But may I ask my honorable friend, if I do not disturb him, if the constitutionality of the acts of Congress that the court was called upon to expound was drawn in question? He will say of course that it was not.

Mr. MITCHELL. Of course I admit that the point before the Supreme Court for decision was simply as to whether or not the interest that the Government was to pay semi-annually for these companies should be refunded to the Government by the companies semi-annually or not until the maturity of the bonds. I admit that.

Mr. EDMUNDS. Then will not my friend also admit that all that the court was undertaking to do, so far as its effectual judgment was concerned, was to expound the meaning of the statutes on which the question arose?

Mr. MITCHELL. I admit that anything they may have said outside of the direct point in issue may be regarded as an *obiter dictum* in one sense, but they did go on to construe these statutes. It was necessary to give construction to these statutes in order to decide the actual point before the court.

Mr. EDMUNDS. Undoubtedly.

Mr. MITCHELL. "Undoubtedly" my friend says, and in doing that, after referring to the different clauses of the statutes, they say:

It was in the discretion of Congress to make this requirement.

That was to require the interest to be repaid semi-annually, which Congress did not do. Say the court: "It was in the discretion of Congress * * as collateral to it" to do something else. What was that something else? It was to "provide a special fund or funds out of which the principal could be discharged." But Congress did not do that.

Mr. EDMUNDS. Now does the Senator mean that that shows that the Supreme Court meant to say or had in their heads the notion that Congress had no power in future to make a provision of that character?

Mr. MITCHELL. I do most unquestionably believe that the Supreme Court of the United States in the language used there intimated, in the strongest manner that they could intimate in giving construction to these statutes, that there was no power in Congress to create a fund or funds, without the consent of the companies, with which to meet the payment of these bonds at their maturity, and the court gave a reason for it in the very same opinion, and that reason I will read:

This Congress did not choose to do, but rested satisfied with the entire property of the company as security for the ultimate payment of the principal and interest, and in the mean time with special provisions looking to the reimbursement of the Government for interest paid by it and to the application of the surplus, if any remained, to discharge the principal.

Congress did not choose to do what? Congress did not choose to provide for the creation of a fund or funds, to use their language, with which to meet the payment of these bonds at their maturity. They did not choose to do that, but they did choose to do something else.

Mr. EDMUNDS. Therefore they cannot choose now!

Mr. MITCHELL. They did choose to do something else. What was that something else? They chose to take a legislative lien upon the property of these companies. That was what Congress chose to do in the passage of the act of 1864, and then the court go on to say: "The company, for obvious reasons, might be very willing to accept" a charter when the security was that kind of security stipulated in the act of 1864, while they might not be willing to accept a charter that fixed some other kind of security, or, to use the language of the Supreme Court, which would compel them to provide a special fund or funds out of which to pay these bonds at maturity.

That is all I desire to say, Mr. President.

Mr. WINDOM. Mr. President, if the Senate is ready to vote upon the question I will not ask leave to make a report from a committee of conference. If not, I should like to submit a report and have it acted upon.

Mr. COCKRELL and others. Let us go on with this.

Mr. WINDOM. It will take but a moment.

Mr. THURMAN. If the Senator merely wishes to have a committee of conference appointed of course it will take but a moment.

Mr. WINDOM. I ask leave to make a report from a committee of conference in order that another committee may be appointed.

Mr. THURMAN. To that I do not object.

APPROPRIATIONS FOR DETECTING TRESPASSES, ETC.

Mr. WINDOM submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making appropriations for detecting trespass on public lands, and for bringing into market public lands in certain States, and for other purposes, having met, after full and free conference, have been unable to agree.

WM. WINDOM,
S. W. DORSEY,
JAS. B. BECK,

Managers on the part of the Senate.

M. J. DURHAM,
J. H. BLOUNT,
J. H. BAKER,

Managers on the part of the House.

Mr. WINDOM. A single word in explanation. The committee of conference agreed on every provision of the bill except that which was inserted by the Senate appropriating \$20,000 for postal clerks and agents. Upon that the conference committee were unable to agree. The report is a general disagreement, however, and I move that the Senate further insist upon its amendments and ask for another conference.

The motion was agreed to; and by unanimous consent the Vice-President was authorized to appoint the committee.

Mr. WINDOM, Mr. DORSEY, and Mr. BECK were appointed the conferees on the part of the Senate.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives non-concurring in the amendments of the Senate to the bill (H. R. No. 3064) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1879, and for other purposes.

On motion of Mr. WINDOM, it was

Resolved, That the Senate insist upon its amendments disagreed to by the House of Representatives, and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent it was

Ordered, That the conferees on the part of the Senate be appointed by the Vice-President.

The VICE-PRESIDENT appointed Mr. WINDOM, Mr. ALLISON, and Mr. EATON.

HOUSE BILL REFERRED.

The bill (H. R. No. 4245) authorizing the President of the United States to appoint James Shields, of Missouri, a brigadier-general in the United States Army on the retired list, was read the first time by its title.

The VICE-PRESIDENT. If there be no objection, the bill will be considered read the second time, and referred to the Committee on Military Affairs.

Mr. GORDON. Mr. President, I move that the Senate proceed to the present consideration of that bill.

Mr. EDMUNDS. To which I object, Mr. President.

The VICE-PRESIDENT. The objection is well taken. The bill goes over under the rule.

Mr. EDMUNDS. In making that objection I wish to say that I do not intend to be made a party to picking out one gallant soldier from thousands who stand on the same ground to ease any party in either House of Congress from a bad scrape.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of War, transmitting a letter from the Commissary-General of Subsistence, urging that the clerical force recommended in his annual report for 1877 be provided for by an appropriation; which was referred to the Committee on Appropriations, and ordered to be printed.

THE PACIFIC RAILROADS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 15) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Maine, [Mr. BLAINE,] upon which the yeas and nays have been ordered.

Mr. BLAINE. I desire to modify the amendment as I gave notice.

The VICE-PRESIDENT. The amendment, as modified, will be read.

Mr. THURMAN. The Senator cannot modify his amendment after the yeas and nays have been ordered.

Mr. BLAINE. Does the Senator make that objection?

Mr. THURMAN. He can offer it as an amendment to his amendment, perhaps.

Mr. BLAINE. I think there is nothing in the rules that would prevent my offering this as an amendment. I offer the following amendment, which, I think, will get around the exceedingly critical point of the Senator from Ohio. I offer it as an amendment to the bill.

The VICE-PRESIDENT. The amendment will be reported at length.

Mr. THURMAN. An amendment to the amendment?

Mr. BLAINE. A separate amendment at the end of section 12.

Mr. EDMUNDS. There is another amendment pending.

Mr. BLAINE. That is all true, but I offer this as an amendment. If Senators will not permit me to modify it, I can offer it in a certain place.

Mr. EDMUNDS. But you will have to wait for the proper time to come.

Mr. BLAINE. Now is the time.

Mr. EDMUNDS. But there is an amendment pending.

Mr. BLAINE. But I can offer it as an amendment to another section of the bill.

Mr. SARGENT. I rise to a point of order that the Senator has a right to modify his amendment at any time.

Mr. BLAINE. The yeas and nays were ordered yesterday, and the Senator from Ohio makes the point that I have not the right to modify it, which under a strict construction of the rule is probably true, if the Senator desires to hold me to that.

Mr. SARGENT. I do not know that. That is the very point of order I make, and I should like to have a decision of the Chair on it, whether the Senator has the right to modify his amendment.

Mr. BLAINE. It cannot be withdrawn; whether it can be modified or not I am not sure. It is not a very large point anyway, the Senate will observe.

The VICE-PRESIDENT. The rule will be read.

The Chief Clerk read Rule 44, as follows:

Any motion or resolution may be withdrawn or modified by the mover at any time before a decision, amendment, or ordering of the yeas and nays, except a motion to reconsider, which shall not be withdrawn without leave of the Senate.

The VICE-PRESIDENT. The point is well taken by the Senator from Ohio.

Mr. BLAINE. I want—

The VICE-PRESIDENT. This not being an amendment to an amendment—

Mr. BLAINE. I understand; the point is well taken; I make no objection to it at all, but—

The VICE-PRESIDENT. The pending question is on the amendment first offered by the Senator from Maine.

Mr. BLAINE. Now, if one of the pages will hand me back that, I can make a remark and get the other amendment before the Senate. The reason why I do not put in the proviso separately is that I want a vote on my amendment as a whole, and I want it to come in at the end of the twelfth section because there are certain words in the twelfth section after the word "mentioned" which this was originally written to follow that seem to some members to be worth while preserving; and, as I intimated yesterday, if any Senator is better satisfied with the amendment at the end of the twelfth section, not striking out any of the words in the section, I am entirely willing that it shall be so placed. As the Senator from Ohio objects to my perfecting it, I suppose he will object to my withdrawing the amendment. It is my desire to let the amendment which I have already offered go by and to have the vote of the Senate, the test upon it, come on the amendment which I have modified to meet every possible criticism which the Senator from Vermont this morning leveled against it; and as a whole my amendment will read thus:

But so long as said Central Pacific and Union Pacific Railroad Companies shall faithfully comply with the provisions of the said acts of 1862 and 1864, and of this act, relating to payments to the United States on account of the bonds advanced, and of the sinking funds to be established as aforesaid, such compliance shall be deemed and taken as sufficient to meet the obligations of said companies on account of such bonds prior to the maturity thereof: *Provided*, That the annual payment from each railroad company, in addition to the half-transportation account and the 5 per cent. of net earnings presently applicable to the interest on the bonds, shall never be less than \$500,000 applicable to the sinking funds herein established, and that nothing in this act shall be construed to waive any claim of the United States against either of said railroad companies from whatever source arising.

I think those two provisions effectually dispose of all the wind-mills which the Senator from Vermont has constructed and then proceeded to fight. I do not think they add anything of strength to the amendment beyond the original text, except in the amount of money which they require; and if the Senator from Ohio stated the point correctly, as I presume he did the other day from his calculation, then this proviso exacts more money at least from the Union Pacific Railroad Company, if not from both, than the bill of the Senator from Ohio does. Instead of reducing the money payment into the Treasury of the United States for a sinking fund, this would increase it, and the moment the companies should go into default upon the 5 per cent. or upon the half transportation or upon the \$600,000 in

addition to both, then the power of Congress to step in and do just as it pleases with them would be restored in its fullest possible vigor. The only possible dispute that could grow up out of it would be in the matter of the 5 per cent., for possibly the Supreme Court might decide that 5 per cent. net earnings to be different from that which is embraced in the Judiciary Committee bill, although I do not know that they would, nor do I probably think much that they would, but they possibly might. But on the half transportation the Government has that in its own hands, and the \$600,000 is certainly very easily counted. I think the Senator from Ohio had better not put the Senate to the trouble of voting upon an incomplete amendment, but let the vote come directly on mine as I have now perfected it.

Mr. THURMAN. The Senator from Maine, as I understand his amendment now, does not propose that \$600,000 shall be in addition to the half transportation.

Mr. BLAINE. Certainly.

Provided, That the annual payment from each railroad company, in addition to the half-transportation account and the 5 per cent. of net earnings presently applicable to the interest on the bonds, shall never be less than \$600,000.

Mr. THURMAN. Well, the half transportation and the 5 per cent. coupled together are those things which are now payable under the law.

Mr. BLAINE. That is what I said—"presently applicable."

Mr. THURMAN. They are presently applicable, and now all that the Senator requires in addition to that is \$600,000 a year.

Mr. BLAINE. I say it shall never be less in any event. The Senator will see that it leaves all the requirements of his bill intact.

Mr. THURMAN. No, it does not.

Mr. BLAINE. Everything in his bill is left intact.

Mr. THURMAN. No.

Mr. McDONALD. I would call the Senator from Maine's attention to the report of the committee. From the Union Pacific the amount of cash payment, as stated there, if the provisions of this bill are realized, would be \$850,000.

Mr. BLAINE. That is the very highest to which it may go; this does not interfere with that in the slightest degree.

Mr. McDONALD. This says it shall not be less than \$600,000 as to the Central Pacific. The amount there required to be paid in is \$1,200,000. Your proposition allows it to be reduced just one-half.

Mr. BLAINE. No, it does not.

Mr. McDONALD. It may be.

Mr. BLAINE. The Senator will pardon me. The Senator from Vermont was drawing a great picture here of all this concern going into eternal smash, that the stockholders were going to be a parcel of irresponsible men bent on ruining the whole property; they were going to sacrifice the first-mortgage bonds and going to sacrifice the sinking-fund bonds, and going to make the stock worthless and valueless, and they would go to default on the first-mortgage bonds, and then he says the amendment offered by the Senator from Maine has so tied up our hands that we cannot touch the thing at all. I answered him by putting in a proviso that, in addition to the 5 per cent. and the half transportation, they should in no event ever pay less than \$600,000 a year for each company. The Senator from Ohio himself stated that the first year the Union Pacific would pay less than \$600,000 under the bill, only \$100,000 I think he said, in addition to the half transportation, which is not applicable to interest. So the very minimum that is contained in the proviso that I offer is more than the Senator himself proposes. It was in answer to this lugubrious picture of the stockholders having hold of a property worth \$100,000,000 who would just for the fun of the thing ruin it to see if they could not fight the United States. That was the picture that the Senator from Vermont brought before us, that for the sake of spitting somebody and making the United States have trouble, they would ruin their own property. I think if there is any possible instinct to be relied upon, I think if there is any possible instinct in mankind that it is safe to legislate upon, it is that men will take care of their own interests and look after their own money. All the hypothetical cases presented by the Senator from Vermont went upon the supposition that these men would set to work deliberately to destroy their own property to see if they might not incidentally do some harm to the United States. I meet him with an amendment which puts that beyond the power of any possible construction. If the Senator from Ohio insists on having a vote on the original amendment, I hope nobody will vote in favor of it for the simple reason that I want the vote to come from any gentleman who may happen to sympathize with my views on this amendment if the Senator will not permit me to have it voted on directly.

The VICE-PRESIDENT. The question is on the amendment first offered by the Senator from Maine, upon which the yeas and nays have been ordered.

Mr. THURMAN. Mr. President, if there is any Senator who desires to speak, I do not wish to take the floor.

Mr. HILL. If the Senator from Ohio will allow me to make one remark I shall be content.

Mr. THURMAN. Very well.

Mr. HILL. The other afternoon, in a colloquy with the Senator from Vermont, [Mr. EDMUNDS,] I stated that I endeavored to draw a distinction between the charter and the contract, which I tried to set forth. I referred to the case of *Miller vs. The State*, decided by the Supreme Court of the United States in 15 Wallace. I referred to

the decision of the majority of the Court and the reasons given by the dissenting judges for their dissent in that case, and if it does not make clear this point, then I am sure I cannot understand plain law. I desire the Senate to remember that this point is applicable here, because the controversy arose there upon a contract which it was claimed was independent of the charter, was not a franchise, though contained in the charter or the act granting the charter, just as here this contract of loan is authorized by the same act that creates the Union Pacific Railroad Company; and the able Senator from Delaware [Mr. BAYARD] insisted that the words "to alter, amend, or repeal," being general, necessarily applied to everything in that act. I have been endeavoring to show to the Senate that those words could only apply to such portions of the act as they were properly applicable to in the nature of the thing. Now I simply want for a moment to call the attention of the Senate to that case of *Miller vs. The State*, and I want to read, in addition to the constitutional provision in New York, the provision of their general code. It is much stronger, I submit to the Senate, than the language of the reservation contained in either the act of 1862 or the act of 1864. Let us see the reservation under the laws of New York:

First. The charter of every corporation that shall hereafter be granted by the Legislature shall be subject to alteration, suspension, and repeal, in the discretion of the Legislature.

That is the New York law; it shall be subject to alteration, suspension, and repeal, in the discretion of the Legislature. You say here that the reservation in the acts of 1862 and 1864 gives Congress discretionary power to alter, change, and repeal everything in these acts. What you claim as the construction of the acts of 1862 and 1864 is the very language of the law of New York. In spite of that language, when the Legislature of 1851 in New York amended the charter of a certain railroad company by which it changed the number of directors to which the city of Rochester was entitled, increased their number and lessened the number of directors to which the other stockholders were entitled, a point arose, and what was it? As to whether the Legislature had a right to make that change under this reservation which said they should have discretionary power to make changes. That was the very controversy. Now, then, what was the decision of the courts? It was decided by a divided court in New York, and it came here and was decided by a divided Supreme Court of the United States. The majority of the court say this in pronouncing the opinion:

These last stockholders—

The general stockholders—

regarding the act of 1851 as making a contract that they should have nine directors and the city but four, and that the act of 1867 violated that contract, elected their, old nine.

This is the syllabus of the court:

Held, on a *quo warranto*, that the act of 1867 did not, in view of the State constitution and the act of 1828 making charters subject to alteration, suspension, and repeal, make such a contract, and that the act of 1867 was constitutional.

That court held that the change made by the act of 1867 was not a contract outside of the franchise, but was part of the franchise, and therefore was constitutional. This is made clear by the dissenting opinion. Judge Bradley pronounced a dissenting opinion in that case, and Judge Field concurred.

Hear what they say:

I dissent from the opinion of the court in this case on the ground that the agreement with respect to the number of directors which the city of Rochester should elect was not a part of the charter of the company, but an agreement outside of and collateral to it.

That is the very point. If the whole court had believed that this change made by the act of 1867 was not a change in the franchise of the corporation, was not a change in the corporate authorities of the company, but affected an agreement which, though contained in the charter, was outside of and collateral to it, the court would have concurred and pronounced the act unconstitutional. The minority judges distinctly put their dissent on that ground; they believed that this contract in the original act authorizing the city of Rochester to have four directors and the other stockholders nine was an agreement, not a franchise, not a part of the charter, but an agreement outside of and collateral to it, and therefore was not subject to alteration, amendment, or repeal under that sweeping provision of the law of New York which gave the Legislature absolute discretion over the charter.

One more remark. The decision of *Tomlinson vs. Jessup* has been referred to; that came up from South Carolina, Mr. Justice Field pronouncing the decision. Here is the law stated in a nutshell, and it takes the very distinction that I draw and which I have been endeavoring to enforce upon this body:

The reservation—

A reservation like the one now under consideration. Says the court:

The reservation affects the entire relation between the State and the corporation, and places under legislative control all rights, privileges, and immunities derived by its charter directly from the State.

Not other matters outside, not agreements that are not made directly by the charter, that are not granted directly. I concede here that this reservation reserves under legislative control all the rights, privileges, and powers of these corporations which they derived by direct grant from the State; but it does not keep within legislative control

agreements that are not franchises in their nature, contracts for the loan of money, debt contracts. The Senator from Ohio the other day insisted upon using the general word "contract," and as the Legislature had the right to create a corporation, and as the creation of the corporation and the acceptance of the charter made the contract, he asked me if the Legislature did not have the right to change that under such a reservation. Certainly, but the difference is between a charter contract and a debt contract. A charter contract is a grant directly from the State, without money consideration; it is a grant solely for the public good. A debt contract is not a grant from the State. The State may be a party to it, but a debt contract exists by agreement, not by grant in the proper sense of the word "grant." It exists by agreement, agreement between two parties able to contract, willing to contract, and who do contract. That is a matter of legislative control. It takes two parties to change a contract, and it takes two to make it. A debt contract and a grant stand on a different footing. The grant of charter privileges, the grant of franchises directly from the State as authority stand wholly on a different footing. This loan is not a grant from the State. You call it so. It is an agreement between the Government and the companies; it is an agreement founded on valuable consideration, and therefore it is beyond the power of legislative control.

Mr. President, we are told by Herodotus that King Cambyses became enamored of his own sister and desired to make her his wife. He was informed that the laws did not permit a brother to marry his sister. He called his royal judges into consultation and submitted to them the proposition whether the laws permitted a man to marry his sister. The judges decided that the laws did not permit a man to marry his sister; but they informed the king further that they had discovered another law, that the king could do as he pleased. Have we made no improvement upon that day? Is this a Government like that of the Persian king? If we have anything to boast of in this country it is that we have limited the powers of government, and one of the highest and most sacred limitations upon the powers of government is that they shall protect the contracts made by agreement between parties and founded in valuable consideration, and they shall not impair them or destroy them. Ah, there is not one law for a contract to which individuals are parties, and another law for contracts where the Government is a party. The law of contracts is the same, I care not whether the parties to the contract are artificial persons or natural persons, or whether they are individuals or whether they are governments. It is the glory and the boast of the character of our institutions that no government has a right to change and modify or alter or destroy a contract, a debt contract, a simple contract debt founded upon valuable consideration, whether the parties to that contract be corporations, individuals, or the Government, and no court has ever held so. And I say now to the gentlemen, I said two weeks ago, I challenge them to produce any case where a court in America has ever held that under these words of reservation the Legislature could change or alter a contract founded in consideration of private agreement or public agreement either, to which I mean the public is a party in the shape of the Government. You have not produced such a case. Every case you have brought here is a case changing the charter, changing the corporate franchises and privileges, and modifying them. You have never produced a case, and you never will produce a case, where the courts have held that the legislative power can change, alter, or modify a contract either by reservation or otherwise. This is a Government of granted powers. It derives all the powers it possesses from the people through the Constitution. It has no power to impair the obligation of a contract, and it cannot acquire that power by reserving it.

I adhere to my proposition, but I concede that the charter granted directly from the Government stands on a different footing.

Mr. SARGENT. Mr. President, I desire to detain the Senate but a few moments. There are two branches of this question, one which the Senator from Georgia has just remarked upon—the question of power. There is another question, one of policy. Upon the latter branch of the subject I desire to say a few words on account of something like criticism upon the position I have assumed that was made by the Senator from Vermont. The position I took, among others, was that there were great commercial objects to be attained by the building of the Central Pacific Railroad, benefits to transportation, not merely to the Territories and the Pacific coast and Western States, but also to the Government, and I contended that there was nothing in the former policy of the Government which would justify a heavy tax being laid upon the transportation between the Western States and the Pacific coast. I desire, fortifying the position which I took and showing that I did not mean thereby to condone a debt or anything of that kind, to show what the policy of the Government has been in this respect toward other enterprises of the same character, that it never has considered the gifts or the loans which it made for the benefit of commerce as sums to be counted upon as a miser does upon his hoard, that a spirit of just liberality toward all sections of the Union up to this moment at any rate has characterized the course of Congress in these matters; and when I ask, in view of the facts which I shall state, I have no doubt familiar to every Senator who knows the course of our legislation, that something of the same spirit shall be used, something of the same regard for the great commerce of this road carried on between Chicago and San Francisco, I think I may well say to Senators that I do not make any unreason-

able demand. I will refer to one or two instances, among others to the act which passed Congress:

For improving the navigation of the Mississippi River at Des Moines or Lower Rapids, according to such plan as the Secretary of War shall, on the report of the board of engineers, approve, \$300,000.

This was the first in a series of appropriations for a work which cost \$4,000,000 to build a canal for the benefit of commerce, and there was attached to that grant a proviso—

That any canal that may be constructed around said Des Moines, or Lower Rapids of the Mississippi River, shall be and forever remain free to the navigation and commerce of said river, and no tolls shall ever be collected thereon.

Now, compound that amount according to the principle which it is announced that it is just to apply to the debt owed by the Pacific Railroad Companies, which was incurred exactly for the same object, for the benefit of commerce, and the interest for the first year would be \$200,000 at only 5 per cent., and the next year \$210,000, and so it would go on by arithmetical progression until the year 1900 or any other time that may be arbitrarily fixed, and it would amount to an enormous sum. And yet that was not the calculation that was made by Congress. The whole amount of the original appropriations was freely given and no account was made of interest whatever ever to come back to the coffers of the United States for the benefit of commerce in that regard. I was in Congress at the time that measure passed and I voted for it, for I have always believed in being liberal to the commerce of the country in providing it facilities and not bearing it down by oppressive exactions.

With reference to this very Des Moines Rapids Canal, allow me to say that Congress has to make an annual appropriation for the expense not only of repairs but to work the locks of the canal with employes all along it. How absurd the proposition would seem to come in here and ask that the engineers and firemen and brakemen of the Central and Union Pacific Railroads should be paid by the Government as the men who work the machinery of this canal are annually paid by the Government of the United States, and this with all the principal and interest is thrown into the gulf for the benefit of commerce.

Take as another illustration the instance of the Louisville and Portland Canal, which was a canal built by a private company for private gain. They had a debt of \$1,200,000, as near as my recollection runs back to the debates of the day when Congress assumed that debt. After having appropriated upon this private work belonging to individuals, the title not being in the Government, nearly a million dollars more—

Mr. THURMAN. But the Government made money out of that canal.

Mr. SARGENT. The Government has made money out of the Central Pacific Railroad and the Union Pacific Railroad, and that is just the point I make.

Mr. THURMAN. Not in the same sense. The Government by its stock in the Louisville Canal made more money than it ever expended on the canal.

Mr. SARGENT. The Government assumed the indebtedness of that canal and paid off its bonds to the extent of \$1,200,000 and never got a dollar of it back into the Treasury. I challenge an examination of the record on that point, because I remember the debate distinctly, as I participated in it in the House of Representatives. I have not looked at it since that time, but I remember it distinctly. I say that amount was given for the benefit of commerce on the Ohio River and of the people in that region. Compound the amount, as you say—

Mr. THURMAN. Why does not the Senator bring in a bill to sponge out this debt of these meritorious companies.

Mr. SARGENT. I do not propose to do anything of the kind. I do not ask the Senate to do anything of the kind. There is the rapidity of logic; the Senator jumps from one extreme to the other. He supposes because we complain that his bill is harsh and holds the rod over these companies who are placed in the attitude of a culprit, that therefore we are in favor of freeing them from their obligations. I am not asking, and I have not asked, for any such proposition. I say, however, this was not the spirit in which Congress has dealt with enterprises of this kind heretofore, and that it is not just to the people of the Pacific whom I represent. I stand here in the interest of my own constituency, and in the same spirit in which I was in favor of this legislation from the beginning—for I wrote the original Pacific Railroad act and urged it through Congress—I say you should not make the road a curse instead of a blessing to the Territories which it traverses and the people who are living there, and who are dependent upon it for their facilities in carrying on enterprises. These which I have referred to are small benefits which the Government has conferred on commerce, and it never thought of compounding interest and counting it out as a miser and doling it dollar by dollar.

I have a table here running nearly from the foundation of the Government, but it is sufficient to go back ten years. Congress has appropriated \$38,000,000 in the improvement of the facilities of commerce during the last ten years. Will some ready reckoner compound the interest upon that amount? Compound it at 5 per cent. a year for thirty years and see how much the Government has lost, out of how much the Government has been cheated. The Government has gained, as it did by the Louisville Canal, as it did by the Des Moines

Rapids Canal, as it did by the Pacific Railroad, by developing the resources of the country, by making tax-paying communities, by enhancing the wealth in all its boundaries. In 1867 the amount of \$4,486,281.70 was appropriated for purposes of this kind. In 1868 \$1,601,530 was appropriated. In 1869 \$2,200,000 was appropriated. In 1870 \$4,256,400 was appropriated. In 1871 \$5,023,000 was appropriated; in 1872, \$5,195,000; in 1873, \$5,918,900; in 1874, \$5,444,000; in 1875, \$6,643,517.50; in 1876, \$5,025,000; and there has just been reported a bill in the House of Representatives making an appropriation of \$7,000,000 more, a large amount of which undoubtedly will be appropriated by Congress for purposes of this kind. What did Senators say with reference to the improvement of the Mississippi River by means of the Eads jetties? Five and a half million dollars were appropriated for that purpose. That is the original cost of the work. Does anybody complain? It gives an outlet to the commerce of the great Mississippi Valley, benefits the State of the Senator from Ohio. California is far off. I do not know that I can stir the soul of the Senator from Vermont, or that of the Senator from Ohio with any emotion that I feel with regard to the people of the Pacific, but I say the Pacific Railroad is our Mississippi River. Do the Senators object to the five and a half millions that were paid to clear away the sand-bars at the mouth of the Mississippi River by means of the Eads jetties or to the annual appropriation we have to make of \$150,000 to maintain the work over and above the price? In the language of the Senator from Connecticut, "I trow not."

Now, then, I say that something of the same spirit should be shown when a bill is before Congress the effect of which is to put an annual charge of \$4,600,000 upon the commerce of the Pacific States which goes overland by the railroads, for that is the effect of the measure. I admit that there is a hoard of savings which has been made by the construction and the operating of the road, but how soon will \$4,000,000 per annum exhaust it? Two, three, or four years hence will exhaust it, in one day, and then the companies will have all their reserve used up, and if they have availed themselves of the privilege which is given by the original legislation of 10 per cent. dividend it will be soon used up, in two or three years; and then comes the direct dragging burden upon the commerce that goes over the road. Somebody has got to pay it, and who? Those who travel upon the road; those who send merchandise over it; ay, sir, and the Government which sends its transportation over it, although the Government has acted in such a mean and improper spirit in that matter that when it could by its own contract with the companies get one-half of its transportation applied upon the debt, instead of doing that it has sent the goods which it wanted to send to San Francisco around the Isthmus or by some other method. I suppose this was by inattention of the Departments. Whatever the reason was, the Government has sent a vast amount of transportation by the Isthmus, one-half of which it could have applied presently upon this debt instead by giving the companies the opportunity to carry it. I say the effect of such a measure will be that the communities there which are now springing forward into a state of comparative prosperity and are able to work low grade ores because they can get cheap machinery for mines that are little productive, because they have the facilities furnished by the railroad, will be compelled to stop under the increased exactions which may be brought about by this legislation.

That is the motive under which I stand here and say that if with justice and fairness to the Government a rate of sinking fund can be fixed which will avoid these disasters, it ought to be done. That is the business aspect of this proposition which I principally insist upon.

Mr. HOWE. Mr. President, I want to say two or three things in reply to the Senator from California. He says we ought to treat these companies liberally. So I say, I ask him if the companies have not been treated liberally? The Government advanced them moneys which the Government borrows and on which we are paying interest annually.

Mr. SARGENT. I am not complaining of past treatment.

Mr. HOWE. We defer the payment of that interest until the expiration of the loan. Simple interest on the moneys that we disburse annually, calculated up to the time that we require them to repay that interest, would more than build the roads. We have therefore laid upon the people of the country a tax more, very much more, than the construction of the roads. Is not that liberality?

The Senator says now that we have been very liberal to commerce in other sections, and he points at the appropriations we have made for the benefit of commerce. That is one thing; the railway companies are another. If I do not misunderstand the whole scope of this attempted legislation, it has nothing to do with commerce, nothing to do with fares, nothing to do with rates of transportation. It does not propose to reduce or to increase the revenues of the companies one dollar. It is a simple question what the companies ought to do with reference to their debt. They are already running upon rates of transportation which they have fixed themselves, and which nobody now proposes to interfere with. The Senator from California, least of all, proposes to legislate in regard to that. The Senator makes a sort of sectional appeal to us.

Mr. SARGENT. Not at all.

Mr. HOWE. In one sense.

Mr. SARGENT. I had no such purpose at all. I simply claim for my section that which we have meted out uniformly to Wisconsin,

which by this list that I have gone over received a sum as large, I am glad to say, as any section of the country, and more.

Mr. HOWE. Mr. President, in no improper sense did the Senator make a sectional appeal, and I was going to reply to it by saying that there is no sectional interest involved in this question. He has called this railroad the Mississippi River of the Pacific slope. I beg to remind him that it is just as much the Mississippi of the East as it is of the West. Just so far as commerce is interested in this question, it is the commerce of the East as much as the commerce of the West. If we repress commerce by this legislation, we repress a commerce which is the common interest of the whole country. That is the way I look at it.

Mr. ALLISON. Mr. President, I desire to occupy the Senate but a few moments, and more with a view to ascertain the true construction of the amendment proposed by the Senator from Maine than for any other purpose.

When the Senator from Maine first introduced his proposition it seemed to me to be a wise one, and I entertained that judgment until it was so severely attacked by the honorable Senator from Ohio who has charge of this bill. He told us yesterday that the amendment was prussic acid to this bill, that it is the poisoned drop that is to be the death of this legislation. If that be true, I shall join hands with the Senator from Ohio and vote against the amendment of the Senator from Maine. But all the arguments are not arguments which commend themselves to my judgment, and the colloquy which has just occurred between the Senator from California and the Senator from Wisconsin more than confirms me in the justice of the amendment.

There is a provision in this charter that no one in this debate has said we could not lay our hands upon, namely, the provision that when the earnings of these companies shall exceed 10 per cent. on the cost of the railroads Congress may lay its hands on the corporations and reduce the rates of compensation for the great commerce which threads its pathway from ocean to ocean and from continent to continent. If this question is to be opened up in another direction, so that whatever laying hands there is to be on these corporations shall be in the direction of more exactions in order to hasten the payment of this debt, then with what face can we say to these railway companies, "You shall reduce the rates of compensation charged upon freight and traffic that goes over your great lines of railway?" I believe in that view that it is important that whatever we deem necessary and essential to protect the interests of this Government should be fixed here and now with reference to this debt, so that if the earnings of these railways shall in the future increase we shall then exercise the power that we have a right to exercise in the interest of the commerce of this people in compelling these railway corporations to reduce their rates of compensation.

There is a growing evil, I will tell the honorable Senator from Ohio, in some sections of the country which these railways traverse, which are deeply interested in some Government regulation upon this question. It has been more than hinted at heretofore with reference to the suspected violations of one of the provisions of the law of 1864. If we are to open up this question constantly for the purpose of drawing into the Treasury of the United States hereafter, as we may choose, further sums in order to hasten the payment of this debt, how can we with any face go to these corporations with a law compelling them to reduce their rates of traffic or rates of fare?

I make these suggestions more for the purpose of receiving an answer from the honorable Senator from Ohio than for the purpose of making absolute assertions of my own. The proposition of the Senator from Maine, as I understand it, takes not away one whit from the efficiency and force of the bill as reported by the Judiciary Committee. That bill stands with all its power and in all its relations as though that amendment had not been presented. That bill, as I understand it, provides a maximum sum that we are to require from these corporations, namely: they are to pay, or the Government is to retain, the one-half of the transportation; in addition to that, it is to retain in one case \$1,200,000, and in the other \$150,000 or so much of that sum as with certain other sums shall make up 25 per cent. of the net earnings of these railway corporations. The amendment as modified by the Senator from Maine provides that there shall be, in addition to that, a minimum sum, namely, \$600,000 at least, from each company, which shall be applied to this purpose. Certainly to that extent it is an improvement upon the bill proposed by the Judiciary Committee.

Mr. EDMUNDS. Not an improvement in the interest of the companies who, as they say, may have a dry year and nothing to carry.

Mr. ALLISON. But may I ask the Senator from Vermont, because I only want information on this point, is there in the bill as reported from the Judiciary Committee a minimum sum fixed, or is there any such provision as may make it impossible, or rather improbable, that these railway companies will pay into the Treasury a single dollar save and except that sum retained for half transportation, which the estimate of the Judiciary Committee fixes at \$421,000?

Mr. EDMUNDS. Certainly not. There is no minimum sum because the companies by their directors, and presidents, and counsel, pressed upon us the danger of any legislation which should fix a minimum sum, because they said "great floods, drouths, everything which will affect the products of a people, and so the operations of a railroad, may find us a year when after paying the interest on the first mortgage, and sometimes perhaps without it, there will be no net earn-

ings, upon the construction of the Judiciary Committee bill; and in such a case, unless you wish to ruin us, you should not compel us to borrow money to put in." That had force with us, and trying to act impartially between the companies and the rights of the people, we made no minimum. Now the Senator from Maine says they shall have a minimum.

Mr. ALLISON. Then in that respect I find I was not mistaken, because even in such years of drouths and floods and rains and storms, or whatever, under the proposition of the Senator from Maine, there must be \$600,000 paid into the Treasury on account of this proposition.

Mr. BLAINE. In addition.

Mr. ALLISON. In addition. Therefore, and this is what I desire to call the attention of the honorable Senator from Ohio to, if this is a reasonable proposition with reference to the debt, why should it not stand as long as these companies comply with it? That is a proposition which addresses itself, it seems to me, to the common sense and common judgment of anybody.

Upon the question as to the reasonableness of this proposition, I have had some investigations made for my own conduct with regard to the vote I should give upon this very subject. If I understand the Judiciary Committee bill its minimum will be about as stated by the honorable Senator from Ohio, namely, it would leave somewhere in the neighborhood of twenty millions of principal due from each of these companies at the end of twenty-two years or twenty years, as the case may be; but the capacities and capabilities of the bill under the proposition of the Judiciary Committee are far beyond that. That the Senator from Ohio will see if he makes a careful calculation. He submits in the report accompanying the bill that the sum of \$1,900,000 from each of these companies would be paid into the Treasury under the provisions of the bill. It will not require the sum of \$1,900,000 on the part of these companies to pay principal and interest back and forward of the entire debt of both these companies to the United States. That sum will more than pay it and would leave a balance, as I understand the calculation, due to these companies upon the basis of the decision of the Supreme Court at the end of the time.

Mr. THURMAN. Now, if my friend will allow me to interrupt him, suppose it would do just that thing, it will not pay the first mortgage and the debt of the United States, and the first mortgage will be entitled to be first paid.

Mr. ALLISON. Undoubtedly; but is it wise or is it desirable to so tax the commerce of this country as that it shall be required to pay not only the principal and interest of this debt to the Government of the United States, but also to pay the first mortgage due at the end of this time?

Mr. PADDOCK. I should like to inquire of the Senator from Iowa, if the Senator in charge of the bill acquiesces, if he would not be willing to give way for a motion to adjourn?

Mr. ALLISON. I shall leave that to the Senator from Ohio.

Mr. PADDOCK. There is a disposition to debate this question somewhat further and I suggest to my friend, the Senator from Ohio who has charge of the bill, that we had better adjourn.

Mr. THURMAN. Oh, no.

Mr. ALLISON. I cannot give way for such a motion without the consent of the Senator from Ohio.

Mr. PADDOCK. I will not press the motion unless both Senators acquiesce in it.

Mr. ALLISON. I only mean to occupy a moment longer. With reference to the suggestion made by the honorable Senator from Ohio in regard to the first-mortgage bonds, I must say that I do not share the apprehensions of my friend from Wisconsin with reference to what will be the effect upon these railway corporations at the end of twenty years. I have no doubt that this very day, if these corporations could be purchased by railway companies that both he and I know of, they would gladly take these roads at a considerable advance upon what is their present nominal value, debts and all. It is probably true that a railway could be built alongside of the track now held and owned by the Union Pacific Railway Company for \$18,000 or \$20,000 per mile. It is also true that a track could be laid between here and Baltimore alongside of the Baltimore and Ohio Railway for \$20,000 a mile; but who is going to lay that track or invest money in any such enterprise? The whole capital stock of the New York Central Railway is \$128,000,000, including its bonded debt, as shown by Poor's Manual, which I have here before me. The cost of that railway undoubtedly to-day would not be more than 50 per cent. of that sum; yet, does any one believe that capitalists would invest money in a rival enterprise to that great railway extending from the lakes to tide-water?

No, Mr. President, when these mortgages mature there is no question of the fact that there will be found somebody willing to pay not only the first mortgage for these great railways, but to pay the second as well, because in the very nature of things by that time, so far as the country adjacent to them is concerned, they will practically have the control of the traffic.

But the Senator from Maine has offered this amendment, modified now so as to cover, it seems to me, every possible objection that can be made to it, unless it be that we intend here year by year to make further exactions of these companies for the purpose of facilitating the time when this debt will be paid. If the honorable Senator in charge of this bill will make a calculation he will see that the

\$1,900,000 which he estimates in his report will considerably more than pay this debt, principal and interest, at the time of the maturity of the bonds. If this is to be done in the future it will be done to the detriment of the great populations that are compelled to use these roads for local and through traffic. It will be done at the expense of high rates of fare and high rates of transportation. Representing as I do a constituency somewhat interested in this question, I do not feel myself willing to make such exactions from these companies as will require them in turn to tax largely the people from Chicago to San Francisco who may be compelled to use this railway.

Mr. President, I only offer these suggestions with a view of seeing whether or not there are objections to this amendment which are not apparent in my mind.

Mr. PATTERSON, (at five o'clock and thirty-five minutes p. m.) I move that the Senate do now adjourn.

Mr. THURMAN. I hope the Senator will withdraw that motion for a moment till I say a word, and then he may renew it.

Mr. PATTERSON. Certainly for a moment, but I do not want to lose the floor.

Mr. THURMAN. I ask the Senate to sit this bill out to-night, because, in my judgment, debate upon it is substantially exhausted, and because, according to my experience, we shall have to sit it out no matter on what day we take the vote. I think it is time that this bill were out of the way. Of course that is a matter for the Senate to decide for itself with reference to its own convenience. I have this, however, to say, that if the Senate is unwilling to sit the bill out to-night, I do hope that those who still wish to speak on the bill will speak to-night, and then give me to-morrow morning a short time—for I shall not need much, at least I shall not take much—to speak in the close of the debate, and then let us come to a vote.

Mr. SPENCER. Suppose we agree to vote at one o'clock to-morrow.

Mr. THURMAN. Not at one o'clock; that would cut me off entirely.

Mr. SPENCER. Then say three o'clock.

Mr. THURMAN. There is always this difficulty about fixing a time at which we can come to a vote—

Mr. PATTERSON. But it has been done.

Mr. RANSOM. It is always done; it always has been done.

Mr. PADDOCK. I ask the Senator from Ohio if there is any such state of pressing business before the Senate as to require that it shall be subjected to discomfort and annoyance in reference to this matter by a refusal to adjourn at this time? I do not understand that the public business is suffering by reason of the procrastination of this debate. It seems to me that it may be well enough to adjourn until to-morrow and give the Senate the opportunity of further consideration.

Mr. THURMAN. I do not hear a word the Senator says; yes, I did catch one word of the Senator from Nebraska, "any such pressing haste." If the Senator will look at the debates of the British Parliament whose way is over every quarter of the globe more or less, he will not find in twenty years a debate in the house of commons that lasted two days. But the debate on this bill has lasted now nearly one month, and at the last Congress it lasted for weeks. Four-fifths nearly of the Senators on this floor have spoken on the bill, so that there has not been a word said on the bill scarcely for the last week that was not a repetition of what had been said before.

Mr. PADDOCK. If the Senator will give way—

Mr. THURMAN. I do not wish to be interrupted just now. Yet there is complaint about hurrying this bill; complaint that there is a forcing of this bill, as if there were some tyranny or oppression in asking the Senate at last to vote upon a bill that has been discussed now nearly one month in this Senate, and that was discussed weeks during the session last winter.

Mr. PADDOCK. I should like to inquire of the Senator from Ohio if he objects to debate when debate does not procrastinate the determination of the question. The business of the Senate is in such a condition that there certainly is no urgency which requires of the Senate to subject itself to discomfort in order to procure a premature determination of this question; and it would be premature, I say, to force a vote when there are other Senators who wish to discuss the measure. There is no business before the Senate pressing upon us that I know of.

Mr. THURMAN. There is no business here! If the measures come before the Senate that are likely to come before it and are considered by the Senate, the middle of August will not see an end of this session. It will only be by pushing aside other business or deciding it without sufficient debate, that the Senate can adjourn before the middle of August if all the great measures which are now pending in one or the other of the two Houses shall have to be decided. Nothing! Is there nothing in the tariff bill, which may pass the House for aught we know? Is there nothing in the bill for the reorganization of the Army? Is there nothing in the proposition to amend the Constitution in regard to the election of President? Is there nothing in the bill to regulate the count of the presidential vote? Is there nothing in the appropriation bills? Is there nothing in all these that we can idle our time here in mere speech-making? According to the idea of the Senator from Nebraska—

Mr. PADDOCK. Mr. President—

Mr. THURMAN. I am perfectly willing to hear my friend from Nebraska. I always listen to him with pleasure, and I will agree to sit here till nine o'clock to-night to listen to him if he wants to speak so long.

Mr. PADDOCK. My friend is very kind and very courteous. I do not often interrupt the Senator; but I wish to make this inquiry of him: Is there any measure of public concern reported from any important committee of this body before the Senate to-day for consideration that makes it necessary for the Senate to sit the whole night here in order to consider the question? I for one have a remark or two to make upon this bill, and I prefer to make it to-morrow if it is exactly to the convenience of the Senate that I should do it to-morrow as well as to-day.

Mr. THURMAN. I certainly have no objection to the Senator from Nebraska speaking on the bill; indeed, I hope to hear him speak upon it; but when he says there is nothing before the Senate, let me tell him that if this bill or any bill on this subject is to become a law it must be sent to the House of Representatives in due time for the House to consider it. As I understand, the tariff bill is made the order of the day for next Monday in the House. So I have been informed. I understand from the gentleman who has that bill, I believe, in charge that he intends to allow one month's debate upon it in the House of Representatives. If that be so, and this bill should be sent there too late to be taken up and passed this week, as it probably will be if it goes over to-day, then it is postponed in the House for one month. I do not want to risk any such thing as that. I know that there is business in the other House as well as here, and that that House is to consider this question as well as the Senate. Of course I am under the direction of the Senate. All that I can do is my duty. That I propose to do. If the Senate overrules me I cannot help it. If it is the purpose of the Senate to adjourn now until to-morrow, it may do so; but for my own part my judgment is that we ought to sit this bill out.

Mr. SPENCER. Let us take the question on adjournment.

Mr. PATTERSON. I renew my motion now.

Mr. BLAINE. I wish to make a suggestion to the honorable Senator from Ohio before the vote is taken on the motion to adjourn. In the case of a bill of this magnitude, which has been so long under discussion and on which there are several amendments pending and more to be offered, I suggest to the Senator whether it might not be well to have a five-minute debate upon it, and have general consent that to-morrow we proceed with the bill under the five-minute rule. Of course I would except the honorable Senator in charge of the bill.

Mr. SARGENT. And the Senator from Nebraska, [Mr. PADDOCK.]

Mr. BLAINE. And the Senator from Nebraska, who desires to speak more at length. The Senator from Ohio will observe that in regard to the measures of which he spoke, not one is here for our action. If we should close the debate on this bill and come to a final vote to-night, there is not one of those measures which would be here for the consideration of the Senate to-morrow.

Mr. THURMAN. There is an appropriation bill on the Calendar.

Mr. BLAINE. That is a very slight bill, a deficiency bill. There is not one regular appropriation bill ready. We can adjourn and have an understanding that to-morrow at five o'clock, or half past five, or four, I do not care what the hour is, so that we agree, we shall vote; but what is the need of subjecting ourselves to discomfort for nothing? I do not wish to interfere with the Senator who has charge of the bill at all. I know his responsibilities in this matter.

Mr. THURMAN. Here are Senators whose business calls them home. Here is the Senator from Michigan [Mr. CHRISTIANCY] who is called home, and the Senator from North Carolina [Mr. MERRIMON] is called home. I do not know when we can get so full a Senate as we have to-day.

Mr. BLAINE. We shall have it to-morrow, and we can apply the five-minute rule and finish the bill in good time.

Mr. THURMAN. If we are to adjourn upon any such understanding, the Senator sees the difficulty about that. Let us suppose, for instance, that the amendment of the Senator from Colorado [Mr. CHAFFEE] should be offered. That is not an amendment that can be considered under a five-minute rule. Nobody would be satisfied with five minutes' discussion of that amendment. What are you going to do about it?

Mr. BLAINE. I think the Senator suggested that the debate had been already exhausted.

Mr. THURMAN. Yes, on the bill as it has been presented to the Senate.

Mr. COCKRELL. Is the motion to adjourn pending?

The VICE-PRESIDENT. It is pending.

Mr. COCKRELL. Is it debatable?

The VICE-PRESIDENT. It is not, but debate is proceeding by unanimous consent.

Mr. COCKRELL. I ask for a vote on the question.

The VICE-PRESIDENT. The question is on the motion of the Senator from South Carolina, [Mr. PATTERSON,] that the Senate adjourn.

Mr. CHRISTIANCY. On that motion I ask for the yeas and nays. The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. WALLACE, (when his name was called.) On this question of

adjournment I am paired with the Senator from Nevada, [Mr. JONES.] If he were here, he would vote "yea" and I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 29, nays 36; as follows:

YEAS—29.			
Allison,	Dennis,	Kellogg,	Sargent,
Barnum,	Dorsey,	Lamar,	Saunders,
Blaine,	Eaton,	Matthews,	Spencer,
Bruce,	Ferry,	Mitchell,	Teller,
Cameron of Wis.,	Gordon,	Morrill,	Windom.
Chaffee,	Hill,	Paddock,	
Conover,	Ingalls,	Patterson,	
Dawes,	Jones of Florida,	Rollins,	
NAYS—36.			
Anthony,	Cockrell,	Hereford,	Morgan,
Armstrong,	Coke,	Johnston,	Oglesby,
Bailey,	Davis of Illinois,	Kernan,	Plumb,
Bayard,	Davis of West Va.,	McCreery,	Randolph,
Beck,	Edmunds,	McDonald,	Ransom,
Booth,	Eustis,	McMillan,	Saulsbury,
Burnside,	Garland,	McPherson,	Thornton,
Butler,	Grover,	Macey,	Voorhees,
Christiancy,	Harris,	Merrimon,	Wadleigh,
ABSENT—11.			
Cameron of Pa.,	Hoar,	Kirkwood,	Whyte,
Conkling,	Howe,	Sharon,	Withers.
Hamlin,	Jones of Nevada,	Wallace,	

So the Senate refused to adjourn.

The VICE-PRESIDENT. The question recurs on the amendment of the Senator from Maine, [Mr. BLAINE,] on which the yeas and nays have been ordered.

Mr. ALLISON. Before the vote is taken I desire to know which is the pending amendment, as the Senator from Maine proposed two amendments.

The VICE-PRESIDENT. The question is upon the first amendment indicated by the Senator from Maine.

Mr. THURMAN. If there is any Senator, I repeat, who wishes to speak, I do not desire to occupy the floor at this time.

Mr. EDMUNDS. I suggest to my friend to let us take the vote on this first amendment, which I believe the mover himself does not expect to be adopted. When the next amendment comes up, that will be perfectly in order, and the Senator I suggest had better speak then, and we shall get rid of the pending amendment first.

Mr. THURMAN. Do I understand that the Senator from Maine proposes to abandon this amendment and then to offer the amendment drawn out as he has suggested it?

Mr. BLAINE. I proposed to do that, but the Senator from Ohio would not permit me.

Mr. EDMUNDS. He does not object to your withdrawing it.

Mr. THURMAN. Then let us vote upon that amendment, and vote it down, as a matter of course.

Mr. ALLISON. The yeas and nays have been ordered upon it.

Mr. BLAINE. The yeas and nays were ordered upon it. Let the vote be taken on the amendment I offered. If that should be adopted I will offer the proviso there is in the other amendment. If it shall be rejected then I shall immediately offer the amendment which I suggested, adding the proviso to that.

Mr. THURMAN. Very well.

Mr. ALLISON. Can I not move to reconsider the vote by which the yeas and nays were ordered upon the amendment of the Senator from Maine?

Mr. SARGENT. There would be really nothing gained by the Senator doing that.

Mr. BLAINE. If I am permitted, I will simply withdraw one amendment and offer the other.

Mr. EDMUNDS. Very well, let the Senator withdraw that amendment.

Mr. SARGENT. I shall not agree to that.

Mr. BLAINE. Does the Senator from Ohio agree to that?

Mr. THURMAN. No.

Mr. ALLISON. Then I move to reconsider the vote by which the yeas and nays were ordered, so that we can have a *rixa voce* vote upon the amendment without taking up the time of the Senate.

Mr. EDMUNDS. The Senator cannot move to reconsider that vote. That will not amount to anything.

Mr. PADDOCK. I should like to inquire what the question is before the Senate.

The VICE-PRESIDENT. The question before the Senate is upon the first amendment offered by the Senator from Maine.

Mr. BLAINE. I will explain it with the permission of the Senate. In section 12 I shall move to strike out all after the word "mentioned" in line 4 and insert:

But so long as said Central Pacific and Union Pacific Railroad Companies shall faithfully comply with the provisions of the said acts of 1862 and 1864 and of this act, relating to payments to the United States on account of the bonds advanced, and of the sinking funds to be established as aforesaid, such compliance shall be deemed and taken as sufficient to meet the obligations of said companies on account of such bonds prior to the maturity thereof.

Now I wish to add to that the following proviso:

Provided, That the annual payment from each railroad company, in addition to the half-transportation account and the 5 per cent. of net earnings presently applicable to the interest on the bonds, shall never be less than \$600,000, including the other half of the transportation account applicable to the sinking funds herein

established; and that nothing in this act shall be construed to waive any claim of the United States against either of said railroad companies, from whatever source arising.

I propose to offer that as one whole substantive amendment when the pending amendment is got out of the way.

Mr. PADDOCK. I should like to inquire of the Senator from Maine if he offers that as a substitute for his first amendment.

Mr. BLAINE. The Senator from Ohio has two or three times refused to permit the amendment to be withdrawn, and of course the Senate will have to go through the trouble of voting upon it.

Mr. THURMAN. I am very indifferent as to what is done. The Senator from Maine can move his proviso to the present amendment. The amendment is only an amendment in the first degree, and that would only be an amendment in the second degree. It is perfectly competent for him to do that without any consent or withdrawal or anything else. But in order to "speed the plow," I consent so far as I can give it (it requires unanimous consent) that the Senator may withdraw the pending amendment and then he can offer the amendment that he has just stated.

Mr. BLAINE. I am much obliged to the Senator.

The VICE-PRESIDENT. By unanimous consent, the first amendment of the Senator from Maine is withdrawn.

Mr. BLAINE. I now add the proviso because I want it to come in in a different part of the section. I offer it now to come in at the end of section 12 of the bill. I do this out of deference and respect to the Senator from Vermont, who thought there were some very valuable things in that section; and I am always anxious to oblige the Senator from Vermont. I move to amend section 12 by adding thereto the following:

But so long as said Central Pacific and Union Pacific Railroad Companies shall faithfully comply with the provisions of the said acts of 1862 and 1864 and of this act relating to payments to the United States on account of the bonds advanced, and of the sinking funds to be established as aforesaid, such compliance shall be deemed and taken as sufficient to meet the obligations of said companies on account of such bonds prior to the maturity thereof: *Provided*, That the annual payments from each railroad company, in addition to the half-transportation account and the 5 per cent. of net earnings presently applicable to the interest and the bonds, shall never be less than \$600,000, including the other half of the transportation account applicable to the sinking fund herein established; and that nothing in this act shall be construed to waive any claim of the United States against either of said railroad companies, from whatever source arising.

I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SAULSBURY. I simply want to inquire of the Senator from Maine if the meaning of that amendment is that payment of what is here called for shall be a compliance with the obligation of the company to the Government.

Mr. BLAINE. Certainly.

Mr. SAULSBURY. I understood from the Senator from Ohio that it would not be sufficient to meet the obligation of the companies to the Government; that there would be some \$20,000,000 or \$30,000,000 besides that would not be provided for. Now, will not this be an abatement of the claim of the Government against the companies to that extent?

Mr. BLAINE. This expressly excludes that conclusion, for it says "until the maturity of the bonds." It is limited to that. It only provides until the maturity of the bonds. It is the calculation of the Senator from Ohio who has charge of the bill that there will be only \$35,000,000 left due from both roads. I stated it at \$20,000,000 for each, but the Senator corrected me and said \$35,000,000 for both. It will be, as compared with the value of the security the Government holds, a mere pittance.

Mr. THURMAN. The Senator from Nebraska [Mr. PADDOCK] intimated a desire to speak. Is he prepared to go on now?

Mr. PADDOCK. I expressed a preference not to go on to-night.

Mr. THURMAN. I cannot hear what the Senator says. I only want to give way if he desires the floor.

Mr. PADDOCK. I should like to inquire if there is any requirement of courtesy or precedence that would make it necessary for me to proceed now?

Mr. THURMAN. It is a matter of courtesy.

Mr. EDMUNDS. The gentleman in charge of a bill is generally allowed the last word.

Mr. THURMAN. Will the Senator from Nebraska please repeat what he said; I did not hear a word of it?

Mr. PADDOCK. Mr. President, if I should conclude to make a remark after the Senator ceases, I think it would be proper enough that I should do so, and allow him to conclude afterward. I do not think I shall say anything that will interfere with his arrangements.

Mr. THURMAN. I said to the Senator, but I am afraid I was not heard, there is so much conversation in the Chamber, that if he desired to speak now I did not want to take the floor. I give him precedence if he desires to speak now. I do not want to say anything until after he shall have concluded.

Mr. PADDOCK. The Senator is very kind, indeed. I acknowledge his courtesy. I desire that the debate shall be postponed until to-morrow. I think no delay, so far as the final result is concerned, will come from that postponement. I am not exactly in a condition to proceed to-night. Therefore I am content to waive the precedence that my friend is willing to accord to me, and, so far as I am concerned, if it is agreeable to the Senate, to sit and listen to the Senator. If I

may have any remark to make afterward I will make it. Then, if the Senator wishes to conclude the debate, as it is his right to do, I certainly shall have no objection.

Mr. INGALLS. Before the Senator from Ohio proceeds, I wish to address to him a single interrogatory to which I shall not ask an immediate reply, but shall be contented if he answers it before he closes the debate.

The amendment offered by the Senator from Maine seemed to me to be so reasonable, so equitable, and so just, that I have been at a loss to understand why it was opposed with so much vigor and strenuousness by the Committee on the Judiciary. They having the full power to submit a proposition for the consideration of the Senate, it seemed to me that it ought to be one which would command the assent of all those who favored an adjustment of this long outstanding litigation. In the course of the remarks made this afternoon by the Senator from Indiana [Mr. VOORHEES] this same idea was brought before the Senate, and he addressed an interrogatory to the Senator from Ohio asking him if this bill was not what the Government desired to enforce against these companies, what would content them, and if any measure could be devised that would be a final settlement satisfactory to both the Judiciary Committee and to the Government, why it was not presented. The answer made by the Senator from Ohio was in my mind the most significant statement that has been made during this whole debate. He said the reason why a different and more strenuous measure was not presented was because he could not get it through the Senate.

Now, I desire the Senator from Ohio to answer before he gets through his remarks what measure would be satisfactory to him if he could get it through the Senate, and whether or not that statement was not a direct intimation that whenever there is a Senate that he can handle or that any subsequent Judiciary Committee can handle, there is not an intention to renew this agitation for the purpose of imposing still further terms and exactions upon these corporations? If that is not the case, if that is not the intention and purpose of the refusal of the Senator from Ohio to accept this amendment, what did he mean by saying that the only reason why he did not propose a different measure was because he could not get it through the Senate?

Mr. THURMAN. Mr. President, after the intimation that has been made, that there will be speeches following what I have to say now, I shall not perhaps speak as fully as I might otherwise have been inclined to do.

Mr. VOORHEES. Will the Senator from Ohio allow me to understand the course of proceeding? I do not want to interfere with the debate at all, but to inquire whether the debate is to be closed this evening or not?

Mr. THURMAN. I hope so.

Mr. VOORHEES. After what the Senator from Nebraska [Mr. PADDOCK] said and the concession that the Senator from Ohio appears to be making now, it does not seem clear whether we are to remain here to close this debate, or whether we are to concede what the Senator from Nebraska asks, that it go over until to-morrow. The Senator from Ohio seems to be proceeding to make the closing argument somewhat out of order. That is what confuses me and prompts me to make the inquiry.

Mr. THURMAN. I am compelled to speak now because nobody else will speak and save me the trouble. I wish somebody else would, for I have no desire to make a speech if anybody else will. I said yesterday that I would ask the Senate to-day to sit this bill out.

Mr. VOORHEES. Of course we all understand that the Senator from Ohio will close the debate; but after the request the Senator from Nebraska made for a postponement of the subject until to-morrow, and inasmuch as the Senator from Ohio has not definitely answered the request of the Senator from Nebraska, I beg leave to ask whether the Senator from Ohio is going to ask for a sitting to-night.

Mr. THURMAN. Certainly, I want to sit the bill out to-night.

Mr. President, I shall speak, even as briefly as I shall, under great disadvantages, and I must crave the attention of the Senate to what I may have to say, in order that I may avoid repetition, and may thereby shorten the time of my speech and weary them and myself the less. I say I speak under great disadvantages.

Mr. FERRY. May I make a suggestion to the Senator from Ohio? He seems to be a little embarrassed in dividing his speech in two. I voted to adjourn just now. I did so because one or two Senators had expressed their desire to speak upon this question, and were not prepared to speak. The Senator from Nebraska has expressed as much, and it has always been the courtesy of the Senator to yield to any such intimation. I therefore appeal to the Senator from Ohio to allow this question to go over until to-morrow. ["No!" "No!"]

Mr. SPENCER. Let us have an understanding at what hour we shall commence to vote.

Mr. FERRY. The Senator from Nebraska has not spoken upon this question. I do not desire to speak. I am not speaking in my own behalf, but I am speaking in behalf of the Senator from Nebraska and in behalf of any other Senator who rises upon this floor and states that he desires to speak to a question, but is not prepared to speak—not simply not prepared to speak, but not in a condition to speak to-night; and, it seems to me, the courtesy of the Senate ought to be

extended to him as it would to any other Senator. For that purpose I move that the Senate adjourn, in order to test the Senate on that question.

Mr. THURMAN. I did not know that I yielded the floor to the Senator to do that.

Mr. FERRY. If the Senator is as technical as that, be it so. I asked him to yield to me to make a suggestion. I made the suggestion, and followed it up with a motion to adjourn. If the Senator states that he did not yield for that purpose, I will not take any advantage.

Mr. THURMAN. I certainly never so expected that the Senator would do such a thing.

Mr. FERRY. Very well, I do not make the motion.

Mr. THURMAN. Mr. President, I shall speak under very great difficulties. In the first place, I speak to a body fatigued by a long session; in the second place, I speak to Senators who are perhaps thinking much more of food for the stomach than food for the head. It was a remark long ago made by Cardinal de Retz, speaking of the old French Parliament, that he never knew any man eloquent enough to hold that body in session when dinner-time had arrived. That time has now arrived, and I should not be in the least surprised to find myself in a short time speaking—if it were not for a commendable habit that I have of being reasonably brief—to empty seats. I certainly should be in that category if I were to speak long, and therefore I shall try to speak briefly so that I may have some auditors at least until I shall have done.

Now, Mr. President, the pending question before the Senate is the amendment of the Senator from Maine, [Mr. BLAINE.] I have said once, or perhaps twice, that this bill is not framed upon the idea contained in that amendment. That amendment goes upon the idea that we ought to make an act that shall be unchangeable for twenty years; that we should assume in this year of grace, 1878, to be able to frame a law which shall require no alteration, no amendment in the course of twenty years. It goes further than that, a great way further than that. It goes upon the idea of repealing *pro tanto* the reserved power in these charters to alter, amend, or repeal those acts.

Mr. President, one of the things for which these railroad companies have been striving these many long years has been to get rid of that very reserved power; but this is the first time that they have ventured—no, not they; I beg pardon for saying that—this is the first time that any one in the Senate of the United States or, I believe, in the House of Representatives, has ventured to champion such an idea. Their officers and lawyers, in their arguments before the Judiciary Committee last November and December, urged upon us strenuously enough that we should make some kind of bargain with the companies, and they would be extremely liberal if we would only give up the right to alter, amend, or repeal their charters. Those arguments, taken in short-hand, will show that it is the cherished object of these corporations to get rid of that power of control which Congress possesses over them. They would give for that far more than the Senator from Maine asks from them. They would give far more than the Judiciary Committee bill asks from them, upon any interpretation, if Congress would surrender that power to alter, amend, or repeal. That, therefore, is involved in the amendment which is now under consideration. Congress, for good and sufficient reasons, I am willing to admit for the purposes of this argument, saw fit in 1862 to pass an act chartering railroad companies whose roads should extend over one-half of this continent, and chartering them in perpetuity, chartering them with an existence that should endure as long as the Republic itself should endure, chartering them with powers such as never were conferred on any other railroad corporations on the face of this globe, endowing them as no other corporations ever were endowed. And then, in 1864, it saw fit to nearly double the endowment, and to increase their powers and their privileges immensely beyond what they had been before. But in view of that fact, in view of the immense power and extent and wealth that these corporations would have, in view of the fact which human experience has shown and nowhere more than in the United States, the power of concentrated capital, wielded in the employment of thousands and tens of thousands of men, the Congress wisely retained the power to alter, add to, amend, or repeal those charters. It did it for the very purpose for which such reservations are made, in the language of the Supreme Court of the United States. It did it because, in the language of that court—

The object of the reservation, and of similar reservations in other charters, is to prevent a grant of corporate rights and privileges in a form which will preclude legislative interference with their exercise, if the public interest—

Not the private interest of these corporations, as my friend from Connecticut [Mr. EATON] suggests, but against their interest if necessary and against their will—

If the public interest should at any time require such interference. It is a provision intended to preserve to the State control over its contract with the corporations.

That is the language of the Supreme Court, and that was the law of this land when the Congress of the United States in 1862 and again in 1864 said the Congress of the United States shall have control over this contract with these corporations. And now, sir, it is to get rid of that control, to fritter it away, to overthrow and destroy it, to annihilate the very thing for which the people of this country for

thirty years have been contending, and which they have put into nearly thirty constitutions of the States—it is to get rid of that, to trample it under foot, to render it a nullity, to construe it away, to make it not worth the paper on which the words are printed, that amendments like that now under consideration are offered, and arguments such as we have heard in the Senate are made.

Mr. President, I have said, and I repeat it, that, rather than see Congress give up that power of control over these two great corporations, I would see every dollar of the debt that they owe the Government lost forever. I would rather see this bill sunk into the depths of the sea, never to be resurrected, than to see Congress yield for one day its power over these two corporations or any others over which it has the power. Why, sir, my friend from Connecticut [Mr. EATON] said this evening that no government could exist that asserted such a power as this. That is a strange assertion.

Mr. EATON. I did not say that.

Mr. THURMAN. What did you say?

Mr. EATON. I said that no government could exist among civilized men that would, without cause, exercise that power of repeal, and I say it again.

Mr. THURMAN. "That would without cause exercise it?"

Mr. EATON. Yes.

Mr. THURMAN. That is all very true; but then comes the question, what is cause?

Mr. EATON. There is none.

Mr. THURMAN. Oh! then comes the question what is the cause? The Senator makes the cause a default in the company. I make the cause the interest of the Republic. I say, in the language of the Supreme Court, that the words are there in order to give us control whenever the public interest, not the interest of these corporations, not the default of these corporations, but whenever the public interest shall require us to exercise it.

Mr. VOORHEES. May I—

Mr. THURMAN. No, let me go on. Ah, but the existence of such a power is inconsistent with civilized government, is it? Has not such a power existed in England ever since there was a Parliament? Has not England exercised it? Has not England compelled her monarchs to revoke the charters and monopolies they had granted, again and again? Has not the house of commons refused grants of money to carry on the government until those monopolies were destroyed? Ah! sir, is it not the law in nearly every State in this Union that the Legislature may alter, amend, or repeal the charters it grants? I think there is some civilization in England. I think there is some civilization in the United States. I think there is some civilization in my own State. I think, therefore, that the idea which seems to haunt some of our friends on this floor, that here is an assault on liberty, as if monopolists were the friends of liberty; that here is some attack on property, as though there could be an attack on property in exercising the rights which are plainly reserved to Congress in words as plain as can be found in any lexicon of any language, may be dismissed from consideration.

Mr. VOORHEES. I rise for the purpose of asking whether the Senator from Ohio declines to allow me to ask a question? If he does, I only want him to say so.

Mr. THURMAN. I do not know what the question is.

Mr. VOORHEES. Of course you do not; but I want to know whether the Senator, as he did a while ago, declines to allow me to propound it?

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) Does the Senator from Ohio yield to the Senator from Indiana for the purpose of asking a question?

Mr. THURMAN. If it is pertinent to what I am saying now, I do.

Mr. VOORHEES. I presume I would not ask an impertinent question.

Mr. THURMAN. No, but everybody knows perfectly well—

Mr. VOORHEES. I yielded to the Senator to-day myself when I had a written speech.

Mr. THURMAN. Go on.

The PRESIDING OFFICER. The Senator from Ohio yields.

Mr. VOORHEES. All I desired to say in the way of a question was this: the Senator from Ohio announced with the utmost emphasis that sooner than yield this power, which he claims over these companies, he would sink and forfeit and lose all the pecuniary interests that are coming to this Government. I ask the Senator from Ohio whether, when the power has been asserted by Congress over these companies to the full extent that the Judiciary Committee thinks is proper to secure the Government in all its rights, and the companies comply with the demands thus made, and while they are thus complying, he thinks the power of the Government over them is abandoned? In other words, when the Government has made its claim of power and the companies are faithfully complying, whether, in his judgment as a lawyer, the power of the Government is not operating on them? In other words, I say that when we put forth a claim of power and assert it by legislative action, and these companies comply with and meet every demand we make, the amendment which the Senator from Maine offers, saying that while that is done we will make no new demand, does not release the power of Congress over these companies, but really asserts and continues it at the standard we now erect.

Mr. THURMAN. That is a brief question. I am delighted at its brevity.

Mr. VOORHEES. I hope it is pertinent.

Mr. THURMAN. I do not know but that it was; I will not quarrel with my friend about that, but I can answer it much more briefly than he stated it. If we were to pass a law saying to them "Pay us five cents in the dollar in installments of a cent a year on your indebtedness, and if you do that we will give up all the rest," the Senator might just as well say they were acting under the power of Congress. To be sure they would be acting under the power of Congress if we were to make such a bargain as that with them. We may do anything we please in that way, and we may say they are acting under the power of Congress, although it be to sponge out almost the whole of their indebtedness to the Government, and although it be to leave their creditors to the mercy of the men who are managing these great corporations, and who have in the past and who will in the future, if we do not interpose, manage them with an eye single to their own interest and not to that of the people to whom they owe so much.

Mr. VOORHEES. I am sure, however, this bill is not going to affect injuriously the debt they owe us.

Mr. THURMAN. No, this bill is not; but this bill was never framed on the idea of making a bargain with these companies for twenty years or any other number of years. If it had ever entered into the heads of the Judiciary Committee that we were to make a law unchangeable as one of the Medes and Persians for twenty years, I say to my friend from Indiana we should have reported a very different bill indeed. If we are to surrender for twenty years to these companies that power which we have over them in respect to their duties not simply to the Government, for the Judiciary Committee bill takes no more care of the Government than it does of any other creditor; if we are to surrender that power which Congress has to compel these companies so to administer their affairs as not to become bankrupt, so to administer their affairs as not to put their net earnings all in the pockets of their shareholders and leave their creditors without payment; if we are to surrender that power of control of administration, then I say we should require a much better bargain than this bill would make.

Why, Mr. President, let us see how this bill will operate. I have before me some calculations made by the chief of accounts of the Treasury Department, perhaps the best expert in Washington. He ought to be, for he is chief of accounts in the great money Department of the Government. I put this question to him:

Question 1. Taking "net earnings," as defined in section 1 of the Judiciary Committee bill, and establishing the 5 per cent. of net earnings and the half-transportation account in the future as follows, namely, Union Pacific, \$700,000 annually—

That is the 5 per cent. and the half transportation, payable to the Government under existing law—
and Central Pacific, \$500,000 annually, together \$1,200,000 annually, what additional sum would each company have to pay into the sinking fund to make a sum equal to 25 per cent. of its net earnings?

That was a proper question, because under our bill we propose not to take more than 25 per cent. of their net earnings, either for present payments under the law as it now exists or for a sinking fund. What answer does he make?

Answer. Taking the ordinary and regular net earnings of the two companies to be as follows, namely—

I will not read all the details, but he goes into the matter in detail—

the additional sum required from each company would therefore be \$100,000 from the Union Pacific and \$800,000 from the Central Pacific Company.

That is in addition to the half-transportation account which is put into the sinking fund, to which the companies are now entitled. That would make in the case of the Union Pacific, on an average of the last six years' business, a payment of \$521,000 into the sinking fund, and for the Central Pacific a payment of about \$1,000,000 into the sinking fund. The reason that the payment into the sinking fund by the Union Pacific is so much less than by the Central Pacific is that the transportation account over the Union Pacific is more than double what it is over the Central Pacific.

Mr. ALLISON. Allow me to ask a question right on that point. He says the sum is \$100,000 for the Union Pacific.

Mr. THURMAN. On this basis, yes.

Mr. ALLISON. Would that make \$800,000 for the Union Pacific? The half transportation is put in in addition.

Mr. THURMAN. Four hundred and twenty-one thousand dollars.

Mr. ALLISON. He makes this calculation on the same basis which would make a total payment of the sum of \$521,000 on the part of the Union Pacific Railroad?

Mr. THURMAN. Exactly.

Mr. ALLISON. That is not enough.

Mr. THURMAN. I agree that it is not enough.

Mr. BLAINE. The calculation must be wrong.

Mr. THURMAN. I leave that to the Senator from Maine and to the chief of accounts of the Treasury Department to show whether it is wrong; but here are the figures.

Mr. BLAINE. There cannot be \$700,000 difference between what should be estimated for one company and what should be estimated for the other, unless you can show a much larger difference between the half-transportation account of the companies than I have yet

discovered. There is no \$700,000 difference between the half-transportation accounts of the two companies.

Mr. THURMAN. Here are the figures, and the Senator can calculate for himself whether they are right or not. It is sufficient for my purpose that here they are. I agree that would not be enough, and it would be an utter absurdity in us to tie up our hands for twenty years, and say that we will receive no more from the Union Pacific than about half a million of dollars a year into the sinking fund; and therefore I am totally opposed to the amendment of the Senator from Maine. What does he say? He is willing to raise it \$100,000 more, and make it \$600,000 instead of \$500,000. I am totally unwilling to do that. He does not propose to raise it even that much because it is \$521,000, and he would raise it to \$600,000, \$79,000 difference. Raising it \$79,000 is the last tail to his amendment. It raises it \$79,000. That is all there is in that tail. It raises it \$79,000 in regard to the Union Pacific, and as to the Central Pacific it does not raise it a dollar. So all the great benefit of that proviso to the amendment of the Senator from Maine is to make an increase of the amount which the Union Pacific road shall pay into the sinking fund of \$79,000 a year, in case its net earnings and half-transportation account should in the future be the average of what they have been for the last six years. That will not do at all.

I have said that this estimate is upon the basis of \$1,200,000 a year as the sum of the 5 per cent. and the half transportation. The Judiciary Committee estimated it at \$1,166,000; I take \$1,200,000 as a round sum; but the committee said in its report that in their opinion the amount would be much larger, that both the 5 per cent. and the half transportation would be much larger, but they could not undertake to estimate it. Now, this chief of accounts has undertaken to estimate it by considering the increase of the net earnings and the half transportation ever since these roads were opened, and making the calculation in that way—that is, ascertaining the rate of increase in the past and assuming the same rate in the future—he comes to the conclusion that, upon the basis of what is likely to be the increased business of these two companies, the increased half transportation and the increased net earnings upon which we should get 5 per cent., that additional sum which each company would have to pay into the sinking fund under the Judiciary Committee bill to make a sum equal to 25 per cent. of its net earnings so defined would be, for the Union Pacific \$573,216 and for the Central Pacific \$1,465,730.

But you will remember that our bill contains a further limit that that shall not exceed \$1,200,000 in the case of the Central Pacific. Therefore, on the estimate of what will be the business based on the rate of increase of business in the past, the calculation to be made for the Union Pacific would be \$573,000 and for the Central Pacific \$1,200,000. To this amount thus payable by the Union Pacific you have to add the half transportation, which would bring it up to a million of dollars at the least annually to be paid by that company into the sinking fund, and the amount to be paid annually by the Central Pacific would perhaps reach the sum of a million and a half of dollars. That is likely to be the effect of this bill if it should pass, and the result of it in the outcome upon the debt would be as follows:

At the maturity of the debt the companies will still owe under present laws, that is if they should not be changed, according to the best estimate that can be made of the product of the 5 per cent. and the product of the half transportation, \$109,000,000. The estimate of the Judiciary Committee was \$120,000,000, and of the Railroad Committee \$122,000,000. The chief of accounts estimated it at \$109,000,000, because, as I have said, he estimates the 5 per cent. of net earnings and the half-transportation account higher than the estimate of the committees under the Judiciary Committee bill, upon the committee's estimate of \$1,166,000, or in round numbers \$1,200,000, as the amount of the 5 per cent. and the half transportation, the sum that would be due to the Government at the maturity of the bonds, the average time of which is October 1, 1897, would be \$75,000,000. That is what the two companies would owe to the Government at that time upon the estimate made by the Judiciary Committee of the 5 per cent. and of the half transportation, if the bill should pass; but upon the estimate made by this expert, this chief of accounts, allowing for the increased business in the future at the ratio at which it has increased in the past, or something like that, the amount that would remain due would be \$36,000,000. Under Senate bill No. 812, the bill of the Railroad Committee, the Government would sponge out fifty-three million and odd, losing that by mere computation of interest, and the companies would still owe at the maturity of the bonds \$67,000,000.

Mr. President, it seems to me that this statement of itself shows that this is not a subject upon which the hands of Congress ought to be tied, so that, no matter what may be the consequences in the future, no matter how these companies may mismanage their affairs, no matter, on the other hand, how prosperous they may be, we shall be so tied up that we can do nothing for the protection of their creditors.

Mr. ALLISON. What shall I understand is the amount due on the basis of the Judiciary Committee bill?

Mr. THURMAN. The Judiciary Committee made an estimate that the half transportation and the 5 per cent. would amount to \$1,166,000 annually for the two companies, which I put in round numbers at \$1,200,000. Upon that basis the amount, if the Judiciary Committee bill should be passed, which would remain due at the maturity of the

bonds, would be \$75,000,000; but upon the basis of \$1,700,000, which is the calculation this expert makes as the average of the 5 per cent. and the half transportation in the future for twenty years, the debt would be reduced to \$36,000,000. It grows out of the difference between the estimated amount of that which is presently payable and also the very different amounts which go into the sinking fund. For instance, if the Judiciary Committee's calculation is correct, there would only be \$100,000 in addition to the half transportation to go into the sinking fund for the Union Pacific. If this expert's calculation is correct of the business of the future, there will be \$573,000.

Mr. ALLISON. As I stated, I took the report of the Judiciary Committee and had estimates made beginning from the issuance of these bonds to their maturity; and estimating for the 5 per cent. and the half transportation at \$650,000, the sum of \$800,000 per annum will liquidate the entire interest of the Union Pacific, and a million of dollars the interest and only the interest of the Central Pacific.

Mr. THURMAN. I can show the Senator I think in a moment that that calculation can hardly be exactly right, because on the committee basis the estimate of what is to be paid and is presently applicable, with the amount which the companies are to pay in addition to that and with interest upon it, would not more than meet the interest on the Government loan. Indeed, it would fall short of doing that. But upon the basis of the chief of accounts the interest would be repaid and nearly twenty millions of the principal.

Mr. MITCHELL. I should like to ask the Senator a question for information. Upon what basis does he make the estimate of the half-transportation account and the 5 per cent. on its actual amount in the past year?

Mr. THURMAN. I have said several times—I am sorry my friend did not hear me—that it is on an average of six years past in respect to one of the companies and four years in regard to the other.

Mr. MITCHELL. But the estimate made by the expert in the Treasury Department is on an estimate of what these items probably will be in the future.

Mr. THURMAN. Yes; and estimating the increase already, and making a very moderate estimate, too, he says that, in his judgment—and I am inclined to think he is right—the 5 per cent. of net earnings and the half transportation, instead of being \$1,200,000, as the Judiciary Committee estimate, will be about \$1,700,000, a half million more, and I think he is right. As I said before, these roads are only in their infancy; every year they will be tapped by new roads, branch roads, some constructed by themselves, others constructed by others. Every one of these branch roads brings business; it is all grist to their mill; and as to rival roads, they are in no danger from rival roads for twenty years to come. Rival roads do not succeed very well. If the Southern Pacific, for instance, were completed, owned by the very same men who own the Central Pacific, I should like to know where the rivalry would be. I should like to see rivalry there. But where is to be the rival of the Union Pacific? It will have none; certainly none if my friend from Oregon shall get a branch road built from Portland to the Union Pacific, and thus kill the Northern Pacific stone-dead for many a long year. Then the Union Pacific will not have much trouble.

Mr. MITCHELL. Suppose your friend from Oregon should succeed, in connection with his colleague and others, in getting the Northern Pacific through, what then?

Mr. THURMAN. If he should get the Northern Pacific through, it is so many hundred miles away from the Union Pacific that I do not think it will be much of a rival to the latter or do it much harm.

Mr. President, I have but a few words more to say in answer to some things that have been said, and then I will not delay the Senate longer. I do not propose to argue the question of the power of Congress at length any more. I have not argued it at much length heretofore. If the report of the Judiciary Committee, if the speeches that have been made in support of that power are not sufficient to convince a Senator, nothing can, though one should rise from the dead. I have only to repeat one point that I made last Thursday. The reservation of a power to alter, amend, or repeal, makes it impossible that the exercise of that power can be the violation of a contract, can be the impairment of a contract. It is a simple impossibility, for what you do the contract itself says that you may do, and, therefore, you cannot impair the obligation of the contract by doing that very thing which the contract authorizes.

Mr. BLAINE. Is there no limit?

Mr. THURMAN. Yes, there are limits. There are certain limits in the Constitution of the United States. You shall not take private property for public use without making just compensation. Nobody pretends that you can do that under any power to alter, amend, or repeal a charter. There are a great many other things. You shall not commit murder, and you cannot do that under the power reserved.

Mr. MITCHELL. If the reservation is part of the contract, thereby enabling Congress to interfere by amendment, can Congress or can it not, under the theory of the honorable Senator, provide by law, by an amendment to the charter, that this interest, which is not required to be paid until the maturity of the bonds, shall be paid to the Government semi-annually from the present time? On the theory of the honorable Senator does not that follow inevitably?

Mr. THURMAN. It does not follow inevitably at all.

Mr. MITCHELL. Why?

Mr. THURMAN. And yet I will not say that Congress might not

do that very thing. I know very well that our friend from Georgia [Mr. HILL] has said several times—I think I have heard it several times—that this contract of loan is a sort of side-show, that you can do anything you please with everything in the world but this contract of loan. As I understand my friend from Connecticut, [Mr. EATON,] you cannot touch the franchises any more than you can touch the contract of loan. He goes the whole figure. The Senator from Georgia says, "Oh, yes, you can do all you please with the franchises, whatever you please with them, but you shall not touch my little offspring out here that is called a loan." I should like the Senator from Georgia, who is a strict constructionist, to find in the Constitution of the United States any power of the Government of the United States to turn out and be a common money-lender, for that is the ground on which he puts it. I grant the United States can provide for a loan of money out of the Treasury, but it must be in the exercise of some power that is conferred upon Congress. Congress, for instance, has a right to build light-houses; it has a right to build forts; it has a right to build ships; it has power to declare war and make peace. In the exercise of any one of these powers it might be necessary to lend money in order to help a party to build a road or a fort, to build a ship of war, to build an arsenal, to cast cannon, or make fire-arms, or the like; and when it is in the power of Congress to make a loan, which it must derive under the military power, or the post-office power, or some other like power, or it does not possess it at all; when it has that power, then, in furtherance of that object and in the exercise of the power it may make a loan of money to the corporation that it charters to build a road; but that is not a separate thing from the charter; that is one of the considerations on which the company agree to take the charter. Who knows that this company ever would have accepted this charter and gone to work under it if Congress had not agreed to make this loan? It is one of the considerations that Congress held out to them to do the business. It was not simply the repayment of the money that was expected; not at all; but it was the advantage of a thirty years' loan not reimbursable principal or interest until the end of the thirty years, in order that the roads might be built. That was one of the considerations that Congress held out to them, and that was one of the considerations they had a right to insist upon.

Mr. MATTHEWS. Will my colleague allow me to interrupt him for a moment?

Mr. THURMAN. Certainly.

Mr. MATTHEWS. If my colleague is right, I should like him to answer why then we cannot change the terms of that thirty-year loan and make it a loan due presently, the entire principal; and why also we cannot change the law of 1864 so as to restore to the United States its priority of lien in reference to that loan as against those who claim under the act of 1864?

Mr. THURMAN. The last part of that question astonishes me. We cannot destroy the vested right of the first-mortgage bondholders to their lien any more than we can take away the right to my house and give it to my colleague, or his house and give it to me. The Constitution of the United States contains no delegation of power to do any such thing as that; nor is there any reservation here that pretends to such a right as that. And as to the question of whether or not we could make this interest payable in *presenti* to the Government, I have already said to the Senator from Oregon that I was not prepared to say we could not.

Mr. MATTHEWS. I did not say the interest; the principal, not the interest. Why not make the whole loan payable?

Mr. THURMAN. What difference does it make?

Mr. MATTHEWS. It does not make any in my judgment.

Mr. THURMAN. I said the other day, and I repeat it, I shall not stand up here to argue hypothetical cases; I shall not stand up here to argue what is not in this bill. When we propose to make that principal payable presently, or when we propose to make that interest reimbursable presently, it will be time enough for us to discuss that question; but there is not one word in this bill that does any such thing.

The Senator from Connecticut said he would show that this bill impaired the obligation of a contract, and he gave a great string of general principles. I do not know whether they were right or wrong, for when I heard of "general principles" I did not pay the attention I am accustomed to pay to whatever he says; but I listened in vain for him to show one particular in which this bill impaired the obligation of any contract whatever, unless indeed what he said in the close of his speech meant that there was an impairment of a contract, and that was that to require them to put some money into a sinking fund, instead of putting it into their own pockets, was impairing the obligation of a contract. There I must differ with my friend. I find no impairment of the obligation of a contract in any such thing as that.

Mr. PADDOCK. The Senator will allow me—

Mr. THURMAN. Not at this moment. I could pile these desks, not mountain-high but a great deal higher than the Senate would like to see them, with instances of legislation of precisely the character in principle of that which requires these sinking funds to be created. While my friend from Connecticut was speaking, it just occurred to me to look at the national-bank act and see what Congress has done under this reserved power to alter, amend, or repeal in that case, and I will take only a few instances and not the most striking,

for I have not time to do it. Let us see. Remember that the banking act contains the reserved right to alter, amend, or repeal. A certain limit to the amount of national-bank notes was fixed by the original act, the act of February 25, 1863, and the act of June 3, 1864. Under these acts the banks had a right to so many circulating notes. What did Congress do of its own mere power and will on the 12th day of July, 1870? It cut those notes down to \$354,000,000; said they should not exceed that amount, although in order to get them down to that amount the banks had to retire notes which, under the law as it stood before, they had a perfect right to issue and use for their own profit.

Again, there was a distribution of that currency under the act of 1863, the bank charter. Under that distribution it was said that some States got much more than a fair share of it, especially the New England States, particularly Massachusetts, and I believe the State of Connecticut and others. What did Congress do in 1870? It declared in the act of the 12th of July, 1870—

That to secure a more equitable distribution of the national-banking currency there may be issued circulating notes to banking associations organized in States and Territories having less than their proportion as herein set forth. And the amount of circulation in this section authorized shall, under the direction of the Secretary of the Treasury, as it may be required for this purpose, be withdrawn, as herein provided, from banking associations organized in States having a circulation exceeding that provided for by the act entitled "An act to amend an act entitled 'An act to provide for a national-banking currency secured by pledge of United States bonds, and to provide for the circulation and redemption thereof,'" approved March 3, 1865, but the amount so withdrawn shall not exceed \$25,000,000.

There under the express provisions of the charter the banks in New England and New York—for I believe it only touched the New England States, and perhaps only two or three of them, and New York—were compelled to give up twenty-five millions of their currency to which they had a perfect right under the law as it then stood, and until Congress altered it, and Congress did not ask the consent of the banks at all; it exercised the power of taking those notes away from those corporations under the reserved power to alter, amend, or repeal.

But, sir, that is not all. Look at an act passed on the 19th of February, 1869, which declared—

That no national-banking association shall hereafter offer or receive United States notes or national-bank notes as security or as collateral security for any loan of money, or for a consideration shall agree to withhold the same from use, or shall offer or receive the custody or promise of custody of such notes as security, or as collateral security, or consideration for any loan of money.

Then it makes it a penal offense. Before the passage of that act it was perfectly lawful to do that thing; it was one of the chartered rights of the companies to do that thing. Every one of them had that right, and the very best kind of security would be these very notes; yet Congress came in and in the exercise of its legislative power, without asking the consent of the corporations, said "You shall no longer exercise this right, and, if you attempt to do it, it shall be a misdemeanor and you shall be punished criminally."

I might read many more alterations that have been made, but it is unnecessary to take up the time of the Senate in doing it. There is one great alteration in the reserves which these banks are to keep. We compelled them at one time to put 5 per cent. of their circulation into the Treasury of the United States as a security and we prescribed what reserves they shall keep; and all this is done under the reserved right to alter, amend, or repeal. Done why? Done to secure the public, done to secure their creditors, done not because the banks assented to it, done not for their interest, done not for their pleasure, done not with their assent, but done in despite of them, because the public good required it and the duty of the Government to protect their creditors required it.

Now, Mr. President, a few words more and I will relieve the Senate from anything further. I do not understand how Senators on this floor who think the Judiciary Committee bill an unconstitutional, an unjust, or an impolitic measure, can vote for the amendment of the Senator from Maine. It is argued here that this is an unconstitutional measure; it is argued that it is one which shocks the moral sense, violates the Constitution, endangers liberty, makes the hair of every strict constructionist stand on end, if he has any hair on the top of his head, [laughter,] makes it bristle "like quills upon the fretful porcupine." All this, and yet the same gentlemen who argue that way say "Let us make this law like a law of the Medes and Persians, unchangeable for twenty years." The worse the law is the longer shall be its duration, the more unconstitutional it is the firmer shall it be fixed upon the country! Well, Mr. President, that is a kind of reasoning I do not comprehend. I can understand how anything like a motion to amend this bill may be made by an enemy of the bill in order to kill it. It is said in parliamentary law that any amendment, however absurd, is admissible, because the mover of it may want its adoption in order to kill the bill; and in this Senate Chamber I say to my friend who presided so long in the other House [Mr. BLAINE] there is no law that requires an amendment to be germane to the subject. He may move the Decalogue to this bill, or a declaration of war, under the rules of the Senate, and therefore I will not say that if a person is determined to defeat this bill he may not vote any amendment upon it that he pleases and can get the Senate to adopt; but how he can do it and be logical, how he can do it and go before his constituents and say "I did this in good faith; I was in favor of that amendment; I thought the bill was outrageous; I thought it violated the Constitution of the country; I thought it was

an assertion of omnipotent power by Congress that made liberty itself tremble on the Dome of the Capitol; I thought all that about it, but I thought the best thing we could do was to make it permanent for twenty years!"—that is a thing I cannot understand. That does not apply to the Senator from Maine, I admit, for the Senator from Maine agrees, I think, that the bill is constitutional and he thinks it is a reasonable bill, too, and so it is or would be in his opinion if it should receive his amendment; but if it should get his amendment on it, it would be the most unreasonable bill I ever saw, in my humble opinion and with due deference to his better judgment.

Mr. President, I have spoken long enough, twice as long as I intended to speak, and I am perfectly willing now to submit this subject to the Senate.

I wish to say in conclusion—and I do not know that I shall trouble the Senate with anything further—indeed after the very able speech made by the chairman of the Judiciary Committee [Mr. EDMUNDS] this morning I am hardly excusable for having said what I have, but having this bill in charge, having bestowed great care upon it, having bestowed long study and much labor upon it, I thought it my duty to make some remarks in the close of the discussion. I wish, I repeat, to say in conclusion that I have no feeling on this subject and can have no feeling but that which becomes a Senator. My judgment is not in the least degree swayed by interest. There is no interest in Ohio adverse to these companies that does not exist in Georgia or Maine or any other State in the Union, and there is no interest adverse to them, unless to make them discharge their duties and pay their debts is an adverse interest. I do not know a citizen of Ohio who owns a dollar of stock in either one of these companies. I do not know a citizen of Ohio who owns a bond of one of these companies; I do not know a citizen of that State who is a creditor of one of these companies in any way; I do not know a citizen of my State who is a stockholder or creditor of any rival company to these companies. If there could be a constituency that stands perfectly impartial between the Government and these corporations, it is the constituency that I have the honor in part to represent. All they ask of them, all they ask of their Representatives in Congress is to see that justice is done. And in order that justice may be done they ask that their cherished principle, for which they long contended and which they carried by triumphant majorities and crystallized in the constitution of the State, that every charter granted by the Legislature shall be subject to alteration, amendment, or repeal, in the discretion of the Legislature—they do ask that this great principle which they think essential to the preservation of liberty, essential to the preservation of purity in legislation, essential to the rights and prosperity of the people, essential to guard against the dangers that history taught them had so often befallen a people from the existence of monopolies, shall be maintained. They are unwilling that this great principle shall be frittered away and reduced to nothing, shall become a shadow instead of a living and potent reality. That they are unwilling to do. In all that I sympathize fully with them. And if I have expressed myself warmly on this subject, it is because I do so sympathize, and this it is that has led me to say again and again, not by way of bravado, not as my friend from Connecticut seems to think, by way of dictating the bill of the Judiciary Committee as the ultimate result of human wisdom, (for I have never intimated any such thing, nor do I know any other member of the committee who has done so,) but it is that sentiment as well as the sentiment of justice and of our duty to the people of the United States that have made me speak perhaps somewhat warmly on the subject, and to declare as I did declare, and now repeat, that rather than see that power of Congress, reserved to it over these corporations, suspended for one day I would see this bill defeated and every dollar of the Government debt forever lost.

Mr. BLAINE. I did not desire to interrupt the Senator from Ohio while he was speaking; but there is one point upon which before he leaves his seat I should be glad to have an answer from him. I understood the Senator, as I did the Senator from Vermont [Mr. EDMUNDS] this morning, to maintain that my amendment if adopted would divest Congress of all power over the corporations; that the power to amend, alter, and repeal would be gone. Did I so understand the Senator?

Mr. THURMAN. Why, *quoad* the debt it is gone.

Mr. BLAINE. *Quoad* the debt, but the Senator did not limit himself in that way when he was speaking of it.

Mr. THURMAN. I did not. I do not intend to limit myself.

Mr. BLAINE. Then, what I want to ask the Senator is, where will that power be when the debt is all paid? Will the payment of the debt extinguish the power? Will the power to alter, amend, or repeal this charter be extinguished when the debt to the Government is finally and fully paid?

Mr. THURMAN. Not the least bit of it.

Mr. BLAINE. Then why or where does my amendment interfere with the power?

Mr. THURMAN. For this reason: suppose—

Mr. BLAINE. But the Senator did not make the least exception. He made the assertion broadly that my amendment destroyed the power to repeal, alter, or amend.

Mr. THURMAN. I certainly spoke *secundum subjectam materiam*, as the lawyers say.

Mr. BLAINE. I think the Senator will find that the language he used does not justify that conclusion.

Mr. THURMAN. The Senator asks me a question, but he will not give me a chance to answer.

Mr. BLAINE. Oh, I will sit down and let the Senator answer at length.

Mr. THURMAN. I say that the amendment proposed by the Senator would take away from Congress all control over these roads in respect of the Government debt for twenty years, except those provisions which are contained in the acts of 1862 and 1864, and in this act, and that therefore, no matter what shall be the condition of affairs hereafter, no matter how much their revenues should increase and they might be better able to indemnify the Government and save their creditors, or on the other hand, no matter what might be their misconduct, our hands will be tied. I was speaking of the debt; but I do not presume to follow it out to its consequences, as the Senator from Vermont did this morning; but I do say that every word that the Senator from Vermont said as to the scope and effect of the amendment, if it were adopted, is worthy of the most serious consideration of the Senate.

Mr. BLAINE. Then the Senator limits his remark to that. Now, another thing. When the Senator went on to describe with minuteness just how this amendment would operate he failed, as I think, to keep his argument on all fours, because after he had given the table from the expert in the Treasury Department showing that there would be \$30,000,000 left at the maturity of the bonds from both roads he went on to say, "but we all underrate the immense development of these roads." He gives it as his opinion that the development would far outrun any of the calculations submitted. I agree with him. I think so myself. I think his bill takes a sliding scale of 25 per cent. of the net earnings that will far more than pay the debt to the Government within the time. All the arguments I have made heretofore have been based upon taking the Senator's own calculation and his own figures. As I had no time myself to make any calculations, I was compelled to take those of the Judiciary Committee, and I was very willing to do so, because I supposed they had been made with care. But the Senator takes occasion himself to assure us, after those calculations were given in the last remarks he made, that the development of this road, still in its very infancy he says, is to be so enormous that it will far outrun any calculation made upon it. I should like to propound this query to the Senator: Suppose that you could lay down to-day exactly this ground, that this company shall pay every year enough to absorb the interest and part of the principal and that right along from now for the next twenty years there should be enough paid every year to wipe out the entire debt before its maturity; would the Senator agree to make that conclusive and final *quoad* the pecuniary obligation of the road?

Mr. THURMAN. I tell the Senator I would not agree under any circumstances to suspend the power of Congress over these corporations for one day, and if he would make the amount to be paid into the sinking fund \$5,000,000 a year, or \$10,000,000 a year, I would not agree to surrender the power of Congress.

Mr. BLAINE. Not over the debt?

Mr. THURMAN. No, not over anything.

Mr. BLAINE. Then I ask the Senator if these railway companies would bring all the money here to-morrow that is owed to the Government and offer it in payment, would he still insist on the power?

Mr. THURMAN. Certainly. We are talking of the roads.

Mr. BLAINE. Over the debt. I was speaking solely of the debt. The Senator says that if they would agree to pay \$10,000,000 a year he would not make a conclusive bargain as respects the debt. It seems to me that weakens if it does not destroy the whole position of the Senator. It does seem to me, with entire respect for the Senator, that he has seemed to place himself in the position of the man in the story who was so contrary that he would not allow himself to do as he had a mind to. The Senator said if the companies would come here and offer \$10,000,000 a year he would not put a provision in and say "We will not legislate on that, as conclusive on the debt; we will not agree that we will not demand \$11,000,000 next year." That is the spirit of this legislation. That is the whole spirit of the Senator from Ohio. He brings in a bill here, elaborately studied, thoroughly prepared. He demonstrates to us that its provisions will pay the debt within the time. Nay more, he says to us the roads are in their very infancy, they will outrun this far and far beyond. Then I say to the Senator do not let us have these railroads here perpetually in Congress. Do not let us invite the presence of the lobby which so disturbs the dreams of the Senator from Vermont. Let us say to the railroad companies that if you will do this which will in good faith pay the debt it shall be final on that point. The Senator from Ohio declares that there is no case where he will make such a conclusion. Lest I should have possibly misunderstood him in the original argument, he tells us now that if the railway companies come here and offer to pay \$10,000,000 a year he would not agree to accept the offer as final and conclusive respecting the debt; he would not agree that we should not immediately demand \$11,000,000 per annum from the companies, though \$10,000,000 per annum would pay the entire debt at least twelve years before it is due.

Such, then, is the spirit in which this measure is offered, and when they have prepared it and we were willing to make it a finality if the companies will obey it and faithfully comply with it, the Senator from Ohio says no. It seems to me that the Senator puts himself in the attitude of simply not being willing to make any offer that he thinks the

companies would agree to and live under. A Senator [Mr. GORDON] suggests that I should address the Senator from Ohio a question as to whether \$20,000,000 a year would satisfy him. It would not of course, because that would take away the immense privilege of punching and worrying the railroad companies next year. Would the Senator from Ohio give up the precious privilege of punching, and knocking, and harrying, and pounding, and twisting a railroad for the pittance of \$20,000,000 a year to be paid into the Treasury of the United States? Not he! The Senator says he would rather lose it all, he would rather lose every dollar of the debt, he would rather bury it in the depths of the sea, than surrender the power of overhauling these railroads for a single year. And yet the Senator told us only five years ago on this floor that there ought to be an end to "this tampering" with the subject! Let us stop, said he then, and not leave this thing at "loose ends," let us have a finality with this question, let us have no stock-gamblers here investing nine cents on the legislation of Congress about the railroads to make twenty-one cents clear profit; there should be an end to all "tampering" of that kind, the Senator declared but five short years ago.

And now the Senator declares that what he said then does not apply to this proposition, but that if the railway companies would come here and offer twenty millions on the top of it he would not forego the pleasure of punching the railroad through legislative channels, allowing anybody to speculate if they chose! That is the intentment and the inference to be derived from the Senator's proposition. That is consistent legislation! We who offer to take the Judiciary Committee at its word are accused of being willing to give over the powers of this Government. When the Senator from Vermont had pictured a tremendous disaster, a catastrophe in the shape of a destruction of the securities of the road, a default of all the bonds, and finally the first mortgage in peril and our hands were thereby tied, I simply made an amendment and provided after they had paid all that was due under the 5 per cent. and all that was due under the half transportation that there should also be a minimum of \$600,000 per annum from each company. Then the Senator said in answer to the Senator from Iowa, I believe, that I had put too hard a condition on the roads. First, I was going to allow it to go without any sort of security, and when I make it perfectly apparent that it could not be so, he says that I place too hard a condition on the roads. Now, I have come to the conclusion that so far as my humble ability lies I have not the power either to please the Senator from Ohio or the Senator from Vermont, for I would not vote for twenty millions a year. Even that would not please me, and I could not vote for it to please them.

I say with all due respect, Mr. President, that if this legislation be intended in good faith, from my stand-point, if it be intended that these roads shall go about their business and quit the lobby and discharge their duties and pay their debt to the Government and to their other creditors, the way to do it is to say that they shall not be disturbed so long as they "faithfully comply" with the terms and conditions laid down by us. This gigantic railway company is a pet corporation. What would Senators find in the whole legislation of the United States to dwell on as to the overshadowing danger and monopoly of corporations if it were not for the Union Pacific Railroad? I asked yesterday if there was another in the whole United States! I asked the honorable Senator from Vermont, whose knowledge is so minute of all laws, public and private statute and common and civic and criminal and ecclesiastical, and he has not told me what other corporation we could vent our spleen upon; that we could air our vocabulary upon. What other one is there that can be trotted out here as the specimen monopoly if we let go this company? If we let go this company on their simply paying their honest debts, we will be as bad as the young man in London who succeeded to his father's chancery practice, and when the father asked the son about the famous case of *Smith vs. Jones* the son said, "I settled that yesterday amicably and fairly to both parties." "Oh! you young blockhead," said he, "I have lived on that suit for the last twenty years." It is proposed to make capital of the agitation of this railroad case for the next twenty years. This is to be an agitation always handy for political purposes, always to be drawn on and always to be dragged in and to the extent that the Senator from Ohio himself says that he would not give up that precious privilege if they would offer to pay \$10,000,000 per annum to the Treasury of the United States.

The PRESIDING OFFICER. (Mr. INGALLS in the chair.) The question is on the amendment proposed by the Senator from Maine, [Mr. BLAINE,] on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. CAMERON, of Pennsylvania, (when his name was called.) On this question I am paired with the Senator from New York, [Mr. CONKLING.] If he were here, he would vote "yea" and I would vote "nay."

Mr. EDMUNDS, (when the name of Mr. CAMERON, of Wisconsin, was called.) The Senator from Wisconsin [Mr. CAMERON] and the Senator from Minnesota [Mr. McMILLAN] are paired upon the present question. The Senator from Minnesota would vote against the amendment and the Senator from Wisconsin would vote "yea," as I am informed.

Mr. CHAFFEE, (when his name was called.) On this question I am paired with the Senator from Vermont, [Mr. MORRILL.] If he were here, I should vote "yea" and he would vote "nay."

Mr. DAWES, (when his name was called.) I am paired upon this bill with my colleague, [Mr. HOAR,] who is necessarily absent from the city. I do not know exactly whether he would vote on this amendment with the Senator from Vermont [Mr. EDMUNDS] and the Senator from Ohio, [Mr. THURMAN,] but to be on the safe side I decline to vote. I should vote "yea" if he were here.

Mr. EUSTIS, (when his name was called.) On this amendment only I am paired with the Senator from Maine, [Mr. HAMLIN,] If he were present, he would vote "yea" and I should vote "nay."

Mr. HARRIS, (when his name was called.) Upon this amendment I am paired with the Senator from Arkansas, [Mr. DORSEY,] If he were present, he would vote "yea" and I should vote "nay."

Mr. HOWE, (when his name was called.) On this question I am paired with the Senator from Nevada, [Mr. JONES,] who, if here, would vote for the amendment and I should vote against it.

Mr. JOHNSTON, (when the name of Mr. WITHERS was called.) I desire to announce that my colleague [Mr. WITHERS] has been detained at home. He is confined to his room. I understand that he is paired with the Senator from Kansas, [Mr. INGALLS,] but that the pair with the Senator from Kansas does not apply to the amendments to the bill, but only applies to the final vote on the bill.

The Secretary concluded the call of the roll.

Mr. TELLER. I desire to say that on the final vote I am paired with the Senator from Iowa, [Mr. KIRKWOOD,] I am not paired on any amendment and I vote "yea."

Mr. EDMUNDS. The Senator from Colorado [Mr. TELLER] announces a pair with the Senator from Iowa [Mr. KIRKWOOD] who is absent on public business as I understand, on the main question but not on amendments. I feel authorized to say, although not directly from the Senator from Iowa himself, that if he were present he would vote against this amendment.

The result was announced—yeas 23, nays 35; as follows:

YEAS—23.

Allison,	Eaton,	Kellogg,	Sargent,
Barnum,	Ferry,	Matthews,	Saunders,
Blaine,	Gordon,	Mitchell,	Spencer,
Bruce,	Hill,	Paddock,	Teller,
Conover,	Ingalls,	Plumb,	Voorhees.
Dennis,	Jones of Florida,	Rollins,	

NAYS—35.

Anthony,	Cockrell,	Kernan,	Patterson,
Armstrong,	Coke,	Lamar,	Randolph,
Bailey,	Davis of Illinois,	McCroery,	Ransom,
Bayard,	Davis of West Va.,	McDonald,	Saulsbury,
Beck,	Edmunds,	McPherson,	Thurman,
Booth,	Garland,	Maxey,	Wadleigh,
Butler,	Grover,	Merrimon,	Wallace,
Burnside,	Hereford,	Morgan,	Windom.
Christiancy,	Johnston,	Oglesby,	

ABSENT—14.

Cameron of Pa.,	Dorsey,	Howe,	Sharon,
Cameron of Wis.,	Eustis,	Jones of Nevada,	Whyte,
Chaffee,	Hamlin,	Kirkwood,	Withers.
Conkling,	Harris,	McMillan,	
Dawson,	Hoar,	Morrill,	

So the amendment was rejected.

Mr. THURMAN. I now move the amendment that I had laid on the table a few days ago and which was printed as an addition to the third section. I move to insert at the end of section 3 the following:

All the bonds belonging to said fund shall, as fast as they shall be obtained, be so stamped to show that they belong to said fund, and that they are not good in the hands of other holders than the Secretary of the Treasury until they shall have been indorsed by him, and publicly disposed of pursuant to this act.

The amendment was agreed to.

The PRESIDING OFFICER. The Secretary informs the Chair that the Senator from California [Mr. SARGENT] gave notice of an amendment that has not been formally offered.

Mr. SARGENT. It is obviously useless to offer any amendments to this bill. There is a determination to vote down all amendments of any character whatever. I think I see that so clearly that I shall not offer in form any amendments which I proposed the other day, although I submit they would be an improvement to the bill. I have no doubt that the same vote which voted down the amendment of the Senator from Maine would vote down every other amendment. For that reason I shall not offer an amendment.

The PRESIDING OFFICER. The question recurs upon the amendment offered by the Senator from Colorado [Mr. CHAFFEE] to strike out all after the enacting clause of the bill and insert what will be read.

Mr. CHAFFEE. From the vote just taken I am satisfied, with the Senator from California, that the Senate is determined to pass the bill without any amendment whatever, and as there are some provisions in the bill which I offered as a substitute which I do not care to have the Senate negative—I refer to the provision regarding the prorate question—I desire to withdraw that amendment.

The PRESIDING OFFICER. The Senator is entitled to withdraw the amendment under the rules, the yeas and nays not having been ordered. The amendment is withdrawn.

Mr. EDMUNDS. Some Senators have suggested that the ninth section of the bill, which declares that there is a lien in behalf of the United States on the whole property of the company for the security of this debt of the United States, might be construed strictly,

although I do not think it could be, to prevent the company from disposing of the lands in the ordinary course of its business and getting assets from them, and so on. In order to cover that, to guard against any possible misconception or doubt, so as to make it what the committee intended it beyond all possible question, I offer this amendment, to come in at the end of section 9, and as part of it:

But this section shall not be construed to prevent said companies, respectively, from using and disposing of any of their property or assets in the ordinary, proper, and lawful course of their current business, in good faith, and for valuable consideration.

The object of the amendment is to relieve it from all criticism and doubt that have been suggested about that section. I am bound to say that I do not think the section would bear any such construction, but there is no harm in making it clear if any one has doubts about it.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. SARGENT. I ask for the yeas and nays on the passage of the bill.

Mr. EDMUNDS. Certainly; by all means.

The yeas and nays were ordered.

Mr. BLAINE. I said very frequently during the debate that if my amendment, which the Senate did not see fit to agree to, had been adopted, I would have cheerfully voted for the bill. I cannot vote for the bill without it, but I should be very happy to find in the event of future years that I vote unwisely.

Mr. MITCHELL. Mr. President, I made some remarks on this question some days ago. The principal portion of my time was devoted to the question involved in the amendment suggested by the honorable Senator from Maine, namely, that this should be a final settlement of this question. I believe that the great objection to this measure is to be found in the fact that it leaves this question open for years and years to come. It is not the great hardship of the terms imposed, but the hardship is to be found in the fact that, after Congress has imposed its own terms it is not willing to be bound by its own propositions. Believing as I do that if these companies do not assent to the propositions tendered by Congress in this bill, and undertake to litigate this measure, it will not stand the test of litigation in the courts, and believing as I do that the great objection that has always been raised by the companies to this measure, and the objection that will be raised to it now by them, is to be found in the fact of the reservation of the right to alter, amend, and repeal the very terms of the contract now proposed by Congress, and believing as I do that that objection would have been removed by the adoption of the amendment offered by the honorable Senator from Maine, I voted for that amendment. Had that amendment been adopted, I should have voted for the bill of the Judiciary Committee in the belief that with the bill so amended by the removal of this one objection, which is the great objection to the bill, the companies would have assented to the bill and thus a finality would have been placed on this whole litigation. But, sir, believing as I do that without that assent the bill is unconstitutional, is not and cannot be made binding, I shall now vote against the bill. I only regret that the amendment offered by the honorable Senator from Maine was not adopted. I believe its adoption would have led to the passage of the bill by an almost unanimous if not quite a unanimous vote; that it would have been accepted by the companies; that the Government would be reimbursed for this whole indebtedness; and that this controversy would have been taken from the halls of Congress for the next twenty years, or at least until such time as the companies might fail to comply with the terms now proposed; and the amendment of the honorable Senator from Maine reserved the right to interfere whenever the companies failed to comply with those terms.

The PRESIDING OFFICER. The question is on the passage of the bill, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. CAMERON, of Pennsylvania, (when his name was called.) On this question I am paired with the Senator from New York, [Mr. CONKLING,] I should vote "yea" if he were present.

Mr. EDMUNDS. Mr. President, I will say on the part of the Senator from New York [Mr. CONKLING] that he requested me to announce, if the Senator from Pennsylvania [Mr. CAMERON] should not happen to be here, the pair, and to say that his objections to the bill are not of the fundamental character that have been sometimes—

The PRESIDING OFFICER. Debate is not in order pending the call of the roll.

Mr. EDMUNDS. Not in explaining the pair of a Senator?

The PRESIDING OFFICER. The Chair understands that no debate is in order.

Mr. EDMUNDS. I do not propose to debate. I ask unanimous consent to state that my friend from New York is paired and the grounds of it.

The PRESIDING OFFICER. Is there objection? ["No objection."] The Senator will proceed by unanimous consent.

Mr. EDMUNDS. The Senator from New York desired me to say that there were some features in the bill which if left as it was he could not assent to, and therefore voting against it if left as it stands

without intending to express an opinion against the principle upon which it is founded.

Mr. CHAFFEE, (when his name was called.) On this question I am paired with the Senator from Vermont, [Mr. MORRILL.] If he were here I should vote "nay."

Mr. DAWES, (when his name was called.) Upon this question am paired with my colleague, [Mr. HOAR.] If he were here I should vote "nay."

Mr. McMILLAN, (when his name was called.) On the passage of the bill I am paired with the Senator from Wisconsin, [Mr. CAMERON.] If he were here I should vote "yea."

Mr. SAULSBURY, (when his name was called.) I am paired with the Senator from Maine [Mr. HAMLIN] on political questions. I do not regard this as a political question, and besides I have been informed that the Senator from Maine stated that he did not care how this question was decided. He only asked me to pair with him on political questions.

Mr. DAVIS, of Illinois. There is nothing political about this question.

Mr. SAULSBURY. I say there is not, and therefore I shall vote.

The PRESIDING OFFICER. Debate is not in order pending the call of the roll.

Mr. SAULSBURY. I vote "yea."

Mr. TELLER, (when his name was called.) On this vote I am paired with the Senator from Iowa, [Mr. KIRKWOOD.] I was not paired on any collateral vote upon amendments. I should vote, if the Senator from Iowa were here, against the bill. I should have voted against the bill even if the amendment of the Senator from Maine [Mr. BLAINE] had been adopted.

Mr. JOHNSTON, (when the name of Mr. WITHERS was called.) I desire to announce again that my colleague [Mr. WITHERS] is compelled to stay at home, and is unable to be present. If he were here he would vote "yea."

The roll-call having been concluded, the result was announced—yeas 40, nays 20; as follows:

YEAS—40.

Anthony,	Coke,	Jones of Florida,	Patterson,
Armstrong,	Davis of Illinois,	Kernan,	Plumb,
Bailey,	Davis of W. Va.,	Lamar,	Ransom,
Bayard,	Edmunds,	Maxey,	Rollins,
Beck,	Eustis,	McCreery,	Saulsbury,
Booth,	Garland,	McDonald,	Thurman,
Burnside,	Grover,	McPherson,	Voorhees,
Butler,	Harris,	Merrimon,	Wadleigh,
Christiancy,	Hercford,	Morgan,	Wallace,
Cockrell,	Johnston,	Ogelsby,	Windom.

NAYS—20.

Allison,	Dennia,	Hill,	Paddock,
Barnum,	Dorsey,	Iowa,	Randolph,
Blaine,	Eaton,	Kellogg,	Sargent,
Bruce,	Ferry,	Matthews,	Saunders,
Conover,	Gordon,	Mitchell,	Spencer.

ABSENT—16.

Cameron of Pa.,	Dawson,	Jones of Nevada,	Sharon,
Cameron of Wis.,	Hamlin,	Kirkwood,	Teller,
Chaffee,	Hoar,	McMillan,	Wheate,
Conkling,	Ingalls,	Morrill,	Withers.

So the bill was passed.

The PRESIDING OFFICER. The question recurs on the preamble as amended.

The preamble was agreed to.

BANKRUPT LAW REPEAL.

Mr. McCREERY. I move that the Senate proceed to the consideration of Senate bill No. 35, reported from the Judiciary Committee. ["Oh, no."]

Mr. WINDOM. I move that the Senate do now adjourn.

Mr. McCREERY. I ask for a vote on my motion.

The PRESIDING OFFICER. The Senator from Minnesota interposes with a motion to adjourn, which is always in order.

Mr. McCREERY. Will the Senator from Minnesota withdraw his motion until I can see whether the Senate by a vote will take up the bill or not?

Mr. WINDOM. It is too late to go into that.

Mr. McCREERY. I only want to take up the bill.

Mr. DAVIS, of West Virginia. The Senator from Kentucky does not want to make a speech now.

Mr. McCREERY. I do not want to speak to-night.

The PRESIDING OFFICER. This debate proceeds by unanimous consent.

Mr. EDMUNDS. Let us have no debate.

Mr. DAVIS, of Illinois. I object.

The PRESIDING OFFICER. The question is on the motion of the Senator from Minnesota, to adjourn.

The question being put, the Senate refused to adjourn; there being on a division—yeas 22, nays 30.

Mr. McCREERY. I now renew my motion that the Senate proceed to the consideration of the bill (S. No. 35) to repeal the bankrupt law.

The motion was agreed to.

The PRESIDING OFFICER. The bill is before the Senate.

Mr. ALLISON. Now I move that the Senate adjourn.

The motion was agreed to; and (at seven o'clock and forty-two minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, April 9, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. WOOD. I call for the regular order.

Mr. CLYMER. I ask the gentleman to yield to me, that the naval appropriation bill, with the Senate amendments, may be taken from the Speaker's table and referred to the Committee on Appropriations.

Mr. WOOD. I yield to the gentleman for that purpose.

NAVAL APPROPRIATION BILL.

On motion of Mr. CLYMER, by unanimous consent, the bill (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes, with amendments by the Senate, was taken from the Speaker's table and referred to the Committee on Appropriations, and the amendments ordered to be printed.

NATIONAL MONEY.

Mr. WRIGHT. I ask the gentleman from New York to yield to me that I may introduce a resolution for reference.

Mr. WOOD. I yield to the gentleman for that purpose.

Mr. WRIGHT. I present a concurrent resolution proposing to issue \$400,000,000 of United States notes, to be known as national money, and I ask that it may be read.

The Clerk proceeded to read the concurrent resolution.

Mr. PAGE, (interrupting.) I demand the regular order.

The SPEAKER. The gentleman from New York [Mr. Wood] demanded the regular order, but yielded to the gentleman from Pennsylvania to introduce a resolution for reference. That having been done the gentleman from Pennsylvania was entitled to have the resolution read. The reading of the resolution is the regular order.

Mr. PAGE. Very well.

The Clerk resumed the reading of the concurrent resolution. Before he had concluded,

Mr. WOOD said: I must interrupt the reading of that stump speech. I call for the regular order.

Mr. TOWNSEND, of New York. I object that suicide is not in order.

Mr. WRIGHT. The gentleman from New York [Mr. Wood] will have many stump speeches before he gets through with his tariff bill that will interfere with its vitality.

The SPEAKER. The Chair has already stated that when consent was given to introduce the resolution for reference the gentleman from Pennsylvania had the right to demand the reading. Thereupon the gentleman from California [Mr. PAGE] withdrew the demand for the regular order. The Chair thinks the gentleman from Pennsylvania has a right to have the resolution read.

Mr. WOOD. The gentleman from Pennsylvania did not state that the reading of the resolution would occupy ten or fifteen minutes.

Mr. ALDRICH. When consent was given to the introduction of the resolution we did not know it was a stump speech, but now we do.

Mr. WRIGHT. The reading having been commenced, I submit it cannot be interrupted.

Mr. EDEN. Is it in order to finish the reading of the resolution?

The SPEAKER. It is.

Mr. EDEN. Then I ask that the reading proceed.

The Clerk resumed and concluded the reading of the resolution.

Mr. WRIGHT. I ask that the resolution be referred to the Committee on Banking and Currency, and that it be printed in the RECORD.

Mr. ALDRICH. I call for the regular order. I object to the reference of the resolution.

The SPEAKER. It was introduced for reference.

Mr. ALDRICH. I object; it is too late.

The SPEAKER. The resolution is before the House for reference.

Mr. ALDRICH. I move that it be referred to the Committee on Civil-Service Reform.

Mr. WHITE, of Pennsylvania. I hope the gentleman from Illinois [Mr. ALDRICH] will not attempt to cast ridicule on the resolution.

Mr. ALDRICH. I intend no ridicule.

The resolution was referred to the Committee on Banking and Currency.

The SPEAKER. The gentleman from Pennsylvania asks consent to have the resolution printed in the RECORD. Is there objection?

Mr. TOWNSEND, of New York. I object.

Mr. WRIGHT. I want to know who objects.

Mr. TOWNSEND, of New York. I object. The workmen of my district cannot afford to pay for the printing of that stump speech.

Mr. WHITE, of Pennsylvania, rose.

Mr. WRIGHT. Does my colleague [Mr. WHITE] object?

Mr. WHITE, of Pennsylvania. No, sir; I am standing by my colleague.

Mr. WRIGHT. I do not hear my colleague's remarks.

The SPEAKER. There is nothing before the House.

Objection to the concurrent resolution being printed in the RECORD was subsequently withdrawn. It is as follows:

Whereas it is manifestly unjust for a Government that controls by legislation the money its citizens may use for the transaction of their business to contract the amount in circulation so as to embarrass business pursuits or render oppres-

sire the payment of debts by reducing the price of labor or the value of property the income from which was established on a larger amount in use; and

Whereas this Government did for many years provide its citizens with legal-tender and national-bank notes, bonds, and other evidences of debt, which together formed a circulating medium as money equal to about \$50 per capita of population at that time, aggregating in amount nearly \$2,000,000,000, thereby stimulating all kinds of business prosperity and enterprise on which vast public, private, and corporate debts were created, whose payment was based on the then existing income from labor, property, and active business investments; and

Whereas, by the persistent and continued efforts of the Treasury Department, aided by legislation from 1867 until the present time, many of the obligations which then entered into use as money have been so changed or contracted as to reduce the amount now in actual circulation to less than \$700,000,000, or \$14 per capita of present population; and

Whereas the effect of such contraction has been to paralyze nearly all kinds of industries and reduce the income from nearly all kinds of property, to stop the wheels of progress and destroy enterprise, until four million people are now entirely without employment, with twice that number working on half time for half their former wages, until transactions in real estate have nearly all ceased, except by foreclosure of mortgages, until the amount in circulation is nearly all constantly employed in the payment of public dues, until it has become more difficult to earn one dollar in any legitimate business now than it was to earn four dollars when said debts were created, until the depreciation in value of nearly all kinds of property is so rapid that the few who now own money will not invest it while its purchasing power is being so rapidly increased by reason of such depreciation, until stop laws are required prohibiting depositors from drawing their own money out of banks, which must end in stop laws prohibiting the collection of all debts, including taxes, until embezzlement, perjury, forgery, suicide, or failure marks the history of nearly all our financial institutions, until failures in nearly all kinds of business constitute the most important items of news published in the daily papers, and, finally, until it has become a physical as well as a financial impossibility for the people to pay their debts or transact their business with the amount of money now in circulation, or prevent universal bankruptcy and repudiation among nearly all classes unless its amount is immediately increased; and

Whereas the occasion for issuing said evidences of debt which constituted said volume of currency and caused such prosperity in business was the necessities of the Government in carrying on a great civil war, the results of which are now acquiesced in by the whole people, whose present sufferings nearly all arise from said contraction; therefore it would be manifestly unjust for the people's Representatives in Congress, who have authority to determine the amount of money that may be put in circulation, to refuse at this time to reissue a portion of the amount so unjustly contracted, or neglect under existing circumstances to provide a sufficient sum to give immediate relief to the present business distress resting on the whole country, and especially when large amounts can be loaned and at once be put in active circulation among the people, either by aiding in the re-establishment of American commerce on the seas, erecting public buildings, improving rivers, harbors, and inland water-ways, aiding in constructing railroads for the convenience and economy of internal commerce, or the payment of just claims against the Government, all of which interests are now soliciting Government aid by loans of its credit or the appropriation of public money; and

Whereas the experience of the past sixteen years has taught our people that the value of money consists in the stamp or impress of the Government which enables it to buy property and pay debts, and not in the material stamped or impressed, as is fully demonstrated by the use of paper money in the satisfactory settlement of over 95 per cent. of their entire business transactions where money of any kind is used; and that all money is but the product of labor, whether issued by the Government in payment of services rendered for its protection or support, or in paying for property necessary for its use, or in tolling in the bowels of the earth for the precious metals, which, when obtained, like any other material, require the sanction of law to make them available for use as money; and

Whereas it is clearly manifest that the intelligence of the American people has accepted and demands for future use, for the transaction of domestic business, a convenient paper money, to be issued by the Government and to represent its entire wealth, labor, and productions, for its security, to be redeemable through its ability to pay all debts or dues, public or private, to be limited in its amount to its actual requirements and thereby make it absolute money which will form a bond of union between the people and their Government to last as long as it lasts, which money Congress has the undoubted right to and should now issue, not only in response to such demand and the present pressing necessities of the people, but as one of the results produced by the too rapid contraction of the amount of obligations issued by the Government in carrying on the late war, nearly all of which for a long time entered into circulation as money; and

Whereas the issue of said money would not diminish but would increase the demand for gold and silver far beyond their possible present use as money, by stimulating enterprise and prosperity among the people, thereby creating a necessity for their use in the arts, without in any manner diminishing their value among those people who are not yet sufficiently advanced in civilization to accept, or whose governments are not yet sufficiently well established to form a basis of credit for the transaction of their business: Therefore, in view of these considerations,

Be it resolved, (if the Senate concur), That in order to provide a sufficient amount of money for the necessary demands of domestic business, to give work to the unemployed, and a fair return for labor and its productions, to enable the people to pay their private and public debts, and to relieve them from the present oppressive burdens of taxation, Congress will authorize the immediate issue of \$400,000,000 of United States notes which shall be a legal tender for their face value in the payment of all debts or dues, public or private, hereafter created and for all existing debts or obligations except where the contract provides for their payment in coin, said notes to constitute a permanent non-interest bearing obligation for currency uses to be known as national money, and to be placed in circulation at the earliest possible time by authorizing and directing its expenditure in the current expenses of the Government, in pressing to early completion necessary public improvements such as are indicated in the preamble to this resolution, and in the prompt payment of just public obligations: *Provided, always,* That no stock or bonds shall ever be issued to represent said money or any burden ever be levied on or collected from the people for its use when so expended.

APPROPRIATION FOR TEMPORARY CLERKS, ETC.

Mr. DURHAM. I rise to a privileged question. I present the report of a committee of conference.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same, also making appropriations for detecting trespass on the public lands and for bringing into market public lands in certain States, having met, after full and free conference, have been unable to agree.

M. J. DURHAM,
J. H. BLOUNT,
J. H. BAKER,

Managers on the part of the House.

WILLIAM WINDOM,
S. W. DORSEY,

JAMES B. BECK,
Managers on the part of the Senate.

Mr. DURHAM. I desire to make a brief explanation of this report. I will state for the information of the House that the committee of conference finally agreed upon every item, and made a compromise in regard to all the items with the exception of Senate amendment No. 8. That amendment reads thus:

For railway mail agents and postal clerks, \$20,000.

The committee of conference could not agree upon that. There were some propositions of compromise even upon that amendment of the Senate, but they failed, and we are bound to report the fact to our respective Houses.

If any gentleman desires to know the exact agreements as to the amendments I might state them; but I suppose that is a matter of no importance.

Mr. JONES, of Alabama. I desire to ask the gentleman a question. Mr. DURHAM. I will hear the gentleman after a moment. After stating my own view I propose to yield the floor to my friend on the conference committee, the gentleman from Georgia, [Mr. BLOUNT,] who is better posted on these matters than I am. I was very thoroughly convinced of the fact that it was not necessary to give this amount of money for the purpose of employing these postal clerks. They had expended I know a very large amount of money over and above the amount of the regular appropriation for the purpose of having these postal clerks, and the House committee was thoroughly impressed with the idea that they had already as much money as they ought to expend in that way. But, as I said before, we proposed to compromise this matter, but the conferees on the part of the Senate would not agree to that, and therefore we had to disagree and report the matter back for the consideration of this House. If the House comes to the conclusion that they are willing to increase this extravagance, as we believe it to be, and put an appropriation of \$20,000 in the bill, then the conference committee will throw the responsibility on the House rather than take it themselves. I now yield to the gentleman from Georgia, [Mr. BLOUNT,] who is better posted and understands this matter better than I can and who will explain it to the House.

Mr. DUNNELL. Will the gentleman from Kentucky allow me to ask him a question?

Mr. DURHAM. Certainly.

Mr. DUNNELL. Before the gentleman takes his seat, I will ask him if it did not appear before the committee that there was in different sections of the country a need of route agents who cannot now be appointed for want of means.

Mr. DURHAM. It was so asserted by the conferees on the part of the Senate, but it was not made apparent to the conferees on the part of the House.

Mr. DUNNELL. I know that in my own State there are four or five routes where an agent is absolutely needed, and it is asserted by the Post-Office Department that there are no means to supply such agents. Mr. RYAN. That is the case also in my own State upon several routes.

Mr. BANNING. I understand that this appropriation is for route agents to be employed, and not for any that are now employed.

Mr. HOOKER. I would like to ask the gentleman from Kentucky one question. There is a clause in this bill which provides \$20,000 for a force to protect the timber of the Government; what was the conclusion of the committee upon that subject?

Mr. DURHAM. I will answer that question when the report finally comes before the House. If we can arrange this matter about the postal clerks, I will state how the other provisions of the bill stand.

Mr. HOOKER. Was there any difference between the conferees of the two Houses in reference to that matter?

Mr. DURHAM. There was none.

Mr. HOOKER. Does the Senate committee agree to the amount you propose to insert in the bill?

Mr. DURHAM. I do not answer that question.

Mr. HOOKER. Was there any disagreement?

Mr. DURHAM. There was not; we have compromised upon that subject, and I will explain it when the report finally comes before the House.

The SPEAKER. The Chair desires to call the attention of the gentleman from Kentucky to the fact that the report of the conference committee is a disagreement to all the amendments of the Senate.

Mr. DURHAM. I am aware of that, but I do not see the propriety of stating at this time what was the action of the committee in regard to any clause outside of this one.

The SPEAKER. The Chair desires to suggest that this is a disagreement entirely as to all matters of difference between the two Houses.

Mr. DURHAM. Yes, sir, it is. I now yield to the gentleman from Georgia, [Mr. BLOUNT.]

Mr. WAIT. Allow me to ask the gentleman whether this disagreement is as to the amount of the appropriation or as to the number of these route agents.

Mr. DURHAM. It is a disagreement as to the amount, number, and everything else.

The SPEAKER. The Chair would again state that the report of the committee of conference indicates an entire difference as to all the amendments of the Senate.

Mr. MITCHELL. I understand the gentleman from Kentucky to say that the only difference between the conferees on the part of the

House and those on the part of the Senate is as to the question of appropriating money for a deficiency for route agents, and as to that I desire to ask the gentleman, if he will permit me, whether the gentleman reports from the committee of conference whether the conference committee made inquiries of the superintendent of the railway mail service as to this deficiency on route service?

Mr. DURHAM. I think that if the House would be quiet and will listen to the gentleman from Georgia, [Mr. BLOUNT,] who has charge in the Committee on Appropriations of all postal matters, and who, as I have said, is better posted on these matters than I am, they will understand the matter, and then can ask him such questions as they wish.

Mr. MITCHELL. I desire to say now upon that subject that there is certainly a necessity for an increased appropriation for this mail-agent service. I know that upon several routes the agents have been removed who had only received from \$300 to \$400 a year, and the only reason for their removal was that there was a deficiency in the appropriation for that service.

Mr. DURHAM. We will try to answer all questions, but I ask the House to listen to the gentleman from Georgia, to whom I now yield.

Mr. BLOUNT. At the extra session of Congress we were asked to appropriate, and did appropriate, the sum of \$10,000 in addition to the amount heretofore appropriated for postal railway clerks. That additional amount for three-fourths of a year made the appropriation for that service equivalent to \$15,000 per annum.

It certainly enabled the Department to put on at least fifteen additional men. Moreover, gentlemen on both sides complain that route agents have been taken from places where they once were. They have been put into this postal-car service. The superintendent of railway mail transportation tells us himself in his report that he has taken from the various railways in the country fifty route agents for the postal-car service. This service is with him a hobby; and the whole railroad service of the country is made subservient to this pet of his. This is where the trouble arises. On some railroads there is mail service as often as 98 round trips weekly; on others 41½; on others 42; on others 57½, &c.; while in the great bulk of the States there is mail service but twelve to sixteen times a week. In order to take care of this postal-car service, in which he feels so much pride, the superintendent of railway mail transportation takes route agents from routes having comparatively small facilities in order to put them into this postal-car service.

Again, sir, the Senate now, when three-fourths of the fiscal year are past, puts on an amendment for \$20,000, being at the rate of \$80,000 per annum, or, with the \$15,000 already appropriated, \$95,000, for this postal-car service, this pet of the superintendent of the railway mail transportation, while the great bulk of the American people as to mail facilities are being neglected.

What is the occasion of this? The Postmaster-General tells you himself that his receipts for the last fiscal year were less than for the preceding fiscal year; and this deficiency does not arise in connection with fourth-class postmasters, but independently. In addition to that he estimates his receipts for the next fiscal year at a lower rate than for the present year. Notwithstanding the growth of the country, he estimates his receipts for the coming year at less than \$30,000,000. How is it with the business of the country?

I have before me a monthly statement of the total clearings at Cincinnati and Chicago from October, 1876, to February, 1878, inclusive. It is as follows:

Monthly total clearings at Cincinnati from October, 1876, to February, 1878, inclusive:

1876:		1877:	
October	\$53,633,998	July	\$50,819,305
November	52,929,562	August	46,318,183
December	65,766,893	September	49,012,118
1877:		October	52,881,918
January	60,633,469	November	50,153,798
February	48,063,587	December	51,827,926
March	52,356,206	1878:	
April	50,388,712	January	52,606,747
May	52,123,114	February	41,895,319
June	47,255,595		

CINCINNATI, April 3, 1878.

Total monthly clearings at Chicago:

1876:		1877:	
October	\$102,846,255 72	July	\$77,494,607 37
November	93,287,510 19	August	64,741,283 75
December	103,883,162 49	September	68,300,770 25
1877:		October	97,376,722 35
January	94,938,683 79	November	83,234,231 14
February	79,306,129 91	December	84,082,562 45
March	91,055,768 36	1878:	
April	88,208,253 40	January	86,107,847 89
May	92,018,997 86	February	70,318,110 31
June	84,930,405 07		

To C. N. JORDAN, esq.

In view of the falling off in the business of the Post-Office Department, and the stagnation of business generally in the country, there is nothing that calls upon us to increase the postal-car service beyond what it has been in previous years.

Sir, I hope the House will not decide to add to this bill an appropriation at the rate of \$95,000 annually in the shape of a deficiency for postal clerks in a few sections of the country. I hope we shall not to the pressure which has been brought upon us by withdraw-

ing route agents from various sections and then telling members, "You have not route agents enough." I may say that I should feel discouraged when the superintendent of railway mail transportation treats us in this manner, if the House should tolerate it.

Now, sir, we were willing, as the gentleman from Kentucky [Mr. DURHAM] has stated, to make some concessions. We were willing to appropriate for the remaining quarter of the fiscal year \$5,000, which would be at the rate of \$20,000 per annum, or, with what has been already appropriated, \$35,000 per annum. We were willing to make this appropriation in the shape of a deficiency, but really to be used in extending the postal-car service; but, sir, I appeal to the House to know whether in making such a concession we have not gone far enough at such a time as this and with such surroundings. When the bill was passing through the House we declined to insert this appropriation, and when it went to the Senate the Committee on Appropriations of that body declined to recommend the appropriation to the Senate. But they were beaten. There was a determination to carry the measure through.

Now, sir, this is the House having control of appropriations; these are the Representatives to whom the Constitution has confided the trust of jealously guarding the Treasury. If the Committee on Appropriations have done right, I ask this House to stand by them. It is an unpleasant issue for us to make; but I shall always insist on making this issue whenever necessary, and if the House sees fit to undo our work the responsibility is with it.

Mr. PHILLIPS. Will the gentleman yield to me for about three minutes?

Mr. BREWER. What is there before the House for discussion?

The SPEAKER. The report of a conference committee.

Mr. BREWER. I do not understand that there is any motion pending.

Mr. DURHAM. In order to bring this matter to a test I move that the report of the conferees be accepted and that another conference with the Senate be asked.

Mr. SAMPSON. In order to test the question, I move that the House recede from its disagreement on this amendment.

The SPEAKER. The conferees report a general disagreement.

Mr. SAMPSON. But it is stated, I believe, by the gentleman from Kentucky that the committee of conference were able to agree upon all the items except one.

The SPEAKER. The report does not so show. The gentleman can make a motion that the House recede from its disagreement to all the amendments.

Mr. SAMPSON. I will enter that motion for the purpose of testing the sense of the House.

Mr. DURHAM. I move that the report be received and that another conference be asked. On that motion I call the previous question.

Mr. SAMPSON. Does not my motion take precedence?

The SPEAKER. It does. Does the gentleman make his motion as to all the amendments?

Mr. SAMPSON. I move simply that the House recede from its disagreement.

The SPEAKER. The report shows that they disagreed as to all.

Mr. SAMPSON. The gentleman from Kentucky [Mr. DURHAM] stated there was only one disagreement.

Mr. DURHAM. I insist on my motion.

The SPEAKER. The motion to recede is the first question to be put.

Mr. WHITE, of Pennsylvania. I ask the gentleman from Iowa to withdraw his motion so the House may recede on the question of postal railway service.

Mr. SAMPSON. I wish to inquire whether we can take a vote on each amendment separately.

Mr. COX, of New York. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. COX, of New York. Other members are interested in this business and we cannot hear a word that is said.

The SPEAKER. Gentlemen will be seated.

Mr. SAMPSON. Is this report indivisible?

The SPEAKER. The Chair thinks it is. It is a report of a conference committee that they were unable to agree as to any report.

Mr. SAMPSON. Must this be voted on as a whole?

The SPEAKER. The Chair thinks the report must be voted on as a whole. There is no way to divide it.

Mr. SAMPSON. I make the motion then generally, that the House recede from its disagreement to the Senate amendments.

Mr. WHITE, of Pennsylvania. I move to amend by receding from our disagreement to the postal railway service amendment of the Senate.

Mr. EDEN. Is this in order pending the previous question?

The SPEAKER. The motion to recede has preference over a motion to insist?

Mr. BAKER, of Indiana. I desire to make a parliamentary inquiry. Is the report of the disagreement between the Senate and the House on all propositions embraced?

The SPEAKER. The Chair will cause the conference report to be read again, and the House will at once see that it embraces every disagreement.

Mr. BAKER, of Indiana. I insist there is only one thing disagreed to.

The SPEAKER. On the contrary, the report is that all the propositions are disagreed to.

Mr. BAKER, of Indiana. I was on the committee of conference and know there was but one point of disagreement.

The SPEAKER. Then the gentleman should have seen the conference report was properly drawn.

Mr. BAKER, of Indiana. The only matter was in reference to railway service and postal-car service.

The SPEAKER. That is not presented in the report.

Mr. BAKER, of Indiana. The gentleman from Kentucky stated that was the only point of disagreement.

The SPEAKER. The report will be read. There is no report, in fact, in reference to the disagreements between the two Houses. It is a naked report that the two Houses are unable to agree.

Mr. SAMPSON. I understood the Chair to say we could have a vote on each item.

The SPEAKER. The Chair will recognize the gentleman hereafter to move to recede.

The report was again read.

Mr. BAKER, of Indiana. I wish to inquire whether it is not competent to recommit that report so it may be corrected to correspond with the fact?

The SPEAKER. It is quite competent for the House to recommit it if it is incorrect.

Mr. BAKER, of Indiana. Then I move that the report be recommitted to the committee. Under the circumstances that ought to be done. The report was prepared by a clerk and was signed without being read; and I confess I do not propose myself to be caught in such a predicament again.

Mr. EDEN. I make the point of order that it is utterly impossible for this House to know the action of the conference committee except through the report to this House, and consequently the gentleman from Indiana, in getting up and telling the House what has been done in the committee of conference, is out of order.

The SPEAKER. The Chair thinks it is in the nature of information only; it is only a report that the two Houses have failed to agree.

Mr. EDEN. That is all there is in the report.

Mr. BAKER, of Indiana. I confess I am not the first one to make the suggestion that the report does not conform to the action of the committee. I make the motion to recommit.

Mr. BANKS. It cannot be recommitted, because the House has no control in this question. The Senate conferees make the same report to the Senate that the House conferees have made to the House.

The SPEAKER. A question of fact has been raised whether the report conforms to what was the action of the conference committee and in reference to that point the Chair thinks the motion to recommit is in order.

Mr. BANKS. The Senate have equal control with us and the recommitment of the report does not affect the Senate at all.

The SPEAKER. We can acquaint the Senate with the fact that the report has been recommitted for the reason stated and in all probability the Senate will either ask for another conference or move its recommitment.

Mr. BANKS. That shows the motion to recommit is not the right proceeding.

Mr. BLOUNT. I submit that this is only taking up the time uselessly.

Mr. BEEBE. I desire to ask whether the motion of the gentleman from Kentucky does not take precedence of that of the gentleman from Indiana.

The SPEAKER. The motion to commit is first in order in preference to the motion to accept the report of the committee.

Mr. SAMPSON. I rise to a question of order. The gentleman from Kentucky having moved that the House receive the report, I made the motion that the House recede from its disagreement to the Senate amendments, and I understood the Chair to say that that motion was in order, and that it took precedence of the other motion.

The SPEAKER. So it does.

Mr. SAMPSON. But the Chair has stated that the motion pending now is the motion to recommit.

The SPEAKER. Because the gentleman from Indiana stated that the report was not in accordance with what occurred in the conference.

Mr. BANKS. I submit that that is not a ground for a motion to recommit. The gentleman has not a right to make that motion. He cannot contradict the report in that way. I move that the House disagree to the report of the committee of conference, and ask another conference.

The SPEAKER. Does the gentleman from Massachusetts say that a committee of conference cannot be instructed?

Mr. BANKS. It cannot.

Mr. DURHAM. If the gentleman from Massachusetts will yield to me for a moment, I desire to make a proposition as to this—

The SPEAKER. The Chair directs the attention of the gentleman from Massachusetts to this statement in the Manual:

A committee of conference may be instructed like any other committee, but the instructions cannot be moved when the papers are not before the House.

Mr. BANKS. A committee of conference cannot be instructed, because then it would not be a committee of free conference.

The SPEAKER. The House has been in the constant practice of instructing committees of conference.

Mr. DURHAM. I ask unanimous consent of the House to withdraw the report. I make this request for the purpose of having another report made in accordance with the fact.

Mr. SAMPSON. I do not think that is necessary. I think without having a vote upon the amendments separately the House can take a vote on this one item on which the two committees have failed to agree. The sense of the House can be tested now on that one item. I submit there is no difficulty about getting at the one point at issue between the two committees.

Mr. DURHAM. If we can have a direct vote on that postal matter I have no objection to what the gentleman suggests.

Mr. SAMPSON. That would solve the whole difficulty.

The SPEAKER. The gentleman from Iowa [Mr. SAMPSON] moves that the House recede from its disagreement to the Senate amendments, and the gentleman from Kentucky [Mr. DURHAM] calls for a division.

Mr. KELLEY. I desire to say in response to my friend from Massachusetts [Mr. BANKS] that the motion to recommit a report of a conference committee is not without a precedent. On the closing day of the Forty-third Congress the House was engaged on the report of a conference committee on an appropriation bill. That report, after discussion, was recommitted—sent back for the consideration of the committee that had previously had the bill in charge, and the report came back with modifications such as had been suggested in the course of debate in the House.

Mr. BANKS. I will say to the gentleman from Pennsylvania that it is very likely there is a precedent for this, but I submit that this report is a House report and the recommitment of it sends it to a House committee, which cannot change the report, because the Senate has an equal right with us.

The SPEAKER. This is not any more of a House report than in the case to which the gentleman from Pennsylvania alluded.

Mr. BANKS. The Senate has a joint right with us.

The SPEAKER. If the Senate do not agree to the recommitment, then of course the report fails.

Mr. BANKS. The recommitment will not change it. The proper course is to ask for another committee of conference. The withdrawal of the report will not bring action by the Senate. The only method of securing joint action of the Senate and the House on this question is to disagree to the report and ask for another committee of conference. I make that motion.

Mr. BLOUNT. Will the gentleman from Massachusetts yield to me for a question?

Mr. BANKS. Yes, sir.

Mr. BLOUNT. What objection has the gentleman from Massachusetts to the proposition of the gentleman from Iowa, to let the House come to a direct vote on the amendment on which the conference committee disagreed?

Mr. BANKS. I do not object to that.

Mr. BLOUNT. My colleague on the committee who makes this report is willing to take that course.

Mr. DURHAM. I have stated that I agree to that proposition.

The SPEAKER. The first amendment will be read.

Mr. DURHAM. The understanding is that the amendments will be separately read and voted on.

Mr. SAMPSON. I agree to that.

Mr. EDEN. Do I understand the gentleman from Kentucky to withdraw his motion to disagree and that he now asks the House again to go over these amendments separately?

Mr. DURHAM. What I desire is that the House shall take a vote at once on all the other amendments except that relating to the postal clerks.

The SPEAKER. The first amendment will be read.

Mr. DURHAM. I thought we were acting in good faith, and that we were to accept the report of the committee of conference upon every amendment excepting the one in regard to postal clerks.

Mr. BAKER, of Indiana. I desire to make a parliamentary inquiry. What has become of the motion I made to recommit?

Mr. BEEBE. I understand that the committees on the part of the two Houses have agreed upon all the amendments except one.

Mr. DURHAM. We have.

Mr. BEEBE. Then there is nothing for the House to recede from excepting its opposition to this one amendment.

Mr. EDEN. Unless we can get this matter before the House in some shape in which it can be understood we ought not to act upon it at all.

Mr. FRYE. I make the point of order that more than five members should not be allowed to speak at one time.

Mr. EDEN. Unless we can have some understanding as to what the report contains, I shall move to lay it upon the table.

Mr. DURHAM. I thought it was a fair and distinct understanding that all of the amendments upon which the committees of the two Houses have agreed in the conference committee should be concurred in; and that then we should take a direct vote upon the question relating to the postal clerks.

The SPEAKER. The Chair desires to make a suggestion to the House; and it is that if the House will vote upon agreeing to the report of the committee of conference and ask another conference, then the new conference could make a report conformably to the facts.

Mr. EDEN. Why not let the report go at once back to the com-

mittee of conference and let them make a report which the House can understand?

The SPEAKER. Because of the suggestion of the gentleman from Massachusetts, [Mr. BANKS,] that the action of the committee of conference is the action of both Houses, while the action of the House is the action only of one House. The Chair thinks that if the House will adopt the motion to agree to the report of the committee of conference they will reach an intelligent conclusion.

Mr. DURHAM. What is that suggestion?

The SPEAKER. That the House agree to the report of the committee of conference, which is in substance a disagreement to all the amendments of the Senate, and ask a further conference.

Mr. BLOUNT. I have no objection to that; but I am very sure that the matters involved are very small.

Mr. EDEN. I cannot tell what the committee of conference have agreed to at all.

Mr. BLOUNT. If the gentleman from Illinois [Mr. EDEN] will permit the gentleman from Kentucky [Mr. DURHAM] to make a statement of it, it is so simple he will be obliged to understand it.

The SPEAKER. The Chair thinks the gentleman from Kentucky has made several statements already.

Mr. DURHAM. What I ask the House to do is to sustain the committee in its action upon these amendments until it reaches the amendment in reference to the postal clerks. That is what I ask, and that, I supposed, was the agreement; and if it be in order I will make that motion.

The SPEAKER. The gentleman from Kentucky will understand that there is nothing before the House in the report of the committee of conference but a general disagreement as to all the amendments of the Senate.

Mr. EDEN. The gentleman seems to have some understanding or some agreement about this bill which I presume he understands, and probably the gentleman from Georgia [Mr. BLOUNT] does, but I do not, because I have never heard what it was, and the House is called upon to vote upon a proposition that they cannot understand.

Mr. HASKELL. I move that the report be accepted, and that a new conference be asked with the Senate upon the disagreeing votes of the two Houses upon the bill.

The motion was agreed to.

Mr. HASKELL moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

A bill (S. No. 691) to amend an act entitled "An act to provide for the sale of certain New York Indian lands in Kansas," approved February 19, 1873; and

A joint resolution (S. No. 22) providing for a place of deposit for the records and proceedings of the commission appointed under the act entitled "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," approved January 29, 1877.

Mr. WOOD. I call for the regular order of business.

The SPEAKER. The regular order of business being demanded, the morning hour commences at one o'clock, and the call of committees rests with the Committee on Appropriations.

JAMES T. JOHNSON.

On motion of Mr. HEWITT, of New York, the Committee on Appropriations was discharged from the further consideration of the bill (H. R. No. 3328) for the relief of the legal heirs and representatives of James T. Johnson, deceased, of Carrollton, Mississippi, and the same was referred to the Committee of Claims.

CHARLES MULKEY.

On motion of Mr. HEWITT, of New York, the Committee on Appropriations was discharged from the further consideration of the bill (H. R. No. 1821) for the relief of Charles Mulkey, late postmaster at Butler, Georgia, and the same was referred to the Committee of Claims.

IMPROVEMENT OF THE MISSISSIPPI RIVER.

Mr. HEWITT, of New York, also, from the same committee, reported back the petition of citizens of Guttenburgh, Iowa, for the improvement of the channel of the Mississippi River at that place, moved that the committee be discharged from its further consideration, and that it be referred to the Committee on Commerce.

The motion was agreed to.

JACOB D. HUTTON.

Mr. HEWITT, of New York, also, from the same committee, reported back the petition of Jacob D. Hutton for compensation as messenger on the "soldiers' roll" under the Doorkeeper of the House of Representatives, and moved that the committee be discharged from its further consideration and that it be referred to the Committee of Accounts.

The motion was agreed to.

Mr. HEWITT, of New York, moved to reconsider the various votes

by which the papers reported by him had been re-referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INDIAN AGENCIES IN ARIZONA.

On motion of Mr. SPARKS, the Committee on Appropriations was discharged from the further consideration of the bill (H. R. No. 3516) making an appropriation for the payment of certain vouchers now on file in the Interior Department, for supplies delivered for the use and support of the different Indian agencies in the Territory of Arizona, in the year 1874, and prior years; and the same was referred to the Committee of Claims.

Mr. SPARKS moved to reconsider the vote by which the bill was referred to the Committee of Claims; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

Mr. SINGLETON. I am directed by the Committee on Appropriations to report back the amendments of the Senate to the bill (H. R. No. 3964) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1879, and for other purposes, and to move that the House non-concur in all the amendments of the Senate.

Mr. CONGER. I ask that the amendments be read.

Mr. SINGLETON. There are fifty-two amendments in all. The gentleman had better let them go at once to a committee of conference.

Mr. CONGER. There are some amendments in which we might concur.

Mr. SINGLETON. No, sir; I think not.

Mr. CONGER. We could perhaps if a majority of the House were in favor of it.

Mr. SINGLETON. The gentleman had better let all the amendments go to a conference committee.

Mr. CONGER. I would like to have a separate report upon reinstating the ministers-resident at the Netherlands and at Belgium.

Mr. SINGLETON. You will get that after awhile.

Mr. CONGER. I would rather have it now.

Mr. SINGLETON. We discussed the bill very fully when it was under consideration in the House.

Mr. CONGER. There was an attempt to insert the amendments in the House, and the motion failed, when there was a small attendance of members. I think that now these particular amendments, as they come from the Senate, may be concurred in.

Mr. CARLISLE. I suggest to the gentleman from Michigan [Mr. CONGER] that he demand a separate vote only on the particular amendments to which he refers, and let us vote on the remainder all together.

Mr. CONGER. I dislike very much this practice of having amendments from the Senate non-concurred in as a matter of course and then sent to a committee of conference to control the action of this House. If there is anything we ought to understand, it is the separate propositions in such a bill as this.

The SPEAKER. What does the gentleman from Michigan ask? He has a right to have every amendment read and voted on separately.

Mr. CONGER. These amendments are not printed; they are not before the House in any intelligible shape. It is now proposed substantially to leave all these questions to the decision of three men.

Mr. SINGLETON. The gentleman is altogether mistaken. The bill and amendments as they came from the Senate were printed when they were referred to our committee. The gentleman could have examined them long since if he had so wished.

Mr. CONGER. I have not been able to find them in print.

The SPEAKER. The Chair is informed that the Senate amendments are printed. What action does the gentleman ask?

Mr. CONGER. I wish more particularly to have the House concur in the Senate amendment reinstating the minister resident at the Netherlands and at Belgium.

The SPEAKER. The gentleman, then, asks a separate vote on the amendment as to Belgium and as to the Netherlands. The question will first be taken on the motion of the gentleman from Mississippi [Mr. SINGLETON] that all the amendments, with the exception of those on which a separate vote is asked, be non-concurred in.

The motion was agreed to.

Mr. SINGLETON moved to reconsider the vote by which the amendments were non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The first amendment on which a separate vote is asked will now be read.

The Clerk read as follows:

Amendment No. 8:

On page 1, in line 15, after the word "at," insert "Belgium, Netherlands, Argentine Republic."

The SPEAKER. The Committee on Appropriations recommend non-concurrence in this amendment; the gentleman from Michigan asks that the House concur.

Mr. CONGER. The two propositions to which I wished to call the attention of the House were as to the minister resident at the Nether-

lands and at Belgium. I care less about the other proposition. I do not ask a separate vote on that.

The SPEAKER. Then the gentleman moves to concur in this amendment of the Senate with an amendment striking out the "Argentine Republic."

Mr. CONGER. I supposed that the proposition for a minister resident to each of these particular countries could be voted on separately.

The SPEAKER. A Senate amendment is not divisible. The Chair has stated the gentleman's proposition in such a manner as to accomplish his exact purpose: to concur in the amendment with an amendment.

The question being taken on the motion to concur in the amendment of the Senate, with an amendment striking out the "Argentine Republic," there were ayes 51.

Before the negative side had been counted,

Mr. CONGER said: Unless this question can be divided as I wish, I shall withdraw my motion. I desire a vote on the propositions separately. This mode of putting the question does not give it to me, and I would rather have all the amendments go to the conference committee.

The SPEAKER. The motion to concur with an amendment is withdrawn. The question recurs on the motion of the gentleman from Mississippi [Mr. SINGLETON] to non-concur.

The motion was agreed to.

Mr. SINGLETON moved to reconsider the vote by which the amendment was non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN D. YOUNG.

Mr. HALE, from the Committee on Appropriations, reported back the bill (H. R. No. 1024) for the benefit of Hon. John D. Young, of Bath County, Kentucky, and moved the same be referred to the Committee of Elections.

The motion was agreed to.

Mr. HALE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RETIREMENT OF NATIONAL-BANK NOTES.

Mr. BUCKNER. I am directed by the Committee on Banking and Currency to report, as a substitute for House bill No. 2827, a bill (H. R. No. 4247) to retire the circulating notes of the national banks, and for other purposes; which was read a first and second time.

The bill was read.

Mr. EAMES. I rise, Mr. Speaker, to make a point of order on this bill. It requires an appropriation to be made in order to carry out the purpose of the bill; and under the rules, therefore, it must have its first consideration in the Committee of the Whole.

The SPEAKER. The Chair will examine the point.

Mr. BUCKNER. If the gentleman will point out where there is any appropriation of money or of property it may be amenable to the rules.

Mr. EAMES. I am a member of the Committee on Banking and Currency, and in raising the point of order I merely desire to procure the fullest and fairest consideration of the proposition before the House.

Mr. GARFIELD. It has direct reference to the ways and means for the support of the Government, and in that regard is liable to a point of order.

Mr. EAMES. It is a bill of great importance and interest to the country. I only desire as a member of the committee that some time shall be named for the consideration of the bill; that some opportunity may be given for debate; that it may be open to debate and amendment, and then that we may come to a vote upon it. That is the reason why I have raised the question of order now.

If the gentleman from Missouri desires I will state the ground upon which the point of order is based. This proposes to issue a certificate of indebtedness on the part of the Government of the United States to pay off the whole debt of the national banks. There is no provision of law existing at this time authorizing the issue of any such certificate. The bill of necessity imposes an expenditure upon the Government to carry it into effect if it shall become a law. On that ground I raised the point, in the first instance, that under the rules it must be first considered in the Committee of the Whole. At the same time if the bill may be fairly considered in the Committee of the Whole I will agree to withdraw the point of order.

Mr. BUTLER. Why not consider it in the House as in the Committee of the Whole?

Mr. EAMES. If the bill be open to amendment and debate as I have stated I will withdraw the point of order I have made.

The SPEAKER. The Chair understands the gentleman from Rhode Island to make the point of order with a view to arriving at some agreement with the gentleman from Missouri as to when the bill shall be considered.

Mr. BUCKNER. I propose to give the fullest consideration to the bill.

Mr. BURCHARD. It seems to me, Mr. Speaker, this bill should be considered in the Committee of the Whole. That will give it full and free discussion.

It is liable to and I make the point of order that it must be referred to the Committee of the Whole on the state of the Union under Rule 110. The sixth section provides for a new method of paying customs duties, and therefore it changes the law in reference to a charge upon the people in the way of taxes, and it has been decided, as I recollect, by a former Speaker that such a change renders a proposition obnoxious to a point of order under Rule 110. This bill provides in the sixth section that customs duties may be paid in United States notes instead of in coin.

Mr. BUCKNER. To what rule is it obnoxious?

Mr. BURCHARD. To Rule 110.

Mr. BUCKNER. Because it appropriates money or property of the Government?

Mr. BURCHARD. No; it changes the law in regard to customs duties.

Mr. BUCKNER. Assuming that to be so, what rule of the House does it violate to ask its consideration in the House?

Mr. BURCHARD. I say that Rule 110 would send it to the Committee of the Whole. That rule provides such propositions should have their first consideration in that committee.

The SPEAKER. The Chair understands, however, that the gentleman from Missouri is willing to have it considered in committee, provided some day can be fixed for its consideration.

Mr. BUCKNER. I do not think it is obnoxious to any rule of the House and must of necessity go to the Committee of the Whole.

Mr. BEEBE. I interpose objection without qualification.

Mr. BUCKNER. Why can it not be considered in the House as in Committee of the Whole?

The SPEAKER. It can be.

Mr. BUCKNER. That is what I propose to do. But I do not see there is any provision in the rules which requires it to go to the Committee of the Whole.

The SPEAKER. The Chair thinks the point of order taken by the gentleman from Rhode Island is not valid. It is true it directs the Secretary of the Treasury to do certain things, but it contains no provision making an appropriation of money. The sixth section, however, is liable to the point of order under Rule 110. The sixth section will be read.

The Clerk read as follows:

Hereafter in all payments of customs duties two-thirds of the sum so payable shall be paid in the coin of the United States, and one-third thereof shall be paid in legal-tender notes or the Treasury notes authorized by this act, and said Treasury notes shall be exchangeable at par for United States legal-tender notes, at the option of the holder, at the office of the Treasurer or any assistant treasurer of the United States, under such regulations as the Secretary of the Treasury may prescribe.

The SPEAKER. The Chair thinks that section is subject to the point of order, and that this bill should have its first consideration in Committee of the Whole. But the right to report clearly carries with it the right to consider, and the right to consider gives to the House a right to fix a time for consideration.

Mr. BEEBE. Does not the rule, Mr. Speaker, fix the time to reconsider?

Mr. BUCKNER. I have no desire to prevent discussion. On the contrary, I desire that this bill shall be thoroughly discussed.

The SPEAKER. To what rule does the gentleman from New York [Mr. BEEBE] refer?

Mr. BEEBE. The rule which requires that bills shall be considered in the Committee of the Whole in their order.

The SPEAKER. The rule fixes the place where the bill is to be considered—the Committee of the Whole. But it does not fix the time for its consideration.

Mr. BUCKNER. I suppose the House can by a majority vote fix the time when the bill shall be considered.

Mr. BEEBE. I submit that that cannot be done in the morning hour, which is devoted to the call of committees for reports. The rule, in virtue of its own operation, takes the bill to a certain point, and it is not then competent to make any further motion.

The SPEAKER. The right of the committee to report, as the Chair has stated, gives to the House the right to consider. And the right to consider certainly gives the right to fix the time to consider. That was the very thing which was done in regard to the tariff bill by a majority of the House.

Mr. BEEBE. Is not this bill now in the Committee of the Whole?

The SPEAKER. Yes; the bill is in the Committee of the Whole. But the gentleman from Missouri [Mr. BUCKNER] is recognized to make a motion to fix the time to consider, just as was done in the case of the tariff bill.

Mr. MORRISON. If the Chair will allow me, I beg to suggest that the time for considering the tariff bill was fixed on a report from a committee.

The SPEAKER. That is correct. The Chair stands corrected.

Mr. MORRISON. This is no report from a committee. The Committee of Ways and Means reported a resolution fixing the time for the consideration of the tariff bill, and that resolution was adopted by the House.

Mr. BUCKNER. I am authorized by the committee to make this motion.

The SPEAKER. What does the gentleman say he is authorized by the committee to do?

Mr. BUCKNER. I am authorized to ask the House to fix a time

for the consideration of this bill; and, since the Chair has decided that it goes to the Committee of the Whole, I hold I am authorized to move that a day be fixed for its consideration in Committee of the Whole.

Mr. BURCHARD. The gentleman is not reporting a resolution from his committee.

The SPEAKER. The gentleman states that he is. He says he is instructed by the committee to make this motion.

Mr. BURCHARD. I do not so understand.

Mr. YEATES. The gentleman from Missouri was instructed.

The SPEAKER. The gentleman from Missouri states he is authorized by the committee to move that the House fix a time, which is in the nature of a report.

Mr. BUCKNER. And I ask that the House fix the 23d instant—this day two weeks.

Mr. MORRISON. Does the gentleman make that motion as a report from a committee?

The SPEAKER. He states so.

Mr. YEATES. The committee authorized him to do it.

Mr. WOOD. I hope the assignment will be so limited that it will not interfere with appropriation bills and the tariff bill.

Mr. BUCKNER. I do not propose to interfere with bills reported from the Committee on Appropriations or the bills reported from the Committee of Ways and Means by the gentleman from New York.

The SPEAKER. The Chair will state the proposition. The gentleman from Missouri proposes that the House shall consider this bill in Committee of the Whole on the 23d of this month, subject, however, to the consideration of appropriation bills and the tariff bill.

Mr. BUCKNER. After the morning hour.

Mr. BURCHARD. And subject, also, to pending orders.

The SPEAKER. Of course.

Mr. FRYE. I desire to know the ruling of the Chair on the point of order raised. The committee, as I understand, reports the bill and nothing else.

The SPEAKER. The gentleman is mistaken.

Mr. FRYE. A point of order then is made. On that point of order the bill is at once sent to the Calendar to the Committee of the Whole. Now all that having taken place, the gentleman from Missouri then reports further a resolution, as he says, in favor of the assignment of a time certain when that bill shall be considered. Can that be done?

The SPEAKER. It can.

Mr. FRYE. Does the Chair so rule?

The SPEAKER. The Chair does, and only repeats his ruling as to the tariff bill. The gentleman will see in the discussion of the same point of order as to the tariff bill the ground on which the Chair repeats the decision: that the right of the committee to report carries with it the right to consider, and under instructions from the committee a report can be made fixing the time to consider.

Mr. FRYE. My point is this, if the Speaker will pardon me: it is that when the bill is reported the resolution must be reported at the same time, before under the operation of parliamentary law the bill has gone on the Calendar to the Committee of the Whole.

The SPEAKER. The committee has the right to report, being still on call.

Mr. FORT. The gentleman from Missouri [Mr. BUCKNER] was proceeding to report the resolution when interrupted by points of order.

Mr. CANNON, of Illinois. I call for the reading of the resolution as agreed upon by the Committee on Banking and Currency.

The SPEAKER. The gentleman from Missouri states that, under instructions from the Committee on Banking and Currency, he is authorized by that committee to make the motion that this bill be considered on the 23d day of this month, after the morning hour, subject, however, to appropriation bills and the tariff bill, and to such special orders as have already been made.

Mr. CANNON, of Illinois. My point is this: that the report from the committee must be in writing. If they are authorized to report a resolution, then the resolution must be in writing. I do not think the gentleman can report a motion.

The SPEAKER. The gentleman from Missouri will reduce it to writing.

Mr. WADDELL. I desire to know if the special assignment of this bill will interfere with the consideration of bills heretofore specially assigned.

The SPEAKER. It will not.

Mr. BEEBE. Is it understood that this assignment is to run from day to day?

The SPEAKER. The gentleman from Missouri [Mr. BUCKNER] will reduce his report to writing.

Mr. HEWITT, of Alabama. I would like to know if this will interfere with the unfinished business in the Committee of the Whole.

The SPEAKER. The unfinished business comes up whenever demanded, immediately after the reading of the Journal, but this is to be after the morning hour.

Mr. HEWITT, of Alabama. But I understand that the bill has gone to the Committee of the Whole on the state of the Union and the proposition now is to make it a special order in Committee of the Whole until disposed of. My question is whether it will interfere with the unfinished business in Committee of the Whole.

The SPEAKER. Questions of that sort are all determined in Committee of the Whole and the Chair has nothing to do with them.

Mr. BUCKNER. I have prepared a resolution. I thought that

the bill would not be subject to a point of order, but inasmuch as the Chair has decided otherwise I have a resolution here which I now offer.

Mr. GARFIELD. I would like to inquire if what is now offered as a report has not within the knowledge of the House been written at the desk of the gentleman from Missouri and how can that be a report from his committee.

The SPEAKER. The gentleman from Missouri submitted his motion verbally, as he was instructed by the committee to do, and then the point was raised that the report should be made in writing and surely the Chair would not cut off the report under such circumstances.

Mr. GARFIELD. But the gentleman said that he did not anticipate any point of order.

Mr. BEEBE. I desire to have the record right. I would ask that the report submitted by the gentleman from Missouri be sent to the Clerk's desk and read. I do not want it to continue in his hand.

Mr. FORT. Is there any rule requiring committees to report in writing?

The SPEAKER. The Committee on Appropriations is authorized to report in writing, and it has been the usual practice for committees so to do.

Mr. FORT. They are not compelled to do so?

The SPEAKER. The resolution offered by the gentleman from Missouri will be read.

The Clerk read as follows:

Resolved, That the bill reported by the Committee on Banking and Currency, as a substitute for House bill 2827, be made a special order in Committee of the Whole on the state of the Union for April 23d after the morning hour, and from day to day thereafter until disposed of, subject to the general appropriation bills and the tariff bill.

Mr. CARLISLE. I move that the resolution be so amended as not to interfere with other special orders previously made.

Mr. BUCKNER. I do not yield to the gentleman to make any such motion. I demand the previous question.

Mr. CONGER. I submit that this resolution changes the rules of the House as to the order of business in Committee of the Whole, and that it cannot be done except by a two-third vote of the House.

The SPEAKER. The Chair has already overruled that point of order when it was made by the gentleman himself on the tariff bill, and the Chair again overrules the point of order.

Mr. CONGER. The Chair then holds that a majority can change the rules of the House?

The SPEAKER. The Chair overrules the point of order, and refers to his own ruling on the tariff bill, when the same point of order was made by the gentleman from Michigan himself.

Mr. EAMES. My colleague on the committee will yield to me?

Mr. BUCKNER. No; I do not.

Mr. EAMES. This was not an agreement made by the committee.

Mr. BEEBE. I think that when a member of a committee rises in his place and impeaches the report submitted by the committee, it is the duty of the House to investigate and determine whether the report is rightfully made.

The SPEAKER. The Chair has nothing to do with that.

Mr. YEATES. It is the report of the committee.

Mr. EAMES. If the gentleman will allow me a moment I can explain the matter.

Mr. BUCKNER. I demand the previous question.

The question was put upon seconding the previous question; and on a division there were—ayes 75, noes 73.

Mr. EAMES called for tellers.

Tellers were ordered; and Mr. EAMES and Mr. BUCKNER were appointed.

The House again divided; and the tellers reported—ayes 95, noes 90. So the previous question was seconded.

The question recurred upon ordering the main question to be put.

Mr. GARFIELD. Upon that question I call for the yeas and nays. The yeas and nays were ordered.

Mr. BROWNE. I rise to a parliamentary inquiry. I desire the Chair to state the question on which we are to vote.

The SPEAKER. The question is on ordering the main question upon the resolution reported from the Committee on Banking and Currency fixing a time under certain conditions for the consideration of the bill which has been read.

The question was taken; and there were—yeas 126, nays 106, not voting 59; as follows:

YEAS—126.

Baker, John H.	Chalmers,	Elam,	Hardenbergh,
Banning,	Clark of Missouri,	Ellis,	Harris, Henry R.
Bell,	Clarke of Kentucky,	Evans, James L.	Harris, John T.
Bicknell,	Clymer,	Evins, John H.	Harrison,
Blackburn,	Cobb,	Felton,	Hartridge,
Boone,	Collins,	Finley,	Hartzel,
Bouck,	Cook,	Forney,	Haskell,
Boyd,	Cox, Samuel S.	Fort,	Hatcher,
Bragg,	Cravens,	Franklin,	Hewitt, G. W.
Bridges,	Crittenden,	Fuller,	Hooker,
Bright,	Cullbertson,	Garth,	House,
Browne,	Cutler,	Gause,	Hunter,
Buckner,	Dibrell,	Glover,	Ittner,
Butler,	Dickey,	Goode,	Jones, James T.
Calhoun,	Douglas,	Gunter,	Kelley,
Calkins,	Durham,	Hamilton,	Keena,
Carlisle,	Eden,	Hanna,	Killinger,

Kimmel,	Morrison,	Shelley,	Waddell,
Knapf,	Muldrov,	Singleton,	Walsh,
Landers,	Patterson, T. M.	Simons,	White, Harry
Ligon,	Phelps,	Smalls,	White, Michael D.
Lockwood,	Phillips,	Smith, William E.	Whitborne,
Mackey,	Pollard,	Southard,	Wigginton,
Maish,	Rea,	Sparks,	Williams, Andrew
Manning,	Reagan,	Springer,	Williams, Jere N.
Martin,	Rellly,	Steele,	Willis, Albert S.
McKenzie,	Riddle,	Thompson,	Wilson,
McMahon,	Robbins,	Throckmorton,	Wright,
Metcalfe,	Robinson, M. S.	Tucker,	Yeates,
Mills,	Ryan,	Turner,	Young.
Money,	Saylor,	Turney,	
Morgan,	Scales,	Vance,	

NAYS—106.

Aldrich,	Crapo,	Keightley,	Sapp,
Bacon,	Cummings,	Ketcham,	Sexton,
Bailey,	Danford,	Lathrop,	Shallenberger,
Baker, William H.	Davis, Horace	Lindsey,	Sinnickson,
Ballou,	Denn,	Loring,	Smith, A. Herr
Banks,	Deering,	McCook,	Stenger,
Bayne,	Dunnell,	McGowan,	Stone, Joseph C.
Beebe,	Eames,	McKinley,	Stone, John W.
Bisbee,	Eickhoff,	Mitchell,	Strait,
Blair,	Errett,	Monroe,	Swann,
Biles,	Evans, I. Newton	Morse,	Townsend, Amos
Brentano,	Foster,	Norcross,	Townsend, M. I.
Brewer,	Frye,	O'Neill,	Van Vorhes,
Briggs,	Garfield,	Overton,	Wait,
Bundy,	Gibson,	Page,	Ward,
Burchard,	Hale,	Patterson, G. W.	Watson,
Cain,	Harmer,	Peddie,	Welch,
Camp,	Harris, Benj. W.	Potter,	Williams, A. S.
Campbell,	Hendee,	Pound,	Williams, C. G.
Cannon,	Henderson,	Price,	Williams, James
Caswell,	Hewitt, Abram S.	Rainey,	Williams, Richard
Chittenden,	Hiscock,	Randolph,	Willis, Benj. A.
Clark, Rush	Hungerford,	Reed,	Willits,
Cole,	James,	Rice, William W.	Wood,
Conger,	Jones, John S.	Roberts,	Wren.
Covert,	Joyce,	Robinson, G. D.	
Cox, Jacob D.	Kelfer,	Sampson,	

NOT VOTING—59.

Achlen,	Denison,	Huntin,	Quinn,
Aiken,	Dwight,	Jones, Frank	Rice, Americas V.
Atkins,	Ellsworth,	Jorgensen,	Robertson,
Benedict,	Ewing,	Knot,	Ross,
Bland,	Freeman,	Lapham,	Schleicher,
Blount,	Gardner,	Lattrell,	Starin,
Brogden,	Giddings,	Lynde,	Stephens,
Burdick,	Hart,	Marsh,	Stewart,
Cabell,	Hayes,	Mayham,	Thornburgh,
Caldwell, W. P.	Hazleton,	Muller,	Tipton,
Candler,	Henkle,	Neal,	Townsend, R. W.
Clafin,	Henry,	Oliver,	Veeder,
Clark, Alvah A.	Herbert,	Powers,	Walker,
Davidson,	Hubbell,	Pridemore,	Warner.
Davis, Joseph J.	Humphrey,	Pugh,	

So the main question was ordered.

During the roll-call the following announcements were made:

Mr. DAVIS, of North Carolina. I am paired with the gentleman from Michigan, Mr. ELLSWORTH. If he were here, I should vote "ay." My colleague, Mr. BROGDEN, is confined to his room by sickness.

Mr. LOCKWOOD. My colleague, Mr. HART, is paired with the gentleman from Iowa, Mr. OLIVER. Mr. HART, if present, would vote "no" and Mr. OLIVER, I think, would vote "ay." My colleague, Mr. BENEDICT, is paired with the gentleman from Iowa, Mr. BURDICK. Mr. BENEDICT would vote "ay" and Mr. BURDICK, I am informed, would vote "no."

Mr. STEELE. Upon all political questions I am paired with the gentleman from Illinois, Mr. HAYES. I do not regard this as a political question; I see nothing of that sort in it. Hence I have voted.

Mr. JONES, of New Hampshire. I am paired on the currency question with the gentleman from Illinois, Mr. TOWNSEND. If he were here, I should vote "no."

Mr. SOUTHARD. My colleague, Mr. RICE, of Ohio, is absent on account of sickness in his family.

Mr. COVERT. My colleague, Mr. MAYHAM, is paired with the gentleman from Wisconsin, Mr. HUMPHREYS. I do not know how either gentleman would vote, if present.

Mr. HERBERT. The gentleman from Florida, Mr. DAVIDSON, is paired with the gentleman from Minnesota, Mr. STEWART.

Mr. EWING. I am paired with my colleague, Mr. GARDNER, on party questions generally. As this seems to be a party vote, I withdraw my vote. If he were present, I should vote "ay."

Mr. FOLLARD. The gentleman from Illinois, Mr. MARSH, is confined at home on account of sickness.

Mr. POWERS. I am paired on all party questions with General Rice, of Ohio.

Mr. BAYNE. The gentleman from New York, Mr. DWIGHT, is paired with my colleague, Mr. BRIDGES. Mr. DWIGHT, if present, would vote "no."

Mr. SMITH, of Pennsylvania. I am paired on all political questions with the gentleman from Tennessee, Mr. ATKINS, who is sick. I do not consider this a political question; and therefore I vote "no."

Mr. BRENTANO. I am paired with the gentleman from New York, Mr. MULLER, on all political questions. Not regarding this as a political question, I vote "no."

Mr. ALDRICH. My colleagues, Judge TIPTON and Mr. TOWNSEND, of Illinois, are paired. If present, Judge TIPTON would undoubtedly vote "no" and Mr. TOWNSEND "ay."

Mr. O'NEILL. My colleague, Mr. FREEMAN, is paired with the gentleman from Tennessee, Mr. CALDWELL. They are both absent on public business. Mr. FREEMAN, if present, would vote "no;" and I presume Mr. CALDWELL would vote "ay."

The result of the vote was announced as above stated.

Mr. CONGER. Has the morning hour expired?

The SPEAKER. The main question has been ordered, which takes the resolution out of the morning hour. The question is now upon the adoption of the resolution.

The resolution was adopted.

Mr. BUCKNER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INTERVIEW WITH SECRETARY OF THE TREASURY.

Mr. EWING. I am instructed by the Committee on Banking and Currency to present a record of an interview between the committee and the Secretary of the Treasury, and to ask that it be printed as a public document.

There was no objection, and it was ordered accordingly.

Mr. EWING. I am also instructed by the committee to ask the adoption of the resolution I send to the Clerk's desk.

Mr. TOWNSEND, of New York. Has not the morning hour expired?

The SPEAKER. It has.

Mr. TOWNSEND, of New York. Then I demand the regular order of business.

HOT SPRINGS, ARKANSAS.

The SPEAKER. The Chair lays before the House a communication from the Senate touching a bill which ought to be acted upon at once.

The Clerk read as follows:

SENATE OF THE UNITED STATES, April 4, 1878.

Ordered. The Secretary be directed to request the House of Representatives to return to the Senate the bill of the Senate 490, supplementary to an act entitled "An act in relation to the Hot Springs reservation, in the State of Arkansas," approved March 3, 1877.

The SPEAKER. If there be no objection, the request of the Senate will be granted and the bill will be returned. Such has been the uniform practice, without exception.

There was no objection, and it was ordered accordingly.

TEMPORARY TREASURY CLERKS, ETC.

The SPEAKER announced the appointment of Mr. DURHAM, Mr. BLOUNT, and Mr. BAKER of Indiana as the conferees on the part of the House upon the disagreeing votes of the two Houses on the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making appropriations for detecting trespass on the public lands and for bringing into market public lands in certain States, and for other purposes.

PERSONAL EXPLANATION.

Mr. EAMES. After the introduction of the resolution by the chairman of the Committee on Banking and Currency, and in the course of the debate on that resolution, I stated on the floor of the House that I did not think it was in accordance with the agreement of that committee. On reflection I desire to state in the presence of the House now that although the proposition as reduced to writing by the chairman of the committee was not the proposition submitted in committee, yet in substance it is like it. The proposition agreed to in committee was that the bill when reported, with the consent of the House, should be assigned as a special order for a certain day; that it should be open to debate for three days, and should be open to amendment before the previous question should be demanded, and then the vote should be taken. The resolution as introduced by the chairman of the committee that this should be considered in the Committee of the Whole is not exactly as was contemplated by the agreement in the Committee on Banking and Currency. The agreement there was that it should be considered in the House. Without thinking at the time that the bill would be open to amendment in the Committee of the Whole, and that therefore, in substance, the resolution is what was agreed upon by the committee, I made the remark I did. I desire now to say that the resolution submitted by the chairman is in substance the agreement which was made when the gentleman was directed to report the bill to the House. I am sorry, for the first time on the floor, to make any kind of personal explanation of anything I have done or said.

ORDER OF BUSINESS.

Mr. CONGER. What is the regular order?

Mr. WOOD. I move the House resolve itself into the Committee of the Whole for the purpose of proceeding with the consideration of the tariff bill; and, pending that, I ask by unanimous consent the House terminate the general debate on that bill on this day week at the termination of the session in the Committee of the Whole.

Mr. EWING. I ask the gentleman to yield to me for a moment.

Mr. WOOD. For what purpose?

Mr. EWING. I ask to have the resolution I introduced read. It will be adopted I am sure by the House without objection. The Committee on Banking and Currency was authorized to take testimony by a resolution adopted two months ago. There are some twenty or thirty persons living in the cities of New York and Philadelphia and we desire to have authority to have them heard before a subcommittee for the purpose of saving the large expense of calling them to Washington. That is the sole purpose of the resolution. I am sure no one in the House will object to it.

Mr. CONGER. Let the resolution be read.

The Clerk read as follows:

Resolved, That in the prosecution of the investigation authorized by the resolution of the House of January 25, 1875, the Committee on Banking and Currency is hereby authorized to examine witnesses by subcommittee in the cities of New York and Philadelphia; and the expenses incurred by the committee in such investigation in said cities shall be paid out of the contingent fund of the House on vouchers approved by the committee.

Mr. REED. I object.

TARIFF BILL.

Mr. KELLEY. I desire to make a suggestion in connection with the proposition of the chairman of the Committee of Ways and Means—

Mr. WOOD. I will state before the gentleman proceeds that I have asked unanimous consent to fix a time to terminate general debate on this bill.

Mr. CONGER. Has the gentleman unanimous consent from the House for that purpose, or only from his committee?

Mr. WOOD. I ask unanimous consent to fix the time at which general debate shall be terminated. It does not interfere with the five-minute debate.

Mr. CONGER. I object.

Mr. KELLEY. I rise for the purpose of objecting to fixing a time for closing debate on this, one of the most intricate and vitally important bills brought to the attention of the House. It is a bill which proposes an entire revision of our tariff system, which affects—

Mr. WOOD. If the gentleman objects, let him do so.

The SPEAKER. And that is the end of it.

Mr. KELLEY. I do object.

Mr. WOOD. I withdraw the latter proposition.

Mr. O'NEILL. As I understand the gentleman's proposition it is to close general debate at a certain time—some day next week.

Mr. WOOD. That was my object.

Mr. O'NEILL. I was going to suggest there should be sessions in the House during the evenings, and then gentlemen who desire to indulge in debate on the tariff bill can make their speeches. They can send them to the people.

We, I think, understand the general question of the tariff. I do not know but the country understands it fully. And I do not see why the time of the House should be taken up in its business hours by the general discussion of the question of the tariff. I hope there will be no time allowed for general discussion except to the chairman and one or two members of the committee; and let the speeches be made at night.

Mr. WOOD rose.

Mr. KELLEY. If the chairman will permit me, I will say that I desire no delay in this matter, but I protest against abridging discussion in this House.

The SPEAKER. The gentleman from New York has withdrawn the motion to limit debate.

Mr. O'NEILL. I think it will answer the purpose if gentlemen have an opportunity to read their speeches at night and send them out to the country.

Mr. WHITE, of Pennsylvania. I dissent entirely from the proposition of my colleague from Philadelphia [Mr. O'NEILL] as to allowing the discussion of this question to proceed at night.

Mr. KELLEY. Just a word further. I want to put myself in proper relations with the chairman of the committee. The bill is a most important one and I want it discussed in the hearing of those who are to pass upon it, and not in the hearing merely of the gentlemen who may have prepared speeches at evening sessions, when all others are discharged from duty by the provision that no business shall be transacted. If this House shall have more important business before it than the discussion and consideration of this bill this session it has more important bills before it than I have heard of.

Mr. O'NEILL. I think the most important business to be transacted in regard to the tariff bill is to vote upon it, and either to pass it or have it out of the way, so that it may not disturb the country any more.

The question being taken on Mr. WOOD's motion, it was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, without amendment, a bill of the House of the following title:

A bill (H. R. No. 1135) to authorize the issue of a patent of certain lands in the Brothertown reservation, in the State of Wisconsin, to the persons selected by the Brothertown Indians.

The message further announced that the Senate had passed, with

amendments in which the concurrence of the House was requested, bills of the House of the following titles:

A bill (H. R. No. 3712) to provide for the erection of a public building in the city of Kansas, in the State of Missouri; and

A bill (H. R. No. 536) for the relief of W. E. Snyder, of Illinois.

The message further announced that the Senate had passed a bill (S. No. 568) to provide for a code of Army regulations; in which the concurrence of the House was requested.

TARIFF BILL.

The House, pursuant to order, resolved itself into Committee of the Whole on the state of the Union, (Mr. SAYLER in the chair.)

The CHAIRMAN. The Clerk will report the title of the bill which is the special order.

The Clerk read as follows:

A bill (H. R. No. 4106) to impose duties upon foreign imports, to promote trade and commerce, to reduce taxation, and for other purposes.

Mr. CONGER. That is not the first bill on the Calendar.

The CHAIRMAN. The Chair will ascertain the order of privileged questions in the Committee of the Whole.

Mr. WOOD. I submit that this is a special order.

The CHAIRMAN. It is; but there may be others.

Mr. BURCHARD. I desire to suggest that it was the order of the House to go into Committee of the Whole to consider this special bill. No objection was made to the motion being put in that way. This is the business on which by order of the House the House has gone into Committee of the Whole.

Mr. CONGER. That will not change the rules of the House. I demand that the bills be taken up in their order according to the rules.

The CHAIRMAN. The Chair desires to ask this question: Did the gentleman from New York ask unanimous consent of the House and was it by unanimous consent that the House resolved itself into Committee of the Whole? If that is so, unquestionably the Committee of the Whole must be governed by that action. Otherwise, the right of an individual member to object cannot be set aside.

Mr. WOOD. Mr. Chairman—

Mr. BURCHARD. Will the gentleman from New York allow me to suggest, in answer to the inquiry of the Chair, that the order of the House made without objection as to the point of order has just the same effect as a unanimous consent changing the rule. When a proposition is submitted to the House and no point of order is made on that proposition, and it is voted upon and becomes the order of the House, it binds the House just as much as a unanimous consent.

Mr. WOOD. Admitting that what was stated by the Chair was not the case, I submit that the last special order governs all the preceding orders and directions of the House. I moved that the House resolve itself into Committee of the Whole upon that particular bill, and the House unanimously, as I believed, adopted that motion.

Mr. O'NEILL. No, sir; not unanimously.

Mr. WOOD. And now it is not competent for the Committee of the Whole to take up any other business until the special order by direction of the House has been considered.

The CHAIRMAN. The Chair will state that his information from the Journal Clerk is that the motion of the gentleman from New York was to go into Committee of the Whole for the consideration of this particular bill. The Chair recognizes that that might have been objected to by any member, but he is informed by the officers of the House that no objection was made, and that the House therefore did resolve itself into the Committee of the Whole for the consideration of this particular bill, without objection, which is of course equivalent to unanimous consent.

Mr. CONGER. Will the Chair allow me to state that the motion was objected to—one part of it, which was withdrawn; and then there was a vote on the remaining part of the motion. There was a vote on going into Committee of the Whole and the vote was nearly even.

The CHAIRMAN. That might have been an objection to going into Committee of the Whole at all, but not an objection to going into it on this particular bill.

Mr. CONGER. I stood here ready to object to any proposition except to one to go into the Committee of the Whole.

Mr. WOOD. There was no division upon that motion. My motion was to go into Committee of the Whole for the purpose of considering the tariff bill.

Mr. HEWITT, of Alabama. The gentleman cannot move to go into Committee of the Whole for a special purpose; there is no such motion known to the rules or practice of the House.

Mr. RANDALL, (the Speaker.) There was no objection to the admission of the motion of the gentleman from New York [Mr. WOOD]; in other words no point of order was raised although there was opposition to the adoption of the motion.

The CHAIRMAN. The Chair thinks that is another question altogether, as the gentleman from Michigan will recognize. If the gentleman from Michigan had raised the point of order upon the motion of the gentleman from New York in the House it might have been good.

Mr. CONGER. I have only this to say, that standing here as I do, and as I intend to stand, to oppose the consideration and passage of this bill in every legitimate and parliamentary manner, that it was not stated so that it was heard by me and those around me that the motion of the gentleman from New York proposed to change the rules

of the House as to the order of business in Committee of the Whole. I ask for the record of the motion. I ask that the Clerk read the record.

The CHAIRMAN. The Chair will look at the record.

Mr. POTTER. While that is being done I want to call the recollection of the gentleman from Michigan to the fact that my colleague moved not only to go into Committee of the Whole to consider the tariff bill, but also moved to limit debate upon it, and subsequently withdrew that motion, so that there can be no question as to what his motion was.

Mr. CONGER. I was ready to make objection, but I supposed that the motion was merely to go into the Committee of the Whole on the state of the Union.

Mr. HEWITT, of Alabama. The motion made by the gentleman from New York [Mr. Wood] was simply to go into Committee of the Whole, and the part added was what lawyers call mere surplusage, because there is no such motion known to parliamentary law here as to go into Committee of the Whole to take up a special bill. That is a violation of the rules.

The CHAIRMAN. The Chair does not desire to be further advised upon this question. He has examined the record. The statement of the Speaker, the record made by the Journal Clerk, and the statement of the record of the House is to the effect that the gentleman from New York did make his motion to go into Committee of the Whole for the consideration of this particular bill. That was not in order if it had been objected to, but no objection was made.

Mr. CONGER. I move that the committee do now rise.

The CHAIRMAN. Objection not having been made, the House acted upon the motion of the gentleman from New York as by unanimous consent.

Mr. CONGER. Then I move that the committee rise.

The CHAIRMAN. The gentleman from New York [Mr. Wood] is entitled to the floor; if he yields for that motion, all right.

Mr. WOOD. I do not.

Mr. CONGER. Then I raise the question of consideration.

The CHAIRMAN. That is not possible; the gentleman from New York is entitled to the floor, and the Chair rules that the gentleman from Michigan is out of order.

Mr. CONGER. The Chair has no right to rule that I am out of order when I raise a point of order. Gentlemen on the floor have as many rights as the occupant of the chair. I raise the point of order that the question of consideration may be raised in Committee of the Whole, and I ask the Chair to decide that question.

The CHAIRMAN. That would be the rule, but the House has determined by unanimous consent to consider this bill. The Chair was inclined to think that the gentleman from Michigan was right until he read the record and understood the facts.

Now the Chair rules that the House having ordered the consideration of this bill, the question of consideration cannot be raised in the committee.

Mr. CONGER. Then I submit that when I ask that the record be read, the Chairman has no right to tell me that he wants to hear nothing further on the question, and that he has read the record.

The CHAIRMAN. Not at all.

Mr. CONGER. The Chair said that he would hear no more and would not allow the record to be read.

The CHAIRMAN. The Chair will direct the record to be read.

Mr. CONGER. I understood the Chair to say that he had read the record.

The CHAIRMAN. The Chair received his information upon that point from the journal clerk.

Mr. CONGER. If the Chair has read the record, the Clerk can read it surely.

The CHAIRMAN. The Clerk will read it now.

Mr. BEEBE. Who is entitled to the floor?

The CHAIRMAN. The gentleman's colleague, [Mr. Wood.]

Mr. CONGER. I ask that the record may be read, and that is my right.

The CHAIRMAN. That is the right of the gentleman from Michigan.

Mr. CARLISLE. How does the gentleman from Michigan have a right to have the record read? It is not before the committee for consideration. I understand that when a proposition is pending before the committee, it is the right of any member to call for its reading; but there is no proposition pending before the committee in reference to the record, it is a question of order addressed to the Chair; and when the Chair has informed himself of the facts, if the gentleman from Michigan disputes them let him say so and show, if he can, that the Chairman is mistaken. But he has no right to call for the reading of the evidence on which the Chairman makes his decision.

The CHAIRMAN. The Chair thinks the gentleman from Michigan is entitled to the same sources of information as the Chair in regard to this question. The record is ready now and will be read.

Mr. CONGER. The "gentleman from Michigan" was aware that the Clerk was busy writing the record, and that it had not been written until now. I will hear it. [Laughter.]

The Clerk read as follows:

Mr. Wood moved that the House resolve itself into the Committee of the Whole

House on the state of the Union for the consideration of the bill of the House No. 4106, the tariff bill; which motion was agreed to.

The CHAIRMAN. The gentleman from New York [Mr. Wood] is entitled to the floor.

Mr. WOOD. Mr. Chairman, in opening this discussion, I do not propose at this time to enter into any explanation of the details of the bill. I assume that when the Committee of the Whole shall progress further in the consideration of the subject, it will be incumbent upon the committee and myself, its feeble representative, to afford such explanations as we may be able to give in reference to the particular articles comprised in the bill reported by the committee. My purpose at this time is rather to state some general propositions which in my judgment underlie all questions appertaining to the revenue, and to recall, if I can, the attention of the House to those higher considerations which should govern this country and indeed all countries on the question of taxation.

The highest power of Government is the power to tax, the power to arbitrarily demand of labor and property a portion of their earnings and possessions—to take by forced levy a proportion of the people's industry, and of the property which it has acquired. This demand upon the people is continuous and unrelenting—it is now and forever—from it there is no escape. So long as men live in organized communities requiring control and direction for the protection of their lives and property, the expenditures incident to the organization and maintenance of this authority must be borne. Therefore when the people have parted with the power to make the levy upon them, to be used at the discretion of those who administer the government for the time being, not only as to the imposition of the tax, but also in its disbursement, this power becomes the highest of all the prerogatives and duties of the state.

Hence, in approaching the consideration of a proper use of this authority, I am not unmindful of its importance. It will be remembered that taxation simply consists in imposing exactions for the support of the Government. It was not designed that any other considerations should enter into the discharge of this trust. The burden, whether great or small, was to be borne by the whole people upon principles of equity and equality. The proper adjusting of taxation so as to avoid oppressions upon the one side, or advantages on the other, has engaged the thoughts of statesmen for many hundred years. Nations have not been governed by any uniform rule in the methods devised. In every country at different periods of its existence different ways have been adopted appropriate to the then existing conditions of its necessities and its internal and external affairs; therefore, in my judgment, it is not necessary to study history and draw from it examples which should govern our own policy in this regard. I have little respect for those thinkers who hold theories and advise their practical application in this country, whether on finance or taxation, who have no other grounds upon which to sustain them than are drawn from the practice of other countries, and in other days. While it is true that there are certain general principles applicable to this subject which it would be well to consider, yet it is equally true that the peculiar circumstances to which the principles are to be applied must after all regulate their value.

The United States has never had a permanently established system by which to procure revenue and to regulate its commerce with other nations. Nor is this singular in view of the fact that we have been undergoing remarkable changes since our national birth. Within the century of our existence the policy that was desirable at one time would have been very unfortunate at another, and at no time have we been so circumstanced until now that we could adopt political economies purely American. That period has arrived. For the first fourth of our century of life we were emerging from a colonial chaotic condition, struggling to cement fraternity among ourselves and to furnish mutual protection against others. The next quarter of the century was devoted to the ascertainment of our resources, and an assertion of our independence upon these seas. The third quarter was distinguished by the expansion of our territory, the acquisition of mineral resources of incalculable value, and a gradual growth of the nation toward becoming a great maritime power. While the last fourth of the century has marked the most extraordinary epoch in our history—distinguished for its extinction of slavery—the greatest civil war of any time, and its consequent demoralization and stimulating effects upon values, and the vicious legislation which of necessity followed. The nation, in consequence, lies weakened and prostrated, and sick almost unto death.

We are now brought face to face with the solemn consideration of the present, and the great duties of the future. Doubtless those who shall write the history of this century hereafter will not fail to discover that in this latter period to which I have referred, comprehending the present time, could be traced the germ of the subsequent national grandeur, wealth, and power, which I now see clearly is, with wisdom in our legislation, susceptible of accomplishment. There is now no pending question which is within itself of sufficient importance to the people to make it worthy of a moment's consideration as compared with that of establishing a policy of international commercial intercourse, connected with a policy of taxation, which shall be wise in its inception, permanent in its character, less onerous in its exactions, and have for its prime object a fuller development of our material resources, and a more profitable

disposition of the fruits of labor, the results of enterprise, and the security and profits of capital.

PRODUCTION AND COMMERCE.

These objects are to be secured by the application of principles in legislation which shall take from labor and capital the minimum of taxation with a maximum of advantage in return, by economy in administration, and the fullest possible development of the resources of the country, from which both production and commerce shall derive an equal, honest, and legitimate advantage in the prosecution of their industries.

The fundamental basis upon which our legislation to promote these objects should rest, is that production and commerce are twin sisters, and should go hand in hand—that one is indispensable to the other. There can be no antagonism between them. Production must have commerce, and commerce must have production. While it may be true that the present cost of internal transit in this country has imposed and does impose an undue burden upon production, arising altogether from a monopoly of the power of transmission, yet this will not be the case either upon the land or the ocean if in our new departure we shall adopt enlightened principles.

The levying the duties upon foreign goods and direct taxes upon domestic goods and interests may be considered not only as questions of revenue, but also as susceptible of being made the methods by which all interests can be subserved and the national resources more fully utilized. If the authority to impose taxes can be used to advantage one class, is it not well for us to consider whether it cannot be used as well for all? not only to promote the home industries, but to advance the prosperity of all sections and every enterprise, whether commercial, agricultural, mechanical, or manufacturing.

While unquestionably the power to tax if confined to its legitimate object is restricted to that duty alone, yet if it can be made an instrument so as to combine other objects not inconsistent with just and equal taxation, by which the whole nation, as well the people as individuals, shall be alike advantaged, then is it not our duty to adopt it? To this end we should connect with our system a more enlarged and comprehensive scheme than that which now exists.

With a larger seaboard than any other nation, and with material resources in excess of our capacity of consumption, we must encourage and promote the adoption of such relations with other nations as will open up the markets of the world, and make the whole universe contribute to our prosperity.

But the further development of our material resources will avail us little if commerce does not stand by to utilize the results. The large surplus yield of our agriculture would be of trifling value if it could not be carried to other consumers than those who produce it. The same principle applies to manufactures and minerals. We should therefore adopt a policy which shall create facilities purely American for the transmission of the excess over our own consumption to foreign buyers and consumers. Nor will this be the only advantage of such a policy. It will lead to a larger interchange of commodities between other nations and ourselves, in which we will be the gainers. We shall take from them the articles which our soil or climate will not enable us to produce, and return them back in manufactured form, thus deriving profit from our superior capacity, energy, or ingenuity. It is our chief boast as a people that in intelligence, industry, and enterprise we are second to none, and certainly we cannot hesitate to enter the race for supremacy with any other people where these qualities are requisite for success. There is indeed no one of the departments of human labor in which we hesitate to claim superiority, and believe we can maintain it if a fair opening be afforded to an equal footing with others.

Before proceeding to consider how best to avail ourselves of these advantages by legislation, it may be well to look at the laws as they now exist and to see in what regard the present tariff operates as an obstruction to the enlargement of our foreign trade. I approach the subject with a full appreciation of the difficulties attending any change, however desirable it might be.

From July 4, 1789, when the first tariff law was enacted, until 1876, there were passed one hundred and twenty-eight laws in relation to the levying and collection of duties. In the law as it now stands are many of the provisions of statutes passed over fifty years ago; some in the language as originally passed which yet remains, others have been modified and amended and consequently exist in part. The revision of the revenue laws in 1874, instead of simplifying and consolidating the then existing statutes, served rather to complicate, confuse, and add in many respects to the previously existing difficulties. But this was not the greatest objection to that revision. It actually changed many of the rates levied as duties, though purporting to be only a codification of those already established by law. The laws as they now exist are mainly the creation of the last fifteen years. Within the period from 1861 to 1876 were passed one hundred and eight laws relating to the tariff and the collection of duties. Nearly every one of these acts was the creation of some special domestic interest or to subserve some partisan purpose.

The present tariff laws are subject to the following objections: First. They comprise twenty-one hundred and seventy-two articles, each subject to duty or to official examination at ports of entry.

Second. The dutiable articles are in many cases subject to compound duties; that is, the ad valorem and the specific combined in the same article.

The following table, furnished by the Bureau of Statistics, states this in detail:

The number of articles paying ad valorem, specific, and compound rates of duty, embraced in schedules A to M, both inclusive, also number of articles admitted free of duty, under the Revised Statutes of the United States, approved June 22, 1874, (paragraphs from 921 to 1895, both inclusive, Heyl's tariff.)

Number paying ad valorem rates.....	923
Number paying specific rates.....	541
Number paying compound rates.....	169
Total dutiable.....	1,534
Number free of duty.....	645
Total free and dutiable.....	2,179

Third. Their ambiguity of language and doubt as to construction, and the complex rates of duty, tend to litigation, loss of revenue, and injury to the importer.

There are now pending in the United States circuit court of New York nearly three thousand cases arising out of the tariff laws and on the present calendar of the Supreme Court there are a large number yet undetermined.

Fourth. They have the effect to increase the duty levied in an inverse ratio to the value of the merchandise; thus the luxuries of the rich are less highly taxed than the necessities of the poor.

Fifth. Their high rates encourage fraud by undervaluations of invoices and other evasions, and also smuggling, thus inducing perjury and other kindred crimes.

The enormous frauds on the revenue in consequence of the high protective character of the rates of duty are beyond estimate. Intelligent officers of the customs have placed the amount of loss to the Treasury as high as 20 per cent. of the total sum collected.

A statistician of the custom-house estimates that of silk alone, imported into this country, "there was, either by direct smuggling or by undervaluation, at least five or six million dollars a year, perhaps seven millions, (out of thirty-five millions,) which paid no duty." One of the examiners estimated the loss to the Government by undervaluations at from three to five millions a year. Another witness spoke of the silk smuggling during late years as "prodigious," and the United States civil-service commission, in their report of 1871, looking at the general loss of revenue, remarked: "It is calculated by those who have made a careful study of all the facts that one-fourth of the revenues of the United States is annually lost on the collection." (Forty-second Congress, second session, Executive Document No. 10.)

Sixth. On many articles the duty is made altogether prohibitory, or so high as to yield but little revenue, while upon the whole they operate so as to enhance the price of any imported article, which, as a consequence, enhances the cost to the consumer of any domestic-made like article.

Seventh. Thus a loss of revenue follows, which causes the necessity of imposing additional taxation in other ways so as to make up the deficit in the Treasury.

Eighth. The large, complicated, and cumbersome machinery required in its administration is made the pretext for the employment of a great number of subordinate officials, who in general are partisan retainers, with little work, but great opportunities for profit.

Ninth. The expense of collection is equal to about 5 per cent. upon the sum collected, which, if added to the loss by collection and false valuations upon which duty is assessed, would be equivalent to the ordinary expenses of the whole Treasury Department if administered upon an economical basis.

By the following table this expense is shown from 1872 to 1876 inclusive.

Expenses of collecting the revenue from customs for the five fiscal years ending June 30, 1876.

Year.	Customs proper.	Revenue cutters.	Total.
1872.....	\$6,950,189 81	\$1,078,511 81	\$8,028,701 62
1873.....	7,079,743 42	1,133,901 37	8,213,644 79
1874.....	7,319,918 55	1,106,558 62	8,426,477 17
1875.....	7,028,521 80	986,093 66	8,014,615 46
1876.....	6,704,858 09	897,835 85	7,602,693 94

Average per annum, \$8,057,996 59.

In short, the evils of the present tariff laws are so outrageous that it is difficult to speak of them with patience. They are the results of a series of assaults through legislation upon the pockets and labor of the people. They are immoral in theory, utterly indefensible in practice, and without any merits upon which their most ingenious and well-paid beneficiaries can maintain their defense. And yet we do not propose to deal with them as their demerits deserve. I recognize an implied moral right to a little longer continuation of the favor which they afford to the manufacturing interests. The bill reported affects them, so far as the rates of duties are concerned, but little. Its reductions are trifling as compared to what they should be, and in my opinion they could well afford to bear. If I had the power to commence *de novo* I should reduce the duties 50 per cent. instead of less than 15 per cent. upon an average, as now proposed.

To specify fully the evils following the present protective system would be impossible, and I will furnish but one example showing its effect upon the agricultural industries:

THE FARMER AND THE TARIFF.

The farmer, whose whole mind is bent on his agricultural pursuits, has neither the time nor opportunity to investigate the influence of the tariff tax on his household expenses; it is a fact, however, that every article he uses is either directly subject to a tariff tax or enhanced by the tariff. Let us enumerate these burdens: the farmer's house in the West, where lumber is scarce, pays either a direct or enhanced tax of 20 per cent. on the lumber his house is built of; a tax of 35 per cent. on the paint it is painted with; of 90 per cent. on his window-glass; of 35 per cent. on the nails; of 53 per cent. on the screws; of 30 per cent. on the door-locks; of from 35 to 40 per cent. on the hinges; of 35 per cent. on the wall-paper; of from 60 to 70 per cent. on his carpet; of 40 per cent. on his crockery; of 38 per cent. on his iron hollow-ware; of 35 per cent. on his cutlery; 40 per cent. on his glassware; of from 35 per cent. to 40 per cent. on the linen he uses in the household; of 51 per cent. on the common castile soap he uses; 48 per cent. on the starch. When he goes into his stable, barn, or workshop he will find that he pays 35 per cent. on the iron he uses; 53 per cent. on the halter-chains; 45 per cent. on the files and rasps he may use; 47 per cent. on the backsaw; 49 per cent. on cross-cut saw; 38 per cent. on the handsaw, and 35 per cent. on any sheet-iron he may require. On his medicines he pays 20 per cent.; on the quinine pills he swallows, 20 per cent.; on blue-pills, 40 per cent., and 40 per cent. on any medicinal preparations. The female portion of his house cannot even go into hysteria without paying a tax of 20 per cent. on asafetida that may be required to quiet their excited nerves. On his sugar he pays a tax of at least 60 per cent. As for the clothing he and his family uses, let me enumerate the tax separately: on his wool hat he pays from 60 to 80 per cent.; on his fur hat, from 45 to 60 per cent.; on his suit of woolen clothes, some 55 per cent.; on the leather for his boots and shoes, 25 per cent.; on his hosiery, 35 per cent.; on his wife's and daughter's common alpaca dress he pays 65 to 70 per cent.; on spool-thread, 70 per cent., and on the needles, 35 per cent. If I were inclined to pursue these topics further it would take up too much time; suffice it to say that the furnishing of his child's cradle and the coffin in which he is finally buried pay a direct tax or are enhanced in price by our tariff system.

The committee has not undertaken to reform all the abuses of the present tariff. Though fully conscious of the necessity of effecting many radical changes sooner or later, we were content with a simplification of methods of assessing the duties, changing the phraseology, so as to avoid ambiguity and doubt as to the proper duty to be levied, a large curtailment in the number of articles to be assessed for duty, and ingrafting upon the law important provisions looking to a more liberal commercial intercourse with foreign nations.

The changes proposed are designed to be the foundation for a permanent measure, comprehending new principles and a lopping off of the complications and contradictions now existing in the present laws.

The bill reported has but one list so called, and that is the dutiable one. It has no compound rates, the duties being either ad valorem or specific, and the latter as far as practicable. It comprises two hundred and forty-seven classes of articles, and five hundred and seventy-five articles against the large number comprised in the present law. It has no free list as such; all articles not enumerated and specifically named are to be admitted free. In lieu of the duties now levied upon the cost and charges added to the original cost or value of the articles imported at place of production or export, which has been the source of so much litigation between the Government and the importers, the bill fixes an allowance of 5 per cent., equally applicable to all merchandise coming in under the ad valorem principle. It levies a discriminating duty of 10 per cent. additional upon all merchandise imported from and the growth and production of any country which discriminates against the United States in the admission of our products to their ports.

This provision is not intended as retaliatory, but is designed as an inducement to those foreign countries whose treaty stipulations prefer other nations to our own to make commercial regulations with us which shall place us upon an equally favorable footing. The bill in this, and in its general scope and tenor, looks to an enlargement of our foreign commerce, not only in its navigation, but also in facilities for the profitable sale of American-grown products of every character. Another and important provision is that which proposes to establish manufacturing bonded warehouses, and the benefit of drawback upon all exported goods containing any foreign material subject to duty. It is designed to encourage the exportation of American manufactured products of every character, by affording them the raw material free of duty, so that they can compete with any other like manufactures in the markets of the world. We believe that it is only necessary to afford our people an equal chance with all others in order to prove to foreign nations that we are equal if not superior to them in our manufactures. The bill will materially reduce the cost of collecting the customs revenue. The official report of the Secretary of the Treasury for 1877 (page 4) gives the cost of collecting the revenue from customs as \$6,501,037.57. I may safely claim that the simplification, together with the curtailment of the number of dutiable articles and the abolition of the free list, will reduce this sum at least 15 per cent.

Another considerable saving will be gained in the authority given to the Secretary of the Treasury to consolidate the collection districts, now the source of a large and unnecessary outlay; many of them are

kept up at several thousand dollars' expense without producing any return whatever in the way of duties collected. I estimate the saving in these two items at 20 per cent., which will be equivalent to \$1,300,000.

Some apprehensions have been entertained that the reduced rates proposed will cause a loss of revenue. There is no necessity for fear on this account. The removal of the ambiguities of the present tariff and the easy and speedy liquidation of entries which will follow will operate as much to increase the importations as the proposed reduced rates will cause loss of revenue.

The many obstructions now existing in entering goods at the custom-houses and of speedily ascertaining the amount of duty to be paid will under the new system be very much if not altogether removed.

A merchant will know in advance the exact amount of duty to be paid, which will facilitate commerce and the Government will collect the duty without delay or litigation. Those who are not familiar with the present machinery used in the collection of duties will be slow to believe the great losses to the Treasury which are constantly occurring in consequence. It has been estimated that the Government loses from 10 to 15 per cent. of the amount it should collect.

The losses occurring by evasions of the law, collusion with officials, and smuggling will, if the reforms proposed be carried out, be much lessened, and the opportunity for frauds and the demoralizing effect upon Government officers prevented.

But to leave no doubt as to the amount of revenue to be collected under the bill, I append a carefully prepared estimate based upon the average importations of value and quantities for the past eight years:

Estimated revenue under the proposed tariff.

Articles.	Estimated consumption.	Average rate, calculated in ad valorem.	Estimated revenue.
Schedule A. Cotton goods and cotton fabrics.....	\$30,000,000	28 %	\$5,600,000
Schedule B. Earthenware, glass, and glassware.....	9,000,000	40 %	3,600,000
Schedule C. Hemp, flax, and manufactures.....	25,000,000 (See note a.)	26.30 %	6,500,000 6,394,000
Schedule D. Spirits and wines.....	\$15,000,000	32 %	4,800,000
Schedule E. Iron and steel and manufactures of.....	12,000,000 (See note b.)	26 %	3,120,000 3,000,000
Schedule F. Metals, tin plates, lead, &c., not changed.....	1,600,000,000 lbs.	2.76 75c	44,280,000
Schedule G. Sugars.....	37,000,000 galls.	6c.	2,312,000
Schedule H. Molasses.....	\$25,000,000	45 %	11,250,000
Schedule I. Silks.....	(See note c.)		1,317,505
Schedule J. Spices.....	\$6,000,000	15 %	4,395,333
Schedule K. Tobacco and cigars.....	45,000,000	43 %	900,000
Schedule L. Wool and woollens.....	60,000,000	30 %	18,000,000
Schedule M. Sundries.....			
Additional dutiable amounts arising out of 5 per cent. for transit charges and commissions as in section 2 of the bill, being 5 per cent. on all values of goods paying an ad valorem duty, estimated at \$300,000,000.....	10,000,000	35 %	3,500,000
On merchandise from countries that have discriminating duties against the United States:			
Estimated amount of goods consumed, \$40,000,000.....			
Estimated average duty, 40 per cent., which gives 10 per cent. additional duty on \$16,000,000.....			1,600,000
Saving in collection of duties 20 per cent. on \$6,500,000.....			1,300,000
Actual revenue, 1877.....			141,069,139
Gain by new bill.....			150,956,493
			10,112,645

(a) SCHEDULE D.—SPIRITS AND WINES.

The alterations in the tariff on still wines in this schedule, if based upon the estimated consumption of last year, would yield a revenue of \$2,150,000, or \$48,000 more than last year.

The calculation of revenue under the new tariff on still wines is based as follows:

	Gallons.
Still wines paying 40 cents duty.....	3,500,000
Still wines paying 75 cents duty.....	600,000
Still wines paying \$1.50 duty.....	200,000

This schedule comprises the sparkling wines, brandies, and spirits, &c., which will produce the revenue estimated.

(b) SCHEDULE F.—PROVISIONS.

No changes having been made in this schedule, the revenue in 1877 was \$2,963,440. It is therefore safe to assume that the revenue will not decrease, and that \$3,000,000 is a fair estimate.

(c) SCHEDULE L.—SPICES.

The revenue from spices in 1877 amounts to \$230,779. The increase of duty under the new bill, estimated on the consumption of 1877, will produce a revenue of \$1,317,305. Prepared ginger, included in the schedule, producing \$102,969, is under the old tariff included in schedule M.

(d.) SCHEDULE J.—TOBACCO AND CIGARS.

The consumption of tobacco in 1877 has been 7,036,910 pounds, which is about the average consumption during the last eight years.

The consumption of foreign cigars during the last eight years has been 5,801,810 pounds, which gives an average of 725,236 pounds per annum. The consumption last year, therefore, of 589,198 pounds has been exceedingly low, yet the estimates made are nevertheless upon this low and moderate consumption of 1877. The yield from cigars under the new tariff will give \$1,853,193, or some \$32,000 more than last year.

TREASURY DEPARTMENT, BUREAU OF STATISTICS.

January 21, 1878.

Statement of the average ad valorem rate of duty per schedule of the articles enumerated in "Appendix B," as prepared by Joseph S. Moore, of the New York custom-house.

(The calculations are based on the consumption of the articles for the fiscal year 1877.)

	Per cent.
Schedule A. Cotton and cotton goods	53.56
Schedule B. Earthen and earthenware	49.25
Schedule C. Hemp, jute, and flax goods	31.87
Schedule D. Liquors	85.66
Schedule E. Metals	29.52
Schedule F. Provisions	32.19
Schedule G. Sugars	45.72
Schedule H. Silks and silk goods	58.85
Schedule I. Spices	46.60
Schedule J. Tobacco	76.11
Schedule K. Wood	21.69
Schedule L. Wools and woolen goods	60.49
Schedule M. Sundries	29.42
Average rate upon the whole, 43.84 per cent.	

EDWARD YOUNG,
Chief of Bureau.

Hon. FERNANDO WOOD, M. C.,
Chairman of Committee of Ways and Means,
House of Representatives.

Comparative statement of ad valorem under present and proposed law.

Articles.	Present.	Proposed.
Schedule A. Cotton and cotton goods	53.56	22.00
Schedule B. Earthen and earthenware	49.25	40.00
Schedule C. Hemp, jute, and flax goods	31.87	26.39
Schedule D. Liquors	85.66	90.00
Schedule E. Metals	29.52	* 32.00
Schedule F. Provisions	32.19	† 26.00
Schedule G. Sugars	45.72	‡ 2.76
Schedule H. Silks and silk goods	58.85	§ 6.25
Schedule I. Spices	46.60	45.00
Schedule J. Tobacco and cigars	76.11	77.11
Schedule K. Wood	21.69	15.00
Schedule L. Wools and woolen goods	60.49	43.00
Schedule M. Sundries	29.42	30.00

* Iron and steel. † Other metals. ‡ Sugar, per pound. § Molasses, per gallon.

REVENUE NECESSITIES.

The Secretary of the Treasury, in his annual report before quoted, estimates the total requirements of the Treasury for the present fiscal year ending June 30, 1878, to be \$232,430,643.72 and for the fiscal year ending June 30, 1879, to be \$240,688,796.38, which, less a deduction of \$11,000,000 by reduction in estimates and \$37,196,045.04 for the sinking fund, will leave \$222,492,751.34. These estimates, though doubtless in excess of the sums that Congress will grant, may be taken as the maximum amounts which will be required for each of the periods stated. To meet these disbursements the Secretary anticipates the following revenues, namely, for 1878, \$265,500,000, and, for 1879, \$269,250,000. In the disbursements the Secretary does not include any sum for the sinking fund, though he refers to this as probably to be provided for. I think it is time that this myth of an expenditure should be either altogether abolished or held in abeyance until the tax-payers of the country get the benefit of their overpayments to the sinking fund on this account.

SINKING FUND.

In estimating the necessities of the Treasury, I purposely omit any contribution to the sinking fund. There is not the least obligation upon the part of the Government to go further in that direction than it has already gone. Neither in law nor equity, nor on any ground of public policy are we obliged to sink another dollar in that fund for at least eight years to come. As this question begins to attract attention, it may be well to give a brief history of sinking funds in England, as well as in the United States. In the latter part of the eighteenth century Dr. Price, a leading mathematician of England, published a series of papers on sinking funds, in which he showed the enormous production of money at compound interest, and this after all is the underlying principle of the sinking-fund theory.

These theories were adopted by Mr. Pitt in his resolutions of March 29, 1786, on which occasion he said: "Upon the deliberation of this day the people of England place all their hopes of a full return of prosperity." (Parl. History xxvi, 1295, 1313, 1109;) and no doubt he fully believed this, as did a majority of the people of England. He carried his point, and a sinking fund was established of a million sterling a year, (act of Parliament of May 26, 1786,) subsequently increased by two hundred thousand sterling per annum, and providing for a third addition in these words, "that whenever in future any

sums should be raised by loans * * * a sum equal to 1 per cent. on the stock created by such loans should be issued out of the produce of the consolidated fund (revenues) quarterly, to be placed to the account of the commissioner," but by these acts the aggregate of the sinking fund was limited, (32 George III, ch. 69, 1792.)

Under these two acts the fund was managed until 1802, and as immense sums were borrowed to carry on the war with Napoleon, it grew with great rapidity. In this year an act was passed (Parl. Hist. xxxvi, 890,892) enacting "that this fund (the sinking fund) should accumulate till the whole existing redeemable annuities should be paid off," and the "one-million fund," "two-million-pound fund," and "1 per cent. fund" were combined into one "consolidated fund" which it was estimated would pay off the debt in forty-five years.

Under these three acts the sinking fund continued to be administered until 1813, when its annual income was £15,500,000 sterling, and the debts which it had discharged from 1786 to 1813, a period of twenty-seven years, amounted to £238,231,000. (See Paehrer's tables 153, 154, 246; Parl. papers 1822, &c., 145; Porter's Parl. tables i, 1 Colquhoun, 292, 294.) But during the period from 1792 to 1815 the government had borrowed £585,000,000, or over double the amount of the sinking fund.

In 1813 the thinking English public began to see that the sinking fund was a mere juggle with figures, and that no amount of mere financial operations can mend either national or individual fortunes. These ideas soon spread to the legislature, and then began the gradual inroad upon this fund which ended in its final extinction in 1832.

These inroads were accelerated and encouraged by the nation's demand for relief from the burdens of taxation, and the leaders soon found it popular to reduce these burdens by supplying the deficiency from this fund.

If instead of doing this they had reduced expenditures and canceled the debt then in the hands of the commissioners £238,000,000 sterling of their debt would have been wiped out and £15,500,000 of expenditures would have disappeared as if by magic. But reduction of expenditures was not popular, and the English leaders found it easier to supply the deficiencies occasioned by reductions in taxation by encroaching upon this fund; and this encroachment, gradually continued as I have before said, finally resulted in its extinguishment, but not before a law had been passed (July 11, 1828, 10 George IV, chapter 27) providing that "the amount of the sinking fund be the actual surplus of the revenues over the expenditures."

From that day to this England has continued to increase in wealth and prosperity. Her 3 per cent. consols, an absolutely irredeemable debt, are quoted to-day at from 93 per cent. to 94 per cent. in the London market. Her debt, which at the close of the French war was \$4,200,000,000, is now \$3,700,000,000, showing that in a period of not quite fifty years she has only succeeded in reducing her debt \$500,000,000, a less amount than we have paid off in one-fifth of that time. And she has never since had a sinking fund, the only reduction of her debt arising from the application of the surplus revenue to its purchase.

The debt of the United States at the close of the revolutionary war, or, rather, the amount funded and unfunded at the commencement of the present Government, is stated by Hamilton (report, 1800) at a little over \$75,000,000. By the act of August 12, 1790, provision was made for a sinking fund, to be managed, with the approbation of the President, by the Vice-President, Chief-Justice, Secretary of State, Secretary of the Treasury, and the Attorney-General, as a commission for that purpose. This fund was constituted, first, of the surplus of the duties on imports and tonnage, to the end of 1790; second, the proceeds of a loan of \$2,000,000, to be borrowed for that purpose; third, the interest on the public debt, purchased, redeemed, or paid into the Treasury, together with the surplus, if any, of moneys appropriated for interest. Subsequent acts added to the funds for this purpose, enlarged the scope of the duties of the commission, and somewhat varied its plans, but it substantially continued its operations until the public debt was either purchased, redeemed, or provided for, and on the 6th of February, 1836, the commissioners reported their labors ended and recommended that the sinking fund and its commissioners should be discontinued. This is the only finally successful sinking-fund operation upon record, but I have not been able to find any statement showing its operations, as a whole, nor have I been able to ascertain the probable expense of its management. It is safe to say, however, that this expense was not inconsiderable as compared with the amount of debt to be managed, and in this respect our present sinking fund, as amended by the act of July 14, 1870, is an improvement upon any plan heretofore tried either in this country or England, since it is merely an account upon our Treasury books instead of an actual fund in the hands of commissioners. Further than this, so much of the debt as has been actually redeemed ceases forever, and the charge upon the revenues for interest account is permanently reduced; this latter, however, only apparently, since we have retained as a basis of our annual appropriations to the sinking fund not only all this interest but in addition thereto compound interest at the same rate. This is the objectionable feature of the sinking-fund law as it now exists; that the amount to be provided for it annually is indefinite and uncertain, depending upon the computations of clerks for its sum, and without a clearly specified basis or rate even for that. The true sinking fund is a permanent appropriation of a definite sum each year, be that great or small, and the

making of it a sacred charge upon the coin revenues next after the interest upon the public debt.

But however theories may be started or figures made to prove them, a provision for a sinking fund must in the end simply amount to a measure for continuing a high rate of taxation, or, on the other hand, a reduction of expenditures by which a surplus over and above the other necessary objects of expenditure is provided, which will amount to the sum required for this fund. It means nothing more nor less than a specific knowledge of the expenditures of the nation in detail, and then the levying of a tax that will produce enough to meet these expenditures. Any sinking fund is a mere device, and amounts to nothing unless a revenue is provided in some way to meet it. This done, let the amount be applied in monthly installments to the purchase or redemption of so much of the debt as it will buy or redeem, and stop the interest.

There is no question of the growth of money at compound interest, but this can only be applied as between debtor and creditor. It is absurd and childish for a nation to undertake its application in its dealings with itself. It is like taking money from one pocket and putting it into the other, and every time you do it making an entry in your cash-book. It merely adds the cost of management to the interest charge. If you have the money, pay your debt and stop the interest is the only wise plan for nations as well as individuals. The present sinking fund was created under the act of February 25, 1862, section 5, as follows:

Sec. 5. *And be it further enacted*, That all duties on imported goods shall be paid in coin, or in notes payable on demand heretofore authorized to be issued and by law receivable in payment of public dues, and the coin so paid shall be set apart as a special fund, and shall be applied as follows:

First. To the payment in coin of the interest on the bonds and notes of the United States.

Second. To the purchase or payment of 1 per cent. of the entire debt of the United States, to be made within each fiscal year after the 1st day of July, 1862, which is to be set apart as a sinking fund, and the interest of which shall in like manner be applied to the purchase or payment of the public debt, as the Secretary of the Treasury shall from time to time direct.

Third. The residue thereof to be paid into the Treasury of the United States.

At the passage of this act Salmon P. Chase, afterward Chief-Justice of the United States, was Secretary of the Treasury. He disregarded it. During his service as Secretary of the Treasury he never paid one dollar into the sinking fund. He was succeeded by Mr. Fessenden, of Maine. Mr. Fessenden had been a member of both Houses of Congress. I had the honor of serving with him on this floor as far back as 1841. He was chairman of the Finance Committee of the Senate, and drew that act and reported it to the Senate—or rather that feature of the act. He disregarded it. Mr. Fessenden never while Secretary of the Treasury paid one dollar into the sinking fund. He was succeeded by Mr. McCulloch. He disregarded it. During those three administrations of the Treasury Department, although the sinking fund was created in February, 1862, not one dollar was taken from the revenues of the country for this purpose. It was not until Mr. Boutwell became Secretary was there any notice taken of it. He went into the market and bought the bonds at a premium, in order to get the benefit of a so-called reduction of the public debt. In 1875 in this House I took up this subject and declared that we were adopting a wrong policy in this regard; that it was almost criminal to continue the then present rate of taxation merely for the purpose of contributing toward this myth of an expenditure, and I showed that had every Secretary from the passage of the act down made his annual contribution then we were in excess of about \$145,000,000 paid into the sinking fund more than we need to have done under the law.

Secretary Morrill following up what I had begun in 1875, in his annual report for the year 1876, dated December 4, takes the same ground. He refers to the sinking fund in these words:

By the terms of the act of February 25, 1862, it was provided that, after the 1st day of July, 1862, 1 per cent. of the entire debt of the United States should be purchased or paid within each fiscal year, to be set apart as a sinking fund; also, that the interest on said fund should in like manner be applied to the purchase or payment of the debt. The sixth section of the act of July 14, 1870, also required that, in addition to other amounts to be applied to the redemption or payment of the public debt, an amount equal to the interest on all bonds belonging to the aforesaid sinking fund should be applied to the payment of the public debt.

From the time when the act first named was to go into effect, until August 31, 1868, the demands upon the Treasury for expenses incident to the war were greatly in excess of the revenues of the Government, and therefore there was no surplus income which could be applied to the extinguishment of the debt or the creation of a sinking fund, and consequently the law providing for that fund was during that period necessarily rendered inoperative.

It will be noticed that the statute contemplated that a certain sum should be applied within each fiscal year to the account of the sinking fund. If the resources of the Treasury during each fiscal year, commencing with July, 1862, had been sufficient to have made a literal compliance with the conditions of the law practicable, the account would at the close of the last fiscal year have appeared upon the books of the Department as follows:

Amount for fiscal year 1863.....	\$5,556,969 97
Amount for fiscal year 1864.....	12,184,090 52
Amount for fiscal year 1865.....	20,233,683 45
Amount for fiscal year 1866.....	30,490,767 15
Amount for fiscal year 1867.....	33,080,531 88
Amount for fiscal year 1868.....	33,736,306 85
Amount for fiscal year 1869.....	34,638,937 03
Amount for fiscal year 1870.....	35,959,651 99
Amount for fiscal year 1871.....	36,370,257 59
Amount for fiscal year 1872.....	36,507,573 43
Amount for fiscal year 1873.....	36,830,924 80
Amount for fiscal year 1874.....	38,012,930 63
Amount for fiscal year 1875.....	39,536,019 66
Amount for fiscal year 1876.....	40,681,351 02
Grand total.....	433,848,215 37

On the 31st of August, 1865, the public debt, as represented upon the books of the Department and shown by the public-debt statement, reached its highest point, namely:

Debt, less bonds issued to the various Pacific Railroad Companies and less cash in the Treasury..... \$2,756,431,571 43
On June 30, 1876, the debt, including accrued interest, less bonds issued to the Pacific Railroad Companies and less cash in the Treasury, was..... 2,099,439,344 99

Reduction of the debt..... 656,992,226 44

The terms of the law of February 25, 1862, required by the operations of a sinking-fund account that the public debt should be reduced in the sum of \$433,848,215.37 between July 1, 1862, and the close of the last fiscal year. A reduction has been effected during that period of \$656,992,226.44, or \$223,144,011.07 more than was absolutely required.

It can therefore be said, as a matter of fact, that all of the pledges and obligations of the Government to make provision for the sinking fund and the cancellation of the public debt have been fully met and carried out.

The following, from Secretary Sherman's report, appears to sustain this position:

In the last annual report (page x) my predecessor stated that had the resources of the Treasury during each fiscal year, commencing with 1862, been sufficient to make a literal compliance with the conditions of the sinking-fund law practicable, a total of \$433,848,215.37 would have been applied to that fund July 1, 1876, whereas the actual reduction of the debt, including accrued interest, less cash in the Treasury at that date, amounted to \$656,992,226.44. On the same basis the amount in the sinking fund would have reached \$475,318,888.78 on the 1st July, 1877, on which date the reduction of the debt, including accrued interest, less cash in the Treasury, since its highest point in 1865, amounted to \$696,273,345.17, or \$220,954,459.39 in excess of the amount required by law to be provided for that fund.

I do not think, therefore, with this authority of two Secretaries of the Treasury, and these figures, which cannot be disputed, together with the additional fact that the public credit of the United States stands as high if not higher than that of any other nation, there can be necessity for maintaining the present taxation for such objects. No government in the world owes so little in proportion to its resources as ours. Our consols stand with the first on the London Exchange and the Paris Bourse. We can borrow at as low a rate of interest, if we make the bond long enough, as can England, the credit of which is the best in Europe. Therefore we should provide only for the amount required for the actual living expenditures, which taken as a basis of estimate as stated by Mr. Sherman will be an average of about \$230,000,000 per annum, if we include the reduction in interest arising in consequence of the final conversion of the five-twenties into the four percents.

This, therefore, may be considered as the fair average annual expenditure of the Government for a series of years, and it is necessary to provide for it beyond hazard or contingency.

The total revenues for the year ending June 30, 1877, were..... \$369,000,566 02
The revenues for the first three quarters of the present fiscal year ending April 1, instant, per data furnished by the Secretary of the Treasury, is, (see Appendix A.):

From imports..... \$99,075,729 89
From internal revenue..... 80,198,300 40
Estimated from miscellaneous sources..... 14,560,204 04
Estimating remaining quarter..... 64,611,441 11

Whole revenue..... 258,445,765 44

Estimate by the Secretary for the year ending June 30, 1879..... 269,250,000 00

There can be no doubt that with the least revival in trade the receipts after this year will be increased. The average receipts will be about \$270,000,000 per annum; if there is no return of prosperity an excess of revenue over expenditures of about \$40,000,000. This statement I deem a sufficient guarantee to the Government creditors that their security is in no way endangered by omission to pay into the sinking fund, as it is also encouraging to the people to hope that a reduction in taxation can be made without any detriment to the public interest.

This apparent surplus revenue should be met by a corresponding reduction in taxation and in expenditures. It is our duty to forego appropriations not absolutely required, so that the burden of the people may be lightened to the lowest possible minimum. The reductions proposed in the present tariff will afford much relief, and, as I have shown, without injury to the Treasury. A corresponding reduction can be made in direct taxes, and yet sufficient revenue can be relied upon to meet the interest upon the public debt and defray all the necessary expenses of administration, if conducted upon a like scale of economy, as the tax-payers are now compelled to apply to their own individual affairs.

MANUFACTURERS.

The principal opposition to a change in the tariff emanates from the friends of extreme protection to the manufacturing interests.

Whatever may have been the excuse originally for the governmental bounty to the then infant manufacturers, it does not now exist and should not be continued, because the necessity for it no longer remains. They have reached so high a degree of excellence and grown so strong that they not only need not fear foreign competition here but are able to maintain themselves in other countries against any opposition or rivalry there. This is the fact, especially with regard to the leading and the most protected interests. The iron and steel, the woolen, the cotton, and the silk productions of the United States are now forcing themselves into foreign markets by no other aid than their own superiority and conceded merit.

IRON AND STEEL.

Much alarm has been excited in some parts of the Union by an undue apprehension that great injury to the iron and steel manufact-

urers would follow any change in the tariff. The iron and steel interests have been especially referred to as those which would be ruined by any interference whatever. I think upon a careful examination of the bill, so far as it affects this industry, these apprehensions will cease. The average reduction in rates in the metal schedule is only 4 per cent., which would seem to be too little to cause any alarm on the ground of loss of protection. The partial change from specific to ad valorem duties cannot properly be complained of. In some cases the change became necessary for the better securing the duties which have been frequently evaded, and in others for the purpose of simplification in the interest of revenue as well as of the home manufacturer, and in other cases for the purpose of modifying the vexatious classifications now existing. The total loss of revenue under this schedule, if computed on the consumption of 1877, amounts to \$417,716.

The consumption of foreign metals, iron, steel, and manufactures of, has fallen from \$57,333,158 in 1873 to \$10,222,220 in 1877. The mean average for eight years' consumption of these metals and manufactures thereof amounted to \$38,030,766 per annum. The large falling off in the importation of these articles may be properly traced to two causes: first, the high duties and the vexatious and cumbersome classifications, and, secondly, the wonderful progress and improvement which our own country has made in similar manufactures. To the latter cause, in my judgment, may be attributed the principal influence which is operating. It is quite certain that the exportation of manufactured articles which come under this head has largely increased. According to the official returns issued by the Bureau of Statistics, November 10, 1877, the average increase has been fully equal to 30 per cent. for the nine months ending 30th September last, over the preceding nine months of 1876. We exported in 1876 during this period of machinery, \$1,891,305, and in the like period of 1877 \$2,131,231, and of pig-iron, \$70,544 in 1876 and \$138,100 in 1877; of railroad bars for rails, \$128,567 in 1876 and \$198,770 in 1877; of sheet, band, and hoop iron, \$4,988 in 1876 and \$23,072 in 1877; of steam-engines, \$489,405 in 1876 and \$522,040 in 1877, and other manufactures of iron not enumerated, \$2,510,038 in 1876 and \$2,772,516 in 1877.

The exportations of steel show a more gratifying result. Of edge-tools we exported for the nine months of 1876 \$448,717, while for the same period in 1877 the export amounted to \$609,842; and of muskets, pistols, rifles, and sporting-guns we exported in 1876 \$2,015,662, and in 1877 \$4,361,752, an increase of about 133 per cent., and in other manufactures of steel not enumerated \$112,817 in 1876, \$247,216 in 1877. The total exports of iron and the manufactures of iron for the fiscal year 1877 was \$9,089,540, thus showing that the apprehension arising from the competition of foreign mechanics with American workmen has now little force.

It was put in evidence before the Committee of Ways and Means, by Mr. Roach, the celebrated American iron-ship builder, that he readily obtained workmen in Pennsylvania from fifty to sixty cents per day; but, however this may be, it is certain that our superior quickness and productive energy counterbalance any difference which may exist in the price of labor. Mr. Isaac Southerin Bell, M. P., the English judge at the centennial exposition in Philadelphia, in his report upon the iron interest of the United States, summarized his conclusions as follows:

1. That the powers of iron production between the years 1870 and 1875 were increased in the United States far beyond any possible requirements of the country.
2. That the high prices which led to this permitted and induced the manufacturers to accede to demands from certain sections of the workmen which are now acting adversely to the true interests of the trade.
3. That the same causes reacting on the value of the raw materials, along with the increased value of labor, as above stated, have unduly added to the cost of the iron.
4. That the interference with the laws which regulate the prices of commodities has, in the case of anthracite coal, added to the difficulties of the iron-smelters; and the sudden demand made on mines incapable of meeting it has increased those difficulties by an unhealthy addition to the selling price of iron ore.
5. That the protective duties levied on foreign iron entering the United States, by raising the price there, are chargeable with a portion of the mischief.
6. That the natural resources of the United States of America are such as to render any protective tariff on iron unnecessary; which tariff, moreover, is an injustice to other branches of industry.

Mr. Bell is one of the best-informed men in England, and any opinions he expresses upon this subject are entitled to the highest consideration. It would appear, therefore, that the great degree of success which we have attained in the manufactures of iron and steel is attracting the attention of England, and the time cannot be distant when we shall be enabled to supply all other less favored nations.

In this connection it is an interesting fact that, as our exports of iron and steel have been increased, the exports of like articles from England to this country have been largely decreased. In 1872 England exported in value £35,996,000 of these articles, but in 1876 it had fallen to £20,737,000. While it would be unfair to attribute the change altogether to American competition, yet the reference to it is sufficient to be stated as an indication. There can be no doubt that this country has made enormous strides in the improved manufacture of articles of this character. In cutlery, machinery, engines, and other articles requiring skilled mechanical and scientific knowledge, Americans should be ashamed to acknowledge that they are inferior and require protection against the brain and physical power of any other people.

I hope that every close observer of the bill now before the House in comparing the rates on metals and manufactures thereof with the duty at present levied will admit that the reduction of rates of duties have

been in average moderate to the last degree. The opponents of the bill, who will be found strongest in those parties interested in this schedule, cannot therefore complain of any extra radical changes that have been made as far as the reduction of rates is concerned. But they will and do oppose a reform in the tariff on metals because the bill before the House now tends to simplify the rates and the collection of duties, and I am very willing to meet them on that ground. Let it be understood, and I state it most emphatically, that the opposition from the iron, steel, and metal industries to the bill before the House is simply upon that ground only. I can very well understand the objection that iron and steel monopolies have against any change of duties. For instance, the present rate of duty on steel rails which is 1½ cents per pound or \$28 per ton, entirely prohibits the importation of rails which can be bought in England at \$35 per ton. If we calculate a duty of \$28 per ton on them, the cost of foreign rails laid down in New York would be \$63 gold per ton, while the price of American rails now is from \$46 to \$48 or even less.

A reduction as proposed in the bill to 1 cent per pound would still be \$16.80 a ton duty on steel rails, and the cost of rails in Europe being \$35, they could not be laid down in New York for less than \$51.80, which is far above the price prevailing in the market for American rails. Yet I anticipate great objections to this change for the simple reason that the policy of protection is to prevent any possibility of foreign competition of steel rails with the home-made article. But I submit that such a policy is neither fair nor beneficial, as in the first place it deprives our citizens of having a competitive market for foreign commodities at home, and it certainly shuts out all the probability of revenue to the country. I am perfectly willing that the issues of the steel rail industries, or in fact of the iron and steel industries of this country, should be made upon that ground, and I do not fear for the result.

Let me call your attention to the reductions in this schedule on copper. It is a deplorable fact that the pure and best copper in the world placed on Lake Superior by Providence is now more for the benefit of foreign manufacturers of copper than to our own copper industry. In 1876 we exported 14,304,160 pounds of ingot copper, and in 1877 we exported 13,461,553 pounds of ingot copper. This copper was sent chiefly to three countries, namely, to France, Germany, and Great Britain, where it was sold invariably from 2 to 3 cents and sometimes 4 cents a pound below the market price in New York. Now, as it happens our own superior copper is chiefly used for the manufacture of cartridges, an industry in which our manufacturers in Connecticut or elsewhere excel. Yet by dint of our own tariff laws we have furnished foreign manufacturers with the cheaper raw material in order not only to compete with us successfully but to undersell us in foreign markets.

It is a well-known fact that if our merchants were allowed to buy American copper in London and bring it over to the United States free of duty that they would have it from 2 to 3 cents cheaper than it can be bought in the United States. But as the law forbids any American product to be reimported, where packages have been destroyed, it is a stipulation by the exporters of American copper invariably made that the packages and casks in which American copper is made should be at once destroyed.

I think we have evidences nearer home of the healthy condition of our metal industries than would appear by the foreign estimate of our success, or by the amount of exports of their products.

The American Iron and Steel Association in its last report states that there was produced in the United States 2,314,585 tons of pig-iron in 1877 as against 2,093,236 in 1876.

In Michigan and other western States large manufactures of hoes, rakes, and other agricultural implements are being made for export to England and other parts of Europe.

An enterprise has been commenced in Philadelphia looking to the export of anthracite coal to Europe and one cargo has actually sailed with model steam-engine locomotives constructed for the use of this coal. The future consumption of our coal in Europe is by no means an improbable event, the result of which to our large surplus coal-producing regions is beyond estimate.

WOOLENS.

Much that has been said with reference to the steel and iron manufactures applies to worsted and woolens. Great progress has been made in these articles. If the falling off in the amount of duties received from them without any change in the tariff is an indication of a decrease in the consumption by us of foreign productions, the following table is very significant:

Statement showing the amount of duties received from manufactures of wool and woolens during the five fiscal years from 1872 to 1876, inclusive.

	1872.	1873.	1874.	1875.	1876.
Carpets, of all kinds.....	\$3,535,691	\$2,790,292	\$3,224,389	\$1,633,370	\$1,001,027
Dress-goods.....	15,633,681	13,432,096	13,008,679	13,416,130	10,921,040
Balmorals.....	343,420	10,043	7,584	2,983	1,224
Blankets.....	24,874	6,367	3,865	8,451	5,694
Flannels.....	4,971	16,434	14,070	12,299	1,376
Hosiery.....	326,183	276,501	258,998	303,687	304,043
Manufactures, not otherwise specified.....	1,072,934	938,060	918,938	1,942,111	1,303,425

Statement showing the amount of duties, &c.—Continued.

	1872.	1873.	1874.	1875.	1876.
Shirts, drawers and other knit goods.....	16, 141	24, 555	32, 767	45, 143	69, 594
Manufactures of wool and worsted bunting.....	7, 445	4, 609	3, 514	1, 867	3, 094
Cloths.....	8, 959, 806	10, 317, 402	8, 301, 307	7, 163, 119	5, 980, 212
Clothing, articles of wear, &c.....	430, 728	409, 060	408, 012	392, 335	453, 902
Hats.....	60, 776	37, 609	24, 563	12, 534	8, 736
Shawls.....	1, 644, 917	149, 269	118, 525	1, 090, 327	836, 192
Yarns.....	224, 791	273, 120	247, 546	283, 990	323, 056
All other wools and manufactures of.....	670, 575	2, 059, 034	2, 283, 725	1, 653, 842	1, 216, 622
Total manufactures of wool.....	33, 006, 223	30, 644, 471	27, 856, 382	27, 282, 178	22, 519, 106

It is evident from these figures that we are gradually supplying the entire home consumption, and it cannot be long, if the raw material be furnished at less cost, before we shall be able to supply all our own wants and engage in competition with England and other nations in markets which they have so long monopolized. England, which has maintained the mastery in these products, is fast losing her hold. There is a remarkable falling off in the quantity she exports.

The following table (official) shows this to an extent that cannot be accounted for solely on the ground of the general depression of trade:

Shipments from England to the United States.

Years.	Woolens.	Worsted goods.
	Yards.	Yards.
1871.....	5, 391, 000	86, 682, 000
1872.....	6, 339, 000	98, 243, 000
1873.....	4, 968, 000	85, 891, 000
1874.....	4, 438, 000	66, 629, 000
1875.....	2, 612, 000	51, 588, 000
1876.....	1, 475, 000	41, 079, 000

The falling off since 1871 has been in woolens 77½ per cent. and in worsted goods 52½ per cent; certainly this is greater than the general stagnation would justify. At the late exhibition at Philadelphia foreign factors were astonished at the wonderful perfection of our worsted and woolen fabrics. French, German, and English manufacturers went home with the conviction that they had a competitor in us who would soon master them in the production of cassimeres, cloths, and coatings. Therefore we may well conclude that in this regard we are now able to cope with our rivals of Europe, and that American manufacturers of woolen and worsted fabrics require no longer the bounties which they have for so extended a period enjoyed at the hands of the Government. Certainly, in view of these facts, leading manufacturers cannot much longer claim governmental bounty. If they were entitled to protection originally, there is little foundation for it now.

The influence of the tariff on the commonest kind of mixed woolen dress goods, such as are worn by the poorest classes in the country, is of a nature that requires the most serious consideration.

Fancy alpaca, costing in England 7½ cents per yard, is subject to a duty of 5 cents per yard, and sold in this market at 20 cents per yard. Now, as it takes twenty yards of this stuff to make a dress, the poorest woman of our working classes pays a direct tax of \$1 for a dress. Black alpaca, costing in England 5½ pence or 11½ cents of our money, is subject to a duty of 8½ cents per yard. This article is sold for 27½ cents per yard and worn by the millions of our population. Surely an article costing in England 5½ pence cannot be considered a luxury; yet we find that the pernicious working of our tariff is of that kind which oppresses the poorer classes in all their necessities of life. Black cashmere is worn as a Sunday dress by millions of our industrial classes. The cost of these goods in Europe is 26 cents, the duty thereon amounts to 18½ cents per yard, and is consequently sold at 55 cents a yard wholesale in the United States.

Now, do our people generally understand what such a duty really means? A workingman in Europe buying a dress of this kind for his wife and using only ten yards of it would get it at \$2.60, whereas his brother-workingman in the United States if he wishes to treat his wife with a dress of this class would have to pay \$5.50 for the same dress, or more than double.

The question therefore arises whether it is absolutely necessary to charge a tax of \$1.85 on a dress of this kind, coming as it does out of the pocket of the hard-workingman for the benefit of sustaining the Government and the industries of this country. Surely it must be admitted that there is no country in the world where an equal taxation is laid upon the labor and industry of the hardest-working man of the population.

WOOL.

The change to a uniform rate of 35 per cent. on raw wool has been actuated by the following reasons: First, the present tariff has three

distinct classifications for raw wools, subdivided by two distinct rates. In each classification the duty thereon is levied both specific and ad valorem and based upon the foreign cost. It is therefore obvious that a change to a single ad valorem rate is by no means an innovation; but it has first of all the merits of simplifying the rates by abolishing the specific duty, and also by repealing the ad valorem rate to the different costs of raw wools, divided into classes abroad. Secondly, under the present tariff the class of wool known as scoured and washed wools is pretty much entirely prohibited. In 1877 the whole importation of scoured clothing-wool was but 130 pounds and the importation of washed clothing-wool was 10,276 pounds. Now, it is very well understood that the interest of the wool manufacturer is to have the largest variety of wools that he possibly can procure abroad, while our existing tariff compels him to import wool in the grease and dirt. The proposed rate of duty at 35 per cent. ad valorem somewhat raises the rates on carpet wools; yet, if we consider that the new bill gives a protection of an average of 50 per cent. on manufactured carpets, which is the same rate of protection that is given on the manufactured cloth, there certainly seems to be no room left for dissatisfaction. I cannot see with what equity we can allow the raw wools for the use of carpeting to come in from 15 to 20 per cent. less, under the present existing tariff, than for the wool used in the manufactured cloth.

The wool-growers are made to believe that the rate of 35 per cent. proposed is detrimental to their interest. There is no foundation for this apprehension. There is no perceptible change as to the wool grown in the United States.

I append a statement showing the revenue from wool in 1877 under the present tariff and what it would be on the consumption of the same quantities under the 35 per cent. duty now proposed:

Wool revenues.

The amount of duties received upon wools imported during the fiscal year ending June 30, 1877..... \$2, 644, 748
Whole value of wools imported during same period, \$7,012,844; which at the proposed duty of 35 per cent. would have produced..... 2, 454, 516

The executive committee of the American Woolens and Wool Association of the United States in their representation to the Committee of Ways and Means thus refer to the evils of the present method of levying the wool duties and the benefits that will arise if a horizontal ad valorem duty shall be adopted as proposed in the bill:

We know of no reason why one kind of wool should pay any higher rate of duty than another, nor can we believe that it is the interest of the Government or of the people that any particular class of wool or of manufactures should be discriminated against. We hold it to be of vital importance to every manufacturer that he should be left as free as possible to choose the raw material best adapted to his peculiar fabric, and that it is equally important to every wool-grower that he should be left free to produce that class of wool best suited to his peculiar soil and climate. In our country, where we have every variety of soil and climate and where wools of nearly all descriptions can be grown, there can be no doubt that the fairest result can be obtained by placing a uniform rate of duty upon all kinds of wool.

The present classification is also essentially defective because there is no natural line of demarcation between class 1, clothing wool, and class 2, combing wool. The Merino sheep have been crossed with sheep of English blood in all proportions, and the resulting wool is well adapted to either combing or clothing purposes, and may be placed with almost equal propriety in either class, thus giving rise to endless disputes and annoyances in the custom-houses and to frequent losses to importers.

The difficulty of classing wool under the present system may be inferred from the fact that it was necessary to furnish the appraisers of the different custom-houses with 162 type-samples in order to enable them to properly discharge their duties. The only effect of this complicated system is to make washed wools of class 1 pay double the duty of washed wools in class 2; in all other respects the distinction of classification is practically abolished by assessing the same rate of duties upon both classes.

No gain to the revenue has accrued from this classification. It has simply prohibited the importation of washed wools of class 1, to the great injury of the manufacturer, as the great bulk of desirable clothing wools in European markets is offered for sale in the washed state. There being no American competition for these washed wools they are sold to our foreign competitors at a relatively lower price than the unwashed wools to which American manufacturers are restricted by the tariff. The restriction to unwashed wool also entails extra expenses for freight and handling upon the home manufacturer.

A few figures compiled from the reports of the Department of Agriculture for the years 1865 to 1866 and 1874 to 1876 will serve to show that the present tariff has not proved beneficial to the woolen manufacturers or to the wool-growers, especially to those wool-growers residing in the States on this side of the Mississippi, in whose interest this tariff was supposed to have been specially made:

Name of State.	Number of sheep, February 1, 1867.	Number of sheep, January 1, 1877.
Ohio.....	7, 159, 177	3, 900, 000
Michigan.....	4, 028, 767	2, 100, 000
Pennsylvania.....	3, 456, 568	1, 607, 000
New York.....	5, 373, 005	1, 897, 700
Indiana.....	3, 033, 870	1, 175, 000
Illinois.....	2, 764, 073	1, 258, 500
Wisconsin.....	1, 664, 338	1, 151, 100
Total.....	27, 470, 797	13, 089, 300

We have in these States a decrease of 52 per cent. since this tariff was enacted. If we include New England, the total decrease in the States east of the Mississippi

will be found to be quite as great. The whole number of sheep in the United States in 1867 was 42,000,000, (see Agricultural report for 1871, page 39;) in 1877, 35,804,000; a decrease of 15 per cent.

We have given the statistics of the number of sheep for the reason that the varying shrinkage of wool from different sections makes a comparison between numbers of sheep fairer than a comparison between pounds of wool. It must be observed, also, that this immense decrease in sheep east of the Mississippi represents a corresponding decrease in the fine, long, more valuable varieties of wool, while the increase west of the Mississippi is largely made up of short, burry, seedy, and common descriptions. Contrast these statistics with those of Great Britain:

The whole number of sheep in Great Britain in 1866 was 25,795,000; in 1874 it was 35,000,000, an increase in eight years of 35 per cent. under absolute free trade in wool, and with an area no greater than some of our larger States.

The importations of wool and woollens into this country for the year 1867, when large quantities of both were imported in anticipation of the tariff, were as follows: Wool, 36,300,000 pounds; woollens valued at \$45,800,000. For the five years ending 1875, when the trade had adjusted itself to the tariff, the average yearly importation was, in wool, 75,000,000 pounds; in woollens, \$47,600,000.

These figures show that under a tariff framed to promote the growth of wool, the quantity has actually decreased, and we have been obliged to increase our importations from foreign countries. That under this same tariff, which was also supposed to be framed to encourage home manufactures, our mills have not been able to produce the fabrics necessary for our own consumption, and the importation of woollen goods has also increased. Much of this mortifying result is due to the restriction in the selection of raw material, to which we have alluded, and upon which we cannot lay too much stress.

We also believe that a specific duty is not applicable to an article like wool, which varies so widely in value. Every tariff that has attempted to deal with it has been obliged to use value as one of the elements in determining classes, and if the element of value is used at all there is no apparent reason why the whole duty should not be ad valorem.

Schedule B, herewith submitted, is designed to show the most simple and equitable arrangement which we have been able to devise for specific rates. It may be also considered as an additional illustration of the inequality of any but ad valorem duties.

In further illustration of this point we hereto annex Schedule C, which shows the varying duties which will be paid, under a specific duty, on the secured pound by the kinds of wool specified. One wool would pay twice as much as another.

It is for the foregoing reasons that the committee recommend the abolition of the classification, which serves no useful purpose, but works great injustice and inequality, as shown by Schedule A, and also recommend the adoption of the uniform rate of 25 per cent. ad valorem on all kinds of wool.

COTTONS.

The exports of our manufactured cottons have increased since 1875 over \$7,000,000, the most of which has gone to Europe and been purchased on foreign account. The reports recently made to the State Department by our diplomatic and consular agents abroad show that there is an encouraging disposition to enlarge our foreign trade especially in cotton fabrics; and in the East Indies, including China, Japan, India, and Australia, there is a decided expression in favor of our cotton fabrics over the English.

The manufacturers of England are alarmed at these indications; they already experience the effects of even these small competitions; they struggle against and fear them. As yet England has held her own against France and Germany, but can but a little longer against the United States. And why should we be surprised at our success over England in cotton manufactures? The raw material is at our own doors with comparatively little cost of transportation, while to her it is carried many miles across the ocean at high cost. We turn out more and better work on any given basis of comparison than the English can. Our machinery and workmen are in all respects equal, if not superior, and our proximity to the South American and Pacific markets is much better, and therefore with these advantages, backed up by the skill, energy, and progressive spirit of the American character, it would be very strange if we were afraid of the rivalry of England.

From the London Warehousemen and Drapers' Trade Journal, July, 1877:

Nearly two years ago we announced the first importation into this country of cotton cloths manufactured in America, and paid a special visit to Manchester to examine them. We are not alarmists and have too much faith in the energy and ability of our manufacturers to be easily disturbed, but we were obliged to admit the excellence of the American fabric, and felt it a duty to warn our Manchester friends that the quality of the new importations placed the sized manufactures of our own mills at a serious disadvantage. In the interval that has elapsed since then we have occasionally returned to the same subject, and return to it again to-day to note that the importations continue to increase in bulk and that our manufacturers still size and dress their fabrics with China clay. Now and then they break silence to justify their practice by the plea that their customers at home and abroad like to have the fabrics sized and loaded, and they only supply what is demanded. Our readers will know how to estimate the excuse.

In the mean time Messrs. Ellet, Glover & Co., of George street, Manchester, have sent us samples of cloths from the Wamsutta Mills, Massachusetts, for whom and for other American companies they are the sole agents in this country. These samples sustain in every respect the reputation achieved here by the American fabrics. One of them is a double-warp cotton sheeting, and we have never seen a cloth of English manufacture to equal it. It is perfectly pure, extremely strong, and moderate in price. Precisely the same may be said of the Wamsutta (willed sheetings and long-cloths. We have given them a very careful examination and no other judgment is possible.

Knowing perfectly well how much may be said about the depression of trade in the States, and the consequent pressure upon manufacturers there to find an outlet for their produce, it is still not by any means an unimportant fact that Massachusetts finds it possible to compete with Manchester in the Manchester and London markets, and we are only discharging a duty which we must not disregard in again calling attention to it.

The president of the Manchester Chamber of Commerce at its last annual meeting, in his speech on that occasion, stated that the exports of Manchester goods to the United States which formerly afforded an excellent market were now nil, and that there is considerable trade in Manchester in cotton fabrics manufactured in America. It is certainly true that in all the manufacturing districts of England there is a lively apprehension that the American markets for their cotton products is fast becoming extinct. The following

table gleaned from official sources shows the shipment to this country of cotton goods for the last six years:

	Yards.
1871.....	129,000,000
1872.....	132,000,000
1873.....	109,500,000
1874.....	105,300,000
1875.....	79,900,000
1876.....	55,000,000

This decrease is in a greater ratio than the general depression of trade would excuse. General causes have of course affected all trades about equally. The whole imports of the United States have fallen from \$604,400,000 in 1872 to \$426,600,000 in 1876, at a rate of 31 per cent. The reduction, however, of this class of British fabrics has been in a much higher ratio comparing 1871 with 1876, the decrease in cotton goods being at the rate of 57 per cent. This comparison is based on quantities, and not values, which, owing to the great decline in prices, would exhibit a still larger rate of decrease. It is not exclusively in the coarser goods that our rivalry with England begins to be recognized abroad. Our manufacturers claim not only that their machinery turns out a larger product per machine or per hand employed than Lancashire, but that there is also a very marked improvement in the quality and style of our products. Upon the whole, therefore, it may well be supposed that the time is not far distant when we shall shut out British cotton goods permanently from our market.

The bill changes the duty on gray shirting not exceeding 100 threads and exceeding in weight 5 ounces from 5 cents per square yard to 2 cents a square yard, which is a reduction of over 100 per cent. But the reason for this great change is found in the fact that not a single yard has been imported since 1869. The cost of these goods as far as can be ascertained is about 6 to 7 cents a square yard in Europe. Now, it must be obvious that 2 cents per square yard duty, which is equal to about 28 per cent., will either give us revenue or it will demonstrate that even at 28 per cent. duty none can be imported. In any case there is not a cent loss to revenue.

Bleached cottons of the same class are changed from 5½ cents per square yard to 2½ cents per square yard. Not a single yard of this goods is being imported; no record can be found of any duty having been received from it in commerce and navigation during the last 7 years; the change, therefore, does not involve any loss on revenue.

The colored printed goods of the same class are changed from 5½ cents per square yard and 10 per cent. to 3 cents per square yard in the bill. Revenue received from this class of goods during 7 years from 1871 to 1877 inclusive, was as follows:

1871.....	\$6,823 49
1872.....	7,401 13
1873.....	8,249 15
1874.....	3,752 32
1875.....	25,640 34
1876.....	304 90
1877.....	4,964 48

The loss of revenue under the new duties on this article computed on the consumption of the foreign goods of 1877 would be \$2,978.96.

On finer and lighter goods of the same description not exceeding 200 threads per square inch, the change having been on unbleached from 5 to 2½ cents per square yard, from 5½ to 3 cents per square yard bleached, and on printed from 5½ cents and 20 per cent to 4½ cents per square yard, the loss of revenue computed on the consumption of 1877 would be as follows: on unbleached, \$859.27; on bleached, no consumption; on printed, \$294,324.28.

The rate of duty under the present tariff computed on actual consumption of this last article is 56.81 per cent. The new rate amounts to still 30 per cent., and it may confidently be expected that not only will consumers largely benefit by this change, but that the revenue will increase under the new rate.

The next change made on unbleached goods exceeding 200 threads from 5 cents per square yard to 4 cents per square yard leaves no loss on the revenue, for none has been consumed in 1877.

The change on bleached of the same class from 5½ cents per square yard to 4½ cents per square yard is only a reduction of 7½ per cent. on existing rates. This class of goods brought a revenue in 1877 of \$494,059. One regard was therefore had to sustain the revenue.

The reduction of colored and printed goods of the same class from 5½ cents per square yard and 20 per cent. to 5½ cents per square yard will only involve a loss of \$6,320.40, being a reduction of the 20 per cent. duty on a whole consumption of \$31,602. All other reductions made in jeans, denims, drillings, and colored and printed goods are as follows: On unbleached from 6 cents per square yard to 2½ cents per square yard, the revenue in 1877 only amounted to \$229.68, and the average rate of duty was 109.89 per cent., (see Commerce and Navigation, 1877, page 464;) it is therefore obvious that this reduction involves no loss of revenue, but may largely increase it.

The reduction on bleached from 6½ cents per square yard to 3 cents per square yard involves hardly any loss, as the revenue in 1877 of this goods was only \$63.38, while the reduction of stained and printed from 6½ cents per square yard and 10 per cent. ad valorem to 4 cents per square yard involves a very trifling loss, as the revenue collected in 1877 only amounted to \$361.98.

The reduction on the same class of goods of a lighter description reduced on unbleached from 6 cents to 3 cents per square yard, and 6½ to 3½ and 6½ cents and 15 per cent. to 5 cents per square yard only

involves a loss of \$25,914. It may therefore be assumed that a larger revenue will be collected.

The 35 per cent. ad valorem goods reduced to 30 per cent. involves a loss, computed upon the consumption of 1877, of \$359,700. And the reduction of all other manufactures of cotton reduced from 35 per cent. to 25 per cent. involves a loss, computed on the consumption of 1877, of \$464,717.

The simplification and the reduction of duties on thread-yarn amounts to \$342,803.60. This reduction, apparently large, is necessary on account of encouraging the manufactures of spool-thread and cotton fabrics in this country, and there can be no doubt that at the reduced rates there will be a heavy increase of revenue.

Simplification and reduction on spool-thread from a double to a single rate of duty from 6 cents and 30 per cent. and 6 cents and 35 per cent. to 6 cents and 7 cents respectively per dozen involves a reduction, computed on 1877, of \$21,509.

Our export trade of cotton fabrics has suffered largely under the prevailing high duties on foreign manufactured cotton goods.

The total exports of our domestic manufactures of cotton goods during the last ten years, namely, from 1868 to 1877, inclusive, amount to \$51,368,092, whereas the exports of domestic cotton fabrics during ten years of a low tariff, namely, from 1852 to 1861, inclusive, amounted to \$74,060,605, or some \$22,732,000 more than during the ten years of a high-tariff system. It is perfectly true that our exports of cotton fabrics in 1876 were \$7,722,978, and in 1877 they were \$12,134,740, which is about \$1,000,000 more than the exports of 1860 and 1861. Yet if we look at the countries to which we exported these cotton fabrics it will be found that a large portion of them has gone to countries where little or no profit could possibly have been made on them; for instance we exported in 1876 to England and Germany \$2,610,067, and in 1877 our exports of cotton fabrics to England and Germany were \$2,271,610, whereas our whole exports to China and India in 1876 amounted to \$908,178, and in 1877 to \$1,223,843. In other words, while the bulk of our exports of manufactures of cotton fabrics before the war went to China and India, where we successfully competed with the British manufacturer of cotton goods, we now, during the last few years, seek a market for the surplus of our cotton fabrics at a loss in those European countries who are famous for producing cotton fabrics at the lowest price. It cannot therefore be maintained that the present tariff on cotton fabrics is beneficial to the manufacturer either at home or abroad, as the distress in the manufactured cotton industry is too well known at home and these statistics show that he seeks a losing market for the surplus produced.

SILK.

The fifth annual report of the Silk Association of America, dated May 5, 1877, contains the following letter addressed by I. Walter H. Thorp to the Macclesfield (England) Courier, dated October 4, 1876:

Our English silk manufacturers have acted wisely in abstaining from exhibiting their goods at the centennial exhibition at Philadelphia, as they would only have exposed their inferiority in quality and price. Instead of wishing any longer to see or use our English silk goods, America, protected by her 60 per cent. duty on the import of manufactured silk, is almost entirely supplying her own market with home-made goods; and her manufacturers, having proved that they can produce the article and quality required by their markets, are now lending all their efforts to the reduction of cost.

Now that the period of inflated prices and extravagant wages is passing away, (which last item has hitherto been the great difficulty with manufacturers,) and their scale of wages is rapidly falling to the European level, we shall find that the simple labor-saving appliances and greater intelligence of the work-people will bring us face to face with a competition such as we have never yet dreamed of, and I venture to say that before long England, mother of free trade as she is, will find herself compelled to impose a duty on the importation of American silks, in order to protect her manufacturers from being beaten in their own markets. * * * I noticed at the exhibition that our neighbors at Leek had had the courage to send exhibits of such sewing-silks, but any one comparing them with the cases of the Nosotack or Corticelli Silk Company, Belding Brothers, or Brainerd, Armstrong & Co. would not fail to notice their inferiority in luster and finish. In silk piece-goods and dresses, I was quite astonished at the magnificent goods shown by Cheney Brothers, Dexter, Lambert & Co., Hamill & Booth, and William Strange & Co., of Paterson; and that there is no inferiority in machinery or dyeing is testified by the beautiful silk-throwing machinery of the Danforth Machine Company, of Paterson (who boast that their winding and reeling frames are greatly in advance of any others produced in Europe and America) and the finely arranged cases of Weidmann & Greppo, dyers of Paterson.

In conclusion, I could have wished that the Macclesfield Weavers' Association had seen fit, with their vast accumulated funds, to send across a deputation to report on the silk goods exhibited at the Centennial, and to return with enlightened views to inform their fellow-workmen of the true state of the trade.

In an appreciative article on the centennial exhibition published in the *Revue des Deux-mondes*, July, 1877, M. Jules Simonin, the eminent French publicist, pointed out the silk industry of America as among the successes with which France would continually be driven to a closer competition. The Swiss commissioner-general to the centennial exhibition, in his official report, calls the attention of his countrymen to the progress of Americans in silk manufacture, and says, "Switzerland must be prepared for a warmer rivalry in silk products."

This report contains tables and statements showing conclusively that the silk industry of the United States has reached a high degree of success and is abundantly able to take care of itself. Indeed, the only complaint it makes is of hard times and the frauds practiced in fictitious invoices and by smuggling, which are of course the natural results of high duties, injurious alike to the Government and the home manufacturer. I am not to be understood as being adverse to the prosperity of our manufacturing interests. As an American I am proud of the great success that has attended them; nor do I wish to place any obstruction in the way of their continued prosperity.

As showing the prosperity of this industry in the United States,

the following is an extract from a work recently published, entitled *The Silk Industry in America*, page 128:

The centennial year of our national existence finds us, even in a time of financial depression, manufacturing not less than one-half of all the silk goods used in our country, and furnishing them to our people at a price, if the quality of the goods be taken into consideration, below that which ruled when the silks of England, France, and Italy were admitted into our ports nearly free of duty. The processes already invented, and in practice, enable us to produce better fabrics than have been offered here before. Nor, on the other hand, has the high rate of duty so far diminished importation as to reduce the Government's revenue. The duties collected on manufactured silk goods in the whole period from 1843 to 1875, amounted to over \$275,000,000; but \$150,000,000, more than half of it, was paid within the last ten years. The fact becomes even plainer if the average annual revenue under different tariffs be considered. Thus from 1843 to 1856, with a duty of 30 and 25 per cent., the average annual revenue was about \$500,000; from 1857 to 1864, with duties ranging from 24 to 40 per cent., the average was about five and a half millions; but from 1865 to 1875, with a duty of 60 and 50 per cent., the average revenue rose to \$14,500,000. Meanwhile, vigorous competition, both at home and abroad, has greatly cheapened domestic production, and substituted in many of the processes machine labor for hand labor; the result being a great improvement in American goods as well as a marked reduction of their prices.

This great advantage has been gained also in the very field where Great Britain has almost completely failed. With an established manufacture of great extent, reaching back nearly two centuries; with highly skilled workmen, abundant capital, and a nearer market than we have in which to purchase her raw material, (as from climatic causes the silk culture had been a failure,) she was obliged to abandon her manufactures of silk, except in the production of spun silk, hosiery, silk, laces, and some descriptions of ribbons, as soon as the silks of France and Italy were admitted duty free. Twenty years ago our supply of dress silks, ribbons, silk, laces, shawls, &c., was drawn in about equal quantities from England and France. To-day, beyond a few fancy goods (like silk lace, hosiery, ribbons, and mixed goods of silk and linen, silk and cotton, and silk and wool, mainly of spun silk) we buy no silks from Great Britain.

The reduction of duty on silks from 50 per cent. and 60 per cent. respectively to a uniform rate of 45 per cent. will no doubt prove beneficial. It should be borne in mind that an immense quantity of silk used in this country enters into the manufacture of other articles besides expensive dress. For instance, much silk is used in the manufacture of men's clothing, a vast amount is also used in the manufacture of umbrellas, parasols, and hundred other articles. It is therefore a mistake to class silks entirely as a high luxury.

The collection of revenue under the new rates having been simplified to a uniform rate on dress silk and mixed silk goods it will no doubt tend to larger receipts of revenue. It has been discovered and is now undergoing Treasury investigation that enormous frauds by undervaluations have long been practiced at the principal ports of importation. Some startling revelations may be soon expected which will implicate persons of hitherto high commercial and social standing. While it is almost impossible to remove altogether these evils so long as our high tariff is maintained, still it will be our effort to make them more difficult of accomplishment.

GENERAL OBJECT OF THE BILL.

The general policy and scheme of the bill is to resuscitate American commerce, to re-establish our position as one of the foremost maritime nations of the world, and by this means to develop to its full extent the material resources of the nation. Will not this advance the manufacturing interests of the country? It is only necessary for us to have the opportunity to establish reciprocal trade with all the nations of the world in order to show our superiority. Certainly American industries, so far as manufactures are concerned, have reached so high a degree of perfection that we can have nothing to fear. An exclusive policy, like that which the protective system implies, is not applicable to modern times. No nation now lives within itself. Science has served to unite the human race into one common family. While political institutions and language separate them into individual communities, yet in interests, in social ties, in rapid and constant intercommunication, in interchange of products, they have become solidified and concentrated. The former barriers which prevented general fraternal concord have been shattered, if not altogether broken down. The telegraph and the rapidity by which intercommunication is constantly conducted have caused a similitude of thought and action. The result of this will speedily effect reciprocal interchange of products and commodities, and that people which can supply another to the best advantage will command appreciation.

As a consequence the United States will receive universal recognition in all things in which we strive to excel. Hence the removal of any obstructions upon our part to the full consummation of this coming assimilation and consolidation is demanded by every consideration of self-interest.

As we have set the example of free political institutions and the recognition of the rights of the people, holding up to other nations the example of free political thought and action, it is our duty to lead off in the free interchange of productions and the removal of those barriers which serve only to dwarf human energy and to keep fettered in a subordinate condition the manual power of labor.

It is but fair, however, that having grown strong by the bounty of the Government, and having been the beneficiaries of the entire people of the United States who were taxed for their profit, I am unwilling to continue this favor. Whatever may have justified it originally in order to establish them permanently as American industries, cannot be retained as the lasting policy of the Government. They should now be placed upon the same footing with every other department of productive industry.

But while firmly convinced of the justice and necessity of an aboli-

tion of the protective policy, I do not propose at this time to make the application. The bill reported by the committee makes but slight reductions from the existing tariff. These reductions are made in a way and in a direction that will not affect existing manufacturers. They are rather intended as an indication that the special favor which has been so long extended must sooner or later be materially modified and finally be withdrawn altogether. I recognize in consequence of the present tariff a moral right in the interests affected for a little longer enjoyment of the sustenance so liberally dispensed to them. I think that the advantages which the bill extends to them very much outweighs any injury inflicted by a reduction of the rates. New principles are sought to be ingrafted upon the policy of the Government extending facilities for the exportation of American manufactures which are not now enjoyed.

CONCLUSION.

In contemplating the needs of the country, is it not time for statesmen and thoughtful men to raise themselves above the mere conflicts of party? Is there no higher object worthy of their effort than to become mere partisan retainers and gladiators? Is it not the duty of the intellect of the nation, with opportunity in public life, to initiate and shape legislation looking to a fuller development of our material resources and a more profitable use of the advantages which God and nature have given us? However desirable a reform in the civil service may be and however important the preservation intact of the political organizations to which we belong may be, yet these and all other pending questions are secondary to that of the political economies, involving in their consideration the highest interests of the present as well as of succeeding generations, by an intelligent utilization of existing yet hidden superior possessions.

The late war, like all wars, especially in republics, threw into the leading places in the public councils those who had commended themselves to public favor by military achievements, and, so long as a lively recollection of the incidents of the war lasted, this class, as a class, ruled the public councils. Time has, however, calmed the popular pulse, and the sober judgment of the country has reached the conclusion that the meritorious soldier is not always a statesman. He may answer the purposes of war, but not of peace. For the great objects and duty of government we require a broad, catholic spirit and an elevated comprehension of the needs and the resources of the nation. He who possesses these is the most useful legislator and best qualified to determine measures for the general well-being. I do not declare that soldiers cannot be statesmen; history has many brilliant examples to the contrary; but I do say that for the past fifteen years the heroes of our late war, from whose merits I would not detract, have occupied almost entirely the control of our civil affairs, thrusting aside, by their hold upon popular esteem, those who by their training, great abilities, and much higher qualifications were better fitted for the purposes of the state. Is it unjust, therefore, to attribute to this fact much of our present distress and lack of material progress?

Now, however, the time has come when men can stand upon their own merits for the purposes required, and we can seek the great minds of the country to lead us onward in the important struggle for national grandeur, power, and wealth. The hero has been remembered and rewarded; let us do likewise by those who will lead us out of the present labyrinth of despair and point to the road which will keep us from a like condition hereafter.

Doubtless there are many now in obscurity who have the capacity to do this, who will become illustrious in the effort. It is true that ours is a Government of party; but I contend that they who, rising superior to the degrading servitude required by political organizations, will think out, suggest, and practically apply measures for the public good such as I have indicated will not only advantage the party to which they belong, but will create for themselves names that will stand side by side in history with the fathers of our country and transmit to their posterity a valid claim to a just pride of ancestry.

* APPENDIX A.

Comparative quarterly statement of receipts from customs and internal revenue in the fiscal years 1875, 1876, 1877, and 1878.

Quarters ending—	Customs.	Internal revenue.
September 30, 1874.....	\$46,651,200 10	\$36,314,615 33
December 31, 1874.....	32,187,238 95	27,248,051 02
March 31, 1875.....	41,910,667 53	28,739,763 25
	120,749,106 58	92,302,430 20
September 30, 1875.....	\$44,233,626 25	\$38,199,723 50
December 31, 1875.....	32,267,931 72	29,253,069 63
March 31, 1876.....	38,268,535 02	25,830,139 95
	114,771,092 99	93,277,933 08
September 30, 1876.....	37,554,728 53	28,813,336 37
December 31, 1876.....	27,793,128 95	29,242,881 76
March 31, 1877.....	34,000,920 47	27,446,264 69
	99,348,777 95	85,502,482 82

Comparative quarterly statement of receipts from customs and internal revenue—Continued.

Quarters ending—	Customs.	Internal revenue.
September 30, 1877.....	36,983,531 56	28,303,282 28
December 31, 1877.....	30,101,914 65	28,292,128 10
March 31, 1878, (approximated).....	31,996,283 62	21,512,879 72
	99,075,729 83	80,198,300 40

TREASURY DEPARTMENT, WARRANT DIVISION, April 1, 1878.

Mr. BANKS. I move the committee rise.

Mr. MITCHELL. I desire to know whether I understood the gentleman from New York correctly in making his statement in reference to the production of pig-iron that it was greater last year than ever before.

Mr. WOOD. Yes, sir; and I have proof of the fact here if the Iron and Steel Association of Philadelphia is an authority.

Mr. MITCHELL. I have no doubt the gentleman is entirely honest in that statement. I have that statement too, but do not read it as the gentleman has done. I rise for the purpose of making a correction of the gentleman's statement.

Mr. HEWITT, of New York. My colleague is right, the production of pig-iron last year was greater than the previous year.

Mr. MITCHELL. But that was not the gentleman's statement.

Mr. HEWITT, of New York. That is the way I understood the statement of my colleague.

Mr. MITCHELL. I beg the gentleman's pardon; the question I put to him was, whether it was greater than ever before, and he answered in the affirmative.

Mr. WOOD. I did not intend to state that. I will now state to the gentleman from Pennsylvania that in 1876 the production was 2,093,236 tons and in 1877 it was 2,314,585.

Mr. MITCHELL. That is true.

Mr. WOOD. That is what I said; that is all I intended to state.

Mr. MITCHELL. Then I misunderstood the gentleman. I understood him to say that it was larger last year than ever before. It appears in this article that in 1872 the production was 2,854,558 tons. That fact appears in the same article to which the gentlemen has referred, and that is a production greater than last year when only one-third of the furnaces in the United States, including the State of Pennsylvania, to which he called particular attention, were in full blast.

Mr. BURCHARD. What was it in 1870?

Mr. MITCHELL. I have not the figures for 1870.

Mr. BURCHARD. It was 1,800,000 tons.

Mr. BANKS. I move the committee rise.

The motion was agreed to; and the Speaker having resumed the chair, Mr. SAYLER reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration a bill (H. R. No. 4106) to impose duties upon foreign imports, to promote trade and commerce, to reduce taxation, and for other purposes, and had come to no resolution thereon.

F. W. HURTT.

Mr. McCOOK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to communicate to this House, in addition to the proceedings of the court-martial in the case of F. W. Hurtt, assistant quartermaster, United States Volunteers, which were sent by the then Secretary of War, William W. Belknap, on the 20th of May, 1874, in answer to a call of the House, and printed in Executive Document No. 255, of the Forty-third Congress, first session, copies of all other papers on file or of record in the War Department in the said case, including especially the statements, opinions, recommendations, and testimonials of the accounting officers of the Government and of the judge-advocate, president, and members of the said court-martial.

Mr. McCOOK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN BOTTS.

Mr. HERBERT, by unanimous consent, introduced a bill (H. R. No. 4248) to place the name of John Botts, of Pike County, Alabama, on the rolls as a pensioner of the war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

GREENVILLE LAND OFFICE, ALABAMA.

Mr. HERBERT also, by unanimous consent, introduced a bill (H. R. No. 4249) to refund certain moneys paid by mistake to the Government at the land office at Greenville, Alabama; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

PAY OF CLERK AND EXPERTS.

Mr. GLOVER. I ask unanimous consent to introduce for present consideration a joint resolution providing for the payment of the clerk and experts of the Committee on Expenditures in the Treasury Department who, by an inadvertence, were not sworn into office at the date of their appointments.

The **SPEAKER**. The joint resolution will be read for information, after which objections, if any, will be in order.

The joint resolution was read.

The **SPEAKER**. Is there objection to the present consideration of the joint resolution?

Mr. **WHITE**, of Pennsylvania. I object.

Mr. **GLOVER**. I hope the gentleman will not object. These men have been working for some time without receiving the pay to which they are entitled.

Mr. **WHITE**, of Pennsylvania. I insist on my objection.

LIFE-SAVING SERVICE.

Mr. **HEWITT**, of New York, by unanimous consent, presented resolutions of the Chamber of Commerce of the State of New York, in respect to the life-saving service; which were referred to the Committee on Commerce, and ordered to be printed in the **RECORD**.

They are as follows:

Resolutions in respect to the life-saving service.

At the monthly meeting of the Chamber of Commerce held April 4, 1878, Mr. Samuel D. Babcock, president, in the chair, the following resolutions reported by the committee of the chamber on foreign commerce, in regard to the transfer of the life-saving service to the control of the Navy Department, were adopted:

Resolved, That, in the opinion of this chamber, the transfer of the United States life-saving service from the control of the Treasury Department to the Navy Department, as is proposed in Senator **SARGENT**'s bill and its amendments, would be inexpedient, as not only the origin and history of the life-saving service, but also the general interests of our Government, justify and demand its subordination to the Treasury Department and its connection with the revenue-marine service.

Resolved, That the chamber recommend the passage of the bill introduced in the House by Hon. Mr. **ROBERTS**, and recommended by the Committee on Commerce to that body, as the provisions of that bill are well calculated to increase the efficiency of the life-saving service under its present control.

Resolved, That a copy of these resolutions be attested and sent to both Houses of Congress by the secretary.

A true copy.

S. D. BABCOCK, President.
GEORGE WILSON, Secretary.

Mr. James W. Elwell, chairman of the committee on foreign commerce and the revenue laws, to which was referred at the last meeting of the chamber the resolution approving of the bill pending in Congress to transfer the life-saving service to the control of the Navy Department, submitted the following report:

To the Chamber of Commerce:

Your committee, to whom was referred, at the last regular meeting of the chamber, the following resolution, namely: "That this chamber approve of the bill introduced by Senator **SARGENT** transferring the life-saving service to the control of the Navy Department," beg leave to report:

That they have given the subject-matter of this resolution referred to them a very careful consideration, and have devoted much time and attention to it by the examination of the printed reports, as well as other printed documents relating to the life-saving service.

They have received communications in writing from parties representing both sides of the question, which they have carefully considered. They have also had personal interviews with various parties familiar with the service and its present workings, having become acquainted with it by personal observation and by visits to the line of our coast, some of these parties being for and some against the present system; and with the information before them, and from their best judgment as to the facts, your committee are unanimous in their opinion that the service in its present condition is neither so inefficient nor so incapable of improvement as to demand the radical change which would result from the passage of Mr. **SARGENT**'s bill.

The Committee on Commerce of the House, to whom were referred the two bills before that body, with various petitions, protests, and memorials relating to the life-saving service, after due consideration, reported a substitute for all other bills, and that bill was introduced in the House by Hon. Mr. **ROBERTS**, and is known as bill No. 398.

Your committee have examined this bill, and approve of it, and are prepared to recommend to the chamber the passage of the following resolutions:

Resolved, That in the opinion of this chamber: the transfer of the United States life-saving service from the control of the Treasury Department to the Navy Department, as is proposed in Senator **SARGENT**'s bill and its amendments, would be inexpedient, as not only the origin and history of the life-saving service, but also the general interests of our Government, justify and demand its subordination to the Treasury Department and its connection with the revenue-marine service.

Resolved, That this chamber recommend the passage of the bill introduced into the House by Hon. Mr. **ROBERTS**, and recommended by the Committee on Commerce to that body, as the provisions of that bill are well calculated to increase the efficiency of the life-saving service under its present control.

Resolved, That a copy of these resolutions be attested and sent to both Houses of Congress by the secretary.

JAMES W. ELWELL,
SOLON HUMPHREYS,
GUSTAV SCHWAB,
WILLIAM H. GUION,
Committee.

LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted as follows:

To Mr. **TIPTON**, for fifteen days; and

To Mr. **NEAL**, for ten days, on account of important business.

LOUISA SCHENCKLE.

On motion of Mr. **ROBERTS**, by unanimous consent, leave was given to withdraw from the files of the House papers in the case of Louisa Schenckle, there being no adverse report thereon.

BRIDGE AT ROCK ISLAND ARSENAL.

The **SPEAKER**, by unanimous consent, laid before the House a letter from the Secretary of War, inclosing a communication from the commandant of Rock Island arsenal, Illinois, showing the need of rules and regulations for the government of commerce over the bridge belonging to the United States at that point; which was referred to the Committee on Commerce.

LIFE-SAVING STATION ON GALVESTON ISLAND.

The **SPEAKER** also, by unanimous consent, laid before the House

a letter from the Acting Secretary of the Treasury, inclosing a communication from the collector of customs at Galveston, Texas, recommending the early establishment of a life-saving station on the east end of Galveston Island; which was referred to the Committee on Commerce.

LIFE-SAVING STATION AT KENOSHA.

The **SPEAKER** also, by unanimous consent, laid before the House a letter from the Acting Secretary of the Treasury, transmitting a petition from certain seamen and masters of vessels, urging the importance of establishing a life-saving station at Kenosha, Wisconsin; which was referred to the Committee on Commerce.

LIEUTENANT THOMAS BLAIR.

The **SPEAKER** also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting proceedings of a court of inquiry convened at Fort Bayard, New Mexico, November, 1871, on the application of First Lieutenant Thomas Blair, First Infantry; which was referred to the Committee on Military Affairs.

CAPTAIN C. H. McNALLY.

The **SPEAKER** also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the military record of Captain C. H. McNally, United States Army, retired; which was referred to the Committee on Military Affairs.

E. F. WENCKEBACK.

The **SPEAKER** also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting report of the Adjutant-General on the bill (H. R. No. 3789) restoring E. F. Wenckebach, late Twentieth Infantry, to rank of captain, United States Army; which was referred to the Committee on Military Affairs.

RECORDS OF LATE CONFEDERATE STATES.

The **SPEAKER** also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting recommendation of an appropriation of \$20,000 for the purpose of printing records of the late Confederate States; which was referred to the Committee on Printing.

INDIAN SUPPLIES AT CROW AGENCY.

The **SPEAKER** also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting copy of report of Captain Edward Ball, Second Cavalry, of an inspection and rejection of certain Indian supplies at Crow agency in February, 1876; which was referred to the Committee on Indian Affairs.

OFFICE OF COMMISSARY GENERAL OF SUBSISTENCE.

The **SPEAKER** also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting recommendation relative to the clerical force in the office of the Commissary-General of Subsistence; which was referred to the Committee on Appropriations.

Mr. **TOWNSEND**, of New York. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. **BELL**: Papers relating to the claim of A. B. Nichols—to the Committee of Claims.

By Mr. **BOUCK**: Memorial of the State Grange of Wisconsin, against any reduction of the tariff on wool—to the Committee of Ways and Means.

By Mr. **CLARKE**, of Kentucky: The petition of the publisher of the Bracken County (Kentucky) Chronicle, for the abolition of the duty on type—to the same committee.

By Mr. **COVERT**: The petition of Louisa Ehrler, for a pension—to the Committee on Invalid Pensions.

By Mr. **COX**, of Ohio: The petition of citizens of Williams County, Ohio, against any reduction of the tariff on wools—to the Committee of Ways and Means.

By Mr. **EVINS**, of South Carolina: A paper relating to the establishment of a post-route between Spartanburgh Court-House, Poolsville, Woodruffs, Scuffletown, and Laurens Court-House, South Carolina—to the Committee on the Post-Office and Post-Roads.

By Mr. **FOSTER**: Papers relating to the claim of I. J. Young Seamon, of Chicago, Illinois—to the Committee on Appropriations.

By Mr. **GIBSON**: The petition of Theresa Senette and 11 others, of Louisiana, that their war claims be referred to the southern claims commission—to the Committee on War Claims.

By Mr. **GIDDINGS**: The petition of D. C. Stone, mayor, and 102 others, including the president and many members of the Cotton Exchange, merchants, shippers, and pilots of the city of Galveston, Texas, against the transfer of the life-saving service to the Navy Department—to the Committee on Commerce.

By Mr. **GUNTER**: Papers relating to the claim of W. A. Britton—to the Committee of Claims.

By Mr. **HARRIS**, of Virginia, (by request:) The petition of Gabriel Smith, for a pension—to the Committee on Invalid Pensions.

By Mr. **HUNTON**: The petition of B. P. Noland and other citizens

of London County, Virginia, requesting their Senators and Representatives in Congress to vote for the Texas Pacific Railroad bill—to the Committee on the Pacific Railroad.

By Mr. MCKINLEY: The petition of 170 citizens of Bethlehem Township, Stark County, Ohio, against any change in the tariff, and especially that no change be made upon the present duty upon wools and woollens—to the Committee of Ways and Means.

Also, the petition of Jonah Woodward, to be restored to the pension-rolls—to the Committee on Invalid Pensions.

By Mr. STENGER: The petition of 42 citizens of Bane Forge, Pennsylvania, for the extension of the national credit to the completion of a great southern line to the Pacific—to the Committee on the Pacific Railroad.

IN SENATE.

WEDNESDAY, April 10, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.
The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. CAMERON, of Pennsylvania, presented resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, remonstrating against any law admitting foreign-built vessels to American registry; which were referred to the Committee on Commerce.

He also presented resolutions of the General Assembly of Pennsylvania, remonstrating against the passage of the bill known as the Wood tariff bill; which were referred to the Committee on Finance.

He also presented the memorial of A. Stephens and 50 others, citizens of Phenixville, Pennsylvania, and vicinity; the memorial of John O. Geise and others, citizens of Reading, Pennsylvania; and the memorial of Charles J. Dalmass and others, citizens of Philadelphia, Pennsylvania, remonstrating against the passage of any act imposing a tax on incomes; which were referred to the Committee on Finance.

Mr. BUTLER presented a memorial of the General Assembly of South Carolina, in favor of restoring to the State of South Carolina possession of the Citadel Academy, in Charleston, and the granting of compensation for its occupation by the Federal troops during the late war; which was referred to the Committee on Military Affairs.

Mr. WALLACE presented the petition of R. Spear and others, citizens of Bane Forge, Huntingdon County, Pennsylvania, praying Congress to extend the national credit to the completion of a great southern line to the Pacific Ocean; which was referred to the Committee on Railroads.

He also presented the petition of Samuel B. Hutchinson, of Manch Chunk, Pennsylvania, praying to be reimbursed certain money advanced by him to his ward, Mary A. Shurlock, on account of a pension which she was entitled to receive; which was referred to the Committee on Pensions.

He also presented a memorial of the Chamber of Commerce of Pittsburgh, Pennsylvania, remonstrating against the passage of the tariff legislation now pending as it affects merchant-ship building; which was referred to the Committee on Finance.

Mr. McPHERSON presented the petition of Elizabeth Ely, Carrie Price, R. W. Vonsdom, Joseph Smith, and others, citizens of Lambertville, New Jersey, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which was referred to the Committee on Privileges and Elections.

Mr. MERRIMON. I present the petition of W. D. Wharton and others, composing the grand jury of the circuit courts of the United States at Greensborough, in the western district of North Carolina, representing the importance and the absolute necessity of erecting a suitable building there for the purpose of holding the United States courts, and praying Congress to make an appropriation for that purpose. I move the reference of this petition to the Committee on Public Buildings and Grounds.

The motion was agreed to.

Mr. MAXEY presented the petition of Marcos Radich, of Texas, praying compensation for the occupation of his property in the city of Brownsville, Texas, by the Army of the United States in the year 1865; which was referred to the Committee on Claims.

Mr. CONKLING presented the memorial of Robinson, Lord & Co. and others, business men of the city of New York, remonstrating against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. COCKRELL, from the Committee on Claims, to whom was referred the petition of Doughty & Card, attorneys, &c., Lake City, Minnesota, praying payment of their claim for legal services, expenses, &c., incurred in behalf of the United States in the case of Parish vs. The United States, in the Court of Claims, submitted a report thereon, accompanied by a bill (S. No. 1066) for the relief of Doughty & Card.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, to whom was referred the petition of John G. Morgan, M. D., praying to be allowed arrears of pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the bill (H. R. No. 1780) granting a pension to William S. Davis, late a private in Company E, Thirty-first Illinois Infantry Volunteers, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. SARGENT, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1047) regulating the appointment of cadet midshipmen in the Naval Academy at Annapolis, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 602) for the relief of John R. Bond, late of the United States Navy, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 494) for the relief of Thornton A. Jenkins, reported adversely thereon, and the bill was postponed indefinitely.

Mr. HARRIS, from the Committee on Claims, to whom was referred the petition of Thomas M. Simmons, praying compensation for the use and occupancy of the premises known as the Alabama press-yard No. 2 and the Crescent City press, in New Orleans, Louisiana, in the years 1863, 1864 and 1865, by United States troops, submitted a report thereon, accompanied by a bill (S. No. 1067) for the relief of Thomas M. Simmons.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, to whom was referred the petition of Captain Theodore Higgins, late of Company D, Twentieth Regiment Illinois Volunteers, praying to be allowed the pay of a captain of that company from April 10, 1863, to July 4, 1863, while acting as captain thereof, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the petition of T. B. Kelly, of Du Quoin, Illinois, praying for compensation as a lieutenant in the marine service from the 4th of April, 1863, to September 15, 1864, submitted a report thereon, accompanied by a bill (S. No. 1068) for the relief of T. B. Kelly.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (S. No. 893) to authorize the Secretary of the Treasury to examine the evidence of payments made by the State of Missouri since April 17, 1866, to the officers and privates of the militia forces of said State, for military services actually performed in the suppression of the rebellion, in full concert and co-operation with the authorities of the United States, and subject to their orders, and to make report thereof to Congress, reported it without amendment.

Mr. INGALLS, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 582) providing for the payment of counsel fees in Osage ceded land suits, reported it without amendment.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the bill (S. No. 496) for the relief of the legal representatives of R. W. Gibbs, asked to be discharged from its further consideration, the matter having been settled at the proper Department; which was agreed to; and the bill was postponed indefinitely.

THADDEUS A. JONES.

Mr. ROLLINS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom a resolution was referred to pay the engineer in charge of the elevator \$100, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary be directed to pay to Thaddeus A. Jones, engineer in charge of the elevator, out of the contingent fund of the Senate, \$100 as compensation for injuries received while engaged in repairs coming within his line of duty on February 10, 1877.

BILLS INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1069) for the relief of Emanuel Jones, a British subject; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1070) to define the extent of the lien of judgments obtained in the courts of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

COMMITTEE SERVICE.

Mr. BRUCE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Chair be authorized to appoint two additional members to serve on the Committee on Levees of the Mississippi River.

PENSIONS TO SOLDIERS OF MEXICAN WAR.

Mr. VOORHEES. I offer the following resolution:

Resolved, That the Committee on Pensions be instructed to report a bill to this

body making provision for placing the names of the surviving soldiers of the Mexican war, and of the widows of those who are deceased, upon the pension-rolls of the United States.

The VICE-PRESIDENT. Is there objection to the resolution?

Mr. VOORHEES. I have offered the resolution for the purpose of saying that on the 30th of this month, after the morning hour, I shall ask leave of the Senate to call it up and submit some remarks upon it.

The VICE PRESIDENT. The resolution will lie on the table in the mean time.

Mr. VOORHEES. Yes, sir.

ENLISTMENT OF COLORED SOLDIERS.

Mr. BURNSIDE. I ask the Senate to proceed to the consideration of the bill (S. No. 178) to remove all restrictions now existing in regard to enlistments of the colored citizen in any arm of the United States Army. I have nothing further to say on this subject and I am quite willing that the bill should come to a vote.

Mr. COCKRELL. I ask the Senator from Rhode Island if the Senator from Maine [Mr. BLAINE] who is not now in his seat did not move the indefinite postponement of this bill.

Mr. BURNSIDE. The RECORD will show. He did not. He said but for some reason—and I have forgotten what reason it was—he would move the indefinite postponement of the bill; but he did not make the motion. If the Senator from Missouri thinks, however, that he would rather have the Senator from Maine in his seat while the bill is being considered, I have no objection to waiting.

Mr. COCKRELL. I have no objection to the present consideration of the bill. The Senator from Maine had an interest in it, and I thought he had made such a motion, though I cannot say positively that he did.

Mr. BURNSIDE. He did not make the motion.

Mr. ROLLINS. He suggested that he would make it, however.

Mr. BURNSIDE. I think there will be no further discussion on the subject, and we may as well take up the bill and vote upon it.

Mr. INGALLS. I think it would be hardly just in the absence of those who have debated this bill to proceed to its consideration now, and I shall, under the rule, object.

Mr. BURNSIDE. I am perfectly content to let the bill go over if there can be a general understanding that it shall be taken up and disposed of immediately after the close of the morning business to-morrow morning. If there be no objection on the part of the Senate to that arrangement, I will let the bill go over until that time.

The VICE-PRESIDENT. The bill goes over under the objection of the Senator from Kansas, [Mr. INGALLS.]

TRESPASSES ON PROPERTY IN THE DISTRICT.

Mr. MERRIMON. I move that the Senate proceed to the consideration of the bill (H. R. No. 1412) to prevent depredations upon property in the District of Columbia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that every person who, in the District of Columbia, shall willfully, and without color of right, enter into any occupied or unoccupied dwelling-house or other building, the property of another, and cut, break, or tear from its place any gas-pipe, water-pipe, door-bell, or other fixture, or cut, break, or tear down any wall, or part of a wall, or door, with intent to cut, break, or tear from its place any pipe or fixture therein, shall, for the first offense, be fined not more than \$200, and be imprisoned in the District jail not less than two months or more than one year, and for any subsequent offense shall be imprisoned in the penitentiary for not less than one year or more than three years.

The bill was reported to the Senate without amendment, and ordered to a third reading.

Mr. WHYTE. I should like the Secretary to report the first part of the bill again. I did not hear the exact language.

The Chief Clerk read as follows:

That every person who, in the District of Columbia, shall willfully, and without color of right, enter into any occupied or unoccupied dwelling-house—

Mr. WHYTE. That is all.

The bill was read the third time, and passed.

JOHN W. DOUGLASS.

Mr. WALLACE. I move to take up the bill (S. No. 55) for the relief of John W. Douglass.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to pay to John W. Douglass, late collector of internal revenue of the nineteenth district of Pennsylvania, \$5,948.68, and also to credit him on his revenue account \$916.98; these sums, amounting to \$6,865.67, being the balance of which Douglass was robbed by a deputy collector, after deducting the amount realized from the sale of the deputy's property.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PAPERS WITHDRAWN.

On motion of Mr. MATTHEWS, it was

Ordered, That William E. Morgan have leave to withdraw his petition and papers from the files of the Senate.

J. C. M'BURNEY.

Mr. HILL. I move that the Senate proceed to the consideration of the bill (S. No. 1033) for the relief of J. C. McBurney.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the accounting officers of the Treasury, in the settlement of the accounts of J. C. McBurney, late collector of internal revenue for the second district of Georgia, to credit him with \$3,895.07, on account of the embezzlement and defalcation of Michael O'Brien of that sum while acting as deputy to McBurney.

Mr. CONKLING. Is there a report?

Mr. HILL. Yes, sir, there is a report made unanimously from the Committee on Claims. They have investigated the case fully. The bill is a mere matter of justice and ought to pass.

The VICE-PRESIDENT. Does the Senator from New York desire the reading of the report?

Mr. CONKLING. No, sir.

Mr. SAULSBURY. I think we had better have the report read.

The VICE-PRESIDENT. The report will be read.

Mr. MITCHELL. I will state to the Senator from Delaware that the report in the case is quite lengthy. Quite a number of the affidavits are incorporated in the report.

Mr. SAULSBURY. Perhaps the Senator from Oregon will make a brief statement of the case.

Mr. MITCHELL. The facts of the case are these: Mr. McBurney was collector of internal revenue in a certain district in the State of Georgia. He had been collector for a number of years. His deputy at a place some distance from his location became a defaulter, and it was necessary to remove him, which he did. It was during the collection of the cotton tax, and it became necessary that he should have a deputy at that point immediately; otherwise the Government would have lost a very large amount of revenue. The assessor of internal revenue at that place was recommended to Mr. McBurney very highly, as a competent man to be designated as his deputy at that point. Accordingly, under this recommendation, he designated Mr. O'Brien, who was the assessor at that point, for a few days only until such time as he could appoint a permanent deputy for the place. Mr. O'Brien acted as his deputy at the point designated for a few days only, a very short time. I do not know the exact time that he acted, but it was for a very few days, and during that time he embezzled some \$3,000, or whatever the amount is, of Government money that he collected. Mr. McBurney proceeded against him at once, made complaint against him, put the case in the hands of the United States attorney, and he was arrested and bound over and indicted. The matter hung along for some time. Mr. McBurney made several visits to Savannah, I think, to attend the trial, with his witnesses, but for some reason or other the case was postponed, and continued from time to time. Finally, some years afterward, when Mr. Akerman was United States attorney for the district of Georgia a motion was made to quash the indictment, and the court held that the indictment was insufficient. That resulted in the final discharge of this man, O'Brien; but all the evidence goes to show that Mr. McBurney did everything in his power to secure the conviction of Mr. O'Brien. The evidence in the case shows very clearly that O'Brien embezzled this money and refused to account for it. On application at the Treasury Department the Department as a matter of course refused to allow Mr. McBurney for this sum in the settlement of his accounts, but deducted from his salary in the settlement of his accounts the sum that had been thus embezzled by O'Brien. I will state to the honorable Senator from Delaware that this is one of a class of cases that the Senate has very frequently passed upon. The Senator from Georgia [Mr. HILL] is doubtless familiar with the case.

Mr. CONKLING. I should like to ask the Senator one question before he sits down. Is it true that the Senate has relieved collectors from defaults and embezzlements of their deputies?

Mr. MITCHELL. It is true, I will state to the Senator from New York, that the Senate and Congress have done that very thing in numerous cases which are cited, with the page and date, in the report of the committee in this case. If I had the report I could refer to them.

Mr. CONKLING. I have no doubt the Senator is correct.

Mr. MITCHELL. I do not think myself it is a good practice. It is the opinion of the Committee on Claims that it is a practice that ought to be stopped some time; but to stop it just now on this particular case, when the case presented is a very hard one for Mr. McBurney, is another question.

Mr. CONKLING. I did not ask the question to interpose an objection to this immediate measure, but having asked the question, I venture to say that the practice, assuming it to exist, as it no doubt does, stands in glaring contrast with the fact that a few years ago there used to be published periodically all over the country a list of defalcations of internal-revenue officers. The total was very large, and it was made up in the main, except in respect to errors, of these very items, items unaccounted for by the deputies of the collectors. All the collectors whose deputies were thus derelict were published as defaulters year after year, and they stand now, I suppose, as defaulters.

Mr. MITCHELL. When really they have been relieved of the liability?

Mr. CONKLING. When some of them have been relieved. All those who have not been relieved, I suppose, are still going the rounds as defaulters.

Mr. DAWES. I should like to add to what the Senator from New York says that a very large item of this amount was made up by

transferring the entire account of one collector to his successor. Uncollected taxes in the hands of a collector when he went out of office were transferred bodily to the account of his successor. There were very many instances where it stood upon the books that men were defaulters for one or two hundred thousand dollars when in point of fact the Government was their debtor. A very distinguished gentleman in Illinois, John H. Bryant, a brother of the editor of the New York Evening Post, was paraded in that table, near the head of it, as a defaulter for nearly \$200,000, all made up by transferring the uncollected taxes of his predecessor over to him when he came into office. He came on here when that list was first published and demanded a settlement of his accounts and that a balance be struck before he would proceed another hour in the discharge of his duties, and it resulted that the Government was indebted to him. That is but one of very many cases in the same line.

Mr. DAVIS, of West Virginia. I have no objection to this case, and it is not of this case that I am going to speak; but I noticed that the Senator from New York as well as the Senator from Oregon, and also the Senator from Massachusetts, have spoken of a certain list of defaulters, and one of the Senators said that many such cases have been relieved, but they are still before us as having been defaulters to the Treasury. I think those Senators are in error.

Mr. CONKLING. I do not think any Senator said that. If my friend will pardon me, I said that those who had been relieved had either been dropped or were still reported, I did not know which.

Mr. DAVIS, of West Virginia. The Senator from Oregon, as I understood him, in reply to the Senator from New York, said that many of them had been relieved.

Mr. MITCHELL. Probably. I did not pretend to state it as a fact; I said "very likely," or that is what I intended to say.

Mr. ALLISON. A great many of these collectors were not defaulters at all. I know that of three or four of those on the list to my knowledge.

Mr. DAVIS, of West Virginia. That is not the question I am addressing myself to now. The Senator from New York said that a few years ago there were regular lists made to Congress annually, giving the names and amounts of those who were defaulters. It ought to be required. The law has required it for a great number of years; but since 1864 I believe, without authority from Congress or by disobedience of the law, the Departments, from some cause or other, have ceased to publish that list; but the law stands to-day as it did in 1864, up to which time it was published regularly. It may be recollected by the Senate several times I have called attention to that fact heretofore.

The Senator from Massachusetts says that some gentlemen were reported as defaulters who, in fact, owed nothing to the Government, that claims which were due it from somebody were transferred to his successor in office. That may have been the fact; but still somebody was in debt to the Government. If the collector to whom these claims had been transferred was not the defaulter, then his predecessor must have been.

Mr. CONKLING. Oh, no.

Mr. DAVIS, of West Virginia. Oh, yes.

Mr. CONKLING. My friend will pardon me one moment. I beg to correct him about that. I can do it by one instance within my own personal knowledge. A collector in a district was changed. His book showed a considerable sum of uncollected taxes; but the law had exhausted itself in the effort to collect those taxes and it was impossible to collect them. They were charged to the successor. When these lists came to be made out, they figured among the items constituting a default. Now I ask the Senator from West Virginia is it just to say that in a case like that any officer was a defaulter. He may say the tax-payers were defaulters. Some of them were indigent, so that to use a common phrase they beat the Government on the execution; the taxes could not be collected; but nobody was a defaulter, officially speaking, in such a case as that.

Mr. DAVIS, of West Virginia. These reports referred to by the Senator from New York are made up under the law at the Treasury Department, if made at all, two or three years—I forget which now—after the amounts fall due, and the credits the officials are entitled to are allowed in the Department. Certainly they are not made up and charged against them for two or three years after they become due. That is the law. I know there are very many cases where collectors are unable to collect the assessments made against persons, sometimes erroneously. Those soon after they are discovered, within the time specified by law, are credited. There may be in many instances injustice done, certainly sometimes, but in other cases where there is injustice done to one party by publishing the names, justice is done probably to a hundred. There may be isolated cases that Senators have referred to; but I am talking of the list generally and of the collectors generally.

In the case before us, certainly somebody is a defaulter, and the Government only knows the collector. It does not know the deputy collector. There is to-day, in my judgment, probably \$10,000,000 justly due the Government from collectors. I had in my hand a few days ago a list reported in 1871 under a resolution of the House of Representatives asking for the indebtedness of collectors then out of office, and that list amounts to over \$20,000,000. It was published three years after the time specified, when the indebtedness ought to have been paid.

Mr. MITCHELL. Does the Senator know now that no part of that amount was made up of the very amounts which Congress had relieved against?

Mr. DAVIS, of West Virginia. How is that?

Mr. MITCHELL. Does the Senator know whether any part of that amount was made up of items against which Congress had relieved?

Mr. DAVIS, of West Virginia. Would the Secretary of the Treasury make out the list?

Mr. MITCHELL. I am not asking what the Secretary of the Treasury would do. I ask the Senator whether he knows that is so.

Mr. DAVIS, of West Virginia. Of course I do not know, but I must take the facts as they come to me.

Mr. DAWES. Mr. President—

Mr. DAVIS, of West Virginia. One at a time. Let me answer the Senator from Oregon, and then I will with pleasure listen to the Senator from Massachusetts. The Senator from Oregon very well knows that when an act passes Congress relieving anybody it goes to the Department where it belongs, is there entered, there taken notice of, and the relief, if it has been given, of course is entered to the party's credit; and unless there is some informality—

Mr. HILL. I hope the Senator will allow this bill to go through.

Mr. DAVIS, of West Virginia. I am not troubling the Senator's bill.

Mr. HILL. I know that; but this debate delays it.

Mr. DAVIS, of West Virginia. Only a word, and then I will not trouble the Senator further. I expect this claim is meritorious. But now the Senator from Massachusetts wants to ask a question.

Mr. DAWES. The Senator has stated that in 1871 there was some communication setting forth the number of defaulters on money actually in the hands of collectors, from which he says he has no doubt—

Mr. DAVIS, of West Virginia. Let me correct the Senator. I did not say money actually in the hands of collectors. I said money due the Government from collectors or from somebody else.

Mr. DAWES. I do not understand the distinction between money actually in the hands of collectors and money due the Government from collectors, but perhaps the Senator from West Virginia may see a distinction which has not occurred to me. From that paper he said he made the statement that he had no doubt there was between ten and twenty millions of money in the hands of collectors. I want to know from the Senator if it is not within his knowledge that the Secretary of the Treasury made a communication to Congress saying that that statement in that report was an entire error.

Mr. DAVIS, of West Virginia. No, I do not know that to be so. On the contrary, I think it very queer that—

Mr. DAWES. I regret exceedingly that it escaped the Senator's attention, because that was a communication to which allusion has been made in debate here. A report was made up by a clerk in one of the Departments assuming that whatever of uncollected taxes was charged was from one collector to another as he went out of office, treating it as so much money in the hands of the collector, and that sum was reported here. Afterward a report, from which the statements of the Senator from New York and others have been made to-day, was sent here in an official form by the Secretary of the Treasury in explanation of that very document to which the Senator from West Virginia alludes. While there is no doubt that there are defaulters under the Government, always have been, and always will be, and while eternal vigilance and eternal hunt after them is the only way to secure the Government as far as possible against them, still it is not worth while for the Senator from West Virginia to be laboring under such a misapprehension as that which he seems to be laboring under when the official documents within his reach would set him right.

Mr. DAVIS, of West Virginia. Mr. President—

Mr. MITCHELL. Allow me a moment. The question now being discussed can be discussed just as well on some other matter. I hope it will not be permitted to embarrass the passage of this bill.

Mr. DAVIS, of West Virginia. I have listened to my friends on both sides. I have sat here for several days very patiently; I do not occupy the floor very often, but it appears to me that Senators want to get rid of this question or they would not object to its being discussed. I do not see why my friends all around here are so anxious to get rid of this matter. Why do you not want the truth to come out?

Mr. MITCHELL. For one I am not anxious to get rid of the subject. I am anxious to pass this bill because I think it is a very meritorious bill, but the question we are discussing now has no reference whatever to the pending measure. That is the only objection I make.

Mr. DAVIS, of West Virginia. I ask my friend whether this is not the very same character of claims that are involved in the question I was discussing. The bill is to relieve a deputy of a collector of internal revenue and that is the subject we are talking on. What is more legitimate to it. I know nothing of this particular case and I am not addressing myself to it. I hope my friend from Georgia, who I see is on his feet, will be quiet. I shall be through before the morning hour is out, and he will have time to pass his bill.

The Senator from Massachusetts appears to think that I ought to know that these are errors in the report to which I alluded. Does the Senator from Massachusetts say, or does he mean to have the Senate understand, that an erroneous document was printed by the au-

thority of Congress after being called for at the request of a member, passed the House, and sent to the House under the official signature of the Secretary of the Treasury? Does that contain entries that are not true? If so, that is a strange statement. This pamphlet gives the name, the date, the State, the district, of each party named, and is signed by Secretary Boutwell, and it winds up by saying that there are now \$20,783,000 due by internal-revenue collectors alone, not those in office but those out of office at that time and whose accounts ought to have been settled if they had not been.

The Senator from Massachusetts says there was a subsequent statement sent here. True there was a statement sent here; and what became of that statement? It was refused by the Senate to be printed, though the law required that the information should go to the country; yet that side of the Chamber, my recollection is, declined to have it printed, and they I suppose placed it in the Secretary's office or somewhere else here, and in fact the information never was communicated to Congress.

Mr. DAWES. The paper the Senator has in his hand is dated, I believe, in 1871.

Mr. DAVIS, of West Virginia. Yes.

Mr. DAWES. I have not the name of the member of the House at whose request that was printed; but I have in mind (for I was not in this body at the time) the whole matter, and the matter to which the Senator now refers was something that transpired in this body of which I am entirely ignorant. I referred to a communication made to Congress by the Secretary of the Treasury immediately upon that statement having been paraded to the country, and the use was being made of it which the Senator from West Virginia tries at this late day, six or seven years afterward, to repeat.

I understand from the Senator from New York that the very paper to which I allude had the same treatment here in this body that it had in the House of Representatives. It was very fully discussed and printed by order of the House of Representatives, spread upon the records of the country, and debated at full length. I understand the same treatment was had in this body.

Now the Senator gathers up that old document, which has been explained and put before the country, the true meaning set before the country five or six years ago, and undertakes to galvanize it into life in this way, and the Senator says that he has no doubt there are from ten to twenty millions of money due to-day from collectors. I venture to say that in the experience of this Government, as compared with that of any other government in the whole world, in view of the amount of money collected by its officials within the last fifteen years, there is no record that will compare so favorably as that of this country as to the percentage of money that has been lost.

Mr. DAVIS, of West Virginia. I yielded for a question, not for a speech.

Mr. DAWES. I beg pardon.

Mr. DAVIS, of West Virginia. The Senator from Massachusetts asked me to yield for a question, and now he makes a speech.

Mr. DAWES. I beg the Senator's pardon.

Mr. DAVIS, of West Virginia. That will not do, to refer to some other government when we have enough here before us. The question now pending is whether or not this document is true. The Senator from Massachusetts has said that it was not true and that it was so published, and that a report was sent to Congress stating it was not true. I have never seen such a report. On the contrary, since this report was published in 1871 a report which my friend from Maryland [Mr. WHYTE] has in his hand now says there are \$5,000,000 additional of defalcations to the Government from 1869 up to 1876. There are \$5,000,000 additional. Instead of growing less, they are growing worse and more of them.

Mr. DAWES. I do not hear the Senator. What does he say?

Mr. DAVIS, of West Virginia. The Senator says he cannot hear me. I imagined that I was talking too loud.

Mr. MITCHELL. Will the Senator designate one case now?

Mr. DAVIS, of West Virginia. What does the Senator mean by "one case?"

Mr. MITCHELL. The Senator says that there have been \$5,000,000 additional of defalcations reported within a certain specified time. Now I want the Senator from West Virginia to designate any one particular case and the amount.

Mr. DAVIS, of West Virginia. Mr. President, I am not naming individuals. Here is a whole pamphlet full of names. If the Senator wants it, let him send to the document-room and get it. There are \$20,000,000 in amount of them. I do not want to pick out men from his State, or any other State. The Senator can get the information if he wants it.

Mr. DAWES. May I have that document?

Mr. DAVIS, of West Virginia. Certainly; I will hand it to the Senator. If the Senator will look at Secretary Bristow's report of June 16, 1876, he will find a great many names; some in his own State if I am not mistaken. However, I am not naming individuals. The names and the dates and the amounts are all in the pamphlet, and if the Senator wishes he can look upon them and read them.

Mr. MITCHELL. If the Senator says that any collector of internal revenue in my State is a defaulter, he is mistaken; that is all.

Mr. DAVIS, of West Virginia. Perhaps I am not.

Mr. MITCHELL. I am very confident the Senator is.

Mr. DAVIS, of West Virginia. Even if I were, it has no bearing

on the general question. But my friend from Massachusetts now has the paper, and I cannot tell whether the Senator from Oregon is right or wrong. My friend from Georgia is very earnest about this bill; I see he is rising again.

Mr. HILL. The morning hour is nearly out.

Mr. DAVIS, of West Virginia. Let me say to my friends on the other side of the Chamber, if they want to do right and what the law requires, let them have the statement published annually as the law requires, and then there would be no question about these defaults. As I said, the paper that I held before me, the last general statement that was published, contained defalcations amounting to \$20,000,000, and that statement is signed by the Secretary of the Treasury, formerly my worthy friend's colleague on this floor. Whether or not he has made a false statement here, is a question between the Senator now and the ex-Senator who sent the statement here.

Mr. HILL. Mr. President—

Mr. DAVIS, of West Virginia. I am done.

Mr. DAWES. If the Senator from Georgia will allow me, the Senator from West Virginia has been kind enough to show me the paper. It is the identical paper to which I referred. In it I find the very case I cited, where a man was charged with having defaulted for \$450,000 when it appeared that the statement arose merely from the form in which a clerk in the Treasury Department kept the books, by charging to him the uncollected taxes that were assessed under a former collector. At that very moment the Government was a debtor to that very collector. All that has been officially presented to Congress and published and is in the documents to-day. I regret exceedingly—

Mr. ALLISON. I ask the Senator to yield to me a moment.

Mr. DAWES. I wish merely to add that I regret exceedingly that this has escaped for so long a time the vigilant search of the Senator from West Virginia.

Mr. HILL. I appeal to Senators to let us act on the bill.

Mr. DAVIS, of West Virginia. I will take occasion to show the truth of what I have said hereafter. I give way now to my friend from Georgia.

Mr. HILL. Mr. President, I desire to say that this is a case that everybody admits is meritorious who has ever seen or heard of it. Now, I do not think that gentlemen ought to murder a good case by going into debate on a general question. If any Senator doubts the merits of this case, I can satisfy him in three minutes.

Mr. ALLISON. I only wish to occupy one minute. I merely want to call the attention of the honorable Senator from West Virginia to the fact that the report alluded to by him, made by Secretary Bristow in 1876, covering the defalcations of collectors of internal revenue, shows that the defalcations on that account only amounted to \$33,000 from 1869 to 1876.

Mr. DAWES. That includes the time covered by this other document, which has been referred to.

Mr. ALLISON. Undoubtedly it includes that great document covering \$20,000,000! It happens to be within my knowledge that many of the men who are reported there—

Mr. HILL. The Senator asked one minute; I think he has spoken two. I gave way for one minute.

Mr. ALLISON. I beg pardon of the Senator. I did not know that he was holding the floor.

Mr. HILL. Yes.

Mr. ALLISON. I will wait until the Senator has finished his remarks.

Mr. HILL. I was going on to say and did say that if any Senator doubts the merits of this case, I can state them very briefly. The morning hour is nearly out. The bill is unanimously reported by a committee of the Senate. It was unanimously reported by a committee of the House on a former occasion. I know personally some of the facts, and it is a hard case. I rarely vote for these cases. I believe this is the second time I have ever consented to vote for such relief; but this is a case fully meritorious in all respects, and the amount is small, and this man ought to be relieved. I trust the Senate will pass the bill.

Mr. HARRIS. Mr. President, as a member of the committee reporting this bill, I desire to say that if Congress has adopted the policy, or if it be a proper policy for Congress to adopt to relieve collectors for the defaults of their deputies, this is as meritorious a case of that character, I suppose, as any other. But, believing, as I do, that it is not a proper policy, I could not assent myself to the reporting of this bill; nor can I vote for it in the Senate; not for any reason peculiar to this case, but because I believe that the policy of relieving collectors for the defaults of their deputies is an improper and a dangerous policy. For that reason I shall vote against this and all other cases of this character. I know of no reason why this is not as meritorious as any other case of this character.

Mr. SAULSBURY. I cannot vote for this bill. I do not know anything about Mr. McBurney. He may be a gentleman of the very highest character and he may have lost every dollar which he claims was embezzled by his deputy, but the committee's report, which I hold in my hand, shows that he was a collector of internal revenue in the State of Georgia from 1865 to 1869; and in 1867 he appointed a man by the name of O'Brien his deputy. Now, what was his duty to himself? Certainly to have taken an obligation from his deputy, with proper security. That was the custom and that was the prac-

tice among the collectors of internal revenue throughout the country. I remember that I once filed a petition in behalf of the sureties of a deputy collector to relieve them from the defalcation of their principal on a bond which he had executed and given security to the collector of internal revenue. There had been a defalcation for over \$12,000; but the collector of internal revenue very wisely took his bond and took ample security, and I was unsuccessful in my effort to get relief for the sureties of the deputy collector who had to fork over and pay to the collector.

Why did not Mr. McBurney take the precaution when he appointed O'Brien deputy to take from him a bond sufficient to indemnify himself? Should his negligence in that respect now relieve him and compel the public Treasury of this country to pay out nearly \$4,000 which he might by proper diligence on his part have secured to himself?

Mr. MITCHELL. Allow me a moment. This man was designated but a very few days, and he was a public officer. He was the assessor, and was simply designated until such time as Mr. McBurney could get a man to take the place.

Mr. SAULSBURY. I understand that, but he was charged by the laws of this land with collecting the internal revenues in his district. He had given bond, I suppose, to do that thing, and it was his duty not to intrust the collection of a single dollar of those revenues to any person who was irresponsible. He ought to have protected himself by a bond with security. If he failed to do so it was his own fault, and not the fault of the Government. One other fact—

The VICE-PRESIDENT. The morning hour has expired.

Mr. MITCHELL. I hope this matter will be continued.

Mr. HARRIS. I hope we shall have unanimous consent to complete the consideration of the bill.

Mr. HILL. I trust that will be done.

The VICE-PRESIDENT. Is there objection to the completion of this bill at this time? The Chair hears none. The bill remains before the Senate as in Committee of the Whole.

Mr. SAULSBURY. Mr. President, there is one very significant fact connected with the whole transaction as detailed in this report. The defalcation took place in 1867, and yet that fact was not communicated to the Secretary of the Treasury or to the Commissioner of Internal Revenue until after this gentleman was out of office in 1869. He made no complaint of the action of his deputy. He did not go to the Commissioner of Internal Revenue and state to him that there had been a defalcation by this man O'Brien, and seek to get relief, and never until they came to the final adjustment of his accounts after he was out of office, was it brought to the knowledge of the Government or its officials that there had been this defalcation.

Mr. MITCHELL. Why, Mr. President, I would inquire of the Senator of what manner of use was it for the collector to apply to the Treasury Department for relief? No relief could be afforded him there. All he could do was this: when he came to settle his accounts he was short that much; he explained the matter, and the amount was taken out of the allowance for his salary. The Commissioner of Internal Revenue could grant no relief.

Mr. SAULSBURY. I suppose there was no power in the Commissioner of Internal Revenue to make an allowance; I judge that to be the case; and perhaps that may have been the reason why Mr. McBurney did not communicate the fact to the Commissioner of Internal Revenue; but there is no question of this fact, that O'Brien was his appointee. There is no question of this fact, that he could have protected himself if he had been so inclined by a bond, with sureties, from his deputy. There is no doubt about this fact also, that if Mr. O'Brien embezzled the money it was an embezzlement by a man who was selected as his deputy by Mr. McBurney. And can it now, in conscience and equity and justice, be required of the Government that the Government shall refund money which has been lost by the very act of Mr. McBurney in appointing an improper man and in not taking proper security for the faithful performance of his duty?

Sir, if we sanction claims of this character, I do not know how the public Treasury is to be supplied with funds to pay them all. Mr. McBurney may be a very meritorious man; he may have lost every dollar of this money; but he does not come here with a case that entitles him to relief, in my judgment, and therefore I cannot vote for the bill.

Mr. HILL. Mr. President, I wish to state one fact which I think is a sufficient answer to the Senator from Delaware. This occurred in 1867. The deputy collector at that place, Hawkinsville, had defaulted and his removal was asked of the Secretary of the Treasury. It was at a period of time when cotton was being shipped and the cotton tax was being collected. Hawkinsville was a shipping point for cotton, whence cotton was being constantly shipped, and it was necessary to have a man there at once to collect the tax. It was difficult to get men to give the bonds and take the oath required by the law at that time. The collector was compelled to have a man there immediately. He took this man O'Brien because he was already the assessor for that district and was recommended to him. He took O'Brien to collect the cotton tax, which would otherwise have been lost, until he could get a proper deputy who would give the bond and take the oath to which the Senator referred. He therefore selected O'Brien to collect the cotton tax for a few days until he could get a

proper man there. It was a case of necessity. He was compelled to act on the spur of the moment. It was during those few days that this man O'Brien committed this embezzlement. So the ordinary rule that my friend the Senator from Delaware refers to does not apply. There was an emergency in this case, and if my friend knew the condition of things which existed down there then he would believe that this collector did the very best he possibly could under the circumstances.

Again, after this default occurred the collector employed lawyers himself to collect the debt civilly, by civil process, and the lawyers undertook to sue this man O'Brien who had committed the default; but the lawyers were unable to collect it because of the insufficiency of his property to pay. At that time, by the constitution then being adopted and before the civil suit was brought to an end, a large homestead exemption was established for that country by the new constitution; and it rendered it impossible to make this man respond to the loss civilly. Then Mr. McBurney (showing his entire vigilance) went to Savannah and presented the case to the courts and had O'Brien indicted, and for several terms was down there doing his best to have the matter tried. I am not going to state all the reasons why he did not succeed; but I do say that the failure to bring the prosecution to trial was not the fault of Mr. McBurney.

Mr. MITCHELL. It was the fault of the district attorney.

Mr. HILL. It certainly was the fault of the district attorney. The district attorney is a personal friend of mine and I do not like to speak of him; but I know the difficulty. This man did his best, was at term after term of the court with his witnesses from the city of Macon, nearly two hundred miles, striving to get O'Brien prosecuted; and when finally he did succeed in bringing O'Brien to trial the court ordered an acquittal because of a defect in the indictment, a mere technical defect for which Mr. McBurney was not responsible. He did everything that man could do. He was compelled to make the appointment in the first place during an emergency and for a few days until he could get a proper man, or see the Government lose its revenue. He then prosecuted him civilly and failed. He prosecuted criminally and failed. He has done everything he could and I do think this is a case where the man ought to be relieved, and many cases have occurred of not half the merit where relief has been granted. The precedent has been established. The report cites the case of a collector of customs at Philadelphia who on account of an embezzlement by a deputy of his was reimbursed \$62,000, and there are a great many other cases which are referred to in the report.

I have said that I do not as a rule approve of these applications; but there are exceptions to all rules. This is a case where the man has shown clean hands. He collected \$7,000,000 of revenue taxes during the time he was collector for the second district of Georgia, and perhaps at as small an expense as can be found on the record, and this is the only dollar ever missing. He shows where every dollar went, and he exhausted his means, at his own expense, to bring the man to justice, and failed not because of himself but because of the inefficiency of other Government employes. I say, therefore, that his bill ought to pass.

Mr. ALLISON. When the Senator from Georgia put me down in order to talk himself, I was about to say—

Mr. HILL. I beg the Senator's pardon. I thought he was talking on another subject.

Mr. ALLISON. I was endeavoring to reach the exact subject under consideration.

Mr. HILL. Ah, well. I beg pardon.

Mr. ALLISON. I made some statement with reference to the report made in 1871, which has been again brought up here. I ventured to do so for the reason that over and over again, when that report has been alluded to as showing defalcations of internal-revenue collectors, it has been shown here and elsewhere to be false. Take this very case of McBurney. On the report of 1871 he is shown to be a defaulter in the sum of \$94,000, whereas the bill on your table for his relief only shows a deficit of some \$3,000. Yet the Senator from West Virginia comes in here with this old report and endeavors to make it an absolute statement with reference to defalcations of internal-revenue collectors. I happened to be in Congress in the other House when the report was made. I was amazed at the report, and went to the proper office to make inquiry with reference to the collectors in my own State. It contains a list of nine collectors in my own State with an aggregate defalcation of over \$100,000, and yet on inquiry at the office of Internal Revenue I found that the accounts of those collectors had not been settled at all, and with a single exception every one of the collectors named in the list settled his accounts with a balance in his own favor against the Government of the United States, and that collector was only indebted to the Government some \$500 or \$600, because of a difference between him and the Commissioner of Internal Revenue with reference to the amount to be paid to a deputy. Still we are told now, seven or eight years afterward, that these were cases of absolute defalcation of internal-revenue collectors! As I said before, this constituent of my friend from Georgia is put down as a defaulter for \$94,000, and yet this bill shows that he was only indebted to the Government on his accounts some \$3,000.

Mr. DAVIS, of West Virginia. How do you know he did not pay the balance within the seven years?

Mr. ALLISON. I only know from the statement made by the Senator from Georgia that he was a most reputable man and collected \$7,000,000.

Mr. HILL. He collected \$7,000,000 at less than 1 per cent. expense to the Government, and accounted for every dollar of it except this \$3,000.

Mr. MITCHELL. He collected \$7,331,794.91.

Mr. ALLISON. And yet he appears as a defaulter in this list for \$94,000.

Mr. MITCHELL. The Commissioner of Internal Revenue says his accounts are "now closed on the books of the Department" by taking out of the amount of his allowance for salary the amount of the defalcation of O'Brien, which squared all his accounts, and he was discharged.

Mr. ALLISON. I only judge of the other cases from the cases in my own State, which I took occasion to examine after seeing this publication. The difficulty arose from the fact that during those years these accounts of collectors could not be settled rapidly. They were two or three years behind in the settlement of collectors' accounts in the Third Auditor's Office.

But even if all that were true, I submit to the Senator from West Virginia that it is not a large defalcation when you take into account the millions of dollars that were collected under the internal-revenue laws from 1863 to 1869, and when you take into account the further fact that for all these defalcations the Government of the United States took what was supposed to be at the time absolute security from the collectors and their deputies.

Mr. MORRILL. Allow me to ask the Senator from Iowa if it is not true that taking any one point of time and reporting as to the state of facts between the Government and the collectors then it will always show a balance due uncollected from almost every collector throughout the United States; and such balances have been made to figure as defalcations because the collectors had not yet collected the taxes due from various parties.

Mr. ALLISON. That is true from the condition of the law itself. The moment a tax is assessable it is charged to the collector as money, and he must account for it either as money or must give some reason why it could not be collected; and therefore these large sums were added to the collectors' accounts when in fact there were but small balances due from the collectors.

Mr. DAVIS, of West Virginia. Mr. President, a word in reply to the Senator from Iowa. He refers to this particular case now before the Senate and says that the claimant appears to ask relief here for \$3,000 when the report of the Treasury Department made February 18, 1871, says his defalcation was \$94,000. That is entirely consistent. Then it might have been \$94,000, and it may be to-day \$3,000 or nothing.

Mr. ALLISON. Allow me a moment. I also added the statement of the honorable Senator from Georgia that this man was a reputable man and kept his accounts straight all the time.

Mr. DAVIS, of West Virginia. That has nothing to do with it in the world. This gentleman may have been one of the most upright men in Georgia, and there are a great many very upright men there, and that is the very reason, probably, why he settled his accounts so as to reduce the deficit to \$3,000. Does the Senator know he has not paid the other \$90,000?

Mr. MITCHELL. Here is what the Commissioner of Internal Revenue says:

While he held the office of collector—

Mr. DAVIS, of West Virginia. My friend is very impatient; he cannot let me talk one minute without stopping me.

Mr. MITCHELL. The Commissioner says:

While he held the office of collector his reports appear to have been properly and promptly rendered, and the affairs of his office properly conducted.

That is what the Commissioner of Internal Revenue says.

Mr. McCREERY. I should like to inquire what length of time the Senator having this bill in charge proposes to occupy?

Mr. HILL. I am ready for a vote now; I do not see any trouble in voting now.

Mr. DAVIS, of West Virginia. I shall conclude within five minutes, if I am allowed to go on.

Mr. CONKLING. Will the Senator from West Virginia allow me to ask one question, he is so good-natured in yielding? I should like to know from him, as he has investigated this matter, whether upon the evidence before him he believes that this claimant was at that time a defaulter for \$94,000?

Mr. DAVIS, of West Virginia. I have no information on this particular claim, not one iota.

Mr. CONKLING. But the Senator finds his name in that list as a defaulter for \$94,000; I beg to inquire whether that or such information as he has leads him to believe that this claimant was a defaulter for \$94,000?

Mr. DAVIS, of West Virginia. All I can answer is to say that the document which is signed by the Secretary of the Treasury says so; that is all I know about it, and that should be conclusive I think on the Senator from New York.

Mr. CONKLING. The Senator believes it himself?

Mr. DAVIS, of West Virginia. The document says so. The Secretary sent it to Congress as a fact; it is an official report.

It is perfectly consistent that this gentleman owed at that time \$94,000, and I take it the then Secretary of the Treasury would not have reported so if it was not so, and since then he may have settled his accounts. Here he is asking relief for his deputy, not for himself. For aught any Senator knows there may be part of this claim now against the principal in the Treasury Department. There is no information here that it is not so; but let us dismiss that; I do not want to attack this gentleman.

Mr. MITCHELL. I must correct the Senator.

Mr. DAVIS, of West Virginia. I have already three Senators to answer, and the Senator himself has put me one question.

Mr. MITCHELL. Will the Senator yield to me?

Mr. DAVIS, of West Virginia. The Senator has already put one question that I should like to answer.

Mr. MITCHELL. The Senator does not wish to misrepresent this case. Certainly I will not interrupt the Senator if he does not desire to be interrupted.

I understood the Senator from West Virginia to say that there was no evidence here to the contrary but that this man McBurney was chargeable with this amount at the Department. There is evidence here to the contrary in the letter of the Commissioner of Internal Revenue, which says that he has closed up his accounts, that when he put in his final account there was a balance due from him for O'Brien's defalcation, and that the Department took it out of his compensation and squared the account.

Mr. DAVIS, of West Virginia. I promised the Senator from Kentucky that I would stop in less than five minutes. My friends all around me take up the most of my time.

Mr. President, this is a question that ought to be discussed at some future time, I have no doubt, when the Senate has full opportunity to do it. I know nothing about this particular claim, but I will say to Senators now that I will notice what they have said, and at some future time this matter will be renewed. But I want to say now, in conclusion, that the law requires that the First Comptroller, under the supervision of the Secretary of the Treasury, shall report annually, which report shall be made during the first week of the session of Congress, a list of the defaulters whose defalcations have stood more than three years on the books. The report in the document I have here, made in 1871, says under that state of things there were more than \$20,000,000 due, and among the names on the list this very name appears. A moment ago the Senator from Oregon said to me that there was nobody in his State on this list, and I asked him if he was sure of that.

Mr. MITCHELL. I said no such thing. The Senator from West Virginia said that unless he was mistaken there were collectors of internal revenue in my own State who were defaulters.

Mr. DAVIS, of West Virginia. That document says there is.

Mr. MITCHELL. I do not care what the document says. I venture the expression of the opinion that there is no collector of internal revenue in my State who is to-day a defaulter to the Government.

Mr. DAVIS, of West Virginia. They may have paid, and probably they have. There certainly were such when that document was issued. I hope they may have paid up since. They may have done so. This document speaks of collectors out of office, not in office. There may have been as many more in office at that time who were termed defaulters by the Secretary of the Treasury. I know not whether that was so or not.

Now, one word as to the printing of the document that came here last year under a resolution offered by me. My recollection is that the Committee on Printing of the Senate reported against having it printed, and it was sent to the Secretary's office, and if it has ever been printed I have not seen it. I do not think it ever has been printed.

Now, as my friend from Georgia is anxious about this bill and my friend from Kentucky is anxious for the bankrupt-repeal bill, I will say no more.

Mr. SARGENT. Mr. President—

Mr. HILL. I hope the Senator from California will let us vote.

Mr. SARGENT. I am aware of the great patience of my friend, and I will not tax it much.

Mr. HILL. That has been the case for the last hour.

Mr. SARGENT. I have no doubt the Senate will have as much patience as my friend and give him a chance to pass the bill. I think the bill ought to pass and ought to have a chance to pass.

Mr. HILL. Mr. President—

Mr. SARGENT. Now if the Senator will only let me alone, we shall get through a great deal sooner.

Mr. McCREERY. But where are my rights? [Laughter.]

Mr. SARGENT. Here is another anxious Senator. [Laughter.] I ask my friend from West Virginia [Mr. DAVIS] to read the portion of the report which states that the persons named therein are defaulters? That is a very serious term, and amounts to the word "thief." I do not find that this document says they are defaulters, but it says there are certain balances due from collectors of internal revenue not now in office; and this book shows what those lists are and explains just what is meant by the terms used. It contains an extract from a previous report of May 2, 1870, which Mr. Taylor, the Comptroller, says was made in answer to a similar resolution, and I wish to read this extract as a full reply and all that is necessary to

show that these persons were not intended to be treated as defaulters or criminals in any degree:

The balances and payments as shown by this statement are those which appear by accounts adjusted; but in many of them, I have no doubt, the balances will wholly, or in part, disappear when further reports and vouchers shall have been transmitted to the Auditor and been acted upon. In a large proportion of the cases the balances against collectors consist of tax-lists charged to them, but turned over to their successors in office. Under the existing law the accounting officers cannot credit an outgoing collector with lists so turned over, unless the Commissioner of Internal Revenue shall certify that such outgoing collector has used due diligence. In the absence of such certificate the accounting officers cannot credit collectors with taxes turned over to their successors, and in almost every case a collector must appear to be in arrears, though nothing be due from him, until the required certificate shall have been supplied.

That is the explanation of the whole list; in a multitude of cases there was nothing due from the officers at all; their accounts were simply hung up on a technicality; and I have no doubt that was the case with the \$94,000 charged against the gentleman whose claim is now pending before the Senate for relief.

Mr. COCKRELL. Mr. President, as a member of the Committee on Claims, I dissented from this report at the time it was made, but did not deem it necessary to make an adverse minority report. I cannot sustain this bill. My reasons will be stated very briefly.

This collector appointed a deputy in 1867. That deputy, it is claimed now, became a defaulter. By reason of that default he incurred a penal liability and a civil liability. Great stress is put upon the fact that the collector attempted to enforce the penal liability against this officer while he totally neglected to enforce the civil liability. The civil liability was in his own hands, was in his own power. He could have enforced that civil liability against this deputy collector; and in the report it is stated that he took a due-bill from this deputy collector, and it is stated as the opinion of this collector himself that if the United States had brought an action there was property purchased with this money which was the reason of the default, as the collector asserted, real estate, out of which the money could have been made. If the United States could have proceeded civilly and made it, this collector could have done it.

Another objection—

Mr. HILL. I will state to my friend that I believe that fact was not before the committee, but the fact was that he did pursue the civil liability until it was found ineffectual.

Mr. COCKRELL. That was not before the committee, and that is not in the report.

Mr. HILL. That is the fact, and he employed lawyers that I know, very able lawyers, for that purpose—Lochrane and Shorter.

Mr. SAULSBURY. I call the attention of the Senator from Georgia to the fact that he did not take this obligation from the defaulting deputy until June 4, 1868. The defalcation occurred the year previous, and he failed to take the obligation for a whole year.

Mr. HILL. He tried to collect the money as soon as he found it out. It was not necessary to take that obligation at all at any time. It was unnecessary on his part; but he was trying to get the evidence of that defalcation; he did employ Lochrane and Shorter to collect this debt. I have the statement of Judge Lochrane who was here himself a few days ago.

Mr. MITCHELL. I hold in my hand a letter from Judge Lochrane, late chief-justice of the State of Georgia, I believe.

Mr. HILL. Yes, sir; a very able lawyer.

Mr. MITCHELL. I think it answers the objection made by the honorable Senator from Missouri.

WASHINGTON, April 9, 1878.

DEAR SIR: In response to your inquiry, my recollection is that at the time Mr. O'Brien failed to turn over money in his hands to you as collector of internal-revenue, you came to my office at Macon, Georgia, and consulted me what could be done to recover the money from him; and Mr. Shorter, a young lawyer in my office, was sent to Pulaski County to find out what, if any, property O'Brien had which might be made subject to the claim. He went with instructions to examine the records as to title, taxes, &c.; and my recollection is that Shorter reported upon examination nothing could be made out of him on civil suit or proceedings, and I advised you to go to Savannah and see the district attorney about prosecuting him, which you did, as I afterward met you in Savannah upon this matter.

Respectfully,

JAMES C. MCBURNEY, Esq.

O. A. LOCHRANE.

Mr. COCKRELL. It does not answer the charge which I make, and it seems very strange that those facts were not embodied in the report of the committee as to the bringing of a civil suit. I stated that no civil action had been brought. The letter read by the Senator from Oregon confirms that statement; the lawyers made investigation, but brought no civil suit because they say there was nothing out of which the money could be made; and yet the collector states that if the United States had prosecuted the deputy diligently they could have made the amount. There is an inconsistency, to say the least, in the report.

Mr. HILL. The meaning there is that this man O'Brien if he had been convicted of embezzlement perhaps would have had the money made up by his friends rather than have been sent to the penitentiary. I suppose that is what it means. His lawyers advised him that the only way to get the money was by a criminal prosecution, and he did resort to a criminal prosecution, and that failed through the inefficiency alone of the district attorney.

Mr. COCKRELL. My other objection to this bill was that this collector of internal revenue never reported this default until 1869, two years after it had occurred, when he applied to the Treasury Department

for a settlement of his accounts, and there was a balance found against him of \$3,785.40.

Mr. HILL. He did not ask for that or report the facts sooner, because in the mean time he was doing his very best to collect the amount.

Mr. ALLISON. The Senator from West Virginia made it \$94,000 according to the report he had.

Mr. DAVIS, of West Virginia. The Senator from West Virginia did not. The Senator from Iowa said so, not the Senator from West Virginia.

Mr. COCKRELL. I will not detain the Senate long. I have but one point to make. If gentlemen who want to pass this bill would simply wait for the objections to be made to it they would have been made long ago.

Mr. MCCREERY. I must demand the regular order.

THE VICE-PRESIDENT. The regular order is the unfinished business.

Mr. HILL. I hope the Senator from Kentucky will withdraw his call.

Mr. MCCREERY. If the vote can be taken in five minutes, I will give way again.

Mr. MITCHELL. We can certainly do that.

Mr. HILL. I think so.

Mr. MCCREERY. Very well.

Mr. COCKRELL. As I stated, the other objection to this bill is that this collector never reported this default until 1869, two years after it occurred. Then it was that he made his report after the close of his term of office. The Commissioner of Internal Revenue says:

After the close of his term of office it was ascertained that of the amounts reported collected by him there remained a balance unaccounted of \$3,785.40, and, in reply to a letter from this office upon the subject, he represented that the amount in question was the amount of a defalcation of one of his deputies, Michael O'Brien.

I think it is gross negligence when an officer of the United States charged with the collection of these funds fails, neglects to report a default to the head of the Treasury Department to which he made his monthly reports, for two long years after it occurred.

Mr. MITCHELL. Has my friend any doubt about the facts of this matter being just as represented in the report, that he lost this money by this defalcation? There cannot be any question about that. Then what difference does it make whether he reported it to the Treasury or not?

Mr. CAMERON, of Wisconsin. In the absence of the chairman of the Committee on Claims, I desire to say a word in regard to this claim. I was present in the committee at the time it was considered by the committee and was opposed to recommending the passage of the bill, and without my vote an adverse report would have been made on the bill. I stated, and it so appears on the records of the committee, that for the purpose of bringing the claim before the Senate I was willing to vote in favor of it, but stating at the same time that I would not vote for the bill when it came before the Senate.

Mr. CONKLING. I am surprised by the statement of the Senator from Wisconsin, a member of the Committee on Claims, for I thought some Senator stated that this was a unanimous report from that committee—

Mr. HILL. I thought it was.

Mr. CONKLING. I arose, however, for the purpose—

Mr. HILL. If I stated it was a unanimous report, that was my opinion. There was no minority report.

Mr. CAMERON, of Wisconsin. There was none.

Mr. CONKLING. I did not remember which Senator stated it.

Mr. HILL. That was my information.

Mr. CONKLING. I did not mean to take exception to the propriety of the statement. I rose, however, for another purpose. The claimant in question, who has been canvassed here this morning perhaps somewhat unceremoniously, has taken the trouble to say to me in writing what I think I ought to read to the Senate. He says:

At the time I went out of office I had only about \$9,000 of unsettled accounts. The Government then owed me over \$10,000 on account of compensation which was afterward paid to me, less the \$3,895.07 which was deducted and kept.

That is the amount represented in this bill.

Mr. COCKRELL. Three thousand seven hundred and eighty-five dollars and forty cents.

Mr. CONKLING. Three thousand eight hundred and ninety-five dollars and seven cents appears here, but it is identified by the context as the same item. I read this in justice to this claimant, and I feel bound to say (although I observe that the report of the committee refers to other cases the facts of which have not been stated in which collectors were relieved) that I do not see any more than the Senator from Tennessee, [Mr. HARRIS,] or the Senator from Delaware [Mr. SAULSBURY] seems able to see, the principle on which we relieve a man from the act of his agent, not our agent, but his agent.

What does he give bond for? Manifestly this very case, just as a sheriff gives his bond, becomes responsible not alone for what he does individually, but for what is done by his deputies because they are his deputies, his agents, and therefore he is responsible for them. If a burglar breaks into a post-office or a depository and steals stamps, money, or valuables, I can see, as I think the Senate will see, a distinction between that case and this. But when a bonded officer and his sureties undertake to be responsible for specific things, and those things occur, I must say that I cannot comprehend the principle on

which the Senate has based, if it has done so heretofore, precedents like those referred to by the committee. It seems to me very extraordinary that a bonded officer should be by legislative act exonerated from the very thing which his bond is given to cover and compel him to respond to.

I feel bound to say as much as this for one, although I know no reason why this individual should be made an exception to any general rule, if indeed general rule there be covering a case like this.

Mr. MITCHELL. Mr. President, one word now in conclusion. I will simply say, I feel called upon to say it in answer to what has been said, that unless Congress relieve this gentleman Congress did wrong in relieving "William J. Patton, collector of internal revenue, second district of Arkansas, \$36,081.88; S. S. Bailey, collector of internal revenue, fourth district of Michigan, \$1,752.23; E. B. Pendleton, collector of internal revenue, fifth district of Virginia, \$26,476.28."

Mr. CONKLING. What were the circumstances of these cases?

Mr. MITCHELL. I have examined them, and most of them are cases where the deputies of the collector were in default, and through the default, the embezzlement of the deputies, the collectors were compelled to account to the Government for a certain amount, and Congress relieved them. There are also numerous other cases; here are some: E. H. Webster, (16 Stats. at L., 703,) John T. Mason, (17 Stats. at L., 704,) R. R. Bolling, (17 Stats. at L., 768,) Logan H. Roots, (16 Stats. at L., 690,) W. B. Thomas, (18 Stats. at L., 555,) Thomas Hillhouse, (18 Stats. at L., 532,) Willard Davis, (18 Stats. at L., 533.) Most of these were collectors of internal revenue, and in many cases the circumstances were not so strong in favor of the claimant as in this particular case.

The bill was reported to the Senate without amendment.

The bill was ordered to be engrossed for a third reading, there being on a division—ayes 27, noes 16.

The bill was read the third time.

Mr. SAULSBURY. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 20; as follows:

YEAS—29.			
Bailey,	Conover,	Hereford,	Patterson,
Beck,	Dawes,	Hill,	Sargent,
Booth,	Dennis,	Ingalls,	Teller,
Bruce,	Dorsey,	Jones of Florida,	Voorhees,
Butler,	Eastie,	McPherson,	Wadleigh,
Cameron of Pa.,	Garland,	Maxey,	
Chaffee,	Gordon,	Mitchell,	
Coke,	Grover,	Morgan,	
NAYS—20.			
Cameron of Wis.,	Harris,	McDonald,	Plumb,
Cockrell,	Howe,	McMillan,	Rollins,
Conkling,	Johnston,	Matthews,	Saulsbury,
Davis of Illinois,	Keruan,	Merrimon,	Saunders,
Eaton,	McCreery,	Oglesby,	Whyte,
ABSENT—27.			
Allison,	Christiancy,	Kellogg,	Sharon,
Anthony,	Davis of W. Va.,	Kirkwood,	Spencer,
Armstrong,	Edmunds,	Lamar,	Thurman,
Barnum,	Ferry,	Merrill,	Wallace,
Bayard,	Hamlin,	Paddock,	Windom,
Blaire,	Hoar,	Randolph,	Withers,
Burnside,	Jones of Nevada,	Ransom,	

So the bill was passed.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of War, transmitting copies of the annual reports of the generals commanding the Departments of the Columbia and of Dakota, and asking that these reports be printed as a part of his annual report for 1877; which was referred to the Committee on Printing.

PROPOSED CORRECTION OF THE JOURNAL.

Mr. GORDON. Mr. President, I rise to a question of privilege. I ask that the Journal of yesterday be corrected. When the House bills were laid before the Senate by the Chair, I asked that the bill (H. R. No. 4245) authorizing the President of the United States to appoint James Shields, of Missouri, a brigadier-general of the United States Army on the retired list receive the present consideration of the Senate, to which the Senator from Vermont not now in his seat [Mr. EDMUNDS] objected. I supposed, until I saw the CONGRESSIONAL RECORD this morning, that the bill to which I have referred was upon the Calendar under the rules of the Senate. I see that the RECORD states that the Vice-President said:

If there be no objection, the bill will be considered read the second time, and referred to the Committee on Military Affairs.

And I am informed at the desk that it has been sent to the Committee on Military Affairs. I submit to the Senate that the Journal ought to be corrected by striking out the words:

And referred to the Committee on Military Affairs.

The facts I believe are these: as the bill was announced, I immediately rose in my place; the Chair, however, as is usual with the Chair, announced that the bill would be referred to the appropriate committee; but immediately upon that, and during the announcement made by the Chair, I addressed the Chair and asked for present consideration. I believe under the twenty-fifth rule that the calling for the present consideration of a bill and objection being made there-

to by a Senator would put it upon the Calendar without a special motion from some Senator to make the reference. I ask, therefore, that that correction be made of the Journal, and that the bill be put upon the Calendar.

The VICE-PRESIDENT. The Chair will state the facts as the RECORD states the facts. He announced, as he always does on the presentation of House bills, their reference. It was after he had made the announcement that the Senator from Georgia made the request for present consideration, to which the Senator from Vermont objected. The Chair simply desires to say that within his own knowledge the RECORD states the fact as it actually occurred.

Mr. GORDON. I agree with the Chair that the Chair used the words "the RECORD reports." I understand that there is no disagreement between the Chair and myself in regard to the words used by the Chair. The point I make, though, is that, having made the objection at the time to its reference and asked its present consideration, the bill could not go to the committee without a special reference by the Senate on the motion of some Senator. I will read, if the Chair please, the twenty-fifth rule:

Every bill and joint resolution reported from a committee, not having previously been read, shall be read once and twice, if not objected to, on the same day, and be placed on the Calendar in the order in which the same may be reported; and every bill and joint resolution introduced on leave, and every bill and joint resolution of the House of Representatives which shall have received a first and second reading without being referred to a committee, shall, if objection be made to further proceeding thereon, also be placed upon the Calendar.

I objected to this reference at the time, and supposed, and I think the Clerk so supposed at the time, for I took the pains to go to the desk to ascertain whether my motion did put the bill upon the Calendar, and supposed it did until this morning.

The VICE-PRESIDENT. The Chair heard nothing from the Senator from Georgia except a request for the present consideration of the bill. If the Senator made an objection to the reference the Chair did not hear it. He refers all bills without a motion.

Mr. GORDON. It is due to the Chair to say that I did not use the words, "I object to this reference;" but I supposed, and I think it is true under the rules, that asking present consideration was an objection to the reference. I wish further to say, as appears from the RECORD further on, that my understanding must of necessity be correct:

Mr. GORDON. Mr. President, I move that the Senate proceed to the present consideration of that bill.

Mr. EDMUNDS. To which I object, Mr. President.

The VICE-PRESIDENT. The objection is well taken. The bill goes over under the rule.

Now I submit that it was utterly impossible for the bill to go over if the reference had already been made to the committee. There could be no such action taken upon it. Therefore the position I assume holds good, that the objection in the words "I move that the Senate proceed to the present consideration of the bill" did carry it to the Calendar under the objection made by the Senator from Vermont.

Mr. CONKLING. Mr. President, I think the statement of the Senator at once vindicates the Journal and the action of the Chair, and, if he will allow me, shows that in the interest of the bill he had better not press his motion. Manifestly the bill could not be considered at the time of which he has been speaking, except by a motion to postpone the present and all prior orders, because there was actually pending in the Senate and under consideration another bill and as I understand the rule and the direction of the Chair, the Chair did precisely that which the rule required, the bill took the direction which the rule means. And I submit to the Senator that its condition now as it stands is better for his purpose than it would be if his motion prevailed; and I say that for this reason: if the bill were on the Calendar under the rule, it could be read but once on one day; it could not be read more than once except by unanimous consent. The next day it could be read again, and only once except by unanimous consent. Then the question would remain whether it should be referred to a committee; and in the case of a bill like this—I say "like this" only because it is an exceptional bill not falling within the general rule applied to such cases—I take it it would be the judgment of the Senate that some committee should examine it, so that the Senator, should his motion prevail, will only defer the reference of the bill, whereas if it stands now referred to the committee it is ready for action and can get back sooner than it otherwise might.

This last suggestion, however, is not so pertinent to the purpose as that which I rose more particularly to make—that the Senator could not have had it considered at the time, and the Journal states, as he admits, the exact fact and the fact as the Chair was compelled to have the fact under the rules of the Senate.

Mr. GORDON. Mr. President, the question which I rose to submit to the Senate was, not as to the best course to take for this bill in the interest of the bill itself, but whether the record be correct. I should like to have the sense of the Senate upon the fact as to whether an objection made to the reference of a bill in the words that I used at the time is a sufficient objection to prevent its reference to a committee; whether it does not require under such a motion as was submitted by myself at the time some collateral motion afterward by some Senator to carry the bill to a committee. I submit that the bill is not in committee at all, but is still before the Senate upon the Calendar. I should like to have that question decided.

The VICE-PRESIDENT. Will the Senator formulate the proper motion to effectuate his purpose?

Mr. GORDON. I ask the Chair whether the bill is upon the table or whether the Chair considers that it has gone to the committee.

The VICE-PRESIDENT. The Chair refers all House bills and he referred this bill to the Committee on Military Affairs. After he had done that, the Senator made a motion that the Senate proceed to its present consideration, to which the Senator from Vermont objected. That was the real fact as it transpired. This bill is in the committee if the House bills which are daily referred by the Chair are in committee by his order of reference.

Mr. GORDON. The Chair and the Senate will understand that it was impossible physically for me to address the Chair at the time the Chair was talking, or at least so as to be heard. I rose simultaneously with the announcement of the bill by the Secretary, and the very instant I could say "Mr. President" I did so, supposing that it would be quite time enough and that it was not a mere question of a race between the Chair and myself as to what should be the destiny of this bill. I submit that my objection made at the time ought to be considered as made when the bill was announced by the Secretary.

The VICE-PRESIDENT. But the Senator will permit the Chair to state that he did not rise to the question of reference. He rose to ask the Senate to proceed to the present consideration of the bill, which might be done of course by unanimous consent.

Mr. GORDON. There is no difference between the Chair and myself on that point at all. The question is whether the bill is now in the Committee on Military Affairs or whether it is before the Senate; and I should like the Chair to make a ruling upon that point.

The VICE-PRESIDENT. The Chair rules, if the Senator desires to submit the question to him, that the bill is in the Committee on Military Affairs by his order of reference, which was not questioned, as the Chair understood, at the time.

Mr. GORDON. Then, without the slightest disrespect to the Chair and without any special concern as to what disposition is to be made of the bill, as it has gone thus far, I appeal from the decision of the Chair merely to get the sense of the Senate as to what the rule truly means.

The VICE-PRESIDENT. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. THURMAN. I want to know what I am to vote on. Is there a motion made to correct the Journal?

Mr. GORDON. There is.

Mr. THURMAN. What is that motion?

The VICE-PRESIDENT. The Senator from Georgia has moved to correct the Journal as stated by him.

Mr. GORDON. If I am allowed I will submit a motion to correct the Journal instead of appealing from the decision of the Chair.

Mr. EDMUNDS. Let the motion be reduced to writing.

The VICE-PRESIDENT. Will the Senator from Georgia, in accordance with the request of the Senator from Vermont, please reduce his motion to writing?

Mr. GORDON. Yes, sir.

Mr. McCREERY. Is it in order now to call for the regular order?

Mr. GORDON. Not until this matter is disposed of.

The VICE-PRESIDENT. This has been entertained as a question of privilege and the Chair trusts the Senator from Kentucky will not interpose.

VOTE ON RAILROAD BILL.

Mr. HOWE. While the Senator from Georgia is preparing his motion I should like to have the Journal corrected in another particular about which I suspect there will be no dispute. I was out when the Journal was read this morning, but my attention has been called to the fact that my name did not appear among the yeas and nays on the passage of the bill which was under consideration during the afternoon yesterday. I voted when my name was called. I responded "nay."

The VICE-PRESIDENT. The Journal will be corrected in that particular, the Chair hearing no objection.

REVISION OF THE PATENT LAWS.

Mr. WADLEIGH. I give notice that on Wednesday of next week I shall call up the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes.

BENJAMIN NOYES.

Mr. EATON. I should be glad to ask unanimous consent to take up to-morrow after the morning hour the resolution which I had the honor to offer some days since relating to the arrest of one Benjamin Noyes, a citizen of the United States and of the State of Connecticut.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Connecticut that to-morrow after the morning hour he be at liberty to call up the resolution and proceed with it?

Mr. EATON. I shall detain the Senate but a short time upon it.

Mr. EDMUNDS. It ought not to be made a special order. If the Senator gives notice, there will be no objection.

Mr. EATON. Very well, I give notice that I shall call up the resolution to-morrow morning.

ADDITIONAL PETITIONS AND MEMORIALS.

Mr. McDONALD presented the memorial of Franklin B. Hunt, of

Richmond, Indiana, praying for the appointment of a committee to investigate certain differences between the Commissioner of Patents and himself and the causes which led to his being prohibited from practicing before the Commissioner of Patents; which was referred to the Committee on the Judiciary.

Mr. JOHNSTON presented the memorial of merchants, owners, agents, and masters of vessels, citizens of Norfolk, Virginia, remonstrating against the transfer of the life-saving service from the Treasury to the Navy Department; which was ordered to lie on the table.

He also presented a memorial of citizens of Norfolk, Virginia, remonstrating against the transfer of the life-saving service from the Treasury to the Navy Department; which was ordered to lie on the table.

AMENDMENTS TO BILLS.

Mr. TELLER submitted an amendment intended to be proposed by him to the bill (S. No. 20) authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes; which was ordered to be printed.

Mr. HOWE, Mr. MITCHELL, and Mr. WINDOM submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. MATTHEWS submitted an amendment intended to be proposed by him to the bill (H. R. No. 805) to repeal all that part of the act approved January 14, 1875, known as the resumption act, which authorized the Secretary of the Treasury to dispose of United States bonds and redeem and cancel the greenback currency; which was referred to the Committee on Finance, and ordered to be printed.

PROPOSED CORRECTION OF THE JOURNAL.

Mr. GORDON. I offer the following order:

Ordered, That the Journal of April 9 be corrected so as to read:

"If there be no objection, the bill will be considered read the second time."

Mr. MERRIMON. I beg to say a word. It seems to me that the RECORD is correct in all respects. The simple question is whether the first direction of the Chair shall prevail or the last. The Chair said:

If there be no objection, the bill will be considered read the second time, and referred to the Committee on Military Affairs.

Mr. GORDON. Mr. President, I move that the Senate proceed to the present consideration of that bill.

Mr. EDMUNDS. To which I object, Mr. President.

The VICE-PRESIDENT. The objection is well taken. The bill goes over under the rule.

The VICE-PRESIDENT. The Chair meant the consideration of the bill, of course.

Mr. MERRIMON. Well, "the consideration of the bill goes over under the rule." Now what do the words "go over under the rule" mean? They mean that the bill lies upon the table until the appropriate time comes to take some further action upon and amounting to a countermanding of the order which the Chair had before that time made. Therefore the sending of the bill to the committee, it seems to me, was an error, and the bill is still legally on the table, and subject to any proper motion to be made. The simple question is whether the first order made by the Chair prevails or the second.

Logically, certainly the second order prevails, and the bill is on the table now, or if it has gone to the committee it is there erroneously. The first order was conditional. Objection was made to the reference, for what the Senator from Georgia said was tantamount to an objection. After he had made his motion, which must be regarded as in substance an objection, the Senator from Vermont interposed an objection which cut off the motion, and cut it off absolutely. The consideration of the bill at that time was impossible. Then the Chair said, "the bill goes over." That means, "it lies on the table to take the regular course of business," and it is on the table now in contemplation of parliamentary law, and subject to any action that is proper and regular. The RECORD is correct. There is no real difference between the Chair, it seems to me, and the Senator from Georgia. The resolution is therefore unnecessary, and the simple question is what disposition is to be made of the bill at this time, for if it is in the committee it is there erroneously.

The VICE-PRESIDENT. The question is on the resolution of the Senator from Georgia.

Mr. BAYARD. Let it be read.

The VICE-PRESIDENT. It will be again reported.

The Chief Clerk read as follows:

Ordered, That the Journal of April 9 be corrected so as to read:

"If there be no objection, the bill will be considered read the second time."

Mr. INGALLS. Does the resolution refer to the Journal or the RECORD?

Mr. GORDON. To the Journal.

Mr. INGALLS. I should like to hear what the Journal says.

Mr. GORDON. I take it the Journal says the same thing as the RECORD.

The VICE-PRESIDENT. The entry in the Journal will be reported.

The Chief Clerk read as follows:

The bill (H. R. No. 4345) last received from the House of Representatives for con-

currency was read the first and second times, by unanimous consent, and referred to the Committee on Military Affairs.

Mr. INGALLS. It is very evident that the Senator from Georgia has misapprehended the relation between the Journal and the RECORD. The resolution can in no sense apply to the Journal of legislative proceedings. He endeavors to apply the language that appears in the RECORD to the Journal and have it inserted there, which of course would be entirely inappropriate.

Mr. GORDON. The Journal as I understand it, as read at the desk, precisely corresponds with the RECORD. I ask again for the reading of the words used by the Vice-President.

Mr. WHYTE. The Senator merely wishes to strike out the words "and referred to the Committee on Military Affairs," which appear in the Journal.

Mr. GORDON. That is all. Is it necessary to submit that motion in writing? I wish to move to strike out the words "and referred to the Committee on Military Affairs." That motion I first submitted but I yielded to other gentlemen who offered suggestions.

Mr. HEREFORD. I should like to vote with my friend the Senator from Georgia, but I cannot vote with him on the motion he has made because it does not accord with the facts. The Vice-President did say just what the RECORD says he said. The error I think is in this: I do not think the bill is before the Military Committee at all. In that I agree with the Senator from North Carolina. What occurred?

The VICE-PRESIDENT. If there be no objection, the bill will be considered read the second time, and referred to the Committee on Military Affairs.

That is what the Vice-President said when the bill was laid before the Senate. Then—

Mr. GORDON. Mr. President, I move that the Senate proceed to the present consideration of that bill.

Mr. EDMUNDS. To which I object, Mr. President.

To what did the Senator from Vermont object? The Senator from Vermont objected to the present consideration of the bill. Then the Vice-President said:

The objection is well taken—

That is, to the present consideration of the bill—

The bill goes over under the rule.

Not meaning that the bill goes over, for that would not make sense, but the consideration of the bill goes over. It goes over until when? It goes over until the following day. Consequently, as was said by the Senator from North Carolina, the original statement made by the Vice-President was conditional; that is, "if there be no objection this bill will go to the Committee on Military Affairs." There was an objection made in the shape of asking for the present consideration of the bill, and then the Vice-President said the bill, in other words, the consideration of the bill, will go over under the rule. Therefore it seems to me clearly that the bill is to-day on the Calendar, and I cannot vote with the Senator from Georgia to correct the RECORD, because the RECORD is correct. But with all due deference to the Presiding Officer, if the motion were made to appeal from the decision of the Chair as to where the bill now is, I should be compelled to vote with the Senator from Georgia, for I do not believe that the bill is before the Military Committee. Certainly it is in such a condition that the Senate will readily recognize that there is enough in this case to have misled the Senator from Georgia. There was enough in what the Presiding Officer said to have misled the Senator as to what was the fate of the motion he made. Therefore the Senator from Georgia should be placed in the very same condition that he was then, and then if it be the pleasure of the Senate to refer the bill, all right.

Mr. CONKLING. Mr. President, the statement made by the Senator from West Virginia, [Mr. HEREFORD,] which is certainly an ingenious one, is unsatisfactory to me for a reason which I should think would render it unsatisfactory to the Senator. Had the Senator from Georgia at any time objected to the reference of the bill and arrested its reference, all would follow that the Senator from West Virginia argues. He says he did do that. How? He says a motion would have done it. I do not agree to that; but suppose it would, did the Senator from Georgia make a motion, an effectual motion? Not at all. There was but one motion that he could make which would have such an effect. What was that? To postpone the present and all prior orders and proceed to the consideration of this bill. No such motion as that was made.

Mr. COCKRELL. Will the Senator from New York permit me to ask him a question?

Mr. CONKLING. Certainly.

Mr. COCKRELL. Would not the proper motion have been to move that the bill be read a second time?

Mr. CONKLING. No, sir.

Mr. COCKRELL. Then it could have come up to-day.

Mr. CONKLING. No, sir, the Senator could not make any such motion, and for a reason just as clear as the fact in physics that two bodies cannot occupy the same space at the same time. Under the rules of the Senate the Senate was occupied with the so-called sinking-fund bill. There was no way to replace that by another bill except a motion to displace the pending bill. No such motion was made. What was done? An informal appeal was made for unanimous consent, and the Senator from Vermont objected. Did not that end it?

Then the Presiding Officer, having in the execution of the rules already referred the bill to the Committee on Military Affairs, said, "the objection is well taken, and the consideration of the bill goes over under the rule." Under what rule did it go over? Under the rules which the Vice-President had already executed, and there are several of them, it had gone to the Committee on Military Affairs. There is no escape from that except the argument that the appeal of the Senator from Georgia for the unanimous consent of the Senate to make the motion amounted to an objection. Certainly not. Suppose unanimous consent had been given, then it would have been in order to make a motion to proceed with the consideration of the bill. But the Senator from Georgia did not reach the point when he could make that motion, because leave to make it was refused by the objection of a Senator.

Therefore, I say again, that the record is true. It affirms exactly what took place, and moreover it affirms exactly what should have taken place and is now most conducive to the early and regular consideration of the bill. I take it, no Senator supposes that if this bill could be brought back from the committee now, without an examination, the Senate would proceed with hot foot to vote upon it without its being examined at all. Surely I may say for one, whatever the merits of it may be in my estimation, I would never vote to pass a bill which bill in substance appropriates money, and a considerable sum of money, permanently from the Treasury, in an exceptional case, without any examination of it whatever. Here, in the case of a bill involving \$3,000 which had been carefully examined by a committee, the Senate spent most of the morning hour and some time afterward in considering it. Such is the measure of consideration which is thought due to bills, and especially to appropriation bills. Therefore upon the merits of the motion, without reference to its technical right, I should have no doubt that the bill is where it ought to be, before the Committee on Military Affairs, and where it will go eventually, I believe, before it is finally considered in the Senate. Hence I say, in the interest of the bill, the whole effect of this proceeding is to interpose an interval between now and the time when final action can be taken upon it.

Mr. GORDON. I have no objection personally to the bill going to the Committee on Military Affairs, and I certainly did not expect it to pass without consideration. My motion was not made with a view to the passage of the bill without consideration. It was to proceed to the consideration of the bill. I expected, of course, that the Senate would discuss the measure and consider it before voting upon it. But this question is not as to what shall be done with the bill hereafter. The question is what has already been done with the bill under the rule of the Senate. I submit that if the rule as applied here holds in all motions that are made in the Senate we shall never be able to call for the yeas and nays or for a division after the announcement of the Chair, for it is usual for the Chair to say, "By the sound the yeas have it." That ends the question under this ruling. The Chair having said that, if there be no objection, the bill is referred to the Committee on Military Affairs, it is insisted that that ends it. If the interposition of an objection after that cannot be entertained, we can never have an objection entertained after the announcement of the Chair in deciding motions or votes. All I ask is that the Journal be properly corrected so as to represent the facts as appears from the last language of the Chair at the time, as it was understood by himself, which was that the bill or the consideration of the bill went over under the rule. When that is done I am willing that the bill shall take any course that the Senate may regard as proper. I move to strike out from the entry in the Journal the words "and referred to the Committee on Military Affairs." That would leave the RECORD precisely as it is now, and it is absolutely correct, for the Chair did speak the words there as suggested by the Senator from West Virginia. My motion is not to correct the RECORD, but the Journal, which simply pretends to recite a fact.

Mr. HEREFORD. I desire to say one word in reply to the Senator from New York. The Senator from New York says that the position I take in this matter cannot be maintained, as I understood him, for the reason that the Senator from Georgia could not have had the floor to make the motion that he did make except by unanimous consent, and that his motion would have to be to lay aside the pending business before the body and take up this other matter. In that I think the Senator is clearly wrong, for this reason: prior to this matter coming up there had been several other questions before this body. One was "appropriations for detecting trespasses," &c., being a report made by a committee of conference. After that there was action upon the consular and diplomatic appropriation bill, and a resolution was offered in regard to it. Then after that the Vice-President appointed a committee of conference, and after that the RECORD reads thus:

HOUSE BILL REFERRED.

The bill (H. R. No. 4245) authorizing the President of the United States to appoint James Shields, of Missouri, a brigadier-general in the United States Army on the retired list, was read the first time by its title.

That is the matter which was before the Senate. It was this House bill. How it got there it is unnecessary to decide. It was before the Senate, however.

Mr. DAVIS, of West Virginia. There was no other business then before the Senate.

Mr. HEREFORD. There was no other business before the Senate

then, because, as the Senator from New York has said, it is evident as a proposition in physics that two bodies cannot occupy the same space at the same time. The only thing then before the body was this House bill in relation to General Shields. Then, if two bodies cannot occupy the same space at the same time, there could have been nothing else before this body. Therefore it was not necessary, as the Senator from New York has said, to get unanimous consent to move to set aside all other business and take up this bill. This was the very matter before the body and the only matter before the body. How it got here, whether by unanimous consent or not, is immaterial. Whether it was placed before the Senate by the Presiding Officer or not is immaterial. It was the question before the body, and the motion of the Senator from Georgia was correct.

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. HEREFORD. Yes, sir.

Mr. CONKLING. When the Vice-President made this formal announcement, "the bill is referred to the committee," or "the bill goes over," did the Senate resume the consideration of the sinking-fund bill?

Mr. HEREFORD. I suppose it did. I have not looked at the Record to see how that was.

Mr. CONKLING. I wish my friend would look, and I wish he would tell me whether the Senate did resume the consideration of it owing to a motion or whether that consideration was continued on the ground that it had been all the time before the Senate, because an answer to that question I think will answer the argument of my friend.

Mr. HEREFORD. I will answer the Senator from New York by saying that the sinking-fund bill was informally laid aside, as it had been laid aside at different times for a month, in order that other business might come before the body. When that bill was informally laid aside day before yesterday, and the day before that, and the week before that, and other business was taken up, it was not necessary for a motion to be made to lay aside the regular business and take up any particular measure.

Mr. CONKLING. But my honorable friend will not insist upon that proposition when he reflects upon it. The Senator is on the floor at this moment. Suppose the Clerk of the House appears at the door. The Vice-President says, "Will the Senator give way while the Chair receives a message from the House?" He gives way. Does that dispose of him? Does it take him off the floor? Does it lay aside the matter to which he is speaking? Not at all. It is a mere unanimous consent given that a formality may occur, just as I may ask the Senator—perhaps I sometimes do—if he will yield a moment while I make some request, or inquiry of the Chair, or of him, or of some other Senator. It does not dispose of the business. Nothing else is before the Senate in the sense of the rule at all.

And now, as I have interrupted my friend so far, if he will indulge me a further moment I will call his attention to Rule 43; and I think in the presence of that rule he can hardly insist, on reflection, upon what he has said. Here was the funding bill confessedly pending in the Senate. Now, the rule says:

When a question is pending, no motion shall be received but—
To adjourn,
To adjourn to a day certain, or that, when the Senate adjourn, it shall be to a day certain,
To take a recess,
To proceed to the consideration of executive business,
To lay on the table,
To postpone indefinitely,
To postpone to a day certain,
To commit,
To amend;
which several motions shall have precedence in the order in which they stand arranged.

The rule is exclusive. No motion whatsoever can be made save one of those motions. How can my honorable friend say that when a Senator gave way in order that the Clerk of the House need not stand here and tire his legs waiting for a vacation to deliver his message and his budget of bills, that disposes for the time being of the order to which this rule applies, and that then any motion under heaven is in order, to proceed to take up the bill to repeal the bankrupt law, or to take up this bill, or to do anything else? Certainly not. The other bill was all the time before the Senate, but the Senate for its convenience allowed informally the Clerk to deliver his budget, and when he had delivered it some Senator rose and asked unanimous consent to get a committee of conference, as the practice is, and unanimous consent was given for that, but it did not lay aside the railroad bill at all; that bill was here all the time.

Mr. GORDON. Will the Senator from New York, while he is on his feet, allow me to call his attention to one or two facts?

Mr. CONKLING. Certainly.

Mr. GORDON. It will be observed by the proceedings as given in the Record that at one o'clock or about that time yesterday it is announced that "The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 15) to alter and amend," &c., meaning the funding bill. The Senate "resumed the consideration" of that bill. That is the language used at the end of the morning hour. The very same language is used after the intervention of this matter about which we are now talking, showing that there is a difference between the case submitted by the Senator from New York and this

one, because when a message from the House is simply announced and a Senator gives way for the Clerk of the House to announce the House bill to the Senate, there is no such record made as that "the Senate proceeded with" or "resumed the consideration of" the bill then pending. The point I call the Senator's attention to is that in both cases, both at the beginning of the regular business after the morning hour and after the expiration of the consideration of the particular business which we are now talking about, the language is the same.

Mr. CONKLING. I agree with the Senator from Georgia; I intended so to state and to argue; I thought I did. My purpose was to bring to the notice of the Senator from West Virginia this fact. If his argument was sound, after the conference committee had been appointed and this interlude took place, it would have been necessary for some Senator to move to take up the railroad bill and to resume that bill. On the contrary, as the Senator has just read to show, the rules by their own operation said that the railroad bill was before the Senate; and now see in confirmation of that what took place:

Mr. WINDOM. I ask leave to make a report from a committee of conference in order that another committee may be appointed.

The report of a conference committee is a privileged report in the House; I do not know whether it is so here. Whether it is so here or not, he asked leave, and every Senator had power to grant or refuse that leave. The Senator from Ohio [Mr. THURMAN] said:

To that I do not object.

And thus, having obtained consent, the Senator from Minnesota went on to make his report. Another committee was appointed; and when that had taken place, without any motion, the Senate went right on with a continuation of the bill and the only bill which was all the time before it. On that state of facts the rule declares that no motion whatsoever can be made save only those enumerated in the rule, which may occur in the order of their arrangement.

Mr. MERRIMON. Will the Senator from New York allow me to propound to him a question?

Mr. CONKLING. Certainly.

Mr. MERRIMON. Suppose when the Chair laid this House bill before the Senate and said these words, "If there be no objection, the bill will be considered read the second time, and referred to the Committee on Military Affairs," the Senator from Georgia had simply said, "I object to the second reading," what would have been the consequence?

Mr. CONKLING. The consequence is he would have objected to it.

Mr. MERRIMON. Would the bill have been here to-day?

Mr. CONKLING. He would have objected to the second reading on the same day with the first reading.

Mr. MERRIMON. He would have objected to it, and then the bill would have been here to day. I submit to the Senator that when the Senator from Georgia asked for its present consideration, although that was not in order, still it was to be regarded in a legal sense as an objection to the second reading, which was obstructive of the reference.

Mr. CONKLING. My answer to that, if my honorable friend will allow me, is that the Vice-President had already directed the customary entry, to wit—

Mr. MERRIMON. But he would not—

Mr. CONKLING. If my friend will pardon me a moment—to wit, that this bill be read a first and second time and referred. It was read a first and second time by its title, according to the Record, which I have in my hand. Then the Senator from Georgia said:

Mr. President, I move that the Senate proceed to the present consideration of that bill.

Now it was not the most artificial and technical way in which the Senator from Georgia could have put the motion, but the Senate understood it, and therefore a Senator's objection, who said immediately, "To which I object," showing that he treated it as it was, as an appeal to the Senate for unanimous consent to go to the consideration of this bill, which unanimous consent was refused, and therefore upon that the Presiding Officer said:

The objection is well taken. The bill goes over under the rule.

In the presence of the order which had already been made, when no motion to reconsider had been entered, when the Presiding Officer said, "the objection is well taken and the bill goes over," does anybody doubt that the Senator from Georgia had appealed to the Senate for unanimous consent to consider the bill? The appeal had been refused and the bill had been left exactly where the Vice-President put it by his direction, that under the rule it should be read a first and second time, which was done, and then that it should go to the Committee on Military Affairs.

Mr. MERRIMON. But the Senator does not advert to the fact that what the Chair said was conditional. The Chair said "if there be no objection." What I say is that in legal contemplation, although what the Senator from Georgia said was informal for his purpose, still it must be regarded in substance as an objection to the second reading of the bill.

Mr. CONKLING. Now will my friend allow me to put to him a question?

Mr. MERRIMON. Of course, and I will answer it if I can.

Mr. CONKLING. Suppose the Vice-President had said, as he did,

"if there be no objection, the bill will be considered read the second time, and referred to the Committee on Military Affairs," and at that point the Senator from Georgia had risen and said, "Mr. President, I ask unanimous consent of the Senate to put this bill on its passage now," and the Senator from Vermont had said "I object," and the Vice-President had said, "the objection is well taken;" where would that leave the bill?

Mr. MERRIMON. I think that ought to be regarded as an objection to a second reading for the purpose of reference.

Mr. CONKLING. But it had been read a second time; the thing had been done.

Mr. MERRIMON. The RECORD does not say so.

Mr. CONKLING. I beg my friend's pardon.

Mr. MERRIMON. We will see. Here is the RECORD. The Vice-President said:

If there be no objection, the bill will be considered read the second time, and referred to the Committee on Military Affairs.

Mr. CONKLING. Certainly.

Mr. MERRIMON. That is what the Chair said at that point.

Mr. CONKLING. Not that it will be read a second time, but it "will be considered read the second time." Did anybody object to that? Not at all. The Senator from Georgia said "I move to go on and consider it." The Senator from Vermont said "I object." My question is this: Suppose the Senator from Georgia had addressed the appeal to the Senate in so many words, "I ask unanimous consent that that bill, in place of going to the Committee on Military Affairs, may be considered now," and a Senator simultaneously had said, "I object," I ask the Senator where that would have left it?

Mr. MERRIMON. I do not think that would have referred it to a committee. The only question is, what effect is to be given to those words? whether in legal contemplation they amount to an objection to the second reading of the bill.

Mr. CONKLING. In other words, if the Senator will pardon me, the question is whether those words amounted to an objection.

Mr. MERRIMON. I think so.

Mr. CONKLING. Or whether they amounted to an appeal to the Senate for unanimous consent. I submit with great deference to the Senator that it is palpable to me that their utmost effect under the rule could be an appeal to the Senate for that unanimous consent, which, being refused, left the tree to lie just as it had fallen.

Mr. MERRIMON. It impresses me just this way: that the Senator from Georgia was not willing that the bill should be referred. He wanted to have it considered without a reference to a committee.

Mr. CONKLING. Why did he not say so?

Mr. MERRIMON. I think he did say so in effect. I want to say here that I think this bill ought to be referred; that is the orderly and regular course; but I am anxious to see this decision properly made. I think it ought to be made correctly, and I believe the bill is still on the table.

The VICE-PRESIDENT. The Chair desires to state in justice to himself that he never says, nor did he yesterday, "if there be no objection." Those are the words used by the Reporter. The Journal shows no such words. Since the Chair has occupied this position there has not been a motion made in relation to a House bill referred, and the Chair has referred them by his own order, as he did yesterday, saying "the bill is read the second time and referred" so, and so on. That is always the language of the Chair. He did not use the language, "if there be no objection." That is the phrase of the RECORD, and not of the Journal, nor was it the language of the Chair. The Chair assumes that the reference is to be had.

Mr. GORDON. I merely want to say one word in reference to the manner in which I put this motion. I submit that it is not at all usual to make motions to postpone all prior orders, unless the question is a very grave one. For instance, the Senator from Minnesota yesterday made no motion to postpone all prior orders in order that he might have a report considered and a committee of conference appointed. He simply asked that it be done, just as I asked that the Senate proceed to the present consideration of that bill. However, that is a matter of no consequence, and I ask for a vote on the correction of the Journal.

Mr. EDMUNDS. I should like to hear the motion of the Senator from Georgia.

The VICE-PRESIDENT. The resolution will be read.

The Chief Clerk read as follows:

Resolved, That the following entry in the Journal of yesterday's proceedings: "The bill (H. R. No. 4245) last received from the House of Representatives for concurrence was read the first and second times by unanimous consent, and referred to the Committee on Military Affairs," be amended by striking out the words "and referred to the Committee on Military Affairs."

Mr. EDMUNDS. Mr. President, the first objection that I have now to that resolution (reserving the point of order which I wish to make and have been trying to get the floor to make) is that it will not state the fact as it is. If the bill was not referred to the Committee on Military Affairs, then it was not read the second time. The two things were together. The Chair in the ordinary course of his duty, as he does every day, said, "This bill will be considered read the second time and referred to the Committee on Military Affairs." Thereupon the Senator from Georgia said, "I move the present consideration of this bill." If he had moved that in time, before the reference, as he might, or if he had moved it afterward, the Chair would

have recalled the reference undoubtedly, but he could not move to have it read a second time, which would be the present consideration, without an objection. What I objected to, and what everybody understood on my side just as well as it was understood by the Senator from Georgia and all on the other side, was that he wanted to have the bill put through apparently, and I did not wish to have it put through, without the regular and ordinary course of consideration. If, therefore, I had understood that the object of the Senator's proposition was to put the bill through all its stages then, upon the theory that it had already been read a second time, I should have objected to that, because, as I said, I do not think that is exactly the right way to do a thing, however proper it may be in itself.

This bill, like every other that comes from the House of Representatives providing relief for a citizen of the United States, ought to be considered by a committee. If any Senator had been so hasty about it as to wish to put it through without a reference to a committee, then I should most certainly have objected to the second reading. But that was not what I understood the Senator from Georgia. I understood that the Senator from Georgia wanted to have the bill considered now, and that being objected to then, no objection was made to the order that the Chair had made of reference, because the point that the Senator from Georgia had in view of present consideration and discussion was lost.

Mr. MERRIMON. He desired to object to the reference. That was his purpose.

Mr. EDMUNDS. No, Mr. President, what he wanted to do was to have a present consideration of the bill. What I wanted to have was a reference of the bill; but if there was not to be a reference, then there could not have been with my consent a second reading.

Mr. MERRIMON. May I ask the Senator a question?

Mr. EDMUNDS. Yes.

Mr. MERRIMON. If the Senator from Georgia desired to have a present consideration, did not that necessarily, did it not logically, involve his opposition to the reference of the bill?

Mr. EDMUNDS. Not necessarily, because the present consideration and discussion might have been had upon the question whether the bill should be read a second time, just as much as after its second reading. You may discuss a bill here just as long as the rules will allow, which is just as long as the patience of Senators will stand it, on the question whether a bill shall be read a second time at all. The rules provide that you cannot refer a bill until after a second reading, that you will not trouble a committee with the consideration of a bill that the Senate is unwilling to have read the second time. That is the theory and substance and good sense of the rule. Therefore the real and substantial point of it was that the Senator from Georgia wished to get unanimous consent not to have this bill go to a committee, where the Chair had ordered it to go, but to have it considered then. To that I objected, and then the Chair said, "Very well, the bill has gone over;" that is to say, the usual course of the Senate has taken place about it.

This proposition to amend the Journal in the way proposed would result in the statement of an untruth, in stating as a fact that the bill was read a second time, for if it was not referred it was not read a second time.

Mr. GORDON. May I ask the Senator from Vermont for information merely, in order to get his opinion, (for really it is a matter of entire indifference to me and I am entirely willing for the bill to go to the Committee on Military Affairs or to be considered as there now,) what is the effect of the language used by the Vice-President on page 2371, if the Senator has the RECORD in his hands? The Vice-President said:

The bill goes over under the rule.

Mr. EDMUNDS. I understand the effect of it to be, in connection with all that had taken place, that the bill could not be considered to-day, that objection being made to the wish of the Senator from Georgia that the thing should not go to the committee, where the Vice-President had sent it, the Vice-President says, "You cannot consider it to-day, and the bill has gone over;" that is, it has gone over in the regular course to the place where the Chair had sent it. That is my understanding of the common sense of that colloquy, if we can call it that, which took place. I may be wrong, but that is the impression that it produced most clearly upon my mind.

Now, Mr. President, I do not want to waste time about this affair, because the Senator from Georgia says—

Mr. GORDON. If the Senator will allow me, all I desired was to call the attention of the Senate to this fact. If it is the wish of the Senate that the bill shall go to the Committee on Military Affairs, I have no objection and withdraw my motion to correct the Journal.

Mr. EDMUNDS. I am very glad that the Senator withdraws his motion.

The VICE-PRESIDENT. The motion being withdrawn, the Senate proceeds to the consideration—

Mr. EDMUNDS. Lest this should be drawn into precedent hereafter in our methods of procedure I wish to suggest the point of order I should have made and will make the next time; I intended to make it but now it is of no consequence, the motion being withdrawn. It is that the Journal having been read the first business in the morning, under the rules, and approved, it is not competent for any Senator at any time during the course of the day to take it up again and

move to change it, and therefore I submit the motion was entirely out of order.

The VICE-PRESIDENT. Does the Senator hold that where unanimous consent is given?

Mr. EDMUNDS. Oh, no, sir, I should not hold that where there is unanimous consent.

Mr. GORDON. If the Senator will pardon me, I was proceeding by unanimous consent. I was aware it was out of the usual time for such a question to be raised, but I was not present when the Journal was read this morning.

The VICE-PRESIDENT. The Chair would rule with the Senator from Vermont on the point of order being made.

Mr. EDMUNDS. I only mention it now and call the attention of Senators to the fact that if there is anything wrong in the Journal it must be corrected when the Journal is read, and not afterward, after it has been once approved.

The VICE-PRESIDENT. Unquestionably.

BANKRUPT-LAW REPEAL.

The VICE-PRESIDENT. The unfinished business of yesterday now comes up.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 35) to repeal the bankrupt law.

Mr. McCREERY. Mr. President, the bill which I introduced at an early day in the extra session to repeal the bankrupt law has been somewhat elaborated and perhaps it has been improved. I accept the bill as returned by the Judiciary Committee, and shall resist all attempts to change, modify, or amend it. If the work of amendment begins it would involve the necessity of a re-reference, which would be equivalent to a last farewell to the repeal of the bankrupt law. If it required five months in winter when business was light to perfect the bill before us, how long would it require in the heat of summer with a crowded Calendar to remodel and reconstruct it? This question is not susceptible of a satisfactory answer. Calculation and observation may determine the rise, force, and direction of the storm that is now prevailing, but the public interest may not be jeopardized for a practical solution of this latter problem.

Hence, having consented that the Judiciary Committee should take charge of this bill, we have the single alternative of accepting their report or of indefinite postponement; and, as they have given such patient and careful consideration to the subject, it is fair to conclude that the measure before us will have their active support. So far as I am concerned, I do not intend to delay its passage by any remarks of my own, nor will I say anything to provoke discussion on the part of others.

More than nine-tenths of the people of Kentucky are earnestly and zealously in favor of the repeal of the bankrupt law, and my action has been prompted solely by a desire to obey their wishes. I am confident that the course of other Senators will reflect the sentiments of their constituencies, and I will not waste your time by an idle effort to influence your votes. The patriotic gentlemen who compose the Legislature of Kentucky have instructed me to use my best efforts to procure the repeal. In that instruction I hear the voice of the sovereign people who have witnessed the operations of the bankrupt law in its assaults upon public morals, in its violations of good faith, in its craft, its falsehoods, and its frauds, until from every hill and from every valley comes the demand for repeal.

Mr. MATTHEWS. I gave notice a few days since of my intention to propose an amendment to the bill of the Senator from Kentucky as reported with amendments from the Committee on the Judiciary, and if it be now in order formally to move that amendment I shall do so.

The PRESIDING OFFICER. (Mr. CAMERON, of Wisconsin, in the chair.) The question first is on the amendments proposed by the Judiciary Committee.

Mr. MATTHEWS. I am aware of that. I have no objection to the question being taken upon those amendments, and then I shall move my amendment.

The PRESIDING OFFICER. The amendments of the committee go to perfect the text of the bill, and the amendment of the Senator from Ohio is to strike out all after the enacting clause and insert, as the Chair understands.

Mr. MATTHEWS. Then I will delay until the question is taken on the amendments of the committee.

The PRESIDING OFFICER. The amendments reported from the Committee on the Judiciary will be read by the Secretary.

The CHIEF CLERK. The first amendment proposed is, after the word "amendment," in line 4, to insert the words "or supplementary;" so as to read:

That the bankrupt law approved March 2, 1867, and all acts in amendment or supplementary thereto or in explanation thereof, be, and the same are hereby, repealed.

The amendment was agreed to.

The next amendment was to insert at the end of the bill the following proviso:

Provided, however, That such repeal shall in no manner invalidate or affect any case in bankruptcy instituted and pending in any court prior to the day when this act shall take effect; but as to all such pending cases and all future proceedings therein, the acts hereby repealed shall continue in full force and effect until the same shall be fully disposed of, in the same manner as if said acts had not been repealed.

The amendment was agreed to.

Mr. MATTHEWS. I now move to amend the bill by striking out all after the enacting clause and inserting what I send to the Chair. I ask to have it reported.

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause of the bill and insert:

That any person having become insolvent or in contemplation thereof, who shall make an assignment, according to the laws of the State or Territory in which he is an inhabitant or in which his place of business or his property is situated, of all his property of every description and wherever situated, for the equal benefit of all his creditors, shall thereby be and is hereby declared to be a bankrupt; and when his assets, upon distribution by his assignee, shall have paid to his creditors, within two years after the date of said assignment, 50 per cent. of the amount of their claims, the said bankrupt shall be thereby discharged from all further liability on account thereof in respect to property acquired after said assignment, and said subsequently acquired property, during two years from the date of said assignment, shall be exempt from seizure upon judicial process upon claims existing at the date thereof; but said discharge and exemption shall not extend to obligations contracted fraudulently or incurred by means of a breach of trust, and shall be void if said bankrupt shall have fraudulently omitted from said assignment or fraudulently concealed any property, or, within six months prior thereto, made any conveyance or disposition of any of his property, or suffered the same to be taken in execution, or incumbered by judicial seizure, with intent to hinder, delay, or defraud his creditors, or with intent, having reasonable cause to believe himself insolvent, to secure to any one or more of his creditors a preference over others.

SEC. 2. That in any action or suit brought on any claim against such discharge, as herein declared, may be pleaded in bar of recovery; and the record of the finding and judgment of any judicial tribunal in which administration of said assignment may have taken place shall be evidence of the matters therein contained, but if said assignment shall not have been judicially administered, the facts may be proven as in other like cases; and any person claiming to have been discharged as a bankrupt by force of the provisions of this act may file his petition in the district court of the United States for the district in which he may have made the assignment for the benefit of his creditors, praying to have said discharge judicially declared, to which the assignee shall be made a party defendant, and of the pendency of which notice by publication shall be given to the creditors as a class, according to the local law in similar cases of constructive service of process, or such rules, orders as may be prescribed by the Supreme Court as to the pleadings, procedure, and practice in such cases; and any creditor shall have the right to appear and defend for his own or the common interest, and on hearing and due proof, at the petitioner's cost in all cases, the court shall determine and declare whether the petitioner is discharged as a bankrupt according to the terms of this act. The petitioner shall set forth all the facts herein declared to be necessary to constitute a discharge, verified by the oath of the petitioner, and shall negative all the grounds of avoidance, and the judgment shall be conclusive evidence upon the question of a discharge, except in those cases which by this act are excepted from said discharge, and in those in which it is declared that said discharge shall be avoided, and in the latter it shall be *prima facie* evidence only.

SEC. 3. All prior acts on the subject of bankruptcies are hereby repealed, except as to pending cases, which shall proceed as if this act had not been passed.

Mr. MATTHEWS. Mr. President, I desire to engage the attention of Senators briefly while I endeavor to explain the nature of this proposition and state the grounds on which I think it ought to commend itself to the favorable consideration of Congress. It will be perceived that it is a proposition to repeal, as does the pending bill reported from the Judiciary Committee, the entire system of bankruptcy with all the provisions of the existing bankrupt act and all the details for the distribution of the assets of bankrupt estates, and to insert in place of the existing system another and a different one which, whatever may be its defects in other respects, at least has the merit of simplicity and the merit of brevity.

I start out upon the assumption on which the bill of the Senator from Kentucky proceeds, that the present bankrupt system is altogether unsatisfactory, that whether it does any good is perhaps a doubtful question, but the good it does is so limited and hampered by the delay and the expensiveness of the processes by which an attempt is made to confer it, as that it is difficult to determine whether its existence or its repeal is really the greater public and private benefit.

I confess that the strong inclination of my mind, supported as I believe by very general public sentiment in the State which I have the honor in part to represent, the public sentiment of the profession to which I belong, of the business and mercantile and trading classes as well as of the community at large, is that the present system is imperfect, inadequate, unjust, unsatisfactory, a cover for fraud, an obstacle in the way of honest and unfortunate debtors. I am strongly persuaded that, in order to get any better system, if any better is practicable and attainable at all, it is necessary, in the first place, to entirely get rid of the present.

But I should be very sorry to see Congress satisfy itself with the mere exertion necessary to repeal the existing law, and it is in the hope that something can be presented so simple, so inexpensive, so readily comprehensive, so plain in its provisions as that it may be accepted as a substitute for the existing statutes on the subject. My contribution toward that is contained in the provisions of the present amendment; and I shall now explain in what they consist.

This amendment defines a bankrupt in the first place. It defines him as a person who has become insolvent, or who, in contemplation of insolvency, makes an assignment of all his property, wherever situated, under the laws of the locality in which it is situated, for the equal benefit of all his creditors, a general assignment for the payment of all his debts of all his property, without preference and without distinction. The equal distribution of all the effects of an insolvent person among all his creditors, without discrimination, without preference, is that which it is said equity loves. It is that which is sought to be obtained by every system of bankruptcy known to civilized jurisprudence. This definition confines the technical bankruptcy of the statute to the single class of insolvents who choose voluntarily to put themselves in the attitude and invest themselves with the status on which this act, if passed, would operate, by vol-

untarily executing a conveyance for the purpose of providing for the distribution of all their property for the benefit of all those who have any just and lawful claims against them. It therefore excludes from the class those who are included within it by the present statutes, namely, all those who voluntarily seek the benefits of the present act without having made such an assignment and all those who are compelled to go through with the proceedings of the act involuntarily upon the petition of their creditor.

In other words, this is a system of bankruptcy voluntary in its character entirely, excluding the involuntary feature altogether, and confining its operations to those who choose to avail themselves of its benefits by conforming to its provisions in respect to that initial act at least which puts them in the category of bankrupts, making the assignment. But the mere making of the assignment does not operate to discharge a man from the obligation of his debts. It relieves him during two years allowed as the period for the administration of the assignment, so far as his subsequently acquired property is concerned, from disturbance in the possession and enjoyment of it by legal process, and if at the end of the period of two years allowed for that administration there shall have been paid to his creditors upon their claims one-half of their amount, he thereby becomes a discharged bankrupt.

Mr. EATON. Will my friend allow me to ask him a question?

Mr. MATTHEWS. Certainly; with pleasure.

Mr. EATON. I want to ask if the intention of the Senator from Ohio is that the person who applies to the proper court in some State or Territory is to be declared a bankrupt by that State or territorial court? The language of his amendment leaves it in some little doubt. I should suppose from the first section of his amendment that his intention is that the court before whom the assignment is to be made, either in a State or Territory, shall adjudge the party so assigning to be a bankrupt.

Mr. MATTHEWS. By no means. The theory of my bill is that the facts which I have already stated, and the statement of which is contained in the first section, constitute the person a bankrupt and constitute him a discharged bankrupt, without reference to any judicial proceeding or any judicial ascertainment of the fact in any court, State or Federal, as I shall have occasion more expressly to explain when I come to unfold the provisions of the second section of the proposed act. The only reference in the first section to the local law is perhaps surplusage. The legal meaning of the section perhaps would be the same without it that it is with it, for it only refers to the local law of the State or Territory as furnishing the rule according to which the conveyance of the property is to be made.

I suppose that by a general principle of law the conveyance of property would be determined by the law of the *situs* of the property. That would certainly be the case in respect to real estate, and in respect to personal property the domicile of the party, which is also spoken of, either his business domicile or his personal domicile, might furnish the rule for the transmission by deed of his personality. He is to make a valid conveyance. To be valid it must be valid according to the laws of the place where it is executed, or, in reference to real estate, according to the laws of the State where the real property is situated. That is to be a general assignment for the equal benefit of all creditors, and if in point of fact after two years his assets shall have been distributed so as to net to his creditors full 50 per cent. of their claims, then he becomes *ipso facto* a discharged bankrupt. The Senator from Connecticut will perceive by reference to the second section that the proof of the two facts to which I have adverted may be made in either one of two ways: that the assignment was made and that it resulted, upon administration, in yielding to the creditors 50 per cent. of their claims. If the assignment, according to the law of the place where it is made and administered, has been administered judicially, by a court appointed for that purpose by the laws of the State, then those judicial proceedings are declared to be proof of the facts which they contain, that is, of the facts relating to the distribution, relating to the assignment, relating to the result of the administration of that assignment, in regard to the distribution among the creditors.

Let me illustrate that. In the State of Ohio there are and have been for many years statutes prescribing the mode of administering assignments in trust for the benefit of creditors, and declaring that all assignments, no matter how worded, shall be construed to be for the equal benefit of all creditors, so that all preferences are prohibited by law. Under that statute and system, the assignee either goes or may be compelled to go into the probate court, file a copy of his assignment, take an oath of office, give security for the performance of the duties of his office, have orders for the sale of the property, have orders for the recovery of the possession of the property, take orders for the distribution of it, take the proofs in respect to the existence of claims on the part of creditors, and go through with the administration of that insolvent and assigned estate precisely as in the case of a deceased person the executor or the administrator does.

Mr. EATON. It is precisely the same in Connecticut.

Mr. MATTHEWS. And I believe it is similar in many other States and I believe would come to be general, if not universal, in the event of the adoption of some such system as this. Such a proceeding, no matter how it eventuates, no matter what takes place in the course of it, does not adjudicate on the question of bankruptcy, nor does it adjudicate upon the question of a discharge. It simply adjudicates

upon those questions which arise under the laws of the State in reference to the distribution of the assets according to the terms of the trust. The question of bankruptcy and the question of discharge depend on the facts themselves that are entirely extrinsic to this judicial procedure in respect to the administration of the assignment, and might exist and in all those States in which there are no such systems as those I have mentioned would exist, although there had been no judicial administration of the assignment itself; as, for instance, suppose no law of that kind existed, no statutory mode for the administration of assignments, the assignee as holding the title of the property and loaded with the discharge of the duties of the trust as expressed in the assignment would go on as any other vendee to carry out the object of the trust by reducing the property to cash and distributing it among those entitled, and if he needed any advice might voluntarily go into a court of equity for the purpose of obtaining instructions from that court as to the due administration of his trust; or in case he delayed or in case he defaulted in any particular in the strict performance of the duties of his trust he might be called to account in a court of equity by any creditor who is a *cestui que trust* under the deed, and compelled specifically to perform and execute his duty.

Now this bill leaves the whole matter at large to be dealt with, so far as the details of the administration of the assets of the bankrupt are concerned, to the local administration whatever that might be, in Connecticut and Ohio under the probate or orphan's court, elsewhere in the absence of any statutory provision to a court of equity or to a general law which charges the assignee with the duty of administering the trust according to its terms. This statute prescribes the terms of the trust, to wit, that it shall be an assignment of all property for the equal benefit of all creditors, and then provides that upon the administration of the assets of the bankrupt so assigned and conveyed if within two years they shall result in a payment to the creditors of 50 per cent. of their claims the fact of that payment under those circumstances shall discharge the insolvent debtor from future liability as to his future acquired property in respect to debts which existed at the date of the assignment.

There are exceptions contained in the first section. So far I have considered the matter in general; and now there are cases in which, no matter if a person does become insolvent and make such an assignment and does pay 50 per cent. of the amount of the claims against him, nevertheless he shall not be entitled to the discharge. They are as follows; it is said:

But said discharge and exemption shall not extend to obligations contracted fraudulently or incurred by means of a breach of trust.

So that every creditor of an insolvent debtor who has made and administered this assignment, whose debt was created on the part of the debtor by a fraud or a breach of trust, still continues to have his debt as a subsisting obligation against the debtor notwithstanding the assignment and notwithstanding the discharge of that debtor as to all other creditors.

In addition to that, the first section provides against certain contingencies which, if they happen by the act of the debtor, make void the whole effect which would otherwise attach to the proceedings under the assignment and prevent them from operating as a discharge in respect to any of his obligations. They are these: if the debtor has fraudulently omitted from his assignment any property; if he has fraudulently concealed any property; or if within six months prior to making the assignment he shall have made any conveyance or disposed of any of his property or suffered the same to be taken in execution or become incumbered by other judicial seizure, with the intent to hinder, delay, or defraud his creditors. In none of these cases shall compliance with the previous provisions of the act have the effect of discharging him from the obligation of these debts; and so, too, if within six months prior to the date of the assignment he has made any conveyance or disposition of any of his property, having reasonable cause to believe himself insolvent, with intent to secure to any one or more of his creditors a preference over the others, that also defeats entirely the operation of what otherwise would constitute a discharge; so that in that event he would still be liable, as to his future-acquired property, to the payment of all his debts existing at the time of the assignment.

Mr. BURNSIDE. Suppose he files an assignment under a State law, legally preferring creditors?

Mr. MATTHEWS. Then he does not come within the purview and operation of this act at all. No person comes within the operation of this act except by one fact, namely, that he makes an assignment in the first place which shall be for the equal benefit of all the creditors without preference; and then, next, he becomes a bankrupt under this statute, if it is passed into an act, if under such an assignment his assets result in a payment of 50 per cent. on the face of the claims of his creditors. Then he becomes a discharged bankrupt; but in no other case, in no other contingency, does he either become a bankrupt or receive a discharge; so that the person making an assignment which, lawful in itself, nevertheless provides for a preference cannot get the benefit of discharge under this act. In order to get the benefit of a discharge under this act the very first step to take is to make an assignment without preference.

The object of limiting the period of distribution to two years as the condition for the discharge is to make it the interest of the debtor that there shall be prompt dispatch made use of in the administra-

tion of the trust under his assignment, and he must take the risk of the delays beyond that period; otherwise he gets no benefit of the discharge.

Mr. President, what little machinery is necessary in order to effectuate the intention of the first section is provided in the second. Its first proposition is—

That in any action or suit brought on any claim against any one claiming to have been discharged as a bankrupt, the facts constituting such discharge, as herein declared, may be pleaded in bar of recovery.

Those facts are the two which I have spoken of, the fact of the assignment and the fact that within two years after its date the distribution of assets has been made with the result of paying 50 per cent. of the claims of the creditors. Now as to the mode of proof. The mode of proof may consist, in the first place, of "the record of the finding and judgment of any judicial tribunal in which administration of said assignment may have taken place;" and that is declared to be "evidence of the matters therein contained." The fact of bankruptcy and the fact of discharge are further inferences to be drawn from those facts if sufficient facts are there disclosed, and, if not, they are proof as far as they are competent and relevant. But it proceeds to say that "if said assignment shall not have been judicially administered" then the same "facts may be proven as in other like cases," extrinsic facts depending upon proof which is always, of course, within the reach of the party.

Then follows the further provision in order to prevent multiplicity of suits, for the question of the bankruptcy and of the discharge is supposed to arise in actions brought to enforce obligations which in the event of a discharge are no longer binding upon the person. Now in order to avoid multiplicity of suits, in order to avoid the issues that may be raised in every such suit, the second section goes on to provide a process by which the discharged bankrupt may, upon his own motion and his own petition, obtain a judicial ascertainment and declaration of the fact, and to do that jurisdiction is conferred upon the district court of the United States for the district in which the assignment may have been made. The petition is filed by the bankrupt alleging the facts which he claims to constitute his discharge, and praying for the relief. To that he makes the assignee a party defendant and gives notice according to the local law in other cases of similar constructive service by publication, or as may be determined by orders and regulations made for the purpose of prescribing the course of pleading, procedure, and practice in this litigation by the Supreme Court of the United States, so as to bring in as a class without naming them the entire body of the creditors who are entitled to the benefit of the assets of the bankrupt who may be interested in producing the judicial declaration of his discharge as prayed for in his petition, and the assignee may come in and appear and defend; any creditor for himself or for the common interest may do likewise; a hearing is had, and due proof produced at the petitioner's cost in order that the court shall determine and declare whether the petitioner is discharged as a bankrupt according to the terms of the act. That petition is required to set forth all the facts that are herein declared to be necessary to constitute a discharge, verified by his oath, and also required to negative the various grounds of exception and avoidance specified in the first section.

The judgment in that case, it is declared, "shall be conclusive evidence upon the question of a discharge, except in those cases which by the act are excepted from said discharge." That is, turning back to the first section, those cases of "obligations contracted fraudulently or incurred by means of a breach of trust;" and also from those cases in which it is declared that the discharge shall be avoided; that is, those cases where, upon proof being made, the debtor shall be found to have omitted fraudulently from his assignment property which he ought to have assigned, or to have concealed it, or to have made within six months prior to the date of the assignment the conveyance or disposition of it which, by the terms of the first section, is declared to avoid his discharge, allowed it "to be taken in execution, or incumbered by judicial seizure," or conveyed or disposed of so as to hinder, delay, or defraud creditors, "or with intent, having reasonable cause to believe himself insolvent, to secure to any one or more of his creditors a preference over others."

Mr. DAWES. I am listening with great interest to the Senator from Ohio, but I should like to call his attention to something which does not seem to me to be provided for. He has provided for the mode in which the bankrupt, after he has been declared a bankrupt, shall establish the fact by judicial proceedings. I wish to call his attention to this state of things: After he has made his assignment, and pending the two years, suppose that creditors pursue him with suits, then during the two years is there any provision to meet that case?

Mr. MATTHEWS. The Senator from Massachusetts will observe by recurring to the provisions of the first section of the act, beginning in the fifteenth line, that it is declared that—

Said subsequently acquired property—

That is, property acquired subsequently to the date of the assignment—

during two years from the date of said assignment shall be exempt from seizure upon judicial process upon claims existing at the date thereof.

So that this bill, if passed into an act, operates as an injunction during two years pending the administration of the assignment against

any attempt on the part of a creditor to levy in execution or take in attachment the property of the debtor.

Mr. DAWES. Perhaps that would secure subsequently acquired property, but it would not secure him personally from a judgment which would bear date subsequent to the day upon which he made the assignment, and back to which day would relate the proceedings adjudicating him to be a bankrupt. I take it that the judgment of the district court would be that upon the day on which he made the assignment he became thereby a bankrupt. Here it might turn out are any number of judgments of a later date, that is, between that day and the end of the two years when he has to perfect the proceedings which, when they are perfected, relate back to that day. Does the Senator see my point?

Mr. MATTHEWS. If I understand the Senator from Massachusetts it is that the bill is defective.

Mr. DAWES. I do not mean to say it is defective. I ask the Senator if that has occurred to him.

Mr. MATTHEWS. If I understand him, he suggests that the bill may be defective in not providing a defense in favor of the defendant in suits brought and decided within the two years during the administration of the assignment. When he speaks of protection of the person, I do not understand him to refer to the right that may exist in any State to arrest and imprison the defendant, but merely to prevent the recovery of a judgment against the person. The suggestion of the Senator is no doubt well-founded. I do not remember, and I do not believe that it occurred to me to make express provision for any such delay in suits brought within that interval as would enable a debtor who might afterward be declared to be a discharged bankrupt to plead that discharge in bar of the recovery in those suits, and the bill ought to be amended, therefore, to carry out its own idea in that respect.

Mr. DAWES. I submit to the Senator that either in the present bankrupt law or in the law of Massachusetts, from which the present bankrupt law was copied largely, there is a provision which requires the courts to continue such cases till the two years have expired, on motion of the defendant, if he desires to have them continued to await that determination.

Mr. MATTHEWS. A similar provision might be and ought to be added to this bill in order to effectuate that which was the intention of the bill itself, for the object of the bill is to give to every debtor who shall be declared ultimately at the end of the two years entitled to a discharge the benefit of that by relation back to the date of his assignment.

Mr. DAWES. Some process that would suspend judicial proceedings against him while he has that opportunity would seem to be necessary somewhere.

Mr. MATTHEWS. It certainly is; I admit it. And now, Mr. President, having, as I think with sufficient clearness, laid before the Senate the specific provisions contained in this bill, I will detain the Senate but a little while longer for the purpose of meeting the only two general objections that I have anticipated may be made to it.

The Constitution of the United States confers upon Congress the power and authority in reference to this subject in these words: in the eighth section of the first article in the enumeration of powers it is declared that the Congress shall have power, among other things, "to establish . . . uniform laws on the subject of bankruptcies throughout the United States." That is the charter of our authority; that is the extent of our power; and I admit that no law can be passed under this jurisdiction that does not conform fairly to the meaning and the intent of the Constitution in the clause from which I have read. The law must be "uniform" and it must be a law "on the subject of bankruptcies." Now, does the bill proposed answer to that description in those two particulars? Is it a bankrupt law at all, or is it something else? Is the state of fact in reference to insolvency which is the predicate of this legislation that which is or may be known to our law as a state of bankruptcy? I think that within the terms of the definition of the Constitution as it has been expounded by the Supreme Court of the United States and the ablest text writers, this bill comes within and is comprehended by that definition. And in order to satisfy the Senate upon that point, I call the attention of Senators to the language of the Supreme Court of the United States, speaking by the mouth of Chief-Justice Marshall, in the celebrated case of *Sturges vs. Crowninshield*, in 4 Wheaton, on page 195. It is there said:

This difficulty of discriminating with any accuracy between insolvent and bankrupt laws, would lead to the opinion that a bankrupt law may contain those regulations which are generally found in insolvent laws; and that an insolvent law may contain those which are common to a bankrupt law. If this be correct, it is obvious that much inconvenience would result from that construction of the Constitution which should deny to the State Legislatures the power of acting on this subject in consequence of the grant to Congress. It may be thought more convenient that much of it should be regulated by State legislation—

And I ask the special attention of the Senate to this—

and Congress may purposely omit to provide for many cases to which their power extends. It does not appear to be a violent construction of the Constitution, and is certainly a convenient one, to consider the power of the States as existing over such cases as the laws of the Union may not reach. But be this as it may the power granted to Congress may be exercised or declined, as the wisdom of that body shall decide. If, in the opinion of Congress, uniform laws concerning bankruptcies ought not to be established, it does not follow that partial laws may not exist, or that State legislation on the subject must cease. It is not the mere existence of the power, but its exercise, which is incompatible with the exercise of the same power

by the States. It is not the right to establish these uniform laws, but their actual establishment, which is inconsistent with the partial acts of the States.

In a previous part of the opinion there is a more explicit discussion of what are the essential elements of a bankrupt act as known to the Constitution. On page 193 the court say:

The peculiar terms of the grant certainly deserve notice. Congress is not authorized merely to pass laws the operation of which shall be uniform, but to establish uniform laws on the subject throughout the United States. This establishment of uniformity is, perhaps, incompatible with State legislation on that part of the subject to which the acts of Congress may extend. But the subject is divisible in its nature into bankrupt and insolvent laws; though the line of partition between them is not so distinctly marked as to enable any person to say with positive precision what belongs exclusively to the one and not to the other class of laws. It is said, for example, that laws which merely liberate the person are insolvent laws and those which discharge the contract are bankrupt laws. But if an act of Congress should discharge the person of the bankrupt and leave his future acquisitions liable to his creditors, we should feel much hesitation in saying that this was an insolvent, not a bankrupt, act, and therefore unconstitutional. Another distinction has been stated and has been uniformly observed. Insolvent laws operate at the instance of an imprisoned debtor; bankrupt laws at the instance of a creditor. But should an act of Congress authorize a commission of bankruptcy to issue on the application of a debtor, a court would scarcely be warranted in saying that the law was unconstitutional and the commission a nullity.

And, accordingly, since the date of this decision the voluntary feature in our bankruptcy system has come to be definitely within the power of Congress to establish.

When laws of each description may be passed by the same Legislature, it is unnecessary to draw a precise line between them. The difficulty can arise only in our complex system, where the Legislature of the Union possesses the power of enacting bankrupt laws, and those of the States the power of enacting insolvent laws. If it be determined that they are not laws of the same character, but are as distinct as bankrupt laws and laws which regulate the course of descents, a distinct line of separation must be drawn, and the power of each government marked with precision. But all perceive that this line must be in a great degree arbitrary. Although the two systems have existed apart from each other, there is such a connection between them as to render it difficult to say how far they may be blended together. The bankrupt law is said to grow out of the exigencies of commerce, and to be applicable solely to traders; but it is not easy to say who must be excluded from, or may be included within, this description. It is, like every other part of the subject, one on which the Legislature may exercise an extensive discretion.

I beg also to refer to the same doctrine as expressed by Mr. Justice Story in the second volume of his Commentaries on the Constitution, sections 1111, 1112, and 1113. I call attention specially to the point that Judge Story shows very distinctly that the fact that the English system of bankruptcy was an involuntary system, and in that respect distinguishable from insolvent acts, is not to be regarded as establishing the law under our Constitution as confining bankruptcy to what was known to be bankruptcy according to the definition of the English statute. He says:

SEC. 1111. What laws are to be deemed bankrupt laws within the meaning of the Constitution, has been a matter of much forensic discussion and argument. Attempts have been made to distinguish between bankrupt laws and insolvent laws. For example, it has been said that laws which merely liberate the person of the debtor are insolvent laws, and those which discharge the contract are bankrupt laws. But it would be very difficult to sustain this distinction by any uniformity of laws at home or abroad. In some of the States, laws, known as insolvent laws, discharge the person only; in others, they discharge the contract. And if Congress were to pass a bankrupt act, which should discharge the person only of the bankrupt, and leave his future acquisitions liable to his creditors, there would be great difficulty in saying that such an act was not in the sense of the Constitution a bankrupt act, and so within the power of Congress. Again, it has been said that insolvent laws act on imprisoned debtors only at their own instance, and bankrupt laws only at the instance of creditors. But, however true this may have been in past times, as the actual course of English legislation, it is not true and never was true as a distinction in colonial legislation. In England it was an accident in the system, and not a material ground to discriminate, who were to be deemed in a legal sense insolvents or bankrupts. And if an act of Congress should be passed which should authorize a commission of bankruptcy to issue at the instance of the debtor, no court would on this account be warranted in saying that the act was unconstitutional and the commission a nullity.

It is believed that no laws ever were passed in America by the colonies or States, which had the technical denomination of "bankrupt laws." But insolvent laws, quite coextensive with the English bankrupt system in their operations and objects, have not been infrequent in colonial and State legislation. No distinction was ever practically, or even theoretically, attempted to be made between bankruptcies and insolvencies. And a historical review of the colonial and State legislation will abundantly show that a bankrupt law may contain those regulations which are generally found in insolvent laws and that an insolvent law may contain those which are common to bankrupt laws.

SEC. 1112. The truth is, that the English system of bankruptcy, as well as the name, was borrowed from the continental jurisprudence, and derivatively from the Roman law. "We have fetched," says Lord Coke, "as well the name, as the wickedness of bankrupts, from foreign nations; for *banquer* in the French is *mensa*, and a *banquer* or *cashanger* is *mensarius*; and *route* is a sign or mark, as we say a cart-route is the sign or mark where the cart hath gone. It is not trially it is taken for him that hath wasted his estate, and removed his *banque* no as there is left but a mention thereof. Some say it should be derived from *banque* and *rumpere* as he that hath broken his bank or state. Mr. Justice Blackstone inclines strongly to this latter intimation, saying that the word is derived from the word *bancus* or *banque*, which signifies the table or counter of a tradesman, and *rumpere*, broken; denoting thereby one whose shop or place of trade is broken and gone. It is observable that the first statute against bankrupt "is against such persons as do make bankrupt" (34 Hen. 8, ch. 4.) which is a literal translation of the French idiom, *qui font banque route*.

SEC. 1113. The system of discharging persons who were unable to pay their debts was transferred from the Roman law into continental jurisprudence at an early period. To the glory of Christianity let it be said that the law of *cessio bonorum* was introduced by the Christian emperors of Rome, whereby, if a debtor ceded or yielded up all his property to his creditors, he was secured from being dragged to jail, *omni quoque corporali cruciatus semoto*; for, as the emperor (Justinian) justly observed, *inhumanum erat spoliatum fortunis suis in solidum damnari*; a noble declaration, which the American Republics would do well to follow, and not merely to praise. Neither by the Roman nor the continental law was the *cessio bonorum* confined to traders, but it extended to all persons. It may be added that the *cessio bonorum* of the Roman law and that which at present prevails in most parts of the continent of Europe, only exempted the debtor from imprison-

ment. It did not release or discharge the debt or exempt the future acquisitions of the debtor from execution for the debt. The English statute, commonly called the "lords' act," went no further than to discharge the debtor's person.

And it may be laid down, as the law of Germany, France, Holland, Scotland, and England, that their insolvent laws are not more extensive in their operation than the *cessio bonorum* of the civil law. In some parts of Germany, we are informed by Huberus and Heineccius a *cessio bonorum* does not even work a discharge of the debtor's person, and much less of his future effects. But with a view to the advancement of commerce, and the benefit of creditors, the systems now commonly known by the name of "bankrupt laws" were introduced; and allowed a proceeding to be had at the instance of the creditors against an unwilling debtor, when he did not choose to yield up his property; or, as it is phrased in our law, bankrupt laws were originally proceedings *in invitum*. In the English system the bankrupt laws are limited to persons who are traders or connected with matters of trade and commerce, as such persons are peculiarly liable to accidental losses and to an inability of paying their debts without any fault of their own. But this is a mere matter of policy, and by no means enters into the nature of such laws. There is nothing in the nature or reason of such laws to prevent their being applied to any other class of unfortunate and meritorious debtors.

Mr. President, we have it established by the Supreme Court of the United States that this power existing in Congress may be exercised or not exercised at all in its discretion; and, if exercised, may be exercised to the extent and degree which the discretion of Congress may choose to establish. It may operate upon all debtors, or it may operate only upon certain classes of debtors, or it may operate only upon a single class of debtors. In other words, having reference to the general nature of the subject, to wit, the distribution of the assets of an insolvent, after he has committed an act of insolvency or become unable to pay his debts in the ordinary course of business as they fall due, Congress is at liberty to choose its definition of what shall be or what shall not be a bankruptcy, as it pleases. So I think the objection cannot be well taken against this sort of bankrupt act proposed in this bill where its operation is limited to the voluntary act of a class of debtors who may choose to come within the purview of its provisions, by making the general assignment which constitutes the foundation of every other step to be taken under it.

The next objection to which I wish to advert is in reply to the question whether, supposing this to be a law on the subject of bankruptcy, it is a uniform law. I understand that a law is uniform which operates in the same way, in the same circumstances, everywhere where it operates at all. It is not essential to the idea of uniformity that it should embrace all debtors of every description. The fact that it operates in reference to some debtors and not to others, I have already shown is not essential to the idea of a bankrupt act; and if a bankrupt act may exclude from its operation certain classes of debtors and still be a constitutional bankrupt act, it is uniform if it applies to that class of debtors everywhere where it operates at all. In other words, the classification of the persons some of whom are to fall within and others of whom are to fall without the definition of a bankrupt, has no relation to the question of uniformity. That has relation only to the question of its being or not being a bankrupt act. Let me illustrate how classifications may take place without destroying the uniformity of the operation of the act. The constitution of the State of Ohio contains a provision which forbids the creation or organization of any corporation except by general law. No municipal corporation can be created in Ohio, no city, town, or village can be incorporated by a special charter; it can be done only by a general charter, it can be done only by a general act. Another provision declares that all laws of a general nature shall have a uniform operation throughout the State. It was manifest that municipal corporations were of very different kinds; some were large and some were small, some were situated on rivers, and some on lakes, and some inland, and there was required a different set of provisions according to the different class of corporations into which municipalities might be divided; so that in legislating under that provision of the constitution the General Assembly of Ohio classified municipal corporations into cities of the first class, and cities of the second class, and incorporated villages, giving to each one of the classes powers differing from those powers conferred upon the others, but to each one of a class giving the same power that was given to all the others in that class. Upon that, on judicial contest, it was declared that that classification, that differentiation of the powers conferred on corporate bodies, was strictly within the limits of the constitutional authority of the General Assembly.

Now in this case this bill makes a definition of what shall constitute a bankrupt, and that definition prevails throughout the United States within all the States and Territories. It defines what shall constitute a discharge of that bankrupt so that his future-acquired property shall be exempt from judgments rendered upon claims existing at the time of the assignment, and their discharge is the same throughout all the United States, in every State and in every Territory. How, then, can it be said that the law will act otherwise than uniformly? And if it acts uniformly, then it is a uniform law.

There are variations, to be sure, or may be, in respect to provisions in the States which may be called into exercise by persons who are claiming the benefit of this act in the distribution of the assets, but they do not destroy the uniformity of this bill if it become an act; they do not affect its operation at all. They only provide a means for working out a certain result which would be worked out anyhow under the laws of the State without respect to any legislation on the part of Congress. Congress simply comes in and by virtue of this jurisdiction says "if the debtor does a certain act and that act results in a certain consequence to his creditors, the two taken together shall

constitute him a discharged bankrupt," and he is so no matter whether he be a citizen of one State or another, no matter whether his assets are administered under a system of one State or another.

The same facts which create his bankruptcy and establish his discharge exist, no matter where his citizenship or domicile is, and they apply to the citizens of all the States; so that it seems to me that, however it may appear upon first sight, upon examination it will further appear that there is no ground for objecting to or criticising this measure for want of that unanimity in its operation which is required by the Constitution.

Why, Mr. President, even under the present bankrupt act, there are certain inequalities which exist, wrought out by the operation of State systems of legislation, as for instance in respect to exemptions of property made exempt by the bankrupt act from its operation, so as not to be included within the schedule and inventory of the assets, the title of which passes to the assignee in bankruptcy for distribution, and those exemptions are the exemptions established by the local law and adopted into the general act of Congress.

Mr. President, I think that the Senate owes to itself and to the country an earnest effort, even if it requires some delay beyond that which has already occurred, to see if there be no remedy for the existing state of things other than that of an absolute, immediate, and unconditional repeal of the bankrupt act. I, for one, shall be loath to come to that conclusion until I am driven to it, for I know no period in the history of our country in which it seems to me to be less opportune to take away all of that remedial system which belongs to a scheme of bankruptcy. There never was a time when there was more debt, a larger number of debtors, more insolvency actually existing and more insolvency apprehended than exists to-day. And while I admit the inefficiency of the present system, while I am conscious by experience of its costliness, and while I have testimony abundant and conclusive that in many cases it has been made the cover of fraud, still it does seem to me that the experience of the civilized world of commercial nations, and our own experience too, establishes the fact that we ought to have a bankrupt system.

We have had now I believe three bankrupt acts. This is the third. Two of them went into existence, were allowed to have their temporary effect, and were then swept out of existence. Now, after the experiment of these few years, we are called upon to seriously consider the question whether we shall again add the weight of our condemnation to every effort to establish the system. Certainly, Mr. President, there is nothing wrong in the essential idea of the bankrupt system, and that is of furnishing to the honest and unfortunate debtor who surrenders all his property equally for the benefit of all his creditors and who has not been guilty of such imprudence as to waste his estate beyond the extent of one-half the value of his debts, I say there is nothing wrong in the idea, upon those conditions, of furnishing to such a person the opportunity, freed from the burden of his past obligations, of again entering into the strife and contest of business, the opportunity without the leave and license of his creditors to endeavor to lay up something, even if it be a little, in store for a rainy day, for the benefit of himself and of his wife and children, for wife and children in one sense and in a high sense are also the creditors of every man fortunate enough to have them, creditors entitled to consideration, entitled to respect, whose interests ought to be the subject of the fostering care of our national legislation. And in the name and for the benefit of all such debtors similarly situated, I invoke the earnest effort of this Congress to see if some measure cannot be matured and adopted which, while it shall secure to them these benefits to which they are entitled, shall not also work wrong, injury, and injustice to those who give them credit. It is in the hope that something to that end may yet be reached, that I have ventured to submit this proposition.

Mr. McCREERY. Mr. President—

Mr. SARGENT. I suppose the Senator does not wish to speak now.

Mr. McCREERY. I intended to make a brief remark.

Mr. SARGENT. I move that the Senate proceed to the consideration of executive business.

Mr. BLAINE. May I inquire of the Senator from Kentucky if he expects a vote to-morrow on this bill?

Mr. McCREERY. I should be glad to have it to-morrow.

Mr. BLAINE. I reported the deficiency bill yesterday, for which the different Departments are under very great pressure. If the Senator will allow me to call it up now, so that it will be the unfinished business for to-morrow, I shall be obliged to him.

Mr. McCREERY. That may be considered informally if it is desired.

Mr. BLAINE. Then to-morrow, at the close of the morning hour, I will ask the Senator to yield for that purpose.

Mr. McCREERY. I having the floor on this question.

CHINESE IMMIGRATION.

Mr. SARGENT. Before the question is put on my motion I desire to say on behalf of my colleague [Mr. BOOTH] that some ten days or two weeks ago he expressed a desire to speak to the resolution on the Chinese question which I laid on the table and spoke about. I am anxious that the resolution shall go to the committee for consideration, and on his behalf I will ask that he be heard to-morrow morning during the morning hour. I understand his remarks will be quite brief.

The PRESIDING OFFICER. The Senate will take notice of the request of the Senator from California.

EXECUTIVE SESSION.

Mr. SARGENT. I renew my motion for an executive session.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and fifty-four minutes spent in executive session the doors were reopened and (at five o'clock and fifty-four minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 10, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. SYMPSON, one of the clerks, announced that the Senate insisted upon its amendments to the bill (H. R. No. 3064) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1879, and for other purposes, disagreed to by the House of Representatives, and asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. WINDOM, Mr. ALLISON, and Mr. EATON conferees on the part of the Senate.

The message further announced that the Senate further insisted upon its amendments to the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks and making an appropriation for the same; also making appropriations for detecting trespass on public lands and for bringing into market public lands in certain States, and for other purposes, disagreed to by the House of Representatives, and asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. WINDOM, Mr. DORSEY, and Mr. BECK conferees on the part of the Senate.

ORDER OF BUSINESS.

Mr. WOOD. I desire to say to the House that there was an understanding between the Committee of Ways and Means and the Committee on Appropriations and that the former committee has no intention or disposition to antagonize them in their bills when they are ready. The gentleman from Pennsylvania [Mr. SMITH] is now prepared to go on with the pension appropriation bill. It is an important bill, and I therefore yield the floor to him for the purpose of reporting the action of the committee on that bill.

The SPEAKER. The Chair will recognize the gentleman from Pennsylvania in a moment. There are three or four gentlemen who desire to introduce bills and who had no opportunity to do so upon Monday and the Chair thinks that their request is not unreasonable; but the gentleman from Tennessee [Mr. YOUNG] desires to present a question of privilege to the House.

CEILING OF THE HOUSE.

Mr. YOUNG. I am instructed by the Select Committee upon the Ventilation of the Hall to offer the resolution which I send to the Clerk's desk, and I desire to make a very brief explanation of it. Above the sky-light of this Hall no one is allowed to go, except the electrician. No one else is allowed to go there, but we find it necessary, in order to have this Hall properly lighted, that the glass should be washed and the screens adjusted every day. Now, there is no laborer who can be assigned to that duty, and this resolution proposes to provide for one.

The SPEAKER. The Chair thinks the resolution is a question of privilege, and entertains it.

The Clerk read the resolution of Mr. YOUNG, as follows:

Resolved, That the electrician of the Capitol be, and is hereby, authorized to employ a laborer to attend to adjusting the blinds under the main sky-light, and cleaning the glass in the ceiling of the Hall of the House of Representatives, and that said assistant be paid the salary now allowed to laborers on the Doorkeeper's roll. *And be it further resolved*, That the lighting of the Hall and the electrician be under the exclusive control of the Architect of the Capitol extension: *Provided*, however, That no person shall go above the sky-light while the House is in session.

Mr. YOUNG. I ask that the resolution be put upon its passage.

Mr. GARFIELD. I wish to ask the gentleman whether that resolution does not interfere with the present rule that puts access to the upper part of the Hall entirely in the hands of the Speaker? It was found necessary to do that. An accident occurred here which came near costing us the life of a member; for some employé stepped upon one of these panes of glass in the sky-light and broke the glass so that a portion of it fell to the floor of the House. The upper portion of the House was then placed absolutely under the control of the Speaker.

Mr. YOUNG. I do not think that this resolution will interfere with that rule.

Mr. CLYMER. Can this resolution be considered without unanimous consent? It takes money out of the contingent fund of the House.

The SPEAKER. The Chair has taken exclusive control, under a resolution of the House and under action of the Committee on Rules,

and during the session of Congress keeps in his possession the key leading to the room over the ceiling of the House where the gas-jets are located, and prevents anybody from going there during the sessions of the House.

Mr. GARFIELD. I suggest to the gentleman from Tennessee that he allow the resolution to go to the Committee on Rules.

The SPEAKER. That committee has a right to report at any time.

Mr. YOUNG. A man has to be employed to go up there every day to wash the glass and arrange the screens, and there is no one who can now be assigned to that duty, but I have no objection to having the resolution referred to the Committee on Rules.

The resolution was referred to the Committee on Rules.

W. J. NEELEY.

Mr. RIDDLE, by unanimous consent, introduced a bill (H. R. No. 4250) for the relief of W. J. Neeley, late postmaster at Hartsville, Tennessee; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

WINDER'S BUILDING.

Mr. WARD, by unanimous consent, introduced a bill (H. R. No. 4251) to extend Winder's building, for the use of the War Department; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

GEORGE PENDLETON.

Mr. POLLARD, by unanimous consent, introduced a bill (H. R. No. 4252) granting a pension to George Pendleton; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

Mr. POLLARD also, by unanimous consent, introduced a bill (H. R. No. 4253) to provide indemnity due to the several States under acts of Congress approved March 2, 1855, and March 3, 1857, relating to swamp and overflowed lands, and for other purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

LAND CLAIMS ON LINE OF NORTHERN PACIFIC RAILROAD.

Mr. STEWART, by unanimous consent, introduced a bill (H. R. No. 4254) to authorize claimants upon even-numbered sections of land within the twenty-mile limits of the Northern Pacific Railroad to make proof and payment for their claims at the ordinary minimum rate at \$1.25 per acre; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

CURRENCY.

Mr. FULLER, by unanimous consent, introduced a bill (H. R. No. 4255) to authorize an issue of Treasury notes, the taking up of the greenbacks and national-bank notes, to prohibit a contraction of the currency, and to repeal the internal-revenue laws; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

GEORGE GOULD.

Mr. HUBBELL, by unanimous consent, introduced a bill (H. R. No. 4256) for the relief of George Gould, of Stephenson, Menominee County, Michigan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ARMY AND NAVY BANDS.

Mr. COX, of New York, by unanimous consent, presented a joint resolution (H. R. No. 154) in reference to the employment of the Army and Navy bands; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

GEORGE A. SCHREINER.

Mr. HASKELL, by unanimous consent, introduced a bill (H. R. No. 4257) for the relief of George A. Schreiner; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ABSENTEE SHAWNEE LANDS IN KANSAS.

Mr. HASKELL also, by unanimous consent, introduced a bill (H. R. No. 4258) for the relief of settlers upon the absentee Shawnee lands in Kansas, and for other purposes; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

ALEXANDER B. NUCKOLLS.

Mr. BELL, by unanimous consent, introduced a bill (H. R. No. 4259) for the relief of Alexander B. Nuckolls, of Forsyth County, Georgia; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

UNITED STATES SURVEYOR-GENERAL, CALIFORNIA.

Mr. PAGE, by unanimous consent, presented a joint resolution of the Legislature of the State of California, relating to the office of United States surveyor-general of California; which was referred to the Committee on Public Lands.

ISSUE OF ARMS TO THE TERRITORIES.

Mr. BANNING. I ask unanimous consent to report back, without amendment, from the Committee on Military Affairs, for immediate

passage, the bill (H. R. No. 3679) to amend a joint resolution authorizing the Secretary of War to issue arms, approved July 3, 1876.

The SPEAKER. The bill will be read for information, after which the Chair will ask for objections.

The bill was read. It provides that the joint resolution approved July 3, 1876, entitled "A joint resolution authorizing the Secretary of War to issue arms," be amended by inserting in the fifth line, after the word "States" and before "each," the word "Territories," and by striking out after the word "each," in the fifth line, and before the word "provided," in the sixth line, the words "and not more than five hundred to each of said Territories."

The SPEAKER. Is there objection to the consideration of this bill? [A pause.] The Chair hears none.

Mr. BANNING. A single word of explanation may be necessary in regard to this bill. Under the law as it now stands one thousand arms may be issued to each of the States, but only five hundred to any one of the Territories. This bill proposes to authorize the Secretary of War to issue as many arms, if required, to a Territory as to a State. The matter will be in his discretion. The Department has the arms, and recommends this bill, which was introduced by the gentleman from Idaho [Mr. FENN] who says that his Territory is in great need of arms for the protection of its citizens.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. BANNING moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NEUFCHÂTEL ROCK PAVING COMPANY.

Mr. DOUGLAS, by unanimous consent, introduced a bill (H. R. No. 4260) for the relief of the Neufchâtel Rock Paving Company; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

LOUIS C. SANDS.

Mr. BAGLEY, by unanimous consent, introduced a bill (H. R. No. 4261) for the relief of Louis C. Sands, of Herkimer County, New York; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

CAPTAIN JAMES H. FRAZEE.

Mr. SEXTON, by unanimous consent, introduced a bill (H. R. No. 4262) granting a pension to Captain James H. Frazee, of Rushville, Indiana; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BUILDING FOR USE OF WAR DEPARTMENT.

Mr. BLISS, by unanimous consent, introduced a bill (H. R. No. 4263) to extend Winder's building, for the use of the War Department; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

A. H. RICHARDSON.

Mr. DAVIS, of California, by unanimous consent, introduced a bill (H. R. No. 4264) for the relief of A. H. Richardson; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

TREASURY INVESTIGATION.

Mr. GLOVER. I ask unanimous consent to introduce for adoption now the following resolution:

Resolved, That the Committee on Expenditures in the Treasury Department be, and they are hereby, authorized to send subcommittees to such points as in the judgment of the committee may be necessary, to take testimony.

Mr. PHILLIPS. I must demand the regular order.

Mr. LUTTRELL. I hope the gentleman will not interrupt the introduction of bills for reference only.

The SPEAKER. Does the gentleman object to bills for reference? Mr. PHILLIPS. I do not object to reference, but will not consent to bills being introduced for action.

Mr. GLOVER. I ask, then, to have that referred to the Committee on Expenditures in the Treasury Department.

There was no objection, and it was ordered accordingly.

GOTTLÖB GROEZINGER.

Mr. LUTTRELL, by unanimous consent, introduced a bill (H. R. No. 4265) for the relief of Gottlob Groezinger; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

R. SPROUL.

Mr. JACOBS, by unanimous consent, introduced a bill (H. R. No. 4266) for the relief of R. Sproul, of Washington Territory; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

ELIZABETH CHANCE.

Mr. REAGAN, by unanimous consent, introduced a bill (H. R. No. 4267) for the relief of Elizabeth Chance, widow of Eli Chance, to indemnify her for loss incurred by rejection of her claim for pension under act of February 14, 1871; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BRIDGE-PIER BOOMS.

Mr. CRITTENDEN, by unanimous consent, introduced a bill (H. R. No. 4268) to compel the construction of bridge-pier booms on all bridges over the Missouri River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

DARWIN J. TRUE.

Mr. DUNNELL, by unanimous consent, introduced a bill (H. R. No. 4269) to remove the charge of desertion against Darwin J. True, late of Company G, Twenty-first Regiment Kentucky Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

EDWARD P. JOHNSON.

Mr. STRAIT, by unanimous consent, introduced a bill (H. R. No. 4270) for the relief of Edward P. Johnson; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOSEPH W. HASTINGS.

Mr. NORCROSS, by unanimous consent, introduced a bill (H. R. No. 4271) for the relief of Joseph W. Hastings; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN M. LORD.

Mr. COBB, by unanimous consent, introduced a bill (H. R. No. 4272) for the relief of John M. Lord, of Indiana; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

R. W. HUNTER.

Mr. MORRISON, by unanimous consent, introduced a bill (H. R. No. 4273) for the relief of R. W. Hunter; which was read a first and second time, referred to the Committee of Accounts, and ordered to be printed.

ROBERT TILLSON AND MAITLAND BOON.

Mr. KNAPP, by unanimous consent, introduced a bill (H. R. No. 4274) for the relief of Robert Tillson and Maitland Boon, of the State of Illinois; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MEMBERS OF CONGRESS AS ADVISORY ATTORNEYS.

Mr. TURNER, by unanimous consent, introduced a bill (H. R. No. 4275) to make it illegal for any member of either House of Congress to act as general advisory attorney for certain corporations and patentees; which was read a first and second time, referred to the Committee on Reform in the Civil Service, and ordered to be printed.

EXECUTIVE PATRONAGE.

Mr. TURNER also, by unanimous consent, introduced a joint resolution (H. R. No. 155) directing the House and Senate Committees on Civil Service Reform to inquire into the propriety of limiting Executive patronage by constitutional amendment, and inquire into the propriety of adopting some new method of keeping the accounts of the Federal Government, by which they can be held to a more rigid accountability; which was read a first and second time, referred to the Committee on Reform in the Civil Service, and ordered to be printed.

PEREA'S BATTALION, NEW MEXICO.

Mr. ROMERO, by unanimous consent, introduced a bill (H. R. No. 4276) to provide for the payment of Perea's battalion of militia, organized in the Territory of New Mexico at large in November and December, 1861, and January, 1862, to serve three months in the service of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ORDER OF BUSINESS.

Mr. PHILLIPS. I demand the regular order.

Mr. SMITH, of Pennsylvania. I desire the House to resolve itself into Committee of the Whole on the state of the Union for the purpose of taking up the regular pension appropriation bill.

Mr. CONGER. I hope we will be allowed to have a morning hour.

Mr. REAGAN. I must insist on the morning hour.

The SPEAKER. The morning hour can be reached by voting down the motion to go into committee.

Mr. PHILLIPS. Is the gentleman from Pennsylvania desirous to antagonize the morning hour?

Mr. SMITH, of Pennsylvania. I do not wish to do it if it can be helped.

Mr. PHILLIPS. Then, wait until after the morning hour.

Mr. SMITH, of Pennsylvania. It is absolutely necessary that this pension appropriation bill should be passed without further delay.

Mr. LUTTRELL. Does the gentleman from Pennsylvania propose to set aside the morning hour?

The SPEAKER. The Chair has recognized the gentleman from Pennsylvania to make the motion that the House resolve itself into Committee of the Whole on the state of the Union. The gentleman from Michigan [Mr. CONGER] has indicated that he desires to have a morning hour if he can reach it. But the Chair desires to state that the first business in order now, if the motion of the gentleman from Pennsylvania did not prevail, would be the unfinished business, which is the District of Columbia bill.

Mr. REAGAN. Is the motion to go into Committee of the Whole in order before the morning hour?

The SPEAKER. The motion to go into Committee of the Whole on the state of the Union is in order at any time.

Mr. SMITH, of Pennsylvania. I insist on my motion.

The SPEAKER. The gentleman from Pennsylvania moves that the House resolve itself into Committee of the Whole on the state of the Union, and gives notice that his object is to consider the pension appropriation bill.

The question being taken on the motion of Mr. SMITH, of Pennsylvania, there were—ayes 115, noes 55.

Mr. CHALMERS called for tellers.

Mr. REAGAN. I desire to make a parliamentary inquiry. Can a majority suspend the rules so as to set aside the morning hour by going into Committee of the Whole?

The SPEAKER. It can. The Clerk will read Rule 104.

The Clerk read as follows:

104. The House may at any time, by a vote of a majority of the members present, suspend the rules and orders for the purpose of going into the Committee of the Whole House on the state of the Union.

The question being taken on ordering tellers, there were ayes 16, not one-fifth of a quorum.

So tellers were not ordered; and the motion that the House resolve itself into Committee of the Whole on the state of the Union was agreed to.

CLAIMS AGAINST THE UNITED STATES.

Mr. POTTER, by unanimous consent, introduced a bill (H. R. No. 4277) providing for the judicial ascertainment of claims against the United States; which was read a first and second time, referred to the Committee on Civil-Service Reform, and ordered to be printed.

SESSIONS OF CONGRESS.

Mr. POTTER also, by unanimous consent, introduced a joint resolution (H. R. No. 156) proposing an amendment to the Constitution as to the sessions of Congress; which was read a first and second time, referred to the Committee on Civil-Service Reform, and ordered to be printed.

PENSION APPROPRIATION BILL.

The House, pursuant to order, resolved itself into Committee of the Whole on the state of the Union, (Mr. GARFIELD in the chair.)

The CHAIRMAN. The House is in Committee of the Whole on the state of the Union for the consideration of the special order, being the pension appropriation bill.

Mr. CONGER. Mr. Chairman, I dislike to have the Chair assume what was not stated by the Chair before the House went into Committee of the Whole. There was no motion to go into Committee of the Whole to consider the pension bill. As I was caught yesterday by that assumption I do not propose to be caught again in the same way to-day.

The CHAIRMAN. The occupant of the chair has only at this moment arrived in the Hall and only knows what was the object in going into committee from what the Speaker stated.

Mr. CONGER. There was a notice given, and only a notice, that it was for the purpose when we were in Committee of the Whole of considering the pension appropriation bill. I do not make this point in order to oppose proceeding with the pension appropriation bill, but only that the precedent may not be established.

Mr. RANDALL, (the Speaker.) We may as well understand this just now as at any other time. The motion to go into Committee of the Whole House on the state of the Union is always in order; and it has generally been supplemented by a statement, as it were in parenthesis, by the gentleman who made the motion that his object was to take up a particular bill. The same majority vote by which the House resolved to go into Committee of the Whole House on the state of the Union, with a statement of the object given under such circumstances, has usually been considered as a test vote, showing the desire of the House when they got into Committee of the Whole to consider the bill to which reference was made. And in addition to that the rules themselves give preference to general appropriation bills when the House goes into Committee of the Whole.

Mr. CONGER. There is no doubt about that. But it is only a day or two since, by a remark made in parenthesis, the Committee of the Whole were deprived of the opportunity of determining what they should consider. Now in this particular case I am desirous of considering the pension bill. When the tariff bill was up for consideration, by an addition *sotto voce*, which I did not understand, the House was assumed to have voted to take that bill up in committee and the Chair so ruled. I make this point now because the Chair has no right to determine, unless the House has so determined, what the committee shall take up.

Mr. SAYLER. I would like to say a word about this. The House has the right under the rules to suspend the rules and go into Committee of the Whole by a majority vote for the consideration of an appropriation bill; and if the gentleman from Michigan knows anything at all about the rules he knows that. Now I would like to know from the gentleman from Michigan whether he means to indicate that it was by any *sotto voce* arrangement on my part that anything was done.

Mr. CONGER. I made no special allusion to the gentleman, un-

less the gentleman wishes to appropriate it to himself against my will.

Mr. SAYLER. That I certainly do not desire to do. Then I want to say in the hearing of the gentleman from Michigan that he certainly knows that the House has the right to suspend the rules for the purpose of going into Committee of the Whole for the consideration of appropriation bills by a majority vote; and the only ruling that was made yesterday either by the Speaker or by the Chairman of the committee was that by unanimous consent the House could suspend the rules and go into the Committee of the Whole for any purpose.

Mr. CONGER. No one disputed that. But the question then was not upon an appropriation bill.

Mr. RANDALL, (the Speaker.) I would like to state further for the information of the gentleman from Michigan as to the special order—

Mr. CONGER. On this floor the gentleman from Pennsylvania and I are equal; and I was speaking at the moment.

Mr. RANDALL, (the Speaker.) I thought the gentleman was through. The gentleman from Michigan is quite my equal, whether I am on this floor or in the chair.

Mr. CONGER. I said that to the motion made by the gentleman from New York [Mr. WOOD] yesterday there was added a motion to go into Committee of the Whole to consider a particular bill, which according to all the authorities of parliamentary law required unanimous consent, but, by the decision of the Chair, it not being objected to, was made a part of the resolution. And when to-day the Chair announced that the motion was to go into Committee of the Whole to consider a particular bill, I simply stated that while I was in favor of considering that bill I did not wish the decision of the Chair to be taken as a precedent.

Mr. RANDALL, (the Speaker.) Is the gentleman through?

Mr. CONGER. I am through.

Mr. RANDALL, (the Speaker.) The gentleman states he is through and therefore I would like to say that yesterday a motion was made to go into Committee of the Whole upon a special order. On reflecting over the matter and examining the decision of former Speakers I have come to the conclusion that such a motion is admissible as to the tariff bill. But the Chair did not yesterday assume that that was the rule of the House. He stated that no point of order was made against the introduction of the motion as made by the gentleman from New York, [Mr. WOOD,] and therefore the gentleman who occupied the chair in the Committee of the Whole decided that it had been adopted by unanimous consent, no objection having been raised. The question the gentleman now raises is whether the House has not a right after having made a special order to vote on a motion to go into Committee of the Whole for the purpose of reaching that special order. I recollect very well, and the gentleman from Illinois [Mr. BURCHARD] who was present at that time and had something to do with the subject will recollect it also, that General Schenck, the then chairman of the Committee of Ways and Means, always maintained the right to go into Committee of the Whole upon the tariff bill.

Mr. WOOD. The gentleman from Michigan says he did not hear or understand my motion yesterday. He should not therefore undertake to criticize what he did not hear or understand.

Now, I go further than either the Speaker or the gentleman who presided yesterday in Committee of the Whole. I hold that it is competent for the House to instruct a Committee of the House, as it did yesterday, by what was tantamount to a unanimous vote, what they shall do, what bill they shall take up. The House having thus unanimously resolved to go into Committee of the Whole to take up a special bill, when the House goes into Committee of the Whole it is not necessary to go over the Calendar of bills and lay them aside until the bill which the House has ordered them to consider shall be reached.

Mr. CONGER. I desire to say one word further. The gentleman from New York, [Mr. WOOD,] contrary to his usual custom, begs the question. The Chairman of the committee stated yesterday that the bill came up upon the theory that unanimous consent was given in the House for its consideration. The gentleman says it was by unanimous consent, when the record shows there was a vote and that some members voted against it.

Mr. RANDALL, (the Speaker.) The Chair did not state that. The Chair stated that the introduction of the motion, in the manner in which it was stated by the gentleman from New York, [Mr. WOOD,] had been allowed by unanimous consent, and that then that having been done it was within the competency of the House to pass upon it.

Mr. CONGER. The Chair decided that it was equivalent to unanimous consent.

Mr. BURCHARD. I do not understand that any point of order is made against the consideration of the appropriation bill.

The CHAIRMAN. In assuming the chair, the Chair understood that a special order had been made to go into Committee of the Whole to consider a particular bill. The Chair is informed now that the motion was to go into the Committee of the Whole, with an intimation that the gentleman who made that motion would move to consider the pension appropriation bill. We are therefore in Committee of the Whole subject to the will of the majority as to what we shall do, but the Chair finds that the pension bill is not a special order, but

Rule 114 gives appropriation bills preference, and if the gentleman in charge of the pension bill moves to take it up the Chair will entertain that motion.

Mr. RANDALL, (the Speaker.) The effect of that rule is to give preference to that bill over any other.

The CHAIRMAN. In obedience to that rule, the Chair recognizes the gentleman from Pennsylvania [Mr. SMITH] to move to consider the pension appropriation bill.

Mr. McMAHON. I hope there will be no objection to that motion. We have passed a bill providing for pensioning the soldiers of the war of 1812, but this bill has to pass before they can realize on their claims. Under this bill they are authorized to be paid immediately, and I trust there will be no objection to its consideration.

The question was taken on Mr. SMITH's motion; and it was agreed to.

The bill was read.

Mr. SMITH, of Pennsylvania. I am instructed by the Committee on Appropriations to offer the amendments which I send to the desk. The Clerk read as follows:

In the thirty-seventh line, after the word "Treasury" insert "and the Secretary of the Interior;" so that the last paragraph will read: "That from and after July 1, 1878, or as soon thereafter as practicable, pensions shall be paid by the Treasurer of the United States, under the direction of the Secretary of the Treasury and the Secretary of the Interior," &c.

In the thirty-eighth line strike out "96" and insert "130;" so as to read: "and the sum of \$130,000, or so much thereof as may be necessary," &c.

In the forty-first line, before the word "provided," insert the following: "Provided, That the pensioner and his witness may make affidavit to the voucher before any United States officer authorized to administer oaths or before any collector of the internal revenue, who is hereby authorized and required to administer the oath, said oath to be administered free of charge: And provided, That where the affidavit has been made before such officers or justices of the peace, a certificate of the prothonotary or clerk of the court shall not be necessary unless specially demanded by the Third Auditor: And provided further, That false swearing before the said United States officers shall be deemed perjury and subject the offender to the penalty of the same: And provided further, That the voucher may be modified or dispensed with if, in the judgment of the Secretary of the Interior, the Treasurer of the United States and the Secretary of the Treasury, the same can be done without detriment to the Government."

In the forty-seventh line, and after the word "and," insert "an act establishing paying pension agencies and;" so as to read: "And an act establishing paying pension agencies and all acts and supplements of acts inconsistent with this act are hereby repealed."

The CHAIRMAN. The bill will be read by paragraphs for amendment, and as the paragraphs to which these amendments relate are reached they will be voted on.

Mr. POWERS. I wish to inquire how much time is to be allowed for general debate.

Mr. SMITH, of Pennsylvania. It was not expected that more than an hour would be desired for general debate.

Mr. POWERS. The arrangement, as I understood, with the gentleman reporting this bill was that of the hour for general debate he would yield half to the gentleman from Alabama [Mr. HEWITT] and myself, representing the Committee on Invalid Pensions, who have some interest in this measure. This is the arrangement as we understood it. I wish to say something on this bill.

Mr. SMITH, of Pennsylvania. I did not understand that the gentleman wanted half an hour.

Mr. POWERS. I only wish fifteen minutes for myself, but the gentleman from Alabama [Mr. HEWITT] will desire some time. I supposed that we would be allowed half an hour on behalf of the Committee on Invalid Pensions and that the other half would be occupied by the gentleman.

Mr. SMITH, of Pennsylvania. I want an hour for myself.

The CHAIRMAN. There is as yet no limit fixed for the debate.

Mr. POWERS. It is understood, then, that after the gentleman from Pennsylvania has concluded I shall be recognized on behalf of the Committee on Invalid Pensions.

Mr. HANNA. I would like to ask the gentleman in charge of this bill whether it is the bill that undertakes to abolish all pension agencies in the several States.

A MEMBER. It is.

Mr. HANNA. If it is, some of us would like an opportunity to examine it. It is a measure that vitally affects the pensioners in every State of the Union. It proposes a radical change, to which some of us are decidedly opposed. I trust there will be no effort to force the measure through without having it properly considered.

The CHAIRMAN. The Chair will remind the gentleman from Indiana [Mr. HANNA] that no limit for general debate has yet been fixed. Only the House can fix such a limit.

Mr. POWERS. Is it understood that I am to be recognized after the gentleman from Pennsylvania is through? I have an amendment which I desire to offer under instruction of the Committee on Invalid Pensions.

The CHAIRMAN. The Chair will recognize the gentleman.

Mr. SMITH, of Pennsylvania. I have no objection to allowing the gentleman from Maine [Mr. POWERS] and his committee to be fully heard. In reply to my friend from Indiana, [Mr. HANNA,] I will say that there is no disposition on my part or on the part of the Committee on Appropriations to rush this bill through without due consideration. The bill has been reported for some weeks past and gentlemen will find it on their files. It was reported on the 19th of March last.

The provisions of this bill are somewhat new. Two features in it

particularly claim attention. The first relates to the increase of appropriations over and above those of last year. This increase is the result of the passage of the act of March 9, 1878, by which the surviving soldiers of the war of 1812 and their widows are placed on the pension-roll. It is estimated by the Commissioner of Pensions that the number entitled to pensions under that act will not be less than twenty-two thousand; but he asks at this time an appropriation for only fifteen thousand, which will require the sum of \$1,499,474. These beneficiaries of the Government being far advanced in life and many of them in stringent circumstances, their claims should be promptly adjusted. I am assured by the Commissioner that every effort will be made in this direction.

I have here a table showing the number of pensioners on the rolls at the termination of each fiscal year since 1861 and the amount of pensions paid each year from 1861 to 1877, inclusive. It is an interesting table. The number of pensioners in 1861 was 8,636, and the amount then paid was \$1,034,599 73. The number on the rolls in 1877 was 232,104, and the amount paid in that year was \$27,963,752 27. I incorporate the table as part of my remarks.

Number of pensioners on the roll at the termination of each fiscal year since 1861, and the amount of pensions paid each year from 1861 to 1877, inclusive.

Year.	Number.	Amount.
1861.....	8,636	\$1,034,599 73
1862.....	8,169	852,170 47
1863.....	14,791	1,078,513 36
1864.....	41,135	4,965,473 90
1865.....	85,986	16,347,621 34
1866.....	126,722	15,605,549 88
1867.....	153,184	20,936,551 71
1868.....	169,643	23,782,386 78
1869.....	187,963	28,476,621 78
1870.....	198,686	28,340,292 17
1871.....	207,495	34,443,894 88
1872.....	232,229	38,533,402 76
1873.....	238,411	39,359,426 86
1874.....	236,241	39,038,414 66
1875.....	234,821	39,456,216 22
1876.....	232,137	28,257,395 69
1877.....	232,104	27,963,752 27

The other feature of this bill is entirely new, and the gentleman from Indiana [Mr. HANNA] is correct in stating that it deserves to be carefully considered. I propose to state certain facts for the consideration of the Committee of the Whole; and if those facts induce them to reach the same conclusion that I have reached in the examination I know what will be the result.

By the act of 1867, the President of the United States is authorized to establish pension agencies for the purpose of paying pensioners at such places as he may deem proper, and appoint agents, not less than three for each State and Territory. Under this privilege he would be authorized to appoint one hundred and thirty-eight agents. Under this law the President appointed fifty-eight, who continued to act as such until May 7, 1877, when they were consolidated into eighteen agencies.

On this subject I read from the report of the Commissioner of Pensions, page 9:

On the 7th of May an order was issued by the President, which was afterward modified as to the location of two of the agencies, by which the number of the agencies for the payment of pensions was reduced from fifty-eight to eighteen, by consolidating seven agencies in Maine, New Hampshire, and Vermont into one agency at Concord, New Hampshire; four agencies in Massachusetts, Connecticut, and Rhode Island into one agency at Boston, Massachusetts; four agencies in New York into two agencies, one at the city of New York and one at Canandaigua; three agencies in Pennsylvania into two agencies, one at Philadelphia and one at Pittsburgh; four agencies in New Jersey, Delaware, Maryland, and District of Columbia into one agency at Washington; five agencies in Virginia, West Virginia, Tennessee, and North Carolina into one agency at Knoxville, Tennessee; two agencies in Kentucky into one agency at Louisville; three agencies in Arkansas, Mississippi, and Louisiana into one agency at New Orleans; three agencies in Indiana into one agency at Indianapolis; four agencies in Illinois into one agency at Chicago; four agencies in Wisconsin and Minnesota into one agency at Milwaukee; two agencies in Michigan into one at Detroit; four agencies in Iowa and Nebraska into one agency at Des Moines; four agencies in Missouri, Kansas, and New Mexico into one agency at Saint Louis; two agencies in California and Oregon into one agency at San Francisco; and three agencies in Ohio into one at Columbus, the consolidation to take effect July 1, 1877.

The fifty-eight agents received in 1876 \$452,500, in 1877, \$457,490.56, as compensation for their services. Eighteen agents located at the following places are paid the following amounts. I send to the clerk a tabular statement showing the number of agents, the salary received by each, the number of vouchers paid by each, the amount paid, the amount of contingencies, and the total amount. It shows that the amount of salaries is \$72,000; the amount of voucher fees, \$209,389; the amount of contingencies, \$23,514.98; and the total amount, \$304,903.98. I ask the Clerk to read it.

Mr. CONGER. Does the gentleman from Pennsylvania propose in this bill any new legislation in regard to these pension agents?

Mr. SMITH, of Pennsylvania. The bill which I have reported from the Committee on Appropriations does recommend such legislation.

Mr. CONGER. Then I give notice I shall make the point of order against it.

Mr. SMITH, of Pennsylvania. It is new legislation in the direction

of economy—in the line of retrenchment and reform, and is therefore in order.

Mr. CONGER. When we come to that point I give notice I shall raise the point of order.

Mr. SMITH, of Pennsylvania. The gentleman can reserve his point of order until that time. I now ask the Clerk to read the tabular statement which I have sent to the Clerk's desk.

The Clerk read as follows:

Compensation of the pension agents.

Locality.	Name of agent.	Compensation.*	Voucher fees.†	Contingencies.	Total.
Boston.....	D. W. Gooch....	\$4,000 00	\$15,846 50	\$1,300 64	\$21,147 14
Canandaigua.....	L. M. Drury....	4,000 00	15,550 50	1,869 92	21,420 42
Chicago.....	Ada C. Sweet....	4,000 00	17,225 00	2,102 88	23,327 88
Columbus.....	A. T. Wikoff....	4,000 00	20,589 50	1,651 56	26,241 06
Concord.....	E. L. Whitford....	4,000 00	16,358 00	2,035 08	22,393 08
Des Moines.....	B. F. Gue.....	4,000 00	9,415 00	1,538 10	14,953 10
Detroit.....	Samuel Post....	4,000 00	9,724 00	684 50	14,408 50
Indianapolis.....	Fred. Kueffer....	4,000 00	14,515 00	1,657 76	20,172 76
Knoxville.....	D. T. Boynton....	4,000 00	7,602 50	853 96	12,456 46
Louisville.....	R. M. Kelly.....	4,000 00	5,744 50	939 38	10,683 88
Milwaukee.....	E. Ferguson.....	4,000 00	8,711 00	495 00	13,206 00
New York City.....		4,000 00	13,031 50	2,076 88	19,108 38
New Orleans.....	W. L. McMillen....	4,000 00	3,309 00	719 98	8,028 98
Philadelphia.....	H. G. Sichel....	4,000 00	14,994 00	1,480 78	20,480 78
Pittsburgh.....	James McGregor....	4,000 00	10,581 50	775 54	15,357 04
Saint Louis.....	Rufus Campion....	4,000 00	11,368 00	1,645 18	17,013 18
San Francisco.....	A. Hart.....	4,000 00	1,615 00	317 64	5,932 64
Washington.....	D. C. Cox.....	4,000 00	13,498 50	1,381 20	18,879 70
Total.....		72,000 00	209,389 00	23,514 98	304,903 98

* Section 4781, Revised Statutes of the United States.

† Section 4789, Revised Statutes of the United States.

Mr. PRICE. I wish to know whether it is possible we pay pension agents \$4,000 salary and from six and ten to fifteen and eighteen thousand dollars voucher fees in addition to that, and, in addition to both, incidental expenses?

Mr. SMITH, of Pennsylvania. It is not only possible but it is what actually has been done; and it is that abuse which this bill now proposes to remedy.

Mr. HANNA. I wish to say in this connection that out of these pension fees the pension agents pay their clerk hire and all the expenses of their office.

Mr. PRICE. I do not care how that may be, the showing by the official statement just read exhibits a condition of things which ought to be remedied.

Mr. SMITH, of Pennsylvania. And that is what the Committee on Appropriations propose to do.

Mr. HANNA. This bill instead of being entitled "A bill making appropriations for invalid and other pensions," ought to be entitled a bill to rob pensioners of their pay.

Mr. SMITH, of Pennsylvania. I do not wish to be interrupted at this time. These points will come up for discussion in their proper place.

Mr. Chairman, as has been indicated already, these extraordinary figures have struck the members of the committee with surprise. Without knowing what effect it would have upon them I will now state how they influenced me when I first found them out. The pay of these agents for mere clerical duty seemed to me to be excessive. They got a salary of \$4,000 each and twenty-five cents for each voucher and contingencies in addition. It struck me this whole system was wrong and that the consolidation from fifty-eight to eighteen agents did not go far enough, as in my judgment the agencies should have been entirely abolished and the Treasurer of the United States made, as is provided in this bill, the national paymaster.

Mr. FINLEY. I should like to ask the gentleman from Pennsylvania what duty is charged by these pension agents for which each receives a fee of twenty-five cents, that is, twenty-five cents for each voucher?

Mr. SMITH, of Pennsylvania. I will explain all these matters at the proper time.

Mr. FINLEY. What is meant by reducing that fee of twenty-five cents to ten cents in the present bill?

Mr. SMITH, of Pennsylvania. Not being ready for the adoption of the system proposed in the bill until some time after the first of July, it is provided during the few weeks which may transpire before the system can be carried into full effect that the pension agents shall receive ten cents instead of twenty-five cents for each voucher.

Mr. FINLEY. But what I wish to know is what labor that ten cents or twenty-five cents covers? Is it a payment for making out the application?

Mr. SMITH, of Pennsylvania. No, sir; but for filling up the vouchers. There are blank vouchers sent by the Pension Bureau to each one of these agents and each pension agent charges twenty-five cents as a fee for filling up one of those blank vouchers.

Mr. FINLEY. Then I am to understand there is a distinction made between a voucher and an application?

Mr. SMITH, of Pennsylvania. This has nothing whatever to do with applications. I will explain the whole matter to the gentleman if he will now allow me to proceed without interruption.

Mr. FINLEY. My only object is to have information on the subject.

Mr. SMITH, of Pennsylvania. The Commissioner of Pensions himself attends under the law to all matters coming within the purview of applications for pensions. In the regular order of business they go to the Pension Bureau, where they are investigated and where the Commissioner finally decides whether the party making the application is entitled to a pension or not.

When the Commissioner has decided favorably on an application for a pension he sends the applicant a certificate. Then comes the question of payment. The proper pension agents are notified who are upon the pension rolls. When the successful applicant for a pension presents himself to the pension agents a blank voucher is filled up before payment can be made to the pensioner, and for that service of filling up the voucher a fee of twenty-five cents is charged.

Mr. JOYCE. Mr. Chairman—

The CHAIRMAN. Does the gentleman from Pennsylvania yield to the gentleman from Vermont?

Mr. SMITH, of Pennsylvania. I beg the gentleman's pardon; I decline to yield. If I did it would derange what I desire to submit to the House, and I am going to state substantially the matters about which gentlemen have been addressing to me interrogatories.

The method of paying pensions under the present plan is as follows: The Commissioner of Pensions furnishes blank vouchers to these pension agents, who fill up the same and send them to the pensioners. These pensioners, after executing them in the mode directed, return them to the agent, who then forwards his check to the pensioner, and at the end of the quarter sends the voucher to the Third Auditor.

The plan proposed under the bill is to pay the pensioner by a check from the Treasurer of the United States. Two methods have been suggested for preparing the vouchers—one through the Commissioner of Pensions, who will fill up the voucher and send it to the pensioner, who would sign it and return it to the Third Auditor, who would certify it to the Treasurer, if correct. The other method is to have the Third Auditor fill up the voucher and send it to the pensioner, who would execute it and return it to the Third Auditor. The Third Auditor would then certify to the correctness of the voucher and notify the Treasurer, and the Treasurer would then forward the check to the pensioner. I give the preference to this method, especially as the voucher might be very much simplified and all the essential features necessary to identify the pensioner and protect the Government against fraud might be embodied in the check, which, when indorsed and returned, would be a full and complete receipt. And as the pensioner would have to be identified by the banker or merchant who presented the check and indorsed the same, fraud would be almost impossible, as each indorsement would be a warranty of the genuineness of each preceding indorsement.

Is this plan practicable? If the experience of business men and corporations is to be taken as our guide, then this question must be

answered in the affirmative. Substantially the same kind of work proposed to be done by the Treasurer is now performed by assignees, trustees, and corporations. Dividends, semi-annually and quarterly, are paid by banks and railroad companies by a single disbursing officer. One agent, stationed now at Washington, pays pensioners in Delaware, New Jersey, Maryland, District of Columbia, those at the national asylums located at Hampton, Virginia; Dayton, Ohio; Augusta, Maine; Milwaukee, Wisconsin, and District of Columbia, and about seven hundred foreign pensioners, most of whom reside in Ireland and Germany. If this is practicable by a pension agent, why may not the disbursing officer of the United States pay all the pensioners from Washington, no matter where located? The Treasurer pays the warrants from the Postmaster-General and from the Secretary of the Treasury, and interest on the funded debt. What is required of him in this bill is strictly in the line of his duty.

If it is practicable, is it expedient? It is manifestly in the interest of economy. Retrenchment with us is a duty. Officially we are informed that the estimated expenditures will exceed the estimated receipts by \$11,000,000. Under this bill we have increased this deficiency \$1,500,000.

The report from the Commissioner of Internal Revenue indicates a very large deficiency in his department. Imperatively, therefore, retrenchment is needed. By this proposed change we save:

First. The salaries of these eighteen agents, amounting to \$72,000.

Secondly. We save the filling-up of a million of receipts signed by the pensioners, intended for the protection of the agents.

In the third place, we save a hundred warrants issued to the depositaries by the Treasurer of the United States and the letters to the pension agents notifying them that the money has been placed to their account.

In the fourth place, the Treasury has but one account to keep in place of eighteen.

In the fifth place, the modified voucher will save a large amount to the Government, and the combined saving will be at least \$200,000 annually.

This plan will also inure to the benefit of the pensioner. It gives him a check from the Treasurer equivalent to gold. It is paper that may command a premium, for it will be used by merchants to make remittances. The holder is always sure of his money. Not so when he has the agent's check. It may not be honored when presented. This has frequently happened, and then the pensioner is subjected to long and tedious delay before he receives his pay. This plan will also protect the Government against fraud from agents. Under the existing law the agents are paid twenty-five cents for each voucher. It is to their interest to increase the number of vouchers. This is a standing temptation to evil and fraud. And this plan will also protect the Government against loss from defaulting agents.

The following table shows the amount of defalcations of these agents since 1853:

List of pension agents owing balances on settlement of their accounts.

Names of agents.	Location of agency.	Date of defalcation.	Amount due as per Pension Office list.	Amount due as per Third Auditor's list.	Remarks.
P. A. Guyol	New Orleans, La.	Sept. 25, 1855	\$3,400 00	\$1,165 77	Suit entered June 20, 1859.
David Raleigh	Evansville, Ind.	Feb. 4, 1856	2,000 00	1,970 25	Suit entered December 23, 1858.
A. T. Morrison	Indianapolis, Ind.	Oct. 30, 1857	4,253 09	.....	Account closed.
J. S. Morel	Savannah, Ga.	Apr. 13, 1858	950 00	951 36	.....
A. J. O'Hanlon	Fayetteville, N. C.	Sept. 1858	3,500 00	.....	Account closed.
P. T. Crutchfield	Little Rock, Ark.	Jan. 12, 1861	2,000 00	2,656 17	Claims that amount was expended, but his books and vouchers were destroyed in 1861, by the war.
J. C. Green	Cincinnati, Ohio	Apr. 18, 1861	6,000 00	9,334 17	Suit entered February 24, 1863. Judgment obtained November 24, 1870. Credited with \$1,776.05 by deposit made.
Isaac Lewis	Knoxville, Tenn.	Apr., 1861	800 00	3,670 70	Claims that amount was expended, but his books and vouchers were destroyed in 1861, by the war.
J. S. Miller	Jackson, Tenn.	April, 1861	500 00	.....	Account closed.
H. C. Borden	Cincinnati, Ohio	April, 1864	7,200 00	5,140 31	Vouchers lost and entitled to compensation; account yet unadjusted.
J. W. Boyden	Chicago, Ill.	Sept. 16, 1864	17,000 00	.....	Account closed.
E. B. Brown	Saint Louis, Mo.	Feb. 1, 1869	5,500 00	.....	Account closed.
E. B. Brown	Saint Louis, Mo. ....	.....	.....	544 40	Due under Navy pensions.
W. V. Porter	Brooklyn, N. Y.	Feb. 8, 1869	27,000 00	.....	Account closed.
W. V. Porter	Brooklyn, N. Y. ....	.....	.....	42 00	Due under Navy pensions.
Robert Clark	Washington, D. C.	May 5, 1869	7,000 00	.....	Account closed.
Robert Clark	Washington, D. C. ....	.....	.....	6,837 62	Due under Navy pensions.
Henry Barns	Detroit, Mich.	May 20, 1869	20,700 00	.....	Account closed.
S. D. Bayless	Fort Wayne, Ind.	June 20, 1869	7,500 00	10,643 57	Suit entered June 24, 1873. Judgment for \$13,437.62 in November, 1873, returned nulla bona.
J. W. Donby	Little Rock, Ark.	Jan. 30, 1870	14,800 00	14,806 16	Claims he holds receipts for money taken by the United States to cover this amount.
A. D. Thomas	Little Rock, Ark.	Feb. 9, 1876	8,000 00	7,947 47	Suit entered in 1878.
H. C. Bennett	San Francisco, Cal.	Dec. 13, 1873	7,900 00	8,426 63	Suit entered in September, 1876.
H. C. Bennett	San Francisco, Cal. ....	.....	.....	112 98	Due him under Navy pensions.
.....	.....	.....	.....	8,313 65	.....
T. R. Moseley	San Francisco, Cal.	June 2, 1877	5,800 00	5,749 73	Caused by clerk absconding in 1877. Offers to settle.
T. R. Moseley	San Francisco, Cal. ....	.....	.....	592 39	Due under Navy pensions.
.....	.....	.....	.....	6,252 17	.....

List of pension agents owing balances on settlement of their accounts—Continued.

Names of agents.	Location of agency.	Date of default.	Amount due as per Pension Office list.	Amount due as per Third Auditor's list.	Remarks.
W. T. Collins.....	Washington, D. C.....	Jan. 26, 1872	52,000 00	52,817 55	Suit entered July, 1872.
W. T. Collins.....	Washington, D. C.....			237 26	Due under Navy pensions.
				53,074 81	
R. H. Isabelle.....	New Orleans, La.....	Sept. 27, 1871	2,000 00		New bond is fraudulent. Report of Commissioner of Pensions received March 12, 1872.
W. H. Lawrence.....	New York City.....	Mar. 24, 1871	66,592 41	65,884 01	Suit entered. Judgment returned <i>nulla bona</i> .
Dudley W. Haynes.....	Brooklyn, N. Y.....	Feb. 1, 1871	6,000 00	6,006 35	Suit entered July, 1872.
W. T. Forbes.....	Philadelphia, Pa.....	Oct. 31, 1871	38,400 00	38,411 65	Arrested by Commissioner of Pensions in 1871.
W. T. Forbes.....	Philadelphia, Pa.....			4,423 09	Due under Navy pensions.
				42,834 74	Account not yet adjusted.
A. R. Calhoun.....	Philadelphia, Pa.....	Nov. 17, 1871	11,900 00	11,187 46	Same as Forbes.
W. J. Stokes.....	Nashville, Tenn.....	April, 1873	3,700 00	3,695 29	Errors and unpaid checks not yet adjusted.
			332,685 50	292,998 43	Amount of difference, \$40,687.07.

NOTE.—The amounts shown above are due under "Army pensions," except those marked under "Navy pensions." Army pensions are settled by the Third Auditor. Navy pensions are settled by the Fourth Auditor. The cases of pension agents owing balances in the Southern States are very difficult to settle, owing to the seizure of money and the destruction of the books and papers in their hands by the confederate government.

I will explain this to the committee, who may not thoroughly understand it, although the explanation may be somewhat prolix and tedious in its detail. Attached to each of these vouchers, a copy of which I have here, is a receipt which each pensioner must sign, not for the protection of the Government, but for the protection of the pension agent, who tears that off, and, after having it labeled in his office, keeps it for his protection. The other, received with the voucher, is at the end of the quarter forwarded to the Third Auditor, and, after some time, the amount is adjusted. And when there is any difficulty between the Government and these paying agents it is the interest very often of the agents to conceal all these papers, and it is with great difficulty that they can be made to produce them in order to effect a settlement.

If we abolish these eighteen agents, we in their stead place it in the power of the pensioner to make an affidavit before any legally authorized officer of the United States, before any revenue commissioner of the United States, and there are one hundred and twenty-six revenue districts, so that we give all these additional facilities to the pensioner to go before these regularly constituted officers and take the oath required without cost.

There is another advantage. It must be very obvious the pension agent is paid according to the number of vouchers he presents. Now it is clearly his interest to increase the number of vouchers. You hold out a temptation to him, therefore, to aid a fraud, and there is no possible way on the part of the Government to detect it. This is done away with. What next? You bring all these rolls that are now scattered all over the United States in the eighteen pension agencies direct to headquarters; you bring them here to Washington City, where the Pension Office is, where the Commissioner is who passes on the validity of the application. Then you need not write out to those eighteen men, scattered all over the United States, to say A's pension has been increased or that B's pension has been decreased. You have the party at hand, right here at your door, with whom you communicate. And you may say this person is entitled to so much more or that one to so much less than before. Why not have that system introduced? What possible reason can there be for sending your money out to these eighteen agencies and running the risk of losing it? The Commissioner of Pensions says there are over \$300,000 now lying uselessly in the hands of these pension agents which ought to be in the Treasury of the United States, and not in their hands. When we want to get it we may not be able to obtain it, and then suit will follow; and you know what happens when suit is brought on behalf of the United States Government against a party who is indebted. It is very frequently the case that neither from him nor his sureties is there any likelihood of anything being recovered.

I hope I am not treading upon anybody's toes in what I am now saying. My own State has furnished defaulters. So have New York, Brooklyn, and Washington. I want to remedy the system and prevent a recurrence of the mischief. It is radically wrong and demoralizing, and should be speedily changed.

I have here a table which shows the amount lost to the Government by default on the part of these agents. When I wrote the letter, Mr. Chairman, which has been referred to, I had no idea there was any of this in arrears. I sent it after having obtained the necessary facts as to the pay of these agents; and then I followed it up in order to ascertain whether any of them had been guilty of any dereliction of duty that required the abolition of the system, and this is the result of my inquiry. I do not ask the Clerk to read the whole of it. It shows the amount unpaid is \$262,948.43. I find here W. T. Collins,

Washington, District of Columbia, was a defaulter to the amount of \$53,074.81. This is the marginal note:

Suit entered July, 1872. Nothing recovered.

I refer now to the case of W. H. Lawrence, of New York City, a defaulter to the amount of \$65,884.01. The marginal note is as follows:

Suit entered, judgment returned *nulla bona*.

Take the case of Dudley W. Haynes, of Brooklyn, New York, who was a defaulter to \$6,006.35 against whom suit was entered July, 1872. Now go to Philadelphia, in my own State; I am sorry for it, but I suppose that it has been copying after that virtuous city of New York, and we find that W. T. Forbes was a defaulter to the extent of \$42,834.74, and the account is not yet adjusted. Take the case of A. R. Calhoun, of the same place, who is a defaulter to the extent of \$11,187.76, and his account is not yet adjusted, and the arrears are unpaid and checks unadjusted.

Mr. O'NEILL. I hope my colleague is not reflecting upon the present pension agent at Philadelphia, whatever other man he may assail.

Mr. SMITH, of Pennsylvania. Oh, no, my dear sir; I did not name him.

Mr. SPARKS. He was only reflecting upon the defaulter.

Mr. SMITH, of Pennsylvania. My dear sir, I have not a word to say against the present agent.

Mr. O'NEILL. I heard the gentleman say something about the pension agent at Philadelphia following the practices of New York.

Mr. SMITH, of Pennsylvania. I beg my colleague's pardon; he had better come near to me and hear what I am saying.

Mr. O'NEILL. I do not want any one to reflect upon Philadelphia or Philadelphians unless there is occasion for it.

Mr. SMITH, of Pennsylvania. I think the city was disgraced by a defaulter in this agency. I find here that there are a number of unpaid arrears and unpaid checks, precisely what I indicated, and although the pensioner puts in his voucher and gets a check it does not follow that he gets the money he will get invariably when he gets a Treasury check for it.

Mr. CONGER. I wish to ask the gentleman whether the law has not been changed so that instead of the money being in the hands of the pension agent, it remains in the Treasury; and if it is not drawn from the Treasury upon his check?

Mr. SMITH, of Pennsylvania. The law is now as it has been; the money is placed in the hands of the pension agents and they draw their own check for their own salary and for such contingencies as they think proper.

That protection to the Government is anything but secure under the present system of security on unincumbered real estate; but there is no protection to the Government, for there is no telling how soon it will be cumbered.

Mr. SPARKS. Under the present law the money is paid over to the pension agent, and what is to prevent him from appropriating it to his own use? How are the banks to know anything about these checks? They simply pay them, and if the agent be a bad man he can draw the money out himself and thereby defraud the Government?

Mr. SMITH, of Pennsylvania. I want to refer to the present system briefly, so as to see if there is any gain in this matter. We propose to pay these pensioners now directly from the Treasury of the United States at an annual saving of \$200,000. I have a letter from the Treasurer of the United States upon this matter, and also

letters from the Secretary of the Treasury and from the Secretary of the Interior, although perhaps I ought to say frankly that the Commissioner of Pensions does not approve of this change. It will put the total expense in the Treasury between \$45,000 and \$55,000, in the Auditor's Office between \$15,000 and \$20,000, and in the Commissioner of Pensions' Office about \$55,000, aggregating in round numbers about \$130,000 instead of \$330,000, the sum they now ask.

Now that strikes me as being in favor of the proposition. It is not a matter that I have looked into for the love of the thing, but as a member of the subcommittee of the Committee on Appropriations I was compelled to investigate the subject and I found this result. I came to the conclusion that there was a terrible wrong and the sooner we could get rid of it the better. Of course some pension agents now in receipt of salaries may object to it, but they were not consulted when the system was changed. When President Hayes upon the 7th of May last issued an order consolidating the fifty-eight pension agencies into eighteen he did not consult the occupants of the office. He issued his order and forty agencies were abolished.

Now I propose instead of reducing them to eighteen to reduce them to one and make that one, who is the disbursing officer of the nation, the disbursing officer for this purpose. Let him send to each man entitled to a pension a Treasury check, and when he receives it he will indorse it and the party who receives it from him will also indorse it, and thus warrant it as genuine.

This is exactly what a business man would do. Any man would undertake to do this business for from \$50,000 to \$75,000 a year without running any risk whatever.

For instance, a widow with children under sixteen years of age is entitled to a pension. It may be provided that in her receipt she shall say that she is the widow of A B, that she is entitled to a pension, number so and so; that she remains unmarried; that she has so many children who are under sixteen years of age and that none of them have been abandoned. All this is capable of being put easily and without trouble into the check; and this check comes back with the voucher, if you insist on having one, four times a year. It will be utterly impossible that fraud can be perpetrated upon the Government with these guards thrown around the administration of the system.

Now, Mr. Chairman, as I have said that this bill commends itself to the judgment of the Secretary of the Interior, I will have read his letter on this subject. I desire to present all the facts so that every member may act intelligently even though he reaches a different conclusion from myself.

Mr. BROWNE. Will the gentleman also send to the Clerk's desk to be read the letter of the Commissioner of Pensions so that we may know his views in regard to this matter?

Mr. SMITH, of Pennsylvania. That can be done hereafter.
Mr. HEWITT, of New York. The gentleman from Indiana [Mr. BROWNE] will find the letter of the Commissioner of Pensions in Senate Miscellaneous Document No. 33.

Mr. SMITH, of Pennsylvania. It is all in print.
The Clerk read as follows:

D.
DEPARTMENT OF THE INTERIOR,
Washington, D. C., March 14, 1878.

SIR: I have the honor, in compliance with your verbal request of this date, to transmit herewith a copy of my letter of January 9, 1878, to the chairman of the Committee on Pensions of the Senate, in reply to his request for an expression of my views upon the expediency and practicability of providing for the payment of pensions at the Treasury of the United States and upon the subject of readjusting the salaries and fees of pension agents, with a copy of the papers therein referred to, other than the letter of the Commissioner of Pensions, a copy of which, I understand, is now in possession of the Committee on Pensions of the House of Representatives.

Very respectfully,
Hon. A. HERR SMITH, /
House of Representatives. C. SCHURZ, Secretary.

E.
DEPARTMENT OF THE INTERIOR,
Washington, D. C., January 9, 1878.

SIR: In reply to your letter of November 9, 1877, in which you request my views as to the expediency and practicability of providing for the payment of pensions at the Treasury of the United States, and also on the subject of readjusting the salaries and fees of pension agents, I have the honor to state that, in relation to the readjustment of salaries and fees of pension agents, I approve the plan suggested by the Commissioner of Pensions in his annual report: the substitution of a fixed sum to be allowed for every one thousand payments made each quarter, to cover postage and clerk hire, the department to furnish stationery and assume the expense of rents, fuel, lights, and making new rolls; this in lieu of the present allowance of twenty-five cents for every payment made by an agent, the agent paying rent, fuel and lights, stationery, clerk hire, and cost of making new rolls.

In regard to the expediency and practicability of paying all pensions by the Treasurer of the United States, I deem it both expedient and practicable. There is no good reason why payments that are now made from eighteen different offices should not be as promptly and safely made from one.

The majority of payments are now made by draft, and with our present excellent mail facilities but little delay would be experienced in reaching the most distant sections of the country.

In fact, after the first payment under the proposed system, there is no reason why even a day's delay should occur.

As a measure of economy there can be but little doubt as to its expediency. One competent man, at a salary not exceeding \$3,000 per annum, could supervise the details of the payments, while the clerical force needed would, in my opinion, cost the Government less than it now pays in the shape of fees for the employment on the part of the agent of the necessary assistance. On salary account alone \$60,000 would be saved, while the payments now made indirectly by the Government for

rent, fuel, and lights, and other incidental expenses would increase the probable saving to at least \$90,000 per annum. The objections urged against the consolidation will in my opinion be found to be more imaginary than real. It is true that under the new plan payments cannot be made to pensioners in person, but it is questionable whether this change will not prove, instead of an inconvenience and loss to certain pensioners, a positive convenience and gain to them.

The receipt by mail of a draft from the United States Treasurer, acceptable as cash by any business man, should certainly be more desirable to a pensioner than the loss of time and necessary delay incident to a personal application. While I see no formidable objections to the abolishment of the present agency system, I see much to favor the payment of pensions by the United States Treasurer.

1. A uniform system of payments and rolls would be secured.
2. The Government would exercise a direct and immediate supervision over its disbursements.
3. The labor now bestowed upon the work of keeping eighteen different accounts would be lessened by having but one account to keep.
4. Prompt communication could be had by the Pension Office with the Treasurer in the transaction of official business.
5. The delays which at times occur in the transmission of funds would be done away with.
6. The expenses of payment would be reduced nearly one-half.

If Congress will authorize the United States Treasurer to pay all pensions from the end of the present fiscal year, I doubt not every needed arrangement can be made by that time to carry the proposed plan into successful operation.

Several plans have been suggested for the payment of pensions by the United States Treasurer.

One provides for the sending out of the quarterly vouchers by the Pension Office and on return their certification to the Treasurer of the United States.

Another plan provides for the sending out of the quarterly vouchers by the Pension Office, their return to the Third Auditor, and their certification by that office to the Treasurer.

Both of these plans would require considerable addition to the clerical force of the Pension Office and that of the Third Auditor.

The Commissioner of Pensions estimates that under the first plan the increased cost would be at least \$137,000.

Under the second he estimates the increase at \$27,000.

The Third Auditor informally estimates the increased expenses of his office at \$45,000. I should favor the more simple and economical plan of leaving the sending out of the vouchers and their examination on return to the office authorized to make the payments.

Under the present system, the vouchers are sent to the pensioners by the pension agent; and on their return to him payment is made. I see no good reason why the office making the payments should not be entrusted with the preliminary work incident thereto.

I would confer upon the Treasurer an individual responsibility, and while it would necessarily call for a large increase of clerical force in his office, no addition would be necessary either in the Pension or Third Auditor's Office.

Deeming it proper to submit to you all the information in my possession relating to a change in the system of paying pensions, I submit herewith copies of letters from the Commissioner of Pensions; also suggestions made by a gentleman who has given considerable attention to this subject.

Very respectfully,
Hon. R. E. WITHERS,
United States Senate. C. SCHURZ, Secretary.

F. WASHINGTON, D. C., June 1, 1877.

SIR: I beg leave to submit for your consideration the following remarks in regard to a change in the manner of paying pensions, believing that the present system (by pension agents) is not as simple and economical as one could be made.

In order to show the correctness of this opinion it seems to be necessary to find, first, what the duties of the pension agents are, and then whether those duties cannot as well, and with less expense, be performed by other already existing officers of the Government.

The duties of pension agents are: First, to send to the address of each pensioner a blank voucher, (section 4764, Rev. Stats.) after receiving back the voucher properly filled out and signed by the pensioner, to remit to him by check the amount due for pension, (section 4765;) further, to pay amounts due examining surgeons for services rendered as stated in section 4777; and, lastly, to take and certify (without fee) the affidavits of pensioners who personally appear before them for that purpose, and to give direct to the hand of such pensioners the check for pension, (section 4784.)

These being the duties of the pension agents, I now come to the point whether such duties cannot be performed by other officers of the Government as well and with less expense; and in regard to that I would say that the Pension Office has a roll containing all pensioners, whose post-office address can be found on the records now in the hands of the pension agents, if it should not be already on the books at the Pension Office.

The blank vouchers, which are now furnished (in bulk) to the pension agents by the Interior Department, could as well be sent by the Pension Office directly to the pensioners, to be by them returned to that office.

At the Pension Office each returned voucher should then be examined, stamped as correct, and forwarded to the Treasurer of the United States as a certificate upon which a draft would be issued by him and mailed to each pensioner.

In this way the duplicate receipts now attached to each voucher would be superfluous, as the draft of the United States Treasurer, after payment, would be returned to him with the indorsement of the pensioner, and would be his voucher.

The number of the pension certificate might be written on the envelope containing the draft, and the United States postmaster be required to deliver such letters only when certificate of pension (held by the pensioner) with the same number is shown.

I believe that the object of promptly paying pensions to the holder of the certificate, who has before sworn that he is the identical person named in the certificate, can be reached in this manner without the assistance of the pension agents; but I must admit the necessity of otherwise gaining as good (or better) information as is now said to be furnished by the pension agents in regard to the numerous cases in which it becomes necessary to decide whether the pension should cease or be increased or decreased.

In regard to this I would respectfully refer you to the report of the Commissioner of Pensions of last year, in which he recommends the appointment of regular pension surgeons, who could undoubtedly be relied upon to give more trustworthy and disinterested information than is now gained.

It is true that the pension agents every three months save the amount of twenty-five cents to each pensioner, for taking and certifying his affidavit, if the pensioner personally appears before a pension agent for that purpose. The law favors to this extent the comparatively small number of pensioners who live at or near the same locality with the pension agent.

In regard to the expense of paying pensions in this way, as compared with that connected with the system of paying by pension agents, I would say that the Pension Office would do all the preparatory work, (preparing and mailing of vouchers, and examining the same after their return;) that the Treasurer's office would perform all the work necessitated by the actual paying of pensions, (drawing drafts

and mailing them;) that a large amount of work of the same character obviously can be done cheaper when it is all done at one place; that it would be less work to the Third Auditor's Office to settle with the United States Treasurer than with a number of pension agents; that a considerable part of the work now necessary would become superfluous, namely the filling out of duplicate receipts attached to each voucher, and that there would be only two chiefs of division to superintend the work, instead of a number of pension agents.

The actual expense of the present system of paying pensions for the fiscal year ended June 30 1876, was \$447,702 13, while the cost of a pension division in the treasurer's office would be about \$50,000, and the cost of a division in the Pension Office, necessitated by the change, could not well be more than \$50,000.

There are at present about 230,000 pensioners to be paid every three months. About 920,000 vouchers, therefore, would have to be filled out each year, as well as mailed and examined (after their return) in the Pension Office. The same number of drafts would have to be written, stubbed, examined, mailed, and accounted for in the Treasurer's office. Taking three hundred as the number of working days in the year, this would give somewhat more than three thousand drafts a day, and would employ in the Treasurer's office probably:

One chief of division, per annum.....	\$2,500
One principal book-keeper, per annum.....	2,400
Four book-keepers, (and signers,) \$1,800 each per annum.....	7,200
Three book-keepers, at \$1,600 each per annum.....	4,800
Two clerks at \$1,400 each per annum.....	2,800
Twelve draft clerks, at \$1,200 each per annum.....	14,400
Six mailing clerks, at \$1,200 each.....	7,200
Four examining clerks, at \$900 each per annum.....	3,600
One messenger at \$75 per month and one messenger at \$60 per month.....	1,620
	46,520

This force can be used in such a manner as to enable the division to forward each day in the beginning of each quarter about ten thousand drafts to the pensioners, paying the large majority of them as quickly as they are now paid.

Very respectfully, your obedient servant,

AUGUST DUDENHAUSER.

Mr. SMITH, of Pennsylvania. I will ask the Clerk to read the letter from the Treasurer of the United States.

The Clerk read as follows:

TREASURY OF THE UNITED STATES,
Washington, February 25, 1878.

SIR: I am in receipt of your letter of the 14th instant in which you ask my opinion of the propriety of paying pensions through the Treasury, and what would be the saving to the Government by such a system as compared with the present system of payment by agents.

As to the saving in the cost of the proposed mode of payment, I am unable to give an opinion, not knowing what expenditures will be required in other bureaus to be affected by the contemplated change.

I, however, have the honor to submit the following estimate as to the force which would be required in this office provided the payments are made in accordance with the following conditions:

1. That all preparation for payments, preliminary correspondence with pensioners and examination of vouchers shall be performed by some other bureau—the Third Auditor, for instance.
2. That (printed) schedules be furnished this office each quarter, or, if practicable, once permanently, giving the name, address, amount due, and when payable.
3. That the schedules be so furnished that there need be no intermission in the daily drawing of checks which, for the shortest quarter and allowing for holidays and ordinary hindrances, would be at the rate of about 3,500 checks per day. At that rate, I estimate that the following force would be necessary in this office alone:

	Num-ber.	Salaries.
Chief of division.....	1	\$2,500
Assistant chief.....	1	2,000
Clerks at third class.....	4	6,400
Clerks at first class.....	12	14,400
Clerks at \$1,000.....	10	10,000
Clerks at \$900.....	20	18,000
Messengers.....	3	2,160
Total.....	51	55,460

The estimate for the subordinate clerks is based upon the force required for the following duties:

	Num-ber.	Salaries.
Writing margins of checks.....	8	\$900
Drawing checks.....	12	1,200
Examining checks.....	5	1,000
Countersigning checks.....	4	1,600
Registering checks.....	4	900
Addressing envelopes.....	5	900
Mailing.....	3	900
Preparing accounts for Auditor.....	5	1,000
Messengers.....	3	720
Total.....	49	9,120

The above estimate is based upon actual personal experience in drawing checks for the payment of interest upon the funded loans issued under the act of July 14, 1870, and as the head of this office I would not wish to undertake the work with a less force at the outset. When the business shall have become fully systematized there might be a reduction made, but it would not be practicable during the first year.

The checks should be made payable at the New York office, and the additional force needed there might be appointed under the provisions of section 3604, Revised Statutes, for which no estimate is made in this communication. Should checks be made payable at other points, additional force would be needed, for which no estimate is made in this communication.

Very respectfully,

JAMES GILFILLAN,
Treasurer United States.

Hon. A. HERR SMITH, House of Representatives.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. HARTZELL. Before the gentleman from Pennsylvania takes his seat I wish to ask him whether this change in paying pensioners will necessitate the employment on the part of the pensioner of agents or attorneys in this city.

Mr. SMITH, of Pennsylvania. No, sir; no attorney whatever will be required.

Mr. HARTZELL. The checks will be drawn to the order of the pensioners?

Mr. SMITH, of Pennsylvania. They will be drawn directly to the order of the pensioner. The great difficulty now is that there is a go-between between the pensioner and the Government. We propose that the Treasurer of the United States shall draw his check payable directly to the pensioner.

Mr. HARTZELL. That is satisfactory.

A MEMBER. May not these checks in some cases be at a discount?

Mr. SMITH, of Pennsylvania. A discount! On the contrary they will command a premium.

Mr. POWERS. Mr. Chairman, I have an amendment to offer at the request and by the direction of the Committee on Invalid Pensions, to the latter part of this bill.

The CHAIRMAN. The gentleman can indicate the amendment, but it will not be in order at present.

Mr. POWERS. I will state the substance of it in the course of my remarks and have it read as a part of them.

Mr. Chairman, according to my view this is a measure virtually affecting not only two hundred and thirty thousand or two hundred and fifty thousand pensioners whom the Government should care for and pay speedily and promptly, but it affects almost that number of families.

Now, sir, every proposed change is not necessarily an improvement; and I am confident, speaking after some examination, that the proposed change is anything but an improvement. I am referring now to that part of the bill which transfers the payment of pensions to the Treasury Department. I object to this change, first, on the ground of economy, because if it be made, the payment of pensions will cost much more than it does even now, and I think this susceptible of proof; and, second, for the very important reason that it will entail delay and expense upon the pensioner, who should be paid promptly and without cost.

As to my first proposition, before I discuss it at length, let me premise that what has been said by the gentleman from Pennsylvania, [Mr. SMITH,] with reference to the large salaries of pension agents is, I believe, substantially correct. The Committee on Invalid Pensions were aware that these salaries were too large, and we have taken measures to remedy that evil. I do not believe in paying large salaries. I think it is our duty to have every employé of the Government paid a fair compensation and no more. The amendment which I propose to offer on behalf of the Committee on Invalid Pensions will reduce the present expenses as they are, even since the recent consolidation, \$106,000 per annum. Under this amendment the several pension agents, by carefully attending to their duties and giving it their whole time and attention, will receive somewhere in the vicinity of \$4,000 each per annum for all the labor, responsibility, and trouble connected with their offices. I do not think they ought to be asked to work for a much less sum. While we go thus far in the interest of economy, I do not think we can go further without doing manifest injustice.

In reply to the question why not pay these pensions from the Treasury Department, I answer that the cost will be so great as to make it impracticable. You will find that some \$440,000, if I mistake not, was appropriated last year to pay the expenses of the several offices and agents for paying pensions. The Committee on Invalid Pensions by the adoption of the amendment offered by me propose to appropriate \$216,000, not one-half of the sum appropriated one year ago and, as I believe, not one-half the sum that it will cost the Government should we adopt the proposition offered by the Committee on Appropriations. Why? In the first place it costs more to get the same work done in Washington than it does in Concord or in any of the smaller towns or cities away from Washington. When you bring this business here you must do it under Washington regulations. You must do it under the rules and practices that prevail here. And I venture the assertion that where clerical labor is performed by contract as it now is by the several pension agents, where they employ their clerks and discharge them when they please, and negotiate with them and contract as to the amount to be paid, that with the same amount of money they are getting to-day they will continue to receive double the amount of service you can get in Washington under the system here adopted and regulating clerical service and wages in the Treasury Department.

The gentleman from Pennsylvania read a letter from the Treasurer of the United States. I have carefully examined that letter and have a copy of it. I find, first, that what he says will cost \$55,460 is an item we never take into consideration in making this appropriation, except as an incident; that it is simply the drawing, the signing, the countersigning, the registering of the checks and making memorandum of them to send to the Third Auditor. And after careful examination into all that is to be done in paying pensions, (and I think I know something about it, and I have the same statement from the

Commissioner of Pensions, and I think there can be no one who will carefully look into it but will come to the same conclusion.) I am prepared to say that what the Treasurer of the United States declares he must have \$55,460 for is not one-tenth part of the work that is necessary to pay these pensioners. Under existing laws it has nothing to do whatever with making up the pension-rolls and correcting them, and there are some fifteen thousand changes on these rolls every quarter. It has nothing to do whatever with the preparing of vouchers and receipts and forwarding them to the pensioners, examining them, and computing the amount due the several pensioners.

Mr. HEWITT, of New York. Is the gentleman from Maine correct in saying that fifteen thousand is the number of variations? I asked the Commissioner of Pensions, and he stated to me the number was ten thousand.

Mr. POWERS. I was present when the Commissioner told the gentleman from New York there were ten thousand. He said there were ten thousand variations; that is, the roll last paid differed in ten thousand particulars from the one previously paid, and would differ in ten thousand particulars from the next one which would be paid. But, sir, since that time the Commissioner has taken pains to examine into the whole subject, and he has informed me he had ascertained the number of variations to be over fifty-eight or fifty-nine thousand, and he had no doubt it would amount to sixty thousand in the whole year, which would be about fifteen thousand a quarter.

And furthermore the Treasurer said, when he made that statement which has been referred to, that he based it upon the presumption that he could draw consecutively every day; and you will see his letter presupposes that the checks were to be drawn every day continuously and he was to be furnished with a schedule or a statement of the amount due each pensioner and was to draw them as he draws the great number of nine thousand checks to pay the interest on the bonded debt. As I had heard from the gentleman from New York [Mr. HEWITT] that this was a matter which could be done as well as not by the Treasurer of the United States as the interest of the bonded debt was paid by checks at the Treasury Department, I thought I would inquire into it a little. I found while the persons to whom that interest is paid may vary, instead of having two hundred and thirty or two hundred and fifty separate and distinct checks to draw and separate vouchers to examine, the whole number issued on a non-changing basis were not over nine thousand a quarter. That is a mere bagatelle in comparison with this matter which so directly affects so many invalid and wounded men, widows and orphans whom we ought to care for and pay promptly. The Treasurer of the United States in his letter states that he wants the pension-rolls and vouchers prepared elsewhere, and when the Commissioner of Pensions was before our committee we asked him how many clerks he would have to hire to prepare the rolls and make the vouchers and do all the work thus required and note all the changes, and he said he could not do it or undertake to do it with less than one hundred and fifty clerks, and he gave us the classes and said it would cost \$210,000 to pay them at the present Washington rates.

Mr. HEWITT, of New York. Was that the Commissioner of Pensions?

Mr. POWERS. Yes, sir; if it would cost \$55,460 to draw and sign checks, certainly it would cost fully \$210,000 to fill vouchers, fill receipts, make records, make rolls, and do all that is necessary outside of drawing checks and making a return thereof to the Third Auditor, and much more.

Mr. FINLEY. That is not done now.

Mr. POWERS. What is not done?

The CHAIRMAN. Does the gentleman from Maine yield to the gentleman from Ohio?

Mr. POWERS. Certainly.

Mr. FINLEY. The applications you speak of, the cost of which you include in the estimates you made, are not now filled up by the pension agent. If he does fill them up he charges for them in addition to the sum now allowed by law.

Mr. POWERS. I beg to state to the gentleman that such is not the case.

Mr. FINLEY. One word further. They are usually filled up by attorneys and notaries public.

Mr. ALDRICH. No, no; not at all.

Mr. FINLEY. The application for payment, I mean.

Mr. POWERS. I am speaking of the application for payment on the voucher.

Mr. FINLEY. What voucher are you referring to?

Mr. POWERS. The voucher which every pensioner signs and swears to before he gets his pay.

Mr. FINLEY. The check?

Mr. POWERS. Not the check. He signs no check. He indorses it when sent to him in payment.

Mr. FINLEY. The receipt?

Mr. POWERS. He signs duplicate receipts. He also signs and swears to a voucher which states that he belonged to such a company and such a regiment or so fully describes his services as to sufficiently identify him. And if that pensioner happens to be a widowed mother with minor children then some neighbors are brought to testify who know that those children are still alive and supported by the mother, and a paper to that effect is executed and sent to the Department

and is filed after careful examination before payment is made. So far as making an abstract of the record is concerned, including the company and the regiment and the names of the children, in case there has been no death, that is done as far as it can be in the different pension agencies and is then forwarded to the pensioner.

Mr. FINLEY. Now the gentleman is talking about the same document I was talking about. I called it an application. He calls it a voucher.

Mr. POWERS. That is what the law calls it—a voucher.

Mr. FINLEY. Is that included in your estimate of cost?

Mr. POWERS. It is.

Mr. FINLEY. It must be under a recent law.

Mr. POWERS. Whenever the pensioner goes in person to the agency then the agent makes voucher and receipts, administers the oath, and nothing is paid him. When he cannot go to the agency he has to pay the claim agent or magistrate or other person whom he employs to administer the oath and complete the papers. I know very well what I am talking about, and I say that nearly one million of these vouchers have to be sent to the pensioners every year.

This payment of the pensioners from the Treasury Department involves more separate transactions than all the different separate transactions in the Treasury Department to-day. It will create a larger bureau than you have got there, and it will entail an expense, I feel justified in saying, of more than \$500,000 to do it. The \$440,000 that was appropriated last Congress, when you come to do this work and prepare this nearly one million of vouchers in Washington, from the best data I can get, would not answer the purpose. And that is one reason why I urgently object to this novel and it seems to me unma-
tured and uncalled for experiment.

Now let me refer to another important fact. There is a rivalry at present in the different eighteen agencies to see how fast they will pay the pensioners. They keep a regular statement of the number of arrivals each day and the number paid. And I know from the information that I have that they work from the 4th of every month till they get up with the applications either the whole twenty-four hours—which they can do by getting in a little extra force—or at least as many as eighteen hours of the twenty-four. And this year, by the 15th of March, their report shows they were paying the pensions as fast as they received the applications. Does the gentleman contend that any such results will be realized if the proposed change is carried?

How would it be here? You send a quarter of a million of those vouchers to the Treasury Department to be taken by the clerks in the proposed bureau and examined. The initials are put on in one room, and then they go to another, and so they go from place to place. And with all this red tape and regulations, when would the poor soldier receive his pay? How long would it take to get through the circumlocution offices of this city? How long would be the delay till the time was reached when the soldier could get his pension? We ought to do something for the crippled soldiers, and for the widows and orphans of those who are not here to take care of them, and I confidently declare that instead of concentrating all this labor here and making this great bureau, we should devise some means by which if possible the soldiers and their widows and orphans should be paid speedily and without expense to themselves by establishing pension agencies in almost every congressional district.

There was a decrease in expense and a saving to the Government when the Secretary of the Interior consolidated the agencies. I believe it is claimed \$130,000 have been saved, but when I take into consideration the fact that it put a great many of those pensioners in the power of attorneys, sharks, and claim agents, and that they were compelled to pay them for completing and executing their papers, I doubt very much whether every dollar saved to the Government has not been taken from the maimed and diseased soldier and widows and orphans, through the increased expense it entailed upon them. Protests and considerations of cost to the pensioner have weighed nothing. Still it has been done, and I know not how we can undo it now; but I trust to see this wrong righted in the not far distant future; but when you ask us to do this thing, to send these two hundred and thirty thousand or two hundred and fifty thousand pensioners to a bureau of this kind, without prescribing the way or manner or method in which they are to be paid, it seems to me that we are entering upon a new and untried course of legislation in reference to a matter that is of vital importance to very many persons and families throughout a great many of the States, and that the expense and delay which must of necessity follow this scheme should cause every true friend of the pensioner to oppose it.

The letter read from the Secretary of the Interior stated that \$90,000 can be saved he thought by the proposed change. The amendment which I propose to offer, and which I will now have read as a part of my remarks, saves \$106,000—\$16,000 more than even the Secretary of the Interior proposes to save by this new method. And his saving was mere speculation and opinion.

I propose after the words "seventy-eight," in line 35, to strike out all of the bill and insert in lieu thereof what I send to the Clerk's desk to have read as a part of my remarks for the information of the House.

The Clerk read as follows:

Agents for the payment of pensions shall, in lieu of the percentage fees, pay, and

allowances now provided by law, be allowed and paid the following compensation for their services, postage upon vouchers and checks sent to the pensioners, and all the expenses of their offices:

First. A salary at the rate of \$4,000 per annum.
Second. Fifteen dollars for each one hundred vouchers prepared and paid by any agent in excess of four thousand vouchers per annum.

Third. Actual and necessary expenses for rent, fuel, and lights, and for postage on official matter directed to the Departments and bureaus at Washington, to be approved by the Secretary of the Interior; and the sum of \$216,000, or so much thereof as may be necessary, is hereby appropriated to pay the salaries, fees, and allowances to said pension agents.

Mr. HEWITT, of New York. Do I understand the gentleman from Maine to offer this amendment by the direction of the Committee on Invalid Pensions?

Mr. POWERS. I do, as a substitute for all that part of the bill after the words "seventy-eight," in line 35 on the second page, to the word "and," in line 47, page 3. One member of the committee, the gentleman from Tennessee, [Mr. RIDDLE,] had some doubts about it, and reserved his conclusions till further investigation, but I think it is now the unanimous opinion of the Committee on Invalid Pensions that this amendment should be adopted.

Mr. HEWITT, of New York. Of the subcommittee?

Mr. POWERS. The whole committee, after looking at the facts in the case, believe that this matter of paying pensioners was something more peculiar to ourselves than to the Committee on Appropriations; but, of course, we would treat the action of the Committee on Appropriations with great deference. I cast no censure upon that committee. The Committee on Invalid Pensions have carefully examined this subject, and we think we are capable of giving to the House an amendment which will answer the requirement, namely, a reduction of the salaries and pay of these pension agents without additional cost and delay to the pensioner, and also that our amendment is more economical and much better than the change proposed by the Committee on Appropriations.

Mr. HEWITT, of New York. You propose, then, to appropriate \$216,000?

Mr. POWERS. Yes, sir; but if some arrangement could be made by which the letters going to the pensioners could pass without the payment of postage; if the Committee on the Post-Office and Post-Roads would report a measure by which these envelopes could go free through the post, then the cost would be \$30,000 less, leaving the amount \$186,000. It costs about fifteen cents for each pensioner to pay postage in sending these vouchers and checks. Now, in this amendment we propose we state specifically what postage shall be allowed to the pension agents. The amount of postage now paid by them out of the \$216,000 is about \$31,000, which has to be paid in order to transmit the several vouchers to the pensioners. The amount we propose will be about \$185,000 outside of the sum paid for postage. As to the cost and actual expenses paid by the several agents I have returns for the last six months from them, and I find that it costs them \$70,000 for clerk hire in the eighteen agencies during that time according to their statements.

But there were new rolls to be prepared to some extent, and this was the year for the biennial examination of invalid pensioners. These facts, I have no doubt, increased the expenses. Hence we have not allowed so large a sum. If gentlemen will make the calculation, they will find that these pension agents will not receive \$4,000 each as their salaries if their expenses should be \$140,000 a year as clerk hire, nor near \$4,000 under my proposed amendment.

Mr. PAGE. How will the gentleman's proposition affect the salaries?

Mr. POWERS. Instead of paying these agents a commission, we pay them a salary; and the only agency that it affects, if I mistake not, is the agency in San Francisco, and there it adds a few hundred dollars to the salary. But out of this \$4,000 salary the agent must pay the expense of preparing and sending away four thousand vouchers and paying postage thereon, before he receives the fifteen cents each which goes for clerk hire and postage. Thus we believe there will be saved to the Government more than can be saved in any other way, while the pensioner will still be paid as speedily as he can be paid since the consolidation of the pension agencies.

Mr. HEWITT, of New York. There is no complaint, I believe, that the pensioners are not now speedily paid.

Mr. POWERS. Yes, sir; I have several letters complaining on that subject, and I think that if we should create this immense bureau here at Washington for the payment of pensioners, every one of us would receive dozens upon dozens of letters every day (for many of us have from two to three thousand pensioners in our districts) asking us to go to the Department and see about getting the checks for the amount due them and long delayed.

Mr. HEWITT, of New York. Did not the gentleman say in the first part of his remarks that there is such rivalry between the pension agents that the work is now practically done within a very few days after the 1st of each month?

Mr. POWERS. I said there was such rivalry that the number of vouchers paid was by the 15th of the month equal to the number received, as appears by the returns of the last March payment. Yet there would be many delayed, and speedy payment is a matter of great importance to most pensioners.

Mr. HEWITT, of New York. Then the delay is in the receipt of the voucher from the pensioner, and not in the Pension Office.

Mr. POWERS. No, sir; that does not follow. When we had a larger number of agencies I know that in the district which I represent the payments were made within some four days. But the more you consolidate, the longer the delay. The pension agent now hires the clerks; the work is done by contract; and he gets more work for \$1 than you can get for \$2 under your Washington system. There is every inducement for each agent to have his work done as fast as at any other of the eighteen agencies; and I know that while payments are being made these officers work night and day. Hence at present pensions are paid in a very reasonable time in view of the amount of labor involved. Yet the loss to the pensioners by delay and fees paid has been no trifling sum, and I reiterate that the recent consolidation was a saving of money at the expense of widows, cripples, and orphans, of which I do not approve. But when you transfer this business to a bureau at Washington and have it done as all other business is done here, we know too well how it will be done and what will be the effect on the pensioner. In the first place the poor soldier or soldier's widow must go to some attorney and pay him whatever he may ask to execute the papers; then those papers must be sent here and wait till they are examined. They must pass through the hands of various clerks whose initials must be placed on the corner to show that they are all right. Under this system the poor pensioner would be lucky indeed to receive his pension in thirty or sixty days after it was due him.

Mr. HEWITT, of New York. The gentleman will allow me to refer him to the report of the Commissioner of Pensions, who states that under the present system 41,211 pensioners were paid in the first four days of the month, and 158,361 (considerably more than one-half) in the first nine days. That is the present rate of payment. Now, surely the delay is not a grievance when it does not extend beyond nine days.

Mr. POWERS. I said that by the 15th of the month the number of vouchers paid equals the number received. Yet there would be a large number on hand not reached.

Mr. HEWITT, of New York. But I understood the gentleman to say that he receives innumerable complaints of delay in these payments. Now I refer him to the report of the Commissioner of Pensions, who says that there is no delay.

Mr. POWERS. I am extremely sorry that I cannot make myself understood by the gentleman from New York. I have no doubt that it is all my fault.

Mr. HEWITT, of New York. I desire to understand the gentleman.

Mr. POWERS. The gentleman asked me if I had received any complaints. I answered that I had; but I do not think he will find, however carefully he may scan the reporter's minutes, the word "innumerable."

Mr. HEWITT, of New York. I understood the gentleman to say "a large number" or something of that sort.

Mr. POWERS. I have letters here, which I will furnish the gentleman to read, complaining that pensioners do not receive their money as promptly as they should. And it stands to reason that, since the agencies were consolidated and more business is thrown into the offices that are continued, the pensions cannot be paid as promptly as before.

Mr. SPARKS. The gentleman has quoted the Commissioner of Pensions, I believe, quite freely. Does he not know that the Commissioner on this very point of delay suggests that no delay will be produced by the consolidation of this business in one office here?

Mr. POWERS. I have never seen anything of that kind; and if the Commissioner does make any such suggestion I must beg leave to differ with him. I will add in this connection that yesterday I asked the Treasurer whether this would cause more delay, and he said it would, he thought.

Mr. SPARKS. If the gentleman will allow me a moment, while we are on this point, I will read what the Commissioner says. It is but a sentence:

About 80 per cent. of the pensioners have usually been paid within thirty days after the day when their pensions became due. This fact, however, will not materially affect the practicability of a transfer of the pay-rolls to the capital, since a system may easily be devised which will spread the payments evenly over the entire quarter, paying each pensioner at regular intervals of about three months. After the first payment, if they were promptly and regularly paid, no inconvenience would be experienced by the pensioners.

Showing thereby in the first quarter it might produce a little delay, but after that there could be no more delay than under the present system. That is the sense of Commissioner Bentley's letter.

Mr. POWERS. In answer to that I have this to say, first, that the pensioners are now paid according to law. I have heard of no bill, and there is nothing in connection with this bill, which changes the law that provides no pensioner shall swear to his voucher until on or after the 4th of March, June, September, and December. You propose a transfer of payment here, and you have nothing in your bill which changes the law, so you can extend payments through the year and have a pension in one State due at one time and in another at another in case this is to pass.

Mr. SMITH, of Pennsylvania. There is a provision that all laws and parts of laws inconsistent herewith are repealed.

Mr. POWERS. Does the gentleman think that very indefinite clause will repeal the law which declares when and where and how a pensioner shall execute his voucher? Do you, as a lawyer, say that

clause declaring all acts and parts of acts inconsistent with this are repealed, in an appropriation bill, with a transfer of the payment from the pension agents to the Treasurer—do you say that repeals the law which prescribes when he shall swear to a voucher, how he shall swear to it, and that he shall not swear to it until on or after the 4th of certain months?

Mr. SMITH, of Pennsylvania. I have provided in the amendment which I have submitted that modifications may be made, under the direction of the Secretary of the Treasury or the Secretary of the Interior, in such way as to promote the object sought to be accomplished.

Mr. POWERS. And let me ask the gentleman from Pennsylvania whether it repeals section 4784.

Mr. SMITH, of Pennsylvania. I provide expressly for the matter referred to by the gentleman from Maine in the amendment which I have offered, but which will come up for action at the proper time.

Mr. POWERS. Does that amendment propose to repeal section 4784 of the Revised Statutes?

Mr. SMITH, of Pennsylvania. It repeals all acts or parts of acts inconsistent with the provisions of this bill. I affirm, if this bill should pass and there is anything inconsistent with its provisions in the section referred to it will repeal all that is inconsistent with it.

Mr. POWERS. I have a little note in my hand from the Commissioner of Pensions, and he says that which was read by the gentleman from Illinois [Mr. SPARKS] he, after fuller consideration of the entire subject, now takes back.

Mr. SPARKS. I did not hear the remark made by the gentleman, and hope he will repeat it.

Mr. POWERS. What I stated was that the clause read from the report of the Commissioner of Pensions by the gentleman from Illinois, on reconsideration, is taken back by the Commissioner in the note which I have from him.

Mr. SPARKS. I presume he would take back one day what he said the day before.

Mr. POWERS. When he made the statement he had not so fully considered this plan. Upon examination he has very properly corrected his error, and I submit that the pensioner should not be wronged because, forsooth, the Commissioner may in some hurried report have made a mistake which he subsequently rectifies.

Mr. SPARKS. I read from his letter, and from what the gentleman now states it seems he takes back what he then said, when the fact is brought to the notice of the House.

Mr. POWERS. He has since given the matter more careful consideration.

Mr. SPARKS. And backs out from his deliberate statements in this official record.

Mr. POWERS. That is the gentleman's view of it. Now, Mr. Chairman, one thought more and I will leave the subject. The gentleman from Pennsylvania talks about defalcation by agents for the payment of pensions. I believe since the money was placed in the hands of the several assistant treasurers, to be drawn by the several pension agents in 1873, the amount of defalcation has been about \$16,000. It is not \$18,000.

Mr. SMITH, of Pennsylvania. I have given the exact amount.

Mr. POWERS. There has been nowhere else in any branch of the public service twenty-eight or thirty million dollars a year paid in four or five years where there has not been a loss of more than \$4,000 a year, in my opinion. This is but little more than one mill out of \$100.

Mr. BRIDGES. Will the gentleman allow me to ask him a question?

Mr. POWERS. Yes, sir.

Mr. BRIDGES. Have you not heard that pensioners have complained under the present system of pension agents charging them for pretended services rendered, which they had no right to do?

Mr. POWERS. I have not heard of that. But there is an express statute providing distinctly that they shall not make any such charge; and I never heard of one charging in my section of the country. And let me say, while I am contending for this payment of the soldiers through pension agencies for the two reasons I gave, that it will save money and pay the pensioner quicker. I have no personal acquaintance with any pension agents. There is not one in my district or my State. And I have never had, directly or indirectly, any communication with any one of them on this subject.

Mr. BRIDGES. I am well aware this matter is governed by law. But what I ask is whether pension agents do not disregard their duties and transgress the law, making charges on pensioners, which they ought not to make.

Mr. POWERS. If the gentleman knows of such cases it seems to me the proper thing to do would be to bring it to the attention of the Department and have the man who is guilty of such conduct removed. For the Government pays him for all his services, and the law provides that he shall make the voucher, administer the oath, and pay the pensioner without charge, whenever he presents himself at the office. If any one charges the pensioner for any service he is violating the law, and I think the Government, if it got notice of such a violation, would, or at all events should, immediately dismiss him.

Mr. BRIDGES. I desire to ask the gentleman another question. Have you heard pensioners complaining of having their pensions delayed by agents not sending their money when due?

Mr. POWERS. I have already alluded to that in my reply to the gentleman from New York, [Mr. HEWITT.] I have heard complaints of that kind and suspect it is a very common thing. They do not all get their checks for a considerable time, and, notwithstanding the agents were paying as many of the vouchers that came in as they could, yet a good many accumulate before all get paid in the first part of the month. I have already consumed more time than I had intended and will now yield the floor to some other gentleman.

Mr. FINLEY. Before the gentleman resumes his seat, will he yield to me that I may ask him a question for information?

Mr. POWERS. Certainly.

Mr. FINLEY. I desire to make an inquiry as to the gentleman's amendment, the second division of which reads as follows:

Second. Fifteen dollars for each one hundred vouchers prepared and paid by any agent in excess of four thousand per annum.

Does that mean in excess of four thousand vouchers or \$4,000?

Mr. POWERS. Four thousand vouchers.

Mr. FINLEY. Does the agent receive \$15 for each one hundred vouchers prepared by him in addition to his salary?

Mr. POWERS. He will if this amendment is adopted.

Mr. FINLEY. What is that for?

Mr. POWERS. He has to pay for his clerk, his stationery, his postage on transmitting the vouchers to the pensioner, and on the checks. This is given to pay him for all this and for his office expenses.

Mr. FINLEY. What, then, is meant by the third division of the gentleman's amendment?

Third. Actual and necessary expenses for rent, fuel, and lights, and for postage on official matter directed to the Departments and bureaus at Washington, to be approved by the Secretary of the Interior.

Mr. POWERS. I will tell the gentleman what is meant by that. There are specifically enumerated what allowances he is to have. He is to have his necessary expenses for rent, fuel, and lights. In three-fourths of the cases, or nearly that proportion, the agents occupy places in the custom-houses or other Government buildings. There, of course, there would be no charge for rent. Instead of his running up an account for stationery and incidentals, I thought it much better to state specifically what should be allowed him. The reason why I so stated it was that I found that a very large amount was put in for contingent expenses. I have enumerated exactly what expenses of that character may be allowed when approved by the Secretary of the Interior; and all other things, all charges for stationery, for office furniture, and the many incidentals that now swell their contingent account, will be precluded.

Mr. FINLEY. Will the gentleman allow me to make a further inquiry? The necessary expenses for rent, fuel, and lights, and postage on official matter are to be paid in addition to the salary of \$4,000 and in addition to the \$15 for each one hundred vouchers.

Mr. POWERS. Yes, sir.

Mr. FINLEY. Now what does the payment of \$15 for each one hundred vouchers cover? The gentleman said in his answer a little while ago that fuel, postage, and a number of such items were covered by that.

Mr. POWERS. I said postage on the vouchers sent to the pensioner. This is postage on official documents sent to the Department after the voucher comes back and the agent makes up the statement of his accounts. It is postage on the documents sent to the Departments and the bureaus at Washington. The fifteen cents cover the postage on the voucher which is sent four times a year on the check sent to pay the pensioner and the hire of the clerks he has to employ. Then there is the stationery and the cost of the office furniture. And I believe, taking the various pension agencies throughout the United States and figuring out what is covered by this fifteen cents per voucher, it will not pay them so large a sum as the agents now certify they are paying on those separate items.

Mr. HALE. Will my colleague state the amount of postage the pension agent will have to pay himself in correspondence with the pensioner?

Mr. POWERS. It has been found that it averages about fifteen cents to the pensioner. Some, of course, are paid in person.

Mr. ROBINSON, of Massachusetts. Is this for a year or for what?

Mr. POWERS. Fifteen cents a year is about what it averages to a pensioner.

Mr. FINLEY. I ask the gentleman to answer me one other question. What will be the amount of this additional sum provided for in the second clause of \$15 per hundred on the vouchers that exceed four thousand per annum?

Mr. POWERS. I have made a calculation based on the number of pensions, and I believe that the appropriation of \$216,000 will cover the whole expense incident to the several agencies. Four hundred and forty thousand dollars was appropriated last year.

Mr. FINLEY. My question is, what part of that appropriation is covered by the second division of the gentleman's amendment? I mean the payment on vouchers exceeding four thousand per annum.

Mr. POWERS. I believe that every agency exceeds four thousand per annum except the San Francisco office, and I am not sure even as to that.

Mr. FINLEY. By what amount does the number exceed four thousand?

Mr. POWERS. Some go above eighty thousand per annum, all told.

Mr. FINLEY. They get \$15 for each one hundred vouchers over four thousand?

Mr. POWERS. Yes, sir; and that is paid by the Government, not by the pensioner.

Mr. MARSH. I desire to ask the gentleman from Maine a question. I understand that these pension agents now expend, according to their own statement, fifteen cents postage for each voucher.

Mr. POWERS. For each pensioner. That is the statement for a given number of pensioners on a given pension-roll of an agency. Some are paid in person. Some have vouchers sent to them twice. And it is stated that it costs fifteen cents to a pensioner as a rule.

Mr. MARSH. Then your amendment allows them fifteen cents?

Mr. POWERS. No, sir; my amendment allows fifteen cents for a voucher. That leaves forty-five cents to pay for clerk hire, office furniture, stationery, and other incidentals. And for those fifteen cents they have to make up and correct the pension-roll, make up their returns to the several Departments, make and send the vouchers, compare them when they get back, figure up the amounts due on these constantly changing vouchers and be careful everything is done correctly. And I have returns from every pension agency showing it costs them over sixteen cents to a voucher to do this at present.

Mr. BANNING. And you cut them down from twenty-five cents to fifteen cents.

Mr. POWERS. Yes, sir, and we thought that on account of reducing it to fifteen cents scarcely any of them would resign. It is well known they have to give a very large bond, and under the present arrangement it is a very difficult bond to give.

And let me say that I see by referring to the letter read from the Treasurer of the United States that in place of a salary to a pension agent of \$4,000 one of \$2,000 and one of \$2,500 a year will be required for two officers to take charge of that branch of the business. In short, it does seem to me that this matter has been brought in here without being very fully matured. You propose to appropriate \$130,000 to pay for work for which you appropriated \$440,000 or about that last year, and at the same time you appropriated \$85,000 or \$86,000 to pay the pension examining surgeons.

Mr. HEWITT, of New York. That is the estimate of the Pension Bureau. It has not been changed.

Mr. POWERS. This whole matter is all speculative. No one knows what the system will cost. No one knows what the result will be. Whereas if you adopt the amendment proposed by the Committee on Invalid Pensions it is susceptible of being ascertained so we can know just what it will cost. It can be figured out; and it reduces the present expenses \$106,000 and appropriates not one-half what was appropriated one year ago to do the same work with.

I have received a copy of the Chicago Times, and also copies of several other papers. The Chicago Times styles this measure as a bill to oppress the widows, cripples, and infants; and while I do not charge upon the Committee on Appropriations that they had any such purpose or design, yet I believe that if the bill reported by them be adopted its effect will be to oppress the widows, cripples, and infants, and place many of them more effectually under the control of unscrupulous attorneys. Now, if there is any class of people whom we ought to protect and whom we ought to pay promptly and faithfully and at Government expense it is our maimed soldiers and the widows and orphans of our dead soldiers. Representing, as I do, a district where there are more than twenty-five hundred pensioners, I feel that I cannot permit this radical change in the system of paying pensioners to be made and require the crippled men and these widows to send their vouchers here and await the delays of any circumlocution office, without, as one member of the Committee on Pensions and of this House, entering my protest and raising my voice against it.

Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has seven minutes.

Mr. POWERS. I yield that time to the gentleman from Wisconsin, [Mr. BRAGG.]

Mr. BRAGG. Mr. Chairman, I oppose this bill, as it comes from the Committee on Appropriations, proposing to change the means and method of the payment of pensions and to take the payment away from the agencies where they are now paid and transfer it to the hands of the Treasurer of the United States. I am opposed to it for two reasons. First, because I believe it to be wrong in principle, and that the effect of it will be to delay prompt payment to women and children who are in actual necessity of the money at the earliest moment possible when the pay-day arrives. I am opposed to it on another ground: because it comes from a committee that has not charge of the means and methods of paying pensions and recommending amendments to the law to regulate the matter of payment. I believe that to the Committee on Invalid Pensions properly belongs this business, and when that committee antagonize a bill reported by the Committee on Appropriations and introduce a measure of their own I believe that they have had more opportunity to examine and understand the subject and are better prepared to present a bill that will meet the needs of the case. The Committee on Appropriations acts as a naval committee, as a war committee, and in fact as all the other committees of the House.

I think that the man who suggested the idea that this was to be a measure of economy deserves to be classified with the inventor of the Keeley motor.

What do they propose to do? We have at present a system which works so as to pay the pensioners promptly, one that the pensioner un-

derstands; he knows where to send his voucher; he knows at what hour he will get his pension. Is there any complaint of the present system? If not, why do the committee propose a system which is a speculation to pay over two hundred thousand needy people scattered all over the United States? Is it because they propose a better way? Is there any complaint that will authorize a radical change and the adoption of a new system for experiment? Does the present system cost too much? If so, adopt the views of the gentleman from Maine [Mr. POWERS] and reduce the expense; but do not cut adrift from the old land-marks and go to the Treasury to seek relief on the score of economy. Under the existing system the pension agent has clerks, and they are responsible for doing the work that he requires of them, and he is subject to removal if he does not discharge his duties promptly. If you send it to the Treasury, who is responsible? All the pensioners in the United States might form themselves in line and protest against the delay in their payment as a great outrage and the Treasury Department would be as deaf to their cries as the grave. If you want these pensioners paid promptly you must have them paid by some person who is within reach of them. If you want them paid economically they must be paid and their papers made out by clerks who work by the hour and who receive pay in accordance with the amount of labor they perform.

Transfer it to the central power and you place the work in the hands of men who do the least work they can for the pay they receive; whereas, when you go out into the country and have your agencies there, each clerk is required not only to work from ten to three o'clock, but beyond office hours so long as the necessities of the pensioner require him to work.

Again, as to the expense: if it costs \$55,000 to make the checks alone, what will it cost to make out the vouchers, to keep up the corrections on the list quarterly? Sir, you will find one of these fearful deficiency bills coming in next year, and it will be urged that the deficiency must be promptly met, because it is the money required to pay these poor cripples, widows, and orphans. Sir, in my judgment this thing is only an experiment.

If you allow the agents to hire clerks to do this work, they will do it not only during office hours, but as long as may be necessary. But if it cost the pension agent too much to do it, how much will it cost the Government to take the drones who go into the Treasury Department Building, for no other purpose than to get pay from the Treasury and do as little work as they can for it, to do the same work?

[Here the hammer fell.]

Mr. HEWITT, of New York, obtained the floor.

Mr. BUTLER addressed the Chair.

Mr. HEWITT, of New York. I will yield to the gentleman from Massachusetts. How much time does he desire?

Mr. BUTLER. Not long.

Mr. HEWITT, of New York. I yield to the gentleman as much time as he may wish.

Mr. BUTLER. Mr. Chairman, in the Forty-third Congress I obtained leave by a two-third vote to move an amendment to the appropriation bill in regard to this matter of paying pensions. With great pains, aided by such instruction as I could get, I prepared the bill which I hold in my hand. It provides in the first place that the payment of pensions shall be bi-monthly. This was to meet a great evil which is that pensioners, in spite of all we can do, pledge their pensions to sharks at usury; and the more you legislate against the sharks the more usury they take, so that it is no use to legislate in that direction.

The bill further provides that the several postmasters in each county or parish (where parish is the proper designation) shall be *ex-officio* pension agents, and shall be required to attend to the business of examining vouchers, and that the amount of pensions to be paid in each county shall be transmitted to the postmaster. The bill then goes on to provide a mode of working out this system. It requires the postmaster to know personally who the pensioner is, as he may do. It allows the chief clerk to assist him in this business and authorizes both the postmaster and chief clerk to examine the pensioner and his witnesses under oath. It also provides that where a person is under guardianship the pension shall be paid to the guardian. In addition to this the bill makes provision for appropriate penalties. It then abolishes all of the present system in conflict with these provisions. The whole of the existing system is to my mind exceedingly vicious. It has safeguards where they are not needed, and has none where they are needed. Under the system I propose, the payment of these pensions will be a neighborhood matter. Every postmaster can know, when it is made his business to know, the pensioners in his county. The bonds given by these postmasters can be regulated in accordance with the additional duties thus imposed.

Under this bill, it will be the duty of the Commissioner of Pensions to send to each postmaster as early as the third day of every second month a draft on the Treasury for the amount which the pension roll, as brought up to date, shows to be due. By this means bi-monthly payments of pensions could be made without any expense and with better safeguards than you now have. Under this system there would be hardly any human possibility of the United States being defrauded.

After I had introduced this bill and had it referred to the Committee on the Judiciary, the Committee on Invalid Pensions, as I remember, goaded me a little for taking their business out of their hands, as they wanted to deal with the question. I wanted to be good-natured, as I sometimes do, and allowed the measure to go into their

hands. But it "slept the sleep that knows no waking;" and for this reason: as soon as the bill was published and distributed over the country, a pension agent (on duty I believe in Philadelphia) who thought it would be a great wrong to everybody, if this bill should pass, called a convention of pension agents to meet in this city. Thereupon all the pension agents came here and button-holed their members; and as they were, in many cases, nephews or cousins or some other relatives of members, they succeeded in persuading them that these pension agencies must not be abolished. Thus they beat me. The only revenge I had, if it can be so called, was that the man who called the convention (a Philadelphia man, if I remember rightly) defaulted soon afterward and ran away. [Laughter.] So my bill has slept from that day to this.

Now, in my judgment, there is no more need of this great expense in the payment of pensions than there is of throwing money into the fire. If I were carrying on a mill in Massachusetts, I could hire a man in civil life to make out the roll of twenty-five hundred employes, keep the accounts, handle all the money, and pay them every month—I could hire without difficulty a perfectly competent man to do this for \$1,500 a year. And he would pay those twenty-five hundred men in three hours with perfect ease. Of course he would make all his preparations during the month. He makes out the roll putting every man's name on it, subject to change up to the last hour; then he sends it round for them all to sign; he puts each man's money in an envelope; and as they pass out on a Saturday afternoon (work being stopped an hour earlier for that purpose) he passes to each man the envelope containing his money. There is not the least difficulty about the matter. I do not want to bid for a contract; but I will make a pretty public bid. I will agree to undertake the payment of these pensions, giving bonds to be responsible for all losses of money over $\frac{1}{2}$ of 1 per cent.; and I will agree that it shall not cost the Government one-quarter of what it costs now. I do not know that I would not resign my seat in Congress to take the matter in hand.

Under the present system vouchers are sworn to before justices of the peace; and within the last five years more than twenty of these justices (I speak within bounds) have been convicted for making false vouchers, they themselves getting up the vouchers.

These men charge the pensioner fifty cents, or a dollar, or \$1.50—anything they dare to charge—for making and signing these vouchers. I know of one case in which a justice of the peace required a pensioner and every one of his witnesses who swore to a voucher to pay fifty cents apiece for the oath. This is one way in which pensioners are defrauded, as other gentlemen, I have no doubt, can testify from their own experience.

Now I am speaking of this merely as a business proposition. I would have this business done as I would any other business. I have not sufficiently examined the plan of the Committee on Appropriations to give an opinion upon it; but in framing the measure which I have described I labored with a good deal of assiduity, simply in the interest of the pensioners, in order to prevent them from being preyed upon by those who will take them and board them for a month, furnishing them with all the liquor they want, and then, after drawing their pension money, kick them out; somebody else picking them up and dealing with them in the same way for the next month.

All those things ought to be remedied by the Government. And I know no way of remedying abuses under the Government except to bring the whole matter as near the people as possible. And I know of no way of bringing this near the people better than to bring it to the postmasters of the county seat, generally men of respectability—almost always—very few defalcations—all bonded officers, all men with ample time to do this business and who for ten cents a pensioner will do the business and be glad to do it. And whenever any postmaster of a county seat refuses to do the business for this, I can find a good disabled soldier who will do both the postmaster's business and this business, to be appointed in his place if the President will listen to it. [Laughter.]

I have simply sought the floor to bring this matter to the attention of the House and to the attention of the Pension Committee and to ask them to take a day or two to consider this bill which has very many faults I have no doubt. If they do not like this I will introduce another, [laughter;] I will introduce another bill upon the same subject so as to have it done through the money-order office precisely as money orders are now sent so as to insure the safety of its transmission. Checks cannot always be safe. That would make trouble. I submit to the honorable and learned gentleman who has charge of this bill whether all this, instead of being done by checks, cannot be done by money orders—money-order offices are so numerous over the country—to reach the pensioner in perfect safety.

There is one difficulty about the check system which I beg leave to call attention to. If the check is lost by transmission through the mail then before the pensioner can get another he has to give bonds and various matters to get it again and to be paid, whereas a money order can always be taken care of—never can be got away so it cannot be paid. I have no doubt if the Committee on Pensions or the Committee on Appropriations will call upon the very able and learned gentleman who is at the head of the money-order office in the Post-Office Department he will devise a scheme for them by which it can be done. While I think he will be reluctant to add to his present labors, yet I believe he has enough of right feeling for the soldier to undertake it. It is a shame, it is a disgrace to the administration of

the country—I do not mean party administration, but to the administration of the laws—that we cannot have a sum of money devoted to high charity paid out and disbursed without a toll of nearly all told three-quarters of a million of dollars, more than 2½ per cent.

Mr. POWERS. Will the gentleman let me ask him a question?

Mr. BUTLER. Certainly.

Mr. POWERS. I wish to know whether the gentleman is aware that when you take out the amount pension agents pay for postage it only costs about $\frac{1}{10}$ of 1 per cent. to do this business?

Mr. BUTLER. In reference to the economy of the plans now proposed, I have only to say that belongs to the proper committee. I believe the committees of this House in doing their duty always examine details, and their conclusions on matters of detail ought to be taken. I am now on the great question of securing the pensioner from being wronged by those who take advantage of him outside and to secure the Government against the expense of half a million which we can have very much better used in paying more and other pensions to disabled soldiers not now on the pension list. I do not know I can have any profit to say anything more on this question to the House; but I beg leave to send this bill to the chairman having this bill in charge, because it may be inconvenient to him to get another copy of it. I will now yield to the gentleman from New York.

Mr. HEWITT, of New York. I beg leave to say to the gentleman from Massachusetts I will hold this in trust for the chairman of the subcommittee having the bill in charge, for I am only second on the committee. The gentleman from Pennsylvania [Mr. SMITH] standing behind the gentleman from Massachusetts is chairman of the subcommittee.

Mr. BUTLER. I amend then what I said, the gentleman having charge of the bill.

Mr. HEWITT, of New York. Mr. Chairman, this debate discloses the fact that there is a substantial agreement on two points: first, that nothing shall be done to interfere with the certainty that the pensioner shall receive his just dues promptly from the public Treasury. No member of the Committee on Appropriations or of the Committee on Pensions will assent to any system by which the soldier who served his country in the hour of peril or the family of that soldier shall suffer one iota of delay or wrong by the legislation of this House. The second point of agreement is that a great economy can be effected on the mode of paying pensions. The difference between us, therefore, is only as to methods of payment, and not as to the results which we all seek to accomplish. The Committee on Appropriations have felt constrained to deal with the subject, because under the rules of the House it is made their duty to suggest legislation that will tend toward retrenchment in the public expenditures, and at the time they began the preparation of this bill no proposition looking to economy in this respect had so far, we knew, been made by the Committee on Pensions. The amendment offered by the gentleman from Maine [Mr. POWERS] in the course of this debate is the first formal attempt to bring the matter to the consideration of the House by the Committee on Pensions, so far as I have any knowledge.

The Committee on Appropriations propose a method by which the payment of pensions will in their judgment cost only \$130,000. The Committee on Pensions propose a system by which in their judgment it will cost \$216,000, and they complain rather of the Committee on Appropriations that they have brought in any measure here which looks to this economy, and they seem to regard it as a special and peculiar function of the Committee on Pensions to report legislation in reference to this question.

Mr. HEWITT, of Alabama. The gentleman will allow me to say that the distinction between the proposition of the Committee on Appropriations and that of the Committee on Invalid Pensions is that the one is a certainty and the other is an uncertainty; the one can be calculated and the other cannot. The proposition of the Committee on Appropriations is a mere speculation; the proposition of the Committee on Invalid Pensions is a fixed amount and can be calculated by figures. That is the difference.

Mr. HEWITT, of New York. I beg leave to say to my friend from Alabama [Mr. HEWITT] that there is no more certainty in the one method than in the other, and I think I shall be able to prove before I get through that the sum which the Committee on Appropriations have reported to the House will be amply sufficient to cover the entire cost; and I venture the prediction now that we shall not be called on next year to report more than a hundred thousand dollars to cover the expenses of this service, so great will be the economy developed in practice.

Now, I wish the House to understand how this matter came up in the Committee on Appropriations. The expenses last year of this service as reported by the Secretary of the Treasury was \$452,676.77, and the estimate for the fiscal year ending on the 30th of June, 1879, was \$315,000, the difference in the expense being due to the consolidation of the fifty-eight pension agencies into eighteen agencies now remaining. The attention of the Committee on Appropriations was directed to the remarkable fact that this consolidation had reduced the expenses more than \$140,000. The question naturally arose whether a further consolidation would not reduce the expenses still further.

The first thing we inquired into, was whether consolidation from fifty-eight to eighteen had interfered with the interests of the pensioners, and we found by personal consultation with the Commis-

sioner of Pensions, and also from his official report, that the pensioners have received their pay with equal promptitude and certainty and with as much if not greater satisfaction than at any previous period. That fact is not controverted. The gentleman from Maine [Mr. POWERS] did not controvert it; and in answer to a question which I asked him he said that he had reason to believe that the complaints were very few; but the House will readily see that no system can be adopted under which there will not arise some grounds of complaint.

The next point was to consider how the consolidation from eighteen to one, for that is the practical effect of the bill proposed by the Committee on Appropriations, could be effected. Examination shows that now three pension-rolls are kept, one in the office of the Commissioner of Pensions, one by the pension agents, and a third by the Third Auditor of the Treasury, in order that he may settle the accounts of the pension agents. The process by which the money reaches the pensioners is this: the Commissioner of Pensions has printed blanks which he forwards to the pension agents; they fill up the blanks and send them by mail to the pensioners; the pensioner swears to the affidavit attached to the blank and returns it to the pension agent, and then the pension agent pays the money by check, and his voucher goes forward to the Third Auditor. It is there compared with the roll in his office and the account of the pension agent finally settled.

Now, then, there is certainly no necessity for three rolls. One roll in the office of the Commissioner of Pensions and another roll in the office of the Third Auditor are all that is necessary for the settlement of the pension accounts; and according to the best estimate I can get the cost of maintaining these rolls is very large, probably \$40,000 a year for each set. Here, then, is a chance of economy by saving the annual cost of one of the rolls. The fees of the pension agents now allowed by law were estimated to amount to \$225,000. In the estimate submitted to us the compensation to pension agents and their expenses was about \$90,000. Now, it is perfectly evident if you adopt this provision of the bill doing away with the pension agents you save their salaries.

But if the pension agents are discontinued, the first question is who shall fill up the vouchers? It is now done by the Government, and not by the pensioners. It is paid for by the Government, and not by the pensioners. That system should continue. The vouchers must then be either filled up in the office of the Commissioner of Pensions or in the office of the Third Auditor of the Treasury. Either can do it, because both offices contain copies of the pension-rolls. That in the Pension Office is not now altogether perfect, but it can readily be made so with but little additional expense.

We applied, of course, to the Commissioner of Pensions for an estimate of the cost of doing this work; and he furnished us with a copy of his letter on that subject, in which he estimates the cost of filling up the vouchers on what is termed the second plan at \$84,140. Now gentlemen have in a loose way undertaken to intimate that the expense will be far in excess of this sum; but will any man pretend that the Commissioner of Pensions, who is accustomed to this class of work, would send to our committee a lower estimate than he thought the work could be done for? Is that the practice of the Departments of this Government? Whatever shortcomings there may be, they are certainly not to be found in not estimating largely enough for the expenses of the machinery of Government; and it is in this class of expenditures, if anywhere, that we are to find the opportunities for retrenchment and the restoration to that economy in administration which is almost one of the lost arts in this country.

Now on looking at this estimate I found immediately that the Commissioner had made an error; that he had added to the cost of making out these vouchers 8 per cent. for leaves of absence which he had already included in a previous item of the account. Thus \$6,290 must be deducted from his estimate. I asked the Commissioner how much time was usually granted for leave of absence. He answered, a month. I then asked him how many hours a day the clerks worked at the office; he told me they came at nine o'clock and left at four, and that they had half an hour for lunch, leaving six and one-half hours as a day's labor. Now the law requires that the clerks in the Departments of the Government shall work eight hours a day. If they do this, all deductions for leaves of absence and other percentages will be far more than counterbalanced; and if this reform were introduced into the clerical service of the Pension Bureau, the new work could be done without any additional cost whatever.

From my conversation with the Commissioner and my general knowledge as to how this class of work is done, I am satisfied that his estimate of \$84,000, reduced by the process I have mentioned to \$78,000, might be very readily brought down to \$65,000. If this work is confided to the Commissioner of Pensions, I know so well his efficiency as a public officer that I am sure the expense will not exceed, if it comes up to, \$65,000.

Now, after filling out the vouchers the next thing is to compare them, when they are returned, with the pay-rolls, in order to see that they are properly executed and the amounts properly computed.

Mr. POWERS. Does the gentleman from New York know that the Commissioner of Pensions, when examined before the Committee on Invalid Pensions, stated that he could not do this work for less than \$210,000?

Mr. HEWITT, of New York. I hold in my hand the letter of the Commissioner of Pensions, addressed to Hon. Carl Schurz, Secretary of the Interior, in which, replying to the question what it will cost

to do this work, his answer is (as the gentleman will find by referring to the Senate Miscellaneous Document No. 33, page 11) that he can do it for \$77,800, exclusive of the allowance which had been erroneously included in the estimate. If the Commissioner has given any one any other information than this, I leave him to reconcile his statements with each other.

As I was saying when interrupted by the gentleman from Maine, the next point is the comparison of the vouchers with the pay-rolls. This work is now done by the pension agent. When this office is abolished it must be done by somebody else. There is now a roll kept in the Third Auditor's office. The Third Auditor now has to do this very work after the payment of the pension. He can just as well do it in advance of the payment. Hence this labor on the part of the pension agent is altogether superfluous under any proper system of payments. The Third Auditor was applied to for information as to how much additional force he would require to accomplish this work. He estimates the additional expense at from \$40,000 to \$45,000, but it has since been stated unofficially in the Treasury Department by a competent and experienced officer that it can be done for \$20,000. Now, adding this \$20,000 to the \$55,000, and we have \$85,000 as the estimates of these officers themselves for doing this work up to the time the completed pension list reaches the Treasury.

Then comes the last piece of work to be done which is after the voucher is compared to get the check to the pensioner. Now gentlemen must bear in mind that the pensioners are not to any considerable extent paid by the hand of the pension agent. The returns show that 87½ per cent. of all the payments are now made by the pension agents by mail. The evidence of this statement is to be found on page 11 of the annual report of the Commissioner of Pensions for the year 1877. Therefore, when you send all these checks by mail you will practically do what is now done by the pension agent as to this large proportion of them. And even as to those who now apply to the pension agent in person, you will save time and expense, and in the cases of women and cripples very great inconvenience, for the postman will deliver the check at the residences in all the large cities, and in the rural districts the post-office is the natural resort of the neighborhood.

The cost of making out the checks is the next thing to be considered. This is now done by the pension agent. When this office is abolished somebody else must do it. The Treasurer of the United States is the proper man to pay the debts of the United States. Any system which imposes upon any other officer the duty of paying the debts of the Government is a vicious system and should be abolished, because it puts the public money at risk unnecessarily in the hands of subordinate agents. We applied to the Treasurer for an estimate of the cost of making out the checks and transmitting them to the pensioners. He has given us a detailed estimate based upon his experience in filling out checks in payment of interest on the public debt. His estimate is \$55,000. He says, however, that this is an extreme estimate; that after the system gets working he thinks he will be able to do it for less. If you add eighty-five thousand, the amount at which I had previously arrived, to this fifty-five thousand, you have \$140,000 as the cost. Now I am frank to say that I urged my colleagues upon the committee to make the sum \$140,000 instead of \$130,000 because I wanted to give every dollar these gentlemen could in reason require to do the work. I believe \$130,000 is ample; I believe it is more than sufficient; I believe that after the first year the expenses will be reduced so as not to exceed \$100,000.

Mr. HEWITT, of Alabama. Will the gentleman from New York yield to a question?

Mr. HEWITT, of New York. Certainly, sir.

Mr. HEWITT, of Alabama. Let me ask the gentleman from New York whether in the calculation of the Secretary of the Treasury there is or not included the cost of postage which will be required?

Mr. HEWITT, of New York. It does not include any cost of postage. He includes only the cost of clerks and time required to fill out addresses and mail the checks. The cost of postage will be three cents four times a year, which would be twelve cents a year on about two hundred and thirty-two thousand vouchers, and would amount to about \$28,000 if paid. But the gentleman should be aware that the Treasurer pays no postage—that all these public documents are carried without extra expense to the Government. There is no more money paid to the railways or mail carriers than if they were not sent.

Mr. HEWITT, of Alabama. I should like to ask the gentleman whether it does not cost something to carry them.

Mr. HEWITT, of New York. It costs the Government no more. It may cost the railways and mail carriers something more, but they no doubt, from what we have seen, are perfectly able to take care of themselves in this House.

I wish to say to my friend from Massachusetts [Mr. BUTLER] that his system of paying by postmasters at ten cents a voucher would cost, as there are between nine hundred thousand and one million vouchers, between \$90,000 and \$100,000; and then somebody would have to fill out the checks, which would cost \$55,000, so that the system under his bill would cost \$145,000, or \$15,000 more than the plan submitted by the Committee on Appropriations.

But it is alleged with great earnestness that it will cause delay to the pensioner if the pension agents be dispensed with. If that allegation were sound it would be a serious objection, but it will cause no delay. The organization of the Third Auditor's Office, where the

comparison of vouchers must be made—and it is this comparison only which is likely to cause delay—is such that he can put a large force at any time upon any particular class of work. And he is never so engrossed in the general work of the Government that it will be inconvenient for him to use a large force temporarily for this purpose.

So if the quarterly system of payment as now in vogue be continued on the present plan, the comparison of the accounts which vary from quarter to quarter, as stated by my friend from Maine to be about fifteen thousand in number, can be made with as much rapidity as now made by the pension agents, and by a class of men drilled and trained for the express work of comparison and computation.

It is said there will be delay in drawing checks in the office of the Treasurer. Doubtless there would be delay if the Treasurer were forced to draw all his checks after the receipt of vouchers from the Third Auditor's Office; but there is no such obligation. He can keep his force signing checks according to the last pay-roll during the entire quarter, and at the end of it, when comparison comes in, he would be subjected to the trouble and responsibility of filling ten or fifteen thousand checks which might be found to be changed from the last pay-roll. If that were to be done in that way it would delay the payment as to these ten thousand or fifteen thousand accounts from three to five days.

But there is a far better system than the quarterly system. It is one which will commend itself to the judgment of the House as it has to the mind of every public officer who has taken it into consideration; and that is to divide the roll of pensioners into twelve equal parts and let one-twelfth be paid the quarterly pensions each month, so that the work goes unceasingly on and the payment of pensions will be made with perfect regularity. The only delay which will be caused by that change in the system would be in the first month to the pensioner who is changed from the time when he was paid his pension before.

Now, sir, I think I have shown this system will work; that it will cost only \$140,000 at my figures and \$130,000 at the figures of my colleague, the chairman of the subcommittee; that it will save on the system now in existence \$185,000 and on the system proposed by the Committee on Pensions \$86,000; that it will dispense with eighteen officers who are mere supernumeraries; that it will substitute trained clerks accustomed to this business for those men who, according to the statement of the gentleman from Maine, cost \$140,000 a year to do what the Commissioner of Pensions says he can do for \$78,000.

Mr. FINLEY. Will the gentleman yield to me for a question?

Mr. HEWITT, of New York. Certainly.

Mr. FINLEY. I desire to inquire of the gentleman whether he can give us a statement of the amount that it will now cost for clerk hire, office rent, and postage to the Department.

Mr. HEWITT, of New York. The amount allowed for compensation to the pension agents is \$72,000 a year and the amount allowed for incidental expenses is \$18,000 a year. Then they have \$225,000 a year in addition to that, out of which to pay clerk hire which the Commissioner of Pensions says will cost in his office not to exceed \$78,000. That is the statement of it, and that is the wrong of the present system, so unnecessarily extravagant.

Now gentlemen talk about this being a bill—let me give the exact language—"to oppress cripples, widows, and infants." The gentleman who said this forgets that when any public money is wasted, needlessly expended, it is raised by taxation upon the hard earnings of the laboring people of this country. He forgets that these very cripples, widows, and infants must contribute their share of this unnecessary taxation. And if this House fails in its duty to prohibit all unnecessary expenditures of public money then they oppress cripples, widows, and infants as well as the suffering industry of this country. And it is from that point of view only that this committee have approached this subject. They have no pride in coming in this House and arrogating to themselves the duties of other committees. To some gentlemen it seems to be enough that a bill in the interest of economy shall be brought into this House by the Committee on Appropriations, in order to oppose it. For one, I will take economy from any committee of this House, from any member of this House, whether he be republican or democrat, and I will give him the credit for it. And if this bill be not in the interest of economy, I say to this House vote it down. But I ask any gentleman here and now to show me any defect in the figures I have presented, any error in the reasoning I have adopted, any mistake in the results I have reached.

Mr. FRYE. I desire to ask the gentleman from New York a question.

Mr. HEWITT, of New York. I will hear the gentleman.

Mr. FRYE. The gentleman from New York makes a proposition which strikes me as being a very sensible one; and that is, that the roll be divided by twelve and that payments be made monthly to each division. I desire to ask him whether or not the bill reported by the Committee on Appropriations makes such a provision?

Mr. HEWITT, of New York. It does not. I am sorry to say that it does not. My reason for not urging it upon that bill is this, and I wish the gentleman from Maine to understand it. I am very reluctant, and so long as I serve on the Committee on Appropriations I shall always be very reluctant, to assume any more right to legislate than is absolutely necessary to bring about economical results. I am very jealous of the arrogation of that power by the Committee on Appropri-

ations, and for that reason that provision is not in this bill. But I do hope a bill will be reported by the extremely industrious Committee on Pensions to effect that object, and such a bill will receive my hearty support.

Mr. POWERS. Will the gentleman allow me to ask him a question?

Mr. HEWITT, of New York. Yes, sir.

Mr. POWERS. I wish to ask the gentleman from New York whether his remark about the extremely industrious Committee on Invalid Pensions was intended as a slur or a compliment?

Mr. HEWITT, of New York. It was intended as a compliment. I have known no committee in this House that has been more industrious in trying to take the floor away from every other committee than the Committee on Invalid Pensions. My friend from Alabama [Mr. HEWITT] in season and out of season has tried to get the floor of this House for the Mexican pension bill; and my friend from Maine [Mr. POWERS] has been most industrious in taking the floor on all occasions where pensions were concerned, and I commend him for his zeal in behalf of the wards of the nation, in which I fully sympathize. There is no committee in this House which does its work more thoroughly and satisfactorily than the Committee on Invalid Pensions, and I regret that in this measure of economy, and as I believe of beneficence to the pensioner, we have not had their hearty support.

Mr. FINLEY. I ask the gentleman from New York to yield to me five or ten minutes.

Mr. HEWITT, of New York. How much time have I remaining?

The CHAIRMAN. The gentleman has ten minutes of his time remaining.

Mr. HEWITT, of New York. Then I yield five minutes to the gentleman from Ohio, [Mr. FINLEY.]

Mr. SMITH, of Pennsylvania, rose.

Mr. FINLEY. If the gentleman in charge of the bill desires to move that the committee rise I will yield for that purpose.

Mr. SMITH, of Pennsylvania. I desire to move that the committee rise for the purpose of limiting the time for general debate. I make that motion.

The motion was agreed to.

The committee accordingly rose; and, Mr. POTTER having taken the chair as Speaker *pro tempore*, Mr. GARFIELD reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 3974) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1879, and for other purposes, and had come to no resolution thereon.

Mr. SMITH, of Pennsylvania. I move that the rules be suspended and that the House resolve itself into Committee of the Whole on the state of the Union; and pending that motion I move that all general debate on the pending bill be limited to five minutes.

Mr. HEWITT, of Alabama. I hope the gentleman will allow a longer time than that.

Mr. SMITH, of Pennsylvania. I will modify the motion so as to limit all general debate to one half hour.

The motion limiting debate, as modified, was agreed to.

The motion that the House resolve itself into Committee of the Whole on the state of the Union was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. GARFIELD in the chair,) and resumed the consideration of the pension appropriation bill.

Mr. FINLEY. I only desire to say a few words. I have attentively listened to the debate upon this subject for the purpose before voting of arriving at a conclusion, if possible, as to which plan for paying pensions will be the better and cheaper, the bill as reported by the Committee on Appropriations or the substitute of the gentleman from Maine, [Mr. POWERS.] The amount appropriated by the substitute offered by the gentleman from Maine is \$216,000. Now, in order to arrive at the amount of the expenses incurred in paying pensioners under his substitute we must look to what is provided for in the three clauses making payment of salaries and expenses to agents; and if in so doing we can arrive at what is paid to the agents as salaries and what is allowed them in the shape of fees and what is allowed them for office expenses, including rent, fuel, light, &c., then we can approximate the actual cost that would be incurred in paying pensions if the substitute were adopted.

The first provision of the substitute is that the salaries of each of these eighteen agents shall be \$4,000 a year. Then, in order to enable each agent to pay for clerk hire, he is allowed in the second clause the sum of \$15 for each one hundred vouchers prepared by him in excess of four thousand per annum. Now, what will that amount to? There are eighteen agencies. I have selected a few. At the Washington office there were issued 52,000 vouchers last year, and that would amount to \$7,200 to pay clerk hire. At Indianapolis there were 56,000 vouchers issued, and the amount allowed for clerk hire there would be \$7,800, in addition to the \$4,000 salary. At Columbus, Ohio, there were issued 80,000 vouchers, which would make the allowance for clerk hire \$11,400, in addition to the salary. At Louisville there were 20,000 vouchers issued, which would involve a cost of \$2,400 for clerk hire. At Concord there were 64,000 vouchers issued, which would involve, besides salary, an additional cost of \$9,600 clerk hire. At

Boston there were issued 60,000 vouchers, which would involve an additional cost of \$8,400. All this, as I understand it, is to go to the agent in addition to his salary of \$4,000 per annum.

Mr. POWERS. I will state to the gentleman that in Columbus, Ohio, there are twenty clerks required.

Mr. FINLEY. But that is not all that is allowed to these agents; there is a third provision, which is that he shall be allowed for actual and necessary expenses for rent, fuel, lights, and postage.

Mr. POWERS. That is not money to be paid to him.

Mr. FINLEY. It is money paid him as part of his expenditures in addition to his salary and in addition to the allowance of \$15 for every one hundred vouchers made out in excess of the four thousand.

Mr. POWERS. It is for actual expenses where the agent is not in a Government building, and two thirds of them are in Government buildings.

Mr. FINLEY. Now, if we knew the amount of the actual cost and expenses of rent, fuel, lights, &c., incurred annually—and I am frank to say that so far as that is concerned I have not the data to speak from—we could arrive at the amount which would be necessarily expended annually under the substitute of the gentlemen from Maine in the payment of pensions; but it occurs to me, from the data that have been furnished us, that the amount to be expended annually will be at least as much as the sum appropriated by the gentleman's substitute, \$216,000.

Mr. POWERS. What amount? The amount under the last clause of the substitute? What do you mean?

Mr. FINLEY. I mean that the amount to be expended in paying pensions, including salaries paid and the \$15 for each one hundred vouchers in excess of the four thousand, and the money paid for the necessary expenses of rent, fuel, light, &c., under the gentleman's substitute will amount to more than the estimated amount necessary to cover the total expenditures in paying the pensioners under the bill now under consideration.

[Here the hammer fell.]

Mr. HEWITT, of New York. I now yield to the gentleman from Indiana, [Mr. HANNA.]

The CHAIRMAN. By the order made by the House debate is limited to one half hour, and the gentleman from New York [Mr. HEWITT] has not control of the floor.

Mr. HEWITT, of New York. I am sorry, then, that I lost control of the floor.

Mr. THOMPSON. This whole matter is a mistake. My colleague [Mr. SMITH] neither moved nor intended to move that the House should go into Committee of the Whole; he simply moved that when the House resolved itself into Committee of the Whole on the state of the Union debate should be limited; but the motion was put on going into Committee of the Whole on the state of the Union, and now I understand that he wishes to reverse that decision by moving that the committee do now rise.

Mr. SMITH, of Pennsylvania. I desire to do so at the suggestion of gentlemen around me. I move that the committee do now rise. The question was taken; and upon a division there were—ayes 60, noes 40.

So the motion was agreed to.

The committee accordingly rose; and Mr. SAYLER having taken the chair as Speaker *pro tempore*, Mr. GARFIELD reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 3974) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1879, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed and requested the concurrence of the House in bills of the following titles:

A bill (S. No. 15) to alter and amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act;

A bill (S. No. 55) for the relief of John W. Douglass; and

A bill (S. No. 1033) for the relief of J. C. McBurney.

The message further announced that the Senate had passed, without amendment, the bill (H. R. No. 1412) to prevent depredation upon property in the District of Columbia.

Mr. SMITH, of Pennsylvania. I move that the House do now adjourn.

PRINTING OF SMITHSONIAN REPORT.

The SPEAKER *pro tempore*, by unanimous consent, pending the motion to adjourn, laid before the House the following concurrent resolution of the Senate; which was read, and referred to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring,) That 10,500 copies of the Report of the Smithsonian Institution for the year 1877 be printed; 1,000 copies of which shall be for the use of the Senate; 3,000 shall be for the use of the House of Representatives, and 6,500 for the use of the Smithsonian Institution; provided that the aggregate number of pages shall not exceed five hundred and that there be no illustrations except those furnished by the Smithsonian Institution.

TAX ERRONEOUSLY ASSESSED.

On motion of Mr. POTTER, by unanimous consent, the bill (S. No. 1012) authorizing the commissioners of the District of Columbia to abate a certain tax, erroneously assessed, was taken from the Speaker's table, read a first and second time, and referred to the Committee for the District of Columbia.

IMPROVEMENT OF COLUMBIA RIVER.

The SPEAKER *pro tempore*, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting an estimate of survey of the channel of the mouth of the Columbia River; which was referred to the Committee on Commerce.

TRANSPORTATION OF ARMY OFFICERS, ETC.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting a report of the Quartermaster-General as to the amount paid for the transportation of officers and their clerks traveling under orders; which was referred to the Committee on Military Affairs.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted to Mr. BANKS for withdrawing from the files of the Committee on Invalid Pensions papers in the case of Martin Binney, for transmission to the Commissioner of Pensions.

LEAVE OF ABSENCE.

Leave of absence was granted—

To Mr. BUNDY, for four days, on account of important business;

To Mr. STONE, of Michigan, for ten days, on account of important business;

To Mr. MCGOWAN, for ten days, on account of important business; and

To Mr. WALSH, for one day, on account of important business.

Several members called for the regular order.

The question being taken on the motion of Mr. SMITH, of Pennsylvania, that the House adjourn, it was agreed to, there being—ayes 90, noes 36; and accordingly (at four o'clock and five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BELL: A paper relating to the establishment of a post-route between Hiwassee, Georgia, and Shooting Creek, North Carolina—to the Committee on the Post-Office and Post Roads.

By Mr. BREWER: The petition of Henry B. Baker, of Lansing, Michigan, for the amendment of the postal laws—to the same committee.

By Mr. CAMPBELL: The petition of citizens of Hollidaysburg, Pennsylvania, for the extension of the national credit to aid in the completion of a great southern line to the Pacific Ocean—to the Committee on the Pacific Railroad.

By Mr. CANDLER: The petition of the trustees of the Christian church, Atlanta, Georgia, for compensation for church building destroyed by the United States Army—to the Committee on War Claims.

By Mr. CARLISLE: The separate petitions of Mrs. Margaret Caldwell and of John Thornton, of Pendleton County; of Jerry Glenn, Jacob Metz, and Walter Tesdale, of Kenton County; and of John W. Rogers and Jonathan Williams, of Boone County, Kentucky, for compensation for quartermaster and commissary stores taken by the United States Army—to the same committee.

By Mr. COX, of New York: The petition of the officers and members of the Musical Mutual Protective Union of New York, against the use of military and naval bands for private and other entertainments—to the Committee on Military Affairs.

By Mr. CRAVENS: The petition of citizens of Hot Springs, Arkansas, for the passage of an act reviving the act of March 3, 1877, and the continuation of the commission therein created—to the Committee on Public Lands.

Also, the petition of physicians of Hot Springs, Arkansas, that the superintendent of Hot Springs (Arkansas) reservation be authorized to lease bath-house sites—to the same committee.

By Mr. DAVIS, of California: Resolutions of the Legislature of California, opposing the passage of the bill consolidating the offices of surveyors-general of the United States into one office—to the same committee.

Also, resolutions of the Legislature of California, relative to the increase of mail-service in said State—to the same committee.

By Mr. GIDDINGS: Memorial of the members of the Austin (Texas) bar, asking the passage of the bill dividing the State of Texas into two judicial districts—to the Committee on the Judiciary.

By Mr. HARDENBERGH: Three petitions of merchants of New York and persons interested in commerce and navigation, for the abolition of compulsory pilotage—to the Committee on Commerce.

By Mr. HARRIS, of Massachusetts: The petition of the commodores, secretaries, and others, yachtmen of the Boston, Dorchester, Eastern, and Beverly yacht clubs, of Massachusetts Bay, for improvements in Scituate Harbor—to the same committee.

By Mr. LINDSEY: The petition of the owners of the steamer Ida

Augusta, of Portland, Maine, that her name be changed to Leonard H. Phillips—to the same committee.

By Mr. LUTTRELL: Resolutions of the Legislature of California, relating to the consolidation of the offices of surveyors-general of the United States—to the Committee on Public Lands.

Also, the petition of Thomas Green and others, citizens of Copper City, California, for the abrogation of the Burlingame treaty with China—to the Committee on Education and Labor.

By Mr. MCCOOK: The petition of Captain Thomas A. Curtis and 203 masters, officers, and seamen of New York, for the passage of the bill (H. R. No. 2488) relating to merchant seamen—to the Committee on Commerce.

By Mr. MONROE: The petitions of Cyrus King and others, and of Hon. John Sears and 57 others, citizens of Medina County, Ohio, against any reduction in the tariff on wool—to the Committee of Ways and Means.

By Mr. O'NEILL: The petition of merchants and manufacturers of Philadelphia, Pennsylvania, against the passage of the tariff bill—to the same committee.

By Mr. ROBINSON, of Massachusetts: The petition of Charles O. Chapin and others, against the revival of the income tax—to the same committee.

By Mr. SCALES: The petition of citizens of the western district of North Carolina, for the erection of a court-house and post-office in Greensborough, North Carolina—to the Committee on Public Buildings and Grounds.

Also, the petition of citizens of Greensborough, North Carolina, and vicinity, of similar import—to the same committee.

Also, the petition of the grand jurors of the April term of the district and circuit court of the United States held in Greensborough, in the western district of North Carolina, of similar import—to the same committee.

By Mr. SPRINGER: The petition of J. A. Brahm and other citizens of Menard County, Illinois, for the repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. STENGER: The petition of 82 citizens of Snyder County, Pennsylvania, against the passage of the Wood tariff bill—to the Committee of Ways and Means.

By Mr. VAN VORHES: The petition of C. N. Kennedy and 45 others, of Morgan and Athens Counties, and of Isaac Longshore and 46 others, citizens of Morgan and Perry Counties, Ohio, against any reduction of the tariff on wools and woolens—to the same committee.

Also, a paper relating to the establishment of a post-route between Valley Ford and Hanesville, Meigs County, Ohio—to the Committee on the Post-Office and Post-Roads.

By Mr. WIGGINTON: A paper relating to the establishment of a post-route between El Monte and Azusa, Los Angeles County, California—to the same committee.

By Mr. YOUNG: The petition of Carson R. Dalton, for compensation for quartermaster stores taken by the United States Army—to the Committee on War Claims.

IN SENATE.

THURSDAY, April 11, 1878.

Prayer by Rev. C. C. KIMBALL, of Erie, Pennsylvania.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Second Auditor of the Treasury, transmitting copies of accounts received by him from persons charged with the disbursement or application of moneys, goods, or effects for the benefit of the Indians from the 1st of July, 1876, to the 30th of June, 1877, inclusive; which was ordered to lie on the table.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting a copy of a letter from the Commissioner of Patents making an estimate of \$5,000 for continuing the work of restoring the models injured by the late fire in the Patent Office; which was referred to the Committee on Appropriations.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the 27th ultimo, a report of the Quartermaster-General giving certain information in regard to the Atlantic and North Carolina Railroad; which was ordered to lie on the table and be printed.

ADJOURNMENT TO MONDAY.

Mr. ANTHONY. There is a great deal of important business before the committees, and I think it would expedite the transaction of the public business if we should adjourn over until Monday and give the committees an opportunity to act. I move, therefore, that when the Senate adjourns to-day it be to meet on Monday next.

Mr. MORRILL. I suggest whether it would not be well to wait until later in the day to see how far we get along in the business of the day.

The VICE-PRESIDENT. The motion is not debatable. The question is on the motion of the Senator from Rhode Island.

The motion was agreed to.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented the petition of the heirs of Walter Hunt, praying for an extension of his patent for paper collars; which was referred to the Committee on Patents.

Mr. DAWES presented the memorial of J. A. Beauvais and 101 others, citizens of New Bedford, Massachusetts, and the memorial of C. O. Chapin and others, citizens of Massachusetts, remonstrating against the passage of any act imposing a tax on incomes; which were referred to the Committee on Finance.

Mr. BARNUM presented the petition of M. W. Galt, H. A. Willard, W. H. Clagett, and 60 others, citizens of the District of Columbia, praying for the removal of the tracks of the Baltimore and Ohio Railroad Company from certain streets in the city of Washington; which was referred to the Committee on the District of Columbia.

Mr. HARRIS presented the petition of John G. King and others, citizens of Bristol, Tennessee, praying that the city of Memphis, in that State, may be made the eastern terminus of any southern railway which may be constructed connecting the waters of the Mississippi River with the Pacific Ocean; which was referred to the Committee on Railroads.

Mr. EUSTIS presented the memorial of Horace Tyler, W. M. Owen, and 799 others, engaged in mercantile pursuits in New Orleans, Louisiana; the memorial of Louis F. Garie and 102 others, engaged in mercantile pursuits in New Orleans, Louisiana; and the memorial of A. Jackson and 117 others, sea-faring men, having trade with New Orleans, Louisiana, remonstrating against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which were ordered to lie on the table.

Mr. MORGAN presented the petition of James E. Slaughter, of Mobile, Alabama, praying that payment of the claims of Benjamin Weil and of the La Abra Silver Mining Company may be suspended, as payment of the Venezuelan awards was suspended, until an investigation can be had of charges of fraud made by the Mexican government in regard thereto; which was referred to the Committee on Claims.

He also presented additional papers in relation to the claim of Dr. John B. Read, praying compensation for improvements in projectiles for rifled ordnance, &c.; which was referred to the Committee on Military Affairs.

Mr. BECK presented the petition of Emily Hughes, of Clay County, Kentucky, praying for a pension; which was referred to the Committee on Pensions.

Mr. McCREERY presented the petition of Eliza A. Frizell, of Russellville, Logan County, Kentucky, administratrix of the estate of Benjamin B. Frizell, deceased, praying compensation for horses taken from her husband and appropriated by the United States Government during the late war; which was referred to the Committee on Claims.

He also presented the petition of Marian W. Thurmond, of Logan County, Kentucky, praying compensation for horses and mule taken from her during the late war by order of the military authorities of the United States; which was referred to the Committee on Claims.

He also presented the petition of N. M. Powell, of Allen County, Kentucky, widow of Patrick Raney, deceased, late of the Twenty-first Regiment Kentucky Infantry Volunteers, praying for a pension; which was referred to the Committee on Pensions.

THE PRESIDENTIAL ELECTORAL VOTE.

Mr. DENNIS. I present a joint resolution of the Legislature of Maryland, authorizing judicial proceedings to give effect to the electoral vote of Maryland. I ask that it may be read.

The VICE-PRESIDENT. It will be reported at length, the Chair hearing no objection.

The Chief Clerk read as follows:

Resolved by the General Assembly of Maryland, That the attorney-general of the State be, and he is hereby, instructed, in case Congress shall provide for expediting the action, to exhibit a bill in the Supreme Court of the United States, on behalf of the State of Maryland, with proper parties thereto, setting forth the fact that due effect has not been given to the electoral vote cast by this State on the 6th day of December, 1876, by reason of fraudulent returns made from other States and allowed to be counted provisionally by the Electoral Commission, and subject to judicial revision, and praying said court to make the revision contemplated by the act establishing said commission; and upon such revision to declare the returns from the States of Louisiana and Florida, which were counted for Rutherford B. Hayes and William A. Wheeler, fraudulent and void, and that the legal electoral votes of said States were cast for Samuel J. Tilden as President and Thomas A. Hendricks as Vice-President, and that by virtue thereof and of 184 votes cast by other States, of which 8 were cast by the State of Maryland, the said Tilden and Hendricks were duly elected; and praying said court to decree accordingly.

Attest:

MILTON G. KIDD,
Chief Clerk of the House of Delegates.
AUGUSTUS GASSAWAY,
Secretary of the Senate.

Mr. MORRILL. I suppose that will lie on the table.

The VICE-PRESIDENT. What disposition does the Senator from Maryland desire?

Mr. DENNIS. Mr. President, if the Senate will bear with me a moment I will explain my relation to this resolution. There are no instructions coming to me from the Legislature of my State in regard to it, and I am opposed to it. I shall act with good faith. I voted for the appointment of the electoral commission, and I will stand by the decision of that commission. I feel in honor bound to sustain it. I feel that if I were to do otherwise I should be unworthy as a member of the Senate to a seat upon this floor. Moreover, I am sure

that while reason holds her sway over the minds of our people any attempt to reverse the decision of that commission will not succeed. I do not consider this Senate a suitable arena for the exercise of such a power as the joint resolution which has been read would propose.

Our people desire peace. We have had enough disturbance throughout this land. No man within the confines of my State desires to witness a renewal of such scenes as have been enacted within the last fourteen or fifteen years. No one can desire to see brothers weltering in brothers' gore. We want unity, peace, and concord, and never while I hold a position on this floor shall there be one act of mine, the effect of which would be otherwise than to contribute and aid in bringing about fraternal accord between every section of our country.

Sir, we are one people, identified and bound together by all the ties of relationship and by every tie that can bind man to his fellow-man. Let those who died in that sanguinary strife rest in peace. Let those who were baptized by the blood of that strife, and slumber among the dead, sleep in peace until the day of final resurrection when the archangel shall assemble the uncounted millions by the sound of his trumpet and call upon the sea and all the earth to give up their dead.

Sir, we are united as a people in all and in every respect. We are bound by bands of iron, and I may say by a network of nerves in a telegraph so arranged that when you touch one point you touch the whole. Sir, to the Pacific Ocean I have sent one of my children, who is as dear to me as my own heart's blood. His destiny is fixed with those people in that growing, rich, and populous section. While he sleeps by the gentle murmurs of the placid Pacific, whose waters are rolling within the sound of his ears, I, in a noonday sunshine almost, am here, and shall labor to do whatever I can to promote the interest of that section in which his future destiny is fixed, and of every section of our common country. In the presentation of these resolutions I have performed a duty which respect for the Legislature of my State demands. But, believing that the interest of every section of our Union calls for acquiescence in the decision made by the electoral commission, I feel constrained to state that I shall deem it incumbent on me to oppose any action by this body in furtherance of the intent of the resolutions.

I ask that the joint resolution be referred to the Committee on the Judiciary.

The VICE-PRESIDENT. It will be so referred.

FAMINE IN CHINA.

Mr. MITCHELL. I received this morning the following cablegram from Tien Tsin, China, in relation to the famine in that country, which I deem it not improper to call to the attention of the Senate. It is addressed to myself at Washington, and reads as follows:

Famine spreading; cannibalism exists; no rain; worse next year; will indemnity bill pass?

It is signed by Owen N. Denny, the United States consul at that point.

I believe the Committee on Foreign Affairs had the subject under consideration some time ago. I do not know what action has been taken upon the matter by the committee.

The VICE-PRESIDENT. The dispatch will be referred to that committee.

REPORTS OF COMMITTEES.

Mr. PLUMB, from the Committee on Public Lands, to whom was referred the bill (S. No. 385) for the relief of settlers on the public lands, moved its indefinite postponement; which was agreed to.

He also, from the same committee, submitted a report accompanied by a bill (S. No. 1071) for the relief of settlers on the public lands.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. BOOTH, from the Committee on Patents, to whom was referred the bill (S. No. 379) for the relief of William Wheeler Hubbell, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. McMILLAN. I am directed by the Committee on Commerce, to whom was referred the bill (S. No. 576) to amend the statutes in relation to immediate transportation of imported merchandise, to report it with the recommendation that it pass. I call attention to a communication from the Secretary of the Treasury, suggesting some views in opposition to the bill.

Mr. CONKLING, from the Committee on Commerce, to whom was referred the bill (H. R. No. 3739) to prevent the introduction of contagious or infectious diseases into the United States, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 1639) making an appropriation for pier-lights at the entrance of the jetties at South Pass in the Mississippi River, reported it without amendment.

ORDER OF BUSINESS.

Mr. MORRILL. I desire to call up for present action, if the morning business is through—

The VICE-PRESIDENT. The Chair has not completed the call of the Calendar.

Mr. SARGENT. I gave notice to the Senate last night that I desired to call up for reference to-day the joint resolution (S. R. No. 20)

relative to Chinese immigration. My colleague [Mr. BOOTH] has been ill for some time and therefore has not been able hitherto to speak upon the joint resolution. He is extremely desirous to speak upon it, and it is our desire to have the resolution referred to the committee for their action at this session. I trust, observing the ordinary courtesies in the Senate, that the Senator from Vermont will allow my colleague to submit his remarks this morning.

Mr. MORRILL. The bill I desire to call up will not take five minutes' time.

Mr. SARGENT. It may take an hour. I understand my colleague will be quite brief.

Mr. MORRILL. I desired to bring up the bill yesterday morning. The VICE-PRESIDENT. The introduction of bills and joint resolutions is next in order.

BILLS INTRODUCED.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1072) authorizing the Secretary of the Treasury to register the schooner *Ida B*; which was read twice by its title, and referred to the Committee on Commerce.

Mr. McMILLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1073) granting lands to the State of Minnesota in lieu of certain lands heretofore granted to said State; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. GARLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1074) for the relief of Winfrey N. Swayne and Philip K. Howard; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. BUTLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1075) to fix and regulate the status of brevet rank in the Army of the United States; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CHAFFEE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1076) for the relief of the heirs of John S. Fillmore, late of Denver, Colorado; which was read twice by its title, and, with the papers on the files relating to the case, referred to the Committee on Claims.

Mr. McCREERY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1077) granting a pension to Mrs. Narcissa Powell; which, with the accompanying papers, was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1078) for the relief of Mrs. Eliza A. Frizell; which, with the accompanying papers, was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1079) for the relief of Mrs. Marion W. Thurmond; which was read twice by its title, and referred to the Committee on Claims.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1080) authorizing the issue of passports free to colored citizens going to Brazil; which was read twice by its title, and referred to the Committee on Military Affairs.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MORGAN, it was

Ordered, That the papers in the case of Dr. John B. Read be taken from the files and referred to the Committee on Military Affairs.

On motion of Mr. COCKRELL, it was

Ordered, That in the matter of the application of Louis Koerth, late of the Seventh Missouri Cavalry, to be allowed a pension, he have leave to withdraw the papers from the files of the Senate.

AMENDMENT TO POST-ROUTE BILL.

Mr. CONOVER submitted an amendment intended to be proposed by him to the bill (S. No. 802) establishing post-roads in the several States and Territories; which was referred to the Committee on Post-Offices and Post Roads, and ordered to be printed.

ORDER OF BUSINESS.

Mr. BURNSIDE. If the morning business is through—
The VICE-PRESIDENT. Under the notice given, the Chair will recognize the Senator from California, [Mr. SARGENT.]

Mr. MORRILL. I ask the Senator to allow me five minutes to take up a bill. If there is any discussion I will let it go over.

Mr. SARGENT. If the Senator will not take more than five minutes I shall yield.

Mr. MORRILL. No, I will not.

Mr. BURNSIDE. I thought the understanding was yesterday that after the morning business to-day Senate bill No. 178 regarding enlistments of the colored citizen should be taken up. There was no objection to the arrangement.

The VICE-PRESIDENT. Several Senators in the order of the proceedings yesterday gave notice of business that they would call up to-day.

Mr. BURNSIDE. It was specifically understood that that bill should come up this morning after the morning business.

Mr. SARGENT. The Senator from Rhode Island has occupied the morning hour for several mornings with the bill, and it is obvious that it must be taken up at some other time than during the morning hour because there are Senators who desire to discuss it.

Mr. BURNSIDE. I give way every morning.

Mr. SARGENT. We are now frittering away the morning hour in talking about the order of business.

Mr. BURNSIDE. Every morning the bill has been up I have given way. I ask that a vote be taken. I will say to the Senator from California that I am perfectly willing that the Senate shall take a vote on the motion of the Senator from Maine for the indefinite postponement of the bill in order to test the sense of the Senate. I do not want to discuss it at all. We all understand it, and I can see no reason why there should be any delay in voting upon it.

Mr. SARGENT. I move to take up the joint resolution (S. R. No. 20) relative to Chinese immigration, to test the Senate.

The VICE-PRESIDENT. The Senator from California, pursuant to notice given by him, moves to take up the joint resolution which he has named.

Mr. MORRILL. Will the Senator yield after he takes up the bill?
Mr. SARGENT. If the Senator will not take more than five minutes, I will yield.

The VICE-PRESIDENT. The question is on the motion of the Senator from California to proceed to the consideration of the joint resolution.

The motion was agreed to.

NEW ORLEANS MINT.

Mr. MORRILL. Now I ask the Senate to take up the bill (S. No. 1058) to repair and put in operation the mint at New Orleans, authorizing the coinage of silver and gold thereat and making an appropriation therefor. I will state in advance that the Committee on Finance report this bill unanimously. We have considered all the sites that have been recommended and urged for new mints, and have finally concluded that this is the only mint that we shall be likely to need to put in operation at the present time. It will be a considerable convenience for the purpose of receiving bullion from Mexico and also for the distribution of the coin. I move that the Senate proceed to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the coinage of gold and silver, according to existing law, at the mint in New Orleans, and appropriates \$75,000, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Treasury, in placing the mint in condition for coinage; but before the expenditure of any money for this purpose the city of New Orleans is to release and quit-claim to the United States all title and all claim of every character and all conditions of forfeiture to the lands and premises upon which the mint is located.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHINESE IMMIGRATION.

Mr. SARGENT. I call for the regular order.

The VICE-PRESIDENT. The joint resolution is before the Senate. The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 20) relative to Chinese immigration.

Mr. BOOTH. Mr. President, no question of graver importance or more absorbing interest to the people of the State I have the honor in part to represent has ever been presented to the consideration of the Senate than that to which I invite attention. To most of you, Senators, it is an abstraction; to them it is vital, touching not only the dominance of parties, forms of government, and methods of law, but the organization of society itself. I do not think I overstate the gravity of the situation in asserting my belief that early legislation by Congress upon this subject may prevent a convulsion in California which will shake the foundation of social order. I deem it my solemn duty to express my conviction that if it shall be decided that the policy of free, unrestricted immigration of Chinese is right and must be maintained, the Government should be prepared to maintain it by force and to overawe a community which on this subject is rife with dangerous discontent.

It may be that it is wrong that it is so; doubtless many of you believe it to be grievously wrong, but you are entitled to know the truth, however it may influence your opinions or action.

GENERAL UNANIMITY OF SENTIMENT ON THIS SUBJECT IN THE PACIFIC STATES.

On this question there is as general unanimity of public sentiment in California, and I believe in her sister States on the Pacific border, as is ever attained upon any political question in time of peace, and there is a deep-seated feeling that the sentiment of the community immediately interested in and practically familiar with the subject is not to be put aside as an exhibition of prejudice, ebullience of passion, or treated as a corrupt humor of the blood, but is entitled to grave consideration.

AGITATION.

Public opinion is agitated in California and the most conservative sentiment is alarmed. We constantly decry agitation, but the only agitator to be feared is the presence of wrong; and while that continues there will be agitation or the stagnation of political death. The theory of our Government is not one of repression, but of voluntary obedience to laws which represent public opinion. When Enceladus stirs beneath the surface, the foundations of the temples are but as straw and stubble.

THE PEOPLE OF THE PACIFIC COAST

are widely separated from the great mass of their countrymen in distance, but they are blood of their blood, bone of their bone, and they yield to none in their devotion to the traditions of the Republic and love for its institutions. California is not yet a generation old. Its active men of to-day, its forming minds, went out from your midst, carrying with them American ideas, to meet new and strange conditions of life. It was a novel experience, and to those who enjoyed it it is like first love, the memory of which is sweeter than present possession.

No community ever better illustrated the American capacity for self-government. Social order preceded the restraints of law. The pioneers of the new "El Dorado" carried the American State in the "book and volume of their brain." There was no necessity for vice-roy or charter or letters-patent. Men from every section of our common country, thousands of miles from the homes they had left behind them, met in a land so recently acquired that it still seemed foreign soil, under conditions so novel they seemed hardly a part of the daily life of human experience, and by a common impulse improvised a State. It is a new chapter in history and the best imprint of American civilization is upon it.

I trust I have not transcended the limits of good taste. I am not endeavoring to exalt the State of my adoption above other States, but to illustrate the adaptability of American character and the American idea of government. There are no States, few counties in any State, which were not represented in the early emigration to the Pacific coast. There is probably no Senator on this floor who was not bound by some tie of kindred or personal friendship to some of the pioneers of Oregon and California, who crossed the continent and buttressed the arch of the Republic on the shores of the western sea. No communities to-day better represent the average type of American character than the people of the Pacific States. And I reassert the claim that their general verdict on a question which lies at their doors, comes home to them, is entitled to grave consideration. The conditions which created unanimity of sentiment there would create it elsewhere.

If China were situated relative to our Atlantic coast as it is to the Pacific, and a Chinese immigration had entered our Atlantic ports of the same character as that which enters the Pacific, and in volume as large in proportion to the population of the Eastern States as that is to the population of the Pacific, there would be no occasion to argue this question. It would demand and receive prompt, decisive action. If there were in New York, Massachusetts, or Iowa, or Georgia, one hundred Chinese male adults to every one hundred and fifty American voters, and it were realized that this was but a beginning, that the stream might swell to an Amazon without visibly affecting the vast reservoir from which it flows, the subject would be regarded here as it is in California, as one of paramount, supreme importance, touching the whole future of the Republic, its political institutions, industrial and social life.

Mr. President, if we confronted Asia as we do Europe; if we realized that this continent might become, not the opportunity for the full development of that civilization which is the highest achievement and most precious inheritance of our race, but a conflict between two forms of civilization opposite in tendency and in the types of character they produce, every power of the Government would be invoked to avert such a catastrophe. This civilization in which we live is so familiar to us that we accept it as a matter of course, as much a part of our daily life as air and sunlight. Free institutions are its bright consummate flower. They are possible in no other. They depend for their maintenance not upon discipline of law, but upon the devotion of the people.

Introduce into the people a foreign element, incapable of assimilation, of a type fixed in its unchangeableness by immemorial ages, alien in race, tradition, custom, and you will inevitably modify the social conditions which underlie government and give it form and character. Free men are necessary to create and preserve free institutions; independent, self-relying citizens are essential to an enlightened stable popular government, men imbued with American ideas to the American Government. It is the people who give form and character to the government, not the government to the people. They may interact, but the primary source and governing influence is from beneath.

Sir, the center, the source of the civilization in which we live, of the institutions we believe to be its highest outgrowth, is

THE FAMILY.

Take away the bond of family, the feeling which identifies home with country, the ties of blood which give the strong kinship of race, from our civilization, and what is there left which is worth retaining? The immigration which comes to us from kindred races and plants the family on our soil is welcome. It will add to our strength, and its blood will soon blend with and become a part of the American type. But any immigration which does not come under these conditions will attack and destroy the foundations of our institutions, social and political, in proportion to its volume.

Mr. President, I appeal to all who are personally familiar with the subject to corroborate or refute my statement, that in the ninety-odd thousand Chinese population in California, eight-ninths of which are male adults,

THERE ARE NO FAMILIES.

Among them the marriage relation is practically unknown. Their numbers are recruited from China. Their presence will eventuate, not in a blending of peoples of a common race, nor in a blending of races, but in a conflict of races. It is only a question of time and numbers.

Sir, the problem of popular government on this continent is difficult enough, doubtful enough, without this new disturbing quantity, this insoluble complication.

I appeal to history, when and where have races so diverse, so antagonistic in character, been able voluntarily to maintain the same form of government? When has their commingling failed to reach the subordination of one to the other or collision injurious to both?

We are the creatures of a day, but time and universal experience do not change. We are not exempt from their conditions. We must meet this question at the threshold. It is the riddle of the sphinx. We must solve it or it will destroy us. If the advocates of the policy of unrestricted Chinese immigration are right, we should open wide the doors to the four hundred million Chinese who are practically nearer to us to-day than Europe was fifty years ago.

Mr. President,

THE COMPETITIONS OF MODERN CIVILIZED LIFE ARE SHARP.

It is a competition not merely for precedence but for existence. The character, the future, the destiny of our Republic depend far more on the condition of those who toil than of those who enjoy.

I am not speaking to California; I am not speaking to the western coast; I am trying to speak to the East, and above all to you, Senators, to your patriotism, reason, and judgment; and I ask you what will become of the American idea which is founded upon the personal independence of American citizenship, of American institutions, and of that civilization on which they are based, and whose cornerstone is

THE FAMILY.

if the American laborer, if the great mass of our fellow-citizens who bear life's burdens, fight life's battles—our battles—whose daily sweat waters the tree of luxury whose fruits we enjoy, is brought into direct competition for daily bread with a class who have no families to support, and give no bonds to fate and country, if the family becomes a luxury of those who have achieved success, and not a condition of daily life?

LABOR AGITATION.

Mr. President, you have been taught to look upon this question as one of mere labor agitation. If it were that only, it would be entitled to consideration and not sneers. The essential conditions of society are to be found, not upon its surface, but in its depths. It is far more necessary to peace, progress, and good order that the daily laborer should be satisfied with the conditions of his life and the rewards of his toil than the capitalist, banker, or we who sit in senatorial chairs. He should be able to feel at all times

THAT PROMOTION IS FROM THE RANKS.

His burden is heavy, and he should not be deprived of the hope, which is the solace of his toil, that his children may obtain the prizes of life which fortune has denied to him. That hope is one of the great conservators of society, reconciling men to the distinctions in life which if they were regarded as unchanging as they are inevitable would result in the sullen acquiescence of caste or the open revolt of communism. Destroy that hope and you must substitute the armed repressive force of absolute government for voluntary obedience to law or relapse into the tideless sea of despair.

When the common interest of labor speaks, the statesmanship which does not heed its voice is drunken with pride or besotted with folly. The laborers of the Pacific coast say to the American public, "We have families to support, children to educate, the burdens of citizenship to carry. We contribute to the support of the State in peace, are prepared to defend it in war to the shedding of our blood, to the sacrifice of our lives, and we are brought into direct competition for daily bread with a class who claim the protection of our laws but who bear none of these burdens, acknowledge none of these obligations, and we must renounce the ties of family or of country." Is it any reply to him to say that cheap labor hastens the development of the material resources of the State and increases the aggregate of its wealth? He will answer, "Of what benefit is it to me if the resources of the State are developed and its wealth increased if my share in these advantages is diminished by the very means adopted to secure them?" Will he listen with patience to the argument that cheap labor increases production as labor-saving machinery does, and is a like factor in progress and civilization? Will he graciously regard that progress which reduces or eliminates him?

Few great mechanical inventions have ever been made which did not at the time of their introduction cause distress among artisans and operatives, whose employment was suspended and whose skill was rendered useless. Even these great triumphs of peace, like the splendid triumphs of war, have their human victims and are bought with sacrifice.

The compensation, and I admit it to be a general compensation, and of little worth to him who is crushed beneath the "Jugernaut," is, that ultimately labor will arm itself with these improved implements and share in the benefits of increased production.

Here you propose not an arming, but a substitution; not an in-

creased power of production, but an elimination in favor of another human factor which will produce more at less expense. This is to consider man as a mere machine, whose value is to be ascertained by the amount he produces less the amount he consumes. It is to leave out of the calculation blood and brain, aspiration, want, and despair. It is to ignore the elemental forces by which and for which society exists. I know these cold speculations of the economists which assume that the tree would flower if the root were destroyed. I know these calculations which estimate the value of society by the amount which is heaped up and not by the distribution—whose end is splendor and not happiness.

Chinese immigration simply plants a foreign colony in this country constantly recruited from abroad, alien in race, distinctive in laws, manners, habits, and in so far as it tends to cheapen labor it also tends to degrade it by making the toilers a class; fixing and hardening the social distinctions which the spirit of our civilization and the genius of our institutions require should be fluid and changing.

Mr. President, in the sentiments I have endeavored to express there is no feeling of hostility to the Chinaman. There is no man so poor, so humble, so despised that I do not recognize and reverence in him the likeness of that image after which we are all made. I rejoice at the advancement of every race, at the amelioration of all of human kind. But I love my own race, my own country best, and believing this question touches the interest of these, I ask for it, Senators, your early, earnest, and candid consideration.

Mr. SARGENT rose.

Mr. MITCHELL. Mr. President—

Mr. SARGENT. I was going to move the reference to the Committee on Foreign Relations, but the Senator from Oregon desires to say a word.

Mr. MITCHELL. Mr. President, as one of the representatives of one of the Pacific States I desire to say that it had been my intention before this resolution was referred to submit my views with regard to the matter, but as it is important that an early reference should take place, and as I expect to have that opportunity when the measure is reported, I shall reserve what I have to say until that time. I only say now that I agree most fully and cordially with all that has been said by the two Senators from California in the able speeches they have submitted on this question.

The joint resolution was referred to the Committee on Foreign Relations.

ENLISTMENT OF COLORED CITIZENS.

Mr. BURNSIDE. Mr. President, I have nothing to say now in reference to the bill which I desire to have the Senate act upon at this time. I simply ask that a vote be taken on it. It is Senate bill 178. I move that it be taken up.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 178) to remove all restrictions now existing in regard to enlistments of the colored citizen in any arm of the United States Army.

The VICE-PRESIDENT. The pending question is on the motion of the Senator from Maine, [Mr. BLAINE,] that the further consideration of the bill be indefinitely postponed.

Mr. BLAINE. I did not mean to imply by that that if the motion should be negatived I should be willing to have this bill come to a vote without further discussion. There is a great deal in the bill. If the Senator who reported it is willing to have it submitted to the summary test of a vote on indefinite postponement, I am quite willing; but if that motion should be negatived I should ask a further and somewhat elaborate discussion on it, for it involves a great principle.

Mr. BURNSIDE. The bill has been before the Senate very often, and the Senate has had full opportunity to discuss it. There is nothing in the bill except just what it expresses and I see no occasion for further discussion; but if the Senator from Maine desires to be heard upon it, let any day be set for a vote upon it and if he will then take occasion to express his views upon the subject and allow us to have a vote, I will be very glad.

Mr. BLAINE. I am entirely willing to have a vote immediately on the question of indefinite postponement.

Mr. BURNSIDE. I would prefer not, but I was willing that a vote should be taken on the motion of the Senator from Maine. I do not believe Senators will vote to indefinitely postpone the bill.

Mr. BLAINE. It was precisely because of that fear that I wanted to advise the Senator in advance that I should not accept that as a final decision on the bill.

Mr. BURNSIDE. I do not believe there is any Senator on the floor, no matter to which side he belongs, who will vote for the indefinite postponement of so important a bill as this, without meeting the issue. The reason why I acquiesced in a vote on that motion was because I believed it would be voted down. If the Senator chooses to insist on his motion, well and good. If not, then I ask for a vote on the passage of the bill.

The VICE-PRESIDENT. The pending question is on the motion of the Senator from Maine, that the further consideration of the bill be indefinitely postponed.

Mr. BLAINE called for the yeas and nays, and they were ordered.

Mr. BRUCE. Mr. President, I was necessarily absent from the Senate pending the discussion of this bill a few days ago, and have

only by a hurried reference to the RECORD been able to ascertain the views of Senators touching it. I heartily indorse the bill as reported by the Senator from Rhode Island, with the amendment of the Senator from Maine. I think I comprehend the scope and effect of the measure. I do not see that the passage of this bill will confer any additional rights and privileges upon the colored citizen. Under existing laws, exclusive of sections 1104 and 1108 of the Revised Statutes, they have a right to enlist in any arm of the service, whether artillery, cavalry, infantry, or engineers, subject to the same conditions that are applied to other citizens, but sections 1104 and 1108, which the pending bill proposes to repeal, are supplemental in their character, making mandatory provisions for the creation of four regiments that should be constituted exclusively of colored soldiers. These sections doubtless were enacted after careful consideration and from just and honorable motives and with the belief not only that the efficiency of the public service would be increased, but that protection of this class of citizens from the dangers to which their rights were supposed to be exposed from the prejudice of the recruiting and distributing officers of the service would be secured.

It was evidently apprehended that these officers would not be willing to enlist colored soldiers in the absence of these positive provisions of law, but would rather use their power to prevent such enlistment.

I am inclined to believe that this danger of unfriendly discrimination existed and that for a year or two or more these gentlemen will relax their efforts in some instances to secure colored enlistments.

But admit the grounds for this apprehension and suppose further that the passage of the bill reported by the Senator from Rhode Island should result temporarily in the elimination to some extent of the colored soldier from the Army, still I am in favor of the bill.

I believe that under the influence of a healthy public sentiment this discouraging prejudice against this class of our citizens will pass away, and that the day is not far distant when all men, without regard to complexion or previous condition, will be received into the Army as they are to-day admitted into the Navy. So far as I am informed, there are no such discriminating provisions of law existing relative to enlistments in the Navy; yet we find the naval crews are mixed, and that, too, without impairment of their efficiency.

There is an additional reason why I am in favor of repealing these sections. If they are stricken from the statutes I believe that a better class of colored men will apply for enlistment. Whatever the purposes of this legislation, we have looked upon them as creating an opprobrious distinction. I think I may say safely that there are hundreds of our people who are unwilling to enlist in the Army because these special provisions of law are supposed to limit their enlistment and distribution exclusively to these four regiments.

We are American citizens, and are beginning to appreciate the value and dignity of the rights of our citizenship. We believe we are competent for military service and are entitled to enlist in any arm thereof, and I assert that we are willing to stand upon our own merits and rest our fortunes upon the same forces that give success to other citizens.

Mr. President, I am anxious to see the color line drop out of the business and politics of this country. Its introduction thereto is contrary to the genius of our institutions, and when it is obliterated from the legislation of the country every interest of every class will be greatly subverted. The time has been when it was necessary for the protection of the rights of this class that a peculiar sort of legislation should be provided, but is it to be presumed that this necessity must last always? Is there no time in our history as citizens when we—

THE VICE-PRESIDENT. The morning hour has expired.

Mr. CONKLING. I hope the Senator from Mississippi will be permitted to conclude his remarks.

THE VICE-PRESIDENT. Is there objection? The Chair hears none.

Mr. BRUCE. Mr. President, I believe I have said all I desire to say. I hope a vote will be taken. ["Go on!" "Go on!"] No; I have said enough.

Mr. BURNSIDE. I hope the Senate now will consent to vote on the motion of the Senator from Maine.

Mr. MAXEY. I hope unanimous consent will be given to the Senator from Mississippi to conclude his remarks.

THE VICE-PRESIDENT. There was no objection to that. The Senator from Mississippi is entitled to the floor if he desires it.

Mr. BRUCE. Mr. President, I do not know that I have anything more to say at present, but I may, perhaps, add that we do not ask special legislation now. We believe that, clothed with all the powers and privileges of citizens, we are able, if I may use the expression, "to paddle our own canoe;" and, indeed, if we fail to do so successfully under just and proper laws, I do not know but that it is about time for us to sink. We do not ask particular favors. We believe we have passed that period. We believe now that we must rest our claim upon our manhood, and that our integrity, industry, capacity, and all those virtues that go to make up good men and citizens are to measure our success before the American people. I repeat now the sooner we can get rid of class legislation the sooner the necessity therefor will cease.

We are amenable to the same laws that you are, and we are to be held amenable; and now let every man who wants to go into the Army present himself to the recruiting officer, and let him be accepted

or refused, not because he is white or black, but because he fills the requirements of the branch of the military service into which he wants to enlist. Just so long, however, as it is deemed proper and necessary to keep up these distinctions in the Army, just so long will there be found a large class in this country ready to assault the rights of these people. I hope we have passed the critical period in our history in which race distinctions even for protection are to be considered necessary, and that we will in this and all other matters of public concern forget the question of complexion or previous condition and go forward hand in hand as American citizens.

THE VICE-PRESIDENT. Shall the further consideration of this bill be indefinitely postponed? Upon this motion the yeas and nays are demanded.

Mr. MCCREERY. I call for the regular order.

Mr. BURNSIDE. I hope the Senator will allow this vote to be taken.

Mr. MCCREERY. I have no objection to a vote.

Mr. BLAINE. The honorable Senator from Mississippi will give me his attention for a moment: I do not quite understand his position upon the bill. I ask him whether he is for the bill as reported from the Military Committee or for it with the amendment I have suggested?

Mr. BRUCE. I believe I said that I am for the bill with or without the amendment of the Senator from Maine. I believe the amendment would be a wise one, and I shall gladly vote for it; but I would vote for the bill even though I could not secure the amendment.

Mr. BURNSIDE. I am ready to vote for the amendment of the Senator from Maine, but I do not think the amendment amounts to anything, because it is simply declaratory of the law and gives colored men no new rights.

Mr. BLAINE. If there be general consent to pass the bill with that amendment I will not detain the Senate. If it be generally understood that the bill shall be passed with that amendment, I need not waste another minute upon it.

Mr. CAMERON, of Wisconsin. Let the amendment be read.

Mr. BLAINE. Let it be read.

THE VICE-PRESIDENT. The amendment will be reported.

THE CHIEF CLERK. The bill as reported from the committee reads as follows:

That section—

Mr. BLAINE. Just read the bill as it went to the committee, and then as it came back.

THE CHIEF CLERK. The bill as referred to the committee is in the following words:

That hereafter the word color shall not be used to designate any soldier of the United States Army; that the colored citizen shall be entitled to all privileges and rights of any citizen to enlist in any arm of the United States Army, and no distinction shall hereafter be made in the assignment of the soldier on account of color or previous descent; that all arms of the service, engineers, artillery, cavalry, infantry, Signal Corps, irrespective of color, shall be open to him.

SEC. 2. That the President is authorized to fill the Ninth and Tenth Cavalry, Twenty-fourth and Twenty-fifth Infantry, with enlisted men without reference or distinction of color; that he shall use his discretion in keeping these regiments above the minimum strength required by law, assigning men from the general recruiting and general mounted service as they are required by the regiments, without regard to color.

And nothing in the above act shall be so construed that the Ninth and Tenth Cavalry, Twenty-fourth and Twenty-fifth Infantry, are not part of the United States Army.

The bill as reported from the committee reads as follows:

That sections 1104 and 1108 of the Revised Statutes be, and the same are hereby, repealed.

That nothing in the above act shall be so construed that the Ninth and Tenth Cavalry, Twenty-fourth and Twenty-fifth Infantry, are not part of the United States Army. And hereafter colored men shall have full right to enlist in all the arms of the service.

Mr. SARGENT. What is the amendment of the Senator from Maine?

Mr. BLAINE. The last clause beginning "and hereafter," &c.

Mr. THURMAN. I called the attention of my friend from Rhode Island the other day to the words "the above act" which should be changed to "this act."

Mr. BURNSIDE. I accepted that change.

Mr. THURMAN. The effect of the bill, if passed, and its whole effect, will be to abolish the colored regiments that are therein mentioned. There is nothing else in the bill. The amendment offered by the Senator from Maine is nothing more than the present law. It confers no right whatever upon any colored man that he does not now possess, and might just as well be left out of the bill as put into it. The whole of the bill is in the repeal of the two sections of the Revised Statutes which make four colored regiments distinct from the other regiments in the Army; I do not say the white regiments of the Army, because, as the law now stands, if those colored regiments were full and there were colored recruits, the Secretary of War could assign them wherever he pleased. There is nothing to prevent him putting them in any regiment or any company; and the amendment of the Senator from Maine, therefore, does not confer upon the colored man one single jot or tittle of right or privilege that he does not possess under the existing law.

Mr. President, such being the case, the bill being simply to do away with the four regiments which are now by the positive command of the law to be composed of colored men only, it is simply a question

whether it is good policy to do that. That is all there is of it. I do not think that regimenting them in that way is necessarily any insult to the colored citizen, any more than I think that where, as in my State, the white and colored children are separated in the schools, that is an insult to the colored race. Indeed, I believe I am right in saying that the most intelligent of the colored race in Ohio prefer that very separation and advocate it.

But, apart from that, it is a fair question whether or not the maintenance of four regiments distinctively colored is wise and politic; and it may also be worthy of consideration, if to do so is offensive to the sensibilities or judgment of a large portion of the citizens of the United States, whether there is any advantage in it that counterbalances the objections to maintaining those regiments. The practical effect of this bill, however, may be very different from what is supposed. It is possible that its practical effect would be to put an end to the recruiting of colored men. That is very likely.

Mr. BLAINE. Does not the Senator from Ohio know that that will be the inevitable effect?

Mr. THURMAN. I do not know it, for I am not wise enough to see so far into the future. I am not gifted with such long-sightedness as that. My hindsight is better than my foresight, [laughter,] and that is the way with most men. I think it very likely, however, that that will be the effect; but since the Senator from Mississippi [Mr. BRUCE] advocates the bill and the Senator from Rhode Island, so distinguished as an officer of the Army, and whose opinion is entitled to so much respect on all Army matters, also advocates it, and the Military Committee reports it, I feel inclined to let it pass and see how it will work. But I am open to conviction that this impression is erroneous, and I leave myself free to act upon my ultimate conviction.

While I am up I will say that I heard very little of the speech of the Senator from Mississippi, [Mr. BRUCE,] owing to his speaking in so low a tone, but there were one or two of his sentences which, if I heard them correctly, command my respect and admiration.

The VICE-PRESIDENT. Does the Chair understand the Senator from Maine to withdraw his motion for indefinite postponement?

Mr. DORSEY. I ask for the regular order. We have an appropriation bill which ought to be disposed of.

Mr. BURNSIDE. I hope the Senator from Arkansas will allow this vote to be taken.

Mr. BLAINE. There is no hurry about this; there is no exigency about it. It is not half so exigent as the appropriation bill which I have on my desk, reported from the Committee on Appropriations.

Mr. BURNSIDE. We seem to be about at the end of the discussion, and I see no reason why every Senator is not in a condition to vote.

Mr. BLAINE. The Senator is older in the Senate than I am, and he knows that the end of a discussion in the Senate is a most indefinite thing.

Mr. BURNSIDE. The Senator from Rhode Island does not know as much as the Senator from Maine or as the Senator from Ohio. The Senator from Maine asked the Senator from Ohio if he did not know this bill would deprive colored men of the right to enlist in the Army. The Senator from Ohio knows a great deal, as does the Senator from Maine; but neither one of them, nor I, nor any other Senator on this floor knows anything of that kind. We all have our judgments, and I have as much right to my opinion as the Senator from Maine or the Senator from Ohio. I have been an officer of the Army and have seen some service, and I give it as my opinion that within a very few years, I think within less than five years, we shall have a large sprinkling of colored troops in all the regiments of the Army if this bill is passed.

We, in Rhode Island, allow colored pupils to go to the schools. They do not do it in Ohio. I do not mean to say that I know that in the State of Ohio within ten years they will do it, but I do say that I believe they will. I do not say I know anything on the subject, but I believe the Senate is ready to vote on the bill, and I think it has been hanging here long enough. I ask the Senator from Arkansas to allow the vote to be taken upon it.

Mr. DORSEY. It is not worth while to discuss the question when a vote can be taken on this bill. I think myself the bill will lead to a great deal more discussion than the Senator anticipates. We have an appropriation bill ready which it is very important should be passed, and I must insist on the regular order.

BANKRUPT-LAW REPEAL.

The VICE-PRESIDENT. The regular order is the unfinished business, being Senate bill No. 35, to repeal the bankrupt law.

Mr. McCREERY. I consent that the regular order shall be informally laid aside.

Mr. DAVIS, of Illinois. I should like to have the consent of the Senator from Maine to be allowed to say a few words about this bill that the Senator from Kentucky has in charge, as I am compelled to be away the residue of the day. I shall not take over five minutes.

Mr. BLAINE. Let it be the understanding that after the conclusion of the remarks of the Senator from Illinois I shall be entitled to the floor with the appropriation bill.

Mr. EATON. I gave notice yesterday that I desired to take up today a resolution which ought to have been considered nearly a month ago, involving the personal liberty of a citizen of my State. I simply

desire to say a few words about it and have the resolution then go to the committee.

Mr. BLAINE. I will yield first to the Senator from Illinois and then to my friend from Connecticut. I want to be as obliging as I can.

Mr. DAVIS, of Illinois. Mr. President, the repeal of the present bankrupt law is a very important measure and should receive full consideration and full discussion in the Senate. It appears that the bill to repeal the law is reported from the Judiciary Committee. That is true, but the committee was not unanimous upon the subject. It was reported, if I recollect right, by a bare majority of the committee.

Mr. CONKLING. And virtually without any recommendation.

Mr. DAVIS, of Illinois. Yes, sir. Now, my judgment is that this law should not be repealed, but that it should be amended. I have no doubt that there are many valid complaints and objections, particularly to the administration of the present bankrupt law; and I believe that many of the amendments that were recently made to it have led to a public opinion adverse to its continued existence. It seems to me, Mr. President, that in a great commercial country like this a bankrupt law is an absolute necessity. With thirty-eight States of diverse insolvent proceedings a bankrupt law is an absolute necessity.

One of the great complaints that have been urged to the legislation of this country is its instability; and in no greater respect has this been marked than in regard to the various bankrupt laws that have been enacted and subsequently repealed. It seems to me that it would be exceedingly unwise to repeal this law. I do not want to discuss it at the present time. I thought it likely that a vote would be taken upon it this afternoon, and I wished it to be distinctly understood that I did not agree with the report of the Judiciary Committee upon this subject; and I am authorized by the Senator from Vermont [Mr. EDMUNDS] who is not now present to state that he coincides with these views. The minority of the committee have not presented amendments to the law for the very reason that we have been informed that a bill for the repeal of the law was likely to pass this Chamber. If so, there certainly was no object in going through the necessary labor to amend it; but if the law is not repealed, in my judgment it should be referred back to the Judiciary Committee to suggest such amendments to the law as in their opinion would make it acceptable as a general thing to the American people.

I do not believe the measure proposed by the Senator from Ohio [Mr. MATTHEWS] is a proper one on this subject. I think that a regular law by which you can put people into bankruptcy and by which any man can put himself into bankruptcy if he is unable to pay his debts should prevail in this country, and I think the provision of the Senator from Ohio, while it might be better than nothing at all, is immature, and that no provision like that ought to be adopted unless it goes to a committee and is matured. The simple question is, ought this law to be repealed? Against that, as I have said before, I wish simply to enter my protest. I do not believe it ought to be repealed, either on account of the debtors or the creditors of the country.

I beg leave to state now, as I may not be here when the vote is taken upon the bill, that I am paired upon this subject with the Senator from Michigan who reported this bill from the Committee on the Judiciary, [Mr. CHRISTIANCY.] If he were here he would vote for the repeal of the law and I should vote against it.

The VICE-PRESIDENT. The bill will now be laid aside, according to the understanding of the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives announced that the House had passed a bill (H. R. No. 3679) to amend a joint resolution authorizing the Secretary of War to issue arms, approved July 3, 1876; in which it requested the concurrence of the Senate.

The message also returned to the Senate, in compliance with its request, the bill (S. No. 490) supplementary to an act entitled "An act in relation to the Hot Springs reservation, in the State of Arkansas," approved March 3, 1877.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the joint resolution (S. R. No. 22) providing for a place of deposit for the records and proceedings of the commission appointed under the act entitled "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," approved January 29, 1877.

COMMITTEE SERVICE.

The VICE-PRESIDENT appointed Mr. CAMERON, of Wisconsin, and Mr. EUSTIS additional members of the Select Committee on the Levees of the Mississippi River, as authorized by the resolution adopted yesterday.

BENJAMIN NOYES.

Mr. EATON. I ask for the consideration of the resolution offered by me.

The Senate proceeded to consider the following resolution, submitted by Mr. EATON on the 22d of March:

Whereas it is alleged that Benjamin Noyes, a citizen of the United States and of

the State of Connecticut, was, on the 11th day of March, 1878, in the city of Washington, arrested and imprisoned without due process of law, in violation of the rights of the citizen, and while so suffering from this illegal arrest and imprisonment his kidnapers took from his person valuable papers and property and refused and denied him the privilege of consulting with friends or counsel: Therefore,

Resolved by the Senate, That the Committee on the Judiciary be directed to inquire into the subject-matter of this resolution and to report thereon, and that the committee be empowered to send for persons and papers and to employ a stenographer, should it be necessary.

Mr. EATON. Mr. President, I shall not detain the Senate long. I simply desire to have the Senate know what the case is. As to the character of the resolution, it shows for itself; but there are certain facts which the Senate ought to know in order to be aware of the reasons that governed me in offering the resolution. A month has elapsed since this outrage, as I call it, upon a citizen of the United States was perpetrated. What are the facts? One Benjamin Noyes, a citizen of the State of Connecticut and of the United States, on the morning of the 11th of March was taken from his room in a hotel in this city, the door of his room, as I have been informed, having been forcibly broken, without warrant of law; without any authority he was taken at the hour of one o'clock in the morning and placed in confinement in a cell in one of the station-houses in the city, and there kept until he was taken at one o'clock in the afternoon to the train and from the city upon the railroad cars.

Now for the cause. Mr. Noyes is an insurance man, and has occupied a high position as an insurance man heretofore in the State of Connecticut as a public officer, a man who has maintained up to—for I shall be very frank to admit that for the last year or two he has been accused of what is termed sharp practice as an insurance man, practice that I am not here to defend—but up to that time he had the full confidence of the people of the State and occupied a high position in the county where he lived, the city of New Haven. A year or two since he went to New Jersey for, as his enemies said, the purpose of gobbling up one of the New Jersey mutual insurance companies; I will say of buying it, getting it into his hands, merging it with another company of which he was the president. New Jersey complained of the manner in which this business was transacted. It may not have been right; I am inclined to think myself that it was not right. However, he went to New Jersey for the purpose of arranging matters satisfactorily. And now to begin about what I know. He went there under advice and went there under certain promises that were made to him. Those promises were broken after he had got to New Jersey.

Mr. RANDOLPH. By whom?

Mr. EATON. By a prosecuting officer; not by the present executive of New Jersey, not by any judge of any New Jersey court, not by the recent executive of New Jersey.

Mr. McPHERSON. Will the Senator allow me to ask him a question?

Mr. EATON. Certainly.

Mr. McPHERSON. Was he not arrested by virtue of a requisition from the Governor of New Jersey?

Mr. EATON. Not yet. I shall come to that. I have nothing here that I desire to keep under cover at all. If I had I would not have said what I have already said in regard to this matter. This promise was broken and he was arrested, taken before certain authorities in New Jersey, as I am informed, not only by him but by two very respectable counsel, to wit, Mr. Robeson and Mr. Keasbey, one a former Secretary of the Navy, the other now the attorney of the United States for that district, and has been for sixteen or eighteen years, against the laws of New Jersey put under oath and examined. This, as they say and as I believe, was against the law, for he was accused of a crime, and therefore he could not have been by the laws of New Jersey put under oath, though he was. He swore to a certain state of facts with regard to this insurance company and went home. He was indicted after this hearing, indicted for perjury committed, as it was alleged, upon this very illegal examination, held in bonds of \$5,000, and gave bond. The day of trial was fixed. He went to Connecticut, came home again, and was informed, as I believe (for I went myself to New Jersey by request of his counsel, not as his counsel, but because I had a personal acquaintance with the attorney-general of New Jersey and with the then governor of New Jersey; I went there myself to see if an arrangement could be made) he was informed, and I have no doubt of the correctness of the information, that if he went back there he would be indicted upon three other allegations. He did not go back; his bond of \$5,000 was forfeited. What next?

Mr. RANDOLPH. He did not appear for trial.

Mr. EATON. He did not appear for trial; if he had his bond would not have been forfeited. He had been arrested, I should have said, on a requisition from the governor of New Jersey, Governor Bedle, on Governor Hubbard, of Connecticut, was delivered up, went there, gave his bond, and he did not go back but forfeited his bail. Another requisition was made on the governor of Connecticut again for this man, and, as I am informed, Governor Hubbard said he was not to be played with fast and loose in that way; that once a citizen of his State had been delivered to the New Jersey authorities and it was their business to hold him and try him. The authorities—I do not mean the governor of New Jersey, but the legal representative of the governor of New Jersey—called upon the governor of New York—Mr. Noyes was oftener in New York and longer in New York than he was

in Connecticut, for he had an office there—but the governor of New York said there was nothing in that matter that he could grant a requisition upon.

Mr. Noyes came to Washington for the purpose of a hearing before a committee of a subcommittee, of which my friend the Senator from Kansas [Mr. INGALLS] is chairman, upon legitimate business connected with an insurance company, in regard to which a proposition is now before us; and while here a requisition from Governor McClellan, of New Jersey, as I am informed and believe, was sent here by a New Jersey officer—this is something that I do not know—for the purpose of his arrest. There were no papers shown. I have been told that the requisition was not in the city of Washington at the time of the arrest. I have been told that it was. It is a matter of no consequence, in my judgment, whether the requisition was here or not. When his room was broken into, when he was assaulted by two detectives, when he asked to see any papers which they might have, they opened their coats and showed their stars. "There is the authority upon which you are arrested," they had no papers; the warrant was not issued until between eleven and twelve o'clock of that day, nearly twelve hours after.

Mr. THURMAN. What warrant?

Mr. EATON. The warrant of the chief-justice of the District, the authority to arrest the citizen was not issued until nearly eleven hours after this pretended arrest. That was the only warrant by which he could be held, because I undertake to say that if a detective, without a warrant, without legal authority, comes into my room or yours or any other citizen's room at night and lays hands upon him, as a very sprightly paper in Washington said the other day, if that man had just read the Constitution of the United States there probably would be a dead detective. In other words, there is no such power, no such right, no such law.

Mr. RANDOLPH. Do I understand the Senator from Connecticut to maintain that one who is a fugitive from justice can be taken from the jurisdiction of the State possessing him and brought before a committee of the Senate of the United States? Do I interrupt the Senator?

Mr. EATON. Of course you do interrupt me, but not disagreeably.

Mr. RANDOLPH. Then I desire to say that with my knowledge of this case it should not elicit serious debate at this time in this body. I will not debate the propriety of its reference to the Judiciary Committee that they may ascertain the facts, if the Senator from Connecticut urges this course. The Senator from Connecticut, it seems, is endeavoring to state what he asserts to be the facts, and the Senators from New Jersey are expected, perhaps, inasmuch as the crime alleged was originally committed under the jurisdiction of my State, to make some explanation of a portion of these facts, rather remarkably introduced to the Senate's attention. When the Senator is through I shall have a word or two to say. I interrupt now to remark that there will be no objection on my part as one of the Senators from New Jersey to the reference asked for, that the committee may ascertain regularly and in order precisely that which the Senator from Connecticut can at best only state as his personal convictions.

Mr. EATON. I do not quite know where the speech of my friend from New Jersey came in and where the question which he asked me ended.

Mr. RANDOLPH. My interruption had this specific object in view, to make the reference without debate, leaving that to occur, if at all, when the Judiciary Committee has informed the Senate whether or not it is a case for our consideration. I think it has no business here; that the courts of the District and of my State are open and redress of wrong can be had easily and promptly through them. To economize time I think there should be no objection to referring the matter to the Judiciary Committee.

Mr. EATON. That is just my opinion upon the subject, and I would not have said one word here this morning except that the resolution was antagonized on the day on which it was offered, and if I am assured now that there is to be no antagonistic action taken upon this matter I am through now.

Mr. RANDOLPH. I repeat, sir, so far as I am concerned, I make no objection to a reference of the resolution to the Judiciary Committee.

Mr. EATON. That is what I asked.

Mr. RANDOLPH. As for my colleague, of course I cannot speak.

Mr. McPHERSON. I have only one thing to say. The Senator from Connecticut has detailed statements here with reference to this case that I am not content to have go on the record without an answer.

Mr. EATON. Then suppose you wait until I get through. I do not want the answer to come now, for I have not got through. There may be something else that the Senator will desire to answer. I have stated what I believe to be true; I have stated what one hundred of the prominent citizens of New Haven believe to be true, its leading lawyers, its mayor, its postmaster, its members of the Connecticut house of representatives, its Senator, the governor of Connecticut, all the leading merchants of the city of New Haven, who have sent to me and my colleague a request that this matter should be pushed. Their request I have now in my hand.

I have stated nothing but what I believe to be absolutely true, and now I will begin exactly where I left off when I was interrupted by my friend from New Jersey, [Mr. RANDOLPH.] I believe in the high

character, I have the greatest confidence in the honor of the executive of the State of New Jersey. He is my personal and political friend. He has occupied a high position always; for twenty years he has occupied a large space in the public eye; and nothing that I say here can militate against his integrity and his honor. I do not say that the Senate of the United States has the legal power to pass any particular act upon this matter; but, if when this case is thoroughly investigated by the Judiciary Committee and the facts are found as I believe them to be and a report of the Judiciary Committee is made to the Senate with regard to this subject as I believe it will be, then the very confidence that I have in the integrity and honor of the executive of New Jersey leads me to believe that he will take the necessary and proper steps to relieve himself from any act that may have been improper.

Mr. RANDOLPH. Will the Senator allow me?

Mr. EATON. Certainly.

Mr. RANDOLPH. Suppose the governor of New Jersey should be convinced that improper action has been taken by officers that were sent here with the requisition, would it be proper for him, as executive of the State, to interfere with its courts—with a co-ordinate branch of the State government—the judiciary—as indicating its action? Would not such interference be deemed a most unusual and extraordinary proceeding?

Mr. EATON. If the Senator from New Jersey asks me that as a legal question, it is one thing.

Mr. RANDOLPH. I do.

Mr. EATON. No. If he asks me whether the executive of the State would have the personal power to interfere with this matter so as to persuade the judiciary of New Jersey, then I say yes.

Mr. RANDOLPH. No, Mr. President; no executive of New Jersey's selection would exert his "persuasive" powers over a co-ordinate branch of government—especially in a matter where all the facts were equally accessible to both its judicial and executive branches.

Mr. EATON. Then I am sorry for the judiciary of New Jersey; that is all.

Mr. RANDOLPH. Notwithstanding, sir, I am glad to say for the judiciary of New Jersey that no executive has ever held office, or ever will, I trust, in my State, whose personal or official desires would for an instant change the course or delay the decision of justice, as its judiciary believed to be right. Jersey justice is not influenced even by Jersey governors.

Mr. EATON. I should hope not; but that he would have influence to stay the course of injustice—not justice, but injustice. Therefore I still again say that I desire a report of the Judiciary Committee, for the reason that if the facts are as I believe them to be, upon a full report by a committee of the Senate of the United States the executive of New Jersey will see to it that a requisition which he issued shall not be abused in the way that it was; will see to it in some way. I know well that the departments of government in New Jersey, the executive and the judicial, are just as separate as the executive and judicial departments of the Government of the United States are. I know still further that if a wrong had been perpetrated under the act of the President of the United States, which he supposed at the time he granted the power or paper was a proper act, he would have great influence upon the judiciary of the country in order to see that no further wrong should be perpetrated, and with that view I ask that this resolution shall go to the Committee on the Judiciary for their action.

Mr. BECK. Will it trouble the Senator from Connecticut too much to state again where our jurisdiction over the subject attaches? I have some difficulty in seeing how we can take any control of it.

Mr. EATON. The jurisdiction of the Roman senate occurred whenever a Roman citizen was improperly taken by the throat.

Mr. RANDOLPH. This is a Connecticut citizen instead of a Roman citizen.

Mr. EATON. He is not a New Jersey citizen, certainly. He is a citizen of the United States kidnaped in the District of Columbia, which is under the jurisdiction of the United States alone and not of Connecticut, not of New Jersey. The common law which governs the people here is our authority, to say nothing of the statute law. It is our duty to protect every citizen of the United States against kidnaping and outrage if there has been kidnaping and outrage.

Mr. RANDOLPH. Are there no courts within the District to take cognizance?

Mr. EATON. There are courts within the District, but the individual is not here to press his claim; he is somewhere else, and I am here a Senator from his State to urge the Senate of the United States to interpose its high character and name against the perpetration of outrages of this description. If there be any such outrage as I have indicated, the Judiciary Committee will find a way to let the whole people of the United States know what in their opinion citizenship is worth in this country. How far and to what extent the Senate of the United States may have power, is something that I am not here now to talk about. That is the business of the Judiciary Committee. If that committee says that we have no power whatever to interfere in this matter, and that any citizen of any State in this Union, no matter how innocent he may be, may be taken by the throat, kidnaped, and carried out from under the very dome of the Capitol, so be it. There was a striking instance here the other day of a man—I will not call any name; it is not necessary that I should call names; the very mention of the circumstance will indicate the case to every

Senator—where the law was followed, where a requisition from a State of this Union proposed to lay hold of a certain gentleman in the District of Columbia; but the law was followed out. There was no kidnaping. The citizen of South Carolina was not taken by the ears and dragged out of the District; but the *habeas corpus* came in, the law came in, and he still is a citizen and a free man. Let it be so in all cases. The District of Columbia should not be a home for criminals; it should not be simply a refuge for thieves; by no means; but gentlemen who are here on public business, gentlemen from the States who come here for the prosecution of their private business before committees of Congress, must not be taken as in this case and carried out of this District. Let the law intervene.

Mr. RANDOLPH. Does the Senator know that this person, Mr. Noyes, who has been taken to the State of New Jersey, could come back here within a few hours by simply giving moderate bail? The Senator has already admitted that Noyes has been indicted, has forfeited his bail, and is a fugitive from justice. He is back in New Jersey, whether rightfully or wrongfully, though I am very clear about it, I do not mean to discuss now. They ask our courts, in view of his manifest propensities, \$15,000 bail of him now. He does not give it. He remains with us to confute his alleged traducers. That is the case.

Mr. EATON. What has that to do with the kidnaping of a citizen of the United States?

Mr. RANDOLPH. I have not admitted that Noyes was kidnaped yet.

Mr. EATON. I say he was.

Mr. RANDOLPH. And I say he was not—as I am informed; but why should we detain the Senate by contention, by statements of facts that may or may not be facts, as one or the other of us shall prove to be correct? This body cannot and should not try the indictments of New Jersey courts against Mr. Noyes.

Mr. EATON. Then let the Judiciary Committee find out which of us states the fact.

Mr. RANDOLPH. I repeat that is just what I wanted, and that the Senator should permit it to be done without engrossing the time of the Senate with a matter as yet without its jurisdiction. Why should the Senator recite all the facts, as he calls them, in advance of their ascertainment, incidentally implicating officers of my State? Why all these recitals, if the case is so clear and the judgment so certain?

Mr. EATON. I have not said one word against any officer of the State of New Jersey.

Mr. RANDOLPH. You certainly spoke of a prosecuting officer of New Jersey quite disparagingly.

But, Mr. President, I insist we shall not debate the merits of this controversy in advance of the report of a committee whose judgment we are supposed to desire, if the resolution of reference pass, as I hope it may.

Mr. EATON. What did I say of him that has to do with this case? I said he had violated his word originally before there was any arrest of this man. He had nothing to do with this case so far as I know, nor have I said that he had. If this man has been kidnaped, as I aver, if he has been taken without process of law, as I aver, then the Senate of the United States has something to do in this matter; and therefore it is that I introduced this resolution in order that the Senate might speak upon this subject; and then New Jersey of course will exercise her own authority in her own way. I have said nothing against the executive of New Jersey; I have said nothing against the judiciary of New Jersey, not one word. I am speaking simply about the absolute right that every man has to his liberty, and lest I should go too far, let me read:

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

A requisition from the governor of New Jersey or any other State in this Union cannot come here and take any member of this Senate by the ear, cannot come here and take any citizen of the United States. There must first be a warrant; that warrant must be issued under and by oath or affirmation, and proper authority must take the citizen.

A requisition is all well enough. The duty of the officer was plain. He should have gone when he arrived here with his requisition and called for his warrant, and when he had gotten his warrant from the proper officer of the District of Columbia, then an executive officer of the District of Columbia would have taken that warrant and taken the person according to law. He would then have gone before the proper authority and his counsel would have been there to defend him. That is the way it is done in my State. That is the way it is done in the District of Columbia, so far as I know. It has so been done here within the last six months. It ought to have been so done in this case.

Mr. RANDOLPH. It is contended by the officers that all that was done in this case, I submit to the Senator.

Mr. EATON. Oh, no, no.

Mr. RANDOLPH. I think my colleague has papers showing that in his possession.

Mr. EATON. I have talked with the officers, and I know whereof I speak. The warrant was not issued until eleven o'clock and this man was kidnaped at one o'clock in the morning of that day. I know whereof I speak. There was no warrant. There was no power

by which these detectives could seize a citizen of the United States. I was told many things that I do not choose to say here, things that the officers themselves told me they said to him; but I let all that pass.

Mr. President, I trust that this resolution will go to the Committee on the Judiciary and that the committee will inquire into it. If the facts are as I believe them to be, I venture to say that the Congress of the United States will see to it that a citizen is safe here under the law and that only under the law hereafter can a citizen of the United States be seized and held.

Mr. McPHERSON. Mr. President—

Mr. BLAINE. I yielded to the Senator from Connecticut who yesterday gave notice that he would address the Senate on this resolution to-day, and who seemed to have a prior lien on the Senate. I do not desire to cut off the honorable Senator from New Jersey unless he is going to make a lengthy speech, in which case I shall be obliged to call up the appropriation bill of which I gave notice also.

Mr. McPHERSON. I shall only detain the Senate a few moments. I did not intend to say anything on this question, and think I should not. The person who is made the subject of this resolution is now on trial by the courts of New Jersey, and I feel that it is peculiarly improper that any discussion should take place in this Chamber upon this question, because it might be construed into an attempt to influence quite unjustly and improperly the courts in the administration of justice.

When this resolution was introduced on Friday, the 23d of March, by the honorable Senator from Connecticut, and supported as it was at that time by strong and emphatic declarations as to its truth, I was very much inclined to think that there was something of an extraordinary character surrounding this case. Having great confidence in the statements that the honorable Senator from Connecticut usually makes upon the floor, and also great respect for his legal ability, I was inclined to think that he was in the possession of facts which fully justified all the resolution asserts. But inasmuch as this person was arrested by a requisition issued by the governor of New Jersey, by an officer commissioned by that State, directed and controlled by a prosecuting attorney of that State, so far as he could direct and control the movements of the officers, I thought at that time it was due to the officials of New Jersey to ask for a postponement of the resolution in order that I might acquaint myself with the facts alleged in the resolution, upon which a charge of kidnapping was made.

Now, sir, I have every confidence in the integrity and the intelligence of those officers. I assumed then to say, and I do now most confidently affirm, having become possessed of the facts, that there is nothing in the proceedings in the arrest of this man Noyes that was in any manner extraordinary, illegal, or unusual.

I think that the resolution should never have been introduced into the Senate at all, but having been submitted it is one the consideration of which, in my opinion, the Senate ought not to enter upon. Neither the Senate nor its Judiciary Committee can try the questions of law and fact involved in this resolution. It is clearly a question for the judiciary and must be tried by a court of law. We can offer no relief whatever to this petitioner. As I said before, it seems to me that the simple discussion of this question upon the floor of the Senate could be, and would be, construed into an attempt upon our part to influence unjustly and improperly the course in the administration of justice. I will read a remark made by the Senator from Connecticut. In the discussion of the case on Friday, the 23d of March, the honorable Senator from Connecticut [Mr. Eaton] avers this:

I desire action to be taken so that the executive of New Jersey may know exactly under what circumstances his requisition was used, and when it is taken authoritatively by the Senate of the United States it will have its effect.

It seems to me that any such attempt on the part of the Senate is simply to degrade its high powers and privileges. The attempt to make the Senate subservient to any such purpose whatever is simply to make it a process-server or vehicle for notices. Any party feeling himself aggrieved may come to the Senate and ask to have his grievance spread before the Senate that forty millions of people may know of it, and to make a martyr of him.

I do not wish to enter into the discussion at all of any of the facts relating to this case. I presume it is scarcely necessary that I should do so. I can only say that it has been a subject of newspaper criticism, not only in the State where Mr. Noyes claims to be a resident and where he still appears to have some friends, nor is it confined to the State of New Jersey whose laws he is alleged to have violated, but the criticism has been diffused all over the country. There is scarcely a Senator in this Chamber who has not heard or read something with respect to the audacity of this man Noyes. He was indicted by the grand jury of Essex County, New Jersey, for conspiracy, perjury, and fraud in his connection with the reinsurance of the New Jersey Mutual into the National Capital Life-Insurance Company. Having heard of the action of the grand jury, he left the State of New Jersey very hurriedly and went to the State of Connecticut. He was followed to the State of Connecticut by the officers of New Jersey, armed with a requisition made by the governor of New Jersey on the governor of Connecticut. The governor of Connecticut honored the requisition and Noyes was reconveyed to the State of New Jersey and placed within the jurisdiction of the court having his case in charge. Owing to the long interval that must elapse before his case

could be brought to trial, his own protestations of innocence, and the appeals of his friends, the clemency of the court was extended to him and he was admitted to bail in the sum of \$5,000. The honorable Senator from Connecticut now states that it was the business of the authorities of New Jersey to have held their prisoner, having obtained possession of him. Suffice it to say, when the day for trial came Mr. Noyes failed to appear; he forfeited his bail.

The fugitive was followed again to Connecticut by officers armed a second time with the requisition of the governor of New Jersey asking again for the rendition of Noyes. The governor of Connecticut refused to honor the requisition, and the officers were of course obliged to give up the quest. Mr. Noyes at this time became very audacious. He laughed at the officers who came there a second time to arrest him. Fortified as he was behind the favor and protection of the governor of Connecticut, he laughed at the officers who came there from New Jersey to secure him, and from this secure retreat he made the most frantic efforts that ever man did to counteract the sentiment of an outraged and indignant people in New Jersey in respect to his guilt. It is alleged that by means of a press made willing, certain slanderous and malignant statements were made with reference to some of the highest officials in New Jersey, and especially those who had been charged with the supervising authority over all insurance companies doing business within the State, and to whose efforts and investigations mainly the credit is due for having unearthed and brought to light the facts that led to his indictment.

In short, Mr. President, this man Noyes had been guilty of felony on an indictment for which the requisition was based. He was also a fugitive from justice. It was ascertained by the prosecuting officer of New Jersey that Noyes was temporarily in Washington. Governor McClellan, very properly, on the presentation of these facts, issued his requisition. An officer of New Jersey, an intelligent and capable officer who had performed like service before with respect to Mr. Noyes, came to Washington armed with a copy of the indictment and the requisition itself, and in company with two officers in the city of Washington he went to the Globe Hotel at one o'clock in the morning of I think the 11th day of March and arrested Mr. Noyes, placed him in a carriage, carried him to police headquarters, where he was confined until 1.30 o'clock in the afternoon of that day, when he was placed upon a train and taken to New Jersey. Remember, he was placed in a carriage, properly cared for on his way to police headquarters. Immediately on the opening of the court in the morning a mandate was obtained for his arrest, many hours before he was taken from the jurisdiction of the court or from the District of Columbia. He was at police headquarters from nine o'clock of that day until 1.30 o'clock in the afternoon before any attempt was made to remove him.

I have the statement of the officers here with respect to the arrest of Mr. Noyes, which I desire to read as a part of my remarks. (I beg the pardon of the Senator from Maine. I shall detain him but a few moments longer.) This is a report made by detectives of the city of Washington who accompanied Officer Long of the city of Newark, New Jersey, who bore the requisition and a copy of the indictment. These officers of whom I speak, in making a report to their chief, say:

WASHINGTON, D. C., March 25, 1878.

SIR:

In re Benjamin Noyes.

On the 9.15 p. m. train of March 11, 1878, Officer Robert Long, from Essex County, New Jersey, arrived in this city with a requisition from Governor McClellan, of New Jersey, for the person of Benjamin Noyes, a fugitive from justice. He exhibited his papers to this department, and requested assistance from the local police in making the arrest. About one a. m., 12th instant, the arrest was effected by us, accompanied by said Officer Long and the requisition. When we approached him Noyes recognized Long, shook hands with him, and was immediately advised of the facts of the requisition. He accompanied us without objection; there was no show of force whatsoever. He was detained at headquarters during the balance of that night. No money or papers were taken from him, nor was possession sought or demanded. His watch, chain, knife, and other articles were taken in custody and delivered back to him upon his departure. Such is the custom in all parts of the country, both for the protection of the police and of the prisoner. His receipt for said articles was taken, and is on file. Before the opening of the supreme court, on the 12th instant, Chief-Justice Carter signed order for the delivery of Noyes to the New Jersey authorities, and thereafter (from 9.30 a. m. of the 12th) the prisoner was in custody of Officer Long, under said order of court, pursuant to requisition. At 1.30 p. m., the officer left this District with his prisoner, en route to New Jersey. During his temporary detention here, Noyes was kindly treated, and not the slightest exhibition of force was necessary, or was exercised. On the morning of the 12th he made his first inquiry about counsel, asking to see Ex-Secretary Robeson. He was told that Mr. Robeson had left town the previous morning, and was still absent. This was the fact, and known to us to be such. When on his way to the depot, Noyes handed to Detective McElfresh a sealed package of papers, and asked him to deliver them to a Mr. Kimball, with a verbal message, which commission was immediately executed. He also wrote a dispatch to his attorney at New York to meet him at Newark, where he was being taken on "papers," and asked McElfresh to also send it, which was done.

The foregoing is a correct statement of the arrest in its sequence of time and events.

Very respectfully,

JAS. A. McDEVITT, *Detective.*
GEORGE W. McELFRESH, *Detective.*

Major THOMAS P. MORGAN,
Superintendent Metropolitan Police.

I have been furnished by these officers with a copy of a telegram in the handwriting of Mr. Noyes, who handed it to the detective, the very party who is charged in the resolution of the honorable Senator from Connecticut with having kidnaped Noyes. He hands him this telegram for the purpose of sending to his counsel in Newark to meet

him at Newark prior to being taken there on papers. He also placed in his hands other valuable papers, as stated in the report of the detectives, to be handed to a Mr. Kimball. He also gave him the custody of the key of his room; and other important matters were placed in his hands. It is not usual, I believe, when an officer has kidnaped a person for that person to turn right around and place in the custody of the officer valuable and important papers and in fact employ the officer as an agent for the transaction of business.

I am also informed by the chief of police that he was present at police headquarters from six o'clock in the morning until Mr. Noyes was removed to New Jersey at one o'clock of the afternoon of that day; that he was within sight and hearing of Noyes during the whole time, and that at no time did Noyes signify to him that he had been illegally arrested or kidnaped; that at no time did he complain to him as to the conduct of the officers; at no time did he say that he was illegally confined.

The report here also states, and contrary to the preamble of the resolution, that no valuable papers were taken from him. In fact no papers were taken from him at all, but some papers were handed by Noyes to the officer, to be placed in the hands of Mr. Kimball. No property was taken except such property as it is the custom to take from a prisoner in order that the prisoner might not injure himself, other persons, or the office, to wit: a knife, watch, &c. As to the privilege of consulting friends and counsel, I am informed by one of the detectives who made this arrest that at the request of Noyes he went twice during that day to the office of Ex-Secretary Robeson for the purpose of getting Mr. Robeson to come to see Noyes, but was unable to find him.

With respect to the legality of the arrest I am led to infer, from the discussion which was had upon this question when this resolution was submitted by the honorable Senator from Connecticut, from remarks made by the Senator from Massachusetts, [Mr. HOAR,] that it was the practice in every State of the Union all over the country for an officer, knowing the fact and fearing the escape of a prisoner, to make the arrest even without the mandate or warrant of the court, and to hold him until such time as a mandate could be obtained. It is true that in this case the officers had no mandate of the court of this District to make the arrest, but one was obtained at a very early hour in the morning; but they were in possession of facts, the fact that this man had been indicted. They were in possession of the indictment and in possession of the requisition of the governor, and they simply did what is done every day in the week in the interest of justice. The courts permit it to be done in the interest of justice, and, without it were done, it would be impossible to secure criminals who are escaping almost every day by the enforcement of the same rule which the Senator from Connecticut wishes.

I do not wish to detain the Senator from Maine much longer. I have only to say that if the Senate decide in this case to exercise judicial power (and if in this case why not as appropriately in every case of like character all over the country?) it seems to me as though the Senate would have nothing else to do in the future but to look after cases of this character.

I hope and trust, Mr. President, that the Senate will not refer the resolution to the Committee on the Judiciary, but will dismiss the matter.

Mr. EATON. Mr. President, there does not appear to be the slightest difference between the Senator from New Jersey and myself as to all the facts in this case except those in his report from the detectives which he has read. I agree entirely, and he agrees with me, in the fact that this man was a fugitive from justice. I never denied that at all. But if the Senator were as well acquainted with detectives as some lawyers are, he would see that the report that they make disagrees with the statement verbally made to him. Just see how easy it is for these detectives to mislead even a Senator of the United States! The Senator read a report, which report says that these detectives told Mr. Noyes when he asked to see Ex-Secretary Robeson that he was not in town.

Mr. McPHERSON. Will the Senator allow me to make an explanation?

Mr. EATON. Wait until I get through. The Senator does not know what I am about to say. The detectives told the Senator that Ex-Secretary Robeson was not in town; that they knew he was not in town. Then what is the next story of those detectives? The next story of the detectives is that one of them went three times in order to find him. Now, that very detective told me in this lobby the day after I introduced the resolution that they never went near him, and that they were instructed not to go near his counsel, although they had promised that he should have counsel. He told me so here, your very detective. It would take the oaths of a dozen detectives to swear down one decent man.

Mr. McPHERSON. Will the Senator allow me to ask him a question?

Mr. EATON. Certainly.

Mr. McPHERSON. Were these officers under any obligation to assist the prisoner to obtain a writ of *habeas corpus*?

Mr. EATON. They are not under any obligation to tell falsehoods, to say one thing to my good friend the Senator from New Jersey, and another thing to me. I know these people pretty well. I have had to do as counsel for thirty years with this class of people. The Judiciary Committee will find that these men went into the room

of Mr. Noyes. The New Jersey officer was not there at all. They told Mr. Noyes if he would quietly go to headquarters they would immediately take a carriage and go and get not Mr. Robeson, but Mr. Kimball. He was the man that Mr. Noyes desired to have them go for. It was Kimball. Kimball was his lawyer here in this District. Mr. Noyes asked them if they would go. They went out and said they could not find him; that it had got to be two o'clock or three o'clock in the morning, and there was no use in going then, but they would go as soon as it was sun-up. After it was sun-up they did not go, and when the New Jersey officer showed himself, about ten o'clock in the morning, he said to Mr. Noyes: "You will not see your counsel nor your friends; you will go to New Jersey with me."

I tell you, Mr. President, it was a kidnapping from the beginning to the end. Take the two stories, the written story and the verbal one of my friend from New Jersey, and it is kidnapping. There was falsehood there. They did not do as they agreed to do, and they did not intend to do it. I trust the Senate will look to this matter. I do not want to take up the time of the Senate any longer.

Mr. McPHERSON. If the Senator had yielded to me at the time I asked him to submit to an interruption it would have been altogether unnecessary for him to have made his last speech. I perhaps should have detailed more fully an explanation of the matter when I read the report of the detectives. Although the report does not state that they went to the office of Secretary Robeson, and perhaps it was unnecessary that they should state that in making a report to a superior officer, the facts as given to me by the detectives were to the effect that one of the detectives went not only once but twice to the office of Ex-Secretary Robeson, at the request of Mr. Noyes.

Mr. EATON. That is a matter which, of course, I do not believe. I believe my friend was told so. I do not believe the fact to be that they went there at all. It was not a part of their duty, as the Senator just said.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The question is upon the adoption of the resolution submitted by the Senator from Connecticut.

Mr. GARLAND. Let the resolution be reported.

The PRESIDING OFFICER. The resolution will be reported.

The Chief Clerk read the resolution, as follows:

Whereas it is alleged that Benjamin Noyes, a citizen of the United States and of the State of Connecticut, was, on the 11th day of March, 1878, in the city of Washington, arrested and imprisoned without due process of law, in violation of the rights of the citizen, and while so suffering from this illegal arrest and imprisonment his kidnapers took from his person valuable papers and property and refused and denied him the privilege of consulting with friends or counsel: Therefore,

Resolved by the Senate, That the Committee on the Judiciary be directed to inquire into the subject-matter of this resolution and report thereon, and that the committee be empowered to send for persons and papers and to employ a stenographer, should it be necessary.

Mr. RANDOLPH. Mr. President, I detain the Senate a moment longer to say that I shall vote for the adoption of this resolution, having stated at the beginning of this debate that I should. I do so more in courtesy to the Senator from Connecticut than for any other reason. Added to that reason, I desire the fullest investigation in this case may be had concerning the conduct of any executive, judicial, or other official of the State I have the honor in part to represent on this floor. Their action will all be found honorable to themselves and protecting to the people, not only of New Jersey but of many other States.

Mr. BECK. I wish to ask the Senator from Connecticut a question, because I am in doubt as to the jurisdiction of the Senate in this matter. If the Senator from Connecticut believes either that the present laws are insufficient to prevent kidnaping, or that there ought to be an amendment to the *habeas corpus* act, then I admit that it is competent for the Senate to consider this question. If, however, the Senator desires no change in the law, but simply an inquiry as to a legal question, I see no reason why the present jurisdiction of the courts, either upon an application for a writ of *habeas corpus* or by a writ or indictment for kidnaping, would not cover the whole case. If the Senator avows that he desires a change of the law, I shall vote for the resolution. If he desires simply an investigation into this particular case without desiring a change of the law, I shall not vote for it, for want of jurisdiction.

Mr. EATON. Of course my honorable friend from Kentucky will vote just as he pleases, as every other Senator will. All I can say about it is that I have not proposed any amendment to the law. I cannot do so now. I differ in opinion from the honorable Senator from Kentucky. I think there is law enough now. If I am mistaken about that, the Judiciary Committee will inform me upon an examination of the whole subject. I desire the facts to be known. Let us see whether a man can be taken here in this District in the way that, as I believe, this man was taken. Let us see whether it is against law or not. Let the Judiciary Committee determine that question. That is my view of the case. I do not propose to offer any amendment to the criminal laws of the District of Columbia.

Mr. BECK. I understand the Senator from Connecticut to say that he desires this investigation for the purpose of obtaining the information from the Judiciary Committee whether a change of the law is necessary, and in that event to have the laws amended. If so, I shall vote for the resolution.

Mr. EATON. Oh, I cannot say that. My honorable friend knows that I cannot say that. Let the resolution go to the committee and

let the committee determine it. They are the body to say and not I. There is one thing very clear, that this man cannot have the benefit of the *habeas corpus*. That is impossible. My friend knows that.

Mr. INGALLS. In New Jersey? Why not?

Mr. EATON. Ah, in New Jersey.

Mr. INGALLS. Why can he not apply to the courts in New Jersey for a writ of *habeas corpus* if his liberty has been unjustly infringed?

Mr. EATON. Where?

Mr. INGALLS. In New Jersey. Why can he not apply to the courts in New Jersey?

Mr. EATON. His liberty has been unjustly infringed upon in the District of Columbia, and that would not answer.

Mr. INGALLS. If he has been improperly arrested or if he has been deprived of his liberty and is now unjustly imprisoned from any cause or by reason of the acts of the officers of any district, he certainly can apply to the courts of New Jersey and allege those grounds and obtain relief.

Mr. EATON. I do not so understand it.

Mr. BECK. I merely desire to say a word further. As it is possible that some amendment may be required to the laws of this District upon the subject I shall vote for the Senator's resolution.

Mr. EATON. I am very glad of that, although it was not in my power to say that that is the intention, for I have not examined the laws of the District in order to find out.

The PRESIDING OFFICER. The question is on the adoption of the resolution of the Senator from Connecticut.

The resolution was agreed to.

CORRECTION.

Mr. BURNSIDE. I desire to occupy the attention of the Senate for just one moment in order to correct a mistake. I prepared, as the Chair will remember, [Mr. COCKRELL in the chair,] a report to present to the Military Committee at its last meeting upon Senate bill No. 375, which report was rejected. I made an adverse report to the Senate upon the case, as I was instructed to do by the committee; but I find by some mistake the report which I proposed to the committee as a majority report and which was rejected has been printed and placed among the documents as the report of the committee.

Mr. BLAINE. What is the case?

Mr. BURNSIDE. The report is on a bill for the protection of the widows, orphans, and heirs at law of officers of the Army of the United States. It is an insurance bill. I prepared the report as the majority report of the committee and presented it to the committee, but it was rejected. It has been printed and placed on our table as the majority report of the committee. That is a mistake, and I ask that the mistake be corrected. This report was rejected by the committee, and it ought not to have been printed as the majority report.

The PRESIDING OFFICER. Attention will be given to the matter as soon as it can be examined.

DEFICIENCY APPROPRIATION BILL.

Mr. BLAINE. I now move that the Senate proceed to the consideration of the bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Appropriations with amendments.

Mr. BLAINE. I ask that the amendments of the Committee on Appropriations be acted on as they are reached in their order as the reading of the bill proceeds.

The PRESIDING OFFICER. The bill will be read in full. The amendments will be acted upon as they are reached in their order, unless there is objection to that course. The Chair hears no objection.

Mr. BLAINE. I will explain very briefly to the Senate just what the bill contains. It is the fifth or sixth deficiency bill which the House of Representatives has sent us since the Forty-fifth Congress assembled in October last. I was absent myself a portion of the time, and therefore I am not sure whether it is the fifth or sixth, but at all events it is a very unusual number. It is the fifth, the Senator from Arkansas [Mr. DORSEY] says.

The amount contained in the bill as sent to the Senate from the House was \$2,360,437.57. The additions made by the Committee on Appropriations of the Senate are \$479,819.52, so that the bill as it now stands appropriates \$2,840,257.39. The additions made by the Senate committee are comprehended under these heads:

For Senate, expenses proper, which were precipitated by the October session, \$14,623.70; printing for the Interior Department, to supply deficiency, \$10,000; a deficiency for the Government Insane Hospital, \$14,583; rent for the Freedmen's Hospital, \$2,000; a deficiency for Powell's survey in the Rocky Mountains, \$5,000; a deficiency for Hayden's survey, maps, charts, &c., \$20,000; for mints and assay offices, \$17,600; for the Monument lot pond, near the Washington Monument, \$2,200. For the Capitol grounds we have added \$11,000, making \$20,000 for the Capitol grounds; for subsistence of the Army, \$300,000. The latter is in anticipation of the appropriation for the next fiscal year, and is designed, as has been done now for several years, to enable the Commissary-General to purchase supplies for posts on the Upper Missouri in season to take advantage of the navi-

gation. If the appropriation be waited for until the next fiscal year it will be too late and will cause a very considerably enhanced expenditure in the Quartermaster-General's Department to reach those distant posts. That has been regarded and has proved to be a very wise economy, so that this appropriation of \$300,000, which is the great bulk of what the Senate Committee on Appropriations has added, is merely in the way of anticipation and of an economical anticipation.

Another item is for survey of the South Pass of the Mississippi River, \$7,500. That is to enable the Engineer department to take cognizance by strict measurement and supervision of what is being done at the South Pass under the Eads contract.

For printing in the War Department, \$18,000; for the Des Moines Rapids Canal, \$7,500; for provisions for the Marine Corps, \$14,277; for the New Brunswick and Canada Railway, \$11,935, being a deficiency; for the fog-signal at Whale's Back light-station, in the entrance to the Portsmouth (New Hampshire) Harbor, \$15,000. This is a very old and very valuable light, but it is somewhat injured by storms, and must be repaired. The committee put that in upon very urgent representations both from the chief of the Light-house Bureau and from the Secretary of the Treasury. Then there is an appropriation suggested of \$8,000 to enable the proper astronomical observations under the care of the Astronomical Observatory in the Navy Department of the solar eclipse, a total eclipse to take place in July, to be total in Northern Texas and Colorado.

These items, as I stated before, aggregate \$479,000. After taking out the \$300,000, which is in anticipation of the Army appropriation bill for next year, the additions only amount really to \$179,000 on the part of the Senate.

I make this very brief statement now, and shall be prepared to answer any questions that Senators may desire to ask upon the bill in so far as I am instructed by the committee. I hope the bill will be read now and the amendments acted upon as read, and those considered as agreed to that are not challenged.

The PRESIDING OFFICER. The bill will be read by the Secretary, and the amendments as they are reached will be acted upon.

The Chief Clerk proceeded to read the bill. The first amendment of the Committee on Appropriations was to insert after line 5:

Senate:

To enable the Secretary of the Senate to pay as follows:

For salaries of persons employed in the service of the Senate, "during the session" only, \$1,500.

For twenty-seven clerks to committees, \$8,100.

For nineteen pages, \$2,375.

For furniture and repairs, to enable the Secretary of the Senate to comply with the requirements of the concurrent resolution of February 8, 1878, \$2,000.

To pay Thomas P. Clark for services as page of the Senate from the 1st day of December, 1877, to the 30th day of June, 1878, at \$2.50 per day, \$530; all of the above items being deficiencies in the appropriations for the fiscal year ending 1878.

To pay S. H. Colbath the salary of a messenger of the Senate for the month of April, 1877, at the rate of \$1,440 per annum, \$118.70.

The amendment was agreed to.

The Chief Clerk resumed the reading of the bill.

The next amendment was in line 63, in the appropriation for the officers of the House of Representatives, to strike out "John E. Travis" and insert "John A. Travis."

The amendment was agreed to.

The next amendment was to strike out lines 75, 76, and 77, in the following words:

Patent Office:

For printing for the Patent Office, to be done at the Government Printing Office, \$30,000.

And in lieu thereof to insert:

Department of the Interior:

For printing and binding for the Department of the Interior, to be done at the Government Printing Office, being a deficiency for the fiscal year 1878, \$40,000.

Mr. BLAINE. I think that should be amended. I hold in my hand a letter from the Commissioner of Patents which throws a little light upon the subject. The committee changed the bill by striking out lines 75, 76, and 77 and appropriating \$40,000 in gross for the printing and binding of the Interior Department, and then added certain specifications afterward for the Patent Office. I have here a letter from the Commissioner of Patents, representing, I suppose, the wishes of the Interior Department. I move to amend by adding at the end of line 82 the following proviso:

Provided, That \$30,000 thereof be for the use of the Patent Office.

Mr. BECK. What is the purport of the amendment to the amendment?

Mr. BLAINE. That \$30,000 of the \$40,000 for the Interior Department be for the use of the Patent Office. Otherwise, the Commissioner of Patents thinks, there may be some embarrassment about continuing the monthly publication of the plans and specifications of patents that come in.

Mr. BECK. Has the Senator from Maine the letter of the Commissioner of Patents before him?

Mr. BLAINE. Yes; and I will read that part of it which relates to this matter:

By the change made by the Senate committee, giving \$40,000 to the Interior Department for it and all its bureaus, the *pro rata* apportionment for this office, which will probably be less than one-half the amount, will be insufficient for its wants.

The estimate for \$20,000 for this office alone, as passed by the House, was made after a very careful examination into the matter, and is as small a sum as will defray the necessary expenses for printing and binding for the Patent Office, to the 30th of June next.

If this amount can be secured to this office by a proviso, that \$30,000 shall be for its use, it will perhaps save us from some embarrassments.

That comes to me officially from the Commissioner of Patents.

Mr. BECK. I supposed as we dealt with the Interior Department and as that is a bureau of that Department, it was more proper that the appropriation should be put under the control of the Interior Department. That was the view of the committee at the time the amendment was made as reported. I do not see very well why there should be any embarrassment about it.

Mr. SARGENT. I should like to inquire of the Senator from Maine if he thinks there is any fear that the Interior Department would not properly distribute the amount?

Mr. BLAINE. I have no doubt that the Commissioner of Patents writes in harmony with the Interior Department, although the Interior Department under date of March 29 (to which the Senator from Kentucky probably refers; the letter came from the Acting Secretary, Mr. Bell) recommended the precise form of amendment that the committee incorporated in the bill.

Mr. SARGENT. We had better trust the Interior Department.

Mr. BLAINE. Then, if it be the judgment of the Senator from Kentucky and the Senator from California, both members of the committee, I will not insist upon my amendment, and will let it go in the form in which it came from the committee.

The PRESIDING OFFICER. The amendment to the amendment being withdrawn the question is on the amendment of the committee.

Mr. BLAINE. It is only fair to state in connection with this matter that the estimate last year for the expenditure in which this is to supply a deficiency was \$230,080, and that the appropriation was only \$125,000, leaving the estimate over a hundred thousand dollars short. This \$40,000 of course will be a somewhat moderate supply for that deficiency, but if they think they can get along with it, it is all the better to keep them down as close as possible.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 83, after the word "expenses," to insert the words "of the Patent Office;" so as to read:

For contingent and miscellaneous expenses of the Patent Office, as follows:

The amendment was agreed to.

The next amendment was, after line 109, to insert:

Government Hospital for the Insane:

For the support, clothing, and medical and moral treatment of the insane of the Army, Navy, and Marine Corps, and revenue-cutter service, and of all persons who have become insane since their entrance into the military or naval service of the United States and who are indigent, and of the indigent insane of the District of Columbia, in the Government Hospital for the Insane, being a deficiency in the amount required for the support of the hospital for the fiscal year 1878, \$9,583.

For general repairs and improvements, being a deficiency for the fiscal year 1878, \$5,000.

Mr. BECK. I hope the Senator from Maine will place upon the record, if he does not read, the letter of the surgeon of that hospital. I think the Senate ought to have it in order to see how urgent the request is made and that the information upon which we acted should be known.

Mr. BLAINE. The Senator from Kentucky makes a very proper suggestion, because the superintendent of the Government Hospital for the Insane submitted to the committee a letter, which I hold in my hand, and which is a very exhaustive proof of the absolute requirements of this hospital. For the benefit of the other branch of Congress when this subject shall come up there, I ask that this letter may be inserted as part of my remarks. It is not necessary to detain the Senate upon it further than to say that it makes an absolute case.

The PRESIDING OFFICER. The letter will be inserted in the RECORD.

The letter is as follows:

GOVERNMENT HOSPITAL FOR THE INSANE,
Near Washington, D. C., March 25, 1878.

SIR: I have the honor to submit herewith a brief statement of the needs of this hospital for a deficiency appropriation of \$14,583 for the expenditures of the fiscal year ending June 30, 1878, and to ask the favorable consideration of the same by your committee. I am unable to say why this item was not attached to the miscellaneous deficiency bill (H. R. 3740) in the House committee. The matter had been brought to their notice, and I presume it was deferred for a later bill, but I submit that if the appropriation is needed at all it should be made at once to prevent serious embarrassment to the management of the hospital, and to enable much-needed improvements to be made during the present fiscal year.

I shall be happy to appear before the committee at any time to offer any explanation that may be needed, or to answer so far as I am able any question in regard to the subject.

I need not add that it would give me pleasure to see the committee at the hospital, or any individual member of it, at any time, and to show them what we have and what we want, and thus afford them an opportunity to see for themselves what are our actual needs and what the work is that we are striving to do.

Should your committee honor us with a visit carriages will be sent for them at any time that may be designated.

I am, sir, very respectfully, your obedient servant,

W. W. GODDING, Superintendent.

Hon. WILLIAM WINDOM,
Chairman of Senate Committee on Appropriations.

Deficiency appropriation asked for the Government Hospital for the Insane.

The deficiency appropriation asked for the hospital for the year ending June 30, 1878, is \$14,583, divided as follows:

For support and current expenses \$9,583
For general repairs and improvement 5,000

Briefly, the facts are these: the deficiency merely covers the difference between the appropriation and the original estimate. The estimate was a close one, and, in

view of the largely increased number of patients, the actual deficiency in support would have been larger than it is but for the general fall in prices of most of the staple articles of consumption.

The appropriation for support in 1876 was \$150,000, and the number of free patients at the close of that year, on which the estimate for the fiscal year ending June 30, 1878, was based, was 710, and the estimate \$154,583. It was then thought that the house was as full as it could be, but reference to the last report will show that the number of free patients under treatment at the commencement of the present fiscal year was 735. On the 1st of March, 1878, it had risen to 760, or 50 more than that on which the estimate was based.

From the appropriation of \$145,000 made by the last Congress for the support of the hospital for the year ending June 30, 1878, there was expended during the quarter ending September 30, \$40,724.41; for the second quarter, ending December 31, 1877, \$28,753.54, or a total of \$69,477.95 in the first six months, leaving \$75,522.05, or, if the deficiency is appropriated, \$76,105.05, to provide for the last six months of the year.

In the crowded condition of our wards we have felt it our duty under the law governing admissions to decline to receive indigent or pay patients, and, as far as it could be done without detriment or distress, to request the removal of those now under treatment whose friends were able to provide for them elsewhere. The number of this class has thus been considerably reduced. This, while it relieves the crowding to the extent of the number discharged, also diminishes the receipts for support.

Under special orders Nos. 140 and 216 from the War Department, all insane soldiers under treatment in this hospital were discharged from service, and under General Order No. 88 of 1877, all soldiers hereafter sent to the hospital will be discharged before admission. Hitherto the clothing for this class of patients has been furnished from the Quartermaster's Department without expense to the hospital. This has now to be provided for out of the funds for the support of the institution, an annual expense of not less than \$2,500.

I am happy to say that the receipts from the District of Columbia have somewhat exceeded the estimates, so that continuing at the present rate, they will at the end of the year amount to \$8,028.60 against \$5,842, the sum estimated, being a gain of \$2,186.60 to the hospital.

The prices of all staple articles of consumption are also very low, so that, notwithstanding the constant increase of patients, the amount to be expended for supplies need not exceed that of the first half of the year.

But taking all the favoring circumstances into account the sum asked is certainly needed, and with care and economy should be sufficient to give a comfortable provision and care for the helpless class intrusted to our charge.

The deficiency of \$5,000 for the general repairs and improvements, though perhaps hardly sufficient to accomplish all that the best economy would suggest, is probably as much as Congress should appropriate for expenditure within the present fiscal year.

A general detail of all the little repairs needed about a hospital from month to month is not necessary. It is true economy in such an institution to allow nothing to get "run down." The item of painting alone becomes a very considerable one in a year's time. The roof of the east lodge needs extensive repairs; two wards require new floors; there is considerable orchard and boundary fence that it is necessary to rebuild on both the farms; there are ravines where retaining walls should be built to prevent destructive "wash-outs;" the wharf must be overhauled before we purchase coal for another season. More inclosures are needed for cattle, increased accommodation for swine, roadways built and mended; in short, a little must be made to go a great way.

No doubt many improvements should be left to better times; but, in view of the possible terrible calamity of fire, can we afford to delay to another year placing a stand-pipe, with suitable hose and attachments, in every ward where insane persons are confined?

It seems to me that it is enough to have simply stated facts, and that the reasonable claims of this form of suffering humanity require no advocate. We have only asked what we believe we need.

Respectfully submitted,

W. W. GODDING, Superintendent.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, after line 123, to insert:

Freedmen's Hospital and Asylum:

For rent of the buildings and grounds occupied as the Freedmen's Hospital and Asylum in the District of Columbia, being a deficiency for the fiscal year 1878, \$2,000.

Mr. BECK. There is a written lease showing the occasion for that which is very short.

Mr. BLAINE. I will have the letters on that matter inserted in the RECORD.

Mr. BECK. I only desire to say that in all these matters where there are written papers it will save a great deal of trouble to put them into the RECORD.

Mr. BLAINE. It will save trouble at the other end of the Capitol.

Mr. SARGENT. It will save trouble in the conference committee also, because then the papers are readily referred to.

Mr. ALLISON. It saves trouble every where.

The letters are as follows:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., March 23, 1878.

SIR: I have the honor to inclose herewith a copy of a letter from Rev. William W. Patton, D. D., president of Howard University, relative to arrears of rent claimed to be due to the trustees of that institution for the buildings used as the Freedmen's Hospital, and to state that since the 30th of June, 1874, the date at which the hospital came under the supervision of the Interior Department, the buildings have been held under a lease approved by Hon. C. Delano, Secretary of the Interior, obligating the Government to the payment of an annual rental of \$4,000.

For the year ending June 30, 1878, Congress appropriated but \$2,000 for the payment of the same.

Very respectfully,

C. SCHURZ, Secretary.

Hon. WILLIAM WINDOM,
Chairman of the Committee on Appropriations,
United States Senate.

WASHINGTON, D. C., November 16, 1877.

DEAR SIR: Allow me to call your particular attention to the arrears of rent due from your Department to Howard University, in connection with the buildings and grounds used for the Freedmen's Hospital. The rent, in money, (in addition to a few stipulations and reservations,) is the very moderate sum of \$4,000 per annum, which is not 4 per cent. of the cost of the buildings alone, to say nothing of the extensive grounds. This sum the university needs to receive in full and with regularity, as even with its aid the income falls short of the expenditures for its

important objects, at the present reduced scale of management compelled by the stringency of the times. But Dr. Palmer, the physician in charge of the hospital, declares his inability to pay the rent in full, or even more than one-half of it, owing to the fact that the last appropriation bill of Congress placed at his disposal for said purpose only \$2,000. He is therefore occupying the premises, at present, only by sufferance, until Congress shall supply the deficiency. On behalf of the trustees of the university, I call your official attention to this arrangement, trusting that you will in some suitable way bring it to the notice of the proper committee of Congress now in session.

I have the honor to be, very respectfully, yours truly,

WM. W. PATTON,
President of Howard University.

Hon. CARL SCHURZ, Secretary of the Interior.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, after line 123, to insert:

For the preparation of the reports of the geographical and geological survey of the Rocky Mountain region, being a deficiency for the fiscal year 1878, \$5,000.

The amendment was agreed to.

Mr. SARGENT. Before going to the next amendment I should not only like to have the papers in reference to these last two items appear in the RECORD, but to request of the Senator having charge of the bill, if he will excuse my doing so, that in all instances he insert in the RECORD letters relating to the various items.

Mr. BLAINE. I will do so, exactly as the Senator from California suggests. These amendments are to make up obvious deficiencies, of which the papers will be abundant proof. I hope there will be no objection to this.

The PRESIDING OFFICER. The Chair hears no objection to the papers relating to the different items being printed in the RECORD.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, after line 132, to insert:

For the preparation and publication of the maps, charts, geological sections, and other engravings necessary to illustrate the reports of the United States geological and geographical survey of the Territories, \$17,000; and for office rent, \$2,400; in all, \$19,400.

Mr. BLAINE. I submit for publication in the RECORD a letter of Professor Hayden, which explains the amendment fully.

The letter is as follows:

OFFICE OF THE UNITED STATES GEOLOGICAL AND
GEOGRAPHICAL SURVEY OF THE TERRITORIES,
Washington, D. C., March 20, 1878.

SIR: I beg permission to request the insertion of the inclosed amendment in the deficiency bill H. R. No. 3740.

In explanation of the amount embraced in this amendment, I beg to present the following reasons:

For the past two years the survey under my charge has received no money for the engraving of the maps and illustrations for the reports.

For the fiscal year ending June 30, 1877, not only was the usual amount granted for this purpose omitted, but the regular estimate for field-work was reduced \$15,000, making a reduction of \$35,000 for that year.

For the fiscal year ending June 30, 1878, the survey received only the usual amount for field exploration and other incidental expenses.

In regard to the item for rent of office, I beg to refer you to a portion of a clause in an act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, &c., passed by the last Congress, which prohibits us from the use of an office unless specifically provided for by Congress, reading as follows: "And hereafter no contract shall be made for the rent of any building, or part of any building, to be used for the purposes of the Government in the District of Columbia until an appropriation therefor shall have been made in terms by Congress, and that this clause be regarded as notice to all contractors or lessors of any such building or any part of building."

I do not ask this amount as a deficiency, but the condition of this work is such that, although the Government has not been placed under any obligations, yet all the more important volumes and maps which are now in process of publication, being continuous, must be suspended without it.

Hoping that the honorable Committee of Appropriations may look favorably on this request, I have the honor to remain your obedient servant,

F. V. HAYDEN,
United States Geologist.

Hon. WILLIAM WINDOM,

Chairman of the Committee on Appropriations,
United States Senate.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, after line 143, to insert:

Mints and assay offices:

Mint at San Francisco, California: for material and repairs, fuel, lights, chemicals, and other miscellaneous expenses, being a deficiency for the fiscal year 1878, \$15,000.

Mint at Denver, Colorado: for wages of workmen, being a deficiency for the fiscal year 1878, \$2,000.

Assay office at Boise City, Idaho Territory: for wages of workmen, fuel, crucibles, chemicals, repairs, and other miscellaneous expenses, being a deficiency for the fiscal year 1878, \$6,000.

Mr. BLAINE. I shall insert in the RECORD in regard to these additional appropriations for the mints a communication from the Secretary of the Treasury, which covers the recommendation of the committee very fully.

The letters are as follows:

TREASURY DEPARTMENT,
Washington, D. C., March 27, 1878.

SIR: I have the honor to transmit herewith, for the information of your committee, copy of a letter addressed to the honorable chairman of the House Committee on Appropriations, together with copy of a letter from the Director of the Mint, explaining the necessity for additional appropriations for the mint at San Francisco, California, mint at Denver, Colorado, and the assay office at Boise City, Idaho.

Very respectfully,

JOHN SHERMAN, Secretary.

Hon. WILLIAM WINDOM,

Chairman Committee on Appropriations,
United States Senate.

TREASURY DEPARTMENT,
Washington, D. C., March 27, 1878.

SIR: I have the honor to transmit herewith, for the consideration of your committee, copy of a letter from the Director of the Mint of the 26th instant, showing the necessity for providing for additional appropriations for the remainder of the current fiscal year, as follows:

Contingent expenses mint at San Francisco..... \$15,000
Wages of workmen, mint at Denver..... 2,000
Wages and incidental expenses, assay office, Boise City..... 600

These appropriations are required to properly carry on the work at the mints and the assay office mentioned, and I have therefore to recommend the same to the favorable action of Congress.

Very respectfully,

JOHN SHERMAN, Secretary.

Hon. J. D. C. ATKINS,

Chairman Committee on Appropriations,
House of Representatives.

TREASURY DEPARTMENT,
OFFICE OF THE DIRECTOR OF THE MINT,
Washington, D. C., March 26, 1878.

SIR: I have the honor to state that the appropriation for contingent expenses of the mint of the United States at San Francisco, for the current fiscal year, is nearly exhausted, and that in order to continue the coinage of gold, which that mint will be called upon to execute during the balance of this fiscal year, and to make such repairs as will be absolutely necessary at the annual settlement in June next, it will be necessary to procure an appropriation of \$15,000 for contingent expenses for that mint.

For your information I would state that during the first eight months of the current fiscal year the coinage of the San Francisco mint was:

	Pieces.	Value.
Gold.....	1,424,100	\$27,479,500
Trade-dollars.....	7,239,000	7,239,000
Fractional silver.....	8,352,000	3,743,000
Total.....	17,015,100	\$38,461,500

The amount of gold coinage the mint at San Francisco will be called upon to make during the remainder of the fiscal year I estimate at \$12,000,000. I would add, that upon the amount of trade-dollars manufactured the coinage charge collected amounted to \$160,585. The amount accruing prior to January 1 has been paid into the Treasury, and the remainder will be paid in at the close of the current quarter.

I have also to report that in order to continue operations at the mint of the United States at Denver, for the balance of the current fiscal year, it will be necessary to procure an appropriation of \$2,000 for wages of workmen.

The assay office at Boise City, Idaho, ceased operations on the 1st of February, the appropriation for wages and incidental expenses for the year being exhausted. I have to recommend that an appropriation of \$600 be procured for wages and incidental expenses at that office for the balance of this fiscal year, in order that the same may be reopened for business.

Very respectfully,

H. R. LINDERMAN, Director.

Hon. JOHN SHERMAN,

Secretary of the Treasury.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, after line 156, to insert:

Light-house establishment:

For repairs necessary for the safety and continuance of the fog-signal at Whale's Back light-station, entrance to Portsmouth Harbor, New Hampshire, \$15,000.

Mr. BLAINE. I submit letters on this amendment.

The letters are as follows:

TREASURY DEPARTMENT,
Washington, D. C., March 30, 1878.

SIR: I have the honor to inclose herewith, for the information of your committee, copy of a letter addressed to the honorable chairman of the House Committee on Appropriations, together with copy of a letter from the naval secretary of the Light-House Board, in regard to the necessity for an appropriation of \$15,000 for repairs at Whale's Back light-station, New Hampshire.

Very respectfully,

JOHN SHERMAN, Secretary.

Hon. WILLIAM WINDOM,

Chairman Committee on Appropriations,
United States Senate.

TREASURY DEPARTMENT,
Washington, D. C., March 30, 1878.

SIR: I have the honor to forward herewith, for the consideration of your committee, copy of a letter from J. G. Walker, naval secretary of the Light-House Board, in regard to the necessity for an appropriation of \$15,000 for repairs at Whale's Back light-station, New York.

It will be seen from the inclosed statement that the pier on which the light-house tower stands has been much injured by the severe storms of the past winter, and has become unsafe, and as the fog-signal in the tower is an important aid to navigation, it is absolutely necessary that immediate and extensive repairs should be made to the pier on which it stands.

Very respectfully,

JOHN SHERMAN, Secretary.

Hon. J. D. C. ATKINS,

Chairman Committee on Appropriations,
House of Representatives.

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, March 22, 1878

SIR: I have the honor to state that the fog-signal at Whale's Back, entrance to Portsmouth Harbor, New Hampshire, is placed in the old tower at the Whale's Back light-station.

This tower stands on a circular stone pier which has been so much injured by the sea during the severe storms of the past winter that it has become unsafe to such an extent that the keepers dare not venture into it during heavy weather.

This fog-signal is an important aid to navigation, and in order to maintain it in

its present position it is absolutely necessary that immediate and extensive repairs should be made to the pier.

It is therefore respectfully requested that Congress be asked to appropriate the sum of \$12,000 for making such repairs and renovations as are necessary for the safety and continuance of the fog-signal at the Whale's Back light-station, entrance to Portsmouth Harbor, New Hampshire.

Very respectfully,

J. G. WALKER,
Naval Secretary.

The honorable SECRETARY OF THE TREASURY.

The amendment was agreed to.

The reading of the bill was resumed till the following paragraph, from lines 174 to 177, was reached:

Internal revenue.—For salaries, expenses, and fees of storekeepers, agents, surveyors, gaugers, and miscellaneous expenses, \$40,000.

Mr. BECK. In regard to that item, there was a partial discussion of it in committee, the Senator from Maine will remember. The Commissioner of Internal Revenue insisted that he required \$150,000. The House had some doubt as to whether an item in another bill was not for the same thing. No very definite opinion having been arrived at, I would suggest as the House proposes to send over other deficiency bills and as the Commissioner has suggested that there is no immediate hurry for this particular item, this clause perhaps had better be stricken out of this bill.

Mr. ALLISON. No, I think not.

Mr. BECK. In order that it may be considered more fully by the House when another deficiency comes up there.

Mr. SARGENT. Will that be time? It is certainly a very necessary expenditure.

Mr. BLAINE. Either that should be done, or what I think is better would be to increase the amount of the appropriation. The Commissioner of Internal Revenue, when he finally met our committee, as the Senator from Kentucky will remember, wished this sum increased to \$150,000, which he thinks he absolutely requires. If we should do that it would be left to the consideration of the other branch, and finally to a conference. That would get the subject at all events on the way between the two Houses, and if there be any error, as the House thinks there may have been some little duplication of recommendations, and if the same sum has been included first in one bill and then in another, it can be corrected. The Commissioner of Internal Revenue, as the Senator from Kentucky will remember, was very closely interrogated upon that point in order that we might avoid making a duplicate appropriation for the same thing. He then explained to us that in order to thoroughly guard the interests of the revenue in the matter of the distilleries he needed for the pay of gaugers and other officers overlooking and supervising them at least \$150,000. I agree with the Senator from Kentucky that there is a little confusion between the two Houses and between the two bills, but I think the better way to remedy it for the efficiency of the service would be the way I suggest.

Mr. BECK. There is no real difficulty. The items were entirely distinct, the item in the other bill for \$40,000 being for the collectors and their assistants, and this item being for gaugers, storekeepers, surveyors, &c. There is a confusion of mind simply among members of the House in regard to it. I think perhaps it would be better to strike the clause from this bill and leave it until another deficiency bill comes up in the House, when the difficulty will be removed. Over this item the Commissioner of Internal Revenue has no control. He is required by law wherever a distillery is established to furnish a gauger and a storekeeper, and their salary is fixed by law. Therefore he is compelled to furnish those officers, for upon his failure to do so the distillery cannot be started and the Government gets no revenue. There is no doubt as to the importance of this item and no doubt of its being absolutely distinct from the other, the Commissioner having control over the other, and not over this. I thought perhaps some confusion might be avoided by striking it out, as we are assured that other deficiency bills are coming in.

Mr. DORSEY. I desire to make a suggestion to the Senator from Kentucky. I suggest that the word "agents," in line 176, be stricken out. That would give the conference committee control of the matter, and when the question comes up in conference, as the Senator very well understands, the conference committee will be able to arrange it as it may be thought best to do. I make that motion.

Mr. BECK. All I care about is that the matter may be kept open in some way.

Mr. ALLISON. Allow me to make a suggestion to my friends. I think the best way to secure jurisdiction on the question and have it thoroughly before the House would be to either increase or diminish this appropriation. I think the Commissioner of Internal Revenue very distinctly stated that he required more than this sum for this year. As has been truly stated by the Senator from Kentucky, these appropriations are wholly without his control. He has notice that a new distillery is to come into operation. A storekeeper must be provided under the law, a gauger must be provided, and a survey of the distillery must be made. These are expenditures that must go on with appropriations or without appropriations. Therefore I think the best way is to increase this appropriation, and I am sure no harm will be done thereby.

Mr. DORSEY. There is no question whatever that this appropriation has got to be made either upon this bill or upon the next deficiency bill. Upon that question I believe there is no difference between the Houses.

Mr. ALLISON. May I make a suggestion to the Senator? I suggest to him that instead of the amendment which he proposes he move to insert "one hundred" instead of "forty" before "thousand," so as to make the appropriation \$100,000.

Mr. BECK. That would do. That would bring the matter up between the two Houses.

Mr. ALLISON. I move that amendment. I move in line 177 to strike out "forty" and insert "one hundred," so as to read:

For salaries, expenses, and fees of storekeepers, agents, surveyors, gaugers, and miscellaneous expenses, \$100,000.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, after line 177, to insert:

For expenses incurred in obtaining abstracts and information of real estate acquired under internal-revenue laws, \$600.

The amendment was agreed to.

The next amendment was, after line 223, to insert:

To complete the work of adapting the ponds in the Monument lot in the city of Washington to the culture of carp for distribution throughout the United States, to be done by the engineer in charge of public buildings and grounds, according to the plans of the United States fish commission, \$2,300, or so much thereof as may be necessary, to be available immediately.

The amendment was agreed to.

The next amendment was, on line 241, to increase the appropriation "for fertilizers, materials, and labor on the Capitol grounds during the present fiscal year" from \$9,000 to \$20,000.

Mr. BLAINE. That is in pursuance of a unanimous vote of the Senate.

The amendment was agreed to.

The next amendment was, after line 280, to insert:

Subsistence:
That the sum of \$300,000, or so much thereof as may be necessary, is hereby appropriated, and may be applied by the Commissary-General of Subsistence, prior to the 1st day of July, 1878, to the purchase of subsistence supplies intended for the posts supplied through the Upper Missouri, and for other distant posts; which amount shall be deducted from the appropriations for subsistence of the Army for the next fiscal year. And this appropriation is hereby made available from the passage of this act.

Mr. BLAINE. That is the amendment to which I referred as constituting a little more than two-thirds of all the additions which the committee have recommended to the bill. The Commissary-General says:

I, however, respectfully request that an appropriation of \$300,000 on account of subsistence of the Army for the fiscal year commencing July 1, 1878, be made at as early a date as practicable, for the purchase of supplies required for remote posts, which can be more economically supplied in the early spring than after the 1st of July.

The amendment is solely in the interest of economy, and there is to be a deduction to that amount in the regular Army bill. I hope there will be no objection to it.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, after line 290, to insert:

To ascertain the depth of water and width of channel secured and maintained from time to time by James B. Eads, at the South Pass of the Mississippi River, and to enable the Secretary of War to report, during the construction of the work, the payments made from time to time, and the probable times of other payments, and to report during the construction of the work all important facts relating to the progress of the same, materials used, and the character and permanency with which the said jetties and auxiliary works are being constructed, \$7,500.

The amendment was agreed to.

The next amendment was, after line 301, to insert:

For printing and binding for the War Department, to be done at the Government Printing Office, being a deficiency for the fiscal year 1878, \$18,000.

Mr. ANTHONY. I ask the Senator in charge of the bill if he has not a letter from the Secretary of War on this point?

Mr. BLAINE. The Senator from Rhode Island asks me if there was not a letter from the Secretary of War before the committee. There was. I have it here. The Secretary of War asked that \$25,000 be appropriated. The committee went very carefully over all the estimates which were submitted by the Secretary from the various bureaus of the Department and came to the conclusion that \$18,000 would cover the probable necessities of the service from now until the end of the fiscal year. That was I think the general conclusion of the committee and I have no doubt that amount will be found to be sufficient. I think this will be found to be an adequate appropriation.

Mr. SARGENT. I suggest that the letter go into the RECORD.

Mr. ANTHONY. That is what I meant to suggest.

Mr. BLAINE. Yes, I will see that it goes in.

The PRESIDING OFFICER. The letter will go in.

The communications are as follows:

WAR DEPARTMENT,
Washington City, March 23, 1878.

SIR: In connection with my letter of the 18th instant to the President of the Senate, in regard to the printing and binding for this Department and asking an additional appropriation of \$25,000 for the current fiscal year and an appropriation of \$100,000 for the next fiscal year, I have the honor to inclose an abstract of reports received from the chiefs of bureaus in this Department, giving a partial estimate of work necessary to be done at the Government Printing Office during the remainder of the present fiscal year.

This partial estimate amounts to over \$18,000. Several of the bureaus make no estimate. Two thousand dollars will be needed by this office for printing and binding; so that the amount asked for in my letter of the 18th instant, above re-

ferred to, (\$25,000.) will not be more than enough to pay for work actually required during the remainder of the present fiscal year.

Very respectfully, your obedient servant,

GEO. W. MCCRARY,
Secretary of War.

Hon. H. B. ANTHONY,
Chairman Committee on Printing, United States Senate.

(From War Department.)

WASHINGTON, March 28, 1878.

To Hon. WILLIAM WINDOM, United States Senate:

The appropriation for public printing for this Department is exhausted. I have asked an additional appropriation of \$25,000 to carry the Department through the remainder of the present fiscal year. The public service will be much obstructed if this appropriation is not soon made.

GEO. W. MCCRARY,
Secretary of War.

Public Printer states that but \$12,604.51 of the \$72,000 allowed for War Department printing remains on hand February 13, 1878; that he has on his books unfinished work enough to exhaust this amount.

Judge-Advocate-General reports that it will not be necessary to make any more requisitions during this fiscal year.

Adjutant-General reports that blanks will be required during the fiscal year costing

Printing general and general court-martial orders, average from February 1 to June 30, for last six years, 33 court-martial orders and 57 general orders, costing \$32 for each edition: 90 editions, at \$32.....	2,880 00
Cost of indorsement-book	18 30

The following work is under way at Government Printing Office and considered not only necessary but essential: 10,000 Army Registers, (9,700 registers unbound,) \$2,025.85; 300 registers bound, \$532.90	2,558 75
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Also 2,000 statements clothing accounts for Second Auditor; 500 circular letters; 250 certificates for officers in lieu of discharge. (Amount unknown.)

Commissary-General reports that the cost of the last eight months for printing and binding for that office was \$2,838.46; that the amount for the next four months would be proportional to the amount required for the preceding eight months, i. e., \$1,400, being \$2,511.54 less than the amount, \$4,911.54, estimated, for all of which should be allowed, to enable this bureau to provide the books and blanks necessary for a proper performance of the duties of the Subsistence Department.

Paymaster-General reports that in addition to three requisitions not yet filled, that office will require for the current fiscal year, 20,000 of form 3, officers' pay accounts, and 5,000 of form 5, soldiers' final accounts. These blanks are indispensable.

Surgeon-General reports the following unfilled requisitions now in printer's hands:

100 lists of abbreviations of titles, &c.....	\$300 00
56 circulars, No. 10, binding of.....	84 00
3,000 lists of wounded	29 45
3,000 monthly reports of examination of recruits	45 00
500 volumes of medical works, binding of.....	1,200 00

The above work is all necessary for the use of the office. There are besides 4,000 volumes that should be bound for the library.

Quartermaster-General submits an estimate for printing and binding for that office for present fiscal year.

Chief Engineer submits deficiency estimate

and that \$1,000 on books of printer for estimate of unfinished work may be diverted from requisitions in hands of the printer for work that may be delayed and made available for work required at once.

Chief Signal Officer submits no specific estimate, but states that he never makes requisition for anything unless really needed, and the service will suffer from any delay of work now in progress.

Inspector-General reports that he does not require any printing or binding for this fiscal year.

Chief of Ordnance requests that \$1,000 be set aside from unfinished work for such as may be absolutely necessary at present.

18,950 28

Mr. SARGENT. Mr. President, examination showed that this amount was necessary for blanks to carry on the service. I am not entirely satisfied myself that the appropriation has not been made deficient partly by printing expensive books or something of that kind heretofore. I am not sure that that was not the case. I do not object to this appropriation being made, but it seems to me it is hardly just to Congress, after appropriating an amount for the printing of a Department, that a large portion of it should be used for the printing of expensive books and then finally for them to come in and plead for more money to print blanks which are necessary for the Department. I do not know but that it might be well to admonish the Departments that they should attend to the working business of the Department first and to printing books afterward.

Mr. BLAINE. There is nothing in this amendment about books. Mr. SARGENT. No, sir; nothing at all. This is simply for printing blanks, and therefore I do not object to it.

Mr. BLAINE. These blanks are very numerous and are of the form known among printers as rule-and-figure work, and the expense is greater probably on that account.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, after line 305, to insert:

To pay the current expenses of operating the Des Moines Rapids Canal on the Upper Mississippi River until July 1, 1878, \$7,500, or so much thereof as may be necessary, the same to be expended under the direction of the Secretary of War.

Mr. SARGENT. This is the first appropriation of the kind for this work, I think. The Senate will understand that it is an appropriation to pay the persons who work the locks, &c., of this canal, which is for the benefit of commerce. I assented to it in committee and I do not intend to vote against it, because, as I said the other day in discussing another bill where I thought a different rule was applied, I am in favor of extending facilities to commerce as being for the interest of the whole country, and not merely the interest of a

section. But I ask the Senator from Iowa [Mr. ALLISON] to explain whether my impressions in reference to this are correct; that is, whether the appropriation is for the working expenses of this canal, which by the original legislation was declared to be free and open to commerce.

Mr. ALLISON. As I understand it, that is the object of this appropriation, and it is an essential object. There are three of these locks. This is a very expensive and valuable work. All the commerce of the Upper Mississippi passes now through this canal; it is found to be of very great service to commerce. The original act appropriating money for this improvement provides that it shall forever remain free from tolls or other charges. Therefore, inasmuch as this work must be maintained and these locks must be opened, and opened by skillful hands, it is necessary that a small appropriation should be made from year to year for the purpose.

Mr. WHYTE. May I ask the Senator how has it been operated heretofore?

Mr. ALLISON. It has been operated chiefly on credit. The canal was opened I believe in August last year, but the work was not completed, and the engineer in charge and many of the men still working upon the canal were diverted to the purposes of operating it. But of course that was only temporarily. That lasted during the fall of last year. The canal I believe was opened about the 20th of August or probably the 1st of September. It was operated in that way from September until the close of the canal in December. Now the canal is again open and of course this work must go on. It is thought that this sum will be required to operate the canal until the 1st of July. I will say to my friend from Maryland that the Committee on Commerce in the other House have provided for it for next year, if I may be permitted to refer to that question. At least I will say that if he will examine the bill on our tables reported from the Committee on Commerce of the House he will find that there are \$40,000 appropriated in that bill for this purpose during the next fiscal year. Of course this commerce that passes through the canal cannot be taxed for this purpose. It is too small a sum ever to collect revenue for, and therefore the cheapest and best way for the Government is to operate the canal in the mode proposed by this amendment.

Mr. BLAINE. This amendment was pressed upon the committee from commercial interests on the Lower Mississippi, or at least from much below Iowa. It came from an interest which might be termed the Saint Louis interest, a large interest, interested in the free navigation of the Mississippi River.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, after line 337, in the appropriation for the Navy Department, to insert:

Marine Corps:
For provisions for the Marine Corps, being a deficiency for the fiscal year 1877, \$14,277.09.

Mr. BECK. Mr. President, this amendment ought to be adopted, but the Senate ought to understand when it is adopted what the facts are. We sent for Major Slack, the quartermaster of the Marine Corps, and he assured the committee that he had but \$75,000 given him for the current fiscal year, of which he had spent \$60,000, and that he had entered into written contracts with other persons for \$14,200, all of which were regular and the supplies were furnished. He ought to have had \$15,000 in addition to the \$60,000 he had already expended, but he found that by order of his superior, whether the former Secretary of the Navy or not I do not know, \$15,000 had been diverted in some other way, so that it could not be made available. While the deficiency does in fact exist, there were some irregularities somewhere which the committee were neither able nor inclined to investigate fully. Those matters are being looked into elsewhere. There is in fact a deficiency where there would have been no deficiency but for the misappropriation of this \$15,000. I thought it proper to let the Senate know the fact.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, after line 341, to insert:

To pay the expenses of observations of the solar eclipse of July, 1878, \$2,000; and this amount shall be available until the completion of the work.

The amendment was agreed to.

The next amendment was after line 346, to insert:

Post-Office Department:

To pay the New Brunswick and Canada Railroad Company for transporting the mails between boundary line, Saint Stephen's, and McAdam Junction, from November 1, 1871 to June 30, 1872, \$1,935.73; from July 1, 1872, to June 30, 1873, \$4,000; from July 1, 1873, to June 30, 1874, \$4,000; from July 1, 1874, to December 31, 1874, \$2,000; in all, \$11,935.73.

Mr. BLAINE. I desire to put in a letter from the Post-Office Department in regard to this item. It is for a railroad that lies entirely outside of the United States, and has some comity of nations involved in it as well as an actual and bona fide debt. I will have the Record print the letter from the Post-Office Department.

The PRESIDING OFFICER. The letter will be printed in the Record.

The letter is as follows:

POST-OFFICE DEPARTMENT,
OFFICE OF THE SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., April 1, 1878.

SIR: In reply to your verbal inquiry of this morning, I beg leave to state that after a thorough investigation of all the facts touching the transportation of mails by the New Brunswick and Canada Railroad Company, between the Boundary

Line (near Houlton, Maine) and McAdam Junction, and between Saint Stephen and McAdam Junction, the following synopsis of the facts was made: "The Department authorized the transportation of mails between McAdam Junction and Houlton from March 1, 1872, by letter of February 16, 1872. The transportation of mails was authorized between Calais and McAdam Junction from November 1, 1871, by letter of November 4, 1871. The letters of the Department referred to express that the service is to be paid for under the treaty of 1851, which provided that certain mails should be paid for one-half by this country and the other by the Canadian government. The provisions of the treaty in question have been decided not to have been applicable to this service. The Canadian government assumed the service under the present treaty on the 1st January, 1875, and writes under date of August 24, 1877, that no payment had been made for service prior to January 1, 1875. The then Postmaster-General, Hon. John A. J. Creswell, in a letter dated April 10, 1877, states that the service herein referred to was ordered by him. The company is therefore entitled to compensation for the service so rendered." And on the 13th September, 1877, the following order was issued: "Refer to the auditor to pay the New Brunswick and Canada Railroad Company for service between Boundary Line (near Houlton) and McAdam Junction from March 1, 1872, to December 31, 1874, at the rate of \$2,200 per annum, being \$50 per mile for forty-four miles. And also for service between Saint Stephen and McAdam Junction from November 1, 1871, to December 31, 1874, at the rate of \$1,800 per annum, being \$50 per mile for thirty-six miles."

The \$11,935.73 necessary to be appropriated for the New Brunswick and Canada Railroad Company, as reported in the statement accompanying the letter of the honorable Secretary of the Treasury, addressed to the Speaker of the House of Representatives under date of February 6, 1878, is required to meet this obligation.

Very respectfully, &c.,

Hon. JAMES G. BLAINE,
Senate United States.

THOS. J. BRADY,
Second Assistant Postmaster-General.

The amendment was agreed to.

The PRESIDING OFFICER. This completes the amendments reported from the Committee on Appropriations.

Mr. BLAINE. Under the head of "Senate," if the Secretary will turn to line 25, I ought to have moved an amendment to cover items for some small bills that are absolutely necessary to be paid, for which there is no appropriation. I move to insert after line 25:

Furniture and repairs, for the fiscal year, 1877, \$224.31.
Miscellaneous items for the fiscal year, 1877, \$45.

The amendment was agreed to.

Mr. ANTHONY. I offer the following amendment, which I gave notice of and had referred to the Committee on Appropriations, to come in after line 345:

To enable the Secretary of the Navy to print a set of watch and station bills at the Government Printing Office, \$350.

Mr. BLAINE. I quite agree with the chairman of the Committee on Printing that that ought to be inserted.

Mr. ANTHONY. I will send up a letter from the Secretary of the Navy.

The PRESIDING OFFICER. The letter will be printed in the RECORD unless it be desired to be read now.

The letter is as follows:

NAVY DEPARTMENT,
Washington, April 5, 1878.

Sir: Under instructions of the Department a set of watch and station bills adapted to all classes of vessels of the Navy have been prepared, and should be printed. The work has been long needed and will be of great benefit to the Navy, and should be published as soon as practicable, as the officer who has been engaged in its preparation, and should revise its publication, is liable to be ordered away at any moment. The appropriation for this Department for printing and binding, which was not sufficient, is so near exhausted that it will not bear the expense of printing the bills, which is estimated at \$350, and I have therefore the honor to suggest and recommend an appropriation of this sum for the purpose. Three hundred copies of the bills are considered necessary.

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. H. B. ANTHONY,
Chairman Committee on Printing, United States Senate.

The amendment was agreed to.

Mr. HOWE. I move the following amendment, to come in at the end of the bill.

To repay to the Smithsonian Institution expenses incurred in the transportation of public documents under the joint resolution approved July 25, 1868, \$1,751.

Mr. BECK. I should like to have some explanation of that.

Mr. HOWE. I send to the desk a letter from the Secretary of the Smithsonian Institution which will explain it.

The PRESIDING OFFICER. The letter will be read.

The Chief Clerk read as follows:

SMITHSONIAN INSTITUTION,
Washington, D. C., March 13, 1878.

Sir: I have the honor, in behalf of the Smithsonian Institution, to inform you that bills have been sent to the Librarian of the Congress Library amounting to \$1,751 for expenses incurred by the institution in transmitting the public documents of the United States known as international exchanges and receiving returns for the same, &c. As these documents have been distributed through the agency of the Smithsonian Institution, in accordance with the act of Congress approved July 25, 1868, (joint resolution,) and as the amount expended therefor has been taken from the interest on the Smithsonian fund for the operation of the institution, we beg leave to request that it be refunded at as early a day as is practicable, and to this end that you will cause the amount to be inserted in the deficiency appropriation bill.

I have the honor to be, very truly yours,

JOSEPH HENRY,
Secretary Smithsonian Institution.

CHAIRMAN of the Joint Committee on the Library.

Mr. SARGENT. I should like still to inquire what documents these are. Are they the ordinary public documents or are they documents printed by the Smithsonian Institution?

Mr. HOWE. Our documents, which under resolution 68 we print fifty copies of for the purpose of exchanging for like documents issued

by other governments. These exchanges are made through the Smithsonian Institution because by availing on selves of their services the work is done without additional cost of sea transportation.

Mr. SARGENT. Is the amendment reported from the Committee on the Library?

Mr. HOWE. Yes, sir.

The amendment was agreed to.

Mr. DORSEY. I offer the following amendment, to come in after line 120:

District of Columbia:

That the Secretary of the Treasury be authorized and directed to advance to the commissioners of the District of Columbia \$75,000 for the support of the public schools of the District, to be available immediately; and said commissioners shall refund the amount so advanced out of any revenues of the District for the current fiscal year not required for its actual expenses.

Mr. BECK. Will not a point of order apply to that? That is not a deficiency.

Mr. DORSEY. The matter was before the Committee on Appropriations and at my suggestion it was referred informally to the Committee on the District of Columbia. I have consulted every member of the Committee on the District and I believe it is their unanimous opinion that this appropriation ought to be made. If it is not made the schools will have to close within the next week or ten days. I am sorry to say that this District is always behind about one-quarter in its appropriations. They have to anticipate everything. The fund for maintaining the schools is now exhausted. Last year we advanced \$75,000 about this time, and that, of course, had to come out of the taxes raised afterward. They are now again \$75,000 short.

Mr. BECK. The objection I have to this item is that it is not a deficiency in any proper sense of the term. It may be a gratuity; it may be a moral obligation; it may be something that we ought to do; but a deficiency bill which the House thought to be of sufficient importance to send here immediately, even in advance of the ordinary deficiency bill, I do not think ought to be incumbered with it.

Mr. BLAINE. There is no doubt it is to supply a very great deficiency.

Mr. DORSEY. I think if the Senator from Kentucky will hear the letters I have he will withdraw his objection. I have a letter from the school board which I send to the Clerk to be read.

Mr. MORRILL. May I ask the Senator from Arkansas whether the \$75,000 loaned last year has not been repaid?

Mr. DORSEY. Certainly it has been.

Mr. MORRILL. And it is only proposed now to borrow this and have it repaid in the same manner?

Mr. DORSEY. That is it. It is simply an advance.

Mr. BLAINE. Will the chairman of the Committee on the District of Columbia tell the Senate whether, if the Government should put the District on its feet by making up this quarter—the Senator says they are about a quarter behind all the time—they could keep up even; how long would it be before they would be behind again?

Mr. DORSEY. I could answer that question probably if I had the disbursement of the money of the District, but unfortunately I have not control of its finances. The truth is that under the law of June, 1874, all the money of the District is kept in the Treasury of the United States; whenever any tax is collected or anything else is received, it is paid into the Treasury; when ever the District uses money it draws it out of the Treasury, and sometimes the account is largely overdrawn, and sometimes the District has a balance there. The fact is it is simply a bank account between the District and the General Government.

Mr. BLAINE. I have no doubt the Senator from Kentucky is entirely correct in saying that this has none of the features of a proper deficiency. It is a gratuity, or an accommodation, or a kindness at the hands of Congress, and on that ground I am very ready to vote for it.

Mr. SARGENT. It is a loan.

Mr. BLAINE. You may call it a loan; but the Senator from Kentucky is quite right in saying that it does not have a proper recognition as a deficiency except as the Senator from Massachusetts (Mr. Dawes) suggests to me it is a deficiency in the funds of the District of Columbia, not in the appropriations of Congress.

Mr. SAULSBURY. I will say to the Senator from Maine that I do not understand it as a gratuity even. But I want to know whether there is a necessity for it. So far as we have information here, we have no information as to the necessity for it except what a Senator states.

Mr. BLAINE. On that point there is no ground for doubt whatever that the schools are in urgent need; they are *in articulo mortis* just now, and they can hardly run a fortnight.

Mr. SAULSBURY. So far as I am concerned, if that condition of affairs has been brought about by the improvident action of those having control of the schools, I should not feel that there was any obligation on me to help take money out of the public Treasury to pay for their dereliction of duty. If they have expended extravagantly the money provided for that purpose, it is no reason that they should come here and ask that a deficiency be made good. I want information on that point.

Mr. DORSEY. I think I can give the information desired. Instead of the school board being extravagant in the expenditure of money this year, they have actually expended less money than they did last

year, while the increase of pupils has been over two thousand—I think upward of 10 or 11 per cent. There has been an actual decrease in the expenditures. I send to the desk a letter from the president of the school board; if the Clerk will be kind enough to read it it will give some information on this point.

The PRESIDING OFFICER. The letter will be read.

Mr. KERNAN. One moment: I desire to inquire how much they have expended for schools during the past year?

Mr. DORSEY. That question I cannot answer.

Mr. KERNAN. About how much?

Mr. DORSEY. By turning to the letter, I can answer.

Mr. SARGENT and others. Let the letter be read.

The Chief Clerk read as follows:

WASHINGTON, D. C., March 23, 1878.

GENTLEMEN: I desire to call your attention to the fact communicated in the report of the school trustees in November last, that the public schools must be closed in April, two months before the regular time, unless further means shall be provided for their support.

It will be remembered that no more money out of District revenues has been set apart for the support of the public schools this year than there was last year, and last year Congress appropriated \$75,000. A like amount will answer the purpose this year, notwithstanding the increased attendance (about two thousand) of the pupils; that is, the expenditures for the support of the public schools have not increased over the expenditures last year, while the number of pupils in attendance has increased about two thousand. This result has been brought about by the large reduction in salaries of teachers and in other expenses of the schools, made last August.

My object in this communication is to suggest that Congress should be asked to consider, at the present time, our request for \$75,000 to continue the schools the remainder of the current year, as otherwise they must soon be closed, which would be a great misfortune.

Very respectfully,

W. W. CURTIS,

President Board of Trustees of Public Schools District of Columbia.

Hon. COMMISSIONERS OF DISTRICT OF COLUMBIA.

Correct copy.

H. C. TILLMAN,

Clerk Commissioners District of Columbia.

MARCH 30, 1878.

Mr. SAULSBURY. Now I will inquire of the Senator who offered the amendment what specific amount of money was appropriated for the support of schools? I understand him to say that all the District taxes and appropriations are paid into the United States Treasury as a common fund. I want to inquire whether for the various purposes of this District everybody charged with any duty toward the District draws from that fund, or whether there is a specific amount appropriated to the school fund and other matters in reference to the District.

Mr. DORSEY. My understanding is that the District commissioners apportion the amount to be used by the school board for the purposes of schools. That amount, as it appears from their report, for the last year was \$335,000.

Mr. KERNAN. Does that include the \$75,000 additional?

Mr. DORSEY. That includes the \$75,000 which we appropriated last year, and which has been paid back. It does not include the \$75,000 now asked. The District commissioners in their annual report say, referring to the school board:

We commend also their recommendation for an appropriation by Congress of \$75,000 to enable them to continue the schools until the regular close of the school year. The amount which the commissioners can set apart for the use of the schools during the present year from the District treasury will, unaided by congressional appropriation, compel the closing of the schools not later than the 1st of May, about two months earlier than their regular closing period. Congress at its last session made an appropriation of \$75,000 for a like purpose.

The commissioners of the District have sent me the following communication:

OFFICE OF THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,

Washington, March 30, 1878.

SIR: I am instructed to send you the inclosed copy of a communication to the District Committee of the House, relating to an appropriation of \$75,000 to enable the public schools to continue open the current public school year, to which the commissioners will thank you to call the attention of your committee.

Very respectfully,

WILLIAM TINDALL, Secretary.

Hon. S. W. DORSEY,

Chairman Senate Committee on the District of Columbia.

OFFICE OF THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,

Washington, March 26, 1878.

DEAR SIR: We have the honor to call the attention of yourself and committee to the accompanying copy of a communication from the president of the board of trustees of public schools of the District, and renew the recommendation we made in our last annual report, for the appropriation of \$75,000 asked for in the said communication. It will be a great misfortune if the schools shall have to be closed before the end of the regular school year.

Very respectfully,

W. DENNISON,

S. L. PHELPS,

THOS. B. BRYAN,

Commissioners District of Columbia.

Hon. A. S. WILLIAMS,

Chairman Committee on the District of Columbia,

House of Representatives.

Mr. BECK. It appears to me that the facts developed make it very apparent that this is not in any proper sense a deficiency and that the commissioners of the District have so arranged the amount to be appropriated for the school fund as to make this \$75,000 again a donation or loan, and that it ought to come up as a separate measure and be submitted, after a thorough investigation of all the facts, to

the Senate as a proposition for them to consider; but it is not proper, in a bill which has been sent forward in advance of the regular deficiency bill by the House of Representatives, to propose to put this gratuity to the District school fund. It is a place where it ought not to be.

Mr. SARGENT. This proposition was before the Committee on Appropriations and was discussed at considerable length; but there being another committee, that on the District of Columbia, whose opinion we desired upon it, the chairman of the Committee on the District of Columbia, who is a member of the Committee on Appropriations, was requested to consult his committee about it; and he has done so, and we have the results.

I agree with the Senator from Kentucky that this is not a deficiency in the expenditures of the Government of the United States; but it stands upon a principle that I think is quite correct. The fact in reference to the schools of this District is that they are largely filled with the children of employes of the Government. The Government makes no appropriation whatever, unless it may be this loan which is repaid and which has been made occasionally and has been regularly repaid by the District out of the first revenues collected afterward. The Government makes no appropriation for the support of these schools; and yet those who might be considered transient residents fill up the schools and that accounts for the large amount of the increased attendance this year. It is a fact, I am told, that members of Congress send their children to these schools, send them freely, send them for months during the year. They are public schools; they are excellent schools under good discipline and are very efficient, and unquestionably there are, I may say, hundreds of members of Congress and persons connected with Congress, residing here only during the sessions, who send their children to these schools.

We are rather harsh, I think, to the District generally. The Thurman bill, introduced some years ago and passed by both Houses, followed out the suggestions of the report made by that able Senator, that Congress ought to appropriate a sum—I think the sum named was \$1,200,000—as its share of the ordinary expenses of the District, in consideration that it owns between 40 and 50 per cent. of all the property in the District. Congress, being convinced, did make that appropriation then, but the following year, the circumstances having passed by, the eloquence of the Senator being forgotten, and the motives of the committee which reported the bill being overlooked, the amount was cut down one-half, and finally disappeared from the regular appropriation bills. The result is now that, as to the fire department, we hardly pay a percentage of the amount of insurance we should have to pay for the security it gives to our property. We pay a little toward the Metropolitan police, I think one-half, which guards everything about the city. With the exception of a scattering dollar or two of that kind, we make no appropriation to help along the District. It seems to me that when they simply come in and ask us to make them the loan of this amount to begin the next fiscal year with, we shall not be doing any great hardship to the Treasury by granting the request, while by doing it we may likely avert what is a calamity in any community, the entire suspension of public schools during several months of the year; and that is especially the case in a city like this. For that reason I am willing, for one, to overlook the technical objection that this is not strictly a deficiency of the Government. There is no reason why we ought to limit our power of putting it on this bill if we are convinced for other reasons that it ought to go there.

Mr. WINDOM. I agree with the Senator from Kentucky and the Senator from California that this is not technically a deficiency, but there are several appropriations in the bill which are not deficiencies. For instance, the \$300,000 for supplies for the Army for the next year can be in no sense a deficiency, and yet nobody has objected to placing it on this bill upon that ground. I hope that the amendment proposed by the Senator from Arkansas may be adopted. I do not regard it as a gratuity. I believe, as the Senator from California has stated, that the large amount of property owned by this Government in this District does require that it should contribute to its expenses. I think the fairest estimate that can be made is that the Government ought to contribute 40 per cent.; it does not contribute anything like that sum.

Mr. SARGENT. Not five.

Mr. WINDOM. Not five. I do not see how we can justify ourselves in saying that we will own 40 per cent. of the property of the District, require everybody rich and poor to send his children to the common schools, and yet not contribute anything toward them. I am informed by the Senator from Arkansas that the \$70,000 appropriated last year was only a loan which was repaid by the District.

Mr. DORSEY. This is the same.

Mr. WINDOM. This is asked for merely as a loan. Now, Mr. President, in view of the fact that we own 40 per cent. of the property of the District, or 54 per cent., as I am corrected by the chairman of the Committee on the District of Columbia—in view of the fact that we own 54 per cent. of the property of this District and pay no taxes on it whatever, can we not afford to loan this District \$75,000 to prevent the closing of the schools two months before the end of this fiscal year? I hope there may be no vote against this proposition.

Mr. BECK. I have no idea of antagonizing the proper consideration of this measure when it properly comes up; I only antagonize it on this bill. While we do own a large amount of property in the District, perhaps 54 per cent., it is principally avenues and public parks,

property that is for the benefit of the District, and not for the benefit of the United States, kept up at Government expense, to ornament and add to the comfort of the people who reside here. When these things are all taken into account, when it is considered that the property we own and that it is said that we pay no taxes on is property that we are expending large amounts of money upon for the benefit of these very people, the injustice does not seem so glaring as is represented. But I do not desire to go into that, nor do I desire to put myself in a hostile attitude to doing something for the public schools; but I do insist when they come to ask a loan or a credit or anything else, it shall stand as an independent proposition and be considered as such, and not go in as a part of the necessary obligations of the Government, charged to the Government by the men who are managing this Government as a deficiency caused by improper or deficient appropriations made in years gone by. If it goes into this bill, it will so stand charged against us. I want it to stand as an independent proposition, and any resistance that I make to it should not be construed to appear as being antagonistic to the education of the children of the District. That suggestion I rise here to repel. Whenever it comes in a proper form and is put upon a proper basis, then I shall perhaps be found going as far as any other gentleman in doing what we ought to do in that direction.

Mr. DORSEY. I should like to have the Senator from Kentucky indicate what a proper form and what a proper basis is.

Mr. BECK. The proper form is to bring it as a bill from the proper committee asking us to make this loan. Is it a deficiency against this Government in any proper sense?

Mr. DORSEY. What is that question?

Mr. BECK. I ask the Senator from Arkansas if this \$75,000 is a deficiency against this Government in any proper sense? Is it anything we have failed to appropriate heretofore?

Mr. DORSEY. It is a great deal nearer a deficiency than nearly one-half the items in this bill, and this is the only item that that point has been made against. We just passed an item of \$300,000 that is not a deficiency at all, but belongs properly to the bill of this year. There was no point made by the Senator from Kentucky or by anybody else against that.

Mr. BECK. I made no point upon the advance of \$300,000 to the Commissary-General of the Army, why? Because it was made apparent to us that if he was enabled now to purchase the supplies for next year and transport them up the Missouri River to the far-distant posts of the Northwest we could save a very large amount of money. Provisions can be carried in the months of May and June up the Missouri River for less than half what they can be carried up in August and September for. We therefore allowed out of next year's appropriation, and to be charged against it, the Commissary-General of the Army to begin to make his purchases now and transport those supplies now while he can transport them cheaply, instead of waiting till August, when he will have to pay more than double what he has to pay now. Hence I made no objection to that. On the contrary, I advised it as a proper thing to do in the interest of economy and for the purpose of supplying the Army when it could be done cheaply and well. That is a very different proposition from this. That ought to be always the law in regard to all these distant points. We ought never to require a postponement of purchases and the postponement of transportation to the season of the year when it costs most, when we can by anticipation send supplies at a period when it costs us least.

Mr. WINDOM. And I will add one paragraph to the Senator's speech, if he will allow me, by saying that we ought never to postpone contributing our fair proportion to the education of the children of this District, because next year we cannot supply the two months we shall lose this year. They will never have these two months again.

Mr. BECK. The District commissioners out of their funds can supply it. If they had seen fit they could have made a larger appropriation for the support of the schools than they did out of the taxes collected; but they failed to make as large an appropriation of the taxes collected for the support of the schools as they otherwise might have done, hoping to put this pressure upon us in this form. I do not propose to have them put this pressure on us in this shape when they could have removed it by making a larger appropriation and can remove it now if they see fit.

Mr. ALLISON. Mr. President, I think this item comes as near a deficiency as most of the items in the bill, and I want to call the attention of my friend from Kentucky to the fact that all legislation with reference to this District is now in our hands. We levy all the taxes and make all the appropriations. It is true that there is a certain discretionary power in the three commissioners in the distribution of the revenues; but the tax assessment of last year was $1\frac{1}{2}$ per cent. on the property in the District, and the appropriations were, I do not remember what. But here is the government of a considerable city to be carried on, and certainly an important element in this government is the element of schools. The commissioners tell us that there is a deficiency in the amount necessary to carry on these schools amounting to \$75,000. If that be true, it seems to me there is an obligation resting upon us to make this appropriation in some form and at some time; and that time, as shown by the letter of the commissioners, is now, because if we postpone the time these schools must be closed and then the money will be useless. Although the amend-

ment may not be strictly within the rules of the Senate in reference to deficiency bills, I think I can safely say to my friend from Kentucky that this is the best time for us to make the appropriation if we intend making it at all. If we do not, the schools will be closed. If we mean that, let the children and their parents understand it.

Mr. BECK. What prevents the District Committee bringing a bill before the Senate and spreading before us the facts and securing the action of the Senate?

Mr. ALLISON. We have agreed to adjourn to Monday, I understand.

Mr. BECK. Why can they not do it on Monday, giving two days to the Senate to consider and learn the facts?

Mr. ALLISON. And in the mean time the schools may be closed.

Mr. BECK. Not before Monday.

Mr. DORSEY. I supposed the Senator from Kentucky understood that the whole financial control of affairs in this District, the raising of revenue, the assessment of taxes, everything that goes to make up the management of the District government, is solely and only in the hands of Congress. The District commissioners estimate to Congress for what money they want and what they want it for, just as does any Department of the Government of the United States. While it is true that up to this time there has been no detailed estimate made by them and none required by Congress, it is just as true that they make regular estimates of the sums needed. I believe that since the act of 1874 appropriations of this kind have been made at every session of Congress. Last year, if I recollect aright, there was no objection at all to the advance of \$75,000 being made, and on the collection of the taxes in July following it was returned to the United States. Now, this advance is required again in the same way, and it is just as necessary as it was two years ago and last year.

I call the attention of the Senator from Kentucky to the fact that the recommendation of the commissioners is dated November 1 in their report, and their letter is dated February 15 and the one to the House February 26, urging the importance of this appropriation. I hope there will be no further objection to it.

Mr. ANTHONY. I do not stop to inquire whether this be a technical deficiency or not. It is sufficient for me that, without this advance on the part of the Government, all the public schools must be suspended; and considering the large amount of property which the Government owns in this city and the small contribution which it makes toward the expense of carrying on the local government and that the law requires the public schools to be established and facilities for education furnished the children, I have no hesitation in voting for the amendment.

Mr. BECK. I ask for the yeas and nays on this amendment. I desire to say that, whatever property the Government has, very much of it is held for the benefit of the citizens here, and the Government has no children to go to school.

Mr. MERRIMON. I move that the last words be stricken out: "not required for its actual expenses."

Mr. DORSEY. The daily current expenses of the District government have to be paid.

Mr. MERRIMON. The language of the amendment would make this appropriation an actual gift. I am content that this loan should be made now. At another time I shall want to call the subject of public schools in this District to the attention not only of the District of Columbia but of the Senate. It is very important that something should be done about them. Although the schools are very efficient, very excellent, very desirable for children to go to, they are in such a confused condition that something must be done or the nation will be overrun on the subject of education in the District of Columbia, everybody will want to educate his children here. I am willing that this loan shall be made, but not in such a way as to make it an actual gift, and those words at the end of the amendment amount practically to donating \$75,000.

Mr. ALLISON. I trust the Senator from Arkansas will accept that amendment.

Mr. DORSEY. I have no objection.

The PRESIDING OFFICER. The amendment of the Senator from North Carolina is accepted by the Senator from Arkansas. The question is on the amendment as thus modified.

Mr. BECK. I ask for the yeas and nays.

Mr. BLAINE. The question is now on the amendment as amended by the suggestion of the Senator from North Carolina.

The PRESIDING OFFICER. It is.

Mr. BLAINE. I hope the Senator from Kentucky will not object to it in that form.

Mr. MERRIMON. It is now simply a loan.

Mr. BLAINE. Yes, I agree with the Senator from North Carolina in his amendment.

The PRESIDING OFFICER. The Senator from Kentucky calls for the yeas and nays.

The yeas and nays were ordered.

Mr. BAYARD. I understand that the amendment was not submitted to the committee and was not reported by the Committee on Appropriations.

Mr. DORSEY. The Senator from Delaware will allow me—

Mr. BAYARD. It was submitted but not reported; and while I think it should be decided upon its merits, there is nothing before the Senate to inform them of what those merits are. For that reason,

as a question of regularity alone, I think this amendment should not be agreed to.

Mr. BLAINE. If the Senator from Delaware will permit me a moment, I think I can satisfy him on that point. The amendment was before the Committee on Appropriations and was considered and was debated *pro* and *con*. It was then agreed that it should go to the Committee on the District of Columbia for further and fuller investigation; and it is the chairman of that committee, who is also a member of the Committee on Appropriations, who has moved it to-day; so that the Committee on Appropriations have not treated the subject laxly and it comes here certainly through a very regular channel.

Mr. BECK. I desire to say to the Senators in charge of the bill that while it was submitted to the Committee on Appropriations, the question whether we would consider it or not was not taken; but none of the facts making the propriety or impropriety of the appropriation were considered. It was regarded as a matter that did not belong to the Committee on Appropriations, and as such was sent from our committee to the Committee on the District of Columbia, the idea being that the Committee on the District of Columbia ought to bring in an independent proposition and submit it to us with all the facts bearing upon it, and let the Senate consider it fully, and not tack it on a deficiency bill as a thing which the Government was by law compelled to provide for.

Mr. KERNAN. As I shall vote against this amendment as it stands I want to say in a word why I shall. There is no law which makes it proper strictly for the Committee on Appropriations to appropriate this money. It appears that last year we made an appropriation for these schools. Now why are we to go on from year to year making a donation for them so that we cannot get along without doing it?

Mr. SARGENT. It was not a donation, but a loan which has been repaid.

Mr. KERNAN. I am against a loan.

Mr. HILL. I ask the Senator can you make a loan in an appropriation bill?

Mr. KERNAN. I am against doing it.

Mr. SARGENT. You can do it in such a bill just as well as in any other bill.

Mr. KERNAN. I am against making a loan, because these schools are permanent institutions. There should be a bill brought in and the money should be provided for before the beginning of the year, and then we should know what the proper authorities have to spend. That would be a proper way of administering it. If they can come in here, without any report, without any facts, without anything showing why they want a loan this year, as they did last year, where is our check? Let a report be brought in, let a law somewhat permanent be made. Nothing is so dangerous to the Treasury as getting up and putting on appropriation bills something not called for by law, getting it through and having a start, going the next year and doing the same thing. I hope we shall vote it down. Let the proper committee bring in a proper bill giving us the requisite information, and if there is to be more money raised for the schools, let it be done in a proper way.

Mr. WINDOM. I want to state a single fact in reply to the Senator from Kentucky. I think he misunderstood the action of the committee; certainly he or I did. He states that the Committee on Appropriations referred this matter to the chairman of the Committee on the District of Columbia, with the understanding that he should report a separate bill specifically for this purpose. That was not my understanding nor was it the understanding of the Senator in charge of the bill or of Senators near me; but the understanding was that it was referred to him because the Committee on the District of Columbia was supposed to be more conversant with the facts than we were, and that he should submit it to his committee, get their views about it, and report it as an amendment to this bill. I so understood it at least, and I think other members of the committee did.

Mr. BECK. It may have been the fact that he was to be allowed to report this amendment to this bill instead of a separate measure. I am not sure on that point; but at any rate the Committee on Appropriations declined to adopt it or report it themselves. Now, let me ask if there is a unanimous report of the Committee on the District of Columbia, or has this amendment been submitted to the Committee on the District of Columbia and have they directed the Senator from Arkansas as their chairman to report it now as an amendment to this bill?

Mr. DORSEY. Informally it has been submitted to them.

Mr. BECK. Informally!

Mr. DORSEY. Yes. I desire to correct what the Senator from Kentucky stated a few moments ago in respect to this amendment. It came before the Committee on Appropriations and I saw it there for the first time. My recollection is that a majority of that committee, and a very decided majority, were in favor of putting it on the appropriation bill by that committee; but at my request upon the statement which I made that the Committee on the District of Columbia had not heard of the necessity of the appropriation at all. I thought it was best it should go to that committee first, and at all events I should consult my colleagues on the District Committee and see if they agreed with me. It was agreed that I should do it. My recollection is that the Committee on Appropriations were very

staunch about it. I do not remember that even the Senator from Kentucky objected to its passage.

Mr. SAULSBURY. I shall be compelled to vote against this amendment of the Senator from Arkansas because I have not any proper information to justify it. We have a District government here under the charge of commissioners. A certain amount of money is annually appropriated by Congress to carry on the government and provide for public schools.

Mr. DORSEY. I should like the Senator to point out what money is appropriated by Congress to carry on the government of the District.

Mr. SAULSBURY. There are large appropriations annually made for the various purposes of this District. I do not know anything about the management of the funds which are appropriated by Congress as well as the amounts raised by taxation upon the District. I do not know how this money is distributed, how it is appropriated, or how it is expended by the commissioners; but we are blindly every year making appropriations without the proper information upon that subject. My idea is that we ought to have a report from the Committee on the District of Columbia in reference to these matters before we make appropriations—a report showing what amount of money is required to carry on the District government and how it has been annually expended, so that we can have proper information before we are called upon to vote money in this way. The educational interests of this District ought to be cared for, and there ought to be the proper amount of money expended in that direction; but we do not know to-day whether these commissioners are having that money properly expended or not, we have no report from a committee on the subject.

Mr. DORSEY. The Senator will allow me to say that the report of the commissioners of the District shows in detail the disposition of every dollar of money they have, the same as the report of any other department of this Government. Here is their report lying before me. It has been on our desks all winter.

Mr. SAULSBURY. That is the report of the commissioners; but I say we ought to have a report from a committee of this body. None of the committees of this body have given us that information. We ought to have the commissioners' report verified by some report of a committee of this body. That is what I am speaking of; I say that we are acting here without information from any committee of this body. We have information from the commissioners, I know, the men who have spent the money; but we have no report that I know of from the Committee on the District of Columbia or any other committee that has investigated the subject and that can tell us the money has been properly expended. That is what I want. I want some committee of this body to inform us, after an investigation of the subject, whether the money put into the possession of these commissioners has been properly spent or not. The Senator refers to the report of the gentlemen who have expended the money; but so far as I know we have no authorized committee of this body that has given us the information which we ought to have on this subject.

Mr. DORSEY. If the Senate of the United States will direct the Committee on the District of Columbia to investigate the manner and mode of spending money by the District commissioners, and will give us power to send for persons and papers and hire accountants, we may report next year on that specific thing, for I suppose it will take a year; but so far as I know the Committee on the District of Columbia has no such power.

Mr. SAULSBURY. But the Senator from Arkansas, who is the chairman of that committee, comes in here without that information himself and takes the statement of the gentlemen who have expended the money, and upon their statement asks for an appropriation of \$75,000. He ought to know and ought to inform this body that the committee has ascertained the facts, and that the appropriation is absolutely necessary and proper.

Mr. DORSEY. I have stated over and over again that the money asked for by these men in my belief is absolutely necessary to maintain these schools. I stated that to be the opinion of the Committee on the District of Columbia, every member of it. Now I should like to know, if we are not to take the statement of the commissioners who have charge of this matter, how are we going to ascertain anything about the subject? We take the estimates of the Secretary of the Treasury, the Secretary of the Interior, or any other public officer as to the necessities of his Department. We cannot go into the Treasury Department and see just what they need. We must take in these cases what the officers having charge of the subject estimate is needed to be done. They say they need these \$75,000 to maintain the schools to the end of the fiscal year. I think they do. The best investigation we can give to it shows that they do. We have so stated.

Mr. HARRIS. I simply desire to say that, from such investigation as the Committee on the District of Columbia has made, that committee is perfectly satisfied, I expect every member of it, I am sure I am, of the necessity of these \$75,000 to continue the public schools. I do not think there can be any question about that.

Mr. INGALLS. This amendment ought to pass; and there are two or three objections that have been urged against it which I want briefly to notice. One Senator objects to it because, as he says, it is a loan on the part of the United States Government toward the District. I deny it. The Government of the United States is under just exactly as much obligation to help keep up the schools of this District

as it is to run the Treasury or the War Department. We have under the Constitution exclusive jurisdiction over this District. Congress has the legislative power. We make the appropriations. Every single dollar that these men expend is expended under the direct authority of Congress. And to come in here and talk about a loan to the District commissioners is an absolute misnomer; it is a misuse of terms. We have instituted a form of government under which taxes are laid and collected.

Mr. KERNAN. Will the Senator allow me?

Mr. INGALLS. Certainly.

Mr. KERNAN. I did suppose at first it was a gift. When I said so I was corrected and told it was a loan last year and that this is a proposed loan.

Mr. INGALLS. It is no more a loan than it is a gift when we appropriate money for the Army.

Mr. KERNAN. The Senator from California set me right, and I said I did not propose to make loans.

Mr. INGALLS. We are under obligation, having assumed to exercise authority over this District, to see that the functions of civilization are carried out here, and education is one of them. It is no more a loan to the people of this District than it is a loan to the people of the United States to appropriate for the Army or the Navy, and the argument that is based against this amendment on the ground that it is a loan is entirely without foundation.

Again, another Senator objects that this is not properly a deficiency. Why was not that objection made to more than three-fourths of all the appropriations made in this bill? I have marked for the purpose of reference several items that I see incorporated, and it will be found upon investigation that of all the money appropriated in this bill more than three-fourths is in no sense whatever a deficiency; the items are original appropriations, or else they are advances made for the purpose of enabling the various Departments of this Government to exist until the close of the fiscal year.

Still another Senator objects because this amendment has not been reported by some appropriate committee. Why did not that Senator object that the appropriation made of \$300,000 for the War Department was not reported from the Military Committee? Why was it not objected that the appropriations for the Navy Department were not reported from the Naval Committee? It seems to be very essential whenever any appropriation is asked for the District that every conceivable obstacle should be thrown in the way of it. Gentlemen are able to vote for hundreds of thousands of dollars without making any objection at all, but the moment an appropriation is asked for the District of Columbia for carrying on the public schools every technicality is to be resorted to to defeat it. I am surprised that these objections should be made in the face of the character of the appropriations that are contained in this bill. No one who is familiar, as every member of the District Committee is, with the wants of the educational department of this District will deny that there is a great, pressing exigency confronting us, and it certainly makes no difference to Congress whether this appropriation of \$75,000 is made now or at a subsequent time if it is necessary, and there is exactly the same ground for believing it to be necessary that there is for believing in the necessity of every other appropriation that has been made in this bill.

Mr. BLAINE. I wish to make a practical suggestion to my friend from Kentucky. He suggests that we have a separate bill brought in here, and discuss it, and send it to the House. I believe that parliamentary propriety forbids that we shall speak of what has taken place in the House, but we are allowed to speculate on what may take place. You send a separate bill there and it goes to the Committee of the Whole on the state of the Union on a point of order, and that sends it to the foot of the Calendar. Do not let us delude ourselves with the idea that we can give this relief, if we intend to give it, in any other way than that proposed, because it would amount to nothing; the fiscal year will be ended and the schools closed, and any disaster that is to happen will be over and accomplished before we can possibly reach relief in the channel suggested by my friend from Kentucky. Do not let us delude ourselves with that idea.

Mr. MERRIMON. Mr. President, I should be the last man to appropriate, or loan, or advance, or anticipate a dollar without a necessity. It does appear to the Committee on the District of Columbia informally that unless this amendment shall prevail or an appropriation of \$75,000 shall be made, the public schools in this District will be closed on the 1st of May next for the current year. But this amendment is not an appropriation; it is not in a proper sense a loan; it simply anticipates \$75,000 of the appropriation that will be made to administer the government in the District of Columbia for the next year. That is all. It is the mere anticipation of \$75,000 of the money.

It is not out of place for me to say as one member of the Committee on the District of Columbia that, so far as I can see, there is no reason to question the integrity of the present commissioners or of those who have in charge the conduct of the public schools. I am very sure that if I saw anything squinting at it I should be among the first to condemn it. I have no reason to believe that any of the money appropriated for the administration of the government has been stolen or diverted to an illegitimate purpose. The money appropriated is not sufficient to administer the government until the end of the year, and one of the purposes for which \$75,000 is needed is

the one that has been indicated in connection with this amendment. The amendment, I repeat, is not an appropriation. It simply anticipates \$75,000 of the money that will be appropriated for the administration of the District government the next year, and therefore I shall vote for it.

Mr. BECK. As it seems I made the principal objection to this amendment, I desire to say again that in making the opposition that I do I am not going into the merits of the question at all, nor do I desire to be set down as a person objecting to aiding the District of Columbia in the education of its children; but I do insist, as the Senator from North Carolina very well said, that this is in no sense a debt owing by the Government, in no sense a deficiency which in this bill we ought to provide for. It is either a gift or a loan, and the Committee on the District of Columbia have failed to make any report to this body showing how the money heretofore appropriated for school purposes has been expended. The deficiency may exist; but it would exist equally as well if every dollar of the appropriation has been pocketed, as many million dollars have been pocketed heretofore in the management of this District as it exists now.

Mr. DORSEY. Allow me to ask the Senator a question.

Mr. BECK. Of course.

Mr. DORSEY. The Senator says that the Committee on the District of Columbia have failed to make a report to this body of how the money has been expended that has been appropriated heretofore. I should like to ask the Senator if the Committee on Military Affairs, the Committee on Finance, or the other committees of this body make a report to the Senate of how money appropriated for the different Departments of the Government has been expended?

Mr. BECK. I will answer that question. Whenever an appropriation bill comes up from the War Department, the Navy Department, the Treasury Department, the Interior Department, or any other Department of this Government, the Committees on Appropriations of the House and Senate send for the chiefs of the various bureaus, send for the men who expend the money, and require them to show what is the necessity for a deficiency, how the money was expended, and to state all the facts. If this had been a matter that came properly before the Committee on Appropriations of the Senate, the commissioners of the District would have been sent for, the amount of money they had paid to the teachers, the amount they had expended for this, that, and the other would have been inquired into and the Senate would have had intelligent information as to the necessity for this \$75,000. And will the Senator from Arkansas ask me how we know that a deficiency is proper in any of the Departments of the Government? I answer him by saying what he ought to know very well, that we invariably send for the Secretary of the Treasury or his assistants, for the Secretary of War or his assistants, for the Secretary of the Navy or of the Interior, or the Postmaster-General, and each member of every Department of the Government who knows anything, to tell us why this necessity exists, so that we can advise the Senate of the facts. When the District commissioners come properly before the Committees on Appropriations of the House and Senate, the members of these two committees will come very far short of their duty if they do not require the commissioners to tell why this deficiency exists so that they can intelligently advise the Senate and House why it should be provided for. It is because they have failed to do so, because the Committee on the District of Columbia have not the facts as to how the money was expended, that I object to the amendment.

It is said they have no power to send for persons and papers. When these commissioners come and say to that committee, "We desire you to give us \$75,000," it is the duty of the committee to say, "Why is this necessary? Give us the facts. How have you expended the money which has been already given you? How have you expended the money you have collected from the tax-payers?" and then come before the Senate and tell how the money that has been appropriated for the schools has already been expended; and until they do that they do not come before the Senate in a proper shape to demand either gifts or loans.

Mr. ROLLINS. The difference between the case the Senator states and this is that in this specific case the school board came before the Committee on the District of Columbia without having been summoned and stated very distinctly what their wants were, and satisfied the committee, every member of it, so far as I know, that the \$75,000 here asked for was absolutely necessary to conduct the public schools in this city; and, if I am correctly informed, they have not money sufficient even to continue the schools until the 1st of May.

Mr. BECK. Let me ask the Senator from New Hampshire, did these commissioners lay before the Committee on the District of Columbia all the facts relative to the expenditures they had made? Were they asked upon that subject? Was this question ever investigated by the committee so as to enable an intelligent report to be made by the Committee on the District of Columbia as to the facts bearing on it?

Mr. ROLLINS. The Committee on the District of Columbia devoted several hours at different meetings of the committee to a thorough investigation of this matter, as thorough as they could make in time, and were satisfied that this \$75,000 was needed. All were of the that opinion.

Mr. DORSEY. Mr. President, it is scarcely worth while for the Senator from Kentucky to inquire whether the Committee on the District of Columbia have investigated this matter as they should. If

they had not investigated it as they thought they ought, they would not have reported it to the Senate and asked the passage of the amendment. But I can inform the Senator from Kentucky that I have had occasion with him, on a committee of which we are members, to investigate a great many matters of this kind, and I venture to say that this one item of \$75,000 has been investigated more thoroughly than items of three or four millions that have passed the committee which he and I are on, that neither one of us know much about it except from what one or two men tell us.

Mr. BECK. The committee on which the Senator from Arkansas and myself serve, so far as I am concerned—I cannot speak for him and how much he knows—does not act upon any such matter until it is informed by the men who ought to be able to tell all about it, what the necessity is, and I doubt whether any Senator can rise in his place and ask some member of that Committee on Appropriations as to why these appropriations are made, without receiving a full and intelligent answer.

Mr. INGALLS. I should like the Senator from Kentucky, who is a member of the Committee on Appropriations, to tell me the particular necessity of the amendment on page 10 of this bill between lines 224 and 230.

Mr. BECK. I can answer that question.

Mr. INGALLS. The Senator from Kentucky has insisted that the Committee on the District of Columbia were not able to furnish sufficiently definite and authentic information in regard to this matter. Now I want to know from the Senator from Kentucky, as a member of the Committee on Appropriations, what was the particular necessity for the amendment on page 10, between the lines that I have named, and whether or not that is a deficiency or an original appropriation.

Mr. BECK. Will the Senator be kind enough to read what it is?

Mr. INGALLS. The Senator can read, I suppose.

Mr. BECK. But I do not want to read all of page 10.

Mr. INGALLS. Between lines 224 and 230.

Mr. BLAINE. I will say, before the Senator from Kentucky goes into that, that the Senator from Kansas has struck the Senator from Kentucky on the particular part of the bill which he is entirely posted on. [Laughter.]

Mr. BECK. Will the Clerk be kind enough to read a letter that I send to the desk?

Mr. INGALLS. I do not want to hear any letters read.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. BECK. I have the floor and I will proceed in my own way.

Mr. INGALLS. The Senator from Kentucky is not answering what I asked him. He now asks to have a letter read.

Mr. BLAINE. I have the documents on the question referred to, but I do not want to let them loose to detain the Senate; but I desire to say to the Senator from Kansas and to the whole Senate that the Senator from Kentucky enlightened the committee on it to the minutest minnow that will ever go into that pond. [Laughter.]

Mr. INGALLS. I think that statement is very fishy, but I shall not carp at it. [Laughter.]

Mr. BECK. I do not care to be catechised; I want the Clerk to be kind enough to read the recommendation of Colonel Casey, of the Engineer Corps, on this subject.

The PRESIDING OFFICER. The Clerk will read the communication called for.

The Chief Clerk commenced to read a letter from Colonel T. L. Casey.

Mr. CHAFFEE. I rise to a point of order.

Mr. BECK. I do not yield the floor.

Mr. CHAFFEE. I rise to a point of order; that is not the question before the Senate.

The PRESIDING OFFICER. The Senator from Kentucky has the floor, and the Senator from Colorado rises to a point of order which is overruled. The Senator can appeal if he chooses.

Mr. BECK. The Clerk need not read the communication; but I will answer the Senator from Kansas. I think I can give an intelligent answer as to that part of the bill. The amendment to which he calls attention is:

To complete the work of adapting the ponds in the Monument lot, in the city of Washington, to the culture of carp for distribution throughout the United States, to be done by the engineer in charge of public buildings and grounds, according to the plans of the United States fish commission, \$2,200, or so much thereof as may be necessary, to be available immediately.

The United States appointed a fish commission years ago; they have been stocking the waters of the country everywhere with fish, as every Senator knows. As a part of their duty they sent a ship over to Germany, a United States ship, and they laid in a supply of carp of the most approved species to be placed everywhere in every pond in the United States, hot and cold, for raising food-fishes. They have placed them at Druid Hill Park, Baltimore, and they are there in great numbers. Last fall an appropriation of \$5,000 was made to adapt some useless ponds in what is known as the Babcock lot, under the charge of Professor Baird and Colonel Casey, so as to cultivate and raise that fish so that they could distribute it all over the United States. The items making up this \$2,200 were carefully considered by this colonel of engineers and are necessary to finish the work so

as to make a complete establishment for that purpose, and therefore it was inserted. The more that is investigated the better satisfied every Senator will be that it is a proper thing to do. It can be done now for a very small amount of money, because the pond is drained dry and the bottom all put in shape for the purpose of doing what is necessary, and all that is required is for the Senator from Kansas to go and see it and he will be more enthusiastic for it than perhaps any member of the Committee on Appropriations.

Mr. INGALLS. It appears by the statement of the Senator from Kentucky that this is not a deficiency, that it is an original appropriation, and that he is entirely willing to spend thousands of dollars to cultivate fish, but not to expend money to educate the young of this District.

Mr. BECK. That is extremely smart. No doubt it was so intended to be; and I thank very much the member of the Committee on Appropriations, whoever he was, for informing the Senator from Kansas that this was the only thing in the bill that was perhaps suggested by myself after I and other members of the committee had made a careful investigation of the whole subject, personally examined each item of it, seen the officer of engineers, and seen Professor Baird, and consulted with them.

Mr. INGALLS. And seen the fish.

Mr. BECK. Not every fish, but examined every fact.

The question being taken by yeas and nays on the amendment of Mr. DORSEY, resulted—yeas 29, nays 22; as follows:

YEAS—29.

Allison,	Chaffee,	McDonald,	Sargent,
Anthony,	Conover,	McMillan,	Saunders,
Barnum,	Dawes,	Matthews,	Teller,
Blaine,	Dorsey,	Merrimon,	Wadleigh,
Booth,	Ferry,	Morrill,	Windom.
Burnside,	Harris,	Paterson,	
Cameron of Pa.,	Howe,	Ransom,	
Cameron of Wis.,	Ingalls,	Rollins,	

NAYS—22.

Armstrong,	Eaton,	Johnston,	Morgan,
Bailey,	Garland,	Kernan,	Saulsbury,
Bayard,	Gordon,	Lamar,	Voorhees,
Beck,	Grover,	McCreery,	Whyte.
Cockrell,	Hereford,	McPherson,	
Coke,	Hill,	Maxey,	

ABSENT—25.

Bruce,	Edmunds,	Kirkwood,	Spencer,
Butler,	Eustis,	Mitchell,	Thurnan,
Christianity,	Hamlin,	Oglesby,	Wallace,
Conkling,	Hoar,	Paddock,	Withers.
Davis of Illinois,	Jones of Florida,	Plumb,	
Davis of W. Va.,	Jones of Nevada,	Randolph,	
Dennis,	Kellogg,	Sharon,	

So the amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendments made as in Committee of the Whole were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

APPROPRIATIONS FOR DETECTING TRESPASSES, ETC.

Mr. WINDOM submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making appropriations for detecting trespass on public lands, and for bringing into market public lands in certain States, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from its disagreement to the amendments numbered 1 and 4.

And that the House recede from its disagreement to the amendment numbered 2 and agree to the same with an amendment as follows: in lieu of "twenty thousand" insert "six thousand five hundred;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 3, and agree to the same with an amendment as follows: in lieu of the sum proposed insert "one thousand dollars;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered five, and agree to the same with an amendment as follows: in lieu of "fifteen thousand," in lines 4 and 5 of said amendment, insert "seven thousand five hundred," and in lieu of "five thousand," in line 7, insert "seven thousand five hundred;" and the Senate agree to the same.

That the committee are unable to agree upon amendments numbered 7 and 8.

WM. WINDOM,
S. W. DORSEY,
JAS. B. BECK,
Managers on the part of the Senate.
M. J. DURHAM,
JAMES H. BLOUNT,
J. H. BAKER,
Managers on the part of the House.

Mr. WINDOM. I ask the attention of the Senate for one moment that I may state precisely the attitude of the two Houses as represented by their committees on this subject. I will mention the items that are agreed to and the two about which we disagreed.

The House appropriated \$6,500 for the employment of temporary clerks in the Treasury Department during the balance of the fiscal year, and limited the compensation to \$2 per day. The Senate amended by appropriating \$20,000 for that purpose and striking out the limitation as to \$2 per day. The recommendation of the conference is that

the House recede from its limitation as to the price per day, and that the Senate agree to the amount appropriated by the House, \$6,500.

The third amendment was for the "care and subsistence of horses for office and mail wagons, including feeding and shoeing, and for wagons, harness, and repairs of the same, being a deficiency for the fiscal year ending June 30, 1878, \$2,000," for the Treasury Department. The conference committee recommends that the sum be made \$1,000.

The fourth amendment of the Senate appropriates \$2,500, being a deficiency for gas, drop-lights, &c. From that disagreeing vote the House recede, so that we agree upon that also.

Another question which was very much discussed, as the Senate will remember, was with reference to the amount for the investigation of trespasses on public lands. The original proposition of the House was "for diagrams, furniture, repairs," and several other items mentioned, including "the actual expenses of clerks detailed to investigate fraudulent land entries," \$20,000. The Senate will remember that after a very long discussion it was compromised here by \$15,000 being appropriated for all the other purposes and \$5,000 for the investigation of trespasses. The committee of conference recommended a change of these sums as follows: \$7,500 for all other purposes and \$7,500 for investigation of trespasses, making a total of \$15,000, instead of \$20,000, as the bill passed the House.

The two propositions upon which we disagree are the following:

Amendment No. 7:

For salaries and expenses of collectors of internal revenue, being a deficiency for the fiscal year ending June 30, 1878, \$40,000.

The eighth amendment:

For railway mail agents and postal clerks, \$30,000.

With reference to "railway mail agents and postal clerks," the committee representing the Senate proposed in the spirit of compromise to meet the House half way and agree to \$10,000 instead of \$20,000, but the proposition was rejected. The Senate committee did not feel at liberty to yield any further on this proposition, for the reason that the Committee on Appropriations was voted down by the Senate (34 to 19) when the proposition was on its passage. We did not feel at liberty to go into the conference and give up the entire amount. The Committee on Appropriations, I believe, unanimously voted against this proposition when it was offered in the Senate, not because they were opposed to the appropriation, but because it had not been submitted to the committee, as required by the rules. But after the Senate, by a vote of 34 to 19, appropriated \$20,000 for the purpose upon the statements made by various Senators on the floor of the absolute necessity for this increase of mail service, the committee representing the Senate have carefully investigated the subject, and are thoroughly convinced that the sum named, or at least a portion of it, should be appropriated.

I have before me a letter from the Postmaster-General, which is very brief, stating that the necessity set forth in a former communication for this appropriation still exists, "and it is actually necessary that some provision be made for the service on new railroad and steamboat routes that are being constantly established. There are a number of routes at present upon which service should be placed." And here follows a detailed statement of the sums appropriated heretofore for this service and of the necessity for the proposed appropriation. Upon that statement, and other facts brought to their notice, your committee believe the appropriation is an absolute necessity and that the service will seriously suffer if some provision be not made. I will ask leave without reading this statement in full to have it printed in the RECORD.

The PRESIDING OFFICER. If there be no objection, it will be so ordered.

The document is as follows:

POST-OFFICE DEPARTMENT,
Washington, D. C., March 23, 1878.

SIR: In answer to your inquiry, I would say that a letter accompanied by statement of the general superintendent of railway mail service was transmitted to the chairman of House Committee on Appropriations.

The necessity set forth in this still exists, and it is actually necessary that some provision be made for the service on new railroad and steamboat routes that are being constantly established. There are a number of routes at present upon which service should be placed.

Very respectfully,

D. M. KEY,
Postmaster-General.

Hon. P. B. PLUMB,
United States Senate.

POST-OFFICE DEPARTMENT,
Washington, D. C., February 28, 1878.

SIR: I have the honor to transmit herewith a statement made by the general superintendent of railway mail service regarding the standing and necessities of the postal service on railroad and steamboat routes.

In order that the necessary force for the distribution of the mails may be placed on these routes some additional appropriation is necessary. I would therefore recommend that there be transferred from the appropriation for star service (which is ample) the sum of \$30,000 for the payment of employees for the distribution of the mails on railroad and steamboat routes.

Very respectfully,

D. M. KEY,
Postmaster-General.

Hon. JOHN D. C. ATKINS,
Chairman Committee on Appropriations.

SIR: The Postmaster-General recommended in his annual report for 1876 that the appropriation for the year ending June 30, 1878, for employees in this service should be as follows:

Railway post-office clerks.....	\$1,255,440 00
Route agents.....	1,071,000 00
Mail-route messengers.....	161,175 00
Local agents.....	114,450 00

This was based on the salaries prevailing prior to July, 1876.

The appropriation made by Congress was as follows:

Railway post-office clerks.....	1,225,000 00
Less than the estimate.....	130,000 00
Route agents.....	1,000,000 00
Less than the estimate.....	71,000 00
Mail-route messengers.....	150,000 00
Less than the estimate.....	11,175 00
Local agents.....	110,000 00
Less than the estimate.....	4,450 00

During the year ending June 30, 1877, there was expended for this class of service the following amounts:

Railway post-office clerks.....	\$1,223,509 41
Appropriation for same period.....	1,223,000 00
Surplus to be turned into the Treasury July 1, 1877.....	1,430 59
Route agents.....	959,600 88
Appropriation for same period.....	972,500 00
Surplus to be turned into Treasury July 1, 1877.....	12,839 14
Mail-route messengers.....	147,508 61
Appropriation for same period.....	5,901 39
Surplus to be turned into Treasury July 1, 1877.....	105,714 70
Local agents.....	109,000 00
Appropriation for same period.....	4,282 30
Surplus to be turned into Treasury July 1, 1877.....	

The appropriation for the year ending June, 1878, over those for the year ending June, 1877, are as follows:

	Appropriation for 1877.	Appropriation for 1878.	Increase.	Decrease.
Railway post-office clerks.....	\$1,225,000	\$1,225,000		
Route agents.....	972,500	1,000,000	\$27,500	
Mail-route messengers.....	153,500	150,000		\$3,500
Local agents.....	109,000	110,000	1,000	

The expenses for the year ending June, 1877, were affected by the discontinuance of the railway postal service on the different trunk-lines between New York, Buffalo, and Chicago, and New York, Pittsburgh, Saint Louis, and Cincinnati. When the postal cars were withdrawn it was possible to reduce, and the force was reduced very largely. This state of affairs existed until December of the same year, when the Department succeeded in obtaining from the line from New York, via Pittsburgh, to Saint Louis and Cincinnati, the restoration of the postal facilities in part, which was gradually improved until July 1, 1877. The service over those lines was far superior to anything the Department had ever obtained from that company.

Of course the increased facilities demanded an increase of the force.

Since December, 1877, additional service was also placed on the trunk-lines connecting the different sections of the country, all calling for increase of force to handle the mails.

Prior to June 30, 1877, it was necessary to reduce the force, which was done by not filling vacancies as they occurred, so that on June 30 and October 1, 1877, the service stood as follows:

Statement of amount necessary to pay the force in the service as it stood June 30 and October 1, 1877.

	June 30, 1877.	October 1, 1877
Railway post-office clerks.....	\$1,228,600	\$1,223,000
Route agents.....	982,541	1,000,150
Mail-route messengers.....	162,006	150,452
Local agents.....	105,530	110,000

The increase in the amount necessary to pay those in the service October 1 is due to the fact that after the commencement of the present fiscal year the vacancies which had been left unfilled prior to June 30, or a portion of them, were filled, as it was absolutely necessary for the proper performance of the service that they should be. But in no case has a vacancy been filled where under any circumstances, the service of the agent could be dispensed with.

Each superintendent of a division has been called upon for a statement as to the possible reduction. It is impossible to increase the service now without increasing the force.

The balance turned into the Treasury on the 1st of July was as follows:

Railway post-office clerks.....	\$1,430 59
Route agents.....	12,839 14
Mail-route messengers.....	5,901 39
Local agents.....	4,282 30

Total.....24,453 42

Very few promotions have been made for the past six months, owing to deficient appropriations. Those who are acting in superior positions are becoming discouraged at having to do a class of work for which they do not receive pay, and, not fully understanding the reasons, give vent to their opinions in a way which at times leads to demoralization in the service.

There are about forty names for promotion which should be acted upon, and will be as soon as the appropriation will admit of the same.

This involves an average expenditure of \$150 each, or \$6,000.

Appropriations should be made, therefore, as follows:

20 railway post-office clerks, at \$1,000.....	\$20,000
10 route agents, at \$50.....	5,000
40 mail-route messengers, at \$700.....	28,000
5 local agents, at \$1,000.....	5,000
40 promotions, at \$150.....	6,000
Total.....	68,000

As one-half of the year is passed, the appropriation need be but one-half of the above amount, or \$34,250.

If the appropriation should be made in bulk, to be applied at the discretion of the Postmaster-General, a considerably less sum would answer the purpose.

It is impossible to state in advance the exact demands of the service; as these divisions are merely technical, no advantage is gained by keeping them. If the appropriation was made in bulk, \$30,000 would probably be sufficient. Of this, \$16,000 has already been appropriated.

That, however, was just about sufficient to make up the amount paid out during the previous quarters, in excess of the *pro rata* share for those quarters, and avoided the necessity of reducing the force, so that the payments would come within the appropriation.

Very respectfully,

General Superintendent.

To Hon. D. M. KEY,
Postmaster-General.

Mr. WINDOM. Let me add one other word to show that there is no extravagance in this matter, and that it is not true, as has been stated, that this service has been unduly increased. I read from a recent report on the "railway mail service":

The service annually performed by railway post-office clerks has increased 11.10 per cent. The annual expenditure has decreased .01 per cent.

The service annually performed by route agents and mail-route messengers has increased 13.85 per cent. The expenditure for route agents and mail-route messengers has increased 2.01 per cent., and 3.02 per cent., respectively.

The increase in annual mileage service performed does not indicate fully the increased work performed by the employees of the railway mail service.

As it is well known the railway post-office service is of comparatively recent origin. The work formerly performed in post-offices at distributing centers has been gradually assumed by the railway post-office lines as the system has been perfected until now no distribution is made at any post-office except for the lines immediately centering at that post-office. The balance of the mail is massed on some line of railway post-office which directly connects the section for which the mail is destined and distributed while in transit.

It will be observed from these portions of the report that the service has increased very much more rapidly than the appropriations to supply it with mail agents, postal clerks, &c. Several thousand miles have been added to the railway service, but no considerable addition made to the appropriations for supplying them with route agents and railway clerks. I think it is the testimony of Senators from all the new States that the service is now seriously suffering for want of some additional appropriation for this service. The Postmaster-General informs us that he cannot supply it. I am told by several Senators that the mails are not properly taken care of in their States because of this want of appropriation, and therefore the conferees on the part of the Senate, believing it to be an absolute necessity, have declined to strike out the amendment proposed by the Senate.*

The other disagreeing vote is upon the following amendment:

For salaries and expenses of collectors of internal revenue, being a deficiency for the fiscal year ending June 30, 1878, \$40,000.

The amount appropriated last year for that purpose was some \$40,000 less than the computations and estimates showed would be necessary for the payment of this service. It is now ascertained that it is absolutely necessary. The first conference committee agreed to strike out this item because another bill was then pending before the Committee on Appropriations, (the bill which has been passed by the Senate to-day,) in which this provision could be inserted if it was ascertained that we had improperly stricken it out. The question came up in this way: the bill passed by the Senate to-day contained an appropriation of \$40,000 for gaugers and others, in the following words:

For salaries, expenses, and fees of storekeepers, agents, surveyors, gaugers, and miscellaneous expenses, \$40,000.

The Senate has to-day increased this appropriation to \$100,000, and I will say that before the end of the year when some one of the numerous deficiency bills comes before us—for deficiency bills at this session are very much like the poor, we have them always with us—we shall doubtless be compelled to add \$50,000 more for this purpose. The conferees on the part of the House insisted that this appropriation for salaries and expenses of collectors of internal revenue was the same appropriation that was contained in the other bill for salaries, expenses, fees, &c., of storekeepers and gaugers. The Committee on Appropriations understood perfectly well, and so did the conferees on the part of the Senate, that they were just as distinct propositions as any contained in the bill. They have always been kept distinct. The deficiency is in each of these items. In order to be prepared with the statements to satisfy the Senate on that point they called before them the Commissioner of Internal Revenue. He has stated, as we knew he would, that they were entirely different propositions, and that a deficiency existed in both cases. I also addressed a telegram to the Commissioner of Internal Revenue yesterday, asking information with reference to the necessity for the passage of this appropriation of \$40,000. I will ask the Clerk to read his reply.

The Chief Clerk read as follows:

[From Treasury Department.]

UNITED STATES SENATE,
Washington, D. C., April 10, 1878.

To Hon. WILLIAM WINDOM,
United States Senate:

In reply to your dispatch asking information as to the necessity of an appropriation of \$40,000 for collectors, &c., I have to say that the present appropriation is

virtually exhausted, no more of it being available for the employment of deputy collectors for the enforcement of the laws against those engaged in the illicit manufacture of spirits and tobacco. The necessity for increasing the regular force for the purpose named is urgent and pressing, and in my opinion the revenues will be protected more than twenty-fold for the outlay.

Very respectfully,

GREEN B. RAUM, Commissioner.

Mr. WINDOM. If the appropriation is not made, I presume there will be no deficiency hereafter to provide for, as the officers will be dismissed, and the revenues will lose, as the Commissioner informs us, twenty-fold more than the appropriation required to protect them.

I think I shall not weary the Senate with any further statement on this point. I move that the Senate agree to the report of the conference committee and further insist upon its disagreeing votes as to the seventh and eighth amendments of the Senate.

Mr. BECK. I was a member of each of these conference committees, and I would like to say a word in addition to what has been said by the chairman of the Committee on Appropriations. When we first met with the House conferees, we agreed on all the points of difference except to striking out the \$20,000 for the postal service, and we offered to reduce that from \$20,000 to \$10,000. The Senate will remember that that was an amendment inserted in the Senate on the motion of the Senator from Kansas [Mr. PLUMB] against the wishes of the Committee on Appropriations by a vote of 34 to 19 on a call of the yeas and nays. I believe each member of the Committee on Appropriations objected to its being added to the bill in that form until we had an opportunity to examine it. But having been so inserted by such a vote, the conferees on the part of the Senate did not feel at liberty to give way or do more than to offer the compromise of one-half and call it \$10,000. That the House conferees refused to agree to, and on that the first conference broke up. At that time, as stated by the chairman of the committee, the House conferees believing there was a mistake in the recommendations of the Commissioner of Internal Revenue as to the \$40,000 for collectors and the \$150,000 asked by him for the payment of storekeepers, gaugers, and others, and having inserted \$40,000 for gaugers, storekeepers, and others, in another bill, which was the bill acted on in the Senate to-day, we conceded that there might be a mistake, knowing that if there was any we could correct in the other bill. Therefore we gave way upon that item at that time, knowing that we might correct it if it turned out that we were right as we had no doubt we were. By the time the second conference was ordered, the bill containing the appropriation of \$40,000 for gaugers and others for which \$150,000 was asked by the Commissioner had passed beyond our jurisdiction as a committee and we had no further power to insert the item of \$40,000 for collectors in the other bill, so when the second conference met, we assured the conferees on the part of the House that they were mistaken in supposing that those two items were the same or for purposes at all alike. We read them a communication from the Commissioner of Internal Revenue; we read them a telegram from him. We had him before us, a full explanation of it all, and he assured us and satisfied us that the items were separate and distinct in their character, because, as to the \$40,000 for collectors and their assistants, which he said was an absolute necessity and must be given now, that was under his control and part of the administration of his office, whereas the amount demanded, \$150,000 for gaugers, storekeepers, and others, were things over which he had no control. They had always been estimated for separately, had always been appropriated for separately, in short were totally independent things, the gaugers, storekeepers, and others being provided for by law and he being required to place one in each distillery when it was opened, and he could not of course tell in advance how many distilleries would be opened. Whenever a man applied for one, he had to make an appointment of a gauger and a storekeeper, and the law regulated the rate of compensation and the number that must be allowed. He asked for the increase of appropriation to make it certain that he would be ready under the law to furnish storekeepers, gaugers, and others, as required. He asked for the amount of \$150,000 more than had been appropriated. Congress in its wisdom saw fit to give \$200,000 less than he estimated for.

Mr. SARGENT. How does it affect the revenue to have these storekeepers?

Mr. BECK. It affects the revenue thus, that if he sees fit to say, "I have no money to pay storekeepers and gaugers," the distillery cannot be opened, the spirits cannot be distilled, the business cannot be conducted, and the Government gets no revenue. That is the whole of that. If, however, he says to those gentlemen, "I have no money to pay you, but if you will trust the Government and go to work the law fixes your pay," then it is a valid claim against the Government which can be brought up in the Court of Claims, I suppose, or anywhere else—the Commissioner has the power under the law to appoint them even if we make no provision for their pay. But that is a very improper thing to do; and all that is left for us to do is to give such a sum as when the distilleries are opened will enable the Commissioner to employ the services of the officers whom the law requires shall be employed, so that spirits may be produced and the revenue may continue to come in.

As to both these items the Commissioner of Internal Revenue furnishes a statement in his report for this year at page 40. He says: The allowances for the current fiscal year on account of salaries of collectors, &c.,

have been made with a view of not creating a deficiency. The appropriation, however, is inadequate for a proper enforcement of the internal-revenue laws. I therefore recommend a deficiency appropriation of \$40,000 on this account. The appropriation for salaries and expenses of agents and surveyors, for fees and expenses of gangers, for salaries of storekeepers, and for miscellaneous expenses, I am satisfied is entirely inadequate to the necessities of the service. The amount to be paid to gangers and storekeepers is dependent upon the operations of the distilleries of the country; and the experience of past years warrants me in saying that the deficiency on this account for the current fiscal year will be \$150,000.

He repeats that statement to us again to-day, showing in his report that they were different, \$40,000 for one purpose and \$150,000 for the other, insisting that he had made no estimate to create a deficiency and will not do so. He will let the service suffer first, and he will dismiss the necessary officers rather than create it; but when he does do that the Government will lose millions. The Commissioner has shown no disposition at any time to be extravagant or to do anything except to obey the law and to see that the law relative to this branch of the revenue and in employing storekeepers, &c., is so administered as to protect the revenues of the Government and at the same time protect all the men who are engaged in the business.

The people in my State are largely engaged in distilling spirits, because we raise large quantities of corn and other things that we cannot carry to market in any other form. It is as much for the protection of the honest distillers against the men who are conducting what is called moonshine business that they may be detected and punished and prevented from that illicit distillation as for the Government; indeed it is more on their account. They cannot pay ninety cents a gallon tax on distilled spirits and compete with men who make the spirits and pay nothing. Therefore the present Commissioner, while protecting the revenue, is also protecting the honest manufacturers all over the country. If Congress sees fit to deprive him of the power to do that by withholding the means necessary, indispensably necessary, to do it, the manufacturers, the Government, everybody who is honestly engaged in the business or desires the Government to receive revenue must suffer.

Therefore the Senate conferees could not, with the full information that we had upon that subject, recede from that amendment thus inserted in the face of such a demand from an honest and efficient officer who is at the head of that bureau and who as the members of both Houses must agree is endeavoring to do the best he can to protect the revenue and to protect the honest manufacturer. We thought it was better to disagree and report the fact to the Senate than to agree to strike it out under such circumstances and ask that the Senate sustain us in our disagreement and give the House an opportunity to reconsider their action, hoping that after having the full information they would agree and allow Mr. Raum to have the force necessary for that purpose of properly discharging his great trust, for it is an extremely important and delicate one, and confidence must be reposed somewhere. I think the present Commissioner is entitled to it.

As to the mail agents, the Senate voted for that, as I said, by a ye and nay vote of 34 to 10, and we did not feel at liberty to come before the Senate and say, "We have abandoned the only thing that you did impose upon us; we have given you away because the Senate disagreed with us." A decent respect for the Senate required us to report to Senators that we were not willing to give up more than half of what they had imposed on us, even to make an honest effort to compromise. We could not with propriety strike it all out, and therefore we have reported a disagreement.

I desire to say, in addition, that upon all the other items of the bill we accepted what the House had done in general terms. Wherever they asked us to reduce an appropriation we reduced it. We cut down the appropriation of \$20,000 for extra clerks to the \$6,000 or \$8,000 that the House had given for that purpose. It is true we said, "We will not reduce the pay to \$2 a day to men; if we are to have clerks at all we desire to have clerks of some intelligence, and they cannot be had for that; it will hardly pay their board." When the argument was made that these temporary clerks were only employed to answer questions put by members of Congress, or during the sessions of Congress to give information, the answer came very properly from our side that the information that Congress needs is information of the most important possible character, and it requires the very highest order of intelligence to examine and prepare it, so that whatever is given for that purpose ought to be for intelligent men.

I have in my hand now information that I desired relative to all the custom-houses of the United States, showing how much is collected in each one, what are the expenses of each, what are the rents of each. There are one hundred and thirty-six of them, and not two-dollar-a-day clerks that we could pick up on the streets to work for less than would pay their board could in a year learn enough to have given me the information I asked for and obtained. I have also before me a specimen of what we require which it requires experienced clerks and intelligent ones to furnish, it being an abstract of the tariff bill which was presented to the House the other day. It being very short I should like the consent of the Senate to have it printed in the RECORD, that the Senate may see that it requires the very highest order of intelligence to furnish information to Congress and to individual members; therefore we said we will not agree even as to this small amount to cut down the pay so as to have only inferior clerks. Let the Secretary employ efficient men when he employs any.

The following is the table referred to:

Summary statement by schedules of the amount of duty received from the articles enumerated in House bill No. 4106, reported by the Committee of Ways and Means, March 26, 1878, that entered into consumption in the United States during the fiscal year ended June 30, 1877, and the estimated amount of duty by the proposed bill, with the increase and decrease of each schedule.

Schedule.	Class or group.	Amount of duty—		Increase.	Decrease.
		Received in 1877.	Estimated (New rates.)		
A	Cotton and cotton goods.	\$6,554,819 89	\$4,553,359 63	.....	\$2,001,460 26
B	Earths and earthenware.	3,511,566 40	3,031,563 73	.....	479,942 67
C	Hemp, jute, &c.	6,530,560 57	5,551,090 53	.....	969,410 04
D	Liquors.	5,844,641 71	6,378,350 90	(\$529,709 19)	.....
E	Metals.	6,560,366 64	6,302,442 95	.....	257,923 69
F	Provisions.	2,950,062 33	2,952,794 81	.....	2,732 48
G	Sugars.	37,046,992 23	41,245,988 67	4,198,996 44	.....
H	Silk and silk goods.	12,758,799 03	9,744,515 17	.....	3,014,283 86
I	Spices.	771,351 70	1,327,556 49	556,204 79	.....
J	Tobacco.	4,364,143 22	4,395,934 66	31,791 44	.....
K	Wool.	864,419 02	577,056 27	.....	287,362 75
L	Woolen goods and wool.	20,177,607 18	14,459,247 30	.....	5,718,359 88
M	Sundries.	17,055,775 80	18,299,247 65	1,243,471 85	.....
	Total.	125,024,985 72	118,819,148 76	6,522,906 19	12,728,743 15

Total duty received in 1877..... \$128,223,207 41
Total duty received in 1877, as above..... 125,024,985 72

Total duty not provided for in new bill..... 3,128,221 69
Duty received as per schedules above, in 1877..... \$125,024,985 72
Duty estimated as per schedules above..... 118,819,148 76

Decrease of..... 6,205,836 96

Total decrease from receipts of 1877..... 9,404,058 60

Upon the whole, the bill outside of the last item giving clerks to carry on the Pension Bureau was \$1,500 less than it was as it came from the House in the first place, leaving out the items we disagreed about; so that there has been no extravagance on the part of the Senate.

I merely desire to say that I hope the Chair will appoint three other gentlemen of the Senate to confer with the committee to be appointed by the House, for I think three who have been twice appointed have exhausted their usefulness in this regard.

It is a very bad beginning for conferences if upon a question so small as this and as plain as this we cannot agree. If this condition of things be maintained I see nothing but a session all summer, or an extra session, by reason of the failure of the appropriation bills. Perhaps the Senate may be able to stand it as well as the House. We have no contests for re-election this fall that I know of at this end of the Capitol, but it might be quite inconvenient for gentlemen at the other end to come back under existing circumstances. Nor do I admit that the House committee has any more right to inaugurate appropriations than the Senate committee. Revenue bills must originate there, but appropriation bills may and can originate here as well as in the House. Nor is there any presumption, which is sometimes indulged in elsewhere, that the members of the House committee are necessarily more economical or more careful of public rights than the Senate committee. I insist that each is equally careful, that each stands upon an equal footing, and each has equal rights. If there is to be a free and fair conference there must be giving and taking, or else there will be no bills passed.

So far as I shall be a member of any committee of conference I do not propose to treat upon any other terms except by admitting and insisting upon free and full conference, assuming each to be equally desirous to promote the good of the country, each equally desirous to be economical. But, as I stated, if we disagree upon these little questions, the great bills, the legislative, and executive, and judicial appropriation bill, or the river and harbor bill, and all the other measures which are yet to come up, will stand a poor chance in conference. We have made a bad beginning, I admit. Unless we do better we cannot expect to make this a short session. It may have been our fault; I do not say it is not; but I feel sure that it is important that the Senate should know the facts upon which we acted, so that it may determine whether it was our fault or not and sustain or reject our action as may seem best.

The PRESIDING OFFICER. The question before the Senate is on agreeing to the report of the committee of conference and further insisting upon the amendments of the Senate numbered 7 and 8.

The report was agreed to.

By unanimous consent the Vice-President was authorized to appoint the conferees at the further conference on the part of the Senate, and Messrs. WINDOM, DORSEY, and BECK were appointed.

HOUSE BILL REFERRED.

Mr. BAILEY. Mr. President—

Mr. MORRILL. I move that the Senate adjourn.

The PRESIDING OFFICER, (Mr. COCKRELL.) Before the Chair will entertain any further motion, he will lay before the Senate a House bill for reference.

The bill (H. R. No. 3679) to amend a joint resolution authorizing the Secretary of War to issue arms, approved July 3, 1876, was read twice by its title, and referred to the Committee on Military Affairs.

HOT SPRINGS RESERVATION.

The PRESIDING OFFICER laid before the Senate the bill (S. No. 490) supplementary to an act entitled "An act in relation to the Hot Springs reservation, in the State of Arkansas," approved March 3, 1877, returned from the House of Representatives at the request of the Senate; and,

On motion of Mr. GARLAND, it was recommitted to the Committee on Public Lands.

METHODIST CHURCH SOUTH.

Mr. BAILEY. I ask that Senate bill No. 910 be fixed for consideration upon Thursday of next week.

Mr. CAMERON, of Wisconsin. Will the Senator give the title of the bill?

Mr. BAILEY. It is a bill for the relief of the book agents of the Methodist Episcopal Church South.

Mr. MORRILL. Mr. President, I made a motion to adjourn.

Mr. BAILEY. This is a bill of a great deal of interest to several millions of people in the United States, especially in the Southern States and in the border States of Ohio, Indiana, Illinois, Missouri, Kansas, and Nebraska, and presents questions of very considerable interest. It should be considered by the Senate in full session, and for that reason I desire that a day be fixed for its consideration. I believe the members of the Committee on Claims, who disagree with the majority of the committee, have consented that Thursday of next week is a proper day for its consideration. I ask that the bill be made the special order for that day.

The PRESIDING OFFICER. The Senator from Tennessee moves that the bill to which he has referred be made the special order for next Thursday. Is there objection to the request? There is no objection, and the bill will be the special order for next Thursday.

BANKRUPT-LAW REPEAL.

Mr. ALLISON. Mr. President—

The PRESIDING OFFICER. The Senator from Vermont made a motion a few moments ago, and the Chair took up other business. The Chair will now entertain the motion of the Senator from Vermont to adjourn.

Mr. ALLISON. That is just the motion I intended to make.

The PRESIDING OFFICER. Before that motion is entertained the Chair will lay before the Senate the regular order, which will be the unfinished business for Monday. It is the bill (S. No. 35) to repeal the bankrupt law. The Senator from Vermont moves that the Senate do now adjourn.

The motion was agreed to; and (at five o'clock and ten minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, April 11, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

GEORGE W. HARBAUGH.

Mr. MONROE, by unanimous consent, introduced a bill (H. R. No. 4278) for the relief of George W. Harbaugh, late private of Sixth Ohio Independent Battery; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PUBLIC BUILDING AT TOPEKA, KANSAS.

Mr. RYAN. I ask unanimous consent that Senate bill No. 180, to provide for a building for the use of the post-office, United States circuit and district courts, and other Government offices at Topeka, Kansas, be taken from the Speaker's table and referred to the Committee on Public Buildings and Grounds.

Mr. EDEN. I object.

APPROPRIATION FOR THE PUBLIC SCHOOLS OF THE DISTRICT.

Mr. CALKINS. I ask unanimous consent to introduce and have considered now a bill (H. R. No. 4279) making appropriations for carrying on the public schools in Washington, District of Columbia, until June 1, 1878.

The bill was read. It provides that \$75,000, or so much thereof as may be necessary, be appropriated, out of any money in the Treasury not otherwise appropriated, for carrying on the public schools in the city of Washington, District of Columbia, until June 1, 1878, and that the same shall be available forthwith.

Mr. CALKINS. I ask unanimous consent to put this bill on its passage now. Unless we pass this appropriation, the public schools of this District will close in a week.

Mr. EDEN. Is this reported from any committee?

Mr. CALKINS. No, sir.

Mr. EDEN. I do not object to its being referred to a proper committee; but I object to its passage now.

Mr. HENDEE. Let it go, then, to the Committee for the District of Columbia.

Mr. EDEN. I suppose that more properly it should go to the Committee on Appropriations.

Mr. THOMPSON. Oh, no.

Mr. HENDEE. Matters of this kind always go to the District Committee.

Mr. EDEN. I object to the reference unless the bill goes to the Committee on Appropriations.

Mr. CALKINS. Let it go, then, to that committee.

The bill (H. R. No. 4279) was introduced, read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

JOSEPH M'HENRY.

Mr. COX, of Ohio, by unanimous consent, introduced a bill (H. R. No. 4280) granting a pension to Joseph McHenry, of the District of Columbia; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TEXAS PACIFIC RAILROAD.

Mr. HARTRIDGE presented memorial of the citizens and resolutions of the city council of Columbus, Georgia, in favor of the Texas Pacific Railroad; which was referred to the Committee on the Pacific Railroad.

ARREST OF BENJAMIN NOYES.

Mr. PHELPS, by unanimous consent, presented the following preamble and resolution; which were read, considered, and agreed to:

Whereas it is alleged by Benjamin Noyes, a citizen of New Haven, in the State of Connecticut, that while recently in the city of Washington, in obedience to a telegraphic notification to appear as a witness before a committee of the Senate of the United States, he was arrested in the night season by certain pretended detectives, without warrant or other process, while in bed in his room at a hotel, and removed from his lodgings against his protest, and refused opportunity to communicate with counsel or friends, and placed on board a railroad train and hurried beyond the jurisdiction of the District of Columbia to the State of New Jersey and there imprisoned: Therefore,

Resolved, That the Judiciary Committee of this House be instructed to inquire whether there has in fact been an unwarrantable violation of a citizen's right to personal liberty; and, if so, whether there is existing law to punish such violation; and, if not, to recommend such legislation as in their judgment is required for the proper protection of personal liberty in the District of Columbia; and that the committee have authority to send for necessary persons and papers and liberty to report at any time, by bill or otherwise.

Mr. PHELPS moved to reconsider the vote by which the preamble and resolution were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TEXAS PACIFIC RAILROAD.

Mr. HARTRIDGE. Mr. Speaker, I ask by unanimous consent to take from the Speaker's table the bill (S. No. 15) to alter and amend an act entitled "An act to aid in the construction of the railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to amend and alter an act of Congress approved July 2, 1864, in amendment of said first-named act, and to move its reference to the Committee on the Judiciary.

Mr. COX, of New York. Is there any objection on the part of the House to put this bill on its passage immediately? If there is no objection, I ask it be put on its passage.

Mr. HENDEE. I object.

Mr. COX, of New York. I should like to ask the Chair a question, whether at the end of the morning hour to-day it will be in order to move to go to the Speaker's table to reach this bill and then put it on its passage; whether by majority vote that can be done?

Mr. BURCHARD. Not if it is referred to the Committee on the Judiciary.

The SPEAKER. The Chair desires to state in reply to the gentleman from New York that after the morning hour the motion to go to the business upon the Speaker's table is in order, and if a majority shall decide to go to the Speaker's table then in its regular course this bill will be reached and will be under the control of a majority of the House, and if the House shall see fit by adequate motion to insist on its present consideration it can be so considered, in the opinion of the Chair.

Mr. COX, of New York. Then I object to the reference of the bill.

Mr. SAMPSON. As I understand it this bill has been taken from the Speaker's table.

The SPEAKER. It has not; it only came yesterday from the Senate.

Mr. SAMPSON. Was not the motion to refer it to the Judiciary Committee?

The SPEAKER. The gentleman from Georgia asked unanimous consent to take the bill from the Speaker's table and to refer it to the

Judiciary Committee. The gentleman from New York raised what was in the nature of an objection.

Mr. COX, of New York. Yes, sir; I object to its reference and now give notice that a motion will be made at the end of the morning hour to go to the business upon the Speaker's table in order to reach the bill and by a majority vote to pass it.

ASSESSMENTS FOR SPECIAL IMPROVEMENT.

Mr. HENDEE, by unanimous consent, introduced a bill (H. R. No. 4281) in relation to certificates of assessment for special improvements in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

LEASE OF UNITARIAN CHURCH PROPERTY.

Mr. HENDEE also, by unanimous consent, from the Committee for the District of Columbia, submitted various proceedings and the views of the minority on joint resolution (H. R. No. 135) prohibiting the leasing of the Unitarian church property, in Washington City, for police-court purposes; which were ordered to be printed.

B. C. PAYNE.

Mr. HUBBELL, by unanimous consent, introduced a bill (H. R. No. 4282) granting a pension to B. C. Payne, of Captain Mallory's Company, of Orange County (Virginia) Militia, war of 1812; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TARIFF BILL.

Mr. SHALLENBERGER, by unanimous consent, presented the protest of 50 of the leading merchants and manufacturers of the city of Philadelphia against the passage of the tariff bill now before Congress; which was referred to the Committee of the Whole House on the state of the Union.

TARIFF ON WOOL AND WOOLENS.

Mr. JONES, of Ohio, by unanimous consent, presented the petition of 991 agriculturists, protesting against a reduction of the tariff on wool and woolens; which was referred to the Committee of the Whole House on the state of the Union.

SIGNAL STATION AT MARION, ALABAMA.

Mr. SHELLEY, by unanimous consent, introduced a bill (H. R. No. 4283) to establish a weather-observation station of the Signal Service, United States Army, at Marion, in Perry County, State of Alabama; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SWAMPS AND OVERFLOWED LANDS.

Mr. GAUSE, by unanimous consent, introduced a bill (H. R. No. 4284) to extend the provisions of an act approved March 2, 1855, entitled "An act for the relief of purchasers and locators of swamp and overflowed lands, and for other purposes;" which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

NATIONAL PARK.

Mr. GAUSE also, by unanimous consent, from the Committee on Public Lands, reported back a letter of the Secretary of the Interior in relation to the National Park; which was recommitted to the Committee on Public Lands, and ordered to be printed.

HOMESTEADS.

Mr. HEWITT, of Alabama, by unanimous consent, introduced a bill (H. R. No. 4285) to amend section 2290 of the Revised Statutes of the United States concerning homesteads; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

ORDER OF BUSINESS.

Mr. TUCKER. In the absence of the gentleman from New York, [Mr. WOOD,] the chairman of the Committee of Ways and Means, I move that the House resolve itself into Committee of the Whole on the state of the Union to proceed with the consideration of the special order, the tariff bill.

The SPEAKER. The gentleman from Pennsylvania [Mr. SMITH] has given notice to the Chair that he desires to proceed with the pension appropriation bill.

Mr. TUCKER. I am quite willing to yield for that.

CORRECTION OF RECORD.

Mr. CONGER. I rise to a question of privilege.

The SPEAKER. The gentleman will state it.

Mr. CONGER. Mr. Speaker, I find, on examining the RECORD this morning, in looking through the speech of the gentleman from New York [Mr. WOOD] on the tariff, as published in the RECORD of this morning, April 11, that a letter which was read by the gentleman purporting to come from a manufacturing firm in the State of Michigan, Worthington and another, on the subject of the manufacture here and sale abroad of agricultural implements, hay-forks, and things of that kind, and some remarks which I made in regard to that firm and these implements are entirely omitted from the RECORD. A matter that was of sufficient importance to have read at the Clerk's desk

as a part of the gentleman's remarks, the entire letter, and upon which the gentleman commented and upon which I commented in the House, is entirely left out of the RECORD of the debates of this House, and the comments too are left out.

That letter, sir, from this firm in Jackson, stated that they were large manufacturers of that class of agricultural implements, and among other things stated that they had a large sale for those implements in foreign countries. It stated also that they could manufacture those implements of steel purchased from abroad—manufacture them in the State of Michigan—and send them to foreign countries to compete there with the manufactures of other countries; and that they did not desire any protection. That was substantially what the letter amounted to. It was used as an argument to this House in favor of the proposition of the Committee of Ways and Means on the tariff bill.

Now, sir, I stated to the House after the reading of that letter that this firm of manufacturers in the State of Michigan carried on their work in the penitentiary of that State; that they performed this work by convict labor in that State, at a price for that labor in the manufacture of these implements less than that at which free labor could be employed anywhere. I do not give my words, but that is the purport of them. I have tried in vain to obtain the record of my remarks as well as the copy of that letter from the manuscript of the reporters.

I also stated, what I considered a very important statement, that under the laws, which I did not read, and to the titles of which I did not refer, but which I now do—sections 3019, 3020, and 3025 of the Revised Statutes—there was a drawback upon the duties paid upon steel which should be manufactured in this country, either wholly of steel or partly of wood, when the articles were re-exported from the country lacking 10 per cent. of the drawback for the use of the Government.

Now, sir, these important statements of the gentlemen, made here in the presence of this House and going to the country as they always do and should do by those reporters who send broadcast the statements made here to influence the public mind, were all suppressed by the gentleman from New York [Mr. WOOD] in his printed speech; not a single reference made to it or to my comments thereon.

I am sorry the gentleman is not here, but I say, sir, that that was a violation, a flagrant violation of the rules of the House. I do not know nor do I propose to fix the place in the speech of the gentleman where this wrong has occurred; I cannot tell whether by mistake, by accident, or by design that important omission from the RECORD was made. But I speak of it now at the earliest opportunity, and as soon as I can procure from the reporters the manuscript of the letter and of the gentleman's remarks upon it and of my comments upon it, I shall ask the privilege of the House that they be placed in the RECORD.

The SPEAKER. The debate to which the gentleman refers was in Committee of the Whole on the state of the Union, with which the Chair has nothing to do, nor has the Chair anything to do with the speeches of members as they are inserted in the RECORD, and of course he cannot possibly have any control over them, for it is a mental and physical impossibility.

Mr. CONGER. At a future time when I can procure the manuscript I shall ask that the letter read by the gentleman from New York with his remarks upon it and my comments upon it be read by the reporters of the House. I will not detain the House further about the matter now.

The SPEAKER. The Chair has every disposition to have the gentleman from Michigan [Mr. CONGER] placed right upon the record. The question now is upon the motion of the gentleman from Pennsylvania [Mr. SMITH] that the House resolve itself into Committee of the Whole on the state of the Union, for the further consideration of the pension appropriation bill.

The question was put, 108 members voting in the affirmative.

Mr. COX, of New York. I withdraw further objection to the motion. Gentlemen think, I believe, that we can have a morning hour after this bill is disposed of.

The SPEAKER. The Chair desires to state that the motion to go into Committee of the Whole on the state of the Union is always in order, and the Chair is advised that when the pension appropriation bill is disposed of, as it probably will be to-day, then the Committee on Appropriations will ask to have the Post-Office Department appropriation bill taken up for consideration, and hence there will be no morning hour to-day.

Mr. COX, of New York. Does the motion to suspend the rules and go into Committee of the Whole on the state of the Union dispense with the morning hour?

The SPEAKER. The effect of it is to delay and probably to dispense with it.

Mr. COX, of New York. After the bill now pending shall have been disposed of, a morning hour can be had.

The SPEAKER. The motion to go into Committee of the Whole can be made, to consider the Post-Office Department appropriation bill.

Mr. COX, of New York. Well, I withdraw all objection.

The SPEAKER. No further count being demanded, the motion of the gentleman from Pennsylvania [Mr. SMITH] is agreed to.

PENSION APPROPRIATION BILL.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. GARFIELD in the chair,) and resumed the consideration of the bill (H. R. No. 3974) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1879.

The CHAIRMAN. The House is in Committee of the Whole on the state of the Union upon the pension appropriation bill, and by order of the House debate has been limited to thirty minutes. Five minutes of that time have been consumed and twenty-five minutes remain, and the gentleman from Illinois [Mr. SPARKS] now is entitled to the floor.

Mr. HANNA. I rise to make an inquiry. Yesterday there was evidently some misunderstanding on the part of the House as to the limitation of the time for debate.

Mr. SPARKS. This interruption does not come out of my time?

The CHAIRMAN. Certainly not.

Mr. HANNA. Yesterday while the gentleman from New York [Mr. HEWITT] held the floor he kindly assigned to me a portion of his time, but by reason of a misunderstanding he was deprived of the opportunity to do so, and I trust that to-day there will be no attempt to gag this measure through, but that reasonable opportunity will be given to both sides for the expression of our views upon this question. I think that the gentleman from Pennsylvania will not interfere to limit the debate as the matter is construed by other members.

The CHAIRMAN. The Chair would remark that as soon as the general debate closes the bill is open to debate under the five-minute rule by clauses.

Mr. SPARKS. Mr. Chairman, the Committee on Appropriations in considering the pension appropriation bill found the amount due to pensioners in the neighborhood of \$29,000,000. In the effort to appropriate a sufficient sum of money to cover this large indebtedness which has been very justly and aptly designated here as a sacred debt, the means by which this appropriation was to be carried into effect necessarily confronted the committee, in fact it became the duty of that committee to mature and present a bill, not only for the payment of the \$29,000,000 of money due to the pensioners, but to appropriate money to supply the means or agencies through which the pensioners are to be paid.

Now, sir, we attempted liberally, largely, fully, and completely by taking the farthest extent of the estimates to appropriate funds for the payment of the pensions of these maimed and wounded soldiers, their widows and orphans. But we found that there had grown up a system of paying these pensioners that amounted to simple robbery of the Treasury of the United States and was vexatious and costly to the pensioners; I mean the pension-agency system. We therefore undertook by this bill to save to the tax-payers of the country all that could be saved, while at the same time paying fully and expeditiously every dollar that was due to the pensioner. But when we attempt to do this some fault-finding gentlemen here take exceptions. The gentleman from Wisconsin [Mr. BRAGG] makes the point that he does not like this bill for the reason that the Appropriation Committee has "attempted to legislate." Sir, we have attempted simply to meet a case that confronted us. We have attempted to meet it in the interest of economy, in the interest of common justice and common honesty; and I think it would be well for gentlemen when other members who are charged with particular duties attempt to discharge them faithfully and in the interest of economy and justice to aid them rather than be constantly finding fault. The gentleman from Wisconsin is a member of the Committee on Military Affairs. We have heard a great deal of the reforms in the military service that are to come from that committee. I have been under the impression that they would come; and when they come I would like to stand by that gentleman and the members of that committee and aid them rather than sneer at and oppose them whenever they present any proposition to the House in that direction.

On looking at this question we found that the last appropriation for pension agencies in the payment of these pensions was \$457,000. That is the amount appropriated in the last appropriation bill for the fiscal year ending June 30, 1878, for making the payment of pensions to the pensioners. We found also that the Pension Office had estimated as the expenditure for this purpose for the coming fiscal year ending June 30, 1878, \$330,000. (It was stated at \$319,000, but it really amounts to about \$330,000.) The fact that the estimate for this purpose was \$127,000 less this year than the appropriation last year necessarily arrested the attention of the committee. Proceeding to examine this matter, we found that instead of there being any necessity for paying \$457,000 for this service or even \$330,000, it could be amply done for \$130,000. Now, sir, if this be correct, is it not the duty of patriotism to adopt the system we propose? How do we arrive at this conclusion? The gentleman from Pennsylvania, [Mr. SMITH], the chairman of the subcommittee on this subject, whose zeal and indefatigable labors in relation to this matter deserve the commendation of every member of the House, (and he being of opposite politics to me I take great pleasure in commending them,) has with great care probed this question to the bottom. First he goes to the Secretary of the Interior and inquires with reference to the matter. The letter of that officer is published in the RECORD of this morning in a speech of my friend from Pennsylvania, and if gentlemen have not read it let me specially direct their attention to that letter. The

Secretary not only says that the plan here suggested is feasible, but he indicates that it is wonderful it has not been adopted heretofore. This, mark you, is the opinion of the Secretary of the Interior, who on this subject outranks the Commissioner of Pensions, the latter simply being a subofficial of his.

The gentleman next goes to the Treasurer of the United States, who has the custody of the funds out of which these pensions are to be paid; and he, making a large and liberal estimate, certifies to an estimate which, taken in connection with estimates from the Pension Office, shows that this work, which has heretofore cost the Government on the average \$450,000 annually, can be done in the Treasury of the United States for \$130,000. Hence we make provision that these pensions shall be paid directly from the Treasury; and we propose to abolish the pension agencies.

Mr. HEWITT, of Alabama. I would like to correct a statement of the gentleman.

Mr. SPARKS. I cannot yield now. The gentleman can correct me when I am through.

Another question to be considered was that of safety. Here is a large sum of money, \$29,000,000, annually appropriated for pensions; and the question of safety in its appropriation is an important item. Now it strikes me, as the Government owes this sacred debt and as it has a custodian of its funds, supposed to be competent and honest, it is safer that the payment of the debt should be made directly from the repository of the funds when duly set apart and appropriated to the payment. In this connection my colleague on the committee, the gentleman from Pennsylvania, has given us some figures. He has shown where the agency system has proved a defaulter to the extent of nearly \$300,000. In other words, pension agents have proved defaulters and defrauded the people of the United States in about this sum. I give it in round numbers at \$300,000; it is a little less. The gentleman from Pennsylvania has given the precise figures in his speech. And I think it very likely some of his political friends may have objected to his presenting them; I do not know as to that; but at any rate, in a spirit of fairness and of justice and with a desire to do right that is commendable everywhere, he has presented them. And I am glad he has done so and that the duty did not devolve upon me. Now, sir, such defalcations cannot exist under the system here proposed. On the point of safety, therefore, we find that the plan here suggested is infinitely superior to the present system. Why, sir, it holds to reason that when eighteen men in different parts of the country are chosen as pension agents, many of them unfortunately selected to subserve partisan purposes—I am making no charge upon the republican organization, for it might be so if the other party were in power—it is presumable that so large a sum of money paid into the hands of these men is subjected at least to some risk, all of which is obviated by leaving the money in the Treasury until it is paid to the men to whom it is honestly and justly due.

But objection is made that this proposed system will delay the payment of pensioners. Let us see how that is. The Commissioner of Pensions, who, from all I have seen in the progress of this discussion, seems to be taking a very lively interest against this bill—I make no special charges against him, for as far as I know him personally I have thought much of him and think highly of him still—himself in his letter, maturely and deliberately prepared and sent to the Secretary of the Interior, substantially states that delay in payments would not occur except in the beginning, namely, for the first quarter after the act takes effect. When I made that point yesterday upon the gentleman from Maine [Mr. POWERS] he went back somewhere behind the screen and brought in a card stating that the Commissioner of Pensions found it necessary to back out of that proposition. Now, I do not care whether he backs out or backs in. It holds to reason and to common sense that it is true. How are your pensions paid now under the agency system? How many men go to the pension agents and get their money? Not more than 10 per cent. of them, perhaps. Not more, certainly, than 10 per cent. of them can do so in the great State of Illinois with its population of over three millions of people and with only one office in the State, and it located in its extreme northeast corner. Not more than 10 per cent. can do it at the offices in the city of Concord covering three or four States. They simply cannot do it. They do not do it. They get their pensions by drafts through the mail. How? The vouchers are sent to them. The affidavits are sworn to, identification made and returned to the pension offices accompanying receipts, and drafts for amounts are then sent through the mails to the pensioners. What is the difference to people of my district, and, in fact, to the people in every district in the State, except perhaps in the city of Chicago, in getting a communication from the city of Washington and one from Chicago? I think it is generally in favor of Washington. I would rely on getting a letter in the little town where I live from Washington earlier than from Chicago. I am speaking now for the pensioners who do not live at Chicago, but who live all over the State. And it is so throughout the whole country. In all these pension districts they live miles and hundreds of miles away. Look at North Carolina. My friend, [General SCALES], living on the northern line of North Carolina, were he a pensioner, would have to go to Knoxville, Tennessee. Let me ask, gentlemen, where would be the most convenient place for him to get his draft and transact the necessary business in relation to it—Washington or Knoxville? Is it not Washington? Every one knows it would be so. That is

the way pensioners are distributed and the way pension agencies are distributed.

Now, sir, I say it holds to reason, it is common sense, that there would be no more delay in the plan proposed than in the present system. In the beginning, in starting the system, there may be some delay. Everybody, of course, knows such would be the case. But it would only be for the first quarter.

Four vouchers are sent to the pensioners. On the first voucher there may be some delay, but they have all these papers prepared, so that on the incoming payment they are ready to transmit the drafts at once, and there is no reason why they should not reach the pensioners on the identical day when the payment ought to be made; for they have a whole quarter in which to prepare them. Can there be any question about that? Mr. Chairman, how many minutes of my time remain?

The CHAIRMAN. Ten minutes.

Mr. SPARKS. We have first considered the question of safety and next the question of delay, in reference to both of which, in my judgment, the proposed plan is an improvement over the present system. We come next to consider the cost to the pensioner. On that point I wish to direct attention to a species of legislative claptrap that has been attempted in this discussion. I presume every gentleman has had placed upon his desk this morning an anonymous circular, a copy of which I hold in my hand. Where did it come from? Has it a father in this House? I can hardly think that it has. Here it is: Outrage on pensioners!—Wealthy pensioners!—Poor Government!—Economy with a vengeance!

The House of Representatives, in its anxiety to economize, proposes to tax pensioners \$100,000 per year of their miserable pittance, to obtain them by paying pensions from the mill in the interest of bondholders.

Why, sir, it has not been long since we had fifty-eight of these agents. Why? For about the same reason as a wagon should have five wheels. It was because it afforded places for more office-seekers to get office. I am not particularly charging this upon the republican organization. I am in good humor to-day; I have not got my war paint on. It is my impression, if we were on the inside we would have had some hungry men to provide for too. [Laughter.]

We ran on the basis of fifty-eight agencies for a good while. They were good places to put hungry friends into to draw fat salaries. But the Treasury was robbed by it, and the present Administration (which I believe is to be approved now since the caucus last night) chose to cut that number down to eighteen. Why? Simply because it found a great big barnacle hanging upon the Treasury. It found so large a lot of pap-suckers here that it was necessary to turn some of them off, and it trimmed them down to eighteen. Has there been any delay in the service occasioned by it? No, sir. Everybody says the service has been better conducted; and yet we have reduced them from fifty-eight to eighteen.

Why, sir, when that was done—I do not speak for the whole country, I do not live all over it, but I remember when it was cut down—there was a terrible howl in my country; there was a howl at Springfield, because a fat officer's head had to go into the basket; so at Quincy; so in my own district, at the town of Salem. There was a howl all over the country. And now, when you propose to cut this thing right square off and end these blood-suckers, there is a howl; and we have these sensational, lying, anonymous circulars on our tables. Their paternity can scarcely be questioned; they come through the influence of the pension agencies. It is humiliating and disgraceful to us, representing as we do this proud nation, that scurvy fellows should be allowed to approach the hall of our deliberations with such balderdash and lying nonsense, with a view to influence our action, and it deserves the severest rebuke from every honorable gentleman on this floor.

But its falsity is apparent everywhere. There is not a correct statement in the circular. I will not have time, I am afraid, to dissect it. It says that forty-eight thousand affidavits will have to be sworn to by the pensioners and paid for by them at fifty cents per quarter aggregating \$24,000 per quarter or \$96,000 per annum, while it says under the present system they can go before the pension agent and swear to them free. Now, that would look as if that portion of them (by no means forty-eight thousand) who chance to live next door to the pension agent and swear to their affidavits before him might be injured. But how is it with the ninety out of the one hundred who do not live near the agency? They cannot go there, never have gone there, and in the nature of things never can go there. They have now got to swear before a justice of the peace or some other officer and pay for it and send it to the pension agent. Hence this hue and cry is all for the one man out of ten who lives at the agency and not for the body of the pensioners, all of whom should be on perfect equality. Our system they say would injure the ten out of the hundred. But let us see if that is so. My friend from Pennsylvania, prompted by his stern honesty and his desire to do everything he could for the soldier and his great care in this matter, has made provision in his amendment to make this bill in this respect infinitely better for the pensioner than it is now. How? This bill makes provision that every pensioner can go before any United States officer authorized to administer oaths and swear to his papers free. The officer is obliged to administer the oath free. What is the effect of that? How many United States judges have you got in the United States? Four or five times as many as you have got pension agents.

Hence, take the pensioners altogether there would be a saving in this for the reason that if they went before United States judges who would be compelled to administer the oath free there would be four or five times the number of officers to administer the oaths free. But what else? The bill provides that they can go before a revenue collector, who is in every district or about every district. There are one hundred and twenty-six of them. Hence they can go before one hundred and twenty-six revenue collectors and make their affidavits free. Here we have two hundred or three hundred officers, judges, and collectors before whom they can make their affidavits free; while now they can only go before eighteen agents. Which is in the interest of the pensioner? More than that, under this bill they can go before any United States commissioner and make their affidavits free, and there are over three thousand of them scattered all over the country. Hence we have nearly four thousand men under this bill, or about that before whom these pensioners can swear to their affidavits free, while under the present system there are only eighteen pension agents before whom they can do it without cost. Now which system is the best for the pensioner? The common sense of every man will at once settle it in favor of the proposed plan.

Now let me refer to the cost. I mean the cost to the pensioner in the draft he gets. The important thing to be considered is that the pensioner is not to be prejudiced in the payment that he gets. We want to make provision that the pensioner shall be fully paid, completely paid, and that the kind of payment he gets shall not be endangered nor discounted at a loss to him.

The bill provides that all the pensioners shall be paid by drafts drawn by the Treasurer of the United States on the Treasury of the United States, which are good and at par or a premium everywhere, and no question about it; while now they are paid by agents' drafts on banks, and a draft on a bank is sometimes dangerous; there may be trouble about it. It is not only dangerous to the pensioner, but it is costly to him because in my county, for instance, they will not take a draft on a Chicago bank at par, and the pensioner therefore is subject to a shave, while a draft by the Treasurer of the United States on the Treasury of the United States is at par everywhere and always. [Here the hammer fell.]

The CHAIRMAN. The time allowed by the House for debate has expired.

Mr. SPARKS. I am sorry for it, for I had some further remarks which I desired to make.

Mr. BRIGHT. Is it in order to ask an extension of the gentleman's time?

The CHAIRMAN. It is not in order in Committee of the Whole. The Clerk will now proceed to read the bill by paragraphs for amendment.

The Clerk proceeded to read the bill by paragraphs, and read as follows:

For pensions for Army Invalids, \$13,150,000; for widows, minors, and dependent relatives \$12,830,000; for survivors of the war of 1812, \$800,000; and for widows of the war of 1812, \$20,000; and for fees of examining surgeons, \$85,000, as provided by the several acts of Congress.

Mr. HANNA. I move to strike out the last word.

Mr. Chairman, I propose briefly to direct my remarks to two questions involved in the consideration of the pending bill: first, the feature of alleged economy claimed for it by its advocates; and second, the great wrong and outrage which the pensioners would be subjected to by abolishing the present system of payment and adopting the mode proposed.

The idea that it will prove a measure of economy is a delusion. If the agents receive under existing law in the way of salary and fees compensation disproportionate to the amount of service rendered and responsibility incurred, then the true remedy, in my judgment, is to correct whatever abuse, if any, exists in that regard by giving the agent a certain fixed sum as a salary, and if the other fees now allowed by law amount to a sum more than equal to all other expenses, that the excess be covered into the Treasury. I think it will be conceded that the present Commissioner of Pensions, Mr. Bentley, is one of the most intelligent and efficient officials in the public service. He is thoroughly conversant with all the details, the workings, and the necessities of his department, and by reason of his experience his opinion and judgment should have far greater weight with members upon questions connected with the operations of his department than the speculative views of visionaries or of those who under the banner of reform seem bent on withholding the means necessary to the efficiency of the several Departments of the Government or of abolishing the necessary agencies to a prompt and satisfactory service. Reform is one thing, but defeat of the object and purpose of the Government is quite a different thing. In a letter of November 12, 1877, addressed by the Commissioner of Pensions to Hon. ROBERT E. WITHERS, of the Senate, he treats fairly and fully the question of economy involved in the proposed change in these words:

The question of general economy is involved in that of expediency. Upon this subject I am obliged to confess that I am unable to see where the labor of payment, and the duties incident to it, and to the custody of the pay-rolls, would be reduced by transferring the duty of paying to the Treasury Department; and until the plan is proposed which will reduce the labor and the duties incident to it, and to the custody of the pay-rolls, I must proceed upon the assumption that they would not be reduced by such transfer. If there is not a reduction of the labor and of the duties, I am clearly of the opinion that there would not be a reduction of expenses below what it will cost to pay through local agents, provided Congress

shall readjust the compensation of the agents upon some plan similar to that recommended by me in my annual report.

The local pension agent may, and usually does, perform the labor and the duties incident to his office, closely adhering to common business principles; i. e., he employs his clerical assistants at the prices established in the business community for such labor, and requires his clerks to serve him diligently during usual business hours. This is in accord with his personal interest, since by this means the net proceeds of his office are enhanced.

The service in the departments at the capital is not so conducted, and in the nature of things cannot be conducted upon such principles. The objects of financial gain and business prosperity, which constitute the most powerful motive in common life and are the incentive of the local agent in the management of his office, are not a governing influence with a Government official. At best, he is but a servant with a stated salary, which no exertion on his part can increase.

In the Departments, a clerk cannot ordinarily be expected to labor earlier than nine a. m. nor later than four p. m. The clerks in the agencies labor from seven or eight a. m. to six p. m., and as a rule they are more diligent while they labor, because they are under the eye of him whose money pays for their services, and who will discharge them summarily and without relief if they fail to render him an equivalent for their hire. Besides this, the agent pays a less salary for the same class of labor than is paid in the Departments.

It is my opinion, based upon such observations as I have been able to make, the local agent transacts his business at a rate of not less than 40 per cent. cheaper than the same business can be transacted in the Departments at Washington even with the most zealous officers in charge.

Upon economical considerations, I am of opinion nothing, upon the whole, will be gained by transferring the pay-rolls to the capital, even if they should be connected with the Pension Bureau, much less if connected with another Department, making necessary a continuance of all the present machinery.

There is a presentation of this question of economy that is unsavable from any source entitled to equal weight and credit. We are thus told by one in a position to know whereof he affirms, who knows more of the practical workings of the Pension Department than the Secretary of the Interior or of the Treasury can by possibility know, no matter how efficient either of them may be, that "the local agent transacts his business at a rate of not less than 40 per cent. cheaper than the same business can be transacted in the Departments at Washington, even with the most zealous officers in charge;" and this statement is in perfect accord with the observation and experience of any member on this floor who has had aught to do with the work of the several Departments. It necessarily takes a given amount of time and labor to pay 232,104 pensioners, keep the books and accounts correctly, make the necessary examinations and computation for the protection of the Government, and conduct the correspondence; and the idea that all this labor can be performed cheaper in Washington than is now done in the States at the several agencies is simply an assumption.

Afterward, on the 20th of November, 1877, the Commissioner, in a letter to the Secretary of the Interior, reiterates substantially the same views, and combats with great force the plan of payment proposed by this bill. You will bear in mind that every three months 234,104 payments are to be made, and we are further told by the Commissioner of Pensions that "it is utterly impracticable to rest the responsibility for so many payments per quarter upon any single person, because the labor incident to it is greater than any one person can possibly perform." He then tells us that the scheme proposed would involve the absolute necessity of dividing the rolls into twelve sections of twenty thousand persons, with one superintending agent for each section, who would be compelled to pay each working day of the year two hundred and eighty persons in order to complete the payment of his section; and thus each one of the head men of these sections would have a retinue of clerks the whole cost of which we have no reliable data except the statement of the Commissioner, who says that the work would cost 40 per cent. more than as now done at the agencies.

Some gentlemen have said that now we have eighteen rolls corresponding with the eighteen agencies, whereas if the scheme proposed be adopted we shall have but one, and that therefore its adoption will be a saving of labor. Would not the one roll embrace the eighteen? Is not the whole equal to all the parts? Would there be any less number of names upon the one roll which embraces the eighteen rolls? It is idle to talk of a saving of labor in this regard. Again, it has been suggested that under the present system three sets of books are required and that the proposed scheme will dispose of one set, and thus a saving may be effected. Under any safe system for the Government, properly guarded with checks and balances, you cannot avoid a less number than three sets. The Pension Department proper should have one, it will be conceded; you cannot start the machinery in motion without that. Then the Department or officer issuing the checks to the pensioners must have another set, to the end that information be furnished as to who is entitled to the pensions. And then if the accounts are ever to be settled some Auditor must have another set. Any scheme which seeks to get rid of one set of these books is successfully met with the objection that such would be the opportunity for the commission of fraud that it ought not to be adopted. The argument of the Commissioner of Pensions on this point is unanswerable. After all, the whole question of economy, so far as the mode of payment is concerned, is whether the work can be done cheaper in Washington than in the States at the agencies, and the direct, unimpeached testimony on that point is that it can be done 40 per cent. cheaper in the States at the agencies than in Washington.

But, sir, I am opposed to this scheme on higher ground. I aver that the abolition of the agencies in the States and the adoption of the proposed mode of payment would result in practically robbing the pensioner of the amount which the Government intended he

should be promptly and at stated periods be furnished. The uncertainty of prompt payment, the delays incident to the manner of doing business in Washington, all the hazards incident to the transmission of checks through the mails, and the whole machinery of the Departments here being subject to either the whims of Congress or of an Appropriation Committee, would result in compelling the pensioner to sacrifice his pension to those who are ever ready to take advantage of his necessities. Sir, it is idle to talk to me about prompt payment of pensions at Washington when we know that applications for pensions, by meritorious claimants, have been delayed for years by no fault of the Commissioner of Pensions, but by reason of the fact that the necessary information from the Adjutant-General and Surgeon-General's Office could not be obtained for want of the necessary clerical force. Experience in this regard warns me in the interest of the pensioner to avoid the hazards to which this bill subjects him or her.

Sir, at present the pensioners are promptly paid; they are satisfied with the present system and mode of payment. The agents selected, so far as my knowledge extends, are efficient, responsible, worthy, and acceptable to the pensioners. They belong to the rural localities in which the pensioners reside. In one sense the pensioners are the immediate constituency of the agent, and in the very nature of things would receive more faithful and tender consideration than from a stranger or a clerk in Washington. A failure to make the necessary appropriation for clerk hire in the Departments at Washington does not now affect the efficiency of the agencies in the States, as the agent pays the clerk hire and such payment does not depend upon the action or non-action of an Appropriation Committee. I repeat, if the compensation of the agents is now too large, that can be easily remedied; but in the name of justice and humanity I protest against a measure which, in my judgment, will result in practically robbing the pensioner. Away with all such schemes of reform.

Again, sir, while I am not a State-rights man according to the old political sense of the term, while I distinctly avow that my allegiance to the nation is paramount to that of my State, yet, sir, I beg to call attention to what seems to me an unnecessary centralization of all the machinery of the General Government at Washington and of the money power of the Government in New York.

Mr. HEWITT, of New York, obtained the floor.

The CHAIRMAN. Debate is exhausted upon the pending amendment, and it must be voted upon unless it be withdrawn.

Mr. HANNA. I withdraw the amendment.

Mr. HEWITT, of New York. I renew it, and yield my time to the gentleman from Illinois, [Mr. SPARKS.]

Mr. SPARKS. One word in answer to the gentleman from Indiana, [Mr. HANNA,] and I make it with all respect to him. He is a Representative of a pension district. The pension office of his district is located at Indianapolis, his home. His views are likely to be influenced by the interests of that pension office. I am not speaking disrespectfully of the gentleman. It is as natural that he should sustain that office as that water should flow down an inclined plane. It is possible that the pension agent is a friend of the gentleman; in fact, I have been informed that such is the case. It is natural that the prejudices of the gentleman should be in favor of his friend the pension agent.

And now, sir, I desire to say a word as to the cost of this system. The cost of running the pension agencies has been about \$450,000 a year. Last year we appropriated \$457,000 for that purpose. This year the Department makes an estimate of about \$330,000, but if you will look at the speech of my colleague on the committee [Mr. HEWITT, of New York] it will be clearly seen that these payments can be made in the mode this bill proposes for \$130,000, and it will also show you that his estimates therefor come largely from the Pension Office itself. I do not dispute the high character of the Commissioner of Pensions; I do not doubt his intelligence and integrity; but repeat that the information that these duties can be discharged for \$130,000 comes largely from his own estimates. Sir, we have undoubted assurances that under the system of paying these pensioners directly from the Treasury, as this bill proposes, the work can be done for \$130,000 when heretofore it has cost the Government \$450,000 to do it. I ask if this is not something worth saving.

Again, we are met with objections from the Committee on Invalid Pensions. Now, sir, I have profound respect for all the members of that committee so far as I know them; but I would ask those gentlemen when they come in here to antagonize this bill, admitting that we are in the line of reform of abuses, but complaining that it is their special province to correct them, why they have allowed this unnecessary charge upon the Treasury to last for so many years and have never discovered a remedy for it. That committee seem to think it unfair to them that the Appropriations Committee should have suggested a reform in this regard, while it admits that the Treasury has been robbed in the payment of this sacred debt for many years, and yet has never itself suggested any remedy whatever. Our committee has proposed in this bill an effective remedy in the abolition of these agencies, and it is due to fairness, it is due to honesty, it is due to truth that the House should fairly consider the plan which we present. The Committee on Invalid Pensions say "We will not do away with pension agencies yet, but will reform abuses within them." Sir, it is the pension-agency system that has produced all the trouble. These agencies are the fruitful source of all this extravagance in the

payment of these honest and worthy pensioners. I suppose gentlemen on the Pension Committee think that "The hair of the dog cures its bite;" hence they will retain the agents. We do not propose such remedy, but think it would be better to get rid of the dog. [Laughter.] They object to a measure of reform which abolishes the agency system and brings down the expense of paying pensions to \$130,000. They want to retain the pension agents and keep the expense at \$216,000. They propose to continue the vicious system which robs the Treasury and the pensioners alike. We think, Mr. Chairman, that it is due to fairness to have this matter thoroughly considered, and when that is done we believe the House will come to the conclusion that the Committee on Appropriations, whether they may have made mistakes elsewhere or not, have in this matter done a good work.

[Here the hammer fell.]

Mr. CHITTENDEN. Mr. Chairman, several gentlemen preceding me have characterized this proposition as speculative. I regard it as a very simple matter of business. I do not know that I can make it clear to others in five minutes; but it is as clear in my own mind as anything possibly can be. This is purely a question of machine work so simple and feasible that the inquiry has often come to me while it has been under discussion, how many of those who oppose it are intimately connected with the patronage of fifty-eight pension agencies no longer required? Sir, this Administration is entitled to credit for having discovered that this business, instead of being conducted by fifty-eight agencies, could be concentrated into eighteen. The Committee on Appropriations of this House are entitled to credit for taking the hint from the Administration and showing how the business can be concentrated into one office, and with immense saving.

What is this case? There are nine hundred thousand duplicate payments to be made every year, more or less. I say duplicate payments, because the same thing is repeated over again and again to about two hundred and thirty thousand pensioners quarterly. It is suggested as a part of this proposition that these payments shall be made continuously through every month of the year instead of quarterly. In that case there will be an average of about three thousand payments on every working day. Now, I say, as a man who knows something about signing multitudinous checks and receiving multitudinous vouchers therefor, that these three thousand payments can be made from the Treasury building in Washington to the greater satisfaction of the two hundred and thirty thousand pensioners and at a much less cost than this committee has dared to suggest.

What is it that the Committee on Appropriations suggest? They propose an expenditure for this purpose of \$130,000, which does not include anything for rent, stationery, or postage. This is nearly fourteen and one-half cents for every check. But the business when thoroughly organized can be done for ten cents on every check; and my colleague from New York [Mr. HEWITT] who spoke on this subject yesterday can find the man who will contract to do it to the entire satisfaction of the pensioners and the Government for ten cents a check and voucher, if the contract should extend over five years.

Of course the system now proposed is a change; and some incidental experiments will be required in bringing it into successful action. But the thing is a simple question of organization—how many men does it take to sign three thousand checks a day? Go to your large pension agencies, where a great number of vouchers are cashed in the first two or three days of each month when these payments become due, and you will get a surprising practical answer to that question.

I listened with a great deal of interest to the gentleman from Indianapolis, [Mr. HANNA.]

[Here the hammer fell.]

The CHAIRMAN. Debate on the pending amendment is exhausted. The formal amendment was withdrawn.

Mr. CLYMER. I renew the formal amendment, and yield my time to the gentleman from New York, [Mr. CHITTENDEN.]

Mr. CHITTENDEN. I saw that the gentleman from Indiana had prepared his remarks with great care; and in the RECORD (I mean no reflection) I find the reason for his position on this question; and I ask the House to take note of it in voting upon this question as intelligent business men. At the Indianapolis office the compensation to the pension agent is \$4,000; the voucher fees are \$14,515; contingencies, \$1,657.76; total, \$20,172.76. Now, I make no reflection; but I say it is in bad taste for the representative of a pension agency in Indianapolis, where the total expenses are \$20,000 annually, to come here and present a written argument for the continuance of a system which is so costly and unnecessary—as much so as any other abuse which has crept into the administration of the Government for the last twenty years.

Sir, I congratulate the Committee on Appropriations upon their suggestion of this plan. I hail it as the entering-wedge for the discovery and correction of other and greater abuses in the administration of other Departments of the Government; and on a future occasion I will allude to some of them. I stake my reputation as a man who knows what it costs to sign checks and take vouchers, doing it carefully in a business-like way, that under this proposed plan the Government, though not able to do the work so cheaply as an individual might, will reduce the cost of these payments to \$100,000 annually in the third year of the experiment.

Sir, I accept no part of the responsibility which these assume who will vote against this proposition.

[Here the hammer fell.]

Mr. FOSTER. Mr. Chairman, I am amazed that so good a business man as my friend from New York should be captured by this miserable claptrap pretense to economy in transferring the payment of these pensions to Washington; I say I am amazed at it, and that he should turn to my friend from Indiana [Mr. HANNA] and make a personal assault on him for advocating what I believe to be true economy is still more amazing. I do not represent any pension agents, and I tell the gentleman that if this work is done in Washington that precisely the same work which is now done by the special agents in the country will be done here in Washington, and there will be no saving in the number of agents or in the consequent expense. There are now eighteen rolls and you propose to make them twelve if you bring them here. You will have to have twelve pension agents located in Washington to do the work with their twelve rolls and it may be eighteen.

Now, Mr. Chairman, do you suppose in the manner in which clerks are employed in Washington they are going to do this work as cheaply as it is now done in the country under the agents themselves? It is simply absurd to talk about a proposition of that kind. Nay, more: the pensioners are paid to-day within fifteen days from the time the pension is due. The great bulk are paid within the first fifteen days. And what do you propose here? You do not propose to pay under fifteen days. No one has made a proposition to pay under that time. You propose to work this force so it will work the whole three months, and at the end of the three months you are to get the whole of the pensioners paid. I have gone into a computation, and I wish my friend from New York to listen to it, to see what will be the loss to the pensioners at 6 per cent. on account of the delay, and it is \$250,000. I wish him to tell the pensioners in the district in which he lives that he has favored a reduction of \$250,000 on their pensions.

I undertake to say that there is not a single table of statistics which will show this thing can be done for any \$150,000. With all due deference to my friend and associate on the Committee on Appropriations, the gentleman from Pennsylvania, I say he has not shown any such thing; and as a member of the Committee on Appropriations I here and now enter my protest against this thing in the interest of the pensioners of this country. Who made the discovery? It was not my venerable friend from the Lancaster district of Pennsylvania, and chairman of the subcommittee on appropriations. It was made long ago by the Commissioner himself. He reduced these pension agents from fifty-eight to eighteen; and of all the communications which have been addressed to us on this subject his is altogether the most intelligent. He recommended to this House the reduction of the compensation of these pension agents to a proper sum, and to let them go on as they are now in the payment of these pensions.

I only wish to say in conclusion that if this thing is undertaken you will find instead of doing it for \$130,000, as the bill proposes, it will cost nearer half a million, and I stake my reputation on it.

[Here the hammer fell.]

Mr. FORT. Mr. Chairman, if I believed the proposition ingrafted on this pension appropriation bill would be unjust to pensioners or delay the payment of their pensions, I certainly could not support it. I concede there may be doubt as to whether the change in the beginning would not cause some little delay in the payment of these pensions, yet not more than a day or two, and after the change gets into working order there will be no delay. Gentlemen on this floor have grown very eloquent in talking about the poor pensioners. They base their opposition to this measure on the ground of their deep solicitude about the welfare of the poor pensioner. One would think to hear them speak that they considered themselves the only friends and guardians the pensioners had. I have noticed, however, that these same gentlemen who have most love to express for the soldier have not been very willing to extend pensions, at least have not voted to extend pensions to those who seem to deserve them and grant a pension to a class of deserving soldiers not now on the pension-rolls. Opposition generally comes from those who did not happen during the time pensioners were manufactured to be very near the places where the manufacturing was going on. [Laughter.]

Now, sir, here is a question presented to us between the needy and worthy pensioners on one hand and the toiling tax-payers on the other. Between the two stand eighteen pension agents through whom the taxes collected from the tax-payers are distributed to the pensioners, and who toll the money by way of fat fees as it passes through their hands. The very lowest one of these pension agents gets \$5,332.64 a year and the highest gets \$23,337.88 a year for doing his or her official duty. It is a question with the tax-payers of the country whether they will still continue to pay such enormous salaries. The compensation paid to these agents will average over \$15,000 a year.

I happen to know two or three of these pension agents, and they are very excellent people. I like them exceedingly; but as a taxpayer and a Representative of tax-payers I do not believe it our duty to longer permit it. I have no fault to find with the agents; the fault is not with them; the blame is upon us if we continue it longer. I know, Mr. Chairman, these high salaries are the result of consolidation, and this is our first opportunity to act, and we should not hesitate.

Mr. Chairman, I have noticed since I have been here in Congress that whenever a proposition is made to reduce the number of office-holders you find a hundred eloquent gentlemen on their feet in a moment, resisting it and denouncing the measure as foolish or impractic-

cable, as they now do in this case. The trouble with them is, some friend must give up his place or some friend who is expecting a place will be disappointed, and hence their opposition. I do not wish to be personal, and I regret to state what is true. Very often, I will say, it has been on the republican side of the House, but not always.

And, sir, judging from past experience with the ex-Doorkeeper of this House, it would have been no better with the democratic side if they were in power. They are resisting the reduction of officers where they have the appointment, and in fact they have increased officers enormously wherever they could control the appointment, and the extravagance of the democratic party where they hold the control of patronage is beyond all precedent. So it seems almost impossible to cut down the number of office-holders or to reduce the list of offices by a direct vote of this House. Republicans seem to want to hold on to all they have, and the democrats are determined to increase wherever they have the appointments. The fifty-eight pension agents were not reduced to eighteen by a vote of this House. The law happened to be passed authorizing the President to reduce their number and consolidate the districts, and he did it; let it be remembered to his credit. I question whether it would ever have been done by a square vote of this House. The regret is that the President does not assume the further responsibility of a still further reduction. And I am glad to learn that he intends soon to do so if Congress does not.

I think, sir, that there can be no possible trouble and no considerable delay in paying pensions from the Treasury Department direct. A Treasury draft would be better and worth more to the pensioner than a pension agent's draft. Very likely it would have been better to have continued to pay pensioners only twice a year as was formerly done. They are now paid four times a year. It is perhaps more satisfactory to them, but I question whether it is any better for them to receive their pensions so often and consequently in such small installments. I often think that too frequent payments is not best. No complaint was ever made when pensioners were paid only twice a year, and it cost only half as much to pay under the former law as it does now. But I would not change the law back now; some might complain. I have no doubt some of them would want to be paid twelve times a year without regard to the cost of payment to the Government. Gentlemen have said if payment is to be transferred to the Treasury Department instead of by agents as now done, that it will cost \$450,000, and the pensioner would be defrauded; that claim agents would have to be employed here. I ask them how and why? Thousands of pensioners are paid here now, and I respectfully ask gentlemen to name one case of delay, or any pensioner who had to employ a claim agent to get his pension here. The excellent pension agent, Mr. D. C. Cox, pays every one promptly and without cost or trouble to the pensioner, and in my judgment Mr. Cox as a bureau officer could and would pay them all.

[Here the hammer fell.]

Mr. ALDRICH and Mr. O'NEILL rose.

Mr. SMITH, of Pennsylvania. I was about to move that the committee rise for the purpose of closing debate on the pending paragraph.

Mr. THOMPSON. I hope that motion will not be made now. Other gentlemen want to be heard on this matter very briefly.

Mr. SMITH, of Pennsylvania. I do not want to do anything discourteous, but I am anxious to get the bill through. I withdraw the motion for the present.

Mr. ALDRICH. Mr. Chairman, I move to strike out the last word.

I am in favor of the amendment offered by the gentleman from Maine [Mr. POWERS] on behalf of the Committee on Invalid Pensions. The very radical change in paying the pensioners contemplated by the Committee on Appropriations is of such vital importance to the pensioners as to command most careful consideration. Any system of transacting the business of the Government which is in good working order, and which is being transacted with such entire satisfaction to all parties concerned and with such perfect safety to the Government, should not be changed unless good and sufficient reasons are shown why such change should be made; whether such reasons have been shown I propose briefly to consider. It is contemplated to discharge eighteen pension agents who have been proven to be most efficient and faithful officers, and turn over this vast machinery, with all its multitudinous and laborious duties, to the already over-worked Secretaries of the Treasury and Interior and have the duties performed by bureaus which have already more to do than can be done with reasonable promptitude. The only reason given for this change is one of economy. It is claimed that it will effect a saving of \$200,000 to the Government annually.

Is this true? Is there the least probability that upon trial it will be so proven? The cost under the present system of disbursing pensions is \$287,317.15 per annum. This amount is paid to the eighteen agencies and out of it all the expenses of the several agencies, including clerk hire, rent, postage, &c., are paid. If the business of these agencies is transferred to Washington the Commissioner of Pensions estimates the increased expense to his bureau to be \$132,246 a year, and the Third Auditor estimates the increased expense to the Treasury Department at \$42,000. (See reports of Commissioner Bentley and Third Auditor Austin to the Senate Committee on Pensions upon this subject.) I am informed that upon further investigation these officers have increased their estimates.

I understand the plan proposed is that all vouchers must be exam-

ined and approved by the Commissioner, and then sent to the Treasurer to be paid. To the expenses already mentioned should be added the postage on vouchers and checks sent out, probably not less than \$35,000 annually, which would make the cost under the new plan \$209,246 per year.

The committee at first recommended an appropriation of \$96,000 to meet these expenses during the next fiscal year. This glaring inconsistency seems to have finally struck them, for they now offer an amendment increasing this sum to \$130,000; and should this unwise measure become a law, I venture to say and put it on record that another year will show a larger deficiency in this business than the entire amount appropriated to carry it on. No matter how liberal an allowance had been made for the expense of disbursing pensions from this city, it would have been a difficult task to successfully carry out this new plan; but with the small amount appropriated to cover the expense an attempt to pay two hundred and thirty thousand pensioners four times a year from a Washington office would, in my judgment, prove a most disastrous and ignominious failure.

There is no question that pension agents are now paid too much; but the most reasonable way to effect a reduction in the expense will be to cut down the fees as is contemplated by the Committee on Invalid Pensions.

As I have already stated, the present system affords perfect security to the Government and entire satisfaction to pensioners, and should be retained as long as this great army of pensioners, or anything approaching it in numbers remains.

Pensions should be paid promptly and with as little expense and trouble to the beneficiaries as possible. Promptness and freedom from vexatious formalities being so desirable, it seems to me all must admit that the Departments here are the last places to look for them. In fact I know of no city or village anywhere but what affords better facilities and conditions for the satisfactory transaction of business than this city of Washington; and to compel widows, orphans, and disabled veterans to wait every quarter for the uncertain and tardy returns from Washington would go far toward robbing our pension system of half the benefits it was created to confer.

In no point of view can I deem it wise to attempt this radical change.

Mr. PRICE. Mr. Chairman, I suppose the only question before this committee is the question of transacting some business in a business-like way and in getting it done as cheaply as it can be done and as well as it can be done.

Now, the gentlemen who have discussed this question on both sides admit that about nine hundred thousand vouchers have to be made out in the course of a year and upon those vouchers the pensioners must be paid, no matter whether the work is done in Washington or whether it is done at eighteen separate, independent pension agencies throughout the country.

It appears to me that the plain, common-sense practical question here is this: where can we have that work done the cheapest and at the same time done well? I submit to any gentleman upon this floor upon either side of this question, whether he cannot go to his own home outside of Washington and have twice, if not three times as much clerical work done for the same money as he can have done in Washington City? I do not believe, sir, there would be a single negative vote on that proposition. I can go into my State—and I want to say here before I go any further that I have got no pension agent in my district, that I have got no particular man to favor—I can go into my State and get as much clerical work done for \$600 as you can get done in the city of Washington for \$1,600. And I know whereof I affirm when I make that statement. Does not every gentleman know that when you centralize the business in Washington City and put it in these Departments—and I am not saying anything against heads of Departments or tails of Departments; I am speaking of a fact patent to every man in this House—when you put business into the hands of these Departments, a man has to live a long while before he can chase it from one end of the Department to another and bring it to a conclusion.

If the object is to save money we have to cut down the fee of these pension agents. It can be reduced ten or fifteen cents on every voucher, and the work still be well done. But I say it can be done outside of the city of Washington much better than in it; and upon that the whole question turns. If gentlemen will look this thing in the face upon the facts as they exist I think no gentleman will deny that this work can be done outside of the city of Washington better than it can be done here; bringing the agencies nearer to the pensioner, and with a greater degree of certainty of the payments being made safely than if made here, and with the certainty of their being made sooner than they can possibly be made if the agencies exist in the city of Washington.

These two points, in my judgment, cover the whole matter, they cover the whole ground. We can save by the amendment already pending a little over \$100,000, a clean saving, money in the Treasury, no discount upon it, and have the work done where it is now done, and without any change in the business of the country, without any check, without any complication, and without requiring the pensioners to investigate the matter so as to learn where and when to get their pay. We shall save money by this amendment reducing the fees on the vouchers paid out of the different pension agencies and leave the work in the present hands, and have the work done where

it is done now and save money without making any check on the business and without any centralization.

Mr. THOMPSON. I am not surprised that some gentlemen advocate the bill reported by the committee, but I am surprised that gentlemen on the other side of the House who are so fearful of anything that looks like centralization should support the bill. It is simply a question in my judgment whether the work necessary to be done can be done as efficiently in the city of Washington and for less cost than it can be done in the various agencies in the States of this nation.

Now, the argument that would centralize this business in Washington City would also make the payment of the Navy here and abolish the naval pursers and paymasters. And why stop at that. Why not have a single centralized chaplain here, especially since the introduction of the telephone, and abolish all your naval chaplains and paymasters and pursers and have a single chaplain here, and let the money be paid out and the prayers printed every morning and sowed broadcast throughout the country. This would be economy. This bill may be in itself economy, I do not know. But there is one thing I do know, that for every dollar that this bill saves to the National Treasury it will rob the pensioner of two dollars, and I am not willing that economy in so small a matter as this should be at the expense of the pensioner, and for every dollar that is saved to the nation the pensioner will lose two dollars, and the bill had better at once be made a simpler measure which would be just as honest and wise a measure and just as easily understood. If it undertook to assess the pensioner 1 or 2 per cent., that would be economy, but directly at the expense of the pensioner, and I want every man who votes for this bill, and want the country to know, it is not economy except in the single instance that the Government pays less, but every dollar it saves is robbed from the pensioner. I am for economy, but as between economy and the pensioner I am for the pensioner, and let the Government pay the expenses of giving him his pension as heretofore.

[Here the hammer fell.]

Mr. HEWITT, of Alabama. I regret exceedingly that I cannot follow, as I have done uniformly heretofore, the Committee on Appropriations in this matter. If I believed that this measure was wise, that it was in the interest of economy and of the pensioner, I would give it my most hearty support, although it may have originated in the brain of the Committee on Appropriations, and not in the brain of the Pension Committee. But, sir, I do not believe that this is a measure in the interest of economy; I do not believe that it is a measure in the interest of the tax-payers of this country, nor do I believe that it is in the interest of the pensioner himself. The Committee on Appropriations say that \$130,000 is all that is necessary under their system to pay the pensioners. Well, now I want to know where they got their figures. We have the assertion of the committee, we have the assertion of the gentleman from New York [Mr. HEWITT] that \$130,000 is ample for this purpose; but, unfortunately for the gentleman and fortunately for the House and the country, the gentleman who reported this bill [Mr. SMITH, of Pennsylvania] submits papers which show upon their face that it will require from \$185,000 to \$192,000, instead of \$130,000 for this purpose.

If we take the papers the gentleman exhibited as evidence in support of this measure we find that it will require, instead of \$130,000, at least \$185,000. The gentleman from Pennsylvania [Mr. SMITH] introduced as evidence before the House a letter from the distinguished gentleman now at the head of the Interior Department, to which I wish to call the attention of the House:

If Congress will authorize the United States Treasurer to pay all pensions from the end of the present fiscal year, I doubt not every needed arrangement can be made by that time to carry the proposed plan into successful operation.

Several plans have been suggested for the payment of pensions by the United States Treasurer. One provides for the sending out of the quarterly vouchers by the Pension Office and on return their certification to the Treasurer of the United States. Another plan provides for the sending out of the quarterly vouchers by the Pension Office, their return to the Third Auditor, and their certification by that office to the Treasurer.

Now, it is this latter policy that the Committee on Appropriations propose in their bill. Now what does Secretary Schurz say as to the cost under these provisions?

Both of these plans would require considerable addition to the clerical force of the Pension Office and that of the Third Auditor.

The Commissioner of Pensions estimates that under the first plan the increased cost would be at least \$137,000. Under the second he estimates the increase at \$87,000. The Third Auditor informally estimates the increased expenses of his office at \$45,000. I should favor the more simple and economical plan of leaving the sending out of the vouchers and their examination on return to the office authorized to make the payments.

That is \$7,000 more than you propose to appropriate for the whole service.

Under the latter plan, he says, the pension office will require \$87,000. The Auditor says that his office will require an appropriation of \$46,500, making more than you propose to appropriate in this bill for the whole of it.

[Here the hammer fell.]

Mr. RICE, of Ohio, obtained the floor, and yielded to Mr. HEWITT, of Alabama.

Mr. HEWITT, of Alabama. In addition to this \$137,000 the Committee on Appropriations say that there will be required an appropriation for the Treasury Department of \$55,000. Now add the \$55,000 to the \$137,000, and you have more than \$180,000 instead of \$130,000.

These are the figures submitted by the committee themselves. They are the official figures from the Departments; and any other information that gentlemen have given here has been unofficial. What authority has the gentleman from New York [Mr. HEWITT] to say that \$20,000 will be sufficient for the Auditor's office when the Auditor in his official report, submitted by the gentleman from Pennsylvania, [Mr. SMITH,] says that \$46,000 will be required.

In addition to that they propose to send out these checks, free of postage, while the Government has heretofore paid \$31,000 as postage upon them when sent out by the pension agents. The gentleman from New York [Mr. HEWITT] says that it does not cost the Government anything to send them out. Well, sir, the gentleman has made a discovery. I thought that it cost the Government something for every letter and every paper that it carried through the mails. But my distinguished friend from New York has made the discovery that it costs the Government nothing to carry the mails. Well, Mr. Chairman, it may be true that there will be no additional cost, but there will be a clear loss to the Treasury of \$31,000, which would otherwise be turned into it as postage which the pension agents would be required to pay under our amendment. This is just the same as if the Government absolutely had to pay out that much money, because it is a loss of \$31,000. Now adding the \$31,000 to the \$185,000 required under the bill of the Committee on Appropriations, it makes the aggregate about \$220,000—\$6,000 or \$7,000 in excess of the expense proposed to be incurred by the amendment of the Committee on Invalid Pensions.

[Here the hammer fell.]

Mr. O'NEILL. Mr. Chairman, there are two parties interested in this bill, the Government and the pensioners. The gentleman who has it in charge, my esteemed colleague, [Mr. SMITH,] has brought to us many facts and figures, and has taken the suggestions of several prominent officials. He has given to us the views of the distinguished Secretaries of the Interior and the Treasury of the United States, through their letters, and has indeed devoted with diligence a great deal of time to the subject. But I notice one omission, and in my opinion it is an important omission. While he has sought the views of Government officers he has not consulted with the other of the two parties interested, the party in my view of the question who has the greatest interest in legislation upon the payment of pensions. I refer to the pensioners. Has he written to one of them for an opinion? Has he selected a single recipient of a pension, be he a general, a colonel, a major, or a private? Out of two hundred and thirty-two thousand and more pensioners not one letter has been produced showing what the opinion is as to convenience and promptness of payment; no consultation with the invalid soldier drawing a pension as to what he may think of the present system of payment; not a word from one out of the vast roll of the recipients of the amounts due them under the law for their wounds and sickness incurred during their patriotic service to the country; not a line from the widow or the orphan child who waits patiently for the day to come to receive what is due under the present convenient and prompt system of payment by the pension agents. I have no doubt but that the testimony of these 232,104 pensioners would be for the continuance of payment by the eighteen existing agencies.

Mr. Chairman, I represent in part a city in which there is located a pension agency. Many thousands of pensioners are paid there. There is no complaint. When the days of payment come around that efficient pension agent, my esteemed constituent, and his force of clerks are ready promptly and expeditiously to pay, and the work at such times is greater than the work done by any clerical force in any other department of the Government. Their work continues all the year, also. All day from early morning to long in the evenings the pension agent himself and his clerks willingly devote their time to the duties imposed by the law. I do not think a salary of \$4,000 per annum is too large a salary for a pension agent. The disbursement of money is immense, the responsibility is very great, the security given is very large and, at last, duty well and honorably and conveniently performed for pensioners deserves a proper compensation. The aggregate receipts from vouchers appear large, but of that the pension agent pays for his clerks, his office expenses, including many items, probably leaving him but little if anything to add to the salary of \$4,000.

Mr. Chairman, in the Forty-third Congress the voucher fee was reduced to its present amount. That was not done even then, the reduction of five cents upon each voucher, until the subcommittee of the Committee on Appropriations, who had charge of the pension bill of that year, had received the views of many of the pension agents as to their receipts. The expenses paid by the agents were taken into consideration before the reduction was made. I am not in favor of abolishing the agencies. When the number of agents was fixed at eighteen, it having been fifty-eight, there were many double agencies in the large cities, especially one for invalids and one for widows. The two agencies were abolished, and but one remained in such places. This reduction was judicious and proper. But to abolish all the agencies and to have the pensioners paid from one would be very expensive to the Government and to the individual pensioner and the payments of the pensions would be greatly delayed, to the inconvenience of the pensioner whose wants are pressing. I hope the change will not be made.

Mr. CASWELL. Mr. Chairman, let me say in the beginning that I am not one of those at all interested in any pension agent, and I

trust no one will attribute to me any such motive in what I may have to say.

I do not wonder it has been suggested by some gentlemen that the proposition to reduce the original number of pension agents from fifty-eight to eighteen could not have passed this House. I for one would never have voted for such a proposition. I am one of those who believe that the nearer we bring the paymaster to the pensioner the sooner he will receive his pay and the better it will be for him.

It is easy to be seen that during the first fifteen days of each quarter, if we would make these payments promptly, a very large force will be necessary. We can understand it would be entirely impracticable to maintain such a force at the Treasury Department of this Government for so short a period. That, however, can easily be done at the several pension agencies. We all understand that these agents can with great ease secure the necessary force to adjust the vouchers and make the payments promptly. But such is not practicable in our Government Departments, and it cannot be put in successful practice.

To avoid this, it has been suggested that we divide these pensioners into twelve classes and assign to each class a certain number of days for payment.

Mr. Chairman, a moment's reflection will satisfy the House that such is utterly impossible. For instance, you may assign the first eighteen thousand men on the pension-roll to the first six days of the quarter. If we could control the men who are to sign and send forward the vouchers and have them executed and forwarded within that period, we might regulate the payments in that way. But, sir, those vouchers would arrive at all periods through the entire quarter, and those which reach the Department later than the period assigned to them would either displace those of the second or third class or they would be laid aside, and as a matter of necessity their payment would be delayed beyond the period assigned to them, and the pensioner compelled to wait sixty or ninety days or displace the payment of others. Confusion would follow, because we cannot control the men who sign and send forward the vouchers or fix the time in which they will be presented. This shows it would be utterly impracticable to divide and classify the payments.

Let me suggest, Mr. Chairman, that we continue the classification in the eighteen which we now have, and the payments be made as they now are at the eighteen pension agencies. This is quite practicable. They can at each of the agencies summon such temporary force as will be needed to adjust the vouchers, and pay them off within a few days at the longest. I am in favor of economy, and I have not risen to question the motive of any gentleman on this floor in that direction. As the law now is there is a limit to the expense, but if you send these men to the Treasury for payment there is no limit to the expense which may follow.

I have no doubt, sir, the present agents are receiving too much compensation. That grows out of the fault of the law as applicable to the consolidation. The voucher fee is too large. But that is the result of the consolidation. This excessive compensation will continue until Congress corrects the evil. The fault heretofore has been in the law enacted for the payment of a larger agency, but if it remains much longer the responsibility will rest upon us. The amendment, however, offered by the gentleman from Maine by direction of the Committee on Pensions, reduces this compensation to one which is just and fair.

[Here the hammer fell.]

Mr. HEWITT, of New York. Mr. Chairman, the only practical question which remains before the committee is the choice between two plans, one submitted by the Committee on Appropriations and the other by the Committee on Pensions. This debate, if it has had no other effect, has had this one, and that is to prove we can save by the more expensive of the two plans suggested over \$100,000 annually in the cost of paying pensions, and that amount will pay for the time and labor given to the discussion.

If the Committee on Pensions had suggested their plan to the Committee on Appropriations at the outset I have no doubt it would have been accepted. There was no plan before us and we were compelled to dig one out for ourselves. Now as between the two plans submitted to the House I am quite clear the Committee on Appropriations have devised the more effective and more economical one. I have heard no good objection to it, but it has been loudly asserted that the pensioner will be robbed, but no specification as to the mode of robbery was made by the gentleman from Pennsylvania who indulged in that language. But my colleague on the committee from Ohio [Mr. FOSTER] did specify it would come in the loss of interest. Mr. Chairman, I am astonished that my colleague on the committee should not have looked more carefully into the subject. We do not propose to delay the payment of the pensioner one hour. Let me say there is a simple mode by which pensioners can be paid even under the present system from the Treasurer's Office so as not to produce delay. It appears from the statement made by the gentleman from Maine [Mr. POWERS] the number of variations in the pay-rolls in each quarter are from 12,000 to 15,000, being only 5 per cent. of the total number of pensioners.

These variations occur only in the cases where there are widows who remarry or where there are minor children who come to the age of sixteen years. Now, the pay-rolls show the number of these persons and give their names. All, therefore, that the Treasurer has to

do is to set his force at work to draw checks, omitting all the cases where there are minor children or where there are widows; and then when the vouchers come back he will merely have to compare them with the omitted name. There are only fifteen thousand of them, and in five days, at the rate of three thousand a day, which is less than his estimate of a day's work, he can complete them all; and that is all the delay that occurs. But no doubt even this delay can be avoided when the system gets fairly in operation.

Now, I come to the statement of my friend from Alabama, [Mr. HEWITT.] He says that the figures of the Committee on Appropriations show it will cost \$192,000. He is mistaken. His first figure is got from the Commissioner of Pensions, who says the cost of the first plan, which we do not propose to adopt, will be \$137,000. We propose to adopt the second plan, the cost of which he estimates at \$84,000, but in which he makes an error of an allowance of \$6,000, reducing the amount to \$78,000. Now, this \$78,000 is a large and liberal estimate, because he now has a body of clerks who are compelled to keep up a pay-roll in his own office, as he says, not entirely perfect but which must be perfected under the system which we propose. The allowance of \$85,000, which we made for filling up the vouchers, to be done in the Pension Office, is abundantly ample, and has been gone over by a gentleman, whose letter is printed in one of these documents before the House, Mr. August Huddenhauser, one of the clerks of the Treasury. It will be found on page 13 of miscellaneous Senate document No. 33 of the present session of Congress. In that estimate he allows for the Pension Office \$60,000. We allow \$65,000. In the Third Auditor's Office, where—and I call attention of gentlemen to this fact—the Third Auditor himself only asks \$40,000 to \$45,000, and not \$46,500, as stated by the gentleman from Alabama—in that office there is already kept a roll. (I observe the gentleman from Alabama is looking for the estimate. I will give him the page. It is on page 13.) There is already kept a pension-roll; and with the addition of \$20,000 Mr. Huddenhauser estimates that all the comparison of the vouchers can be made, and there cannot be a doubt that the allowance is sufficiently large, when it is considered that the variations do not exceed fifteen thousand in any one quarter, or sixty thousand a year. The allowance of \$20,000 is therefore at the rate of 33½ cents for each voucher in which any change occurs involving computation.

The total expense up to this stage is therefore only \$85,000. And then there only remains the filling up and mailing of the checks, the cost of which the Treasurer gives at \$55,000, which makes the sum of \$140,000, as I showed in my remarks of yesterday. Now there is no possibility of exceeding this outlay for doing all the work which is done by the pension agencies at a cost of \$315,000, unless either the Commissioner of Pensions, or the Third Auditor, or the Treasurer is mistaken in his estimates. It has been stated that the Commissioner of Pensions has made a different estimate to the Committee on Pensions, and says that one hundred and fifty clerks will be required in lieu of the fifty-one clerks which he estimated for in his letter of November 27, 1877. But I will not be so unjust to the Commissioner of Pensions as to believe that these conflicting estimates are made for the same work, and indeed I am sure that the fault will not be found with him for this apparent discrepancy. The committee have simply misapprehended his reply, or he has misunderstood their question.

Now the only question remaining is whether the system will work. There is nothing else before this House. Gentlemen here who have not taken the trouble to go to the Departments, and who have not seen the heads of bureaus, say it will not work. But I have been in person to all of them. I have interrogated them. I have investigated the work. It is as plain and simple work as is done in the counting-house of any merchant. There is no reason for delay; and I say that instead of its costing more than \$140,000, in my judgment the work can be done for \$100,000. I can understand how eighteen pension agents can bring a great deal of influence to bear upon this House. The gentleman from Pennsylvania [Mr. THOMPSON] referred to telephones. They have got telephones that speak here through a great many mouths. The only telephone which I want to hear in this Hall is that which comes from the great mass of the tax-paying people of this country who are now oppressed under the great load of national, State, and municipal taxation which has destroyed the prosperity of the country and will entirely prevent its recovery until we introduce and carry out these measures of economy. The pensioners do not stand in the way of retrenchment. In proportion to their means they have more to gain by it than any class in the community, for the taxation which we impose here enters into every article of clothing which they wear and every portion of food which they consume. What they want is the full worth of their money when they get it, and the best friend of the pensioner is not the member who talks loudest on this floor, but the one who votes to reduce taxation in every case where it will not impair the efficiency of the public service. I can tell gentlemen that the work of reduction initiated in the Forty-fourth Congress will have to go a great deal further and deeper before the expectations and just demands of the people for retrenchment in the public expenditures will be satisfied.

[Here the hammer fell.]

Mr. SMITH, of Pennsylvania, rose.

Mr. HEWITT, of Alabama. I desire to ask the gentleman from New York a question.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. SMITH, of Pennsylvania. I move that the committee rise. My object is that the House may close debate on the pending paragraph and amendments.

The motion was agreed to.

The committee accordingly rose; and Mr. BANNING having taken the chair as Speaker *pro tempore*, Mr. GARFIELD reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 3974) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1879, and had come to no resolution thereon.

Mr. SMITH, of Pennsylvania. I move that the rules be suspended and that the House resolve itself into Committee of the Whole on the state of the Union, to resume the consideration of the special order; and pending that motion I move that all debate on the pending paragraph and amendments thereto be limited to one minute.

Mr. HEWITT, of Alabama. I move to amend that by striking out "one minute" and substituting "five minutes."

The question being taken on the amendment of Mr. HEWITT, of Alabama, it was not agreed to.

The motion limiting debate to one minute was agreed to.

The motion that the House resolve itself into Committee of the Whole on the state of the Union was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. GARFIELD in the chair,) and resumed the consideration of the pension appropriation bill.

The CHAIRMAN. The House has ordered that all debate on the pending paragraph and amendments thereto be limited to one minute. The Chair recognizes the gentleman from Pennsylvania [Mr. SMITH] as having the floor.

Mr. SMITH, of Pennsylvania. I do not desire to occupy the time.

Mr. HEWITT, of Alabama. I desire to offer an amendment.

The CHAIRMAN. If there be no objection, all the formal amendments will be considered as withdrawn.

There was no objection.

Mr. HEWITT, of Alabama. I offer the following amendment:

In line 15 strike out the word "eighty-five" and insert in lieu thereof the word "fifty," and add to the paragraph the following:

Provided, That a fee of \$1 and no more shall be paid to examining surgeons for each examination of pensioners as provided by law, except when the examination is made by a board of surgeons, in which case the fees now allowed by law shall be paid.

Mr. HEWITT, of New York. Does the gentleman offer that amendment by authority of the Committee on Pensions?

Mr. HEWITT, of Alabama. I do.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For Navy pensions to invalids, \$210,000; and for widows and dependent relatives, \$334,000; for fees of examining surgeons, \$1,000, as provided by the several acts of Congress: *Provided*, That the appropriations aforesaid for Navy pensions and other expenditures under that head shall be paid from the income of the Navy pension fund, so far as the same may be sufficient for that purpose.

Mr. HANNA. I move to strike out the last word. I would not have troubled the House with a single word if it had not been for the remarks of the gentleman from Illinois [Mr. SPARKS] and the gentleman from New York, [Mr. HEWITT,] who thought proper to call attention to the fact that I am the member from the Indianapolis district that has a pension agency, and therefore, perchance, I was actuated by mercenary motives; and also for the remarks of the gentleman who last took his seat, who took occasion to say that some members upon this floor spoke through telephones, and that those telephones were perchance pension agents. I say to him that the telephone through which I speak is more than twenty thousand pensioners in Indiana who by the passage of this bill as it has been reported would be wronged and robbed; and experience will prove that if you put this bill in force the pittance which the Government of the United States has allowed to the pensioners of my patriotic State will be wrung from them and that they will be robbed of it by shysters and agents around the city of Indianapolis, and it will fall into the hands of the bankers and business men in New York, who hope under the operation of this bill to have the \$28,000,000 transferred to the depositaries of New York City. Talk to me about mercenary motives! If I had occasion to seek for mercenary motives under the guise of business I would trace it to the hope that this \$28,000,000 to pay pensioners is to find its way into the banks of New York as another means of making the West and South tributary, as we have been long enough, to New York City. [Laughter and applause.] Talk to me about mercenary motives! I could find them if I thought proper to dwell upon that.

As to the remark made by the gentleman from Illinois [Mr. SPARKS] in reference to myself, I do not deign to reply to anything so groveling. I say that the delay and hazard to which you will subject the pensioners by the passage of this bill will practically result in robbing them of their pensions, and there is no way to avoid it. How many applications for pensions are pending to-day from meritorious claimants that cannot be heard and perchance may not be heard for a year. Why is it that nearly one hundred thousand applications have not been heard? It is not by reason of any fault on the part of the Commissioner of Pensions, but because your Committee on Appropriations, insisting on a peculiar policy, have refused to make

appropriations for the necessary clerks in that office and in the offices of the Adjutant-General and the Surgeon-General. The committee now propose to subject two hundred and odd thousand pensioners to the same niggardly policy, to prevent the administration of public justice. I want you to think of it. This is not a party question.

The gentleman from Illinois [Mr. SPARKS] attempted to raise the party cry on this question. God forbid that the democratic party, low as it is, should sink so low as to be controlled by party considerations in the discussion of a question of this sort. That will not do. [Applause.]

Mr. SPARKS. I dislike a speech of the character of the one just made by the gentleman from Indiana.

It is always unpleasant to me when I have done full justice and treated an opponent with fairness and kindness that he should come back at me like a Texas bull or a bear. I spoke respectfully of the gentleman from Indiana, as every gentleman knows who heard me, as much so as it was possible for one gentleman to speak of another. I did say that he was from a city in which was located a pension agency, and that it was natural that human prejudices should make him feel especially interested in holding that office there.

The gentleman says that I have drawn politics into this debate. In that peculiar manner that he has of looking ugly and talking loud and saying harsh things, he says that I have tried to drag in politics here. Sir, that charge is not warranted by anything that I have said, and therefore, to express it mildly, it is not the fact. I commended the excellent chairman of our subcommittee, [Mr. SMITH, of Pennsylvania,] a republican, who is the author of this measure. I spoke of his action with unbounded respect. I tried in every word that I uttered to commend the action of republicans who had attempted to relieve the country of this unpardonable robbery of the public Treasury and the pensioners through these cormorant pension agents. I commended specially the gentleman from Pennsylvania, a republican member, who had suggested this plan for saving the public money. It is true I did intimate that many of these agents had been appointed originally through political partiality, and I further said that the other party (my own) now soon to get control of this Government—the party which by fairness ought to have it now—would be in the same trouble with these pension agents if they were continued. The members of the party shortly to come into power have an eye for office as well as other men; and if that party had the dispensation of these offices it would very likely dispense them like other men.

Mr. CHITTENDEN rose.

The CHAIRMAN. There is an amendment pending on which debate has been exhausted.

Mr. HANNA. I withdraw the amendment, so that the gentleman may renew it.

Mr. CHITTENDEN. Mr. Chairman, I renew the amendment. I wish in all seriousness to show how little force there is in the arguments of the gentleman from Indiana [Mr. HANNA] and other gentlemen against this proposition. I have no more to do with the banks of New York than the gentleman has; every syllable, every letter of his in respect to that is as applicable to him as to me. That ends that. Now, in regard to the question of the robbery of pensioners, the gentleman might as well charge me with putting my hand into his pocket and stealing whatever money he has in it as to use any such a phrase as that with reference to the operation of this proposed measure of the Appropriation Committee now under consideration. It is simply "bosh." [Laughter and applause.] It is unworthy of any man who is capable of having votes enough to bring him to this floor. There is not a word of truth or sense in it. [Laughter and applause.] Now I will prove it.

The statements presented here yesterday (and I ask for them the attention of every man here who understands figures) show that 87½ per cent. of the pensioners have lately received their pay through the post-office to their satisfaction. Now any man at all candid, any man capable of rising above party and personal interests in this hour of his country's need, should ask himself, if 87½ per cent. of these payments have been satisfactorily made through the post-office, what difficulty is there in paying all the rest in the same way? This consideration answers every word that has been uttered against the practicability and justice and fairness of paying all the pensioners through the Treasury Department at Washington. The objection to this system is absurd; it is not grounded in reason, in common sense, in business sense or in any sense, but looks simply to the interest of fifty-eight agents whose time is out. The agencies have done their work. Their establishment was in some sort a war measure. The war is over, and the time has come when we, the Representatives of the people, must undertake to get back to peaceful methods and to do the things that make for peace—the things which tend to restore our whole country to that degree of brilliant prosperity which is at once its birthright and sure inheritance.

Now, the gentleman from Indiana [Mr. HANNA] is a lawyer, an eloquent lawyer; he can "make the worse appear the better reason;" but I say to him that no pensioner of his district or State or of any State of the Union will be injured or robbed by this bill if it shall pass, and it is high time his stale thrusts at "bloated bondholders" ceased.

[Here the hammer fell.]

Mr. SMITH, of Pennsylvania, obtained the floor.

Mr. HANNA. I ask the gentleman from Pennsylvania to yield to me for a few minutes.

Mr. SMITH, of Pennsylvania. I will give the gentleman two minutes.

Mr. HANNA. In order that I may be correctly understood, I wish to explain what I mean by saying that this bill will result in practical robbery. Take, for instance, the pension agency in my own district. The salary is \$4,000; voucher fees, \$14,515; contingent expenses, \$1,657.76; total, \$20,172.76. Now, bear in mind that out of this the pension agent pays all his clerk hire, his rent, his fuel, his postage, the entire expenses of the office.

Mr. FORT. How much does he pay?

Mr. HANNA. Why does not the Appropriations Committee give us the facts instead of howling about "fraud?"

Mr. SPARKS. The gentleman has adverted to me once or twice, I think, rather severely. Will he allow me to ask him a question?

The CHAIRMAN. The two minutes of the gentleman from Indiana [Mr. HANNA] have expired. The gentleman from Pennsylvania resumes the floor.

Mr. SPARKS. I wish to ask the gentleman a question.

The CHAIRMAN. The gentleman's time is out.

Mr. SPARKS. I want merely to ask the gentleman from Indiana whether his law partner is the pension agent at Indianapolis.

Mr. HANNA. I will answer that.

Mr. SPARKS. Do.

Mr. HANNA. I will say that my law partner fought in the war from the first to the last; he fought with Hooker above the clouds; he fought for the Union when you did not.

Mr. SPARKS. I want it distinctly understood that the law partner of the gentleman is the pension agent at Indianapolis; and I can prove it, and "That's what's the matter with HANNA!" [Laughter and applause.]

The CHAIRMAN, (who had been rapping vigorously with his gavel during the preceding colloquy between Mr. HANNA and Mr. SPARKS.) The gentleman from Pennsylvania [Mr. SMITH] has the floor. The Chair does not intend to allow debate out of order to be heard, if he can prevent it.

Mr. SMITH, of Pennsylvania. Mr. Chairman, I give notice that I shall not indulge in any personality. I think that this proposition ought to commend itself to every man who looks at the facts as presented. Those facts I endeavored to present yesterday, and this morning they appear in the RECORD. Now, how have they been gainsaid?

Mr. KEIFER. Will the gentleman allow me just one remark in regard to a statement in his speech of yesterday?

Mr. SMITH, of Pennsylvania. I beg the gentleman not to interrupt me now.

Gentlemen have not looked at the facts presented in the RECORD, or they have entirely ignored them. Some gentleman has referred to the absence of facts. Such has not been the case, Mr. Chairman. I put the official statement upon record, furnishing the exact amount paid to those pension agents. Is that denied? No; on the contrary all these gentlemen who have risen here, and especially my friend from Maine in his opening, have said the facts stated by me as to the exorbitant salaries paid to these pension agents are correct. That much at least has been gained. It is a point on which we are all agreed. Even those opposed to this proposition admit that.

Now, what in reference to the next point? Is there any delay to result from this change? There was none when the fifty-eight pension agencies were consolidated to eighteen, and there need not be any when the eighteen agencies are consolidated into one.

Now, Mr. Chairman, this morning before I left my room a pensioner, a soldier who had lost a leg at Atlanta, called on me and stated that he had been in service at the Treasury Department for ten years; that he understands this whole subject; and he undertook to say in the presence of the chairman of the Committee on Invalid Pensions that the amount I put originally of \$96,000 was sufficient, he supposed, at least after the machine had been got into working order, and that the \$130,000 provided for the first year would be amply sufficient. He is a man of experience in this matter. He is the same gentleman who wrote the intelligent letter which may be found in the RECORD.

Mr. POWERS. What State was he appointed from?

Mr. SMITH, of Pennsylvania. That has nothing to do with this case, but he was not appointed from Pennsylvania. We are now acting in reference to the good of the whole country and how to secure the best results at the lowest cost. I do not care where these gentlemen come from when they furnish us with intelligent statements and valuable facts.

One word further, Mr. Chairman, in reply to those gentlemen who have spoken on this subject and said this would work an injury to the pensioner. In this statement they are directly at variance with the record. My bill is intended to protect the pensioner. It gives him a check from the Treasurer of the United States instead of a check from the pension agent, and a check from the Treasurer of the United States is equivalent to gold. In addition, it affords facilities to the pensioners to make oath before certain revenue officers, which the existing laws do not give them.

The CHAIRMAN. The gentleman's time has expired.

Mr. SMITH, of Pennsylvania. I move that the committee rise for the purpose of closing debate on the pending paragraph.

The CHAIRMAN. Perhaps by unanimous consent debate can be closed without going into the House.

Mr. SMITH, of Pennsylvania. Very well; I ask by unanimous consent that all further debate on the pending paragraph be closed. There was no objection, and it was ordered accordingly.

The CHAIRMAN. The pending formal amendments will be considered as withdrawn, and the Chair will direct the Clerk to read the next paragraph.

The Clerk read as follows:

For pensions payable under the act of March 3, 1878, namely, for survivors of the war of 1812, \$532,000; for widows of the war of 1812, \$967,974; *Provided*, That so much of this sum as may be necessary shall be immediately available.

Mr. HEWITT, of Alabama. Mr. Chairman, I move to strike out the last word. It has been stated here that the Commissioner of Pensions has written a letter in which he states the expenses in this bureau, if this change be made, would not exceed over sixty or seventy thousand dollars.

Mr. HEWITT, of New York. Seventy-eight thousand dollars.

Mr. HEWITT, of Alabama. Very well, sir; \$78,000. The Committee on Invalid Pensions had the Commissioner of Pensions before them when this bill was first reported to the House and we propounded to him the question, "If this bill passes in the form in which it is presented to the House what will be the additional cost in your bureau?" He said he could not do the additional work which would be required in that office with less than one hundred and fifty additional clerks. That is what he stated to the Committee on Pensions long after this letter to which the Committee on Appropriations has referred.

I have one word to say to this side of the House. Pass this bill in the form in which it is presented and the Commissioner of Pensions tells you in his letter that it will require one hundred and fifty more clerks in his office to perform the additional duties imposed upon him by this bill. When he asks for those one hundred and fifty additional clerks will you refuse to give them to him? Will you gentlemen who represent northern constituencies dare to do it, backed as he would be by two hundred and thirty thousand pensioners? Will you refuse him when he comes here and demands that additional force? He tells you he cannot get along without it. He will do it—be sure of that—be sure he will make the demand and you will not dare refuse it. Then instead of a reduction of expenditures you will only be increasing them. You will be putting yourself absolutely in the power of a bureau in Washington; a bureau whose demand you have never refused and dare not refuse. In addition, remember, the first time this change comes into effect will be September next and everybody admits on both sides of the question there will be delay of a month or more. I give you this word of warning and remember it.

My honest opinion is the amendment of the Committee on Pensions will save more money to the country and to the tax-paying people than the proposition of the Committee on Appropriations. It makes no change in the manner of paying pensions. It makes no radical change, but remedies an evil which has grown up heretofore in paying enormous salaries to pension agents. That has been the complaint of the country, and that evil has been remedied.

The Committee on Invalid Pensions has cut it down. We have carefully estimated it, and we do not believe that a solitary pension agent can possibly receive more than \$4,000 per annum.

[Here the hammer fell.]

Mr. LATHROP. I have only a word that I care to say on this subject. In the first place, I am absolutely opposed to any and every proposition to concentrate in the city of Washington what can be done as well elsewhere. It has been one constant and growing tendency until you have here in this city a community of one hundred and twenty thousand or one hundred and forty thousand inhabitants; but, if you inquire what it is made up of, you find it has no general business and is composed of officeholders, clerks, and claim agents. And every tendency and every power of that community is exerted here day by day to concentrate the management of affairs still further in these Departments.

Here is a new proposition. There is one suggestion I wish to make in regard to it. Every Government building here is crowded like a bee-hive ready to swarm. The Government is now paying well-nigh \$200,000 per annum rent in this city to accommodate the business already here. The attempt is made to have these buildings multiplied, and multiplied they must be if this system of concentration is to be pursued. Every proposition to bring work here is in that direction. And yet work which can be done anywhere in the country for \$1 cannot be done here for less than \$2. I make no complaint of the officers, I make no complaint that in these crowded Departments we must go through a whole line of red-tape formalities; nor that if you have an errand to do you must begin Monday morning, and if you have it done Saturday night you have done marvelously well. The officers are obliging, and employees diligent so far as I know. The formalities are necessary to save from confusion. But I am opposed to adding another day's work to the Departments in this city as a mere matter of public policy when it can be done as economically in other parts of the country. I am in favor of every economy suggested by the Committee on Appropriations or the Committee on Pensions, and if it is true, as alleged here, that these agents are paid more than they ought to be, then I will vote with any man who wishes to cut their emoluments down to a living point. But I agree with the

Commissioner of Pensions in his statement that this labor can be done in the country 40 per cent. at least cheaper than it can be done here. And in view of that fact, which no man will stand up here and deny, is it not true, when with a given amount of labor to be done you propose to bring it here and concentrate it in these Departments and swell up the appropriations which have to be made to them, that thereby you deliberately determine to increase the expense 40 per cent. above what it ought to be rather than effect any economy? It seems to me wise to leave these agencies as convenient to the pensioner as possible, and see to it that no unnecessary cost or expense is incurred.

Mr. HENDERSON. If I believed, Mr. Chairman, that any saving of expense could be made to the Government without injury or detriment to the pensioner, I for one would be willing to vote for the change proposed by this bill, and which abolishes the pension agencies. But I am satisfied in my own mind from such examination as I have been able to give the subject that this cannot be done. Gentlemen talk about a saving of expense. How is it to be made? We have now eighteen pension agents. Abolish their offices and who are to take their places? Is some one man to do it? Is some one of the heads of the bureaus in the Treasury Department to have charge of the business of paying pensioners? Or will it not require a number of reliable and responsible officers to have charge of it? If but one man is assigned to this duty and is to take charge of this matter of disbursing so many millions of dollars in all parts of the country, it seems to me delay in making payments would be unavoidable, and injury, expense, and trouble would result to the pensioner. If a number of officers are to have charge of the business in addition to all the necessary clerks, as I believe will be the case, then where is the saving? Mr. Chairman, in disbursing so many millions of dollars, in paying so many pensioners scattered all over the country, in examining so many vouchers and performing all the responsible duties connected with the payment of pensions, I doubt very much whether it can be done much more economically than by the agencies now established. I am in favor of economy, but not at the expense of the wounded, crippled, and maimed soldier of his country. Although I might feel assured that there would be some saving of expense to the Government, yet I would not favor this change if it is to be at the expense of the pensioner, if it is to involve him in expense, in trouble and delay in getting the small pension allowed him. If that is to be the result, and I believe it will be, Mr. Chairman, I do not favor any such economy as that.

In consolidating the pension agencies and reducing the number to eighteen the compensation has been largely increased, and it should be reduced. It is a just and rightful economy to do that, and I am in favor of it, so as to give to pension agents a just and reasonable compensation for their services, their labor and responsibility, and if I believed any great saving could be made without delay to the pensioner in receiving his pension I would be in favor of the change proposed by the bill; but I do not, and am therefore opposed to the change and shall vote for the amendment which has been agreed upon by the Committee on Invalid Pensions, as I understand, and which was offered by the gentleman from Maine, [Mr. POWERS,] a member of that committee.

Mr. TOWNSEND, of New York. Mr. Chairman, I do not like the change proposed in the mode of paying our pensions. It must necessarily crowd an amount of business into one locality and upon one officer that will largely delay the transaction of business. That is my first objection to it. My next objection to it is that this delay is going to operate with great hardship upon those who receive but a pittance, for the pensions are paid in small sums. A delay of a week in the obtaining of a pension is a matter of great importance to those who receive it. It is not a matter merely of the sending a paper and the signing of a paper. Every voucher sent to the Pension Office, whether it be here or elsewhere, must be examined before action can be taken upon it and the check returned to the pensioner. There is another view which I want to commend to my friends on the opposite side of the House. We are not above the idea of patronage and those who are out of the power of distributing patronage are jealous of its use. That is natural, and I find no fault with it, but this bill proposes to put the patronage of \$900,000 into the hands of the Secretary of the Treasury, and that will stand against the power of appointing eighteen pension agents. This patronage instead of being diminished is to be increased by this bill.

But there is another difficulty which I propose to meet right here. It is proposed really that members of Congress shall do the pension business of the country. That is what it will come to. We are the hardest-worked men in the country. I do not hesitate to say that we stand here to run the errands of our constituents; and I am perfectly willing to do the work if I can do it within twenty-four hours; but if I am to have four thousand letters a year added to my present correspondence in addition to getting pensions for my constituents, the burden will be greater than I can bear, and I say to you, if you pass this bill the consequences be upon your own heads. I have a little satisfaction in the fact that you will have to suffer yourselves if you pass your bill.

The formal amendment was withdrawn.

Mr. WAIT. I cannot understand from any gentleman who has thus far spoken that we have any evidence before the House to prove that the existing system has not worked admirably well up to the present

time. We all of us, without regard to party relations, claim to be the friends of the unfortunate men and women who are to some extent dependent on the public bounty and the small aid which they receive from the Government in the shape of pensions. Now, if we really believe in the principle that this is an obligation that the country owes to its gallant wounded and disabled soldiers and to the widows and orphans of the brave men who are dead, and that we should aid them in this manner, then I say that every facility which enables us to carry this small pittance to them with the least embarrassment and expense, and which is given by existing laws, should be continued in full force and not in any manner invaded or embarrassed by placing difficulties in the way of payment.

We all must see the very great embarrassments which now exist in obtaining the payment of pensions on the part of those unfortunate persons who are entitled to the same from the General Government. Work has got so far behind at the present time in the hearing and deciding on applications for pensions that in the Pension Bureau, or rather in the Surgeon-General's Office, it takes a year and a half for one of these men or women who are entitled to this public aid to obtain an answer to their letters of inquiry, and the House has recently found that it was compelled in justice to these applicants to put an additional force of clerks on in the office of the Surgeon-General in order to bring the business up with correctness and dispatch. If you impose this additional burden upon the Pension Bureau the pensions would not be paid until months and months after the proper time when the parties entitled to the same should receive them under the obligations of the law. The pensioners of the country deprecate this proposed legislation and beg that they may not be subjected to the red-tape and delays that would inevitably follow the proposed change in the existing laws.

The gentleman who now presides over the Pension Bureau, Hon. Mr. Bentley, is probably as faithful, competent, and efficient a public officer as ever filled this very responsible position. He is honest and intelligent and has had large experience, and his opinion in reference to this matter ought to have very great weight with the House in its action in the premises. I hope that the proposition submitted by the Committee on Appropriations will not prevail.

[Here the hammer fell.]

Mr. BURCHARD. I fail to see how the pending proposition will perform the necessary work any cheaper than it is done under the existing law. I fail to see how it is that any necessary force to perform the various duties connected with the recognition of the pensioners, the examination and passing upon the vouchers, can be done any cheaper in the Treasurer's Office at Washington than it can be done at the various agencies in the country. I understand that under the system now in force the roll that is made up at the pension agencies from records kept at the Pension Office must be kept somewhere and transmitted to the Treasurer's Office.

It is proposed that the whole work shall be done in the Treasurer's Office. It is now done in the pension agencies so far as clerical work is concerned. This is not a proposition to reduce the compensation of the officers now employed. We are now paying four-thousand-dollar salaries, and it costs a certain sum for the examination of vouchers, amounting in the aggregate to about \$300,000 a year. It may not be necessary to pay as much money as that for this service, but it is absolutely necessary that there should be a clerical force to do the work, and that force will be necessary in the Treasurer's Office, if we transfer this work to that office. It is necessary now in the pension agencies, and mark you that from the day when Alexander Hamilton established our treasury system it has always been required that more than one officer shall pass upon anything done in the Treasury. You must have two sets of officers to do the work, one to issue the checks or make payment to pensioners, the other to pass upon the accounts and vouchers. The work must be performed somewhere, and you must provide the necessary clerical force to do that work in the Treasurer's Office if you transfer the work now done at the pension agencies to the Treasurer's Office. Nothing would be saved in that respect by the transfer. If the agents' salaries and emoluments are too large reduce their fees and compensation. It is not necessary to abolish their offices.

Mr. SMITH, of Pennsylvania. I move that the committee rise for the purpose of closing debate.

Mr. DURHAM. I suggest to the gentleman that by unanimous consent we agree that debate on this pending paragraph be closed.

The CHAIRMAN. If there be no objection, debate upon the pending paragraph will be considered as closed and the formal amendments pending to it will be considered as rejected. The Chair hears no objection.

The Clerk read as follows:

That from and after July 1, 1872, or as soon thereafter as practicable, pensions shall be paid by the Treasurer of the United States, under the direction of the Secretary of the Treasury, and the sum of \$30,000, or so much thereof as may be necessary, not otherwise appropriated, be, and the same is hereby, appropriated to carry this act into effect; and this sum shall be immediately available: *Provided*, That until the said act is carried into effect, the special paying agents shall not be allowed more than ten cents per voucher, and shall, in addition to their proportion of salaries, be paid only for such contingencies as may be approved by the Secretary of the Interior and the Secretary of the Treasury. And all acts and supplements of acts inconsistent with this act are hereby repealed.

Mr. POWERS. I desire now to offer the amendment I have already indicated.

The CHAIRMAN. The question will first be taken on the amendments from the Committee on Appropriations, as indicated yesterday by the gentleman from Pennsylvania, [Mr. SMITH.] These amendments are directed to perfecting the text of the paragraph. When they have been voted on, the amendment of the gentleman from Maine to strike out and insert will be in order.

The amendments offered by Mr. SMITH, of Pennsylvania, on behalf of the Committee on Appropriations were read and agreed to, as follows:

In the thirty-seventh line, after the word "Treasury," insert "and the Secretary of the Interior;" so that the last paragraph will read:

That from and after July 1, 1878, or as soon thereafter as practicable, pensions shall be paid by the Treasurer of the United States, under the direction of the Secretary of the Treasury and the Secretary of the Interior, &c.

In the thirty-eighth line strike out "96" and insert "120;" so as to read: "and the sum of \$130,000, or so much thereof as may be necessary," &c.

In the forty-first line, before the word "provided," insert the following:

Provided, That the pensioner and his witnesses may make affidavit to the voucher before any United States officer authorized to administer oaths or before any collector of the internal revenue, who is hereby authorized and required to administer the oath, said oaths to be administered free of charge: And provided, That where the affidavit has been made before such officers or justices of the peace a certificate of the prothonotary or clerk of the court shall not be necessary unless specially demanded by the Third Auditor: And provided further, That false swearing before the said United States officers shall be deemed perjury and subject the offender to the penalty of the same: And provided further, That the voucher may be modified or dispensed with if, in the judgment of the Secretary of the Interior, the Treasurer of the United States and the Secretary of the Treasury, the same can be done without detriment to the Government.

In the forty-seventh line, and after the word "and," insert "an act establishing paying pension agencies and;" so as to read:

And the act establishing paying pension agencies and all acts and supplements of acts inconsistent with this act are hereby repealed.

Mr. POWERS. I move to amend by striking out the whole of the pending paragraph after the words "eighteen hundred and seventy-eight," in line 2, and inserting in lieu thereof what I send to the Clerk. The Clerk read as follows:

Agents for the payment of pensions shall, in lieu of the percentage fees, pay, and allowances now provided by law, be allowed and paid the following compensation for their services, postage upon vouchers and checks sent to the pensioners, and all the expenses of their offices:

First. A salary at the rate of \$4,000 per annum.

Second. Fifteen dollars for each one hundred vouchers prepared and paid by any agent in excess of four thousand vouchers per annum.

Third. Actual and necessary expenses for rent, fuel, and lights, and for postage on official matter directed to the Departments and bureaus at Washington, to be approved by the Secretary of the Interior; and the sum of \$216,000, or so much thereof as may be necessary, is hereby appropriated to pay the salaries, fees, and allowances to said pension agents; and all acts and parts of acts inconsistent with this act are hereby repealed.

Mr. DURHAM. Although I am not in charge of this bill, I make a point of order on this amendment, under Rule 120, that it is new legislation and not in the interest of economy.

Mr. POWERS. I contend that it is in the interest of economy; that it reduces the expense of the existing system \$106,000, and that it is pertinent to the subject-matter of the bill.

Mr. BURCHARD. As the provision reported in the bill would not be in order under the rules but for its being in the interest of economy, this provision is germane as an amendment, although it may change an existing law.

The CHAIRMAN. The Chair, upon examination of the amendment, is constrained to overrule the point of order. Although the Chair does not feel competent to say whether the whole scheme will be more economical than the one proposed by the Committee on Appropriations, yet the amendment on its face reduces fees and salaries below what they are under the existing law.

Mr. POWERS. Mr. Chairman, the amendment which has just been read is presented by me at the request and by the instruction of the Committee on Invalid Pensions, after a careful consideration of this whole subject. If I have not mistaken the gravamen of the charge in reference to the pension agents, it is that, especially since the consolidation of agencies, they receive too large fees. This amendment cuts down their fees to the extent of \$106,000, and I think no gentleman who carefully considers what these agents have to do and the expenses to which they are subjected can say that if this amendment be adopted they will receive anything more than a fair and reasonable compensation. I print, as a part of my remarks, the following table:

Table showing the number of pensioners on the rolls of the several pension agencies on the 1st of January, 1878; the amount of compensation, fees, and allowances received, and the amounts expended for use of office by the several pension agents, from July 1, 1877, to December 31, 1878; together with a statement showing the average cost per pensioner to the Government and to the agent during that period.

Location of agency.	Number of pensioners on roll, January 1, 1878.	Compensation of agent.	Receipts of agent.				Expenses of agents.						Net income of agent for six months.	Cost per pensioner to Government for six months.	Cost per pensioner to Government for one year.	Cost per pensioner to agent for six months.	Cost per pensioner to agent for one year.
			Fees on pension vouchers.	Fees on attorneys' checks.	Allowance by the Government on account of postage, stationery, &c.	Total receipts.	Clerk hire.	Rent.	Fuel and lights.	Postage.	Stationery.	Incidental.	Total expenses.				
*Boston, Mass.	16,825	\$2,000 00	\$7,923 27	\$123 60	\$656 32	\$10,697 17	\$4,494 41	.....	.....	\$1,169 77	\$440 55	\$200 00	\$6,304 73	\$4,392 44	\$0 62	\$1 25	\$0 37
Canandaigua, N. Y.	16,656	2,000 00	7,707 50	159 80	.....	7,867 30	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chicago, Ill.	19,635	2,000 00	8,617 30	.....	1,551 45	10,646 95	4,117 71	893 00	857 10	1,815 09	154 60	125 00	6,362 69	4,283 56	6 21	1 27	38 1
Columbus, Ohio	31,934	2,000 00	10,294 75	.....	533 76	13,128 51	7,798 00	250 00	45 15	1,358 46	543 33	195 88	7,401 82	4,267 12	5 81	1 17	37 75
Concord, N. H.	18,585	2,000 00	8,177 00	148 50	.....	10,325 50	5,163 64	350 00	44 39	981 24	.....	.....	6,541 27	3,784 23	54 1	1 00	35 1
*Des Moines, Iowa.	10,073	2,000 00	4,707 50	165 30	769 05	7,641 85	3,300 00	.....	18 25	1,366 00	417 00	298 60	5,309 95	2,241 20	74 1	1 48	53 1
Detroit, Mich.	10,306	2,000 00	4,862 00	156 00	.....	7,018 00	2,675 00	200 00	75 00	816 70	125 85	125 00	4,217 55	2,800 45	66 1	1 33	40 1
*Indianapolis, Ind.	15,458	2,000 00	7,213 98	309 10	872 40	10,294 50	4,560 00	.....	.....	1,191 05	521 35	452 00	6,733 40	3,561 10	65 1	1 30	43 1
*Knoxville, Tenn.	8,747	2,000 00	3,631 30	86 75	.....	5,918 06	2,956 00	.....	.....	513 29	.....	.....	3,469 29	2,448 77	66 1	1 33	39 1
Louisville, Ky.	6,139	2,000 00	2,864 00	58 60	.....	4,922 60	1,495 50	.....	.....	303 84	.....	30 00	1,639 34	3,093 26	79 1	1 58	29 1
*Milwaukee, Wis.	9,662	2,000 00	4,355 50	109 75	247 50	6,712 25	2,715 50	.....	.....	829 79	656 11	52 70	4,254 10	2,458 15	68 1	1 36	44 1
New York, N. Y.	14,416	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
New Orleans, La.	15,666	2,000 00	7,823 80	317 24	.....	8,141 04	5,507 00	825 00	98 53	608 00	.....	.....	.....	.....	.....	.....	.....
Philadelphia, Pa.	11,348	2,000 00	5,140 75	134 70	.....	7,275 45	3,750 00	.....	.....	662 00	.....	300 00	4,712 00	2,563 45	61 1	1 22	47 1
Pittsburgh, Pa.	12,209	2,000 00	5,869 46	157 80	.....	7,927 26	3,178 81	.....	6 00	1,371 27	.....	148 85	4,704 93	3,122 33	63 1	1 27	30 1
St. Louis, Mo.	943	2,000 00	807 50	14 25	143 82	2,965 57	1,350 00	190 00	42 00	255 62	39 70	30 00	1,437 32	1,128 25	3 13	6 26	1 04
San Francisco, Cal.	14,250	2,000 00	6,759 25	.....	.....	8,759 25	4,445 00	360 00	50 00	840 00	.....	59 00	5,754 00	3,005 25	60 1	1 204	40 1
Washington, D. C.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

* Rent not included. † Rent and stationery not included. ‡ Stationery, and incidentals not included. § Rent, stationery, and incidentals not included. ¶ Stationery not included.

NOTE.—Average cost per pensioner to the Government for one year, San Francisco not included, \$1 28½; average cost per pensioner to pension agent for one year, San Francisco not included, \$0 82½.

No one complains that this business of paying pensions is not now very well done through the several agencies, except that there is now somewhat more delay than before the consolidation. Why should we enter upon the new and untried scheme proposed by the Committee on Appropriations? I have seen no statement that I regard as reliable which at all satisfies me that, should we transfer this business to a bureau to be established in Washington, the expense will not be larger than under the existing system.

Much has been said about the letter of the Commissioner of Pensions which has been read here. Sir, the Commissioner on the 23d of March last sent a letter to the chairman of the Committee on Invalid Pensions, from which letter I take a paragraph which I ask the Clerk to read, as it shows the views of the Commissioner after careful consideration in regard to this change.

The Clerk read as follows:

An element which would greatly affect the economical side of the question in case of transfer of the pay duties either to the Pension Office or to the Treasury Department has not been mentioned.

I have been unable to devise a plan by which the payments can be spread over each quarter so that the volume of duties and labor would be about the same from day to day and furnish constant employment to a certain working force.

In a communication addressed to the honorable Secretary of the Interior on the 20th of last November, discussing the subject of abolishing the agencies, I stated that I thought such a plan might be adopted, but after much study of the subject I am convinced that it is impracticable. The success of such a plan depends largely upon elements over which the office making the payment would have no control. It would be necessary that the executed vouchers should come in for payment with regularity, so that each pensioner could be paid at regular intervals of three months. Any irregularity in this respect would at once produce confusion and cause delay in the payments.

It needs no argument nor the experience under the present plan of making all

the payments due on a day certain, each quarter, to prove that vouchers would come in large numbers on a day subsequent to that upon which the pensioner would be entitled to his turn for payment, and that condition is alone fatal to the plan, as any plan of payment which shall be adopted must make the payments as promptly as they are now made, in order to give satisfaction to the pensioners, and it will be found inexpedient to reduce the cost of payment if the present promptness of making the payment cannot be maintained.

A plan for the payment at either the Treasury Department or the Pension Bureau must include provisions for the payments to fall due, all on a stated day, once in three months, as under the present system; and this necessitates the employment of a much larger force for one month of each quarter than is needed for the balance of the time, and in the Departments it is nearly if not quite impossible to handle economically a force of employees which is subject to such frequent additions and reductions, for obvious reasons.

[Here the hammer fell.]

Mr. REED obtained the floor and yielded his time to Mr. POWERS. Mr. POWERS. On March 23 that was the view of the Commission of Pensions, and he fully believes in those statements to-day. I think that is a sufficient answer to what has been read from any previous communication from him and I believe it will be admitted by all that he knows something about this whole matter. Much more in fact than any other person in Washington.

Let me see whether gentlemen on the Committee on Appropriations have any fixed opinion or any definite plan which they have devised to pay these pensioners and to pay them promptly. I find, by referring to the CONGRESSIONAL RECORD on page 43, the gentleman from New York [Mr. HEWITT] did give us a scheme. It is as follows:

But there is a far better system than the quarterly system. It is one which will commend itself to the judgment of the House as it has to the mind of every public officer who has taken it into consideration; and that is to divide the roll of pensioners into twelve equal parts and let one-twelfth be paid the quarterly pensions each month, so that the work goes unceasingly on and the payment of pensions will be made with perfect regularity.

I refer to this not to take any special advantage of it as a technical quibble, but to show how little the whole subject has been looked into when this scheme was devised. Divide the roll of pensioners into twelve equal parts and let one-twelfth be paid a quarterly pension each month. Then you will get through the roll at the end of the year, and not before. In this way you will pay the pensioner once a year instead of every quarter. If that is not the only interpretation of the language of the gentleman from New York, I do not see what other construction it is susceptible of. I do not suppose the gentleman intended it, but that is what it means, and all it could be made to mean, that you are to divide the roll into twelve equal parts and pay one-twelfth a quarterly pension each month. It will take the entire year to pay them, and as you pay each a quarterly pension you will pay only one-fourth part of what is due them. This certainly would be economy with a vengeance. You divide the pension-rolls into three equal parts and then pay one-fourth each month, and you will pay them four times a year and their whole amount. I should like to know what officer or what man that scheme has ever been submitted to. I know the gentleman did not intend anything of the kind, but it is indicative of how carefully the Committee on Appropriations have matured their scheme. I ask any gentleman to read it. Adopt that which he says will commend itself to every gentleman in this House, and you will only pay once a year and you will only pay one-fourth part of the sum actually done. Well might this cost less.

Mr. HEWITT, of New York. The simple answer to all the gentleman has said is that I have never said any such thing as that which he attributes to me and my language is not susceptible of any such construction.

Mr. POWERS. I know, or at least presume, you did not intend to thus deprive the poor pensioner of his pittance, but I submit no other conclusion can be drawn from your proposition. It is a fair sample of the whole scheme, immature as it has been presented here, as I could fully demonstrate it to be if I had the time for that purpose.

This matter has just begun to get to the country, Mr. Chairman, and I have received a great many letters on the subject, as I have no doubt other gentlemen have. I see that they have held a meeting at Des Moines, Iowa, in reference to this subject, and I have a report of the meeting sent to me on a postal card this morning. As some anonymous communication was read this morning, I will send the card to the Clerk's desk to be read, as it shows the feeling throughout the country in reference to this attempt to put the poor soldier and the widows and orphans of soldiers through the circumlocution office in this city, and entail upon them the delay and expense which necessarily follow. This will show, Mr. Chairman, what is the feeling among the pensioners in reference to this proposed measure, against which I most heartily protest. I ask the Clerk to read.

The Clerk read as follows:

DEAR SIR: We learn from reliable sources that a determined effort is being made by the Secretary of the Interior to induce Congress to abolish all of the agencies in the various States for paying pensions, and require all pensioners to send vouchers to the Treasury Department at Washington for payment after the 1st of July. All who have occasion to write to the Departments at Washington on business are aware that a reply is now seldom received short of from one to three months. If an attempt is made to examine and pass upon the vouchers of two hundred and thirty thousand pensioners at one office in Washington, each quarter, under one official, and pensioners are to wait the slow process of payment by that method, the Government might as well confiscate our pensions at once. We would earnestly urge all pensioners to protest at once against this great wrong that Congress has now under consideration. Send remonstrance, signed by all

the pensioners in your vicinity, addressed to your member of Congress or Senators at once.

Signed by—

A. P. ALEXANDER,
Company A, Sixth Iowa Infantry;
NOBLE WARWICK,
Company B, Thirtieth United States Infantry;
BEN. VAN STEINBERG,
Company A, Twenty-fourth Iowa;
I. W. GRIFFITH,
Company K, Fifteenth United States Infantry, Mexican War;
MRS. M. M. CROCKER,
Widow of General Crocker;
MRS. A. M. REDFIELD,
Widow of Colonel Redfield;
Committee.

The following form, or something similar, will be sufficient as a protest to be signed by pensioners:

To the honorable Senate and House of Representatives of the United States:

We, the undersigned pensioners, learning that it is proposed to abolish the agencies in the various States where our pensions are now paid, and require all pensioners in the United States to send their vouchers to the Treasury Department at Washington each quarter for payment, most earnestly protest against the proposed change, as the attempt to pay two hundred and thirty thousand pensioners quarterly from one office would result in great delay and annoyance to us in getting our quarterly payments and replies to letters relating to payment. Such a change would be a wrong and hardship inflicted upon us, and could in no way benefit the Government.

[Here the hammer fell.]

Mr. BANNING. I move to strike out the last word, and I do so for the purpose of saying a few words on this subject. I do not know how much reduction the amendment of the gentleman from Maine will effect.

Mr. POWERS. One hundred and six thousand dollars.

Mr. BANNING. What I wish to call attention to is this: we formerly had a pension agent at Cincinnati, but in the interest of economy, as it was claimed, he was taken away and the Cincinnati pensioners are now paid from Columbus. I see by the report here that the pension agent at Columbus gets \$26,000 a year. Out of this amount he pays the expenses of his office, as I understand; that he not only pays all his clerks, but all his other expenses. For the purpose of accommodating pensioners at Cincinnati, I am told he sends clerks there to pay them each pay-day. It is a great accommodation to those pensioners. They were much concerned at first and very earnestly opposed the removal of the pension agency from Cincinnati where I think it should have been kept, but since the removal I believe the agent at Columbus has succeeded in paying those pensioners promptly.

Now, sir, what I wish to get at is this: if the gentleman's amendment will reduce the salary of the pension agent at Columbus it may be he will be unable as heretofore to send clerks down to Cincinnati to pay the pensioners in that vicinity.

Mr. POWERS. Here is the statement.

Mr. BANNING. The gentleman from Maine has been kind enough to furnish me with a statement which he says is correct, and I find the amount paid at Columbus for clerk hire is a little over \$7,000 for six months. This would leave the agent over \$12,000 a year.

Mr. POWERS. That is for six months.

Mr. HEWITT, of New York. No, for seven months.

Mr. BANNING. Does this cover all the expenses of his office?

Mr. POWERS. It does not.

Mr. BANNING. Does the gentleman know how much they are?

Mr. POWERS. I know what they have been according for the first six months.

Mr. BANNING. How much?

Mr. POWERS. It is all in the paper submitted as a part of my remarks, and the committee have carefully taken all that into consideration in preparing this bill and have made the salaries as low as they thought the work could possibly be done for.

Mr. BANNING. While I am in favor of economy in every direction, I do not want to economize where in any way whatever it will interfere with the prompt payment to these men of the pensions that are due them. I have not heard yet any good reason given why these men might not as well and perhaps better be paid from Washington direct as be paid from Columbus all over the State of Ohio, or all over that district, or from Indianapolis and other centers throughout the country. And the only objection I have to the gentleman's proposition is this, that it is going to interfere with the agents in sending clerks or subagents to pay in the large cities and in certain vicinities. This is my objection to the amendment of the gentleman from Maine.

Mr. Chairman, if the pensioners can be paid by letter from Columbus at Cincinnati, then they can just as well be paid from Washington City. We may as well pay them from the fountain-head as through subagents. I do not know; I have not examined this matter enough to be satisfied which is the better way or whether it is really best to make any change or not.

Mr. POWERS. I believe in cutting down all large salaries.

Mr. BANNING. I believe in cutting down salaries, too, wherever we find them to be too large. I know we must reduce expenditures and practice rigid economy. But I want to be satisfied that the cutting down does not interfere with the men who have lost their legs and arms or sacrificed their health in defense of the Government.

[Here the hammer fell.]

Mr. FORT. Mr. Chairman, I rise to offer an amendment to the amendment. But before I ask the Clerk to read it I desire to say that there seems to be great dread the soldiers will suffer delay in getting their pensions. I wish to ask whether it is not true that all the disabled soldiers at the several soldiers' homes throughout the United States, even as far away as Milwaukee, Wisconsin, are paid in Washington by Mr. Cox, the agent here? If so, I ask again, have these disabled soldiers and pensioners been defrauded? If they have been, why is it that gentlemen have neglected their interests so long? Why do they not provide that these soldiers in the various homes throughout the country who are so disabled that they cannot travel shall receive their pay there at their respective homes? Has there been any complaint from these pensioners? Has one of their claims ever had to pass through a claim agency in Washington? Have they been subjected to delay or expense? No, sir; they get their pay regularly from Mr. Cox, the agent here, and I cannot see why the whole of the invalid pensioners cannot be paid as well and cheaply and regularly as those at the homes. Now I offer the amendment which I send to the Clerk's desk to be read.

The Clerk read as follows:

Strike out the last section of the bill and insert this as a substitute for the amendment of the gentleman from Maine, Mr. POWERS:
And be it further enacted, That on the 1st day of July, 1878, or as soon thereafter as practicable, the Secretary of the Interior shall turn over and transfer all the books, rolls, papers, furniture, and fixtures belonging to the Bureau of Pensions to the Secretary of War, and thereafter all the duties now devolved upon the Interior Department relating to pensions shall devolve upon and be performed by the War Department, and all laws and parts of laws now governing the Interior Department in respect to pensions shall apply to and govern the War Department; and the Secretary of War shall detail a sufficient number of the unemployed officers of the Army to prepare all pension-rolls and vouchers of pensioners without delay and without cost to the pensioner, and forward the same to the Treasurer of the United States, who shall, on receipt of same, transmit a Treasury draft to the pensioner.

Mr. POWERS. I make a point of order on that amendment.

Mr. FORT. I believe I still have the floor.

The CHAIRMAN. The point of order can be reserved until the time of the gentleman from Illinois is out.

Mr. FORT. I hardly expect that amendment will be adopted, because it is economy and cuts off these pension agents. It provides that the War Department shall make this payment by the unemployed officers of the Army who are now under pay, and who are for the most part off duty, and who I am confident would rather be employed than to be idle. I have the authority of the gentleman from Ohio, [Mr. BANNING,] who is chairman of the Committee on Military Affairs of this House, for saying that over eight hundred unemployed Army officers are now on the roll. These are educated, reliable gentlemen, well fitted for such duty, and I do not see why they cannot be employed in making up these pension-rolls and making up the vouchers and forwarding them to the Treasury and in paying the pensioners in that way.

Mr. Chairman, I have no fault to find with the Pension Bureau or its management. I consider the present Commissioner of Pensions, Mr. Bentley, an excellent officer, who does his whole duty and does it well, and I doubt whether the management of his office could be improved upon. Although this as well as the last democratic House of Representatives have failed to make the adequate appropriation for clerks and have reduced his force, yet he has with commendable energy carried his work along with remarkable dispatch, and I have nothing but praise for him and his subordinates; yet I believe the Pension Bureau ought to be transferred back to the War Department, where it naturally belongs. The Interior Department has no appropriate connection or relation to the War Department, where the causes of all pensions are recorded. The War Department have the muster-rolls, the records of musters and discharges and of battles and of hospitals, and should pass upon all claims for pensions and should pay all pensions. It would simplify business and facilitate the determination of all applications for pensions. I should be glad to be informed how it came about that pension affairs ever passed into the Interior Department. What reason is there for it? What has the Interior Department to do with war affairs or the results of war? The Interior Department cannot decide on the application for a pension. The Interior Department must first consult the War Department and get abstracts and copies of its records before it can know a thing about the claim or the claimant. The Interior Department has no war records; and it is this correspondence between the two Departments that causes delay, mistakes, and expense. It is needless circumlocution.

Why, sir, you might as well provide that the Interior Department should pay the troops in the field as that it should pass upon applications for pensions and pay the pensioners. In my judgment if we wish economy we should simplify business and let each Department of the Government attend to its appropriate duties. This would reduce our needless expenditures hundreds of thousands of dollars and have the business done better and more promptly. If the Interior Department is to continue in charge of pension affairs, our laws should be so amended as to provide that in time of war all officers should report to the Secretary of the Interior as well as to the Secretary of War and require the Interior Department to keep a war record also, which of course would be ridiculous. There are unemployed Army officers enough to supply the place of all pension agents and pay pensions without the cost of one additional cent and without charging the pensioner one single penny.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PAGE. I would ask the gentleman from Illinois if his amendment changes the law in any other respect than by transferring the service from the Interior Department to the War Department.

Mr. FORT. It changes the law in no other respect.

Mr. KEIFER. For two days I have listened here to a discussion which seems to me has spread over almost every phase of this question, and at last, when the members of the Committee on Appropriations are brought up to the point, they cannot give us the facts upon which they ask the Congress of the United States to legislate in a matter which is to affect directly over two hundred thousand of the people of this country, and indirectly hundreds of thousands more. The gentleman from Iowa [Mr. PRICE] yesterday seemed to be startled at the idea that we were paying the pension agents of the country from ten to sixteen thousand dollars a year simply for vouchers, and then the gentleman from Pennsylvania, [Mr. SMITH,] who is a member of the Committee on Appropriations, put a statement in the RECORD of what had been paid for these purposes, and it is upon that kind of a statement that we are asked to vote for this bill.

Now, let me state that it is an absolute fact that the man who is put down on that list as receiving the largest sum for the payment of vouchers cannot make, after he pays his clerks, his office rent, stationery, postage, and other expenses, \$6,000 a year. I know that he does not make that much. I had it from his own lips. The statement put in the RECORD by the member from Pennsylvania shows that the agent at Columbus receives over \$26,000. There is nothing furnished to show what he pays out. We are expected to go into important legislation without the facts and for the reason that the Committee on Appropriations get one side of a statement and leave out entirely the other side.

Mr. PRICE. Will the gentleman allow me to ask him a question?

Mr. KEIFER. I have so short a time and there are so many gentlemen who wish to interrupt me that I must decline to yield to anybody. My colleague [Mr. BANNING] rose and spoke a few moments ago about the pension agent in Ohio. That pension agent in Ohio extends facilities to the thousands of persons who have to be paid in Cincinnati, but my colleague said that because he did not have sufficient information as to the pay of the agents he thought he was in favor of the bill of the committee. Do we not know that agent goes either in person or by a clerk to Cincinnati on the 4th of each month, when pensions are due, and remains there as long as it is necessary to pay off the pensioners, for the sole purpose of accommodating these thousands of men and saving them from expense and delay, and from distress among themselves and their families; and does this out of his own pocket? And yet we are told that he is receiving twenty odd thousand dollars a year when he is really expending a very large portion of the amount in the interest of the pensioners who need their money and need it promptly.

Now, it is said by the gentleman from Illinois [Mr. FORT] that those pensioners who are in the soldiers' homes are paid direct from Washington. They amount to but six thousand, and if you want to legislate in their interest then you must not impose upon the Department here the labor of paying all the pensioners throughout the country, because that would prevent them from receiving their pay as promptly as they now do.

Mr. PRICE. They get their pay from Washington now.

Mr. KEIFER. The six thousand in the soldiers' homes do, but if you require the Department to pay the two hundred thousand the same machinery will not answer with the niggardly legislation of this Congress in the direction of allowing clerks. Do we not know of the great delay, day by day, week by week, month by month, in giving a few additional clerks to the Surgeon-General's Office that is now being asked for in order to hurry through the decision of the large number of applications for pensions? Congress stands quietly by and witnesses this delay, and yet it is proposed now to cast additional labor upon that Department.

[Here the hammer fell.]

The CHAIRMAN. The gentleman from Maine [Mr. POWERS] raises a question of order upon this amendment. He will please state what his point of order is.

Mr. POWERS. My point of order is that the substitute offered by the gentleman from Illinois [Mr. FORT] changes existing law, that it is not germane to anything in the bill, and it is not in the interest of economy. It is well known that it will cost more than ten times as much to pay these pensioners through the War Department than to pay them through the Pension Bureau.

The CHAIRMAN. On the point of order raised by the gentleman from Maine, the Chair will state that the bill introduced into the House, reported from the Committee on Appropriations, contained a change of law in regard to the payment of pensions. No points of order were reserved upon the bill, and the discussion has proceeded without a point of order being raised upon this section of the bill, and other amendments of the same character which propose to change the mode of paying pensions are considered as coming under the general consent given by the House when this bill was reported from the committee. The Chair therefore overrules the point of order.

Mr. EAMES. I desire to ask if it is in order to offer a substitute for the substitute of the gentleman from Illinois?

The CHAIRMAN. It is not in order to offer further amendments until the substitute of the gentleman from Illinois shall have been voted on.

Mr. SMITH, of Pennsylvania. I ask for a vote.

Mr. HANNA. I desire to say one word in the way of an inquiry. As I understand the law, all the officers of the Army upon the retired list are prohibited by provisions of existing law from accepting positions in the civil service.

Mr. FORT. Besides those upon the retired list there are eight hundred Army officers unemployed.

A MEMBER. Oh, no.

The question was taken upon the substitute offered by Mr. FORT, and it was not agreed to.

Mr. EAMES. I desire to offer what I send to the desk as a substitute for the provision of the bill and also for the amendment of the gentleman from Maine, [Mr. POWERS.]

The Clerk read as follows:

That from and after July 1, 1878, each pension agent shall receive as compensation in full for all services now required by law an annual salary of \$4,000 instead of the allowance now provided by law, and in addition thereto such sum as shall be necessary for clerk hire, rent, fuel, lights, postage, and stationery, the account for the same to be sworn to by the agent and approved by the Secretary of the Interior; and the sum of \$216,000, or so much thereof as may be necessary, is hereby appropriated to pay these salaries, fees, and allowances to said pension agents; and all acts and parts of acts inconsistent with this act are hereby repealed.

Mr. EAMES. In explanation of this proposition I desire only to say that it proposes to fix the salary of pension agents at \$4,000. It also provides for the payment of clerk hire, rent, fuel, lights, postage, and stationery. It differs from the proposition of the gentleman from Maine in this: substantially, it leaves out the fees authorized by that amendment to be paid to the pension agents for vouchers. I hope this substitute will receive the approval of the Committee of the Whole.

Mr. POWERS. The objection to the substitute of the gentleman from Rhode Island [Mr. EAMES] is that, if adopted, it would simply transfer the Washington system of paying and employing clerks to the several pension agencies. That is all there is in it.

The substitute was not agreed to.

The question then recurring on the amendment of Mr. POWERS, it was agreed to; there being—ayes 121, noes, 60.

Mr. MAISH. I move to amend by inserting the following as an additional section:

That from and after the passage of this act, or as soon as practicable thereafter, all pension agencies shall be filled by officers of the Army and Navy on the retired list, and when officers are so employed they shall receive the full pay of officers of the same rank in active service, and no more.

Mr. POWERS. I make the point of order that this amendment changes existing law.

The CHAIRMAN. The gentleman from Maine, as the Chair understands, makes the point that the amendment changes the law in regard to duty of retired officers, and is not in the interest of economy, as it restores them to full pay.

Mr. CLYMER. I submit that the point of order is not well taken. This proposition is in the interest of economy. These officers while on the retired list receive three-fourths of the regular pay. The full pay of a pension agent is \$4,000. So that this amendment, while doing away with pension agents, puts in their place officers who will only receive an addition of one-fourth upon the pay they are now receiving. Manifestly the amendment is in the interest of economy.

Mr. FOSTER. But will not this additional one-fourth make the pay of these officers more than \$4,000?

Mr. CLYMER. In no event can it be more than \$4,000.

The CHAIRMAN. The Chair, in view of the liberal construction which has been put upon the rule, is inclined to think that the amendment must be considered in order.

Mr. BUTLER. This is a good opportunity now to make General Shields a pension agent. [Laughter.]

Mr. TOWNSEND, of New York. I hope that our friends here will not forget that it is the policy of this House (and I concur in it) to turn the Indian Bureau over to the War Department, and thus give employment to these military officers. If in the discharge of those duties the fingers of these officers, drilled to routine and red-tape, do not move quite as fast as would be necessary in making out and transmitting the checks to our pensioners, no hurt will be done. These officers may be very properly employed to attend to the duties of the Indian Bureau; and I hope we shall not interfere with that project by the adoption of this amendment.

Mr. FOSTER. I want to call the attention of the gentleman who offers this amendment to this point: How are these officers to give their bonds? That is an important matter.

Mr. RANDALL, (the Speaker.) An Army officer is liable to trial and punishment by court-martial if he commits any defalcation of the public funds. He would instantly lose his commission as an officer. In other words, our security for his fidelity is the life tenure of his office.

Mr. FOSTER. How is the liability to trial by court-martial any protection to the Government? That does not pay back the money if there is any defalcation.

Mr. BANNING. These officers have protected the Government when it needed protection in another and more important direction.

A MEMBER. Oh, that is mere claptrap.

The question being taken on agreeing to the amendment of Mr. MAISH, there were—ayes 91, noes 106.

Mr. MAISH and others called for tellers.

Tellers were ordered; and Mr. POWERS and Mr. MAISH were appointed.

The committee divided; and the tellers reported—ayes 88, noes 99. So the amendment was rejected.

Mr. SMITH, of Pennsylvania. I move the committee rise and report the bill to the House.

Mr. RICE, of Ohio. I wish to offer an amendment.

The CHAIRMAN. The motion to rise is not in order so long as an amendment is offered.

Mr. RICE, of Ohio. I offer the following amendment.

The Clerk read as follows:

That from and after July 1, 1878, the office of pension agents shall be filled by wounded or disabled Union soldiers.

The amendment was agreed to.

Mr. SMITH, of Pennsylvania, moved that the committee rise and report the bill to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. GARFIELD reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 3974) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1879, and had directed him to report the same back to the House with sundry amendments.

Mr. SMITH, of Pennsylvania. I demand the previous question on the bill and pending amendments.

The previous question was seconded and the main question ordered.

The SPEAKER. There are four amendments reported from the committee. If no separate vote is asked on any of the amendments the question will be taken on the amendments of the committee in gross.

No separate vote was demanded.

The amendments of the committee were agreed to; and the bill, as amended, was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time, and passed.

Mr. SMITH, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. ELAM, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 1135) to authorize the issue of a patent of certain lands in the Brothertown reservation, in the State of Wisconsin, to the persons selected by the Brothertown Indians; and

An act (H. R. No. 1412) to prevent depredations upon property in the District of Columbia.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed a bill of the following title; in which the concurrence of the House was requested:

A bill (S. No. 1058) to repair and put in operation the mint at New Orleans, authorizing the coinage of gold and silver thereat, and making an appropriation therefor.

POST-OFFICE APPROPRIATION BILL.

Mr. BLOUNT. I move the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of proceeding to the consideration of the Post-Office appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COX, of New York, in the chair.)

The CHAIRMAN. Under the order of the House the committee takes up for consideration at this time the bill (H. R. No. 4246) making appropriation for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes.

Mr. BLOUNT. I move the first reading of the bill, for information, be dispensed with.

The motion was agreed to.

Mr. BLOUNT. I believe I am now entitled to the floor.

The CHAIRMAN. The gentleman from Georgia having charge of the post-office appropriation bill is recognized.

Mr. CLYMER. I ask the gentleman from Georgia to yield to me to move the committee rise.

Mr. BLOUNT. I yield for that purpose.

Mr. CLYMER. I move the committee rise.

The motion was agreed to; and the Speaker having resumed the chair, Mr. COX, of New York, reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration a bill (H. R. No. 4246) making appropriations for the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes, and had come to no resolution thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. WHITE, of Indiana, for one week, on account of important business.

To Mr. SINNICKSON, until Tuesday next.

RESTORING MODELS TO THE PATENT OFFICE.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, forwarding a communication from the Commissioner of Patents, relative to an appropriation of \$5,000 to enable him to continue the work of restoring models injured by the late fire; which was referred to the Committee on Appropriations.

DREDGING.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a claim of the Hartford and New York Steamboat Company for dredging done; which was referred to the Committee on Appropriations.

POST-ROUTE BILL.

Mr. WADDELL, by unanimous consent, from the Committee on the Post-Office and Post-Roads, reported a bill (H. R. No. 4286) to establish post-routes in several States therein named; which was read a first and second time.

Mr. CONGER. I should like to know whether this bill contains any provision other than the establishment of post-routes.

The SPEAKER. The chairman of the Committee on the Post-Office and Post-Roads is asked to state whether the bill contains any general legislation.

Mr. WADDELL. It contains nothing whatever, but provides only for the establishment of post-routes.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. WADDELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

And then, on motion of Mr. CLYMER, (at four o'clock and fifteen minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. COX, of New York: The petition of Patrick Finnis and 750 citizens of New York City, to be aided to leave the city and settle on Government land—to the Committee on Education and Labor.

By Mr. DAVIDSON: Papers relating to the establishment of post-routes between Saint Augustine and Daytona, and between Orlando and Bartow, Florida—to the Committee on the Post-Office and Post-Roads.

By Mr. DEAN: The petition of the mayor of Boston and others, for the removal of a sand-bar in Boston Harbor—to the Committee on Commerce.

By Mr. DICKEY: The petition of Lewis Richey and 128 other citizens of Brown County, Ohio, for the repeal of the resumption act—to the Committee on Banking and Currency.

By Mr. DUNNELL: The petition of citizens of Minnesota, for an increase of mail service between Worthington and Currie, in said State—to the Committee on the Post-Office and Post-Roads.

By Mr. ELAM: Papers relating to the claim of Dr. H. C. Thweatt—to the Committee of Claims.

By Mr. GOODE: The petition of 38 merchants, masters, agents, owners, and pilots of vessels, of Norfolk, Virginia, against the transfer of the life-saving service from the Treasury to the Navy Department—to the Committee on Commerce.

By Mr. HARMER: The petition of merchants and manufacturers of Philadelphia, Pennsylvania, and vicinity, against the passage of the pending tariff bill—to the Committee of Ways and Means.

By Mr. HENRY: Papers relating to the claim of Selmar Seibert—to the Committee of Claims.

By Mr. MACKAY: The petition of merchants and manufacturers of Philadelphia, against the passage of the pending tariff bill—to the Committee of Ways and Means.

By Mr. O'NEILL: The petition of merchants and manufacturers of Philadelphia, of similar import—to the Committee of the Whole House.

By Mr. ROBBINS: The petition of H. W. Douglas, William S. Arnold, E. S. Zachary, John H. Jarves, and other citizens of Yadkin, North Carolina, against the abolition of the western judicial district of North Carolina—to the Committee on the Judiciary.

By Mr. SMITH, of Pennsylvania: The petition of 49 merchants and manufacturers of Philadelphia, Pennsylvania, against the passage of the tariff bill now pending before Congress—to the Committee of Ways and Means.

By Mr. STEELE: The petition of Burwell & Springs and others, merchants and dealers in sugars, that the duty on sugar be made at so much per pound without regard to color or quality—to the same committee.

By Mr. SWANN: The petition of John A. Hambleton & Co., T. H. Broadwater & Co., and 15 other business houses of Baltimore, Maryland, against the revival of the income tax—to the same committee.

By Mr. THROCKMORTON: A paper relating to the establishment of a post-route between Weatherford, Bellevue & Brock's Springs, to Graham, Texas—to the Committee on the Post-Office and Post-Roads.

By Mr. WARD: The petition of 50 citizens of Phoenixville, Penn-

sylvania, and vicinity, against the revival of the income tax—to the Committee of Ways and Means.

By Mr. WILLIAMS, of Alabama: The petition of citizens of Auburn, Alabama, that aid be extended the Texas Pacific Railroad—to the Committee on the Pacific Railroads.

By Mr. WILLIAMS, of New York: The petition of C. W. Putman, M. M. Bridges, and others, for the equalization of bounties to soldiers of the late war—to the Committee on Military Affairs.

HOUSE OF REPRESENTATIVES.

FRIDAY, April 12, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. BLOUNT. I move that the rules be suspended and that the House resolve itself into Committee of the Whole on the state of the Union, to resume the consideration of the post-office appropriation bill.

Mr. BRIGHT. I move to amend the motion of the gentleman from Georgia, so that the House shall resolve itself into Committee of the Whole on the Private Calendar.

Mr. RICE, of Ohio. I demand the regular order. The regular order, I believe, is the morning hour for reports from committees of a private nature.

Mr. FORT. Let us having the morning hour.

The SPEAKER. The motion of the gentleman from Tennessee [Mr. BRIGHT] that the House resolve itself into Committee of the Whole on the Private Calendar would not be in order till after the morning hour, but the motion of the gentleman from Georgia is in order.

Mr. BLOUNT. I feel compelled to insist on my motion.

The SPEAKER. The way the gentleman from Tennessee could reach his purpose would be by inducing the House to vote down the motion of the gentleman from Georgia.

Mr. MILLS. Under the rules of the House we cannot go into Committee of the Whole on the Private Calendar except on Friday. There is now a large accumulation of bills on the Private Calendar and they ought to be considered on this the only day of the week which can be devoted to their consideration.

The SPEAKER. The remedy is to vote down the motion of the gentleman from Georgia.

Mr. MILLS. I hope the House will vote it down.

The question being taken on Mr. BLOUNT's motion, there were—ayes 58, noes 69.

So (further count not being asked for) the motion was not agreed to.

Mr. RICE, of Ohio. I now demand the regular order.

The SPEAKER. The regular order being demanded, the morning hour begins at fifteen minutes past twelve o'clock.

Mr. HOOKER. I rise to ask unanimous consent to present a bill for reference.

The SPEAKER. The Chair cannot interrupt the morning hour by asking unanimous consent. The Chair will recognize the gentleman afterward. The morning hour is for a specific purpose and has commenced.

Mr. HOOKER. Very well.

GEORGE A. ARMES.

The SPEAKER. The unfinished business of the morning hour coming over from last Friday is the bill (H. R. No. 4242) to authorize the restoration of George A. Armes to the rank of captain.

Mr. BRAGG. I regret exceedingly to be obliged to oppose a report of a majority of the Military Committee who have recommended the passage of this bill. I only do so because I think upon a question of principle this bill ought not to pass.

Irrespective of the question of the merit or demerit of the officer whom this bill seeks to restore there is a question of public policy underlying all, which controls my judgment in my vote in opposition to the passage of this bill, and that is this: it has already been announced semi-officially to this House that in the opinion of the Military Committee there are already in the neighborhood of eight hundred supernumerary officers in the military service of the United States. And while the Military Committee are endeavoring to induce this House to indorse their views and to devise means to relieve the service from those supernumeraries and to relieve the Treasury from the expense of supporting and maintaining them, it seems to me a very grave inconsistency on the part of that committee to make a report to restore an officer who has been out of the service nearly nine years, and who was discharged as the result of a court-martial held in 1869 or 1870 dismissing him from the service.

If we have too many officers against whom no charge as yet has been made, and all of whom have fair records both for bravery and good conduct, if the necessities of the service require that they shall be discharged from the service, it seems to me improper for us to start a military machine by which here in this House we will be man-

nufacturing additional officers to place upon that list who will also within a short time require to be discharged. If this officer shall be restored, why not restore all of those officers who were discharged upon the consolidation of the regiments? When they were reduced from forty-five to the number that now exists, those men were discharged. They had fine records; they were equally meritorious with this officer. No charge was brought against them, but the needs of the service were urged as the reason why they should be mustered out, and they were mustered out. A large proportion of them are knocking at the doors of Congress and asking to be restored. If we are to restore one, why ought we not to restore all? There is no more objection to any one of them than there is to this officer; and I am not aware that there is perhaps any greater objection to this officer than there is to any one of them.

But I put my opposition to this bill upon the score of public policy that it is improper for this House to be making officers to-day when we have pending before the House a bill which provides for the muster out of a great number of officers of the same rank as this one because the service no longer needs them and we require to be relieved of the expense of longer maintaining them. That is one ground upon which I put my opposition to this bill.

Another ground of opposition is this: I am one of those who do not believe that it is proper for a committee of Congress to sit here and review the proceedings of a court-martial. The code of military law provides for the trial of officers of the Army. They are tried by military court; they are tried by courts that hear the witnesses, that know the surroundings of the case, that see the appearance of the witnesses and the appearance of the officers on trial. Those courts are much better able to determine than we are whether the testimony of the witnesses is credible or otherwise.

It is true the witnesses may be attacked afterward *ex parte*, and it may be shown that their character is not entirely credible; they may be by their personal character entirely disreputable. Yet it will not be contended that even such witnesses may not tell the truth. The court that knows all the surrounding circumstances, that sees the witnesses as they testify, that sees all the little incidents which support their testimony, may determine that in some given case those witnesses tell the truth, although their general reputation for truth and veracity may be bad.

Now, when such a court has heard all the witnesses, has seen them face to face, has listened to all the corroborating circumstances, knows all the surroundings of the case and then passes upon that case; and when the case is sent up to the reviewing officer and he has passed upon it, and is then sent up to the Judge Advocate General and he has passed upon it; when all the higher officers who review the case have passed upon it, it seems to me that it is not proper for us, eight or nine years subsequent to that time, to sit here as a court of review and pass upon the action of that military court and summarily restore an officer who has been so long out of the service.

I have still another objection to the passage of this bill. By reference to volume 18, page 564, of the Statutes at Large, it will be found that in 1874 an act was passed by Congress relieving this officer from all stain or stigma upon his character by reason of the proceedings of this court-martial. The Secretary of War was required, by the act of Congress, to grant this officer an honorable discharge. That relieved him from all stain on his character by reason of the judgment of the court, so that he no longer stands as a disgraced officer by reason of the finding of that court.

In addition to all that there was a provision in that act granting to this officer, by reason of this honorable discharge, one year's pay and allowances of a captain of cavalry, which amounted to over \$3,000, and that money was received by him. Therefore, even if the finding of the court was improper in the first instance, even if it cast a reflection upon the character of this officer in the first instance, that stigma has now been removed and he stands upon the record just precisely the same as the other officers who were mustered out of the service because they were supernumeraries. And in addition to that Congress provided that he should be paid one year's pay and allowances, over \$3,000, which he accepted and drew.

Now, shall it be said that at this time, when we are endeavoring to reduce the number of our supernumerary officers, we shall by action of the same Congress which is seeking to reduce that force, increase it by putting this officer again on the rolls, so that he may be again mustered out of the service and receive another additional year's pay and allowances provided for officers so mustered out?

I wish to pass no reflection at all upon this officer. It is not the basis of my opposition that any reflection is cast or should be cast upon this officer. It is beneath me as a legislator to attempt to cast any reflection upon him. He stands with an honorable discharge, acquitted from anything that would cast reflection upon him by the action of the court, and that discharge has been granted by the highest legislative body in the country, the Congress of the United States. He has received that honorable discharge; he has received in addition a year's pay and allowances. It seems to me that upon policy and upon principle this House ought not to extend any further relief to him. Or if it does extend it to him, then similar relief should be extended in justice to every other officer who was also mustered out, but who never was tried by a court-martial.

Mr. MAISH. I now yield to the gentleman from Kansas [Mr. HASKELL] for ten minutes.

Mr. HASKELL. I have but a word to say in regard to this case. I do not desire to enter into a long discussion of the general principles involved in it. But inasmuch as this officer at one time in his life was in command of Kansas troops upon the frontier of my State and distinguished himself by gallantry and soldierly conduct in several engagements, and inasmuch as he has received favorable mention from so many of the prominent citizens of my State, I deem it to be but fair, when a bill concerning him is pending in this House, to make some statements in reference to the causes which led to his dismissal from the Army.

I state as a fact that cannot be controverted that notwithstanding the action of that court-martial this officer was dismissed from the service upon a set of charges not one of them having in the most remote degree one single particle of truth in it, not a word.

This gentleman is a Virginian, a young man who at the age of sixteen entered the Army of the Union, who unaided by any official influence or any power of prominent relatives worked his way up to an honorable position in the Regular Army. While in the discharge of his military duties he was assailed by an unjust and absolutely untrue set of charges, and dismissed from the service.

The bill, as I understand, does not restore him arbitrarily to the Army. However just in my opinion such an act would be, that is not the object of the bill. It simply permits the President of the United States to appoint him to his old rank of captain in his old regiment whenever a vacancy shall occur in that regiment. Absolute discretion in regard to the appointment is lodged with the President. That is all there is in the bill. Mr. Armes will receive no pay under the bill, and no rank. The President is simply authorized, if he so desires, to appoint Mr. Armes whenever a vacancy of his rank occurs in his former regiment.

As to the character of the man nothing can be said against it; and as part of my remarks I desire to have read from the Clerk's desk a testimonial from the former governor of my State and from General Hancock, showing the services of this officer and his good character, giving him only a just meed of praise.

Mr. SAMPSON. The gentleman will allow me to ask whether the bill now under consideration is House bill No. 1642?

Mr. HASKELL. I think not. I think that bill has been substituted by a Senate bill.

Mr. SAMPSON. I see that the provision of this House bill is—That the Secretary of War is hereby authorized and directed to restore the name of George A. Armes to the lineal list of captains of cavalry.

Mr. HASKELL. I ask the Clerk to read first the letter I have sent up, and afterward the bill pending before the House.

The Clerk read the letter, as follows:

Major Armes is well and favorably known in my State, where he has rendered valuable service in the protection of our frontier, and it is unnecessary for me to say more than to read what ex-Governor Crawford says:

"I have been intimately acquainted with Captain George A. Armes during the past ten years, and know him to have been one of the most daring, efficient young officers in the Army. His command was stationed in Western Kansas while I was governor of the State, and in all our Indian wars of that time no officer displayed more vigilance, courage, and skill than did Captain Armes. The charges upon which he was tried were in my opinion baseless and untrue, and the evidence adduced wholly insufficient (when considering the general character of the witnesses) to warrant the finding and sentence in the case. I hope, therefore, that he may be speedily restored to his place in the Army, as a simple act of justice to a gallant young officer and gentleman."

"The following is a copy of one of a number of dispatches received from Major General W. S. Hancock, relating to Captain Armes."

"S. J. CRAWFORD."

—
PORT HARKER, KENTUCKY, August 26, 1877.

Governor CRAWFORD:

Captain Armes, Tenth Cavalry, with one company of his regiment and two companies of the Eighteenth Kansas Volunteers, was attacked on the 21st instant, at noon, on the Republican River, by a large force of Indians, reported to be eight hundred to one thousand in number, and were engaged until the night of the 23d. Our troops, about one hundred and fifty in number, covering a wide space of country, were finally forced to retire with a loss of three men killed and left on the field and thirty-five wounded who were brought in. The command also lost forty horses during the engagement. Captain Armes reports a large number of Indians killed and wounded; Lieutenant Price, of the Eighteenth Kansas, says about one hundred and fifty. The command encamped about three miles from Fort Harker last night. Major Moore, of the Eighteenth Kansas, with the remainder of the battalion, and Major Elliott, of the Seventh Cavalry, with about two hundred men of that regiment, started this morning for the Indians.

WINFIELD S. HANCOCK,
Major-General United States Army.

The Clerk then read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of law regulating appointments in the Army by promotion in the line are hereby suspended for the purposes of this act, and only so far as they affect George A. Armes; and the President can, if he so desire, in the exercise of his own discretion and judgment, nominate and, by and with the advice and consent of the Senate, appoint said George A. Armes, late captain in the Tenth United States Cavalry Regiment, to the same grade and rank of captain held by him on June 7, 1870, in any vacancy occurring in the grade of captain in said regiment: *Provided, however,* That no pay, compensation, or allowance whatever shall ever be given to said Armes for the time between June 7, 1870, and the date of appointment hereunder: *And provided further,* That the acceptance of any benefit under this act by said George A. Armes shall be taken and construed to be by his election a bar to any claim for pay or allowances from the date of his discharge to his acceptance of a commission, if one be granted him, and under the provisions of this act.

Mr. HASKELL. Now, Mr. Speaker, knowing as I do the gallant conduct of this young officer upon the border of my State in protecting it from the ravages of the Indians, knowing the meritorious

service that he performed for my people in protecting their homes, and knowing that he was dismissed from the service on a set of charges not one word of which was true, I believe that the small and insignificant compensation allowed him by the terms of this bill is an act of justice that the House will not hesitate to accord him.

Mr. CRITTENDEN. Mr. Speaker, I believe that the report of the Committee on Military Affairs should be sanctioned by this House. I have examined with some care the evidence that has been produced against Captain Armes. I have also examined the various reports that have been made by three or four committees not only of this House but of the Senate in his favor. In each case the committee has uniformly reported that Captain Armes should be restored to the service on certain conditions.

Unfortunately for Captain Armes, he fell under the disapprobation of a certain gentleman whom I do not suppose any one will undertake to defend in this or any other Congress. This gallant young officer was persecuted and prosecuted with industrious hatred by one who was then Secretary of War—W. W. Belknap—whom none will defend now; none who will do him such reverence now as in former days. As long as Belknap was Secretary of War young Armes was oppressed and stood no chance to vindicate himself. It would have been well for that Secretary had he not carried his immense power in harassing this young officer so far and vexing him so long. He at last drove him to despair, and that officer, who had won the admiration of a Hancock, a Palmer, and his associate officers on the bloodiest battle-fields, turned upon the Secretary and unearthed those acts and charges which soon drove him from power. After eight years of suffering Congress is at last about to do justice to young Armes. He should be restored at once, as recommended by the committee. Justice is often slow, but she ever travels apace, with her scales evenly balanced, dealing out good for good and evil for evil. Her steps may be checked by crime and wrong for a time; but, as sure as a God reigns, she will move onward and grind to powder those who oppose.

Mr. Chairman, I call the attention of this House to what General Hancock said of Captain Armes. The name of Hancock commands the warmest respect of every American citizen. He was a true, bold, steady, and brilliant fighter on the battle-field, and since peace has returned to our land he has been as true, bold, and sturdy follower of the law. A true soldier always makes a true citizen:

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Fort Leavenworth, Kansas, December 25, 1866.

Second Lieutenant George A. Armes, Second United States Cavalry, was attached to my staff as a volunteer aide-de-camp during part of the time I commanded the Second Army Corps and served under my orders in the campaign of 1864 (Wilderness), in which he was engaged in several of the most important battles of that period, with credit to himself and advantage to the service. I found him always ready night and day for the most disagreeable duty. When any service requiring hard riding accompanied by danger offered Lieutenant Armes was a volunteer.

I have to thank him for his efficient service from the "North Anna" to Petersburg.

Very respectfully,

WINF'D S. HANCOCK,
Major-General United States Army.

I present another letter from a distinguished officer of the United States Army bearing testimony to the gallantry of this young officer, and I will state here that neither of these letters has ever been in print. This letter is from Colonel I. N. Palmer, colonel of the Second Cavalry. I suppose no one here discredits the character and care of Colonel Palmer:

WASHINGTON, March 30, 1877.

DEAR SIR: In reply to your letter of yesterday, requesting me to state what your record was in the Second Cavalry, I will state that during your whole service in that regiment I believe you had the reputation of being an energetic, faithful, and sober officer. I very well recollect the complimentary notice of your conduct in general orders from the headquarters of the Department of the Platte. Although you were not under my immediate command, I of course knew your general reputation. Of your conduct after you were promoted out of my regiment I cannot speak, as I was entirely separated from you; but in the matter of your trial I was very sorry to see that any weight should be given to the evidence of Captain Graham, whom I knew to be one of the most unprincipled villains in the country, and who was not only ignominiously dismissed from the service for great crimes, but who was afterward convicted of being a common highwayman and a murderer. I have heard, and I believe it to be a fact, that Graham was at one time a convict in one of the New York penitentiaries.

Of Captain Cox, who was also a witness against you, I can only say that he had a very bad reputation, and his subsequent career and fate in the Army plainly showed that he was not a man to be believed on his oath.

You are at liberty to make any use of this you may choose.

Very respectfully yours,

I. N. PALMER,
Colonel Second Cavalry.

Captain GEORGE A. ARMES.

Captain Armes was convicted, I say, by the persecution of the Secretary of War upon the evidence of four men and a woman of bad repute. Three of the men were discharged from the public service and sent to the penitentiary; as to the fourth I know not where he is, but he was of equally bad character. Are we to cast this cloud of odium upon this young officer on the testimony of such characters, merely to accommodate the past prejudices of a retired Cabinet officer? I hope not. I say for one I will not do it by my vote, unless that evidence is corroborated by other evidence than that of these five notorious and disreputable characters. I will stand by the report of the committee. If Captain Armes is restored to his military character it will be but a simple act of simple justice, much to our credit as fair and impartial law-makers, unmoved by other impulses than right and justice.

Mr. MAISH. I yield two minutes to the gentleman from Maine [Mr. FRYE] and then I shall call for a vote.

Mr. FRYE. I wish only to say this, that I have read with care every word of the report of the Military Committee on this case. Many gentlemen have it before them and there is no minority report; and I say that when gentlemen of this House read the statement of facts reported by this committee there ought not to linger the shadow of a single doubt as to the merits of the case. If these facts are true that this committee have reported they would be sufficient to grant a new trial in any criminal case that was ever tried in this country. If the reported facts are true—and of course we must accept them as true, there being no minority report—why under the sun any man in this House can vote against this little meed of justice which this committee so carefully and guardedly recommend should be granted to this man who has been thus abused by perjurers, murderers, and burglars, as the committee show, I cannot for the life of me see. I hope that the House will sustain the report of the committee with unanimity.

Mr. MAISH. I now ask for a vote.

Mr. MILLS. I ask the gentleman to yield to me for a few moments.

Mr. MAISH. There are a number of my colleagues on the committee who are anxious to make reports, and I have promised to call for a vote; otherwise I should be willing to give the gentleman as much time as he wants. [Cries of "Vote!" "Vote!"]

Mr. MILLS. I understand an act of Congress has been passed offering to this officer the permission to retire with one year's pay, and that he has accepted it.

Mr. MAISH. That is true; and the same committee that recommended the bill to which the gentleman refers also recommended the restoration of this officer to his rank; and I think no one will contend that what has already been done should exclude him from this act of justice.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MAISH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM G. HALPINE.

Mr. BRAGG, from the Committee on Military Affairs, reported back, with an amendment, the bill (H. R. No. 1015) for the relief of William G. Halpine, for losses sustained while serving in the United States Army in 1862 and 1863; and moved that the bill and amendment be referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

The motion was agreed to.

THOMAS F. ALEXANDER.

Mr. BRAGG also, from the same committee, reported back, with an amendment, the bill (H. R. No. 521) for the relief of Thomas F. Alexander, of Illinois; and moved that the bill and amendment be referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

The motion was agreed to.

JAMES M. RUBY.

Mr. BRAGG also, from the same committee, reported back, with an amendment, the bill (H. R. No. 2852) for the relief of James M. Ruby, and moved that the bill and amendment be referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

The motion was agreed to.

HENRY BECKMAN.

Mr. BRAGG also, from the same committee, reported, as a substitute for House bill No. 1929, a bill (H. R. No. 4288) for the relief of Henry Beckman; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN GAULT, JR.

Mr. BRAGG also, from the same committee, reported a bill (H. R. No. 4287) for the relief of John Gault, jr., late major of the Twenty-eighth Regiment of Kentucky Volunteer Infantry; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JAMES D. WOOD.

Mr. BRAGG also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 3958) for the relief of James D. Wood, late captain and assistant adjutant-general; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

THOMAS W. SEGAR.

Mr. BRAGG also, from the same committee, reported a bill (H. R. No. 4289) for the relief of Thomas W. Segar; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ELIAS B. BELL.

Mr. BRAGG also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 2472) for the relief of Elias B. Bell, late private of Company E, Third Regiment of West Virginia Cavalry; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MAJOR JUNIUS T. TURNER.

Mr. BRAGG also, from the same committee, reported back, with an adverse recommendation, the bill (H. R. No. 2461) for the relief of Major Junius T. Turner; and the same was laid on the table, and the accompanying report ordered to be printed.

Mr. BRAGG moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CEMETERY LOT, MONTGOMERY, ALABAMA.

Mr. CLARK, of New Jersey, from the Committee on Military Affairs, reported back favorably a bill (H. R. No. 3434) releasing title to a certain cemetery lot to the city of Montgomery, Alabama; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JOHN J. MANUEL AND DAUGHTERS.

Mr. CLARK, of New Jersey, also, from the same committee, reported, as a substitute for House resolution No. 100, a joint resolution (H. R. No. 157) providing for transportation by the military authorities of John J. Manuel and two infant daughters from Camp Howard, Idaho Territory, to Saint Charles, Missouri; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

PETER SCOUDEN.

Mr. CLARK, of New Jersey, also, from the same committee, reported back favorably the bill (H. R. No. 461) for the relief of Peter Scouden, late a corporal of Company K, Twelfth Indiana Volunteer Cavalry, a resident of White County, Indiana; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

INDIAN WAR EXPENSES, IDAHO.

Mr. CLARK, of New Jersey, also, from the same committee, reported back the bill (H. R. No. 2904) to provide for ascertaining and reporting the expenses incurred by the Territory of Idaho, and the people thereof, in defending themselves from attacks and hostilities of the Nez Percé Indians in the year 1877, and for other purposes; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

LIEUTENANT THOMAS BLAIR.

Mr. McCOOK, from the Committee on Military Affairs, reported back favorably the bill (H. R. No. 4005) for the relief of Lieutenant Thomas Blair, Fifteenth United States Infantry; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM HINES.

Mr. McCOOK also, from the same committee, reported back favorably the bill (H. R. No. 4007) for the relief of Private William Hines, Company F, Eighteenth United States Infantry, who lost his trousers and blanket by fire at Aiken, South Carolina; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

SETTLERS ON FORT HARTSUFF MILITARY RESERVATION.

Mr. McCOOK. I am also directed by the Committee on Military Affairs to report back favorably a bill (H. R. No. 3874) authorizing the Secretary of War to transfer to certain settlers whose lands were included within Fort Hartsuff military reservation such portions as are not needed for military purposes, and to ask for its present consideration. The preamble recites that the lands of certain settlers were included within the limits of the Fort Hartsuff military reservation, in the State of Nebraska, at the time of its establishment by executive order. The bill then authorizes the Secretary of War to relinquish such portions of said reservation as may not be needed for military purposes to said actual settlers who have valid claims to any part of the lands included within its limits, and that they be allowed to perfect their claims under the provisions of the homestead, pre-emption, and tree-culture laws.

Mr. DUNNELL. I move to amend the bill in line 8 by striking out the word "pre-emption."

Mr. McCOOK. I have no disposition, Mr. Speaker, to consume the time of the House by attempting any explanation of this bill. The report accompanying the bill I think will fully explain why in the judgment of the Committee on Military Affairs it should become a law. So far as the amendment suggested by the gentleman from Minnesota is concerned I confess I do not see its applicability. The bill itself was suggested by the gentleman's colleague [Mr. STRAIT] who is well informed in regard to the location and pre-emption of lands in the Western States, and if any such amendment were necessary he certainly would have suggested it. I do not know what the

gentleman's reason is for the amendment and I hope he will explain it. If it is a proper amendment there will be no objection to its adoption.

The fact is, Mr. Speaker, when this reservation was set apart the total amount of land included was two thousand and thirty-three acres. The committee have carefully investigated the subject and they find that in the reservation was included the six hundred acres of land which had been located by these parties, as appears very fully from the papers in the case.

The Secretary of War and the Commissioner of the Land Office both gave their opinion that it would not interfere with the interest of the Government at all to pass a bill of this character and allow these poor fellows who had located their lands before the reservation was established to retain these lands, and for that reason I trust the bill will pass as reported from the Committee on Military Affairs.

Mr. DUNNELL. It will be remembered that it was the policy of the last Congress to let lands included in the military reservations and thrown into market be taken up under the homestead law exclusively, and that all the bills of this character reported to the last Congress restoring portions of military reservations to the public domain required that they should be entered under the homestead law rather than under the pre-emption policy, and that they should be located exclusively under the homestead rather than under the pre-emption law.

Mr. McCOOK. I call for the reading of the report in this case; it is very brief and will explain the matter to the House better than I could.

The Clerk read as follows:

Mr. McCook, from the Committee on Military Affairs, submitted the following: The Committee on Military Affairs, to whom was submitted the bill (H. R. No. 3874) for the relinquishment of certain lands within the limits of the Fort Hartsuff military reservation to actual settlers at the time the reservation was established, have had the same under consideration and report the following:

The records and documents show that the reservation was declared by two executive orders, dated August 17, 1874, and September 16, 1874, respectively; that it is situated on the north fork of Loup River and its tributary, the Calamus River, in the State of Nebraska, and that its aggregate area is 2,033.19 acres. The part first declared was retained for supplying wood and hay to the post and the second was made for the site of the post itself.

At the time the first named reservation was selected it was reported that there were claims of citizens to some of the lands embraced therein, but no action was taken and the reserve was declared. Letters are exhibited, however, from the claimants and the register of the land office at Grand Island, Nebraska, showing very clearly that several claims had been located prior to the declaration as a reservation, and that the necessary declaratory statements had been properly filed for record. Two were filed on September 10, 1873, one on March 24, 1874, and one April 23, 1874. Captain William Stanton, United States Engineer, who appears to have conducted the correspondence with the register of the land office, in his report to department headquarters, says: "To relieve the Government from those and all other such claims which may arise and to relieve both the Government and the citizens interested, I would suggest that the United States relinquish a part of the reservation, retaining for hay land only that part lying in the fork between the Calamus and the north fork of the Loup River, which is a part of sections 9, 10, and 15, township 21 north, range 16 west, in Nebraska. The hay and wood reservation as thus reduced would embrace about 837 acres, and if it be desired to enlarge the reservation it might be extended to include sections 16 if no part of that section is claimed by citizens." In addition, the post commander states that "it may facilitate the settlement of this matter if it is known that these subdivisions are of no present value to the post, as they are distant from it eleven miles." * * * I believe that the hay and wood reservation could altogether be relinquished without detriment, and certainly that part to which pre-emptors have claims." The Secretary of War, in transmitting the papers, recommends that he be authorized by act of Congress to relinquish such portions of the reservation as are not needed for military purposes.

As the claims of the settlers are unquestioned and as the justice of the suggestions of the Secretary of War and the officers conversant with the facts is evident, your committee recommend the passage of the act.

Mr. BANNING. I hope that the bill as reported by the gentleman from New York [Mr. McCook] will be passed. Certainly there is no reason why the amendment of the gentleman from Minnesota should prevail.

Mr. STRAIT. This is not opening a reservation; it is simply allowing four settlers who had settled upon these lands before they were created a Government reservation to obtain titles to their lands. It is recommended by the Secretary of War and the Commissioner of the Land Office, and certainly there can be no question as to the propriety of it.

Mr. DUNNELL. It will be remembered that the last Congress passed a law repealing the pre-emption law and adopting a policy, so far as this House was concerned, of looking upon the public domain now open to settlement, as open to settlement under the homestead law and under no other, and there is no reason why these men, who are called pre-emptors, but who are neither pre-emptors nor homesteaders, but squatters, should have an advantage over others now. If you propose to give them the lands give it to them as squatters and not as pre-emptors or homesteaders.

Mr. McCOOK. It seems to me that the matter is clear and distinct. These men had a right to the land and had pre-empted their land and had been pre-empted it prior to the establishment of the reservation when the Government swept them into the reservation. The object of the bill, which is recommended by the Secretary of War, is to restore to these men who had been included on a Government reservation their little rights and their little property. I hope the amendment will not prevail and that the bill will pass.

Mr. FRYE. I desire to ask the gentleman a question, if he will yield for that purpose.

Mr. McCOOK. Certainly.

Mr. FRYE. My question is whether or not, in the gentleman's opinion, the adoption of the amendment proposed by the gentleman from Minnesota may not prevent absolutely the restoration of these lands to the settlers?

Mr. MCCOOK. I think it would. That would be the practical effect of the adoption of the amendment.

Mr. FRYE. Then I think the amendment ought not to be adopted.

Mr. DUNNELL. If it is conceded they had a right to their lands under the pre-emption law, before Congress determined at the last session that these lands should be taken up under the homestead and not under the pre-emption law, then there is no necessity for the passage of the bill.

Mr. MCCOOK. I will not attempt to discuss the question of the pre-emption law or homestead law, for I confess that I am not very learned about those matters, but this restores the settlers to their original rights, which they acquired under the law and which had been taken from them by their lands being included in a military reservation. I call the previous question upon the bill.

The previous question was seconded and the main question ordered.

The question was taken on the amendment offered by Mr. DUNNELL, and it was not agreed to.

The bill was ordered to be engrossed for a third reading; and being engrossed, was accordingly read the third time, and passed.

Mr. MCCOOK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ANN ANNIS.

Mr. CLARK, of New Jersey, from the Committee on Military Affairs, reported back, with a favorable recommendation, the bill (H. R. No. 1141) for the relief of Ann Annis, widow of Harvey Annis, late second lieutenant Company G, Fifty-first Regiment United States Colored Infantry; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JOSEPH R. PRATT.

Mr. STRAIT, from the Committee on Military Affairs, reported back, with a favorable recommendation, the bill (H. R. No. 1173) for the relief of Joseph R. Pratt; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ALFRED MULLER.

Mr. STRAIT also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 1162) for the relief of Alfred Muller, late acting assistant surgeon United States Army; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM S. HANSELL & SONS.

Mr. STRAIT also, from the same committee, reported a bill (H. R. No. 4290) for the relief of William S. Hansell & Sons; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

DR. MARY E. WALKER.

On motion of Mr. STRAIT, the Committee on Military Affairs was discharged from the further consideration of the petition of Dr. Mary E. Walker, and the same was referred to the Committee of Claims.

BRIDGE WITHIN THE FORT RILEY RESERVATION.

Mr. STRAIT also, from the same committee, reported back, with a favorable recommendation, the bill (S. 484) to authorize the construction of a bridge abutment and approach within the Fort Riley military reservation.

The bill was read. It directs the Secretary of War to permit the county commissioners of Davis County, Kansas, in erecting a bridge across the Republican River, to construct one abutment of the same upon land included within the military reservation of Fort Riley, and also to permit the eastern approach to the same to be laid out across said reservation; provided that such bridge and highway leading thereto shall always be open to Government transportation free of charge, and that such point shall be selected for the construction of said abutment and approach as shall be mutually agreed upon by said county commissioners and the Secretary of War.

Mr. STRAIT. I ask for the present consideration of the bill.
Mr. WHITTIER. Is there a report accompanying this bill?
Mr. STRAIT. There is a letter from the Secretary of War which I will have read.

The Clerk read as follows:

WAR DEPARTMENT,
Washington City, December 27, 1877.

Sir: In the matter of the petition of the board of county commissioners of Davis County, Kansas, praying that a right of way may be granted for a public road through the Fort Riley military reservation, to connect with a bridge to be constructed across the Republican River, referred by you, I have the honor to inclose herewith a report on the subject from Lieutenant E. H. Ruffner, chief engineer of the Department of the Missouri. I concur in the views of Lieutenant Ruffner, but beg to inform you that the right of way requested will have to be granted by Congress, the Executive having no authority to grant or convey any interest in

land belonging to the United States except in pursuance of an act of Congress expressly or impliedly authorizing him so to do.

Very respectfully, your obedient servant,

GEO. W. MCCRARY,
Secretary of War.

Hon. P. B. PLUM,
United States Senate.

Mr. PHILLIPS. It simply authorizes the commissioners of a county in the State of Kansas to build a bridge upon a military road. There can be no objection to it.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STRAIT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PETER G. MILLS.

Mr. STRAIT also, from the Committee on Military Affairs, reported back, with a favorable recommendation, the bill (H. R. No. 1167) for the relief of Peter G. Mills, with an amendment.

The bill was read. It directs the Secretary of War to cause the records in the office of the Adjutant-General of the United States Army to be so amended as to remove the charge of desertion against Peter G. Mills, private in Company K, Tenth Regiment Minnesota Volunteers, and grant the same an honorable discharge.

The amendment reported by the committee was as follows:

Strike out lines 6, 7, and 8, and insert in lieu thereof the following: "Discharge Peter G. Mills, late of Company A, Fourth Minnesota Infantry Volunteers, from the service of the United States on the 7th day of August, 1868, and granting him an honorable discharge from the said regiment and correcting the record as to his muster-out of Company K, Tenth Minnesota Infantry Volunteers."

The amendment was agreed to.

The bill, as amended, was ordered to a third reading, read the third time, and passed.

Mr. STRAIT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. MILLS. Has the morning hour expired?

The SPEAKER. It has.

Mr. MILLS. I call for the regular order.

Mr. BRIGHT. I move that the House resolve itself into Committee of the Whole on the Private Calendar.

Mr. HENDEE. I want to make a request of the House. I desire to ask that to-morrow may be set apart for the discussion of the District of Columbia bill, no vote to be taken upon it.

Mr. EDEN. The gentleman's proposition, then, is for general debate upon the bill?

Mr. HENDEE. It is for general debate, no vote to be taken.

Mr. EDEN. It may be the desire of the Committee on Appropriations to go on with an appropriation bill.

Mr. SPARKS. I object to the proposition of the gentleman from Vermont; I understood the gentleman wanted to have a night session for that discussion.

Mr. HOOKER. I ask the gentleman from Tennessee [Mr. BRIGHT] to yield to me to introduce a bill.

Mr. HENDEE. Cannot I make a motion to the effect that my request indicates, so that a majority of the House may control it?

The SPEAKER. That is not in order. The gentleman from Texas demands the regular order, and the regular order is the motion of the gentleman from Tennessee.

Mr. BRIGHT. I will yield to the gentleman from Mississippi for the introduction of a bill.

ADDITIONAL TERMS OF UNITED STATES COURTS.

Mr. HOOKER, by unanimous consent, introduced a bill (H. R. No. 4291) to provide for the holding of an additional term of the United States district and circuit court for the southern district of Mississippi; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ORDER OF BUSINESS.

Mr. DICKEY. I desire to offer a resolution.

Mr. WILLIAMS, of Oregon. I call for the regular order.

The question was taken upon Mr. BRIGHT's motion; and it was agreed to.

PRIVATE CALENDAR.

The House accordingly resolved itself into Committee of the Whole on the Private Calendar, (Mr. KNAPP in the chair.)

The CHAIRMAN. The House is in Committee of the Whole on the Private Calendar for the consideration of bills upon the Private Calendar, and this being consideration day the Clerk will report the first bill upon the Private Calendar.

COLLEGE OF WILLIAM AND MARY.

The first business on the Private Calendar was the bill (H. R. No. 189) to reimburse the College of William and Mary, in Virginia, for property destroyed during the late war.

Mr. CONGER. Has not that bill been objected to twice?

The CHAIRMAN. It has, but this is consideration day.
Mr. BRIGHT. It was objected to twice, but it is now up for consideration.

Mr. WHITE, of Pennsylvania. The bill has been objected to twice.
The CHAIRMAN. Yes.

Mr. GOODE. It was objected to twice; once by one member and then by five. It was objected to first on December 7 by Mr. CONGER, and afterward there were five objectors on the 16th of February.

Mr. EDEN. Let the report be read.

The report was read, as follows:

The Committee on Education and Labor, to whom was referred the bill to reimburse the College of William and Mary, in Virginia, for property destroyed during the late war, beg leave to adopt the report which was submitted on a similar bill at the first session of the Forty-fourth Congress, as follows:

On the 8th day of September, 1862, the principal building of the College of William and Mary was destroyed by fire. This college is in the town of Williamsburgh, thirty-five miles from Fortress Monroe, on territory which remained under the control of the United States during nearly the whole of the war. Williamsburgh is situated on the narrowest part of the peninsula, partly in the county of York and partly in that of James City. York County was in the hands of the Union troops from May, 1862, to the close of the war. It was never during that time treated as rebel territory; was expressly excepted from President Lincoln's original proclamation of emancipation; it formed a part of the State of Virginia, which had for a time its seat of government at Alexandria under Governor Pierpont; was represented in Congress and gave the necessary constitutional assent to the separation of West Virginia. The college is a little over the line in James City, but was in the town of Williamsburgh, and was held by the Union forces, as was York County, and was practically Union territory as much as the rest of the town of which it formed a part.

Before the fire the United States took possession of the college building for military uses. Its rooms contained hay and other stores, and cavalry equipments. The day before the destruction of the building a court-martial was going on in it, which was not over at the time of the destruction. On the morning of May 9, after a conflict between the Union forces and a body of rebel cavalry, the latter got possession of the place for a few hours. After their withdrawal, some returning stragglers of the garrison, provoked by defeat, and under the influence of drink, set fire to the building, and prevented the residents of the neighborhood from extinguishing the flames till it was wholly consumed.

The sum appropriated by the accompanying bill is somewhat less than the actual value of the building, which was erected in 1859, and is without the addition of interest.

We are of the opinion that the United States should restore the building so destroyed, for several reasons which do not apply to any other claim whatever which can hereafter be made for the injury or destruction of property during the rebellion. The Government had taken possession of the property for its own purposes, excluding the owners, and preventing them from taking any measures to secure its protection. This was on what was practically friendly and not hostile territory, and the case should be treated as if it had happened in Washington or Philadelphia.

There are other considerations which appeal most powerfully alike to reason and patriotic feeling in demanding this relief.

Every civilized nation has its hallowed spots, about which its patriotic memories cluster, and whose names rise before the imagination whenever these memories are stirred. Sometimes these spots are the scenes of famous battles, as Bunker Hill or Saratoga or Yorktown; sometimes the places where the foundations of great States have been laid, as at Jamestown or Plymouth; sometimes where great events have occurred, as Independence Hall or Faneuil Hall; sometimes the dwelling places of heroes or statesmen, as Mount Vernon or Westminster Abbey; sometimes the venerable institutions of learning which have educated and trained the great benefactors of the people, as Oxford and Cambridge, Harvard, Yale, Princeton, and William and Mary. Under our form of government these hallowed spots are in the custody of States. But they hold them as trustees for the whole people, and the gratitude and affection which surround and hallow them are the gratitude and affection of the whole people. Unless this be true, the American people, alone among civilized nations, are without any common objects of national reverence.

The colleges of the period preceding the war of the revolution were among the most potent forces in accomplishing our independence and founding our Constitution. Among them none can claim precedence over William and Mary. The names of Washington, to whose genius in war and to whose influence in peace we owe the vindication of our liberties and the successful inauguration of our Constitution; of Jefferson, author of the Declaration of Independence, who announced the great law of equality and human rights; of Marshall, without whose luminous and far-sighted exposition the Constitution could hardly have been put into successful and harmonious operation, are inseparably connected with hers. She first called Washington into the public service in his youth, giving him her commission as deputy surveyor, the office of surveyor-general being then held by the corporation of the college. He was for the last twelve years of his life chancellor of William and Mary. Jefferson and Marshall were her graduates. We doubt if any college in America or Europe can, in proportion to the whole number borne on its catalogue, show so large a list of names famous for conspicuous patriotic service or can extract from its history a passage like this, which is taken from President Ewell's historical sketch of William and Mary:

"Besides her long roll of most eminent divines, lawyers, and physicians in private life, she has given to the country two eminent Attorneys-General of the United States; to the House of Representatives of the Congress of the United States, nearly twenty members, and to the Senate of the United States, fifteen Senators; to Virginia and other States, seventeen governors; to the country, one historian and numberless eminent writers; to the State and the United States, thirty-seven judges; to the Revolution, twenty-seven of her sons; to the Army of the United States, a Lieutenant-General and a score of principal and subordinate officers; to the United States Navy, a list of paladins of the sea, headed by Warrington and Thomas ap Cateby Jones; to the colleges and university, twelve professors; to the nation, three Presidents—Jefferson, Monroe, and John Tyler; to Independence, four signers of its Declaration; to the first American Congress, its President; to the Federal judiciary, its most eminent Chief-Justice, John Marshall; to the Federal executive, seven Cabinet officers; and to the convention which framed the Constitution of the United States, Edmund Randolph, its chief author and draughtsman.

"In all, she has given to her country more than two hundred heroes and sages who have been pre-eminently distinguished in public service and in peace."

Your committee are of opinion that if the accidents of war had led to the injury of Mount Vernon, of the house or the tomb of Washington, or of Independence Hall, in Philadelphia, we should have hastened to repair the injury. We shall more truly honor Washington by restoring the living fountain of learning, whose service was the pleasure of his last years, than by any empty act of worship or respect toward his sepulcher.

There is another view of this matter which impresses some of the members of your committee with very great force. It is unquestionable that, by the law of

nations, institutions of learning are exempted by all civilized nations from the hostilities of war. They are to be classed in this respect with public libraries, monuments, collections of art or science, hospitals, &c. The Government of the United States, in its Instructions for the Government of Armies in the Field, originally prepared by Dr. Lieber, revised by a board of officers of which Major-General Hitchcock was president, and approved by President Lincoln in 1863, binds itself by these rules:

Extract from General Orders No. 100, Adjutant-General's Office, section 2, paragraphs 34 to 36.

"34. As a general rule, the property belonging to churches, to hospitals, or other establishments of an exclusively charitable character, to establishments of education, or foundations for the promotion of knowledge, whether public schools, universities, academies of learning, or observatories, museums of the fine arts, or of a scientific character, such property is not to be considered public property in the sense of paragraph 31; but it may be taxed or used when the public service may require it.

"35. Classical works of art, libraries, scientific collections, or precious instruments, such as astronomical telescopes, as well as hospitals, must be secured against all avoidable injury, even when they are contained in fortified places while besieged or bombarded.

"36. If such works of art, libraries, collections, or instruments belonging to a hostile nation or government can be removed without injury, the ruler of the conquering state or nation may order them to be seized and removed for the benefit of the said nation. The ultimate ownership is to be settled by the enduring treaty of peace. In no case shall they be sold or given away, if captured by the armies of the United States; nor shall they ever be privately appropriated or wantonly destroyed or injured."

It is needless to multiply citations. Every authority on the law of nations who touches this subject, from Grotius to Halleck, agrees that the destruction of property of this class is a violation of this law. But it cannot be maintained that the Government is liable for all injuries committed either by its authority or wantonly by its troops, without orders, upon property protected by this rule. But there are many examples in history which seem to place the case of endowed institutions of learning, established by funds given for public purposes, upon grounds of their own, and give them a peculiar title to reparation when so injured, which is not possessed by the public school, or even by the church. The funds or buildings of the public school are public funds belonging to the hostile sovereign and appropriated to the fulfillment of a function which that sovereign undertakes to perform for the citizen. The funds or buildings of the church, though consecrated to the highest objects, are the property of particular sects, and are neither within the control nor for the use of mankind at large. But, in the language of an eminent judge, "the arts and sciences are admitted among all civilized nations as forming an exception to the severe rights of warfare, and as entitled to favor and protection. They are considered, not as the *peculium* of this or that nation, but as the property of mankind at large, and as belonging to the common interest of the whole species." (Case of the Marquis de Somerueles, Stewart's Rep., Nova Scotia, p. 482.)

The endowed corporation of the college can do nothing except hold and apply its funds to a cause which is for the benefit of mankind at large. It cannot commit an act of war, and the hostile character cannot properly be imputed to it. While a violation of the law of nations in the conduct of the war for the suppression of the rebellion cannot constitute a claim upon the Government of the United States, using the term "claim" in the sense of a legal constraint, we believe this Government should, in dealing with an American college, imitate the frequent examples which history furnishes, where the most highly civilized nations and the most famous commanders have respected their moral obligations by making voluntary reparation at their own expense of injuries inflicted on endowed colleges and kindred institutions by the operations of war.

During the battle of Princeton the Americans, in dislodging the British from the college building, fired a cannon-shot through the walls. Washington, in order to make good to the college the damage sustained by the fire of his troops, made the trustees a present of fifty guineas.

During the war of Independence the buildings of William and Mary were repeatedly occupied by British troops. They were in every instance respected as sacred to the cause of letters and left intact. After the close of the war, Louis XVI, the ally of America, caused the buildings, accidentally destroyed by the fire of his troops, to be replaced and every injury to be repaired.

Thus it appears that a Virginian, the chancellor of the college of William and Mary, rendered to a northern college the justice which is now asked for her. Thus it appears that a foreign monarch rendered, under like circumstances, to William and Mary herself the justice which she now asks of her countrymen of the Republic. The British troops, under Tryon, when they occupied Yale College in 1773, spared Yale College, although its students in arms harassed their approach. But President Clap's manuscripts were carried off. President Stiles addressed a letter to General Tryon, in which he represented that "a war against science had been reprobated for ages by the wisest and most powerful generals. The irreparable losses sustained by the Alexandrian library and other ancient monuments of literature have prompted the victorious commanders of modern ages to exempt these monuments from the ravages and desolations inseparable to the highest rigors of war." General Tryon replied, that, "disposed by principle as well as inclination to prevent the violence of war from injuring the rights of the republic of learning, he very much approved of the president's solicitude for the recovery of the manuscripts," and caused every effort to be made for their recovery and restoration.

In the war with Great Britain of 1812, a quantity of paintings and prints, designed for the Academy of Arts at Philadelphia, were captured by the British on their passage from Italy, and taken into Halifax. Dr. Croke, the distinguished judge of the admiralty court, without hesitation ordered them to be restored, saying, in addition to the passage already quoted, "Heaven forbid that such an application to the generosity of Great Britain should ever be ineffectual." (Case of the Marquis de Somerueles, above cited.)

We believe that to follow the example of Washington, of Louis XVI, of Judge Croke, of Tryon, will make every college in America safer, if civil strife or foreign war should ever hereafter disturb our peace. Every new State, as it takes its place in the great family, makes haste to establish its university. Their pupils, scattered over the country, retain an attachment for them and for each other, which is one of the strongest bonds of the Union. In her bloodiest and angriest civil strife England has respected her great schools and colleges. The cause of William and Mary is, in this respect, the cause of every college in the country.

No gentleman need fear that a vote for this bill will furnish a dangerous precedent for large claims against the Treasury or will expose him to public reproach. No other institution in the country can present a case standing upon like principles with that of William and Mary. A careful inquiry has failed to develop evidence of injuries sustained in the late rebellion by endowed institutions of learning exceeding in all the amount of \$100,000.

A bill like the present passed the House in the Forty-second Congress, but was not reached in the Senate for want of time. It was received with expressions of approbation by the press of all parties and by persons connected with the colleges throughout the country. The committee report the accompanying bill.

Mr. GOODE. It is proper for me to state, Mr. Chairman, that the able report which has just been read is the production of a distin-

finished member of the Forty-fourth Congress from Massachusetts; I refer to Hon. GEORGE F. HOAR, now a Senator from that State. This bill, or one exactly like it, was originally introduced into the Forty-first Congress by another distinguished gentleman from Massachusetts, now a Representative upon this floor, Hon. Mr. BUTLER; and was favorably reported by the Committee on Education and Labor of that Congress. It was again reported from the same committee in the Forty-second Congress and passed through the House of Representatives. It was again reported in the Forty-fourth Congress, but was not reached on the Calendar for want of time. At an early period of the present Congress the Committee on Education and Labor again reported this bill with a favorable recommendation.

A memorial signed by the governor and all the members of the Legislature of Virginia, without distinction of party, has been sent to Congress praying for the passage of this bill. The sympathies of all the people of Virginia are earnestly enlisted in behalf of this ancient and venerable institution of learning, and they are now looking with anxious solicitude to the action which Congress will take upon the bill under consideration.

It is not my purpose to enter at this time upon an elaborate discussion of the merits of this bill. The report of the committee just read is so full and comprehensive that it is not necessary for me to do so. I propose to recapitulate very briefly the grounds upon which we claim the favorable consideration of Congress.

The College of William and Mary is located in Williamsburgh, the old colonial capital of Virginia. The district of country in which it is situated was recognized by President Lincoln and by the Congress of the United States as Union territory. It was expressly excepted from the original proclamation of emancipation. It had its Representative upon this floor at the time of the destruction of the college buildings. It formed a part of the State of Virginia of which Pierpont was governor and which had its seat of government at Alexandria.

Mr. CONGER. May I ask the gentleman whether these college buildings were in York County, which was excepted, or in the county of James City, which was not excepted from the original emancipation proclamation?

Mr. GOODE. The buildings were located in Williamsburgh, and Williamsburgh lies partly in the county of York and partly in the county of James City. I am not prepared to say whether the buildings were altogether in the county of York, or whether they were partly in the county of York and partly in the county of James City.

Mr. CONGER. If they were in the county of James City you admit that they were not excepted in the proclamation?

Mr. GOODE. The gentleman is correct about that; James City was not excepted.

Mr. CONGER. I understand that they were all in the county of James City.

Mr. GOODE. Resuming my recapitulation, I desire to say that these college buildings were destroyed by fire during the revolutionary war. They were again destroyed in 1859. They had been rebuilt in 1861, and the college was in a flourishing condition, giving every promise of a useful and prosperous career. In its endowments, its appliances, including buildings, library, and apparatus, and in the public confidence which it enjoyed, its friends and patrons had every reason to feel satisfied. In May, 1861, the thunder of artillery began to reverberate through its ancient halls, and the existence of the war rendered it necessary to close its doors and to suspend its academic exercises.

After the advance of General McClellan in 1862, Williamsburgh, as the key of the lower peninsula, was occupied by the armies of the United States until after the termination of the war. On the 9th day of September, 1862, a conflict occurred between the Federal garrison in Williamsburgh and a body of confederate cavalry, during which the confederate cavalry gained possession of the town and held it for a few hours. Upon the withdrawal of this force, returning parties of the garrison fired and destroyed the college buildings, and prevented all attempts on the part of the citizens of the town to extinguish the flames.

I desire to say that the testimony adduced before the Committee on Education and Labor proved conclusively that this act of destruction was altogether unauthorized and unnecessary. I will here call the attention of the committee to what is said by Colonel Campbell, of Pennsylvania, the officer in immediate command on that occasion:

PITTSBURGH, February 7, 1872.

Professor BENJAMIN S. EWELL:

I was in command on the morning of the 9th of September; taken prisoner from Williamsburgh about nine o'clock that morning; did not order the college to be burned, nor was it burned until after my departure. In my judgment there was no military or other necessity for destroying the buildings, as they contained no stores or other public property of any character that was valuable. The act was a wanton one.

DAVID CAMPBELL.

Again, General Dix, who was in command on the peninsula at the same time, writes as follows:

No. 3 WEST TWENTY-SIXTH STREET, NEW YORK.

February 7, 1872.

DEAR SIR: William and Mary College was not destroyed by official orders. After the lapse of ten years I would not like to speak of details without consulting my papers; but my recollection is that the destruction of the property was wholly unauthorized, and that it was the act of disorderly persons.

Very truly yours,

BENJAMIN S. EWELL, Esq.

JOHN A. DIX.

Again, General Meade writes as follows:

I am satisfied, on examination of the facts of the case, that the destruction of the buildings of William and Mary College by our troops was not only unnecessary and unauthorized, but was one of those deplorable acts of useless destruction which occur in all wars.

Mr. POTTER. By whom does General Meade say the buildings were destroyed?

Mr. GOODE. He says that he is—

Satisfied on examination of the facts of the case that the destruction of the buildings of William and Mary College by our troops—

The Federal troops—

was not only unnecessary and unauthorized, but was one of those deplorable acts of causeless destruction which occur in all wars.

The destruction was by the Federal troops.

Now, Mr. Chairman, I repeat, the testimony shows that there was no military necessity whatever for the destruction of these college buildings. The victory which finally crowned the efforts of the Union arms was not thereby hastened and no legitimate purpose of the war was thereby subserved. I submit—and I desire to call the attention of gentlemen on the other side who are opposed to this measure—I submit that from time immemorial it has been a recognized custom among all civilized nations to afford immunity to institutions of learning and to hold them exempt from the casualties of war. This custom, Mr. Chairman, so honorable, so responsive to the higher instincts of our humanity, has been so long acquiesced in that it has almost acquired the force of positive law. In other words, works of art, temples of religion, public edifices dedicated to science and learning, have hitherto among civilized nations been held too sacred to be subjected to the desolations of war. There are many conspicuous examples in illustration of this doctrine, furnished in the able report of Mr. HOAR. I will not detain the committee by adding to them, but will ask the Clerk to read a letter addressed to a member of the Forty-second Congress by Hon. Robert W. Hughes, now the judge of the United States district court for the eastern district of Virginia.

The Clerk read as follows:

A memorial, signed by the governor and all the members of the Legislature, without distinction of party, has gone to Congress, asking aid for the ancient College of William and Mary. The profoundest sympathies of our Virginia people are enlisted in the fortunes of this historical corporation, and we shall look with fond and earnest solicitude to the action which Congress shall take upon this memorial of our Legislature.

During the war of Independence the buildings of William and Mary were repeatedly occupied by British troops. They were in every instance respected, as sacred to the cause of letters, and left intact. After the close of the war, Louis XVI, the ally of America, caused the building accidentally destroyed by his troops to be replaced, and every injury repaired, doing royal homage to the sacred cause of learning.

In 1865, when General Sheridan passed through Charlottesville, the seat of the University of Virginia, he detached a faithful guard to protect the institution from all injury, and the fact is recorded, to his enduring honor, upon the archives of the University.

This noble institution, which Thomas Jefferson gave to our country, was fortunately preserved, although the more venerable college, which gave him to America, had fallen a victim to the Moloch of war.

With such conspicuous examples of homage to learning from kings and heroes, presented by the history of these two learned corporations of our State, I cherish the loyal belief that it will be only necessary to bring the facts of this case before Congress to secure from that body the action which is prayed for in the memorial to which I have referred.

I refer you to the proofs filed with the Committee on Education, &c., of the House, of the facts of burning and destruction, and to various letters in possession of the committee from distinguished personages, for full information respecting the merits of this appeal on behalf of William and Mary, and especially do I refer you to the letters of Generals Grant, Sherman, BUTLER, Meade, McClellan, Schofield, BURNIDE, and Rev. Henry Ward Beecher and Rev. Dr. Tyng, generally commending the claims of the college to public favor.

May I venture the hope that Congress will embrace all such occasions as this application presents of conquering a genuine loyalty at the South by a policy of noble liberality?

Mr. GOODE. Now, Mr. Chairman, such being the recognized usage among civilized nations in regard to institutions of learning generally, I submit that surely there is nothing in the circumstances of this case or in the antecedents of this college to justify the application of a more rigorous rule. The history of the College of William and Mary is the history of the Commonwealth of Virginia and, to some extent at least, the history of our common country. It has been beautifully said by an eminent divine that "A nation without memories is a nation without liberty." What grand and glorious and precious memories cluster around this venerable institution! Founded in 1693 by the sovereigns whose names she bears, she points to-day with maternal pride to a long line of illustrious alumni who for more than a century have illustrated the glory of American institutions and shed enduring luster upon the American name.

George Washington in early youth went forth from her halls into the wilderness of the West with a surveyor's staff in his hand; Thomas Jefferson, the author of the statute establishing religious freedom and the Declaration of American Independence; James Monroe, the pure and incorruptible patriot whose administration was distinguished for having restored the "era of good feeling"; John Tyler, the brilliant orator and fearless statesman, to whom the credit of the Ashburton treaty and the annexation of Texas justly belongs; Peyton Randolph, the first President of the continental congress; John Marshall, the able, learned, upright judge; Winfield Scott, who bore the banner of his country in triumph to the halls of the Montezumas—all these and more than two hundred others who have been pre-eminently distinguished as scholars, divines, soldiers, and statesmen, drank at her fountains of learning and carried with them from her

halls those influences which rendered them immortal and made their lives an ornament and a blessing to their country.

Where else upon this continent, Mr. Chairman, will you find such memorials of the mighty past? Where else will you find such associations to quicken the pulse and inspire the heart of the young with all those elevated principles and lofty desires "which make ambition virtue?" Do the members of the American Congress owe nothing to associations such as these; and can they listen unmoved to an appeal for help coming from an ancient and venerable institution which for more than a century has been the nursing mother of patriots, heroes, and statesmen?

Now, Mr. Chairman, if there are any gentlemen on this floor who believe that the passage of this bill will establish a dangerous precedent and open the door of the Treasury to an avalanche of southern war claims, I beg them to pause and consider; and if they will, I know they will dismiss all such apprehensions from their minds. No case like this in all its features can ever again come before the American Congress. It stands upon exceptional grounds and is essentially *sui generis*. Professor Silliman of Yale College, known to you all, says in a letter addressed to President Ewell, bearing date July, 1874:

Fortunately your case establishes no precedent—

Why?—

because there can be no case like yours.

And, Mr. Chairman, there can be no other such case as this. No other institution of learning in the land with the history and associations of William and Mary was destroyed by the war. No other institution in the land destroyed by the war has given to the country two eminent Attorneys-General of the United States; to this House of Representatives, nearly twenty members; to the Senate of the United States, fifteen Senators; to Virginia and other States, seventeen governors and thirty-seven judges; to the colleges and universities, twelve professors; to the Army, one Lieutenant-General and many principal and subordinate officers; to the Navy of the United States, a long list of paladins of the sea, headed by Warrington and Thomas ap Catesby Jones; to the nation itself, three of its most eminent Presidents—Thomas Jefferson, James Monroe, and John Tyler; to the cause of Independence, four signers of its Declaration; to the first American Congress, its president, and to the Federal judiciary, its most eminent Chief-Justice.

Why talk about precedent in a case like this? Instead of establishing a precedent we but follow a precedent which has been set in other cases possessing not half the peculiar merits this does. I find, sir, upon examination that the Forty-first Congress passed the following bill, approved by the President in January, 1871:

That the Treasurer of the United States be, and is hereby, authorized to pay to the treasurer of the Kentucky University the sum of \$25,000 in full compensation for all claims which could be made by said university or by the Transylvania University, to whose rights it succeeded, for occupation of their buildings at Lexington as a general hospital for United States soldiers.

Mr. KEIFER. Will the gentleman yield to me to make an inquiry?

Mr. GOODE. Yes, sir.

Mr. KEIFER. I wish to know whether the gentleman understands that the \$25,000, or any part of it, or a single dollar of it, was for the destruction of buildings?

Mr. GOODE. Not at all; but for use and occupation.

Mr. KEIFER. Simply for rent.

Mr. GOODE. For use and occupation.

I maintain, sir, that inasmuch as this act of destruction was altogether unauthorized and unnecessary, as shown by Colonel Campbell, General Dix, General Meade, and a long line of other Federal officers, our case possesses a more peculiar merit.

Again, Mr. Chairman, I wish to remind this committee that the Congress of the United States have from time to time donated nearly eighty million acres of the public lands to the new States and Territories for educational purposes. These lands were acquired by the common blood and the common treasure. They were held in trust by the Government for the common benefit of all the people of the United States. I do not complain of these acts of Congress. I am willing to concede they enabled the new States to achieve magnificent results in the establishment of their school systems and in the education of their people. But, in my humble judgment, Congress committed a grave error when it failed to make equally liberal provision for the education of the people in the older States. The bill now under consideration presents an opportunity to repair to some extent the wrong and injustice which have been done.

What is it? An appeal for help? Help for what? An appeal for help coming not only from the mother of States, but from the oldest institution of learning in the land except Harvard; an appeal for help in the great work of educating the young men to whom the destinies of our common country will soon be committed; an appeal for help coming from an institution round which cluster associations which we may not disregard so long, sir, as the nobler instincts of our humanity find in our breasts a resting-place.

Why, Mr. Chairman, it was but the other day this House with remarkable unanimity voted an appropriation of money to complete the monument to the Father of his Country. A noble act—a praiseworthy act intended to show that his name—*clarum et venerabile nomen*—is still held, and will be held forever, in grateful and affectionate remembrance by the people whom we represent. But, if I may say it without irreverence, I believe if the spirit of George Washington could be permitted to revisit these scenes and influence our delibera-

tions he would say that in no way could we do greater honor to his memory or more acceptable homage to his name than by restoring to its former position of usefulness the old college which he served so faithfully and loved so well. In a letter bearing date the 27th of October, 1781, addressed by General Washington to the president, masters, and professors of William and Mary College, he says—and hear it my countrymen, hear this voice of Washington from the grave—he says:

The seat of literature at Williamsburgh has ever been, in my view, an object of veneration. As an institution important for communicating useful knowledge and conducive to the true principles of national liberty, you may rest assured it shall receive all encouragement and every benefaction in my power to bestow for its re-establishment.

That is the language of George Washington. And, sir, the author of a book entitled *Our First Hundred Years* says, in speaking of the petition of William and Mary:

Its eloquent utterances will be heeded at no distant day when an American Congress shall assemble, which will represent, if not the magnanimity which always inspires a generous conqueror, at least the feeling of justice which lives in the breasts of the true-hearted people of the North.

Now, Mr. Chairman, why shall not this bill pass? I have heard of only two objections to it: first, that the passage of the bill will establish a dangerous precedent; second, that during the late civil war between the States the professors and students of the college sympathized with the South and took up arms against the Government. I have endeavored to show that the first objection is not well taken, because no case like this in all its features can ever again come before the American Congress, and besides, it has been stated by those who have examined the question that, if all the institutions of learning at the South which were destroyed during the war should be rebuilt it would not involve an expenditure of more than one or two hundred thousand dollars. As to the second objection, Mr. Chairman, I prefer to assume, until the contrary is shown, that it is unnecessary to discuss it here. I prefer to believe that the Representatives of the people here assembled will be willing on this occasion to forget the animosities and bitterness of the war and to consider this question under the benign influences of the sweet charities of peace.

Will the time never come, Mr. Chairman, when we will be able to recognize the fact that the war is over and that it is a high and patriotic duty incumbent upon us all to extinguish and forget the bitter memories of the past? Shall we continue to stir rudely the ashes of the dead and fight over and over again in this Hall the battles of the war? Is not this one common country and are we not again one people? Do we not bear our due proportion of the common burdens, and shall we be denied an equal participation in the common blessings of the Government? I have reason to believe from communications which I have received that the liberal-minded people of the North, especially those who fought in the war, would hail the passage of this bill with approval and satisfaction.

Mr. Chairman, I would be derelict in duty on this occasion and fail to reflect the wishes and feelings of the faculty and board of visitors of William and Mary College and of my constituents generally, if I did not make public recognition of the material aid and operative sympathy which the bill now pending has received from the grand old historic Commonwealth of Massachusetts. Whatever the fate of the measure may be, I desire to say for the authorities of the college and the people of Virginia generally that they will ever remember with emotions of gratitude the friendly aid and the words of sympathy and of cheer which they have received from the State of Massachusetts. They will never forget that it was a son of Massachusetts who consented to introduce the memorial of the college in the Forty-first Congress. They will never forget that it was another son of Massachusetts who drew the report which has just been read in the hearing of this committee and which is of itself sufficient to establish his claim to be considered not only an accomplished scholar but a worthy Representative of a great Commonwealth which has always been found foremost in the ranks of those who recognize the amenities of literature and render homage to the sacred cause of learning. Sir, it is an auspicious omen for the future, in these days of political excitement, when the voice of party and of faction is so often heard to vex the public ear, it is indeed refreshing to see two great commonwealths, Massachusetts and Virginia, the land of Otis and Adams, the land of Henry and Jefferson, coming together in the fraternal spirit of the olden time and clasping hands over the ashes of an illustrious institution, hallowed by the memories of two centuries but unfortunately destroyed in the rude shock of war.

But I beg pardon of the committee, Mr. Chairman. I did not intend to occupy its time so long. I intended to present this case briefly. I will only add now that the charter of this college gave her the office of surveyor-general of Virginia. By virtue of that charter the college had the right to appoint all the deputy surveyors and to receive a portion of their fees. When Virginia for the common good surrendered that vast and almost illimitable domain in the Northwest out of which five or six States have been since formed, the legitimate result of that act of munificence was to deprive the college of its chartered endowment and cripple it in its pecuniary resources. Now, sir, in view of the circumstance I confidently invoke the friendly aid of the Representatives of those young and prosperous States in the Northwest and trust, sir, they will gladly embrace the present opportunity to lift this venerable institution from the dust and start her upon a new career of prosperity and usefulness. [Applause.]

Mr. LORING. Mr. Chairman, the bill under consideration, providing for the reimbursement of William and Mary College for the destruction of its property during the civil war, is not now for the first time brought to the attention of Congress. It has often been considered here, and has been so fully discussed that it would seem to be impossible to state any new facts or frame any new argument in connection with the subject. The history of the case is very familiar. At the outbreak of the war in 1861 this college, which had become distinguished in the history of American education for the powerful and illustrious jurists and statesmen whom it had sent forth to interpret our laws and guide our national councils during all our colonial, revolutionary, and constitutional periods, was brought into antagonistic relations to the Federal Government. Situated as it was in territory where the right of a State to withdraw from the Union was most vigorously and earnestly asserted, it was involved at once in all the most active operations of the war in support of that assertion. With the zeal and earnestness characteristic of cultivated men, the faculty and the students of the college united in the work of dedicating its halls to the accommodation of confederate troops, and in filling up the ranks of those who were arrayed against the Government. In the catalogue of the college may be found a long list of those who laid aside their studies and went forth to meet the alumni of the northern colleges in that fearful combat which clothed the scholarship of our land with a new and unwonted radiance of devotion and valor, repeating the brilliant lesson taught by Themistocles when he led the educated Athenians at Salamis, and by Von Moltke when he "marshaled the educated Germans against France." All this is not denied. During the first year of the war, until May, 1862, the college was held, first as barracks and then as a hospital, by the confederate forces. From that time until the close of the war, except for a few hours on the 9th of September, 1862, it was occupied by Union troops and was used by them for the storing of military supplies and other purposes of convenience to our armies. In a skirmish on the 9th of September, 1862, the main building was burned by the Federal forces who occupied them, and at later periods of the war, during which the same forces held possession of them, "all the remaining houses on the college premises were, with the inclosures, burned or wholly or in part pulled to pieces." And for this destruction a large body of the friends of good learning throughout this country desire that the college should be remunerated at the hands of Congress.

Now, sir, I have no desire to discuss this question in accordance with the strict construction of the law or with a keen eye to the exact nature of the unfortunate incidents which I have briefly recited. I do not care to condemn the college and deny its appeals to our generosity and kindness because its sons rushed to battle and laid down their lives in a condemned and misguided cause. I do not care to advocate its claims for damages on the ground that its property was destroyed while occupied by the Federal Government and for the convenience of Federal armies in time of war. I do not care to ask whether it stood on Union or confederate soil during that unhappy period. I do not care to bring the question where it will be involved in the intricacies of the law. I am aware that in view of the acknowledged "right of the victorious invader to tax the people or their property, to levy forced loans, to billet soldiers, or to appropriate property, especially houses, lands, boats, or ships, and churches, for temporary and military uses," the claim of William and Mary College for legal damages may be a slight and questionable one. I am also aware that by general military order 100, issued by our Government during the rebellion, "the property belonging to churches, to hospitals, and other establishments of an exclusively charitable character, to establishments of education, or foundations for the promotion of knowledge, whether public schools, universities, academies of learning, or observatories, museums of the fine arts, or of a scientific character, * * * may be taxed or used when the public service may require it," even while it is to be secure against all avoidable damage, and shall in no case be wantonly destroyed or injured under official orders.

If my attention is called to the fact that the buildings of the college were occupied for merely temporary purposes, and not by our Army for general army uses—uses tolerated by the rules of war which govern an invading army in an enemy's country—I can only reply that I am not considering the authority under which they were occupied, nor the character of the occupation, but the fact that they were destroyed in an unfortunate conflict, whose sorest wounds we would gladly heal. My mind turns naturally to the established law that friends and sympathizers of a belligerent power must share the trials and hardships and losses imposed by that power upon its enemies whom it invades, if they are found on the hostile soil of the belligerent; and I anticipate the argument which would be made against this case, even if the college had a loyal record, by those who will not realize that the terms of peace offered by the Federal Government to those who had failed in their efforts to destroy it were distinguished not only for justice but for a fraternal magnanimity never to be forgotten by either party to the great conflict and to the still greater pacification which has followed. When I am reminded that no evidence appears that these "buildings were taken possession of by our Army or by the garrison for general army purposes with a view to rendering compensation therefor to the owners," I can only say I have no disposition to place this case in that line where a

legal technicality may defeat it or where, by being favorably passed upon, it will establish a troublesome and expensive legal precedent.

I sympathize fully with those who would carefully limit the liability of the Government, with respect to the wide-spread and necessary and at the same time distressing destruction of property which grew out of the civil war. There are woes innumerable in this direction which time alone can cover with oblivion, and which no public treasury could possibly compensate. It is not the destruction of educational property, or any other property, by authorized or unauthorized persons in time of war and in accordance with or in violation of the rules of war, therefore, that I would consider in connection with this case. I am ready to concede in the outset that no nation should be held accountable for "injuries done to others by disorderly, unauthorized soldiers belonging to its armies." I am ready to concede that a temporary occupation of premises, whether educational, church, or charitable property, by a nation's armies, does not create a liability analogous to that growing out of a permanent occupation, for which due compensation has been contracted by proper and recognized authority. I yield to law and to well-established precedents on all these points. I have no desire to break down the safeguards which the wisdom of experience has erected around the Treasury for the complicated emergencies which grow out of wars foreign and domestic. But recognizing the full force and importance of all legal obligations and duties, realizing the importance of avoiding every measure that can be interpreted in any way as a dangerous or a tempting precedent, I feel compelled, nay, I am anxious to consider the destruction of William and Mary College as an act for which our country should provide a prompt and liberal compensation. To my mind the case stands above all the legal objections to which I have alluded and belongs to that class which civilized nations have recognized as appealing to that tender regard for all man's endeavors to improve his moral and intellectual and religious nature, by which alone can we mitigate the horrors of war. If an unwritten law of broad humanity and generous sympathy for those institutions which elevate and refine and ennoble society is applicable anywhere, it is in a case like this.

Now, sir, in order that I may satisfy the minds of gentlemen here that I am not mistaken in assuming that institutions like William and Mary College have enjoyed an immunity from the destruction that attends on war, in every civilized community, let me refer to the statements and illustrations with which we have all been made familiar in the long period during which this case has been discussed. Of the destruction of these buildings General Meade said, it "was not only unnecessary and unauthorized, but was one of those deplorable acts of useless destruction which occur in all wars," and that he took "great pleasure in recommending the appeal of Professor Ewell to all those who have the means and the disposition to assist him in the good work in which he is engaged." History abounds with illustrations of the anxiety man has manifested to conduct civilized warfare in such a manner as to indicate his sacred regard for all institutions dedicated to education, religion, and charity. In all the civil wars of England her schools and colleges have been scrupulously preserved, and Eton, Harrow, Rugby, Oxford, and Cambridge, the ancient schools and universities of the realm, bear witness to the lofty determination of our English ancestors to stay the desolation of war before the shrines of education and religion.

Need I remind gentlemen of the prompt and resolute determination of the allied powers to restore the objects of taste and art which had been ruthlessly borne to Paris by the armies of Napoleon in his great wars? Is it necessary to recall the action of Great Britain in taking care that the paintings and prints designed for the Academy of Arts in Philadelphia should be returned to that institution, after having been captured by her cruisers on the high seas during the war of 1812? Have gentlemen forgotten the reparation made by Washington to the college at Princeton for merely accidental damage sustained by it during the battle at that place? Have they forgotten the alacrity with which the British General Tryon restored to Yale College the manuscripts of its venerable President Stiles which were borne away during the revolutionary conflict which raged around and within that renowned institution? The practice of modern warriors and the rules of modern warfare have always provided for the protection and preservation of all libraries, schools, universities, and colleges. To barbarous invaders alone, on the other hand, has been left the ignoble business of despoiling the alcoves and tearing down the walls within which sound learning was stored and bestowed. He who studies history aright will remember that the high value set by man upon that national power which springs from mental and moral culture has led the cultivated people of all ages to the sacred preservation of schools and libraries in times of war. The conflict between those who have erected schools and colleges and those who have destroyed them may be said indeed to mark the strife between the conflicting forces of mankind. In no such conflicts have we been engaged; nor have we placed ourselves in association with those to whom education is a stumbling-block, but always with those who even in their bloodiest wars have not forgotten their sacred obligations to cherish the best attributes of man and in their civil wars have never forgotten their duties to the civilized world.

Now, sir, what is this college I am considering, what its significance, what its service, what its relation to the guiding thought of the American people? In order that I may impress upon the minds of gentlemen here the exact estimate I entertain of the peculiar

claim it has on our respect and veneration and pious care, as a monument erected by the fathers to the cause of good learning, I beg to be allowed to dwell for a few moments on the character of the institution itself as one of the earliest fountains of American knowledge, and to appeal to the love and veneration we have for those who planted our free institutions on this continent more than two centuries ago, and who amid all their trials and sufferings looked forward with heroic faith to a republic of freedom and education. Why, sir, this college for which I speak holds a place in history as much more important and conspicuous than the ordinary institutions to which I have alluded as the dawn of a young and powerful republic is more radiant than the dim and somber decline of a decayed and broken dynasty. It was planted by our fathers in the wilderness when they brought with them to these shores their heroic purpose and the principles of free government upon which this imposing civil fabric now rests. Founded in the latter part of the seventeenth century it shared with Harvard the generosity and tender care which the ripe scholars of that day bestowed upon their seminaries of learning. "The generous Boyle," stretching out one hand to Virginia and the other to Massachusetts, bound these two infant colonies together by the tender tie of mutual gratitude to a common benefactor and friend. To these colleges the colonial treasuries were open when the accumulated funds were the fruits of hard toil and stern economy. In that powerful southern colony, where for many years the wealth and culture of England gathered on this continent and whose voice was always heard in every great crisis, the College of William and Mary was an object of the most tender regard, as it was also in England whence its benefactors came. Its doors were open to the best scholars of the old country, who came here to pursue their investigations unmolested and to share the free thought of the New World. As time went on it became the nursery of the great principles on which our Government was founded and of the great men who declared these principles and defended them with their blood.

Are you sure, sir, that the significance and power of this college and of her elder sister, Harvard, have been estimated at their true value as the representative and guiding institutions of our earliest colonial days? Why, sir, they held in their hands and planted on these shores the best modes of thought and culture which made England famous in that era when she was tossed and riven by intellectual and moral and religious protests. At that time Bacon in science, Milton in literature, Cromwell and Hampden and Pym in politics all represented that advancing and protesting force which has given England her power and sent a democratic vitality into the colonies, which were largely peopled and almost universally inspired by independent Englishmen. It was an era of right, and not of privilege. The hard lines of scholasticism were breaking up. Great scholars were scholars for the people, and not for the schools. The Protestants and non-conformists, and separatists of England could not accept as a guide to their thought a system of philosophy which was made indisputable by the doctrines of a church whose ecclesiastical authority they denied and whose spiritual guidance they rejected.

The learned men of England who watched, and many of whom took part in, the colonizing of America had long applied their minds to the investigation of problems connected with the best systems of popular government. When William Brewster was graduated at Cambridge, England, in 1585, he carried his excellent scholarship at once into the work of guiding and counseling that little band of pilgrims who were then waiting at Scrooby for an opportunity to found an empire on freedom of conscience in matters of religion, a popular government on the consent of the governed. Occupying a high position among the progressive and independent thinkers of his time, he became familiar with the doctrines which disestablished the church in the most religious and fervid spot on earth in that day, and which shook the throne of England. And what a defiant crowd of scholars taught in the same school, inspired by the same thought and speculation, bent on the same purpose, flocked to these shores, bringing the independent spirit of the Protestant with them, under the care of the Huguenots of Carolina, the Covenanters of New Jersey, the Puritans of New England, the Quakers of Pennsylvania, and the cavaliers of Virginia, all joining hands in their great work with the Catholics of Maryland. When Roger Williams came to this New World and found no rest for the sole of his foot, until he had established for himself an opportunity to exercise the most "unqualified freedom of conscience under human government," he brought with him the culture which controlled the most powerful thought of England in his day. When Sir Harry Vane brought to the gubernatorial chair of the Massachusetts Bay colony a spirit of liberality and freedom which called around him the liberty-loving men of his times and clothed him with a power which Winthrop himself in support of magisterial authority could barely overthrow, he came fresh from Oxford and the best schools of Holland and Geneva, imbued with that spirit of learning which neither church nor state could subdue, and which won for him the divine tribute of Milton's verse and an immortality in the most immortal chapter in history—that chapter in which is recorded the founding of civil and religious freedom in America. And so came Endicott and Hooker and Cotton and Raleigh, familiar with the faces of those who are now to us the classic English writers, born of a people who were untamed and untamable in their self-assertion, who were nurtured on the sublimest English poetry, upon whose heaven-kissing summits the poets of all succeeding generations have been

gazing with hopeless wonder and admiration, and on the most defiant English philosophy which opened the path trod by all modern investigators—a people who declared for freedom and then fearlessly struck for it, who asserted a prerogative and then demanded a right, who in the Old World now rally round a throne as the insignia of their national power and in the New World stand by a constitution as the expression and embodiment of their social and civil principles.

Born as these men were of controversy, dialectics, and debate, they strove with each other on the "weightier matters of the law," and disputed with ecclesiastical fervor upon the covenant and the doctrines until the integrity and safety of the State itself seemed involved in the controversy. The pious zeal of John Endicott in executing the laws against those who differed from the religion of the colony, the political ardor of John Winthrop in organizing a defeat for Sir Harry Vane as governor of the colony on account of his defense of Mrs. Hutchinson against the bigotry of the colonial clergy, mark the spirit and character of the controversies which sprang up in those early days of civil and religious freedom. But on one point they united: the establishment of a popular system of education in which all might have a share; a system intended to cultivate all men into a fitness for the enjoyment of the privileges of a free state, and for the exercise of its rights they never forgot and never neglected. They might exhaust themselves over "fixed fate, free-will, fore-knowledge absolute," they might rend the State itself in a contest over the covenant and the half-way covenant, the civil rights of communicants and non-communicants, but for the cause of free education as the foundation of self-government they joined hands, and poured forth liberally from their resources in support of the school-house and the college. It was education which had filled their minds with the doctrines of freedom, and they believed that through education all men could be brought to a true understanding of the church of Christ, and to an intelligent exercise of their rights as citizens of a free state. For the disputations of the schools they substituted the debates of the town meeting; for the private school they substituted the district school-house open to all; for a corporation of learning they substituted a republic of letters. They left behind them a system of state and society in which education would naturally confine itself to narrow channels, and they entered upon the organization of a state whose power would arise and increase from a general diffusion of knowledge through all ranks and orders of men.

On the soil which they reclaimed and occupied has grown up a system of education which offers its blessings to all, which indeed would compel all to partake of its living waters; a system supported and developed by the liberality and care of the state, and so universally organized that it would be easier to escape from the influences of the sun than from the omnipresence of the American college and school-house. To this western hemisphere they gave a republic of civil freedom; to the world they gave an impulse to popular education which has made the land of their birth as well as that of their adoption the abode of the most liberal educational endowments known on earth. Had the American colonists done nothing more than this, had they failed to establish an independent nationality and simply organized their universities for the culture and protection of a sound political and social philosophy, they would have accomplished a work for which their memories would ever be held in grateful remembrance; a work whose influence is now felt wherever the light of civilization shines; a work in the performance of which the most powerful and enlightened nations of our day are engaged in a generous and honorable rivalry.

And not only did these colleges lay the foundations of our national characteristics, but they have taken a foremost part in that system of education which has deepened and developed our American nationality, and has produced an abundant crop of American citizens, not subjects, not persons destined to specific duties high and low, but citizens clothed with intelligence, and responsibilities, and supplied with abundant opportunities for the exercise of all their faculties. When Samuel Adams took his master's degree at Harvard in 1743, he selected as a subject for his thesis the following question which his career has made immortal: "*An supremo magistratui resistere licet, si aliter servari respublica acquiritur?*"—"Whether it be lawful to resist the supreme magistrate, if the commonwealth cannot otherwise be preserved?" While Thomas Jefferson was yet an infant in his cradle on the beautiful banks of the Rivanna, this Boston boy, educated in the Boston schools, and filled with the effects of the Puritan culture of Massachusetts, had reached, even at the very commencement of his intellectual endeavors, a fundamental civil problem, upon the solution of which all the philosophical thought of Jefferson exhausted itself in support of the American Revolution, and to establish the affirmation of which Washington dedicated all his imposing powers. In the mind of this young graduate of Harvard the condensed thought of more than a century of colonial life found an abiding place, and the topic which occupied his meditations was the subject which lay nearest to the hearts of his people. He was not alone in his investigations. The highest and best laws of state and society occupied the active minds of that day wherever they might be found, whether in the assemblies of the elders, or in the austere labors of the Puritan pulpit, or in the town-meetings, or in the institutions of learning, the common schools, the academies, the colleges. Every village had its Samuel Adams. Every town record had its Declaration of Independence. From many a meeting-house went forth the announce-

ment of faith in human equality as the foundation of the state long before the national utterance at Independence Hall. It was American citizenship which constituted the first great object of American education. In all the practical affairs of life the fathers exercised their best powers, and became good merchants, good mechanics, good farmers, good legal advisers, strong and influential parish ministers; and for this service they stored their minds with the best knowledge to be derived from experience and books. But they knew well that the great civil problem committed to their hands required intelligent thought and needed the support of cultivated minds as well as defiant hearts and strong arms; and while they had great confidence in the correctness of the popular impulse of their day, they had still greater confidence in the enlightened consciences and educated instincts of a people who believed in mental culture and made provision to obtain it. And to-day, as in the former days, surrounded as we are by the most perplexing questions of state and society, called upon to strike as well as to bear, laden with the trials of war and the highest responsibilities of peace, compelled to be ruthless now, and now generous and placable and forgiving, we must recognize the value of the intelligence and thoughtfulness which are the natural fruits of education, and we should preserve and cherish with pious care every monument erected by our fathers to the cause of good learning, every institution founded by them for its cultivation and advancement. Time and war may destroy the monuments of our material grandeur, but I trust and believe that the American people, united now in a common civilization, bound together by common interests, will join hands in the higher service of restoring and developing every institution which has given us the undying power which belongs to a cultivated people.

I say, sir, the undying power which belongs to a cultivated people, because I have learned, and I desire to impress it upon the minds of gentlemen here who are engaged in guiding the councils of this people, that it is the thoughtful products of the schools, the principles declared by cultivated men, the fruits of profound mental exertion, which have alone been preserved and handed down to us, while all external grandeur has perished and material power and distinction have passed away. Of the great nations of antiquity which have disappeared and whose languages are now unspoken how true this is! For their great battle-fields the curious traveler now searches in vain. Their imposing halls are now silent. Their porticoes and arches and galleries are deserted. The greatness which they themselves admired is forgotten; while the genius of their scholars and poets and orators and philosophers shines still with unfaded luster. Through the darkness which envelopes the early history of England, it is the great principles of government contained in Magna Charta and the doctrines announced by Milton and the Puritans which shine still with supernal luster; and it is a prudent and sagacious obedience to these principles and doctrines which has given the English nation its vitality and permanency. So is it with our own country. How we linger around the first declarations of freedom and popular right made by the bold and true-hearted all along our pathway from the earliest settlement of the colonies. The forms and modes of government have changed and are forgotten. Of but small value to us now are the terms of charter granted to the colonies of Plymouth and Massachusetts Bay; the privileges bestowed upon Lord Baltimore and Oglethorpe, or the grants conferred upon the settlers of Virginia and the Carolinas. But we do remember that the fathers of New England, by a solemn instrument, in the words of Hutchinson, "formed themselves into a proper democracy." We do remember the glowing words of Warren: "I am convinced that the true spirit of liberty was never so universally diffused among all ranks and orders of men on the face of the earth as it is now through all North America." How do our minds pass on from the early struggles of the Revolution and the details of government in the several colonies to those grand assertions which roused and guided the popular mind and gave us the fundamental principles of a free commonwealth. The rivalries and strifes and cabals are all forgotten; but not the great conceptions of John Adams with regard to the future of his country; nor the abiding faith of Samuel Adams in "the sovereignty of the people;" nor the thunders of Patrick Henry calling the people to war; nor the fiery appeals of James Otis; nor the philanthropic thought of Jefferson presenting a great truth to the earnest and struggling multitude, for which they might fight and upon which we have at last learned to administer our Government. And do we weary ourselves now with the political controversies of the confederate and early constitutional history, the charges of corruption by which Washington was aggrieved, the rivalry between Jefferson and Hamilton, the passage of political power from Massachusetts to Virginia? Not at all. But we do dwell upon the early declarations of those fundamental doctrines upon which our Constitution is founded; we do dwell upon the profound wisdom of Jefferson as he laid down the rules which should guide his administration, and we dwell upon these thoughts and precepts because whatever else may have perished these still remain unbroken and undecayed. For the temporary trials which arise and threaten our Government from time to time the fathers left no guidance, relying as they did upon the devotion and wisdom of their sons upon whom the trials might fall. But they did fix and confirm in our history those sentiments of humanity and justice which have triumphed over all obstacles; they carried into the practical service of civil life those political doctrines which occupied the thoughts of the most patient students of their day, and they sent

forth from the halls of their colleges those great social and civil truths which are so familiar to us that they seem to have sprung spontaneously from man's uncultivated instinct. At Bunker Hill and Yorktown they wrought out their material greatness; at Harvard and at William and Mary they received their immortal power.

Mr. Chairman, I have endeavored to give William and Mary College the place to which I think it is entitled in our history, and to appeal for its restoration not on the ground of abstract justice alone but on the higher ground of national pride and affection. I doubt not I shall be called upon to sit in judgment here on many a demand growing out of the destruction of war and the necessities of the peace which follows,—for the foundation of a system of popular education which shall be open to that race which the war emancipated and left in the hands of impoverished States,—for the reconstruction of those great works which the war destroyed, and without which the value of a broad and fertile territory is nearly ruined,—for the relief in many ways of the wide-spread and necessary and at the same time distressing destruction of property during the war to which I have already alluded, and I shall endeavor to consider them, I trust, conscientiously, without prejudice, and with due regard to the obligations imposed upon me by the amended constitution and the laws of war, and with the thorough conviction that the time for presenting all claims of this nature should be limited either by statute or constitutional amendment, and that their growing magnitude may be summarily ended. No man can desire to add to the horrors of war even the appearance of injustice in times of peace. The remarkable experiment of government in which we are engaged rests, it is true, on "equal and exact justice;" but as conducted by ourselves it rests also on magnanimity and forbearance, which may encourage patriotic devotion, and on the broadest principles of equity, which may inspire confidence and disarm fraud and dishonesty. And so we may step beyond the bounds of mere legal obligation and repair even the semblance of a wrong in our devotion to those institutions which have given character to our people and which lie at the foundation of our national power and greatness. Had my own Alma Mater, had Harvard College fallen before the storm of war which burst over our land, I should be here appealing to this Government for her restoration, to this Congress for its bounty. In the same spirit I come for William and Mary, ready to forget her errors, grateful for her gifts to my country, proud of that record which she secured when, standing by her great sister in Massachusetts, she nourished and cherished all the noble attributes of American nationality and connected her name with that imperishable work of which every American is proud and which can never be forgotten while correct forms of human government shall endure. From the heroic age of our country the name of William and Mary College can never be obliterated. And I cannot believe that those who come after us will be compelled by our economy, or iron justice, or sense of retribution, to remember as they gaze upon her walls that she owes nothing to our generosity and that she endures in spite of our neglect.

In advocating this bill, Mr. Chairman, I have discharged what I consider a plain and imperative duty, in view of our debt of gratitude to the past and the inevitable national harmony which the future will bring as the result of a policy inaugurated by ourselves. Whatever we may do here and now, the time is coming when the losses of this college will be repaid, in obedience to a natural sentiment which must and will animate the mind and heart of the American people in those years of peace and concord and mutual understanding and sacred regard for the rights of all men which I trust in God are not far distant. As the violence of the conflicts which have surrounded us becomes softened, and the wounds are all healed and the antagonism dies away, that affection which a powerful nation always feels for its ancestry will surely move some future Congress to relieve these burdens, should we ourselves fail to perform the honorable service. At this very hour this sentiment moves within us. As we contemplate the memory of those whose heroism and devotion laid the foundations of our national greatness, we even now forget our controversies and join in a spontaneous tribute to their worth as a common inheritance. On every anniversary of their illustrious deeds in field and in council, we assemble like brethren of one family and rejoice together in the work they performed for us and ours. Cemented as we now are by the radiance of the past, we cannot, I am sure, allow one of its most cherished possessions to be destroyed from the face of the earth. The very trials through which we have passed, the discord and conflict and sorrow, have given a keener and a brighter charm to the popular privileges for which we have suffered so much and to those spots in which they found their early home. The battle-field and the heroes, the halls where rang the great debate, the leaders in council, the tribunes of the people, the schools and colleges in which the devoted youth were trained, have now more than ever before a national significance and have become indeed a national possession. We preserve the mansion at Mount Vernon from the destroying tooth of time, and in its holy shades our differences are forgotten. We summon a grateful people to pay their tribute to the memory of Warren and his earnest and devoted comrades who fell at Bunker Hill, and the controversy is hushed, men but just now arrayed against each other join in a common joy, the strife is forgotten, and Massachusetts and South Carolina, New England and Virginia, stand shoulder to shoulder on the hallowed spot where the bones of a common ancestry repose, and the monument which is pointing to their heavenly home

becomes a national monument forever. The place where Warren fell belongs not now to Massachusetts alone; the halls in which Jefferson and Marshall trained their minds for the high service of their country, the cloisters where the two Adamases, *duo geminos fulmina belli*—"the twin thunderbolts of war"—learned their great lessons of patriotic defiance, are the cherished possession of the people whom they delivered from bondage. It is not for the property of Virginia but for a national monument that I speak; and when I ask that a structure whose name belongs to this illustrious roll shall be preserved by a national bounty, I am engaged in advocating no war claim for damages; I am occupied in considering no precedent; I am only calling on Congress to preserve the ancient land marks of our national greatness and to restore the monuments around which our brightest memories cluster and at whose feet we renew our vows as citizens of a common country and heirs and defenders of a common inheritance of social equality and of civil and religious freedom.

Mr. REED. Mr. Chairman, while I join as heartily as any man upon this floor in congratulations to the eloquent orator who has addressed us for the last hour and while I appreciate as fully as any other man the graces with which he has surrounded this subject, yet I confess I have listened to him with a feeling of sincere regret. While any man who was concerned in the late rebellion, any man who still lives in the South, surrounded and overmastered by local feeling or by the similarity of the cases which he himself has in hand to the one which is now presented to the House, may be in some measure excusable for advocating a proposition of this nature and character, yet I am entirely satisfied that in a future not distant the eloquent gentleman from Massachusetts himself will join with me in regret that he had aided and supported a bill which, if it passes, will in its far-reaching consequences be of more transcendent importance to this Government than any bill which is before Congress at this session.

Of course this is a fair-seeming claim. It presents itself to our consideration with a modesty of demeanor which almost disarms resentment. It does not come as a claim upon which this House is called to adjudicate. It is studiously denied that any claim is proposed to be paid. It does not come before us with the stern and rugged aspect of a demand founded upon law and appealing to the reluctant justice of men. That expedient was tried years ago, for this is by no manner of means the first time this claim has been presented for the consideration of an American Congress. Time after time it was before the Committee of Claims, and time after time it was rejected. Its friends found it necessary then to seek some other coigne of vantage. Hence it comes before us to-day disguised as a charity.

To-day it may be a charity linked to our sentimental souls by the hallowed memories of Washington and of Jefferson, and even of Milton and of Sir Harry Vane. But if you once pass it, to-morrow it will stare you in the face as a bill of rights for the whole list of southern war claims. It is always in this way that matters are presented. Always the rugged sense of right is covered up. Always the knife is placed under garlands. It never happened that a claim like this was not advocated by most eloquent men. It never happens that claims like this are not disguised by classical allusions and by references to history, English and ancient. I must say that it seemed to me strange when Washington and Jefferson and Sir Christopher Wren were brought in to decide the question whether we should pay \$65,000 for a burned building; but when it came to the introduction of Milton, and for aught I know to Luther and Locke, I confess I was astounded. [Applause and laughter.] We heard of Sir Harry Vane and Cromwell. Why, said Cromwell, "The Lord deliver me from Sir Harry Vane," and I say, upon a question of this kind, the Lord deliver the Congress of the United States from Sir Harry Vane and Cromwell too. [Laughter.]

Now, Mr. Chairman, I desire to call this assembly back to questions not of oratory, but of statesmanship. I desire this American Congress to consider this question in the light of reason, not in the light of rhetoric.

I cannot promise that I shall be as interesting as the gentleman who preceded me, for that would transcend my utmost powers; but I do promise that if you will listen to me I will give you sound reasons, which will appeal to each side of the House, why such a claim as this should be rejected now and forever. The greatest barrier in this world is use and wont. To say that a thing has never yet been done among men is to erect a barrier stronger than reason, stronger than discussion. Such a wall only pluck, perseverance, and, in most cases, only right can beat down. To say we did the same thing yesterday is to strengthen the thing we want to do to-day. It appeals to our sense of fairness, reason, and justice. We say that if this was proper yesterday why not do it to-day, and the evil, of course, increases as you go on.

It is with profound knowledge of this weakness of human nature that this matter is presented for the consideration of the House now. It is not merely to obtain \$65,000 for William and Mary College, it is to establish a precedent. "Oh," they say, "this is not to establish a precedent; there can be nothing like it again on the face of the earth." Of course not, for there was no other institution that ever graduated Washington; there was no other building in this country that Sir Christopher Wren ever built; there is no other institution in which Jefferson was educated, and certainly there is none around which the

shades of Milton and Sir Harry Vane and Cromwell cluster to this late date. But all these matters are immaterial; they are the ornamental fringing; they are not the real solid facts of this case.

Now, I desire to ask the attention of this House to this very question of precedent. What is a precedent? Is it a thing which is just what we are considering? I venture to say to this audience, composed, as it is, almost entirely of lawyers, that in all your searches for precedents in your business you never found in all the thousands of volumes of law reports a case precisely like the one that you were considering. But every one of those cases in all those reports, no matter how insignificant it was, established some principle which had a tendency to affect all cases in all future time. Now I ask what principle this case will establish. Let me briefly call your attention to the facts. In the first place this college was occupied by our troops; our troops were dislodged from it and then retook the building and according to statements before the committee a drunken straggler belonging to our forces fired the building. That is all there is of it. I believe the statement that our people destroyed it is not true. I believe that letters can be produced showing that it was not so, but I prefer to argue the case on the facts as they are stated by the committee, and no others. I therefore leave that question to future investigation.

If you pass this bill what precedent do you establish upon these facts? You establish a precedent that the Government of the United States proposes to pay for the loss and unauthorized destruction of those objects deemed sacred by the laws of war. If you pass this bill you establish that principle, nothing more, nothing less.

I will not undertake to say that you will establish the principle that all the incidental damages of the war are to be paid for, although I think that is involved. But I wish to be candid and make my statement no broader than the example. Now, if you establish this principle you establish a principle that no other nation ever had the inconceivable folly and imbecility to establish since the beginning of time. I know that Louis of France chose, as matter of policy to please an ally, to repair in some slight manner this college. I know that General Washington gave fifty guineas as compensation for an accident which occurred at Princeton, but does any man argue this question on a flimsy basis like that? Why the whole world has been searched through and through for the like of it in vain. The graceful learning of Massachusetts has twined itself with the rugged and interesting persistence of Virginia in its search for a parallel, but to no purpose whatsoever. You may bring together Bunker Hill and Yorktown, Massachusetts and Virginia, and tie them together with all the flowers of rhetoric that ever bloomed since the Garden of Eden, but you cannot change the plain, historic fact that no nation on earth ever was so imbecile and idiotic as to establish a principle that would more nearly bankrupt its treasury after victory than after defeat.

Now, if you are going to establish a new principle of this kind have you any peculiar reason for it? Was the war carried on so cruelly, was the destruction of property so malicious as to call for exceptional action upon our part? Why, sir, the very man who brings this petition here, President Ewell, declares that no war of equal magnitude was ever conducted with equal mildness, and he is corroborated in that statement by General Joseph E. Johnston, whose authority I know will be accepted on both sides of this House.

Now, then, we purpose to establish this principle, and to establish it contrary to the custom of all nations. Worse than that, we intend to establish it contrary to our own precedents, because this thing has not failed of discussion in the long years since the war.

Now let me mention to you a few instances in which Congress has been actuated by motives similar to those which are suggested here—motives arising out of the sympathies and not out of the judgment of mankind. In the first place, I will refer to the case of Dr. J. Milton Best, who owned a house of the value of \$25,000 which was destroyed during the war. It was within the line of certain forts which the Government purposed to erect at Paducah, I think. The property had been appraised, its value had been estimated; but before the proper proceedings were completed to pay Dr. Best his money the enemy appeared and attacked the fort. That brave man stood in the cupola of his dwelling signaling the officers of our Army, exhibiting the utmost loyalty in the face of the enemy. The house was attacked and captured by the enemy, was somewhat injured by them, and after their disappearance was razed to the ground by our troops. Dr. Best applied to Congress for relief.

Now, I ask you whether this was not a case of more merit than any that is presented here. Here was property not burned by a straggler but taken by the United States authorities for a beneficial purpose—taken for our own advantage and taken from a patriotic man who showed his valor and his loyalty on the very field where he lost his property.

Here is another case. In the town of Manchester, Kentucky, in a loyal region of the country, salt works owned by loyal men, to the value of \$22,000, were destroyed to prevent them from falling into the hands of the enemy. There the Government of the United States received a positive advantage. The property was taken by order of its officers. If there ever was a case in which the Government was liable on the score of agency that was the case.

But perhaps you may say that that was not the case of an institution of learning, and therefore is not a parallel to this. Fortunately there is a case directly in point—the case of the East Tennessee University, situated at Knoxville, Tennessee. It was not destroyed by

any drunken stragglers, but while in the occupation of our officers it was injured to the extent of \$18,500. In the second session of the Forty-second Congress a report was made in favor of granting compensation for that injury. I ask the Clerk to read a paragraph from that report.

Mr. EDEN. Who made that report?

Mr. REED. I will tell the gentleman in a moment. It was Mr. Wilson.

The Clerk read as follows:

Senate Report.—Forty-second Congress, second session.—Report No. 17.

The Committee on Military Affairs, to whom was referred the bill for the relief of the East Tennessee University, have had the same under consideration and submit the following report:

It appears that the seven university buildings and the grounds adjacent thereto came into the occupation of the United States military authorities in good condition in September, 1863, and were occupied by them for military purposes until June 13, 1865; that during this occupation one of the buildings was totally demolished, and the others were so materially damaged as to render them wholly unfit for use; that the library, scientific apparatus, mineralogical and geological cabinets, were destroyed; that the fences, trees, shrubbery, &c., were nearly all removed and burned, and that the grounds were mutilated and greatly injured by earthworks, a fort and rifle-pits being thereupon.

The East Tennessee University is believed to be particularly deserving of the favorable consideration of Congress. It is the only educational institution of known loyalty, in management and influence, in any of the seceding States during the war. It is situated at Knoxville, in the center of East Tennessee, and is surrounded by a population known for their loyalty and sacrifices to the cause of the Union.

The committee recommend the payment to the university of the sum of \$18,500.

Mr. REED. Now, here is a case which certainly appeals to the sympathy of men. Here was an institution of learning. It was ruined while under the control of our officers. No drunken soldier, in the frenzy and hurry of recent conflict, wreaked on it his private vengeance. It was situated in a loyal country. Out of its halls had gone no officers to swell the ranks of its country's foes. From the chairs of its professors the doctrines of secession had never been preached; the surrounding population had never been tainted by it. It was in the midst of a people whose loyalty surpassed anything that we in the North could exhibit. Our soldiers risked their lives; their soldiers risked not only their lives but their altars and their hearthstones. Our soldiers' families slept in their quiet homes; theirs listened with beating hearts to the gallop of marauding bands and the tramp of marching armies. They experienced in their homes and families all the horrors of war, and yet were steadfast. It is not here and now that I would undertake to speak the eulogium of those patriotic men; but when the passions of the present day have subsided the historian will tell of their devotion and sacrifices with a pen as eager as that with which he has recorded the deeds of the embattled farmers at Lexington or of the brave men who fought with Greene in the Carolinas. To this institution, thus the nursery of patriotic men in the past and the future instructor of the children of the loyalists of East Tennessee, the first loyal soldier of the war refused the very boon that you ask for William and Mary. For one, I cannot deem it good policy or wise statesmanship to give to those who were wrong what we have wisely refused to those who were right. Bills of relief in all these cases which have been enumerated were passed through the Congress of the United States under the influence of sympathetic feeling; but all of them were vetoed by the President of the United States with thorough reluctance but with far-seeing and comprehensive statesmanship; and those cases have slept the sleep of death ever since. The sober second thought of the Congress invoked by the President under the Constitution ratified his wisdom.

Now, I have another precedent; a precedent that cannot fail to be satisfactory to our friends on the other side, because it is tainted by no memories of the war. It is an act performed by that blessed generation of statesmen that preceded 1860. When I came to examine this case of William and Mary I found that the original petition was for payment of losses in the revolutionary war and in the late civil war. Now, the circumstance I am going to mention escaped the notice of the author of the eloquent report which was presented by the Committee on Education and Labor. It appears nowhere in the documents before the House, although it does appear in the documents before the committee.

It seems that in 1776 the buildings connected with this college were seriously injured by our revolutionary forefathers, and for seventy years the trustees persistently urged their claim for compensation upon the same revolutionary fathers who did the injury, and upon the statesmen who followed them, including I have no doubt Washington and Jefferson and Monroe, the thirty judges of Virginia, the twenty-four admirals, and other persons who have graduated from William and Mary. But they were sternly denied. The statesmen of that period had too much wisdom to permit this Government to be connected with any principle so absurd as would be established by this bill. Now I submit to you who listen to me that here is a proposition which has met with universal refusal from all civilized nations since the world began; which has met with direct refusal from the United States; which has been refused in the instance of this very supplicant by our revolutionary forefathers, and by the democratic statesmen who preceded the war, and which you are asked, under the influence of conciliatory feeling, to pass; which, if you do pass, will establish a precedent fraught with vast and dreadful menace to this country.

But you say this is no precedent, for there is no other case. No;

nothing ever establishes a precedent until it is passed, and nobody ever found the advocate of a measure like this ready to shoulder the responsibility of its consequences while he was urging its passage. But let us see what there is before this House on this very subject. You can tell men's minds better by noticing what they are doing than by what they are saying. [Laughter.] Here is a bill (H. R. No. 2804) to pay the sum of \$4,000 to the trustees of Stewart College, Clarksville, State of Tennessee, "in full compensation for property taken from them for the use of and used by the United States Army." Here is a bill (H. R. No. 1036) to pay the sum of \$20,614.90 to Shelby Medical College, in Tennessee, "for rent of said college building during the years 1863, 1864, and 1865, and for property taken from said building for the use of the United States Army." Then here is a bill (H. R. No. 2420) to pay Randolph County, in the State of West Virginia, the sum of \$10,000 "for damage done the court-house, public jail, and clerks' offices of said county during its occupation and possession by the Federal troops during the late war between the States." And then here is a bill (H. R. No. 2053) to indemnify Prairie County, Arkansas, in "the sum of \$30,000, for the occupation, use, and destruction of the court-house, jail, and other public buildings belonging to Prairie County, Arkansas, by the Federal Army during the late war." Here is a bill (H. R. No. 2021) appropriating \$175,000 to aid the State of Louisiana in rebuilding the state-house at Baton Rouge, said building having been partially destroyed by fire while under the control and in the custody of the United States military authorities and while being occupied by Federal troops during the late war between the United States and the so-called Confederate States of America. And here are half a dozen other bills.

A MEMBER. Read them all.

Mr. REED. They are for small sums; they are for Masonic halls and churches. Here you are at the very outset of this matter confronted by over \$300,000 of these claims. Yet we are but in the green tree now. Three hundred thousand dollars, and this is no precedent! Well, now I want to go one step further, because these things are all close together. There is but a step between paying for institutions of learning and county buildings and paying for the humble firesides of the poor, and for my own part I would rather pay the latter than the former.

I am somewhat gratified to find that my views of the proximity of these various kinds of claims to each other is sustained by the counsel for private claimants, who has been so kind as to lay on my desks to-day the pamphlet I hold in my hand. The counsel is Hon. T. W. Bartley, somewhat famous in these parts for the invention of the triple presidential arrangement (I am not sure that I get the exact technical language) about which our friend from Ohio [Mr. SOUTHARD] has had so much trouble with the newspapers. [Laughter.] I must say that Mr. Bartley gives good sentimental and rhetorical reasons for the payment of the private claims of which I am about to speak. Says Mr. Bartley:

The rejection of a man's claim to be compensated for his property—

Think of all this, in the sonorous voice of some gentleman from Massachusetts, advocating this measure, just think of it! [Laughter and applause.]

The rejection of a man's claim to be compensated for his property taken and used by the Government is a virtual confiscation of his property and a punishment for disloyalty! And for the monstrosity of this punishment after pardon this commission claims special credit. To pardon a man first and then punish him afterward is a mockery of the constitutional rights for the security of which government was instituted.

Think of all these claimants translated into that magnificent upper air in which Massachusetts and Virginia and possibly South Carolina alone can live! [Laughter and applause.] Just think of them in that blue empyrean, surrounded by Washington and Jefferson and dead heroes, and Milton and Sir Harry Vane and Sir Christopher Wren and the whole of our English literature, and my friend from Massachusetts here below emblazoning it all in gorgeous language! I ask you how you could meet that.

Mr. TOWNSEND, of New York. You must not forget that only a small part of Massachusetts favors this bill.

Mr. REED. I beg pardon of gentlemen from Massachusetts. I know that and am glad to give them full credit for it.

Now let us see what our southern friends and some of our northern ones think of these claims. I have taken the trouble to look over the matter, aided by the exploration made by the very intelligent correspondent of the Cincinnati Commercial, (and I should not feel it was right to speak of this without giving him due acknowledgment,) and I have found, notwithstanding the fact there had been an unprecedented number of bills introduced in this Congress; notwithstanding the fact every man here had presented at least two bills for the coinage of the silver dollar of 412½ grains, [laughter,] and that every man had presented a bill for the restoration of the finances, or to lend men going out West \$2,000 and to issue \$400,000,000 of currency, or some such thing, [laughter;] notwithstanding the great pressure of public business on the House here; notwithstanding the fact there have been thirty-five hundred bills presented up to March 4 of this session against twenty-three hundred and sixty in the Forty-third Congress, I found over 10 per cent. of the bills presented to be passed upon by this House were southern claims arising from incidental damage during the war—damage to private property by the Federal armies.

Three hundred and ninety-eight of those bills are pending before Congress to-day and they amount in the aggregate to the sum of \$4,369,000.

Now, you know, every one of you, that this is only a trifle compared with what is behind. You all of you know that the law offices of the South, republican and democratic, are stuffed with these things. It is a matter which you talk about now by the hundreds of thousands; by and by you will talk about it by the millions and perhaps by the hundreds of millions.

Now, these things are here in spite of the adverse decisions on the part of Congress. They are here in spite of the general sentiment of the American people. And the worse thing I find about it is that some of our republican members of Congress in the past Congresses, if not in the present, have been somewhat disposed to vote for them. And why? It reveals to me a worse state of things than the mere presentation of these bills, because it shows that there exists in the South a persistent southern sentiment which not only justifies but urges on men to present these claims. You see they have every motive not to present them now. They have a congressional election before them. They want peace, quietness, harmony, conciliation, a general state of salubrity such as we have often heard spoken of in this House. They want everything quiet and peaceful. And yet the public sentiment is such that one-tenth of the public business presented for the consideration of this House consists of southern claims.

Now, just here, it seems to me that we have got one plain path of duty before us if we wish to protect the Treasury and the people of the United States. I do not speak now of these large claims. I do not talk of the claims of \$83,000,000 for the cotton tax. I do not talk about the \$7,000,000 a year for the Mexican war veterans, presented by the very men who are demanding economy and who are seeking to cut off a few thousand dollars from the pay of clerks here in Washington.

Mr. LUTTRELL. Will the gentleman allow me—

Mr. REED. I decline to be interrupted.

Mr. LUTTRELL. Then I will have another opportunity.

Mr. REED. I have no doubt you will. Your world is very wide. I am pursuing a certain line of argument, my time is very limited, and, if I yield to the gentleman from California, I shall have no time for myself.

Neither do I speak of the Texas Pacific Railroad nor the claims for the Mississippi levees. The people of the South have a right to demand some of those things if they choose and take their chance of getting them. But I do speak of these small claims which are presented so insidiously. If this bill once passes, the precedent it establishes you will find will extend entirely beyond it. Talk of precedents! The gentleman from Virginia [Mr. GOODE] says this will be no precedent for anything, and then himself, in the very next paragraph, insists that the payment to the Kentucky University, which was under a contract for rent and which expressly excluded payment for burned buildings, is a precedent for this claim. That incident in his speech will illustrate how innocent cases once got through Congress can be twisted into precedents.

In other words, people may coax you into this thing by all sorts of argument. But when they once get it through you find it is the decision they look to, and not the argument. The arguments will be all printed. They will make a part of that great monumental pile of eloquence which Congress is rearing at the rate of ten volumes every year; but nobody will read them; while the decisions will be sought for by every claim agent who loved the lost cause and a good many that did not.

Now I want to say one word about this whole subject. I know that it is unkind to make any allusions to anything connected with the last war. I listened with a great deal of interest to the very eloquent remarks that were made by the gentleman from Kentucky [Mr. BLACKBURN] the other day, and to some parts of them I gave my very hearty approval. I do believe that after the magnificent contest which shook this entire continent, after millions of men had been in the field and fought each other face to face, it would have been a pitiful and miserable close to have had half a dozen struggling wretches kicking out their lives on the gallows. I had a strong sympathy with what the gentleman said as to that. But the rest of his remarks I protest against. He said we on this side were always bringing up this question of confederate claims and of confederates. Now, so far as mere words are concerned, that may be so. But if the docket of this House is not full of provocations to this kind of discussion, placed there by southern men, I do not know such things when I see them.

Here is the William and Mary College bill. How can you discuss it without mentioning the confederacy? Then there is the bill in reference to soldiers of 1812 with its clause rendering it unnecessary to prove loyalty. In all probability that clause did not help a hundred men, and yet it was pushed in here and obliged to be made the subject of discussion or of the gag-law of suspension of the rules. And I say that the list of bills read to-day is full of provocation to this identical discussion. Now I ask gentlemen on the other side if under all the circumstances it is too unreasonable to expect them to cease this constant, persistent attack on the United States Treasury and on the laws which grew out of the war. They want peace. Then why do they not cease to provoke controversy?

Now are not all the losses and destruction that may have happened, under the laws of war and of good sense, fairly resting where they ought to rest? When a man undertakes to enter a rebellion it may be well enough to say that his goodness depends upon his convictions of right, and when he comes to the day of judgment I have no doubt that he will be judged upon that basis; but no nation can afford to judge on any such principles. The gentlemen opposite did not do it themselves. When they came to report the bill in relation to payments for postal services rendered in the South prior to the war, they put in that bill an exclusion of those who had not been loyal to the confederacy, and they did rightly enough, and we are doing rightly enough now.

You gentlemen upon the other side began a war which resulted in the destruction of fifty thousand killed on the field of battle on our side and as many more upon yours; and hundreds of thousands of others are now dragging out a miserable existence from the effects of that war.

Now, whatever may be the question of right or wrong for any individual, the only justification of rebellion is success. The consequences are too fearful for men to be allowed to make it the escape of their passions. It involves death to men and destruction to property. You do not need to be told its miseries, for you have suffered them. Any set of men who purpose to plunge their people into these horrors are bound to be successful or take the consequences. You were beaten and yet you want us to take the consequences.

You gentlemen opposite come forward and insist that the victorious country shall pay for the damages inflicted by it upon its enemies. I ask you if this is reasonable and sensible? I ask you whether in the present condition of the country it is wise? Gentlemen, the business interests of the country will not allow you to succeed in this attempt; and you owe a great deal of your liberties to the business men of the country. Why will you not on your part show a disposition to let by-gones be by-gones and let us have rest and peace and returning prosperity?

Mr. CUMMINGS. I trust the gentleman from Maine, before he takes his seat, will allow me to correct a statement which he made. He puts the proportion of war claims at one-tenth. I have just looked at the CONGRESSIONAL RECORD and find that the total number of bills introduced into this House up to and including yesterday is forty-two hundred and eighty-two. Up to and including yesterday, and since Congress convened in October last, twelve hundred and twenty-five bills have been referred to the Committee on War Claims. These bills all grow out of the war and are almost entirely for the relief of persons in the Southern States. Besides these, there are bills pending before several other committees. The Committee of Claims, of which I am a member, has before it one single bill which proposes to give to North Carolina \$43,000 for cotton seized. Instead of the number of these claims being but one-tenth of the bills introduced into this House, they are really more than one-fourth—that is, those before the War Claims Committee alone are more than one-fourth. This you observe does not include the cotton bills, the bills for the improvement of southern rivers, for captured and abandoned property, and others of a like nature; in all it will perhaps reach one-third.

Mr. REED. I confined my remarks to the results merely of my personal observation. There are a great many other claims of the same class which have been referred to the committees from the file-room from other Congresses of which I meant to have spoken. I thank the gentleman for his supplementary statement because such figures are calculated to call the attention of the House and of the country to this matter. To say that it is alarming is to use very mild language.

I now yield the remainder of my time to the gentleman from New York, [Mr. TOWNSEND.]

Mr. TOWNSEND, of New York. How much time have I left?

The CHAIRMAN. The gentleman has sixteen minutes.

Mr. EDEN. Will the gentleman allow me one moment?

Mr. TOWNSEND, of New York. I will do so, provided that my own time shall not be limited.

Mr. EDEN. In reply to what has been stated by the gentleman from Iowa in reference to the number of claims pending before the Committee on War Claims, I wish to state that in the Forty-third Congress there were reported by that committee private claims to the amount of \$397,891.63; for the Quartermaster-General, Commissary-General of Subsistence, and commissioner of claims, \$1,561,711.76; making the total amount reported, \$1,959,603.39. That was a Congress in which our republican friends had control, and there was a larger number of claims before the Committee on War Claims than there was in the Forty-fourth Congress when the democrats had control. I will state further that in the Forty-fourth Congress the amount of private claims reported amounted to \$188,015.30, and the Quartermaster and Commissary-Generals and commissioner of claims \$943,713, the total amount reported being \$1,131,828.30. The war claims reported favorably by the republican committee of the Forty-third Congress exceeds the amount reported by the democratic committee of the Forty-fourth Congress over \$800,000!

Mr. TOWNSEND, of New York. I came to this House with the desire, before taking my oath of office, to do equal and exact justice to all parts of this Union. We had been divided. We had come together. We had a common country, and whatever men may think, in my day dreams and in my night dreams Virginia and the Carolinas and Georgia are a part of my country, and no man can take away

my interest in them. My comrades and brethren have shed their blood for my right to this, and when I am called upon to act in regard to the interests of Virginia I am acting for my country, and I will do for Virginia all I would do for New York or all I would do for my earlier home, a part of which is represented by the gentleman who has spoken this afternoon on the affirmative of this question. Beyond all this my oath as a Representative in Congress placed an additional obligation upon me. I swore to faithfully discharge my duty as a Representative in Congress, and that duty, as I interpret my oath, can only be discharged by looking after the interests of every portion of our extended country.

Now, let us look this matter of repaying the losses of William and Mary College in the face. My friends who know me here know that I shall call things by their right names. I am not to be told by any Virginia gentleman here, though I greet him as my peer upon this floor—Virginia is well represented here—I am not to be told that I may not talk about matters of the past. How comes William and Mary College here? She comes here to ask pay for losses which she sustained, because she went into rebellion. True, she graduated Washington. It is an honor to her. She graduated many other great men. I, too, had the benefit of a collegiate education; but my college has not taken an inventory. [Laughter.] I came originally from Massachusetts, a proud State; but she has not an inventory. She does not come here to the National Congress or before the world, claiming anything upon her inventory. My friend from New York here, [Mr. CHITTENDEN,] in his commercial business, always took an inventory once a year; and from what I have heard here in regard to this William and Mary College, I should think that the commercial interests—I mean the congressional interests which seem to be strongly the commercial interests of Virginia, take an inventory, as my friend from New York did, once a year or perhaps oftener. We do not talk so much about our great men; but I shall not stand in the presence of the National Congress and admit that Virginia has anything to boast of in her great men over the land that produced the Adamases and the Winthrops and the land that produced George Clinton, William H. Seward, Silas Wright, and Martin Van Buren. [A Voice: "And Webster."] I am going to talk about Webster in another part of what I have to say. He will appear in an entirely different connection. [Laughter.]

Now this college has produced great men; she has great and dear traditions; but why did she not follow the traditions of her great men? Did William and Mary, when she sent thirty-two out of her thirty-five teachers and all her pupils into the rebel army, follow the doctrines of Washington in his farewell address? Did she in teaching secession and rebellion for thirty years before the war, by which the Hotspurs of the South were stirred up to drag the common people into four years of bloodshed and war and destruction and misery—did she in all this follow the teachings of Washington or Jefferson or any others of her great men of the early times whose names are presented here to-day? Did Mason, when he went to carry the message of the Confederate States to Great Britain, think that he was following in the footsteps of that other Mason, his kinsman, who talked of the abolition of slavery on his way to the national convention to look after the early interests of the colonies? It is because this college forgot her great men that she comes here to-day suppliant, cringing, begging for money at the hands of those whose sons she has caused to lie down in bloody graves by the side of her own sons that she hounded on to death and destruction.

"Ah! but Virginia is proud of this institution!" Well she may be. I will say nothing against it. But William and Mary College counted the cost. She taught rebellion; she went into rebellion. She sent her sons into rebellion. Why should she not take the consequences? My northern friends, why should she not take the consequences?

It is said that there is no precedent for this thing. There is a precedent, quoted by Benjamin Franklin in the struggle with Great Britain. One day, said Franklin, a man was peaceably walking in the streets of London when a Frenchman ran out with a heated poker in his hand and wanted to apply it to the man's body. The man kicked him out of his way. Then the Frenchman said, "Monsieur will not let me do zat zing, but he will not be so unjust and mean as to refuse to pay me for heating ze pokaire." [Laughter.] Here is a case on all fours with the case made by the gentleman from Virginia, [Mr. GOODE.] Virginia did not destroy the Union. Oh, no! William and Mary College did not destroy the Union! She and her admirals and her judges and her Presidents did not destroy the Union. No; those Presidents and those admirals and those other great men were in their graves; they were under ground; they were where a man's last year's potatoes are. The best of the potato was under the ground. I will not be unkind enough to say that Virginia keeps the tops to-day above ground; but these excellent potatoes were all under ground when the rebellion broke out. And the Union was not destroyed and Old Virginia is confident that we will not refuse to pay William and Mary College for her thirty years' labor in heating the poker.

But we are told that we must go into this thing because Virginia loves Massachusetts! How warm this affection is for Massachusetts! Massachusetts every once in a while sends out a man that has an aptness for being caressed. [Laughter.] Virginia talked to Webster; she told him she would make him President; that he was bound to glory. I am not certain but that he had the smiles of beauty shining on him, as they are given on some other occasions, to coax him from

the path of his education, the path where his conscience and his God told him to go. But when the spider had got the Massachusetts fly into his parlor and into his net, what good did it do him? No Virginian remembered Webster at the presidential convention. No, no; I say to your Massachusetts Websters, I say to your Massachusetts Loring's, I say to your Massachusetts Hoars, when Virginia has used you she will cast you off as an unworthy thing. [Laughter and applause.] "Oh, but," says my learned and eloquent friend from Massachusetts, [Mr. LORING,] "we have had a Centennial!" Yes, sir; I was here, and I remember when an appropriation of \$1,500,000 was asked as a loan from the Government upon good security, security that would return us and did return us every dollar, for the celebration of the one hundredth anniversary of American Independence, I find that on that occasion Virginia, for whom we are to have a new Centennial Fourth of July, gave to the negative side these votes: Mr. CABELL, Mr. DOUGLAS, Mr. GOODE, Mr. Terry, and Mr. WALKER. Virginia gave but one vote in favor of the Fourth of July of the one hundredth year of our existence; and that vote was given by a "carpet-bagger" by the name of Stowell; a man whom I heard a gentleman from Virginia bearing the name of JOHN GOODE taunt in this House with being a native of Vermont, addressing him as "the gentleman from Vermont." My Northern friends, democratic and republican, lay not the unction to your souls. If you are fooled, you are fooled with your eyes open.

Now my friend from Maine [Mr. REED] has taken the bread out of my mouth. [Laughter.] He said about all I could say, except these very few illustrations which I have presented. [Laughter.]

I do not stand in the way of Virginia. I will aid her in anything and everything which I may properly do to enhance her prosperity. If Virginia will build a cotton-factory to-morrow somewhere up the valleys of her hundred beautiful rivers I will vote for a tariff to protect the products. [Laughter.] If God in His providence should lead Virginia to build a ship, I will vote for a subsidy for that ship. [Laughter.] Not that I shall vote for any other; but if Virginia will do anything in order to promote the welfare and happiness of her people except talk democratic politics, [laughter,] I am with them.

Oh, but Virginia loves Massachusetts. [Laughter.] I had almost forgotten how much she loved her. Massachusetts had great men; Massachusetts had Sir Harry Vane, and certain other great men. But, sir, within two weeks—

Mr. DAVIS, of North Carolina. Will the gentleman vote to take off the tax on Virginia's tobacco which now oppresses her?

Mr. TOWNSEND, of New York. No. The man who is not willing to pay for the tobacco he chews does not deserve to have any. [Long-continued applause and laughter.] The man who is not willing to pay the duty on the beautiful peach brandy they distill down in North Carolina is not worthy to drink it. When he wants peach brandy, if it is half as delicious as represented, he can afford to pay the duty on it, and not in a mean and niggardly spirit take the duty off tobacco and whisky and brandy and put it on the women's drink, tea and coffee. [Laughter and applause.]

The CHAIRMAN. The gentleman's time has expired.

Mr. TOWNSEND, of New York. I am speaking in my own hour. I have not a great deal further to say, but I have the floor; I am talking good honest truth. [Laughter and applause, and cries of "Go on!"] I want to show how fraternal I am, and, above all, to the old North State. [Laughter.]

The CHAIRMAN. The gentleman will suspend his remarks, as his time has expired.

Mr. TOWNSEND, of New York. I am speaking in my own time. The CHAIRMAN. The gentleman has occupied the time yielded to him by the gentleman from Maine—sixteen minutes.

Several MEMBERS moved to extend the time.

Mr. BRIGHT. How much time do you want?

Mr. TOWNSEND, of New York. About twenty minutes.

Mr. BRIGHT. I move the gentleman from New York be allowed to proceed for twenty minutes.

The CHAIRMAN. Is there objection?

Mr. TOWNSEND, of New York. In this fraternal feeling which exists, of course there is no objection. [Laughter.]

The CHAIRMAN. The Chair hears no objection, and the gentleman will proceed.

Mr. STEELE. I move the gentleman from New York have leave to proceed as long as he pleases.

Mr. TOWNSEND, of New York. I only want twenty minutes.

Mr. STEELE. As long as his wind holds out.

Mr. TOWNSEND, of New York. I will not be as hard on the House as that. I have nothing but feelings of kindness toward the old North State. I want to set her up before the country as she really stands in the galaxy. She has set herself at work; if she can foster manufactures at home she is doing it; if a black man wants to work there she lets him work; if a carpet-bagger wants to work there she lets him work; if a southern man wants to work and he is naturally a little better than a northern man, she lets him work. [Great laughter.] God bless the old North State! I wish the whole South were on the same footing.

I have very little more to say. I was proceeding, when interrupted, to speak of the love Virginia felt for Massachusetts and her great men. Sir, the blood of Massachusetts at home, the blood of Massachusetts which settled all over the North and West, the blood of Massachusetts represented on the other side of the House and on this

side of the House, had a specimen within two weeks of how much Virginia loved Massachusetts. I never shall forget how the wind blew, and the thunder roared, and the storm came, and how the rain beat upon this House when the gentleman from Virginia, [Mr. HARRIS,] who sits before me, blew the horn, the party horn, and told them they must turn out from the seat to which he was legally elected a man from Massachusetts equal in education, equal in capacity, equal in social position and refinement to any man Massachusetts ever raised, or any man Virginia ever raised since the landing of the first pilgrim on Plymouth rock, when my ancestors came over, and every Virginian walked up like a little man [laughter] and showed his love for Massachusetts. And let me tell my friend up there from Massachusetts you will never find yourself in such a position but you will find Virginia just as magnanimous. [Laughter.]

Individually, I have no quarrel with the gentlemen from Virginia. They are most able Representatives and most agreeable and excellent gentlemen; but they are trained in the Old Virginia school of politics, and that is a complete perversion of the Assembly's catechism. The catechism that has been taught for the last hundred years in Virginia is: "What is the chief end of man? The chief end of man is to promote the success of the democratic party." [Laughter.] That is about the end that Virginia has attained in the last hundred years. I will not find fault with Virginia further than I am obliged to; but I say to you that Virginia, after a hundred years with a single industry, is found backing up her little wagon to the rest of the world to ask if they will not load a little of their surplus into the State that devotes all her energies to politics; a State that started ahead of all the rest in natural advantages for pecuniary prosperity. She had more highly-educated men than any State except Massachusetts; she had more wealth and more power and influence than any other State.

Look at New Jersey—my friends from New Jersey must pardon me, I feel that I must vindicate the truth of history—New Jersey, that God made the last of all that was made. [Laughter.] We have veritable statistics to show that when God had done the work of creation he had a load of sand over and dumped it down on the shore of the Atlantic, and called it New Jersey. [Great laughter.] But New Jersey was not settled with cavaliers. New Jersey was settled with mudsills, and New Jersey went to work while Virginia went into politics. And now the wealth of New Jersey is immense simply because New Jersey went to work. The Yankee notions produced by Newark every year will buy out, body and breeches, any thoroughly democratic State in the Union. [Laughter.] It is because they were mudsills and because they work. I do not wish to play the demagogue. There is nothing in my history and nothing in my blood that would induce me to do so. I am an old man and it is too late for me to set up for popularity. I am not like one gentleman in this House—not afraid of being called a demagogue. I am too old for that. Some may succeed in it but I cannot. It will not do. I am talking what is God's truth as affecting the prosperity of this country.

Mr. WRIGHT. Will the gentleman yield to me for a question?

Mr. TOWNSEND, of New York. Yes, sir.

Mr. WRIGHT. Am I correct in understanding the gentleman to say he was not afraid to be called a demagogue?

Mr. TOWNSEND, of New York. I said I was too old for that, and should hate to be called a demagogue.

Mr. WRIGHT. Then he is not afraid to be called a demagogue.

Mr. TOWNSEND, of New York. I said I was. There is nothing in my history and nothing in my associations to lead me to believe that a man without property is better or worse than a man with it. But I do believe that a man in any walk of life that labors diligently in any calling, whether with property or without property, is worth a hundred politicians that simply work with their brains.

Now, the other day—and I want to speak kindly to him—I listened with profound admiration to my friend from Georgia, [Mr. BLOUNT,] of the Committee on Appropriations. And I agreed with him in very much that he said about the impropriety of putting another burden upon the backs of the overburdened people of this country. And I have heard also from the gentleman from Pennsylvania, [Mr. WRIGHT,] who has just honored me with his beautiful countenance that always cheers but never inebriates, [laughter,] about keeping the burdens off the people. What is proposed here? It is proposed to cut the throat of the laboring people of this country with a silver knife having a jeweled handle, perhaps presented to us from the hand of beauty. Cut away, gentlemen, but you will not have my throat cut. [Laughter and applause.]

Mr. CONGER rose.

Mr. SMITH, of Pennsylvania. I move that the committee rise.

Mr. CONGER. I will give way for that motion, if it is understood that I am recognized as having the floor.

The motion that the committee rise was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. KNAPP reported that the Committee of the Whole House had had under consideration the private Calendar, and particularly the bill (H. R. No. 189) to reimburse the College of William and Mary, in Virginia, for property destroyed during the late war, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the bill

(H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making appropriations for detecting trespass on the public lands and for bringing into market public lands in certain States, and for other purposes; had further insisted on its amendments numbered 7 and 8, disagreed to by the House of Representatives; asked a further conference with the House upon the disagreeing votes of the two Houses on said amendments, and had appointed as conferees on the part of the Senate Mr. WINDOM, Mr. DORSEY, and Mr. BECK.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes.

DEFICIENCY APPROPRIATION BILL.

On motion of Mr. FOSTER, by unanimous consent, the bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes, with amendments by the Senate, was taken from the Speaker's table and the amendments of the Senate were non-concurred in.

Mr. FOSTER moved to reconsider the vote by which the amendments of the Senate were non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

On motion of Mr. SINGLETON, by unanimous consent, the bill (H. R. No. 3864) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1879, and for other purposes, with amendments by the Senate, was taken from the Speaker's table.

Mr. SINGLETON. I move that the House insist on its disagreement to the amendments of the Senate and agree to the request of the Senate for a committee of conference.

The motion was agreed to.

Mr. SINGLETON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER announced as the conferees on the part of the House Mr. SINGLETON, Mr. SPARKS, and Mr. HALE.

MONUMENT OVER JEFFERSON'S GRAVE.

Mr. LUTTRELL. I ask unanimous consent to offer the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That inasmuch as to-morrow, Saturday, is Thomas Jefferson's birthday, said day be set apart for the consideration of the bill introduced by Mr. Cox in reference to a monument over his grave.

The SPEAKER. Is there objection to the consideration of the resolution?

Mr. DUNNELL and others objected.

Mr. LUTTRELL. Who objected?

The SPEAKER. Several gentlemen did. The resolution is not before the House.

CHANGE OF REFERENCE.

Mr. SPARKS, by unanimous consent, from the Committee on Appropriations, reported back the petition of 400 workmen of Pittsburgh, for an appropriation to enable them to proceed to and occupy the public lands as cultivators, and sundry other petitions of a similar import, and moved that the same be referred to the Committee on Public Lands.

Mr. DUNNELL. This petition belongs to the Committee on Appropriations.

The SPEAKER. But the Committee on Appropriations ask to be discharged from the further consideration of this subject.

Mr. DUNNELL. These petitioners ask for an appropriation, and that is all they do ask for.

The SPEAKER. The Chair thinks it is a left-handed move on the part of the Committee on Appropriations to say that they do not propose to give them any such appropriation.

The motion of Mr. SPARKS was agreed to.

ARMY REGULATIONS.

On motion of Mr. BANNING, by unanimous consent, the bill (S. No. 868) to provide for a code of Army regulations was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

GEORGE A. ARMES.

Mr. MAISH. By an inadvertence a clerical error crept into the bill restoring the name of George A. Armes to the rank of captain in the Army; the word "and" was inserted improperly. I ask that that error be corrected in the enrollment of the bill.

There was no objection, and it was so ordered.

WILLIAM LONDON.

On motion of Mr. HASKELL, by unanimous consent, the bill (S. No. 712) granting a pension to William London was taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. FOSTER. I move that the House do now adjourn.
Mr. WHITE, of Pennsylvania. Pending the motion to adjourn, I move that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. BLOUNT. I hope not; I hope we shall have a session to-morrow for the consideration of an appropriation bill.

Mr. CONGER. I understand that to-morrow is the day assigned for the announcement of the death of the late J. Edwards Leonard, a member from the State of Louisiana.

The SPEAKER. To-morrow at two o'clock it is understood that the Louisiana delegation will announce the death of Mr. J. E. Leonard, and that time is assigned for the memorial addresses in relation to Mr. Leonard.

Mr. WHITE, of Pennsylvania. I did not understand that.

Mr. SPARKS. Then withdraw your motion.

Mr. WHITE, of Pennsylvania. I desire to withdraw the motion I just made.

The question was taken on Mr. FOSTER's motion, and it was agreed to; and accordingly (at four o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: The petition of Mary Shen, widowed mother of Miles Shea, late of Company H, Seventh Connecticut Infantry, that the charge of desertion against her son be removed to enable her to obtain a pension refused on that ground—to the Committee on Military Affairs.

By Mr. CLAFIN: The petition of 76 citizens of Boston, Massachusetts, against the revival of the income tax—to the Committee of Ways and Means.

By Mr. DAVIS, of North Carolina: The petition of citizens of North Carolina, for the application of the proceeds of sales of public lands for purposes of popular education—to the Committee on Education and Labor.

By Mr. HERBERT: The petition of Elder G. W. Lee, Elder N. Bransford, and others of Butler County, Alabama, for the grant of a certain lot of land for church and educational purposes—to the Committee on Public Lands.

By Mr. HOUSE: The petition of professors of Vanderbilt University, that microscopical slides and lenses be transmitted through the mails—to the Committee on the Post-Office and Post-Roads.

By Mr. JONES, of Ohio: The petitions of J. B. Breckenridge and others, and of J. M. Fisk and others, of Morrow County, Ohio, against the reduction of the tariff on wools and woolens—to the Committee of Ways and Means.

By Mr. LANDERS: The petition of C. S. Mason and 22 others of Farmington, Connecticut, for the amendment of the pension laws—to the Committee on Invalid Pensions.

By Mr. MCKENZIE: Papers relating to the pension claim of Hetty Dunning, of Christian County, Kentucky—to the same committee.

By Mr. MCMAHON: The petition of John Gallaher, for a pension—to the same committee.

By Mr. O'NEILL: The petition of W. S. Russell, president of the Philadelphia (Pennsylvania) Cotton Exchange, and others, for mail compensation for sea-going American steamers with competition for mail service—to the Committee on the Post-Office and Post-Roads.

By Mr. PHILLIPS: The petition of the colored colony of Nicodemus, Graham County, Kansas, emigrants from Kentucky, Tennessee, and other States, by their president, M. H. Smith, and secretary, S. P. Rountree, for relief—to the Committee on Appropriations.

By Mr. REED: The petition of the Ocean Insurance Company of Portland, Maine, and others, insurers and ship-owners, for an appropriation to enable the Light-House Board to purchase and place at such points on the coast as such board may deem necessary the Courteney automatic buoy—to the same committee.

By Mr. RICE, of Ohio: The petition of Abraham Forrey, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. ROBERTS: The petition of Washington Booth, S. M. Shoemaker, Shaw Brothers, John Merryman & Co., and 104 others, merchants, shippers, ship-owners, ship-builders, and ship-masters of Baltimore, Maryland, against the transfer of the life-saving service to the Navy Department—to the Committee on Commerce.

Also, the petition of Alexander M. Templeton, for compensation for a horse lost during the late war—to the Committee on War Claims.

By Mr. TUCKER: The petition of Baker Brothers and others, of Staunton, Virginia, that the duty on sugar be at so much per pound without regard to color or quantity—to the Committee of Ways and Means.

Also, the petition of citizens of Virginia, against the establishment of tobacco export warehouses—to the same committee.

Also, preamble and resolutions adopted at a public meeting of citizens of Lynchburg, Virginia, approving the bill for the construction of the Texas Pacific Railroad, reported to the House of Representatives, and for its passage by Congress—to the Committee on the Pacific Railroad.

By Mr. TURNER: Papers relating to the establishment of a post-route from Frenchburg to Young's Springs, Kentucky—to the Committee on the Post-Office and Post-Roads.

By Mr. WHITTHORNE: Papers relating to the claim of Rear-Admiral Stembel, United States Navy—to the Committee on Naval Affairs.

By Mr. WILLIS, of New York: The petition of merchants, bankers, and other citizens of New York, against the reimposition of the income tax—to the Committee of Ways and Means.

HOUSE OF REPRESENTATIVES.

SATURDAY, April 13, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

INDEXING REVISED STATUTES.

Mr. BICKNELL. I am instructed by the Committee on the Revision of the Laws of the United States to ask unanimous consent that Senate bill No. 1014, requiring the commissioner for preparing and publishing a new edition of the Revised Statutes of the United States to revise and perfect the index of the first volume of the same, be taken from the Speaker's table for consideration and passage at this time.

The SPEAKER. The bill will be read, after which the Chair will ask for objection.

The bill provides that it shall be the duty of the commissioner appointed under the act of Congress entitled "An act to provide for the preparation and publication of a new edition of the Revised Statutes of the United States," approved March 2, 1877, to revise and perfect the index of the new edition of volume 1 of the Revised Statutes therein mentioned, under the direction of the Secretary of State; and that the necessary expenses therefor, including such reasonable additional compensation as shall be allowed by the Secretary of State, shall be paid out of the Treasury, and a sum of money sufficient therefor is hereby appropriated.

There being no objection, the bill was taken from the Speaker's table and read a first and second time.

The question was upon ordering the bill to be read a third time.

Mr. BICKNELL. The object of this bill is to provide a better index for the first volume of the Revised Statutes. The present index is extremely defective; a better one is absolutely necessary. The present reviser is not authorized to make a better index; all that he is required to do is to incorporate in the present index references to his own additions to the volume. The Committee on the Revision of the Laws have instructed me to make the request I have made; they are unanimously in favor of the passage of the Senate bill.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. BICKNELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEATH OF HON. JOHN EDWARDS LEONARD.

Mr. ELAM. I have received a letter from my colleague, [Mr. ELLIS,] in which he states that it is not his purpose to call up to-day the resolutions he introduced some time since in relation to the death of Judge Leonard, of Louisiana. The reason is that several gentlemen who wish to deliver memorial addresses are not now here. My colleague through me asks consent of the House for permission to take up those resolutions on Thursday next at two o'clock.

The SPEAKER. The House will take notice of the intimation which has been made by the gentleman from Louisiana, [Mr. ELAM.]

GRAVE OF THOMAS JEFFERSON.

Mr. COX, of New York. I ask the attention of the House for one moment. This is the anniversary of Jefferson's birthday, the 13th of April. I am directed by the Joint Committee on the Library to report back, with an amendment, a joint resolution which was referred to that committee making a small appropriation for the repair of the monument to the memory of Thomas Jefferson, the appropriation to be expended under the control of the State Department. I will not take up the time of the House in further explaining the matter, for the joint resolution which I send to the Clerk's desk will explain itself.

The SPEAKER. The joint resolution will be read, after which objections will be in order.

The joint resolution (H. R. No. 141) for the erection of a monument over the grave of Thomas Jefferson provides that there shall be appropriated the sum of \$2,500, or so much thereof as is necessary, for the erection of a suitable monument over the grave of Thomas Jefferson at Monticello, to be expended under the direction of the Secretary of State.

The amendment was to add to the joint resolution the following:

Provided, That the owners of the estate upon which said grave is situated shall first quitclaim to the United States all right of property to two rods square of the land surrounding and including the grave, and grant to the public the free right of access thereto.

Mr. REAGAN. Will this prevent the morning hour?

The SPEAKER. It has no connection whatever with the morning hour.

Mr. COX, of New York. I ask unanimous consent—

Mr. FOSTER. I dislike to object.

Mr. COX, of New York. Allow me to make a statement beforehand.

Mr. FOSTER. What I would be willing to agree to would be to appropriate a sum of money to fittingly commemorate here in the city of Washington the memory of Thomas Jefferson. It seems to me that it is a disgrace to the State of Virginia to allow Jefferson's monument to get into such a state of decay as it now is in. Let us appropriate a sufficient sum of money to properly commemorate here in Washington the memory of Thomas Jefferson.

Mr. COX, of New York. I hope that the gentleman, having made his argument, will withdraw his objection.

Mr. FOSTER. I think I must object.

Mr. COX, of New York. I hope the gentleman will hear me after making his statement.

Mr. FOSTER. Certainly I will.

Mr. COX, of New York. I think it is very ungracious to make an objection, especially to-day. Jefferson did not belong to Virginia, but to the whole country. If the gentleman from Ohio [Mr. FOSTER] could know what I know and what is known by some of our own members who have recently visited the resting-place of Thomas Jefferson, he would not object to the appropriation of this small sum—almost a pittance—or so much thereof as may be necessary for so honorable and patriotic a purpose. I hope we will give some distinguishing honor to this natal day of Jefferson by passing this joint resolution. Surely my friend from Ohio will not persist in his objection.

Mr. FOSTER. I would not object to appropriate \$50,000, to be expended for that purpose here in Washington.

Mr. COX, of New York. We cannot, that I am aware, bring the remains of Jefferson here to Washington. I wish we could. We can at any other time make other provision for monumental honors to him at this capital.

Mr. FOSTER. I withdraw my objection.

Mr. DUNNELL. I would like to ask one question of the gentleman from New York, [Mr. COX.] Is this \$2,500 to be expended in the erection of a monument?

Mr. COX, of New York. No, sir. I will say to my friend from Minnesota [Mr. DUNNELL] that after Jefferson's death there were found in his escritoire some memoranda in regard to his grave, providing for a shaft of granite, with the inscription which he desired to be placed on that monument. That monument is now broken, and the other graves and property around it in similar shameful neglect and decay. This is beyond expression mortifying to those who know the origin of our Independence or love the intellectual heroes of our elder day.

The inscription cannot be found. It is all effaced. The monument is in a scandalous condition. It will be shameful to the American people if, when their Representatives know the truth, they do not apply the remedy. Every year during the summer pilgrims go to Monticello as to a sacred shrine, to see the place where the author of the Declaration of Independence lived and where he is buried. I do hope that we may do something at least to put that simple grave in repair, and hereafter, if the American Congress should choose to erect in this city a suitable monument to the great fame of the third President of the United States, I shall be among the first to welcome any such movement.

Mr. DUNNELL. I do not raise any objection to the passage of this resolution, but I was in hopes that there might have been provision also for honoring the grave of another President of the United States—Zachary Taylor.

Mr. COX, of New York. I hope that will be done.

Mr. DUNNELL. I understand that his grave is without even a monument to mark the spot where he rests.

Mr. COX, of New York. I should not object to supporting a measure for that purpose at any proper time.

Mr. HANNA. I wish to ask the gentleman from New York [Mr. COX] whether the title of the ground on which this monument is to be erected is in such a shape that the Government will have the possession of the monument hereafter?

Mr. COX, of New York. We leave it to the Secretary of State to make proper provision for that purpose. We provide for obtaining title and securing access for the Government and the public as a condition precedent to spending any money by the Government.

Mr. FRYE. Mr. Speaker, I revere the memory of Mr. Jefferson above that of almost any other man, especially because he was the earnest, constant friend of the common schools. He drafted the article in the constitution of Maine relating to education, under the influence of which my State stands to-day pre-eminent for the general intelligence of her people. If Virginia had listened to the counsels of this eminent man and participated in his love for the common schools his grave would not now have been a neglected, desolate spot; the Congress of the United States would not have been called upon for an appropriation for the restoration of his monument. But, sir, I do not wish to visit upon Mr. Jefferson the sins of his State, and I heartily support the proposition of the Library Committee.

Mr. COX, of New York. I do not wish to engage in any acrimonious discussion; we had enough of that yesterday. Mr. Jefferson

was a great lover of the cause of education. In fact, the climax of the inscription which he desired placed over his grave was:

Here was Buried
Thomas Jefferson
Author
of the Declaration of
American Independence,
of
The Statute of Virginia,
for Religious Freedom, and
Father of the University
of Virginia.

He even omits from this inscription the fact that he was a President of the United States. The world would know that, for it is a part of dryest history. We all know, too, that he was our great philosophic teacher, the overshadowing intellect of his time and country. We know that he assisted largely in laying the foundations of our greatness "broad based upon the people's will." This is his distinguishing quality and the acme of his fame. Therefore, sir, upon this day of all others we should with alacrity and spontaneity pass a measure so honorable to his memory and which will reflect some honor upon the American Congress.

The gentleman from New Jersey, [Mr. HARDENBERGH,] who lately visited Monticello desires to say a few words, and I shall yield to him. I fail to see my gallant and accomplished friend from Mississippi, [Mr. MANNING,] to whose visit to and observation of this neglected grave I am indebted for the original suggestion of the joint resolution which I trust will pass. I yield to the gentleman from New Jersey, [Mr. HARDENBERGH.]

Mr. HARDENBERGH. Mr. Speaker, during a visit last week to Monticello and the grave of Jefferson, I met there his great-grandson, the son of Thomas Jefferson Randolph. He informed me of a fact I never knew before, that the original monument to Thomas Jefferson had been all chipped away; that a second one had also been chipped away; and a third is now undergoing the same process—an unsightly structure. Last night a week ago during a heavy gale the lower part of the brick wall surrounding the tomb was blown down; but it is about to be restored by the family of Dr. Randolph, who now have the matter in charge. The inscription is gone; not a trace remains. An obelisk stands over the tomb, but the whole site bears the evidence of a nation's neglect.

It does seem to me that no more fitting time than now could occur for passing a measure of this kind. It is fitting that on the anniversary of Jefferson's birthday the nation should at last do justice even in so small a way to his memory. The title to Monticello has been in litigation for a number of years, and I think a judicial decree has been made for its sale; but that does not affect the grave-yard, which is reserved to the family. Desolation and ruin mark everything around the place. I went through the house in which Jefferson lived. There is scarcely a whole shingle upon it, except what have been placed there within the last few years. The windows are broken; everything is left to the mercy of the pitiless storm. The room in which Jefferson died is darkened; all around it are the evidences of desolation and decay—a standing monument to the ingratitude of a great Republic. Let it no longer be said that the framer of our Declaration of Independence lies there mouldering with no fitting tomb over his remains to commemorate a nation's gratitude and a nation's pride in those principles which he announced in behalf of human freedom and happiness throughout the world.

Sir, on this day, the anniversary of his birth one hundred and thirty-five years ago, let us pause in our deliberations and pay this feeble tribute to the name and fame of Jefferson.

Such graves as his are pilgrim-shrines
Shrines to no code or creed confined—
The Delphian vales, the Palestines,
The Meccas of the mind.

Mr. COX, of New York. I am requested by gentlemen all around me to amend the resolution so as to make the appropriation "\$5,000, or so much thereof as may be necessary in the opinion of the Secretary of State."

The SPEAKER. Is there objection to modifying the joint resolution as indicated by the gentleman from New York? The Chair hears none.

The joint resolution, as amended, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. COX, of New York, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FREIGHT RATES.

Mr. BACON, by unanimous consent, presented the following preamble and resolutions of the Legislature of the State of New York; which were read, and referred to the Committee on Commerce:

Whereas there are now before Congress several bills seeking to provide for equity in rates of freights on property transported by common carriers in this country: Therefore,

Resolved, (if the senate concur,) That our Senators and Members of the House of Representatives in Congress assembled be, and they are hereby, requested to use their influence to secure the enactment of any wise and equitable law having for

its object the prevention of violent and injurious fluctuations and unjust discrimination in rates of freight imposed by common carriers upon property transported by them in this country.

Resolved, That the clerk of the Assembly be directed to transmit a copy of the foregoing preamble and resolution to each Senator and Member of the House of Representatives from the State of New York.

By order.

EDW. M. JOHNSON, *Clerk*.

In senate, April 5, 1878, concurred in.

By order.

JOHN W. VROOMAN, *Clerk*.

TRANSFER OF LIFE-SAVING SERVICE.

Mr. BACON also, by unanimous consent, presented the following resolution of the Legislature of the State of New York; which was read, and referred to the Committee on Commerce:

Resolved, (if the senate concur,) That the people of the State of New York, speaking through their representatives in the Legislature, do hereby protest to the honorable Congress of the United States against the passage of the bill introduced by Senator SARGENT, whereby it is proposed to transfer the control of the life-saving service on the seaboard and the lake coasts from the Treasury to the Navy Department, believing such transfer to be unjust to the officials who have brought said service to its present stage of efficiency, unwise by reason of its necessarily disorganizing effect upon the crews, and inexpedient as substituting inexperienced and perhaps incompetent persons in the places of those who by occupation and local experience have become qualified to man the surf-boats and efficiently discharge the other duties of the service. We therefore request our representatives in Senate and Congress to oppose the transfer.

By order.

EDW. M. JOHNSON, *Clerk*.

In senate, April 4, 1878, concurred in.

By order.

JOHN W. VROOMAN, *Clerk*.

COMPARATIVE STATEMENT OF TARIFF DUTIES.

Mr. KELLEY. I offer the following resolution calling for information from the Treasury. It may be proper to say the information has been already prepared. I desire to get it for the whole House instead of for a few members.

The Clerk read as follows:

Resolved by the House of Representatives, That the Secretary of the Treasury be requested to furnish this House with a detailed statement of the articles enumerated in the "bill to impose duties upon foreign imports," &c. (H. R. No. 4106) showing in parallel columns the rates of duty proposed therein and the present rates of duty, the quantities and values of imported commodities which entered into consumption in the United States during the fiscal year ended June 30, 1877, and the amount of duties computed thereon at the rates named in said bill.

Mr. CONGER. On the 3d of this month, on the motion of the gentleman from Rhode Island, [Mr. BALLOU,] the Committee of Ways and Means was directed by this House to have prepared and published for the use of the House a comparative statement of the duties under the present tariff and under the change of duties proposed in the new tariff bill. From that day to this, notwithstanding the instructions of the House, notwithstanding the desire of the House, I am informed that committee have made no preparation for the publication of that statement. I have sent to the document-room repeatedly for it. I very much desire, before the committee introduce any new proposition of that kind, to have fulfilled the peremptory order of the House by the publication of that statement.

Mr. KELLEY. I desire to say, on receiving the resolution of the House, the Committee of Ways and Means transmitted it to the Treasury Department, and that, on my inquiry from time to time of the matter, I learned it had been sent to the House. On my last inquiry, some three days ago, I was informed it had gone to the printer the day before and would be ready for distribution as soon as it came from the Printing Office. This resolution contemplates not only that information, but a detailed statement of the items and amounts received. It has been already prepared. I have examined it. There is, I am informed, a copy of it in the hands of a member of this House, and not a member of the Committee of Ways and Means. And it is very desirable such information should be before every member when we come to discuss the pending tariff bill in detail. I presume the paper called for by the resolution of the gentleman from Rhode Island [Mr. BALLOU] and referred to by the gentleman from Michigan is now in the hands of the proper officer of the House.

The SPEAKER. The Chair desires to state that he has made inquiry about this paper this morning, and learned it was in the hands of the printer and would be soon published.

Mr. CONGER. I received a telegram from the Public Printer yesterday or the day before that no such paper had been sent to his office, and I intended to-day to take the opportunity to call the attention of the House to the fact that such an important document as that, for some reason or other, was not yet prepared by the Committee of Ways and Means and not yet sent to the House.

Mr. KELLEY. I have been informed since I last addressed the Speaker that the messenger of the Committee of Ways and Means has carried that statement to the printer. I was informed three or four days ago by the Clerk that it had been sent. I suppose some misunderstanding or accident prevented its early carriage, but the messenger tells me he delivered it this morning to the printer.

Mr. CONGER. The reason I speak of it is this: although I am not complaining too much that the remarks of the chairman of the Committee of Ways and Means and my own remarks are suppressed in the RECORD, I did suppose a peremptory order of the House would receive some attention from the committee.

Mr. KELLEY. I am myself, as a member of the committee, as anxious to get that paper as the gentleman from Michigan can be.

The SPEAKER. The Chair desires to say he has made inquiry from time to time as to this and he believes there has been no neglect in regard to it.

Mr. BALLOU. I would like to ask the gentleman if the items that are made free in the new bill will appear in the statement.

Mr. MORRISON. I ask the gentleman from Pennsylvania if he will so amend his resolution of inquiry as that we should be informed what articles are to be put on the free list which are now on the dutiable list, and vice versa.

Mr. KELLEY. I have no objection to the amendment suggested by the gentleman from Illinois. But I will say to the gentleman that it is impossible for any statistician to answer those questions, as they can only be determined as the bill now stands when points shall be adjudicated by the Supreme Court of the United States. There can only be given a reasonable guess as to what are to be on the free list and what articles are to be transferred to the dutiable list.

Mr. MORRISON. I would like to have the gentleman so amend his resolution as to give us even the guesses of the Department.

Mr. KELLEY. I am quite willing to accept the modification suggested.

Mr. BURCHARD. I wish to say one word as to this. To my personal knowledge the clerk of the Committee of Ways and Means immediately proceeded to execute the order of the House. It was a labor that required a good deal of care to prepare those tables if they were to be accurate; and, as the gentleman from Pennsylvania has remarked, it required information from the Treasury Department. I do not think there has been any delay on the part of the committee or the clerk of the committee. The gentleman from New York, [Mr. WOOL,] the chairman of the committee, is absent or he would probably be able to give the gentleman from Michigan precise information as to the matter. But I know personally that the clerk has been at work upon it, and that he went immediately at work on the tables which the House directed to be prepared.

Mr. CONGER. I could not understand how the committee could work several months on those changes of the tariff which they have been considering without having these facts before them.

The SPEAKER. The Chair thinks this debate is not in order. Is there objection to the introduction of the resolution of the gentleman from Pennsylvania?

There was no objection.

The resolution, as modified, was adopted.

EVENING SESSION FOR DEBATE ON TARIFF.

Mr. KELLEY. Before I leave the floor I desire, at the request of a number of gentlemen, to ask that an evening session may be held on Monday, for debate only, when a number of gentlemen who have speeches prepared on the tariff bill and who are likely to be compelled to leave the city for a few days desire to speak.

The SPEAKER. The gentleman from Pennsylvania asks that the House direct an evening session to be held on Monday at half past seven o'clock, no business to be transacted and to be confined to speeches on the subject of the tariff.

Mr. MILLS. I desire to add as an amendment to the gentleman's proposition that there be evening sessions on Tuesday, Wednesday, and Thursday, for the consideration of bills on the Private Calendar reported by the Committee on Revolutionary Pensions and the Committee on Invalid Pensions.

The SPEAKER. The Chair will recognize the gentleman from Texas to make that motion immediately after action is taken on the proposition of the gentleman from Pennsylvania. Is there objection to assigning the session of Monday evening at half past seven o'clock to debate on the tariff, no business to be transacted?

There was no objection, and it was so ordered.

EVENING SESSIONS FOR CONSIDERATION OF PENSION BILLS.

Mr. MILLS. I now move that there be evening sessions of the House on Tuesday, Wednesday, and Thursday, of next week, at half past seven o'clock, for the consideration exclusively of bills on the Private Calendar from the Committee on Revolutionary Pensions and the Committee on Invalid Pensions.

Mr. EDEN. Nothing else to be in order except the pension bills!

Mr. CONGER. I suggest that the order should also embrace reports from the Pension Committee.

Mr. RAINEY. I was about, as a member of the Committee on Invalid Pensions, to make that request.

Mr. TOWNSEND, of New York. I hope there will be no objection to the proposition of the gentleman from Texas. If the Private Calendar is not considered in some such way there will be a denial of relief to a great many worthy applicants.

Mr. BURCHARD. Why not proceed with the business on the Private Calendar in its order as on objection day?

Mr. BRIGHT. I think that would be the proper way.

The SPEAKER. The Chair thinks the proposition of the gentleman from Texas provides much the most expedient way. It is customary to do this every session of Congress. It takes off the Private Calendar all the revolutionary pension bills, and all the invalid pension bills arising out of the late war, and gives immediate relief in such cases as have been passed upon. It gives also to the Senate time

before the adjournment of this session of Congress to consider these bills and pass them. The Chair hopes unanimous consent will be given.

Mr. RAINEY. I wish to say this: that the Committee on Invalid Pensions have not had for some time an opportunity to report bills, and I think it is desirable that that should be included in the business assigned for the evening sessions.

The SPEAKER. The Chair will include that. The gentleman from South Carolina, [Mr. RAINEY,] a member of the Committee on Invalid Pensions, desires that the gentleman from Texas shall include in his proposition that the committee may be allowed to report upon matters of the same character as those which are to be considered in Committee of the Whole, so that the proposition will be in this shape: that these evening sessions be set apart for reports of the Committee on Revolutionary Pensions and Committee on Invalid Pensions, and for consideration of the bills of that committee as in Committee of the Whole.

Mr. MILLS. And as objection day.

Mr. DURHAM. I ask the gentleman from Texas [Mr. MILLS] to defer this matter for one week longer for this reason, that we expect to get up the legislative, executive, and judicial appropriation bill next Monday, after the morning hour, and I will state that one of my colleagues on the committee [Mr. FOSTER] will be obliged to leave this city at the latter part of next week, and we want, therefore, if we can, to dispose of that bill next week.

The SPEAKER. The Chair thinks that the Committee on Appropriations can have all the day sessions of next week.

Mr. DURHAM. I merely stated the reason why I made the request of the gentleman from Texas.

The SPEAKER. The Chair's experience is that it is a bad time to consider appropriation bills at night.

Mr. WHITE, of Pennsylvania. May I inquire if at these evening sessions bills that have been objected to on the Private Calendar will be considered.

The SPEAKER. If pension bills they will be considered.

Mr. FRYE. Is it distinctly understood that this does not include any general pension bills which may be pending before the House?

The SPEAKER. The Chair understands that the motion relates only to revolutionary-pension bills and invalid-pension bills. The other bills to which the gentleman from Maine refers are probably upon the public Calendar, and the object of this motion is to strip the Private Calendar of a vast amount of business so that it will not only be doing justice to those applicants for pensions whose claims have been passed upon favorably, but also to the other bills which would not otherwise be reached in consequence of the Calendar being so full. If there be no objection, the motion of the gentleman from Texas [Mr. MILLS] will be considered as agreed to. The Chair hears no objection.

Mr. CONGER. I withdraw my suggestion.

Mr. KEIFER. There is a misunderstanding about this matter. The gentleman from Michigan [Mr. CONGER] desired that the evening sessions should be considered as objection days, and now I understand him to withdraw that suggestion.

Mr. BURCHARD. It was the gentleman from Texas who made that proposition.

Mr. MILLS. My proposition was that the bills be considered as on objection day.

Mr. KEIFER. We want to know which way it is.

The SPEAKER. The Chair, then, wants to correct the statement which he made a few moments since. The Chair thought that that was not embraced in the original proposition, but was suggested by the gentleman from Michigan, [Mr. CONGER,] and when the gentleman from Michigan withdrew his proposition in that respect the Chair supposed that all pension appropriation bills within the class mentioned would come up for consideration, and it would not be within the power of a single member to object, but the gentleman from Texas now states that his original proposition included that the bills should be as on objection day. The House must understand, then, that this unanimous consent was given for the consideration of the bills referred to on the evenings named, as on objection day.

Mr. MILLS. When the bills are first called in their order on the Calendar one objection can pass them over, and when they are called a second time it takes five objections.

POST-OFFICE APPROPRIATION BILL.

Mr. BLOUNT. I move that the House now resolve itself into Committee of the Whole on the state of the Union, for the purpose of considering the post-office appropriation bill.

Mr. MILLS. Will we have no morning hour?

The SPEAKER. That is for the House to determine.

The question was taken on Mr. BLOUNT's motion; and on a division there were—ayes 110, noes 55.

So the motion was agreed to.

Mr. BLOUNT. Before the House goes into Committee of the Whole on the state of the Union, I ask that the clerk of the Committee on Appropriations be allowed upon the floor during the consideration of this bill.

No objection was made, and the leave was granted.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. Cox, of New York, in the chair,) and

proceeded to consider the bill (H. R. No. 4246) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes.

Mr. BLOUNT. I did not make a motion to close the general debate upon this bill in the House, and unless the committee desires otherwise, I shall ask that such time be allowed for general debate as will enable me to make such general statements as may be necessary to present the main features of the bill to the committee.

The CHAIRMAN. The Chair would state that general debate has not been limited on this bill.

Mr. BLOUNT. I am aware of that, but I ask unanimous consent that debate be limited to such time as may be necessary for me to make a general statement of the main features of the bill.

The CHAIRMAN. The gentleman will state his proposition more definitely.

Mr. BLOUNT. I ask that such time may be allowed for general debate as will be needed to enable me to present to the House the main features of this bill.

The CHAIRMAN. How much time does the gentleman want?

Mr. BLOUNT. Not exceeding an hour, and I have no idea that I will occupy that time.

Mr. BEEBE. Can the Committee of the Whole limit the time for general debate?

The CHAIRMAN. Only by unanimous consent.

Mr. BEEBE. Then I object to it.

The CHAIRMAN. The gentleman from Georgia [Mr. BLOUNT] will proceed.

Mr. LUTTRELL. There are many members here who are upon committees which have important bills to consider, and we would like to know of the gentleman from Georgia [Mr. BLOUNT] when he proposes to proceed to consider this bill by paragraphs for amendment.

Mr. BLOUNT. I shall take some time to state what the Committee on Appropriations have done in regard to this bill. When I have finished that statement, I will then move that the committee rise for the purpose of closing general debate and enabling the committee to proceed with the consideration of the bill by paragraphs under the five-minute rule.

Mr. LUTTRELL. Does the gentleman propose to commence the five-minute debate upon this bill to-day?

Mr. BLOUNT. I do.

Mr. LUTTRELL. The gentleman understands that another matter has been set down for two o'clock to-day.

The CHAIRMAN. That matter has been postponed until Thursday next at two o'clock.

Mr. BLOUNT. The Committee on Appropriations have presented to the House a bill making appropriations for the postal service for the next fiscal year of the sum of \$33,090,373. The appropriations which were made for the current fiscal year for this purpose amounted to \$34,078,143. The estimates for the coming fiscal year were \$36,427,771. The difference between the appropriations for the current fiscal year and those contained in the bill now under consideration for the next fiscal year is \$987,770 in favor of the bill now under consideration.

It is a well-known fact that the postal service of the United States is continually growing, growing with the population, growing with the increase of the public business. I have before me a table, which will be found upon page 134 of the report of the Postmaster-General, made at the beginning of this session of Congress, from which I will read a few figures illustrative of the rapid growth of this service. For the fiscal year ending June 30, 1866, the cost for the railway service was \$3,391,592; for the fiscal year ending June 30, 1872, it was \$6,502,771; for the fiscal year ending June 30, 1876, it was \$9,543,134, and for the fiscal year ending June 30, 1877, it was \$9,053,936.

The star service in the mean time has been always increasing, both in the annual cost of transportation and in the number of miles of routes. The cost of the steamboat service is varied; it is now less than it was in 1870. There have been variations, some years an increase and some years a decrease.

On page 145 of the report of the Postmaster-General will be found a statement, including, among other items, the increase per cent. in the growth of the railway mail service in this country. It will be noticed that that rate of increase has kept pace in its retrograde movement with the repression of the business of the country. In 1871 the increase per cent. was 13.96; in 1872, 16.21; in 1873, 9.40; in 1874, 6.74; in 1875, 3.47; in 1876, 3.23; and in 1877, 3.04. This shows that during the last fiscal year the increase in the railway service has been less than for any other period since the war. Nevertheless there is, it will be observed, a slight increase.

The question then arises, how has it been possible for the Committee on Appropriations to bring forward a postal-service bill reducing the expenditures of the Post-Office Department? This is mainly attributable to three items. In the first place we have determined to change the method of compensating fourth-class postmasters. Under the present system the basis for adjusting their compensation is the amount of stamps sold by them; at least, that is the principal item. This bill proposes to return to the old plan of the cancellation of stamps. The Committee on Appropriations have taken as their method of accomplishing this purpose the fourth section of the bill reported from the Committee on the Post-Office and Post-Roads by the distinguished gentleman from North Carolina, [Mr. WADELL,] the chairman of that committee. They feel assured of the correctness of that

plan from their confidence in the ability of the members composing that committee, and because of its recommendation by the Postmaster-General, and the general assent to it by every person connected with the postal service. The Postmaster-General, on pages XXII and XXIII of his report, uses this language:

I desire especially to call attention to a matter which has been earnestly dwelt upon by my two immediate predecessors, and to insist, as they did, upon the urgent necessity for a change in the method of adjusting the salaries of postmasters at fourth-class offices. In this class are embraced all offices to which appointment is not presidential, or more than 96 per cent. of the whole number, so that it must be evident that any evil and mischievous influence affecting the management of fourth-class offices must be potent and far-reaching in their effects. Under existing law, postmasters in charge of this class of offices derive their salaries almost entirely from a very large percentage on their sales of postage-stamps, while the salaries of presidential offices, having once been adjusted according to law, remain unchanged until a new adjustment is ordered. Postmasters of the first three classes appointed by the President, receiving fixed salaries of from one thousand to four thousand dollars, (except the postmaster at New York, whose salary is \$4,000,) must account for all stamps sold by them at their face value, and their salaries would not be increased by the sale of an immense number of stamps nor diminished by the failure to sell any. Whether the sales of stamps at presidential offices amount to ten thousand or one hundred dollars, the Government receives the entire amount. But with offices of the fourth class the opposite is the case. A postmaster at a fourth-class office receives 60 per cent. of the amount of stamps sold by him in each quarter up to \$100; on all over one hundred and not over three hundred dollars per quarter, 50 per cent., and on all over \$300 per quarter, 40 per cent., until the amount reaches \$1,000 or over, when the office becomes presidential and has a fixed salary under the method of adjustment prescribed by law. If a postmaster of the fourth class sells quarterly one hundred dollars' worth of stamps, or \$400 annually, he receives of the proceeds \$240 and the Government \$160. If he sells three hundred dollars' worth quarterly, or twelve hundred dollars' worth a year, the postmaster would receive \$640 and the Government \$360. He may go further, and, in addition to the amount stated, may sell annually stamps to the value of \$395, of which his share will be \$338 and that of the Government \$557. That is, under existing law, twenty-five out of every twenty-six postmasters may sell annually, in quarterly installments, postage-stamps to the amount of \$2,095, of which each will receive \$998, and the Government \$1,097, while in only one office out of every twenty-five do the entire proceeds from the sales of stamps accrue to the benefit of the Government.

It thus plainly appears that the law now in force has created a direct antagonism between the interest of the Government and that of 96 per cent. of the postmasters. The postmasters of the fourth class are interested in selling as many stamps as possible, but the larger their sales become the smaller in proportion are the revenues of the Department; and, on the contrary, the greater the sales by presidential offices, the greater the revenues of the Department, for the country can only use a certain amount of stamps, and an increase of sales at fourth-class offices necessarily causes a decrease of the receipts from presidential offices.

If gentlemen will turn to pages 167 and 168 of the report of the Postmaster-General they will find the subject discussed there by the Third Assistant Postmaster-General, as follows:

To put the matter differently, during the three years these little offices increased their ratio of the total sales, from the standard of the preceding three years, just 5.34 per cent., or \$3,841,587 73, at the expense of the presidential offices. It is fair to presume that the rate of commissions allowed on this sum did not average less than 50 per cent., at which rate the amount of commissions lost to the Government would be \$1,920,793.86.

According to the calculations here made there is a loss per annum of at least \$700,000 paid to postmasters that ought not to be paid to them, and will not be paid to them if the service is administered as it should be.

The next important subject is that of inland transportation, and first that of railway postal service. If gentlemen will refer to the report of the Committee on Appropriations accompanying this bill they will find in it the laws which have been passed upon the subject of compensating railroads for postal services. It will be seen by that report that up to 1873 the highest rate of compensation to railroads, even to those carrying postal cars, was \$375 per mile per annum.

By examining the report it will be found that quite a number of roads are being paid at this time over \$1,000 per mile per annum. Now, during the last Congress a bill reported by the Committee on Appropriations was passed providing for a reduction of 10 per cent. upon rates as they then stood under the law. But notwithstanding this reduction rates of \$1,000 per mile per annum still obtain. The committee, on examination of this subject, comparing the freight charges of 1873 with those of the present period, found that there had been a large reduction in rates as charged to everybody besides the Government. On pages 23, 24, and 25 of the report of the committee will be found a statement compiled by the Bureau of Statistics in regard to this subject. I quote from the report:

The impression has generally prevailed that, owing to the cessation of hostilities between the various through lines, the rates on through business during the past season have been higher and firmer than for some time previous. This has certainly been the case as respects some of the principal staples. At the same time it would appear from the returns for this year that through freights on the average ruled even lower than the low rates to which attention was called in the last annual report of this board, (page 8.) This is made apparent from the following table, which shows the average rate per ton per mile charged in the years specified on merchandise received from or delivered to other roads:

Railroads.	1875.	1876.	1877.
Boston and Albany.....	Cents. 1.17	Cents. 0.96	Cents. 0.85
Boston and Lowell.....	2.77	2.60	2.50
Boston and Maine.....	2.40	2.40	2.10
Pittsburgh.....	2.61	1.39	1.13
Cheshire.....	1.81	1.01	1.08
New London Northern.....	2.30	2.08	2.10

The rapid reduction which has been going on in railroad freight charges during recent years is not generally appreciated. It will, however, be apparent on examination of the following table, showing the rate received per ton per mile by the Boston and Albany road through a period of thirteen years since the close of the war of the rebellion. It will be noticed that the rate for 1877 is but 34 per cent. of that for 1865:

Years.	Rate.	Years.	Rate.
	Cents.		Cents.
1865.....	3.55	1872.....	2.02
1866.....	3.16	1873.....	1.96
1867.....	2.98	1874.....	1.82
1868.....	2.81	1875.....	1.53
1869.....	2.43	1876.....	1.28
1870.....	2.19	1877.....	1.21
1871.....	2.09		

Statement showing the gradual reduction in freight charges per ton per mile, on several transportation lines engaged in commerce between the Western States and the Atlantic seaboard, from 1868 to 1876, inclusive, from First Annual Report of the Internal Commerce of the United States, by Joseph Nimmo, Jr.

Railroads.	Years.									
	1868.	1869.	1870.	1871.	1872.	1873.	1874.	1875.	1876.	
	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	
New York Central.....	2.50	2.20	1.86	1.65	1.69	1.57	1.47	1.27	1.05	
Pennsylvania.....	1.98	1.72	1.55	1.34	1.42	1.41	1.26	1.06	.89	
Erie.....	1.92	1.60	1.37	1.47	1.52	1.43	1.31	1.21	1.07	
New York State canals.....	.88	.92	.83	1.02	1.02	.88	.73	.66	.68	
Philadelphia and Erie.....				1.85	1.46	1.36	.94	.87	.71	
Lake Shore and Michigan South- ern.....	2.43	2.34	1.50	1.39	1.37	1.33	1.18	1.01	.82	
Michigan Central.....	2.00	1.91	1.61	1.56	1.57	1.30	1.16	1.03		
Chicago, Burlington and Quincy.....	3.01	2.77	2.31	2.19	2.18	1.92	1.90	1.91		
Chicago and Northwestern.....	3.13		3.09	2.87	2.51	2.35	2.10	1.95		
Average.....	2.26	1.97	1.91	1.74	1.67	1.51	1.36	1.21		

I call attention likewise to a statement on this same subject from the Railroad Gazette of January, 1876:

Below we give the rates per one hundred pounds from New York to Chicago and from Chicago to New York that have been fixed during the four years ending with 1875:

Rates per hundred pounds from New York to Chicago.

Date of issue.	First class.	Second class.	Third class.	Fourth class.	Special.
December 15, 1871.....	\$1 25	\$1 10	\$0 85	\$0 65	\$0 50
July 31, 1872.....	75	70	60	45	35
September 2, 1872.....	1 00	90	70	55	45
October 14, 1872.....	1 25	1 10	85	65	50
April 14, 1873.....	1 00	90	75	60	45
July 23, 1873.....	75	70	60	45	35
August 11, 1873.....	40	40	30	30	20
September 17, 1873.....	75	70	60	45	35
January 1, 1874.....	1 00	90	75	60	45
July 27, 1874.....	75	70	60	45	35
January 20, 1875.....	1 00	90	75	60	45
March 17, 1875.....	75	70	60	45	35
August 12, 1875.....	50	40	30	25	20
November 15, 1875.....	75	70	60	45	35
December 23, 1875.....	30	25	20	20	15

Taking the winter and midsummer rates, both east and west bound for the first and last of the years included in this record and we have:

New York to Chicago.

	First class.	Second class.	Third class.	Fourth class.	Special.
Summer:					
1872.....	\$0 75	\$0 70	\$0 60	\$0 45	\$0 35
1875.....	50	40	30	25	20
Winter:					
1872.....	1 25	1 10	85	65	50
1875.....	75	70	60	45	35

Chicago to New York.

	First class.	Second class.	Third class.	Fourth class.	Bulk grain.	Dressed hogs.
Summer:						
1872.....	\$1 60	\$1 25	\$0 85	\$0 50	\$0 50	
1875.....	1 50	1 10	85	50	50	
Winter:						
1872.....	1 60	1 25	85	65	65	\$0 85
1875.....	1 50	1 10	85	50	45	70

The large reduction to be observed here is in the heavy freight

which constitutes the great bulk of freight carried over the roads. The writer continues:

On the great bulk of east-bound freight, we may say, in the four years from 1872 to 1875 the rates fell from fifty to thirty cents, or 40 per cent. in summer, and from sixty-five to forty-five cents, or 31 per cent. in winter.

Now, sir, in view of this most remarkable reduction in rates of freight, in view of the reduction in the cost of iron at least 100 per cent., of coal the same, of labor 50 per cent., we did feel it proper to consider the question whether the charges for transporting the mails of this Government should not respond to declination in prices in connection with every other interest in the country.

But, sir, lest there should be some alarm the committee determined to make the small reduction of about 5 per cent. With this statement of facts, I apprehend that no gentleman on the floor will hesitate to admit that the Government was entitled to at least this reduction.

In this connection I desire to call attention to a table on page 11 of the report:

Comparative exhibit of the steamboat and star service, fiscal year ending June 30, 1879, under new letting as compared with that of 1878.

States and Territories	Star service.	Steamboat.	New letting star service.	New letting steamboat service.	Difference in cost.
New England	\$263,397 50	\$22,592 88	\$263,397 50	\$22,592 88	.....
New York, New Jersey, and Delaware	260,222 07	6,139 85	260,222 07	6,139 85	.....
Pennsylvania	309,700 94	5,500 00	309,700 94	5,500 00	.....
Maryland, Virginia, and West Virginia	231,845 64	55,820 00	231,845 64	55,820 00	.....
North Carolina, South Carolina, and Georgia	189,205 62	14,884 07	189,205 62	14,884 07	.....
Florida, Alabama, and Mississippi	189,488 98	114,958 07	189,488 98	114,958 07	.....
Tennessee and Kentucky	166,040 52	54,892 00	166,040 52	54,892 00	.....
Ohio and Indiana	227,069 33	13,993 00	227,069 33	13,993 00	.....
Illinois and Iowa	251,036 31	.....	251,036 31	.....	.....
Michigan, Wisconsin, and Minnesota	286,750 67	19,222 00	286,750 67	19,222 00	.....
Missouri	178,864 31	26,250 00	178,864 31	26,250 00	.....
Arkansas	178,461 57	94,600 00	163,617 37	194,600 00	\$74,844 30
Louisiana and Texas	525,848 30	148,350 00	400,160 11	148,350 00	125,668 28
Kansas, Nebraska, Dakota, and Indiana	474,139 83	.....	339,107 76	.....	135,032 07
California and Territories	2,036,460 88	140,417 37	939,563 84	107,601 37	909,890 56
Not let	.....	.....	*219,912 48	.....	.....
Total	5,669,132 56	717,619 24	4,456,603 45	684,803 24	1,245,345 11

* Total, \$1,159,476.32. † Estimated.

NOTE.—Not let: Wyoming, \$67,891.48; Arizona, \$46,633; Utah, \$64,500; Idaho, \$10,100; Washington, \$3,000; Oregon, \$8,388; Nevada, \$6,500; California, \$12,900; total, \$219,912.48.

Star service	\$5,669,132 56
Steamboat	717,619 24
Present cost of star and steamboat	6,386,751 80
New letting steamboat service	\$684,803 24
Cost of new service	4,456,603 45
Difference	5,141,406 69
	1,245,345 11

By this table it will be seen that under the new letting for the fiscal year ending June 30, 1879, there is a total reduction of \$1,245,345.11 in the cost of steamboat and star service as compared with the cost for the fiscal year ending June 30, 1878. It will also be seen by a note appended to this table that there is a total of \$219,912.48 hereafter to have its favorable chance of reduction under new contracts.

While freights have been thus reduced, while there has been a general reduction of values, and while we have been making a saving of at least 25 per cent. in the star and steamboat service, we felt that we should fail in our duty if we did not insist upon some reduction of the railroad charges for carrying the mails of the country.

We have on page 8 of this report a statement showing the amount of reduction accomplished under the 10 per cent. rule established by the last Congress. It appears that the 10 per cent. reduction would have resulted, if the law had gone immediately into effect, in an aggregate reduction of \$935,527. There were a number of railroads then under contract. If gentlemen desire to be accurate, they will find in the report those upon which this law did not operate. There was something like \$700,000 reduction. During this fiscal year the 10 per cent. reduction will apply to \$1,000,000. In the next fiscal year there will be a further reduction of 10 per cent. on \$100,000. The railroads generally are not recontracting, so that during the next fiscal year we shall not only have in operation these in addition to what we have had under the 10 per cent. rule, but we shall have in operation this 5 per cent. reduction throughout the entire railway service. We have therefore been able, as I will show by the figures when we reach the five-minute debate, to reduce this amount to the sum of \$9,100,000.

Before passing away from the subject of inland transportation I desire to call the attention of the House to the tables on pages 13 and

21 of this report. They have been separated by the printer, but should have been published together. I desire to call the attention of the House to them because they are in reference to a subject in regard to which there was a good deal of discussion in the House when a successful effort was made to add \$500,000 to the appropriation for the present fiscal year for the star mail service in the States and Territories. In this comparative table will be found a statement of the receipts and expenditures for the year 1860 and in 1877. It will be seen that in the State of Maine the star service in 1860 was 28 trips per week and railroad 8 per week, while the same service in 1877 was star service 4.4, steamboat 3, and railroad 9.4; New Hampshire, 1860, star 2.6, steamboat 3, and railroad 8.3; 1877, star 4.7, steamboat 2.9, and railroad 13.2. Massachusetts, in 1860, star, 3.9, steamboat 5, and railroad 10.3; 1877, star 6.5, steamboat 3.3, and railroad 14.5. Rhode Island, 1860, star 3.7, steamboat 6, and railroad 10.9; 1877, star 4.9, steamboat 6.6, and railroad 17.

I come now to the same service in some of the Southern States. In North Carolina in 1860, star 1.8, steamboat 3.5, and railroad 8; 1877, star 1.7, steamboat 2.7, and railroad 8.6, showing an actual decrease. South Carolina, 1860, star service 1.5, steamboat 1.5, and railroad 10.7; 1877, star 1.3, steamboat 1.9, and railroad 9.8. Georgia in 1860, star 2, steamboat 2, and railroad 8.3; 1877, star 1.5, steamboat 2, and railroad 9. Florida, 1860, star 2, steamboat 1.4, and railroad 6.9; in 1877, star 1.4, steamboat 1.4, and railroad 9. Alabama, 1860, star 2, steamboat 7, and railroad 8; 1877, star 1.7, and railroad 9.8. Mississippi, 1860, star 2.4, steamboat 2, and railroad 7.4; 1877, star 1.5, steamboat 1.4, and railroad 7. Tennessee, 1860, star 2, steamboat 6, and railroad 8; 1877, star 1.8, steamboat 3, and railroad 10.

It will thus be seen that while the star service in the other sections of the country has been almost doubled there has been a decrease in the Southern States.

And while on this subject I desire to call the attention of the House to the disposition of the large increase of the star service which we had in 1877. I thought as did a great many other gentlemen there had been a large increase of the star service in the several States under that large appropriation, but it will be found, if gentlemen will take the trouble to look into the subject, that in a large majority of the States there has been an actual decrease in the cost of the star service and that the large increase in the star service and the large increase in the expenditures for that service have been mainly in the Territories. In Nevada it has been \$50,000; in Dakota, \$53,989; in Wyoming, \$112,809. So that, from some cause not patent to us and which it is necessary for us to investigate, while the star service has been stripped from other sections it has been carried into the Territories, with their very thin population, and a number of them get that service four times a week.

I have taken the trouble to call the attention of the House to this, because I believe it is an error in administration which ought to be corrected. In this connection permit me to say the Committee on Appropriations with unanimity have thought proper to abolish one of the superintendents of the railway transportation service, as now authorized by law, under the recommendation of the Postmaster-General and other officers connected with the Department, and to create instead a superintendent of steamboat and star-route service, believing the service could be better performed and at a cheaper rate if there were at its head some one who understood the condition of the service in all its branches, and could abolish useless routes and make the service generally conform to the new exigencies imposed upon it by the railroad service.

On page 49 of the committee's report there is a comparative statement of the population of the States and Territories in 1860 and 1870, which it would be instructive to contemplate in connection with this service; but I do not care to take up the time of the House with it. In the office of the Third Assistant Postmaster-General the committee have been able to make a reduction.

Mr. DUNNELL. Will the gentleman yield to me for a question? Mr. BLOUNT. As soon as I have finished this statement. The committee have been able to make a reduction of about \$300,000 in the office of the Third Assistant Postmaster-General, with his assent on every item except one of about \$10,000, which I may refer to in the discussion under the five-minute rule. This has grown out of their ability to make better contracts in relation to postage stamps, stamped envelopes, newspaper wrappers, locks and seals, and the various other items which that Department is compelled to purchase in the ordinary running of the Department. I will now hear the question of the gentleman from Minnesota.

Mr. DUNNELL. I desire to ask the gentleman if he argues that mail facilities should be furnished according to population or according to territorial limits? If I understood the gentleman correctly, he would be understood as saying that a territory sparsely populated should have mail facilities just in proportion to its population? For instance, if a county has twenty thousand inhabitants and another county has ten thousand inhabitants that the county which has the larger population should have correspondingly larger mail facilities. Am I correct in understanding the gentleman so to argue?

Mr. BLOUNT. If the gentleman so understood me I did not intend to be so understood. I simply brought forward these facts in a general way, believing that there were many elements to be considered, among them the population. I think the character of the employment of the people is another element. A community actively

engaged in commerce requires a much more frequent service than one engaged in agriculture. I brought forward these general facts to show that upon no basis, whether you take territory, population, wealth, or the nature of the business, can the present organization of the service be justified.

Mr. MAGINNIS. Will the gentleman allow me to interrupt him?

Mr. BLOUNT. Yes, sir.

Mr. MAGINNIS. I understood the specific increases of which the gentleman complained were those made last year, particularly in the Territory of Dakota. That was the largest.

Mr. BLOUNT. I said that was one of the largest increases.

Mr. MAGINNIS. Well, Mr. Chairman, I would like to call the attention of the gentleman to the fact that that increase of service was made necessary by the discovery of gold in the Black Hills and the organization of the post-office and mail-routes to the city of Deadwood, in a mining district which is now shipping over half a million dollars a month. And I venture to say that small as it is, having probably not more than ten thousand or twelve thousand inhabitants, it does more mail business than any town of fifty thousand inhabitants east of the Mississippi River, and that it was certainly right to give such a community a mail service.

Mr. BLOUNT. I do not maintain that that community is not entitled to the mail service, but I maintain that other communities are entitled to a share with the Territories, with their small population, in the like facilities.

Mr. MAGINNIS. Certainly.

Mr. BLOUNT. And it is only to this that what I stated went. But as the gentleman has referred to it, it may be right for me to make another statement. It is well known, sir, that in the last Congress there came in through various avenues from the Post-Office Department an appeal to gentlemen on this floor to increase the star service, with the statement that they did not have the money. The money was voted and the service in most of the States was decreased and the money went to the large contracts in the Territories.

Mr. MAGINNIS. Not to mine.

Mr. BLOUNT. If the gentleman will look at the table he will find his Territory has been pretty well helped. The great bulk of it went to these Territories. I undertake to say, sir, that I can select twelve of the States that have not got the mail service that they had before the war, and that the increase in a single Territory exceeded the increase in all of those States, notwithstanding the inducement sought to be offered to members of the House to increase the service beyond the amount appropriated.

Mr. HOOKER. Will the gentleman yield to me for a question?

Mr. BLOUNT. Certainly.

Mr. HOOKER. I would like to know why it was that the appropriation which was made by the Forty-fourth Congress for the purpose of increasing the star service was not used for the purpose for which it was appropriated; and if the star service was not increased as the bill directed it should be, what was the increase in the postal service by railroads and steamboats in comparison with the increase on the star routes?

Mr. BLOUNT. If the gentleman from Mississippi will turn to the tables on pages 144 and 145 he will find a full statement. But I will state to him generally that a comparison shows that the railroad service has been especially cultivated; I do not say improperly. The committee in getting up this bill have not sought to injure the postal service of this country in any branch of it. The reductions we have been making have been made on reasons which we thought were sufficient; and while that service has increased far beyond the other by reason of the attention given to it, or from other causes, perhaps, which it is not necessary for me to discuss at this time—

Mr. WADDELL. I would remind the gentleman from Georgia, in answer to the question of the gentleman from Mississippi, [Mr. HOOKER,] that one reason, and the chief one assigned by the Department for having that \$750,000 surplus, was that the act of Congress passed at too late a day for them to advertise and let out contracts for this service.

Mr. BLOUNT. Ah! but if the gentleman will turn to the table he will find that the money went into the Territories by hundreds of thousands.

Mr. WADDELL. I stated the reason why the surplus existed.

Mr. BLOUNT. But the money was spent.

Mr. CANNON, of Illinois. Not all of it.

Mr. BLOUNT. No, not all.

Mr. CANNON, of Illinois. Only about \$700,000.

Mr. BLOUNT. The gentleman is correct, no doubt, for the House will recognize him as always well informed in relation to the postal service.

I have deemed it but proper to make these statements in regard to several branches of the service all over the country, because it is well known that I attempted to thwart this side of the House in making an appropriation of \$500,000 here in addition to the appropriation for this fiscal year. I did it because I thought that whenever we increase this service we should do it on information that would commend the confidence of the whole country.

I was not willing to vote one dollar unless I was satisfied that it was right. I think, therefore, in view of the facts in relation to the star service, we have rightly given the amount estimated for in the report of the Postmaster-General, less \$1,000,000 which grows out of

a reduction in the new contracts. Substantially, therefore, there is no reduction in the estimates. I have, I believe, presented to the House all that is necessary to a general understanding of the bill. As to its details, when we reach the five-minute debate I shall take pleasure in giving any further information that the House may desire.

Mr. WADDELL. Before the gentleman from Georgia takes his seat I wish to ask him what is his desire in regard to the general debate upon this bill?

Mr. BLOUNT. If the Committee on the Post-Office and Post-Roads desire to discuss this bill I think the House is entitled to hear them. If they do not, I shall ask that the committee rise for the purpose of closing general debate.

Mr. WADDELL. There are a good many gentlemen who, to my personal knowledge, desire to discuss this bill, but there was an understanding that a special order, that in relation to the death of Judge Leonard, would be taken up at two o'clock, and therefore many gentlemen are absent; and I call the attention of the gentleman from Georgia to the fact that it is very doubtful if we have a quorum here. This bill ought to be discussed in a full House. We have amendments which we propose to offer at the proper time.

Mr. BEEBE. I desire to have the attention of the committee for a few moments upon this bill. If I cannot obtain it now I shall have to occupy the same length of time, under the five-minute rule. I have no disposition, however, to delay action on this bill.

Mr. BLOUNT. If it be satisfactory to the committee I will ask unanimous consent that the general debate be extended for one hour.

Mr. CANNON, of Illinois. Allow me to say one word. I should have no objection to extending the time for general debate one hour or for the whole day, but I should object to the consideration of the bill to-day under the five-minute rule, for the reason that it was stated yesterday and generally understood that at two o'clock to-day a special order, the Leonard eulogies, would come up and a great many gentlemen are not here, this being Saturday, and I do not think the bill ought to be considered under the five-minute rule to-day.

Mr. BLOUNT. I am very anxious to go on with this bill. Gentlemen make suggestions which seem very reasonable to themselves and I will not say that they are not. The Committee on Appropriations, by reason of the sickness of its chairman, have not occupied the floor as much as the House has thought they ought to have occupied it. It is a general feeling and it is a right feeling that the business of the House should be proceeded with. If it should turn out that there is not a quorum here then of course the business will stop, but as a member of the Committee on Appropriations I do not propose to delay the consideration of this or any other appropriation bill.

Mr. BEEBE. I do not know whether the gentleman from Georgia proposes to press the consideration of this bill under the five-minute rule or not, but this bill involves an expenditure of \$34,000,000 or thereabouts, and I think it would rather be a reproach than a matter of commendation if the committee should insist upon pressing the bill to a vote upon the same day on which it is first called to the attention of the House.

I maintain, and I think I can prove, that this very Department of the public service has been more neglected by Congress than any other Department. We talk here by the day and by the week about the Army and the Navy, neither of which branches of the service involves the expenditure of as much money as does the postal service of this country. I think the Committee on Appropriations might do itself and the country the justice of allowing this bill to be considered a little further before it is pressed to final action.

Do I understand, Mr. Chairman, that I am entitled to the floor?

The CHAIRMAN. Has the gentleman from Georgia [Mr. BLOUNT] yielded the floor?

Mr. BLOUNT. I want to say this in reply to the gentleman from New York, [Mr. BEEBE.]

Mr. CANNON, of Illinois. I desire merely to say that I have read this bill with care, and I will say to the gentleman from Georgia [Mr. BLOUNT] that I think his bill in the main is a very excellent one and in the right direction. But my point is this: to-day should be devoted to general debate upon this bill. It was the understanding that at two o'clock to-day a special order was to be taken up; that order having been postponed, in the absence of a great many gentlemen who are interested in this bill it is not fair now to proceed to consider this bill under the five-minute rule. I think it would be well to let general debate continue all day, if we choose. I think the gentleman would make better headway with his bill by allowing general debate to continue to-day, and then let the bill be considered under the five-minute rule the next time we go into Committee of the Whole upon it. I have no desire to antagonize this bill; in the main I heartily concur with it.

Mr. BLOUNT. If gentlemen desire to debate this bill one or two hours longer, I am willing.

Mr. CANNON, of Illinois. I am not particular at all about debating the bill; but I want it understood that it is not to be considered to-day under the five-minute rule, because of the absence of so many gentlemen who had the right to believe that it would not be so considered to-day.

Mr. BLOUNT. The gentleman from New York [Mr. BEEBE] complains that it is wrong that a bill of this importance should be brought before the House and acted upon in detail under the five-minute rule

on the first day of its consideration. If that is wrong, then our general practice is wrong. In the last Congress the legislative, executive, and judicial appropriation bill, which was considered for two months, was not discussed in general debate by the chairman of the Committee on Appropriations for more than ten minutes I believe.

I think there is nothing wrong about this; we are simply acting as we have always acted. We have just passed the naval appropriation bill, every item of it, in one single day. Nothing is more common, and therefore it is not correct to pass such a judgment on what I have proposed. This bill has been reported for several days, and gentlemen have had full opportunity to examine it. For the present, however, I will not press the motion that the committee rise to close debate.

The CHAIRMAN. The gentleman from New York [Mr. BEEBE] is entitled to the floor for one hour.

Mr. BEEBE. I have no disposition, Mr. Chairman, to delay the consideration of this bill, or to impede the progress of legislation in any manner whatever. I believe with the gentleman from Illinois [Mr. HANNA] that the Committee on Appropriations as well as the Committee on the Post-Office and Post-Roads are entitled to credit for the degree of intelligent labor they have devoted to the investigation of this subject.

It has been a matter of public complaint for some time that while we have addressed ourselves to the work of reducing the expenditures of the Government in other Departments, we have not given to this postal service that consideration which has enabled us to satisfy the country either that the present rate of expenditure was proper and right or that it could not be reduced without detriment to the service.

By reference to the report of the Postmaster General for 1860, we find that the expenditure for the postal service for the fiscal year ending June 30, 1860, was \$14,574,772. There was a greater sum expended in that year, but the report clearly shows that a large portion of the total expenditure of \$19,000,000 was on account of the indebtedness charged to this Department for the preceding fiscal year.

Starting out, then, with the proposition that the expenditure for the postal service for 1860 was but little more than \$14,000,000, there is something startling in the contrast when we find that for the last fiscal year that service cost the Government nearly \$34,000,000. I am aware that the country has increased in population, has increased in material wealth, and has increased also in its business demand; but I do not believe there has been any such increase as warrants this vast increase in expense.

I have given to this subject some little attention. In 1860 the number of mail-routes was 8,502; in 1877 the number was 9,234, an increase of but 732. In 1860 the total length of the mail-routes was 240,594 miles; in 1877 it was 292,820, being an increase of but 52,226 miles. The annual transportation in 1860 was 74,724,776 miles; in 1872 it was 147,353,251.

Here we see that while the number of routes is comparatively but little greater in 1877 than in 1860, and while the number of miles of those routes is comparatively but little greater, yet by reason of increased mail service the total transportation upon those routes is nearly twice as great in 1877 as it was in 1860.

In 1860 the total cost of this transportation was \$8,808,710; in 1877 it was \$18,529,238, showing an increase in the annual cost of transportation of over \$9,000,000. Now, I maintain that where the transportation is doubled the expenditures for such transportation ought not to be doubled; but it has more than doubled.

In 1860 the length of railroad routes was 27,129 miles; in 1877 it was 74,546 miles.

The annual railroad transportation in 1860 was 27,653,749 miles; in 1877, 85,358,710 miles. Thus the railroad transportation in 1870 was three times as great as in 1860.

With reference to all this I make no complaint. I do not believe that the increased expenditure lies especially in this direction; and I do not wish to have the committee or the country understand that I would abridge in any particular the service which the needs of the country may demand. But wherever there is an unnecessary expenditure I take it that this committee will meet the demand of the country for economy, and, if the expenditure can be proved needless, will address to the correction of the evil the proper remedy.

The cost of railroad transportation per mile in 1877 was less than in 1860. Now, if we need this increased railroad transportation, there is certainly something encouraging in the fact that the cost for transportation is less per mile now than it was in 1860. But when we reflect that the present increase in miles of transportation is largely attributable to increased service over the same routes, by mail delivery oftener per day than formerly, we may well doubt whether even at the reduced cost per mile the expense is not still too great.

The length of the steamboat routes in 1860 is given at 14,976 miles; in 1877, 17,685 miles. The annual steamboat transportation in 1860 amounted to 3,951,268 miles; in 1877, 4,038,238 miles. The cost of steamboat transportation in 1877 was sixteen and five-tenths cents per mile, while in 1860 it was twenty cents per mile and over. Thus we see that both railroad and steamboat transportation cost less in 1877 than it did in 1860.

Mr. REAGAN. On what basis does the gentleman ascertain that the railroad mail transportation costs less per mile now than in 1860?

Mr. BEEBE. I make the statement upon the authority of the report of the Postmaster-General for 1860, and the report of the same officer for the current year.

Mr. REAGAN. If the gentleman will allow me, I will say that the maximum rate paid to railroads in 1860 was \$300 per mile, and from that as low as \$50 per mile; but there are now railroads receiving \$700 per mile. It may be that the difference in the calculation results from taking into consideration the number of miles run daily. For instance, there may be a dozen trips daily between New York and Philadelphia, and the estimate may be upon the whole number of miles traveled; but I apprehend it will be found that over most of the railroads the cost of mail service is greatly increased beyond what it was in 1860. There may not be an increase in the rate per mile, if you take into consideration the increased number of daily trips, but the aggregate cost of the railroad mail service is greatly increased over 1860.

Mr. BLOUNT. Let me say that on some routes at this time over \$1,000 per mile per annum is paid.

Mr. BEEBE. I am dividing the total cost by the total number of miles of transportation, and as the gentleman from Texas [Mr. REAGAN] suggests, the decreased charge per mile is doubtless because of the increased number of trips. Bear in mind I am not speaking of the rate per ton paid now and in 1860. The comparison in that regard is as the gentleman from Texas has indicated. The annual transportation on all other than railroad or steamboat routes (so-called star routes) in 1877 was 200,589 miles, and in 1860 198,000 miles. The annual transportation on these routes in 1860 was 43,119,751 miles; in 1877, 57,956,303. The cost for this service in 1860 was \$4,385,193; in 1877 it was \$5,663,970. The whole number of post-offices in 1860 was 28,552; in 1877, 37,345.

Now, I leave it to the gentleman from Texas and the gentleman from Georgia to show any disparity in the cost for 1877 as compared with that for 1860 in the rate of railroad charges per mile per ton of mail matter carried. I have not gone into this subject as fully as I should have done had I had the time. I felt that this matter would be carefully and fully taken care of by the committee.

But the point I am coming to is this: while we have seen that the transportation to meet the increased business demands of the country has not increased in cost per mile for the total number of miles traveled, we find that the salary account has been trebled, and I submit that there could be a reduction of several millions of dollars in this direction. I find that in 1860 the appropriation for postmasters' salaries was \$2,552,868 and for clerks in post-offices \$936,639, and that therefore the cost for postmasters and post-office clerks of all classes was \$3,519,507. In 1877 the salaries of postmasters was \$7,250,000, and for clerks in post-offices \$3,340,000, making a total in 1877 for postmasters and post-office clerks of \$10,590,000. Here is an increase of \$7,070,493, or about 300 per cent. for these two items in 1877 over the amount paid in 1860.

Now, to understand whether this is a proper and legitimate increase it is necessary for us to compare not an office to-day with the same office in 1860, (that would be manifestly unfair,) but an office in 1860 with an office where the same amount of business is done in 1877. I concede that by this comparison it would not be singular if we should find in 1877 an increased cost; but should the increase be as great as we find? For instance, in 1860 in the city represented in part by the gentleman immediately before me, [Mr. CHITTENDEN], a city having then two hundred and sixty-six thousand inhabitants the postmaster's salary was \$2,000 and there was then for clerk hire in that post-office \$3,368.86, making the total cost for postmaster's salary and clerk hire in the Brooklyn post-office in 1860, meeting the requirements of a population of two hundred and sixty-six thousand, \$5,368.86.

Now let us take, for instance, the city of Peoria, Illinois, with about twenty thousand inhabitants. We find that the postmaster's salary at that city last year was \$3,000 and the pay of clerks \$5,200, making the total expense \$8,200 for a city of twenty thousand inhabitants in 1877 as against a total expense of \$5,368 for a city of two hundred and sixty-six thousand inhabitants in 1860. I say that no increase of business, no legitimate increase of living expenses in 1877 as compared with 1860, warrants this great increase in cost. It is to be borne in mind that this is but one instance among hundreds and hundreds of offices throughout the country; and gentlemen may well be surprised at this great disparity in the expenditure for this feature of the service. Take the city of Poughkeepsie, in my own State. In 1877 the postmaster's salary was \$3,000, the cost of clerk hire \$4,315, making a total cost for postmaster and clerks in a city of about eighteen thousand inhabitants in 1877 of \$7,315, as against a total cost for the same purposes of \$5,368 in 1860 for a city of two hundred and sixty-six thousand inhabitants.

This fearful increase of expenditure in this branch of the service runs through this whole class of offices. At Portsmouth, New Hampshire, for instance, with nine thousand inhabitants, we find the total cost for postmaster's salary and clerk hire \$4,600. Thus a place of nine thousand inhabitants costs to-day for these local expenditures of the post-office nearly as much as a city of a quarter of a million of inhabitants did in 1860. Portland, Maine, shows the same condition of affairs, and perhaps in an exaggerated degree. The salary of the postmaster in 1877 was \$3,000, clerk hire \$18,375, making a total expenditure for this local service in Portland of \$21,375 per annum. In the city of Bangor we find that in 1860 this service cost \$4,000, while it now costs \$8,800. When I speak of local service I mean the service rendered by the postmaster and his clerks at his office.

Mr. COVERT. Has my colleague included in the estimates which he has presented the payments made to letter-carriers?

Mr. BEEBE. Not at all. I am speaking, Mr. Chairman and gentlemen of the committee, of the salaries of postmasters and clerk hire in post-offices, and nothing else. You will find in this bill the first item is for the compensation to postmasters, \$7,250,000. In 1860 the compensation of postmasters was \$2,252,000. I have been endeavoring to show that while the cost for clerk hire in post-offices and for postmasters' salaries was in 1860 but \$3,519,000, in 1870 these two items aggregated a cost of \$10,590,000. I say there is nothing in the increased facilities given, nothing in the increase of population, nothing in the increase of the service to warrant this increase of nearly threefold in these two items.

But, sir, I do not purpose to claim the attention of the committee much longer. I only desire to refer to one other matter. Those offices where the postmasters are appointed by the Postmaster-General the salaries at which do not amount to \$1,000, compromise 96 per cent. of the entire number of offices. It would be profitable for this committee and for the country to consider for a short time the increase in this branch of the service. Let me refer for a moment to the percentage given now and the percentage given in 1860, by way of compensation to postmasters at these offices. For the first \$100 receipts per quarter there is now given 60 per cent., while in 1860 it was but 40 per cent. On and over \$100 and not over \$300, at the present time 50 per cent. is given, while in 1860 it was but 33 per cent. On and over \$300 and not over \$700 per quarter, 40 per cent. is now given against 30 in 1860.

So we find the same heavy increase when we reach this class of postmasters, and I claim that the service could be just as profitably rendered, the requirements of the public just as fully met if we should go back to the percentage given in 1860. By instituting reforms in these two directions we could save, without crippling the benefit the service yields to the country, at least eight if not ten million dollars per year. As I said a few moments ago, we found at the present time, as compared with 1860, the increase in the War Department had been great, and the increase in the naval service had been great, and we addressed ourselves zealously to the work of retrenchment and reform in those directions, but we have not given to this matter of the postal service the attention it demands. I am not here to urge that it should be curtailed in its benefits to the country at all. We need it. I am not here to urge, as was urged by the first Postmaster-General of the United States, that the service should be self-sustaining. I say the wants of the community and the requirements of the public should be fully met, but because this is a great and beneficial service to the public we ought not to lose sight of our duty to make it as efficient as possible, and at the same time guard it from extravagance in its administration.

There is another direction in which there could be a wholesome reform instituted. I have not the time now to go into it fully, but if any gentleman will turn to his own congressional district and institute an inquiry as to the rentals paid for post-offices in the larger places of his district he will find they are simply enormous. I have in my mind one place where the rental paid is \$1,550 per year merely for office-room, and I undertake to say I can rent as ample room and as centrally located in the same city for less than half that sum per annum. I have in my mind another place where there is a contract with the postmaster for a room in his own building, running for some ten years, at \$700 a year, and I can furnish equal accommodations, just as centrally located, for less than half that amount. Now, if we should address an inquiry to the Postmaster-General for a statement of the rental paid by the Government of the United States for post-offices we would find there was an abuse in this feature of the service which might well be rectified without any detriment to the public interest, and which would insure to the country an annual saving of perhaps hundreds of thousands of dollars more. Not only in the items of the service to which I have referred but in many others, I believe there might be an intelligent economy instituted that, while it would in no wise impair its efficiency, would save millions in the annual cost of its administration. If twenty-eight thousand postmasters cost but \$2,500,000 in 1860, I see no good reason why thirty-seven thousand should cost \$7,250,000 in 1877. Nor can I see anything in the increase of business to justify an annual expenditure for clerks in post-offices at the present time of \$3,519,507 as against \$966,639 in 1860. Where the Government has occasion to rent a room for a post-office I see no reason why it should pay from twice to four times as much as private parties are required to pay for the same accommodations.

Mr. BAKER, of Indiana. Mr. Chairman, while I assisted as one of the subcommittee of the Appropriations Committee in the preparation of the bill reported to the House I do not know that I should have felt called upon to say anything upon the subject of the bill had it not been for the remarks that have just fallen from the lips of the gentleman from New York, [Mr. BEEBE.] The gentleman from New York complains that while the last and the present Congresses have been urgent in cutting down the public expenditures in every other Department of the Government they have not been equally vigilant in making reductions in this branch of the public service. The gentleman from New York further complains that, instituting a comparison between the expenditures in the year 1860 and the proposed expenditures for the fiscal year ending the 30th of June, 1879, as recommended by this bill, a degree of extravagance is shown that ought

not to be sanctioned by the favorable consideration by this committee and by the House of the bill that has been reported.

Mr. Chairman, I desire to say that if this bill that we have reported to the House errs in being extravagant, it is an error that has arisen not from a disposition to make the expenditures of this Department a dollar larger than the actual wants of the service require, but from inability on the part of the subcommittee and of the committee to ascertain what the real necessities of this service were. And I must say, speaking with reference to the chairman of the subcommittee, the gentleman from Georgia, [Mr. BLOUNT,] who has this bill in charge, that the diligence, zeal, and fidelity with which he has investigated every detail of this bill is a matter within my own personal knowledge, and which it affords me very great pleasure to speak of here in this presence. I have nothing to say with reference to the services of others who served on that subcommittee with him.

I will say now to the committee that, with two or three exceptions that I shall name during the few moments that I propose to occupy the floor, every proposition that is recommended in this bill commends itself to my judgment, and I can conscientiously recommend it to the adoption of those on the other side of the Chamber who agree with me in sentiment.

Mr. POUND. Which is the other side? [Laughter.]

Mr. BAKER, of Indiana, (who was speaking from the democratic side of the House.) I mean by the other side, the side to which I ordinarily belong.

Mr. BEEBE. The gentleman from Indiana is for retrenchment now, and is on our side.

Mr. BAKER, of Indiana. I am very glad that my friend from New York [Mr. BEEBE] has instituted a comparison between the year 1876, which is the commencement of democratic supremacy in this House, with the last decaying years of democratic supremacy before the war. It calls the memory of the country back to a period that is freighted with memories calculated to send a thrill into the breast of every man throughout the country. I cannot say a thrill of patriotic pride at the performances of that administration, either in respect of the Post-Office Department or in respect of its administration of any other branch of the service of this nation.

The gentleman from New York complains that there was a larger amount expended for the compensation of postmasters in the year 1876 than there was in 1860. He complains that there was a larger amount expended for railway postal service in the year 1876 than there was in 1860. I want to say now with reference to this general matter that in the year 1860 the expenses of the administration of the Post-Office Department of the Government were in proportion to the extent of service greater than now. In 1860 the actual expenses of the Post-Office Department were \$14,874,772.89. The receipts from that service—I refer to the ordinary receipts—were only \$3,515,067.40; thus leaving a deficiency to be made up by an appropriation from the public Treasury of \$6,356,705.49; and at the rate of deficiency on the business of the year 1860, instead of having something like \$4,000,000 this year to appropriate out of the Treasury of the people, the same sort of economy now that was exhibited in 1860 in this Department would require that we should appropriate, instead of \$4,000,000, at least \$10,000,000 to cover this deficiency.

Mr. BEEBE. Will the gentleman allow me a question right there?

Mr. BAKER, of Indiana. Certainly.

Mr. BEEBE. Does the gentleman mean to argue to the committee that because we now receive so much more from our postal service the expenditures and the deficits should be so much greater?

Mr. BAKER, of Indiana. I shall speak to that presently. I will say, however, in answer to the question the gentleman from New York has put, that it ordinarily costs, not only in public business but in private pursuits, to carry on any business a sum of money proportioned to the amount of business that is done; and the only manner in which we are able to form a judgment as to the amount of postal service rendered in the year 1860 is by seeing the amount of revenue realized from that service; and comparing it with the last year—on that basis, the basis of business and the basis of cost for carrying on that business—I say the democratic extravagance in 1860 if applied to-day would create a necessity for appropriating \$10,000,000 out of the public Treasury instead of about the \$4,000,000 that we recommend.

In 1877 the expenses of the Post-Office Department of the Government were \$32,323,504.24. The revenue received from the business of that Department was \$27,531,585.26, leaving a deficiency for the last year of \$4,791,918.98, against a deficiency, as estimated this year, of only about \$4,000,000.

Let us examine for a moment another item, for the purpose of seeing whether or not the charge is true that the committee is asking this House to pass an appropriation bill that, compared with the appropriations of 1860, is extravagant. I say that there has been a constant increase in the efficiency of the service of the Post-Office Department in all its branches, under its present and under its late administration, as compared with 1860, as regards its celerity, as regards its certainty, as regards its cheapness; and I propose to show it.

In the year 1860 there were 27,653,749 miles of mail carriage on railroads at a cost of \$3,349,662, amounting to thirteen cents and one mill per mile. In the year 1877 (I quote the figures from the report of the Postmaster-General for 1877 and 1878 in that branch of the service) there was an aggregate length of 74,546 miles, on which

these 85,358,710 miles of railroad service was performed at an annual cost of \$9,053,936, being ten cents and five mills per mile, as against thirteen cents and one mill in 1860.

Mr. LUTTRELL. Do I understand the gentleman to say that the Post-Office Department is more economically run now than it was during the last three or four years?

Mr. BAKER, of Indiana. I was referring to the year 1860. I will state to the gentleman, however, that my investigations satisfy me that there has been since the close of the war and the comparative settlement of the late insurgent States, the opening up of business there and the establishment of business relations there, an increase in the efficiency and the cheapness of the service.

Mr. LUTTRELL. I understood the gentleman to say that the service performed now is much cheaper than two or three years ago, that there was an improvement.

Mr. BAKER, of Indiana. No, not cheaper than two or three years ago. I have no question but that it is much cheaper comparatively than in 1860.

Mr. LUTTRELL. I want to say that it is a democratic Postmaster-General who has made that reform.

Mr. BAKER, of Indiana. The gentleman will find when he alludes to a democratic Postmaster-General that that democratic Postmaster-General, as he calls him, is following in the steps of his predecessor, the present First Assistant Postmaster-General, a distinguished citizen from my own State. If he will follow zealously and faithfully the example of honest government set for him by his republican predecessors, we may well hope that he will make a record that will contrast favorably with the record made by those predecessors, being as he is under republican influences that did not exist in that Department in 1860. Democracy in 1860 and republicanism now make the whole difference. Democracy always means extravagance.

But I desire to go on with what I was saying. There is an equally noticeable improvement as proposed in the present bill and as shown by the service during the last year in reference to steamboat mail service.

In the year 1860 this service was carried on at an expense of \$1,075,852; being twenty cents and seven mills for each mile in that sort of service. During the last fiscal year the length of steamboat routes was 17,685 miles. The total annual transportation by steamboat and other service was 4,038,288 miles, at an annual cost of \$666,939, being sixteen cents and five mills per mile as against twenty cents and seven mills per mile in 1860.

Take the star service in 1860. There were 18,651,161 miles of the service, at a cost of \$2,550,365; being thirteen cents and seven mills for each mile of the service. In the year 1877 the length of the routes were 200,549 miles, the entire service during the year being 57,956,303 miles, at an annual cost of \$5,663,970, or about nine cents and seven mills as against thirteen cents and seven mills in 1860. Now if gentlemen want to return to the extravagance of that period I say that instead of an appropriation of \$33,000,000, as recommended in this bill, it would involve an expenditure of at least \$40,000,000.

Mr. BEEBE. Do I understand the gentleman to say that there has been such an increase in the general mail service that would make that rate of expenditure in 1860, if followed here, cost \$43,000,000?

Mr. BAKER, of Indiana. No, sir; I said \$40,000,000.

Mr. BEEBE. Will the gentleman state what he understands to be the general increase of mail service to-day over what it was in 1860?

Mr. BAKER, of Indiana. I reached the conclusions which I have stated by the table laid before us by the Postmaster-General. I have not the time to refer to those tables now, but they are in the report, which the gentleman can examine for himself at his leisure. I reached the conclusion that upon the basis of expenditure in 1860 it would cost \$40,000,000 for this year. I reach this by computing the increased percentage for the service at the ratio shown in the report of 1860 as compared with that of 1877.

I have said now all that I desire to say in that direction. I want to say a word or two further with reference to this bill. I have said that it afforded me pleasure to bear cheerful testimony to the general features of this bill. With three or four exceptions, I am satisfied that the bill will meet the entire wants of the service, and at the same time reduce the expenditure to as low a point as any man who will intelligently and understandingly investigate the subject will feel that the service can be brought down to.

On the first page of the bill will be found an item with reference to special agents. Last year there was appropriated for that service \$135,000. For the coming fiscal year the Post-Office Department estimated for that service \$150,000. This bill recommends the appropriation of \$100,000. Under the provisions of section 4017 of the Revised Statutes, in addition to an annual compensation of \$1,500 the special agents received a per diem compensation of \$5 for their traveling expenses. That amount was fixed at a time when all forms of service were much higher than now, and when the purchasing power of money was very much lower than it is now.

I concur with the committee in the belief that the time has come when that could be reduced to \$3 per day. While I agree to that, I am free to say that I believe that instead of the amount recommended by this bill there ought to be \$25,000 added to that item. Before this bill becomes a law I hope to see that item increased by the amount of \$25,000. With that increase, from the information which I pos-

sess, I believe that this service will be sufficiently provided for to make it efficient for the purpose for which it was created.

I do not propose to speak of those features of the bill that I approve of. On page 5 of the bill there is an item recommending the appropriation of \$9,100,000 for the transportation of mails by railroads; \$125,000 of which sum may be used by the Postmaster-General to obtain proper facilities from the great trunk-lines of railroads for the railway post-office service for the fiscal year ending June 30, 1879. I should have been glad to have seen that increased to \$150,000. I believe it would add to the efficiency and the popularity of the service to make that increase.

I come now to the post-office railway clerks, route agents, mail-route messengers, and local agents, on page 7 of the bill. With reference to that it affords me great pleasure to say that in a spirit of liberality the democratic members of the Committee on Appropriations have consented to an increase over last year. I will say that they cheerfully consented to the increase of \$95,000 for those four items.

It is only right that I should say here in this public manner that this morning I had occasion to call the attention of the superintendent of railway mail service to these four items, and he said that with \$25,000 added to the item for railway post-office clerks and \$6,000 added for mail-route messengers, making a total of \$31,000, it would be all that he would need for that branch of the service. I shall be glad to see this bill increased in that regard.

With these additions to the bill, amounting to about \$46,000 or \$50,000, it is the result of the best judgment I can form from a patient examination of the needs of this service that the bill will appropriate all that will be necessary to maintain the service in such a condition as will meet not only the wants of the public, but substantially the desire of those who have this service in charge.

With a bill which is so nearly in accord with the judgment of those who are interested in the expenditure of this money and in furnishing this service, I think it hardly becomes gentlemen on the one hand to claim that there is a disposition on the part of the Committee on Appropriations to cripple and injure the service, or on the other hand to claim that there is a disposition to be extravagant in reference to the expenditures in this branch of the service.

I want to say that on the whole I believe, as the result of my best judgment, that this bill is one that is framed as well in the interest of economical service as in the interest of an efficient service of this Department of the Government.

There is another feature that is new in this bill, and that feature relates to the organization of the steamboat and star service under a superintendent or agent who is to have charge of those services—one agent and six special agents. I approve of that; I believe that is in the interest of economy. I believe the Postmaster-General will be in a position so that under a responsible and intelligent head the wants and needs of this service in the States and Territories that require it most may be thoroughly scrutinized. We will thus be able to put service where it is needed, and avoid the placing of the service at the impertunity of Senators and Representatives where it may not be needed. For that reason I approve of that feature of the bill.

In conclusion, taking the bill as a whole, I feel entirely warranted in asking the Committee of the Whole to stand by the bill with perhaps the two or three additions of a few thousand dollars which I have mentioned.

Mr. DUNNELL. Will the gentleman allow me a moment?

Mr. BAKER, of Indiana. I will yield to the gentleman.

Mr. DUNNELL. I would like to ask the gentleman from Indiana a question. I see that the estimate of the Department for this service as given on page 10 is in round numbers \$36,000,000. The amount of appropriation recommended by the committee is \$33,000,000. Now, I would like to ask how the amount proposed to be appropriated in this bill for star service corresponds with the amount appropriated for the present year?

Mr. BAKER, of Indiana. If I recollect aright the amount which we propose to appropriate for the star service is just the amount recommended by the Department for that service—not the amount recommended in the original Book of Estimates, but the amount recommended after the new lettings which effected a reduction in the cost of transportation in that branch of the service of something over \$1,000,000.

Mr. DUNNELL. Is the column of estimated amounts on page 10 taken from the original Book of Estimates or from the revised estimates?

Mr. BAKER, of Indiana. In the third column the item of \$7,086,673 for inland mail transportation is taken from the original Book of Estimates. That was reduced, however, in consequence of the recent lettings having been made at such advantageous rates.

Mr. DUNNELL. I might have found an answer to my question by reference to the page itself. I see that there is a reduction of about \$1,000,000 on inland and steamboat mail service.

Mr. BAKER, of Indiana. The gentleman will find a division of the estimate; in other words, for inland mail transportation by star and steamboat routes the amount is \$5,390,673, and then there is another item of \$700,000, making the amount of the appropriation which we recommend \$6,090,000 in round numbers.

Mr. DUNNELL. But the aggregate is a million dollars less than is asked for by the Department?

Mr. BAKER, of Indiana. No, sir; it is just the amount asked for in the revised estimates. I will add that in reference to the star and steamboat service there is no diminution in this bill from the amount estimated for in the revised estimates submitted after the recent lettings.

Mr. CLYMER. On page 11 of the report accompanying this bill the gentleman from Minnesota will see a statement which will answer his question. He will see that in the recent lettings there was a reduction of one million and a quarter of dollars upon the rates previously paid.

Mr. CHITTENDEN. Mr. Chairman, I had intended to examine this question with care for the purpose of throwing some light upon it during the general discussion; but as it has come up unexpectedly to me I will merely make a few general remarks, with an object in view which, when realized, will reveal to Congress and to the country that there is the same field for reform and for reduction of expenditures in the Post-Office Department that has been worked successfully with respect to the Navy and the Army and other Departments of the public service.

I ventured to say here three years ago, and I repeat it now, that whenever a thorough investigation of this question is made the Post-Office Department of this Government will be placed upon a self-supporting basis, as that of the Government of Great Britain now is. I have no more doubt of this than I have that we are an assembly of Representatives of the American people.

What are the generalities of this case? The enormous increase of expense which has arisen since 1860 grew up in the midst of war and after the war, and is due to inflation of the currency and all sorts of extravagance. The Post-Office Department employs a great many more men than any other Department of the public service. How is it possible that there should not have crept into it all the abuses which are common to the other Departments? The question answers itself at once to every intelligent mind.

The suggestions of my colleague [Mr. BEEBE] in comparing the expenses of this Department with those of 1860 have covered the ground; but when the details of this post-office business are investigated, investigated as no committee of this House can investigate them, investigated as no Postmaster-General can investigate them, it will be found that there are more abuses connected with it than with any other Department; chiefly, I believe, in transportation. I believe that we pay some railroads at least double what they ought to receive. I have no doubt that in the star service and in other directions it will be found that we are wrong in the aggregate more than the excess of expenditures over the income.

In opening this report of the committee in my hand my eye fell upon one feature, and I suggest it for the examination of members. I notice that in 1874 the compensation paid postmasters was \$5,818,000 in round numbers. One year later, in 1875, it was \$7,848,000, a difference of \$1,530,000 in one year. This was not the year when post-offices were re-established at the South after the war; it was ten years later. Can anybody tell me why the compensation to postmasters increased one million and a half of dollars from 1874 to 1875, and why that compensation has not gone up since? If I mistake not the appropriation in the present bill for this purpose is even less than the amount expended for 1875—about \$7,200,000.

Mr. BLOUNT. The amount appropriated in this bill is \$7,250,000. The committee thought they might have reduced it lower, but they did not do so because the compensation to which postmasters are entitled is fixed under the law; and even if we should appropriate too much, it would only go back into the Treasury.

Mr. CHITTENDEN. Now, Mr. Chairman, my object in these few words—and I have said about all I wish to say—is to ask the committee, in this bill, or if not in this bill in some other way, to propose the appointment of a commission to sit during the coming year to investigate this question and see by what means, without detriment to the mail service, that service might be placed on a compensatory basis. I mean by this that it should be compelled to live within its means. I believe it would be perfectly easy, on proper investigation of this subject, to reduce the expenses of this Department and keep them within its income. The growth of that Department and the increased mail facilities extended throughout the country should correspond substantially with the receipts.

There are cities in this country which have frequent free deliveries; perhaps more frequent than is warranted. If necessary, let them be reduced. I believe, however, in every instance money is made by increase of these deliveries in large cities. In my city the increased deliveries have resulted in increased profits. So in New York, and so in Massachusetts, but as a general thing such may not be the case. Wherever they are not needed and result in increased expenses they ought to be reduced.

Mr. FOSTER. Did you not ask for an increase of the compensation of the postmaster at New York?

Mr. CHITTENDEN. No, sir; I think not. I opposed the decrease of the salary of the postmaster at New York, but never suggested any increase that I recall.

Mr. FOSTER. Is any postmaster in the country better compensated than the postmaster at New York?

Mr. CHITTENDEN. The postmaster at New York has greater responsibilities, four or five times greater, than those of any other

postmaster in the country. He practically dispatches the whole mails of the country, both at home and abroad. Any man who will go there and stand by him and see what his responsibilities are and what he has to do will not say that he is paid too much.

Mr. FOSTER. I do not think it is exactly the thing for the gentleman to do to charge the committee with want of economy when he opposes it.

Mr. CHITTENDEN. I have not charged the committee with a want of economy.

Mr. STEELE. I rise to a point of order that it is against the rules to carry on any private conversation on any subject in this Hall. [Laughter.]

The CHAIRMAN. The point of order is well taken, and gentlemen must address the Chair.

Mr. CHITTENDEN. I wish to correct the gentleman from Ohio. If I said a single word in criticism of the Committee on Appropriations I did not mean it. My object was to make a general statement of my convictions on this subject, growing out of the knowledge common to us all that in every other Department of the Government where money has been spent by millions we have found abuses and have found methods of correcting them and reducing expenses. The very first time I came to my feet on this floor in December, 1874, when I had been here but a fortnight, on a proposition to appropriate three or four million dollars in one item in an appropriation bill without any definite statement as to what it was for, I made a remark that I have not yet gotten over. I rose and asked what that three or four million dollars was for, and nobody answered, and then I ventured to say the time had come, or would come, when this Government could not appropriate its money in chunks of three millions without knowing what use was to be made of it. Since that time we have made some advance in finding out what became of money appropriated in these large sums. What I say now is, and it will go in the RECORD and some day or other come back as truth, that on general principles or the principles by which this Congress and preceding Congresses and the present Administration have succeeded in reducing the expenses of the Government, it will be found whenever such a commission as I have asked for shall investigate for one year this Post-Office Department that it can be made to live within its own resources and be more satisfactorily managed in the interest of the people than it ever has been. There is nothing more demoralizing in a family than to teach one of its members to spend whatever one wants to and look to the heads to pay the bills. It is just as demoralizing to a great government. There is no one Department where we spend so much as in this. Every one of our friends who come from the frontier and represent Territories, or who live in the remote States, have argued to their own consciences and to their own people, "The Post-Office Department spends \$5,000,000 in excess of its income. Why not fifty?" Why not fifty? It will come to that in the end as sure as we omit to make a faithful effort to limit the expenditures of this great and profitable establishment within its own resources. Sir, have we not stumbled during the last year upon evidence going to show that I am not mistaken in this position? Have we not found that the Appropriation Committee made one item of appropriation last year of five or six hundred thousand dollars which was not needed? Have not the excessive expenses for the year ending 30th of June, 1878, been reduced about \$2,000,000 below what they were for the previous year? I have not the figures before me, but believe such is the fact. That is a long step in the right direction.

Mr. HOOKER. When you refer to an appropriation made in the last Congress which was not utilized do you refer to the appropriation specifically made for the star service as contradistinguished from the other service?

Mr. CHITTENDEN. I refer to an appropriation of that amount which was not needed and not used, as stated in a recent debate on the floor of the House.

Mr. WADDELL. I suppose the gentleman refers to an amendment I offered to the appropriation bill at the extra session of Congress.

Mr. CHITTENDEN. Yes, sir. I will not detain the committee longer.

Mr. FOSTER. Did not the gentleman from New York vote for the star service?

Mr. CHITTENDEN. I undoubtedly did; but that is no reason why you or I should refuse to learn wisdom.

Let it be understood that I have made these general remarks with my eyes wide open, knowing that there was not another man on the floor, not even my colleague, who was prepared to take the ground that the post-office service can be and should be and must be made to pay its expenses. I have made them for the purpose of calling the attention of the committee to them. I have not criticised anything the Committee on Appropriations has done or has omitted to do. I have simply tried in a few words to impress upon the committee that we have a field here which can be cultivated to great advantage, and it is immensely better for us to take hold of it than it is to bask ourselves with efforts to cut down the salaries of consuls and clerks and deprive women of their buttered bread.

Mr. DUNNELL. I desire only to occupy a very few minutes and largely in answer to the gentleman from New York, [Mr. CHITTENDEN,] who has just taken his seat. He has made a comparison of the expenses of the Post-Office Department in the present year and the

expenses of that department in 1860. Now, when a comparison is made between 1878 and 1860 the gentleman from New York ought to remember that there has been since 1860 a very large country developed and settled up that perhaps he knows nothing about.

I will allude to the State which in part I have the honor to represent. In 1860 we had one hundred and sixty thousand inhabitants, and we had not a mile of railroad. We have now seven hundred and fifty thousand inhabitants with twenty-three hundred miles of railroad. You will see at once, Mr. Chairman, and the gentleman from New York will see, that the expenses of the Post-Office Department in that State have been more than quadrupled. They have been increased tenfold. And yet very much of that State is still sparsely settled, and consequently the expenses of the Government there in the Post-Office Department must be beyond the receipts.

Now take the States of Minnesota and of Nebraska and of Kansas, the last-named State having probably to-day well nigh a million of people, although she has but three Representatives upon this floor, while my own State has eighty-six thousand square miles of territory. The gentleman from New York would seem to imply, and arguments have been made here in that direction, that the frontier of the country has been more tenderly cared for and generously cared for than the more settled portions of the country. Now, on an average, the people off from the railroads in those States west of the Mississippi get but two and three mails a week. The gentleman from Georgia rather implied that a man thus situated upon the frontier, a little remote from the cities, needed a little less intelligence than the man who resides in the city. I desire to say that he has more intelligence generally and that he desires mail facilities; and my theory is, Mr. Chairman, that the Post-Office Department is for the people and all the people. I would not maintain that a route should be carried through a sparsely settled portion of the country, and that a daily mail should be established; but approximately, the people of the whole country should have corresponding mail facilities.

Take the free-delivery system of Brooklyn and of New York. The gentleman says that this system pays for itself. But if the gentleman goes through the Post-Office Department and attempts to retrench, he will find it very difficult to run the Post-Office Department for a less amount of money than is now provided.

Mr. CHITTENDEN. Will the gentleman allow me to interrupt him?

Mr. DUNNELL. Not now. The postmasters of the country are certainly not abundantly paid officers. The men who hold the offices in Brooklyn and New York and in the other cities are reasonably well paid; but the postmaster whose salary is \$20, and \$50, and \$100 is subjected to all the inconveniences of the office with a very small compensation. The postmasters of the United States are more poorly paid than any other office-holders in the country. The town collector, the town coroner, and the town constable in any town in the country are better paid than the Federal postmaster in the country.

Take the star service. It is let under a well-guarded law. If there is a great amount of money in carrying the mail upon the frontier, why does not the gentleman from New York put in his bids and take some of these contracts and carry the mail?

Mr. Chairman, I believe in retrenchment and reform and economy. But the Post-Office Department is run to-day with very great economy, in my judgment. I am denied every week mail facilities in my district where there are men from New York and Pennsylvania and the older States pouring in; and they desire mail facilities. Those coming from New England have been in the habit of having a daily mail and they desire a daily mail as they settle out upon the frontier. But I am denied this by the Department. They tell me they cannot do it because the income of the route will not pay for it.

Now, Mr. Chairman, I am glad to know that in this bill the Appropriations Committee has met the demands of the star service of the country. It is a service that ought to be well cared for. Intelligence should be encouraged. It should be made easy. It should be brought home to every family. The newspaper is the great power of the country.

I did not intend, Mr. Chairman, to make any lengthened remarks. I simply ask that the gentleman from New York when he talks about comparing 1878 with 1860 shall study western statistics and remember that an empire has grown up west of the Mississippi River. If Brooklyn has not grown during the last eighteen years, the West has.

Mr. TOWNSEND, of New York. She has, and her expenditures have grown in proportion to her increase, and the gentleman knows that.

Mr. CLYMER obtained the floor.

Mr. CHITTENDEN. Will the gentleman allow me one word?

Mr. TOWNSEND, of New York. Let me say a word.

Mr. CLYMER. I will yield to the gentleman from New York [Mr. TOWNSEND] for a moment and will then yield to his colleague, [Mr. CHITTENDEN.]

Mr. TOWNSEND, of New York. I want to say one word. My friend and colleague [Mr. CHITTENDEN] has told us that in a few years we shall bring this mail service on the same footing and pecuniary success that the mail service is brought to in England. Mr. Chairman, we will do it when we reduce the American empire to the dimensions of the British Islands. A Yankee was in England and it was found that he never went out of doors at night. They asked him how this happened and he said he was afraid to go out. He got

about the place very well in the day-time, but he never dared to go out of doors in the night for fear he should step off.

Now, if my friend is going to reduce the American empire, to diminish it so that a man will be afraid every night when he goes out of doors that he will step off into one or the other of the oceans, then we can compare our mail service with the mail service of England.

Sir, there is not in all the expenditures of the Government any service where the people of this country can afford to expend the money necessary to be expended so well as in the service of the Post-Office Department. It is the service that distributes knowledge. It is the service that tells one part of this country about the other. It is the service that makes us a homogeneous people; a people with one destiny and one common interest, and, sir, if the Post-Office Department does not quite pay expenses I shall sleep very soundly and my constituents will sleep very soundly if we have adequate mail facilities, and that whether I am at home in New York or happen to be on my western farm where by the beneficence of the country we enjoy mail facilities not quite as often as the gentleman does in Brooklyn, with half a dozen deliveries a day, we are glad to get a mail twice a week.

Mr. CLYMER. I now yield a moment to the gentleman from New York, [Mr. CHITTENDEN.]

Mr. CHITTENDEN. I wish to hold gentlemen to my point. The gentleman from Minnesota nor the gentleman from New York have touched it. I knew that there was no other man on this floor prepared to take my position. I know the growth of the country, the growth of its wealth, and the growth of its population, and the increased facilities required to carry its mails; but what I say is, that we have not investigated the abuses.

Nobody has told us why we pay railroads now, with their cheap steel and cheap coal, \$1,000 a mile, when we paid none of them over \$375 a mile in 1860. Let my colleague [Mr. TOWNSEND] answer that. I said nothing about his frontiersmen. I would give them as many mails as he would, and I would give the State of Kansas all the mails that it can reasonably ask for, but I say that if you will appoint a commission to find out the height and depth the breadth and length and the whole area of this question, you will certainly discover that the present income of the Post-Office Department is more than enough, yes, more than enough, to do all the work that is now done, and do it better. That is my point.

Mr. WADDELL. Is not the gentleman from New York aware of the fact that a commission of that kind was appointed by act of July 12, 1876, and that it has now submitted its report to the House?

Mr. CLYMER. Mr. Chairman, I am loath to engage in this discussion at all, and although I was on the subcommittee of appropriations having special charge of this bill, I determined, after the very full and satisfactory statement of its main features by the gentleman from Georgia, [Mr. BLOUNT,] to defer any remarks or explanations of it which I might deem necessary until the debate under the five-minute rule; but it does seem to me that the two gentlemen from New York [Messrs. BEEBE and CHITTENDEN] have made unjust criticisms in regard to this bill and to the post-office service generally.

I am satisfied that no bill has ever come into this House which has received more patient or thorough examination on the part of those having it in charge than has this one.

I do not know that the officers of the Government could have shown greater willingness or alacrity to afford all the information in their power in order that the Committee on Appropriations might arrive at just results. The results we have arrived at are these: we have reduced the amount proposed to be appropriated very much below the estimates—over \$3,000,000; we have reduced the amount to be expended in the year for which we are legislating nearly \$1,000,000 below the amount which was appropriated for the current fiscal year. Surely in a general way these are gratifying results; surely they are results which should command the confidence of the House because, as I have already remarked, they have been arrived at only after the most careful examination.

This much with reference to the general criticisms on the bill. Now, with reference to the remarks of the gentleman from New York, [Mr. CHITTENDEN,] who has argued that the Post-Office Department should be made a self-supporting and paying Department; that it should be self-supporting as in England, my friend and his colleague from New York, the gentleman from the Troy district, [Mr. TOWNSEND,] has well stated the insuperable obstacle to any such result as that. If the post-office service was confined to what is known as the New England States, New York, and Pennsylvania, it is apparent from a table which will be found on page 13 of the report accompanying this bill that it will be a self-supporting institution.

In the New England States, excluding the States of Maine and of Vermont, and in Pennsylvania and in New York, the excess of receipts over expenditures during the past fiscal year was \$2,268,577.57. That proves conclusively that if we were dealing with a compact territory, with a territory so densely populated as is New England, New York, and Pennsylvania, this institution would be a self-supporting one. But we have to deal with a mighty empire outside of that, extending far to the south and clear to the setting sun. It may not be that we should deprive of this service others outside of this favored belt, where there is population, where there are centers of trade, where everything seems to be gathered together. I am not here, for one, to do any such thing.

Let us for a moment compare the receipts and expenditures in this Department in 1860 with what they are now. On page 14 of the report it will be found that in 1860 the total receipts of the Post-Office Department were but \$3,171,201.20, and the expenditures were \$12,933,251.33, or an excess of expenditure over receipts of \$5,577,845.26. It thus appears that in 1860 the expenditures exceeded the receipts by nearly 50 per cent.

Now, let us turn to the gratifying exhibit presented for the present fiscal year. In 1877 the total receipts were \$27,334,917.69; the total expenditures were \$31,178,966.91, an excess of expenditures over receipts of only \$6,508,691.26.

Mr. CORLETT. Is not the gentleman mistaken about that?

Mr. CLYMER. Not at all.

Mr. CORLETT. In another column will be found \$2,000,000 which should be added to that.

Mr. CLYMER. No, my statement is right. In 1877 the excess of expenditures over receipts was but about 20 per cent., while in 1860 it was about 50 per cent. Surely this is gratifying; this is encouraging. This points to the day, not in the very distant future, I trust, when we may approximate to a balancing of receipts and expenditures in this Department. But the fact is, as we all know, that it has never been in the contemplation of those who have made our laws and established our policy that the Post-Office Department should be merely a paying institution.

Mr. BEEBE. That was Franklin's idea.

Mr. CLYMER. The Post-Office Department is the agent of the people, the great convenience of the people; it is that which binds us together of all sections of the country. We have ever found that whenever the postal service did approach to self-supporting, at that moment Congress reduced the rates of postage so as to lessen the burdens of the people for this service, which is a necessity of civilization. So it will be doubtless in the future when we approach that point, as we may soon do if we go on at the same rate as we have done since 1860. There are doubtless here now some of us who are young enough to live to see the day when letters will be carried throughout the length and breadth of our country at one cent each, less even than they are now carried in the kingdom of Great Britain.

Mr. BEEBE. I think that my position has failed to be understood by the gentleman. What I desire to know is this: if, in 1860, 23,552 postmasters cost for pay but \$2,552,868, why, in 1877, should 37,345 postmasters, only nine thousand more than in 1860, cost \$7,250,000?

Mr. CLYMER. In order to give my friend an accurate and exact answer to his question, I would be obliged to have the tables showing the amount of pieces handled in the Post-Office in 1860 as compared with those handled at the present time.

Mr. BEEBE. But these postmasters have a largely increased force of clerks to help them handle those pieces.

Mr. CLYMER. So I grant you; and so of necessity they should have and must have, if the number of pieces to be handled have increased as I believe I could prove they have increased. I am not now prepared to show the exact number of pieces handled in 1860. But I judge sometimes of things by what is immediately within my own knowledge. Take the city in which I live; it has more than doubled, nearly trebled in population since 1860. I know that since that time her post-office business has increased to a very large extent.

Then we had a postmaster and two clerks; now we have a postmaster and five clerks, and I speak from my own knowledge, and speak advisedly, when I say that if there be in any part of the country an excess of officers to attend to the duties of any post-office, there certainly is not such excess in the office in my own town. I know how assiduously those officers labor; I know how attentive they are to their duties; and, if I may judge of the service elsewhere (possibly it is not far to do so) from these facts within my own knowledge, I know of no men who are more thoroughly taxed every day by the performance of their duties than the officers of the post-office in my own town. I know also that the salaries paid to clerks in that office are certainly not greater than those which are commanded elsewhere in the same town for like services.

I do not question that there may be abuses in a great service like this. They are inseparable from the public service; they must of necessity exist. The most that we can do is to apply a remedy wherever we may discover them. While we here, in the hurry of legislation, may at times do much, yet surely it is not within the province of the Committee on Appropriations or even the Committee on the Post-Office and Post-Roads—if it were within their province it would not be within their power—to sit down and mature a plan which would lead to any very great beneficial results. I quite agree with the gentleman from the Brooklyn district [Mr. CHITTENDEN] that if there were a commission composed of capable men understanding this subject they might, with ample time, devise some methods which would be better than those that are now employed. But I would remind him that there has been and is to-day a commission charged with the examination of this subject—a commission composed of gentlemen who have my confidence, one a very distinguished resident of the metropolitan city of my State, Hon. Daniel M. Fox; another, Mr. Hubbard, of Connecticut; and another, a gentleman whose knowledge of postal affairs in this country, gained by actual service, is very great. What will be the fruit of the labors of this commission I do not know. I only know that we, as a Committee on Appropriations having charge especially of this subject, had to deal with the facts immediately be-

fore us, aided by such light as we had and such assistance as we could obtain from the Post-Office Department. This assistance, as I have before said, was readily, freely, and frankly given. We sought to deal with this subject not in a niggardly or ungenerous spirit, and I trust not with any desire to be lavish in expenditure. We sought to effectuate all the just needs of the service without unduly depleting the Treasury. When this bill shall have had fair examination, when in the five-minute debate there shall have been explicit explanations of each item, I cannot but believe that the Committee of the Whole will arrive at the same conclusion on almost every part of the bill as was arrived at by the subcommittee, and unanimously, I believe, by the Committee on Appropriations itself. I therefore commend this bill to the Committee of the Whole with a degree of confidence which I would not be justified in entertaining under other circumstances.

Mr. RYAN. I think the gentleman from Pennsylvania [Mr. CLYMER] is mistaken when he states that the excess of expenditures over receipts is \$6,000,000. I think that the amount is a little less than \$4,000,000, because from the \$6,000,000 of excess of expenditures over receipts in some of the States must be deducted the excess of receipts over expenses in certain other States.

Mr. CLYMER. I find that I was mistaken; but the correction only makes my position so much the stronger. I thank my friend for calling my attention to it.

Mr. RYAN. I wish to state, in regard to the subject under discussion, that perhaps no State in the Union has experienced greater need for liberality on the part of Congress in providing mail facilities than my own. Like some other Western States, it is increasing in population with great rapidity—so much so that during the last year our increase exceeded perhaps two hundred thousand. Of course this growth of population gives rise to new communities everywhere throughout the State—to a necessity for new postal routes and the establishment of new post-offices; and in some of these communities towns are growing so rapidly as to create a growing demand for increased allowances of clerks and the like.

All these things call for liberality upon the part of Congress in making appropriations, at least for the star service. I myself have been obliged, during my short career in Congress, to go day after day to the Department to obtain additional mail facilities, but in vain, for the simple reason that the Department was not provided with the necessary funds. We have been unable to obtain the necessary force upon our railways to distribute properly the mails between given points, so that the mails are frequently from necessity carried past the place of destination. In my own State the mail going eastward is frequently carried by the capital of the State to Kansas City, where it must lie over until the next day, when it is returned and thrown off. This is because there is not a sufficient force to distribute the mails upon the railway. I am informed at the Post-Office Department that there has been in the aggregate an increase during the last year in mails upon railways to the extent of 15 or 20 per cent., yet because of a lack of funds the Department has had to reduce the force. I do not know that this is the fact generally, but the force has been reduced largely upon railways in the West. Hence we are suffering in this direction.

I might say in addition, Mr. Chairman, that the new railroads which have been constructed in my own State during the last year, some three or four different lines, are now without any service whatever for want of funds.

Mr. BLOUNT. What sort of service does the gentleman mean, clerical force or route agents?

Mr. RYAN. I mean route agents—postal agents.

Mr. BLOUNT. If the gentleman will look at the report of the Postmaster General he will see that they have been taken off and concentrated on postal cars.

Mr. RYAN. I have learned that from the very efficient and honorable chairman of the Committee on Appropriations. I heard him make that statement the other day. But, sir, the fact remains that we are unable to get this sort of service, that we are unable to procure these facilities because there are no funds. There may be some abuses in the Department, there may be some wrong done us in the West, there may have been some discrimination against us; of these things I am uninformed, but nevertheless the naked fact remains that these lines of railroads are there to-day with no service on them whatever for the reason, as alleged by the Department, which I believe to be true, that there are no funds to supply that service.

Mr. MAGINNIS. Mr. Chairman, if I understood the gentleman from New York [Mr. CHITTENDEN] correctly, he said that the Territories had a greatly disproportionate mail service as compared with the receipts of their post-offices, and appealed to Delegates and members representing the western countries not to press for the establishment or increase of service upon routes until the business on such lines should be self-sustaining. Now, sir, we of the far West do not have our mails delivered to us five or six times a day in our homes and offices like our fellow-citizens in the great cities. On the contrary, the borderer is only too glad of an opportunity to ride from twenty to forty miles to a post-office where a mail is delivered once a week from the hurricane deck of a mail-rider's mule. [Laughter.] We do not expect the privileges which can only be afforded to thickly settled communities. We recognize the fact that the mails must bear some proportions to the business transacted through them. Yet we may fairly contend for such a liberal extension of mail facilities as

are properly demanded by the settlement and growth of the country, and which will be alike beneficial to the new communities and to the great cities which desire to extend their correspondence and trade to new points of enterprise.

In the latter respect we have equities that have not been shown forth in this debate. From tables read to-day it appears that only in some half dozen States are the receipts of the post-offices in excess of the expenditures. Not only the Territories, but the Southern and Western States are in deficit. Therefore, gentlemen representing the few States named rest in the comfortable assurance that they are bearing the mail burdens of the whole country, and say to the rest of us, "If your constituencies were like ours the service would be self-sustaining." This is not entirely true. By basing the business of post-offices on the receipts and stamps canceled, an unfair showing is made against the West and in favor of the large cities. In these chosen States are New York, Boston, Philadelphia, all the large cities, where newspapers, magazines, and books are printed, and life and fire insurance offices located; the seat of a large number of enterprises which have their offices in these cities, but depend on the whole country for their business. From these points letters, circulars, magazines, papers, books go to all parts of the country. There is not a route running into any of the Territories or western States that does not carry in three times, yes, ten times the mail it carries out. The stamps upon this mail matter are sold and canceled in the great cities. But stamps sold and canceled in great cities do not represent the postal business of these cities only, but they represent the business in that regard of the whole country. The receipts at city offices no more represent exclusively the mail business of those cities than the receipts for customs-dues at the port of New York represent exclusively goods consumed in New York City, but, on the contrary, represent goods consumed in every section of the country.

The Southwestern States and the western Territories and the mining regions are to this Government what the colonies of Great Britain are to her, the springs and sources and tributaries which make up the great rivers of commerce and trade that flow to and from the great cities of the East. As well might you claim that the mouth of the Mississippi was the whole river, ignoring its mountain sources and all its mighty tributaries, as to claim that the mail business of the New York or the Boston post-office was the business of New York or Boston alone. There is not a mail-route in the Western States or Territories that New York and Philadelphia, Boston, Chicago, and Saint Louis have not a mutual interest in with the people living in those sections of the country. I have rarely applied for increase of mail facilities in my Territory without having received petitions from my constituents and also having received letters from New York, Chicago, and Saint Louis merchants, urging strenuously such increase as would give them more frequent communication with their correspondents. Mails are quite as necessary for your merchants who wish to send out their circulars or their due-bills, as for ours to send orders or drafts for payment in reply. The benefit of the mails is mutual.

Sir, the service in all that trans-Missouri region was recently relet, and relet under the wise rules established by the last democratic House of Representatives upon the amendments to former laws reported from the Committee on the Post-Office and Post-Roads, and carried through Congress by Messrs. CLARK, of Missouri, and Mr. WADDELL.

For the first time, sir, in my experience that service was let upon genuine bids. Straw bids were prevented from being put in. And under the wise laws of last session, and the rules and regulations enforced by the Postmaster-General and his assistant, General Brady, there was, for the first time since my attention has been directed to mail matters, a fair and equitable letting of the new contracts. Some of these are taken so low that bidders must fail, but responsible bonds have been secured. The expenses of the mail service on star routes over the western country have been reduced over a million dollars. They might perhaps be reduced still more were it not for the fact that third-class matter is carried on all those lines, and the large merchants of New York, A. T. Stewart & Co. and others, come into competition with our local merchants, and load down the stage-coaches with dry-goods, hardware, and every other kind of merchandise until, in many instances, special service has to be provided for this kind of matter alone. In this your merchants are really more interested than the people of that western country, although it is a benefit to both, but not exclusively to either one. Consequently you must consider this mail service as a whole. To put the receipts of one office or one State or section against another will not do. It is the business of the whole country that swells the receipts of the great cities. Without the country they would not do the business or show the returns they do.

The mail service must be considered as a whole, corresponding with the network of traffic over the land, and as a means of development, of increasing intelligence and diffusing education over the whole country, as the blood is carried from the heart to the extremities.

The gentleman in charge of the bill, [Mr. BLOUNT,] who made such a fair, able, and conscientious speech, to which the House listened with so much attention and benefit, referred, as it seemed to me a little unjustly, to the increase made in the Territories under the last appropriation for star service. I have examined the figures since I heard his remarks upon them, and I find that this increase was almost entirely caused first by the discovery of the gold at the Black Hills. The going in there of a community of such numbers

of people that Congress is considering bills to give them a separate government; a community which produces half a million dollars in gold per month; where new mines are being opened, new mills erected, and a vast and active commerce, creates such a mail business as would not be transacted by ten times the number of people in the settled and quiet communities of the East. The next important item of increase charged to the Territories was the extension and increase of mail service from Texas to the Pacific Ocean across the path of the proposed great transcontinental railroad route, which is an undertaking of national importance. Well, now, that increase could not be properly charged to the local wants of New Mexico or Arizona. It was placing necessary mail service on a great national route, important to the people of the whole country, and especially the people of the whole southern tier of States, were interested in having that mail-route opened across the continent, that rapid communication might be had and timely intelligence transmitted along a dangerous border, threatened with invasion from Mexican robbers and hostile Indians.

And certainly the establishment of mail service to the Black Hills was necessary, and ought not to be charged particularly to the people of Wyoming. They had no particularly overshadowing interest in it. It was the Senators and Representatives of the people who had gone into that section from all parts of the country that called upon the Post-Office Department to open communication with their friends and had those new mail-routes opened. As I have said, a new community sprung up as if by magic; large amounts of gold were being shipped out, an immense business was being transacted, great cities were striving for this business, and great States interested in opening rival routes; what could the Department do but open communications with the new El Dorado?

Mr. BLOUNT. Will the gentleman allow me to interrupt him?

Mr. MAGINNIS. Certainly.

Mr. BLOUNT. I wish the gentleman to understand that I did not object to those Territories having mail service. What I objected to was their having a disproportionately large share of service as compared with the older communities.

Mr. MAGINNIS. Necessarily the service must be more costly, the lines being longer.

Mr. BLOUNT. If the gentleman will allow me, what I refer to is the number of trips per week.

Mr. MAGINNIS. The case is very different in the States which are traversed in all directions by railways carrying the mails every day and twice a day on the great trunk-lines to all important places. The star service supplies comparatively unimportant points. But in those remote countries whose capitals and commercial centers are two and three hundred and, as in my own Territory, over four hundred miles from any railroad, the star service not only supplies the smaller towns, but all the trunk-lines are stage routes. Over these main lines the mails, carried not on lightning trains but on slowly lumbering stage-coaches, certainly should go daily to be distributed by tri-weekly or weekly mails to less important or more remote points. A community must have great commercial resources to sustain itself at such great distance from modern means of transportation. And the mail business largely exceeds that of the same population in older communities where life is not so active and trade so great in proportion to the population. The postmaster in my own town of Helena, with five or six thousand inhabitants, drew up to last year as large a salary as the postmaster at Saint Louis, on account of the great business that is transacted at that point. And this leads me to say that in my opinion the gentleman from New York [Mr. BEEBE,] who has just spoken is in the right line of reform and retrenchment if it is to be made in the Post-Office Department. Reform is not to be aimed at by breaking down the value of the service, or by curtailing the number of routes through the Territories, the number of trips to the different parts of the country, but by cutting down the salaries and expenses of first and second class offices. There is no reason why the salary of a postmaster who may have no special training, who may be appointed to-day and removed to-morrow, should be larger than that of the governor or the surveyor-general of a Territory; or if it should be larger than these, there certainly is no reason why it should be larger than the salaries of the judges of the supreme court of the Territories—men who have, or at least are supposed to have, spent large sums and great labor in acquiring the learning and legal experience which are necessary to fit them to preside over courts and protect the rights of the citizen. Let reform begin here and not with the cutting down of mail service necessary to the business or to the development of the country.

And I must say for the present Postmaster-General and for the Third Assistant Postmaster-General that, since I have been in Congress, I have never known the business of the Department so carefully, conservatively, and conscientiously conducted. For the first time that I know of the last mail letting was a fair one. The men who put in the lowest bids got the contracts, and the lowest bids were not straw-bids either. If they have increased the service in the Territories it has only been where it was imperatively demanded; and I venture to say that the production of all the facts will show that the increase was not only necessary and justifiable but commendable and beneficial. I think it was a somewhat unfair reflection to intimate that they used too much of the appropriation to increase the service in the Territories, where no increase had been made for several previous years. The

committee were not responsible for that appropriation. We had to thank the House for it.

Mr. HOOKER. I think you may add, the vigilance of the gentleman from Texas, [Mr. SCHLEICHER,] for obtaining an appropriation specifically for the star service.

Mr. MANNIS. I am very glad to make that addition, in justice to a gentleman who is not only a warm but an able defender of border interests.

Mr. BLOUNT. I desire now to move that the committee rise for the purpose of closing general debate on this bill. I shall then move that the House again resolve itself into Committee of the Whole, and as soon as the first paragraph has been read I will yield to a motion that the committee rise for the purpose of adjourning. I move that the committee do now rise.

The motion was agreed to; and the Speaker having resumed the chair, Mr. Cox, of New York, reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the bill (H. R. No. 4246) making appropriations for the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes, and had come to no resolution thereon.

Mr. BLOUNT. I move the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of resuming the consideration of the bill (H. R. No. 4246) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes; and, pending that motion, I move that all general debate on the pending bill be closed in one minute.

The motion closing general debate was agreed to.

Mr. BLOUNT moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The motion that the House resolve itself into the Committee of the Whole on the state of the Union was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COX, of New York, in the chair,) and resumed the consideration of the Post-Office appropriation bill.

The CHAIRMAN. By order of the House all general debate is closed upon the bill and the Clerk will read the first paragraph.

The Clerk read the first paragraph, as follows:

That the following sums be, and the same are hereby, appropriated for the service of the Post-Office Department for the year ending June 30, 1879, out of any money in the Treasury arising from the revenues of said Department, in conformity to the act of July 2, 1836, as follows:

Office of the Postmaster-General:

For mail depredations and special agents, \$100,000; and not exceeding \$7,500 of this amount may be expended for fees to United States attorneys, marshals, clerks of courts, and counsel necessarily employed by special agents of the Post-Office Department, subject to approval by the Attorney-General: *Provided*, That hereafter the per diem pay of all special agents appointed under section 4017 of the Revised Statutes shall be \$3 instead of \$5, as therein provided.

Mr. BLOUNT. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX, of New York, reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 4246) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes, and had come to no resolution thereon.

W. I. ALLRED AND OTHERS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting certain information concerning the claim of W. I. Allred and Alonzo A. Noon; and the same was referred to the Committee on Military Affairs.

BUILDINGS IN MEMPHIS, TENNESSEE.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a report relative to the use and occupation of certain buildings in Memphis, Tennessee, during the War; and the same was referred to the Committee on War Claims.

SELF-ACTING TORPEDO.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a report on the self-acting torpedo of Mr. Hubbell; and the same was referred to the Committee on Military Affairs.

OSAGE INDIANS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a copy of a letter from the Commissioner of Indian Affairs inclosing an estimate of appropriation required to pay the Osage tribe of Indians; and the same was referred to the Committee on Appropriations.

QUARTERMASTER-GENERAL'S DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting report of Quartermaster-General giving an approximate estimate of the aggregate pay and allowance of all officers and enlisted men in the Quartermaster-General's Department for a fiscal year; and the same was referred to the Committee on Military Affairs.

SOLDIERS' HOME.

The SPEAKER also, by unanimous consent, laid before the House the annual report for 1877 of the board of managers of the National Home for Disabled Volunteer Soldiers; which was referred to the Committee on Military Affairs, and ordered to be printed.

PAY OF EMPLOYÉS.

Mr. GLOVER. I ask unanimous consent to offer a joint resolution for reference to the Committee of Accounts.

Mr. CONGER. Let us hear what it is.

The Clerk read the joint resolution, as follows:

Whereas the clerk and experts of the Committee on Expenditures in the Treasury Department, by an inadvertence, were not sworn into office at the dates of their appointments and dates of service, and for which reason payment is denied:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Clerk of the House be, and hereby is, directed to pay out of the contingent fund of the House said clerk and experts from the date of their respective appointments as though they had been sworn into office at the proper time.

Mr. SAMPSON. I object.

PUBLIC PRINTING AND BINDING.

Mr. SINGLETON, by unanimous consent, introduced a bill (H. R. No. 4292) to reduce the expense of the public printing and binding, and for other purposes; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

WITHDRAWAL OF PAPERS.

On motion of Mr. CABELL, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Elizabeth Brockett, no adverse report having been made in the case.

Mr. HUBBELL. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at three o'clock and fifty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. CARLISLE: A paper relating to the claim of George W. Taylor, of Kentucky—to the Committee of Claims.

By Mr. COX, of Ohio: The petition of scientific men of Dunkirk, New York, for the amendment of the postal laws so as to permit microscopic specimens to be sent by mail—to the Committee on the Post-Office and Post-Roads.

By Mr. GOODE: Memorial of the Cotton Exchange of Norfolk and Portsmouth, Virginia, for an appropriation to enable the Light-House Board to place automatic signal-buoys near Cape Henry and at the entrance to Norfolk Harbor—to the Committee on Appropriations.

Also, memorial of the Cotton Exchange of Norfolk and Portsmouth, Virginia, in favor of the construction of the Texas and Pacific Railroad—to the Committee on the Pacific Railroad.

Also, memorial of the councils of the city of Norfolk, Virginia, of similar import—to the same committee.

By Mr. HANNA: The petition of citizens of Indianapolis, Indiana, for a specific appropriation for a post-office building in said city—to the Committee on Appropriations.

By Mr. HENKLE: Papers relating to claim of George L. Railey—to the Committee on War Claims.

By Mr. McMAHON: The petition of Charles Ritchie, for a pension—to the Committee on Invalid Pensions.

By Mr. SCALES: The petition of petit jurors of United States courts at Greensborough, North Carolina, for the erection of a United States court-house in said city—to the Committee on Public Buildings and Grounds.

By Mr. STARIN: The petition of Low, Harriman & Co. and others, of New York City, against the passage of the pending tariff bill—to the Committee of Ways and Means.

By Mr. VANCE: The petition of Emma Jean Clark, for a pension—to the Committee on Invalid Pensions.

By Mr. WILLIAMS, of Alabama: The petition of citizens of Loachapoka, Alabama, in behalf of the Texas Pacific Railroad—to the Committee on the Pacific Railroad.

By Mr. WILLIS, of New York: The petition of Thomas Goodison, for a pension—to the Committee on Invalid Pensions.

Also, the petition of Owen W. Breman, for refund of income tax—to the Committee of Ways and Means.

IN SENATE.

MONDAY, April 15, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.
The Journal of the proceedings of Thursday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. KERNAN. I present a joint resolution of the General Assembly of New York, in favor of the enactment of a law by Congress to

prevent unjust discrimination in the rates of freight imposed by common carriers upon property transported by them. I ask that it may be read.

The joint resolution was referred to the Committee on Commerce, and read, as follows:

STATE OF NEW YORK.

IN ASSEMBLY, Albany, March 25, 1878.

Whereas there are now before Congress several bills seeking to provide for equity in rates of freights on property transported by common carriers in this country: Therefore,

Resolved, (if the senate concur.) That our Senators and Members of the House of Representatives in Congress assembled be, and they are hereby, requested to use their influence to secure the enactment of any wise and equitable law having for its object the prevention of violent and injurious fluctuations and unjust discrimination in rates of freight imposed by common carriers upon property transported by them in this country.

Resolved, That the clerk of the Assembly be directed to transmit a copy of the foregoing preamble and resolution to each Senator and Member of the House of Representatives from the State of New York.

By order.

EDWARD M. JOHNSON, Clerk.

IN SENATE, April 5, 1878.

Concurred in.

By order.

JOHN W. VROOMAN, Clerk.

Mr. KERNAN presented a resolution of the Legislature of New York against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which was ordered to lie on the table.

He also presented the petition of H. G. Gibson and 109 others, of the Associated Veterans of the War with Mexico, residing in the city of New York, praying the passage of the bill pending before Congress to place on the retired list of the Army the name of their comrade, Major-General James Shields; which was referred to the Committee on Military Affairs.

He also presented a resolution of the Buffalo Board of Trade against a change of duties on flour, mill-feed, and wheat imported from Canada; which was referred to the Committee on Finance.

Mr. KERNAN. I present also resolutions adopted by the board of managers of the New York Produce Exchange as to the most effective method of increasing exports of American products; also resolutions of that board in favor of allowing American citizens to buy or build ships for foreign trade in any part of the world and obtain for them American registers, and against subsidies or payments to particular lines of steamships, except such payments as may be necessary for the carrying of the mails. These resolutions are on several subjects, and I ask the Chair to suggest their proper reference.

The VICE-PRESIDENT. The Chair thinks upon the statement that the resolutions should go to the Committee on Finance.

Mr. KERNAN. Very well.

The VICE-PRESIDENT. They will be so referred.

Mr. WHYTE presented the petition of Elizabeth Joines, widow of John Joines, late a sail-maker in the United States Navy, praying for a pension; which was referred to the Committee on Pensions.

He also presented the memorial of John A. Hamilton & Co., Edward Worthington, Ferdinand Latrobe, and others, citizens of Baltimore, Maryland, remonstrating against the passage of any act imposing a tax on incomes; which was referred to the Committee on Finance.

Mr. EATON. I have here, addressed to me and my colleague, a communication signed by the president of Yale College, by Dr. Woolsey, the late president of Yale College, by the faculty of that institution, and by the mayor and common council of the city of New Haven, and various other citizens, regarding the arrest of a citizen of Connecticut, Mr. Noyes. I beg that this paper may go to the Committee on the Judiciary, although it is a communication directed to me.

The VICE-PRESIDENT. It will be so referred.

Mr. WALLACE presented the memorial of L. T. Eddy and others, workmen residing at Milesburgh Iron Works, Centre County, Pennsylvania, engaged in the manufacture of iron, remonstrating against a reduction of the duties on foreign imports and against the reimposition of the war tax on tea and coffee; which was referred to the Committee on Finance.

Mr. EUSTIS presented resolutions of the New Orleans Cotton Exchange, in favor of an appropriation for the improvement of the Red River; which were referred to the Committee on Commerce.

Mr. FERRY presented the memorial of John Higgs and 54 others, pensioners and citizens of Detroit, Michigan; also the memorial of Clinton Spencer and 40 others, pensioners and citizens of Ypsilanti, Michigan, remonstrating against the abolition of pension agencies; which were referred to the Committee on Pensions.

Mr. CONKLING. I have received and present a memorial signed by a large number of leading business men in the city of New York largely concerned in the matter to which they refer, which memorial insists that the bankrupt law is an appropriate part of the jurisprudence of every commercial country; that the present bankrupt law in this country ought not to be repealed; and they pray Congress rather to appoint a commission to ascertain whether the principle of equality among creditors in cases of insolvency is applicable to the business system of this country, and if so, "whether it is not competent for your honorable body to so amend the law as to remove its defects and give to the country a judicious and satisfactory bankrupt

law." I move that the memorial lie on the table, as report has been made.

The motion was agreed to.

Mr. COKE presented the petition of Eli Ayres, of Texas, praying for the passage of an act to quiet title to certain land purchased by him in the year 1839 from the Chickasaw Indians; which was referred to the Committee on the Judiciary.

Mr. INGALLS. I find upon my desk a series of resolutions adopted by the Washington Monument Society, in the sentiments of which I very heartily concur, and which I have great pleasure in presenting to the Senate. They express their wish that work should be resumed on the Washington Monument, and that it should be completed in accordance with the original design.

It will be remembered that two years ago Congress appropriated \$200,000 for this object, and that the House of Representatives lately made an auxiliary appropriation of \$35,000 for the purpose of strengthening the foundation of the monument, that was considered by some, I believe, to be insecure. This latter bill was sent to the Committee on Public Buildings and Grounds instead of to the Committee on Appropriations, where I believe it properly belonged. I do not wish to make any criticism upon the delay that has occurred in this matter. It is sufficient to say that there has been time enough since the original appropriation was made to have laid the topmost stone in its place, and to have made the column the loftiest structure that has ever been reared upon the surface of this planet by the hand of man. I think the American people want it finished, and that there is no merely sentimental expenditure which they will so gladly sanction. I hope that the Committee on Public Buildings and Grounds will report the supplemental bill at an early day. I see the chairman of the committee present and I should be very glad if he would do so this morning, and I believe that the Senate would unanimously approve the measure. I ask that these resolutions be referred to the Committee on Public Buildings and Grounds.

Mr. MORRILL. Mr. President, I desire merely to say to the Senator from Kansas that he is mistaken in supposing the chairman of the Committee on Public Buildings and Grounds is present this morning. The Senator from Massachusetts [Mr. DAWES] is absent, but I understand he will return to-morrow. I may assure the Senator from Kansas that the subject to which he refers has already received some consideration in the Committee on Public Buildings and Grounds, and will undoubtedly be disposed of at their next meeting, to occur this week. So far as I am concerned, I assure him further that he shall have an opportunity, and the earliest possible, to ascertain whether the majority of the Senate are in favor of the measure which he so enthusiastically indorses.

The VICE-PRESIDENT. The resolutions will be referred to the Committee on Public Buildings and Grounds.

BUILDING FOR BUREAU OF ENGRAVING AND PRINTING.

Mr. MORRILL. I desire to give notice that to-morrow morning immediately after the morning business I shall endeavor to call up the bill (S. No. 875) to provide a fire-proof building for the use of the Bureau of Engraving and Printing and the mechanical branches of the Treasury and other Departments. It is very important to have this matter acted upon now.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 3690) to relieve the churches of the District of Columbia, and to clear the title of the trustees to such property, reported it with amendments, and submitted a report thereon, which was ordered to be printed.

Mr. INGALLS, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 3969) regulating the appointment of justices of the peace, commissioners of deeds, and constables within and for the District of Columbia, and for other purposes, reported it with amendments, and submitted a report thereon, which was ordered to be printed.

Mr. BURNSIDE, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. No. 3859) for the relief of Silas M. Norton, postmaster at Bristol, Connecticut, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BAILEY. I am directed by the Committee on Pensions, to whom was referred the petition of Mrs. Lydia Dorr, praying to be placed on the pension-rolls, to report it back to the Senate, by the request of Mrs. Dorr, and to move that the committee be discharged from the further consideration of the petition, and that the petitioner have leave to withdraw her petition and papers.

The motion was agreed to.

Mr. ANTHONY. I am directed by the Committee on Printing, to whom was referred a resolution to print 10,000 copies of Professor Hayden's annual report, to ask to be discharged from its further consideration, as another order to print this report has been adopted.

The report was agreed to.

ARGUMENTS ON WOMAN SUFFRAGE.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the following resolution, asked to be discharged from its further consideration; which was agreed to:

Resolved, That 1,000 copies of the arguments before the Committee on Privileges

and Elections of the United States Senate in behalf of a sixteenth amendment be given to Sara Andrew Spencer, chairman of the resident congressional committee of the National Woman Suffrage Association.

PASSPORTS TO COLORED CITIZENS.

Mr. WALLACE. I am directed by the Committee on Foreign Relations, to whom was referred a bill (S. No. 1050) authorizing the issue of passports free to colored citizens going to Brazil, to report it without amendment. I ask the Senate to indulge me in taking up and passing the bill at this time.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of State to issue passports, free of charges and fees therefor, to any colored citizens of the United States who may wish to go to Brazil to engage in work upon the Madera and Mamore Railway, and suspends to that extent the provisions of section 4075 of the Revised Statutes.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NEW EDITION OF REVISED STATUTES.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred the joint resolution (S. R. No. 23) providing for the distribution and sale of the new edition of the Revised Statutes of the United States, to report it with amendments. I ask that the Senate proceed to the consideration of the joint resolution.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Of the 15,000 copies of the new edition of the first volume of the Revised Statutes of the United States required by the fourth section of the "Act to provide for the preparation and publication of a new edition of the Revised Statutes of the United States," approved March 2, 1877, to be printed and bound, the joint resolution provides for the following disposition by the Secretary of State: to the President of the United States 4 copies, one of which shall be for the library of the Executive Mansion, and one copy for the use of the Commissioner of Public Buildings; to the Vice-President of the United States, 2 copies; to each Senator, Representative, and Delegate in Congress, 1 copy; to the Librarian of the Senate, for the use of Senators, 120 copies; to the Librarian of the House, for the use of Representatives and Delegates, 410 copies; to the Senate of the United States, for distribution, 700 copies; to the House of Representatives, for distribution, 2,920 copies; to the Library of Congress, 14 copies, including 4 copies for the law library; to the Department of State, for the use of legations and consulates, 380 copies; to the Treasury Department, including those for the use of officers of customs, 280 copies; to the War Department, including 5 copies for the use of the Military Academy at West Point, 55 copies; to the Navy Department, including 3 copies for the library of the Naval Academy at Annapolis, a copy for the library of each navy-yard in the United States, a copy for the Brooklyn Naval Lyceum, and a copy for the library of the Naval Institute at Charlestown, Massachusetts, 70 copies; to the Department of the Interior, including those for the use of the surveyors-general and registers and receivers of land offices, 255 copies; to the Department of Justice, including those for the use of the Chief and Associate Justices of the Supreme Court, the judges and officers of the United States and territorial courts, 450 copies; to the Department of Agriculture, 5 copies; to the Smithsonian Institution, 2 copies; to the Government Printing Office, 2 copies; and the Secretary of State shall supply deficiencies and offices newly created. The residue of the 15,000 volumes, together with any further number thereafter printed and bound, shall, by the Secretary of State, be sold at the cost of paper, press-work, and binding, with 10 per cent. added thereto.

The first amendment of the Committee on Printing was to insert after the word "Congress," in lines 14 and 15, the words "to the Secretary of the Senate and the Clerk of the House of Representatives;" so as to read:

To each Senator, Representative, and Delegate in Congress, to the Secretary of the Senate, and the Clerk of the House of Representatives, one copy.

The amendment was agreed to.

The next amendment was to add at the end of the joint resolution: The costs of the same to be paid from the general appropriation for printing.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1167) for the relief of Peter G. Mills;

A bill (H. R. No. 3874) authorizing the Secretary of War to transfer to certain settlers whose lands were included within Fort Hart military reservation such portions as are not needed for military purposes;

A bill (H. R. No. 3774) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1879;

A bill (H. R. No. 4242) to authorize the restoration of George A. Armes to the rank of captain; and

A joint resolution (H. R. No. 158) for the erection of a monument over the grave of Thomas Jefferson.

The message further announced that the House had passed the following bills:

A bill (S. No. 484) to authorize the construction of a bridge abutment and approach within the Fort Riley military reservation; and

A bill (S. No. 1014) requiring the commissioner for preparing and publishing a new edition of the Revised Statutes of the United States to revise and perfect the index to the first volume of the same.

The message also announced that the House insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 3064) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1879, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. O. R. SINGLETON of Mississippi, Mr. W. A. J. SPARKS of Illinois, and Mr. EUGENE HALE of Maine managers at the conference on its part.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 374) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (H. R. No. 1135) to authorize the issue of a patent of certain lands in the Brothertown reservation, in the State of Wisconsin, to the persons selected by the Brothertown Indians; and

A bill (H. R. No. 1412) to prevent depredations upon property in the District of Columbia.

BILLS INTRODUCED.

Mr. JOHNSTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1081) for the relief of David G. Potts; which was read twice by its title.

Mr. JOHNSTON. Accompanying this bill is a letter from the First Assistant Postmaster-General which explains it. I move that the bill and the letter be referred to the Committee on Post-Offices and Post-Roads.

The motion was agreed to.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1082) to organize the National Railway Company of the United States, and for other purposes; which was read twice by its title.

Mr. McDONALD. I desire to state that I introduce this bill by request, and that I am not in favor of it. I move that it be referred to the Committee on Railroads.

The motion was agreed to.

Mr. HEREFORD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1083) to incorporate the Collateral Loan and Trust Company in the District of Columbia; which was read twice by its title.

Mr. HEREFORD. I introduce this bill by request. I know nothing of its contents. I move that it be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. HEREFORD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1084) to authorize the construction of railroad bridges across the Big Sandy River and its navigable tributaries; which was read twice by its title, and referred to the Committee on Commerce.

Mr. HEREFORD. I ask leave to introduce a bill, and I object to its reference to any committee this morning. I shall call it up for consideration to-morrow or as soon thereafter as I can secure the attention of the Senate.

By unanimous consent, leave was granted to introduce a bill (S. No. 1085) to repeal all that part of the act approved January 14, 1875, known as the resumption act, which authorized the Secretary of the Treasury to dispose of United States bonds and redeem and cancel the greenback currency; which was read twice by its title.

The VICE-PRESIDENT. The bill will lie on the table, subject to the call of the Senator from West Virginia.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1086) to provide for the renewal of certain bonds required by law to be given by Army officers; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1087) to provide additional regulations for homestead and pre-emption entries of public lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. ROLLINS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1088) to provide for the revision and correction of assessments for special improvements in the District of Columbia, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave

to introduce a bill (S. No. 1089) for the relief of Lieutenant-Colonel Schuyler Hamilton, late of the United States Army; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1090) for the relief of Laurence A. Williams; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1091) for the relief of James H. Woodard; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MORGAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1092) to regulate appeals to the Supreme Court of the United States in certain cases; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. JONES, of Florida, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1093) authorizing railroad companies to construct and maintain telegraph lines for commercial purposes, and to secure to the Government the use of the same for postal, military, and other purposes; which was read twice by its title, and referred to the Committee on Railroads.

Mr. SARGENT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1094) for the pardon of certain deserters from the United States Army in 1848; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1095) repealing the several sections of the Revised Statutes relating to the tenure of civil offices; which was read twice by its title, and referred to the Committee on the Judiciary.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BECK, it was

Ordered, That the petition and papers of John B. Davis be taken from the files of the Senate and referred to the Committee on Post-Offices and Post-Roads.

On motion of Mr. McDONALD, it was

Ordered, That the petition and papers of D. Rodney King be withdrawn from the files and referred to the Committee on Pensions.

EFFECT OF TARIFF LEGISLATION.

Mr. ROLLINS, from the Committee on Manufactures, reported the following resolution; which was considered by unanimous consent, and agreed to:

Whereas the manufacturing industries of this country are largely interested in any changes in the existing tariff regulations: Therefore,

Be it resolved, That the Committee on Manufactures be, and are hereby, authorized and directed to consider and report to the Senate the probable effect of any changes proposed in the tariff laws affecting the manufacturing industries of the country.

PROTECTION OF HARBOR AND WHARVES AT NEW ORLEANS.

Mr. EUSTIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and is hereby, directed to transmit to the Senate the report of the hydrographic commission which was convened in New Orleans "to examine and report upon the means necessary to protect the wharves and harbor from the incursions of the Mississippi River.

CAPTAIN G. BANCROFT GHIRRA DI.

Mr. SARGENT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be directed to transmit to the Senate the record of proceedings of trial by court-martial of Captain G. Bancroft Ghirradi, of the Navy, on charges of cruelty to seamen, with the proceedings taken thereon; also any subsequent orders for the employment of said Ghirradi and the nature of such employment; also any correspondence between the Bureau of Equipment and Recruiting on the subject of such orders and employment.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter from the General of the Army, recommending that section 1216 of the Revised Statutes be amended so as to include all enlisted men in its provisions and that section 1285 be so modified as to entitle the holder of a certificate of merit to the additional pay of \$2 per month while in the military service; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a tabular statement of campaigns, expeditions, and scouts made in the Department of Dakota during the third quarter of the year 1877; which was ordered to lie on the table and be printed.

AMENDMENTS TO POST-ROUTE BILL.

Mr. DAVIS, of West Virginia, Mr. MATTHEWS, and Mr. SARGENT submitted amendments intended to be proposed by them, respectively, to the bill (S. No. 802) establishing post-roads in the several States and Territories; which were referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

ARMY RETIRED LIST.

Mr. SARGENT. The bill (H. R. No. 4245) authorizing the President of the United States to appoint James Shields, of Missouri, a brigadier-general in the United States Army on the retired list, passed the

House of Representatives and was referred to the Committee on Military Affairs of the Senate. I offer an amendment to that bill, which I desire to have printed and referred to the same committee. I ask that the amendment be read.

The VICE-PRESIDENT. It will be reported at length.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause of the bill and insert:

That the President of the United States be, and he hereby is, authorized and directed to place upon the retired list of the United States Army the following distinguished officers of the late war, with the full rank held by each, respectively, at the date he resigned or was mustered out of the service, with the pay and emoluments to which officers of such rank upon the retired list are entitled by law: Lieutenant-General Ulysses S. Grant, of Illinois; Major-Generals John A. Dix of New York, George B. McClellan of New Jersey, NATHANIEL P. BANKS of Massachusetts, BENJAMIN F. BUTLER of Massachusetts, AMBROSE E. BURNSIDE of Rhode Island, William S. Rosecrans of Ohio, Franz Sigel of Missouri, John A. Logan of Illinois, Lewis Wallace of Indiana, Stephen A. Hurlbut of Illinois, W. B. Franklin of Pennsylvania, Henry W. Slocum of New York, Cadwallader C. Washburne of Wisconsin, Carl Schurz of Missouri, Alfred Pleasanton of New York, F. Smith of New York, James B. Steedman of Ohio, Granville M. Dodge of Iowa, JACOB D. COX of Ohio, RICHARD J. OGLESBY of Illinois, JAMES A. GARFIELD of Ohio, ROBERT C. SCHENCK of Ohio, John C. Fremont of California, John A. McClernand of Illinois; Brigadier-Generals James Shields of Missouri, ALFRED S. WILLIAMS of Michigan, Charles Devens of Massachusetts, William W. Averill of New York, Clinton B. Fiske of Missouri, William Vandever of Iowa, Ralph P. Buckland of Ohio, John McNeil of Missouri, John M. Thayer of Nebraska, Halbert E. Paine of Wisconsin, THOMAS EWING of Ohio, Alexander Shaler of New York, Judson Kilpatrick of New Jersey, John M. Corse of Illinois, Edward M. McCook of Colorado, John F. Hartman of Pennsylvania, Joshua L. Chamberlain of Maine, Joseph B. Hawley of Connecticut, and Edward F. Noyes of Ohio.

Sec. 2. —

Mr. INGALLS. Before the reading is finished I wish to move as an amendment the addition of the names of Robert B. Mitchell and James G. Blunt, of Kansas.

The VICE-PRESIDENT. The proposition is not in an amendable state.

Mr. SARGENT. It is not amendable. There is another section to my amendment.

The VICE-PRESIDENT. It will be read.

The Chief Clerk read as follows:

Sec. 2. All acts and parts of acts inconsistent herewith be, and the same are hereby, repealed so far only as to enable the President to make said appointments.

Mr. INGALLS. The Senator from California will, I have no doubt, consent to the amendment I have suggested.

Mr. SARGENT. I have examined with considerable care to see that these persons had a record which would entitle them to this distinction. I find that all the officers named are of equal or superior rank to General Shields, whose name I also insert. Several of them distinguished themselves for gallantry both in the Mexican war and in the war of the rebellion, some of them lost limbs in the service, and most of them now bear marks on their person of bullets received in defense of their country. Any others coming within the same category I should not have objection to, provided the example is to be set of enlarging the retired list in this way. I ask that the amendment be printed.

The VICE-PRESIDENT. It will be printed and referred to the Committee on Military Affairs.

Mr. CONKLING. Before that is done I beg to ask to have read the names which appear from New York. I was detained in another part of the Chamber a moment and heard only one or two of them.

The VICE-PRESIDENT. The Secretary will report the names.

The Chief Clerk read as follows:

John A. Dix, Henry W. Slocum, William W. Averill, Alexander Shaler, Alfred Pleasanton, William F. Smith.

Mr. SARGENT. I have no doubt that there are many other worthy officers who are entitled to this distinction if the example is set.

Mr. DAVIS, of West Virginia. The Senator from California stated that he had examined the record of all these gentlemen and found it proper. I do not know how he overlooked B. F. Kelly, of West Virginia, who probably was in the first battle that was fought, and was wounded, and perhaps was in the last. Certainly he ranked among the names that the Senator includes in his amendment. I do not know how the Senator in making up his list could have overlooked that name. It is a mystery to me; and whenever the bill is amendable, if it is to pass at all in any such form, I think Kelly ought to be at the head of it or about the head of it. His might come in after the name of General Grant, perhaps.

The VICE-PRESIDENT. The amendment is referred to the Committee on Military Affairs.

REPEAL OF RESUMPTION ACT.

Mr. HEREFORD. I move that the Senate proceed to consider the resolution which I introduced on the 21st of March, relating to the repeal of the resumption act.

The motion was agreed to; and the Senate proceeded to consider the resolution, as follows:

Whereas House bill No. 805, a bill to repeal all that part of the act approved January 14, 1875, known as the resumption act, which authorized the Secretary of the Treasury to dispose of United States bonds and redeem and cancel the greenback currency, was referred to the Finance Committee of the Senate on November 26, 1877; Therefore,

Be it resolved, That said committee be required to report said bill to the Senate within one week, together with their action thereon, if any shall have been had.

Mr. HEREFORD. Mr. President, it is now three weeks since I introduced the resolution and drew the attention of the Committee on Finance to it. At that time the chairman of the Committee on Finance asked that it should not be forced upon the Senate, for the reason that they had not had time to consider a matter of such great importance.

The bill to which this resolution refers passed the House of Representatives November 26, came to this House, and was referred to that committee. That makes it about five months ago. That committee have had the bill under consideration for five months, and yet we are told by the committee that they want more time, and that it would be improper to hurry up the consideration of it or to call on the Senate for a vote thereon.

I was a little surprised at the reason assigned for it especially when I took into consideration the history of the important measure; the bill for the resumption of specie payments, which this bill seeks to repeal, was introduced into the Senate by Mr. Sherman, the chairman of the Committee on Finance, December 21, 1874, without the bill ever having been previously introduced in this body by any one, a bill not called for by any individual member of the Senate, a bill which the Finance Committee was not directed or requested to report, a bill which was the result, as the Senator from Ohio [Mr. THURMAN] said, of a caucus of the republican Senators at that time holding their seats here.

Senator Sherman, who was then the chairman of that committee and who introduced that bill as its chairman and who is now Secretary of the Treasury, when he introduced it said:

I give notice that to-morrow, if there shall be no more pressing business, I will ask the Senate to take up this bill with a view to present action.

He was appealed to by many Senators not to hurry the matter in that way, but he declined to listen to the request of each and every one of the Senators who urged that request. This is what he said when he was appealed to by the present Secretary of the Interior for delay:

Mr. SHERMAN. The Senator will have ample time. It is a short bill, only three pages long. He will see what there is in it on reading it, and I think in the course of an hour or so he will be able to make up his mind entirely as to whether he will be able to support the bill or not. I think for the interest of business men, for the interest of the whole country, it is important that this Congress should inform them what it purposes to do in regard to this important subject. I think if this bill can be passed to-day promptly, quickly, and sent to the House of Representatives as an indication that Congress will do thus much, if no more, in the direction pointed out by the bill, it would be of great benefit to the country. The Senator I think will agree to that.

The then Senator Sherman said that the Senate had had ample time to consider it in another portion of the discussion, that the whole subject-matter had been amply discussed by the Senate prior to that; and on the 22d day of December, the day after it was introduced, that bill was pressed to a vote, only allowing about twenty-four hours for the members of the Senate to consider it.

The Senator having charge of the bill, as I said a moment ago, then said in the hearing of the Senate that the whole subject-matter had been amply discussed, this whole subject of finance. If it had been amply discussed then to enable Senators to know how to act and how to vote, what are we to say now after the exhaustive discussion that the financial question has had at this session and between that time and this session. So we see, Mr. President, there were but twenty-four hours given the Senate to consider this important subject; and yet this committee has had five months in which to consider the bill to repeal it. That bill passed this House then within twenty-four hours and went to the House of Representatives and was there passed under a suspension of the rules the very day that it arrived there, without any opportunity for an amendment, without anybody having been afforded an opportunity to resist its passage.

There are many reasons why the Senate should act promptly in this matter. In the "interview of the Committee on Finance of the United States Senate with Hon. John Sherman, Secretary of the Treasury, in regard to the repeal of the resumption act," we are told by the Secretary of the Treasury that since the passage of the resumption act the greenback currency has been contracted, in round numbers, \$34,000,000; that the national-bank circulation has been contracted \$25,000,000, making a sum in the two currencies of \$59,000,000, or, in round numbers, about \$60,000,000, and that the increase in the reserve of the national banks has been \$31,000,000, so that in that length of time the circulating medium of the country has been diminished \$91,000,000. Thus, according to his own statement, taking the figures that he has given us and which we find also in the report of the Comptroller of the Currency and the finance report of the Secretary of the Treasury, there are issued and outstanding to-day, greenbacks, about \$348,000,000, and national-bank paper \$299,000,000, making in the aggregate \$647,000,000. The national banks alone have in their vaults as a reserve fund the enormous sum of \$220,000,000, a reserve fund drawn from the circulation of the country, which subtracted from the amount of \$647,000,000, the aggregate amount of the national-bank paper and the greenback currency, leaves only \$427,000,000, and if you subtract from that the \$35,000,000, which is about the usual amount of currency that is kept in the national Treasury, you have in circulation to-day only \$392,000,000 for all purposes, and if you subtract from that about 10 per cent. that has been lost by fire or otherwise, you will only have in circulation for the use of the people of this country \$350,000,000.

Is it any wonder, then, I ask, that we should have the financial

paralysis that is now pervading this whole country from one end to the other with only \$350,000,000 of greenback and national-bank paper in circulation?

The Secretary of the Treasury tells us, in this same interview, as I said a moment ago, that the national banks had in round numbers \$220,000,000 in their vaults in reserve; as a reserve fund for what? Why is it held in reserve? It is to prepare for this great day, the 1st day of January, 1879; and what is more remarkable in that simple statement of his is that this \$220,000,000 that is held in reserve is \$84,000,000 more than the law requires the banks to hold in reserve. Why, I ask you, Mr. President, are the national banks keeping locked up in their vaults \$84,000,000 more than the law requires? Simply for the purpose of getting ready to meet the exigencies of the occasion on the 1st day of January, 1879. I say when we see contraction going on at this rate it is high time that this act should be repealed, and that this sword of Damocles should be held no longer over the heads of the people. If it is to continue, Mr. President, at the same rate that has been going on, the paralysis will continue and bankruptcies will increase throughout the length and breadth of this land.

I will not take the time, Mr. President, to give additional reasons why this act should be repealed, and repealed immediately; but I shall content myself for the present with having given some of the reasons which induced me to introduce this resolution, and I now give notice that I shall, unless the Senate desire to act upon it sooner, ask for a vote upon this resolution to-morrow.

Mr. MORRILL. The Senator from West Virginia seems very anxious that the Committee on Finance shall report the bill for the repeal of the resumption act. I desire to say to him I have no question that the bill will be reported, perhaps with some amendments, to-morrow; but the Senator from West Virginia seems to be in the same position of Mr. Beecher's dog "Noble" which saw the squirrel go into the hole, and pursued it and kept up a furious barking, and after the squirrel had long left, the dog went to the hole every day and kept up barking all summer. Now, the fact is perhaps not known to the Senator from West Virginia that the country generally resumed specie payments on Saturday. There is nothing left to bark at. The price of gold went down to $\frac{1}{4}$ per cent. premium in New York, and some of the banks were paying out gold the same as bills, and some of the banks of Cincinnati were doing the same thing, and some of the banks of Chicago, and I have no doubt that before we can get action on the part of the Senate on the bill, which will be reported, the whole country will have resumed specie payments.

Mr. HEREFORD. I simply desire to say to the Senator from Vermont, that the people will keep up a louder barking than that dog did that he refers to, if he does not yield to their demands.

The VICE-PRESIDENT. The resolution now goes over.

IMPROVEMENT OF GALVESTON HARBOR.

Mr. MAXEY. I move to take up for present consideration Senate bill No. 134. When it is read, I will explain the necessity for it.

The motion was agreed to; and the bill (S. No. 134) making further appropriations for continuing the improvements of Galveston Harbor, and for continuing the work in Galveston Bay, State of Texas, was considered as in Committee of the Whole.

The bill was reported from the Committee on Commerce with amendments.

The first amendment was, in line 3, to strike out "one hundred and fifty" and insert "seventy-five;" so as to read:

That the sum of \$75,000 be and the same is hereby appropriated, &c.

The amendment was agreed to.

The next amendment was to strike out lines 7, 8, 9, and 10, in the following words:

And that the further sum of \$150,000, out of any moneys not otherwise appropriated, be, and the same is hereby appropriated for continuing the work in Galveston Bay, in the State of Texas, all of.

The amendment was agreed to.

The next amendment was, in line 12, after "Secretary of War," to insert "and the appropriation for which is substantially exhausted;" and in line 13 to strike out the word "sums" and insert "sum."

Mr. SARGENT. How does this bill read as amended?

The CHIEF CLERK. If amended as proposed, the bill will read:

That the sum of \$75,000 be, and the same is hereby appropriated out of any moneys not otherwise appropriated, for the purpose of continuing the improvements of Galveston Harbor, in the State of Texas, which improvements are now being prosecuted under the direction of the Secretary of War, and the appropriation for which is substantially exhausted; and that the said sum be expended under his direction.

The amendment was agreed to.

Mr. MAXEY. The bill was placed before the Committee on Commerce and by that committee reported favorably. The reason is given by the Chief of Engineers that unless this work is continued that which has already been expended by the Government will go to waste, for the reason that during the early spring and late fall and winter months in that climate we are subjected to heavy northerly, heavy winds that destroy the work already done, so that it is economy, says the Chief of Engineers, to continue this work now, thus advancing so much of this appropriation already recommended by the Chief of Engineers and thereby continue the work. The object is simply to advance this amount previous to the general appropriation bill, that the work may now begin and go on until that bill comes before the Senate.

Mr. CONKLING. Mr. President, ordinarily, as the Senate knows and approves, the Committee on Commerce reserves all bills and amendments of this sort to be reported when the river and harbor bill is reported. The Senator from Texas who has just taken his seat, with his usual assiduity and care for matters which fall within his action and duty, pressed upon the committee with great force, and presented with great clearness, the facts of this particular case. Whether they made it an exception to all other cases or not, the committee could not shut its eyes to the fact that a case was presented in which time was very important, in which the application of a given sum of money promptly would be far more profitable, judicious, and beneficial, than the same or even a larger sum withheld to a later date could be; and therefore it was the judgment of a majority of the committee that the request of the Senator from Texas, about which he was naturally very urgent, should be complied with, and that this should be made an exception to the general rule, and accordingly the committee reported the bill believing it to be one which would receive the approval of the Senate and be open to no objection except the objection of time, which objection they thought ought not to be made against the urgent facts found in the case.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill making further appropriations for continuing the improvements of Galveston Harbor, State of Texas."

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Military Affairs:

A bill (H. R. No. 1167) for the relief of Peter G. Mills; and

A bill (H. R. No. 3974) authorizing the Secretary of War to transfer to certain settlers whose lands were included within Fort Hartsum military reservation such portions as are not needed for military purposes.

The bill (H. R. No. 3974) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1879, was read twice by its title, and referred to the Committee on Appropriations.

The joint resolution (H. R. No. 158) for the erection of a monument over the grave of Thomas Jefferson, was read twice by its title.

Mr. EDMUNDS. I do not see the chairman of the Committee on the Library here at this moment. I wish to have that joint resolution laid on the table. The Joint Committee on the Library considered it before it was reported to the House, with the exception of the sum, which I presume is not too large. I dare say, therefore, that the Senator from Wisconsin [Mr. HOWE] would like to have it taken up and put on its passage.

The VICE-PRESIDENT. The joint resolution will lie on the table without a reference.

The bill (H. R. No. 4242) to authorize the restoration of George A. Armes to the rank of captain, was read twice by its title.

Mr. MAXEY. There is a bill pending—

The VICE-PRESIDENT. The Chair was about to direct this bill to be placed on the Calendar without a reference, as there is a Senate bill on the same subject.

Mr. MAXEY. There is a bill pending reported from the Senate Military Committee, and this may as well go on the Calendar at once.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

BANKRUPT LAW REPEAL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 35) to repeal the bankrupt law, the pending question being on the amendment submitted by Mr. MATTHEWS.

Mr. MCCREERY. Mr. President, a friend of the pending bill believes that the vote can be now taken and that further debate is only a useless consumption of time. I shall defer to that opinion so far as to promise to be exceedingly brief. If I were entirely satisfied of its correctness and that there would be no more speaking, I would suspend my remarks at this moment. For this question has been perhaps more thoroughly discussed than any other since the close of the civil war. In a broader and a higher forum than this, all the facts and all the arguments have been calmly considered, and the judgment has been rendered. Our duty will be done, and well done, when we have placed it on the record. No matter whether it does or does not accord with our own opinion, the grand inquest of the people has decided. From that decision there is or should be no appeal. The theory and the structure of our Government make the people the source of power, while the Congress and all other legislative assemblies are their representatives, their agents, or their servants. From the earliest developments of civilization, the responsibilities and duties of agents and servants have been clearly and distinctly understood. At no time during that long period has it been successfully contended that the representative, the agent, or the servant could disregard or override the will of his principal or his superior. Such an assumption carried into general practice would be not only a violation of law, it would be a subversion of civil society. When, therefore, it is admitted (and it will not be denied) that a majority of the

American people desire the repeal of the bankrupt law, that is an end of the argument. For more than ten years past a bankrupt certificate has been a legal tender in the discharge of private indebtedness. This method of settlement has sunk lower and lower in public estimation until it is now regarded as worse than no settlement at all. The people have borne the affliction with wonderful patience and fortitude; but so wide-spread is the evil and so contagious the example that they are calling aloud for the only measure which will stop the scourge in its desolating course. Surfeited and gorged with bankrupt certificates, in their stead they seek to restore "the dollar of the fathers" to be used in the payment of debts. By petition, by legislative action, and by every other means in their power they have implored you to remove from the statute-books a law which is simply a license to prey on their substance through a betrayal of their confidence.

They have not asked for modifications or amendments; they have not asked for forty bankrupt laws, as proposed by the amendment of the Senator from Ohio [Mr. MATTHEWS] instead of the single one we have at present; they have not asked that the different insolvent debtor acts of the States, separate, distinct, independent, and conflicting as they may be, should be violently transformed into the unity, the harmony, and the symmetry which would be required to bring them within that clause of the Constitution which authorizes Congress to "establish uniform laws on the subject of bankruptcies throughout the United States."

The Senator had an intuitive apprehension of the danger of his position, and entered into an elaborate defense before any assault was made. It has been said that "the wicked flee when no man pursueth," and it might have been added that the really desperate will fight and contend when no man assaileth. No one has a doubt of the skill and address of the Senator from the State of Ohio, and it may have been a strategic movement to place his heaviest artillery at his weakest point; but he will find few beside himself who will stand in the breach. He has taken his position without consultation, without reference to any committee, and without the usual indorsement of a report. The people have not asked for his amendment or for anything of the sort. They have asked for repeal, and the single point presented for deliberation is whether or not they are entitled to a hearing in their own behalf.

The Senator should pause for a moment before it is too late and contemplate the dismay and the consternation which would pervade all minds at the very thought of having forty bankrupt laws in the United States. Captain Simon Sugg when in camp with his forty thieves was the terror of the surrounding country; but who was he, and who were they, when compared with forty bankrupt laws in full blast at the same time? If the Senator shall ever succeed in starting his incongruous, disjointed machinery, the first revolution will blow the bottom out of the credit system, or I am no judge of small matters.

The Senator from Ohio has taken high rank among the strong men of this body, while in his profession he enjoys an eminence rarely attained by the most aspiring. Like all great lawyers he is laborious, critical, and painstaking. But notwithstanding all that has been said in a recent debate about "omniscience," "infallibility," and "jurisprudence," he has still furnished a marked illustration of the fact that he is not entirely free from the common infirmities of our nature. After providing a bankrupt law for every State and for every Territory in the United States, and just such a bankrupt law as would be agreeable to their wishes, their necessities, or even their prejudices, his amendment utterly fails to make any provision whatever for the District of Columbia. This is the more remarkable since the District of Columbia is in a peculiar sense the ward of the Government, under the especial guardianship and protection of Congress. The people here live fast and die hard, I mean financially, and they certainly stand in as much need of a bankrupt law as any other people on the face of the earth. The District itself has a dark cloud in the shape of an enormous debt hanging over it, and unless relieved by the munificence of Congress may be driven into bankruptcy.

The Senator undertook a great work and like other great projectors he has left it incomplete. The highest achievement of the human intellect never reached perfection at a single effort. The amendment of the Senator from Ohio is a very creditable performance, considering that he had no assistance whatever in its preparation. An able and a talented preacher relying confidently upon his own powers, as well as upon Divine co-operation if needed, on a memorable and mournful occasion undertook to pray for the whole world, and was overwhelmed with astonishment and grief when he found that he had forgotten to invoke a special blessing for one particular man. These are instructive precedents to statesmen as well as to theologians, admonishing them to be particular, and to perform their labor in a workman-like manner and to make no omissions.

But whether the amendment is amended or unamended, whether the District of Columbia is included or excluded, the people of the United States are opposed to the existing bankrupt law, and are equally opposed to the series of bankrupt laws proposed by the Senator from Ohio. If their will shall prevail on this occasion, it will do so in the repeal of the one and in the rejection of the many.

One of the greatest misfortunes that can befall a republican government is a disposition on the part of the representative to substitute his own will for the well-known and clearly ascertained wishes of his constituents. He may succeed for a time if he is lucky, and

he had better enjoy his temporary triumph, for he is raising a whirlwind which will certainly sweep him from the stage, leaving his place to be filled by another. If this condition of antagonism shall continue, disappointment may inflame the passions of the people until they will lose all rather than submit to an arbitrary domination over their personal rights, their rights of property or their rights of representation. It generally happens, however, that before extremes are reached instruments are found who will proceed far beyond the bounds of the original proposition; so that it is the part of wisdom and patriotism to support the moderate and reasonable demands of the people rather than to wait until their exasperation shall lead to excesses which neither you nor they dreamed of in the beginning.

The Legislature of Kentucky has instructed me to favor the Texas Pacific Railroad bill. In my opinion, our indebtedness, national, State, municipal, and individual, is as much as we can pay. In my own deliberate judgment, the grant of subsidies and donations to corporations is of doubtful propriety and very dangerous tendency. Still if I should go against it, agitation might produce a man who would vote not only a guarantee of the interest on the bonds, but money enough to construct the road. I shall vote for the bill, trusting, if not believing, that there may be one corporation found that will be honest and fair in its dealings with the Government of the United States.

Entertaining these opinions, the point most worthy consideration is to ascertain the popular will, and presuming the people have sense enough to understand their own business, that should be conclusive. I do not know that I can boast of a very large acquaintance or of a very extended correspondence, but the men I have seen and the letters I have received are all hostile to the further existence of the bankrupt law. That hostility is outspoken and decided. No matter how much they may disagree upon some subjects, no matter how indifferent they may be as to others, upon this there is wonderful unanimity. If it could be submitted to a popular vote, the majority against it would be so overwhelming that few men would have the hardihood to stand up for one moment in its defense. This opposition is not the result of prejudice; it is not confined to any section, to any pursuit or profession, nor to any particular class of men; but the sentiment prevails everywhere throughout the length and breadth of our country, and it is the solemn protest of integrity and fair dealing against chicanery and fraud. The American citizen, borne down and oppressed by a load of taxation without example in our history, appeals to our Government to assist him in the collection of his just debts rather than to legalize his spoliation.

One of the common arguments employed in support of bankrupt laws, referred to in the amendment of the Senator from Ohio and adverted to more at length in his remarks, is that after the debtor has made a full and fair surrender of all his property of every description humanity should prompt the creditor to consent to his discharge, or rather that the courts should decree the absolute cancellation of his obligations. There might be something in this reasoning if petitioners were zealous and active in their efforts to make their property go as far as possible toward the liquidation of their honest debts; but melancholy experience establishes the fact that the bankrupt's desire to secure a good provision for himself renders him perfectly indifferent, if not personally hostile, to the rights and the interests in conflict with his own. Those who have stood by him until they have brought desolation upon their own homes and ruin upon their own families are shunned as if the air of heaven was contaminated by their presence. If a dozen of the heaviest sufferers were to send him their likenesses in order that he might gaze upon their trusting and confiding countenances, the pictures might find a resting-place in the garret or in the bottom of the well; but in chamber, hall, or parlor there would be no room for them. Confine him in a gallery of such paintings, and in one week he would be a raving maniac shuddering and shrieking like Belshazzar at the figures on the wall. If you have a troublesome friend, do not attempt to drive him from you by the coldness of your manner or by the rudeness of your speech; he will generously forgive all that; but lend him two dollars and a half on a promise to return it the day after to-morrow, and you will never see him any more. [Laughter.] The gushing sort generally give free vent to their lamentations that such an energetic, active, enterprising, public-spirited, whole-souled citizen should have been unavoidably forced into bankruptcy; but after their own substance has been swept from them by the officers of the law as his secreties, and after the poor, unfortunate bankrupt has opened on a grander scale than ever in some large city, then they wonder where he got the means, and then a dark suspicion steals over them that he is speculating on their money, and not on his own. They conclude finally that he is a fraud; but nevertheless their own bankruptcy has become inevitable under the circumstances. Thus the circle grows larger and larger until neighborhoods and communities are drawn into the vortex.

A man whose profligacy or whose incapacity has brought ruin upon his friends, should content himself in the humbler walks of life.

Bankrupt laws probably had their origin among commercial men, and may have been intended to afford relief against the sudden and unexpected disasters of flood and fire. It could hardly have been contemplated that transactions amounting in the aggregate to \$300, a sum which an active man might borrow before breakfast, should have been proper subjects for the exercise of the extraordinary powers

lodged in the bankrupt courts. In these minor cases the assets are divided between the officers of the law and the bankrupt, inasmuch that creditors have ceased to prove their claims or to take any part whatever in the proceedings.

To the friends of repeal, I would say let us stand together and close together, and we will achieve a victory in behalf of popular government. I am done; I believe I will quit. [Laughter.]

The PRESIDING OFFICER, (Mr. MITCHELL in the chair.) The question is on the amendment proposed by the Senator from Ohio, [Mr. MATTHEWS.]

Mr. INGALLS. Mr. President, this is confessedly a matter of very grave importance, and affects the fortunes of a great many citizens of this Government. The measure proposed by the Senator from Ohio is one upon which I am not prepared at this time to vote. It is confessedly crude and imperfect, and requires further deliberation before it should be adopted under any circumstances by the Senate. The existing bankrupt law is undoubtedly viewed with disfavor by a great proportion of our people, but it is more in consequence of the wrongs that have been accomplished under it than of the principle upon which it is founded.

My own conviction has been that a great commercial people like ours was ill-adapted to exist without a bankrupt law in some form, and I have hoped that amendments might be submitted to the existing bill that would enable the Senate to support it. Unless it can be amended, I shall favor its absolute repeal; but I should very much prefer to see it amended in some of its objectionable particulars than to have it at the present time totally repealed. Of course, as the Senator from Illinois [Mr. DAVIS] stated the other day, if a majority of the Senate is absolutely in favor of the abrogation of the law, it would be useless to suggest any amendment. I understood him to say a certain member of the committee believed that alterations could be made which would render the law agreeable or acceptable to a large proportion of our people; and in the hope that something may be done to avoid the difficulties that will attend the entire repeal of the law and the remission of all creditors to the conflicting conditions and requirements of State insolvency laws, and to ascertain what the sense of the Senate is upon the subject, I move that the pending bill, with the amendment, be committed to the Committee on the Judiciary, with instructions to report such amendments as may seem just to them at an early day.

Mr. KERNAN. I hope that motion will not prevail. I am quite willing, if it is thought we can perfect a new system based upon the amendment of the Senator from Ohio, to have that referred to the committee and considered and reported upon, but the existing bankrupt law I think we should repeal now. More than two years since the other House passed by a very unanimous vote a bill to repeal the bankrupt act. It was not acted upon by this body, and that Congress expired. There have been a great number of petitions presented praying for the repeal of the bankrupt law, and I think it is the opinion of a very large majority of the business men, both of what are known as the creditor class and the debtor class, those who buy on credit and sell on credit, that this law is not beneficial to the business of the country, and that it will be a great advantage to business and business men, both those who wish to buy on credit and those who sell on credit, that it should be repealed.

I trust we shall not, at this stage of the session, send this bill, which is simply to repeal the present bankrupt law, back to the committee with a view to keep the present law in existence until some other system shall be perfected. I think we should now pass this bill with the amendments of the Senate Committee on the Judiciary and thus repeal the old law; and I shall then be quite willing to vote to refer the proposition of the Senator from Ohio, which is based on a different idea, to a committee, that they may report a system of that kind if they find it proper to recommend its adoption.

Mr. WHYTE. Mr. President, I hope that the motion of the Senator from Kansas [Mr. INGALLS] may not be adopted by the Senate. In the first place, the amendment proposed by the Senator from Ohio [Mr. MATTHEWS] in my judgment does not rise to the dignity of being considered a bankrupt act or an amendment to the present bankrupt act. On the contrary, it proceeds upon the theory of an absolute repeal of the bankrupt law, just as the proposition coming from the Judiciary Committee does. It is nothing more nor less, as it appears to me, than a proposition for cases of ordinary insolvency, and not cases of bankruptcy at all. It is true that it provides that wherever a man makes an assignment of his property for the benefit of his creditors, thus voluntarily setting in motion the process of winding up the indebtedness and closing his estate, that act shall be considered an act of bankruptcy; but there it stops. The whole theory proceeds upon voluntary insolvency. It is true it is in the interest of the debtor; it is true it makes what was called in olden times a *cessio bonorum* an evidence upon the part of the debtor of his willingness and his desire to be released from his debts, and it enables him where no fraud is proved to obtain his discharge. That is to say, his own act of assigning his property, in the absence of fraud, is to entitle him to a discharge from his debts.

Now, Mr. President, almost all our States have some system of insolvency; they have some courts into which insolvents can go and through the agency of which insolvents can be discharged. The bankrupt law did not wipe these out; they were only suspended in their operation, and I presume in very few if any of the States were

there actual repeals of the laws as they existed when the bankrupt law of 1867 was passed. Consequently there is no need for a provision of this character. Indeed, with great respect for the opinion of the Senator from Ohio, it strikes me that the amendment is not germane to the subject in hand. If he desires after the repeal of the bankrupt law, which his very amendment contemplates, to substitute in lieu of that a system of voluntary insolvency throughout the country, then let his proposition stand upon its own ground, be submitted to the Judiciary Committee, and go through the ordeal of their investigation and their report before it is substituted for the present bankrupt system. It is entirely different in its theory; it proceeds upon different ground; it strikes out the compulsory system of the present bankrupt law and substitutes only for it a voluntary system as I understand. I cannot vote for that proposition, but I can and I will vote for the absolute repeal of the law. As the distinguished Senator from Kentucky [Mr. McCREERY] so eloquently said, it is demanded by the people throughout the land. A number of States, I cannot recall how many, but Kentucky, the great State of New York, New Hampshire, Vermont, have all by resolution of their Assemblies solemnly instructed their Senators upon this floor to vote for the repeal of this bankrupt bill. The table of the Secretary here in the last few months and the table of the Clerk of the other House have been loaded with petitions for its repeal.

Mr. CONKLING. Will the Senator allow me to inquire of him to what action of the State of New York he made reference?

Mr. WHYTE. Yes, sir, I can read the resolution; I think I have it here.

Mr. CONKLING. I will not interrupt the Senator. If he will allow me to take the document, I will find it if it is there.

Mr. WHYTE. I think I can find it; here it is. I will hand the Senator the document. I was about to say when the Senator from New York interrupted me, that the State of New York, containing within its confines the great commercial city from whence radiates so much of the business of the country—that great Empire State had, according to my recollection—and I have handed the resolution to the Senator—instructed its Senators on this floor to urge the repeal of this law. New Hampshire has done the same. Vermont, whose Senator presides as chairman over the deliberations of the Judiciary Committee has in plain and unmistakable terms instructed him and his colleague on this floor to vote for its repeal.

The day has passed for this bankrupt law. It has accomplished its mission; it has done its projected work. After the war had closed, that great convulsion which carried down not only human life but vast wealth that had been accumulated for years past and brought to the verge of bankruptcy hundreds of thousands of our citizens, left us in a condition that business men, young and old, must have relief. Loaded down with a weight of debt they could not bear, bending under a collar which for the balance of their lives would have held them in a merciless bondage, they appealed to the Congress of the United States for that help which our fathers in their wisdom had put as one of the arrows in the quiver of Congress, one which fitted this out for its campaign as a republican Government. They came to the door of these two Houses and asked for relief. Congress passed the bill to give them relief, and they were relieved. They were able in passing through the bankrupt court to wipe out as with a sponge their past indebtedness, and go forth free men to work out for themselves another fortune or to go down struggling to the grave. The act of 1867, amended as it has been, has done its work; its business is accomplished; its mission ought to end, and we ought now to let it follow its illustrious predecessors.

The act of 1800, as you well know, Mr. President, was short-lived in its character. It was repealed in 1803, and from that time to 1841 the people of the United States carried on business, grew in strength, in commercial prosperity, strong and firm in their credit at home, winning honor and reputation among the commercial nations abroad, and when in 1841, if I remember correctly, the State of Mississippi through its Senators appealed to Congress to pass the act of 1841, Silas Wright and James Buchanan and Levi Woodbury and that host of giants who in those days represented the great democratic party, protested against the passage of the bill and resorted to all parliamentary means in their power to prevent its passage; some upon the ground that it was merely in the interest of the debtor, differing from the act of 1800 in this, that the former act was compulsory in its character and seemed to be based solely in the interest of the creditor, to the exclusion of the debtor; while the act of 1841 was passed in the interest of the debtor, to the injury of the creditor. It was not believed by those men to be an act in its nature such as was contemplated by the framers of the Constitution. They looked upon it as nothing more nor less than the importation from England of the act of George IV, which was an insolvent debtor's act and intended to release him from imprisonment and not to wipe out the obligation itself. They looked upon it, therefore, as being a mere insolvent act and not a bankrupt act, and under those circumstances not coming within the purview of the Constitution. That act was opposed by them, but it passed. It was not part of Mr. Clay's scheme of the bank bill and the distribution act. It did not come in the category of bills which he prepared for Captain John Tyler; but it was a bill thrust upon the Senate and upon the House to run along side by side with these bills, and through the parliamentary machinery of the day it was so interwoven with the other two bills that they had to

carry it along to get the bank bill and the distribution bill through. It passed, and what a spectacle it was to behold its repeal within little more than one year! In the first place, it did not go into effect immediately; it provided that it was to take effect at a future day. The wise ones in Congress, the shrewd parliamentarians in Congress put that provision in in the hope that before the law became operative they would have a chance to repeal it. But although petitions came in upon Congress, although efforts were made to get the law repealed, it was not repealed until 1843, and then the country beheld the solemn spectacle of a bankrupt law passed by a Congress of the United States repealed by the very same Congress that passed it. The country looked at men sitting in their seats, many of them the identical men who passed the bill against remonstrance and against protest, voting in those same seats to repeal the act itself, thereby denying the paternity of their own child!

That law then was repealed. The act of 1800 lasted two years, and was repealed during the administration of Mr. Jefferson. The act of 1841 lasted less than two years, but that law did not provide for corporations or for copartnerships; it was therefore not as full as it might have been. Then came this act of 1867 providing for the compulsory process, providing for involuntary bankruptcy, providing also for voluntary bankruptcy, providing for the cases of copartnership, for the cases of corporations, and providing also as one of the amendments did for compromises and compositions between the creditors and the debtor—a clause which I never could bring my mind to believe was within the constitutional power of Congress—providing for a compromise whereby a certain number of creditors could release a man upon paying a certain amount of debt, and leaving the minority to take it or not as it might be agreeable to them.

Mr. President, the people clamored for the repeal of that act, and to-day they clamor for the repeal of this act. The people of my own State do not so clamor. I am not moved by any popular current there. I am not instigated to my desire for the repeal of this law by any excitement at home. I am urged only by what seems to me to be a proper sense of right. I am urged to it from a practical experience of the wrongs perpetrated under this act.

Some gentlemen ask us to amend it; I think the distinguished Senator from New York presented a petition this morning asking for amendments to the law rather than for its repeal.

Mr. CONKLING. Asking, if my friend will pardon me, that a commission be appointed to consider what amendments, if any, can be made.

Mr. WHYTE. Precisely, which is equivalent to the same thing. It is continuing the operation of the bankrupt law as it is, with all its imperfections, until a commission can examine and inquire and recommend to Congress what amendments can be made. But, Mr. President, like the man who prayed to have his way mended, so of this bill it would be better to have a new one; its ways are so bad, and its proceedings are so bad, and the administration of it is so obnoxious to the people that it is far better to wipe it out and relegate it back to the Legislatures of our States, and there let the insolvent system be revived and be carried on with such amendments as may be necessary to relieve parties within the confines of their own States. It may operate harshly in some cases, but in the long run the man who goes out of his own State to contract a debt will have to carry with him a first-class bill of credit. It may hurt some non-resident creditors; it may hurt some debtor because he does not get relief from his non-resident creditors; but it will teach them all to deal as much as possible on the cash principle and to make as few contracts out of their own State, if they are not in solvent circumstances, as possible.

I have heard gentlemen say, "Let us have amendments to the bill." Who proposes amendments? Where are the amendments to come in? Are you going to change the mode of appointing the assignee? Are you going to take the assignee's appointment from the creditors and give it to the court? The creditors do not want that; the registers in bankruptcy do not want that; it would break up that stereotyped system of assigneeship which exists in many commercial cities where by some singular regularity, some mysterious and extraordinary circumstance, one man turns up as assignee in all sorts of bankruptcy cases. That is not all. Are you going to amend it so as to have more frequent dividends, to compel the assignee to make a dividend the moment when he gets 5 per cent. in hand? Nobody wants that. That is not the amendment which those who cry out for amendments want. Are you going to abolish the bankrupt court? What are you going to establish in its stead? And if you do not abolish that court, how are you going to cut down the fees of registers and clerks of courts? No, Mr. President, this act has been amended; it was amended in 1874; it was amended then upon the principle, as was supposed, of removing the objections which existed to the continuance of the law throughout the country. What has been the effect of the amendments? Only to make the law more obnoxious than ever. To-day more people are clamoring for its repeal with those amendments upon it than there were against the law as it was passed in 1867. I am opposed to any amendment. The law has done its work. Men have been relieved from their contracts; they have been enabled to start afresh; the time, in my judgment, has arrived for us to take the pruning-knife and lop off this piece of legislation and burn it with the rubbish of the past.

Mr. CONKLING. Mr. President, no error relating to this subject

is more common or prevalent than to confound a bankrupt law with an insolvent law. I think I may say the popular impression is that a bankrupt law is an insolvent act. The Senator from Maryland [Mr. WHYTE] has not failed to make the distinction, and all who see it must agree that it exists. The act of 1841 was an insolvent law under the name of a bankrupt law, as I believe the Senator has said; its provisions were voluntary only. The existing bankrupt law is such an act as commercial nations at large, I think now almost without exception, have adopted and maintained. It is compulsory as well as voluntary; and it seeks, in the language of the petition I presented this morning, to establish and give effect to the principle of equality of impartial and meritorious rights among creditors looking for satisfaction to the assets of debtors.

As I have said, all commercial nations in recent times have adopted, and most of them after long investigation, bankrupt acts as wise components of commercial systems. Before the present act was adopted in our country, the committee had brought from England the last report made to the British Parliament on this subject. It was, I remember, a quarto volume of many pages, the product of three years' labor by five of the leading barristers of Great Britain. It sought to import, and Parliament did import, into the existing bankruptcy system of England several changes, more or less radical. The American people alone, as far as I know, among the commercial peoples of the world, have bankrupt laws in spasms and ways; and now if the existing act shall be abrogated, no bankrupt law will exist in the country until commercial disasters, the accumulated fruits of commercial vicissitude, have created a great class needing relief, and then for its voluntary or insolvent opportunities another bankrupt law will come in. I think Senators will fall into an error certainly who suppose, as the Senator from Maryland in some sort suggested, that a repeal of the existing law may occur and a present opportunity remain to try to set up in its place some substituted system. I think we must all vote to-day, if this is the day when the vote shall be taken, with the apprehension that a repeal of the bankrupt law now postpones for a considerable time, perhaps to a far future, the first actual opportunity of making another attempt.

I do not know, Mr. President—perhaps I should not feel warranted in saying but for a consideration which I will refer to in a moment, and which alone would restrain me—that the present bankrupt law, with changes which we might hope for, would be clearly a wise measure of legislation to remain; and yet I am inclined to think that the most serious complaints grow out of conditions wholly unavoidable. For illustration at least, I may say that our geographical difficulties are very great and they cannot be overcome. Men look at the administration of the bankruptcy system in Great Britain, and they compare it with ours, and they wonder with discontent at the comparison, which is against us. They forget that the bankruptcy system in Great Britain operates upon a limited area, amid a very dense population, with a very numerous and effectual judicial staff. England, without the twelve counties of Wales, has a little less than the area of the State of New York. Twenty-four million people inhabit it. Look to the taking of the census for illustration of what I am saying. The British census is taken in one night. It is taken between sun and sun, and after sundown. We take an enumeration here to count all the people scattered throughout all our borders; and weeks and months are exhausted and expenses involved which would seem apocryphal comparing them with the expenses of taking the British census and making no allowance for the disparity of conditions. So, when you come to execute a bankrupt law in the thirty-eight States of the Union, sparsely populated and illy conditioned for transit from place to place as many localities are, without a judicial staff so numerous as to bring justice or the instrumentalities of justice to every man's door, you find great impediments, prolixity, postponement, expense; and accordingly you find, as was stated I think in a petition presented by my colleague perhaps to-day, a percentage of the outcome of assets, and a percentage of that which is swallowed by the proceedings, and of that which accrues at last to the creditor, and say naturally "this is a failure." But, if you look into the causes, I fear you will find that most of them are such that no art in drafting a bill, no reformation in administration, nothing which falls within the province of legislation can encompass and avoid them. And so it may very well be that the best considered argument would acquit the present bankrupt act of much of the guilt laid at its door and attribute its evil consequences, as I have endeavored to show, to conditions beyond the purview of legislation.

But, Mr. President, I feel guided not only, but constrained on this question, by the action of the State of New York, for which I asked the Senator from Maryland, and perhaps it is right that I should explain to him the occasion of my question. I inferred from his allusion to the Legislature of New York that he supposed some recent action had occurred in that State which I did not know, and my colleague did not know. I find by the book which the Senator was kind enough to loan me, that he referred, and very properly of course, to the action of the Legislature of New York which occurred when Congress was not in session, in May last, after the adjournment, and which, for that reason, was not presented here. Of course it is none the less cogent or obligatory upon my colleague or myself, and I have no reason to suppose that the present Legislature, had its attention been called to this subject or had not its predecessor uttered the voice

of New York, would have sent here an expression different from that which I have in my hand. Upon such a question, not searching the conscience of any Senator, but being a matter lying within the domain of wisdom and discretion, a question upon which one might vote either way as his judgment of the effect to be produced might lead him, in other words, unembarrassed by constitutional doubts or matters of conscience, I should not feel at liberty for one to disregard the voice of the State which honors me with a seat in the Senate. Therefore, whatever my own convictions might be, if the question is to be put whether the bankrupt act shall stand as it is or shall be repealed, I shall feel bound, as matter of instruction, without going further, to vote for its repeal; and having said this I venture to add one remark which I hope may weigh with Senators who make a suggestion like that made by the honorable Senator from Kansas.

If the question can be taken from the repeal of the law and a majority of the Senate shall say for the time being no, the Judiciary Committee will have that stimulus or opportunity to address itself to the question which will enable it at least to make an earnest effort to bring here amendments in the hope that they may commend themselves to a majority of the Senate. But in the present condition no member of any committee can feel any stimulus, or even warrant, to sit down and investigate the infinitely contradictory and the enormously prolix theories, suggestions, and amendments which come from every point of the compass on this subject. It is so much like labor thrown away that no committee incumbered as the Judiciary Committee is, will undertake to put aside the many things which press upon it and devote itself to a labor likely to be so thankless and so useless as this, while the impression remains that a majority of the two Houses would repeal the act in the presence of any amendments the committee might be able to propose. If, therefore, a majority of the Senate want an intelligent effort made either in the direction indicated by the honorable Senator from Ohio or in any other direction that may be suggested, the true way to reach that is, for the present at least, to reject the bill repealing the act so as to let the committee know that if they are able to report amendments addressing themselves to the favor of the Senate some use will be made of their work and that it will not be a vain and futile experiment to avoid a foregoing conclusion.

As I have said, I shall vote myself, in the presence of the expression made by the Legislature of the State of New York, as I understood my colleague to say he should vote, for the repeal of the act; but I say also that if a majority of the Senate shall postpone that repeal by refusing now to enact it, I shall be very glad, as one member of the committee, and I am sure I can answer for all the others, to address myself most seriously to the effort of abating as far as we can abate the existing objections.

THE PRESIDING OFFICER. The question is on the motion of the Senator from Kansas [Mr. INGALLS] to recommit the bill, with instructions to the Committee on the Judiciary to propose amendments to the bankrupt law.

The motion was not agreed to.

THE PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Ohio, [Mr. MATTHEWS.]

MR. MATTHEWS. Mr. President, I shall detain the Senate but for a few moments. I certainly have no desire to press unduly upon the attention of the Senate any proposition which I may have to make with respect to this subject. I hesitated before doing so when I drafted and presented the amendment which is now pending before the Senate, for the reason, in the first place, that I feared there was a predetermination on the part of a considerable majority of the Senate to insist upon the absolute and unconditional repeal of the bankrupt act, and in the second place, because I was quite as well aware as any one else could be of the imperfection and immaturity of the proposition which I in fact submitted. Nevertheless I was not willing that the act should be unconditionally repealed without some suggestion to the contrary, without some indication of the direction in which I thought better relief could be afforded, without some earnest effort to do away with the evils complained of without at the same time abrogating the possible good which is involved in my judgment in the continued existence of a wise bankrupt system. I do not think that we have great reason to be proud of our legislative achievements in this direction, as reconneted in the history of the bankrupt act stated by the Senator from Maryland, [Mr. WHYTE.] Our statesmanship in reference to this subject seems to have corresponded precisely with that standard which the Senator from Kentucky who introduced this proposition [Mr. McCREERY] seems to have laid down for the model of his own, and that is, whenever there is a clamor for a bankrupt act to pass it and whenever there is a clamor for its repeal to repeal it.

Now, it seems to me, Mr. President, that in the light of the experience of the country we are in a position by taking suitable measures to avoid the necessity of steering our legislation by opposite popular clamors from time to time, as they may arise. Other nations have been able to maintain a stable system of jurisprudence on this subject, and although the circumstances of this country differ widely from those of England and those of other commercial countries on the continent of Europe, still we can adapt our legislation to the change and variance in those circumstances; and I certainly think it not creditable to the intelligence either of the people of the country or

of the Senators on this floor that we should dismiss the subject in this abrupt and unscientific way by simply wiping out the existing statute.

There evidently is a misconception in regard to the nature of the amendment which I have proposed. The Senator from Kentucky has characterized it as a change from a system which contains but one bankruptcy act to a system of as many bankruptcy acts as there are States in the Union, as if the passage of this proposition would establish the various and contradictory systems in each State as that uniform rule in bankruptcy which the Constitution authorizes Congress to establish. The criticism is not correct. The measure has no relation whatever to any existing insolvent laws in any of the States. It does not adopt any of them. On the contrary it establishes a rule in bankruptcy and a rule of its own, and that rule by being single is uniform, and so conforms to the standard of the Constitution. It simply is that whoever shall, being insolvent or in contemplation of insolvency, make a general assignment of all his property for the equal benefit of all his creditors, shall thereby become and be declared to be a bankrupt, and in the event that within two years from the date of the act of bankruptcy, this general assignment, his assets shall have been distributed so as to insure to his creditors payment of 50 per cent. of the amount of their claims, he shall thereby become and be declared to be a discharged bankrupt; and it leaves to the State systems of administration merely the method and the details of distributing the assets among the creditors.

Now, the absolute and unconditional repeal of the bankrupt act does relegate us back to the varying systems prevailing in each State, operating, however, as remarked by the Senator from Maryland, only upon those classes of contracts which come within the purview of State legislation, and which may be dissolved by an act within the State, not having at all the office and the function of a bankrupt act which passed by Congress, whether involuntary or voluntary, operates alike upon all contracts, no matter where made or where to be performed.

With this explanation, which I deem necessary in order to put myself right in regard to the observations made by the Senator from Kentucky in relation to the nature of this amendment, and aware of the prevailing sentiment of the body in respect to the proposition depending as the main one, Mr. President, I withdraw my motion to amend the bill and will allow the vote to be taken distinctly upon the proposition, making now the statement, which I shall have occasion to make when called upon for my vote, that upon the question of the repeal of the act I am paired with my colleague [Mr. THURMAN,] who is absent from his seat in the Senate, until his return from Ohio.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. KERNAN. I call for the yeas and nays on the passage of the bill. The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DAVIS, of Illinois, (when his name was called.) Upon this question I am paired with my colleague, [Mr. THURMAN,] If he were here, he would vote "yea" and I should vote "nay."

Mr. MATTHEWS, (when his name was called.) On this question I am paired with my colleague, [Mr. THURMAN,] If he were here, he would vote "yea" and I should vote "nay."

Mr. WINDOM, (when his name was called.) On this question I am paired with the Senator from Missouri, [Mr. COCKRELL,] If he were present, I should vote "nay" and I presume he would vote "yea."

Mr. JOHNSTON, (when Mr. WITHERS's name was called.) My colleague [Mr. WITHERS] is detained at home by sickness. If he were here, he would vote "yea" on this proposition.

The roll-call was concluded.

Mr. WHYIE. I desire to say that my colleague [Mr. DENNIS] has been called suddenly away. If he were here, he would vote "yea."

The result was announced—yeas 38, nays 6; as follows:

YEAS—38.

Armstrong,	Davis of West Va.,	Johnston,	Morrill,
Bailey,	Eaton,	Jones of Florida,	Oglesby,
Beck,	Eustis,	Kernan,	Plumb,
Blaine,	Ferry,	Lamar,	Rollins,
Booth,	Garland,	McCreery,	Teller,
Butler,	Gordon,	McDonald,	Wadleigh,
Cameron of Pa.,	Grover,	McPherson,	Wallace,
Cameron of Wis.,	Harris,	Maxey,	Whyte,
Coke,	Hereford,	Mitchell,	
Conkling,	Ingalls,	Morgan,	

NAYS—6.

Allison,	Burnside,	McMillan,	Saunders.
Anthony,	Conover,		

ABSENT—32.

Barnum,	Dennis,	Kellogg,	Sargent,
Bayard,	Dorsey,	Kirkwood,	Sanlebury,
Brace,	Edmunds,	Matthews,	Sharon,
Chaffee,	Hamlin,	Merrimon,	Spencer,
Christianity,	Hill,	Paddock,	Thurman,
Cockrell,	Hoar,	Patterson,	Voorhees,
Davis of Illinois,	Howe,	Randolph,	Windom,
Dawes,	Jones of Nevada,	Ransom,	Withers.

So the bill was passed.

DEFICIENCY APPROPRIATION BILL.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives non-concurring in the amendments of the Senate to the bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes.

On motion of Mr. WINDOM, it was

Resolved, That the Senate insist upon its amendments disagreed to by the House of Representatives, and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the Vice President.

Messrs. BLAINE, WINDOM, and BECK were appointed.

DAKOTA SOUTHWESTERN RAILWAY.

Mr. WINDOM. I move to take up Senate bill No. 927 for present consideration. The bill I ask to take up is the one that has been considered twice in the morning hour, and I believe everybody who had any desire to amend it has had the opportunity, and it was only postponed because the morning hour expired. I do not know of any further amendment. I should like to have action on the bill now.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 927) to authorize the construction of a narrow-gauge railroad from Bismarck to the Black Hills.

The bill was reported to the Senate as amended.

Mr. McDONALD. I should like to ask the Senator from Minnesota if that is the bill which was under consideration the other day.

Mr. WINDOM. It is.

Mr. McDONALD. An amendment was suggested by the Senator from Ohio, [Mr. THURMAN,] What has become of it?

Mr. WINDOM. I do not know what the action was on that amendment. I myself agreed to almost any amendment that anybody wanted.

Mr. McDONALD. The Senator from Ohio is now absent. He suggested an amendment in regard to what might be taken into consideration by the appraisers of damages.

Mr. WINDOM. I thought it had been adopted; but if it has not been I am entirely willing to accept it. I agreed to take the amendment of the Senator from Ohio as amended by the Senator from Indiana.

Mr. McDONALD. That in assessing the value of the property actually taken the prospective benefits should not be taken into account.

Mr. WINDOM. That is as the Senator from Indiana proposed to amend it. I have no objection to that amendment.

Mr. KERNAN. I wish to ask the gentleman having the bill in charge whether there is any provision in this act requiring the stock to be paid for in money except the first 5 per cent., and whether there should not be such a provision. I find the first 5 per cent. on page 3 is required to be paid in. That payment is required to be made. Now if you turn over to page 5, it is said:

Said board of directors may require payment of subscriptions to the capital stock after notice of not less than thirty days.

I suggest that after the word "days" in line 101 there should be inserted:

And which payment shall be in cash.

Otherwise there might be a road with three millions capital and when they get 5 per cent. in in cash the rest might be paid in in anything the directors chose to take. I think serious consequences have happened in States from the omission to require the stock to be paid for in money. I noticed this the other day and I called attention to it.

Mr. WINDOM. What amendment does the Senator suggest?

Mr. KERNAN. I would suggest "and which payment shall be in cash only."

Mr. WINDOM. At what point in the bill?

Mr. KERNAN. Page 5, line 101, after the word "days." I think there should be a provision that the capital stock should be paid in money. Otherwise they will organize on having 5 per cent. of the three millions paid in in money, and then they may go on and never pay in another dollar.

Mr. WINDOM. That is the intention of the bill; but, if it meets the Senator's views better to insert the words he proposes, I have no objection.

Mr. KERNAN. I assume that the Senator is correct as to the purpose; and yet the cash is required to be paid for the 5 per cent., and not for the rest of the stock. The construction might be from that omission that cash was not required except for the 5 per cent. I do not wish to interfere with the bill.

Mr. WINDOM. As the Senator has the words in mind, I prefer that he should suggest them to the Secretary.

Mr. KERNAN. Then, after the word "days," in line 101 of section 1, I move to insert "and which payment shall be made in money and shall be called for and required until the entire stock is paid for."

Mr. WINDOM. Would it not be more agreeable to say "the board of directors may require the payment of the subscriptions to the capital stock in money?"

Mr. KERNAN. That would be too broad. Then they might never require payment in money. There is nothing in this bill, such as we require in our laws in New York, that the directors shall in a certain time require the capital to be paid in.

Mr. WINDOM. I make no objection to the Senator's amendment where he proposes to insert it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New York.

The amendment was agreed to.

Mr. INGALLS. I call the attention of the Senator from Minnesota to the discrepancy between the title of this bill and the language contained in lines 21 and 22 of the first section. The bill in terms is "to authorize the construction of a narrow-gauge railroad from Bismarck to the Black Hills;" but the body of the bill says that it shall be operated "from such eligible point on the line of the Northern Pacific Railroad, west of Bismarck, in the Territory of Dakota, to such point in the Black Hills as shall be determined by the board of directors." There seems to be something illusive about the title of the bill. If it is the intention to operate from Bismarck it should be so expressed; otherwise the title ought to be amended.

Mr. WINDOM. I have no objection.

Mr. INGALLS. What is the purpose?

Mr. WINDOM. The purpose is to connect with the Northern Pacific Railroad at Bismarck.

Mr. INGALLS. At what point?

Mr. WINDOM. At Bismarck I believe; and, if the North Pacific be extended across the river, it would be necessary, I presume, to extend this road also. Perhaps the title might be amended so as to read "to a point at or near Bismarck."

Mr. INGALLS. I will also call the attention of the Senator to the language contained in line 6 of section 3, which authorizes the company "to take, from the public lands adjacent to the line of the road, earth, stone, timber, gravel, and other materials for the construction and maintenance thereof." Is it the intention of the bill to allow this corporation to tie and bridge their road from the timber on the public domain?

Mr. WINDOM. This would authorize it, and I think it ought to be granted, although I think they will find no ties on the line of their road—

Mr. INGALLS. I think they will.

Mr. WINDOM. Until they get into the Black Hills.

Mr. INGALLS. That is exactly what I was going to say. The Black Hills is a very densely timbered region of country. In fact its name is derived, as I understand, from the dense forests of pine that cover the hills in that country. While the Government should be liberal in granting rights of way and any such other material as may be inexpensive and not required for public purposes, I think it would be a very gross wrong to the hardy pioneers and the settlers of that district to allow this corporation to go in there and strip that country of railroad ties and bridge timber necessary to construct this road, as I understand this road will be several hundred miles in length.

Mr. WINDOM. Two hundred miles, about.

Mr. INGALLS. If these corporations were required to purchase the timber necessary to tie and bridge the road, it would cost them hundreds of thousands of dollars. This is therefore asking the United States Government to give to this corporation a very large amount of actual cash in hand for the purpose of tying the road, and that timber will necessarily be taken from a region that can ill afford to lose it. Under the statement made by the Senator from Minnesota, that it is the intention of this bill to allow the company to tie this road from the timber in the Black Hills, I move to strike out the word "timbers," in line 6, of section 3.

Mr. WINDOM. I did not mean to be understood as saying that the road would be tied from the timber in the Black Hills. It would be practically impossible to do that for the reason that they will have to commence upon the north or eastern end and build toward the Black Hills. They will hardly draw the ties in wagons from the other end of the line as the road progresses westward, but will rather take the ties from this end. I think that the Senate ought to allow at least that much advantage to people who are willing to build a road in an uninhabited country, a country that will be developed by this road. I think it is a very small thing to grant. I really think my friend from Kansas is a little too stringent in this matter. If it is to be the judgment of the Senate, however, to strike out the word "timbers," I shall submit, of course.

Mr. INGALLS. If this road were not likely to be a paying operation, if it were not a profitable enterprise in prospective, it is not at all likely that the gentlemen whose names I find on the first page as incorporators would be very apt to meddle with it. They are not intending, as I understand, to build this road to develop the country, nor to build up regions that are now desert and make them blossom like the rose. They intend to connect with the Northern Pacific, with the Black Hills country, for the purpose of obtaining a portion of the commerce that is now being built up in that region. They are going to work here for the purpose of making money, not in search of objects over which their sensibilities can expand or their hearts can weep. It is not philanthropy, it is business, and it appears to me that it is going a great deal too far to ask Congress to donate them several hundred thousand dollars to tie and bridge this road.

Mr. WINDOM. I do not suppose that the gentlemen named in this bill, if they construct the road, will do it from merely philanthropic

or patriotic motives. I have no expectation of that kind, nor do I believe that the inducements to build it are so strong that capital will make a rush at it when the bill is passed. I think if we go so far as to deny them all advantages in its construction the road will not be built at all. I think with these slight advantages that we have given here the road will be constructed. I am entirely willing to submit the question to the Senate and to say nothing more on the subject; but I can hardly agree to strike out the provision unless the Senate desire to have it stricken out. I hope it will not be stricken out. I am entirely ready to take the vote of the Senate.

The PRESIDING OFFICER. The Chair suggests that the amendments made as in Committee of the Whole have not yet been concurred in. The question is on concurring in the amendments made as in Committee of the Whole.

The amendments were concurred in.

The PRESIDING OFFICER. Does the Senator from Kansas insist on the amendment which he suggested?

Mr. INGALLS. Yes, sir.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas, which will be reported.

The CHIEF CLERK. Before the word "gravel" in line six of section 3, it is proposed to strike out the word "timbers;" so as to read:

And the right, power, and authority are hereby given to said company to take from the public lands adjacent to the line of the road, earth, stone, gravel, and other materials for the construction and maintenance thereof.

Mr. WINDOM. I desire to say to the Senate before the vote is taken upon the amendment that there is no grant of land in the bill except the right of way, and no other privilege is given to the company that I know of except the right to build the road and the right of way through the public lands.

Mr. INGALLS. The Senator from Minnesota has stated that it is the object of this bill to allow these corporations to tie and bridge their road from timber on the public domain.

Mr. WINDOM. I wish to correct that statement so as to have it more distinctly understood. That is not the object of the bill, but incidentally, undoubtedly, the timber will be used. The object of inserting the word "timbers" is that at such points on the road as may be more convenient this timber may be used, but, as I say, it will probably be used but for a very small portion of the line.

Mr. McDONALD. This is the language of the bill:

From the public lands adjacent to the line of the road, earth, stone, timbers, gravel, &c.

Mr. WINDOM. Let the vote be taken, Mr. President.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas [Mr. INGALLS.]

The amendment was rejected.

Mr. McDONALD. I now wish to offer the amendment that I suggested the other day. After the word "court" in line 16 of section 4 I move to insert:

Provided, That in assessing the value of the lands actually taken, consequential benefits to the remaining lands of the owner shall not be taken into account.

The amendment was agreed to.

Mr. INGALLS. I move to insert after the word "timbers" in line 6 of section 3, the words "for tying and bridging said road."

Mr. WINDOM. I have no objection to that amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. WINDOM. I move to amend the title to conform to the body of the bill by striking out the word "narrow-gauge," and also adding after the word "from" and before "Bismarck" the words "a point at or near;" so as to read: "A bill to authorize the construction of a railroad from a point at or near Bismarck to the Black Hills."

The motion was agreed to.

RAILROAD IN THE TERRITORIES.

Mr. TELLER. I move that the Senate proceed to the consideration of the bill (S. No. 655) to incorporate the National Pacific Railroad and Telegraph Company. It is almost identical in its language with the bill which has just passed, and proposes to build a road in the same section from Cheyenne.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. TELLER. I propose to make some amendments to the bill at the request of the Senator from Michigan [Mr. CHRISTIANCY] who prepared them.

The PRESIDING OFFICER. There are some amendments reported by the Committee on Railroads which will be first acted upon. The Secretary will report the first amendment reported by the committee on page 1.

The CHIEF CLERK. The first amendment is to insert after line 11, in section 1, the following names:

G. M. Dodge, of Iowa; E. R. Carpentier, of California; P. D. Barker, of Alabama.

The amendment was agreed to.

The next amendment was, in section 1, line 26, after the word "Cheyenne," to insert the words "or Pine Bluff."

The amendment was agreed to.

The next amendment was in lines 28, 29, and 30, of section 1, to strike out "commencing at or near Fort Laramie to a point at or near

Fort Fetterman; thence," and insert "from some point on the line north of the North Platte River;" so as to read:

Thence on some point on the line north of the North Platte River, in a northerly or northwesterly direction, &c.

The amendment was agreed to.

The next amendment was, at the end of the first section, in lines 35 and 36, to strike out the words "the Pacific Ocean, or the navigable waters connecting therewith," and insert "tide-water at Portland, Oregon."

Mr. McDONALD. I move to amend the amendment by striking out all after the word "Montana" in line 35.

The PRESIDING OFFICER. The question will be first on the amendment proposed by the committee, and the amendment to strike out will then be in order. The question is on the amendment of the committee.

The amendment was agreed to.

Mr. McDONALD. I move to strike out after "Montana," in line 35, being the words as now amended:

Thence, by the most practicable route, to tide-water at Portland, Oregon.

That part of the bill proposes to authorize this corporation to construct a road through a portion of the State of Oregon. I object to that, as I do not believe we possess the power to organize a corporation to construct a railroad within the limits of a State.

Mr. CHAFFEE. Not if Oregon agrees to it?

Mr. McDONALD. We are not asking Oregon to agree to it. This provision asserts the power of Congress to construct a road through the Territories and through a part of a State. So far as it undertakes to give authority to construct a road through the State of Oregon I object to it, and my amendment is designed to limit the bill to authority to construct a railroad within the Territories of the United States upon the line indicated.

Mr. TELLER. While I do not consider this very important, yet of course it must be understood that this will be done with the consent, probably, of the State of Oregon. Congress did the same thing in 1864 with reference to the North Pacific Road, and there is a bill here, which I presume will be passed, in which it is proposed to recognize the same practice. I do not think it very important, but I think, as these parties desire to put their money into this enterprise and want this provision in, we might as well leave it. I hope the clause will not be stricken out.

The PRESIDING OFFICER put the question upon the amendment and declared that the yeas appeared to prevail.

Mr. McDONALD. Let us have a division.

Mr. EATON. Let us have the yeas and nays. I think this is too important a matter to be decided by a mere division. I do not apprehend the Senate have yet considered the importance of the amendment of my friend from Indiana. We cannot give the right to build a railroad through the State of Oregon. I ask for the yeas and nays.

Mr. TELLER. If the Senator from Indiana will so modify his amendment as to provide that the road shall go to the Oregon line, I shall not object to it.

Mr. McDONALD. I have no objection to that modification.

Mr. EATON. There is no objection at all to that.

Mr. McDONALD. I will say "to the western boundary of the Territory of Montana."

Mr. TELLER. I will accept the amendment in that form.

Mr. McDONALD. I move to strike out the words:

Thence, by the most practicable route, to tide-water at Portland, Oregon—

And to insert:

To the eastern boundary of the State of Oregon;

So as to read:

Thence by the most practicable route, to a point at or near Helena, in the Territory of Montana, thence to the eastern boundary of the State of Oregon.

Mr. TELLER. I will accept that.

The amendment was agreed to.

The PRESIDING OFFICER. Attention is called to the word "subjects" in line 4 of section 7. It is suggested that it is a misprint and should be "objects."

The CHIEF CLERK. The section reads:

It shall be lawful for said company, their agents or engineers, for the purpose of exploring, surveying, and locating said road, to enter upon any lands, and may acquire title to such as may be necessary to effect the subjects of this act.

Mr. TELLER. It should be "objects." I ask to strike out "subjects" and insert "objects."

The PRESIDING OFFICER. That amendment will be made. The Clerk will report the next amendment.

The next amendment of the Committee on Railroads was to strike out section 14 in the following words:

The said railroad and telegraph company shall be free from taxation, either Federal, territorial, State, county, city, or town, for the term of ten years after the same shall have been completed.

And in lieu thereof to insert:

The said railroad and telegraph company shall be free from taxation, either Federal, territorial, State, county, city, or town, except as herein provided. When the said railroad and telegraph company shall complete fifty miles of its road, and shall run trains on the same, then the said company shall file with the secretary of the Territory or State where such fifty miles, or the major part thereof shall be situated, a certificate stating the date of such use, and the road so built and used may be taxed by the proper authorities where it is situated after five years from the date of such use, and not before.

Mr. TELLER. I will say that I propose to have this amendment rejected in order to offer an amendment in the place of it.

The amendment was rejected.

The PRESIDING OFFICER. Section 14 will stand as in the original bill.

Mr. TELLER. There is still another amendment of the committee which I suppose ought to be disposed of.

The next amendment of the Committee on Railroads was to insert as a new section:

SEC. 17. Congress reserves the right to alter, amend, or repeal this act until such time as the said railroad so to be built shall be, or the major part thereof shall be, within the limits of some State; and when the said railroad, or the greater part thereof, shall be within the limits of a State, the corporation hereby created shall in all respects be considered and treated as a corporation created by such State, when it shall have become subject to the laws thereof; and thereafter Congress shall not have any greater or other control over such corporation than if it had been created by the State.

Mr. TELLER. I propose to strike that out.

The amendment was rejected.

Mr. TELLER. I agreed with the Senator from Michigan [Mr. CHRISTIANCY] to offer some amendments to the bill for him, as he desired them to be made. In section 6, line 19, after the word "services," the last word of the section, I move to insert:

And shall transport the mails of the United States at rates not exceeding the average rates at any time paid upon the railroads in Colorado.

The Senator from Michigan desired that that amendment should be added, and I offer it now.

The amendment was agreed to.

Mr. TELLER. I have agreed to offer one or two other amendments for the Senator from Michigan, as he is not present. In section 9, line 17, after the word "court," the words "for confirmation" ought to be added; so as to read:

And make a return of their proceedings and action to the judge of the said district or circuit courts for confirmation.

I move that amendment on my own account.

The amendment was agreed to.

Mr. TELLER. I move to strike out section 14, and in lieu thereof to insert the following, at the request of the Senator from Michigan:

That whenever any part of the present Territory of Wyoming through which said railroad may run shall be admitted into the Union as a State, so much of said railroad and the appurtenances and property that may be within such State shall be subject to taxation in such State.

Mr. McDONALD. That is limited to the Territory of Wyoming. As the bill authorizes a railroad company to construct a road through other Territories as well, they also should be embraced.

Mr. TELLER. It does not now.

Mr. McDONALD. Yes, to Montana.

Mr. TELLER. This is an amendment proposed by the Senator from Michigan, and any amendment to it which the Senator from Indiana may suggest I am willing to accept.

Mr. McDONALD. I move to amend the amendment so as to read:

That, whenever any part of the proposed road shall be embraced within the limits of any organized State, so much of said railroad and the appurtenances and property that may be within any such State shall be subject to taxation by such State.

Mr. TELLER. I accept that.

The amendment was agreed to.

Mr. TELLER. I have another amendment which I promised to offer for the Senator from Michigan. I move to insert as an additional section:

This act and every provision thereof, and every right, power, and privilege therein granted, are hereby declared to be subject to the condition that Congress may at any time alter, amend, or repeal this act or any provision therein contained.

The amendment was agreed to.

Mr. TELLER. I should like to say just one word on this bill. If this road should be built as provided for in the bill, to Deadwood, and the road in the bill which was recently passed were also built, it would form a connection between the North Pacific and the Union Pacific road.

Mr. McDONALD. I should like the Senator from Colorado to allow me to offer just one other amendment.

Mr. TELLER. Certainly.

Mr. McDONALD. In section 9, line 5, after the word "lands," I move to insert:

Provided, That in assessing the value of the lands actually taken the consequential benefits to the remaining land of the owner shall not be taken into account.

That is the same amendment which was adopted to a corresponding clause of the other bill.

Mr. TELLER. I am willing to accept that.

The amendment was agreed to.

Mr. CAMERON, of Wisconsin. I move to amend the third section of the bill by striking out the latter part of the fourteenth line and lines 15, 16, 17, and 18, in the following words:

The United States shall extinguish as rapidly as may be the Indian titles to all lands falling under the operation of this act, and required for the said right of way and grants herein made for stations, buildings, work-shops, and necessary appurtenances.

Mr. TELLER. I have no objection to that.

The amendment was agreed to.

Mr. TELLER. I have one other amendment. In section 3, lines 12

and 13, I move to strike out "one hundred and sixty acres" and insert "forty acres;" so as to read:
Not to exceed forty acres for each station and buildings and appurtenances thereunto appertaining.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. McMILLAN. In section 3, line 8, I move to strike out the word "two" and insert "one."

The PRESIDING OFFICER. The Senator from Minnesota will allow the amendments made as in Committee of the Whole to be concurred in and then his amendment will be in order. The question is on concurring in the amendments made as in Committee of the Whole. The amendments were concurred in.

Mr. McMILLAN. I move to strike out the word "two" before "hundred," in line 8 of section 3, and insert in lieu thereof the word "one;" so as to read:

Said right of way is granted to said railroad to the extent of one hundred feet in width on each side of said railroad where it may pass over the public lands, &c.

Mr. TELLER. I have no objection to that amendment.

The amendment was agreed to.

Mr. CAMERON, of Wisconsin. The title of the bill is, I see, "to incorporate the National Pacific Railroad and Telegraph Company." The bill has been amended so as not to authorize the company to build a road to the Pacific ocean, but to build a road merely to the eastern line of the State of Oregon. I suggest to the Senator who has charge of the bill that he change the title.

Mr. TELLER. I do not care about moving to change the title; I do not think that amounts to anything.

The PRESIDING OFFICER. Such a motion is not in order now. Mr. CAMERON, of Wisconsin. The title is stated in the seventeenth line of the first section.

The PRESIDING OFFICER. A motion to amend that clause is in order.

Mr. TELLER. Does the Senator wish to move to strike out the word "Pacific?"

Mr. CAMERON, of Wisconsin. Yes, sir; so as to read "the National Railroad and Telegraph Company." I think the object of the bill is merely to build a road from the Union Pacific road to the Black Hills; and the title ought to express the object of the bill; I therefore move to amend the seventeenth line of the first section by striking out the words "the National Pacific Railroad," and inserting in lieu thereof the words "the Cheyenne and Black Hills Railroad."

The amendment was agreed to.

Mr. McDONALD. I desire to offer an amendment. The quantity of land that the bill authorizes for each station, it seems to me, is in excess of what is actually needed and is more than we were willing to concede before. I wish to limit the amount to forty acres.

Mr. TELLER. That is done already.

The PRESIDING OFFICER. That amendment was made.

Mr. TELLER. I moved that myself.

Mr. INGALLS. Does the bill allow this company to bridge and tie their road from timber on the public domain? It should do so, if it does not, to make it symmetrical with the other bill which we passed to-day.

Mr. TELLER. Does the Senator move an amendment to that effect?

Mr. INGALLS. If that amendment has not been made, I move it.

Mr. WHYTE. It is in the original bill.

Mr. INGALLS. Allowing them to bridge and tie the road?

Mr. WHYTE. They may take all the timber they want for any purposes.

Mr. INGALLS. I hope the bill will be amended, then, so as to allow them to take all the timber they want from the public domain.

Mr. CAMERON, of Wisconsin. That would come in after the word "timber" in the sixth line of section 3.

Mr. INGALLS. I move, if not already done, to amend the bill by inserting after the word "timber" in section 3, line 6, the words "for the purpose of tying and bridging the said road."

Mr. WHYTE. I hope my friend will not move that, because it might be supposed to limit the requirements of the company to it. They can only take the timber for this purpose, and I think the broad language here will cover this case, that is to take all the "timber and other materials necessary for the construction thereof" from the public lands.

The PRESIDING OFFICER. Does the Senator from Kansas insist upon his amendment?

Mr. INGALLS. Yes, sir.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas. [Putting the question.] The yeas appear to have it. Does the Senator desire a division?

Mr. INGALLS. No—

The PRESIDING OFFICER. The yeas have it.

Mr. INGALLS. No, no. There was but one "no" to three "ayes."

The PRESIDING OFFICER. The yeas have it.

Mr. INGALLS. In order to test that I call for a division. There were three "ayes" and one "no."

Mr. TELLER. There were two or three "noes" around here.

The PRESIDING OFFICER. The call is too late.

Mr. INGALLS. I will find out whether or not I am too late, before this bill is through with.

The PRESIDING OFFICER. It is the Senator's privilege to find out anything he pleases.

Mr. INGALLS. It is the first time I ever heard, when a division was called for, that it was denied by the Chair; and if I cannot have the privilege of a division now, I shall endeavor to find it some time before the bill is through with.

The PRESIDING OFFICER. The Chair will state in answer to the Senator from Kansas, that the Chair, contrary to the custom of the Chair, put the question whether a division was called for and the Senator from Kansas, as the Chair understood him, said distinctly "no." Then the Chair took the responsibility to decide.

Mr. INGALLS. Then I call for the yeas and nays.

The PRESIDING OFFICER. The question has been decided and the amendment is lost. The Chair refuses to entertain the call for the yeas and nays after a decision on a rising vote. The question is on ordering the bill to be engrossed for a third reading.

The question being put, there were on a division—ayes 20, noes 6; no quorum voting.

Mr. ALLISON. I ask for the yeas and nays.

Mr. WHYTE. Let us take a ye and nay vote on the passage of the bill.

Mr. ALLISON. I agree with the Senator from Maryland to take a vote by yeas and nays on the passage of the bill.

Mr. EDMUNDS. You cannot do anything else now but to get the yeas and nays. There is no quorum.

The PRESIDING OFFICER. Is there a second to the call for the yeas and nays on ordering the bill to be engrossed and read the third time?

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 19; as follows:

YEAS—18.			
Allison,	Chaffee,	McMillan,	Saunders,
Armstrong,	Coke,	Mitchell,	Teller,
Booth,	Conover,	Morgan,	Windom.
Butler,	Eustis,	Plumb,	
Cameron of Wis.,	Grover,	Rollins,	
NAYS—19.			
Anthony,	Edmunds,	Kernan,	Oglesby,
Bailey,	Garland,	McCreery,	Voorhees,
Burnside,	Harris,	McDonald,	Wadleigh,
Davis of W. Va.,	Hierford,	McPherson,	Whyte.
Eaton,	Johnston,	Morrill,	
ABSENT—39.			
Barnum,	Dawes,	Jones of Florida,	Randolph,
Bayard,	Dennis,	Jones of Nevada,	Ransom,
Beck,	Dorsey,	Kellogg,	Sargent,
Blaine,	Ferry,	Kirkwood,	Saulsbury,
Bruce,	Gordon,	Lamar,	Sharon,
Cameron of Pa.,	Hamlin,	Matthews,	Spencer,
Christiancy,	Hill,	Maxey,	Thurman,
Cockrell,	Hoar,	Merrimon,	Wallace,
Conkling,	Howe,	Paddock,	Withers.
Davis of Illinois,	Ingalls,	Patterson,	

The PRESIDING OFFICER. The vote discloses the lack of a quorum.

Mr. EDMUNDS. I move that there be a call of the Senate to see if we cannot get a quorum here at half past three in the afternoon.

The PRESIDING OFFICER. The question is on the motion of the Senator from Vermont.

The motion was agreed to.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll.

Mr. JOHNSTON. I desire to announce that my colleague [Mr. WITHERS] is detained at home, and is not able to be in his seat.

The PRESIDING OFFICER. There is a quorum present. Forty-seven Senators have answered to their names. Is a further call of the Senate insisted on?

Mr. EDMUNDS. I move to dispense with further proceedings under the call.

The motion was agreed to.

Mr. MORRILL. I ask unanimous consent to strike out of section 2 the words empowering this road to locate branches. The Senator who has charge of the bill has no objection to the amendment. I supposed these branches had been stricken out of the bill.

Mr. TELLER. I supposed those words had been stricken out. We agreed the other day that they should be stricken out.

Mr. MORRILL. I move in line 6 of section 2 to strike out all after the word "Washington," being the words:

With such branches and side lines as may be necessary to the growth and development of the public domain therein.

This can only be in order by unanimous consent.

Mr. INGALLS. What is the stage of the bill?

The PRESIDING OFFICER. The yeas and nays have been ordered and the roll has been called on ordering the bill to be engrossed and read a third time. No amendment, therefore, will be in order except by unanimous consent.

Mr. MORRILL. I ask unanimous consent.

Mr. EDMUNDS. Let there be unanimous consent to reconsider the vote on going to a third reading so as to have the bill open for amendment.

The PRESIDING OFFICER. There has been no third reading yet. Mr. EDMUNDS. Very well.

Mr. VOORHEES. I should like to ask a question in regard to the

general purpose of the bill. I think there was a vote given under some misapprehension, at least without that clear, distinct understanding of the purposes of the bill that ought to be had, and I am inclined to think with such an understanding the vote would have been different. What I wish to know is whether the bill does anything more than grant the right of way through the territory of the United States for the building of a railroad to the Black Hills country, without touching any State, and without granting any lands or subsidies, of any kind whatever. Does it do anything more than that?

Mr. EDMUNDS. May I ask the Senator from Indiana to allow the Chair to put the question whether there be unanimous consent to treat the bill as open so as to get rid of the difficulty into which we have fallen?

Mr. VOORHEES. Certainly.

The PRESIDING OFFICER. The Chair will state the present status of the bill. The yeas and nays were ordered on ordering the bill to be engrossed and read a third time. The call was made and it disclosed the want of a quorum, pending which the Senator from Vermont moved a call of the Senate, which was had. That was dispensed with upon ascertaining that there was a quorum present. The next thing in order, and the only thing in order at this time, is the call of the roll of absentees at the former call on the question of ordering the bill to be engrossed and read the third time.

Mr. INGALLS. By unanimous consent that can be waived.

Mr. EDMUNDS. I am not sure that that is right, but I take it to be so for the moment, and I ask unanimous consent that that be dispensed with, so as to leave the bill open on the question of the third reading to amendment and explanation.

The PRESIDING OFFICER. By unanimous consent that will be the order. The bill is in the Senate and open to amendment.

Mr. MORRILL. Now I move the amendment which I indicated, to strike out all after the word "Washington" in line 6 of section 2.

Mr. TELLER. There is no objection to that. In fact I supposed the amendment had been made. It was overlooked in committee.

The amendment was agreed to.

Mr. WHYTE. There have been a great many amendments offered to this bill since it came from the committee. When I first looked at it awhile ago, it had a great many objectionable features in it. I have understood from the Senator who seems to have it in charge that many of these have been stricken out, but I do not think that in a legislative body we ought to vote for any bill upon trust. I should like to see the shape and form of the bill after all these amendments have been incorporated in it and the defects have been stricken out. For that purpose I move to postpone its consideration, to let it lie upon the table, that it may be printed as amended, so that we can understand exactly what it is when we vote upon it; and it can be called up to-morrow morning. I move, therefore, that it be laid on the table temporarily.

Mr. CHAFFEE. I desire to state to the Senator from Maryland that this bill has been amended to correspond with the other bill which has just passed through the Senate, the other bill being to authorize a company to construct a road from Bismarck to the Black Hills. This bill is almost identical in terms, and the changes which have been made by the Senate have been to correspond with the amendments to the other bill and to meet objections which were made to that measure. This bill is for the purpose of building a railroad from Cheyenne, or some place near Cheyenne, on the northern boundary of the State of Colorado, to the Black Hills, to be extended into the Territory of Montana near Helena, and from there to the eastern boundary of the State of Oregon. The bill grants no subsidies of any kind, except the right of way and forty acres of land at each station, the same as was provided by the other bill which passed this afternoon. There are no extra provisions in the bill and nothing that can designate this bill as one that should be defeated, while the other bill has been passed, they being almost identical in terms.

Mr. WHYTE. I ask for a vote on my motion. The motion is not debatable.

The PRESIDING OFFICER. It is not debatable except by unanimous consent. The question is on the motion of the Senator from Maryland to lay the bill on the table.

Mr. INGALLS. Was the motion to lay on the table or to postpone until to-morrow?

Mr. WHYTE. To lay on the table, with a view to take it up to-morrow.

Mr. EDMUNDS. If the Senator from Maryland will give me his attention, I appeal to him to withdraw the motion and merely make a motion to postpone and print, so that any explanations upon this subject may be given now as well as at any other time.

The PRESIDING OFFICER. Does the Senator from Maryland modify his motion?

Mr. WHYTE. I have no objection to modifying it. My object is simply to understand what we are voting upon before we are called upon to vote finally.

The PRESIDING OFFICER. The motion, then, of the Senator from Maryland is to postpone the consideration of the bill until to-morrow, which is debatable.

Mr. TELLER. There are some amendments that ought to be made before the bill goes over. The Senator from Vermont [Mr. EDMUNDS] desires to make some amendments to the bill. If we are to make any further amendments, they should be made now.

Mr. ALLISON. I ask the Senator from Colorado to give way, that I may move to go into executive session. That would leave this bill the unfinished business for to-morrow.

Mr. EDMUNDS. It had better be fixed a little and printed.

Mr. ALLISON. In the mean time let this bill be printed with the amendments.

The PRESIDING OFFICER. The pending question is on the motion of the Senator from Maryland to postpone the further consideration of the bill until to-morrow.

Mr. ALLISON. The Senator from Colorado asks me to yield to him in order that one or two amendments may be offered before the bill shall be printed, and I withhold my motion for an executive session for that purpose.

Mr. TELLER. I consent that the bill shall go over and be printed; but the Senator from Vermont wishes to make some amendment to it.

Mr. EDMUNDS. If Senators will turn to section 13, they will perceive that there is granted to the company the power to lease its line to any other line or to consolidate with any other line. That, I think, is wrong. I therefore move, first, in order to get that out of the bill, in section 13, line 1, after the word "power" to insert the words "subject to the approval of Congress," so that the leasing of the line to any other line, which might be a perpetual lease and therefore a substantial consolidation, shall not be made unless Congress shall approve it, because it tends to get up monopolies, and so on.

The PRESIDING OFFICER. Does the Senator from Maryland withdraw his motion to postpone the bill?

Mr. EDMUNDS. Oh, I beg pardon of the Chair; I had forgotten it. Mr. WHYTE. It was understood. I withdraw my motion.

The PRESIDING OFFICER. The motion to postpone is withdrawn, and the question is on the amendment of the Senator from Vermont.

The amendment was agreed to.

Mr. EDMUNDS. In lines 4 and 5 of the same section, I move to strike out the words "or operating their roads," so as to confine this approval of Congress only to the leasing, and leave them with the ordinary power, which these words are not necessary to confer, to make the ordinary business arrangements with other roads.

The amendment was agreed to.

Mr. EDMUNDS. In line 6, of section 13, after the word "Territories," I move to strike out all the rest of the section; that is to say, these words:

And they are empowered hereby to consolidate their property and stock with each other, such consolidation to take place whenever such companies shall respectively agree upon the terms and conditions thereof; and they shall have all the powers, privileges, and liabilities that they may hold by their separate charters, by filing a copy of such articles of consolidation in the office of the Secretary of the Interior.

I do not think we ought to allow this company or any other chartered by Congress to consolidate of its own will with some other road, and thus get up a monopoly against the people.

The amendment was agreed to.

Mr. WHYTE. Now the Senator from Iowa moves to go into executive session.

Mr. EDMUNDS. Has there been an order to print?

The PRESIDING OFFICER. There has been no such order made.

Mr. EDMUNDS. I move that the bill be printed, so that we shall have it to-morrow as amended.

The PRESIDING OFFICER. The question is on the motion of the Senator from Vermont, to print the bill as amended.

The motion was agreed to.

DAKOTA SOUTHWESTERN RAILWAY.

Mr. EATON. I enter a motion to reconsider the vote by which the Senate bill No. 927, to authorize the construction of a railroad from Bismarck to the Black Hills, was passed this afternoon.

The PRESIDING OFFICER. The motion will be entered.

THE CALENDAR.

Mr. ANTHONY. I ask unanimous consent to introduce a resolution.

The PRESIDING OFFICER. The resolution will be reported.

The Chief Clerk read as follows:

Resolved, That on Wednesday next, at one o'clock, the Senate will proceed to the consideration of the Calendar, and continue such consideration from day to day until the same shall have been gone through with; and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once, and for five minutes only, unless, upon motion, the Senate should at any time otherwise order; and the objection may be interposed at any stage of the proceedings; and this order shall take precedence of special orders or unfinished business, unless otherwise ordered.

The PRESIDING OFFICER. Does the Senator from Rhode Island ask for the present consideration of the resolution?

Mr. ANTHONY. I should like to have it considered now.

Mr. INGALLS. It had better lie over and be printed.

The PRESIDING OFFICER. Objection being made, the resolution will go over and be printed.

BENJAMIN HOLLADAY.

Mr. McMILLAN. I ask the Senator from Iowa to give way to me while I ask for authority from the Senate for the Committee on Claims to employ a stenographer to take the testimony of witnesses in relation to the claim of Benjamin Holladay which was referred to that committee. The witnesses will be ready to proceed with their

examination to-morrow, and it is desirable that the case be disposed of at as early a time as possible.

Mr. DAVIS, of West Virginia. I understand this authority is to be limited to a single case.

Mr. McMILLAN. Yes, sir; to the claim of Benjamin Holladay.

Mr. DAVIS, of West Virginia. I am not opposed to it; but I understand our official reporters here generally do that kind of work. I take it that is the usual rule.

Mr. EDMUNDS. But they do it on the private employment of the committee, and are paid for it like anybody else.

Mr. DAVIS, of West Virginia. I understand that, and I merely throw out the idea that such work is done by our regular Senate stenographers, and not generally by those outside. I am in favor of that course.

The PRESIDING OFFICER. The question is on the motion made by the Senator from Minnesota that the Committee on Claims be authorized to employ a stenographer in a certain case specified by him. The motion was agreed to.

COMMITTEE ON THE JUDICIARY.

Mr. EDMUNDS. I ask that the Committee on the Judiciary be authorized to sit during the sessions of the Senate. The amount of business before that committee is so great of difficult and disputed questions, that I think we ought to be authorized to sit while the Senate is sitting. I ask that authority.

The PRESIDING OFFICER. Is there objection to the suggestion made by the Senator from Vermont? The Chair hears none. Leave is granted.

EXECUTIVE SESSION.

Mr. ALLISON. I now make the motion that the Senate proceed to the consideration of executive business.

The motion was agreed to.

Mr. GORDON. While the galleries are being cleared I ask the Senate to take up and pass, if there is no objection, the bill (H. R. No. 3739) to prevent the introduction of contagious or infectious diseases into the United States. It is the quarantine bill which came from the House the other day. The bill has been reported back favorably from the Committee on Commerce with amendments, and I hope the Senate will pass it now, in order that it may go back to the House.

Mr. EUSTIS. I rise to a point of order that legislative business is out of order.

The PRESIDING OFFICER. The Chair sustains the point of order.

Mr. PATTERSON. I ask leave to introduce a bill.

Mr. GORDON. What becomes of my motion?

The PRESIDING OFFICER. The Senator from Louisiana raised the point of order that the order of the Senate should be executed, and the Chair sustained the point raised by the Senator from Louisiana. Is there objection to the Senator from South Carolina introducing a bill?

Mr. EDMUNDS. The regular order, Mr. President.

The Senate proceeded to the consideration of executive business. After one hour and eighteen minutes spent in executive session the doors were reopened, and (at five o'clock and nine minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, April 15, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of Saturday last was read.

NIGHT SESSIONS FOR PENSION BILLS.

Mr. MILLS. I think there should be a correction of the Journal in reference to the order, made on Saturday upon my motion, in reference to evening sessions this week. The Journal, as read, is not sufficiently specific. It reads that the sessions are to be "for business on the Private Calendar." The Journal should read, "for the consideration of business on the Private Calendar reported from the Committees on Revolutionary and on Invalid Pensions."

The SPEAKER. That portion of the Journal will be again read. The Clerk read as follows:

On motion of Mr. MILLS, by unanimous consent, ordered: That evening sessions be held on Tuesday, Wednesday, and Thursday, the 16th, 17th, and 18th instant, commencing at seven and a half o'clock p. m., for the consideration of reports from the Committees on Revolutionary and Invalid Pensions, and for the consideration of bills on the Private Calendar, as on objection day, reported from the said committees, no other business to be transacted.

Mr. MILLS. There are two points in the order adopted upon my motion: one is the consideration of reports from the Committees on Revolutionary and on Invalid Pensions, and the second is the consideration of bills on the Private Calendar for revolutionary and for invalid pensions.

The SPEAKER. The Chair thinks the intention of the House was to allow the two committees, on Revolutionary and on Invalid Pensions, to report, say on the first evening.

Mr. MILLS. Certainly.

The SPEAKER. To submit reports for an hour, and then that the House should proceed to consider the bills on the Private Calendar, those last reported, of course, not taking precedence.

Mr. MILLS. But when the House comes to the consideration of the Private Calendar, it is for the consideration of revolutionary and invalid pension bills, not for claims, &c.

Mr. PRICE. For pension bills alone.

Mr. MILLS. Yes; that is what I mean.

Mr. THOMPSON. The order as recorded in the Journal just read says, "bills on the Private Calendar reported from the said committees."

Mr. MILLS. Some have been reported before this time and are now on the Calendar. In the first place, reports are to be received and considered from the Committee on Revolutionary and on Invalid Pensions; and in the second place those bills are to be considered which are already pending on the Private Calendar.

Mr. THOMPSON. And none others.

Mr. MILLS. And none others.

The SPEAKER. The Chair would say that the bills reported on the first evening should go to the bottom of the Calendar.

Mr. MILLS. Unquestionably.

The SPEAKER. And then the second branch of the resolution would seem to indicate that the bills reported from the Committees on Revolutionary and on Invalid Pensions already on the Calendar should be taken up and considered in their order.

Mr. MILLS. I suppose that the committees would first be called for reports, and those reports would go to the bottom of the Calendar.

The SPEAKER. Any one member could insist upon their being sent to the Committee of the Whole on the Private Calendar.

Mr. EDEN. No other reports to be considered except pension reports?

The SPEAKER. No reports to be considered except such as already have been made from the Committees on Revolutionary and on Invalid Pensions, and such as may be made from those two committees; that is the distinct understanding.

Mr. HANNA. I suppose if the Committee on Revolutionary Pensions, for instance, should report favorably upon a given bill, it would be competent for the House to consider and pass upon it at once.

The SPEAKER. The Chair thinks that according to the understanding such bills should go to the bottom of the Calendar. Any one member can send them to the Calendar on a point of order, and they would take their place with those which have already been reported. In other words, those first reported should have the first chance for consideration; the Chair thinks that is but equitable.

If there be no objection, the Journal as read will stand as approved.

There was no objection, and the Journal was approved.

ORDER OF BUSINESS.

Mr. EDEN. I now call for the regular order.

The SPEAKER. The regular order is the morning hour, which begins at ten minutes past twelve o'clock. This being Monday, the first business during the morning hour is the call of States and Territories for bills and joint resolutions for introduction and reference to appropriate committees. During this call memorials and joint resolutions of State and territorial Legislatures are in order for reference.

PREVENTION OF CRUELTY TO CHILDREN.

Mr. FRYE (by request) introduced a bill (H. R. No. 4293) to prevent and punish wrongs to children in the District, and for other purposes; which was read a first and second time.

Mr. CLYMER. Let the bill be read.

The bill was read at length.

Mr. FRYE. I move that the bill be referred to the Committee on the Judiciary and printed.

Mr. PATTERSON, of New York. I would move that the bill be referred to the Committee for the District of Columbia.

Mr. FRYE. I have no pride of opinion about the matter. The friends of the bill desire it to go to the Committee on the Judiciary.

Mr. PATTERSON, of New York. I do not know that it is a matter of any importance; but it seems to me that there are a great many provisions in that bill which should be considered by the Committee for the District of Columbia. I will not insist upon it, however.

The bill was accordingly referred to the Committee on the Judiciary, and ordered to be printed.

MRS. ELIZABETH S. ROBERTS.

Mr. JOYCE introduced a bill (H. R. No. 4294) to increase the pension of Mrs. Elizabeth S. Roberts; which was read a first and second time.

Mr. BANNING. I call for the reading of that bill.

The bill was read at length, and referred to the Committee on Invalid Pensions, and ordered to be printed.

BUILDING ASSOCIATIONS IN THE DISTRICT.

Mr. HENDEE (by request) introduced a bill (H. R. No. 4295) to provide for the incorporation of building associations in the District of Columbia; which was read a first and second time.

Mr. CLYMER. I ask for the reading of that bill.

The bill was read at length, and referred to the Committee for the District of Columbia, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed a bill of the following title; in which the concurrence of the House was requested:

A bill (S. No. 1080) authorizing the issue of passports free to colored citizens going to Brazil.

ORDER OF BUSINESS.

Mr. WADDELL. I ask unanimous consent that the call for bills and joint resolutions for reference be continued till all the States and Territories have been called.

There being no objection, it was so ordered.

H. LOUISE GATES.

Mr. BANKS introduced a bill (H. R. No. 4296) increasing the pension of H. Louise Gates; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE A. STEVENS.

Mr. DEAN introduced a bill (H. R. No. 4297) to restore George A. Stevens to his relative rank in the Navy of the United States; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

NEW LONDON NAVY-YARD.

Mr. WAIT presented resolutions of the General Assembly of the State of Connecticut, relative to the New London navy-yard; which were read, and referred to the Committee on Appropriations.

Mr. WAIT. I ask unanimous consent that this resolution and the accompanying letter of the governor of Connecticut be printed in the RECORD.

The SPEAKER. The Chair cannot ask that during the morning hour of Monday.

JANE A. O'BRIEN.

Mr. BLISS introduced a bill (H. R. No. 4298) granting a pension to Jane A. O'Brien; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES O. HAIGHT.

Mr. MULLER (by request of Mr. QUINN, absent on account of sickness) introduced a bill (H. R. No. 4299) for the relief of James O. Haight; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

WILLIAM BEANTOR.

Mr. MCCOOK introduced a bill (H. R. No. 4300) for the relief of William Beantor, late private in Company C, Twenty-first United States Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHAPLAINS IN THE ARMY.

Mr. MCCOOK (by request) introduced a bill (H. R. No. 4301) to regulate the appointment, assignment, and duties of chaplains in the Army, and for other purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ROBERT L. MAY.

Mr. HUNGERFORD introduced a bill (H. R. No. 4302) for the relief of Robert L. May, of the United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

SPECIE PAYMENTS.

Mr. WILLIS, of New York, introduced a bill (H. R. No. 4303) to restore the national credit and revive public confidence by making a certain and definite pledge of the resumption of specie payments; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

Mr. WILLIS, of New York, called for the reading of the bill at length; and it was read.

JOHN HILLEN.

Mr. COX, of New York, introduced a bill (H. R. No. 4304) for the relief of John Hillen; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DESECRATION OF UNITED STATES FLAG.

Mr. COX, of New York, also (by request) introduced a bill (H. R. No. 4305) to prevent the desecration of the United States flag; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

DAVID I. SCOTT.

Mr. CUTLER introduced a bill (H. R. No. 4306) for the relief of David I. Scott, late first lieutenant Tenth Infantry, United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PETER BOHANNON.

Mr. CUTLER also introduced a bill (H. R. No. 4307) granting a pension to Peter Bohannon; which was read a first and second time referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES L. JORDAN.

Mr. BAYNE introduced a bill (H. R. No. 4308) granting a pension to James L. Jordan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ESTHER M'CONKEY.

Mr. BAYNE also introduced a bill (H. R. No. 4309) granting a pension to Esther McConkey; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. ELIZABETH F. LONG.

Mr. TURNEY introduced a bill (H. R. No. 4310) for the relief of Mrs. Elizabeth F. Long, widow of Andrew K. Long, deceased, late captain and commissary of subsistence United States Army; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM B. CONNOR.

Mr. TURNEY also introduced a bill (H. R. No. 4311) authorizing and directing the Adjutant-General to erase from the rolls the charge of mutiny against William B. Connor, deceased, a private in the late war; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PENSION TO TEAMSTERS AND OTHERS IN WAR OF 1812.

Mr. MACKEY introduced a bill (H. R. No. 4312) granting pensions to teamsters and Indians who were in the service of the United States in the war of 1812, and to widows who remarried; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

MEREDITH MONUMENT ASSOCIATION, WAYNE COUNTY, PENNSYLVANIA.

Mr. OVERTON introduced a bill (H. R. No. 4313) appropriating \$10,000 to the Meredith Monument Association of Mount Pleasant Township, Wayne County, Pennsylvania; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

CORNELIUS WESSELS.

Mr. KETCHAM introduced a bill (H. R. No. 4314) granting a pension to Cornelius Wessels; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REVISION OF THE TARIFF.

Mr. EVANS, of Pennsylvania, presented resolutions of the General Assembly of the State of Pennsylvania, against any revision of the tariff; which were referred to the Committee of Ways and Means, and ordered to be printed.

MODE OF TRYING TITLE OF PRESIDENT AND VICE-PRESIDENT TO THEIR RESPECTIVE OFFICES.

Mr. KIMMEL introduced a bill (H. R. No. 4315) to provide a mode for trying and determining by the Supreme Court of the United States the title of the President and Vice-President of the United States to their respective offices when their election to such offices is denied by one or more of the States of the Union; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PRESIDENTIAL ELECTORAL VOTE.

Mr. SWANN. I present a joint resolution of the Legislature of Maryland, authorizing judicial proceedings to give effect to the electoral vote of Maryland, and I move it be referred to the Committee on the Judiciary. I ask that it may be read.

The Clerk read as follows:

Resolved by the General Assembly of Maryland. That the attorney-general of the State be, and he is hereby, instructed, in case Congress shall provide for expediting the action, to exhibit a bill in the Supreme Court of the United States, on behalf of the State of Maryland, with proper parties thereto, setting forth the fact that due effect has not been given to the electoral vote cast by this State on the 6th day of December, 1876, by reason of fraudulent returns made from other States and allowed to be counted provisionally by the electoral commission, and subject to judicial revision, and praying said court to make the revision contemplated by the act establishing said commission; and upon such revision to declare the returns from the States of Louisiana and Florida, which were counted for Rutherford B. Hayes and William A. Wheeler, fraudulent and void, and that the legal electoral votes of said States were cast for Samuel J. Tilden as President and Thomas A. Hendricks as Vice-President, and that by virtue thereof and of 184 votes cast by other States, of which 8 were cast by the State of Maryland, the said Tilden and Hendricks were duly elected; and praying said court to decree accordingly.

Attest:

MILTON G. KIDD,
Chief Clerk of the House of Delegates.
AUGUSTUS GASSAWAY,
Secretary of the Senate.

The SPEAKER. The joint resolution will be referred to the Committee on the Judiciary and ordered to be printed.

Mr. GARFIELD. I raise the question of consideration.

The SPEAKER. In what respect?

Mr. GARFIELD. I object to its reception.

The SPEAKER. On what ground?

Mr. GARFIELD. The subject-matter has been settled by the authority of both Houses of Congress, and I therefore object to the reception by this House of a revolutionary proposition to reopen the question. The majority can refuse to refer it to a committee. I do not raise a question of order, but I object to the reception and reference of this paper.

Mr. STEPHENS, of Georgia. Has the gentleman withdrawn his objection?

Mr. GARFIELD. No, sir; I have not.

The SPEAKER. In the first instance the gentleman from Ohio rose to a question of order, as the Chair supposed. Subsequently the Chair was informed by the gentleman from Ohio he did not raise the point of order. His objection is in his individual capacity as a member as to consideration.

Mr. EDEN. Is the question open to debate?

Mr. GARFIELD. I have raised the question of consideration.

The SPEAKER. There is no question of consideration involved. It has been introduced for reference only under the rule.

Mr. GARFIELD. It is to be referred to the Committee on the Judiciary for consideration. On that motion we can now raise the question of consideration. On the motion to refer to any committee of the House, which means consideration, the House can determine whether it will put this subject in train for legislative consideration.

The SPEAKER. Under the rule, the House during this morning hour of Monday is not allowed to consider but to receive bills and joint resolutions which are introduced for reference only.

Mr. GARFIELD. That is consideration. This is my only method to object to the consideration of the paper. When a bill is offered for action we can raise the question of consideration. Now this is offered to be put in train for action, and my only method of raising the question of consideration is to object to its reference to any committee. A motion is pending to refer this paper to a committee. The House has an undoubted right to determine whether that motion shall prevail or not.

Mr. COX, of New York. I call for the reading of Rule 130.

The SPEAKER. The Chair will first cause to be read Rule 41, the rule evidently referred to by the gentleman from Ohio, [Mr. GARFIELD.]

The Clerk read as follows:

41. When any motion or proposition is made, the question, "Will the House now consider it?" shall not be put unless it is demanded by some member, or is deemed necessary by the Speaker.

The SPEAKER. What rule does the gentleman from New York desire to have read?

Mr. COX, of New York. Rule 130, under which, I submit, the Chair has no discretion, when a joint resolution comes from a State, except to present it.

The Clerk read as follows:

130. All the States and Territories shall be called for bills on leave and resolutions every Monday during each session of Congress; and, if necessary to secure the object on said days, all resolutions which shall give rise to debate shall lie over for discussion, under the rules of the House already established; and the whole of said days shall be appropriated to bills on leave and resolutions, until all the States and Territories are called through. And the Speaker shall first call the States and Territories for bills on leave; and all bills so introduced during the first hour after the Journal is read shall be referred, without debate, to their appropriate committees: *Provided, however*, That a bill so introduced and referred, and all bills at any time introduced by unanimous consent and referred, shall not be brought back into the House upon a motion to reconsider. And on said call, joint resolutions of State and territorial Legislatures for printing and reference may be introduced.

Mr. GARFIELD. The point on which I desire the ruling of the Speaker is this: whether under the rule which has just been read the House is obliged to refer for consideration any proposition that any member may introduce on any subject. It seems to me, if we take that view of the case, then this House is compelled to consider by means of its committees any proposition whatever, no matter what its character may be. Now, I have always understood and do understand that the House of Representatives is the controller of its business, and if a bill should be offered that every member except the one offering it was unwilling to have considered, is it possible that this House is compelled to treat such a bill as it does a bill that it wants to consider? Is it possible we are bound to send such a bill to a committee, which means consideration? Is there no place where we can stop *in limine* and resist by refusing to allow a bill to be referred? It seems to me the right to determine whether we will consider a bill has never been given away by any of the rules cited. Let it not be forgotten that a motion is pending to refer this paper to a committee. Is it possible that the gentleman from Maryland [Mr. SWANN] can carry a motion against the will of the House? No one denies that it is in order to amend the motion so as to change the reference to another committee. On that motion surely the House can vote. We can vote on any motion to refer. We can vote against every reference proposed. In short, we can vote not to refer this paper to any committee at all, and that is what I desire.

Mr. STEPHENS, of Georgia. The parliamentary law, Mr. Speaker, in such cases is this, as I understand it: when any bill or measure is introduced into the House, the question of reception may be raised by anybody, and it may be rejected upon its first reading. That takes precedence of a question of reference. That I understand to be the parliamentary law.

The SPEAKER. Will the gentleman from Georgia be kind enough to direct the attention of the Chair to such a rule of this House?

Mr. STEPHENS, of Georgia. I speak of the parliamentary law laid down in Jefferson's Manual.

In this case, however, I wish to say to the gentleman from Ohio [Mr. GARFIELD] that I trust he will withdraw his objection to this measure. It comes from one of the States of the Union. Let it go. Let it be referred. Do not raise a question of this sort upon this parliamentary motion. I trust the gentleman from Ohio will withdraw

the objection, and that this resolution or bill will be referred to the Committee on the Judiciary.

Mr. COX, of New York. I call the attention of the House to an interpretation of this rule which is found on page 263 of the Manual:

Ever since the foregoing rule has been in its present form, the Speaker has declined to entertain even a request for unanimous consent to transact any other business within the time prescribed for calls for bills on leave for reference.

So that no motion to reject could now be made as is suggested by the distinguished gentleman from Georgia. No motion can be made except to refer under Rule 130. Otherwise the motion to reject might be made on every petition and every bill that comes here.

The States have some rights yet left. When they present joint resolutions we are bound to receive them. The disposition of the resolution is another question. The right of petition on the part of the people and on the part of the States is equal and cannot be in any way abridged. We cannot derogate from it in any way.

The gentleman from Georgia speaks of some general parliamentary rule by which we can vote to reject. We can vote in certain emergencies to reject bills. I am aware of the rule to which he refers, but in this morning hour of Monday the Speaker has no alternative, no discretion, except to go on with the call for bills and joint resolutions from States for reference, not to be brought back on a motion to reconsider.

Mr. HASKELL. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HASKELL. My inquiry is if it is not competent for this House to decide to which committee any bill introduced by any member on the floor shall be referred.

The SPEAKER. It is; and that is as far as the House, during the recollection of the present occupant of the chair, has ever gone; and that has uniformly been decided with the briefest possible debate.

Mr. HASKELL. I would like to ask further: if that is true and it is competent for this House to determine to which committee a bill shall be referred, whether it is not competent for this House to determine that it shall not be referred at all?

The SPEAKER. The Chair thinks that would be an infringement upon the right of a member in his capacity as a Representative to refuse to receive.

Mr. SAMPSON. I desire to call the attention of the Chair to page 163 of the Manual, where it is said:

The first reading of a bill shall be for information, and if opposition be made to it, the question shall be: "Shall this bill be rejected?"

That is in accordance with Rule 117.

The SPEAKER. This is not a bill; this is a memorial from a State Legislature.

Mr. SAMPSON. But the question is: should not the same rule apply?

The SPEAKER. The Chair thinks that a rule made to apply to bills is not comprehensive enough to embrace communications from State Legislatures in the absence of language to that effect.

Mr. SAMPSON. I understand this resolution of the State Legislature is introduced in the same manner as bills are introduced.

The SPEAKER. It is in the nature of a memorial.

Mr. SAMPSON. The gentleman from New York [Mr. COX] took the position that the question of reference or rejection could not be entertained in relation to any bill, and that every bill offered on Monday morning must be received. It seems to me that is not the correct position. The House has a right, as to any bill or joint resolution, to decide whether it will receive or reject it under the rule.

Mr. COX, of New York. In the last Congress a motion was made in the morning hour, by a gentleman from Indiana, (Mr. Williams,) who is now governor of his State, to reject a certain bill with reference to the currency, and the Chair decided that that motion could not be made in the morning hour.

The SPEAKER. The Chair thinks that this is not analogous to a bill at all. Here is a communication from a State Legislature in the nature of a memorial, and embraced within the right of a petition, and the Chair thinks that if the point of order is insisted upon he is prepared to rule upon it now.

Mr. GARFIELD. Will the Chair have the kindness to have the joint resolution again read, as a number of gentlemen are here who did not hear the whole of it?

The joint resolution was again read.

Mr. SPRINGER. I wish to have read in connection with the joint resolution the section of the law establishing the joint commission upon the presidential question, to which reference has been made in the joint resolution.

Mr. REAGAN. That is in the nature of debate, and I object to it.

The SPEAKER. The Chair thinks that this is in the nature of debate only as to a point of order, and thinks the subject too important to refuse to hear anything that gentlemen submit.

Mr. SPRINGER. Certainly it is in reference to the point of order. I simply ask that section 6 of the act establishing the electoral commission be read.

The Clerk read as follows:

That nothing in this act shall be held to impair or affect any right now existing under the Constitution and laws to question by proceeding in the judicial courts of the United States the right or title of any person who shall be declared elected to the office of President or Vice-President if any such right exists.

The SPEAKER. The Chair desires to have read Rule 131.

Mr. MILLS. I rise to a parliamentary question. I wish to know

if it is competent to instruct the committee to which this joint resolution may be referred during the morning hour?

The SPEAKER. Not during this "the morning hour." The practice has only gone to the extent of submitting to the House a test as to reference.

Mr. COX, of New York. What is the motion of the gentleman from Ohio?

Mr. PRICE. Has not the morning hour expired?

The SPEAKER. The morning hour proper, sixty minutes, has expired, but the House by unanimous consent authorized the business under this call to be continued until all the States and Territories should be called.

Mr. RICE, of Ohio. The House by unanimous consent gave permission that this proceeding should go on.

The Clerk read Rule 131, as follows:

Members having petitions and memorials to present may hand them to the Clerk, endorsing the same with their names, and the reference or disposition to be made thereof; and such petitions and memorials shall be entered on the Journal, subject to the control and direction of the Speaker, and if any petition or memorial be so handed in which, in the judgment of the Speaker, is excluded by the rules, the same shall be returned to the member from whom it was received.

The SPEAKER. The House will observe that that rule governs the petitions which can be placed in the box and seems to allow it without limit, as the Chair thinks it should be, as every citizen, no matter who he may be, has a right respectfully to petition Congress. The Chair views this paper as a memorial from a State Legislature and thinks that in addition to Rule 131 the end of Rule 130, which provides that joint resolutions of a State Legislature may be presented in the manner as therein stated, governs this case.

Mr. GARFIELD. I demand a vote, then, upon the pending motion to refer the paper to a committee, and I call for the yeas and nays. In this demand I am plainly within the rules.

Mr. THOMPSON. If it be in order, I move that this memorial and all the accompanying papers, if there be others, be referred to a special committee consisting of fifteen members to be appointed by the Speaker. I make that motion for this reason, that in constituting that committee I have full confidence that the Speaker of the House will discharge a duty delicate and important so as to appoint a committee so constituted that its report, whatever it may be, will have the confidence of this House and command the respect of the whole country. I therefore desire to make the motion in good faith.

Mr. SAMPSON. Before that motion is entertained I wish to call the attention of the Chair to a point which I conceive has been overlooked in this case; and that is, that this is not a memorial directed to Congress asking anything of Congress. I wish to inquire if any member has a right to present here a paper on any subject and have it referred to a committee? It seems to me that Congress has nothing to do with this joint resolution whatever. It does not ask the action of Congress and is not directed to Congress, and it has no right to any place here.

The SPEAKER. The Clerk will read the letter accompanying the joint resolution.

The Clerk read as follows:

By the house of delegates of Maryland, April 1, 1878—

Resolved. That the clerk of this House be, and he is hereby, directed to transmit a copy of these joint resolutions, to give effect to the electoral vote of Maryland, to our Senators and Representatives in Congress, with a request that the same be presented to the Senate and House of Representatives.

By order.

MILTON E. KIDD,
Chief Clerk.

Mr. CARLISLE. I rise to a point of order.

The SPEAKER. There is one point of order already pending. The gentleman from Iowa [Mr. SAMPSON] raises the point of order that this paper is informally here. The Chair thinks, from the reading of the letter which accompanies this memorial or petition from the Legislature of the State of Maryland, that it is not informally here. It comes here presented by a Representative from Maryland and for a purpose stated in the body of the resolution just read. The Chair cannot conceive that it comes here for any other purpose than for presentation. It comes as all memorials of State Legislatures come, in the usual form. The Chair thinks that memorials usually come from the Legislature of his own State in this manner.

Mr. SAMPSON. I formed my opinion from the title of the resolution and the body of the resolution itself, so far as I heard it read. The paper just read by the Clerk is no part of the resolution, and is not the act of the Legislature of Maryland, but only a request by one branch of it. The resolution on its face does not appear to contemplate presentation here. It still seems to me that this paper is improperly here. The Legislature of Maryland is asking nothing of Congress. This paper is not in the nature of a petition, it is simply a notification to Congress that the Legislature of Maryland has considered this subject. It is not in the nature of a petition asking legislation from us; it is not directed to Congress. I still believe my point of order is well taken.

Mr. SPRINGER. The gentleman from Iowa [Mr. SAMPSON] certainly would not dictate to the Legislature of a State what kind of a petition it shall send to Congress. It is the province of the State Legislature to frame its resolutions and send them here; and it is our province to receive them in a respectful manner, and not to dictate to a State what kind of a resolution it shall send to us.

Mr. CARLISLE. I desire to make a point of order upon the proposi-

tion of the gentleman from Ohio [Mr. GARFIELD] to have a vote by yeas and nays upon the motion to refer. I do not understand that any gentleman has a right to call for a vote upon a motion to refer during the morning hour of Monday, unless he opposes the particular committee to which the gentleman who presents the proposition desires to have it referred and moves to refer it to some other one.

Mr. GARFIELD. I do oppose its reference to that committee or to any other.

Mr. CARLISLE. The gentleman did not make any such motion. The SPEAKER. The Chair thinks that the motion to refer gives the right to a member to call for a vote upon it.

Mr. GARFIELD. A single word. I do not take any objection to the form of this petition. I presume it is sufficiently formal to come here. I stand upon the right of the House of Representatives to say what it will do with papers when they have been read at the desk. And our right to say whether a paper shall be referred to one committee rather than to another necessarily involves our right to say that the paper shall be referred to no committee.

Mr. CARLISLE. What becomes of it then?

Mr. GARFIELD. It remains upon the table.

Mr. CARLISLE. The House then refuses to receive the petition.

Mr. GARFIELD. No; the petition is received; the House has heard it, but refuses to refer it to any place where it can be formulated into action; that is all. Upon that right of the House to dispose of papers that come before it, I base my demand for a vote of the House upon the motion to refer.

The SPEAKER. The Chair desires to say in reply to the gentleman from Ohio [Mr. GARFIELD] that there would hardly be any place on the Speaker's table for the petition, under any rule of the House.

Mr. GARFIELD. I did not mean "the Speaker's table," but the table of the House. There is abundant room on that table for this paper.

The SPEAKER. The Chair desires to refer the gentleman from Kentucky [Mr. CARLISLE] to the third section of clause 5, article 1, of the Constitution, which reads "and the yeas and nays of the members of either House shall, at the desire of one-fifth of those present, be entered on the Journal."

Mr. CARLISLE. But this is a question which the gentleman has no right to make.

The SPEAKER. This is a question of reference.

Mr. CARLISLE. No, sir; the gentleman from Ohio [Mr. GARFIELD] does not propose to refer this petition to any committee.

The SPEAKER. But the gentleman from Maryland [Mr. SWANN] has moved that it be referred to the Committee on the Judiciary.

Mr. GARFIELD. And on that motion I demand the yeas and nays.

Mr. CARLISLE. Can the gentleman from Ohio [Mr. GARFIELD] antagonize that motion during the morning hour on Monday in any other way than by moving to refer the petition to some other committee of the House?

The SPEAKER. The gentleman from Pennsylvania [Mr. THOMPSON] has moved to amend the motion of the gentleman from Maryland [Mr. SWANN] by referring the petition to a select committee of fifteen. The Chair will have read the rule upon the question of reference.

Mr. CARLISLE. I did not hear the motion made by the gentleman from Pennsylvania.

Mr. COX, of New York. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. COX, of New York. Do I understand the Chair that the only question before the House is as to the particular committee to which this paper shall be referred?

The SPEAKER. The Chair has stated that the proposition before the House is upon the motion of the gentleman from Maryland [Mr. SWANN] to refer this communication to the Committee on the Judiciary; to which the gentleman from Pennsylvania [Mr. THOMPSON] has moved an amendment to refer it to a select committee of fifteen. The first question will be upon the proposition of the gentleman from Pennsylvania to refer to a special committee of fifteen.

Mr. COX, of New York. Then I understand the Chair to rule that the petition must be considered so far as to give it a reference, and not be laid upon the table, as was the case in a former Congress in reference to a petition presented by John Quincy Adams; that it must be considered in some way. The question before the House is not the rejection of the petition, but to determine to what committee it shall be referred. That will save the honor of the State and of Congress.

The SPEAKER. The Chair desires to correct a statement just made by him. He said that the first question would be upon the motion of the gentleman from Pennsylvania [Mr. THOMPSON] to refer to a select committee. That is incorrect; under the rule the question will be first taken upon referring to a standing committee of the House.

Mr. BANKS. And upon that I raise the question of consideration, and ask a vote upon it.

Mr. O'NEILL. Will not my colleague [Mr. THOMPSON] withdraw his motion now or at the proper time, so as not to appear to be giving importance to this paper coming from the Legislature of Maryland? It is a paper insulting to this House.

Mr. MORRISON. No, it is not.

Mr. O'NEILL. It is a paper insulting to this House and tending to give unrest to the people of the United States in reference to the

title of the Presidency. It is a paper which should be treated with the greatest indignity by members on this floor, and should not be given importance by such a motion as my colleague has made.

The SPEAKER. The first question is upon the motion to refer to the Committee on the Judiciary.

Mr. CONGER. I ask that the question first put shall be: Will the House now consider the motion to refer?

The SPEAKER. The Chair thinks that is not the proper question under the rule.

Mr. CONGER. I ask that Rule 41 be read.

Mr. GARFIELD. Let us take a vote upon the motion to refer and vote it down.

Mr. MILLS. I desire to call attention to Rule 43, which provides that—

When a resolution shall be offered or a motion made to refer any subject and different committees shall be proposed the question shall be taken in the following order:

The Committee of the Whole House on the state of the Union; the Committee of the Whole House; a standing committee; a select committee.

Now I submit whether, under this rule, it would not be in order first to refer this proposition to the Committee of the Whole House on the state of the Union.

The SPEAKER. It would be when that motion is made.

Mr. MILLS. Then I make that motion.

Mr. CONGER. I do not know that the Chair understood my demand.

The SPEAKER. The Chair will listen to the gentleman; and he desires to have order. The points now being raised are probably new, never having occurred before, and never, the Chair hopes, to occur again. [Laughter.]

Mr. CONGER. Rule 41 provides that—

When any motion or proposition is made the question, "Will the House now consider it?" shall not be put unless it is demanded by some member or is deemed necessary by the Speaker.

Now, under that rule I demand that the question, "Will the House now consider the proposition?" be put.

Mr. BANKS. That was the proposition I made before.

The SPEAKER. This proposition comes up during the morning hour of Monday, and therefore must be subject to the rule governing that hour, which contains the following language:

The Speaker shall first call the States and Territories for bills on leave; and all bills so introduced during the first hour after the Journal is read shall be referred, without debate, to their appropriate committees: *Provided, however*, That a bill so introduced and referred, and all bills at any time introduced by unanimous consent and referred, shall not be brought back into the House upon a motion to reconsider; and on said call joint resolutions of State and territorial Legislatures for printing and reference may be introduced.

The Chair thinks that under this rule, which provides for the introduction of joint resolutions of State Legislatures, it is not competent to raise the question of consideration on such resolutions, and that the first vote must be upon the reference and printing, as set forth in the rule.

Mr. CONGER. Does the Chair decide—

Mr. GARFIELD. Before the Chair leaves that point he will permit me to say that the language of the rule just read is "bills on leave;" and the word "leave" refers to the leave of the House.

The SPEAKER. That would be a strained construction.

Mr. GARFIELD. It seems to me that the Chair in his remarks has not given sufficient effect to the words "on leave." All these bills and papers are introduced "on leave."

The SPEAKER. The Chair is further confirmed in the position he has taken by the fact that the rule he has read is, he believes, subsequent in the date of its adoption to the one to which the gentleman from Michigan has referred.

Mr. CONGER. If the Chair please, I am not disputing the ruling of the Chair on that point. But that rule says that these resolutions may be referred. Now comes in Rule 41, giving the privilege to any member on "any motion or proposition" to raise the question, Will the House now consider it? This meets the matter where the Chair leaves it and preserves the rights of the member.

The SPEAKER. The Chair does not think that the language of Rule 41 is intended to authorize any interference with the proceedings of the House in the morning hour of Monday, as regulated by Rule 130.

Mr. SOUTHARD. I would like to suggest that the rule which the gentleman from Michigan has read is a rule as to when the consideration shall be had. Now, if I understand aright, the purpose on the other side is not as to the time for consideration, but that the consideration shall not be had at all.

Mr. CONGER. That is for the House to determine.

Mr. SOUTHARD. That would be a denial of the right of petition.

Mr. BANKS. There is no petition in the case.

The SPEAKER. In fact Rule 41 would seem to relate to the priority of business, rather than the reception of memorials and petitions or even of bills in the morning hour of Monday.

Mr. CONGER. I suppose the Chair will not dispute that this proposition to refer is a "motion or proposition" under Rule 41.

The SPEAKER. The Chair entertains the motion to refer.

Mr. CONGER. Then if it be a "motion or proposition" Rule 41 is applicable.

The SPEAKER. The Chair thinks that under Rule 130 this paper

has a right to a reference. The old controversy with reference to the right of petition must be familiar to every member of the House; and the rules have been adopted, the Chair thinks, so as to give the widest latitude to the humblest citizen to present his petition and have it received when couched in respectful language.

Mr. CONGER. That is a question perhaps for the House, not for the Chair.

The SPEAKER. The Chair has his opinions, and occasionally is entitled to express them for the information and perhaps for the guidance of the House.

Mr. CONGER. I should be very unwilling to dispute that.

Mr. LUTTRELL. I raise this question of order: is there anything now to be done but to take the question on the motion to refer?

The SPEAKER. The Chair thinks the question first is on the motion of the gentleman from Maryland [Mr. SWANN] to refer the joint resolution to the Committee on the Judiciary as amended by the gentleman from Texas [Mr. MILLS] to refer to the Committee of the Whole on the state of the Union.

Mr. BANKS. I beg to say a word on this question. If necessary, I will appeal from the decision of the Chair for that purpose.

The SPEAKER. The Chair will hear the gentleman.

Mr. BANKS. Rule 130, to which the Chair has referred and which relates in part to the presentation of resolutions from State Legislatures, treats the question just like any other question that may be presented to the House at any time.

It does not transcend in its rights the privilege which a member has to present under the rule of the House a bill or a resolution or a petition. It stands exactly upon the same ground that every other question must stand that is presented here, and when it is presented then the rules take effect, and the rule which requires the consideration of that subject to be submitted to the decision of the House is a rule which cannot be evaded and it is a privilege which cannot be denied.

What is done by Rule 130 is to provide by the call of States for the presentation of bills and these joint resolutions. It states when they shall be in order, and when that time has come they are in order, but the House of Representatives has the right to say whether they shall be considered or not. Suppose a resolution should be passed by the Legislature denouncing as guilty of crime the Speaker of this House or any of its members, are we to receive it? Suppose the resolution of a State Legislature or a petition denouncing the President of the United States as guilty of crime, are we bound to consider it? Undoubtedly we should consider it, but we have the right to say, as we have on the question proposed, by any member of the House, under the rules of the House, whether or not it shall be considered. This is not a petition. It is a resolution of the State of Maryland, directing the governor to transmit a certain paper to Senators and Representatives from that State, requesting them to present it to their respective bodies. It does not come under the form of a petition. It is no invasion of the right of petition to reject it; but if it were a petition we still have the right to raise the question of consideration. I remember, sir, on account of certain opinions pronounced by Mr. Daniel Webster, a petition throwing obloquy and charging infamy upon his name and character was presented to the Legislature of Massachusetts, and that Legislature refused to receive it, and refused to receive it rightfully. So would this House under similar circumstances.

All I ask, Mr. Speaker, this State having been called for resolutions of its State Legislature and those resolutions having been presented, that the rules of the House shall resume their power and the members of this House shall have the right to say whether those resolutions shall be considered or not. Gentlemen can vote as they please, to consider or not, and if they vote to receive and consider them that ends the question, and of course they will be referred.

On that question of the right to consider, the House should never under any circumstances surrender its privilege, because it is one which at some time may affect the honor and character not only of the House but every member of the House and every Department of the Government. It should not be surrendered under any circumstances whatever. If gentlemen on the other side of the House, or on this, think it should be presented then they should say it should be considered and when a majority of the House so decide of course no objection could be made to its reference. If on the contrary the majority think it ought not to be considered then they will say it ought not to be considered. It does not belong here under any privilege whatever.

Mr. COX, of New York. But I desire to say in response to the gentleman from Massachusetts, who forgets this is a peculiar Monday morning hour in which there are certain rights and privileges—

Mr. BANKS. I do not forget anything about it.

Mr. COX, of New York. Yes, sir; I think he does. The rule says that bills for reference—bills for reference only and without debate not to be brought back by a motion to reconsider—for reference and printing only.

When introduced they have to go in that direction. They cannot go otherwise. When introduced they have to be referred and printed, and a motion made to that effect is now pending. More than that, this rule has been interpreted that even a unanimous request by the House for the transaction of any other business, to wit, any other than for reference and printing the joint resolution, shall not be in

order—shall not be entertained by the Speaker. The rule is express; it is a rule which has been unchanged and unchangeable.

So far as the right of petition is concerned, this is in one sense a memorial from the sovereign State of Maryland in decorous terms, which comes as a petition under the provisions of the Constitution of the United States as the right of the people to petition the Government for redress of grievances. It is not for me to argue what the grievance is, for under the law this is to be considered without debate as to the subject-matter of the memorial.

One thing is sure, Mr. Speaker, that there is only one question to be considered, the question of reference and printing in the Monday morning hour. Gentlemen forget the old tradition of their party in reference to the right of petition. They forget when John Quincy Adams presented a petition from the State of Massachusetts, gentlemen on the other side undertook to compel its reception and reference—a petition for the dissolution of the Union. It was opposed on this side of the House, but the right of petition has been vindicated by time, by reason, and by patriotism. That will be conceded by all. Here is a larger right than an ordinary right of petition, the right of a sovereign State to present its grievance. They present it here under the rule fixing the right to present it for reference and printing only. That is the only question, as the Speaker has well decided, which we can now consider.

Mr. STEPHENS, of Georgia. Mr. Speaker, I wish to say but one or two words more. In part I agree with the gentleman from Massachusetts, and also with the gentleman from Ohio, as well as with the Chair; but, sir, I hold it to be unquestionable as parliamentary law in all legislative bodies that when any matter is presented the question may be raised, not "Shall it be considered?" (under the forty-first rule, as the gentleman from Massachusetts argues), but "Shall it be entertained?" "Shall it be received?" "Shall it be rejected?" For these forms of putting it are all equivalent. The question of consideration under the forty-first rule is of a totally different nature. That relates to our ordinary business. It relates to matter before the House under leave, and amounts to this and this only, whether the House will then take it up, then consider it, and deliberate on it, act on it, or lay it upon the table, refer it, or make any other disposition of it. That is what the forty-first rule provides for. But anterior and antecedent to all this stands the great parliamentary principle that every deliberative body when any matter is presented has a right to say, "We will not receive it," "We will not entertain it;" that is the order, or "we reject it." The question that the gentleman from Ohio raised is equivalent to this: "We will reject it," the House "will not entertain it;" that is what the gentleman from Massachusetts [Mr. BANKS] means, I suppose. Instead of the question under the forty-first rule, "Will the House consider it?" he means the great parliamentary question "Will the House entertain it?"

Mr. BANKS. No, sir.

Mr. STEPHENS, of Georgia. But he claims it under the forty-first rule.

Mr. BANKS. If the gentleman from Georgia will allow me I wish to say my position is this: that the Rule 130 in regard to receiving resolutions from State Legislatures appoints a time when they shall be in order. A member from the State of Maryland has presented a resolution from that State. That is his right under the Constitution. Then the House has a right to say whether it will receive it or not, and at that precise moment the objection was made to its reception. It is impossible that individuals or popular bodies can have the right to present here anything that they please independent of the will or right of the House to receive it. The petitions to which the gentleman from Georgia and the gentleman from New York refer were those presented in a proper manner asking for proper legislation under the Constitution. This is no petition. This is a resolution. They were received and laid on the table; never were referred. In this case there is nothing that obliges us to receive this resolution.

Mr. STEPHENS, of Georgia. The gentleman from Massachusetts certainly did not understand me. We do not disagree. I say that it is the right of every parliamentary body at the initiative step—at the threshold—when a question is presented, memorial, petition, bill, or anything else, to say whether they will receive it or not. That is my position. But I understand the gentleman from Massachusetts to contend that the position he takes is justified by the forty-first rule. He raises the question of consideration. I say the question should be entertainment, not under the forty-first rule, but under the higher parliamentary law.

Mr. BANKS. I assent to that perfectly.

Mr. STEPHENS, of Georgia. The forty-first rule simply means that the House shall have the right to decide "Will we act upon the measure now?" But the question now raised is, will the House entertain it or will the House reject it? This is not under the forty-first rule. I maintain that it is the right of this House now to say whether they will reject this State resolution or any other petition or not. That is the fundamental principle of all parliamentary law. All these discussions in years gone by, to which reference has been made, related to this question of the reception or rejection of petitions. The right to send in the petition is not disputed, but the right of Congress to refuse to receive and entertain it was maintained. The only practical question involved was as to the policy of exercising that right. The questions as to the right to petition or of the right to re-

ceive or reject are in no way impaired by our rules. These principles underlie them. They are all founded upon them.

No deliberative body could exist without this right; just as you turn out a man obtruding himself at that door. This is inherent in the rights of self-organization and self-protection, belonging to every such body. It should be discreetly, prudently, wisely, and patriotically exercised.

The grand mistake of those who contended against the policy of receiving petitions of a certain character was discovered when it was too late. The great right of the American people to petition and have their petitions received on all subjects is now settled, I think, as the best policy. The power to reject, however, still exists.

Now, sir, this House to-day has got the right to reject this memorial from Maryland if they see fit. But is it wise? Is it judicious? Ought not a State of this Union to have a hearing? Ought not the petition to be referred to a committee? This country will say "yes," and it would be a great error if this House were to say "no."

Mr. COX, of New York. I desire to state to the gentleman from Georgia that the rule in regard to the rejection of bills does not apply to the rejection of memorials.

The SPEAKER. Is the gentleman from Georgia through?

Mr. STEPHENS, of Georgia. Not yet.

Mr. COX, of New York. The rule that applies to rejection of a measure relates to bills only. I wish to ask my friend from Georgia a question. Hearing him a little indistinctly I understood him to contend that the House in the morning hour has a general parliamentary right to reject a memorial of this nature by a motion to reject.

Mr. STEPHENS, of Georgia. I hold that in any hour, morning hour, evening hour—any time when a question of a bill, memorial, petition, or anything of the kind is presented to this House, which they do not intend to entertain, the question can be raised and a vote taken to reject it. The question raised may be "Will the House entertain?" or "Shall this bill or proposition be rejected." These are equivalent modes of stating the same thing. The motion of the gentleman from Ohio [Mr. GARFIELD] is tantamount to the same thing, though not expressed in the same words. The motion of the gentleman from Massachusetts [Mr. BANKS] as he now modifies it is non-parliamentary in form, or at least I view it in that light. If the gentleman from Ohio [Mr. GARFIELD] means not to reject the resolution, but simply not to refer it, it seems to me he should rather move to lay it on the table. The House can do this if it sees fit so to do. But again I ask is it wise to do so? Is it fit and proper action on so great a question raised by one of the States of the Union? I think not. Let the matter be referred to the Judiciary Committee, and let such a report be made upon it as will maintain the dignity of this body and the stability of our free institutions.

Mr. COX, of New York. If the gentleman will read the rule on that subject he will find—

The SPEAKER. The Chair would like to say to the gentleman from New York that at two o'clock this proceeding will be interrupted by the business of the District of Columbia Committee; and the Chair would like to submit a few words if possible.

Mr. COX, of New York. The rule provides that bills only shall be open to the motion to reject, not memorials in the Monday morning hour. Under the Constitution a State, like a person, has a right to petition; but we have the right to direct the mode in which, and the time when, that petition shall be laid before the House.

Mr. CONGER. Will the gentleman tell us what there is in the Constitution which gives the right of petition to State Legislatures?

Mr. COX, of New York. This is in the nature of a petition because it is in fact a memorial from a State Legislature.

Mr. BANKS. It is no petition.

Mr. COX, of New York. It was brought to the attention of the House at the request of the Legislature of Maryland.

Mr. STEPHENS, of Georgia. I claim the floor.

Mr. YEATES. The gentleman from Georgia [Mr. STEPHENS] has the right to conclude his remarks.

The SPEAKER. The Chair desires to state that the gentleman from Massachusetts [Mr. BANKS] relies upon Rule 41, in regard to the declaration of the right of petition.

Mr. BANKS. No, my position is that under the one hundred and thirtieth rule the right is exhausted when the State has been called. That is all that it provides for. If the House receives it other proceedings can take place; but if, as the gentleman from Georgia suggested, the House refuses to receive it or rejects it, then the proceeding is closed.

The SPEAKER. The Chair understood the gentleman from Massachusetts to claim the right of the House to consider the question.

Mr. BANKS. Yes, sir.

The SPEAKER. And the gentleman from Michigan [Mr. CONGER] referred to Rule 41 as establishing that right. In regard to that point the Chair agrees with the gentleman from Georgia, that that rule does not cover this case; that that rule, which was anterior in date of adoption to Rule 130, refers to the consideration of a subject and the means of proceeding to its disposition. The gentleman from Georgia drew a line of demarcation between the right to consider and the right to receive. Now, under Rule 130, which directs the Chair as to the order of procedure in the morning hour of Monday, within which we are acting, it is authorized that communications of this character

from State Legislatures may be received and presented for reference and printing.

The Chair thinks that the inherent right alluded to by the gentleman from Georgia as existing in every legislative body is realized by the body in case they should refuse to refer. For a refusal to refer is in effect equivalent to an adverse expression. Now, the gentleman from Massachusetts forgets, and perhaps many members of the House forget, that this subject has already gone to the Judiciary Committee in another form by a bill introduced by another member from Maryland, which bill preceded this memorial from the State Legislature. This communication from the State Legislature is a respectful communication upon a subject of vast importance, and it is due that it should have proper reference, and the Chair thinks that the rule properly provides for such reference.

The gentleman from Massachusetts undertakes to prove by a supposititious case that a communication might come here disrespectful in terms or that charged a member of this House with crime, or of like character. The Chair would remind the gentleman from Massachusetts that this is not such a case as the one he indicates. You can attempt to establish any fact or to diminish any course of reasoning by similes, but there is no such predicament as that in this case. Here is a respectful communication, and the rule provides for its reference, and if the House refuses to vote in favor of its reference, the Chair thinks, as already said, that a negative of a motion to refer is equivalent to an adverse expression.

Mr. GARFIELD. I then demand the vote upon the motion to refer. Mr. COX, of Ohio. In regard to the effect of the rule, while I agree in most respects with the statement of the Speaker, there are others in which I cannot agree with him, and I am unwilling to have my vote recorded without making the distinction. I believe that under our rules when a memorial or petition is read from the Clerk's desk the right of the party or body presenting it to this House is then fully accomplished, and if no member makes any motion it simply goes to the table of the House. After that time we have a right to consider it in accordance with our own rules. I therefore wish to be understood as urging that when a petition or memorial is read every right that the party or body sending it can ask for is fully given. The House has respectfully heard it, and the action upon it is then just as respectful if contrary to its request as if given in its favor.

The SPEAKER. Yet the rule states that such memorials may be presented for reference and printing.

Mr. COX, of Ohio. That is for the House to determine. I do not believe that it is bound to refer; but it has its choice, to refer or to let the paper go to the table of the House.

Mr. HENDEE. I call for the regular order.

Mr. STEPHENS, of Georgia. I believe I have still the floor. I have not yielded it.

The SPEAKER. The hour of two o'clock has arrived, the time in which the Committee for the District of Columbia is entitled to the floor, and the matter goes over until the end of the day.

Mr. CARLISLE. Was not unanimous consent given that the call should continue until all the States had been called?

The SPEAKER. The Chair does not think it was intended to be extended to the exclusion of the business of the District.

Mr. GARFIELD. I desire to enter a motion to reconsider the vote by which the bill introduced by the gentleman from Maryland [Mr. KIMMEL] in regard to this same subject was referred to the Committee on the Judiciary. I should have resisted it when it was offered if I had been in the Hall.

The SPEAKER. The Chair cannot entertain that motion at this time.

Mr. CARLISLE. It would be in the face of the rule itself, which says that bills referred during the morning hour under the call of the States shall not be called back under a motion to reconsider.

The SPEAKER. The gentleman from Ohio will see that the bill would be brought back under a motion to reconsider.

Mr. GARFIELD. This does not bring it back. It is simply a motion to reconsider the vote by which it was referred, so as to prevent its being referred at all.

The SPEAKER. That would bring the bill back before the House.

Mr. GARFIELD. If we can have a vote on the motion to refer this paper—

DEFICIENCY APPROPRIATION BILL.

Mr. FOSTER. I ask unanimous consent that the bill (H. R. No. 3740) to provide for deficiencies in the appropriation for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes, which has been returned from the Senate with sundry amendments, be printed for the use of the House with the Senate amendments numbered in their order.

There was no objection, and it was so ordered.

ORDER OF BUSINESS.

Mr. YEATES. I believe the regular order has been called for. The SPEAKER. The regular order has been called for. Two o'clock having arrived, the Chair recognizes the gentleman from Vermont, [Mr. HENDEE], to call up for consideration business from the Committee for the District of Columbia.

Mr. PHILLIPS. I desire to make a parliamentary inquiry. The SPEAKER. The gentleman will state it.

Mr. PHILLIPS. On Monday last the gentleman from Massachu-

setts [Mr. BUTLER] introduced a bill upon which he moved a suspension of the rules. That bill comes over to-day as unfinished business.

The SPEAKER. That will be in order after the business of the District of Columbia Committee shall have been disposed of.

Mr. HENDEE. I desire to make a request of the House and ask that order be restored so that it can be heard by members. [After a pause.] I desire to state to the House that the Committee for the District of Columbia have a large amount of business to present. They have been considering for some weeks past very many important and essential bills, and they are now ready to present them.

The bill known as the bill for the government of the District of Columbia is yet undisposed of. That bill the committee consider to be of much greater importance than any other bill which they have prepared and are now ready to report. Under the circumstances, I have been directed by the committee to ask consent of the House that Friday evening of this week from half past seven o'clock be set apart for the consideration of bills to be reported by the Committee for the District of Columbia, not including the one for the government of the District. If that request shall be granted, the committee will then ask the House to proceed at once to the consideration of the bill for the government of the District of Columbia, which they have no doubt can be disposed of before the close of the session to-day.

If that request is granted, then the District government bill will be out of the way of a great many important bills now being pressed by other committees of this House. I hope that the request for an evening session on Friday next will be granted. We have now business prepared for at least three days of the session, and we have but one day in each month for its consideration by the House. We shall not be able without some such arrangement to complete the necessary business for this District during this session of Congress. But with an evening session on Friday next we are confident that we can put the business of the District in proper shape and at the same time get out of the way of the bill for the government of the District.

Mr. BANNING. We already have four evening sessions ordered for this week.

The SPEAKER. Is there objection to the request of the gentleman from Vermont [Mr. HENDEE] that Friday evening of this week, from half past seven o'clock, be set apart for the consideration of business reported from the Committee for the District of Columbia?

There was no objection, and it was so ordered.

GOVERNMENT FOR THE DISTRICT OF COLUMBIA.

Mr. HENDEE. I now call up, by direction of the Committee for the District of Columbia, the bill (H. R. No. 3259) providing a permanent form of government for the District of Columbia. I move that the House now proceed to consider it under the five-minute rule, and that all general debate upon the bill be now closed.

Mr. JONES, of Ohio. I must object to that. This District bill has very important matters in it.

Mr. HENDEE. The gentleman can have time enough under the five-minute rule.

Mr. TOWNSEND, of New York. I want some time myself. I think it would be better to let general debate proceed for an hour longer.

The SPEAKER. The bill is now in the House as in Committee of the Whole, and the question is upon the motion to proceed to its consideration under the five-minute rule.

The motion was agreed to.

The SPEAKER *pro tempore* (Mr. HALE.) The House now resumes the consideration of House bill No. 3259, providing a permanent form of government for the District of Columbia. By order of the House the bill will now be considered under the five-minute rule.

Mr. TOWNSEND, of New York. I rise to a question of order. When the House last had this bill under consideration I was awarded the floor, and in contemplation of law and of the rules of the House I am on the floor now. I claim the right to use at least my five minutes before the reading of the bill is commenced.

The SPEAKER *pro tempore*. By order of the House made this morning, all general debate upon this bill has been terminated, and it is now to be considered by clauses under the five-minute rule. The Chair will recognize the gentleman from New York [Mr. TOWNSEND] when the Clerk has read the first paragraph of the bill.

The Clerk read as follows:

Be it enacted, &c., That all that portion of the territory of the United States which was ceded by the State of Maryland for the permanent seat of the Federal Government shall continue to be designated as the District of Columbia. Said District, and property and persons that may be therein, shall be subject to the following provisions and for the government of the same, and also to any existing laws applicable thereto not hereby repealed or inconsistent with the provisions of this act.

Mr. TOWNSEND, of New York. I move to strike out the last word of the paragraph just read. In the five minutes allowed me I will not be able to state my objections in full to this bill; I can scarcely do more than hint at them.

Mr. HENDEE. I will yield to you another five minutes.

Mr. TOWNSEND, of New York. My first objection to this bill, and I speak of the section just read as a part of it, is that for the first time in recent legislation the proposition is made to require a property qualification for a public officer. By the sixth section of this bill no person can be a member of the council of the District of Columbia unless he possesses property of the value of \$3,000.

My second objection to the bill is, that it requires that a person to

be such member of the council must have resided in the District of Columbia for the period of five years. That proposition I believe to be entirely unwise and preposterous.

My third objection to the bill is, that it requires that voters in this District must have resided here for the period of three years. So far as I know, there is not any place in any State in this country where a residence of three years is required in order to entitle a person to vote. There would seem to be a desire in regard to this bill to be repressive, to prevent popular action. If we are not to establish a form of government in this District which shall in some degree be popular, we might just as well allow the present state of things to exist.

There is another objection which I have to this bill, and that is that it provides that no person shall be allowed to vote unless he shall have paid his poll tax. I do not believe that the payment of any tax should be a prerequisite to voting.

I do not believe that the possession of wealth presumptively makes a better citizen than the non-possession of wealth. Wealth is a very excellent thing, and I certainly do not stand up here to disparage its benefits to the possessor or the benefits which its possession in the case of some citizens confers upon the Union. But my observation, through a life now somewhat protracted, has been that the men not possessing wealth were as faithful and as considerate in time of peace and as patriotic in time of war as the millionaires of the country. I believe that in the city of Washington there is no exception to my general rule of observation. Upon the whole my belief is that strictly popular government is the best form of government existing or that can exist.

Our experience in the city of New York in allowing the whole power of the city of New York to rest in the hands of four men has ended most disastrously, and I believe that whatever may be said of the population of that city in the way of declamation, the people of the city of New York if allowed the power of self-government would have saved nineteen-twentieths of all the money that was drawn from the coffers of that city under the reign of the four-men power.

One provision of the bill has my most hearty assent; that is, the provision for the payment of the debts of the District. We cannot without injury to the whole United States refuse to provide for the debt of the District of Columbia. When men propose now to work for this District they consider that they are to be paid in bonds bearing interest at the rate of 3.65 per cent.; and consequently they propose for the work they are to do a charge greater by 20 per cent. than they would propose were they to be paid in money—greenbacks, silver, gold, or any sort of money. The United States, as the half owner of the property in the District of Columbia, are in this way losing 10 per cent.

But that is not all. The men who do work and acquire the right to be paid under the District of Columbia have now come to understand that they are to wait as beggars at the door of Congress, day after day, month after month, year after year, before they can obtain their pay. Accordingly, in point of fact, in the work done in this District we obtain only about sixty cents in value for every dollar we have to pay. When the United States and the District of Columbia come to pay the District debts as other debts are paid, we shall get in the work that is done one hundred cents on the dollar.

[Here the hammer fell.]

Mr. HENDEE obtained the floor, and yielded his time to Mr. TOWNSEND, of New York.

Mr. TOWNSEND, of New York. There is but little more I desire to say. We should not make a mistake as to the position which the Government occupies in regard to the District of Columbia. One gentleman from Illinois [Mr. TOWNSEND] says that the debt of this District is larger *per capita* than the debt of any other city in the Union; that this debt rests upon one hundred and thirty thousand, one hundred and forty thousand, or at the most one hundred and fifty thousand people. This is true in one sense; but there is another and an important sense in which the number of debtors is much larger. There is an important sense in which this debt of the District of Columbia rests upon forty-five millions of people. Sir, we must not disguise from ourselves the fact that this city has to do its work in an expensive manner because we are here, because the nation is represented here, because the Government property is here, because the nation must here either be respectable or be disgraced. These streets would never have been what they are but because they lead to and from the White House and the Capitol.

Now whatever be said in regard to the management of District affairs in the past, of which I have no knowledge personally, this city has to-day the handsomest streets that ever existed in any capital in Europe, Asia, or America down to the present day. There never was a city that lay so well upon the ground as this city of Washington to-day. I submit that gentlemen here should tell their constituents at home that we as a nation cannot afford to go back to the state of things which existed in the city of Washington before the late improvements were made. Is there a man in this House who would desire to see Pennsylvania avenue and other important streets of Washington in the condition in which they were at the close of the war or during the war or before the war, or to see the old canal, that festering source of miasma, fever, and death, standing here with all its foul exhalations?

Now, it is true that this city is in debt nominally to a very large amount. Perhaps there has been extravagance, but it is passed.

If we wish to bear our one-half of the expenses of the District of Columbia for the future we must let it be understood that when a party contracts to do the work for this city somebody will pay. Take the cities which do not pay to-day: on what terms can they bargain? Take an individual who does not pay: upon what terms can he bargain? We must, for the interest of the country, in some way shake off this debt and shake it off to the honor of the country, not to its disgrace.

Mr. JONES, of Ohio. Mr. Speaker, I think there is great danger, for two obvious reasons, that hasty action will be had on this important proposition. The first is that those who live in this city are so anxious to get rid of the indebtedness now existing and to fix the annual proportion of the expense of the Government that they are willing to accept any sort of government for the District of Columbia, and the other reason is that those who hold the indebtedness against the city are so anxious to have the Government assume its proportion of the debt existing and the expenses for the city annually hereafter that they are willing to force upon the city any sort of government. We are liable, therefore, being pressed by the two classes to whom I have referred, to adopt a government which will not be satisfactory to ourselves and not be in accordance with the idea of government we have always entertained, but, on the contrary, will be a disgrace to the country.

Now, sir, I allude to this for this reason: the former commission, which was appointed in the Forty-fourth Congress for the purpose of adjusting this question, in their report presented to the House, in fixing the proportion of indebtedness, came to the conclusion that 40 per cent. was about the fair proportion to be borne by the General Government. This bill, however, doubtless under the persuasion of the committee of one hundred citizens, provides that the United States Government shall assume one-half, or 50 per cent., of the indebtedness. The difference is this: the indebtedness is \$25,000,000, and therefore this bill proposes to saddle on the General Government \$2,500,000 more of indebtedness than the commission that had the subject fully under consideration during the Forty-fourth Congress, and since considered the fair proportion to be assumed by the General Government. And, in the next place, the difference between the 40 per cent. recommended by the commission which investigated the subject and that proposed by this bill will amount to \$300,000 annually more than the committee of the Forty-fourth Congress considered the fair proportion of the General Government.

Therefore, I say, Mr. Speaker, that the assumption of debt and expenses made by the General Government of this bill is so much greater than was ever before proposed that it causes the people of this District to disregard the character of government forced on them; and causes in the second place those who are anxious to have the debt assumed by the General Government not to care at all about the character or form of government to be established for this District. It is not my purpose to discuss in detail all the objectionable features of the bill under consideration. The second section, which provides for the selection of the commissioners, one by the President, one by the Senate, and one by the House of Representatives, presents a grave constitutional question, most intensely interesting to those who are fond of legal inquiry, and is one that should be carefully considered. This question engaged the attention of the select committee upon the form of government for the District of Columbia appointed by the Forty-fourth Congress. We are informed by the gentleman from Virginia [Mr. HUNTON] that this commission took the opinions of eminent counsel on this subject. This fact and the fact that the commission itself had among its members men "learned in the law" adds great weight to their report, but I am not prepared to accept without question their conclusion. The commission set forth in their report the authority upon which they base their opinion, and a careful examination of this authority satisfies me that it is not at all conclusive that the mode of appointment of the commission as proposed by the second section of this bill is constitutional. The whole argument in favor of the constitutionality of this measure is based upon the language of the judge in a Pennsylvania authority cited in the report of the committee and presented to the House the other day by the gentleman from Virginia [Mr. HUNTON] when my colleague [Mr. COX] had the floor, in the following language:

The constitution of Pennsylvania, in force in 1817, provided "that the governor shall appoint all officers whose offices are established by the constitution or shall be established by law, and whose appointments are not herein otherwise provided for." The court in construing this article of the constitution of that State, in the case of *Lieinan vs. Sutherland*, (3 Sergeant and Rawle, 149,) used the following language: "The word office is of very vague and indefinite import. Everything concerning the administration of justice, or the general interest of society, may be supposed to be within the meaning of the constitution, especially if fees or emoluments are annexed to the office. But there are matters of temporary and local concern which, although comprehended in the term office, have not been thought to be embraced by the constitution. And when offices of that kind have been created, the Legislature have sometimes made the appointment in the law which created them, sometimes giving the appointment to the governor, and sometimes given the power of removal to others, although the appointment was left to the governor. The officers of whom I am speaking are often described in acts of Assembly by the name of commissioners—such, for instance, as are employed in laying out roads and canals and other works of a public nature. Yet all these perform a duty, or, in other words, exercise an office. So, likewise, officers within the limit of a corporation are generally appointed by the corporation unless they concern the administration of justice." The opinion from which I have just quoted was delivered by Chief-Justice Tilghman, and concurred in by Gibson and Duncan.

The citation is only the language of the judge and is merely "*obiter dictum*." The decision in the case turned upon the point whether the

Legislature could prescribe the manner in which the governor should exercise the appointing power. Upon carefully examining this case it will be found the facts were that a Dr. Sutherland, as the relation of Dr. Lieman (both of whom claimed the position of lazaretto physician under the board of health of Philadelphia) was called upon in proceedings in *quo warranto* before the supreme court to show by what authority he exercised the office. His answer, which was sustained by the court, was in substance that he was appointed by the governor under the act of the Legislature of 1803, by virtue of which a board of health was established; that its members were, by the act, to be appointed by the governor, and that the act provided that the governor could only remove the physician on complaint of a majority of the board of health; that his time had not expired and that he had not been removed in the manner required by the law, and that until he was so removed the governor could not appoint his successor, and that in fact the new act of the Legislature had placed the power of appointment in the board of health of Philadelphia, and the law provided that the removal should only take place on request of a majority of the board of health, but the governor undertook to supersede Dr. Sutherland without any such request being made by the board of health. The point of the decision was that the Legislature might prescribe the manner in which the power of removal should be exercised by the governor. This was the only point necessary to decide the case and to that extent it is good law, but so far as the language of the judge goes beyond that it is *obiter dictum* and not decisive. In the "dictum" it will be observed the judge says "that everything concerning the general interests of society may be supposed to be within the meaning of the constitution, especially if fees or emoluments are attached to the office." And he speaks of matters that are of temporary and local concern as not being included in the term office. A board of commissioners was established in our State (Ohio) at one time who were authorized to appoint commissioners of the state-house and directors of the penitentiary. In deciding the case the judge defines what is an office, and his definition is so apt that I quote it entire:

What is an office? Among lexicographers, Webster defines the word to signify "a particular duty, charge, or trust conferred by public authority and for a public purpose." In a case in 20 John Rep. 492, Plat. J., delivering the opinion of the court, defines the legal meaning of the word to be "an employment on behalf of the government, in any station of public trust, not merely transient, occasional, or incidental."

This bill confers a public duty, charge, and trust upon the commissioners, conferred by Congress for public purposes of a weighty and important character that belong to Congress. In the language of the court in the case referred to, "their duties, their charge, and trust, are not transient, occasional, or incidental, but durable, permanent, and continuous." The court in the Pennsylvania case do say that the new law that took from the governor the power to appoint a lazaretto physician for the port of Philadelphia and conferred it on the board of health is constitutional. That is a very different question from an exercise of the appointing power by the Legislature or an attempt to confer appointing power on one of its own branches. The power to confer appointing power upon a board of health might be constitutional while an appointment made by the Legislature itself would be wholly unconstitutional. The former is to regulate it, the latter to exercise it.

In the Pennsylvania case cited by the committee the judge in the language used confounded the distinction between the authority to determine the manner in which an appointment may be made and the authority by which it may be made and making the appointment itself. Among the first principles law students are expected to learn is the distinction between legislative, executive, and judicial power. By legislative power laws are made, by judicial power laws are construed, and by executive power laws are administered or executed. Our Constitution, article 2, section 1, by its terms vests the executive power in the President:

The executive power shall be vested in a President of the United States of America.

It is equally explicit as to the judicial, article 3, section 1:

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

And article 1, section 1, provides that—

All legislative powers herein granted shall be vested in a Congress of the United States, &c.

The modifications of this clear and distinct division of powers are such only as are provided for in the Constitution itself, such as that each House shall choose its own officers and be the judges of the elections, returns, and qualifications of its own members, and that the Senate shall have the sole power to try all impeachments, &c. Aside from these modifications, provided for in the instrument itself by express provisions, I maintain these divisions of power are absolute. The power to direct who shall do an act and the manner in which it shall be performed and the power to do the act itself are not, legally speaking, one and the same thing. The one is legislative and the other executive. This distinction was clearly stated and was the turning-point in the case in the supreme court of Ohio to which I have already referred. I allude to the case of *The State against Kenner et al.*, 7 Ohio State. The facts in the case were as follows: in 1858 the Legislature of Ohio (being democratic and the

governor republican) sought, by the establishment of a commission similar to the one proposed by this bill, to take from the governor certain appointments. They passed two acts: one entitled "An act to provide for the more expeditious completion of the new State-house," &c., and the other "An act providing for the appointment and more thorough system of accountability of officers of the Ohio penitentiary, fixing their compensation, prescribing their duties, and determining the manner of working convicts." These acts constituted three persons, therein named, a commission to finish the work on the State-house, and, among other duties, gave them authority to appoint three directors of the Ohio penitentiary. An information was filed against the members of the commission, and they were brought before the supreme court by proceedings in the nature of *quo warranto*. The constitution of Ohio in express terms denies appointing power to the General Assembly; but, in pronouncing the judgment of the court that the law was unconstitutional, Judge Brinkerhoff, in drawing the distinction between the power to determine the manner and to make an appointment, said:

That they are not identical or equivalent to each other is too clear for argument, and almost too clear to admit of illustration. To prescribe the manner of election or appointment to an office is an ordinary legislative function. To make an appointment to office is an administrative function; and, under a constitution in which the philosophical theory of a division of the powers of government into legislative, executive, and judicial should be exactly carried out in detail, the power of prescribing the manner of making appointments to office would fall naturally and properly to the legislative department, while the power to make the appointments themselves would fall as naturally and properly to the executive department.

It is clear that directing by law the manner in which an appointment may be made and making an appointment are the exercise of two different and distinct powers: the one prescribing how the act may be done is legislative and the other, doing the act, is executive or administrative. Article 1, section 8, clause 17, of the Constitution authorizes Congress—

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.

It is not claimed by the committee that there is any authority for the appointment of the commissioners as provided in this bill other than is conferred upon Congress in the clause just quoted. I agree with the Judiciary Committee of the Forty-third Congress, that this clause of the Constitution vests in Congress the authority to do whatever may be done under or is embraced in the exercise of legislative power, but what I claim is, there is no grant in the Constitution of administrative power to Congress and that to fill offices by appointment is an administrative duty not included in a grant of legislative power. Congress under this clause can create offices, provide for commissioners, grant municipal rights to the people of the District of Columbia, and provide the manner in which the appointments may be made, for all this is within the scope of legislative power, but the appointments to fill these offices is an administrative power, no matter whether they are United States officers or municipal officers, and has nowhere in the Constitution been conferred upon Congress. The Government of the United States is one of enumerated powers and in the Constitution must be found a grant for the exercise of every power it assumes. The difference between the Constitution of the United States and those of the several States laid down by Colley in his Constitutional Limitations is that under the Constitution of the United States Congress can claim no power not expressly granted or given by necessary implication, while the State constitutions only impose restrictions upon the powers the States inherently possess. A prohibition in a State constitution, according to this principle, leaves the Legislature of the State in the same condition as to the power of exercising the appointing power of municipal or corporate officers that Congress is in under the Constitution in the absence of a grant of power either specific or by necessary implication. Where, I ask, then, in the Constitution is administrative power conferred upon Congress to appoint by their own act these commissioners?

I maintain that the commissioners are under the provisions of this bill inferior officers of the United States, and, if so, it will not be claimed by the committee, as I understand the tenor of their report, or by any one else, that they can be appointed in any other way except as provided in that part of section 2, article 2, of the Constitution, which reads as follows:

He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur, and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments.

These commissioners must come under the class of inferior officers, or the Constitution does not warrant Congress in authorizing the President alone to appoint or designate one of them, as is proposed in this bill, and if they do come under this class of officers, then the Constitution having pointed out or designated the method of appointment Congress cannot authorize it to be done in any other way. "*Expressio unius est exclusio alterius.*" We cannot call them inferior officers of the United States so as to authorize the President alone to

designate one of them, and then claim they are not such inferior officers so as to authorize the Senate and House to designate the others.

They must be appointed by the President, by and with the advice of the Senate, or if Congress choose it may by law be authorized to be done by the President alone, by the courts of law, or the heads of Departments. That these commissioners are officers of the United States further appears from the fact that they represent the authority and power of the General Government. They exercise political functions and powers that are derived not from the people of the District of Columbia but from the Congress of the United States. The act makes them a public tribunal to aid in representing and acting for the General Government in the execution of the public trust of governing the District of Columbia; a trust in which the people of the District have no constitutional or legal right to participate, only in so far as such right may be granted or delegated to them by act of Congress. Their office is established by the law of the United States; their duties are all prescribed by the laws of the United States; they are not responsible to any other power but the United States; they are required to give bonds to the United States in the sum of \$50,000 for the faithful performance of their duties; their salaries (\$5,000 each for two of them) are paid by the United States; the United States is responsible for their acts and contracts, and in short all their duties are to be performed under the direction and control of Congress for the benefit of the people of the District of Columbia. If we pass this bill, instead of establishing a permanent form of government for the District of Columbia we will have one that can probably be upset by proceedings in "*quo warranto*" in the Supreme Court of the United States in less than sixty days after it is inaugurated.

The CHAIRMAN. The gentleman's time has expired.

Mr. McCOOK. I will take the floor and yield my time to the gentleman from Ohio.

Mr. JONES, of Ohio. There are other features of this bill that I do not like. I dislike the idea of appointing any of these commissioners. The security provided for is a bond to be executed by the commissioners and the oath to be taken, and with this safeguard I think we might with propriety let the people from such men as can qualify select the men of their own choice. The property qualification is to my mind odious. It assumes that a man worth \$3,000 is better than a man worth nothing; and, to follow out the assumption, a man worth \$6,000 would be better still; and, I suppose, if a man should be worth \$3,000 to render him fit for position in a town council, to be a commissioner he ought to be worth \$6,000, to be a member of a Legislature \$12,000, and so on until to be a Congressman he ought to be worth at least \$100,000, and that anything below a million would be entirely too small a sum for a Senator or President. The whole thing is wrong in principle, and to the lovers of political equality odious. David Paul Brown maintained that pecuniary competency was not necessary to human happiness, and that to admit it would destroy the lofty character of man, and said "that a dollar more or less should exercise any influence upon his position, as rightly understood, is to make him the meanest instead of the noblest of God's creatures." We are getting too many men in this country that are ready to repudiate the doctrine that "all mankind are created free and equal." I believe in the elective system, the fundamental idea of which is perfect political equality. That "governments derived their just powers from the consent of the governed" is a golden nugget of political wisdom that ought not to be disregarded even in the government of a municipality, and the principle that lies at the basis of our ideas of government is the absolute and perfect political equality of all citizens; and the establishment of the doctrine that a man must be worth a certain amount of property to entitle him to hold office is so utterly at variance with everything we have been taught on this subject that we ought never to consent to any measure that embraces such a feature. We have always accepted the elementary theory laid down in every elementary treatise on the subject that all are politically equal, and this is wholly at variance with the idea of a property qualification. We have likewise hitherto accepted the doctrine that the majority should govern, which embraces the idea so often repeated that the knowledge and wisdom of the greater number are superior to the knowledge and wisdom of any smaller number of the same community or body of men, and that whatever is done or resolved upon by the greater number must necessarily possess the quality of justice in a higher degree than the act or resolution of any smaller number would likely possess.

This is asserted to be not only an elementary principle but a maxim of free government. The elementary writers assert this principle as the common sense of mankind and as the only solid foundation of all popular government. Equality is the law of heaven, and, so far as government is concerned, it should be the law of earth. I know some effort is made now and then to disturb public confidence in this old idea of republican government. The proposition, however, to introduce a property qualification in the selection of a city council by the Congress of the United States for the government of the nation's capital is the most serious and the most odious innovation that has been proposed for a long time, if ever before, in the history of this country. Here and there less objectionable attempts have been made to modify the rule of the majority by the introduction into the body-politic of cumulative voting and minority representation and other thimble-rigging arrangements, little less complicated than a problem in Euclid, to enable men to thrust themselves into public positions

against the will of the majority of their fellow-citizens, but, as a general rule, such men are undesirable, if not dangerous, public servants; and if we wish to perpetuate our free institutions we must cultivate the love of liberty and defend the principle of universal political equality. I will vote for no measure of government, however desirable it may be in other respects, that conflicts with this doctrine; and I believe that the republican party, when it conferred the unrestricted, universal right of suffrage upon the colored race, and thus made them politically the equal of the proudest American citizens, won for itself the brightest star in its crown of glory.

Mr. HUNTON. If the position of the gentleman is correct, that the President alone has the power to appoint these officers in the government here provided for this District, I would like to know how he reconciles the law heretofore passed for the government of the District of Columbia with the Constitution, because he knows that heretofore Congress by legislative enactment authorized the people to designate the officers who were to govern this District, and if Congress can authorize them to do it cannot Congress do that which it authorized the people to do?

Mr. JONES, of Ohio. Very well, I will answer that. It is the very point in connection with which I desire to call attention to the case decided in Ohio. That is, that the power to authorize the people to make these appointments or the power to authorize the President to make them or the power to authorize anybody other than Congress to make them is a legislative power. But the filling of offices is an administrative act which is not embraced in the clause of the Constitution, which simply grants legislative power.

Mr. HUNTON. But the gentleman does not exactly catch my idea. I understand his objection to that section of the bill which gives to this House and to the Senate the power to appoint and the President to detail a third from the Army is that it is in violation of that clause of the Constitution which says the President may appoint.

Mr. JONES, of Ohio. I did not say that.

Mr. HUNTON. Then on what ground do you place the violation of the Constitution in this bill, which you allege?

Mr. JONES, of Ohio. I place it on the ground that by this bill Congress undertakes to make a new appointment, and I undertake to say Congress cannot make any appointment.

Mr. HUNTON. Why?

Mr. JONES, of Ohio. Because it has no appointing power. This is an administrative power which is not granted to Congress.

Mr. HUNTON. I beg your pardon. It is an act of legislative power.

Mr. JONES, of Ohio. I am contending that it is not legislative power.

Mr. HUNTON. Congress has the right to legislate, and this is not in conflict with the clause which gives the power of appointment; for Congress is supreme in this matter.

Mr. JONES, of Ohio. I have referred to the language of the supreme court of the State of Ohio in the case I have cited, where they draw the distinction between the legislative power and the executive power, putting that power which prescribes the manner or which determines who may make the appointment on the legislative side; but the power of appointment, the court clearly says, is not embraced in the broadest definition of legislative power. It is an executive or administrative duty that is not embraced in legislative power.

Now, the point I make is this, that we may do anything which is embraced in the legislative power; we may determine who shall make the appointment; we may do everything the elementary law-books define to be included within the term "legislative power." But that does not include, according to the decision I have referred to nor according to the books, the administrative power to fill the appointments.

Mr. HUNTON. The supreme court of Ohio?

Mr. JONES, of Ohio. Yes, sir; the supreme court of Ohio whose decision I have read.

Now, keeping in mind the distinction there laid down, the power of Congress to create the office and to prescribe the manner of making the appointments is clearly a legislative function. But when we say A, B, C, or D shall fill that office, that is clearly an executive function not embraced in the term legislative power.

[Here the hammer fell.]

Mr. LATHROP. Is this bill now open for amendment?

The SPEAKER *pro tempore*. An amendment to the first section is pending.

Mr. LATHROP. I wish to offer an amendment to that section.

The SPEAKER *pro tempore*. The gentleman can do so.

Mr. LATHROP. I offer the following amendment:

After the word "Government," in line 5, insert the words "including the river Potomac in its course through the District and the islands therein."

That is a part of the description of the District of Columbia as heretofore existing, and it seems to me that it should be included in this bill.

Mr. BLACKBURN. I think there will be no objection to that amendment.

Mr. HUNTON. It is wholly unnecessary.

Mr. HENDEE. I think it can do no harm.

Mr. HUNTON. There was recently a decision by the commission accurately settling the boundary between the States of Maryland and Virginia. The boundary, according to the decision of that com-

mission, goes to low-water mark. All above low-water mark belongs to Virginia, and all below that belongs to Maryland.

Mr. HENDEE. Is that included in what was originally ceded by the State of Maryland?

Mr. HUNTON. The State of Maryland ceded all that portion of the District which runs to the Virginia line within the ten miles square; and that line of the State of Maryland has been recently determined by a convention between the two States to be at low-water mark on the other side of the river. The gentleman from Vermont [Mr. HENDEE] will recollect when we were on the joint select committee in regard to the government of the District, Governor Whyte and myself had a talk on that subject, and we finally agreed that was the proper phraseology.

Mr. HENDEE. Then the language of the first section, in the opinion of the gentleman from Virginia, covers all the territory known as the District of Columbia.

Mr. HUNTON. Yes, sir.

Mr. LATHROP. Is it not better, then, to keep the statement of the boundaries as they have been heretofore described?

Mr. HUNTON. I think it might be that by attempting to determine this matter in the bill we should interfere with some of the details of the conventional settlements between the two States, and that is my objection to inserting the amendment in the bill. The Senator from Maryland [Mr. Whyte] and myself agreed upon this phraseology as properly describing the boundaries of the Territory ceded by the State of Maryland to the General Government.

Mr. LATHROP. When was that convention held?

Mr. HUNTON. The matter was finally settled in 1876, about the close of the year. Mr. Black, of Pennsylvania, was one of the commissioners, Senator Beck, of Kentucky, was another, and I think Mr. Graham, of North Carolina, was the third.

Mr. LATHROP. Had it not been claimed by Virginia, prior to that time, that it owned to the middle of the river?

Mr. HUNTON. No, sir; not to the middle of the river. The difficulty lay further down the river.

Mr. HENKLE. Near the Chesapeake Bay.

Mr. HUNTON. Yes, near the Chesapeake Bay and a few islands (this side of it; but that has been settled and there is no controversy between the two States of late.

[Here the hammer fell.]

The question was taken on Mr. LATHROP's amendment; and, on a division, there were ayes 19, noes not counted.

So the amendment was not agreed to.

The Clerk read the second section of the bill, as follows:

Sec. 2. That on the —, in the month of —, in the year 1878, there shall be elected or appointed, in the manner hereinafter directed, three persons, to be commissioners of the District of Columbia, who shall exercise all the powers and authority now vested in the commissioners of said District, except as hereinafter limited; shall be subject to all the restrictions and limitations which are now imposed upon said commissioners. One of the said commissioners shall be an officer of the Engineer Corps of the Army, whose lineal rank shall be above that of major, and shall be detailed by the President for the term of three years, and until his successor shall be appointed and qualified: *Provided*, That the officer so detailed shall not be assigned to any other duty, and that he shall receive no further compensation than his regular pay as an officer of the Army. The second of the said commissioners shall be elected by the House of Representatives, by ballot, for the term of three years, and until his successor shall be elected and qualified; and the third of the said commissioners shall be elected by the Senate, by ballot, for the term of three years, and until his successor is elected and qualified; and at the end of the several terms of each of the commissioners, their successors shall be elected or appointed, in the same manner, for the term of three years respectively, and until their successors are elected or appointed and qualified; the said election or appointment to be made on the —, in the month of —, in which the term of such commissioners shall expire: *Provided*, That at the first election of commissioners by the Senate and House of Representatives, as above provided, the terms of said commissioners so elected shall expire one, one year from the date of said election, and the other two years from the date of said election, the same to be determined by lot. Their successors shall be elected in the manner and for the term above prescribed. The two persons elected as commissioners by the House of Representatives and the Senate shall, at the time of their election, be citizens of the United States, and shall have been actual residents of the District of Columbia for ten years previous to their election, and who have, during that period, claimed no residence elsewhere; and if the place of any commissioner shall become vacant from any cause, or he shall neglect for twenty days to take the oath of office if he be elected by the Senate or House of Representatives, his place shall be filled forthwith, for the balance of his term, in the same manner as the person whose place is to be filled was elected or appointed; but if the person whose place so becomes vacant shall have been elected by the Senate or House of Representatives, and such vacancy shall occur not in session of Congress, then the said vacancy shall be filled by the appointment of the President, until the Senate or House of Representatives, as the case may be, shall elect a person to fill the said office for the balance of the term thereof. One of the said commissioners shall be chosen president of the board of commissioners at the first meeting thereof, and annually thereafter.

Mr. BRENTANO. I desire to offer an amendment to that section.

The CHAIRMAN. The Committee for the District of Columbia have reported sundry amendments to this section and they will first be voted upon.

The first amendment reported by the committee was to fill the blank in line 1 with the words "third Monday" and to fill the blank in line 2 with the word "April."

Mr. HUNTON. I desire to suggest that at this period of time the word "April" is too early a date, for this bill cannot pass and receive the approval of the President by the third Monday in April. I believe this is the third Monday in April and therefore the commissioners could not be appointed in time.

Mr. HENDEE. I was not aware that the committee had offered this amendment.

Mr. HUNTON. I suggest to the gentleman that he move to amend it.

Mr. CLAFLIN. I suggest that we put in the words "the third Monday in June."

Mr. HENDEE. I will move to strike out the word "April" and insert in lieu thereof the word "June," so that it will read: "that on the third Monday in the month of June in the year 1878 there shall be elected," &c.

The amendment was agreed to.

The next amendment reported by the committee was in line 11 to strike out the word "major" and to insert in lieu thereof the word "captain."

The amendment was agreed to.

The next amendment reported by the committee was to insert in line 27 the words "third Monday" and in the same line to fill the blank space by inserting the word "February."

The amendment was agreed to.

Mr. BRENTANO. I offer the following amendment:

Strike out on pages 2, 3, and 4 all after the words "second section," and insert in lieu thereof the following:

That immediately after the passage of this act the President of the United States, by and with the advice and consent of the Senate, shall appoint three citizens of the United States, inhabitants of the District of Columbia, to be commissioners of the District of Columbia, who shall exercise all the powers and authority vested in the commissioners of said District, except as hereinafter limited, and who shall be subject to all restrictions and limitations which are now imposed upon said commissioners. One of the said commissioners so appointed by the President shall be chosen president of the board of commissioners at the first meeting thereof, and annually thereafter.

Mr. Speaker, my amendment does not propose any change in the government as provided for in the bill. It proposes not to change the mode of the appointment of the commissioners. While the bill proposes that one of said commissioners shall be detailed by the President from the Engineer Corps, and one shall be elected by the House of Representatives, and one shall be elected by the Senate, my amendment proposes that, in accordance with the prerogatives of the Executive of the United States, the President shall have power, by and with the advice and consent of the Senate, to appoint these commissioners just as they are now at present appointed by the President of the United States. Another difference between my amendment and the original bill is that the President shall have the right to appoint any citizen of the United States who is an inhabitant of the District of Columbia, while the bill proposes that only such citizens shall be appointed or elected as have been actual residents of the District of Columbia for ten years previous to their election. My reasons for this amendment I have already stated in the remarks which I made when the bill was last before the House, and arise from constitutional doubts in regard to the right of the Senate and House of Representatives to elect such officers as can only be appointed under the Constitution by the President of the United States.

Mr. BLACKBURN. I was not prepared for the amendment offered by the gentleman from Illinois [Mr. BRENTANO] who is a member of the Committee for the District of Columbia. I thought that that committee had agreed to the bill as offered to the House. I trust that the amendment submitted by the gentleman will not be adopted, for if it is it simply changes the whole frame-work of the bill. Therefore, sir, I think that a majority of the Committee for the District of Columbia would be found opposed to the passage of the bill if the amendment were incorporated into it. I do not want to enter into an argument as to the constitutional power of Congress to elect these commissioners. I simply state the fact that the amendment changes the frame-work of the bill and would put the committee at loggerheads as to its passage. I yield now to the gentleman from Georgia, [Mr. HARTRIDGE.]

Mr. HARTRIDGE. I desire to say but a few words in reference to what seems to be a question of doubt in the minds of some gentlemen upon this floor, and that is as to the constitutional power of this Congress to designate in what manner these contemplated officers, these commissioners, shall be elected or appointed. Congress, it will not be denied, has the exclusive right to legislate over this District; but the question arises whether in the exercise of that exclusive right of legislation it has the power to designate who shall carry out the acts of that legislation.

I contend that the power to designate the officers who shall enforce and execute the laws made by Congress in reference to this District is as unlimited as the power itself to legislate over the District. If it be not so, then there must be some clause in the Constitution itself which inhibits Congress from thus designating how these officers shall be appointed. There is but one clause which would seem even to come in conflict with this power which I assume for Congress, and that is the second clause of the second section of the second article of the Constitution, as follows:

He (the President) shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments.

Now Congress seeks by this act, contemplating the appointment of commissioners as provided by this bill, to appoint these officers not

in the mode pointed out by the clause of the Constitution which I have read. Therefore if the officers to be created by this act are, in the language of that section, "officers of the United States," then this section of this bill is unconstitutional. But if they be not "officers of the United States," then Congress, under its exclusive power of legislation over this District, has the right to designate the ministers of its legislation. I contend that the officers contemplated by this act as commissioners will not be officers of the United States; they are officers of the municipal corporation of the District of Columbia, created by Congress.

Mr. JONES, of Ohio. Will the gentleman allow me to ask him a question?

Mr. HARTRIDGE. Certainly.

Mr. JONES, of Ohio. Why is it, then, that this bill requires that these officers are to give bonds to the United States for the faithful performance of their duties?

Mr. HARTRIDGE. Simply because Congress can make them give bond to any officer it pleases: to the Treasurer of the United States or to anybody else. But they are not officers of the United States, more than the officers of any other municipal corporation.

Before the war, when there was no necessity for this legislation of Congress, for thus taking charge directly of the affairs of this District, because of the now anomalous condition of its population—before the war there were three municipal corporations in the District of Columbia, each one created by Congress, the cities of Georgetown, Alexandria, and Washington, each presided over by an executive officer to enforce the laws, and that executive officer was never appointed by the President, either with or without the advice and consent of the Senate.

[Here the hammer fell.]

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. HUNTON. I will take the floor and yield my time to the gentleman from Georgia, [Mr. HARTRIDGE.]

Mr. HARTRIDGE. I thank the gentleman. Before the war the municipal officers were elected by the direction of Congress. After the war Congress saw fit to merge and bind together all these separate municipal corporations and make that into one great whole. They did that by the act of February 21, 1871, which declares that—

The District is created a government by the name of the District of Columbia, by which name it is constituted a body-corporate for municipal purposes, and may contract and be contracted with, sue and be sued, plead and be impleaded, have a seal, and exercise all other powers of a municipal corporation not inconsistent with the Constitution and laws of the United States and the provisions of this title.

Congress created this whole District into a municipal corporation, in the place of the three separate and distinct municipal corporations which previously existed. And it now declares that the execution of the laws made by it for that municipal corporation may be exercised by commissioners which it appoints, as in the former days it appointed the officers of the three municipal corporations which then existed.

Nor is this any new idea, that this is a municipal corporation. It is as old as the time of the creation of the Government, as old as the contest over the framing of the Constitution and its adoption. I will read from Story on the Constitution, page 126:

They [the people of the District of Columbia] as yet possess no local legislature; and have, as yet, not desired to possess one. A learned commentator has doubted whether Congress can create such a legislature, because it is the delegation of a delegated authority. (1 Tucker's Black Comm., app., 272.) A very different opinion was expressed by the Federalist; for it was said that "a municipal legislature for local purposes, derived from their own suffrages, will of course be allowed them." (The Federalist, No. 43.) In point of fact, the corporations of the three cities within its limits possess and exercise a delegated power of legislation under their charters, granted by Congress, to the full extent of their municipal wants, without any constitutional scruple, or surmise, or doubt.

No one ever doubted after that the power of Congress to delegate to a municipal legislature the power to make laws. Now if it be but a municipal corporation, what prevents Congress from saying who shall execute the laws which it passes for this District and from declaring how the persons who execute those laws shall be appointed, whether by selection by Congress or by designation by some other power? I think it is clear that these officers are not "officers of the United States," in the sense of the Constitution; but in a more contracted sense they are simply officers of a municipal corporation which involves and includes this whole District, a corporation created by Congress under its power of exclusive legislation for this District. Under that power Congress has the right to designate any one to execute and carry out the laws which it makes under its exclusive power of legislation for this District.

The question was then taken upon the substitute offered by Mr. BRENTANO for section 2 of the bill; and upon a division there were—ayes 39, noes 59.

Before the result of this vote was announced,

Mr. JONES, of Ohio, said: No quorum has voted.

Tellers were ordered; and Mr. BRENTANO and Mr. BLACKBURN were appointed.

The House again divided; and the tellers reported—ayes 56, noes 94.

So the amendment was not agreed to.

Mr. FINLEY. I offer the following amendment:

In section 2, after the word "commissioners," in line 8, strike out the following: One of said commissioners shall be an officer of the Engineer Corps of the Army, whose lineal rank shall be above that of captain, and who shall be detailed by the President for the term of three years, and until his successor shall be appointed and qualified.

And insert in lieu thereof as follows:

One of said commissioners shall be a competent, skilled engineer, who shall be appointed by the President from civil life, who shall hold his office for a term of three years, and until his successor shall be appointed and qualified.

I do not desire to antagonize this bill; but it occurs to me that there can be no reason why the commissioner to be appointed by the President should be detailed from the Army. The only reason I have heard suggested is that one of the commissioners should be an engineer in order that one member of the board might be competent to supervise the labors and understand the duties pertaining to the engineers to be appointed under the provisions of this bill. Now I see no reason, if it is found necessary that one of the commissioners shall be an engineer, why he should not be appointed by the President from civil life instead of being detailed from the regular Army. There are just as competent engineers in civil life as are to be found in the Army; and I think it really objectionable to detail an officer from his duties in the Army to perform service as a civil officer in the Government of the District of Columbia. It seems to me to be setting a bad precedent. I would like to hear any good reason suggested, if any exists, why the commissioner who is to be an engineer should not be appointed by the President from civil life rather than detailed from the Army.

Mr. WRIGHT. Does the amendment of the gentleman require that this commissioner shall be a citizen of the District?

Mr. FINLEY. That is elsewhere provided for in the bill.

Mr. WRIGHT. It is provided in regard to the other two commissioners; but I think not with regard to this commissioner who is to be an engineer.

The amendment was not agreed to.

Mr. HENDEE. I move to amend by inserting after the word "elsewhere," in the fortieth line, second page, the words "and shall each own property in his own right in said district, the assessed value of each shall be at least \$5,000." I will state my object in offering this amendment. It is provided in a later part of the bill that each member of the council shall be required to own property to the amount of \$3,000. It seems to me just as essential that the commissioners selected from the District should have some property qualifications, which in this amendment I propose to fix at the sum of \$5,000.

Mr. CLYMER. That is right.

Mr. HUNTON. So far as I have ascertained the sense of the Committee for the District of Columbia it is favorable to this amendment.

The amendment was agreed to.

Mr. MAISH. I move to amend by inserting in the thirteenth line of this section, after the word "qualified," the words "and such engineer shall be selected from officers of the Army on the retired list."

The amendment was not agreed to.

Mr. DAVIS, of California. I move to amend by striking out in the tenth and eleventh lines of the second section the words "whose lineal rank shall be above that of captain;" so as to read:

One of the said commissioners shall be an officer of the Engineer Corps of the Army, and shall be detailed by the President, &c.

I do not desire to antagonize this bill as a whole. I am satisfied with the method of appointing the commissioners; but I think that the limitation in selecting an officer of the Engineer Corps is injudicious. It seems to me that, if we are going to leave to the President the appointment or detail of an officer from the Engineer Corps, it would be much wiser for us to leave the matter to his judgment without this restriction upon his choice. To say that he shall not select from the Engineer Corps any officer except one above a certain rank appears to be an impeachment of the judgment of the Executive.

Another objection is that this limitation leaves so few from whom to make the selection that we might almost as well specify in the bill the individual to be selected. In the entire United States Army there are only forty-three officers, out of the seven or eight million voters in the country, who will be eligible to this appointment under the terms of the bill. Of these forty-three many would naturally be excluded by their position, age, or other circumstances. For instance many of them are already detailed to certain important labors, and by reason of their familiarity with the duties on which they are now employed could not very well be detached from such service, and consequently they would be prevented from receiving this commission. The number actually open to appointment would be limited to something like twenty or twenty-five.

A third objection, it occurs to me, to this limitation is the extreme age which, in the natural course of circumstances, these men would have attained before they could possibly be eligible to this appointment. You will observe, sir, that it limits the appointment of the President to those whose lineal rank shall be above that of captain. Now, in the ordinary course of events, when the Army shall have been reduced to the peace establishment the rate of promotion will be exceedingly slow. It has been well said, under the peace establishment of the Army before a man comes to be entitled to be a field officer he is so old and so infirm that he is unable to sit on his horse to go out into the field. This appointment is limited to the field officers of the Engineer Corps. In the natural course of events this officer, this commissioner, supposed to be possessed of the ability to perform the active duties of superintending the highways and streets and public buildings belonging to the District of Columbia, who is supposed to be capable to perform the duties requiring a young, vigilant, and vigorous man under ordinary circumstances, would be of necessity over fifty-five or sixty years of age.

I think you might as well go on and prescribe the age of the commissioners. If you are going to limit the rank of the officer who is to be appointed from the Engineer Corps as commissioner, why not of the others? Why not specify that the Senate and the House should not choose a commissioner unless he had a certain rank or passed a certain age; that none should be appointed a commissioner unless he was fifty-five or sixty years of age and should have occupied some distinguished position, such as ex-congressman and ex-governor?

For all these reasons it is exceedingly injudicious in my judgment that this limitation should be placed on this appointment. First, I regard it as an injudicious and unnecessary restriction of the executive power.

The CHAIRMAN. The gentleman's time has expired.

Mr. BLACKBURN obtained the floor.

Mr. DAVIS, of California. I hope the gentleman from Kentucky will allow me to finish my sentence.

Mr. BLACKBURN. Certainly.

Mr. DAVIS, of California. I was about to say simply that I objected to it for three particular reasons: first, because it limits the appointing power of the President and is an impeachment of his discretion; secondly, because it limits the number of men who can be chosen from or who can be chosen to forty-three and virtually to about twenty or twenty-five; and, thirdly, because in the natural course of events the man who will be selected by this limitation will have passed the time of life when he would be fitted for the performance of these active duties. I thank the gentleman from Kentucky for his courtesy.

Mr. BLACKBURN. If I had doubts before when the gentleman from Illinois [Mr. BRENTANO] offered a material amendment to this bill, by which he proposed to change its whole frame-work, I am now satisfied that whatever the purpose may be, the result of the amendments offered by different gentlemen, if adopted, will be to defeat this bill. And I am led to say further that if the amendment now pending, offered by the gentleman from California, were to be adopted, I then think the bill ought to be defeated. I need not profess, sir, that I am willing to give to the President of the United States the fullest power in the selection of this officer, and trust it is not necessary, after the debate which has once before occurred on this floor, in which I took a part, that I should profess my confidence in the Engineer Corps of the United States Army, for if I failed to pay a just tribute to their honesty it was because of the poverty of my language.

I concur in but one thing on this amendment of the gentleman from California, and it is this: I do not want to restrict the President of the United States in the selection of this engineer officer. He says if his amendment is adopted and this bill is passed the President will be restricted to forty-three officers from whom to select. I say if that amendment offered by the gentleman from California is adopted then, sir, the President of the United States is restricted to one man. I will not undertake to say that the motive that actuates the gentleman who offers this amendment or any other gentleman who votes for it is in the direction of special and personal legislation, but I will say this, that if that amendment is adopted I can tell this House now the name of the engineer officer who will be made that commissioner of this District as well as the gentleman from California can state after the appointment has been made by the President.

Mr. DAVIS, of California. Let the gentleman state, then, who he is.

Mr. BLACKBURN. If the gentleman from California wants it I will tell him. It will be Lieutenant Hoxie, of the Engineer Corps. If you adopt the amendment offered by the gentleman from California to strike out the grade and the rank it will put the President in that shape of putting the question, "Here is an engineer officer of the grade and rank of a lieutenant who has been on service, not as commissioner but on duty as engineer officer, detailed under the law by the President to supervise the construction and repair of streets and avenues in this city for four years." This bill does not interfere with him in any regard. Pass the bill as it stands and it leaves him to fill, not the very position and discharge the duties he is to-day discharging and has been for four years before, but if you pass this amendment you will make him eligible as commissioner of the District from the Corps of Engineers and you put it to the President in such a way he must appoint Lieutenant Hoxie in that place, or failing that declare he is unfit and unworthy for that purpose. That is not what I propose to do.

Now, sir, further, let me say, if you take the mode provided in this bill, you will get a man, one of these forty-three officers at whose hands we have received at least twenty years' service, to earn the commission he holds. He goes upon that board of commissioners with his commission in the Army, the product of twenty years or more of service, at stake. If there be a contract made which upon investigation turns out to be unfair or disreputable, he stands there with his commission at stake, and that commission he cannot afford to lose.

If you adopt the amendment offered by the gentleman from California you do one of two things: either you compel the President of the United States to declare that this lieutenant who is now here on duty is an improper man to assign to such service, or else you leave it open to him to foist upon this District a twenty-three or twenty-four year-old boy who holds a commission that has not been in his pocket ninety days. I take it that is not the sort of a commissioner that Congress proposes to fasten upon the people of this District.

One more point and I am done. This bill as it stands renders it

utterly impossible that any man who has been identified with the government of the District of Columbia hitherto as a commissioner can come in as one of its commissioners now. I may correct that sentence. This bill as it stands renders it impossible that any man who has been connected officially with the government of this District shall become a commissioner. It leaves the present acting lieutenant of the Engineer Corps precisely where he is. But it does provide in its several sections that no man who has up to this time been identified with the administration of government in this District, either a commissioner or this lieutenant of the Engineer Corps, can possibly become one of the board of commissioners for whom this bill makes provision.

If we are to have a new government, let us have it *de novo*. Let us have it all new, and not a piece of patchwork. Adopt the amendment of the gentleman from California, and if any one of you held the appointing power thus conferred on the Executive you would yourselves be compelled to ignore the whole Engineer Corps, and select that officer now assigned to duties kindred in some degree to those devolved on the commissioners. I trust the amendment will be voted down.

Mr. CALKINS. I desire to offer a substitute for the amendment offered by the gentleman from California.

The Clerk read as follows:

In section 2, line 11, strike out the words "above" and "captain" and insert the words "first lieutenant," so that it will read:

One of the said commissioners shall be an officer of the Engineer Corps of the Army, whose lineal rank shall be that of first lieutenant and shall be detailed by the President for the term of three years, &c.

Mr. CALKINS. I do not care anything about this substitute in place of the amendment offered by the gentleman from California, [Mr. DAVIS,] but I desire to say a word or two upon the subject; I will not detain the committee more than a moment.

I want to say that the reasons urged by the gentleman from Kentucky [Mr. BLACKBURN] why this amendment should not be adopted furnish to me a very cogent argument why the amendment of the gentleman from California should be adopted. In an Army like ours men do not get to be captains or first lieutenants until they pass the meridian of life. I had occasion not long ago to examine that subject very thoroughly, and I put the question to all the officers of experience with whom I could have conversation; each one of them agreed, if you take the Army organization just as it is now, and unless the President appoints from civil life or arbitrarily some young lieutenant as spoken of by the gentleman from Kentucky, he cannot obtain one of that rank who has not passed the age of thirty-nine. Taking the Army as it is now, unless there is an arbitrary appointment an officer cannot have that rank much before that time. Therefore I say, Mr. Speaker, that if Lieutenant Hoxie is retained by the President as the commissioner provided for by this bill he now is past the age of very many members of Congress upon this floor. He has shown himself to be an honest and competent man for the last five years. During all the time so much cry has been raised about corruption and the like in the District this man has been unsmirched. I do not stand here pleading for him personally, but I do so as an act of justice. The door ought to be left open so that the President might appoint a first lieutenant if he saw proper.

Another word, Mr. Speaker, and it is this: the gentleman from Kentucky remarked that he could name the man who would be appointed. I do not know by what authority he spoke, but I should be sincerely glad if the gentleman he named would be the man.

Mr. BLACKBURN. Will the gentleman allow me one moment to correct myself?

Mr. CALKINS. Yes, sir.

Mr. BLACKBURN. I did not profess to have any ground on which to predicate that prediction except what I gave to the House, that if I or any member of the House should be in the position the President will be in if that amendment shall be adopted, we would be compelled to make that appointment.

Mr. CALKINS. Now, Mr. Chairman, the point I was going to make was this, that the gentleman, who had had five years' experience with all the affairs of the District is to be placed under the charge of some other officer perhaps of no experience, but of higher rank. He has performed the duties well and competently. That is a position which the gentleman from Kentucky I think would be willing to admit, and I think it would be well and wise in the House to leave the President the discretion to appoint from among the lieutenants of the Army a commissioner, if he sees fit. I now withdraw my substitute.

Mr. CLARK, of Iowa. I move to amend the pending amendment so that it will read, "one of said commissioners shall be an engineer appointed by the President." I invite the gentleman from Ohio, [Mr. FINLEY,] whom I see in his seat, to come to the support of that proposition, and let us provide for the appointment here of a suitable man. I did not understand the gentleman from Kentucky [Mr. BLACKBURN] to condemn the engineer officer, Lieutenant Hoxie, who has been serving four years here.

Mr. BLACKBURN. Permit me to say that if that point is involved in this discussion, then I do not intend to be understood as admitting that Lieutenant Hoxie is the right man for the place. But I do not wish to treat upon questions of personal fitness in a general bill; but if the friends of that gentleman seek to be heard upon the personal phase of the question, I shall certainly wish to be heard in reply.

Mr. CLARK, of Iowa. Nor do I desire to discuss the personal question, although I should challenge all that the gentleman from Kentucky might say against this gentleman. I will simply say in answer to anything of that kind, that might seem to be implied from what the gentleman said to-day, and also in what he said the other day in answer to a question from the gentleman from Illinois, [Mr. TOWNSEND,] that the gentleman from Kentucky intended to say that the engineer officer now here in service had been in some manner snatched—

Mr. BLACKBURN. I thank the gentleman from Iowa for giving me an opportunity to do justice to this gentleman. I desire to say now that in anything that I have said I did not intend to refer to Lieutenant Hoxie; and now, in order to make myself perfectly distinct, I will state that I refer to a member of the board of public works, who brought nothing but disgrace upon him. I refer to Babcock.

Mr. CLARK, of Iowa. I so understood it perfectly, but there were others who might have thought otherwise, and therefore I am very much obliged to the gentleman that he now corrects—

Mr. BLACKBURN. Not corrects—

Mr. CLARK, of Iowa. That he now explains away any implication that might have been drawn from what he said. All I desire to say in reference to that matter is simply to refer to a report made by an investigating committee of the last Congress. Lieutenant Hoxie has served since 1874, four years, not five. The investigating committee into the conduct of the board of commissioners made this report, and I want to put it before this House as a matter of justice, lest it might be inferred that this limitation is intended to exclude Lieutenant Hoxie. It is the implication that it is intended to exclude one man who has served without smirch or possible taint here. The committee say that "the work which has been done, under the charge of the engineer and under the supervision of the commissioners of works, in the performance of uncompleted contracts under the late board of public works, has been well and economically done." Lieutenant Hoxie came out of the investigation with every possible title to laudation for the work he had done. Now, I am not prepared to vote to exclude a man whose freedom from anything like imputation of wrong or suspicion entitles him to be considered in the appointment of an engineer under this bill. Why not throw the matter open? But I am not here to legislate Hoxie into office, but I do say that the bill ought to be heeded at once, unless it is thrown open to discretionary appointment by the President. Otherwise it would exclude a man whose experience entitles him to be considered. He is old enough to be a Senator of the United States. He has been seventeen years in the Army of the United States. He has served for four years in the service of this District. Why exclude him? Let the appointment be thrown open to any competent engineer. I do not ask you to retain him, but I do insist that he ought not to be excluded simply because he is a lieutenant and not a captain.

Mr. BLACKBURN. I want the House to understand that I appreciate fully the efforts which the gentleman from Iowa makes in behalf of his constituents. If Lieutenant Hoxie were from my district I doubt not that I should feel more interest in his retention or promotion in office than I now do.

Mr. CLARK, of Iowa. Yet I think the gentleman will admit that I have not said anything in Lieutenant Hoxie's favor to which he is not entitled.

Mr. BLACKBURN. I do not propose to indorse all the gentleman has said by way of commendation of this officer by any means.

Mr. YOUNG. Consistency, if nothing else, will compel me to support the proposed amendment. When a question very similar to this one was submitted a few weeks ago to the House, affecting the right of the President to discharge his legal and constitutional duties untrammelled by any dictation by Congress, I voted against imposing any restrictions upon the exercise of his official discretion in the matter, and the reasons which prompted me then are sufficient to control my action now in supporting this amendment. I am not aware of the fact that any provision of this bill is calculated to affect the interest of any particular individual. If, as the gentleman from Kentucky has intimated, the intention of the amendment is to legislate Lieutenant Hoxie or any one else into employment, that is a sufficient reason why it should be rejected by the House. But I cannot think that the gentleman who offered it has any such purpose in view, and if he has I have no sympathy with it. I do not care how the bill in either form, with or without the amendment, may affect any public officer or private individual. I only desire that the President may have the right to select from the whole Army of the United States a proper officer for the position designated, and if I thought the amendment pointed to any particular one, I should want no better reason for opposing it.

If, on the contrary, as I am authorized to believe by the statements and arguments of the gentleman from Kentucky, [Mr. BLACKBURN,] this provision of the bill fixing the rank of the officer and limiting the discretion of the President is intended to exclude any particular officer, then that furnishes an equally good reason why that clause of the bill should be stricken out. It is no part of the duty of this House in any measure of general legislation to provide specially for individual interests.

Mr. BLACKBURN. I am sure the gentleman from Tennessee [Mr. YOUNG] does not deliberately intend to misrepresent me.

Mr. YOUNG. I do not; I am only drawing an inference from what you said.

Mr. BLACKBURN. The gentleman says he understood me as saying that the object and purpose of this provision of the bill was to exclude some particular man from office.

Mr. YOUNG. The gentleman certainly misunderstood me. I said his language authorized such an inference.

Mr. BLACKBURN. Very well.

Mr. YOUNG. I only intended to say that if I were to draw my conclusion from the arguments of the gentleman, I would be of the opinion that this provision of the bill, requiring that the officer selected should not be of less rank than captain, was directed at some particular individual who now holds that office. I do not believe, however, that the gentleman from Kentucky really has that purpose in view.

Mr. BLACKBURN. No gentleman holds that office now?

Mr. YOUNG. I understood that it was held by some one, and that this provision of the bill might be necessary to prevent him from continuing to hold it.

Mr. BLACKBURN. On the contrary, this provision of the bill leaves the lieutenant where he is. The provision of the bill upon which the gentleman is speaking relates to the commissioners for the District.

Mr. YOUNG. I do not care what officer it relates to. It is wrong, however it may be applied. I scarcely know the gentleman referred to; I have only seen him a few times and have but little personal acquaintance with him. I do not know whether he is fit or unfit to occupy the position in question, but we should not assert that he is not. I insist that wherever it is made the duty of the Chief Executive of this nation to carry out any act of Congress it is not proper for him to be trammelled any further than the public interest or constitutional limitations may require. I believe there has been no instance in past legislation where the rank of any officer of the Army has been designated by act of Congress who was to carry into effect any law under the direction of the President, but in all cases the selection has been left to the discretion of the Executive.

I remember one instance that occurred after I became a member of this House, when a bill was proposed creating a commission of certain Army officers, in which it was proposed to designate the rank of those officers, and I know that was protested against by the General of the Army, by the chief of the Engineer Corps, and by many gentlemen on this floor who were acquainted with the law and usage which governs the question. I have no objection to the bill in other respects and if amended as indicated I shall support it more cheerfully than I can otherwise do.

[Here the hammer fell.]

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. FINLEY. Is the amendment of the gentleman from California [Mr. DAVIS] now pending?

The SPEAKER *pro tempore*. It is.

Mr. FINLEY. I understood that the gentleman from Indiana [Mr. CALKINS] withdrew his amendment to that amendment.

The SPEAKER *pro tempore*. The amendment of the gentleman from California is pending, and the gentleman from Iowa [Mr. CLARK] has moved an amendment to that amendment.

Mr. CLARK, of Iowa. If the gentleman from Ohio [Mr. FINLEY] desires an opportunity to be heard I will withdraw my amendment if he will renew it or move a similar amendment.

Mr. FINLEY. I renew the amendment; or will move one similar to it. The amendment of the gentleman from California [Mr. DAVIS] proposes to strike out the words "whose lineal rank shall be above that of captain," leaving it to the President to detail any officer of the Engineer Corps of the Army to perform the duty of commissioner. I propose to further strike out the words preceding, that is, the words "an officer of the Engineer Corps of the Army," and insert in lieu thereof the words "engineer in civil life." I now ask the Clerk to read that portion of the section as I propose to amend it.

The Clerk read as follows:

One of the said commissioners shall be an engineer in civil life, &c.

Mr. BLACKBURN. I raise the point of order that that amendment has already been rejected by the House.

The SPEAKER *pro tempore*. The amendment voted down by the House involved the same principle, but was not in terms the same as this amendment.

Mr. BLACKBURN. Is not this amendment virtually the same as the one which has already been considered and rejected by the House?

The SPEAKER *pro tempore*. Although in principle it amounts to nearly the same thing, the Chair thinks that it is not subject to the point of order.

Mr. FINLEY. The object of my amendment is that the appointee of the President, if he is not to be an officer of the Engineer Corps above the lineal rank of captain, then he shall be from civil life. But as I have already said, I see no good reason why an officer of the Engineer Corps of the Army should be appointed as one of these commissioners. Why should one of these commissioners come from the Engineer Corps or from any other branch of the military service? The duties of these commissioners are those of officers in civil life; all the duties of the commissioners prescribed by this bill, to a certain extent pertain to the executive and judicial functions of civil magis-

trates, wholly unlike the duties pertaining to military life and in which an Army officer is supposed to be qualified.

It occurs to me, as I have before said, that an officer of the Engineer Corps of the Army is to a certain extent unfitted by his education in military life to perform the duties of a commissioner under this bill. Why should we restrict the President in his appointment to the Engineer Corps of the Army? Why not give to the President the power to appoint any competent, skilled engineer who is fitted for the place? I have no doubt that the President, in the exercise of his discretion, can find an able and well-qualified man from civil life for this purpose.

Mr. CLARK, of Iowa. Why put in the words "in civil life?"

Mr. FINLEY. Simply because I am opposed to taking a commissioner from the Army; to have detailed from the Army a person to perform the functions of a civil officer.

Mr. CLARK, of Iowa. The gentleman does not pretend that a man in the Army is unsuitable for such a position and disqualified for it?

Mr. FINLEY. He is not necessarily disqualified for it, but the education which an officer of the Army receives is not in the direction of that of a civil officer. His previous education as an Army officer to a certain extent unfits him for this position.

I think, Mr. Speaker, that an engineer should be selected from civil life to this position as commissioner. There are plenty of civil engineers in civil life just as well qualified to perform these duties as any engineer in the Army. The duty of engineer will not devolve upon this commissioner, for the bill provides for two other engineers. This commissioner will perform exactly the same duties as the other two commissioners. Why not, then, select him from civil life?

[Here the hammer fell.]

Mr. HENDEE. I move to limit all further debate on this section and pending amendments to one minute.

The motion was agreed to.

Mr. HENDEE. The gentleman from Pennsylvania [Mr. WRIGHT] can have this one minute if he wishes it.

Mr. WRIGHT. I do not know that I can say much in a minute, but I will make the most of it that I can. I favor the amendment offered by the gentleman from Ohio, [Mr. FINLEY,] provided it be modified so that the President in appointing this commissioner, who is to be an engineer, may make his selection either from civil or military life, as he chooses. If you confer upon the President this power of appointment, I think that he ought to be left to this extent free in his selection.

Mr. BEEBE. I would like to ask the gentleman one question. If we provide simply that the President shall appoint an engineer as commissioner, will the President have authority to make the selection of an engineer from the Army to perform these civil duties without some express provision in the law?

[Here the hammer fell.]

The SPEAKER *pro tempore*. The time to which debate on this section and pending amendments was limited has expired. The question is on the amendment of the gentleman from Ohio [Mr. FINLEY] to the amendment of the gentleman from California, [Mr. DAVIS.] The Clerk will first report the amendment of the gentleman from California, and then the proposition of the gentleman from Ohio, offered as an amendment to the amendment.

The Clerk read the amendment of Mr. DAVIS, of California, as follows:

In lines 10 and 11, strike out the words, "whose lineal rank shall be above that of captain."

The amendment of Mr. FINLEY was read, as follows:

In lines 9 and 10, strike out the words "an officer of the Engineer Corps of the Army," and after the word "be," in line 9, insert, "an engineer in civil life;" so as to read: "One of the said commissioners shall be an engineer in civil life," &c.

Mr. FORT. I rise to a question of order. I understood that an amendment was pending providing for striking out all limitation as to officers in the Engineer Corps.

The SPEAKER *pro tempore*. The Clerk has read the only amendments pending.

Mr. FORT. I think the House never would have limited debate if it had understood the question was in the present shape.

The question being taken on Mr. FINLEY's amendment to the amendment it was not agreed to.

The question then recurred on the amendment of Mr. DAVIS, of California.

Mr. CLARK, of Iowa. I renew my amendment to strike out the words, "officer of the Engineer Corps of the Army," and insert "engineer."

The amendment was not agreed to.

The question again recurring on the amendment of Mr. DAVIS, of California, the question was taken; and there were—ayes 43, noes 67; no quorum voting.

Tellers were ordered; and Mr. DAVIS, of California, and Mr. HENDEE were appointed.

The House again divided; and the tellers reported ayes 49, noes 92. So the amendment was not agreed to.

Mr. JONES, of Ohio. I offer the following amendment:

Strike out all after section 2 and insert the following:

The three commissioners herein provided for shall be elected by the qualified voters of the District of Columbia on the third Monday of April, 1879, and the commissioners so elected shall determine by lot which shall serve for the term of

one, two, and three years respectively; and annually thereafter the qualified electors of said District shall elect one commissioner, who shall serve for the term of three years and until his successor is elected and qualified.

I wish to say in explanation of this amendment—

Mr. EDEN. Has not debate been closed on this section?

The SPEAKER *pro tempore*. Debate was closed on the section and pending amendments. This amendment was not pending.

Mr. EDEN. Is debate in order upon amendments that may be offered?

The SPEAKER *pro tempore*. As this was not pending at the time the debate was closed, the Chair would hold that it is debatable.

Mr. JONES, of Ohio. Then I desire to say—

Mr. EDEN. I think it was understood that debate was entirely closed on the section.

Mr. WADDELL. I move that the House now adjourn.

The motion was not agreed to.

Mr. JONES, of Ohio. Mr. Speaker—

Mr. HUNTON. I rise to a parliamentary inquiry. I understood the gentleman from Vermont [Mr. HENDEE] to move that all debate upon this section and the amendments be terminated in one minute. I suppose that the effect of the motion when adopted is that while it does not cut off the offering of new amendments, those offered cannot be debated.

The SPEAKER *pro tempore*. If the gentleman from Vermont had chosen to frame his motion so as to close debate on the section and amendments, the Chair might have ruled differently; but as his language was "pending amendments," and as this section is clearly amendable at present, the Chair cannot hold that debate on new amendments is cut off until further action by the House.

Mr. HENDEE. I supposed that my motion limited debate upon all amendments that might be offered.

The SPEAKER *pro tempore*. The gentleman did not so frame his motion.

Mr. HENDEE. I move, then, that all debate on this section and all amendments thereto be closed in one minute.

The SPEAKER *pro tempore*. The Chair cannot recognize the gentleman from Vermont at present, as the gentleman from Ohio [Mr. JONES] is entitled to the floor upon his amendment.

Mr. JONES, of Ohio. I have no desire to prolong the discussion, but only to explain briefly this amendment. As I understand, the principle underlying this bill, if there is any principle in it, is to secure proper persons to act as commissioners. That security is provided for in that the commissioner shall give bond in the sum of \$50,000. The people can only elect some person who can give such a bond, and the objection, therefore, to putting men in position who are not responsible is obviated by the bond thus required.

In the next place the object of my amendment is that neither one of these commissioners shall act as the engineer of this District, and for the reason that the engineer himself is an executive officer under the commissioners and should not be called upon to decide in reference to his own official acts. If this amendment be adopted I intend to offer a further amendment that the commissioners shall select their own officer for engineer and that the President shall detail the officer they select.

[Here the hammer fell.]

Mr. HENDEE. I move that all debate on the pending section and all amendments thereto be limited to one minute.

The motion was agreed to.

The question was taken on the amendment of Mr. JONES, of Ohio, and it was rejected.

Mr. LATHROP. I move after the word "receive," in line 15, to insert "\$5,000 per year;" and in the same line to strike out the word "than" and insert the word "including;" so it will read:

Provided, That the officer so detailed shall not be assigned to any other duty, and that he shall receive \$5,000 per year and no further compensation, including his regular pay as an officer of the Army.

Now, Mr. Speaker, I make that for this reason: this commissioner when elected—

Mr. BLACKBURN. I make the point that debate is not in order.

The SPEAKER *pro tempore*. The point of order is well taken.

The amendment was rejected.

The Clerk read as follows:

SEC. 5. That as soon as the commissioners appointed as aforesaid shall have taken and subscribed the oath or affirmation hereinbefore described, and the two so elected as aforesaid shall have duly bonded as aforesaid, all the powers, rights, and privileges lawfully exercised by, and all property, estate, and effects now vested by law in, and exercised by, the commissioners appointed under the provisions of the act of Congress approved June 20, 1874, shall be transferred to and be vested in said commissioners, and the functions of the commissioners so appointed under the act of June 20, 1874, shall cease and determine; and the commissioners of the District of Columbia shall have power, subject to limitations herein provided, to apply the taxes or other revenues of said District to the payment of the current expenses thereof, to the support of the public schools, the fire department, and the police, and for that purpose shall take possession and supervision of all the offices, books, papers, records, moneys, credits, securities, assets, and accounts belonging or appertaining to the business or interests of the government of the District of Columbia, and exercise the power and authority aforesaid; but said commissioners, in the exercise of such power and authority, shall make no contract nor incur any obligation other than such contracts and obligations as are hereinafter provided for and shall be approved by Congress. All taxes heretofore lawfully assessed and due, or to become due, shall be collected pursuant to law, except as herein otherwise provided; but said commissioners shall have no power to anticipate taxes by a sale or hypothecation of any such taxes, or evidence thereof, but they may borrow in anticipation of collection of revenue, not to exceed in any one year \$500,000, at a rate of interest not exceeding 6 per cent. per annum; and said commissioners are

hereby authorized to abolish any office, to consolidate two or more offices, reduce the number of employes, remove from office, and make appointments to any office under them authorized by law, subject to such limitations as are hereinafter provided: *Provided*, That nothing in this act contained shall be construed to abate in any wise or interfere with any suit pending in favor of or against the District of Columbia or the commissioners thereof, or affect any rights or cause of action existing in favor of any citizen of the District of Columbia or any other person, but the same may be commenced or prosecuted to final judgment, and the corporation hereby created shall be bound thereby as if the suit had been originally commenced for or against the said corporation; and all final judgments recovered against said District shall be paid by warrant of the commissioners, or a majority of them, on the Treasury.

Mr. BLACKBURN. By direction of the committee, I move in line 32, on page 6, to strike out "five" and insert "two;" so it will read:

But they may borrow, in anticipation of collection of revenue, not to exceed in any one year \$200,000, at a rate of interest not exceeding 6 per cent. per annum.

The amendment was agreed to.

The Clerk read section 6, as follows:

SEC. 6. There shall be a council, consisting of twenty-four members, with duties and powers as hereinafter provided.

No person shall be eligible as a member of said council who is not the owner of property in the District of Columbia of the assessed valuation of \$3,000 or more, and who is not at the time of his election a citizen of the United States, and who has not been a permanent resident of the District of Columbia for five years previous to such election, without claim of residence elsewhere during that time, and who is not a resident of the election precinct from which he is chosen.

No person holding any office under the United States or District of Columbia, or who shall be interested, either directly or indirectly, in any contract with the District of Columbia or with the United States for any work to be done within the District of Columbia, shall be eligible as a member of the council.

Removal from the District of Columbia or from the precinct from which a member is chosen, or the becoming interested in any claim against or contract with said District of Columbia or with the United States for work to be done in the District of Columbia, or the acceptance of any office under the United States or the District of Columbia, shall create a vacancy in such case, and a new election shall forthwith be ordered by the council.

The commissioners of the District of Columbia shall apportion the cities of Washington and Georgetown into eleven election precincts as nearly equal in population as may be, and the Territory of the District of Columbia outside the limits of said cities shall constitute one election precinct.

At the first election, one member from each precinct shall be elected for one year, and one member therefrom shall be elected for two years; and thereafter one shall be elected annually in each precinct, who shall be elected for two years.

Each male inhabitant of the District of Columbia above the age of twenty-one years, and who shall be a citizen of the United States, shall be entitled to vote at all elections for councilmen: *Provided*, He shall have been an actual bona fide resident of said District of Columbia for the three years, and of the election precinct in which he offers to vote for the six months last preceding the election at which he offers to vote, claiming no residence elsewhere during that time, and who shall have paid the poll tax imposed upon him by law.

Until Congress shall otherwise provide by law, the commissioners of the District of Columbia shall prescribe the time, place, and manner for holding elections for councilmen, shall appoint a board of registration prior to each general election, not to exceed three members in each election precinct, whose pay shall not exceed \$2.50 per each day, who shall register the qualified electors in their respective precincts at such times and places as said commissioners shall prescribe; and said commissioners shall designate three inspectors in each election precinct to conduct said elections and make returns thereof to said commissioners, who shall canvass the same and issue certificates of election to those having the highest number of votes in their respective precincts; and said commissioners shall make all needful rules and regulations for carrying into effect the provisions of this act not otherwise herein provided for: *Provided*, That the first election for councilmen shall be held within sixty days from the passage of this act: *And provided further*, That said commissioners shall give notice, by publication, of all elections and registrations provided for by this act, by printed notices to be posted in convenient and public places in each election precinct in said District of Columbia at least thirty days prior to such election or registration.

No member of said council shall receive any compensation for his services. Each member of the council, registrar, inspector, clerk, or other officer shall, before entering upon the discharge of the duties of his office, take an oath binding himself to the faithful performance of the same, before some officer authorized to administer oaths.

A majority of said council shall constitute a quorum for the transaction of business.

The council shall have power to prescribe rules for its own government; shall be the judges of the qualifications, election, and returns of its members; shall elect a president from among its own members, and a secretary who shall not be a member of the council, and who shall be allowed a salary, to be fixed by the council, not to exceed \$1,000 per annum.

The council shall convene whenever notified by the commissioners of the District of Columbia that they have business to submit for their consideration, and at such other times as the council in its discretion may determine: *Provided*, That the first meeting of said council for the organization thereof shall, by action of the commissioners, be called within thirty days after the first election of councilmen.

The necessary expenses of said council shall be certified by the president and secretary of said council, audited by the comptroller, and paid by the commissioners of the District of Columbia.

The appointment of all officers, agents, or employes of the District of Columbia whose salaries shall be at the rate of \$1,500 per annum or more shall be made by the commissioners of the District of Columbia, subject to confirmation of said council.

The council shall, through a committee of its members, have free access to the records, books, and papers of said commissioners of the District of Columbia, and of any department of the government of the District of Columbia, and may at any time, by a committee of its members, institute and carry on an investigation into the accounts and official conduct of any officer, agent, or employe of the District of Columbia, and shall report to the commissioners of the District of Columbia any mismanagement, maladministration, or official misconduct upon the part of such officer, agent, or employe; which said report when so made shall, by the said commissioners, be promptly transmitted to both Houses of Congress when so requested by the council.

No contract for the construction, improvement, or repair of any street, avenue, sewer, alley, highway, or other public work in the District of Columbia, or for material to be used for any of the purposes above mentioned, shall be entered into by the commissioners of the District of Columbia without the approval of the said council.

No member of the council or salaried officer of the District of Columbia shall be accepted as surety on any bond required to be given to the District of Columbia, nor shall any contractor be accepted as surety for any other contractor.

All contracts for the construction, improvement, alteration, or repairs of the streets, avenues, highways, alleys, gutters, sewers, and all work of like nature,

shall be made and entered into only by and with the official consent of a majority of the commissioners of the District, of which majority the commissioner appointed from the Engineer Corps of the Army shall be one. And the entire control and supervision of the execution and fulfillment of all contracts entered into and the preparation of all plans, specifications and estimates for work as above mentioned, shall be vested in and exercised by that commissioner of the District of Columbia, appointed from the Engineer Corps of the Army, as hereinbefore provided.

Before any moneys shall be raised or taxes levied and collected for the purpose of carrying on the government of the District of Columbia, the said commissioners shall submit annually to the council for their approval a statement showing in detail the work proposed to be undertaken by them during the fiscal year next ensuing, and the estimated cost thereof; and also an estimate in detail, which shall include the cost of all courts in said District, except the United States courts, the judges, officers, witnesses, jail fees, and all expenses incident thereto; also the cost of constructing, repairing, and maintaining all bridges, authorized by law, across the Potomac River within the District of Columbia, and also all other streams in said District; the cost of maintaining all public institutions of charity, asylums, hospitals, reformatories, and prisons in the District of Columbia, and which are now by law supported, wholly or in part, by the United States or District of Columbia, of the amount necessary to defray the expenses of the government of the District of Columbia for the next fiscal year.

The council shall carefully consider all estimates submitted to them, as above provided, and shall approve or disapprove the same; they may reduce the same, or any item thereof, but shall have no power to increase such estimate, or any item thereof.

All votes of said council upon such questions of revision or reduction of estimates shall be taken by yeas and nays, and a record kept thereof.

After the council shall have considered and passed upon all the estimates as submitted to them, they shall cause a statement to be made of the amounts approved by said council, and the fund or purpose for which required, which statement shall be certified by the president and secretary of the council, and delivered, together with the estimates as originally submitted to said council, to the commissioners of the District of Columbia, who shall transmit them to both Houses of Congress.

To the extent to which Congress shall approve the said estimates they shall appropriate the amount of 50 per cent. thereof, and the remaining 50 per cent. thereof shall be levied and assessed upon the taxable property in said District other than the property of the United States and of the District of Columbia, in such manner as the commissioners of the District of Columbia may deem best, and shall be collected in the manner now provided by law for the collection of taxes in said District, with such change in the manner of advertising sales for taxes as may seem expedient to said commissioners: *Provided*, That the rate of taxation in any one year shall not exceed \$1.50 on every \$100 of real and personal estate not exempt by law, according to the cash valuation thereof: *And provided further*, Upon lands used and held solely for agricultural purposes, and to be so designated by the assessors in their annual returns, the rate for any one year shall not exceed \$1 on every \$100.

The SPEAKER *pro tempore*. The question will first be put on the amendments reported from the committee, which will be read by the Clerk.

The Clerk read as follows:

The first amendment. Strike out the following:

No member of the council or salaried officer of the District of Columbia shall be accepted as surety on any bond required to be given to the District of Columbia, nor shall any contractor be accepted as surety for any other contractor.

The amendment was agreed to.

The Clerk read as follows:

Second amendment. After line 136 add as follows:

The President of the United States may detail from the Engineer Corps of the Army not more than two officers, of rank subordinate to that of the engineer officer belonging to the board of commissioners of said District, to act as assistants to said engineer commissioner in the discharge of the special duties imposed upon him by the provisions of this act. No member of the council or salaried officer of the District of Columbia shall be accepted as surety on any bond required to be given to the District of Columbia, nor shall any contractor be accepted as surety for any other contractor.

The amendment was agreed to.

The Clerk read as follows:

Third amendment. Strike out the word "in," in line 162, and insert "belonging to and controlled by."

The amendment was agreed to.

Mr. BLACKBURN. I am directed by the committee to offer the following amendments to this section: On page 12, line 127, after the word "official" insert the word "unanimous." Then in the same line strike out the words "of a majority." Also strike out from and including the word "of," in line 128, down to and including the word "one," in line 130, as follows: "Of which majority the commissioner appointed from the Engineer Corps of the Army shall be one." Also strike out from and including the word "of," in line 130, down to and including the word "into," in line 131, as follows: "Of the execution and fulfillment of all contracts entered into." The effect of which amendments, Mr. Speaker, if agreed to, will simply be to require the action of the commissioners of the District shall be unanimous upon all subjects therein referred to as to matters of contract. As the bill now stands it requires a majority of the commissioners and requires the engineer officer shall be one of that majority. The amendment I offer under the direction of the committee strikes out that requirement and simply substitutes the unanimous action of the commissioners on all these questions.

The amendment was agreed to.

Mr. CLAFLIN. I am directed by the committee to move, page 5, line 44, to insert "and provided, further, he shall have been duly registered as a qualified voter as herein provided."

The amendment was adopted.

Mr. CLAFLIN. I move, on page 13, line 162, after the word "prisons," to insert "and the Washington Aqueduct and its appurtenances."

The amendment was agreed to.

Mr. CLAFLIN. I am further directed by the committee, in line 15, to insert after the word "any" the word "buildings."

The amendment was agreed to.

Mr. FINLEY. I move, on page 7, line 13, after the word "Columbia," to insert the words "except as hereinbefore provided for the

office of commissioner," and after the word "eligible," in line 16, to insert "as commissioner or;" so it will read:

No person holding any office under the United States or District of Columbia, except as heretofore provided for the office of commissioner, or who shall be interested, either directly or indirectly, in any contract with the District of Columbia, or with the United States, for any work to be done within the District of Columbia, shall be eligible as commissioner or as a member of the council.

Mr. BLACKBURN. We are willing to accept that.

The amendment was adopted.

Mr. REAGAN. I offer the following amendment:

On page 14, in line 186, strike out "50" and insert "40," and in line 187 strike out "50" and insert "60," so that it will read:

To the extent to which Congress shall approve the said estimates they shall appropriate the amount of 40 per cent. thereof, and the remaining 60 per cent. thereof shall be levied and assessed upon the taxable property in said District, &c.

The object of the amendment is to put on the Federal Government 40 per cent. of the whole amount of the expenses of the District Government and 60 per cent. of the amount on the people of the District. I do not propose to enter into a discussion of this bill further than to say that it seems to me a city with one hundred and sixty thousand population ought to pay more than half the expenses of its government. It seems to me it is inequitable and unjust to impose half the expense of the city government on the people of other portions of the country. I am willing to act quite liberally by the people of the District, and I recognize the fact that a portion of the expenses ought properly to be borne by the Federal Government; but I think we recognize that fully enough if we agree to pay 40 per cent. of the expenses of the District government.

Mr. EDEN. I am favorable to the amendment offered by my friend from Texas, [Mr. REAGAN.] I think that 40 per cent. is a sufficient proportion for the Government of the United States to pay of the expenses incurred in the city of Washington. The city owes a debt the interest of which will require about or over a million dollars annually, and it will take about half a million more to support its public schools. This bill proposes to limit the rate of taxation in this District to one dollar and a half in the hundred. I suppose that will just about raise enough money to keep up their schools and pay the interest on the debt, and it will leave the Government of the United States to pay all the balance of the expenses of this District, of every sort and kind. I do not think that is right. I hardly see the propriety in any event of the people of the United States paying to keep up the schools in this District. At home our constituents have to pay all those expenses themselves.

But it is said that the Government of the United States owns one-half the property in the District, and therefore they ought to pay one-half the expenses of all kinds. If I understand the matter aright, in order to make out the ownership in the Government of one-half the property in this District they count the streets and avenues of the District. I do not think, Mr. Speaker, that it is fair in making up this apportionment that is to be devolved upon the Treasury of the United States to charge us with the streets and avenues. Those streets and avenues are for the benefit of the inhabitants of the District, and the people everywhere outside the city of Washington are taxed for the purpose of repairing the streets and avenues abutting on their property, not for the reason that the owners of property own the streets and avenues but for the reason that the streets and avenues are kept up for the benefit of the people who own the property abutting on those streets.

Mr. CLAFLIN. Will the gentleman allow me—

Mr. EDEN. I have but five minutes and cannot yield. If I had more time I would be glad to do so.

I think, then, if the people of the United States are to pay one-half or any proportion of the expenses of keeping up the schools or any proportion of the interest upon the debt of this District, even 40 per cent. of the amount is too great a proportion to be charged upon the Treasury of the United States.

A large portion of the debt created by the improvements that were made here was paid out of the Treasury of the United States at the time the improvements were being made. In one single session of Congress the following appropriations were made: on the 8th of January, 1873, there was appropriated for improvement of streets, sewerage, &c., \$1,241,920.92. There was also appropriated for paving roadway and crossings, &c., in front of United States property, \$92,620; to the board of public works, for filling canals, \$68,365. On May 15, 1872, \$100,000 was appropriated. On March 3, 1872, there was appropriated as follows: to reimburse the city of Washington for work done around Government reservations, \$188,200.75; for the same, \$106,533; to complete improvements of streets, avenues, &c., \$913,457.26; to reimburse the city of Washington for improvements, &c., \$1,000,000.

[Here the hammer fell.]

Mr. HUNTON. I rise to oppose the amendment. The question as to the division of the expenses of the District of Columbia between the Federal Government and the people of the District is a question which has engaged the attention of this Government for the last thirty years and more, and the question never has been referred to a committee except on one occasion, when that committee did not report either to the Senate or to the House of Representatives, from which the committee was appointed, that the true proportion of the expense to be borne by the Federal Government and the people of this District was one-half by each.

The first report I find on the subject was one by Mr. Southard, made to the Senate in 1835, in which he took that ground. The subject was again referred to a committee of this House, of which Judge Poland was the chairman, and the committee reported to the House that each one of the parties to the government of this District should pay 50 per cent. Then, sir, when there was a special joint committee appointed in 1876 to investigate this question, that committee—and the only committee that has reported differently from the bill now under consideration—reported 60 and 40 per cent. But since that time this bill now under consideration includes burdens upon the people of this District not heretofore embraced in any bill or any report from a committee of this House or the Senate. For instance, sir, this bill imposes upon the District 50 per cent. of the expense of the bridges leading into the District; it imposes 50 per cent. of the expenses of all the charities; it imposes, by an amendment which is offered, 50 per cent. of the expense of the Aqueduct and its appurtenances; and this committee determined that when these additional subjects of burden to the people of the District of Columbia were added to the bill it did not do more than keep up the proportion of the bill reported by the joint select committee of 60 per cent. and 40 per cent.

I believe I can say in the presence of the gentleman from Vermont that a large majority of that joint select committee thought that 50 per cent. on the part of the Government and 50 per cent. on the part of the people was about the fair thing. Well, now, I have studied this question with a great deal of care, and having been a member of that joint select committee and also a member of the committee that framed and reported this bill, I say, after the maturest reflection that I could give to the subject, that it is but just to the people that the Government should bear equally with the people the burdens of the government of the District of Columbia.

I wish I had time to look at the object of the framers of the Constitution of the United States in founding the seat of the Federal Government at this place, because we all know that when these ten miles square were ceded by the States of Maryland and Virginia to the Federal Government for the permanent seat of Government, when this territory was ceded, it was a vast wilderness and there was not then scarcely a house within its borders, and the very reason of locating the seat of Government here and making this the capital of the Federal Government was because of its situation.

[Here the hammer fell.]

Mr. BRIGHT obtained the floor and yielded his time to the gentleman from Virginia, [Mr. HUNTON.]

Mr. HUNTON. And, sir, the object of locating the capital here was to get us away from commercial and manufacturing cities, that we might not be overawed by a population not under the absolute control of Congress. It was never contemplated in the debates of Congress—and, if members will take the trouble to read them, it will be found that it was never contemplated—that the people of this District, but a few hundred then in number, at the time when the seat of the Federal Government was located here, should bear the expenses of founding a capital for this great nation.

Why, look at the streets of this city, over one hundred and sixty to one hundred and ninety feet wide. Look at the vast areas of public grounds set apart for public use, now held by the Government of the United States in absolute title.

Now, my friend from Illinois [Mr. EDEN] says that, although the Government of the United States owns half the property here, which is exempted by this bill from taxation, it should not pay half of the governmental expenses of this District. I do not know how it appears to the gentleman from Illinois, [Mr. EDEN,] but that seems to me to be the fairest rule that the House can now adopt, and make all parties pay the expenses of the Government of the District of Columbia according to the property owned by those parties.

Mr. REAGAN. Will the gentleman allow me to ask him a question?

Mr. HUNTON. Certainly, but my time is very limited.

Mr. REAGAN. I would ask the gentleman from Virginia [Mr. HUNTON] upon what data the Committee for the District of Columbia have arrived at the conclusion that the Government owns one-half of the property in the District of Columbia.

Mr. HUNTON. By the last assessment made of the real estate in the District.

Mr. REAGAN. Without reference to the business carried on by merchants, &c.?

Mr. HUNTON. By the assessment of the real estate of the District of Columbia. According to that assessment the ownership of property is divided about equally between the Federal Government and the citizens of the District.

Mr. REAGAN. And the commerce and wealth of the District outside of the real estate, which amount to much more than the real estate, are to be exempt from taxation?

Mr. HUNTON. I do not see that that has any relation to my argument. Now in regard to the streets—

[Here the hammer fell.]

The SPEAKER *pro tempore*. The time of the gentleman has expired. Mr. HENDEE. I move that all debate upon the pending section and the amendments thereto be limited to one minute.

Mr. EDEN. There is one other amendment, and a very important one, which should be made. I hope debate will not be closed until we have had a fair opportunity for discussion.

The SPEAKER *pro tempore*. That is a matter for the House to determine. The gentleman from Vermont [Mr. HENDEE] moves that all debate upon the pending section and amendments thereto be limited to one minute.

The motion was agreed to.

Mr. EDEN. I move that the House now adjourn.

Mr. GARFIELD. Allow me to remind the gentleman from Illinois [Mr. EDEN] that a session for this evening was agreed upon by the House, and his motion to adjourn, if carried, will cut off that evening session.

Mr. EDEN. What is the session for to-night?

Mr. GARFIELD. For debate on the tariff bill.

Mr. EDEN. Then I will withdraw the motion to adjourn and move that the House now take a recess until half-past seven o'clock.

The motion was not agreed to, upon a division—ayes 67, noes 94.

The question recurred upon the motion of Mr. KEAGAN, to amend section 6, by striking out of line 186 the word "fifty" and inserting the word "forty;" also, in line 187, by striking out the word "fifty" and inserting the word "sixty;" so that that portion of the section, if so amended, would read as follows:

To the extent to which Congress shall approve the said estimates they shall appropriate the amount of 40 per cent. thereof, and the remaining 60 per cent. thereof shall be levied and assessed upon the taxable property in said District other than the property of the United States and of the District of Columbia, in such manner as the commissioners of the District of Columbia may deem best, &c.

Mr. EDEN. Upon that amendment I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes 20, noes 117; not one-fifth in the affirmative.

Before the result of the vote was announced—

Mr. SPRINGER called for tellers upon ordering the yeas and nays. Tellers were not ordered, there being but 14 in the affirmative; not one-fifth of a quorum.

So the yeas and nays were not ordered.

The amendment was not agreed to.

Mr. SPRINGER. I move that the House now take a recess until half-past seven o'clock to-night.

The motion was not agreed to.

Mr. EDEN. I move to amend this section by striking out the first proviso, as follows:

Provided, That the rate of taxation in any one year shall not exceed \$1.50 on every \$100 of real and personal estate not exempt by law, according to the cash valuation thereof.

I believe I am entitled to one minute for debate. I am opposed to limiting the rate of taxation in this District to \$1.50 upon each \$100 and putting all the balance of the burden of the support of the District upon the people of the United States. My constituents pay twice as much taxes as this for the support of their State, county and municipal governments. If the rate of taxation in this District is limited as proposed by this bill to \$1.50 on the \$100, there will not be received enough revenue to pay the interest on the debt of the District and to keep up the schools.

The people of the United States will have to pay every dollar of the expense necessary to keep in repair the streets and avenues of the city, and you will simply by this bill take the burden off the people of this city and place it upon the people of the United States.

[Here the hammer fell.]

The question was taken upon the amendment of Mr. EDEN; and upon a division—ayes 59, noes 91—it was not agreed to.

Mr. EDEN. I now move that the House take a recess until half past seven o'clock.

Mr. HENDEE. Let us finish this bill.

Mr. EDEN. You cannot get through with it to-day. I call for the yeas and nays on my motion.

The question was taken upon ordering the yeas and nays; and there were 17 in the affirmative.

So (the affirmative not being one-fifth of the last vote) the yeas and nays were not ordered.

The motion of Mr. EDEN for a recess was not agreed to.

Mr. CLARK, of Iowa. This section is still open to amendment?

The SPEAKER *pro tempore*. It is still open to amendment, but not to debate.

Mr. CLARK, of Iowa. I move to amend lines 4, 5, and 6 of the section by striking out the words, "Who is not the owner of property in the District of Columbia of the assessed valuation of \$3,000 or more; and;" so that it will read, "No person shall be eligible as a member of said council who is not at the time of his election a citizen of the United States," &c.

The amendment was not agreed to.

No further amendment being offered to section 6, section 7 was read, as follows:

SEC. 7. That the said commissioners may, by general regulation consistent with the act of Congress of March 3, 1877, entitled "An act for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes," or with other existing laws, prescribe the time or times for the payment of all taxes and the conditions of prompt payment, and the duties of assessors and collectors in relation thereto; that all taxes collected shall be paid into the Treasury of the United States, and the same, as well as the appropriations to be made by Congress as aforesaid, shall be disbursed for the expenses of said District, on proper vouchers certified by said commissioners, or a majority of them; and the accounts of said commissioners, and the tax-collectors, and all other officers

required to account shall be settled and adjusted by the accounting officers of the Treasury Department of the United States.

No amendment being offered to section 7, section 8 was read, as follows:

SEC. 8. That hereafter the Secretary of the Treasury shall pay the interest accruing on the 3.65 per cent. bonds of the District of Columbia as the same mature, and the amounts so paid shall be credited as part of the appropriation for the year by the United States toward the expenses of the government of the District, as herein provided.

Mr. EDEN. I move to strike out section 8. The object of my motion is this: the effect of the section will be to make the appropriation out of the Treasury for the payment of the interest on the 3.65 District bonds a permanent and continuing appropriation instead of an annual appropriation. The practice, since these bonds were issued, has been for Congress at each session to make the necessary appropriation for the payment of the interest of the 3.65 bonds out of the funds of the District. The law upon the subject is this:

And the faith of the United States is hereby pledged that the United States will, by proper proportional appropriations, as contemplated by this act, and by causing to be levied upon the property within said District such taxes as will provide the revenues necessary to pay the interest on said bonds as the former may become due and payable, and create a sinking fund for the payment of the principal thereof at maturity.

Now I object to changing the law in reference to the payment of the interest on these 3.65 bonds. The Government of the United States is now responsible only for the collection of taxes to pay the interest as it now accrues; that is all we are bound to do.

These bonds run for fifty years, and if this bill in its present form becomes a law the contract with the holders of the bonds is irrevocable during that term, no matter what may be the desire of the District authorities or of the Government itself in reference to the bonds.

I am very well aware that the passage of this provision will add greatly—perhaps thirty cents on the dollar—to the value of the bonds, which have been bought up on speculation; but I am not very anxious for the passage of a law which will be irrevocable for fifty years, even if it does have that effect.

We discharge our duty fully in reference to these bonds when we see that the interest as it falls due is paid without making a permanent appropriation. I am not very much in favor of permanent appropriations. I think it a correct principle that appropriations should be made annually; that each Congress should have the right to take up and examine the estimates and determine what appropriations are necessary. I repeat, I am not in favor of legislation the only effect of which, so far as I can see, will be to enact with reference to these bonds a law irrevocable for the next thirty years, and to add thirty cents on the dollar to the value of the bonds in the pockets of men who have bought them up as a speculation.

Mr. HUNTON. I wish to say only a word or two in opposition to the amendment of my friend from Illinois, [Mr. EDEN.] He has just read a law which binds the Government of the United States to guarantee the payment of interest on the 3.65 bonds. The section under consideration, and which he moves to strike out, does no more than provide for the payment of this interest, which is already guaranteed by the Government. We know that year by year the Congress of the United States makes an appropriation to pay the interest on these 3.65 bonds; and the only thing additional provided in this eighth section is that, when a computation is made of the 50 per cent. to be paid by the Government and the 50 per cent. to be paid by the people of the District, whatever the Government shall have paid as interest on the 3.65 bonds shall be credited to the Government in that computation.

Mr. RANDALL, (the Speaker.) Will the gentleman allow me to ask him a question?

Mr. HUNTON. Certainly.

Mr. RANDALL, (the Speaker.) If the Government is bound now, why is it necessary to insert this section?

Mr. HUNTON. Because year by year we have this fight over an appropriation to pay the interest on the 3.65 bonds, and it is a fight that always results in the payment. Now this is simply a general provision for the payment of this interest as it accrues and for crediting the Government of the United States with the payment in the division of the expenses between the Government and the people of the District.

Mr. JONES, of Ohio. Will the gentleman allow me to ask him a question?

Mr. HUNTON. Certainly.

Mr. JONES, of Ohio. I understand that the gentleman, as a member of a committee of the Forty-fourth Congress, fixed upon 40 per cent. as the fair proportion of expenses of the District to be assumed by the General Government. Now this bill proposes that the Government of the United States shall pay 50 per cent. How does the gentleman justify himself in supporting this increased proportion?

Mr. HUNTON. I have already attempted to explain that matter which properly belongs to a section already passed and not now under consideration. I will, however, for the gentleman's benefit repeat the explanation. The bill now under consideration adds to the expenses of the District government enough to justify fully the different rule here proposed as to the proportionate share of expense to be borne by the United States Government.

Mr. RANDALL, (the Speaker.) I desire to state in a few words as possible why in my judgment this section should be stricken out. If

as stated by the gentleman from Virginia, [Mr. HUNTON,] the Government is already bound for the payment of this interest, then there is no necessity for inserting this section. In addition to that there is already pending in this House a bill (I think it is on the Speaker's table) in which this subject is provided for as a question entirely distinct from the formation of a government for the District of Columbia.

Mr. HUNTON. I beg the gentleman's pardon. That is a provision for one single payment of interest.

Mr. RANDALL, (the Speaker.) On the contrary, if I understand correctly, it is a Senate bill providing that the Government of the United States shall be permanently bound until the payment of the principal of these 3.65 bonds.

Mr. HUNTON. I was not aware of any such bill.

Mr. RANDALL, (the Speaker.) My impression is that the provision of the bill is what I have just stated.

Mr. HENDEE. I think the Speaker will find that there is no such bill.

Mr. RANDALL, (the Speaker.) I will ascertain the exact fact in a moment.

Mr. HENDEE. Mr. Chairman, the Government of the United States has already agreed to take care of this interest; but as the law stands to-day (I ask the attention of the gentleman from Illinois to this point) there is no provision for the payment of the interest by anybody. The commissioners of the District have no power to pay it; the Treasurer of the United States has no power to pay it.

Mr. EDEN. If the interest is provided for annually as it becomes due, is not that sufficient?

Mr. HENDEE. The gentleman says that this interest may be provided for annually. Mr. Speaker, we have attempted at every session within the last three or four years to pass a permanent law on this subject; and I understood the gentleman to admit the other day that, in his judgment, the United States Government was honestly and honorably bound to take care of this interest and of the principal, if it should not be paid on the maturity of the bonds.

Mr. EDEN. I presume the effort will be to saddle the principal on the Government, of course.

Mr. HENDEE. This bill provides that the Government of the United States shall pay 50 per cent. of the expenses of the District, and that the people of the District shall pay the remaining 50 per cent. It provides further that as this interest becomes due the Treasurer of the United States shall pay it, and the amount shall be charged up as a part of the 50 per cent, which is to be the proportionate share of expense to be borne by the Government of the United States. In other words the Government will not pay this interest, but will simply advance it from year to year as so much of its proportion of the expenses of the District. That is all.

I have no objection to the amendment saying this shall not change the relation of the General Government in regard to these District bonds.

Mr. EDEN. It does change the relation of the General Government in regard to these District bonds, and if it does not there is no use of having it.

Mr. RANDALL, (the Speaker.) I desire to correct a statement I made a few minutes ago in so far as I stated there was a Senate bill pending of like purport. The question has been acted on separately by a committee of this House, the Committee of Ways and Means, and reported, and is now upon the Calendar.

Mr. HENDEE. It has gone to the Calendar where it will never be reached.

Mr. RANDALL, (the Speaker.) But it is a subject which should be considered separately and distinctly by the House and by Congress rather than in the form of a provision in a bill establishing a permanent form of government for the District of Columbia.

Mr. HENDEE. It has been reported separately each year.

Mr. RANDALL, (the Speaker.) That shows probably it ought to be discussed and beaten another year.

Mr. BLACKBURN. I simply desire to say there is not a member of the Committee for the District of Columbia nor a member of this House who goes further than I go in protesting the Government of the United States is not bound to pay that 3.65 bonded debt. The bill to which the honorable Speaker of the House, the gentleman from Pennsylvania, has referred, reported by the gentleman from Ohio [Mr. SAYLER] from the Committee of Ways and Means, is not such a bill as will ever receive my support or approval in this House. And while I deny the Government of the United States is bound for the principal of the 3.65 bonded indebtedness of \$13,000,000, I am frank to admit that the law does bind the Government for the interest upon those 3.65 bonds. The law provides the Government shall see that interest is paid, but the law goes no further except to bind this Government to see the District of Columbia makes provision to meet the principal of the bond.

Now, sir, if this bill, or if this section of the bill, in any way whatever bound the Government to meet the principal of that \$13,000,000 of debt, I would be the last man to give my assent to its passage, but the six lines which constitute this eighth section, in no wise touches the question of the obligation of the principal. It simply does what the law already requires, that we shall meet the interest on this debt. You may say if that be all there is no use in enacting it as a section to this bill. I grant you that, but there is one thing more it does do: this gives to the United States Treasury a credit upon its 50 per cent.

contribution to the expenditures of this District of Columbia for every dollar it thus advances to meet the obligations which already rest upon it under the law. For that reason, it is not as the advocate or the friend of the 3.65 bonds, but it is from the stand-point of the opponent of the 3.65 bonds, it is from my own stand-point, declaring this Government is not responsible for the payment of that debt. I advocate the passage of this section because it gives to the Federal Treasury a credit of 50 per cent. in conducting the affairs of the District of Columbia. It gives a credit in that direction for every dollar it pays on the interest of these bonds.

[Here the hammer fell.]

Mr. EDEN and Mr. HANNA rose. [Cries of "Vote!" "Vote!"]

Mr. EDEN. I have only a word to say.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana, [Mr. HANNA.]

Mr. HANNA. I have been already cut out once or twice, and I hope I will be permitted to proceed.

Now, Mr. Speaker, to the end there may be no misunderstanding about this section, and to the end it may not be claimed by the passage of this section the Government has committed itself to the payment of the principal of this 3.65 bonded debt, I ask the following amendment be appended to this eighth section:

Provided, Nothing herein contained shall be hereafter so construed as to commit the Government to the payment of the principal of said bonds.

Mr. RANDALL, (the Speaker.) That has never been asserted by anybody that we are in the least degree to pay the principal of the 3.65 bonded debt.

Mr. HANNA. It is a wise thing, then, to make the provision here, so that years after the passage of a section of this kind it may not be argued that the Congress of the United States intended by the passage of this section to assume that bonded debt. It seems to me right and prudent under the circumstances to guard against any such construction being given to our Government.

Mr. RANDALL, (the Speaker.) I should like to ask the gentleman from Kentucky a question, whether in fact the adoption of this eighth section does not make us bound for all time for the payment of the interest on the 3.65 bonds in the same way as provided in the bill reported from the Committee of Ways and Means by the gentleman from Ohio.

Mr. BLACKBURN. I answer and say, the bill to which the honorable Speaker refers, it is true, is on the Calendar, but it is not before the House for consideration. I have read that bill—

Mr. RANDALL, (the Speaker.) That is not an answer.

Mr. BLACKBURN. I have read the bill, but I have not examined it with such particularity as would warrant me to go into a discussion of it; but this I wish to add by way of answer, that this section does make provision for the payment of the interest on these bonds. The law already does that. This section goes further and does that which induces me to support it: it declares for every dollar the Government shall advance to pay the interest on these bonds the Government shall receive a credit on it of 50 per cent. toward the expenses of the District. It is for that reason I am in favor of it.

Mr. RANDALL, (the Speaker.) The effect both of the eighth section of this bill, and of the bill which the gentleman from Kentucky speaks of, is exactly the same. If either this eighth section should become a law, or if the bill reported from the Committee of Ways and Means should become a law, the Government will be in like manner in both cases bound for the interest on this debt. And the House may as well understand distinctly that when they vote for this eighth section they practically vote to make the Government bound for the interest on the 3.65 bonds.

Mr. BLACKBURN. May I ask the Speaker a question?

Mr. RANDALL, (the Speaker.) Certainly.

Mr. BLACKBURN. I admit the operation of the eighth section is just as the honorable gentleman puts it. But I desire him to answer this question: Is not the Government of the United States now bound to pay that interest?

Mr. RANDALL, (the Speaker.) Not until the District makes default. And I am for compelling the District first to make every effort itself to pay this interest on the 3.65 bonds before I recognize its right to put its hand into the Treasury of the United States and take out therefrom the difference between what it is able or willing to pay and the amount which has to be paid to the 3.65 bondholders.

Mr. BLACKBURN. I am sure there is no difference between the gentleman and myself as to that. But if the Government is to go on paying the interest on these bonds as it is now bound to do under the law, what I desire is that we shall have a credit for it under the 50 per cent. arrangement.

Mr. WILLIAMS, of Oregon. If you pass this bill, will not the Government have to pay the interest without question?

[Cries of "Vote!" "Vote!"]

Mr. RANDALL, (the Speaker.) Will the Chair declare what the question is, that we may vote understandingly?

The SPEAKER *pro tempore*. The question is on the amendment of the gentleman from Indiana [Mr. HANNA] to the eighth section, which the Clerk will read.

The Clerk read as follows:

Add to the section these words:

Provided, That nothing herein contained shall be so construed as to commit the Government to the payment of the principal of said bonds.

Mr. ELAM. I understood that the amendment of the gentleman from Illinois [Mr. EDEN] was pending.

The SPEAKER *pro tempore*. The motion of the gentleman from Illinois [Mr. EDEN] is to strike out section 8. The amendment of the gentleman from Indiana [Mr. HANNA] is to perfect the section which it is proposed to strike out, and that amendment is first in order to be voted on.

The question being taken on Mr. HANNA's amendment, it was adopted.

The question recurred on the motion of Mr. EDEN to strike out the eighth section as amended; and being taken the Speaker *pro tempore* announced that in the opinion of the Chair the "noes" had it.

Mr. EDEN. I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were—ayes 26, noes 98.

So (the affirmative being more than one-fifth of the whole vote) the yeas and nays were ordered.

Mr. ALDRICH. I move that the House take a recess until half past seven o'clock.

The question being taken on Mr. ALDRICH's motion, there were—ayes 82, noes 74.

Mr. FELTON. I call for tellers.

Tellers were ordered; and Mr. ALDRICH and Mr. HENDEE were appointed.

The House again divided; and the tellers reported—ayes 62, noes 94.

So the motion to take a recess was not agreed to.

Mr. BURCHARD. I move that the further consideration of this bill be postponed until to-morrow morning after the reading of the Journal.

Mr. EDEN. I object to that.

Mr. HENDEE. We can finish the bill now in a very few moments.

[Cries of "Vote!" "Vote!"]

Mr. CONGER. What was the result of the vote on ordering the yeas and nays?

Mr. EDEN. I call for the yeas and nays on the motion for a recess.

The SPEAKER *pro tempore*. That call is made too late. The question recurs on the motion of the gentleman from Illinois [Mr. EDEN] to strike out the section, on which the yeas and nays have been ordered. Pending that a motion was made that the House take a recess, which motion was lost.

Mr. CONGER. I call for tellers on the question of ordering the yeas and nays.

The SPEAKER *pro tempore*. The call is made too late. Other business has intervened.

Mr. BURCHARD. I have moved that the further consideration of this bill be postponed until to-morrow after the reading of the Journal.

Mr. SPRINGER. I rise to a point of order. I submit that that motion is not in order. This is the third Monday of the month, which is assigned for District business after two o'clock, and this bill is considered as a part of the business in order on that day, and when it goes over to-day it goes over till the next day assigned for District of Columbia business.

Mr. HARRIS, of Virginia. Not if the House orders otherwise.

The SPEAKER *pro tempore*. The Chair overrules the point of order made by the gentleman from Illinois. The bill before the House is a special order, subject to the control of the House at any time.

Mr. BEEBE. I move that the House now take a recess till half past seven o'clock, and upon that motion I call for the yeas and nays.

Mr. CLYMER. No business has intervened since the last vote.

Mr. BEEBE. I submit that business has intervened, and that my motion is in order.

The SPEAKER *pro tempore*. The Chair recognizes the gentleman from Illinois [Mr. BURCHARD] to move that the consideration of the bill be postponed until to-morrow morning after the reading of the Journal.

Mr. EDEN. Is it in order to move that the House do now adjourn?

The SPEAKER *pro tempore*. That motion is in order.

Mr. EDEN. I make that motion.

The question being taken, the Speaker *pro tempore* announced that in the opinion of the Chair the noes had it.

Mr. EDEN. I call for the yeas and nays on the motion to adjourn.

The question being taken on ordering the yeas and nays, there were ayes 19, not a sufficient number.

So the yeas and nays were not ordered.

Mr. ROBBINS. I call for tellers on the motion to adjourn.

The question being taken on ordering tellers, there were ayes 11, not one-fifth of a quorum.

So tellers were refused, and the motion to adjourn was not agreed to.

The question being taken on Mr. BURCHARD's motion, there were—ayes 114, noes 38.

Mr. EDEN. I call for tellers.

Tellers were not ordered, only fourteen members voting therefor. So the motion was agreed to.

Mr. BURCHARD moved to reconsider the order just made; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, an-

nounced the passage of the following bills and joint resolution; in which concurrence was requested.

A bill (S. No. 35) to repeal the bankrupt law;

A bill (S. No. 134) making further appropriation for continuing the improvements of the Galveston Harbor, in the State of Texas; and

A joint resolution (S. R. No. 23) providing for the distribution and sale of the new edition of the Revised Statutes of the United States.

The message further announced that the Senate insisted on its amendments disagreed to, to a bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes, asked for a conference on the disagreeing votes of the two Houses, and had appointed as managers of such conference on its part Mr. BLAINE, Mr. WINDOM, and Mr. BECK.

ORDER OF BUSINESS.

Mr. BEEBE. I move that the House take a recess until half-past seven o'clock.

Mr. REAGAN. I desire to move to suspend the rules and pass a bill. [Cries of "Regular order!"]

The SPEAKER. The regular order is the unfinished business coming up by agreement of the House, and it is the motion of the gentleman from Texas [Mr. MILLS] to refer the joint resolution of the Legislature of the State of Maryland to the Committee of the Whole House on the state of the Union in preference to the Committee on the Judiciary or to a special committee.

Mr. REAGAN. I move to postpone the regular order.

The SPEAKER. The regular order, allowed by unanimous consent, was laid aside at two o'clock for consideration of the business from the Committee for the District of Columbia. When said business is disposed of the House resumes the business interrupted at the hour named, and the Chair thinks it cannot be postponed, having been allowed by unanimous consent.

Mr. BEEBE. I rise to a question of order. I was recognized by the Chair as the gentleman from New York, and made a motion that the House take a recess.

The SPEAKER. The Chair will recognize the gentleman from New York.

Mr. BEEBE. I desire to press that motion now. [Cries of "Regular order!"]

Mr. FOSTER. I hope the gentleman from New York will yield to me for a moment, to make a motion to concur in a request of the Senate for a committee of conference.

Mr. BEEBE. No; I will yield for nothing.

Mr. ALDRICH. I move that the House do now adjourn.

The question was taken on Mr. ALDRICH's motion; and on a division, there were—ayes 39, noes 111.

So the House refused to adjourn.

The question recurred on Mr. BEEBE's motion.

Mr. FOSTER. I ask the House to consent to a committee of conference asked by the Senate on the bill (H. R. No. 3740) to provide for deficiencies in the appropriation for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes.

Mr. EWING. I object.

[Cries of "Regular order!"]

The SPEAKER. The regular order is the motion of the gentleman from New York, [Mr. BEEBE.]

Mr. BURCHARD. I submit that the motion is not in order pending the motion to suspend the rules, and I understood the Speaker to say that the regular order came over from Monday last; which was the motion to suspend the rules.

The SPEAKER. The motion the gentleman from Illinois alludes to will be in order when it is reached. The Chair will state the exact position of business. In case the House will not adjourn, as it has agreed not to adjourn, the first business in order is the motion of the gentleman from Texas, [Mr. MILLS,] to refer the memorial from the Legislature of Maryland to the Committee of the Whole House on the state of the Union. The question of reference being disposed of the call of the States will still rest with the State of Maryland, then Virginia, and so on through the list. After the call of the States and Territories for bills and joint resolutions shall have been concluded, then the question will recur upon the motion pending from last Monday, and unfinished on that day, which is to suspend the rules and pass a bill. There cannot be two motions to suspend the rules pending at the same time under the same rule of authority.

Mr. BLACKBURN. I rise to a parliamentary inquiry. I would ask whether or not, under the order of the House, the bill to establish a permanent form of government for the District of Columbia will not come up for consideration immediately after the reading of the Journal to-morrow morning?

The SPEAKER. That bill is unfinished business, and has a right to come up after the reading of the Journal to-morrow, and from day to day thereafter until disposed of. The Chair is advised that it was taken up by unanimous consent to-day during the time allotted under the rules to the Committee for the District of Columbia.

Mr. COX, of New York. Does it cut out the morning hour to-morrow morning?

The SPEAKER. It does.

Mr. COX, of New York. Will not the morning hour come in after the District of Columbia bill is disposed of?

The SPEAKER. The District of Columbia bill comes up to-morrow and every day until disposed of, after the reading of the Journal; but in addition to that the House has determined to-day to postpone it until after the reading of the Journal to-morrow, thus reaffirming its status.

Mr. BEEBE. Is debate in order while a motion is pending to take a recess?

The SPEAKER. The Chair thinks it is always in order to inform the House as to the business before it, so as to have an intelligent decision.

Mr. HALE. Can any of this business, to which the Chair has referred, come up to-night if the House takes a recess?

The SPEAKER. No; because the House, by unanimous consent, allowed this evening's session to be set aside exclusively for debate upon the tariff bill.

Mr. CARLISLE. This being the day set apart by the rules of the House for the consideration of bills reported by the Committee for the District of Columbia, I would ask the Chair what has become of those bills.

The SPEAKER. There was none reported that the Chair is advised of; and the committee failed to assert and has lost its right to make reports until the third Monday of next month. [After a pause.] The Chair is reminded by the Clerk that Friday evening of this week has been set apart for the consideration of reports from the Committee for the District of Columbia. Its right to report will then come in force.

Mr. CARLISLE. I have been informed that there have been some bills reported from that committee.

The SPEAKER. Then they are in Committee of the Whole.

Mr. SPARKS. I move that the House now adjourn.

The SPEAKER. That motion has just been voted down.

Mr. BEEBE. I move that the House now take a recess until half past seven o'clock.

The question was taken upon the motion of Mr. BEEBE; and upon a division there were—ayes 92, noes 75.

Before the result of this vote was announced,

Mr. WILLIS, of New York, called for tellers.

Tellers were ordered; and Mr. WILLIS, of New York, and Mr. CARLISLE were appointed.

Mr. CONGER. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CONGER. If the House should determine neither to take a recess nor to adjourn, but should continue in session, then if the time shall come, by the disposition of other business, for a suspension of the rules, the matter could be reached in that way.

The SPEAKER. The first vote on a suspension of the rules would be on the motion of the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. CONGER. Suppose that motion is disposed of, then another motion to suspend the rules would be in order.

The SPEAKER. Undoubtedly.

The House again divided; and the tellers reported that there were—ayes 89, noes 66.

So the motion of Mr. BEEBE was agreed to; and accordingly (at five o'clock and fifty-five minutes p. m.) the House took a recess until half-past seven o'clock p. m.

EVENING SESSION.

The recess having expired, the House reassembled at seven o'clock and thirty minutes p. m. and was called to order by the Speaker.

Mr. SAYLER. I move that the House now resolve itself into Committee of the Whole for the purpose of considering the special order for this evening.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. COVERT in the chair.)

THE TARIFF BILL.

The CHAIRMAN. The House is now in Committee of the Whole for the consideration of House bill No. 4106, to impose duties upon foreign imports, to promote trade and commerce, to reduce taxation, and for other purposes. By order of the House, the session of this evening is for debate only upon this bill, no business whatever to be transacted. The gentleman from Ohio [Mr. MCKINLEY] is entitled to the floor.

Mr. MCKINLEY. Mr. Chairman, it is a matter of very considerable regret that the distinguished gentleman from New York, [Mr. WOOD,] who presented this tariff bill to the House on Tuesday last, should have failed in his opening speech to give any explanation of the details of the bill. Indeed at the very outset of his remarks he disavowed all intention of giving to the House any explanation or analysis of the provisions of the bill upon which the House will be expected to take action at no distant day.

Following his example, I shall content myself, for the present at least, with a discussion of some of the general features of the bill and their effect upon the business of the country. I am opposed to the pending bill from a high sense of duty, a duty imposed upon me by the very strong convictions which I entertain, after an examination of its several features, that should the proposed measure become a law it will be nothing short of a public calamity. It scales down the much needed revenues of the Government. Although this proposition was denied by the distinguished gentleman who opened this debate,

[Mr. WOOD,] I desire in this connection to call attention to a carefully prepared statement by Mr. Young, superintendent of the Bureau of Statistics, in which it is shown that the revenues to be derived under this bill, if it shall become a law, estimated upon the basis of the importations of 1877, will fall short of the revenues of that year something more than \$9,000,000.

This bill not only impairs the revenues of the Government, but it is a blow well directed at the mining, the manufacturing, and the industrial classes of this country. It will not be denied that any material readjustment of the tariff system at this time is a delicate and hazardous undertaking, and should be approached if at all with great care and circumspection, with a thorough knowledge of the business and commerce of the country, their needs and relations, which it proposes to affect. Its consideration should be unincumbered by individual or sectional interests, and should be free from any attempt or desire to promote the interests of one class at the expense of the many. The highest good to the greatest number should guide any legislation which may be had. I believe if this rule should be adopted the proposed measure will find little favor in this House.

I do not doubt that free trade or its "next of kin," tariff reform, might be of temporary advantage to a very limited class of our population and would be hailed with delight by the home importer and foreign manufacturer; but no one, I predict, who has thoughtfully considered the subject and its effect upon our present state and condition can fail to discern that free trade or tariff reform introduced into this country now will produce still further business depression and increased commercial paralyzation.

Our once prosperous manufactories are barely able now with the present duties upon imports to keep their wheels in motion; and what, I ask, must become of them if the foreign-manufactured product which competes with the manufactured product of the United States shall be suffered to come into this country free of duty or at reduced rates of duty? Mr. Chairman, there can be but one result, which I shall endeavor to present later in the course of my remarks.

If a change is necessary in the present tariff system or in some cases a reduction is demanded for the general good, then I answer that such reduction or change should be the work of time, and not hastily or inconsiderately made. Any change, however seemingly trifling, will seriously operate upon the business interests of this country, will unsettle trade and disturb values. Even a discussion of the question is a terror to the commercial classes; and we have discovered since the report of the subcommittee of the Committee of Ways and Means was given to the House and to the country a marked disturbance in every avenue of trade and labor.

There can be no justification for an immediate change of the present system. If a new policy is to be inaugurated or departures are to be made from the old, then they should have reference to a period of time in the future sufficiently remote from the present to enable business men and trades-people to prepare for the new order of things and adjust their trade conformably to it. We want in this country no sudden shock to further paralyze business. A law passed now to go into effect at once as proposed by this bill or in the near future would be without justification on the part of this House, and I had almost said an act of criminality.

The business interests of this country can stand no additional burdens; they ought not to be subjected to them; and the party which is responsible for them will be held to fullest accountability.

There is no national demand, I assert, for the passage of this bill; no popular appeal is pressing for its enactment; no public necessity requiring such legislation; no interest is suffering for want of it. There is no plethora in the revenues or overflow of the Treasury justifying it. Neither the producer nor the consumer wants it; but the almost universal sentiment of this country is for the defeat of this bill here and now, without concession, compromise, or amendment.

There can be no mistake, Mr. Chairman, as to the popular judgment upon this measure. Scarcely an interest in this whole country but has petitioned this body, commencing at its extra session in October and continuing down to the present moment, remonstrating against this proposed legislation. These petitions come not as in former years, from the manufacturer and the producer alone, but the farmer, the mechanic, the laboring-man, and the miner all unite in protesting against this legislation, declaring it injurious to them as a whole and as a class.

I am reminded in this connection of a single petition, signed by over one hundred thousand laboring-men of this country—coming from seventeen States of the Union, brought here by three of its own number, demanding an increase of at least 10 per cent. upon the present rates of duty.

Mr. Chairman, I doubt if any of the gentlemen of this House have read the memorial of these laboring-men, for by a single objection it was excluded from the pages of the RECORD, and I propose at this time to read it:

To the Senate and House of Representatives of the

United States of America in Congress assembled:

We, citizens of the United States, believing that the permanent prosperity of the people of the United States can be secured only by the complete protection against foreign competition of all domestic industry, do respectfully petition for a revision of existing tariff laws by an increase of at least 10 per cent. of the present rates, and especially that, to prevent frauds, the same imports be levied upon old as upon new railroad iron; and that all imported iron shall be subject to a protective duty.

We do further petition that in such revision the rates upon all imposts be adjusted to accomplish, as nearly as possible, these results: First, absolute protection of all domestic products in the domestic market; second, the largest revenue upon all imported luxuries not produced in this country; and, third, to permit all uncompetitive articles of necessity or of general use, as tea and coffee, to go to the people untaxed.

This, I say, was signed by over one hundred thousand laboring-men of the country. And you will observe that it does not demand a reduction of the duties upon imports, but it demands an increase, and in case of a revision of the tariff it announces the true principles on which such revision should be made; and these principles have been wholly ignored by the committee which prepared this bill, as I shall show hereafter.

Now, I ask if these appeals are to go unheeded. I want to know if any respect is to be paid to the popular judgment on this subject. And I speak to the gentlemen on the other side of the House, who in season and out of season upon this floor have declared their affection for the poor laboring-men, and I had almost said during the first three months of this session of Congress had filled the daily Record with professions of love for them—I ask you now if your service in their cause is to be mere “lip service,” or will you unite with the majority of this side of the House in defeating a measure so much in opposition to the development of the material industries of the country and so obnoxious to the people at large?

I trust you will, and it will be no longer said of you that “you keep the word of promise to the ear and break it to the hope.”

But, Mr. Chairman, the defeat of this measure is not only demanded by the popular judgment of all classes, but it is alike the dictate of every just principle of morals and of fair dealing. The present tariff has existed almost without alteration for the past sixteen years and every effort in the direction of a substantial change within that time has been rewarded with defeat. Men have embarked in business under the existing law regulating the tariff; great enterprises have been projected; vast amounts of capital are invested all over the country upon the faith of the existing law and relying upon its permanence, and to-day millions of dollars are invested in buildings, machine-shops, and factories all over this land, built up under the fostering care of protection. It is proposed by this bill, without any note of preparation to the manufacturing classes, without any word of warning, without any service being made upon them, by a swift and certain blow to destroy these vast investments of capital and labor.

In my own district, imbedded with a wealth of mineral resources, dotted all over with factories, machine-shops, mills and furnaces, the disaster which must result from the passage of the pending bill cannot be estimated. The rich mines of coal abounding in the counties of Stark, Mahoning, and Columbiana, which by reason of the limited demand under existing tariff are unable to furnish full time and fair employment to the operatives, will be forced to diminish their productions and the miners will be driven into other avenues of labor already overcrowded. The mills and furnaces, factories and machine-shops situated in these counties accessible to rich mines of coal and ore, and which are famous for their iron and steel and agricultural implements, productions that have struggled with unyielding courage through the panic of 1873 and the distressing years which have followed and even at the meager wages now paid are keeping thousands of families from actual want, must, I am assured, if the present bill becomes a law, put out their fires, while the potteries of East Liverpool, which are employing a thousand men, after a bitter struggle with foreign capital and the established trade of European manufacturers, must also surrender. So with the steel interests, the wool and woollen interests, the flax interest, and the bagging interest; and what is true of these special interests in the localities I have named is true of the many industries the country over.

These industries, as I have already said, were commenced and have grown and developed under the wise and fostering protection thrown around them by the legislation of this country. Capital has been put into manufacturing everywhere, relying upon this law. Contracts have been made upon the faith of it, and I say that it has ripened into a vested right, if not a legal vested right, the highest equitable and moral right as to existing interests at least.

I was glad to observe the other day in the speech of the gentleman from New York [Mr. Wood] that he was forced to admit a moral right existing in the manufactures of this country for the continuance of this same protection, and I call your attention to a brief extract which I have taken from his speech upon this subject:

I recognize—

Says the gentleman from New York—

in consequence of the present tariff a moral right in the interest affected for a little longer enjoyment of the assistance so liberally dispensed to them.

Even he admits that there is a high moral right resting upon the Congress of this country to continue still further the protection which in the past has been given to the industries of the country. I can assure the gentleman that his bill does not recognize this right, but as to many industries wholly ignores it.

Free trade and tariff reform are captivating phrases, and to one unacquainted with their true meaning and import are deceptive, while the arguments urged in their behalf are alike deceptive and delusive.

The chief consideration that is urged by the advocates of free trade or tariff reform, so called, is that the duties fall upon the consumer; in a word, that the great mass of consumers in this country will get

their products, their goods, their merchandise at a very much less price than they now do if free trade or tariff reform prevailed instead of the present policy.

Mr. Chairman, history and experience both teach us that the agricultural products of this country have in the main increased in price since the tariff of 1824, but that substantially all manufactured articles, articles that have been protected by that or successive tariffs, have been secured to the great body of the consumers at a very much less cost than they formerly were. And, Mr. Chairman, the price of articles have not only been diminished and the consumer benefited by the reduced price, but the quality of the article has in every instance been improved.

Home competition will always bring prices to a fair and reasonable level, and prevent extortion and robbery. Success, or even apparent success, in any business or enterprise will incite others to engage in like enterprises; and then follows healthful strife, which is the life of business, which inevitably results in cheapening the article produced.

I assure you, Mr. Chairman, that the European product costs the American consumer very much less than it otherwise would but for the existence of domestic rivalry. Remove American competition from foreign manufacture and importation, and the price of every article bought which is manufactured abroad will increase, and we will be forced to pay whatever grasping avarice might dictate. Our principal business will be to send abroad to enrich the coffers of foreign nations what money remains in this country. Be assured if the tariff is disturbed as proposed, very much of American competition will be destroyed.

These familiar propositions are aptly illustrated by the testimony and experience of foreign manufacturers, from which for a very little time I propose now to draw. I only use the testimony which I get from one branch of manufacture; but the testimony in this case, and conclusions to be drawn from it, I venture to assert is true of all the other industries which come in competition with American industries.

The old Staffordshire granite whiteware, so universally used in this country for a great many years, has almost disappeared from the American market, and is rapidly giving place to our own manufactured article in this branch of industry. The condition of the American market, the fact that the European trade was losing its hold upon this country, led in 1877 to an arbitration between the owners of the potteries at Staffordshire in England and their operatives, touching a proposed reduction of 10 per cent. in the wages of labor to enable them to compete with the American manufactured ware. The arbitration was held at Hanley, England, before J. C. Davies, esq., of London, umpire. I read you the testimony of Mr. Shaw, an English manufacturer, largely engaged in making this ware at Staffordshire. He says:

He found from time to time, first one article and then another, was being manufactured in America at a less rate than here. The boast of America was no empty boast, that in ten years, at the rate they were going on, they would supersede the use of British crockery in the United States.

This is the testimony of an English manufacturer, and must be very gratifying to the American manufacturer and to Americans generally.

In ten years at the rate they are going, they will supersede the use of British crockeryware in this country.

Do you object to this, my free-trade advocate? And would you check “the rate,” by unfriendly legislation, which in time will place Americans upon a footing so firm and in a position so encouraging? If this be your purpose you have only to pass the present measure.

Again, as to the quality of American ware. Mr. Shaw produces before the umpire samples of white granite ware of American manufacture, and testifies that they are sold at fully 10 per cent. less than English goods; he was convinced that Americans had superior materials to what they had in the Staffordshire potteries or they could not produce the articles they did; they had every material necessary; the difficulty as to strength and soundness was gotten over now, and in his opinion he saw no reason why, in a short time, they would not overcome each and every difficulty.

And I am justified in assuring this House if Congress will but let them alone they will overcome each and every difficulty which is now or hereafter may come in their way.

Mr. Ellsmore, another English manufacturer, testified that he was engaged in the American trade, had been to the United States and had had opportunities of seeing the quality of their goods; his impression was that the goods they were now making were superior to our own; he was himself exclusively in the American trade, and had had the greatest difficulty in retaining his trade there; at one time he was unable to supply as much as was demanded, but circumstances had changed, the demand had been nearly equal to the capabilities of supply by him.

The “circumstances” referred to by the witness, it is scarcely necessary I should tell you, have been produced by our manufacturers, under the judicious protection now afforded; and if you want to alter these circumstances and restore Mr. Ellsmore to his former position, when with all his capacity he was not able to supply the American demand, you have only to alter existing law as proposed by a majority of the Committee of Ways and Means.

Mr. Shaw is recalled, and resumes his testimony as follows:

When in America he had taken the trouble to go through the leading manufactures, and his impression as to their prospects of successfully competing with this country [Europe] was that unless we could produce at a very much less cost than at the present time, and the tariff was reduced, the trade of this district was limited

to a time. But if with the tariff at 40 per cent. (and that is the existing tariff) they could here produce goods at as cheap a rate as they could, they would be able to keep the growth and the increase of the make in the States in check, and thus preserve the amount of trade that must otherwise go from the potteries.

The tariff must be reduced in the interest of the foreign potteries or their trade will be greatly impaired, and to gratify them, to promote this industry in Europe, to build up theirs at the expense of ours, is the purpose and effect of the proposed bill. This would be unwise, un-American, and unpatriotic.

Mr. Shaw closes his testimony with a significant question which he propounds to the umpire:

Is it your opinion that if Americans had enjoyed and benefited by a system of free trade as we have in this country for the past twenty years, that they would have been in a better position than we are at the present time?

The umpire answers, "I do not see how I can apply it, although it is a very important question." The question is a strange and contradictory one, for after Mr. Shaw has been complaining of the distressed condition of their business under free trade and the encouraging prospects of ours under a tariff policy, he gravely inquires, "If the United States had enjoyed a system of free trade as we have would they have been in any better condition than we are to-day?"

Certainly not, Mr. Chairman; but acting the part of wisdom the Congress of the United States has up to this time persistently refused to impose upon this people a policy which upon Mr. Shaw's own testimony has depressed and almost disorganized the pottery trade in Europe.

But I am anticipating. Mr. Edwin Powell, an English manufacturer and a party to the arbitration, makes the following truthful and forcible reply:

My opinion is that if there had been no protective tariff America would not have been in the same position to-day.

This is the whole story, and completes the doctrine of the protective system. This opinion is well worthy the careful consideration of the American statesman. It confirms all that has ever been claimed for the protective system. Our proud position to-day is due in great part—indeed I had almost said in most part—to the wise protection and the fostering care thrown around American manufactures and labor and enterprise by the early statesmen of this country and continued down to the present time. No other policy would ever have given us the advanced stage in manufactures that we enjoy to-day.

It will be seen from the testimony to which I have called your attention (and there is more of the same kind which I might present from this arbitration, for it is all printed and given to the public) that the policy of the manufacturers of Europe is to keep "the growth and the increase in the United States in check;" and it can be done, say they in their testimony, in one way only, and that is by a reduction of the tariff. The American Congress is to-day engaged in that, to the European trade, commendable work; and for what purpose? To keep the growth of manufactures in the United States in check and increase the board of trade returns in Europe. If we did not know better, Mr. Chairman, we would be justified in believing that we were in the British house of commons, legislating for British subjects, rather than charged with the high and sacred duty of making laws for the citizens of the United States, to protect them in their labor, their industries, and their investments.

Another significant fact is made apparent from the testimony to which I have called your attention, that since our American potteries have been established and have got some hold upon the trade of this country, graniteware has decreased in price from 30 to 35 per cent. Another fact which comes out in the testimony is that we pay to the workmen in this country in the same line of industry at least 50 per cent. more than the English manufacturers pay to their workmen. While upon this subject it is proper I should say that although the proposed bill upon its face reduces the duty only 5 per cent. upon common white graniteware, the old duty being 40 and the proposed duty being 35, and upon first examination would seem not to seriously operate upon this industry, yet upon a more careful examination it is found to be sufficient to very seriously cripple if not wholly destroy it in the United States.

I want to call your attention right here to the difference between the two rates of duty, the 40 per cent. under the present rate and the 35 per cent. as proposed by this bill; and I give you the average net price per package of this class of goods imported into this country, estimating two average assortments of best goods and one of second. The average net price is £6 6s. Under existing law what would be the duty? I give you the figures below:

UNDER PRESENT LAW.		£.	s.	d.
Net cost of goods.....		6	6	0
Add package.....		16	0	0
Inland freight and charges.....		10	0	0
		7	12	0
Add 2½ per cent. customs.....		3	9	
		7	15	9
Total value of goods.....		7	15	9
Duty 40 per cent.....		3	2	4
		10	18	3
UNDER PROPOSED BILL.		£.	s.	d.
Net cost of goods.....		6	6	0
Add 5 per cent.....		6	4	
		6	10	0
Duty 35 per cent.....		2	12	11
		8	22	11

Which is an absolute reduction of over 15 per cent. And yet they tell us that they have only reduced the duty 5 per cent. upon this class of goods.

The very meager profits now enjoyed by this trade and the great expenses to which they are still subjected by way of experiments and otherwise are enough, I am assured by the leading manufacturers of the country, to endanger this growing industry in the United States; and operators and operatives have united in a protest against this measure.

But this is not all. In the line of decorated wares they will be even more seriously affected than in the branch to which I have just called your attention. This is almost new in the pottery art in America, and may truly be said to be in its infancy. The proposed duty is 45 per cent. and the present duty is 50 per cent., and although the reduction is the same as on the former class of goods it will more seriously affect this special interest, because the latter has not reached that degree of perfection which the former has attained.

This class of ware is exciting great interest among potters, and the United States trade is commanding special consideration, as will be seen by an article which I have clipped from the Pottery and Glass Trades Review of January, 1878, an English publication:

During the past month good shipments have been made for America, and orders from that country are now coming in very freely. * * * There seems to be a growing taste for more artistic pottery than they have formerly had, and no doubt if our own manufacturers only lay themselves open to meet this demand they may yet show a considerable increase in the board of trade returns.

In the same publication I find a significant fact for the encouragement of the English manufacturer: that the duty on this class of goods is to be reduced by Mr. Wood's tariff bill.

Now the question which the American Congress is required to settle is, shall we concede to the demands of the British manufacturers and producers, to the injury of our own, or will we continue to throw a reasonable protection around our own industries, and thus develop the material interests of the country? I have given you the testimony of the English manufacturer; let me now present the statement of our own. I quote from the report of the United States Pottery Association for January, 1877:

The trade of the United States is of more value to England, France, and Germany than all the rest of the world combined.

Under our present tariff (though not in proportion to the difference of the labor values of the rival countries, Europe and America) they cannot crush us, as they are striving hard to do. In fact they are fast losing their hold upon the market of the United States, just in proportion to the increased home production. It is evident, however, that they do not propose to lose this market without an effort commensurate with the object to be attained.

They do not disguise the fact that they are prepared, with sufficient money, to buy up newspapers and fill the country, when the proper time arrives, from Maine to California, with free-trade lecturers and pamphlets. But we have faith in the sound common sense of the people of this country. We do not believe that they are going to be deceived by the catch word, "free trade," and to their own detriment alter their tariff to suit the foreigner, thus sending their money abroad to buy that which they will have to pay double price for the moment home competition is taken off. Let the tariff be kept where it is for fifteen years longer, until our clay beds, our spar and quartz quarries become developed and properly prepared for our use, and we add to the last fifteen years fifteen more years of experience in the use and combination of our materials, we will then, with the introduction of what machinery will have been developed, bid them get this market if they can, tariff or no tariff.

We feel safe in making the prediction that, if our tariff remains as it is, long before the expiration of fifteen years the people of this country will buy both china-ware and earthenware, plain and decorated, at less than half the price they paid for it previous to the present tariff—say from 1855 to 1860; and, further, that the development of an art industry will spring out of it, rivaling the most coveted and noted productions of Europe and Asia.

But it is said, Mr. Chairman, that our present system is an obstruction to foreign trade, while the fact stands out before us, so bidding us read, that our foreign trade has uniformly increased under the tariff policy, and always when the tariff policy has been withdrawn our foreign trade has invariably diminished.

Why, sir, we are increasing in our foreign trade to-day, with all the disadvantages we now experience and all the distresses that have swept over this country for the past five years. To-day our imports and exports are increasing, and in support of this I quote from the late report of the Secretary of the Treasury, issued 1st April, 1878:

Imports and exports.	1877.	1878.
Imports, (twelve months ending February 28).....	\$420, 199, 831	\$475, 638, 634
Exports, (twelve months ending February 28).....	603, 631, 538	637, 757, 892

I also invite your attention to the following extract and table, which I take from Mr. Bigelow's excellent work upon the tariff policy:

The foreign trade of Russia and of the United States increased during the past ten years, under the policy of protection, in a greater ratio than that of Great Britain under the policy of free trade; and also, in a greater ratio than that of France, which the English claim as a free-trade ally.

The following comparative table shows the percentage of increase (in round numbers) in the imports and the exports of merchandise of each of the countries just mentioned during the ten years ending 1875; the mean amount of trade in 1866 and 1867 and the mean amount of trade in 1874 and 1875 being taken as the basis of computation:

Countries compared.	Increase in imports.	Increase in exports.
	Per cent.	Per cent.
Russia.....	101	81
United States.....	33	74
Great Britain.....	30	25
France.....	13	16

Those who are accustomed so inconsiderately and flippantly to denounce our tariff as prohibitory and destructive of commerce would do well to ponder these facts.

The statement shows that, in the ten years ending 1875, in Russia and the United States, countries that throw around their industries and manufactures reasonable protection, the imports in the former country increased 104 per cent. and the exports 81 per cent., while in the United States there was an increase of imports 33 per cent. and of exports 72 per cent. On the other hand, in Great Britain the imports only increased 30 per cent. and the exports 25 per cent., and in France the increase in imports was but 13 per cent. and in exports but 16 per cent.

Mr. Chairman, a wise tariff protects American industries and manufactures, while it does not destroy foreign competition. Prohibition is no part of the American system. It builds no wall about commerce and trade, shutting out the great world from us; it does not exclude foreign importation; it prevents monopolies from absorbing the wealth of this nation, while it encourages growth and enterprise among our own people. I have said that it encourages enterprise; it opens our mines; it erects our machine-shops, our furnaces, and factories; it enlarges our cities and builds up villages.

It adds to the material wealth of the nation. It enhances the value of real estate. More than that, it gives to the farmer a ready market for the products of his farm. It brings a market almost to his very door. It imparts value to many articles which he raises which otherwise would be of little or no value; articles which it would not pay to ship to a distant market have ready sale at home. It does more than this: it furnishes employment to the laborer and subsistence to the poor, and all the while is adding to the nation's wealth.

General Jackson sounds the alarm of the present proposition in the bold words which he addresses in a letter to Dr. Coleman, of Virginia. He says:

In short, sir, we have been too long subject to the policy of British merchants. It is time we became a little more Americanized, and instead of feeding the paupers and laborers of Europe, feed our own, or else in a short time by continuing our present policy we shall be paupers ourselves. It is therefore my opinion that a careful tariff is much wanted to pay our national debt and afford us the means of that defense within ourselves on which the safety and liberty of our country depend; and last, though not least, give a proper distribution to our labor, which must prove beneficial to the happiness, independence and wealth of the community.

Mr. Chairman, if in that early day a careful tariff was needed with which to pay the national debt, how much more pressing is that necessity to-day with over two thousand millions of debt hanging over the American nation. And if a careful tariff was needed then for the proper distribution of the labor of the country and to prevent pauperism, how much more overshadowing is that necessity now with thousands of men out of employment and tramping the land searching for work!

And, Mr. Chairman, Henry Clay is no less emphatic. In the United States Senate, February 12, 1832, he delivered a speech from which I now read:

The fall of that policy, [the tariff], sir, would be productive of consequences calamitous indeed. When I look to the variety of the interests involved, to the number of individuals interested, the amount of capital invested, the value of buildings erected, and the whole arrangement of the business for the prosecution of the various branches of the manufacturing arts which have sprung up under the fostering care of this Government, I cannot contemplate any evil equal to the sudden overthrow of all these interests. History can produce no parallel to the extent of the mischief which would be produced by such a disaster. The repeal of the edict of Nantes itself was nothing in comparison with it. That condemned to exile and brought to ruin a great number of persons. The most respectable portion of the population of France was condemned to exile and ruin by that measure. But in my opinion, sir, the sudden repeal of the tariff policy would bring ruin and destruction on the whole people of this country.

There is no evil, in my opinion, equal to the consequences which would result from such catastrophe.

Mr. Chairman, if contemplating in that early day the variety of interests involved, the number of individuals interested, the amount of capital invested, the value of buildings erected, the whole arrangement for the manufacturing art led the great whig statesman to draw such a picture of calamity and distress which must follow a change of the tariff policy, how much greater, how much wider and deeper that distress would be with all the conditions he has described increased and multiplied!

The founders of the Republic and its early statesmen comprehended this subject and understood that it was of the highest importance to give protection to American industry and American labor. The very second law of any kind that passed the Congress of the United States after the adoption of the Federal Constitution embodies the whole doctrine of the protective system in its first section, to wit:

Whereas it is necessary for the support of the Government, for the discharge of the debts of the United States, and the encouragement and protection of manufactures that duties be laid on goods and merchandise imported.

Revenue and protection are distinctly recognized. And if revenue was needed then to pay the obligations of the Government how greater that necessity now. If the necessity existed then for the encouragement and protection of our manufactures, what of the necessity upon us to-day, when these manufacturers, in the language of the distinguished gentleman from New York, "lie weakened and prostrated and sick almost unto death?"

The CHAIRMAN. The gentleman's time has expired.

Mr. TOWNSEND, of Ohio, and Mr. SAYLER moved that, by unanimous consent, the gentleman's time be extended.

There was no objection, and it was ordered accordingly.

Mr. MCKINLEY. I am greatly obliged to the gentleman and to the House for the courtesy shown in extending my time.

Mr. Chairman, we can only compete with foreign manufacturers

by being placed upon an absolute equality with them, and until that equality is reached free trade or, what is little better, tariff revision is simply impracticable and vicious. We have disadvantages in the United States which can only be overcome by a wise discrimination in favor of American and against foreign manufactures.

It may be asked, what disadvantages does America labor under not common to other countries? And I answer that while we have natural advantages equal to any, skilled mechanics, improved machinery, and industrious labor comparable with the best, we lack the accumulated capital, long and well-established trade, and that other important species of capital which alone can come from experience.

Again, we pay higher wages to the labor that enters into the manufactured article. We pay a higher rate of interest for the money used in the manufacturing business of this country. Ay, more than that, there is an inequality in the shape of local taxation which in many of our manufacturing towns is very, very onerous to bear.

No man or party would be bold enough to advocate the reduction of labor as a naked proposition, but rather its increase. But, Mr. Chairman, behind this bill, underneath its provisions, as I shall attempt to show you later, is inevitable reduction of the price of labor all over the country. The price of labor to-day is inadequate to the necessities of the laboring-men, and the workmen of the country are patiently accepting the inevitable in the hope of relief and better times in the very near future. And while I would rejoice at the reduction of the rate of interest for the use of money and the decrease of local taxation, I must protest against this or any other measure which looks to the scaling down of the wages of labor, although it might enable us to compete more advantageously with the foreign manufacture or to accept free trade wholly.

The rich stores of American manufactures exhibited at the centennial exhibition at Philadelphia, rivaling the exhibits of all nations, commanded the admiration of the civilized world and was the constant wonder of the foreigner. They exceeded his expectations, and the frequent inquiry was, "What has accomplished all this advance in a single century of the Republic," and the whole answer is contained in this statement: "Chiefly in consequence of the protection afforded manufacturers by the tariff."

The bill means reduced wages to operatives. It means the closest, sharpest, competition among manufacturers at home with manufacturers abroad. It means the closest economy of the price in the article produced. And the very first step taken in the direction of economy on the part of the manufacturer is to reduce the wages he pays to his laborer; not because he loves, to do it, but because the exigencies of his business demand it. That has always been so, and the present and future will be no exception to the past.

Why, we can even see this tendency underlying the great speech of the chairman of the Committee of Ways and Means made on Tuesday last. He uses this language:

The total exports of iron and the manufactures of iron for the fiscal year 1877 was \$8,089,540, thus showing that the apprehension arising from the competition of foreign mechanics with American workmen has now little force.

And as further showing that such apprehension is without foundation he states that—

It was put in evidence before the Committee of Ways and Means, by Mr. Roach, the celebrated American iron-ship builder, that he readily obtained workmen in Pennsylvania from fifty to sixty cents per day.

Mr. Chairman, I grant you if workmen can be obtained readily at from fifty to sixty cents a day there need be no serious apprehension arising from competition of foreign manufacturers. But if this be true, is it to remain so? Is it to continue? Is the present low price of labor, arising from causes not connected with the tariff, to be taken advantage of to inaugurate a system which will still further depress labor? The argument of the gentleman from New York, showing our ability to compete with foreign workmen and foreign manufacturers, is based upon the presumption that from fifty to sixty cents a day is what the workmen are receiving in this country, and that it is to continue. We do not want fifty-cent labor, even though it might enable us to adopt what the gentleman from New York is pleased to term "political economies purely American."

He then quotes approvingly Mr. Isaac Southerin Bell, member of Parliament, the English judge at the centennial exposition in Philadelphia, on his report upon the iron interest of the United States, in which he declares that "the increased value of labor in the United States has unduly added to the cost of iron and the demands from certain sections of the workman are now acting adversely to the true interests of the trade," which means that labor is too high; that the price of labor in the United States has unduly added to the cost of iron, and is now acting adversely to the true interests of trade.

The distinguished gentleman from New York, [Mr. HEWITT,] in his report on the production of iron and steel in its economic and social relations, as commissioner to the Paris exposition in 1867, puts the case in its true light. This was eleven years ago, but the same principle exists to-day:

We have seen that the cost of making iron in England, Belgium, and France at the present time varies from £6 10s. to £8 per ton, and £1 additional suffices to pay its cost of transportation to the seaboard of the United States. At these parts American iron cannot possibly be delivered at less cost than \$60 per ton in gold against \$40 in gold for the foreign article, and the entire difference consists in the higher wages and not the larger quantity of labor required for its production in the United States where the physical, mental, and moral condition of the working classes occupy a totally different standard from their European confreres and where the wages cannot be reduced without violating our sense of the just demands of human nature.

Reduce the tariff, and labor is the first to suffer. The difference between the present and the proposed rate of duty must be made up somewhere, must be compensated in some way. As always has been the case, when economy in production is to be studied, the manufacturer looks to his pay-roll of labor and commences there first. In the language of the gentleman from New York, [Mr. HEWITT,] "the difference is in the higher wages paid," and that difference must be removed; the tariff must be maintained, or the manufacturers must be destroyed.

I cite further authority upon this subject, and I read the following extract from a pamphlet issued by the American Iron and Steel Association on the 12th of February, 1878:

Protection will always be necessary if we would pay our skilled and unskilled workmen higher wages than are paid in the Old World. Protection is largely, although not wholly, a question of wages. Free trade ignores the welfare of the workmen, and therefore does not concern itself with their wages except to reduce them. If our people were content to receive the wages that are paid abroad, if they were willing to accept the scant comforts and squalid surroundings of European workmen and their families, it is possible that protection might be abandoned and our manufactures still live; but they will not be content with such rewards for their labor, nor would it be for the best interests of society and the nation that they should be. * * * A reduction of duties at this time would not only still further reduce the wages of labor, but would cause the stoppage of industrial establishments in every State of the Union, thus increasing the distress and the jealousy of workmen toward employers, which it should be the object of all wise legislation to mitigate.

I have here a comparative table of the price of labor at the ship-yards in Scotland and in America in January, 1878. I take it from a little book published by a very intelligent gentleman, Mr. Codman, which he entitles *Free Ships, the Restoration of the American Carrying Trade*, issued in 1878. This I am assured will serve as a fair comparison of the prices paid in the United States and in Great Britain in other branches of industry, although not by any means conclusive. The table is as follows:

Comparative table of prices of labor per day of ten hours in Scotland and the United States.

Branches of industry.	Scotland.	United States.
<i>Ship-yards.</i>		
Carpenters.....	\$1 40	\$2 36
Joiners.....	1 45	2 48
Blacksmiths.....	1 30	2 18
Platers.....	1 30	2 25
Riveters.....	1 15	2 07
Laborers.....	75	1 31
Angle-iron smiths.....	1 25	4 89
Riggers.....	1 35	2 03
Hammer-men.....	85	1 91
Holders-up.....	85	1 51
<i>Engine and boiler works.</i>		
Smiths.....	1 39	1 35
Hammer-men.....	85	1 91
Angle-iron smiths.....	1 30	1 91
Boiler-platers.....	1 41	2 25
Riveters and calkers.....	1 25	2 07
Holders-up.....	94	1 51
Iron-turners.....	1 29	2 25
Iron-finishers.....	1 20	2 48
Engine fitters and erectors.....	1 23	2 47
Planing machinists.....	1 13	2 25
Shaping machinists.....	1 03	2 25
Slotting machinists.....	1 06	2 25
Pattern-makers.....	1 51	2 70
Carpenters.....	1 40	2 36
Joiners.....	1 10	2 70
Engine-drivers.....	91	2 25
Laborers.....	80	1 31

Mr. Codman is a strong advocate of free ships, and uses this table for the purpose of showing that owing to the difference of the prices of labor ships cannot be built equally cheap and well in this country as abroad. He presents the real arguments of the free-trader honestly and without guile, as will be seen from the following extracts which I now read:

Now, although the figures given in the table ought to be convincing at a glance, it is easy for any one with an ordinary knowledge of arithmetic to make a close calculation of the labor difference in cost of British and American steamships of the same quality.

Naturally in this line of argument, I shall be met by the oft-repeated question: "Do you then advocate the reduction of the wages of our mechanics to the level of 'pauper labor' in Scotland?" * * * I maintain that in the particular industry of ship owning, so long as the necessity for higher wages is imposed upon us, we ought to avail ourselves of any labor 'pauper' or otherwise.

This is the whole doctrine of free trade and of tariff reform. We might as well understand the question now and here. It is a question of the price of labor, or of whether in several branches of industry we shall have any labor at all.

Mr. Chairman, self-preservation is the first law of nature, as it is and should be of nations. The general welfare is of paramount importance, and any measure which does not keep this steadily in view, which does not foster and encourage American labor and American industry, is in opposition to the great law of life, and subversive of the principles upon which governments are established. We want to be independent in that broad and comprehensive sense, strong within ourselves, self-supporting and self-sustaining in all things.

It is our duty and we ought to protect as sacredly and assuredly

the labor and the industry of the United States as we would protect her honor from taint or her territory from invasion. We ought to take care of our own nation and her industries first. We ought to produce for ourselves as far as practicable, and then send as much abroad as is possible, the more the better. If our friends abroad think this position illiberal they have only to bring their capital and energy to this country, and then they will share with us equally in all things.

This was the policy of England all through the early years of her history, only tenfold more rigorous. Down to 1842 her tariff amounted to absolute prohibition, and it was only when capital had accumulated, vast industries were built up, and well-established trade was secured, that she sought other markets. With skilled mechanics, with improved machinery, with accumulated capital, and with cheap labor she believed herself able to supply the markets of the world and defy competition. Then free trade was conceived as the true and only policy, and all nations were invited to embrace this new and catholic theory of so-called political reform.

The United States did not embrace this new theory, and England is to-day seriously considering the question of abandoning free trade. The manufacturers and laboring-men of that country are discussing it, willing to flee from that which promised them increased wages and greater comforts, but which has brought them neither.

What possible pretext can there be for such legislation at this time? Not in the interest of consumers surely, for goods were never cheaper as a whole. No one is complaining of exorbitant prices. Do you sigh for a better or cheaper iron than that manufactured in the United States, or is American steel held at an unreasonable and exorbitant price? Never have their cost been lower to the consumer than now, and never their quality so good. The steel rail of American manufacture is sold at half less than what iron rails cost less than six years ago. Prices are generally down and the demand of the times is for better prices. No American interest is appealing for this experiment in legislation. The iron and steel producers do not want it, the wool-grower is not asking for it, the workingman and farmer do not desire it. Who does want it?

I listened attentively to the carefully considered speech of the gentleman from New York, [Mr. WOOD,] waiting to hear of some American interest which was demanding this new legislation, and at last I was rewarded for my patience. He sent a letter to the Clerk's desk to be read from Messrs. Worthington & Co., of Jackson, Michigan, manufacturers of agricultural implements, who declared themselves in favor of the bill, and that they were able to import steel to this country, manufacture it into agricultural implements, and send it back again at a profit. This was a strange statement and entirely inexplicable until the distinguished gentleman from Michigan, [Mr. CONGER,] always on the alert, stated to the House that this firm, which was well known to him, did their work with the convict labor of Michigan at thirty-two cents a day. No other statement was needed. This was the only interest in the whole country over, which the gentleman published as satisfied with the proposed change. Comment is unnecessary, for when we commence to employ convict labor I will concede free trade is practicable.

If the oft-repeated argument be true that the duty falls upon the consumer, then I ask the Committee of Ways and Means upon what principle of fairness or equity have they increased the duty on sugar, the necessity of the poor man's table, and decreased it upon silks and satins, which go to make up the elegant apparel of the rich? Or why increase the duty on other staples of the poor man's household and decrease it upon velvets, which are only accessible to the wealthy and which the independent classes alone can buy?

Again, this committee have imposed a duty of 20 cents a bushel upon wheat and they have suffered wheat ground into flour to come into this country free: an unjust discrimination against every flour manufacturer in the land. Again, they have under their bill suffered cloths, manufactured cloths, to come into this country at 50 per cent. ad valorem; and in that same bill they allow the cloths made into clothing for wearing-apparel to come in for 45 per cent. duty; a discrimination against every manufacturer of clothing, every tailor, every sewing-woman the country over.

They have reduced the duty upon scrap-iron, wrought and cast; and what will be the result? Why it will throw thousands of men out of employment and will wholly destroy the profession of the puddlers of the land.

The bill in some cases protects the raw material, while the manufactured article is practically free of duty or largely reduced.

Why should rye, oats, and Indian corn be dutiable, and buckwheat, buckwheat flour, bran, mill-feed, &c., be on the free list?

Is the duty on rye flour for revenue or protection?

During the fiscal year ended June 30, 1877, the duty on rye flour yielded a revenue of 45 cents.

And so with a number of articles to which I might call your attention. They have destroyed the entire classification of wools. They suffer non-competing and competing wools to come in at the same rate of duty. They have broken down the more reasonable classifications which have been approved by the wool-grower and accepted by the trade, and now they are all to come in at the same rate, whether we grow the wool in this country or not.

Mr. Chairman, the proposed bill is a piece of patchwork and abounds in inconsistencies. It is an attempt to conciliate two schools of political science and pleases neither. It has marched out into the broad field of compromise and come back with a few supporters, it is true,

who were opposed to the original bill as reported. It is neither free trade, nor tariff reform, nor protective tariff. It has none of the virtues of either, but the glaring faults of all systems. It is an attempt to change a law which does not improve the old one. It is an experiment opposed by all experience. It introduces uncertainty into the business of this country when certainty is essential to its life. I cannot better characterize it than by quoting the language of the distinguished gentleman from New York [Mr. Wood] in speaking of a tariff bill pending in June, 1864, in this House. Speaking of that bill (and his words seem prophetic as applied to his own) he said: "The committee has given us a bill which I regard as an exceedingly crude and improper measure;" and that is what the country has already said of the pending bill, and it is what I believe will be the verdict of this House when a vote is reached.

What the country wants above all else at this critical period is rest—rest from legislation, safety and security as to its basis of business, certainty as to the resources of the Government, immunity from legislative tinkering. None of these are afforded by the present bill.

Mr. Chairman, much discussion has been had at this session touching the maintenance of the national credit, in all of which I most heartily concur. The national credit is of paramount importance, and nothing should be done to tarnish or impair it, nothing omitted to strengthen and improve it. But will the Congress of the United States be reminded that in no way can you more surely maintain the national credit than by assiduously maintaining the great industries of the country which for the most part constitute the nation's wealth.

There can be no permanent credit which is not based upon the labor, the capital, and the wealth of the nation. Destroy the latter, and at the same moment the former is destroyed. The bill before us impairs the revenues pledged to the Government creditor and endangers the material interests of the country. Beware lest in your effort to pattern after the English policy you do not at the same time sap the foundations and destroy the true source of all national credit. National credit is inseparably associated with national growth and prosperity, and if you touch the latter with an unfriendly hand, you will seriously injure the former.

There probably never was a period in the history of this country when business was more paralyzed and labor so depressed as the present. I need not pause to discuss the cause, (it is not the result of our policy, for free-trade England is no better,) the fact stands forth bidding us see and read that trade is everywhere languishing and willing hands can find nothing to do.

The demands for labor have been decreasing under the pinching times of the last five years, and manufactories, even with the present protection, have been fighting against the business revulsions which have swept over the country since 1873; and now that daylight is gleaming and improvement seems at hand, Congress sounds the alarm that protection is to be withdrawn, that another shock is coming, that the currents of business are to be turned aside and the existing basis of trade destroyed, and the whole business world is alarmed. And we are told that this is wise legislation, based upon sound principle.

Mr. Chairman, there never was a time in the history of this country more inauspicious than the present for the dreamer and the theorist to put into practical operation his impracticable theories of political science. The country does not want them; the business men of the country do not want them. They want quiet to recuperate their wasted forces; and I am sure I utter no sentiment new or original when I say that if this House will promptly pass the appropriation bills and other pressing legislation, following this with an immediate adjournment, the people will applaud such a course as the work of statesmen and the wisdom of men of affairs.

Summary statement by schedules of the amount of duty received from the articles enumerated in House bill No. 4106, reported by the Committee of Ways and Means, March 26, 1878, that entered into consumption in the United States during the fiscal year ended June 30, 1877, and the estimated amount of duty by the proposed bill, with the increase and decrease of each schedule.

Schedule.	Class or group.	Amount of duty.		Increase.	Decrease.
		Received in 1877.	Estimated. (New rates.)		
A	Cotton and cotton goods	\$6,554,610 59	\$4,553,359 63	.....	\$2,001,460 96
B	Earthenware and earthenware	3,511,506 40	3,031,563 73	.....	479,942 67
C	Hemp, jute, &c.	6,520,500 57	3,551,090 53	.....	969,440 04
D	Liquors	3,848,641 71	4,378,350 90	\$529,709 19	.....
E	Metals	6,560,366 64	6,302,442 95	.....	257,923 69
F	Provisions	2,930,062 33	2,952,794 81	2,732 48	.....
G	Sugars	37,086,992 23	41,245,988 67	4,158,996 44	.....
H	Silk and silk goods	12,758,799 03	9,744,516 17	.....	3,014,282 86
I	Spices	771,351 70	1,324,356 49	556,205 79	.....
J	Tobacco	4,364,143 22	4,395,934 66	31,791 44	.....
K	Wood	864,419 02	577,056 37	.....	287,362 65
L	Woolen goods, wool	30,177,607 18	14,450,247 30	.....	3,718,359 88
M	Sundries	17,055,775 80	18,298,247 65	1,243,471 85	.....
		125,024,985 72	118,819,148 76	6,205,836 96	.....

Total duty received in 1877	\$128,223,207 41
Total duty received in 1877, as above	125,024,985 72
Total duty not provided for in new bill	3,198,221 69
Duty received as per above schedules in 1877	\$125,024,985 72
Duty estimated as per above schedules	118,819,148 76

Decrease of 6,205,836 96

Total decrease from receipts of 1877 9,404,058 65

Mr. BRIDGES. Mr. Chairman, it is indeed unfortunate, if not deplorable, that at this time, in view of the distressed condition of the country, we are called upon to discuss one of the most difficult questions and to solve one of the deepest problems ever submitted to an American Congress. It has hitherto strained to the utmost tension the talents of the noblest statesmen that ever graced our legislative halls, whose giant intellects were unable satisfactorily to grapple with the momentous question now presented for our consideration. I mean the American tariff. So diversified are the interests of our people that it has hitherto been impossible, and it will now be utterly impossible to legislate satisfactorily to all; consequently great dissatisfaction and injury to many interests to a very considerable extent will be the result. This is much to be regretted, as every interest should be fairly protected and proper and sufficient safeguards should be thrown around them, and the inventive and manufacturing genius of the country fully protected and amply rewarded. And it is most unfortunate at this time especially, when the country is so completely demoralized, business depressed, and thousands of our people are thrown out of employment and are nearly starving for the want of the common necessities of life, that any attempt should be made to disturb the present tariff, under which our country has hitherto prospered, and would to-day prosper, had it not been recently smitten by the greatest panic ever experienced by the people. It tends to and does unsettle business, locks up capital that would otherwise be employed in some, perhaps, mechanical enterprise, and entails an incalculable loss upon the nation. And who is it that has started this crusade against the present tariff? Not those who have invested their money in building up and sustaining our manufacturing and mechanical interests, not fair-minded and honorable business men, not manufacturers or laboring-men, not our merchant importers of foreign goods, but the greedy agents of British exporters who are striving to monopolize foreign trade, and seeking to undersell our own importers. Especially is it to open a market here for the sale of English iron, for which the English manufacturer has no home market for his surplus production, and to recover the losses sustained in the iron trade during the years 1866 and 1867, which amount to many millions of pounds. And this in the face of the fact of losses having occurred in our own country during the same periods of many millions of dollars. And it is to the iron interest, one of the greatest, if not quite the greatest industry of the country, and one in which my constituents are more particularly interested, that I shall direct the largest portion of my remarks. An interest which sprang up early in Pennsylvania, to which State more than any other one in the Union the country is indebted for the production of an article of indispensable necessity, and which has contributed more than any other one to the greatness and glory of the nation. When iron was wanted, Pennsylvania was looked to for it. And notwithstanding that different changes in tariffs from 1789 to 1873 have variously affected her interests, yet she has kept on in her grand march of benefiting by her productions every portion of the country. By this she has given employment to thousands of laborers and sent contentment and happiness to many a home. And it is a most notable fact, established by the history of the country, that all other interests have invariably been in sympathy with the iron interest, so that when it went down all other interests went down with it. And such has been the employment of so great an army of laborers that, notwithstanding its agricultural wealth and the productiveness of its soil, instead of being an exporting grain State, it now imports a very large portion of the grain now used within its limits.

By this not only her own farmers have been benefited, but others beyond her boundaries. And incalculable have been the benefits resulting from this great industry. And now, in utter disregard of all she has done in more than the last half century for the good and aggrandizement of our country, a hand is raised ready to strike a blow that will lay her quivering in the dust, and perhaps blast her prospects forever. And who is it that has raised this threatening hand? Not the masses of the people, not the laboring-man, not the farmer, not the mechanic, but the heartless speculator who uses other men's productions in the acquisition of wealth. Few are the petitions, if any, that have come up here from the people praying for a revision of the tariff. And as their Representatives we should regard this fact as of great importance; it should guide us in our action here and urge us to resort to all honorable means to defeat the bill. Not only did Pennsylvania do much good for the country in the manufacture of iron by the old charcoal process, but has successfully established the fact that iron can be made with anthracite coal, a problem at one time difficult of solution. And I take pride in saying that the credit of the discovery belongs to the county of Lehigh, where I reside. And what has been the result? A market has been opened in the Lehigh Valley for the consumption of millions of tons of coal taken from the bosom of poor and barren lands, which before were not worth the taxes charged upon them, by which has been opened a mining interest which has given employment to thousands of labor-

ing-men, and built up towns and villages which appear like diamonds in a desert, where without it nothing but the deep silence of nature would prevail. And the wants of these people of the common necessities of life had to be supplied, thereby contributing immensely to the benefit of other sections of the Union. For material for their cotton goods they look to the South, for the material for their woolen goods they look to the West, and for a transition of these materials into fabrics principally to the East. And such is the rapidity of transportation that one day woolen and cotton may be growing in the West and South, the next in the manufactories of New England, the third the fabrics made from them in the shops of the iron and mining districts of Pennsylvania, and the fourth will see in return iron or machinery manufactured there speeding its way back. And this great system of interchange is founded upon national laws, established for the reciprocal benefit of different portions of the country.

By this wise arrangement the privileges and benefits of one section are balanced by the privileges and benefits of another, so that no one section can monopolize and possess all. And by this providential arrangement each section enjoys the privileges and benefits originally intended for it, so that the great machinery of nature shall move on in harmony, scattering its blessings to all within its reach. And in obedience to these laws has not our country grown and prospered far beyond the expectations of our enemies, and in one short century advanced far beyond what no other nation on the face of the earth has ever done before in the same period of time? Does not America now stand at the head of nations after so brief an existence? Can any nation boast of being its superior in the general intelligence and inventive genius of its people and in many of the mechanic arts? Did she not take a proud stand at the recent centennial exposition in Philadelphia in the exhibition of her manufactures, and caused the representatives of old and foreign nations to acknowledge our superiority in many of them? And did not that exposition open the door for the exportation of cutlery and other things to Europe? Why, it is a fact that a small triangular file manufactured in Providence, Rhode Island, took a premium for being the best article of the kind manufactured in the world, and is now sent to England, even to Sheffield, as such. And a foreigner was so much pleased with our cutlery that he alone has shipped in the last year two hundred and fifty tons of it to the same city of Sheffield, put the trade-marks of Sheffield upon it, and sold it for Sheffield cutlery. And wagons for burden exhibited on that occasion, made in my own district, so far attracted the attention of foreigners that they are now made and shipped to Australia. Now, these manufacturers do not to my knowledge ask for a reduction of the tariff on iron and steel. They are satisfied with their profits or they would abandon their business.

Nor do we hear any complaints from those engaged in the manufacture of other articles of which iron and steel form the whole or the component parts thereof. No wall comes up from those quarters. Whence, then, does the cry for a reduced tariff and free trade come? May we not justly suppose that it comes from our commercial cities, the great entrepôts of foreign goods, and particularly from British agents who reside there? But those cities are not the whole of the United States, nor the whole of the forty millions of people embraced within its limits, who have a deep interest in the matter. For the general welfare of these people every member of this House is called upon to legislate. Nothing is so detrimental and ruinous to a State or nation as class or special legislation, by which special privileges are granted to a few to the exclusion of the many. As nothing can be more dangerous to the existence of a free government than centralization of power, so nothing can be more injurious to the great body of a people than centralization of privilege. Universality of privilege and universality of right give permanence and stability to any nation. If they are wanting, that nation will become crippled and fall.

But to come more immediately to the object which I have in view, I will state that when the eloquent and distinguished gentleman from New York commenced his address introductory to the general discussion of the bill which he had introduced, I expected to hear some strong and convincing arguments adduced in its favor. I expected to hear a fair practical statement made of the general relation which the present bill bears to the situation of the country and the country's needs, if any, and the general benefits which would result from its passage. Very probably a want of time and the extensive subject prevented it.

The gentleman's reference to a few articles, the duties upon which he thought might with propriety be reduced, was very proper, but he omitted one important particular, which was to show us where we could get the money to buy them. It will not do, sir, to reduce duties upon the one hand without showing on the other corresponding advantages equal to the advantages which existed prior to the reduction, and that we are as well able to purchase an article after the reduction as before. If that is not done it works a manifest injury to the people. To tell a man that he can purchase an article very cheap, much cheaper than before, because the duty upon it has been reduced, will that be any consolation to him when he can turn around and say "Yes, but I could have made the article myself, but by the reduction of the duty upon it you have ruined my business and I have no money to buy it at any price? Instead of being paid for my labor you have paid foreign laborers, and now I must abandon my business and seek a living in some other way or starve." He goes to his home, closes his place

of business where once was light, activity, and thrift, but now shrouded in darkness and gloom. This would be a one-sided and damaging legislation which ought never to be sanctioned by this House. We are not sent here to ruin, but to build up the country by the encouragement of every branch of industry. We are not here to depress labor but to hold it up, and to give it the importance to which it is entitled as the great producing power of wealth. Who has built up our country but the laborer, mechanical or otherwise? Who has built railroads, furnaces, rolling-mills, and machine-shops but the laborer? Yet how little do we legislate for his good. He is literally forgotten, when his welfare should be our first and greatest care.

I have before referred, sir, to the effect which the iron interest in Eastern Pennsylvania, especially in the Lehigh Valley, has had upon the anthracite-coal interest in that section. The following is a report which I have received from the very able superintendent of the Lehigh Valley Railroad, which can be relied upon as authentic. It is a statement of the anthracite-coal tonnage over the road to the furnaces and rolling-mills in the Lehigh for the past six years, to wit:

For the year—	Tons.	For the year—	Tons.
1872	698, 275	1876	402, 080
1873	653, 552	1877	463, 613
1874	530, 823		
1875	439, 939	Total	3, 188, 282

But this does not embrace the coal tonnage of another railroad running through the same valley on the eastern side of the Lehigh River. And it will be noticed that the least amount of tonnage was in 1876, when, on account of the great depression in business many furnaces and rolling-mills were closed. Thus we see what amount of coal the iron interest in that section alone has drawn from the bowels of the earth, which otherwise would have remained within it. And from this we can form some estimate of what it has cost to mine it and the thousands of miners who, with their families, have been supported by it. And now shall this mighty business be stopped or in any way checked, and especially upon the dangerous plea that free trade will benefit us?

Why, sir, the doctrine of free trade is an old English doctrine and is fast dying out. France, Spain, Germany, and Russia will not touch it. And what has it done for Ireland? Quoting from the supplement to the Bulletin of the American Iron and Steel Association of Philadelphia, of January 26, 1878, I will let Major O'Gorman, member of Parliament from Waterford, speak. He says:

What has filled our Irish work-houses? I will tell you. Before free trade was passed by an English Parliament how did things stand? Why the four-pound loaf was 3d.; but we were told that if we had free trade we should have a loaf at half the same figure, if we did not get it for nothing. But have you observed as I have done that the four-pound loaf has risen from 3d. to 4d., 5d., yes, even 8d. under free trade? If that is free trade for Ireland, the back of my hand to it. I will tell you. It has turned all our red ground into grass, from which to rear cattle to feed the accursed English fellows who have trampled upon Ireland, and who would do it now, but with the help of God we won't let them. What has free trade done more than this? I'll tell you. It has turned the poor of our country into these horrible, miserable houses. The poor have been driven into the work-houses because there is nothing to be seen but grass, a state of things that has been brought about by the laws of the infernal country which governs us; laws which if carried out would allow our poor Irish people being thrown after death into a hole, just as you would throw a dog into a ditch. But I say if you as Irishmen countenance such a thing it will not be natural, it will not be Irish.

Thus speaks one of England's subjects and a member of her own Parliament, and doubtless speaks from the record. A beautiful picture, indeed, for free-traders to contemplate. But may a merciful Providence protect us from having such a picture drawn in our own land.

Not only this, but from the same paper I quote an extract from Blackwood's English (tory) Magazine:

At this moment, especially more than at any other epoch in our history, it is essential that new markets should be found for our manufactures. With strikes at home, increasing the cost of labor and its products, and competition and protective tariffs abroad even in our colonies, the once unlimited field for our industries is rapidly narrowing to an alarming extent. The United States demand for our goods has diminished nearly 50 per cent. within the last few years. Russia and China both adopt a policy the effect of which is to close Central and Eastern Asia to our trade. India is even giving signs of commencing a race of competition by native looms. Free trade is as abhorrent to Spain as it is to Russia or the United States, and nowhere is in the ascendant to whichever quarter we turn. It maintains a losing fight with protection in France and Germany, while it is repudiated utterly by our own offspring and descendants, with few exceptions of no great importance.

This is corroborative of what I have before said in relation to the countries named, and of the dying out of the obnoxious doctrine of free trade in England.

But the supporters of the present bill will not admit that they are in favor of free trade. But the passage of it will be one step in that direction, and, as I will show before I conclude, the bill itself contains the most undoubted evidence of it. History teaches us that no people are deprived of their liberty and their rights at once. It is by sly and stealthy advances that it is accomplished. Pass the present bill and the next year another one will be introduced to reduce the duties upon foreign imports still lower, and so on from one step to another, until the doctrine of free trade has finally fastened itself upon the country. Now, are the American people prepared for such an event? Are they willing to turn their laboring-men adrift without employment and at last without bread, and support foreign laborers? Are they

willing to see their furnaces, rolling-mills, factories, and work-shops closed and the hum of business no longer heard in the land? If so, let us pass this bill, and next year another, and yet another, and their wishes will be fully gratified. No, sir, this must not be. Such a suicidal policy cannot and will not be sanctioned by an intelligent people who have the least regard for their prosperity and welfare. They will not hastily abandon the great sources of wealth which a beneficent Providence has placed in their hands, but will use them for their own benefit and the permanence and stability of the government under which they live.

The gentleman from New York who introduced the bill seems to think that it will do little injury to the iron interests of the country. In reference to pig-iron especially he dwells upon the supposed fact that there has been a slight increase of it in 1877 over 1876 and that our exportations of 1877 have exceeded the exportations of 1876. As to the former he does not seem to consider that since the panic of 1873 the iron interest has been on the decline and sales were checked up to 1876, when many furnaces went out of blast with a heavy stock on hand. In Pennsylvania alone in that year there were but 113 furnaces in blast and 166 out of blast; this embraces both anthracite and charcoal furnaces. In 1877 there were 131 furnaces in blast and 147 out of blast. This increase of the number of furnaces in blast in 1877 over 1876 was the result of necessity, for, while in 1876 it was found necessary to blow out furnaces, from the fact that there were lying upon the banks a large quantity of iron with no market for it, in 1877 it became necessary to start them again to escape the injury that would accrue to them by lying idle, self-protection being the ruling motive for this instead of profit; so that the increased number of working furnaces with their products added to what was manufactured in 1876 and undisposed of would naturally increase the aggregate number of tons in 1877 over the stock of 1876. And I may here add that to do this some furnaces were compelled to borrow large sums of money upon mortgage bonds or preferred stock; and when corporations or companies are forced to resort to loans to carry on their business, in a great many instances the common stock is sunk, and furnaces at this time are making very little if any money; nor will they as long as they are compelled to sell No. 1 iron for \$18 to \$18.50 a ton, No. 2 for \$17 to \$17.50, No. 3 for \$16 to \$16.50, and white-mottled at \$15 to \$15.50 a ton. At these prices, if they can escape losses at the end of the year, it is all they expect to do. Now, the present bill proposes to reduce the present duty of \$7 a ton to \$5, making a difference of \$2, which, if it could be realized as profit on every ton of iron manufactured, would be at this time a great boon to manufacturers.

Now, in England iron can be made much cheaper than in this country. There an operative can rent a comfortable house for \$15 a year and purchase a suit of clothes for \$7, while other expenses of living are in the same proportion. With such cheapness of living we cannot compete with England, and in this respect it has greatly the advantage of us.

Now, if the iron interest is crushed, what portions of the country will it affect beyond the parties directly interested in it? The East will suffer in the manufacture of woolen and cotton fabrics, in consequence of a necessarily decreased population in the iron regions. The hum of the spindle and the rattle of the loom will be in a measure stopped. The South will be affected, because the market for its cotton will be lessened. The wool-grower of the West will feel it and the western farmer will suffer by it. Why? Because of a reduced population to need them. Foreign operatives, for want of employment here, are returning to their native countries. Indeed the tide of emigration from is greater than the tide of immigration to our shores, and the number of consumers thereby greatly lessened. Especially does it behoove the western farmer to look well to the future. He will not always have as favorable a foreign market for his grain as he now has, for India is becoming a powerful competitor in the production and shipment of grain to England and other countries. And the time may not be far distant when he will be compelled to depend upon home consumption of his products; and when that time arrives he will wish that his Representative in Congress had opposed the tariff bill of 1878. Not only this, but if the great iron interest of the country is to be stricken down, where will he get his agricultural implements to cultivate his soil? Farmer of the West, you have a mighty interest at stake. The time of your prosperity may soon come to an end. The value of your lands may soon become depreciated and your homes imperiled.

Sir, if we strike down the iron interest we shall strike at the very heart of the nation from which flows its life-blood. Without this interest where should we be? It is this great interest that has given activity and life to our people. Indeed it is the great foundation stone upon which our country rests, and the parent of all enterprises. Without it whence would come our railroads, rolling-mills, our machinery, and everything of which it is the whole or a component part thereof? We might possibly live without it, but we should eke out a miserable existence.

There is another feature in the bill which is particularly objectionable and should especially arrest the attention of the people. It is the incorporation of the ad valorem principle into the bill. It is but another term for free trade, and opens the widest door for the commission of fraud and perjury and the cheating of the Treasury of its revenues.

The gentleman in his address stated that there were free and duti-

able articles mentioned in the bill to the number of twenty-one hundred and seventy-two:

The number paying ad valorem rates	223
Number paying specific rates	541
Number paying compound rates	160
Number free of duty	648
Total	2,172

Now, while the gentleman and others who favor the bill will hesitate to admit that they are in favor of free trade, yet the incorporation of the ad valorem principle into the bill is positive evidence that they are. On this question I will let Dr. William Elder, in his "Questions of the Day," speak. He says:

The ad valorem rule, with its universality of range, has no place in the policy of protection. To admit it in the assessment of duties is to sweep away the whole doctrine of protection. Free traders are its consistent advocates. To give it any influence whatever in our reasonings upon protection is to confound and vitiate the whole process. The enemy have sown their tares in our field while we slept, and must not be allowed to reproach us with the faults of the harvest. Previous to 1846 ad valorem were not tolerated in our tariffs wherever they could be avoided, and when protection, true and earnest, was restored in 1861 specific duties were restored, not extensively enough indeed, but with a resolute purpose to avoid the departures from principle in fixing the rates and the ever-absent frauds of the ad valorem system—frauds by which the industry of the country is cheated of its defenses and the Treasury of its revenues, and all honest importers are discounted disastrously by their unscrupulous rivals in trade. They offer a premium to fraud; they falsify invoices; they pay for perjury in the custom-house; they make smuggling a policy of trade, and demoralize the whole merchant class by discouraging and fining truth heavily. They are every way fitted, in purpose and practice, for defeating protection, and are accordingly a prime principle of free trade. England, having respect only to her revenues and fair play among her own importers, counts ad valorem from her list of import duties. When she was deriving £30,000,000 from customs she took but one quarter of a million in ad valorem, and such were these inherent and inseparable frauds that Parliament appointed a committee to rid the customs schedules of every possible vestige of them. This committee indicated its object and intention by charging artificial flowers by the cube feet in the box containing them, overlooking all differences of values to escape the frauds of undervaluation. Not a government on earth that knows what it is about gives them any toleration, and especially those which intend protection repudiate them just as they do free trade in any other disguise.

This is language that cannot be and ought not to be misunderstood. Upon examining the bill I find many articles are to pay duties upon ad valorem principles so decidedly condemned by the foregoing quotation. If specific duties were laid upon all foreign articles except such as may properly be placed on the free list, it would be more advantageous to the Treasury. Opposition to the ad valorem rates is not of recent origin, but had its opposers many years ago among some of the most distinguished men of the nation.

When the law of 1846 was under consideration in the Senate Mr. Buchanan, of Pennsylvania, said:

I am not only opposed to any uniform scale of ad valorem but to any and all ad valorem duties whatever, except where from the nature of the article imported it is not possible to subject it to a specific duty. Our own severe experience has taught us a lesson on this subject which we ought not soon to forget. I cannot refrain from adverting to some of my reasons for this opinion. Our ad valorem system has produced great frauds on the revenue while it has driven the regular American merchant from the business of importing and placed it almost exclusively in the hands of the agents of the British manufacturers. The American importer produces his invoice to the collector, containing the actual price at which the imports were purchased abroad, and he pays the fair and regular duty on this invoice. Not so the British agent. The foreign manufacturer in his invoice reduces the price of the articles which he intends to import into our country to the lowest possible standard which he thinks will enable them to pass through the custom-house without being seized for fraud, and the business has been hitherto managed with so much ingenuity as generally to escape detection. The consequence is that the British agent passes the goods of his employer through the custom-house on the payment of a much lower duty than the fair American merchant is compelled to pay. In this manner he is undersold in the market by the foreigner, and thus driven from the competition while the public revenue is fraudulently reduced.

Mr. Webster also, at the same time and on the same occasion, said:

The principle of this bill is to collect all duties and customs by a universal ad valorem assessment; not an equal assessment, it is true, but still a system of ad valorem duties. Now, that has not been the practice of the Government at any time since its organization. In every administration from that of Washington down a contrary system has prevailed, and the desire of those who have successfully formed and administered the laws in this respect has been uniformly to carry the principles of specific duties as far and as fast as circumstances allowed.

Now, sir, these sentiments apply with peculiar force to us at this time, and indicate clearly the course we should pursue in relation to the present bill. A duty is sternly laid upon us to act like men and do justice to the country. The eyes of over forty millions of people are upon us, and their voices are coming up here in almost tones of thunder praying for relief from the anxieties caused by the introduction of this bill and the prospective troubles its passage will bring upon them, and in the most beseeching manner asking us to pause and let them alone. And shall we not heed their supplications? Shall we persist in a course calculated to do them an injury without any occasion for it? Shall we not rather yield to the tender words which they with such emphasis utter, "Let us alone?" And, sir, we should let them alone.

The gentleman in his address referred to the present tariff laws, and I was much surprised at the statement that showed that the free and dutiable articles amounted to 2,172.

Of these the number paying ad valorem rates were	223
Number paying specific rates	541
Number paying compound rates	160

Total dutiable articles	1,524
Number free of duty	648

Now, is not this a most alarming exhibit? It shows but 541 arti-

cles paying specific rates, a little less than one-fourth of the whole number.

To the number free of duty, 648, add the number paying ad valorem rates, 823 virtually on the free list, and we have 1,471, leaving but 701 articles paying specific and compound rates.

Sir, I am amazed at the statement; and how few of the American people are aware that we have already made such advances in adopting the principle of free trade. No wonder we are so often admonished that the revenue is decreasing and money to support the Government must be raised from other sources. This accounts for the project of taxing incomes to replenish the Treasury. And if a law should be passed for that purpose it would be one of the most unjust and iniquitous laws to be found upon our statute-book.

How the number of free and ad valorem articles in the present bill will compare with the foregoing statement I am not now prepared to say, but doubtless will be increased, thus taking another step toward free trade.

There are many objectionable features in the bill which I would like to refer to, but time will not permit.

I will therefore, in conclusion, say, let us send it to a comfortable repose, adjourn and go home, which will be the best thing we can do for the country.

Mr. EVANS, of Pennsylvania. Mr. Chairman, as another attack has been made on the industrial interests of the country, by a revision and reduction of the tariff, by the bill recently reported from the Committee of Ways and Means, and as the advocates of free trade throughout the land are endeavoring to impress the public mind with the idea that it is the soundest political economy to buy where we can buy the cheapest in the markets of the world, and that the policy of protection to industry by means of duties on imports is particularly inimical to the prosperity and the best interests of the American people, I think it becomes our duty as legislators to study well the effects of free trade and protection on the prosperity of nations before we consent to the passage of this bill.

When Mr. Chamberlain, at Birmingham, England, in addressing General Grant some two or three months ago, lauded the doctrine of free trade as having contributed to the greatness and glory of England, the general very properly replied that he seemed to remember that England had only arrived at that degree of prosperity by first establishing her manufactures under the principles and benefits of protection. That nation, when her manufacturers were in their infancy, took especial care to impose such duties upon all manufactures that were imported therein as to give to her people the preference in their own markets. She thus stimulated a competition among her own people; this competition awakened the ingenuity of her inventors to discover new methods whereby productions of industry might be cheapened, and she thereby became in time the great workshop of the world. Her statesmen were sagacious and farseeing, they were not troubled with impracticable theories of free trade to compete with her young and growing industries, and she fully realized the great fact that for a nation to be free it must be self-supporting and as independent as possible of other nations in the supply of its daily wants. When a nation is able to supply its own necessities and to sell a surplus of commodities the results of its industry it will become rich; but when it has to purchase more from other nations than it sells it will be getting poor. By the protection given to her manufacturers England thus became the competitor of all other nations. She was enabled to sell her goods to all peoples. To carry those goods it was necessary to have ships, and this demand for ships created a great ship-building industry and made for her a commerce marine greater than that of any other nation. To protect the commerce thus created she has built a navy that has no superior, and consequently her flag is found flying in every port of the civilized world. Indeed, and we ought to be ashamed to say it, three-fourths of the commerce that goes from our ports is carried under foreign flags, of which the greater number is that of Great Britain. By her manufactures and commerce so extensively carried everywhere, the wealth of nations is poured into her lap so extensively that her manufacturers and merchants have become princes in affluence, and the aggregation of capital has become so great that all reasonable undertakings can command the means of development at a far more limited rate of interest than with us. From her longer experience than ours, from her more abundant capital and lower rates of interest, combined with her low wages for labor, she still remains a formidable competitor. Therefore, with more slender resources than she possesses, it becomes necessary that our Congress should provide such countervailing legislation for our people as will at least place us on an equal footing with her and all other nations that may be more favored than we are.

England early understood the value of foreign markets for her manufactured articles, and was especially eager to increase them. Upon her colonies she bore a heavy hand, preventing them as long as she could from manufacturing for themselves and forcing upon them, as far as possible, the products of her industry. Under our colonial system, she restricted the establishment of manufactories. Iron mills for making iron plate and mills for slitting and rolling iron, and for other kinds of industry, now so common in our country, were prohibited by acts of Parliament, and Lord Chatham in parliamentary debate said "he would not have the Americans make a hobnail," while another lord added "that he would not allow them to

make a razor to shave their beards." It was this kind of restrictive and oppressive legislation, with other grievances of government, that led to the Revolution and the establishment of our Independence; and it is our true policy to maintain unimpaired that Independence in all things, commercial and political, that we have achieved. The men who created an independent nation out of a series of dependent colonies well understood the principles necessary to be crystallized by legislation in order to maintain that Independence; and it is worthy of note that the second act of the First Congress of the United States was enacted in the interest of protection. It is entitled "An act laying a duty on goods, wares, and merchandise imported into the United States." The object of the act is stated in the preamble of the first section, as follows:

Whereas it is necessary for the support of Government, for the discharge of the debts of the United States, and the encouragement and protection of manufactures, that duties be laid on goods, wares, and merchandise imported: *Be it enacted, &c.*

This act was approved by President Washington July 4, 1789; and in it was distinctly enunciated the doctrine of protection. For the benefit of the southern planter it imposed duties on sugars, molasses, snuff, and tobacco; to protect manufactures it placed duties on boots, shoes, leather, iron, wood, paper, clothing, and gold and silver ware; for the farmer, it charged duties on cider, malt, candles, cheese, soap, &c. And to encourage ship-building, it allowed a discount of 10 per cent. on such goods, wares, and merchandise as should be imported in vessels built in the United States, and which should be wholly the property of a citizen or citizens thereof. Here at the very beginning of our Government were the germs of that system of "encouragement and protection" to our infant manufactures and commerce which through successive administrations and until recently have been recognized, adopted, and maintained as what may be properly called the American system.

In reviewing the writings of revolutionary patriots and utterances of the earlier Presidents we cannot fail to be struck with the uniformity of their sentiments on this subject, and I desire here very briefly to call the attention of the House to a few extracts therefrom. They may not be new, but will serve to refresh our memories once more with the views of the founders of the Government.

Dr. Franklin, in writing to Humphrey Marshall, said:

Every manufacturer encouraged in our country makes part of a market for provisions within ourselves and saves so much money to the country, as must otherwise be exported to pay for the manufactures he supplies. Here in England it is well known and understood that wherever a manufacture is established which employs a number of hands it raises the value of land in the neighboring country all around it; partly by the greater demand near at hand for the produce of the land and partly from the plenty of money drawn by the manufacturers to that part of the country. It seems, therefore, the interest of all our farmers and owners of lands to encourage our young manufactures in preference to foreign ones imported among us from distant countries.

In his first annual message Washington says:

The advancement of agriculture, commerce, and manufacture by all proper means will not, I trust, need recommendation; but I cannot forbear intimating to you the expediency of giving effectual encouragement as well to the introduction of new and useful inventions from abroad as to the exertions of skill and science in producing them at home.

In his eighth annual message he again calls the attention of Congress to it, and says:

Congress have repeatedly, and not without success, directed their attention to the encouragement of manufactures. The object is of too much importance not to insure a continuance of their efforts in every way which shall appear eligible.

Following up the principles and policy of Washington, Jefferson in his second inaugural message says:

To cultivate peace and maintain commerce and navigation in all their lawful enterprises, to foster our fisheries as nurseries of navigation and for the nurture of man, and to protect the manufactures adapted to our circumstances, these, fellow-citizens, are the landmarks by which we are to guide ourselves in all our proceedings. By continuing to make these the rule of our action, we shall endeavor to our country the true principles of our Constitution and promote a union of sentiment and of action equally auspicious to our happiness and safety.

In these days of modern democracy, when free-traders denounce protective tariffs as unconstitutional, it is well to call their attention to the declaration of the author of the great Declaration and the father of the democratic party that the encouragement of protection to manufactures is one of the true principles of the Constitution, auspicious to our happiness and safety. Our experience has proved the wisdom of this declaration. President Madison, who had exerted such a conspicuous influence in the formation of the Constitution, in his special message to Congress in May, 1800, called the attention of Congress to the subject in the following words:

The revision of our commercial laws proper to adapt them to the arrangement which has taken place with Great Britain will doubtless engage the early attention of Congress. It will be worthy at the same time of their just and provident care to make such alterations in the laws as will more especially protect and foster the several branches of manufacture which has been recently instituted or extended by the laudable exertions of our citizens.

Madison seems to have been deeply impressed with the idea of the importance of protection, for he continues the subject in his special message of February, 1815, saying:

There is no subject that can enter with greater force and merit into the deliberations of Congress than a consideration of the means to preserve and promote the manufactures which have sprung into existence and attained an unparalleled maturity throughout the United States during the period of the European wars. This source of national independence and wealth I anxiously recommend, therefore, to the prompt and constant guardianship of Congress.

The principles of the revolutionary fathers as expressed in the fore-

going sentiments of Washington, Jefferson, and Madison were indorsed and fully adopted by Monroe. In his inaugural address he says:

Our manufactures will likewise require the systematic and fostering care of the Government. Possessing as we do all the raw materials, the fruit of our own soil and industry, we ought not to depend in the degree we have done on supplies from other countries.

In his sixth annual message he strikes at free trade in the following vigorous remarks:

Satisfied am I, whatever may be the abstract doctrine in favor of unrestricted commerce provided all other nations would concur in it and it was not liable to be interrupted by war, which has never occurred and cannot be expected, that there are other strong reasons applicable to our situation and relations with other countries which impose on us the obligation to cherish and sustain our manufactures.

Following in the same line of thought, the same principles were enunciated by John Quincy Adams in his fourth annual message, wherein he says:

The great interests of an agricultural, commercial, and manufacturing nation are so linked in union together that no permanent cause of prosperity to one of them can operate without extending its influence to the other. All these are alike under the protecting power of legislative authority, and the duties of the representative bodies are to conciliate them in harmony together.

In those days, as at the present time, the constitutionality of a protective tariff had been a matter of discussion and dispute, and General Jackson, in his second annual message in 1830, following up the doctrines which he had enunciated in his celebrated Coleman letter of 1824, upheld its constitutionality in the following words:

The object of the tariff is objected to by some as unconstitutional; and it is considered by almost all as defective in many of its parts. The power to impose duties on imports originally belonged to the several States. The right to adjust those duties with a view to the encouragement of domestic branches of industry is so completely incidental to that power that it is difficult to suppose the existence of the one without the other. The States have delegated their whole authority over imports to the General Government, without limitation or restriction, saving the very inconsiderable reservation relative to their inspection laws. This authority having passed thus entirely from the States, the right to exercise it for the purpose of protection does not exist in them; and consequently if it be not possessed by the General Government it must be extinct. Our political system would thus present the anomaly of a people stripped of the right to foster their own industry and to counteract the most selfish and destructive policy which might be adopted by foreign nations. This surely cannot be the case. This indispensable power thus surrendered by the States must be within the scope of the authority on the subject expressly delegated to Congress.

These extracts are important and valuable as showing the opinions of men who assisted in making the Constitution and of others who accepted the interpretation put upon it by its authors, and all of whom saw and felt the necessity of fostering, encouraging, and protecting the industry of our own people in preference to that of the people of other countries. The constitutionality of a protective tariff was scarcely ever thought of in the time of the first three Presidents, but when the question came up in the time of Jackson he most emphatically affirmed its constitutionality in the message of which I have just read a part. Indeed, when we come to think of the duties of a government, it is difficult to understand why there should be any question on the subject.

Governments are instituted by men for their own care and protection. They are formed to protect citizens in their rights, and to aid and encourage them in their industries and to guard and shield them from the adverse legislation of other nations. A government that should fail to perform this high duty and should permit the industry of its citizens to be at the mercy of the manufacturers of other nations, more favored by an abundance of cheap capital and low wages, is false to the great obligation imposed upon it of encouraging, protecting, and defending the industries of its people.

When the free-trader is driven from his argument that the tariff is unconstitutional by the testimony given by Jackson and earlier leaders of the democracy he appeals to the prejudices rather than the judgment of the people and endeavors to induce them to believe that all duties levied on goods imported are a tax, and necessarily enhance the price of the article imported. This argument is unsupported by the experience of the country. On the contrary, it has been conclusively shown that whenever our mechanics and manufacturers are placed upon an equal footing with the labor and capital of other nations, so as to give them an equal chance, by their ingenuity and skill they readily become capable of competing on equal terms in our own markets; nay, even in the markets of the world. This has been made manifest in so many ways that it is almost useless to repeat them. Most notably has this result occurred in our iron, cotton, and woolen manufactures. Under our protective tariffs, so called, the inventive genius of our people has been greatly stimulated, and new and improved machinery in those and all other branches of manufacture have cheapened the cost of production so much that almost every article that we can manufacture and which we used to purchase abroad can now be made and sold at home at cheaper rates than foreign countries imposed upon us when they had control of the markets.

Most prominently is this the case with the products of our iron manufactures. When Great Britain had the control of our market for railroad iron, she imposed what prices she pleased upon us, and sold us very indifferent rails at high figures. Before Bessemer steel was made in this country she charged us \$174 per ton for steel rails, equal to \$225 in currency; but after our manufacturers were sufficiently protected they went into the steel-rail manufacture, and are to-day manufacturing steel rails of excellent quality at \$43 per ton. It is true that the falling off of the demand and the reduction of

wages, caused by the hard times, have had something to do with the present low prices; but even before the panic, and while our Bessemer-steel manufacture was in its infancy, the price had fallen to \$95 per ton in 1871. If it were true that a duty upon railroad iron is a tax, as the free-traders declare, there is no class of persons who would feel the burden sooner or who would be more likely to resist it than the managers of railroads, as a very large proportion of their expenditures is for rails. Yet it is a well-known fact that the presidents of a very large number of railroads petitioned Congress, a year ago last month, not to take off the duty on railroad iron, but to increase it. They knew full well that protection had encouraged the railroad-iron industry here, that its encouragement had caused the creation and erection of rail mills, and that competition had reduced prices. They also knew that if the duties were taken off the country would be flooded with a cheaper and inferior iron that would tempt railroad companies to buy and thus drive the better American article out of the market, and that as soon as foreign manufacturers obtained the control of our market they would raise their prices and impose heavier burdens on the purchasers of iron and steel rails than they had ever borne before under a protective policy.

There are other branches of iron and steel industry that have wonderfully prospered under congressional encouragement. We formerly imported large numbers of saws from English manufacturers, but to-day Diston's manufactory at Philadelphia competes in the English market, with the best productions of the English artisans. The Rowlands of Cheltenham, Pennsylvania, send their shovels; and Myers & Ervien, of the same place, send their highly finished and superior steel forks and rakes to compete with the British shovel, fork, and rake in the markets of Brazil. I am informed by Mr. Ervien, of the firm of Myers & Ervien, that they have shipped since January 1, 1878, large quantities to England and Ireland, France, Germany, Prussia, and some to Russia. Mr. Ervien says we do not need protection on our manufactured goods, for home competition has brought the price down so low that we do not fear foreign competition; "but I am satisfied," says he, "that the protection to our steel manufacturers has enabled us to buy our steel 40 per cent. less than we ever could before the war, and before steel manufacture was protected in this country."

We manufacture fine cutlery and send it to Sheffield, the great seat of their cutlery manufacture. And Beatty & Douglas send their axes to Great Britain's Australian colonies to compete with the productions of the mother country there. In the matter of iron bridges we compete with English manufacturers in Canada; a firm of bridge-builders in Phenixville, in a district adjoining mine, after open competition with the world has obtained the contract for building one of the largest iron bridges in that Dominion. Until recently we have been importing Russia or polished sheet-iron, but now we have the establishments of Alan Wood & Co., at Pittsburgh and Conshohocken, in my district, where by the protection afforded and great skill in the mechanism, they manufacture polished iron, even superior to the Russian; and the Baldwin locomotive-works, at Philadelphia, send numbers of locomotives to foreign countries. All this was impossible when duties were low and our manufacturers were unprotected, for the reason that foreign manufacturers controlled our market at home, and thereby the markets of the world.

Mr. WARD. I would like to ask my colleague a question for information at this point in his remarks if he will yield.

The CHAIRMAN. Will the gentleman from Pennsylvania yield to his colleague?

Mr. EVANS, of Pennsylvania. I have no objection.

Mr. WARD. It is stated with frequency and considerable publicity that the proposed tariff bill now before the House has the approval of the iron and steel manufacturers of Pennsylvania. I would like to have the information of my colleague upon this point.

Mr. EVANS, of Pennsylvania. I know that such an assertion has been made. In reply I will send to the Clerk's desk a communication of the American Iron and Steel Association, which I desire to have read.

The Clerk read as follows:

OFFICE OF THE AMERICAN IRON AND STEEL ASSOCIATION.
No. 265 SOUTH FOURTH STREET,
Philadelphia, April 2, 1878.

The executive committee of the American Iron and Steel Association met to-day at the office in Philadelphia to consider the revised tariff bill, as reported to the House by Mr. Wood. Letters were read from a number of members, representing the manufacturers of Bessemer steel, crucible steel, pig-iron, and bar-iron, all of which, without exception, disapproved of the bill as a whole, although admitting that some of its details were not particularly objectionable. The writers of the letters strongly urged the association to take such action as would assist in defeating the bill.

After a free interchange of opinions by the members of the executive committee, it was unanimously

Resolved, That the association disapprove of the bill as a whole, and strenuously urge that all attempts to change the tariff laws at this session of Congress be at once abandoned.

The secretary was directed to inform all members of the association of this decision and to invite them to call upon their Representatives in Congress to use every proper means to secure the prompt suppression of unnecessary tariff agitation.

SAMUEL J. REEVES, President.

JAMES M. SWANK, Secretary.

Mr. EVANS, of Pennsylvania. Now, I desire to ask my colleague a question: Does he believe that if the tariff bill were altered to suit Pennsylvania interests it would be perfect, or that it would then command the support of the people of Pennsylvania?

Mr. WARD. I will endeavor to answer the questions of my colleague, and in a manner that I believe will have his indorsement and that of every other of my colleagues from Pennsylvania. I do not believe that the proposed measure can be perfected by molding its provisions to suit any one branch. I believe the "Wood tariff bill," if it shall become a law, will prove the cross upon which every manufacturing and mechanical productive industry of America will be crucified.

Again, I believe the principle of protection to American industry is innate and deep-rooted in the breasts of the people of Pennsylvania. They are not to be seduced from their principle by any bribe, however glittering or rich. They will be found in solid rank, not to be diverted by any selfish consideration presented to themselves. Should they to shoulder they will stand with the other States in the battle for the common defense, marching on to victory, I hope and believe; but if disaster should overtake us, Pennsylvania will be found hand in hand with her sisters wounded on the battle-field, overpowered, it may be, by superior numbers, but faithful to the last to her principle of protection. I ask my colleague whether this is not his sentiment also.

Mr. EVANS, of Pennsylvania. I agree with my colleague on that subject.

Mr. SAYLER. As a member of the Committee of Ways and Means, I would like to suggest to the two gentlemen from Pennsylvania that the iron schedule of this tariff bill is not objected to by the representative tariff men of their State, but, on the contrary, is in the bill upon representations made by a delegation of quite as intelligent gentlemen as any who could possibly represent the iron interest of that State.

Mr. WARD. I will only say, in reply to the gentleman from Ohio, [Mr. SAYLER,] that the Iron and Steel Association is certainly the best-informed representative of those peculiar interests that we know in the State of Pennsylvania—probably better informed than any other association in the country.

Mr. SAYLER. I would like to say to the gentleman from Pennsylvania that I represent probably as much iron as anybody; and when he makes the broad statement that the schedule proposed in this bill is destructive of the iron interests of the country he makes a statement that is not justified by the opinion of the most intelligent men engaged in that business.

Mr. WARD. The position of my colleague and myself is sustained by the leading association of that business, as exemplified in the statement which my colleague has had read by the Clerk.

Mr. EVANS, of Pennsylvania. In reply to the gentleman from Ohio, I will say that the schedule referred to is certainly objectionable to the laboring interests, at least so far as the associations have been heard from; and it is likewise objected to by all the iron manufacturers with whom I have conversed.

As it is in the iron so it is in the cotton and woolen industries. The consul-general at London has recently given our Government information that quite a trade in American cotton goods has been started in England, and that millions of dollars' worth are annually sold there despite the cheap manufactures of Manchester. Agricultural implements also are extensively sold in England and her colonies. We sent within the last year, of agricultural implements, to England the value of \$406,595, and to all the world \$1,997,998. England is our great rival in cotton-goods manufacture, and until lately flooded our markets with her cheap cotton fabrics, but in the fiscal year ending June 30, 1877, we furnished her with 18,789,299 yards of manufactured cottons worth \$1,884,145, and selling them at the very doors of her great factories. The whole amount of our cotton fabrics exported in 1877 was worth \$8,921,354. England prides herself on her edge-tools and cutlery, yet we sent her one hundred and eighty-six thousand eight hundred and forty-nine dollars' worth of those. She boasts of her splendid farms and rich pastures, yet we supplied her with cheese to the value of \$12,403,284, and sent cheese to all the world valued at \$12,729,615.

The ingenuity of our inventors supplied her with Yankee clocks worth \$516,643 and to all countries to the value of \$1,025,586. I mention these matters to show that under our present protective policy we have been able by the ingenuity of our workmen and manufacturers to compete to a certain extent in the markets of the world with our great rival and also to sell within her own borders the same kinds of goods with which she formerly furnished us. Whoever has the curiosity to turn to the reports of the Bureau of Statistics on our "commercial relations" can see in detail the wonderful progress of our manufactures, and that they are obtaining a market gradually in every corner of the habitable globe. With such a showing and with American products offered for sale in the streets of Liverpool, Birmingham, Sheffield, and Manchester it is not to be wondered at that British statesmen begin to inquire, how it is that such results are produced. They are beginning to open their eyes to the fallacies of free-trade doctrine and to see that there is some virtue in the doctrine of protection to home industry.

Lord Bateman, a member of the house of lords, has had a glimpse of the truth and has written a letter to the London Times on the subject. He speaks of the distress in all branches of trade in his country, and while declaring that a free and unrestricted commerce with all the world is bold and magnanimous, yet that after many years' trial the efforts of British statesmen have not been able to induce many nations to engage in it, and that they prefer as far as possible

to encourage their own industries, Lord Bateman has the sagacity to see that while England professedly and in most things opens her ports to the nations of the world but few of them follow her example, and he makes the inquiry whether "a return to a limited protection so far from being impossible or undesirable is not the true and simple solution of our present difficulties, which will tend in a more simple and natural way than any other to retrieve our losses, increase our revenue, lighten our burdens, bring peace, contentment, and employment to our working classes, and teach them and us to bless the day which restored the old policy and the old watchword of 'Protection to native British industry.'" Here is an abandonment of the doctrine of the free-trade British political economists and an acknowledgment of the beneficial influence of a protective policy. It is an acknowledgment that in his opinion the encouragement of home industry so repeatedly urged by our great statesmen of the past is the true pathway to the prosperity of the masses of the people, and refutes the allegation that protective duties on articles that a community can make or produce raises the prices of such productions.

It is a favorite argument among free-traders that a protective tariff tends to prevent exports. This is another fallacy that is refuted by all our experience. It matters not to other nations whether our tariff be high or low; if we have commodities that they want they will buy them, and as practical economists they will not buy more than they want. When they are under the necessity of going abroad for any commodities they will go where they can get them the cheapest, and if by the skill of our manufacturers and workmen we can afford them on better terms than other nations they will purchase of us, notwithstanding our duties upon their productions may be higher than is agreeable to them. Under our present policy the balance of trade is steadily increasing in our favor.

Our total imports in 1875 were	\$533,906,000
Our total exports, gold values, 1875	685,574,000

Balance in favor of the United States	51,668,000
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Deducting specie exported, the balance was against us	19,583,000
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Our total imports were, for 1876	476,677,000
Our total exports, gold values, 1876	506,890,000

Balance in favor of United States	130,213,000
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Deducting specie exported, the balance in our favor was	79,644,000
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For the fiscal year 1877 I find the Secretary of the Treasury reports as follows:

The coin values for the last fiscal year, as appear from returns made to and compiled by the Bureau of Statistics, are as follows:

Exports of domestic merchandise	\$589,670,234
Exports of foreign merchandise	13,804,996

Imports	602,475,230
Balance	451,321,136

Balance	151,152,094
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For the fiscal year 1876 there was an excess of exports over imports of	79,643,481
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Exports of specie and bullion	56,163,237
Imports of specie and bullion	49,744,414

Excess of exports of specie, &c., over imports	15,387,823
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Total excess of exports of merchandise and precious metals over imports	166,539,917
If we deduct the specie exported	15,387,823

The balance in favor of merchandise exported is	151,152,094
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For the fiscal year 1877 the imports of merchandise, coin, and bullion were	461,818,499
The exports of merchandise, coin, and bullion were	647,021,104

Leaving the balance of trade in our favor	185,202,605
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Thus showing very conclusively, under the present protective policy of the nation, a steadily increasing balance of trade in our favor.

The foreign trade of the United States during the past ten years has increased in a greater ratio than that of Great Britain under the policy of free trade. The increase of exports of the United States in that time is 72 per cent. The increase of exports of Great Britain for the same length of time is 25 per cent.

While it is desirable to increase our export trade by the development of our internal resources, we must not attempt to increase it at the expense of our home demand; and we must guard with a jealous eye every effort made to wrest any part of the home market from us. We must not forget the important fact that over 90 per cent. in value of our manufactured and agricultural productions are consumed in our own country.

An effort has been made to induce the farmer to believe that a protective tariff is a tax on his industry. Nothing is more absurd than this; probably there is no industry more benefited by protection than that of agriculture. The prosperity of a nation is most rapidly advanced when beneficial laws encourage the greatest variety of industry. A country that is devoted to a single article of production must buy all other commodities elsewhere, and is consequently very much at the mercy of those from whom she is obliged to purchase; but where a nation has within itself all, or the greater part, of those things which it needs, it gives employment to a greater variety of minds, and affords the enjoyments of life to a greater number of people.

ple. Therefore a varied industry is the most profitable for a nation. By the encouragement of iron, woolen, cotton, leather, glass, paper, and other manufactures, these industries put in motion all others from which they must draw the raw materials for their manufacture, and they in addition set to work all those who furnish them with food and raiment.

Each furnace, forge, rolling-mill, and cotton or woolen or other manufactory affords a market for the products of the labor of the tailor, the shoemaker, the butcher, the baker, and other mechanical trades. It raises up around it a little town, whose inhabitants furnish to the adjacent farmer a market for his products which he did not find before. Without protection to the manufacturer thousands and thousands of men who are now engaged in mechanical pursuits and are consumers of agricultural products would be driven into the ranks of producers and would thereby come in direct competition with the farmer. Wherever the factory and the mill are in active operation the agriculturist is especially benefited. Within my memory the towns of Norristown, Pottstown, and Conshohocken, Pennsylvania, were but villages. Protection to the iron, woolen, and other industries has raised them to flourishing towns, with good markets for the neighboring farmer. Lands contiguous to them within a comparatively recent period could have been bought for from seventy-five to one hundred dollars per acre. They can now be sold for from two to three hundred dollars per acre, according to their proximity to these towns. In addition to the home market afforded the farmer, the ingenuity of our mechanics, encouraged by protection, has given him such increased facilities of planting and gathering his crops at a cheap rate by improved agricultural machinery that he is now enabled to compete in foreign markets with the cheap breadstuffs of Europe.

The evidence of this is to be found in the fact that in 1875, after our people had been fed, we were enabled to sell to foreign consumers one hundred and eleven million dollars' worth of breadstuffs; in 1876 the amount of breadstuffs exported was one hundred and thirty million dollars' worth, and for the year ending December 31, 1877, we sold of the same one hundred and forty million dollars' worth. The southern agriculturist also found a good market for his products; his cotton exported in 1875 was worth \$190,000,000; and in 1876, \$192,000,000—a rich harvest for his industry. All these facts go to show that the free traders' theory, that protective tariffs tend to discourage exports, is a fallacy; for in our whole history, if I remember aright, we have not been able to show such an extensive range of exports as we have been able to make within the last few years.

But of all classes of citizens the operatives and mechanics of our mills and various manufactures are most interested in a policy that will give their labor a preference over the labor of similar classes of workmen abroad. None, therefore, are more interested in the policy of protection than the workingmen.

If we compare the wages of the operatives in leading industries in free-trade England with similar industries in protectionist America we will find the result greatly in favor of the latter, and it will also show at the same time what competition we have to encounter.

In Dr. Edward Young's valuable and interesting work entitled "Labor in Europe and America," I find the following schedules of wages paid to similar operatives in England and the United States:

Statement of weekly wages in rolling-mills, 1874.

Workmen.	Pennsylvania.	Middleborough, England.
Puddlers.....	\$21 15	\$10 50
Top and bottom rollers.....	27 50	6 05
Rail-mill rollers.....	40 00	21 05
Merchant-mill rollers.....	36 83	12 10
Machinists.....	15 56	8 59
Engineers.....	15 24	8 47
Laborers.....	8 58	4 65
Blacksmiths.....	13 49	6 00
Iron-molders.....	14 00	6 77
Pattern-makers.....	14 69	7 01

Statement of weekly wages in ship-building, 1874.

Workmen.	Camp & Sons, Philadelphia.	John Elder & Co., Glasgow, Scotland.
Machinists, best.....	\$18 00	\$7 50
Machinists, ordinary.....	13 00	6 70
Pattern-makers.....	16 50	7 72
Engine-fitters.....	16 00	6 18
Blacksmiths.....	16 50	7 26
Riveters and calkers.....	13 50	2 00
Fitters.....	17 00	1 18
Labprers.....	9 00	4 10
Carters.....	10 00	5 80

Statement of weekly wages in cotton-works.

Workmen.	Pennsylvania.	Manchester, England.
Carding:		
Overseer.....	\$15 25	\$10 25
Drawing-frame tenders.....	4 20	2 16
Speeder tenders.....	4 72	3 14
Grinders.....	7 25	2 22
Strippers.....	7 92	2 22
Spinning:		
Overseer.....	15 25	14 25

Statement of weekly wages in woolen-mills.

Workmen.	General average of the woolen-mills of the United States.	Dewsbury, England.
Wool-sorters.....	\$10 94	\$6 29
Wool-washers.....	8 21	4 36
Dyers.....	10 50	5 06
Spinners.....	8 85	3 36
Warpers and beamers.....	8 81	5 06
Weavers.....	7 41	4 84
Barbers.....	4 94	2 96
Dressers, or giggers.....	8 11	4 84
Press-tenders.....	8 91	5 32

The same difference will be found to exist in other classes of mechanical labor. I regret that we have no later table, as there have been considerable reductions made since 1874 in both countries, but from what I can learn the relative proportion is much the same as the above. From this it will be seen that the American mechanic receives nearly 100 per cent. more for his industry than the English mechanic.

With the higher rates of wages and double the rate of interest for capital paid by the American manufacturer, it is not difficult to comprehend that we cannot compete with foreign manufacturers without adequate protection.

If, then, a policy should be inaugurated that would admit foreign productions made under the cheap capital of foreign manufacturers and the starvation wages of their operatives, it would have a powerful tendency to close almost entirely our industrial establishments and the workmen therein would be required to work at less wages in other employments. To work for lower wages would curtail their home comforts; to be driven from their employment would require them to seek new and unfamiliar employments elsewhere. Mechanical industry by such erroneous policy would be crippled or prostrate and would be driven into agriculture, where it would have to contend with an occupation thus already crippled by the loss of the home market that the great industrial works afforded, and its workmen would become competitors in a business that they did not understand; the result of which, of course, would be want and suffering.

On the other hand, however, protection to the manufacturer secures the home market to him and good wages to the operative and mechanic; it means a comfortable home for himself and family, well furnished with all the comforts and conveniences of life; it provides good clothing and books and newspapers for his wife and children, with schools and churches and lectures and all other necessities and enjoyments that render their situation in life pleasant, agreeable, and happy. In short, it secures general prosperity, while free trade brings poverty and adversity.

But this comfortable condition of things always existing under protection when our country is in its normal, healthy condition, now, however, greatly disturbed by the hard times following the late rebellion which involved us in such a heavy debt, is to be still further disturbed by this infamous tariff bill reported by the Ways and Means Committee. If this bill should become a law, it would have a most depressing effect on all the industries of the nation, and change the whole business relations of our people with one another and with foreign powers. It reduces the duties on imports at least 25 per cent. on a large number of articles, and admits at low rates those commodities with which we have the sharpest competition. It would act most injuriously on prominent industries of the State which I have the honor in part to represent, and would greatly cripple the operations of some of my immediate constituents. The interests of Pennsylvania demand that she should be allowed a fair opportunity to compete with the cheaper labor and capital of other nations, and to give employment again to hundreds of her now idle operatives; but the bill would defer that opportunity for an indefinite time. A severe blow is struck at her great, but already depressed, iron interests.

The duty on pig-iron is reduced from \$7 to \$5, a reduction of nearly 29 per cent., on wrought scrap from \$8 to \$6, and on cast scrap from

\$6 to \$4 per ton, a reduction of from 25 to 33 per cent. This would let in all the old rails and castings of foreign countries at almost a nominal duty, which would operate disastrously on the manufacturer of pig-iron.

The duty on common sheet-iron is reduced from 1½ cents to 1¼ cents per pound, a reduction of over 23 per cent.

In reference to this particular branch of the iron industry, Hon. John Wood, a former member of this House, from my district, who is a manufacturer and a gentleman of large experience, says:

Any greater reduction than ½ cent per pound would certainly ruin the business in this country. There has been much difficulty in keeping the mills running the past year, and the most favorably located, with the best management, have only run at serious losses. The passage of this bill, I fear, will cause the utter destruction of this branch of the iron trade, and throw out of employment thousands of deserving workmen whose wages are now down to the lowest living point.

Polished sheet-iron which under a duty of 3 cents per pound had become the rival of the best Russia iron, is to be compelled to compete with the Russian under a duty of 2½ cents per pound. This together with the allowances claimed as damages from rust which does not occur will be sufficient perhaps to drive the American manufacture out of the market.

Under the present duty of a cent and a quarter per pound, our steel rail manufacturers reduced the price of rails more than 50 per cent. Now their efforts are to be crippled by a 40 per cent. reduction of the present duty.

Bar-iron, boiler, plate, and other manufactures of iron will suffer a reduction of 15 to 30 per cent. on the present protection.

Our country is studded with woolen manufactories on which hundreds of thousands of operatives depend for their subsistence. They make all kinds of fabrics into which wool enters as a component part. Our cloths, shawls, blankets, flannels, and dress-goods vie with foreign manufactures in their neatness of finish and durability, brought to their present perfection by the preference afforded by the present tariff.

Hon. George Bullock, of the Conshohocken and Norristown Mills, Pennsylvania, says:

The rate proposed on wool is 35 per cent. ad valorem, and on woolen cloths and on all manufactures of wool of every description 50 per cent. ad valorem. This I cannot complain of, and might be made worse, but on page 26, line 631, clothing ready made and wearing apparel of every description, 45 per cent. ad valorem. This section is all wrong, and if it should pass will close up every woolen mill in this country. Under the present tariff it pays 45 cents per pound and 36 per cent. ad valorem. No one will import woolen goods to pay 50 per cent. when clothing can be imported at 45 per cent. All the clothing business of this country will be carried on in Canada, along the line where they can get all material free and then make it up into clothing and undervalue the same, and ship it to New York. Thousands and tens of thousands of poor seamstresses will be thrown out of employment in America. Again, on page 35, lines 847, 848, 849: Hatters' wool, solely for hatters' use, 30 per cent., which is 15 per cent. below duty proposed on clothing wool. All manufacturers can use hatter's wool, and why legislate for one particular branch against another? The bill is a fraud, and the woolen interests of this country would prefer free trade to this tariff.

Our carpets, rivaling the best Saxony, Brussels, Axminster, and others, have the protection of specific duties with an additional ad valorem, but the present bill abolishes the specific duties and only imposes ad valorem; so the manufacturer knows not what competition he may have to meet. New England from her sterile soil and bleak climate cannot draw sufficient supplies to maintain her population. She relies upon her manufactures for her prosperity, much of it arising from her cotton productions. A severe blow is struck at her interests in the bill. On her finer cottons, whether bleached or unbleached, she must operate under a reduction of duty of 20 to 25 per cent., and a still greater reduction on her jeans, denims, drillings, tickings, ginghams, and goods of like description. Her manufacturers are suffering for want of a greater market sufficiently now, but when the reduced duty shall flood us with the cheap productions of England their works may be closed altogether. The Northern and Northwestern States that are engaged in the lumber trade are also struck at in the committee's bill.

On sawed boards, planks, deals, and other lumber, &c., fifty cents per thousand feet, reduced from \$1 per thousand feet. All other varieties of sawed lumber \$1 per thousand feet, reduced from \$2 per thousand feet. These reductions are 50 per cent. from the former duties, while on hubs, wagon-blocks, stove-pickets, pailing-laths, shingles, clap-boards, &c., the duty is cut down 33 per cent. This reduction will give to the Canadian lumbermen an additional opportunity to compete with our hardy sons of toil engaged in lumbering, and enable them to further fill our markets with the products of their industry in exclusion to our own. Leather and its productions form a most important item of our home industry; yet on the band and belting leather, sole-leather, calf-skins, and upper leather of all kinds there is a reduction of duty ranging from 20 to 50 per cent., according to kind, and a heavy reduction on the manufacture of Morocco.

It has been the policy of this Government to build up a prosperous commercial marine. With this view we have jealously protected the coasting trade and have not permitted foreigners to enter into competition with our citizens. It has been the nursery of our seamen, whose fearless daring in times of foreign war and domestic rebellion has been highly efficient toward maintaining the honor of the flag abroad and securing peace at home.

In connection with the preservation of the coasting trade, as well as trade with foreign countries, we have secured to our own ship-builders the construction of our naval vessels and our merchant ships

until under the genius and skill of our shipwrights we are able to launch from our ship-yards as swift and well-proportioned vessels as are afloat in any sea. The object of the free-traders, as is shown by the bill as first introduced into the House, was evidently to destroy our ship-building interests for the purpose of promoting free trade. It proposed to permit foreign-built vessels, when bought by American citizens, to be "entitled to registry, enrollment and license, or license, and to all the benefits and privileges of vessels of the United States." Or, in other words, to close our ship-yards, throw our ship-carpenters out of employment, and transfer our ship-building to the Clyde. Had Mr. Wood been able to retain this section in the bill, it would have crippled and most probably destroyed the magnificent ship-yards of John Roach and the Cramps on the Delaware, where some of the finest vessels of our Navy and our commercial marine have been built, and throw on the world unemployed the thousands of workmen now dependent on those great establishments for their bread. The value of such an establishment as that of John Roach is visible in the fact that from 1872 to 1877, inclusive, it paid \$7,000,000 for ship-building materials and \$7,269,000 for the wages of labor. By the operation of this section of the bill we would make ourselves dependent on foreign countries for our ships, and if war should ensue with the power that constructed our vessels, we would have no ship-yards in which to build vessels of offense and defense, or commerce, nor in which they could even go for repair.

It is true this section has been stricken from the original bill, but let me warn my friends that it has not been abandoned. The Nation, a New York weekly of acknowledged authority, says:

The clause admitting foreign-built vessels to the privileges of the American flag has been stricken out, but the question is sure to come up again, and deserves to be treated by itself, while the tariff is too pressing a matter to be exposed to the danger of failure by connecting it with a measure not clearly within its scope.

We are told by the friends of the bill that the reductions are merely nominal and cannot materially affect the manufacturing and business interests of the country. If this be true, why have the British free-trade journals expressed such a lively interest in the bill? A correspondent of the Birmingham Post, writing from New York, says:

On a careful comparison of the two tariffs it will probably be found that the new bill will allow the revival of export of several articles against which the present rates have for some years closed this market.

The Iron and Coal Traders' Review, of Middleborough, says:

The new tariff bill introduced into the United States Legislature has set the manufacturers in arms, and for a very good reason, and they are leaving no stone unturned to defeat the proposals of the committee.

The London Iron-Monger says Sheffield is again picking up its trade with the United States, and if that market be not entirely closed to us with the heavy tariff which now prevails there will assuredly be a good prospect opened if the new tariff be accepted.

In another number, speaking of the bill, the same paper says:

The effect which it would have upon some of the Sheffield trades, for instance, would be nothing short of a metamorphosis from depression to extreme activity. Not only will houses be able to send their best brands—for these up to the present time cannot be equalled, and American manufacturers must have them—but they would be able to compete with the Pennsylvania makers in the second and inferior qualities. English makers too, of railway rails, who for some time past have been altogether excluded from American contracts, in consequence of the impossibility of tendering at sufficiently low rates, would once more prove formidable rivals. Tools, cutlery, grates, machines, in fact almost all kinds of hardware, could be sent across the Atlantic at prices which while they would prove remunerative to the manufacturer, would tempt dealers to purchase them in preference to the productions to American and inferior makers. A reduction of only 10 per cent., and this is the least that can be expected, will indeed create such a change in the condition of the English hardware trade as only the most sanguine can realize. It is just the bridge which would lead from the gloomy banks of depression and short hours on the one side, to those of good trade and activity on the other. The trade of Birmingham would be speedily influenced. Wolverhampton would soon put on its old appearance of bustling and prosperous activity, and the whole of the Black Country would feel the effects.

It is an old but true adage that "straws show which way the wind blows." Let us then not be deceived by the sophistries and allurements of the free-trade advocates. When we come to reflect and consider, it is more protection instead of less that this country needs, for the duties are already so low that even at the low wages now existing there is a very small margin left for the manufacturer. We may take as an example the manufacture of pig-iron. I am informed by the manufacturers in my district, in the great Schuylkill Valley, where the facilities and advantages for manufacturing iron are as great perhaps as anywhere else in the whole country, that at present prices there is not a manufacturer realizing more than fifty cents per ton clear of all expenses, and in most instances they are running their furnaces at an actual loss. This is evident from the fact that out of fifteen furnaces in Montgomery County, Pennsylvania, capable of producing 125,000 tons of pig iron annually only four are in operation.

The reduction of the duty on pig-iron in the bill is \$2 per ton or nearly 30 per cent. less than the present duty. To say that such a reduction is merely nominal and will not affect the manufacturing and industrial interests of the country is simply absurd and preposterous. This is but one example I have given, but as a corresponding reduction has been made in many others it will suffice to show the great danger in the passage of the bill. Another very objectionable feature of the bill is the ad valorem instead of specific duties. These in many instances open a wide door to fraud. In almost every instance the goods will be undervalued, and thereby the importer will be enabled to undersell the manufacturer in our markets.

When we come to consider that we only export about 8 per cent. of the whole value of our manufactured, mechanical, and agricultural productions, we cannot fail to see how important it is to hold and control our own markets. We annually import about two hundred million dollars' worth of goods that ought to be manufactured in our own country. These consist of cotton goods, glass, iron and steel, leather, tobacco, cigars, lumber, wool and woollen manufactures. It requires no great foresight to understand, that we should manufacture these goods ourselves. First, because it would give employment to our own people; and, secondly, it would keep our gold and silver at home and in our own country. We would thus be enabled to accumulate in a short time sufficient to return to specie payments without any future fear on the part of the National Government. Protection, protection, is what this country wants; a diversified industry is the wealth of a nation. Nothing is so conducive to that end as a "protective tariff;" it benefits all classes of citizens and builds up our villages, towns, and cities.

And now right here let me make this prediction: if free trade ever prevails in this country there will be but one resort left us, and that will be a reduction of wages corresponding to those of European countries. Without this the result will be that every cotton and woollen factory, every furnace, rolling-mill, and forge, will stand idle, and poverty and starvation will be its sequel. Our public-school system, which is destined to exercise and control the future destinies of the American people will die out, and the twin sisters ignorance and crime will stalk broadcast throughout the land. And instead of one pauper in every three hundred and thirty-two persons, as shown by the last census, we will be like England and Wales, which have one pauper for every twenty-one persons. Ever since the establishment of free trade in England pauperism has been on the increase. This must necessarily be the case where wages are low.

In a general survey of the bill it seems to me that its uncalled-for reduction of duties will cause a lasting detriment to our great leading industries, and transfer our manufactures to other lands and for the benefit of other people who have no especial claims on our sympathies. To recapitulate, its provisions will enrich the merchants of great commercial cities, for low duties will stimulate and increase imports, and the greater the influx of foreign commodities the greater the harvest of the importer; but while it may for a time thus enrich the few through whose hands the foreign productions may pass it will work disastrous results on all the great industries of the nation. It will close, in a measure, our iron, and woollen, and cotton manufactures; it will turn out of their regular employments hundreds of thousands of artisans, and make them seek occupations in which they have no training; it will flood our country with the products of foreign industry; it will involve us in debt to other nations, and it will drain us of our currency, the life-blood of the nation, and render us the poor dependents of other peoples.

With industries already paralyzed by the late commercial panics, and thousands denied that employment which is necessary to give them bread, with a currency somewhat debased by recent legislation, it would be an act of the greatest legislative cruelty if we should add to the general distress now existing by opening our ports for the admission of those articles which we can so well make at home, and thus transfer the wages of labor from our people to foreign lands. We are, indeed, slowly recovering from a long financial depression, and are awaiting the healing effects of time, patience, and favorable legislation to spring forward once more on the road to a more solid prosperity. Even the agitation of the revision of duties at this time is a great mistake, but the passage of the bill would be a fatal step backward that would retard, if not destroy, for long years a return to our normal condition of industry, comfort, and happiness.

An American Congress ought therefore to reflect well and hesitate long before by changes in its tariff laws it should unsettle all our great national industries, cripple some and destroy others, and produce poverty and want, confusion and distress throughout the land; which evil results in my judgment will surely follow sooner or later the passage of this bill. In conclusion let me say that it is not in the interest of the rich nor for the benefit of those who have a competency (for they can live under the most adverse circumstances) that we stand here as advocates of protection; but we ask and demand it for the millions who live by toil, whose dependence is on their skill and the labor of their hands, and whose labor creates the wealth of a nation. For these people, and for our future security, prosperity, and greatness as a nation, I earnestly hope the bill will be defeated.

Mr. BREWER. Mr. Chairman, on the 1st day of November last the honorable gentleman from Indiana [Mr. HUNTER] stated "that the condition of our country was like that of a sick man suffering from a severe attack of congestion," and since that time nearly every member on this floor has felt himself fully competent to prescribe a remedy. Some have thought the coinage of the silver dollar and its restoration as a part of the currency of our country would be a relief for all our woes. Others have prescribed as an infallible relief for our sick country the repeal of the resumption act and an unlimited supply of irredeemable paper money. Some have asserted with much warmth that gold and silver coin was an expensive and unsuitable currency in a country like ours, and was only suitable in the despotisms of Europe; that no relief could be had for this distressed country of ours save by the creation by law of a currency made from some inexpensive sub-

stance which should be known as "American money," and which, by reason of its cheapness, could only be a medium of exchange in our own country. And now comes the chairman of the Committee of Ways and Means and reports to this House that, after a fair diagnosis of the case mentioned by the gentleman from Indiana, that committee has come to a deliberate conclusion that there can be no relief to the country except by a revision of our tariff and revenue laws, and that committee, in order to carry out its views, reports to this House the bill now under consideration.

The committee seems to have had four objects in view in the framing of this bill: first, to gratify the heavy importers of foreign productions who are doing business in New York and other seaport cities; second, to promote the cause of free trade by aiding to build up the manufacturing industries of Europe, by the oppression of our own; third, to carry out the principles laid down in the national democratic platform of 1876, by which that party proclaimed that "we demand that all custom-house taxation shall be only for revenue;" fourth, to aid in perpetuating the memory of the honorable chairman of the committee, by having an act of legislation on our statute-books, which should be known in all future time as the Wood tariff law.

Sir, I am led to believe that the latter object was that which controlled the committee, or, at least, a portion of its members, in the preparation of this bill, for they have at all times seemed ready and willing to modify, change, or amend any section or clause of the bill in case the applicant for such change was able to control one or more votes in support of the bill when so amended.

It does not seem possible that a fixed and permanent revenue law for a great nation like ours can be perfected when every principle in such a measure can be changed or modified in consideration of votes. I am wholly unable to comprehend what other motives than those mentioned could have actuated the Committee of Ways and Means in attempting to revise our revenue laws at the present time. I have neither seen nor heard of any petition being presented to this House praying for a revision or reduction of our tariff duties. On the contrary, we know well that thousands upon thousands of men from all parts of the country have petitioned this House that our tariff duties might remain unchanged. These petitions have come from the farmer and the manufacturer, the producer and the consumer, from the capitalist and the laborer, and, in fact, from those representing every interest in the country. Yet, notwithstanding the prayers of idle but willing laborers and the depressed industries of our country, this committee insists upon glorifying itself by adding another blow at our producing and manufacturing interests—interests which supply labor, bread, and clothing to millions of dependent men and women.

I know well that the people of the great agricultural State of Michigan, the State which I have the honor to represent in part, have not asked for any such law as this, but more than two thousand of the men engaged in tilling the soil in my own district have protested against its enactment. I have not heard the cry uttered or complaint made by the consumers of our home products that the gentleman from New York [Mr. Wood] claims to have heard; but, on the contrary, the trouble chiefly is that too little labor is employed in the creation of such productions, and that which is now employed is too illly paid. The effect of the passage of this bill must be either a reduction in the amount of duty laid upon foreign importations and a lessening of the indirect taxation of our people, or, if such reduction does not take place, it will be but a changing of the tax from one article of foreign production and placing it upon another. If the latter should be the result, then it will give no relief to the people by a reduction of taxation, and, if the former should be the result, then we have voted to decrease our revenues below the actual necessities of the Government and to build up the industries of foreign lands by crushing out the very life-blood of our own. The English capitalist and the English laborer are both watching the results of our action upon this measure with as much anxiety as the people of our own country are watching it, for they know well that the passage of this bill will be for their interest.

A correspondent of the Birmingham (England) Post, writing from the city of New York, the home of the gentleman who reported this bill, to that journal in February last, says, "The new bill will allow the revival of export to this country;" while the London Iron-Monger of a recent date says, "There will assuredly be a good prospect for trade opening if the new tariff bill is adopted." Whatever may have been the intention of this committee, if this bill becomes a law the three months' labor bestowed thereon by the committee will have been faithfully expended in the interest of the foreign producer and the foreign importer, to the prejudice of the great mass of our own peoples. When, sir, before this, did the Committee of Ways and Means of this House, while framing so important a measure as this, decline to hear the accredited representatives of the various industries of our country, which are to be so injuriously affected? It is a well-known fact that accredited representatives of the wool and woollen interests of the country, of the iron, lumber, salt, and other interests, have been refused a personal hearing before this committee. These representatives were practical men, and knew well the effect this measure must have upon the industries they represented. The gentlemen upon that committee who aided in the adoption of that rule for the exclusion of such representatives must have supposed that the combined wisdom of the age was possessed by the members composing that committee.

I know well that the honored chairman of that committee is a man of great experience in public affairs, and possessed of great and varied accomplishments; but sir, it is not within the compass of his wisdom, or that of his committee, to frame a tariff bill that will be satisfactory to the people of this country, without listening to the advice of practical men who are engaged in the various occupations of life. I have no unbending or unyielding theories as to what should be the rates of duty on foreign products, only that such duties shall be levied as shall tend to aid our home industries and incidentally protect our home labor. No one country can or should be a correct standard for another in the laying of duties upon foreign importations. What is protective or prohibitive in France may not be in the United States, and it is for each nation to see and know particularly its own condition and graduate its tariff duties in its own interest. England changed its duties on iron and steel seventeen times within one hundred and fifty years, raising them each time, until it could undersell the world, when it abolished such tariff and cried out for free trade.

As for us, with our imperative need for customs duties to meet the running expenses of our Government and the interest upon our public debt, with a higher rate of interest for money, with better wages for labor, and with still vast national resources to be developed, we cannot, with safety to our credit and our industries, materially decrease our tariff duties. It is said by our free-trade friends that our tariff system is the main cause of our business depression at the present time, but every laboring-man in the country and every capitalist whose judgment is not warped by his personal interests must know such assertions to be untrue. If it be true, why is it that in free-trade England, with her vast cumulative wealth of a thousand years, labor seeks employment in vain at lower rates than in our own country and that failures of capitalists are occurring from day to day. If it be true, why is it that France, with a tariff law protective and upon some articles prohibitive, is to-day one of the most prosperous countries in Europe, notwithstanding her recent war and the payment of her immense war debt to Germany. No; it was not our tariff laws that caused the depression in business, but the overtaxed and ruined credit of our people and of our private and municipal corporations from 1863 to 1873, which forfeited the confidence of capital, and the labor of our country remains unemployed by reason of such ruined credit. We are told by the author of this bill that our tariff laws lessen our export trade; but if we compare our trade with that of free-trade Great Britain we find that for ten years, from 1865 to 1875, our import trade increased 33 per cent. and our export trade 72 per cent., while the import trade of Great Britain increased 34 per cent. and her export trade 25 per cent.

In fact our export trade never was larger than at the present time, and for the last three years the balance of trade has been largely in our favor. In 1877 our exportation of domestic products exceeded our import trade to the amount of \$128,000,000. Let us examine this more closely, to see how our tariff laws have affected the American farmer, and we find that we exported during the four years from 1858 to 1861, inclusive, with a tariff lower than now, only 47,321,422 bushels of wheat, at an average price of \$1.15 per bushel, and 20,478,542 bushels of corn, at an average price of 67½ cents per bushel, while during the four years from 1874 to 1877, inclusive, with the present high rates of tariff, we exported 219,485,838 bushels of wheat, at an average price of \$1.26 per bushel, and 183,647,581 bushels of corn, at an average price of 67½ cents per bushel. This shows conclusively that our increased tariff duties have not depressed our foreign trade, and that during the latter period of time the amount of our manufactured productions has largely increased, while the price for such productions has diminished. The value of provisions, such as hams, bacon, pork, beef, lard, tallow, butter, and cheese shipped from the ports of New York, Boston, Baltimore, and Portland during the month of January last alone amounted to the sum of \$11,170,659.

But our free-trade friends again tell us that our high tariff prevents other nations from buying from us, when in fact, as I have already shown, they have never bought so largely from us as at the present time. The State which I have the honor to represent in part is largely interested in the production of wool, lumber, salt, iron, and copper. The growing of wool has become one of the largest industries in the country, and perhaps no other single industry extends over so large a portion of our country as that. No one of the million of men engaged in the production of wool has asked for a change in our tariff duties upon foreign wool; but, on the contrary, the wool producers and most of the wool manufacturers are in entire harmony in their urgent request that no change be made. In the State of Michigan alone more than \$500,000,000 are invested in pine lands and lumbering, and upward of fifty thousand men are given employment during the whole or a large portion of each year in the production of lumber. I am certain that no one interested in this large business has ever asked this House to reduce the duty on lumber one-half or any other amount, for they know well that such reduction cannot be made without correspondingly decreasing the wages of the laborer engaged in such production.

This industry in Michigan opens up a home market for some eight million dollars' worth of the products of the farm and six million dollars' worth of the products of the shop and factory annually. What we should aim to accomplish and to maintain is a varied industry upon the farm, in the mill, and in the factory all over our country, from

Maine to Texas and from the Atlantic to the Pacific. I am heartily in favor of such legislation as shall, while meeting the wants of national revenue, incidentally protect and encourage every industry, believing it to be far better for the people that we should provide for their wants from the productions of their own labor rather than from the productions of foreign labor. Of the thirty-five millions of sheep in the United States the farmers in Michigan own about two millions. The people engaged in wool-growing have studied the tariff question thoroughly so far as it affects their interests, and I believe they are a unit in their condemnation of the proposed change of the duties on foreign wool. The Michigan Wool-Growers' Association and many other like associations in other States have recently declared their adhesion to the present classification of wools and rates of duty thereon, and to-day the National Wool-Growers' Association and Wool Manufacturers' Association are united in their opposition to any change.

Still, we are politely informed by the chairman of the Committee of Ways and Means that the proposed change of duty on foreign wool will be in the interest of the wool-grower. So far as I am concerned I prefer to take the judgment of practical men who for years have been giving the subject a careful investigation. Previous to 1867 the most of our imported wool was of a finer class usually known as Cape and Mestiza wool which principally came from the Cape of Good Hope and the Argentine Republic. In 1866 we received from the Argentine Republic 36,915,776 pounds, and from Cape of Good Hope 7,424,217 pounds, or a total of 44,340,011 pounds. We received during the same year from other places than those mentioned about 23,000,000 pounds of wool principally of a lower grade, making the total amount of wool imported that year 67,064,986 pounds. In 1867, the year the present tariff law was enacted, we imported only 36,240,107 pounds, and of this only 6,227,991 pounds came from the Cape of Good Hope and the Argentine Republic, being a decrease in the importation of finer or clothing wools of about 37,000,000 pounds, while there was an actual increase that year in the importation of wool of a coarser quality from other places.

One of the principal objects in arranging the tariff duties on wool in 1867 was to encourage our wool-growers in the growing of the finer wools, recognizing the fact that it would be unwise legislation to encourage the production of a poor article.

Hon. Henry S. Randall, now deceased, late of Courtland, New York, and president of the National Wool-Growers' Association, informed us that the price of Cape and Mestiza wool previous to the war was 13 cents per pound, and during the war averaged 15½ cents per pound, exclusive of tariff duty. For the purpose of plainly showing the effect of the proposed tariff let us illustrate it in this way: call Mestiza wool 15 cents per pound, although it is worth at the present time but about 12 cents. The duty under the present tariff, 10 cents per pound and 11 per cent. ad valorem, would be 11.65 cents per pound, while under the proposed law, at 35 per cent. ad valorem, the duty on each pound would be 5.25 or 6.40 cents less per pound than under the present law, and yet we are told by some of these theoretical gentlemen on the Committee of Ways and Means that the proposed duty on wool is in the interest of the wool-grower. If they mean that it will be in the interest of the foreign wool-grower then they are correct, but it certainly cannot be in the interest of our home producers. But let us show again how this proposed measure is in the interest of foreign wool-growers and against the interest of our own people. The following statement is furnished me by the secretary of one of the largest wool manufacturing establishments in Massachusetts. It will be here seen that we placed the price of Cape and Mestiza wool too high in our former statement:

Cape and Mestiza wool—	
Present cost, say, 6d., or.....	\$0 12
Proposed duty, 35 per cent.....	4 3/4
Cost to land, including commissions, gold premium, &c.....	2
Total cost.....	16 3/4

This wool will shrink in washing 67 per cent.; therefore it would cost scored about 55 cents. It is as fine as XX fleeces of Ohio and Michigan growth. These are now very low, but will bring to-day in the Boston market 42 cents; shrink 48 and 50 per cent.; therefore they would cost, clean, 80 to 84 cents.

It will be seen how poor a chance 80 and 84 cent wool has to compete with 55-cent wool, equally fine, and worth for a great many purposes just as much clean per pound.

Cape and Mestiza wools, cost under present duty—	
Value at port of shipment, (see above).....	\$0 12
Duty, 10 cents per pound and 11 per cent. ad valorem.....	11 3/4
Cost to land, &c.....	2 1/2
Total cost.....	25 3/4

Cost, clean, 67 per cent.; shrinkage, 77 cents.

This is more nearly the value of our own wool than 55 cents would be.

It needs no further illustration to show the ruinous effect which this proposed change in the wool tariff will have on wool-growing in the United States. In 1872 Congress, in making a general reduction in tariff duties, reduced the duty on wool 10 per cent., and during that very year we imported 122,256,499 pounds, and over 54,000,000 pounds more than we imported in 1871, the year before such reduction took place, while in 1873 we imported 85,496,049 pounds. In 1874 the original tariff duty was again restored on wool, and during that year the amount of imported wool decreased to 42,939,541 pounds. In 1872 and 1873 wool bore a high price in this country and this had

something to do, without doubt, in increasing the amount imported. But the 10 per cent. reduction in the duty had much to do in encouraging the importation of wool to the detriment of our own wool-growers. It is manifest that our wool-growers must market their wool with our wool-manufacturers, and they are desirous of aiding in building up and maintaining the wool-manufacturing interests of the country until the wool-grower and wool-manufacturer can clothe our own people without expending from \$30,000,000 to \$60,000,000 annually in the purchase of foreign wool and woolsens.

The tariff of 1867 was framed in the mutual and common interest of the wool-growers and the wool-manufacturers, after the leading men engaged in these industrial pursuits had been consulted and heard by the Committee of Ways and Means, and under this tariff our wool product has reached upwards of 200,000,000 pounds per annum, while the improvement in the quality of our wool far exceeds the ratio of the increase in quantity. From 1860 to 1867, inclusive, we imported 414,165,844 pounds of wool, while from 1868 to 1875, inclusive, we imported 486,282,805 pounds, showing a gradual but average increase under the tariff of 1867, and that the present tariff is not in any sense prohibitive, but is only fairly competitive. Our home consumption of wool for a term of years has increased, while the price of our woolen products has decreased from year to year. The following table tends to show the effect of the tariff upon our wool and woolen trade:

Statistics from official reports of imports of wool and woolsens into the United States for the ten years before and the ten years since the present tariff became a law.

Years.	Wool.	Carpets.	Worsted dress goods, &c.	All other manufactures of wool.	Total wool and woolsens.	Total imports of merchandise.
1858..	\$4,022,635	\$1,542,600	\$10,780,379	\$14,163,112	\$30,578,726	\$263,388,664
1859..	4,444,954	2,200,164	17,407,213	14,026,339	38,078,670	366,166,341
1860..	4,843,385	2,542,523	19,730,287	16,707,516	43,883,711	353,616,119
1861..	4,746,494	1,756,267	15,573,893	11,796,556	33,873,410	289,310,542
1862..	6,480,306	466,593	2,395,856	14,441,904	23,784,662	189,356,677
1863..	12,353,298	1,016,562	1,744,639	19,267,973	33,382,472	243,335,815
1864..	14,743,637	1,658,380	10,069,768	24,649,369	51,121,144	316,447,283
1865..	6,726,039	474,061	8,241,238	12,177,758	27,718,516	238,745,580
1866..	10,068,533	2,866,075	21,247,936	33,098,016	67,280,560	435,812,066
1867..	6,681,094	3,651,136	19,397,292	21,509,425	51,438,897	395,763,160
Total.	75,110,385	18,474,354	136,585,461	180,897,368	401,070,768	3,056,059,167
1868..	4,079,894	3,387,600	24,732,033	1,809,355	34,008,882	357,436,440
1869..	5,600,958	4,136,999	16,052,014	13,964,236	39,754,907	417,506,379
1870..	6,743,350	3,940,707	15,447,960	14,660,403	40,709,490	433,958,408
1871..	9,780,443	4,691,061	18,586,874	20,022,935	53,081,313	529,233,624
1872..	27,438,284	5,727,183	20,439,481	25,351,403	78,956,351	626,955,077
1873..	30,433,938	4,388,257	19,447,797	26,626,721	70,896,713	642,136,210
1874..	8,920,306	3,649,803	21,162,635	21,565,581	54,028,385	567,406,432
1875..	11,071,259	8,643,932	19,739,488	21,522,523	55,997,203	533,005,346
1876..	8,247,617	1,521,092	14,216,231	16,800,901	40,785,831	460,741,190
1877..	7,156,944	674,011	12,549,267	12,478,044	32,858,266	451,315,992
Total.	108,892,993	34,760,705	182,393,770	174,802,102	501,758,570	5,012,335,158

RELATIVE PROPORTION OF SECOND DECADE TO FIRST.

Wool	+45 %	Total wool and woolsens.....	+25 %
Carpets	+88 %	Total woolsens	+204 %
Worsted goods	+44 %	Total imports of merchandise	+64 %
Woolen goods	-34 %		

That our revenue has gained rather than lost will be seen by this statement from Edward Young, Chief of the Bureau of Statistics, in the United States Treasury Department, showing the amount of duty received on wool and manufactures of wool entered into consumption in the United States during the fiscal year, ended June 30, 1862, to 1877, both inclusive:

Wool and manufactures of wool.

Fiscal year.	Amount of duty.	Fiscal year.	Amount of duty.
1862.....	\$2,717,833 79	1870.....	\$26,082,100 60
1863.....	3,819,210 14	1871.....	33,564,479 66
1864.....	9,837,293 92	1872.....	42,031,077 19
1865.....	7,665,727 70	1873.....	34,490,628 74
1866.....	19,465,787 53	1874.....	32,326,862 78
1867.....	26,327,660 52	1875.....	30,914,036 77
1868.....	23,684,047 98	1876.....	25,306,313 85
1869.....	25,632,040 79	1877.....	20,258,038 14

I do not propose to take the time of this House to combat the proposition of the chairman of the Committee of Ways and Means that the amount of tariff duties levied upon foreign goods is a tax of the same amount levied upon all similar goods consumed by our own people. It is a doctrine which has been controverted over and over again by Washington, Hamilton, Clay, Webster, Henry C. Carey, and others, and over and above all it has been proven to be unsound as a

principle and untrue in fact by the practical experience of every laboring man in the country. From 1863 to 1873 a large proportion of the people, in fact the very Government itself was living on the future or on borrowed capital, when all classes of people turned speculators and fortunes were made and lost in a day. We saw a large proportion of our young men in the rural districts allured by the excitement attending such speculation leaving the farm and entering the store, the office, the shop, and the factory, in the many villages and cities throughout the country. What has been the effect? To-day we have a large surplus population in these cities and villages, and idleness fills the streets with men and women seeking employment, while poverty and hunger are found in many a household. Should it not be the policy of our Government to so legislate as to encourage these unfortunate and unemployed to seek homes on our fertile but unoccupied lands, millions of acres of which are now waiting for cultivation at their hands? Let me ask the chairman of the Committee of Ways and Means what inducement do you hold out to these men to engage in agricultural pursuits? By the passage of this bill you strike a fatal blow at one of the most important industries connected with agriculture.

Sir, in behalf of the agriculturists and in their interest I protest against the passage of this bill, and for them I stand here to speak and vote against it. The gentleman who reported this bill and urged its passage here the other day, said:

Much that has been said with reference to the steel and iron manufactures applies to worsted and woolsens. Great progress has been made in these articles. If the falling off in the amount of duties received from them without any change in the tariff is an indication of a decrease in the consumption by us of foreign productions, the following table is very significant.

And for the purpose of establishing that statement he furnishes the following table, which I introduce here for the purpose of showing to the House and to the country why this bill should not pass:

Statement showing the amount of duties received from manufactures of wool and woolsens during the five fiscal years from 1872 to 1876, inclusive.

	1872.	1873.	1874.	1875.	1876.
Carpets of all kinds	\$3,535,691	\$2,790,292	\$2,224,389	\$1,653,370	\$1,001,027
Dress goods	15,653,681	13,432,096	13,006,679	13,416,126	10,921,946
Halmorals	343,490	30,043	7,584	2,993	1,221
Blankets	24,874	6,367	3,865	8,451	5,014
Flannels	4,971	16,434	14,070	12,299	1,776
Hosiery	326,183	276,501	258,998	303,687	304,643
Manufactures, not otherwise specified	1,072,234	938,080	918,938	1,242,111	1,303,622
Shirts, drawers, and other knit goods	16,141	24,555	32,767	45,143	69,524
Manufactures of wool and worsted bunting	7,445	4,609	3,514	1,867	3,894
Cloths	8,989,806	10,217,462	8,301,297	7,162,119	3,980,912
Clothing, articles of wear, &c	430,728	409,060	408,012	399,335	433,903
Hats	60,776	37,609	24,563	12,534	8,728
Shawls	1,644,917	149,269	118,525	1,090,327	836,192
Yarns	224,791	273,129	247,546	283,990	323,056
All other wools and manufactures of	670,575	2,059,034	2,283,725	1,653,842	1,216,022
Total manufactures of wool	33,006,233	30,644,471	27,856,382	27,242,178	22,519,106

This table shows just what was claimed for it by the gentleman, that there has been a large decrease in the consumption of foreign goods in our own country. Sir, I did not expect when I came here to this House but a few months ago to see the leader of the dominant party arise in his place and upbraid the American people because they did not patronize foreign producers and foreign manufacturers instead of consuming the productions of our own labor. Again he says:

The principal opposition to a change in the tariff emanates from the friends of extreme protection to the manufacturing interests.

Whatever may have been the excuse originally for the governmental bounty to the then infant manufacturers, it does not now exist and should not be continued, because the necessity for it no longer remains. They have reached so high a degree of excellence and grown so strong that they not only need not fear foreign competition here but are able to maintain themselves in other countries against any opposition or rivalry there. This is the fact especially with regard to the leading and the most protected interests. The iron and steel, the woolen, the cotton, and the silk productions of the United States are now forcing themselves into foreign markets by no other aid than their own superiority and conceded merit.

The honorable gentleman fails to tell us, what is manifestly true, that this "high degree of excellence" that he mentions was brought about under our present tariff laws which he so bitterly complains of. Again he says:

The consumption of foreign metals, iron, steel, and manufactures of, has fallen from \$57,333,158 in 1873 to \$10,222,220 in 1877. The mean average for eight years consumption of these metals and manufactures thereof amounted to \$38,030,766 per annum. The large falling off in the importation of these articles may be properly traced to two causes: first, the high duties and the vexatious and cumbersome classifications, and secondly, the wonderful progress and improvement which our own country has made in similar manufactures. To the latter cause, in my judgment, may be attributed the principal influence which is operating. It is quite certain that the exportation of manufactured articles which come under this head has largely increased. According to the official returns issued by the Bureau of Statistics, November 10, 1877, the average increase has been fully equal to 30 per cent. for the nine months ending 30th September last, over the preceding nine months of 1876. We exported in 1876 during this period of machinery, \$1,891,330,

and in the like period of 1877 \$2,131,231, and of pig-iron, \$70,544 in 1876 and \$138,100 in 1877; of railroad bars for rails, \$128,567 in 1876 and \$198,770 in 1877; of sheet, band, and hoop iron, \$4,988 in 1876 and \$23,072 in 1877; of steam-engines, \$429,405 in 1876 and \$22,040 in 1877, and other manufactures of iron not enumerated, \$2,510,038 in 1876 and \$2,712,516 in 1877.

The exportations of steel show a more gratifying result. Of edge-tools we exported for the nine months of 1876 \$448,717, while for the same period in 1877 the export amounted to \$609,842; and of muskets, pistols, rifles, and sporting-guns we exported in 1876 \$2,015,662, and in 1877 \$4,361,752, an increase of about 133 per cent., and in other manufactures of steel not enumerated \$112,517 in 1876, \$247,316 in 1877. The total exports of iron and the manufactures of iron for the fiscal year 1877 was \$6,029,540, thus showing that the apprehension arising from the competition of foreign mechanics with American workmen has now little force.

Well may the gentleman proclaim that the facts stated by him show a "gratifying result;" but he again fails to tell us that this "gratifying result" was brought about by our manufacturers and producers under the very law which he seeks to wipe from our statute-books. One reason why there has been a large reduction in the importation of foreign goods is that our people are living more economically than they were during the flush and speculative times which I have mentioned. And another reason is that by our wholesome tariff laws we have built up manufactures that are able to supply our people with such articles as they need and which are the product of our own labor. The conclusion to be drawn from the argument of the chairman of the Committee of Ways and Means is that he believes the prosperity of our country can only be brought about by an increase in the importation of foreign goods.

This, without doubt, is the judgment of many of the gentleman's immediate constituents who are engaged in the importation of such goods; but the gentleman should remember that, as chairman of his committee, he should have in view the interests of the whole country, and that but a small proportion of the people are engaged in or interested in the importation of foreign goods. It seems to me that the prosperity of a country, like that of an individual, is indicated by its being able to sell more than it buys. Millions of men in this country from 1863 to 1873 attempted to gain wealth by buying more than they could sell. This was so with private and municipal corporations and even with the General Government itself, and for the last five years we, as a people, have suffered untold hardships by reason of our former efforts to carry out the doctrine advocated by the gentleman from New York.

In his anxiety to strengthen this offspring for which he stands sponsor before this House, our friend had read a letter from Colonel Withington, an excellent gentleman from my own State, informing the Committee of Ways and Means that he could manufacture hoes, forks, and other farming implements from steel purchased in England and sell such implements in the English market in competition with their own manufacturers; but the gentleman from New York neglected to tell the House, although that fact must have been known to him, that there was a drawback of a large amount of the duty paid by Colonel Withington upon the steel from which these implements were manufactured, and that they were manufactured by convict labor in the Michigan State's prison, at a price per day paid for labor which could scarcely board the men were they outside the prison walls. Let me inform my friend that the people of this country are not desirous of having a tariff law that shall place our free labor in competition with that of convict labor, or even the cheap labor of foreign lands. Again he says that the wool-growers are made to believe that the rate of 35 per cent. proposed is detrimental to their interest. Sir, they have not been made to believe that the proposed change will be detrimental to their interest, but they know it from their own practical experience, which is more convincing to them than all the theoretical knowledge possessed by the gentleman from New York upon this subject.

It is said that there will be but a small decrease in revenue to the Government by reason of the proposed change in the duty upon wool, and a statement is given by the chairman of the Committee of Ways and Means purporting to come from the American Woolens and Wool Association. Sir, if I am correctly informed this association only exists in the imagination of a few gentlemen who are either engaged in the importing or manufacturing of the finer class of woolen goods, and five of these gentlemen are holding themselves out to the world as an executive committee of this imaginary association, and they complain because under our present tariff law the duty is greater on the finer classes of wools than on the common grades. This, without doubt, is true, for I find that we imported of the finer wools and those which come in competition with our own production, 11,189,502 pounds in 1876, and during the same year we imported of coarse wools, a class of which very little is produced in this country, 26,334,757 pounds. Is there any man here that wishes to encourage by legislation the growing of a poor article of wool?

The great advancement which we have made in the quality of our wool is because the law was framed to carry out that very object. It is true that this proposed law will increase the duty on the coarser grades of imported wool and, as I have already shown, will largely decrease the duty on the finer grades, which come into direct competition with the wools grown in our own country. Our producing and manufacturing industries are not in a condition to be harassed by this ruinous change in our tariff duties. In 1876 a sweeping change in our tariff laws was attempted in this House, and like the present measure it received a favorable report from the Committee of Ways and Means. It greatly reduced the duty on wool and woolen goods,

and was pending here until Congress adjourned on the 15th of August and after the wool season had principally closed. What was the effect of the pendency of that bill backed up by a favorable report? The wool manufacturers, thinking it might become a law, were afraid to buy our farmers' wool, except at low figures, and the great bulk of the wool in Michigan was marketed before Congress adjourned at from 25 to 28 cents per pound, while those who held on to their wool until after Congress adjourned received from 30 to 38 cents per pound. Is this same infliction to be placed upon the farmers again by keeping this measure here threatening ruin to their industry until the wool season is over? I trust not. As we love our country and glory in its advancement, as we wish to promote our own industries and favor our own labor, let us manifest these sentiments by the defeat of this bill at the earliest practicable moment.

Mr. BACON addressed the committee. [His remarks will appear in the Appendix.]

Mr. MORSE. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COVERT reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 4106) to impose duties upon foreign imports, to promote trade and commerce, to reduce taxation, and for other purposes, and had come to no resolution thereon.

Mr. BURCHARD. I move that the House now adjourn.

The motion was agreed to; and accordingly (at ten o'clock and five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ALDRICH: The petition of P. F. Munger and 95 others, of Illinois, for the establishment of a branch mint at Chicago, Illinois—to the Committee on Coinage, Weights, and Measures.

By Mr. BOUCK: The petition of citizens of Wisconsin, late employees of Day, Call & Co., Government contractors, for relief—to the Committee on Education and Labor.

By Mr. BRENTANO: Papers relating to the pension claim of Mary F. Hall—to the Committee on Invalid Pensions.

By Mr. BRIGGS: The petition of Adeline M. Osgood, for a pension—to the same committee.

By Mr. CABELL: The petition of citizens of Danville, Virginia, against the establishment of warehouses for the export of tobacco—to the Committee of Ways and Means.

By Mr. CALDWELL, of Kentucky: The petition of Peter S. Rusk, for a pension—to the Committee on Invalid Pensions.

By Mr. CLYMER: Three petitions of citizens of Berks County, Pennsylvania, numerously signed, against the imposition of a tax on incomes—to the Committee of Ways and Means.

Also, the petitions of the publishers of the Reading (Pennsylvania) Adler and of the Republican, Reading, Pennsylvania, for the abolition of the duty on type—to the same committee.

By Mr. COX, of Ohio: A paper relating to the establishment of a post-route between Fayette and Pioneer, Ohio—to the Committee on the Post-Office and Post-Roads.

By Mr. CRAVENS: Papers relating to the war claims of Richard A. Burruss, W. C. Hawkins, and the estate of John C. Burruss—to the Committee on War Claims.

By Mr. FELTON: The petitions of citizens of Dalton and Whitfield County; of Rome and Floyd County, and of Cartersville and Bartow County, Georgia, for Government aid for the Texas and Pacific Railroad to be built from the east bank of the Mississippi River to San Diego, on or near the thirty-second parallel—to the Committee on the Pacific Railroad.

By Mr. HARRIS, of Massachusetts: The petition of Theodore Dean and other citizens of Taunton, Massachusetts, against the imposition of a tax on incomes—to the Committee of Ways and Means.

Also, the petition of Theodore Dean and 19 other business men and firms of Taunton, Massachusetts, for the repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. HARRISON: The petition of a large number of residents of Chicago, Illinois, for the removal of the duty on quinine—to the Committee of Ways and Means.

By Mr. HENDERSON: The petition of Hon. Samuel Guyer and others, citizens of Illinois, favoring the location of a mint on the island of Rock Island, Illinois—to the Committee on Coinage, Weights, and Measures.

By Mr. HUNGERFORD: The petition of Robert L. May, late lieutenant-commander United States Navy, to be restored to the Navy—to the Committee on Naval Affairs.

By Mr. HUNTON, (by request:) The petition of James W. Havenner, for the reference of his war claim to the southern claims commission—to the Committee on War Claims.

By Mr. JONES, of Alabama: The petition of James B. Rawls and other citizens of Washington County, Alabama, for the distribution of the proceeds of the sales of public lands for the use of schools—to the Committee on Education and Labor.

By Mr. JOYCE: The petition of Elizabeth S. Roberts, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. MULBROW: The petitions of Samuel E. McGlathery and

of Theophelus S. Robertson, for compensation for property taken and used by the United States Army—to the Committee on War Claims.

By Mr. PRICE: The petition of citizens of Davenport, Iowa, for the location of a mint on the island of Rock Island, Illinois—to the Committee on Coinage, Weights, and Measures.

By Mr. SINGLETON: The petition of Sallie Yerger, Maggie J. Miller, and others, heirs of Henry Miller, deceased, for compensation for property taken by United States Treasury officials—to the Committee on War Claims.

Also, the petition of citizens of Mississippi, for the passage of the bill (H. R. No. 1670) to return the cotton tax to the States in which it was paid, to be used for educational purposes, not called for or claimed by those who paid it within three years—to the Committee of Ways and Means.

By Mr. TURNEY: The petition of Elizabeth F. Long, for a pension—to the Committee on Invalid Pensions.

By Mr. VANCE: Papers relating to the claim of Bryan Tyson—to the Committee of Claims.

Also, memorial of the Chamber of Commerce of Wilmington, North Carolina, in opposition to transferring the life-saving service from the Treasury to the Navy Department—to the Committee on Commerce.

By Mr. WATSON: The petition of citizens of Venango County, Pennsylvania, against the imposition of a tax on incomes—to the Committee of Ways and Means.

By Mr. WIGGINTON: Joint resolutions of the Legislature of California, asking the establishment of a post-route from the city of Visalia, by way of Townsends, to Fairview, in Tulare County, California—to the Committee on the Post-Office and Post-Roads.

By Mr. WILLIAMS, of Oregon: The petitions of citizens of Linn, Marion, Lane, and Benton Counties, Oregon, for the construction of a harbor of refuge at Cape Foulweather—to the Committee on Commerce.

By Mr. YOUNG: Papers relating to the war claims of John Bate-man, John H. Bills, and William A. Williamson—to the Committee on War Claims.

Also, the petition of members of the American Postal Microscopic Club, for the amendment of the postal laws—to the Committee on the Post-Office and Post-Roads.

IN SENATE.

TUESDAY, April 16, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

CORRECTION OF THE JOURNAL.

The Journal of yesterday's proceedings was read.

Mr. BAILEY. I ask that the Journal may be corrected. I find that my name is not recorded as having voted on the passage of the bill to repeal the bankrupt law. I cast my vote in the affirmative.

The VICE-PRESIDENT. The correction will be made, as suggested by the Senator from Tennessee.

The Journal was approved.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented the following communication from the secretary of New Mexico; which was read:

SECRETARY'S OFFICE, TERRITORY OF NEW MEXICO,
Santa Fe, New Mexico, April 8, 1878.

The honorable the PRESIDENT of the Senate:

I have the honor to transmit to you sundry memorials passed by the twenty-third Legislative Assembly of this Territory.

Very respectfully,

W. G. RITCH, Secretary.

The VICE-PRESIDENT. These memorials relating to divers subjects will lie upon the table. They are in print.

Mr. DAVIS, of Illinois. I present the petition of certain bankers and business men of Chicago, praying for the establishment of a branch mint in that city; and as it is very short I ask that it be read by the Secretary.

The VICE-PRESIDENT. It will be read, in the absence of objection.

The Chief Clerk read as follows:

To the honorable the Senate and House of Representatives of the United States:

The undersigned, bankers and business men in the city of Chicago, beg leave most respectfully to petition and urge that you pass a law establishing a branch mint in this city. For a more particular statement of the reasons why the mint should be located here we refer to the exhaustive report of a committee of the Chicago Board of Trade, made at the request of Dr. Linderman, Director of the Mint, on the 20th day of November, 1875, a copy of which is herewith transmitted. All the facts and reasonings therein stated are as true to-day as they were then, with the exception that all the departments of business in Chicago have for the last two and a half years increased in a ratio fully equal to that of any other similar period in the history of the city. In the mean time the price of labor, coal, the acids, produced in unlimited quantities and at the lowest rates, and of the incidentals used in coinage, has largely decreased; our railways penetrate every part of the Mississippi Valley, and are rapidly extending in Colorado and toward New Mexico and Arizona, and the Northern Pacific will, by the time a mint can be established here, reach Montana, and gather in the mineral product of that Territory and Idaho; and, generally, we believe that the vast farm products of eight or ten western States, of our forests, and of our manufacturing industries would furnish

more active employment for whatever coin a branch mint here could produce and with more advantage to the Government than were it located in any other central city in the Republic. All of which, we beg to assure the honorable Senate and House of Representatives, is and can be verified by facts and figures, which we trust will be so satisfactory and convincing that you will at an early date pass a bill for the establishment of a branch mint in the city of Chicago. And your petitioners, as in duty bound, will ever pray, &c.

Mr. DAVIS, of Illinois. I move that the petition, with the accompanying papers, be referred to the Committee on Finance.

The motion was agreed to.

Mr. CAMERON, of Pennsylvania, presented the petition of William C. Bayley and 103 others, citizens of Hollidaysburg, Pennsylvania, praying that Congress under proper guarantees should extend the national credit to the completion of a great southern line of railroad to the Pacific coast; which was referred to the Committee on Railroads.

He also presented the memorial of S. L. McIlvain and others, residents of Pennsylvania, remonstrating against the passage of any act imposing a tax on incomes; which was referred to the Committee on Finance.

He also presented the petition of Alfred H. Love and 380 others, residents of Philadelphia, Pennsylvania, praying that Congress may appoint a commission to urge on all nations the substitution of arbitration for war in the settlement of international difficulties; which was referred to the Committee on Foreign Relations.

He also presented the memorial of William S. Russell, president of the Philadelphia Cotton Exchange, and others, indorsing the memorial of the national convention of the United States export trade favoring just compensation by the Government for ocean mail service as a means of restoring our commercial marine; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the memorial of William Grist and others, citizens of Philadelphia, Pennsylvania; the memorial of John J. Murphy and others, citizens of Philadelphia, Pennsylvania; the memorial of Mary A. Harlan and others, citizens of Philadelphia, Pennsylvania; the memorial of Alexander F. Nicholas and others, citizens of Philadelphia, Pennsylvania; the memorial of Amelia Pyott and others, citizens of Philadelphia, Pennsylvania; and the memorial of Godfrey Goldsmith and others, citizens of Philadelphia, Pennsylvania, remonstrating against any change in the manner of paying pensions; which were referred to the Committee on Pensions.

Mr. DENNIS presented the petition of Captain William Hubbard and others, commanders of vessels navigating the Chesapeake Bay, praying for the removal of the light-house on Greensbury Point, Annapolis Harbor, Maryland, to Greensbury Point bar in that harbor, and for the erection of a fog-bell thereon; which was referred to the Committee on Commerce.

He also presented the petition of Perry E. Broccus, late of Mesilla, Dona Ana County, New Mexico, administrator of the estate of Augustin Maurin, late of that county, deceased, paying the passage of a law authorizing the payment of a certain draft issued to R. P. Kellogg, of the Territory of New Mexico, by the United States Government on account of flour furnished to United States troops by him during the late war; which was referred to the Committee on Military Affairs.

Mr. HILL presented the petition of Alexander Moffitt, of the District of Columbia, praying compensation for the use and occupancy of his property, and for alleged damages thereto by United States military forces during the late war; which was referred to the Committee on Claims.

Mr. KERNAN. I hold in my hand a petition of the members of the Musical Mutual Protection Union of New York, signed by a great many of its members, setting forth that persons who are in the service of the United States, forming part of the bands of the Army, are engaged by hire for private purposes, thus interfering with their rights. They pray the passage of a law forbidding such persons to fill such engagements. I move the reference of the petition to the Committee on Military Affairs.

The motion was agreed to.

Mr. DAVIS, of West Virginia, presented the petition of Dr. J. F. Caldwell, of Lewisburgh, Greenbrier County, West Virginia, praying that he may be protected from competition in putting in practice a discovery by him for putting down iron rails of a road below the bottom of a river; which was referred to the Committee on Patents.

Mr. CONKLING. I present the memorial of J. Wall Wilson, late a captain in the revenue marine service, stating his claim for restoration, and with it a petition, fortifying his memorial, signed by a considerable number of very well-known men and firms in the city of New York and the city of Brooklyn. Along with the petition is a bill to be referred with the accompanying papers to the Committee on Commerce. I move the reference of these papers to that committee.

The motion was agreed to.

Mr. BOOTH presented a joint resolution of the Legislature of California, in favor of the passage of such an act as will result in the restoration of Major and Brevet Colonel Joseph B. Collins to his former position in the United States Army; which was referred to the Committee on Military Affairs.

He also presented a resolution of the Legislature of California, in favor of an increased appropriation for arming and equipping the militia of that State; which was referred to the Committee on Military Affairs.

Mr. EDMUNDS presented the petition of Mrs. Elizabeth S. Roberts, widow of the late Benjamin S. Roberts, lieutenant-colonel of the Third United States Cavalry, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. MAXEY presented the petition of Somerville & Davis, of Galveston, Texas, praying to have refunded to them certain moneys alleged to have been wrongfully collected from them by the collector of customs of the port of Boston, Massachusetts, upon certain iron cotton-ties imported by them; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. GARLAND. I am directed by the Committee on Public Lands, to whom was recommended the bill (S. No. 490) supplementary to an act entitled "An act in relation to the Hot Springs reservation in the State of Arkansas," approved March 3, 1877, to report a substitute for the same and to recommend that the substitute pass. I wish to give notice that I shall call up the bill to-morrow and ask for its consideration by the Senate.

Mr. PLUMB, from the Committee on Military Affairs, to whom was referred the bill (S. No. 27) for the relief of Amos B. Ferguson, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. JONES, of Florida, from the Committee on Public Lands, to whom was referred the bill (S. No. 1073) granting lands to the State of Minnesota in lieu of certain lands heretofore granted to said State, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. GROVER. I am instructed by the Committee on Public Lands, to whom was referred the bill (S. No. 1015) extending the time to construct and complete the Northern Pacific Railroad, to return it to this body and ask to be discharged from its further consideration, and that it be referred to the Committee on Railroads. The Committee on Public Lands had decided to entertain this bill, and had fixed a time for hearing discussions on it. But on intimation from the president and the attorney of the Northern Pacific Company that an understanding had been arrived at between parties chiefly interested in the two bills now before the Senate that they should both go to the Committee on Railroads for the purpose of consolidation into a single bill satisfactory to both, this bill is returned for the fulfillment of that amicable understanding.

Mr. WINDOM. I hope that change of reference will be made. The bill was referred to the Committee on Public Lands at my instance, but it may be referred now to the Committee on Railroads.

The VICE-PRESIDENT. It will be so referred, no objection being made.

Mr. MAXEY, from the Committee on Military Affairs, to whom was referred the petition of Samson Goliah, late a private Company A, Fifty-fifth Massachusetts Colored Regiment, praying for the removal of the order of dishonorable discharge against him on the muster-rolls of his regiment and an honorable discharge substituted therefor, to enable him to draw his pay, bounty, &c., submitted a report thereon, accompanied by a bill (S. No. 1096) for the relief of Samson Goliah.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. SPENCER, from the Committee on Military Affairs, to whom was referred the bill (S. No. 785) to provide for building a military post for the protection of the citizens of the Black Hills region, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 3679) to amend a joint resolution authorizing the Secretary of War to issue arms, approved July 3, 1876, reported it without amendment.

Mr. MORRILL. I report back from the Committee on Finance the bill (H. R. No. 1887) to extend the provisions of section 3297 of the Revised Statutes to other institutions of learning, which appears to have been referred to that committee. The Committee on Finance acted upon the bill, but subsequently discovered by the bill that it was really referred to the Committee on Education and Labor, although it evidently should have been referred to the Committee on Finance. The committee unanimously direct me to report it back favorably without amendment.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

BILLS INTRODUCED.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1097) for the relief of J. Wall Wilson; which was read twice by its title, and referred to the Committee on Commerce.

Mr. SAULSBURY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1098) to transfer Paymaster Robert Burton Rodney from the retired list to the active list of the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. EDMUNDS. I am requested, and comply with the request, to ask leave without previous notice, to introduce a bill to provide for the settlement of tax-lien certificates erroneously issued by the late authorities of the District of Columbia, about which so much has

been heard. I know nothing about the propriety of the measure itself.

By unanimous consent, leave was granted to introduce a bill (S. No. 1099) to provide for the settlement of tax-lien certificates erroneously issued by the late authorities of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. EDMUNDS also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1100) to correct an error in section 4390 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on the Revision of the Laws.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1101) to increase the pension of Mrs. Elizabeth S. Roberts; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1102) to authorize the States of Ohio, Indiana, and Illinois, respectively, to commence and prosecute suits against the United States in the Supreme Court of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1103) declaring the true construction of a certain statute therein mentioned; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. CONOVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1104) granting a pension to Mrs. Agatha O'Brien; which was read twice by its title, and, with accompanying papers, referred to the Committee on Pensions.

AMENDMENT TO A BILL.

Mr. DENNIS submitted an amendment intended to be proposed by him to the bill (H. R. No. 3123) extending the privileges of section 2990 to 2997 of the Revised Statutes, inclusive, to the port of Bath, in the State of Maine; which was referred to the Committee on Commerce, and ordered to be printed.

TENTH CENSUS.

Mr. MORRILL. I desire to call up the subject of the appointment of a special committee to take into consideration the propriety of making some provision for taking the tenth census. I ask that the Chair be authorized to appoint the committee.

Mr. EDMUNDS. The resolution has been agreed to.

Mr. MORRILL. The resolution was agreed to, but the Chair was not authorized by it to appoint the select committee under it.

The VICE-PRESIDENT. Is there objection to the suggestion of the Senator from Vermont, that the Chair appoint the committee. The Chair hears none.

The VICE-PRESIDENT subsequently appointed Messrs. MORRILL, SARGENT, CAMERON of Wisconsin, MATTHEWS, DAVIS of Illinois, KERNAN, and MORGAN the select committee.

THE CALENDAR.

Mr. ANTHONY. I move that the Senate proceed to the consideration of the resolution I offered yesterday, fixing a day for proceeding to the consideration of the Calendar.

The motion was agreed to; and the Senate proceeded to consider the resolution, as follows:

Resolved, That on Wednesday next, at one o'clock, the Senate will proceed to the consideration of the Calendar, and continue such consideration from day to day until the same shall have been gone through with; and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once, and for five minutes only; unless, upon motion, the Senate should at any time otherwise order; and the objection may be interposed at any stage of the proceedings; and this order shall take precedence of special orders or unfinished business, unless otherwise ordered.

Mr. WHYTE. I remember that the Senator from New Hampshire [Mr. WADLEIGH] gave notice a few days ago that he would call up to-morrow the bill making sundry changes in the patent laws, and that he should like to be heard upon that subject. If the passage of this resolution will not interfere with him, I shall vote for it; but I should not like to vote for it if he is to be excluded from making his speech to-morrow.

Mr. ANTHONY. I have no doubt the Senate by unanimous consent would allow the Senator from New Hampshire to proceed with his speech upon that subject. I certainly should be in favor of that course.

Mr. WHYTE. With that understanding, I have no objection to the resolution.

Mr. DAVIS, of West Virginia. Would it not be competent under the resolution for the Senate at any time to take up other business?

Mr. ANTHONY. Certainly, by a majority vote of the Senate.

Mr. DAVIS, of West Virginia. And a majority of the Senate at any time can permit the Senator to make his speech?

Mr. ANTHONY. Certainly.

Mr. DAVIS, of West Virginia. Then it would not require unanimous consent for him to proceed.

Mr. SAULSBURY. I desire to make an inquiry of the Senator who introduced this resolution. I see there is a limitation upon debate.

I ask whether that is usual in the discussion of bills on the Calendar? I am aware it is usual on appropriation bills; but has it been customary to limit debate to five minutes in going over the Calendar? I do not think we ought to make any departure from what has been the custom heretofore.

Mr. ANTHONY. This is according to precedent that has been running through several sessions of Congress. It is the only chance by which we can get at unobjected cases on the Calendar. It is only for the purpose of considering the unobjected cases. An objection interposed at any time during the proceedings will carry a bill over.

Mr. SAULSBURY. There are some special orders fixed. I desire to ask the Senator if the resolution is adopted would it not displace the special orders? For instance, the Senator from Tennessee [Mr. BAILEY] has a special order for Thursday. The adoption of this resolution, it seems to me, would displace all the special orders.

Mr. ANTHONY. It would displace any special order, as the unfinished business would displace any special order, unless the Senate should otherwise order. It is in the power of the Senate to displace the execution of this resolution at any time.

Mr. BAILEY. I hope the Senator from Rhode Island will agree to amend the resolution by striking out the words "special orders or." This is to be a general order in regard to the business of the Senate, and under this general order measures which have been fixed for consideration at a particular day will go over. There is one particular case which I should like very much to have presented to the Senate, as it is a question of very considerable interest and importance. The bill is before the Senate. It directs the disposition of a large sum of money. Very many Senators on both sides of the Chamber are interested either for or against the measure. If the Senator from Rhode Island will not consent to the amendment that I propose to his resolution, I hope the resolution will be passed with the understanding that it shall not apply to this particular case. I speak of Senate bill No. 910, making appropriation for the compensation to the book agents of the Methodist Episcopal Church South. That bill, as I said, is one of very great interest. It has been considered of such interest by the Senate that its consideration was fixed for a particular day. I hope if the resolution is to pass it will be the understanding that that bill shall be taken up on Thursday, as directed by the order of the Senate.

Mr. ANTHONY. Such an understanding would defeat the entire purpose of the resolution. The special order would be superseded by the unfinished business at any rate. Whatever unfinished business is pending on Wednesday at the adjournment would come up on Thursday in preference to the special order of the Senator from Tennessee. Unless this resolution is adopted in defiance of measures that have the approbation of particular Senators, it never will have any practical effect at all.

The VICE-PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

BUILDING FOR BUREAU OF ENGRAVING AND PRINTING.

Mr. MORRILL. I now call up Senate bill No. 875.

The VICE-PRESIDENT. The Senator from Vermont, pursuant to notice given yesterday, moves that the Senate now consider the bill indicated by him.

The motion was agreed to.

The VICE-PRESIDENT. The bill (S. No. 875) to provide a fire-proof building for the use of the Bureau of Engraving and Printing and the mechanical branches of the Treasury and other Departments is before the Senate as in Committee of the Whole.

Mr. HOWE. I have the permission of the Senator from Vermont, if I have permission of the Senate, to let this matter lie aside informally a few minutes to allow me to submit two or three remarks.

Mr. MORRILL. I yield, Mr. President.

JUDGE W. R. WHITTAKER.

Mr. HOWE. Mr. President, several weeks ago I submitted some remarks in this place upon a resolution asking the President of the United States for information touching the conduct of Judge Whittaker, of Louisiana. When my remarks were concluded, but before the Senate had acted upon the resolution, an executive session was ordered. I hope now the Senate will be pleased to adopt that resolution and to allow me a word or two in the nature of a personal explanation perhaps. The remarks I then made have been the theme of very considerable comment; I do not say of criticism, but of comment. The sum of those comments, if I have not misunderstood them, is about this: that what I said was true; that other Senators had agreed to follow me in the same or a similar vein of criticism; that I was vituperative and abusive of the President; that there was no use of my saying anything; and that I would have said nothing but for the fact that I was suffering from personal disappointment.

Sir, I admit that what I said was true. Upon that allegation no witnesses need be called. But I had no accomplices. I spoke for myself alone. No one knew what I was to say. No one had agreed with me to say anything. That allegation may as well be dismissed. I hope the speech did not abuse the President. It was little more than a recitation of history. I did extenuate many things of which I spoke. I set down not a thing in malice. Only one remark has been pointed out as abusive. That was a remark I did not make. On that

allegation I go to the country. Perhaps it was useless to say anything. Certainly I did not expect to reseat Governor Packard, and I did not wish to unseat President Hayes; but no fact in our politics was better understood nor more widely published than that some members of Congress were not in full accord with the President. In certain quarters particular attention was called to the fact that I was a non-conformist. It seemed as lawful for me to admit the delinquency as for my adversaries to assert it; was it not?

The common suggestion was that we were offended with the President because he would not permit us to control the patronage in the several States we happen to represent. It seemed as lawful to contradict that vulgar libel as to publish it. Was it not? Besides, it was well known that at the last session of Congress no appropriation was made for the pay of the Army. Democrats would consent to no such appropriation unless conditioned that the Army should not be employed to uphold government in Louisiana. Republicans would consent to no such condition. So for nearly six months the Army served without pay. Congress was convened in special session to provide for its pay. Manifestly if democrats insisted upon an unjust condition they were responsible for the great wrong done. If, on the contrary, republicans resisted a just condition, we were responsible for that wrong. When, therefore, the President asserted in his annual message that what democrats insisted upon was only a constitutional duty, it seemed quite as lawful for me to show that it was not a constitutional duty. Was it not? And as a general rule I think it as lawful to speak the truth in this high place as to conceal the truth or to utter what is not true. Is it not?

Only one comment has hurt me. It has been widely proclaimed that for years I have been struggling for a seat upon the bench of the Supreme Court; that I have followed President Hayes with personal solicitations, and am merely resentful because he would not yield to such solicitations. Sir, nothing in my life can justify a suspicion so vulgar, or can justify an aspersion so groundless. And in spite of the passion which seems to rule the hour, I hope it will lift some opprobrium from me, and some from the body in which I have long held a seat, if the Associated Press will to-morrow inform the people of what I now say to the Senate—that I never asked the President to appoint me to any office whatever; that I never alluded to the judgeship in his presence. There are in this body some members whom I think I might claim for friends. There is not one, I hope, whom I could rank as an enemy; but there is not one here who will say I ever appealed to him for aid in promoting any personal aspiration of my own.

The President had abundant evidence long before he selected a judge that I did not approve his course in Louisiana, and he has had abundant evidence since he made that selection that I did not feel the least personal slight at the selection he made. And, so far as I know the President has made but two appointments in the State of Wisconsin that I would not have made myself. He has made but one against which I would have advised. So upon that last count I am confident that the President will direct a *nolle proes.* to be entered.

I now hope the Senate will agree to the resolution.

The VICE-PRESIDENT. The resolution will be read.

The Chief Clerk read as follows:

Resolved, That the President be requested, if not incompatible with the public interest, to inform the Senate whether W. R. Whittaker, who recently presided in the superior criminal court of the parish of Orleans, was formerly employed either in the internal-revenue service or as assistant treasurer at New Orleans; if so, during what period of time; whether in either of said capacities the said Whittaker is a defaulter to the United States, and to what amount, and under what circumstances; whether legal proceedings have been taken against said Whittaker, either civil or criminal, and with what result; whether such proceedings are still pending, or, if discontinued, when they were discontinued, and by whose direction.

Mr. DAVIS, of West Virginia. I offer the following as a substitute, and I wish to say that in the document referred to in the substitute Mr. Whittaker's name appears, and as there are a great many others, I think it but fair and proper that all should appear as well as Whittaker's. As this document referred to contains Whittaker's name with many others, I think probably the Senator from Wisconsin will accept the amendment I offer; at least I call his attention to it.

The proposed amendment was read, as follows:

Whereas on the 18th day of February, 1871, the Secretary of the Treasury, in obedience to a resolution of the House of Representatives adopted December 13, 1870, made a statement (Ex. Doc. 140, third session Forty-first Congress) showing balances due from collectors of internal revenue who were out of office on the 30th day of June, 1870, from which it appears there was due on that day from collectors not in office the sum of \$20,700,983.33: Therefore,

Be it resolved, That the Secretary of the Treasury be, and he is hereby, directed to report to the Senate what amount or portion of this sum has been since collected, and paid into the Treasury; what amount, if any, has been settled by compromise, and the facts touching each compromise made, by whom recommended, and the amount realized; what amount or portion of said sum of \$20,700,983.33 remains unpaid, and if any balance is still due, what steps have been taken to enforce payment of the same; also, to report the amounts due by internal-revenue collectors on the 1st day of July, 1875, and how much, if any, of such amounts remain unpaid.

Mr. CONKLING. Does the Senator offer that as a substitute? It is a wholly different inquiry.

Mr. MORRILL. This will evidently give rise to a prolonged discussion; and I have but half of my time left now. I therefore desire to call up the bill which was laid aside informally, to which I hope there will be no objection.

The VICE-PRESIDENT. The Senator from Vermont calls up Senate bill No. 875.

Mr. DAVIS, of West Virginia. Do I understand the Senator from Vermont to call up his bill?

Mr. MORRILL. I have but fifteen minutes left, and I desire to have the bill acted on; this can come up afterward.

Mr. DAVIS, of West Virginia. I gave notice that the resolution which I have offered was intended as a substitute.

Mr. CONKLING. May I ask the Senator from West Virginia if it would not be equally agreeable to him to have his resolution passed, to which I presume nobody will make objection, without striking out the resolution of the Senator from Wisconsin? The two resolutions have nothing on earth to do with each other. The Senator from Wisconsin inquires whether a *nolle prosequi* has been entered on a certain indictment against a particular man. The amendment of the Senator from West Virginia proposes to inquire not about a *nolle prosequi*, but about wholly different things touching a number of other men. Now I ask the Senator whether it will not satisfy him to have his resolution adopted without attempting to thwart the Senator from Wisconsin in having his adopted also?

Mr. DAVIS, of West Virginia. The name of the individual referred to by the resolution of the Senator from Wisconsin is contained in the document I have cited as among defaulters.

Mr. CONKLING. So the Senator said, and I have no doubt of it, but he does not seem to attend to my point. If the Senator will give me his attention a moment, I am sure I shall not get it in vain. The Senator from Wisconsin seeks to inquire whether certain indictments against a particular man were *nolle prosequi*, and if so when and under what circumstances.

Mr. DAVIS, of West Virginia. And also whether he was a defaulter. That leads to it.

Mr. CONKLING. Certainly, because if he was not a defaulter of course the indictments should have been *nolle prosequi*, or never should have been found. Therefore his inquiry is after these indictments, and what became of them, against one individual. Now, my friend from West Virginia, in place of inquiring further into them or including them in his inquiry anywhere, proposes to strike out the original resolution altogether and to inquire touching a great number of persons, including, as it is said, this particular person, whether they were defaulters and to what extent they were defaulters.

I am making no hostile suggestion to the resolution of my friend from West Virginia; but I want him to observe that he proposes to obtain the information he calls for, and not only to do it but to stifle entirely a different kind of information called for by the other resolution, so that it is a way of defeating the inquiry of the Senator from Wisconsin under guise of obtaining some other information. Now, the Senator from West Virginia does not want to do that. Therefore let this resolution pass, and then let him bring up his resolution and let that pass.

Mr. ALLISON, (to Mr. DAVIS, of West Virginia.) Let your resolution pass now. There is no objection to it.

Mr. DAVIS, of West Virginia. The object of the resolution was to get full information touching all such cases.

Mr. ALLISON. Let us pass it now.

Mr. CONKLING. Nobody objects to that.

Mr. EATON. I hope my friend from West Virginia will withdraw his proposition as a substitute and let us act on it separately.

Mr. DAVIS, of West Virginia. I have no objection if the two resolutions are to pass; but I do object to calling for information as to a single individual, naming him, when probably there are a hundred or more than a hundred in a similar condition as to whom the information is not called for. The name of Whittaker appears in the document published by the House of Representatives and as it comes from the Secretary of the Treasury.

Mr. CONKLING. Will my friend allow me to interrupt him a moment? Will it be agreeable to him if the Senate adopts his resolution first, and then allows the other to be adopted afterward?

Mr. DAVIS, of West Virginia. I have no special desire for an arrangement of that kind. I care not whether mine is passed first or last.

Mr. CONKLING. Suppose we pass the Senator's first and then the other resolution can be passed afterward. I inquire whether he has any objection to that? My object is to prevent the stifling of the other inquiry by the particular mode the Senator takes of presenting his resolution. Now if he will ask a vote on his resolution first, I think he can have unanimous consent to adopt it in front of the other, and then let the other be adopted, and let us have all the information.

Mr. DAVIS, of West Virginia. I concur in most that the Senator from New York has said, but the mover of the resolution has made no objection, and certainly if he has no objection the Senator from New York ought not to object. If the mover of the resolution thinks the proposition offered as a substitute by me will in any way interfere with his resolution and is objectionable to him, let him say so.

Mr. CONKLING. I do not understand that my honorable friend from West Virginia and the Senator from Wisconsin are the private proprietors of information which the Senate calls for. I suppose that we all have a right to know a little something; it may not be much, but the little I can get in the way of information I want. Therefore, whether the Senator from Wisconsin objects or not, I want the in-

formation for which this resolution calls. More than one member of the Senate has observed that there is scandal in regard to this and that certainly is not confined to the Senate by any means. If it is unjust, I want to clear it up. If there is ground for the scandal, let us know it.

Mr. EUSTIS. What is the scandal?

Mr. CONKLING. Oh, it is not worth while, I think, to go into particulars about that. But does the Senator ask me because he has not heard or seen allegations anywhere touching these *nolle prosequis*?

Mr. EUSTIS. But I understood the Senator to state that there has been a great deal of scandal.

Mr. CONKLING. I did not say "a great deal," but I will say now there has been a great deal.

Mr. EUSTIS. I ask the Senator for information what is the scandal?

Mr. CONKLING. The allegation is that there is connection in time and in circumstance between the entry of the *nolle prosequis* on indictments for felony and certain other things with which properly they have nothing to do. That is the allegation. I do not make it. I do not believe it. Belief, to be conscientious, should be of some intelligible proposition supported by adequate evidence. I have seen no adequate evidence to support this allegation, and therefore I do not believe it.

Now the Senator from Wisconsin by his resolution proposes to enable all concerned to know what the truth is in this regard, and I say that because imputations have been made, and it is right and just that we should have that information, and I do not think it belongs to any Senator in particular or any set of Senators, but we have all our aliquot right in knowing what the truth is.

Mr. DAVIS, of West Virginia. Mr. President, it is true, as the Senator from New York says—

Mr. HOWE. Will the Senator allow me to say one word to him? which is simply this: that I should have made precisely the same appeal to him which my friend from New York has made but for the fact that I was embarrassed by the circumstance that I held the floor only by the permission of the Senator from Vermont, [Mr. MORRILL,] and I did not feel at liberty to trespass a single additional remark. I do hope the Senator will indulge me by allowing this resolution to pass. Certainly his resolution may follow it at any time.

Mr. DAVIS, of West Virginia. Certainly I have no objection to the passage of the resolution, but I want it understood at the same time that the information relating to the whole batch, probably one hundred names, ought to come as well as information in relation to one man; and, with the understanding that both resolutions will be passed whenever they are reached, I withdraw the amendment.

The VICE-PRESIDENT. With the assent of the Senator, the question will be put first on agreeing to the resolution offered by the Senator from Wisconsin, [Mr. HOWE.]

The resolution was agreed to.

ACCOUNTS OF INTERNAL-REVENUE COLLECTORS.

The VICE-PRESIDENT. Now the question is on the resolution offered by the Senator from West Virginia, [Mr. DAVIS,] submitted on the 26th of March.

Mr. ALLISON. I should like to hear that reported.

The Chief Clerk read as follows:

Whereas on the 18th day of February, 1871, the Secretary of the Treasury, in obedience to a resolution of the House of Representatives, adopted December 13, 1870, made a statement (Executive Document 140, third session, Forty-first Congress) showing balances due from collectors of internal revenue who were out of office on the 30th day of June, 1870, from which it appears there was due on that day from collectors not in office the sum of \$20,760,983.33: Therefore,

Be it resolved, That the Secretary of the Treasury be, and he is hereby, directed to report to the Senate what amount or portion of this sum has been since collected and paid into the Treasury; what amount, if any, has been settled by compromise, and the facts touching each compromise made, by whom recommended, and the amount realized; what amount or portion of said sum of \$20,760,983.33 remains unpaid, and if any balance is still due, what steps have been taken to enforce payment of the same. Also to report the amounts due by internal-revenue collectors on the 1st day of July, 1875, and how much, if any, of such amounts remains unpaid.

Mr. CONKLING. I ask that a few words be added to this, to which I think the Senator will make no objection:

And also the nature of the items, or indebtedness.

I do not care where the words come in. The purpose is to enable the Secretary to state whether this has been money willfully embezzled, or simply uncollected taxes.

Mr. DAVIS, of West Virginia. I have no objection to that.

Mr. EDMUNDS. I do not know anything about the recitals in the preamble; but the information of course I have not the slightest objection to calling for. I do not wish to vote that facts are so and so without knowing something about them.

Mr. DAVIS, of West Virginia. I can send the Senator the document from which I took the facts contained in the preamble, and I say to him that they are facts if this document is true, and this document is sent by the Secretary of the Treasury to the House of Representatives and signed by him.

Mr. EDMUNDS. Very well, that is satisfactory to me. I take it on the Senator's statement.

Mr. DAVIS, of West Virginia. I will send it to the Senator.

Mr. EDMUNDS. Let it go.

The resolution was agreed to.

NAVAL BOARDS OF EXAMINATION.

Mr. MORRILL. I now call up Senate bill No. 875.

Mr. SARGENT. I rise to morning business. I have no doubt the Senate will give time to the Senator from Vermont as so much of his time has been consumed; I trust at any rate it will do so. I offer the following resolution:

Resolved, That the Secretary of the Navy be instructed to transmit to the Senate copies of the proceedings of the various boards convened for the examination of Captain Somerville Nicholson and Captain William N. Jeffers for promotion, and the various orders convening said boards, and orders setting aside or approving their proceedings, and any other papers connected with the subject.

The resolution was considered by unanimous consent and agreed to.

VACANCIES IN THE NAVY.

Mr. SARGENT. The Senator from Vermont [Mr. EDMUNDS] on the first of April offered a resolution which was adopted by the Senate requesting of the Secretary of the Navy certain information. That information came April 3, 1878, was ordered to be printed and lie on the table. I move now to take it from the table and refer it to the Committee on Naval Affairs.

The motion was agreed to.

RECOMMITMENT OF A BILL.

Mr. MITCHELL. I move that the bill (S. No. 238) to extend the time for the construction and completion of the Northern Pacific Railroad, and, by a readjustment of the grants, without increasing the appropriation, to secure the construction of the Portland, Salt Lake and South Pass Railroad, be recommitted to the Committee on Railroads. I do this with the consent of the committee.

The motion was agreed to.

BUILDING FOR BUREAU OF ENGRAVING AND PRINTING.

Mr. MORRILL. I now desire that the bill I called up be proceeded with.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 875) to provide a fire-proof building for the use of the Bureau of Engraving and Printing and the mechanical branches of the Treasury and other Departments.

Mr. MORRILL. Mr. President, the fact that some separate building from the existing Treasury Department building is needed for the purpose of carrying on the engraving and printing done there and that should be done there and for mechanical shops, has long been apparent to Congress. A proposition of this kind was introduced here some three or four years ago and strongly urged then by the Secretary of the Treasury. The bureau has been so well managed for the past year that it has actually saved \$600,000 from the appropriation made for its use for the present year, and it is proposed to have a building that shall not only accommodate the Printing and Engraving Bureau but so that the steam-engines and the mechanical shops shall be removed from there, but shall also be a fire-proof building sufficient to contain the vast accumulations of documents that now crowd the corridors of the Treasury building and various rooms. I send to the desk a communication received from Mr. McPherson, the Superintendent of the bureau, which may be read to the Senate.

The Chief Clerk read as follows:

TREASURY DEPARTMENT,
BUREAU OF ENGRAVING AND PRINTING,
9th March, 1878.

DEAR SIR: In case a new building be erected for occupancy by the various mechanical branches of the Treasury Department, the following economies can be effected by it:

The various clerical bureaus of the Treasury, now occupying rented buildings outside, can be brought within the present Department building, and the rentals now paid saved, amounting to \$7,800 a year.

A careful examination shows that there could be saved in labor in this bureau the following amounts: In the machine division, \$33.50 a day, chiefly caused by reduction in the number of engineers, firemen, machinists, and laborers. At present the "power" used in the bureau is scattered; whereas in the new building it could be concentrated with these advantages. The reduction in the expense of helpers in the various divisions of the bureau and of messengers in the office would effect a saving of \$3,840 a year. These items represent a reduction of expense of \$44,225 a year, estimated for three hundred and thirteen working days in the year.

The saving of rentals would be \$7,800, making a total of \$52,025, or 5 per cent. interest upon a capital of over \$440,000.

This estimate does not include any reductions which would be possible in the other mechanical divisions, whose facilities would be improved by the change; nor does it take into account the conveniences and advantages which the Director of the Mint would derive from the rooms proposed to be devoted to his purposes; nor does it include any percentage to represent the security which would be rendered the valuable files of the Treasury Department, now in danger, but which could be stored in portions of the building.

From all these considerations it is apparent that, as an investment, this building would liberally pay the Government.

Very respectfully, yours,

EDWARD MCPHERSON,
Chief of Bureau.

Hon. JUSTIN S. MORRILL,
United States Senate, Washington.

Mr. MORRILL. It has been deemed important by the Committee on Public Buildings and Grounds that this building should be absolutely fire-proof; therefore it will cost more than is proposed in the bill, and I am authorized by the committee to move an amendment increasing the amount. It has also been considered very desirable that this building should not be located, even at the distance of B street and Fifteenth street, so nearly directly in front of the Treasury building as an obstruction of the public grounds. It would be some

interference, because the building must be three stories high. It is thought extremely desirable to provide a place outside of those public grounds. On the opposite side of Fifteenth street there is plenty of ground that can be obtained at a low rate. There is also on the opposite side of the public grounds land that perhaps could be obtained even at a cheaper rate. We have made diligent inquiry as to the prices of these various lots, and have ascertained that a whole square may be obtained for a small sum, and it would be rather desirable to occupy a whole square, in order to have access to the building on all sides, and also as a further safety in relation to fire.

Mr. CONKLING. What is the amount the committee really propose, may I ask?

Mr. MORRILL. I propose to amend the bill in lines 18 and 19 so as to make the amount \$450,000 and in line 24 \$100,000. The object is to give an opportunity for the Government to obtain this land at the lowest bottom price; not to condemn any land, but to give the option to the Government to locate the building on the public grounds, provided other land cannot be obtained at a reasonable price.

Mr. BLAINE. That, I take it, if the Senator will permit me to interrupt him, is the great objection to the bill as now urged, because the probability is that the building will find its way into the public park. They are getting matters now pretty well cleared off there preparatory to having a beautiful park in front of the State and Treasury Departments and the Executive Mansion; and now put an unsightly brick building there and it will be fifty years before you can get it off. If you put permission in the bill to build it there the great probability is that it will go up on those grounds. The remains of one building for the Bureau of Engraving and Printing, I think, are still there that we put up during the war, and are now to be removed. I should like very much to vote with the Senator, but I hope he will so frame the bill as to avoid the remote possibility of this structure going up on the public grounds.

Mr. SAULSBURY. I have no doubt of the propriety of removing the Bureau of Engraving and Printing from the Treasury building. I think, therefore, the provision to that effect is wise and proper. I had some doubt when the matter was before the Committee on Public Buildings and Grounds, of which I am a member, as to fixing the location at the point designated, the corner of Fifteenth and B streets, because some apprehension arose in my mind as to the healthful condition of that location, being in nearer proximity than the Treasury building to the river and the marshes of the river. Therefore in committee I made a suggestion that that perhaps would not be the proper point at which to locate a public building in which a number of the employes of the Government are to be engaged; but my idea is that we ought not to authorize the purchase of additional ground for the location of the building. The Government has here in this city large reservations, large public squares, and it seems to me to be entirely unnecessary to purchase private property for the site of this building or of other public buildings while the Government is in possession of so large a proportion of the area of the city. I think that that provision of the bill which authorizes the purchase of other property ought to be so amended as to authorize the Secretary of the Treasury and the chairmen of the committees to select some other point upon the public grounds without going to the expense of buying other property, provided there is public ground sufficiently adjacent to the Treasury Department to warrant the erection of the building on it. I think it would be wise and proper to remove this bureau from the Treasury building.

I think, therefore, the provision to erect a building for that purpose is wise and proper, and that it ought to be fire-proof; but I do not exactly believe that it would be right and proper to purchase a site from private parties when the Government is already the owner of so large a proportion of the area of this city.

Mr. BECK. I should like to know the number of buildings that are now occupied in the District of Columbia by the Government, and the rents we are now paying for those buildings, and the new buildings proposed.

Mr. SAULSBURY. I do not know the number of buildings that are now proposed to be constructed; neither do I know the amount of rents that are paid, but I understand a very considerable amount of rent is paid by the Government for buildings used by the various Departments in Washington. I think the Government ought to own sufficient buildings to carry on the work of the different Departments of the Government without being put to the necessity of renting, because it is always extravagant for the Government to rent, and we ought to own the public buildings. This bureau, if it is to be kept in existence, ought to be provided with some place for carrying on its business, and it ought not to be in the Treasury building, in my judgment.

Mr. CONKLING. Mr. President, my habit of relying upon the Senator from Vermont constantly in all cases in which he expresses an opinion has prevailed for so many years that I am surprised to see how much doubt this bill gives rise to in my mind. It seems to me a very large and venturesome proposition upon a very slight and superficial basis of inquiry and knowledge. The letter of the Superintendent of Engraving—if that is Mr. McPherson's title—seems to me rather a narrow and rather a thin foundation for such a bill as this. It reminds me of a remark that a very bright man made to me once about the saw-mill business. He said that any man on paper who knew anything about it could demonstrate beyond peradventure

that the saw-mill business was the most certain and one of the most profitable that a man ever engaged in; he could not make the figures so as to show a profit of less than 20 or 25 per cent., but that he had owned saw-mills all his life and run them as well as he knew how, and he had never made any money himself out of it and never knew anybody who did.

The estimate on paper of what this building is going to save is very fruitful of information and of something else, as I heard it read. If it would not be disrespectful to Mr. McPherson, I should say there is as much fun as there is information relating to this bill, in the way he ciphers up all this. Everybody who knows a little about it in a common-sense way will understand that the putting up of a separate building is to establish an additional staff of officials and janitors and messengers, to make another member in this family of buildings and departments here which have become so numerous and so large already; and when you undertake to sit down and say so much rent is paid and that is all going to be saved, and that would be a good investment of \$440,000 or something at 5 per cent., I think it is to darken counsel by words.

Now it is proposed to devote \$550,000 to putting up a building, we know not what, on a site we know not where, but we fear a site which I entirely agree with the Senator who has made the suggestion is utterly inadmissible. I cannot conceive of anything to justify the erection of such a building as is here proposed, in which is to be done the mechanical work of the Treasury Department and which is to be devoted to "the mechanical purposes of other bureaus and branches of said Department, and to like purposes of bureaus of other Departments." A sort of a general sweep and receptacle of all the unclean and uncomfortable purposes of all the Departments is possibly to be put down as an eyesore on the park between the Treasury building and the river. If it is not to be put there, it is to be put anywhere where two most estimable gentlemen who are referred to here choose to put it; one is the Secretary of the Treasury, the best man in the world except the chairman of the Committee on Public Buildings and Grounds on the part of the Senate, and they both two of the very best men. But I will not vote, until I am enlightened, to intrust to any two men to go out and prospect and locate a building into which \$550,000 is to go, where they please and then to put it up in accordance with plans unborn and undesired which shall not cost on paper more than \$1,500. Fifteen hundred dollars pays for a great deal of plan nowadays. I do not know what kind of a plan you cannot get for \$1,500; and this plan that nobody knows anything about is to be executed nobody knows where, upon the say-so of these two gentlemen, and that upon the notion that this building is urgently necessary. It has become now urgently necessary; and yet no man has been able to put his foot upon the spot where it ought to stand or to send here a statement of the sort of building required, the dimensions, or anything about it except that it is to be fire-proof and it is to be adapted to the miscellaneous and unrecited uses of all the Departments.

Mr. President, had this bill not come from a committee to which a Senator so careful as the Senator from Vermont belongs, it would seem to me a most extraordinary proposition. I should say that the place proposed should be stated to us; the kind of building in general at least proposed should be stated to us; the particular objects to which it was to be devoted; the relief for which these Departments groan, ought to be stated to us. But, in place of that, we hear that it is to be for all the mechanical purposes of all the bureaus of all the Departments. That is what it is to be. It is definite in nothing except the utter uncertainty, the utter unascertained argument in its favor. It reminds me somewhat of a question said to have been put by a girl to a mantua-maker when she inquired how many yards it would take to make so many flounces how deep; and, for one, although the superintendent of this Bureau of Engraving and Printing, which I believe the Senator from Vermont said had always been of late admirably managed, says conditionally that if the building is to be erected he suggests so and so, and although the Committee on Public Buildings and Grounds has reported this bill, I say with great respect to the committee that I hope before it is seriously pressed upon us it will be in a much more mature condition for us to judge about than it is now.

Mr. MORRILL. Mr. President, of course I am always delighted to hear the Senator from New York, and if he could not find a flaw in a bill I do not know of any person who can. So far as this bill is concerned, the proposition has been mooted for years and years to relieve a building so valuable as the Treasury Department from the danger that arises from the use of the various steam-engines and other appliances used in the mechanical operations of the Engraving Bureau for purposes which the building was never designed for.

Then, in relation to the \$1,500 that it is proposed shall be paid for plans, I wish to say to the Senator that I already have the plans and the dimensions of the building, which are open to the inspection of the Senator from New York or any other Senator present.

Mr. INGALLS. While the Senator from Vermont is on that subject, I would call his attention to the fact that we have a Supervising Architect of the Treasury, to whom we pay a salary of \$5,000.

Mr. MORRILL. And this was prepared by him.

Mr. INGALLS. Why should he be paid \$1,500 for it?

Mr. MORRILL. That was inserted at the suggestion of the Secretary of the Treasury, who thought this building was to be so impor-

tant and so unique in its purposes that perhaps additional assistance might be advisable.

Mr. INGALLS. The explanation is very satisfactory. [Laughter.]

Mr. MORRILL. Especially the "unique." [Laughter.]

Mr. CONKLING. The Senator may prove that it should be \$15,000 instead of \$1,500! [Laughter.]

Mr. MORRILL. No, the object has been to get the very best building possible in this country for the purpose required. It is required for a printing-office, for an engraving-office, and also for the purpose of storing large amounts of documents that are and have been long in the way in the Treasury Department and which are a source of imminent peril to the whole building.

Now, in relation to the location of this building, it is not to be submitted to two persons only; it is to be submitted to the Secretary of the Treasury and the chairman of the House and the chairman of the Senate Committees on Public Buildings and Grounds, three persons, one being a Senator from Massachusetts [Mr. DAWES] and the other a Member from Georgia.

Then, again, it was not the purpose of the Committee on Public Buildings and Grounds of the Senate that this building should be located on the public park, but it was to give a leverage to the Government to procure some other place, to leave some alternative that they might do so provided they could not obtain another place on satisfactory terms. I have made an investigation so that I have ascertained that a whole square can be obtained at a cost of about \$85,000.

Mr. EDMUNDS. Where is that?

Mr. MORRILL. Right opposite. It does not interest me any more than any other Senator whether this bill shall pass. I think the proposition might now be safely amended so as to strike out the provision about the \$1,500 for plans, and also it might be amended, because we have ascertained the fact that we can obtain the other grounds for about \$85,000, and I think we can for less, but certainly for that sum an entire square.

Mr. EATON. I should like to ask my friend from Vermont if there is no ground upon which this building can be placed in a proper position which now belongs to the Government.

Mr. MORRILL. Not sufficiently near the Treasury building.

Mr. EATON. If it was brought on to Judiciary Square, it would be too far, I suppose.

Mr. MORRILL. Yes, sir.

Mr. EDMUNDS. The farther the better for safety.

Mr. EATON. So I think; and why not put it on Judiciary Square, where we have and own the property, and then save the expenditure of \$50,000 or \$85,000?

Mr. MORRILL. I will say to the Senator that there is a square at another point that I think would be more feasible than that, if we were to take some other square.

Mr. BLAINE. Where is that?

Mr. MORRILL. The one where the Rawlins statue is. There seems to be some criticism on this bill, and I move that it be recommitted to the Committee on Public Buildings and Grounds.

The motion was agreed to.

The VICE-PRESIDENT. The morning hour has expired.

Mr. BECK. It expired some time ago. I desired to say a word about this bill before it goes to the committee.

The VICE-PRESIDENT. The Chair will recognize the Senator from Kentucky, if there be no objection.

Mr. BECK. I desire to say only a few words, and to call the attention of the committee, that they may be able to give us some information when they report the bill back. Until some definite arrangement is made both as to the location and the cost and until something can be done to make it sure that we shall be able to get the building at something like the cost suggested, I certainly shall agree with the Senator from New York in opposing the passage of the bill. We have had a great many public buildings put up, but very few of them have ever been built at anything like the first estimate of their cost. I turned, while the Senator from Vermont was speaking, to the figures as to two buildings that we constructed not long ago, one the post-office at New York (where we three times over enacted in the form of a statute that the building should not in any event exceed \$3,000,000, exclusive of \$500,000 given for the site, and making it a penal offense unlawfully to violate that proviso) and the other the post-office and subtreasury building at Boston, Massachusetts, where we repeated the prohibition with all sorts of care. And yet on running over the appropriation bills I find that up to this time—and how much more it will cost I do not know—the post-office building at New York has cost us \$8,200,000, and, if the site is counted, \$8,700,000, with laws prohibiting it going beyond \$3,000,000, and the post-office and subtreasury building at Boston up to this time has cost \$3,885,000, with limitations fixed in the law that it should never exceed a million and a half; so that it is impossible to be too careful in the original contracts and plans we make.

Mr. EDMUNDS. The Senator, I take it, does not mean that this money has been spent contrary to law, but that Congress after fixing a limit has been teased afterward into making further appropriations.

Mr. BECK. I desire to say this. I happened to be in the House at the time much of this was done, and the process was this: the

appropriation would be exhausted with the walls half erected, and we either had to abandon the work or finish it, and a necessity was created so that Congress could not help itself half the time. That is the history of it.

Mr. EDMUNDS. That is true.

Mr. BECK. And that is the reason why I desire this ground to be selected and plans to be submitted and everything to be done, so that we may, if possible, avoid a repetition of that class of events.

Mr. EDMUNDS. That is right.

Mr. BECK. I desire to say in addition that there is another great difficulty we have. It will cost not less than \$5,000,000 to finish the present State, War, and Navy Departments building, perhaps a fraction over \$5,000,000. The cost up to the present time has been about \$4,000,000. Then there are propositions to build a new Library here which will cost a large sum of money. We have just agreed to purchase the Freedman's Bank building and the grounds there for \$275,000. Suggestions are made to remove the Observatory, for which large expenditures are about to be made. The Committee on Public Buildings and Grounds, of which my friend from Delaware is a member, should when they report this bill back inform us what now is being expended for public buildings, what is now in contemplation, for it is impossible I take it in the present condition of the country to levy taxes enough to build all the public buildings that are suggested. A bill is now to come in for \$7,000,000 for rivers and harbors.

Mr. MORRILL. I wish to say to the Senator from Kentucky that this bill takes nothing out of the Treasury only what has been heretofore appropriated. It applies an unexpended balance. So far as the limitation is concerned, it is proposed that this building should be built by contract, the whole entire thing let out by contract.

Mr. BECK. Taking out money not expended is as much using money of the people as any other money, of course.

I rose simply to endeavor to ask the committee to report, when they report back the bill, the number of buildings that are now being erected, the number that are regarded as being indispensable, and to tell us what amount of rents we are paying here, because I believe the Government is paying enormous and extravagant rents. We pay for the Attorney-General's Office—the upper stories of the building we agreed to buy the other day—\$15,000 a year, when I suppose no private man would have paid over \$5,000 for it. We are paying for a little branch of Riggs's Bank \$3,500 for a wing for the Surgeon-General, that I suppose anybody else but the Government could rent for a thousand dollars.

Several SENATORS. What about the Shepherd building?

Mr. BECK. The Shepherd building, where the Pension Office is, is the best building in the city; I do not know whether the rental is too high or not; but who does know just what we are paying? The Committee on Public Buildings and Grounds, to enable us to act advisedly, I hope will, when they report back this bill, give us full information on all these subjects. Whenever we once begin a thing, no matter how much we limit it, they will so arrange it as to make it cost at least double what we originally supposed. They will put it in a condition where it must be continued or abandoned. Works ought to be provided for by contract with responsible sureties, so as to prevent the recurrence of things that have occurred over and over again. This bill does not guard all these things as carefully as I should like to see them guarded.

The VICE-PRESIDENT. The bill is recommitted to the Committee on Public Buildings and Grounds.

ALLEGED CHANGES IN THE RECORD.

Mr. BLAINE. I desire one moment on a personal matter, if the Senate will pardon me. It is not my habit, and I do not think it is the habit of Senators generally, to notice anything that appears in the newspapers; but I desire to call the attention of the Senate to a statement which I hold in my hand, because it has a bearing which ordinary newspaper statements do not have. In the Boston Journal of last Friday, telegraphed from this city by one of its correspondents, not the one who is very well known in the Senate as clerk to the Printing Committee, but another gentleman who is also, I believe, correspondent of the Chicago Tribune, Mr. Wight, I find the following dispatch:

LIBERTIES WITH THE RECORD.

Congressmen are in the habit of taking liberties with the CONGRESSIONAL RECORD. They often omit portions of speeches delivered on the floor, particularly if they find that these passages are objectionable. This was true as to the passage in the Senate a day or two ago between Messrs. EDMUNDS and BLAINE, in which EDMUNDS made some rather pointed reference to the Senator from Maine.

This correspondent had sent a very—I will call it exaggerated—statement of a tremendous affair between the Senator from Vermont and myself, in which there was any amount of hard contest. That he sent to the Chicago Tribune. I do not know but that he sent it East also, though I have not seen it there. The CONGRESSIONAL RECORD, when it came out, differed very widely from the account he gave, and finding that the RECORD did not sustain at all what he had said he telegraphed the Boston Journal that the RECORD had been altered. Of course the great protection in the ultimate analysis, the only protection that a Representative or Senator has, is in the RECORD. You may be misrepresented in various directions, but you have the RECORD to appeal to. I never saw the notes of the remarks referred to here in my life. I am very sure the Senator from Vermont did not see them, but he can speak for himself. I asked the reporter this

morning seated at the desk, Mr. Murphy, if anybody had seen them. He said no one at all, so that whatever was said in the body on that occasion went into the RECORD just precisely as it was reported.

This is the way that the public mind is sought to be poisoned; if the RECORD does not sustain the representation that is made of something which never occurred, then the Senators are guilty of suppressing the RECORD! While I believe I never in my life before noticed a newspaper account, I only notice this now because it is of general interest to Senators. It is of interest that at all events there is one publication which correspondents cannot control; and I do not at all mean by this to imply that correspondents generally are in the habit of misrepresenting, but unfortunately some are. Congress has the RECORD that they cannot control, and that is a substantial representation of the truth; and it is in order that the country may see just the bearing of this that I have called attention to it.

Mr. EDMUNDS. Mr. President, I wish to add to what the Senator from Maine has said that everything that was said in that debate is reported in the RECORD exactly as it took place, without any addition or diminution or change whatever. I have never had any corrections of any kind made in the RECORD, even in grammar, of any thing that I have said, for more than ten years. I never see the notes, and I suppose very few other Senators do, of anything; and we have tried in the Senate to have even corrections of the RECORD stopped, as it has sometimes happened that the RECORD has been corrected or changed to suit particular views, which operated unjustly upon other gentlemen. That has happened once or twice or oftener, and the Senate only a year or two ago—I do not know but at the last session—passed a concurrent resolution, as I understand from my friend on my right [Mr. ANTHONY]—I knew that I introduced it but I had forgotten whether it passed or not—requiring the reports of the proceedings of both Houses to be printed in the RECORD exactly as they occurred, merely allowing the correction of grammatical errors, but not adding anything, or dropping anything, or anything of that sort; but it appears that the House of Representatives has not seen its way clear to agree to it. I hope that somebody presently will introduce a resolution governing our reports, requiring the reporter to send his copy to the printer just as the debates occur, without allowing any corrections, the interpolations or elisions or anything whatever, so that our constituents may know and posterity may know, if it is of any interest to posterity, exactly what has occurred here. That is what I wish to see.

Mr. BLAINE. I am informed since I read this dispatch to the Senate that the same dispatch went to other papers, at all events to the Chicago Tribune. I want to add, in so far as my own connection with the RECORD is concerned, in regard to what little I have had to say in sixteen years of service in both branches of Congress, that I never remember to have altered—I will not say a syllable or a word, because, as the Senator from Vermont has suggested, in looking over you may find yourself guilty of something that is ungrammatical, or the reporter may possibly make you appear so, and you correct it; but I think I can state with perfect accuracy that I never withheld anything I said for revision. I think I never spoke a word in either House that did not appear in the Globe or RECORD the next day, and the only revision I ever gave was to run over the reporter's manuscript hastily to see if I was made to stand properly in point of grammar and statement, but I never altered a word affecting the sense or affecting the relations of what I said to any human being in my life.

Mr. SARGENT. I ask the Senator having charge of the unfinished business to lay it aside temporarily in order that I may call up the bill reported from the Senate Naval Committee in reference to the appointment of cadet midshipmen and cadet engineers. It is somewhat necessary that this bill should pass soon because it has a bearing upon the appropriations for next year and may enable us to cut down—if it does pass both Houses, as I think it will—the appropriations in the naval appropriation bill.

The VICE-PRESIDENT. Is there objection to that request?

Mr. WINDOM. Will the Senator please repeat the request? I did not hear it fully.

Mr. SARGENT. A bill regulating the appointment of cadet midshipmen and cadet engineers has been favorably reported from the Committee on Naval Affairs and I ask that the unfinished business be laid aside temporarily that we may consider that bill.

Mr. WINDOM. I have no objection to laying aside temporarily the unfinished business, but I hope it may be acted on to-day.

Mr. SARGENT. I hope I may have unanimous consent to call up Senate bill No. 1047.

The VICE-PRESIDENT. The Chair hears no objection.

Mr. EATON. Before that is done, I wish to say a word in connection with what the Senators from Maine and Vermont have said.

Mr. SARGENT. Very well.

Mr. EATON. Mr. President, I wish to refer to the matter now, because I see my friend from New Jersey [Mr. RANDOLPH] in his seat, and therefore I rise to a personal explanation.

There is in the RECORD of the 12th what purports to be a report of a running debate, a colloquial debate, between my honorable friend, the senior Senator from New Jersey, [Mr. RANDOLPH] and myself. I did say, so far as I remember, just what I am reported as having said. But several statements to which I am by the report supposed to be replying, I did not hear. I know there is a recognized

custom in this body by which members are allowed to revise their remarks for the purpose and, as I have supposed, to the extent of mere verbal criticism or to add when such revision or addition does not in any way qualify or affect the remarks of others. I have no idea that the Senator from New Jersey, by this revision of his part of a colloquial debate, intended so to alter his remarks as to affect mine; but I am compelled to say that in several particulars, several distinct particulars, had I heard the remarks attributed to the Senator from New Jersey by the *RECORD* report, my replies would have been quite different, and, I should hope, more applicable than they are now made to appear.

I ought further to say that a revision of one side of a colloquial debate is quite apt to place the other side in an unpleasant position. In other words, there never should be a revision of a colloquial debate on this floor unless it is submitted to both sides. I am very glad to say, Mr. President, I take great pleasure in saying, that I have no idea that the Senator from New Jersey intended to place me in a false position; but I say this, that anybody who reads the *RECORD* of the 12th and knows me will know that if I had heard what is attributed to the Senator from New Jersey, my replies would have been entirely different from what they were.

Mr. RANDOLPH. Mr. President, the Senator from Connecticut called my attention in a very friendly manner to what he says and believes to have been some material alteration in that part of the colloquial debate that occurred between himself and myself a few days ago. I attempted to state to the Senator from Connecticut the reason why in revising the report of what I said I had made some additions to the words that the Reporter had taken down as including, as he supposed, all that I spoke. Mr. President, the simple truth about this matter is that the debate was one that I sought to avoid; the subject was one that I disliked to have discussed for reasons that I do not wish to enter upon here. Briefly, a single one will answer: I did not think that it was a subject that could be properly entertained by this body. But it was introduced; it was discussed, and, unfortunately for me, some important sentences which I uttered were not heard by the Reporter, and I can understand why the Reporter did not hear them. It has often happened; the Reporter has said to me upon many occasions, considering the very few times that I speak here, that I have the unfortunate habit of lowering my voice at the conclusion of my sentences. I do not think I have spoken in this body ten minutes without having had that criticism made by reporters, and sometimes by Senators in my neighborhood. I did say the substance of everything that now appears in the *RECORD*.

I now say to the Senator from Connecticut that I am very sorry that I have put him in any such position as he thinks I have, and if any apology from me is necessary on that account, he certainly has it, although I am bound to say that if the subject had not been introduced the occasion for his remarks would not have occurred and my explanation would not have been called for.

I am quite in agreement with what has been said by the Senator from Maine and the Senator from Vermont and the Senator from Connecticut, that perhaps the better way would be, notwithstanding all the inelegancies, notwithstanding the inaccuracies, notwithstanding the misapprehensions that may come from the lack of revision and personal criticism of what one may say in this body, to enforce what I understand to be the rigid rule that no alteration of any sort or kind be made. I can say here, and I think most of the Senators on this side of the Chamber will bear me out, that it is the commonest thing to make these alterations, not affecting the sense or the substance of what has been said, and it was only to this extent that I sought to make the alterations that I did make in the notes that the Senator from Connecticut has found some fault with.

COMMITTEE ON FINANCE.

Mr. MORRILL. I ask leave for the Committee on Finance to sit during the sessions of the Senate.

The PRESIDING-OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The Senator from Vermont asks that the Committee on Finance have leave to sit during the sessions of the Senate. Is there objection? The Chair hears none and leave is granted.

APPOINTMENTS TO NAVAL ACADEMY.

Mr. SARGENT. I ask that the bill before the Senate be reported. The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1047) regulating the appointment of cadet midshipmen in the Naval Academy at Annapolis.

The bill was reported from the Committee on Naval Affairs with amendments.

The first amendment was in line 6, before the word "midshipman," to insert the word "cadet;" and in line 10, after the word "ten," to strike out the words "and provided further, that" and insert the word "but;" so as to make the bill read:

That section 1513 of the Revised Statutes shall hereafter read as follows: Sec. 1513. There shall be allowed in said academy one cadet midshipman for every Member or Delegate of the House of Representatives, one for the District of Columbia, and ten appointed at large: *Provided, however,* There shall not be at any time more in said academy appointed at large than ten; but the provisions of this section shall not be construed to apply to cadet midshipmen appointed at large now in said academy.

The amendment was agreed to.

The next amendment was, after line 14 to insert:

Section 1523 is hereby amended so as to read as follows:

Sec. 1523. Cadet engineers shall be appointed by the Secretary of the Navy.

They shall not at any time exceed twenty-five in number; and no persons other than midshipmen shall be eligible for appointment unless they shall first produce satisfactory evidence of mechanical skill and proficiency, and shall have passed an examination as to their mental and physical qualifications. The provisions of this section shall not be construed to apply to cadet engineers now in the Naval Academy.

The amendment was agreed to.

Mr. SARGENT. I offer the following amendment:

Section 1506 is hereby amended so as to read as follows:

Sec. 1506. Any officer of the Navy may, by and with the advice and consent of the Senate, be advanced, not exceeding thirty numbers in rank, for eminent and conspicuous conduct in battle or extraordinary heroism; and the rank of officers shall not be changed except in accordance with the provisions of existing law, and by and with the advice and consent of the Senate.

That section follows the present one, so far as providing for advancement, &c., but adds the words "and the rank of officers shall not be changed except in accordance with the provisions of existing law, and by and with the advice and consent of the Senate." The object is to do away with a certain discretion which it is claimed exists by which cadet midshipmen and others are changed about on the Register, and even after they have got their established grades in the Navy, have become lieutenants and captains, find themselves, without their knowledge, shifted about, put above others or below others. In one instance a person acting *ad interim* as Secretary of the Navy took a relative of his and lifted him bodily from one rank into another, and sent in his name here for confirmation. The Senate was not aware of the fact that this was done, and made the confirmation, and that instance of injustice stands to this day, and there are many cases of this kind. Now, we simply provide that this shall not be done without the advice and consent of the Senate. That is the meaning of this provision.

The amendment was agreed to.

Mr. SARGENT. The general scope of this bill is to make it agree with the action of the Senate in regard to the Military Academy. By the Military Academy bill we cut down the number that should be appointed as cadets at large to ten, as the total who should be at one time in the Academy, and we make the same provision here in reference to the cadet midshipmen. In reference to the cadet engineers, we reduce the number from fifty to twenty-five; that is as to those who shall be appointed hereafter. The trouble with the Navy is that we are getting too many officers, and this stops them in the commencement of the manufacture of them.

Mr. MAXEY. I had the honor of introducing the bill under consideration and the reasons for doing so I will give in a very few words. The section of the Revised Statutes relating to the appointment of cadets at the United States Military Academy reads thus:

Sec. 1315. The corps of cadets shall consist of one from each congressional district, one from each Territory, one from the District of Columbia, and ten from the United States at large.

That is as much as bears on this point.

The wording of that section, in my judgment, limited the number to ten cadets at large at any one time; and so when the bill came up making appropriations for the academy not long since, the Senator from California very properly, and as I think very wisely, put a proviso in that bill that the law should not be held to authorize more than ten cadets at large to be in the academy at any one time. The clause referring to the Naval Academy, however, differs essentially from that referring to the Military Academy. There are two sections which must be read together:

Sec. 1512. The students at the Naval Academy shall be styled cadet midshipmen.

Hence the amendment inserting the word "cadet" before "midshipmen" in this bill.

Sec. 1513. There shall be allowed at said Academy one cadet midshipman for every Member or Delegate of the House of Representatives, one for the District of Columbia, and ten appointed annually at large.

The effect of that was that every year by operation of law ten were added to the Naval Academy, whereas if this bill now passes it will limit the number to ten at any one time, and will practically cut off in every four years the appointment of thirty midshipmen. Now there is more reason for turning out a large number of cadets at West Point than at the Naval Academy; yet practically the cadets at large at West Point being limited to ten for every four years, there are fewer cadets turned out from the Military Academy than from the Naval Academy although the Army needs more officers than the Navy. The purpose of this bill, therefore, was to limit it down, because it is a well-known fact that the Army and the Navy are both getting top-heavy and we are compelled to do something to stop this. In like manner was the amendment which the Committee on Naval Affairs has added, a very wise one, to reduce the number of cadet engineers from fifty to twenty-five. The whole of it is in the interest of economy and is true friendship to both the Army and the Navy, because unless something is done there will be a blow struck that will be far more severe than this.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. SARGENT. The title should be amended. After the words "cadet midshipmen" in the first line of the title I move to insert the words "and cadet engineers," and to strike out the words "at Annapolis," which are superfluous, and insert "and for other purposes."

The motion was agreed to, so as to make the title read: "A bill reg-

ulating the appointment of cadet midshipmen and cadet engineers in the Naval Academy, and for other purposes."

AMENDMENT TO POST-ROUTE BILL.

Mr. McMILLAN submitted an amendment intended to be proposed by him to the bill (S. No. 802) establishing post-roads in the several States and Territories; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

REFUNDING OF SPECIAL IMPROVEMENT TAXES.

Mr. HARRIS. Mr. President—

The PRESIDING OFFICER. The unfinished business is the bill (S. No. 655) to incorporate the National Pacific Railroad and Telegraph Company.

Mr. ROLLINS. I ask the Senate to lay aside for a moment the unfinished business and take up and consider Senate bill No. 933.

Mr. WINDOM. I have no objection, as the Senator from Vermont [Mr. EDMUNDS] has an amendment to offer to the railroad bill, and I should be glad to have him present when it is considered. Let it be laid aside informally only.

The PRESIDING OFFICER. The bill will be laid aside informally.

Mr. HARRIS. I rise to ask the Chair if I was not recognized when the Chair stopped me for the purpose of laying before the Senate the unfinished business, and if so whether or not I am now entitled to the floor.

Mr. ROLLINS. If the Senator from Tennessee will listen to the bill he will consent to its present consideration, as I think it will not take more than a minute.

Mr. HARRIS. Of course, if entitled to the floor, I would cheerfully yield to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from Tennessee is strictly entitled to the floor, as he rose before the Chair announced the unfinished business.

Mr. HARRIS. I am willing to yield to the Senator from New Hampshire for the purpose that he suggests, as it will take only a few moments.

Mr. ROLLINS. I ask for the consideration of Senate bill No. 933. There being no objection, the bill (S. No. 933) to authorize the commissioners of the District of Columbia to refund a certain tax erroneously collected, was considered as in Committee of the Whole.

The Committee on the District of Columbia reported the bill with an amendment to strike out all after the enacting clause and to insert:

That the commissioners of the District of Columbia be, and they are hereby, authorized and empowered to refund to any persons who have heretofore been erroneously assessed for special improvement taxes on property not belonging to them, such moneys as they shall be found to have paid as taxes upon such erroneous assessment; and the said commissioners are empowered to correct any assessment so found to have been made, and collect the tax from the rightful owners of the property.

The amendment was agreed to.

Mr. SAULSBURY. I desire to inquire whether that is a general provision to authorize the commissioners to refund all the taxes which have been erroneously imposed upon property-holders in reference to the improvement of their property? How far does it extend?

Mr. ROLLINS. It only extends to very few cases where the tax upon a particular property has been collected from another party than the owner; that is to say, where property owned by A has been taxed to B, and the tax collected of B, this bill simply authorizes the commissioners to refund the tax to B and collect it of A. But three instances have thus far been called to the attention of the committee.

Mr. SAULSBURY. How far does it extend back? Does it extend back one, two, three, or five years, or how far do you propose to correct these errors? I do not know anything about the provision; it may be all right and proper.

Mr. ROLLINS. The only instances to which the attention of the committee has been directed go back but a very few years. It applies so far as we know only to three cases, and those involve a small amount of money, a very few hundred dollars. A bill has already passed refunding the tax upon two small lots on the northeast corner of the Capitol grounds, and this bill will authorize the commissioners to collect the tax of the rightful owners, as it should have been collected originally. It also applies to one other similar case, and these are the only cases to which the attention of the committee has thus far been directed.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to authorize the commissioners of the District of Columbia to refund certain taxes erroneously collected, and for other purposes.

SETTLERS ON THE PUBLIC LANDS.

Mr. PLUMB. I have the consent of the Senator from Tennessee [Mr. HARRIS] to call up the bill (S. No. 1021) for the relief of certain settlers on the public lands. It is a bill which if passed at all should be passed now.

Mr. HARRIS. I yield to the Senator from Kansas for the purpose of presenting the bill, and if it takes up no considerable time I am willing that it should be now acted upon.

Mr. WINDOM. I want a little understanding about the business before the Senate. I think it is the railroad bill that is pending.

Mr. HARRIS. Of course if there is objection to my yielding I will submit to the Senate the proposition that I obtained the floor for the purpose of submitting; but so far as I am concerned I am willing to yield to the Senator from Kansas upon his assurance that the matter that he proposes to call to the attention of the Senate will take but a few moments, and that action now is important as a matter of time.

Mr. WINDOM. I am entirely willing that the Senator from Tennessee should yield for that purpose, but I do not wish it understood that the railroad bill, which is before the Senate, is thereby ruled out or postponed.

Mr. McMILLAN. I hope my colleague will yield for the consideration of this bill. It will take a very little time and it is a matter of interest to our own State.

Mr. PLUMB. I move that the Senate proceed to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1021) for the relief of certain settlers on the public lands. It makes it lawful for homestead settlers on the public lands whose crops were destroyed or seriously injured by grasshoppers in the year 1876, who left their land in that year, if no other settlement shall have been made thereon by, or right or interest therein accrued to any other person, to return to their land at any time within three months, and upon the return of such settlers to the land, their absence therefrom is in no wise to affect the original settlements or homestead rights, but they shall be allowed to resume and perfect their settlement as if no such absence had occurred. Proof of the destruction or injury of crops, absence and return of the settlers is to be made in such manner as the Commissioner of the General Land Office may prescribe.

Mr. SAULSBURY. I should like to have another provision added to the bill. I move to add:

Provided further, That the party so leaving his land has not acquired by pre-emption title to other lands.

I do not know that there is any case of that kind likely to occur, but a man might have left his property and gone off and acquired other property under the pre-emption laws, and now he would come back and take possession of the first property which he had abandoned.

Mr. McMILLAN. I suppose his right under the pre-emption laws would be defeated and he could not prove up his pre-emption claim if he had made a pre-emption claim in the mean time, because that defect would appear when he came to prove up his claim. The purpose of the bill is merely to provide for the cases of settlers who left their farms in 1876 on account of the ravages of grasshoppers, provision having been made for the settlers who left their lands for the same cause in 1874, 1875, and 1877, but none for 1876. The rights of settlers are fully protected so that no title can be acquired without having complied with the law.

The PRESIDING OFFICER. Does the Chair understand the Senator from Delaware to offer an amendment?

Mr. SAULSBURY. I understand that it requires five years to acquire title under the pre-emption laws. If they left in 1876 I do not know that they could acquire right to other lands in that time.

Mr. McMILLAN. Such a provision is unnecessary. The rights of settlers are guarded fully by the bill.

Mr. SAULSBURY. Very well.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the bill (S. No. 1080) authorizing the issue of passports free to colored citizens going to Brazil.

The message also announced that the House insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. CHARLES FOSTER of Ohio, Mr. J. H. BLOUNT of Georgia, and Mr. A. J. SPARKS of Illinois, managers at the conference on its part.

The message further announced that the House had passed a bill (H. R. No. 4286) to establish post-routes in the several States therein named, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (S. No. 484) to authorize the construction of a bridge abutment and approach within the Fort Riley military reservation; and

A bill (S. No. 1014) requiring the commissioner for preparing and publishing a new edition of the Revised Statutes of the United States to revise and perfect the index to the first volume of the same.

WARREN MITCHELL.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin.) The unfinished business is now before the Senate, unless the Senator from Tennessee who obtained the floor interposes.

Mr. HARRIS. I ask the Senate to proceed to the consideration of Senate bill No. 855.

Mr. WINDOM. Is not the railroad bill that was under consideration yesterday the order of business?

The PRESIDING OFFICER. The Chair stated that the unfinished business is before the Senate.

Mr. WINDOM. I think it will take but a few moments to finish the railroad bill, and if the Senator from Tennessee will not press his motion for a few moments I should like to have it acted upon.

Mr. HARRIS. I should like to have the Senate consent to take up the bill second to the Senator's bill, the unfinished business.

The PRESIDING OFFICER. The Senator from Tennessee asks that the bill to which he refers be taken up immediately upon the conclusion of the consideration of the unfinished business.

Mr. CONKLING. What is that bill?

Mr. INGALLS. I inquire what is the title of the bill?

Mr. HARRIS. It is a bill for the relief of Warren Mitchell.

Mr. INGALLS. I think a suggestion of the title of the bill will be sufficient to prevent that order being taken by the Senate. I will venture to say to the Senator from Tennessee that the measure is one of such gravity and involves principles of so much importance that I believe his sense of the fitness of things will prevent him from urging the motion in the present condition of the Senate. The bill is one that certainly will give rise to debate. It ought to be discussed. It involves questions of very great importance to the Treasury and to the country.

I hope the Senator, therefore, will, instead of pressing his motion, give notice that on some subsequent day he will call the attention of the Senate to the subject, because there are many now absent who I know desire to be heard upon the subject. I should regret to have a measure of this importance considered and urged at this time upon the attention of the Senate.

Mr. HARRIS. Mr. President, I desire to say to the Senator from Kansas that I have upon two or three occasions given notice, but have never at any one of the times mentioned been able, because of the unfinished business and the condition of the business of the Senate, to get this bill up for consideration. I have no desire to press it to a vote in the present condition of the Senate. I do desire, however, to have it taken up and when taken up I am perfectly willing that it may go over until to-morrow. At all events, I shall certainly not insist upon a vote to-day; but the Senate being notified of the fact that the bill is under consideration, I take it for granted that every Senator who desires to be heard upon it will be here to-morrow, and to-morrow Senators desiring to be heard may be heard and Senators desiring to vote may be in their places and vote upon the bill; but I would greatly prefer and desire that there be a full Senate when the bill is acted upon.

Mr. INGALLS. The notice that the Senator could give to-day would certainly not be notice to the absent. The greatest attendance is usually during the morning hour. I hope the Senator will give notice to-morrow during the morning hour, when the attendance is largest, that on a day to be named by him he will ask the Senate to proceed to the consideration of this business. This matter is one that has previously been discussed. As I said, it is one of very great moment. I think that course would be the wiser one to pursue, and I believe it will commend itself in the judgment of the Senator from Tennessee.

Mr. HARRIS. I regret my inability to adopt the suggestion of the Senator from Kansas. I feel constrained to move that the Senate proceed to the consideration of the bill that I have named; I beg to assure the Senator from Kansas at the same time that I shall not ask for a vote while the Senate is so thin as at present, but to let the bill go over so that we may hope to have a fuller Senate to-morrow if the Senate shall see fit to take the bill up and proceed to its consideration.

The PRESIDING OFFICER. Does the Chair understand the motion of the Senator from Tennessee to be that the Senate proceed to the consideration of this bill immediately after the pending bill?

Mr. HARRIS. Immediately after the consideration of the unfinished business.

Mr. INGALLS. I will venture to do what I seldom do, that is, to raise a point of order that that motion cannot be entertained by the Chair.

The PRESIDING OFFICER. The Chair was entertaining it by unanimous consent.

Mr. INGALLS. I will then enter an objection in entire good faith to the bill, with no intention whatever of interfering with its subsequent consideration.

The PRESIDING OFFICER. The point of order, the Chair is of the opinion, is well taken.

Mr. CONKLING. I should like to inquire of the Senator from Tennessee whether his wish to take up the bill now is for the purpose of submitting remarks of his own upon it, or does he wish to take it up in order that the Senate may proceed to final action upon it?

Mr. HARRIS. The latter is my object, to proceed to final action.

The PRESIDING OFFICER. The unfinished business is before the Senate.

Mr. McMILLAN. The case referred to by the Senator from Tennessee is known to the Senate to be a very important one. There are two reports in the case, the majority report being adverse to the claim and the minority report being favorable to it, and there are

very important principles involved in the case. I have no desire to delay the Senator from Tennessee in considering the bill. I should prefer myself that it should be brought up at a future day, and I would suggest to the Senator from Tennessee whether all he purposes will not be accomplished by giving notice that the case will be brought up on Tuesday next. That would give ample time for Senators who are absent to be present, and would be a notice to Senators that the case would be considered at that time and relieve all embarrassment.

The PRESIDING OFFICER. The Senator from Tennessee gives notice that he will ask leave to bring up the bill for the relief of Warren Mitchell for consideration on Tuesday next.

Mr. HARRIS. Do I understand the Senator from Minnesota to move to postpone the bill until that time?

Mr. McMILLAN. I make the suggestion to the Senator whether he had not better give notice that the bill will be called up on next Tuesday.

The PRESIDING OFFICER. The Chair understood the Senator from Minnesota to give notice.

Mr. HARRIS. If it suits the views of the chairman of the committee, the Senator from Minnesota, I would greatly prefer giving notice that I will call the bill up to-morrow rather than to put it off until Tuesday. But if the Senator from Minnesota knows any reason why it should be postponed, that is, if he knows that the Senate will be fuller on Monday or Tuesday of next week than to-morrow, that reason will control me, and I shall adopt the Senator's suggestion.

Mr. McMILLAN. I have no definite information in that respect, but I suppose that that time would insure the presence of some Senators who are absent. I may be mistaken, however, in that regard.

Mr. HARRIS. Then, Mr. President, I give notice now that I shall to-morrow, after the expiration of the morning hour, ask the Senate to proceed to the consideration of this bill.

ENLISTMENTS OF COLORED SOLDIERS.

Mr. BURNSIDE. I ask the Senator from Minnesota [Mr. WINDOM] to yield to me that I may call up the bill (S. No. 178) to remove all restrictions now existing in regard to enlistments of the colored citizen in any arm of the United States Army, with the understanding that if it leads to discussion I will not press the matter. I am going away to-morrow and I should like very much to have a vote taken upon the measure to-day.

Mr. WINDOM. In view of the statement that the Senator expects to be absent, and that his bill will occupy but a few moments, I will consent that the regular order of business be laid aside informally, if agreeable to the Senate.

Mr. BURNSIDE. I think the Senate will let the bill pass, and vote upon it now.

Mr. BLAINE. The honorable Senator from Rhode Island yesterday spoke to me about having the matter brought to a vote to-day, and then I told him I should interpose no special objection. I thought the bill would come up in the morning hour, however, when the Senate is usually full. The Senator will observe that the seats are, a good many of them, empty just now, and I should not like to have the bill voted upon without a full Senate. I presume the Senator would not himself desire it.

Mr. BURNSIDE. No; but I think a full vote of the Senate can be obtained. Senators are in the Capitol and can as well give a yea-and-nay vote now as at any time. I do not like to press this matter to-day, but I want to go away very much. I think everything has been said about it that will be said.

Mr. BLAINE. Is there anything in the condition of the military service at the present time that renders it desirable to dispose of the bill promptly?

Mr. BURNSIDE. Nothing except that all legislation in reference to the Army should be had at as early a day as possible, because there are measures now being considered in the other House affecting the question.

Mr. BLAINE. I was going to suggest that very point to the Senator, that it is likely some measure much more radical than this will come to us from the other House; and would it not be wise to allow this to go over and be considered in the general Army bill where this subject may come in?

Mr. BURNSIDE. That is the very thing I want to avoid. I am frank to say to the Senator from Maine that I should like to have this bill passed before the Army bill comes from the House. Everything that appertains to the present measure has been discussed, and I think we can arrive at a decision in the Senate and probably settle the matter, and it will be established as the law of the land for all time, and then there will be no legislation in the other House in reference to it. I am free to say to the Senator from Maine that my object in trying to get the bill through is to have final action upon it before legislation is matured in the other House upon the general subject. I have had no consultation with members of the other House, but I have simply watched the papers in reference to measures there. I think we can have as large a yea-and-nay vote now as at any other time.

Mr. SAULSBURY. It seems to me in the absence of at least one-half the members of the Senate, unless there is some pressing necessity for immediate action on this bill, it ought to go over. Of course, every one feels disposed to accommodate himself to the wishes of the

Senator from Rhode Island, but there are not more than half the members of the Senate in their seats this morning.

Mr. BURNSIDE. I beg to suggest to the Senator from Delaware that, although not more than half the Senators may be in their seats, they are in the Capitol; they are in the committee-rooms. The members of the Committee on Finance and the Committee on the Judiciary are in their committee-rooms, those committees sitting during the sessions of the Senate; and upon a yea-and-nay vote they would be notified and could be here in a short time. I do not want any undue haste about this matter, but I think we can take a vote understandingly now.

The PRESIDING OFFICER. Is there objection to taking up the bill to which the Senator from Rhode Island refers?

Mr. SAULSBURY. My colleague [Mr. BAYARD] I know took some interest in this matter when it was before the Senate, and he is necessarily absent from the Senate to-day, not being in the city.

Mr. BURNSIDE. If the Senator makes a point upon it, I shall withdraw my request of course.

Mr. SAULSBURY. I cannot say what further interest my colleague would manifest; but, inasmuch as he took some interest in this matter when it was before the Senate heretofore, I should not like to see it acted upon finally in his absence. I do not know that he desires to be heard further upon the subject, and yet I know that he is absent in his own State and is not here, and if he has a desire to say anything further he would be precluded should the bill come to a vote to-day. As there is no special hurry for this measure—for I know of nothing except the desire of the Senator from Rhode Island to leave the city for a few days—we can wait until he returns and then take up the bill and dispose of it.

Mr. BURNSIDE. If the Senator from Delaware will allow me, I will simply say that there can be no time at which some Senators will not be absent. Without being authorized by the Senator from Delaware [Mr. BAYARD] to say anything on the subject, I am quite satisfied that he has said all he proposes to say upon the bill. I think I can fairly say that. There will be some Senators absent always when the bill is called up.

The PRESIDING OFFICER. Is there objection to taking up the bill to which the Senator from Rhode Island refers? The Chair hears none—

Mr. BLAINE. I do not know about that, Mr. President.

Mr. BURNSIDE. Well, Mr. President, I will withdraw my request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. BURNSIDE. I desire to give notice that I shall ask the Senate to-morrow during the morning hour to vote upon this bill. I see no reason why that should not be done, and that gives ample notice to Senators to be here. Some time in the morning hour to-morrow I shall ask for a vote upon the bill.

RAILROAD IN THE TERRITORIES.

The PRESIDING OFFICER. The unfinished business is before the Senate.

The Senate resumed the consideration of the bill (S. No. 655) to incorporate the National Pacific Railroad and Telegraph Company.

Mr. WINDOM. The bill now pending before the Senate is one that the Senator from Colorado [Mr. TELLER] had charge of yesterday, and he desired me to take charge of it to-day. I believe it has been amended about as fully as is desired by the Senate, except one amendment which the Senator from New York [Mr. CONKLING] has upon his table.

Mr. CONKLING. I send to the desk an amendment about which the Senator from Vermont [Mr. EDMUNDS] and the Senator from Minnesota [Mr. WINDOM] as he indicates have concurred, and I believe there will be no objection to it.

The PRESIDING OFFICER. The amendment will be reported by the Secretary.

The CHIEF CLERK. It is proposed to insert at the end of the seventeenth section:

Nothing in this act shall be construed or taken to authorize the taking of any land or the building of any part of said road through or upon any lands to which the Indian title shall not have been extinguished or to which any Indian tribe has by treaty or otherwise any exclusive right or privilege.

The PRESIDING OFFICER. Is there objection to this amendment?

Mr. WINDOM. I believe there is none. I believe it was the understanding that the road would not run through any Indian territory; but certainly this amendment can do no harm and as it meets the approval of the Senator from Vermont I surely have no objection to it. The amendment was agreed to.

The PRESIDING OFFICER. The question is, Shall the bill be engrossed for a third reading?

Mr. EATON. I ought to say that the Senator from Indiana [Mr. McDONALD] has taken a very deep interest in this matter and is not now in his seat. I hardly think the bill ought to be passed in his absence.

Mr. WINDOM. I ask the Senator from Connecticut if the Senator from Indiana took any special interest in the bill except in one amendment which he proposed.

Mr. EATON. I am inclined to think he did generally in regard to the principle of the bill and as to the propriety of Congress passing a measure of this kind.

Mr. WINDOM. Another bill passed yesterday of almost the same character, and the Senator from Indiana made to that an amendment which is already inserted in this bill, and after that he seemed to take no interest in it. Unless the Senator from Connecticut is aware of some special interest, I think he will find that the bill in its present shape satisfies the Senator from Indiana entirely.

Mr. DAVIS, of Illinois. I do not think that the Senator from Indiana has any special interest in this bill. He wanted it perfected so, as he thought, to avoid objections that ought to be made to all bills of this kind, but after that was done I do not think he had any special objection to it.

Mr. BECK. I wish the Senator from Minnesota would be kind enough to tell us how the road is to get from any point on the North Platte River to the mouth of the Big Horn or the Yellowstone without going through Indian reservations. There may be some way that I do not know anything about.

Mr. INGALLS. It can go around them.

Mr. BECK. It would have to go a long way around in order not to pass through a reservation.

Mr. SPENCER. If the Senator will allow me, I will explain that this road is intended to run from some point on the Union Pacific road, either Cheyenne or Pine Bluff, to Deadwood, and thence in a northwesterly direction to the mouth of the Big Horn River, and thence to Helena, Montana Territory. There is no Indian reservation at the present time that they will reach until they get to the Yellowstone River.

Mr. BECK. In the map which the Commissioner of Indian Affairs has just laid before us for our information, there is a very large Indian reservation at the mouth and all along the Big Horn south of the Yellowstone. The map may be wrong, but by it I see no way of getting to the Yellowstone at all without going through this Indian reservation.

Mr. WINDOM. The amendment inserted on the motion of the Senator from New York was designed to obviate any difficulties that might arise at the point named by the Senator from Kentucky, so that if the road should necessarily cross the Indian reservation there it would have to wait until the Indian title was extinguished.

Mr. BECK. Very well.

Mr. WINDOM. It seems to me that with the amendments offered by the Senator from New York at the instance of the Senator from Vermont no difficulty can arise in this matter because the road cannot be built until the Indian title is extinguished if there be any. I think that the main line of the road—

Mr. SPENCER. The Senator from Kentucky is satisfied.

Mr. WINDOM. Then I shall not say another word.

Mr. INGALLS. When this bill was under discussion yesterday I ventured to call the attention of the Senator from Minnesota to the word "timber," as used in the third section of the bill, and desired his opinion whether it was the purpose of the bill to allow the corporations to use the timber from the public domain for the purpose of bridging and tying the road. He informed me that was the purpose. In order that there may be no difficulty, that they may have no trouble hereafter in cutting the necessary timber from the public domain, and that the Secretary of the Interior may not be called upon to send special agents there in order to prevent trespasses upon the timber land of the United States, I move, for the purpose of making it clear and explicit, to insert the words "to bridge and tie said road," after the word "timber," in line 6 of section 3, so as to read:

And the right, power, and authority are hereby granted said company to take from the public lands adjacent to the line of said road, earth, stone, timber to bridge and tie said road, and other materials necessary for the construction thereof, and to keep the same in repair.

Mr. WINDOM. That amendment was inserted in the bill that passed yesterday, and I have no objection to it in this charter.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading.

Mr. SAULSBURY. I should like to inquire of the Senator who has charge of this measure whether there is any company proposed to be incorporated, or whether this is a charter to await the action of any such persons as may hereafter want to be incorporated. If it is a mere speculative scheme having no foundation at all, and there are no persons anxious to engage in an enterprise of this kind, I think it wholly unnecessary to pass the bill; but if there is a company proposing to take hold of the charter now to be granted and to build the road, then it is another question. We sometimes are called upon, I think, merely as a speculative enterprise, to pass charters in State Legislatures; I do not know whether that is the case in the Senate of the United States; but to all speculative enterprises I would be greatly opposed. If there are bona fide persons desiring to form themselves into a company, and gentlemen who are able to build this road, and who will take hold of it and put it through, I have no objection to giving them a charter that they may be properly commissioned. I should like to have that information.

Mr. SPENCER. I will state to the Senator from Delaware that a company has already been organized, and a large amount of money, some two or three hundred thousand dollars, has already been raised to prosecute this work in Cheyenne, in Wyoming Territory, and in Deadwood, in Dakota Territory. They have made arrangements for building as far as Fort Laramie this summer, and they will do so, provided this bill is passed.

Mr. WINDOM. I have no personal acquaintance with any of the gentlemen who propose to build the road. I find the names of a number of very respectable gentlemen here as corporators. I know the necessity for the road, and I believe it will be built; but I have no acquaintance whatever with any member of the proposed company.

The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. WHYTE. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. WINDOM. I wish to say a single word, as the yeas and nays are ordered upon this bill. Taken in connection with the bill passed by the Senate yesterday, the two lines of railroad proposed will make a connecting link between the Northern Pacific and the Union Pacific Railroads running north and south, or nearly so, through the center of the continent. The recent developments in the Black Hills country are certainly of a character that justify this action on the part of Congress. A very large population has already gone into that country; the mining operations are extensive; the promise for a future yield of gold very great; and it seems to me that the people who have gone into that frontier region for the development of the country and the product of the gold should at least have the advantages of a railroad if somebody will build it without any cost to the Government. There is no grant of land; there is no grant of money; the Government is committed to nothing except simply to permit gentlemen who may be willing to do so to put their money into the building of a railroad to develop that interior region of the continent. That is all there is of this bill. If Senators desire to deny to them that privilege, to shut up that country, to shut out the improvements by railroad from that country, I suppose a vote against these bills will do that; but I think no Senator desires to accomplish that end. Give them the facilities that these two railroads can afford and I think you can expect a very large development of that region, a very large product of gold, and in these days when gold and silver are a little scarce the more we can get the better, I think. Hence I am in favor of giving them all possible facilities for opening those mines and developing the vast riches which I believe lie in the Black Hills region.

Mr. SAULSBURY. I certainly have no objection to a road being built through the country where these two roads are proposed to be built. My fear is that there are no responsible parties in this case who will build the road. I have seen in my own State sometimes charters obtained by parties who did not intend to build roads, but anticipating at some future time some other party of men might desire to build a road, they in advance went to the State Legislature and obtained charters that they might thereafter sell out to persons who might intend to invest their money in the construction of roads and other enterprises and make a special object of it. Now, if I had the proper assurance that the corporators named in this bill intended in good faith to use the franchises which they ask Congress to give them and to build a road through the Black Hills country, where this is proposed to go, I would vote for it very cheerfully.

I am not for excluding any persons who want railroad facilities from the advantages which railroads afford; but I would not knowingly aid any persons in a speculation such as I have supposed might possibly exist here. It is for that reason, I think, we ought to act cautiously, because instead of advancing the interest of that community this charter may hereafter be held up in *terrorem* against those who would in good faith construct a road there if it were not for the privileges granted by this bill to another corporation. I have not had the proper assurances that this railroad will be built. If there are parties who will build this road, I say let them have these facilities, but I would not grant a charter to any set of men simply to hold it up and prevent others from building roads unless they would agree to give them a bonus for their charter.

Mr. WINDOM. I ask the Senator from Delaware what assurance he wants; what sort of proof he requires of them?

Mr. SAULSBURY. Well, I have not seen petitions from anybody here on this subject.

Mr. WINDOM. The Senator from Alabama has just stated that a company is organized and that, I think, a million and a half dollars have been raised for this purpose.

Mr. SPENCER. Several hundred thousand dollars have been raised.

Mr. WINDOM. Several hundred thousand dollars have been raised at least for this purpose. I do not think we can have any better evidence of the good faith of the enterprise than that this amount has been raised.

Mr. SPENCER. Three hundred thousand dollars have been raised in Cheyenne, Wyoming Territory, and in Deadwood alone.

Mr. ARMSTRONG. Mr. President, the people of my State are very much interested in the Black Hills. It is three hundred miles to travel from the nearest railroad to these hills, and I think that a railroad built in the interest of the people of my State, who own much mining property there, would be a great benefit. I believe that this company is organized in good faith, although I do not know any of the corporators personally. I want to see the bill pass, and I trust it will receive the favor of the Senate.

The PRESIDING OFFICER. The yeas and nays have been ordered on the passage of the bill, and the Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. MCCREERY, (when his name was called.) On this question I am paired with the Senator from Colorado, [Mr. TELLER.] If he were present, I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 39, nays 9; as follows:

YEAS—39.

Anthony,	Conkling,	Johnston,	Oglesby,
Armstrong,	Davis of W. Va.,	Jones of Florida,	Paddock,
Blaine,	Dennis,	Kellogg,	Plumb,
Booth,	Edmunds,	Lamar,	Rollins,
Bruce,	Eustis,	Matthews,	Sargent,
Burnside,	Gariand,	Maxey,	Saunders,
Cameron of Pa.,	Grover,	McMillan,	Spencer,
Cameron of Wis.,	Herford,	McPherson,	Wadleigh,
Chaffee,	Howe,	Mitchell,	Windom.
Coke,	Ingalls,	Morgan,	

NAYS—9.

Bailey,	Harris,	Kernan,	Saulsbury,
Beck,	Hill,	McDonald,	Whyte.
Eaton,			

ABSENT—28.

Allison,	Davis of Illinois,	Jones of Nevada,	Ransom,
Barnum,	Dawes,	Kirkwood,	Sharon,
Bayard,	Dorsey,	McCreery,	Teller,
Butler,	Ferry,	Merrimon,	Thurman,
Christiancy,	Gordon,	Morrill,	Voorhees,
Cockrell,	Hamlin,	Patterson,	Wallace,
Conover,	Hoar,	Randolph,	Withers.

So the bill was passed.

The PRESIDING OFFICER. The title of the bill will be amended.

The CHIEF CLERK. Amend the title so as to read: "A bill to incorporate the Cheyenne and Black Hills Railroad and Telegraph Company."

Mr. SPENCER. I suggest that the former title is right.

Mr. WINDOM. The title of the bill as it now stands does not specify the point at which the road should stop. I see no objection to the title as it stands in the bill.

Mr. SPENCER. I propose that the title remain as it was originally in the bill. I do not see any object in changing it.

Mr. WINDOM. I do not see how you can improve it.

The PRESIDING OFFICER. The Chair would call the attention of the Senator from Alabama to the fact that yesterday the title as set forth in line 17 of section 1 of the bill was changed so as to read: "The Cheyenne and Black Hills Railroad and Telegraph Company."

Mr. SPENCER. Then I have no objection to making it correspond with that change.

Mr. WINDOM. As the title of the company was changed in the body of the bill I agree of course that the title of the bill shall be changed to correspond.

The PRESIDING OFFICER. The title of the bill will be changed as suggested.

DAKOTA AND SOUTHWESTERN RAILWAY.

Mr. EATON. I yesterday entered a motion to reconsider the vote by which the bill (S. No. 927) to authorize the construction of a railroad from a point at or near Bismarck to the Black Hills was passed. With the permission of the Senate I will withdraw that entry. After the vote that has just been given I do not care to antagonize the other bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the motion is withdrawn.

NORTHERN PACIFIC RAILROAD.

Mr. MITCHELL, from the Committee on Railroads, to whom was recommended the bill (S. No. 238) to extend the time for the construction and completion of the Northern Pacific Railroad and by a readjustment of the grants without increasing the appropriation to secure the construction of the Portland, Salt Lake and South Pass Railroad, reported it with an amendment in the nature of a substitute.

Mr. MITCHELL. I am also instructed by the same committee, to whom was referred the bill (S. No. 1015) extending the time to construct and complete the Northern Pacific Railroad, to report it back and recommend that it be indefinitely postponed.

Mr. EDMUNDS. Let it go on the Calendar until we see what becomes of the other bill.

Mr. MITCHELL. Very well.

The PRESIDING OFFICER. The bill will be placed on the Calendar.

Mr. MITCHELL. I also ask leave on the part of the committee to submit a report in connection with the bill in case the committee desire to do so.

The PRESIDING OFFICER. The report will be printed, when submitted, under the rules.

HOUSE BILL REFERRED.

The bill (H. R. No. 4286) to establish post-routes in the several States therein named, was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

MARTIN CLARK.

Mr. PLUMB. I move that the Senate proceed to the consideration of the bill (S. No. 713) for the relief of Martin Clark.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It relieves Martin Clark, late first lieutenant in the Twelfth New York Volunteer Cavalry, from all

the penalties and effects of the general orders which dismissed him from the service of the United States, and restores him to all the rights and privileges he would be entitled to had not these orders been issued and enforced.

The bill was reported from the Committee on Military Affairs, with an amendment, to add at the end of the bill:

And is honorably discharged the service as of June 30, 1864.

Mr. WHITE. Is there any report?

Mr. PLUMB. I call for the reading of the report.

The PRESIDING OFFICER. There is a report, and the report will be read.

Mr. SPENCER. I do not think there is any necessity for reading the report. The bill was reported unanimously by the Committee on Military Affairs.

Mr. DAVIS, of West Virginia. I understand that the Senator from Maryland [Mr. WHITE] desires it to be read.

Mr. WHITE. I should like to hear it read. Many of us do not know what the case is.

The Secretary read the following report, submitted by Mr. PLUMB on the 26th of March:

The Committee on Military Affairs, to whom was referred the accompanying bill (S. No. 713) for the relief of Martin Clark, have had the same under consideration and respectfully submit the following report:

Martin Clark was mustered into the military service of the United States May 20, 1861, as first sergeant Company G, Twenty-first New York Volunteers, in which position he served until February 17, 1863, when he was mustered as second lieutenant, same regiment.

On the 26th of February, 1863, (while Lieutenant Clark was on leave, spending some days with a friend in Washington,) a letter signed "John H. Burton, Census Office, Interior Department," was received by the Secretary of War, in which Lieutenant Clark was charged with having, "in the course of a bitter tirade against the Government, made the declaration that 'he would as soon live under the government of Jeff. Davis as that of Abe Lincoln,' and also that 'this is the second time within the month that Lieutenant Clark has used the most bitter language against the Government and on the conduct of the war.'"

For this Lieutenant Clark was, four days later, summarily dismissed the service, by Special Orders War Department 93, paragraph 33. This action was without notice to Lieutenant Clark, and entirely *ex parte*.

The time of the Twenty-first New York being then nearly expired, Lieutenant Clark remained in Washington, and went thence to Buffalo with the regiment. Shortly after, he commenced actively the work of recruiting for the Twelfth New York Cavalry, in which regiment he was, on the 18th day of September, 1863, mustered as second lieutenant, and, on the 20th of November following, as first lieutenant of the same regiment. April 12, 1864, Sergeant John W. Doney, who had then just been put under arrest by Lieutenant Clark for insubordination, wrote to the Secretary of War that First Lieutenant Martin Clark, Twelfth New York Cavalry Volunteers, was the same person who, as second lieutenant Twenty-first New York Volunteers, had been dismissed the service. This letter was forwarded to the commanding officer of Lieutenant Clark's regiment, Colonel John W. Savage, and was returned by him with recommendations highly eulogistic of Clark's bravery and loyalty. One paragraph from the same is as follows:

"Lieutenant Clark is one of my best officers. I have not the slightest doubt of his entire loyalty, patriotism, and respect for the President. He is brave, energetic, prompt, trustworthy, and competent. I have seen him in camp, on the drill-ground, on picket, and under fire, and know that I am not mistaken in his character, and that the service would lose a most valuable officer if he is again dismissed." It appears, however, that Clark's musters, both as second and first lieutenant, were revoked by paragraph 35, Special Orders 179, War Department, May 17, 1864, for the reason that no permission had been granted for his return to the service as a commissioned officer. He was relieved from duty under the order June 30, 1864. Numerous applications have been made to the War Department for the revocation of the order complained of, but without avail, and an appeal is now for the first time made to Congress.

The expressions attributed to Lieutenant Clark, if true, were quite reprehensible, and, if the expression of a deliberate judgment or sentiment, would have justified the summary dismissal which followed their utterance. But the committee do not believe this was the case. Lieutenant Clark at the time was stopping with a friend in Washington; the person who informed on him was a fellow-boarder, and whatever was said was in private conversation and most likely the result of momentary indiscretion. Clark denies, under oath, that he ever uttered any disloyal sentiments, and his loyalty is testified to by his commanding officer and by many persons who knew him well in New York, before and after his enlistment. His successive enlistments and promotions, his active efforts in recruiting, his faithful and conspicuous military service, are wholly inconsistent with any imputation upon his loyalty.

Clark's own statement is to the effect that he was indignant at not being promptly paid, by reason of which his family had come to want, and he had been compelled to go in debt for a uniform made necessary by his recent promotion, and that whatever he said was the result of anger on that account. It is altogether likely that the person reporting the language used exaggerated it by reason of having been sorely offended, or desired to commend himself to his superiors by the exercise of superserviceable zeal; a quality which would have better become some one in the military service of the Government. If the dismissal had been the result of the judgment of a court-martial, after due trial of the accused, the reasons for not interfering to relieve against it would be conclusive; but the unsworn and uncorroborated statement of an informer could hardly be permitted to outweigh the patriotic service rendered by Lieutenant Clark.

The committee have received from Colonel Savage, formerly of the Twelfth New York Cavalry, now judge of one of the circuit courts of Nebraska, a letter, from which the following extract is taken, showing the gallant service rendered by Lieutenant Clark after the issuance of the order revoking his musters in said regiment:

"A few weeks after this communication [letter of Sergeant Doney] was transmitted (Lieutenant Clark being on picket duty at the outpost near New Berne, at a place called Deep Gully) an attack was made upon him and his guard, consisting of some twenty men, by a rebel force of not less than twenty thousand. Lieutenant Clark so skillfully managed his men and retreated with such shrewdness and bravery that he was some two hours in falling back a distance of two miles to a point where such dispositions had been made to receive the enemy that after some four or five hours' fighting they withdrew, crossed the Trent River, and the next day attacked New Berne from the south instead of the west as at first intended. I think that had it not been for the coolness and bravery of Lieutenant Clark on that occasion a serious disaster might have resulted. While he was thus handling his men and exciting the admiration of all who saw him, I received the order dismissing him. No case came under my observation during the war which so strongly enlisted my feelings of sympathy, or which seemed such cruel injustice. I hope that at last justice will be done him."

There is no room for doubt that Lieutenant Clark was thoroughly loyal, and that the order dismissing him was wholly unwarranted. Clark swears that he did not know that the effect of the order dismissing him was to disqualify him from holding office in the military service, and that Secretary Stanton, in reply to his complaint of injustice done, in an interview held immediately after his dismissal, said in substance, "Well, you can enter the service again if you wish."

Even if the subsequent enlistment was with full knowledge that it was in violation of law, the offense was not a very grave one under the circumstances, and was fully atoned for by the gallant service thereafter rendered. The Government needed such soldiers as Lieutenant Clark proved to be, and was glad to get them.

The committee are unhesitatingly of the opinion that the facts of the case fully warrant the passage of a bill relieving Lieutenant Clark from the effects of the order of dismissal and that revoking his musters as second and first lieutenant, granting him an honorable discharge, and providing for the payment of the full amount of pay and emoluments due him by reason of service actually rendered, and therefore recommend the passage of the accompanying bill, with an amendment providing for the honorable discharge of Lieutenant Clark as of June 30, 1864.

Mr. EDMUNDS. I ask the Senator from Kansas has this subject ever been brought to the attention of Congress before?

Mr. PLUMB. No, sir; it has not.

Mr. EDMUNDS. On the report of the committee I think it is plain enough that this gentleman ought to be relieved, but I should like to call the attention of the Senator from Kansas to the frame of the bill which states that he "is hereby honorably discharged." Now, whether under our frame of Government Congress can discharge a person from an office that he holds might be open to considerable question. I suppose the point is to relieve him from all the consequences of his dismissal so that he may get his pay, and so on. The particular case is not of sufficient consequence to make any particular point about it, but I should not wish it to go as a precedent, as to any authority of Congress to discharge an officer of the United States from service, for if we have the authority to discharge an officer honorably we have the authority to dishonorably discharge him in the Army now; and I should doubt very much the power of Congress to say that the General of our Army, General Sherman, could by an act of Congress be discharged from the military service, either honorably or dishonorably. I call the attention of my friend from Kansas to that suggestion, so that his bill shall not be made a precedent for that method of legislation.

Mr. PLUMB. A very slight amendment will cover the point which the Senator from Vermont makes, and perhaps well makes, and that is to so amend the bill as to authorize the Secretary of War or the President to discharge as of that date.

Mr. EDMUNDS. That will do it.

Mr. PLUMB. That obviates the difficulty?

Mr. EDMUNDS. Yes.

Mr. PLUMB. The purpose of this bill is, first, that this man shall have pay for the actual time he served and no more, and next, that he shall be honorably discharged from the service.

The PRESIDING OFFICER. The amendment suggested by the Senator from Kansas will be reported by the Secretary.

The CHIEF CLERK. It is proposed to amend the amendment so as to read:

And the Secretary is hereby authorized and directed to honorably discharge the said Martin Clark the service as of the 30th of June, 1864.

Mr. EDMUNDS. Strike out the words "and directed," so as to read "is authorized to discharge," &c. Of course it is the mere form any way, he being long out of service, it being the volunteer service.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES L. DAVENPORT.

Mr. PLUMB. I move that the Senate proceed to the consideration of the bill (S. No. 859) for the relief of Charles L. Davenport. It is a bill that will not lead to debate, and it is of some importance to the person named in the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It declares legal the declaratory statement numbered 13659, for the southeast quarter of section 5, township 34 south, range 2 west, in the State of Kansas, of Charles L. Davenport, and that his right to acquire title thereto under the pre-emption laws of the United States, shall in no wise be prejudiced or affected by any former filing or declaratory statement he may have made for another tract of land under the pre-emption laws.

Mr. EDMUNDS. I should like to hear that explained. Of course the matter is a very small one, but there may happen to be an adverse claimant. We declare that his title is absolutely legal, and if there is an adverse claimant who has got a better right, then he will come to Congress and ask to have something done for him.

Mr. PLUMB. Perhaps the easiest way to explain this matter would be to have the report read.

Mr. EDMUNDS. Very well, let the report be read.

The PRESIDING OFFICER. The report accompanying the bill will be read.

The Chief Clerk read the following report, submitted by Mr. PLUMB on the 26th of March:

The Committee on Public Lands, to whom was referred the accompanying bill (S. No. 859) for the relief of Charles L. Davenport, have had the same under consideration, and respectfully submit the following report:

The facts of this case, in brief, are: in July, 1876, Mr. Charles L. Davenport filed

his declaratory statement of intention to pre-empt the northeast quarter of section 10, township 27, range 4 west, in Sedgwick County, Kansas. On account of sickness in his family he was prevented for about two months from making the necessary improvements, and the land was settled upon by another person. Doubting his ability to successfully contest with this person, Mr. Davenport, acting under advice, concluded to have his first filing canceled, and pre-empt another tract of land. He therefore went to the land-office at Wichita, gave his filing-paper to a clerk, telling him what he desired. Shortly after, he filed in the same office his declaratory statement (No. 13659) of intention to pre-empt the southeast quarter of section 5, township 31 south, range 2 west, in Sumner County, Kansas, accompanying the filing by settlement and improvement of the land, on which he has since made lasting and valuable improvements, exhausting thereby all available means.

Recently Mr. Davenport sought to complete his entry, and then, for the first time, ascertained that he could not do so on account of his previous filing. He at once made application to the Commissioner of the General Land Office to have the first filing canceled; but the Commissioner, having no power under the law, of course refused.

Section 2261 of the Revised Statutes, which provides as follows: "Nor where a party has filed his declaration of intention to claim the benefits of such provisions" (pre-emption right) "for one tract of land, shall he file at any future time a second declaration for another tract," was designed to guard against speculation in the public lands. It was aimed at a practice which prevailed of filing upon lands and holding them until they became valuable, and then selling and relinquishing and going on to another tract to repeat the operation, and so on. In this case it is apparent that no such intention existed; that Mr. Davenport was prevented by sickness in his family from fulfilling the conditions of his first entry; that he was ignorant of the law, and was misled by the failure of the clerk at the land office to inform him when he left his filing for cancellation, and by the acceptance of his last filing by the register of the land office, whereby he was induced to improve the land covered by his new filing, and expend thereon all his means.

Inasmuch as Mr. Davenport acted in good faith, had no design of speculating in the public lands, was misled by the action or non-action of the officers of the local land office, and as the restoration of his right to pre-emption entry will wrong neither the Government nor any private individual, the committee recommend the passage of the accompanying bill.

Mr. EDMUNDS. I move to amend the bill to guard against the possibility of our being obliged to provide land for two persons, when only one is entitled to it, by adding at the end of the section these words:

That this act shall not have the effect to impair any lawful right of any other person, and it shall operate only to convey in the manner hereinbefore provided any title of the United States in the premises.

So as to put him in our shoes. If another man has got a legal right, then we ought to recognize that.

Mr. PLUMB. I have this to say about that: I do not know that there is any intervening right of any kind whatever. There is certainly no intervening equity. Mr. Davenport is now, as he has been for a long time past, living upon this particular piece of land. By virtue of a section of the Revised Statutes, having previously filed upon another piece of land, he could not legally file upon this land. He did not ascertain that fact until he went to the land office to make his final entry. If any person has settled upon that land Mr. Davenport himself living there during this time, having made this valuable improvement upon it, only being prevented from making his final entry by reason of the existence of this technical impediment, for it is purely a technical impediment, I submit that it would be entirely unjust to him to permit the practical trespass of any other person to come in between him and the right to make this entry. The facts as stated in the report show that this man has made his actual *bona fide* settlement; that he has done all that the law requires him to do; but that, by reason of his having previously filed on another piece of land under the circumstances stated, he is not now permitted to make this entry.

Mr. DAVIS, of Illinois. The better way would be to allow the Commissioner to cancel the first application.

Mr. PLUMB. That is the bill.

Mr. DAVIS, of Illinois. No, this bill is a legislative declaration of a legal conclusion; but if he cancels his first application and the Commissioner can allow the second application to date from the time it was made, you will get all you want.

Mr. PLUMB. If there is any better way of accomplishing the result I have no objection to it of course, but I should decidedly object to permitting any person who was practically a trespasser against Mr. Davenport to acquire by reason of this bill any rights.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont.

Mr. EDMUNDS. Either Mr. Davenport has a lawful right to acquire this land or he has not. If he has the lawful right to acquire it under the circumstances stated, I am perfectly willing that he should have that right provided some other person has not a precedent lawful right to the same land. If some other person—no matter what his motives are—has, under the authority of law, got the start of Mr. Davenport, that is a misfortune that exists between those two men; one or the other of them has got to lose the land; but the question is whether the United States should be obliged to foot the bills of both of them, as the saying is. That is the point to which I wish to call the attention of the Senate, and so I proposed this amendment. If any other person has acquired under existing law a lawful right to this land, then I do not see how we can take that lawful right away and give it to Mr. Davenport; but we can give Mr. Davenport whatever we have a rightful authority to give him, and that is to relieve him from any embarrassment growing out of his loss, so that it does not take land away from somebody else who has a right to it. If somebody else has a right to it, I do not think that any hardship in Mr. Davenport's case ought to require or authorize us to take the land away from somebody else who has acquired a right

to it and give it to him; and that is the point upon which I offer this amendment.

Mr. DAVIS, of Illinois. I would suggest to the Senator from Kansas that the better way for him is to have a cancellation by the commissioner of the first application and filing of the other as the date at which it was filed. That avoids all this difficulty.

Mr. PLUMB. The point which the Senator from Illinois makes can be accomplished by a very slight change in this bill and it will answer the purpose just as well. Say

That the declaratory statement numbered 13659 be, and the same is hereby, declared legal.

Or I will strike out the words "declared legal," and say:

That the right of Charles L. Davenport to acquire title to that land under the pre-emption law shall not be prejudiced by reason of his having previously filed.

That amounts to the same thing. I am willing to make that amendment and that will simply remove the prejudice on account of a first filing, and that leaves him and other parties to contest with reference to the priority of their respective rights for this very piece of land which he has now settled on.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Vermont.

The amendment was agreed to.

Mr. PLUMB. I move to amend the bill further.

Mr. CHAFFEE. While the Senator from Kansas is preparing his amendment I ask the Senate to take up Senate bill No. 20.

Mr. EDMUNDS. We cannot lay one bill over another in that way.

Mr. CHAFFEE. The Senator from Kansas has not got his bill correct yet. While he is correcting his bill I move to take up Senate bill No. 20.

Mr. DAVIS, of Illinois. The Calendar will be taken up to-morrow at one o'clock.

Mr. PLUMB. I have an amendment which I think will cover the point suggested by the Senator from Vermont and I offer what I now read as a substitute for all after the enacting clause:

That the right of Charles L. Davenport to acquire title to one quarter section of the public land under the pre-emption laws of the United States shall in no wise be prejudiced or affected by any former filing or declaratory statement he had made for another tract of land under such pre-emption laws.

That simply relieves him from the *onus* which is now on him by reason of having heretofore filed a declaratory statement. That leaves the parties exactly as they are with that prejudice removed.

Mr. EDMUNDS. I move to amend that amendment by adding to it these words:

But this provision shall not affect any lawful adverse right of any other person.

Mr. PADDOCK. Would it not be well to have the bill recommitted?

The PRESIDING OFFICER. That is a question for the Senate to decide on motion.

Mr. PLUMB. I accept the amendment proposed by the Senator from Vermont.

The PRESIDING OFFICER. The amendment of the Senator from Vermont is accepted by the Senator from Kansas. The question is on the amendment of the Senator from Kansas, as amended; which will be read.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause of the bill and insert:

That the right of Charles L. Davenport to acquire title to one quarter section of the public land under the pre-emption laws of the United States shall in no wise be prejudiced or affected by any former filing or declaratory statement; but this provision shall not affect any lawful adverse right of any other person.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading.

Mr. CHAFFEE. I should like to have the bill read now.

The PRESIDING OFFICER. The bill will be read.

The Chief Clerk read the bill as amended on motion of Mr. PLUMB.

Mr. WHYTE. I may not have heard very distinctly the reading of the bill as it has been amended, but it strikes me that it is still very imperfect in its character, and I think it ought to go back to the Committee on Public Lands to be perfected before we vote on it finally. It is a very curious beginning of a law that for a party to acquire title to a piece of land certain things shall be done. It strikes me as something odd in legislation, and I therefore move that the bill be recommitted to the Committee on Public Lands.

Mr. PLUMB. I think the Senator from Maryland does not understand the precise position which this matter is now in. The bill simply relieves Mr. Davenport from the effect of a former filing which he has made and gives him no new right except as to that filing. The law as it now stands prohibits a person from making two filings of different pieces of land. There is some necessity for haste about this bill, because if it does not pass other rights may intervene and then he will be left out entirely with all the money he has expended on the piece of land he has settled on. The bill as it stands certainly will accomplish the object had in view, no matter how imperfect it may be.

Mr. WHYTE. The difficulty with me is that it does not seem to express intelligently the idea.

Mr. PLUMB. Let the Secretary read it again.

The Chief Clerk read the bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maryland to recommit the bill to the Committee on Public Lands.

Mr. PADDOCK. I hope the Senator from Maryland will withdraw his motion. I think the bill as now amended is intelligible.

Mr. WHYTE. I withdraw the motion. I shall vote against the bill, however.

The PRESIDING OFFICER. The motion to recommit is withdrawn. The question is, Shall the bill be ordered to be engrossed for a third reading?

The bill was ordered to be engrossed for third reading, was read the third time, and passed.

EXECUTIVE SESSION.

Mr. MATTHEWS. I move that the Senate proceed to the consideration of executive business.

Mr. SARGENT. I hope not. It is early in the afternoon.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio.

The question being put, a division was called for; and the ayes were 22.

Mr. SARGENT. I ask for the yeas and nays.

The yeas and nays were ordered, and being taken resulted—yeas 26, nays 18; as follows:

YEAS—26.			
Anthony,	Cameron of Pa.,	Garland,	Matthews,
Armstrong,	Cameron of Wis.,	Graver,	McMillan,
Bailey,	Coke,	Hereford,	McPherson,
Beck,	Conover,	Hill,	Morgan,
Blaine,	Davis of Illinois,	Ingalls,	Windom.
Bruce,	Davis of W. Va.,	Johnston,	
Burnside,	Edmunds,	Kernan,	
NAYS—18.			
Booth,	Harris,	Oglesby,	Saunders,
Chaffee,	Howe,	Paddock,	Spencer,
Dennis,	Jones of Florida,	Plumb,	Whyte.
Eaton,	Maxey,	Rollins,	
Eustis,	McCreery,	Sargent,	
ABSENT—32.			
Allison,	Dorsey,	Lamar,	Saulsbury,
Barnum,	Ferry,	McDonald,	Sharon,
Bayard,	Gordon,	Merrimon,	Teller,
Butler,	Hamlin,	Mitchell,	Thurman,
Christiancy,	Hoar,	Morrill,	Voorhees,
Cockrell,	Jones of Nevada,	Patterson,	Wadleigh,
Conkling,	Kellogg,	Randolph,	Wallace,
Dawes,	Kirkwood,	Ransom,	Withers.

So the motion was agreed to; and the Senate proceeded to the consideration of executive business. After forty-four minutes spent in executive session the doors were re-opened, and (at four o'clock and sixteen minutes, p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, April 16, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

J. C. M'BURNEY.

Mr. SMITH, of Georgia. I move by unanimous consent to take from the Speaker's table Senate bill No. 1033, for the relief of J. C. M'Burney, for reference, not to be brought back by a motion to reconsider.

There was no objection, and the bill was taken up, read a first and second time, and referred to the Committee of Claims.

COLORADO CITIZENS GOING TO BRAZIL.

Mr. STENGER. I move by unanimous consent to take from the Speaker's table a bill (S. No. 1080) authorizing the issue of passports free to colored citizens going to Brazil, for consideration at this time.

Mr. REAGAN. I have no objection, if it does not interfere with the morning hour.

Mr. MULBROW. I object, unless it is referred to the Committee on Foreign Affairs, to which such questions are usually referred for consideration.

Mr. STENGER. There is an unfair discrimination between white and colored laborers who desire to go to Brazil. Some gentlemen who have a contract for the construction of a railway in Brazil desire to take out some three hundred colored laborers, and they are compelled to pay \$5 each, while white laborers are permitted to go free.

Mr. MULBROW. I withdraw my objection.

Mr. STENGER. I want both to be upon the same footing, without regard to race, color, or previous condition of servitude.

The bill, which was read, directs the Secretary of State to issue passports, free of charges and fees therefor, to any colored citizens of the United States who may wish to go to Brazil to engage in work upon the Madera and Mamore Railway, and suspends to that extent the provisions of section 4075 of the Revised Statutes.

Mr. HOOKER. This bill seems to provide merely for laborers taken

to Brazil by a particular company. If the bill is proper it seems to me its provisions should be general.

Mr. STENGER. I do not know of any others who desire such legislation. It is necessary it should pass at once, so these colored laborers may be relieved from this discrimination against them.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. STENGER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEFICIENCY APPROPRIATION.

Mr. FOSTER. I move, by unanimous consent, the message from the Senate be taken from the Speaker's table and that the House agree to the conference asked on the disagreeing votes of the two Houses on the bill (H. R. No. 3746) to provide for deficiencies in the appropriation for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes.

There was no objection; and it was agreed to accordingly.

The SPEAKER appointed, as managers of said conference on the part of the House, Mr. FOSTER, Mr. BLOUNT, and Mr. SPARKS.

ORDER OF BUSINESS.

Mr. HENDEE. I demand the regular order of business.

Mr. COX, of New York. Will we have a morning hour after the District business is ended?

The SPEAKER. The gentleman from Georgia has given notice he will test the sense of the House to go into committee for the further consideration of the post-office appropriation bill. If that is voted down, the morning hour will then begin.

Mr. COX, of New York. The gentleman from Georgia said to me the other day he would allow us to have a morning hour this morning to consider the Thurman funding bill.

Mr. HENDEE. I demand the regular order of business.

The SPEAKER. The regular order of business is the unfinished business of yesterday.

Mr. COX, of New York. Is it in order for me to test the sense of the House between the unfinished business and the morning hour?

The SPEAKER. It is.

Mr. COX, of New York. Then I raise the question of consideration against the unfinished business. My object is to get to the Speaker's table and to reach the Thurman railroad bill.

Mr. HENDEE. We cannot stop for that now. Let us consider the District business.

The SPEAKER. The House always has it in its control to say what business it will consider.

Mr. COX, of New York. It might save some trouble if I now ask unanimous consent to fix some time when the Thurman funding bill can be taken up for action.

The SPEAKER. The way to reach that and all other bills upon the Speaker's table would be to have a morning hour and immediately after the morning hour to move to go to the business upon the Speaker's table.

Mr. COX, of New York. I give notice that I will do that.

Mr. PRICE. We should understand exactly what unanimous consent means. There are a great number of bills upon the Speaker's table, some of which ought to be referred to committees for consideration.

Mr. COX, of New York. We will consider the bills in their order so as to reach the Thurman funding bill, and some may be referred and some should be disposed of.

Mr. WADDELL. There is one bill upon the Speaker's table in reference to letter carriers which with my consent will not be laid aside, but will be disposed of at this time.

Mr. COX, of New York. We will take a vote on that.

Mr. SPRINGER. Until this is settled I ask unanimous consent to offer a resolution of inquiry.

The SPEAKER. The gentleman from New York [Mr. WOOD] has the floor for a question of privilege.

Mr. COX, of New York. I reserve the question of consideration which I have raised.

PERSONAL EXPLANATION.

Mr. WOOD. Mr. Speaker, I believe I have never yet troubled this House upon any question of a purely personal character and I would not do so now but for the fact that personally I have been misrepresented during my absence from the city in a way that reaches a public question now uppermost in the minds of the people of this country. I will send to the Clerk's desk, to be read, remarks made by the gentleman from Michigan [Mr. CONGER] on Thursday last.

The Clerk read as follows:

Mr. CONGER. Mr. Speaker, I find, on examining the RECORD this morning, in looking through the speech of the gentleman from New York [Mr. WOOD] on the tariff, as published in the RECORD of this morning, April 11, that a letter which was read by the gentleman purporting to come from a manufacturing firm in the State of Michigan, Withington and another, on the subject of the manufacture here and sale abroad of agricultural implements, hay-forks, and things of that kind, and some remarks which I made in regard to that firm and these implements are entirely omitted from the RECORD. A matter that was of sufficient importance to have read at the Clerk's desk as a part of the gentleman's remarks, the entire letter, and upon which the gentleman commented and upon which I commented

in the House, is entirely left out of the RECORD of the debates of this House, and the comments too are left out.

That letter, sir, from this firm in Jackson, stated that they were large manufacturers of that class of agricultural implements, and among other things stated that they had a large sale for those implements in foreign countries. It stated also that they could manufacture those implements of steel purchased from abroad—manufacture them in the State of Michigan—and send them to foreign countries to compete there with the manufactures of other countries; and that they did not desire any protection. That was substantially what the letter amounted to. It was used as an argument to this House in favor of the proposition of the Committee of Ways and Means on the tariff bill.

Now, sir, I stated to the House after the reading of that letter that this firm of manufacturers in the State of Michigan carried on their work in the penitentiary of that State; that they performed this work by convict labor in that State, at a price for that labor in the manufacture of these implements less than that at which free labor could be employed anywhere. I do not give my words, but that is the purport of them. I have tried in vain to obtain the record of my remarks as well as the copy of that letter from the manuscript of the reporters.

I also stated, what I considered a very important statement, that under the laws, which I did not read, and to the titles of which I did not refer, but which I now do—sections 3019, 3020, and 3025 of the Revised Statutes—there was a drawback upon the duties paid upon steel which should be manufactured in this country, either wholly of steel or partly of wood, when the articles were re-exported from the country lacking 10 per cent. of the drawback for the use of the Government.

Now, sir, these important statements of the gentlemen, made here in the presence of this House and going to the country as they always do and should do by those reporters who send broadcast the statements made here to influence the public mind, were all suppressed by the gentleman from New York (Mr. Wood) in his printed speech; not a single reference made to it or to my comments thereon.

I am sorry the gentleman is not here, but I say, sir, that that was a violation, a flagrant violation of the rules of the House. I do not know nor do I propose to tell whether by mistake, by accident, or by design that important omission from the RECORD was made. But I speak of it now at the earliest opportunity, and as soon as I can procure from the reporters the manuscript of the letter and of the gentleman's remarks upon it and of my comments upon it, I shall ask the privilege of the House that they be placed in the RECORD.

Mr. WOOD. On my return to the city last night my attention was called to this statement of the gentleman from Michigan made in this House last Thursday. I had left the city on Thursday morning for New York, and have not been acquainted with the proceedings of the House since I have been gone. Personally I would not have deemed this reference to myself of the least public importance—certainly not sufficiently so to warrant me in presuming upon the time of the House. But as it implies, firstly, that I had suppressed a portion of my speech and the remarks of the gentleman from Michigan; secondly, that I had an object in that suppression; and, thirdly, that he was not fairly dealt with by an omission of the RECORD to contain the remarks which he had made on that occasion—I think it necessary to make a brief statement to the House.

Now, I can assure the gentleman from Michigan that I think I am the only sufferer by the omission referred to. The letter which was read, and to which the gentleman has referred, came to me under circumstances and disappeared under circumstances which I shall relate. As early as January last a colleague of the gentleman, with whom I had no personal acquaintance, wrote me a letter inclosing a letter from this firm transacting business at Jackson, in the State of Michigan, stating that so far as they were concerned they required no protection; that they manufactured very largely; that they exported their goods to Europe; and that they were doing very well. The gentleman from Michigan, [Mr. McGOWAN,] the gentleman's colleague, indorsed in his letter to me the respectability of this firm, and gave in addition what appeared to me to be a full indorsement of the position which they had assumed. In preparing myself for the opening speech in the tariff debate, among other papers I came across this. I read it and saw that it was in the line of a discussion which I intended to pursue. But having no acquaintance with the gentleman, through my friend, his colleague, sitting on my left, [Mr. WILLIAMS,] I sought his acquaintance and sought his permission to have read as part of my speech the communication which he had sent to me. He gave it fully.

Therefore, sir, upon that occasion I had that letter read; but when I came to revise my speech the next morning the letter was missing, and everything relating to it in the proceedings of the House was missing also. The explanation that I have been enabled to receive respecting it was that after the Clerk had read the letter from the desk it was handed to the reporters of the RECORD, and has disappeared and has never been seen since, with the additional recollection on the part of the gentleman in front of me that the gentleman from Michigan [Mr. McGOWAN] came to the Clerk's desk and inquired for the letter before I had concluded my speech; and the presumption is that he felt he had a right to recover that letter, and as he has left the city, I presume he has taken it with him. Therefore if the letter did not appear, I am quite sure that in no way am I responsible for this omission from the RECORD, because I have never seen it since I sent it to the Clerk's desk.

But the gentleman from Michigan complains also that his remarks, which he interruptingly made at the moment of the production of that letter, were also suppressed. I will remind the gentleman his remarks were made at a time and in a way and under circumstances that did not entitle them to go into the RECORD. I did not yield to any gentleman for any remarks at that time in the course of my discussion. The gentleman did make some remarks, and although I should have freely and willingly given him the benefit of those remarks if I had given the letter itself, yet as a mere question of order under the rules the remarks were made under circumstances certainly that did not entitle them to be placed in the RECORD. But I

should not have taken advantage of that circumstance. They would have gone with the letter, if the letter and the remarks themselves had ever reached me.

Now, the gentleman stated this firm in Michigan employed other workmen at 32½ cents a day. Well, sir, I will ask the Clerk to read a communication made to myself by the same firm since that debate, that the House may see what they say.

The Clerk read as follows:

JACKSON, MICHIGAN, April 11, 1878.

DEAR SIR: It has just been brought to my attention that in the debate on the tariff bill on Tuesday you quoted my letter respecting the exportation of forks, and that Mr. CONGER, interrupting, stated that our work was done by convict labor, at 32 cents per day. There are two points to be made in answer to Mr. CONGER:

1. That his statement as to the price paid per day was made utterly at random, and is untrue. We pay 72½ cents per day.

2. If we were the only firm exporting forks, &c., there might be some point to the cry of "convict labor." The facts are, all the large and a good many of the small manufacturers of forks using free labor are exporting these goods, many of them more largely than we. We do not make, I suppose, one-sixth the forks that go out of the country.

Hence that argument falls to the ground.

I regret that you should have cited our concern specifically. It is very annoying to be brought before the public in this way, and to have our affairs—the price we pay for labor, &c., discussed and misstated.

If you answer Mr. CONGER on this point at all, I think the second point here made will be sufficient without going into the question of what we pay for labor.

For your own satisfaction, however, I send you the last State prison report. On page 33 you will find the prices paid for labor. We have two contracts; one 65, one at 72½ cents.

Please send me your speech.

Very respectfully, yours,

W. H. WITHINGTON, Treasurer.

HOB. FERNANDO WOOD,
Washington, D. C.

Mr. WOOD. I also desire to have read a communication from the Walter A. Wood Mowing and Reaping Machine Company, the largest in the world.

The Clerk read as follows:

WALTER A. WOOD MOWING AND REAPING MACHINE COMPANY,
Hoonick Falls, New York, April 11, 1878.

DEAR SIR: We inclose to you a circular letter which we have prepared to send to our brother manufacturers, which is to be accompanied with a memorial to Congress. We read with pleasure your speech on the tariff question and notice that as far as we can judge from the reports in the New York papers that a Michigan firm have sent you a letter of like effect with our own. You will see by reading that the circular letter is intended for manufacturers, but we send it to you to be used. In the mean time we shall take pleasure in sending you the responses of other makers as we receive them.

Yours, respectfully,

WALTER A. WOOD M. & R. M. CO.
Per J. RUSSELL PARSONS, Vice-President.

HOB. FERNANDO WOOD,
House of Representatives, Washington, D. C.

Mr. WOOD. That communication contains a long circular communication in which it is clearly and plainly stated that they desired no protection whatever, and that they want really a reduction on the duties. Now I send an additional communication from the next largest establishment in the United States engaged in this business, the Tuttle Manufacturing Company of Naugatuck, Connecticut.

The Clerk read as follows:

NAUGATUCK, CONNECTICUT, April 10, 1878.

TO THE COMMITTEE OF WAYS AND MEANS,
House of Representatives:

We notice in the report of yesterday's House proceedings that Mr. WOOD, chairman of Ways and Means, informed the House that a manufacturer of hay-forks at Jackson, Michigan, had written him to the effect that they needed no protection, and that their business was able to compete with foreign manufacturers not only in the home markets but also in the foreign markets.

We notice also that Mr. CONGER, of Michigan, is said to have asserted that the work of the Jackson firm was done by convicts who were paid at the rate of thirty-two cents per day.

The inference sought to be drawn by Mr. CONGER's remark is that the Jackson manufacturer could not successfully compete in the foreign markets unless he employed convict labor at thirty-two cents per day.

This inference is wholly unwarranted. The Jackson firm is not the only firm who are exporting forks. Nor are the forks that are exported all made by convict labor. We are exporting largely of all kinds of forks, and to almost every civilized country on the globe, and we use no convict labor. We think that almost every manufacturer of forks in the country, of any repute, is exporting forks, or rather manufacturing them for the export trade, and this whether they are manufacturing by convict labor or not. We think that during the twelve months last past fifty thousand dozen of forks have been exported, and the quantity may be much greater.

These forks are made almost exclusively of American materials. We can think of no single article of foreign growth or production that is used in their manufacture except Turkish emery.

Very respectfully, your obedient servants,

TUTTLE MANUFACTURING COMPANY.

Mr. WOOD. But one other point made by the gentleman from Michigan to which I desire to refer is the Michigan firm that he referred to as being able to export their manufactured articles in consequence of drawback they had received on the raw material. If the gentleman had read the bill reported by the Committee of Ways and Means, he would have found in the fourth section of that bill a provision giving to all manufacturers of every class and grade the benefit of a drawback upon all raw materials that are dutiable and that enter into the construction of the articles they manufacture. The law, as it now stands, gives to a few classes of manufacturers the right to a drawback upon articles imported which enter into the construction of their manufactures, but this bill as reported by the Committee of Ways and Means gives to the manufacturer of every character and class a drawback on all the component elements that are of foreign

production on which is paid a duty, thus conferring on the manufacturers an advantage, which, under the existing law, they do not possess.

It was not my intention to make any argument on this point but simply to set the gentleman correct as to the fact that it was not my intention to suppress anything in the speech which I had the honor to make a short time since.

Mr. CONGER. I ask unanimous consent of the House to be heard for a few minutes.

The SPEAKER. If there be no objection the gentleman from Michigan will proceed. The Chair hears no objection.

Mr. CONGER. I can hardly express the gratification I feel that the occasion of suppressing a few remarks made by the gentleman from New York, and a letter which he read and some comments which I made upon that letter, has given rise to the comments throughout the country which I have seen on that transaction, and especially that it has shown the necessity to the gentleman from New York not only to make his explanation on that little incident, but to fortify the position which he assumed in the remarks that were not printed by an accumulation of documents sent to him by different manufacturers in the country endeavoring to sustain the position he has taken against the common, general opinion of the people of the United States.

Now, sir, the matter to which I called attention was a very simple one; it was to a matter which I thought affected the rights and interests of every member upon this floor, and incidentally the interests and rights of the people of this country.

As I understand it they are entitled to have all the proceedings of this House reported by the reporters go into the RECORD for the benefit of the members and for reference by the people of the country if desired. I took occasion on reading the RECORD in which I found the gentleman's speech, and from which the letter, his remarks, and my remarks had been eliminated, at the first opportunity on the proper occasion to call the attention of the House to it. But noticing the absence of the gentleman from New York, I then said that in his absence I would not proceed further, but that when I could procure from the reporters the manuscript copy of the official proceedings I should ask that they might be placed upon the record. That occasion has come and I am gratified that the remarks this morning explanatory, exculpatory, and excusing, not the elimination of those remarks from the RECORD, but excusing the gentleman for having made the remarks, have preceded what I have to say.

I send to the Clerk's desk, as I had proposed to do, the manuscript handed to me by the reporters of the proceedings to which I refer.

The Clerk read as follows:

A member of this House sitting upon the other side, whose permission I asked yesterday to refer to it in my speech, sent to me as early as January last a letter inclosing a letter from a large manufacturing firm in Michigan, which I will ask the Clerk to read, to show how much these industries are disturbed by our tariff legislation.

Mr. CONGER. At this point the letter should have been inserted, but I send to the Clerk's desk the residue of the report and ask that it be read. When I can get that letter I shall also ask to have it inserted in the RECORD.

The Clerk read as follows:

The Clerk read as follows:

[Here insert document.]

Mr. CONGER. I wish to ask the gentleman from New York one question: Does he not know that the gentlemen named here have a drawback upon all the steel which they put in their forks and in their hardware; and it is made by convict labor in our State's prison at the rate, I think, of thirty-two cents per day for the "skilled labor?"

Mr. WOOD. Mr. Chairman, the gentleman from Michigan will no doubt avail himself, as he threatened to do to-day, of every possible opportunity to be heard in order or out of order upon this subject.

Mr. CONGER. Does the gentleman object to the interruption?

Mr. WOOD. I object to all interruptions. The gentleman announced to-day that, in order or out of order, he intended to antagonize this bill. Now I hope he will not be out of order on this occasion.

Mr. CONGER. The gentleman is proceeding by the courtesy of the House beyond his time.

Mr. WOOD. I decline to be interrupted.

Mr. CONGER. Then I call time on the gentleman.

The CHAIRMAN. The gentleman from Michigan cannot do that. The time of the gentleman from New York having been extended by unanimous consent, he is entitled to occupy his additional hour. The Chair will announce the expiration of the hour, and then the gentleman from Michigan can object to any further extension.

Mr. CONGER. I have had the opportunity of saying all I desired to.

Mr. WOOD. Mr. Chairman, besides the paper that has just been read I have several statements from different sections of the United States from very large manufacturing establishments, not subjected to the courtesies of my friend from Michigan, that are not only quite contented with this bill but are earnestly praying for its passage; and those gentlemen who assume in this House to be *par excellence* the exclusive friends of the workmen will probably find that the workmen will not appreciate their voluntary service in this direction.

Mr. CONGER. Mr. Speaker, I also send to the Clerk's desk a letter from the Withington & Cooley Manufacturing Company, of Jackson, Michigan, which I ask to have read and inserted in my remarks.

The Clerk read as follows:

OFFICE OF WITHINGTON & COOLEY MANUFACTURING COMPANY,
Jackson, Michigan, April 11, 1878.

DEAR SIR: I have just seen that in the debate on the tariff bill Tuesday you stated that the work of our concern was done by convict labor at thirty-two cents per day. So far as the price is concerned that was a random statement, and very wide of the truth. We pay more than twice that sum.

Your statement that we used convict labor is utterly pointless in view of the fact

that six times as many forks made by free labor are exported than of those made by convict labor.

If you undertake to comment upon our business before the public, in justice to the argument and in justice to us pray take some pains to acquire the facts.

[Laughter.]

I am annoyed that Mr. WOOD should have made specific mention of us at all. Truly yours,

Hon. O. D. CONGER,
Washington, D. C.

W. H. WITHINGTON, Treasurer.

Mr. CONGER. In justice to Mr. Withington I have sent up his letter to have it put upon the record. He admits all that I desire to state here, that this firm having a monopoly of the business, sent to the Congress of the United States to be read by the chairman of the Committee of Ways and Means the letter which I believe they asked Mr. McGOWAN to present to the committee, placing before the committee and the people the fact that they can make this class of agricultural implements and export them to foreign countries at a profit; and to-day by a parity of reasoning the rest of the laborers of the United States need no protection for their labor without adding that it was convict labor which they employed.

The main point I made against them (and these gentlemen must have understood it if they read the report) was that they had a drawback on the manufactured material when these implements were made and sold. They did not allude to that, nor does the gentleman from New York [Mr. WOOD] allude to it then or now. Whether they pay thirty-two cents or sixty-two cents or seventy-five cents per day for this prison labor, the gentleman from New York [Mr. WOOD] did not say that it was convict labor. I stated that fact to the House; it is admitted that it was convict labor. It is admitted that sixty-two and a half or seventy-five cents a day is paid for skilled labor upon the manufacture of agricultural implements described in that letter, which not only are sold all over the United States but may be exported at so great a profit to foreign countries that these gentlemen need no protection under the law for their manufactures. That is the point.

Now, sir, the convict labor in that State prison is of two kinds: one where the State boards the convict and the other where the contractor boards the convict. These gentlemen do not say whether the State boards their convicts for which they pay sixty-two and a half or seventy-five cents a day. The price of labor used to range from about thirty to forty-five cents a day where the contractor boarded his own men. If the State boarded them, as is probable in this case, (although I cannot state anything about it of my own knowledge,) they pay a higher price. But either way, who will go before the country and claim that, because a manufacturer can use convict labor even at the highest price, seventy-five cents a day for that peculiar skilled labor necessary for the manufacture of these delicately finished articles, therefore no protection is necessary to the laborers of the United States?

But, as I said, the principal point in the whole matter is this; and before I send up to have read the law about drawbacks, I desire to call the attention of the House to the next communication with which the gentleman from New York [Mr. WOOD] fortified himself, a communication, if I understood aright, from the Walter A. Wood Mowing-Machine Company; I think in Albany or in Troy; I am told that it is at Hoosick Falls, near Troy. They manufacture mowing-machines, and have sent up here their approval to strengthen and sustain the gentleman from New York in what I must call his unwarranted attack upon the free labor of the United States. Now what are they? They are manufacturers of mowing-machines. How are they protected? They are protected, first, by a patent, so that on the broad face of this whole earth everybody else is forbidden to make that kind of manufacture. They have an absolute monopoly under the law. No other manufacturer in America, in Canada, in England, in France, in Germany, in any civilized nation of the world, can manufacture one of these mowing-machines.

They are the men, with an absolute monopoly by patent in this country and abroad, who come here and tell the free laborers of the United States that there is no need of protection for their labor. What greater protection can be given a particular article than the absolute and sole right of manufacturing it and selling it? I commend the gentleman for having produced this beautiful illustration of his tariff theory.

But they not only have a monopoly secured by patent, but from the necessity of the case there can be no possible competition here or elsewhere. As I said before, in the whole broad world nobody else can make that mowing-machine but themselves. Secured by the laws of the United States and by the Constitution of the United States, by the letters-patent of Her Majesty and of all the other governments, they stand protected from all competition from any possible source.

Ah, if they would rest there the other poor laborers of this country not thus protected might possibly not complain; but the laws of the United States, in addition to all this protection, have thrown around them, in common with others, a protection by allowing them a drawback upon all the steel and iron upon which they have paid duties, and which enters so largely into their manufactures. I ask the Clerk to read sections 3019, 3020, and 3025 of the Revised Statutes.

The Clerk read as follows:

SEC. 3019. There shall be allowed on all articles wholly manufactured of mate-

rials imported, on which duties have been paid when exported, a drawback equal in amount to the duty paid on such materials, and no more, to be ascertained under such regulations as shall be prescribed by the Secretary of the Treasury. Ten per cent. on the amount of all drawbacks so allowed shall, however, be retained for the use of the United States by the collectors paying such drawbacks respectively.

SEC. 3020. Where fire-arms, scales, balances, shovels, spades, axes, hatchets, hammers, plows, cultivators, mowing-machines, and reapers, manufactured with stocks or handles made of wood grown in the United States, are exported for benefit of drawback under the preceding section, such articles shall be entitled to such drawback in all cases when the imported material exceeds one-half of the value of the material used.

SEC. 3025. No return of the duties shall be allowed on the export of any merchandise after it has been removed from the custody and control of the Government, except in the cases provided in sections 3019, 3020, 3022, and 3026.

Mr. CONGER. Now, when I say that no one else can manufacture the articles that are thus protected by patents in this country, I mean they cannot manufacture them freely. These men having the patent may permit, and I am informed they do permit for a royalty paid them, varying from \$20 to \$50 a machine, the manufacture of the articles by others.

Mr. STEELE. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. STEELE. I desire to ask the Chair if on a question of personal explanation any member of this House has the right to go into a general discussion of any question. I understand the gentleman from Michigan [Mr. CONGER] to be making a speech in advocacy of the principle of protection. I desire to know whether or not that is in order upon a question of personal privilege.

Mr. CONGER. If I may say a word upon that point, I think I have not wandered at all from the strict line of reply and the continuation of the remarks which I claimed the right to make when I before arose to a question of privilege.

The SPEAKER. The Chair always, on application of gentlemen to be heard on a question of personal privilege, recognizes them to be heard. But the Chair takes it for granted that members upon such occasions will be brief in their statements and will discuss pointedly the matters of which they complain. The gentleman from New York [Mr. Wood] and the gentleman from Michigan [Mr. CONGER] and all the other members will at once see that if this discussion or any like discussion is allowed to run on the regular business of the House will be seriously interrupted.

Mr. CONGER. I had said, Mr. Speaker, what I thought it my privilege and my duty to say upon this subject, both in reply to what has been said to-day by the gentleman from New York and also upon the matter of the elimination from the RECORD of remarks which were made on a former day. I shall take some other occasion—I did not intend to-day to do more than make the statement I have made—I shall take some other occasion to comment more particularly upon the points and positions taken by the gentleman from New York. With what I have read, with the law which has been read, with the gentleman's remarks which members have heard, I am perfectly willing to submit to the House the question of the wrong of omitting from the RECORD those remarks of the gentleman from New York and myself, even if the letter itself could not be found. And I desire to raise here distinctly the question, and have it understood by the House and decided by the Chair, whether remarks made in this House can be left out of their place in the RECORD by the reporters, by gentlemen having charge of their remarks when written out, or by any person; for that is the point to which I rose on a former occasion.

Mr. O'NEILL. Without desiring to intrude upon the House, I would like the gentleman from New York [Mr. Wood]—

The SPEAKER. Does the gentleman rise to a question of personal privilege?

Mr. O'NEILL. I rise to a personal complaint growing out of this question of personal privilege. I shall occupy but one moment.

Mr. HENDEE. I call for the regular order.

Mr. O'NEILL. I want only a moment to ask the gentleman from New York if he will permit me to remind him of another omission in his speech, and I think he will be glad to be reminded of it. I refer to the threat which he made to this House as to following up the tariff bill at the next session of Congress. [Cries of "Regular order!"]

The SPEAKER. Whenever the case arises in which the Chair shall be called upon to decide the point suggested by the gentleman from Michigan whether a member can, without the consent of another member who occupies the floor, thrust in remarks and have them printed in the RECORD, the Chair will be prepared to give his ruling.

Mr. O'NEILL. I do not wish to thrust in remarks; but the gentleman from New York made a threat as to what he would do in the future—

The SPEAKER. The Chair is not alluding to anything which the gentleman from Pennsylvania has said.

Mr. O'NEILL. I do not want the House to forget that threat, for I want to make a speech in reply to that part of the gentleman's remarks, which has been omitted from his printed speech.

The SPEAKER. The Chair made no remarks touching what the gentleman from Pennsylvania had said.

Mr. O'NEILL. I understand that. But I want the gentleman from New York to put in his speech or somewhere in the RECORD the threat he made to this House that at the next session of Congress he would push his free-trade doctrines to a successful issue, even if he should

fail now. I present this as a personal complaint of my own, for I wish to reply to that part of the gentleman's speech. [Cries of "Regular order!"]

The SPEAKER. The Chair will see that everything the gentleman from Pennsylvania says goes into the RECORD.

CIRCUIT COURT, NORTHERN DISTRICT OF OHIO.

Mr. SOUTHARD, by unanimous consent, introduced a bill (H. R. No. 4316) to confer special jurisdiction upon the circuit court of the northern district of Ohio; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 484) to authorize the construction of a bridge abutment and approach within the Fort Riley military reservation; and

An act (S. No. 1014) requiring the commissioner for preparing and publishing a new edition of the Revised Statutes of the United States to revise and perfect the index to the first volume of the same.

JOHN M. HICKEY.

Mr. WHITTHORNE, by unanimous consent, submitted the following resolution; which was referred to the Committee on Civil-Service Reform:

Resolved, That the Clerk of the House be, and he is hereby, directed to pay John M. Hickey, out of the contingent fund of the House of Representatives, the sum of \$109.94 for services due and unpaid while acting as messenger in the Forty-fifth Congress.

JOHN W. DOUGLASS.

On motion of Mr. THOMPSON, by unanimous consent, the bill (S. No. 55) for the relief of John W. Douglass was taken from the Speaker's table, read a first and second time, and referred to the Committee of Ways and Means, not to be brought back on a motion to reconsider.

PUBLIC BUILDING AT TOPEKA, KANSAS.

On motion of Mr. RYAN, by unanimous consent, the bill (S. No. 180) to provide for a building for the use of the post-office, United States circuit and district courts, and other Government offices at Topeka, Kansas, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Buildings and Grounds, not to be brought back on a motion to reconsider.

ORDER OF BUSINESS.

Several members called for the regular order.

The SPEAKER. The regular order is the unfinished business coming over from yesterday, the bill for the formation of a government for the District of Columbia. This bill is being considered in the House as if in Committee of the Whole; and the gentleman from Maine [Mr. HALE] will take the chair.

Mr. CANNON, of Illinois. I rise to a question of privilege. As to this and a number of other important bills I wish to say that I have tried in vain to secure copies of them. I am informed that copies of bills have not been placed on our files for three or four weeks past for want of sticks and cords. It occurs to me that some way ought to be devised by which members may get copies of bills coming up for consideration.

The SPEAKER. The Chair knows nothing about that matter.

Mr. CANNON, of Illinois. I want to bring it to the attention of the Chair, because it is useless for us to attempt to do business here unless we can have copies of the bills coming before us.

PENSION BILLS REFERRED.

The SPEAKER. The gentleman from Ohio, [Mr. RICE,] chairman of the Committee on Invalid Pensions, desires the gentleman from Vermont [Mr. HENDEE] to yield for a few moments in order that such pension bills as are on the Speaker's table may be taken up and referred. This request is made in view of the fact that this evening and the two succeeding evenings have been assigned for the reporting and consideration of pension bills.

Mr. RICE, of Ohio. That is my special reason for the request.

There was no objection, and the following bills were taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions:

A bill (S. No. 76) granting a pension to Mary Ann McFarland;

A bill (S. No. 221) granting a pension to Mary Kirby Smith Eaton during her widowhood;

A bill (S. No. 287) granting a pension to John C. Hughes, late private in Company N, Marine Regiment United States Volunteers;

A bill (S. No. 535) granting an increase of pension to Theodore Gardner;

A bill (S. No. 547) granting a pension to Caroline M. Egbert;

A bill (S. No. 663) granting a pension to William H. H. Buck;

A bill (S. No. 687) granting a pension to William H. Bagley;

A bill (S. No. 869) granting a pension to Mrs. Mary Wilkes, widow of the late Admiral Charles Wilkes, United States Navy;

A bill (S. No. 870) granting a pension to Rebecca and Augusta Miller, daughters of Brigadier-General Miller, of the war of 1812;

A bill (S. No. 871) granting a pension to William Emerson;

A bill (S. No. 872) granting a pension to Mrs. Ann M. Steele;

A bill (S. No. 874) granting a pension to Albert Richardson, late of Company A, Twelfth Indiana Volunteers;
 A bill (S. No. 929) granting a pension to Hiram Howard;
 A bill (S. No. 930) granting a pension to Mary B. Marsh; and
 A bill (S. No. 931) granting a pension to James Shields.

EL PASO TROUBLE.

Mr. MILLS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be, and he is hereby, directed to furnish to this House copies of the majority and minority reports of the commission appointed to investigate the El Paso troubles in Texas, and copies of all evidence taken by said commission, at as early a day as possible.

Mr. MILLS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WAR CLAIMS.

Mr. KEIFER. I ask unanimous consent to introduce a joint resolution (H. R. No. 159) proposing an amendment to the Constitution of the United States, and to move its reference to the Committee on War Claims as it refers to such matters. There may be a time when we shall desire to refer it to the Judiciary Committee.

Mr. TOWNSEND, of New York. I ask for its reading.

The SPEAKER. It is a joint resolution proposing to amend the Constitution of the United States.

Mr. KEIFER. In relation to the payment of claims. It may be read if gentlemen desire it.

The SPEAKER. If documents introduced are read it will cut out gentlemen who desire to ask unanimous consent, as the gentleman from Vermont [Mr. HENDEE] has only yielded five minutes for that purpose.

Mr. KEIFER. I ask that it be printed in the RECORD.

Mr. LUTTRELL. I object.

The SPEAKER. There being no objection, then, it will be read a first and second time, and referred to the Committee on War Claims.

Mr. TOWNSEND, of New York. I have asked for the reading of that paper, and I insist it be read or be printed in the RECORD.

The SPEAKER. The gentleman from Vermont yielded for five minutes to allow members to ask unanimous consent for introduction of bills which they did not have the opportunity of doing yesterday, and the reading of this paper which has been objected to will take up a greater part of that five minutes. The joint resolution will be printed in the usual form and gentlemen can get it in the morning in the document-room.

Mr. TOWNSEND, of New York. I am as pertinacious, Mr. Speaker, in asking to have that joint resolution read as the gentleman who objects to its being printed in the RECORD.

The SPEAKER. The joint resolution will be read.

The Clerk read as follows:

A joint resolution proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both Houses concurring therein,) That the following be proposed as an amendment to the Constitution of the United States, which, when ratified by the Legislatures of three-fourths of the several States, shall be valid, to all intents and purposes, as a part thereof, viz:

ARTICLE —.

SECTION 1. Congress shall have no power to appropriate money for the payment of any claim against the United States, not created in pursuance of or previously authorized by law, international treaty, or award, except in payment of a final judgment rendered thereon by a court or tribunal having competent jurisdiction.

SEC. 2. Congress shall establish a court of claims to consist of five justices, one of whom shall be chief justice, with such original jurisdiction as may be conferred on it by law, in cases involving claims against the United States, and with such other original jurisdiction as may be provided by law, and Congress may also confer on any other of the courts of the United States, inferior to the Supreme Court, original jurisdiction in like case.

SEC. 3. All legislation other than such as refers exclusively to the appropriation of money in any appropriation act of Congress shall be void, except such as may prescribe the terms or conditions upon which the money thereby appropriated shall be paid or received.

Mr. LUTTRELL. That ought to go to the Committee on the Judiciary.

Mr. KEIFER. It is proposed to refer it there after first being considered by the Committee on War Claims. There are reasons why it should be referred first to the Committee on War Claims.

Mr. LUTTRELL. I make that motion to refer it to the Committee on the Judiciary.

Mr. LUTTRELL's motion was disagreed to; and the joint resolution was then referred to the Committee on War Claims, and ordered to be printed.

IMPROVEMENT OF NEW ORLEANS HARBOR.

Mr. GIBSON, by unanimous consent, introduced a bill (H. R. No. 4317) for the protection and improvement of the harbor at New Orleans; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

Mr. GIBSON. I move by unanimous consent that the report of the board of engineers touching the same subject be printed.

There was no objection, and it was ordered accordingly.

MODIFICATION OF PATENT LAWS.

Mr. BALLOU, by unanimous consent, from the Committee on Printing, reported back the resolution of the House of April 2, "that 5,000

copies of the arguments and statements before the Senate and House Committees on Patents upon the bill to amend the statutes in relation to patents, and for other purposes, (H. R. No. 1612 and S. No. 300,) be printed for the use of the House of Representatives, as follows: 500 copies for the use of the Committee on Patents, House of Representatives, and 4,500 for the House of Representatives," with a substitute, as follows:

Resolved, That 1,000 copies of the arguments and statements before the Senate and House Committees on Patents upon the bill to amend the statutes in relation to patents, and for other purposes, (H. R. No. 1612 and S. No. 300,) be printed for the use of the House of Representatives, to be distributed as follows: 3 copies to each Member and Delegate in said House and the remainder for the use of the Committee on Patents of the House.

The substitute was adopted; and the resolution, as amended, was agreed to.

Mr. BALLOU moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MISSISSIPPI RIVER IMPROVEMENT COMMISSION.

Mr. ROBERTSON, by unanimous consent, from the Committee on Mississippi Levees, reported a bill (H. R. No. 4318) to provide for the organization of "the Mississippi River improvement commission," and for the creation, permanent location, and deepening of the channel, and the improvement of the navigation of said Mississippi River and the protection of its alluvial lands; which was read a first and second time, ordered to be printed, and recommitted to the Committee on the Mississippi Levees, not to be brought back on a motion to reconsider.

Several members called for the regular order.

GOVERNMENT FOR THE DISTRICT OF COLUMBIA.

The SPEAKER. The regular order being called, the House resumes the consideration of the unfinished business, the bill (H. R. No. 3259) providing a permanent form of government for the District of Columbia. The gentleman from Maine [Mr. HALE] will take the chair.

The SPEAKER *pro tempore* (Mr. HALE.) The pending question is on the motion of the gentleman from Illinois [Mr. EDEN] to strike out the eighth section as amended on the motion of the gentleman from Indiana [Mr. HANNA.] The Clerk will report the section, as amended, which it is proposed to strike out.

The Clerk read as follows:

SEC. 8. That hereafter the Secretary of the Treasury shall pay the interest accruing on the 3.65 per cent. bonds of the District of Columbia as the same mature, and the amounts so paid shall be credited as part of the appropriation for the year by the United States toward the expenses of the government of the District, as herein provided: *Provided*, That nothing herein contained shall be so construed as to commit the Government to the payment of the principal of said bonds.

The SPEAKER *pro tempore*. On the motion to strike out the section as amended the yeas and nays have been ordered.

Mr. BEEBE. Would a motion to reconsider the vote ordering the yeas and nays be entertained by the Chair?

The SPEAKER *pro tempore*. The Chair in regard to that would follow the ruling of the present Speaker of the House and would entertain the motion.

Mr. BEEBE. Then I make the motion that the vote ordering the yeas and nays be reconsidered.

The motion was agreed to.

The SPEAKER *pro tempore*. The question recurs, will the House order the yeas and nays on the motion to strike out the eighth section as amended?

The question being taken on ordering the yeas and nays, there were yeas 13; not a sufficient number.

So the yeas and nays were not ordered.

Mr. BEEBE. I desire to move an amendment to the section before the vote is taken on striking it out.

Mr. HENDEE. I wish to make a parliamentary inquiry. Was not the vote taken on the motion of the gentleman from Illinois to strike out the eighth section as amended, and was not the motion declared to be lost?

The SPEAKER *pro tempore*. It undoubtedly was.

Mr. HENDEE. Then there can be no necessity for voting upon that question again.

The SPEAKER *pro tempore*. The gentleman is correct.

Mr. BEEBE. Then I offer my proposition to amend the section.

The SPEAKER *pro tempore*. That is in order.

Mr. BEEBE. I offer the following amendment:

In line 1 of section 8 strike out the word "hereafter" and insert in lieu thereof the words "until otherwise provided by law."

I offer this amendment to meet the objection which was made to this section yesterday. I have consulted with many friends of the bill, and I believe that if this amendment is carried it will materially improve the chances of the passage of the bill. The objection was made yesterday that section 8 as it now stands is forever an irreparable provision, because the rights of the holders of these bonds would intervene and assume the nature of vested rights and prevent the Congress of the United States in the future from ever making any other provision with reference to the payment of the interest on these bonds.

I have no objection, Mr. Speaker, to the provision as it stands, pro-

vided that if in the future it proves unwise there may be retained in the power of the law-making authority of this country the right to amend or change the provision and resort to a new policy in this regard. The insertion of these words will not affect the working of this section at all. Some gentlemen may say that the provision is repealable as it now stands, and there is at least a question as to the power of Congress to repeal this; and if we put these words in, we remove that. Certainly Congress ought to reserve to itself the right to change this policy at any time if in the wisdom of Congress it should hereafter be deemed unwise.

Mr. WILSON. How will the section read if the gentleman's amendment is adopted?

Mr. BEEBE. It will then read:

That until otherwise provided by law the Secretary of the Treasury shall pay the interest accruing on the 3.65 per cent. bonds of the District of Columbia as the same matures, &c.

I hope the amendment will be adopted.

Mr. HENDEE. One word in reply to the gentleman from New York. It is very well known that the question of whether the United States should take care of the interest on these bonds has been discussed fully at all sessions of Congress since the creation of the bonds. All parties, as I understand, admit the fact that the United States has guaranteed as strongly as it can guarantee that this interest shall be paid. Upon one occasion, two years ago I think, the Government defaulted because the Appropriations Committee did not pass a bill with that provision in it for the payment of interest until after the interest matured, so that these bonds were affected in their value more or less from that very fact. One defaultation very much depreciated the value of the bonds.

Now, these bonds are not held, as was said yesterday, by shysters and all sorts of men who deal in them as a matter of speculation. I have the list which shows that they are held all over the country—in Pennsylvania, New Jersey, Delaware, New York, and in the Western States—owned by thousands of people: guardians, insurance companies, trust companies for the benefit of depositors; and now it seems to me wise that we should settle the question whether the Government will, as the interest matures for each six months, pay that interest.

Now, as I understand this section, it is not so drawn or so constructed that, if Congress hereafter sees fit to change it or repudiate it entirely, it has not that power.

Mr. BEEBE. Will the gentleman allow me to ask him a question?

Mr. HENDEE. Certainly.

Mr. BEEBE. If the power is still reserved to the Government, what objection can the gentleman have then to having it clearly provided in this section?

Mr. HENDEE. This is the objection: that, every Congress when questions come up as to the District of Columbia and what shall be done for the District of Columbia and as to the bonds, they will refer to this section as leaving the matter still in the hands of Congress. The question will never be settled so long as we leave it open. Now I think it is a duty we owe to the holders of these bonds, which are held by all our constituents, women, widows, children, and wards, as the record shows, that we should settle the question and settle it forever, and the interest should be taken care of. I look at it as a matter of business rather than in any other light.

Mr. BEEBE. Does not the gentleman understand that even if the amendment be adopted it will become the affirmative duty of the Secretary of the Treasury to pay the interest just as if we left the section as it now stands?

Mr. HENDEE. Undoubtedly; and I only wish to have the section settled by this act, so that we shall have no future legislation on the subject; and I say further that the Committee for the District of Columbia were unanimous in the wording of this section, so as to simply take care of the interest and carry out faithfully the pledge of the United States Government. I ask for a vote.

The question was taken upon Mr. BEEBE's amendment; and, on a division, there were—ayes 28, noes 68.

Mr. BEEBE. No quorum has voted, and I call for tellers.

The SPEAKER *pro tempore*. As no quorum has voted the Chair will appoint as tellers Mr. BEEBE and Mr. HENDEE.

The House divided; and the tellers reported ayes 39, noes not counted.

So the amendment was not agreed to.

The Clerk resumed the reading of the bill, and read as follows:

That from and after the 1st day of April, 1878, the board of Metropolitan police and all boards of fire commissioners and boards of school-trustees shall be abolished; and all the powers and duties now exercised by them shall be transferred to the said commissioners of the District of Columbia, who shall have authority to employ such officers and agents and to adopt such provisions as may be necessary to carry into execution the powers and duties devolved upon them by this act.

The Committee for the District of Columbia reported the following amendment to be added to the section just read:

Provided, That the commissioners of the District of Columbia shall appoint nineteen persons, actual residents of said District of Columbia, of whom five at least shall be of the colored race, to constitute the trustees of public schools of said District, who shall serve without compensation and for such terms as said commissioners shall fix. Said trustees shall have the powers and perform the duties in relation to the care and management of the public schools which are now exercised by and vested in the board of trustees of public schools for the District of Columbia.

Mr. McMAHON. I move to strike out the last word of the amend-

ment of the committee just read. This bill has been already passed upon in many of its details without, I think, proper consideration, and I want to call the attention of the House to the principle established in some preceding sections that I consider entirely improper and that no democratic House ought to commit itself to. I refer to the property qualification.

Mr. BLACKBURN. I rise to a point of order. My point of order is that the section last read by the Clerk is the only part of the bill under consideration, and that the matter to which the gentleman from Ohio proposes to address himself is not found in that section.

Mr. McMAHON. I wish to say that the section now under consideration proposes that colored men have a right to be appointed to certain offices, and I propose to show that there is a previous provision inserted requiring a property qualification that would not only exclude colored men but most white men also from holding an office.

Mr. BLACKBURN. I ask if that provision is to be found in this section.

Mr. McMAHON. No, sir.

Mr. BLACKBURN. Then I insist upon my point of order.

The SPEAKER *pro tempore*. The Chair cannot tell what will be the line of remarks pursued by the gentleman from Ohio if he should go on; and the Chair can only say that if the gentleman from Kentucky raising the point of order insists upon it the gentleman from Ohio will have to confine himself, in anything he may say, to the consideration of this section just read and to the amendment proposed to it by the committee.

Mr. McMAHON. I propose to do so as far as it is possible.

The SPEAKER *pro tempore*. If the gentleman does that he will be in order.

Mr. McMAHON. I think that I can make my remarks in order. The committee has just offered an amendment providing that colored persons may under certain circumstances be appointed to certain places. This is a correct principle; but the commissioners who are to be appointed must be possessed of \$5,000 in property before they can serve. And every one of the twenty-four councilmen to be elected by the people must be worth at least \$3,000. This is all wrong. I do not care what the peculiar situation of this District may be; it is not more peculiar than many parts of our country. But if it was there is no apology for adopting so obnoxious a principle that a man cannot be a commissioner or councilman without being worth \$3,000 or \$5,000 in money or property. This is a discrimination that ought never to be permitted to creep into our legislation under any pretense or excuse whatever. I shall vote against the whole bill if these provisions are retained; and I hope that our democratic friends will not sanction so undemocratic a proposition. A property qualification is an insult to the laboring classes and is contrary to our notions of a republican form of government.

Mr. BLACKBURN. I now ask, under the point of order, whether the gentleman from Ohio [Mr. McMAHON] is discussing the section before the House.

Mr. McMAHON. Well, I am through. [Laughter.] I withdraw my amendment.

Mr. CLAFIN. I move further to amend the section by striking out the word "April" and inserting the word "July," so that it will read "that from and after the first day of July, 1878, the board of metropolitan police, &c, shall be abolished."

The amendment was agreed to.

No further amendment being made to section 15, section 16 was read as follows:

SEC. 16. That it shall be the duty of the said commissioners to report to Congress at the next session succeeding their appointment a draft of such additional laws or amendments to existing laws as seem to be needed for the harmonious working of the system hereby adopted, and for the effectual and proper government of the District of Columbia.

Mr. HENDEE. I move to amend the section just read by adding to it these words:

And said commissioners shall annually report their official doings in detail to Congress on or before the first Monday of December.

The amendment was agreed to.

Mr. FORT. I move to insert after the section last read that which I send to the Clerk's desk, as an additional section.

The Clerk read as follows:

SEC. —. The commissioners are hereby authorized in their discretion to purchase, or acquire by condemnation, a sufficient quantity of land adjoining or adjacent to the almshouse of the District, and to erect thereon suitable buildings for the accommodation of the paupers resident in the District; and shall provide for the removal of needy and worthy persons thereto, and so provide for the same that it shall not be longer necessary for the poor to beg upon the streets. And the sum of \$50,000 is hereby appropriated, out of any money in the United States Treasury not otherwise appropriated, to carry this provision into effect.

Mr. FORT. I have but a word to say in support of this amendment. I believe there is hardly a county in the United States but what has a poor-farm or an almshouse to which the poor of that county may be conveyed and where they may be cared for. I believe experience has taught that this is the best way to provide for the poor.

You have but to walk from this Capitol to any part of the city to meet arguments in favor of this amendment. I question whether there is a city in the world, certainly none in the United States, in which you are so often accosted by the beggar as you are in this city, and it is impossible to know whether that beggar is worthy or unworthy. Sometimes the beggar appears in the shape of a little colored boy,

sometimes a little white boy; sometimes a little colored girl and sometimes a little white girl; sometimes an old person, and sometimes a person hale and hearty.

It seems to me that the authorities of this city should take care of those who are worthy, and then we may know to whom to give alms. I have nothing special to say in reference to the amendment except that I think there ought to be no possible objection to it. In my judgment it is the cheapest way in which we can care for the needy, to provide a home for them, a farm if you please with suitable buildings upon it, to which they can be conveyed, and where they can be cared for, and if they know that they have to stop begging or to go there, they will be apt if they are needy to go to that place, and if not, they will stop begging upon the streets as they now do.

Mr. BLACKBURN. I trust the amendment offered by the gentleman from Illinois [Mr. FORT] will not be adopted. In the first place it is inconsistent with the provisions of this bill. One section of this bill requires that no contract involving the expenditure of money shall be made except by the unanimous action of the three commissioners, and then that the contract shall not go into effect until it is submitted to the council and approved by the council which is provided for in a previous section. The amendment offered by the gentleman from Illinois ignores the approval of the council altogether, which constitutes one of the essential features of this bill. For that reason it ought not to be adopted.

Again, there are to-day divers bills pending before the Committee for the District of Columbia asking authority for the commissioners to buy certain property designated in this city for the purpose of public buildings. None of them have met the approval of the committee and, in my judgment, none of them will meet the approval of this House.

This is a bill establishing a permanent form of government for the District of Columbia. It is in no sense of the term a bill covering matters of special legislation. If the Congress of the United States proposes to authorize the commissioners to purchase property for public buildings it ought to be done in a separate bill, ought not to be incorporated in a bill of such general features, of such general character, as the one now under consideration.

Again, if Congress determines to authorize the commissioners to make certain expenditures of money, unless they are to depart from all precedents hitherto established, there ought to be some maximum fixed of the amount. This amendment does not do that.

Mr. FORT. The gentleman is mistaken; this amendment proposes to appropriate \$50,000 out of the Treasury of the United States.

Mr. BLACKBURN. I did not catch the figures in the amendment as it was read.

Mr. FORT. The money does not come out of the District at all.

Mr. BLACKBURN. I understand that point of the gentleman's amendment; but I do not think from the very statement he makes, which is that it does not come out of the District at all, that it should be incorporated into and made a section of a bill which is general in its character and refers alone to the District of Columbia. His amendment makes an appropriation. If that is to be done, I take it that it ought to be submitted to the Committee on Appropriations for its consideration and recommendation. Therefore from every stand-point from which this amendment can be regarded it seems to me that it would be unwise to incorporate it into this bill.

Mr. FORT. Allow me to ask the gentleman why he incorporates into this bill a provision in relation to the bonded debt of the District, if it is merely a bill to govern the District?

Mr. WRIGHT. If the gentleman from Illinois [Mr. FORT] will move to appropriate \$50,000 to provide the means of getting these people upon the public domain I will vote him his \$50,000 and duplicate it. I am tired of hearing the idea held out in this country that the only relief that we can give to the poor is to build prisons and poor-houses.

We have in this land an army of paupers numbered by millions. The remedy resorted to by the States seems to be to increase their prisons, to build additional almshouses and other places to dole out food to a famished population.

I do not object of course to an appropriation of money to buy property upon which to erect buildings to take care of the poor. But you must do something else to take care of the poor in this country. You have broad acres. Locate them there. The money you pay to provide them lodgings in almshouses will carry them to your Western lands and help them to a start when they get there.

Mr. FORT. Is the gentleman referring now to able-bodied paupers or to the poor and needy who are unable to work?

Mr. WRIGHT. Your disabled men accumulate upon your hands at the rate of 50 per cent. a month, because they are in a state of starvation.

Mr. FORT. Many of these needy persons in this District are little children, who cannot go West; and if there they could not earn a livelihood.

Mr. WRIGHT. Heaven protect them! So far as this House is concerned there seems little hope.

When I came to this House last October I heard the expectation expressed outside, if not inside this House, that Congress was going to do something to relieve the condition of the starving population of the country. We have been here nearly five months, but we have not yet done the first thing for the relief of the starving poor; and

my judgment is that Congress is going to adjourn without an effort to do anything for the relief of the country. Look at the statistics and you will see that over two millions of men are out of employment in this land.

Mr. DUNNELL. Will the gentleman allow me to ask him a question?

Mr. WRIGHT. Certainly. I am here to be badgered by anybody that wants to do it. [Laughter.]

Mr. DUNNELL. Is not the gentleman aware that we have a tariff bill pending which is intended to relieve the distress of the country?

Mr. WRIGHT. And what kind of a tariff bill is it? It is pretended that it is to increase the revenues; but I say it will reduce the revenues of the country. Of all times this is the last when you should agitate a change of the tariff. The country is in a state of disquietude and want; your public industries are all paralyzed. To introduce a tariff bill now only adds to the agitation and makes things worse. I suppose we shall go on perhaps for the next two weeks discussing this tariff bill. But the people do not want it. I will venture to say that there is not upon your tables a petition coming from the people of the country asking that there be a change in the revenue laws. I will venture to say that there is not a desk in this Hall that does not contain letters upon letters begging Congress not to interfere with that question. Now, [addressing Mr. DUNNELL,] are you satisfied with my answer?

Mr. DUNNELL. Perfectly.

Mr. WRIGHT. Now, if you will join me—

Mr. REED, (addressing Mr. WRIGHT, who spoke from the republican side of the House.) You carry this part of your audience with you.

Mr. WRIGHT. I came over here in order to get some encouragement. [Laughter.] If you are satisfied with that answer and agree with me, I will join you and the majority of this House in putting an end to the discussion upon that tariff bill mighty quick. [Laughter.] When the attention of Congress is called to the consideration of a change in the tariff laws by petition, then it is our duty to listen to and obey the popular will, but in heaven's name do not disturb the business of the country with an agitation of this kind, when it is in a worse condition than it has been at any period for the last twenty years. Cannot you permit the men who are engaged in the industries of the country to have a voice in the formation of laws which not only affect them, but the whole country? Is it the part of wisdom to keep them in a constant state of alarm? They know not whether to stop or proceed; how to buy or how to sell. Better for the trade and prosperity of the people did Congress never assemble. The body is an element to disturb. It cannot be content to let well enough alone. Trade, manufactures, labor, and all the industries are the mere sport of political adventure. It is stability and a disposition not to change that assures prosperity and gives labor to the unemployed, because our people engaged in the industries know the situation and conform to it. Constant change means constant trouble, and why should Congress desire to volunteer in a matter about which it knows so little?

Mr. FORT. I did not know that this was a free-trade amendment. [Laughter.]

Mr. WRIGHT. Well, sir, these remarks are in reply to a question put to me on your side of the House. [Laughter.] Now, gentlemen on this side must not indulge the hope, because I have come over here to make a speech, that I have abandoned my colors or changed my political situation. [Laughter.] I shake hands with gentlemen on this side when they join me in opposition to a tariff bill that contains in it no feature which can afford relief. Upon that subject I am with them honestly, fearlessly, and earnestly; and for the reason, as Webster said on one occasion, that no voice has come up from the land or the sea asking for a change or an interference with regard to the revenues of this country by the introduction of a bill to remodel the tariff. There has been no such application. No petition, so far as I understand, has come from the people of this country asking for a change of the tariff. [Cries of "That is so!"]

Mr. DWIGHT. Is not this change proposed by the democratic majority of this House?

Mr. WRIGHT. I have no hand nor part nor lot in it. That I assure the gentleman of. If any gentleman in this House has received a petition asking for interference by Congress with regard to the revenue laws, let him rise in his place and tell me so.

Mr. MONEY. I have.

Mr. WRIGHT. You have!

Mr. KELLEY. I desire as a member of the Committee of Ways and Means to say that I have not heard of any such petition from any citizen of the United States.

[Here the hammer fell.]

Mr. CONGER obtained the floor and said: I yield my time to the gentleman from Pennsylvania, [Mr. WRIGHT.]

Mr. BLACKBURN. I rise to a parliamentary inquiry.

Mr. WRIGHT. I have not spoken to the question yet. [Laughter.]

Mr. BLACKBURN. I desire to inquire of the Chair whether it is the District of Columbia bill or the tariff bill that is under discussion.

Mr. WRIGHT. Both. [Laughter.]

Mr. BLACKBURN. Then I make the point of order that one of them is not in order.

The SPEAKER *pro tempore*. The gentleman from Michigan [Mr. CONGER] has yielded his time to the gentleman from Pennsylvania, [Mr. WRIGHT,] who will confine his remarks to the pending amendment.

Mr. CONGER. On the point of order I desire to say that this amendment proposes to make an appropriation of \$50,000; and in considering it, it becomes every one to know that if the pending tariff bill is insisted upon and passed, we shall have no \$50,000 to give for this purpose. [Laughter.]

Mr. WRIGHT. My friend from Philadelphia [Mr. KELLEY] has stated, in corroboration of what I said, that no petition has been sent up from any part of this country asking any interference or intermeddling with the revenue laws. Gentlemen who would agitate the change do so of their own accord. They are acting without authority. It is on their part a plunge in the dark. They do not know what they are attempting to do. I hope there is determination and courage enough in this House to prevent the accomplishment of what they would do. It is no time for experiments.

Now, let me turn around to wise legislators, [turning round to the republican side of the House amid great laughter and applause,] let me turn around to you wise legislators on the other side. [Laughter.] Let me ask you whether you want to embark in a measure, the consequences of which are further to disarrange our business men, and further, throw out of employment the workingmen of our country. Why, sir, half the business men in this nation within the last three years have passed through the bankrupt laws. [Laughter.] Yes, sir, half the business men, the men of capital; and now they have passed a law repealing the bankrupt law for the purpose of preventing the other half from availing themselves of the benefit of it. [Laughter.]

Why, sir, no country can stand this system of legislation. As I have said, it becomes wise men to examine into those subjects upon which the popular masses of the land send up a voice in favor of action. Are we wiser men, because we happen to hold certificates of our election in our pockets, than they who elected us to these seats? I tell you that the constituents in more than three-fourths of the districts represented upon this floor are adverse and opposed to any further agitation upon this question, and especially so at this time. The letters I receive from my district are not merely asking me to oppose all changes in the tariff, but are generally headed with a prayer, "Pray help us in this emergency; pray do not put us in a position of uncertainty and totally destroy our business matters and make them worse than they were in before your body assembled." I assume when a measure has been duly considered by the people of the land and it comes up here for our action then it is our duty to take hold of it and dispose of it like men. But it is not our province to speculate with regard to imaginary difficulties some of us may have in regard to certain measures and make the feeble attempt to alter and change. I say to you, sir, and I say to this House, woe betide the men or the party that unhinges the revenue laws and sets the whole subject afloat again carrying with it, as it must, a more wide-spread ruin. [Applause on the republican side of the House.]

So far as regards my honorable friend from the city of New York [Mr. WOOD] I ascribe to him honesty of purpose and goodness of intention, but I say to him the time has not come, the time is not here, when we are to agitate, particularly if agitation brings death and desolation to the trade and business of the entire country. That not only reduces the wages of labor, but puts an end to the demand for it; that adds to the darkness of the murky cloud above our heads; that puts bread in the mouths of laboring-men beyond the seas but deprives them of it here at home. We must, sir, I repeat it, we must, sir, take care of our own people. It is our first duty, and if we are true to ourselves we will not falter. Let the revenue laws remain as they are; let us permit no change. If there must be change, let it be at some other time—in an hour of greater prosperity, but not now.

[Here the hammer fell.]

Mr. HENDEE. I ask for a vote on the amendment.

Mr. SPRINGER. What amendment is pending?

The SPEAKER *pro tempore*. The amendment moved by the gentleman from Illinois, [Mr. FORT.]

The amendment was again read.

Mr. SPRINGER. Is that amendment germane to the bill?

The SPEAKER *pro tempore*. It is too late to raise the point of order, as the amendment has been debated.

The amendment was disagreed to.

Mr. HENDEE. I move to reconsider the votes by which the several amendments were adopted; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HENDEE. I now demand the previous question on the bill as amended.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BLACKBURN. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. JONES, of Ohio, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 94, nays 124, not voting 73; as follows:

YEAS—94.

Acklen,	Crittenden,	Hayes,	Robertson,
Bagley,	Davis, Horace	Henkle,	Robinson, George D.
Ballou,	Dean,	Henry,	Sampson,
Bicknell,	Denison,	Hewitt, G. W.	Saylor,
Bisbee,	Diekey,	Hunton,	Scales,
Blackburn,	Douglas,	James,	Shelley,
Blair,	Dunnell,	Jones, James T.	Simmons,
Blass,	Durham,	Ketcham,	Starin,
Bouck,	Forney,	Knott,	Steele,
Bragg,	Franklin,	Landers,	Tucker,
Bridges,	Frye,	Ligon,	Vance,
Briggs,	Garth,	Loring,	Waddell,
Bundy,	Gause,	Lynde,	Walsh,
Cabell,	Gibson,	Metcalfe,	Welch,
Caldwell, John W.	Glover,	Money,	Williams, A. S.
Candler,	Goode,	Morgan,	Williams, Andrew
Carliste,	Gunter,	Norcross,	Williams, James
Caswell,	Hardenbergh,	Overton,	Willis, Albert S.
Chittenden,	Harris, Benj. W.	Patterson, G. W.	Willis, Benj. A.
Clafin,	Harrison,	Patterson, T. M.	Willits,
Clarke of Kentucky,	Hart,	Peddie,	Wood,
Clymer,	Hartridge,	Pound,	Yeates,
Covert,	Haskell,	Riddle,	
Cravens,	Hatcher,	Robbins,	

NAYS—124.

Aldrich,	Ellis,	Killinger,	Robinson, Milton S.
Baker, John H.	Errett,	Kimmel,	Ross,
Bayne,	Evans, James L.	Knapp,	Sapp,
Bell,	Evins, John H.	Lapham,	Sexton,
Blount,	Ewing,	Lathrop,	Shallenberger,
Boyd,	Felton,	Mackey,	Singleton,
Brewer,	Finley,	Marsh,	Sinnickson,
Browne,	Fort,	Martin,	Smalls,
Burchard,	Foster,	McCook,	Smith, A. Herr
Cain,	Fuller,	McKenzie,	Southard,
Camp,	Gardner,	McKinley,	Sparks,
Cannon,	Giddings,	McMahon,	Springer,
Chalmers,	Hale,	Mitchell,	Stenger,
Clark, Rush	Hamilton,	Monroe,	Stewart,
Cobb,	Hanna,	Morrison,	Strait,
Cole,	Harmer,	Morse,	Thompson,
Collins,	Harris, Henry R.	Muller,	Throckmorton,
Conger,	Hartzell,	Oliver,	Townsend, Amos
Cook,	Hazelton,	O'Neill,	Townsend, M. I.
Cox, Jacob D.	Hendee,	Page,	Turney,
Cox, Samuel S.	Henderson,	Phelps,	Van Vorhes,
Culberson,	Hewitt, Abram S.	Phillips,	Ward,
Cummings,	Hobbed,	Pollard,	Watson,
Cutler,	Hunter,	Price,	Whitthorne,
Davidson,	Ittner,	Rainey,	Wigington,
Deering,	Jones, John S.	Randolph,	Williams, C. G.
Dibrell,	Joyce,	Rea,	Williams, Jero N.
Dwight,	Keifer,	Reagan,	Williams, Richard
Eames,	Keightley,	Reed,	Wilson,
Eickhoff,	Kelley,	Relly,	Wren,
Elam,	Kenna,	Rice, William W.	Wright,

NOT VOTING—73.

Aiken,	Clark, Alvah A.	Lindsey,	Smith, William E.
Atkins,	Clark of Missouri,	Lockwood,	Stephens,
Bacon,	Crao,	Luttrell,	Stone, John W.
Baker, William H.	Danford,	Maish,	Stone, Joseph C.
Banks,	Davis, Joseph J.	Manning,	Swann,
Banning,	Eden,	Mayham,	Thornburgh,
Beebe,	Ellsworth,	McGowan,	Tipton,
Benedict,	Evans, I. Newton	Mills,	Townsend, R. W.
Bland,	Freeman,	Muldrow,	Turner,
Boone,	Garfield,	Neal,	Veeder,
Brentano,	Harris, John T.	Potter,	Wait,
Bright,	Herbert,	Powers,	Walker,
Brogden,	Hiscock,	Pridemore,	Warner,
Buckner,	Hooker,	Pugh,	White, Harry
Burdick,	House,	Quinn,	White, Michael D.
Butler,	Humphrey,	Rice, Americus V.	Young,
Caldwell, W. P.	Hungerford,	Roberts,	
Calkins,	Jones, Frank	Ryan,	
Campbell,	Jorgensen,	Schleicher,	

So the bill was rejected.

During the vote,

Mr. DAVIS, of North Carolina, said: I am paired with the gentleman from Michigan, Mr. ELLSWORTH. I wish further to announce that my colleague, Mr. BROGDEN, is confined to his bed with illness.

Mr. ROBERTS. I wish to announce that I am paired with Mr. STONE, of Michigan. I do not know how he would vote if he were present, but I would vote in the negative.

Mr. TURNER. I am paired with the gentleman from Michigan, Mr. MCGOWAN.

Mr. COVERT. I desire to announce that my colleague, Mr. MAYHAM, is paired with the gentleman from Wisconsin, Mr. HUMPHREYS. I am advised that if Mr. MAYHAM were present he would vote "ay." I am not instructed as to how Mr. HUMPHREYS would vote if present. I desire also to announce that my colleague, Mr. VEEDER, is detained at his home by serious illness.

Mr. KNAPP. I am requested to announce the absence of my colleague, Mr. EDEN. If present, he would vote in the negative.

Mr. WILSON. I am paired on all political questions with the gentleman from Massachusetts, [Mr. CRAO;] but, not regarding this as a political question, I have voted.

Mr. CALKINS. I am paired with Mr. CLARK, of New Jersey. I do

not know how he would vote, if present, but I would vote in the negative.

Mr. SAMPSON. My colleague, Mr. BURDICK, is paired with Mr. BENEDICT.

Mr. HARRIS, of Virginia. I am paired on this bill and all questions involved in it with Mr. EDEN, of Illinois. If he were here, we might vote together, but I deem it most prudent not to vote.

The vote was then announced as above recorded.

Mr. HENDEE. I move to reconsider the vote by which the bill was rejected.

Mr. McMAHON. I move to lay the motion to reconsider on the table.

Mr. HENDEE. I desire to say that I make the motion to reconsider for the purpose of having the bill recommitted, hoping that in that way it may perhaps be perfected so as to be satisfactory to the House. Several members called for the regular order.

The SPEAKER *pro tempore*. The regular order is called for. Debate is not in order.

Mr. HENDEE. I hope the vote will be reconsidered.

Mr. BLACKBURN. I hope it will not be.

The question being taken on the motion to lay on the table the motion to reconsider, the Speaker *pro tempore* announced that in the opinion of the Chair the ayes had it.

Mr. TOWNSEND, of New York. I call for the yeas and nays.

On the question of ordering the yeas and nays there were ayes 22, not a sufficient number.

So the yeas and nays were not ordered.

Mr. CLAFLIN. I call for tellers.

Mr. HENDEE. I rise to make a parliamentary inquiry. During the pendency of the motion to lay on the table my motion to reconsider, is it proper or in order for me to move to recommit the bill?

The SPEAKER *pro tempore*. It is not. There is no motion in order except that of the gentleman from Ohio, [Mr. McMAHON,] on which the House is now dividing and on which tellers have been requested.

Mr. CONGER. Does not the motion to recommit take precedence?

The SPEAKER *pro tempore*. The motion to reconsider is before the House, and has been considered, and the House is now dividing upon it.

Mr. BEEBE. And it is not competent to commit a bill which has been rejected.

The question being taken on ordering tellers, there were ayes 43, more than one-fifth of a quorum.

So tellers were ordered; and Mr. HENDEE, and Mr. COX, of Ohio, were appointed.

The House again divided; and the tellers reported—ayes 43, noes 106. So the House refused to lay on the table the motion to reconsider.

Mr. HENDEE. I now move to recommit the bill.

The SPEAKER *pro tempore*. The first question is, Will the House reconsider the vote by which it refused to pass the bill?

Mr. BOUCK. And if that be reconsidered, then a motion to recommit will be in order.

The question being taken on reconsidering the vote by which the House refused to pass the bill, it was declared in the affirmative.

Mr. HENDEE. I now move to recommit the bill to the Committee for the District of Columbia.

Mr. McMAHON. I move to amend by instructions to strike out the property qualification.

Mr. BLACKBURN. And I move to lay that motion on the table.

Mr. McMAHON. I propose to call the yeas and nays on my motion.

Mr. HENDEE. I desire to say to the gentleman from Ohio that we are willing to strike out that qualification now if the House will pass the bill.

Mr. McMAHON. On the understanding that that shall be stricken out I shall withdraw the motion.

The question being taken on Mr. HENDEE's motion, it was decided in the affirmative; and the bill was accordingly recommitted to the Committee for the District of Columbia.

Mr. HENDEE moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. COX, of New York. I demand the regular order.

Mr. BLOUNT. I move that the rules be suspended and the House resolve itself into Committee of the Whole on the post-office appropriation bill.

The SPEAKER. The gentleman from New York [Mr. Cox] demands the regular order, his object being to have a morning hour.

Mr. COX, of New York. So as to reach the business on the Speaker's table at the end of the morning hour.

The SPEAKER. Pending which the gentleman from Georgia moves that the House resolve itself into Committee of the Whole on the state of the Union, and he states his object is to resume the consideration of the post-office appropriation bill.

The question being taken on Mr. BLOUNT's motion, there were—ayes 101, noes 70.

Mr. SPRINGER. I call for tellers.

Tellers were ordered; and Mr. BLOUNT, and Mr. COX of New York, were appointed.

The House again divided; and the tellers reported—ayes 99, noes 74. So the motion that the House resolve itself into the Committee of the Whole was agreed to.

Mr. COX, of New York. I would like to ask unanimous consent of the House, with the assent of the Committee on Appropriations, to fix next Tuesday after the morning hour to go to the Speaker's table in order to dispose of the business thereon.

The SPEAKER. The Chair would suggest to the gentleman that he would more certainly reach his object by asking unanimous consent to go to business on the Speaker's table before the morning hour. There might not be a morning hour.

Mr. COX, of New York. Very well, I will say after the reading of the Journal.

Mr. WOOD. Excepting appropriation bills and the tariff bill. Otherwise I object.

Mr. BURCHARD. Is not that a privileged motion after the morning hour?

The SPEAKER. It is; but the difficulty is that the House is anxious to dispose of the appropriation bills in preference to receiving reports from committees. Therefore the motion to go to the Speaker's table after the morning hour is seldom reached because of the morning hour being vacated by appropriation bills. The gentleman from New York asks unanimous consent that on Tuesday next after the reading of the Journal the House be allowed, on his motion, to go to the business on the Speaker's table.

Mr. COX, of New York. I wish to state that my object is to get at the Thurman funding bill.

Mr. WHITTHORNE. I desire, in interposing an objection to the proposition of the gentleman from New York, to reach that thing known as a morning hour which is so rare in the business of this House.

The SPEAKER. The motion of the gentleman from New York does not obstruct the morning hour.

Mr. CARLISLE. Do I understand, if this unanimous consent is given, the morning hour will come after the consideration of the bill or before it?

The SPEAKER. It may come after it or it may come on every intervening day. The Chair does not know.

Mr. REAGAN. I shall object to the proposition if it is not made after the morning hour.

Mr. COX, of New York. I ask then that it may be after the morning hour on Tuesday.

The SPEAKER. The gentleman from New York now requests that on Tuesday next after the morning hour the House will proceed, on his motion, to the consideration of business on the Speaker's table.

Mr. PRICE. I would suggest to the gentleman from New York, if his object is to reach the funding bill, to allow that bill to be taken from the Speaker's table and referred to the Committee on the Judiciary.

Mr. COX, of New York. No, sir.

Mr. PRICE. With leave to report at any time.

Mr. COX, of New York. The idea is to pass the bill; both committees have passed upon it, and we want to pass it to-day.

Mr. FRANKLIN. We intend to pass it here without any reference to any committee.

Mr. PRICE. Then I shall have to object to the request of the gentleman from New York, [Mr. Cox,] because the bill makes material changes in the law and it ought to have consideration before the Committee on the Judiciary, and I believe that committee thinks so to. I am willing that the committee shall have the power to report it back at any time. I do not wish to delay action upon it, but it ought to have consideration before that committee.

Mr. COX, of New York. I do not care to debate the question now, but the bill has already been considered by the committee.

Mr. MORRISON. It has been considered in two Congresses by the committees.

DISTRICT OF COLUMBIA BILL.

Mr. HENDEE. Pending the motion to go into Committee of the Whole on the state of the Union, I ask unanimous consent that the bill (H. R. No. 3259) providing a permanent form of government for the District of Columbia be printed in the shape in which it was ordered to be engrossed to-day.

There was no objection, and it was so ordered.

ORDER OF BUSINESS.

Mr. COX, of New York. Was there any objection to my proposition?

Mr. PRICE. I object unless the bill is to be referred to a committee. I am willing that it should be referred with leave that the committee may report it back at any time.

Mr. COX, of New York. My object is to pass the bill at once.

Mr. PRICE. And my object is not to do hasty legislation here without proper consideration.

Mr. HANNA. It seems to me that the bill has been fully considered by the American Senate.

CONTESTED ELECTION—HARALSON VS. SHELLEY.

Mr. FRYE, by unanimous consent, presented certain supervisors' returns in the contested-election case of Haralson vs. Shelley from the fourth district of the State of Alabama; which were referred to the Committee of Elections.

CLASSIFICATION OF MAIL MATTER.

Mr. WADDELL. Before the House goes into Committee of the Whole on the state of the Union I ask, by instruction of the Committee on the Post-Office and Post-Roads, to report back the bill (H. R. No. 3850) providing for the classification of mail matter and the rates of postage thereon, with the amendments proposed by the committee thereto, and that it be referred to the Committee of the Whole on the state of the Union, and, with the amendments, ordered to be printed. The object is to get it upon the Calendar, so that its provisions may be understood and prevent confusion throughout the country.

There was no objection, and the bill was referred to the Committee of the Whole on the state of the Union, and, with the amendments reported by the committee, ordered to be printed.

DANIEL RODNEY KING.

Mr. KELLEY, by unanimous consent, introduced a bill (H. R. No. 4313) granting a pension to Daniel Rodney King, late a major in the Thirty-third Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BOARD OF MANAGERS, SOLDIERS' HOME.

Mr. PHILLIPS, by unanimous consent, introduced a joint resolution (H. R. No. 160) to fill a vacancy in the board of managers of the National Home for Disabled Volunteer Soldiers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. DURHAM. I call for the regular order.

Mr. CALKINS. Before the House goes into Committee of the Whole on the state of the Union I desire to ask whether the Senate bill repealing the bankrupt act has been referred?

The SPEAKER. It has not; it is upon the Speaker's table.

Mr. CALKINS. Then I ask unanimous consent that it be taken up and referred.

Mr. CONGER. I object to that.

Mr. DURHAM. I now insist upon the regular order.

The SPEAKER. The regular order being called for, the House will resolve itself into Committee of the Whole on the state of the Union.

POST-OFFICE APPROPRIATION BILL.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. COX, of New York, in the chair,) and resumed the consideration of the bill (H. R. No. 4246) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes.

The CHAIRMAN. When the committee was last in session the first clause of the bill had been read for amendment, and it will now be read again.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated for the service of the Post-Office Department for the year ending June 30, 1879, out of any money in the Treasury arising from the revenues of said Department, in conformity to the act of July 2, 1836, as follows:

Office of the Postmaster-General:

For mail depredations and special agents, \$100,000; and not exceeding \$7,500 of this amount may be expended for fees to United States attorneys, marshals, clerks of courts, and counsel necessarily employed by special agents of the Post-Office Department, subject to approval by the Attorney-General: *Provided,* That hereafter the per diem pay of all special agents appointed under section 4017 of the Revised Statutes shall be \$3 instead of \$5, as therein provided.

Mr. BLOUNT. I am instructed by the Committee on Appropriations to offer the following amendment: after the words "one hundred," in line 10, to insert the word "twenty-five;" so that it will read, if amended, "for mail depredations and special agents \$125,000."

Section 4017 of the Revised Statutes reads as follows:

The Postmaster-General may employ two special agents for the Pacific coast, and such number of other special agents as the good of the service and the safety of the mail may require. Such agents shall be entitled to a salary at the rate of not more than \$1,600 a year each, and shall each be allowed for traveling and incidental expenses, while actually employed in the service, a sum not exceeding \$5 a day.

The Committee on Appropriations find that under that last provision allowing traveling and incidental expenses at the rate of \$5 per day, every single special agent is paid that \$5 a day whether he was on service or not, and that the railroad companies never made any charges against them, or if they did in any instance, the Department withheld it from them in making their settlements if they saw fit, or if it became necessary to employ a conveyance to go out on any of the star routes, it was paid for, but not out of this fund.

The committee believe this to be a gross perversion of the plain provisions of the law. This law was passed in 1872. The committee thought the best thing they could do at this time was to reduce the per diem from \$5 to \$3, and they so provide in this bill, making a total reduction of something like \$27,000.

In 1876, under this construction of the law, there was expended \$138,002; in 1877, \$118,676. We have made ample provision for the allowance of \$3 a day, if we take into consideration the amount heretofore expended.

In order that the Committee of the Whole may understand to what extent this construction of the statute has been carried, it is only necessary for me to state that these special agents were paid last

year in salaries \$59,820.84, and the balance of the payments to them, \$86,222.56, was for their traveling and other expenses. It is the unanimous opinion of the Committee on Appropriations that the provision thus amended should be adopted.

Mr. HALE. I am called up by a suggestion which I heard from the gentleman in charge of this bill [Mr. BLOUNT] in reference to the amendment of the gentleman from North Carolina, [Mr. WADDELL.] I think this bill generally is a good one; its provisions have my assent excepting this one. I do not think that the reduction in the appropriation for this very important service of the Post-Office Department, for depredations and for mail agents, the reduction from \$135,000 last year to \$100,000 now—

Mr. BLOUNT. If the gentleman will allow me to interrupt him, I will state that I have moved an amendment making the amount \$125,000.

Mr. HALE. I did not know that amendment had been offered. I think that is right, and of course I have nothing further to say.

Mr. FOSTER. I think the gentleman from Georgia [Mr. BLOUNT] is mistaken when he says that this allowance of \$5 a day to these special agents is for every day whether they are in service or not. Upon inquiry at the Post-Office Department I find that that is not the case; that a special agent is allowed per diem expenses only when he is in service. That is my information.

I do not agree with my colleagues upon this question; I think the Department should have what they ask for this purpose. These special agents are the eyes and ears of the Department, and in my judgment it is necessary that this force should be increased rather than diminished. An increase of the force would result in an increase of the revenues and an improvement of the service. I therefore move to amend so as to make the amount \$140,000, instead of \$125,000 as moved by the gentleman from Georgia.

Mr. HALE. Does the gentleman from Georgia insist upon that part of this clause reducing the per diem from \$5 to \$3?

Mr. BLOUNT. I do.

Mr. HALE. The gentleman has moved no amendment to that portion of the clause?

Mr. BLOUNT. I have not.

Mr. HALE. I think the gentleman should not insist upon that.

Mr. BLOUNT. I regret very much that the gentleman from Ohio [Mr. FOSTER] and myself have obtained different information from the same quarter; I think there must be some misunderstanding about it. I went myself to the Postmaster-General and obtained the statement from him. I had it also from the Sixth Auditor and from a number of other officers in the Department, and I never till this moment heard anything to the contrary. The subcommittee had that information that these special agents charged \$5 a day for every day throughout the year when they were here in Washington or elsewhere. I apprehend there is but little question about that fact really. No gentleman who has taken the pains to study this matter in relation to these special agents will question it. It is likely that the committee in charge of expenditures in the Post-Office Department will report the same thing to this House.

Mr. HANNA. Out of this \$5 a day these agents pay their hotel bills.

Mr. BLOUNT. They may pay their hotel bills; it is likely they do. But the language of the statute is "their traveling and other expenses." Now, the Department always contracts so that not a dollar is used for traveling expenses, and yet they are allowed full per diem for every day throughout the year, in addition to their salary of \$1,600 a year. Wherever there is a charge for a buggy or any other conveyance against them it is not deducted out of this fund.

Mr. HANNA. Allow me a question. Does not the gentleman know as well as I do that, if out of the \$5 a day or \$3 a day they pay their hotel bills, it will take all the \$3 a day to pay simply their living expenses?

Mr. BLOUNT. The gentleman from Indiana [Mr. HANNA] says it will take the \$3 a day to pay their hotel bills. Even if that is true, that is ample. But on the contrary they are not engaged every day.

Mr. FOSTER. On that point I desire to say a word. I understand that all these gentlemen are not allowed \$1,600 a year, and yet the language of the gentleman from Georgia [Mr. BLOUNT] would convey that impression. As I am informed neither are they allowed this per diem for expenses for every day in the year. As to the construction of the law complained of by the gentleman from Georgia, I am not sure but his criticism is right; I rather think it is. But it is an old construction, one that has come down for years; perhaps the law has been so construed for twenty or thirty years or more. As I understand, some of these agents get \$1,600 a year, some only \$1,200 a year.

Mr. WADDELL. A very large majority of them get but \$1,200 a year.

Mr. DEERING. That is precisely the point upon which I wish to ask a question.

Mr. BLOUNT. The date of this statute is 1872. So far as that matter is concerned, it is not important to this House whether the practice comes down from 1872 or 1852.

Mr. FOSTER. I agree with the gentleman.

Mr. BLOUNT. Or whether it originated with a republican administration or a democratic administration.

Mr. DEERING. But it is important whether these agents get \$1,600 a year or only \$1,200 a year.

Mr. BLOUNT. It is not important, I say, whence it comes. But here is the language of the law, plainly declaring that the salary shall not exceed \$1,600 per annum. The gentleman is correct in saying that these agents do not always receive this much; but I think the plain construction of the law is that their salary shall not exceed this amount.

[Here the hammer fell.]

Mr. GARFIELD. I ask my colleague [Mr. FOSTER] to withdraw his formal amendment, that I may renew it.

Mr. FOSTER. I withdraw my *pro forma* amendment.

Mr. GARFIELD. I renew it. Mr. Chairman, I happen to have some knowledge in regard to the administration of these appropriations and the workings of this law in regard to agents. It is not true that all special agents get \$1,600. They are graded according to their length of service and their efficiency; and I know personally of a number of cases where they have been promoted step by step from a lower rate of pay up to \$1,600, which I understand to be the highest grade of salary paid to these agents.

In the next place no agent is paid the per diem mentioned unless he is actually engaged on special service. An agent may be located at some particular place, his home or his headquarters; and if he receives no order for a special investigation he does only common office duty. But a special order may be sent to him to go away to make an investigation fifty or one hundred miles from home. When that order comes he starts out in execution of it, and he makes a full report of his doings. While on such special duty he is paid the per diem for his expenses; but he is required to furnish vouchers and to make a monthly report, stating day by day where he has been and what he has been doing. His report, which gives a true account of all his proceedings, is compared with his vouchers of his expenses.

It may be that an agent's whole time is occupied on special duty. Some of the agents who are considered to be specially qualified as experts in ferreting out frauds are no doubt occupied in such service all the time, and thus may receive their per diem for every day in the year. But this only happens because it is to the advantage of the Department to avail itself of their services all the time. This I know to be the practice of the Department under the law.

I have no doubt in the world that every dollar paid for efficient special agents—and I believe that the service is now very efficient; it has been carefully weeded out—I believe that every dollar paid in this way saves a good many dollars to the Government and the people. Hence the cutting down of this appropriation is, in my judgment, waste, and not economy. The appropriation should rather be reasonably increased than at all diminished. If gentlemen knew the amount of fraud constantly being committed or attempted all over the country against the Post-Office Department in the way of stealing letters, breaking into offices, stealing stamps, violating the postal laws by publishers and by individuals, they would understand how easy it is for the Government to lose hundreds of thousands of dollars of revenue which this active corps of special agents can save by being kept in their places and properly sustained by the necessary appropriations.

Mr. PAGE obtained the floor.

Mr. WADDELL. The gentleman from California [Mr. PAGE] will excuse me a moment. I understand that debate on this amendment will close in a few moments. I have been instructed by the Committee on the Post-Office and Post-Roads to report an amendment upon which there ought to be an opportunity to say something.

The CHAIRMAN. Does the gentleman from California [Mr. PAGE] rise to oppose the amendments?

Mr. PAGE. Yes, sir; anything so that I can make a five-minute speech.

Mr. Chairman, I am opposed to reducing the compensation of the special agents from \$5 to \$3 per day. On the Pacific coast, in the city of San Francisco, the special agent—and there is only one there—receives a salary of \$1,600 a year; and he has as his field of duty the States of California, Oregon, and Nevada and the Territories of Arizona, Idaho, and, I think, Utah. He is traveling all the time, and \$3 a day would not pay his hotel bills. It is true that when riding upon the railroad he pays no fare, but if he gets off the train at some point and is called upon to go and investigate a defaulting postmaster he is frequently compelled to hire a team, and, as I understand, under the legislation here proposed, he will be required to pay such expenses out of his own pocket. There is no provision under which he can be reimbursed by the Department. At any rate, I know that if the agent is a competent man, capable of occupying the position of special agent on the Pacific coast, having within his jurisdiction all the States and Territories I have named, it would be almost an outrage for this House to ask such a man to perform the service for less than \$5 per diem and a salary of \$1,600 a year. I do not believe you can get men competent for these positions unless you pay them something commensurate with the duties they have to perform.

It is true, as stated by the gentleman who reported this bill, that some of these agents receive \$3 a day for every day in the year; but I know that many of them—certainly this one on the Pacific coast—travel nearly all the time. The business there is such that in fact another agency should be established.

To reduce this salary as contemplated by the bill would, in my judgment, be an act of injustice to the agent in my section of the country. I do not know what the agents in the Atlantic States have to do or whether they travel altogether by rail. But as to this particular

agent I know that when he receives orders to go to Oregon to attend to his duties he has to travel two hundred and eighty miles by stage, traveling night and day. When he reaches Oregon there are for long distances no railroads, so that he is obliged to travel either by private conveyance or by stage. Three dollars a day will barely pay his hotel bills when traveling through the country, and in the large cities of California and Nevada it will not pay his hotel bills.

Mr. BLOUNT. Does the gentleman know that these agents are paid independently of this allowance of \$3 per day?

Mr. PAGE. I know that they are paid a salary of \$1,600 a year.

Mr. BLOUNT. Paid per diem, and the contractors of the stage routes carry them for nothing.

Mr. PAGE. There is no reservation in the contract under the star service for the carrying of special mail agents. The cars sometimes have refused to recognize the pass of the agent, and then the Department takes from the railroad mail pay that amount. But, sir, it is not so on the stage routes.

Mr. BLOUNT. The committee were informed that contracts are made in that way.

Mr. PAGE. I have been informed by the agent himself that sometimes the railroad refused to recognize his pass, but he is instructed in that case to pay his fare, and of course the Department deducts that from the railroad company's pay for carrying the mails; but it is not so traveling over stage routes.

[Here the hammer fell.]

Mr. PAGE. I wish to increase the amount by moving to strike out "three" and insert "five."

The CHAIRMAN. There is an amendment to the amendment now pending.

Mr. WADDELL. I wish to be heard.

The CHAIRMAN. Does the gentleman from Ohio withdraw his amendment temporarily?

Mr. GARFIELD. I do.

Mr. WADDELL. I renew it. I am very glad, Mr. Chairman, that the Committee on Appropriations upon a reconsideration of this matter have thought it necessary to increase the appropriation they first intended to allow to \$100,000. The estimate of the Department is for \$150,000. The appropriation of last year was \$135,000, but the Committee on the Post-Office and Post-Roads, of which I have the honor to be chairman, have had this matter under consideration and unanimously instructed me to offer an amendment in the House increasing the appropriation to the full amount of the estimate, that is, to \$150,000.

I desire to state, Mr. Chairman, that the Postmaster-General in his annual report calls particular attention to this matter of special agents and to the value and efficiency of the present force. He gives the expenditures for last year at \$149,596.68. Again, in a letter of his accompanying that report, he says: "To insure the safety of the mails and to enable the Department to correct irregularities and protect its revenues, a larger force of special agents is required than can now be employed. Of this fact, evidence is brought to my mind every day."

There was a communication sent to the chairman of the Committee on Expenditures in the Post-Office Department, [Mr. WILLIAMS, of Alabama,] a copy of which was furnished to the chairman of the subcommittee on appropriations, [Mr. BLOUNT,] and a copy also sent to me, showing the necessity of this increased appropriation and that there should be no reduction of pay in justice to the Department. The Postmaster-General says that these special agents are employed under his own personal direction, and of course he knows the necessity and importance of the service. He has recently imposed additional work upon the force in the way of investigations of bonds of postmasters, adjustment of leases, examination and securing reduction in clerk hire and allowances, which have proven of great value in increasing the efficiency of the service and effecting large saving in the revenues. He has caused notices to be posted in all post-offices asking the public to report direct to the Department all irregularities in the service coming to their notice. This has caused more than fourfold increase in the number of complaints to be investigated by special agents, and is resulting in marked improvement in the service.

A case came to my attention where complaint was made to the Department, and the party making the complaint was referred to one of the special agents who had six hundred cases on hand to investigate. Statements show about fifteen thousand cases referred to thirty-eight agents during the last eight months. It is a work of vital importance to the Department, and the Postmaster-General has most earnestly asked this appropriation should be made up to the amount of the estimate.

Now, as to these salaries and per diems, in this letter to Mr. WILLIAMS, of Alabama, of which I have spoken, the Postmaster-General refers to the question and he announces, as has been stated by the chairman of the subcommittee of the Committee on Appropriations, that he intends to reduce allowances in his discretion. He has the discretion now, and these special agents do not get as is generally supposed \$1,600 a year and per diem. A large majority get but \$1,200, and year after year the Postmaster-General has reduced the per diem according to his discretion, and he thought in certain parts of the country it ought not to be \$5, but only \$3.

Mr. DEERING. The chief of the depredations bureau stated to me a few days since that less than one-fifth of the whole number were receiving \$1,600, while the balance only receive \$1,200 and less.

Mr. WADDELL. I believe that is the proportion. The special agents make a great saving to the Government in collections made from defaulting postmasters after executions in judgments have been returned *nulla bona*, and in the adjustments of leases of buildings amounting to more than the expenses of that branch of the service, as has been alleged. The Post-Office Committee have had this carefully under consideration, and they instructed me to ask an increase of the appropriation to \$150,000, up to the full estimate of the Department, because they are satisfied the special-agency business cannot be efficiently carried on with less money. I hope the House will agree to that amendment.

[Here the hammer fell.]

Mr. BLOUNT. The gentleman from North Carolina says that the Committee on the Post-Office and Post-Roads has unanimously instructed him to make such and such recommendations to this House in regard to this appropriation after having carefully examined the same. Now, sir, I am not very particular as to the quarter from which those suggestions come. I have simply to say that under the rules of the House if the Committee on the Post-Office and Post-Roads have anything to do with the appropriation of money for the Post-Office Department I have yet to learn it. It is certainly not to be found in the rules. This, therefore, comes in here simply as a recommendation, having the same force as a recommendation by any other committee would have.

Mr. WADDELL. Does the gentleman mean to say that a suggestion in regard to the interests of the Post-Office Department and the appropriations for it could not with more propriety come from the committee to whom those matters are intrusted by the House than from any other committee? I was aware that the Committee on Appropriations claimed a great deal, but I did not know they claimed so much as that.

Mr. BLOUNT. If the gentleman will refer to the rule, instead of getting up a little side controversy, he will find the rule does not give his committee the slightest authority on that subject any more than it gives the Committee on Appropriations the whole scope of legislation in reference to the Post-Office, such as the gentleman has been bringing in here. I do not object, however, to this, but I do insist that this proposition is not to be accepted as a matter of course because it comes from the Committee on the Post-Office and Post-Roads.

Again, the gentleman says that the Postmaster-General urgently recommends it. Why, sir, that is the very thing we have been hearing here all the while during the last two years. The Departments have been urgently recommending these things. They have sent in various recommendations and we have not always heeded their urgency.

I admit, sir, that these agents do not get the \$1,600 per annum in every instance. I stated that the clause relating to the \$1,600 per annum was the clause relating to the salary. It could not exceed that. And when you pass away from that the statute contemplates nothing in the way of salary, but simply provides for paying the expenses of these agents as they pass through the country on business of the Post-Office Department.

The gentleman from Ohio, [Mr. GARFIELD,] the former chairman of the Committee on Appropriations, says that he knows that they are paid simply for such days as they are actually in service. Now, sir, I regret very much that I should have to come in conflict with that gentleman and other gentlemen as to facts. But I assure the committee that the Postmaster-General himself told me that what I have stated is true, and that he did not think the construction a legal one; that the question had been agitated time and again in the Department, and that there the agitation would die out. Sir, as a member of the Committee on Appropriations, I determined that it should not die out unless this House should determine otherwise. It is wrong, wrong in principle. I hope that these \$3 per diem will be insisted upon, and this possibly makes the reduction fully up to all the needs of the Department. It is a saving. It takes off some \$27,000. We appropriated \$135,000 last year and \$118,000 the year before.

The revenues of the Department are falling off—falling off largely; something like a million of dollars. Perhaps that is not a thoroughly fair statement. But there is an actual falling off of several hundred thousand dollars through a failure in the receipts of the Department. And if this is true, why should we hesitate at this time and in this condition of the country to do what is fair and right in the premises? I am glad to know, sir, that the subcommittee, the gentleman from Indiana [Mr. BAKER] and the gentleman from Pennsylvania, [Mr. CLYMER,] who were with me in investigating this matter, were perfectly satisfied this was ample and sufficient; and I do hope this committee will adopt the recommendation of the Committee on Appropriations.

Mr. HUNTON. I desire to say a word on the question under discussion and more on the question of these special agencies than any other. The bill as it comes from the committee has reduced the pay of special agents from \$5 to \$3. But there is nothing in the bill as it comes from the committee, as I understand it, which limits the payment of \$3 to actual traveling in the service of the Department. And I am informed, Mr. Chairman, that it is the habit not only of these special agents but of the two superintendents in the Post-Office Department to draw day by day \$5 for traveling expenses when they are sitting down at the fireside or attending church at their homes.

Mr. FOSTER. My information is directly the opposite.

Mr. HUNTON. My information is exactly that; and I get it from a gentleman who professes to be, and doubtless is, familiar with the operations of the Post-Office Department, and especially that part of it embraced in the duties of the special agents.

Now, sir, I am informed by the same gentleman, and I desire the attention of the gentleman from Ohio [Mr. FOSTER] to it, that a special agent of the Post-Office Department, appointed on his recommendation, was in service some eighteen months probably, was not engaged on duty more than ninety days, got his full pay of \$1,800 per annum—

Mr. CLYMER. Sixteen hundred dollars.

Mr. HUNTON. Sixteen hundred dollars per annum and \$5 for every day during the time that he held the appointment, and that he was not on duty out of the eighteen months over ninety days.

Mr. FOSTER. If the gentleman will allow me, I will say that I have authority for my statement from the superintendent of the railway mail service. He gave it to me within five minutes.

Mr. HUNTON. Who is that?

Mr. FOSTER. Mr. Vail.

Mr. HUNTON. Well, my information came to me in the manner that I have intimated, and on that intimation I introduced a bill amending the provisions of the Revised Statutes, which is now before the Committee on the Post-Office and Post-Roads; and more than that, when the time arrives, I shall offer an amendment to add to the section the words, "while actually traveling in the service of the Department;" and, if the gentleman from Ohio [Mr. FOSTER] is right, that will do no harm.

Mr. FOSTER. I have no objection to that; I should favor it.

Mr. HUNTON. And I shall then move an additional proviso that the number of agents shall be limited. I believe there are now forty-three or forty-four of them.

Mr. BLOUNT. Forty-seven of them.

Mr. HUNTON. My information is that one-half of these special agents are more than half their time around the Post-Office Department unemployed or at their homes.

Mr. FOSTER. I think that is a great slander.

Mr. HUNTON. That is my information.

Mr. FOSTER. I think that when the gentleman makes a statement of that kind he ought to give us his authority.

Mr. HUNTON. My authority is Colonel John S. Mosby. I believe I have stated the information he gave me correctly.

Mr. FOSTER. Is he in the Department?

Mr. HUNTON. No, sir.

Mr. CANNON, of Illinois, and Mr. HAYES rose.

Mr. HAYES. I think there is a great deal of misunderstanding in regard to this matter.

Mr. CANNON, of Illinois. Who is entitled to the floor?

The CHAIRMAN. The gentleman from Illinois.

Mr. CANNON, of Illinois. But both the gentlemen are from Illinois.

Mr. HAYES. I want a little light thrown upon this subject.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois, [Mr. CANNON,] who is a member of the Committee on the Post-Office and Post-Roads.

Mr. CANNON, of Illinois. Mr. Chairman, I believe much of the difficulty in the minds of gentlemen is from not understanding fully the class of special agents sought to be appropriated for in this paragraph. Section 4017 of the Revised Statutes provides that the Postmaster-General may employ two special agents for the Pacific coast, and such number of other special agents as the good of the service and the safety of the mails may require, who shall receive not exceeding \$1,600 per annum and a sum not exceeding \$5 a day for traveling and incidental expenses, while actually employed in the service. The special agents appointed under this section are thirty-eight in number employed upon mail depredations, and directly under the control of Chief Special Agent Daniel B. Parker, with headquarters in the Department at Washington. They are constantly traveling about the country at work in cases of mail depredations, location and leasing of post-offices, and any other matters the Department may have for them to do, and only receive their per diem of \$5 when actually at work.

Mr. STENGER. Will the gentleman from Illinois allow me to ask him a question?

Mr. CANNON, of Illinois. I will hear it.

Mr. STENGER. Will the gentleman be kind enough to state to the House just what the other matters are?

Mr. CANNON, of Illinois. I only have five minutes, and if I have time to go into detail after I state other matters, will answer the gentleman's question, and I want to state here that these special agents not only have to certify as to their services to be entitled to their per diem, but have to keep a diary of their work and forward that to the Department. So it can be seen at once whether their certificates are correct. The truth is that nearly all of these special agents are almost constantly at work and hence are generally entitled to their per diem, but it is not true they receive the per diem for each day, service or no service. I have before me a statement of the per diem received by a number of these agents for the months from July, 1877, to March, 1878, inclusive. I find that Mr. Minnis, for instance, was paid in July for twenty days, and in August for twelve days.

Now, a word as to special agents who perform another class of duties and who are not immediately under the control of Mr. Parker and who are not paid out of this appropriation now under consideration. They are eleven in number and are known as assistant superintendents of railway mail service, and I believe do duty a considerable part of the time in the office, and as I am informed generally draw the per diem of \$5 for each day whether they travel or not, provided they are engaged in service.

And there is still another class, seven in number, known as money-order agents, and two in number engaged in connection with the free delivery service; all of which, by virtue of section 4020 of the Revised Statutes, are paid out of the appropriation for mail transportation, money-order service, and free delivery service respectively.

So the agents sought to be affected by curtailing the appropriation in this paragraph are those who are almost constantly traveling and doing hard duty under Mr. Parker. If the gentleman from Virginia desires to reach the assistant superintendents, some of whom may be upon duty at Washington, and receive their per diem for each day's service whether they travel or not, let him in his amendment specify that class of agents.

Mr. HUNTON. Allow me to inform the gentleman that I know what class of people I am after.

Mr. CANNON, of Illinois. Certainly, you are after a class of agents who you do not approve of, but I do not want you to blindly strike at a class of agents who are constantly traveling, and who save to the Department tenfold more than the salary you pay them. I am speaking of the thirty-eight agents under Mr. Parker who go to Texas, Arkansas, the Territories, and all over the country, and they cannot pay their expenses for less than \$5 a day when traveling.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. CLYMER. I suppose the committee is unanimous in the agreement that this service is an important one. I do not think any member of the committee would ruthlessly or willingly impair this service by providing an insufficient payment. It is a mere business proposition, and one in regard to which we ought to be able to arrive at a correct conclusion without any great dispute, if the facts are ascertained.

If gentlemen will turn to page 19 of the report accompanying this bill they will find a letter from the Postmaster-General, in which he makes a statement as to the number employed in this service and the compensation which they receive. From that statement it appears that during the last fiscal year there were employed fifty-eight special agents, of whom thirty-two were continuously employed, and the remainder for a longer or shorter period. The aggregate amount of salaries paid them was \$59,820.84, and during that time there was paid out for traveling and other expenses \$86,222.56.

Now it did appear to the subcommittee having this bill in charge, and who prepared it after a great deal of care and deliberation, that this was an excessive amount. From the facts in their possession it appeared that these gentlemen were paid \$5 for every day in the year, whether they were on or off duty. The committee conceived that that amount was excessive, far beyond any expenditures that could justly be made, considering the fact that they traveled free upon all railroads and, as we understood, upon the routes of the star service. The committee therefore concluded that \$3 per day would compensate them amply. It was a mere business calculation, with no desire to impair the service.

Now, if during the past fiscal year \$86,222 was expended for traveling and other expenses, and that amount is reduced by two-fifths, as we propose by this bill to do, by making the per diem \$3 instead of \$5, then there would be a saving of \$34,444. If the Committee of the Whole will adopt the amendment proposed by the gentleman from Georgia, the chairman of the subcommittee, [Mr. BLOUNT,] making this amount \$125,000, then, by taking into calculation the \$34,000 saved, it will be found that we will be making an appropriation of \$159,000 for this service for the ensuing year.

That, we think, will be amply sufficient, in the judgment of every business man, to pay for this service. If this be so, there should be no difference about the matter. We do not want to impair the service.

Mr. ROBINSON, of Massachusetts. Does the gentleman arrive at the sum of \$86,222 by multiplying the number of days in the year by \$5 and by the number of agents?

Mr. CLYMER. I do not understand it so. It is for traveling and for other expenses, under the provisions of the Revised Statutes. What those necessary expenses are I am not able to say, but that amount was actually expended during that period for their traveling and other necessary expenses.

Mr. ROBINSON, of Massachusetts. Does it show that each one of these agents was actually paid \$5 a day for each day in the year?

Mr. CLYMER. I did not say anything about that. If the figures I have stated to the committee are to be relied upon, (and they come from the Postmaster-General,) then \$125,000 will be amply sufficient for this service, because there will be a reduction of expenses of over \$34,000 by reducing the per diem from \$5 to \$3 a day.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. HALE. If the amendment to the amendment is withdrawn I will renew it.

Mr. CLYMER. I will withdraw it, if I have control of it.

Mr. HALE. I will move the amendment of the gentleman from North Carolina, [Mr. WADDELL.] The gentleman from Illinois, [Mr. CANNON,] an old and very intelligent member of the Committee on the Post-Office and Post-Roads, has got at the whole heart of this matter about special agents. The special agents under Colonel Parker, to whom he has referred, should not in any way be connected with or be damaged by any prejudice which any gentleman may have to any other class of agents. These special agents, as has been said, are the eyes and the hands of the Post-Office Department. They number thirty-seven or thirty-eight in all, and they have a jurisdiction, or a guardianship, if you may so call it, over the entire extent of the country.

None of the things apply to them that apply to special agents in other Departments to make them offensive. There are no moieties, there are no questions of espionage and espial, which result in increased pay to these agents as in other Departments. They simply have a salary and a per diem allowance to cover their actual expenses, not over \$5 a day in all.

Now, I have had occasion, as I presume every member here has had, to see the good work of these special agents. It is not only that they look for depredations and thefts and breakages of the law in the administration of the Post-Office Department, but there are scores of questions that formerly were submitted to members of Congress to pass upon, which were vexatious, annoying, and complicated. The question where a post-office should be located in a particular town or place, if the request be made, will be investigated by a special agent who will report to the Department what the wants of the community require. This is a great deal better than that I should be called upon to do it in my district. Any gentleman will sympathize with that.

In many cases charges are made against a postmaster for lack of attention, for bad habits, for anything disqualifying him for the proper discharge of his duties. The Department upon request will send one of these special agents to investigate; and my experience is that they are a superior body of men, intelligent and honest. They investigate (which can be done without bias) and report to the Department; and in ninety-nine cases out of one hundred the Department sustains their reports. Now, these thirty-seven or thirty-eight agents are required to do this duty for the whole country; they must watch forty thousand post-offices; and anybody who says that a smaller number can do this vast and important service can have no comprehension of the magnitude of the duties devolved upon them. Anybody who says that these men are overpaid in what they are now getting can have no comprehension of the value of the services that they render, and of the arduous and responsible employment to which they are assigned by the Department. It is a service which, I am glad to say from my observation in the country and as a member of the Committee on Appropriations, has been as well conducted as any branch of the governmental service.

These special agents are promoted according to their merits. If an agent receiving \$1,200 a year proves himself vigilant, shrewd, and honest he is, at the earliest opportunity, advanced to \$1,400, and from that to \$1,600. I hope my friend from Georgia [Mr. BLOUNT] will not, in anything that he does, seek to impair the efficiency of this valuable branch of the service.

[Here the hammer fell.]

Mr. BLOUNT. Mr. Chairman, I do not misunderstand at all the class of people to which this provision of law applies. As the language imports, it applies to agents in relation to mail depredations. This statute, as already stated, was passed in 1872. Now, any gentleman who is in the habit of traveling knows very well that \$3 a day will go as far now in paying traveling expenses (that is, hotel bills, which is all these agents pay) as \$5 a day would in 1872, when this law was passed. The question, therefore, is simply whether \$3 a day or \$5 a day ought to be allowed for these expenses.

There is no attempt to interfere with the amount of the salary. Although during the last Congress we struck at salaries in all the Departments of the Government, the salary of these gentlemen has never been touched; nor is it my purpose to ask any change in that respect.

The gentleman from Maine [Mr. HALE] says that the services of these gentlemen are very arduous and very important. We all know that their services are valuable; but that they are very arduous or require any vast amount of intellectual talent, I am not ready to concede. It seems to me that to leave the salary where it is and at the same time to rearrange the per diem is perfectly just.

But it is found as a matter of fact (such is my own information, after repeated and earnest examination) that this per diem is allowed for every day in the year, whether the agent is at church or is engaged in the performance of official duty.

Mr. SCALES. Will the gentleman allow me a question?

Mr. BLOUNT. Yes, sir.

Mr. SCALES. I ask it for information, and I am favorably inclined to the bill. But just now a question was made as to whether all these agents receive \$1,600 salary or whether a part get \$1,200. Now I want to ask the gentleman whether it is not within the discretion of the Postmaster-General to allow every one of these agents \$1,600?

Mr. BLOUNT. Yes, sir; he has that power under the law.

Mr. SCALES. And this allowance of \$3 a day is for expenses, and nothing else?

Mr. BLOUNT. Yes, sir. The object of the Committee on Appropriations is to hold the Department to the law; to pay these agents the salary to which the law entitles them and as to expenses to pay them a per diem for their actual expenses, and not make this allowance of expenses a virtual increase of salary.

Mr. CANNON, of Illinois. I have here an official statement showing that twenty of these thirty-eight agents get only \$1,300 a year.

Mr. SCALES. But they may get \$1,600.

Mr. BLOUNT. I think it is accepted on all hands that under the law the salary of these agents is not to exceed \$1,600; but the committee wants to hold the Department down to what we believe is the law. We are tired of these departmental constructions. They are convenient and very pliable. This is not the first one I have known that impressed me with the idea that if the gentleman making it had been outside the Department he might perhaps have entertained different views.

[Here the hammer fell.]

Mr. HAYES. As there is a great variety of opinion in regard to the question whether these agents are paid for every day in the year or only for the time they are actually employed, I would like to have read section 4017 of the Revised Statutes, which gives the law applicable to this case.

The Clerk read as follows:

Sec. 4017. The Postmaster-General may employ two special agents for the Pacific Coast, and such number of other special agents as the good of the service and the safety of the mail may require. Such agents shall be entitled to a salary at the rate of not more than \$1,600 a year each, and shall each be allowed for traveling and incidental expenses, while actually employed in the service, a sum not exceeding \$5 a day.

Mr. HAYES. It will be observed that the language of the law is, "while actually employed in the service." Now, if it be true, as charged by gentlemen on the other side, that these men have been paid \$5 for every day in the year, whether employed or not, then some head of a Department has been violating the law; and I trust gentlemen on the other side will follow that up and see whether it is true or not. I do not believe it is true. I believe these men are paid only while actually employed in the service and only while actually employed in the service. They are employed by the year and paid \$1,600 salary, and they are paid \$5 a day for traveling and incidental expenses for every day they are actually in the service.

Now I claim \$5 a day is none too much for the incidental expenses of these men. Let any gentleman attempt to travel over the country and pay his expenses at hotels and other incidental expenses which naturally arise, and he will find that \$5 a day is not too much in large cities and elsewhere. I hold that \$5 a day when a man is employed only a part of the year is none too much. If he were employed all the three hundred and sixty-five days of the year the case would be different, and then we might cut it down to \$3 a day, but when they are employed only a portion of the time as special agents I say that \$5 a day is none too much, and we ought not to cut it down from \$5 to \$3.

One more thing I wish to say, and that is in regard to the amendment submitted by the chairman of the Committee on the Post-Office and Post-Roads. I believe we ought to put into this bill the sum of \$150,000—the amount suggested by the Committee on the Post-Office and Post-Roads—for the reason that I think that committee understands much better what are the needs of this Department than the Committee on Appropriations. I believe that committee, having investigated the matter thoroughly and being in communication more directly with the heads of bureaus in the Departments, understands more fully what the needs of this Department are than the Committee on Appropriations, and I hold we ought to take their recommendation in preference to the recommendation of the Committee on Appropriations.

[Here the hammer fell.]

Mr. MONEY. I renew the amendment.

Mr. Chairman, the sum demanded by the Postmaster-General is \$150,000 for these special agents. I think the sum is not at all too much for the reason that there are to-day about ten thousand cases of mail depredations referred to the division of depredations under the charge of this Post-Office Department. One agent has to-day over six hundred cases referred to him and it is impossible Mr. Parker can keep up with the business of that branch of the postal service unless he has additional pay. The sum of \$5 per diem for these special agents is not too much, for while they have railroad tickets they have to pay for sleeping-car berths and their bills at hotels and other incidental expenses.

As I understand from the investigation the committee is making into this branch of the service these special agents in that branch draw per diem only for the time in actual service, but there is a class of special agents in the Department who sit at their desks and draw \$5 per diem for every day in the year. This is matter of evidence. In the recent investigation into the special agents assigned to the superintendent of the first division of the railway service his case for the last eight years was brought before that committee and made matter of evidence, and in his case it appears that he had drawn for every single day, not excepting Sunday, and for months and months when he testified he was home upon a sick-bed at the rate of \$5 per diem. In addition he had drawn over \$900 for incidental expenses, which covered the amount he had actually paid out of his pocket. The investigating committee have found the other special agents in the

railway mail service have done the same thing without any exception whatever.

I do not allude to the special agents under Mr. Parker's division of depredations. They are agents who sit at their desks and never leave their room at all and draw this \$5 per diem. In defense of their conduct they say they have an opinion from the Attorney-General that this \$5 per diem is part of their regular salary and they are entitled to draw it. This is a sham. If the salary of these gentlemen is not sufficient, and I hardly believe it is, let us raise it to the proper amount, so they may have reasonable compensation for their intelligence and responsibility in the discharge of their duties, but let us not have a sham in paying them \$5 per diem for work done outside of the office, when they never leave their rooms at all.

Mr. BEEBE. Will the gentleman allow me to ask him a question?

Mr. MONEY. Certainly.

Mr. BEEBE. The gentleman speaks of a class of special agents who receive \$5 a day when they are at their desks. What are they engaged in? Are they engaged on duty at or connected with the Post-Office Department?

Mr. MONEY. Certainly; as railway postal clerks. There are only nine of them.

Mr. BEEBE. What pay do they draw?

Mr. MONEY. Five dollars every day. That has been the custom, and that has been in accordance with the opinion of the Attorney-General, as understood in the Department. I say it is all wrong.

Now in this department of depredations, which under the charge of Colonel Parker I believe is as efficiently administered as any Department of this Government, and is of the vastest utility in promoting the efficiency of the Post-Office Department as well as correcting depredations on the mails, there is needed every cent which has been demanded; for the reason I stated at the beginning of my remarks that there are ten thousand cases that demand every day the urgent attention of these special agents, and which cannot be given until the force is slightly increased. For these reasons I think the sum should be fixed at the amount recommended by the chairman of the Committee on the Post-Office and Post-Roads. It will promote the efficiency of the service. I may instance one particular matter which has been brought to my particular attention, that of sale of stamps in offices of the fourth class, not for the use of the office, but as mere matter of merchandise. Time and again these postmasters, who are not amenable to any law for this violation of duty, have been brought to account by these mail agents, and have voluntarily refunded what they had been paid.

[Here the hammer fell.]

MESSAGE FROM THE SENATE.

The committee informally rose, and the Speaker having taken the chair, a message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 933) to authorize the commissioners of the District of Columbia to refund certain taxes erroneously collected, and for other purposes;

A bill (S. No. 1021) for the relief of certain settlers on the public lands;

A bill (S. No. 859) for the relief of Charles L. Davenport;

A bill (S. No. 713) for the relief of Martin Clark; and

A bill (S. No. 1047) regulating the appointment of cadet midshipmen and cadet engineers in the Naval Academy, and for other purposes.

POST-OFFICE APPROPRIATION BILL.

The Committee of the Whole resumed its session.

Mr. JACOBS. Mr. Chairman, I have no doubt but the Committee on Appropriations desire to give us an effective mail system. I understand that this \$3 a day is full compensation in the older States for board and traveling expenses for these agents. Now, how will that work in a Territory such as I have the honor to represent here? The traveling expenses in the Territories are much larger; I may say three or four times larger than they are for the same distance anywhere in a State. Take, for instance, the distance between Portland, Oregon, and Olympia, the capital of my Territory. The distance is about one hundred miles. No man can go from Portland to Olympia, the capital of Washington Territory, without paying \$9 in gold coin; and in addition to that there will be one day's board, and the price charged for meals will be \$1 each. So, for the expenses of that single day, the agent will be compelled to pay \$12.

But it is said that he gets passes upon the railroads. Well, but there are one hundred and five miles of railroad in the Territory. There are some stage lines; but I know it to be true, I know whereof I assert, when I say that these agents are denied in many instances free transportation on these stage lines. And then there are many places where the mails are carried by horses and by other means where it would be utterly impossible for the agent, unless he hired his own conveyance, to defray his ordinary expenses in that Territory or in any of the Territories, so far as my knowledge extends, upon \$3 a day. And if these agents are only paid \$3 a day the consequence will be just this, that they will not go into the different portions of the Territories to look after the mail depredations or to look after the interests of the Post-Office Department. It is equivalent to prohibiting their going and discharging the duties which it is necessary

for them to discharge and which attach to these agents. And hence I am opposed to cutting down the compensation. At least it ought to be \$5 for the States of Oregon and Nevada and for the Territories.

[Cries of "Vote!" "Vote!"]

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. FOSTER. I withdraw my amendment.

Mr. CANNON, of Illinois. I renew the amendment so as to place the amount at \$150,000.

Mr. WADDELL. That is the amendment already pending.

The CHAIRMAN. The Chair will state the condition of the question so that the committee may understand it. The amendment pending is to increase the amount to \$150,000, the amendment proposing to fix it at \$140,000 having been withdrawn.

[Cries of "Vote!" "Vote!"]

Mr. CANNON, of Illinois. Mr. Chairman, I do not want this amendment voted on until the House understands precisely what is in issue on this question.

The gentleman has said that the statute allows \$1,600 a year salary to these agents. That is true, provided you give the Department the money to pay them, and provided the Postmaster-General does not fix a less sum. You may appropriate \$150,000, and the Department cannot increase the salaries of these agents from what they are now. The statute allows them not exceeding \$1,600 a year. Yet I have an official statement here showing that twenty of these clerks get \$1,200 a year, ten get \$1,400 a year, and the remainder get \$1,600 a year each.

Mr. BLOUNT. There is no issue between us about this.

Mr. CANNON, of Illinois. I understand that; but I want to call the attention of the House to the facts. Last year an appropriation of \$135,000 was made for this purpose, and you propose now by your bill to reduce the amount to \$125,000; that is, \$10,000 less. If you cut the appropriation down to \$125,000 you must have fewer special agents. Now, already, instead of decreasing the number of special agents, the Postmaster-General has decreased the salaries of those employed to \$1,200 a year, for the reason there are not enough employed now to do the work of the Department.

Now the Department says it wants \$150,000 to pay the men now employed the salaries provided by law, and also to hire a few more at the same salaries to do this work, because it needs them. The Postmaster-General tells us that in eight months fifteen thousand cases were referred to these thirty-eight agents for investigation, and it would take them six months to complete cases now in their hands if not a single other case shall come up in the mean time. The Postmaster-General comes here and makes his report that largely more than the total amount that these agents receive for salary is saved by them to the Department.

[Here the hammer fell.]

Mr. WILSON. I am in favor of the most rigid economy as no doubt every gentleman within the sound of my voice is. I desire to vote the smallest possible sum of money that will secure the efficiency of this service. I hold in my hand, Mr. Chairman, the report accompanying this bill, and in it I find a letter addressed by D. M. Key, Postmaster-General, to Hon. J. D. C. ATKINS, chairman of the Committee on Appropriations, dated March 4, 1878, in which I find this passage:

To insure the safety of the mails, and to enable the Department to correct irregularities and protect its revenues, a larger force of special agents is required than can now be employed. Of this fact new evidence is brought to my attention every day.

Now, if we vote to appropriate the amount of money proposed by the Committee on Appropriations, and the mails cannot be carried and sufficiently protected for that sum, I am perfectly willing to give a larger sum of money.

I had hoped that some gentleman connected with the Committee on Appropriations would have given us some information upon that subject.

It is a mere question of tweedledum and tweedledee as to the amount to be paid for expenses. The great fact is, does the service require that more of these special agents shall be employed? Before I vote upon that question I would like to be informed by some gentleman upon that subject.

Mr. STEPHENS, of Georgia. I wish to state, before the vote is taken upon this question, that I have very recently given considerable attention to it. I concur in every word that the gentleman from West Virginia [Mr. WILSON] has said. I am for the most rigid economy; but a penny-wise policy is often a pound-foolish policy. I am myself satisfied that this service cannot be carried on efficiently short of \$150,000, the estimate of the Postmaster-General. I therefore shall vote for that amount.

The question recurred upon the amendment of Mr. WADDELL to the amendment of Mr. BLOUNT, to strike out "\$125,000" and insert "\$150,000."

The amendment to the amendment was agreed to, upon a division—ayes 119, noes 36.

The amendment as amended was then agreed to.

Mr. HUNTON. I desire to move to amend the paragraph by adding to it that which I send to the Clerk's desk.

Mr. WADDELL. I have an amendment which I desire to insert in the paragraph before the proviso.

The CHAIRMAN. The amendment of the gentleman from Virginia [Mr. HUNTON] will be read.

The amendment of Mr. HUNTON was read, to add to the paragraph the words "while actually in the service of the Post-Office Department."

Mr. WADDELL. I have an amendment to come in before that, to which I think there will not be an objection.

The CHAIRMAN. The amendment will be read.

The amendment of Mr. WADDELL was read, to insert in line 15, before the word "provided," the following:

And the Postmaster-General is hereby authorized to call upon the Secretary of War for a guard to accompany and protect the mails on any post-route in Texas, Missouri, or in any of the Territories of the United States, whenever and for such a length of time as he may deem necessary; which guard shall be transported on said routes free of charge by the contractor thereon. The Postmaster-General is further authorized to offer a reward of \$1,000 for the capture, dead or alive, of each and every person who shall by violence rob or attempt to rob the mail during the transportation thereof, and the sum of \$25,000 is hereby appropriated for that purpose out of any money in the Treasury not otherwise appropriated.

Mr. BLOUNT. I will reserve all points of order upon that amendment until I can hear the explanation of the gentleman.

Mr. WADDELL. My object in offering the amendment, which I admit is severe legislation, is to provide for what appears to be an absolute necessity. Within the last few weeks, in the State of Texas, the United States mail has been robbed while in course of transportation, and the employes of the railroad and of the express companies (I do not know that the mail agents have been injured) have been shot down like dogs. The last robbery occurred the other day within thirteen miles of the town of Dallas, Texas. I have here a dispatch furnished me by the Post-Office Department, which I will read:

DALLAS, TEXAS, April 11, 1878.

To Colonel DAVID P. PARKER,
Washington, D. C.:

Another train robbed last night, within thirteen miles of this place; more aggravated and larger force of robbers engaged in it than in any before; mails and express robbed; train-men shot down like dogs. Governor Hubbard claims that he has no force or means at his command to suppress same. What shall be done?

AMOS P. FOSTER.

I respectfully submit that, in view of this condition of things in the State of Texas, this legislation is absolutely necessary. There are roving bands of robbers, which I understand have been operating in Missouri and in Kansas and along the frontier, who have got down into Texas and have recently committed these outrages.

Mr. WILSON. Strike out the words "dead or alive."

Mr. WADDELL. Oh, no; I believe in killing them. I am willing to give a thousand dollars for a dead one.

Mr. FOSTER. There ought to be an amendment to the amendment, which I hope the gentleman will accept: "provided that the Army is not reduced below 25,000 men." [Laughter.]

Mr. WADDELL. I do not accept that amendment.

Mr. BLOUNT. I make the point of order that this is new legislation and involves an appropriation. I would not make that point but for the fact that the very thing my friend refers to is nothing new. We have always had this very thing along the Pacific coast.

Mr. WADDELL. I think the Government should put its foot on it.

Mr. BLOUNT. The Government will attend to it.

Mr. WADDELL. I think the Government should put an end to it with a strong hand. I would resort to any remedy in order to do so.

The CHAIRMAN. The point of order is well taken.

Mr. WADDELL. I knew it was subject to a point of order; but I understood my friend the other day to make no objection to it when I showed it to him.

Mr. HUNTON. I will now move my amendment, to insert after the words "five dollars," in the eighteenth line, the words "while actually traveling in the service of the Post-Office Department."

Mr. CLYMER. And away from home.

Mr. HUNTON. They must be away from home if they travel. The language of the law now is, in regard to the traveling expenses of these agents, "while actually employed in the service." That language has been construed by the Government to mean while they are in the service of the United States Government; that is, while liable to service, and not while they are traveling in the service of this Government. With a view of meeting that construction which has been placed upon the statute, I desire to move this amendment, so that these agents shall get no per diem unless they are actually traveling in the service of the Government.

Mr. DEERING. Is an amendment to the amendment in order?

The CHAIRMAN. If germane.

Mr. HUNTON. I want to get at all of them who are charging the per diem for traveling expenses when they are staying at home. I want the per diem allowed only to agents when traveling in the service of the Department. If the gentleman is right in his construction, my amendment does no harm.

Mr. CANNON, of Illinois. I have no objection to the gentleman's amendment, with one other that I want to offer.

Mr. DEERING. I move as an amendment to the amendment to strike out after the words "Attorney-General," in line 15, the following:

Provided, That hereafter the per diem pay of all special agents appointed under section 4017 of the Revised Statutes shall be \$3, instead of \$5, as therein provided.

The question being taken on Mr. DEERING's amendment to the amendment, there were—ayes 69, noes 94.

Mr. DEERING called for tellers.

Tellers were ordered; and Mr. DEERING and Mr. BLOUNT were appointed.

The committee again divided; and the tellers reported—ayes 77, noes 74.

So the amendment was agreed to.

Mr. BLOUNT. I give notice that I shall ask a vote in the House on the amendment just adopted.

Mr. CLYMER. I move further to amend by inserting the following:

Provided, That hereafter the per diem pay of all special agents appointed under section 4617, Revised Statutes, shall only be allowed when they are actually engaged in traveling on the business of the Department.

I will only remind the Committee of the Whole that this does not interfere with the amount of the per diem; it merely provides that these agents shall not be paid per diem except when actually employed on the business of the Department.

Mr. HUNTON. I would like the gentleman to tell me the difference between this amendment and my own.

Mr. CLYMER. The gentleman's proposition was an amendment to the proviso, which has just been stricken out on motion of the gentleman from Iowa, [Mr. DEERING.]

The amendment of Mr. CLYMER was agreed to.

Mr. THROCKMORTON. I move to amend by inserting the following, to come in at the end of the paragraph:

And provided further, That \$30,000 of this appropriation, or so much thereof as shall be necessary, may be used in paying rewards for apprehension of mail robbers.

Mr. BLOUNT. So far as I am concerned, I have no objection to this amendment, though I think that under the law as it now stands the Department can use the money for this purpose.

The amendment was agreed to.

The Clerk read the next paragraph of the bill, as follows:

For preparation and publication of post-route maps, \$25,000; and the Postmaster-General may authorize the publication and sale of said maps to individuals at the cost thereof, the proceeds of said sales to be applied as a further appropriation for said purpose.

Mr. WADDELL. I have to regret again that the Committee on the Post-Office and Post-Roads have instructed me to report an amendment. I move to amend the amount of this appropriation by striking out \$25,000 and inserting \$40,000. I regret again that my friend from Georgia, [Mr. BLOUNT,] chairman of the subcommittee on Appropriations, did not consult with the Post-Office Committee in regard to some of these matters, whereby I would have been relieved of the painful necessity of troubling him so much. I now yield the floor to my colleague on the committee, the gentleman from Illinois, [Mr. CANNON,] who will explain the amendment.

Mr. CANNON, of Illinois. Mr. Chairman, in the main I heartily concur with the Committee on Appropriations in its recommendations touching this bill. In a few cases I believe the amount recommended is too small, and in one instance, which I will point out further on in the bill, I believe the committee recommend an unnecessary appropriation. I indorse the amendment of the gentleman from North Carolina [Mr. WADDELL] to appropriate \$45,000, the estimate of the Postmaster-General, for the preparation and publication of post-route maps, instead of \$25,000, as recommended by the Committee on Appropriations. I feel quite sure that the gentleman from Georgia [Mr. BLOUNT] in charge of the bill will accept the amendment if he will inquire fully as to its necessity.

The importance of the work of the topographer of the Post-Office Department being promptly and well done will be seen by recollecting the extent of our territory in which mail service is performed, especially when it is recollected that the routes upon which service is performed aggregate in length 292,820 miles, and that these routes are constantly being added to by Congress, changed, curtailed, and in some instances discontinued where service is no longer necessary; and that upon these routes there are 37,345 post-offices, which are continually being added to by the establishment of new offices, or changed by the revocation and discontinuance of old ones; all of which has to be kept track of by the topographer and shown upon his maps, and for the proper conduct of the service these maps must be reproduced in sufficient numbers to furnish the Post-Office Department and its principal offices throughout the country copies of the same; and it is a fact that this work is so well done by the topographer that these maps are a necessity for the committees of the House and Senate, and for the other Departments of the Government.

All this requires three editions of these maps annually, there being twenty of them consisting of sixty-five sheets. In addition to these three editions one hundred and fifty copies of these maps have to be altered and kept up by hand from week to week as new routes are added by act of Congress, or old ones changed or discontinued by order of the Postmaster-General. To do all this work with much other that time will not allow me to enumerate, the topographer has twenty-two clerks now in his employment, the salaries of whom aggregate at the rate of \$26,400 per annum, and the expenses for material, plates, &c., as shown by the estimates amount to \$18,600 per annum, aggregating \$45,000. For two years past this appropriation has been cut down to \$25,000 and the result is that the work is greatly behind.

For instance, maps of Dakota with parts of Iowa, Minnesota, Montana, Wyoming, and Nebraska have never been published; Kentucky and Tennessee not published in full; Texas, map obsolete; Arkansas and Indian Territory not published; while California and many other

Western States and Territories not published. In view of these facts I do hope this appropriation will not be so niggardly as to embarrass the service. The bill provides for sale of maps at cost, but this amounts to nothing, for the force in the topographer's office is not sufficient to make enough maps to supply the Department. In conclusion I desire to call attention to the fact that the Postmaster-General and his second assistant in their reports earnestly recommend the appropriation of \$45,000 for this service. I trust the amendment will be adopted.

[Here the hammer fell.]

Mr. BLOUNT. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. Cox, of New York, reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 4246) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes, and had come to no resolution thereon.

MIL0 M. ADAMS.

On motion of Mr. MAISH, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Milo M. Adams, no adverse report thereon having been made.

LEAVE OF ABSENCE.

Leave of absence, by unanimous consent, was granted in the following cases:

To Mr. BRENTANO, for two weeks, on account of important business.

To Mr. BACON, for one week, on account of important business.

RAILWAY MAIL TRANSPORTATION.

The SPEAKER, by unanimous consent, laid before the House the report of the special postal commission on the subject of railway mail transportation; which was referred to the Committee on the Post-Office and Post-Roads.

EDMUND T. RYAN.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a copy of the court-martial record in the case of Edmund T. Ryan, late second lieutenant Fifteenth Infantry; which was referred to the Committee on Military Affairs.

MICHIGAN LAND GRANTS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting report of the Commissioner of the General Land Office concerning lands granted to the State of Michigan to aid in the construction of a railroad; which was referred to the Committee on Public Lands.

FRANK A. PAGE.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting papers relating to the case of Frank A. Page, United States Army, retired; which was referred to the Committee on Military Affairs.

LABOR OF TROOPS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting report in relation to the labor of troops in the military division of the Missouri; which was referred to the Committee on Military Affairs.

CERTIFICATES OF MERIT.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting recommendation in regard to certificates of merit; which was referred to the Committee on Military Affairs.

MEMORIALS OF LEGISLATIVE ASSEMBLY OF NEW MEXICO.

The SPEAKER also, by unanimous consent, laid before the House a letter from the secretary of the Territory of New Mexico, transmitting sundry memorials passed by the twenty-third Legislative Assembly of said Territory; which was referred to the Committee on the Territories.

KANSAS PACIFIC RAILROAD.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Attorney-General, in response to a resolution of the House of Representatives on the 19th ultimo, relative to suits pending against the Kansas Pacific Railroad; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

SUBSISTENCE DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting statement of the aggregate pay and allowances of officers and men of the Subsistence Department for the fiscal year; which was referred to the Committee on Military Affairs.

MOUTH OF SAINT JOHN'S RIVER, FLORIDA.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting recommendation for an appropriation of \$5,000 for examination of the mouth of the Saint John's River, Florida; which was referred to the Committee on Commerce.

NEW YORK PRODUCE EXCHANGE.

Mr. MULLER. I present the resolutions of the New York Produce Exchange in regard to our export trade and mercantile marine, and move they be referred to the Committee on Commerce and ordered to be printed.

The motion was agreed to.

Mr. MULLER. I ask by unanimous consent they be printed in the RECORD.

There was no objection, and it was ordered accordingly. The resolutions are as follows:

NEW YORK PRODUCE EXCHANGE, April 10, 1878.

At a meeting of the board of managers of the New York Produce Exchange, held April 4, 1878, the following resolutions, presented by the delegates from this exchange to the national convention of the United States export trade, held at Washington, February 19 and 20, 1878, were unanimously adopted as the sense of this exchange on the matters therein contained, and copies were ordered to be sent to our Representatives at Washington with the request that they bring the same before Congress and endeavor to obtain favorable action thereon:

Resolved, That in the opinion of this exchange the most effective method for increasing the exports of American products and creating a demand for our manufactures abroad is by the simplification of the tariff with the view of ultimately reducing it to a strictly revenue basis, such reduction being calculated to lessen the cost of production, thereby promoting the exchange of products with foreign countries.

Resolved, That the depressed condition of the American shipping interest is largely due to the existing navigation laws, which forbid the purchase of foreign-built vessels and their registry under the American flag; and that as a prerequisite to the restoration of the United States to the position it once occupied as the rival of the greatest maritime power, it is indispensably necessary that American citizens should be permitted to buy or build ships for the foreign trade in any part of the world and obtain for them American registers.

Resolved, That subsidies or payments by the Government to particular lines of steamships, except such payments as may be necessary for the carrying of the mails, are wrong in principle and injurious in practice, and will only inure to the benefit of a few favored individuals or corporations.

WM. A. COLE, President.

WM. I. PHILLIPS, Secretary.

POTOMAC RIVER.

Mr. SPRINGER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to cause examination to be made of the flats in the Potomac River from the Observatory grounds to the Monument lot, for the purpose of ascertaining the practicability of the erection of a dike along the western shore of said flats, and report to the House as to the feasibility and cost thereof, and what effect such dike would have on the sanitary condition of the city of Washington.

Mr. SPRINGER moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CHARLES C. D. WILLIAMS.

Mr. CALKINS, by unanimous consent, introduced a bill (H. R. No. 4320) for the relief of Charles C. D. Williams, late captain of Company G, Nineteenth Illinois Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ERASTUS GAY.

Mr. CALKINS also, by unanimous consent, introduced a bill (H. R. No. 4321) for the relief of Erastus Gay, late a musician in the regimental band of the Fifth United States Infantry; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

MISSISSIPPI AND LAKE MICHIGAN SHIP-CANAL.

Mr. HARRISON, by unanimous consent, introduced a bill (H. R. No. 4322) to construct a ship-canal for the passage of armed and naval vessels from the Mississippi River to Lake Michigan, and for other purposes; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

TEACHING OF MORAL AND SOCIAL SCIENCE.

Mr. SAPP, (by request,) by unanimous consent, introduced a bill (H. R. No. 4323) to introduce moral and social science into the public schools of the District of Columbia; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

INDUSTRIAL EXPOSITIONS IN THE PUBLIC SCHOOLS.

Mr. SAPP also, (by request,) by unanimous consent, introduced a bill (H. R. No. 4324) to introduce industrial exhibitions into the public schools of the District of Columbia; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

HOSPITAL FOR DISABLED SOLDIERS.

Mr. COLE, by unanimous consent, introduced a bill (H. R. No. 4325) to provide for filling a vacancy in the board of managers of the United States Hospitals for Disabled Volunteer Union Soldiers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHARLES CLINE.

Mr. GARDNER, by unanimous consent, introduced a bill (H. R. No. 4326) granting a pension to Charles Cline, of Clinton County, Ohio; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

LABORERS UPON GOVERNMENT WORKS.

Mr. BOUCK, by unanimous consent, introduced a bill (H. R. No. 4327) for the relief of certain laborers employed upon Government works; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

CONVEYANCE OF PUBLIC LANDS.

Mr. BOUCK also, by unanimous consent, introduced a bill (H. R. No. 4328) to simplify the conveyance of the public lands; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

MARTIN CLARK.

On motion of Mr. PHILLIPS, by unanimous consent, the bill (S. No. 713) for the relief of Martin Clark, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs, not to be brought back on a motion to reconsider.

BANKRUPTCY LAWS.

Mr. RIDDLE, by unanimous consent, introduced a bill (H. R. No. 4329) to repeal all laws establishing a uniform system of bankruptcy throughout the United States and all acts amendatory thereof; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

TAX ON APPLE AND PEACH BRANDY.

Mr. CARLISLE, by unanimous consent, introduced a bill (H. R. No. 4330) relating to the tax on apple and peach brandies and to punish frauds connected with the same; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

GEORGE W. TAYLOR.

Mr. CARLISLE also, by unanimous consent, introduced a bill (H. R. No. 4331) for the relief of George W. Taylor, of Harrison County, Kentucky; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

EQUESTRIAN PICTURE OF GENERAL SCOTT.

Mr. CARLISLE also, (by request,) by unanimous consent, introduced a bill (H. R. No. 4332) to provide for the purchase of Trope's equestrian picture of General Winfield Scott; which was read a first and second time, referred to the Committee on the Library, and ordered to be printed.

SIGNAL-SERVICE STATION AT ATLANTA, GEORGIA.

Mr. CANDLER, by unanimous consent, introduced a bill (H. R. No. 4333) to establish and maintain a signal-service station at the city of Atlanta, in the State of Georgia; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MICHAEL KREIS.

Mr. CANDLER also, by unanimous consent, introduced a bill (H. R. No. 4334) for the relief of Michael Kreis; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOHN FICKEN.

Mr. CANDLER also, by unanimous consent, introduced a bill (H. R. No. 4335) for the relief of John Ficken; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOHN M. NACE.

Mr. CANDLER also, by unanimous consent, introduced a bill (H. R. No. 4336) for the relief of John M. Nace; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

LARKIN SMITH.

Mr. CANDLER also, by unanimous consent, introduced a bill (H. R. No. 4337) to remove the political disabilities of Larkin Smith, of Georgia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BRANCH MINT AT ATLANTA, GEORGIA.

Mr. CANDLER also, by unanimous consent, introduced a bill (H. R. No. 4338) to establish a branch of the Mint of the United States at Atlanta, Georgia; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

EDUCATION OF COLORED TEACHERS IN MISSISSIPPI.

Mr. CHALMERS, by unanimous consent, introduced a bill (H. R. No. 4339) to educate colored teachers in the State of Mississippi; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

W. J. COWAN.

Mr. CHALMERS also, by unanimous consent, introduced a bill (H. R. No. 4340) for the relief of W. J. Cowan; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

SIGNAL STATION AT SPRINGFIELD, MISSOURI.

Mr. MORGAN (by request of General Myers, of the Signal Service) introduced a bill (H. R. No. 4341) to establish and maintain a signal

station at Springfield, Greene County, Missouri; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

HEIRS OF JAMES CANNON.

Mr. MORGAN also, by unanimous consent, introduced a bill (H. R. No. 4342) for the relief of the legal representatives of James Cannon; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

OBSERVATION STATION AT SPRINGFIELD, ILLINOIS.

Mr. ALDRICH, by unanimous consent, introduced a bill (H. R. No. 4343) to establish signal weather-observation station at Springfield, Sangamon County, in the State of Illinois; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

PROTECTION OF PUBLIC BUILDINGS AND RECORDS.

Mr. ALDRICH also, by unanimous consent, presented a resolution, instructing the Committee on Public Buildings and Grounds to inquire into the best means of protecting the public buildings and records; and asked that the resolution be adopted.

The Clerk read the resolution, as follows:

Resolved, That the Committee on Public Buildings and Grounds be, and hereby is, instructed to inquire into the best means of protecting the public buildings and records from fire; and that it have leave to report by bill or otherwise.

There being no objection, the resolution was agreed to.

Mr. ALDRICH moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BRIDGE ACROSS MISSISSIPPI RIVER.

Mr. STRAIT, by unanimous consent, introduced a bill (H. R. No. 4344) to authorize the Red Wing and Trenton Transit Company to erect a bridge across the east channel or slough of the Mississippi River, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

UNITED STATES NOTES.

Mr. CUMMINGS, by unanimous consent, introduced a bill (H. R. No. 4345) to prevent the reduction of the volume of United States notes, and for other purposes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

SITE FOR MARINE HOSPITAL, SAINT PAUL.

Mr. STEWART, by unanimous consent, introduced a bill (H. R. No. 4346) authorizing the Secretary of the Treasury to purchase a site and erect thereon a building to be used as a marine hospital in the city of Saint Paul, Minnesota; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

COLLATERAL LOAN AND TRUST COMPANY, DISTRICT OF COLUMBIA.

Mr. MORSE, (by request,) by unanimous consent, introduced a bill (H. R. No. 4347) to incorporate the Collateral Loan and Trust Company in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

COMMISSIONED OFFICERS.

Mr. BANNING, by unanimous consent, introduced a bill (H. R. No. 4348) to allow commissioned officers who served as enlisted men in the Army of the United States, and were honorably discharged, to count such services with their services as commissioned officers in all that relates in law to longevity and retirement; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

TREATY WITH COREA.

Mr. BANNING also, by unanimous consent, introduced a joint resolution (H. R. No. 161) authorizing the President of the United States to appoint a commission to the King of Corea and arrange a treaty of amity and commerce between the King of Corea and the United States; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

PROFESSOR GLOVER'S AMERICAN ENTOMOLOGY.

Mr. BRAGG, by unanimous consent, introduced a bill (H. R. No. 4349) to provide for the continuance of Professor Townsend Glover's illustrated work on American entomology; which was read a first and second time, referred to the Committee on Agriculture, and ordered to be printed.

LONGEVITY PAY.

Mr. BRAGG also, by unanimous consent, introduced a bill (H. R. No. 4350) regulating the computation of time for allowance of longevity pay to certain officers in the United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

RACHEL DUNAVANT.

Mr. WILLIAMS, of Alabama, by unanimous consent, introduced a bill (H. R. No. 4351) authorizing the Secretary of the Interior to place upon the pension-roll the name of Rachel Dunavant, of Coffee County,

Alabama; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PATRICK FLYNN.

Mr. COX, of Ohio, by unanimous consent, introduced a bill (H. R. No. 4352) for the relief of Patrick Flynn, late a private Twenty-first Battery Ohio Volunteer Artillery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TRANSPORTATION OF MAILS.

Mr. WADDELL, (by request,) by unanimous consent, introduced a bill (H. R. No. 4353) regulating the compensation for the transportation of mails on railroad routes; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

ADVERTISING OF MAIL-LETTINGS.

On motion of Mr. BANNING, by unanimous consent, the bill (H. R. No. 3787) regulating the advertising of mail-lettings, and for other purposes, returned from the Senate with amendments, was taken from the Speaker's table and referred to the Committee on the Post-Office and Post-Roads, not to be brought back on a motion to reconsider.

PAYMENT OF MESSENGER.

Mr. HATCHER, by unanimous consent, submitted the following resolution; which was referred to the Committee on Accounts:

Resolved, That there be paid out of the contingent fund of the House to ——— the sum of \$100 per month from the 4th day of December 1877, to the 4th day of April, 1878, for his services as messenger to the Committee of Territorial Delegates; also for his services as messenger to the Committee on Education and Labor from the 13th day of February to the 4th day of April, 1878; and also for his services as messenger to the Committee on Expenditures in the State Department from the 13th day of February to the 4th day of April, 1878, all inclusive.

MARGARET S. FAIN.

Mr. BELL, by unanimous consent, introduced a bill (H. R. No. 4354) to grant a pension to Margaret S. Fain, of Fannin County, Georgia; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

VIRGINIA MILITARY DISTRICT, OHIO.

Mr. DICKEY. I ask unanimous consent to introduce a bill to construe and define "An act to cede to the State of Ohio the unsold lands in the Virginia military district in said State," approved February 18, 1871, and to have it referred to a select committee, as set forth in a resolution which I send to the Clerk's desk.

Mr. CONGER. I object to its reference to a select committee. I will not object to its being referred to a standing committee of the House.

Some time subsequently,

Mr. CONGER said: I withdraw my objection to the reference of the bill of the gentleman from Ohio [Mr. DICKEY] to a special committee.

Mr. DUNNELL. I renew the objection.

Mr. DICKEY. Let the resolution be read.

Mr. DUNNELL. I do not understand that there is anything involved in the bill which a standing committee cannot consider.

Mr. DICKEY. Then let the bill be referred to the Committee on Public Lands.

The bill (H. R. No. 4355) was accordingly received, read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

LOUDEN MULLEN.

Mr. PATTERSON, of Colorado, by unanimous consent, introduced a bill (H. R. No. 4356) for the relief of Loudon Mullen; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

BOUNDARY LINE BETWEEN COLORADO AND UTAH.

Mr. PATTERSON, of Colorado, also, by unanimous consent, introduced a bill (H. R. No. 4357) to provide for the survey of the boundary line between the State of Colorado and the Territory of Utah; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

JOEL R. CARTER.

Mr. BICKNELL, by unanimous consent, introduced a bill (H. R. No. 4358) granting a pension to Joel R. Carter; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

UNITED STATES OF COLOMBIA.

Mr. MONROE. I am instructed by the Committee on Foreign Affairs to ask that that committee be discharged from the further consideration of certain petitions relating to the re-establishment of diplomatic relations with the United States of Colombia, and that they be referred to the Committee on Appropriations, that committee having acted upon the subject.

There was no objection, and it was so ordered.

ORDER OF BUSINESS.

Mr. McMAHON. I move that the House now take a recess until half past seven o'clock.

The SPEAKER. The Chair desires to state, before the question is put upon that motion, that in his opinion a fair consideration of the resolution under which this evening's session is to be held would be that the Committee on Revolutionary Pensions should have one hour, or so much thereof as they may deem necessary, in which to report bills for reference to the Committee of the Whole on the Private Calendar. Afterward the Committee on Invalid Pensions should have an hour, or so much thereof as may be necessary, in which to report bills for the same purpose; the reports from those committees to go to the bottom of the Calendar, and to be taken up in their order as the Private Calendar shall be proceeded with in Committee of the Whole.

Mr. CONGER. The pension bills now on the Private Calendar to take precedence.

The SPEAKER. Certainly. The first hour of the session to-night, or so much thereof as may be necessary, will be devoted to reports from the Committee on Revolutionary Pensions. Then the Committee on Invalid Pensions will report for an hour, or so much thereof as may be necessary, and the bills from those committees will be placed at the end of the Private Calendar as now made up. When the House shall resolve itself into the Committee of the Whole on the Private Calendar, the pension bills will be taken up and considered in their order.

The Chair desires to state that he will be absent this evening, and the gentleman from New York, Mr. COVERT, will occupy the chair as Speaker *pro tempore*.

Mr. HOOKER. Does the statement of the Chair in regard to the order of business apply to to-night?

The SPEAKER. It applies to to-night, to-morrow night, and next night, the three nights which by order of the House are to be devoted to the consideration of pension bills. The Chair has been in conference with the chairman of the Committee on Revolutionary Pensions, and the chairman of the Committee on Invalid Pensions, and he is advised by them that one hour for each committee to-night will enable them to report all that they are now ready to report. After the reports shall have been made from those committees, then they will ask the House to go into the Committee of the Whole on the Private Calendar.

Mr. CONGER. I move to reconsider the various votes by which bills have been referred to the committees this afternoon, and to lay that motion on the table.

The SPEAKER. Those bills have been introduced and referred by unanimous consent; but the Chair will put the motion for greater certainty.

The motion to lay the motion to reconsider on the table was agreed to.

The motion of Mr. McMAHON was then agreed to; and accordingly (at five o'clock and ten minutes, p. m.) the House took a recess until seven o'clock and thirty minutes p. m.

EVENING SESSION.

The House reassembled at half-past seven o'clock p. m., and was called to order by Mr. COVERT, as Speaker *pro tempore*.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. Under the previous order of the House the session of to-night will be occupied in the first instance and for the first hour of the session, should that length of time be necessary, in the reception of reports from the Committee on Revolutionary Pensions and War of 1812.

LEGAL REPRESENTATIVE OF PRESIDENT MONROE.

Mr. MACKEY, from the Committee on Revolutionary Pensions, reported back, with a favorable recommendation, the bill (H. R. No. 3852) for the relief of the legal representative of the late James Monroe, lieutenant-colonel Virginia State Line, war of the Revolution, and President of the United States; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JARVIS JACKSON.

Mr. MACKEY, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 2961) for the relief of Jarvis Jackson, of Laurel County, Kentucky; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ROBERT QUINN.

Mr. MACKEY, from the same committee, reported a bill (H. R. No. 4359) granting a pension to Robert Quinn, of Preble County, Ohio, a soldier of the war of 1812; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ABIGAIL S. TILTON.

Mr. MACKEY, from the same committee, reported, with an amendment, a bill (H. R. No. 1970) granting a pension to Abigail S. Tilton; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ISAAC WINANS.

Mr. MACKEY, from the same committee, reported a bill (H. R. No. 4360) granting a pension to Isaac Winans, of the Ohio militia in the war of 1812; which was read a first and second time, referred to the

Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. MACKEY, from the same committee, reported back adversely the petition of Mrs. Mary J. Sears, for a pension as widow of William J. Sears, a soldier of the war of 1812, and moved that the same be referred to the Committee of the Whole on the Private Calendar, and the accompanying report be printed.

The motion was agreed to.

Mr. MACKEY, from the same committee, reported back adversely the following bills; which were laid on the table, and the accompanying reports ordered to be printed:

A bill (H. R. No. 3649) granting a pension to Alexander McClure;

A bill (H. R. No. 1618) restoring to the pension-rolls the name of Edward Booker, of the county of Henry, State of Virginia, a soldier of the war of 1812, whose name was dropped from the rolls under the act of February 4, 1862; and

A bill (H. R. No. 117) authorizing the issue of a pension to Andrew Jackson, (colored,) of Pittsburgh, Pennsylvania.

CHANGE OF REFERENCE.

On motion of Mr. MACKEY, the Committee on Revolutionary Pensions was discharged from the further consideration of the bill (H. R. No. 687) granting pensions to certain soldiers and sailors of the Mexican, Florida and the Black Hawk wars, and certain widows of deceased soldiers and sailors of the same; and the same was referred to the Committee on Invalid Pensions.

On motion of Mr. MACKEY, the Committee on Revolutionary Pensions was discharged from the further consideration of the bill (H. R. No. 116) for the relief of Thomas Hunter; and the same was referred to the Committee on Private Land Claims.

MOSES CUNNINGHAM.

Mr. PATTERSON, of New York. The Committee on Revolutionary Pensions and War of 1812, to whom was referred the bill (H. R. No. 408) granting a pension to Moses Cunningham, of McMinn County, Tennessee, have directed me to report back the same adversely, on the ground that the case is provided for by general law. I move that the bill be laid on the table, and the accompanying report ordered to be printed.

The motion was agreed to.

JOHN KELTNER.

Mr. PATTERSON, of New York. The same committee, to whom was referred the petition of sundry citizens of McMinn County, Tennessee, for a pension for John Keltner, a soldier of the war of 1812, who served thirty days, have directed me to report back the same adversely, on the ground that the case is provided for by the recent act of Congress. I move that the petition be laid on the table, and the accompanying report ordered to be printed.

The motion was agreed to.

ELIZABETH A. WHEELER.

Mr. PATTERSON, of New York, also, from the same committee, reported adversely on the petition of Elizabeth A. Wheeler, of Oneida, Madison County, New York, for a pension; which was laid on the table, and the accompanying report ordered to be printed.

FRANKLIN PAINE.

Mr. GARDNER, from the Committee on Revolutionary Pensions, reported back adversely the bill (H. R. No. 1641) granting a pension to Franklin Paine; which was laid on the table, and the accompanying report ordered to be printed.

ELIZABETH KURTZ.

Mr. GARDNER also, from the same committee, reported back adversely the bill (H. R. No. 2602) granting a pension to Elizabeth Kurtz, widow of David Kurtz, a soldier in the war of 1812; which was laid on the table, and the accompanying report ordered to be printed.

JOHN HOLLAND.

Mr. GARDNER also, from the same committee, reported adversely on the petition of John Holland, of Lewiston, Maine, for a pension; which was laid on the table, and the accompanying report ordered to be printed.

MRS. MARTHA WEBB.

Mr. GARDNER also, from the same committee, reported adversely on the petition of Mrs. Martha Webb, of Scott County, Mississippi, for arrears of pension due her father, Joel Sprouse, at the date of his death, July 25, 1872, under act of February 14, 1871; which was laid on the table, and the accompanying report ordered to be printed.

MARY DESBROW.

Mr. EVANS, of Pennsylvania, from the Committee on Revolutionary Pensions, reported back adversely the bill (H. R. No. 41) granting a pension to Mary Desbrow; which was laid on the table, and the accompanying report ordered to be printed.

WILLIAM FRANKENBERGER.

Mr. EVANS, of Pennsylvania, also, from the same committee, reported back adversely the bill (H. R. No. 1070) granting a pension to William Frankenger; which was laid on the table, and the report ordered to be printed.

EBENEZER FARWELL.

Mr. EVANS, of Pennsylvania, also, from the same committee, reported back adversely the bill (H. R. No. 2815) for the relief of Ebenezer Farwell; which was laid on the table, and the accompanying report ordered to be printed.

Mr. MACKEY. Mr. Speaker, several of the members of the Committee on Revolutionary Pensions and the War of 1812 are absent. I know they have bills to report; whether they will be present or not I am not certain. I ask by unanimous consent at the conclusion of the time allotted to the Committee on Invalid Pensions to make reports if any desire by this committee they shall have the privilege to do so.

There was no objection, and it was ordered accordingly.

THOMAS MURPHY.

Mr. RICE, of Ohio, from the Committee on Invalid Pensions, reported back favorably a bill (H. R. No. 1956) for the relief of Thomas Murphy, of Knox County, Missouri; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

THOMAS W. HEWITT.

Mr. RICE, of Ohio, also, from the same committee, reported back favorably a bill (H. R. No. 629) granting a pension to Thomas W. Hewitt; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ELIZABETH R. HULL.

Mr. RICE, of Ohio, also, from the same committee, reported back favorably a bill (H. R. No. 1396) granting a pension to Elizabeth R. Hull; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ELIZABETH WINTERS.

Mr. RICE, of Ohio, also, from the same committee, reported, as a substitute for House bill No. 1930, a bill (H. R. No. 4361) granting a pension to Elizabeth Winters, widow of Jacob Winters, late private Company E, Twenty-eighth Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

CYNTHIA A. MIZELLE.

Mr. RICE, of Ohio, also, from the same committee, reported a bill (H. R. No. 4362) granting a pension to Cynthia A. Mizelle, mother of Zedekiah M. Mizelle, late a private, Company C, First North Carolina Regiment Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and, with the accompanying report, ordered to be printed.

LEVI J. FRIEL.

Mr. RICE, of Ohio, also, from the same committee, reported a bill (H. R. No. 4363) granting a pension to Levi J. Friel, late private Company K, Seventy-seventh Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

LYDIA A. MORRIS.

Mr. RICE, of Ohio, also, from the same committee, reported, as a substitute for House bills Nos. 2774 and 1365, a bill (H. R. No. 4364) granting a pension to Lydia A. Morris, widow of John K. Morris, late a private Company A, Fifth Ohio Volunteer Cavalry; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

CHANGES OF REFERENCE.

Mr. RICE, of Ohio, also, from the same committee, reported back a bill (H. R. No. 3608) granting a pension to Mrs. Caroline Barnard, legal heir of Colonel Fanning, deceased, United States Army; and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on Revolutionary Pensions.

Mr. GARDNER. I desire to inquire of the gentleman for what reason he asks the change of reference.

Mr. RICE, of Ohio. Because it is a bill for a pension arising out of the war of 1812, and the Committee on Revolutionary Pensions and the War of 1812 is the committee which has charge of bills of that character.

Mr. PATTERSON, of New York. I wish to inquire of the gentleman if there were not invalided soldiers in that war as well as others.

Mr. RICE, of Ohio. There are still some few survivors left.

Mr. GARDNER. The report of the committee upon its face shows that the bill ought not to go to this committee, because it has nothing to do with the heirs of the soldiers of the war of 1812.

Mr. RICE, of Ohio. To relieve gentlemen of all trouble, I will remark that these bills were erroneously referred in the first place. They should have been referred to the Committee on Revolutionary Pensions, but by error were referred to the Committee on Invalid Pensions.

The motion of Mr. RICE, of Ohio, was agreed to; and the bill was referred to the Committee on Revolutionary Pensions.

Mr. RICE, of Ohio, also, from the Committee on Invalid Pensions, reported back bills of the following titles; and they were severally referred to the Committee on Revolutionary Pensions:

A bill (H. R. No. 2102) granting a pension to Elizabeth Lovell;

A bill (H. R. No. 2245) for the relief of Mary B. Kirby; and

A bill (H. R. No. 2035) granting a pension to Susan Adams, widow of Isaac Adams.

AGATHA O'BRIEN.

Mr. HEWITT, of Alabama, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 3166) granting a pension to Agatha O'Brien, widow of John P. J. O'Brien, brevet major United States Army; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM ABENDROTH.

Mr. HEWITT, of Alabama, also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 1778) granting a pension to William Abendroth; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ANDREW A. GOODING.

Mr. HEWITT, of Alabama, also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 2321) granting a pension to Andrew A. Gooding, of Fentress County, Tennessee; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JOHN F. CHASE.

Mr. HEWITT, of Alabama, also, from the same committee, reported back, with an amendment, the bill (H. R. No. 44) granting additional pension to John F. Chase, of Saybrook, Connecticut; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MARY F. M'KEEVER.

Mr. HEWITT, of Alabama, also, from the same committee, reported a bill (H. R. No. 4365) granting an increase of pension to Mary F. McKeever, widow of the late Commodore Isaac McKeever, of the United States Navy; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and with the accompanying report, ordered to be printed.

GEORGE SMITH.

Mr. HEWITT, of Alabama, also, from the same committee, reported back the bill (H. R. No. 3609) granting a pension to George Smith, and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on Revolutionary Pensions.

The motion was agreed to.

WILLIAM H. LEE.

Mr. HEWITT, of Alabama, also, from the same committee, reported back, with an adverse recommendation, the bill (H. R. No. 1908) for the relief of William H. Lee, late private Fifty-fourth Massachusetts Volunteers; and the same was laid on the table, and the accompanying report ordered to be printed.

INCREASE OF PENSION IN CERTAIN CASES.

Mr. MACKEY. I am instructed by the Committee on Invalid Pensions to report a substitute for the bill (H. R. No. 2639) to increase the pension of certain pensioned soldiers and sailors who have lost both their hands or both their feet in the service of the country. I ask the present consideration of that bill.

The SPEAKER *pro tempore*. That is not in order as part of the business assigned for this evening.

Mr. MACKEY. I understood that it was in order to make this report.

The SPEAKER *pro tempore*. It is not in order, as the Chair understands it, under the assignment of business for this evening's session.

Mr. MACKEY. Then I ask that the bill be placed on the Private Calendar, and that the report be printed.

Mr. HEWITT, of Alabama. I am in favor of this bill and would like to have it passed, but it seems to me that under the order of the House action cannot be taken upon it; we have met to-night simply for the purpose of receiving reports from committees of a private nature.

Mr. MACKEY. I was instructed by the Committee on Invalid Pensions to report this bill and I understand that that committee is allowed to report bills to-night and I am confident that I have a right to report the bill, although it may not be subject to consideration.

Mr. RICE, of Ohio. I submit that only bills of a private nature are to be reported to-night and this bill is of a general character, and evidently does not, therefore, come within the rule.

Mr. MACKEY. The bill provides for an increase of pension to a very small class of pensioners.

Mr. RICE, of Ohio. Nevertheless it is a public bill. I am in favor of the bill, but I do not think that it comes within the order made for this evening's session.

Mr. MACKEY. Then I withdraw the request to have it considered at this time.

Mr. CLYMER. I suggest to my colleague that he withdraw the

report, for if he lets it go upon the Private Calendar it may be buried there when it might be passed in the House at any time.

Mr. MACKEY. Then I ask leave to withdraw the report of the bill.

Mr. RICE, of Ohio. I hope that the leave will be granted. There was no objection, and the report was withdrawn.

MARY WILKES.

Mr. MACKEY, from the Committee on Invalid Pensions, reported a bill (H. R. No. 4366) granting a pension to Mary Wilkes, widow of Rear-Admiral Charles Wilkes; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

OLIVER YAKE.

Mr. MACKEY also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 3103) for the relief of Oliver Yake, of Sanilac County, Michigan; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

FRANCIS B. McNAMARA.

Mr. MACKEY also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 848) for the relief of Francis B. McNamara, of Condersport, Potter County, Pennsylvania; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JAMES W. THOMPSON.

Mr. MACKEY also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 530) granting a pension to James W. Thompson; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ROBERT BUTLER.

Mr. MACKEY also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 79) granting a pension to Robert Butler; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MRS. SARAH A. BELL.

Mr. MACKEY also, from the same committee, reported, as a substitute for House bill No. 2697 a bill (H. R. No. 4367) granting a pension to Mrs. Sarah A. Bell, widow of William Bell, late a private in Seventh Regiment Michigan Volunteers; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

MRS. ESTHER A. GEORGE.

Mr. MACKEY also, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 328) granting a pension to Mrs. Esther A. George.

Mr. MACKEY. If it is in order I would like to have that bill passed now. The Committee on Invalid Pensions have instructed me to report it back with a favorable recommendation.

The SPEAKER *pro tempore*. That is not in order at this time.

Mr. SINICKSON. It has always been customary to pass Senate bills when reported.

Mr. MACKEY. If there be no objection I would like to have the bill passed.

The SPEAKER. Is there any objection to taking action on the pending bill as proposed?

Mr. TOWNSEND, of New York. What is the bill?

The title of the bill was again read.

Mr. MACKEY. If any gentleman objects to it on the ground that it is not in order, I will ask that it be placed on the Private Calendar, and the accompanying report ordered to be printed.

Mr. TOWNSEND, of New York. I think we had better follow the order prescribed to us by the House.

Mr. CLYMER. The order of the House was that to-night's session should be for the reception of reports of a private nature for reference to the Committee of the Whole on the Private Calendar, and for the consideration of bills upon the Private Calendar as upon objection day.

Mr. TOWNSEND, of New York. Under the understanding that that was to be the order a great majority of the members of the House have absented themselves, and I do not think we ought to take any advantage of their absence.

Mr. MACKEY. Then I ask that the bill be referred to the Committee of the Whole on the Private Calendar, and the report be ordered to be printed.

It was so ordered.

ADVERSE REPORTS.

Mr. MACKEY, from the same committee, reported adversely upon the following bills; which were severally laid on the table and the accompanying reports ordered to be printed.

A bill (H. R. No. 146) granting a pension to Eliza Ceville; and

A bill (H. R. No. 96) granting a pension to Henry Hadley, late private Company G, Eighty-sixth New York Volunteer Infantry.

JAMES H. THEW.

Mr. WALSH, from the same committee, reported back, with a favorable

recommendation, the bill (H. R. No. 735) granting a pension to James H. Thew; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MRS. ELIZA BAYARD ANDERSON.

Mr. WALSH also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 3070) granting a pension to Mrs. Eliza Bayard Anderson, widow of General Robert Anderson, United States Army; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MRS. MARGARET J. LOVELL.

Mr. WALSH also from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 2791) granting additional pension to Mrs. Margaret J. Lovell, widow of the late General Charles S. Lovell; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JOHANNA KUHLMAN.

Mr. WALSH also, from the same committee, reported a bill (H. R. No. 4368) granting a pension to Johanna Kuhlman; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

GENERAL JAMES SHIELDS.

Mr. WALSH also, from the same committee, reported a bill (H. R. No. 4369) granting an increase of pension to General James Shields; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

CATHARINE HARRIS.

Mr. WALSH also, from the same committee, reported, as a substitute for House bill No. 1513, a bill (H. R. No. 4370) granting a pension to Catharine Harris; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

LUDWIG UEBER.

Mr. WALSH also, from the same committee, reported, as a substitute for House bill No. 454, a bill (H. R. No. 4371) granting a pension to Ludwig Ueber, late private in the Thirty-seventh Regiment of Indiana Volunteer Infantry; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

OTIS B. ANDERSON.

Mr. WALSH also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 767) granting a pension to Otis B. Anderson; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM H. WALKER.

Mr. WALSH also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 1043) granting a pension to William H. Walker, of Fentress County, Tennessee, late of Company C, First Regiment Kentucky Volunteer Cavalry; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM BLACK.

Mr. WALSH also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 475) granting a pension to William Black, late a private in Company K, First Indiana Heavy Artillery; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MARY MEIGHAN.

Mr. WALSH also, from the same committee, reported, as a substitute for House bill No. 2558, a bill (H. R. No. 4372) granting a pension to Mary Meighan, widow of Peter Meighan; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

MARY I. LEBOW.

Mr. WALSH also, from the same committee, reported, as a substitute for House bill No. 584, a bill (H. R. No. 4373) granting a pension to Mary I. Lebow; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

NANCY E. McCLELLAND.

Mr. WALSH also, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 724) granting a pension to Nancy E. McClelland; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ADVERSE REPORTS.

Mr. WALSH also, from the same committee, reported adversely

upon the following; which were laid upon the table, and the accompanying reports ordered to be printed:

A bill (H. R. No. 78) granting a pension to John H. Reilly;

A bill (H. R. No. 768) granting a pension to Jane A. Harris;

A bill (H. R. No. 3816) granting a pension to Mrs. Mary G. Harris; and

The petition of Michael Jackson, for a pension.

MARY W. JONES.

Mr. RIDDLE, from the Committee on Invalid Pensions, reported back the petition of Mary W. Jones, for increase of pension, and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on Revolutionary Pensions.

The motion was agreed to.

MARTHA C. KENDALL.

Mr. RIDDLE also, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 755) granting a pension to Martha C. Kendall; and the same was referred to the Committee of the Whole on the Private Calendar.

JOHN KEOGEL.

Mr. RIDDLE also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 3351) granting a pension to John Keogel; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

REBECCA C. REICH.

Mr. RIDDLE also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 473) granting a pension to Rebecca C. Reich, widow of Gideon S. Reich, of Indianapolis, Indiana; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

NELSON M. FARRAR.

Mr. RIDDLE also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 2623) granting a pension to Nelson M. Farrar; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

EZRA O. NYE.

Mr. RIDDLE also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 4075) granting a pension to Ezra O. Nye, Company K, Nineteenth Michigan Volunteers; which was referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

JACOB M. GROCE.

Mr. RIDDLE also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 1627) granting a pension to Jacob M. Groce, late sergeant of Company D, Sixth Regiment Pennsylvania Heavy Artillery; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

GEORGE R. WHITEHEAD.

Mr. RIDDLE also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 2936) granting a pension to George R. Whitehead; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ANNIE FARLEY.

Mr. RIDDLE also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 3817) granting a pension to Annie Farley; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

SARAH J. GOSS.

Mr. RIDDLE also, from the same committee, reported a bill (H. R. No. 4374) granting a pension to Sarah J. Goss; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

FREDERICK R. BRUNER.

Mr. RIDDLE also, from the same committee, reported a bill (H. R. No. 4375) granting a pension to Frederick R. Bruner; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JAMES G. WILLIAMS.

Mr. RIDDLE also, from the same committee, reported a bill (H. R. No. 4376) granting a pension to James G. Williams; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM COGSWELL.

Mr. RIDDLE also, from the same committee, reported, as a substitute for House bill No. 2981, a bill (H. R. No. 4377) granting a pension to William Cogswell; which was read a first and second time, referred

to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. RIDDLE also, from the same committee, reported back adversely the following bills and petitions; which were laid on the table, and the accompanying reports ordered to be printed:

A bill (H. R. No. 3143) for the relief of Matthew Somers;

A bill (H. R. No. 488) granting a pension to the minor children of Benjamin S. Ryan;

A bill (H. R. No. 2875) for the relief of Bigsby E. Dodson, of McLean County, Illinois;

A bill (H. R. No. 825) increasing the pension of John F. Ellis;

A bill (H. R. No. 698) granting a pension to Nathan Udell;

A bill (H. R. No. 2960) for the relief of Mrs. Sarah Hamilton, of Floyd County, Kentucky;

A bill (H. R. No. 608) for the relief of Marion Millsaps;

A bill (H. R. No. 3965) granting a pension to Isabel L. Evans;

A bill (H. R. No. 2691) to increase the pension of Elizabeth Ann Porter, widow of William D. Porter, late commodore United States Navy;

A bill (H. R. No. 2390) granting additional pension to Esther K. Schenck;

Petition of Sarah Woodall, widow of Reuben Woodall, late private in Company K, Third Kentucky Volunteer Infantry; and

Petition of Charlotte Buck, for a pension.

MARTIN RAFF.

Mr. RIDDLE also, from the same committee, reported back adversely the bill (H. R. No. 707) granting a pension to Martin Raff, late a private in Company C, Second Kentucky Infantry; and moved that the same be laid on the table, and the accompanying report ordered to be printed.

Mr. PRICE. I ask that this adverse report may be placed on the Calendar.

Mr. RICE, of Ohio. It is the right of the gentleman to make that demand.

The bill was accordingly referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

PENSION BILLS FAVORABLY REPORTED.

Mr. SINICKSON, from the Committee on Invalid Pensions, reported bills of the following titles; which were respectively read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

A bill (H. R. No. 4378) granting a pension to Arthur W. Irving;

A bill (H. R. No. 4379) granting a pension to Mary Brady Cross—substitute for House bill No. 2693;

A bill (H. R. No. 4380) granting a pension to Aaron H. Miller—substitute for House bill 2813;

A bill (H. R. No. 4381) granting a pension to Edwin J. Nutall—substitute for House bill No. 218;

A bill (H. R. No. 4382) granting a pension to Jonathan Roberts—substitute for House bill No. 1446; and

A bill (H. R. No. 4383) granting a pension to Stephen L. George—substitute for House bill No. 2995.

CHANGE OF REFERENCE.

On motion of Mr. SINICKSON, the Committee on Invalid Pensions was discharged from the further consideration of the bill (H. R. No. 90) granting a pension to Susan A. Heazlit, aunt of George W. Heazlit, a deceased soldier, and the same was referred to the Committee on War Claims.

MELVINA A. MALTBY.

Mr. POWERS, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, the bill (S. No. 703) granting a pension to Melvina A. Maltby; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

PENSION BILLS FAVORABLY REPORTED.

Mr. POWERS also, from the same committee, reported back, with a favorable recommendation, bills of the following titles; which were referred to the Committee of the Whole on the Private Calendar, and the accompanying reports ordered to be printed:

A bill (H. R. No. 3585) granting a pension to S. S. Whitney;

A bill (H. R. No. 642) granting a pension to Frederick W. Smith;

A bill (H. R. No. 3583) granting a pension to William Denene;

A bill (H. R. No. 2226) granting a pension to Charles H. Bugbee, late a private in Company A, Third Vermont Volunteers;

A bill (H. R. No. 3784) for the relief of Mary Murphy;

A bill (H. R. No. 3520) granting a pension to George Andrews, private Sixth Maine Battery of Artillery; and

A bill (H. R. No. 134) for the relief of Jacob G. Croman, of Dickinson, Cumberland County, Pennsylvania.

Mr. POWERS also, from the same committee, reported a bill (H. R. No. 4384) granting a pension to Daniel Donnelly; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. POWERS also, from the same committee, reported adversely in the following cases; which were laid on the table, and the accompanying reports ordered to be printed:

A bill (H. R. No. 3584) granting a pension to Levi C. Davenport;
A bill (H. R. No. 1794) to provide for an increase of pension in favor of Thomas Kelly;

The petition of Susan W. Marshall, for widow's pension; and
A petition asking for a pension for Jerome J. Van Name, of Painesville, Ohio.

CAROLINE HAWLEY.

Mr. JOYCE, from the Committee on Invalid Pensions, reported a bill (H. R. No. 4385) granting an increase of pension to Caroline Hawley; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

R. G. PETERSON.

Mr. JOYCE also, from the same committee, reported back favorably the bill (H. R. No. 3438) granting a pension to R. G. Peterson, late a private in Company B, One hundred and twentieth Regiment Ohio Volunteer Infantry; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

EMILIE R. HOOE.

Mr. JOYCE also, from the same committee, reported a bill (H. R. No. 4386) granting arrears of pension to Emilie R. Hooe, widow of the late Brevet Major Alexander S. Hooe, Fifth Infantry, United States Army; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and the accompanying report ordered to be printed.

DE FOREST DOTY.

Mr. JOYCE also, from the same committee, reported back favorably the bill (H. R. No. 2172) granting a pension to De Forest Doty, of Timmouth, Vermont, late a private in Company B, Ninth Regiment Vermont Volunteer Infantry, with an amendment; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

MRS. ELIZABETH S. ROBERTS.

Mr. JOYCE also, from the same committee, reported back favorably the bill (H. R. No. 4294) to increase the pension of Mrs. Elizabeth S. Roberts; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JAMES C. BATES.

Mr. JOYCE also, from the same committee, reported, as a substitute for House bill No. 464, a bill (H. R. No. 4387) granting a pension to James C. Bates; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

MARY WADE.

Mr. JOYCE also, from the same committee, reported, as a substitute for House bill No. 4090, a bill (H. R. No. 4388) granting a pension to Mary Wade; which was read a first and second time, referred to the Committee on Invalid Pensions, and, with the accompanying report, ordered to be printed.

ANNA L. ROBBINS.

Mr. JOYCE also, from the same committee, reported back favorably a bill (S. No. 697) granting a pension to Anna L. Robbins; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

CAPTAIN ROBERT C. BRAMFORD.

Mr. RAINEY, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. No. 147) granting a pension to Captain Robert C. Bramford; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ANNA KOENINGER.

Mr. RAINEY also, from the same committee, reported back the bill (H. R. No. 477) granting a pension to Anna Koeninger, widow of Louis Koeninger, late private Second Indiana Battery; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

WIDOW OF CAPTAIN CHRISTOPHER M. HAILE.

Mr. RAINEY also, from the same committee, reported back favorably the bill (H. R. No. 270) for the relief of the widow of Captain Christopher M. Haile, United States Army, with an amendment; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM W. STEPHENSON.

Mr. RAINEY also, from the same committee, reported back favorably the bill (H. R. No. 480) granting a pension to William W. Stephenson, captain Company H, Twenty-fourth Regiment Indiana Volunteers; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JERRY ROBINSON.

Mr. RAINEY also, from the same committee, reported, as a substitute for House bill No. 2751, a bill (H. R. No. 4389) granting an increase of pension to Jerry Robinson, late commissary-sergeant First Regiment United States colored troops; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM B. DILLON.

Mr. RAINEY also, from the same committee, reported, as a substitute for House bill No. 538, granting a pension to William M. Dillon, of Sterling, Illinois, a bill (H. R. No. 4390) granting a pension to William B. Dillon; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

SUSAN HUMES.

Mr. RAINEY also, from the same committee, reported, as a substitute for House bill No. 1619, a bill (H. R. No. 4391) granting a pension to Susan Humes; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. RAINEY also, from the same committee, reported back, with adverse recommendations, bills of the following titles; and the same were severally laid on the table, and the accompanying reports ordered to be printed:

The bill (H. R. No. 1384) granting a pension to Hanna Wehe, of Newport, Kentucky;

The bill (H. R. No. 153) granting a pension to Charles Hewitt; and
The bill (H. R. No. 81) granting a pension to A. M. Atwood.

HANNAH STREETS.

Mr. RAINEY also, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 873) granting a pension to Hannah Streets; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

LUNCINDA C. DILLAHENTY.

Mr. STEELE. I understand permission was given to members of the Committee on Revolutionary Pensions who were not present when that committee was called to make reports as soon as the Committee on Invalid Pensions had finished reporting.

The SPEAKER *pro tempore*. Unanimous consent was given for that purpose.

Mr. STEELE, from the Committee on Revolutionary Pensions, reported a bill (H. R. No. 4392) for the relief of Luncinda C. Dillahenty, of Tennessee; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

GEORGE W. WRIGHT.

Mr. STEELE also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 511) granting a pension to George W. Wright, of Brown County, Illinois, a soldier of the war of 1812; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JESSE STALLINGS.

Mr. STEELE also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 1348) to restore the name of Jesse Stallings, of Butler County, Alabama, to the pension list; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

GEORGE D. PHILLIPS.

Mr. STEELE also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 247) granting a pension to George D. Phillips, a soldier of the war of 1812; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ADVERSE REPORTS.

Mr. STEELE also, from the same committee, reported back, with adverse recommendations, bills of the following titles; and the same were laid upon the table, and the accompanying reports ordered to be printed:

A bill (H. R. No. 2234) granting a pension to John Guthrie, of Halifax County, Virginia, a soldier of the war of 1812; and
A bill (H. R. No. 3426) for the relief of Willis Jarman, of North Carolina.

MRS. SIDNEY A. HARRISON.

Mr. NORCROSS, from the Committee on Revolutionary Pensions, reported a bill (H. R. No. 4393) granting a pension to Mrs. Sidney A. Harrison; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

LEROY D. SUTTON.

Mr. NORCROSS also, from the same committee, reported back, with

an adverse recommendation, the bill (H. R. No. 320) for the relief of Leroy D. Sutton; and the same was laid on the table, and the accompanying report ordered to be printed.

SALLY ROGERS.

Mr. NORCROSS also, from the same committee, reported back, with an adverse recommendation, the petition of Sally Rogers, widow of Isaac Rogers, a soldier of the war of 1812, for a pension; and moved that the petition be laid on the table, and that the accompanying report be printed.

Mr. PRICE. I want that to go on the Calendar, and I wish the report to show that the petition is reported back because the new law covers it.

Mr. NORCROSS. The report finds the claimant is entitled to relief under the law approved March 9, 1878. We have no objection to its going on the Calendar if it is desired.

The SPEAKER *pro tempore*. The report will be printed; and that fact appears on the face of the report.

Mr. PRICE. Very well; the report being printed, I am not anxious that the petition should go on the Calendar.

The motion of Mr. NORCROSS was agreed to; and the petition was laid on the table, and the accompanying report ordered to be printed.

PENSION BILLS ON PRIVATE CALENDAR.

Mr. RICE, of Ohio. I move that the House now resolve itself into Committee of the Whole on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the Private Calendar, (Mr. MILLS in the chair.)

The CHAIRMAN. The Committee of the Whole have under consideration the Private Calendar for consideration of revolutionary and invalid pension bills as upon objection day, and the Clerk will commence the call where it was left off on the last objection day, and the first bill for consideration is bill H. R. No. 407, at the top of page 13 of the Private Calendar.

Mr. RICE, of Ohio. There is a bill upon page 12 (H. R. No. 934) for the relief of the heirs of Brigadier-General William Thompson, of the Revolutionary Army.

The CHAIRMAN. That bill has been objected to by five members and therefore has gone over for consideration.

JAMES P. THOMPSON.

The next business on the Private Calendar was the bill (H. R. No. 407) granting a pension to James P. Thompson, of McMinnville, Tennessee, reported by Mr. GARDNER from the Committee on Revolutionary Pensions adversely.

Mr. RICE, of Ohio. I object to that bill, as the report is adverse.

HENRY C. WEATHERBY.

The next business on the Private Calendar was the bill (H. R. No. 706) granting a pension to Henry C. Weatherby, a soldier in the war of 1812, reported by Mr. GARDNER from the Committee on Revolutionary Pensions adversely.

Mr. RICE, of Ohio. I object to that, as it is an adverse report.

CHARLES SLAWSON.

The next business on the Private Calendar was the bill (H. R. No. 99) granting a pension to Charles Slawson, reported by Mr. GARDNER from the Committee on Revolutionary Pensions.

The bill authorizes and directs the Secretary of the Interior to place the name of Charles Slawson, late a soldier in the war of 1812, on the pension-roll, subject to the provisions and limitations of the pension laws.

There being no objection, the bill was laid aside to be reported favorably to the House.

AGNES FAIRLEY.

The next business on the Private Calendar was the bill (H. R. No. 11) granting a pension to Agnes Fairley, widow of David Fairley, reported by Mr. RICE, of Ohio, from the Committee on Invalid Pensions.

The bill was read.

Mr. CLYMER. I call for the reading of the report.

The report was read.

Mr. CLYMER. I object to the bill.

Mr. RICE, of Ohio. I ask the gentleman why he objects?

Mr. CLYMER. The fact that there is a minority report is a sufficient objection.

Mr. RICE, of Ohio. I submit that one objection will not prevent the bill being laid aside to be reported favorably.

The CHAIRMAN. Has the bill been objected to?

Mr. RICE, of Ohio. It has.

The CHAIRMAN. The Clerk informs the Chair that it has not been objected to.

Mr. RICE, of Ohio. The Clerk is simply mistaken.

Mr. CLYMER. We are operating under a special order.

Mr. RICE, of Ohio. We propose to operate strictly under it.

The CHAIRMAN. There is no record of the bill ever having been objected to at all and of course it could not be proceeded with after one objection.

Mr. HEWITT, of Alabama. I think my colleague on the committee is mistaken and that it was objected to.

Mr. RICE, of Ohio. I state that I am clearly correct in my recollection.

The CHAIRMAN. The Clerk states that the bill has not been objected to, and the Chairman must go by the record.

Mr. RICE, of Ohio. I will simply remark that if I am correct I do not wish that any of my rights shall be put in jeopardy at all because I am certain I am correct.

The CHAIRMAN. If it shall appear that the Clerk is mistaken then of course the gentleman will lose none of his rights.

Mr. CLYMER. In view of the statement of the gentleman, I will not stand here alone to object to the bill but will withdraw my objection unless five others join with me.

Mr. BROWNE. I know I heard the report read here once before.

The CHAIRMAN. Is there objection to the laying aside of this bill?

Mr. HEWITT, of Alabama. I do not know whether the bill ought to pass or not.

More than five members rising to object, the bill was passed over.

MARGARET KENAH.

The next business on the Private Calendar was the bill (H. R. No. 3109) granting a pension to Margaret Kenah, widow of Patrick Kenah, late a private Company D, First United States Artillery, reported from the Committee on Invalid Pensions by Mr. WALSH, and objected to on the 22d March last.

The CHAIRMAN. Are there objections made to this bill by five members?

No objection being made, the bill was laid aside to be reported favorably to the House.

JOHN B. TUCKER.

The next business on the Private Calendar was the bill (H. R. No. 506) granting a pension to John B. Tucker, reported by Mr. RIDDLE from the Committee on Invalid Pensions adversely, and objected to by Mr. BREWER on the 22d of March, last.

The bill being objected to by five members, it was passed over.

MARY MARTIN.

The next business on the Private Calendar was the bill (H. R. No. 844) granting a pension to Mary Martin, mother by adoption of James R. Martin, late a private in Fifth Regiment Vermont Volunteers, reported by Mr. JOYCE from the Committee on Invalid Pensions, and objected to on the 22d of March last.

The CHAIRMAN. Are there five members objecting to this bill?

Mr. HANNA. Is this a unanimous report of the committee.

Mr. RICE, of Ohio. It is.

No objection being made, the bill was laid aside to be reported favorably to the House.

CATHARINE BOWERS.

The next business on the Private Calendar was the bill (H. R. No. 3072) granting a pension to Catharine Bowers, widow of a soldier of the war of 1812, reported by Mr. MACKEY from the Committee on Revolutionary Pensions adversely.

Mr. RICE, of Ohio. That is an adverse report and I object to it.

CATHARINE BRENNAN.

The next business on the Private Calendar was the bill (H. R. No. 1147) granting a pension to Catharine Brennan, widow of John Brennan, late private of Company B, Fifty-eighth Illinois Volunteers, reported by Mr. RICE, of Ohio, from the Committee on Invalid Pensions.

Mr. HANNA. Is that a unanimous report?

Mr. RICE, of Ohio. It is.

No objection being made, the bill was laid aside to be reported favorably to the House.

ROSE MILLER.

The next business on the Private Calendar was the bill (H. R. No. 490) granting a pension to Rose Miller, widow of Reason F. Miller, deceased, late a private in Company E, One hundred and twenty-third Illinois Infantry, reported from the Committee on Invalid Pensions by Mr. RICE, of Ohio.

Mr. HANNA. Is that a unanimous report?

Mr. RICE, of Ohio. It is.

No objection being made, the bill was laid aside to be reported favorably to the House.

WILLIAM ROYLSTON.

The next business on the Private Calendar was the bill (H. R. No. 388) for the relief of William Royston, late private Company D, First Regiment Tennessee Light Artillery, reported from the Committee on Invalid Pensions by Mr. RICE, of Ohio.

Mr. CLYMER. Is this report unanimous?

Mr. RIDDLE. It is.

No objection being made, the bill was laid aside to be favorably reported to the House.

OTHER PENSION BILLS.

Mr. HANNA. I suggest that the Clerk inform us if the reports are unanimous and that may determine whether we call for the reading of the bill and report.

The CHAIRMAN. Where there is no minority report it will be assumed as a fact that the report is unanimous.

Mr. RAINEY. I will say that all the reports of the Committee on Invalid Pensions are unanimous; there are no minority reports.

Mr. HEWITT, of Alabama. Except where the bills are for an increase of pension they are unanimous, but where they are for increase of pension they are not always unanimous.

There being no objection, the following bills were laid aside to be reported favorably to the House:

A bill (H. R. No. 2026) granting a pension to Mrs. Julia S. W. Evans, widow of Henry D. Evans, late first lieutenant of Company B, Thirteenth Missouri Volunteers, reported from the Committee on Invalid Pensions by Mr. RICE, of Ohio;

A bill (H. R. No. 3564) granting a pension to Mrs. Isabell Dunbar, widow of Daniel Dunbar, late first engineer on steamer Victor No. 2, reported from the Committee on Invalid Pensions by Mr. RICE, of Ohio; and

A bill (H. R. No. 3565) granting a pension to Dr. P. F. Reuss, late surgeon Seventh New York Volunteers, reported from the Committee on Invalid Pensions by Mr. RICE, of Ohio.

Mr. CLYMER. We are going on the supposition that the reports in these cases are unanimous.

Mr. RICE, of Ohio. Certainly; and I will inform the gentleman when such is not the fact.

The following bills were also laid aside without objection, to be reported favorably to the House:

A bill (H. R. No. 1993) for the relief of Henry Rogers, reported from the Committee on Invalid Pensions by Mr. MACKEY;

A bill (H. R. No. 3566) granting a pension to Harriet E. Edwards, widow of David S. Edwards, late surgeon in the United States Navy, reported from the Committee on Invalid Pensions by Mr. MACKEY;

A bill (H. R. No. 3568) granting a pension to Mary T. Thompson, widow of William Thompson, late second lieutenant Company E, Twelfth New York Volunteers, reported from the Committee on Invalid Pensions by Mr. WALSH;

A bill (H. R. No. 3569) granting a pension to Ovid H. Clark, reported from the Committee on Invalid Pensions by Mr. HEWITT, of Alabama; and

A bill (H. R. No. 1815) granting a pension to Florence V. Moore, reported from the Committee on Invalid Pensions by Mr. RIDDLE.

The next bill on the Private Calendar was the bill (H. R. No. 2534) granting an increase of pension to Robert W. Livingston, reported with an amendment from the Committee on Invalid Pensions by Mr. RIDDLE.

The bill directs the Secretary of the Interior to place on the pension-roll the name of Robert W. Livingston, of Elizabethtown, Essex County, New York, late a captain in the One hundred and eighteenth Regiment of New York Volunteers, at the rate of \$36 per month, as provided by chapter 73 of the laws of the second session of the Forty-fourth Congress, subject to the limitations and provisions of the pension laws, said increase of pension to date from the 28th day of February, 1877, the date of the passage of the act above named.

The amendment was to strike out the words "said increase of pension to date from the 28th day of February, 1877, the date of the passage of the act above named," and to insert in lieu thereof the words "said increase to date from the passage of this act."

Mr. CLYMER. Let the report be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill H. R. No. 2534, respectfully report:

This bill is for the purpose of increasing the pension of Robert W. Livingston, late captain in the One hundred and eighteenth Regiment New York Volunteers, from \$24 per month to \$36 per month, it being alleged that his disabilities came within the provisions of the act of February 28, 1877, which gave a "pension of \$36 per month to soldiers who have lost both an arm and a leg."

The examining surgeon, Dr. W. H. Richardson, says, under the date of October 25, 1877, after describing the wound in the right foot and leg: "For all purposes of earning his living this injury is equivalent to the loss of his foot;" and after describing the wound in the left shoulder and arm the examining surgeon says: "The hand is useless, and for all practical purposes in earning a living the injury to his arm and hand is equivalent to the loss of his hand." All the wounds were received in the battle of Drury's Bluff, in Virginia, May 16, 1864.

The Commissioner of Pensions has rejected the application for the increase upon the ground that the wounds described do not come within the express provisions of the act of February 28, 1877. Your committee are of the opinion that the spirit of that act covers the case of Captain Livingston if the letter does not; and when it is remembered that the act applies to soldiers who, "in line of duty, shall have lost one hand and one foot, or been totally and permanently disabled in both," we think that this case comes within the letter of that act, and we therefore report back the bill favorably with an amendment, and recommend its passage.

Mr. RICE, of Ohio. I will say that this report is unanimous.

The amendment reported from the Committee on Invalid Pensions was agreed to, and the bill, as amended, was laid aside to be reported favorably to the House.

The next business on the Private Calendar was the bill (H. R. No. 3570) granting an increase of pension to John Murphy, late private Company F, Fifth Regiment United States Infantry, reported from the Committee on Invalid Pensions by Mr. RICE, of Ohio.

Mr. RICE, of Ohio. I ask that the report be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the petition of John Murphy, late private Company F, Fifth Regiment United States Infantry, would report as follows:

The petitioner is now receiving a pension of \$24 per month, but he now applies for an increase to \$30 per month, under the act of June 18, 1874, for "blindness of both eyes."

The petitioner was examined by Dr. John E. Carpenter, the examining surgeon, August 15, 1877, when he reported that, in his opinion, there was some useful vision in the right eye, and that the petitioner was receiving all the pension to which he was entitled.

There is abundant non-professional evidence that the petitioner is totally blind, so as to require the constant attendance of another person, and this evidence is fortified by the testimony of Dr. W. V. Marrison, sworn to February 5, 1878, which says: "I have carefully examined John Murphy's eyes, and find that he is totally and hopelessly blind."

Your committee therefore report back the petition with a favorable recommendation and the accompanying bill, and recommend its passage.

Mr. HANNA. Does the evidence show that this loss of sight was by reason of injuries received while in service in the Army?

Mr. RICE, of Ohio. There is no doubt about that.

There being no objection, the bill was laid aside to be reported favorably to the House.

The next business on the Private Calendar was the bill (H. R. No. 1774) granting a pension to Miriam V. King, reported adversely from the Committee on Invalid Pensions by Mr. RIDDLE.

Objection being made by Mr. HEWITT, of Alabama, the bill was passed over.

The following bills were laid aside without objection, to be reported favorably to the House:

A bill (H. R. No. 3098) granting a pension to Joseph L. Young, late a private Company C, Eleventh Regiment Maine Volunteers, reported from the Committee on Invalid Pensions by Mr. POWERS;

A bill (H. R. No. 3571) granting a pension to Zepheniah Crunbrough, reported from the Committee on Invalid Pensions by Mr. POWERS;

A bill (H. R. No. 830) granting a pension to Elizabeth Teaganen, reported from the Committee on Invalid Pensions by Mr. SINICKSON;

A bill (H. R. No. 1434) granting a pension to John Langland, late a private of Company B, First Michigan Sharpshooters, reported from the Committee on Invalid Pensions by Mr. SINICKSON;

A bill (H. R. No. 124) granting a pension to James B. Treadwell, major of the Eighty-fifth Regiment Pennsylvania Volunteers, reported from the Committee on Invalid Pensions by Mr. SINICKSON;

A bill (H. R. No. 3572) granting a pension to Andrew J. Morrison, reported from the Committee on Invalid Pensions by Mr. SINICKSON;

A bill (H. R. No. 3573) granting a pension to Charles G. Galezio, reported from the Committee on Invalid Pensions by Mr. SINICKSON; and

A bill (H. R. No. 3574) granting a pension to Thomas Pulling, reported from the Committee on Invalid Pensions by Mr. SINICKSON.

The next business on the Private Calendar was the bill (H. R. No. 3575) granting an increase of pension to Josephine Da C. Thomas, reported from the Committee on Invalid Pensions by Mr. JOYCE.

Mr. RICE, of Ohio. Let the report be read.

The report was read; after which (upon objection by Mr. HEWITT, of Alabama) the bill was passed over.

The following bills were laid aside without objection, to be reported favorably to the House:

A bill (H. R. No. 3576) granting a pension to Catharine D. Hunt, reported by Mr. JOYCE from the Committee on Invalid Pensions;

A bill (H. R. No. 1649) for the relief of I. Clinton De Witt, of Canton, Bradford County, Pennsylvania, reported by Mr. JOYCE from the Committee on Invalid Pensions;

A bill (H. R. No. 2711) granting a pension to Thomas Burroughs, late a private in Company G, First Vermont Cavalry Regiment, reported by Mr. JOYCE from the Committee on Invalid Pensions;

A bill (H. R. No. 1175) granting a pension to George Silvers, private Company E, Fifty-seventh Regiment United States Volunteers, reported by Mr. JOYCE from the Committee on Invalid Pensions;

A bill (H. R. No. 1789) granting a pension to Miles L. Reed, of New Castle, Indiana, reported by Mr. JOYCE from the Committee on Invalid Pensions;

A bill (H. R. No. 3080) granting a pension to Warren F. Wood, reported by Mr. JOYCE from the Committee on Invalid Pensions;

A bill (H. R. No. 3577) granting a pension to W. H. Gould, reported by Mr. JOYCE from the Committee on Invalid Pensions;

A bill (H. R. No. 3578) granting a pension to Julia J. Wheeler, reported by Mr. JOYCE from the Committee on Invalid Pensions;

A bill (H. R. No. 1304) granting a pension to Anna M. Clippinger, reported by Mr. RAINEY from the Committee on Invalid Pensions;

A bill (H. R. No. 8) for the relief of Othniel P. Hollis, of the Soldiers' Home, Augusta, Maine, reported by Mr. RAINEY from the Committee on Invalid Pensions;

A bill (H. R. No. 2176) granting an increase of pension to Mattie McTaggart, widow of the late First Lieutenant McTaggart, Seventeenth United States Infantry, reported by Mr. RAINEY from the Committee on Invalid Pensions;

A bill (H. R. No. 941) granting a pension to George Grove, reported by Mr. RAINEY from the Committee on Invalid Pensions;

A bill (H. R. No. 3579) granting a pension to Philip Henry, reported by Mr. RAINEY from the Committee on Invalid Pensions; and

A bill (H. R. No. 2769) granting an increase of pension to Catharine H. Gallagher, widow of Captain John Gallagher, late United States Navy, reported by Mr. RICE, of Ohio, from the Committee on Invalid Pensions.

The next business on the Private Calendar was the bill (H. R. No. 519) granting a pension to Mrs. Ellen B. Foster, widow of Edwin B. Foster, deceased, late first lieutenant of Company G in the Eighteenth Illinois Infantry Volunteers, reported by Mr. HEWITT, of Alabama, from the Committee on Invalid Pensions.

Mr. HEWITT, of Alabama. I move to amend by striking out

"Eighteenth Illinois Infantry" and inserting "Eightieth Illinois Infantry."

The amendment was agreed to.

The bill, as amended, was laid aside without objection, to be reported favorably to the House.

The next business on the Private Calendar was the bill (H. R. No. 1688) to restore the name of Hamilton Ryne to the pension-rolls, reported by Mr. RIDDLE from the Committee on Invalid Pensions.

An amendment reported by the committee to strike out "from the date of his last payment" and insert "from the rolls" was agreed to.

The bill, as amended, was laid aside without objection, to be reported favorably to the House.

The following bills were laid aside without objection, to be reported favorably to the House:

A bill (H. R. No. 2741) granting a pension to William H. Deery, Company G, Second Pennsylvania Volunteers, Mexican war, reported by Mr. MACKEY from the Committee on Invalid Pensions;

A bill (H. R. No. 532) granting a pension to John Frey, reported by Mr. JOYCE from the Committee on Invalid Pensions;

A bill (H. R. No. 3740) granting a pension to Elizabeth Reese, widow of John Reese, a deceased soldier, reported by Mr. WALSH from the Committee on Invalid Pensions; and

A bill (H. R. No. 3731) granting a pension to Rebecca T. Scott, widow of Major John B. Scott, late of the United States Army, reported by Mr. WALSH from the Committee on Invalid Pensions.

Mr. RICE, of Ohio. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker *pro tempore* having resumed the chair, Mr. MILLS reported that the Committee of the Whole on the Private Calendar, having had under consideration the Private Calendar, had directed him to report sundry bills, with and without amendment, and with a recommendation that they be passed.

PENSION BILLS PASSED.

Bills of the following titles, reported without amendment from the Committee of the Whole on the Private Calendar, were then respectively ordered to be engrossed for a third reading, read the third time, and passed:

A bill (H. R. No. 99) granting a pension to Charles Slawson;

A bill (H. R. No. 3109) granting a pension to Margaret Kenah, widow of Patrick Kenah, late a private Company D, First United States Artillery;

A bill (H. R. No. 1147) granting a pension to Catharine Brennan, widow of John Brennan, late private of Company B, Fifty-eighth Illinois Volunteers;

A bill (H. R. No. 490) granting a pension to Rose Miller, widow of Reason F. Miller, deceased, late a private in Company E, One hundred and twenty-third Illinois Infantry;

A bill (H. R. No. 388) for the relief of William Royston, late private Company D, First Regiment Tennessee Light Artillery;

A bill (H. R. No. 2026) granting a pension to Mrs. Julia S. W. Evans, widow of Henry D. Evans, late first lieutenant of Company B, Thirteenth Missouri Volunteers;

A bill (H. R. No. 3564) granting a pension to Mrs. Isabell Dunbar, widow of Daniel Dunbar, late first engineer on steamer Victor No. 2;

A bill (H. R. No. 3565) granting a pension to Dr. P. F. Reuss, late surgeon Seventh New York Volunteers;

A bill (H. R. No. 1993) for the relief of Henry Rogers;

A bill (H. R. No. 3566) granting a pension to Harriet E. Edwards, widow of David S. Edwards, late surgeon in the United States Navy;

A bill (H. R. No. 3567) granting a pension to James G. Mason, of Company I, Fifteenth New York Volunteers;

A bill (H. R. No. 3568) granting a pension to Mary T. Thompson, widow of William Thompson, late second lieutenant Company E, Twelfth New York Volunteers;

A bill (H. R. No. 3569) granting a pension to Ovid H. Clark;

A bill (H. R. No. 1815) granting a pension to Florence V. Moore;

A bill (H. R. No. 3570) granting an increase of pension to John Murphy, late private Company F, Fifth Regiment United States Infantry;

A bill (H. R. No. 3098) granting a pension to Joseph L. Young, late a private Company C, Eleventh Regiment Maine Volunteers;

A bill (H. R. No. 3571) granting a pension to Zephaniah Crubaugh;

A bill (H. R. No. 830) granting a pension to Elizabeth Teagarden;

A bill (H. R. No. 1434) granting a pension to John Langland, late a private of Company B, First Michigan Sharpshooters;

A bill (H. R. No. 124) granting a pension to James B. Treadwell, major of the Eighty-fifth Regiment Pennsylvania Volunteers;

A bill (H. R. No. 3572) granting a pension to Andrew J. Morrison;

A bill (H. R. No. 3573) granting a pension to Charles G. Galezio;

A bill (H. R. No. 3574) granting a pension to Thomas Pulling;

A bill (H. R. No. 3576) granting a pension to Catharine D. Hunt;

A bill (H. R. No. 1649) for the relief of I. Clinton DeWitt, of Canton, Bradford County, Pennsylvania;

A bill (H. R. No. 2711) granting a pension to Thomas Burroughs, late a private in Company G, First Vermont Cavalry Regiment;

A bill (H. R. No. 1175) granting a pension to George Silvers, private Company E, Fifty-seventh Regiment United States Volunteers;

A bill (H. R. No. 1789) granting a pension to Miles L. Reed, of New Castle, Indiana;

A bill (H. R. No. 3080) granting a pension to Warren F. Wood;

A bill (H. R. No. 3577) granting a pension to W. H. Gould;

A bill (H. R. No. 3578) granting a pension to Julia J. Wheeler;

A bill (H. R. No. 1304) granting a pension to Anna M. Clippinger;

A bill (H. R. No. 8) for the relief of Othniel P. Hollis, of the Soldiers' Home, Augusta, Maine;

A bill (H. R. No. 2176) granting an increase of pension to Mattie McTaggart, widow of the late First Lieutenant McTaggart, Seventeenth United States Infantry;

A bill (H. R. No. 941) granting a pension to George Grove;

A bill (H. R. No. 3579) granting a pension to Philip Henry;

A bill (H. R. No. 2769) granting an increase of pension to Catharine H. Gallagher, widow of Captain John Gallagher, late United States Navy;

A bill (H. R. No. 2741) granting a pension to William H. Deery, Company G, Second Pennsylvania Volunteers, Mexican war;

A bill (H. R. No. 532) granting a pension to John Frey;

A bill (H. R. No. 3730) granting a pension to Elizabeth Reese, widow of John Reese, a deceased soldier; and

A bill (H. R. No. 3731) granting a pension to Rebecca T. Scott, widow of Major John B. Scott, late of the United States Army.

Bills of the following titles, reported with amendments from the Committee of the Whole on the Private Calendar, were severally taken up, the amendments agreed to, the bills, as amended, ordered to be engrossed for a third reading, read the third time, and passed:

A bill (H. R. No. 844) granting a pension to Mary Martin, mother by adoption of James R. Martin, late a private in Fifth Regiment Vermont Volunteers;

A bill (H. R. No. 2534) granting an increase of pension to Robert W. Livingston;

A bill (H. R. No. 519) granting a pension to Mrs. Ellen B. Foster, widow of Edwin R. Foster, deceased, late first lieutenant of Company G, in the Eighteenth Illinois Infantry Volunteers; and

A bill (H. R. No. 1088) to restore the name of Hamilton Ryne to the pension-rolls.

The SPEAKER *pro tempore*. If there be no objection, the titles of these bills, wherever necessary, will be amended to conform to the amendments made in the body of the bills.

There was no objection, and it was ordered accordingly.

Mr. RICE, of Ohio, moved to reconsider the votes by which the bills reported from the Committee of the Whole on the Private Calendar were severally passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELIZABETH D. STONE.

Mr. SINICKSON, from the Committee on Invalid Pensions, reported back favorably a bill (S. No. 285) granting a pension to Elizabeth D. Stone; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

And then, on motion of Mr. MILLS, (at nine o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. CLARK, of Missouri: The petition of J. H. Barnes and others, of Cambridge, Missouri, and vicinity, for an appropriation to improve the Missouri River at Cambridge—to the Committee on Commerce.

By Mr. COLE: The petition of citizens of Saint Louis, Missouri, for the repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. DEAN: The petition of Thomas C. Amory and others, with reference to the appropriations for the instruction of the blind—to the Committee on Education and Labor.

By Mr. ERRETT: The petition of citizens of Pittsburgh, Pennsylvania, for the establishment of merchant-marine lines—to the Committee on Commerce.

By Mr. HART: The petition of 116 citizens of Rochester, New York, for the repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. LOCKWOOD: The petition of 171 citizens of Buffalo, New York, bankers, merchants, and manufacturers, of similar import—to the same committee.

By Mr. MACKEY: The petition of workingmen of Milesburgh, Pennsylvania, against any reduction of tariff duties and against the reimposition of the tax on tea and coffee—to the Committee of Ways and Means.

By Mr. MORSE: The petition of F. M. Holmes and others, for the amendment of the bankrupt law—to the Committee on the Judiciary.

By Mr. O'NEILL: The petition of bank officers, bankers, and 430 merchants, manufacturers, and other citizens of Philadelphia, for the repeal of the bankrupt act—to the same committee.

Also, the petition of 208 men and women, for the establishment of a court of international arbitration for the settlement of disputes between different governments—to the same committee.

Also, two petitions of manufacturers and merchants of Philadel-

phia, against the passage of the pending tariff bill—to the Committee of Ways and Means.

Also, the petition of N. & G. Taylor & Co., for a refund of duties in accordance with the decision of the United States circuit court, giving construction to the tariff laws acquiesced in by the Treasury Department—to the same committee.

By Mr. QUINN: The petition of bankers, merchants, and manufacturers of Albany, New York, for the repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. ROBBINS: Resolutions of the Chamber of Commerce of Wilmington, North Carolina, opposing the transfer of the life-saving service to the Navy Department—to the Committee on Commerce.

By Mr. TUCKER: The petition of citizens of Buckingham County, Virginia, for the passage of the Texas Pacific Railroad bill—to the Committee of Ways and Means.

By Mr. WADDELL: Resolutions of the Chamber of Commerce of Wilmington, North Carolina, against the transfer of the life-saving service to the Navy Department—to the Committee on Commerce.

By Mr. WATSON: The petition of 160 merchants, oil producers, and business men of Oil City, Pennsylvania, against the imposition of a tax on incomes—to the Committee of Ways and Means.

Also, the petition of Franklin McKee, of Company H, Eighty-third Battalion Pennsylvania Volunteers, for additional bounty—to the Committee on War Claims.

By Mr. WHITTHORNE: The petition of W. H. Milbanks and 70 other citizens of Wayne County, Tennessee, for the establishment of certain post-routes—to the Committee on the Post-Office and Post-Roads.

By Mr. WILLIAMS, of New York: The petition of J. A. Hager, J. K. Whitney, and others, for the amendment of the pension laws—to the Committee on Invalid Pensions.

Also, the petition of George Higgins, C. E. Emerson, and others, for the amendment of the law relating to bounties to soldiers of the late war—to the Committee on Military Affairs.

IN SENATE.

WEDNESDAY, April 17, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

ELECTION OF PRESIDENT PRO TEMPORE.

The SECRETARY (Mr. GEORGE C. GORHAM) called the Senate to order, in the absence of the Vice-President.

Mr. ANTHONY. Mr. Secretary, I offer the following resolution:
Resolved, That in the absence of the Vice-President Hon. THOMAS W. FERRY, of Michigan, be elected President *pro tempore*.

The SECRETARY. Senators, you have heard the resolution. [Putting the question.] The resolution is agreed to. The Senator from Michigan [Mr. FERRY] will please step forward and take the chair. Mr. FERRY thereupon took the chair as President *pro tempore*.

On motion of Mr. ANTHONY, it was

Ordered, That the Secretary inform the House of Representatives that the Senate has elected Hon. THOMAS W. FERRY, a Senator from Michigan, President *pro tempore* of the Senate in the absence of the Vice-President; and that he make a similar communication to the President of the United States.

THE JOURNAL.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of Maria Hart, widow of James Hart, late private One hundred and fifty-eighth Regiment New York Volunteers, praying for a pension; which was referred to the Committee on Pensions.

Mr. DAWES. I present the petition of Thomas Carbery Brophy, of Boston, and 64 of his neighbors, in favor of a repeal of the resumption act. I wish to say in regard to this petition that it was forwarded to me to be presented some days ago in my absence from the city. It is well known to the people of Massachusetts that my own opinions differ very much from those expressed by these petitioners, and the suspicion was abroad among some of these petitioners that I was going to suppress the petition. I want to say that there is a great variety of opinion in Massachusetts in reference to public affairs, and the right of Massachusetts citizens to present their petitions does not depend upon whether their representatives here coincide with their views, but upon the constitutional prerogative they have. I want to assure them that whoever may be their representatives here their petition will be likely to be presented, whether they happen to agree with the views of their representatives or not; and I desire to assure these citizens that if the Senate will refer this petition to the Committee on Finance, as I have no doubt it will be referred to that committee, it will have all the consideration which the respectability of the signers of this petition and the views which they urge entitle them to, and that they have lost nothing by my absence from the city.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on Finance.

Mr. DAWES presented the petition of John Wagner and others, citizens of the District of Columbia, praying that the Baltimore and

Ohio Railroad Company may be required to vacate its present depot and the streets and avenues occupied by them, and adopt some other and less objectionable route to the city; which was referred to the Committee on the District of Columbia.

He also presented the memorial of John B. D. Cogswell, president of the senate of Massachusetts, and many other members of the senate and house of representatives of Massachusetts, remonstrating against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which was ordered to lie on the table.

He also presented the memorial of Caleb Loud and others, citizens of Loudville, Massachusetts, and the memorial of Theodore Dean and others, citizens of Taunton, Massachusetts, remonstrating against the passage of any act imposing a tax on incomes; which were referred to the Committee on Finance.

Mr. OGLESBY presented the petition of F. W. Wisner and 100 others, citizens of Decatur, Illinois, praying for an increase of appropriation for providing arms and equipments for the militia of the several States; which was referred to the Committee on Military Affairs.

Mr. OGLESBY. I present also a resolution of the Patent Office Bar Association of the District of Columbia, in which it is resolved:

That the Patent Office Bar Association, upon further consideration, withdraw their support to so much of Senate bill 597 and House bill No. 3615 as abolishes the board of examiners-in-chief, and recommend the organization of a court in the Patent Office which shall have final jurisdiction in contested cases appealed from the examiner of interferences, and in appeals in *ex parte* cases from the decisions of the board of examiners-in-chief, the board of examiners-in-chief to retain their jurisdiction in *ex parte* cases alone.

They request that this resolution be presented to the Senate and referred to the Committee on Patents; and, as it is in the nature of a memorial, I present it in that sense and move its reference to the Committee on Patents.

The motion was agreed to.

Mr. CONKLING. I present the memorial of Maria P. Fitzhugh and Ann C. Carroll, the heirs and legal representatives of Daniel Carroll of Duddington, Washington, District of Columbia, deceased. These ladies set forth a case according to their statement grievous and aggravating touching the consequences which have fallen on them and on their property growing out of improvements made in the city of Washington, and suggest redress by way of legislation. I move the reference of the memorial to the Committee on the District of Columbia.

The motion was agreed to.

Mr. PATTERSON presented the memorial of John Campsen & Co., of Charleston, South Carolina, remonstrating against the extension of E. N. Horsford's patent for an acid substitute for cream of tartar for culinary purposes; which was referred to the Committee on Patents.

He also presented a concurrent resolution of the Legislature of South Carolina, in favor of the passage of a law declaring Port Royal Harbor, in that State, a permanent naval station; which was referred to the Committee on Naval Affairs.

Mr. KERNAN presented the petition of Asa Johnson, of the city of New York, praying the extension of his patent for an improvement in fastening sheet-metal to roofs; which was referred to the Committee on Patents.

Mr. BRUCE. I present a petition of citizens of Mississippi, praying for the refunding of the tax paid on cotton during the years 1865 to 1868 inclusive, and that it shall be returned to the States in which it was collected. This is a question of considerable importance to the section of country from which I come, and one that should receive the attention of Congress at this session. Whether the money should be returned to the State from which it was collected with a provision that it shall be devoted exclusively to educational purposes or whether it shall be returned immediately to the individuals who paid it, I am not at this time prepared to say; but that it should be returned in some form I am clearly of the opinion. I move the reference of the petition to the Committee on Finance.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. SARGENT, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 1355) for the relief of John C. Ray, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 3121) for the relief of Numis H. Coverdale, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 963) to amend the record of a naval officer, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 430) authorizing the appointment of Acting Passed Assistant Surgeon Francis V. Greene as surgeon in the Navy, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 537) for the relief of Naval Constructor Theodore D. Wilson, of the Navy, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 507) for the relief of Dr. Edward Evers, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. PLUMB, from the Committee on Military Affairs, to whom was referred the bill (S. No. 112) to make an additional article of war, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

Mr. VOORHEES, from the Committee on Finance, to whom was referred the bill (S. No. 267) in relation to distilling and rectifying spirits, reported adversely thereon, and the committee were discharged from the further consideration of the bill.

He also, from the same committee, to whom was referred the bill (H. R. No. 2815) to authorize T. & J. W. Gaff & Co. to use a certain building in the city of Aurora, Indiana, for the rectification of distilled spirits, reported it without amendment.

Mr. JONES, of Florida, from the Committee on Naval Affairs, to whom was recommended the bill (S. No. 184) to authorize the Secretary of the Navy to transfer to the Secretary of the Interior, for entry and sale, all lands in the State of Florida not needed for naval purposes, reported it with amendments.

Mr. HARRIS, from the Committee on Claims, to whom was referred the bill (S. No. 308) for the relief of Joseph N. Lewis, reported it without amendment, and submitted a report thereon, which was ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (H. R. No. 762) granting a pension to John S. Hall, of West Virginia, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

RESUMPTION OF SPECIE PAYMENTS.

Mr. FERRY, (Mr. ALLISON in the chair.) I am instructed by the Committee on Finance to whom was referred the bill (H. R. No. 805) to repeal all that part of the act approved January 14, 1875, known as the resumption act, which authorized the Secretary of the Treasury to dispose of United States bonds and redeem and cancel the greenback currency, to report it with an amendment, in which the concurrence of the Senate is asked. At some early day I shall seek the attention of the Senate to the bill.

Mr. CONKLING. What is the amendment, will the Senator be kind enough to state?

Mr. FERRY. The Secretary will report the amendment.

The PRESIDING OFFICER, (Mr. ALLISON in the chair.) The amendment will be reported.

The CHIEF CLERK. The Committee on Finance report to strike out all after the enacting clause of the bill, and to insert:

That from and after the passage of this act United States notes shall be receivable in payment for the 4 per cent. bonds now authorized by law to be issued; and on and after October 1, 1878, said notes shall be receivable for duties on imports; and said notes, in the volume in existence on October 1, 1878, shall not be canceled nor permanently boarded, but shall be reissued, and they may be used for funding and all other lawful purposes whatsoever to an amount not exceeding in the whole the aggregate amount thereof then in circulation and in the Treasury; and the said notes, whether then in the Treasury or thereafter received, under any act of Congress and from whatever source, shall be again paid out, and when again returned to the Treasury they shall not be canceled nor destroyed, but shall be reissued from time to time with like qualities; and all that part of the act of January 14, 1875, entitled "An act to provide for the resumption of specie payments" authorizing the retirement of 50 per cent. of United States notes shall cease and become inoperative on and after the said October 1, 1878.

Sec. 2. All laws and parts of laws inconsistent with this act shall be, and hereby are, repealed.

Amend the title by striking out the words "to repeal all that part of the act approved January 14, 1875, known as the resumption act, which authorized the Secretary of the Treasury to dispose of United States bonds and redeem and cancel the greenback currency," and inserting in lieu thereof as follows:

"An act to amend an act entitled 'An act to provide for the resumption of specie payments,' and for other purposes."

Mr. DAVIS, of West Virginia. I take it the bill will be printed as proposed to be amended.

Mr. EDMUNDS. That is the standing rule.

BILLS INTRODUCED.

Mr. KERNAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1105) for the relief of Asa Johnson; which was read twice by its title, and referred to the Committee on Patents.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1106) to reimburse purchasers at direct-tax sales in Arkansas declared illegal by United States courts in consequence of a defective board of commissioners; which was read twice by its title, and referred to the Committee on Finance.

Mr. HOWE (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1107) to authorize the appointment of stenographers to the United States circuit and district courts; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. DAWES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1108) to transfer the title of the United States to square 109 to the District of Columbia for the benefit of the public schools thereof; which was read twice by its title, and, with accompanying papers, referred to the Committee on the District of Columbia.

Mr. CONOVER asked, and by unanimous consent obtained, leave

to introduce a bill (S. No. 1109) to provide for the construction of a public building in the city of Tallahassee, Florida; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HOWE, it was

Ordered, That the papers in support of the claim of H. W. Reed be taken from the files and referred to the Committee on Claims.

AMENDMENTS TO BILLS.

Mr. PATTERSON submitted an amendment intended to be proposed by him to the bill (S. No. 802) establishing post-roads in the several States and Territories; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. DORSEY submitted an amendment intended to be proposed by him to the bill (H. R. No. 4236) making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. PADDOCK submitted an amendment intended to be proposed by him to the bill (S. No. 98) to divide the State of Nebraska into two judicial districts; which was referred to the Committee on the Judiciary, and ordered to be printed.

TAXATION BY INDIANS IN INDIAN TERRITORY.

Mr. DORSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be, and he hereby is, directed to furnish the Senate with copies of any and all decisions of that Department relative to the right of the Indians to impose taxes in the Indian Territory, and also copies of any and all papers on file in the Department relating to the so-called permit law.

TARIFF DUTIES.

Mr. BECK. I offer the following resolution:

Resolved, That the Secretary of the Treasury be directed to furnish the Senate with the most reliable information he can obtain as to the total consumption within the United States of all manufactured articles to which tariff duties apply, including those imported as well as those produced in this country, with the proportion of each.

I ask the Senate to allow the resolution to pass. There can be no objection to it. We need the information, I think, very much.

Mr. EDMUNDS. The resolution I think ought to call for "information in his possession." We have no power to direct the Secretary of the Treasury to go around and pick up information; it is no part of his duty; and we call upon him by the resolution to obtain information. If the Senator will change it to say "information in his possession," I shall have no objection to it for one. It will accomplish exactly the same result.

Mr. BECK. I meant to do that except for the reason that we can get a great deal of information, so the Bureau of Statistics informed me, from the census reports which really belong to the Interior Department. That is the only reason why I drew the resolution in its present form.

Mr. EDMUNDS. I should not object at all to that form if we had any right to require the Secretary to go to work to obtain information for Congress. I do not understand that we have.

Mr. BECK. I will change it as suggested. That was the only object I had in putting it in that form.

Mr. EDMUNDS. It will accomplish the same purpose, I dare say.

Mr. BECK. I think so, except in that particular.

Mr. DAWES. I should like to hear the resolution read.

The PRESIDENT *pro tempore*. The resolution will be reported as modified.

The Chief Clerk read the resolution, as modified, as follows:

Resolved, That the Secretary of the Treasury be directed to furnish the Senate with the information in the possession of his Department as to the total consumption within the United States of all manufactured articles to which tariff duties apply, including those imported as well as those produced in this country, with the proportion of each.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

The resolution was agreed to.

RELATIONS WITH COREA.

Mr. SARGENT. I should like to call up for reference the joint resolution which I submitted the other day in reference to relations with Corea. I want it referred to the Committee on Foreign Relations, and I should like to occupy a few minutes of the time of the Senate in stating the reasons for the joint resolution.

The PRESIDENT *pro tempore*. Is there objection to the request of the Senator from California? The Chair hears none.

Mr. SARGENT. Mr. President—

Mr. BURNSIDE. I ask the favor of the Senator from California to allow Senate bill No. 178 to be taken up for a moment in order to see if I can get a vote upon it.

Mr. SARGENT. How much time does the Senator ask?

Mr. BURNSIDE. I do not know of any one who has anything further to say on the subject, and it would only require a yea-and-nay vote on the passage of the bill. I ask the Senator simply to yield for that purpose.

Mr. EDMUNDS. That bill will lead to some debate.

Mr. BURNSIDE. I beg the Senator from California to yield.

Mr. SARGENT. If my friend will allow me to proceed, I shall con-

clude my remarks in fifteen minutes, and there will then be fifteen minutes left of the morning hour. I am informed by Senators around me that the bill will lead to discussion.

Mr. BURNSTIDE. The understanding was very distinct yesterday that the bill should be taken up to-day, in the morning hour. The Chair asked if there was objection to that arrangement and there was none.

Mr. SARGENT. Does the Senator simply desire a call of the roll? Is that all?

Mr. EDMUNDS. It will have to be debated a little, Mr. President. There will be time enough. The Senator from California has just had unanimous consent, which we never refuse, to submit some observations to the Senate. I am sure we ought to allow him to proceed.

Mr. BURNSTIDE. Very well.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 24) authorizing the President of the United States to appoint a commissioner to the King of Corea to arrange a treaty of amity and commerce between the United States and the King of Corea, and to appropriate the necessary expenses in making such treaty.

Mr. SARGENT. Mr. President, one of the most interesting events in the history of Pacific civilization was the opening of Japan to the five great western powers by the American treaty of March 31, 1854, the result of the United States expedition under Commodore Perry. On the 6th of January, 1869, the Mikado, or Emperor, emerged from his seclusion, and disregarding the tradition which forbade the "barbarian" to gaze on his face, received in state the foreign ministers residing at Yeddo, and exhibited a desire to maintain friendly relations. From 1858 to 1869 followed American, English, French, and Austrian treaties. As a result a great trade has sprung up, principally valuable to the United States, partly on account of our proximity and partly from the friendly feelings with which we are regarded by Japan. It is a fact that in those waters alone, of all the waters of the world, our tonnage exceeds that of all other nations. It is the only place where we have a fine American trade carried on in American bottoms.

But a still more striking result has been witnessed in this nation of thirty million people suddenly dropping a proud, isolating policy, opening relations with the civilized world, and rapidly adopting the appliances and modes of advanced civilization. Before that period all authorities concurred in depicting the Japanese as an effete, non-progressive race, sunk in superstition, with strange customs and sanguinary laws, but with considerable excellence in the mechanical arts. By the wise action of our predecessors this great people have been brought into friendly relations, have developed into a civilized nation, and vindicated themselves as the possessors of a stalwart manhood and an enlightened, enterprising spirit. The apparent transformation has been wonderful; but the change has been one of development only, not of creation. All the elements of a great people must have been there; they had opportunity and expression when centuries of isolation terminated.

Neighboring to Japan on the mainland is another people, with most of their characteristics, perhaps all, treated of by the encyclopedists as they formerly treated the Japanese, now waiting for us to extend to them a friendly hand as we formerly did to Japan, and promising as noble reward for the service. I ask the attention of the Senate, and of the Committee on Foreign Relations, to whom I shall have this bill referred, to the promise held out to us by Corea if we know how to avail ourselves of our opportunity as our immediate predecessors did in the case of Japan.

Corea is described by Zell's Encyclopedia Dictionary as a maritime country of Northeastern Asia, consisting of a vast oblong peninsula with an adjoining portion of the continent and a great number of islands. Appleton's Cyclopaedia states that it is bounded on the north by Manchouria, northeast by the Russian Amoor country, east by the Sea of Japan, south by the Strait of Corea, and west by the Yellow Sea and the Chinese province of Liaou-Tong, with an area of ninety thousand square miles. The population is estimated by various authorities from eight millions to twenty millions, and is probably about twelve millions. Its length is, from north to south, about six hundred and sixty miles, and the breadth is about one hundred and fifty miles. Its principal river is navigable for large ships twenty-two miles, and for smaller vessels one hundred and twenty miles above its mouth. The climate in the north is severe, but temperate in the south. The mountains are covered with forests, and pine is common on the coasts. Most of our domestic animals are reared in Corea. The people are superior to the Japanese in strength and stature. Their dress is similar to that of the Chinese, but they do not cut their hair or wear a cue. They have a literature, a monosyllabic language; are generally educated; are fond of reading, music, dancing, and festivities. The government is jealous of intercourse with foreigners, and these are not allowed to land on their coasts, and the accounts of the treatment of shipwrecked persons are conflicting. In 1876 a treaty of amity was made with Japan, the eighth article of which provided that in case of shipwreck of the people of any nation, friendly with Japan, they shall have kind treatment. And, I think, that illustrates the wisdom of our former action in opening intercourse with Japan. They have reached such a stage of intelligence and civilization, or development thereby, that they treat with a nation reputed barbarous, as they were at the time this intercourse

was opened, for the purpose of protecting the lives and property of shipwrecked vessels of nations with which they are at amity. Of course that embraces the shipwrecked people of all nations, because Japan is in a state of peace with all the world.

The trade of Corea is with Japan almost wholly. No Chinese are allowed to settle in Corea, or any Koreans to leave their country. The northern frontier is abandoned for several miles to prevent any intercourse with the Tartars. The country is divided into eight provinces; the capital is on the Han or Kiang River, about the center of the kingdom, and the government is despotic and the laws severe. Gold, silver, iron, and salt are said to abound, but mining is restricted by the government to its own requirements. The principal manufactures are silk, cotton, cotton-paper, grass-cloth, rice-paper, arms, and horse-hair caps. European manufactures to a limited extent reach Corea, and only through Japan. The Koreans live in a frugal manner, and articles of daily necessity to the Japanese and Chinese are still unknown among them.

In 1866 a French expedition sought redress for the execution of two Catholic missionaries, but were repelled with loss. These missionaries, contrary to the laws of the country, had penetrated into the interior of Corea, and it is said had succeeded in converting to the Catholic religion the queen mother. The king, fearing cabals in his home and that they might try to dethrone him, had them arrested. One account says they were all slain and another that two of them were slain, the latter being the most probable fact.

Mr. CHAFFEE. What is their religion?

Mr. SARGENT. In religion they are Buddhists, I will say in reply to the question of the Senator from Colorado.

In that same year an American trading-ship, as it pretended to be, the General Sherman, went into one of the rivers of Corea. The captain was an American, and she had a consul's trading register, a register given by a consul to trade. Perhaps she was American-built. Of that I am not certain, but the presumption is that she was. She was manned by Chinese principally, and there were three other foreigners on board of her, one a Frenchman. A difficulty arose with the natives, and the vessel was burned, and they were all killed. Our commander in the Japanese waters sent the United States ship Wachusett, under the command of their captain, now Commodore Shufeldt, to inquire into this affair. He penetrated into one of the rivers and addressed a communication to the King of the country, and I call attention to this correspondence and especially to the reply emanating from the King to show the sentiments which it contains—the sentiments of enlightened statesmanship and humanity which it contains, and that the people from whom such a document can emanate are worthy of our consideration, and that we should seek to extend to them the protection which arises from our recognition as a safeguard against the aggression of Russia or any other power, and also for the purposes of trade.

[Translated from Chinese document a copy of which is attached to this.—N. B. Chinese copy sent with original.]

UNITED STATES STEAMER WACHUSETT,
WACHUSETT BAY, NEAR MOUTH OF RIVER TAI-TONG,
January 24, 1867.

To his majesty the King of Corea:

The commander of the American armed vessel Wachusett begs to inform your majesty that he has come to the border of your kingdom not to engage in war nor any unlawful business, but in obedience to the command of the officer commanding the armed vessels of America stationed in these seas who has heard with great pleasure and thankfulness of the kindness of your majesty's officers and people to the shipwrecked crew of an American vessel in the month of June last on the west coast of Corea—

Referring to a previous incident—

how your majesty had them transported to the confines of China from whence they safely reached their friends.

The whole American people cannot but feel thankful and praise your nation for this act of kindness and brotherly love.

The officer commanding the armed vessels of America has since heard with pain and surprise that the people of another American vessel wrecked in the Tai-tong River in the province of Sing-Yang, in the month of September last, were all put to death and the vessel burned, and has ordered me to ask of your majesty if this is true, and, if true, to ask of your majesty what evil these people had done that they should be made to suffer such cruel treatment.

But if any or all of these people are living the officer commanding the armed vessels of America has directed me to ask of your majesty that they may be delivered to me on board of the Wachusett, now lying in the harbor of Tai-Pung, near the Kwets Islands, or at any more convenient port your majesty may select.

This is especially desired that the peace and friendship which has heretofore been uninterrupted for many years may still continue between America and Corea. A speedy answer is requested to this communication, in order that I may depart in peace.

Owing to the danger of being frozen in the river where he was, Captain Shufeldt was compelled to leave for another station, and the answer to this communication arrived after he had left. The King of Corea sent a copy of it then to our American minister at Peking, and Captain Febinger coming into the waters shortly after, he delivered him a copy of it, anxious that the American Government should understand the circumstances under which the General Sherman was burned, and this is the letter:

To Commander SHUFELDT—

That was his grade at that time; he is now a commodore, unless the word "commander" is confused by the king with "captain," he being commander of the vessel.

To Commander SHUFELDT:

The intendant of circuit in the Hwong-Hae district, Corea, and ex-officio inspector of the Imperial board of directors, makes the following reply to the commander of

the steamer *Wachusett*, anchored on our coast off the district of Chang-Tuen, namely: That he has examined your letter of the 18th instant, forwarding a communication which you simply wish to be transmitted to my sovereign, and proposing to await the reply of the minister of the frontier. The local magistrate of the said place was in duty bound to inform you that the road going and returning would be quite long, and to have treated you with kindness and sincerity, so detaining your honored vessel for a reply. Now, however, before the arrival of the reply, the guest from afar has already departed; so doing how grievously have we offended the rules of propriety and violated true friendly feeling. Aside from the fact that this local magistrate has received a demerit mark, I have prepared a dispatch in reply, to be kept in readiness in case your honored vessel should return; and, first, I beg to state in general as regards the circumstances of this affair that the legal regulations of our country with reference to the merchant ships of a foreign country driven here by adverse winds are that, in case the vessel is sound, we are to furnish provisions and whatever is needed while waiting for a wind to depart. In case the vessel is not sound, and there is no means of proceeding by sea, then we are to follow their wish in sending an officer to escort them by land to Peking, which thing has occurred heretofore, not merely once. Such a course we look upon as in accordance with true benevolence. He who is in heaven above regards the people of neighboring nations as he does our own. Your worthy communication, which I have just received, is so exceedingly complimentary as to make me feel quite ashamed.

With reference to the affair which transpired last autumn in the Ping-Tang River, I would state that at that time there was a foreign vessel entered the lower waters of the Ping-Tang River, and the local magistrate of that place, supposing that the vessel was driven hither by distress of weather, and coming in to seek a vessel to tranship to, proceeded to make inquiries into the matter, but the men on board the vessel became greatly enraged at the messenger and refused to make any reply, shutting their eyes and lying down at their ease, clearly intending to offer insult. Our people restrained their anger, and, by the most humble address and earnest entreaty, found out that they were not driven here by storm. There was one man on board the vessel named Tany, calling himself a Frenchman, and another said to be an Englishman. They said a large number of men-of-war was about to come to this place, and if the local magistrate would suffer them to open trade with the people it would secure the dispersion of the soldiers of the two armies. The local magistrate replied that the opening of trade was not a thing that a local magistrate could assume to promise.

The man Tany, however, refused to regard it, becoming more and more unreasonable and violent. The water in the Ping-Tang River is shallow and unfit for running large vessels; but he disregarded this, and every day, riding on the tide, went up a few miles farther. Our people were especially anxious that affairs should not become serious, and so presented them with rice, meats, vegetables, fruit, and fuel. The man Tany replied that they would leave the next day; but when the next day came, instead of leaving, they advanced again, evidently intending to push their way to the provincial city. The adjutant-general went out in a vessel every day and escorted them, in order to guard against a collision between their people and ours. One day he threw out grappling-irons and ropes and captured the vessel of the adjutant-general, seizing him, with his official seal, and confining him on board their vessel. In some cases the trading-vessels they met passing to and fro they rent to pieces with their cannon, carrying off the goods and killing their crew. I do not know to the extent how many far and near; all were exceedingly alarmed and fled in continuous streams. How extreme was the disgrace of the adjutant-general thus to be seized before hostilities had begun! Nevertheless we still resorted only to mild words and earnest entreaty, requesting that the adjutant-general should be given up; but the reply was, "Wait till we enter the city and we will restore him." This man Tany could speak Chinese and was without a match in ferocity and haughtiness and seemed determined to force his way into the provincial city, though we did not know what his intentions were. The whole city, including several ten-thousands of soldiers and people, yielding to their indignant rage, came out in a mass to the river and commenced an attack with all their might, intending to rescue the adjutant-general. Several tens of people were killed by the cannon-balls, when all, becoming infuriated, rushed on in a mass, the force of which was irresistible. Fire was opened on both sides and fire-rafts were used. Finally the powder stored in said vessel exploded, rending it to pieces and sending the black smoke up to the heavens. The vessel was entirely burnt up and the men all killed. We still do not know whether this vessel belonged to your honorable country or not. This man Tany, without cause, pushed his way into the interior of another country and provoked this affair, and examination had to this time failed to discover his object in acting thus.

It appears from your honorable communication that the vessel of our guest is a different nationality from that claimed by Tany. The beginning and end of this affair amounts simply to this. That your honorable country's custom greatly tends to produce propriety in intercourse with others is well known to all the provinces as well as our illustrious neighbor, China.

As to what is said in your honored communication about continuing former relations of friendship without any occasion of mutual injury, I will simply say this affair is but a particle of autumn dust, not worthy to be entertained as a matter of doubt and solicitude. I now respectfully present this reply, asking you to make all necessary allowances, and for this purpose this reply is made.

A necessary reply addressed to the American commander, fifth year of the Emperor Tung Chi, twelfth month, — day.

Mr. President, these communications I have dug out from the recesses of the Navy Department. I am somewhat ashamed to say in the history of our country that this communication received no notice whatever at the hands of our Government, and has never been answered to this day; but after these events, in 1871, five years thereafter, an armed squadron of the United States went to this same dominion of Corea, some alleged for the purpose of inquiring into this affair, others for the purpose of surveying a river, which perhaps is the most decent excuse that can be given for it. This expedition, under the command of the illustrious Admiral Rodgers, now admiral—I do not wish to detract from the well-earned reputation of the admiral at all—went into this river of a country with which we had no treaty stipulations and went to surveying it, or went for the purpose of surveying it. We would not allow any foreign vessel of a nation with which we even might have a treaty to come and survey our James or any other river; but here was a people peculiarly sensitive to these things, dreading aggression on one side from Russia and on the other side from China, maintaining a rugged independence, isolated from all the world by a policy which it thought necessary in order to maintain itself as a nation at all. This expedition went into this river under these circumstances, and proceeding up the forts fired shots across the bow of the leading vessel, loaded shots for aught I know; at any rate, they fired for the purpose of warning the invaders of danger. That appears by the records of the Navy Department. The admiral then caused fire to be opened upon the forts of the

Coreans. There were nearly two hundred of the poor creatures slaughtered in their forts by our superior artillery, and nearly one hundred of the rest of them, thinking no quarter was to be granted them, precipitated themselves from the steep bank into the river and were drowned. Our casualties amounted, I think, to three killed; and then the expedition left. What had been gained divine Providence might see, but I must say that it is beyond my comprehension, and I doubt if any Senator can see any good achieved by it at all. We certainly gave them a very different impression of our intentional treatment toward them than was conveyed by the admirable letter of Captain Shufeldt before, or than was deserved by the reply which they made to it, simply explaining the matter in regard to the General Sherman, showing that they were actuated by a spirit of humanity and benevolence, and I might say even of piety, if they are Buddhists, for the sentiments of their letter in that respect are as elevated as are pronounced from any pulpit.

The treaty of Japan with Corea recognizes the independence of Corea, and went into full effect in 1877. By it three ports are opened to the Japanese, and the countries send ambassadors to each other. Another provision of the treaty is that the coasts of Corea dangerous to navigation shall be surveyed by the Japanese. This work has been well performed, and an excellent map, the result of this survey, is now in the State Department in Washington. I might say that is quite a curiosity of work by Japanese, a people recently esteemed as barbarous, but it has all the finish and apparent accuracy of the maps of our Coast Survey. Corea also agreed to an international exposition between herself and Japan, which took place in Corea, very successfully, last October. The influence of Japan upon her neighbor is worthy of high praise.

Here, then, is a new people, numerous, contiguous, industrious, and receptive, ready for our advances, needing our manufactures, promising important trade. Destitute of all modern appliances there would be no utensil or machine that we manufacture that they would not soon learn to need. The establishment of relations of amity between this nation and Corea would secure safety, a kind reception, provisions and supplies to our ships and people in a country now exclusive if not hostile. The opportunity would be given to gain a correct idea of the configuration of the coast of Corea, and the knowledge of safe harbors against the typhoons and hurricanes of those seas, if anything further is needed than the map made by the Japanese which I refer to.

The money expended by the Government in making a treaty with Corea might be considered as an insurance on our shipping, which would be more than returned in a season, and might save ten times as much loss on a single vessel. The trade with Northern China would be increased by the security of navigation in the Yellow Sea. Our whalers in the Sea of Japan would be protected against a dangerous and hostile lee coast. Light-houses would be established on the promontories and islands of Corea as they are now along the coast of Japan. The blessings of modern civilization could be conferred on a brave and industrious people, now oppressed by political ideas inseparable from semi-barbarism; and Christianity might displace Buddhism. America is the nearest to Corea of all the nations having European civilization except Japan; and as the latter looks to us for friendship and assistance so would Corea. The credit coming to the United States for having opened Japan to commerce would be increased by success in Corea. While the shipping interest and trade of the Pacific States would be benefited so would the manufacturers of the East by the opening of a vast market for their goods; and experience has shown that the sale of our wheat and corn in England furnishes the balance of trade that clears the exchange which England makes for us in such eastern countries as Japan and China. The opportunities for opening new mines and other industries, together with the necessity the Coreans will be under of having instructors in mining and civil engineering and for the army and marine and educational institutions, will open careers for many of the well-instructed youths of this country. The Empire of Japan now stands virtually alone on that coast. The addition of Corea to the number of the strong, armed powers in friendship with the United States will increase our influence on that continent, besides strengthening Japan. Such strength is necessary, unless the advance of Russia southward on the eastern coast is to be unchecked. The Russian question is a formidable Asiatic question. That there is danger of the Russians taking Corea is obvious by a glance at the map showing the relation which the Yellow Sea bears to the frozen country of the Amoor; and Russia in possession of Corea is a standing menace to Japan.

It is a duty of Congress to provide means to develop our foreign commerce. The most effectual means is to enable our citizens to take advantage of new markets for our mechanical and agricultural products. Europe is now desperately bent on working out that problem, and if an European discovers a small tribe in Africa which wants cotton goods he is regarded as a benefactor of his race. Here are twelve million of people, our neighbors, who want our products. Let us invite them to be our customers.

Mr. President, I move that the joint resolution be referred to the Committee on Foreign Relations.

The motion was agreed to.

ENLISTMENT OF COLORED SOLDIERS.

Mr. BURNSIDE. I ask for a vote now on Senate bill No. 178. I move that the bill be taken up.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 178) to remove all restrictions now existing in regard to the enlistment of the colored citizen in any arm of the United States Army.

Mr. BLAINE. I made the motion, when this bill was before the Senate some days since, that it be indefinitely postponed. If it is a bill that the Senate do not desire to debate or argue, I have no desire myself to detain it. I only wish it to be understood that, in the general judgment, I think, of both sides of the Senate, it is the end of the colored man in the Army of the United States. I do not think that is a just conclusion to come to and to declare through Congress. I am totally opposed to that conclusion; and believing that this bill means just that, whether so intended by the honorable Senator who reported it or not, believing that it will have precisely that effect, I hope the Congress of the United States will not pass it. The very same Senators who think that the negroes ought not to be segregated and made a separate part of the Army, but that they ought to be intermingled, would not vote one moment to conduct a school that way or any other association in which the two races come together wholly contradictory. Do not let us deceive ourselves. Let us vote on this bill with the understanding that, whereas as a recognition of the services of the colored man in the Army of the Union during the war, we gave him a place and a recognition in the Army, we now declare an end to that, and that he shall not hereafter serve in the Army of the United States nor wear the uniform of the United States soldier. Let us put it in plain terms and vote on a distinct understanding that that is what this act will absolutely accomplish. I am opposed to it, totally opposed to it.

Mr. BURNSTIDE. Mr. President, I am much obliged to the Senator from Maine for his remark as to whether I meant to do away with the right of the negro to enter the ranks of the Army as a soldier or not.

Mr. BLAINE. I said before that the Senator did not intend it.

Mr. BURNSTIDE. I understood—

Mr. BLAINE. I know he did not intend it.

Mr. BURNSTIDE. I understood the Senator to say "whether I intended it or not." The RECORD will show that remark.

Mr. BLAINE. I do not think the Senator from Rhode Island intends that or desires that more than I do; but I think the legislation to which he has lent the weight of his name—and his name in military legislation has great weight in this body—will have that effect beyond all doubt. That is what I meant to imply, however I may have expressed it.

Mr. BURNSTIDE. Mr. President, I hope never to introduce a bill or make a remark in the Senate that will cover up anything, either my own views or anybody else's views, or to accomplish anything in an underhand way.

Now, if it is the sense of both sides of the Chamber that the passage of this bill will do away with the presence of colored soldiers in the Army, Senators ought to vote against the bill. I shall not question the wisdom of their votes in the slightest degree. I will allow time to determine whether I am right or whether they are right; but that we should have a vote on this bill there can be no question. In my opinion it will not have that effect. I do not desire to conceal it from Senators on the other side of the Chamber. I believe that within two or three years we shall have a sprinkling of colored soldiers throughout the Army if we take away this implication that they have no right to enlist in other regiments than the four now specified. Then colored soldiers will present themselves for enlistment, and in time it will be found that they will be enlisted in all the regiments and be good soldiers.

The PRESIDENT *pro tempore*. The morning hour has expired. The Calendar comes up.

Mr. BURNSTIDE. I do not desire to continue the discussion unless something more is said on the subject; but I do desire that a vote may be taken on the bill.

The PRESIDENT *pro tempore*. Is there objection to continuing the further consideration of this bill? The Chair hears none.

Mr. CONKLING. I do not object to the consideration of the bill, but I do not want it understood that the vote is to be taken without the privileges of discussion.

Mr. BURNSTIDE. I do not ask that. I simply suggested that I was desirous of going away, and inasmuch as I have had charge of this bill and it has been put off a great many times—I believe this is the twelfth time it has been before us—I am anxious to have a vote. Besides, it has been said of me that I am the only member of the Chamber who desires to have the bill acted upon at all, with the exception of the Senator from Mississippi, [Mr. BRUCE,] and now I want to know whether that is the fact or not. I certainly do not want to press my views on the Senate and continue to urge a bill which they all desire to ignore; and therefore I did not object to the motion of the Senator from Maine the other day for the indefinite postponement of the bill.

Mr. CONKLING. The Senator will allow me a moment. I do not interpose to thwart any wish of his. I would not put a straw in the Senator's way in reaching action on the bill. I say to him, however, frankly that I look with great apprehension upon this bill. The more I think of it—and I have thought of it a good deal—the more I doubt about it, not doubting at all the Senator's intention. Although I do not know that I shall feel moved to say anything about it, I should

not like to agree that a vote should be taken without an opportunity to say, if any Senator chooses to say, anything further in relation to it. It has been considered in the morning hour always I believe, and that is the circumstance to which the Senator may attribute the interruptions he has encountered. I think such a bill as this ought to be taken up out of the morning hour when for the convenience of the Senate it may go on and be considered with that deliberation due to its importance, and I think it is very important.

Mr. BURNSTIDE. Will the Senator from New York allow me to ask that this bill be made a special order for next Tuesday at one o'clock?

Mr. EDMUNDS. Go ahead with it now.

Mr. BURNSTIDE. I am perfectly willing to go on with it now.

FINAL ADJOURNMENT.

Mr. WINDOM. I do not desire to make objection to the bill pending, but I ask leave to introduce a resolution to be laid on the table for the present:

Resolved, (the House of Representatives concurring.) That the President of the Senate and Speaker of the House of Representatives be, and they are hereby, directed to adjourn their respective Houses without day on Monday, June 10, A. D. 1878, at twelve o'clock noon.

Mr. ALLISON. I hope there will be no objection to that suggestion.

Several SENATORS. Let us vote.

Mr. WINDOM. If the Senate is ready to vote, I shall be glad to have a vote on it now.

The PRESIDENT *pro tempore*. The Chair will put the question on the resolution.

The resolution was considered by unanimous consent, and agreed to.

ENLISTMENT OF COLORED SOLDIERS.

Mr. BURNSTIDE. Now I ask unanimous consent to continue the consideration of Senate bill No. 178.

Mr. ALLISON. I was about to ask the Senator to renew his original suggestion, that the bill be fixed for next Tuesday.

Mr. EDMUNDS. The subject is up now. It is all in our minds and it is better to go on and finish it now.

Mr. BURNSTIDE. I should be glad to have it finished now.

Mr. ALLISON. If that is the Senator's wish I shall not interpose.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine, that the bill be postponed indefinitely.

Mr. HARRIS. Yesterday morning I gave notice that I would on this morning at the expiration of the morning hour ask the Senate to take up the bill (S. No. 855) for the relief of Warren Mitchell. I do not wish to object to the suggestion of the Senator from Rhode Island if it is the pleasure of the Senate to proceed with the consideration of the bill of which he has the management; but I do wish to renew my notice, and I shall ask the Senate to take up the bill I have referred to immediately on the conclusion of the final action of the Senate on this proposition.

Mr. INGALLS. May I inquire what has become of the previous order adopted by the Senate, to proceed with the Calendar at one o'clock to-day?

The PRESIDENT *pro tempore*. The Chair stated that by unanimous consent the pending bill was continued. But for that the Calendar would have come up.

Mr. INGALLS. Then I ask that the regular order may be proceeded with.

Mr. EDMUNDS. We have had unanimous consent to go on with this.

Mr. INGALLS. I beg pardon.

The PRESIDENT *pro tempore*. After the disposition of the pending question the Chair will call up the regular order.

Mr. EDMUNDS. I wish to say only a word, not to take up time. I share in the apprehensions expressed by the Senator from Maine and the Senator from New York as to the effect of this bill. I entirely agree that there ought to be no distinction on account of race or color in respect of enlistment into the Army. It ought to depend upon the personal fitness of the soldier who proposes to enlist, of the officer who is to be appointed, and of the officers of the Army who raise regiments and recruit soldiers. I believe that the colored race are just as fit for soldiers as any other race under similar circumstances and in appropriate latitudes; and therefore I do not think it wise to exclude them from the service of the regular Army of the United States.

This bill on the face of it does not do that, it is perfectly plain. It only repeals sections which require the enlistment of colored men into four regiments. That leaves it entirely at large; but I am satisfied from the course of things that it is equivalent to disbanding those regiments as colored regiments, entirely, and to the practical exclusion of the colored man, a citizen of the United States, from enlistment and promotion and appointment in the Army. After a few years, keeping up these organizations, this sentiment, be it good or ill, this prejudice, be it well founded or ill founded, will gradually disappear, as it has disappeared in this body, as we all know, entirely. But the time has not come for it, and therefore it is no reproach to this race, nothing against them, that the statute undertakes to protect them while protection is necessary in doing their share to maintain the honor and credit of the United States in the Army, and thus I think it is much better to leave the law as it stands for the time being.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine, that the bill be postponed indefinitely, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. MAXEY, (when Mr. COCKRELL's name was called,) I will state that the Senator from Missouri, [Mr. COCKRELL,] who is a member of the Military Committee, is confined to his room by sickness. If present he would vote "yea" on this motion.

The roll-call having been concluded, the result was announced—yeas 38, nays 17; as follows:

YEAS—38.			
Allison,	Dennis,	Ingalls,	Morgan,
Armstrong,	Dorsey,	Johnston,	Oglesby,
Bailey,	Eaton,	Jones of Florida,	Patterson,
Beck,	Edmonds,	Kernan,	Randolph,
Blaine,	Eustis,	Lamar,	Rollins,
Chaffee,	Garland,	McCreery,	Saulsbury,
Coke,	Gordon,	McDonald,	Wallace,
Conkling,	Harris,	McPherson,	Windom,
Davis of Illinois,	Hereford,	Maxey,	
Davis of W. Va.,	Hill,	Mitchell,	
NAYS—17.			
Anthony,	Cameron of Wis.,	McMillan,	Saunders,
Booth,	Conover,	Matthews,	Wadleigh.
Bruce,	Dawes,	Paddock,	
Burnside,	Ferry,	Plumb,	
Cameron of Pa.,	Howe,	Sargent,	
ABSENT—21.			
Barsum,	Hamlin,	Morrill,	Voorhees,
Bayard,	Hoar,	Ransom,	Whyte,
Butler,	Jones of Nevada,	Sharon,	Withers.
Christianscy,	Kellogg,	Spencer,	
Cockrell,	Kirkwood,	Teller,	
Grover,	Merrimon,	Thurman,	

So the motion was agreed to, and the bill was indefinitely postponed.

ORDER OF BUSINESS.

Mr. HARRIS. Mr. President—

The PRESIDENT *pro tempore*. The Chair calls attention to the order of the Senate, which the Secretary will read.

The Chief Clerk read the following resolution, adopted yesterday:

Resolved, That on Wednesday next, at one o'clock, the Senate will proceed to the consideration of the Calendar, and continue such consideration from day to day until the same shall have been gone through with; and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once, and for five minutes only, unless, upon motion, the Senate should at any time otherwise order; and the objection may be interposed at any stage of the proceedings; and this order shall take precedence of special orders or unfinished business, unless otherwise ordered.

Mr. GARLAND. I wish to give notice that after action on the proposition of the Senator from Tennessee, I shall ask unanimous consent to proceed to the consideration of Senate bill No. 490, relative to the Hot Springs reservation in the State of Arkansas, of which I gave notice yesterday when I reported it from the Committee on Public Lands.

Mr. HARRIS. I move that the Senate now proceed to the consideration of the bill (S. No. 855) for the relief of Warren Mitchell.

The PRESIDENT *pro tempore*. Is there objection?

Mr. ANTHONY. I hope we shall go on with the Calendar as has been ordered.

The PRESIDENT *pro tempore*. Objection being made to the motion of the Senator from Tennessee, the first case on the Calendar will be called.

Mr. HARRIS. Is it not competent for a majority of the Senate to take up any bill?

The PRESIDENT *pro tempore*. The Senate is proceeding under a rule which has been adopted setting aside special orders and general orders.

Mr. HARRIS. Then, in the opinion of the Chair, that rule would have to be suspended to consider any particular measure.

The PRESIDENT *pro tempore*. It can be done by unanimous consent.

Mr. GARLAND. I gave notice yesterday before the resolution of the Senator from Rhode Island was acted on that I should call up to-day Senate bill No. 490. This is a very important matter which should be acted on, and I am satisfied it will not take ten minutes of the time of the Senate. While I heartily concurred in the resolution of the Senator from Rhode Island, I appeal to him to give his consent to the consideration of this bill at the present time.

Mr. ANTHONY. I cannot consent, for one, to lay aside the order of the Senate. If I do for one I must for another. I think the bill of the Senator from Arkansas will be reached in time.

Mr. GARLAND. It is not on the printed Calendar now. It was only reported yesterday, and I gave the notice at that time in order to expedite its passage through the Senate. I know the difficulty under which the Senator from Rhode Island labors; but this is a very peculiar case, demanding present consideration.

The PRESIDENT *pro tempore*. The Chair was under the impression that the Senate was proceeding under a rule, but he finds that it is an order of the Senate and subject to the control of a majority of the Senate. As there was objection and a motion was not made to take up a bill, the first case on the Calendar will be called.

Mr. HARRIS. Do I understand the Chair as now ruling that a

majority of the Senate can take up a case notwithstanding the resolution of the Senator from Rhode Island?

The PRESIDENT *pro tempore*. The Chair so rules.

Mr. HARRIS. Then I desire to submit the motion that I gave notice yesterday before the adoption of the resolution I would make this morning; that is, that the Senate do now proceed to the consideration of the bill (S. No. 855) for the relief of Warren Mitchell.

Mr. CHAFFEE. I desire to ask the Senator from Tennessee if that bill named by him is not on the Calendar?

Mr. HARRIS. Yes, sir; order of business No. 151.

Mr. CHAFFEE. Can it not be reached on the Calendar?

Mr. HARRIS. I believe, under the rule, the bill will not be an unobjected one, and it will lead to debate which would go far beyond the five-minute rule.

Mr. ANTHONY. The Senate would grant unanimous consent for debate, or would grant it upon motion when the bill came up. I think if we are ever going to take up the Calendar now is the time to do it. If we put aside the Calendar now for the motion of my friend from Tennessee, it will be put aside on the motion of some other Senator, and the order will be entirely nullified. I hope we shall go on with the Calendar.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Tennessee.

A division was called for.

Mr. ANTHONY. I think we might as well make a test of this whether we are going on with the Calendar or are going to give it up. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HILL. I am as much in favor of going on with the Calendar as the Senator from Rhode Island can be; but my understanding was yesterday, when we adopted the order at the instance of the Senator from Rhode Island, that it would not interfere with the motion of the Senator from Tennessee. He reserved the right to make the motion this morning. I think the order does not interfere with the motion. That was the understanding. Therefore I shall vote for his motion, but I do not wish it understood that I am against going on with the Calendar.

Mr. CONKLING. Did the Senator from Georgia hear the chairman of the Committee on Claims give notice that he would move on a week from yesterday to take up this bill?

Mr. HILL. I do not remember that. I only know what occurred yesterday. I understood the Senator from Tennessee to give notice, notwithstanding the order, that he would call up this bill to-day. That is all I know about it.

Mr. CONKLING. I refer also to what took place yesterday. The Senator from Minnesota, the chairman of the Committee on Claims, [Mr. McMILLAN,] gave notice that a week from yesterday, next Tuesday, he would move to take up this very bill. I do not see, then, why I should not vote against this motion for the same reason that the Senator from Georgia assigns for voting for it, and I submit to him and to every other Senator that the Senator from Rhode Island is quite right when he says that the question now is whether we shall go on with the Calendar or lose the opportunity. When this motion has prevailed, if it does, some other Senator rises and moves to take up a particular bill. On what principle is the Senator from Georgia, and am I to vote against that motion? How are we to make fish of one and flesh of another? This is a private bill. Private bills have their merits; but surely there is no merit in a private bill which entitles it to precedence over all the public bills and matters of consequence which stand upon the Calendar. Why should it not take its turn with every other private bill? I should be very glad to vote as an act of courtesy to the Senator from Tennessee; but the difficulty is that there are more than seventy Senators here and more than seventy bills, and when another Senator rises and says "Now I ask to take up a bill," the same courtesy will constrain me to vote with him, and a little more than it does now because here is a division in the committee, here is the only organ of the committee, the chairman, giving notice that it will suit his convenience to take up this bill next week—

Mr. HARRIS. Allow me. The Senator did not quite understand the chairman of the committee, the Senator from Minnesota. He suggested to me to give notice, but did not give notice himself. It was a mere suggestion, and a kindly one, by the chairman of the committee to me to name a day in future, and I think he named next Tuesday.

Mr. CONKLING. The Senator from Tennessee will see that that only strengthens, rather than weakens, my suggestion. It seems now—no doubt he is right—that the Senator from Minnesota, in place of making any suggestion hostile to him, in the interest of the inclination of the Senator, proposed and preferred a more distant day, Tuesday of next week. Thus we see the committee divided in its convenience on the subject. Therefore no stronger point of courtesy is presented here than I can present myself if, after the vote is taken, I rise and ask the Senate to proceed to some other bill, and there are several bills on the Calendar which I should be very glad to have reached.

It seems to me that the Senator from Rhode Island has done an impartial and an expedient thing when he proposes that every bill shall have its opportunity to be considered in its order on the Calendar. That is fair. It is just to every bill, and can do no wrong to any one; and so, although I should be very glad to vote as the Sen-

ator from Georgia indicated that he might in the direction of courtesy to the Senator from Tennessee, the difficulty is we cannot do it without overthrowing the deliberate act of the Senate, done only yesterday, which is the customary act at this stage of the session, and has been found by long experience to be conducive to the general convenience and the general advance of the public business.

Mr. HILL. I desire to say that I do not think this case stands on the same footing with others. The Senator from New York says there are more than seventy Senators here and more than seventy bills, and the same privilege could be claimed for each Senator that is now claimed for the Senator from Tennessee. I do not think so. The way I view this matter is simply this: I voted, I think, for the order moved by the Senator from Rhode Island; but before I gave that vote, I understood from the Senator from Tennessee that he would call up this bill to-day, and I should have voted against that order if I had thought it would interfere with his motion. No other Senator that I am aware of, except my friend from Arkansas, gave a similar notice. I think that when a Senator, on voting for the order to take up the Calendar, gave notice that notwithstanding he would call up a certain bill, and the Senate made no objection to it, it was rather an admission that it might be taken up.

Mr. CONKLING. The Senator will pardon me. Senators did make objection to it most strenuously. Here was the Senator from Kansas, [Mr. INGALLS,] who particularly objected; and so did other Senators. Then the Senator from Tennessee said "Very well, I shall take the sense of the Senate upon it;" and at the same time it was mentioned that one of the Senators from New Hampshire [Mr. WADLEIGH] had a bill that he wanted taken up; some other Senator had another bill that he wanted taken up; and then the chairman of the committee suggested that this bill go over for a week, and on that state of facts we adopted this order.

Mr. HILL. Of course my understanding binds no other Senator and each Senator will vote according to his own understanding of the matter. Doubtless several things were said that I did not notice at the time; but I confess for myself that while I voted for the order of the Senator from Rhode Island, I did so intending also to vote for the motion of the Senator from Tennessee. Therefore I feel that there is no inconsistency in my doing so; on the contrary I think it my duty to do so. Of course other Senators who took a different view at the time, giving notice that they would not be bound by it, will do as they please. I admit, no Senator is bound; but still with the view I take of it, voting for the order to take up the Calendar with a distinct understanding on my part that that would not interfere with a vote for the motion of the Senator from Tennessee, who had given notice that he would call up his bill, I feel that it is due to him that I should vote with him. I do not exact it of any other Senator; but that is the view I take of it. So far as concerns the notice to which the Senator from New York has referred, I do not remember the remark of the Senator from Minnesota. I have no doubt he made it as the Senator from Tennessee says. Still I was looking to the Senator from Tennessee as the man who was moving in the matter and was going to move to take up the bill to-day. I intended then to vote with him, and shall vote with him now. All I desire in making these remarks is to give a special reason for voting to take up this case, and I do not wish that cited as a precedent against me when other motions are made and I am in favor of going on with the Calendar.

Mr. ANTHONY. I appeal to Senators, in the interest of the expedition of business and perfect impartiality to all the bills on the Calendar, to stand by the order that has been made. It has been found very convenient indeed, very conducive to the dispatch of business.

Mr. ALLISON. May I call the attention of the Senator from Rhode Island to the fact that to-morrow there has been a special order made with regard to a bill for the Southern Methodist Book Concern, so that if we do not take up the Calendar to-day we shall probably not reach it this week.

The PRESIDENT *pro tempore*. The Chair will remind Senators that this order takes precedence of special orders.

Mr. ALLISON. I was not aware of that.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Tennessee that the Senate proceed to the consideration of Senate bill No. 855, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. SAULSBURY, (when his name was called.) This question seems to be taking a political turn, dividing the Senate politically, I see. As I am paired on political questions with the Senator from Maine, [Mr. HAMLIN,] I shall not vote.

The roll-call was concluded.

Mr. EDMUNDS. If this is a political question, I wish to state that the Senator from Ohio [Mr. THURMAN] is paired with the Senator from Michigan, [Mr. CHRISTIANCY,] I am not sure that it is one.

Mr. HARRIS. I will observe to the Senator from Vermont that it cannot be considered as a political question by anybody.

Mr. EDMUNDS. We only know a tree by its fruit; and it looks a little political just now.

The PRESIDENT *pro tempore*. Debate is not in order pending a roll-call.

Mr. INGALLS, (who had voted in the negative.) I was about to say that on political questions I am paired with the Senator from Virginia, [Mr. WITHERS,] and as all the republicans are voting on

one side and all the democrats on the other, I suppose this is political; and I therefore withdraw my vote.

Mr. ALLISON. If this is a political question, I desire to state that my colleague [Mr. KIRKWOOD] is paired with some of our democratic friends, I think with the Senator from Tennessee, or perhaps with the Senator from Arkansas.

Mr. VOORHEES. I should like to make an inquiry. How can it be possible that a bill providing for payment to a private citizen of money due to him can be regarded as a political question?

Mr. ALLISON. The Senator from Delaware [Mr. SAULSBURY] seemed to think this was a political question, and refrained from voting on that ground.

Mr. VOORHEES. My remark applies generally to the question. The PRESIDENT *pro tempore*. The Chair reminds Senators that debate is not in order.

Mr. EDMUNDS. The regular order, then.

Mr. VOORHEES. It is the most distant from a political question of anything I have known in this body.

Mr. DAWES. I am paired on political questions with the Senator from Connecticut, [Mr. BARNUM,] but if there is any doubt on it it must be determined by the Senator's colleague, [Mr. EATON,] Will he please indicate whether this is one of the questions on which I am paired with his colleague?

Mr. EATON. Certainly not.

Mr. DAWES. Then I vote "nay."

Mr. PADDOCK. As I cannot see exactly how this is a political question at all and as the Senator from Tennessee for many weeks has been making a struggle to get this bill up while in infirm health and has been giving way to others, myself among the number, as a matter of courtesy to him I shall vote "yea."

Mr. INGALLS. In case of any difference arising, it was agreed between the Senator from Virginia [Mr. WITHERS] and myself that his colleague [Mr. JOHNSTON] should be the umpire. If he thinks this is a political question, I will withhold my vote.

Mr. JOHNSTON. I should be sorry to consider this a political question. I do not so regard it.

Mr. INGALLS. I vote "nay."

Mr. JOHNSTON. I cannot put it on that ground at all.

Mr. CHAFFEE. My colleague [Mr. TELLER] is necessarily detained from the Senate to-day.

Mr. MAXEY. I have not voted. I do not regard this as a political question, and I vote "nay."

The result was announced—yeas 25, nays 25; as follows:

YEAS—25.			
Armstrong,	Dorsey,	Johnston,	Paddock,
Bailey,	Eustis,	Jones of Florida,	Randolph,
Bayard,	Garland,	Kernan,	Voorhees,
Beck,	Gordon,	Lamar,	Wallace.
Butler,	Harris,	McCreery,	
Coke,	Hereford,	McPherson,	
Conover,	Hill,	Morgan,	
NAY—25.			
Allison,	Conkling,	Maxey,	Sanders,
Anthony,	Dawes,	Mitchell,	Spencer,
Blaine,	Edmunds,	Morrill,	Wadleigh,
Burnside,	Ferry,	Oglesby,	Windom.
Cameron of Pa.,	Ingalls,	Plumb,	
Cameron of Wis.,	McMillan,	Rollins,	
Chaffee,	Matthews,	Sargent,	
ABSENT—26.			
Barnum,	Dennis,	Kellogg,	Sharon,
Booth,	Eaton,	Kirkwood,	Teller,
Brace,	Grover,	McDonald,	Thurman,
Christiancy,	Hamlin,	McKimmon,	Whyte,
Cockrell,	Hoar,	Patterson,	Withers.
Davis of Ill.,	Howe,	Ransom,	
Davis of W. Va.,	Jones of Nevada,	Saulsbury,	

So the motion was not agreed to.

ASBURY DICKINS.

The PRESIDENT *pro tempore*. The first case on the Calendar will be reported.

The CHIEF CLERK. The first case is the adverse report of the Committee on Claims on the petition of the legatees of Asbury Dickins.

Mr. CAMERON, of Wisconsin. There are quite a number of Senators absent from the Senate to-day who desire to be present when that matter is acted upon, and I therefore, although very reluctantly, enter an objection against its present consideration.

The PRESIDENT *pro tempore*. That case will be passed over, and the next case will be stated.

ORDER OF PROCEEDING.

Mr. ANTHONY. Under this order are not the resolutions first to be considered?

The PRESIDENT *pro tempore*. That has not been the practice of the Senate.

Mr. ANTHONY. I know it has not been the practice; but it seems to me the order literally reads so.

The PRESIDENT *pro tempore*. If there be no objection to taking up the resolutions as well as bills, that will be done. The Chair hears no objection, and that course will be pursued. The first resolution on the Calendar will be stated.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L.

PRUDEN, one of his secretaries, announced that the President had this day approved and signed the act (S. No. 691) to amend an act entitled "An act to provide for the sale of certain New York Indian lands in Kansas," approved February 19, 1873.

CREDIT OF THE GOVERNMENT.

The CHIEF CLERK. The first resolution on the Calendar is a resolution submitted by the Senator from Indiana, [Mr. VOORHEES,] on the 13th of December last, on the subject of the maintenance of the financial credit of the Government.

Mr. VOORHEES. I ask for a vote on that resolution.

The Chief Clerk read the resolution, as follows:

Resolved, That it is of the highest importance that the financial credit of the Government be maintained; and in order to do so, the Government itself, in all its departments, should in good faith keep all its contracts and obligations entered into with its own citizens.

Mr. VOORHEES. I submitted some remarks on that resolution on the 15th of January, and I presume every Senator is satisfied of the correctness of the proposition, and I therefore ask for a vote upon it.

Mr. MORRILL. As I do not fully understand the purpose of the resolution, and in order that it may be more carefully examined, I move that it be referred to the Committee on Finance.

Mr. VOORHEES. I prefer a vote upon the resolution. It is hardly worth while to refer it. I certainly shall never get a vote upon it if it goes to that committee of course. I think that is the design of the chairman of the committee. I call for the yeas and nays on the motion to refer.

The yeas and nays were ordered.

Mr. BECK. The motion is debatable, I believe.

The PRESIDENT *pro tempore*. It is debatable for five minutes under the rule.

Mr. BECK. Five minutes will be long enough for me. I am very much opposed to the resolution going to the Committee on Finance. On the 21st day of January I introduced a resolution which, after a good deal of antagonism, went to the Committee on Finance, I believe six weeks ago, for the simple purpose of ascertaining whether it was proper now to continue the present payment of the principal of the national debt or whether we could dispense with the collection of \$37,000,000 taxes, we being \$220,000,000 ahead now under any construction that can be put upon the sinking fund, with the agreement of three Secretaries of the Treasury that that was the fact. And yet, though the Committee on Ways and Means of the House were then considering the tariff bill, and the 17th of April has come, and it is impossible to determine what taxes ought to be imposed in order to carry on this Government, the Committee on Finance of the Senate have seen fit to withhold that resolution up to this day, without the slightest prospect of its ever being heard from that I can hear of. If that is to be the fate of resolutions sent to that committee, I shall oppose any other resolutions going to them until something can be heard from them upon resolutions as important as the one that was sent to them at their request when offered by me.

Mr. ALLISON. May I remind the Senator from Kentucky that the Committee on Finance this morning made a very important report on a matter which has been a subject of very great consideration in committee, and they will be ready now probably to take up the topic of the Senator from Kentucky, having finished the consideration of one important subject.

Mr. BECK. They have, I believe, since early in November had that matter under consideration; and now after these many months' incubation they have produced one measure, quite important I admit; but I suppose it could have been done in an hour just as well as in five months. However, I believe that there can be no step taken in the way of determining how taxes ought to be levied and the amount of taxes to be levied until we determine whether we are to provide \$37,000,000 to pay the principal of the public debt or not. Under all the circumstances, as they have withheld that so long, I think they have enough before them without taking this; this might be in the way of that; and therefore I hope it will not be sent to them, but that, as the Senator from Iowa says, they will have an opportunity now of considering that resolution.

Mr. KERNAN. Will the Secretary read the resolution pending?

The PRESIDENT *pro tempore*. The resolution will be again read.

The Chief Clerk read the resolution, as follows:

Resolved, That it is of the highest importance that the financial credit of the Government be maintained; and in order to do so, the Government itself, in all its departments, should in good faith keep all its contracts and obligations entered into with its own citizens.

Mr. KERNAN. I approve of the sentiment of this resolution; it is a mere truism, and therefore shall vote against the reference; but I must say, with all respect to my friend from Indiana, that I do not concur in the reasons he gave for the resolution. We differ as to them.

Mr. DAWES. I am quite willing to vote on the resolution, and I have no desire to have it referred to the Committee on Finance, though for a very different reason from that suggested by the Senator from Kentucky. I do not agree with the Senator from Kentucky in his quotation of the views of former Secretaries of the Treasury about the sinking fund; but I do not care to discuss that matter at this time. I think the Committee on Finance is not open to the criticism of the Senator; but I am in favor of the resolution submitted by the Senator from Indiana. I am one of those who are of the opinion that it is of the highest importance to maintain the

faith of the Government, and especially with all its citizens. I am quite in accord with the Senator from Indiana in the idea that it is high time that expression should be made by the Congress of the United States. The legislation of the last few months has led me to the conclusion that there is necessity for it on all hands and the people of the United States will be gratified to know that it is the opinion of the Senate of the United States, as well as of the House of Representatives, if this be put in the form of a concurrent resolution and be unanimously adopted by both branches, that it is of the highest importance to maintain the faith of the Government with all its citizens. When it can be firmly fixed in the minds of the people that the faith of the Government with its citizens in all of its contracts is to remain unchanged, whatever political vicissitudes or other changes may come over the people, the business of this country will revive, prosperity will be restored and invigorated.

I am quite ready to vote for the resolution of the Senator from Indiana; and he will allow me to say that I have been surprised that he has not called it up for action before, and insisted upon it, that the Senate should record itself upon a resolution so catholic and so sound as this is financially. I congratulate the Senator from Indiana upon the sound views on finance and the faith of the Government which he entertains as expressed in the resolution. I shall record my vote for the passage of the resolution and against its reference to any committee.

Mr. MORRILL. I merely suggested and moved that the resolution should be referred to the Committee on Finance because it seemed to be a financial topic. I was not aware that there would be any opposition to its reference but I see that the Senator from Kentucky is opposed to such a reference and for the reason that we have not considered one other proposition presented to the committee. Let me say to the Senator from Kentucky that the sinking fund is a complicated question, and it depends a good deal upon the legislation in relation to the duties on imports and taxes, with which the House of Representatives has the sole power of dealing in the first instance. As he has observed, the House is now engaged upon the subject of the tariff. If that should be so amended as to increase the revenues of the country so that we could dispense with the use of the sinking fund, it might then possibly be a question of economy, but it would still remain a question of good faith as to whether we can violate a solemn pledge of the country given heretofore that there should be a sinking fund every year appropriated to the extinction of the public debt.

But, Mr. President, upon looking at this resolution, as I see that it does not make any exception of any contracts or compacts on the part of the Government, not even saying that we shall disregard our pledge in relation to the sinking fund, I shall withdraw my motion for reference and not object to its passage.

The PRESIDENT *pro tempore*. The motion to refer is withdrawn, and the question recurs upon the adoption of the resolution.

Mr. VOORHEES. Mr. President, the resolution does not seek to disregard any obligation of the Government. On the contrary, it was offered for the purpose of enforcing the duty of a strict observance of all our contracts and obligations.

I rise more especially to thank the Senator from Massachusetts [Mr. DAWES] for the support which he gives this great financial measure offered by myself. It is not so often that the Senator from Massachusetts and myself find ourselves in accord upon financial questions that I should allow this opportunity to go by without emphasizing it by my hearty gratitude. The Senator's criticism that I should have called up the resolution sooner can be answered in this way: I hoped and prayed that the seed sown in January might spring up in certain minds and bear fruit. If I had looked upon the Senator from Massachusetts as somewhat barren and rocky soil and a little uncompromising in that regard my pleasurable disappointment is all the greater in finding that my hopes in regard to him have been fulfilled. The Senator will therefore see that I was right in giving some time for the rains to fall and the heats to come in order that the truth might fructify in his mind and bear the ample fruits which he has brought here to-day—the hearty accord between Massachusetts and Indiana—which I hope will not be lost upon other Senators, and that we may have more following the example of the Senator from Massachusetts.

I shall now ask a vote upon the adoption of the resolution, and I ask that the vote be taken by yeas and nays.

Mr. BAYARD. Mr. President, I hold it to be a matter of the least possible importance whether this resolution goes to the Committee on Finance or not. The resolution contains nothing but *brutum fulmen*; it is an empty, pointless declaration upon a subject in regard to which there can be I think no difference among Americans. Regarded as a mere declaration of an intention to sustain the public faith, regarded as a mere declaration that it is a duty to sustain it, what is it but a truism which no man will dispute?

I had supposed, Mr. President, and am still of opinion that this mere generalization in regard to the duty of Americans to sustain the public credit and to maintain public contracts, was introduced as a vehicle only for the elaborate and eloquent speech which we heard from the Senator from Indiana at the time he brought it before the Senate. Having served its purpose, I supposed that was the end of it, because there was no one to dispute the general proposition advanced by his resolution. To what end should it be referred? Is it

to be the subject of a bill? Are we to have a new repetition of those empty laws of 1869 to strengthen the public credit? Is the public credit to be sustained any more by empty words and vague expressions; or is it to be sustained by wise economies and honest legislation? No statute can be enacted to maintain the public credit. The maintenance of the public credit is best to be sustained by the hearts of the American people and by the votes which are cast here in the interest of true economy and in the strict maintenance of public faith.

It will be in vain to pass such vague, pointless resolutions and then to enact legislation right in their teeth, to make pledges solemnly before the country and then vote for their repeal or their amendment in such wise that they lose all the force for which they were intended. If in sober earnest it is desired to have a vote on the resolution, I apprehend that there will be no vote in opposition; that it contains that which every man's heart would echo readily. When you touch American credit, who is there that dares to say he is not its friend? Who is there who will not willingly say that he is its friend and maintain it?

Hence it strikes me that this resolution is, as I said before, mere *brutum fulmen*. It sails for point no-point, and it reaches no point. I hold it, therefore, as a matter of the slightest possible importance whether it be sent to the Committee on Finance or whether it is called up for present consideration. I did not believe the honorable Senator from Indiana cared for the passage of the resolution so much as that it might be the vehicle for the careful expression of his own views on this important matter. But if he desires a vote upon it, I apprehend he will find that there will be no opposition whatever to it but the approval of the sentiment, and I hope it will be more than the sentiment contained in the resolution.

Mr. VOORHEES. Mr. President, this resolution is on the Calendar; it is business before the Senate; and if the Senator from Delaware knows how to dispose of it except by acting upon it he is that much wiser than I am. Whatever may have been the purpose for which I introduced this resolution, at least it can be said for it that it is a truthful and faithful statement of a duty on the part of the Government, so strong as even to compel the acquiescence of the Senator from Delaware himself.

In regard to the harsh criticism which that Senator sees fit to indulge in, using terms not at all applicable, *brutum fulmen*, &c., and that the resolution is entirely pointless, I can only say that it has the misfortune to be introduced by me instead of by himself. Had it been introduced by him it would have been full of point; as it was introduced by me, it is pointless!

Passing that by, however, knowing in my simplicity and want of long service in this body no other way to dispose of a matter that is fairly and legitimately and honorably before the Senate except by action, I again ask for the action of the Senate upon the resolution.

Mr. BAYARD. I am very sorry that the Senator from Indiana supposed there was in what I said any possibility of disrespect to his motive in introducing this resolution. I said distinctly that which I do not think he will disavow, that he introduced the resolution simply as a vehicle for the expression of his opinions upon the general financial subject before Congress.

Mr. VOORHEES. I will say to the Senator frankly, I did; but at the same time, in offering the resolution, I enunciated what I conceived to be a great truth, which I proceeded to discuss as best I could, and which I consider not at all beneath the dignity of a Senator or the Senator from Delaware to consider and act upon.

Mr. WINDOM. I have only a word to say about this resolution. I regret that the Senator from Vermont has withdrawn his motion to refer it. Of course no one can vote against it. Everybody would say amen to the resolution, doubtless; but the fact that it seems to be considered necessary for the Senate of the United States to proclaim to the world that we intend to be honest hereafter, does not seem to me to be very much to the credit of this country. The man who always boasts of his honesty is always suspected; and the government that finds it necessary to deliberately pass a resolution proclaiming to the nations of the earth that it intends to be honest, it seems to me must feel that there is something in its past record which is dishonest. I do not believe that, so far as this Government is concerned. I think to pass the resolution would be to make an empty boast of our honesty that is beneath the dignity of the Senate of the United States; but yet to vote against it would be construed to declare that you did not indorse the principles contained in the resolution. I shall vote for it, as a matter of course, feeling that it would have been much better had the resolution not been voted upon at all. As the basis of the very able speech (there were some things about it I did not approve of) made by the Senator from Indiana it was well enough; but for a deliberate vote by the Senate of the United States I think it is not expedient.

I wish the Senator from Vermont had tried the question upon the reference to his committee, that we might not be compelled to vote either for or against the resolution. I believe this nation is honest; I believe it intends to be; I believe it has been. I believe there is nothing in its record that requires us to send forth to the world this empty declaration of our intended honesty in the future.

Mr. DAWES. A remark of the Senator from Minnesota makes it necessary for me to say a word more. If I supposed that the resolution was the basis of the very eloquent and able speech of the Senator

from Indiana, I certainly would not vote for it. I like the resolution a great deal better than the speech, able and eloquent as it was. I thought the speech would rest on almost anything better than it would rest on the resolution, because the resolution embraces sentiments so directly opposite to and in conflict with what I understand to be the drift and purpose of the speech that I hailed the opportunity of recording my name in support of the resolution in contradistinction from the speech itself. I want it distinctly understood that I do not vote for the resolution as the basis of any such speech, although I admit, as the Senator from Minnesota says, that the speech was of great eloquence, great power, and great ability, and as the Senator from Michigan [Mr. CHRISTIANCY] would say, "It was a marvel to see how ably a man could present the wrong side of a case."

Mr. MORRILL. Mr. President, I hope the Senator from Indiana will not ask for a yeas-and-nays vote. I think the vote will be unanimous on agreeing to the resolution, and we do not want to consume any more time on the subject. I merely add that I should hope the Senate would never send anything to the Committee on Finance for the purpose of having it smothered. It is the purpose of that committee, so far as I know, and of every member, that subjects referred to it shall receive proper attention, and with due diligence.

Mr. VOORHEES. An appeal from the Senator from Vermont is always very forcible to me; his kindness of disposition and manner both always impress me. At the same time, I think that I ought to insist upon a vote by yeas and nays. I do not agree with the Senator from Minnesota that it is not worth while to say that we will act honestly with our own people. In view of the record which we have made in our financial legislation, as I look at it, for some fifteen years past, it would not hurt us any to say that we are going to be honest hereafter, and then live up to it as nearly as we can. Therefore, I ask for a vote by yeas and nays.

Mr. BECK. Mr. President, I have the resolution before me now. The yeas and nays being called for, I shall be glad if they are ordered. I think the resolution goes a little further than the Senator from Massachusetts [Mr. DAWES] is inclined to believe. Its language is:

It is of the highest importance that the financial credit of the Government be maintained; and, in order to do so, the Government itself, in all its Departments, should in good faith keep all its contracts and obligations entered into with its own citizens.

I want to say to the honorable Senator from Massachusetts that there has been laid upon the table of the Committee on Appropriations of the Senate accounts certified to by the officers of the Government, approved by the Comptroller, approved by the Auditor, approved by the heads of Departments, and we are pressed every day for relief by men who say that they have in good faith complied with their obligations entered into with the Government, and yet for years the Government has refused to pay them a dollar. I understand this resolution says the Government ought to pay those men.

Mr. DAWES. Will the Senator tell me what he alludes to?

Mr. BECK. I allude to contracts made by quartermasters, contracts made for Army supplies all over the Southwest, and to certificates given by all the Departments of the Government to men, and yet the absolute refusal by Congress to appropriate a dollar to pay them when the written obligations are here and quartermasters and commissaries and everybody else certify to their truth, and heads of Departments are pleading that the claims ought to be paid. I tell the honorable Senator from Massachusetts that I am afraid the Government is very much in the condition of a man of whom a distinguished Senator told me the other day. Perhaps it ought not to be told, but it illustrates the condition of the Government. A gentleman from a distant State went to New York to buy a bill of goods. The house were anxious to sell, the man was anxious to buy, but in their anxiety to know something about him they telegraphed to their correspondent who happened to live in Kansas City, and he like a prudent man, desiring not to go beyond the ordinary dispatch of ten words, answered back at once in ten words as to what manner of man he was: "Bond good for any amount. Word not worth a —." It was not a continental, but it was an equally expressive word. I am afraid that is the condition of this Government now. With a bond uncommonly good, her word is very bad. This resolution says that the word shall be as good as the bond, and I want to vote for that.

Mr. DAWES. I understand the Senator to say that he thinks this resolution goes further than I am willing to admit. Does the Senator mean to say that he thinks from anything I ever said or did or voted that I would be opposed to the Government fulfilling any such contract as he has described? I do not understand that anything I ever said or did or voted is liable to such a construction. I am just as much of the opinion that it is the duty of the Government to pay any such contract as that, that it has entered into, as it is its duty according to the letter and the spirit to pay the \$2,000,000,000 that it borrowed to carry on the war. I do not think the faith of the Government to fulfill its contracts is measured at all by the amount of money involved in the contract. The Senator and myself have served upon committees on appropriations for many years, and there does not occur to me now any occasion on which he and I differed in those committees. The Senator has striven to the best of his ability, and that is saying a great deal, to see to two things in those committees—first, that the Government was never cheated, and second that the Government paid every such claim as that, which he believed to be

honestly and fairly due. That I feel great pleasure in according to the Senator in all his service upon the Committee on Appropriations where I have had any knowledge of it. If I have failed to do the same thing, it has not been from lack of disposition, but from lack of that ability which so distinguishes the Senator from Kentucky. No contract of this Government, however small, however implied as well as expressed, have I ever myself shrunk from fulfilling according to its letter and according to its spirit; and that is what I understand to be the meaning of the resolution of the Senator from Indiana. That is why I shall most cheerfully vote for it, and I am the more anxious to vote for it that any impression the last few months of legislation in Congress may have made upon the people in that respect may be effaced by an open and broad declaration of the determination now of this Government to maintain its faith with all its citizens and in respect to all of its obligations.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution, on which the yeas and nays have been demanded.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. HEREFORD, (when the name of Mr. DAVIS, of West Virginia, was called.) I desire to say that my colleague [Mr. DAVIS] has been called away. If he were present he would vote in the affirmative.

The Secretary concluded the call of the roll.

Mr. ARMSTRONG. My colleague [Mr. COCKRELL] is confined to his room by severe sickness. If he were here he would vote in favor of the resolution.

Mr. ALLISON. I think I ought to say in behalf of my colleague [Mr. KIRKWOOD] that if he were here I am sure he would vote in favor of this resolution.

The result was announced—yeas 42, nays 0; as follows:

YEAS—42.

Allison,	Conover,	Jones of Florida,	Patterson,
Armstrong,	Dawes,	Kernan,	Randolph,
Bailey,	Dennis,	Lamar,	Rollins,
Bayard,	Dorsey,	Macey,	Sansbury,
Beck,	Ferry,	McCree,	Sanders,
Booth,	Garland,	McMillan,	Voorhees,
Butler,	Gordon,	McPherson,	Wadleigh,
Cameron of Pa.,	Harris,	Morgan,	Wallace,
Cameron of Wis.,	Hereford,	Morrill,	Windom.
Clatfee,	Hill,	Oglesby,	
Coke,	Johnston,	Paddock,	

ABSENT—34.

Anthony,	Davis of W. Va.,	Jones of Nevada,	Sargent,
Burnin,	Eaton,	Kellogg,	Sharon,
Blaine,	Edmunds,	Kirkwood,	Spencer,
Bruce,	Eustis,	Matthews,	Teller,
Burnside,	Grover,	McDonald,	Thurman,
Christiancy,	Hamlin,	Merrimon,	Whyte,
Cockrell,	Hoar,	Mitchell,	Withers.
Conkling,	Howe,	Plumb,	
Davis of Illinois,	Ingalls,	Ransom,	

So the resolution was agreed to.

CHARGES AGAINST SENATOR BUTLER.

The PRESIDENT *pro tempore*. The next resolution on the Calendar will be reported.

The Chief Clerk read the following resolution, submitted by Mr. BUTLER December 15, 1877:

Resolved, That the Committee on Privileges and Elections be, and hereby is, instructed to inquire forthwith, and report as soon as may be, any threats, promises, or arrangements respecting existing or contemplated accusations or criminal prosecutions against any Senator, or any other corrupt or otherwise unlawful means or influences have been in any manner used or put in operation, directly or indirectly, by M. C. BUTLER, one of the Senators from the State of South Carolina, or by any other Senator or other person, for the purpose of influencing the vote of Senators on the question of discharging said committee from the consideration of said M. C. BUTLER's credentials, or the other question at the late session of the Senate; and that said committee have power to send for persons and papers and to sit during the sittings of the Senate.

Mr. HARRIS. I do not see the Senator from South Carolina [Mr. BUTLER] in his seat. I therefore ask that the resolution be passed over.

The PRESIDENT *pro tempore*. The resolution will be passed over.

ISLAND OF CUBA.

Mr. CONOVER. The next resolution on the Calendar is one offered by myself, requesting the President to communicate to the Senate certain information touching the surrender of Cuban insurgents and the future policy of Spain in the government of the Island of Cuba.

I ask to have it lie over for the present.

The PRESIDENT *pro tempore*. It will be passed over, and the next resolution will be reported.

REPEAL OF RESUMPTION ACT.

The CHIEF CLERK. The next resolution on the Calendar is one submitted by the Senator from West Virginia [Mr. HEREFORD] March 21, 1878, requiring the Committee on Finance to report the bill (H. R. No. 805) to repeal the resumption act, within one week, together with their action thereon.

Mr. ALLISON. That resolution has been complied with.

Mr. HEREFORD. The resolution has been complied with and there need be no further action taken on it.

The PRESIDENT *pro tempore*. What disposition does the Senator desire?

Mr. ALLISON. Let it lie on the table.

Mr. HEREFORD. It will lie on the table, I suppose.

The PRESIDENT *pro tempore*. That order will be made; and the resolution will lie on the table.

PENSIONS TO SOLDIERS OF MEXICAN WAR.

The next resolution on the Calendar was one submitted by Mr. VOORHEES, instructing the Committee on Pensions to report a bill making provision for placing the names of the surviving soldiers of the Mexican war on the pension-rolls.

Mr. VOORHEES. That resolution stands on the Calendar subject to the notice that I gave that I should call it up on the 30th instant, if the business before the Senate will allow, as I desire at that time to submit some remarks upon it.

The PRESIDENT *pro tempore*. The resolution will lie on the table until called up by the Senator from Indiana. This exhausts the resolutions on the Calendar. The first bill on the Calendar will now be taken up.

NORTHERN PACIFIC RAILROAD.

Mr. MITCHELL. I desire to give notice that on Monday next I shall ask the Senate to proceed to the consideration of the bill (S. No. 238) to extend the time for the construction and completion of the Northern Pacific Railroad and by a readjustment of the grants without increasing the appropriation to secure the construction of the Portland, Salt Lake and South Pass Railroad.

PENSACOLA AND LOUISVILLE RAILROAD.

The CHIEF CLERK. The first bill on the Calendar is the bill (S. No. 259) to revive and extend the provisions of an act approved June 8, 1872, granting the right of way through the public lands of the United States to the Pensacola and Louisville Railroad Company of Alabama.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. GORDON. I do not understand thoroughly the numbers of the sections named in this bill, and I do not know where the land lies. I understood the bill to call simply for a right of way, but from the reading of the bill I infer otherwise. If my friend from Florida will give me the information, I should like to know why this land is designated by a donation to the company when the company asks merely for the right of way?

Mr. JONES, of Florida. This land was selected under the act of 1872, valueless land, for the purpose of depots and machine-shops. It is nothing but pine land, lying adjoining to the line of the road between Pensacola and Selma, and was originally set apart by the act of 1872. Owing to the difficulties of procuring money since then, the road has not been built. The parties want to go on with the work, and the bill merely re-enacts the provisions of that act, giving the privileges originally conceded. It merely involves the grant of a few acres of land for the purpose of depots, side-stations, and switches.

Mr. GORDON. What is the aggregate amount?

Mr. JONES, of Florida. About five hundred acres altogether.

Mr. GORDON. On the whole line?

Mr. JONES, of Florida. On the whole line.

Mr. GORDON. How much at any one point, if I may inquire?

Mr. JONES, of Florida. I could not tell exactly, not having the map here. The map is on file in the Interior Department.

Mr. ALLISON. Oh, it is all right.

Mr. McMILLAN. I understand from the Senator from Florida that this bill merely extends the time of a former grant?

Mr. JONES, of Florida. That is all.

Mr. McMILLAN. And it makes no new grant or embraces no subsidy, or anything of that kind?

Mr. JONES, of Florida. None.

Mr. McMILLAN. It is the mere extension of the time for building the road. I presume the company have not been able to fulfill their original obligation, perhaps.

Mr. JONES, of Florida. That is all.

Mr. McMILLAN. And now they desire to go on. I see no objection to it.

Mr. GORDON. I do not wish to be understood as opposing the passage of the bill. I only want to understand, if I can, something about the location of this land. There is nothing, so far as I can see in the bill, which would indicate that the land is not in a solid body. If it is for depot purposes, it ought to have been scattered along the whole line of the road.

Mr. OGLESBY. The land is as much scattered as the depots are.

Mr. GORDON. I have no objection to offer to the bill. I only wished to understand how the land was located and how much there was of it.

Mr. MITCHELL. Did the original act grant more than the mere right of way?

Mr. JONES, of Florida. It is a mere right of way grant, to extend the provisions and privileges of the original act.

Mr. MITCHELL. What were the provisions of relief in the original act?

Mr. JONES, of Florida. The original act, the act of 1872 referred to, gave this land described here to the company for station-houses, switches, &c. This bill simply extends the provisions of that act.

Mr. MITCHELL. What amount of land was granted?

Mr. JONES, of Florida. Five hundred and eighty acres altogether, all piney-woods land.

Mr. MITCHELL. The time within which the right could be exercised under the law has expired?

Mr. JONES, of Florida. The time has expired.

Mr. MITCHELL. And this is simply to extend it?

Mr. JONES, of Florida. It is simply to extend the time.

The PRESIDENT *pro tempore*. The amendments reported by the Committee on Public Lands will be read.

The first amendment was to insert after the word "years," in line 7, the words "from the passage of this act;" so as to read:

That the act entitled "An act granting the right of way through the public lands to the Pensacola and Louisville Railroad Company of Alabama," approved June 8, 1872, be, and is hereby, extended for a period of five years from the passage of this act, with all the rights, powers, and privileges of that act.

The amendment was agreed to.

The next amendment was, after line 8, to insert:

Provided, That nothing in this act shall be so construed as to invalidate the claim of any actual pre-emption or homestead settler accruing between the expiration of the act of June 8, 1872, and the date of the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FRANCIS GILBEAU.

The next bill on the Calendar was the bill (S. No. 365) for the relief of Francis Gilbeau; which was considered as in Committee of the Whole. It appropriates \$3,701.67, to be paid to Francis Gilbeau upon his lodging with the proper officer of the Quartermaster's Department his receipt in full of his claims against the United States for the rent of houses and all damages to the same in Galveston and San Antonio, Texas, during the years 1865 and 1866.

Mr. SAULSBURY. Is there a report with the bill?

The PRESIDENT *pro tempore*. There is a report.

Mr. MAXEY. I ask that the report be read. That will explain the whole case.

The Secretary read the following report, submitted by Mr. MORGAN December 1, 1877:

The Committee on Claims, to whom was referred the petition of Francis Gilbeau, with the accompanying papers, submit the following report:

This claim is for the rent of certain buildings in San Antonio and Galveston, Texas, in the years 1865 and 1866, amounting to \$3,701.67.

The loyalty of the claimant is proven conclusively.

The occupation of the buildings by officers of the United States Government for legitimate and necessary Army purposes is clearly proven, and contracts were entered into by which the claimant was to receive a reasonable rental.

The demand for rent for the buildings in San Antonio was declared reasonable by a board of survey consisting of officers of the Army. The claim was presented to the proper officers of the Treasury, but was rejected on the ground that the location of the building was in a State lately in rebellion, and they were prohibited by law from paying it. It was also presented to the southern claims commission, and was rejected for want of jurisdiction.

It appears from the certificate of Captain Henry S. Clubb, assistant quartermaster and district quartermaster, that the United States Government rented a ten-room building in San Antonio of Mr. Gilbeau, on the 24th day of August, 1865, and returned possession of it to him on the 10th of December, 1865. It also appears that a board of survey, convened June 6, 1866, recommended that a rent be paid for the use of the same by the United States Government.

It appears from the proceedings of a board of survey, composed of Army officers, convened on the 25th of August, 1866, that a rent of \$400 per month was not "too much" for the use of the storehouse then rented by Gilbeau to the Government.

An affidavit of A. Fretellière shows that he, as agent of Gilbeau, agreed with Captain Henry S. Clubb, assistant quartermaster, that he (Fretellière) was to receive \$400 per month, or \$4,000 per annum, for the rent of the above-mentioned store-building.

A letter from General S. K. Mizner shows that a dwelling-house of Gilbeau was occupied for military purposes by officers of the United States Army on the 12th of October, 1865, with a "perfect understanding that a proper rent should be paid" by the United States Government.

A certificate from General S. P. Heintzelman shows that the dwelling of Gilbeau was used as headquarters by General Shaw, and afterward by himself in like manner, and that Gilbeau was to receive \$150 per month rent for the same, and that the building was thus occupied from the 9th day of May, 1866, to the 31st day of August of the same year.

An affidavit of A. Fretellière, agent of Gilbeau, shows that the dwelling was occupied on the 12th day of October, 1865, and from that time until the 1st day of September, 1866; that \$100 per month was the rent agreed upon from October 12, 1865, to January 1, 1866, and from that day he was to receive \$150 per month.

An affidavit of James P. Nash, agent for Gilbeau, shows that the building known as Gilbeau's building, situated on lot No. 10, block No. 680, in Galveston, was occupied for Army purposes by Captain Atwood, assistant quartermaster, on the 19th day of June, 1865, and continued to be occupied until the 28th day of August, 1865, and it was agreed that he was to be paid punctually by the Government. He states further that he never received any rent from the Government for the use of the building, and that the rent charged the Government was but little more than half the sum he received from it immediately after the vacation of the same by the Government.

The affidavits of Messrs. William M. Varnell and James A. McKee show that Gilbeau was loyal to the United States Government during the war and that he was compelled to leave his home in San Antonio because of his loyalty.

Your committee are of opinion that the claim of Francis Gilbeau should be paid, and report the accompanying bill and recommend its passage.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and read the third time.

Mr. SAULSBURY. Before the vote is taken on the passage of the bill I should be glad if the Senator from Texas would give us his views about the propriety of the bill; that is, as to whether the rent here charged is proper, if he knows personally about it. I should

much prefer to rely upon the personal knowledge of the Senator from Texas than upon the estimate of Army officers, if the Senator has any personal knowledge of the matter.

Mr. MAXEY. I very carefully examined the report of the Senator from Alabama [Mr. MORGAN] in this case, which I believe to be entirely correct. I put myself to the trouble to make inquiry not only in regard to the Galveston property but the San Antonio property; and I am entirely satisfied that the rent is reasonable and proper.

The bill was passed.

PRESENT TO CAPTAIN JONATHAN YOUNG.

The next business on the Calendar was the joint resolution (S. No. 8) authorizing Captain Jonathan Young, of the United States Navy, to accept a betel-nut box and a silver medal from the Emperor of Siam.

Mr. SARGENT. That and the class of measures on the Calendar similar to it I object to for reasons which I gave very much at length some time since.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) Being objected to, the joint resolution goes over.

INLAND WATER-ROUTE SURVEY.

The next bill on the Calendar was the bill (S. No. 263) to provide for a survey of an inland water-route and canal from the Mississippi River to the Atlantic Ocean.

Mr. CAMERON, of Wisconsin. The Senator from Florida [Mr. CONOVER] has charge of that bill, which he reported from the Select Committee on Transportation Routes to the Seaboard. I would prefer not to have the bill considered in his absence.

The PRESIDING OFFICER. The bill goes over, and the next bill will be reported.

RESERVED LANDS IN FLORIDA.

The next bill on the Calendar was the bill (S. No. 254) to retrocede to the State of Florida jurisdiction over lands reserved for a dock-yard, in the county of Escambia, in said State; which was considered as in Committee of the Whole. It retrocedes to the State of Florida all exclusive jurisdiction now vested in the Government of the United States over land acquired for dock-yards in the State of Florida, and annuls any deed or deeds of cession from the State of Florida, or any officer of that State, vesting exclusive jurisdiction in the Government of the United States over any of the territory of the State; but nothing contained in the bill is to be construed to take away or impair the jurisdiction of the Government of the United States over all land lying within the walls of the Pensacola navy-yard now occupied and used for naval purposes.

Mr. SARGENT. The bill ought to pass. It was reported unanimously from the Committee on Naval Affairs. It relates simply to ceding jurisdiction over a tract entirely outside of the Pensacola navy-yard, on which two villages have grown up. The people are very much embarrassed, not only on the question of voting, but on questions of taxation, &c., by this nominal jurisdiction.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

COLUMBIA RIVER SALMON FISHERIES.

The next bill on the Calendar was the bill (S. No. 492) for the protection of the salmon fisheries of the Columbia River.

Mr. MITCHELL. I ask that the bill be referred to the Committee on Commerce.

The PRESIDING OFFICER. It will be so referred, there being no objection.

EXTRA PAY TO SOLDIERS OF MEXICAN WAR.

The next bill on the Calendar was the bill (S. No. 376) for the payment to the officers and soldiers of the Mexican war of the three months' extra pay provided for by the act of July 19, 1848.

Mr. ALLISON. That is a very important bill. I see that the Senator from Texas, [Mr. MAXEY,] who has charge of it, is not in the Chamber.

The PRESIDING OFFICER. The bill will go over.

PROPOSED NAVAL OBSERVATORY.

The next business on the Calendar was the joint resolution (S. R. No. 16) authorizing the appointment of a commission of scientists to investigate and report upon the establishment and location of an additional national observatory.

Mr. SARGENT. Is that reported from a committee?

The PRESIDING OFFICER. It is not.

Mr. SARGENT. I move its reference to the Committee on Naval Affairs.

Mr. INGALLS. I understood the Senator from Nebraska, [Mr. PADDUCK,] who is not now in his seat, to say when he introduced this resolution that he desired to submit some remarks upon it.

Mr. SARGENT. Very well. I withdraw the motion to refer, and will let it go back on the Calendar.

The PRESIDING OFFICER. The joint resolution goes over.

WILLIAM B. WHITING.

The next bill on the Calendar was the bill (S. No. 647) granting a pension to William B. Whiting.

Mr. SARGENT. That I shall have to object to, in the absence of the Senator from Virginia, [Mr. WITHERS.]

The PRESIDING OFFICER. The bill goes over.

LAURENCE C. P. HASKINS.

Mr. ALLISON. And also the next bill on the Calendar, the bill (S. No. 413) to increase the pension of Laurence C. P. Haskins, which was reported from the Committee on Pensions by the Senator from Virginia, [Mr. WITHERS.]

The PRESIDING OFFICER. That bill also goes over.

LOW GROUNDS IN WASHINGTON.

The next bill on the Calendar was the bill (S. No. 542) to provide for the conveyance of the low grounds in the city of Washington, under the provisions of the act of Congress, chapter 96, approved May 7, 1822.

Mr. ALLISON. The Senator from North Carolina, [Mr. MERRIMON,] who reported the bill, is absent.

Mr. MORRILL. I must object to the bill.

The PRESIDING OFFICER. The bill goes over.

THOMAS A. WESTON.

The next bill on the Calendar was the bill (S. No. 148) to confirm the term, for the period of seventeen years from the date of its original grant, of the patent of Thomas A. Weston; which was considered as in Committee of the Whole. It declares the patent for improvement in pulleys, No. 67470, granted to Thomas A. Weston, August 6, 1867, for the term of seventeen years from that date, and reissued, No. 4971, July 9, 1872, to be in full force and effect for the term of seventeen years from the date of its original grant, namely, August 6, 1867, according to the terms expressed in the original grant.

The bill was reported from the Committee on Patents with an amendment, to add the following proviso:

Provided, That no one shall be held liable for any infringement of the patent during the period from the date of its lapse to the passage of this act, or for the use or sale hereafter of any specific devices embracing the patented invention, made within that period.

The amendment was agreed to.

Mr. SAULSBURY. Before the bill is passed, I should be glad if the chairman of the Committee on Patents would explain it. I do not understand it and I should like to have it explained so that I may vote intelligently upon the bill.

Mr. BOOTH. Mr. President, this bill differs from any other in regard to the extension of a patent that has ever been before the Senate. The facts are briefly these: In 1859 Thomas A. Weston, the inventor, filed his *caveat* at the Patent Office for an invention of differential pulley-blocks. That entitled him to a notice in case any other application for a patent claiming the same invention was filed within two years. In 1860 John J. Doyle filed an application for the same invention. No notice was given to Weston, and a patent was issued to Doyle. Sometime after that Weston filed an application for his patent under his *caveat* , and it was denied because the patent had before been issued to Doyle, without notice to him. Proceedings in interference were had three several times, and in 1867 the Commissioner of Patents decided that the patent was unjustly issued to Doyle and was really the property of Weston. In the mean time, Weston had taken out a patent in England. Under the law, when his English patent expired the life of his American patent would terminate. By the mistake at the Patent Office, he was deprived of six years and a half enjoyment of his patent.

That is not denied at the Patent Office now, and the only object of the bill is to give him the six and a half years of which he was deprived by the mistake of the Patent Office. It was shown to the committee that the invention was a very useful one and that the inventor has realized only about \$2,000. For that \$2,000 he has devoted sixteen years of his life. I think the bill guards the rights of all persons who innocently infringed on the patent during the time that it was suspended.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FORT HARKER RESERVATION.

The next bill on the Calendar was the bill (S. No. 26) to donate a portion of the military reservation at Fort Harker to the State of Kansas, for the establishment of an educational or charitable institution, and to open the remainder of said reservation to settlement; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of War be, and hereby is, authorized to transfer to the custody and control of the Secretary of the Interior, for disposition for cash, according to existing laws relating to the public lands, after appraisal, to the highest bidder, and at not less than the appraised value, nor at less than \$1.25 per acre, so much of the United States military reservation known as the military reservation of Fort Harker, in the State of Kansas, as the same was heretofore established by the proper authority of the Government, excepting any portion of said reservation as may have been granted to any settler under the act of Congress making donations of the public lands in Kansas to actual settlers. This act embraces and applies to sections 35 and 36, township numbered 16 north, range numbered 8 west of the sixth principal meridian, and embracing a portion of Fort Harker military reservation, and such building pertaining to said reservation as may be within said sections, or either of them.

Mr. MAXEY. I ask that the report in that case be read.

The Secretary read the following report, submitted by Mr. MAXEY on the 5th of February:

The Committee on Military Affairs, to whom was referred the bill (S. No. 26) to donate a portion of the military reservation of Fort Harker, Kansas, to the State of Kansas, respectfully report:

That the evidence is clear that said reservation is no longer needed for military purposes; in view whereof the committee recommend that said lands, named in said bill to be turned over to the State of Kansas, be placed in the custody and control of the Secretary of the Interior, for disposition, for cash, according to existing laws relating to the public lands, after appraisal, to the highest bidder, at not less than the appraised value nor less than \$1.25 per acre. (See act March 3, 1877, chapter 129, volume 19, page 406.)

The committee report the accompanying bill as a substitute, and recommend its passage.

Mr. MAXEY. I will give in a few words the theory upon which the majority of the committee acted. The precedent, as we understood it, in regard to reservations made by Congress should be followed by the committee. By reference to volume 19 of the United States Statutes at Large, page 406, the act approved March 3, 1877, in respect to the Dalles reservation, in Oregon, we found that the plan of the disposition of the property was precisely such as the committee recommend here. Having examined that precedent and remembering, as a number of the committee did, that the whole matter was under investigation in the Senate at that time and that the precedent in the Fort Dalles case was the deliberate result of consultation in open Senate, we thought it wise to follow that precedent. Therefore, the committee recommended the amendment as a substitute for the bill and instructed me to report it accordingly.

Mr. PLUMB. On behalf of the minority, in fact on my own behalf, being the only member of the committee who concurred in the views I presented, I submit an amendment. I ask that the amendment be read.

The CHIEF CLERK. It is proposed to amend the amendment of the committee by striking out all after the word "that," being the first word of the substitute reported, and insert:

The Secretary of War be, and hereby is, authorized and empowered to transfer to the custody and control of the Secretary of the Interior, for disposition under the homestead laws of the United States, the military reservation of Fort Harker, in the State of Kansas, as set apart and declared by the President, November 3, 1866: *Provided, That this act shall not be construed to have the effect to impair any rights of any person in or to any portion of said lands acquired under any of the laws of the United States; nor shall it be construed to impair any right that the State of Kansas may have acquired under any prior act of Congress to section 36 of said reservation for school purposes.*

Mr. PLUMB. This land lies on both sides of the Kansas Pacific Railway, in the County of Ellsworth, in the State of Kansas. By the act of admission of the State into the Union the State of Kansas was granted sections 16 and 36 in every township for educational purposes. One of those sections in this reservation, section 36, is a section to which this grant applies. Consequently the State would have the legal right to that section. In addition to that, the Kansas Pacific Railway Company, by the act of 1862 and subsequently by that or 1864, had a grant of the lands along the line of the road in alternate sections of odd numbers, within certain limits, embracing probably within their limits all the odd-numbered sections within this reservation, the reservation having been established subsequently.

The amendment which I propose differs from the bill of the majority of the committee in preserving first whatever legal rights may have attached prior to this time, either upon the part of individuals or others or upon the part of the State of Kansas, and second, it requires that this land shall be opened to homestead settlement instead of being sold at public sale or otherwise as the Secretary of War might direct.

The Senator from Texas has referred to the precedent which governed the committee. I am willing to admit that the precedent is correctly stated, and that perhaps it ought to have bound the committee; but I hold that that does not bind the Senate, because the precedent established by the Senate has been otherwise. In 1877, on the 3d of March, Congress passed a law providing for the reconveyance to the Government of certain lands which before that time had been granted to a railroad in the State of Kansas, these lands being located on the eastern border of the State and much more valuable than the lands within this reservation. In section 3 of that act it was provided that—

All of said lands so withdrawn and undisposed of shall be restored to market, by proclamation of the President of the United States, and opened to settlement and purchase under the homestead laws of the United States only.

By another act passed at the same session, certain lands which had been granted to the Leavenworth, Lawrence and Galveston Railroad Company were declared forfeited, and those lands were brought into market for disposal under the homestead laws only. Therefore the precedent, if there be a precedent at all which the Senate might be called on to follow, is in favor of the disposition of all public lands which are suitable for agricultural purposes, only on condition of settlement and not for speculation. The land embraced within the Fort Harker military reservation is land which is worth probably in the market about two dollars or two dollars and a half an acre, judging by the price at which railroad lands are being sold around it. It is one of the frontier counties of Kansas; it is in a section of country which six years ago was absolutely without settlement, a section of country which ten years ago was believed to be entirely beyond the pale of successful settlement; a section of country which was sup-

posed to be practically a desert. There is probably, according to the statements of parties living in that locality, which statements are in the possession now I think of the Senator from Texas—I believe I gave them to him—one hundred thousand acres of Government land within the limits of the same county in which this reservation is situated, which can be taken by homestead and pre-emption entry. There would seem, therefore, to be no reason why this land should be treated any differently from the manner in which the Government is treating already the lands which it owns within that same locality.

The PRESIDING OFFICER. The Senator has spoken five minutes.

Mr. MAXEY. The committee would have been very much gratified if they could conscientiously have complied with the request of the Senator from Kansas. Certainly the bill was commended as reported by the committee because they believed it to be right. The Senator from Kansas very properly and magnanimously concedes that we have followed the precedents. The State of Kansas, like all the Western and Northwestern States, received the sixteenth and thirty-sixth sections in each township for educational purposes. This was a reservation for military purposes for the benefit of the United States. When, therefore, it becomes necessary to sell this land, we thought the proceeds ought to go into the Treasury of the United States, and we have followed the precedent in a case precisely like it, discussed in open Senate, resisted by the then Senator from Oregon, Mr. Kelly, who took the same position that the Senator from Kansas now does. Popular as the then Senator from Oregon was, the Senate were compelled to decide the question against him and the act was passed to which I referred as a precedent upon which the bill as reported from the committee is based. I believe that the action of the committee was wise and that the substitute reported by the committee should be adopted.

Mr. INGALLS. Mr. President, I have not had the opportunity of examining this bill or the amendments that have been offered to it until within the last few minutes; but I am very strongly convinced that the proposition submitted by my colleague ought to prevail. If, as the Senator from Texas has stated, it has been customary heretofore when lands are no longer required for military purposes, to sell them for cash to the highest bidder, and to place the money in the Treasury of the United States, it is a custom that in my judgment would be

More honor'd in the breach than the observance.

There is no necessity for such action, and it ought now to be abandoned. When this land is withdrawn from the market it is not, as the Senator from Texas states, withdrawn for the purpose of benefiting the Treasury, but merely for the purpose of enabling it to be occupied for military purposes so long as the Government may need it for such objects; and when it is no longer needed for the military arm it reverts and becomes like any other portion of the public domain. This land, therefore, if it is no longer needed by the Government, should be treated exactly the same as if it had never been withdrawn, and should be disposed of, not for cash, but in accordance with the public land laws of the United States.

I would suggest, however, to my colleague that the proviso in his substitute is probably superfluous and had better be abandoned. If this land is made subject to disposition under the public land laws of the United States, then this statute of course could not under any circumstances operate to the injustice of any person who had acquired rights or to the rights of the State of Kansas to the sixteenth and thirty-sixth sections for school purposes. I do not myself see clearly, if this is a military reservation, how there could be any private rights existing in the land under and by virtue of any law.

Mr. PLUMB. I will state to my colleague that there is a patent issued to a quarter section of the land, on which a man has been living for many years.

Mr. INGALLS. If that is the case, this act could not affect his title; and therefore the proviso is unnecessary.

Mr. MAXEY. I will state to the Senator from Kansas that it will be noticed the rights of every one are specially reserved in the bill reported from the committee:

Excepting any portion of said reservation as may have been granted to any settler under the act of Congress making donations of the public lands in Kansas to actual settlers.

Mr. INGALLS. That is entirely unnecessary, because the Senator from Texas must be aware that if a settler is on that land under a patent legally issued this legislation would not interfere with him.

Mr. MAXEY. The Military Committee went into that and provided that if the settler had acquired an equitable right, that right, whatever it might be, should be reserved.

Mr. INGALLS. Certainly.

Mr. MAXEY. That is a very different thing from a legal title. We did that as a matter of justice.

Mr. INGALLS. That is just; but I understand in this case there is an actual outstanding legal title recognized by the Government of the United States.

Mr. MAXEY. There is a title, but I do not know whether it is legal or not.

Mr. INGALLS. Therefore the only act that should be passed, in my judgment, is simply one turning this reservation over to the Sec-

retary of the Interior to be disposed of in accordance with the public land laws of the United States. I hope that the suggestions of my colleague will prevail and that the Senator from Texas will not insist on departing from the usual method for the disposition of public lands. He certainly is mistaken in supposing that there is any peculiar quality about this land different from any other portion of the public domain. It has only been temporarily withdrawn for a specific purpose, and of course when that use is no longer necessary it must revert to the Government and should be disposed of as other public lands of the United States. I hope, therefore, that the substitute reported from the committee will not be agreed to, but that the amendment offered by my colleague will be adopted.

Mr. SAULSBURY. How much land is there in this reservation?

Mr. INGALLS. Ten thousand acres, I understand.

Mr. MAXEY. My experience in nearly thirty years' practice as a lawyer has taught me that it is always dangerous to depart from precedents, and they never should be departed from unless there is some manifest reason for the departure. I have already stated that the bill which was reported follows the precedent adopted by Congress.

Mr. INGALLS. Will the Senator allow me a moment?

Mr. MAXEY. Let me first read a clause from the former act. This is the act approved March 3, 1877, chapter 129, volume 19, of the Statutes at Large:

That the Secretary of War be, and hereby is, authorized to transfer to the custody and control of the Secretary of the Interior, for disposition for cash, according to existing laws relating to the public lands, after appraisement, to the highest bidder, and at not less than the appraised value, nor at less than \$1.25 per acre, so much of the United States military reservation known as the Fort Dalles military reservation.

Such was the precedent. Now, to show whether the committee has departed from that, I will read the amendment of the committee:

That the Secretary of War be, and hereby is, authorized to transfer to the custody and control of the Secretary of the Interior, for disposition for cash, according to existing laws relating to the public lands, after appraisement, to the highest bidder, and at not less than the appraised value, nor at less than \$1.25 per acre, so much of the United States military reservation known as the military reservation of Fort Harker.

Almost *verbatim*, changing names. If the committee has been misled in this report, then the Senate and the Congress of the United States misled the committee by setting a bad precedent. I believe the precedent to be wise; I believe the committee was right in following it; and I therefore insist that the amendment of the committee be adopted.

Mr. PLUMB. I should like to have the indulgence of the Senate for a few moments on this matter, though I have spoken once.

The PRESIDING OFFICER. The Senator from Kansas asks unanimous consent to proceed. The Chair hears no objection.

Mr. PLUMB. The Senator from Texas pleads one precedent, and, as I admitted when I was on my feet before, that was a precedent which might well govern the committee; but it is not a precedent which ought to govern the Senate, and it is not a precedent of the Senate. The Senator takes up the case of the Fort Dalles reservation and makes that a precedent on which he seeks to predicate this action. The fact is the Fort Dalles reservation was a tract of land of about four hundred acres adjoining a town of about four thousand inhabitants. It would therefore have exceptional value, and it might be said to have value beyond the value that it had for agricultural purposes. Consequently there is no comparison between the two cases as a matter of fact.

At the same session of Congress, however, Congress did in the State of Kansas in two cases open lands to homestead settlement only, which were greatly more valuable than these lands under consideration, worth more than twice as much per acre, and as I think in pursuance of a wise policy of consecrating the public domain to settlement only, and not permitting it to be the object of speculation.

The State in which I live and which I have the honor in part to represent on this floor has a very deep interest in the keeping up of this precedent; that is to say, the precedent of the disposition of lands to settlers only. That State has been, I venture to say, more cursed with land speculation or speculation inaugurated and carried on under the auspices of the General Government than any other State in the Union. In the beginning, many years before it was even organized as a Territory, fifteen or twenty tribes of Indians were located there and given large reservations, all of which were subsequently sold to speculators and hardly an acre to settlers. In 1858, shortly after the surveys in the Territory had been completed, before there had been any opportunity for settlers to come in and avail themselves of the pre-emption laws then prevailing, the then President of the United States offered the great body of the lands in Kansas to sale at public auction, and, they not being sold, as of course they never are, they immediately became subject to private entry, and more than one-half of the portion of the State now inhabited was then plastered all over with land warrants. For that very reason the population that to-day is going into the State at the rate of two thousand people a day has to go west of a point two hundred and fifty miles from the eastern border of the State in order to obtain Government land. Eight hundred thousand people in the limits of that State to-day ought to be compressed within the first one hundred and fifty miles from the eastern border and would have been so compressed if it had not been for this system of speculation indulged

in by the General Government whereby the lands, instead of being given to settlers, were taken up by men who held land warrants and agricultural-college scrip and men who were able to buy them at \$1.25 per acre, take them out from sale, and keep them for speculative purposes.

This only affects a matter of ten thousand acres of land; but it would become under the effect of the amendment which I have offered the homes of a hundred and twenty-five or a hundred and fifty families. If it is sold at public sale it will go into the hands of two or three different persons, and will remain there an eye-sore to the people of that locality for years and a reproach and a reflection on the Government of the United States, which has withheld it from those people all over that section of country who want these lands and are going there for the purpose of getting them.

There is no reason, as my colleague has well said, why this particular tract of land should be made an exception to all the other public lands of the United States. The Government at the time this tract was withdrawn in 1866 for military purposes was establishing posts upon that frontier for its protection. This was simply temporarily withdrawn; and as soon as the Government was through with it the Secretary of War recommended that it should be restored, and Congress by its tardiness has not yet acted on that recommendation; but the land which the Government owned in that locality is just as good as this land is, and being within railroad limits no settler can get more than eighty acres. I hope the Senator from Texas does not begrudge the people who are going into that section of country the poor privilege of taking eighty acres of land on condition of settlement.

That is the issue presented by these two amendments, the amendment of the committee and the amendment which I have offered. The single and sole and only question is whether this land shall be devoted to speculation or whether it shall be devoted to settlement. It has been practically the policy of the Government ever since the act of 1841 to give the public land only to settlers. There has been introduced a policy to some extent of aiding railroads by grants of land, which has been pernicious in its effect, and I venture to say that in twenty years from now we shall look back to that system of granting lands to railroads as the most pernicious of all the legislation that has ever been enacted by Congress. So far as I am concerned, never while I hold a seat on this floor will I vote away one single acre of public land valuable only for agricultural purposes to be given to anybody, except on condition that it shall be settled.

As I said, this is comparatively a small tract of land, and every single tract of land that you withdraw from settlement, every single tract of land that you thus devote to speculation simply compels the people who are going into that country, who want to go there, whose interest it is to go there, and whom this Government is interested in having go there, to go much further out on the confines of the border, out upon what was regarded and is now for some purposes you might say a desert, the extreme frontier. It is their privilege, it is their right, it is in conformity with the precedents established by Congress, and which have been departed from only in the case I have named, to keep these lands for that purpose; and the fact that the Government used a portion or all of this land for military purposes for four or five years is no reason at all why it should now say, having so used them itself and having thus kept them from settlement, it will proceed to sell them to speculators rather than to settlers.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Kansas to the amendment of the Committee on Military Affairs.

Mr. CHAFFEE. I should like to have the amendment to the amendment reported.

The CHIEF CLERK. It is proposed to strike out all of the amendment of the committee and to insert:

The Secretary of War be, and hereby is, authorized and empowered to transfer to the custody and control of the Secretary of the Interior, for disposition under the homestead laws of the United States, the military reservation of Fort Harker, in the State of Kansas, as set apart and declared by the President, November 3, 1866: *Provided*, That this act shall not be construed to have the effect to impair any rights of any person in or to any portion of said lands acquired under any of the laws of the United States; nor shall it be construed to impair any right that the State of Kansas may have acquired under any prior act of Congress to section 36 of said reservation for school purposes.

Mr. PLUMB. On the suggestion of my colleague, I will withdraw the proviso. It probably, as he says, has no legal effect; but at the same time I thought it was wise to make a legislative recognition of the fact that there might be rights there which it was not expected to impair.

The PRESIDING OFFICER. The Senator withdraws the proviso. The amendment will be so modified.

Mr. MORRILL. We have a great many military reservations which have become exceedingly valuable. Now, the question is whether they ought to be sold by the Government for the most that they will bring, or whether they shall be put into the market for a dollar and a quarter an acre.

Mr. MITCHELL. I understand that this goes further than that—opens this land to homestead settlers exclusively. The amendment would not permit any portion of it to be sold for any price whatever.

Mr. PLUMB. No, sir. The design of the amendment is that this shall go to settlers and to settlers only.

Mr. MORRILL. Then it would open the door to a scramble. The

first person who reached it would obtain eighty acres or one hundred and sixty acres, or whatever the amount may be, worth a great deal more than any other eighty acres or one hundred and sixty acres in the whole nation perhaps.

Mr. PLUMB. There is not an acre of that land—the Senator from Texas has some papers which I had on that subject—that is worth probably \$2.50 an acre. Certainly no considerable portion of it is worth over that.

Mr. CHAFFEE. I desire to ask the Senator in charge of the bill or the Senator from Kansas what is to become of the Government improvements. There must be Government improvements there worth a good deal of money, perhaps.

Mr. PLUMB. The Government improvements have gone the way of other portable things a long time ago.

Mr. CHAFFEE. Are there no buildings?

Mr. PLUMB. There are the remnants of the old walls of some temporary buildings put up at the time the Government occupied it; but the Secretary of War told me distinctly that there was nothing there that the Government took interest enough in to consider of value. It is probably nothing. Let me say in response to the suggestion of the Senator from Vermont—

The PRESIDING OFFICER. The Senator proceeds by unanimous consent.

Mr. PLUMB. If this was a reservation that was valuable for anything but agricultural purposes, the point of the Senator from Vermont would be well taken; but here is a reservation entirely out on the frontier. It is true there would be a grab, a controversy as to who should get the land; of course there would be a rush there; there always is when you open a new piece of land. It will be so when you open the Indian country. When you open a new tract of land there is always a rush for it. How much better to let that rush be by men who want to build up homes for themselves and make communities than by men who want to hold it for speculative purposes and compel emigration to go beyond it. This land is two hundred and fifty miles from the eastern border of my State. It is in that section of country, as I said before, which ten years ago was a desert. It is a section of country that has been snatched from a desert.

Mr. CHAFFEE. Does the bill require the settler to conform to the homestead laws?

Mr. PLUMB. Certainly; it requires him to live on the land five years; my amendment does. The prosperous, happy community that shall grow up on this land is worth a thousand-fold more than all the money the Government would get out of it.

Mr. MAXEY. The committee wanted to follow the general law, and so provide; the Senator from Kansas wants to vary from that and make it follow a specific law, the homestead law.

Mr. PLUMB. The Senator from Texas is mistaken. The committee's amendment is to sell to the highest bidder for cash.

Mr. MAXEY. According to the laws in force for the sale of public lands.

Mr. PLUMB. To the highest bidder for cash, but not to the settler.

Mr. MAXEY. According to existing law, without specifying the size of the tracts. The proposition of the committee is to follow the existing law.

Mr. MORRILL. I am disposed to be exceedingly liberal in relation to all the public lands; at the same time it seems to me we ought not to adopt anything that will be construed into a dangerous precedent. As we have a great many of these reservations, whatever we do in relation to one we ought to do in relation to all when all or any portion of them shall be abandoned. It does seem to me that there may be men who are living off five or ten miles farther from these lands than those who live adjacent, who have clearly just as good a right and as much title to come in and have a chance at this grab-bag as those who live nearer. I think, therefore, it is safer to follow the bill as reported by the committee.

The PRESIDING OFFICER. (Mr. MITCHELL in the chair.) The question is on the amendment of the Senator from Kansas [Mr. PLUMB] to the amendment reported by the Committee on Military Affairs.

Mr. OGLESBY. It seems to me that there ought to be no serious objection to the amendment proposed by the Senator from Kansas. This, if it is anything in the world, is purely agricultural land. It is in a remote portion of the State of Kansas. The policy of this Government has for years been, over and over and over again, expressed in favor of appropriating the remainder of the agricultural public lands to actual homestead settlers. The Government of the United States is not seeking for the future to make money out of the public lands. Its policy, better defined than it is upon almost any other question of the same magnitude, is that the people of the East and West may move upon, occupy, and improve the public lands. That is worth more to this country than the money that any land will ever bring.

Here is a military reservation about to be abandoned. It is away out West in the State of Kansas, a long distance off, in the midst of an agricultural people. Why should not the Senate say that it shall be reserved for actual occupation by the homestead settler, rather than that you or I or any Senator or any citizen may have the right to go and bid on it and that that amount of money may go into the Treasury and the person purchasing it shall afterward hold it to be sold to an actual settler at an increased price? So far as the Gov-

ernment is concerned, its ends will be absolutely attained by reserving the land for homestead settlers. When the actual settler shall occupy that land there will be a little strife, there will be a little animation about it, but some one will get upon it; and what is more, if this reservation shall be specifically appropriated for actual settlement every man who will then settle will be a homestead settler who will actually occupy the land; and why? Because those who seek to get the favor and fail will see to it that the man who does pretend to take it shall absolutely take it in good faith. There can be no possible cheating about it. There can be no possible benefit or gain about it. He will go upon the land, make his filings, take the steps under the statute required of the honest settler on the land, and the Government can possibly lose nothing by it. It is far better to make this disposition of it than any other; far better to say now that all the few remaining acres of the public domain that are fit for actual cultivation, for agricultural purposes, (for it would astonish the Senate as it would astonish the country to know the very limited amount of the agricultural lands left under the control and gift of the Government,) shall be reserved for homestead settlers. The lands that are agricultural farm lands, fit for agricultural purposes by the annual rain-fall, are nearly all gone.

The PRESIDING OFFICER. The Senator has spoken five minutes.

Mr. OGLESBY. I suppose no one can have any objection to my going on. ["No; go on."]

The PRESIDING OFFICER. The Senator from Illinois asks unanimous consent to proceed. The Chair hears no objection.

Mr. MAXEY. We ought not to extend the time. We are delayed by it. I have not asked to have my time extended, though representing the committee.

Mr. OGLESBY. I think the objection of the Senator from Texas is well taken, and I will make no further remark on the subject than that I hope the amendment of the Senator from Kansas will prevail.

Mr. McMILLAN. I concur with the remarks made by the chairman of the Committee on Public Lands, who has just taken his seat. He seems to be very familiar with the correct policy of the Government, as it strikes me it should be.

The value of these lands, we are informed by the Senator from Kansas, will not exceed \$2.50 per acre. Under these circumstances the Government cannot lose anything, because the benefit conferred upon the Government by the actual settlement upon the lands by such settlers will certainly be equivalent to any difference between the minimum price of the public lands and this increase in nominal value. The settlers going upon these lands must comply with the terms of the homestead law. A residence of five years must ensue upon their settlement upon these lands. Now, if they are willing to go there and comply with the provisions of that law, it seems to me they should have the opportunity of doing so here. If these lands were of very great value, if they could be sold in market for a very large sum, a different question would be presented; but that is not the case. It seems to me that the Senator from Kansas has presented an amendment that should meet with adoption in the Senate. For my own part, I concur in the views expressed in favor of the amendment and shall support it.

Mr. CHAFFEE. I agree with the remarks made by the chairman of the Committee on Public Lands, but I think the amendment ought to be amended by adding, after "homestead," the words "or pre-emption;" so that a settler can obtain these lands under existing laws by pre-emption or homestead. Let a settler take up eighty acres of the land under either the pre-emption or the homestead law, and do not require him to remain there five years provided he prefers to enter the land under the pre-emption law. I therefore make that motion if it be in order.

The PRESIDING OFFICER. It would not be in order at this time.

Mr. CHAFFEE. I hope the Senator from Kansas will accept the amendment I have suggested.

Mr. INGALLS. Would it not be better to say "public land laws of the United States?"

Mr. PADDOCK. I should like to inquire if the general law authorizing homestead settlers to pre-empt would not be applicable in this case?

Mr. CHAFFEE. I do not know whether it would or not. The amendment to the amendment, as I understand it, confines the settler to the homestead laws. I desire to change that so that he can take the land under the existing pre-emption or homestead laws, as he sees fit.

Mr. PLUMB. While it does not meet the conviction I have as to the manner in which public lands should be disposed of, or only partially, at the same time I am willing to consent to that amendment; that is to say, that the land shall be sold for homestead or pre-emption purposes.

The PRESIDING OFFICER. The Senator from Kansas modifies his amendment in that respect. The question is on the amendment to the amendment as thus modified.

Mr. PADDOCK. I desire to state that the last precedent made by Congress in reference to the disposition of military reservations of this character was made in my State, and it was made exactly in the direction which the amendment of the Senator from Kansas proposes. It was thought to be wise then, with respect to the reservation to which I allude, that it should be opened only to actual settlers; and

so the law was framed in that way. I should like to inquire of the Senator from Kansas if this reservation is remote from a town or contiguous to a town?

Mr. PLUMB. It is about four miles from a town of about seven hundred people. Mr. President, we are talking about this land out there when if anybody had asked the Congress of the United States ten years ago for it, they would have given it to him almost for nothing. It is simply a section of the country snatched from the desert.

Mr. PADDOCK. The land is undoubtedly comparatively valueless, and if it should be sold by the Government to the highest bidder it would pass into the hands of one or more speculators, who might hold it for a term of years and out of it make something of a speculation. The amount the Government would realize from it would very poorly compensate the Government for the loss of settlement that would surely be secured if the bill should pass in the form proposed by the Senator from Texas. It is actual settlement and development of the country that we want. Whenever a reservation of this kind can be disposed of, and through its disposition the actual settlement of a district of country can be secured and a tax-paying people can be placed there, it is to the interest of the Government and every person in the country, wherever he may be located, that it shall be done.

Mr. WADLEIGH. Mr. President, as a member of the Committee on Military Affairs, I join in the report made by that committee which has been read to the Senate. I believed that report to be right, and I support it now, and for two reasons. In the first place, it is a well-known fact that there are many military reservations, and that the land comprised in those reservations has become much more valuable than the land subject to the public land laws of the United States. I think that in this case the impression left on my mind by what took place in committee was that there were upon this land buildings of some considerable value. I know it has been stated to the contrary; but my impression was, at the time of making this report, that there were upon the land buildings of considerable value.

Now, Mr. President, it is unjust that this land, which has become much more valuable than land which is now subject to the land laws of the United States, should be seized by those who happen to be nearest to it, or rather by those who have the means to know quickest what passes in Congress, because of course they are the men who can take it, the men who first know that Congress has passed this bill and that it has become a law. I say it is unjust that they should have this land to the exclusion of anybody else. And then, in my judgment, it is unwise and impolitic to establish in this case a precedent which will to some extent hereafter bind Congress to give the military reservations of the United States in the same way that the public lands are given, although those reservations have become in the course of years while occupied as such immensely more valuable than the other public lands. I do not believe in this giving a gratuity to those persons who have facilities for knowing what our legislation is, and that, it seems to me, is what is asked for in reference to this bill.

Mr. PLUMB. Let me say to the Senator from New Hampshire, who is afraid that somebody will get some advantage out of this, and it seems to be the eye-sore generally in regard to this bill, that under the existing laws no portion of this land can be taken and no right acquired under it until the President of the United States shall have issued his proclamation giving ninety days' notice that the land will be open for settlement. There is no snap judgment about it. But further, suppose these lands are worth more. They are not in point of fact. I had some papers, which I gave to the Senator from Texas, but which he has not here at present, from the commissioner of the land office of the Kansas Pacific Railroad—

Mr. MAXEY. I will state to the Senator that I left those letters in the room; and whatever statement he makes as contained in those letters I will accept cheerfully.

Mr. PLUMB. And from the register and receiver of the land office of the district where these lands are, showing that there are one hundred thousand acres of Government land now within the limits of the same county unbroken. The value of similar land to this in that county varies from two to three dollars an acre. When you get outside of the railroad limits—and the value of lands grows largely out of the fact of their being in proximity to railroads—a settler can take a quarter section of land, but within the railroad limits he can take only eighty acres. This being within the railroad limits, a settler never can get more than eighty acres. Now, if gentlemen are afraid that some poor settler is going to have more land than he ought to have, more land than he needs in order to support his family, limit it to forty acres; but I say to-day that there is not a military reservation in the United States that I would not be perfectly willing should be cut up and given to actual settlers in some quantity; if it is near to a town give them an acre or five acres; and I say it would be the best possible disposition that could be made of them. But there is no precedent of that kind that can be established here.

And by the way, I might call the attention of the Senator from New Hampshire to the fact that the Military Committee at a later meeting authorized me to report, which I did report, a bill placing the Fort Fetterman military reservation, then proposed to be abandoned by the Government, in precisely the same category, and the bill has passed the Senate.

The PRESIDING OFFICER. The Senator from Kansas proceeds by unanimous consent.

Mr. PLUMB. It seems to me we are establishing no precedent about it, because Congress all the time is competent to take into consideration the exceptional cases and govern itself accordingly.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Kansas to the amendment of the Committee on Military Affairs.

The question being put, there were on a division—ayes 13, noes 15—no quorum voting.

Mr. MAXEY. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 24; as follows:

YEAS—19.

Allison,	Chaffee,	Mitchell,	Plumb,
Armstrong,	Conover,	Morgan,	Kollins,
Blaine,	Inglis,	Oglesby,	Sargent,
Booth,	Kellogg,	Paddock,	Saunders.
Cameron of Wis.,	McMillan,	Patterson,	

NAYS—24.

Palley,	Coke,	Johnston,	Maxey,
Bayard,	Conkling,	Kernan,	Morrill,
Beck,	Edmunds,	Lamar,	Saulsbury,
Burnside,	Garland,	McCreery,	Spencer,
Butler,	Gordon,	McPherson,	Voorhees,
Cameron of Pa.,	Harris,	Matthews,	Wadleigh.

ABSENT—33.

Anthony,	Dorsey,	Howe,	Te'ler,
Barnum,	Faton,	Jones of Florida,	Thurman,
Bruce,	Eustis,	Jones of Nevada,	Wallace,
Christiancy,	Ferry,	Kirkwood,	Whyte,
Cockrell,	Grover,	McDonald,	Windom,
Davis of Illinois,	Hamlin,	Merrimon,	Withers.
Davis of W. Va.,	Hereford,	Randolph,	
Dawes,	Hill,	Ransom,	
Dennis,	Hoar,	Sharon,	

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment proposed by the Committee on Military Affairs.

Mr. PLUMB. I desire to offer an amendment providing that this land shall be sold only to actual settlers.

Mr. PADDOCK. I should like to have the bill read as it now stands.

The PRESIDING OFFICER. The Senator from Kansas is preparing an amendment.

Mr. PLUMB. My amendment is reduced to form. It is to add to the amendment of the committee:

Provided, That no portion of such land shall be sold except to actual settlers, and not more than eighty acres to any one person.

Mr. SAULSBURY. It strikes me that that would be an alteration of the policy which has been pursued by the Government in reference to the sale of the public lands. I do not see how the Interior Department and those charged with the sale of these lands are to determine who are actual settlers. There can be no settlers on these lands until after the settlement is made. How is the Secretary of the Interior or the person charged with the sale of the lands to ascertain whether he is making a sale to an actual settler or not? I think it better to follow the general policy which has been pursued in reference to the sale of public lands, or else not pass the bill at all. We had better pass it just as it is, or else follow the general rule which obtains in cases of that character. I hope this amendment will not prevail.

Mr. MAXEY. I trust the amendment now offered may not be adopted. So far from improving the theory upon which the committee's amendment is based, it is in direct opposition to it, it seems to me. I cannot understand how there can be an actual settlement on this land, outside of the equitable claim which is preserved by the bill, by any one except a trespasser; and thereby you give the wrong-doer an advantage over the man who has kept away from the public lands. It seems to me the only true policy is to pursue the theory laid down by the committee's amendment and put up the land and let it be sold.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas to the amendment of the committee.

A division was called for.

Mr. PLUMB. I desire to say that this brings it down to this one point, whether we are willing that the actual settler shall have this land or not. Of course, if the Senate wants to vote the other way, I have nothing to say; but it seems to me, after we have accomplished the object of the Senator from Vermont and others who have spoken of getting money, we ought at least to be willing the land shall go to the actual settlers and not to speculators.

Mr. CAMERON, of Wisconsin. I have been, perhaps, negligent about this bill, but I desire to inquire of the Senator from Kansas whether the bill provides that the land shall be sold at public auction.

Mr. PLUMB. At public auction, to the highest bidder.

Mr. CAMERON, of Wisconsin. But to actual settlers. I do not understand exactly how that can be done.

Mr. PLUMB. It has been done. The Delaware Indian reservation, a large portion of it in my State, was sold precisely in that way to settlers only and to the highest bidders. If there is any better way of accomplishing it I have no objection.

Mr. CAMERON, of Wisconsin. How do you propose to ascertain whether or not they are actual settlers?

Mr. PLUMB. The Secretary of the Interior, as in all other cases, makes the rules necessary for the disposal of the public land. No law we pass provides the machinery of doing it; but the Commissioner of the General Land Office, under the direction of the Secretary of the Interior, always applies the rules.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas to the amendment of the committee.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment proposed by the Committee on Military Affairs.

The amendment was agreed to.

Mr. PLUMB. Mr. President, I object to the further consideration of the bill.

The PRESIDING OFFICER. The objection is in time under the rule.

Mr. SAULSBURY. Do I understand the Chair to say that the objection now made by the Senator from Kansas is in time?

The PRESIDING OFFICER. The Chair understands the order adopted by the Senate to provide that an objection may be made at any time.

Mr. MAXEY. Acting in perfect good faith in this matter, I have no feeling on earth about it; but it is entirely clear that the Senate is in favor of the report as made by the committee. Now it does seem to me—

The PRESIDING OFFICER. The Senator can proceed only by unanimous consent, objection having been made to the further consideration of the bill. Is there objection?

Mr. OGLESBY. I shall not object.

The PRESIDING OFFICER. The Chair hears no objection to the Senator from Texas proceeding.

Mr. MAXEY. It does seem to me, Mr. President, that after we have arrived at this period—

Mr. PLUMB. I have objected to the consideration of the bill. I do not object to the remarks of the Senator from Texas. I object to the further consideration of the bill.

Mr. SARGENT. If we really cannot go on with the bill, I trust the Senator from Texas will at once acquiesce.

Mr. MAXEY. I trust, in view of this style of proceeding, that I shall never have another Kansas bill in my charge.

The PRESIDING OFFICER. Objection having been made, under the order of the Senate the bill goes over. The Secretary will report the next bill on the Calendar.

Mr. MAXEY. I rise to ask for information, does the objection continue the bill until to-morrow, or what is the effect?

The PRESIDING OFFICER. The effect is to permit the bill to hold its place on the Calendar.

Mr. MAXEY. A man can contest his case until he finds he is going to lose it and then object!

The PRESIDING OFFICER. That seems to be the construction.

Mr. PLUMB. I will say to the Senator from Texas that the design I have now in objecting to the further consideration of the bill is that I wish to propose another amendment that I am not prepared now to offer. I think that is the better way of getting at it than to proceed further now.

The PRESIDING OFFICER. If the Senator from Texas desires to understand the ruling of the Chair, the Chair will read the resolution.

Mr. MAXEY. It seems to me so inequitable that I cannot understand it.

The PRESIDING OFFICER. The resolution adopted yesterday reads as follows:

Resolved, That on Wednesday next, at one o'clock, the Senate will proceed to the consideration of the Calendar, and continue such consideration from day to day until the same shall have been gone through with; and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once, and for five minutes only, unless, upon motion, the Senate should at any time otherwise order; and the objection may be interposed at any stage of the proceedings; and this order shall take precedence of special orders or unfinished business, unless otherwise ordered.

Mr. MAXEY. But it says "unless the Senate should at any time otherwise order." Now cannot the Senate pass its order upon that objection? That is the point I wish to make.

The PRESIDING OFFICER. The Chair thinks the words "unless the Senate should at any time otherwise order" refer to the limitation as to the length of time that a Senator shall speak, and that the words "at any stage of the proceedings" relate simply to the objection.

Mr. PADDOCK. I hope the Senator from Texas will not consider that any discourtesy was intended toward him by the Senator from Kansas because of his objection. The bill as it stands, the Senator from Kansas knows very well, as every Western Senator knows, would be exceedingly objectionable to his people. The desire is that all such lands disposed of in this way should be disposed of to actual settlers; and I am sure that the only object the Senator from Kansas had in interposing an objection was to get a little time in order that he might prepare an amendment which should cover the objections made by Senators on the other side to the plan which he had previously proposed. I am very glad myself that the bill does go over, because I think that I have in my desk an amendment which can be taken from another bill which was passed by the Senate at the last Congress which will be satisfactory to both sides of this controversy.

I think it is very proper for all parties interested that the bill should go over until to-morrow or some subsequent day.

Mr. PLUMB. I did not suppose that any explanation at all would be necessary, because my objection was in the precise line of objection made here the last time we were on the Calendar, and which led to the discussion about the rule and to the construction which the rule has now had put upon it. That bill—I have forgotten what it was now—was under consideration, having been discussed time and time again, and was then discussed for two or three hours, and then objection was interposed and it went over. I could not suppose that the Senator from Texas could have thought for a moment that I had any design of performing any act of discourtesy toward him. I certainly had no such intention. This bill interests me, interests the people of Kansas, and I desire an opportunity to perfect it. I am certain the Senator from Texas has no personal interest in the bill. He is doing his duty, as I am trying to do mine; and, the precedent having been established, I did not suppose a word of explanation was necessary, and I should not have offered it at all except for the seeming misunderstanding which has arisen.

Mr. MAXEY. I have only this to say: I have no feeling on earth in this case except to do my duty, which I will do under any state of case. I presented the amendment as I was instructed by the Committee on Military Affairs to do, and it was concurred in by every member of the committee excepting the Senator from Kansas. I resisted all the amendments offered by him, because I was instructed to report this bill as amended by the committee; and every one of his amendments was voted down. The committee's amendment was adopted by the Senate, thereby showing after full and ample discussion that they believed the committee to be right. Then, when the bill was brought to its final passage, for the first time I was informed that this technical objection was going to be interposed. I like to do a man's work and never child's play; and I cannot yet for the life of me see why this Senate should be trifled with through all these stages which I have mentioned until finally, when the matter is ready for a vote and it is perfectly manifest what the result is going to be, an objection is made and the whole work is lost. I do not care to be in charge of a bill which is treated in that way.

The PRESIDING OFFICER. Does the Senator from Texas question the correctness of the ruling of the Chair under this resolution?

Mr. MAXEY. Oh, no, sir. I never question the correctness of a ruling, from the fact that I do not pretend to know anything about parliamentary rules, only enough to behave myself.

The PRESIDING OFFICER. The next bill on the Calendar will be reported.

THE BELT RAILROAD.

The next bill on the Calendar was the bill (S. No. 320) amendatory of the act to incorporate the Capitol, North O Street, and South Washington Railway Company.

Mr. MORRILL. I object to that bill.

The PRESIDING OFFICER. The bill goes over under the rule.

ARCTIC EXPEDITION.

The next bill on the Calendar was the bill (S. No. 458) to authorize and equip an expedition to the arctic seas.

Mr. SARGENT. It is impossible to consider that bill under the five-minute rule. For that reason only I ask that it be passed over.

The PRESIDING OFFICER. The bill will be passed over.

INDIAN TRUST FUNDS.

The next bill on the Calendar was the bill (S. No. 720) to authorize the Secretary of the Interior to deposit certain funds in the United States Treasury in lieu of investment.

Mr. INGALLS. Let that go over. The Senator from Missouri who is not now here objected to it heretofore.

The PRESIDING OFFICER. The bill will be passed over and the next bill on the Calendar will be reported.

PRESENTS FROM FOREIGN GOVERNMENTS.

The next business on the Calendar was the joint resolution (H. R. No. 47) authorizing Rear-Admiral John J. Almy, United States Navy, to accept a decoration from the King of the Hawaiian Islands.

Mr. SARGENT. I object to that and the four following cases on the Calendar.

The PRESIDING OFFICER. The Senator from California objects to this case and the four following cases on the Calendar, all of which will go over under the rule, and the next succeeding case will be reported by the Secretary.

COLORADO AGRICULTURAL-COLLEGE LANDS.

The bill (S. No. 394) extending the act of July 2, 1862, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanical arts," to the State of Colorado, and for other purposes, was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment, to strike out the third section in the following words:

SEC. 3. That until the State of Colorado shall have received her full quota of lands named in this act, and as heretofore granted by law, the public lands in said State shall not be subject to entry, sale, or location under any law of the United States, or of any scrip or warrants issued in pursuance of any such law, except the homestead act of May 20, 1862, and acts amendatory thereto and the acts granting and regulating pre-emption, but shall be reserved exclusively for entry by the said State for the period of two years from the passage of this act.

Mr. EDMUNDS. I should like to hear the bill explained for the information of the Senate.

Mr. CHAFFEE. In 1862 Congress passed an act granting to each State for establishing an agricultural college thirty thousand acres of land, or its equivalent in scrip, for each Senator and member of the House from that State. Colorado not being a State in the Union at that time, this bill is brought in for the purpose of extending that act over the State of Colorado, giving to the State the thirty thousand acres of land in accordance with the act of 1862 for each of its Senators and for its member of the House. In addition to that, the committee agreed that two townships of land should be appropriated for teaching the science of mining, as a primary interest of the State of Colorado is mining as well as agriculture; and the committee thought that in order to establish a laboratory and provide teachers for the purpose of teaching the practical theory of mining, it would be right to grant to that State two townships of land.

Mr. EDMUNDS. But the act that set her up gave her all the townships that we have given to the other new States, except the agricultural-college lands to which, being the first section of this bill, I have no objection; but the act creating the State of Colorado, I think, provided for the same amount of school lands and so on that are given to the other new States when they come in.

Mr. CHAFFEE. The act admitting Colorado did grant certain tracts of land, such as are usual upon the admission of a State. This is an innovation upon that, I admit; but the committee thought, and I think, that inasmuch as the State of Colorado only gets ninety thousand acres of land for agricultural-college purposes, whereas other States having several members of Congress get their proportion for each member, that State ought to be entitled to more land; and as she cannot get it under the act of 1862, it would be no more than fair to grant two additional townships. I hope the Senate will agree to the bill.

Mr. EDMUNDS. The only objection I have to the bill is to the second section granting seventy-two entire additional sections. The ground that the Senator from Colorado puts that upon is that the State of Colorado is growing. So are all the western States; and States that got a certain number of sections under the agricultural-college act when it was passed and when they took the benefit of it, now have a much larger population, many of them, and the principle, therefore, upon which this second section rests would extend to all those other States, and they would have the same right, this being a precedent, to come in and say "Now we have grown; give us more land;" and that would disturb the whole theory of the agricultural-college act. If this was the only instance that could arise, of course it would not be worth while, considering that Colorado is a young State, a growing State, a good State, to spend much time in respect of her having seventy-two more sections of land; but the ground upon which it is put, and put rightly and fairly by the Senator, is that she is growing, and that applies to Kansas and to Nebraska and to Oregon and in fact to all the States that were young at the time the original act was passed and the original grant took effect, and they would see that the only thing necessary to do on the precedent of this second section would be to come in at the next session or this and say "Measure up on our increased numbers and give us more land." The consequence would be that all the public lands would be gone. It rather strikes me that the misfortune of Colorado's being admitted when it was quite young and small is one that she ought to bear.

Mr. CHAFFEE. I do not put it wholly on the ground the Senator names; but the people of the State of Colorado are largely engaged in mining; the Senator from Vermont well knows that we have few if any schools for teaching a practical knowledge of mining in this country, and the committee thought, and I think that it is time the United States gave some encouragement to this great industry in this country of mining. The small pittance of two townships of land does not appear to be so great as should induce the Senate to strike it out of this bill, although if the Senate thinks it should not be granted I of course shall consent to its being stricken out of the bill.

Mr. EDMUNDS. I think I must move to strike out the second section of the bill so that it may undergo further consideration. It will not necessarily follow that it may not be done at some future time when you take into view the other States as well; but it involves so much in point of principle and reaches so far that I think it better to let the State take her agricultural-college land and let the second section go out.

Mr. PADDOCK. Is that the section which relates to the additional donation for metallurgical purposes?

Mr. EDMUNDS. Yes, sir. I move to strike out so much of the second section down to and including the word "metallurgy," in line 9, so as to leave the land to be selected by the governor under the agricultural-college part of the bill.

Mr. PADDOCK. That will leave it only applicable to the agricultural-college feature, and leave the metallurgical part unprovided for.

Mr. EDMUNDS. Exactly so.

Mr. PADDOCK. I hope that amendment will not prevail.

The PRESIDING OFFICER. The first question will be on the amendment of the Committee on Public Lands, to strike out the third section.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment proposed by the Senator from Vermont, to strike out the second section to and including the word "metallurgy," in line 9, which will be read.

The CHIEF CLERK. It is proposed to strike out in section 2 the following words:—

That seventy-two additional entire sections of land, not mineral, shall be, and are hereby, granted to said State of Colorado for the use and support of at least one State agricultural college, in which shall be taught such branches of learning as relate to agriculture and the mechanical arts, including the theory and practice of mining and of reducing ores and extracting therefrom the precious metals, and such other studies as conduce to a thorough knowledge of mineralogy and metallurgy.

Mr. EDMUNDS. The rest of the section merely relates to the selection of the lands granted under the first section.

A division was called for on the amendment.

Mr. EDMUNDS. Evidently we must have the yeas and nays.

Mr. CHAFFEE. Rather than have a call of the yeas and nays I will let the amendment go.

The PRESIDING OFFICER. By unanimous consent the amendment is agreed to. The Chair hears no objection.

Mr. CHAFFEE. I move to strike out the word "hereinafter," in the seventh line of section 1, and insert the word "therein," so as to correspond with the Senator's amendment.

The amendment was agreed to.

Mr. SARGENT. In line 9 of section 2, after the word "selected," I move to insert the words "in said State." I want the land to be selected in the State and not have the grant in the shape of land-scrip to be floated in other States. But perhaps the amendment is unnecessary.

Mr. CHAFFEE. The bill provides for that.

Mr. SARGENT. I see further on in the bill that that is guarded against. I withdraw the amendment.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CHAFFEE. After the word "Colorado," in the title, the words "and for other purposes" should be stricken out.

The PRESIDING OFFICER. The title will be amended as suggested by the Senator from Colorado, if there be no objection.

RECONSIDERATION OF A BILL.

Mr. SAUNDERS. I wish to make a motion for reconsideration. I move to reconsider the vote by which the Senate indefinitely postponed the bill (S. No. 963) to amend the record of a naval officer, for the purpose of putting it on the Calendar. Some evidence has come to the notice of some of us since that vote was taken, and we want the case simply put on the Calendar, no action being taken now.

The PRESIDING OFFICER. The Senator from Nebraska moves that the Senate reconsider the vote by which the bill designated by him was indefinitely postponed.

The motion was agreed to.

The PRESIDING OFFICER. The bill will now be placed on the Calendar.

AMENDMENT TO POST-ROUTE BILL.

Mr. JOHNSTON submitted an amendment intended to be proposed by him to the bill (H. R. No. 4286) to establish post-routes in the several States therein named; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

EXECUTIVE SESSION.

Mr. MORRILL. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and two minutes spent in executive session the doors were reopened, and (at five o'clock and twelve minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 17, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage of an act (S. No. 927) to authorize the construction of a railroad from a point at or near Bismarck to the Black Hills, in which concurrence was requested.

It further announced that in the absence of the Vice-President the Senate had chosen Hon. THOMAS W. FERRY, a Senator from the State of Michigan, President *pro tempore* of the Senate.

NATHAN UDELL.

Mr. SAMPSON. I rise, Mr. Speaker, to a privileged question. I wish to move to reconsider the vote by which House bill No. 698,

granting a pension to Nathan Udell, was laid upon the table. All I desire is that this pension bill may be referred to the Committee of the Whole on the Private Calendar.

The SPEAKER. The bill is not here, and the Chair will recognize the gentleman from Iowa later in the day when the bill can be found.

ORDER OF BUSINESS.

Mr. BLOUNT. I rise for the purpose of moving that the House resolve itself into Committee of the Whole on the state of the Union, to proceed with the consideration of the Post-Office appropriation bill.

Mr. COX, of New York. I wish to move to go to the business upon the Speaker's table, but will yield to the gentleman from Georgia.

The SPEAKER. The Chair has taken a list of gentlemen applying to be recognized to ask unanimous consent, and would like to conform to that list.

Mr. REAGAN. I demand the regular order of business. I do not see any necessity for the introduction of bills when the committees are not allowed to report them back for the action of the House.

Mr. BLOUNT. I move the House go into committee to take up the post-office appropriation bill.

Mr. VANCE. Can we not have a morning hour?

The SPEAKER. The only way to reach it is to vote down the motion to go into committee.

The House divided; and there were—ayes 85, noes 93.

Mr. BLOUNT demanded tellers.

Tellers were ordered; and Mr. BLOUNT and Mr. COX of New York were appointed.

The House again divided; and the tellers reported—ayes 80, noes 105.

So the House refused to go into committee.

MORNING HOUR.

The SPEAKER. The morning hour now begins at two minutes after one o'clock, and reports are in order from the Committee on Banking and Currency.

PROHIBITION OF COINAGE OF TWENTY-CENT SILVER PIECES.

Mr. BELL, from the Committee on Banking and Currency, reported, as a substitute for House bill No. 85, a bill (H. R. No. 4368) to prohibit the coinage of the twenty-cent piece of silver; which was read a first and second time.

The bill, which was read, directs that from and after the passage of this act the coinage of the twenty-cent piece of silver by the Government of the United States be prohibited, and all laws in conflict herewith are repealed.

Mr. BELL. I ask that the bill be now put on its passage, and demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time, and passed.

Mr. BELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POPULAR LOAN.

Mr. PHILLIPS, from the Committee on Banking and Currency, reported, as a substitute for House bill No. 2906, a bill (H. R. No. 4395) to provide for the deposit of savings in a popular loan, and to provide for funding the national debt in home bonds convertible into currency; which was read a first and second time.

The bill was read, as follows:

That any holder of lawful money or Treasury notes or coin may make deposit thereof in any sum or sums not less than twenty-five cents at any one time, in any postal money-order office of the United States, of which deposit a book account shall be kept and a pass-book receipt given to the depositor; and when such account shall reach the sum of \$10 the postmaster at such money-order office shall issue to such depositor, free of charge, a postal order on the Treasury of the United States, which shall be in the form following, to wit:

The United States are indebted to _____, or order, in the sum of \$10, payable, on demand, in currency, at the post-office in _____. This order will be received, after five days' notice, in exchange for the postal savings bonds of the United States at the office where issued and stamped, or at the office of the Treasurer or of any assistant treasurer, on presentation.
(Here shall run the date.)

Treasurer of the United States.

Register of the Treasury.

and shall be so devised and engraved as to afford as complete security as possible against counterfeiting or imitation, and shall be printed upon paper of the kind and quality used for United States notes; and when presented in sums of \$10, or any multiple of \$10, shall be receivable in exchange for bonds of the United States of the kind and description hereinafter provided. And any person desiring so to do may make deposit, not exceeding \$20 in any one day, at any postal money-order office, and receive in exchange therefor postal orders equivalent in amount to such deposit; and such postal orders shall be transferable upon indorsement of the depositor. And all moneys received into postal money-order offices under the provisions of this act shall be accounted for by the postmasters at such offices, or, on ten days' notice being given, may be refunded to depositors under rules and regulations to be prescribed by the Secretary of the Treasury and the Postmaster-General.

SEC. 2. The bonds herein provided for shall be called the "postal savings bonds of the United States," and shall be issued by the Secretary of the Treasury, of such

form and description, and accompanying coupons, as he shall prescribe, and of the denominations of ten, twenty, fifty, and one hundred dollars, and shall bear interest at the rate of 3.65 per cent. per annum, or one cent on each \$100 for each day after its issue. And holders of the postal orders provided for in the first section of this act shall be entitled to receive, in exchange therefor, at the money-order offices where they were issued, free of charge, after five days' notice, 3.65 per cent. bonds herein provided for to the full face value of the postal orders presented for such exchange. And said bonds shall also be issued upon application in exchange for lawful money or Treasury notes or coin at the Treasury of the United States, or at the office of any assistant treasurer or designated depository; said 3.65 per cent. bonds, as well as the said postal money orders, shall be exempt from all United States, State, municipal, or other local taxation. And said bonds shall be exchangeable at par for the 4 per cent. bonds of the United States authorized to be issued by an act entitled "An act to authorize the refunding of the national debt," approved July 14, 1870; and the interest thereon shall be payable every three months in currency of the United States, at the Treasury of the United States, at the office of any assistant treasurer, designated depository, or at the money-order offices where issued: *Provided, however*, That coupons shall only be detached from the bond at the time of payment; and all coupons redeemed at the money-order offices, or received thereat in payment of postage, or in exchange for postage-stamps, shall be credited to such offices the same as money in their accounts with the Post Office and Treasury Departments. And the postal savings bonds herein provided for, on presentation at the Treasury of the United States or at the office of any assistant treasurer, shall be exchangeable for notes of the United States, with interest computed to the day of presentation. And the postal orders provided for in the first section hereof shall be redeemable in currency on presentation at the offices of the Treasurer of the United States and of the assistant treasurers, and at such postal money order offices as the Postmaster-General may designate for that purpose.

SEC. 3. The names of depositors of moneys under the provisions of the first section of this act shall not be disclosed, nor the amount of their deposit, except to the proper officers of the Treasury or Post-Office Department.

SEC. 4. All moneys received into the Treasury in pursuance of this act shall be applied exclusively to the redemption of such bonds of the United States as are redeemable at the pleasure of the United States; and the Secretary of the Treasury shall call in of such bonds those that bear the highest rate of interest at the time; and the Secretary of the Treasury is hereby authorized and directed to cause to be prepared a special issue of United States notes, identical in all respects with the legal-tender notes, which shall be a legal tender for all debts, public and private, except duties on imports and payment of interest on public debt, to the amount of 10 per cent. of the postal money orders and postal savings bonds actually outstanding, until the whole amount of such special issue shall reach the sum of \$50,000,000; which special issue of legal-tender notes shall be used wholly and exclusively in the redemption of the postal savings bonds herein provided for, under such rules and regulations as the Secretary of the Treasury shall prescribe for the purpose.

SEC. 5. All expenses incurred under the provisions of this act, except as provided for by appropriations for engraving and printing the public securities, shall be paid out of the appropriations made by the act of July 14, 1870, for refunding the national debt. And it shall be the duty of the Secretary of the Treasury and the Postmaster-General to provide rules and regulations, and promulgate the same, to carry out the provisions of this act. And they shall require adequate security from all officers whose responsibility is increased by it, and shall see that the same is increased, from time to time, as the public interests may demand.

SEC. 6. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

Mr. CARLISLE. I make the point of order, Mr. Speaker, that that bill under the rules must have its first consideration in the Committee of the Whole on the state of the Union.

Mr. PHILLIPS. What is the gentleman's point of order?

Mr. CARLISLE. That this bill must have its first consideration in the Committee of the Whole, inasmuch as it involves an appropriation of money.

Mr. PHILLIPS. It does not involve an appropriation of money.

Mr. CARLISLE. It provides for increased expenditure of money by the General Government, and necessarily involves an appropriation now or hereafter.

Mr. PHILLIPS. To what section does the gentleman refer?

Mr. BURCHARD. Sections 4 and 5 are amenable to Rule 112, which provides that all proceedings touching appropriations of money and all bills making appropriations of money or property shall be first discussed in the Committee of the Whole House. Section 5 requires the payment of money out of an appropriation already made. Section 4 requires an appropriation of money; it directs how money that comes into the Treasury shall be applied. And section 2 is liable to the point of order under Rule 110.

The SPEAKER. The Chair has only read section 5, and thinks that is sufficient. The Chair thinks the point of order is well taken, and decides that this bill must have its first consideration in Committee of the Whole House on the state of the Union.

Mr. PHILLIPS. The Committee on Banking and Currency have directed me to report the resolution which I send to the Clerk's desk to be read. I had intended to have it read when the bill was reported.

The Clerk read as follows:

Resolved, That the substitute for House bill No. 2906 be made the special order for May 2 and from day to day until disposed of, in the House as in Committee of the Whole, not to antagonize reports from the Committee on Appropriations and the tariff bill, and that bills of a kindred character may be offered as amendments or substitutes.

The SPEAKER. The Chair would say to the gentleman from Kansas that the bill is now in Committee of the Whole, and that the resolution ought to conform to that fact.

Mr. PHILLIPS. I ask the Clerk to make the necessary modification of the resolution. I desire to state that this bill was matured some two or three months ago by the Committee on Banking and Currency.

Mr. BURCHARD. Before the gentleman proceeds further, I wish to suggest to him that the last part of the resolution is unnecessary, that about bills of a kindred character being offered. They would be in order to be offered under the rules.

Mr. PHILLIPS. Since this bill was agreed to be reported from the committee two other bills or more have been offered, and the purpose

in offering the resolution and getting the special order made is that the House may have the privilege of voting upon all those separate measures. The committee did not desire to press to a vote this morning the bill now presented. It is a subject of very great moment, one of general interest, and in its management the utmost fairness is intended for all the bills pending, so as to bring them fairly before the House.

Mr. WADDELL. I hope the resolution offered will be adopted and that a day will be fixed for the consideration of all these measures. As the House is perhaps aware, in addition to this bill there is a bill ready to be reported by the Committee on the Post-Office and Post-Roads when it is reached in the call of committees. One has already been reported by the Committee of Ways and Means. All bear on the same subject, and I shall be very glad if the resolution of the gentleman from Kansas be adopted.

Mr. BURCHARD. I agree to the proposition of the gentleman from Kansas; but I wish to offer one suggestion, or, rather, to make a parliamentary inquiry. Is this order to be subject to prior orders?

The SPEAKER. To all prior special orders.

Mr. WOOD. I ask that the resolution be again reported.

The resolution was again read.

Mr. BURCHARD. If it is the intention of the committee to make this bill the pending proposition and that all the other propositions that have been submitted or shall be submitted shall be subordinate to that, I submit that that would not be in accordance with the previous order of the House. The House has already made a special order on this subject, and if this bill or any other bill were offered as an amendment to that special order it could not be objected to, or if this measure should be called up there would be no objection to offering any proposition germane to it; but I hope the committee do not intend to set aside prior orders.

Mr. PHILLIPS. We do not intend to set aside any prior order.

Mr. WHITE, of Pennsylvania. What order will it interfere with?

The SPEAKER. All prior special orders.

Mr. ROBBINS. A bill reported from the Committee of Ways and Means on this subject has been made a special order continuing from day to day, as I understand.

The SPEAKER. When that special order is reached, then it will be competent to amend the bill.

Mr. BURCHARD. I ask the gentleman from Kansas to modify his resolution so that if this bill is made the special order it shall not antagonize the bills mentioned or any prior special order.

The SPEAKER. The Chair would hold that it could not set aside any prior special order. But the present occupant of the chair would not occupy it in the Committee of the Whole. Therefore the resolution might as well embrace the fact as agreed upon.

Mr. PHILLIPS. I agree to that, and I ask the previous question on the resolution as modified.

Mr. BURCHARD. It is unnecessary to except the tariff bill.

Mr. WOOD. I suggest to the gentleman from Kansas that he except any reports from the Committee on Appropriations and the Committee of Ways and Means; otherwise there might be involved a serious question whether those reports would not have a prior right to consideration.

The SPEAKER. The resolution, as modified, will be again read, so that the House may act understandingly and intelligently.

The Clerk read as follows:

Resolved, That substitute for House bill No. 2906 be made the special order for May 2, and from day to day thereafter until disposed of, in Committee of the Whole on the state of the Union, not to antagonize reports from the Committee on Appropriations or the tariff bill, nor to interfere with previous special orders, and that bills of a kindred character may be offered as amendments or substitutes.

Mr. WOOD. I desire to include any reports from the Committee of Ways and Means.

Mr. PHILLIPS. I do not object to that.

Mr. EAMES. As a member of this committee and voting against this bill in committee and proposing to vote against it in the House, I hope that this proposition made by the gentleman from Kansas who has the bill in charge will be agreed to unanimously by the House. It gives the opportunity and the only opportunity that I have seen on the floor of the House for debate and for amendment. But I am very willing indeed, as a member of the committee, though opposed to the bill, that it should be submitted to the judgment of the House.

The resolution, as modified, was adopted.

Mr. PHILLIPS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RESERVE FUND OF NATIONAL BANKS.

Mr. HARDENBERGH from the Committee on Banking and Currency, reported back, with amendments, the bill (H. R. No. 3831) regulating the reserve fund of national banks; and moved that the same be referred to the Committee of the Whole on the state of the Union.

The motion was agreed to.

AMENDMENT OF SECTION 5182 OF THE REVISED STATUTES.

Mr. HARDENBERGH also, from the same committee, reported back, with amendments, the bill (H. R. No. 2740) to amend section 5182 of

the Revised Statutes of the United States; and moved that the same be referred to the Committee of the Whole on the state of the Union. The motion was agreed to.

COINAGE OF SILVER BULLION.

Mr. HARTZELL, from the Committee on Banking and Currency, reported a substitute for House bill No. 3780 a bill (H. R. No. 4396) to authorize the deposit of silver bullion, and to issue certificates therefor, and asked for the present consideration of the bill, and that the same be put upon its passage at this time.

Mr. BURCHARD. I reserve points of order upon that bill.

The SPEAKER. The substitute will first be read.

The Clerk read the substitute, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That coin certificates of the denominations of \$10 and multiples thereof up to \$1,000 may, in the mode herein provided, be exchanged by the several mints and assay offices at San Francisco, Denver, Boise City, Carson City, Philadelphia, New York, and New Orleans for the net value of silver bullion deposited thereat; and the bullion so received in exchange for said coin certificates shall at all times be held and kept on hand for the redemption of said coin certificates in silver. The silver thus deposited shall be computed in said exchange at its coinage value, at the rate of 412½ grains standard silver to the dollar, less the usual and lawful mint charges and the charges for transportation from the several assay offices to the mint for coinage, and from the latter to the assistant treasurers, respectively, at which the coin certificates shall be payable.

Sec. 2. That for bullion deposited at the mints of San Francisco and Carson the coin certificates provided for in this act shall be redeemed on demand at the office of the assistant treasurer at San Francisco, and for bullion deposited at the Philadelphia, New York, Denver, Boise City, and New Orleans mints and assay offices the certificates shall be redeemed at the office of the assistant treasurer at New York. And it shall be the duty of the Secretary of the Treasury to cause coin and mint bars to be transferred, after the said bars are stamped, as provided in the first section, to the assistant treasurers in New York and San Francisco for the redemption of the coin certificates aforesaid; and said coin certificates shall be receivable without limit for all dues to the United States.

Sec. 3. That the coin certificates to be issued under this act shall be redeemed on presentation either in silver bars or silver dollars, at the option and convenience of the Treasury.

Sec. 4. That the Secretary of the Treasury shall cause the said certificates authorized by this act to be prepared and delivered to the mints and assay offices aforesaid as a part of the bullion fund, and from which fund deposits shall be exchanged as coin or coin certificates, at the option of the depositor.

Sec. 5. That the fine or standard silver bars authorized to be issued by this act shall be stamped according to their fineness, weight, and value; and the value of the silver bars shall be computed according to their coinage value in dollars. And the Secretary of the Treasury is hereby required to prescribe the necessary regulations for carrying this act into effect.

Mr. BEEBE. I make the point of order that that bill must be first considered in Committee of the Whole.

Mr. HARTZELL. I would like the gentleman to state his reasons.

Mr. BEEBE. It necessitates the expenditure of money and an appropriation.

Mr. HARTZELL. Where does it provide for an expenditure of money?

Mr. BEEBE. In the engraving and issuing of the certificates there will be a necessity for an appropriation of money.

Mr. BURCHARD. I understand the gentleman from New York [Mr. BEEBE] to make a point of order upon this bill.

Mr. BEEBE. I do, under Rules 110 and 112.

Mr. BURCHARD. I think we had better send this bill to the Committee of the Whole on the state of the Union, that it may receive fuller discussion. I would suggest that under that part of the bill which provides for the payment of these certificates they must be paid out of the Treasury, and under Rule 112 they will require an appropriation to be made, or the payment must be made out of an appropriation already made, and therefore it would be subject to a point of order. Under Rule 112 "all proceedings touching the appropriation of money and all bills making appropriations of money or property or requiring such appropriations to be made or authorizing the payment out of appropriations already made shall be first discussed in a Committee of the Whole House."

Then again, under Rule 110, these certificates become a tax or charge upon the people; they are to be paid, they are charged upon the Treasury of the United States. The bill also provides for a change of the law in respect to the payment of dues to the United States. Lines 10 and 11 of section 2 provide that "these certificates shall be receivable without limit for all dues to the United States." It changes the law also, as it now provides for the payment of customs dues, which is a charge upon the United States, and the bill would therefore be liable to a point of order under Rule 110.

Mr. HARTZELL. Mr. Speaker, I do not believe this bill is subject to the point of order made by the gentleman from New York, [Mr. BEEBE.] The statement made by my colleague that the bill changes the law so far as the payment of customs dues is concerned, I think is rather far-fetched. You can pay customs dues to-day with silver dollars or with silver bullion.

Several MEMBERS. Oh, no!

Mr. HARTZELL. Well, perhaps not with bullion, but you can with silver dollars. And the proposed certificates are based not only upon bullion but upon silver coin, and by the terms of the bill are made receivable for customs.

Mr. BURCHARD. That does not make any difference.

Mr. HARTZELL. I think the same point was made on the silver bill and was overruled.

The SPEAKER. This point was not made on the silver bill.

Mr. EAMES. That bill passed under a suspension of the rules.

Mr. HARTZELL. I believe, upon reflection, it was passed under a suspension of the rules.

The SPEAKER. It passed under a suspension of the rules. The Chair sustains the point of order. Section 4 of the bill is subject to the operation of the rule, and the bill is referred to the Committee of the Whole on the state of the Union.

Mr. HARTZELL. I desire to offer the resolution which I sent to the Clerk's desk, fixing a time for the consideration of the bill.

Mr. BURCHARD. The committee seem to have been advised that these bills were subject to the point of order and were prepared with resolutions.

Mr. GARFIELD. The resolution now introduced sustains the Speaker's ruling and shows that the committee expected it.

Mr. YEATES. I do not think that the committee anticipated the point of order.

The Clerk read Mr. HARTZELL's resolution, as follows:

Resolved, That the substitute for House bill No. 3780, to authorize the deposit of silver bullion and to issue certificates therefor, be made the special order for the 9th day of May and from day to day until disposed of in the Committee of the Whole House on the state of the Union, not to antagonize reports from the Committee on Appropriations, nor reports from the Committee of Ways and Means, nor previous special orders.

Mr. BEEBE. Does this resolution provide that the bill shall be considered in Committee of the Whole?

The SPEAKER. The bill is in Committee of the Whole, and the resolution could not provide for anything else.

Mr. BEEBE. Unless it does so provide, my point is that the resolution is not in order.

Mr. FRANKLIN. Does this resolution affect the morning hour?

The SPEAKER. It has nothing to do with the morning hour.

Mr. BEEBE. If it be in order, I would suggest an amendment to provide that this order shall not interfere with the morning hour.

The SPEAKER. It cannot interfere with the morning hour, unless such is the will of a majority of the House. The majority have at all times the right to control the business of the House; and, if they so desire, can insist upon the morning hour, as was done this morning. The House cannot go into Committee of the Whole so as to cut off the morning hour unless such is the will of the majority. The caution of the gentleman from New York [Mr. BEEBE] is, however, quite proper.

Mr. BEEBE. If it were provided in the resolution that this business should not interfere with the morning hour, then of course that hour would come on, and the matter would not be left to be determined on the 9th of May.

The SPEAKER. The majority, if they wanted the morning hour, could refuse to go into Committee of the Whole. The control of the majority over the question of priority of business cannot be interfered with.

Mr. BEEBE. I merely sought an expression of the majority at this time.

The SPEAKER. On the very day named the House might go into Committee of the Whole and yet refuse to take up this bill.

Mr. FORT. I would like to offer an amendment now to be pending when the bill comes up.

The SPEAKER. The bill is in Committee of the Whole. The gentleman might have his amendment read now for information.

Mr. FORT. I desire to have it read.

Mr. HARTZELL. I will say to my colleague on the committee [Mr. FORT] that at the proper time I will yield for him to offer his amendment in Committee of the Whole.

The resolution was adopted.

Mr. HARTZELL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NORTHERN PACIFIC RAILROAD.

Mr. RICE, of Massachusetts, from the Committee on Pacific Railroads, reported, as a substitute for House bill No. 3966, a bill (H. R. No. 4397) extending the time to construct and complete the Northern Pacific Railroad; which was read a first and second time, referred to the Committee of the Whole on the public Calendar, and, with the accompanying report, ordered to be printed.

Mr. MORRISON, by unanimous consent, presented in writing the views of a minority of the committee on the bill just reported; which were ordered to be printed with the report of the majority.

TEXAS PACIFIC RAILROAD.

Mr. HOUSE, from the same committee, reported a bill (H. R. No. 4398) amendatory of and supplementary to the act entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March 3, 1871, and the several acts amendatory thereof and supplementary thereto; which was read a first and second time, referred to the Committee of the Whole on the public Calendar, and, with the accompanying report, ordered to be printed.

Mr. BLAIR. I ask leave that the views of a minority of the committee, with an accompanying draft of a bill, be ordered to be printed with the report of the majority.

There being no objection, it was ordered accordingly.

Mr. MORRISON. Dissenting as a member of the committee from

the report of the majority, I ask consent to present my views in writing to be printed with the majority report.

There being no objection, leave was granted accordingly.

Mr. LUTTRELL. I also ask the privilege of having a minority report printed on the same subject. I will present it during the day. I have it not here at present.

There being no objection, leave was granted accordingly.

PACIFIC RAILWAY COMMISSION.

Mr. RICE, of Massachusetts, from the same committee, reported, as a substitute for House bills Nos. 3999, 4117, and 4118, a bill (H. R. No. 4399) to establish a board of Pacific Railroad commissioners; which was read a first and second time, referred to the Committee of the Whole on the public Calendar, and, with the accompanying report, ordered to be printed.

Mr. CRITTENDEN. Would it be in order to move that this bill be made a special order for the 10th of May, not to conflict with appropriation bills or other prior orders?

The SPEAKER. It will be competent for the committee to report a resolution of that sort.

Mr. CRITTENDEN. I ask the gentleman from Massachusetts whether he will accept a motion to that effect?

Mr. RICE, of Massachusetts. I will accept a motion of that kind.

Mr. CRITTENDEN. Say, then, the 15th of May, not to conflict with appropriation bills.

Mr. BLAIR. That requires an appropriation and should go to the Committee of the Whole.

The SPEAKER. That is not the point; but the point is this: the committee must authorize and report such a resolution.

Mr. BLAIR. In that matter I wish to present the views of the minority with the accompanying bill.

The SPEAKER. The report will be received and ordered to be printed. The committee have not made the motion referred to by the gentleman from Missouri.

Mr. CRITTENDEN. The gentleman from Massachusetts agrees to it.

The SPEAKER. The committee must authorize it. This is the morning hour for the reception of reports from committees and extraneous motions are not in order.

AUSTIN-TOPOLOVAMPO PACIFIC ROUTE.

Mr. THROCKMORTON, from the Committee on the Pacific Railroad, reported back a bill (H. R. No. 112) to survey the Austin-Topolovampo Pacific route; which was referred to the Committee of the Whole on the state of the Union, and the accompanying report ordered to be printed.

PACIFIC RAILROAD.

Mr. CHALMERS. I am directed by the Committee on the Pacific Railroad to report back favorably the bill (H. R. No. 4158) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act. I ask that the bill and report be printed. It is the identical bill which has since come from the Senate known as the Thurman funding bill.

Mr. COX, of New York. Then I move that the Thurman funding bill which comes from the Senate be moved as a substitute for this proposition.

The SPEAKER. The Chair will ask consent.

Mr. CHALMERS. I ask that that substitute be received as an amendment and be put upon its passage.

The SPEAKER. That requires unanimous consent.

Mr. BLAIR. I shall object unless I can make a previous report.

The SPEAKER. There is no difficulty about that bill if the House desires to reach it. The morning hour will expire within ten minutes, when the motion to go to the business upon the Speaker's table will be in order and the Thurman funding bill can then be reached.

Mr. CHALMERS. Then I move that the bill and report be referred to the Committee of the Whole on the state of the Union and ordered to be printed.

The motion was agreed to.

SETTLEMENT OF RAILROAD GRANT LANDS.

Mr. BLAIR, from the Committee on the Pacific Railroad, reported, as a substitute for House bill No. 1230, a bill (H. R. No. 4400) to facilitate the sale and settlement of the public lands granted to aid in the construction of railroads and lines of telegraph; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. BLAIR. I move the adoption of the following resolution.

The Clerk read as follows:

Resolved, That the substitute for House bill No. 1230 be made the special order for May 14, after the morning hour, and from day to day until disposed of, to be considered by the House as in Committee of the Whole, not to antagonize reports from the Committee on Appropriations or the Committee of Ways and Means nor with previous special orders.

The SPEAKER. The Chair suggests the modification that it be considered in the Committee of the Whole on the state of the Union, as that is where the bill has gone.

Mr. BLAIR. No one has objected to the bill. It provides for no appropriation.

The SPEAKER. The Chair thinks the bill provides for disposition of public land.

Mr. BLAIR. Not in the sense the Speaker imagines.

The SPEAKER. The Speaker has no imagination about it. The Chair goes by what is on the face of the bill. The gentleman from New Hampshire moved the reference of the bill to the Committee of the Whole on the state of the Union, and the only criticism the Chair made was the resolution for the consideration of the bill should be in reference to the Committee of the Whole on the state of the Union, where the bill has gone, and should not be in the House as in Committee of the Whole.

Mr. BLAIR. Very well.

The resolution, as modified, was adopted.

Mr. BLAIR moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PACIFIC RAILROAD COMMISSIONERS.

Mr. RICE, of Massachusetts. I am directed by the Committee on the Pacific Railroad to report the following resolution:

Resolved, That the substitute for House bills 3999, 4117, and 4118, to establish a board of Pacific Railroad commissioners, be made the special order for the 15th of May, not to antagonize reports from the Committee on Appropriations or the Committee of Ways and Means or previous special orders.

Mr. PRICE. What bill is that?

Mr. HOUSE. What is known as the prorator bill.

Mr. SAMPSON. Is that the action of the committee?

The SPEAKER. The Chair understood the gentleman to report it from the committee.

Mr. RICE, of Massachusetts. Yes, sir.

The resolution was adopted.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHANGE OF REFERENCE.

Mr. BRIGHT, from the Committee of Claims, reported back the following petitions and bills; and the same were severally referred to the committees named, not to be brought back on a motion to reconsider.

The petition of Davis Hatch, of Norwalk, Connecticut, for remuneration for losses sustained by the wrongful acts and conduct of General Orville E. Babcock when acting as the authorized agent of the Government and of the late Executive with reference to the annexation of San Domingo—to the Committee on Foreign Affairs.

The petition of John W. Wright, for reimbursement on account of money loaned for the use of the levy court in the District of Columbia—to the Committee for the District of Columbia.

The bill (H. R. No. 3845) for the relief of Cyrus C. Clark, paymaster in the Army—to the Committee on the Judiciary.

The bill (H. R. No. 3936) for the relief of Elias R. Core—to the Committee on War Claims.

The bill (H. R. No. 4199) to compensate Samuel E. Ogden, of the steamers Des Arc and Emma No. 2, for carrying the United States mail from Memphis, Tennessee, to Deval's Bluff, Arkansas, and intermediate places, twice a week, from November 27, 1863, to December 31, 1864, under peremptory orders of the officer of the United States Army then in command at the post of Memphis—to the Committee on War Claims.

The bill (H. R. No. 3757) for the relief of John W. Hickey, of the State of Louisiana—to the Committee on War Claims.

The bill (H. R. No. 2004) for the relief of Henry C. Prens, administrator of Constantia Reeves—to the Committee on War Claims.

The petition of Dr. Mary E. Walker—to the Committee on War Claims.

The petition of Charles A. Folsom, of Chicago, Illinois, for relief—to the Committee on War Claims.

The petition of James Keenan, for relief—to the Committee on War Claims.

The petition of William D. Bibb, for relief—to the Committee on War Claims.

Mr. COX, of New York. Has the morning hour expired?

The SPEAKER. It has.

BUSINESS OF EVENING SESSION.

Mr. MILLS. I wish to make a statement to the House, and to make a request for unanimous consent. At the session of the House last evening all the bills for revolutionary and invalid pensions that were on the Calendar were worked off; all of them favorably except two or three. The bills reported last night will not be ready to be printed and placed on the Calendar before to-morrow night. I now ask unanimous consent that the session this evening be utilized by taking the Private Calendar and considering it as on objection day, that we may get rid of a number of bills that have been pending from one Congress to another.

Mr. HANNA. I think that is very fair.

The SPEAKER. The gentleman from Texas asks unanimous con-

sent that the session this evening be devoted to the consideration of bills on the Private Calendar as though on objection day, the effect of which would be that a single objection would prevent the consideration of any bill on the Private Calendar.

Mr. WHITE, of Pennsylvania. I object.

Mr. MILLS. I desire to appeal to the gentleman from Pennsylvania to withdraw his objection. If he will attend the session this evening his objection can defeat any bill.

Mr. CONGER. Is it understood also that no bills that have already been objected to can be considered?

Mr. RICE, of Ohio. I desire to say that the Committee on Invalid Pensions do not wish to give up the right the House has accorded them; but, owing to the inability of the printers to have the bills ready, the evening session to-night would be of hardly any avail.

The SPEAKER. The Chair begs to state, on behalf of the gentleman from Ohio, [Mr. RICE.] that unless the proposition of the gentleman from Texas is agreed to it will be unnecessary to have an evening session to-night.

Mr. RICE, of Ohio. I hope further that the request of the gentleman from Texas will be granted. A single objection will put over any bill.

Mr. THOMPSON. When a bill on the Calendar has been objected to by one member, and on a subsequent day by five, would a single objection prevent the consideration of that?

The SPEAKER. It would, because to-night is not for consideration. The evening session would not be treated as consideration day.

Mr. FOSTER. I do not see present my colleague on the Committee on Appropriations, the gentleman from Kentucky, [Mr. DURHAM;] but he intends, if we can get the legislative appropriation bill up, to ask for an evening session to consider that to-night. I do not see him present.

Mr. DURHAM. I am present.

Mr. WHITE, of Pennsylvania. Do I understand a single objection to-night will prevent the consideration of any bill?

The SPEAKER. The Chair has so stated.

Mr. WHITE, of Pennsylvania. Very well, with that understanding I withdraw my objection.

Mr. TOWNSEND, of New York. It was not so understood last night.

The SPEAKER. Because the evening session last night was not made objection day as against pension bills.

Mr. RICE, of Ohio. I will state that in one single case last night, that of Fairly, there had been one objection, and then according to the rule it took five. We acted strictly according to the rule in that case.

Mr. THOMPSON. There will be no objection, I think, if the resolution be put in such a form that there can be no question as to one objection being sufficient to prevent the passage of a bill.

The SPEAKER. No bill on the Private Calendar can be passed to-night under the proposition of the gentleman from Texas if there be a single objection thereto.

Mr. MILLS. But if the bill has been once objected to, then it can be passed unless there be five objections.

Several MEMBERS. No! No!

Mr. MILLS. Then I withdraw the proposition I made.

Mr. BRIGHT. I renew the proposition.

Mr. MILLS. I object.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from New York [Mr. COX] is recognized.

Mr. WHITE, of Pennsylvania. I renew my objection.

The SPEAKER. It is not necessary. The subject is not before the House.

Mr. COX, of New York. I move to go to business on the Speaker's table.

Mr. BLAIR. I rise to a parliamentary inquiry.

BUSINESS FOR EVENING SESSION.

Mr. MILLS. I withdraw the objection if it is understood that the evening session shall be considered as objection day under the rules; that is, that a bill shall be laid aside to be favorably reported unless there be one objection when first reached or five objections when reached the second time.

The SPEAKER. The Chair understands the proposition to be that to-night's session should be devoted to bills on the Private Calendar, as if on objection day, and not as if on consideration day.

Mr. MILLS. That is it exactly.

The SPEAKER. Then a single objection as against any bill on the Private Calendar to-night will be fatal to its consideration.

Mr. MILLS. Suppose a bill is reached which has once been objected to, does it not then require five objections to prevent its passage?

The SPEAKER. The evening session is to be considered as objection day and not as consideration day.

Mr. RICE, of Ohio. On objection day, if a bill has been once objected to, then it requires five objections, if again reached, to prevent its passage.

Mr. WHITE, of Pennsylvania. I renew my objection unless there is a distinct understanding on this subject.

Several members called for the regular order.

PACIFIC RAILROAD COMMISSION.

Mr. BLAIR. I rise to make a parliamentary inquiry. I wish to call attention to the disposition of what is known as the *pro rata* bill reported by the Committee on the Pacific Railroad, and which I understand has been made a special order for the 15th of May. At the time when that was proposed I objected to its being done. I understand that the committee have consulted upon this floor, and that with the assent of a majority that order has been made. I am opposed to it.

The SPEAKER. That was a report made in the morning hour, and the morning hour has passed by.

Mr. BLAIR. I ask if an entry has been made contrary to the understanding as announced in the House, and I wish to know whether that can be done properly or not.

The SPEAKER. The Chair will cause the entry on the Journal to be read. The gentleman rises, it seems, to a question of privilege, and states that something has been done that was not agreed to be done.

Mr. BLAIR. If the Chair please, I will state in a few words all there is in this matter. I do not rise to make any captious objection or to find fault. I wish to know what the right is in this matter. It will be recollected that when the bill was reported some gentlemen wanted to make it a special order for the 15th of May. I objected to that being done. The Chair stated to the House that it could only be done by virtue of a resolution reported from the committee itself. There was no opportunity for any meeting of the committee and there could be no such resolution agreed to. The matter passed, my understanding being that there was no special order made. I learn now that by private consultation between members of the committee, to which I was not made a party, and by consent thus obtained, the entry has been changed on the Journal, and the bill has been made a special order for May 15.

The SPEAKER. Nothing has been entered on the Journal that did not take place in the House. If a gentleman in his capacity as a member of his committee rises and states that the resolution he presents is offered by the direction of the committee, the Chair cannot dispute his word.

Mr. BLAIR. I would like to know if the Journal shows that any such statement was made by any member of the committee. I would like to have the Journal read.

The SPEAKER. The Journal shows that the resolution, which will now be read, was reported from the committee and agreed to by the House.

The Clerk read as follows:

Resolved, That the substitute for House bill No. 3999 be made a special order for the 15th of May, not to antagonize reports from the Committee on Appropriations and the Committee of Ways and Means and previous special orders.

Mr. BLAIR. What does the Journal show?

The SPEAKER. It shows that it was reported from the committee and adopted by the House.

Mr. BLAIR. I state as a matter of fact that it was done without my knowledge, and every member of the committee knew of my presence and of my objections. I did not hear anything that transpired in open House of that description whatever, and I was paying close attention.

The SPEAKER. The gentleman from Massachusetts stated, if the Chair recollects aright, that the resolution was offered by the direction of the committee.

Mr. RICE, of Massachusetts. I did.

The SPEAKER. The gentleman reaffirms that statement, and the Chair has nothing to do with the matter further.

Mr. RICE, of Massachusetts. By the authority of the committee, obtained upon the floor of the House, I offered the resolution. The gentleman from New Hampshire was consulted, and declined to concur with the other members of the committee, but a majority of the committee authorized the report.

Mr. BLAIR. I wish to say in reply to the suggestion of the gentleman from Massachusetts that the committee was consulted, and that I was consulted as a member of the committee; that all that occurred as a matter of fact was this: I stood in my place waiting to offer a report, and the gentleman from Massachusetts desired me not to object to this bill being made a special order on the 15th of May. I did not withdraw my objection, and no suggestion was made to me of any consultation with other members of the committee or of any action of the committee at all.

The SPEAKER. The Chair has nothing to do with the subject beyond his duty to submit the motion.

Mr. BLAIR. How could a committee sit during the session of the House?

The SPEAKER. That is for the committee to determine. No point of order was raised by any one.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed a bill of the following title; in which he was directed to ask the concurrence of the House:

A bill (S. No. 655) to incorporate the Cheyenne and Black Hills Railroad and Telegraph Company.

The message further announced that the Senate had passed the following resolution; in which the concurrence of the House was requested:

Resolved, (the House of Representatives concurring,) That the President of the Senate and the Speaker of the House of Representatives be, and they are hereby,

directed to adjourn their respective Houses without day on Monday, June 10, A. D. 1878, at twelve o'clock noon.

ORDER OF BUSINESS.

Mr. O'NEILL. I would ask the House to proceed to the consideration of the resolution just received from the Senate providing for adjournment *sine die*.

The SPEAKER. The Chair recognized the gentleman from New York, [Mr. COX.]

Mr. O'NEILL. I was recognized just now by the Chair.

The SPEAKER. The gentleman from New York [Mr. COX] had been previously recognized before the gentleman from New Hampshire [Mr. BLAIR] rose.

Mr. O'NEILL. I move that we proceed to the consideration of the resolution which has just come from the Senate.

The SPEAKER. There is a motion pending to proceed to business on the Speaker's table, as made by the gentleman from New York, [Mr. COX.]

Mr. WHITE, of Pennsylvania. I rise to a parliamentary inquiry. What is the business to be transacted by the House at the session tonight?

The SPEAKER. The Chair is unable to answer that question, because he is apprised that there will not be ready to-night any further business of the character for which the night session was appointed.

Mr. O'NEILL. I rise to a question of privilege.

Mr. BEEBE. I rise to a parliamentary inquiry. The resolution referred to by the gentleman from Pennsylvania [Mr. O'NEILL] having been received from the Senate, does it not go the Speaker's table, and is not the only way to reach it by the motion of the gentleman from New York, [Mr. COX.]?

The SPEAKER. There cannot be two motions pending at the same time. The Chair has recognized the gentleman from New York, [Mr. COX.]

Several members called for the regular order.

The SPEAKER. The House will come to order.

Mr. O'NEILL. I presume that if we go to the Speaker's table the adjournment resolution may be reached.

The SPEAKER. The gentleman will suspend until order is restored.

Mr. COX, of New York. I do not yield to the gentleman from Pennsylvania.

The SPEAKER. The gentleman from New York [Mr. COX] moves that the House proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

Mr. O'NEILL. I now move to take up the adjournment resolution which has come from the Senate.

The SPEAKER. The business on the Speaker's table will be proceeded with in order under the rule.

GOVERNMENT PROPERTY, WALLABOUT BAY, NEW YORK.

The first business on the Speaker's table was a letter from the Acting Secretary of the Navy, inclosing a copy of the report of the commission appointed under the act of Congress approved February 26, 1877, entitled "An act to provide for the sale or exchange of a certain piece of land in Wallabout Bay, State of New York, to the city of Brooklyn."

Mr. WILLIS, of New York. I move that this communication be referred to the Committee on Naval Affairs.

The motion was agreed to.

The SPEAKER. The next business in order under the rule is Senate bills with House amendments; but there are no bills of that character on the table. The next order is House bills with Senate amendments.

THOMAS W. COLLIER.

The next business on the Speaker's table was the amendments of the Senate to the bill (H. R. No. 2291) for the relief of Thomas W. Collier.

The amendments of the Senate were read, as follows:

Strike out "\$1,086.25" and insert "\$938.72," so as to read: "That the sum of \$938.72 be reimbursed Thomas W. Collier, postmaster at Coshockton, Ohio, for postage-stamps," &c.

Strike out the words "postage-stamp fund."

Mr. CARLISLE. I move that the amendments of the Senate be concurred in.

The motion was agreed to.

Mr. CARLISLE moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

W. C. SNYDER.

The next business on the Speaker's table was the amendments of the Senate to the bill (H. R. No. 536) for the relief of W. C. Snyder, of Illinois.

The amendments were read, as follows:

Strike out "four hundred and fifty-one" and insert "three hundred and eighty-one," so as to read: "and the further sum of \$381 on his general account, being the amount of postage-stamps and stamped envelopes burned by the destruction of his office by fire," &c.

Strike out the words "and funds of the United States stolen."

Mr. CARLISLE. I move that these amendments be concurred in. The motion was agreed to.

Mr. CARLISLE moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC BUILDING AT KANSAS CITY, MISSOURI.

The next business on the Speaker's table was the amendments of the Senate to the bill (H. R. No. 3712) to provide for the erection of a public building in the city of Kansas, in the State of Missouri.

The amendments were read, as follows:

Strike out in lines 11, 12, and 13 the words "release and relinquish to the United States the right to tax or assess said site, or the property thereon, during the time the United States shall be or remain the owner thereof," and insert the following: "Cede to the United States exclusive jurisdiction over the same during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State, and the service of any civil processes therein."

Add the following as a new section:

SEC. 2. That the sum of \$100,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be used and expended toward the construction of said building.

Mr. FRANKLIN. I move that the House concur in these amendments of the Senate.

The motion was agreed to.

Mr. FRANKLIN moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADJOURNMENT OF CONGRESS SINE DIE.

The next business on the Speaker's table was a concurrent resolution from the Senate; which was read, as follows:

IN THE SENATE OF THE UNITED STATES,
April 17, 1878.

Resolved, (the House of Representatives concurring,) That the President of the Senate and the Speaker of the House of Representatives be, and they are hereby, directed to adjourn their respective Houses without day on Monday, June 10, 1878, at twelve o'clock noon.

Mr. WOOD and Mr. O'NEILL addressed the Chair.

The SPEAKER. The Chair recognizes the gentleman from New York.

Mr. WOOD. Under Rule 54, I move the reference of this resolution to the Committee of Ways and Means.

Mr. O'NEILL. As an amendment to the gentleman's motion, I move that the House now proceed to the consideration of the resolution, and on that I call the previous question.

Mr. WOOD. On my motion I demand the previous question.

The SPEAKER. The sense of the House can be tested very readily. The gentleman from New York [Mr. WOOD] moves that the concurrent resolution of the Senate just read be referred to the Committee of Ways and Means, and on that motion he demands the previous question.

Mr. O'NEILL. I rose to move (and I presumed the Chair would recognize me) that the House proceed to the consideration of the resolution.

The SPEAKER. The Chair recognized the gentleman who represents the committee usually having charge of this subject.

Mr. O'NEILL. I presume to be able to say that the business of this country can be finished in Congress by the 10th of June in spite of the chairman of the Committee of Ways and Means or the Speaker of this House, or the chairman of any committee of the House. [Cries of "Order!"]

Mr. CARLISLE. Under the rules of the House the vote must first be taken on the motion of the gentleman from New York.

The SPEAKER. Undoubtedly.

Mr. O'NEILL. I claim that I rose in my seat and the Speaker recognized me.

The SPEAKER. The gentleman may have risen in his seat, but there are proprieties in legislative bodies which must not be forgotten, and the Chair has only conformed to them in recognizing the chairman of the Committee of Ways and Means.

Mr. O'NEILL. I consider the proprieties rest with me as much as with any other member of the House, whether the chairman of the Committee of Ways and Means or any other.

The SPEAKER. The Chair conforms to the uniform parliamentary practice in recognizing the chairman of the Committee of Ways and Means to have charge of this subject and to make the motion he has made.

Mr. O'NEILL. I hope, then, the motion will be voted down.

The question recurred on seconding the demand for the previous question.

The House divided; and there were—ayes 112, noes 105.

So the previous question was seconded.

Mr. WHITE, of Pennsylvania, demanded tellers, and Mr. KILLINGER demanded the yeas and nays on ordering the main question, but subsequently withdrew the demands.

The main question was ordered to be now put.

Mr. TOWNSEND, of New York, and Mr. KILLINGER demanded the yeas and nays.

The yeas and nays were ordered.

Mr. WOOD. I ask the Speaker to state to the House on what it is the House is now called to vote.

The SPEAKER. It is on the motion to refer the concurrent reso-

New York the Chair thinks that such a motion would not be in order. When a motion has been made to refer and the previous question ordered thereon, and then the affirmative failed, the previous question runs to the resolution.

Mr. SPRINGER. I move to lay the whole subject on the table.

Mr. THOMPSON. I call for the regular order.

Mr. WRIGHT. I move to reconsider.

The SPEAKER. Reconsider what?

Mr. WRIGHT. To reconsider the vote just taken; and upon that I wish to say something.

The SPEAKER. The gentleman from Pennsylvania moves to reconsider the vote just taken. Did the gentleman vote with the majority?

Mr. WRIGHT. I did.

Mr. GARFIELD. And I move to lay the motion to reconsider on the table.

Mr. WOOD. The gentleman from Pennsylvania is right.

Mr. WRIGHT. I am not right, if you say so. [Laughter.]

The SPEAKER. The gentleman from Pennsylvania [Mr. WRIGHT] moves to reconsider the vote by which the House refused to refer the resolution and the gentleman from Ohio [Mr. GARFIELD] moves to lay that motion on the table.

Mr. CARLISLE. Upon that motion I ask for the yeas and nays.

Mr. SPRINGER. Is it in order to move to postpone the consideration of the whole subject?

Many members called for the regular order.

Mr. SPRINGER. This is the regular order.

The SPEAKER. There is a motion pending to lay on the table the motion to reconsider.

Mr. SPRINGER. Is it not in order to move to postpone the consideration of the whole subject?

The SPEAKER. Not while the question is pending to lay on the table the motion to reconsider.

Mr. CLYMER. I rise to a parliamentary inquiry. If the motion to lay on the table prevails, does it carry the whole subject with it?

The SPEAKER. It merely carries the motion to reconsider, and clinches the vote by which the House refused on the motion of the gentleman from New York to refer.

The question being taken on ordering the yeas and nays, there were yeas 62; a sufficient number.

So the yeas and nays were ordered.

Mr. BEEBE. I desire to make a parliamentary inquiry. If this motion prevails, will the question recur on the proposition to concur in the resolution of the Senate?

Mr. SPRINGER. I move that the House do now adjourn.

Mr. CHALMERS. Mr. Speaker, I desire to move that the House do now adjourn.

The SPEAKER. That motion has just been made by the gentleman from Illinois, [Mr. SPRINGER.]

The question being taken on Mr. SPRINGER's motion, the Speaker announced that in the opinion of the Chair the "noes" had it.

Mr. BEEBE. I desire to make a parliamentary inquiry. The pending proposition being to fix the day of adjournment, does not that take precedence of a motion to adjourn?

The SPEAKER. The motion to adjourn is always in order. Under Rule 42 it takes precedence of all other motions.

Mr. SPRINGER. This concurrent resolution is to fix the day of the adjournment of Congress, not of this House.

The SPEAKER. Not of this House; it is for the joint action of the two Houses.

Mr. SPRINGER. I ask for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and there were—yeas 87, nays 146, not voting 58; as follows:

YEAS—87.

Banning,	Elam,	House,	Robertson,
Bell,	Ellis,	Hunt,	Scales,
Blackwell,	Evins, John H.	Jones, James T.	Schleicher,
Blackburn,	Ewing,	Kenna,	Singleton,
Blount,	Felton,	Knap,	Simmons,
Boone,	Fornoy,	Knott,	Smith, William E.
Bragg,	Franklin,	Ligon,	Springer,
Bright,	Garth,	Mackey,	Steele,
Cabell,	Gause,	Maish,	Stenger,
Caldwell, John W.	Gibson,	Manning,	Throckmorton,
Candler,	Giddings,	Martin,	Tucker,
Carlisle,	Glover,	McKenzie,	Turner,
Chalmers,	Goode,	McMahon,	Vance,
Clark of Missouri,	Gunter,	Mills,	Waddell,
Clark of Kentucky,	Harris, Henry R.	Money,	Whitthorne,
Cobb,	Harris, John T.	Morrison,	Wigington,
Cook,	Harrison,	Muldrow,	Williams, A. S.
Cravens,	Hartridge,	Muller,	Williams, Jere N.
Culbertson,	Hartzell,	Rea,	Willis, Albert S.
Davidson,	Hatcher,	Reagan,	Wood,
Dibrell,	Henry,	Rice, Americus V.	Yeates.
Eickhoff,	Hooker,	Riddle,	

NAYS—146.

Bagley,	Beebe,	Bridges,	Calkins,
Baker, John H.	Bisbee,	Briggs,	Camp,
Baker, William H.	Blair,	Brown,	Campbell,
Bailou,	Bliss,	Bundy,	Cannon,
Banks,	Bouck,	Burchard,	Caswell,
Bayne,	Brewer,	Cain,	Chittenden,

Claslin,	Garfield,	Marsh,	Sapp,
Clark, Rosh,	Hamilton,	McCook,	Shallenberger,
Clymer,	Hanna,	McKinley,	Simickson,
Cole,	Hardenbergh,	Metcalfe,	Smalls,
Collins,	Harner,	Mitchell,	Smith, A. Herr
Conger,	Harris, Benj. W.	Monroe,	Spark,
Covert,	Hart,	Morse,	Starin,
Cox, Jacob D.	Haskell,	Norcross,	Stewart,
Cox, Samuel S.	Hayes,	Oliver,	Stone, Joseph C.
Crapo,	Hendee,	O'Neill,	Strait,
Crittenden,	Henderson,	Overton,	Thompson,
Cummings,	Hewitt, Abram S.	Patterson, G. W.	Thornburgh,
Cutler,	Hewitt, G. W.	Peddie,	Townsend, Amos
Danford,	Hiscock,	Phelps,	Townsend, M. I.
Davis, Horace	Hubbell,	Pollard,	Turney,
Deering,	Hungerford,	Pound,	Van Vorhes,
Denison,	Hunter,	Powers,	Wait,
Douglas,	Ittner,	Price,	Walsh,
Dunnell,	James,	Pugh,	Ward,
Durham,	Jorgensen,	Railey,	Watson,
Dwight,	Joyce,	Randolph,	Welch,
Eames,	Keifer,	Reed,	White, Harry
Errett,	Keightley,	Reilly,	Williams, Andrew
Evans, I. Newton	Kelly,	Rice, William W.	Williams, C. G.
Evans, James L.	Killinger,	Robbins,	Williams, Richard
Finley,	Landers,	Robinson, G. D.	Willis,
Fort,	Lapham,	Robinson, M. S.	Wilson,
Foster,	Lathrop,	Rosa,	Wren,
Frye,	Lindsey,	Ryan,	Wright,
Fuller,	Loring,	Sampson,	
Gardner,	Luttrell,		

NOT VOTING—58.

Acklen,	Davis, Joseph J.	Lockwood,	Southard,
Aiken,	Dean,	Lynde,	Stephens,
Aldrich,	Dickey,	Mayham,	Stone, John W.
Atkins,	Eden,	McGowan,	Swann,
Bacon,	Ellsworth,	Morgan,	Tipton,
Benedict,	Freeman,	Near,	Townsend, B. W.
Bland,	Hale,	Page,	Veeder,
Boyd,	Hazelton,	Patterson, T. M.	Walker,
Brentano,	Henkle,	Potter,	Warner,
Brown,	Herbert,	Pridemore,	White, Michael D.
Buckner,	Humphrey,	Quinn,	Williams, James
Burdick,	Jones, Frank	Roberts,	Willis, Benj. A.
Butler,	Jones, John S.	Saylor,	Young,
Caldwell, W. P.	Ketcham,	Sexton,	
Clark, Alvah A.	Kimmel,	Shelley,	

So the House refused to adjourn.

During the roll-call the following announcements were made:

Mr. BREWER. My colleague, Mr. STONE, is paired with Mr. ROBERTS, of Maryland. If here, my colleague would vote "no" and Mr. ROBERTS would vote "ay."

Mr. LATHROP. I desire to state that Mr. ALDRICH is paired with Mr. EDEN.

Mr. SAMPSON. I desire to state that Mr. BURDICK is paired with Mr. BENEDICT. If here, Mr. BURDICK would vote "no."

Mr. PATTERSON, of Colorado. I desire to announce that I am paired with Mr. WHITE, of Indiana.

Mr. POUND. I desire to state that Mr. HAZELTON is paired with Mr. SHELLEY, of Alabama.

Mr. MAISH. I am requested by Mr. ACKLEN, of Louisiana, to announce that he is paired with Mr. THORNBURGH, on this question.

Mr. THORNBURGH. No; he is paired with me on concurring in the resolution of the Senate, but on no other question.

Mr. MAISH. I only make the announcement that I was requested to make.

Mr. DAVIS, of North Carolina. I am paired with Mr. ELLSWORTH. My colleague, Mr. BROGDEN, is detained from the House by sickness. If present, he would vote "ay."

Mr. JONES, of Ohio. I am paired with Mr. YOUNG.

The result of the vote was then announced as above stated.

Mr. CLARK, of Missouri. I move that when the House adjourns to-day it adjourn to meet on Friday next.

Mr. BEEBE. The previous question has been ordered and I make the point of order that no further motion to adjourn is in order.

Several MEMBERS. Oh, yes, it is.

The SPEAKER. The previous question does not cut off motions to adjourn.

Mr. PRICE. Is it not true that two dilatory motions cannot be made, and this is evidently a dilatory motion.

The SPEAKER. Will the gentleman from Iowa point to the rule that says anything on that subject after the previous question has been ordered?

Mr. PRICE. I do not know that I can find the rule.

The SPEAKER. The gentleman from Iowa will be kind enough to read Rule 44 and he will recollect the rulings which were made in the Forty-third Congress.

Mr. THOMPSON. Oh, let them go on if they want to delay business.

Mr. EWING. I call for the yeas and nays upon the motion of the gentleman from Missouri, [Mr. CLARK.]

The yeas and nays were ordered.

The question was taken; and there were—yeas 10, nays 222, not voting 59; as follows:

YEAS—10.

Candler,	Elam,	Gunter,	Southard,
Cook,	Franklin,	Hooker,	
Eickhoff,	Goode,	Muller,	

NAYS—222.

Bagley,	Dickey,	Keightley,	Robinson, G. D.
Baker, William H.	Douglas,	Kelley,	Robinson, M. S.
Baldou,	Dunnell,	Kenna,	Ross,
Banks,	Durham,	Ketcham,	Ryan,
Banning,	Eames,	Killing,	Sampson,
Bayne,	Ellis,	Kimmel,	Sapp,
Beebe,	Evans, I. Newton	Knapp,	Scates,
Bell,	Evans, James L.	Knot,	Schleicher,
Bicknell,	Evins, John H.	Landers,	Shallenberger,
Blaise,	Ewing,	Lapham,	Singleton,
Blackburn,	Felton,	Lathrop,	Sinickson,
Blair,	Finley,	Ligon,	Slemmons,
Bliss,	Forney,	Lindsey,	Smalls,
Blount,	Fort,	Loring,	Smith, A. Herr
Boone,	Foster,	Luttrell,	Smith, William E.
Bouck,	Frye,	Mackey,	Sparks,
Bragg,	Gardner,	Manning,	Springer,
Brewer,	Garth,	Marsh,	Stalin,
Bridges,	Gause,	McCook,	Steele,
Bright,	Gibson,	McKenzie,	Stephens,
Bundy,	Giddings,	McKinley,	Stewart,
Burchard,	Hale,	McMahon,	Stone, Joseph C.
Cabell,	Hamilton,	Metcalf,	Strait,
Cain,	Hanna,	Mills,	Thompson,
Caldwell, John W.	Hardenbergh,	Mitchell,	Thornburgh,
Calkins,	Harmer,	Money,	Throckmorton,
Camp,	Harris, Benj. W.	Monroe,	Townsend, Amos
Campbell,	Harris, Henry R.	Morgan,	Townsend, Martin I.
Cannon,	Harris, John T.	Morrison,	Tucker,
Carlisle,	Harrison,	Morse,	Turney,
Caswell,	Hart,	Muldrow,	Vance,
Chittenden,	Hartridge,	Norcross,	Van Vorhes,
Clafin,	Hartzell,	Oliver,	Waddell,
Clark, Rush	Haskell,	O'Neill,	Walsh,
Clark of Missouri,	Hayes,	Overton,	Ward,
Clarke of Kentucky,	Hendee,	Page,	Watson,
Clymer,	Henderson,	Patterson, G. W.	Welch,
Cobb,	Henry,	Patterson, T. M.	White, Harry
Cole,	Herbert,	Peddie,	Whitthorne,
Collins,	Hewitt, Abram S.	Phelps,	Wigginton,
Conger,	Hewitt, G. W.	Phillips,	Williams, A. S.
Covert,	Hiscock,	Pound,	Williams, Andrew
Cox, Jacob D.	House,	Powers,	Williams, C. G.
Cravens,	Hubbell,	Price,	Williams, James
Crittenden,	Hungerford,	Pugh,	Williams, Jere N.
Culberson,	Hunter,	Raney,	Williams, Richard
Cummings,	Huntton,	Randolph,	Willis, Albert S.
Cutler,	Itner,	Rea,	Willis, Benjamin A.
Danford,	Jones, James T.	Reed,	Wilson,
Davidson,	Jorgensen,	Reilly,	Wood,
Dean,	Joyce,	Rice, William W.	Wren,
Deering,	Keifer,	Riddle,	Yeates.
Denison,		Robbins,	
Dibrell,			

NOT VOTING—59.

Acklen,	Caldwell, W. P.	Jones, Frank	Sexton,
Aiken,	Chalmers,	Jones, John S.	Shelley,
Aldrich,	Clark, Alvah A.	Lockwood,	Stenger,
Atkins,	Cox, Samuel S.	Lynde,	Stone, John W.
Bacon,	Crapo,	Malish,	Swann,
Baker, John H.	Davis, Joseph J.	Mayham,	Tipton,
Benedict,	Eden,	McGowan,	Townsend, R. W.
Bland,	Ellsworth,	Neal,	Turner,
Boyd,	Freeman,	Potter,	Veeder,
Brentano,	Fuller,	Pridemore,	Walker,
Brogden,	Garfield,	Quinn,	Warner,
Browne,	Glover,	Rice, Americus V.	White, Michael D.
Buckner,	Hazelton,	Roberts,	Wright,
Burdick,	Henkle,	Robertson,	Young,
Butler,	Humphrey,	Saylor,	

So the motion that when the House adjourns to-day it be to meet on Friday next was not agreed to.

During the roll-call the following announcements were made:

Mr. ROBERTS. I am paired with the gentleman from Michigan, Mr. STONE.

Mr. JONES, of Ohio. I am paired with the gentleman from Tennessee, Mr. YOUNG. Were he present, I should vote "no."

Mr. LATHROP. My colleague, Mr. ALDRICH, is paired with my colleague, Mr. EDEN.

Mr. POUND. My colleague, Mr. HAZELTON, is paired with the gentleman from Alabama, Mr. SHELLEY.

Mr. DAVIS, of North Carolina. I am paired with the gentleman from Michigan, Mr. ELLSWORTH.

The result of the vote was announced as above stated.

Mr. FRANKLIN. I move that the House now adjourn.

The question being taken on agreeing to the motion, there were—ayes 86, noes 99.

Mr. FRANKLIN. I call for tellers.

Tellers were ordered; and Mr. FRANKLIN, and Mr. WHITE of Pennsylvania, were appointed.

Mr. TOWNSEND, of New York. I call for the yeas and nays.

Mr. FRANKLIN. Tellers have been ordered.

The SPEAKER. The call for the yeas and nays takes precedence of the vote by tellers.

The yeas and nays were ordered.

The question was taken; and there were—yeas 98, nays 128, not voting 65; as follows:

YEAS—98.

Ranning,	Blackburn,	Bouck,	Candler,
Bell,	Blount,	Bragg,	Carlisle,
Bicknell,	Boone,	Cabell,	Chalmers,

Clark of Missouri,	Gause,	Knapp,	Smith, William E.
Clarke of Kentucky,	Gibson,	Knott,	Southard,
Cobb,	Giddings,	Ligon,	Springer,
Cook,	Glover,	Lynde,	Steele,
Cravens,	Goode,	Maish,	Stenger,
Crittenden,	Gunter,	Manning,	Stephens,
Culberson,	Harris, Henry R.	Martin,	Throckmorton,
Davidson,	Harris, John T.	McKenzie,	Tucker,
Dean,	Harrison,	McMahon,	Turner,
Dibrell,	Hart,	Mills,	Vance,
Diekey,	Hartridge,	Money,	Waddell,
Douglas,	Hartzell,	Morgan,	Whitthorne,
Durham,	Hatcher,	Morrison,	Wigginton,
Elam,	Henry,	Muldrow,	Williams, A. S.
Ellis,	Herbert,	Muller,	Williams, James
Evans, John H.	Hewitt, Abram S.	Rea,	Williams, Jere N.
Ewing,	Hewitt, G. W.	Reagan,	Willis, Albert S.
Felton,	Hooker,	Rice, Americus V.	Willson,
Finley,	House,	Riddle,	Wood,
Forney,	Jones, James T.	Robbins,	Yeates.
Franklin,	Kenna,	Scales,	
Garth,	Kimmel,	Singleton,	

NAYS—128.

Aldrich,	Cutler,	Joyce,	Robinson, M. S.
Bagley,	Danford,	Keifer,	Ross,
Baker, John H.	Davis, Horace	Keightley,	Ryan,
Baker, William H.	Deering,	Kelley,	Sapp,
Baldou,	Denison,	Killing,	Shallenberger,
Banks,	Dunnell,	Landers,	Sinickson,
Bayne,	Dwight,	Lapham,	Slemmons,
Beebe,	Eames,	Lathrop,	Smalls,
Bisbee,	Errett,	Lindsey,	Smith, A. Herr
Blair,	Evans, I. Newton	Loring,	Sparks,
Bliss,	Evans, James L.	Luttrell,	Stalin,
Brewer,	Fort,	Mackey,	Stewart,
Bridges,	Foster,	Marsh,	Stone, Joseph C.
Briggs,	Gardner,	McCook,	Strait,
Bright,	Garfield,	Metcalf,	Thompson,
Brown,	Hale,	Mitchell,	Thornburgh,
Bundy,	Hamilton,	Monroe,	Townsend, Amos
Burchard,	Hanna,	Norcross,	Townsend, M. L.
Cain,	Hardenbergh,	Page,	Turney,
Calkins,	Harmer,	Patterson, G. W.	Van Vorhes,
Camp,	Harris, Benj. W.	Phelps,	Wait,
Campbell,	Haskell,	Phillips,	Walsh,
Cannon,	Hayes,	Pollard,	Ward,
Caswell,	Hendee,	Pound,	Watson,
Chittenden,	Henderson,	Powers,	White, Harry
Clark, Rush	Hiscock,	Price,	Williams, Andrew
Cole,	Hubbell,	Raney,	Williams, C. G.
Conger,	Hungerford,	Randolph,	Williams, Richard
Covert,	Hunter,	Reed,	Willis, Benj. A.
Cox, Jacob D.	Itner,	Reilly,	Willits,
Crapo,	Jones, James T.	Rice, William W.	Wren,
Cummings,	Jorgensen,	Robinson, G. D.	Wright.

NOT VOTING—65.

Acklen,	Collins,	Mayham,	Saylor,
Aiken,	Cox, Samuel S.	McGowan,	Schleicher,
Atkins,	Davis, Joseph J.	McKinley,	Sexton,
Bacon,	Eden,	Morse,	Shelley,
Benedict,	Eickhoff,	Neal,	Stone, John W.
Bland,	Ellsworth,	Oliver,	Swann,
Boyd,	Freeman,	O'Neill,	Tipton,
Brentano,	Frye,	Overton,	Townsend, R. W.
Brogden,	Fuller,	Patterson, T. M.	Veeder,
Buckner,	Hazelton,	Peddie,	Walker,
Burdick,	Henkle,	Potter,	Warner,
Butler,	Humphrey,	Pridemore,	Welch,
Caldwell, John W.	Huntton,	Pugh,	White, Michael D.
Caldwell, W. P.	Jones, Frank	Quinn,	Young.
Clafin,	Jones, John S.	Roberts,	
Clark, Alvah A.	Ketcham,	Robertson,	
Clymer,	Lockwood,	Sampson,	

So the motion to adjourn was not agreed to.

During the roll-call the following announcements were made:

Mr. CALDWELL, of Kentucky. I am paired with the gentleman from Iowa, Mr. SAMPSON.

Mr. DAVIS, of North Carolina. I am paired with the gentleman from Michigan, Mr. ELLSWORTH.

Mr. HUNTON. On all questions arising during to-day's session I am paired with the gentleman from Maine, Mr. FRYE.

Mr. PRICE. My colleague, Mr. BURDICK, is paired with the gentleman from New York, Mr. BENEDICT.

Mr. PATTERSON, of Colorado. I am paired with the gentleman from Indiana, Mr. WHITE.

Mr. POUND. My colleague, Mr. HAZELTON, is paired with the gentleman from Alabama, Mr. SHELLEY.

The result of the vote was announced as above stated.

ORDER OF BUSINESS.

Mr. DURHAM. I rise to make a privileged report. [Cries of "Regular order."] Gentlemen will find, I think, that this is the regular order.

Mr. PAGE. Mr. Speaker, are we not operating now under the previous question?

Mr. DURHAM. Gentlemen will discover that I have the right to make this report at any time.

Mr. PAGE. Not when we are operating under the previous question?

Mr. SPRINGER. Speaker BLAINE decided that the report of a conference committee was so highly privileged that it could take a member from the floor, and would even take precedence of a motion to adjourn.

The SPEAKER. The Clerk will read from the Manual on this subject.

The Clerk read as follows:

The report of a committee of conference is, under the practice of the House, so highly privileged that it has been held to be in order even pending a motion for a call of the House.—*Journal*, 1, 31, page 1500.

Under the practice, reports of conference committees are received at any time, (except when the rules are suspended,) even during the pendency of a motion to adjourn or to adjourn over, and, like the motion to go to the Speaker's table, may interrupt a member who is on the floor speaking.

Mr. O'NEILL. This does not affect the motions already made?

The SPEAKER. It does not affect the status at all. The gentleman from Pennsylvania seems to be under a misapprehension. The concurrent resolution of the Senate is before the House because of the motion made by the gentleman from New York [Mr. Cox] to go to business upon the Speaker's table, and when the concurrent resolution of the Senate was reached the gentleman from New York [Mr. Wood] moved to refer it to the Committee of Ways and Means, on which the previous question was seconded and the main question ordered. If the motion had prevailed to refer, the previous question would have been exhausted under the practice of the House. But the affirmative vote did not prevail, and the effect has been to keep the concurrent resolution before the House under the operation of the previous question. The Senate concurrent resolution was reached by reason of the motion of the gentleman from New York, [Mr. Cox,] and being before the House for consideration the motion to refer was made in order under rule.

Mr. O'NEILL. The Chair stated that some time ago and I understand it thoroughly. I am not seeking any special credit for attempting to bring the House to a vote on the resolution for an adjournment of this session of Congress at as early a day as possible.

The SPEAKER. The Chair does not know what the gentleman is seeking, but he merely states the fact.

Mr. FRANKLIN. Is debate in order?

The SPEAKER. It is not.

Mr. O'NEILL. I do not care whether the gentleman from New York gets the credit for having brought the House to a vote on this question or I do.

The SPEAKER. The Chair has recognized the gentleman entitled by usage to be in charge of this matter.

Mr. TOWNSEND, of New York. While the previous question is operating is a conference report in order?

The SPEAKER. The highest privileged motion is the motion to adjourn, and it has been repeatedly asserted that a conference report can interrupt a motion to adjourn, can interrupt a motion to adjourn for a day, can interrupt a member who is occupying the floor. The status of this question is not disarranged by this interruption.

Mr. GARFIELD. There is no doubt about the correctness of the decision of the Chair, but we are still where we were after the conference report has been disposed of.

The SPEAKER. The Chair has so stated.

Mr. DURHAM. I ask for the reading of the report.

Mr. CONGER. Is a conference report of higher privilege than going to the business upon the Speaker's table?

The SPEAKER. Undoubtedly it is of higher privilege. The House is now disposing of the business upon the Speaker's table and that is the way the Senate concurrent resolution came up for consideration. It is the practice under the rule of the House and under the joint rules.

TEMPORARY CLERKS, ETC.

Mr. DURHAM. I now ask for the reading of the conference report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House, No. 3102, authorizing the Secretary of the Treasury to employ temporary clerks and making an appropriation for the same; also making appropriations for detecting trespasses on the public lands and for bringing into market public lands in certain States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to amendments numbered 1 and 4, and agree to the same, with an amendment as follows: In lieu of \$20,000 insert \$6,500; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 3, and agree to the same, with an amendment as follows: In lieu of the sum proposed insert \$1,000; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 5, and agree to the same, with an amendment as follows: In lieu of "\$15,000," in lines 4 and 5 of said amendment, insert "\$7,500;" and in lieu of "\$5,000," in line 7, insert "\$7,500;" and the Senate agree to the same.

That the committee are unable to agree upon the amendments numbered 7 and 8.

M. J. DURHAM,
JAMES H. BLOUNT,
J. H. BAKER,

Managers on the part of the House.

WILLIAM WINDOM,
S. W. DORSEY,
JAMES B. BECK,

Managers on the part of the Senate.

Mr. DURHAM. Mr. Speaker, if the House will give me its attention I believe I can explain this matter so every member will understand it. I hope members will send for the bill and have it before them.

Mr. GARFIELD. Is it the deficiency bill?

Mr. DURHAM. It is the bill to employ temporary clerks and to protect the timber lands of the Government. The House will bear in mind the original bill provided for the employment of twenty temporary clerks and appropriated for that purpose \$6,500. The Senate amended it by striking out the per diem allowed these temporary clerks and gave unlimited authority to the Secretary of the Treasury to employ clerks and appropriated \$20,000 thereon. The conference committee agreed to strike out the per diem for reasons which I will state in a moment and the Senate agreed to yield to the original appropriation and fix it at \$6,500. That is the first amendment.

The next amendment was an item placed on the bill by the Senate appropriating \$2,000 for a deficiency for care of horses, feeding the same, &c. The conference committee compromised upon that and made it \$1,000.

The next item was an amendment put on by the Senate appropriating \$2,000 for gas, &c. After this amendment was put on by the Senate, it is due to our committee to say that on its behalf I went to the Treasury Department and found that this appropriation was really needed, and the House conferees agreed to that amendment.

The next amendment was to what was known as the timber part of this bill. The original bill appropriated \$20,000 for the purpose of protecting timber lands, together with other purposes specified in that section of the bill. The House will bear in mind that the Senate only appropriated \$5,000 for the protection of timber lands, and appropriated the other \$15,000 for the other purposes spoken of in that section of the bill. As this appropriation was recommended or asked for some time in the month of January, the conference committee believe that \$15,000 was all that was necessary for the balance of the year, and we compromised by putting \$7,500 for the purpose of protecting timber and \$7,500 for the other objects specified in that section of the bill, thus reducing the original amount appropriated by this House \$5,000.

The next amendment put on by the Senate was adopted by this House. It is amendment number 6.

The seventh amendment put on by the Senate reads as follows:

For salaries and expenses of collectors of internal revenue, being a deficiency for the fiscal year ending June 30, 1878, \$40,000.

The eighth amendment was:

For railway mail agents and postal clerks, \$20,000.

Upon these two items the conference committee could not make any compromise at all. But it is right to say that if the forty-thousand-dollar item in regard to the special collectors could have been agreed upon by the conference committee a compromise could have been reached so far as the postal clerks are concerned. I will leave it to my friend from Georgia, [Mr. BLOUNT,] who was on that committee and who understands that postal matter, to make a statement in regard to that to the House.

Now, Mr. Speaker, I do not intend to consume the time of the House very long; but I want to place the conference committee of the House, and the House itself, in a right attitude before the country; because I do not believe that one of the gentlemen on that conference committee from the Senate did your committee justice or did this House justice. I will mention no names. But I have a right to refer to the record as to what was said and done. One of those conferees said, in making this report to the Senate:

Upon the whole, the bill outside of the last item giving clerks to carry on the Pension Bureau was \$1,500 less than it was as it came from the House in the first place, leaving out the items we disagreed about; so that there has been no extravagance on the part of the Senate.

I say, Mr. Speaker, that while my friend at the other end of the Capitol did not intend to be incorrect, yet he was so. As I stated a moment ago, the Senate has ratified that report as made to the Senate, and I have a right to speak of it because it is a matter of history and on the public records of the country. The report shows the Senate yielded \$13,500—

Mr. BANKS. I rise to a question of order. I wish to call the attention of the Speaker to the question of order whether the gentleman from Kentucky who presents the conference report has a right, as he claims, to speak of the proceedings in the Senate.

The SPEAKER. The Chair thinks not.

Mr. BANKS. And to carry it so far as to involve, perhaps, a question of veracity in regard to what was said?

Mr. DURHAM. I beg the gentleman's pardon. This is not a question of veracity. It is just a mistake, as I said.

Mr. BANKS. Then I withdraw that.

Mr. DURHAM. I hope you will.

Mr. BANKS. I so understood the gentleman; but I insist on the question as to the right of a member to refer to proceedings in the Senate.

Mr. BLOUNT. I think the gentleman is thoroughly justified in the reference he is making, because the whole report shows that the Senate conferees recited what passed between them and the House conferees.

Mr. BANKS. There must be some other way of reaching it. It is not competent for a member to reply to anything said in the Senate on that subject.

Mr. DURHAM. I might say there was nobody to reply in the Senate to this, either. The gentlemen who acted on that conference

committee on behalf of the Senate undertook to say they were as economical as this House, and I say the record does not bear out that statement. And if we have no right to reply here to what was said, I think it is fair that the conferees on the part of the House shall be heard upon this question and upon the statements of the gentlemen which have gone into the public prints. They have set the precedent, and that is all I ask to do.

Mr. GARFIELD. I submit that we cannot—

Mr. DURHAM. Furthermore, before the gentleman responds I desire to say that I am standing here by the dignity of this House. And I stand by it because they approved of this legislation which we made here in the first instance, and until I am voted down by this House, whose organ I am, I will stand up and defend its honor and its integrity. That is what I will do, and I hope I will not go beyond parliamentary limits either when I undertake to do it.

Mr. BANKS. I did not rise to question the propriety of the argument of the gentleman on the position assumed by the committee of conference at all. I am perfectly willing to stand by the House committee, and I only raise the question as to the right of the gentleman to refer to the debates in the Senate. The Chair will see that there never would be an end to it if each House discussed what had taken place in the other.

The SPEAKER. There has always been a difficulty on this subject between the two Houses and very often there have been evasions by which those matters desired to be spoken of which have occurred in the respective Houses have been brought before the respective Houses. The Chair desires to have read what he has marked upon page 213 of the Manual.

The Clerk read as follows:

It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majority on it there; because the opinion of each House should be left to its own independence, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses.

Mr. DURHAM. If I am not permitted to respond to what is published in the RECORD by experienced men at the other end of the Capitol then I will proceed in my own way and I hope I shall not go beyond the bounds of propriety.

The SPEAKER. The Chair never stated that the gentleman from Kentucky had gone beyond the bounds of propriety; the Chair only had read from the Manual what has been the practice in these matters.

Mr. DURHAM. Well, I will get at the argument without even referring to the RECORD at all.

Mr. GARFIELD. I sympathize entirely with the gentleman from Kentucky in his desire to set the conference committee and himself right, for I know so well the necessity a man is under under such circumstances to justify the action of himself and his associates on the committee of conference; but it may always be done by declaring what the committee of conference did and what he and his associates contended for in the committee of conference, and by saying what was refused by the conferees on the part of the Senate. That is a plain matter that he can speak of, but the proceedings of the other body we cannot, with propriety, refer to because it would beget a right on their part to reply to our proceedings, and if we once get to that we should get into a jangle of debate between the two bodies.

Mr. DURHAM. I am very much obliged to the gentleman from Ohio for his suggestion, for I always listen to my friend with respect, because he served so long upon this committee and has been on so many committees of conference. But I was only doing that which the conferees on the part of the Senate have done.

Mr. GARFIELD. If a bad example has been set in the one House the dignity of this House does not require that we should follow it.

Mr. DURHAM. I was governed by precedents set for me by older and wiser heads than mine.

Now, Mr. Speaker, it has been alleged, and has got into print, that the Senate is equally as economical as this House. I undertake to say that the records of the proceedings of the two Houses do not bear out that assertion, for the bill under consideration will show that the Senate has tacked on, in addition to the appropriation of the House, \$13,500 on the first item; they put on \$2,000 on the second item; they put on \$2,000 on the third item; they put on \$40,000 on the fourth item; they put on \$20,000 on the fifth item; they put on \$11,768 for clerks in Surgeon-General's Office; and it is not true in point of fact that the Senate has been as economical as the House upon questions of this sort. That is all I desire to say upon that question.

Now, I hope that the House will adopt this conference report and send us back to consider the items contained in the seventh and eighth amendments of the Senate, the seventh being \$40,000 for salaries and expenses of collectors of internal revenue and the eighth for railway mail agents and postal clerks. And I ask the House to bear with me while I discuss these two propositions. So far as the assistant collectors are concerned, I want to say this: that I am not for the "moonshiners." It has gone into the public prints that it is a controversy between the "moonshiners" and the regular distillers. I represent a district that is largely interested in distilling. I represent a district, I am sorry to say, in which moonshining is done to some extent, and I will never protect a "moonshiner" if I know it. But I will never put into the hands of the Commissioner of Internal Revenue \$100,000, if I can help it, for the purpose of sending out his agents and spies all

over the country to entrap men whom he supposes have been guilty of illicit distilling.

Now, I want to call the attention of the House to the fact that last year there was appropriated for the present fiscal year \$1,800,000 for collectors; at the extra session and at other times \$42,000 have been appropriated, making \$1,842,000 for collectors. This is ample for the period of one year for all the regular collectors throughout the United States.

Mr. FOSTER. I think the gentleman is mistaken. I do not understand that this House has appropriated a deficiency of \$42,000 for collectors. We have appropriated some money for special agents which belongs to another appropriation.

Mr. DURHAM. Now, may I inquire what this \$40,000 is asked for?

Mr. FOSTER. For collectors.

Mr. DURHAM. No, sir; for special agents.

Mr. FOSTER. No, sir; for collectors.

Mr. DURHAM. To show that the Senate conferees have misunderstood this whole question from beginning to end and that my colleague on the committee [Mr. FOSTER] does not understand it, I will read what the Commissioner of Internal Revenue says:

I desire to call your attention, especially, to the two items recommended to be appropriated for deficiencies in the internal-revenue service, namely, \$40,000 on account of "salaries and expenses of collectors," and \$150,000 on account of "salaries and expenses of agents, surveyors, gaugers," &c.

Now, mark what the Commissioner says further:

The allowances for collectors that have been recommended for your approval have not created and will not create a deficiency in the appropriation, but the needs of the service are so urgent that I deem it for the best interests of the Government that this appropriation of \$40,000 should be made.

Now, what is this appropriation intended for?

It is intended, mainly, for the purpose of suppressing frauds in the manufacture and sale of spirits and tobacco.

That is just exactly what I said. It is not for regular collectors; the Commissioner does not place the matter upon that ground; he says it is mainly for the purpose of detecting the illicit manufacture of whisky and tobacco.

Mr. HANNA. Does the gentleman take the position that those frauds ought not to be detected?

Mr. DURHAM. I do not. But we have already given in this bill all that has been asked for that purpose—\$20,000—and I want to say that I consented to give this much very reluctantly, because I believed that the Commissioner would have had sufficient for the purpose without this appropriation.

Mr. FOSTER. Will the gentleman yield to me a moment?

Mr. DURHAM. Yes, sir.

Mr. FOSTER. I think it important that this question should be understood. Either the gentleman from Kentucky [Mr. DURHAM] is mistaken, or a large number of other intelligent gentlemen are mistaken. Now, the appropriation of \$40,000 asked for by the Commissioner is for collectors; but he tells us in the communication which the gentleman has read that there is no deficiency, nor will there be any, but that if we give him this \$40,000 the service of the collectors throughout the country will be very much improved.

There is another appropriation for special agents—for the detection and punishment of frauds. That is a different purpose entirely, and for that we have made appropriations heretofore. Then there is still another appropriation, for gaugers and storekeepers. For that the Commissioner asks \$150,000, and he says that he has no control of that, and we must make up that appropriation. But the \$40,000 to which the gentleman refers is for collectors.

Mr. DURHAM. My friend will have an opportunity to make a speech after a while.

Mr. FOSTER. I know the gentleman does not want to misinform the House.

Mr. DURHAM. I do not. I am informing the House correctly; and I will show that the gentleman does not understand the question.

Mr. FOSTER. Let me finish my statement.

Mr. DURHAM. Why, this bill says that it is a deficiency of \$40,000 for this year; and the gentleman has just told this House that the Commissioner says there is no deficiency and will not be any.

Mr. FOSTER. I say the Commissioner has said, "Give me the \$40,000 and I will serve you a great deal better than if you do not give it to me; but if you do not give it, I will make no deficiency; I will run the service without it."

Mr. DURHAM. I say that this appropriation is for detective purposes. I prove this not only by the recommendation of the Commissioner dated October 31, 1877, but also by a dispatch, which I will read, dated April 10, 1878.

Mr. FOSTER. The gentleman has confused three appropriations which are entirely distinct.

Mr. DURHAM. I am very sorry I cannot beat this thing into my friend's head. [Laughter.] I hope he will just sit still till I read this dispatch; and if he then says he does not understand it, I will ask the Speaker to summon a jury on his case and see what they will do. [Laughter.]

Mr. FOSTER. I will call that Senate jury to act on the gentleman's case.

Mr. DURHAM. I wish I could have a chance at that Senate jury. [Laughter.] Now, in addition to the recommendation of the Com-

missioner of the Internal Revenue made on the 31st of October, I read this dispatch, which has been published in the RECORD:

WASHINGTON, D. C., April 10, 1878.

To Hon. WILLIAM WINDOM,
United States Senate:

In reply to your dispatch asking information as to the necessity of an appropriation of \$40,000 for collectors, &c.—

Ah, it is this " &c. " that does the mischief. My friend said this was for collectors. Now we have this " &c. " brought in—

I have to say that the present appropriation is virtually exhausted.

Where is the deficiency? Why, it is just as the Commissioner said, there is no deficiency, and there should be none. Yet the Senate tacks on as an amendment to this bill an appropriation of \$40,000 and calls it a "deficiency." Now let us read a little further.

Mr. FOSTER rose.

Mr. DURHAM. I cannot yield now. [Laughter.] I will not yield now.

The present appropriation is virtually exhausted, no more of it being available for the employment of deputy collectors—

He gets that in it now. Where is that? Was there any " &c. ? " Were there not deputy collectors in that? Now let us read a little further—

for enforcement of the laws against those engaged in illicit manufacture of spirits and tobacco.

Clearly a detective farce. You cannot make anything else out of it. Now, mark what he says: "The necessity for increasing the regular force for the purpose named is urgent and pressing." Well, what does that say? Is it for a force already in the field? Not a bit of it; but for increasing the force. For what? For deputy collectors, &c. What is &c. for? To support a few of those gentlemen who are running around through the country at night pouncing upon innocent men and dragging them before the United States courts and robbing them of their property and then turning them loose. That is what it is for. It is not for the regular collectors, as I contend.

Why, sir, that dispatch is dated only the 10th day of April. I want to show you a little piece of law which I do not suspect the Commissioner of Internal Revenue has ever seen. He has not only expended \$1,842,000 upon this part of the service, but you by solemn act—and my friend from Ohio was on that committee and helped to enact it—did what? The Secretary of the Treasury was directed for this present year to reduce the expenses of that Department 5 per cent., but instead of that if you appropriate this \$40,000 to the Commissioner of Internal Revenue you will increase it 5 per cent. rather than reduce it 5 per cent. What does the law of the last Congress say? After making this appropriation of \$1,800,000 for collectors of the internal revenue this House said and the whole Congress said:

And the Secretary is hereby authorized and directed to cause a careful examination to be made of allowances to collectors of internal revenue under the provision of section 3145 of the Revised Statutes for collection of revenue in the several districts, and to equalize the same, and to reduce the aggregate of such allowances not less than 5 per cent. of the amount of the same.

I undertake to say when the House will look into this thing, instead of reducing that expense 5 per cent., if you appropriate this \$40,000 you will increase it 5 per cent.

Mr. FOSTER. What is the date of that law?

Mr. DURHAM. The last appropriation bill. I refer to page 11 of that identical bill which my friend from the State of Ohio helped to pass in this House last winter. It is under the heading of the Commissioner of Internal Revenue.

Mr. Speaker, I believe I have said about all I desire to say. I will add that what has been published as to economy in regard to matters of this sort is not borne out by the facts. While I do not intend to disparage the Commissioner of Internal Revenue, and believe he is a clever man, I believe he is like the head of many of these Departments—indeed like the whole of them—the more you give him the more he wants, without ever looking to what may be the consequence or how it may be expended, provided only certain parties can be kept in employment. I say both sides of this House—I do not claim it for this any more than the other—I say so far as I have had the charge generally of these appropriation bills that side of the House has come to my assistance like this; but I do say you ought not to put it in the power of these gentlemen to expend one dollar beyond what you appropriate for them.

And you will bear in mind that at the end of the report made on the 31st of October last he said there would be a deficiency and he asked for this appropriation at that time, but on the 10th of April he still says that fund is not out but nearly exhausted! I think it holds out longer than any fund I ever heard of in my life. He asked for a deficiency October 31, 1877, and then run it upon nothing until the 10th of April and then admits he had still some in the Treasury, "but that it is nearly exhausted!" If he could hold out from the 31st of October, 1877, down to April 10, 1878, on nothing and besides put something into the Treasury, I ask you to compel him to run on to the 30th of June next and not give him a dollar. That is right. It is as plain a proposition as the nose on a man's face. It is paraded before the country. It is claimed that the Senate is as economical as the House. I hope I have a right to say that.

Mr. FOSTER. That is a democratic authority.

Mr. DURHAM. Oh, politics are always running in my friend's head. Now, let us talk about business. That is what we should do.

Now, Mr. Speaker, I have tried to explain this term of \$40,000. I say there is not a dollar of a deficiency, and you will place a falsehood upon your record if you vote that there is a deficiency there when the head of this Department tells you that that appropriation is now about exhausted. I undertake to say that we have already appropriated \$30,000 for this purpose and they do not need another single dollar. But, as I remarked a little while ago, it is like the leech. It is "Give!" "Give!" "Give!" That is what it is. And I do insist that this House ought to put down the brakes on this extravagance, because you cannot denominate it in any other way than that it is a species of extravagance that this House and the whole country must necessarily condemn.

In regard to the postal clerks, I give way to my colleague on the committee, the gentleman from Georgia, [Mr. BLOUNT,] to explain that. He understands it better than I do.

Mr. BLOUNT rose.

Mr. REAGAN. Will the gentleman yield for a motion to adjourn?

Mr. DURHAM. Certainly I will. Whatever this House will say I will submit to it.

Mr. REAGAN. Then I move that the House do now adjourn.

Mr. O'NEILL. I hope not.

The question being taken on Mr. REAGAN's motion, there were—ayes 99, noes 91.

Mr. CAMP. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. SPRINGER. I rise to a question of order. I understand an order was passed for the purpose of having the evening session tonight. [Cries of "Regular order!"]

The SPEAKER. The question the gentleman from Illinois desires to ask may be a proper one. The Chair would like to hear it.

Mr. SPRINGER. I understand there was an order made to have a night session. I wish to know what effect this motion to adjourn, if it is carried, will have upon that order.

The SPEAKER. It will vacate it, of course.

Mr. BEEBE. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BEEBE. If the motion to adjourn should prevail, will this come up as unfinished business to-morrow morning?

The SPEAKER. Which?

Mr. BEEBE. The conference report and the Senate resolution.

The SPEAKER. There will come up as unfinished business first the conference report and then the resolution in regard to the *sine die* adjournment.

Mr. BEEBE. The two matters will come up in their order?

The SPEAKER. Yes, sir.

Mr. LUTTRELL. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. LUTTRELL. I understand the Chair to state that if the House should now adjourn there will come up as unfinished business to-morrow first the conference report and then the question of the *sine die* adjournment. Then, I ask, what is the use of taking a vote on adjourning by yeas and nays?

The SPEAKER. The Chair is unable to answer that. [Laughter.]

Mr. LUTTRELL. I ask gentlemen to withdraw the demand for the yeas and nays. [Cries of "Regular order!"]

Mr. LUTTRELL. I move to reconsider the vote by which the yeas and nays were ordered.

The question being taken, the motion to reconsider was agreed to.

The SPEAKER. The question recurs on the demand for the yeas and nays on the motion to adjourn.

The question being put, there were, ayes 51.

So (the affirmative being more than one-fifth of the last vote) the yeas and nays were ordered.

The question was taken; and there were—yeas 109, nays 96, not voting 86; as follows:

YEAS—109.

Banning,	Douglas,	House,	Seales,
Becke,	Durham,	Jones, J. T.	Schleicher,
Boell,	Elam,	Keena,	Singleton,
Blackburn,	Ellis,	Kimmel,	Simmons,
Bliss,	Evins, John H.	Knapp,	Southard,
Blount,	Felton,	Knott,	Sparks,
Boone,	Finley,	Landers,	Springer,
Bouck,	Forney,	Ligon,	Steele,
Bragg,	Fort,	Lynde,	Stenger,
Bright,	Franklin,	Mackey,	Throckmorton,
Burchard,	Garth,	Maish,	Tucker,
Cabell,	Gause,	Manning,	Turner,
Candler,	Giddings,	Martin,	Turney,
Carlisle,	Glover,	McKenzie,	Vance,
Chalmers,	Goode,	McMahon,	Waddell,
Clark of Missouri,	Gunter,	Mills,	Walsh,
Clarke of Kentucky,	Hamilton,	Money,	Whitthorne,
Cobb,	Hardenbergh,	Morgan,	Wigington,
Collins,	Harris, Henry R.	Mularow,	Williams, A. S.
Cook,	Harris, John T.	Muller,	Williams, James
Covert,	Harrison,	Phillips,	Williams, Jere N.
Cravens,	Hart,	Reagan,	Wilson,
Crittenden,	Hartzell,	Reilly,	Wood,
Culbertson,	Hatcher,	Rice, Americas V.	Wright,
Davidson,	Henry,	Riddle,	Yeates.
Dean,	Herbert,	Robbins,	
Dibrell,	Hewitt, Abram S.	Ross,	
Dickey,	Hewitt, G. W.	Saylor,	

NAYS—96.

Aldrich,	Cummings,	Lathrop,	Sapp,
Baker, John H.	Cutler,	Lindsey,	Shallenberger,
Baker, W. H.	Davis, Horace	Luttrell,	Sinnickson,
Bailou,	Dunnell,	Marsa,	Small,
Banks,	Dwight,	McCook,	Smith, A. Herr
Bayne,	Eames,	McKinley,	Starin,
Bisbee,	Ereitt,	Metcalf,	Stewart,
Blair,	Evans, I. Newton	Mitchell,	Stone, Joseph C.
Brewer,	Gardner,	Monroe,	Strait,
Bridges,	Garfield,	Norcross,	Thompson,
Briggs,	Hale,	Oliver,	Thornburgh,
Bundy,	Hanna,	O'Neill,	Townsend, Amos
Cain,	Harmer,	Overton,	Townsend, M. I.
Calkins,	Harris, B. W.	Patterson, G. W.	Van Vorhes,
Camp,	Haskell,	Peddie,	Wait,
Campbell,	Hiscock,	Pollard,	Ward,
Caswell,	Hungerford,	Powers,	Watson,
Clafin,	Hunter,	Price,	White, Harry
Clark, Rush	Itner,	Pugh,	Williams, Andrew
Clymer,	James,	Reed,	Williams, C. G.
Cole,	Keifer,	Rice, William W.	Williams, Richard
Conger,	Keightley,	Robinson, G. D.	Willis, Benj. A.
Cox, Jacob D.	Ketcham,	Robinson, M. S.	S. Willis,
Crapo,	Lapham,	Ryan,	Wren.

NOT VOTING—86.

Acklen,	Davis, Joseph J.	Hunt,	Randolph,
Aiken,	Deering,	Jones, Frank	Rca,
Atkins,	Denison,	Jones, John S.	Roberts,
Bacon,	Eden,	Jorgenson,	Robertson,
Bagley,	Eickhoff,	Joyce,	Sampson,
Benedict,	Ellsworth,	Kelley,	Sexton,
Bicknell,	Evans, James L.	Killing,	Shelley,
Bland,	Ewing,	Lockwood,	Smith, William E.
Boyd,	Foster,	Loring,	Stephens,
Brentano,	Freeman,	Mayham,	Stone, John W.
Brogden,	Frye,	McGowan,	Swann,
Brown,	Fuller,	Morrison,	Tipton,
Buckner,	Gibson,	Morse,	Townsend, R. W.
Burdick,	Hartridge,	Neal,	Veeder,
Butler,	Hayes,	Page,	Walker,
Caldwell, John W.	Hazleton,	Patterson, T. M.	Warner,
Caldwell, W. P.	Hendee,	Phelps,	Welch,
Cannon,	Henderson,	Potter,	White, Michael D.
Chittenden,	Henkle,	Pound,	Willis, Albert S.
Clark, Alvah A.	Hooker,	Pridemore,	Young,
Cox, Samuel S.	Hubbell,	Quinn,	
Danford,	Humphrey,	Rainey,	

So the motion was agreed to.

During the roll-call the following announcements were made:

Mr. ROBERTS. I desire to state that I am paired with Mr. STONE, of Michigan.

Mr. MCKENZIE. I desire to state that my colleague, Mr. WILLIS, is paired with Mr. DEERING, of Iowa. I desire also to announce that my colleague, Mr. CALDWELL, is paired with Mr. SAMPSON, of Iowa.

Mr. HARTRIDGE. I desire to state that I am paired upon the question of adjournment with Mr. HENDEE.

Mr. REA. I desire to announce that I am paired with Mr. HUMPHREY, of Wisconsin. If he were present, I should vote "ay" and Mr. HUMPHREY would vote "no."

Mr. EWING. I desire to state that I am paired with my colleague, Mr. FOSTER.

Mr. O'NEILL. I desire to state that my colleague, Mr. FREEMAN, is paired with Mr. CALDWELL, of Tennessee. If my colleague were here, he would vote "no."

Mr. JONES, of Ohio. I desire to state that Mr. YOUNG is necessarily detained from the House, and upon all votes taken to-day I am paired with him.

Mr. CALKINS. I am paired with Mr. CLARK, of New Jersey, upon all political questions. Not regarding this as a political question, I have voted.

Mr. PAGE. I desire to announce that I am paired with Mr. HOOKER. Mr. JORGENSEN. I desire to say that I am paired with my colleague, Mr. PRIDEMORE.

Mr. RIDDLE. I have been requested to announce that Mr. MORRISON is paired with Mr. DANFORD.

Mr. WILSON. I desire to state that Mr. STEPHENS, of Georgia, is paired with Mr. CHITTENDEN.

Mr. PRICE. I desire to announce that my colleague, Mr. BURDICK, is paired with Mr. BENEDICT.

Mr. ALDRICH. I desire to announce that my colleague, Mr. HENDERSON, is paired with Mr. BICKNELL.

ENROLLED BILL SIGNED.

Before the announcement of the vote,

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the Committee on Enrolled Bills had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (S. No. 1080) authorizing the issue of passports free to colored citizens going to Brazil.

The result of the vote was then announced as above stated, and accordingly (at five o'clock and fifty minutes p.m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: Resolutions of the New York Association of

Mexican war veterans, indorsing the action of the House of Representatives in passing the bill placing General Shields upon the retired list of the Army—to the Committee on Invalid Pensions.

By Mr. BROWNE: The petition of 335 citizens of Randolph County, Indiana, for an amendment to the Constitution as a substitute for the first amendment thereto that will effect a total separation of Church and State—to the Committee on the Judiciary.

By Mr. CAMPBELL: The petition of citizens of Greenfield, Pennsylvania, for the extension of the national credit to aid in the construction of a great northern line of railroad to the Pacific Ocean, and the guarantee of interest upon the bonds of the company, protected by a first mortgage and lien upon the road and its revenues—to the Committee on the Pacific Railroad.

By Mr. CRAVENS: The petition of Robert Jackson, of Clarksville, Arkansas, for a pension—to the Committee on Invalid Pensions.

By Mr. ERRETT: Resolutions of the Chamber of Commerce, of Pittsburgh, Pennsylvania, against the passage of the bill providing for the erection of a bridge across the Mississippi River at Memphis, Tennessee—to the Committee on Commerce.

By Mr. GARFIELD: The petition of workmen of Niles, Ohio, against the passage of the pending tariff bill—to the Committee of Ways and Means.

By Mr. GAUSE: The petition of John T. Oates, for compensation for property taken by the United States Army—to the Committee on War Claims.

By Mr. HENDERSON: Resolutions of the Patent-Office Bar Association, of Washington, District of Columbia, relative to the disposition of appeal cases, as provided for in House Resolution No. 3615—to the Committee on Patents.

By Mr. HISCOCK: The petition of citizens of Syracuse, New York, against the reduction of the tariff—to the Committee of Ways and Means.

Also, the petition of citizens of Truxton, New York, for the amendment of the pension laws—to the Committee on Invalid Pensions.

By Mr. HUNTON: The petition of Maria C. Fitzhugh and Ann C. Carroll, trustees of Daniel Carroll, for relief from assessments levied by District of Columbia officials—to the Committee for the District of Columbia.

By Mr. MCKINLEY: The petitions of 150 citizens of Stark County, Ohio, and of 100 other citizens of the same county and State, for the equalization of bounties—to the Committee on Military Affairs.

By Mr. MORSE: The petitions of William F. Tewksbury and others, and of J. W. Balch and others, relative to appropriations for the purchase of Courtenay's buoys for the coast—to the Committee on Commerce.

By Mr. RICE, of Ohio: The petition of Joseph Odell, for a pension—to the Committee on Invalid Pensions.

By Mr. SCHLEICHER: The petition of citizens of Texas, against the proposed change in the tariff on wool—to the Committee of Ways and Means.

Also, the petition of citizens of Pleasanton, Texas, for the building of a railroad on the Rio Grande border—to the Committee on Railways and Canals.

By Mr. SOUTHARD: The petition of Patrick White and 55 other citizens of Tuscarawas County, Ohio, against the reduction of tariff duties—to the Committee of Ways and Means.

By Mr. STENGER: The petition of 19 citizens of Snyder County, Pennsylvania, for the passage of the bill extending aid to the Texas and Pacific Railway—to the Committee on the Pacific Railroad.

Also, the petitions of 189 citizens of Juniata County and of 178 citizens of Perry County, Pennsylvania, for the extension of national credit to the completion of a great southern line to the Pacific—to the same committee.

By Mr. SWANN: The petition of Rebecca Straughan, showing that she is the widow of John Straughan, who was seized and taken from on board the United States frigate Chesapeake in 1807 and kept by the British five years as a prisoner; that this was one of the flagrant acts which caused the war of 1812; and asking for the same pension as is granted to a widow of a soldier of that war—to the Committee on Revolutionary Pensions.

By Mr. THOMPSON: The petition of manufacturers of Philadelphia, against changing the tariff—to the Committee of Ways and Means.

By Mr. TOWNSEND, of New York: The petition of stockholders of the National Capital Insurance Company, for the repeal of the charter of said company—to the Committee for the District of Columbia.

Also, the petition of bankers, merchants, and manufacturers of Troy, New York, for the repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. TUCKER: The petition of citizens of Rockbridge County, Virginia, for the passage of the Texas Pacific Railroad bill—to the Committee on the Pacific Railroad.

By Mr. TURNEY: The petition of merchants and manufacturers of Philadelphia, Pennsylvania, against the passage of the pending tariff bill—to the Committee of Ways and Means.

By Mr. WHITE, of Pennsylvania: The petition of a committee of the Greenback Labor Association, of Claysville, Pennsylvania, for the repeal of the resumption act—to the Committee on Banking and Currency.

By Mr. WRIGHT: The petition of manufacturers and other business men of Philadelphia, Pennsylvania, against any change in the tariff—to the Committee of Ways and Means.

By Mr. YOUNG: The petition of Alfred H. Darden, for compensation for quartermaster stores taken by the United States Army—to the Committee on War Claims.

IN SENATE

THURSDAY, April 18, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.
The Journal of yesterday's proceedings was read and approved.

ADJOURNMENT TO MONDAY.

On motion of Mr. EDMUNDS, it was
Ordered, That when the Senate adjourns to-day it be to meet on Monday next.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of George D. Hill, secretary and attorney of the Missouri and Niobrara Railroad Company, praying the passage of a law authorizing the President of the United States to designate the Missouri and Niobrara Railroad Company, a company organized under the terms of the amended Pacific Railroad law, approved July 2, 1864, to construct the north branch of said road westward from Sioux City to Rock Creek or Cheyenne, in the Territory of Wyoming; which was referred to the Committee on Railroads.

Mr. ALLISON presented the petition of J. S. McGregor and E. B. Ogg, praying relief on account of the loss of a land warrant and failure of title to land located by them in the State of Missouri; which was referred to the Committee on Public Lands.

Mr. KERNAN. I present a concurrent resolution of the Legislature of New York, which I ask to have read.

The Chief Clerk read as follows:

STATE OF NEW YORK.

IN ASSEMBLY, Albany, April 5, 1878.

Resolved, (if the senate concur.) That our Senators and Representatives in Congress be requested, in view of the decision of the Supreme Court of the United States adverse to the right of the States to pass laws imposing *per capita* tax upon immigrants to provide for their support in cases of poverty or sickness, to urge upon Congress the necessity of some provision by Federal law to relieve this State from the burdens of a tax which it has been declared this State cannot pass in its own right without a violation of the Constitution of the United States.

Resolved, That a copy of this resolution, signed by the presiding officers of the Legislature, be forwarded to our Senators and Representatives in Congress.

By order:

J. W. HUSTED, *Speaker*.
EDWARD M. JOHNSON, *Clerk*.

IN SENATE, April 5, 1878.

Concurred in.

By order:

WILLIAM DORSHEIMER, *President*.
JOHN W. VROOMAN, *Clerk*.

Mr. KERNAN. I beg to simply suggest to the committee to which this resolution shall go, the Committee on Commerce, I suppose, the importance of early action not only with reference to the State of New York but other States. The United States Supreme Court, in a case decided in 2 Otto, held that the law of New York, which we supposed to be somewhat in the nature of police regulations, by which the State of New York collected from immigrants a small amount *per capita* to provide for the sick and poor who came into the State, to be unconstitutional, and that Federal legislation must provide for that difficulty. I therefore hope the committee will take the subject up and see what law we may pass to relieve States like New York, Massachusetts, California, and Louisiana from the difficulty they experience in having a large number of sick and poor people left upon them, against whom they cannot in any way protect themselves by raising any revenue from immigrants to pay the expense of taking care of them. The system we had in New York of course is destroyed by this decision, and the State is quite anxious that Congress should act upon the subject.

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Commerce.

Mr. BECK. I present an act of the General Assembly of the State of Kentucky, which I ask to have read at the desk, and it will be followed by a joint resolution which I have in my hand and shall present when that order of business is reached.

The PRESIDENT *pro tempore*. The Secretary will read the paper.

The Chief Clerk read as follows:

An act to provide for the erection of a monument at the tomb of Zachary Taylor.

Whereas it has ever been the pride of Kentucky to show a proper appreciation of the merits of her illustrious sons and to commemorate the achievements of her patriots, whether they be in the civil or military field; and

Whereas the remains of General Zachary Taylor, late President of the United States, lie buried at his old home in Jefferson County marked by no monumental commemoration of the grand career of this honored son; and

Whereas it is a duty, the performance of which should be a pleasure as well of this State as of the United States, to honor one whose whole life was an example of devotion to his country unsurpassed in the annals of our Republic, whose invaluable public services so unselfishly rendered, embracing his brilliant success in our

Indian and Mexican wars, have immortalized his name and reflected a luster upon his State and the whole country: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sum of \$5,000 be, and it is hereby appropriated for the purpose of purchasing land immediately surrounding the grave of the late President Zachary Taylor, not to exceed one acre, including the family burying-ground, to inclose the same by a substantial fence and to erect thereon a suitable monument to his memory.

Sec. 2. It shall be the duty of the governor of this Commonwealth to appoint three commissioners, whose duty it shall be to carry out the provisions of section 1 of this act, and also to receive any contributions which may be tendered by the soldiers of the Mexican war, or any other persons, for the purposes set forth in section 1, and to forward to our Senators and Representatives a copy of this act, who are requested to solicit an appropriation from the General Government to aid in the purposes above set out.

Sec. 3. Upon the application of the commissioners, or any two of them, the auditor is directed to draw his warrant upon the treasurer, in their favor, for the sum appropriated by the first section of this act.

Sec. 4. Said commissioners shall receive no compensation for their services; and it shall be their duty to make a full and detailed report of their acts, the moneys received, from whatever source, and how expended, to the next General Assembly.

Sec. 5. This act shall take effect from and after its passage.

ED. W. TURNER,
Speaker of the House of Representatives.
JNO. C. UNDERWOOD,
Speaker of the Senate.

Approved March 11, 1878.

JAMES B. MCCREARY,
Governor.

By the governor:

J. STODDARD JOHNSTON,
Secretary of State.

A true copy from the original.

J. STODDARD JOHNSTON,
Secretary of State.

Mr. BECK. I move the reference of the paper to the Joint Committee on the Library, to which I shall ask the reference of the joint resolution also.

The motion was agreed to.

Mr. MCCREARY presented a resolution of the Legislature of Kentucky, in favor of an appropriation for the improvement of the rivers of that State; which was referred to the Committee on Commerce.

Mr. MATTHEWS presented the memorial of Edward Wagstaff and others, citizens of Niles, Ohio, engaged in the manufacture of iron nails, &c., remonstrating against a reduction of the duties on imports and against the restoration of the duties on tea and coffee; which was referred to the Committee on Finance.

He also presented a resolution in the nature of a petition of the Maple Council No. 3, Sovereigns of Industry, of the District of Columbia, praying the passage of a law providing for the appointment of a coal-weigher, and compelling coal-dealers to send the certificate of such weigher with every load of coal sold by them; which was referred to the Committee on the District of Columbia.

REPORTS OF COMMITTEES.

Mr. DAVIS, of Illinois, from the Committee on the Judiciary, to whom was referred the bill (S. No. 1016) to provide for the distribution of the awards made under the convention between the United States of America and the Republic of Mexico, concluded on the 4th day of July, 1868, reported it with amendments.

Mr. DENNIS, from the Committee on Commerce, to whom was referred the bill (S. No. 1044) granting a site for a dry-dock in the City of Baltimore, upon certain conditions, asked to be discharged from its further consideration and that it be referred to the Committee on Military Affairs; which was agreed to.

Mr. CONKLING, from the Committee on Commerce, to whom was referred the bill (S. No. 125) to change the name of the steamer George W. Elder to Columbia, and the bill (S. No. 126) to change the name of the City of Chester to Portland, reported them without amendment.

CUSTOMS OFFICERS IN ALASKA.

Mr. DAVIS, of Illinois. The Committee on the Judiciary have had under consideration the bill (S. No. 1045) to provide for the administration of the oath of office to collectors and other officers of customs in the district of Alaska, and have directed me to report it back with a recommendation that it be passed. Mr. President, there is a necessity that this bill be acted upon at once. It simply allows the collector of customs in Alaska to take the oath of office before the judge of any circuit or district court of the United States. Whether he could do so now or not, the Committee on the Judiciary do not wish to pass upon; but the Treasury Department have doubts upon the subject, and there can be no objection to the passage of the bill.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that until the formal organization of the Territory of Alaska, the oath of office required by law to be taken by a collector or other officer of the customs in Alaska may be taken before the judge of any circuit or district court of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1110) to aid the completion of the soldiers' and sailors' monument at Chalmette national cemetery, Louisiana; which was read twice by its title and referred to the Committee on Appropriations.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1111) for the relief of Somerville & Davis;

which was read twice by its title, and, with the accompanying papers, referred to the Committee on Finance.

Mr. BECK asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 25) to aid in the erection of a monument over the grave of Zachary Taylor; which was read twice by its title, and referred to the Joint Committee on the Library.

AMENDMENT TO POST-ROUTE BILL.

Mr. CHAFFEE submitted an amendment intended to be proposed by him to the bill (H. R. No. 4286) to establish post roads in the several States therein named; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

HOT SPRINGS RESERVATION.

Mr. GARLAND. I move that the Senate proceed to the consideration of the bill (S. No. 490) supplementary to an act entitled "An act in relation to the Hot Springs reservation in the State of Kansas," approved March 3, 1877. The bill was reported unanimously from the Committee on Public Lands.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Public Lands with an amendment to strike out all after the enacting clause and insert:

That the President of the United States be, and he is hereby, authorized to appoint three discreet, competent, and disinterested persons, who shall constitute a board of commissioners, any two of whom shall constitute a quorum, who shall hold their offices for the period of one year from the date of their appointment, and shall have the same powers and authority in all respects as was provided for the commissioners appointed under the act of Congress approved March 3, 1877, entitled "An act in relation to the Hot Springs reservation in the State of Arkansas," which act is hereby continued in full force for the purpose of enabling said board of commissioners to determine the claims presented to the board of commissioners appointed under said act, whose term of office has expired, and to do and perform all other acts and duties authorized and directed by said act. And said commissioners shall have power to employ assistant stenographers, not exceeding three in number, at such times as their services may be necessary to aid said commissioners. And the unexpended portion of the appropriation made for continuing the work of the commissioners appointed under the act aforesaid shall be available for the continuance of the work by the commissioners to be appointed under this act.

Mr. SAULSBURY. I should like the Senator having charge of the bill to explain the necessity for it.

Mr. GARLAND. Mr. President, a few weeks since a bill was passed by this body upon the subject. It went to the House of Representatives, but not being reached in the regular course of business there, the term of office of the commissioners of the Hot Springs reservation expired. My colleague, who introduced the original bill, moved that that bill be recalled from the House, which motion was agreed to, and the bill was returned to the Senate. The bill was recommitted to the Committee on Public Lands, and in lieu of it the substitute which has just been read was reported under the direction of that committee.

The three commissioners appointed under the act of March 3, 1877, failed to complete the task assigned them within the time that the law required, and we find ourselves without any commissioners in point of fact and with the important work that had been assigned them left undone in part. There was a large amount of testimony in about nine hundred and fifty cases taken before them but no adjudication was had in any case. Therefore it became necessary, I will state in answer to the question propounded by the Senator from Delaware, that the former act should either be revived or a new act passed giving the President power to appoint commissioners that this work might progress.

That is the main feature of the bill that is now before the Senate. It revives the former act as far as it is possible by another act to do so, giving the President power to appoint three commissioners, not three in addition to the other three, but simply three commissioners. The features in the bill that passed this body some three weeks since that elicited debate here have been taken from the bill entirely and it is not obnoxious to any objection that was urged at that time against the passage of the bill. We leave the pay of the commissioners as provided under the original act; there is no increase of pay. We limit their appointing power to the maximum of three stenographers. We make no appropriation, but simply leave the unexpended balance, which is something over \$9,000 under the former appropriation for this purpose, to be used in carrying out the object of this act.

It is important that this action should be had at an early day. I have already stated in the aggregate the number of cases that were pending before the commission. Many of the parties who have presented their claims before the commission have no other property at all but the property upon which they live, and it is important for them to know their status. It is important for the Government to know how much property it is going to have there. It is important to the public interests that this matter be settled at a very early day. The bill pretermits, if I may use that expression, all other questions in connection with this property, as to what the Government may ultimately do with it. It commits nobody to any particular idea as to the final disposition of the property in any respect, but leaves those questions open for future action whenever it may please Congress to take such action.

I hope and trust, Mr. President, that this bill will be passed that it may go to the other House. I am ready to answer any other question which the Senator may wish to propound.

Mr. SAULSBURY. I should like to ask the Senator whether it is provided by the bill that these commissioners are to be paid out of the nine thousand and odd hundred dollars left of the appropriation made by the former act?

Mr. GARLAND. They are to be paid out of that appropriation. That sum has not been expended by the commissioners already named, and I may state that in the view of the commissioners it is ample to carry out the purposes of the commission.

Mr. DORSEY. Mr. President, I concur fully with what my colleague has said in respect to the necessity for the prompt passage of this bill. When the bill was before the Senate some time ago, I felt it my duty to offer an amendment which was adopted. As I believed, that amendment was for the best interests of the people of Hot Springs as well as of the Government; and were it not for the paramount necessity of settling the question of title, I should renew the amendment which was offered and adopted before. But I think it so much more important that this question of title should be settled than that I should offer that amendment now.

But I wish to say that if this bill shall pass both Houses promptly, as the Secretary of the Interior has decided that he has no power to lease any waters or places for bath-houses on the reservation at Hot Springs, the entire waters and the bath-houses at that place will be under the control of two or three individuals who, I have no doubt, will be very anxious to retain it, and probably will do so for many years.

I simply wanted to state this much in justification of the amendment which I offered the other day authorizing the Secretary of the Interior to lease out the bathing-places to anybody who would apply for them. I hope, however, the bill reported by the committee will pass.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Public Lands.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to authorize the appointment of commissioners to determine claims, and for other purposes, at Hot Springs, in the State of Arkansas."

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HARRIS, it was

Ordered, That the petition and papers of Mary W. Rhett, administratrix, &c., be taken from the files and referred to the Committee on Claims.

GEORGE R. DENNIS.

Mr. MITCHELL. I move that the Senate proceed to the consideration of the bill (S. No. 998) for the relief of George R. Dennis, of Maryland.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It provides for the payment of \$2,394.66, in full payment for damages sustained by George R. Dennis in having his schooner William J. Dennis run into and sunk by the Government steamer General Meigs, in the year 1864.

Mr. EDMUNDS. Let us hear the report in that case.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary read the following report, submitted by Mr. MITCHELL on the 27th of March, 1878:

The Committee on Claims, to whom were referred the petition of George R. Dennis and a bill for his relief, make the following report:

That they find the facts of the case as set forth in the petition fully sustained by the affidavits attached thereto, so far as *ex parte* affidavits can establish such facts, and these facts are substantially as follows:

On the 2d day of September, 1864, petitioner being the owner of the schooner William J. Dennis, duly licensed to carry on the coasting trade and engaged in navigating Chesapeake Bay, John T. Waters being captain and master; said schooner being then engaged on a voyage, carrying freight from the Annapomess River to Baltimore, and having on board five hundred and twenty-six bushels of oats, two hundred bushels of wheat, one hundred and seventy-two bushels of corn, ninety bushels of peaches, two tons of cast and wrought iron, one hundred and twenty-five grain-bags, and sixty-five peach packing-boxes, all being the property of the petitioner.

While said schooner thus laden was proceeding on her said voyage, about two o'clock at night of the 2d or 3d day of September, 1864, off or near the mouth of the Little Choptank River, and off or near James Point, the wind being southwest or south-southwest, and with her sails drawing with a free wind, those on board said schooner discovered the steamer General Meigs (otherwise called the T. L. Cannon) proceeding on a voyage down the Chesapeake Bay. When discovered said steamer was about four hundred yards from said schooner, coming down with great rapidity upon her; that there were no means by which said schooner could then have avoided a collision with said steamer, the schooner hugging the Eastern Shoals of said bay as closely as safety would allow; that said steamer taking no steps and those on board using no means to prevent such collision, said steamer struck said schooner on the larboard quarter, cutting her down to the light water mark, and so injured her that she immediately capsized and sank.

That before and at the time of the collision it was very dark, and the schooner had all her lights and signals required by the act of Congress; but that no lookout was kept on board said steamer at and about the time of the collision, and said steamer had not the lights and signals required by law of vessels engaged in such coasting trade; but that said steamer was at the time of said collision owned by the United States, or at least armed as a Government vessel and in the service of the United States, engaged in the lookout for blockade-runners, and for that reason carrying no lights.

But your committee find that had said United States vessel used ordinary caution said collision would have been avoided.

That after such collision every effort was made to save said schooner and her cargo, but the cargo became a total loss, and the schooner was raised, brought to the shore, and repaired at an expense of \$250; the loss of cargo of the value of

\$1,694.66; cost of taking schooner to place of repair, \$100; loss of and injury to furniture, \$100; lost time incident to raising and repairing, \$250; making total damage claimed, \$2,394.66.

The steamer being in the service of the United States and employed as a part of her Navy, the courts of admiralty had no jurisdiction to adjudicate petitioner's claim. He therefore, in 1866, filed his petition against the United States in the Court of Claims. But upon hearing the case in the Court of Claims the petition was dismissed upon the ground that, the claim or cause of action being for the consequences of a marine tort, the Court of Claims had no jurisdiction to try it.

The petitioner therefore asks the passage of the bill referred to the committee, directing the Secretary of the Treasury to pay \$2,394.66 as the amount of damages to petitioner from the collision.

Your committee, in view of all the circumstances of the case, believe the petitioner entitled to the amount of the claim made in petition. They therefore report back the bill (S. No. 998) and recommend its passage.

Mr. EDMUNDS. I could not hear all of the report; and I ask the Senator making this report whether it shows that the schooner, it being in the night-time, was carrying the lights required by law.

Mr. MITCHELL. Yes, sir; the schooner was complying in all respects with the law.

Mr. EDMUNDS. Does the committee find that those in charge of the schooner were entirely free from fault on their part?

Mr. MITCHELL. Entirely free from fault.

Mr. McMILLAN. The only dissent in this case from the report of the committee was on the part of the Senator from Wisconsin [Mr. CAMERON] and myself. We did not deem it necessary to submit a written minority report; but the ground on which we thought the claim should not be allowed was this: that the accident, if it were an accident, happened through the negligence of the commander of the Government vessel or through his willfulness, and in either case the Government cannot be liable for the tort of its agent.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE CALENDAR.

The PRESIDENT *pro tempore*. If there be no further morning business—

Mr. ANTHONY. I hope we shall go to the Calendar.

The PRESIDENT *pro tempore*. The Senate will proceed to the consideration of the Calendar. The first case on the Calendar will be called at the point where it was left off yesterday.

LIFE-SAVING AND COAST-GUARD SERVICE.

The CHIEF CLERK. The first bill on the Calendar at the point stated is the bill (S. No. 777) to organize a life-saving and coast-guard service.

Mr. SARGENT. That bill will lead to a great deal of debate. I wish myself to be heard on the bill at length when it comes up, and I know there are Senators opposed to it who wish to be heard. As it cannot be discussed under the five-minute rule adequately, I therefore object.

The PRESIDENT *pro tempore*. The bill will be passed over.

JAMES C. RUDD.

The next bill on the Calendar was the bill (S. No. 559) for the relief of James C. Rudd; which was reported adversely by the Committee on Post-Offices and Post-Roads.

The PRESIDENT *pro tempore*. The Chair will put the question on the indefinite postponement of the bill.

The bill was indefinitely postponed.

PACIFIC RAILROAD LANDS.

The next bill on the Calendar was the bill (S. No. 195) to declare certain lands subject to taxation; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment, to add to the bill the following:

And provided further, That prior to the payment of such costs of surveying by said railroad companies no taxes shall be imposed except in organized counties.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading.

Mr. EDMUNDS. I should like as the bill is short to have it read at length the third time.

The bill was read at length, as follows:

That all the lands granted by the act of July 1, 1862, entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," and the act amendatory thereof, approved July 2, 1864, to the several railroad companies therein named, and to which said companies would have become entitled upon payment of the cost of surveying, selecting, and conveying the same, as provided by section 31 of said amendatory act of July 2, 1864, shall be subject to all legal taxes imposed under authority of any State or Territory in which such lands are located, to the same extent as they would have been had such costs been paid and the lands conveyed to said railroad companies: *Provided*, That this act shall not be construed as applying to lands already forfeited by said railroad companies or either of them; nor shall it operate to relieve any such company from any forfeiture heretofore incurred: *And provided further*, That prior to the payment of such costs of surveying by said railroad companies no taxes shall be imposed except in organized counties.

Mr. EDMUNDS. I am quite doubtful whether that bill ought to pass. I know that in some instances there is hardship to localities in respect to such questions; but these lands were the property of the United States before they were granted to the railroad companies. They were granted to the railroads conditionally, but patents have not issued for them in respect to what this bill covers. All that the

railroad companies have become the absolute owners of are taxable, as I suppose. Now we all know the United States has a pretty heavy lien upon all these lands for the payment of a great many millions of money. Whether it is right, therefore, for the States and Territories to tax these lands, while the title is yet in the United States and while the United States has so heavy and equitable a lien upon them, so much more than they are worth altogether, ten times over—whether in such case the States and Territories ought to be authorized to tax the lands is in my opinion a matter of very great doubt. I think I must ask that the bill go over.

The PRESIDENT *pro tempore*. Objection is made, and the bill will be passed over.

TERRITORIAL MUNICIPAL CORPORATIONS.

The next bill on the Calendar was the bill (S. No. 330) explanatory of section 1889 of the Revised Statutes of the United States, and to ratify and confirm certain territorial legislation, and for other purposes; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Territories, with amendments.

The first amendment was, in line 10 of section 1, after the word "them" and before the word "corporate," to insert "the," and after the word "privileges," in line 11, to insert "necessary to their local administration;" so as to read:

That the words "the Legislative Assemblies of the several Territories shall not grant private charters or especial privileges" in section 1889 of the Revised Statutes of the United States shall not be construed as prohibiting the Legislative Assemblies of the several Territories of the United States from creating towns, cities, or other municipal corporations, and providing for the government of the same, and conferring upon them the corporate powers and privileges necessary to their local administration, by either general or special acts.

The amendment was agreed to.

The next amendment was, in line 15 of section 1, after the word "conferring" to insert "such," and in line 16, after the word "same," to insert "as were necessary to their local administration;" so as to read:

And that all general and special acts of such Legislative Assemblies heretofore passed creating and providing for the government of towns, cities, or other municipal corporations, and conferring such rights, powers, and privileges upon the same, as were necessary to their local administration, be, and the same are hereby, ratified and confirmed and declared to be valid, any law to the contrary notwithstanding, subject, however, to amendment or repeal hereafter by such territorial Assemblies.

The amendment was agreed to.

The next amendment was at the end of the first section to insert:

But nothing herein shall have the effect to create any private right, except that of holding and executing municipal offices, or to divest any such right, or to make valid or invalid any contract or obligation heretofore made by or on behalf of any such town, city, or other municipal corporation, or to authorize any such corporation to incur hereafter any debt or obligation other than such as shall be necessary to the administration of its internal affairs.

The amendment was agreed to.

The next amendment was to strike out the second section, in the following words:

SEC. 2. That the Legislative Assemblies of the several Territories are hereby authorized and empowered to create a court for any town or city within such Territories, to be called the recorder's court of such town or city, to provide for the election and qualification of the judges thereof, and to define the jurisdiction of such courts: *Provided*, That such recorders' courts shall not have jurisdiction in any case in which the title to land or the boundary thereof shall in any wise come in question, or when the debt or damages claimed shall exceed the sum of \$200, or in any criminal case where the charge is a felony, except for the purpose of commitment for trial in the district court: *And provided further*, That appeals shall lie in all cases, both civil and criminal, from said recorder's court to the district court, under such rules and regulations as may be prescribed by the Legislative Assemblies of such Territories.

Mr. DAVIS, of Illinois. If the Senator from Arkansas who reported this bill would state the amendments, &c., at length, I should be pleased to hear him.

Mr. GARLAND. It will be observed that the second section of the original bill gave authority to create new courts in cities and towns. On looking over the territorial legislation of this country the committee found that the ordinary justices of the peace, or magistrates, as they are generally termed, have been in most instances the only courts they have had of this character, and always sufficient for all purposes in the Territories in their cities and towns. The committee was unwilling to extend this authority beyond that general practice or general custom in the Territories in the government of cities and towns anywhere. The committee thought they were ample for all purposes of courts of jurisdiction that this section intended to confer.

To properly understand the bill itself I ask the Secretary to read section 1889 of the Revised Statutes.

The Chief Clerk read as follows:

SEC. 1889. The Legislative Assemblies of the several Territories shall not grant private charters or especial privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits, or the construction or operation of railroads, wagon-roads, irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any benevolent, charitable or scientific association.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

EXTRA PAY TO SOLDIERS OF MEXICAN WAR.

Mr. MAXEY. I ask for the present consideration of House bill No. 376.

Mr. ALLISON. Why go out of the order?

Mr. MAXEY. That bill was overlooked by some means, I do not know how.

The PRESIDENT *pro tempore*. The Senator from Texas moves the present consideration of House bill No. 376.

Mr. ANTHONY. I think we had better keep on with the Calendar regularly.

Mr. MAXEY. This bill is on the Calendar, but has been passed over by some means, I do not know how. It is No. 37 on the order of business.

Mr. SARGENT. I ask for the reading of the Journal to show how that was.

Mr. ALLISON. I remember now how it was passed, if the Senator will allow me. The Senator from Texas at the moment was not in his seat, and I remember to have objected myself. I withdraw the objection.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Texas to take up the bill named by him.

The motion was agreed to; and the bill (H. R. No. 376) for the payment to the officers and soldiers of the Mexican war of the three months' extra pay provided for by the act of July 19, 1848, was considered as in Committee of the Whole. It provides for the payment to the officers and soldiers "engaged in the military service of the United States in the war with Mexico, and who served out the time of their engagement or were honorably discharged," of the three months' extra pay provided for by the act of July 19, 1848, and the limitations contained in that act, in all cases, upon the presentation of satisfactory evidence that the extra compensation has not been previously received.

The Committee on Military Affairs reported the bill with an amendment, which was to add at the end of the bill the following proviso:

Provided, That the provisions of this act shall include also the officers, petty officers, seamen, and marines of the United States Navy employed in the prosecution of said war.

Mr. EDMUNDS. I should like to hear the report read. I see there is one.

The Secretary read the following report, submitted by Mr. MAXEY January 22, 1878.

The Committee on Military Affairs, to whom was referred the bill (H. R. No. 376) entitled "An act for payment to the officers and soldiers of the Mexican war," &c., have had the same under consideration, and submit the following report:

The act of July 19, 1848, which House bill No. 376 seeks to revive, was "repealed" by the act of July 12, 1870. (Sections 4, 5, chapter 251, volume 16, Statutes at Large, pages 250, 251.) According to the construction of that law by the accounting officers of the Treasury—though it will be observed that neither the act of July 19, 1848, granting extra pay to the men of the Army, nor the act of August 31, 1852, (chapter 108, volume 16, page 100,) granting extra pay to persons in the naval service on the coasts of Mexico and California, (the same as had been allowed to the Army serving in California, see chapter 78, 1850, volume 9, pages 504, 505,) are specifically mentioned as being included in the laws repealed by said act of July 12, 1870.

A proviso to House bill No. 376, on line 12, after the word "received," to wit—*Provided*, That the provisions of said act shall include also the officers, petty officers, seamen, and marines of the United States Navy employed in the prosecution of said war—would perhaps be just and proper.

The debate in the House (see CONGRESSIONAL RECORD, January 19, instant) when the bill passed, will give some light on the subject.

The same bill passed the House June 30, 1876, and some remarks were made by Mr. RIDDLE and others on the merits of the case. (See RECORD, July 1, 1876.)

Your committee therefore recommend the passage of the bill, amended by the proviso.

Mr. MAXEY. I can explain in a very few words, I think satisfactorily to the Senate, the reason for the passage of the bill now pending, which came to us from the House of Representatives, having first passed that body.

Three months' extra pay was allowed by the act of July 19, 1848, section 5, page 248, of volume 9 of the Statutes at Large. That three months' extra pay was designed, as I think, to apply to all those who had honorably served and been honorably discharged from the Mexican war. A joint resolution was approved July 29, 1848, directing the payment under regulations of the Paymaster-General, approved by the Secretary of War. That is to be found in volume 9, page 239. The joint resolution of July 20, 1850, transferred the unsettled claims to the Second Auditor. The extra pay to officers and sailors serving in Oregon and California was provided for in an act found in volume 9, page 504. That applied to privates and non-commissioned officers of the Army, and did not extend to the marines and Navy.

On the 12th of July, 1870, (pages 250 and 251 of volume 16,) all acts granting extra pay were repealed. A careful examination of the act of July 12, 1870, as compared with the act of July 19, 1848, and the acts of the other dates I have stated, leaves it in doubt whether those acts not specifically set forth in the repealing act are repealed, and whether or not the act of July 19, 1848, not being specifically mentioned, was repealed. In point of fact, however, after the 12th of July, 1870, any claim for the three months' extra pay was stopped. This is not a debt which was owing by the Government of the United States to those who served in the Army and Navy, but was a gratuity granted by the Government to those who had honorably served as a reward for meritorious services in a foreign country in defense of the flag of the United States. If this was a gratuity, and from any cause those who had thus honorably served did not receive their

compensation, I submit that it would be just and proper that they should now get it.

Again, I will state that a very large number, (as I find by the letters which I have received about this bill,) who have heretofore paid no attention to this little matter, for it was a mere trifle, have by various causes been reduced to a condition of penury, and it is now a matter that they need; and persons who a few years ago would not have thought of asking for this are now sending up their letters asking for this three months' extra pay, though it is a mere trifle. So I think it would be right to pass the bill.

Further, an examination of the original act of 1848 satisfied me that the officers, non-commissioned officers, musicians, and privates of the regular Army were not embraced in the three months' extra pay; and so I found—all of which will appear by the papers on file—on writing a letter to the Paymaster-General that he furnished copies of letters which had been addressed to Governor Marcy when Secretary of War showing that he placed a construction that the officers of the Army of the United States remaining in the service did not get this three months' extra pay. I cannot see myself why they should not be entitled as well as anybody else. If it was designed as a reward of merit, I cannot see why those who faithfully served throughout the whole war, whether they remained in the service or not, should not be entitled to this pay the same as men who had been discharged.

Again, in regard to the marines and the Navy, it is a historical fact and happens to be within my personal knowledge that the officers and soldiers of the Marine Corps did serve in the Mexican war and they are as much entitled to their pay as anybody else. Hence the suggestion of this amendment. If they served, they ought to be entitled to pay.

The PRESIDING OFFICER, (Mr. MITCHELL in the chair.) The Senator has spoken five minutes. The five-minute rule applies.

Mr. EDMUNDS. I hope the Senator will have an opportunity to finish what he has to say.

The PRESIDING OFFICER. If there be no objection, the Senator from Texas will proceed.

Mr. MAXEY. I was endeavoring to explain so that the Senate might act understandingly. I was aware that I could not do it in five minutes.

The PRESIDING OFFICER. The Chair thought it his duty to call attention to the rule.

Mr. MAXEY. The officers, non-commissioned officers, and privates of the Marine Corps are shown historically to have been in service with the United States Army in the Mexican war. It is also true that the officers and sailors of the Navy did valuable and gallant service during that war. I think the most gallant thing I ever saw anywhere was the movement of Commodore Tatnall against the castle of San Juan de Ulloa just preceding the siege of Vera Cruz. Those who were engaged in it certainly distinguished themselves for their courage in that movement. It is shown that the Navy, officers and sailors, did serve not only in the Mexican Gulf in that war, but also in California. Therefore it would be right, it seems to me, that the officers and sailors of the Navy and the officers, non-commissioned officers, musicians, and privates of the Marine Corps should get the benefit of this three months' pay. That amendment is not included in the bill; but I care to speak of it now because I shall submit it to the Senate as a question of equity. If anybody is entitled, the officers and soldiers of the United States Army yet remaining in the service are just as much equitably entitled to this three months' extra pay as those who were discharged.

These are the reasons which actuated the committee in making the report. I have given the dates of the laws, not caring to trouble the Senate with reading them. They will be found just as I have stated them by date.

Mr. EDMUNDS. I see that the act of July 19, 1848, may fairly bear the construction that Secretary Marcy put upon it at the time, that it did not apply to the regular Army. It evidently applied to the volunteers who had left their regular business and gone from their homes for a short time, and thus were for a short time broken up; and it might stand upon a different equity, a different principle of gratitude, from the case of the regular Army who enlist for regular periods of time, as so far as the officers are concerned for life, and who make war their regular business. It appears that the proper officers of the Government in the time of it, now thirty years ago, put that construction upon it, in which apparently everybody acquiesced. That being the state of the case, now after thirty years to reopen this question, this law having been taken off the statute-book twenty years after the events occurred, appears to me to be unwise; and certainly it ought not to be done without a full report from the Secretary of War as to the application, and extent, and bearing, and cost of it, so that we shall have everything in view.

I think, therefore, Mr. President, that I ought to ask that the bill go over.

The PRESIDING OFFICER. Objection being made, the bill goes over.

MAJOR P. P. G. HALL.

The next bill on the Calendar was the bill (S. No. 420) for the relief of Major P. P. G. Hall.

Mr. SAULSBURY. Is there a report accompanying that bill?

Mr. SPENCER. There is a report. It is a long report.

Mr. SAULSBURY. I want some information, because from the

reading of the bill I should be compelled to vote against it, if there were no facts appearing in the report that would change my mind. This seems, as I understood the bill, to be a case where a paymaster comes here and asks Congress to indemnify him for a loss occasioned by his own clerk's misconduct or defalcation. Unless there is some special reason why that should be done, I shall vote against it.

Mr. SPENCER. The report shows the special reason. This man was assigned to duty under the reconstruction laws and a soldier was detailed to him as clerk, and the soldier detailed to him committed forgery, a matter that he had nothing to do with. If the Senator will listen to the report, he will be perfectly satisfied, I think.

The Secretary proceeded to read the report, submitted by Mr. SPENCER, from the Committee on Military Affairs, on the 26th of February.

Mr. SAULSBURY. I see from the reading of the report that this is a question which ought to be examined to some extent before we act upon it. I must therefore ask that the bill go over, which will save the necessity of the further reading of the report.

The PRESIDING OFFICER. Objection being made, the bill goes over.

ROSA VERTNER JEFFREYS.

The next bill on the Calendar was the bill (S. No. 819) for the relief of Rosa Vertner Jeffreys.

Mr. McMILLAN. That may go over.

The PRESIDING OFFICER. Objection being made, the bill goes over.

NEW RIVER CANAL.

The next bill on the Calendar was the bill (S. No. 820) to authorize the Secretary of War to purchase from the New River Canal Company, for military purposes, the free use of an inland canal and water-route between Pamlico Sound, North Carolina, and Charleston, South Carolina, paying for the same by installments, as the work is completed between certain navigable bodies of water.

Mr. SARGENT. That bill has never been referred to a committee, and I suppose the Senator from North Carolina [Mr. MERRIMON] desires to be heard upon the matter by the Senate, and that is the reason it is on the Calendar without a reference. I therefore object, so that it may remain on the Calendar.

The PRESIDING OFFICER. The bill goes over.

TERRITORY OF LINCOLN.

The next bill on the Calendar was the bill (S. No. 144) to establish the Territory of Lincoln, and to provide a temporary government therefor.

Mr. EDMUNDS. That may go over, Mr. President.

Mr. PADDOCK. I hope the Senator from Vermont will not interpose an objection to the consideration of this bill. It is a bill that ought to be considered at an early day. If any action is had at all it ought to be at once.

Mr. EDMUNDS. Mr. President, it ought to be considered, and it ought to be considered a good while before it passes, in my opinion; and, therefore, under the five-minute rule, stopping a lot of small cases to which nobody has any objection, when we can find them, I think we had better let Lincoln alone.

Mr. PADDOCK. I do not think it ought to occupy five minutes.

The PRESIDING OFFICER. Objection is made, and the bill goes over.

Mr. CHAFFEE. I ask unanimous consent to be indulged one minute.

The PRESIDING OFFICER. The Senator will be heard if there be no objection.

Mr. CHAFFEE. It will be remembered that this bill was called up something over a month ago and passed through all the stages except the final passage of the bill, and the question now is on its final passage. The committee having the bill in charge made a very thorough examination of it and instructed me to make the report. The bill was cut off before by the expiration of the morning hour, and I have never had an opportunity to call the bill up since; but I was in hopes the Senator from Vermont would allow the vote to be taken. It comes from me in the regular discharge of my duties as a Senator and a member of the Committee on Territories. Not having the habit that some Senators have here of getting up in the morning hour and asking to call up a bill in order to retain possession of the floor, I have never been able to get the floor to call the bill up. I was in hopes the Senate would at least in this form, when it was reached on the Calendar, give me a vote on the bill.

Mr. EDMUNDS. It would give me great pleasure to oblige the honorable Senator from Colorado, as he well knows; but this bill is a bill of public and general importance, and it strikes me of very doubtful propriety, in fact a good deal worse than that. Certainly it is a general bill. Now I agree with the Senator that it is not a very convenient thing to file caveats to get the floor, and the Senator will bear me witness that I am not one of the individuals who fall into that category, so that I am sure the Senator will not feel that I am unkind to him if I insist that it should take its regular course as part of the public business affecting general interests.

Mr. CHAFFEE. Then I will only say that I shall seek to get the floor upon this bill at the very earliest day.

The PRESIDING OFFICER. The bill goes over.

HOUSE PENSION BILLS.

A message from the House of Representatives, by Mr. GEORGE M.

ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 8) for the relief of Othniel P. Hollis, of the Soldiers' Home, Augusta, Maine;

A bill (H. R. No. 99) granting a pension to Charles Slawson;

A bill (H. R. No. 124) granting a pension to James B. Treadwell, major of the Eighty-fifth Regiment Pennsylvania Volunteers;

A bill (H. R. No. 388) for the relief of William Royston, late private Company D, First Regiment Tennessee Light Artillery;

A bill (H. R. No. 490) granting a pension to Rose Miller, widow of Reason F. Miller, deceased, late a private in Company E, One hundred and twenty-third Illinois Infantry;

A bill (H. R. No. 519) granting a pension to Mrs. Ellen B. Foster, widow of Edwin R. Foster, deceased, late first lieutenant of Company G, in the Eightieth Illinois Infantry Volunteers;

A bill (H. R. No. 532) granting a pension to John Frey;

A bill (H. R. No. 530) granting a pension to Elizabeth Teagarden;

A bill (H. R. No. 844) granting a pension to Mary Martin, mother by adoption of James R. Martin, late a private in the Fifth Regiment Vermont Volunteers;

A bill (H. R. No. 941) granting a pension to George Grove;

A bill (H. R. No. 1147) granting a pension to Catharine Brennan, widow of John Brennan, late private of Company B, Fifty-eighth Illinois Volunteers;

A bill (H. R. No. 1175) granting a pension to George Silvers, private Company E, Fifty-seventh Regiment United States Volunteers;

A bill (H. R. No. 1304) granting a pension to Anna M. Clippinger;

A bill (H. R. No. 1434) granting a pension to John Langland, late private of Company B, First Michigan Sharpshooters;

A bill (H. R. No. 1649) for the relief of I. Clinton DeWitt, of Canton, Bradford County, Pennsylvania;

A bill (H. R. No. 1688) to restore the name of Hamilton Ryne to the pension-rolls;

A bill (H. R. No. 1789) granting a pension to Miles L. Reed, of New Castle, Indiana;

A bill (H. R. No. 1815) granting a pension to Florence V. Moore;

A bill (H. R. No. 1993) for the relief of Henry Rogers;

A bill (H. R. No. 2026) granting a pension to Mrs. Julia S. W. Evans, widow of Henry D. Evans, late first lieutenant of Company B, Thirtieth Missouri Volunteers;

A bill (H. R. No. 2176) granting an increase of pension to Mattie McTaggart, widow of the late First Lieutenant McTaggart, Seventeenth United States Infantry;

A bill (H. R. No. 2534) granting an increase of pension to Robert W. Livingston;

A bill (H. R. No. 2741) granting a pension to William H. Deery, Company G, Second Pennsylvania Volunteers, Mexican war;

A bill (H. R. No. 2711) granting a pension to Thomas Burroughs, late a private in Company G, First Vermont Cavalry Regiment;

A bill (H. R. No. 2769) granting an increase of pension to Catharine H. Gallagher, widow of Captain John Gallagher, late United States Navy;

A bill (H. R. No. 3080) granting a pension to Warren F. Wood;

A bill (H. R. No. 3098) granting a pension to Joseph L. Young, late a private Company C, Eleventh Regiment Maine Volunteers;

A bill (H. R. No. 3109) granting a pension to Margaret Kenah, widow of Patrick Kenah, late a private Company D, First United States Artillery;

A bill (H. R. No. 3564) granting a pension to Mrs. Isabell Dunbar, widow of Daniel Dunbar, late first engineer on steamer Victor No. 2;

A bill (H. R. No. 3565) granting a pension to Dr. P. F. Reuss, late surgeon Seventh New York Volunteers;

A bill (H. R. No. 3566) granting a pension to Harriet E. Edwards, widow of David S. Edwards, late surgeon in the United States Navy;

A bill (H. R. No. 3567) granting a pension to James G. Mason, of Company I, Fifteenth New York Volunteers;

A bill (H. R. No. 3568) granting a pension to Mary T. Thompson, widow of William Thompson, late second lieutenant Company E Twelfth New York Volunteers;

A bill (H. R. No. 3569) granting a pension to Ovid H. Clark;

A bill (H. R. No. 3570) granting an increase of pension to John Murphy, late private Company F, Fifth Regiment United States Infantry;

A bill (H. R. No. 3571) granting a pension to Zephaniah Crnbaugh;

A bill (H. R. No. 3572) granting a pension to Andrew J. Morrison;

A bill (H. R. No. 3573) granting a pension to Charles G. Galezio;

A bill (H. R. No. 3574) granting a pension to Thomas Pulling;

A bill (H. R. No. 3576) granting a pension to Catharine D. Hunt;

A bill (H. R. No. 3577) granting a pension to W. H. Gould;

A bill (H. R. No. 3578) granting a pension to Julia J. Wheeler;

A bill (H. R. No. 3579) granting a pension to Philip Henry;

A bill (H. R. No. 3730) granting a pension to Elizabeth Reese, widow of John Reese, a deceased soldier; and

A bill (H. R. No. 3731) granting a pension to Rebecca T. Scott, widow of Major John B. Scott, late of the United States Army.

These several bills were read twice by their titles respectively, and referred to the Committee on Pensions.

STEPHEN V. BENÉT.

The bill (S. No. 187) authorizing the Commissioner of Patents to

rehear the application of Stephen V. Benét for patent for cartridges, was considered as in Committee of the Whole.

Mr. DAVIS, of Illinois. Why is a rehearing needed? Let the report be read; or perhaps the Senator from New Hampshire can state the case. I would just as lief he should state it as have the report read.

Mr. WADLEIGH. The report is quite long, and perhaps I can satisfy my friend the Senator from Illinois with a very brief statement. Under the law as it existed prior to 1870, General Benét had the right at any time he saw fit to make application for a rehearing; but the law of 1870 prohibited the reception of such an application by the Commissioner of Patents after the lapse of six months. General Benét was absorbed in his office duties at the time of the passage of this law, and the fact that a limitation of six months was imposed did not come to his knowledge on that account. When he learned of the change in the law it was too late; and this application has been pending before Congress from that time to this. As I say, the sole reason for his not knowing the fact was that he was engaged in the service of the Government.

I will state further what appears upon the report, that a similar bill actually passed both Houses of Congress once, but failed to be signed, on account of some mistake of the Clerk.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL CAPITAL INSURANCE COMPANY.

The next bill on the Calendar was the bill (S. No. 502) repealing the charter of the National Capital Insurance Company; which was read.

Mr. EDMUNDS. I wish somebody would explain to me exactly the theory upon which the United States, by an act of Congress, gets the power to appoint a trustee by name of an insolvent corporation.

Mr. DAVIS, of Illinois. It has to go into court.

Mr. PADDOCK. I suggest, inasmuch as this bill was reported by the Senator from Kansas [Mr. INGALLS] who is not in his seat, that it had better go over unless some member of the committee desires to take charge of it.

Mr. SARGENT. Would it be in order to have a call of the Senate? It seems to me the Senate is very thin.

Mr. EDMUNDS. That is in order, and a good notion.

Mr. SARGENT. If in order I should like to have the names of Senators called.

The PRESIDING OFFICER. It is in order.

Mr. DORSEY. I object to the consideration of the bill.

Mr. DAVIS, of Illinois. There are serious legal questions involved in the bill. I will state to the Senator from California that I think the Senator from Kansas told me yesterday that he could not be here to-day.

Mr. PLUMB. He will be absent for several days.

Mr. DAVIS, of Illinois. He will be absent for a day or two. He is not purposely away. The bill may as well be passed over.

The PRESIDING OFFICER. The bill goes over. Does the Senator from California insist on a call of the Senate?

Mr. SARGENT. I did not desire to reflect on the Senator from Kansas at all, but I notice when we proceed to the Calendar quite a number of Senators seem to think it is unimportant business and leave the Chamber. We want those Senators here to explain the bills which they have reported. It was with a general application, and not with reference to any particular Senator, that I made the request. I am told, however, a number of Senators are probably at lunch, and I withdraw my request for a call in order to give them a chance to return.

The PRESIDING OFFICER. The demand for a call of the Senate is withdrawn; and the next bill on the Calendar will be reported.

LOTTERIES IN THE DISTRICT.

The next bill on the Calendar was the bill (H. R. No. 1411) to prevent the sale of policy or lottery tickets in the District of Columbia; which was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REAL-ESTATE RECORDS IN THE DISTRICT.

The next bill on the Calendar was the bill (H. R. No. 1432) providing for the recording of deeds, mortgages, and other conveyances affecting real estate in the District of Columbia; which was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REVISION OF PATENT LAWS.

The next bill on the Calendar was the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes.

Mr. DAVIS, of Illinois. That will go over.

The PRESIDING OFFICER. Objection being made, the bill goes over under the rule.

OFFICERS TO TAKE TESTIMONY.

The next bill on the Calendar was the bill (H. R. No. 2843) to provide for taking testimony for the courts of the District of Columbia; which was read.

Mr. EDMUNDS. I should like to hear the necessity of the bill explained; I understand what it means.

Mr. DORSEY. The bill was reported by the Senator from North Carolina [Mr. MERRIMON] not now in his seat, who, together with the Senator from Kansas, [Mr. INGALLS,] also absent, examined the matter. They referred it to the supreme court of this District and it was recommended by the court. I am not familiar enough with the bill myself to explain the necessity of it, which the Senator from Vermont suggests he desires.

Mr. EDMUNDS. It is open to considerable question whether notaries public ought to be invested with the powers of examiners to take testimony. A great many notaries public here are cashiers of banks, mere business men, not acquainted with the judicial administration of the law. The power to take testimony ordinarily implies the power of the examiner to commit a witness for contempt for refusing to answer, and so on.

Mr. HARRIS. I suggest, if the Senator from Vermont will allow me, that the bill go over until the Senator from North Carolina is in his seat.

Mr. EDMUNDS. Very well. It may be explained so as to be perfectly satisfactory. I think the suggestion is correct.

The PRESIDING OFFICER. Objection being made, the bill will go over under the rule.

GEORGE A. ARMES.

The next bill on the Calendar was the bill (S. No. 850) to authorize the restoration of George A. Armes to the rank of captain; which was read.

Mr. MAXEY. The bill which has been read was reported from the Committee on Military Affairs by myself. I was placed by that committee in charge of it. The bill is accompanied by a written report which has since been printed. A bill was passed by the House, No. 4242, having in view the same point. That bill I have examined also. It is precisely in effect and substance the same as the Senate bill. I therefore wish to substitute the House bill for the Senate bill.

The PRESIDING OFFICER. The House bill will be reported if there be no objection.

The Chief Clerk read the bill (H. R. No. 4242) to authorize the restoration of George A. Armes to the rank of captain.

Mr. MAXEY. I will state that the House bill follows the precise verbiage of the Senate bill down to the last proviso which is contained in the House bill, and which is precisely in effect and substance the proviso of the Senate bill, and in order to avoid any further trouble the committee accept the House bill in lieu of the Senate bill. I therefore move to substitute the House bill for the Senate bill in connection with it.

Mr. EDMUNDS. Which is the bill now up?

The PRESIDING OFFICER. The pending question is on the motion of the Senator from Texas to substitute the House bill for the Senate bill.

Mr. EDMUNDS. What does that mean? As an amendment to the Senate bill?

Mr. MAXEY. No, sir; but to discontinue the consideration of the Senate bill and act upon the House bill. This bill has come from the House, having passed there. The bill which was passed by the House is in substance precisely the same as the bill reported by the Senate committee and which is pending on the Calendar.

Mr. EDMUNDS. Where is the House bill?

Mr. SPENCER. The House bill is also on the Calendar.

Mr. EDMUNDS. Reported from the committee?

Mr. MAXEY. I will call the attention of the Senator from Vermont—

Mr. EDMUNDS. I understand the point. What I want to get at is the present condition of the House bill. Has it been reported from a committee and is it now on the Calendar, or is it still in the Military Committee?

Mr. MAXEY. It is on the Calendar, order of business No. 317.

Mr. SPENCER. Both bills have been acted upon by the committee.

Mr. EDMUNDS. Then what the Senator wishes to do is to take up the House bill in lieu of the Senate bill?

Mr. MAXEY. Precisely.

Mr. EDMUNDS. I do not object, of course.

The PRESIDING OFFICER. The Chair understands the House bill is on the Calendar, having been read twice, but that it has never been referred to the committee.

Mr. MAXEY. I move to postpone indefinitely the Senate bill in order to take up the House bill.

The PRESIDING OFFICER. The Senator from Texas moves to postpone indefinitely Senate bill No. 850.

The motion was agreed to.

Mr. MAXEY. I now move to take up the bill (H. R. No. 4242) to authorize the restoration of George A. Armes to the rank of captain.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. EDMUNDS. Now I should like to hear the report.

Mr. MAXEY. I ask that the House report be first read and then I will have the Senate report read.

The PRESIDING OFFICER. The report will be read.

The Secretary read the following report, submitted by Mr. MAISH, from the Committee on Military Affairs of the House of Representatives, on the 6th instant:

The Committee on Military Affairs, to whom was referred the bill (H. R. No.

1642) for the restoration of George A. Armes to the Army with the rank of captain, have had the same under consideration, and submit the following report:

The records of the War Department show the following facts:

That George A. Armes entered the military service of the United States as a private in Company B, Sixteenth Regiment Virginia Volunteer Infantry, September 1, 1862; was appointed second lieutenant in the same regiment December 8, 1862, and was appointed captain in the Second Regiment New York Artillery October, 1864. On the 14th of December, 1864, he was mentioned in general orders for meritorious conduct, by General Miles, "for leading the charge and capturing the works at Hatcher's Run, Virginia, in the face of an entrenched enemy and over obstacles very difficult to surmount." Upon the recommendation of Generals Hancock, Anger, Griffin, Mott, Miles, and Thompson, he was appointed second lieutenant in the Second United States Cavalry. Soon after, he was appointed captain in the Tenth United States Cavalry, and his commission was dated back, upon the recommendation of General Philip St. George Cook, with the approval of General U. S. Grant, as a recognition of merit. March 2, 1867, he was brevetted major in the regular Army for gallant services, having been previously brevetted major of volunteers. On the 12th of November, 1866, the following general order was issued:

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebraska, November 12, 1866.
[General Orders No. 20.]

The commanding general announces to the Department that Lieutenant George A. Armes, Second United States Cavalry, being sent with twenty-five men of his regiment from Fort Sedgewick, October 23, in pursuit of a war party of Sioux Indians, which had driven off the previous day several hundred head of stock, found and followed their trail—under the difficulties of crossing two wide rivers, forks of the Platte, and of darkness—ninety-eight miles, from five o'clock a. m. to eleven o'clock p. m.; then he surprised the party, instantly attacked, killed, and wounded nearly all their superior numbers, captured twenty-two Indian horses, burned their camp, and brought off safely most of their stolen stock. Thus this young officer has set a fine example to the Department of overcoming difficulties that would have discouraged and stopped many without loss of credit, of bold determination to succeed, and of striking without stopping to count his enemies, and has presented to the profession, perhaps, the greatest cavalry feat heretofore recorded.

By order of Brevet Major-General Cooke.

G. LITCHFIELD,
Brevet Major, United States Army,
Aid-de-Camp, Acting Assistant Adjutant-General.

On the 20th of August, 1867, he was recommended by Generals Sherman and Hancock for the brevet of lieutenant-colonel, for hard and heroic services against the Indians, by whom he was wounded during an engagement. This is only a portion of the very meritorious and gallant conduct of this young officer to this date in his military history, which seems to have challenged almost the universal respect and confidence of the officers under whom he served. The records of the War Department further show that in 1869 charges were preferred against Major Armes. They were four in number. The first charge, with its specifications, was abandoned on the trial. Upon the third and fourth he was found not guilty; and upon the second charge, "conduct unbecoming an officer and a gentleman," he was found guilty and sentenced "to be dismissed the service." These charges were preferred by Captain George W. Graham. The main witnesses were Lieutenant B. F. Bell and Captain Charles G. Cox. Bell had already been tried, convicted, and cashiered for bribery and embezzlement of public property. Cox was, when called, undergoing trial upon charges previously preferred by Major Armes, and he was subsequently convicted and sentenced to be dismissed, cashiered, fined, and imprisoned in a penitentiary for three years. Graham, who was also called as a witness, was at the time awaiting trial upon charges preferred by Major Armes, which resulted in his conviction, and he was fined \$500 and sentenced to be confined two years in the penitentiary. He was afterward shot while attempting to rob and murder a United States paymaster, captured, brought to trial, and sentenced by the civil authorities to the penitentiary for a term of two years, and, upon serving out that sentence, was killed while attempting another daring robbery.

The testimony, viewed in the light of its own contradictions and the character of the persons who testified, was all of the very worst quality. Many of the circumstances of his trial are remarkable. An officer who not only acknowledged that he entertained an opinion unfavorable to Major Armes, but had publicly proclaimed it, was allowed to sit as a member of the court, and no objection or remonstrance on the part of Armes was of any avail. The trial of Cox was in progress when that of Armes was taken up, yet the trial of Cox was suspended, it would seem, that he could appear and testify before his inevitable conviction upon the charges preferred against him by Armes. The debased characters of these witnesses, Cox, Bell, and Graham, were no better before than after conviction, and if justice had been allowed to take its course and these two desperate villains had been tried before Major Armes was, as they should have been in the regular and due order of things, the trial of Armes and the terrible injustice that was done him would never have taken place. Here is a case of a brave and energetic young officer, with a most brilliant record, driven in disgrace from his profession upon the testimony of witnesses wholly unworthy of credit. Major Armes did nothing but his duty in bringing charges against Graham and Cox, and they concocted the charges against Armes to save themselves. Two months after the trial of Major Armes their conviction and severe punishment followed upon the charges preferred by him. He was moreover their senior in rank, showing that Armes was justified in bringing the charges and that he was actuated by proper motives. His conduct, therefore, entitles him to commendation. It has already been shown what characters Bell, Cox, and Graham sustained. The women who testified had been ordered off the reservation at Fort Harker by the commanding officer as persons of notoriously bad character. The testimony of the weak-minded boy who was a witness against Captain Armes was so inconsistent and contradictory as to be entirely worthless. It is believed that every committee either of the House or Senate which has examined this case has reported in favor of Captain Armes. And the members of the Committee on Military Affairs of both the Senate and House in June, 1874, recommended his restoration to the Army in the following complimentary terms:

To the President:

The undersigned, members of the Military Committees of the Senate and House of Representatives, earnestly recommend and request the reinstatement of George A. Armes, late captain United States Army, without loss of rank or pay. His case has had a thorough examination, and his innocence is proven; hence, his reinstatement, the least measure of justice, should be done at once.

POWELL CLAYTON,
GEORGE E. SPENCER,
JAMES K. KELLY,
P. M. B. YOUNG,
W. G. DONNAN,
J. M. THORNBURGH,
JOHN B. HAWLEY,
JOHN COBURN.

WASHINGTON, D. C., June 20, 1874.

Numerous testimonials from responsible and well-known citizens and officers of the Army and Navy, who have been associated with Major Armes from boyhood, show that he has always been upright and honorable. To any one who will exam-

ine the evidence and the subsequent character and history of the witnesses in the case, there can be no doubt that the charges against and conviction of Major Armes were the result of a conspiracy to disgrace and drive him from the Army, on the part of the desperate characters who figured in the trial. The record does not show that the proceedings in this case were reviewed and approved by the President, as the law directs. The case was therefore not completed, and, in the opinion of your committee, this fact is sufficient to entitle the accused to a review and judgment on the record, which, on the evidence produced before your committee, would certainly be in his favor. But it appears that an act of Congress was passed in June, 1874, honorably discharging Major Armes from the service. This act had the effect to sever all connection Armes may have had with the Army. The action of your committee, therefore, is based entirely on the abstract merits of Major Armes's case. He was greatly wronged and the bill here recommended, should it become a law, will enable the President to restore him to the Army, and thus measurably repair the injuries he has suffered.

The committee report a substitute for bill H. R. No. 1642, and recommend the passage of the same.

Mr. EDMUNDS. Is there not a Senate report?

Mr. MAXEY. There is, and as I am familiar with the theory of the report, having had it on my mind, I will, with the permission of the President of the Senate, read the report from the Senate Military Committee on the bill myself:

It appears from the evidence before the committee that Captain Armes was arraigned before and tried by a general court-martial convened at Fort Leavenworth, Kansas, March 12, 1870. There were before the court on this trial four charges, with accompanying specifications, against Captain Armes. One of the charges, with its specifications, (charge 1.) was abandoned by the judge-advocate on the trial, and need not now be considered. He was found not guilty on the third and fourth charges, and guilty as to the second charge, and was sentenced "to be dismissed the service."

Charge 2, upon which he was found guilty, is as follows:

CHARGE II. Conduct unbecoming an officer and a gentleman, in violation of the eighth third Article of War.

Specification 1. In producing and publicly exhibiting at the mess-table, at Fort Harker, Kansas, several lewd, indecent, obscene, and lascivious pictures.

Specification 2. In then and there giving said pictures to the negro servant Ben, and ordering him to carry them to a Miss Shaw or Foster, living near, and ask her what she thought of them.

Specification 3. And when the said girl, after such public insult, resented it by slapping his face at the table, calling her a 'damned fool.' All this August 19, 1869.

Of the first specification he was found guilty. Of the second specification, guilty, except the words, 'and ask her what she thought of them.' Of the third specification, guilty, substituting the words 'damned fool' for the words 'damned fool.' Of the charge, guilty.

The sentence is as follows:

"And the court does therefore sentence him, Brevet Major George A. Armes, captain Tenth United States Cavalry, 'to be dismissed the service.'"

Following this the committee finds an order styled "General Court-Martial Orders No. 36, Headquarters of the Army, Adjutant-General's Office, Washington, June 7, 1870," reciting the assembling of the court, the findings, and sentence, and closing with these paragraphs:

"II. In conformity with the sixty-fifth of the Rules and Articles of War, the proceedings of the general court-martial in the foregoing case have been forwarded to the Secretary of War for the action of the President of the United States, and the proceedings, findings, and sentence are approved. The sentence will be duly executed."

"III. Brevet Major George A. Armes, captain Tenth United States Cavalry, accordingly ceases to be an officer of the Army from the date of this order."

"By command of General Sherman.

"E. D. TOWNSEND,
Adjutant-General."

At a later date this appears:

"WAR DEPARTMENT,
Washington, June 2, 1872.

"In conformity with the sixty-fifth of the Rules and Articles of War, the proceedings of the general court-martial in the foregoing case of Brevet Major George A. Armes, captain Tenth United States Cavalry, have been forwarded to the Secretary of War for the action of the President of the United States, and the proceedings, findings, and sentence are approved. The sentence will be duly executed."

"WM. W. BELKNAP,
Secretary of War."

If the order of June 7, 1870, was valid, then there was no need for the above order of June 2, 1872, nearly two years later.

Before proceeding to the question of validity or invalidity of the order of dismissal, the committee deems it proper to examine the testimony on which the sentence of dismissal is based. There were six witnesses to sustain the prosecution. One had been cashiered and dismissed the service on charge of fraudulent conversion of public property to his own use. Two were officers of the Army awaiting trial before the court that tried Armes, both charged with fraudulent conversion of public property to their own use. Each was sentenced to be dismissed the service, and, further, to confinement in the penitentiary for a term of years. Two were women proven to be of abandoned character, and their general reputation for truth and veracity was proved bad. One of them (Miss Shaw, or Foster) is the party to whom the pictures are alleged to have been sent. The sixth was the colored boy Ben, referred to in the specifications, whose testimony was manifestly contradictory and evidently unreliable.

On the part of Captain Armes, he is shown to be a man of conspicuous gallantry, who had rendered his country much valuable service in the field. He had been more than once handsomely mentioned in general orders, and appears to have had the entire confidence of his associates and commanding officers. No act consistent with the charge and specifications throughout his life was shown. On the contrary, he appears to have had a moral character consistent with his character for courage and dash. The committee is unable to perceive how such a man, upon such testimony, was found guilty of such a charge. In this conclusion the committee finds itself in accord with all of the several committees of the two Houses which have heretofore examined, in some form or other, the case of Captain Armes. Still if the proceedings were laid before the President of the United States, as the final reviewing authority, and the sentence was approved by him, the question is settled. If such is the fact, it is evidenced, so far as appears to the committee, by the orders heretofore quoted of June 7, 1870, and June 2, 1872. It does not affirmatively appear from either of these orders that the President ever saw the proceedings, or ever reviewed them, nor does that fact appear in any wise to the committee. Section 996 of the revised army regulations of 1863, in force at the date of these proceedings, and yet so, reads as follows:

"996. The judge-advocate shall transmit the proceedings without delay to the officer having authority to confirm the sentence, who shall state, at the end of the proceedings, in each case, his decision and orders thereon."

This being a case of dismissal from the service, the President is by law the final reviewing authority. Nowhere in the record submitted to the committee, "at the

end of the proceedings," or elsewhere, does it appear that the President "stated" in this case "his decision and orders thereon," unless the indorsement of the Secretary of War of June 2, 1872, may be so construed. This is not clear; it is not the natural construction of the language. A court-martial is *quasi* of criminal jurisdiction, and it is submitted that nothing should be taken by intendment in the proceedings before a court-martial any more than in proceedings before a court of criminal jurisdiction.

The material and essential fact—that which is essential to the validity of the order of dismissal—to wit, that the President has reviewed the proceedings and confirmed the sentence, nowhere affirmatively appears. It would be as difficult to sustain this paper as evidencing that fact, upon authority, as to sustain a record of a court of criminal jurisdiction in a capital case, which did not show affirmatively the appearance of the accused, his arraignment, his plea, the election, the paneling and swearing of the jury, the hearing of evidence and argument, and the charge by the court, the return into court of the verdict, the judgment thereon, &c., &c. In short, nothing on principle can be taken by intendment, in a case like this involving the character of the accused. And the very fact that the law makes the President the final reviewing officer only in cases of sentence of death and of dismissal from the service shows the jealousy with which the law wisely protects the character of the officer from unjust aspersion and accusation. Were there nothing in the way but the orders of June 7, 1870, and June 2, 1872, the committee would feel constrained to recommend a bill authorizing and instructing the President to review the case. It is manifest that the President's duty in this regard is judicial, and therefore cannot be performed by any one save the President himself. The record of his judgment, of his "decision and orders," may, of course, like any ministerial act, be performed by another hand, but the judgment, the decision, the orders in the case must result from the operations of his mind and conscience. But the committee finds itself in the progress of the investigation confronted with an act which took effect June 9, 1874, chapter 273, as follows:

An act authorizing and directing the Secretary of War to give to George A. Armes, late captain, Tenth United States Cavalry, an honorable discharge, to date the 7th day of June, 1870.

Be it enacted, &c., That the Secretary of War is hereby authorized and directed to give to George A. Armes, late captain Tenth United States Cavalry and brevet major United States Army, an honorable discharge from the service of the United States, to date June 7, 1870; and that said George A. Armes be paid the same pay and allowances as if he had been discharged under the provisions of the third section of the act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1871, and for other purposes," approved July 15, 1870.

By virtue of this law, Special Orders No. 136, War Department, Adjutant-General's Office, Washington, June 19, 1874, were issued, honorably discharging Captain Armes as of date June 7, 1870. So that the committee concludes that the connection of Captain Armes with the Army was completely severed by virtue of the act aforesaid and order aforesaid, and whatever irregularities there may have been in the proceedings of the court-martial, and especially as to the review thereof, were completely cured by the act and orders aforesaid, and by the voluntary acceptance thereof by Captain Armes.

Afterward, to wit, during the second session, Forty-fourth Congress, Senate bill 407, a copy whereof accompanies this report as part thereof, marked Exhibit A, passed the Senate and House of Representatives, but failed to receive the signature of the President, and by the adjournment of Congress in less than ten days after the passage of the bill it failed to become a law.

It will be observed that this bill recognizes the fact that Captain Armes's connection with the Army was completely severed by the act of June, 1874, before quoted, and the honorable discharge granted Captain Armes by virtue of that act.

Proceeding upon the view entertained by every committee which has investigated the case, to wit, that injustice has been done Captain Armes, this bill, last referred to as having passed both Houses, declares:

"That the provisions of law regulating appointments in the Army by promotion in the line are hereby suspended for the purposes of this act, and only so far as they affect George A. Armes, and the President can, if he so desire, in the exercise of his own discretion and judgment, nominate and, by and with the advice and consent of the Senate, appoint said George A. Armes, late captain in the Tenth United States Cavalry Regiment, to the same grade and rank of captain held by him on June 7, 1870, in any vacancy occurring; *Provided, however, That no pay, compensation, or allowance whatever shall ever be given to said Armes for the time between June 7, 1870, and the date of appointment hereunder.*"

This bill appears to be, with a single exception, fairly guarded, and designed by Congress to do equity, as near as may be, to Captain Armes. If the intent of this bill was to authorize the President to nominate and the Senate to confirm Captain Armes captain of the Tenth Cavalry, to take his place in grade and rank in the regiment where a vacancy should occur in the grade of captain in that regiment, then the bill, in the judgment of the committee, would be equitable; but if it is to be construed as justifying promotion to the rank of captain, as of date June 7, 1870, in any regiment where a vacancy may occur, then it would not be equitable, because no one outside of that regiment has been promoted to the rank of captain by reason of his dismissal. The provision in respect to pay and allowance, prohibiting payment of any pay or allowance whatever between June 7, 1870, and his appointment under the act, should such appointment be made, is also right. It recognizes the act of June, 1874, which granted him an honorable discharge as of date June 7, 1870, and which directed his pay up to that date. The fact of complete disavowance from the Army is also recognized by the phraseology "late captain," &c.; also by the suspension of the law regulating line promotions so far as it affects this case.

Upon a full review of the whole case the committee are of the opinion that the passage of an act in substance the same as the bill passed through both Houses at the second session of the Forty-fourth Congress, would be equitable toward a meritorious officer, who has rendered good service and who has suffered injustice, as the committee believes, as all committees have reported, and as the two Houses have twice shown they believed. In expressing this opinion the committee does not wish to be understood as reflecting on the motives of the court but to say that in its judgment the testimony was unreliable, and that no man whose whole life, from youth up, as the testimony shows in this case, was without tarnish, and whose official record is most honorable, should have his honorable ambition in his profession blasted and his fair character tarnished for all time by such testimony. Should the view of the committee be adopted, the committee would recommend that after the words "in any vacancy occurring" the words "in the grade of captain in said Tenth Regiment of Cavalry" be added. Such a law would leave it to the discretion of the President to nominate, and of the Senate to confirm, and is, in the judgment of the committee, the full extent of relief that can lawfully be granted to Captain Armes.

In pursuance of the views expressed in the foregoing report, the committee herewith report a substitute for Senate bill 352, submitted to them, and recommend the passage of the substitute.

I do not know, Mr. President, nor do I believe that anything which I may say can add to the strength of the committee's report. In the case before the court-martial there were six witnesses on behalf of the prosecution. One of those was a dismissed officer of the United States Army, dismissed for appropriating public property to his own use. Two others were under charges for like offenses, both of whom

were convicted and sentenced to the penitentiary. Two others were women of notoriously bad reputation, and their general reputation for truth and veracity was proven before the court-martial to be bad. Thus five are disposed of. The other was a weak-minded boy, and you have only to attempt to follow his testimony to see that it is utterly crooked and unreliable on every part of the case.

The impression springs up at once, is it right, is it just, is it fair on such testimony to strike down the honorable reputation of a man who has done gallant service for the country, who has received the encomiums of those placed ever him in general orders published at the head of every regiment for gallant and meritorious conduct on the battle-field? Is it fair that such a man ought to have his whole life and the reputation which he had built up from a youth of sixteen, blasted upon such testimony? The testimony shows that this young man was a Virginian, and at the age of sixteen entered the Federal Army, against the general sentiment of the people where he lived. Following his conviction of duty, as he understood it to be, he entered the Federal Army as a private soldier, and step by step rose until he arrived at the rank of captain and brevet major. Nowhere in all that military history does a stain appear upon his character until it became important to destroy him in order to save others whom he had placed before a court-martial. The remarkable fact appears that, although the two cases of Cox and Graham stood upon the record of the court-martial in date prior to that of Armes, yet the cases of both those men were set back and his was advanced, and they were put upon the stand and their testimony taken. After this was done by the same court these two men were placed upon trial, both found guilty, and sentenced to the penitentiary. The other man had previously been dismissed, and then these two women were put upon the stand whose reputation for truth and veracity, in addition to their reputation for chastity, was proven upon the trial by prominent officers to be notoriously bad, one of those officers being no less than Colonel Miles, who has distinguished himself on the northwestern frontier. I refer to their general reputation for truth and veracity, which was proved, outside of the fact to which everybody testified as to their bad character otherwise, to be notoriously bad. No man who ever read the testimony or who examined the facts could possibly believe such witnesses.

Such is the character of the testimony. In the face of the record of this man they placed him upon trial, and upon such testimony he was found guilty and sentenced to be dismissed.

Mr. President, every committee which has examined this case as lawyers examine a case, has arrived at the same conclusion. Congress twice arrived at the same conclusion, once by setting aside the order of dishonorable discharge and granting him an honorable discharge; next a bill was introduced, what for? To restore him to the Army? Not at all, but to place him as near as may be where he was before, so far as the power of the President is concerned to promote him. With the laws in force prohibiting promotion except by seniority, the President, if he believes that wrong and injustice have been done, may under this bill nominate this gentleman, send the nomination to this body, and then it will be for the Senate to say whether or not he shall be confirmed. Not a dollar of pay is given, but it simply restores him as near as may be.

Mr. President, I have only to say that if I had been the reviewing officer, those proceedings never would have received my sanction. I can state that so far as the papers have been shown to me, I do not believe they ever did pass under the review of the President of the United States, although the law was mandatory that proceedings in review should be had by him, and his order and decision made thereon. But Congress did, as near as they could, attempt to relieve him. They ordered an honorable discharge to be granted him; and passed another bill, which is exactly the same as the one now pending. That bill passed both Houses. Whether designed on the part of the President or not, I do not know, but being at a very late day of the session, it failed to receive the approval of the President, and thereby it fell. It seems to me that this is simply a case of pure, naked justice. Some may have thought that I have had blood toward all those of our kith and kin who turned against us. No such feeling can actuate me in this case. This man fought under the flag of the Union from his youth up. It is not to be supposed that I would have had feelings toward him on that account, or that that would specially commend him to me; but I have made this defense in behalf of this young man because the eternal principles of justice ought to be maintained. All we can do is to restore him to the position which he was honorably given, and of which he was unjustly deprived.

Mr. EDMUNDS. Mr. President, there seems to be pretty good reason to believe from the statement of the Senator from Texas that the judgment of this court-martial was an error, although it appears that the other people who accused Armes were convicted and that the people whom Armes accused were convicted. They were convicted all around, and what we should find if we reviewed the court-martial proceedings in the other cases as to their regularity or illegality we do not know. I am not making these remarks as preliminary for asking that this case go over. I have no objection to its being voted upon. But the danger in respect of this kind of legislation is, as it appears to me, that the Congress of the United States, having provided by law courts-martial to try matters of this character and regulated all their proceedings in the Army just as we do in private affairs by a judicial system, now is sitting at this moment as

a court of review of the findings of a court-martial, (not upon the ground, which would have some force in it,) that it appears to us that the members of that court were corrupt and so the court had not any honest jurisdiction because they were unfit to try the case, but because, although as the committee say, they have no imputations to make upon the officers who composed that court-martial, who might be able to vindicate themselves if they had a hearing possibly, but because they committed an error. That is a very dangerous ground for legislation to stand upon. In the history of this Government and respecting men now living, there are no doubt thousands of cases of hardship, of error, where injustice has been done to gallant men by the error of a court deciding against them when it ought to have decided, as we might think, in their favor. There is the intrinsic danger of steps of this character. Of course this proceeds upon the principle that it is a part of the business and the duty of Congress to rectify the errors of courts-martial, not to rectify their doings when it turns out that the members of the courts were themselves prejudiced and unfit or corrupt, but where, as in this case, the members were upright, the court was duly formed, but unhappily for the victim made a mistake, as we think. Mr. President, I do not wish to commit myself to that ground. I must be excused from doing so, as much as my sympathies have been affected by the statement of the Senator from Texas.

Now let me come to a second point.

Mr. MAXEY. Will the Senator from Vermont permit me a moment?

Mr. EDMUNDS. If it does not come out of my five minutes, Mr. President.

Mr. MAXEY. The Senator knows very well that I dislike to interrupt anybody. The record does not appear in the report, but it appears in the proceedings that Captain Armes upon trial objected to one of the members of the court because he had expressed an opinion in regard to him and his case. That objection was one of the most serious character; he had said that he would not believe him on oath, and so on. The court overruled the objection and permitted the trial to go on. I do not think that could occur in civilized life.

Mr. EDMUNDS. Mr. President, that very often happens in civil life, where a man objects to a judge, but it unhappily happens that the committee have told us from their investigation that they have no reflections to make upon the court except that they committed an error.

Mr. MAXEY. The committee do not reflect upon the honor of the court. What we complain of is that it was an error of judgment.

Mr. EDMUNDS. But the committee has not stated in its report, if I correctly understood it, and I listened very attentively, that it finds that this objection to this member of the court was well founded, because the objection if well founded was that he was a scoundrel, that he was a man whose oath to try that case honestly could not be believed. Perhaps that officer would like to have a fair hearing in this court of review before we condemn him.

Mr. MAXEY. I do not think the Senator understood me. I said that this member of the court so charged Armes, not that Armes had charged him.

Mr. EDMUNDS. Ah, very well.

Mr. MAXEY. And the point Armes made was that this member of the court had already formed an opinion and had expressed such an opinion and, therefore, was incompetent, which in my country at least would be a very good objection.

Mr. EDMUNDS. It would be a good objection if true, but the committee do not tell us that the court found that this member of the court had formed and expressed any such opinion. Presumptively, therefore, the court found that he had not, and that this officer who was on trial had made an objection that was untenable in point of fact. There is the difficulty with that; and this very little interruption—I do not know but that I shall have to ask an extension of my time—illustrates the dangerous ground it is that we are treading upon in undertaking in this way to review the judgments of courts-martial or any other courts. But I pass that; and if I can have time to state the difficulties that occur to me, I do not wish to have this matter go over if it can be avoided.

Now we come to another point. I must be excused from giving in my adhesion to the reasoning of the committee in respect of what they consider to be the invalidity of the approval of the proceedings because it does not appear on the face of the papers affirmatively and in terms that the President of the United States approved of the finding of the court-martial, but as they state it appears to have been signed by the Secretary of War. Now, it is a question that is worthy of a good deal of consideration before we decide it certainly in the direction that the committee have, whether under the statutes of the United States creating the office of Secretary of War and prescribing the duty of the President in respect to court-martial cases, the act of the Secretary of War in signing a paper of that character is not presumed by law to be the act of the President of the United States just as the act of Her Majesty the Queen of Great Britain and Ireland and Empress of all the Indies is conclusively proved by the mere signature of one of the officers of her cabinet without even the foot-note or titular description of "secretary of state for foreign affairs," or whatever it may be. But I do not propose to go into that, only to say that I must be excused from accepting at this time as sound law that proposition of the Committee on Military Affairs.

It appears that in 1874 Congress authorized the Secretary of War to issue to this gentleman an honorable discharge from the Army of the United States. It appears to have been done on his application. The committee say that he voluntarily accepted that. Grant that injustice had been done him, yet by his own voluntary act if he was in the Army he went out, and if he was already out he took a certificate of character and went his way. Then he was out of the Army by his own volition if he was not out before. Now the question is whether it is right to the other officers of the regiment, he having accepted an honorable discharge, which is just the same as it affects him or anybody else as a resignation, for Congress four or five years afterward to say that he may be reappointed to rank those gentlemen who then stood below him and who have served all the time; and if the appointments in the regiment are full what is to become of the lowest second lieutenant, if that is the present lowest grade of commissioned officers, who has come in to fill up the vacancy, so that all the vacancies in that regiment are full? He must be turned out of the Army I suppose. Is that right? And it is stated to me by my honorable friend from Kansas [Mr. PLUMB] that this gentleman obtained a year's pay also when he took this honorable discharge in 1874, and his connection with the Army then, by his own act, however great may have been the injustice done him, was completely dissolved. Now it is proposed to overturn the regular order of promotion in the Army, to set that all aside, and authorize the President and the Senate to put this gentleman up at the head or near the head or wherever he would have been. If this were merely to authorize the President of the United States to give him an appointment in the Army like any other deserving citizen who for any reason has a good right to be favorably considered for such a place, that would be another thing.

Mr. MAXEY. The Senator from Vermont misunderstands the bill again. It does not propose to authorize the President to appoint him until a vacancy occurs, and therefore does not displace anybody.

Mr. EDMUNDS. Until a vacancy occurs in what rank?

Mr. MAXEY. In the rank of captain, the rank he held at the time of his unjust dismissal.

Mr. EDMUNDS. Then it would not squeeze out the lowest lieutenant. I am obliged to the Senator for correcting me. Then what is to become of the nine other captains who have served for the last three or four years, perhaps on the plains fighting the Indians, just as gallantly as Captain Armes did—because there are a great many gallant officers in the Army of the United States; he is not the only gentleman who has distinguished himself; I am glad to be able to say from my information that ninety-nine in one hundred at least of all the officers of the Army of the United States do distinguish themselves in the same way. They do their duty bravely and truly all the time. This gentleman being out by his own volition and with a year's pay, is it right to put him at the head of these other nine? I do not believe it is; and but for the sympathy we feel for an injustice that appears on this investigation to have been done him by the error in judgment of a court-martial, which involves our inquiry in every other case of that sort and involves the consequences that I have already stated, I do not think it would commend itself to the judgment of the Senate. That is all I wish to say.

Mr. BLAINE. Mr. President, I think the ground taken by the Senator from Vermont proves too much. If he objects to having the findings of courts-martial ever reviewed by Congress, I think he would take off one of the most salutary restraints upon the license to which courts-martial might run, that now exist. There is no service, military or naval, in any country that does not have a little bit of a tendency to run into cliques, sometimes a very great one, and there have been instances in which very grave injustice has been done to the best of officers under such influences. There is no danger that Congress is going to launch forth into the general business of reviewing courts-martial. From the foundation of the Government to this time very few officers have been restored by any action of Congress—I mean very few in comparison with those who have suffered at the hands of courts-martial. At the same time, I have no doubt that the power of Congress to do it and its entire discretion to do it at any time, has been a very wise and salutary restraint upon the care and circumspection with which courts-martial are conducted; and if you once establish it that, no matter what finding of a court-martial may happen to get approved, there is no possible appeal here, I say God help some officers of the Army in future years.

Now, the fact that this man got a certificate of good character, an honorable discharge in 1874, as the Senator says, only proves to my mind that very gross injustice was done him. The very fact that Congress granted that proves the injustice of the court-martial. You could not possibly have granted that without absolutely trampling on it, and by that very act saying it was unjust. If we are willing to say that a thing was unjust, do not let us stop at half measures. If we put it as a matter of record that this man was entitled to an honorable discharge, then surely he ought not to lie under the curse of having been guilty of so grave an offense as to call for that punishment which to a soldier is equal to death, being cashiered.

I do not pretend to have examined with any very great care the case of Mr. Armes, although I have casually known of it for a great many years; but we are all more or less governed by the findings of committees and we have to trust them. I find that this case has been examined with the utmost care by committees in both branches of Congress without the slightest regard to party. I find that such men

as Powell Clayton, GEORGE E. SPENCER, James K. Kelly, P. M. B. Young, W. G. Donnan, J. M. THORNBURGH, John B. Hawley, (the present Assistant Secretary of the Treasury,) John Coburn, (for a long time chairman of the Committee on Military Affairs of the other House and one of the most careful men I have ever known in legislative affairs,) Charles Albright, B. WADLEIGH, (present Senator in this body,) J. W. Nesmith, EPPA HUNTON, Lewis B. Gunkel, Joseph R. Hawley, and C. D. McDougall have been in favor of this measure in the past. You have had favorable reports from those who have given the utmost care and attention to this case; and I have no doubt that it would be a very serious injustice to this man to deny this relief; an injustice that we cannot afford, not simply with regard to him, but with regard to ourselves, and still more with regard to the vast number of officers who in the future in the Army and in the Navy are liable to suffer from causes which we need not specify, and which we may not go into, from the summary punishment of courts-martial. It is a wholesome and good thing to hold the power of review in Congress, to exercise it of course always with discretion, but in meritorious cases to exercise it with absolute power.

Mr. PLUMB. I desire to offer an amendment so as to limit this power of the President to appoint to the first vacancy which shall occur. I have no doubt that the principle of examining the records of these courts-martial is too firmly established now to be overturned. We shall continue to sit here, I have no doubt, as a court of appeal for cases of this kind.

While I have a very decided conviction that the bill itself ought not to pass, at the same time I interpose no objection to that, but suggest this amendment, which seems to me to be fair. This will prevent this bill and the subject of the appointment from becoming a sort of covenant to run with this regiment and with the presidential office in point of fact. If the President shall see fit now, with all the light before him when this matter comes freshly before him from the hands of Congress, to appoint this man to the first vacancy that shall occur in the rank of captain, so be it; but let it not be there as a sort of terror to the lieutenants and captains who are back of him in rank all the time interfering with that just feeling and idea of promotion which is constantly before them as the incentive, and be a bugbear to them, so to speak, and prevent them from knowing what the consequences are to be, whether, when a certain captain may be promoted or when in some accidental manner he may go out of the Army, Armes may be obtruding before them all the time and prevent them realizing what they expect and are entitled to.

I do not see that my amendment interferes practically with the effect of this bill. It is not offered with any design that it should do so, but that it should not simply give to this an extension which would be under the circumstances very unjust to that regiment.

Now, perhaps, as germane to this general question, I might say something about this matter of putting people into the Army in this manner. We have been this session all the time considering, Congress has been considering what the Army should consist of, as to the number of privates and as to the number of officers. I think the conviction is very general, whatever may be the fact in reference to the number of privates, that we have officers enough, too many. West Point is giving us seventy or eighty a year. We have undertaken no method of limiting that number, but are putting that many into it in addition to those who are appointed from civil life, and at the same time we are constantly putting men in in this irregular way. It seems to me that it is entirely wrong, that we are going at this matter in a manner which is doing injustice to the Army itself, and which is bound to bring about that state of prejudice on the part of the people which will result in very great damage to the Army.

I notice, also, that no one ever here appears for a private soldier, nor does a private soldier ever here appear to say anything for himself. We bother ourselves completely and exclusively about that portion of the Army which is the least entitled practically to consideration. I know personally, as I have no doubt do other members on this floor, that the injustice that is done by courts-martial is much more glaring in the case of private soldiers than it is in the case of officers; and that brings me to speak generally of the obligation which the country is under to that very meritorious class of people, not merely those who are now in the Army but those who were in the Army during the late war. The negligence, so to speak, of Congress in reference to their rights and interests, is much more conspicuous than it is with reference to the officers of the Army. There were men who served without pay or reward or hope thereof, practically speaking, that never received enough to make them whole. The class of men who received large rewards, who had a constant incentive in the shape of the hope of promotion to do their duty, have been constantly pressing Congress for recognition until we have a retired list for the Army which embraces men just as able to do a day's work as any member on this floor, who are receiving a benefaction of nine or ten thousand dollars a year in some cases. It has become a very conspicuous injustice. We are constantly doing this thing; we are doing it piecemeal. Now I say if it be, as the Senator from Maine says, notorious that courts-martial are doing injustice—and I have no doubt it is so—and if the present authorities for reviewing such cases are insufficient, we ought to create a board of review. We ought to go at it in some systematic way and not be picking out exceptional cases of this kind, which, as the Senator from Maine well said, are not really exceptional. There are hundreds of cases equally meritorious

with this, cases of men who have simply quietly stood aside and made no appeal to Congress, who have not importuned Congress for years as this man has, and consequently are in no condition whatever to receive and will not receive anything at the hands of Congress and will leave their wrongs unrighted.

Mr. MAXEY. I trust the amendment offered by the Senator from Kansas will not be adopted. The committee investigated that point as closely as we possibly could. The House committee did the same. If we are to do right, let us do right all the way through. It is entirely clear that the President will not nominate this officer nor the Senate confirm him unless the case is right. Hence I do not see the sense of this restriction. Had it been presented in committee or anywhere where it could be acted on, it might have been different; but here the bill has passed the House; it has passed through the Senate committee, and is now before the Senate for final action. If we amend it, it will have to go back to the House. I do not see that the amendment is of such importance as to justify anything of that kind. Therefore I hope the amendment will not prevail.

Mr. BLAINE. I think the Senator from Texas will also see that the amendment might be very prejudicial. It is in effect saying to the President that if you cannot make up your mind instantly this man shall not be righted. A vacancy may occur the day he approves this bill, and when he has not had the least time to examine the case, when you do not give him the least opportunity to exercise the sound discretion which he ought to exercise in such cases as this; and if he does not appoint him to the very first vacancy, the bill goes for nothing. The amendment takes from the President the discretion with which he ought to be clothed, and in that respect, which I do not think the Senator from Kansas intended, it renders the bill entirely nugatory.

One other word in answer to my friend from Kansas. I agree with him that the Army in some respects is top-heavy, that there are many more officers in some departments than there ought to be, and we might by some wise legislation probably thin them; but I would not do it by injustice. I would not stop the railway train, as the old lady desired, by a collision. I think we can afford to get rid of officers without turning them out with disgrace upon them when they have been honorably discharging their duty, and I think we can better afford to pay an extra officer or two than to do injustice to the humblest officer or the humblest private in the Army of the United States.

Mr. MAXEY. I did not care to criticize the amendment in the light that the Senator from Maine has suggested; but it appears to me very clear that it would have an appearance of dictating to the President "if you do not put that man in right away the act shall have no effect." Suppose a man were to die to-day a captain of the Tenth Cavalry and a vacancy therefore occurred which would have to be filled, the President would have to go immediately to work and investigate this case. In other words, if it is just to pass the bill, let it pass removing all restriction from the President and the Senate. I therefore ask for a vote on the bill.

Mr. EDMUNDS. The amendment proposed by the Senator from Kansas I think is a good one and a just one, and I do not think the observations of the Senator from Maine show it to be otherwise. His point is that this vacancy may happen so suddenly that the President would not have time to read the reports of these committees and the record of the old court-martial to know what to do. But the President cannot fill up the vacancy until he nominates somebody to the Senate. The vacancy will stay until the President and the Senate act. So there is nothing, it appears to me, of any force in the objection that this amendment does not give the President an opportunity to decide, because the moment a vacancy occurs if you limit it to the first one as the Senator from Kansas wisely proposes, that vacancy remains open until the President has had the opportunity to go over the record and make up his mind.

Now, suppose you leave it as it is, then as the Senator from Kansas has stated, and as nobody denies, this is a running right. The present President of the United States may consider this case and conclude that he will not appoint this gentleman to the first vacancy; he thinks it is not just to the service or the public interest. That decision does not bind anybody. He nominates one man and he is confirmed. Another vacancy occurs the next year afterward. The question is reopened and the President of the United States is obliged to decide again. If he goes out of his office, another President of the United States comes in, for the office is continuous. Then a vacancy occurs; the same question is brought up again; and it may continue to be brought up for any length of time without limitation, because we do not provide that the matter once decided adversely shall be a bar to an application for a fresh appointment. It is an open, continuous, indefinite act.

Mr. President, on the motion of the Senator from Kansas I must ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Vermont asks for the yeas and nays on the amendment of the Senator from Kansas.

The yeas and nays were ordered.

Mr. WADLEIGH. I desire to say a single word on the case now before the Senate. As a member of the Military Committee, although I agreed with the conclusions reached in this report, I did not agree, and the committee was not otherwise unanimous, in the steps by which those conclusions were reached. It seemed upon the evidence clearly established that gross injustice and wrong had been done

Captain Armes, and I believed it to be the duty of Congress in this case to redress that injustice, although I recognized and felt the dangers arising from a precedent of this kind, as the Senator from Vermont has alluded to them. But the precedents for legislation of this kind have already been established; this establishes no new precedent; and acting in the line of other precedents I cannot see how the committee could reasonably refuse to grant to this man who had been thus wronged the justice which the bill would give him.

I recognize, too, the force of the reasons which have been urged in favor of the amendment of my friend the Senator from Kansas, and I shall vote for that amendment and for the bill thus amended. I think myself it would be unjust to the officers of the Army to have this appointment hanging over them for a long time to come and to have before the President a strife whenever a vacancy occurs as to whether Captain Armes shall not fill that vacancy.

The question being taken upon the amendment of Mr. PLUMB by yeas and nays, resulted—yeas 7, nays 47; as follows:

YEAS—7.			
Anthony, Davis of Illinois,	Edmunds, Morrill,	Plumb, Teller,	Wadleigh,
NAYS—47.			
Armstrong, Bailey, Barnum, Bayard, Beck, Blaine, Bruce, Burnside, Butler, Cameron of Wis., Cameron of Pa., Chaffee,	Coke, Conkling, Conover, Davis of W. Va., Dawes, Dorsey, Eaton, Garland, Gordon, Grover, Harris, Hereford,	Hill, Johnston, Jones of Florida, Kernan, Lamar, Matthews, Maxey, McCreery, McDonald, McMillan, McPherson, Mitchell,	Morgan, Randolph, Ransom, Rollins, Sargent, Saulsbury, Saunders, Spencer, Voorhees, Wallace, Whyte.
ABSENT—22.			
Allison, Booth, Christiancy, Cockrell, Dennis, Eustis,	Ferry, Hamlin, Hoar, Howe, Ingalls, Jones of Nevada,	Kellogg, Kirkwood, Merrimon, Oglesby, Paddock, Patterson,	Sharon, Thurman, Windom, Withers.

So the amendment was rejected.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WARREN MITCHELL.

The next bill on the Calendar was the bill (S. No. 855) for the relief of Warren Mitchell.

Mr. McMILLAN. Under the five-minute rule of debate it would be impossible to dispose of this case at this call of the Calendar. I therefore ask that it go over.

The PRESIDING OFFICER. The bill is objected to and goes over. Mr. HARRIS. I desire to suggest to the Senator from Minnesota that the Senate will probably continue the discussion to any extent that may be found necessary. I should be very glad if the Senate would consent so to do that we might proceed with the consideration of the bill.

Mr. McMILLAN. I think those interested in subsequent cases would not consent to the suspension of the rule, and it would not do to undertake it.

The PRESIDING OFFICER. Objection being made, the case goes over. The Secretary will report the next bill on the Calendar.

TIMBER IN COLORADO, NEVADA, AND TERRITORIES.

The next bill on the Calendar was the bill (S. No. 20) authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes.

Mr. WHYTE. That seems to be a bill granting a large amount of timber, apparently, through a very great area of territory.

Mr. CHAFFEE. I hope the Senator from Maryland will allow the report to be read.

Mr. WHYTE. I think the bill had better go over and be taken up at a time when there is more opportunity of discussion.

The PRESIDING OFFICER. Objection being made, the bill will go over.

Mr. SARGENT. It has been my observation that after several hours spent on the Calendar the Senate gets irritated and restless. I think we had better proceed to the consideration of executive business. I make that motion.

Mr. ALLISON. I hope that motion will be withdrawn for the present.

Mr. SARGENT. Every bill now coming up is passed over because the Senate does not want to consider it. There is no more important bill than the one which has just been passed over, which was discussed at very great length some time ago. The people of the West are absolutely debarred from using the timber, buying the land, or living in the Territories. Under these circumstances the hardship of the situation presses with very great force upon western members. I have no doubt the Senate will be ready to allow any time to explain the bill which may be necessary. There is a similar one somewhat further along on the Calendar for the relief of California, and Oregon, and the Territory of Washington, where we propose to buy the land of the Government. I think preventing us an opportunity of considering these things must arise from the circumstance that Sen-

ators are really tired and irritated by the variety of topics taken up to-day, and we can do better afterward.

Mr. WHYTE. The only reason why I objected was because I remembered what a tremendous amount of discussion the timber question has involved during this session of the Senate.

Mr. SARGENT. That was a discussion in regard to certain measures submitted by the Interior Department. We propose to obviate the necessity for such measures hereafter.

Mr. WHYTE. That was exactly what I supposed. Therefore, I thought it was a very important bill; and having heard stump speeches on the timber question, I thought perhaps five minutes was hardly time enough for anybody to make one of that character. It will not do to cut a man down to five minutes on questions of this kind.

Mr. SARGENT. I shall ask leave that my friend be heard further at length if he desires.

Mr. CHAFFEE. The bill just passed over occupied an hour and a half of the Senate in discussion, and no word was said against it. It is as important as any private bill can possibly be. Now, as the Senator from California has just said, if the Senate has got into such a state of mind and feeling that no bill of this kind can be passed or considered, then I think we had better go into executive session or adjourn.

Mr. SARGENT. I make the motion that the Senate proceed to the consideration of executive business.

QUARANTINE REGULATIONS.

Mr. GORDON. I want to appeal to the Senator from California to allow the bill establishing general quarantine laws to be acted on. It is a bill of a general character, and the season is so rapidly advancing when it is necessary to the cities interested to take advantage of it, that I trust the Senate will consider it an exceptional case and act upon it to-day.

Mr. ALLISON. Is it on the Calendar?

Mr. GORDON. It is reported favorably from the Committee on Commerce, and I am satisfied it will not take ten minutes to act on it.

Mr. CHAFFEE. So of the bill just objected to.

Mr. GORDON. The difference between this bill and any other is that there are large cities and large sections of country in immediate danger now from invasion by foreign diseases, particularly the yellow fever. I am satisfied there will be no objection to the bill as amended by the Committee on Commerce.

The PRESIDING OFFICER. Does the Senator from California yield?

Mr. SARGENT. I see the bill is on the Calendar a long way ahead. We cannot reach it to-day.

Mr. GORDON. It is a House bill.

Mr. SARGENT. It is the last bill but one on the Calendar, and we cannot possibly reach it to-day.

Mr. GORDON. I ask that an exception be made of it, because of the peculiar character of the bill.

Mr. SARGENT. I will withdraw the motion for the purpose of the Senator making the motion to take it up.

The PRESIDING OFFICER. The motion for an executive session is withdrawn.

Mr. GORDON. I move to take up the bill I have indicated.

Mr. CHAFFEE. I object. We are proceeding now with the Calendar under the rule.

Mr. GORDON. We can set it aside by a majority vote.

The PRESIDING OFFICER. The objection of the Senator from Colorado is well taken, the Chair thinks.

Mr. GORDON. I insist on my motion.

Mr. MORGAN. I insist that the motion shall not be allowed, for this reason: that bill contains, as I understand, a very grave constitutional question, and one that merits full discussion.

Mr. GORDON. If my friend from Alabama will allow me, I am satisfied he misapprehends the bill altogether. The bill, which I introduced by request myself, did have, as was supposed, some very grave constitutional questions involved, but those points have all been stricken out, and I am satisfied if he reads the House bill as amended by the Committee on Commerce he will find that the national quarantine regulations sought to be established by this bill are altogether subservient to the State regulations, and the objection which he anticipates will not be found in the bill as reported from the Committee on Commerce.

The PRESIDING OFFICER. The Chair will suggest to the Senator from Georgia that it will be necessary that he should move to suspend all prior orders to take up his bill.

Mr. ALLISON. I do not wish to interfere with the Senator from Georgia, but I desire to understand the rule. We are proceeding under a rule. Can a majority set that aside?

The PRESIDING OFFICER. Only by moving to suspend all prior orders.

Mr. ALLISON. That being done—

Mr. GORDON. Is it necessary to make a motion to suspend all prior orders, because there seems to be nothing now before the Senate at all except the Calendar? I understand we can suspend the Calendar on a simple motion to take up a particular bill.

The PRESIDING OFFICER. The Chair will state to the Senator from Georgia that there is a present order to proceed with the Calendar of unobjected cases.

Mr. GORDON. Very well. Then I move that all prior orders be suspended and that the Senate now proceed to the consideration of the House bill relative to quarantine.

The PRESIDING OFFICER. The question is on the motion of the Senator from Georgia.

Mr. ALLISON. Then I desire to ask the Chair this question: when that bill is disposed of, do we immediately go back to the Calendar as before, or is it necessary then to readopt the order of the Senator from Rhode Island?

Mr. SARGENT. We go back, of course, under the order already adopted, which is simply suspended for the time being.

The PRESIDING OFFICER. The Chair thinks it is only suspended for the time being.

Mr. ANTHONY. If that is the general understanding, very well; but it seems to me that a motion to lay aside the Calendar and take up the bill of the Senator from Georgia would supersede the order under which we are acting.

Mr. ALLISON. That is the way I supposed.

The PRESIDING OFFICER. The Chair thinks it only suspends the order temporarily.

Mr. GORDON. That is my motion; and of course I make it with the understanding that we proceed with the Calendar where we left off when this bill is disposed of.

The PRESIDING OFFICER. The question is on the motion of the Senator from Georgia.

The question being put, there were, on a division—ayes 23, noes 12; no quorum voting.

Mr. GORDON. I am satisfied there is a quorum present, and the Senator from Colorado will I think withdraw all further objection. If he does not, I shall be under the necessity of calling for the yeas and nays. I am satisfied that the Senate agrees that we ought to pass this bill.

Mr. CHAFFEE. The Senate has passed an order by which unobjectioned bills are to be considered in their turn. Now the proposition of the Senator from Georgia is to jump all the business except the very last bill or the next to the last bill on the Calendar and take that up. I think that is unfair to Senators having bills on the Calendar.

Mr. GORDON. I am satisfied the Senator from Colorado has not considered the nature of this bill. If a city in his State were in danger of invasion by disease from just off the borders of his State, and possibly the passage of this bill might render safe his people, would he not consider that an exceptional case which ought to be acted on promptly? I tell the Senator that the people of Savannah and the entire coast of Florida, Georgia, and the Carolinas are appealing here day by day, by telegram and otherwise, to the Senate to act upon this bill, so that they may put into operation the important regulations which it suggests to protect them from the yellow fever now raging in Cuba, especially in the city of Havana, with which this entire coast is in communication almost daily, certainly weekly. It is no mere private bill, but a bill in which a large portion of the people are interested.

Mr. CHAFFEE. Three-quarters of the morning hour is left undisturbed; the morning business is now through by quarter past twelve. The Senator can get up his bill in some morning hour.

Mr. GORDON. We can decide it very soon by a vote of the Senate. I call for the yeas and nays unless we can get Senators to vote.

Mr. WHYTE. I see that I am the innocent cause of this stoppage of the public business by having objected to the bill of my friend from Colorado. Now I withdraw my objection. Let the vote be taken on his bill, and then we can proceed with the bill of the Senator from Georgia.

The PRESIDING OFFICER. The pending question, however, is on the motion made by the Senator from Georgia.

Mr. WHYTE. He will withdraw that.

The PRESIDING OFFICER. The question is on the motion made by the Senator from Georgia, upon which he has called for the yeas and nays.

Mr. CONKLING. I wish to say a word in sympathy with the motion of the Senator from Georgia. He has indicated so clearly that I need not attempt to repeat or add to it, the importance and the interest attaching to this bill. There is one suggestion, however, which I think may induce Senators who have hesitated to consider it to forego their objections. Such a bill naturally suggests, and indeed the original draft of the bill warranted the suggestion, that the rights of States, of which we know historically they have been very jealous, were to be invaded or interfered with, that such legislation might trench upon what in a very famous case the Supreme Court called the police powers of the States, their right to make health laws, quarantine laws, pilot laws, and so on. When the bill was introduced, not in the Senate but elsewhere, attention was called to this view of the subject, and all parts of the act offensive to such objections were eliminated; and as the bill comes now to the Senate on the report of the Committee on Commerce, I think no Senator will find in such direction reasons for exception to it.

If I am right in that, I submit that there is every reason why prompt consideration should be given to a measure of this sort, and I hope that the motion of the Senator from Georgia will prevail, and indeed I should expect that he might get unanimous consent to take up a

bill which has passed the House of Representatives, which comes now with two amendments as mere safeguards, and to which I think on consideration not a single member of the Senate will object.

The PRESIDING OFFICER. The question is on the motion of the Senator from Georgia, upon which he has called for the yeas and nays.

Mr. WHYTE. I hope the Senator from Georgia will withdraw the demand for the yeas and nays.

Mr. GORDON. I am very much disposed to do so; but if I withdraw this motion and the Colorado bill should lead to discussion the day will be exhausted.

Mr. CONKLING. Let me suggest to the Senator from Georgia if he will allow me—and I am sure my friend from Colorado will acquiesce to save time—that he see whether any Senator will now object to considering this bill as he has explained it. My impression is it will lead to no debate, and he can get action upon it at once and get it out of the way of my friend from Colorado sooner than in any other mode.

Mr. SARGENT. The withdrawal of the objection by the Senator from Maryland leaves at the head of the Calendar, if we proceed no further on that to-night, the bill of the Senator from Colorado, with which I think he will be satisfied. We can then take up by unanimous consent the bill referred to by the Senator from Georgia and dispose of it, and when we return to the Calendar the first bill in order will be the Colorado timber bill. With that understanding, I think everybody will be satisfied.

Mr. GORDON. Then I withdraw the call for the yeas and nays, and I think if the Chair will again submit the question we shall have a quorum.

The PRESIDING OFFICER. The Chair will again put the question on the motion of the Senator from Georgia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3739) to prevent the introduction of contagious or infectious diseases into the United States.

The bill was reported from the Committee on Commerce with amendments.

The first amendment was to insert after the words "United States," in line 10 of section 1, the words "into or through the jurisdiction of which said vessel or vehicle may pass, or to which it is destined;" as as to make the section read:

That no vessel or vehicle coming from any foreign port or country where any contagious or infectious disease may exist, and no vessel or vehicle conveying any person or persons, merchandise, or animals, affected with any infectious or contagious disease, shall enter any port of the United States or pass the boundary line between the United States and any foreign country, contrary to the quarantine laws of any one of said United States, into or through the jurisdiction of which said vessel or vehicle may pass, or to which it is destined, or except in the manner and subject to the regulations to be prescribed as hereinafter provided.

The amendment was agreed to.

The next amendment was, in line 8, section 2, to strike out "inform" and insert "give information thereof to;" and in line 10, after the word "service," to strike out the word "thereof;" so as to make the section read:

SEC. 2. That whenever any infectious or contagious disease shall appear in any foreign port or country, and whenever any vessel shall leave any infected foreign port, or, having on board goods or passengers coming from any place or district infected with cholera or yellow fever, shall leave any foreign port, bound for any port in the United States, the consular officer, or other representative of the United States at or nearest such foreign port, shall immediately give information thereof to the supervising surgeon-general of the marine hospital service, and shall report to him the name, the date of departure, and the port of destination of such vessel; and shall also make the same report to the health officer of the port of destination in the United States; and the consular officers of the United States shall make weekly reports to him of the sanitary condition of the ports at which they are respectively stationed; and the said surgeon-general of the marine hospital service shall, under the direction of the Secretary of the Treasury, be charged with the execution of the provisions of this act, and shall frame all needful rules and regulations for that purpose, which rules and regulations shall be subject to the approval of the President; but such rules and regulations shall not conflict with or impair any sanitary or quarantine laws or regulations of any State or municipal authorities now existing, or which may hereafter be enacted.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is still open to amendment. The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making appropriations for detecting trespass on the public lands and for bringing into market public lands in certain States, and for other purposes; that it still further insisted upon its disagreement to the amendments of the Senate numbered 7 and 8, insisted on by the Senate, and agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. MILTON J. DURHAM of Kentucky, Mr. JAMES H. BLOUNT of Georgia, and Mr. JOHN H. BAKER of Indiana managers at the further conference on its part.

The message also announced that the House had concurred in the amendments of the Senate to the following bills:

A bill (H. R. No. 536) for the relief of W. C. Snyder, of Illinois;
A bill (H. R. No. 2291) for the relief of Thomas W. Collier; and
A bill (H. R. No. 3712) to provide for the erection of a public building in the city of Kansas, in the State of Missouri.

The message further announced that the House had passed a bill (H. R. No. 4394) to prohibit the coinage of the twenty-cent piece of silver; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 1080) authorizing the issue of passports free to colored citizens going to Brazil;
A bill (H. R. No. 536) for the relief of W. C. Snyder, of Illinois;
A bill (H. R. No. 2291) for the relief of Thomas W. Collier; and
A bill (H. R. No. 3712) to provide for the erection of a public building in the city of Kansas, in the State of Missouri.

NORTHERN PACIFIC RAILROAD.

Mr. MITCHELL submitted the report of the Committee on Railroads to accompany the bill (S. No. 238) to extend the time for the construction and completion of the Northern Pacific Railroad and by a readjustment of the grants without increasing the appropriation to secure the construction of the Portland, Salt Lake and South Pass Railroad; which was ordered to be printed.

AMENDMENT TO POST-ROUTE BILL.

Mr. OGLESBY submitted an amendment intended to be proposed by him to the bill (S. No. 802) to establish post-routes in the several States therein named; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4394) to prohibit the coinage of the twenty-cent piece of silver was read twice by its title, and referred to the Committee on Finance.

TIMBER IN COLORADO, NEVADA, AND TERRITORIES.

The PRESIDING OFFICER, (Mr. MITCHELL in the chair.) The consideration of the Calendar will now be resumed; and the bill (S. No. 20) authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes is before the Senate as in Committee of the Whole, objection to its consideration having been withdrawn.

The Committee on Public Lands reported an amendment to strike out all after the enacting clause and insert:

That all citizens of the United States and other persons, *bona fide* residents of the States of Colorado, California, or Nevada, or either of the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, or Montana, and all other mineral districts of the United States, shall be, and are hereby, authorized and permitted to fell and remove, for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said States, Territories, or districts of which such citizens or persons may be at the time *bona fide* residents, subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the undergrowth growing upon such lands: *Provided*, That no timber shall be cut or felled in the mountain regions within three miles of the upper line of the timber commonly known as the "timber line."

Sec. 2. That it shall be the duty of the register and the receiver of any local land office in whose district any mineral land may be situated to ascertain from time to time whether any timber is being cut or used upon any of such lands, except for the purposes authorized by this act, within their respective land districts; and, if so, they shall immediately notify the Commissioner of the General Land Office of that fact; and all necessary expenses incurred in making such proper examinations shall be paid and allowed such register and receiver in making up their next quarterly accounts.

Sec. 3. Any person or persons who shall violate the provisions of this act, or any rules and regulations in pursuance thereof made by the Secretary of the Interior, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding \$500, and to which may be added imprisonment for any term not exceeding six months.

Mr. CHAFFEE. I move to strike out the proviso commencing in line 17 of the first section, in these words:

Provided, That no timber shall be cut or felled in the mountain regions within three miles of the upper line of the timber commonly known as the "timber line."

The reason for my amendment is that three-fourths of all the mines are within three miles of the timber line and most of them above the timber line.

Mr. DAVIS, of West Virginia. I submit to the Senator whether there ought not to be some limit, say one mile or two miles.

Mr. CHAFFEE. There ought not to be a limit, because, as I said before, the mines are generally above the timber line.

The amendment to the amendment was agreed to.

Mr. SARGENT. This bill is very well calculated indeed for Colorado and New Mexico, where timber is sparse; but where, as in California and Oregon, the latter of which, by the way, is not mentioned in the bill, the timber is thicker, the bill is inadequate to deal with the subject, and there is pending, reported from the Committee on Public Lands, another bill applying to California, Oregon, and Nevada. I do not wish to prejudice that bill by the mention of California in this. This would be a very partial and insufficient relief to our people who want to buy the land of the Government; and therefore I move,

so as not to prejudice that legislation and not to concede that this bill adequately covers the subject in California, to strike out the word "California" in line 4.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California, to strike out "California."

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. SARGENT. The other bill to which I referred is in the order of business No. 269. I ask that it may now be considered in connection with the bill just passed.

Mr. DAVIS, of West Virginia. I think we had better go on with the Calendar regularly.

Mr. SARGENT. The bills relate to the same subject-matter.

Mr. DAVIS, of West Virginia. I think it unjust to other bills.

Mr. SARGENT. Very well, I withdraw the request.

The PRESIDING OFFICER. The next case on the Calendar will be reported.

LAND SCRIP.

The next bill on the Calendar was the bill (S. No. 109) defining the manner in which certain land scrip may be assigned and located or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives.

Mr. PLUMB. Let that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

CATHARINE AND SOPHIA GERMAIN.

The next bill on the Calendar was the bill (H. R. No. 1679) for the relief of Catharine and Sophia Germain; which was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to reserve from that portion of annuities due, or to become due, to Cheyenne Indians the sum of \$2,500 for Catharine Germain, aged eighteen years, and \$2,500 for Sophia Germain, aged thirteen years, two white children, who were captured in Kansas by the Cheyennes while en route from Georgia to Colorado, and cause the same to be placed to the credit of Catharine and Sophia Germain, on the books of the Treasury of the United States, to bear interest at the rate of 5 per cent. per annum, and to use from time to time the income from the same in such manner as he may deem expedient for their maintenance, education, and support until they attain the age of twenty-one years, when the principal and all unexpended interest shall be paid to them.

The Committee on Indian Affairs reported the bill with an amendment, after the word "if," in line 17, to insert "before attaining the age of twenty-one years;" so as to make the proviso read:

Provided, That if, before attaining the age of twenty-one years, either said Catharine Germain or Sophia Germain should die without issue, the whole sum due the decedent shall revert to the survivor; and should both die without issue, the whole sum shall revert to the United States; but if either said Catharine Germain or Sophia Germain, or both, have lawful issue, then, at the death of either parent, the amount due to her in her own right, or which she may have inherited, shall become the inheritance of her own issue.

Mr. EDMUNDS. I wish to ask if we have not passed already at least one bill for the relief of these two persons? The name appears to me to be familiar.

Mr. ALLISON. We have passed a bill for two sisters of Catharine and Sophia, and this identical bill passed the Senate a year or two ago.

Mr. EDMUNDS. Where is the bill that we passed?

Mr. ALLISON. I think it was in 1873; I do not remember exactly. But this bill passed the Senate in 1876. Indeed it passed both Houses at the close of the last session of Congress, but in the hurry it was not enrolled in time to receive the signature of the President. The Committee on Indian Affairs were unanimous that the bill ought to pass. This does not apply to the two children already provided for by another act of Congress.

Mr. EDMUNDS. Why did we not provide for the other children at the same time?

Mr. ALLISON. I am not able to answer that question except that these two children were omitted. I think I was not in charge of the matter when the other bill was passed. It passed in 1873 at the tail end of an appropriation bill perhaps.

Mr. EDMUNDS. It is no great recommendation to my mind that a bill in the last hours of a session passed both Houses of Congress. It rather raises a presumption that nobody paid any attention to it. According to my recollection, we went through this Germain business once.

Mr. ALLISON. Thoroughly, and provided for two of the children. The Senator will remember that these children were captured under circumstances of the most brutal atrocity by the Cheyenne Indians and were retained by them for many months, the father and mother both being killed and all their property destroyed.

Mr. EDMUNDS. Yes, Mr. President; but the thing that strikes me with astonishment at this moment is that if the family were captured we provided for two members of the captured persons and left out the other two. And that leads me to inquire of the Senator as chairman of the Committee on Indian Affairs how this has happened. I

should like to find the act to see whether these are the same persons or some others.

Mr. ALLISON. If they are the same persons, the bill ought not to pass.

Mr. EDMUNDS. Let the bill lay aside for a little while.

Mr. ALLISON. I have no objection to its going aside temporarily. The PRESIDING OFFICER. The next bill on the Calendar will be stated.

PATENTS TO POTTAWATOMIE INDIANS.

The next bill on the Calendar was the bill (S. No. 766) to legalize patents issued to members of the Pottawatomie tribe of Indians.

Mr. ALLISON. That bill is in charge of the Senator from Kansas, [Mr. INGALLS.] I do not remember the circumstances. I think it had better be laid aside.

The PRESIDING OFFICER. It will be laid aside for the present.

THE PACIFIC RAILROADS.

The next bill on the Calendar was the bill (S. No. 512) in relation to the Pacific Railroads.

Mr. ALLISON. That has been disposed of.

Mr. SARGENT. It ought to be indefinitely postponed. I make that motion.

Mr. BAILEY. I should like to know what bill this is. We cannot hear a word of it.

The PRESIDING OFFICER. It is the Pacific Railroad funding bill, reported by the Senator from Ohio, [Mr. MATTHEWS.]

Mr. SARGENT. Is the Senator from Tennessee satisfied?

The motion to indefinitely postpone was agreed to.

THE PARIS EXPOSITION.

The next business on the Calendar was the joint resolution (S. R. No. 17) supplemental to a joint resolution in relation to the international industrial exposition to be held in Paris in 1878, reported from the Committee on Appropriations adversely.

Mr. WHYTE. I move that that be indefinitely postponed.

The motion was agreed to.

JOHN S. MILLER.

The next bill on the Calendar was the bill (H. R. No. 535) for the relief of the executors of the estate of John S. Miller, deceased; which was considered as in Committee of the Whole.

The bill directs the Commissioner of Internal Revenue to credit Barbara Miller, John S. Miller, and William H. Miller, executors of the estate of John S. Miller, deceased, with the amount assessed against them for deficiency in the production of spirits at their distillery at Sterling, during the months of April, May, and June, 1876, the assessments being based upon an excessive estimate of the producing capacity of their distillery, forced upon the executors over their protest, and in opposition to the written opinion of the collector making the survey.

Mr. CAMERON, of Wisconsin. Is there a written report?

Mr. ALLISON. This is a bill for the relief of the executors of John S. Miller, deceased—

Mr. OGLESBY. The case is all right.

Mr. CAMERON, of Wisconsin. The parties are residents of Illinois. That is sufficient.

Mr. ALLISON. The bill received the unanimous assent of the Committee on Finance. There is a letter on file from the Commissioner of Internal Revenue saying this ought to be done. If any Senator desires that I should explain the bill in detail, I shall be glad to do it.

Mr. EDMUNDS. I should like to hear the report read, and then I should be very glad to hear the Senator.

Mr. ALLISON. The papers can be sent for.

Mr. EDMUNDS. I call for the reading of the report and accompanying papers.

The PRESIDING OFFICER. The Chair understands there is no report.

Mr. ALLISON. There is a letter from the Commissioner of Internal Revenue recommending this measure. There is no difficulty in the case, as Senators will see from a moment's explanation. There was a survey of this distillery and afterward a resurvey ordered by Commissioner Pratt, the distillery being known as one that operates under the seventy-two-hour rule. Under the re-examination ordered by Commissioner Pratt these distillers objected to the measurement made under that examination, but having on hand some two or three thousand head of cattle they were compelled to run their distillery or else sustain great loss and violate some contract. They ran it in that way some two months and then shut down. In the mean time they appealed to the Commissioner of Internal Revenue for relief. That relief could not be given without an act of Congress. The Commissioner of Internal Revenue recommends that these taxes be remitted to them. That is all there is in the case.

Mr. EDMUNDS. I should like to hear the letter of the Commissioner read.

The Secretary read as follows:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, December 9, 1876.

SIR: Your letter of the 8th instant, forwarding the petition of Barbara Miller and others, and a copy of H. R. No. 4119, introduced by Hon. H. C. BURCHARD, entitled "A bill for the relief of Barbara Miller, John S. Miller, and William H. Miller," has been received.

I have read the petition and find that the matters therein stated are substantially true.

The distillery of the petitioners has been and now is being operated upon a fermenting period of seventy-two hours. The surveyed producing capacity had been fixed at fourteen quarts of spirits to the bushel, and the distillery had been operated for a considerable length of time under that arrangement.

On the 10th day of February, 1876, a new survey was made of this distillery under orders from this office, and the producing capacity was increased to sixteen quarts per bushel upon the same fermenting period and the petitioners continued operating the distillery under that survey. The acceptance of the survey fixed their liability under the law. From sworn statements on file in this office I am satisfied that the petitioners would not have accepted the survey, but for the reason that they had undertaken to feed a large number of cattle, and would have been liable for heavy damages had they failed to furnish the necessary slop from their distillery for that purpose.

The assessments mentioned in the petition for the months of April and May, 1876, for a deficiency in production, are for \$10,388.44, and for the month of June, 1876, the sum of \$1,728.66, amounting in all to \$12,117.10. To abate these assessments the petitioners filed the usual applications, and upon a thorough investigation of the subject, I became satisfied that it was impossible for any distillery to be run upon a fermenting period of seventy-two hours with the surveyed capacity of sixteen quarts to the bushel, so as to make a sufficient amount of spirits to avoid a deficiency assessment, and I also became satisfied, as heretofore stated, that the petitioners accepted the survey unwillingly, and because of their liability to damages in the event they failed to furnish slop for a large number of cattle.

An investigation of these cases led me to adopt the rule of fixing the producing capacity at fifteen quarts to the bushel of all distilleries using corn where they preferred a fermenting period of seventy-two hours. Distilleries working upon a fermenting period of forty-eight hours are surveyed upon a producing capacity of sixteen quarts to the bushel. This difference of a reduction of one quart at distilleries fermenting in seventy-two hours places them about upon an equal footing with distilleries surveyed at sixteen quarts with a fermenting period of forty-eight hours.

Having become satisfied that the surveyed capacity of the petitioners' distillery as accepted by them was in excess of what was a reasonable production for said distillery, but having no authority in law to abate a tax legally assessed, I came to the conclusion that their case was one that merited relief by legislation, and, as stated in said petition, I authorized the collector of their district to suspend the collection of the tax for a period of six months to enable the petitioners to appeal to Congress for relief. I am satisfied that they paid the taxes required by law upon the spirits produced by them, and the spirits so produced were sufficient in amount to protect them from an assessment for deficiency had the survey been made upon the basis of fifteen instead of sixteen quarts to the bushel.

I have therefore the honor to recommend the passage of the act in question.

Very respectfully,

GREEN B. RAUM,
Commissioner.

FRANK C. HOPKINS, Esq.,
Clerk Committee of Ways and Means,
House of Representatives.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DANIEL H. KELLY.

The next bill on the Calendar was the bill (S. No. 394) to place the name of Daniel H. Kelly upon the muster-roll of Company F, Second Tennessee Infantry. It directs the Secretary of War to place the name of Daniel H. Kelly, deceased, upon the muster-roll of Company F, Second Tennessee Infantry Volunteers, to show that he enlisted December 1, 1861, for three years, and was captured by the enemy, and died in prison, at Richmond, Virginia, while a prisoner, November —, 1863.

Mr. EDMUNDS. Let us hear the report, Mr. President.

The Secretary read the following report, submitted by Mr. RANDOLPH on the 12th of March:

The Committee on Military Affairs, to whom was referred the bill (S. No. 394) to place the name of Daniel H. Kelly upon the muster-roll of Company F, Second Tennessee Infantry, together with the petition of Dillah Kelly, widow of Daniel H. Kelly, praying for the relief provided by the bill, have had the same under consideration, and submit the following report:

This case was fully examined by the Committee on Military Affairs of the Forty-fourth Congress, first session, and a report made thereon by Mr. Logan, then chairman, as follows:

"Mr. Logan submitted the following report, to accompany bill S. No. 685:

"The Committee on Military Affairs, to whom was referred the petition of Dillah Kelly, having had the same under consideration, submit the following report, which was submitted in the Forty-third Congress to the same petition, and recommend the passage of the accompanying bill:

"[Senate report No. 378.—Forty-third Congress, first session.]

"May 22, 1874, ordered to be printed.

"Mr. Logan submitted the following report, to accompany bill S. No. 841:

"The Committee on Military Affairs, to whom the petition of Dillah Kelly was referred, having had the same under consideration, submit the following report:

"This is the petition of Dillah Kelly, who claims to be the widow of Daniel H. Kelly, deceased, late a private of Company F, Second Regiment Tennessee Volunteers. The evidence shows that deceased enlisted in the military service of the United States about December 1, 1861, at Concho's Gap, Tennessee, under Captain David Fry; that while on their way in Lee County, Virginia, the command was attacked by a large force of rebels, and after a hard fight, continuing from two o'clock till dark, the deceased, the captain, and several others were taken prisoners. The recruiting papers were in the hands of deceased, who had been made orderly sergeant, and, by direction of Captain Fry, were destroyed the night after their capture, on which account no return was ever made of the enlistment of deceased. The deceased was sent to the rebel prison at Richmond, where he died.

"The facts in this case are testified to by Captain Fry and one Thomas Davis, both of whom were taken prisoners with deceased. The particulars are stated minutely, and so clearly as to satisfy the committee of their truthfulness; and the signature of Captain Fry is verified by the War Department.

"The committee, being fully satisfied of the justness of this claim, recommend the passage of the accompanying bill."

A careful examination of the record and proofs filed in this case show that the favorable report heretofore made by Mr. Logan, quoted above, was proper and just, and that the relief sought ought to be granted.

Your committee therefore recommend the passage of the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. DORSEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and fifty-two minutes spent in executive session the doors were reopened; and (at five o'clock and twenty-one minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, April 18, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

IMMIGRATION TAX.

Mr. COX, of New York. I ask unanimous consent to present joint resolutions of the Legislature of the State of New York on the subject of the immigration tax and to have them referred to the Committee on Commerce and printed in the RECORD.

Mr. O'NEILL. I suppose that motions of this kind do not come in so as to interfere with the right to proceed to the unfinished business.

The SPEAKER. The gentleman's remedy is to demand the regular order, if he does not wish anything to come before the regular order of business.

Mr. O'NEILL. I do not wish to do that; I do not wish to be discourteous to other members, but I want to know if anything can prevent the unfinished business from coming up.

The SPEAKER. These requests are by unanimous consent, and do not interfere with the regular order of business.

The resolutions presented by Mr. Cox, of New York, were read, and referred to the Committee on Commerce. They are as follows:

STATE OF NEW YORK.

IN ASSEMBLY, Albany, April 5, 1878.

Resolved, (if the senate concur.) That our Senators and Representatives in Congress be requested, in view of the decision of the Supreme Court of the United States adverse to the right of the States to pass laws imposing *per capita* tax upon immigrants to provide for their support in cases of poverty or sickness, to urge upon Congress the necessity of some provision by Federal law to relieve this State from the burdens of a tax which it has been declared this State cannot pass in its own right without a violation of the Constitution of the United States.

Resolved. That a copy of this resolution, signed by the presiding officers of the Legislature, be forwarded to our Senators and Representatives in Congress.

By order:

J. W. HUSTED, *Speaker.*
EDWARD M. JOHNSON, *Clerk.*

IN SENATE, April 5, 1878.

Concurred in.
By order:

WILLIAM DORSHEIMER, *President.*
JOHN W. VROOMAN, *Clerk.*

ROBERT HABERSHAM ET AL.

Mr. HARTRIDGE, by unanimous consent, introduced a bill (H. R. No. 4401) for the relief of Robert Habersham, George Patten, and John L. Villalonga, or their executors or administrators; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

AMOS L. RHOADES.

Mr. KILLINGER, by unanimous consent, introduced a bill (H. R. No. 4402) granting a pension to Amos L. Rhoades; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

IMPROVEMENT OF LAFOURCHE BAYOU.

Mr. ACKLEN by unanimous consent, introduced a bill (H. R. No. 4403) making an appropriation for the removal of the obstructions in Bayou Lafourche, in the State of Louisiana, and for the improvement of the navigation in said bayou; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

REMOVAL OF OBSTRUCTIONS IN CALCASIEU RIVER.

Mr. ACKLEN also, by unanimous consent, introduced a bill (H. R. No. 4404) making an appropriation to provide additional means to complete the work of removing the obstructions to navigation in the Calcasieu River, in the State of Louisiana; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

SAMUEL B. BIRD.

Mr. ACKLEN also, by unanimous consent, introduced a bill (H. R. No. 4405) for the relief of Samuel B. Bird, of Louisiana; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

J. H. SYPHER.

Mr. ACKLEN also, by unanimous consent, introduced a bill (H. R. No. 4406) for the relief of J. H. Sypher, of Louisiana; which was read a first and second time, referred to the Committee of Elections, and ordered to be printed.

ANDREW IVORY.

Mr. WHITE, of Pennsylvania, by unanimous consent, introduced a bill (H. R. No. 4407) for the relief of Andrew Ivory; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

T. H. CARPENTER.

Mr. WHITE, of Pennsylvania, also, by unanimous consent, introduced a bill (H. R. No. 4408) to restore the name of T. H. Carpenter to the Army and place him on the retired list; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

DANIEL MILLER.

Mr. WHITE, of Pennsylvania, also, by unanimous consent, introduced a bill (H. R. No. 4409) granting a pension to Daniel Miller for the loss of a leg in driving an ambulance full of wounded soldiers from Alexandria to Washington March 4, 1864; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY LOHMAX.

Mr. STONE, of Iowa, by unanimous consent, introduced a bill (H. R. No. 4410) granting a pension to Henry Lohmax; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM BOWIE.

Mr. STARIN, by unanimous consent, introduced a bill (H. R. No. 4411) granting a pension to William Bowie; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ORDER OF BUSINESS FOR EVENING SESSION.

Mr. BEEBE. I ask unanimous consent that the session of this evening be set apart for the consideration of bills on the Private Calendar, to which there is not a single objection.

The SPEAKER. The session of this evening has already been assigned for the consideration of pension bills.

Mr. BEEBE. I understand that the Committee on Invalid Pensions are not ready.

Several MEMBERS. They will be.

The SPEAKER. The Calendar is ready. The Chair is not able to say whether the committee are ready.

Mr. JOYCE. The committee will be ready.

Mr. HANNA. I suggest that to-night, if there be additional time after all the pension bills are considered, the Committee of the Whole may consider other bills to which there is not a single objection.

Mr. WHITE, of Pennsylvania. I object.

WORKS OF ART, ETC., IMPORTED FOR EXHIBITION.

Mr. KELLEY. I desire to report from the Committee of Ways and Means and have put on its passage now a bill to provide for the free entry of articles imported for exhibition by societies established for the encouragement of arts or sciences, and for other purposes.

The SPEAKER. The bill will be read for information, after which there will be opportunity for objection to its consideration.

The bill was read. It provides that all works of art, collections in illustration of the progress of the arts, science, or manufactures, photographs, works in terra cotta, parian, pottery, or porcelain, and artistic copies of antiques in metal or other material, imported in good faith for permanent exhibition at a fixed place by any society or institution established for the encouragement of the arts or sciences, and not intended for sale, and all like articles imported in good faith by any society or association for the purpose of erecting a public monument, and not for sale, shall be admitted free of duty under such regulations as the Secretary of the Treasury may prescribe.

The second section provides that all articles described in this act imported for and exhibited at the late international exhibition, upon which duties have been paid at the passage of this act, may be included within its provisions.

Mr. MILLS. I would like to know whether the things mentioned in this bill are the products of "pauper labor." If so I think I must object.

Mr. KELLEY. I cannot say. In submitting this bill, I am the organ of the Treasury Department and the Committee of Ways and Means. I desire that the gentleman from Georgia on my left [Mr. STEPHENS] may be heard in answer to the gentleman's question.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. REAGAN. I call for the regular order.

Mr. KELLEY. I hope the gentleman from Georgia will be heard for a moment before the regular order is demanded.

Mr. COX, of New York. Certainly a free-trade bill coming from Pennsylvania ought to be considered.

Mr. KELLEY. I think so.

The SPEAKER. Does the gentleman from Texas [Mr. REAGAN] insist upon the call for the regular order?

Mr. REAGAN. I do.

Subsequently, Mr. REAGAN withdrew the call for the regular order.

The SPEAKER. The gentleman from Texas withdraws the demand for the regular order, the effect of which was to prevent the consideration of the bill reported by the gentleman from Pennsylvania from the Committee of Ways and Means. Is there further objection?

Mr. DURHAM. If there is going to be debate about it, I must object.

Mr. STEPHENS, of Georgia. I want to say only three words.

Mr. DURHAM. Then I withdraw my objection.

The SPEAKER. The right to object will be reserved until the gentleman from Georgia has made his statement.

Mr. STEPHENS, of Georgia. Mr. Speaker, this bill, as I know, has been prepared with a great deal of care. It is designed to remedy just such a state of things as occurred the other day with regard to the Society of St. George, in Philadelphia, where we paid back duties that had been paid on the importation of articles of art.

This bill has been prepared with the advice and consent of the Treasury Department. It requires a great deal of care to prepare bills of this kind. This has the sanction of that Department, and I trust the House will pass it.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. TOWNSEND, of New York. Yes, sir; I object.

Mr. DURHAM. I demand the regular order of business.

The SPEAKER. The Chair recognizes the gentleman from Kentucky on the conference report.

Mr. DURHAM. I will yield to my colleague on the committee from Georgia to explain in reference to the postal-car service.

Mr. REAGAN. I desire to know whether the morning hour is not the first business this morning.

The SPEAKER. The gentleman is mistaken. The regular order of business is being proceeded with, which is the conference report coming over from yesterday.

TEMPORARY CLERKS.

Mr. BLOUNT. It is almost useless for me, Mr. Speaker—

Mr. PAGE. I desire to know if after this matter is disposed of the morning hour will then be in order.

The SPEAKER. It will not, but the unfinished business which was yesterday interrupted by a higher question of privilege; that is, the conference report which is now before the House.

Mr. BLOUNT. Mr. Speaker, this matter has been before the House on previous occasions in conference reports, and it is almost useless for me to add anything to what I have already stated in regard to it. In the first conference the result of the examination of the papers demonstrated to everybody that the appropriation of \$20,000 was based on an estimate for six months' service, three months and more of which had already expired, and therefore it is patent the claim is unfounded on the part of the conferees of the Senate that the adjustment of this sum to \$10,000 is a concession of one-half. One-half of the time having expired already, it amounts as everybody will see to no concession at all, but, on the contrary, it is simply the allowance of the full amount of the estimate.

The committee feel it to be their duty, so far as the postal or any other service of the Government is concerned, the executive departments should follow legislation, and not precipitate or to drag it. The committee found in reference to this very postal-car service that during the last fiscal year, notwithstanding the withdrawal of these facilities on some of the lines, there had been an increase of somewhere in the neighborhood of five thousand miles per annum; that in the star service, while there had been an increase in the number of miles of railway transportation, in transportation there had been only about four thousand; so that this special service in reference to certain trunk lines has been pressed forward in this manner beyond the whole star service throughout the United States.

The committee felt it was the bounden duty of this House in some measure to restrain it. They were willing to make some concession to the Senate, as has been stated by my colleague on the committee, [Mr. DURHAM,] which I will not repeat. There would have been an agreement on the part of the conferees of the two Houses in relation to this matter but for disagreement in reference to other matters. I think it likely we shall be able to agree with the Senate conferees.

Mr. DURHAM. Does the gentleman from Ohio want to be heard?

Mr. FOSTER. I do.

Mr. DURHAM. How much time?

Mr. FOSTER. Five minutes.

Mr. DURHAM. I will yield ten minutes.

Mr. FOSTER. The committees of conference on this bill, I think, have had three sessions, perhaps only two; but this is the third report. They have disagreed, it seems, on two propositions only, one the forty-thousand-dollar amendment of the Senate for collectors, &c., and the other the twenty-thousand-dollar amendment of the Senate for railway post-office clerks. On that I understand the Senate is willing to reduce the sum to \$10,000 and the House is willing to concede \$5,000.

First, then, Mr. Speaker, in relation to \$40,000 for collectors. The gentleman from Kentucky, [Mr. DURHAM,] although usually able, possessing a judicial mind, and eminently fair, seems unable in this case to comprehend the facts or the situation, and he alone of all the gentlemen who have considered it seems to maintain his position. He is exactly like that juryman who was associated with eleven contrary fellows. [Laughter.] Now the \$40,000 is for collectors. It is not for special agents but for collectors, and the Commissioner of Internal Revenue tells the House he needs the \$40,000 for the proper conduct

of his office, and that if we do not give it to him he does not propose to make a deficiency.

Mr. DUNNELL. Will the gentleman allow me to interrupt him?

Mr. FOSTER. Yes, sir.

Mr. DUNNELL. There seems to be some conflict between the gentleman from Ohio and the gentleman from Kentucky on that point. Will the gentleman read from the report of the Commissioner wherein he asks for that money? You say it is for the collectors.

Mr. FOSTER. It is for the collectors.

Mr. DUNNELL. The gentleman from Kentucky says it is not.

Mr. FOSTER. I propose to show that before I get through, and the gentleman from Kentucky will not dispute what I say.

The Commissioner asked, at the beginning of the session, for \$40,000 for collectors. He asked for \$20,000 for special agents, and we gave it to him. He asked for \$150,000 for gaugers and storekeepers. Now, the confusion of the gentleman from Kentucky seems to arise in this: that the \$40,000, he contends, is for special agents and not for collectors. But the Commissioner in every communication he has made to us has stated that the \$40,000 is for collectors, "and so forth." And the gentleman seemed to lay great stress on the words "and so forth." The item reads:

For salaries and expenses of collectors, which includes the pay of deputy collectors and clerks, house rent, fuel, lights, and advertising.

That is what he means by "and so forth." Then another appropriation is:

For salaries and expenses of agents, surveyors, gaugers, storekeepers, and miscellaneous expenses.

The third is:

For detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws.

Mr. BLOUNT. From what is the gentleman reading?

Mr. FOSTER. From the report of the Commissioner of Internal Revenue. These are three specific objects for which he has asked appropriations from Congress. For the two first, he says, "I will get along without the money if you do not give it to me; but it is worth thousands of dollars to the country to give it to me." The gentleman from Kentucky did not hesitate to give him the \$20,000 for special agents; but he refuses to give him the \$40,000 which he now contends is for the same purpose.

Mr. DURHAM. I want to correct my friend; for I did object to it very seriously, but yielded to the majority as regards the \$20,000.

Mr. FOSTER. You did not object to it on the floor.

Mr. DURHAM. I did not, because I was acting under the instructions of the committee, and I will always do that.

Mr. FOSTER. I do not wish to do the gentleman any injustice. But he is wholly mistaken in the object and purpose of this \$40,000. Now it remains for this House to say whether it is wise to give this office of the Commissioner of Internal Revenue this \$40,000 or not. He does not claim it upon the ground of a deficiency. For he tells us distinctly that he will manage his office with the money we have given him; but if we will give him \$40,000 more he will turn large sums into the Treasury for it. Can this House afford to refuse to give the Commissioner of Internal Revenue this money upon such a statement as he has made to us?

Now it has nothing to do with "moonshiners." The gentleman voted for the "moonshiner" appropriation. He voted for these gentlemen who he says run around over the country picking up people at night who are not guilty. He voted for that proposition. But this is another and a distinct proposition. True, it is to prevent fraud, because the Commissioner needs this force to properly collect the whisky and tobacco taxes.

It seems to me, Mr. Speaker, after having this appropriation in the conference committee two or three times, it is time that it was ended. Let this House say now whether it will or will not give this \$40,000 to the Commissioner of Internal Revenue.

On the other question there is \$5,000 between the committee, and I presume they can fix that. If the House will say one way or the other I doubt not that will settle it.

Mr. DURHAM. I desire to say just three words in response—

Mr. HALE. Will my colleague on the committee give me a few minutes?

Mr. DURHAM. Yes, sir.

Mr. HALE. I have been looking over, Mr. Speaker, the appropriations for the internal revenue, and it seems to me that the gentleman from Kentucky is under a clear mistake as to the appropriation that is asked for here. There are three kinds of appropriation: first for detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws; second, for salaries and expenses of collectors; third, for salaries and expenses of gaugers, &c.

Now, the law does not allow any appropriation made for one class to be diverted to another. You cannot divert anything that is given for salaries and expenses, which is a distinctive appropriation, to pay for depredations or for special agents. And the committee knows that as well as any officer in the Government. Now the appropriation asked for is in this language:

For salaries and expenses of collectors of internal revenue.

It seems to me that the gentleman from Kentucky, a very careful man on appropriations, has been misled by the letter which he has

read from the Department—the letter which refers to this appropriation as enabling the Department to make the service more efficient and to collect the revenue better—and from that letter he has reasoned that the money is to be spent for special agents. Now the appropriation for collectors and the expenses of collectors is broad enough to cover the letter from the Department which the gentleman from Kentucky has read, and does not involve in it, as it seems to me, any idea that this is to be spent for special agents—for the moonshine hunters—but simply for the general expenses of the collection officers in order to make the service more efficient. I think the gentleman's mistake lies there.

Mr. DURHAM. Now, if my friend had referred to what had gone into the public prints, and I want to be careful what I say upon this subject, he would know that the argument had been made that this is a controversy between "moonshiners" and regular distillers.

Mr. HALE. Allow me to say that I have read every word of the debate in the Senate and have looked up the appropriations in regard to this service, but I am too hoarse this morning and cannot go into a discussion of the question as I would gladly do.

Mr. DURHAM. My friend from Ohio, [Mr. FOSTER,] my colleague on the committee, read from the report of the Commissioner of Internal Revenue. Why did he not refer to his letter of the 31st day of October and to his telegram of the 12th day of April? In his letter of the 31st day of October, asking for this appropriation, he uses this language:

I desire to call your attention especially to two items recommended to be appropriated for deficiencies in the internal-revenue service, to wit, \$40,000 on account of salaries and expenses of collectors.

Then he goes on further and says:

The allowances to collectors that have been recommended to your approval have not created a deficiency nor will it create a deficiency in the appropriation, but the needs of the service are so urgent that I deem it for the best interests of the Government that this appropriation shall be made. It is intended merely for the purpose of suppressing frauds in the manufacture and sale of whisky and tobacco.

Now that is not the duty of the collectors.

Mr. FOSTER. Why not?

Mr. DURHAM. The duty of the collector is to collect the duties, but the Commissioner places a stress upon it that this appropriation is needed for a particular purpose.

Mr. FOSTER. The Revised Statutes require the collectors to prevent frauds.

Mr. DURHAM. I understand that, but the Commissioner places it upon the ground that he needs detectives.

Mr. FOSTER. It is just as much the duty of the collector to suppress fraud as to collect the revenue.

Mr. DURHAM. I understand that. But he does not place his request for this appropriation upon the ground that it is for collectors. He says in his dispatch to Mr. WINDOM:

In reply to your dispatch asking information as to the \$40,000 for collectors, &c., I have to say that the present appropriation is virtually exhausted—

There is no deficiency there—

no more of it being available for the employment of deputy collectors for the enforcement of the law against those engaged in the illicit manufacture of spirits and tobacco.

Why did he not say so in his report?

I hold in my hand the Blue Book. There is more in this thing of deputy collectors than gentlemen on both sides of the House think. I sat down this morning and made a few figures on the subject, and I do not wonder that some gentlemen squirm when you talk about deputy collectors in some districts. If you will turn to the sixty-ninth page of the Blue Book you will find the number of collectors there laid down, and under the law of the last Congress they have been reduced. Let me read some of them. For instance, I will take the gentleman's own State, Ohio: Ohio has nine collectors and fifty-four deputy collectors.

Mr. FOSTER. And that is not enough.

Mr. DURHAM. I know it is not in the gentleman's estimation. Perhaps he would have one in every town to electioneer for him. Perhaps that is what you would do, and perhaps I ought to let the cat out of the wallet a little and say that part of the object of this appropriation is to have deputy collectors scattered throughout the country to electioneer for members of Congress.

Mr. FOSTER. The gentleman has no right to say that; he does injustice to himself in saying so.

Mr. DURHAM. I think so; I think that is the object of it.

Mr. FOSTER. On what authority does the gentleman make that assertion?

Mr. DURHAM. Because I am credibly informed that many of them do electioneer. This number is not necessary for the purpose of collecting the revenue. Take New York; it has twelve collection districts and one hundred and thirteen deputy collectors. The cost of your regular collector's force amounts to about \$371,315 a year and your deputy collector's force costs about \$1,024,280. I cannot give you the total number of deputy collectors employed throughout the United States, but there is a host of them.

I take these figures from the Blue Book. In my own State there are but six collection districts and there are thirty-nine deputy collectors. Iowa has four collectors and eighteen deputy collectors.

Tennessee has three collection districts and twenty-two deputy collectors; and, as I have said before, this is rather expensive.

We pay about \$371,315 for collectors proper and for deputy collectors, &c., about \$1,024,280; yet that does not account for the \$1,500,000 appropriated by the act of last Congress.

Mr. PRICE. Does the gentleman think that eighteen deputy collectors are too many for a State that is over three hundred miles in length and two hundred in breadth?

Mr. DURHAM. I do.

Mr. PRICE. I only wanted your opinion. Some of us think very differently.

Mr. DURHAM. What has a man who owes revenue to do but to go to the collector and pay it? That is his duty under the law.

Mr. PRICE. The gentleman certainly knows that there have to be deputy collectors in certain localities.

Mr. DURHAM. Why?

Mr. PRICE. When you have a territory three hundred miles in length and two hundred miles in width you cannot distribute deputy collectors so as to have them very close together?

Mr. DURHAM. Why is it necessary?

Mr. PRICE. Simply because you cannot cover the territory otherwise. And under the civil-service rules these deputies are not allowed to electioneer, you know.

Mr. DURHAM. No, I suppose not. Now, Mr. Speaker, when you look at the Blue Book you find that some of these deputy collectors receive the enormous sum of \$100 annually. There is one in my town, I see, that receives this amount. Some receive \$200, and from that up to \$1,400. A few, I believe, get as much as \$2,500 a year.

I do insist that the gentlemen have not responded to the argument I made upon the law of last Congress when we appropriated \$1,800,000, and the Secretary of the Treasury was directed to make a reduction of 5 per cent. Instead of doing that, it will be found that, adding this appropriation of \$40,000, there has been an addition of 5 per cent.

I now demand the previous question upon agreeing to the report of the committee of conference.

Mr. FOSTER. Will the gentleman yield to me a few moments?

Mr. DURHAM. Certainly.

Mr. FOSTER. Mr. Speaker, I am very much surprised at the gentleman from Kentucky, [Mr. DURHAM.] Yesterday he deprecated bringing politics into this question, but to-day he does so himself. Now, since it has come to this, I wish to say that in our committee-room, upon the consideration of an appropriation for special agents, a prominent gentleman of his own politics (I will not say it was the gentleman himself) said, "I object to it because we do not appoint the agents." That is the objection that was made.

Now there are fifty-four special agents in Ohio. That is one for every fifty thousand people. It is one for five hundred grog-shops. Is that too much? I say to the gentleman in all candor that, so far as my personal knowledge goes, we have not a sufficient number of these deputy collectors, and that an increase of their number would increase largely the revenues.

One other remark. The gentleman admits that he has "moonshiners" in his own district. He is the advocate of "moonshining" by his course on this floor. He is to-day, if I understand his course aright, bidding for the votes of the "moonshiners" in his district, and is therefore opposing appropriations for putting them down. That is all that I can make out of it.

Mr. DURHAM. The gentleman has said that the object of this appropriation is not to stop "moonshining." That is the consistency of his argument.

Mr. FOSTER. The gentleman is making a speech for the "moonshiners" and not for this House. I say it is within the knowledge of every candid man here that the force of deputy collectors all over this country has been reduced to the lowest possible minimum. I believe, as I believe in my existence, that an increase of this force would largely increase the revenues of the country.

We have a Commissioner who is above suspicion. He has offered to throw open all his books to the gentleman from Kentucky, to exhibit every item of expenditure. He has assured us that this appropriation is necessary for the efficiency of the service. Now, when a tried and trustworthy officer like this one says to us, "I can increase the revenues of the Government largely if you will give me this money," it is for the House to say whether he shall have it or not.

Mr. DURHAM. I am very sorry my friend from Ohio [Mr. FOSTER] has got "off his eggs" this morning. He seems to make a personal attack upon me.

Mr. FOSTER. What did you do upon me?

Mr. DURHAM. The gentleman charges that I am defending "moonshiners." I hurl back the charge in the teeth of the gentleman as not true.

Mr. FOSTER. Oh! that is good plantation manners. We have had all we want of that.

Mr. DURHAM. When the gentleman learns manners himself, I will observe them.

Mr. FOSTER. I warn the gentleman that plantation manners are "played out" here.

Mr. DURHAM. I call the gentleman to order. Whenever he charges me with wishing to protect "moonshiners," or anybody else who is

violating the law, I say it is not true. But, at the same time, I say I will never put into the hands of any officer of our Departments money to be used for electioneering purposes or for the purpose of sending around midnight marauders to drag honest men from their beds, take them before the courts, and rob them of their last dollar. The gentleman from Ohio has no right to say that I am defending "moonshiners." The gentleman's own argument that this appropriation was not for the purpose of suppressing such frauds upon the revenue should have stopped him from making such a charge upon me. I now demand the previous question.

The previous question was seconded and the main question ordered; which was upon agreeing to the report of the committee of conference.

Mr. DURHAM. Will the Chair please state the effect of this vote?

The SPEAKER. The effect of adopting the report of the committee of conference will be to bring the two Houses to an agreement except on the seventh and eighth amendments; and the Chair presumes that if the report be adopted the gentleman from Kentucky will then ask for a further conference with the Senate.

Mr. DURHAM. That is my intention.

The SPEAKER. Pending which the Chair has notice that the gentleman from Iowa [Mr. SAMPSON] will move that the House recede from its disagreement to the Senate amendments.

Mr. SAMPSON. Will not the motion to recede take precedence?

The SPEAKER. The Chair has already stated that the effect of adopting this report will be to bring the two Houses to an agreement on this bill, except as to the seventh and eighth amendments.

Mr. FOSTER. I do not object to that.

The conference report was adopted.

Mr. DURHAM moved to reconsider the vote by which the conference report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DURHAM. I now move for a further conference on the disagreeing votes of the two Houses which remain unadjusted.

Mr. FOSTER. I wish to move concurrence in the amendments of the Senate.

The SPEAKER. The gentleman from Iowa [Mr. SAMPSON] gave notice some days ago he would move to recede and agree to the amendments of the Senate disagreed to by the House.

Mr. DURHAM. Does the gentleman from Iowa intend to include both amendments?

Mr. SAMPSON. I do.

Mr. DURHAM. What will be the effect of that motion?

The SPEAKER. The gentleman from Iowa moves that the House recede from its disagreement to the amendments of the Senate and agree to the same. If that motion be agreed to it will pass the bill.

Mr. SAMPSON. I ask for a division of the vote on the two amendments.

The SPEAKER. They will be reported separately.

The Clerk read as follows:

Senate amendment numbered 7: For salaries and expenses of collectors of internal revenue, being a deficiency for the fiscal year ending June 30, 1878, \$40,000.

The SPEAKER. The question is on receding from the disagreement of the House to that amendment of the Senate and agreeing to the same.

The House divided; and there were—ayes 94, noes 101.

So the House refused to recede.

The SPEAKER. The effect of the action of the House is to insist upon its disagreement to that Senate amendment.

Mr. DURHAM moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The next amendment will be read.

The Clerk read as follows:

Senate amendment numbered 8: For railway mail agents and postal clerks, \$20,000.

Mr. SAMPSON. I move to recede from our disagreement to that amendment. I understand the conferees have agreed to that already.

Mr. BLOUNT. Not entirely.

Mr. SAMPSON. I believe there is a prospect of an agreement.

Mr. BLOUNT. Yes, sir.

The House divided; and there were—ayes 101, noes 98.

Mr. BLOUNT demanded tellers.

Tellers were ordered; and Mr. DURHAM and Mr. CONGER were appointed.

The House again divided; and the tellers reported—ayes 103, noes 111.

Mr. CONGER. As this is on the post-office appropriation bill I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 117, nays 125, not voting 49; as follows:

YEAS—117.

Aldrich,	Briggs,	Cliffin,	Deering,
Bailey,	Brown,	Clark, Rush	Denison,
Banks,	Bundy,	Cole,	Dunnell,
Banning,	Burchard,	Conger,	Dwight,
Bayne,	Calkins,	Cox, Jacob D.	Eames,
Beauregard,	Camp,	Crape,	Errett,
Blair,	Campbell,	Cummings,	Evans, I. Newton
Brewer,	Cannon,	Danford,	Evans, James L.
	Caswell,	Davis, Horace	Foster,

Frye,	Keifer,	Patterson, G. W.	Smalls,
Gardner,	Keightley,	Peddie,	Smith, A. Herr
Garfield,	Kelley,	Phelps,	Starin,
Hale,	Ketcham,	Phillips,	Stewart,
Hanna,	Killingier,	Pollard,	Stone, Joseph C.
Harmer,	Lapham,	Pound,	Strait,
Harris, Benj. W.	Lathrop,	Powers,	Thompson,
Harrison,	Lindsey,	Price,	Thornburgh,
Haskell,	Loring,	Pugh,	Townsend, Amos
Hayes,	Marsh,	Rainey,	Townsend, M. I.
Hendee,	McCook,	Randolph,	Van Vorhes,
Henderson,	McKinley,	Reed,	Wait,
Hiscock,	McKee,	Rice, William W.	Watson,
Hubbell,	McKee,	Robinson, G. D.	Welch,
Hunter,	Mills,	Robinson, M. S.	White, Harry
Humphrey,	Mitchell,	Ryan,	Williams, Richard
Hungerford,	Monroe,	Sampson,	Willits,
Itiner,	Norcross,	Sapp,	Wren.
James,	Oliver,	Sexton,	
Jones, John S.	O'Neill,	Shallenberger,	
Joyce,	Overton,	Sinnickson,	
	Page,		

NAYS—125.

Achlen,	Dibrell,	House,	Saylor,
Baker, John H.	Dickey,	Hunt,	Seale,
Beauregard,	Douglas,	James, James T.	Shelley,
Bell,	Durham,	Kenna,	Singletou,
Bicknell,	Eickhoff,	Kimmel,	Slenona,
Blackburn,	Elam,	Knapp,	Smith, William E.
Blount,	Ellis,	Knot,	Southard,
Boone,	Evins, John H.	Lauders,	Sparks,
Bouch,	Ewing,	Ligon,	Springer,
Bragg,	Felton,	Lockwood,	Steele,
Bridges,	Finley,	Luttrell,	Stenger,
Briggs,	Forney,	Mackey,	Stephens,
Cabell,	Fort,	Maish,	Swann,
Caldwell, John W.	Franklin,	Manning,	Tucker,
Candler,	Fuller,	Martin,	Turner,
Carlisle,	Garth,	McKenzie,	Vance,
Chalmers,	Gause,	McMahon,	Waddell,
Clark, Alvah A.	Gibson,	Money,	Walsh,
Clark of Missouri,	Giddings,	Morgan,	Whitthorne,
Clarke of Kentucky,	Glover,	Morrison,	Wigginton,
Clymer,	Gunter,	Morse,	Williams, A. S.
Cobb,	Hardenbergh,	Muldrow,	Williams, Jere N.
Collins,	Harris, Henry R.	Patterson, T. M.	Willis, Albert S.
Cook,	Harris, John T.	Rea,	Willis, Benj. A.
Covert,	Hart,	Reagan,	Wilson,
Cox, Samuel S.	Hartbridge,	Reilly,	Wood,
Cravens,	Hartzell,	Rice, Americus V.	Wright,
Crittenden,	Henry,	Riddle,	Yeates,
Culbertson,	Herbert,	Robbins,	Young.
Cutler,	Hewitt, Abram S.	Roberts,	
Davidson,	Hewitt, G. W.	Robertson,	
Dean,	Hooker,	Ross,	

NOT VOTING—49.

Aiken,	Cain,	Jorgensen,	Townshend, R. W.
Atkins,	Caldwell, W. P.	Lynde,	Turner,
Bacon,	Chittenden,	Mayham,	Veeder,
Baker, William H.	Davis, Joseph J.	McGowan,	Walker,
Benedict,	Eden,	Muller,	Ward,
Bland,	Ellsworth,	Neal,	Warner,
Biles,	Freeman,	Potter,	White, Michael D.
Boyd,	Goode,	Pridemore,	Williams, Andrew
Brentano,	Hamilton,	Quinn,	Williams, C. G.
Brogden,	Hatcher,	Schleicher,	Williams, James
Buckner,	Hazelton,	Stone, John W.	
Burdick,	Henkle,	Throckmorton,	
Butler,	Jones, Frank	Tipton,	

So the House refused to recede from its disagreement.

During the vote,

Mr. HATCHER said: I am paired with Mr. WILLIAMS, of New York.

Mr. WARD. I am paired with Mr. AIKEN, of South Carolina. If he were here, I would vote "ay."

Mr. ALDRICH. My colleague, Mr. TIPTON, is paired with my other colleague, Mr. TOWNSEND. I understand they would both vote in the affirmative.

Mr. SAMPSON. My colleague, Mr. BURDICK, is paired with Mr. BENEDICT. If Mr. BURDICK were here he would vote "ay."

Mr. FORT. My colleague, Mr. BOYD, is sick at his room and unable to be present.

Mr. HAZELTON. I am paired with Mr. MAYHAM. If he were present, I would vote "ay."

Mr. DAVIS, of North Carolina. I am paired with Mr. ELLSWORTH. If he were here, I would vote "no."

Mr. LYNDE. I am paired with my colleague, Mr. WILLIAMS. If he were here, he would vote "ay" and I would vote "no."

Mr. TURNER. I am paired on all political questions with Mr. MCGOWAN. I do not know what his sentiments are in regard to this amendment, but as it seems to be regarded as a political question I withhold my vote, Mr. MCGOWAN not being present.

Mr. BAKER, of Indiana. I am paired with my colleague, Mr. QUINN.

Mr. O'NEILL. My colleague, Mr. FREEMAN, is paired with Mr. CALDWELL, of Tennessee. If Mr. FREEMAN were here he would vote "ay."

The vote was then announced as above recorded.

Mr. DURHAM moved to reconsider the vote by which the House refused to recede from its disagreement; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DURHAM. I now move that the House agree to the confer-

once asked for on the part of the Senate on the disagreeing votes of the two Houses.

The motion was agreed to.

Mr. DURHAM moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 536) for the relief of W. C. Snyder, of Illinois;

An act (H. R. No. 2291) for the relief of Thomas W. Collier; and

An act (H. R. No. 3712) to provide for the erection of a public building in the city of Kansas, in the State of Missouri.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from Ohio [Mr. MONROE] asks unanimous consent to make a report from the Committee on Foreign Affairs.

Mr. CONGER. I think we had better go on with the regular business.

Mr. MONROE. This is a little matter—

Mr. CONGER. There will be time for the consideration of the "little matter" after we settle the question of final adjournment. Several members called for the regular order.

Mr. MONROE. At two o'clock, as I understand, another matter comes up which consumes the rest of the day. I desire permission to say to my friend from Michigan [Mr. CONGER] that this is a matter to which I think unanimous consent would be given so soon as it is stated.

Mr. CONGER. If it is so unimportant it need not disturb the regular business of the House.

Mr. MONROE. On the contrary, although a little matter, it is so important and useful I think every member will approve it the moment it is explained.

Mr. CONGER. Let us go on with the regular business.

Several members called for the regular order.

FINAL ADJOURNMENT.

The SPEAKER. The regular order is demanded, which is the motion of the gentleman from Ohio [Mr. GARFIELD] to lay on the table the motion of the gentleman from Pennsylvania [Mr. WRIGHT] to reconsider the vote by which the House on yesterday refused to refer to the Committee on Ways and Means the resolution of the Senate fixing the time for the final adjournment of this session of Congress, as follows:

Resolved, (the House of Representatives concurring,) That the President of the Senate and the Speaker of the House of Representatives be, and they are hereby, directed to adjourn their respective Houses without day on Monday, June 10, 1878, at twelve o'clock noon.

The yeas and nays have been ordered, and the Clerk will call the roll.

The question was taken; and there were—yeas 114, nays 125, not voting 52; as follows:

YEAS—114.

Aldrich,	Cutler,	James,	Pugh,
Bagley,	Danford,	Jones, John S.	Rainey,
Baker, John H.	Davis, Horace	Joyce,	Randolph,
Ballou,	Deering,	Keifer,	Reed,
Banks,	Denison,	Keightley,	Robinson, M. S.
Bayne,	Dunnell,	Kelley,	Ryan,
Bibbee,	Dwight,	Ketcham,	Sampson,
Blair,	Eames,	Killinger,	Sapp,
Brewer,	Errett,	Lapham,	Sexton,
Bridges,	Evans, James L.	Lathrop,	Sinnickson,
Briggs,	Fort,	Lindsey,	Smalls,
Browne,	Foster,	Loring,	Smith, A. Herr
Bundy,	Frye,	Luttrell,	Stewart,
Burchard,	Gardner,	Marsh,	Stone, Joseph C.
Gain,	Garfield,	McCook,	Strait,
Calkins,	Hale,	McKinley,	Thompson,
Camp,	Hanna,	Metcalf,	Thompson, Ames
Campbell,	Harmer,	Mitchell,	Townsend, M. I.
Cannon,	Harris, Benj. W.	Monroe,	Van Vorhes,
Caswell,	Haskell,	Norcross,	Wait,
Chittenden,	Hayes,	O'Neill,	Watson,
Claffin,	Hendee,	Overton,	Welch,
Clark, Rush	Henderson,	Page,	White, Harry
Clymer,	Hiscock,	Patterson, G. W.	Williams, Richard
Cole,	Hubbell,	Peddie,	Willits,
Conger,	Humphrey,	Pollard,	Wren,
Cox, Jacob D.	Hungerford,	Pound,	
Crapo,	Hunter,	Price,	
Cummings,	Ittner,		

NAYS—125.

Acklen,	Carlisle,	Dean,	Fuller,
Banning,	Chalmers,	Dibrell,	Garth,
Reebe,	Clark, Alvah A.	Dickey,	Gause,
Bell,	Clark of Missouri,	Douglas,	Gibson,
Bicknell,	Clarke of Kentucky,	Durham,	Giddings,
Blackburn,	Cobb,	Eckhoff,	Glover,
Blount,	Collins,	Elam,	Goode,
Boone,	Cook,	Ellis,	Gunter,
Bouch,	Cover,	Evins, John H.	Hardenbergh,
Bragg,	Cox, Samuel S.	Ewing,	Harris, Henry R.
Bright,	Cravens,	Felton,	Harris, John T.
Cabell,	Crittenden,	Finley,	Hart,
Caldwell, John W.	Culbertson,	Forney,	Hartbridge,
Candler,	Davidson,	Franklin,	Hartzell,

Henry,	Martin,	Roberts,	Turney,
Herbert,	McKenzie,	Rosa,	Vance,
Hewitt, Abram S.	McMahon,	Saylor,	Waddell,
Hewitt, G. W.	Mills,	Scales,	Whithorne,
Hooker,	Money,	Schleicher,	Wigginton,
House,	Morgan,	Shelley,	Williams, A. S.
Huntton,	Morrison,	Singleton,	Williams, James
Jones, James T.	Morse,	Slemmons,	Williams, Jere N.
Kenna,	Muldrov,	Smith, William E.	Willis, Albert S.
Kimmel,	Muller,	Southard,	Willis, Benj. A.
Knapp,	Phelps,	Sparks,	Wilson,
Knott,	Phillips,	Springer,	Wood,
Landers,	Rca,	Steele,	Wright,
Ligon,	Reagan,	Stenger,	Yeates,
Lockwood,	Reilly,	Stephens,	Young,
Mackey,	Rice, Americus V.	Swann,	
Maish,	Riddle,	Throckmorton,	
Manning,	Robbins,	Tucker,	

NOT VOTING—52.

Aiken,	Caldwell, W. P.	Lynde,	Starin,
Atkins,	Davis, Joseph J.	Mayham,	Stone, John W.
Bacon,	Eden,	McGowan,	Tipton,
Baker, William H.	Ellsworth,	Neal,	Townsend, R. W.
Benedict,	Evans, I. Newton	Patterson, T. M.	Turner,
Bland,	Freeman,	Potter,	Veeder,
Bliss,	Hamilton,	Powers,	Walker,
Boyd,	Harrison,	Pridmore,	Walsh,
Brentano,	Hatcher,	Quinn,	Ward,
Brogden,	Hazleton,	Rice, William W.	Warner,
Buckner,	Henkle,	Robertson,	White, Michael D.
Burdick,	Jones, Frank	Robinson, G. D.	Williams, Andrew
Butler,	Jorgensen,	Shallenberger,	Williams, C. G.

So the House refused to lay on the table the motion to reconsider.

During the roll-call the following announcements were made:

Mr. HARRISON. I am paired on all political questions with my colleague from Illinois, Mr. BRENTANO.

Mr. LYNDE. I am paired with my colleague from Wisconsin, Mr. WILLIAMS. If he were here, he would vote "ay" and I should vote "no."

Mr. HATCHER. I am paired with Mr. ANDREW WILLIAMS, of New York. If he were here, I should vote "no."

Mr. WARD. I am paired with Mr. AIKEN, of South Carolina. If he were here, I would vote "ay."

Mr. POWERS. Upon political questions I am paired with Mr. JONES, of New Hampshire. If he were here, I should vote "ay."

Mr. BAKER, of New York. I am paired with my colleague, Mr. QUINN. If he were here, I should vote "ay."

Mr. ROBINSON, of Massachusetts. I am paired with Mr. ROBERTSON, of Louisiana. If he were here, he would vote "no" and I would vote "ay."

Mr. RICE, of Massachusetts. I am paired with Mr. ATKINS, of Tennessee.

Mr. STARIN. On political questions I am paired with Mr. VEEDER, of New York. If he were here, I would vote "ay."

Mr. PATTERSON, of Colorado. I am paired with Mr. WHITE, of Indiana. If he were present, I would vote "no."

Mr. FORT. My colleague from Illinois, Mr. BOYD, is detained in his room by sickness. If he were here he would vote "ay," being in favor of an early adjournment.

Mr. ALDRICH. My colleagues from Illinois, Mr. TIPTON and Mr. TOWNSEND, are paired. Mr. TIPTON would vote "ay."

Mr. COBB. My colleague from Indiana, Mr. HAMILTON, is confined to bed by sickness. If he were present, he would vote "no."

Mr. TURNER. I am paired with Mr. MCGOWAN, of Michigan. If he were present, I would vote "no."

Mr. O'NEILL. My colleague from Pennsylvania, Mr. FREEMAN, is paired with Mr. CALDWELL, of Tennessee. If present, Mr. FREEMAN would vote "ay" and I suppose Mr. CALDWELL would vote "no."

The result of the vote was then announced as above recorded.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed bills of the following titles; in which he was directed to ask the concurrence of the House:

A bill (S. No. 148) to confirm the term, for the period of seventeen years from the date of its original grant, of the patent of Thomas A. Weston;

A bill (S. No. 258) to restore to the State of Florida jurisdiction over lands reserved for a dock-yard in the county of Escambia in the said State;

A bill (S. No. 259) to revive and extend the provisions of an act approved June 8, 1872, granting the right of way through the public lands of the United States to the Pensacola and Louisville Railroad Company of Alabama;

A bill (S. No. 330) explanatory of section 1889 of the Revised Statutes of the United States to ratify and confirm territorial legislation, and for other purposes;

A bill (S. No. 365) for the relief of Francis Gilbeau;

A bill (S. No. 396) extending the act of July 2, 1862, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agricultural and the mechanical arts," to the State of Colorado;

A bill (S. No. 490) to authorize the appointment of commissioners to determine claims and for other purposes, in the Hot Springs, in the State of Arkansas;

A bill (S. No. 908) for the relief of George R. Dennis, of Maryland; and

A bill (S. No. 1045) to provide for the administration of the oath of office to collectors and other officers of customs in the district of Alaska.

The message further announced that the Senate had passed bills of the House of the following titles:

A bill (H. R. No. 1411) to prevent the sale of policy on lottery tickets in the District of Columbia; and

A bill (H. R. No. 1432) to provide for the recording of deeds, mortgages, and other conveyances affecting real estate in the District of Columbia.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. PRUDEN, one of his secretaries, announced that the President had approved and signed bills of the following titles:

A bill (H. R. No. 1412) to prevent depredations upon property in the District of Columbia; and

A bill (H. R. No. 2257) to authorize the Secretary of War to prescribe rules and regulations to be observed in the preparation, the submission, and opening of bids for contracts under the War Department.

APPOINTMENT OF A COMMITTEE OF CONFERENCE.

The SPEAKER announced as the conference committee on the part of the House on the disagreeing votes of the two Houses upon the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making appropriations for detecting trespass on public lands and for bringing into market public lands in certain States, and for other purposes, Mr. DURHAM of Kentucky, Mr. BLOUNT of Georgia, and Mr. BAKER of Indiana.

Mr. ELLIS rose.

Mr. WOOD. Will the gentleman from Louisiana yield to me?

Mr. ELLIS. I am willing to do so.

Mr. O'NEILL. I object, if an objection will prevent the yielding.

Mr. WOOD. The gentleman from Louisiana yields to me in order that we may dispose of the pending question to-day.

Mr. O'NEILL. I object, if one objection will prevent his yielding.

Mr. CONGER. I demand the regular order.

Mr. WOOD. I shall not insist, of course, but I supposed that it would be the wish of the gentleman from Pennsylvania to dispose of this question.

Mr. O'NEILL. I propose that we proceed to the order set for this time.

The SPEAKER. The House, by unanimous consent, fixed two o'clock to-day to hear the memorial exercises as to the death of the late member from Louisiana, Mr. J. EDWARDS LEONARD.

Mr. GARFIELD. I am sure nobody will object.

Mr. WOOD. I desired to dispose of this matter during the day.

Mr. O'NEILL. I hope the House will proceed with the order as fixed by unanimous consent.

DEATH OF J. EDWARDS LEONARD.

Mr. ELLIS. In accordance with the announcement made, I desire now to call up the resolutions in regard to my late colleague, Mr. J. EDWARDS LEONARD, and I ask that the resolutions be read.

The Clerk read the resolutions, as follows:

Resolved, That this House has learned with deep regret of the death of Hon. J. EDWARDS LEONARD, a Representative from the State of Louisiana.

Resolved, That the House do now suspend the consideration of all other business, in order to pay appropriate respect to the memory of the lamented deceased.

Resolved, That in token of regret the members of this House do wear the usual badge of mourning for thirty days.

Resolved, That the Clerk of this House do communicate these resolutions to the Senate of the United States.

Resolved, That out of respect to the memory of the deceased the House do now adjourn.

Mr. ELLIS. Mr. Speaker, again we are in the midst of one of those solemn pauses occasioned by the delivery of the death-blow dealt suddenly and swiftly in our midst. Again has the impressive warning come to us that "in the midst of life we are in death."

Scarcely have two moons waxed and waned since JOHN EDWARDS LEONARD sat here in our midst, gifted, cultured, of most honorable birth, and with highly beating heart and bright anticipations of a future wherein illustrious deeds and honors richly won should fill up the perfect measure of a useful and an honorable life; to-day he lies in the cemetery of his native village, upon one of the green hills of Pennsylvania, and though the tender grass is carpeting the mold above him and the returned robin laughs and sings by his grave, yet he awakes not to these touches and voices of springing nature. The silver cord is loosened, the golden bowl is broken, and they that look out of the windows are darkened.

He left us upon a mission in which there were the most beautiful and holy anticipations that can animate the human heart. A beautiful vision had passed before him, enshrining within herself all that he deemed most lovely and beautiful in woman, and had left the witchery of love's spell upon his heart. She was a child of the far south. She lived on that beautiful island that is so surrounded by poetry and by romance, where the very branches of the trees seem vocal and laden with music from the songs of the thousand strange, bright birds, and where the low-hung lamps of the stars chase away the vain shadows of the night, and where winter never comes. He

went to interweave with his life the beautiful life of this bright creation. He left us with anticipations as bright as those stars and with love's melody in his heart as sweet as the minstrelsy of the birds. The beautiful anticipations are but the memories of a dream. Instead of the bridal wreath, the gay music, and the merry tread of feet, mourners go about the streets and there are the dark habiliments of the grave. He sought a bride and found but the cold embrace of death.

How mysterious are the councils of Death. How strangely doth he select those whom he calls to his silent realms. That which we call death we regard as the natural end of a fully completed life. It is but natural for the old in years to pass away. Like the full-blown leaf that has lived and fluttered away its spring and summer, and filled the period of its existence and mission, and falls when autumn has draped it in gorgeous funeral robes, like the ripe fruit in its season, so the old naturally pass away to the realms of the dead. But for the young, the gifted, the promising, how sad, how unnatural, how strange, how mysterious.

It is not my purpose to-day, Mr. Speaker, to enter into a detailed account of the life of my lamented colleague. The usual biographical sketch suitable on occasions of this kind will be voiced by one who represents the district where Judge LEONARD was born. It is for me as his colleague, as his personal friend, (for although we differed in politics his magnanimity, his honesty, his purity of character and of soul had won for him my disinterested and devoted friendship,) simply to state what I knew of him since his advent in Louisiana, and my estimation and analysis of his character.

A few years ago he came there. He came at a time when wrong and crime and shame perpetrated by those who claimed affiliation with a great political party had rendered the very name of that party odious to all the honest people of the State. He was a republican in politics. He was a national republican, because he believed that the principles and the mission of that great party were right. Amid all the corruption of those infamous days when stranger greed and venal ignorance reigned he moved with hands unstained and with unsoiled skirts. He came there no "political tramp," no adventurer seeking to profit from the spoils of a wronged and outraged people. He came there honestly, with his mind cultured, with his fortune, with his intellect, and with his honest heart and brave hands to help our people to build up their waste places, to make for himself a home and friends and a grave among our people. Behind her tears he saw that Louisiana could smile. Beyond the dark veil of the present he saw the magnificent possibilities of the State. Beyond the clouds of sorrow and of suffering he saw the light of better, brighter days. He saw that with peace restored, with honest government again in the grasp of that people, with the right to govern themselves once more restored, no poet's dream could outrun the magnificent and splendid future of that State. He heard the voice of destiny calling to Louisiana from the future. He looked to her teeming soil where staples and fruits and flowers sprang so beautifully and so naturally as almost to beggar the heathen's dream of the garden of the Hesperides. He saw her bright, broad rivers whose highways are capable of bearing the argosies of commerce of the whole world. He saw her natural situation and advantages; and he knew that there was a great future for that State. He came there honestly for the purpose of helping us to achieve that future.

As I said, no suspicion of dishonesty, no rumor of dishonor, no taint of corruption ever coupled him with the bad men, the most infamous that ever cursed and blighted a State, nor had he ever part or lot in that harpy feast, where the foul Stymphalian birds of politics, with insatiate appetite and noisome wing and horrid croak, gathered to their infernal orgies over the spoils of a stricken, helpless, and friendless State. No, sir, he was not one of them. He bought real estate, and thus identifying himself completely and perfectly with our Commonwealth he began the practice of law and coupled with his professional duties the labors of the planter. In both he was successful. Coming at a time when, as I said, the deeds of those bad men had brought the name of the republican party very low in that State, he, professing to be a republican, was looked upon at first with suspicion and coldness. But not long was such the case. The people of that State saw that he was honest. They not only saw the polished exterior of the gentleman, but they soon learned that he was indeed a gentleman. Friends gathered about him; and clients, regardless of politics, entrusted him with their business interests. He was elected Commonwealth's attorney; and for the term of four years he performed the duties of that high station with signal dignity and ability. He was appointed to fill a vacancy upon the supreme bench of the State; and though his term of service was very brief yet his opinions in cases won for him the respect and confidence of the bench and bar. Soon afterward he was nominated by the republicans for Congress in his district, and in November, 1876, was elected, and at the extra session in October he took his seat here.

Of his congressional career, Mr. Speaker, it is needless for me to speak now. It is familiar to us all. Suffice it to say that in the very opening days of the session, upon some questions of privilege pertaining to the organization of this House, Judge LEONARD made several speeches which at once told us that he was a lawyer of ability, a correct logician, and an orator of considerable power, and among the younger members he at once took high and prominent rank.

In analyzing Judge LEONARD's character I am struck and impressed

with the singular absolute honesty of his nature. It was simple, pure, unadulterated honesty. It was not that conventional honesty which satisfies itself and is satisfied with the mere payment of debts or the mere fulfillment of obligations. It went beyond that; it was theoretical as well as practical honesty. A singular instance of the extreme honesty of his nature I recollect now. On one occasion the Speaker was absent and had designated my friend from Ohio [Mr. SAYLER] to occupy the chair. The illustrious gentleman from Georgia [Mr. STEPHENS] had moved some resolution and it was carried by a vote of the House. The Speaker, in perfect accordance with parliamentary usage, without waiting for the gentleman from Georgia to put the motion to reconsider and to lay on the table, as usual anticipated that motion and put it and declared it carried. It struck Judge LEONARD strangely, being unfamiliar with the usage and not finding it in the rules; it struck him strangely; it jarred harshly against that simple and straightforward honesty of his nature that the Speaker should anticipate and put a motion which was never actually moved by any one; and he rose and asked how it was. And when the parliamentary usage was explained to him and he was declared out of order, he was yet not satisfied, and when the Speaker of the House returned he again called up the question and again had the usage explained. It was not captiousness, it was not a desire to be disagreeable, it was not a desire to make "much ado about nothing" that prompted my lamented friend's course in this matter, but the usage appeared in conflict with those simple and direct principles of honesty with which his great soul was imbued.

There was another feature of his character which won for him my profoundest friendship—it was his great magnanimity of soul. His was a soul great enough to take the circumstances of the birth, of the education, of the surroundings of one who differed from him and attribute to him perfect honesty and perfect purity of motive. Often have I conversed with him about the issues growing out of the late war. He was northern by birth, northern by education, and most sincerely did he sympathize with the cause of the Union during the war. Too young to have been in the Army, he had watched with boyish enthusiasm and boyish eagerness the great smoke-covered fields of battle; and it was natural his heart should beat high and his soul be filled with joy and pride when, finally, above the dust of war the flag of the Union unfolded the sheen of its stars in the clear and perpetual light of victory. And yet I know he was magnanimous enough to look at us of the South, to consider the circumstances of birth, the circumstances of education, and I know he was honest enough to attribute perfect honesty and sincerity and purity of motive to us.

He never abated, indeed, one jot or one tittle of that patriotic duty which we all owe to our Government. Born in a locality which has been hallowed by scenes and associations of the Revolution—within four miles of the battle-field of Brandywine, where Washington contended with his undisciplined yeomanry against the steady valor of British soldiers; not far from Valley Forge, where the great heart of *Pater Patriæ* broke and bled over the sufferings of his compatriots—hearing often in his childhood the tales of those times, living amid the scenes where these grand memories marshaled and thronged about him, no wonder his soul was imbued with lofty love for his country and most beautiful veneration for the great men, the strong men, the suffering men who won for us the priceless boon of liberty.

While he was charitable to the South, while he was charitable to the men of the South, he detested those who taught that gospel of hate which political apostles seemed never to tire of teaching, and his voice was ever for peace and charity and forgiveness. I remember well in discussing a speech which had been made, one which sought to arouse all this bitterness again in which the dead were dragged from their graves, in which the tears of widows were made to flow again and the cries of orphans to be again heard—I remember almost his conversation. He said, "Why do they not let these memories sleep? Why cannot men of the North and men of the South look at each other in the light of charity, and attribute honesty and purity of purpose to each other, evidenced as it was by so much of valor, by so much of sacrifice? For me, I would scorn the people of the South if they did not love the memories of their great men, if they did not cherish the valor of their great armies." And he said, and I never shall forget the feeling and emphasis with which he quoted it, "When I stand by graves like Lee's and McPherson's, like Albert Sidney Johnson's or Thomas's, I would feel the same spirit upon me which animated Scotland's great bard when above two of Engand's proudest graves, the graves of rival statesmen, he sang:

Drop upon Fox's grave the tear,
'Twill trickle to his rival's bier;
O'er Pitt's the mournful requiem sound,
And Fox's shall the notes rebound.

The solemn echo seems to cry,—
"Here let their discord with them die.
Speak not for those a separate doom
Whom fate made brothers in the tomb;
Ere search the land of living men,
Where wilt thou find their like again?"

Ah, Mr. Speaker, I would to God that sentiments like these animated the breast of every man called to the councils of our common country. Judge LEONARD has left as a rich legacy this magnanimity of soul, for it was one of the chiefest and greatest features of his character. He carried it even in the walks of private life. I remem-

ber when he went away he was paired with my colleague, Mr. ACKLEN. He was detained longer than he anticipated, and while in Cuba he bethought him that he was perhaps interfering with the discharge of Mr. ACKLEN's duties and holding him to the pair too long; and in the very last letter he ever wrote to me, a letter received on the very day when the telegraph brought us the sad intelligence of his death, he said:

Tell Mr. ACKLEN that I have been detained longer than I anticipated, and I do not feel it due to him or just to him that he should be bound any longer by the pair. Tell him that I will return as soon as possible, and that he may consider the pair as at an end and vote as he wishes.

Mr. Speaker, though not long in its public councils, Judge LEONARD has left to his country and to this House a legacy of a virtuous and upright example and of a life around which there are clustered very many beautiful and hallowed memories.

Ah, a voice does speak from his grave to-day; the voice of peace, the voice of conciliation. I remember in 1861, just when the faces of the American people were growing dark in the scowl of that swiftly-gathering war storm, an old man who had been broken by the storms of state and had for a very long time represented the genius and eloquence of statesmanship of Kentucky in the national councils went down to the Congressional Garden, and just inside the gate, on the left-hand side of the east gate as you enter, he planted an acorn which he had brought from Kentucky; and he planted it in the name of the spirit of union and harmony and peace. The storm came on. The acorn was beneath the ground. The storm raged and beat upon all our land. The acorn, under the beautiful and mysterious operations of nature, was dying that it might live in a newer and a brighter creation. The storm passed away and the oak tree grew up and waves its arms to-day in the soft spring air, drinking in the sunlight, and defying the storm. He who marks its wavings to the kisses of the breeze or he who stands beneath its shadow with a knowledge of its history must find the spirits of peace and union all about it in accord with the noble wish of the great-hearted Kentuckian who planted it there.

Ah, sir, the spirit of conciliation, the spirit of peace and harmony dwells about the grave of JOHN EDWARDS LEONARD to-day. It speaks trumpet-tongued to us, and tells us, men of the North and men of the South, "Cease, cease the proclamation of this everlasting gospel of hate; unite hands and unite hearts that the arch of the Union may be cemented and grow stonger and stonger till it shall be beyond the power of anarchy, beyond the crumbling touch of time and of change." It says to us, let all these bitter buried memories be still; walk in the ways of peace, and cease to revile, to persecute, and to hate. Shall we not hearken to that voice and heed its warnings? And if it shall bear to us the lesson of charity; if it shall teach us the lesson of forgiveness; if it shall make us remember that the time will come, as come it will with all of us, when this earthly life is about to be swallowed up by the advancing waves of death, and the trembling heart-beats of nature's dissolution knocking at the door of eternity shall ask for the last sublimest light we shall ever receive; and if it teach us that in that solemn hour we shall shudder at the memory of our hates and dwell with delight upon the recollection of our loves and charities—ay, if this voice that I seem to hear shall teach us these things, then that grave on the green Pennsylvania hill-side shall become a shrine toward which patient and pious feet shall bend and where Americans may sit to learn the sweet lessons of charity and the teachings of gentle peace.

And if in his life Judge LEONARD taught these lessons, and if they are yet heard from his grave, what indeed should be his epitaph? Should it not be those memorable words which fell so sweetly upon the ears of the listening twelve as they sat on the mountain-side from the loving lips of Him "who spake as never man spake?"

Blessed are the peace-makers, for they shall be called the children of God.

[Applause.]

Mr. WARD. Mr. Speaker, the late Hon. JOHN E. LEONARD, the subject of to-day's memorial exercises, was an entire stranger to me until the commencement of the extra session of the Forty-fifth Congress in October, 1877. I had never seen nor held any communication with him before that date. Knowing that I represented the district in Pennsylvania in which he was born and in which his father's family resided, he sought me, and from that period opened an acquaintance which, warmed by frequent intercourse and by review of persons, scenes, and incidents prized by and pleasant to both of us, expanded into a cherished friendship. Those who had been his people in youth had become my people of the present and the home that was his home of yore had become my home of to-day. The germs thus planted were nurtured by his sterling qualities of head and heart and grew into bonds of close fellowship that were strong and would have been lasting had not the relentless scythe of Death, with sudden stroke, severed them forever.

JOHN EDWARDS LEONARD was born in Kennett Township, Chester County, Pennsylvania, near the village of Fairville, on the 23d day of September, 1845, and was the only child of John E. and Mary H. Leonard.

His ancestry dates back to the early settlers of Chester and Delaware Counties; and Hon. John Edwards (great uncle of the deceased and after whom he was named) was a member of this House and died about 1842, during his term of service. Deprived by death of a

mother's watchful care when five years old, his paternal grandmother faithfully supplied, as nearly as could be, her place; and between the deceased and this relative the most affectionate regard existed, which he was always eager to express by loving remembrances till the date of her death in November, 1876. His first school was the Fairville Academy of his native village; and here he evinced a natural inclination of mind toward studious pursuits. He was prominent in organizing debating societies, and surprised both teachers and hearers by his gifts of oratory at this early age. He endeavored to become acquainted with the history of political events transpiring, read and admired the speeches of Clay, Webster, and other prominent men of the day, and preferred the companionship of books and the occupation of study to either the employment or the sports that usually afford congenial work and pleasant pastime to the farmer's boy.

In August, 1860, he entered Phillips Exeter Academy, in New Hampshire, to prepare for college. There, after three years of study, he was admitted to the freshman class at Harvard, in July, 1863, and during the first term of the year attained the first place. A protracted attack of severe fever, from which he narrowly escaped with life, interrupted his course, but notwithstanding he applied himself assiduously during vacation, and was prepared to join his class at the commencement of the sophomore year.

From this date until he graduated, in 1867, his time during the intervals in college duties was occupied in teaching a private school in Massachusetts, in a visit to England, Ireland, and France, which he improved by delivering several lectures in the first two countries, on "The life and character of Abraham Lincoln" and on "Ireland and the Fenians," and by frequent correspondence to American journals. His stay in London was marked by the forming of a strong intimacy between himself and the then United States minister at the Court of St. James, Mr. Adams. But these apparent digressions never interfered with the performance of his full measure of duty as a student, for he was always the equal of any among and generally in advance of his classmates. At commencement, in 1867, he was chosen by his fellows for class orator, and by the faculty to deliver the Latin thesis.

He graduated from Harvard, in July, 1867, and for two years thereafter remained in Europe, pursuing his studies at the University of Innsbruck, in Austria, and at Heidelberg, in Germany; and from the latter institution he received the degree of doctor of laws. After an extended tour through the continent, familiarizing himself with the languages of the different countries, and a course at the University of Paris, where he also received a degree, with especial reference to acquiring a knowledge of the Code Napoleon, he returned to his native land in 1869. Then followed a term in the Law School at Harvard and admission to practice in the courts of Massachusetts; soon after, a change of purpose and in 1870 his removal to and settlement in Lake Providence, Louisiana.

Of his manhood's career in that new home, of his private worth and exalted public station, it will be for those who have better knowledge and more eloquent voice to speak in eulogy. His legal learning, rich store of scholarly attainments, and forensic ability were evidenced on this floor in his brief service, noticeably in the contested-election cases from the fourth and tenth districts in the State which he in part represented.

He gave further evidence of his powers in the composition of a volume of poems, published in New Orleans, in 1871, pure and beautiful in conception and graceful in expression, embracing translations from the French and German, and in a carefully prepared Digest of the Decisions of the Supreme Court of the United States in Louisiana Cases, with an appendix, containing a short treatise on the jurisdiction and practice of the Federal courts, compiled in 1875.

Rarely have the prizes of science, of literature, and of popular favor been gathered in such profusion by one so young; and truly his past and present gave promise of a glorious future.

Mr. Speaker, JOHN EDWARDS LEONARD was more than a scholar and a statesman:

His life was gentle; and the elements
So mix'd in him, that Nature might stand up
And say to all the world, "This was a man!"

To manly presence were added gentle manners, candor, and a hatred of all dissimulation and meanness. His nature was sensitive, touched keenly by any violence to his own and watchful to avoid any wound to the feelings of others. These traits of true manhood came by inheritance from the stalwart virtue, tolerant spirit, and elevated moral tone of his ancestry. Born and nurtured in childhood in the pure atmosphere of Chester County, one of the first settlements of William Penn and his followers, among a people ever in the vanguard in the cause of truth, freedom of speech, and opinion, educational progress, and unrestricted civil and religious liberty; always alive to succor and defend the weak and oppressed, and equally earnest to denounce wrong and expose deceit, the principles of right and philanthropy became instilled in his mind as naturally as he inhaled the clear air of his native hills.

JOHN EDWARDS LEONARD exemplified these principles in his intercourse with his fellow-men and won their respect and esteem.

Mr. Speaker, in this desert of political life in which we are thrown together, where differences of opinion and diversity of interests necessarily tend to produce acrimonious feelings and fierce struggles for supremacy, he is not truly great who is the leader in debate or wins

"the applause of listening senates" by his eloquence. No! rather is he greater who cheers with kindly word his stranger and weaker brother, or, giving tolerant ear to his humbler opinions, offers the opportune work of encouragement. To be thus considerate and kind was one of the conspicuous traits of our deceased friend.

The life of Mr. LEONARD was not an aimless one, neither was his brilliant career the result of chance or accident. He was laudably ambitious, and from the beginning laid down a course of lofty purpose. In the class oration delivered in 1867 at Harvard he said:

Our lives are as yet in our hands. We can be what we will, the miserable misanthrope, the schemer, the nobody, the philanthropist. We cannot afford to look about us and watch for some caravan moving to El Dorado; we cannot afford to say "There is time enough;" least of all can we afford to distrust our abilities before we have given them a trial. Let us rather feel that he who is in the lists of life before us must sharpen his lance by the midnight lamp, must bind his girdle about him and his foot in the stirrup before the herald calls the morn.

But, Mr. Speaker, into this short life, amid its many golden lines of high achievements, were interwoven the dark threads of sadness. In 1874 he married an estimable lady, resident of Saint Paul, in the State of Minnesota. A brief married life of three years was terminated by the death of his wife, leaving to his fatherly care two tender children, now absent in a foreign land, in all probability unaware of their latest loss, and possibly too young to realize the depth of bereavement that is centered in complete orphanage.

And who shall draw the saddening picture of his last hours, clothed in romance unrelated and in mystery unrevealed? In a stranger land, away from all he loved, the unexpected blow falling while the heart beat high and warm with youth and hope, the radiant present mingling with the illumined promise of the time to come, and both fading into the darkening cloud of death. But to him that hour was not wholly darkened; for, as the earthly prizes and possessions were passing away, there came visions from "the other shore" like those pictured in the words prized by the honored Vice-President, who died in this Capitol:

The eye that shuts in a dying hour,
Will open the next in bliss;
The welcome will sound in the heavenly world,
Ere the farewell is hushed in this.

We pass from the clasp of mourning friends
To the arms of the loved and lost;
And those smiling faces will greet us there,
Which on earth were valued most.

And thus the eventful life of JOHN EDWARDS LEONARD ended in Havana on March 15, 1878.

Mr. Speaker, the committee, following the order of this body, bore his mortal remains to the place of his birth, in Chester County, where they were received with unfeigned sorrow by friends, less ostentatious, it may be, but as true as any he had ever met; and there, on a somber Sunday afternoon, in the beautiful cemetery of Oaklands, surrounded by the weeping father, who had lavished the proofs of affection year by year on his only child and gloried at the proud place he had won; by the grieving schoolmates of his early days; by the neighbors from town and country, who gathered reflected honor from his advancement as one of themselves; by the Senators and Representatives delegated to present the nation's mourning offering in the sad rites—there, as the winds sang requiem dirges through the trees, we laid him in his last rest, in a spot as bright and fair as any he has seen through many lands, and where a true-hearted people will preserve in ever-green remembrance the name of the honest, the pure, and the good. And there let him rest in peace, his epitaph inscribed with the words of his own poem:

They tell me when the solemn hour
Was nigh, when coursed the blood with feeble pace,
Beneath the fell Destroyer's power,
A smile came o'er thy face.

And when the chilly hand of Death
Was on thy brow, and life's last feeble rill
Was frozen with his icy breath,
That sweet smile lingered still.

As when the sunlight quits the earth,
And leaves its traces on the faded day,
So, when thy bright soul gained its birth,
It kissed thy mortal clay.

Mr. CALKINS. Mr. Speaker, the restless, busy scenes of life are almost daily interrupted by the solemn funeral procession; and a heart may be never so light, yet it instinctively shudders at the sight of the hearse and the thought of the cold, cheerless tomb. At this time this body is called upon to lay aside business and dedicate the hour to the memory of one of its departed members, Hon. JOHN EDWARDS LEONARD, of Louisiana. How fitting to the occasion it is to place in the nation's archives tender recollections of a faithful officer!

A few short weeks ago we parted with Judge LEONARD, then in the full vigor of manhood, in the flood-tide of health, and seemingly abounding in the ambitions of life. As we shook his hand for the brief separation none of us would have selected him from among us as the first to pay the great penalty of life. Here are men, ripe with years, whose allotted time at farthest is but short, and with accustomed human foresight one of these would have been selected by conjecture rather than one of the youngest. But such is not the subtle, mysterious way of Providence.

The poet writes:

Behold there, Death!
Throned on his tomb—entombed in his throne:
Just as he ceased he rests for aye; his scythe
Still wet out of its bloody swath, one
Hand tottering sustains: The other strikes
The cold drops from his bony brow. His
Moldy breath tainteth all air.

Mr. Speaker, how uncertain is life! How frail the thread upon which it hangs! How little we know of the future! The dark arm of Death, with suspended sword, rests above our pathway, and we know its fall is sure; but when? We know not. "Boast not thyself of to-morrow, for thou knowest not what a day may bring forth." With this Divine caution all mankind must be content.

With these considerations pressing upon us and the reverberations of the death-knell which summoned Judge LEONARD into the great eternity beyond still lingering in our ears, let us proceed to pay our last earthly tribute of respect to the memory of the dead.

The memory and monuments of good men
Are more than lives.

To die both good and young are nature's curses,
As the world says; ask truth, they are bounteous blessings;
For them we reach at heaven, in our full virtues,
And fix ourselves new stars crown'd with our goodness.

My acquaintance with Judge LEONARD began with the opening of the special session of this Congress. We were never on intimate terms of friendship, though our personal relations were often quite close and our meetings frequent. He impressed me from the beginning as a man of more than ordinary merit, a man of fixed determination and active purposes, intent on making the world the better for his having lived in it. He was a graduate of one of the oldest educational institutions of our country, to be a graduate of which is of itself imperishable fame; but added to this he finished his education in the older countries of the world, thus adding to his great acquirements obtained at home the many accomplishments only obtainable by personal discipline under the tutelage of the teachers of the Old World. He was a ripe scholar, a man of learning in his profession, and possessed of a broad, comprehensive understanding. His gentlemanly bearing won for him friends in every circle. His equipoise and equanimity in society made him gentle, easy, and graceful, and in conversation he was fluent, interesting, and affable.

As a debater he was succinct and positive; as a speaker, earnest and impressive. He entered into discussions rarely, but when he did all were convinced of the sincerity of his opinions and the honesty of his convictions. He was independent in thought and action. Even in party struggles on this floor he sometimes acted independent of party dictation and advocated his opinions freed from party views. He had an independent fortune, one which placed him beyond the necessity of hard labor, yet he chose industry, and followed it as matter of choice. He was a true type of the American youth, for he broke away from the home of his boyhood and the ties of kindred, and wandered far to the South, where he cast his fortunes among a strange people, but still clinging to and advocating the political principles of youth and standing by the predilections of his maturer years. He won the respect of the race of his color, though opposed largely by them in political sentiment. He invested a large portion of his fortune in the soil of his adopted State (Louisiana) and set himself assiduously at work to build up her industries and quicken her prostrated energies. He believed in the principles of the republican party, but scorned the idea of asserting them merely for place and power. He was opposed to what is popularly known as "irresponsible governments" at the South, and believed that the true interest of his adopted State demanded that she should be represented in office by her representative men.

Early in life he was bereft of the companion of his youth, and left with two little children—the fruits of his early love—to care for, to nurture and educate; deprived of a mother's care and affection. He held official positions because of his standing in life and his eminent fitness for the duties imposed. They were not his from search or effort, but came to him because of his abilities and political relations; and whether as a private citizen, judge, or Congressman, he always commanded the respect due a true, worthy, and well-educated gentleman.

Thus feebly have I spoken of a few of Judge LEONARD's many virtues. I must needs leave the rest. They will not perish, for—

Virtue sole survives,
Immortal, never-failing friend of man,
His guide to happiness on high.

Mr. Speaker, my delicate task is nearly completed. Judge LEONARD's death was as untimely as it was unexpected. Much has been said of his mission to the "strange land" where he died. Without particularizing, it is perhaps enough to say, and enough to know, that his business was of the most honorable character. Here let the curtain drop, and let it shut out from the world's gaze its results. Perhaps the thread of romance which seems to permeate the last act of the drama may survive. Life in many respects is a romance. It is the cloud-land of life's sky; it is the imagery which lies just beyond reality; it is the golden border on life's shadows; it wanders by the side of fancy and adds impulse to all joys.

By direction of the House, and on the 31st of last month, a committee of Senators and Members followed the remains of Judge LEONARD

from his father's house, in West Chester, Pennsylvania, to the quiet cemetery adjoining. His aged and venerable father, bowed with grief and stricken with sorrow, joined the mournful procession, and beheld his only son, the pride of his life, the main stay of old age, precede him to the grave. There, all that is mortal of our fellow-member now lies—there, by the side of his ancestors and friends who have gone before. There, the wild birds will sing their beautiful songs unheard by him. There, the myrtle and eglantine will shed their sweet perfumes over him. There, the pine and the cypress will chant their melancholy requiems in response to the wind's soft touch. Mingling with evening's gentle twilight, the notes of the whippoorwill will not fall upon his ear. The storms will not touch him; the wintry blast will not reach him; the ivy and the evergreen will not cheer him nor the moan of his children disturb him. He rests on.

After life's fitful fever, he sleeps well.

Friend, brother, patriot, statesman, farewell!

Leaves have their time to fall,
And flowers to wither at the North-wind's breath,
And stars to set;—but all,
Thou hast all seasons for thine own, O Death!

Mr. KENNA. Mr. Speaker, in view of what has been so well said on the pending resolutions, and of what is still to be said by gentlemen of larger and better acquaintance with the subject of the resolutions than I enjoyed, my observations shall be brief.

JOHN EDWARDS LEONARD, we learn from the record, was born in Chester County, Pennsylvania, September 22, 1845; hence he was in his thirty-third year. He studied in early youth at Phillips Exeter Academy, New Hampshire. He graduated at Harvard College in 1867. He studied the civil law in Germany and received the degree of doctor of laws from the University at Heidelberg. Upon the completion of his studies, he repaired to Louisiana and began the practice of law in the thirteenth judicial district of that State. He held the office of district attorney and also that of judge of the Louisiana supreme court. I have never heard it intimated that he did not discharge the duties of any and every station honorably and well. He was afterward elected to the Forty-fifth Congress as a republican. Coming from a State whose existence since the war has been blackened and blighted by a condition of political degeneracy unequalled before in the history of mankind, he brought with him, so far as I have been able to learn, the respect and full confidence of all who knew him in either public or private life. And now that Louisiana has resumed her ancient standing as an equal among the sovereign States of a restored Union, now that her rights and prerogatives under the Constitution there are none to gainsay, it is pleasing to realize that Mr. LEONARD had no responsibility for the weight that dragged her down to the depths of desperation and despair and stood no obstacle in the way of the endeavor which inspired her resurrection into new life. Coming, Mr. Speaker, from a State the title to whose majorities for aspirants, ranging from constable to President, was the subject of angry and bitter contest, it is gratifying to those of us who knew and liked him here to remember that he brought with him to this House the certificates of both the rival governors of his State and presented himself for admission with a right to what he claimed unquestioned, unquestionable, and complete. I do not allude to these things for the sake of adverting on this melancholy occasion to topics of a political kind. I do it for the reason that, as a democrat and as a man, in the fact that the deceased, as a republican, passed through the fierce decade of Louisiana politics, beginning with 1867, and came out of it with high public trusts, conceded to be his by honorable acquirement, commanding the united respect of all his people without regard to party, I find a tribute to his character and his good name of which it would not be justice to rob his memory.

Mr. Speaker, I had no acquaintance with Mr. LEONARD until he took the oath of office at the bar of this House as a Representative in the American Congress. I was not aware that harm had befallen him or his until from the same bar on the 15th of March I heard the announcement of his death on that morning in the city of Havana. Only a few days before that intelligence reached us I saw him at the Riggs House on the eve of his departure for Cuba. He was then in active, vigorous life, and I do not doubt in perfect health. No tidings of his illness reached us. In a letter addressed to a friend and colleague in the House he said: "I will be with you in a week." But ere that week had passed he surrendered his life to the God who gave it, and the return, which he was evidently striving to hasten, to the associations and labors incident to official station here was destined never to be. He had made friendship with comrades whom he was to meet no more. He had undertaken duties which other hands must now perform. His eyes were turned homeward and his fare engaged, but accident prevented the ship Columbus from sailing, and he was to look no more upon his native land forever and forever.

Of the cause which took him to Havana I know nothing except that his mission was personal to himself. Rumors about it have been afloat and to-day we have heard their verification from honorable, reliable lips. Of the beauty and poetry and romance of life which they portray, I have not the time to speak. But they demonstrate the fact that he was a brave, high-minded, chivalrous, devoted man. One of his colleagues and a most worthy member of this House said to me since his death: "Mr. KENNA, he could not have been made

the door of evil deeds." I was impressed by the remark, for it accorded with my own opinion, formed from our associations on this floor. I found him a frank, honest, intelligent, sincere, generous man. Ready at all times to maintain his convictions, they were at no time indelicately thrust forward. Conscious that honest merit would find its just place in public esteem, he sought no personal advertisement. He was active in his application to duty, earnest and energetic in debate, persistent in the maintenance of his ideas of propriety and of right, and, withal, a worthy and valuable member of this House. He died at the age of thirty-two years and less than six months.

Mr. Speaker, in the cutting off of one in the prime and vigor of early manhood, with a life only half spent, the glory of achievement arising in beauteous visions of a future that is not for him, there is something which makes an impression different from that which comes from the departure of one in the fullness of his years. I do not mean that the power of choice would enable us to determine that age and experience could be better surrendered than youth and promise. The need of such a decision has been wisely spared us by an all-seeing, beneficent Providence. Nor would I be understood to intimate a want of regard for those who have realized the full measure of three score and ten. There is an attraction about the silvery frosts of seventy winters which the yellow sands of thirty summers cannot possess. There is something akin to another world in a head that is already shrouded in white, and hence the mystic veneration for gray hairs which has become prominent among the acknowledged virtues of mankind. But when death invades the ranks of fresh maturity and snatches the fruit that is ripening there, he seems to come before his time and to gather to-day the harvests of the morrow. Such a visitation seems a denial rather than the end of life.

But, sir, as it is with the deceased so must it be, sooner or later, with you and with me. His death has made in this House, as it has made in the family circle, a vacant chair. Others, too, have had their places here and are gone. Distinguished men have presided for a season over the deliberations of this body. They also have nearly all departed. The time will come when the voice which so ably and acceptably controls this House will be hushed, and the ranks which are so busy about us will be thinned until the last shall have rendered his final account. Day by day the inexorable reaper whispers in our ears:

Men may come and men may go,
But I go on forever.

There is a lesson for young and old in all this. It is that we shall so live, so meet the responsibilities which confront and surround us, so discharge the duties which our respective stations impose, so dedicate ourselves to the service of our country and of Heaven, that when the earth shall reach forth her arms to receive us, all we are and have been and hope to be shall not be laid with the flesh beneath the sod. Our national situation invites earnest action, patriotic endeavor. Strong hands are idle, brave hearts are sorrowing, the tender and the helpless are in distress. The demand of the hour is solemn; the welfare of millions is in our keeping. May the God of nations so direct the councils of this Congress, of which our lamented comrade formed a part, that its labors shall redound to the benefit of mankind when you and I shall have passed away.

Mr. COVERT. A sudden and an awful silence in the midst of sound! Quick darkness in the place of midday sunlight! The ripple of joyous laughter broken at once by the sharp moan of anguish! These are but symbols of that distinct contrast, that sharply-defined change so often presented to our startled senses when life goes quickly out and when death comes swiftly in! Not when the head is silvered and the eye grown dim. Not when the feeble steps have grown weary by the wayside. Not when the tired heart has carried within it the gathered burden of lengthened years. Not then does this change seem so painfully, so startlingly distinct. It is then but the slow and measured creeping in of silence upon sound. It is but the gradual darkening of the shadows. There is due space and proper pause between the smile of joy and the tear of sorrow. But when the icy touch of death is placed swiftly upon a warm and bounding pulse; when the light goes out forever from eyes not dim with age; when a young heart not yet filled with all life's full experiences ceases longer to beat, then it is that you and I stand dumb and awe-stricken in the presence of the mighty alchemist who has wrought this sudden and this startling change.

When the Forty-fifth Congress met within this Chamber at the beginning of the special session, the observer, looking down upon those assembled here, saw represented upon this floor various types of manhood.

There were those among us who had passed the "three score years and ten" allotted to mankind for active labor, but who had been sent hither to give to the council of the nation the benefit of their rich and ripe experience. Had death come to one of these, the fathers of our council, it would have seemed perhaps but the sad payment at its full maturity of the last great debt of nature.

There were those here in active middle life, who had been commissioned by their constituencies to represent them upon this floor for their known and present capacity and power. Had death come to

one of these, our active workers, it would have seemed perhaps but a briefly anticipated payment of the life-debt back again to the Great Loaner. There were those here who were yet in their earlier manhood—who had been thus quickly advanced, not alone for what they had accomplished, but for what it was hoped they would yet achieve in the wider field of action afforded at the capital of the nation.

None would have uttered the prophecy that the first voice to be silenced in this Chamber, the first seat to be vacated by death, would have been from among this circle of the junior members of this body—the voice and the chair of him whose untimely end we mourn to-day.

After the just and fitting and feeling eulogy which has been pronounced by the gentleman from Louisiana—after the sadly kind words which have been uttered by those who knew our departed fellow-member longer and better than I—it may be deemed unnecessary that I should detain this House while I attempt to speak, however briefly, in commemoration of his life and services. While any attempted tribute of mine may not be and is not needed, it will not, I know, be deemed ungracious; for although my acquaintanceship with Judge LEONARD began only with the commencement of this Congress, I enjoyed more than usual opportunities for meeting and knowing him outside of this Chamber, in those pleasantest of all relations—social and home life. It is mainly from this stand-point that I desire to speak. Others have told us the story of his short but busy life, and have paid fitting tribute to his conceded ability. We have heard how carefully and how fully he was fitted by the learning of the schools to take advanced position in his profession, and how abundantly he succeeded as the result of this preparation. Called very early to assume important positions of trust and honor—made prosecuting officer in the State of his adoption at an exceedingly early age, and filling these positions with distinguished ability, he was sent here at the last congressional election to represent an important district in the State of Louisiana. It is given to but few thus to play important parts upon the world's great stage so well and so perfectly as he within the compass of the comparatively few years of our late friend's life-time. In his private life I believe him to have been without reproach. It is the testimony of all who knew him socially that he was what I in all my intercourse with him ever found him to be—an affable, genial, generous gentleman. Always mindful of the feelings and opinions of others, he was tolerant and considerate. Though fortune had been kind to him in a marked degree, he was not unduly moved by her favors. Though the world's applause had sounded loudly in his ear, he was not thereby made deaf to the demands of those smaller duties whose patient performance fills and rounds out a perfect life. Such I believe to have been the character of him who came with us at the commencement of our session—who has gone from us before its close.

Though the middle aisle of this Chamber separates the members of the House who differ in political sentiment, no space divides those upon this floor who recognize in each other chivalric action, true manhood, and conscientious devotion to duty. These were the qualities which adorned the character of our associate when living—these the traits which provoke just tribute from both sides of this Chamber when we mourn him dead.

That our late associate filled lightly and easily, and as one born to power, the various positions of honor conferred upon him, can afford perhaps but little consolation in this sad hour to those who loved him best and who were bound to him by the ties of blood and kindred. Ever since the world began its people have at seasons mourned the loss of the great and good, those alike eminent for ability and beloved for gentleness and worth. Public proclamations have been made; bells have tolled; the insignia of mourning have draped the churches and the public places in every land where tribute has ever been paid to the memory of departed greatness. The ink has scarcely dried upon the official announcements, the last sad echoes of the bells have but died upon the air, the badges of mourning have but met the moistened eye—when others have assumed the vacant places and have taken the symbols of power from the dead, cold hands of greatness.

But a few short months ago a crown across the water was for a brief moment laid aside. Kingly power itself yielded to the foe, stealthy and silent, which crept even to the throne and carried Royalty captive to the great beyond. The act, if not the cry, was: "The King is dead—long live the King!" The tolling of the bells turned to chiming, and the people of Italy welcomed a new monarch even while they wept the old.

But a few short weeks ago the eyes of the most exalted of contemporaneous churchmen were closed in that same long sleep which had given rest to other prelates, in their times as exalted as he. In thousands of churches the sorrow-notes of stricken peoples were wafted from continent to continent and upward even to the very skies. The solemn requiems had but ended, the universal mourning had not ceased, when a sad-faced council selected a successor to fill the high station and discharge the sacred duties of him who had gone from earth forever.

And so with all who fill public places, be they high or be they low: they live, they die, and are replaced by others.

The world's necessities, and even Heaven's teachings are that, spite of mourning and of tears, the world's needs be supplied and Heaven's demands fulfilled.

It is not greatness simply to have held important trusts. Greatness lies in the faithful performance of all duties committed to us. That

man is not truly great who does not display homely, honest nobility in the smaller affairs of life—in his daily intercourse with his fellow-men.

"Kind hearts are more than coronets,
And simple faith than Norman blood."

I indulge the belief that to the sorrow-stricken father and to the heavy-hearted kindred of our late associate the fact that his son and their kinsman was respected for his manly qualities and loved for his virtues, will be a kindlier and more grateful message than any statement coming from us, however emphatic, of our admiration for his ability, our appreciation of his mental power.

The record tells us of our associate's death. A slab in the Congressional Cemetery will bear sad testimony that another Representative has been stricken down while in the public service. And yet for us, and for all who knew him, he still lives in the lessons which his life and which his death have furnished.

At this hour, as we pause to do honor to his memory, as we try—tenderly as we may—to convey to the stricken hearts of those who mourn him most our appreciation of their loss—our sympathy in their sorrow—let us endeavor in all sincerity, in all trustfulness, to believe with them in the truth of the inspired sentiment:

"There is no Death! What seems so is transition;
This life of mortal breath
Is but the prelude to that life elysian,
Whose portals we call Death!"

Mr. RAINEY. Mr. Speaker, there have been few, if any, Congresses since the foundation of the Government that were not called upon to pay mournful tributes to the memory of some of their number. Death follows in this mortal existence as resultant from life itself. The fact that we live furnishes incontestable evidence that we must die. There is no condition or rank that can place us beyond the reach of the inevitable. It comes alike to all: the aged and the young, the learned and the unlearned, the millionaire and the pauper, the ruler and the subject, the believer and the atheist; all must succumb to the scythe of this insatiable reaper. Thus it confronts us in public and private life alike. It has now come into this Hall and taken one from among us who had given promise of a bright and hopeful future.

At the opening session of the present Congress we were brought face to face with many new members, sent up from all parts of this great Republic. None furnished a more interesting subject for study than JOHN EDWARDS LEONARD, whose memory we cherish and whose early demise we deplore. Before I had acquaintance with or even heard him in debate I concluded, from his fine, classic features and bright, intellectual cast of countenance, that he was the possessor of a breadth of mind which indicated, I supposed, more than ordinary ability and talent. In this particular, judgment was not at fault, for in addition to the natural endowments with which he impressed me, he was liberally educated both at home and abroad. His accomplishments were the evidences that he improved his opportunities for learning. He was a fine Greek and Latin scholar, and stood highest in his classes while at Harvard.

He could read and write the modern languages with a proficiency and facility that clearly showed he had mastered them all. As a graduate of the University of Heidelberg, Germany, he delivered in German the class oration, and from the University of Paris he finally graduated with the delivery in French of the customary valedictory. Some of his theses are, I am told, among the choicest productions of his scholastic career.

Thus it will be seen that he was in a large degree richly endowed with those potent agencies that were well calculated to fit him for an extended sphere of usefulness had he been spared to his country. For one of his age he was conceded to be an excellent lawyer, at one time being one of the presiding judges on the bench of the supreme court of his adopted State. He was appointed to that exalted position on the recommendation of numerous members of the Louisiana bar, irrespective of party. This, of itself, is one of the best and strongest evidences of the esteem in which he was held, and of the value and estimate placed on his ability as a gentleman of attainments as well as a lawyer of professional repute.

Though young in national legislation, he was nevertheless fully equipped from the armory of a well-stored mind which made him equal to any emergency that arose or task assumed. I should say that he was a man of strong convictions, and when impressed with a sense of right not easily turned aside from a leading purpose. If my memory is not at fault, he never participated in this Chamber in debate but on two or three occasions, and on each of these the right of a member's seat on this floor was involved. The last speech made here by the deceased was on the 20th of February, seven days previous to his obtaining an indefinite leave of absence. On this date he gave utterance to the following somewhat remarkable and truly significant expressions. He said:

Mr. Speaker, I have thought it but fair that I should take some part in this case, because it comes from the State which I have the honor in part to represent, and with whose laws and customs I am to some extent familiar. But I promise the House, I promise the judges of this grave and dignified court that if they will but listen to me for a few moments—say half an hour at the very most—it shall be a long, long while before I shall trouble them in another case of contested election.

Subsequent events have attached an almost prophetic significance

to those last words uttered by the deceased. Sir, it will indeed "be a long, long while before" we shall hear his voice again. Yes, nevermore; in this Hall—

So wise so young, they say, do n'er live long.

Judge LEONARD was born on the 22d of September, 1845, at West Chester, Pennsylvania. He was the fond and only child of his parents, in whom they had lodged much hope and anticipated comfort for declining years. His mother has long since passed away, and his untimely taking off is indeed an irreparable loss and a great calamity and bereavement to his fond and doting father. The deceased was ever a welcome guest among his neighbors and associates, his society affording something more than casual entertainment; there was information to be gained wherever true culture was appreciated.

From what I have learned he became fully identified with the people and interests of Louisiana, being a property-holder as well as an official incumbent, a planter as well as a lawyer. In the capacity of district attorney, a position which he once held, it is worthy of note to say that he never used his official position for the purpose of persecuting and oppressing any citizen, let his station have been high or low. Apparently his great aim was to impress and maintain the dignity and at the same time vindicate the majesty of the law without doing detriment to the rights or immunities of the humblest citizen. It can in truth be said of him, that in his official capacities he never failed to "temper justice with mercy."

Sir, the memory of Judge LEONARD will surely be cherished and gratefully remembered by a confiding constituency, his colleagues and his friends.

Mr. Speaker, the circumstances and incidents intimately associated with his death partake in large degree of romance as well as regret. When I read the sad news of the morning that had come the night before, under the waters and over the wires from the Isle of Cuba, my heart sank within me with sad and inexpressible astonishment. He was folded in the arms of death far away from his native land, his kinsmen, and familiar acquaintances, but yet comparatively near to one whom he truly and fondly adored, and the depths of whose affection for him no one will ever be able to fathom. Yes; for him it might be said:

Pity for thee shall weep her fountains dry,
Mercy for thee shall bankrupt all her store;
Valor shall pluck a garland from on high—
And Honor twine the wreath thy temples o'er.

Mr. WHITE, of Pennsylvania. Mr. Speaker, I have no systematic phrases to utter about our deceased friend. "Out of the fullness of the heart the mouth speaketh." When I heard the words that JOHN EDWARDS LEONARD was deceased I could hardly realize their truth. As I look around this Chamber and see the venerable heads of our colleagues who in the course of nature ought to have gone before him, I hesitate to believe the young member from Louisiana is dead.

Sir, in the hurly-burly of public life, amid the jostling cares and interests of this Chamber, how hard it is, after a lapse of time, to pause because the heavy hand of Heaven has been upon us! The grim monster, Death, has entered this Hall through an avenue least to be expected.

Yet a few days more, thee
An all-beholding sun will see no more
In all his course.

The mystery of the taking off of one of the youngest of our number while venerable colleagues full of years and honors survive is to us past finding out. For one so young, so promising for usefulness to his country, to die on the threshold of a public career is sad, sad indeed. Oh! death in any form is terrible!

The tear,
The groan, the knell, the pall, the bier;
And all we know, or dream, or fear
Of agony, are thine.

The deceased was to me a stranger until I came here as a member-elect at the opening of this Congress. I met him then for the first time. Circumstances soon brought us into intimate acquaintance. Frank, generous, confiding, intercourse taught me the sterling, good qualities of his character. I met him often in the social circle and in the anxieties and perplexities of political strife. In the brief career since our session began, in October last, I knew no member of this House more intimately than our lamented friend. He honored me on more than one occasion with his confidence on matters of public and private concern of the greatest delicacy. Sir, comely in appearance, courteous in his demeanor, cultivated and sprightly in intellect, our young associate was well fitted for a public career—for the employments of the statesmen. A graduate of Harvard, he received there that elementary education and mental discipline giving a sure foundation for an imposing superstructure of intellectual refinement, vigor, and profundity. Early seeking the educational opportunities of Heidelberg and continental Europe, he acquired those accomplishments so rare and yet so attractive and useful in our American public life. A native of the great State I love so much and aid to represent here, our deceased friend, when he had completed his professional education and was admitted to the bar, looked to new fields for labor and opportunities in the battle of life. The

war was over, and Louisiana with her rare resources and romantic history presented to him an arena for future usefulness and fame. Making his home in that far-off State, then disturbed by the turbulence of the times, Mr. LEONARD sought only that success in his professional business career which industry, integrity, and merit will always acquire. Living as a northern man amid the conflicts and animosities of recent Louisiana politics, how honorable to his memory is the kind and generous tribute just uttered by his colleague, Mr. ELLIS. Sir, all concede the deceased was well fitted for public life. With a mind cultivated and an ambition for honorable distinction, there was promise in his career. His intellect was deep enough to grasp principles and broad enough to comprehend the relations of public affairs, and fertile enough to suggest and devise measures. Time would have developed him into greater prominence in this Chamber. Having convictions of his own, he was positive yet moderate in their utterance. No offensive display of learning or education, no pedantry, no dogmatic prejudices, deformed the character of him at whose grave we stand.

The rude, stern elements of character so well suited for successful conflicts in pioneer life he did not possess. He did not seem to develop that adventurous spirit so necessary to build up new States. His was rather the conservative character that would safely keep and justly administer what was already achieved. The loss of such a one from our political circle is a public calamity. In this country, sir, we want to invite into public life young men with the varied acquirements, the spotless integrity, and honorable ambition our young associate possessed. May I hope that the sincere tribute rendered by all to-day to the excellent qualities, those attributes of statesmanship this young Representative appeared to possess, may stimulate other young men of our country to go and do likewise. When public station and legislative life in America cease to have attractions for such as he, farewell, and a long farewell, to honorable ambition in our Republic.

While our young friend was fitted for a useful career in the National Congress, yet the sedate duties of high judicial station were more attractive to him. After he had been elected to this Congress by a majority conceded by his opponent at the election of 1876, a vacancy by death occurred on the supreme bench of Louisiana. He was appointed to this vacancy, and immediately assumed his duties. They were most congenial to him. His fitness by intellectual training and the justness and equanimity of his disposition were recognized, I am informed, by the bar of the State. With true judicial dignity he could tread the walks of such a station. None better than he could become "a just judge." I have read somewhere that the remark, a judicial officer is invested with the ermine, though fabulous is yet eloquently significant. It is a tradition in natural history that the creature called ermine is keenly sensitive to its bodily cleanliness; any taint or defilement of its snow-white fur paralyzes it and makes it powerless for retreat. The hunters knowing this, pursuing it, spread mire and filth on the pass leading to its haunts; finding entrance there impossible without soiling its spotless coat, it falls readily a prey to the pursuer. He who sits in judgment upon his fellows, who discharges the functions of the judge, should be as sensitive to defilement as the ermine with which he is invested.

I know our deceased associate rose to the height of the great argument when he sat as a judge and when he came here to make laws for the people. I speak not from conjecture, sir; it is a matter of history that in the early sittings of this Congress it was designed by some members on the other side of this Chamber to offer a resolution indorsing the action of President Hayes in his treatment of Louisiana which culminated in the overthrow of the Packard government, and the consequent destruction of the supreme court of which Judge LEONARD was a member. While it was thought by many such a resolution was only for political effect, yet the deceased, knowing the particularity of one of our rules, which prohibits a member from voting on any subject in which he is interested, feared he could not conscientiously vote on the resolution. He had been a member of that government, and any expression of opinion by him about the action of the National Administration in relation to it, while it would have no practical effect, he apprehended, would be improper. He hesitated to vote, and early one morning he called at my room to consult and take my opinion on the subject. How seriously and prudently he talked of the high and impartial duty of the Representative in Congress! He wanted to be just to the country, just to himself, just to his office. The contingency, however, never arose which required him to vote on this question. I could multiply instances of his pure character. I shall intrude on this solemnity but a moment longer. Our young associate, Mr. Speaker, then, is no more forever among us. In my mountain home, on a temporary absence from here, while in the very crisis of the trial of an important case, an associate counsel handed me the announcement in the morning paper of your presentation, Mr. Speaker, of the intelligence of Judge LEONARD's sudden death and the adjournment of this House. Shocked with sadness, the duty of the hour would only permit me a hasty word of sympathy, which I now more deliberately express.

With him all is over. In the bustle of life, engaged with present cares, we will pass on, and the green grass will grow over the new grave of him we now commemorate; but, sir, two children are left behind to seek, when in more mature years, for the character of their father. Should we meet them as we wander through life, it will be

a cheerful pleasure to pause and say to them, We knew your father; he fell on the threshold of an honorable career; begin where he left off; fulfill his promise and all will be well. I have done. I can say of him who is the subject of this ceremony, as was said of one of Count's greatest characters, "I knew the man and do honor his memory."

Mr. CUTLER. Mr. Speaker, among the many new members that appeared at the opening of the extra session of the Forty-fifth Congress, none possessed a finer physique or gave greater promise of a long life of usefulness and honor than did JOHN EDWARDS LEONARD, whose sudden death the Congress mourns to-day.

I was attracted to him at the first, and it was my good fortune to make the acquaintance of the deceased at an early day following the organization of the House, and such acquaintance ripened into a warm and generous friendship, and the favorable impression that I had formed of him upon his first appearance in Congress was more than justified by reason of our friendly relations.

The unfortunate complications resulting from the political situation of the State of Louisiana made it incumbent upon the deceased, who held the only seat in this House as a republican from that State unquestioned and unchallenged, that he should take an active part at an early day in the discussion involving the right of a Representative from that State to retain his seat.

At the outset of the discussion I was impressed with the honesty of his statements, together with the strong conviction of right that characterized the advocacy of the propositions he maintained. His every action appeared to be governed by a keen sense of justice; his impulse to do that which was justified by conscience, make no allegation but what was warranted by the evidence, and draw no deduction or conclusion but what could be defended by the facts and law.

I recall with much pleasure in the discussion of the California case, Wigginton and Pacheco, a remark that he made to me just prior to his argument:

You are one that believes that election cases are not political, but strictly judicial, and in that view you are not supported by the majority of either of the parties, but I confess to great sympathy with the views that you entertain, and in this case I am compelled to disagree with my party, and I hold the opinion that neither Wigginton nor Pacheco are entitled to a seat, and I trust you will listen to my remarks, for I think you will arrive at the same conclusion.

I listened to his speech with great interest and close attention, as in fact I do to every argument in which election cases are discussed, for there are no matters presented to the consideration and decision of this House involving greater interests, higher privileges, or more far-reaching in their results than the question touching the right of the member to represent his district, for it affects not only each and every citizen in the district, but it equally affects the sovereignty of the State as well as the General Government. For what impartial judge can, without surprise and feeling of alarm, listen to the announcement heretofore made by members upon this floor in the final adjudication of election cases: "Upon all political questions I am paired with A. B. Upon this question, if he were present, he would vote *ay* and I would vote *no*;" or *vice versa*. And yet the record of past sessions affords frequent evidence of this state of things, and well may a lover of his country despair of the future of the Republic and the patriotic citizen lose confidence in its perpetuity unless election cases are decided judicially and in accordance with the strict rules of law and evidence, ignoring and losing sight of the question of political expediency or political results.

And, Mr. Speaker, I cannot but digress for the moment to express the hope that some plan will yet be devised, some legislation secured, by which the legality of the member's right to a seat in this body when contested shall be settled by the courts of the State and the Congress admit such Representative whose right to the seat shall have been determined by the proper court of the State, thus relieving the candidates from great vexation and trouble, the Government from great expense, and giving the district its legal Representative at the organization of each Congress.

I gave close attention to that speech of my friend; and, while I could not agree with his conclusions, I could not but admire his independence, when he said during the course of that debate:

As I understand the Constitution of my country the House of Representatives is now sitting as a court of justice and each member of this House is a judge acting under the sanction of his official oath. And am I to be told that it is my duty in such a case to cast my vote as a judge with my party because, forsooth, the vote which I shall thus cast will be advantageous to me and to others of the same political proclivities? Sir, if so foul a doctrine as that is to be applied in a court of justice, let the meanness of the deed at least be acknowledged and understood. There is no necessity of adding hypocrisy to villainy. If the judges of this court are to vote according to their party proclivities, let us have an end of all this farce of a trial and judgment.

Yes, Mr. Speaker, I listened to another speech of my friend, delivered but a short time before he bid us "good by" and we returned him our "Godspeed," and I extract the following from it; it was his last speech in this House, and that too in an election case from Louisiana, Acklen vs. Darrall:

Mr. Speaker, I have thought it but fair that I should take some part in this case because it comes from the State which I have the honor in part to represent, and with whose laws and customs I am to some extent familiar. But I promise the House, I promise the judges of this grave and dignified court that if they will but listen to me for a few moments, say half an hour at the very most, it shall be a long, long time before I shall trouble them in another case of contested election.

One may almost wonder if in this he saw the end. Was it prophetic?

How sad the reflection, that at so early a day following that promise and pledge he should be summoned before a higher court and before a just Judge—a Judge that never errs, and there he is making a plea, not for another, but a personal plea in his own behalf, in a court in which the only rule is even and exact justice, in which the Judge is justice personified, where every act, word, and deed must have been in strict accord with "right principle and conscience" to secure His approval.

It is not for me to enter the domestic circle, or lift the veil that now envelops a sorrowing family or stricken constituency. My mission is complete, my duty performed, when I place a chaplet upon the grave of my friend and speak of him as I knew him—a brave man, a warm friend, a true citizen, a fearless legislator, a faithful Representative, one who had not only the courage of his convictions but also the courage of maintaining and defending them. As a legislator he brought to the performance of his duties a cultivated mind, with experience, knowledge, and observation, that bid fair to be of great value to his colleagues, advantage to his constituency and State, and honor to his country.

But these halls shall echo his footsteps no more; his voice no longer fall upon our ears; his counsel no longer be sought, and the years of usefulness and honor that had been hoped for him, and predicted of him by a loving constituency and admiring friends, have been suddenly cut off, and we gaze upon that vacant seat in this Chamber and exclaim:

Man proposes, but God disposes.

And nought is left for us, as we drop a tear of sorrow, but to cherish his memory and emulate his virtues, and to remember that life is—

Like the snowflake on the river,
A moment seen, then gone forever,

and that our end and object in life should be to perform the duty of life well, and to that end select and choose those paths that will lead us to the performance of all our public duties in accordance with "right principle and conscience," looking forward to that realization so beautifully expressed:

Would'st have a friend, would'st know what friend is best;
Have God thy friend, who passeth all the rest.

And then shall we have reached that point where as citizens we shall be patriotic; as friends, true; as legislators, fearless and brave; faithful to the high trusts confided to our keeping, and governed by no motive other than to be just to ourselves and true to our country.

Mr. DUNNELL. Mr. Speaker: The Hon. JOHN E. LEONARD, whose life and death we now commemorate, was born at West Chester, in the State of Pennsylvania, on the twenty-second day of September, eighteen hundred and forty-five. He became a student in Phillips Exeter Academy, at Exeter, in the State of New Hampshire, in eighteen hundred and sixty, that he might complete his preparation for the University at Cambridge, in the Commonwealth of Massachusetts. This was his record at the academy: he was good in all his studies and always did his work in all branches thoroughly and well. Though not ranking with the very highest, he was deficient in no study. He possessed a mind remarkably well balanced for one so young. His social qualities were such as to commend him to the favor of his teachers and associates as a high-minded, honorable, generous boy. In addition to the above record, communicated to me by the principal of the academy, the following honorable mention is added: "The impression that he made here is still distinct in the memory of those who knew him." The social, moral, and intellectual qualities which he had and exercised during his course at this Rugby of New England, still keep fresh the impression he there made. These qualities, therefore, must have been well and harmoniously developed.

He entered the university at Cambridge in eighteen hundred and sixty-three and graduated with honor in eighteen hundred and sixty-seven. It is said of him here that he was a bright, ready scholar, with the faculty of acquiring rapidly and then making the most advantageous use of his acquisitions. His standing on the rank-list was very high in his freshman and senior years. He was popular among his fellow-students, and in the senior year was chosen class orator. He showed while in college that faculty for writing and speaking which doubtless helped him to his early success in his profession and in public life. His parts were good and they were available for ready use. He had a just measure of confidence in himself. He had energy and an honorable ambition.

Thus, at the preparatory school at Exeter, where Webster and Everett and hundreds of the most eminent lawyers, jurists, divines, statesmen and scholars of the last and the present century, drank with delight their first draughts at the Pierian spring, and at Harvard, the most famous seat of learning in the New World, whose triennial attests its great service to all departments of higher education, he cheerfully submitted himself to all the discipline which these institutions could give him.

After his graduation from Harvard, he became a student of law in the university at Heidelberg, in Germany, a university founded in the fourteenth century, rich in libraries and widely renowned for the

exact and profound learning of its professors. At the close of his studies there, he received the decree of doctor of laws. Returning to the United States, he settled in the State of Louisiana and commenced the practice of law in the thirteenth judicial district. He rose rapidly in his profession, and was soon made district attorney. In eighteen hundred and seventy-six, he was appointed associate justice of the supreme court of the State. The same year he became the republican candidate for Congress in the fifth district, and was elected a member of the Forty-Fifth Congress. These honors he attained at the age of thirty-one.

In eighteen hundred and seventy-two, Judge LEONARD was married to Miss Ella Burbank, a woman of rare beauty and refinement, the daughter of Hon. James C. Burbank, of Saint Paul, Minnesota. She died in December, eighteen hundred and seventy-five, leaving two children, sons, who are now in Europe under the care of their maternal grandmother.

On the fifteenth of last October, the subject of our eulogies became our fellow-member in this House, well prepared by natural and acquired powers and graces, to take and hold here an honorable position. On a leave of absence from the House, he left Washington during the closing days of February and reached the Island of Cuba March fourth. He died at Havana on the fifteenth of the month, when he had been from his seat but two weeks.

This is a simple and unadorned recital of the chief incidents in the life of him we now seek to honor. We saw him here take his stand at the starting-place. We cannot tell how well he would have run the race of public life; how rich the garlands which would have wreathed his brow, had death allowed him to reach the goal. We can only say he had the force and vigor of youth; he had the culture of the schools. The severer studies had wrought out the elements of the mental panoply with which he should battle for the victory, and these, the classics had polished and bound together as with hooks of gold. Still the brightness of his armor did not blind the angel of death. He espied him on the placid waters in the bay of the Queen City of the green Isle of the Antilles, with Morro and La Cabaña castles looking down upon him as he was nearing the steamer which should take him to his native land.

Mr. Speaker, these ceremonies are evidence that the condition, the situation of man in life, furnish no law to death. It appears when and how it pleases. It neither fears the mighty nor respects the lowly.

The glories of our blood and state
Are shadows, not substantial things;
There is no armor against fate;
Death lays his icy hands on kings.

The beauty of health or of youth cannot keep it back. The most beneficent life, the choicest spirit, give to death no concern and put off its approach not an hour. It has no regard for tears and heeds not the pleadings of affection.

It is an enemy as impartial as it is universal. The great life purpose; the grandest mission in the service of humanity; the rarest personal virtues; vast acquisitions in learning, in wealth, in the means for happiness and usefulness; deeply cherished hopes, and the most noble endeavors turn not aside this great enemy of the race. It but utters the decree, "Dust to dust, ashes to ashes," and moves on in its work.

The exultant heart of the devout astronomer ceases to beat by the coming of death, just as the long-looked-for and predicted planet approaches the spot in the heavens where he has long held the faithful telescope. Death will not permit him to give a name to this newly discovered member in the stellar family of God. The mariner through many storms has brought the richly laden ship within sight of the destined haven, and yet he falls at his post when his voice might well-nigh reach the objects of his pride and his love. The man who for years, amid painful toils, has planted the seeds of truth within the realms of error, must close his eyes and yield up his spirit when the delightful fruitage is just ready to strike his vision and its transporting sweetness fill his soul.

Death gives no time for the adjustment of accounts or the correction of records. The man who for a whole life-time has been justly esteemed the embodiment of integrity, surrenders to death on the very day when he is prepared to dissipate the charges of dishonesty which had come upon him by some error in calculation or in statement. Man is overtaken by this fell foe when the reasons for some course of action, some absence from home or from business, are known to himself alone. Death gives no time for explanations, no opportunity to scatter the clouds which rest above him and which, because of his taking off, will never quit his name. The good ruler of a great nation, who has, through a long and direful war, clung fast to her changing fortunes, dies just when the air begins to move by the first shouts of final victory.

Leaves have their time to fall,
And flowers to wither at the North-wind's breath,
And stars to set:—but all,
Thou hast all seasons for thine own, O Death!

Mr. ELLIS. I ask for a vote on the resolutions.

The question being taken, the resolutions were unanimously adopted; and in accordance with the last resolution, the House (at four o'clock and ten minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BISBEE: The petition of the late receiver and register of the United States land office, at Saint Augustine, Florida, for compensation for services rendered—to the Committee of Claims.

By Mr. CAMPBELL: The petition of citizens of Bellewood, Pennsylvania, that Congress extend the national credit to aid in the completion of the great southern line of railroad to the Pacific Ocean—to the Committee on the Pacific Railroad.

By Mr. CHALMERS: The petition of citizens of Claiborne County, Mississippi, for the relief of F. C. Hall, late postmaster at Port Gibson—to the Committee on the Post-Office and Post-Roads.

By Mr. COVERT: The petition of J. D. Hutton, for compensation for services in the Doorkeeper's department, House of Representatives—to the Committee of Accounts.

By Mr. COX, of New York: Papers relating to the pension claim of Simson Reinhard—to the Committee on Invalid Pensions.

By Mr. DANFORD: The petition of John Lappert, for a pension—to the same committee.

By Mr. GIDDINGS: The petition of citizens of Houston, Texas, for the passage of the bill to divide the State of Texas into two judicial districts—to the Committee on the Judiciary.

By Mr. GUNTER: Papers relating to the claims of the heirs and executors of Augustin de Iturbide—to the Committee on Private Land Claims.

By Mr. HARRISON: The petition of William Baker and others, against the imposition of an income tax—to the Committee of Ways and Means.

By Mr. HARTZELL: The petition of O. S. Butler and 93 other legal voters and citizens of Perry County, Illinois, for the passage of the bill granting a pension to the veterans of the Mexican war—to the Committee on Invalid Pensions.

By Mr. KETCHAM: The petition of James Nicholas Callan, attorney for Bertram Leins, for compensation for quartermaster stores used by the United States Army—to the Committee on War Claims.

By Mr. MACKEY: The petition of merchants and manufacturers of Philadelphia, against the passage of the pending tariff bill—to the Committee of Ways and Means.

By Mr. NORCROSS: The petition of Caleb Land and others, against the passage of the income-tax law—to the same committee.

By Mr. O'NEILL: Memorial of the Board of Trade of Philadelphia, against the passage of the bill transferring the life-saving and coast-guard service from the Treasury to the Navy Department—to the Committee on Commerce.

Also, the petition of merchants, manufacturers, and other citizens of Philadelphia, Pennsylvania, against the passage of the pending tariff bill—to the Committee of Ways and Means.

By Mr. PATTERSON, of New York: Resolutions of the Legislature of New York, asking for legislation that will relieve the State from the burdens of a tax to support immigrant paupers—to the Committee on Education and Labor.

By Mr. RANDOLPH: Papers relating to the claim of Thomas Fain, of Sullivan County, Tennessee—to the Committee of Claims.

By Mr. SHALLENBERGER: The petition of 90 merchants and manufacturers of Philadelphia, against the passage of the pending tariff bill—to the Committee of Ways and Means.

By Mr. STONE, of Iowa: The petition of Henry Lohmar, for a pension—to the Committee on Invalid Pensions.

By Mr. TUCKER: Resolutions adopted at a meeting of citizens of Allegheny County, Virginia, favoring the passage of the Texas Pacific Railroad bill—to the Committee on the Pacific Railroad.

Also, the petition of citizens of Buckingham County, Virginia, of similar import—to the same committee.

By Mr. WIGGINTON: Joint resolution of the Legislature of California, favoring the establishment of a post-route from Fresno, via Liberty, to Waltham Cañon, in Fresno County, California—to the Committee on the Post-Office and Post-Roads.

HOUSE OF REPRESENTATIVES.

FRIDAY, April 19, 1878.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

GEORGE WILLIAMS.

Mr. GARTH, by unanimous consent, introduced a bill (H. R. No. 4412) for the relief of George Williams; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

CHANGE OF NAME OF A VESSEL.

Mr. DUNNELL. I ask unanimous consent to report back from the Committee on Commerce without amendment and with a favorable recommendation the bill (S. No. 120) authorizing and directing the Secretary of the Treasury to issue an American register to the Canadian-built propeller East, by the name of Kent.

It is important that the bill should pass at this season of the year if at all; and the gentleman from New York, [Mr. JAMES,] if any facts are to be stated, will make an explanation.

The SPEAKER. The bill will be read, after which there will be opportunity for objection.

The Clerk read the bill. The preamble recites that the Canadian-built propeller East has been condemned and sold pursuant to a decree of the district court of the United States for the northern district of New York, in admiralty, and was purchased at the sale and is now owned, by George D. Seymour, Isaac L. Seymour, and George Hall, citizens of the United States, residing at the city of Ogdensburg, State of New York: the bill therefore directs the Secretary of the Treasury to issue an American register or enrollment to the said Canadian-built propeller East, owned by the said George D. Seymour, Isaac L. Seymour, and George Hall, by the name of the Kent, to which the name of said propeller East is hereby changed.

Mr. DUNNELL. I ask that the report be read.

The Clerk read the report of the committee, as follows:

The Committee on Commerce, having had under consideration Senate bill No. 120, to change the name of the propeller East to that of Kent, and to authorize the issue to her of an American register, report back the same with the recommendation that the same do pass. The committee respectfully report the following facts as a basis of their recommendation:

The propeller East, named in this bill, was built at Montreal, Canada, in 1864; is of the capacity of two hundred and nineteen tons; used principally for carrying freight, with accommodations for a limited number of passengers; and in 1876 was rated by the board of underwriters as B 1. In March, 1877, said vessel was properly and carefully examined and surveyed and found to be sound, staunch, and seaworthy. That said vessel has an excellent engine of great power, and both her engine and boiler are in good condition.

That said propeller, in the season of 1875, while navigating the Saint Lawrence River, collided with the steam-tug Joe Mac and sank said tug in ninety feet of water.

In the year 1876, said propeller East being within the jurisdiction of the United States, the owners of the tug Joe Mac caused said propeller to be seized by proceedings in admiralty in the district court of the United States for the northern district of New York; that subsequently libels were filed against said propeller; that said cause, on behalf of the owners of said tug, was contested; that a decision was rendered by said court in favor of said owners, and a decree of condemnation and sale of said propeller duly entered. In virtue of process duly issued upon said decree the United States marshal, on the 5th of May, 1877, sold at public auction said propeller, and she was struck off to the owners of said tug as the highest bidders, and a bill of sale from said United States marshal, duly recorded, was by him delivered to said purchasers, together with the possession of the said vessel. The purchasers of said propeller are American citizens, engaged in the business of freighting on the Saint Lawrence River, touching at both American and Canadian ports and coasting on the American side, and desire to use said propeller in their said business.

As American citizens they cannot own and operate in Canada a vessel with a Canadian register, nor can they coast in American waters with a vessel with such a register.

Hence the said owners ask that the name of said vessel be changed and granted an American register, as without such register said propeller is nearly valueless.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

Mr. JAMES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed without amendment bills of the following titles:

A bill (H. R. No. 535) for the relief of the executors of the estate of John S. Miller, deceased; and

A bill (H. R. No. 4242) to authorize the restoration of George A. Armes to the rank of captain.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House was requested, a bill (H. R. No. 3739) to prevent the introduction of contagious or infectious diseases into the United States.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 3394) to place the name of Daniel H. Kelly upon the muster-roll of Company F, Second Tennessee Infantry;

A bill (S. No. 187) authorizing the Commissioner of Patents to rehear the application of Stephen V. Benét for patent for cartridges; and

A bill (S. No. 20) authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes.

CONTAGIOUS DISEASES.

Mr. HARTRIDGE. Mr. Speaker, the Senate has just sent back a House bill to prevent the introduction of infectious diseases into the United States with two small verbal amendments which do not change the sense of the provisions of the bill. I ask consent to take it up and concur in those amendments.

The SPEAKER. Is there objection to taking from the Speaker's table a bill (H. R. No. 3739) to prevent the introduction of contagious and infectious diseases into the United States, so that the verbal Senate amendments may be concurred in?

There was no objection, and it was ordered accordingly.

The SPEAKER. The amendments of the Senate will be read.

The Clerk read as follows:

The first amendment is to insert after the words "United States," in line 10 of

section 1, the words "into or through the jurisdiction of which said vessel or vehicle may pass, or to which it is destined," so as to make the section read:

That no vessel or vehicle coming from any foreign port or country where any contagious or infectious disease may exist, and no vessel or vehicle conveying any person or persons, merchandise, or animals affected with any infectious or contagious disease, shall enter any port of the United States or pass the boundary line between the United States and any foreign country, contrary to the quarantine laws of any one of said United States, into or through the jurisdiction of which said vessel or vehicle may pass, or to which it is destined, or except in the manner and subject to the regulations to be prescribed as hereinafter provided.

The next amendment is in line 8, section 2, to strike out "inform" and insert "give information thereof to;" and in line 10, after the word "service," to insert out the word "thereof," so as to make the section read:

Sec. 2. That whenever any infectious or contagious disease shall appear in any foreign port or country, and whenever any vessel shall leave any infected foreign port, or having on board goods or passengers coming from any place or district infected with cholera or yellow fever, shall leave any foreign port, bound for any port in the United States, the consular officer, or other representative of the United States at or nearest such foreign port, shall immediately give information thereof to the supervising surgeon-general of the marine-hospital service, and shall report to him the name, the date of departure, and the port of destination of such vessel; and shall also make the same report to the health officer of the port of destination in the United States; and the consular officers of the United States shall make weekly reports to him of the sanitary condition of the ports at which they are respectively stationed; and the said surgeon-general of the marine-hospital service shall, under the direction of the Secretary of the Treasury, be charged with the execution of the provisions of this act, and shall frame all needful rules and regulations for that purpose, which rules and regulations shall be subject to the approval of the President; but such rules and regulations shall not conflict with or impair any sanitary or quarantine laws or regulations of any State or municipal authorities now existing, or which may hereafter be enacted."

Mr. HARTRIDGE. I move to concur in those amendments of the Senate.

The amendments were concurred in.

Mr. HARTRIDGE moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FULL WEIGHT OF COAL.

Mr. WRIGHT, by unanimous consent, presented the following petition; which was referred to the Committee for the District of Columbia:

Resolved, That Maple Council No. 3, of the District of Columbia, Sovereigns of Industry, representing four hundred and four families in said District, does hereby respectfully petition the Congress of the United States to enact such a law as will insure full weight to purchasers of coal, and compel coal dealers to send the certificate of a properly appointed Government weigher with every load of coal delivered.

D. B. GALLATIN,
Secretary pro tempore.

NATHAN UDELL.

Mr. HARRISON. I hope by unanimous consent I will be permitted to make a report from the Committee on Reform in the Civil Service.

Mr. WOOD. I demand the regular order of business.

Mr. SAMPSON. I now call up the motion to reconsider the vote by which House bill No. 698 granting a pension to Nathan Udell was laid upon the table, and I do so for the purpose of having that bill, on which an adverse report was made, referred to the Committee of the Whole on the Private Calendar.

The SPEAKER. It is the gentleman's right.

The motion to reconsider was agreed to; and then, on motion of Mr. SAMPSON, the bill and accompanying report were referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

GOVERNMENT PRINTING OFFICE APPROPRIATION.

Mr. SINGLETON. I hope I may have unanimous consent at this time to move to discharge the Committee of the Whole on the state of the Union from the further consideration of the bill (H. R. No. 4222) to provide for deficiency in appropriation for the public printing and binding for the current fiscal year, and to put it on its passage, so as to keep the Printing Office in operation. It is a unanimous report, appropriating \$200,000. I have a letter from the Public Printer that unless the appropriation is made he will have to stop the printing of blanks and everything else.

Mr. WOOD. If there be unanimous consent I do not object, but I do not wish the regular order to be set aside.

Mr. SINGLETON. I move to discharge the Committee of the Whole on the state of the Union from the further consideration of that bill, and to bring it before the House for consideration.

The motion was agreed to.

The bill, which was read, appropriates \$200,000 or so much thereof as may be necessary, out of any money in the Treasury not otherwise appropriated, to supply deficiency in the appropriation for public printing and binding for the current fiscal year.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SINGLETON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHARLES W. COOMBS.

Mr. HARRISON. The Committee on Reform in the Civil Service directs me to report back two resolutions for the payment of the men known as the cloak-room men, and to place them upon the roll of the Doorkeeper.

Mr. LUTTRELL. Does the report provide for the payment of the pages on the floor who have not yet been paid?

Mr. HARRISON. The committee report back these two resolutions which were referred to that committee. The one in reference to the pages has not been referred to that committee.

The Clerk read as follows:

Resolved by the Senate and House of Representatives in Congress assembled, That Charles W. Coombs, who has been employed in the folding-room of the House as document messenger since the 1st day of January last and has performed necessary and valuable service, be paid for said services hitherto at the rate of \$100 per month, and that he be paid hereafter for the remainder of the current fiscal year on the roll of the folding-room of the House at the rate of \$1,200 a year.

Mr. YOUNG. I object to the consideration of that resolution at present.

Mr. WOOD. I call for the regular order.

Mr. HARRISON. The other resolution is not objected to.

Mr. YOUNG. I object to both of them.

WORKS OF ART, ETC., IMPORTED FOR EXHIBITION.

Mr. KELLEY. I ask the gentleman from New York to yield a moment that I may report from the Committee on Ways and Means the bill which I submitted yesterday, a bill to provide for the free entry of articles imported for exhibition by societies established for the encouragement of arts or sciences, and for other purposes.

Mr. WOOD. I will yield for that if it passes by unanimous consent.

Mr. KELLEY. I understand there will be no objection to the bill. The gentleman who made the objection yesterday has withdrawn it.

The bill was read. It provides that all works of art, collections in illustration of the progress of the arts, science, or manufactures, photographs, works in terra cotta, parian, pottery, or porcelain, and artistic copies of antiques in metal or other material, imported in good faith for permanent exhibition at a fixed place by any society or institution established for the encouragement of the arts or science, and not intended for sale, and all like articles imported in good faith by any society or association for the purpose of erecting a public monument, and not for sale, shall be admitted free of duty under such regulations as the Secretary of the Treasury may prescribe.

The second section provides that all articles described in this act imported for and exhibited at the late international exhibition, upon which duties have not been paid at the passage of this act, may be included within its provisions.

The SPEAKER. Is there objection to the present consideration of this bill?

There was no objection; and the bill (H. R. No. 4413) was read three times, and passed.

Mr. KELLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FINAL ADJOURNMENT.

The SPEAKER. The regular order is demanded, which is the motion of the gentleman from Pennsylvania [Mr. WRIGHT] to reconsider the vote by which the House refused to refer to the Committee of Ways and Means the resolution of the Senate providing for the adjournment *sine die* of both branches of Congress on the 10th day of June next.

The question being taken on the motion to reconsider, there were—ayes 105, noes 94.

So the motion was agreed to.

Mr. WOOD. I move to reconsider the vote by which the main question was ordered.

The motion was agreed to.

Mr. WOOD. I now withdraw the motion to refer to the Committee of Ways and Means and move to postpone the further consideration of the Senate resolution till Wednesday the 15th of May after the morning hour; and on that motion I call the previous question.

The previous question was seconded and the main question ordered.

Mr. GARFIELD. I call for the yeas and nays on the motion to postpone.

Mr. BEEBE. I desire to ask the Chair a question. If the motion be agreed to will it have the effect of making this a special order for the day named?

The SPEAKER. It is a privileged question and as such would come up on that day. To-day the question had in a measure a triple privilege, being a motion to reconsider, being a question of final adjournment, and also coming up as unfinished business.

Mr. BEEBE. As I understand it, it will be a matter of privilege on the day named for any gentleman then to call it up.

The SPEAKER. The Chair thinks it would be a matter of privilege for any gentleman to call it up, and if the House concurred it would come up.

Mr. O'NEILL. Would this come up irrespective of the morning hour as a privileged question?

The SPEAKER. The Chair thinks it would.

The yeas and nays were ordered on the motion to postpone.

The question was taken; and there were—yeas 129, nays 113, not voting 49; as follows:

YEAS—129.

Acklen,
Banning,
Boebe,

Bell,
Bicknell,
Blackburn,

Blount,
Boone,
Bouck,

Bragg,
Bright,
Cabell,

Caldwell, John W.
Caldwell, W. P.
Candler,
Chalmers,
Clark, Alvah A.
Clarke of Kentucky,
Clark of Missouri,
Cobb,
Collins,
Cook,
Covert,
Cox, Samuel S.
Cravens,
Crittenden,
Culbertson,
Davidson,
Dibrell,
Dickey,
Douglas,
Durham,
Eickhoff,
Elam,
Ellis,
Evins, John H.
Ewing,
Felton,
Finley,
Franklin,
Fuller,
Garth,

Gause,
Gibson,
Giddings,
Glover,
Goode,
Gunter,
Hardenbergh,
Harris, Henry R.
Harris, John T.
Hart,
Hartridge,
Hartzell,
Hatchell,
Henkle,
Henry,
Hewitt, Abram S.
Hewitt, G. W.
Herbert,
Hooker,
House,
Huntton,
Jones, Frank
Jones, James T.
Kenna,
Kimmel,
Knapp,
Knot,
Landers,
Ligon,
Lockwood,

Mackey,
Maish,
Manning,
Martin,
McKenzie,
McMahon,
Mills,
Money,
Morgan,
Morrison,
Morse,
Mudlow,
Muller,
Patterson, T. M.
Phelps,
Phillips,
Raine,
Rea,
Reagan,
Reilly,
Rice, Americus V.
Riddle,
Robbins,
Robertson,
Ross,
Saylor,
Scales,
Schleicher,
Shelley,
Singleton,

Slemmons,
Smith, William E.
Southard,
Sparks,
Springer,
Steele,
Stenger,
Stephens,
Swann,
Throckmorton,
Tucker,
Turner,
Vance,
Waddell,
Walker,
Walsh,
Whitthorne,
Wigginton,
Williams, A. S.
Williams, James
Williams, Jere N.
Willie, Albert S.
Willis, Benjamin A.
Wilson,
Wood,
Yeates,
Young.

NAYS—113.

Aldrich,
Bagley,
Baker, John H.
Ballou,
Banks,
Bayne,
Bisbee,
Blair,
Brewer,
Bridges,
Briggs,
Brown,
Bundy,
Burchard,
Cain,
Calkins,
Camp,
Campbell,
Cannon,
Cassell,
Chittenden,
Clafin,
Clark, Rush
Clymer,
Conger,
Cox, Jacob D.
Crape,
Cummings,
Cutler,

Danford,
Davis, Horace
Deering,
Denison,
Dunnell,
Dwight,
Eames,
Errett,
Evans, I. Newton
Evans, James L.
Fort,
Foster,
Freeman,
Frye,
Gardner,
Garfield,
Hale,
Harmer,
Harris, Benj. W.
Hayes,
Henderson,
Hiscock,
Hubbell,
Humphrey,
Hungerford,
Hunter,
Ittner,
James,
Jones, John S.

Joyce,
Keifer,
Keightley,
Kelley,
Ketcham,
Lapham,
Lathrop,
Lindsey,
Loring,
Luttrell,
Marsh,
McCook,
McKinley,
Metcalfe,
Mitchell,
Monroe,
Norcross,
Oliver,
O'Neill,
Overton,
Patterson, G. W.
Pollard,
Pound,
Powers,
Price,
Pugh,
Randolph,
Reed,

Rice, William W.
Robinson, G. D.
Robinson, M. S.
Sampson,
Sapp,
Sexton,
Shallenberger,
Simmons,
Smalls,
Smith, A. Herr
Stewart,
Stone, Joseph C.
Strait,
Thompson,
Thornburgh,
Townsend, Amos
Townsend, M. I.
Van Vorhes,
Watson,
Welch,
White, Michael D.
Williams, Andrew
Williams, Richard
Willits,
Wren,
Wright.

NOT VOTING—49.

Aiken,
Atkins,
Bacon,
Baker, William H.
Benedict,
Bland,
Bliss,
Boyd,
Brentano,
Brogden,
Buckner,
Burdick,
Butler,

Carlisle,
Cole,
Davis, Joseph J.
Dean,
Eden,
Ellsworth,
Forney,
Hamilton,
Hanna,
Harrison,
Haskell,
Hazelton,
Hendee,

Jorgensen,
Killingier,
Lynde,
Mayham,
McGowan,
Neal,
Peddie,
Potter,
Pridemore,
Quinn,
Roberts,
Ryan,
Starin,

Stone, John W.
Tipton,
Townsend, R. W.
Turner,
Veeder,
Wait,
Ward,
Warner,
White, Harry
Williams, C. G.

So the motion was agreed to.

During the call of the roll the following announcements were made:
Mr. LYND. I am paired with my colleague from Wisconsin, Mr. WILLIAMS. If he were here, I would vote "ay" and Mr. WILLIAMS would vote "no."

Mr. JONES, of New Hampshire. Mr. DEAN, of Massachusetts, is paired with Mr. PEDDIE, of New Jersey. If present, Mr. DEAN would vote "ay."

Mr. COVERT. My colleague from New York, Mr. VEEDER, is detained at home by very serious illness.

Mr. HOUSE. My colleague from Tennessee, Mr. ATKINS, is still detained at his room by sickness. If present, he would vote "ay."

Mr. FORNEY. I am paired with Mr. WAIT. If he were present, he would vote "no" and I would vote "ay."

Mr. WARD. I am paired with Mr. AIKEN, of South Carolina. If he were here, I should vote "no."

Mr. COLE. I am paired with my colleague from Missouri, Mr. BLAND. If he were here, he would vote "ay" and I would vote "no."

Mr. BAKER, of New York. I am paired with my colleague, Mr. QUINN. If he were present, I would vote "no."

Mr. HANNA. I am paired for to-day with my colleague from Indiana, Mr. HAMILTON, who is detained in his room by sickness. If he were present, he would vote "ay."

Mr. FORT. My colleague from Illinois, Mr. BOYD, is detained at his room by sickness. If he were here, he would vote "no."

Mr. STARIN. I am paired with my colleague from New York, Mr. VEEDER. If he were here, I would vote "no."

Mr. TURNER. I am paired with Mr. MCGOWAN, of Michigan. If he were present, I would vote "ay."

Mr. MCKENZIE. My colleague from Kentucky, Mr. CARLISLE, is detained at his room by sickness.

Mr. ALDRICH. My colleagues from Illinois, Mr. TIPTON, and Mr. TOWNSEND are paired. If present, Mr. TIPTON would vote "no" and Mr. TOWNSEND would vote "ay."

Mr. HARRISON. I am paired with my colleague from Illinois, Mr. BRENTANO. If he were here, I should vote "ay."

Mr. JORGENSEN. I desire to announce that I am paired with my colleague, Mr. PRIDEMORE.

Mr. PEDDIE. I am paired with Mr. DEAN. If he were here, he would vote "ay" and I should vote "no."

The result of the vote was then announced as above stated.

Mr. WOOD moved to reconsider the vote just taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. No. 1411) to prevent the sale of policy or lottery tickets in the District of Columbia; and

A bill (H. R. No. 1432) providing for the recording of deeds, mortgages, and other conveyances affecting real estate in the District of Columbia.

SCHÜTZEN-VEREIN.

The SPEAKER. The communication which will now be read was received by the Chair, and the Chair thinks it proper to lay it before the House.

The Clerk read as follows:

NEW YORK, April, 1878.

The third national shooting festival of the Sharpshooters Union of the United States of North America will be held at the park in Union Hill, New Jersey, from the 16th to the 24th of June next.

You and the honorable body over which you have the honor to preside, are most cordially invited to be present on that occasion. It is earnestly hoped that if your official duties will permit you to attend, that you will kindly signify to us your acceptance.

Most respectfully,

GEORGE AERY,

President.

J. H. BEHRENS,

Secretary.

Hon. SAMUEL J. RANDALL,
Speaker of the House of Representatives, Washington, D. C.

RATES OF DUTY.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, in response to the resolution of the House of the 13th instant, transmitting a detailed statement of the articles enumerated in the bill (H. R. No. 4106) to impose duties upon foreign imports, &c., showing in parallel columns the rates of duty proposed therein and the present rates of duty, and the quantities and values of the imported commodities which entered into consumption in the United States during the fiscal year ending June 30, 1877, and the amount of duties thereon at the rates enumerated in said bill; also, a statement showing what articles now dutiable are restored to the free list and what articles now on the free list are made dutiable by said bill; which was referred to the Committee of Ways and Means, and ordered to be printed.

CAPTAIN AND ASSISTANT SURVEYOR ARCHIBALD B. CAMPBELL.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a copy of the Judge-Advocate-General's report upon the case of Captain and Assistant Surgeon Archibald B. Campbell of the United States Army; which was referred to the Committee on Military Affairs.

JAMES G. WILLIAMS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting information relative to the claim of James G. Williams; which was referred to the Committee on War Claims.

SURVEY OF THE PUBLIC LANDS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, in answer to a resolution of the House calling for information relative to public surveys and transmitting the report of Professor Hayden upon the subject-matter of said resolution; which was referred to the Committee on Public Lands.

ISSUES OF ARMS TO THE TERRITORIES.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the report of the Chief of Ordnance on House resolution No. 153, providing for the issue of arms to the Territories; which was referred to the Committee on Military Affairs.

CLERICAL FORCE IN WAR DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the reports of the chiefs of bureaus in the War Department relative to the clerical force; which was referred to the Committee on Expenditures in the War Department.

IMPORTED WINES.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, inclosing a communication from the Chamber of Commerce of Bordeaux, France, on the subject of imposing an increase of duties on French wines imported into the United States; which was referred to the Committee of Ways and Means.

L. M. BAKER.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, in relation to the claim of L. M. Baker; which was referred to the Committee of Claims.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. WAIT, for ten days, on account of important business;
To Mr. SCALES, until the 1st of May.

WITHDRAWAL OF PAPERS.

On motion of Mr. THROCKMORTON, by unanimous consent, leave was granted to withdraw from the files of the House the papers in the case of Mrs. Mary E. Campbell, no adverse report having been made thereon.

INTERNAL-REVENUE LAWS.

Mr. BURCHARD, from the Committee of Ways and Means, reported a bill (H. R. No. 4414) to amend the laws relating to internal revenue; which was read a first and second time.

Mr. BURCHARD. I would like to have the bill made a special order in the House at some fixed date. I will state that it relates to the administration of the internal-revenue department, and not to the rates of taxation.

Mr. CONGER. Before the gentleman enters into any discussion upon this bill I desire to reserve all points of order.

Mr. BURCHARD. This bill substantially as reported was prepared by the Commissioner of Internal Revenue.

The SPEAKER. Will the gentleman from Illinois [Mr. BURCHARD] indicate some motion, that the question may be submitted to the House?

Mr. BURCHARD. I ask, then, unanimous consent that this bill be set for consideration in the House as in Committee of the Whole on the 1st day of May, not to antagonize pending orders or appropriation bills.

Mr. WHITTHORNE. Does this bill refer at all to reduction or increase of taxation?

Mr. BURCHARD. It does not, except some provisions which operate as a relief from pending assessments. It does not change rates of taxation.

Mr. WOOD. I suggest to my colleague on the same committee [Mr. BURCHARD] that he except such reports as may be made from the Committee of Ways and Means. There may be important reports within a few days.

Mr. BURCHARD. I have no objection, of course, to that exception. I ask that, subject to these exceptions, the bill be made a special order in the House as in Committee of the Whole for the 1st of May immediately after the reading of the Journal and from day to day until disposed of.

Mr. CONGER. After the morning hour.

Mr. BURCHARD. Subject to pending orders and to appropriation bills and to reports from the Committee of Ways and Means.

Mr. WOOD. Reports that may be made as well as reports already submitted.

The SPEAKER. If there be no objection, the order will be made. There was no objection, and it was ordered accordingly.

CUSTOMS OFFICERS IN ALASKA.

Mr. KNOTT. By direction of the Committee on the Judiciary I ask unanimous consent to have taken from the Speaker's table and put on its passage the bill (S. No. 1045) to provide for the administration of the oath of office to collectors and other officers of the customs in the district of Alaska.

There being no objection, the bill was taken from the Speaker's table and read a first and second time. It provides that until the formal organization of the Territory of Alaska, the oath of office required by law to be taken by a collector or other officer of the customs in Alaska, may be taken before the judge of any circuit or district courts of the United States.

The bill was ordered to a third reading, read the third time, and passed.

Mr. KNOTT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM P. BURWELL.

Mr. HARRIS, of Virginia. I ask unanimous consent that the petition and papers of William P. Burwell, of Virginia, now on the table of the House, be recommitted to the Committee of Claims. That committee has no objection to such action.

The SPEAKER. In what situation are the papers?

Mr. HARRIS, of Virginia. The case was reported adversely by the

Committee of Claims; but they are willing to rehear it. I therefore desire to have the papers recommitted.

There being no objection, the petition and papers were recommitted to the Committee of Claims.

RICHARD F. BRYAN.

On motion of Mr. CUMMINGS, by unanimous consent, the Committee of the Whole on the Private Calendar was discharged from the further consideration of the bill (H. R. No. 2882) for the relief of Richard F. Bryan, and the same was recommitted to the Committee of Claims, not to be brought back on a motion to reconsider.

HORACE K. DRAKE & CO.

Mr. STEPHENS, of Georgia, by unanimous consent, (by request,) introduced a bill (H. R. No. 4415) for the relief of Horace K. Drake & Co., or assigns; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

ORDER OF BUSINESS.

Mr. BRIGHT and others called for the regular order.

The SPEAKER. The morning hour now begins, at eighteen minutes past one o'clock; and the committees will be called for reports of a private nature. The call rests with the Committee on the Militia.

Mr. MILLS. Would it be in order to move that the House now resolve itself into Committee of the Whole on the Private Calendar?

The SPEAKER. It would not be.

DAVID B. M'COMB.

Mr. WHITTHORNE, from the Committee on Naval Affairs, reported back adversely the bill (H. R. No. 913) to authorize a change of date in the commission of Chief Engineer David B. McComb, United States Navy; which was laid on the table, and the accompanying report ordered to be printed.

JAMES WEIR GRAYDON.

Mr. WHITTHORNE, from the same committee, reported back adversely the bill (H. R. No. 1252) to authorize the President of the United States to place the name of James Weir Graydon, United States Navy, on the lieutenants' list in such place as to make his date and rank correspond with the date of his enlistment in the volunteer Army of the United States; which was laid on the table, and the accompanying report ordered to be printed.

ALBEMARLE AND CHESAPEAKE CANAL COMPANY.

Mr. WILLIS, of New York, from the same committee, reported back with a favorable recommendation the bill (S. No. 18) for the relief of the Albemarle and Chesapeake Canal Company; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

T. B. M. MASON.

Mr. WILLIS, of New York, also, from the same committee, reported back a joint resolution (H. R. No. 109) authorizing Lieutenant T. B. M. Mason, United States Navy, to accept a medal conferred by the King of Italy for extinguishing a fire on a powder-ship.

The joint resolution, which was read, authorizes Lieutenant Theodor B. M. Mason, of the United States Navy, to accept a silver medal, tendered him by the King of Italy, in appreciation of services rendered by him to the Italian bark Delaide, in rescuing said vessel from fire in the harbor of Callao, Peru, June 25, 1874.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILLIS moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LEGAL REPRESENTATIVES OF CAPTAIN J. G. TODD.

Mr. KIMMEL, from the Committee on Naval Affairs, reported, as a substitute for House bill No. 1127, a bill (H. R. No. 4416) referring the claim of the legal representatives of the late Captain J. G. Todd, of Texas, to the Court of Claims; which was read a first and second time.

The bill, which was read, refers the claim of the legal representatives of the late Captain J. G. Todd, of Texas, to the Court of Claims to hear and determine the same to judgment with right of appeal as in other cases, provided that said suit be instituted within twelve months from the passage of this act.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KIMMEL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

U. U. DOTY.

Mr. HARRIS, of Massachusetts, from the Committee on Naval Affairs, reported adversely on the petition of U. U. Doty, asking compensation for the use by the United States of his invention in torpedoes and torpedo machinery; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MRS. C. VAN CORT.

Mr. HARRIS, of Massachusetts, also, from the same committee,

reported adversely on the petition of Mrs. C. Van Cort, asking compensation for use by the United States of her invention in torpedoes; which was referred to the Committee of the Whole on the state of the Union, and the accompanying report ordered to be printed.

SECOR & CO., AND PERRINE, SECOR & CO.

Mr. HANNA, from the Committee on Naval Affairs, reported back adversely the petition and statement of Secor & Co., and Perrine, Secor & Co.; which were laid on the table, and the accompanying report ordered to be printed.

Mr. HANNA moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATHANIEL M'KAY.

Mr. HANNA also, from the same committee, reported back adversely the bill (H. R. No. 1969) for the relief of Nathaniel McKay; which was laid on the table, and the accompanying report ordered to be printed.

Mr. HANNA moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REANEY, SON & ARCHBOLD.

Mr. HANNA also, from the same committee, reported back adversely the bill (H. R. No. 3137) for the relief of Reaney, Son & Archbold; which was laid on the table, and the accompanying report ordered to be printed.

Mr. HANNA moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DONALD M'KAY.

Mr. HANNA also, from the same committee, reported back adversely a bill (H. R. No. 3128) for the relief of Donald McKay; which was laid on the table, and the accompanying report ordered to be printed.

Mr. HANNA moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

IRON-CLAD CONTRACTORS.

Mr. HANNA also, from the same committee, reported back adversely a bill (H. R. No. 1264) for the relief of certain contractors for the construction of vessels of war and steam-machinery; which was laid on the table, and the accompanying report ordered to be printed.

Mr. HANNA moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMANDER BUSHROD B. TAYLOR, ETC.

Mr. HANNA also, from the same committee, reported a joint resolution (H. R. No. 162) for the relief of certain officers of the Navy; which was read a first and second time.

Mr. HANNA. I am directed by a majority of the Committee on Naval Affairs to report this joint resolution, and as the accompanying report has not yet been printed, and action is desired this morning, perhaps I had better state the points of the report.

The SPEAKER. The joint resolution will first be read.

The Clerk read as follows:

Resolved, &c., That the Secretary of the Navy is hereby authorized to organize a board of three officers, not below the grade of rear-admiral, who shall examine into the cases of Commander Bushrod B. Taylor, and such other officers of the Navy as did not have opportunity to appear in person before the board created by virtue of joint resolution of July 1, 1870, as may deem themselves unjustly passed over by the promotions made in conformity with the act of Congress approved July 25, 1866, and such officers shall have the right to appear in person and present to such board their cause of grievance. The board so organized shall report their conclusions to the Secretary of the Navy, who shall report the same to Congress.

Mr. HANNA. The members of the House will bear in mind that in 1866 Congress passed an act defining the number of officers in the Navy and fixing their grade. One provision of that act made it the duty of the Secretary in appointing the officers to have due regard for their battle records. In pursuance of that statute the then Secretary named the persons whom he constituted the various naval officers. There were divers complaints made by reason of the action of the Secretary of the Navy. In 1870 to remedy these complaints Congress passed a resolution creating a board of three naval officers to examine into all the cases where there were complaints and to report to Congress whether or not there was just cause of grievance. That board convened and examined the various cases presented, and as to some of them reported that the officers complaining had been unjustly passed over.

Commander Taylor at the time of the passage of this resolution and at the time that board convened belonged to the Asiatic squadron. A majority of the naval commanders are of opinion that it was the right of these officers to appear in person before this board and present their case. Commander Taylor did not arrive in the United States until after that board had practically adjourned. He obtained leave of absence for the purpose of appearing in person before the board. Your committee did not undertake to say that the action of that board would have been different if he had thus appeared; but your committee are of the opinion, that is, the majority of the committee are of opinion, that it was his legal right to appear in person and present his cause of grievance.

Now, the resolution which the majority of the committee directed me to report is simply this: that as regards such officers as desired to appear in person before the board and who by reason of no fault of theirs were prevented from appearing, a new board for the relief of such cases shall be convened. There are a few other cases besides Commander Taylor's in this condition, at least two others, and the object of this resolution is to create a new board composed of officers of the same rank who may afford relief in the cases of officers who did not have an opportunity to appear in person and present their case. That is the real object and purpose of the resolution and a majority of the committee deem that but an act of justice in the premises.

The SPEAKER. What action does the gentleman desire on the resolution?

Mr. HANNA. I wish to ask the previous question upon its passage after the gentleman from Tennessee [Mr. WHITTHORNE] has been heard.

Mr. WHITTHORNE. I regret to state that I was not able to concur with the majority of the committee in making this report. My observation has been and is that nothing has occasioned more heart-burning and discord in the Navy than the act to which reference has been made. Probably at the time of its passage it may have been called for in the interest of meritorious officers. Yet it has been from the date of its passage down to the present moment a subject of complaint among naval officers, and to-day the men who were distinguished by the administration of Mr. Lincoln and who were distinguished by succeeding administrations for meritorious and gallant services rendered during the recent war are in a position, if this resolution passes, to have that distinction disturbed by the action of a reviewing board.

I stand here to-day, Mr. Speaker, ready to render tribute to the men who performed gallant and distinguished service and who have been noted and marked and promoted for that service. I do not like to see the distinction they have received disturbed. Having made this statement I shall not further antagonize the action of my committee.

Mr. HANNA. I desire to make but one suggestion. There is nothing, either in the object or the purpose or in what will be the practical effect of the adoption of this resolution, I think, to interfere with the rank of other officers. It simply enables this gallant officer to have the same right meted out to him that was meted out to others; and I think this fair and right.

The joint resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. HANNA moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMANDER EDWARD B. M'CREA.

Mr. HANNA. I am also instructed by the majority of the Committee on Naval Affairs to report back the memorial of Commander Edward B. M'Crea, United States Navy, similar to the one just reported upon, and to move that it be laid on the table, and the accompanying report be printed.

The motion was agreed to.

COMMANDER HENRY ERBEN.

Mr. HANNA. I am also instructed by the majority of the Committee on Naval Affairs to make a favorable report on the memorial of Henry Erben, commander, United States Navy, stating that in his case the provisions of joint resolution No. 93, approved July 1, 1870, have not been complied with and asking relief in the premises; and I move that it be laid on the table, and the report printed.

Mr. WHITTHORNE. The report is a favorable one, and states that the case is covered like the foregoing by the resolution which has just been adopted.

The memorial was laid on the table, and the accompanying report ordered to be printed.

ELIAS D. BRUNER.

Mr. MORSE, from the Committee on Naval Affairs, reported back the bill (H. R. No. 1248) for the relief of Elias D. Bruner; and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on Invalid Pensions, and that the accompanying report be printed.

The motion was agreed to.

QUARANTINE HOSPITAL, HAMPTON ROADS, VIRGINIA.

Mr. MORSE also, from the same committee, reported a bill (H. R. No. 4417) to provide for the establishment of a quarantine hospital in Hampton Roads, Virginia; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

SAMUEL T. ANDERSON.

Mr. JONES, of New Hampshire, from the Committee on Naval Affairs, reported back, with a recommendation that it do not pass, the bill (H. R. No. 145) for the relief of the administrator of Samuel T. Anderson, of Baltimore; which was laid on the table, and the report ordered to be printed.

Mr. JONES, of New Hampshire, moved to reconsider the vote by

which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

J. D. GRAHAM.

Mr. JONES, of New Hampshire, also, from the same committee, reported back, with a recommendation that it do not pass, the bill (H. R. No. 1404) for the relief of J. D. Graham; which was laid upon the table, and the report ordered to be printed.

Mr. JONES, of New Hampshire, moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LIEUTENANT-COLONEL WARD MARSTON.

Mr. JONES, of New Hampshire, also from the same committee, reported adversely on the petition of Lieutenant-Colonel Ward Marston, of the United States Marine Corps, to be promoted to the rank of colonel and to be retired with the pay of that rank; which was laid on the table, and the report ordered to be printed.

Mr. JONES, of New Hampshire, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN D. M'GILL.

Mr. HARMER, from the Committee on Naval Affairs, reported a bill (H. R. No. 4418) for the relief of John D. McGill; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

PETER MEAGHER.

Mr. HARMER also, from the same committee, reported a bill (H. R. No. 4419) for the relief of Peter Meagher; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

ISABELLA R. M'GUNNIGLE.

Mr. CRITTENDEN, from the Committee on Naval Affairs, reported back, with a recommendation that it do not pass, the bill (H. R. No. 2211) for the relief of Isabella R. McGunnigle; which was laid on the table, and the report ordered to be printed.

Mr. CRITTENDEN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADVERSE REPORT.

Mr. CRITTENDEN also, from the same committee, reported back, with a recommendation that it do not pass, the joint resolution (H. R. No. 86) for the relief of certain officers of the Navy; which was laid on the table, and the report ordered to be printed.

Mr. CRITTENDEN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THORNTON A. JENKINS.

Mr. CRITTENDEN also, from the same committee, reported back, with a recommendation that it do not pass, the bill (H. R. No. 2315) for the relief of Thornton A. Jenkins; which was laid on the table, and the report ordered to be printed.

Mr. CRITTENDEN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CRITTENDEN also, from the same committee, reported back, with a recommendation that it do not pass, the bill (H. R. No. 2314) for the relief of Thornton A. Jenkins, a rear-admiral in the United States Navy, on the retired list; which was laid on the table, and the report ordered to be printed.

Mr. CRITTENDEN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

J. ODELL.

Mr. CRITTENDEN also, from the same committee, reported adversely upon the petition of J. Odell, a "pay clerk" in the United States Navy, asking to be retired by having extended to him the provisions of the acts of Congress approved December 21, 1861, and March 3, 1873; which was laid on the table, and the report ordered to be printed.

Mr. CRITTENDEN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HORACE E. MULAN.

Mr. CRITTENDEN also, from the same committee, reported, as a substitute for House bill No. 3254, a bill (H. R. No. 4420) to restore Horace E. Mulan to his original position on the active list as a lieutenant-commander in the Navy of the United States; which was read a first and second time.

Mr. CRITTENDEN. I ask that the bill be considered at this time. The bill was read. It provides that the action of the board by which Lieutenant-Commander Horace E. Mulan was examined for promotion be set aside and declared null and void, and that he be

restored to his original position on the active list as a lieutenant-commander; and it authorizes and directs the President of the United States to organize a naval examining board for the examination of Horace E. Mulan, late a lieutenant-commander in the United States Navy, and if said Mulan should establish to the satisfaction of said board his mental, moral, and professional fitness to perform all his duties at sea, then the President is authorized to nominate, and by and with the consent of the Senate to appoint, the said Horace E. Mulan a commander on the active list of the United States Navy next on the list after Fredric Rodgers, and to take rank from the date on which he was entitled to such promotion.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CRITTENDEN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ASSISTANT COMMISSIONER-GENERAL, FRENCH EXPOSITION.

Mr. MONROE. The Committee on Foreign Affairs have instructed me to report a joint resolution, which I ask may be read.

The Clerk read as follows:

Resolved by the Senate and House of Representatives, etc., That the President in appointing an assistant commissioner-general to the international industrial exposition to be held in Paris in 1878, with the powers and duties prescribed by the second section of the joint resolution of Congress in relation to said exposition, approved December 15, 1877, may select such assistant commissioner-general from the country at large, and not be restricted in such selection to States from which no one of the additional commissioners provided for in said resolution is appointed.

The SPEAKER. This is a public resolution. The gentleman from Ohio asks unanimous consent to report it at the present time.

Mr. MONROE. I am aware that this is not strictly a private measure, although it relates to the appointment of a single officer. I beg permission to state in one word the object of the provision, after which I think no objection will be offered.

Mr. BRAGG. I object.

Mr. MONROE. My explanation will occupy but a moment, and then I think there will be no objection.

The SPEAKER. Does the gentleman from Wisconsin [Mr. BRAGG] withdraw his objection so as to allow an explanation?

Mr. BRAGG. No, sir.

Mr. MONROE. I have here a letter from the Secretary of State, which explains the whole matter. I would like to have it read.

The SPEAKER. The gentleman from Wisconsin objects absolutely to the reporting of the joint resolution, it being public in its nature.

REBECCA AND AUGUSTA MILLER.

Mr. MACKEY, from the Committee on Revolutionary Pensions, reported back, with a favorable recommendation, the bill (S. No. 870) granting a pension to Rebecca and Augusta Miller, daughters of Brigadier-General James Miller, of the war of 1812.

The bill was read. It authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Rebecca and Augusta Miller, daughters of James Miller, a brigadier-general in the war of 1812, and to pay them a pension of \$15 each per month.

Mr. MACKEY. I call for the reading of the report, which explains the character of this claim.

The Clerk read as follows:

The Committee on Revolutionary Pensions, to which was referred Senate bill No. 870, granting a pension to Rebecca and Augusta Miller, daughters of Brigadier-General James Miller, of the war of 1812, having had the same under consideration, respectfully submit the following report:

It is of evidence that the father of the petitioners was appointed by President Jefferson a major of the Fourth Regiment United States Infantry, on the 3d of March, 1809, the same taking rank from the 8th day of July, 1808. He was an active and efficient officer during the Indian wars, and during the war of 1812 was one of the bravest and most gallant officers in the military service of the Government. At the battles of Brownstown, Fort George, Fort Erie, and at Niagara, where he made one of the most desperate charges on record, he won distinguished honors. After the battle of Niagara he was promoted to the rank of a brigadier-general, and on the 3d day of November, 1814, Congress awarded him a gold medal and the unanimous thanks of that body.

The State of New York presented him a sword, which bears the following inscription: "Presented by His Excellency Daniel D. Tompkins, governor of the State of New York, pursuant to resolutions of the senate and assembly of said State, to Brigadier-General James Miller, as a testimony of gratitude for his services and admiration of his gallant conduct."

Governor Tompkins in presenting this testimonial said: "Before the late war and in its early stages it was your lot to contend with the merciless savage foe. Your activity, enterprise, and undaunted courage are as conspicuous in that service as in the more recent scenes of civilized warfare in which you bore so memorable a part. The charges at Brownstown and Bridge-water and the assault on the enemy's lines at Erie will bear comparison with the most splendid achievements of history, as instances not only of the most consummate skill, but of the most sublime and elevated personal courage. These deeds have crowned you and your companions with unfading laurels, have shed a luster upon the American Army, and added as well to the integrity and strength of the Union as to our national influence and glory abroad."

It is also in evidence that the petitioners are now in a state of destitution and without support of a character to provide means for their daily wants; that they inherited but little property from their father; that they are now residing on a farm in Temple, New Hampshire, which is in such a dilapidated condition as to take away almost their entire support. The present governor of the State of New Hampshire, His Excellency R. F. Prescott, certifies to these facts, and states further in their behalf that they have delayed to the last moment to make any request for a pension, and that the greatest necessity now compels them. The following is a quotation from his petition in their behalf:

"They feel that their claims upon the liberality of the country are well founded."

Their father's services in the war of 1812 were faithful, arduous, and unremitting. He was always at his post of duty, and he was never sufficiently remunerated for the great dangers and hardships that he endured. We most sincerely recommend to Congress the careful consideration of the request of these ladies. It is in fact but paying a debt long since contracted, but nevertheless binding on a nation always ready to reward all valuable services and proud of her sons when they perform such deeds of gallantry and heroism as were performed by the father of these petitioners."

This petition is also endorsed by Hon. E. A. Straw, James A. Weston, P. C. Cheney, Justin R. Smyth, J. Goodwin, and Walter Harriman, all ex-governors of the State of New Hampshire; also by L. E. Sargent, chief justice of the supreme court of that State; Daniel Clark, late United States Senator; E. N. Bell, late Member of Congress; Henry K. Oliver, mayor of Salem, Massachusetts; Hon. John L. Chamberlain, of Maine, and 7 other prominent citizens of the State of New Hampshire.

In addition to the foregoing, His Excellency, Hon. L. Robinson, governor of the State of New York, petitions in the most earnest and impressive terms the Congress of the United States to grant the claimants the pensions prayed for, relating the heroic services of their father and their present destitute condition.

The petitioners, Rebecca and Augusta Miller, state that they nursed and attended their father all through the years of his decrepitude and decay, and that now, aged and afflicted, (one of them with chronic rheumatism,) they are in such disabled condition as to be unable by labor to sustain themselves. They therefore, in consideration of the eminent services of their father, pray that a pension may be granted them.

The committee, recognizing the distinguished services of Brigadier-General James Miller, the father of the petitioners, and taking into consideration the fact that he never while living received from the Government a pension or other remuneration for those services, other than the salary attached to his position, and likewise the present destitute condition of his daughters, believe that a pension should be granted them, and therefore report favorably upon such bill, No. 870, and return the same to the House with the recommendation that it pass.

The bill was ordered to a third reading, read the third time, and passed.

Mr. MACKEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM BLANCETT.

Mr. MACKEY also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 1616) granting a pension to William Blancett, of Patrick County, Virginia, a soldier of the war of 1812; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

DAVID MITCHELL AND MARY FULLER.

Mr. MACKEY also, from the same committee, reported back adversely the bill (H. R. No. 2293) to authorize the Secretary of the Interior to place upon the pension-roll the names of David Mitchell and Mary Fuller; which was laid on the table, and the accompanying report ordered to be printed.

Mr. MACKEY moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DANIEL A. GIBBEY.

Mr. NORCROSS. The Committee on Revolutionary Pensions and the War of 1812, have directed me to move that they be discharged from the further consideration of the bill (H. R. No. 3322) granting a pension to Daniel A. Gibbey, a soldier of the war of 1812, and that the same be referred to the Committee on Invalid Pensions.

The motion was agreed to.

LAURA SEAMAN.

Mr. KIMMEL, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 705) granting a pension to Laura Seaman, widow of Elric Seaman, a soldier in the war of 1812; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ADVERSE REPORTS.

Mr. KIMMEL, from the same committee, reported back adversely bills of the following titles; which were laid on the table, and the accompanying reports ordered to be printed:

A bill (H. R. No. 3052) granting a pension to Jane Moore, widow of Stephen H. Moore, captain of First Baltimore Volunteers in the war of 1812; and

A bill (H. R. No. 1344) granting a pension to Bright Byrd, a soldier in the North Carolina Volunteers in the war of 1812.

Mr. KIMMEL moved to reconsider the votes by which the bills were laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHANGE OF REFERENCE.

On motion of Mr. RICE, of Ohio, the Committee on Invalid Pensions was discharged from the further consideration of the bill (H. R. No. 4312) granting pensions to teamsters and Indians who were in the service of the United States in the war of 1812, and to widows who were remarried; and the same was referred to the Committee on Revolutionary Pensions.

MARTHA J. ROBINSON.

Mr. RICE, of Ohio, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. No. 471) granting a pension to Martha J. Robinson, widow of James H. Robinson; which was

referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

OLIVER H. IRONS.

Mr. RICE, of Ohio, also, from the same committee, reported back favorably the bill (H. R. No. 636) granting a pension to Oliver H. Irons, late sergeant Company D, Twenty-third Regiment Michigan Volunteers; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

AUGUST MELLON.

Mr. RICE, of Ohio, also, from the same committee, reported as a substitute for House bill No. 990 a bill (H. R. No. 4421) granting a pension to August Mellon; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. RICE, of Ohio, also, from the same committee, reported back adversely in the following cases; and the same were laid upon the table, and the accompanying report ordered to be printed:

A bill (H. R. No. 991) granting a pension to William Buckley, private Company C, Fiftieth Ohio Volunteers; and

A bill (H. R. No. 1362) granting an increase of pension to William D. Coughlin.

Mr. RICE, of Ohio, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEORGE FRITZ.

Mr. HEWITT, of Alabama, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. No. 3440) granting a pension to George Fritz, First Regiment United States Dragoons; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MARIA L. MAXWELL.

Mr. HEWITT, of Alabama, also, from the same committee, reported back favorably the bill (H. R. No. 2289) granting a pension to Maria L. Maxwell, widow of William C. Maxwell, Company D, Twelfth Ohio Volunteers; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JOHN HALEY.

Mr. HEWITT, of Alabama, also, from the same committee, reported back favorably a bill (H. R. No. 1959) granting a pension to John Haley; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MARCELLUS WILSON.

Mr. HEWITT, of Alabama, also, from the same committee, reported back a bill (H. R. No. 3605) restoring the name of Marcellus Wilson, of the Regiment of Mounted Riflemen in the Mexican war, to the pension-roll, with an amendment; which were referred to the Committee of the Whole on the Private Calendar, and, with the accompanying favorable report, ordered to be printed.

PENSION FOR LIEUTENANT-COMMANDERS, UNITED STATES NAVY.

Mr. HEWITT, of Alabama, also, from the same committee, reported, as a substitute for House bill No. 2721, a bill (H. R. No. 4422) to provide a pension for lieutenant-commanders in the United States Navy; which was read a first and second time.

Mr. HEWITT, of Alabama. I ask for action on this bill at the present time, and when it is understood I do not think there will be a single objection to it. The only amendment proposed to section 4695, title 57, of the Revised Statutes of the United States is to insert after the words "lieutenant commanding" the words "lieutenant-commander." There was no such rank as lieutenant-commander at the time this section was enacted into law. Shortly after the passage of the present pension law that rank was created, and this bill simply provides for the insertion of the words "lieutenant-commander" after the words "lieutenant commanding" in that law.

The bill, which was read, provides that section 4695, title 57, of the Revised Statutes be amended so as to read as follows:

SEC. 4695. The pension for total disability shall be as follows, namely: For lieutenant-colonel and all officers of higher rank in the military service and in the Marine Corps, and for captain, and all officers of higher rank, commander, surgeon, paymaster, and chief engineer, respectively ranking with commander by law, lieutenant-commanding, lieutenant-commander, and master commanding, in the naval service, \$30 per month; for major in the military service and in the Marine Corps, and lieutenant, surgeon, paymaster, and chief engineer, respectively ranking with lieutenant by law, and passed assistant surgeon in the naval service, \$25 per month; for captain in the military service and in the Marine Corps, chaplain in the Army, and provost-marshal, professor of mathematics, master, assistant surgeon, assistant paymaster, and chaplain in the naval service, \$20 per month; for first lieutenant in the military service and in the Marine Corps, acting assistant or contract surgeon, and deputy provost-marshal, \$17 per month; for second lieutenant in the military service and in the Marine Corps, first assistant engineer, ensign, and pilot in the naval service, and enrolling-officer, \$15 per month; for cadet-midshipman, passed midshipman, midshipman, clerk of admirals and paymasters and of other officers commanding vessels, second and third assistant engineer, master's mate, and all warrant-officers in the naval service, \$10 per month; and for all other persons whose rank or office is not mentioned in this section, \$8 per month; and the masters, pilots, engineers, sailors, and crews upon the gun-boats and war vessels shall be entitled to receive the pension allowed herein to those of like rank in the naval service.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HEWITT, of Alabama, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DANIEL ASHBY.

Mr. STEELE. I ask unanimous consent to make a report from the Committee on Revolutionary Pensions. I happened not to be in the hall when the committee was called.

There was no objection.

Mr. STEELE, from the Committee on Revolutionary Pensions, reported back the bill (H. R. No. 2455) granting a pension to Daniel Ashby; and the same was laid upon the table, and the accompanying report ordered to be printed.

Mr. STEELE moved to reconsider the vote by which the bill was laid upon the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BRIGADIER-GENERAL JAMES SHIELDS.

Mr. WALSH, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, the bill (S. No. 931) granting a pension to James Shields.

The bill was read. It authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of James Shields, late a brigadier-general of the United States Army, at the rate of \$50 per month, said pension to be in lieu of that which he now receives.

Mr. MILLS. Is it in order to move an amendment to that bill?

The SPEAKER. It is.

Mr. MILLS. Then I move to strike out "\$50" and insert in lieu thereof "\$100."

Mr. DUNNELL. I object to the passage of the bill now.

The SPEAKER. On what ground?

Mr. DUNNELL. I make the point that it should go to the Committee of the Whole on the Private Calendar.

Mr. RICE, of Ohio. I submit that the objection of the gentleman comes too late.

The SPEAKER. The bill was before the House; and being before the House, it was open to amendment, and an amendment had been submitted. The Chair thinks the point is made too late.

The amendment of Mr. MILLS was adopted.

Mr. COX, of Ohio. I move to amend by changing the word "Army" to "Volunteers;" so that it will read "late a brigadier-general of the United States Volunteers."

Mr. WALSH. The volunteers were the Army.

Mr. RICE, of Ohio. There is no objection to the amendment of the gentleman; but I submit that the United States Volunteers when they were acting as soldiers were the United States Army.

Mr. COX, of Ohio. My colleague and myself cannot differ about the fact. The technical fact is fixed in our legislation, and whether he likes it or not I think the fact should be recognized.

Mr. RICE, of Ohio. We make no objection to the amendment.

The amendment was adopted.

The bill, as amended, was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. WALSH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JACOB F. RUTH.

Mr. WALSH, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, the bill (H. R. No. 3059) granting a pension to Jacob F. Ruth, late private Company I, Fifth Regiment Pennsylvania Heavy Artillery Volunteers; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MINOR HEIRS OF WILLIAM S. PRICE.

Mr. WALSH also, from the same committee, reported, as a substitute for House bill No. 1435, a bill (H. R. No. 4423) granting a pension to the minor heirs of William S. Price, deceased; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN M'INTYRE.

Mr. MACKEY, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, the bill (H. R. No. 1946) granting a pension to John McIntyre; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

PENSIONS TO SOLDIERS WHO HAVE LOST ONE HAND AND ONE FOOT.

Mr. MACKEY. I am instructed by the Committee on Invalid Pensions to report back, with an amendment in the nature of a substitute, the bill (H. R. No. 3081) amending chapter 73 of the act approved February 28, 1877, relating to the pensions of soldiers who have lost one hand and one foot.

The SPEAKER. This is a public bill. The gentleman from Pennsylvania asks unanimous consent that he may report it at this time.

Mr. SINNICKSON. I must object, as there are other private bills to be reported.

SYVERT A. ANDERSON.

Mr. MACKEY also, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, the bill (H. R. No. 734) granting a pension to Syvert A. Anderson; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

DERRICK F. HAMLINK.

Mr. SINNICKSON, from the Committee on Invalid Pensions, reported back, as a substitute for House bill No. 3305, a bill (H. R. No. 4424) granting a pension to Derrick F. Hamlink; which was read a first and second time, and referred to the Committee of the Whole on the Private Calendar.

HENRY W. HIGLEY.

Mr. SINNICKSON also, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, the bill (H. R. No. 2351) granting a pension to Henry W. Higley, of Lena, Illinois; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ORDER OF BUSINESS.

Mr. BRIGHT. Has the morning hour expired?

The SPEAKER. It has.

Mr. BRIGHT. I move that the House resolve itself into Committee of the Whole on the Private Calendar.

Mr. GOODE. Pending that motion I desire to submit a proposition that all general debate upon the pending bill, the bill in reference to the College of William and Mary, in Virginia, be limited to two hours.

Mr. CONGER. I suggest to the gentleman that that order had better not be made just now. The committee can rise and get an order from the House closing debate whenever it deems it necessary. There are several gentlemen who still desire to speak.

The SPEAKER. The motion of the gentleman from Virginia is in order.

Mr. CONGER. I know it is, but I hope he will not make that motion now.

Mr. GOODE. I desire to say that one day has already been occupied in the discussion of this bill.

Mr. CONGER. The gentleman has occupied his time.

Mr. GOODE. Yes, and other gentlemen have occupied theirs. I propose that there shall be fair play in the matter, and that an equal division be made between the opponents and the friends of the measure.

Mr. CONGER. The committee reporting the bill have consumed a large portion of the time, and, if the motion now made by the gentleman from Virginia be agreed to, no opportunity will be given to other gentlemen who desire to speak.

Mr. GOODE. There are gentlemen on the committee who I have no doubt will give part of their time to the gentleman from Michigan.

Mr. CONGER. But they have already divided that amount of time.

Mr. GOODE. Well, I do not want the measure discussed here so that it will never be voted upon. We have had one day's debate already, and it seems to me that a body like this after two days' discussion might be presumed to know something of the merits of the bill. The gentleman from Michigan has had ample opportunity heretofore to ventilate other questions; and I think we might vote upon this bill, even if unfortunately he should be cut off.

Mr. CONGER. I submit that the gentleman had better not press his attempt to shut off debate on this proposition.

Mr. MILLS. It is pressed by other gentlemen who desire to see some other claims on the Private Calendar acted on. We cannot afford to allow the whole time given to the Private Calendar to be engrossed by a single bill.

Mr. CONGER. I wish I knew that that is the objection to further debate upon this bill.

Mr. GOODE. I have been appealed to by gentlemen on this side to limit debate to one hour; but I thought that two hours ought to be given.

Mr. REED. The whole truth about this thing had better be known.

The SPEAKER. The question is on the motion of the gentleman from Virginia, [Mr. GOODE,] that when the House next resolves itself into Committee of the Whole on the Private Calendar all debate upon the unfinished business be closed in two hours.

Mr. HANNA. I move to amend by inserting "three hours."

Mr. BRIGHT. The time to be divided equally.

Mr. WHITE, of Pennsylvania. I move to amend the amendment by striking out "three hours" and inserting "four hours."

Mr. CONGER. I supposed that I had the floor for the next hour. I had, according to the rules, but a gentleman of the committee claims that he had the floor for the next hour, and it would be unbecoming in me to claim the floor as against a gentleman of the committee, especially as I understand he is upon the same side on which I desire to occupy the attention of the House. Now if only two hours be given I cannot have the time I desire for myself and some others to whom I have promised a portion of an hour. I desire one hour that I may give a part of it to some gentlemen who have no other opportunity. Under the motion for two hours, if the time be equally divided, I should have no time at all.

Mr. GOODE. A number of gentlemen on this side of the Chamber

desire also to speak, and if this arrangement is entered into it is proposed that one hour be divided among four or five gentlemen. I submit that some arrangement of the same kind might be made on the other side.

Mr. CONGER. It cannot be arranged, because the gentleman who is entitled to the next hour can have it in spite of any arrangement that the House may make.

Mr. GOODE. I am willing, if it will accommodate gentlemen on the other side, to say "two hours and a half." It seems to me that is ample.

Mr. CONGER. I desire half an hour and perhaps more myself, and I trust that the House will be willing to give me my hour.

Mr. GOODE. Well, if we cannot agree we must take the sense of the House.

Mr. WHITE, of Pennsylvania. I have submitted a motion to allow four hours for this debate. I desire to speak upon this measure, which is of some importance, and I am to have a portion of the time of one of the members of the committee. I submit that if we do not have four hours gentlemen who wish to speak cannot be accommodated. I trust that the friends of the bill will agree to give four hours. We can get through to-day. I am willing to stay here until we get through.

The question being taken on the motion of Mr. WHITE, of Pennsylvania, to amend the amendment of Mr. HANNA by fixing four hours instead of three, the motion was not agreed to.

Mr. CONGER. I ask that the House consent that three hours be given for this discussion, to be equally divided between the friends and the opponents of the measure.

The SPEAKER. That, as the Chair understands, is the pending motion.

The question being taken on the motion, it was not agreed to; there being—ayes 60, noes 80.

Mr. CONGER. The friends of this measure have had two hours for discussion and this side has had but one.

The SPEAKER. Debate is not in order. The question is on the motion of the gentleman from Virginia [Mr. GOODE] to limit debate in Committee of the Whole on the pending bill to two hours.

The question being put,

The SPEAKER said: The ayes seem to have it.

Mr. CONGER. I call for the yeas and nays on this proposition. I would like to see whether this measure is to be forced through without proper discussion.

The yeas and nays were ordered.

Mr. GOODE. Will gentlemen on the other side accept an arrangement to allow two hours and a half for debate? [Cries of "Regular order!"]

Mr. CONGER. Give us two hours and your side take one; that will make the time even, which is what we have asked.

The question was taken; and there were—yeas 107, nays 94, not voting 90; as follows:

YEAS—107.

Acklen,	Ewing,	Knapp,	Shelley,
Bell,	Felton,	Landers,	Singleton,
Bicknell,	Finley,	Ligon,	Slemmons,
Blackburn,	Fort,	Lynde,	Smith, William E.
Boone,	Franklin,	Maish,	Southard,
Bridges,	Frye,	Manning,	Sparks,
Bright,	Garth,	Martin,	Steele,
Calwell,	Gibson,	McKenzie,	Stenger,
Caldwell, John W.	Giddings,	McMahon,	Stone, Joseph C.
Chalmers,	Goode,	Metcalfe,	Throckmorton,
Clark, Alvah A.	Gunter,	Mills,	Tucker,
Clark of Missouri,	Hardenbergh,	Morgan,	Turner,
Clarke of Kentucky,	Harris, Henry R.	Morrison,	Turney,
Cobb,	Harris, John T.	Morse,	Vance,
Collins,	Hartridge,	Muldrov,	Walker,
Cook,	Hartzell,	Muller,	Walsh,
Covett,	Hatcher,	Overton,	Whitthorne,
Cravens,	Hazelton,	Patterson, T. M.	Wigginton,
Crittenden,	Hewitt, G. W.	Rea,	Williams, A. S.
Culbertson,	Hooker,	Rengan,	Williams, Jero N.
Dibrell,	House,	Reilly,	Willis, Albert S.
Dickey,	Jones, Frank	Rice, Americus V.	Willis, Benj. A.
Douglas,	Jones, James T.	Riddle,	Wilson,
Dunnell,	Jorgensen,	Robbins,	Wood,
Eickhoff,	Kenna,	Rosa,	Wright,
Elam,	Ketcham,	Scales,	Yeates.
Evins, John H.	Kimmel,	Schleicher,	

NAYS—94.

Aldrich,	Conger,	Ittner,	Patterson, G. W.
Bagley,	Cox, Jacob D.	Jones,	Phelps,
Baker, John H.	Cummings,	Jones, John S.	Phillips,
Ballou,	Danford,	Joyce,	Pollard,
Bayne,	Deering,	Keifer,	Pound,
Blair,	Denison,	Keightley,	Price,
Bouck,	Eames,	Kelley,	Pugh,
Bragg,	Errett,	Lapham,	Randolph,
Brewer,	Evans, James L.	Lathrop,	Reed,
Briggs,	Gardner,	Lindsey,	Rice, William W.
Brown,	Garfield,	Mackey,	Robinson, G. D.
Burchard,	Hale,	Marsh,	Robinson, M. S.
Calkins,	Harris, Benj. W.	McCook,	Ryan,
Camp,	Hayes,	McKinley,	Sampson,
Campbell,	Hendee,	Mitchell,	Sapp,
Canon,	Henderson,	Monroe,	Sexton,
Caswell,	Hiscock,	Norcross,	Shallenberger,
Cladin,	Hubbell,	Oliver,	Shinnickson,
Clark, Rush	Humphrey,	O'Neill,	Smalls,
Cole,	Hunter,	Page,	Smith, A. Herr

Starin,
Strait,
Thompson,
Townsend, Amos

Townsend, M. I.
Van Vorhes,
Ward,
Watson,

White, Harry
White, Michael D.
Williams, Andrew
Williams, Richard

Willits,
Wren.

NOT VOTING—90.

Aiken,
Atkins,
Bacon,
Baker, William H.
Banks,
Banning,
Beebe,
Benedict,
Bisbee,
Bland,
Bliss,
Blount,
Boyd,
Brentano,
Brogden,
Buckner,
Bundy,
Burdick,
Butler,
Cain,
Caldwell, W. P.
Candler,
Carlisle,

Chittenden,
Clymer,
Cox, Samuel S.
Crapo,
Cutler,
Davidson,
Davis, Horace
Davis, Joseph J.
Dead,
Durham,
Dwight,
Eden,
Ellis,
Ellsworth,
Evans, I. Newton
Forney,
Foster,
Freeman,
Fuller,
Gause,
Glover,
Hamilton,
Hanna,

Harmer,
Harrison,
Hart,
Haskell,
Henkle,
Henry,
Herbert,
Hewitt, Abram S.
Hungerford,
Huntton,
Killingier,
Knott,
Lockwood,
Loring,
Luttrell,
Mayham,
McGowan,
Money,
Neal,
Peddie,
Potter,
Powers,
Pridemore,

Quinn,
Raney,
Roberts,
Robertson,
Saylor,
Springer,
Stephens,
Stewart,
Stone, John W.
Swann,
Thornburgh,
Tipton,
Townsend, R. W.
Veeder,
Waddell,
Wait,
Warner,
Welch,
Williams, C. G.
Williams, James
Young.

During the roll-call the following announcements were made:

Mr. DAVIS, of North Carolina. I desire to announce that I am paired with Mr. ELLSWORTH, of Michigan. I desire also to state that my colleague, Mr. BROGDEN, is confined to his room by sickness.

Mr. FORT. I desire to state that my colleague, Mr. BOYD, is detained at his room on account of sickness.

Mr. ELAM. My colleague, Mr. ELLIS, is paired for this day with Mr. FOSTER.

Mr. BAKER, of New York. As this seems to be a political question, and as I am paired upon political questions with Mr. QUINN, of New York, I decline to vote.

Mr. PEDDIE. I desire to state that I am paired with Mr. DEAN. If he were here, he would vote "ay" and I should vote "no."

Mr. HUNGERFORD. I am paired with my colleague, Mr. HART. Mr. MCKENZIE. My colleague, Mr. CARLISLE, is paired with Mr. POWERS. If Mr. CARLISLE were present he would vote "ay," and I presume Mr. POWERS would vote "no."

Mr. FORNEY. I am paired upon this question with Mr. WAIT, of Connecticut. If he were present, I should vote "ay."

Mr. RICE, of Massachusetts. My colleague, Mr. BANKS, is paired with Mr. WILLIAMS, of Michigan.

Mr. ALDRICH. I desire to state that my colleague, Mr. TIPTON, is paired with my other colleague, Mr. TOWNSEND.

Mr. WALSH. I desire to announce that my colleague, Mr. ROBERTS, is paired with Mr. STONE, of Michigan.

Mr. DAVIDSON. Upon this question I am paired with my colleague, Mr. BISBEE. If he were here, he would vote "no" and I should vote "ay."

Mr. CALDWELL, of Tennessee. I am paired upon this question with Mr. FREEMAN. If he were here, he would vote "no" and I should vote "ay."

The result of the vote was then announced as above stated.

Mr. GOODE. I move to reconsider the vote by which the motion was agreed to; and also move that the motion to reconsider be laid upon the table.

Mr. CONGER. And pending that motion I move that the House do now adjourn.

Mr. WILLIS, of New York. And pending that motion I move that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. WOOD. I hope not.

Mr. TOWNSEND, of New York. Upon that question I ask for the yeas and nays.

Mr. WHITE, of Pennsylvania. I move to take a recess until this evening.

The SPEAKER. That motion is not in order pending a motion to adjourn. If the motion to adjourn were agreed to it would cut off the evening session; but the motion of the gentleman from New York [Mr. WILLIS] would not necessarily cut it off.

Mr. RIDDLE. I will state that I think the gentleman from Georgia [Mr. BLOUNT] desires to go on with the post-office appropriation bill to-morrow.

The yeas and nays were ordered.

The question was taken; and there were—yeas 30, nays 172, not voting 89; as follows:

YEAS—30.

Calkins,	Harmer,	O'Neill,	Stenger,
Danford,	Hazelton,	Pago,	Thompson,
Douglas,	Hooker,	Patterson, T. M.	Ward,
Evans, James L.	Hubbell,	Pound,	Welch,
Ewing,	Jorgensen,	Pugh,	White, Harry
Goode,	Knapp,	Raney,	Willis, Benj. A.
Hale,	Marsh,	Rice, William W.	
Hardenbergh,	Morrison,	Smalls,	

NAYS—172.

Acklen,	Banning,	Blount,	Bridges,
Aldrich,	Bayne,	Boone,	Briggs,
Bagley,	Bell,	Bouck,	Bright,
Baker, John H.	Blackburn,	Bragg,	Brown,
Ballou,	Blair,	Brewer,	Bundy,

Burchard,
Cabel,
Caldwell, John W.
Caldwell, W. P.
Camp,
Campbell,
Candler,
Cannon,
Caswell,
Chalmers,
Cladin,
Clark, Alvah A.
Clark of Missouri,
Clymer,
Cobb,
Cole,
Collins,
Conger,
Cook,
Covert,
Cox, Jacob D.
Crapo,
Cravens,
Crittenden,
Culberson,
Cummings,
Cutler,
Davis, Horace
Deering,
Denison,
Dibrell,
Dickey,
Dunnell,
Durham,
Eames,
Elam,
Errett,
Evins, John H.

Felton,
Finley,
Fort,
Franklin,
Frye,
Gardner,
Garth,
Gause,
Giddings,
Gunter,
Harris, Benj. W.
Harris, Henry R.
Harris, John T.
Hartridge,
Hartzell,
Haskell,
Hatcher,
Hayes,
Hendee,
Hewitt, Abram S.
Hewitt, G. W.
Herbert,
Hiscock,
Humphrey,
Hunter,
Huntton,
James,
Jones, Frank
Jones, James T.
Jones, John S.
Joyce,
Keifer,
Keightley,
Kenna,
Ketcham,
Kimmel,
Landers,
Lapham,

Lathrop,
Ligon,
Loring,
Luttrell,
Mackey,
Maish,
Manning,
Martin,
McCook,
McKenzie,
McKinley,
McMahon,
Metcalfe,
Mills,
Mitchell,
Monroe,
Morgan,
Morse,
Muldrow,
Muller,
Norcross,
Oliver,
Overton,
Patterson, G. W.
Phelps,
Phillips,
Pollard,
Price,
Randolph,
Rea,
Reed,
Reilly,
Rice, Americus V.
Riddle,
Robbins,
Robinson, Geo. D.
Robinson, Milton S.
Ross,

Ryan,
Sampson,
Sapp,
Scales,
Sexton,
Shallenberger,
Shelley,
Sinnickson,
Siemons,
Smith, William E.
Sparks,
Springer,
Starin,
Stewart,
Stone, Joseph C.
Strait,
Throckmorton,
Townsend, Amos
Townsend, M. I.
Tucker,
Turney,
Vance,
Van Vorhes,
Walsh,
Watson,
White, Michael D.
Whitthorne,
Wigginton,
Williams, Andrew
Williams, Jere N.
Williams, Richard
Willis, Albert S.
Wilson,
Wood,
Wren,
Wright,
Yeates.

NOT VOTING—89.

Aiken,
Atkins,
Bacon,
Baker, William H.
Banks,
Beebe,
Benedict,
Bicknell,
Bisbee,
Bland,
Bliss,
Boyd,
Brentano,
Brogden,
Buckner,
Burdick,
Butler,
Cain,
Carlisle,
Chittenden,
Clark, Rush
Clarke of Kentucky,
Cox, Samuel S.

Davidson,
Davis, Joseph J.
Dean,
Dwight,
Eden,
Eickhoff,
Ellis,
Ellsworth,
Evans, I. Newton
Forney,
Foster,
Freeman,
Fuller,
Garfield,
Gibson,
Glover,
Hamilton,
Hanna,
Harrison,
Hart,
Henderson,
Henkle,
Henry,

House,
Hungerford,
Itiner,
Kelley,
Killingier,
Knot,
Lindsey,
Lockwood,
Lynde,
Mayham,
McGowan,
Money,
Neal,
Peddie,
Potter,
Powers,
Pridemore,
Quinn,
Reagan,
Roberts,
Robertson,
Saylor,
Schleicher,

Singleton,
Smith, A. Herr
Southard,
Steele,
Stephens,
Stone, John W.
Swann,
Thornburgh,
Tipton,
Townsend, R. W.
Turner,
Veeder,
Waddell,
Wait,
Walker,
Warner,
Williams, A. S.
Williams, C. G.
Williams, James
Young.

So the House refused to adjourn over.

During the vote,
Mr. DAVIS, of North Carolina, said: I am paired with the gentleman from Michigan, Mr. ELLSWORTH.

Mr. ELAM. My colleague, Mr. ELLIS, is paired with Mr. FOSTER for the remainder of this day.

Mr. MCKENZIE. I desire to announce that my colleague, Mr. CARLISLE, is paired with Mr. POWERS.

Mr. WALSH. My colleague, Mr. ROBERTS, is paired with Mr. STONE, of Michigan.

Mr. FORNEY. I am paired with Mr. WAIT.

Mr. DAVIDSON. I am paired with my colleague, Mr. BISBEE.

Mr. PEDDIE. I am paired with Mr. DEAN.

Mr. RICE, of Massachusetts. My colleague, Mr. BANKS, is paired on all questions with Mr. WILLIAMS, of Michigan.

The vote was then announced as above recorded.

Mr. WOOD. I move to reconsider the vote by which the House refused to adjourn till Monday next; and also move that the motion to reconsider be laid on the table.

Mr. CONGER. I demand the yeas and nays. It is time we want.

Mr. WOOD. I withdraw the proposition.

Mr. CONGER. Then I withdraw the demand for the yeas and nays. [Laughter.]

ENROLLED BILLS.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 535) for the relief of the executors of the estate of John S. Miller, deceased;

An act (H. R. No. 3739) to prevent the introduction of contagious or infectious diseases into the United States; and

An act (H. R. No. 4242) to authorize the restoration of George A. Armes to the rank of captain.

Mr. BRAGG. I move the House adjourn.

The SPEAKER. That motion is now pending.

The House divided; and there were yeas 10, nays not counted.

Mr. CONGER. I demand the yeas and nays.

The yeas and nays were ordered.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. HARRISON, for a few days; and
To Mr. FOSTER, until Monday next.

DEFICIENCY BILL.

The SPEAKER. The gentleman from Ohio [Mr. FOSTER] also asks to be relieved from further service on the conference committee on the disagreeing votes of the two Houses on the bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes. If there be no objection, it will be ordered accordingly.

There was no objection, and it was ordered accordingly.

The SPEAKER. The Chair appoints Mr. HALE, of Maine, in place of Mr. FOSTER, of Ohio, as one of the conferees on the part of the House.

ORDER OF BUSINESS.

The question was taken; and it was decided in the negative—yeas 22, nays 169, not voting 100; as follows:

YEAS—22.

Brewer,
Browne,
Caldwell, W. P.
Cannon,
Danford,
Evans, James L.

Ewing,
Frye,
Hardenbergh,
Hayes,
Hazelton,
Humphrey,

Jorgensen,
Keifer,
Page,
Pugh,
Raineys,
Sexton,

Smalls,
Thompson,
Thornburgh,
Williams, Andrew

NAYS—169.

Aldrich,
Bagley,
Baker, John H.

Davis, Horace
Deering,
Denison,
Dibrell,
Dickey,
Douglas,
Dunnell,
Durham,
Eames,
Eickhoff,
Evins, John H.

Keightley,
Kenna,
Ketcham,
Kimmel,
Knapp,
Knot,
Landers,
Lapham,
Lathrop,
Ligon,
Lindsey,

Robinson, G. D.
Robinson, M. S.
Ross,
Ryan,
Sampson,
Sapp,
Saylor,
Scales,
Stewart,
Strait,

Ballou,
Banning,
Bayne,
Bell,
Blackburn,
Blount,
Boone,
Bouck,
Bragg,
Bridges,
Briggs,
Bright,
Burchard,
Cabel,
Cain,
Caldwell, John W.

Franklin,
Gardner,
Gause,
Goode,
Gunter,
Harmer,
Harris, Benj. W.
Harris, Henry R.
Harris, John T.
Harrison,
Hartridge,
Hartzell,
Haskell,
Hatcher,
Hendee,
Henkle,
Henry,
Herbert,
Hewitt, Abram S.

Smith, A. Herr
Southard,
Steele,
Stephens,
Stone, John W.
Swann,
Thornburgh,
Tipton,
Townsend, R. W.
Turner,
Veeder,
Waddell,
Wait,
Walker,
Warner,
Williams, A. S.
Williams, C. G.
Williams, James
Young.

Keightley,
Kenna,
Ketcham,
Kimmel,
Knapp,
Knot,
Landers,
Lapham,
Lathrop,
Ligon,
Lindsey,
Luttrell,
Mackey,
Maish,
Manning,
Martin,
McCook,
McKenzie,
McKinley,
Metcalfe,
Mitchell,
Monroe,

Camp,
Campbell,
Candler,
Caswell,
Chalmers,
Cladin,
Clark, Alvah A.
Clark of Missouri,
Clark, Rush
Clarke of Kentucky,
Clymer,
Cobb,
Cole,
Collins,
Conger,
Cook,
Covert,
Cox, Jacob D.
Crapo,
Cravens,
Crittenden,
Culberson,
Cummings,
Cutler,

Price,
Randolph,
Rea,
Reilly,
Rice, Americus V.
Rice, William W.
Riddle,
Robbins,
Robinson, Geo. D.
Robinson, Milton S.
Ross,
Ryan,
Sampson,
Sapp,
Saylor,
Scales,
Shelley,
Singleton,
Sinnickson,
Smith, A. Herr
Smith, William E.
Southard,
Sparks,
Starin,
Stenger,
Stewart,
Strait,
Townsend, Amos
Townsend, M. I.
Tucker,
Turney,
Vance,
Van Vorhes,
Walker,
Walsh,
White, Harry
White, Michael D.
Whitthorne,
Wigginton,
Williams, Jere N.
Williams, Richard
Willis, Albert S.
Willis, Benj. A.
Willits,
Wilson,
Wren,
Wright,
Yeates.

Evans, John H.
Frye,
Hardenbergh,
Hayes,
Hazelton,
Humphrey,
Jorgensen,
Keifer,
Page,
Pugh,
Raineys,
Sexton,

Smalls,
Thompson,
Thornburgh,
Williams, Andrew

NOT VOTING—100.

Acklen,
Aiken,
Atkins,
Bacon,
Baker, William H.
Banks,
Beebe,
Benedict,
Bicknell,
Bisbee,
Blair,
Bliss,
Boyd,
Brentano,
Brogden,
Buckner,
Bundy,
Burdick,
Butler,
Calkins,
Carlisle,
Chittenden,
Cox, Samuel S.
Davidson,

Davis, Joseph J.
Dean,
Dwight,
Eden,
Elam,
Ellis,
Ellsworth,
Errett,
Evans, I. Newton
Finley,
Forney,
Fort,
Foster,
Freeman,
Fuller,
Garfield,
Garth,
Gibson,
Giddings,
Glover,
Hale,
Hamilton,
Hanna,
Hart,
Henderson,

Hiscock,
Hungerford,
Kelley,
Killingier,
Lockwood,
Loring,
Lynde,
Marsh,
Mayham,
McGowan,
McMahon,
Mills,
Money,
Muller,
Neal,
Peddie,
Potter,
Pound,
Powers,
Pridemore,
Quinn,
Reagan,
Reed,
Roberts,
Robertson,

Schleicher,
Shallenberger,
Siemons,
Springer,
Steele,
Stephens,
Stone, John W.
Stone, Joseph C.
Swann,
Throckmorton,
Tipton,
Townsend, R. W.
Turner,
Veeder,
Waddell,
Wait,
Ward,
Warner,
Watson,
Welch,
Williams, A. S.
Williams, C. G.
Williams, James
Wood,
Young.

So the House refused to adjourn.

During the vote,

Mr. DAVIS, of North Carolina, said: I am paired with Mr. ELLSWORTH. If he were here, I would vote "no."

Mr. ELAM. My colleague, Mr. ELLIS, is paired with Mr. FOSTER for the rest of this day.

Mr. MCKENZIE. My colleague, Mr. CARLISLE, is paired with Mr. POWERS.

Mr. WALSH. My colleague, Mr. ROBERTS, is paired with Mr. STONE, of Michigan.

Mr. DAVIDSON. I am paired with my colleague, Mr. BISBEE.

Mr. RICE, of Massachusetts. My colleague, Mr. BANKS, is paired with Mr. WILLIAMS, of Michigan.

Mr. CALKINS. I am paired with Mr. ACKLEN.

Mr. PEDDIE. I am paired with Mr. DEAN.

Mr. FORNEY. I am paired with Mr. WAIT.

Mr. STONE, of Iowa. I am paired with Mr. GIBSON.

The vote was then announced as above recorded.

Mr. WHITE, of Pennsylvania. I move to reconsider the vote by which the House refused to adjourn.

The SPEAKER. It is not in order to move to reconsider the vote on a motion to adjourn.

Mr. WHITE, of Pennsylvania. I move, then, that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. HENDEE. Will the gentleman yield to me to move that the House take a recess.

Mr. WHITE, of Pennsylvania. Certainly.

Mr. HENDEE. Then I move that the House take a recess until half past seven o'clock this evening.

Mr. WHITE, of Pennsylvania, demanded the yeas and nays.

Mr. HENDEE. Will this business come up during the evening session or the District of Columbia business?

The SPEAKER. The House heretofore determined this evening's session should be devoted to District of Columbia business.

Mr. HENDEE. By unanimous consent?

The SPEAKER. That is equivalent to a suspension of the rules.

Mr. THOMPSON. Does it require unanimous consent to do away with the evening session?

The SPEAKER. The Chair thinks the business ordered by unanimous consent to be done this evening is the same as though it were ordered under a suspension of the rules.

Mr. HEWITT, of Alabama. I desire to make a parliamentary inquiry. Is there any way of reaching the pension bills on the Calendar until the bill now pending is disposed of?

Mr. CONGER. Has the vote been announced on the motion for taking a recess?

The SPEAKER. The motion has not yet been voted upon. The gentleman from Pennsylvania [Mr. WHITE] demanded the yeas and nays, and thirty-four gentlemen rose—not one-fifth of the last vote, and the Chair so stated.

Several MEMBERS. Count the other side.

The negative vote was taken; and there were 91 noes.

So (the affirmative being more than one-fifth of the whole vote) the yeas and nays were ordered.

Mr. WHITE, of Pennsylvania. What will be the business at the evening session?

The SPEAKER. District of Columbia business, as directed by an order of the House which was obtained by unanimous consent.

Mr. HENDEE. If I may be allowed, I desire to make a statement in regard to the business for this evening. When on Monday I made the request for the evening session I stated it was for the consideration of several bills which had been prepared by the Committee for the District of Columbia, not including the bill providing a permanent form of government for the District, as that was of more importance and it would be taken up and disposed of before this evening. That bill was not disposed of, and the committee have had it under consideration and have agreed to amend it and report it as amended by striking out what was known as the property qualification both as to the commissioners and the council, and also striking out the requirement that the voters should have paid a poll-tax. The committee has also agreed to report the bill with an amendment which was offered by the gentleman from New York [Mr. BEEBE] in regard to the interest. We supposed those were the main objections to the bill, and that if it had been as it is now proposed to be reported it would have passed. If there be no objection I shall ask the House this evening to consider that bill with the others.

Mr. STENGER. I object.

Mr. ITTNER. I desire to ask the gentleman from Vermont if the clause in regard to the ten years' qualification of the commissioners is modified.

Mr. HENDEE. It is not. I desire to be perfectly open and fair and that no advantage shall be taken of any one.

The SPEAKER. There is objection. The Chair thinks that under the circumstances the proposition of the gentleman from Vermont requires unanimous consent.

Mr. HENDEE. Then the business of the evening session will be confined to such bills as the committee have agreed upon other than that.

Mr. ALDRICH. I move to reconsider the vote by which the yeas and nays were ordered.

The motion was agreed to.

The question recurred on taking the vote by yeas and nays.

The yeas and nays were not ordered.

The question recurred on Mr. HENDEE's motion that the House take a recess until half past seven o'clock; and being taken, there were—ayes 97, noes 64.

Mr. SPARKS. I call for the yeas and nays.

The SPEAKER. The yeas and nays have been refused. It is competent to call for tellers.

Mr. HOOKER. I call for tellers.

Tellers were ordered; and Mr. GOODE and Mr. HENDEE were appointed.

The House again divided; and the tellers reported—ayes 86, noes 74.

LEAVE OF ABSENCE.

Pending the announcement of the vote, by unanimous consent leave of absence was granted, as follows:

To Mr. KEIFER, for one week after to-day, on account of important business;

To Mr. SMITH, of Pennsylvania, until Wednesday next; and

To Mr. CLARK, of New Jersey, for four days from Monday next.

The result of the vote on Mr. HENDEE's motion was then announced; and accordingly (at four o'clock and fifteen minutes p. m.) the House took a recess until half past seven o'clock.

EVENING SESSION.

The recess having expired, the House reassembled at seven o'clock and thirty minutes p. m.

ORDER OF BUSINESS.

The SPEAKER. The business of this evening, by direction of the House, will be exclusively confined to reports from the District of Columbia Committee, and during the evening the gentleman from North Carolina, Mr. VANCE, will act as Speaker *pro tempore*.

The chair was taken by Mr. VANCE as Speaker *pro tempore*.

PERSONAL EXPLANATION.

Mr. RANDALL, (the Speaker.) I think for the first time in my life in this House I have risen to a personal matter. I find in the Star of this evening a statement made that I have verbally requested Mr. GLOVER, the chairman of the Committee on Expenditures in the Treasury Department to investigate the office of the Sergeant-at-Arms of this House. There is not a syllable of truth in the statement, nor a scintilla nor a gleam of warrant for said allegation. First, I know nothing of the action of the Sergeant-at-Arms in the discharge of his duties that needs investigation; second, I have never had any conference whatever with Mr. GLOVER on the subject, nor have I directly or indirectly had any communication with him as to such matter.

I think it is due to the Sergeant-at-Arms to state this. If I myself was the only one involved I never would have noticed it; but as the statement reflects perhaps on the honesty, or the fidelity and honor of another, I at once and promptly give it this contradiction.

INSPECTION OF FLOUR.

Mr. WILLIAMS, of Michigan, from the Committee for the District of Columbia, reported a bill (H. R. No. 4425) to alter and amend a law of the District of Columbia relative to the inspection of flour; which was read a first and second time.

Mr. WILLIAMS, of Michigan. I ask for the present consideration of this bill.

The bill was read. It provides that section 6 of an act of the Legislative Assembly of the District of Columbia, approved August 21, 1871, entitled "An act relating to inspection of flour," be amended so as to read:

That all and every barrel and half barrel of flour manufactured in the District, or brought to the same for sale, shall be subject to the examination of the inspector, by boring, searching, and trying it through with an instrument not exceeding five-eighths of an inch in diameter, to be provided by the inspector for that purpose, who shall afterward plug up the hole with a round plug made of soft wood, so as to prevent the entrance of water, and if the inspector shall judge the same to be merchantable according to the direction of this act he shall, at the time of inspecting, mark or brand on the head or quarter of every barrel and half barrel of flour, in letters one-half inch in length, the word "Georgetown," if inspected in Georgetown, and "Washington," if inspected in Washington, together with the word or words designating the degree of fineness which he shall, at the time of inspecting, determine said flour entitled to, with the exception of the degree of superfine, which he shall mark or brand over the quarter; and the several degrees in quality shall be distinguished as follows: family, extra, superfine, fine, and first middlings. And for the inspection of which the said inspector shall have and receive of the owner or agent of said flour, for each and every barrel and half barrel, one cent and one drawing of flour for all inspected in Washington or Georgetown; and every barrel or half barrel of flour which shall prove, on examination thereof, to be unmerchantable, according to the true intent and meaning of this act, the said inspector shall mark on the head or quarter with a broad arrow, and no barrel or half barrel of flour, not examined and branded by the inspector as aforesaid, shall be sold within the District, under penalty of \$1 for each and every barrel or half barrel, to be paid by the person or persons so offending.

Mr. WILLIAMS, of Michigan. Under the existing law the charge for inspection of flour is two cents in Washington and one cent in Georgetown. This law was passed when very little inspection was done in Washington, when nearly all the inspection took place in Georgetown. Since that time the business of inspection in the city of Washington has become quite as large as in Georgetown. This bill is reported in accordance with the petition of a very large number of citizens of Washington. I am told by persons familiar with the business that the compensation of the inspector from inspections in Washington if the rate be fixed at one cent as provided in this bill will amount to \$2,000 a year; so that there is now no reason why the charge for inspection in Washington should not be the same as in Georgetown.

Mr. CONGER. Does this bill describe the qualities of the flour to be inspected?

Mr. WILLIAMS, of Michigan. The bill provides that the quality shall be branded upon the barrel.

Mr. CONGER. But it does not provide what the quality shall amount to?

Mr. WILLIAMS, of Michigan. It is an exact copy of the existing law, except that the charge of two cents in Washington is changed to one cent. It does not disturb the branding of grades at all. There is no change in that respect. The only change is in the charge for inspection.

Mr. CONGER. This, then, will prevent the sale of any flour not manufactured here?

Mr. WILLIAMS, of Michigan. Oh, no. These brands of flour from other places are all inspected.

Mr. CONGER. Does this bill make any provision for the inspection of what is called in the West the "patent flour"—the flour manufactured by the "middlings-purifier" process—the new process?

Mr. WILLIAMS, of Michigan. The only change which this bill makes is, as I have said, simply in the charge for inspection.

Mr. CONGER. Should not this bill, then, provide for this new kind of flour manufactured by the new process?

Mr. WILLIAMS, of Michigan. My colleague means the Minnesota flour?

Mr. CONGER. Yes, sir.

Mr. WILLIAMS, of Michigan. We make no special provision for that at all.

Mr. CONGER. Then this would prevent the sale of that class of flour if it cannot be classified under one of the heads which the bill provides for. I understand that this bill prohibits the sale of any flour that cannot be classified under the terms of the bill. The gentleman is aware that flour made by the "middlings-purifier" process is a different kind of flour from that which has been used.

Mr. WILLIAMS, of Michigan. So I suppose.

Mr. CONGER. I would ask the gentleman whether this bill is intended to prevent citizens of Washington and Georgetown from enjoying the use of this better class of western flour?

Mr. WILLIAMS, of Michigan. Not at all. If they want to buy it they can do so.

Mr. CONGER. Then perhaps the bill ought to provide for this class of flour being sold here and not make it penal to sell it.

Mr. WILLIAMS, of Michigan. If my colleague wants to offer an amendment I will not object. The committee have taken the old law and modified it in respect to the charge for inspection. It has never contained any provision in regard to the class of flour the gentleman speaks of, and I do not know that it has ever reached this part of the country.

Mr. CONGER. If I understand the fact, when the old law was passed the Michigan white winter wheat and the flour manufactured by the "middlings-purifier" process were unknown in this part of the country. I hope my colleague will include in this bill flour made from Michigan and Minnesota wheat, and not impose a penalty for selling such flour in this city. As the gentleman knows, it would be better for the inhabitants here if they could have our flour.

Mr. WILLIAMS, of Michigan. I think it would be better for them to have the Minnesota flour, but the imitations made in Michigan have been failures, I believe. [Laughter.]

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. WILLIAMS, of Michigan, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DOG TAX.

Mr. WILLIAMS, of Michigan. I am instructed by the Committee for the District of Columbia to report back favorably the bill (H. R. No. 4055) to create a revenue in the District of Columbia by levying a tax upon all the dogs therein, to make such dogs personal property, and for other purposes, with amendments, and to ask for its consideration at the present time.

The bill, which was read, in its first section provides that there shall be levied a tax of \$1.50 each per annum upon all dogs owned or kept in the District of Columbia; said tax to be collected as other taxes in said District are or may be collected.

The second section provides that it shall be the duty of the collector of taxes, upon receipt of said tax, to give to the person paying the same, for each dog so paid for, a suitable metallic tag, stamped with the year, showing that said tax has been duly paid; and he shall keep a record of all such payments, with the date thereof, and the name, color, and sex of such dog, and the name of the person claiming any dog so paid for; and a copy of such record, certified under the hand and official seal of the said collector, which shall be given to any person demanding the same, upon payment of twenty-five cents therefor, shall be *prima facie* evidence of such payment in any court of the District of Columbia.

The third section provides that the poundmaster of the District of Columbia shall, during the entire year, seize all dogs found running at large without the tax-tag, issued by the collector aforesaid, attached, and shall impound the same; and if, within twenty-four

hours, the same are not redeemed, by the owners thereof, by the payment of \$2, they shall be sold or destroyed, as the poundmaster may deem advisable; and any sale made by virtue hereof shall be deemed valid to all intents and purposes in all the courts of the District of Columbia.

The fourth section provides that any dog wearing the tax-tag hereinbefore provided for shall be permitted to run at large in the District of Columbia and shall be regarded as personal property in all the courts of said District; and any person injuring or destroying the same shall be liable to a civil action for damages, which, upon proof of said injuring or killing, may be awarded in a sum equal to the value usually put upon such property by persons buying and selling the same, subject to such modification as the particular circumstances of the case may make proper, and also shall be deemed to have committed a misdemeanor, and, upon conviction thereof, shall be liable to a fine of not less than \$20 nor more than \$30, or, in default of payment thereof, to imprisonment for not less than ten nor more than thirty days.

The fifth section provides that any person owning any dog so recorded in the collector's office shall be liable in a civil action for any damage done by said dog to the full amount of the injury indicated.

The sixth section provides that it shall be the duty of any person owning or possessing a dog to place, or cause to be placed and kept, around the neck of such dog, a collar, on which shall be marked and engraved, in legible and durable characters, the name of the owner or possessor, and the letters "D. C.," and to which collar must be attached the insignia or tax-tag furnished by the District tax-collector, in accordance with the first and second sections of this law, under the penalty of not less than five nor more than ten dollars; and if any person shall put, or cause to be put, a collar, with the insignia or tax-tag, around the neck of any dog owned or possessed by any person or persons residing in the District, without having obtained a license for keeping such animal, he, she, or they shall forfeit and pay the sum of not less than five nor more than ten dollars for each and every offense.

The seventh section provides that whenever it shall be made to appear to the commissioners that there are good reasons for believing that any dog or dogs within the District are mad, it shall be the duty of the commissioners to issue a proclamation requiring that all dogs shall, for a period to be defined in the proclamation, wear good, substantial muzzles securely put on, so as to prevent them from biting or snapping; and any dog going at large during the period defined by the commissioners without such muzzle shall be taken by the poundmaster and impounded, subject to the provisions of section 3.

The eighth section provides that any person who shall remove, or cause to be removed, the collar and insignia or tax-tag from the neck of any dog, or entice any properly licensed dog into any inclosure for the purpose of taking off its collar or insignia, or shall for such purpose decoy or entice any animal out of the inclosure or house of its owner or possessor, or shall seize or molest any dog while held or led by any person, or shall bring any dog into the District for the purpose of taking up and killing or selling the same, shall forfeit and pay a sum of not less than five nor more than twenty dollars.

The ninth section provides that if any owner or possessor of a fierce or dangerous dog permit the same to go at large in the District of Columbia, to the danger or annoyance of the inhabitants, he shall forfeit and pay, for the first offense, a sum not exceeding \$5; for the second offense, a sum not exceeding \$10; for the third, a sum not exceeding \$20; and upon a fourth conviction for the same offense, the commissioners shall immediately cause the dog, upon account of which the conviction takes place, to be slain and buried.

The tenth section provides that all acts or parts of acts now in force in the District of Columbia inconsistent with the provisions of this act be, and the same are hereby, repealed.

The SPEAKER *pro tempore*. The amendments of the committee will now be read:

The Clerk read as follows:

Amend in section 1, line 3, by striking out \$1.50 and inserting \$2. On page 4, section 9, line 4, strike out all after the word "offense" to word "ten" in line 5, as follows: "A sum not exceeding \$5; for the second offense, a sum not exceeding \$10; so it will read, 'for the first offense \$10; also, in line 6, strike out the word 'third' and insert the word 'second; also, in the same line, strike out the word 'fourth' and insert the word 'third.'"

The amendments were agreed to.

Mr. TOWNSEND, of New York. I want to ask the gentleman from Michigan whether he will not be willing to have that part of the bill amended which provides that a dog shall be killed if not called for in twenty-four hours. I confess I have a weakness and regard for some dogs, and I know some families who are as much attached to their dog as to a child. Now, if a dog accidentally strays, it will not cost the public much to keep it for another twenty-four hours. I ask the gentleman to amend that part of the bill by making it forty-eight hours.

Mr. WILLIAMS, of Michigan. I am willing to agree to that amendment.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILLIAMS, of Michigan, moved to reconsider the vote by

which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WASHINGTON MARKET COMPANY.

Mr. BLACKBURN. I am directed by the Committee for the District of Columbia to report back to the House a resolution together with a report to a bill (H. R. No. 4425) relative to the Washington Market Company, and ask that the report be read and the bill put upon its passage.

The bill was read a first and second time.

The Clerk proceeded to read the bill *in extenso*.

Mr. HENDEE. Has the bill been printed?

The SPEAKER. It has not.

Mr. BLACKBURN. I will state to the gentleman from Vermont that the bill has been printed, but recommitted to the committee, and it has been amended by the committee in its unanimous action, and the amendments have been incorporated in the bill now being reported by the Clerk.

Mr. HENDEE. Is it a substitute?

Mr. BLACKBURN. The report will explain itself. This is in lieu of the bill already pending in the House.

Mr. HENDEE. What is the number of the original bill?

Mr. BLACKBURN. House bill No. 4243.

The Clerk then read the bill, as follows:

A bill relative to the Washington Market Company.

Whereas by the twelfth section of the act passed May 20, 1870, to incorporate the Washington Market Company it is provided that if the corporation of the city of Washington shall, after a period of thirty years from the approval of said act, by a vote of the council thereof, express a desire to possess itself of the market buildings and grounds mentioned in said act, Congress may authorize the corporate authorities to take possession of the same upon payment to said market-house company of a sum of money equal to a fair and just valuation of the buildings and improvements then standing on said grounds, the mode and manner of ascertaining such valuation to be determined by Congress; and

Whereas said market company agrees that the provisions of this section of said act may now be taken advantage of by the District of Columbia, as if the thirty years had expired: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Montgomery Blair and Brevet Colonel Thomas L. Casey, U. S. A., and Return J. Meigs are hereby constituted arbitrators, and shall severally take an oath before one of the justices of the supreme court of the District of Columbia well and truly to discharge and perform the duties herein required of them, which oath shall be subscribed by said arbitrators, and made of record by the clerk of said court. In case of the death, refusal, or failure, from any cause, of either of said designated persons to act as arbitrator, the vacancy shall be filled by the remaining two, and should two or more of said designated arbitrators fail or refuse to serve, their places shall be filled by the supreme court of the District of Columbia. The compensation of the arbitrators shall be fixed by the court, not to exceed \$500 each, to be paid by the District and the Washington Market Company in equal proportions.

Sec. 2. Said arbitrators, after having taken said oath, shall immediately give notice to the commissioners for said District and to the Washington Market Company of the time, place, and manner of their proceeding in the premises for the purpose aforesaid. Said notice shall be served at least three days prior to the day designated by said arbitrators for hearing said parties and commencing said inquiry; and said arbitrators shall have power to administer oaths, examine witnesses, and to make all necessary and proper inquiry touching the value of the buildings and improvements made by said market company upon the land aforesaid; and any false swearing or affirmation on the part of any witness before said arbitrators shall be deemed and held to be perjury, and the person or persons who may be found guilty thereof shall be punished for such offense according to the provisions of existing laws relating to perjury in the District of Columbia.

Sec. 3. It shall be the duty of said arbitrators, and within thirty days after the commencement of the investigation aforesaid, after having made due inquiry in the premises touching the value of said buildings or improvements, to award the fair and just value thereof to the said market company, which award shall be in writing, signed and sealed by said arbitrators, and shall be executed in triplicate, one of which shall be transmitted to and filed in the supreme court of the District of Columbia, one to the commissioners for said District, and the other to said market company. And from and after the delivery of a copy of said award to said company, the act entitled "An act to incorporate the Washington Market Company," approved May 20, 1870, be, and the same is, repealed for all purposes other than to close the affairs of said company.

Sec. 4. It shall be the duty of the Attorney-General of the United States, upon the transmission of said award to said court, forthwith to cause a suit in the nature of a bill in equity to be commenced therein in the name of the United States of America against the said market company, which suit shall have priority over all other cases; and upon the institution thereof the court shall direct a notice to be published for ten consecutive days in some newspaper printed in the city of Washington warning all stockholders, bondholders, and others having claims against said market company to appear within twenty days thereafter and present their respective claims upon said award; and the publication of this notice as aforesaid shall be sufficient to bring all parties in interest before the court for the purposes of said case; and upon the appearance or non-appearance of any or all of the aforesaid parties, at the expiration of the time limited by said notice, the court shall send the case to a master or auditor to state an account, and report the several claims of the parties aforesaid upon said award, and said master or auditor shall proceed to ascertain and report to the court:

First. The amount of all general or special taxes that may be outstanding and unpaid against said market company, or its grounds, buildings or improvements, with all penalties and arrears of interest thereon to the date of the report.

Second. The amount claimed by the District of Columbia to be due from said market company to said District under section 14 of said act incorporating said company, being the amount claimed in the suit now pending, and all additional claims under said section to the date of such report, with interest thereon.

Third. The amount of bonds of said company under its deed of trust of May 1, 1875, which are actually outstanding in the hands of *bona fide* holders for value, with the names and residences of such holders, and the amount of bonds held by each, and any arrears of interest due thereon to the date of the report.

Fourth. The amount of all other claims of creditors of said market company up to the date of the report, with the names, residences, and amount due each creditor.

Fifth. The amount of stock of said company actually outstanding in the hands of *bona fide* holders and owners for value, with the name and residence of each, and the amount of stock held and owned by each respectively.

Sec. 5. The report of the master or auditor as to all matters not excepted to within

fifteen days from and after the date of filing the same shall be final and conclusive as to all matters stated therein, and the court shall enter a decree accordingly, which shall be final and binding on all stockholders, bondholders, and other parties interested; but if exceptions are taken within that time by parties interested therein to any matter embraced in it or excluded from it by said master or auditor, the same shall be duly heard and determined, subject to the right of appeal to the Supreme Court of the United States. The claims of the District of Columbia embraced in the first and second classes of the report shall be considered as excepted to, and shall be heard and determined by the said court as aforesaid.

Sec. 6. It shall be the duty of the clerk of said court to transmit to said commissioners, upon the passage of the decree aforesaid, copies thereof, and of the report of said master or auditor, showing what claims have been allowed by said decree and what claims have been excepted to; and thereupon said commissioners shall proceed to pay the amount awarded by the arbitrators aforesaid (less a sum to be withheld sufficient to cover the claims excepted to as aforesaid) with interest from the date of the report of the master or auditor, to the holders of the claims not excepted to, giving preference, first, to general and special taxes, with interest according to report; and, secondly, the amount which may be due the District of Columbia from the said market company under section 14 of said act incorporating said company, being the amount claimed in the suit now pending to determine the same and all additional claims under said section to the date of said report, with interest thereon according to said report. The balance of said award, if insufficient to pay the other three classes of claims, shall be paid out by said commissioners according to the decision of the said court, which shall decide all questions of priority between them, and also any question of priority between the claims of the District under said section 14, and the bondholders of said company, if such question should arise, subject to the right of appeal as provided in section 5 of this act.

Sec. 7. Whenever any of the exceptions taken as aforesaid to any of the claims reported as aforesaid shall be disposed of by final decree, it shall be the duty of the clerk to transmit a certificate thereof to the said commissioners, who shall thereupon distribute the amount of the award liberated by such decree (with interest thereon from the date of the auditor's or master's report) to the party or parties entitled thereto, with the preferences and in the manner above provided; and like distributions may be made from time to time until the whole sum awarded is disposed of.

The claim of the District of Columbia under said section 14 of the act incorporating said company, and the taxes assessed against the front land claimed to have been transferred by said company to said District, being dependent upon the legal questions involved in the suit now pending in favor of said District against said company, action on any exceptions taken to said claim and taxes shall be suspended to abide the result of such litigation; and upon the final determination thereof judgment in accordance therewith shall be entered on said exceptions.

Sec. 8. To enable the commissioners of the District to pay the amount of the award aforesaid, they are authorized and required, from time to time when necessary, under the direction of the Secretary of the Treasury, to issue and dispose of coupon bonds of the District of Columbia, of such denominations as may be convenient, and for such gross sums as may be required, bearing interest at the rate of not exceeding 6 per cent. per annum, payable semi-annually, the principal payable in thirty years from their date.

Sec. 9. On the last secular day of the month within which the award hereinbefore provided for shall be filed in the supreme court aforesaid, the commissioners of said District shall be, and they hereby are, authorized and empowered to take possession of the grounds described in the aforesaid act of incorporation and the buildings thereon, for the purposes of a public market, under such regulations as they may establish, and the revenues therefrom shall be applied only to the payment of the necessary and incidental expenses of conducting said market, and to the principal and interest of the bonds hereby authorized to be issued: *Provided*, That the rental of said stalls and property shall not be so reduced as not to pay the expenses of keeping said property in proper repair, and of insuring the same to not less than half its value, and to reimburse the District for the interest on the bonds issued to pay the sum awarded by said arbitrators, and also a sufficient amount to create a sinking fund to pay the debt upon maturity of said bonds: *Provided, however*, That nothing herein contained shall be so construed as to affect any suit or claim now pending for or against said market company, or any right or privilege already acquired by persons occupying stalls or stands in said market. But said commissioners shall have power, and they hereby are authorized, after hearing the parties in possession of such stalls or stands, to establish a reasonable rate of rental therefor, having reference to the interest of all parties concerned.

Sec. 10. In all the acts and duties hereinbefore required of the said arbitrators, a concurrence of two of them shall be sufficient.

Sec. 11. That all acts and parts of acts inconsistent herewith be, and the same hereby are, repealed.

Mr. BLACKBURN. I now ask the Clerk to read the report filed by the committee.

The Clerk read as follows:

The Committee for the District of Columbia, to whom was referred a resolution of the House directing investigation into the conduct and management of the Washington Market Company, report the same back to the House with the following statement: A majority of the committee were convinced, from the inquiries made and the investigations had, that the said company had in several respects violated the provisions of the act of May 20, 1870, incorporating said company, and the committee had directed one of its members to introduce a bill directing the Attorney-General of the United States to institute legal proceedings to secure a judicial declaration of forfeiture of the franchises of said Washington Market Company and a reversion of said market property to the District of Columbia; that while said bill was under consideration a proposition was submitted upon which the company agreed to surrender the property to the authorities of the District of Columbia, which conditions are embraced in the bill herewith reported for the consideration of the House. As the adoption of this bill will secure the objects sought to be attained, it is not deemed necessary to report at length the result of the investigation made by the committee under the resolution referred to. Should the bill herewith reported become a law, the committee deem it unnecessary to proceed to the consideration of the bill heretofore introduced by Mr. BLACKBURN under direction of the committee.

A. S. WILLIAMS.
JO. C. S. BLACKBURN.
EPPA HUNTON.
G. BOUCK.
E. J. HENKLE.
HIESTER CLYMER.
WILLIAM CLAFLIN.
HORACE DAVIS.

Mr. BLACKBURN. Mr. Speaker, this bill involves a transfer of property embracing nearly four acres of land on Pennsylvania avenue between Seventh and Ninth streets and Louisiana and Pennsylvania avenues on the north, through to B street on the south. If I may have the attention of the House for a few minutes I am satisfied I can present the facts involved in this measure, so they may all vote understandingly.

Some weeks or months ago a resolution was referred by this House to the Committee for the District of Columbia, directing them to make inquiry and investigation into the conduct and management of what is known as the Washington Market Company and to report to this House whether they had forfeited their franchise under their charter. The Washington Market Company, sir, holds this property to which I have alluded under a lease for ninety-nine years granted by Congress in 1870. While the investigation was being made by the Committee for the District of Columbia, inquiry having been pushed sufficiently far to satisfy that committee action should be taken in the premises, I was instructed by the committee to introduce a bill which has been printed and is now recommitted to the Committee for the District of Columbia, directing the Attorney-General of the United States to institute legal proceedings for the purpose of declaring a judicial forfeiture of this franchise, under the ninety-nine years' leasehold the company has for this property, and prescribing the way and manner in which the value of the improvements the company have put upon the property should be ascertained and settlement had with the company on equitable terms. While that bill was under consideration in the Committee for the District of Columbia, a proposition was submitted by the Washington Market Company which in the judgment of that committee (and I speak now for the committee unanimously) would have resulted, if adopted, in securing and attaining all the objects and purposes of the bill to which I have alluded. The result was that the bill that has just been reported to the House was agreed upon, agreed upon by every member of the Committee for the District of Columbia, and assented to by the representatives of all the interests involved in the Washington Market Company.

The provision of the bill succinctly and tersely stated is just this: the Washington Market Company agrees now to surrender the property to the District of Columbia, to give up its franchise, upon the appointment of a board of arbitrators to consist of three gentlemen who are named in the bill.

A MEMBER. Name them.

Mr. BLACKBURN. Mr. Montgomery Blair, Colonel Casey of the Engineer Corps, at present Superintendent of Public Buildings and Grounds, and Mr. Return J. Meigs, are the three arbitrators named in the bill. From a long list presented upon the one side and the other these gentlemen were selected and were acceptable to all parties concerned on both sides.

The bill provides that these three arbitrators, after being duly sworn, shall proceed to value the improvements put upon this Government property by the Washington Market Company. From that award so made by these three arbitrators a sum shall be set aside and held in reserve to abide the result of a suit which is provided for in the bill, and which I may say to the House is already pending in the supreme court of the District here. The government—I mean the corporation of the District of Columbia—claims back taxes, both general and special, as due from the Washington Market Company. Under the act of incorporation passed in 1870, the Washington Market Company was to pay the sum of \$25,000 annually, in the nature of ground rent, to the poor fund of the District of Columbia. By an arrangement had or attempted to be had between the Washington Market Company and the authorities of the District of Columbia, that yearly rental was reduced from \$25,000 a year to \$7,500 a year. In short the act of Congress was *pro tanto* nullified. The act of incorporation requiring the \$25,000 a year ground rent was ignored and \$7,500 was agreed upon by the authorities at that time of the District of Columbia in lieu thereof.

Mr. DAVIS, of North Carolina. Did they have any discretion in the matter?

Mr. BLACKBURN. It was asserted that they had not, and a suit is pending for the difference between the \$7,500 and the \$25,000 annual rent, as required by the terms of the act of incorporation.

Under the provisions of this bill the Washington Market Company agrees to abide the judgment of the court of last resort, the Supreme Court of the United States; and from the award made to it as the value of the improvements put upon this property by these three arbitrators are to be deducted all that shall be judicially ascertained and declared by the final judgment to be had in the Supreme Court of the United States as back taxes, both general and special and claims asserted by the District of Columbia and supported and found to be valid by the court for the deficit in ground rent. Whatever aggregate sum shall be found by judicial investigation to be due to the District of Columbia, either for general taxes, special taxes, or ground rent, is to be deducted from the award made by these arbitrators on behalf of the Washington Market Company. The residue, whatever that may be, is to be paid by the sale of bonds.

Mr. HUNTON. Delivery.

Mr. BLACKBURN. No, sir; the sale of bonds. And neither as to principal nor interest of these bonds does the Federal Treasury become in any wise responsible; but the District of Columbia is to issue its own bonds, bearing 6 per cent. interest, payable at the end of thirty years from the date of issue; and the revenues of this market company are devoted by the express provision and terms of the bill to the payment of the current necessary expenses for the conduct of the market. Provision is also made in the bill for its insurance; then for the meeting of the interest accruing upon the bonds and for setting apart a sum sufficient, in the nature of a sinking fund, to defray the principal at the date of maturity.

Mr. PRICE. Will the gentleman allow me to ask him a question? Mr. BLACKBURN. Certainly.

Mr. PRICE. I see by the original bill—I do not know whether it is so in the substitute or not—that these bonds are to be issued under the direction of the Secretary of the Treasury. It occurred to me that the Government incurs some liability. I understand now from the gentleman from Kentucky that the Government incurs no liability, directly or indirectly.

Mr. BLACKBURN. I am obliged to the gentleman for the question, for it affords me an opportunity to repeat what I regard as one of the most important features of the bill, that in no wise whatever, either as to principal or interest, does the Federal Government or its Treasury assume the slightest semblance of obligation. The revenues of the market company are expressly pledged to the meeting of the interest upon these bonds and the provision of a sinking fund sufficient to discharge at the expiration of thirty years the principal of the debt.

If it be the purpose of any member of the House to inquire as to what would be the probable or approximate amount of the award to be made, I answer in all candor that it can be but guesswork. But if I were called upon to hazard an opinion, I would suggest the sum of \$300,000 or possibly \$350,000 as the value of the improvements that the company have put upon this property. The property, as I said before, is well known doubtless to each and every member of this House. I presume that its value to-day in the open market would be almost if not quite a million of dollars; but from this award, thus approximately estimated, is to be deducted every claim that the District of Columbia has for back taxes, general and special, and for the difference between \$7,500 rent paid by the company a year and the \$25,000 annual rent as required by the provisions of its charter, should the court of last resort find that these claims on the part of the District are well sustained.

Mr. LATHROP. Will the gentleman from Kentucky allow me to ask him a question?

Mr. BLACKBURN. Certainly, sir.

Mr. LATHROP. Do I understand that this ground of the market company is the property of the General Government?

Mr. BLACKBURN. Most assuredly so; the title in fee of the property is in the Federal Government.

Mr. LATHROP. The land?

Mr. BLACKBURN. Yes, sir; the land.

Mr. LATHROP. I understand that this ground is under a lease of ninety-nine years.

Mr. BLACKBURN. It is not under a lease for ninety-nine years from now; but ninety-nine years from the 20th of May, 1870, when the charter was granted to this company.

Mr. LATHROP. That is what I understand; and in their charter it was provided that they should pay \$25,000 a year to the poor fund of the District of Columbia. Now, what I want to know is if in this bill there is any provision continuing the payment of that sum to the poor?

Mr. BLACKBURN. The payment of \$25,000 to the poor fund of the District of Columbia?

Mr. LATHROP. Yes, sir.

Mr. BLACKBURN. There is not, sir.

Mr. LATHROP. Let me ask the gentleman from Kentucky another question. Now, if this bill is passed and the other bill providing that the Federal Government shall pay one-half the expenses of the municipal government here, does not the General Government in fact contract a debt of \$125,000 per year besides the current expenses of the Government?

Mr. BLACKBURN. I will answer that question. Mr. Speaker, I think not. It is true that the fourteenth section of the act of May 20, 1870, required the payment of \$25,000 annual rental from this market-house company to the poor fund of the District of Columbia. The Congress of the United States clearly manifested its purpose in the passage of that bill: to yield the use of this property for ninety-nine years for market purposes. This bill does not contain any provision requiring the payment from the revenues of this market-house to the poor fund of the District of Columbia, and the reason I will undertake to state as I go on in my remarks. First, the revenues of this market company are pledged to the payment of necessary expenses in the conduct of the market; second, it is required that the property shall be kept insured to a sum not less than 50 per cent. of its value; third, it is required that the interest accruing on the bonds issued shall be met by the revenues of the market-house; and, fourth, it is required that a certain percentage shall be paid each year into the sinking fund to meet the principal at the end of thirty years.

The revenue of this company to-day, as nearly as we can approximate it, amounts to \$53,000 per annum and by the time that this market company shall meet these four requirements placed upon them, the current expenses, the insurance, the interest upon the bonds, and the sinking fund, it will be found, making a liberal estimate, that about \$40,000 have been hypothecated.

This sum of \$25,000 has never been paid into the poor fund of the District of Columbia from the passage of the act until now.

The Washington Market Company first secured an abatement upon the yearly rent from \$25,000 to \$20,000.

Mr. LATHROP. Will the gentleman allow me to ask him a question?

Mr. BLACKBURN. Yes, sir.

Mr. LATHROP. Was the \$25,000 more than a fair rental for the ground?

Mr. BLACKBURN. I do not know, Mr. Speaker, whether it is or not. The committee reached no conclusion so far as I am concerned, and I am frank to answer that after the statement of men who controlled the business of the company and its stockholders and bondholders, I should not regard it as an exorbitant ground rent.

Mr. SOUTHARD. Will the gentleman yield to me?

Mr. BLACKBURN. Yes, sir.

Mr. SOUTHARD. I ask the gentleman whether the Government is considered as liable if the revenues derived from the market-house do not meet the obligations of the market company?

Mr. BLACKBURN. I will answer that if the revenues fail to meet the interest on the bond or the principal of bonded indebtedness, then even the Government is in no sense and in no wise can be made responsible for one dollar of this money. It is a transaction in which the Federal Treasury has no earthly concern. The bill is so drawn that I do not hesitate to assure this House that by no torture or strain of construction can the Federal Treasury be made responsible for one dollar either of interest or principal. On the contrary, such is the value of this property, such are its revenues, that these market-house bondholders admit that the bonds are worth par when put upon the market. I may go further; it was proposed in the committee to substitute a 3.65 bond bearing 3.65 per cent. interest, guaranteeing both interest and principal by the Government, and the Washington Market Company at once indicated its willingness to accept that adjustment; but the committee would not consent, and I shared the prejudice of the other gentlemen of the committee, and I say now that I do not mean to give my assent to the passage of any bill that would make the United States Government a partner in the conduct of any market-house or corporate improvement that might be turned over to the authorities of the District of Columbia, a thing in which the United States Government is not concerned.

Mr. POLLARD. My understanding is that the revenues of this market company are estimated at \$53,000 per annum, and this bill provides for the disbursement of \$40,000 per annum.

Mr. BLACKBURN. That is an approximated estimate, and that I only state for myself.

Mr. POLLARD. What are we going to do with the other \$15,000?

Mr. BLACKBURN. I will state that if there is any surplus revenue above \$40,000, the amount by necessity goes into the sinking fund to discharge the bonded debt. The bill expressly provides that the revenues arising from this market-house shall be used for no other purpose on earth except to defray the current expenses, to provide for the insurance policy, and to pay the interest on the bonds to provide for the sinking fund to meet the principal. There is no other purpose to which it can be applied.

Now, then, I would reply still further by saying that the committee did not see that it was necessary to incorporate a provision straining this company to the utmost extent of its revenue in the shape of a contribution to the poor fund of the District of Columbia, because it appeared to the committee, upon the evidence before it, that it mattered but little whether or not the revenue of the company was devoted to the poor of the District of Columbia or applied for the discharge of the debt at the end of the thirty years. In our judgment, the commissioners of the District of Columbia could determine what amount should be absorbed in the reduction of rentals, and thereby secure a reduction in prices of the commodities sold at the market-house, and give the benefit to the citizens of Washington in cheap rates for their purchases.

Now, sir, I can recollect nothing in the bill that need be touched upon further, except that I may again assure the House that it is a matter in which the Federal Government has no part; that the Federal Government, except as it stands sponsor for the District of Columbia, can have no possible interest in it. It is a matter in which the Federal Government cannot be liable for one solitary dollar, no matter what action may be taken as to the application of the revenue and the discharge of the debt. It is a bill brought into this House supported by every member of the Committee for the District of Columbia. Those gentlemen who were most active in the prosecution of the investigation of the subject and pressing the bill directing the Attorney-General to institute legal procedure and to declare a legal forfeiture of the franchise are satisfied with the bill. It has accomplished every purpose that is desired and is upon the other hand supported by the stockholders and parties interested in this market company.

Mr. BAKER, of Indiana. Will not the result of this bill be to furnish the people of the District here with ground on which their market-house stands for a period of ninety-two years, while the Government of the United States has to pay half of the ordinary expenses of the government of the District of Columbia without getting a dollar in return for the possession of this property? In other words, whether or not the Government of the United States perhaps are not paying one-half of the burdens of this District, and is not actually paying the whole of it without getting a return in any shape?

Mr. BLACKBURN. I thank the gentleman for that question, for it affords me an opportunity to call the attention of the House to the fact that the Government of the United States by solemn enactment has already vested not the title, but the use and occupation of this

land for market purposes for a term of ninety-nine years. The Government did undertake to secure the payment of \$25,000 a year to the poor fund of the District of Columbia, but it failed to secure it, and it is to-day, as I tell the House, receiving but \$7,500 to this poor-fund contribution.

Now, so far from it being the case that the Government is to become the loser by reason of the relinquishment of its claim for this contribution to the poor fund, while under the provisions of the bill now pending to establish a permanent form of government it would become responsible for 50 per cent. of the amount necessary to support that fund, let me call the attention of the gentleman from Indiana to this fact: the Government is receiving to-day from this property but \$7,500. The revenues of the property, as I have stated, amount to \$53,000 a year. Hence the market company can pay the current expenses, estimating them at \$18,000 a year, (which is the estimate given us by the gentlemen who are to-day in control of the company;) it can pay the insurance; it can pay the interest upon the bonds for this award; it can pay into the sinking fund a sum sufficient at the end of thirty years to discharge the principal of that debt, and yet it will have more, if not twice as much, surplus as it is to-day receiving as a contribution to that poor fund. But that of course reduces the expenditure of which the Government binds itself under the provisions of that general bill to bear 50 per cent.

But further, at the end of thirty years, when the last bond has been paid (and the sinking fund will provide a sufficiency to discharge the principal under the provisions of this bill within less than twenty years) the Government still stands there with more than sixty years to run on this lease, with the bonded debt discharged, with one million dollars' worth of property left unencumbered by a single dollar of debt, with a revenue of \$53,000 a year to devote as Congress shall see fit to the support of either the sinking fund or any other fund of the District of Columbia, and thus lighten the burden of taxation that the Federal Government assumes under that 50 per cent. clause.

Mr. BAKER, of Indiana. That is the point I want to get at. I wish to learn whether these revenues, after the extinguishment of the debt, would not go to the benefit exclusively of the District in the payment, for instance, of the Government's quota of one-half of the District expenses.

Mr. BLACKBURN. Most assuredly not. The bill does not so provide. In this bill we simply undertake to provide for the present appropriation of these revenues; we describe the fund and the purpose to which the revenues shall for the present be appropriated, which is the extinguishment of the debt created by reason of this award. It is estimated (and I may assure the House that it is not regarded by the committee as an exorbitant estimate) that the revenues of this fund, instead of being \$53,000, will amount before many years to \$75,000 a year. At the end of thirty years under the provisions of this bill, if not at the end of twenty years, the fund arising each year from the sale of stalls in this market, ranging from something over \$50,000 to \$75,000 will be a net contribution made, not to the credit of the District of Columbia, but subject to the order of Congress, and to no other power. I believe that the passage of this bill will, within the time that is to elapse between this and the expiration of the lease for ninety-nine years, result in a net saving to the District of Columbia of not less than \$500,000 or \$600,000.

Mr. BAKER, of Indiana. Will the gentleman be kind enough to indicate the section in which I may find the provision that the fund arising from the rent of this building shall on the extinguishment of the bonded debt be subject to such control as Congress may see fit to exercise?

Mr. BLACKBURN. I have not a copy of the bill before me; the only one I had I sent to the Clerk's desk. But I will say to the gentleman that the very section to which he is now looking and alluding is the one to which I refer in my statement that the revenues of this market property are pledged now, in the event of the passage of this bill, to no purpose in the world except the four purposes I have indicated. Whenever these four purposes have been accomplished, whenever that debt has been extinguished, (as it must of necessity be at the expiration of thirty years,) the revenues of this market stand subject to the order of Congress, are unappropriated. It is for Congress, then, in its pleasure or discretion to determine whether it will appropriate them to one fund or another. There is no obligation carrying the revenues of this market-house to the credit of the District of Columbia. On the contrary, the only provision on that subject in the bill is an express declaration that these revenues shall be devoted to no other purpose than those I have indicated: the payment of expenses, the payment of insurance, the meeting of interest, and the extinguishment of the principal on the debt.

Mr. BURCHARD. Does this bill affect in any way the title to the real estate?

Mr. BLACKBURN. The title in fee?

Mr. BURCHARD. Yes, sir.

Mr. BLACKBURN. In no way whatever. It leaves that title absolute in the Federal Government, where it has ever been.

Mr. BURCHARD. I see that the ninth section gives possession to the District as soon as the award is made. That possession is to continue how long?

Mr. BLACKBURN. That possession, as I take it every lawyer here will concur with me in concluding, is to be terminated at the pleasure of Congress itself.

Mr. GARDNER. Now will the gentleman allow me a question?

Mr. BLACKBURN. Certainly.

Mr. GARDNER. In the first place, I understand from the gentleman that a lease for ninety-nine years was made by Congress to the Washington Market Company, and the object of this bill is to provide for the rescission of that lease so as to restore the property to the Government and release the lessees from further obligation with reference to it. The Government in doing this assumes, as I understand, in this bill the obligations, as well in bonds as in every other respect, that the market company has made. Is not that the fact?

Mr. BLACKBURN. If the gentleman will allow me, in answering his question I can correct him. In the act of May 20, 1870, as recited in the preamble to this bill, there is a provision that the District of Columbia, at the expiration of thirty years from the granting of that act of incorporation, shall under certain conditions possess itself of this market company's property.

Mr. GARDNER rose.

Mr. BLACKBURN. If the gentleman will wait I will set him right. There is a provision in that act of May 20, 1870, which declares under certain conditions, at the expiration of thirty years—not the Government of the United States, but the District of Columbia, if it so desires, may possess itself of this property. That provision of the act of incorporation is recited and set forth in the preamble to this bill, whereby it is agreed by the Washington Market Company that period of thirty years shall now be anticipated and the District of Columbia shall possess itself of the property at this time; and anticipating the lapse of the period prescribed in the charter of thirty years, I say it is not the Government of the United States assuming any obligation that rests upon the Washington Market Company, but it is the District of Columbia, by consent of the Washington Market Company, taking advantage of the thirty years which, by the terms of the charter, were to expire before the District of Columbia might possess itself of this market property. I do not understand, and I do not think the gentleman, if he will consider that section in the act of incorporation, will any longer believe or suspect the Government of the United States by the passage of this bill assumes any obligation now resting on the market company.

Mr. HUNTON. If the gentleman from Kentucky will allow me for a moment.

Mr. BLACKBURN. Certainly.

Mr. HUNTON. It is expressly provided that the sum fixed by these arbitrators is to be the only sum for which the District or any other government is to be responsible. That sum is to be divided among the creditors of the Washington Market Company and when thus divided those who do not get paid never will be paid because there will be no fund for them to be paid from. I believe I am right.

Mr. BLACKBURN. Yes, sir.

Mr. HUNTON. I think there is no assumption of debt on the part of the Government at all.

Mr. GARDNER. I confess I do not yet fully understand it. I wish to call the gentleman's attention again to it. Let me read from the preamble:

Whereas, by the twelfth section of the act passed May 20, 1870, to incorporate the Washington Market Company, it is provided that if the corporation of the city of Washington shall, after a period of thirty years from the approval of this act, by a vote of the councils thereof, express a desire to possess itself of the said market buildings and grounds, Congress may authorize the corporate authorities to take possession of the same upon the payment to the said market-house company of a sum of money equal to a fair and just valuation of the buildings and improvements then standing upon said grounds; and the mode and manner of ascertaining such valuation shall be determined by Congress.

That is the act to which the gentleman refers, which provides that Congress may provide the mode and manner by which this District may take possession of this market-house property on certain terms and conditions.

Mr. BLACKBURN. Which Congress is now asked to do in the passage of the bill the gentleman holds in his hand.

Mr. GARDNER. But the point I wish to call the gentleman's attention to is this: in this bill which is a rescission of a contract of lease between the Government and the Washington Market Company, by which the Washington Market Company are absolved from further obligation, and by the act of Congress alone they say the District of Columbia shall assume such and certain obligations, and I should like to know whether by that action Congress and the Government do not assume the obligation of that whole contract and bind them to every obligation they have made on their part?

Mr. BLACKBURN. I am astonished at the gentleman. When the twelfth section of the act of incorporation especially provides at the expiration of thirty years Congress may provide the terms, according to limitations therein stated, upon which the District of Columbia may possess itself of this property, thereby canceling every obligation which the Washington Market Company owes to the District, the Government of the United States, or any other body or power—when that is the provision of the twelfth section, that upon the expiration of thirty years, Congress prescribing the terms, the District possessing itself of this property, the obligations on every hand shall cease and terminate, and when the Washington Market Company now comes forward and says, "I am willing to yield and anticipate the expiration of the term of thirty years; I am willing to allow you to take possession now instead of then," and when the Congress of the United States prescribes the terms and the District of Columbia

expresses its purpose to possess itself of this property, and the intermediate period of thirty years has been waived on all hands, I cannot for the life of me see that any obligation can survive, either on the part of the Washington Market Company to the District of Columbia or the Federal Government or on the part of the Federal Government to the District of Columbia. It is a termination of the contract by mutual agreement all round.

Mr. DICKEY. Will the gentleman yield to me?

Mr. BLACKBURN. Certainly.

Mr. DICKEY. Mr. Speaker, this seems to be an important bill, and as the substitute reported by the Committee for the District of Columbia contains a great many changes and amendments of the bill as printed, I suggest to the gentleman from Kentucky the propriety of having the bill printed; and if he will yield I will make the motion for that purpose, so that when we have the bill up for action we may understand exactly what is the nature of its provisions. I confess I am unable to give an intelligent vote on this bill as it is now presented. I cannot ascertain from the bill as printed what the bill as presented by the committee does provide. I do not know whether this market company is insolvent, so that it is necessary to put its affairs in the hands of a receiver. I do not know whether the purpose is to relieve the market company from litigation.

Mr. BLACKBURN. Mr. Speaker, neither the one thing nor the other has aught to do with this bill.

Mr. DICKEY. I wish to understand the provisions of the bill. I do not understand them now, and if the bill be postponed so that it can be printed we will then have an opportunity to understand it.

Mr. BLACKBURN. I regret that the gentleman from Ohio cannot comprehend the provisions of the bill at least sufficiently well to satisfy him that neither the question of solvency or insolvency upon the part of the company nor the question of litigation in which it may be involved has had any connection whatever with the bill. The company is not insolvent, I apprehend; but that is a question with which we have had no concern and as to which we have made no inquiry. So far as litigation is concerned in which the company may be involved, there is an expressed provision in the bill that it shall not be interfered with.

Mr. FINLEY. Will the gentleman yield to me for a moment?

Mr. BLACKBURN. Certainly; this is an inquiring House.

Mr. FINLEY. I ask for information.

Mr. BLACKBURN. And I shall be glad to furnish it if within my power.

Mr. FINLEY. As I understand from the remarks of the gentleman from Ohio [Mr. DICKEY] the bill now under consideration has been considerably altered and changed from the printed bill, and I desire to call the attention of the gentleman from Kentucky to pages 3, 4, and 5 of the printed bill, sections 4 and 5, and to make an inquiry as to whether there has been any change as to the point to which I wish to refer. The point is this: in section 4 of the printed bill it is provided that notice shall be published for ten consecutive days in some newspaper printed in the city of Washington, warning all stockholders, bondholders, and other creditors to appear within twenty days thereafter and present their respective claims upon the award. It is further provided that the publication of this notice shall be sufficient to bring the parties into court. In short, as here printed, the bill makes the notice not only constructive—

Mr. BLACKBURN. I would like to ask the gentleman from Ohio what concern that is of ours? What interest has either the Government of the United States or the government of the District of Columbia in that section of the bill?

Mr. FINLEY. If the gentleman will allow me I will come to the point as to which I desire to make an inquiry.

Mr. BLACKBURN. That provides for a settlement and a distribution of the award among the stockholders and bondholders of the Washington Market Company, in which neither the District of Columbia nor the United States nor anybody else can possibly have any concern.

Mr. FINLEY. I understand it provides more than that. I understand it provides for all classes of creditors. I understand now further that by section 4, after the expiration of those twenty days, the court certifies to the auditor and the auditor or master, as he is called, proceeds to make a report of a certain class of claims, including bonds and all other claims, and that, without an exception, within fifteen days of his making his report a judgment is entered against all claims of whatever class.

Mr. BLACKBURN. Again I reply, Mr. Speaker, that nobody on the face of the earth has any interest in that except the parties in interest in the Washington Market Company.

Mr. FINLEY. Well, I will ask the gentleman whether in the case of a party who has a claim against the market company and who may be absent in California, a notice published for ten days requiring him to appear twenty days thereafter—

Mr. BLACKBURN. And thirty days for the auditor to make his report in.

Mr. FINLEY. I do not understand that thirty days are given for the report of the auditor. Is that the fact?

Mr. BLACKBURN. The auditor cannot be limited. Does the gentleman expect an auditor to marshal these assets and make a report in ten minutes involving a distribution of an award of \$300,000?

Mr. HUNTON. Let me suggest another thing. All the creditors

of the market company, stockholders and bondholders and other creditors, were represented before the committee and assented to that provision of the bill. That provision as to the outside creditors was put in out of abundant caution, it being understood that there was very little outside debt owing by the company.

Mr. FINLEY. I was not quite through with what I wished to say. There is a difference between ten minutes and thirty days. I understand this bill makes no provision that the auditor should make his report within thirty days. It practically, then, provides that twenty and ten days or thirty or thirty-five days of constructive notice shall be given.

Mr. BLACKBURN. The gentleman's calculation is at fault. First, there is the ten days' notice. Then comes the twenty days. Then comes the fifteen days, within which exceptions shall be filed. And then comes the time that it is requisite for the auditor or master commissioner to have within which to make his report, and that is to be added.

Mr. FINLEY. The inquiry I rose to make is this: whether there has been any change in this bill—

Mr. BLACKBURN. In that regard?

Mr. FINLEY. Yes, sir.

Mr. BLACKBURN. There has not. I wish to add that, instead of its being thirty-five days or sixty days, as it would probably turn out to be, if the time were reduced to five days I apprehend no member of this House would have occasion to oppose this feature of the bill; because it is a matter in which neither the Federal Government nor the District of Columbia nor anybody else can possibly have an interest. It is a matter in which nobody can have any concern except it be the parties in interest in the company, and they have appeared, as has already been stated, before the committee and accepted the provision; and they stated that this mode of settlement was agreeable to them. But more than that, through abundant caution, in order to show that this bill has not been crudely put together, there is an independent provision in it that declares that the claims that are asserted by the District of Columbia for back taxes, whether special or general, and the claim asserted by the District of Columbia for this deficit in ground rent, shall be considered as excepted to and shall not be amenable to laches.

Mr. LOCKWOOD. How large are those claims?

Mr. BLACKBURN. In regard to that the Washington Market Company and myself would be widely at variance in our estimate.

Mr. LOCKWOOD. What do the committee estimate it at?

Mr. BLACKBURN. I speak for myself as a member of the committee, and I say that all claims that will be asserted by the District of Columbia in the shape of abatement against the award of these arbitrators will not amount to less than from \$125,000 to \$150,000. That is to be determined at last by the judgment of the Supreme Court of the United States, and until that judgment is rendered the money awarded by these three arbitrators is not to be paid to the Washington Market Company, or a sum sufficient to meet these claims is to be held subject to the decision of the Supreme Court in reference to every claim asserted by the District of Columbia; and every claim thus asserted by the District of Columbia is expressly excepted to from the report of the master or auditor, no matter what the report may be.

Mr. CONGER. Will the gentleman from Kentucky allow me a moment?

Mr. BLACKBURN. Certainly.

Mr. CONGER. I wish to call the attention of the gentleman reporting this bill to the fact that in this notice which is very short—ten days' notice to appear within twenty days thereafter—there is no provision for minors, no provision to require appearance by order of the court as is almost always the case. A newspaper notice of ten days requiring all parties having claims against the company to appear and file them within twenty days, it being provided that whether they appear or do not appear the notice shall be considered absolute, I think is going further than has ever been done before. I call the attention of the gentleman to that.

I wish also to call his attention to another point. In the classification of these claims the amount of all general or special taxes that may be outstanding and unpaid against the company together with all penalties and arrears shall stand first. Next, all claims of the District of Columbia against the market company, which would include at least the \$25,000 a year rental; and if the whole subsequent rental for the ninety-nine years is to be considered of any value, it would absorb a great deal more than any valuation provided for here.

Mr. BLACKBURN. Of course there could be no deficit for ground rent recovered against the company after the time at which the company surrendered the property under an agreement with the District.

Mr. CONGER. Let me proceed a moment to state the points to which I desire to call the gentleman's attention. The next class of persons to be provided for are the bondholders of the company.

Mr. BLACKBURN. The gentleman is again mistaken. If he will read further he will find that that has reference simply to marshaling the assets and claims. The bill expressly refuses to make any distinction or discrimination between bondholder, stockholder or creditor. It says that shall be determined by law.

Mr. CONGER. I am coming to that. That is the next class to be provided for.

Mr. BLACKBURN. Not for payment however.

Mr. CONGER. No; in the assets.

Fourth. The amount of all other claims of creditors of said market company up to the date of the report.

Now that includes all those who do not hold bonds or have claims against the company under the previous heads. It includes all those who may own the floating indebtedness of this company for labor and for material. I turn now to the mode of payment. The first two classes, of awards of taxes and penalties—

Mr. BLACKBURN. And ground rent.

Mr. CONGER. Shall be paid first. Second, all claims of the company for the \$25,000 a year which has not been paid, making nearly \$200,000 if it is allowed. And in the remaining three classes of cases the priority of the payment shall be determined by the court. Now I claim that in such a bill as this the very first provision of it should be to secure to the laborers and to the men who have furnished materials upon the works of this company their pay in full.

I find that they are left to come in if the courts shall so decide.

Fifth. Now I think the bill is very imperfect in not giving a preference to the laboring-man; the men who have taken the most interest in the work, and who have furnished the material, and who have labored for the company, and who own the floating indebtedness of the company. I think they ought to be provided for; they are those least able to bear the loss.

Mr. BLACKBURN resumed the floor.

Mr. TOWNSEND, of New York. I want to ask the gentleman a question. This whole discussion and the bill itself came to me tonight for the first time. I had not an opportunity to examine the papers, but I desire to ask the gentleman from Kentucky, who has examined this question, whether the right of re-entry for non-payment of rents exists in the Government or in the District of Columbia, or both.

Mr. BLACKBURN. If the gentleman will permit me, I prefer first to answer the questions of the gentleman from Michigan, [Mr. CONGER.]

Mr. TOWNSEND, of New York. Oh, certainly.

Mr. BLACKBURN. I prefer to answer the questions in rotation. To show how utterly untenable the objections of the gentleman from Michigan are, let me say, in the first place, to the objection which he makes about the want of notice, which was first made by the gentleman from Ohio, that it concerns nobody except the parties in interest, the Washington Market Company. This is a joint-stock company. It consists of stockholders and bondholders; and the stockholders and the bondholders are found almost invariably to be identical. They have met and passed upon this bill and found it entirely satisfactory, and agree to accept it and have signified their approval of its provisions.

Now as to the graduation of these claims, to which the gentleman from Michigan objects. He says that the laborers ought to be preferred. Does the law give them priority? If so, this bill leaves them with all the protection of the law. Does the gentleman mean to ask Congress to resolve itself into a judicial body and pass upon the priority of claims? It has been my object and it has been the object of the Committee for the District of Columbia to avoid the appearance of the exercise of judicial power in this bill. The bill directs the auditor or the master commissioner to marshal these claims for trial, not for payment. It makes an express provision as to how they are to be paid; and the gentleman from Michigan is mistaken in that matter, for the bill does not marshal the claims of the laborers in the fifth class, but in the fourth.

Mr. CONGER. That is what I said.

Mr. BLACKBURN. The gentleman said, if I am not mistaken, that the laborers were in the fifth class, but really the stockholders come in last. The bill merely directs the auditor or master commissioner to marshal the claims. The first, claims of the District of Columbia for back taxes and arrearages; the second, for rents unpaid. Then comes the third class, which is the bondholders. Then comes the fourth class, which embraces all their creditors. Then comes the fifth and the last class, which embraces none but the stockholders. But this is a mere marshaling of the classes of claims. The bill provides that the first and second classes of these claims from the District shall take priority over everything: ground rent and taxes. I imagine that no laborer would be able to enforce any claim against property of that kind. This bill provides that the question of priority between the laborers and the bondholders shall be determined by law. Congress is not a judicial body, and if any citizen has a claim under this bill he holds it under the law; and as a member of a legislative body I do not propose to engage in the exercise of judicial powers.

I will say to the gentleman from New York [Mr. TOWNSEND] that in the act of incorporation of May 20, 1870, several conditions were imposed upon this market company, which have been stated in detail. Among other things they were required to put up buildings on the plans and specifications which were presented at the Clerk's desk, in open House, and filed in the office of the Secretary of State. One of those conditions was that they should pay \$25,000 per annum as ground rent. Another condition imposed upon them was that they were required to complete their building in two years. And then this further condition was imposed upon them: that in case of a failure or default of the Washington Market Company to comply with the provisions of the law the power was reserved to Congress to repeal or abrogate their franchise.

So that the question is settled. But whether it were so or not, I state that as to this bill there is no disagreement upon that point. The bill, as I have already stated, declares in the twelfth section that at the expiration of thirty years Congress may prescribe the terms upon which the District of Columbia may cancel the remaining sixty-six years of the lease and possess itself of the property.

Mr. TOWNSEND, of New York. I understood that from the gentleman's previous remarks.

Mr. BLACKBURN. So that under the express provision of the act of incorporation Congress reserved the power to alter, amend, modify, or repeal the charter.

Mr. BAKER, of Indiana. I regret that I have not been able to examine the bill except for a few moments here this evening. Otherwise I would not be under the necessity of troubling the gentleman in charge of the bill by asking questions. Looking over the ninth section of the bill, I have seen nothing that specifies the manner in which the net revenues of the market company shall be applied after the extinguishment of the principal and interest of the bonded debt authorized to be issued by the District commissioners under the direction of the Secretary of the Treasury. It seems to me that, if the bonds issued by the District commissioners are paid out of the rents and profits, the District government thereby becomes equitably entitled to the buildings and improvements situated on this Government land, and that consequently the Government, unless it made some reservation, would be in such a situation as to be equitably estopped from disturbing the possession that had been acquired under these circumstances. It seems to me that perhaps the bill ought to contain some such provision as this.

Provided, That after the payment of the principal and the interest of the bonds herein authorized, the Government of the United States shall be entitled to receive such part of the net annual rents and receipts arising from said market-house property as the then assessed value of the real estate on which said market-house stands bears to the then assessed value of the buildings and improvements thereon: Provided, That said sum so received from the said rents and profits shall not be less than \$25,000 in any one year.

In other words, from the time when the debt has been extinguished so that the District and the Government of the United States become in some sense owners in common of this property the Government of the United States, by an explicit reservation now made, ought to enjoy such proportion of the rents realized as the assessed value of the Government's real estate bears to the assessed value of the District's buildings and improvements. This is the point to which I wanted to call the gentleman's attention, to inquire whether or not it is covered by the bill.

Mr. BLACKBURN. Mr. Speaker, I am glad that the gentleman from Indiana has at last abandoned the discussion within the realm of legal obligation, and now comes to the equitable features of the case. I say very frankly that speaking for myself I have not the slightest objection to ingrafting upon this section an amendment declaring that after the extinguishment of the bonded debt the net revenues of this market-house property shall be liable, not proportionally, not in moiety, but that the entire net revenues of this market-house property shall be subject to such disposition as Congress in its discretion may see proper to make. At the same time I would say, speaking from the stand-point of a lawyer, that such an amendment would in my judgment be surplusage, because I hold that whenever that debt is extinguished the limitation put by Congress in this bill upon the application of the revenues has expired, and it is for Congress to say again, as it now in this instance says for thirty years to come, to what purpose those revenues shall be applied.

But looking at the matter from the stand-point of equity, I can hardly concur with the gentleman from Indiana in thinking that the District of Columbia would become possessed of an equitable right to enjoy the net revenues of this property, because here stands the Government of the United States holding the title in fee to more than a half million dollars' worth of real estate in the heart of this city. Improvements and buildings have been put upon it. Now the Government of the United States says to the District of Columbia through this bill, "You may now take this property free of ground rent, free of any liability to the poor-fund or to the Federal Treasury; issue your bonds for the actual and ascertained value of the improvements which this joint-stock company have put upon the property; pledge the revenues of the property and no other revenues to the extinguishment of that debt." After this has been done, (which costs the District of Columbia not a solitary dollar, because I have said the revenues from this property are admitted on all hands to be amply sufficient and more than sufficient to discharge the liabilities within the time prescribed,) then how is the District of Columbia possessed of any equitable title? What dollar of money has she ever put into it? The United States Government is the owner of the fee of the real estate; a corporation has put improvements upon it; bonds have been issued resting solely upon the revenues of the property; those revenues have proved amply sufficient to meet and extinguish the debt by or before maturity; the government of the District of Columbia has not a dollar invested, and I cannot see where an equitable title would accrue.

Mr. BAKER, of Indiana. Let me ask a question right here. If a private individual should transfer to you the title of certain property and give you the rents and profits of that property for thirty years for the purpose of meeting the amount that he had reserved to

himself; if at the end of that time you had satisfied the indebtedness out of that property, would not the title be in you? This bill provides, as I understand, that the title to the improvements and buildings of this market company shall vest in the District commissioners, who, under the direction of the Secretary of the Treasury, shall issue their bonds pledging the rents and profits of these buildings for the liquidation of the principal and interest of these bonds. Now, when the title to this property is at least equitably vested in the District government and when that government has issued its bonds, and out of the property the title of which is vested in it has discharged these obligations, how does it happen that in point of equity the District government at the end of that time has no equitable ownership in the property?

Mr. BLACKBURN. I answer the gentleman by saying he and I are arguing from different stand-points. I say the title never does pass and never has passed and never is to pass from the United States either to the Washington Market Company or to the District of Columbia, neither legally nor equitably. The title in fee is in the Government to-day and would have rested there undisturbed for ninety-nine years while the usufruct remained to the market company. I say further, taking the illustration the gentleman from Indiana offers me, if I am the owner in fee-simple of a landed estate and I convey to you under a leasehold, coupled with the condition you shall discharge certain incumbrances or debts from the rents, issues, and profits thereof at the end of the term of years for which I made the leasehold conveyance, the incumbrances having been lifted, the debt having been discharged according to contract, would the gentleman from Indiana undertake to oust me from the title in fee or set up an equitable title against me as owner? I apprehend not.

In summing up, Mr. Speaker, I have but this to say by way of recapitulation in a single sentence: the several features of the bill which have been inquired into—I will not say attacked—involve questions in which neither the Federal Government nor the District of Columbia can possibly have any concern. They are matters of detail as to the disbursement or distribution of an award which shall be made to the Washington Market Company according to the priority given and awarded by the court. And to that condition the stockholders and the bondholders have already officially assented. Secondly, the Federal Government, as I have said more than once, does not become in any contingency conceivable, by any torture or twist of construction, liable to the extent of a dollar either for principal or interest upon these bonds. Further than that, the District of Columbia is responsible upon the bonds issued resting and predicated simply upon the revenues of the property that is thus to be transferred to its possession. And lastly, I add, it is simply a question whether a leasehold of half a million dollars' worth of real estate, the fee-simple title to which rests in the Government, and absolute ownership of improvements in connection with the real estate probably worth six or seven hundred thousand dollars, upon agreement, all parties in interest assenting, to be turned over to the Government and back to the District at a cost probably less than \$200,000 and every dollar of that to be paid out of the bonds which are to be met from the revenues and uses of the property itself—if that is not an advantageous transaction, then every member of the Committee for the District of Columbia has been grossly deceived.

Mr. LOCKWOOD. What amount of bonds and stock have been issued by the Washington Market Company?

Mr. BLACKBURN. I have the figures in the committee-room. There has been \$100,000—I cannot speak accurately, for I am speaking from memory.

Mr. LOCKWOOD. Have they made a dividend on that stock?

Mr. BLACKBURN. Did the gentleman want an answer to his question?

Mr. LOCKWOOD. Yes, sir.

Mr. BLACKBURN. I am trying to give it. There have been \$100,000 paid in on the capital stock. The capital stock was limited to one million of money. There has been 10 per cent. paid in. There have been bonds issued at various times. My recollection is that the aggregate of bonds issued by this company is either \$120,000 or \$160,000. The latter is my best recollection.

Mr. LOCKWOOD. Now, I wish to know whether they paid any dividend on this stock.

Mr. BLACKBURN. They have, sir; but they have paid dividends only on the amount paid in. They have not paid dividends on the amount of the capital stock, but they have paid dividends on the one hundred thousand of stock, which was the amount actually paid in.

Mr. LOCKWOOD. How many dividends have been paid?

Mr. BLACKBURN. They have paid six annual dividends from 1870.

Mr. LOCKWOOD. What per cent?

Mr. BLACKBURN. Ten per cent. Those have been the dividends paid on the amount of stock paid in, that is on the \$100,000.

Mr. CONGER. Will the gentleman let me offer an amendment?

Mr. BLACKBURN. Certainly.

Mr. CONGER. I move at the end of section 6 to add the following:

Provided, Priority shall be given to all claims for labor and material furnished for the improvement of such property to the said market company.

Mr. BLACKBURN. I will say, so far as I am concerned, I certainly have no objection to the adoption of that amendment. I am the

introducer of a resolution directing an investigation into the affairs of this market company with a view of working a forfeiture of its charter. The RECORD shows I am the introducer of a bill which directs the Attorney-General of the United States to institute legal proceedings to declare that forfeiture. I am not here as the advocate of the Washington Market Company most assuredly; I trust I do not appear as its prosecutor; but I do say that while I recognize that the amendment offered by the gentleman from Michigan [Mr. CONGER] can have no possible effect upon interests in which the Government or the District of Columbia are involved, it is a question between the stockholders and the bondholders and the general creditors, if there be any, of the company.

Mr. CONGER. And the laborers.

Mr. BLACKBURN. I have no objection to that. I never believed it was safe for a legislative body to undertake to discharge judicial functions.

Mr. WHITE, of Pennsylvania. Does the gentleman think that the amendment of the gentleman from Michigan would be unconstitutional? Is it in the power of this Congress, on a bill of this character, as to claims already existing against this corporation and its associates, to pass a feature of this kind? Can they do it without interfering with vested rights? It might be right to do it in an original act of incorporation, but at this stage I think it unwise.

Mr. BLACKBURN. I have already indicated to the gentleman by my remarks that I concur with him in the opinion he has just expressed.

Mr. TOWNSEND, of New York. Mr. Speaker, I am liable under the circumstances of this case, more liable than usually even, to be mistaken as to the real bearing of this bill and as to what are the real interests of the country and of the District of Columbia in regard to the matter presented in this bill. But this strikes me as undoubted in regard to the matter before us. The Government has a lien upon the property of this market-house, an indefeasible lien, and has a right to re-enter upon these grounds for the enforcement of rent. It strikes me further that the taxes against the market company are an undoubted lien upon the interests of the market company in the property and that there is not the remotest danger of either the District of Columbia or the Government losing a cent of these taxes, and the interest of the Government as to the rent and the interest of the District of Columbia as to the taxes is perfectly safe without this law, as it would be with it.

Now I look further, I do not know the exact amount of the debt of the District of Columbia. It is said to be about \$25,000,000. We owe half of it; I will not say that we owe it, but we have half of it to pay. This District was improved largely at one time, and the people of the United States through Congress got up great excitement and destroyed the local Legislature and adopted a policy against local self-government in the District of Columbia which most egregiously failed by the action of the men who lived and owned property in the District of Columbia themselves.

But in any way suppose the people of the District of Columbia owe \$12,500,000? This bill is going immediately to put upon the District of Columbia just so much more debt as the commissioners appointed under this bill shall create by their laws, and I am told that it is claimed that the buildings upon this land cost \$400,000 or thereabouts; and I assure you, and I think the experience of members of the House will induce them to concur with me, that when a municipal corporation is going to pay or the Government is going to pay for property it is not appraised very low, and I have no doubt the amount will reach \$400,000.

We are by this law to put a burden of \$300,000 additional debt upon the District of Columbia. Now this District is our ward, and our ward is here every day asking help and relief at our hands, and if we place this debt upon it we shall have to carry it ourselves.

Now, I do not believe that there is any such intention on the part of the Committee for the District of Columbia, because I have no doubt that they have put this matter fairly before the House as it seems to them, but I am free to say that if I had been one of the Washington Market Company and I had undertaken an enterprise expensive almost beyond a possibility of return, I should be willing to let the Government take it off my hands and pay me for it, especially after I had year after year utterly refused to perform my part of the obligations under the contract, and therefore I do not doubt that the company would be willing to let this law be passed.

Sir, I think if I were rich and had the wealth of the Astors I should be willing to invest in this market company, and I think I could do so with utter safety. I do not know but what it is all right, but there are fingers about this matter that I have learned to suspect. I do not speak ironically and I have no doubt in my soul that I have seen the fingers of Joab in this matter or I thought I had. I myself shall vote, if I have a chance, to enforce the law on this defaulting company; that is my doctrine. They bargained with us and they have not kept their bargain, and instead of listening to the plausible suggestions from their friends, let them obey the law; that is the way it strikes me.

Mr. BLACKBURN. I want to say to the gentleman from New York that while I concur with him fully in the view that he has reached as to the failure of this company to comply with the conditions of its charter and as to the absolute propriety of enforcing the law against it, as illustrated in the bill now in print and recommitted

to the Committee for the District of Columbia proposing a declaration of forfeiture of all the franchises of the company, I want to remind him that in one part of his calculations he seems to be in error. If the award is to be \$300,000, the value of the company's improvements, as the gentleman from New York very properly and naturally surmises, the company would hardly be making money by a surrender of the property when they are receiving \$53,000 of annual revenue now. Under such circumstances it seems to me this can hardly be considered an insolvent company.

Mr. TOWNSEND, of New York. I do not propose to surrender anything. I propose to walk up and take the property.

Mr. BLACKBURN. Well, I will join the gentleman from New York, and will be glad of his support, in passing the bill which is now before the House, unless this bill should meet the approval of Congress; for the report filed with this bill declares that only in the event of this bill becoming a law will it be deemed unnecessary to press the bill for the forfeiture of the franchises of the company. I believe myself that all the gentleman from New York has said by way of criticism upon the Washington Market Company for its failure to comply with its obligations has been deserved, and ever so much more that he did not say. But the Washington Market Company did not come here and ask for this bill. It was only when the other bill had been introduced here, instructing the Attorney-General to wrest this property from that company under a proceeding for forfeiture of charter, it was not until then that the company came before the committee and agreed, as a matter of compromise, to accept the bill now under consideration, which looks to the transfer of the property.

Mr. TOWNSEND, of New York. The adoption of the other alternative will save the District of Columbia from assuming the payment of a dollar; it will save the Government of the United States from assuming the payment of a dollar. All we have to do is to enforce our rights as against the company.

Mr. BLACKBURN. The gentleman will allow me to ask him a question. Admitting that this company, as he believes and as I assert, has justly and fairly forfeited its charter rights, would the gentleman from New York in declaring a forfeiture, whether by judicial procedure or by congressional enactment, wrench that property from them and take the improvements that they have put upon it without giving them just and fair compensation?

Mr. TOWNSEND, of New York. I will answer the gentleman. I would take it and hold it unless the company devised some way to bring me the money. I would not pay them for their wild expenditures.

Mr. BLACKBURN. Let me ask the gentleman in all kindness one other question.

Mr. TOWNSEND, of New York. Certainly.

Mr. BLACKBURN. In declaring by judicial process or by the exercise of the arbitrary power of Congress a forfeiture which, in my judgment as in the gentleman's, has been richly earned—in wrenching from the company these improvements, worth \$300,000 according to his estimate, in which I am disposed to agree—would he make an appropriation from the Federal Treasury to provide for the interest that the widow and the orphan have in the shape of bonds or stock invested in the company?

Mr. TOWNSEND, of New York. Mr. Speaker, we are legislating all the time for "the widows and orphans." We have several members in this House (though I believe their seats are vacant just now) who sit up nights with those "widows and orphans." [Laughter.] I want to care for them. But suppose I am a poor man having only \$5,000 which I lend upon a farm worth \$10,000. The borrower does not pay me a dollar. The time comes when I must have my money. Now what is to be done? Am I to foreclose my mortgage, or am I compelled under some high sense of honor to say, "I will not foreclose; and inasmuch as I cannot raise money to pay the other \$5,000, I will go without what I have loaned." Society must stand by the enforcement of laws. Occasionally property must be sold under a foreclosure. So far as this company is concerned it can pay. It is not poor men by any means that own the whole of this stock. There are plenty of rich men holding it; otherwise they could not hire Caleb Cushing to hang around here and draw bills and figure in regard to this matter. Caleb must have money. [Laughter.]

Mr. BLACKBURN. Has the gentleman any hesitation in telling us whether the gentleman last named by himself is the "Joab" to whom he alluded a little while ago? [Laughter.]

Mr. TOWNSEND, of New York. He is Caleb. [Laughter.]

Mr. BAKER, of Indiana. Mr. Speaker, I confess that I sympathize somewhat with the fear expressed by my friend from New York [Mr. TOWNSEND] in reference to there being some "Joab" lurking around this bill. I do not refer to any of the members of the committee or any members of the House; but I fear that there are powers outside that are not seen. With the view of preventing any improper advantage that might possibly be taken, I desire, if I should have an opportunity, to offer an amendment in the form of an independent section. I will read it now, in order to bring it to the attention of the House:

SEC. 11. That nothing in this act contained shall be held or construed to limit or impair the right and power of the Government of the United States to alter, change, or amend the provisions of this act in any manner it may deem proper; nor shall this act be held or construed to limit or impair the right of the United States to control the renting and the profits and revenues arising from said market-house after the payment of the principal and interest of the bonds herein authorized.

Mr. CONGER. I ask for a vote on my amendment.

The SPEAKER *pro tempore*. Does the gentleman from Indiana offer his amendment?

Mr. CONGER. That is not an amendment to my amendment.

Mr. BAKER, of Indiana. I ask that the amendment be again read. The amendment of Mr. BAKER, of Indiana, was again read.

Mr. BLACKBURN. So far as I may do so I cordially accept that amendment.

Now I wish to say I have no disposition to force this bill through or put it upon its passage if it is not the pleasure of the House. The District of Columbia Committee has but one day in each month, and the next day will be the third Monday of next month and that will be devoted to the bill to establish a permanent form of government. If I knew what the wish of the House was I would be glad to accommodate my motion to it, either to ask the consideration of this bill now or to ask the House to set some night during next week when the bill and amendments might be printed and come up and be discussed at any length. But in order to test the sense of the House, protesting I have no preference in the matter so far as I am concerned, I will ask the previous question on the bill and amendments.

Mr. BURCHARD. Before the gentleman from Kentucky asks the previous question I desire to offer an amendment. In accordance with the suggestion made to limit the payment in the fourteenth section I propose to move an additional proviso to section 9, as follows:

Provided further, That as soon as the revenues arising under this act shall suffice to pay and discharge the bonds herein authorized to be issued the commissioners of the District of Columbia shall set apart annually the sum of \$25,000 to be expended as required in section 14 of the act incorporating the Washington Market Company.

Mr. BLACKBURN. I ask the gentleman from Illinois whether he does not think the object he seeks to accomplish by that amendment is better provided for by the amendment of the gentleman from Indiana?

Mr. BURCHARD. The amendment of the gentleman from Indiana leaves it subject to future legislation.

Mr. BLACKBURN. The amendment of the gentleman from Illinois would anticipate a contingency which cannot occur for thirty years to come.

Mr. BURCHARD. It may occur, because the revenues which may be set apart may suffice.

Mr. BLACKBURN. In twenty years?

Mr. BURCHARD. Before that time.

Mr. BLACKBURN. But this would be legislation in anticipation of at least twenty years. I have no objection in the world except it looks as though it would be rather hazardous for us to anticipate in figures what amount of money could be spared from the revenues of this property twenty years hence in excess of the sum found necessary to pay its current expenses. That is my only objection.

Mr. BURCHARD. These revenues are to be applied to the payment of the necessary incidental expenses of conducting said market and to pay the principal and interest of the bonds herein authorized to be issued. They may pay the bonds in ten or fifteen years or any other time, but if the market company have possession and means sufficient I can see no objection to it.

Mr. BLACKBURN. I have stated the only objection I have to it.

Mr. BURCHARD. I hope the gentleman will allow my amendment to be offered.

Mr. BLACKBURN. I have no objection, but I think the amendment of the gentleman from Indiana provides better for it.

Mr. BURCHARD. Let my amendment come in.

Mr. BLACKBURN. I demand the previous question on the bill and pending amendments.

The previous question was seconded and the main question ordered.

The SPEAKER *pro tempore*. The question will now be taken on the amendments in their order, and the amendment of the gentleman from Michigan [Mr. CONGER] will first be read.

Mr. DICKEY. Is it in order to move that this bill and pending amendments be printed?

The SPEAKER *pro tempore*. It is not, as the previous question is operating.

The Clerk will now read the amendment of the gentleman from Michigan, [Mr. CONGER.]

The Clerk read as follows:

After the word "them," in line 21, section 6, add the following:

Provided priority shall be given to all claims for labor and material furnished for the improvement of such property to the said market company.

The House divided; and there were ayes 12, noes not counted.

The SPEAKER *pro tempore*. The amendment is evidently rejected.

Mr. CONGER. I call for the yeas and nays. I want to find where the friends of the laboring-man are to-night.

The House divided; and there were—ayes 10, noes 75.

The SPEAKER *pro tempore*. The yeas and nays are not ordered, one-fifth of those present not having voted in the affirmative.

Mr. TOWNSEND, of New York. I do not like this bill, and I therefore raise the question that there is no quorum present.

Mr. BLACKBURN. No quorum is required on ordering the yeas and nays.

The SPEAKER *pro tempore*. The Chair sustains the point of order. A quorum is not required on a call for the yeas and nays.

Mr. BLACKBURN. I hope gentlemen will not insist any further. The SPEAKER *pro tempore*. The amendment of the gentleman from Michigan is rejected.

Mr. HENDEE. The amendment of the gentleman from Michigan does no harm, because the company does not owe a single cent which will be affected by it one way or the other.

Mr. BLACKBURN. I stated I had no objection to the amendment except that in my judgment it is unconstitutional; and I do not intend to vote for any amendment that in my judgment contravenes the Constitution.

Mr. HENDEE. I think the gentleman had better accept the amendment.

Mr. BLACKBURN. I cannot accept it.

Mr. CONGER. The gentleman in his bill has already given priority to two classes of creditors. But it seems that in his judgment it is unconstitutional to give priority to the claims of the workmen.

Mr. BLACKBURN. If debate is in order I will say in reply to the gentleman as to that—

The SPEAKER *pro tempore*. Debate is not in order. The amendment of the gentleman from Michigan has been rejected.

Mr. CONGER. The point was raised that a quorum did not vote.

Mr. BLACKBURN. A quorum is not necessary to order the yeas and nays.

The SPEAKER *pro tempore*. The question is next on the amendment offered by the gentleman from Indiana, [Mr. BAKER.]

The amendment was again read.

Mr. HUMPHREY. I move that the House do now adjourn.

The question being taken on the motion that the House adjourn, it was not agreed to.

Mr. BLACKBURN. I believe there is no objection to the amendment which has just been reported.

The amendment was adopted.

The SPEAKER *pro tempore*. The Clerk will report the next amendment, that of the gentleman from Illinois, [Mr. BURCHARD.]

Mr. HANNA. This is a bill of some importance and there are very material amendments being offered. It seems to me that it would be wise and prudent to have a session of the House on Monday night for disposing of this bill.

Mr. COBB. I rise to a question of order. Debate is not in order.

Mr. HANNA. I am not debating. I merely wish to suggest that there be a session of the House on Monday night to dispose of this bill.

The SPEAKER *pro tempore*. Debate is not in order, but it is competent for the gentleman to ask a parliamentary question.

Mr. HANNA. Then I make this parliamentary inquiry: would it be in order to move that Monday night be set apart for the further consideration of this bill?

The SPEAKER *pro tempore*. It would not; the previous question is operating.

Several members called for the regular order.

The SPEAKER *pro tempore*. The regular order is demanded, and the Clerk will read the amendment offered by the gentleman from Illinois, [Mr. BURCHARD.]

The amendment was read.

The question being taken on Mr. BURCHARD's amendment, there were—ayes 12, noes 54.

So (further count not being demanded) the amendment was not adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time.

Mr. BLACKBURN. I move the previous question on the passage of the bill.

The previous question was seconded and the main question ordered. The question was on the passage of the bill; and being taken, there were—ayes 53, noes 18.

Mr. TOWNSEND, of New York. I now raise the point that a quorum has not voted.

The SPEAKER *pro tempore*. A quorum not having voted the Chair will order tellers.

Mr. BLACKBURN. As a parliamentary inquiry, I would ask whether the previous question, being in operation, if the House should now adjourn, this bill would not come up to-morrow morning as unfinished business.

The SPEAKER *pro tempore*. It is the opinion of the Chair that it would.

Mr. CONGER. As the session of the House to-night is held under a special order limiting the business to reports from the Committee for the District of Columbia it appears to me that this bill, if not disposed of to-night, would go over to the next day when District business would be in order.

Mr. HUMPHREY. In view of the statement made by the Chair, I move that the House do now adjourn.

Mr. FRANKLIN. I move that when the House adjourns to-day it be to meet on Monday next.

The motion of Mr. FRANKLIN was not agreed to.

The motion that the House adjourn was agreed to, ayes 52, noes not counted.

And accordingly (at ten o'clock and five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: Resolutions of the Board of Marine Underwriters of Philadelphia, opposing the transfer of the live-saving service to the Navy Department—to the Committee on Commerce.

By Mr. BAYNE: The petition of Daniel K. Morgan and 125 tin-plate workers, of Allegheny County, Pennsylvania, for such adjustment of the duty on tin-plate as will give relief to that industry—to the Committee of Ways and Means.

Also, papers relating to the pension claim of R. G. Crawford—to the Committee on Invalid Pensions.

Also, resolutions of the Chamber of Commerce, of Pittsburgh, Pennsylvania, praying Congress to prevent the construction of bridges across navigable rivers that will interfere with navigation—to the Committee on Commerce.

By Mr. CAMPBELL: The petition of citizens of Martinsburgh, Pennsylvania, for the extension of the national credit to aid in the completion of a great southern line of railroad to the Pacific Ocean—to the Committee on the Pacific Railroad.

By Mr. CANNON, of Utah: The petitions of the Society of Civil and Mining Engineers, of Utah Territory, and of citizens of said Territory engaged in mining, against the abolition of the office of surveyor-general in the States and Territories—to the Committee on Public Lands.

By Mr. CHALMERS: Resolutions of Phoenix Grange, Fayette, Mississippi, that greenbacks should be made legal tenders for all debts, public and private—to the Committee on Banking and Currency.

By Mr. COX, of New York: Resolutions of the Oswego (New York) Board of Trade, in opposition to transferring the life-saving service to the Navy Department—to the Committee on Commerce.

By Mr. ELLIS: The petition of Henry Rehder, for relief—to the Committee of Claims.

By Mr. FOSTER: The petition of citizens of Erie County, Pennsylvania, against the passage of House bill No. 3689—to the Committee on Commerce.

By Mr. GARFIELD: The petition of men and women of Ohio, for the appointment of a commission to investigate the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. GOODE: The petition of citizens of Virginia, for an appropriation for the establishment of automatic buoys—to the Committee on Commerce.

By Mr. HARRIS, of Massachusetts: The petition of ship-owners, merchants, and others, of Boston, Massachusetts, for the improvement of the harbor of Scituate, Massachusetts—to the same committee.

By Mr. LANDERS: The petition of Landers, Frary & Clark, and 58 others, of New Britain, Connecticut, for legislation to extend the export trade of the United States—to the Committee of Ways and Means.

Also, the petition of Landers, Frary & Clark, and 45 others, of New Britain, Connecticut, against the granting of license or register to foreign-built ships—to the same committee.

By Mr. MONEY: The petition of Benjamin Roach and others, of Mississippi, for the refunding of the cotton tax—to the same committee.

By Mr. STENGER: The petition of 1,114 citizens of Franklin County, Pennsylvania, for the extension of the national credit to the completion of a great southern line to the Pacific—to the Committee on the Pacific Railroad.

By Mr. TOWNSEND, of New York: The petition of J. B. Enos, Saxton & Thompson, Hannamans & Ingalls, and Thayer & Beige, for the imposition of duties on foreign flour—to the Committee of Ways and Means.

By Mr. TUCKER: The petition of citizens of Campbell County, Virginia, for the passage of the Texas Pacific Railroad bill—to the Committee on the Pacific Railroad.

By Mr. WALSH: The petitions of Peter Yarnell and Petronilla Byrne, for pensions—to the Committee on Invalid Pensions.

By Mr. WHITTHORNE: Two petitions of officers of the Navy, in behalf of sailmakers—to the Committee on Naval Affairs.

HOUSE OF REPRESENTATIVES.

SATURDAY, April 20, 1878.

The House met at twelve o'clock m. Prayer by Rev. S. DOMER, St. Paul's Lutheran Church, Washington, District of Columbia. The Journal of yesterday was read and approved.

Mr. BAKER, of Indiana. I call for the regular order.

CORRECTION OF JOURNAL.

Mr. SAMPSON. I desire to make an inquiry of the Chair. Would it be in order to correct the Journal of several days ago?

The SPEAKER. The Chair thinks it would.

Mr. SAMPSON. On the 4th of April I offered a resolution and requested that it should be referred to the Committee on Printing. The

RECORD shows that the resolution was so referred. In the Journal it appears incorrectly to have been withdrawn. I simply desire to get the resolution before the Committee on Printing.

The SPEAKER. The Chair thinks that the gentleman might reintroduce the resolution and that would have the same effect as the original action of the House.

REPORT UPON HOG CHOLERA.

Mr. SAMPSON. I will do so. I offer the following resolution, and move that it be referred to the Committee on Printing:

Resolved, That 10,000 copies of the Senate Executive Document No. 35, second session of the Forty-fifth Congress, being the report of the Commissioner of Agriculture on the subject of hog cholera, be printed in pamphlet form for the use of the House.

There was no objection; and the resolution was referred to the Committee on Printing.

Mr. WHITE, of Pennsylvania. I ask unanimous consent to introduce a resolution calling for information.

WASHINGTON MARKET COMPANY.

The SPEAKER. The regular order is demanded and the Chair has no volition. The unfinished business of yesterday is the question upon the passage of the bill (H. R. No. 4425) relative to the Washington Market Company, upon which the previous question has been ordered.

The question was taken upon the passage of the bill, and the bill was passed.

Mr. BLACKBURN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BLOUNT. I move that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of continuing the consideration of the post-office appropriation bill.

Mr. REAGAN. I hope the gentleman will allow us to have a morning hour.

Mr. COX, of New York. I wish to say that I will not oppose the motion of my friend on the Committee on Appropriations, there being an understanding between us that on Tuesday next we shall have a morning hour, and then go to the Speaker's table to dispose of the remaining business upon it.

Mr. WILLIAMS, of Oregon. I ask unanimous consent to take from the Speaker's table a Senate bill.

The SPEAKER. The regular order is demanded.

Mr. WADDELL. I want to know what this understanding is.

Mr. COX, of New York. It was an understanding merely between myself and the gentleman from Georgia, [Mr. BLOUNT.]

The SPEAKER. The gentleman from New York said that he would not oppose the motion of the gentleman from Georgia, because on Tuesday the Committee on Appropriations will not interfere with the morning hour. The question now is upon the motion of the gentleman from Georgia; but before putting that question the Chair desires to announce certain appointments for service on committees.

SERVICE ON COMMITTEES.

The Clerk read the following appointments:

Mr. DEAN, of Massachusetts, on the Committee on Expenditures in the State Department, vice Mr. WALKER, resigned;

Mr. ACKLEN, of Louisiana, on the Committee on the Revision of the Laws, vice Mr. LEONARD, deceased; and

Mr. RYAN, of Kansas, on the Committee on the Revision of the Laws, to fill a vacancy.

The question was then taken on Mr. BLOUNT's motion, and on a division there were—ayes 102, noes 42.

Mr. WHITE, of Pennsylvania. I call for tellers.

Mr. WHITTHORNE. Has a quorum voted?

The SPEAKER. It has not.

Mr. WHITTHORNE. Then we must have tellers as a matter of right.

Tellers were ordered; and Mr. WHITE, of Pennsylvania, and Mr. BLOUNT were appointed.

The House again divided; and the tellers reported—ayes 105, noes 54. So the motion was agreed to.

POST-OFFICE APPROPRIATION BILL.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. Cox, of New York, in the chair,) and resumed the consideration of the bill (H. R. No. 4246) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes.

The CHAIRMAN. The pending amendment when the committee last rose was, to strike out in line 21, on page 2, "\$25,000" and to insert in lieu thereof "\$40,000;" so that it will read: "for preparation and publication of post-route maps, \$40,000."

Mr. BLOUNT. I desire to make a statement in relation to this matter. I hope that the amendment will not be adopted. There was expended on this item of post-route maps last year \$20,000. This appropriation has varied from \$20,000 in 1871 to \$30,000 in 1876. In 1871 there was for this item \$20,000 appropriated; in 1872, \$20,000; in 1873, \$22,000; in 1874, \$27,000; in 1875, \$30,000; in 1876, \$30,000; in 1877, \$20,000; and in 1878, \$25,000 was appropriated. Now in 1877

the Committee on Appropriations made a further reduction to \$20,000 and during the last Congress for this fiscal year the committee appropriated the sum of \$25,000.

Now, sir, during this session the argument was made that it was necessary to appropriate \$5,000 additional in order to complete certain maps that the Department were wanting to complete, and the appropriation was made and they have the use of it.

The committee have provided not only that \$5,000 for a specific purpose, but they have increased the appropriation for these maps to \$25,000, which is more than has been appropriated generally for this purpose.

I want to say that so far as this bill is concerned the Committee on Appropriations have dealt with it more tenderly than with any other bill and have, in my judgment, been exceedingly liberal and appropriated more than the service of the Government required.

Mr. REAGAN. Let me ask the gentleman whether he has a detailed statement of the items which make up this \$25,000?

Mr. BLOUNT. The gentleman will find it on page 85 of the Postmaster-General's report; and it is there shown that a large part of it is to go for the pay of persons employed in this service. Any gentleman who will look at the matter will find that this branch of the service is growing up like everything else in this Government. Whenever any branch of the service gets a start it continues to grow and increase and is fertile with reasons for its life and growth. I hope the House is not going to assent to this method of increasing these appropriations.

Mr. BANNING. Is it not the fact that for want of sufficient appropriations maps of several of the States and Territories have not been made up to this time?

Mr. BLOUNT. That was alleged when we met here in the extra session; and we made an appropriation on this subject. But so far as that is concerned the gentleman will find that it has not been the policy of the Government to do everything at once. I know of no special embarrassment in regard to this matter. We always get letters on this subject as we do in regard to everything else; and I want to say to my friend that if the communication from every little bureau officer is to be the foundation for an increase of appropriations it is utterly useless for the Committee on Appropriations or the House to attempt to stand in the way of their increase.

Mr. BANNING. Mr. Chairman, I am in favor of every proper economy and of cutting off every unnecessary expense—as much so, I think, as my friend from Georgia; but this appropriation is not only recommended by a "little bureau," but it has been recommended unanimously, I understand, by the Committee on the Post-Office and Post-Roads after a full consideration of the matter. These maps are very useful. They enable the Post-Office Department to establish post-roads intelligently, and they conduce to economy by enabling the Department to find the proper places for post-offices and suitable routes upon which to transport the mails.

I submit that to appropriate a sufficient sum of money to make proper maps of all the States and Territories, showing the post-routes and post-offices, is a measure in the direction of economy.

I generally make it a rule to vote with a committee reporting a measure, and particularly the Committee on Appropriations, which works, I know, faithfully in the direction of economy. I think that when a committee of this House to which a subject has been referred has considered the subject fully and reported unanimously thereon it is hardly fair for my friend from Georgia to say that it is only recommended by some "little bureau." The appropriation is not only recommended by the bureau and by the Post-Office Department, but also by a committee of this House. Hence I think it fair for us to conclude that it is needed; and, if it is needed, it is right for us to make the appropriation.

Mr. THROCKMORTON. I hope that this amendment will prevail. I have had some occasion, so far as my own State is concerned, to look into this question, and I find that the post-office map of our State is very incorrect; and the Department cannot correct it from the fact that the system of surveys prevailing in other States does not exist in ours. Hence with us it is more expensive for the Department to procure correct information and make an accurate map than in perhaps any other State in the Union. Knowing the necessity for these maps, I am satisfied after conferring with the Department in regard to this matter that the amendment ought to prevail. I do not like to antagonize the Committee on Appropriations, but I feel that this is a point which we cannot very well afford to give up. I hope the amendment will be adopted.

Mr. WADDELL. I have but a word or two to say in vindication of the action of the Committee on the Post-Office and Post-Roads. We have not acted inconsiderately in making our recommendation to the House in regard to this appropriation. On the contrary we have carefully examined the matter. In regard to the remark of the chairman of the subcommittee, my friend from Georgia, [Mr. BLOUNT,] about these communications coming from "small bureaus" for an increase of expenditure, I have to say that the Postmaster-General in his last report makes this statement:

The work of preparing and publishing post-route maps has been delayed in consequence of inadequate appropriations. All that has been accomplished during the year with the sum appropriated for this work has been the preparation of new editions of most of the maps previously issued. To enable the Department to prepare and issue post-route maps in permanent form of the Pacific States and Territories, Kentucky, Tennessee, Georgia, Texas, Arkansas, and the Indian Territory,

I recommend an increased appropriation of a sufficient amount to insure their execution.

The Second Assistant Postmaster-General also makes this statement in his report:

I earnestly recommend that the work of the office of the topographer of the Department be sustained by more ample appropriations than have been allowed for the past two fiscal years, as I find that not only have the current postal diagrams, so necessary for the daily use of almost every desk in the Department, been unavoidably getting in arrears, but that the work toward the construction and publication of several of the maps most urgently required has been laid aside for want of means. Maps of Georgia, Texas, Arkansas, and the Indian Territory, California, Nevada, Oregon, and the Territories are daily called for, and cannot be furnished under present circumstances.

In addition to this we had before us the topographer of the Department, and from his statement the Committee on the Post-Office and Post-Roads could not see how that bureau could be run with the appropriation provided for here. He has twenty-two employes in his branch of the Department; and the salary of those employes (which he would like to increase if he could, but he does not propose to do so) would nearly absorb the whole amount of this appropriation, without allowing anything for the preparation of maps and all matters incidental thereto.

Therefore I hope the House will consent to this. It is quite as disagreeable to me to demand an increase of these appropriations as to any member of the House. It is no pleasure for me to do so, but I look upon it as absolutely necessary, as does the Committee on the Post-Office and Post-Roads. [Cries of "Vote!" "Vote!"]

Mr. BEEBE. I renew the amendment for the purpose of asking a question.

It will be observed, Mr. Chairman, that the last clause of this paragraph provides that the Postmaster-General may authorize the publication and sale of such maps to individuals at the cost thereof, the proceeds of said sale to be applied as a further appropriation for said purpose. My object in addressing the committee at this time is to call for an explanation of this provision of the paragraph. As I understand from the reading of the paragraph there is an appropriation of \$25,000 made for the preparation of these maps. That, it seems to me, would be sufficient to meet the purposes of gratuitous distribution. If others than those who are entitled to maps desire them they must pay the cost thereof. We find that money, instead of being turned into the Treasury, is a continuing appropriation, and I see no reason why that should be done. I have no doubt the member of the Committee on Appropriations reporting this bill may give some valuable information on the subject, not only satisfactory to myself but to others.

Mr. BLOUNT. So far as the inquiry of the gentleman who has just taken his seat is concerned, I say that the language used in this section is not original in this bill, but grew up in the last Congress. It was then suggested there were many outside of the Government employes who would like to have these maps, and it was therefore provided they might sell these maps to individuals and use the fund for the continuous reproduction and sale of maps to other persons; and that no injury has come from this will be found by consulting the Postmaster-General and the reports of the Department. The gentleman from New York will find that only \$600 was derived from the sale of maps.

Gentlemen say that it is important to the service these maps should be furnished. My friend from Texas says the map of that State is erroneous; but he does not tell this House of any embarrassment to the mails growing out of that matter. These maps are a convenience to the officers in the distribution of the mails, but the demand is not of that character which goes to the efficiency of the service, but a matter of convenience to the Department.

My friend says that they have been getting just enough to pay the salaries of the officers. In 1871 and 1872 they got \$20,000, \$5,000 less than now, and in 1873 just about enough to pay the officers, and no more. Then the great bulk of the work was done in making up these maps, and yet we are now told it is only enough to pay the officers, and no more. This is the character of these communications.

My friend from North Carolina says the Committee on the Post-Office and Post-Roads has examined this matter. I protest I am not sensitive on the subject of the Committee on the Post-Office and Post-Roads examining into the receipts and expenditures of the Post-Office Department. They are not in the habit of doing it, they are not familiar with them, for under the rules of this House the receipts and expenditures of the Post-Office Department do not belong to the Committee on the Post-Office and Post-Roads. The labors for years on this subject and the information this House has had and acted on have been of the men whose business and habit it has been to consider this subject; and when you take the legislation and compare it with what has been expended in previous years, and in addition to that the deficiencies forced upon this House, I think it is about time we were standing still. If this thing is to be done on each and every item, if we are to have this sort of examination, then deficiency bills which are to come in here will be increased far beyond any which have heretofore existed. I have acquiesced in deficiency bills, or so-called deficiency bills, coming in here. I have thought they were wrong, but our friends bring them before this House. If we are to be retarded and frustrated by other committees, not in the habit of considering these appropriations, I confess to some hopelessness in cutting down the expenditures of the Government.

Mr. CANNON, of Illinois. I wish to call the attention of the chairman of the Committee on the Post-Office and Post-Roads to the fact that his amendment is for \$45,000.

The CHAIRMAN. The Chair was about to state that.

Mr. CANNON, of Illinois. Now, Mr. Chairman, I desire to say in reply to the gentleman from Georgia that I acknowledge his aptness in making up this bill, and, as I have said once or twice before, he has made a very good one in many respects, but in this respect it is not sufficient. The gentleman seems to be acting on the idea that when a map is made for one year it is made for all time; but that is not so. We have a great number of new routes on which service is put in States and Territories every year, and a map which was made two or three years ago for practical use of the Department and by the committees of this House is now of no account. These routes are ordered by Congress and service put upon them and this force of clerks is to be made large enough to keep up one hundred and fifty copies day by day. I hold in my hand a statement of the maps which have been published. It is official, and in many of these States the maps are absolutely obsolete and of no account because of the many changes made. Take, for instance, the maps in Kentucky and Tennessee. Tennessee is about ready for publication, and Kentucky will be ready in May. The map of Texas is obsolete and a new map of that State is in preparation. In California and Nevada and Idaho and Montana and Utah and New Mexico and Arizona, where the service is being extended, they can only get photograph copies, and those necessarily are imperfect. They do not show the service as it is now. They are changed month by month and year by year, by hand.

Now, the Treasury Department uses these maps. And when you cut down the appropriation to \$25,000, with a force of twenty-two clerks, it will not more than pay the salaries of these clerks, leaving nothing for material and for changing the maps. The result is that you unnecessarily and wrongfully cripple this service.

I called attention the other day to the further fact that you do not give force enough to the topographer's office to make maps to sell to other people; with twenty-two clerks they cannot make enough maps for the Departments of the Government and for the committees of this House and for the employes of the Post-Office Department, who must have them if they intelligently and properly carry on the service.

Mr. BLOUNT. I have one word to say in reply to the gentleman from Illinois and then I will ask for a vote. If the House lacked a reason for sustaining the Committee on Appropriations the statement of the gentleman from Illinois, as just made, furnishes it. He has read to the committee a statement and gone through nearly all the States and Territories.

Mr. CANNON, of Illinois. I presume the gentleman does not want to misrepresent me. I did not go through nearly all the States and Territories. But if the gentleman wishes it I will put the whole table in the RECORD.

Mr. BLOUNT. I hope I will not be interrupted. When I get through I think the gentleman will find that I do not misrepresent him. I will put it in another form. The gentleman read to the House what seemed to be a list of the few States or sections of the country not supplied with maps. The great bulk of them have been supplied.

The gentleman stated that I seemed to think that when a map of a country was made that was a finality. That, Mr. Chairman, is not to be inferred from anything that I said. But I think it shows something has been done on that subject. The gentleman calls the attention of the committee to the fact that it now requires, after so much has been done in the matter of map-making, \$26,000 to pay to men employed to make them; but some years ago \$24,000 paid for the employes and all the material used in the making of those maps.

Mr. CANNON, of Illinois. Would not the gentleman's argument justify the abolishing of the department altogether and making no maps?

Mr. BLOUNT. Not at all.

Mr. CANNON, of Illinois. They did not make any maps at all a few years ago.

Mr. GARFIELD. I would like to hear the proviso about the sale of maps read.

The CHAIRMAN. The Clerk will read the whole clause as it will be if amended.

The clause as proposed to be amended was read.

Mr. GARFIELD. I move to strike out the last word.

I regret, Mr. Chairman, that a bill generally so thoroughly good as this and so carefully prepared should have two or three places where the differences between the Committee on Appropriations and many members of the House are so sharp that I trust the gentleman in charge of the bill will crown its success by not insisting on the provisions of the bill as they stand, where so many gentlemen think he has cut too deeply into the service. In regard to this particular matter I wish to say, besides the uses named by other gentlemen to all the route agents through the United States, these maps are the charts necessary for their guidance. They are like the mariner's charts on the ocean; and if the route agent does his duty successfully and well he must have before him, under his eye, a thoroughly accurate map, brought up to date, of all the routes along his line of travel, so that he may with accuracy and correctness dispose of the mail as it comes along.

The gentleman from Georgia suggests the sale of maps will make up for what is lacking in this appropriation. If that were true it would be a perfect answer to any demand for an increase of the appropriation. But I would suggest that generally private individuals have no interest in buying these maps; and persons in the public service should not be required to do so. We should not require our post-route agents to buy the official maps to enable them to do their duty. There is not a member of Congress who does not need to have a postal map of his district rectified about once a year by sending it back and having it corrected and brought up to date, with the different colored lines put on marking the various routes in his district. He is thus able to see precisely the weekly, the tri-weekly, and the daily service on all the routes in his district, and to cut down this item to the amount placed in the bill is to cut it down almost to the naked amount now paid for salaries without paying for material; and I do not believe the sale realized under this proviso will be in any manner adequate to keeping up the service.

Now the difference between the bill and the proposed amendment is so slight that it seems to me that if the gentleman in charge of it would give way upon it his bill would pass almost with acclamation, and I hope he will let it pass.

Mr. TOWNSEND, of New York. I desire to answer the formal amendment just made by stating that the necessity of overhauling these maps and making new maps results to a great degree from the growth of our frontier. I have been in this House three years. There has been but a single new post-route established in my district in those three years, and yet in Texas, in Kansas, in Nebraska, and in the Territories during those three years a new world has grown up, and if the maps of the Department are to represent what exists and what has come into existence during this time, there has got to be added to the maps in existence three years ago a new world, not for my district but for the frontier. I understand that twenty thousand new post-routes have been established in that time, and all of these have to be spread upon the maps. It seems to me that in view of the necessity of filling up the maps we are doing no wrong in raising this appropriation to \$40,000, and the gentleman from Georgia ought to thank God that he has a country large enough to need it.

Mr. BLOUNT. I desire to say one word in reply to the gentleman from Ohio [Mr. GARFIELD] who seems to misapprehend the object of the provision that the Postmaster-General may authorize the publication and sale of said maps to individuals at the cost thereof. I will state the object of that provision. It was said during the last Congress, when the post-office appropriation bill was being considered, that the appropriation merely furnished enough maps for the Government employes, and that often gentlemen outside for motives of curiosity desired to have these maps.

Mr. GARFIELD. That provision is very proper; I do not object to it, but it does not help to make up the appropriation, for the sale of these maps is very small.

Mr. BLOUNT. It was not intended to make up the appropriation. The appropriation in this bill for this purpose is larger than the amount generally appropriated when the gentleman was chairman of the Committee on Appropriations.

Mr. GARFIELD. I know that.

Mr. BLOUNT. And there has been some work on the maps in the mean time. [Cries of "Vote!" "Vote!"]

The question was taken upon the amendment; and upon a division there were—ayes 135, noes 49.

So the amendment was agreed to.

Mr. BEEBE. I move to amend the clause by striking out of lines 23 and 24 the words "proceeds of said sales to be applied as a further appropriation for said purpose."

My object in doing so is this: if the proceeds of the sale last year amounted to \$600 what was done with the money? What did the Postmaster-General do with these \$600? I want to leave it so that under the general law the Postmaster-General can apply the proceeds of these sales to any purpose in the Department where they may be needed. As I understand the general law the Postmaster-General can apply the revenues of the Department to the expenses of the Department. Now, it seems to me that instead of turning this money over for the preparation of more maps, if there is no demand for more maps, the money might better be used in some other direction.

Mr. GARFIELD. I think it would be a dangerous thing to put a general fund into the hands of the Postmaster-General.

Mr. BEEBE. What becomes of the money?

Mr. GARFIELD. It is wholly within this very bureau in which it is to be expended, and the theory of our legislation for years past has been to leave no funds to be used generally except a small contingency fund, and this would allow the Postmaster-General to use this money where he pleases.

Mr. BEEBE. Suppose the proceeds of the sale should amount to \$20,000, what would become of the \$20,000?

Mr. GARFIELD. There would simply be an unexpended balance to go back into the Treasury at the end of the fiscal year, whereas if the Postmaster-General was allowed to use it he might add it to his contingent fund or use it in any way he thought proper.

Mr. BEEBE. It does not go back to the Treasury under this clause.

Mr. GARFIELD. But it does under the general provisions of the law at the end of the fiscal year.

Mr. BEEBE. I withdraw the amendment.

The Clerk resumed the reading of the bill, and read as follows:

For advertising, \$60,000: *Provided*, That the Postmaster-General shall cause advertisements of all general mail-lettings of each State and Territory to be conspicuously posted up in each post-office in the State and Territory embraced in said advertisements for at least sixty days before the time of such general letting; and no other advertisement of such lettings shall be required; but this provision shall not apply to any other than general mail-lettings.

Mr. WHITTHORNE. I move to amend that clause, in line 27, by inserting after the words "to be" the following:

Printed in one or more newspapers in the counties through which mail service may be called for.

So that it will read:

For advertising, \$60,000: *Provided*, That the Postmaster-General shall cause advertisements of all general mail-lettings of each State and Territory to be printed in one or more newspapers in the counties through which mail service may be called for, and conspicuously posted up in each post-office in the State and Territory embraced in said advertisements for at least sixty days before the time of such general letting; and no other advertisement of such lettings shall be required; but this provision shall not apply to any other than general mail-lettings.

Mr. BLOUNT. I raise the question of order that this is new legislation.

Mr. WHITTHORNE. I trust the gentleman from Georgia will withhold the point of order for a moment and allow me to explain this matter, and then I will address myself to the point of order at the conclusion of my remarks.

Mr. BLOUNT. Very well.

Mr. WHITTHORNE. I have to remark in the first place that there is no subject in connection with our mail service more complained of than the fact that large sums of money are paid to mail contractors in distant sections of the country. Why is that done? Under the present mode of advertising, citizens in remote districts of the country do not see the advertisements of the Post-Office Department. They are only seen by a set of men called the "post-office ring," who take advantage of this fact and procure large contracts for mail service. Now, in order to prevent this and to bring the knowledge of the lettings home to the people in the region of country through which the service is to be performed, I submit that it is in the interest of economy that these advertisements shall be made local.

Further, in connection with the point of order, it will be observed that in line 31 it is provided "and no other advertisement of such letting shall be required." I hold that, taking the entire section into consideration, the amendment I propose is germane and pertinent.

Mr. BLOUNT. I do not raise any question as to the amendment being germane, but it is new legislation and involves an additional appropriation of money.

The CHAIRMAN. The Chair sustains the point of order. The amendment involves new legislation and does not tend to retrench expenditures.

Mr. DUNNELL. I move to strike out the proviso contained in this paragraph.

Mr. BLOUNT. I reserve the question of order.

Mr. DUNNELL. There has passed during this Congress a bill reported from the Committee on Printing covering this question of advertising; and the provisions of this proviso are in conflict with the terms of that bill. If I had the act here I would move that it be substituted for this proviso.

Mr. BLOUNT. I know that the bill referred to passed this House, and I think it very likely, from what I have gathered, that it will pass the Senate. I ask, therefore, that this paragraph be informally passed over, with the understanding that we may return to it hereafter.

Mr. DUNNELL. I will consent to that.

Mr. WADDELL. The bill referred to has been passed by the Senate with amendments. It is now before the Committee on the Post-Office and Post-Roads.

Mr. DUNNELL. It has passed the Senate.

The CHAIRMAN. The gentleman from Georgia, as the Chair understands, waives the point of order.

Mr. WHITE, of Pennsylvania. Then I reserve the point of order, though I am willing that the paragraph shall be passed by, with the privilege of returning to it.

Mr. BLOUNT. I have not withdrawn the point of order.

The CHAIRMAN. The point of order will be regarded as pending.

The Clerk read as follows:

That the compensation of postmasters of the fourth class shall be the box-rents collected at their offices and commissions on other postal revenues of their offices at the rate of 60 per cent. on the first \$100 or less per quarter, 50 per cent. on the next \$300 or less per quarter, 40 per cent. on the excess above \$400 per quarter; the same to be ascertained and allowed by the Auditor in the settlement of the quarterly accounts of such postmasters: *Provided*, That when the aggregate annual compensation, exclusive of commissions on money-order business, of any postmaster of this class shall amount to \$1,000, the Auditor shall report such fact to the Postmaster-General, in order that such postmaster may be assigned to his proper class, and his salary fixed as heretofore provided.

Mr. BLOUNT. By inadvertence this paragraph does not represent the views of the Committee on Appropriations; it is not strict enough; and the committee have directed me to report as a substitute what I send to the desk.

The Clerk read as follows:

That the compensation of postmasters of the fourth class shall be the whole of the box-rents collected at their offices, and commissions on unpaid letter-postage collected, on amounts received from waste paper, dead newspapers, printed matter, and twine sold, and on postage-stamps, stamped envelopes, postal cards, and

newspaper and periodical stamps canceled as postages on matter actually mailed at their offices, at the following rate, namely: On the first \$100 or less per quarter, 60 per cent.; on all over \$100 and not over \$300 per quarter, 50 per cent.; and on all over \$300 per quarter, 40 per cent.; the same to be ascertained and allowed by the Auditor, in the settlement of the accounts of such postmasters, upon their sworn quarterly returns: *Provided*, That when the compensation of any postmaster of this class shall reach \$1,000 per annum, exclusive of commissions on money-order business, and when the returns to the Auditor for four quarters shall allow him to be entitled to a compensation in excess of that amount under section 3 of this act, the Auditor shall report such fact to the Postmaster-General, who shall assign him to his proper class, and fix his salary as provided by said section: *Provided further*, That in no case shall there be allowed to any postmaster of this class a compensation greater than \$250 in any one quarter, exclusive of money-order commissions.

Mr. BLOUNT. I simply state that this is a provision agreed upon by the Committee on the Post-Office and Post-Roads and reported in House bill No. 2695. I will add that upon consultation I find that the section in this form meets entirely the views of the Department.

Mr. WHITTHORNE. I move to amend the substitute by adding the following proviso:

And provided further, That such additional compensation shall be allowed to postmasters at those offices where a number of post-roads terminate as may be, in the discretion of the Postmaster-General, remunerative for the labor required of such postmasters.

Mr. BLOUNT. I reserve a question of order on this amendment.

Mr. WHITTHORNE. I will state my object in introducing this proviso. Gentlemen who represent sections of the country remote from railroads know that, at certain post-offices at which half a dozen or more post-roads terminate, the postmasters are charged with the labor of distributing a large quantity of mail matter. For this additional labor no compensation is provided by law. It is just to the laborer that he should receive proper reward for his labor; and it is only in this view that I have submitted the proviso.

Mr. WADDELL. I will state to the gentleman from Tennessee that under the existing law the Postmaster-General may, in his discretion, make allowance for clerk hire at distributing offices.

Mr. WHITTHORNE. That is an allowance for clerk hire; this is for the postmaster himself.

Mr. BLOUNT. I insist on the point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BLOUNT. The proposition of my friend from Tennessee is to increase the pay of postmasters. This is new legislation, for which there is no authority of law; and besides it increases expenses. Therefore it is not in order on this bill.

The CHAIRMAN. It would appear on the face of the amendment from the words "additional compensation" that it does increase expenditures. The Chair sustains the point of order.

Mr. HEWITT, of Alabama. I desire to offer an amendment to the original text of the bill.

Mr. DUNNELL. I propose to amend the amendment of the Committee on Appropriations by striking out the words "one thousand" where they occur in the latter part of the amendment and inserting "twelve hundred;" also by striking out the words "two hundred and fifty" and inserting "three hundred."

The CHAIRMAN. The gentleman from Alabama, who desires to amend the original text, will be first recognized. The amendment of the gentleman from Minnesota will be in order afterward.

Mr. HEWITT, of Alabama. I move to strike out after the word "be," in line 39, the following:

The box-rents collected at their offices and commissions on other postal revenues of their offices at the rate of 60 per cent. on the first \$100 or less per quarter, 50 per cent. on the next \$300 or less per quarter, 40 per cent. on the excess above \$400 per quarter; the same to be ascertained and allowed by the Auditor in the settlement of the quarterly accounts of such postmasters.

And in lieu thereof insert, "the same as now provided by law;" so it will read:

That the compensation of postmasters of the fourth class shall be the same as now provided by law: *Provided*, That, &c.

Mr. Chairman, there has been—and doubtless there have been good grounds for it—complaint against postmasters of the fourth class for illegally trading in postage-stamps. By the Committee on Appropriations and the Committee on the Post-Office and Post-Roads it is proposed to remedy the evil by a change in the manner of making compensation to these postmasters. They propose to make the change by substituting for percentage on the sale a percentage on the stamps canceled. They say that will remedy the evil. I hold—and I believe if the House will listen to me but a moment they will agree with me—this will be no remedy for that evil. If men are disposed to swindle, if postmasters are disposed to cheat the Government, the proposition of the Committee on Appropriations and the Committee on the Post-Office and Post-Roads will not prevent it, but in fact will enable them more effectually to continue that practice than under any other mode. If a dishonest postmaster is disposed to swindle the Government he may report the cancellation of a thousand stamps when in fact he has not canceled more than fifty, and how are you to detect it? How do they propose to detect it except by evidence, except by prosecution before the courts and the fact proved by witnesses. It is the only way to do it. The proposition I offer is to give compensation as now provided by law. The bill as reported in the original text provides a remedy for this evil which has grown up under the system of trading in postage-stamps. Under the law as it now stands there is no penalty. The law prohibits the sale of postage-stamps for more than their face value, but it does not prohibit any sale of postage-stamps for

less than their face value. The law as it now stands does not prohibit trading postage-stamps for goods or anything of that sort, but the bill as reported does prohibit that, and makes it a penal offense, and makes all who do it indictable. That will remedy the evil more than the proposition coming from the committee. Another reason why I oppose the amendment is that while it does not remedy the evil it increases the duties of the postmasters. It will increase their work to a three-fold extent. It is proposed that the postmasters of the country who are now the poorest-paid officers of the Government shall be required in addition to the work they now have to do to keep an account of every stamp canceled by them. Instead of this proving an economical mode it will prove otherwise, because it will increase the clerical force in your post-offices. It will increase expenses instead of decreasing them. I am as much opposed to this illegal traffic in postage-stamps as any gentleman on this floor, but I do not wish in remedying that evil to increase the work and labor of the postmasters of the country. I think it can be remedied without it.

[Here the hammer fell.]

Mr. FRANKLIN. Mr. Chairman, I rise to oppose the amendment of the gentleman from Alabama, [Mr. HEWITT,] and have only a word to say in this connection. I think the amendment of the gentleman from Georgia [Mr. BLOUNT] an eminently proper one, and that it should receive the sanction of the House. It is well known that a great abuse exists in the sale of stamps, at least that is the information we have from the Post-Office Department, and some action should be taken without delay that will correct it. The speech of the gentleman from Alabama [Mr. HEWITT] is an argument in favor of the remedy proposed by the gentleman from Georgia rather than against it. You may take any of the large offices of the country, and, upon inquiry of the postmasters thereof, you will find that some of the largest merchants of those cities, many who, in the transaction of their daily business, require a large number of stamps, do not purchase a single one of their own postmasters, and why? They get them elsewhere. Under the law as it now exists, they can be purchased far below their face value. I am informed they are frequently received in payment of bills by merchants; hence they have no necessity of purchasing them when they are sold at par.

Mr. HEWITT, of Alabama. That is prohibited.

Mr. FRANKLIN. Yes, a penalty is prescribed for it, but I have yet to learn that any wrong is necessarily prevented because a penalty is prescribed. According to the gentleman's theory the only thing you have to do to prevent the commission of any wrong or any infraction of the law is to enact a statute declaring a penalty for it. That is the gentleman's argument.

He is fearful, too, that the postmasters of the country will be overworked. Let them be paid, then, according to the labor they perform. I can tell him if any postmaster in his district desires to resign there will be many applicants for every vacancy.

This measure strikes in the right direction. It will correct an abuse which now exists in the Post-Office Department and which should be eradicated without a moment's hesitation. I am not thoroughly informed in that respect, and I ask the gentleman from Georgia whether the amendment is not founded upon the recommendation of the Postmaster-General.

Mr. BLOUNT. Yes, sir; it is recommended by the Postmaster-General.

Mr. FRANKLIN. I thought so. This amendment places the salary where it should be. It says the postmasters shall have a certain percentage upon the stamps canceled at their offices; that is, that they shall be paid in proportion to work done at their offices and amount of business transacted, and that they shall not have a percentage on the amount of stamps sold, which has led to a great abuse and which inflicts great loss upon the Government. I trust the amendment will be adopted.

Mr. BLOUNT. The Committee on Appropriations would never have entertained this change but for the fact that they believed they could reduce the expenditures of the Government and preserve the public service. The Postmaster-General estimated for the compensation of postmasters \$7,500,000 under the old law. We are told by the Department that they can get along with the \$7,250,000, provided we make this change. We have the opinion of every person connected with the Post-Office Department and of every gentleman connected with the Committee on the Post-Office and Post-Roads, so far as I have heard, in favor of it; and I think that the abuses and the frauds perpetrated upon the Department in this way have been spread and noised abroad throughout this land to such an extent as to induce this House without further debate to adopt this change.

Mr. HEWITT, of Alabama. I desire to say one more word.

In the law as it now stands, as I said a moment ago, there is no prohibition of a postmaster selling stamps to whom he pleases and where he pleases. There is no provision in the law that prohibits him from trading them for goods or paying his debts with them—I mean in the present law as it now stands. And it was under that law this abuse had grown up, and just because the law did not prohibit it. The only prohibition against it was a mere order of a Department, and an order, in my opinion, that the law did not authorize the Department to make. The penalty attached to the offense under this general order of the Post-Office Department was a simple removal from office. That was all.

But now the Committee on Appropriations have reported a bill

here which I favor and which I think ought to be adopted, which absolutely prohibits the sale of stamps for less than their face value. We never had a law before that did this. There is no law now in force that forbids it. This bill not only prohibits that, but it prohibits postmasters from trading in stamps for goods, from using them in buying goods, or paying their debts with them; and it affixes a severe penalty for the violation of the law.

[Here the hammer fell.]

Mr. CANNON, of Illinois. Mr. Chairman, postmasters of the fourth class receiving less than \$1,000 per annum, to the number, say, of thirty-five thousand, are paid in proportion to the number of stamps they sell, that is, for the first one hundred dollars' worth of stamps the postmaster receives \$60, on the next two hundred dollars' worth sold he receives \$100, and after that at the rate of \$40 for each one hundred dollars' worth sold; while in the great city offices the compensation is adjusted in a different way, and in those large offices where the postmaster sells one hundred dollars' worth of stamps, the Government gets \$100 in return. Now, if each one of the thirty-five thousand postmasters who receive less than \$1,000 a year only sold stamps that are used upon letters mailed at his office, then the present law would operate fairly both to the postmaster and the Government. But it is alleged that some of the postmasters who receive from \$40 to \$60 profit on every one hundred dollars' worth of stamps sold, exchange stamps for merchandise or sell them at less than their face value, and that stamps so sold find their way to the cities or larger towns for use or sale in competition with postmasters at such cities. The Postmaster-General has called attention to this abuse and asks such legislation as will prevent it. It is estimated at the Department that the loss to the Government is over \$1,000,000 annually from this abuse. Now, Mr. Chairman, the amendment proposed provides that the postmaster shall keep an account of all stamps canceled by him upon matter mailed at his office and shall be paid the percentage on the stamps canceled and not upon the amount sold; and if a postmaster now only sells stamps that are used at his office, the amendment will not change his compensation in the least.

Now, Mr. Chairman, I do not believe any considerable number of fourth-class postmasters act dishonestly; but it would be strange indeed if out of the thirty-five thousand, with no penalty attached, at least a few of them do not, as alleged, avail themselves of the opportunity to make their commission of from 40 to 60 per cent. by sales of stamps other than to the ordinary customers in the limit of their respective offices.

Mr. DANFORD. I desire to ask the gentleman whether these honest postmasters of the fourth class do not complain of the manner in which they are compelled to keep their accounts by this change in the law proposed by the committee rather than of the change in their compensation; whether that is not the great matter of complaint with them?

Mr. CANNON, of Illinois. I will be frank with the gentleman and say I have no doubt there is some complaint on that score, because it is some trouble for a man to keep an account of all the stamps he has canceled; not a great deal perhaps where he systematizes the work. But mind you, it is only postmasters of the fourth class who have to keep that account. Hence the argument of the gentleman from Alabama [Mr. HEWITT] does not hold good when he says they will have to have more clerk hire, because the Government in no case pays for clerk hire where the salary is under \$2,000.

Mr. HEWITT, of Alabama. How do you determine the salary?

Mr. CANNON, of Illinois. By the number of stamps the man cancels and returns a statement of under oath.

[Here the hammer fell.]

Mr. CLARK, of Iowa. In addition to what has been stated by the gentleman from Illinois [Mr. CANNON] and others, in which I concur, I wish to say that in thus disturbing or changing the method of computation or of adjustment of the salary there is one consideration which in my judgment is entirely left out. This section proposed by the committee from the bill of the Committee on the Post-Office and Post-Roads is a complete reprint of the law except as to the fourth-class postmasters, the proposition being to change the method of arriving at the compensation and basing it on the cancellation of stamps.

Now, I wish gentlemen to hear me how that will affect the large number of men in my own part of the country; and I presume the same thing is true elsewhere, but it is especially true in the Northwest; and that is this: the large share of the towns on those lines that carry postal cars are fourth-class offices, built up, indeed, by the railroad itself.

A large share, it is true, of the postal matter goes directly from the office, but it is estimated that from one-tenth to one-fourth of the entire amount of postal matter is placed directly in the postal cars. Now the postmasters of this class are those least able to bear this disturbance of their salaries. The postmasters of the second and third classes receive salaries and are better able to bear a reduction than those of the fourth class, and yet it is from these honest postmasters, or those that we propose to make honest, that you propose to take from one-tenth to one-fourth of the entire amount of their compensation for the reason that a large portion of postal matter is put directly in the cars where the postage-stamps are canceled, and therefore the legitimate business of the office at those points is not included in the computation of their compensation.

Now, if the amendment of the gentleman from Alabama [Mr. HEWITT] is voted down, we shall reach the amendment offered by the gentleman in charge of the bill, and I propose to offer an amendment to his amendment which will cover this particular point, although I sympathize with the change proposed by the committee.

[Here the hammer fell.]

Mr. HEWITT, of Alabama. The gentleman from Illinois [Mr. CANNON] spoke of dishonest postmasters.

Mr. CANNON, of Illinois. I said there were a few of them.

Mr. HEWITT, of Alabama. My experience in my country is that our postmasters are generally honest men.

Mr. CANNON, of Illinois. The gentleman does not want to misrepresent me. I expressly said that the great mass of them are honest.

Mr. HEWITT, of Alabama. I have but five minutes and cannot yield further to the gentleman.

Mr. CANNON, of Illinois. But the gentleman does not want to make me say that the postmasters generally are dishonest, for I want to say expressly that I think nearly all the postmasters are honest, but that once in a while you will find a dishonest man among the thirty-five thousand of them, and you have to legislate against the dishonest ones.

Mr. HEWITT, of Alabama. The best remedy is to have honest men appointed postmasters, and if they are now dishonest the fault is not with this side of the House.

Mr. RANDOLPH. That is a wonderful discovery.

Mr. HEWITT, of Alabama. There may be occasionally a dishonest postmaster. I have no doubt that there are some and I do not wish to lay upon the republican party the fault that they have been appointed.

Mr. CANNON, of Illinois. I agree with the gentleman entirely in that proposition.

Mr. HEWITT, of Alabama. The question and the only question for the committee to determine is which is the better proposition for the protection of the Government to prevent dishonest men from swindling the Government, the one I propose or the one that comes from the committee. The amendment I propose prohibits, under a penalty, illegal traffic in postage-stamps; the amendment of the committee prohibits false returns by a postmaster of the number of stamps that he has canceled. The law can be enforced under the proposition I proposed; it will effectually prohibit the illegal traffic in postage-stamps and will save the country a large amount of money yearly, which is thrown away now in the manner in which gentlemen have spoken of, and I submit to the gentleman from Illinois and to the committee that it will be easier to detect any violation of the law under the proposition I submit than it will be under the proposition of the committee. If a postmaster deals illegally in postage-stamps there is a third party connected with the transaction; there are witnesses to it. But who is to witness the cancellation of these stamps? Who can determine the number of stamps that a postmaster cancels? Where are you to find proof that he canceled but twenty-five stamps when he swears that he canceled a thousand? The proposition of the committee opens wider the door to fraud than does my proposition.

[Here the hammer fell.]

Mr. HUMPHREY. I offer a formal amendment for the purpose of saying a word in favor of the amendment of the committee. The gentleman from Alabama [Mr. HEWITT] just made the remark that we must have honest men for postmasters, which is correct; but let us not forget that we must also close the door to temptation in order to make a man dishonest. Mr. Chairman, I have a letter which I received last evening from a postmaster, whose office is a presidential one, who states that his salary is to be fixed in the next week on the basis of the last quarter, and that in his town large business houses have purchased their stamps at other points, and that he has to do business with those stamps for the next three months and to get nothing for it.

His salary cannot be again adjusted for one year. He has to do the work for the next six months with the stamps that have been purchased at the little offices around the country; and he gets nothing for it.

It is impossible under the present system, if you take men who are ordinarily honest, to prevent these frauds and this difficulty. I recollect within the last six months the case of a postmaster who came to my office with tears in his eyes because he was to be removed for the sale of three dollars' worth of postage-stamps which he had paid out for repair of harness. He said he had been told that it was legitimate to sell these stamps at any price above what he was allowed for them by the Post-Office Department; in other words, that if he was to account to the Post-Office Department for them at the rate of sixty cents on the dollar, he could sell them at sixty-five or seventy or eighty cents on the dollar, just as he chose. And I have in my mind one instance in which a postmaster sold two hundred dollars' worth of stamps at one time for eighty cents on the dollar; and on that very basis his salary was fixed for the year.

Mr. HEWITT, of Alabama. I propose to prohibit that very thing.

Mr. HUMPHREY. And by this amendment of the committee we propose to close the door and let every postmaster be put upon his honor, the value of the office to be determined by the cancellation of stamps. There is no other way. We must come to this point. The frauds in this respect have reached to every part of the country, until

to-day stamps enough have been purchased to do the business of large firms for six months to come—purchased in view of the amendment which the committee have prepared to this bill and which it is understood the House will pass without a dissenting vote. I am sorry that this morning a voice is raised against it. The fraud in this respect, as I was told at the Department this morning, has deprived it of between eight hundred thousand and a million dollars of income during the last year. I ask whether fraud of this kind can be put down by any other process than by throwing this work upon each postmaster and by putting him on his honor, even down to a one-cent postage-stamp?

Mr. HEWITT, of Alabama. I do not think the evil will be remedied by putting the postmaster on his honor.

Mr. HUMPHREY. Then we will put him on his merit. If he has no honor, we will put him out and put some man in his place who has honor.

[Here the hammer fell.]

Mr. HUMPHREY. I withdraw the *pro forma* amendment.

The question being taken on the amendment of Mr. HEWITT, of Alabama, it was not agreed to.

Mr. DUNNELL. I move to amend the amendment of the gentleman from Georgia [Mr. BLOUNT] by striking out the words "one thousand" and inserting "twelve hundred," and by striking out "two hundred and fifty" and inserting "three hundred."

Mr. BLOUNT. I reserve a point of order on this amendment.

Mr. DUNNELL. An income of \$1,000 under the present law makes a post-office a presidential office. The effect of this amendment is to decrease the number of presidential post-offices by increasing the basis from \$1,000 to \$1,200.

I wish to call attention to the fact that the income of a postmaster whose salary is \$950 is less when the business of the office amounts to \$1,100 than when it is \$950. When the office becomes a presidential office the postmaster must account for the box rents; he is not allowed a clerk; he is compelled to pay expenses which he is not obliged to pay if the income is only \$999. If the income is \$1,000, then by the force of the law he is made a presidential postmaster; is compelled to account for box rents; is not allowed a clerk; and is subjected to other expenses. In this way it is a misfortune to him that he is a presidential postmaster.

Now, if this basis be carried up to \$1,200, the operation of the law will be somewhat the same as at present, although not so severe. The postmasters who are most poorly paid for the work that they do are those whose income ranges from \$900 to \$1,500. If their income is above \$1,000, they must account for box-rents; they must pay the rent of their offices; they are not allowed a clerk, though sometimes they are allowed one or two hundred dollars for clerk hire. Let the basis be \$1,200, and the hardship falling upon this class of postmasters is very much relieved.

I think that if the committee will consider for a moment the operation of the law as it now is, it will not fail to adopt the amendment. I know that postmasters who understand the position in which they are placed have asked that no effort be made in their behalf to make their offices presidential. Postmasters who expect the presidential appointment when it becomes a presidential office have preferred to be in the fourth class; preferred not to be appointed by the President but by the Postmaster-General. The increased income under the amendment will go to the very class of men who do the most work for the least compensation.

Mr. BLOUNT. I insist on my point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BLOUNT. It is that the amendment proposes an increase of compensation to certain classes of postmasters.

Mr. DUNNELL. Oh, that point is not well taken.

Mr. BLOUNT. I hope the gentleman will allow me to get through.

Mr. DUNNELL. I will.

Mr. BLOUNT. Whether that objection be well founded or not, there is another. This is new legislation which upon its face does not reduce expenditures. I think the first point is good; certainly the latter is.

Mr. DUNNELL. I rely upon the Chair.

The CHAIRMAN. The Chair is not reliable on that subject.

[Laughter.] The Chair sustains the point of order.

Mr. RIDDLE. I propose to amend the amendment by inserting the following:

And they shall be allowed one-half the fees on money-orders issued, and one-half of 1 per cent. commission on all money-orders paid, instead of the fees and commissions now allowed on the money-order business.

Mr. BLOUNT. I make the point of order on that amendment. I do not think it is necessary to take up any time in arguing the matter.

Mr. RIDDLE. It is for the benefit of small money-order offices in the country where the compensation is inadequate, where there is but little pay for what is done and none at all for this additional trouble.

The CHAIRMAN. Does it increase the compensation?

Mr. RIDDLE. It does.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out.

Mr. CLARK, of Iowa. I move the following amendment:

And provided further, That in case of offices of the fourth class situated at localities where mail matter may be deposited directly in postal cars, the stamps canceled

on matter deposited at such points in postal cars shall be added to the stamps canceled at the offices at the same points in ascertaining and allowing the compensation of such officers of the fourth class; and for the purpose of determining the amount of stamps canceled in postal cars, the Postmaster-General shall instruct the proper postal officers in charge of such cars to register and report the amount thereof daily deposited at such points respectively, for such periods as shall, in the judgment of the Postmaster-General, fairly determine the average thereof per annum.

Mr. BLOUNT. I make the point of order on that amendment that it is new legislation and therefore not in order.

Mr. CLARK, of Iowa. I anticipated the point of order.

The CHAIRMAN. The gentleman from Iowa will be heard on the point of order.

Mr. CLARK, of Iowa. The same point was made as to a previous amendment. It occurs to me that while the point of order may be well taken to an amendment to the original bill, it is not applicable to an amendment to an amendment. If this were a provision in the bill, then it would be a different thing. Here is a proposition offered by the gentleman in charge of the bill which is not a part of the bill. How, then, can it be said this amendment is vulnerable to the objection unless the amendment has been adopted by the House? That is a pending amendment, to be altered or changed by amendments to the amendment.

The CHAIRMAN. It is provided in Rule 120:

Nor shall any provisions in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures.

Mr. CLARK, of Iowa. One further point, and that is this: this does not enlarge the compensation of postmasters as at present.

Mr. BLOUNT. That will be the effect of the gentleman's proposition, and that is the object of it.

Mr. CLARK, of Iowa. That goes upon the hypothesis that the amendment to which this is moved as an amendment has already been adopted. There would be no increase in view of the existing law.

The CHAIRMAN. The Chair overrules the point of order. He cannot ascertain from the amendment whether it increases or decreases expenditures.

Mr. BLOUNT. I ask whether it does not appear on its face that it does change the compensation?

The CHAIRMAN. The Chair will submit the amendment to the committee.

The committee divided; and there were—ayes 17, noes 90.

Mr. CLARK, of Iowa. I demand tellers on the amendment.

Tellers were ordered; and Mr. CLARK, of Iowa, and Mr. BLOUNT were appointed.

The committee again divided; and the tellers reported—ayes 48, noes 67.

So the amendment was rejected.

Mr. SAMPSON. I move as an amendment to the substitute the following:

Strike out "60" and insert "70," and strike out "40" and insert "50;" and so on, increasing 10 per cent.

Mr. BLOUNT. I rise to a point of order on that amendment.

The CHAIRMAN. The Clerk will report the amendment as it will read.

Mr. BLOUNT. It is new legislation.

Mr. SAMPSON. If the point of order was not well taken on the last amendment, it seems to me it is not well taken on this amendment. This is only an amendment to the amendment proposed by the gentleman from Georgia. The Chair held, in relation to the former amendment offered by my colleague, he was unable to tell whether that would increase expenses over and above existing law. It is admitted on all hands the amendment offered by the gentleman from Georgia will decrease expenses very largely; and it is impossible to say whether this will increase the expenses under that amendment up to the amount allowed by law. For that reason the point is not well taken. And further, this being an amendment to an amendment, the rule will not apply.

The CHAIRMAN. The Chair will consider the amendment, if adopted, with the original amendment.

Mr. SAMPSON. The amendment of the gentleman from Georgia is not part of the original bill, but an amendment to the original bill.

The CHAIRMAN. The Chair must take the whole together; first, whether the amendment is germane, and, second, whether it retrenches expenses.

Mr. SAMPSON. Suppose the amendment of the gentleman from Georgia had been adopted prior to offering the amendment, then the point of order might have been made that it increased expenses, but that amendment has not been adopted.

Mr. WADDELL. Not at all. It does not change existing law in the least.

Mr. BLOUNT rose.

The CHAIRMAN. The Chair will hear the gentleman from Georgia on the point of order.

Mr. BLOUNT. The proposition of the Committee on Appropriations is not to change the law as to the percentage that the postmasters are paid, but is simply to adopt another method to ascertain what they are paid. It is simply an effort to avoid fraud; that and nothing more. So that if the gentleman's proposition were adopted, the effect of it would be to increase the rate of compensation. Just another

word. It does not appear that the gentleman's proposition retrenches expenditure. He admits that it does not appear whether it does or does not. That it may be in order on an appropriation bill it must appear that it does retrench expenditure.

Mr. CANNON, of Illinois. I wish to say this in reference to the point of order: as I understand the rule, primarily it prohibits any legislation except that which looks to retrenchment. Now the Committee on Appropriations come in and they ask for legislation in addition to the appropriations they seek to make. They say that that legislation tends to retrenchment, and therefore it is in order. But it is general legislation, and I submit after general legislation upon an appropriation bill is once in order then the rule ceases to apply. Being general legislation it is subject to any amendment that is germane.

Mr. BLOUNT. If the gentleman's argument were correct we would do away with the rule entirely. The very moment we introduce a proposition that looks to retrenchment and get that in order then the rule is abolished and you can get in anything.

Mr. BURCHARD. It seems to me the rule to be applied is not will this proposed amendment to the amendment retrench expenditures as measured by the pending amendment? but, will it retrench expenditures if adopted as an amendment to the amendment? Will the amended proposition retrench expenditures as compared with the existing law?

The CHAIRMAN. It is utterly impossible for the Chair to tell on the face of this amendment whether it will retrench or not. The Chair therefore will submit it to the committee, as it is a matter of doubt.

Mr. SAMPSON. Before the vote is taken I wish to say a word. I am satisfied there are no officers of the Government who do as much work for as little pay as these fourth-class postmasters. That being the case, and it being admitted by the committee who offer this amendment that it would increase the labor of the postmasters in keeping the accounts—as the accounts must necessarily be more extended and it would be a more complicated task to keep the accounts of the stamps canceled than to keep the accounts of the stamps sold—the labor of the postmasters being thus increased and as they are most miserably paid at present, where they are honest and only take the percentage they are allowed, it does seem to me this percentage ought to be increased. It is no more than fair. It is only just and reasonable on account of the increased labor imposed on those postmasters in keeping the accounts of the stamps canceled.

Mr. BLOUNT. If there were no other objection it seems to me the very fact that the compensation proposed by the gentleman from Iowa has never been recommended by any officer connected with the Post-Office Department should put this House on its guard against it. There is no recommendation of that sort from the Committee on the Post-Office and Post-Roads. They have had the subject of compensation of postmasters under consideration for weeks and weeks, and have agreed to and reported to this House the identical proposition of the committee. The Committee on Appropriations before agreeing to attach it to this bill consulted with the Department and ascertained their judgment and their approval of it.

Gentlemen complain that the postmasters are not paid enough. This provides for them the method of compensation which they have had for a period extending as far back as I have had occasion to examine. I have not gone very far, but I have not seen anything to the contrary. That was the method of paying them until 1874. At that time this new method was adopted and it was claimed that the result of it would be—so I am informed by the Department—a reduction of the compensation of these fourth-class postmasters.

The proposition now from the Department is not to decrease by this legislation the amount of their salary, but to protect the Government against fraud.

The gentleman says we add to the labors of the postmasters in requiring them to keep an account of the stamps sold. Well, sir, that is true; and that has generally been true since we have had a Post-Office Department. The question is whether or not we shall get the service done under this method; and that is answered by all the past. There is an additional question, whether or not it protects the Government against fraud. Gentlemen are very sensitive lest there should be some reflection upon the fourth-class postmasters. I am not. I find misconduct in my State reported, and in other States, from every section in this Union. And as a Representative upon this floor, bound to protect the Government, I shall not hesitate to provide proper legislation against fraud, even if some over-sensitive postmasters should imagine there is some reflection upon their integrity.

Now, sir, during the last Congress this very subject was presented, and a law providing this method, I believe, was in a bill prepared by the present Secretary of the Treasury, Mr. Sherman. Some changes were made during the last Congress; but, with the exception of this class, it is pretty much the old legislation, and I hope if there is any occasion to change this percentage that it will be done, not on an appropriation bill, but that it will be done through the Committee on the Post-Office and Post-Roads who are charged with it. The subject of this increase to 70 per cent. has not been considered, as I understand, before any committee; and that being the case, I hope the Committee of the Whole will not entertain it.

Furthermore, if this shall be done the probability is that we shall have an increase of at least several hundred thousand dollars upon

this bill. If gentlemen are prepared from time to time to load up these bills in this crude and hasty way the responsibility is not on the Committee on Appropriations.

[Here the hammer fell.]

Mr. HEWITT, of Alabama. I wish to ask the gentleman a question.

Mr. BLOUNT. My time has expired.

Mr. DANFORD. I offer a formal amendment to the amendment for the purpose of saying a few words.

Mr. HEWITT, of Alabama. Will the gentleman yield to me to ask the gentleman from Georgia a question?

Mr. DANFORD. I will do so if the gentleman will not occupy too much of my time.

Mr. HEWITT, of Alabama. I wish to ask the gentleman from Georgia whether if the Committee on Appropriations propose to increase the work and trouble of the postmasters of the fourth class they ought not to increase their pay?

Mr. BLOUNT. The committee only have returned to the old method, and all the increase of labor is simply in the interest of the protection of the Government. We shall be able to get postmasters without any difficulty.

Mr. DANFORD. I remember, Mr. Chairman, that in the Forty-third Congress the Committee on the Post-Office and Post-Roads had this matter of the compensation of fourth-class postmasters before them for some weeks or months, and I remember that the very law fixing the present compensation of postmasters was suggested by the Post-Office Department. It was claimed not only to be in the interest of economy, but in the interest of an honest administration of these offices.

I want to say further that I do not know nor do I boast that I represent a more honest constituency than other gentlemen upon this floor do, but I have heard but a single complaint in my district of the improper sale of postage-stamps and that was made by a postmaster of the second or third class. An investigation was had and it was found that the receipts of that officer had been increased about 10 per cent. only. That is the only instance I know of. In my district now there is a difficulty in obtaining competent men to act as fourth-class postmasters. I have received from my district a number of letters from this class of postmasters saying that if this proposition of the committee should become a law they would decline to act. They are thoroughly honest men, and it does seem to me that in consideration of the change and manner of their compensation the increase proposed in the amendment offered by the gentleman from Iowa [Mr. SAMPSON] should be adopted by the committee. I have never believed that it should be a primary principle in our legislation that the Post Office Department should be a self-sustaining institution. I want to see mail facilities afforded to every portion of the country, and to all the people of this country, and let the General Government and the general Treasury pay for those mail facilities to the people, even if we fail to get revenue enough to meet the demands of that Department. There is no money that the people pay from the general Treasury more willingly than that which is paid for good and efficient postal service. The principle announced by former Postmasters-General that this Department of the Government should be self-sustaining is unfair to some portions of the country.

The New England States, New York, Pennsylvania, and the Middle States are self-sustaining. They yield a revenue to the Department. It is to the sparsely settled States of the West and the Territories that the Treasury is compelled to contribute from time to time. I believe that the amendment of the gentleman from Iowa is in the direction of fair compensation to these fourth-class postmasters who are poorly paid, and that it should be adopted by the committee. I withdraw my formal amendment.

The question was taken on Mr. SAMPSON'S amendment; and on a division there were—ayes 53, noes 91.

Mr. SAMPSON. I call for tellers.

Tellers were ordered; and Mr. SAMPSON and Mr. BLOUNT were appointed.

The committee again divided; and the tellers reported ayes 44, noes not counted.

So the amendment was not agreed to.

The question recurred on the amendment offered by Mr. BLOUNT.

The question was taken; and on a division there were ayes 123, noes not counted.

So the amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

That in any case where the Postmaster-General shall be satisfied that a postmaster has made a false return of business, it shall be within his discretion to withhold commissions on such returns, and to allow any compensation that under the circumstances he may deem reasonable: *Provided*, That the form of affidavit to be made by postmasters upon their returns shall be such as may be prescribed by the Postmaster-General; and any postmaster who shall make a false return to the Auditor, for the purpose of fraudulently increasing his compensation under the provisions of this or any other act, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in a sum not less than fifty nor more than five hundred dollars; and no postmaster of any class, or other person connected with the postal service, intrusted with the sale or custody of postage-stamps, stamped envelopes, or postal cards, shall use or dispose of them in the payment of debts or in the purchase of merchandise or other salable articles, or pledge or hypothecate the same, or sell or dispose of them except for cash, or sell or dispose of postage-stamps or postal cards for any larger or less sum than the value indicated on their faces, or sell or dispose of stamped envelopes for a larger or less sum than is charged therefor by the Post Office Department for like quantities, or sell or dispose of post-

age-stamps, stamped envelopes, or postal cards otherwise than as provided by law and the regulations of the Post-Office Department; and any postmaster, or other person connected with the postal service, who shall violate any of these provisions shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not less than fifty nor more than five hundred dollars, and, further, shall be disqualified from holding any office of trust or profit under the United States.

Office of the Second Assistant Postmaster-General:

For inland mail transportation, namely, for transportation on star routes and all other than railroad routes, \$5,390,673.

Mr. BLOUNT. I offer the following amendment: Strike out in line 87 the words "and all other than railroad routes." It is simply surplusage.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For transportation by steamboat routes, \$700,000: *Provided*, That the Postmaster-General may employ such number of special agents, not exceeding six, as the good of the service and safety of the mails as conveyed by the steamboat and star routes may require; such agents to be paid out of the appropriation for said service at the rate of not more than \$1,000 a year each, and shall each be allowed for traveling and incidental expenses while actually employed in the service a sum not exceeding \$3 a day.

Mr. CANNON, of Illinois. I desire to make the point of order upon the proviso to that clause as changing existing law, and evidently on its face not tending toward economy, but tending the other way.

Mr. BLOUNT. If the gentleman will allow me I will save him the trouble of making the point of order, for I proposed to move to strike out the proviso. I intended to do so, but the gentleman rose before I had an opportunity of doing it. I move that the proviso be stricken out.

The motion was agreed to.

The Clerk read as follows:

For transportation by railroad, \$9,100,000; \$125,000 of which sum may be used by the Postmaster-General to obtain proper facilities from the great trunk lines of railroads for the railway post-office service during the fiscal year ending June 30, 1879: *Provided*, That hereafter the Postmaster-General may appoint one agent only to superintend the postal railway service, who shall be paid, out of the appropriation for the transportation of the mail on railways, a salary at the rate of \$2,500 a year, with an allowance, for traveling and incidental expenses while actually employed in the service, not exceeding \$5 per day: *Provided further*, That the Postmaster-General may appoint one agent to superintend the star and steamboat postal service, who shall be paid, out of the appropriation for said service, a salary at the rate of \$2,500 a year, with an allowance, for traveling and incidental expenses, while actually employed in the service, not exceeding \$5 per day.

Mr. BLOUNT. I am directed by the committee to move to strike out the last proviso.

The CHAIRMAN. The language proposed to be struck out will be read.

The Clerk read as follows:

Provided further, That the Postmaster-General may appoint one agent to superintend the star and steamboat postal service, who shall be paid, out of the appropriation for said service, a salary at the rate of \$2,500 a year, with an allowance for traveling and incidental expenses, while actually employed in the service, not exceeding \$5 per day.

The motion was agreed to.

Mr. VANCE. I move to amend by inserting after "1879," in line 106, the following:

Provided, That the Postmaster-General shall secure the delivery of the mails between the cities of Washington and New Orleans at a rate of speed not less than twenty-five miles per hour.

Mr. BLOUNT. I raise a point of order on this amendment.

Mr. VANCE. What is the point of order?

Mr. BLOUNT. That it is new legislation and does not retrench expenditures.

Mr. VANCE. I do not see how it can be objected to as new legislation. It simply proposes to establish a rate of speed for the carrying of mails in the South.

Mr. BLOUNT. Is not that new legislation? If it is not, and the existing law accomplishes the object, the gentleman does not need to have his amendment adopted.

Mr. VANCE. I think it is only perfecting existing legislation.

The CHAIRMAN. This amendment does not appear to retrench expenditures; it would rather appear to do the contrary. The Chair must sustain the point of order.

Mr. VANCE. I would have been glad to call the attention of the House to the discrepancy between the delivery of the mails in the South and their delivery on some other routes. But as the point of order is sustained, I will ask leave to print some remarks on this subject.

There being no objection, leave was granted. [See Appendix.]

Mr. COX, of Ohio. I move to amend by striking out in lines 101 to 106 the following language:

One hundred and twenty-five thousand dollars of which sum may be used by the Postmaster-General to obtain proper facilities from the great trunk lines of railroads for the railway post-office service during the fiscal year ending June 30, 1879.

Mr. Chairman, my object in making this motion is first to elicit from the committee the meaning of this clause; for it appears to me to be so worded as to convey naturally the impression that there is something in it which we are not willing to state distinctly. Now if this language contemplates something that is legitimate, we ought to define it. If it is for securing mail service at a given rate of speed, as has been intimated by the gentleman from North Carolina [Mr. VANCE], we ought to say so. As it stands now, the clause would appear to be designed to pay the great trunk lines some extra bonus or something of that kind, while we do not tell the public what it is.

Mr. BLOUNT. It will be remembered that in 1876 a law was

passed reducing the amount paid per pound for carrying the mails. It was claimed by the Department that as the result of that law fast-mail facilities were reduced; and during the last session of the last Congress this identical language was inserted in an appropriation bill, which was then in charge of Judge Holman of Indiana, who assented to the provision, though I will not say he was the author of it. The purpose was to restore these fast-mail facilities. In this bill the Committee on Appropriations have simply repeated the language of the bill of last year, except as to the amount. The provision means this and nothing more. The construction given to it by the Department has been what I state; and this is the use to which the money is to be applied. If the gentleman from Ohio desires to make the language more precise, and if he thinks it important to do so, I have no objection. I simply state that this very language is to be found in the bill of last year and has been construed to apply to fast-mail facilities.

Mr. COX, of Ohio. It certainly seems to me that we ought to make the language of our appropriation bills such as not to invite fraud by mere uncertainty of expression.

Mr. BLOUNT. Will the gentleman suggest language which he thinks would convey the idea better?

Mr. COX, of Ohio. The question is, what is the thing we desire to get at? If it be to make extra compensation for extra speed on the great trunk lines, then it seems to me such should be the statement of the law.

Mr. BLOUNT. The main object was to get postal cars so as to have the mails distributed along the line of the roads.

Mr. COX, of Ohio. But postal cars have been in use for a great many years.

Mr. BLOUNT. That may be very true; but they have been taken off several lines because of the reduction of compensation.

Mr. REAGAN. But if the railroad companies are paid now at the rate of \$500 to \$1,000 per mile per annum, does not that include an obligation to furnish such cars?

Mr. BLOUNT. Not at all. The rates were heretofore reduced 10 per cent.; and it is claimed that in consequence of the reduction these facilities were in some cases withdrawn. We propose now to make an additional reduction of 5 per cent. In addition to that, the amount of this appropriation is \$125,000, whereas in the bill of last year it was \$150,000. So that in any point of view there is a reduction.

Mr. REAGAN. Is it understood that in addition to paying the railroads under their contracts the Government is to furnish postal cars in which they are to carry the mails?

Mr. BLOUNT. No, sir. The appropriation in the law of last session is \$150,000; and it is coupled with this language:

And the same may be used by the Postmaster-General to obtain proper facilities from the great trunk lines of railroads for the railway-postal service during the year ending June 30, 1878.

The object was to get an increase of speed and to get postal cars.

Mr. COX, of Ohio. Then I will ask the gentleman what are the "great trunk lines?"

Mr. BLOUNT. Well, sir, if the gentleman will turn to page 18 of the report of the committee, he will find a number of them mentioned. One is the road leading from New York to Rochester and Chicago; another from Philadelphia to Pittsburgh, and other great distributing points.

Mr. COX, of Ohio. I happen to know personally that a great many of the railway lines of the country besides those three or four roads commonly known as the great trunk lines—for instance, the New York Central and Lake Shore reaching to Chicago, the Pennsylvania Railroad and its lines leading westward, and the Baltimore and Ohio Railroad, being commonly meant when we speak of the great trunk lines—that besides those roads I know of a great many roads in the United States, varying in length from three and four hundred to one thousand and fifteen hundred miles upon which railway postal cars are as large, as numerous, as well provided as upon any of these lines, and what seems to be necessary is one of these two committees, the Committee on the Post-Office and Post-Roads or the Committee on Appropriations, should be able to define this in such shape we could know why extra compensation is given in one case and not in another. Take for example the lines leading southwest, which have been referred to by the gentleman from North Carolina; take many of the lines in the Northwest, take the lines reaching through the central portion of Ohio, Indiana, and Illinois; I know many of these lines are thoroughly furnished with railway postal cars; they also have made time as good as any other. Now what reason is there for defining this simply as limiting a certain character of business to the great trunk lines which are known as the three lines I have named? Why not say what class of roads must be paid for some particular extra service and let us know what that service is. With some experience in railroad matters I am frank in saying I do not know myself what it is and think it should be defined.

Mr. PATTERSON, of New York. The gentleman from Ohio will recollect as well as I do that two years ago there was a train of cars put upon the line between New York and Chicago which ran at a rapid rate of speed. It was continued for a few months and then withdrawn because they could not afford to carry the mails at that rate of speed at the price agreed to be paid. As I have said, the line was withdrawn. It went from New York to Chicago in about six

hours less time than the distance is ordinarily run. It was for the benefit, Mr. Chairman, not of the particular portion of country through which it passed, but for the whole country on the way through to the Pacific Ocean. That train has been withdrawn, as will be recollected, about a year ago for the reason the Government had not appropriated the money to pay for that rate of speed. I take it for granted this provision is put in the bill for the purpose of allowing the Government to put on such a train as that was and to pay the expenses of running it.

Mr. COX, of Ohio. The gentleman from New York is evidently mistaken in this, because we are told by the gentleman in charge of the appropriation bill this is a less appropriation in the same language than was made last year, and consequently it cannot be for this continued work, which last year did not go on for lack of an appropriation. This enforces my point that we ought to know what this is going for.

Mr. PATTERSON, of New York. The committee tells here what it is for.

Mr. COX, of Ohio. One word in regard to the fast-mail lines. I happen to know one line of nearly one thousand miles, reaching from Lake Erie to Saint Louis and the Mississippi River, was at that time specially urged by the superintendent at that time of the railway service, Mr. Bangs, to make connection with that fast-mail train and carry its mails through to Saint Louis on the same time. I know personally it did it and kept up the rate of speed, and I know personally it never could get a copper and never did get a copper. For some reason or other this definition of the great trunk lines is made to cover an appropriation of this kind.

Mr. PATTERSON, of New York. If this appropriation is made the mails will be carried at that high rate of speed, and I think it is all right.

Mr. REAGAN. I move a formal amendment. Mr. Chairman, previous to 1873 when the law was passed changing the mode of compensating railroads for postal-car service the rate of compensation had for a long time previous to that on first-class roads been \$300 a mile.

Mr. BLOUNT. When was that?

Mr. REAGAN. Eighteen hundred and seventy-three, and when they performed night service 35 per cent. extra, making the maximum pay to any railroad about \$375 a mile. Under that rate of compensation the postal service was efficiently performed.

By skill probably, not to use any other term, in the arrangement of the basis of compensation for these roads by weight and space of cars the compensation on the same roads was increased all the way from the point I have mentioned up to a thousand dollars a mile.

Now, with the compensation at that enormous rate, it is insisted here that after we pay that it is necessary to put in some sort of a proviso, under which it is vaguely hinted the Government may obtain the carriage of postal cars. It seems to me, as suggested by the gentleman from Ohio, [Mr. Cox,] that when we are paying such a rate of compensation as this there shall be at least no vagueness, no room left for juggling to increase the rate of compensation above what it now is.

I believe the gentleman from Georgia—for I have not had time myself to look over the tables—agrees that some of them get a thousand dollars and more for this service. I tried during the last Congress, on this bill, to call the attention of Congress to the fact of the vast increase for this class of service, and the companies that get it are no better satisfied with the \$1,000 a mile than with the \$375, and still insist on increased compensation; and this will go on to the end. I know that one of the means resorted to in order to force the Department to recommend increased compensation is to threaten to stop the service or to decrease its deficiency. I hope the time has not yet come, and I trust it may never come, when the Government, after giving a liberal compensation, a full and just compensation, for this sort of service, will—because the carriers have a monopoly of the carrying of the mails as things now stand—submit to an unlimited imposition upon the Government to meet whatever they may seem to think is due to them. I think we ought to give a just compensation and no more; and when we give that just compensation, if they choose to refuse to carry the mails, let that issue go before the country with all these facts. I hope that this clause may be stricken out of the bill.

Mr. CALKINS. I offer an amendment to perfect the clause proposed to be stricken out by the gentleman from Ohio.

The Clerk read as follows:

Strike out the words "proper facilities from," in line 103, and insert "extra speed and proper postal cars on;" so that it will read:

One hundred and twenty-five thousand dollars of which sum may be used by the Postmaster-General to obtain extra speed and proper postal cars on the great trunk lines of railroads for the railway post-office service during the fiscal year ending June 30, 1879.

Mr. CALKINS. This will meet the objection of the gentleman from Ohio as to the first part of the clause. The words I object to, Mr. Chairman, are these "proper facilities," that may mean a great deal. It may open the door for the Postmaster-General to give an interpretation of the language to suit himself and to expend the money as may suit himself. It ought to be confined to the purposes for which the committee say it is necessary. It is for that reason that I offer the amendment.

Mr. REAGAN. If the proviso is to remain in, the amendment proposed by the gentleman from Indiana is perhaps proper, because it defines exactly what we mean and brings before the House fairly the question it ought to consider in this connection, whether it means after paying a compensation that is already enormous to go on then and pay an additional compensation for additional speed. Is it true that the figures we pay for that service are not such as to secure any reasonable speed that can be given? Will they not? If we insert such a proviso, of course every road that comes within the meaning of the proviso will insist it must have its portion of the \$150,000 before it will perform the service.

Now, if that is what it means, it would be right and honest and fair to put it in the compensation permanently and stop all this management and controversy as to what companies shall get the extra allowance; so that while the amendment is proper if the proviso stays in, since it presents fairly the question whether we mean to pay the roads for the service and then offer them a bonus of \$150,000 to squabble over after they are fully paid, it seems to me it would be much wiser and fairer if we mean to increase their compensation to do it fully by their contracts. Let them know that is the pay they are to get, and not leave it open for the Postmaster-General, without advertising, without competition, without any protection to the public Treasury and the public service, in his mere discretion, to give so much as these gentlemen managing these roads may compel him to give in order to reach the terms on which they will consent to conduct the service. I hope the amendment will prevail and that the proviso will be stricken out.

Mr. BLOUNT rose.

Mr. CALKINS. I will withdraw the amendment if the gentleman from Georgia will renew it.

Mr. BLOUNT. I renew the amendment of the gentleman from Indiana.

I draw the attention of the gentleman from Indiana to this, that there is another method of compensating these roads. They not only get compensation by law under the rule of paying so much by weight, there is in addition the provision of a certain sum for fast-mail facilities in a law passed in 1873, in the following language:

Provided further, That additional pay may be allowed for every line comprising a daily trip each way of railway post-office cars, at a rate not exceeding \$25 per mile per annum for cars forty feet in length; and \$30 per mile per annum for forty-five-foot cars; and \$40 per mile per annum for fifty-foot cars; and \$50 per mile per annum for fifty-five to sixty-foot cars.

Perhaps some of the routes he has in his mind are paid under that section.

Mr. REAGAN. Will the gentleman allow me to correct him?

Mr. BLOUNT. My time is too short, and I cannot yield to the gentleman just now; he will find in the report the routes to which this compensation was paid, and I named some of them. I do not undertake to say what routes it should apply to, but I mention certain lines popularly known as the great trunk lines. The object is to put this fund into the hands of the Department for the purpose of securing faster and better mail facilities.

Now, as to what the gentleman from Texas has said in regard to whether this pay is excessive or not I have simply this to say that there is no branch of the public service of the country so dear to the people as the Post-Office Department. In certain sections they use star routes; in other sections the people are especially attached to fast-mail facilities which have been given to them, and to which they are used and to which they are devoted, and they will not yield up readily the postal service. This is a good deal like the question of suffrage; give it once and you cannot get it back again, and when you get the people in any section of the country accustomed to a certain method of mail service you cannot withdraw it from them.

I know the sensitiveness of this service, having been in this House when an assault was made upon it in the last Congress, when the democratic party had a large majority, and struggled against it and defeated it in this House, but they were compelled to yield to a compromise with the Senate in conference committee. Knowing the struggle made when it had greater strength than these gentlemen can hope to have now, we endeavored to avoid what we believed to be a useless struggle, and we have put this appropriation in the bill with some reduction.

The postal cars which the Government has been getting under this appropriation are very costly. There were roads upon which there were none, and this appropriation was allowed for the purpose of enabling the Department to get what is desired. This has been accomplished in part, but there are other lines on which there are no postal cars, and I will say to the gentleman from Texas that the Department have in contemplation, if this sum be appropriated, to get what does not now exist—facilities upon the lines leading to his own State and section—which he has not been able to receive as yet, and which he may expect to get by the use of this very fund.

The Committee on Appropriations, after studying the history of this question in the past, have determined to recommend to the House what they believe is the best thing that could be accomplished under the circumstances.

Now, so far as the question of construction is concerned I have no objection to the suggestion of the gentleman from Indiana [Mr. CALKINS] or that of the gentleman from Ohio, [Mr. Cox.] I am willing for the present to limit it and leave it as a matter of discretion with the Postmaster-General. I think it would be better to restrain it,

but exactly how I cannot see. The gentleman might name certain lines; but it may turn out that there are other lines which he is not informed of that was equally desirable. Then, again, by restoring it to certain lines you put it in the power of those roads to compel the Post-Office Department to pay a certain sum, because the law has named those lines; but if you leave it in the discretion of the Postmaster-General he may use the money where it is most needed.

Mr. CANNON, of Illinois. Mr. Chairman, I am of opinion that this \$125,000 recommended by the Committee on Appropriations, if judiciously spent, as I presume it would be, would be profitably spent. The compensation of railroads for carrying the mails is fixed by law, and the pay varies from \$50 per mile per annum to \$200 per mile per annum, as the daily average weight carried over the whole length of the road varies from two hundred to five thousand pounds per annum, and there may be an additional fixed allowance for car space of a certain character, but while you pay a company \$200 a mile for five thousand pounds of mail carried daily for a year, for each two thousand pounds over the five thousand pounds carried daily for a year the compensation is only \$25 additional, so if the one road carried ten thousand pounds per mile per annum, its pay would be for the first five thousand pounds \$200 and for the second five thousand pounds \$225—total, \$425. But, if these ten thousand pounds of mail were carried by two roads, five thousand pounds to each, the pay would be \$200 to each road or \$137.50 per mile annually more than if the mail was massed upon one road.

Now, if the superintendent of mail service can have this amount to induce some one of the trunk lines to furnish extra car space, coupled with greater speed, and thereby to a certain extent mass the through mails upon one line, I think it could be used at a great profit; but if you designate by law which one of the great trunk lines shall have the benefit of this expenditure, then you destroy the competition in this respect that the fund is expected to promote; and it will be seen that this matter is of no small importance when it is recollected that the mails leaving the New York office alone will average, as we are informed, fifty tons daily. Of course this money, like all other that is appropriated, may be improperly spent; but I do not believe it is probable, when the expenditures of the Post-Office Department are made in a manner and for a service that comes to the knowledge of the people daily, and especially when it is also recollected that we have year by year an investigating House of Representatives that is hungering and thirsting to find fraud in the expenditure of public money, whether it exists or not.

[Here the hammer fell.]

Mr. BAKER, of Indiana. The clause which it is proposed to strike out has been in force during the last year or two and has received a construction at the hands of the Post-Office Department; and a larger sum than is now proposed, \$150,000, was left within the discretion of the Postmaster-General. No man anywhere in the country has complained that the Post-Office Department has made an unwise decision in reference to the meaning of this language, or has made an unwise or injudicious expenditure of the money. Now, I submit that when a law has received from an Executive Department of the Government a construction which is entirely satisfactory to that Department and to the country, it is always unsafe to strike that phraseology from the law and embark on the experiment of putting in new phraseology, trusting that a new interpretation will be equally satisfactory.

I grant that the application of this sum of \$125,000 is left entirely to the discretion of the Postmaster-General. It is utterly impossible, as suggested by my friend from Ohio, to undertake to define to-day by a law what particular railroads shall come under the designation of "great trunk lines;" and if we should undertake to define the roads on which this money should be expended, it would invite the very thing that I know the gentleman from Ohio desires to avoid; it would invite a combination on the part of those roads designated as trunk lines and would thus give opportunity for a "job." This is impossible if the phraseology of the law be left as it has been in the past, under which a satisfactory administration of the law has taken place.

This money having been properly used for the purpose of getting additional mail facilities on the great trunk lines of railroad in the country, no man having complained that it has been unwisely expended, this provision as incorporated in a previous law having received a satisfactory interpretation, I submit that it would be unwise now, without asking the assent of the Post-Office Department and in the teeth of the request of that Department, to change this provision. The only change that the Department asked, the only thing about which any complaint has come from the Department is that this item ought to be \$150,000 instead of \$125,000; and that is my only objection to the provision. I say that it is unwise and dangerous to change the phraseology of the law in the face of the fact that it has received a construction satisfactory to the Department and to the country, and in the face of the fact that its retention in the present bill is recommended by those who administer the Post-Office Department.

[Here the hammer fell.]

Mr. WADDELL. I have an amendment which I apprehend is subject to a point of order; but I want to call the attention of the Committee on Appropriations to it, because I think an act of very great injustice will be done if some amendment of this kind is not put upon the bill, as the legislative bill does not provide for it. This amendment relates to the salary of the chief special agent.

Mr. BLOUNT. I hope the gentleman will send up his proposition to be read.

The CHAIRMAN. Two amendments are already pending—one offered by the gentleman from Indiana [Mr. CALKINS] and the other by the gentleman from Ohio, [Mr. Cox.]

Mr. WADDELL. Then my amendment is not in order now.

Mr. CALKINS. I withdraw my amendment until a vote shall be taken upon the amendment of the gentleman from Ohio; I will then renew it.

Mr. WHITE, of Pennsylvania. In order to obtain information how we ought to vote on this question, I want to put an inquiry to the gentleman in charge of this bill. I understand that the language which the amendment of the gentleman from Ohio proposes to strike out is contained in the appropriation bill of last year. Now, the money then appropriated has been expended, and I would like the gentleman to inform us (doubtless he is advised upon the subject) how this money has been expended. If honestly, all right; it is a precedent that will control my vote.

Mr. BLOUNT. So far as the language of the appropriation is concerned, it is the same as that contained in the bill of last year. The report of the committee, which has been distributed among members, will show the manner in which the money has been expended.

The question being taken on the amendment of Mr. Cox, of Ohio, it was not agreed to.

Mr. CALKINS. I now renew my amendment, modifying it so as to read as follows:

Strike out in line 103 the words "proper facilities from the great trunk," and insert "extra speed and proper postal cars on;" so as to read: \$125,000 of which sum may be used by the Postmaster-General to obtain extra speed and proper postal cars on lines of railroad for the railway post-office service during the fiscal year, &c.

The amendment was not agreed to.

Mr. WADDELL. I now move to amend by inserting after the word "day," in line 113, page 6, the following:

Provided, That the special agent designated by the Postmaster-General to act as chief special agent shall receive the same compensation as the superintendent of railway mail service.

Mr. BLOUNT rose.

Mr. WADDELL. Before my friend from Georgia makes his point of order I desire to call his attention for a moment to the facts of this case.

Mr. BLOUNT. I reserve the point of order until the gentleman makes his statement.

Mr. WADDELL. I desire to state that in the legislation we had on this bill the other day in regard to special agents fixing the per diem, &c., it did not appear the chief special agent, Mr. Parker, who has these thirty-seven special agents under him, would be in this condition of getting no per diem at all and only \$1,600 a year. I have a letter from the Postmaster-General calling our attention to it and stating he ought to receive the same compensation as the superintendent of the railway mail transportation. He gets no per diem under our law, because he is rarely actually traveling in the discharge of his duties. He has never to go but to the principal cities, so his per diem will amount to nothing, and the salaries of special agents are limited to \$1,600; most of them get but \$1,200. He is the chief special agent of all and has the responsibility of thirty-seven special agents under him and laborious duties to perform, as set forth in the letter of the Postmaster-General, and I appeal to my friend to put him on the same equality with the other chiefs. I think he should receive the same compensation as the superintendent of railway mail transportation.

Mr. BLOUNT. He gets now just what he always got under the law, whatever the practice may have been.

Mr. WADDELL. He got per diem too.

Mr. BLOUNT. I know he did, and so did a good many others; but it was not under the law but under the construction. This is only one of a score of cases constantly resorting to our committee-room, making plausible reasons for increase of salary. I insist on my point of order.

The CHAIRMAN. Does this raise the salary?

Mr. WADDELL. It does not raise the salary he has heretofore received.

Mr. BLOUNT. I insist on my point of order.

Mr. WADDELL. I should like to read what the Postmaster-General says. He says:

In this connection I would call attention to the fact that the salary of the chief special agent is no greater than that of other special agents. This officer has formerly received the pay of one of the two superintendents of railway mail service, authorized by law; but doubting the legality of his payment from that fund the practice was discontinued. In addition to superintending and directing the work of the other agents, the chief special agent conducts many of the most important investigations in person, necessarily incurring large traveling expenses, and I think that he should receive the same salary as the general superintendent of railway mail transportation.

He will get less than those under him. They get per diem and he will not.

Mr. WHITE, of Pennsylvania. What does he get now?

Mr. WADDELL. Sixteen hundred dollars as special agent, without any per diem.

Mr. WHITE, of Pennsylvania. What will he get under your amendment?

Mr. WADDELL. The same as the superintendent of railway mail transportation.

Mr. BLOUNT. As the gentleman from North Carolina discussed the point of order I will only say there is no change of law in this case. The gentleman states that Congress provided two superintendents of railway mail transportation while they needed but one, and that the chief of special agents has been acting as one of those superintendents and drawing pay as such when he had nothing to do with it. The law provides his pay shall be \$1,600, as Congress intended it. By a construction which was wrong and illegal he has received an additional sum, and now, forsooth, because he is not getting the pay of superintendent to which he was not entitled, the gentleman asks that the salary shall be continued at the same rate.

Mr. CANNON, of Illinois. I wish to ask the gentleman a question and that is, whether he thinks \$1,600 is enough compensation for the superintendent of special agents, the officer who superintends the whole work.

Mr. BLOUNT. I have no doubt we will keep that special agent with all his valuable services without any increase of compensation.

Mr. CANNON, of Illinois. Could not the gentleman himself be kept as a member of Congress if his pay were cut down to \$1,600?

The CHAIRMAN. The Chair understood the gentleman to say the amendment was obnoxious to the point of order.

Mr. WADDELL. It is a manifest injustice, but it may be obnoxious to the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. REAGAN. I move, in line 112, to strike out "employed" and insert "traveling." It has been intimated the special agents get \$1,600 a year and \$5 per diem, and that that \$5 per diem is drawn during the whole year and that that abuse has grown out of the use of the word "employed." The bill reads "for the allowance for traveling and incidental expenses while actually employed in the service, not exceeding \$5 a day." It is not unreasonable the Department should pay \$5 a day in addition to the salary when the agent is employed all the time; but if you say \$5 a day while actually traveling, then these agents will only get \$5 a day while actually traveling.

Mr. BLOUNT. I have no objection to that amendment.

Mr. CANNON, of Illinois. Mr. Chairman, I think the gentleman from Georgia should not give his assent to this amendment. This paragraph of the bill appropriates \$9,100,000 to pay for mail service upon the railroads of the country, aggregating near eighty thousand miles in length. To distribute the mails upon these lines requires about twenty-five hundred men, for payment of whom you propose to appropriate \$300,000, and the successful operation of this service requires supervision to a considerable extent over a great number of the postmasters of the country, and to regulate the compensation requires the weighing of the mails at least once in four years upon all these roads. It will be seen at once that a vast number of questions are constantly arising requiring skill, industry, and ability of no ordinary degree on the part of the man superintending this whole service. Now, the superintendency and control of this whole expenditure of near \$13,000,000 and of this vast service primarily falls upon the superintendent of railway mail service. There is no railroad president in the country whose duties are so arduous and important as the duties of this superintendent, or who is required to exercise more skill than he, and similar ability to his is paid for by private corporations at the rate of from \$10,000 to \$25,000 per annum. His salary, as now fixed by law, is \$2,500 per annum, with \$5 per diem in addition for each day he is employed, which makes the salary about \$4,300 per annum.

Now, the amendment cuts the allowance of \$5 a day down to each day he is actually traveling from one point to another, when necessarily a large portion of his time must be spent at his office in the Department in superintending and directing the different branches of this service. No sane man, if he was employing a superintendent to look after his private business of the same magnitude, would ask or think it politic to pay him only \$2,500 per annum. I therefore trust the amendment will not be adopted and that the salary will not be reduced below the \$4,300. It is no valid argument that men can be found to do this work for \$2,500, for you can find men who would agree to do it for nothing or pay for the privilege of doing it and then make a fortune in the doing of it. I believe it is true economy not to pay exorbitant salaries; but especially in a place like this, requiring skill of the highest order, industry, and undoubted integrity, to pay a reasonable salary sufficient to command the services of such a man. I do not believe \$4,300 per annum is too much, and I hope the amendment will not prevail.

Mr. REAGAN. I wish to say one word further. [Cries of "Vote!" "Vote!"] I do not trouble the House very often and I ask the committee to bear with me for a moment.

We give a salary in this case of \$2,500 a year. The per diem pay would be \$1,825 a year. These two sums together make \$4,325 a year. Now if we mean to give \$4,325 a year why not honestly say so in the bill? Why whip the devil around the stump by saying this officer shall have a salary of \$2,500 a year and \$5 a day while actually employed when it is known he is not a traveling agent and that his business does not permit him to travel much? By doing this we perpetrate a fraud upon ourselves with our eyes open and we perpetrate a fraud upon the country and conceal what we do. It seems to me we should always approach everything directly.

The question being taken on Mr. REAGAN's amendment, there were—ayes 53, noes 71.

Mr. HUNTON called for tellers.

The CHAIRMAN. A quorum not having voted the Chair will order tellers and appoints the gentleman from Texas, Mr. REAGAN, and the gentleman from Illinois, Mr. CANNON.

The committee again divided; and the tellers reported—ayes 75, noes 69.

Mr. CANNON, of Illinois. I make the point that a quorum has not voted.

Mr. BLOUNT. I hope the gentleman will not insist upon that. We can have a separate vote upon this in the House.

Mr. CANNON, of Illinois. Very well.

So (further count not being insisted upon) the amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For compensation to clerks in post-offices, \$3,440,000.

Mr. RYAN. I offer the following amendment:

In line 121 strike out "\$3,440,000" and insert in lieu thereof "\$3,700,000."

The amendment is precisely the amount of the estimate. Last year Congress appropriated over \$100,000 more than the amount of expenditure for this item of service in the previous year. During the last and present year there has been a great increase in the quantity and weight of mail matter throughout the United States corresponding with our increase of population and increase of business. The appropriation made last year, over \$100,000 in excess of the expenditure of the year before, is, I am informed, already exhausted and about six hundred applications, found upon examination by the Department to be meritorious and such as ought to be granted, are denied because the appropriation made last year is exhausted.

Now, I do not think it right thus to cripple this service. There is a necessity, not confined to any particular locality, for this increase of appropriation. The increase of weight and quantity of mail is general throughout the country. As was stated a few days ago by the gentleman from Pennsylvania, [Mr. CLYMER,] in his own town, within a few years, they have had to have an increase of three or four clerks in the post-office there. That fully illustrates what is true throughout the Eastern States as well as the Western States; that, too, in a State whose increase of population is not traceable so much to immigration as to home production. [Laughter.] Now, sir, with us in the West the reverse is true. We are increasing very rapidly in population from immigration; and this gives rise, of course, to a demand upon the Department for this service, and the Department is in no situation and has been in no situation to satisfy the demands upon it for this increase. Take the States of Nebraska, Colorado, Kansas, Missouri, and Texas, and I do not think it any exaggeration to say that during the next fiscal year the increase of population will exceed a million; and of course that will increase this business throughout that whole section of country. And yet the Appropriations Committee are making no provision whatever to meet this increase of business. They are making an appropriation of \$260,000 less than is asked for by the Department, and I am assured at the Department that it will be utterly unable to meet the demands upon it unless that estimate be given. Hence I offer this amendment.

Mr. BLOUNT. During the first session of last Congress we appropriated for compensation of clerks \$3,290,000, during the last session of last Congress we appropriated \$3,340,000, an increase of \$50,000 upon the preceding year. During the last fiscal year—we have no estimate of what has been expended during the present fiscal year—there was expended for this purpose \$3,333,151.60. We appropriate in this bill \$100,000 more than was appropriated last year. We have made the increase double what the increase was before.

The committee thought that here they had been exceedingly liberal. There was an entire assent upon the part of every member of the committee, the amount being so much larger than had been allowed heretofore. And this, sir, has been done while the evidences all around us have shown a decline of business. I will ask to have printed as part of my remarks certain statements showing that this is the case all over the country.

The Post-Office Department itself shows there has been during the last fiscal year an actual decrease of its receipts. It shows that while we are increasing the appropriation more largely than we have done for several years there has been a greater falling off in business and a greater falling off in the receipts of the Department.

I think, therefore, that we are going rapidly enough. The gentleman says that the country is increasing in population. That is true, but the business of the country is not increasing in anything like the proportion that it has heretofore. The gentleman says that we have not service enough; that where these officers come under his knowledge they need more clerical force and cannot get it, and that this is the condition of things throughout the entire country.

Now I happen to know from an investigation before the committee of the last Congress that while that was true as to certain localities in a great many places the postmasters were absolutely doing nothing; they had clerical force enough to do their entire business. The fault lies in the distribution of the clerks. Some gentlemen can go and get them; others have failed. Some communities have an excess; others have a deficit.

Again, there is this to be considered in this connection: in the midst

of the lack of employment throughout the country, this being a fund to be used in the discretion of the Department, I undertake to say that the clerical force needed in the post-offices can be got at a less sum than ever before in the last ten years.

The following are the papers referred to by Mr. BLOUNT:

THIRD NATIONAL BANK,

New York, April 10, 1878.

DEAR SIR: We inclose Pittsburgh and New Orleans clearing-house figures, and remain,

Very respectfully,

HON. ADAM S. HEWITT,

Washington, D. C.

C. N. JORDAN,
Per FRYNER.

Monthly clearings Pittsburgh clearing-house, from October, 1876, to March, 1878, inclusive.

Date.	Exchanges.	Balances.
1876.		
October.....	\$20,232,554 69	\$3,845,245 29
November.....	18,613,979 99	3,290,951 87
December.....	18,236,321 24	3,658,321 80
1877.		
January.....	19,668,595 73	3,499,087 87
February.....	16,426,567 92	3,187,679 81
March.....	17,309,991 78	3,553,664 81
April.....	19,347,429 14	3,357,264 48
May.....	19,532,404 33	3,478,331 11
June.....	19,599,536 51	3,708,321 83
July.....	19,493,135 54	3,763,545 31
August.....	18,373,216 21	3,542,847 56
September.....	16,823,438 40	3,563,354 93
October.....	21,490,968 82	4,116,995 53
November.....	17,690,910 42	3,426,079 16
December.....	17,813,959 29	3,575,461 16
1878.		
January.....	19,016,170 79	3,233,440 53
February.....	15,055,243 14	2,851,450 68
March.....	15,683,102 35	3,298,877 34
Total.....	329,846,624 29	63,350,942 67

Monthly clearings New Orleans clearing-house, from October, 1876, to March, 1878, inclusive.

Date.	Exchanges.	Balances.
1876.		
October.....	\$28,571,845 26	\$424,172,138 95
November.....	40,695,957 79	
December.....	63,215,537 01	
1877.		
January.....	46,343,846 86	
February.....	43,149,943 09	
March.....	43,042,349 60	
April.....	33,684,561 07	
May.....	41,646,309 44	
June.....	27,049,730 68	
July.....	50,210,687 61	
August.....	19,336,335 57	
September.....	17,225,094 97	
Total from October, 1876, to September, 1877, inclusive.....		
October.....	37,924,457 15	
November.....	43,424,842 76	
December.....	53,470,156 76	
1878.		
January.....	63,702,340 17	
February.....	46,701,670 00	
March.....	37,109,608 87	
Total from October, 1877, to March, 1878, inclusive.....		282,333,075 71
Total from October, 1876, to March, 1878, inclusive.....		706,505,274 68

J. N. MAYNEVILLE,

Manager.

NEW ORLEANS, April 5, 1878.

Mr. DUNNELL. I move to strike out the last word. I have prepared an amendment precisely in the words of the amendment offered by the gentleman from Kansas, [Mr. RYAN.] My own experience is the same as his, and let me say, Mr. Chairman, that the frontier States, the border States, and those especially that are increasing rapidly in population as the gentleman's own is and my own is, are those States in which there are very many offices to-day without the clerical force which they need. I have conversed with the venerable clerk of the First Assistant Postmaster-General, who has said to me repeatedly during the year that when the next appropriation bill passed there should be a large increase in the item for post-office clerks. There are to-day from my own district now pending eight or nine applications for postal clerks and increased clerical service in the post-office in my district, and we are unable to obtain any because of the insufficiency of the appropriation. The amount proposed in the amendment is \$3,700,000. The appropriation recommended in this bill is \$300,000 less than that amount. I had intended when this item was reached to move the amendment which has been offered by the gentleman from Kansas. It is absolutely necessary.

Mr. Chairman, the Post-Office Department is crippled more from the lack of appropriations of this one item than in almost any other

item in the post-office appropriation bill. Here are offices that have increased rapidly. There are offices in my own district where the salary to-day is \$1,000 that had not been when I came to this House seven years ago. They have been established and towns have been built up since then and they are without any clerical force, and the committee will see at once that a post-office at the beginning of the fiscal year that is entitled to clerical force gets it under this appropriation as it existed on that day, but there may be four hundred or five hundred offices during the fiscal year at the middle of the year or in the last half of the year that are entitled to this clerical force and they cannot get it; the money has been allotted at the beginning of the fiscal year and all the offices that require clerical force after that allotment are told that they must wait for another appropriation. I say that the amendment is eminently just and proper and absolutely demanded for the service, and if the whole amount proposed in the amendment of the gentleman from Kansas is not voted I shall move an amendment for a sum less than the amount now proposed.

The question was taken on Mr. RYAN's amendment; and on a division there were—ayes 69, noes 82.

Mr. RYAN. I call for tellers.

Tellers were ordered; and Mr. RYAN and Mr. BLOUNT were appointed.

The committee again divided; and the tellers reported—ayes 59, noes 69.

So the amendment was not agreed to.

Mr. TOWNSEND, of Ohio. I move to amend in lines 120 and 121 by striking out the words "four hundred and forty thousand dollars" and inserting in lieu thereof the words "six hundred thousand dollars."

Mr. BLOUNT. I simply want to say what I think is not understood by some members, that we increase the appropriation for postmasters \$100,000 more than it had ever been increased for several years in addition to increasing the compensation for clerks to postmasters.

Mr. DUNNELL. The gentlemen should be told that the amount of the increase last year was less than the amount that the service demanded.

Mr. BLOUNT. I would say that gentlemen on the other side of the House complained in regard to everything we did.

Mr. TOWNSEND, of Ohio. I insist on my amendment. It should be borne in mind by the House that this postal service increases every year, and hence requires larger appropriations.

Mr. WADDELL. I would like to know whether my motion that the committee rise is in order.

The CHAIRMAN. It is now.

Mr. WADDELL. There is no quorum here, and I insist on the motion.

Mr. BLOUNT. I hope it will be voted down.

The motion was agreed to; there being—ayes 88, noes 62.

The committee accordingly rose; and Mr. BLACKBL. N having taken the chair as Speaker *pro tempore*, Mr. COX, of New York, reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 4246) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes, and had come to no resolution thereon.

INTERNAL TAXATION.

Mr. TUCKER. I am instructed by the Committee of Ways and Means to report a bill (H. R. No. 4427) relating to the tax on tobacco, incomes, and other internal taxation.

The bill was read a first and second time.

Mr. TUCKER. I am also instructed to ask the adoption of the resolution which I send to the Clerk.

The Clerk read as follows:

Resolved, That the bill entitled "An act relating to taxes upon tobacco, incomes, and other internal taxation," be made the special order for consideration in the Committee of the Whole on the 1st day of May next, after the morning hour, and from day to day thereafter until disposed of.

Mr. PRICE. There is one special order already for the 1st of May, I think.

Mr. WHITE, of Pennsylvania. If this requires unanimous consent, I object.

The SPEAKER *pro tempore*. The Chair will state that under the rules the Committee of Ways and Means have the right to report at any time.

Mr. TUCKER. And under the ruling of the Speaker, I have the right to offer on behalf of the committee this resolution. I will merely state that a bill was reported yesterday by my friend from Illinois, [Mr. BURCHARD,] my colleague on the committee, respecting the machinery of internal revenue taxation. This bill proposes a reduction of the tax on tobacco, the imposition of a tax on incomes, and the modification of the tax on savings-bank deposits. It has been very fully considered by the Committee of Ways and Means; and I propose by my resolution to make it a special order for consideration in Committee of the Whole on the same day that was suggested by my friend from Illinois in reference to the other bill.

Mr. BURCHARD. The two bills have no connection, however.

Mr. TUCKER. They have no connection. I hope there will be no objection to the adoption of this resolution. I call the previous question.

Mr. CONGER. Does this bill propose the imposition of an income tax?

Mr. TUCKER. Yes, sir.

Mr. WHITE, of Pennsylvania. I object to the adoption of the resolution.

The SPEAKER *pro tempore*. The Chair will state to the gentleman from Pennsylvania that it is not liable to objection.

Mr. WHITE, of Pennsylvania. Does it not require unanimous consent to make this bill a special order.

Mr. TUCKER. Oh, no; not at all.

The SPEAKER *pro tempore*. The Chair will state that it does not, under the ruling of the permanent Speaker of the House. The Committee of Ways and Means having the right to report at any time for commitment, the gentleman from Virginia now, by direction of that committee, reports this resolution accompanying the bill, which proposes to fix the 1st day of May for its consideration.

Mr. CONGER. There is no doubt about the right of the Committee of Ways and Means to report at any time for commitment; but that does not imply the right to report at any time a resolution fixing a day for the consideration of particular business.

Mr. TUCKER. It was expressly decided by the Speaker the other day that upon a motion to refer to the Committee of the Whole for consideration, it was in order for the Committee of Ways and Means to move to fix a day for such consideration. I have done so on this occasion under the ruling of the Speaker.

Mr. CONGER. That is when the committee is called in its regular order. They may report for commitment at any time; but only on their regular call can they report resolutions to change the order of business.

Mr. TUCKER. I call for the previous question on the adoption of the resolution.

Mr. CONGER. Let us have the point of order decided.

The SPEAKER *pro tempore*. The Clerk will report the rule covering the point of order made by the gentleman from Michigan.

The Clerk read as follows:

It shall be the duty of the Committee of Ways and Means to take into consideration all reports of the Treasury Department, and such other propositions relative to raising revenue and providing ways and means for the support of the Government as shall be presented or shall come in question and be referred to them by the House, and to report their opinion thereon by bill or otherwise, as to them shall seem expedient; and said committee shall have leave to report for commitment at any time.

Mr. TUCKER. I report this bill for commitment, and accompany it with a proposition to fix a day for its consideration.

Mr. DUNNELL. Will not this interfere with the tariff bill?

Mr. TUCKER. I am perfectly content to yield to any existing special order or to the business of the Committee on Appropriations.

Mr. DUNNELL. The chairman of the Committee of Ways and Means is absent.

Mr. TUCKER. But I am present and make this report.

Mr. BURCHARD. This special order would be subject to all prior special orders. It does not interfere with the action on the tariff bill or the appropriation bill.

Mr. MCMAHON. The House can raise the question of consideration at any time.

Mr. HARRIS, of Virginia. I demand the regular order.

The SPEAKER *pro tempore*. Does the gentleman insist on the point of order?

Mr. WHITE, of Pennsylvania. I do insist on the point of order.

The SPEAKER *pro tempore*. It is the opinion of the Chair that under the rules the Committee of Ways and Means have the right to report at any time for commitment, and the right to report for commitment carries with it the right of consideration; but making the bill a special order, as provided in the concluding portion of the resolution of the gentleman from Virginia, cannot, in the judgment of the Chair, be entertained except by unanimous consent. Is there objection to the resolution offered by the gentleman from Virginia?

Mr. WHITE, of Pennsylvania, and Mr. CONGER objected.

Mr. SAMPSON. I move the House adjourn.

The SPEAKER *pro tempore*. The Chair recognizes the gentleman from Missouri to a personal explanation.

Mr. TUCKER. As the proposition to make the bill a special order has been objected to, I move that it be referred to the Committee of the Whole on the state of the Union, and ordered to be printed, and the time for its consideration will be fixed hereafter.

The SPEAKER *pro tempore*. The Chair hears no objection, and it will be ordered accordingly.

Mr. CONGER. I give notice that on that bill I reserve all points of order.

The SPEAKER *pro tempore*. That is the gentleman's right.

PERSONAL EXPLANATION.

Mr. GLOVER. I ask to have read from the New York Tribune of April 20, 1878, the extract which I have marked.

The Clerk read as follows:

WASHINGTON, April 19.—Alarming reports were circulating at the Capitol to-day that Mr. GLOVER had made another haul of his net, and as usual, caught a big democratic fish; but it is said he tried to throw back his catch before any one discovered that he had him. The story is that he has found out that \$5,000 of the funds belonging to the House of Representatives was loaned to a member of Congress. The danger of losing it and the difficulty of recovering the money caused the matter to be exposed.

Mr. GLOVER. Mr. Speaker, if no other person was affected by that dispatch in the New York Tribune except myself, I should say nothing on this subject. That paper for several weeks past has been

constantly making attacks upon myself and the committee with which I am connected.

I desire in justice to an officer of this House who seems to be alluded to by that dispatch, and in the interest of every member upon the floor of this House who seems to be implicated in the charge that some one of them has in an improper manner received from the Sergeant-at-Arms the sum of \$5,000—it is charged that the Committee on Expenditures in the Treasury Department have made that discovery—I desire to say, sir, that nothing of the kind has been discovered by that committee, nor do I think there is a member of that committee who until it appeared in the Tribune has heard anything of it. I think it a pure fabrication and I feel it incumbent upon me to so pronounce it.

A MEMBER. Who owns that paper?

Mr. GLOVER. I do not know who owns the paper, or who is its correspondent.

Mr. CONGER. Does the gentleman deny there is a defalcation on the part of the Doorkeeper or one of the doorkeepers?

Mr. GLOVER. This is an allegation against the Sergeant-at-Arms, as I understand it, and I have only risen for the purpose of saying that I never heard of this matter until a member called my attention to it in the New York Tribune a few moments since from which the extract has been read.

Mr. CONGER. The article did not refer to an officer. I did not understand it to refer to any officer.

Mr. GLOVER. I understand it does refer to the Sergeant-at-Arms.

Mr. CONGER. I understood it to refer to a member of Congress merely.

Mr. GLOVER. And to the Sergeant-at-Arms.

Several MEMBERS. Read it again.

The article was again read.

Mr. CONGER. I do not see in this any reference to any but a member of this body.

Mr. GLOVER. It refers to some officer who has the paying of the members of this House; and I know of no other officer than the Sergeant-at-Arms who discharges that duty. He pays the members of this House. But so far as it concerns the proceedings of my committee or any knowledge I have of the subject the statement is totally without foundation, and I believe as before stated it is a pure fabrication of the correspondent of that paper who during the last few weeks has made similar slanderous statements.

A MEMBER. Who owns that paper?

Mr. GLOVER. I do not know.

MEXICAN AWARD.

Mr. WILSON. I ask the courtesy of the House to fix some day next week for the consideration, in Committee of the Whole, of the bill (H. R. No. 2117) to provide for the distribution of the awards made under the convention between the United States of America and the Republic of Mexico concluded on the 4th day of July, 1863. These are awards made in favor of citizens of this country under a treaty concluded ten years ago. The claimants of this money are in very impecunious circumstances. Many of them are poor, distressed, and absolutely without means of support. The bill has been for a long time ready for the action of the House, and I hope it will be the pleasure of the House to fix some time next week for its consideration. I therefore ask unanimous consent that next Wednesday morning after the morning hour the House resolve itself into Committee of the Whole for the consideration of this bill, to be continued from day to day until disposed of.

Mr. BAKER, of Indiana. Not to interfere with appropriation bills.

Mr. BURCHARD. Or reports from the Committee of Ways and Means.

The SPEAKER *pro tempore*. Is there objection to the request of the gentleman from West Virginia?

Mr. HEWITT, of Alabama. I object.

MINT AT NEW ORLEANS.

On motion of Mr. DWIGHT, by unanimous consent, the bill (S. No. 1058) to repair and put in operation the mint at New Orleans, authorizing the coinage of gold and silver thereat and making an appropriation therefor, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Coinage, Weights, and Measures.

FRANK A. PAGE.

The SPEAKER *pro tempore*, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting papers relating to the case of Frank A. Page, late of the United States Army, (retired;) which was referred to the Committee on Military Affairs.

EXPERIMENTAL GUNS.

The SPEAKER *pro tempore* also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a report relative to experimental guns in the possession of the Department; which was referred to the Committee on Military Affairs.

MILITARY POSTS.

The SPEAKER *pro tempore* also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting reports relative to military posts that can be abandoned; which was referred to the Committee on Military Affairs.

SALE OF LOTS AT HARPER'S FERRY.

The SPEAKER *pro tempore* also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting reports of the Attorney-General relating to the sale of lots of land at Harper's Ferry by the Government; which was referred to the Committee on the Judiciary.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. EVANS, of Indiana, for ten days from Monday next, on account of important business.

Mr. SAMPSON. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: Memorial of the American Society of Civil Engineers, commending the convenience and accuracy of the triangulations of the United States Coast Survey, and petitioning for necessary appropriations to continue the work—to the Committee on Appropriations.

By Mr. CABELL: The petitions of citizens and manufacturers of Virginia, that licorice-paste may be imported free of duty—to the Committee of Ways and Means.

By Mr. CAMPBELL: The petition of 530 citizens of Altoona, Pennsylvania, for the extension of the national credit to the completion of a great southern line of railroad to the Pacific Ocean—to the Committee on the Pacific Railroad.

By Mr. COX, of Ohio: The memorial of Forsyth Post, Grand Army of the Republic, for the amendment of the pension laws—to the Committee on Invalid Pensions.

By Mr. GIDDINGS: Memorials of citizens of San Augustine, Rusk, Cherokee, Lee, Lavaca, De Witt, Gregg, Chambers, Washington, Robertson, and Crockett Counties, Texas, for the division of that State into two judicial districts—to the Committee on the Judiciary.

Also, the petition of citizens of Galveston, Texas, for an appropriation to erect a custom-house and internal-revenue offices in said city—to the Committee on Public Buildings and Grounds.

By Mr. JONES, of Alabama: Resolutions of the Mobile (Alabama) Board of Trade, requesting the Alabama delegation in Congress to support the bill (H. R. No. 3988) to organize a life-saving service—to the Committee on Commerce.

By Mr. KNOTT: The petition of Mrs. Elizabeth Dubois, for relief—to the Committee of Ways and Means.

Also, papers relating to the claim of Mrs. Ellen Camp—to the Committee on War Claims.

By Mr. LIGON: The petition of citizens of Chilton County, Alabama, for the creation of a fund for popular education from the sales of public lands—to the Committee on Education and Labor.

By Mr. McMAHON: The petition of E. G. Johnson, for a pension—to the Committee on Invalid Pensions.

By Mr. STEPHENS, of Georgia, (by request:) The petition of J. G. W. Mills, of Atlanta, Georgia, for the payment of his expenses in an election contest in the Forty-fourth Congress—to the Committee of Elections.

By Mr. VANCE: Memorial of Dr. Anson B. Sams, proposing a change of the motto "In God we trust" on the new silver dollar to "In God's name we trust"—to the Committee on Coinage, Weights, and Measures.

IN SENATE.

MONDAY, April 22, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of the proceedings of Thursday last was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of the 15th instant, a copy of the report of the hydrographic commission on the means necessary to protect the wharves and harbor of New Orleans from the incursions of the Mississippi River; which was referred to the Committee on Commerce, and ordered to be printed.

RESUMPTION OF SPECIE PAYMENTS.

Mr. VOORHEES. Mr. President, on the 17th of this month the Senator from Michigan [Mr. FERRY] reported back, from the Committee on Finance, House bill 805, known as a bill for the repeal of the specie resumption act of January 14, 1875, with an amendment striking out all after the enacting clause and inserting certain important provisions in lieu of the original measure as it came from the House. I propose now to amend that amendment in certain particulars, and I ask that the amendments of which I give notice be read.

The PRESIDENT *pro tempore*. The Senator from Indiana gives notice that he will offer certain amendments, which will be read.

The CHIEF CLERK. It is proposed to strike out in lines 5, 6, and 7, the words "on and after October 1, 1878, said notes shall be receivable;" strike out in lines 8 and 9 the words "October 1, 1878," and insert in lieu thereof the words "the passage of this act;" strike out in line 9 the word "permanently;" also strike out in lines 22, 23, and 24, the words "shall cease and become inoperative on and after the said October 1, 1878," and insert in lieu thereof the words "is hereby repealed;" so that the substitute reported by way of amendment by the Committee on Finance shall read as follows:

That from and after the passage of this act United States notes shall be receivable in payment for the 4 per cent. bonds now authorized by law to be issued, and for duties on imports, and said notes in the volume in existence on the passage of this act shall not be canceled nor hoarded, but shall be reissued, and they may be used for funding, and all other lawful purposes whatsoever, to an amount not exceeding in the whole the aggregate amount thereof then in circulation, and in the Treasury; and the said notes, whether then in the Treasury or thereafter received, under any act of Congress, and from whatever source, shall be again paid out, and when again returned to the Treasury they shall not be canceled nor destroyed, but shall be reissued from time to time with like qualities; and all that part of the act of January 14, 1875, entitled "An act to provide for the resumption of specie payments," authorizing the retirement of 80 per cent. of United States notes, is hereby repealed.

Sec. 2. All laws and parts of laws inconsistent with this act shall be, and hereby are, repealed.

Mr. VOORHEES. I ask that the amendments just read and the substitute offered by the committee as now sought to be amended be printed and lie upon the table.

I desire further to state that I have offered these amendments not as the basis of a compromise for the surrender of the House bill, but for the purpose of improving as far as possible the substitute reported by the committee. If that substitute should be adopted by the Senate I desire it to bring substantial and immediate relief to the people as far as it goes. It is my purpose, however, to support the bill for the repeal of the act enforcing the resumption of specie payments, just as it passed the House on the 23d day of November last. On this issue I shall seek to obtain the direct vote of the Senate at an early day.

Mr. GORDON. I hope the amendments suggested by the Senator from Indiana will be printed.

The PRESIDENT *pro tempore*. That has been ordered under the rule.

Mr. GORDON. While I am up I move that the report of the committee to which the Senator from Indiana has referred, and to which the amendments relate, be made the special order for Wednesday, the 1st day of May, that is, Wednesday a week. I will state that I did not speak upon the silver bill, because I desired a subject of a little wider range than that bill legitimately furnished, and I wish to speak upon this bill. I move, therefore, that it be made the special order for Wednesday, the 1st day of May. I think that would give abundant time for any amendments to be suggested and considered by the Senate.

Mr. FERRY. (Mr. ALLISON in the chair.) The Senator from Georgia has called the attention of the Senate to the report made by the Committee on Finance in regard to the repeal of the resumption act, and begs consideration on a week from next Wednesday. My impression is that the bill might be considered at an earlier day than that, and I suggest to the Senator from Georgia that he defer fixing a time for the Senate to proceed to the consideration of the bill. The Committee on Finance will meet to-morrow and my impression is that I may move that the Senate proceed to the consideration of the bill earlier than the 1st of May.

Mr. GORDON. Very well. I have no objection to deferring my motion for the present. I simply wanted to have a time fixed when we should consider the measure. I therefore withdraw the motion temporarily for the present.

The PRESIDING OFFICER. (Mr. ALLISON in the chair.) The motion making the bill a special order is withdrawn.

Mr. CONKLING. I should like to make a suggestion to the Senator from Michigan and also to the Senator from Georgia, if I can have his attention for a moment. The Senator from Georgia has indicated an intention of speaking upon this bill. It will of course be the pleasure of the Senate to allow the Senator to fix such time as is convenient to him to address the Senate, but in the present condition of the Senate, it being now but a few moments after the hour of meeting and owing to the sitting of committees this morning the Senate being very thin, especially on this side, would it not be better for the Senator simply to fix his own day to take up the bill, to remark upon it, and leave the time when it shall be considered, as a special order or otherwise—

Mr. MORRILL. The Senator from Georgia has withdrawn his motion.

Mr. CONKLING. I know he has, but the Senator from Michigan is in the act of proposing that the bill be taken up at an earlier day, not for the convenience of some Senator in speech, but for the action of the Senate. Now, for myself and still more for Senators who are absent, I wish both Senators would refrain during the present at least from fixing any time to take up the bill for action. No Senator will have any difficulty in having it taken up for the purposes of his own convenience. I will vote, for one, with great pleasure with the Senator from Georgia, and I am sure the whole Senate will, that he may be able to fix a time for that purpose as he pleases; but as to action

on the bill I hope the Senator from Michigan and the Senator from Georgia alike will let it stand until we can have some more understanding among each other than we have had so far, and until the Senate is fuller, before fixing a time to proceed with the consideration of the bill.

Mr. FERRY. My only object was to avoid unnecessary delay. The committee to which the bill was referred has been criticised somewhat for the delay in making a report upon the bill. The committee devoted such time as they could to the subject, and made as early a report as was practicable under the circumstances. For that reason I feel it my duty to suggest to the Senator from Georgia and also to the Senate that it might be possible to consider the bill at an earlier moment and avoid any unnecessary delay. That was my intention, and solely that. My object is not to prevent any Senator from expressing his views or taking such time as he may need for that purpose. My only object is to facilitate action upon the bill. As I understand, the Senator from Georgia has withdrawn his proposition to fix any specific day and the matter stands as it did before the suggestion was made.

Mr. HEREFORD. I desire to say that I think the time for the consideration of this subject by the Senate should be fixed some time to-day, (not while there are as few Senators in their seats as we find this morning, I think perhaps that would be improper,) but to-day when there shall be more Senators in their seats the time to commence the discussion of this subject and for the consideration of it should be fixed; for if this subject shall be discussed at as great length as was the silver bill, and if those who desire should succeed in having the House bill amended, we will be thrown into June before the bill gets out of this body at all, and it would then go to the House amended and there remain until we shall have adjourned. So that we will have been in session here from the middle of October until the time for adjournment without having accomplished one thing on the subject of the repeal of the resumption act. I do not believe that the country would justify the Congress in that non-action. I believe the country would hold us responsible for that non-action. I hope the bill will pass as it came from the House. There are some very good amendments that have been offered to it for which I should vote as distinct and substantive propositions but I hope they will not be tacked on to the bill as amendments, thereby taking it back to the House and thereby, in my judgment, defeating the whole matter. I think the sooner we commence the consideration of the bill in the Senate the better, and I think the time should be fixed some time to-day when the Senate shall be more full than we find it on this occasion; but I do not think we should go beyond to-day in fixing the hour.

Mr. MORRILL. I have no idea that there is to be a very protracted discussion of this measure when it comes up; nor have I any idea that there is a disposition on the part of either side of the Senate to postpone the business unreasonably. I suppose that it is within the power of the Senate to take the bill up at any moment that a majority shall see fit. I think it is very well to suggest that it shall be considered at the time named by the Senator from Georgia, but at the same time I see nothing that would be gained by it, and therefore I hope the question will go over for the present.

Mr. VOORHEES. Mr. President, just one word. It happens to be within my knowledge that the Senator from Georgia will be away from his seat from and after Wednesday, the day after to-morrow, until perhaps Tuesday or Wednesday in the following week, and it happens also to be within my knowledge that he is prepared and desires to discuss this question. I am perfectly willing to have this subject taken up at any time, but I would be unwilling to agree that it be disposed of before the Senator from Georgia can return and be heard, if we should take it up in his absence.

Mr. MORRILL. No one objects to that.

Mr. FERRY. There can be no objection to that; and inasmuch as the Senator from Indiana has given the fact to the Senate that the Senator from Georgia desires to speak upon the bill and will be necessarily absent, there can be no harm attending the early consideration of the bill, and let it stand on the Calendar just as it is.

Mr. VOORHEES. Certainly.

Mr. FERRY. If the Senate shall see fit to take the bill up this week, it will be with the notice of the Senator from Indiana that the Senator from Georgia desires to speak upon the question before a final vote upon it, and time will be given to the Senator from Georgia to discuss the bill.

Mr. VOORHEES. That was the purpose of my suggestion.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of George W. Partridge and 216 others, citizens of Michigan, praying for the passage of Senate joint resolution No. 13, proposing an amendment to the Constitution of the United States respecting an establishment of religion and the free exercise thereof; which was referred to the Committee on the Judiciary.

Mr. EATON presented a resolution of the Legislature of Connecticut, in favor of an appropriation for continuing the improvement of the harbor of Stamford in that State; which was referred to the Committee on Commerce.

Mr. WADLEIGH presented the petition of Elizabeth McNeil Benham and Frances McNeil Potter, daughters of General John McNeil, United States Army, praying to be allowed a pension on account of

services rendered the Government by their father during the war of 1812; which was referred to the Committee on Pensions.

Mr. CONKLING. I present the resolutions and proceedings of a meeting of veteran soldiers in the State of New York, held at Lockport, on the 15th of this month, expressive of the sense of the meeting in favor of the bill placing General Shields upon the retired list as brigadier-general, and requesting the Senators from the State of New York to favor the adoption of the bill. I move the reference of these resolutions to the Committee on Military Affairs.

The motion was agreed to.

Mr. CONKLING. I present also a petition signed by a large number of residents of the county of Niagara, State of New York, praying the passage of the bill to which the resolutions which I have just presented refer, and a similar petition signed by men all of whom served in the Army of the Union during the late rebellion, also praying the passage of the bill touching General Shields. I move the reference of these petitions to the Committee on Military Affairs.

The motion was agreed to.

Mr. CONKLING. I present also the petition of Samuel Lowery, of Huntsville, Alabama, praying legislation in his behalf as a chaplain in the Army; and, by request, when that order is reached, I shall ask leave to introduce a bill to carry out the object of the petition. I move the reference of the petition to the Committee on Military Affairs.

The motion was agreed to.

Mr. OGLESBY presented resolutions of the Veteran Club of the city of Chicago, Illinois, against the transfer of the pension agencies throughout the country to the Pension Bureau at Washington, District of Columbia; which was referred to the Committee on Pensions.

Mr. OGLESBY. I present the petition of John Miller and 70 others, citizens of Dog Tooth Point, Alexander County, Illinois, praying for the establishment of a new post-office at Commercial Point, and for a new post-route thereto, from Cairo or Goose Island, Illinois. With the petition I submit an amendment to the post-route bill. I move that the petition and amendment be referred to the Committee on Post-Offices and Post Roads.

The motion was agreed to.

Mr. WALLACE presented a memorial of the Board of Underwriters of Philadelphia, Pennsylvania, remonstrating against the transfer of the life-saving service from the Treasury Department to the Navy Department; which was ordered to lie on the table.

He also presented a memorial of the Chamber of Commerce of Pittsburgh, Pennsylvania, remonstrating against the passage of a law authorizing the construction of a bridge across the Mississippi River at Memphis, Tennessee, until the proposed location of the same shall have been examined and reported upon by a board of competent engineers, to be appointed for that purpose, and praying the appointment of such a board for the purpose; which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. ROLLINS, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 1033) to provide for the revision and correction of assessments for special improvements in the District of Columbia, and for other purposes, reported it with an amendment.

He also, from the same committee, to whom were referred various petitions relating to the subject, asked to be discharged from their further consideration; which was agreed to.

Mr. DAWES, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 994) for the relief of Albert Ordway, reported it with an amendment.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the claim of Claude H. Masten, surviving partner of the firm of Le Vert & Masten, of Mobile, Alabama, for himself and in behalf of Octavia Le Vert and her two children, widow and heirs of his deceased partner, praying compensation for certain damages to property during the late war by United States troops, submitted a report thereon accompanied by a bill (S. No. 1112) for the relief of Claude H. Masten, surviving partner of the firm of Le Vert & Masten, of Mobile, Alabama, and the children of Octavia Le Vert, deceased.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. HEREFORD, from the same committee, to whom was referred the bill (S. No. 241) for the relief of the Methodist Episcopal Church South, at Charleston, Kanawha County, West Virginia, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. CAMERON, of Wisconsin. I desire to state, in connection with the report made by the Senator from West Virginia in favor of the passage of the bill making an appropriation for the Methodist Episcopal Society of Charleston, West Virginia, to reimburse that society for the destruction of their property in the late civil war, that the chairman of the Committee on Claims, [Mr. McMILLAN,] the Senator from Colorado, [Mr. TELLER,] and myself dissent from the report, and I am authorized to submit the views of the minority upon the bill.

The PRESIDENT *pro tempore*. The views of the minority in the case stated will be received and printed.

Mr. HEREFORD. The two reports will be printed together, I suppose.

The PRESIDENT *pro tempore*. They will be printed together. It is so ordered.

BILLS INTRODUCED.

Mr. BARNUM (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1113) for the relief of property owners in square 382, in the city of Washington; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1114) to amend the one hundred and third Article of War; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. GARLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1115) for the relief of James F. Bates and James Mitchell; which was read twice by its title, and referred to the Committee on Claims.

Mr. KERNAN. By request of gentlemen of the State of New York who are members of the Geographical Society, I ask leave to introduce a bill.

By unanimous consent, leave was granted to introduce a bill (S. No. 1116) authorizing the Secretary of War to detail an officer of the Army to take command of the expedition being fitted out by Messrs. Morrison & Brown, citizens of New York, to search for the records of Sir John Franklin's expedition, and to issue to such officer Army equipments and ammunition; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1117) for the relief of Alexander McNary and John H. Taylor; which was read twice by its title, and referred to the Committee on Claims.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1118) to repeal section 3412 of the Revised Statutes of the United States, which provides for a tax on the notes of State banking associations; which was read twice by its title, and referred to the Committee on Finance.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1119) for the relief of Bird L. Fletcher; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CONKLING (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1120) for the relief of Samuel Lowery; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 26) instructing the Attorney-General of the United States to bring suits in the name of the United States to set aside certain patents to lands of the Black Bob band of Shawnee Indians; which was read twice by its title, and referred to the Committee on Indian Affairs.

AMENDMENTS TO POST-ROUTE BILL.

Mr. MERRIMON, Mr. OGLESBY, and Mr. MITCHELL submitted amendments intended to be proposed by them to the bill (H. R. No. 4286) to establish post-routes in the several States therein named; which were referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

TARIFF LEGISLATION.

Mr. BLAINE. I submit the following resolutions. I shall not ask for a vote at present, but only that they be printed:

Resolved, That any radical change in our present tariff laws would, in the judgment of the Senate, be inopportune, would needlessly derange the business interests of the country, and would seriously retard that return to prosperity for which all should earnestly co-operate.

Resolved, That in the judgment of the Senate it should be the fixed policy of this Government to so maintain our tariff for revenue as to afford adequate protection to American labor.

The resolutions were ordered to lie on the table and be printed.

Mr. GARLAND submitted the following, to be offered as an amendment to the above resolutions; which was ordered to be printed:

And the Committee on Finance is instructed to report a bill at as early a day as possible providing for a commission to examine into the subject of the tariff, and report the result of such examination, with such suggestions as it may consider proper, at the next session of Congress.

NORTHERN PACIFIC RAILROAD.

Mr. MITCHELL. Mr. President, on Wednesday last I gave notice that to-day, immediately after the conclusion of the morning business, I should ask the Senate to proceed to the consideration of the bill (S. No. 238) to extend the time for the construction and completion of the Northern Pacific Railroad, and by a readjustment of the grants, without increasing the appropriation, to secure the construction of the Portland, Salt Lake and South Pass Railroad. I now move, in accordance with that notice, that the Senate proceed to the consideration of the bill.

Mr. DAVIS, of West Virginia. Not, of course, interfering with the regular order at one o'clock.

The PRESIDENT *pro tempore*. At one o'clock the Senate will proceed with the Calendar unless it is ordered otherwise.

Mr. DAVIS, of West Virginia. The regular order is the Calendar at one o'clock, I understand.

Mr. MITCHELL. Of course it will be for the Senate to determine when one o'clock arrives.

Mr. DAVIS, of West Virginia. But I give notice now that I shall ask for the regular order, so that all may understand it.

Mr. MITCHELL. The Senator from West Virginia would not wish to interfere with some remarks that I desire to submit.

Mr. DAVIS, of West Virginia. Certainly not.

Mr. LAMAR. Does the Senator from Oregon intend to do anything more with the bill to-day than to make a few remarks?

Mr. MITCHELL. I will say to the Senator from Mississippi that I feel it my duty, having charge of the bill, to press it as rapidly as is consistent with the public business and the proprieties of the Senate. Of course it is for the Senate to determine whether we shall proceed to a final conclusion now. I am very anxious to submit some remarks. I shall be glad to have the bill taken up and read, and I desire to submit some explanations of the bill to-day at least.

Mr. ALLISON. I hope that will be done, and that then we shall proceed with the Calendar, this bill to be taken up afterward for action.

Mr. LAMAR. I have no objection, so far as I am concerned, to the Senator from Oregon submitting remarks; but I am not in favor of having the bill taken up for consideration with a view to press action on it at this time.

Mr. MITCHELL. I shall have no disposition to press any hasty action against the wishes of any Senator. It is an important matter, and of course it ought to be carefully considered. But I should like to have the consideration of the subject begun, to have the bill read for the information of the Senate, and then I shall submit some explanations in regard to it.

Mr. LAMAR. I have no objection to that.

Mr. MITCHELL. I also understand that the Senator from Minnesota [Mr. WINDOM] desires to submit some remarks; whether now or hereafter I am not advised.

Mr. ANTHONY. I have no objection to the Senator taking up the bill and proceeding with his remarks and concluding them, but I must insist that at the conclusion of his remarks we proceed with the Calendar.

The PRESIDENT *pro tempore*. That will be the order unless the Senate orders otherwise at the expiration of the morning hour.

Mr. MITCHELL. Certainly.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Oregon.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 238) to extend the time for the construction and completion of the Northern Pacific Railroad; and, by a readjustment of the grants, without increasing the appropriation, to secure the construction of the Portland, Salt Lake and South Pass Railroad.

Mr. MITCHELL. I ask that the substitute reported by the Committee on Railroads in this case be considered as the original bill.

The PRESIDENT *pro tempore*. The substitute will be read.

The Chief Clerk read the proposed substitute.

That the grants, rights, privileges, corporate powers, and franchises, including the franchise to be a corporation, conferred upon the Northern Pacific Railroad Company by its charter and the various joint resolutions of Congress amendatory thereof and supplementary thereto, be, and the same are hereby, confirmed, granted, and continued to the said Northern Pacific Railroad Company, as now reorganized, except as hereinafter modified. And ten years' additional time is hereby granted to said company to construct its main line of road, via the valley of the Columbia River and Portland, Oregon, to Kalama, Washington Territory, under its charter and the acts and resolutions of Congress relating thereto, except as hereinafter otherwise provided.

SEC. 2. That this extension is granted upon the express condition and understanding that where pre-emption and homestead claims were initiated, or private entries and locations were allowed, upon lands embraced in the grant to said company, prior to the receipt of the orders of withdrawal at the respective district land offices, the lands embraced in such entry shall not be held as within the grant to said company, and shall be patented to the parties lawfully entering the same, and under the provisions of this section, and in case of abandonment by them, shall be open to pre-emption and homestead entry only of actual settlers; but the company shall be entitled to indemnity therefor, as now provided therefor.

SEC. 3. That entries remaining unadjusted and suspended in the General Land Office on account of an increase of price of the even sections within the limits of the grant, where the same were made, or based upon settlement made prior to the receipt of the orders of withdrawal aforesaid at the respective district land offices, shall be relieved from such suspension and carried into patent; but nothing in this act shall be construed to affect existing adjustments, nor to authorize the refunding of any moneys received for such lands under existing laws.

SEC. 4. Actual settlers on any agricultural or grazing lands embraced within the grant to said company, who shall have settled thereon before the completion and acceptance of the section of the road opposite thereto, and actual settlers on any agricultural or grazing lands embraced within the said grant remaining unsold at the expiration of eight years from the completion and acceptance of the section of the road opposite thereto, if said last-mentioned lands shall, at the time of such completion and acceptance, be surveyed by the Government, and if not then, at the expiration of eight years after the Government surveys shall be extended over the same, shall be entitled each to purchase from said company one quarter section, or a legal subdivision thereof, on which they shall have settled, at the price of not exceeding \$2.50 per acre, excepting coal, iron, and timber lands, and lands within the right of way for said railroad: *Provided, however*, That this section shall not apply to the lands already earned by said company.

SEC. 5. That the extension of time granted by section 1 of this act shall not apply to the main line north of Tacoma, nor to the branch line of said road across the Cascade Mountains to Puget Sound, in Washington Territory; and the lands heretofore granted therefor shall be, and are hereby, restored to the public domain, to be dealt with as other public lands, except for the distance of twenty miles north of the portion of said branch now constructed from Tacoma to Wilkeson, in Washington Territory. And the said company shall receive patents for a quantity of land equal to twenty sections per mile on each side of said constructed portion of said branch, such land to be selected from the odd-numbered sections on each side of said constructed branch, but on the north side not farther than twenty miles therefrom; but the said company may select, and receive patents for, lands to make

up any deficiency in said quantity, from any of the public lands in Washington Territory within the limits of the grant for the main line.

SEC. 6. That in case any of the lands heretofore granted by Congress to said in the construction of said railroad shall become forfeited to the United States and be restored to the public domain by reason of the failure of said company to perform the conditions herein set forth, or any of them, the actual settlers on such of said granted lands shall not then have been earned by said company, who shall have settled thereon under the provisions of this act or by license from said company, shall each have the right to obtain title to such lands, not exceeding one quarter section, under the homestead or pre-emption laws, as if said grant had not been made.

SEC. 7. That said company shall keep said railroad and telegraph lines, so far as already constructed, as well as that portion to be constructed hereafter, in good repair and use, and shall transmit dispatches over said telegraph line, and transport mails, troops, munitions of war, supplies, and public stores upon said railroad for the Government, whenever required to do so by any Department thereof; and for all the purposes aforesaid, at fair and reasonable rates of compensation, not to exceed the rates paid by individuals for like transportation and telegraph services; and in case the said railroad company, or its successors or assigns, shall at any time willfully neglect or refuse to transport promptly the mails, munitions of war, supplies, and public stores as aforesaid, then the President of the United States shall take, and he is hereby authorized to take, such measures as, in his judgment, may be necessary to protect the interests of the United States and to enforce compliance with the provisions of this act (and of the act of July 2, 1864, to which this act is an amendment, by taking possession of the said railroad and telegraph lines, and of their equipment, or of such part thereof and for such time as may be necessary to secure the service required; and said company shall be entitled to receive for such service compensation at fair and reasonable rates, taking into consideration the nature and circumstances thereof.

SEC. 8. That from the mouth of Snake River, or other suitable point east of or at the town of Umatilla, in the State of Oregon, to the city of Portland, in the State of Oregon, and the extension provided for in this act, is on this express condition: the said Northern Pacific Railroad shall be located and constructed on the south side of the Columbia River: *Provided further*, That the extensions, franchises, and privileges granted by this act to the Northern Pacific Railroad Company are on the further express condition that such company shall, within nine months from the approval of this act, commence the construction of its said railroad at some point at or near the mouth of Snake River, and construct and equip eastward, within one year thereafter, not less than twenty-five miles thereof, and at least forty miles each succeeding year thereafter until completed to Pend d'Oreille Lake; and shall also complete and equip, in addition to the road already completed, at least one hundred miles of its main line within one year after the time fixed herein for the commencement of work as aforesaid, and at least one hundred miles of said main line each year thereafter, including in each said one hundred miles the number of miles to be completed eastward on the Pacific slope as aforesaid, and shall also, within two years from the passage of this act, construct and equip their said railroad around the portage at the Lower Cascades of the Columbia River, on the south side thereof, to suitable points of junction with navigable water in said river, above and below said Cascades; and shall also construct and equip their said railroad around The Dalles of the Columbia River, on the south side thereof, within two and a half years from the passage of this act, so as to connect conveniently with steamboats on the Columbia River above and below said portages and by means thereof; the said portions of said main line of railroad around said portages to be part of and included in the one hundred miles of road required to be constructed in the respective years in which they shall be completed and equipped as aforesaid; and shall construct and equip their whole road within ten years from the date of the passage of this act; and this extension is on the express condition that in the use of said portage railroads said Northern Pacific Railroad Company shall make no discrimination in charges on freights or passengers passing up and down said Columbia River and over said railroads, and shall receive from and deliver to all boats, persons, and companies engaged in the navigation of the Columbia River all freights and passengers on equal terms, without discrimination or excessive charges; and the rights of all persons under this act may be enforced by judicial proceedings in any court of competent jurisdiction. And in the event of any failure to complete and equip said railroad portages at the Cascades and The Dalles of the Columbia River, or either of them, within the times and in the manner hereinbefore specified, then all the rights, grants, privileges, and franchises herein granted to the Northern Pacific Railroad Company, so far as the same relate to the construction of a railroad between Portland and Umatilla, Oregon, shall vest in and inure to the benefit of the Portland, Salt Lake and South Pass Railroad Company: *Provided always*, That such latter company shall, within three months after such failure, commence the construction of such railroad at the city of Portland, and construct and equip on the south side of the Columbia River at least thirty-three miles within one year thereafter, and at least twenty-five miles each succeeding year until the whole of said road is completed from Portland to Umatilla: *Provided further*, That in such event the said Northern Pacific Railroad Company shall have the right to the use of said common line upon the same terms, and to be determined in the same manner, as are hereinafter provided for ascertaining and determining the terms upon which the Portland, Salt Lake and South Pass Railroad Company shall use the said line in case the same is constructed by the Northern Pacific Railroad Company under the provisions of this act: *Provided further*, That it shall be lawful for the said companies to make any agreement having for its object the joint construction and ownership of the said common road, or for its joint ownership after construction, and for the joint appropriation of the aid herein granted for its construction: *And provided further*, That in the event said companies are unable to agree upon the same, the terms of a joint ownership of said common road shall be settled, upon the demand of either company, upon the basis of an equal participation in the actual reasonable cost and expense of the construction thereof, to be ascertained and determined by a commission of three disinterested and competent persons to be appointed by the President of the United States as provided in the ninth section of this act, whose compensation shall be at the rate of \$10 per day while so employed, and actual expenses, to be certified by themselves, shall be paid by said companies: *Provided, however*, That the right to acquire joint ownership of said road between Umatilla and Portland, under the provisions of this section, shall be exercised within twelve years from the passage of this act, and only upon payment within that period by the company desiring to acquire the same, to the other, of the amount so ascertained and determined by said commissioners, or by the agreement of the said companies.

SEC. 9. The grants, privileges, and franchises herein granted are upon the further express condition that from the point of junction of the Northern Pacific and the proposed Portland, Salt Lake and South Pass Railroads at or near the town of Umatilla, in the State of Oregon, by the pass of the Columbia River, through the Cascade Mountains, to the city of Portland, the said Northern Pacific Railroad shall be a common road for both lines; and the said Northern Pacific Railroad Company shall receive such compensation from the other company and such use shall be on such terms as the said corporations may agree upon; and if they are unable to agree, then the Northern Pacific Railroad Company shall receive from the other such compensation and at such times, and the use thereof shall be upon such terms, as a commission of three disinterested and competent persons, to be appointed by the President of the United States, shall determine to be equitable and just.

SEC. 10. That the sections designated by even numbers within the limits of the

grant to the said Northern Pacific Railroad be, and the same are hereby, declared to be, from the date of the approval of this act, open to settlement and pre-emption at the price of \$2.50 per acre, and to homesteads, in quantities not exceeding one-quarter section, or one hundred and sixty acres, to be taken in conformity to the existing pre-emption and homestead laws: *Provided further*, That all persons who, under the restrictions of the existing laws granting lands to the Northern Pacific Railroad Company, have taken homesteads of not exceeding eighty acres, shall have the privilege of increasing the amount of their said homesteads, so that the aggregate taken by any one person shall not exceed one hundred and sixty acres; this to be done under such regulations as may be prescribed by the Secretary of the Interior: *Provided*, That the grants, privileges, and franchises herein made to the Northern Pacific Railroad Company are on the express condition that said company shall, within five years from the date of the passage of this act, definitely survey and locate the whole line of their said railroad, and file in the Department of the Interior a map showing such definite location.

SEC. 11. That the said Northern Pacific Railroad Company is hereby authorized to issue its bonds, from time to time, not exceeding \$25,000 per mile, to aid in the construction and equipment of its road, and to secure the same by mortgage on the whole or any part or parts of its railroad and property and rights of property of all kinds and descriptions, with the rights, privileges, and franchises thereto appertaining, including the franchise to be a corporation; and, as proof and notice of their legal execution and effectual delivery, such mortgages shall be filed and recorded in the Department of the Interior: *Provided, however*, That such bonds or mortgages shall not be issued or executed unless on the affirmative vote of the holders of not less than two-thirds of the stock represented at a meeting of the stockholders of said company duly called for that purpose.

SEC. 12. That when said company shall sell or contract to sell, or shall convey, except by way of mortgage or deed of trust, to aid in the construction of its railroad, any of said granted lands after the same shall be earned by said company as aforesaid so as to entitle them to sell or convey the same, the lands so sold, contracted, or conveyed shall be subject to taxation according to the laws of the State or Territory within which the same may be situated.

SEC. 13. That the said Northern Pacific Railroad Company shall file with the Secretary of the Interior, within six months from the date of the passage of this act, its assent to and acceptance of the provisions of this act, or be forever debarred from taking or receiving any benefit from or under the same.

SEC. 14. That Congress reserves the right to alter, amend, or repeal this act at any time, and the acts and resolutions of which this act is amendatory or supplemental, having due regard for the rights of said companies, and to provide by law against unjust discriminations and excessive charges on the part of said company. Amend the title so as to read as follows: "A bill extending the time for the construction and completion of the Northern Pacific Railroad."

Mr. MITCHELL. Mr. President, I shall not detain the Senate at any great length in explanation of the provisions of, or in adverting to the importance of, the pending bill.

On the 5th day of July, 1869, now nearly nine years ago, in an address I had the honor of delivering on that day on the Pacific Coast, I used this language:

I regard the completion of the Northern Pacific Railroad as one of the necessities of this age in the reduction, in a commercial point of view, of time and space. I believe it will prove the great life-artery of the continent along which shall eventually flow with irresistible power not only the trade of a hemisphere, but of the world; and while the present great overland road is a work among the grandest of the age, both in magnitude and influence, I believe the Northern Pacific, when completed, will be infinitely grander in the influence it shall operate on the internal commerce of our continent and the carrying trade of the world.

I hold, Mr. President, to the same opinion to-day, and repeat now and here what I said then and there, without the slightest modification in either letter or spirit. And because I have during the past four months contended with all the zeal and energy I could command for terms that would induce or, if you please, compel, the Northern Pacific Railroad Company to concede in this proposed legislation conditions which as one of the representatives of the State of Oregon and the great Pacific Northwest I regarded as but just to that section of our common country, and which conditions I did not then and do not now regard as materially embarrassing to that company, let it not be said, as in malice it has been said, that I was secretly or surreptitiously laboring in the interest of the Union or Central Pacific Companies to defeat this great national enterprise. Against all such baseless and malicious insinuations I am willing that my record here upon this whole subject from Alpha to Omega shall stand, branding them as they deserve to be branded, as the putrescent productions of malice and the poisoned but yet harmless weapons of ill-concealed envy and delirious hate.

While earnestly favoring, as I always have earnestly favored, an extension of time to the Northern Pacific Railroad Company, there seemed to me to be certain conditions other than those which the company were willing to concede imperatively demanded by the people of the great Northwest and for which I have contended with all my power, and all of which I have thought and still think should in justice to that section have been conceded. These were:

1. Such provisions as would compel at an early day the building of so much of their road as would be necessary to open up the monopoly-bound Columbia River to free navigation.

2. The transfer of the branch road so as to run from the Upper Columbia to Salt Lake, instead of from the Upper Columbia to Puget Sound across the Cascade Mountains.

3. That the Northern Pacific road from Umatilla, Oregon, to Portland, Oregon, through the great passes of the Cascade Mountains, where there is neither room nor necessity for more than one road, should be constructed on the south side of the Columbia River, and when completed be a common road for the use of both the Northern Pacific and the trains of the road the early construction of which the wants of commerce will inevitably force from the Upper Columbia to Salt Lake.

4. That the settlers within the limits of the grant should be relieved from the domination of the company and be permitted full and free right of settlement with right to purchase at a price not exceeding \$2.50 per acre. And this last condition is one that affects settlers along the line of the road.

As I have said I labored zealously for a bill embodying all these provisions, not for the purpose of imposing onerous conditions upon the company, not with a view of obstructing legislation in favor of this great national enterprise, but with the sole purpose of legislating in the best possible manner for the greatest possible good and the greatest possible number. On the 1st day of April, of the present year, the Senate Committee on Railroads reported to the Senate a bill for the extension of time to the Northern Pacific, which embodied all these provisions. I entertained the hope that that bill would not encounter the hostility of the Northern Pacific Railroad Company, but in this I was mistaken. Bitter and unqualified opposition was at once manifested to certain of the provisions of that bill, the more especially to that one providing for aid to the Portland, Salt Lake and South Pass Company. A new bill similar to the one introduced and reported on in the House was presented to the Senate by the honorable Senator from Minnesota [Mr. WYNDOM] and at his instance and without objection from any one, as is the courtesy of the Senate, was referred to the Committee on Public Lands. These bills, which were identical, were conspicuous to me at least by the absence from their sections of all the provisions and conditions for which I had been so zealously contending and which were incorporated in the bill reported by the Senate Railroad Committee. For instance they omitted—

First. The Salt Lake branch entirely.

Secondly. No provision whatever on the Columbia River, either at the portages or anywhere else, until after the completion of the whole road across the continent between the mouth of Snake River and the Missouri River, a distance of nearly twelve hundred miles.

Thirdly. No provision was made for a common road through the passes of the Cascade Mountains.

Fourthly. No adequate protection was given to settlers within the limits of the grant, in this, that the right of homestead was entirely taken away on all lands, even sections as well as odd, within the limits of the grant; moreover the right to settlers on unsurveyed agricultural odd sections to purchase these lands at \$2.50 per acre was limited and restricted to those settlers only who might settle on such unsurveyed agricultural lands a distance in the interior of one hundred miles from either end of completed road, while all settlers on unsurveyed agricultural lands (and on all grazing lands everywhere) for a distance of one hundred miles from each end of the completed road were to be at the mercy of the corporation, both as to quantity and price.

With this conflict of opinion and action, with the Northern Pacific Company arrayed against the bill reported by the Senate Committee on Railroads and earnestly supporting the bill to which I have just attracted attention; with my colleagues in the Senate and House while earnestly favoring the Salt Lake measure yet as earnestly opposed to making it a part of the bill for the extension of time to the Northern Pacific unless consented to by the Northern Pacific Company, it was clearly apparent that unless the committees of the Senate made some effort to harmonize these conflicting opinions all efforts of all concerned could but result in nothing but defeat. That effort was made. The bill of the company was by the Committee on Public Lands reported back to the Senate, with a recommendation that it be referred to the Committee on Railroads. The railroad bill was also at my instance recommitted, and the substitute now before the Senate is the result of the final and earnest efforts of the Railroad Committee of this body to present such a measure as might, so far as possible, reconcile conflicting interests and secure the favorable action of Congress.

Important concessions on all sides were necessary. Important concessions to all concerned are tendered by the committee in the measure now presented for the consideration of the Senate.

It shall now, as amended, receive my earnest, unqualified support; and it is my ardent hope that it may also receive the support of all concerned. Although the bill may not contain all that may be desirable, a great national measure like this in which the whole continent is vitally interested should not be permitted to fail because, forsooth, every local requirement, however reasonable and just in itself, is not fully and squarely met to the full expectation or hope of all local interests.

I shall now briefly state the provisions of the pending bill. It provides that an extension of ten years' time from the passage of the act be given to the Northern Pacific Railroad Company for the completion of its main line of road from its present western terminus on the Missouri River via the valley of the Columbia River and Portland, Oregon, to the present western terminus of their completed road at Kalama, in Washington Territory, upon these conditions:

First. That all agricultural and grazing lands, surveyed or unsurveyed, included in the grant on the whole line of the non-completed road shall be open to settlement in quantities not exceeding one hundred and sixty acres at the price of not exceeding \$2.50 per acre; the even sections to be open to homesteads of one hundred and sixty acres under the homestead law and also to settlers under the pre-emption laws at \$2.50 per acre.

It is also provided that where homesteaders have been restricted in their claims under existing laws to eighty acres, they may enlarge the same so as to include not to exceed one hundred and sixty acres. Ample provision is also made for the relief and protection of present



settlers, pre-emptors and homesteaders, within the limits of the grant whose claims were initiated prior to the receipt of the orders of withdrawal at the respective district land offices.

The company is also compelled within five years to definitely locate their entire line of road and file maps thereof with the Department of the Interior.

The company is to resume work on their road within nine months from the passage of this act at or near the mouth of Snake River on the Columbia River, and build at least one hundred miles each year thereafter; twenty-five miles of which shall be built and equipped eastward from the mouth of Snake River within one year after commencement, and forty miles eastward each year thereafter; the balance of the one hundred miles each year to be built at such point as the company may determine, which without doubt would be westerly from Bismarck on the Missouri River toward Montana. They are also under the provisions of this bill to complete and equip within two years from the passage of this act their main line around the portage at the Cascades of the Columbia River on the south side thereof, and within two and a half years around the portage at The Dalles of the Columbia River on the south side thereof, so as to connect conveniently with steamboats on the Columbia River above and below said portages and by means thereof. The extension being also on the express condition that in the operation and use of said portion of their main line around such portages the Northern Pacific Railroad Company shall make no discrimination in charges on freights or passengers passing up and down the Columbia River and over said railroads. And they shall moreover receive from and deliver to all boats, persons, and companies engaged in the navigation of the Columbia River all freights and passengers on equal terms and without discrimination or excessive charges; and provision is also made whereby the rights of all persons interested may be enforced by judicial proceedings in any court of competent jurisdiction.

It is also provided, as a forfeiture, that in the event of a failure on the part of the Northern Pacific Railroad Company to complete and equip their road around said portages at the Cascades and The Dalles of the Columbia, or either of them, within the time specified, that is two years from the passage of this act at the Cascades, and two and a half at The Dalles, then all the rights, grants, privileges, and franchises of the Northern Pacific Railroad Company, in so far as they relate to the construction of a railroad between Portland and Umatilla, in the State of Oregon, through the great pass of the Columbia River, shall vest in and inure to the benefit of the Portland, Salt Lake and South Pass Railroad Company. On condition, however, that such latter company shall, within three months after such failure, commence the construction of such road at the city of Portland, Oregon, and construct and equip on the south side of the Columbia River at least thirty-three miles, which will include the portage at the Cascades, within one year thereafter, and at least twenty-five miles each succeeding year until completed to Umatilla.

It is also provided in this bill, and the extension is on the express condition, that in any event whichever corporation shall construct the road between Portland, Oregon, and Umatilla, Oregon, through the passes of the Cascade Mountains, the same shall be a common road for the use of the trains of both companies, the company constructing the same to receive such compensation from the other company, and such use to be upon such terms as the two corporations may agree upon; and if they are unable to agree, then the compensation and use to be upon such terms as a commission of three competent and disinterested persons, to be appointed by the President of the United States, shall determine to be equitable and just. It is furthermore provided in the bill that it shall be lawful for said companies to make any agreement having for its object the joint construction and ownership of the said common road, or for its joint ownership after construction, or for the joint appropriation of the aid granted for its construction.

It is also an express condition on which this extension is granted that from the mouth of Snake River or other suitable point east of or at the town of Umatilla, in the State of Oregon, to the city of Portland the Northern Pacific Railroad shall be constructed on the south side of the Columbia River. These in brief are the principal features of the pending bill.

It may be inquired wherefore the necessity for these several provisions in reference to that portion of the road on the Pacific coast on and along the Columbia River? The answer is this, and it is to my mind and was to the mind of the committee conclusive: unlike any other section of our country the Pacific Northwest, including the State of Oregon and the Territories of Washington and Idaho, Western Montana and Northern Utah, with their rapidly increasing population, is almost entirely destitute of railroad facilities. The only means by which the people of Eastern Oregon, Eastern Washington Territory, and Idaho Territory have of reaching tide-water with their annual productions of many millions in value of wheat, wool, stock, hides, &c., and the only avenue through which they must receive their interior supplies, is that of water transportation on the Columbia River.

This river, one of the grandest on the globe, taking its rise in the Rocky Mountains in latitude 50° 20' north and flowing north as far as 52° 10', interlacing its arms with those of the Missouri and Saskatchewan in the distant regions of perpetual snow, thus holding communion with the two great valleys of the continent, after making

the detour of the great bend in British Columbia moves onward gathering up the waters of the Pend d'Oreille, Spokane, Okinakan, Wenatchee, Yakima, Snake, and other mighty tributaries as armaments of power; then plunges through the craggy chasms of The Dalles and the Cascades, rending asunder the rock-ribbed mountains and rearing barriers to navigation, and then on in greatness and grandeur to the Pacific Ocean at Astoria, on the parallel of 46° north latitude, and which to-day for a distance of over one hundred miles from its mouth its broad waters mirror back the emblem of every nationality on earth, while commerce, wealth, and power for this distance are to-day making their triumphant transit from sea and land upon its proud waters. Still, on the remaining portion of this great river, the second on this continent, monopoly, seizing at an early day the key which nature forged in these obstructions at The Dalles and the Cascades, sits enthroned as imperial dictator to the commerce of the whole Northwest, a paralyzing incubus upon the material development and general prosperity of that vast region.

In this respect, however, while facts must be stated I must do no injustice to any person or corporation. I have no resentments to gratify—no favors to ask. I have a high duty to perform and I trust I have the courage to perform it irrespective of personal consequences to myself. The facts briefly and without embellishment are these: For a distance of some four miles at the Cascades and about fourteen at the falls of the Columbia there are obstructions to navigation which cannot be overcome except by the construction of canal and locks. These the General Government has commenced at the Cascades, but a work of this character will of course require considerable time. The Oregon Steam Navigation Company, a corporation composed of honorable, ambitious business men, but who like most corporations, look more to the advancement of their own individual interests than those of the general public, at an early day in the history of that country obtained control of these passes in the Columbia, constructed a railroad around each of these portages, established a line of steamboats above and below each, and in this manner this corporation virtually laid an exclusive pre-emption on this great river, thus securing to them and their successors exclusively the right to navigate its waters and control its commerce. Because, under the circumstances I have stated, it will be seen at a glance that no opposition boat on that river could survive a month. Their steamers are of fine construction, their appointments exceptionally good, and their business, so far as I am advised, has in their dealings with the public, on their hard terms, been conducted honorably. Their charges, however, for freight and passage have been onerous, oppressive, and in some respects discriminating, and so great a tax upon the industries of the country as to amount to little else than an embargo upon the development of the country.

I hold in my hand a statement in reference to freight charges by the Oregon Steam Navigation Company on that river, handed me by a gentleman of character, a resident for many years in Oregon, who assures me it is correct, which will give some idea of the exactions to which the people of Eastern Oregon and Washington Territory and Western Idaho are subjected. It reads as follows:

Freights on Columbia River charged by Oregon Steam Navigation Company.

	Miles.	Per ton.
From Portland to The Dalles.....	110	\$10 00
From Portland to Columbus.....	140	20 00
From Portland to Umatilla.....	200	20 00
From Portland to Wallula.....	230	25 00
From Portland to Colfax, (on Snake River).....	270	35 00
From Portland to Lewiston, (Idaho).....	370	50 00

These charges are per ton of measurement. It really adds on for dead weight about 33 per cent. In other words, the freight to Wallula is about in weight two cents per pound or \$40 per ton; and three and a half cents per pound or \$70 to Lewiston.

Nine-tenths of the down freight is wheat. Forty thousand tons were brought down or in that neighborhood in 1877. At least fifty thousand will be shipped this year. It will not bear a heavy charge or none will be shipped.

The Oregon Steam Navigation Company's charges are:

	Per ton.
From Snake River to Portland.....	\$8 00
From Wallula to Portland.....	6 00
From Umatilla to Portland.....	6 00
From The Dalles to Portland.....	5 00

These charges on up-freight are at least four times as heavy as they would be if there was not an entire monopoly of the business. On down-freights they are twice as high as they should be. Henry Villard, esq., president Oregon Steamship Company, informed me that if the river was opened to all, he would agree to carry wheat from Wallula (from which point thirty thousand tons were shipped in 1877) to San Francisco, nine hundred and twenty miles, for what the Oregon Steamship Navigation Company now charge from Wallula to Portland, two hundred and twenty miles.

On the Lower Columbia, which has not its passes barricaded by any monopoly, freights are carried from Portland to Astoria, one hundred and ten miles, or vice versa, for \$2 per ton, and a handsome profit is realized. One year the Oregon Steamship Navigation Company carried freights for \$1 per ton, and passengers for \$1 each, while to The Dalles, the same distance, but where competition were cut off, the charge was \$5 for each passenger and \$12 per ton for freight.

There is twice as much freight to carry on the Upper Columbia as on the Lower, and in a few years there will be ten times as much. If competition were opened it would double in amount in one year.

Dr. Baker, of Walla Walla, paid \$625 freight on a small locomotive from Paterson, New Jersey, to Portland, Oregon, via the Union Pacific and Oregon Steamship Company, a distance of forty-one hundred miles. The Oregon Steamship Navigation Company charged him \$750 to carry it from Portland to Wallula, two hundred and twenty miles.

Mr. McMILLAN. May I ask the Senator from Oregon what ob-

structions to the navigation of the Columbia River there are between Walla Walla and Portland, the points that he has specified here as being embraced within these freight charges?

Mr. MITCHELL. The two obstructions provided for by the pending measure—

Mr. McMILLAN. Will the Senator please state the character of them?

Mr. MITCHELL. One is the Cascades of the Columbia and the other is The Dalles of the Columbia. The one is four to five miles in length and the other about fourteen miles in length. They are rapids; the fall of the river makes rapids that it is impossible to navigate.

Mr. McMILLAN. By what method is the transportation made past those rapids?

Mr. MITCHELL. As I have already stated, by a railroad constructed by the Oregon Steam Navigation Company.

Mr. McMILLAN. Then the freight would be considerably increased by reason of the transportation by rail around the Cascades, and also at the other obstacle, The Dalles.

Mr. MITCHELL. Unquestionably it would increase it very much from the fact that it would lead to competition undoubtedly on the Columbia River, and freights would come down.

Mr. McMILLAN. That was my impression from what I saw of the Columbia River myself.

Mr. MITCHELL. The Senator from Minnesota has been there and is cognizant of the condition of things along that river. I will proceed with the statement I was reading.

Hon. S. S. FENN paid the Oregon Steam Navigation Company for freight on a Pitt's thrasher, weight not more than two and a half tons, from Portland to Lewiston, \$372.

J. B. Montgomery, of Portland, paid on a small boat that weighed less than four hundred pounds and cost only \$17, to take it to Columbus, one hundred and forty miles, \$60.

I also hold in my hand a letter from a very reliable gentleman residing in Oregon in which, in speaking of the importance of this railway enterprise, he uses this language:

Now, my esteemed friend, my apology for this note is my anxiety for the success of your railroad bill. Think of it. I had a bundle of fruit-trees this spring sent to me from Vancouver to The Dalles—

The distance is about forty miles—

I was going into the sale of them, but weakened when I paid the freight bill, which was the modest sum of \$5. The trees cost \$25.

His nursery fruit-trees cost \$25 all told, and the freight on them by the boats of the Oregon Steam Navigation Company for a distance of about forty miles was \$5.

Mr. President, comment is unnecessary. Can this corporation, grown fat from the pockets of the producers of the country, complain when the people through their representatives demand not that they should abandon this river, not that they should surrender any of their vested rights, but that they should divide its broad waters with the keels of competing lines and its commerce with the decks of competing steamers?

They have become a wealthy and powerful corporation, and unwilling to relinquish voluntarily their mortgage, either upon the commerce of this river or the industries of the people, or their exclusive right as the common carriers upon one of the grandest rivers on the globe of the freight and passenger traffic of the great Pacific Northwest.

Under this state of things is it strange the people have become restive and demand of their representatives in Congress such legislation as will release this great river from the fetters of this monopoly and open it to competition and free navigation? How can this be done? Unquestionably by the construction of less than twenty miles of railroad around these two portages under the provisions and in accordance with the terms and conditions of the pending bill. As a matter of course, the growing commerce of that great empire of wealth, that almost illimitable field of interior fruitfulness, demands the speedy prosecution of the removal of these obstructions at the Cascades and The Dalles by the construction of the canal and locks now under progress at the Cascades, so that boats may pass from the far interior of the continent along this great national highway uninterruptedly to the sea; but, until this great work can be consummated, why should this company be permitted to maintain its exclusive supremacy over and ownership of this great river? No longer does this grand Oregon roll through a region of voiceless and impressive solitudes, bearing "no sound save his own dashing;" and in the soon henceforth I trust it shall be the silver track to busy cities and happy homes, no longer the private property of one corporation, but, like the air of heaven, open and free to all.

In the main the pending bill secures for the Columbia River section the provisions for which I have been contending; and furthermore, that protection to settlers within the limits of the grant so much desired is fully guaranteed by its terms. I should have preferred that the provision granting aid for the road from Umatilla to Salt Lake should have remained a part of the pending bill; justice to Eastern Oregon and Southern Idaho demanded it; but as its retention longer would under existing circumstances unquestionably have endangered all legislation, and as many weighty arguments were urged why the two bills should be presented separately, and in consideration of the further fact that by disconnecting the two the Northern Pacific Company were willing to concede the important provisions in reference to opening up the Columbia River to free nav-

igation by the construction of their road around the portages, the committee, while favoring the construction of both roads, finally came to the conclusion that the two bills should be reported separately and each stand on its own merits; and in this final conclusion, under all the circumstances, I fully and heartily concur.

And in this connection I desire to express the unqualified opinion that the people of Eastern Oregon and Idaho will be infinitely better served by the opening of the Columbia River to free navigation from the mouth of Snake River to the sea, as is provided for in the pending bill, than they would be had they a railroad to Umatilla with the river bound and locked against them as it is to-day. But the people need and demand both. The construction of the Northern Pacific alone, except as it opens the Columbia to free navigation, does not meet the great wants of this section of Eastern Oregon and Idaho, and which fact I will endeavor to show when the bill in aid of the Portland, Salt Lake and South Pass road comes up for consideration. And in this connection it must not be forgotten that the right secured by the pending bill to the Portland, Salt Lake and South Pass Company, not only to the use of the road from Umatilla to Portland, over which to run their trains, but the further right, in the event that the Northern Pacific Company should fail to construct and equip its portage roads within the time specified, to appropriate to its own use the whole of its land grant from Portland to Umatilla, is of immense importance, not only to the Portland, Dalles and Salt Lake Company, but to all the people of Eastern Oregon and Idaho to be benefited by the construction of the Salt Lake road.

By the provisions of the pending bill no extension is granted to the main line of the Northern Pacific north of Tacoma, in Washington Territory, that being their western terminus on Puget Sound, neither does the extension apply to the line for the branch across the Cascade Mountains to Puget Sound, except as to the road already completed, and all the lands included in this portion of the main line and in this branch, amounting to some eight million acres, are by the specific provisions of this bill remitted to the public domain and thrown open to settlement. Furthermore, the provision in the pending bill compelling the road between Umatilla and Portland, Oregon, to be built on the south side of the Columbia River, reduces the original grant some three million acres, so that, should the bill as reported from the committee pass into law, it will reduce the grant as originally made to this company and to which they would have been entitled had they complied with the terms of the original grant about eleven million acres. Surely the Government could lose nothing but gain much in the development of the resources of the country that would surely follow by granting at least a portion of this amount or its equivalent in some form in aid of the road from Umatilla to Salt Lake—an act of justice I hope to see consummated at no distant day.

A few more words, Mr. President, and I am done, and these in reference to the national as well as international importance of the Northern Pacific Railroad. In these days of railroads, telegraphs, telephones, and other modern inventions, it has come to be considered an axiom in commercial science that the nearer we approach to the annihilation of time and space in the transit of merchandise, and the more rapid the succession of sales, transfers, and supplies, the nearer we come to perfection in the laws of trade, and the better are the interests of peoples, as well as nations, subserved. That the construction of the Northern Pacific Railroad will tend strongly toward the reduction of time and space in transcontinental transit between the Pacific Northwest and the Great Lakes and valleys of the Mississippi, as well as the Atlantic seaboard, and will furthermore bring into closer commercial communion with the commerce of this continent that of the commercial ports of Asia, none can successfully deny.

From San Francisco to Chicago, via the Central and Union Pacific roads, it is twenty-four hundred and twenty-three miles, while from Chicago to tide-water on the Columbia River or Puget Sound, via the line of the Northern Pacific, it is but twenty-one hundred and forty miles, or nearly three hundred miles shorter. Again, from New York to San Francisco, via Chicago and Omaha, it is thirty-three hundred and twenty-three miles, while from New York to tide-water on the Columbia River or Puget Sound, via the line of the Northern Pacific road, it is three thousand and forty miles, or nearly three hundred miles less. This will show at a glance the capability of the Northern Pacific road when completed to compete successfully with the Central and Union Pacific roads, the inevitable effect of which must be to check the spirit of monopoly which now enables the Union and Central Pacific Companies to dictate to the people of this continent the terms of personal and mercantile transit across the wide domain from sea to sea.

And this suggestion gathers infinite strength when the question of altitudes is taken into consideration, as difficult altitudes are a great obstacle in the path of celerity and profit in conducting railroad enterprises. The Central Pacific reaches a summit level, I believe, above the sea in the Sierras of a fraction over seven thousand feet, the Union Pacific, in the Rocky Mountains, or Black Hills, of eighty-two hundred and forty feet, while the highest altitude on the line of the Northern Pacific, as I am advised, is only about five thousand feet, besides having a much easier ascent and descent.

But once more. The distance from New York to Shanghai, via Chicago, San Francisco, and the Midway Islands, is about ten thousand four hundred and twenty-three miles, while from New York to Shang-

hai, via Chicago, the line of the Northern Pacific Railroad, and the Columbia River or Puget Sound, the distance is but about eight thousand seven hundred and fifty miles, or sixteen hundred and seventy-three miles shorter than the former route. Construct this great transcontinental highway, then, and what must inevitably be the consequence?

Will it not be, as I have had occasion to remark before in reference to this same subject, that the commerce of Asia, from Behring's to the Straits of Malacca, comprising all of China and Japan, most of farther India, and the eastern empire of the Russias, together with the islands of the North Pacific, will have its natural and geographical center at tide-water on the Columbia River; and that most of the great valleys of the Mississippi and Missouri Rivers, all the valleys of the north interior of the continent, the whole valley of the Saint Lawrence, including the line of lakes from Superior to Ontario, will realize the great value of the reduction of spaces and transfers to the minimum required by the laws of trade, only by making tide-water on the Columbia River instead of tide-water at San Francisco their point of distribution. True, now, the Golden Gate and the metropolitan city of the far West have the mastery, and there is the point of distribution, but her ships in crossing to Asia must bear northward to a parallel line with the mouth of the Columbia, and there will soon be found a worthy rival, and although emulous in the race for commercial supremacy there will be no unfriendly conflict; for who can deny that the reduction of time and space by a variation of four or five days from the maximum in the distance between and across two continents will, other things being equal, change the current of the commerce of the world?

But not only so; let it come to be understood, as time will surely demonstrate the fact, that in these land and ocean transits to which the pending bill invites attention, there is that abiding safety in the climates to be traversed which the provision of commerce seeks and always desires to obtain, and soon that wide expanse of now comparatively undeveloped wilds, stretching along our northern borders between the frontier lines of the two civilizations of this continent, will become the dwelling place of millions, the great internal highway of the world, dotted with towns and adorned with flourishing cities, bordered on either side with fields of golden grain, extended pastoral ranges, and mining and manufacturing industries whose vitality shall ever increase because it shall be drawn from the inexhaustible stream of the trade and commerce of the world that shall flow forever on through their every midst as it circumnavigates the nations and continents of the earth.

The people of the Pacific States and Territories have struggled long and manfully with the trials and impediments incident to pioneer life, and which isolation always brings; but the empire of civilization, of political, social, and commercial power, which their efforts are evolving, begins to promise a corresponding recompense. The wave of population, capital, influence, and power now setting in from the eastward is beginning to soften the asperities of the past, and give promise of better days in the future. The North Pacific coast, with its lengthened tiers of mountain ranges, decked with forests and gemmed with sands of living gold, filled with valleys and mapped with plains of unexampled fertility, all rapidly filling with energetic, enterprising, thoughtful, industrious, and advancing people, who bear onward in conquering triumph, amidst the dangers and solitudes of the wilderness, not alone the starry banner of a regenerated republic, but also the equally invincible and no less honored banner of human progress, the representative of the physical and intellectual achievements of mankind, adorned as it is with the trophies of ages, and unscathed by the scars of time, will, by the completion of this national enterprise in a great measure be lifted from the isolation that now envelops us, and by it the communities of that section of our common country will be advanced in some measure toward that position to which their geographical location, their enterprise, their indomitable will, their tenacity of purpose, their trade, their industries, their commerce, and their worth justly and honorably entitle them.

Mr. WINDOM. Mr. President, I am usually averse to taking the time of the Senate for the purpose of making speeches upon any subject; but the importance of this one to my constituents, and I believe to the whole country, justifies me in departing from my usual rule on that subject.

The bill before the Senate merely provides an extension of time for the completion of the Northern Pacific Railroad. It contains no new grant of lands, and confers no additional or enlarged powers or privileges upon the corporation. It does, however, impose certain new conditions presumed to be in the interest of the public. First, it opens the lands, hereafter to be earned, to settlement at the price of \$2.50 per acre, thereby entirely removing the objection that the grant ties up the public domain and withholds it from the people. Second, with the consent of the company it reduces the amount of the grant some seven millions of acres by changing the location of the line to the south side of the Columbia River, and repealing the grant across the Cascade Mountains.

The Northern Pacific Railroad Company presents to Congress a stronger case than is usually made by corporations asking its favor. It comes with "clean hands," asking only the right to live and to complete the great work it has begun. It recognizes the fact that to construct a railroad in these times over twelve hundred miles of mount-

ains and plains without other aid than the wild lands, whose practical value, however rich their soil may be, is solely dependent upon the road itself, is a task of no small magnitude. The company as it exists to-day is in no sense a speculative organization. Its stockholders and managers are the men who, having put their money into the road, now wish to finish it in order to save what they have already invested. They will be glad to have anybody take the task off their hands. They stand ready at any moment, as they inform me, to turn over all their grants and franchises to any organization of capitalists who can give a reasonable guarantee of their readiness and ability to complete the road. The work of construction was prosecuted with great vigor until stopped by the financial disaster of 1873.

The company was unable to pay the interest due January 1, 1874, or any succeeding installment, and in April, 1875, three half-yearly installments of interest being then in arrears, the bondholders instituted proceedings to foreclose. Thereupon all the railroad, property, rights of property, grants, liberties, and franchises of the company, including the franchise to be a corporation, were sold under the decree of foreclosure, and were purchased by and conveyed to a committee appointed by the bondholders for all the holders of said bonds who should assent to the plan of reorganization adopted by the bondholders at their meeting held June 30, 1875.

The sale and conveyances to the committee were confirmed by the court, and the holders of \$26,600,000 of the principal of said bonds (not including in that amount any interest) have assented to said plan of reorganization and surrendered their bonds and coupons in exchange for the preferred stock of the new organization. Such assents and exchanges continue to be given and made, and there is not an instance of dissent on the part of any bondholder known or reported.

The bondholders, having become the stockholders, organized September 29, 1875, by the election of a board of directors, and were put into full possession of the property by the receiver appointed by the court during the pendency of the foreclosure proceedings.

Thus those persons, all or very nearly all of whom are citizens and inhabitants of the United States, whose money made the property, have become the owners thereof, and they now seek to make it valuable, and to push to a successful completion the great enterprise in which they embarked (in many cases nearly all their means). The number of these is over eighty-five hundred; citizens of at least twenty States of the Union, North and South, East and West.

It has sometimes been said that these eight thousand five hundred stockholders, who have put nearly \$30,000,000 of actual cash into this enterprise, were the thoughtless victims of enthusiastic dreamers or dishonest speculators, and hence are not entitled to the favorable consideration of the country. I indignantly repel this charge and will endeavor to show that it is wholly unfounded. Admitting, for the sake of argument, what in fact is barely false, that the original promoters were enthusiasts and dishonest speculators, by whose act were they put in the position to victimize those who trusted them with their money to invest in this enterprise? Congress passed the act of incorporation, made the grant of lands, and gave the assurance not only of its confidence in the enterprise, but of its intent and disposition to have it completed. It does not, therefore, become Congress to say to the men who invested their money under these circumstances, "You are the dupes of a wild and baseless scheme and must bear your losses as the penalty of your folly." But it is not true that the original company were visionary enthusiasts or dishonest speculators. I speak what I personally know when I say that the men who constituted the controlling power in the board of directors of the Northern Pacific Railroad Company, at the time the present stockholders invested their money in its bonds, were the very foremost business men in this country, men whose integrity has never been questioned, and whose intelligence and business qualifications will not suffer in comparison with any others on the face of the earth. In confirmation of this statement I have only to mention the names of J. Gregory Smith and Frederick Billings, of Vermont; George W. Cass and Charles B. Wright, of Pennsylvania; R. D. Rico, of Maine; B. P. Cheaney, of Massachusetts; William G. Fargo and A. H. Barney, of New York; and William B. Ogden, of Chicago, who composed two-thirds of the board and were the managing and controlling spirits in the directorship at the time.

No better combination of names representing the highest and best type of business ability ever existed in any railroad organization in this country. All of these gentlemen had distinguished themselves and made large fortunes in other business enterprises, and they became interested in this one because of their honest belief in its merits, and of their ambition to link their names with an enterprise so colossal in its proportions, and which promised such grand results in the development of the continent. There is not an iota of evidence to prove that the directors of this company, or any of them, managed this great work dishonestly, or ever attempted to make it the means of personal gain at the expense of the stock or bondholders. The six hundred miles of road which they constructed were built when labor and materials of every kind were highest, and when a spirit of extravagance pervaded everything and everybody in this country. There was doubtless some extravagance in this work as well as in all others, but when the great depreciation in the value of Northern Pacific bonds, after the financial revulsion of 1873, is cited to prove dishonesty on their part, I reply that everything else fell in almost the same proportion. Even in the heart of New York City palatial blocks of houses have depreciated until they are not worth much more than one-third of their supposed value in 1872. And this is as true of many other cities as of New York. It is equally true of almost every other kind of property, even that which was regarded as of the most substantial character. Is it then any evidence of fraud or dishonesty, or even of bad management, that the bonds on a transcontinental railroad less than one-third completed, and whose success was not anticipated until it had spanned the continent and united the great lakes

with the Pacific Ocean, should have depreciated to only 25 per cent. of their par value?

This enterprise has frequently been charged with a large share of responsibility for the financial revulsion of 1873, whereas it was, in fact, one of the prominent victims of an unsound financial condition which pervaded all kinds of business, and would have reached its natural and inevitable culmination about that time, if no Northern Pacific Railroad had ever been heard of.

Since his failure, it has been quite fashionable in certain quarters to denounce Jay Cooke, and to reflect upon his honor and business integrity because of the glowing terms in which he advertised this road and the country along its line. In my judgment nothing could be more unjust. It is true he was a man of sanguine temperament. What he believed at all, he believed with his whole heart. He sent his trusted agents over the proposed line of this road, from one end to the other, before undertaking the sale of its bonds. They saw its wealth of soil, of timber, and precious metals, and partly appreciating its boundless possibilities reported their conclusions to Mr. Cooke. He did what everybody else has done who has investigated the subject, at once became an earnest believer in the future of the enterprise, and threw himself into it with all the ardor of his enthusiastic nature. It failed, not from any lack of intrinsic merit, but because the times were ripe for failure, and now men who never possessed a tithe of his honesty or ability endeavor to show their own wisdom and integrity by sneering at him and his bubble, as they sometimes call it.

Mr. President, the portion of road now in operation has already produced results which fully justify me in saying, that the time is not distant, when this great work will more than confirm all that has ever been said of it by Mr. Cooke, or any of its most ardent advocates.

Let me briefly mention a few facts illustrative of the character and qualities of this enterprise, in its development of our national resources, and in its economic relations to the people and to the Treasury of the United States.

When completed it will connect the eastern system of navigable waters, via the great lakes, with the Pacific Ocean by a line six hundred and twenty-six miles shorter than from San Francisco to Chicago, and the distance from New York or Chicago to Puget Sound by this route will be less by three hundred and seventy-eight miles than by the Union Pacific and Central Pacific Railroads. To these savings in distance must be added at least one hundred and twenty miles more, representing the advantages of the northern route in gradients. Freights can come east from San Francisco to Duluth via the Pacific Ocean and Northern Pacific Railroad with less distance than from San Francisco to Chicago by the present route. The effect of this shorter line upon transcontinental business must be apparent.

Let us now consider for a moment the results it has already accomplished in

THE DEVELOPMENT OF THE INTERIOR OF THE CONTINENT.

Scarcely half a decade has elapsed since the Northern Pacific road was regarded by many as a wild and visionary scheme, and the country traversed by it was a silent wilderness, generally believed to be a "bleak, inhospitable, and uninhabitable desert."

Less than eight years ago, in company with a party of gentlemen, I traveled over a portion of this country in Western Minnesota and Eastern Dakota. We had heard rumors of a rich and beautiful country, and the party was organized for the purpose of exploration. To avoid losing our way over the untraveled prairies, we employed the services of an experienced half-breed scout. For hundreds of miles no sign of civilization met the eye. No roads, or even foot-paths, had marred the rich green verdure of the plains. Camping in one of those beautiful spots, so numerous in the Red River Valley, and making a couch of the soft green sward that spread out in every direction, until the rich green of the luxuriant prairies met and mingled with the pure deep blue of the sky, I dreamed of the agricultural empire which would one day flourish in unrivaled magnificence, on this fertile and apparently boundless plain; but even in my dreams I could not conceive the transformation which five years of railway development has produced. That same country to-day is alive with a hardy, industrious, and enterprising people. Already it contains some of the largest wheat farms in the world. Every railway train from the East is crowded with land hunters eager to procure a quarter section or more of that "bleak uninhabitable desert." One farm in Dakota, on the line of the railroad and in the Red River Valley, known as

THE CASS-CHENEY FARM.

embraces ten thousand acres. Its wheat crop in 1877 comprised thirty-four hundred and fifteen acres, yielding 79,413 bushels. The farming implements necessary for operating it embrace: 24 breaking-plows, 100 stubble-plows, 67 harrows, 26 broad-seeders, 26 harvesters, and 5 steam thrashing-machines. The crop of 1878 will be eight thousand acres. The crop of this year, if as large per acre as last, will be over one hundred and eighty thousand bushels, and will require five hundred and forty freight cars, or one train of eighteen cars per day for a whole month, to transport the products of this one farm to market.

Another known as

THE GRANDIN FARM,

also situated in the Red River Valley, and within the limits of the

Northern Pacific land grant, contains thirty-eight thousand acres. Its product in 1877, from twenty-six hundred acres was 62,660 bushels of wheat. Five thousand acres are to be sown in wheat this spring, and I understand the owners intend to continue their improvements on this scale. When their entire farm is under cultivation, it will produce nearly a million bushels, and will require twenty-seven hundred cars, or one train of eighteen cars, per day, for five months, to carry its products to market. I am credibly informed that the crops of 1876 and 1877 have fully reimbursed the owners for their entire expenditure for their lands, outfit, and the cost of culture. At \$1 per bushel for wheat the lands in the Red River Valley will pay an average net profit of from \$9 to \$12 per acre. What more profitable business can be found? When a farm can be paid for out of the profits of a single crop, why should the people lack employment? They are beginning to learn these facts, and by the thousand the enterprising and industrious portion of our people are leaving the cities, villages, and densely settled parts of the Eastern and Middle States, to find homes and an honest living, on the fertile prairies along the line of the Northern Pacific road.

The soil in this valley is a very rich black mold from twelve inches to four feet in depth, resting on a clay subsoil. The subsoil itself is thoroughly impregnated with the elements needed for the production of wheat, and hence is practically inexhaustible.

Many other farms similar to these I have mentioned are being opened, but I am glad to know that the agricultural operations of this vast region are by no means confined to such mammoth enterprises as these.

By far the most important feature of this new development consists in the

IMMENSE NUMBER OF SMALL FARMS

which are being opened by men of limited means, but tireless energy, who go there to make homes for themselves and families. For it is the homes after all that make the country. The general and long-continued depression in business has driven out from the towns and villages an industrious and enterprising class of men who, finding no demand for their services in offices, stores, and workshops, have wisely resolved to appeal to Mother Earth for employment and support. People also, from the older sections of the country, where lands command higher prices, are selling their valuable, improved farms, and investing the proceeds in larger tracts for themselves and their children, in this new wheat garden of the world.

THE VAST EXTENT OF THIS COUNTRY.

The area available for profitable agriculture, in this new Northwest, is as vast in its proportions as it is generous in its products. There is room not only for all the unemployed and hungry millions in the United States, but also for a large part of the industrious poor of Europe.

Let us pause a moment to estimate the capacity of the country within the limits of the Northern Pacific land grant in Minnesota and Dakota alone. These limits embrace an area over two hundred and fifty miles long by eighty miles in width—equal to twenty thousand square miles, or 12,800,000 acres. Of this, more than eight million acres are of the very best quality, and capable of producing two hundred million bushels of wheat per annum. With the improved lake and canal route to New York, and the improved Mississippi River to the Gulf, competing with each other for its trade, this great valley will be the very focus of competition, and its products will be landed at New York for from fifteen to twenty cents per bushel, and at Liverpool for from thirty to forty cents. I am not too enthusiastic when I say that there is probably no locality on the face of the globe that combines so many elements of successful and profitable wheat culture as the Valley of the Red River of the North.

On the western slope of the Rocky Mountains the line of the road passes through some two hundred miles more of country singularly adapted to the culture of breadstuffs and awaiting only the means of transportation to be afforded by its construction to spring into full development. The facts related of the production of wheat in this region would seem incredible, if they were not vouched for by gentlemen of the highest respectability, who assert that fifty to sixty bushels per acre is not an uncommon yield.

Lying between these two great agricultural sections are the mining regions of Montana, Idaho, and the Black Hills, themselves also susceptible of most successful agricultural as well as mineral development. Recent discoveries in the Black Hills give assurance of mineral wealth unsurpassed on the continent.

Along the entire line of the road the agricultural lands (usually treeless) and the wonderfully timbered regions in Washington, Idaho, and Montana Territories, are so interspersed as to make a railroad indispensable necessary to the development of the resources of either, and to insure a paying railway traffic from the one to the other. This is also true of the great mining countries which intervene along its line.

The section of road already built has opened up for settlement a belt of land in Dakota, two hundred miles long by eighty miles wide, that without it would continue to be wholly inaccessible and unsalable. One-half of this belt of land the Government reserves for itself, and puts it upon the market at double the price of public land outside the railroad grant. So that, while one-half of the land is given to the company as a bonus for constructing a road and making the other half available, the Government wholly indemnifies itself by charging

\$2.50 per acre, or its equivalent, for those lands which previously could not have been sold at all. The number of acres thus already made valuable and available to the Government, on this section of two hundred miles is about five million, representing a salable value of \$12,500,000. That these are no fancy figures is demonstrated by the large and rapidly increasing sales at both Government and railroad land offices in that locality, and the vigorous stream of immigration that is pouring into the country now made accessible by the road. During the past year many thousands of people have settled along the line, and more than three thousand emigrants have passed over the road to find homes farther north, in the neighboring province of Manitoba.

During the year ending June 30, 1877, three hundred and thirty-seven thousand acres of Government land were taken within the limits of the grant by actual settlers, under the pre-emption, homestead, and tree-culture acts, representing an increased population of at least ten thousand on these lands alone. The Government sales for the current year have been very largely in excess of those for 1877. The register and receiver of the United States land office at Fargo report that the Government land entered at their office alone, under the tree-culture, homestead, and pre-emption acts, during the first twelve days of this month, amounted to forty-three thousand acres. There are three other United States land offices on the line of the road in Minnesota and Dakota. Over thirty-five hundred acres entered per day, for occupation and improvement, at a single office, will convey some idea of the demand for homes in that favored locality. I have no doubt that at least twenty thousand will be added to the population occupying Government lands, within the limits of the grant in Minnesota and Dakota by the close of the present fiscal year.

The sale of railroad lands within the said limits during the six months ending November 30, 1877, foots up 365,634 acres, much of which is for immediate occupation and improvement. The tide of immigration pouring into that country has swollen wonderfully since November, and I have no doubt as much land has been sold by the company during the last ninety days as during the preceding six months.

On the rich agricultural slope west of the Rocky Mountains, a similar demand for lands has recently sprung up in anticipation of the early construction of the road. The president of the company informs me that they have received, this spring, over a thousand applications for a quarter section each, from persons proposing to settle on the lands between Pend d'Oreille Lake and the Columbia River. This would represent some five thousand people, and one hundred and sixty thousand acres of land.

Here again the construction of the road would at once render available for sale or improvement some five million acres of Government lands on this section of two hundred miles, which at \$2.50 per acre amounts to an increased value of \$12,500,000.

The growth and development already attained along the line is indicated by the rapidly increasing earnings of the road upon a given number of miles. The Minnesota and Dakota divisions, four hundred and fifty miles in length, show the following gross earnings:

For the year ending September 30, 1875.....	\$570,920 84
For the year ending September 30, 1876.....	839,910 89
For the year ending September 30, 1877.....	1,008,808 64

These earnings were not made, Mr. President, by high charges imposed upon the products of the country. The Northern Pacific Company have always acted upon the theory that through the development of the country, and thereby an increased volume of business, would be realized their greatest profits, and hence their charges have been moderate. Their freight tariff last year, from the Red River to Duluth, two hundred and fifty miles, was only twelve cents per bushel, or only about one and three-quarter cents per ton per mile. The local charges on most of the eastern roads traversing densely populated districts are greater than this. Even in England railways doing the largest business, impose heavier tariffs than are charged by the Northern Pacific through its sparsely peopled regions. I am informed by the president of the company, that these tariffs are to be reduced this year from 15 to 20 per cent. below those of 1877. In this regard, as well as in many others, the company commends itself to congressional favor.

As a further illustration of the progress of this northern country, I may refer to the rapid and healthy growth of some of its business centers. The sister towns of Moorhead and Fargo, on opposite sides of the Red River, are good illustrations. Five years ago I camped on the site now occupied by them. Then, untouched by the hand of civilization, they were merely boundless, beautiful, virgin prairies, with a small skirting of timber on either bank of the river. Now they have a population of about two thousand, with a constantly accelerating progress, and are already in the full enjoyment of churches, schools, and every other advantage of Christian civilization and prosperity.

Two hundred miles west of Moorhead we find Bismarck, another active, enterprising young city, with a population of about two thousand souls. Five years ago this section of two hundred miles between Moorhead and Bismarck was the hunting-ground of the wild and savage Sioux Indian, from which were made his occasional bloody incursions into Minnesota. The magic transformation wrought by the construction of the railroad has driven out the Sioux, settled forever

the Indian question over that wide sweep of country; introduced into the very heart of his hunting-grounds the remarkable farming operations of which I have spoken; pushed the borders of civilization two hundred miles further West, and planted upon its very verge an enterprising little city of two thousand people. Instead of incursions of bloody savages so recently dreaded from that country, we now have the loaded railway-cars, bearing the golden grain to the hungry millions of Europe and the East.

Being at the favorite point of departure for the Black Hills, and at the point of connection between the railroad and the upper waters of the Missouri, navigable in summer for a thousand miles to the Northwest, and actually occupied last season by a fleet of between thirty and forty steamboats, Bismarck seems destined to become one of the great cities of the North. It has been brought into being solely by the Northern Pacific Railroad.

Another commercial development on the Red River of the North, quite as remarkable as any I have mentioned, has resulted from the construction of the road. A very few years since, no water craft larger than an Indian canoe had ever vexed the waters of that stream, and the trade of Manitoba and the Red River Valley with the rest of the world, was carried on mainly by means of the creaking wooden cart, drawn by a single ox over a distance of five or six hundred miles to Saint Paul. Now, the Northern Pacific Railroad connects at Moorhead and Fargo with a line of steamers, seven in number, with thirteen barges, which transported in 1877 13,747 tons of freight and 9,579 passengers. Several additional steamers will be put on that river the present year.

Referring again to the commerce created on the Upper Missouri River, the statistics show that in 1876 there were only twelve or fourteen steamers in that trade. In 1877 these had increased to thirty-seven steamers. This year there will probably be fifty or more.

The commerce on the Yellowstone is also a creation of this road. Prior to 1876 it had scarcely been explored.

In 1877 nine steamers were on the Yellowstone, and it is now a regular river route of travel and commerce.

The new route to Deadwood known as the "Custer route" is another of the incidents of the Northern Pacific road. The stage line opened from Bismarck to Deadwood is only two hundred and three miles in length, and is now occupied by a daily line of four-horse covered mail-coaches, carrying a large number of passengers and making the trip in thirty-six hours. In addition to this, an immense wagon transportation is done over this line. These are the forerunners of the new line of railway soon to connect Bismarck and Deadwood, for which a bill has already passed the Senate.

In addition to these great results produced by the portion of road already completed, there are many other benefits to be anticipated from its completion, which commend it to the favorable consideration of Congress and the country. One of the most prominent of these will be its saving to the Treasury by the prevention of Indian wars. No such thorough and satisfactory mode of settling Indian troubles has ever been discovered as the construction of a railroad through the Indian country. The war-whoop of the savage is never heard within sound of the locomotive's whistle. The civilization that is represented by the church, the school-house, and the farm, he regards as his legitimate prey, but when it comes clothed with the thunder of the advancing railroad train he retires from the contest. In the locomotive he discovers his master, and with a kind of superstitious awe succumbs to its superior power. It was with a view to this that General Sherman wrote from "Cantonment on Tongue River, Montana," under date of July 17, 1871, to the Secretary of War:

I do not know a single enterprise in which the United States has more interest than in the extension of the Northern Pacific Railroad from its present terminus at Bismarck to the mouth of Powder River on the Yellowstone. After that is done we can safely leave to time the extension of that road to the head of navigation on the Columbia River.

Regarding this matter from a purely military stand-point, and after traveling over the Indian country and carefully studying all the instrumentalities by which peace may be maintained, the lives of our people be preserved, and the public treasures be saved, the General of your Army thus deliberately and forcibly expresses his confidence in the Northern Pacific Railroad as the great peace-maker and peace-preserver of the plains.

In 1866 General Grant gave a similar expression of opinion as to its value in this respect.

Quartermaster-General Meigs wrote of the Northern Pacific road:

The enterprise is one worthy of the nation. As a military measure contributing to national security and defense alone it is worthy the cost of effectual assistance by the Government.

All of our leading generals who have commanded in the Indian country agree as to its value as a peace measure.

The last annual report of the Northern Pacific Company puts this point so forcibly and so well, that I will venture to ask the indulgence of the Senate to quote from it the following extract:

If the Missouri and Yellowstone divisions of the Northern Pacific Railroad had been constructed three years ago, cutting the Indian country from the west bank of the Missouri River to the mouth of Shields River, a distance of only five hundred and forty-five miles, there would have been no wars with the Sioux. The road would have ended the deplorable loss of life and waste of money which have marked our endeavors to utilize that valuable region and make commercial and political connection with Montana Territory. The railroad would have notified the country and made the Army unnecessary on its entire line. It would have done for Northern Dakota and the Yellowstone Valley what the Union Pacific Road has

done for the region between Missouri and Utah. The Northern Pacific would have done for the Sioux country west of the Missouri River what it has done for the region east of it. Before the construction of your road two hundred miles into Dakota predatory Indians roamed and hunted all over that distance from the river and made settlement impossible and the navigation of the Missouri perilous. The road in two years rescued two hundred miles' width of buffalo and Indian range and established wheat farms on it, from which food is now exported to Europe. It is certain that what is known as the Sioux Indian country cannot be permanently pacified except by a railroad. The region, as the breeding-nest of unceasing and costly wars, must be occupied by farms and towns. These cannot obtain even a foothold without the help of the Northern Pacific Railroad. Certainly it would be cheaper for the Government to hold the country between the Missouri and Shields Rivers by building the road at its own expense than to hold it, and yet not hold it, by military occupation in a line of forts, with the enormous cost of supplies by steamers and wagons.

Mr. President, I have briefly, and very inadequately sketched some of the grand and beneficent results, already achieved by the partial construction of this road. I have not attempted to estimate the future advantages and benefits to flow from its completion. That is a field which I would be delighted to enter, and, by analogy to similar enterprises elsewhere, draw conclusions as to what may be reasonably anticipated from this, but I will refrain. The facts I have given are merely the indications of what may be expected from its completion. Are they not enough to justify Congress in granting to the men whose money has produced these wonderful results, the right to live awhile longer in order that they may complete their great enterprise? Who will be benefited, and what interest will be subserved by a denial of this extension? Will the public domain be more valuable to the Government or the people without the road? No; that portion to be affected by it is practically worthless without this road. However rich its soil or favorable its climate, it will remain a wilderness forever, if no means be provided to transport its products to market. With the road, many millions of acres will be rendered available for sale and occupation, thus enriching the Government and furnishing homes for the people. Without it, these millions of acres will remain a silent waste. Certainly, then, the extension cannot be denied in the interest of the public domain.

Will the great mining interests of Dakota, Montana, and Idaho be best served by the defeat of this bill? No; the rock-guarded treasure-houses of these Territories only await the arrival of the Northern Pacific trains to open their doors and pour the wealth of their rich mines into the channels of trade and commerce.

Will the Treasury of the United States be better guarded by refusing this extension? No; this bill asks nothing from the Treasury, and those most competent to judge of its results say its construction will save many millions of dollars now annually thrown away upon useless and fruitless Indian wars. It will also save large sums for transportation of mails, and Indian and military supplies. The interests of the Treasury, therefore, demand the passage of the bill rather than its defeat.

Will its defeat promote the development of the great interior of the continent, and thereby increase the national wealth, and, by such increase, reduce taxation? This question answers itself. No one is insane enough to make such an argument.

Will the unemployed, homeless, hungry laborers of this country be benefited by its defeat? No, for the construction of the road will give employment to thousands of them; the now inaccessible lands that will be rendered available to settlement will furnish homes for millions of them; and the additional supply of food from the increased agricultural areas will make the means of living cheaper to all of them.

If none of these interests demands a vote against this bill, is there anything in the history, circumstances, or condition of the corporation asking this favor that will justify a denial on our part? Absolutely nothing, so far as I can learn. As I have already said, these men are not speculators. They do not come to us asking something for nothing. They have invested \$30,000,000 in this work which we authorized and by our own act encouraged them to undertake. They now come to us saying: "We have honestly invested our money in a great and meritorious enterprise, which by reason of the financial condition of the country was unable to proceed, and we ask you to permit us to go on and complete it. You may enjoy all its incidental advantages in the development of your resources; in the enhanced value of your own lands; in the settlement and improvement of your vast unoccupied public domain; in exemption from the sacrifice of life and treasure by useless Indian wars; and in the large savings of Government transportation, and we will put in more money to save what we have already invested, and to make a legitimate profit on it if we can."

Shall we deny them this privilege? Shall we sacrifice all the great interests to be subserved by the completion of this road, to a supposed popular prejudice (which in fact does not exist) against land grants to railroads? If Senators will investigate this question there will not be a single vote against the proposed extension. Believing that there is not in the Senate a vote against it, I should like to have unanimous consent to put it on its passage.

Mr. MITCHELL. I appeal to the Senator from Mississippi, [Mr. LAMAR,] who made some objection this morning, whether he is not willing to allow the bill to proceed at this time.

Mr. LAMAR. Mr. President, I was not aware until this morning that the Senator from Oregon had given notice that he would call this measure up so early. Not having been present in committee when the bill was last up for consideration and voted upon, I am not as sufficiently familiar with the conditions which have been ingrafted

upon this extension as I wished to be before action. I shall not insist, however, upon my objection.

While I am on my feet I will state that as the chairman of the Committee on Pacific Railroads in the other House, I had occasion to investigate this question as to the extension of the time for the construction of the Northern Pacific Railroad, and I became satisfied that it was a measure demanded alike by justice, propriety, and policy. The parties who make application for this relief are tens of thousands of people living in twenty States of this Union who subscribed their means for the construction of this road. The disasters of 1873 and other causes produced a suspension of work. If there was any mismanagement these parties were the victims of that mismanagement and of its authors. I had some objection to loading this bill with other conditions than those which provide for a simple extension of relief; but as its provisions are acceptable to those who are considered best advised upon the subject I shall co-operate with them, and I trust there will be no opposition to the passage of the bill, as it is in my opinion, so meritorious and so slight is the objection.

Mr. McMILLAN. I trust there will be no objection to the request made by my colleague that this bill shall be put upon its passage. The matter has been sufficiently discussed now to inform the Senate fully upon the subject. It is a matter of great public and national importance, and it is desirable, if the measure is to pass, that it should be passed at an early day. I was not aware myself that it would be called up at this hour for passage; but certainly the Senate need wait no longer to act upon this measure, and I trust the Senate will pass the bill without objection.

Mr. KERNAN. I wish to ask the Senator having charge of the bill what has become of the interests of the bondholders under the first mortgage, under which this road has been sold. I ought to say that in the State of New York I know, generally, (no one in particular has said anything to me about it,) that bonds to a very large amount issued by the original corporation were put off upon that community. As I understand, that mortgage has been foreclosed and the road bid in. What amount of money was it bid in for?

Mr. MITCHELL. The Senator from Minnesota [Mr. WINDOM] perhaps can answer those questions more fully than myself.

Mr. KERNAN. I wish to get some information in reference to the rights of those people who are scattered all over the country.

Mr. MITCHELL. There is a satisfactory answer to the whole matter.

Mr. KERNAN. I shall be very glad to hear it.

Mr. WINDOM. In answer to the Senator from New York, I will state that the total amount of bonds sold was between \$29,000,000 and \$30,000,000. The bondholders representing the majority of those bonds met in New York and decided to foreclose the mortgage. It was foreclosed and the road bid in for the benefit of the bondholders by trustees. Since the sale the holders of \$26,660,000 of those bonds have exchanged them for preferred stock of the road; so that of the \$29,000,000 only a little over \$2,000,000 and probably not that amount, now of bonds are outstanding. I am informed by the company that no one of the bondholders has ever objected to the arrangement by which their bonds were converted into preferred stock. That is still open and will remain open to any bondholder who desires to avail himself of the opportunity to exchange.

Mr. KERNAN. For how long a time have the remaining bondholders the right to come in and take preferred stock?

Mr. WINDOM. Indefinitely, as the Committee on Railroads are informed. It will remain open so long as they desire it; at least this is the present understanding.

Mr. KERNAN. Is the property now held by trustees, or have they conveyed it to a new corporation?

Mr. WINDOM. They have conveyed it to the new corporation elected by the new stockholders.

Mr. KERNAN. Organized under an act of Congress or under some other law?

Mr. WINDOM. Organized under the act of Congress; that is, under the original act, as they claim, and as the best counsel that could be procured in the country advised them was legal.

Mr. KERNAN. Is the Senator able to state anything as to what is the value of this preferred stock, or has it any market value?

Mr. WINDOM. I made inquiry of that a few days ago, and I think the answer was about seventeen or eighteen cents on the dollar. The preferred stock, however, is larger than the bonds. I think it amounts to nearly \$50,000,000 in all. When the foreclosure was made and the bonds were converted into stock, stock was issued for 40 per cent. more than the bonds, in order to pay the interest in advance for five years. It included the interest on the bonds at 8 per cent., as they drew, for five years. The stock was issued for the face of the bonds and 8 per cent. interest for five years, so that the road is entirely unincumbered and is now prepared, if the extension be made, to go on without a mortgage or a debt of any kind, and has money to complete it, as they think.

Mr. KERNAN. As I understand, they gave the old bondholders stock to the face of their bonds and for 8 per cent. upon that sum.

Mr. WINDOM. Eight per cent. interest for five years, making 40 per cent. in addition. To illustrate: if a constituent of the Senator had a thousand-dollar bond, he would get \$1,400 of preferred stock, which paid his interest five years in advance.

Mr. KERNAN. As I understand, then, the bondholders who come in under this bill get everything that was sold belonging to the road?

Mr. WINDOM. They own everything that is owned by the road.
Mr. KERNAN. They have the preferred stock for the amount you named?

Mr. WINDOM. They have the preferred stock for the amount I named; \$26,660,000 of the bonds have been exchanged for stock on the basis named a moment ago.

Mr. KERNAN. Is there anything given to the original stockholders, or is their stock wiped out?

Mr. WINDOM. The original stockholders have some general stock that comes in after the preferred stock is paid 8 per cent. When it pays an 8 per cent. dividend they may some time or other have a chance to get something, but their chance is indefinitely postponed.

Mr. KERNAN. Please state how much more stock there is than this preferred stock. What is the amount of stock in addition to the preferred stock, the subsequent stock?

Mr. WINDOM. I am not able to state that exactly.

Mr. KERNAN. This stock has preference to the amount of 8 per cent. upon it?

Mr. WINDOM. It has the preference. Common stock cannot vote and can receive no dividend until this \$50,000,000 of preferred stock receives a dividend of 8 per cent.; and then whatever amount is back—I do not remember the amount—is entitled to some consideration. The fact is that under this transfer the bondholders, the men who paid in their money, have everything that belonged to the original company.

Mr. KERNAN. I suppose the common stock of the old road never was paid for to any considerable amount.

Mr. WINDOM. I think not.

Mr. EATON. I hope this bill will not be pressed to-day. There are certain things about it that I confess I do not understand, if all the rest of the Senate understand it. My attention was directed to this bill this morning for the first time. I cannot to-day vote for it. Therefore I object to proceeding with this bill, if an objection is necessary to put a stop to it.

Mr. WINDOM. If there are any points about this bill upon which the Senator would like to cross-examine those of us who have studied it, I think we shall be able to satisfy him not only that it is very important, but that, if it is passed at all, it should pass early. If it is necessary to make a motion, that course can be taken, and the Senator from Oregon, I believe, is about to submit a motion to test the sense of the Senate as to whether the bill shall be acted upon now. I hope we may have a vote upon proceeding with the bill.

Mr. EATON. I do not desire to cross-examine my friend from Minnesota; but there are certain matters in the bill that look to me exceedingly imperfect. I do not know quite why it should be rushed through here to-day. When it was taken up this morning for consideration it was simply to enable my friend from Oregon to submit some remarks upon it in the way of discussion, and not to press it to a vote.

Mr. WINDOM. I did not understand that.

Mr. EATON. I did so understand; or otherwise I think objection would have been made to the bill being taken up this morning.

Mr. WINDOM. (to Mr. MITCHELL.) Did you make any such statement?

Mr. MITCHELL. There was some objection made by the honorable Senator from Mississippi [Mr. LAMAR] at the time the matter was called up, or he intimated that he might desire that the bill should go over until to-morrow after certain remarks submitted by the honorable Senator from Minnesota and myself. But inasmuch as the Senator from Mississippi, on an appeal made to him a few moments ago, signified his willingness to allow the matter to proceed, I felt disposed to insist on proceeding with the consideration of the bill at this time. I will state that it is very important that there should be speedy action on the bill if the hope is to be entertained that it will receive the action of the other House at the present session. If there is anything about the bill upon which the Senator from Connecticut would desire information, perhaps if he will indicate what it is we may be able to satisfy him. I would appeal to the honorable Senator from Connecticut, unless there is some very urgent necessity for a postponement of the matter, that he permit the bill to be proceeded with at this time.

Mr. DAVIS, of West Virginia. It will be recollected by the Senator from Oregon that I made an inquiry this morning whether the regular order, which is the Calendar, would not come up at the expiration of the morning hour. The Senator said it would, but he hoped that no one would interfere with himself and the Senator from Minnesota if the Senator from Minnesota wished to speak to-day. I think it was very well understood this morning that after the two speeches were made we should return to the Calendar. I think the Senate will bear me out in that assertion.

Mr. MITCHELL. That is true; but in order to test the sense of the Senate upon this matter I will move to proceed with the bill. I understand that the pending order, if called for, would be the Calendar.

The PRESIDING OFFICER. (Mr. ROLLINS in the chair.) That would be the regular order, if called for.

Mr. MITCHELL. I then move, in order to test the sense of the Senate, that the present order and all prior orders be postponed for

the purpose of proceeding with the consideration of the Northern Pacific Railroad bill; and on that I ask for the yeas and nays.

Mr. DAWES. I think, as the Senator from Connecticut desires to examine the bill further, it would not be good policy to press it to a vote now.

Mr. ANTHONY. I hope we shall have no formal vote upon this subject, but that the Calendar may be laid aside informally if it be laid aside at all, because if it is laid aside by a formal motion it will not come up to-morrow.

Mr. DAWES. I suggest to the Senator from Oregon, that if the Senator from Connecticut and others desire to look into the bill and ask that it may not be put upon its passage now, it is not an unreasonable suggestion.

Mr. MITCHELL. If it is insisted by the Senator from Connecticut that he would like to look at this matter further and we can have an understanding that the bill shall be taken up to-morrow morning and disposed of, I shall be glad to accommodate the Senator.

Mr. EATON. It is not an accommodation to me, Mr. President. I have not read this bill; I have not seen it until to-day. Perhaps it may be my fault or misfortune. But I discover here that under certain circumstances a road must be "completed eastward on the Pacific slope as aforesaid," and that they shall also, "within two years from the passage of this act, construct and equip their said railroad around the portage at the Lower Cascades of the Columbia River." On what territory is that? Does that land belong to Oregon or the United States? Are we legislating here to build a railroad within two years around certain cascades in the State of Oregon? Is it so? I do not know that it is. It has been suggested to me that it is. Therefore it is important before I vote upon the bill that I should have the opportunity of looking into it; that is, before I vote favorably upon it.

Mr. MITCHELL. As I said, if the Senator from Connecticut desires to look into the bill, as a matter of course it is nothing more than common courtesy that he should have that opportunity; but in connection with the proposition to permit the bill to go over until to-morrow I should like to have an understanding, if we can, that the matter be proceeded with to-morrow.

Mr. EATON. I cannot make any agreement that this matter shall be taken up to-morrow.

Mr. MITCHELL. I am making an appeal to the Senate generally.

Mr. WINDOM. In view of the request made by several Senators, I think it would be well to postpone the bill until to-morrow, and I shall be exceedingly gratified if the Senate will take it up then, without asking any bargain about it. Of course I do not expect that, as suggested by the Senator from Connecticut, but it is very important that the bill should be passed early, if at all. I, for one, am willing to consent that it go over until to-morrow in order that Senators desirous of doing so may look into it and suggest any amendment that they think desirable, but I shall want to appeal to the Senate to-morrow to let us consider it and pass upon it, if possible.

Mr. MITCHELL. The matter goes over to-day. I give notice that to-morrow morning after the regular morning business, or as soon as I can get the floor, I shall ask the Senate to proceed to the consideration of the bill.

The PRESIDING OFFICER. The Senator from Oregon withdraws his motion to take up the bill.

Mr. SARGENT. I call for the regular order.

The PRESIDING OFFICER. The regular order is called for and the consideration of the Calendar will be resumed at the point where the Senate left off when the consideration of the Calendar was last before it.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills and joint resolutions; in which it requested the concurrence of the Senate:

A bill (H. R. No. 4055) to create a revenue in the District of Columbia by levying a tax upon all dogs therein, to make such dogs personal property, and for other purposes;

A bill (H. R. No. 4222) to provide for a deficiency in the appropriation for the public printing and binding for the current fiscal year;

A bill (H. R. No. 4413) to provide for the free entry of articles imported for exhibition by societies established for encouragement of the arts or sciences, and for other purposes;

A bill (H. R. No. 4416) referring the claim of the legal representatives of Captain John G. Todd, of Texas, to the Court of Claims;

A bill (H. R. No. 4420) for the relief of Horace E. Mullan;

A bill (H. R. No. 4422) to amend section 4695 of the Revised Statutes of the United States;

A bill (H. R. No. 4425) to alter and amend a law of the District of Columbia relative to the inspection of flour;

A bill (H. R. No. 4426) relative to the Washington Market Company;

A joint resolution (H. R. No. 109) authorizing Lieutenant T. B. M. Mason, United States Navy, to accept a medal conferred by the King of Italy for extinguishing a fire on a powder-ship; and

A joint resolution (H. R. No. 162) for the relief of Bushrod B. Taylor.

The message also announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 3739) to prevent the

introduction of contagious and infectious diseases into the United States.

The message further announced that the House had passed the bill (S. No. 931) granting a pension to James Shields, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills:

A bill (S. No. 120) authorizing and directing the Secretary of the Treasury to issue an American register to the Canadian-built propeller East by the name of Kent;

A bill (S. No. 870) granting a pension to Rebecca and Augusta Miller, daughters of Brigadier-General James Miller, of the war of 1812; and

A bill (S. No. 1045) to provide for the administration of the oath of office to collectors and other officers of the customs in the district of Alaska.

DEATH OF HON. JOHN EDWARDS LEONARD.

The message also communicated to the Senate a copy of the proceedings had in the House of Representatives in reference to the death of Hon. John Edwards Leonard, late a Representative from the State of Louisiana.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 535) for the relief of the executors of the estate of John S. Miller, deceased;

A bill (H. R. No. 1411) to prevent the sale of policy or lottery tickets in the District of Columbia;

A bill (H. R. No. 1432) providing for the recording of deeds, mortgages, and other conveyances affecting real estate in the District of Columbia;

A bill (H. R. No. 3739) to prevent the introduction of contagious or infectious diseases into the United States; and

A bill (H. R. No. 4242) to authorize the restoration of George A. Armes to the rank of captain.

PATRICK SULLIVAN.

The bill (S. No. 455) for the relief of Patrick Sullivan, was considered in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and insert:

That the sum of \$1,500 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to reimburse Patrick Sullivan, late corporal of the Eighty-second Regiment Illinois Volunteers, Company K, for expenses paid by him as a commissioned first lieutenant in the Nineteenth Regiment Wisconsin Volunteers, in recruiting, subsisting, and transporting recruits for said regiment in the months of January and February, 1862; and the Secretary of the Treasury is hereby authorized and directed to pay, or cause to be paid, the said amount of \$1,500 to said Patrick Sullivan, in full settlement thereof.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MAJOR D. C. SMITH.

The next bill on the Calendar was the bill (S. No. 800) for the relief of the heirs of Major D. C. Smith; which was considered as in Committee of the Whole. It relieves the heirs and bondsmen of Major D. C. Smith, late assistant paymaster United States Army, from the payment of \$166.29, and the interest thereon, as appears due upon settlement of his accounts.

Mr. HARRIS. Is there a report in that case?

The PRESIDING OFFICER, (Mr. ROLLINS in the chair.) There is a report. Is the reading of the report called for?

Mr. HARRIS. I should like to hear the report.

The PRESIDING OFFICER. It will be read.

The Secretary read the following report, submitted by Mr. BURNSIDE, March 12:

The passage of the accompanying bill for the relief of the heirs of Major D. C. Smith was recommended by this committee and the Military Committee of the House of the Forty-fourth Congress, in consonance with the favorable reports of General COCKRELL, and Mr. MacDougall, of the House committee.

Copies of these reports are attached and made part of this report. I concur, and recommend that a favorable report be again made by this committee.

In the Senate of the United States, March 13, 1876.—Ordered to be printed.

Mr. COCKRELL submitted the following report, to accompany bill S. No. 548: The Committee on Military Affairs, to whom was referred the bill (S. No. 548) for the relief of the heirs of Major D. C. Smith, have duly considered the same, and submit the following report:

Major D. C. Smith was a paymaster in the United States Army; was a gallant, efficient, and meritorious officer. On October 27, 1864, Major D. C. Smith, in company with several other paymasters, left Memphis, Tennessee, on board the steamer Belle of Saint Louis, for Saint Louis. At Randolph, Tennessee, the steamer started to land, and was boarded by some eight or ten guerrillas, while others from the shore began firing into the steamer. The guerrillas on board undertook to force the engineer and officers of the boat to land.

Majors Buler and D. C. Smith took their revolvers and approached the guerrillas on board and began to fire and were fired upon, and Major Smith was mortally wounded and died; Major Buler was also mortally wounded. Their gallant conduct enabled the steamer to be saved, and thus the Government property on board the steamer was also saved.

Paymaster-General Alvord reports the accounts of Major D. C. Smith as follows, to wit:

His final accounts show that at the date of his death he was indebted to the United States..... \$284 64
From over-additions in his accounts..... 50 00

He is entitled to credit for pay from October 1 to 28, 1864..... 140 65

For short additions..... 21 50

\$334 64

168 33

166 29

Leaving balance due the United States..... 166 29

I inclose a copy of his chief paymaster's report, showing the very gallant manner in which he met his death defending the property of the United States. I therefore most cheerfully recommend the passage of this bill as amended, as I consider it a very just and meritorious one.

The amendment suggested is to strike out "thirty" and insert "twenty," so that the bill as amended will read, "one hundred and sixty-six dollars and twenty-nine cents," instead of one hundred and sixty-six dollars and thirty-nine cents.

Your committee recommend the passage of the bill with the amendment suggested.

[Forty-fourth Congress, first session, House report No. 735.]

Mr. MacDougall, from the Committee on Military Affairs, submitted the following report, (to accompany bill S. No. 548):

The Committee on Military Affairs, to whom was referred Senate bill No. 548, having had the same under consideration, report as follows:

Major D. C. Smith was killed by guerrillas on board the steamer Belle, on the Mississippi River, on the night of October 27, 1864, while gallantly defending the property of the United States in his charge. Had he lived and had the settlement of his own accounts, it is clear that he would have been allowed the amount claimed in the accompanying bill. The committee therefore recommend the passage of the bill.

Mr. McMILLAN. This case was before the Senate at the last session, was fully considered, and the bill passed the Senate, and was only prevented from passing the other House because it was not reached upon the Calendar, as I understand from information received in regard to it. The bill was again introduced at the present session. I know the parties concerned in it, and it is certainly unobjectionable.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN A. TORRENCE.

The next bill on the Calendar was the bill (S. No. 612) for the relief of John A. Torrence; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment to strike out all after the enacting clause and insert:

That the Secretary of the Treasury be, and he is, authorized and directed to pay to John A. Torrence, late receiver of public moneys at the land office at Harrison, Arkansas, the sum of \$452.95, the same being due him, as receiver, from the United States, and that \$164.55 of the above sum be applied by the United States Treasury to the settlement of the balance against him as disbursing agent.

Mr. GARLAND. There is a letter from the Commissioner of the General Land Office which, if desired, the Secretary will read, and which explains the bill in a few words. The bill is simply for the purpose of settling the accounts of a receiver who also acted in the capacity of a disbursing agent. The matter is succinctly and pointedly stated in the letter from the Commissioner of the General Land Office. The Commissioner recommends the payment in a different way from that prescribed by the original bill; and upon his recommendation the amendment reported by the committee is based.

The PRESIDING OFFICER. The question is on the amendment reported from the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

TRANSFER OF FLORIDA HOMESTEAD LANDS.

The next bill on the Calendar was the bill (S. No. 350) to amend section 2288 of the Revised Statutes of the United States, so as to enable citizens of the State of Florida to transfer a portion of their pre-emptions or homesteads to aid in the construction of railroads; which was considered as in Committee of the Whole. It provides that any person who has already settled, or who may hereafter settle on the public lands in the State of Florida, either by pre-emption or by virtue of the homestead law, or any amendments thereto, shall have the right to transfer, by warranty against his or her own acts, any portion of his or her pre-emption or homestead to aid in the construction of railroads in that State; and the transfer for such purpose shall not vitiate the right to complete and perfect the title to their pre-emptions or homesteads.

The bill was reported from the Committee on Public Lands, with an amendment to add the following proviso:

Provided, That any transfer of land under this act shall be void unless the railroad in aid of which the same is made is constructed.

The amendment was agreed to.

Mr. CAMERON, of Wisconsin. This appears to be rather a peculiar bill. The provisions of it seem to be antagonistic to the homestead and pre-emption laws of the United States, and I should like to hear some explanation of it before I am called upon to vote for the bill.

Mr. JONES, of Florida. I will state in reply to the Senator's inquiry that a very large portion of the people in the eastern part of

Florida are without means of communication. They are endeavoring to build one or two narrow-gauge railroads. They do not ask for any very large subsidies from the Government, but they think that by being permitted to donate a portion of their homestead entries they may be able to get communication with market. I will call the Senate's attention to the section of the Revised Statutes which this bill proposes to amend. It is in the following words:

SEC. 2288. Any person who has already settled or hereafter may settle on the public lands, either by pre-emption, or by virtue of the homestead law or any amendment thereto, shall have the right to transfer, by warranty against his own acts, any portion of his pre-emption or homestead for church, cemetery, or school purposes, or for the right of way of railroads across such pre-emption or homestead, and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to their pre-emptions or homesteads.

A very strong and extensively signed petition was left with me by people of the eastern part of Florida asking for this bill. Of course the whole matter is left with the homestead settler. There is nothing in this bill that compels him to part with his right. If he feels disposed to give away a few acres of his homestead for the purpose of securing transportation for the products that he may cultivate upon the remainder, I can see no rational objection to it; and if the railroad should be built it would go to increase the value of the remaining lands, those belonging to the Government as well as those belonging to individuals.

Mr. SARGENT. I should like to inquire of the Senator from Florida why it is necessary to "amend section 2288 of the Revised Statutes of the United States so as to enable citizens of Florida to transfer a portion of their homesteads or pre-emptions to aid in the construction of railroads." Why not let that section stand as a general law? This bill would be just as effective by changing the title.

Mr. JONES, of Florida. I do not object to that.

Mr. SARGENT. The body of the bill does not seem to affect that section at all. The object seems to be to extend it. By amending the section you prevent its beneficial operation hereafter.

Mr. CAMERON, of Wisconsin. I desire to ask the Senator from Florida a question. If the homestead settler takes advantage of the provisions of this bill in the event that it becomes a law, transfers his homestead to a railroad company, will he or will he not have a right after that to make another homestead entry?

Mr. JONES, of Florida. I think not.

Mr. CAMERON, of Wisconsin. I presume he would not under the general law.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading and read the third time.

Mr. EDMUNDS. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 34, nays 6; as follows:

YEAS—34.

Allison,	Dorsey,	Kernan,	Morgan,
Bailey,	Eaton,	Lamar,	Oglesby,
Bayard,	Garland,	McDonald,	Paddock,
Beck,	Gordon,	McMillan,	Plumb,
Butler,	Grover,	McPherson,	Sargent,
Cameron of Wis.,	Harris,	Matthews,	Teller,
Chaffee,	Hereford,	Maxey,	Voorhees,
Coke,	Jones of Florida,	Merrimon,	
Davis of W. Va.,	Kellogg,	Mitchell,	

NAYS—6.

Cookling,	Edmunds,	Morrill,	Rollins.
Dawes,	McCreery,		

ABSENT—36.

Anthony,	Cockrell,	Howe,	Saunders,
Armstrong,	Conover,	Ingalls,	Sharon,
Barnum,	Davis of Illinois,	Johnston,	Spencer,
Blaine,	Dennis,	Jones of Nevada,	Thurman,
Booth,	Eustis,	Kirkwood,	Wadleigh,
Bruce,	Ferry,	Patterson,	Wallace,
Burnside,	Hamlin,	Randolph,	Whyte,
Cameron of Pa.,	Hill,	Ransom,	Windom,
Christianity,	Hoar,	Sanlbury,	Withers.

So the bill was passed.

Mr. SARGENT. I move to amend the title so as to make it read:

A bill to enable citizens of the State of Florida to transfer a portion of their pre-emptions or homesteads to aid in the construction of railroads.

Mr. EDMUNDS. I move to amend the amendment by making the title read, "A bill to grant public lands through the medium of a homestead entry to railroads in Florida," which is the true character of the bill.

Mr. JONES, of Florida. I hope that amendment will not be adopted. That is not the object of the bill. If the Senator will look at the section of the Revised Statutes proposed to be amended he will see that the same objection could be made to that provision of the Revised Statutes which provides for doing other things, not granting the land it is true, but granting the right of way to railroads. Now I have received, as I said a while ago before the Senator came into the Senate Chamber, petitions from a large number of people in my State asking for this bill. They say they are remote from a market; they are without transportation; they cannot get their little crops to market; they want to try to build a little narrow-gauge railroad, and they think that by being permitted to donate a portion of their home-

stead and pre-emption entries for that purpose they can secure transportation for their products. That is the object of the bill. If the road is built the remaining portion of the public land lying along its borders belonging to the Government will be enhanced in value, as the Senator knows, and will according to the laws be worth \$2.50 an acre whereas it is now not worth \$1.25.

Mr. MORRILL. May I ask the Senator from Florida a single question?

Mr. JONES, of Florida. Certainly.

Mr. MORRILL. I desire to know whether a crowd of settlers might not be induced to go and make entry as settlers and in five minutes afterward transfer a good and sufficient title to any railroad that may be proposed to be built, without coming as settlers but merely having declared their intention—

Mr. JONES, of Florida. What would that be worth, let me ask the Senator?

Mr. MORRILL. The railroad would get the title.

Mr. JONES, of Florida. The settler would have to comply with the provisions of the homestead law; he would have to cultivate the land and remain upon it during the time required by the law in order to perfect his title.

Mr. MORRILL. As I read the bill, the only condition afterward would be that the road should be built. It would not require the settler to remain upon the land at all.

Mr. JONES, of Florida. Oh, yes. That is not my construction of the law, I will state very candidly. I do not think anybody else can give it that construction.

Mr. PADDOCK. I ask the Senator from Florida to state—

Mr. JONES, of Florida. The object of the bill is to make an effectual donation of the land after every condition of the homestead law is complied with, after it has become the party's property.

Mr. PADDOCK. I ask the Senator from Florida to state how long this road is and how much land is involved.

Mr. JONES, of Florida. I cannot state precisely the length of the road. According to my information it is a local road in Eastern Florida. The people of that part of the State are greatly in need of transportation.

Mr. PADDOCK. Is it ten miles or twenty miles long? About what length?

Mr. DAWES. I voted against this bill, and perhaps the Senator from Florida may relieve me of the objection. I should like to ask him if what he has just stated is true that it is to make a donation of land after every condition of the law is complied with, what is the need of any statute to enable a homesteader to donate land after he has complied with every condition of the homestead law?

Mr. JONES, of Florida. He is not able to do it in advance of obtaining title. It is a mere pledge of the parties "that we will give ten or fifteen or twenty acres of our entry to this enterprise when the road is completed and we have complied with the requirements of the law." It is binding only upon the individuals, not binding on the Government.

Mr. DAWES. It estops the party by means of his promise in advance. Is he required personally to occupy the land during the years necessary to perfect a homestead entry, or may not his assignee do that?

Mr. JONES, of Florida. Most assuredly he is required to occupy the land. There is nothing waived.

Mr. DAWES. My objection was this: I inferred from hearing the bill read that a man could make his entry as suggested by the Senator from Vermont and the railroad complete the right by occupying the land.

Mr. JONES, of Florida. No, sir.

Mr. DAWES. If he has got to complete it by his own personal occupation and the title is obtained by the railroad through the means of his warranty of land to which he has not present title but which title he will perfect hereafter and that will inure to the benefit of the railroad, there is less objection to it than I supposed when I voted against the bill.

Mr. JONES, of Florida. I will say very frankly that that is the object of the bill as far as I am concerned, and the citizens who are interested in its passage seek nothing more.

Mr. EDMUNDS. Mr. President, I cannot question for a single moment that the object of the bill is what the Senator from Florida says it is. The object of the bill is one thing, but the bill itself may be quite another. The bill says just this:

That any person who has already settled or who may hereafter settle on the public lands in the State of Florida, either by pre-emption or by virtue of the homestead law or any amendments thereto, shall have the right to transfer by warranty against his or her own acts—

That is by a warranty against any claimant claiming under them—any portion of his or her pre-emption or homestead—

That is any portion of the land—

to aid in the construction of railroads in said State; and the transfer for such purpose shall not vitiate the right to complete and perfect the title to their pre-emptions or homesteads—

That is the part that they do not transfer—

Provided, That any transfer of land under this act shall be void unless the railroad in aid of which the same is made is constructed.

What that means, to the unsophisticated eye of a mere ordinary lawyer or anybody who reads the statutes, to my mind, is simply

this: that if I being a citizen of the United States make a homestead entry on the public lands in Florida to-day for one hundred and sixty acres, or whatever the quantity may be that I am authorized to enter, I may to-morrow transfer that land to the Jacksonville and Key West Railroad Company, and having so transferred it nobody claiming under me or in my right can oust the railroad; that is, I warrant it against anybody claiming under my right. The railroad under the authority of this act becomes the proprietor of this land absolutely, provided the railroad line is built, if the amendment reported and agreed to is carried out.

That is what, in my opinion, is the plain construction of this act, reading it not in the light of what my honorable friend says the object of it is, but in the single light of the existing statutes which provide that a man may make a homestead entry, and if he lives on the land and cultivates it for five years it shall be his absolutely and he may have a patent. Now comes in this act and says that anybody who has settled, that is, has started a homestead claim upon the public lands, may transfer any portion of his claim, his settlement, any part of the land—which would include the whole of it because the whole includes every part—or any future homestead settler, anybody who shall settle may immediately turn over his homestead claim, the section or the quarter section or whatever it may be that he claims, he may turn over to a railroad absolutely, with a warranty against his own conduct and acts; and what then? That it shall not be good unless the railroad is built. That, in my humble judgment—I may be wrong—will be held by the courts, and ought to be held by the courts and by the Departments, as the assent of Congress that anybody who has located a homestead entry or chooses to do so upon any of the public lands, may turn those lands over to a railroad corporation in the State of Florida and the railroad company shall own the land if they build the road. The idea of putting by intention upon this bill the notion that after the settler has transferred his right to a railroad company it is the duty of the settler still, instead of letting the railroad have the land, to go on and occupy it for the five years, is in my opinion in the neighborhood of absurd.

There is the plain statement of the law, what we assent to, which is the latest expression, and that is that anybody who has started a homestead claim may turn the land which is the subject of it over to a railroad corporation to aid in the building of its road; and the only ground upon which the company is to be deprived of that land, if it builds the road, is that if it does not build the road then the railroad company shall not get any title. It is the ordinary land grant. That is what it amounts to, except that it is to be started by the railroad laborers, if you please, they being citizens of the United States or having declared their intention to become such, going to the land office and entering on the line the railroad wants to go, or near it, making a homestead entry, assigning that the next moment to the railroad company; and then, if I correctly understand this act, the railroad company has acquired an indefeasible title to that land, subject only to the contingency that it must build the road. As such I would rather vote for a railroad land grant square out, which we have all promised not to do.

Mr. JONES, of Florida. Now, if the Senator will allow me one moment, I will show him that the language of this bill is not new. Anxious to accomplish the object which I stated to the Senate was the purpose of this bill, I adopted the very language to be found in section 2288 of the Revised Statutes, and I do not think that anything which the Senator has said will apply to that section of the Revised Statutes. I do not think, for instance, that a church which might receive a donation under the provisions of this section could be put in the predicament in which he says a railroad company may be put by the provisions of my bill. I disclaim entirely the purpose attributed to me. Section 2288 of the Revised Statutes says:

Any person who has already settled or hereafter may settle on the public lands, either by pre-emption, or by virtue of the homestead law or any amendments thereto, shall have the right to transfer, by warranty against his own acts, any portion of his pre-emption or homestead for church, cemetery, or school purposes, or for the right of way of railroads across such pre-emption or homestead, and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to their pre-emptions or homesteads.

This section contemplates in my judgment nothing but the transfer of an inchoate right. The Government is not bound by it at all. It is the act of the individual; and unless he goes on and complies with every condition of the homestead law as it now stands, anything that he might do under my bill would be ineffectual. That is my view of it. That is my purpose. That is the purpose of the men who seek the passage of this bill now. In order to guard that more sufficiently the committee thought proper to interpose the proviso which has been added to the bill and which states that, unless the railroad is completed, even the inchoate right which is attempted to be transferred by the bill shall not be effective against the party transferring it or against the Government. This does not bind the Government. It only enables the settler in advance of the time fixed by law for perfecting his title to the land under the homestead law to make what may be called an inchoate assignment of a portion of his land, leaving the title to depend upon his compliance with the provisions of the general law. That is my understanding.

Mr. EDMUNDS. Mr. President, reading section 2288, that my honorable friend has referred to, I find that it states this:

Any person who has already settled or hereafter may settle on the public lands, either by pre-emption, or by virtue of the homestead law or any amendments there-

to, shall have the right to transfer, by warranty against his own acts, any portion of his pre-emption or homestead for church, cemetery, or school purposes, or for the right of way of railroads across such pre-emption or homestead, and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to their pre-emptions or homesteads.

Now, what is the spirit and object and scope of that section? It is that these homestead and pre-emption settlers may give away for these necessary public purposes of society, a grave-yard or a school-house or a church site, as part of their homestead entries, and the church and the grave-yard and the school-house may be put upon that public land, and that that giving away of a part shall not interfere with his right to complete his title to the residue by the five years' occupation. That was the object and spirit, and a very wholesome one, of the act; but when you come to railroads it is merely a right of way across the land.

Mr. JONES, of Florida. I ask the Senator if the statute says "the residue?"

Mr. EDMUNDS. In my opinion upon any just construction it does. It says it—

Shall in no way vitiate the right to complete and perfect the title to their pre-emptions or homesteads.

If they have already conveyed by a complete assignment their own title to a part, what is it that they are to complete the title to? It must be to the residue, as a matter of course, because they have no title to the part they have conveyed away by warranty against themselves. As I stated, it must be obvious if you reflect a moment, that the scope and the object of that section was to allow the public lands to be finally disposed of where there had been a homestead entry, for these little necessary public purposes of a grave-yard and a church and a school-house, or a right of way of a railroad to go across, and so far as being given away for those purposes the gift was complete as against the United States and everybody else. As to what was not given away, it should not affect the right of the settler to complete his title.

Now, then, this act comes in. It has passed, and there is nothing more to be said about it except to give it the true ear-mark. Now this act comes in and says a settler may give away his homestead entry in aid of building a railroad, any part of it, which of course includes the whole as the whole includes every part. That is what it is and what in point of law in my humble judgment—I may be wrong—it comes to; and there is very little use perhaps in my discussing that question with my honorable friend. The bill has passed; he has got his land grant; and I will withdraw my amendment, but my statement will explain my view in voting against the bill. I do not care what the title is.

The PRESIDING OFFICER. The amendment of the Senator from Vermont [Mr. EDMUNDS] is withdrawn. The question is on the amendment of the Senator from California, [Mr. SARGENT.]

Mr. McDONALD. I desire to say just one word in reference to this bill. It was considered by the Committee on Public Lands, and all the questions which have been discussed here were considered there; and it was not our opinion, and it is not mine now, that this bill gives any title or right to these railroad companies to this property unless the pre-emptor or the homestead settler shall fully complete what is required by law and obtain his patent from the United States. Until that time the title to the property remains in the United States. The provision of law requires that these parties shall acquire no title by going upon the public domain, but only in the case of a pre-emptor by proving up his pre-emption claim within the time limited by law and paying the purchase-money, and in the case of the homestead settler by occupying and improving the land for the time prescribed by the law. It was not our understanding, nor is it mine now, that this bill confers any title whatever or any right on the railroad companies in respect to this land that is not subject to the title and claim of the United States, or ever becomes perfect in them until the parties from whom they hold these donations have acquired title in the manner prescribed by law.

The PRESIDING OFFICER. The Chair understands that the modification of the title of the bill as proposed by the Senator from California [Mr. SARGENT] is agreed to.

The next bill on the Calendar will be stated.

T. AND J. W. GAFF & CO.

Mr. McDONALD. I should like the Senate to pass over the intervening orders down to order No. 331, being House bill No. 2818. It is a very small matter and it will take but a moment to consider it. Mr. DAVIS, of West Virginia. Can we not reach it in a short time?

Mr. McDONALD. Perhaps not for some days. It is a measure that I know will commend itself to the Senate as soon as they understand it.

The PRESIDING OFFICER. The Senator from Indiana asks the Senate to pass over the intervening orders to take up the bill referred to by him. Is there objection?

Mr. McMILLAN. Is it intended to pursue the Calendar from the number indicated by the Senator from Indiana?

Mr. McDONALD. No, sir; I simply ask for the present consideration of this order, not to interfere with the regular order as to the Calendar.

Mr. McMILLAN. Will it require any considerable length of time?

Mr. McDONALD. No, sir; it will require but a moment to consider it. It is simply to authorize certain parties to use for a warehouse a building designated in the act under the circumstances stated in the act.

Mr. ANTHONY. That will be reached in its order.

Mr. McDONALD. Not to-day.

Mr. ANTHONY. It had better be reached in its order.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill proposed by the Senator from Indiana?

Mr. McDONALD. There is no objection I believe.

The PRESIDING OFFICER. The Chair hears no objection.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2818) to authorize T. and J. W. Gaff & Co. to use a certain building in the city of Aurora, Indiana, for the rectification of distilled spirits.

Mr. McDONALD. I will state that under the present law such a building must be six hundred feet in a direct line from the distillery. This is about five hundred and fifty feet in a direct line, but some seven hundred feet by the nearest road that can be taken to it. It stands on one side of a block and the distillery on the other side of the block, and the intervening houses prevent the possibility of their connecting their rectifier with their distillery except by going around through the street, which is some seven hundred feet, more than one hundred feet greater distance than that which the law now requires. The construction that has been put upon the law, in fact the act itself, requires that the distance shall be six hundred feet. This lacks fifty feet of that distance in actual measurement, but is more than one hundred feet over the distance by the only route they can use.

Mr. DAWES. Is it a building erected by them for the purpose?

Mr. McDONALD. It was erected before this law.

Mr. DAWES. Erected for that purpose before the law?

Mr. McDONALD. It was; yes, sir.

Mr. DAWES. It was designed for this purpose before the law was enacted making the distance six hundred feet.

Mr. McDONALD. Yes, sir.

Mr. MORRILL. This bill was fully considered by the Committee on Finance, and the request on the part of these parties was thought to be no more than reasonable, and one that would not result in any injury to the Government interests.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CARL JUSSSEN.

The PRESIDING OFFICER. The Senate will now resume the consideration of bills on the Calendar in their order.

The bill (S. No. 902) for the relief of Carl Jussen was considered as in Committee of the Whole. It is a direction to the Paymaster-General of the Army to allow and pay to Carl Jussen, late adjutant of the Twenty-third Regiment Wisconsin Volunteers, out of the appropriation for the pay of the Army, the difference between the pay and allowances of sergeant-major of infantry and those of adjutant of infantry, from the 3d of August, 1863, to the 12th of December, 1863, inclusive, he having actually acted in the capacity of adjutant during that time and having received therefor only the pay of sergeant-major, not having been actually mustered as adjutant by reason of the non-receipt of his commission.

Mr. MORRILL. Let the report be read.

The Secretary read the following report, submitted by Mr. BURN-
SIDE on the 12th of March:

The Committee on Military Affairs, to whom was referred the petition of Carl Jussen, late adjutant Twenty-third Regiment Wisconsin Volunteers, having had the same under consideration, report as follows:

It appears from the following report, prepared during the last Congress by the present chairman of the committee, to whose examination a bill for the relief of the applicant had been submitted, that a favorable report should be made, and the committee hereby recommend that that report stand as the report of the present committee:

"The Committee on Military Affairs, to whom was referred the bill (S. No. 798) for the relief of Carl Jussen, late adjutant Twenty-third Regiment Wisconsin Volunteers, have had the same under consideration, and beg leave to submit the following report:

"This is a bill to pay Carl Jussen, late adjutant Twenty-third Regiment Wisconsin Volunteers, the difference of pay between that of sergeant-major of infantry and adjutant of infantry from August 3, 1863, to December 12, 1863, which was disallowed by the accounting officers of the Government upon the ground that department regulations forbid the recognition of any person as a commissioned officer prior to the date he receives his commission and enters upon duty with his command.

"The record shows that Jussen enlisted as a private in the Twenty-third Regiment Wisconsin Volunteers, August 14, 1862, was made sergeant-major of said regiment, and on August 2, 1863, the position of adjutant became vacant. Thereupon he was detailed to perform the duties of adjutant, entered upon the same, and was recommended to the governor of Wisconsin for commission therefor by the colonel of his regiment. The then governor of Wisconsin, His Excellency Edward Salomon, commissioned said Jussen in due form as first lieutenant and adjutant of said regiment, to date from August 2, 1863; but, being in the field, the receipt of the commission was delayed until December 12, 1863, when he was mustered as such at Algiers, Louisiana, December 19, 1863.

"During the period between August 3 and December 12, 1863, the said Jussen performed all the duties and incurred all the responsibilities of the position of first lieutenant and adjutant, was subjected to the incidental expenses of his rank and held accountable for property and duty in accordance therewith. Under various precedents established by Congress, notably the report of Senator Abbott on bill S. No. 527, for the relief of William F. Scott, Forty-first Congress, second session, Report No. 54, it has been held that an officer so promoted, performing the duties and incurring the responsibilities of his advanced rank, is entitled to pay therefor when so performed in the field, without being compelled to suffer loss for the time necessarily consumed in sending for and receiving back his commission from the governor of his State, to the end that he may be duly mustered.

"This case certainly comes within the rule. Jussen was recommended by his colonel for promotion from the rank of sergeant-major to that of first lieutenant and adjutant to fill a vacancy, and entered at once upon the discharge of his duties as such. It was the duty of the colonel of the regiment to fill the vacancy, and in this manner. So soon as the governor of Wisconsin could be notified from the remote field of military operations he issued his commission to Jussen, to date from August 2, 1863, the date on which the vacancy occurred and when Jussen entered upon the discharge of his duties under orders from his colonel. The delays incident to the proceeding prevented Jussen's muster until the commission was received, and for the time between his assumption of the duties of adjutant to fill said vacancy and the date of the reception of his commission he asks the difference of pay between that of sergeant-major and first lieutenant and adjutant. The principle involved in the act of July 28, 1866, also covers this case. Your committee, therefore, are of opinion that the claim is meritorious, and recommend the passage of the bill."

It appears from the above that Jussen actually performed the duties of adjutant from August 3, 1863, to the 12th of December of the same year. His commission from the governor covers the same period. There was an actual vacancy when he was appointed. He only received pay as sergeant-major for the period above mentioned.

Mr. MORRILL. I think this bill is faulty in one respect. It ought to mention the amount. Then if there is any member of the Committee on Military Affairs present, I should like to inquire whether there will not be numerous cases of other officers, having discharged the duties of a rank superior to the one that they had a commission for, being presented here for the difference between the pay of one commission and the other. It strikes me that the principle of allowing men to receive pay before they have received their commissions is perhaps a precedent that we ought not to establish.

Mr. PLUMB. I was not present in the committee at the time this bill was considered. I only know about the details as stated through the medium of the report which has been read. I understand the rule of the committee to be this: where a person in the Army has had a commission in a certain rank and he has not been able to muster in on account of no fault of his own and through no lack of his own, he shall be entitled to and receive the pay for that rank, provided he did duty in that rank and was not a supernumerary. I judge by the report in this instance that this is one of those cases. The committee has committed itself fully to that principle, and it has been recognized, I think, by the action of the Senate, for at least two years last past. Now, as to the number of cases, I cannot say certainly as to that. There are probably half a dozen pending before the committee now and on the Calendar.

Mr. MORRILL. Half a dozen thousand, perhaps.

Mr. PLUMB. No; there are only half a dozen or more pending before the committee and on the Calendar together. I think there have been only three or four reported at this session of the Senate. I do not now personally know of any pending before the committee. I think the number of cases is not very large, judging from the information that I have, but still it might be.

However, the principle which has been recognized by the committee, and which the Senate to some extent has heretofore committed itself to, is what I have stated, to wit: that where a man has a commission in a certain rank, has performed the duties of that rank, has failed to muster by reason of no fault of his own, and was not a supernumerary officer, so that no other person could have pay for the same period of time, the committee have recognized that as constituting an equity in his behalf which would entitle him to compensation for the rank in which he actually served.

As I said, I did not happen to be present when this case was considered. I do not know anything about it, except as stated in the report.

Mr. MAXEY. The rule of the Military Committee, as stated by the Senator from Kansas, is correctly stated. There was a general order issued by the War Department in 1861 which prohibited any officer from receiving pay anterior to the date of his muster in. That was the time that controlled it. On that account in all these cases, however equitable they might be, where an officer has actually performed duty before he was mustered in in the rank in which he performed duty, the War Department, rightfully under the law, I think, refused to pay. Some of these cases have been presented to us. Where we believed there was a controlling equity, that it was not the fault of the party that he had not been mustered, and where the party actually performed the service to the Government and had not been mustered in without fault on his part, and the Government received the benefit of his services, it was but equitable and right that he should be paid.

I will state to the Senator from Vermont that so far as my experience goes the number of cases is very few; but there are some few cases which, in the judgment of the committee, are controlled by the equities which do control this rule. So far as this special case is concerned, I only know of it by the reports of the investigations made by the Senator from Rhode Island, which were satisfactory to the committee.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

CAMP DOUGLAS MILITARY RESERVATION.

The next bill on the Calendar was the bill (S. No. 740) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas military reservation in the Territory of Utah.

Mr. ALLISON. I should like to hear the report in that case; but I see it is a good long story. I think the bill had better go over, in the absence of the Senator having it in charge.

The PRESIDING OFFICER. The bill will go over under the rule.

MASONIC HALL COMPANY OF ATLANTA.

The next bill on the Calendar was the bill (S. No. 426) for the relief of the Masonic Hall Company of Atlanta, Georgia; which was considered as in Committee of the Whole. It provides for the payment to the Masonic Hall Company of Atlanta, Georgia, of \$475 for property rented from them under contract by the United States, and for which duly certified vouchers, now on file in the Treasury Department, were given.

Mr. SARGENT. I should like to inquire of some member of the Committee on Claims why the amount has not been paid? I see the bill is reported favorably from the Committee on Claims. Some member of the committee present can inform us why this account was not settled.

Mr. McMILLAN. The claim is one for rent of buildings. Under the act of Congress the quartermaster of course could not allow for rent; but a contract existing for the rent of the premises, the committee allowed the claim to the extent stated.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MACON, GEORGIA.

The next bill on the Calendar was the bill (H. R. No. 1888) for the relief of Macon, Georgia.

Mr. SARGENT. I see that is adversely reported.

Mr. ALLISON. Let it go over.

The PRESIDING OFFICER. Objection is made, and the bill will go over.

COMPENSATION OF TELEGRAPH OPERATORS.

The next bill on the Calendar was the bill (S. No. 770) fixing the compensation of the telegraph operators of the Senate and House of Representatives; which was considered as in Committee of the Whole. It provides that from and after the 30th of June, 1878, the compensation of the telegraph operators of the Senate and House of Representatives shall be \$1,200 each per annum.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

LAND IN KINNEY COUNTY, TEXAS.

The next bill on the Calendar was the bill (S. No. 909) to authorize the Secretary of War to accept an absolute gift of the land necessary for military purposes; which was considered as in Committee of the Whole. It authorizes the Secretary of War, on the part of the United States, to accept an absolute gift or grant of land, donated to the United States by the San Felipe Agricultural, Manufacturing and Irrigation Company, of the county of Kinney, Texas, comprising two hundred acres of land in that county, to be used as a site for a military post if the same is in his judgment needed for military purposes and the gift be unincumbered with provisions; whereupon the Secretary of War is authorized to accept the deed therefor.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

WOMEN AS LEGAL PRACTITIONERS.

The next bill on the Calendar was the bill (H. R. No. 1077) to relieve certain legal disabilities of women, reported adversely by the Committee on the Judiciary.

Mr. SARGENT. Let that bill be considered notwithstanding the adverse report. I want to make an amendment to it.

Mr. DAVIS, of West Virginia. Let it be reported with the understanding that it is objected to.

The bill was read.

Mr. SARGENT. I wish to offer this amendment to that bill; and as I see my friend from West Virginia desires to object to the present consideration of the bill I will ask him not to object until I have exhausted less than the five minutes allowed me, and then I will move that the bill be referred, with the amendment which I offer, to the Committee on the Judiciary.

Mr. DAVIS, of West Virginia. I have no objection to that.

The PRESIDING OFFICER. The Senator from California proposes an amendment, which will be read.

The CHIEF CLERK. The amendment is to strike out all after the enacting clause and insert:

That no person shall be excluded from practicing as an attorney and counselor at law from any court of the United States on account of sex.

Mr. SARGENT. Mr. President, the best evidence that members of the legal profession have no jealousy against the admission of women to the bar who have the proper learning is shown by that document which I hold in my hand, signed by one hundred and fifty-five lawyers of the District of Columbia, embracing the most eminent men in the ranks of that profession, [exhibiting a petition.] That there is no jealousy or consideration of impropriety on its part in the various States is shown by the fact that the Legislatures of many of the States have recently admitted women to the bar; and my own State, California, has passed such a law within the last week or two. Illinois has done the same thing; so have Michigan, Minnesota, Missouri, and North Carolina; and Wyoming, Utah, and the District of Columbia among the Territories have also done it. There is no reason in principle why women should not be admitted to this profession or the profession of medicine, provided they have the learning to enable them to be useful in those professions, and useful to themselves. Where is the propriety in opening our colleges, our higher institu-

tions of learning, or any institutions of learning to women, and then when they have acquired in the race with men the cultivation for higher employments to shut them out? There certainly is none.

We should either restrict the laws allowing the liberal education of women or we should allow them to exercise the talents which are cultivated at the public expense in such departments of enterprise and knowledge as will be useful to society and will enable them to gain a living. The tendency is in this direction. I believe the time has passed when it is considered a ridiculous thing for women to appear upon the lecture platform or in the pulpit, for women to attend to the curing of diseases as physicians as well as nurses, to engage in any literary employment, or appear at the bar. Some excellent lady lawyers in the United States are now practicing at the bar, behaving themselves with propriety, acceptably received before courts and juries; and when they have conducted their cases to a successful issue or an unsuccessful one in any court below, why should the United States courts to which an appeal may be taken and where their adversary of the male sex may follow the case up, why should they be debarred from appearing before those tribunals?

In Shakespeare's time it was thought unfit that a woman should appear upon the stage as an actress, but since that day a long roll of illustrious women have adorned and dignified that profession and have shown the possession of great histrionic abilities, and now a play presented to the stage which left women out, if it were decent and moral, would be like leaving Hamlet out of the play of that name. So in the ranks of literature, from the first feeble beginnings of a few years ago of Miss Austin and others of that character we now find some of the most successful novelists of the present day and also writers upon general literature. There is scarcely any department of literature which they have not invaded, from the profession of journalists up to the higher walks requiring sustained effort, and they have borne themselves successfully there.

Mr. GARLAND. I should like to ask the Senator from California if the courts of the United States cannot admit them upon their own motion anyhow?

Mr. SARGENT. I think there is nothing in the law prohibiting it, but the Supreme Court of the United States recently in passing upon the question of the admission of a certain lady said that until some legislation took place they did not like to depart from the precedent set in England, or until there was more general practice among the States. The learned Chief-Justice perhaps did not sufficiently reflect when he stated that there were no English precedents. The fact is that Elizabeth herself sat in *aula regina* and administered the law, and in both Scotland and England women have fulfilled the function of judges. The instances are not numerous but they are well ascertained in history. I myself have had my attention called to the fact that in the various States the women are now admitted by special legislation to the bar. I do not think there is anything in the law properly considered that would debar a woman from coming forward into this profession. I think the Supreme Court should not have required further legislation, but they seem to have done so, and that makes the necessity for this legislation which I have now offered.

The chairman of the committee in reporting this bill back from the Judiciary Committee said that the bill as it passed the House of Representatives—and I glory in the fact that the House of Representatives passed this bill and by a very handsome majority upon a call of the yeas and nays, as I remember—said that it gave privileges to women which men did not enjoy; that is to say, the Supreme Court can by a change of rule require further qualification of men, whereas in regard to women if this provision were put into the statute the Supreme Court could not rule them out, even though it may be necessary in its judgment to get a higher standard of qualification than their present rules prescribe. Although I observe that my time is up, I ask indulgence for a moment or two longer. As this is a question of some interest and women cannot appear here to speak for themselves, I hope I may be allowed to speak for them a moment. Now, there is something in the objection stated by the chairman of the Committee on the Judiciary—that is to say, the bill would take the rule of the Supreme Court and put it in the statute and apply it to women, thereby conferring exceptionable privileges; but that is not my intention at all, and therefore I have proposed that women shall not be excluded from practicing law, if they are otherwise qualified, on account of sex, and that is the provision which I want to send back to the Judiciary Committee.

Mr. GARLAND. I wish to ask one question of the Senator from California. Suppose the court should exclude them, but not on account of sex, then what is their remedy?

Mr. SARGENT. I do not see any pretense that the court could exclude them except on account of sex.

Mr. GARLAND. If I recollect the rule of the Supreme Court in regard to the admission of practitioners, (and I had to appear there twice to present my claim before I could carry on my profession in that court,) I do not think any legislation is necessary to aid them by giving them any more access to that court than they have at present under the rules of the Supreme Court.

Mr. SARGENT. I believe if the laws now existing were properly construed (of course I speak with all deference to the Supreme Court, but I express the opinion) that they would be admitted to the bar of the Supreme Court, and the courts of the United States; but unfortunately the courts do not take that view of it, and they say they will wait for legislation. I propose that the legislation shall

follow. If there is anything in principle why this privilege should not be granted to women, if they are otherwise qualified, then let the bill be defeated on that ground; but I say there is no difference in principle whatever, not the slightest. There is no reason because a citizen of the United States is a woman that she should be deprived of her rights as a citizen, and these are rights of a citizen. She has the same right to life, liberty, and the pursuit of happiness and employment, commensurate with her capacities, as a man has; and, as to the question of capacity, the history of the world shows, from Queen Elizabeth or Isabella down to Mrs. Dudevant and Mrs. Stowe, that capacity is not a question of sex.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from California.

Mr. McDONALD rose.

Mr. HARRIS. I understood the Senator from California to move to recommit the bill.

Mr. SARGENT. I am compelled to do it under the objection. I trust my friend from Indiana will be allowed to express his views, however.

Mr. McDONALD. I have simply to say, Mr. President, that a number of States and Territories have authorized the admission of women to the legal profession, and they have become members of the bar of the highest courts of judicature in the States. It may very frequently occur, and has in some instances I believe really occurred, that cases in which they have been thus employed have been brought to the Supreme Court of the United States. To have the door of the Supreme Court closed against them when the cause is brought there, not by them, or when in the prosecution of the suits of their clients they find it necessary to come here, it seems to me is entirely unjust. I therefore favor the bill with the amendment. The proposed amendment is perhaps better because it does away with any tendency to discrimination in regard to the admissibility of ladies to practice in the Supreme Court.

The PRESIDING OFFICER. The Senator from California moves that the bill be recommitted to the Committee on the Judiciary.

Mr. SARGENT. I have the promise of the chairman of the committee that the bill shall soon be reported back, and therefore I am willing that it go to the committee, and I make the motion that it be recommitted.

The motion was agreed to.

Mr. SARGENT. I ask that the amendment which I propose be printed.

The PRESIDING OFFICER. The order to print will be made.

METHODIST CHURCH SOUTH.

Mr. BAILEY. Mr. President, the bill (S. No. 910) for the relief of the book-agents of the Methodist Episcopal Church South some days ago was fixed as a special order for the 18th of April. After the action of the Senate fixing it for that day, the resolution introduced by the Senator from Rhode Island [Mr. ANTHONY] was passed, which gave a preference to the Calendar, and now this bill would be reached in the regular order of business if it had not been taken from its place and transferred to the head of the Calendar. I ask the Senate to take up the bill and consider it. I do not care to press it to a vote this evening, as the Senate is very thin, and I think the Senate should be a full body when a vote is taken upon the question. It is a question of very considerable interest, at all events to the persons concerned, and it may present some questions of interest to the Senate.

I simply ask that the bill be taken up and made the order of business, and that it be laid over until to-morrow morning.

Mr. ANTHONY. Manifestly that bill cannot be discussed under the five-minute rule.

Mr. BAILEY. I was going to ask further that the Senate shall rescind for the purposes of this case its direction limiting debate to five minutes. There should be no such limitation upon this bill; there should be the freest discussion of it.

Mr. ANTHONY. Then it should take its place at the foot of the Calendar, because we are going through the Calendar under the five-minute rule.

Mr. BAILEY. I understand that unless there shall be some order it will take its place at the foot of the Calendar; but I trust the Senator from Rhode Island will not throw this case to the foot of the Calendar, I appeal to him not to do it, and for the reason that it is a case of great interest and has to be settled here in the Senate one way or the other in time for the action of the House of Representatives. I assume that the Senator from Rhode Island does not wish to postpone action upon this case with a view to have it defeated by the want of time for its consideration in the House of Representatives. It is not that kind of a case, Mr. President. I urge its consideration in order that we may have time here fully to consider it and that the House of Representatives may have time fully to consider it. I ask the Senate, therefore, that the bill be taken up and made, not a special order, but the order of business for to-morrow morning.

Mr. ALLISON. Let me suggest to the Senator from Tennessee that it be taken up immediately after the unobjected cases are disposed of.

Mr. TELLER. Let it be called in its regular order, and let us go on with the other cases.

Mr. BAILEY. I have no objection to the suggestion of the Senator from Iowa. All I want is the consideration of the bill in time for it to be acted upon by this body and receive the action of the House of Representatives.

Mr. TELLER. I do not see any reason why this case should be taken out of the regular course, and I object to fixing a time for its consideration. Let it go with the other special orders and be considered when we get through with the unobjected cases on the Calendar.

The PRESIDING OFFICER. Objection is made; and the Secretary will report the next bill on the Calendar.

Mr. BAILEY. I appeal to the Senate from the objection made by the Senator from Colorado and ask that some order be made in regard to this matter, either to take it up now or to fix a time for its consideration.

The PRESIDING OFFICER. Does the Senator from Tennessee submit a motion?

Mr. BAILEY. As suggested by the Senator from Iowa, I ask that the bill be taken up as soon as the unobjected cases are disposed of. I ask general consent for that purpose.

Mr. SARGENT. After we finish the Calendar?

Mr. BAILEY. Yes, sir.

The PRESIDING OFFICER. The Senator from Tennessee asks that the bill be taken up for consideration immediately after the consideration of unobjected cases on the Calendar. Is there objection?

Mr. McMILLAN. Yes, Mr. President.

Mr. TELLER. I object to that. I insist on the case taking its regular course unless the Senate takes some action otherwise.

Mr. SARGENT. It takes the regular course in this way.

Mr. TELLER. No, it does not. There is a special order on the Calendar ahead of it.

Mr. BAILEY. I ask that the bill be made the special order immediately after the consideration of all the unobjected cases on the Calendar.

The PRESIDING OFFICER. The bill will come up as a special order as soon as the Calendar is gone through with.

Mr. BAILEY. I take it the Senator from Colorado wants this question settled, and settled by a full Senate, and after due notice, so that all who take an interest in the question may be here. I take it that he wants the public questions which are involved in the consideration of this case determined, and determined fairly.

Mr. DAVIS, of West Virginia. As I understand, it is altogether at the option of the Senate whether it will proceed with the consideration of the bill at this time, notwithstanding the objection of any Senator, without general consent to waive the rule requiring us to consider only the unobjected cases. Why not say that when all the unobjected cases are gone through with on the Calendar this bill shall be taken up immediately afterward? I hope the Senator from Colorado will not object to such an arrangement. If he objects I can see no way for the Senator from Tennessee (who certainly has a right to have his bill taken up if he desires it or if the Senate desire it) but to move to proceed with it now. That is his right.

Mr. HEREFORD. I rise to a question relating to the construction of the rules. I ask whether the bill having been made a special order, it does not come up as a matter of right? The consideration of this bill was some days ago made a special order, and it seems to me under our rules it comes up as a matter of right whenever any gentleman desires to take it up.

The PRESIDING OFFICER. The bill will come up after the consideration of the Calendar is gone through with.

Mr. HEREFORD. It having been made a special order, it seems to me under the rules that we have a right to take it up.

The PRESIDING OFFICER. The Chair is of opinion that after the Calendar has been gone through with, under the rule the bill will come up as a special order. The rule itself sets aside special orders.

Mr. TELLER. Then the Senator from Tennessee does not require any order to secure the consideration of the bill.

Mr. DAVIS, of West Virginia. That being the ruling of the Chair, it will be generally understood that as soon as the Calendar of unobjected cases is through this bill will come up.

Mr. ANTHONY. It will come up itself as a special order, unless it is superseded by the unfinished business.

The PRESIDING OFFICER. That is the ruling of the Chair.

Mr. BAILEY. That being the ruling of the Chair, I withdraw my request.

The PRESIDING OFFICER. The next case on the Calendar will be reported.

DISAPPROVAL OF TERRITORIAL ACT OF ARIZONA.

The next business on the Calendar was the joint resolution (S. R. No. 19) in reference to the disapproval of an act of the Territory of Arizona; which was read.

Mr. TELLER. I object to the present consideration of that case.

The PRESIDING OFFICER. Objection is made, and the joint resolution goes over under the rule.

AMENDMENT TO POST-ROUTE BILL.

Mr. HEREFORD submitted an amendment intended to be proposed by him to the bill (H. R. No. 4236) to establish post-roads in the several States therein named; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

NORTHERN PACIFIC RAILROAD.

Mr. TELLER submitted an amendment intended to be proposed by him to the bill (S. No. 238) to extend the time for the construction and completion of the Northern Pacific Railroad, and by a readjust-

ment of the grants, without increasing the appropriation, to secure the construction of the Portland, Salt Lake and South Pass Railroad; which was ordered to lie on the table and be printed.

EXECUTIVE SESSION.

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

Mr. DAVIS, of West Virginia. I suggest to the Senator from Rhode Island that we had better go on a while longer with the Calendar.

Mr. OGLESBY. Oh, yes.

Mr. DAVIS, of West Virginia. Say for half an hour.

Mr. ANTHONY. If it is the wish of the Senate, I will withdraw the motion.

Mr. SARGENT. Is the motion withdrawn to proceed to the consideration of executive business?

The PRESIDING OFFICER. The motion is withdrawn.

Mr. SARGENT. I renew it.

The PRESIDING OFFICER. The Senator from California moves that the Senate now proceed to the consideration of executive business.

The motion was agreed to—ayes 22, noes 17; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened, and (at four o'clock and seventeen minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, April 22, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS—PRESIDENTIAL ELECTORAL VOTE.

The SPEAKER. The regular order is the morning hour, which begins at five minutes past twelve o'clock. This being Monday, the first business during the morning hour is the call of States and Territories for bills and joint resolutions for introduction and reference to appropriate committees. During this call memorials and joint resolutions of State and territorial Legislatures are in order for reference.

When the call of States and Territories was interrupted on last Monday at two o'clock by business of the Committee for the District of Columbia, the question was on the reference of the joint resolution presented by the gentleman from Maryland [Mr. SWANN] from the Legislature of that State authorizing judicial proceedings to give effect to the electoral vote of Maryland. The pending motion was that of the gentleman from Texas [Mr. MILLS] to refer the resolution to the Committee of the Whole House on the state of the Union.

Mr. BUTLER. Was not there a prior order of unfinished business, to wit, a motion to suspend the rules?

The SPEAKER. The motion to suspend the rules is the unfinished business after the morning hour; this is the unfinished business of the morning hour.

The question was taken on the motion of Mr. MILLS; and it was not agreed to.

The question recurred upon the motion of Mr. SWANN to refer to the Committee on the Judiciary; and it was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The call still rests with the State of Maryland.

Mr. CUMMINGS. Before the call is proceeded with, I would ask unanimous consent that the order be made that all the States and Territories be called to-day.

The SPEAKER. That order was made on Monday last, but was not carried out; and the rule requires that the call shall be resumed to-day where it left off last Monday.

Mr. CUMMINGS. What I mean is, that the morning hour be extended until all the States and Territories have been called.

The SPEAKER. That requires unanimous consent.

Mr. HUBBELL. I object.

Mr. CUMMINGS. I do not see why the gentleman should object.

TAX ON SALES OF SPIRITUOUS LIQUORS.

Mr. ROBERTS (by request) introduced a bill (H. R. No. 4428) to levy a tax on the sale of spirituous and malt liquors in bar-rooms and all places where intoxicants are sold by the drink in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

JOHN T. HENNAMAN.

Mr. ROBERTS also introduced a bill (H. R. No. 4429) for the relief of John T. Hennaman; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

WASHINGTON CITY MONUMENTAL SOCIETY.

Mr. WALSH introduced a bill (H. R. No. 4430) to incorporate the Washington City Monumental Society; which was read a first and second time, referred to the Joint Committee on the Library, and ordered to be printed.

BOUNDARY LINE BETWEEN MARYLAND AND VIRGINIA.

Mr. WALSH also introduced a bill (H. R. No. 4431) giving the consent of Congress to an agreement or compact entered into between the States of Virginia and Maryland respecting the boundary between said States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MARYLAND AND DELAWARE SHIP-CANAL.

Mr. WALSH also presented a joint resolution of the General Assembly of Maryland, praying for aid to the Maryland and Delaware Ship-Canal Company; which was referred to the Committee on Commerce.

JOHN OWINS.

Mr. GOODE introduced a bill (H. R. No. 4432) to remove the political disabilities of John Owins, of Virginia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WILLIAM LAVERY.

Mr. GOODE also introduced a bill (H. R. No. 4433) for the relief of William Lavery; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

WEATHER-OBSERVATION STATION AT AIKEN, SOUTH CAROLINA.

Mr. SMALLS introduced a bill (H. R. No. 4434) to establish a weather-observation station at Aiken, Aiken County, State of South Carolina; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

ADOLPH NIMITZ.

Mr. SMALLS also introduced a bill (H. R. No. 4435) making an appropriation to pay the claim of Adolph Nimitz, trustee of Meta Nimitz, his wife, for loss of property at Beaufort, South Carolina, November 8, 1861; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

LOWERY INDUSTRIAL ACADEMY, ALABAMA.

Mr. CAIN introduced a bill (H. R. No. 4436) for the endowment of the Lowery Industrial Academy, in the State of Alabama, and to accept a donation of buildings and land in aid of the same, and for other purposes; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

PRESBYTERIAN CHURCH, MARIETTA, GEORGIA.

Mr. FELTON introduced a bill (H. R. No. 4437) for the relief of the trustees of the Presbyterian church in Marietta, Georgia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JAMES F. SEWELL.

Mr. FELTON also introduced a bill (H. R. No. 4438) for the relief of James F. Sewell, of Georgia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MEDICAL COLLEGE OF ALABAMA.

Mr. JONES, of Alabama, introduced a bill (H. R. No. 4439) for the relief of the Medical College of Alabama; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

ODD-FELLOWS, OKALONA, MISSISSIPPI.

Mr. MULBROW introduced a bill (H. R. No. 4440) for the payment of certain property of the Independent Order of Odd-Fellows of Okalona, Mississippi, destroyed by the United States Army; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ELIZA J. MOHAN AND OTHERS.

Mr. CHALMERS introduced a bill (H. R. No. 4441) for the relief of Eliza J. Mohan and Sophia G. Mitchell; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JUDGMENTS ISSUED BY CIRCUIT AND DISTRICT COURTS.

Mr. MANNING introduced a bill (H. R. No. 4442) to give effect to judgments and decrees rendered in the circuit and district courts of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SAMUEL COLLINS.

Mr. MANNING also introduced a bill (H. R. No. 4443) for the further relief of Samuel Collins, of Water Valley, Mississippi; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

CLAIMS OF LOYAL CITIZENS.

Mr. MANNING also introduced a bill (H. R. No. 4444) for the relief of certain citizens claiming to be loyal and whose claims are now pending before Congress; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JAMES M. CLARKE.

Mr. MANNING also introduced a bill (H. R. No. 4445) for the relief of James M. Clarke, postmaster at Hernando, Mississippi; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

HENRY HULL.

Mr. ACKLEN introduced a bill (H. R. No. 4446) for the relief of Henry Hull, of Pattersonville, Louisiana; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

MRS. JULIA E. BARNES.

Mr. VAN VORHES introduced a bill (H. R. No. 4447) granting a pension to Mrs. Julia E. Barnes; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMENDMENT OF THE REVISED STATUTES.

Mr. KNOTT introduced a bill (H. R. No. 4448) to declare the meaning of chapter 230 of the Statutes of 1866, and title Sixty-five of the Revised Statutes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

IMPROVEMENT OF THE RIVERS OF KENTUCKY.

Mr. McKENZIE presented joint resolutions of the Legislature of the State of Kentucky, relating to the improvement of the rivers of that State; which were referred to the Committee on Commerce.

AMENDMENT OF THE REVISED STATUTES.

Mr. TURNER introduced a bill (H. R. No. 4449) to amend sections 193, 194, and other sections of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on Reform in the Civil Service, and ordered to be printed.

Mr. TURNER also introduced a bill (H. R. No. 4450) to amend section 494 of the Revised Statutes; which was read a first and second time, referred to the Committee on Reform in the Civil Service, and ordered to be printed.

Mr. TURNER also introduced a bill (H. R. No. 4451) to amend section 5498 of the Revised Statutes of the United States, and for other purposes; which was read a first and second time, referred to the Committee on Reform in the Civil Service, and ordered to be printed.

ATOMIC STEAM COAL-GAS COMPANY.

Mr. TURNER also introduced a bill (H. R. No. 4452) to incorporate the Atomic Steam Coal-Gas Company of the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

TAX ON NOTES OF STATE BANKING ASSOCIATIONS.

Mr. WHITTHORNE introduced a bill (H. R. No. 4453) to repeal section 3412 of the Revised Statutes of the United States, which provides for a tax on notes of State banking associations; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

SIGNAL STATION AT CHATTANOOGA, TENNESSEE.

Mr. DIBRELL introduced a bill (H. R. No. 4454) to establish a signal weather observation station at Chattanooga, Hamilton County, in the State of Tennessee; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

HARVEY BURK.

Mr. BICKNELL introduced a bill (H. R. No. 4455) granting a pension to Harvey Burk; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NIMROD D. KINEASTER.

Mr. BROWNE (by request) introduced a bill (H. R. No. 4456) for the relief of Nimrod D. Kineaster, of Indianapolis, Indiana; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

GEORGE W. LOWE.

Mr. BROWNE also introduced a bill (H. R. No. 4457) granting a pension to George W. Lowe, late captain Eighty-third Regiment Indiana Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SUITS BY STATES AGAINST THE UNITED STATES.

Mr. BROWNE also introduced a bill (H. R. No. 4458) to authorize the States of Ohio, Indiana, and Illinois, respectively, to commence and prosecute suits against the United States in the Supreme Court of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ATTORNEYS PRACTICING IN DEPARTMENTS.

Mr. BROWNE also introduced a bill (H. R. No. 4459) restoring to practice in the Departments all attorneys and agents who have been disbarred without charges and notice; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

A. J. ARNOLD.

Mr. HARTZELL introduced a bill (H. R. No. 4460) granting a pension to A. J. Arnold, late a private in Company D, Eighty-ninth Regiment Illinois Infantry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES O'CONNOR.

Mr. HATCHER introduced a bill (H. R. No. 4461) for the relief of James O'Connor, of Cape Girardeau County, Missouri; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. BUCKNER introduced a bill (H. R. No. 4462) to amend section 1782 of the Revised Statutes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WEATHER-OBSERVATION STATION AT LITTLE ROCK, ARKANSAS.

Mr. CRAVENS introduced a bill (H. R. No. 4463) to establish a weather-observation station at Little Rock, in the State of Arkansas; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

CLAIMS AGAINST THE DISTRICT OF COLUMBIA.

Mr. WILLIAMS, of Michigan, introduced a bill (H. R. No. 4464) to provide for the settlement of all outstanding claims against the District of Columbia, and for other purposes; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

SANITARY IMPROVEMENT OF WASHINGTON CITY.

Mr. WILLIAMS, of Michigan, also introduced a bill (H. R. No. 4465) for the improvement of the sanitary condition of Washington, and for deepening the river channel; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

LICENSES OF TRADES AND PROFESSIONS IN WASHINGTON.

Mr. WILLIAMS, of Michigan, also introduced a bill (H. R. No. 4466) imposing a license on trades, business, and professions practiced or carried on in the District of Columbia, and providing for the enforcement and collection of fines and penalties for carrying on business in the said District without licenses; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

DISTRICT BOARD OF CHARITIES.

Mr. WILLIAMS, of Michigan, also introduced a bill (H. R. No. 4467) to establish a board of charities in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

ROCK STREET, WASHINGTON CITY.

Mr. WILLIAMS, of Michigan, also introduced a bill (H. R. No. 4468) to abandon a portion of Rock street, in the city of Georgetown, and for other purposes; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

AMENDMENT OF DISTRICT LEGISLATION.

Mr. WILLIAMS, of Michigan, also introduced a bill (H. R. No. 4469) to amend sections 682 and 685 of an act approved June 22, 1874, relating to the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

LIGHT-HOUSE, FORT POINT, TEXAS.

Mr. GIDDINGS introduced a bill (H. R. No. 4470) to provide for the erection of a light-house at Fort Point, Galveston Harbor, Texas; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

G. W. SAMPSON AND BENJAMIN HENRICKS.

Mr. GIDDINGS also introduced a bill (H. R. No. 4471) for the relief of George W. Sampson and Benjamin Henricks; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

MISSISSIPPI RIVER AND LAKE MICHIGAN CANAL.

Mr. SAMPSON presented a memorial and joint resolution of the Legislature of the State of Iowa in reference to securing a commercial highway by water between the Mississippi River and Lake Michigan via the valleys of the Fox and Wisconsin Rivers; which was referred to the Committee on Commerce.

SIGNAL STATION, DES MOINES, IOWA.

Mr. CUMMINGS introduced a bill (H. R. No. 4472) to establish and maintain a signal-service station at the city of Des Moines, in the State of Iowa; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

MISSISSIPPI RIVER AND LAKE MICHIGAN CANAL.

Mr. STONE, of Iowa, presented memorial and joint resolution of the State of Iowa, in reference to securing a commercial highway between the Mississippi River and Lake Michigan; which was referred to the Committee on Commerce.

ONEIDA INDIANS.

Mr. BOUCK presented a memorial of the State of Wisconsin, for enactment of law for the improvement of the condition of the Oneida Indians located in the State of Wisconsin; which was referred to the Committee on Indian Affairs.

SURVEY OF PUBLIC LANDS, MINNESOTA.

Mr. STRAIT introduced a bill (H. R. No. 4473) for the survey of public lands lying within meandered lines in the State of Minnesota, and for other purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

SIOUX INDIAN WAR.

Mr. STRAIT also introduced a bill (H. R. No. 4474) for the relief of citizens who were engaged in the suppression of the Sioux Indian war in Minnesota, 1862; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

IMPROVED ARMY TENTS.

Mr. STRAIT also introduced a joint resolution (H. R. No. 163) authorizing the Quartermaster-General to have improved tents made as recommended by a board of Army officers March 16, 1878; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

NATHAN BLAKELY.

Mr. WELCH introduced a bill (H. R. No. 4475) for the relief of Nathan Blakely, late receiver of the land office at Beatrice, Nebraska; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

IRRIGATING CANALS, UTAH TERRITORY.

Mr. CANNON, of Utah, presented a memorial of the Legislative Assembly of the Territory of Utah, asking for appropriate legislation by Congress for the benefit of *bona fide* builders of irrigating canals and ditches; which was referred to the Committee on Public Lands.

LEGISLATIVE ASSEMBLY, UTAH TERRITORY.

Mr. CANNON, of Utah, also presented a memorial of the Legislative Assembly of the Territory of Utah, asking Congress to increase the number of days' session of the Legislative Assembly to sixty days instead of forty days, as now allowed by law; which was referred to the Committee on the Judiciary.

UTAH INDIAN WAR OF 1865-'67.

Mr. CANNON, of Utah, also presented the memorial of the Legislative Assembly of the Territory of Utah, asking for an appropriation by Congress to reimburse that Territory for money expended in the Indian war of 1865-'67; which was referred to the Committee on Military Affairs, and ordered to be printed.

UNITED STATES MINT, SALT LAKE CITY.

Mr. CANNON, of Utah, also presented a memorial to Congress for the establishment of a mint, assay and refining office at Salt Lake City, Utah Territory; which was referred to the Committee on Coinage, Weights, and Measures.

ABRAM HATCH & CO.

Mr. CANNON, of Utah, also introduced a bill (H. R. No. 4476) for the payment of Abram Hatch & Co. for cattle sold to Uintah Indian agency, Utah Territory; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

CHAPLAINS OF UNITED STATES NAVY.

Mr. JONES, of New Hampshire, introduced a bill (H. R. No. 4477) to reduce the number and to promote the efficiency of chaplains of the United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

JAMES MEDCALF.

Mr. JONES, of New Hampshire, also introduced a bill (H. R. No. 4478) for the relief of James Medcalf, of the United States Marine Corps; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

AMERICAN SHIP-BUILDING.

Mr. CRAPO introduced a bill (H. R. No. 4479) for the encouragement of American ship-building; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

JOHN PRATT.

Mr. RICE, of Massachusetts, introduced a bill (H. R. No. 4480) granting a pension to John Pratt, of Worcester, Massachusetts, of Company C, Fifty-first Regiment Massachusetts Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LIGHT-HOUSE, STAMFORD, CONNECTICUT.

Mr. WARNER presented resolutions of the General Assembly of Connecticut, asking for a light-house at Stamford, Connecticut; which were referred to the Committee on Commerce, and ordered to be printed.

MARSHALL O. ROBERTS.

Mr. HEWITT, of New York, introduced a bill (H. R. No. 4481) for the relief of Marshall O. Roberts, of New York; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PATENT LAWS.

Mr. LOCKWOOD introduced a bill (H. R. No. 4482) to amend section 4903 of the Patent Laws; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

WILLIAM M'GOVERN.

Mr. COX, of New York, introduced a bill (H. R. No. 4483) to direct the issue of an honorable discharge to William McGovern; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JAMES B. HANVEY.

Mr. HART introduced a bill (H. R. No. 4484) for the relief of James B. Hanvey, of Rochester, New York; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LYMAN F. MUNGER.

Mr. HART also introduced a bill (H. R. No. 4485) for the relief of Lyman F. Munger, of Rochester, New York; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

ANN JANE MACKAY.

Mr. WILLIAMS, of New York, introduced a bill (H. R. No. 4486) granting a pension to Ann Jane Mackay; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SARAH H. BRADFORD.

Mr. LAPHAM introduced a bill (H. R. No. 4487) granting a pension to Sarah H. Bradford, mother of William H. Bradford, deceased; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SALE OF WATERYLIET ARSENAL.

Mr. LAPHAM also presented a joint resolution of the Legislature of the State of New York, against the sale of the Watervliet arsenal; which was referred to the Committee on Military Affairs, and ordered to be printed.

LIFE-SAVING SERVICE.

Mr. LAPHAM also presented a joint resolution of the Legislature of the State of New York, in opposition to the proposed transfer of the life-saving service from the Treasury to the Navy Department; which was referred to the Committee on Commerce, and ordered to be printed.

IMMIGRANT TAX.

Mr. LAPHAM also presented a joint resolution of the Legislature of the State of New York, relating to an immigrant tax; which was referred to the Committee on Commerce, and ordered to be printed.

FREIGHT ON RAILROADS.

Mr. LAPHAM also presented a joint resolution of the Legislature of the State of New York, relative to freight on railroads and to equalize the same; which was referred to the Committee on Railways and Canals, and ordered to be printed.

TERMS OF COURT IN NORTHERN DISTRICT OF NEW YORK.

Mr. JAMES introduced a bill (H. R. No. 4488) to amend the Revised Statutes, fixing the times and places for holding terms of the district court in the northern district of New York; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

FOREIGN INSURANCE COMPANIES.

Mr. PEDDIE introduced a bill (H. R. No. 4489) regulating foreign insurance companies doing business in the United States of America; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

JOHN W. VAN PELT.

Mr. ROSS introduced a bill (H. R. No. 4490) granting a pension to John W. Van Pelt; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. ANN DOBSON.

Mr. ROSS also introduced a bill (H. R. No. 4491) granting a pension to Mrs. Ann Dobson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARTHA FORDHAM.

Mr. ROSS also introduced a bill (H. R. No. 4492) granting a pension to Martha Fordham; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RICHARD DECKER.

Mr. ROSS also introduced a bill (H. R. No. 4493) granting a pension to Richard Decker; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN GRUBBINS.

Mr. SINICKSON introduced a bill (H. R. No. 4494) granting a pension to John Grubbins; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ST. CLAIR A. MULHOLLAND

Mr. MAISH introduced a bill (H. R. No. 4495) for the relief of St. Clair A. Mulholland, late colonel of the One hundred and sixteenth Regiment of Pennsylvania Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN S. SPANGENBURG.

Mr. WRIGHT introduced a bill (H. R. No. 4496) for the relief of John S. Spangenburg; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

ZIBA STEPHENS.

Mr. WRIGHT also introduced a bill (H. R. No. 4497) for the relief of Ziba Stephens; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

STEPHEN S. WELCH.

Mr. WRIGHT also introduced a bill (H. R. No. 4498) for the relief of Stephen S. Welch; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

W. W. WARNER.

Mr. WRIGHT also introduced a bill (H. R. No. 4499) for the relief of W. W. Warner; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

NATHANIEL FITCH.

Mr. WRIGHT also introduced a bill (H. R. No. 4500) for the relief of Nathaniel Fitch; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

A. M. MAYNARD.

Mr. WRIGHT also introduced a bill (H. R. No. 4501) for the relief of A. M. Maynard; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

A. B. TEMPLETON.

Mr. WRIGHT also introduced a bill (H. R. No. 4502) for the relief of A. B. Templeton; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

CHARLES EDWARDS.

Mr. COLLINS introduced a bill (H. R. No. 4503) for the relief of Charles Edwards, late second lieutenant of Company C of the Eighteenth Pennsylvania Cavalry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

DAVID J. JAMES.

Mr. COLLINS also introduced a bill (H. R. No. 4504) for the relief of David J. James; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMENDMENT OF SECTION 2774 OF REVISED STATUTES.

Mr. OVERTON introduced a bill (H. R. No. 4505) to amend section 2774 of the Revised Statutes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MARGARET E. WEST.

Mr. WARD introduced a bill (H. R. No. 4506) granting a pension to Margaret E. West, widow of Robert M. West, late colonel of Fifth Pennsylvania Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN S. M'MILLIN.

Mr. ERRETT introduced a bill (H. R. No. 4507) for the relief of John S. McMillin; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

EXEMPTION OF SAFETY MATCHES FROM STAMP TAX.

Mr. WATSON introduced a bill (H. R. No. 4508) to exempt safety matches from the payment of stamp tax; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

The SPEAKER. The call of the States and Territories for bills and joint resolutions is now completed, and the Chair will receive bills from those members who were absent when their States were called.

JAMES M. KIRKPATRICK.

Mr. RICE, of Ohio, introduced a bill (H. R. No. 4509) for the relief of James M. Kirkpatrick, of Columbiana County, Ohio, late quartermaster of Forty-first Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

SAMUEL W. FUTHY.

Mr. MONEY introduced a bill (H. R. No. 4510) for the relief of Samuel W. Futhy, a mail messenger; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

SWAMP AND OVERFLOWED LANDS.

Mr. HEWITT, of Alabama, introduced a bill (H. R. No. 4511) in relation to the swamp and overflowed lands of the State of Alabama; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

SARAH B. FRANKLIN.

Mr. DICKEY introduced a bill (H. R. No. 4512) for the relief of Sarah B. Franklin, of Chillicothe, Ohio; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SIGNAL STATION, COLUMBUS, OHIO.

Mr. EWING introduced a bill (H. R. No. 4513) to establish and maintain a signal station at the city of Columbus, State of Ohio; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

THOMAS WORTHINGTON.

Mr. EWING also introduced a bill (H. R. No. 4514) granting a pension to Thomas Worthington, late colonel Forty-sixth Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. JANE M'KEE.

Mr. BLACKBURN introduced a bill (H. R. No. 4515) increasing the pension of Mrs. Jane McKee from \$30 to \$50 a month; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

IRRIGATION DISTRICTS.

Mr. WIGGINTON introduced a bill (H. R. No. 4516) to authorize the organization of irrigation districts by homestead settlement upon the public lands requiring irrigation for agricultural purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

REFUGIO M. BOWLER.

Mr. WIGGINTON also introduced a bill (H. R. No. 4517) for the relief of Refugio M. Bowler, widow and administratrix of Thomas F. Bowler, deceased; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

PASTURE DISTRICTS.

Mr. WIGGINTON also introduced a bill (H. R. No. 4518) to authorize the organization of pasture districts by homestead settlement on the public lands which are of value for pasturage purposes only; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

ELECTION OF REPRESENTATIVES FROM CALIFORNIA.

Mr. WIGGINTON also introduced a bill (H. R. No. 4519) fixing the time for holding the election for Representatives to the Forty-sixth Congress of the United States in and for the State of California; which was read a first and second time, referred to the Committee of Elections, and ordered to be printed.

JESSE D. SEATON.

Mr. WILLIS, of Kentucky, introduced a bill (H. R. No. 4520) for the relief of Jesse D. Seaton, of Louisville, Kentucky; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

KETURAH A. COLLINS.

Mr. WILLIS, of Kentucky, also introduced a bill (H. R. No. 4521) granting a pension to Keturah A. Collins; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MONUMENT TO PRESIDENT ZACHARY TAYLOR.

Mr. WILLIS, of Kentucky, also introduced a joint resolution (H. R. No. 164) for the erection of a monument over the grave of Zachary Taylor, near Louisville, Kentucky; which was read a first and second time, referred to the Committee on the Library, and ordered to be printed.

He also presented a memorial of the Legislature of the State of Kentucky, soliciting an appropriation from the General Government to aid in the erection of a monument over the grave of Zachary Taylor; which was referred to the Committee on the Library.

BRYAN TYSON.

Mr. VANCE (by request) introduced a bill (H. R. No. 4522) for the relief of Bryan Tyson, to indemnify him for moneys paid as a deficit for certain mail service; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

JOHN H. M'BRUYER.

Mr. DURHAM introduced a bill (H. R. No. 4523) granting a pension to John H. McBrayer, captain of Company K, Second Regiment of Kentucky Cavalry, in the Mexican war; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SALLY A. DUNN.

Mr. DURHAM also introduced a bill (H. R. No. 4524) for the benefit of Mrs. Sally A. Dunn, of Garrard County, Kentucky; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CHARLES O. ALLIBONE.

Mr. KIMMEL introduced a bill (H. R. No. 4525) for the relief of Charles O. Allibone; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

THOMAS P. WESTMORELAND.

Mr. EVINS, of South Carolina, introduced a bill (H. R. No. 4526) for the relief of Thomas P. Westmoreland; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

JAMES C. FREMAN.

Mr. CANDLER introduced a bill (H. R. No. 4527) for the relief of James C. Freman, of Georgia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ROBERT H. CALDWELL.

Mr. CANDLER also introduced a bill (H. R. No. 4528) for the relief of Robert H. Caldwell, of Georgia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOHN N. SWIFT.

Mr. CANDLER also introduced a bill (H. R. No. 4529) for the relief of John N. Swift, of Georgia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CORNELIUS P. CASSON.

Mr. CANDLER also introduced a bill (H. R. No. 4530) for the relief of Cornelius P. Casson, of Georgia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

THOMAS G. W. CRUSSELL.

Mr. CANDLER also introduced a bill (H. R. No. 4531) for the relief of Thomas G. W. Crussell, of Georgia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CRISTIAN KONTZ.

Mr. CANDLER also introduced a bill (H. R. No. 4532) for the relief of Cristian Kontz, of Georgia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ROBERT WEBSTER.

Mr. CANDLER also introduced a bill (H. R. No. 4533) for the relief of Robert Webster, of Georgia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

AUSTIN WRIGHT.

Mr. CANDLER also introduced a bill (H. R. No. 4534) for the relief of Austin Wright, of Georgia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOHN SILVY.

Mr. CANDLER also introduced a bill (H. R. No. 4535) for the relief of John Silvy, of Georgia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ORDER OF BUSINESS.

Mr. BUTLER. Has the morning hour expired?

The SPEAKER. The morning hour has expired, but the Chair would state that there are some gentlemen who desire to introduce bills, who were not present when their States were called.

Mr. BUTLER. I have no objection to anything that will not cause too much delay.

The SPEAKER. If there is no objection, the Chair will recognize gentlemen for the introduction of bills for reference.

There was no objection.

PUBLIC BUILDING AT TOLEDO, OHIO.

Mr. COX, of Ohio, introduced a bill (H. R. No. 4536) to authorize the purchase of additional land for court-house and post-office lot in Toledo, Ohio; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

CHARLES C. MERRICK.

Mr. ALDRICH introduced a bill (H. R. No. 4537) for the relief of Charles C. Merrick, captain Company G, Fifty-first Regiment Illinois Volunteer Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JACOB PRINCE.

Mr. BURCHARD introduced a bill (H. R. No. 4538) granting a pension to Jacob Prince; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SPITZ DOGS IN THE DISTRICT OF COLUMBIA.

Mr. HUMPHREY introduced a bill (H. R. No. 4539) declaring the keeping of a Spitz dog within the limits of the District of Columbia a public nuisance; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

DANIEL MURPHY.

Mr. SCHLEICHER introduced a bill (H. R. No. 4540) for the relief of Daniel Murphy, of Fort Davis, Texas; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

PUBLIC BUILDING, FAYETTEVILLE, NORTH CAROLINA.

Mr. WADDELL introduced a bill (H. R. No. 4541) to provide for the purchase or erection of a public building in Fayetteville, North Carolina; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

SEAMAN'S FRIEND SOCIETY, WILMINGTON, NORTH CAROLINA.

Mr. WADDELL also introduced a bill (H. R. No. 4542) for the relief of the Seaman's Friend Society of Wilmington, North Carolina;

which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

JOHN HOSTAT.

Mr. GLOVER introduced a bill (H. R. No. 4543) for the relief of John Hostat, a soldier of the war of 1812; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PAYMENT OF EXPERTS.

Mr. GLOVER also introduced a joint resolution (H. R. No. 165) authorizing the Clerk of the House of Representatives to pay certain clerks and experts out of the contingent fund of the House; which was read a first and second time, referred to the Committee of Accounts, and ordered to be printed.

TERRITORY OF OKLAHOMA.

Mr. MULBROW, by unanimous consent, presented a memorial of delegates from the Indian Territory, respecting certain bills to organize the Territory of Oklahoma; which was referred to the Committee on Territories.

Mr. MULBROW. I ask by unanimous consent that memorial be printed in the RECORD.

There was no objection, and it was ordered accordingly.

The memorial is as follows:

To the Senate and House of Representatives of the United States:

The undersigned delegates, representing the Cherokee, Choctaw, Creek, and Seminole Nations of Indians, respectfully call attention to the several bills and other propositions now before Congress to establish a territorial government for the Territory owned and occupied by their people and other Indian tribes, and having for their object in whole or in part—

First. The opening to white settlers of country set apart by law and treaty exclusively for Indians.

Second. The extension of the laws of the United States and of the jurisdiction of its courts to all causes of action, civil or criminal, on the part of one Indian against the person or property of another Indian.

Third. The abolition of tribal relations and the adoption of Indians as citizens of the United States.

Fourth. The change of land titles from a national tenure in common to an individual tenure in severalty.

All of which propositions are in violation of numerous treaty stipulations and guarantees, especially of the fourth article of the Choctaw treaty of 1830 and the fourth article of the Cherokee treaty of 1835, which provide that no part of the lands granted to either nation shall ever be included without their consent in the limits of any State or Territory, and secures to them forever the right to be governed by their own laws.

The fourth article of their treaty of 1856 contains a similar guarantee to the "Creek and Seminole tribes of Indians."

The guarantees to the Choctaws are repeated in the seventh article of the Choctaw and Chickasaw treaty of 1835, which secures the "unrestricted right of self-government and full jurisdiction over persons and property within their respective limits," and provides for the exclusion of all persons not "citizens or members of either tribe found within their limits."

The same guarantee, in nearly the same words, is given to the Creeks and Seminoles in the fifteenth article of their treaty of 1856.

The first article of the Cherokee treaty of 1846 provides that the Cherokee lands "shall be secured to the whole Cherokee people for their common use and benefit."

The Choctaw lands were ceded by the United States to the Choctaw Nation, second article, treaty 1830, 7 Statutes, 211. The Chickasaws having subsequently acquired an interest therein, the first article of the Choctaw and Chickasaw treaty of 1855 guarantees the lands embraced within their limits "to the members of the Choctaw and Chickasaw tribes, their heirs and successors, to be held in common, so that each and every member of either tribe shall have an equal, undivided interest in the whole."

The country of the Creeks and Seminoles was originally granted to the "Creek Nation of Indians" by the third article of their treaty of 1833, to be theirs "so long as they shall exist as a nation and continue to occupy."

The third article of the Creek and Seminole treaty of 1856 repeats the same guarantee to the Creeks and to the Seminoles who had acquired part of the Creek country.

The third article of the two treaties, one with the Creeks, the other with the Seminoles in 1866, contains similar provisions. Their lands are to be held by each nation, in the one case "as a home for said Creek Nation," in the other as the "national domain of the Seminole Indians."

All the treaties of 1866 with the five nations referred to in this memorial reaffirm the provisions of former treaties not inconsistent therewith.

The twenty-sixth and twenty-seventh articles of the Cherokee treaty of 1866 provide for the exclusion from their country of those who are "not citizens of the Cherokee Nation." The seventh article of the Choctaw and Chickasaw treaty of 1855 and the fifteenth article of the Creek and Seminole treaty of 1856 contain provisions of like character.

No one of the Indian nations embraced in the foregoing guarantees has asked for any change in its relations with the United States. They have all done well under the system of self-government, isolation, and tenure in common intended to be secured in their treaties. Under that system they were growing in wealth and strength in their former homes. Disease and exposure, consequent upon removal and change of climate, cut off on an average one-third of each tribe. When thoroughly acclimated they again increased in numbers, and were increasing and otherwise improving when the war checked their progress and again heavily reduced them, more than a third of the Cherokees, Creeks, and Seminoles having perished during the contest, and the two or three ensuing years after that they again began to increase and are now increasing in population. That they are in other respects doing well under the present system is abundantly proved by the official statements not only of Government agents specially in charge, but also of heads of bureaus and of the board of Indian commissioners.

The report of that board for 1872, page 12, gives the comparative statistics of the Territories, ten in number, showing that the Indian Territory, in the language of the commissioners, "in population, number of acres cultivated, products, wealth, valuation, and school statistics, is equal to any organized Territory of the United States and far ahead of most of them."

The detailed statement on page 14 shows that the foregoing remarks apply chiefly to the Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles as distinguished from twenty-one other enumerated bands, constituting more than one-fourth of the population, the proportion of wealth, acres cultivated, grain produced, schools, teachers, and scholars being overwhelmingly in favor of the five nations and that notwithstanding the fact noted by the commissioners on page 13, that they "had their lands devastated and their industries paralyzed during the war of the rebellion in

the same relative proportion as other parts of the South and have not fully recovered from the effects."

They add that "the partially civilized tribes, (the five nations,) numbering about fifty thousand souls, have in proportion to population more schools and with a larger average of attendance, more churches, church-members, and ministers, and spend far more of their own money for education than the people of any Territory of the United States. Life and property are more safe among them and there are fewer violations of law than in the other Territories."

The undersigned request that the foregoing statements and others of like tenor in the annual reports of the Indian Office may be compared with the official accounts of those Indians upon whom the experiments of United States citizenship, tenure in severalty and contact with white settlers have heretofore been tried.

Without going into detail it is sufficient for the purposes of this paper to refer to two of these accounts.

One is in the treaty on pages 839-852 of the Revision. Previous treaties having made the Wyandottes and Ottawas citizens with allotments in Kansas, the preamble virtually declares the experiment a failure, the object of the treaty so far as they are concerned being to restore them to their former tribal condition as Indians and to provide homes for them in the Indian Territory to be held not as individuals, in severalty, but as tribes in common.

The other is the summing up by the Commissioner of Indian Affairs in his report for 1876, page 25, of the results in the case of the Pottawatomies "who, after becoming citizens, squandered their substance, and have now returned as Indians depending upon the bounty of the Government."

It is the conviction that disastrous consequences would result from the proposed changes which causes the nearly unanimous opposition to such measures on the part of the five nations. Their own experience tells them exactly what the system of allotment and citizenship means. Provisions for that purpose were made in the treaties of 1817 and 1819 with the Cherokees, of 1830 with the Choctaws, and of 1832 with the Creeks. Hundreds of Indians entitled to patents for land under those treaties have never secured a single acre. Many more whose rights were recognized by the Government were shamefully wronged by the whites and have to this day been unable to obtain relief or redress.

The mischievous working of that system under those three treaties induced President Jackson to prohibit the introduction of similar features in other treaties made during his administration; and it is believed that no treaties containing such provisions were made under his successors until the accession of President Pierce. Since then the experiment has been frequently reported with results in the main such as those above indicated in the case of the Wyandottes, Ottawas, and Pottawatomies.

Another serious objection to the proposed system of allotment and citizenship is found in the litigation which in case it is adopted must necessarily result from the land grants to railroads running through the Indian Territory to take effect "when-ever the Indian title shall be extinguished by treaty or otherwise."

The Indian title is held by each nation over whose land the railroads pass. It will of course be contended:

First, That when any one of those nations by the dissolution of its tribal relations ceases to exist, or

Second, When its title is transferred from the nation holding in common to individual members holding in severalty, who have become citizens of the United States and have thus practically ceased to be Indians, that the "Indian title" will necessarily be extinguished.

While deprecating any action that might lead to such litigation, the undersigned wish to place on record the conviction universally prevailing among their people that the Indian title rests on too firm a basis to permit them to doubt the ultimate result of a judicial test. It is true that they regard the railroad land grants as a perpetual menace to the owners of the soil, and feel that they have been the main cause of the majority of the territorial bills introduced during the last ten years. That the grants do harm rather than good, the companies claiming them have begun to discover, and have signified their willingness to have them repealed. The undersigned trust that they will be, and that Congress will relieve their people from further risk of annoyance on that account.

But whether those grants are repealed or not, the undersigned feel confident that the courts will never decide that the Indian owners can be deprived of the soil without their own consent.

Whatever words may have occasionally been used in describing the Indian title, on carefully sifting the controlling decisions they will be found to concur in the opinion that the Government interest in Indian lands is simply a right of pre-emption, or rather of purchase, and the history of the country from its earliest settlement shows that such lands have almost invariably been acquired by purchase from the original owners.

The transfer of the main body of the southern nations to their present homes was preceded by the act of Congress of May 28, 1830, authorizing an exchange of territory based upon the idea of perpetual possession, with the assurance to the "tribe or nation making the exchange that the United States will forever secure and guarantee to them and their heirs and successors the country so exchanged."

The same idea runs through the treaties made immediately before and after that act. The preamble to the treaty of 1828 expresses the "anxious desire" of the Government to secure to the Cherokees "a permanent home which shall under the most solemn guarantees remain theirs forever." Its second article agrees "to guarantee it to them forever."

The preamble to the Creek treaty of 1833 states its objects to be to establish boundaries which will "secure a permanent home to the whole Creek Nation and to the Seminoles," and the same idea is expressed in the third and fourth articles of the treaty. The Choctaw title rests on the same basis of perpetuity, though its history is materially different. Their country was acquired by the second article of the treaty of 1820, which makes an unqualified grant, without limitation or restriction of any kind. (7 Statutes, 211.) In 1837 they sold an undivided interest in the same to the Chickasaws.

In 1855 a treaty was made between the Choctaws, the Chickasaws, and the United States, by which the title was changed. The grant of 1820 was from the United States to the Choctaw Nation. The treaty of 1855 "forever secures and guarantees" their lands to "the members of the Choctaw and Chickasaw tribes, their heirs and successors, to be held in common, so that each and every member of either tribe shall have an equal undivided interest in the whole."

Before this transfer to the "members of the Choctaw and Chickasaw tribes" two patents had been issued to the Choctaw Nation, one by President Jackson, the other by President Tyler under the treaty of 1830, which provides for a special conveyance of the country previously granted in 1820. These patents conform to the treaty under which they were issued in describing a smaller area and in certain restrictions not in the original grant; but they had no effect in injuring the Choctaw title, as the binding force and superior validity of the treaty of 1820, which was made under authority previously given by Congress, and under which the higher grade of title was acquired, was in various ways acknowledged both by Congress and the treaty-making power down to 1855, when the convention between the Choctaws, the Chickasaws, and the United States, by its twenty-first article, was made to "supersede and take the place of all former treaties." Fortunately that convention is so framed that, while providing for and recognizing to the fullest extent the national existence and government of both Choctaws and Chickasaws, their title is placed beyond the reach of interference in the event and because of tribal dissolution, should any such calamity befall them. So long as a single Choctaw or Chickasaw is left, or the heir or successor of a Choctaw or Chickasaw, and occupies the country described in the treaty of 1855 east of the ninety-

eight meridian, so long will the courts recognize and enforce the right to hold that country against all adverse claimants.

The qualifying words in the Choctaw and Chickasaw treaty and in the other treaties herein referred to, as applied to their title, obviously mean nothing more than the general principle under which, in the absence of legal representatives, land always reverts to the State and by which it may be lost through a failure to occupy. The history of Indian legislation from the first settlement of the country shows that the restrictions upon alienation were meant for the benefit of the Indian, having their origin in the desire to guard against danger from the designs of evil-disposed white men. The wisdom of retaining those restrictions and the ancient safeguard of tenure in common as a protection against fraudulent devices the undersigned cannot doubt will be appreciated by every member of Congress who carefully examines the subject. Such examinations cannot fail to show the evils of the allotment system and of the proposed disintegration by making citizens of such tribal members as may desire it, which can only serve to stimulate efforts in behalf of a few individuals to divide national funds held for the good of the whole.

The Indians constituting the five leading tribes have felt that the various evils pointed out in this paper could be made known and by making them known could be averted only through the active agency of delegations at Washington. The expense incurred, however heavy it may be, counts for nothing in their estimation compared with the ruin threatened in the bills annually introduced in Congress.

F. P. FITCHLYNN,
Choctaw Delegation.

W. P. ADAIR,
DAN'L H. ROSS,
Cherokee Delegation.
JNO. R. MOORE,
P. PORTER,
D. M. HOUGE,
YAR-TE-KER HARTJO,
Creek Delegation.
JOHN F. BROWN,
THOMAS CLOUT,
Seminole Delegation.

FRANCIS YATES.

Mr. MARTIN introduced a bill (H. R. No. 4544) for the relief of Francis Yates, of Jefferson County, West Virginia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

FRANCIS KOTZ.

Mr. MARTIN also introduced a bill (H. R. No. 4545) for the relief of Francis Kotz, of Jefferson County, West Virginia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CAREY THOMPSON.

Mr. MARTIN also introduced a bill (H. R. No. 4546) for the relief of Carey Thompson, of Jefferson County, West Virginia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOHN T. HARRIS.

Mr. MARTIN also introduced a bill (H. R. No. 4547) for the relief of John T. Harris, of Jefferson County, West Virginia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MONUMENT TO ZACHARY TAYLOR.

Mr. McKENZIE presented joint resolutions of the Kentucky Legislature in relation to the erection of a monument at the tomb of Zachary Taylor; which were referred to the Committee on Appropriations.

MISSISSIPPI RIVER AND LAKE MICHIGAN CANAL.

Mr. SAMPSON asked that, by unanimous consent, the memorial and joint resolution of the Legislature of Iowa in reference to securing a commercial highway by water between the Mississippi River and Lake Michigan, via the valleys of the Fox and Wisconsin Rivers, be printed in the RECORD.

There was no objection, and it was ordered accordingly.

The resolution is as follows:

Memorial and joint resolution in reference to securing a commercial highway by water between the Mississippi River and Lake Michigan via the valleys of the Fox and Wisconsin Rivers.

Whereas the General Government has entered upon the task of opening up a commercial highway from the valley of the Mississippi River to Lake Michigan via the valleys of the Fox and Wisconsin Rivers; and

Whereas the people of the Western States especially feel an absorbing interest in the speedy and successful accomplishment of this desirable result: Therefore, *Be it resolved*, That we again repeat our request to our Representatives and Senators in Congress that they be diligent in securing, if possible, such legislation in Congress as will enable the commerce of the central States of the continent to pass unfettered and unvexed to the markets of the world.

Resolved, That the secretary of state be directed to forward a copy of this resolution to the President of the United States Senate and the Speaker of the House of Representatives, with a request that the same may be laid before each House of Congress, and that a copy be sent to each Senator and Member of Congress from this State.

Approved March 15, 1878.

BOARD OF ASSISTANTS UNITED STATES NAVY.

Mr. HARRIS, of Massachusetts, by unanimous consent, from the Committee on Naval Affairs, reported, as a substitute for House bill No. 1974, a bill (H. R. No. 4548) providing for the establishment of a board of assistants for the Navy of the United States, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted.

The SPEAKER. Not to be brought back by a motion to reconsider.

NAVAL COURT-MARTIAL PRISONERS.

On motion of Mr. DANFORD, by unanimous consent, from the Com-

mittee on Naval Affairs, that committee was discharged from the further consideration of a letter of the Secretary of the Navy of March 12, 1878, relative to expenses of prisoners sentenced by naval courts-martial to confinement in the penitentiary; and the same was referred to the Committee on the Judiciary.

HOUSE OF DAILY MEETING.

Mr. PRICE, by unanimous consent, submitted the following resolution; which was referred to the Committee on Rules:

Resolved, For the purpose of speedy settlement of questions of vital importance to the country, the House will hereafter and until further notice meet for the transaction of business at eleven o'clock a. m. instead of twelve o'clock as heretofore.

ENFORCEMENT OF REVENUE LAWS.

Mr. WHITE, of Pennsylvania. I ask, by unanimous consent, to submit the following resolution:

Resolved, That the Commissioner of Internal Revenue be, and is hereby, requested to inform this House of the number of United States marshals and other persons employed in enforcing the revenue laws since the 1st of November last, that have been killed or wounded by persons interfering with such enforcement.

Mr. MILLS. I object.

PROHIBITION OF SPECIAL LEGISLATION.

Mr. SPRINGER, by unanimous consent, introduced a joint resolution (H. R. No. 166) proposing an amendment to the Constitution prohibiting special legislation; which was read a first and second time, referred to the Committee on Civil Service Reform, and ordered to be printed.

CURRENCY.

Mr. BUTLER. I demand the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Massachusetts, pending when the House adjourned on Monday, 8th instant, to suspend the rules and pass the bill (H. R. No. 423) to supply a convenient currency by which the minor business transactions of the people may be done. The bill will be read.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to issue United States notes of denominations for the fractions of a dollar representing fifty and twenty-five cents each, only to the extent and according to the provisions of sections 3572, 3573, 3574, 3575, and 3576 of the Revised Statutes.

SEC. 2. And the same may be redeemed either in other notes of the United States, as provided in section 3574 of the Revised Statutes, or in coin.

SEC. 3. Any person paying into the Treasury either United States legal-tender notes or coin shall receive therefor such amount of said fractional currency as he may desire, equal to the amount so paid in, until the limit of issue of said fractional currency shall be reached.

SEC. 4. The Secretary of the Treasury shall pay out one-sixth of all payments made from the Treasury in redemption of national bank notes in United States legal-tender notes of the denominations of one, two, three, and five dollars, each in equal proportions, and all payments for the current expenses of the Government in like proportion, until the amount of such notes in circulation shall be equal to one-sixth of all the legal-tender notes and bank notes shown by the books of the Treasury to have been issued, and to remain uncanceled until the amount of one-sixth thereof shall be reached. And the Secretary of the Treasury shall, from time to time, thereafter pay out United States legal-tender notes of such small denominations, in payment of current expenses, in such proportion with the other notes as to maintain the proportion of one-sixth of small legal-tender notes of the whole amount of bank notes and legal-tender notes which shall appear to have been issued and to remain uncanceled by the books of the Treasury of the United States.

Mr. ATKINS. Has that bill been before any committee? Has it been before the Committee on Banking and Currency?

Mr. BUTLER. It has been before the Committee on Banking and Currency and has been reported favorably.

Mr. EWING. The committee ordered it to be reported. It has not yet been reported.

Mr. EAMES. I object to debate.

The SPEAKER. The gentleman from Massachusetts moves that the Committee on Banking and Currency be discharged from the further consideration of the bill, and that the same be passed.

Mr. COX, of New York. That bill ought to be debated. It brings back the old, shabby, shinplaster currency.

Mr. POWERS. I rise to a parliamentary inquiry: I should cheerfully vote for so much of the bill as provides for the issue of small bills, but do not desire to vote to issue fractional currency.

The SPEAKER. The gentleman cannot debate the bill.

Mr. POWERS. I do not wish to debate the bill, but I desire to make a parliamentary inquiry whether the proposition is divisible.

The SPEAKER. It is not. The motion is to suspend the rules, and that rule with the rest which allows the division of a question.

Mr. HALE. I rise to a parliamentary inquiry. If the proposition covering both small bills and fractional currency is voted down, will it be possible under the rule adopted by the Chair as to a list on Monday for a resolution to be offered immediately covering only the small bills? Will the Chair entertain a motion to suspend the rules for that purpose?

The SPEAKER. The Chair cannot do that. The Chair will conform to the list. That is a matter of individual right.

Mr. BRIGHT. Would it be in order to have the bill again read?

The SPEAKER. The bill will be again read.

The bill was again read.

Mr. HANNA. I call for the reading of those sections of the Revised Statutes which are referred to in the bill.

The SPEAKER. That would be in the nature of debate.

Mr. BUTLER. I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were—yeas 46, nays 117.

So (the affirmative being more than one-fifth of the whole vote) the yeas and nays were ordered.

Mr. WILSON. Before the roll is called I would be very much gratified if the House would hear the gentleman from Massachusetts explain the object of the bill.

Several members called for the regular order.

The question was taken; and there were—yeas 121, nays 124, not voting 46; as follows:

YEAS—121.

Atkins,	Davidson,	Hooker,	Robbins,
Baker, John H.	Deering,	House,	Robertson,
Banning,	Dibrell,	Huntton,	Robinson, M. S.
Bell,	Dickey,	Jones, James T.	Ryan,
Bicknell,	Dunnell,	Kelley,	Sapp,
Blackburn,	Durham,	Kenna,	Saylor,
Bland,	Elam,	Killinger,	Sexton,
Blount,	Ellis,	Knapp,	Shelley,
Bouck,	Evins, John H.	Knoit,	Singleton,
Boyd,	Ewing,	Ligon,	Simons,
Bragg,	Felton,	Lynde,	Smith, William E.
Bright,	Finley,	Mackey,	Southard,
Browne,	Fort,	Manning,	Sparks,
Buckner,	Franklin,	Marsh,	Springer,
Eutler,	Fuller,	Martin,	Steele,
Cain,	Garth,	McKenzie,	Stephens,
Caldwell, John W.	Gause,	McMahon,	Thornburgh,
Caldwell, W. P.	Giddings,	Mills,	Throckmorton,
Calkins,	Glover,	Money,	Turney,
Camp,	Goode,	Morgan,	Vance,
Caswell,	Gunter,	Muldrow,	Waddell,
Chalmers,	Hamilton,	Oliver,	Welch,
Clark of Missouri,	Hanna,	Patterson, G. W.	White, Harry
Clark, Rush,	Harria, Henry R.	Phillips,	White, Michael D.
Clymer,	Harria, John T.	Pollard,	Williams, Jere N.
Cobb,	Hartridge,	Price,	Willis, Albert S.
Collins,	Hartzell,	Rea,	Wilson,
Cook,	Haskell,	Reagan,	Wright,
Crittenden,	Hatcher,	Reilly,	
Culberson,	Herbert,	Rice, Americus V.	
Cummings,	Hewitt, G. W.	Riddle,	

NAYS—124.

Acklen,	Dean,	Keightley	Rice, William W.
Aldrich,	Douglas,	Ketchum,	Roberts,
Bagley,	Douglas,	Kimmel,	Robinson, G. D.
Baker, William H.	Dwight,	Landers,	Ross,
Bailou,	Eames,	Lapham,	Schleicher,
Bayno,	Eickhoff,	Lathrop,	Shallenberger,
Beebe,	Errett,	Lindsey,	Sinnickson,
Benedict,	Freeman,	Lockwood,	Smalls,
Biabee,	Frye,	Loring,	Starin,
Blair,	Gardner,	Luttrell,	Stenger,
Bliss,	Gibson,	McCook,	Stewart,
Brewer,	Hale,	McKinley,	Stone, John W.
Bridges,	Hardenbergh,	Metcalfe,	Strait,
Briggs,	Harmer,	Mitchell,	Thompson,
Bundy,	Harris, Benj. W.	Monroe,	Townsend, Amos
Burchard,	Hart,	Morrison,	Townsend, M. L.
Campbell,	Hayes,	Morse,	Walker,
Candler,	Hazelton,	Mu'ler,	Walsh,
Carlisle,	Hendee,	Neal,	Ward,
Claffin,	Henkle,	Norcross,	Warner,
Clarke of Kentucky,	Henry,	O'Neill,	Watson,
Cole,	Hewitt, Abram S.	Overton,	Whitthorne,
Conger,	Hubbell,	Page,	Wigington,
Covert,	Humphrey,	Patterson, T. M.	Williams, Andrew
Cox, Samuel S.	Hungerford,	Potter,	Williams, James
Cox, Jacob D.	Hunter,	Peddie,	Williams, C. G.
Crapo,	Ittner,	Pound,	Williams, Richard
Cravens,	James,	Powers,	Willis, Benj. A.
Cutler,	Jones, Frank	Rainey,	Willits,
Danford,	Jones, John S.	Randolph,	Wood,
Davis, Horace	Joyce,	Reed,	Wren.

NOT VOTING—46.

Aiken,	Eden,	Maish,	Tipton,
Bacon,	Ellsworth,	Mayham,	Townsend, R. W.
Banks,	Evans, I. Newton	McGowan,	Tucker,
Boone,	Evans, James L.	Phelps,	Turner,
Brentano,	Forney,	Pridemore,	Van Vorhes,
Brogden,	Foster,	Pugh,	Veeder,
Burdick,	Garfield,	Quinn,	Wait,
Cabell,	Harrison,	Sampson,	Williams, A. S.
Cannon,	Henderson,	Scales,	Yeates,
Chittenden,	Hiscock,	Smith, A. Herr	Young.
Clark, Alvah A.	Jorgensen,	Stone, Joseph C.	
Davis, Joseph J.	Keifer,	Swann,	

So (two-thirds not voting in favor thereof) the rules were not suspended.

During the call of the roll the following announcements were made:

Mr. DAVIS, of North Carolina. I am paired with Mr. ELLSWORTH, of Michigan. If he were here, I would vote "ay." My colleague, Mr. YEATES, is paired on this question with Mr. HENDERSON, of Illinois. If Mr. YEATES were present he would vote "ay." My colleague, Mr. SCALES, is paired with Mr. VAN VORHES, of Ohio. If he were present Mr. SCALES would vote "ay." My colleague, Mr. BROGDEN, is confined to his room by sickness.

Mr. FORNEY. I am paired with Mr. WAIT.

Mr. CALDWELL, of Kentucky. My colleague, Mr. BOONE, is paired with Mr. SAMPSON, of Iowa. If he were present, Mr. BOONE would vote "ay."

Mr. CABELL. I am paired with Mr. PUGH, of New Jersey. If he were here, I would vote "ay."

Mr. WILLIAMS, of Michigan. I am paired with Mr. BANKS, of

Massachusetts; but as I understand he would vote "no" on this question, I desire to vote. I vote "no."

Mr. STONE, of Iowa. I am paired with Mr. YOUNG, of Tennessee.
Mr. CAMP. My colleagues from New York, Mr. HISCOCK and Mr. VEEDER, are paired.

Mr. VAN VORHES. On this question I am paired with Mr. SCALES, of North Carolina.

Mr. GLOVER. Mr. JORGENSEN, of Virginia, is paired with Mr. PRIDEMORE, of Virginia.

Mr. MAISH. I am paired with my colleague from Pennsylvania, Mr. SMITH.

Mr. TURNER. I am paired with Mr. MCGOWAN, of Michigan.

Mr. CANNON, of Illinois. I am paired with Mr. CLARK, of New Jersey. If he were present, I would vote "ay."

Mr. SAMPSON. I am paired with the gentleman from Kentucky, Mr. BOONE.

Mr. GARFIELD. I am paired upon this question with the gentleman from Virginia, Mr. TUCKER. If he were present, he would vote for the bill and I should vote against it.

The result of the vote was then announced as above stated.

RIVER AND HARBOR BILL.

Mr. REAGAN. By direction of the Committee on Commerce I report the river and harbor bill, and move that the rules be suspended and that the bill be put upon its passage. I will state that since the bill was printed there have been added to it eight items, amounting to \$160,000, and some surveys that cost no money.

Mr. COX, of New York. I rise to a point of order upon that bill.

The SPEAKER. The Chair will state that the gentleman from Michigan [Mr. HUBBELL] was the next member upon the list entitled to move a suspension of the rules, but this is a public measure, and therefore the Chair has given the floor to the gentleman from Texas.

Mr. HUBBELL. I will state that unless the gentleman from Texas had been recognized, I should have availed myself of my right to the floor to report this bill from the committee.

The SPEAKER. The Chair, although he recognizes the right of the gentleman from Texas to the floor on a public bill, yet he strikes the name of the gentleman from Michigan from the list.

Mr. REAGAN. The list should not be allowed to interfere with important public business.

The SPEAKER. The Chair never has allowed it to interfere with important public measures, but the Chair is not willing to exercise his own choice in the recognition of members to move to suspend the rules or to take the responsibility of asking members for what purpose they wish to move to suspend the rules. The Chair thinks that that is not within his province.

Mr. COX, of New York. Do I understand that the gentleman from Texas moves to suspend the rules and pass a bill which has not yet been read?

The SPEAKER. The bill, of course, will be read before the vote is taken.

Mr. KENNA. There is no desire on the part of the committee to suspend the reading of the bill.

The SPEAKER. Parliamentary law covers that question. Every body of legislators have a right to hear what they are going to vote upon.

Mr. COX, of New York. I will make my point of order now, and it is, that there are items in this bill not within our constitutional power to appropriate. The Constitution, in section 8 of the first article, gives Congress power to regulate commerce with foreign nations and among the several States; but it never intended to pay money by the million for local improvements to inconsiderable rivers and creeks. Here is a bill for seven millions. It is sought to pass it through without consideration in committee; and even if the bill were right in detail, it is a vicious practice, never to be done and cannot be done without protest. The shrieks of locality may be loud; for one I will not heed them by making precedents whose effect is to destroy constitutional limitations and beget a log-rolling system utterly subversive of fair legislation and actually destructive of the just appropriations in a bill loaded down to its sinking point.

Mr. REAGAN. The gentleman's point of order is an objection to the bill; it cannot lie against a motion to suspend the rules.

Mr. KENNA. I submit that the gentleman's remarks were not addressed to the point of order.

The SPEAKER. The point of order is that the Constitution prohibits the passage of this bill for the reason that it contains items that are unconstitutional. That is a question for each member of the House to determine for himself, and not for the Chair.

Mr. SOUTHARD. I hope this House will not pass a bill which will not bear the test of discussion.

Mr. FINLEY. And which looks like a steal.

Mr. HUBBELL. I object to debate. [Cries of "Regular order!"]
Mr. SPRINGER. I wish to reserve all points of order upon the bill until after it has been read.

Mr. TOWNSEND, of New York. I desire to know the contents of this bill, but it is impossible to hear anything in the present condition of the House.

The SPEAKER. The Chair thinks the gentleman from New York should have that right and the Chair will suspend all business until gentlemen are seated and are in order.

The Clerk commenced the reading of the bill.

Mr. FORT, (interrupting.) I trust the gentleman from Texas is not desiring to deceive the House, as the bill now being read is not the printed bill.

Mr. REAGAN. I stated at the outset that there had been seven or eight items added since the bill was printed, increasing the amount \$160,000.

The SPEAKER. This bill is introduced as an independent bill, as the Chair understands it.

Mr. FORT. The bill now being read is not the bill which has been printed.

Mr. KENNA. It is except in regard to four or five items, and the gentleman from Texas stated that they had been added.

Mr. REAGAN. It makes no matter whether the bill has been printed or not; it is before the House for consideration.

The Clerk resumed and concluded the reading of the bill, as follows:

A bill making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums of money be, and are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War, for the repair, preservation, construction, and completion of the public works hereinafter named:

- For improving Chester River, at Kent Island Narrows, Maryland, \$3,000.
- For improving harbor at Baltimore, Maryland, \$75,000.
- For improving Wicomico River, Maryland, \$5,000.
- For improving James River, Virginia, \$70,000.
- For improving Appomattox River, Virginia, \$30,000.
- For improving Great Kanawha River, West Virginia, \$222,000.
- For improving New River, from Lead Mines in Wythe County, Virginia to mouth of Greenbrier River, \$15,000.
- For improving Cape Fear River, North Carolina, \$85,000.
- For improving mouth of Occoquan River, Virginia—completing the improvement—\$10,000.
- For improving Aquia Creek, Virginia—completing the improvement—\$5,000.
- For improving mouth of Nomoni Creek, Virginia—completing the improvement—\$5,000.
- For improving the Rappahannock River, Virginia, \$13,500.
- For improving South Branch of Elizabeth River, Virginia, \$5,000.
- For continuing the construction of ice-harbor at New Castle, Delaware, \$10,000.
- For improving harbor at Norfolk, Virginia, \$20,000.
- For improving Nansemond River, Virginia—completing the improvement—\$2,000.
- For improving Roanoke River, North Carolina, \$4,000.
- For improving harbor at Charleston, South Carolina, \$5,000.
- For improving harbor at Savannah, Georgia, \$70,000.
- For improving harbor at Cedar Keys, Florida, \$20,000.
- For improving Choctawhatchee River, Florida and Alabama, \$10,000.
- For improving Appalachicola River, Florida, \$8,000.
- For improving Chattahoochee River, Alabama and Georgia, \$18,000.
- For improving Alabama River, \$25,000.
- For removing bar at Urbana, Virginia, \$10,000.
- For deepening the bar at the mouth of Saint John's River, Florida, \$10,000.
- For Fort Clinton, Ohio, \$10,000.
- For improving Flint River, Georgia, \$10,000.
- For improving the Warrior and Tombigbee Rivers, Alabama and Mississippi, \$40,000; of which sum \$28,000 shall be expended on the Warrior and Lower Tombigbee and \$12,000 on the Upper Tombigbee.
- For improvement of ship-channel in Galveston Bay, Texas, between Bolivar Channel and Red Fish Bar, \$75,000; and the appropriation made for this work by the act of 14th of August, 1876, is hereby made available for the same part of said channel.
- For improving Mississippi and Arkansas Rivers: continuing operations, removing snags and other obstructions, \$180,000; of which sum \$10,000 shall be used for removing the bar in the Arkansas River at Fort Smith.
- For the survey of the Missouri River from its mouth to Sioux City and estimates for the improvement and maintenance of its navigation, \$50,000.
- For the improvement of the Missouri River: removal of snags, wrecks, &c., \$70,000.
- For improving mouth of Mississippi River, Southwest Pass, \$10,000.
- For improving entrance to Galveston Harbor, Texas, \$125,000.
- For improving Sabine Pass, Texas, deepening channel at the entrance and at Blue Buck Bar, \$30,000.
- For improving Passo Cavallo Inlet into Matagorda Bay, Texas, \$25,000.
- For improving Ouachita River, Arkansas and Louisiana, \$10,000.
- For improving Yazoo River, Mississippi, \$25,000.
- For removing raft in Red River and closing Tones Bayou, Louisiana, \$24,000.
- For improving Cypress Bayou, Texas and Louisiana, \$15,000.
- For annual expense of gauging the waters of the Lower Mississippi River and its tributaries: Continuing observations of the rise and fall of the river and its chief tributaries, as required by joint resolution of February 21, 1871, \$5,000.
- For improving White and Saint Francis Rivers, Arkansas: building one stern-wheel iron snag-boat and operating the same ten months, \$75,000.
- For improving the Missouri River opposite or near Saint Joseph, Missouri, \$50,000.
- For improving the mouth of Red River, Louisiana, \$30,000.
- For improving the Missouri River at Nebraska City, Nebraska, \$30,000.
- For improving White River above Jacksonport, Arkansas: removing snags and wrecks and other obstructions, \$10,000.
- For removing bar in Mississippi River opposite Dubuque, Iowa, \$10,000.
- For improving Rush Chute and the harbor of Burlington, Iowa, \$10,000.
- For improving harbor at Fort Madison, Iowa, \$8,000.
- For improving Rock Island Rapids, Mississippi River, \$30,000.
- For improving Illinois River, \$75,000.
- For the improvement of the Mississippi River: removal of snags and obstructions between the mouths of the Ohio and Illinois Rivers, \$240,000; of which sum \$20,000 shall be expended between the mouths of the Illinois and Missouri Rivers; \$40,000 on the improvement of Cahokia Chute, opposite Saint Louis; \$40,000 between the foot of Dickey's Island and the mouth of the Ohio River; and \$10,000 between Islands Nos. 14 and 15, near the town of Kaskaskia, Illinois.
- For removing snags and other obstructions from Red River, Louisiana, \$25,000.
- For the improvement of the Missouri River above the mouth of the Yellowstone, \$30,000.
- For the improvement of the Mississippi River: widening and deepening the channel from Saint Paul to Des Moines Rapids, \$250,000.
- For widening and deepening the channel of the Mississippi River from Des Moines Rapids to the mouth of the Ohio, \$100,000.

For the improvement of Mobile Harbor, including costs of survey and estimates, \$10,000.

For the improvement of Cumberland River above Nashville, Tennessee, \$60,000; of which sum \$20,000 shall be expended between Nashville and the Kentucky line; thence to the foot of Smith's Shoals, \$8,000; and for Smith's Shoals, \$30,000; thence to the falls of the Cumberland, \$2,000.

For improving Minnesota River, \$10,000.

For improving Red River of the North, Minnesota, \$30,000.

For improving Tennessee River: continuing operations above Chattanooga, \$15,000; continuing operations below Chattanooga, including Muscle Shoals, \$300,000, \$15,000 of which sum, or so much thereof as may be necessary, to be expended on the improvements of Duck River Shoals in the Tennessee River.

For improving Cumberland River below Nashville, Tennessee, \$45,000.

For improving Coosa River between Rome, Georgia, and the Seina, Rome and Dalton Railroad bridge, Alabama, \$75,000.

For improving Hiwassee River, Tennessee, \$10,000.

For improving Ocmulgee River, Georgia, \$15,000.

For improving Oostanaula and Coosawattee Rivers, Georgia, \$4,000.

For improving Little Kanawha River, West Virginia, \$18,000.

For improving Wabash River, Indiana, \$50,000.

For dredging Superior Bay, Wisconsin: improving natural entrance to Superior Bay, \$3,000; continuing improvement of the harbor of Duluth, \$30,000.

For improving harbor at Ontonagon, Michigan, \$15,000.

For improving Eagle Harbor, Michigan, \$8,000.

For improving harbor at Marquette, Michigan, \$2,000.

For improving harbor at Menominee, Wisconsin, \$10,000.

For improving harbor at Green Bay, Wisconsin, \$5,000.

For improving harbor of refuge, entrance at Sturgeon Bay Canal, \$30,000.

For improving harbor at Ahnapee, Wisconsin, \$8,000.

For improving harbor at Two Rivers, Wisconsin, \$10,000.

For improving harbor at Manitowoc, Wisconsin, \$15,000.

For improving harbor at Sheboygan, Wisconsin, \$2,000.

For improving harbor at Port Washington, Wisconsin, \$5,000.

For improving and deepening the channel of the Ohio River, including the removal of snags, wrecks, &c., from Pittsburgh to its mouth, \$300,000; of which sum \$50,000 shall be expended at Grand Chain for removal of obstructions and deepening the channel at that point.

For improvement of the harbor at New Orleans, Louisiana, including the cost of surveys and estimates, \$50,000.

For the improvement of Monongahela River, West Virginia and Pennsylvania, to be expended in completing lock and dam at Hoard's Rocks, \$25,000.

For the improvement of harbor at Michigan City, Indiana, \$75,000; of which sum \$25,000 shall be expended for the improvement of the inner harbor.

For the improvement of Gut opposite Bath, Maine, \$17,000.

For the improvement of Waddington Harbor, New York, \$5,000.

For the improvement of Oakland Harbor, California, \$8,000; but this sum shall not be available until the right of the United States to the bed of the estuary and training walls of this work is secured, free of expense to the Government, in a manner satisfactory to the Secretary of War.

For improving harbor at Milwaukee, Wisconsin, \$15,000.

For improving harbor at Racine, Wisconsin, \$10,000.

For improving harbor at Kenosha, Wisconsin, \$8,000.

For removing rocks and other obstructions to navigation at Brazos Santiago, Texas, \$6,000.

For improving Fox and Wisconsin Rivers, \$250,000.

For improving harbor at Chicago, Illinois: extending breakwater and dredging channel, \$75,000.

For improving harbor at Calumet, Illinois, \$15,000.

For improving harbor at Charlevoix, Michigan, \$12,000.

For improving harbor at Frankfort, Michigan, \$8,000.

For improving harbor at Manistee, Michigan, \$15,000.

For improving harbor at Ludington, Michigan, \$15,000.

For improving harbor at Pentwater, Michigan, \$10,000.

For improving harbor at White River, Michigan, \$12,000.

For improving harbor at Grand Haven, Michigan, \$15,000.

For improving harbor at Black Lake, Michigan, \$10,000.

For improving harbor at Saugatuck, Michigan, \$2,500.

For removing obstructions in Bayou Lafourche, Louisiana, \$10,000.

For improving harbor at South Haven, Michigan, \$12,000.

For improving harbor at Saint Joseph, Michigan, \$12,000.

For improving Saint Mary's River and Saint Mary's Falls Canal, Michigan, \$175,000.

For improving harbor of refuge, Lake Huron, Michigan, \$100,000.

For improving Saint Clair River, at mouth of Black River, Michigan, \$1,500.

For improving Detroit River, Michigan, \$100,000.

For improving Saint Clair Flats, Michigan, \$5,000.

For improving Saginaw River, Michigan, \$25,000.

For improving harbor at Cheboygan, Michigan, \$8,000.

For improving harbor at Monroe, Michigan, \$2,500.

For improving harbor at Toledo, Ohio, \$50,000.

For the improvement of Gwyneddote River, West Virginia, \$2,000.

For the improvement of the Haritan River, New Jersey, \$300,000.

For the improvement of Blackwater River, Virginia, \$5,000.

For the improvement of Hampton River, Virginia, \$10,000.

For the improvement of Chickahominy River, Virginia, \$5,000.

For the improvement of the Narrows above Orange, on the Sabine River, Texas, and deepening the channel at the mouth of said river, \$10,000.

For deepening the channel at the mouth of the Trinity River, Texas, and removing obstructions to Liberty, \$10,000.

For deepening the channel at the mouth of the Neches River, Texas, and removing obstructions to Beaumont, \$8,000.

For improving Pascagoula River, Mississippi, and deepening the channel at its mouth, \$10,000.

For the protection of the wharf landing and channel of the Mississippi River at Memphis, Tennessee, \$46,000.

For the improvement of Elk River, West Virginia, \$5,000.

For improving harbor at Sandusky City, Ohio, \$20,000.

For improving harbor at Huron, Ohio, \$1,000.

For improving harbor at Vermillion, Ohio, \$4,000.

For breakwater at Cleveland, Ohio, and repairs of harbor, \$100,000.

For improving harbor at Fairport, mouth of Grand River, Ohio, \$12,000.

For improving harbor at Ashtabula, Ohio, \$12,000.

For improving harbor at Erie, Pennsylvania, \$25,000.

For improving harbor at Buffalo, New York, \$80,000.

For improving harbor at Oak Orchard, New York, \$2,000.

For improving harbor at Charlotte, New York, \$1,000.

For improving harbor at Pultneyville, New York, \$5,000.

For improving harbor at Great Soda Bay, New York, \$5,000.

For improving harbor at Little Soda Bay, New York, \$10,000.

For improving harbor at Oswego, New York, \$20,000.

For breakwater at Wilmington, California, \$20,000.

For improving Sacramento and Feather Rivers, California, \$15,000.

For improving Lower Willamette and Columbia Rivers, from Portland, Oregon, to the sea, \$30,000.

For improving Upper Willamette River, Oregon, \$20,000.

For improving Upper Columbia River, including Snake River, \$20,000.

For constructing a canal around the Cascades of Columbia River, \$75,000.

For the improvement of Big Sandy River, from Callettsburgh, Kentucky, to the head of navigation, \$12,000.

For repairs of ice-harbor at Chester, Pennsylvania, \$1,400.

For the improvement of the Oconee River, Georgia, \$10,000; of which sum \$8,000 shall be expended between Dublin and Central Railroad bridge, and \$2,000 between Dublin and the Ocmulgee River.

For the improvement of Galena River, Illinois, making a channel of one hundred feet width, and the improvement of the harbor at Galena, \$30,000.

For the improvement of the Mississippi River at and near Vicksburg, Mississippi, and protection of harbor at Vicksburg, Mississippi, \$40,000.

For improving the channel of Salem River, New Jersey, and removing obstructions in the Delaware River at the mouth of Salem River, \$3,000.

For improving the Missouri River at Omaha City, Nebraska, \$30,000.

For the improvement of the Saint Croix River, Wisconsin, \$10,000.

For the improvement of the Missouri River, at Atchison, Kansas, \$20,000.

For the improvement of the Neuse River, North Carolina, \$20,000.

For the improvement of the harbor, including survey and estimate for removal of wrecks at Pensacola, Florida, \$1,000.

For the improvement of Currituck Sound and North River Bar, North Carolina, \$20,000.

For the improvement of Scuppernon River, North Carolina, \$2,000.

For the improvement of Edenton Harbor, North Carolina, \$1,000.

For completing the improvement of Black River Harbor, Ohio, \$1,000.

For the improvement of the harbor at New Haven, Connecticut, \$10,000.

For the improvement of the harbor at Darien, Georgia, \$8,000.

For continuing the improvement of Penobscott River, Maine, \$12,000; of which sum \$2,500, or so much thereof as may be necessary, shall be expended at or near the narrows in said river at Bucksport.

For the improvement of the harbor at Bridgeport, Connecticut, \$10,000; of which sum not less than one-half shall be expended between the lower bridge and the horse-railroad bridge.

For the improvement of Harlem River, New York, \$150,000; but this sum is not to be available until the right of way for this work is secured to the United States free of cost.

For improving harbor at Belfast, Maine, \$12,000.

For improving Richmond Island Harbor, Maine, \$6,000.

For improving Cochecho River, New Hampshire, \$4,400.

For improving Merrimack River, Massachusetts, below Mitchell's Falls, \$10,000.

For improving harbor at Boston, Massachusetts, \$30,000.

For improving harbor at Plymouth, Massachusetts, \$5,000.

For improving harbor at Provincetown, Massachusetts, \$1,000.

For improving harbor at Hyannis, Massachusetts, \$3,000.

For improving Taunton River, Massachusetts, \$2,000.

For improving Providence River, Rhode Island: removing Bulkhead Rock, \$5,000.

For improving Little Narragansett Bay, Rhode Island and Connecticut, \$10,000.

For improving Providence River and Narragansett Bay, \$50,000.

For the improvement of Echo Harbor, New Rochelle, New York, \$10,000.

For the improvement of Staten Island Sound, between New Jersey and Staten Island, \$15,000.

For improving the harbor of Breton Bay, Leonardtown, Maryland, \$5,000.

For improving the inner harbor at Cambridge, Maryland, \$5,000.

For improving the harbors and channels at Washington and Georgetown, District of Columbia, \$50,000; of which sum \$30,000 is to be expended in Washington Harbor and channel below the Long Bridge, and \$20,000 to be expended in Georgetown Harbor and channel.

For improving Connecticut River, below Hartford, Connecticut, \$30,000; of which sum \$5,000 shall be used for dredging the river between Hartford and Middletown.

For improving harbor at Stonington, Connecticut, \$15,000.

For improving Thames River, Connecticut, \$10,000.

For improving harbor at Milford, Connecticut, \$10,000.

For improving Housatonic River, Connecticut, \$5,000.

For improving harbor at Norwalk, Connecticut, \$5,000.

For improving harbor at Port Jefferson, Long Island Sound, New York, \$8,000.

For improving Hudson River, New York, \$10,000.

For removing obstructions in East River and Hell Gate, New York, \$350,000.

For improving Passaic River, New Jersey, \$10,000.

For improving East Chester Creek, New York, \$0,000.

For improving harbor at Rondout, New York, \$30,000.

For improving harbor at Burlington, Vermont, \$20,000.

For improving harbor at Swanton, Vermont, \$20,000.

For improving Otter Creek, Vermont, \$8,000.

For constructing piers in Delaware Bay, near Lewes, Delaware, \$20,000.

For improving harbor at Wilmington, Delaware, \$7,000.

For improving Schuylkill River, Pennsylvania, \$30,000.

For improving Delaware River, below Bridesburgh, \$100,000.

For improving Delaware River, between Trenton and White Hill, New Jersey, \$10,000.

For improving North and South Branches of Shrewsbury River, New Jersey, \$18,000.

For improving Cohamsey Creek, New Jersey, \$8,000.

For improving Des Moines Rapids, and operating the canal, \$95,000.

For improving Upper Mississippi River, from the mouth of the Illinois: removal of snags and obstructions, \$41,500.

It shall be the duty of the Secretary of War to apply the moneys herein appropriated for improvements, other than surveys and estimates, in carrying on the various works by contract or by hired labor, at his discretion, and as in his judgment may be most advantageous to the Government; and where said works are done by contract such contracts shall be made after sufficient public advertisement for proposals in such manner and form as the Secretary of War shall prescribe; and such contracts shall be made with the lowest responsible bidders therefor, accompanied by such securities as the Secretary of War shall require.

SEC. 2. That the Secretary of War is hereby directed to cause examinations or surveys, or both, and estimates of cost of improvements to be made at the following points, namely:

Portsmouth Harbor, New Hampshire;
The Mispillion Creek, Delaware;
Cape Foulweather, Oregon, to ascertain its adaptability as a harbor of refuge;
The Coconah, Pataigo, and Escambia Rivers, Alabama;
The Yarkin, North Carolina, between the bridge on the North Carolina Railroad and Wilkesborough;
Flushing Bay, New York;
The Thames River, Connecticut;
The Big Sunflower, Chickasaw, Tallahatchie, Coldwater, Pearl, and Pascagoula, Mississippi; and the expenses of survey of the Pascagoula shall be defrayed out of the sum herein appropriated for the improvement thereof;

The Mobile Harbor, Alabama; and the expenses of the survey thereof shall be defrayed out of the sum appropriated herein for the improvement of said harbor;
 North Landing River, Virginia;
 The Salem River, New Jersey, between Sharpstown and Delaware Canal;
 The Suwannee River, Florida;
 The Caloosahatchie River, Florida;
 Mississippi River, and above the city of Alexandria, Missouri;
 The mouth of Hillsborough River and Tampa Bay, Florida;
 Coney's Fork and Obey's Rivers, Tennessee;
 Bayou Bartholomew, Arkansas;
 Upper Red River, from the raft up to the Missouri, Kansas and Texas Railroad bridge;

Aranza Pass and Bay, up to Rockport and Corpus Christi, Texas;
 Little River, Arkansas;
 The bar at the mouth of Brazos River, Texas, including a report upon the capacity of the harbor at the mouth of the Brazos, and its adaptability as a harbor of refuge and naval station;

The Missouri River at Cedar City, in Callaway County, Missouri;
 The Nottaway River, Virginia;
 The coast of Long Island, New York, between Coney Island Point and Rockaway Inlet, in New York Bay;
 Sheephead Bay, New York;
 Canastota Bay, New York;

The Chattahoochee River, Georgia, above Columbus;
 The Flint River, Georgia, from Albany to Montezuma;
 The Etowah River, Georgia;
 The Savannah River, above Augusta, Georgia;
 Fouché La Fave, in Arkansas;
 The harbor of San Luis Obispo, California, with a view to the practicability of building breakwater;

The harbor of San Buenaventura, California, with a view to the practicability of building breakwater;

The harbor of Santa Barbara, California, with a view to the practicability of building breakwater;

The Mississippi River, to ascertain the practicability, cost, and utility of a dike from Bloody Island, opposite the city of Saint Louis, Missouri, north to the dike or dam opposite Brooklyn, on the Illinois shore;

A survey and estimate of the damages, if any, done, or to be done, to riparian owners of lands, and improvements thereon, at or in front of the town of Venice, Illinois, near Saint Louis, Missouri, by reason of Government improvements made, or to be made, at or near said town of Venice;

Dan River, Virginia, from Clarksville, via Danville, Virginia, to Danbury, North Carolina;

Staunton River, from Roanoke Depot, in Charlotte County, Virginia, to Brookneal, in the county of Campbell, Virginia;

New River, from the lead mines in Wythe County to the mouth of Wilson, in Grayson County, Virginia;

The harbor at Quincy, Illinois;

Tones Bayou, Bayous Pierre and Wincey, and Lakes Bayou Pierre and Cannasasier, Louisiana;

Scituate Harbor, Massachusetts;

Tongapough River, Louisiana;

Wolf River, from Lake Boygan to Red River, Wisconsin;

The Arkansas River, from Fort Smith, Arkansas, to the mouth of Little Arkansas;

Woodbridge Creek, Middlesex County, New Jersey;

Elizabeth River, New Jersey;

Rahway River, New Jersey;

Charles River, Massachusetts, to the head of tide-water;

Manasquan River, New Jersey;

White River, Indiana, including the East Fork to the new bridge in course of construction near Bedford, and the West Fork to the town of Gosport;

Portage Lake, Manistee County, Michigan, with a view to its adaptability as a harbor of refuge;

Westport Harbor, Massachusetts;

Wood's Hole, Massachusetts;

Pedee River, from Cheraw, South Carolina, to the mouth of Uwharrie River, North Carolina;

The bars at the entrance of Annapolis Harbor, Maryland, with a view to accommodation of deep-draught vessels at low tide;

West Branch of Patuxent River, Maryland, from Light street bridge to head of tide-water, and an estimate of the cost of making the same navigable for canal-boats;

The Kentucky River and navigable tributaries, Kentucky;

The Licking River, Kentucky;

The Falls of the Cumberland, Kentucky;

Clearwater River, Idaho;

The Missouri and Kansas Rivers, at and near their junction;

The Trent River, North Carolina;

Neuse River, from Smithfield to Goldsborough, North Carolina;

Chowan River, North Carolina;

The Tar River, North Carolina, from Washington to Tarborough;

Humboldt River, California, with a view to its adaptability as a harbor of refuge;

Crescent City Harbor, California, with a view to its adaptability as a harbor of refuge;

The examination of the Saint Croix River, in Wisconsin and Minnesota, and of the Chippewa and Wisconsin Rivers, in the State of Wisconsin, to determine the practicability and cost of creating and maintaining reservoirs upon the headwaters of said rivers and their tributaries for the purpose of regulating the volume of water and improving the navigation of said rivers and that of the Mississippi River, and an estimate of the damage to result therefrom to property of any kind;

The Colorado of the West, from Fort Yuma to Eldorado Cañon;

The Muskingum River, Ohio, below the second dam, to ascertain its adaptability for an ice-harbor, for the protection of steamers and other craft on the Ohio River;

The Kiskiminetas and Conemaugh Rivers, Pennsylvania, from the mouth of the Kiskiminetas to the mouth of Stony Creek on the Conemaugh;

The Allegheny River, up to the mouth of French Creek;

The Kankakee River, Illinois;

Lincolnville Harbor, Maine;

Lubec Channel, Maine;

Apalachicola Bay, Florida;

East River, New York, at its junction with Newtown Creek.

Sec. 3. That for the examinations and surveys herein provided for, and for incidental repairs of harbors for which there is no special appropriation, the sum of \$120,000 is hereby appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated.

This bill appropriates the sum of \$7,293,700.

Mr. FINLEY. I call for the yeas and nays on the motion to suspend the rules.

Mr. BRIGHT. I desire to make a parliamentary inquiry.

Mr. COX, of New York. I made a point of order which I would like to have a ruling upon by the Chair.

Mr. BRIGHT. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BRIGHT. Should this bill fail to receive a two-third majority, would it still remain—

The SPEAKER. It would not be before the House.

Mr. BRIGHT. Would it be competent then to refer it to the Committee of the Whole?

The SPEAKER. The bill would remain with the Committee on Commerce, as that committee have instructed its chairman to make the motion he has.

Mr. COX, of New York. My point of order is, that under the Constitution regulating commerce between the States this bill is not properly a bill for the action of the House.

The SPEAKER. That is a question for each member to determine for himself, not for the Chair.

Mr. KENNA. I insist upon the regular order.

Mr. COX, of New York. I am on a point of order.

The SPEAKER. The gentleman will state it.

Mr. COX, of New York. My point of order is that the power to regulate commerce between the States does not mean commerce between congressional districts or any individual districts. I would like, moreover, to amend this bill so as to provide water for some of these creeks mentioned in it. [Laughter.]

Mr. KENNA. The gentleman's point of order is not in order. Whether this bill is constitutional or not, is a question for the House to decide.

Mr. REAGAN. If there is a want of water in the composition of this bill, a stranger listening to the arguments of gentlemen opposing the bill would come to the conclusion that there was a superabundance of some other fluid in them. [Laughter.]

Mr. SOUTHWARD. I desire to make an inquiry.

The SPEAKER. The gentleman will state it.

Mr. SOUTHWARD. It is whether, if this motion is voted down, this bill can be reported from the committee on the regular call and be referred to the Committee of the Whole for discussion?

The SPEAKER. It can at such times as the Committee on Commerce may be called.

Mr. MILLS. Everybody knows that. I call for the regular order.

Mr. SOUTHWARD. I have a point of order on the bill.

The SPEAKER. The gentleman will state it.

Mr. SOUTHWARD. The latter portion of Rule 77 requires that bills shall state the amount appropriated by them.

The SPEAKER. That applies to bills reported from the Appropriation Committee.

Mr. REAGAN. This bill does state it.

Mr. COX, of New York. How much is it.

Mr. REAGAN. It is \$7,293,700.

Mr. KENNA. And even if it did not state it, this is a motion to suspend the rules.

Mr. RICE, of Ohio. I move that the House now adjourn.

Mr. FINLEY. And on that motion I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division there were—yeas 33, nays 138; not one-fifth in the affirmative.

Before the result of this vote was announced,

Mr. FINLEY called for tellers on ordering the yeas and nays.

The question was taken upon ordering tellers; and there were 30 in the affirmative, one-fifth of a quorum.

So tellers were ordered; and Mr. FINLEY and Mr. REAGAN were appointed.

The House again divided; and the tellers reported that there were—yeas 39, nays 148.

So (more than one-fifth voting in the affirmative) the yeas and nays were ordered.

The question was taken; and there were—yeas 33, nays 207, not voting 51; as follows:

YEAS—33.

Blackburn,	Fort,	Luttrell,	Springer,
Cannon,	Gardner,	Mackey,	Stenger,
Carlisle,	Hewitt, Abram S.	McMahon,	Thornburgh,
Clarke of Kentucky,	Jones, Frank S.	Morse,	Townsend, M. I.
Clymer,	Jones, John S.	Neal,	Williams, James
Cox, Samuel S.	Killing,	Randolph,	Willis, Albert S.
Danford,	Kimmel,	Rice, Americus V.	
Dickey,	Knott,	Southard,	
Finley,	Lockwood,	Sparks,	

NAYS—207.

Acklen,	Boyd,	Caswell,	Davidson,
Aldrich,	Bragg,	Chalmers,	Davis, Horace
Atkins,	Brewer,	Claffin,	Davis, Joseph J.
Bagley,	Briggs,	Clark of Missouri,	Dean,
Baker, William H.	Bright,	Clark, Rush	Deering,
Ballou,	Brown,	Cobb,	Denison,
Banning,	Buckner,	Cole,	Dibrell,
Bayne,	Bundy,	Collins,	Douglas,
Becho,	Burchard,	Conger,	Dunnell,
Bell,	Cabell,	Cook,	Durham,
Benedict,	Cain,	Covert,	Eames,
Bicknell,	Caldwell, John W.	Cox, Jacob D.	Elam,
Biabee,	Caldwell, W. F.	Crapo,	Ellis,
Blair,	Calkins,	Cravens,	Evins, John H.
Bland,	Camp,	Crittenden,	Ewing,
Bliss,	Campbell,	Culbertson,	Felton,
Blount,	Candler,	Cummings,	Forney,
Bouck,		Cutler,	Franklin,

Freeman,	James,	Patterson, T. M.	Starin,
Frye,	Jones, James T.	Peddie,	Steele,
Garth,	Joyce,	Phillips,	Stewart,
Gause,	Keightley,	Pollard,	Stone, John W.
Gibson,	Kenna,	Potter,	Stone, Joseph C.
Giddings,	Ketcham,	Pound,	Strait,
Glover,	Knapp,	Powers,	Thompson,
Goode,	Landon,	Price,	Throckmorton,
Gunter,	Lapham,	Rea,	Townsend, Amos
Ganna,	Lathrop,	Reagan,	Turner,
Hardenbergh,	Ligon,	Reed,	Turney,
Harmer,	Lindsey,	Reilly,	Vance,
Harris, Benj. W.	Lynde,	Rice, William W.	Van Vorhes,
Harris, Henry R.	Manning,	Riddle,	Waddell,
Harris, John T.	Marsh,	Robbins,	Walker,
Hart,	Martin,	Roberts,	Walsh,
Hartridge,	McCook,	Robertson,	Ward,
Hartzell,	McKinley,	Robinson, G. D.	Warner,
Haskell,	Metcalfe,	Robinson, M. S.	Watson,
Hatchner,	Mills,	Ross,	Welch,
Hayes,	Mitchell,	Ryan,	White, Harry
Hazelton,	Money,	Sampson,	White, Michael D.
Hendee,	Monroe,	Sayer,	Whitthorne,
Henderson,	Morgan,	Schlicher,	Wigginton,
Henkle,	Morrison,	Sexton,	Williams, Andrew
Henry,	Muldrow,	Shallenberger,	Williams, C. G.
Herbert,	Muller,	Shelley,	Williams, Jere N.
Hewitt, G. W.	Norcross,	Singleton,	Williams, Richard
Hooker,	Oliver,	Sinnickson,	Willis, Benj. A.
House,	O'Neill,	Siemon,	Wilson,
Hubbell,	Overton,	Small,	Wood,
Humphrey,	Page,	Smith, William E.	Wren.
Hunter,	Patterson, G. W.		
Ittner,			

NOT VOTING—51.

Aiken,	Eickhoff,	Huntin,	Smith, A. Herr
Bacon,	Ellsworth,	Jorgensen,	Stephens,
Baker, John H.	Errett,	Keller,	Swann,
Banks,	Evans, I. Newton	Loring,	Tipton,
Boone,	Evans, James L.	Maish,	Townsend, R. W.
Brentano,	Foster,	Mayham,	Tucker,
Brogden,	Fuller,	McGowan,	Veeder,
Burdick,	Garfield,	McKenzie,	Wait,
Butler,	Hale,	Phelps,	Williams, A. S.
Chittenden,	Hamilton,	Pridemore,	Wright,
Clark, Alvah A.	Harrison,	Pugh,	Yeates,
Dwight,	Hiscock,	Quinn,	Young.
Eden,	Hungerford,	Scales,	

So the motion to adjourn was not agreed to.

During the call of the roll the following announcements were made: Mr. DAVIS, of North Carolina. My colleague, Mr. YEATES, is absent on account of a death in his family. My colleague, Mr. SCALES, is absent by leave of the House, and paired on all political questions. My colleague, Mr. BROGDEN, is confined to his room by illness. Mr. GLOVER. I have been requested to state that Mr. JORGENSEN, of Virginia, is paired with his colleague, Mr. PRIDEMORE. Mr. MAISH. I am paired on the river and harbor bill with Mr. CLARK, of New Jersey, and therefore I decline to vote on this motion. Mr. MCKENZIE. I am paired with Mr. YEATES, of North Carolina. If he were present, I would vote "ay" and I suppose he would vote "no."

Mr. HAMILTON. I am paired with Mr. STEPHENS, of Georgia. If present, he would vote in the negative and I would vote in the affirmative.

Mr. WILLIAMS, of Michigan. I am paired with Mr. BANKS, of Massachusetts.

Mr. BAKER, of Indiana. On the river and harbor bill I am paired with the gentleman from Ohio, Mr. FOSTER. If he were present, I presume he would vote "no" on this motion and I would vote "ay."

Mr. SINICKSON. My colleague, Mr. PUGH, is paired with Mr. CABELL, of Virginia. If present, Mr. PUGH would vote "no."

Mr. HUNTON. My colleague, Mr. TUCKER, is paired with General GARFIELD, of Ohio.

The result of the vote was then announced as above stated.

The question then recurred on the motion of Mr. REAGAN, to suspend the rules and pass the bill.

Mr. FINLEY. On that motion I call for the yeas and nays.

Mr. MITCHELL. I rise to a parliamentary inquiry. I desire to ask the Speaker whether Rule 121 applies to the bill now before the House. That rule reads as follows:

Upon the improvement of any bill making appropriations of money for works of internal improvement of any kind or description, it shall be in the power of any member to call for a division of the question, so as to take a separate vote of the House upon each item of improvement or appropriation contained in said bill, or upon such items separately, and others collectively, as the members making the call may specify; and if one-fifth of the members present second said call, it shall be the duty of the Speaker to make such divisions of the question and put them to vote accordingly.

The SPEAKER. This is a motion to suspend the rules, which includes that rule among others.

Mr. COX, of New York. That is the mischief of it. [Laughter.]

Mr. MITCHELL. I observe, also, that by another rule of the House it is required that the amount appropriated in a bill shall be stated.

The SPEAKER. That applies only to appropriation bills reported from the Committee on Appropriations.

Mr. MITCHELL. This is an appropriation bill, as I understand. I wish to know, as a matter of information to which I think we are entitled, how much is appropriated by this bill.

Mr. COX, of New York. Seven million two hundred and ninety-three thousand dollars.

The SPEAKER. The Chair understands the amount to be what has just been stated by the gentleman from New York.

Mr. MITCHELL. Does that include all the appropriations in this bill? [Cries of "Regular order!"]

The SPEAKER. The question is on ordering the yeas and nays, which have been called for by the gentleman from Ohio, [Mr. FINLEY.]

The yeas and nays were ordered.

Mr. MITCHELL. I rise to another point of order. [Cries of "Order!"]

The SPEAKER. The gentleman will state it.

Mr. MITCHELL. Gentlemen may call "Order!" but I have rights here as much as other members, and my constituents have rights equally with those of other gentlemen. I desire to know whether it is not the privilege of a member of this House to have before him in print a copy of the bill on which he is required to vote. I understand it is stated by the committee that certain items which they propose to appropriate are not included in the printed bill.

Mr. REAGAN. If allowable, I will state—

The SPEAKER. It is not allowable.

Mr. MITCHELL. What is the fact about the matter?

The SPEAKER. The Chair thinks that is not a point of order.

Mr. MITCHELL. Well, Mr. Speaker, [cries of "Regular order!"] I desire to protest against this bill as omnibus legislation on the "log-rolling" principle, "You help me and I will help you."

Mr. COX, of New York. I have raised a point of order under the Constitution.

The SPEAKER. The Chair rules that he is not to construe the Constitution for members of the House. It is the province of each member to determine for himself such questions arising in regard to any proposed legislation.

The question was taken; and there were—yeas 167, nays 66, not voting 58; as follows:

YEAS—167.

Acklen,	Dunnell,	Joyce,	Robertson,
Atkins,	Eames,	Keightley,	Ross,
Bagley,	Elam,	Kelley,	Ryan,
Baker, William H.	Evins, John H.	Kenna,	Sampson,
Ballou,	Ewing,	Ketcham,	Sapp,
Banning,	Felton,	Kimmel,	Sayer,
Bell,	Forney,	Knapp,	Schlicher,
Bicknell,	Franklin,	Landon,	Shallenberger,
Bisbee,	Freeman,	Lathrop,	Shelley,
Bland,	Frye,	Ligon,	Singleton,
Bliss,	Garth,	Lindsey,	Sinnickson,
Bouck,	Gause,	Lockwood,	Siemon,
Boyd,	Giddings,	Loring,	Smith, William E.
Brewer,	Glover,	Lynde,	Starin,
Buckner,	Goode,	Manning,	Steele,
Burchard,	Gunter,	Marsh,	Stewart,
Cain,	Hale,	Martin,	Stone, John W.
Calkins,	Hanna,	McCook,	Stone, Joseph C.
Camp,	Hardenbergh,	Metcalfe,	Strait,
Caswell,	Harmer,	Mills,	Throckmorton,
Chalmers,	Harris, Benj. W.	Money,	Townsend, Amos
Claffin,	Harris, Henry R.	Monroe,	Van Vorhes,
Cole,	Hart,	Muldrow,	Waddell,
Conger,	Hartridge,	Muller,	Walker,
Cook,	Hartzell,	Norcross,	Walsh,
Covert,	Haskell,	Oliver,	Ward,
Cox, Jacob D.	Hatcher,	O'Neill,	Warner,
Crapo,	Hazelton,	Overton,	Watson,
Cravens,	Hendee,	Page,	Welch,
Crittenden,	Henderson,	Patterson, T. M.	White, Harry
Culberson,	Henkle,	Peddie,	Wigginton,
Cummings,	Henry,	Phillips,	Williams, A. S.
Cutter,	Hewitt, G. W.	Pollard,	Williams, C. G.
Davidson,	Hooker,	Pound,	Williams, Jere N.
Davis, Horace	House,	Powers,	Williams, Richard
Davis, Joseph J.	Hubbell,	Price,	Willis, Benjamin A.
Dean,	Humphrey,	Rea,	Willson,
Deering,	Hunter,	Reagan,	Wood,
Denison,	Ittner,	Riddle,	Wren.
Dibrell,	Jones, J. T.	Robbins,	
Douglas,		Roberts,	

NAYS—66.

Aldrich,	Collins,	Knott,	Sexton,
Benedict,	Cox, Samuel S.	Lapham,	Sonthard,
Blackburn,	Danford,	Luttrell,	Sparks,
Bragg,	Dickey,	Mackey,	Springer,
Bridges,	Eickhoff,	McMahon,	Stenger,
Briggs,	Ellis,	Mitchell,	Thompson,
Bundy,	Errett,	Morgan,	Thornburgh,
Caldwell, John W.	Finley,	Morrison,	Townsend, Martin I.
Caldwell, W. P.	Fort,	Neal,	Turney,
Campbell,	Fuller,	Patterson, G. W.	White, Michael D.
Candler,	Gibson,	Potter,	Whitthorne,
Cannon,	Hewitt, Abram S.	Randolph,	Williams, Andrew
Carlisle,	Huntin,	Reilly,	Williams, James
Clarke of Kentucky,	Jones, Frank	Rice, Americans V.	Willis, Albert S.
Clark, Rush	Jones, John S.	Robinson, G. D.	Wright.
Clymer,	Killinger,	Robinson, M. S.	
Cobb,			

NOT VOTING—58.

Aiken,	Beebe,	Bright,	Cabell,
Bacon,	Blair,	Brogden,	Chittenden,
Baker, John H.	Blount,	Browne,	Clark, Alvah A.
Banks,	Boone,	Burdick,	Durham,
Bayne,	Brentano,	Butler,	Dwight,

Ellen,	Hiscock,	Phelps,	Townshend, R. W.
Ellsworth,	Hungerford,	Pridemore,	Tucker,
Evans, I. Newton	Jorgensen,	Pugh,	Turner,
Evans, James L.	Koffer,	Quinn,	Vance,
Foster,	Maish,	Raney,	Veeder,
Gardner,	Mayham,	Scales,	Wait,
Garfield,	McGowan,	Smith, A. Herr	Yates,
Hamilton,	McKenzie,	Stephens,	Young,
Harris, John T.	McKinley,	Swann,	
Harrison,	Morse,	Tipton,	

So (two-thirds voting in favor thereof) the motion to suspend the rules and pass the bill was agreed to.

During the roll-call the following announcements were made:

Mr. ROBBINS. My colleague, Mr. SCALES, is absent on leave and is paired, but I do not know with whom. My colleague, Mr. YEATES, is absent on account of affliction in his family, and is paired with Mr. McKENZIE, of Kentucky. Mr. YEATES, if here, would vote "ay."

Mr. TURNER. I am paired with Mr. MCGOWAN, of Michigan; and as his State is well provided for in the bill I presume he would vote "ay." My State is not provided for, and if he were here I should vote "no" on the proposition to suspend the rules and pass the bill, because it cuts off all debate and amendments and all opportunity to get appropriations to the rivers of Kentucky, and does not do my section justice; and not because I am opposed to the policy of improving rivers and harbors.

Mr. BEEBE. I am paired with Mr. PHELPS. If he were here, I would vote in the negative.

Mr. CABELL. I am paired with Mr. PUGH. If he were here, I would vote in the negative and he would vote in the affirmative.

Mr. MCKENZIE. I am paired with Mr. YEATES. If he were here, I would vote "no."

Mr. CARLISLE. I am requested to announce that my colleague, Mr. DURHAM, is paired with Mr. BLOUNT, they having been called to the other end of the Capitol on a committee of conference. I also announce that my colleague, Mr. BOONE, is absent on account of sickness.

Mr. HAMILTON. I am paired with Mr. STEPHENS, of Georgia. He would vote "ay" and I would vote "no."

Mr. WILLIAMS, of Michigan. I am paired with Mr. BANKS. If he were here, I understand he would vote in the affirmative, and therefore as I also would vote in the affirmative I ask to have my vote recorded accordingly.

Mr. BLAIR. I am paired with Mr. BUTLER.

Mr. GARDNER. I am paired with Mr. EVANS, of Indiana. He would vote "ay" and I would vote "no."

Mr. BROWNE. I am paired with Mr. WAIT.

Mr. BAYNE. I am paired with Mr. MCKINLEY.

Mr. HUNGERFORD. I am paired with Mr. HISCOCK. He would vote in the affirmative and I would vote in the negative.

Mr. STEELE. My colleague, Mr. BROGDEN, is still detained at his room by illness. If he were present, he would vote in the affirmative.

Mr. GARFIELD. I am paired with the gentleman from Virginia, Mr. TUCKER. I would vote "ay" and he would vote "no."

Mr. BAKER, of Indiana. On this question I am paired with Mr. FOSTER, of Ohio. If present he would vote "aye" and I would vote "no."

The vote was then announced as above recorded.

Mr. COX, of New York. I rise, Mr. Speaker, for the purpose of presenting a protest against the passage of this bill, signed by members of Congress, and I ask to have it read.

Mr. HARRIS, of Virginia. I move the House adjourn.

Mr. CONGER. Has the gentleman any such right?

The SPEAKER. The right was established in the Thirty-ninth Congress by the democratic side of the House—

Mr. KENNA. I rise to a parliamentary inquiry.

Mr. COX, of New York. I have the floor on a question of privilege, and I do not yield for debate.

Mr. KENNA. Mr. Speaker, I wish to inquire whether the motion of the gentleman from Virginia is not of higher privilege, being a motion to adjourn, and having been submitted before the gentleman from New York took the floor?

The SPEAKER. But the gentleman from New York was recognized by the Chair on a question of privilege.

Mr. COX, of New York. I do not yield the floor.

Mr. MILLS. Do the rules provide for the entering of a protest?

The SPEAKER. The Chair will have read an instance in the nature of a precedent.

Mr. MILLS. Is there any rule authorizing it?

The SPEAKER. Is the Chair to understand it is a protest against the bill?

Mr. COX, of New York. It is.

Mr. BURCHARD. Then is it of any more effect than a vote against the bill?

The SPEAKER. That is a matter of opinion.

Mr. BURCHARD. Has it any effect upon the bill?

The SPEAKER. It has none.

Mr. COX, of New York. Several gentlemen are signing it and more wish to sign it. I ask it to be read.

Mr. WADDELL. Does it require unanimous consent?

The SPEAKER. It does not. In the Thirty-ninth Congress a precedent was established in reference to a like condition of things.

Mr. SPRINGER. Let it be read.

Mr. COX, of New York. Let the protest be read.

Mr. FORT. The title of the bill should be amended so as to read "An act to legalize log-rolling," for that is what it is.

The SPEAKER. The gentleman from New York asks to have read this paper as part of his remarks explanatory of the question of privilege he has raised.

Mr. GARFIELD. No remarks can be allowed.

Mr. WADDELL. In the absence of any rule allowing this, I object.

The SPEAKER. It is universal custom—

Mr. WADDELL. Does it not require unanimous consent to go upon the Journal?

Mr. COX, of New York. It is done in accordance with universal custom.

The SPEAKER. It does not go upon the Journal. It is not read to go upon the Journal, but whatever occurs in the House goes in the CONGRESSIONAL RECORD as a part of the proceedings.

Mr. KENNA. The reading of the paper has not yet taken place.

Mr. COX, of New York. I call for its reading.

Mr. KENNA. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. KENNA. My point of order is that this cannot go into the RECORD as a part of the gentleman's remarks, because the remarks themselves are not in order under the rules.

Mr. ROBERTS. That is the point.

The SPEAKER. The gentleman from New York rises to a question of privilege.

Mr. KENNA. Then I insist he must state his question of privilege, in order that the House may know what action to take upon it.

The SPEAKER. Certainly the gentleman from New York has the right to send forward this paper to be read as part of his remarks in stating the question of privilege.

Mr. WILLIS, of New York. Ought we not to know in the first instance what is the question of privilege?

Mr. GARFIELD. I move to adjourn.

The SPEAKER. The gentleman from New York [Mr. Cox] has the floor.

Mr. COX, of New York. I claim that this is a question of privilege on the ground of general usage for many years.

Mr. MILLS. I desire to ask a parliamentary question.

The SPEAKER. The Chair will hear it.

Mr. MILLS. Is it a privilege accorded to a minority of this House to protest against the action of the majority?

The SPEAKER. The gentleman from New York rises to a question of privilege, and as a part of his remarks thereon submits this paper. The Chair is unable, until the paper is read, to rule whether or not it embraces a question of privilege.

Mr. WILLIS, of New York. What is the question of privilege?

The SPEAKER. The Chair is trying to find out.

Mr. GARFIELD. I would suggest that the Chair might inspect the paper to see if it embraces a question of privilege or not, before allowing it to go upon our records.

The SPEAKER. Not at all. The paper may contain charges against members.

Mr. FRANKLIN, Mr. FINLEY, Mr. BUTLER, and others addressed the Chair.

The SPEAKER. The Chair cannot recognize any one until order is restored. The House will come to order.

Mr. BUTLER. I move that the House do now adjourn.

The SPEAKER. The gentleman from Massachusetts is not on the floor for that purpose.

Mr. REAGAN. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. REAGAN. It is that the gentleman from New York has stated his object to be to protest against the passage of a bill. I submit that the protest itself cannot be admitted, and that it cannot be converted into a question of privilege, the object of the paper having been stated when presented. I ask the ruling of the Chair upon that question.

The SPEAKER. The gentleman from New York rose in his place and was recognized, and stated that he rose to a question of privilege. He then sends to the desk a paper which he desires to have read as relating to the question of privilege. The Chair is unable to state whether it is a question of privilege or not till he hears that paper read.

There is an example of this: when Mr. James Brooks, then a member from New York in the first session of the Thirty-ninth Congress, had entered at length upon the record a protest against the conduct of the Clerk of the House as to the manner in which he made up the roll, which was largely signed by democratic Representatives of that Congress.

Mr. GARFIELD. I wish to inquire whether the question was then made. If not, that case has no authority.

The SPEAKER. The question was raised. The Clerk declined to receive the protest, but still it is in the RECORD, having been read.

Mr. GARFIELD. But was the question raised whether it should go into the RECORD? If the question was not raised, it does not make a precedent.

The SPEAKER. The gentleman from New York is on the floor on a question of privilege. He is entitled to be heard, and in that connection sends this paper to the desk to be read.

Mr. ROBERTS. I rise to make a parliamentary inquiry. [Cries of "Regular order!"]

Mr. BUTLER. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BUTLER. My parliamentary inquiry is this: has any man claiming the floor on a privileged question a right to prevent the House from adjourning?

The SPEAKER. The gentleman from New York is on the floor, and declines to yield to a motion to adjourn.

Mr. REAGAN. I desire to appeal from the decision of the Chair.

Mr. ROBERTS. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ROBERTS. I call the attention of the Chair to the paragraph on page 289 of the Manual:

It is not a matter of right and parliamentary privilege to have received and entered upon the Journal a protest of members against the action of the House.

I submit that the rule is explicit, and that the gentleman from New York cannot submit this matter as a question of privilege.

The SPEAKER. The Chair ruled that the gentleman from New York is entitled to have this paper read as a part of his remarks on the question of privilege, and the gentleman from Texas [Mr. REAGAN] appeals from the decision of the Chair.

Mr. MILLS. I call the attention of the Chair to Rule 141, which states that when the reading of a paper is called for and the same is objected to by any member, it shall be determined by a vote of the House.

Mr. BUTLER. Pending the appeal of the gentleman from Texas, I move that the House do now adjourn.

Mr. SPRINGER. I desire to submit that the Chair has not yet ruled upon the question raised by the gentleman from New York, whether it be a question of privilege or not. [Cries of "Regular order!"] The Chair has stated that he would rule on that when the paper was read.

The SPEAKER. The Chair did rule that the gentleman from New York had a right, rising to a question of privilege, to have the paper read as a part of his remarks, and from that decision the gentleman from Texas appealed.

Mr. CARLISLE. I move to lay the appeal on the table.

The SPEAKER. And pending that, the gentleman from Massachusetts [Mr. BUTLER] moves that the House do now adjourn. The Chair would prefer to have the gentleman withdraw that motion so that the House may vote on the ruling of the Chair as to the right of the gentleman from New York [Mr. COX] to have the paper read as part of his remarks on a question of privilege.

Mr. BUTLER. It is after four o'clock, and I think we should adjourn.

Mr. BEEBE. I desire to make a point of order.

Mr. BUTLER. I think if we adjourn now the appeal would be withdrawn in the morning.

Mr. REAGAN. I wish the House to understand the grounds on which I rest my appeal from the Speaker's decision. The gentleman from New York arose and presented a protest. Afterward it was claimed that it was a question of privilege; but when he rose it was to present a protest against the action of the House. And I insist that as the protest was not admissible the pretense of its being a personal explanation or a matter of privilege should not enable him to get it before the House.

Many members called for the regular order.

The SPEAKER. The gentleman from New York stated to the Chair that he rose to a question of privilege, and was recognized for that purpose. He has the right to be heard on that, and the Chair has ruled that he has a right to have that paper read as a part of his remarks, showing in what the question of privilege consists.

Mr. BUTLER. The Chair recognized me to make the motion to adjourn. If we can have a vote at once upon the appeal and then I can be recognized to renew the motion, I am willing to withdraw it; if not, I stand by the motion to adjourn.

Mr. BEEBE. I rise to a point of order upon the motion of the gentleman from Massachusetts, and it is that my colleague [Mr. COX] having the floor it was not competent for the gentleman from Texas to raise a point of order in order to allow any gentleman on the floor to move to adjourn.

The SPEAKER. The Chair thinks that an appeal from his decision is in order, and pending that, that a motion to adjourn is in order, but the Chair asks the gentleman from Massachusetts not to press that motion.

Mr. FRANKLIN. Is it in order for a member to have read a decision upon this point at the Clerk's desk? If it is I desire to have it done.

Mr. BUTLER. I insist upon the motion to adjourn.

The SPEAKER. The Chair hopes that the House will let the vote be taken upon the appeal.

The question was taken on Mr. BUTLER's motion; and on a division there were—ayes 120, noes 77.

Mr. FINLEY. I call for tellers.

Tellers were ordered; and Mr. BUTLER, and Mr. COX of New York, were appointed.

The House again divided; and the tellers reported—ayes 124, noes 81.

Mr. FINLEY. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BEEBE. I rise to make a parliamentary inquiry: if the House adjourns will this matter come up as the unfinished business to-morrow?

The SPEAKER. As a question of privilege, it must be proceeded with until it is disposed of.

Mr. MILLS. Will it not be in order to enter a protest against calling the yeas and nays?

The SPEAKER. That is the constitutional privilege of one-fifth of the members present.

The question was taken; and there were—yeas 120, nays 101, not voting 70; as follows:

YEAS—120.

Acklen,	Danford,	Hubbell,	Reed,
Atkins,	Davidson,	James,	Riddle,
Bagley,	Davis, Horace	Jones, James T.	Robbins,
Baker, William H.	Dean,	Kenna,	Roberts,
Bailou,	Deering,	Ketcham,	Ross,
Banning,	Denison,	Killinger,	Ryan,
Bell,	Dibrell,	Kimmel,	Sampson,
Benedict,	Douglas,	Knapp,	Saylor,
Bicknell,	Eames,	Lapham,	Sinickson,
Bland,	Elam,	Ligon,	Siemons,
Bliss,	Ewing,	Lindsey,	Southard,
Blount,	Felton,	Loring,	Steele,
Bouck,	Forney,	Martin,	Stewart,
Boyd,	Franklin,	McCook,	Stone, Joseph C.
Bridges,	Frye,	Mills,	Strait,
Buckner,	Garth,	Moncy,	Townsend, Amos
Burchard,	Gause,	Monroe,	Yanco,
Butler,	Goode,	Morrison,	Van Vorhes,
Cain,	Gunter,	Muldrow,	Waddell,
Calkins,	Hanna,	Muller,	Ward,
Camp,	Harris, Henry R.	Norcross,	Welch,
Caswell,	Hartridge,	Oliver,	White, Harry
Claffin,	Hatcher,	Page,	White, Michael D.
Cobb,	Hayes,	Patterson, G. W.	Williams, Andrew
Cole,	Hendes,	Peddie,	Williams, C. G.
Cook,	Henry,	Potter,	Williams, Jere N.
Cox, Jacob D.	Herbert,	Pound,	Willis, Benj. A.
Crapo,	Hewitt, G. W.	Randolph,	Wiles,
Hooker,	Hooker,	Rea,	Wood,
Crittenden,	House,	Reagan,	Wren.

NAYS—101.

Aldrich,	Cummings,	Ittner,	Rice, William W.
Baker, John H.	Cutler,	Jones, Frank	Robertson,
Beche,	Dickie,	Jones, John S.	Robinson, G. D.
Blackburn,	Dunnd,	Joyce,	Robinson, M. S.
Blair,	Durham,	Keightley,	Sapp,
Bragg,	Eickhoff,	Landers,	Shelley,
Brewer,	Ellis,	Lathrop,	Smalls,
Briggs,	Errett,	Lockwood,	Sparks,
Bright,	Evins, John H.	Luttrell,	Starr,
Brown,	Finley,	Mackey,	Stenger,
Bundy,	Fort,	Manning,	Stone, John W.
Cabell,	Freeman,	Marsh,	Throckmorton,
Caldwell, J. W.	Gardner,	McKenzie,	Townsend, M. I.
Caldwell, W. F.	Giddings,	McMahon,	Turner,
Campbell,	Hamilton,	Metcalfe,	Turney,
Candler,	Hardenbergh,	Mitchell,	Walker,
Cannon,	Harner,	Morgan,	Walsh,
Carlisle,	Harris, Benj. W.	Morse,	Warner,
Clark, Rush	Hart,	O'Neill,	Wigginton,
Clarke of Kentucky,	Hartzell,	Overton,	Williams, A. S.
Clymer,	Haskell,	Patterson, T. M.	Williams, James
Collins,	Hazell,	Phillips,	Willis, Albert S.
Conger,	Henderson,	Pollard,	Wright.
Covert,	Hewitt, Abram S.	Price,	
Cox, Samuel S.	Humphrey,	Reilly,	
Culberson,	Hunt,	Rice, Americans V.	

NOT VOTING—70.

Aiken,	Evans, James L.	Malsh,	Springer,
Bacon,	Foster,	Mayham,	Stephens,
Banks,	Fuller,	McGowan,	Swann,
Bayne,	Garfield,	McKinley,	Thompson,
Blaise,	Gibson,	Neal,	Thornburgh,
Boone,	Glover,	Phelps,	Tipton,
Brentano,	Hale,	Powers,	Townsend, R. W.
Brogden,	Harris, John T.	Pridemore,	Tucker,
Burdick,	Harrison,	Pugh,	Veeder,
Chalmers,	Henkle,	Quinn,	Wait,
Chittenden,	Hiscock,	Rainey,	Watson,
Clark, Alvah A.	Hungerford,	Scales,	Whitthorne,
Clark of Missouri,	Hunter,	Schleicher,	Williams, Richard
Davis, Joseph J.	Jorgensen,	Sexton,	Willis,
Dwight,	Keller,	Shallenberger,	Yeates,
Edou,	Kelly,	Singleton,	Young.
Ellsworth,	Knot,	Smith, A. Herr	
Evans, I. Newton	Lynde,	Smith, William E.	

So the motion was agreed to; and accordingly (at four o'clock and forty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BRAGG: Memorial of the Legislature of Wisconsin, relative to the improvement of the condition of the Oneida Indians—to the Committee on Indian Affairs.

By Mr. CANDLER: Papers relating to the claim of R. H. Caldwell—to the Committee on War Claims.

By Mr. CLARK, of Iowa: Joint resolutions of the Legislature of Iowa, favoring the construction of a commercial highway between the Mississippi River and Lake Michigan by way of the valleys of the Fox and Wisconsin Rivers—to the Committee on Commerce.

By Mr. COX, of New York: The petition of William McGovern, for the erasure of "deserter" from his Army record—to the Committee on Military Affairs.

Also, the petition of Frederick Buckner and other pensioners of the war of 1812, to be relieved of biennial medical examinations—to the Committee on Revolutionary Pensions.

By Mr. CUMMINGS: Joint resolution of the Legislature of Iowa, favoring the construction of a commercial highway between the Mississippi River and Lake Michigan by way of the valleys of the Fox and Wisconsin Rivers—to the Committee on Commerce.

By Mr. FORNEY: The petition of J. W. Moore and others, citizens of Blount County, Alabama, for a favorable consideration of House bill No. 1670—to the Committee of Ways and Means.

By Mr. FULLER: The petition of Hon. John Walz, of New Harmony, Indiana, for the distribution by Congress of public documents to public libraries containing two thousand volumes and over—to the Committee on the Library.

By Mr. GARDNER: The petition of T. Worthington, of Ohio, late colonel Forty-sixth Regiment Ohio Volunteers, for a pension—to the Committee on Invalid Pensions.

By Mr. GARTH: The petition of J. S. Collins, R. M. King, John B. Tally, Jr., and other citizens of Jackson County, Alabama, for the favorable consideration of House bill No. 1670—to the Committee of Ways and Means.

By Mr. HUMPHREY: Memorial of the North Wisconsin Railway Company, asking that they may not be divested of the title to certain lands—to the Committee on Public Lands.

By Mr. JOYCE: The petition of James C. Swassick, of Perrysville, Ohio, for a pension—to the Committee on Invalid Pensions.

By Mr. LIGON: The petition of citizens of Coosa County, Alabama, in relation to the cotton tax—to the Committee of Ways and Means.

By Mr. LUTTRELL: Joint resolution of the Legislature of California, favoring the appointment of M. G. Marsilliot to examine and report all the information that can be obtained upon the subject to the Secretary of the Treasury of the United States as to the production and manufacture of sugar from beets and melons in California—to the same committee.

Also, joint resolution of the Legislature of California, for the establishment of a mail route, with tri-weekly mails, from Reno, Nevada, to Chico, California—to the Committee on the Post-Office and Post-Roads.

By Mr. LYNDE: Memorial of the Legislature of Wisconsin, for the improvement of the condition of the Oneida Indians located on the reservation in the counties of Brown and Outagamie—to the Committee on Indian Affairs.

Also, memorial of the Legislature of Wisconsin, asking for an appropriation for constructing a harbor at Kewaunee, Wisconsin—to the Committee on Commerce.

By Mr. MARTIN: The petition of John T. Janney and others, of West Virginia, for the issue of \$500,000,000 of legal tenders, the calling in of the 6 per cent. matured bonds, and for the repeal of the resumption act—to the Committee on Banking and Currency.

Also, the petition of Franklin Ball, that his war claim be referred to the southern claims commission—to the Committee on War Claims.

By Mr. McMAHON: The petition of George Karner, for a pension—to the Committee on Invalid Pensions.

By Mr. METCALFE: The petition of Nathan Coronna, to be refunded certain taxes illegally assessed and collected from him—to the Committee of Ways and Means.

By Mr. MITCHELL: The petition of merchants of Philadelphia, against the passage of the Wood tariff bill, on the ground that in the present depressed condition of business it would be vitally injurious to manufacturing interests and disastrous to the mercantile community—to the same committee.

By Mr. MULBROW: The petitions of Mrs. Wincy Newbury and of Mrs. L. E. Sharp, for compensation for quartermaster and commissary stores taken by the United States Army—to the Committee on War Claims.

By Mr. OLIVER: Joint resolution of the Legislature of Iowa, in reference to the construction of a commercial highway by water between the Mississippi River and Lake Michigan via the valleys of the Fox and Wisconsin Rivers—to the Committee on Commerce.

By Mr. O'NEILL: The petition of James F. Larkin, that the record of his discharge may be changed—to the Committee on Military Affairs.

Also, the petition of the publishers and booksellers of Philadelphia, against the reduction of the duty on books; against the ad valorem system and the principle in the Wood tariff bill of placing all unenumerated articles on the free list, which would make free trade the rule and protection incidental; against the passage of this tariff bill; and against the importation of books free of duty through the mails—to the Committee of Ways and Means.

By Mr. REED: The petition of John R. Bean and others, of Kennebunk, Maine, against the proposed change of the tariff, and against the reimposition of duties on tea and coffee—to the same committee.

By Mr. RICE, of Ohio: Papers relating to the pension claim of Annie W. Osborne—to the Committee on Invalid Pensions.

By Mr. ROBERTS: The petition of Lewis K. Herbst, of Havre de Grace, Maryland, for compensation for damages sustained by the occupation of his property by the United States Army—to the Committee on War Claims.

By Mr. ROBINSON, of Massachusetts: Papers relating to the claim of J. Nelson Trask—to the Committee of Claims.

By Mr. VAN VORHES: The petition of Mrs. Julia E. Barnes, for a pension—to the Committee on Invalid Pensions.

By Mr. WARD: The petition of 90 merchants and manufacturers of the city of Philadelphia and of Delaware and Montgomery Counties, Pennsylvania, against any reduction of tariff duties—to the Committee of Ways and Means.

By Mr. WILLIAMS, of New York: The petition of Ann Jane Mackey, for a pension—to the Committee on Invalid Pensions.

By Mr. WILLIS, of Kentucky: The petition of Keturah A. Collins, for a pension—to the same committee.

Also, papers relating to the bill for the relief of Jesse D. Seaton—to the Committee on Military Affairs.

By Mr. WILSON: The petition of William M. Patton, for compensation for services rendered as a messenger in the Doorkeeper's department, House of Representatives—to the Committee on Appropriations.

By Mr. WRIGHT: The petition of Stephen S. Welsh, Nat. Fitch, W. W. Warner, Ziba Stephens, A. B. Templeton, A. M. Maynard, and John S. Spangenberg, for compensation for services rendered in the Quartermasters' Department, United States Army, in the year 1865—to the Committee of Claims.

IN SENATE.

TUESDAY, April 23, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

HOUSE BILLS REFERRED.

The following bill and joint resolutions from the House of Representatives were severally read twice by their titles and referred to the Committee on Naval Affairs:

A bill (H. R. No. 4420) for the relief of Horace E. Mullan;

A joint resolution (H. R. No. 109) authorizing Lieutenant T. B. M. Mason, United States Navy, to accept a medal conferred by the King of Italy for extinguishing a fire on a powder-ship; and

A joint resolution (H. R. No. 162) for the relief of Bushrod B. Taylor.

The following bills were severally read twice by their titles and referred to the Committee on the District of Columbia:

A bill (H. R. No. 4055) to create a revenue in the District of Columbia by levying a tax upon all dogs therein, to make such dogs personal property, and for other purposes;

A bill (H. R. No. 4425) to alter and amend a law of the District of Columbia relative to the inspection of flour; and

A bill (H. R. No. 4426) relative to the Washington Market Company.

The bill (H. R. No. 4413) to provide for the free entry of articles imported for exhibition by societies established for encouragement of the arts or sciences, and for other purposes, was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. No. 4416) referring the claim of the legal representatives of Captain John G. Todd, of Texas, to the Court of Claims was read twice by its title, and referred to the Committee on Claims.

The bill (H. R. No. 4422) to amend section 4695 of the Revised Statutes of the United States was read twice by its title, and referred to the Committee on Pensions.

The bill (H. R. No. 4222) to provide for a deficiency in the appropriation for the public printing and binding for the current fiscal year was read twice by its title, and referred to the Committee on Appropriations.

JAMES SHIELDS.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill (S. No. 931) granting a pension to James Shields; which, on motion of Mr. SARGENT, were referred to the Committee on Pensions.

PETITIONS AND MEMORIALS.

Mr. MATTHEWS presented the petition of Thomas Worthington, of Ohio, late colonel of the Forty-sixth Regiment Ohio Volunteers, praying that he may be placed on the retired list of the Army; which was referred to the Committee on Military Affairs.

Mr. CAMERON, of Wisconsin, presented the memorial of the Legislature of Wisconsin, in favor of legislation by Congress for the improvement of the condition of the Oneida tribe of Indians located on the reservation in the counties of Brown and Outagamie, in that State; which was referred to the Committee on Indian Affairs.

Mr. WALLACE presented a memorial of the Board of Trade of Philadelphia, Pennsylvania, remonstrating against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which was ordered to lie on the table.

He also presented the petition of John Thomas and 100 other citizens of Hokendauqua, Pennsylvania, and the petition of John Williams and 400 others, citizens of Catasauqua, Pennsylvania, praying for the passage of the bill authorizing the construction of the Texas Pacific Railroad; which were referred to the Committee on Railroads.

Mr. HAMLIN presented the memorial of John R. Bean and others, workmen of Kennebunk, Maine, engaged in the manufacture of cotton twines, remonstrating against any reduction of the duties on foreign imports and against the reimposition of the war tax on tea and coffee; which was referred to the Committee on Finance.

Mr. JOHNSTON presented the petition of James Garland, of Lynchburg, Virginia, who served in the war of 1812 as a sergeant in the Second Regiment Virginia militia, praying for a pension; which was referred to the Committee on Pensions.

He also presented resolutions of the Chamber of Commerce of Richmond, Virginia, in favor of a uniform tariff on imported sugar and molasses; which were referred to the Committee on Finance.

He also presented resolutions of the Norfolk and Portsmouth Cotton Exchange, in favor of an appropriation for the establishment of automatic signal-buoys at the entrance of Norfolk Harbor; which were referred to the Committee on Commerce.

Mr. MORGAN. I present a joint memorial of the Legislature of Alabama, in favor of a grant of land for the Tennessee and Warrior Rivers Railroad. As I desire to offer some remarks in regard to the subject-matter of this memorial before it is referred to a committee, I move that it lie upon the table for the present and be printed.

The motion was agreed to.

Mr. SAUNDERS. I have been requested to present a memorial of the Portland, Salt Lake and South Pass Railroad Company, which relates to the bill that was under consideration yesterday. I move that it lie upon the table and be printed.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. MAXEY, from the Committee on Military Affairs, to whom was referred the bill (S. No. 19) for the relief of Captain James M. Beeber, reported it with amendments, and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 827) to provide for the sale of certain portions of the Fort Leavenworth military reservation, reported it with amendments, and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred a letter of the Secretary of War, transmitting a communication from the General of the Army, recommending the amendment of section 1216 and the modification of section 1285 of the Revised Statutes so as to entitle the holders of certificates of merit to the additional pay of \$2 per month while in the military service, submitted a report thereon, accompanied by a bill (S. No. 1121) to amend section 1216 of the Revised Statutes, and a bill (S. No. 1122) to amend section 1285 of the Revised Statutes.

The bills were severally read twice by their titles, and the report was ordered to be printed.

Mr. MAXEY also, from the same committee, to whom was referred the petition of Lieutenant Marcus W. Lyon and other officers of the Ordnance Corps, praying legislation authorizing the Secretary of War to amend the relative rank of certain first lieutenants of the Ordnance Corps, United States Army, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. MAXEY. I am also directed by the same committee, to whom was referred the petition of Albert Ivers, late captain Company C, Eighty-second Regiment Pennsylvania Volunteers, praying for an increase of pension, to submit an adverse report thereon. This petition was first referred to the Committee on Pensions and afterward reported to the Senate and referred to the Committee on Military Affairs. The Committee on Military Affairs report it adversely and ask to be discharged from the further consideration of the petition.

The PRESIDENT *pro tempore*. The committee will be discharged and the report will be printed.

Mr. MAXEY, from the same committee, to whom was referred the bill (S. No. 588) to change the rank of Robert C. Buchanan, colonel on the retired list of the Army, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. BAYARD, from the Committee on Finance, to whom was referred the bill (S. No. 986) for the relief of William S. Morris, William S. Mann, Charles A. Oakman, George W. Hillman, the Union Transfer Company, all of Philadelphia, the Union Transfer Company, of Baltimore, Maryland, and John R. Graham, late of Philadelphia, now of Washington, District of Columbia, reported it without amendment.

Mr. BAYARD. I am also instructed by the same committee, to whom was referred the bill (H. R. No. 251) for the relief of James J. Waring, of Savannah, Georgia, to report it without amendment, and I ask for the present consideration of the bill, as it is reported unanimously from the committee.

The PRESIDENT *pro tempore*. The bill will be read for information, subject to objection.

The Chief Clerk read the title of the bill.

Mr. EDMUNDS. Let that go over, Mr. President.

The PRESIDENT *pro tempore*. There is objection, and the bill goes on the Calendar.

Mr. BAYARD. The bill is accompanied by a report. It is a House bill for relief. Probably if I state the case the Senator from Vermont will see its justice.

Mr. EDMUNDS. I dare say that it is perfectly right, but I am con-

stitutionally opposed to passing bills the moment they are reported. I have not the least objection to this bill; I do not know anything about it; but I think it is a bad practice, and that is my reason for objection.

Mr. BAYARD. As the Senator objects, I am aware that the bill goes over. I ask that the report be printed.

The PRESIDENT *pro tempore*. The report will be printed.

Mr. VOORHEES, from the Committee on Finance, to whom was referred the bill (H. R. No. 1889) for the relief of David W. Cheeseman, of Lake City, in Lake County, in the State of Oregon, reported it without amendment.

Mr. SPENCER, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1048) for the relief of Ethan A. Sawyer, asked to be discharged from its further consideration and that it be referred to the Committee on Claims; which was agreed to.

Mr. MORRILL. I am directed by the Committee on Finance, to whom was referred the joint resolution (H. R. No. 151) directing the Secretary of the Treasury to refund to the Society of the Sons of St. George, established at Philadelphia, the sum of \$1,440.25 in gold, being the amount paid by said society upon a colossal statue of St. George and the Dragon, to report it adversely.

The PRESIDENT *pro tempore*. Does the Senator ask present consideration?

Mr. MORRILL. I will, if there is no objection.

Mr. EDMUNDS. I object.

The PRESIDENT *pro tempore*. Objection being made, the joint resolution goes on the Calendar.

THE TWENTY-CENT PIECE.

Mr. MORRILL. I am directed by the Committee on Finance, to whom was referred the bill (H. R. No. 4394) to prohibit the coinage of the twenty-cent piece of silver, to report it without amendment. As I presume there will be no objection, I ask the action of the Senate upon this House bill. It is understood by all, I think, that the coinage of the twenty-cent piece was originally a mistake, and that being so nearly the size and weight of the twenty-five-cent piece the two are often confounded. I therefore move that the bill may receive present action.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. SARGENT. I do not object to the passage of the bill, but the measure itself would have been very effectual originally if it had been coupled with a provision doing away with the half dollar, making a forty-cent piece and a decimal system all the way through. I think the measure was originally designed as the commencement of an improvement in that direction and to avoid the anomaly of twelve and a half cents, or half a quarter of a dollar, there being no coin in which such change can be made. But, as the twenty-cent piece has been coined and we have gone no further and as the twenty-cent piece is very near in size to the twenty-five-cent piece, I think such legislation as is now proposed is judicious. I am sorry the committee did not take into consideration, however, the whole value of the decimal system and introduce a measure accordingly.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. MORRILL, from the Committee on Finance, to whom was referred the bill (S. No. 313) to repeal an act authorizing the coinage of a twenty-cent piece of silver, asked to be discharged from its further consideration; which was agreed to, and the bill was postponed indefinitely.

BILLS INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1123) to grant certain public lands in Alabama in aid of the Warrior and Tennessee Rivers Railroad; which was read twice by its title, and, with the accompanying papers, ordered to lie on the table.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1124) for the relief of the Winnebago Indians in Wisconsin and to aid them to obtain subsistence by agricultural pursuits and to promote their civilization; which was read twice by its title, and ordered to be printed.

Mr. DENNIS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1125) to provide for the care of all animals to be slaughtered in the District of Columbia and to incorporate the District of Columbia Stock-Yard, Abattoir, and Rendering Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. JOHNSTON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1126) for the relief of Moses Myers, executor of Myer Myers, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1127) to authorize the Washington, Cincinnati and Saint Louis Railroad Company to construct a narrow-gauge railway from tide-water to the cities of Saint Louis and Chicago; which was read twice by its title, and referred to the Committee on Railroads.

Mr. KERNAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1128) for the relief of Lyman F. Munger; which was read twice by its title, and referred to the Committee on Patents.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1129) to amend section 4916 of the Revised Statutes of the United States, relating to patents; which was read twice by its title, and referred to the Committee on Patents.

Mr. SPENCER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1130) to regulate the foreclosure of mortgages, &c., in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

WITHDRAWAL OF PAPERS.

On motion of Mr. JOHNSTON, it was

Ordered, That Maria B. Wolfe have leave to withdraw from the files of the Senate the papers accompanying Senate bill No. 487 upon leaving copies.

COMMITTEE ON COMMERCE.

On motion of Mr. CONKLING, it was

Ordered, That the Committee on Commerce have leave to sit during the sessions of the Senate.

NORTHERN PACIFIC RAILROAD.

Mr. MITCHELL. I move that the Senate proceed to the consideration of the Northern Pacific Railroad bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 238) to extend the time for the construction and completion of the Northern Pacific Railroad; and by a readjustment of the grants, without increasing the appropriation, to secure the construction of the Portland, Salt Lake and South Pass Railroad, the pending question being on the amendment reported from the Committee on Railroads as a substitute for the bill.

Mr. MITCHELL. Before the bill went over yesterday the Senator from Connecticut [Mr. EATON] called attention to the fact that the bill provided that the road should run in part through the State of Oregon and that no provision was made for obtaining the consent of the State, or something to that effect. I desire to call the attention of the Senator and of the Senate to the original act which I have this moment examined, and which I had not examined when I talked with the Senator this morning. The original act of July 2, 1864, incorporating the Northern Pacific Railroad Company, provided in section 18 as follows:

That said Northern Pacific Railroad Company shall obtain the consent of the Legislature of any State through which any portion of said railroad line may pass, previous to commencing the construction thereof; but said company may have the right to put on engineers and survey the route before obtaining the consent of the Legislature.

The law simply provides that they may put on engineers and survey the route before consent is had, but they cannot appropriate property, they cannot commence work, they cannot do anything except to make the surveys until they have the consent of the Legislature of the State.

It will be remembered, furthermore, that the greater portion of the completed road that has been constructed under and in pursuance of this act is constructed through the State of Minnesota, the company first obtaining the consent of the Legislature of that State. I think calling attention to this fact will obviate the objection made by the Senator from Connecticut.

Mr. EATON. But this is a new bill.

Mr. BUTLER. Has not the completed road been constructed in part through the State of Oregon?

Mr. MITCHELL. No, sir; no part of the road has been constructed in the State of Oregon. A considerable portion of the road is constructed in Washington Territory, but no part has been constructed in the State of Oregon.

Mr. DAVIS, of West Virginia. Some part of it has been surveyed in the State of Oregon, I understand.

Mr. MITCHELL. I think surveys have been made, though I cannot speak positively upon that point.

Mr. GROVER. Surveys have been made in Washington Territory, but the line has not been surveyed in Oregon at all.

Mr. DAVIS, of West Virginia. No surveys have been made, then, in Oregon.

Mr. GROVER. I think not; none have been necessary; they follow the river bank all the way through the State.

Mr. MITCHELL. There is no question about the practicability of the route at all, and I think my colleague is entirely correct in regard to the matter of surveys.

Mr. EDMUNDS. I move to amend section 14 of the amendment, the print of April 16, by striking out in line 4 of that section the words "having due regard for the rights of said companies." Those words, "having due regard for the rights of said companies," seem to have been imported into this section out of the original Union Pacific act, and it was contended here in debate on the funding bill—I thought without good foundation but others thought it was with a good foundation—that those words had some effect in limiting the power of Congress, and that Congress could not amend, alter, or repeal the act unless some court should say that it could be done with due regard to the rights of the companies. I do not want to set up this charter open to any such casuistry as that, and therefore I wish to leave this section giving Congress the complete right, in the exercise of its own judgment and sovereign jurisdiction, to alter, amend, or repeal. I move to strike out those words.

The PRESIDENT *pro tempore*. The Senator from Vermont moves to strike out the words he has named.

Mr. MITCHELL. I do not wish to take up time in regard to this matter. I am one of those who believe that Congress has no power, and if Congress had the power it is one that it should not exercise, to interfere with any corporation in such a manner as to affect the rights of the company that have vested under the act. But I cannot waste the time of the Senate on this matter now.

Mr. DAVIS, of West Virginia. Let the amendment to the amendment be reported.

The PRESIDENT *pro tempore*. The amendment to the amendment will be read.

The CHIEF CLERK. In section 14, line 4, it is proposed to strike out the words:

Having due regard for the rights of said companies.

So that, if amended, the section would read:

That Congress reserves the right to alter, amend, or repeal this act at any time and the acts and resolutions of which this act is amendatory or supplemental, and to provide by law against unjust discriminations and excessive charges on the part of said company.

The amendment to the amendment was agreed to.

Mr. TELLER. In section 4, line 6, before the word "years," I move to strike out "eight" and insert "five;" so as to read:

Actual settlers on any agricultural or grazing lands embraced within the grant to said company, who shall have settled thereon before the completion and acceptance of the section of the road opposite thereto, and actual settlers on any agricultural or grazing lands embraced within the said grant remaining unsold at the expiration of five years from the completion and acceptance of the section of the road opposite thereto, if said last-mentioned lands shall, at the time of such completion and acceptance, be surveyed by the Government, and if not, then at the expiration of eight years after the Government surveys shall be extended over the same, shall be entitled each to purchase from said company one quarter section, or a legal subdivision thereof, on which they shall have settled, at the price of not exceeding \$2.50 per acre, excepting coal, iron, and timber lands and lands within the right of way for said railroad: *Provided, however,* That this section shall not apply to the lands already earned by said company.

I will state that the Union Pacific act provides that this may be done within three years instead of five. I think five is a fair period of time after the completion of the road. It is two years more than was given to the Union Pacific. I think the friends of the bill ought not to complain if we make it five.

Mr. MITCHELL. Personally I have no objection to the amendment to the amendment. Eight years was the time fixed by the committee, however, and I shall vote against the amendment.

Mr. WINDOM. I hope the amendment to the amendment will not be adopted. The Committee on Railroads have certainly imposed all the conditions and restrictions upon this company that ought to be imposed if there is any hope of securing means to build the road. The conditions of the land grant are materially changed from any we have ever made before that I remember. The Senator from Colorado speaks of the difference between this measure and the Union Pacific act, and says that that act requires the lands to be sold in three years. If I remember aright, the Union Pacific act does not provide that actual settlers may go upon those lands to take prior to the construction of the road. But the bill now pending before the Senate radically changes the principle heretofore acted upon in land grants, in this, that it opens the whole of those lands to actual settlement at \$2.50 per acre. I think that has never been done before. Has it been done within the recollection of the chairman of the Committee on Railroads?

Mr. MITCHELL. I think that principle was substantially incorporated in the act granting lands to the Oregon Central Railroad.

Mr. WINDOM. Well, with the exception of one or two, perhaps local roads, it has never been the principle acted upon by Congress. In this case you have departed from that principle so as to throw open these lands to settlement before the completion of the road. Then the company will have control of them under the bill for eight years, and if not sold then they are thrown open again to actual settlers and anybody may go and take them. There is no tying up of these lands. There is no monopoly in the public domain created. The committee have imposed these conditions, which I think are rather severe upon the company, but as they may be considered beneficial to the settlers I have agreed to them. I hope the Senate will not on the motion of the Senator from Colorado go any further in this direction. To go further in imposing conditions is to cripple the company so as to lose all hope of the construction of the road.

Mr. TELLER. As to allowing these settlers to go upon this land, it is only until they have gained the land, and the time for gaining it will be extended, if the bill is passed, for ten years. It would be very unreasonable and very unfair to prevent the settlers from going on this land for ten years, the committee believing that made a provision that until the road was completed a settler might go on the land, and instead of paying \$1.25 an acre pay \$2.50 an acre for the land, which goes to the company if it turns out to be their land that is taken. The act under which the Union Pacific Company was organized provided that after the road was built and accepted the land should be theirs, but if they did not dispose of the land within three years it should be open to settlers at \$1.25 an acre. I am quite willing that this company should have two years longer than the Union Pacific, and I think five years is ample time.

Mr. WINDOM. I will ask the Senator if the land was open to settlement on the Union Pacific prior to the completion of the road?

Mr. TELLER. It was not. I think the friends of this bill understood very well that it was important to extend the time of this company for ten years, and it should be done upon the express condition that the land on the end of the road should be open to settlement; for there is no certainty that the road ever will be built, and to withdraw the land for ten years from the settlers would be a great hardship upon them. I think the friends of the bill ought to accept five years instead of eight.

Mr. MITCHELL. Although something of this principle was incorporated in the act I referred to a few moments ago, no bill ever presented to Congress, from any committee at least, has given that full and complete protection to settlers that is proposed by this bill. All the lands along the line of the non-completed road are thrown open to settlement. All grazing lands, all agricultural lands, are thrown open to settlement at a price not exceeding \$2.50 an acre. When the road is completed and accepted, or any particular section of it, then the lands are to be withdrawn for a period of eight years, under the provisions of the bill as reported by the committee. At the expiration of that time they are again, as stated by the Senator from Minnesota, thrown open to settlement. It does occur to me that the provision as it stands is one that the settlers cannot reasonably object to. The matter was carefully considered by the committee and agreed to as reported.

Mr. TELLER. I would say, so far as the committee is concerned, that as a member of the committee I reserved the right to object to certain provisions of this bill.

Mr. MITCHELL. That is true.

Mr. TELLER. I believe other members of the committee did so also. We consented generally that the bill should be reported with the right reserved that if we saw fit we would move amendments.

Mr. MITCHELL. Certainly; that reservation was made by the Senator from Colorado.

The PRESIDENT *pro tempore*. The question is on striking out "eight" and inserting "five."

The amendment to the amendment was rejected.

Mr. TELLER. I propose an amendment on page 10, which is not a matter of any interest at all, as I understand it, to this railroad company. I move to strike out the first proviso of section 10, in the following words:

Provided further, That all persons who, under the restrictions of the existing laws granting lands to the Northern Pacific Railroad Company, have taken homesteads of not exceeding eighty acres shall have the privilege of increasing the amount of their said homesteads, so that the aggregate taken by any one person shall not exceed one hundred and sixty acres; this to be done under such regulations as may be prescribed by the Secretary of the Interior.

This proviso proposes an entirely different rule with reference to the disposition of the public land so far as the lands along the line of this road are concerned from what exists as to land in every other section of the United States. It seems to me that it is not fair to give the people in that section of country one hundred and sixty acres for a homestead when under like circumstances in other sections only eighty acres are given. It is not a matter of any consequence to the railroad company one way or the other.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Colorado [Mr. TELLER] to the amendment of the committee.

Mr. MITCHELL. I hope that the amendment to the amendment will not prevail. While it may not be a matter that the company is particularly interested in, it is a matter of vital interest to the people within the limits of this grant. If the amendment to the amendment should prevail, the right of homestead is entirely taken away, as I understand it.

Mr. PADDOCK. The homestead would apply to eighty acres instead of one hundred and sixty.

Mr. MITCHELL. The purpose of the Senator would be to simply leave it as it stands in the original act, to limit it to eighty acres; but I think the amendment goes further, and would exclude homesteads entirely.

Mr. TELLER. My proposition is to leave the matter exactly as provided for by the general law, and not to make an exception in favor of settlers on the line of any particular road. That is the only objection I have to the proviso. I am in favor of the general principle of giving settlers one hundred and sixty acres as a homestead.

Mr. MITCHELL. This proviso, of course, relates solely to the even sections within the limits of this grant. It has no reference to the lands of the company. I have this to say, Mr. President, that it is known to all that an eighty-acre homestead is insufficient. A man desiring a homestead requires more than eighty acres. There is a bill now pending before the Committee on Public Lands of the Senate providing that the law shall be so changed as to entitle homesteaders to one hundred and sixty acres within the limits of all railroad grants. I admit the force of what the Senator from Colorado says when he refers to the fact that there should be no discrimination made, and that, if homesteaders are limited to eighty acres within the limits of other grants to railroads, they should not have one hundred and sixty acres within the limits of this grant; but, if it is an evil, if it is an error, if it is an injustice to the homesteader, then the sooner we commence to correct that error the better; and no better opportunity could be presented than is presented now to give homesteaders the benefit of one hundred and sixty acres of the even sections within the

limits of this grant. Then there is no difficulty if Congress desires to change the law in reference to other railroad grants; they certainly have the power to do it; so that it does not interfere with any of the rights of any company. That question cannot arise, and I think the amendment should not be made.

Mr. SARGENT. I should like to ask the Senator from Oregon if it is intended that they shall take contiguous land in order to make up the one hundred and sixty acres.

Mr. MITCHELL. This bill leaves that to the Secretary of the Interior under such regulations as may be prescribed.

Mr. SARGENT. Then it leaves it, no matter who is Secretary of the Interior, to a very bad tribunal. We have seen the effect of additional soldiers' homesteads, the additional eighty acres being a mere float and the means of great frauds. It became at one time a matter of serious question in Congress whether we should not have to repeal the whole grant in regard to soldiers' additional homesteads on account of the frauds. Where a person comes and shows that he has in a certain place an eighty-acre homestead and wants to increase it to one hundred and sixty acres by taking contiguous land, every objection is avoided; but if the additional eighty acres is to be floated anywhere and everywhere, to be taken anywhere else, the man has either got to abandon his original eighty-acre homestead or not settle upon the eighty acres that he takes in addition, so that the idea of homestead applying to the additional eighty acres is a fallacy.

Mr. WINDOM. I would call the attention of the Senator from California to the provision in the eighth line and ask him if in his judgment that does not answer his objection?

Mr. SARGENT. "Under the restrictions of the existing laws."

Mr. WINDOM. "To be taken in conformity to the existing pre-emption and homestead laws."

Mr. SARGENT. No, sir; because the proviso goes on and makes provision for another class of persons:

That all persons who, under the restrictions of the existing laws granting lands to the Northern Pacific Railroad Company, have taken homesteads of not exceeding eighty acres, shall have the privilege of increasing the amount of their said homesteads, so that the aggregate taken by any one person shall not exceed one hundred and sixty acres.

I do not object to that. I believe with the Senator from Oregon that eighty acres is too limited a homestead, and that in that country where there is so much wild land it is the interest of the Government to induce homesteaders to take it up and give them one hundred and sixty acres for reclaiming the wilderness; but I would require their land to be contiguous. A man cannot possibly keep one foot upon one homestead of eighty acres and another on some other place of eighty acres; one or the other becomes speculative.

Mr. EDMUNDS. Just put in the word "contiguous."

Mr. SARGENT. I want to put in "by taking contiguous land," and I move an amendment to insert after the word "homestead" the words "by taking contiguous land."

Mr. MITCHELL. I admit the force of what the Senator from California says. It will have the effect, however, of making an invidious distinction between those who have settled on homestead lands, because in very many cases it will doubtless have the effect that the party will be so hampered that it will be utterly impossible for him to increase his homestead.

Mr. SARGENT. He may not then be able to take his additional eighty acres, but he has this consideration in his favor, that he is in such a thickly populated community, settled all around, that his land is increased in value, and it is not much of a hardship to him.

Mr. McMILLAN. Will the Senator from California permit me to call his attention to the fact that in line 8 of section 10 it is provided that these homesteads and pre-emptions must be taken in conformity to the existing law?

Mr. SARGENT. It does not so provide. The proviso refers to a particular class.

Mr. McMILLAN. But if the Senator will observe the portion of the section preceding the proviso commencing in line 8 refers to homesteads and pre-emptions under existing laws. Now, under the existing laws the homestead must be, as I understand it, of contiguous land.

Mr. MITCHELL. There is no question but that part of the section provides that the new selections shall be one hundred and sixty acres.

Mr. McMILLAN. Then, if the Senator will observe, this proviso merely permits those who are upon lands under the claim of a homestead to extend it to one hundred and sixty acres, and of course refers to the homestead referred to in the previous part of the section, and it requires no such amendment as the Senator from California suggests, and the increase would have to be in accordance with existing law and must be contiguous land.

Mr. SARGENT. Then the Senator will certainly agree to my amendment which makes it plain.

Mr. McMILLAN. Yes, if you consider it necessary.

Mr. WINDOM. I do not think there is any objection to the amendment of the Senator from California.

Mr. SARGENT. The first part of section 10 refers to homesteads hereafter taken up. The proviso refers to those now taken up. One does not relate back in its provisions to the other.

Mr. WINDOM. I have supposed that the bill meant precisely what the Senator from California desires it should mean, and I have no objection to the amendment he proposes so far as I am concerned.

Mr. SARGENT. Very well.

The PRESIDENT *pro tempore*. The amendment will be reported. The CHIEF CLERK. In section 10 of the committee's amendment, line 13, after the word "homesteads," it is proposed to insert "by taking contiguous lands."

The amendment to the amendment was agreed to.

Mr. MORRILL. I suppose it would be proper that some bill of this kind, covering an extension of time for the building of the road, should be passed in order to secure the completion of the road, and also if possible to protect those who have invested largely in the four or five hundred miles that have been completed.

Now I desire to inquire of the Senator who has this bill in charge, as I discover by the report made that the committee have reduced the number of acres of land that was heretofore granted to the extent of eleven million acres, what additional burdens have been placed upon this road by which it may be possible, as it seems to me, that the road may not be completed; and if the Senator in charge will explain how much more this company has got to build in addition to the original main stem, and what the conditions are in relation to any other road taking possession of this grant provided the Northern Pacific Company shall fail to complete the road, and what the conditions are in relation to a combination of roads to take place hereafter, I should be very glad to hear from him. It seems to me that they have imposed large burdens upon this company, much greater than were contained in the original grant, while they have reduced the original grant as asserted in the report by the sum of eleven million acres.

Mr. MITCHELL. In answer to the Senator from Vermont I will state that I do not understand that this bill imposes any burdens whatever in reference to building any branch roads, or any other roads whatever. In fact, so far from imposing burdens on the company, they are absolutely released from the construction of something like three hundred miles of road. There is no provision in this bill from the beginning to the end authorizing the Northern Pacific Railroad Company, or any other company connected with it or connected with this bill, to build any branch road whatever. It simply extends the time for ten years within which they are compelled to construct and complete their main line of road upon certain conditions; for instance, they must resume work within nine months from the passage of this act; they must construct and equip at least one hundred miles a year on the main line, because that is the only line they can construct any road on. It provides where a portion of these hundred miles of road each year shall be constructed. That is all. For instance, it provides that twenty-five miles shall be constructed the first year at or near the mouth of Snake River on the Columbia River, and to be constructed eastward. It also provides that within two years from the passage of this act they shall construct on their main line and as a part of their main line some four or five miles of road beside the Cascades of the Columbia River, and also within two years and a half from the passage of the act that they shall construct and equip as a part of their main line some fourteen or fifteen miles of road around The Dalles of the Columbia River; so that there is no restriction, no imposition, no burden, as I understand it, placed by this bill upon the Northern Pacific Company; none whatever. They are simply to construct one hundred miles each year on their main line of road, and that is all there is of it. There is no branch. Under the original act they were compelled to construct not only a main line down the Columbia River and to Puget Sound, but they were compelled to construct a branch across the Cascade Mountains to Puget Sound. It is not extended to that.

Moreover, I will say to the honorable Senator from Vermont that there is no provision in this bill as I understand it but is consented to by the Northern Pacific Railroad Company as it stands now. There were a number of provisions proposed by the bill as originally introduced by myself, and by the bill as reported by the committee in the first instance before its recommitment, to which there was violent opposition made by the company, and it was only because of that opposition and because of the fear the friends of this great enterprise had that they would result in defeating the legislation that the Committee on Railroads asked a recommitment of the bill and made the attempt to reconcile conflicting interests and to tender a bill to the Senate that would receive the approbation of Congress.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Colorado [Mr. TELLER] striking out the proviso which has been read.

Mr. TELLER called for the yeas and nays; and they were ordered. Mr. EDMUNDS. Now, let the amendment be reported that we may hear what it is.

The PRESIDENT *pro tempore*. The amendment will be read.

The CHIEF CLERK. It is proposed to strike out the following proviso in section 10 of the amendment of the committee:

Provided, further, That all persons who under the restrictions of the existing laws granting lands to the Northern Pacific Railroad Company have taken homesteads of not exceeding eighty acres shall have the privilege of increasing the amount of their said homesteads by taking contiguous lands, so that the aggregate taken by any one person shall not exceed one hundred and sixty acres; this to be done under such regulations as may be prescribed by the Secretary of the Interior.

Mr. McMILLAN. I hope this amendment will not be adopted by the Senate. Certainly the extent of one hundred and sixty acres for a homestead is not too much. Settlers are permitted by the general

law of the country to have homesteads to that extent. The only departure from that principle—

Mr. PADDOCK. Not within other railroad grants.

Mr. McMILLAN. I am about to explain. The only departure from that principle is where a settler attempts to take a homestead within a grant of lands made to some railroad. Now if this company will accept this grant and permit the settlers to have one hundred and sixty acres for a homestead when a settler on any of the public lands of the United States can have that amount, why not incorporate that provision in this bill? Why restrict the settler to eighty acres of land on his homestead upon these railroad lands, when a settler upon the public lands can have a homestead of one hundred and sixty acres? What reason can be urged in behalf of the public interests that would require any opposition to such a provision as this in a railroad grant; and if this company is willing to accept such a provision, certainly it is not a privilege to them but it is a privilege to the citizen of the country who wants to go anywhere on the public lands and get a homestead which he can cultivate and upon which and from which he can make a living? To ask a settler to go out upon the public land upon the line of this road and take a homestead of eighty acres, is asking too much of him; and it seems to me that there is no reason why there should be opposition to this proviso.

Mr. PADDOCK. If the Senator from Minnesota could make this provision general and applicable to other grants there would be no objection to it. I agree with him that one hundred and sixty acres is quite little enough for a homestead; but it is a discrimination against States in which there are other grants in favor of this particular section which I should be very sorry to see made. If there is to be a change of principle it should be a general change affecting all the others as well as this.

Mr. McMILLAN. I certainly concur with the Senator from Nebraska in regard to what should be the policy upon all railroad land grants; but we cannot now adopt a general principle in regard to corporations who have existing rights and do not come here and ask for this change. If these other corporations come here and ask for such a change then it will be advisable for Congress to grant it, and I certainly shall go for granting that privilege. But they are not here asking that privilege; and if a general law were passed to the effect suggested by the Senator from Nebraska it would still leave the question open whether or not the particular privilege having been granted to a corporation under its organic law it is affected by a general law passed by Congress upon a subject of the same general character.

Mr. TELLER. I desire to ask the Senator from Minnesota if the railroad companies have any interest in this at all, if it is not a simple question of the disposition of the public lands?

Mr. McMILLAN. I do not ask it in the interest of the railroad companies, I ask it in favor of the settler. This is a privilege granted to the settler, and I am in favor of conferring that privilege upon the settler. If any of our citizens choose to emigrate to the West upon the line of this road, I think they are entitled to a homestead of one hundred and sixty acres instead of being restricted to one of eighty acres. I ask not this in favor of any corporation; far from it. It is in the interest of the settler. I apprehend the proviso was inserted for that express purpose, and not in the interest of the corporation; but if the corporation is willing to accept it, certainly we may well confer it.

Mr. TELLER. The corporation has nothing at all to do with this; it has no interest in it.

Mr. McMILLAN. The Senator will allow me to explain. I merely referred to the corporation being willing to accept it in the sense that they are not here to oppose the granting of this privilege to the settlers on the public lands.

Mr. MORRILL. May I ask the Senator from Minnesota a question? Does he not think that it is a hardship to the settler to accept one hundred and sixty acres of land anywhere outside of a railroad grant, and if it be a hardship ought not the difference to be made up at a dollar and a quarter an acre to those who do not get their homesteads within a railroad grant.

Mr. TELLER. My objection to this proviso is simply that it discriminates in favor of the settlers in a particular section of country. All that the Senator from Minnesota has said with reference to the propriety of giving abundance of land to the settler I agree with; but why should you give to settlers on the line of this road what you deny to settlers on the line of every other road that the Government has ever granted a subsidy of land to within the United States? Why give a homestead in Minnesota of one hundred and sixty acres while you deny that privilege to the citizen of Colorado, of Nebraska, of Kansas, of New Mexico, and of many other States and Territories in the Union? All I ask is that we shall legislate here with reference to all the citizens alike. If anybody can show that the citizens of Minnesota and of Dakota, or the people who go there, are entitled to any greater privileges and rights than the people in my State, then I will yield; but, until that is shown, I am opposed to discriminating legislation in favor of the people of any particular section of the United States, whether it is under the pretense of helping a railroad or under the pretense of helping the hardy settlers who go out to settle up the lands of the West. The rule should be uniform, not legislation for one section of the country that you deny to another. If there has been anything in the history of your legislation for a few years that has made ill-feeling and trouble it is this very principle,

that you legislate for one section of the country differently from what you legislate for another. I demand that they shall be bound by the same laws on the line of this North Pacific Railroad that they are on the line of the Kansas Pacific or the Union Pacific and other roads in the United States that have received subsidies of lands from the Government. No reason can be given why a different rule should prevail. The land is as rich and as valuable there as in any other portion; acre by acre it is worth ten times as much as the majority of the land that was granted to the Kansas Pacific outside of the State of Kansas, and to the Union Pacific on its whole course outside of the river belt of the Missouri River. There is no reason, then, why we should say here, "You shall have one hundred and sixty acres, while citizens in other sections shall be content with eighty."

Mr. PLUMB. One suggestion that I should like to make in connection with that matter that I have not heard adverted to, is that we are undertaking to legislate in reference to the disposal of the public lands in a bill to which that subject is really not germane. This is a bill, as I have understood it—I have not read it carefully—simply to extend the right of the Northern Pacific Railroad Company to acquire these lands for a certain period of years; and incidentally to that the right to control in some way the manner in which they shall dispose of their lands. It seems to me that is a good place to stop, and that we ought not to interfere with the disposal of the public lands within the same limits. It is mixing the legislation up. The main matter under consideration is that which pertains to the Northern Pacific Railroad. Why should that be connected now with a matter in reference to the disposal of the public lands? Why should not this other question as to the increase of the homestead entry, as to the right to enter one hundred and sixty acres within railroad limits, come up by itself?

I may say as pertinent to that suggestion that there is a bill already pending and now being considered by the Committee on Public Lands proposing to do that thing. That is the proper committee to consider it. It is proper that it should be considered as a substantive proposition by itself, not in connection with a railroad grant; and that it seems to me is the one reason why this bill should be amended as proposed.

There is a question, of course, as the Senator from Colorado has suggested, that this is giving privileges to one section of the country that are not given to another; and there are questions which will come up growing out of that; as, for example, where men have already entered and made final entries of eighty acres of land within the limits of this railroad grant, they will be wanting another eighty acres in order to make them equal to those who are to come after them; and that will bring up the question as to what shall be done within other railroad grants, because settlers there will want the same thing. The Committee on Public Lands, no doubt, will consider all those questions together in a manner in which it cannot be properly considered by the Senate in this connection, no previous consideration having specially been given to it by the committee charged with this branch of the public business.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Colorado to the committee's amendment, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 4, nays 50; as follows:

YEAS—4.	NAYS—50.	Teller.
Kirkwood,	McCreery,	Paddock,
Allison,	Cockrell,	Grover,
Anthony,	Coke,	Hamlin,
Bailey,	Conkling,	Harris,
Barnum,	Conover,	Liverford,
Bayard,	Davis of Illinois,	Howe,
Beck,	Davis of W. Va.,	Johnston,
Booth,	Dawes,	Kernan,
Burnside,	Dorsey,	Lamar,
Butler,	Eaton,	Maxey,
Cameron of Wis.,	Eustis,	McDonald,
Cameron of Pa.,	Ferry,	McMillan,
Chaffee,	Garland,	Merriman,
Christiancy,	Gordon,	Mitchell,
ABSENT—22.		
Armstrong,	Hoar,	McPherson,
Blaine,	Ingalls,	Patterson,
Bruce,	Jones of Florida,	Plumb,
Dennis,	Jones of Nevada,	Randolph,
Edmunds,	Kellogg,	Saulsbury,
Hill,	Matthews,	Sharon,

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The morning hour has expired, and the Senate proceeds to the consideration of the Calendar under the rule.

Mr. KIRKWOOD. I should like to call attention to a point in this bill, so that it may be considered.

Mr. MITCHELL. I ask that the regular order be laid aside informally.

The PRESIDENT *pro tempore*. The Senator from Oregon asks that the Senate proceed with this bill until the regular order is called for. Is there objection? The Chair hears none.

Mr. DAVIS, of West Virginia. I think we ought to proceed with the Calendar. Every day we try to lay aside the Calendar and take up something new. There is nothing made by it. One day's work upon business unobjected to on the Calendar will make great progress with it, and we know that the Senate yesterday evening unanimously said that as soon as we acted on the unobjected cases the Senator from Tennessee [Mr. BAILEY] should call up a bill that he was interested in. I do not see any good reason why we shall not proceed in the order that we a few days ago resolved that we would; and without some very good reason I shall ask that the Senate proceed with the regular order.

Mr. WINDOM. I hope the Senator from West Virginia will not insist on a vote upon that question. We can finish this bill a great deal easier now than we can hereafter; it will take much less time now than if it be laid over. Certainly a bill that interests so large a portion of the country demands the attention of the Senate as much as private bills. We have given two or three days to the consideration of private bills. Why not let us finish this, as it is now before the Senate? It can be done within a very short time. I know of no speeches of any length that are to be made.

Mr. DAVIS, of West Virginia. The Senator from Minnesota is wrong when he speaks of private bills. Proceeding to the Calendar is not considering private bills alone. It includes a bill of this character as well as any other bill that is unobjected to. We resolved a few days ago that we would proceed regularly. Now I suggest to my friend from Minnesota, why not go on as we have resolved, and finish up the Calendar, and then take up objected cases, and let this bill come up among others. I shall not insist on the order if other Senators do not. The Senator from Minnesota knows his power over me; he knows that his persuasive power I have never yet resisted.

Mr. WINDOM. If I have any blandishments that I can exercise over the Senator, I hope they will have their effect now, for I should really like very much to have the Senate finish this bill.

Mr. GORDON. I should like to ask the Senator from Minnesota how much time he thinks it will take?

Mr. WINDOM. A half hour or so ought to finish it. I cannot say how many amendments there will be; but it cannot certainly take long.

Mr. GORDON. Then I think we had better go on and finish it. The PRESIDENT *pro tempore*. Is there objection to the Senate proceeding with this bill subject to a call for the regular order? The Chair hears none.

Mr. KIRKWOOD. I wish to call the attention of the chairman or some member of the committee reporting this bill to sections 4 and 11. Under section 4 actual settlers are authorized to enter upon these lands and become owners of them, and under certain limitations as to time to purchase them. Now I say very frankly that but for that section I could not vote for this bill. I have seen so much of the evils of allowing large bodies of land to be tied up indefinitely in the States and Territories by railroad corporations and held by them year after year for the purpose of enhancing their value to the injury of the State or Territory where they may be, that, but for this section 4, I would not vote for this bill.

Section 11 authorizes this company to mortgage all its property; to issue bonds "and to secure the same by mortgage on the whole or any part or parts of its railroad and property and rights of property of all kinds and descriptions." The query I wish to address to the committee is whether or not under this mortgage when it shall be executed these purchasers will not take subject to the mortgage, and thus in effect section 11 defeat what I conceive to be the good intent of section 4?

Mr. HEREFORD. I desire to draw the attention of the gentleman in charge of this bill to an omission from the bill, as I understand, that ought to be supplied. I think that when the lands are segregated, set apart to the railroad company so that they know what lands they will get, the railroad should pay taxes upon those lands according to the laws of the State or Territory through which the road passes, the same as any private individual would have to do. If the Senator will turn to page 11, at the last part of section 10, there is this proviso:

Provided, That the grants, privileges, and franchises herein made to the Northern Pacific Railroad Company are on the express condition that said company shall, within five years from the date of the passage of this act, definitely survey and locate the whole line of their said railroad, and file in the Department of the Interior a map showing such definite location.

By that proviso the railroad company has, after the passage of this act, five years in which to have the lands segregated and set apart; but if we turn further on to section 12 we find this:

That when said company shall sell or contract to sell, or shall convey, except by way of mortgage or deed of trust, to aid in the construction of its railroad, any of said granted lands after the same shall be earned by said company as aforesaid so as to entitle them to sell or convey the same, the lands so sold, contracted, or conveyed shall be subject to taxation according to the laws of the State or Territory within which the same may be situated.

So that this railroad company pays no taxes on these lands at all, to either State or Territory, until it shall have sold them, and then the private citizen of course, and not the railroad company, pays taxes upon them. I do not see, after the great donation to this road that we made by the original act and the extension of time in this bill, why, after the lands have been segregated and set apart to the railroad company as they are by the last proviso of section 10, the railroad company themselves should not pay taxes to the States and Territories through which they pass. Why is it, I ask the Senator having charge of the bill, that as soon as the company parts with the title and the private citizen obtains the title, then the private citizen

pays taxes to the State or Territory? Why should the distinction be made between the railroad company and the private citizen? I ask the Senator who has charge of this bill what is the reason of this distinction? What is the reason that the railroad company, as soon as land is set apart to it and it owns specific land, should not pay taxes on that land?

With these views of mine, I have prepared an amendment to come in at the close of section 10:

And provided further, That when the map shall thus be filed all said lands shall be subject to taxation according to the laws of the State or Territory within which the same may be situated.

So that it will read, as amended:

Provided, That the grants, privileges, and franchises herein made to the Northern Pacific Railroad Company are on the express condition that said company shall, within five years from the date of the passage of this act, definitely survey and locate the whole line of their said railroad, and file in the Department of the Interior a map showing such definite location: And provided further, That when the map shall thus be filed all said lands shall be subject to taxation according to the laws of the State or Territory within which the same may be situated.

I offer that as an amendment.

Mr. MITCHELL. I would say, in answer to the Senator from West Virginia, that the provisions of the bill upon this general subject of taxation are similar to the provisions in other bills which have been passed heretofore in aid of the construction of railroads. It is said that to compel the company to pay taxes on all unearned land—and that is the proposition of the Senator from West Virginia—would be to impose a burden on the company which would be very oppressive indeed. The amendment of the Senator from West Virginia, if I understand it correctly, is to the effect that whenever these lands are segregated by the filing of the map of definite location in the Department of the Interior, then all lands included in the grant, whether earned or unearned, are to be subject to taxation according to the laws of the State or Territory in which they may happen to be. That raises the very important question whether we should impose that restriction upon this company when the very object of the legislation is to aid the company in the construction of this great national enterprise.

Mr. BAYARD. The object of this amendment, as I understand it, seems to be a very fair and just one. It is to subject the corporate property in land to the same taxes that individual property would be subject to; and further than that it gives them five years exemption absolutely. If an individual settler shall become the owner of any portion of this domain, *eo instanti* he is subject to taxation upon his land. It certainly would be equitable that property held in corporate title or by artificial persons should be subject to the same taxation as that held by individuals, natural persons. Therefore, unless some such modification be made as is suggested by the honorable Senator from West Virginia, by which there may be at some period a subjection to local taxation of lands held by the company in its corporate capacity, it seems to me the bill should not pass.

While the United States Government desire to facilitate the creation of railroads in the country, they do not propose that the States whether actually organized or States in embryo shall be deprived of the natural fund by which they may support themselves and their governments by taxation. I am therefore inclined to consider it reasonably just that some such amendment as that offered by the Senator from West Virginia should be adopted now, unless it is expressly understood that the corporate property is not to bear its share of burden in any community that applies to the property of individuals.

Mr. MITCHELL. I can readily see the force of the proposition to make the lands subject to taxation after they have been earned and patented to the company; but the proposition to subject all the unearned lands to taxation the moment they are withdrawn by the filing of a map would certainly impose a very heavy burden on the company, and it would be to inaugurate a policy in reference to this matter that never has been insisted on in any former legislation of this character.

Mr. HEREFORD. The amendment that I offer is to come in at the end of section 10, and is in these words:

And provided further, That when the map shall thus be filed all said lands shall be subject to taxation according to the laws of the State or Territory within which the same may be situated.

The Senator from Oregon says that these lands should not be taxed until the railroad company has earned them; but we know as a practical fact that the citizens of California and Nevada and the Territories east of them had to deal with this question in connection with the present Union and Central Pacific Railroad Companies. The States and Territories through which these railroads pass are deprived, and have been, of power to tax the lands of these companies. The practical operation in these cases—and I have no doubt it will be here—is that, if you wait as suggested by the Senator from Oregon until a patent is taken out, the railroad companies will not take their patents out at all.

Mr. MITCHELL. Compel them to take them out.

Mr. HEREFORD. There is no provision in this bill to compel them to take them out.

Mr. MITCHELL. I have no objection to a provision of that kind.

Mr. HEREFORD. There is no provision in this bill to compel the railroad company to take out patents at any time. There is provision in it to have the lands segregated, surveyed, and a map filed showing what lands they claim, so that no settler can go thereupon without

becoming an intruder on the railroad lands; but there is no provision in this bill compelling the company to take out patents at any time; so that we do not know as the bill stands to-day when the company will commence to pay tax on these lands at all. The framer of this bill has been very careful to make the private individual, as soon as he buys from the company, although it may not have gotten a patent, pay taxes *eo instanti* on his making a purchase. If the private individual should pay tax, why not, the moment before the deed to him is executed from the railroad company, require the railroad company itself to pay it? Why should not the large incorporated property-holder pay taxes as well as the private individual? I suggest to the gentlemen who live in those States and Territories that in this way they can better than any other obtain taxes from the railroad companies to help support their States and Territories.

Mr. WINDOM. A single word in answer to the amendment proposed by the Senator from West Virginia. It would tax the lands before the road was completed. The road might never be completed, and if it never should be it would simply transfer this strip of Government land into the hands of tax speculators, which I think would not be a good thing to do.

Mr. HEREFORD. I do not think that is sufficient, because it would not pass the title. The Senator from Minnesota is too good a lawyer to say that by their paying a tax on it that would pass the title. The title has not yet passed out of the General Government.

Mr. WINDOM. No, Mr. President.

Mr. HEREFORD. The patent has not yet been issued, and all the railroad would lose by that would be the taxes they had paid to the various States and Territories; but the title would not have passed by any machinery whatever, because the title yet remains in the General Government, no patent having issued.

Mr. WINDOM. If the Senator proposes to authorize the Territories to tax these lands before the road is built, as a matter of course we must presume that the Territories will have some way of enforcing that taxation. There is no other way but by sale; and if his amendment would have any effect at all, it would have the effect to authorize the Territories to sell the public lands and hand them over to speculators.

Mr. McMILLAN. The General Government parting with her title.

Mr. BAYARD. May I ask the Senator from Minnesota, granting the power of taxation in the territorial Legislature or in the Legislature of the State in which these lands may lie, does not that premise an ownership, and must not that ownership be in the company before the company can be called upon for the tax? Then will not the case stand thus, that you are imposing upon the corporate owner the same duty of responding to his share of the burdens of government that you ask of the individual? Is there any hardship in it? And can there be a taxation upon this corporation for which it and its property will be responsible, until the fact of ownership has accrued under this grant?

Mr. WINDOM. Under the amendment proposed by the Senator from West Virginia, yes; the land would be subject to taxation upon the filing of the map; but the company might never complete the road, and consequently we authorize taxation upon the Government land and land that may always be owned by the Government.

Mr. BAYARD. If I understand the object of the honorable Senator from West Virginia, it is simply to put the corporate owner of real estate upon the level of the individual owner. Indeed I think the present amendment is more favorable to the corporate owner, because it provides for the possibility of a postponement of the assessment or collection of taxes from him for five years, whereas, as I understand, if to-morrow any individual natural person purchases land within these Territories, *ipso facto* he would become liable for taxation to the Territory.

Mr. McMILLAN. The Senator from Delaware will observe that if the amendment offered by the Senator from West Virginia is adopted it is a consent upon the part of the Government of the United States that these lands, public lands of the United States, shall be taxed. The tax is *in rem*, and not upon the corporation. A tax upon land is a tax upon the land itself, and of course all the proceedings under the tax will be against the land, and the land may be disposed of, the General Government assenting to the taxation of her own land. That it is entirely competent for her to do; and all these lands would pass under a title of that kind to whoever should become the purchaser at a tax sale.

Mr. HEREFORD. All there is in that is what the Senator from Minnesota is very familiar with, as are all Senators from the Western States. I know especially in the States of California and Nevada all that would amount to would be the taxing of the possessory right of the railroad. In the States of California and Nevada to-day, they tax the possessory right of parties there upon Government property. Persons are settled all over those States and Territories upon the Government land, and the States tax their possessory right.

Mr. McMILLAN. If the Senator will look at his amendment he will see that it is not a tax upon the possessor's right; it is a tax upon the land; it is a permission of the General Government that these lands belonging to the General Government shall be taxed, and of course any title obtained under a proceeding resulting in a tax sale would vest the title in the purchaser.

Mr. HEREFORD. It seems to me this matter ought to go over for a day anyhow.

Mr. McMILLAN. To put the lands along this continual line of

railroad in such a position that tax speculators could acquire title to them would be a proceeding that I should not be willing to consent to.

Mr. TELLER. It does seem to me, Mr. President, that neither this railroad company nor any one else ought to pay taxes on land until it becomes the owner of the land. Until it has earned the land it seems to me the company ought not to pay taxes on it. After it has earned the land, or at least within a reasonable time after, it should pay taxes. I had proposed to strike out the twelfth section and insert in place of that a provision that after a certain time the lands should be subject to taxation. I think the amendment of the Senator from West Virginia goes too far in taxing the land in accordance with the rule adopted in Nevada and California, before the railway company had a legal title to the land. I think the amendment ought to be modified in that particular, or else it ought to be rejected.

Mr. McMILLAN. Mr. President, it seems to me that this section 12 is a fair provision in such a bill. It is to be remembered that this company takes nothing in the way of a subsidy. Nothing has been granted to it except this grant of lands. From these it must receive all the proceeds for building the road. Section 12 provides that this land shall be subject to taxation when the company shall sell or contract to sell the land or shall convey it, except by way of mortgage or deed of trust. This exception must be made in order to make the lands at all available. Certainly they could not be used at all if they were taxed to a greater extent than is provided by this section.

Now, with such a grant as is proposed here, this company proposes to build a line of road across this continent, benefiting all the communities through which it shall pass, conferring greater benefits upon the Territories, upon the political communities who will be affected by it than any benefit they could receive in the way of a tax upon the lands. They will receive benefits indirectly from the construction of this road, which will more than compensate them for this privilege or reservation, partially reserved from taxation as these lands are; and it seems to me that the provision in section 12 is a fair one, fair to the settlers, fair to the political communities along the line of this road, and fair to the road itself.

Mr. HEREFORD. I think enough has been developed in the discussion of this matter to satisfy the Senate that there ought to be some provision here, whether it take the form of the amendment I offered or that of the Senator from Colorado or some other, to compel this railroad company to take out a patent at some time and to fix a time when the rights of the States and Territories to tax the lands shall commence. Therefore I think the bill had better go over until to-morrow and then it can be completed.

Mr. MITCHELL. The object of the honorable Senator from West Virginia and also of the honorable Senator from Delaware is, as they have stated, to secure the same liability on the part of the company as on the part of the settlers, to make their liability to taxation the same. The amendment offered by the Senator from West Virginia does not do that. The bill does not provide as it stands now that all lands as soon as contracted or sold to a settler or any person else shall be subject to taxation, but only those that are sold that have been earned by the company. Now, the proposition of the amendment is to make the company pay taxes on all lands, earned and unearned, within the limits of the grant.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from West Virginia to the amendment of the Committee on Railroads.

Mr. WINDOM. I hope the Senator's amendment will not be agreed to.

Mr. HEREFORD. I will modify it, at the suggestion of the Senator from Delaware, so as to read:

And provided further, That when the map shall thus be filed all said lands, when the same shall have been earned by the said company, shall be subject to taxation according to the laws of the State or Territory within which the same may be situated.

Mr. WINDOM. I admit the plausibility of the argument of the Senator from West Virginia; but I call the attention of the Senate to the fact that in the railroad grants which have been made hitherto the provision he seeks to insert has not been imposed. In some cases in my own State the courts have held that the lands were subject to taxation under the general provision. Now, I am perfectly willing that the same conditions that have existed heretofore shall exist with reference to this road; but I want to say to the Senate that, if the object in passing this bill be to enable the company to raise money to construct the road, I think the amendment of the Senator from West Virginia would defeat that object, for this reason: no one would buy the bonds of a company whose lands were subject to be sold out under taxation by one of the Territories. I do not think anybody would purchase the bonds under those conditions. We know that legislation in the Territories is not always of the best considered character, and everybody to whom the securities of the company should be offered would see that under this amendment the lands might be sold out from under them. I think that we might safely rest this, as other companies have rested, upon the provisions which have existed in other bills, and leave the courts to construe this power of taxation as they have done in other cases. I hope the amendment will be voted down, and I will not take any more time.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from West Virginia.

Mr. HEREFORD called for the yeas and nays, and they were ordered.

Mr. BAYARD. So far as any irregularity of legislation by the Territories is concerned, that is always within the remedial power of Congress. If any discrimination of a hostile character against this corporation or its property shall be made by a territorial Legislature, it will be within the power of Congress to remedy it always. I think that disposes of that objection. But I submit to the Senate and to the honorable Senator from Minnesota whether there is not a very grave question at stake here in this amendment. It is the exemption of any property within an organized government from a fair contribution to the support of that government. It seems to me very plain that as the power of taxation is necessary, is essential to the maintenance of any autonomy worthy of the name of government—

Mr. WINDOM. May I interrupt the Senator by asking a question at that point?

Mr. BAYARD. I was about to state a proposition, but I will hear the Senator.

Mr. WINDOM. Excuse me.

Mr. BAYARD. Therefore it is a very serious question, when you shall establish any property within a government not subject to its jurisdiction as to taxation. I think it is anti-republican; I think it is dangerous under any form, and, with the amendment as it has now been modified by the Senator from West Virginia, the company is placed precisely, as to its corporate property, on a level with the natural person who owns property in the same jurisdiction. If I wanted—a desire which I am very far from entertaining—to create a popular jealousy against any class of property-owners within a community, I should arbitrarily exempt them from their fair share of the public burdens, and when the inequity of that exemption should come to be known by the community, depend upon it they would find means in some way or other to make that property less secure. There can be no hardship in insisting in the present case upon the correlative duty of taxation and protection. Wherever there is the expense gone to of a government, then every description of property within that jurisdiction should bear its fair share of the burdens necessary to carry it on. Corporate property should bear the same and no more than the property of natural persons.

Mr. WINDOM. The question I wished to ask the Senator from Delaware was this: his argument is based upon the theory that this bill does exempt these lands; I do not find the provision exempting them.

Mr. BAYARD. Then this amendment goes no further than to subject to taxation the corporate property equally with private property.

Mr. WINDOM. But the Senator assumed that there was something in the bill which positively exempted them from taxation.

Mr. BAYARD. If this shall provide for that expressly, it does no harm.

Mr. WINDOM. No. The difference is this: without this amendment we say nothing on the subject; at least we do not prohibit taxation; there is no express exemption; but with this amendment you expressly provide that these lands shall be put under the control of the Territories and the States for taxation.

Mr. BAYARD. If the principle of the amendment is unobjectionable, I can see no reason why it should not be adopted.

Mr. WINDOM. The principle of the amendment is very objectionable, and the Senator's argument is objectionable too, because it is based on an assumption that does not exist in the bill.

Mr. BAYARD. I hope the amendment will be adopted. I can see no sound objection to it.

Mr. EATON. Mr. President, as I shall vote against this amendment, I ought to give my reason, and I shall do so very briefly. Here is a bankrupt company coming to us asking for an extension of its time in order to be able to complete the road. Now, in giving them that extension, it seems to be desirable and necessary not to inflict upon them new terms, differing entirely from anything that has been heretofore prescribed, as I understand, for any railroad grant. I should like to ask the chairman of the Committee on Railroads if I am right?

Mr. MITCHELL. What does the Senator refer to?

Mr. EATON. I refer to the taxation of the lands granted to railroads as being different in this case from the exercise of any such power by Congress heretofore.

Mr. MITCHELL. I do not know that I understand the Senator.

Mr. EATON. Here it is proposed to tax property unearned as belonging to the railroad company.

Mr. MITCHELL. That is not the proposition of this bill; that is the proposition of the amendment.

Mr. EATON. I know it is, and so far as I know it has never been legislation which Congress has heretofore approved.

Mr. MITCHELL. I understand the Senator now. It is entirely different from anything ever heretofore proposed.

Mr. HEREFORD. I expressly provide in the amendment that they are to be subject to State and territorial taxation when they shall have earned a right to a patent for this land; or, in other words, that when they are in equity the owners of the land they shall pay taxes on it.

Mr. EATON. And I understand that the same general law which heretofore has been made to apply to other railroad companies under similar circumstances will be made to apply to this road by the bill in this respect. That is all that I desire. I never shall give a vote hereafter, if I should live and a vote should come up, to grant lands

for railroad purposes so that there will ever be a discussion in this body with regard to taxation upon those lands. I never have done it, and I never will do it; but I do not desire to inflict a punishment upon this company that comes here and asks for a concession at our hands.

Mr. ALLISON. I do not precisely understand what the Senator from West Virginia means by saying "when the land shall have been earned."

Mr. HEREFORD. When they shall have conformed to the stipulations of the contract with the Government.

Mr. ALLISON. And received title to the land?

Mr. HEREFORD. When they shall be entitled to demand a title; when they shall have done all that is required by the Government; then they have the right to demand a patent. When that period has arrived, although they may not ask for the patent, as they do not in the case of other railroad companies, yet if they have earned their right to it, then the amendment provides that they shall pay taxes upon it.

Mr. ALLISON. Suppose the lands have not been surveyed?

Mr. HEREFORD. The previous part of the provision provides that they shall be surveyed and the map filed. The Senator certainly has not read the first part of this same provision.

Mr. SARGENT. The surveys proceed in accordance with our appropriations, sometimes large, sometimes small, for the last two or three years so small as to be scarcely enough to pay the office expenses, and complaint comes from the whole country they cannot get surveys made. Suppose that policy of stinginess in appropriations for surveying land continues, what then? How are people to acquire title to their homesteads? You arrest the settlement of the States and Territories. If that policy continues a few years more, of what advantage is it to put a *brutum fulmen* in the bill that there shall be surveys? You put the company in the position of having earned the land and not able to get a patent to it from the Government, and you say nevertheless it shall be taxed therefor and be liable to be sold out by territorial authority.

Mr. HEREFORD. The Senator from California has said that there is a *brutum fulmen* in this amendment of mine and has said that by the stinginess of Congress these lands may not be surveyed. The proviso says, that has already been adopted—

Mr. ALLISON. What proviso?

Mr. HEREFORD. This:

Provided, That the grants, privileges, and franchises herein made to the Northern Pacific Railroad Company are on the express condition that said company shall, within five years from the date of the passage of this act, definitely survey and locate the whole line of their said railroad, and file in the Department of the Interior a map showing such definite location.

So that I say, in answer to the Senator from California, it does not depend upon the stinginess of Congress; but the railroad company itself is compelled, after we have donated the lands, to survey them, so that it does not depend, and its right to a patent for the land cannot be thwarted by the stinginess of Congress. By the proviso the committee has reported, the company is compelled to survey these lands, and the time when it is entitled to the patent depends upon its own act.

Mr. DORSEY. The Senator from West Virginia is entirely in error in regard to this bill requiring the survey of this land by the railroad company, or by the Government, or by anybody else. The provision of the bill which he has read on page 11 provides for the location of the railway line, not for the survey of the public lands. It is simply the location of the line, the track, and has nothing whatever to do with the survey of the lands. That location probably will be made twenty years before a good deal of this land will be surveyed by the Government; and if his amendment be adopted, the railroad company will be in the attitude of paying taxes upon land that had never been surveyed at all.

Mr. HEREFORD. It may not be sectionized, but the part they are entitled to has been surveyed by them, for the proviso compels them to do it. There may not be a governmental survey and sectionizing of it, but the provision is—there can be no mistake about it—

That the grants, privileges, and franchises herein made to the Northern Pacific Railroad Company are on the express condition that said company shall, within five years from the date of the passage of this act, definitely survey and locate—

Mr. McMILLAN. Survey what?

Mr. HEREFORD. "The whole line of their said railroad."

Mr. McMILLAN. "The line" of the road.

Mr. HEREFORD. Then the general terms of the bill fix where their lands are.

Mr. MITCHELL. But the survey is had simply of the line of the road.

Mr. HEREFORD. Does not the bill provide for that?

Mr. SARGENT. There my friend from West Virginia has demonstrated that he does not understand the bill, and that perhaps is the best argument against his amendment. This is simply a provision that within five years the company shall name through what valleys and over what hills they design to run their road; that is, they shall definitely survey and locate the line of their road, a narrow line indicating where the railway track shall subsequently be built. The hardship I pointed out to him was that if there was any provision in the bill that the United States should survey this land, nevertheless on account of pinching appropriations the United States was not survey-

ing these lands or any others scarcely in all the States and Territories. The appropriation for such purposes is pinched down so low that there is one universal complaint against the false economy of Congress, and I say it is retarding the settlement of the Western States and Territories, involving the land titles in inextricable confusion, and producing embarrassments of various kinds.

The proposition is this: the company builds twenty miles of its road, and is entitled under this bill if it passes to receive patents therefor from the Government. Then by the amendment it is put within the power of the territorial Legislature or the State Legislature to impose taxes upon the land, because in the language of the bill they have earned that, they have built the road. Meantime the Government has not surveyed the land, sectionized it, so as to separate the odd from the even sections, so that the railroad can know which belongs to it, and it cannot sell the lands. It has a mass of inert land upon its hands, unsectionized, unsurveyed, upon which it is taxed enough to bankrupt any company, with no opportunity to derive any revenue from it unless it sells it at hazard. There is the trouble with this amendment. If the amendment went only so far as to say that after the land shall have been sectionized by the Government of the United States and the parties are entitled to their patents, then they shall be liable to local taxation, there would be no objection to it; I think it would be a wholesome provision, and I should vote for it; but providing that they shall be taxed merely because they have earned the land, when they cannot receive it from the Government, shows that the amendment is wrong.

Mr. CONKLING. Mr. President, I did not mean to vote for any bill granting lands or subsidies to railroad companies, certainly not with the lights now before me; and I sympathize with the apparent object of the Senator from West Virginia; and yet I cannot vote for his amendment, and for a reason that seems to me very obvious.

This, as the Senator from Connecticut said, is an insolvent corporation; it is a corporation into whose losses, unfortunately, great numbers of meritorious people have been drawn. I can speak advisedly in that regard, because the people of the State of New York of almost all sorts and conditions suffer seriously by buying and holding the bonds of this corporation. The purpose of the bill, not speaking alone in the interest of this unfortunate corporation, but speaking for the beneficiaries—I hope they will be beneficiaries at some time—is to attempt to give an opportunity of retrieve, and thus it extends the time within which they may complete their work and re-establish themselves. It donates no added lands, but diminishes the quantity of lands to which the corporation was originally entitled. It imposes, as I am assured by Senators better instructed than I am, conditions advantageous to settlers and advantageous to the Government, not found in the original bill.

Now stopping my statement here, it must be perfectly manifest to every Senator that the proposal is to extend that measure of relief found in added time and somewhat restricted opportunity to this corporation. If that be our purpose, surely as the Senator from Connecticut said, we do not wish to make a vain motion, we do not wish to pass a bill in the name of relief for this multitude of parties concerned and at the same time throttle and defeat it.

Then what does the amendment of the Senator from West Virginia propose? Taking hold of the words that the company are to survey the line of their road—not lands, but the line of their road—he hinges upon that provision a condition that that survey being made and in the language of the amendment they having earned these lands (and I confess for one I am unable to construe that word, I think I can put at the moment half a dozen cases that might arise in which the Senator himself would have great doubt as to the operation of that word "earned") but no matter, he proposes when they have surveyed their line that all the lands to which they shall then become constructively entitled shall be subjected to the absolute will of the Territory in which those lands may be. Now every Senator knows that in the States and in the best conducted States there is among assessors, naturally enough, an inclination to distinguish invidiously against all non-residents, and especially against corporations, and still more especially absent corporations. So that the Senator in the beginning, should his amendment prevail, would subject them to the will, to the hostility—using a word which I believe some other Senator has employed—of all the territorial Legislatures, the majorities, the factions, the coalitions which from time to time may hold sway in those Legislatures. It is perfectly obvious to me, it seems to me it must be obvious to the Senator, that that is a provision in derogation and in defeat of the object of the bill. The purpose is, in common phrase, to give this corporation another chance. It is perfectly idle to assume to do that and hope that the bondholders will ever realize some part of their great losses if at the same time we so fetter them, we put manacles upon them so that we know that they cannot avail themselves of the provisions of the bill. I suggest, therefore, to my honorable friend that he and I are bound by our votes to express our judgments whether, with the existing state of case, we ought to give another opportunity to this corporation or not; if not, vote down the bill; if we should, do not be Indian-givers; do not give a thing and take it back by the provisions with which you impede it and load it down.

Then it seems to me this bill, as Senators have insisted, is a fair exception to the general rule of judgment which I hope prevails in the Senate, to set our faces like flint against subsidies for railroads,

against fresh grants to railroads. I do not say that some case might not arise which would be an exception. I speak of the general rule. Here is not a grant, but it is the continuance of a restricted opportunity for this corporation, to retrieve itself not so much as to retrieve the fortunes of unnumbered people upon whom great calamities have fallen. It is within my knowledge that in the State of New York persons not of that class most able to take care of themselves were induced by proper means or by others—I do not know—to invest in these bonds nearly the whole, if not absolutely the whole, of the earnings which they had accumulated or which had been bequeathed to them. In the interest of those persons, saying nothing about this corporation, if there is an opportunity upon fair and just terms for them to work out the original destiny of this grant, let them do it, and particularly I say let them do it under a bill which has already, as Senators familiar with it assure us, numerous safeguards which were not originally found in the act under which they originally proceeded.

I shall vote for the bill upon that understanding; and I hope the honorable Senator from West Virginia will see that his amendment is so far in hostility to that general purpose that although we may all sympathize with his wish in that regard, he may see that he ought to withhold it in this instance.

Mr. HEREFORD. Mr. President, the Senator from New York has not satisfied me; he may have satisfied the rest of the Senate; but he has not given me sufficient reasons why the property of railroad companies should not be dealt with exactly as the property of private individuals; in other words, when they own land or are entitled to a deed therefrom from the General Government, I do not see why they should not be compelled to pay taxes the same as a private individual.

Mr. CONKLING. Will my honorable friend let me interrupt him for a moment? Can he put any case, whether the Government be the grantor or anybody else be the grantor, in which taxes are visited upon heirs or descendants or any parties until they become seized, until the title inures to their benefit. Does the Senator know of a case of taxes imposed upon an incorporeal right, at some future date to become possessed of land? Does the Senator know such a case?

Mr. HEREFORD. The Senator from New York is too good a lawyer to think that that is a parallel case. In the first place I will try to restate the question that the Senator puts to me. Do I know of any instance where the heirs or the devisees of an estate are taxed before they come into possession of it or have the title? I do not know that I do know a case where the heirs or devisees are so taxed; but I will put this question as an answer to the Senator from New York: Does he not know that the property is taxed which those parties inherit? In other words, if A died and devised certain real and personal property to B, C, and D, although B, C, and D, the devisees, may not *co nomine* pay taxes, the property itself pays taxes; and that is all that we ask here, that this property shall pay these taxes.

Mr. ALLISON. The property belongs to the United States.

Mr. HEREFORD. The property does not belong to the United States as soon as these parties have gained the title.

Mr. CHRISTIANCY. I desire to suggest to the Senator from West Virginia one difficulty in his way. He must recognize the fact that it is impossible to tax these lands as the lands of the company until they are identified. It is but a mere floating right until the Government has surveyed the lands into townships and sections so that the Government can identify its own alternate sections and so that the alternate sections of the company also may be ascertained. Until then it is utterly impracticable to impose any tax whatever upon the lands. That I think must be evident to every one. The company certainly have no authority to survey the public lands of the United States for the United States and to establish their principal meridians, their township and their range lines; nor is it likely the Government would ever give to any corporation any such power. I suggest this as one of the difficulties in the way of the amendment as it is now worded. If the Senator wishes to make his amendment specific and to make it practicable at all, he should make the lands taxable when the company become entitled to a patent.

Mr. HEREFORD. That is exactly what my amendment does, if the Senator from Michigan will allow me.

Mr. CHRISTIANCY. I understood the Senator's amendment to be when they had earned the land.

Mr. HEREFORD. Yes, sir.

Mr. CHRISTIANCY. They may earn the lands five or ten or fifteen years before the Government surveys a foot of them, and those lands that are not yet surveyed certainly cannot be taxed. There is the difficulty. They cannot become entitled to their patent until the lands are surveyed, so that they can be identified.

Mr. HEREFORD. That brings us back to right where the whole discussion started. In the latter part of section 12, to which I have drawn the attention of the Senate, is the provision—I will read the whole section—

That when said company shall sell or contract to sell, or shall convey, except by way of mortgage or deed of trust, to aid in the construction of its railroad, any of said granted lands after the same shall be earned by said company—

The very language that I use with regard to the railroad; I will go back again:

Sec. 12. That when said company shall sell or contract to sell, or shall convey, except by way of mortgage or deed of trust, to aid in the construction of its rail-

road, any of said granted lands after the same shall be earned by said company as aforesaid so as to entitle them to sell or convey the same, the lands so sold, contracted, or conveyed shall be subject to taxation.

So that in the hands of a private citizen the lands are subject to taxation by the terms of this bill, subject to taxation when the railroad company shall have earned them. I only desired to have the same restriction "when they shall have earned them" applied to the railroad company that is applied by the bill to the private citizen.

Mr. CHRISTIANCY. Will the Senator allow me to ask him what he will tax before the Government surveys have been made?

Mr. HEREFORD. Allow me to ask the Senator from Michigan how they will tax the private citizen under that section.

Mr. CHRISTIANCY. They can tax neither until there has been a survey to identify the land taxed.

Mr. MITCHELL. The answer to the Senator from West Virginia is that there will be no contracts made until the lands are surveyed.

Mr. HEREFORD. I do not know about that.

Mr. ALLISON. I do not wish to occupy the time of the Senate, but to say that I shall vote against the amendment proposed by the Senator from West Virginia; and, so far from misunderstanding its import, I think he has absolutely demonstrated that the amendment is totally impracticable, for the reason that it is impossible to tax these lands until they are surveyed. That must be evident. Now, the Government is to survey the lands. Here are two thousand miles of country for an extent forty miles in width, and no portion of the lands can be identified until the Government places its surveys there.

Mr. BAYARD. Then they cannot be taxed.

Mr. ALLISON. Then they cannot be taxed; but in the mean time they may be absolutely earned by the company; and that is the difficulty with the amendment, because, the moment the railway is completed in a given number of sections, that moment the company has earned the land. But the lands cannot be taxed until they are surveyed by the Government, and when they are they may be sold by the railway company; and even under section 12 those lands cannot be surveyed until the Government surveys are applied to them.

Mr. HEREFORD. I think lands that this railroad company can mortgage or put a deed of trust upon can and ought to be taxed. They have a right under this bill to mortgage or put a deed of trust on this whole line of road and all the lands; and if they have a right to mortgage or put a deed of trust on the land, why not tax that land which they mortgage, why not tax that which they put a deed of trust upon? They have got to find something to mortgage. They can identify it well enough to place a mortgage upon it; they can identify it well enough to put a deed of trust upon it; and if it can be identified well enough for that purpose, why can it not be well enough identified to allow the States and Territories to tax it, to tax the very thing that they mortgage?

Mr. CHRISTIANCY. If the Senator will allow me, I will answer that question. A mere right, a mere floating right to land not yet identified by a particular location, is subject to mortgage. It can be mortgaged; but it is mortgaged as a mere floating right, and it does not become a mortgage on the land itself until that land is identified by an authorized survey. That is the difference.

Mr. HEREFORD. Do I understand the Senator from Michigan to say that when they give this mortgage it is not a mortgage on land?

Mr. CHRISTIANCY. It is not a mortgage on land strictly. It does not touch any specific piece or parcel of land.

Mr. HEREFORD. But is it not a mortgage on land?

Mr. CHRISTIANCY. It is a mortgage on a mere right to have some particular tract of land to a certain amount set out by a survey, and when thus set out it will be and will operate as a mortgage of the land itself, but not before.

Mr. HEREFORD. Does not this mortgage and do not all similar mortgages profess to mortgage land? They do not profess to mortgage a possessory right, an illusory something; they profess to mortgage land.

Mr. CHRISTIANCY. It may profess what it pleases, and so you may profess to tax land when the land is not ascertained by a survey and the grant is to consist of alternate sections of land when it is surveyed. But let me ask the Senator this question: Suppose land is sold under a tax of that kind, what sort of a title would the Senator get if he bought it off? Can he tell me where his land is?

Mr. HEREFORD. I cannot tell where the identical land is.

Mr. CHRISTIANCY. Then it is not his land.

Mr. HEREFORD. I can find no trouble in giving the States the right to tax that land according to the amendment I have offered.

Mr. BAYARD. Mr. President, the phrase used by the honorable Senator from West Virginia, that the lands shall be taxed only when they have been earned by the company, seems to me to be a term of clear signification. In order to ascertain what you mean by "earned" you refer to the land grant, and by that grant ascertain that *pari passu* with the building of the road, the title to certain lands shall accrue to the corporation, and when they have performed certain conditions precedent they shall become the owners of a certain body of land. Therefore it is not difficult of ascertainment; it is not a vague and uncertain phrase to say that taxation shall follow the period of the earning of the land. I think there can be no obscurity, because the terms of the act itself explain it. Now it is very plain that if there shall be such a lack of power to identify the land that is to be taxed, then the power of taxation will not be exerted, then the tax will not

be levied and it will not be paid, and no hardships whatever can accrue to the company.

There was thrown out just now by the Senator from New York the suggestion that there should be a sense of personal sympathy accompanying our legislation on this subject, because the land grants, made, I may say, with such recklessness to this company, have entirely failed in their object, and because their mismanagement or misfortune has brought bankruptcy and ruin upon a vast body of the most deserving citizens, and that therefore we should exempt this property from the ordinary burdens to which property everywhere else is liable, as a gratuity to a great body of distressed citizens. I respectfully demur to that.

Mr. McMILLAN. Will the Senator allow me to ask him whether or not in all instances heretofore that has not been the case, and that any departure from that would be an exception distinguishing against this company?

Mr. BAYARD. I understand that this bill is in substance the recreation of a new corporation. The old corporation, whether by fault or misfortune, has become practically defunct, and all the property, franchises, powers, privileges, and advantages which were of the old corporation are hereby vested in a new one in order that there shall be a new start, free and unembarrassed from the calamities caused by prior mismanagement or misfortune, as the case may be. It seems to me when we are providing for that and providing for it by a mere gratuitous act, if there were any omissions, any want of care in the acts that preceded this in regard to the original Northern Pacific Company, we should take care to supply them.

Mr. McMILLAN. But I referred not to the original company under this grant, but to other railroad corporations to which land grants have been made. That was the reference.

Mr. BAYARD. I think that this act should stand or fall by its own merits. I do not think the demerits of other legislation should be suffered to control this present act. I do not propose now to speak of the recklessness with which Congress has legislated in respect to the public domain and the public credit. The past I suppose cannot be recalled; but it may teach us something for the future; and now when it is proposed to establish in these embryo States a class of property which shall have the right to claim protection from the laws and shall not be called upon to respond for any portion of the public burden that does so protect them, I must enter my protest and against it I shall record my vote. The grant is munificent enough without creating a class of property that shall not be responsible for its fair share of public expenses.

I believe the amendment of the honorable Senator from West Virginia as now modified by him will prevent the assessment or the collection of one dollar of tax upon this property until it is as capable of identification and of subjection to taxation as the property of any private individual, and I do not think that more should be asked for the corporate property than for the property of natural persons, but that both should respond alike to a fair share of the public burdens.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The question is on the amendment of the Senator from West Virginia to the committee's amendment, upon which the yeas and nays have been ordered.

Mr. BAILEY. Is this amendment open to amendment.

The PRESIDING OFFICER. It is.

Mr. BAILEY. Then I move to amend so that the section shall read as follows:

That when said lands shall have been surveyed and the company shall have become entitled to a patent for the same, they shall be subject to taxation according to the laws of the State or territory within which they are situated.

Mr. HEREFORD. I accept that amendment. That will carry out the very idea.

Mr. KIRKWOOD. I had prepared a similar amendment to take the place of section 12.

Mr. BAILEY. I wish to vote for the bill, but I cannot do so if the lands of the company are exempt from taxation.

Mr. MITCHELL. Where does the Senator from Tennessee propose that the amendment shall come in?

Mr. BAILEY. I propose to strike out all after the word "when" the second word in the twelfth section, down to the word "conveyed" in the sixth line, and insert this.

Mr. HEREFORD. I will withdraw the amendment which I offered so that the Senator from Tennessee can offer the one that he has indicated. It meets my view.

Mr. MITCHELL. I ask that the amendment be reported so that we may understand it.

The PRESIDING OFFICER. The Senator from Tennessee will please send his amendment to the Chair.

Mr. BAILEY. I desire to say only one word. I wish to vote for this bill, because I think it is fair and right that the persons who have been encouraged by an act of Congress to invest capital to the amount of \$25,000,000 or \$30,000,000 in the endeavor to build this Northern Pacific Railroad shall not forfeit all their rights and forfeit all their capital simply because a great misfortune has befallen the country, simply because they have lost their rights under former acts of Congress by reason of commercial disaster. But it seems to me that when this railroad company shall have become entitled to these lands, so that they have vested, or by any act of their own the title may vest in them, they should be subject to the same laws, the

same impositions, the same taxation, and the same burdens with the people of the States or Territories in which the railroad lands may be located; and I for one, shall never consent to vote for any bill that will give to a corporation powers, rights, and privileges, not necessarily incident to the corporate existence, that are not accorded to individuals. Therefore, I offer the amendment.

The PRESIDING OFFICER. The amendment of the Senator from West Virginia is withdrawn. The question is on the amendment of the Senator from Tennessee.

Mr. ALLISON. That is so essentially different from the amendment proposed by the Senator from West Virginia that it seems to me it can be agreed to without the yeas and nays. I see no objection to that amendment.

The PRESIDING OFFICER. The call for the yeas and nays will be recalled by unanimous consent. The Chair hears no objection.

Mr. MITCHELL. Now, I ask that the amendment proposed by the Senator from Tennessee be reported.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. In the twelfth section, commencing in line 1, it is proposed to strike out the following words:

Said company shall sell or contract to sell or shall convey, except by way of mortgage or deed of trust, to aid in the construction of its railroad, any of said granted lands, after the same shall be earned by said company as aforesaid so as to entitle them to sell or convey the same, the lands so sold, contracted, or conveyed;

And in lieu thereof to insert:

The lands shall have been surveyed and the company shall have become entitled to patents for the same, they;

So as to make the section read:

That when the lands shall have been surveyed and the company shall have become entitled to patents for the same, they shall be subject to taxation according to the laws of the State or Territory within which the same may be situated.

Mr. MITCHELL. I inquire of the Senator from Tennessee if he has any objection to inserting after the word "surveyed" the words "by the Government." I think it will be satisfactory to all concerned if he inserts those words.

Mr. BAILEY. Unless the bill provides or some previous legislation provides that these lands shall be surveyed by the companies themselves and not by the Government.

Mr. MITCHELL. I understand the previous legislation provides they shall be surveyed by the Government.

Mr. BAILEY. Otherwise those words would make the amendment inoperative altogether.

Mr. HEREFORD. Unless I am misinformed as to the law, it is true that the General Government surveys the lands. It reserves always that right, but it surveys them at the expense of the company. That I believe is the general law. There is a law of Congress that does provide that while it is the duty of the General Government, and she reserves to herself the power, to survey these lands, yet it is to be done at the expense of the company.

Mr. MITCHELL. That would not touch this question, would not affect it at all.

Mr. HEREFORD. I think it would, unless it be said "surveyed by the Government at the expense of the railroad company."

Mr. WINDOM. No, Mr. President, I cannot consent to that proposition. I would rather have the vote on the amendment as it is.

Mr. HEREFORD. Why not?

Mr. McMILLAN. I understand the Senator from Tennessee assents to the proposition to insert the words "by the Government of the United States." Certainly there can be no objection to that.

Mr. BAILEY. My assent was given conditionally, as I do not understand what the former legislation upon the subject may have been. I understood it to be asserted in debate here that it was provided by former legislation that the lands should be surveyed by the company.

Mr. HEREFORD. Surveyed by the General Government, but at the expense of the company.

Mr. McMILLAN. I am not aware of any provision of law by which railroad companies are permitted to make Government surveys. I apprehend that the Government, through its Congress, would never permit a railroad company to survey the public lands into subdivisions when the railroad company was to receive the lands that were thus surveyed. Certainly the Government has reserved that right to itself.

Mr. HEREFORD. I will say to the Senator from Minnesota that nobody has asserted that right in the company. I have distinctly asserted the contrary doctrine. I say that the Government reserves to itself the right and power to survey these lands, but at the expense of the company.

Mr. McMILLAN. I suppose this amendment would merely serve to identify the lands which are to be taxed, that is, lands granted for railroad purposes or otherwise shall be surveyed by the Government of the United States, not by the States through which the roads may pass at their pleasure, in any way. There certainly can be no objection to inserting those words. They fully identify the lands which are to be taxed. I hope the Senate will see the propriety of permitting these words to be inserted.

The PRESIDING OFFICER. Does the Senator from Tennessee accept the amendment?

Mr. MITCHELL. I hope the Senator from Tennessee will accept it and let it pass.

Mr. BAILEY. Yes; let the amendment read "surveyed by the Government under the existing or any future laws."

Mr. MITCHELL. There is no objection to that. Say "surveyed by the Government under the existing or any future legislation."

The PRESIDING OFFICER. The Secretary will report the amendment to the amendment, as modified.

The CHIEF CLERK. It is proposed to strike out all of section 12 down to and including the word "conveyed," in line 6, and in lieu of those words to insert:

That when the lands shall have been surveyed by the United States and the company shall have become entitled to patents for the same, they;

So as to read:

That when the lands shall have been surveyed by the United States and the company shall have become entitled to patents for the same, they shall be subject to taxation according to the laws of the State or Territory within which the same may be situated.

Mr. MITCHELL. I do not think there is any objection to that.

Mr. BAILEY. I accept the modification of my amendment.

The PRESIDING OFFICER. The Chair understood the Senator from Minnesota [Mr. McMILLAN] to suggest an amendment to the Senator from Tennessee.

Mr. McMILLAN. The Senator from Tennessee has accepted that amendment.

The PRESIDING OFFICER. The Chair understood the insertion of the words "under existing laws" after the word "surveyed" to be suggested.

Mr. HEREFORD. Yes; "surveyed under existing laws."

Mr. McMILLAN. The Senator from Tennessee has accepted my amendment that the survey shall be made by the United States simply.

Mr. HEREFORD. "Surveyed under existing law." We did not accept the whole of the Senator's amendment.

Mr. McMILLAN. I made no such suggestion as that.

Mr. HEREFORD. The idea of the Senator from Tennessee, as I understand, is that it is to be surveyed by the United States under existing law.

The PRESIDING OFFICER. The Chair so understood the Senator from Tennessee.

Mr. McMILLAN. The Senator from Tennessee has heard the amendment read, and I think it is satisfactory to him.

Mr. BAILEY. I think the amendment as it stands now substantially reaches the object. If the law already provides that the expense of the survey shall be borne by the company, I do not see that this language changes that law in the slightest degree, and so I am content with the amendment as it stands.

The PRESIDING OFFICER. The question is upon the amendment to the amendment as modified. The call for the yeas and nays has been withdrawn.

The amendment to the amendment was agreed to.

Mr. KIRKWOOD. I wish to call attention again to a matter that I alluded to a short time since in section 11. I move to amend that section by inserting after the word "descriptions," in line 7, the words "subject to the provisions of section 4 of this act;" so as to read:

That the said Northern Pacific Railroad Company is hereby authorized to issue its bonds, from time to time, not exceeding \$25,000 per mile, to aid in the construction and equipment of its road, and to secure the same by mortgage on the whole or any part or parts of its railroad and property and rights of property of all kinds and descriptions, subject to the provisions of section 4 of this act, with the rights, privileges, and franchises thereto appertaining, &c.

A single word, Mr. President, will explain my purpose and show whether my amendment affects it or not. As I before said, I could not vote for this bill did it not contain section 4, which opens these grants of land to actual settlers. In other words, I could never consent to vote for a bill that would allow a railroad company to hold the grant as lands are still held in the State of Iowa, and as they might be held under the former system of granting lands, for twenty years, in order to enhance their price and keep them from settlement. Section 4 allows these lands, under certain restrictions, to be occupied, settled, and brought into use. Section 11 authorizes the company to mortgage the whole of its property. The question has arisen with me whether or not section 11 does not nullify section 4. If they can mortgage their entire property, then the person who enters upon and settles the land and buys it and pays for it runs the risk of having to pay for it again under the mortgage. Therefore I move to insert the words I have named in section 11, so that when mortgaging the land the mortgagees will understand that they are taking the mortgage subject to the rights of the persons named in section 4 of the act. The result will be, I apprehend, that the mortgagees would contain a stipulation that the moneys paid shall go into the hands of a trustee for the benefit of the mortgagees all the time, and thus the mortgagees be made safe, and the company in no way a loser.

Mr. WINDOM. I am not sure that I understand the effect of the amendment proposed by the Senator from Iowa. If I do, I think there is no objection to it. He proposes that when a mortgage is made the rights of the settlers under the fourth section shall not be disturbed, but that the amount paid for the lands shall go to the payment of the mortgage debt.

Mr. KIRKWOOD. I propose to provide that all moneys paid under section 4 shall go into the hands of a trustee for the benefit of the mortgagee, so as to save both parties.

Mr. WINDOM. I think that is the effect of the bill as it stands, and I make no objection to the amendment.

Mr. MITCHELL. That is my understanding of the bill, and the amendment only makes it plainer.

Mr. WINDOM. I think that is the meaning of the bill.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa [Mr. KIRKWOOD] to the amendment.

The amendment to the amendment was agreed to.

Mr. CHRISTIANCY. I wish to propose an amendment to the seventh section, and to show the pertinency of the amendment I will read that portion of the section on which the question turns. It is provided here that the company—

Shall transmit dispatches over said telegraph line, and transport mails, troops, munitions of war, supplies, and public stores upon said railroad for the Government whenever required to do so by any department thereof; and that the Government shall at all times have the preference in the use of the same for all the purposes aforesaid, at fair and reasonable rates of compensation, not to exceed the rates paid by individuals for like transportation and telegraph service.

Here is a discrepancy which arises in this way: the amount charged to individuals is made the measure of the charge to the Government, and among the things that are to be transported are the United States mails; it so happens that the United States mails are never transported for individuals; and therefore there is no measure fixed as the bill now stands. The same difficulty exists in the act of 1862 in reference to the Union Pacific and the Central Pacific, and some difficulties have already grown up between the companies and the Department growing out of that fact. To avoid that, I propose to strike out the word "mails," between "transport" and "troops," in the fifth line, and to insert in the eleventh line, after the word "services," the following:

And shall transport the mails for the United States for a compensation not exceeding the average rate which shall at any time be paid for like services on railroads in the States of Iowa and Kansas.

I take those States simply as a measure. Perhaps some other States might be better or a single State instead of two, but that would fix a uniform measure and put an end to all dispute between the Post-Office Department and the company.

Mr. WINDOM. I suggest to the Senator to insert "Minnesota."

Mr. CHRISTIANCY. If it is preferred to have Minnesota inserted, I have no objection to that.

Mr. WINDOM. I think there is no objection to the amendment, unless the chairman of the committee has some objection to it.

Mr. MITCHELL. I see no objection to the proposition.

Mr. KERNAN. I submit that the eleventh section should be amended, and I wish to call the attention of the Senator in charge of the bill to it.

The PRESIDING OFFICER. There is an amendment to the amendment pending.

Mr. KERNAN. Before we vote on that, or at some other time, I wish to call attention to the fact that section 11 provides that this corporation may "issue its bonds, from time to time, not exceeding \$25,000 per mile, to aid in the construction and equipment of its road." I think that ought to build the road pretty well. Then follows this proviso:

That such bonds or mortgages shall not be issued or executed unless on the affirmative vote of the holders of not less than two-thirds of the stock represented at a meeting of the stockholders of said company, duly called for that purpose.

They may call a meeting, but very few of the stockholders may go to it. Two-thirds of those who are represented there may mortgage the road away from the preferred stockholders. I think they should not have a right to mortgage the road unless at least they get the assent of two-thirds of the preferred stockholders, not merely those who are represented at a meeting. After the pending amendment to section 7 is disposed of, unless there is some explanation given, I shall offer an amendment to section 11.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan [Mr. CHRISTIANCY] to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. KERNAN. In line 14 of section 11, commencing with the word "represented," I move to strike out the residue of that line and all of line 15, so as to make the proviso read: "that such bonds or mortgages shall not be issued or executed unless on the affirmative vote of the holders of not less than two-thirds of the stock." And before the word "stock" I would insert the words "entire preferred;" so as to read, "not less than two-thirds of the entire preferred stock."

Mr. WINDOM. Would that require the presence of the owners at the meeting?

Mr. KERNAN. The Senator can readily suggest an amendment so as not to require that. In our State in reference to corporations the law requires the written assent of the stockholders.

Mr. WINDOM. If the Senator will reduce his amendment to such language as will express that idea, so that it will not require the presence of two-thirds but allow them to vote by proxy, I shall make no objection to the amendment.

Mr. KERNAN. Then I will move to strike out the words "the affirmative vote" and insert "the written consent;" so as to read:

The written consent of the holders of not less than two-thirds of the entire preferred stock.

Mr. WINDOM. I have no objection to that amendment. I think there will be no objection to it.

Mr. McMILLAN. I suggest to the Senator to so frame his amendment as to insert the word "or," and let it read, "the affirmative vote or written consent."

Mr. WINDOM. I thought that was the language of the amendment.

Mr. KERNAN. I will modify it in that way. I ask the Secretary to report the amendment to the amendment, as modified.

The PRESIDING OFFICER. The amendment to the amendment will be reported as modified.

The CHIEF CLERK. It is proposed to insert after the word "vote," in the thirteenth line of the eleventh section, the words "or written consent," and before the word "stock," in line 14, to insert "entire preferred;" and after the word "stock" to strike out the rest of the section; so that, if amended, the proviso would read:

Provided, however, That such bonds or mortgages shall not be issued or executed unless on the affirmative vote or written consent of the holders of not less than two-thirds of the entire preferred stock.

The amendment to the amendment was agreed to.

Mr. CHRISTIANCY. I wish to make an inquiry of the chairman of the Committee on Railroads in reference to a provision of the bill which I find here.

Mr. MITCHELL. On what page?

Mr. CHRISTIANCY. On pages 7 and 8. The provision is as follows:

And in the event of any failure to complete and equip said railroad portages at the Cascades and The Dalles of the Columbia River, or either of them, within the times and in the manner hereinbefore specified, then all the rights, grants, privileges, and franchises herein granted to the Northern Pacific Railroad Company, so far as the same relate to the construction of a railroad between Portland and Umatilla, Oregon, shall vest in and inure to the benefit of the Portland, Salt Lake and South Pass Railroad Company.

I wish to ascertain what this Portland, Salt Lake and South Pass Railroad Company is, whether it is a corporation created by Congress, or whether it is a corporation created by the State of Oregon, or whether it is not yet a corporation at all?

Mr. MITCHELL. It is a corporation created some years ago under the general incorporation law of the State of Oregon.

Mr. CHRISTIANCY. Then I wish to say that I see some difficulties in the way of this proposed act, because the State of Oregon neither under a general law nor a special charter can create a corporation extending from Portland, Oregon, to the South Pass or to Salt Lake, inasmuch as either place is some hundreds of miles beyond her borders. I wish some information upon that point.

Mr. MITCHELL. There is no proposition before the Senate to build a road from Portland to Salt Lake or any other place except from Puget Sound to the Missouri River. That is a mere description of a particular corporation; it is the name of a company. Whether they ever build the road to Salt Lake or to South Pass is a matter for the future. Certainly this bill confers no rights upon them whatever.

Mr. McMILLAN. I suggest to the chairman of the committee whether in view of this difficulty it would not be better to strike out the language which the Senator from Michigan has just read, providing for the forfeiture of franchises by the Northern Pacific to the Portland, Salt Lake and South Pass Railroad Company.

Mr. MITCHELL. That is the very thing I have been insisting on from the first in regard to this bill. If that is stricken out I shall feel very much inclined to vote against the bill myself.

Mr. McDONALD. I move to amend the bill by striking out that provision. It seems to me it is time enough to determine whether another corporation shall be entitled to these rights and privileges after the Northern Pacific Company shall have failed and when the rights thereof become forfeited. I move, if it is in order, to strike out those words.

The PRESIDING OFFICER. The Senator from Indiana moves to amend the bill as he has indicated. The amendment will be reported.

The CHIEF CLERK. It is proposed to strike out after the word "jurisdiction," in line 49 of section 8, the words:

And in the event of any failure to complete and equip said railroad portages at the Cascades and The Dalles of the Columbia River, or either of them, within the times and in the manner hereinbefore specified, then all the rights, grants, privileges, and franchises herein granted to the Northern Pacific Railroad Company, so far as the same relate to the construction of a railroad between Portland and Umatilla, Oregon, shall vest in and inure to the benefit of the Portland, Salt Lake and South Pass Railroad Company.

Mr. MITCHELL. If the amendment of the Senator from Indiana should prevail, all that the North Pacific coast has been contending for for the last three or four months in reference to the construction of this road along the Columbia River would be defeated. It will be observed that under the provisions of this bill the Northern Pacific Railroad Company are not compelled to construct any portion of the road along the Columbia River except that portion around the Cascades and The Dalles until the road across the continent is completed from the headwaters of the Columbia to the Missouri River, a distance of nearly twelve hundred miles.

Mr. McDONALD. I will ask the Senator from Oregon if it is not the real purpose, then, of this bill, so far as that part of it is concerned, to confer these rights and privileges on the Oregon company, on the presumption that the company named in the bill will not comply with the provisions of it, and that therefore the road will become forfeited in the manner indicated in the words I have moved to strike out, and if it is not therefore the real purpose to make this bill cover a grant to another company?

Mr. MITCHELL. The real purpose, so far as I understand it—and

I think that is the real purpose the committee had in view when they prepared this bill—is to compel the Northern Pacific Railroad Company not to build a road all along the Columbia River but to build these two roads at these two portages within the next two years and a half. So great are the arguments in favor of some measure of relief for the people of the Northwest by the loosening of the fetters of the monopoly that now controls the Columbia River that it was thought by the committee that the Northern Pacific Railroad Company ought to be compelled to construct that portion of the main line around these portages. It amounts altogether to less than twenty miles of road, or about twenty miles of road; about fourteen or fifteen miles at The Dalles and about four or five miles at the Cascades.

Mr. EATON. Ode is fifteen and the other is six miles.

Mr. MITCHELL. I will say about twenty miles of road are required to complete both these portages. Now, then, it is believed that it is not asking too much of the Northern Pacific Railroad Company in the interest of all the people of the great Northwest, if this grant is extended to them as it is proposed to extend it to them by the provisions of this bill, in requiring them to complete that much of their road where it will be of such infinite advantage to so large a section of the country as is to be benefited by its construction.

Mr. McDONALD. I beg to state that I have no desire, of course, to affect any provision of this bill that is intended to enforce, so far as can be done by legislation, the construction of this part of the road by the Northern Pacific Company; but I do object to saying that in the event the Northern Pacific shall fail to construct this part of the line, then their rights and franchises to the whole line extending from there to Portland shall become forfeited, and another company, herein named, shall become entitled merely by that forfeiture to take the rights and privileges conferred by the bill and go on and complete the road. I think it is enough if we declare the forfeiture, and leave it hereafter to be determined by what other company, if any, that part of the road is to be completed.

Mr. MITCHELL. If the Senator from Indiana will examine the other provisions of the bill, he will find it is provided in the bill that the road along the Columbia River between the town of Umatilla and the city of Portland shall be a common road not only for the Northern Pacific but for the trains of such parties as may hereafter build a road from Umatilla to connect with the present transcontinental line; and furthermore that the use of this common road shall be on such terms as the two companies may agree upon, or, if they are unable to agree, then the use shall be upon the terms that may be fixed by three competent and disinterested persons to be appointed by the President of the United States.

I would say to my friend from Indiana that the provisions in relation to this common road and in regard to this forfeiture have been consented to by the Northern Pacific Company. I have never wished from the first, I do not wish now, and do not intend now to advocate, any single provision in this bill, in so far as imposing burdens on the Northern Pacific Company is concerned, that they are not willing to consent to, and I think that is saying considerable. I have labored zealously for certain conditions in reference to this matter that I thought the company ought to have conceded, which they did not concede; I abandoned those conditions because I did not wish to defeat a great national enterprise like this, nor did I wish to embarrass a great national enterprise like this or to embarrass a company engaged in the construction of a great national as well as a great international work like this is destined to be. As these provisions have received the assent of the gentlemen who represent this company, I do not think that we ought to undertake to mangle the bill at this stage of the proceedings. There is no necessity whatever and in fact there is no room really for a portion of the way for but one railroad down the Columbia River, through the great passes of the Cascade Mountains. There can be no kind of question but that the wants of the commerce of the great Pacific Northwest will at no distant day, aid or no aid from the General Government, force the construction of a railroad from the headwaters of the Columbia River to connect with the present transcontinental road. The Northern Pacific Company in all their negotiations for funds with which to carry on their enterprise must negotiate in the face of the fact that such a road is inevitable, that it is bound to be built, and at no very distant day. Is it not wisdom, Mr. President? I appeal to the Senator from Indiana to compel this work to be done in the manner provided by the bill.

Mr. McDONALD. I withdraw the amendment.

Mr. MITCHELL. I thank the Senator from Indiana and I shall not continue my remarks.

The PRESIDING OFFICER. The amendment to the amendment is withdrawn.

Mr. EATON. I requested my friend from Indiana to withdraw his amendment because I had one or two that I desired to offer in the interest of the bill simply. I read now from the bill, beginning with line 7 of section 8:

That the extensions, franchises, and privileges granted by this act to the Northern Pacific Railroad Company are on the further express condition that such company shall, within nine months from the approval of this act, commence the construction of its said railroad at some point at or near the mouth of Snake River.

That is one of the conditions. The whole act is to fail if that condition is not complied with. I go further down the page and come to where I desire an amendment. Here is another condition:

And shall also, within two years from the passage of this act, construct and

equip their said railroad around the portage at the Lower Cascades of the Columbia River, on the south side thereof, to suitable points of junction with navigable water in said river, above and below said cascades.

I desire to amend by saying, instead of "two years," "three years from the passage of this act," and by adding after the word "cascades," in the twenty-seventh line, "the State of Oregon consenting thereto;" so as to read:

And shall also, within three years from the passage of this act, construct and equip their said railroad around the portage at the Lower Cascades of the Columbia River, on the south side thereof, to suitable points of junction with navigable water in said river, above and below said cascades, the State of Oregon consenting thereto.

I hold that it is absolutely necessary for the State of Oregon to consent.

Mr. MITCHELL. The Senator from Connecticut proposes to change the time, I understand.

Mr. EATON. I do, from two years to three years.

Mr. MITCHELL. In what line?

Mr. EATON. In line 23 I move to strike out the word "two" and insert "three;" and in line 29 I move to strike out the words "two and a half" and insert the word "four;" so as to make that part of the eighth section read:

And shall also construct and equip their said railroad around The Dalles of the Columbia River, on the south side thereof, within four years from the passage of this act.

I desire briefly to give my reasons for moving thus to amend the bill. There are other conditions in addition to these, as any Senator will see by reading the bill, such as that one hundred miles of railroad are to be constructed in each year. Here is a poor company, a bankrupt company. What will be the expense of constructing these twenty and a half or twenty-one miles of road around these portages at The Dalles and the Cascades? Not less than \$700,000. Gentlemen have said to me this morning that it would cost \$1,000,000. The lowest sum is \$600,000 that I have heard mentioned. It is utterly impossible, in my mind, that this company can go on and construct one hundred miles of railroad annually that it would be bound to construct under the bill, and in two years, or in two and a half years, expend from \$600,000 to \$1,000,000 upon these portages about the Cascades. One must suppose that there is a reason why my friend from Indiana should have insisted upon his amendment. One would almost suppose that the object was to so strip this company that it would be compelled to give up its franchises, that some other company named in this bill might grasp them. I do not say that, for I do not believe my friend from Oregon has any such idea. But I say to the Senate that this company cannot do this work in the time that is expressed in the bill; it would be utterly impossible; and we shall have them here again two years from now asking for a further extension of time.

I think the amendment I offer ought to be made in the interest of the company and in the interest of the people. The United States have already expended \$100,000 in the construction of a canal about one of these cascades. A further appropriation of \$250,000 is required at the hands of Congress this year for that very purpose. Mr. President, let us act fairly with this bantling of ours. I first fixed the time at four years and five years, but in order to gratify my friend from Oregon I have put it at three years and at four years for the building of these two points about the cascade.

I move, first, to strike out in line 23 the word "two" and insert "three;" so as to read:

And shall also, within three years from the passage of this act, construct and equip their said railroad around the portage at the Lower Cascades of the Columbia River, &c.

I put it at three years, if the Senator from Oregon does not object.

Mr. MITCHELL. The Senator can fix the amendment to suit himself.

Mr. EATON. It is fixed to suit myself.

Mr. MITCHELL. Of course the Senator from Connecticut offers this amendment in perfect good faith.

Mr. EATON. I do.

Mr. MITCHELL. And because he thinks the bill ought to be so amended.

Mr. EATON. I do.

Mr. MITCHELL. The Senator says in connection with the amendments suggested that the Northern Pacific Railroad Company will be unable in the next two years and a half to construct the twenty miles of road at this point; that it will cost \$700,000, and that somebody has said it would cost \$1,000,000. I have lived within sight of these cascades almost for the last eighteen years; I think I know something about them. Although I know but little about railroad building, I think I have some general knowledge of the character of the line at that point, and some general knowledge of what it would probably cost to construct those two portage roads.

Mr. EATON. How much?

Mr. MITCHELL. The Senator inquires how much. Although I am no railroad contractor or railroad builder, I should be very glad to get the contract for constructing these two portage roads at \$400,000, and I think I would make a very nice bonus at that figure.

Mr. EATON. Will my friend permit me to interrupt him right there?

Mr. MITCHELL. Certainly.

Mr. EATON. Then the Senator would propose to construct twenty miles of railroad at \$20,000 a mile, when his very bill gives them the right to borrow \$25,000 a mile on bonds.

Mr. MITCHELL. Why? Because any number of miles of that road that they will be compelled to construct in going across the continent will cost perhaps twice \$25,000 a mile. If that is not an answer to the proposition of the Senator I do not know what is.

The effect of the amendment proposed by the Senator from Connecticut, should it prevail, would be simply to fasten upon the necks of the people of the Northwest, or to continue it rather, because it is fastened now, a monopoly on the Columbia River that is very hard to be borne, to say the least of it. When the Northern Pacific Railroad Company themselves, through their president and their representative, say that they can complete this road and will complete it within the time specified in the bill, namely, two years and a half, why should we insist that they cannot do it? Moreover, for the construction of these twenty miles, or whatever the distance may be, that amount is to go to make up the hundred miles that they are to build in the particular year in which these portages are constructed. They are not, under the provisions of the bill, to complete these portage roads in addition to the hundred miles, but in the particular year they are called upon to construct them they are to count these roads, or whatever portion of them they may build around the portages, as a part of the one hundred miles.

This matter was discussed in committee at length and considered carefully and finally agreed upon, as I believe, unanimously. While I do not wish to take up the time of the Senate, because I am very anxious to get a vote upon this bill, I desire to state that I am in earnest in my opposition to the amendment of the honorable Senator from Connecticut. The representatives from the State of Oregon and from Washington Territory and from Idaho, feel instructed to have such reasonable provisions in the legislation for the extension of time to the Northern Pacific, that upon the one hand it will not be an embarrassment to that company, and will, on the other, have the effect of opening up the waters of the Columbia River to free navigation. It is a sad commentary upon the history of things that a great river like the Columbia River, the second upon this continent, should be virtually owned, possessed, and controlled by one company, and that the commerce of that whole Northwest should be compelled to pay tribute in the shape of charges such as I adverted to yesterday to this same company. I ask, Mr. President, in behalf of that people, that the amendment proposed by the Senator from Connecticut may be voted down, and that the bill as reported by the committee may be sustained.

Mr. McMILLAN. I believe the amendments suggested by the Senator from Connecticut are most reasonable in their character, and should be adopted by the Senate both as to the three years and as to the four years. The Senator from Oregon has referred to the navigation of the Columbia River, to the fact that there are obstacles there, and that there is some oppression under which the people of Oregon labor. If that be so, what reason is that for imposing upon a railroad company the burden of relieving that people? The Government has already appropriated \$250,000 to build a canal around the Cascades in Oregon. It has entered upon a series of appropriations which will amount to millions.

Mr. MITCHELL. Will the Senator yield to me a moment?

Mr. McMILLAN. Yes, sir.

Mr. MITCHELL. I understood the Senator to say that the Government had appropriated \$250,000 for the construction of locks at those points?

Mr. McMILLAN. Yes, sir.

Mr. MITCHELL. The Senator from Connecticut also made a similar allusion. The Senators, both of them, are entirely misinformed upon that subject.

Mr. McMILLAN. Will the Senator then state the fact in regard to it?

Mr. MITCHELL. The fact is that two years ago in August—it was in 1876—

Mr. McMILLAN. The last river and harbor appropriation bill.

Mr. MITCHELL. In the last river and harbor appropriation bill an appropriation of \$90,000 was made to inaugurate the work, and there never has been a cent appropriated since, and not one dollar of that appropriation has yet been used except to procure the right of way and make the definite, permanent surveys.

Mr. McMILLAN. Then the proceeding has been inaugurated. There is to be a canal built by the Government around the Cascades, and it will require a very heavy expenditure of money. But why load this railroad company with the relief of the people there? This railroad company had this original land grant and it had the privilege of passing down the Columbia River upon the other side of the river, and would have received twenty sections per mile of land for the distance it passed down that river, amounting to seven million acres. By this bill it is deprived of one-half the amount of the land and compelled to go upon the other side of the river and pass the Cascades and The Dalles, and all this burden which is imposed upon them is to be performed within the short period of time named in the bill. It is unreasonable that the burden should be imposed upon them at all; but if they are to assume it, certainly there should be a reasonable time to perform the work. The time indicated by the Senator from Connecticut is very reasonable.

Mr. MITCHELL. May I ask the Senator from Minnesota a question?

Mr. McMILLAN. Yes, sir.

Mr. MITCHELL. I ask the Senator from Minnesota if the representatives of the company do not agree to the bill as reported to the Senate?

Mr. McMILLAN. I do not know what the representatives of the company have agreed to. I know that the company have been called upon to submit to exactions here which no company should have submitted to, and which they should not have agreed to. So far as all the other conditions are concerned, they are right and perhaps should pass, if the representatives of the company have agreed to them; but with reference to the amendments suggested by the Senator from Connecticut they are so reasonable in their character that I am surprised that the Senator from Oregon does not assent to them without hesitation.

Mr. MITCHELL. The Senator from Minnesota knows that I could not consent to those amendments and represent the people who sent me here to represent them. Therefore why should he say that he is surprised that the Senator from Oregon does not consent to an amendment like that?

Mr. McMILLAN. Because I believe the Senator from Oregon can perceive what are the public interests.

Mr. MITCHELL. I think I do.

Mr. McMILLAN. And that the Senator would assent to the public interests.

Mr. WINDOM. This is an old question in the Committee on Railroads. It was considered for several weeks. A great deal of discussion was had there upon it; there were consultations back and forth between those who represented the interests of the company and those who desired to restrict them as far as possible; and after a great deal of thought and careful consideration the proposition contained in the substitute reported from the committee was unanimously agreed to, as being one that could be practically carried out. I hope that the Senate will permit the bill to pass as the committee has recommended it. I think that such a course would save a great deal of time. I believe that the company can carry out these conditions. Even if, as my colleague states, they are onerous, they are such as have been accepted by them, and I hope the Senate will not change them.

Mr. EATON. A great deal has been said by my friend from Oregon with very great emphasis. Senators have been told that the company have agreed to these conditions and the question is asked why should the Senator from Connecticut stand up here and object to a matter that the company have agreed to? I have known people to agree to things sometimes when they were told "if you do not do this, worse will come." I have heard of agreements of that character. I do not say this is one of them; I am not about to say that this is one of them; but I am about to say that the condition of that company forbids me to believe that they can go on and construct this hundred miles of railroad. My friend says it is not a hundred. True, it is only ninety, in addition to the track around the Cascades. My friend said that these twenty miles could be built for \$400,000.

Mr. MITCHELL. I will state in answer to that proposition that I heard the president of the Northern Pacific Railroad Company say at one time within the last month that he thought it could be built for a quarter of a million of dollars. He told me since, however, that that estimate was too low, and that it would cost considerably more than that.

Mr. EATON. I heard an engineer say this morning that it could not be built for a hundred thousand dollars less than a million.

Mr. MITCHELL. That is nonsense.

Mr. EATON. It may be nonsense; but whether it be nonsense or not, my friend from Oregon is not a good judge, for he has already told the Senate that he knows nothing about the building of railroads.

Mr. MITCHELL. I admit that, but I claim at the same time that I know as much as the Senator from Connecticut about building this road.

Mr. EATON. I have not asserted that it would cost anything; they may build it for nothing; but my good friend says he knows nothing about the building of roads, and yet he says that the opinion of an engineer in regard to its cost of construction is nonsense. I never happened to see those cascades; I never lived in the neighborhood of them.

Mr. MITCHELL. That is the reason the Senator knows nothing about them.

Mr. EATON. I hope I know something about things that I have not seen. I know something about the nature of the soil in the neighborhood of those cascades. I know something about the amount of water-fall per mile, and I know it is rocky, and I know it will be expensive to build a railroad through those rocky cuts. That I know; and therefore I believe what the engineers say, that it will cost from \$700,000 to \$900,000 to build those twenty and a half miles of railroad. Mr. President, do not let us make a harsh trade with these people. Let us do what is just and right. Do not crowd them; do not put upon them a duty that they will not be able to perform, so that they will come here two years hence and ask for an extension of time to be given them.

Mr. MITCHELL. I would be in favor of giving it if any misfortune should happen to the company.

Mr. EATON. Give it now. Place the time now at three years for one point and at four years for the other point. Let us be reasonable with this child of ours. It is a great work, as my friend has said.

Mr. MITCHELL. Let me tell the Senator from Connecticut that this company by the construction of the road which they will build from Snake River in the next two years after the passage of the bill will have one of the best paying roads, in my judgment, in the United States. It will run through one of the most fertile wheat countries in the world. It is settling up now thick and fast, so that there will be no trouble, in my judgment, (and I think that is the opinion of the company,) in their being amply able at the end of the time specified in the bill to go on and construct these roads which will be of such great importance to our people.

Mr. EATON. I certainly hope that the road which they build from Snake River, if that is the name, will be of vast importance to them and of great profit; but there is an old adage that we had better not forget, and that is not to count chickens too early. We have seen these things before. We have seen a great deal of rose-color with regard to what the amount of freight would be upon railroads. I have had occasion myself to examine these matters not infrequently and with a great deal of care. Inserting the word "three" instead of "two" does not prevent, let me say to my friend from Oregon, the completion of this road if the company can complete it in two years. They will desire to complete it if they can in two years, but let us give them three years in which to construct it. I hope the amendment which I have offered will prevail.

Mr. MATTHEWS. Mr. President, this particular feature in the bill was a matter of very considerable discussion in the committee. The railroad company applied for an act of Congress extending the time within which they might complete their road and save their franchises and land grants. Although Portland by their own act had become the western terminus of the road, they desired to build a portion of the road that was intermediate between the terminus, commencing at the head of navigation on the Columbia River and penetrating to the interior in a northeasterly direction for a distance I think of about two hundred and eight miles, for the reason that the construction of that portion of their road would be the most profitable to them immediately, on the ground that the line so constructed would pass through a very fertile region of country, the settlement of which was imminent, in reference to which they already had applications for the purchase of large quantities of the lands belonging to their franchises.

The committee was confronted with the fact that the navigation on the Columbia River as now necessarily pursued was in the hands of a monopoly, a navigation company owning a line of steamboats, and which had constructed around its two natural obstructions portages which enable them to handle as against every competition all the freight that was required to be transported and all the travel that sought to pass to and fro over that river, at any price that they saw fit to exact, and who, in point of fact, holding this monopoly, were doing just as others do who hold monopolies, they were improving it to their advantage but to the detriment of the public, by charging excessive rates for the transportation of freights on that great highway. Inasmuch as this very line along the banks of that river was the chosen and ultimate line for the location of this railroad, and inasmuch as this railroad company were seeking to enlarge their privileges and obtain new franchises from the public, it was thought no more than right and fair and just and equal that they should do something to relieve the public by way of compensation for that which they asked the public to do for their relief.

It was proposed, therefore, that everything else should be conceded to them, and while nobody desired to throw a straw in the way of the successful prosecution and final completion of this great highway across the continent, it was nevertheless thought by the committee to be no more than a very reasonable thing to ask that they should expend a portion of their capital in the construction of two short portages which would enable other navigation companies to put upon the Columbia River other steamboats for the purpose of establishing competing lines of transportation between Portland and the head of navigation. The reasonableness of this demand was conceded by the company, and the point in dispute was as to the question of time. All they asked was that they should not be limited in point of time in respect to the construction of these two portages in such a way substantially and materially to interfere with the progress of their work in the selected place where it would be most profitable for them to push it. Some of the committee were for a shorter time, others were willing to grant a longer time. The times as now fixed in this reported bill were the times fixed by the railroad company itself. This is their proposition; this is their offer; this is what they say they are willing and able to do, and what they propose and consent to do as a consideration by them for that which they have asked from the public.

I understand the objection to be that this is oppressive upon the company; that it is a hardship upon the company; that it limits them so in point of time as that they will not be able to comply with the conditions. Who is authorized to speak for the company in that behalf? Who knows what the company is able to do? Who can undertake to say that this is more than they will be able to perform? I suppose that the president of the corporation and the directors of

the corporation, those who are interested in its success and those who will be required to furnish the means, are better able to speak for it than any one else. It is a question for them to answer; it is a question directly between Congress and the corporation. It certainly is immaterial in this discussion to say that we neither know nor care what the company choose, or are willing, or are able to do, for the very point of the objection is that this is a hardship upon the company. If the company says it is not a hardship; if it says that it can undertake and will undertake, and does undertake to do this thing, certainly every consideration of public convenience and public policy not only authorizes but requires us to take it at its word, for the sooner that navigation is made free and open to competition the better it is for every man, woman, and child throughout the whole continent, for it benefits the entire public. If it could be opened to-morrow, it would be a great public advantage.

I submit, therefore, that we ought not in the interest of the company to make an objection which the company does not make of its own, and that the arrangements which are contained in this bill, and which were the result of conferences between the committee and the company, ought not to be disturbed inasmuch as in this particular at least it is what the company has offered and agreed to do; and certainly we ought, out of consideration to the public interest, to have this thing done in the speediest manner in which we can reasonably and practically obtain it.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Connecticut [Mr. EATON] to the amendment of the committee.

Mr. EDMUNDS. I ask that the amendment to the amendment be reported at the desk.

The PRESIDING OFFICER. The amendment to the amendment will be read.

The CHIEF CLERK. It is proposed in section 8, line 23, to strike out "two" and insert "three," and in line 29 to strike out the words "two and a half" and insert "four."

Mr. MITCHELL. The effect of that is simply to give the company three years' time in which to build five or six miles, and four years' time in which to build fourteen or fifteen miles more. They have already two years' after the passage of the bill to build the five or six miles, and two years and a half according to the bill as it stands to build the remaining fourteen or fifteen miles.

The question being put, there were on a division—ayes 17, noes 19; no quorum voting.

Mr. EDMUNDS and Mr. MITCHELL called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 19, nays 38; as follows:

YEAS—19.			
Anthony,	Christiancy,	Harris,	McCreery,
Bailey,	Davis of Illinois,	Hill,	McMillan,
Burnside,	Eaton,	Howe,	Maxey,
Butler,	Garland,	Johnston,	Morrill,
Cameron of Wis.,	Hamlin,	Kernan,	
NAYS—38.			
Allison,	Dawes,	Kirkwood,	Ransom,
Barum,	Dennis,	Lamar,	Rollins,
Bayard,	Dorsey,	McDonald,	Sargent,
Beck,	Eustis,	Matthews,	Saunders,
Booth,	Ferry,	Mitchell,	Teller,
Bruce,	Gordon,	Morgan,	Voorhees,
Cameron of Pa.,	Grover,	Oglesby,	Wallace,
Chaffee,	Hereford,	Paddock,	Windom,
Coke,	Jones of Florida,	Patterson,	
Conkling,	Kellogg,	Randolph,	
ABSENT—19.			
Armstrong,	Edmunds,	Merrimon,	Thurman,
Blaine,	Hoar,	Plumb,	Wadleigh,
Cockrell,	Ingalls,	Saulsbury,	Whyte,
Conover,	Jones of Nevada,	Sharon,	Withers,
Davis of W. Va.,	McPherson,	Spencer,	

So the amendment to the amendment was rejected.

Mr. EATON. I desire to offer another amendment, and I hope it will not be subject to any objection. After the word "Cascades," in line 27, of section 8, I move to insert "the State of Oregon consenting thereto."

Mr. MITCHELL. I do not think there is any objection to that.

Mr. EATON. I understand the Senator does not object.

Mr. EDMUNDS. I should like to know how it would read, if the two high contracting parties are willing to let us hear it.

The CHIEF CLERK. If amended as proposed, the section will read:

To suitable points of junction with navigable water in said river, above and below said Cascades, the State of Oregon consenting thereto—

Mr. SARGENT. What shall be done then with the State's consent? What is the context?

The CHIEF CLERK—

and shall also, within two years from the passage of this act, construct and equip their said railroad around the portage at the Lower Cascades of the Columbia River, on the south side thereof, to suitable points of junction with navigable water in said river, above and below said Cascades, the State of Oregon consenting thereto.

Mr. MITCHELL. I think that is the present law. I do not think the amendment is necessary.

Mr. SARGENT. When is the Legislature to meet? It will require a new act.

Mr. MITCHELL. It meets in September. There will not be any difficulty about that, although I think that is the law as it stands now. The eighteenth section of the original act provides:

That said Northern Pacific Railroad Company shall obtain the consent of the Legislature of any State through which any portion of said railroad line may pass, previous to commencing the construction thereof; but said company may have the right to put on engineers and survey the route before obtaining the consent of the Legislature.

But I have no objection to the amendment.

Mr. EATON. There is still another clause requiring the same amendment.

The amendment to the amendment was agreed to.

Mr. EATON. In the same section, line 32, after the word "thereto," I move to insert "the State of Oregon consenting thereto." It is the same amendment.

Mr. MITCHELL. There is no objection to that.

Mr. EDMUNDS. Let us see how that will read.

The CHIEF CLERK. If so amended, the section will read:

And shall also construct and equip their said railroad around The Dalles of the Columbia River, on the south side thereof, within two and a half years from the passage of this act, so as to connect conveniently with steamboats on the Columbia River above and below said portages and by means thereof, the State of Oregon consenting thereto.

Mr. EDMUNDS. I suppose agreeing to that does not necessarily raise the implication that Congress would not have the power to authorize the construction of a railroad between two or more States; but it merely raises the implication that in this instance Congress does not choose to exercise the power, if it has it, without the consent of that State. With that understanding, I have no objection to the amendment.

Mr. EATON. That is not my understanding. My understanding of it is that Congress has no power to construct that railroad without the consent of Oregon.

Mr. EDMUNDS. I think it is open to the other construction; so I will not raise any question about it.

The amendment to the amendment was agreed to.

Mr. GROVER. I desire to offer an amendment. In line 8, section 9, after the word "lines," I move to insert "when completed from Portland to Umatilla."

Mr. MITCHELL. I think that is a very proper amendment.

Mr. GROVER. It will make the bill more distinct.

Mr. DAVIS, of Illinois. Let the whole section be read as it will stand if amended.

The Chief Clerk read as follows:

Sec. 9. The grants, privileges, and franchises herein granted are upon the further express condition that from the point of junction of the Northern Pacific and the proposed Portland, Salt Lake and South Pass Railroads at or near the town of Umatilla, in the State of Oregon, by the pass of the Columbia River, through the Cascade Mountains, to the city of Portland, the said Northern Pacific Railroad shall be a common road for both lines when completed from Portland to Umatilla; and the said Northern Pacific Railroad Company shall receive such compensation from the other company and such use shall be on such terms as the said corporations may agree upon; and if they are unable to agree, then the Northern Pacific Railroad Company shall receive from the other such compensation and at such times, and the use thereof shall be upon such terms, as a commission of three disinterested and competent persons, to be appointed by the President of the United States, shall determine to be equitable and just.

Mr. MITCHELL. I supposed that was the construction of the section as it stood; but it is not as clear as it should be, and the amendment of my colleague makes it plain.

The amendment to the amendment was agreed to.

Mr. GROVER. I offer another amendment. In line 62, section 8, after the word "thirty-three," I move to insert "consecutive."

Mr. MITCHELL. That is a proper amendment.

Mr. GROVER. And in line 63 of the same section, after the word "twenty-five," I move to insert "consecutive," and after the word "miles" to insert "commencing at the end thereof;" so as to have a continuous road.

Mr. MITCHELL. All right.

The amendment to the amendment was agreed to.

Mr. GROVER. Mr. President—

Mr. CHRISTIANCY. If the Senator wishes to make any extended remarks, I hope he will yield to me to move an amendment.

Mr. GROVER. Understanding that I hold the floor, I yield.

Mr. CHRISTIANCY. At the end of section 9, for the purpose of cutting off any implied recognition of this Portland, Salt Lake and South Pass Railroad Company outside of the line of Oregon, I propose to add the words—

Nothing in this act shall be construed as recognizing the existence of said Portland, South Pass and Salt Lake Railroad Company with any right or power of said company outside of said State of Oregon.

Mr. DAWES. I suggest to the Senator from Michigan that he put his "outside" a little further back, to make it a little more clear. "The existence of said railroad outside of the State of Oregon" would be better.

Mr. CHRISTIANCY. I think it is very clear as it is now.

Mr. DAWES. I think it would be clearer by a change of language.

Mr. MITCHELL. For one, I do not know that I have any objection to the amendment; but there is not a thing in this bill from beginning to end that makes any provision for that company outside of the State of Oregon.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Michigan.

The amendment to the amendment was agreed to.

Mr. SAUNDERS. I presented a memorial this morning and asked that it be printed. It relates to this bill, I find. I want to inquire of those in charge of the bill whether they expect to bring it to a vote this evening, and, if they do, to allow the memorial to be read.

Mr. MITCHELL. Certainly we want to dispose of this bill this evening.

Mr. SAUNDERS. I find that the memorial relates to this bill mainly. It is from the Portland, South Pass and Salt Lake Railroad Company. If the gentleman in charge will consent to the memorial being read, it will be all that is needed, and it will then not be necessary to print it.

The PRESIDING OFFICER. The memorial cannot be received now except by general consent.

Mr. BUTLER. I object to it, Mr. President.

The PRESIDING OFFICER. Objection is made.

Mr. GROVER. Mr. President, I had not intended to address the Senate on this bill, choosing rather to obtain a speedy vote upon it than to consume time in debate. But after the very able and interesting speech of the honorable Senator from Minnesota, [Mr. WINDOM,] delivered yesterday, exhibiting in a striking light the physical features and development and the promising future of the vast region of new country traversed and to be traversed by the Northern Pacific Railroad between Lake Superior and the Rocky Mountains, I deem it proper to add a few words, more particularly descriptive of that portion of country through which this road will pass lying west of the Rocky Mountains, known as the State of Oregon and the Territories of Washington and Idaho and a part of Montana. These are all watered by the Columbia River and its tributaries. This great river of the West, the largest which flows into the Pacific Ocean from the American continent, is navigable for one hundred miles from its mouth for deep sea-going vessels, and, with the exception of occasional rapids, rendering portages necessary, ordinary river steamers can ascend five hundred miles into the interior. Three hundred and fifty miles from its mouth the Columbia opens out its branches like a fan, spanning more than twelve degrees of latitude, equal nearly to one-half the width of the domain of the United States on the western shore of the Rocky Mountains. The headwaters of this river meet and interlock with the headwaters of the Missouri at about 112° of west longitude, forming, with the exception of a single divide, in a pass of the Rocky Mountains less than five thousand feet high, a valley line for a railroad from the great lakes to the Pacific Ocean. The extent of region drained by the Columbia is three hundred thousand square miles, or one-tenth of the area of the United States. It is equal to the country drained by the Danube. It is as large as France and the British Islands, and yields products of these countries.

Lying within the latitudes of France, it possesses a climate of equal mildness and salubrity. There is a great river of the Pacific Ocean which affects the climate of the western coast of North America in the same manner as the Gulf Stream of the Atlantic affects the climate of Western Europe. A late writer describes this as follows:

This thermal stream from "India's coral strand," coming through the sea of Japan, along the Asiatic coast, and dividing into several branches, the greatest of which passes through Behring Strait into the Arctic Ocean, and carrying the ice formed in those waters away from our shores; a considerable stream shoots to the northeast, striking with some force against the island of Saint Lawrence, again deflects to the eastward and finally to the southward and westward, leaving the northern shores of the peninsula of Alaska and the Aleutian Islands. A considerable volume of this current crosses on an easterly course, washing the southeastern base of Alaska, strikes the shores of British Columbia, and deflects to the north, northwest, and westward, creating a strong counter-current along the Gulf of Alaska and imparting a double dose of heat to the shores fringing those waters. The westerly winds blowing over this thermal plateau temper the coast climate, and in passing through the Cascade Mountains are known as "Chinook winds" in the broad basin of the Columbia River. These winds thus tempered exert vital influence along the coast, stimulating vegetation and dense underbrush. The condensation of this warm wind by the colder air on the main land produces moisture and heavy rains; hence the rank growth of trees, grasses, plants, and moss. Larger trees are found here than on the Atlantic slope on the same parallels, while gay plants and beautiful flowers flourish and give to those regions the appearance of budding fields.

This is a description by one who has roamed these seas and traveled these lands.

The soil of this region differs from that of other portions of the United States. It seems to be composed of phosphates and wheat-producing qualities. It is full of marine fossils and the sediments of a departed sea. It produces cereals, fruits, and vegetables in greater abundance than any other country. No failure of any crop has occurred since its settlement. Oregon was represented at the centennial exhibition at Philadelphia in 1876. She was awarded diplomas "for," in the words of the judges, approved by the commissioners, "grains, grasses, cereals, dried fruits, and vegetables, for the extent and excellent quality of exhibit of all the above-named products;" again, "for a superior display of cereals, textiles, and timber resources, and the variety and excellence of her fruits, the salmon fishery and the educational system evincing the steady development of the State;" also "for forest wood, for interest and variety of the exhibit, some of the specimens of most gigantic size."

Oregon fruits were exhibited in considerable quantities, and notwithstanding a journey of four thousand miles by express, they were in good condition, and were universally admired. They received medals and diplomas "for," in the words of the judges, approved by the commissioners, "a remarkably fine exhibit of fifty kinds of apples, and eight kinds of pears; all were of unusual excellence;" again, "cherries of remarkable size and excellent flavor;" "pears, ten varieties of superior excellence and size, beauty, and flavor;" "apples, twelve varieties of remarkable excellence, color, flavor, and size;" "prunes, four varieties, "superior, and illustrates how well the State of Oregon is adapted to their culture;" also for "pears, one cluster of Clapp's Favorite, containing six large and handsome specimens—an evidence of the remarkable fruitfulness of that variety."

Flax in straw and in lint was exhibited and received medals and diplomas "for," in the words of the judges, approved by the commissioners, "very fine quality, extraordinary length, good in strength, good color, superior gloss, and silky softness;" and for the oil manufactured at Salem, Oregon, from flaxseed, pronounced "of superior quality, fine color, being clear, fine, and free from sediment, of excellent body, and high merit."

Medals and diplomas were awarded upon wool from Oregon, pronounced by the judges and the commissioners "Merino wool, very fine specimens, of fine fiber and good staple, very much resembling Australian wool, and giving evidence that Oregon can produce wool of very great value;" again, for Merino wool "of fine staple and good strength;" "for fleece and combed wool of fine fiber, and healthy, resembling Australian, also Oxfordshire and Lancaster wool;" "for three samples of Leicester combing-wool, noticeable for long staple and bright luster;" also "for a sample of Cotswold wool, with twelve samples improved by a series of crossings pursued for many years, of high-bred Cotswold buck on high-bred Oxfordshiredown ewes, producing a combing-wool retaining the length of the original Cotswold, but with greatly increased fineness and softness, and total absence of hair." The Angora goat thrives in Oregon as well as upon its original pastures, and Cashmere wool will shortly be one of its leading products.

Not all the lands west of the Rocky Mountains in these latitudes are suitable for cultivation; but broad reaches of rolling upland and mountain-sides, which will never submit to the plow, yet are covered with an almost perennial verdure, and are the best natural pastures in the world. The meat-producing capacity of this region is very great. The rivers flowing into the Pacific Ocean between the forty-second and forty-ninth parallels of north latitude and the Puget Sound abound in salmon, the imperial food-fish.

Oregon salmon, as prepared for the markets of the world, was exhibited at the Centennial, and awarded medals and diplomas "for very great excellence, the preparation being wonderfully sound and of choice flavor;" "pickled, a very excellent preparation;" again, "for good flavor and soundness."

Already the export value of this product has reached \$3,000,000 a year. While speaking of fisheries permit me to say a word for Alaska. Mr. Seward was condemned and ridiculed in many quarters for purchasing Alaska for \$7,000,000. The fisheries alone of this vast territory are worth more than the price. Not only do the many rivers abound in salmon, but the coast is fringed by fishing-banks broader than the Grand Banks of Newfoundland, where all the way from Queen Charlotte's Island round into Behring's Sea can be taken every variety of sea fish which are found in the same latitudes in the Atlantic. Why give Great Britain money for the privilege of fishing in her waters while we possess better fisheries of our own?

But the great staple product of the valley of the Columbia River is wheat; all kinds of wheat can be grown here, winter, spring, summer, and fall wheat. A farmer told me he could sow wheat every month in the year and produce a good crop. The soil does not surrender under cultivation, nor is there ever a failure of crops. During the thirty-six years in which general farming has been carried on in the country not a single failure of crop has occurred. The qualities of the soil seem to be like those of Sicily and the regions about the Black Sea, which have been the never-failing granaries of Europe for the last two thousand years.

Several medals and diplomas were awarded by Centennial commissioners to Oregon exhibitors for fifteen varieties of wheat, five of oats, white rye in grain with straw nine feet high; again, "ninety-day white wheat," grain and sheaf, raised upon land neither plowed nor harrowed, and yielding thirty bushels per acre; also upon Oregon flour and oatmeal, all of excellent quality.

The crop of last year, produced by a population of about one hundred and twenty-five thousand, was six millions of bushels. The clip of wool was five million pounds. The product of cured meats was large; the export value of the year was sixteen millions. During five months from the 1st of September last seventy vessels, averaging twelve hundred tons each, bound for foreign ports, went out of the Columbia River laden chiefly with wheat and flour for European markets.

The wheat market of Portland, Oregon, is as good as the wheat market of Chicago, for the grain once on board at Portland is not handled again until it is delivered in Liverpool, which can be done in less than four months, with the expense simply of seamen's wages, costing less than export rates from Chicago. No grain products grown

west of the mountains will come east by the Northern Pacific Railroad, but they will go west, and find a quicker and better market. Then we are the nearest point of supply to Japan and China who do not produce wheat, but consume much, and will in future consume a great deal. I make these allusions to show that farmers who go to Oregon are not going out of the world, but are going to a new world, and that there are two sides to this continent.

This railroad, when built, will have a way business running westward from the divide of the Rocky Mountains, made up of the products of the country traversed by it and of the business of the people who will live there, far greater than will come to the support of any like distance of the same road east, for the reason that the land will produce more relative exports and will sustain a greater relative population. In ten years after this road is completed the wheat exports to foreign markets from the country tributary to it will exceed two hundred millions of bushels, one hundred millions of which will go out of the Columbia River. The exports of wheat from the entire United States for the last year did not reach seventy millions of bushels.

Mr. President, allow me to say to my friends of the South, if you want a generous rivalry as to who shall be king in America, wheat or cotton, food or clothing, give us the Northern Pacific Railroad and you take the Texas Pacific, and we will try the title.

There is more new land on the line of this road than in any other section of our public domain. From the mouth of Snake River, stretching away three hundred miles to the northeast, lie the broad plains of the Columbia, smiling this day in their robes of greenest verdure, variegated with myriads of blossoms, and sparkling with a thousand fountains, awaiting the farmer as the bride awaits the groom ready for the marriage. If this railroad goes forward this year an agricultural population of ten thousand will occupy these lands within twelve months, and they will attend the progress of its construction like the march of triumph over the mountain.

The grades of this road, as compared with the Central and Union Pacific, should not be overlooked.

As I have said, the Northern Pacific is a valley road. There is steamboat navigation on the Missouri now and on the Yellowstone, its main upper tributary, as far west as Utah, and the headwaters of the Missouri extend farther west than the Great Salt Lake. So that in crossing the continent, while the Union Pacific is passing the main chain of the Rocky Mountains at Sherman, at an elevation of eighty-two hundred and forty-two feet, and the Wind River Mountains at an elevation of seven thousand and thirty feet, and laboring through the deep canyons and heavy grades of the Wahsatch, the Northern Pacific has not left the broad valley of the Upper Missouri, of the Union Pacific there are six hundred miles of road lying above the elevation of five thousand feet. Here all the snow-sheds are required and snow blockades are met, while for the same distance on the Northern Pacific no elevation will exceed twenty-five hundred feet, with no requirement whatever of snow-sheds.

The Central Pacific crosses the divide between Salt Lake and the Humboldt at an elevation of sixty-one hundred and eighty feet and the summit of the Sierra Nevadas at an elevation of seven thousand and forty-two feet and with forty miles of snow-sheds. Two hundred miles of this road lie above the elevation of five thousand feet. The corresponding section of the Northern Pacific has but a single summit, as I have said, the divide of the Rocky Mountains, at an elevation of less than five thousand feet, with regular and easy approaches from either side. And owing to the fact that the pass lies seven degrees of longitude on this road west of the pass at Sherman on the Union road, the temperature of the place is affected by the Pacific climate, having mild winters and light snows, showing that the constant and easy operation of the road will meet with no obstructions the year round. No snow-sheds will be necessary on any part of the line.

This road will command transcontinental business. As the grades will be easy no dividing of trains and doubling of locomotives will be required to pass mountains, and regular speed can be kept up throughout its entire distance. The Cascade Mountains in Oregon correspond with the Sierra Nevadas in California. Through these mountains the Northern Pacific road passes along the margin of the Columbia River, which like a giant has removed this great barrier and invited the tides of the Pacific Ocean into its very gorges one hundred and fifty miles from its mouth.

Mr. President, I have thus endeavored in a hasty manner to give a faint outline of the physical features of the country which I have the honor in part to represent as affecting the conditions of railway communication.

But there are other attractions. The family from the North can come among us and find a new climate, mild and agreeable, and a new scenery of most attractive beauty and grandeur. The family of the South can come and plant the magnolia and the climbing roses and vines of their own home, and see them grow and bloom. England, France, and Switzerland may come, and each find his own climate and scenery. Oregon is a land of profit and a land of beauty, but she is sitting alone and waiting for the world to come and meet her. This land was the dream of Thomas Jefferson a hundred years ago. In the second century of our Republic let it be made a reality and a living child of the Union.

Mr. CHRISTIANCY. I have but one more amendment to offer, and if it be adopted I shall be very glad to vote for the bill. I may as well say that this bill seems to be based on the idea of a reorganization of this company. The company, as I understand, had become insolvent, a receiver had been appointed, and the stockholders, or most of the stockholders, and most of the bondholders have united in this reorganization. Some of them have not. The first section of the bill provides:

That the grants, rights, privileges, corporate powers, and franchises, including the franchise to be a corporation, conferred upon the Northern Pacific Railroad Company by its charter and the various joint resolutions of Congress amendatory thereof and supplementary thereto, be, and the same are hereby, confirmed, granted, and continued to the said Northern Pacific Railroad Company, as now reorganized, except as hereinafter modified.

Now, as Congress is not a court able to decide between those stockholders and bondholders who have not come into these arrangements and those who have, and there may be paramount rights in some of these stockholders and bondholders which we ought not to assume to dispose of, I propose this amendment: after "modified," in line 10, to insert:

And subject to any lawfully existing paramount right of any stockholder in, or the holder of any bond against, the said company under its former organization, if any such there be.

Mr. MITCHELL. I do not see that there is any objection to that amendment.

The amendment to the amendment was agreed to.

Mr. BAYARD. There is an amendment I wish to propose that I think will not be objectionable. In line 10 of the first section, after the word "modify," it is to insert:

And subject to any lawful adverse right.

Mr. MITCHELL. An amendment of that character has just been agreed to, offered by the honorable Senator from Michigan.

Mr. BAYARD. I was not in the Senate at the time.

Mr. MITCHELL. I think it will be satisfactory to the Senator.

Mr. CHRISTIANCY. The amendment just adopted covers the point.

Mr. BAYARD. Very well.

The PRESIDING OFFICER. The question is on the amendment of the Committee on Railroads as amended.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

On motion of Mr. MITCHELL, the title was amended by striking out all after the word "railroad;" so as to read:

A bill extending the time for the construction and completion of the Northern Pacific Railroad.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. FREDEN, one of his secretaries, announced that the President had, on the 20th instant, approved and signed the act (S. No. 484) to authorize the construction of a bridge abutment and approach within the Fort Riley military reservation, and the act (S. No. 1014) requiring the commissioner for preparing and publishing a new edition of the Revised Statutes of the United States to revise and perfect the index to the first volume of the same.

AMENDMENT TO POST-ROUTE BILL.

Mr. MERRIMON submitted an amendment intended to be proposed by him to the bill (H. R. No. 4286) to establish post-roads in the several States therein named; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

COMMISSIONERS TO PARIS EXPOSITION.

Mr. SAUNDERS. I move to reconsider the vote indefinitely postponing the joint resolution (S. R. No. 17) supplemental to a joint resolution in relation to the international industrial exposition to be held in Paris in 1878.

Mr. CONKLING. I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. SAUNDERS. I ask for the reconsideration of the vote simply that the joint resolution may be put on the Calendar. The vote was taken a few days ago, and it is necessary to have the question taken now if it is done at all. I move a reconsideration of the vote by which the joint resolution was indefinitely postponed.

Mr. CONKLING. The Senator merely wants to enter his motion I suppose.

Mr. SAUNDERS. I want to put it on the Calendar.

The PRESIDING OFFICER. The motion to reconsider will be entered.

Mr. CONKLING. Then I renew my motion that the Senate proceed to the consideration of executive business.

Mr. PADDOCK. I think the reconsideration had better be acted on now. I suppose there will be no objection whatever to the reconsideration so as to put the resolution on the Calendar.

Mr. SAUNDERS. So that it is put on the Calendar, it is all I want at present.

The PRESIDING OFFICER. The Chair, then, will put the question on the motion to reconsider.

Mr. DAVIS, of West Virginia, rose.

Mr. SAUNDERS. The Senator will understand that I do not ask any vote on the main question now.

Mr. DAVIS, of West Virginia. I understand it perfectly, and I have something to say about it.

Mr. PADDOCK. There can be no objection to reconsidering the vote by which it was indefinitely postponed.

Mr. DAVIS, of West Virginia. Perhaps the Senator will hear what I have to say about it.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. DAVIS, of West Virginia. This resolution, as I understand it, was reported adversely from the Committee on Appropriations. I see no use in this reconsideration unless Senators desire to make a talk on the subject. The joint resolution was reported adversely, when one of the Senators at least of the State of Nebraska was present; and unless there is some special object I see no use in recalling a resolution that has been reported on adversely and has by the Senate been postponed indefinitely.

Mr. SAUNDERS. I think I have some good reasons and I could give them now, but I thought from the lateness of the hour if it was put on the Calendar I could do so at some future time.

Mr. DAVIS, of West Virginia. If the Senator does not desire to give any reason, let the motion be pending, and I object at present to the reconsideration. Let it be pending; I have no objection to that.

Mr. SAUNDERS. I have no objection to that. I can make my remarks on taking it up.

The PRESIDING OFFICER. The motion to reconsider will be considered as entered and pending.

PERSONAL EXPLANATION.

Mr. MITCHELL. I desire to make a statement. Yesterday, in submitting my remarks on the Northern Pacific Railroad bill, I read a statement handed me by a gentleman in which was contained an alleged statement of Hon. S. S. FENN in regard to the amount of freight paid by him to the Oregon Steam Navigation Company. Judge FENN, by a letter which he has handed me, informs me that the statement was incorrect in giving the weight of the freight. In all other respects it was entirely correct. I ask that his letter to me be incorporated in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, D. C., April 23, 1878.

DEAR SIR: I observe from the RECORD of yesterday's proceedings that you have fallen into an error in your speech on the Northern Pacific Railroad bill. You are quoted in the RECORD as follows:

"Hon. S. S. FENN paid the Oregon Steam Navigation Company for freight on a Pitt thrasher, weight not over two and a half tons, from Portland to Lewiston, \$72."

I informed Mr. Montgomery, (who I presume is your informant,) in speaking of freights on the Columbia and Snake Rivers, that "the Pitt thrasher with which my grain was thrashed last year cost \$373 freight from Portland to Lewiston, and the machinery was hauled from farm to farm with a two-horse team and a four-horse team. The weight I did not know." Please make the correction.

Very respectfully,

S. S. FENN.

Hon. J. H. MITCHELL.

DEFICIENCY IN PRINTING APPROPRIATION.

Mr. WINDOM. I ask leave to make a report from the Committee on Appropriations, and I ask consent of the Senate to make a very brief statement as to what it is. The bill that I am instructed by the Committee on Appropriations to report back with a recommendation that it pass appropriates \$200,000 to supply deficiencies in the appropriations for the public printing and binding for the current fiscal year. I have in my hand a note from the Public Printer, which is very brief and I will read it, addressed to me as chairman of the Committee on Appropriations:

SIR: The House passed a bill yesterday providing for a deficiency for public printing and binding, &c. Will you please urge its passage by the Senate at once? as I cannot even order paper on which your bills are printed until it is passed.

I think it is important that this bill (H. R. No. 4222) to provide for a deficiency in the appropriation for the public printing and binding for the current fiscal year be passed at once. It has the unanimous recommendation of the Committee on Appropriations. I ask for its present consideration.

Mr. EDMUNDS. I object, Mr. President. I do not think we ought to pass a two-hundred-thousand-dollar deficiency bill on the run. It will not kill anybody to let it wait until twelve o'clock to-morrow.

EXECUTIVE SESSION.

Mr. CONKLING. I renew my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seventeen minutes spent in executive session the doors were reopened, and (at four o'clock and fifty-two minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, April 23, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read.

CORRECTION OF THE JOURNAL AND RECORD.

Mr. SOUTHARD. I rise to make a correction of the Journal. Upon the final vote I am recorded as not voting; the same mistake appears in the RECORD. I was present and voted in the affirmative.

The SPEAKER. The correction will be made.

Mr. CABELL. When the vote was taken upon the passage of the river and harbor bill, I announced that I was paired with Mr. PUGH, of New Jersey, and stated that if he were present he would vote in the affirmative, while I would vote in the negative. The statement in the RECORD is just the contrary.

The SPEAKER. The correction will be made.

The Journal, as corrected, was then approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, without amendment, bills of the House of the following titles:

A bill (H. R. No. 2818) to authorize T. and J. W. Gaff & Co. to use a certain building in the city of Aurora, Indiana, for the rectification of distilled spirits; and

A bill (H. R. No. 4394) to prohibit the coinage of the twenty-cent piece of silver.

The message further announced that the Senate had passed and requested the concurrence of the House in bills of the following titles:

A bill (S. No. 350) to enable citizens of the State of Florida to transfer a portion of their pre-emptions and homesteads to aid in the construction of railroads;

A bill (S. No. 426) for the relief of the Masonic Hall Company of Atlanta, Georgia;

A bill (S. No. 455) for the relief of Patrick Sullivan;

A bill (S. No. 612) for the relief of John A. Torrence;

A bill (S. No. 770) fixing the compensation of the telegraph operators of the Senate and House of Representatives;

A bill (S. No. 800) for the relief of the heirs of Major D. C. Smith;

A bill (S. No. 902) for the relief of Carl Jussen; and

A bill (S. No. 909) to authorize the Secretary of War to accept an absolute gift of land necessary for military purposes.

ORDER OF BUSINESS.

The SPEAKER. The pending question is the motion of the gentleman from Kentucky [Mr. CARLISLE] to lay on the table the appeal of the gentleman from Texas [Mr. REAGAN] from the decision of the Chair in relation to the protest against the passage of the river and harbor bill presented by the gentleman from New York, [Mr. Cox.]

Mr. REAGAN. I desire to say a word upon the appeal.

Mr. COX, of New York. Is the motion to lay upon the table debatable?

Mr. REAGAN. I do not give way for a motion to lay on the table. Mr. CARLISLE. But I made the motion yesterday to lay the appeal on the table.

Mr. REAGAN. It does not so appear in the RECORD.

Mr. CARLISLE. It does appear in the RECORD and also in the Journal. Still if the gentleman desires to be heard—

Mr. REAGAN. The previous question has not been called, and I ask that in justice I may be allowed to be heard.

Mr. CARLISLE. We asked yesterday to be heard on the river and harbor bill, but the privilege was not accorded to us.

Mr. REILLY. Is the motion to lay on the table debatable?

The SPEAKER. It is not.

Mr. REAGAN. I ask that I be allowed a few minutes, because a very serious injustice has been done to the Committee on Commerce.

The SPEAKER. That can be by unanimous consent only.

Mr. REILLY. I object.

Mr. COX, of New York. I do not propose to debate the bill. If the gentleman goes into that, I am willing to meet him. I am perfectly willing to have the gentleman address himself to the appeal.

Mr. REAGAN. That is all that I ask.

Mr. COX, of New York. And I ask an opportunity to reply.

Mr. REAGAN. I have no objection to that.

Mr. FINLEY. Is debate now in order?

The SPEAKER. Only by unanimous consent.

Mr. REAGAN. I understood that objection was waived.

Mr. FINLEY. I do not understand it to be waived at all. I insist upon the objection.

Mr. REAGAN. Then I ask to be heard on a question of personal privilege.

The SPEAKER. There is one question of privilege already pending.

Mr. COX, of New York. I rose to a question of personal privilege yesterday and the gentleman tried to cut me off. I will not do so with him.

Mr. THOMPSON. I call for the regular order.

Mr. REILLY. I object to any debate and insist upon the regular order.

Mr. REAGAN. The gentleman from New York [Mr. Cox] says he is willing I shall be heard in opposition to the protest.

Mr. ATKINS. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ATKINS. Would it be in order to move to lay the whole subject—protest, appeal, and all—upon the table?

Mr. COX, of New York. There is a motion pending already to lay the appeal upon the table.

Mr. ATKINS. I move to lay the whole subject on the table.

Mr. CARLISLE. Is a motion to lay on the table amendable?

The SPEAKER. It is not.

Mr. REAGAN. Is it the object of the gentlemen who signed the protest to deny the privilege of replying to it?

Mr. COX, of New York. I do not deny it. The gentleman denied the privilege to me, and would not even allow the protest to be read.

Mr. REILLY. I insist on the regular order.

The SPEAKER. The question is on the motion to lay on the table the appeal of the gentleman from Texas.

Mr. ATKINS. Would it be in order to move to postpone the whole subject until the first day of the next session?

Mr. CARLISLE. The motion to lay on the table takes precedence of the motion to postpone.

Mr. DUNNELL. If the motion to lay upon the table the appeal shall prevail does that carry into the RECORD or into the Journal of the House the protest signed by the gentleman from New York [Mr. Cox] and others?

The SPEAKER. It does not carry it into the Journal of the House; but should the motion to lay upon the table the appeal from the decision of the Chair prevail, it would cause the paper to be read as a part of the remarks of the gentleman from New York, [Mr. Cox,] and would in consequence go into the RECORD.

Mr. HOOKER. I rise to a parliamentary inquiry—

Mr. REAGAN. If the gentleman from Mississippi will allow me, I wish to say that if I can do so I will withdraw the appeal, so as to allow the gentleman from New York to present his question of privilege, provided I can have the opportunity to say something in reply.

The SPEAKER. The Chair desires to state distinctly the grounds upon which he based his decision; and he thinks he ought to be allowed to do so. The question before the House seems to the Chair to be a plain one.

Mr. ELAM. If the gentleman from Texas sees fit (and I concur in that view) to withdraw the appeal, does not that dispose of the whole question?

The SPEAKER. It does.

Mr. CARLISLE. But the gentleman cannot withdraw the appeal while the motion to lay it on the table is pending.

The SPEAKER. Under Rule 40 it can be withdrawn at any time before it is determined.

Mr. CARLISLE. But, Mr. Speaker, the appeal which the gentleman made is not now the immediate question before the House; the pending question is on the motion to lay the appeal upon the table. Now I desire to say to the gentleman from Texas—

The SPEAKER. Laying the appeal on the table is only one of the ways to dispose of it. The Chair will cause the rule to be read.

The Clerk read as follows:

A motion may be withdrawn at any time before a decision or amendment; and all incidental questions fall with such withdrawal.

The SPEAKER. The motion to lay the appeal upon the table is in the opinion of the Chair an incidental question, as mentioned in rule.

Mr. HOOKER. I wish to make a parliamentary inquiry. Would it be in order to move the indefinite postponement of this whole subject?

The SPEAKER. The Chair thinks not.

Mr. COX, of New York. How could the gentleman from Mississippi get the floor for that purpose?

The SPEAKER. The gentleman from Mississippi only made the parliamentary inquiry whether he could do so if he should obtain the floor.

Mr. HOOKER. I obtained the floor as much as the gentleman from Texas, [Mr. REAGAN.]

The SPEAKER. The gentleman from Texas obtained the floor by appealing from the decision of the Chair; and that has a parliamentary connection with the subject-matter.

Mr. REILLY. I rise to a parliamentary inquiry. Did I understand the Chair to state that he desired to communicate to the House his reasons for the ruling he gave yesterday? If so, I think that the House, as an act of courtesy, ought to listen to the Speaker.

The SPEAKER. The Chair thanks the gentleman from Pennsylvania, and will, before submitting the question, state exactly the position which he took in reference to this subject, and which he thinks impregnable.

Mr. KENNA. May I ask in a parliamentary way this question: If the Chair, representing his view of the question, is allowed to state his reasons for the decision, will it follow that those representing the opposite view will be allowed to state their reasons?

The SPEAKER. When the Chair decides a question of order, if he

is not allowed to state his reasons for it, it would seem to be impossible for him to make his decision intelligible to the House.

Mr. KENNA. That is not the question I asked. I am not asking whether the Chair has a right to state the reasons for his ruling. My question is this: if the Chair does make such statement of his reasons, will the other side be allowed to state their views?

The SPEAKER. The Chair in deciding a point of order states the grounds on which he decides it; and that ends the matter—

Mr. KENNA. That, I understand, relates to the time of the rendition of the decision.

The SPEAKER. Just as the gentleman from West Virginia [Mr. KENNA] hears opinions delivered in court, winding up with the decision of the court upon the question.

Mr. COX, of New York. I understand that, the appeal being withdrawn, the motion to lay the appeal on the table falls with it, and I am on the floor. I therefore ask to have the protest read. I will not occupy the time of the House in further debate unless the gentleman from Texas [Mr. REAGAN] desires to debate the question.

The SPEAKER. The Chair will ask consent to place upon the record the reasons for the decision which he has given, if by any means he is deprived of the opportunity to do so orally.

Mr. REAGAN. When the paper of the gentleman from New York has been read I do desire an opportunity to respond.

Mr. KENNA. If the Chair understood me as objecting to his stating the reasons for his decision, he misunderstood me.

The SPEAKER. The Chair did not so understand the gentleman. This question is a plain one in the mind of the Chair; and he would like to try and make it plain to others.

Mr. THOMPSON. Can the appeal of the gentleman from Texas [Mr. REAGAN] be withdrawn without the consent of the gentleman from Kentucky, [Mr. CARLISLE?]

The SPEAKER. The House will observe one matter: the Chair has decided only that he was unable to decide, until the paper was read, whether it did embrace a question of privilege. The point whether it is a question of privilege to have the protest inserted on the Journal has not been touched upon by the Chair.

Mr. REAGAN. I shall make no objection to the reading of the paper and putting it on the record, if it is desired that it should go there; but I simply wish to say that the gentleman from New York presented it as a protest and urged it for some time as a protest. The suggestion that it was a question of privilege came from the Chair. Now, if before the question of privilege can be decided the paper must be read and go into the record, that seems to me to admit the whole mischief, while it avoids the direct question before the House.

The SPEAKER. This is a very plain matter. Yesterday it was suggested by the gentleman from Ohio that the Chair ought to look at this paper to see whether it was a question of privilege. But if the Chair should do that, he would arbitrarily assume a right which might perhaps run to the extent of preventing the House from hearing a paper upon which it might be called to vote.

Mr. GARFIELD. If the Chair will allow me, that is a matter which can always be rectified by an appeal from the decision of the Chair if the House thinks his ruling is wrong.

The SPEAKER. On the contrary, it would be too late.

Mr. GARFIELD. The point I wish to make is this: I do not care at all about this particular question of a protest one way or the other, but the good order of the House is involved. Suppose any gentleman rises to what he may choose to call a question of privilege, and has read and printed a speech three-quarters of an hour long upon the merits of a bill already passed, and the Chair decides it must be read through before he can determine whether it is a question of privilege or not. This places the business of the House at the mercy of every member's caprice, for under the pretense of a question of privilege he gets a speech and accomplishes his purpose. The subsequent decision of the Speaker that it is not a question of privilege does not prevent the disorder.

The SPEAKER. That is not the case here at all. Rule 141 provides that "when the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the House." In the Digest it is expressly stated in the same connection that the "rule above recited is not construed to apply to the single reading of a paper or proposition upon which the House may be called upon to give a vote or to the several regular readings of the bill, but to cases where a paper has been once read or a bill has received its regular reading and another is called for, and also where a member desires the reading of a paper having relation to the subject before the House."

Further, in relation to questions of privilege, when a proposition is offered which relates to the privileges of the House it is the duty of the Speaker to entertain it at least to the extent of submitting the question to the House as to whether or not it presents a question of privilege. Now, how could the Chair submit a question of privilege to the House, or a paper as to whether it involved a question of privilege or not, if the paper was not read so it could be seen whether it involved a question of privilege or not? Under the rules it is the duty of the Chair to entertain it at least to the extent of submitting the question to the House as to whether or not it presents a question of privilege. The rule also provides that the gentleman has the right to call for the reading of a paper or proposition upon which the House may be called upon to give a vote.

Mr. GARFIELD. If the Chair will allow me I will remind him that yesterday it was declared by the gentleman from New York himself when he first addressed the Chair that all he wanted was to present a protest against the action of the House on the river and harbor bill.

The SPEAKER. And at the same time alleged that it involved a question of privilege.

Mr. GARFIELD. That was later. At the first he stated to the House, and to the Chair, that what he wanted was to present a protest against the passage of the river and harbor bill. The Chair therefore knows from the gentleman himself exactly what it is that is claimed as a question of privilege by the gentleman from Ohio.

The SPEAKER. The Chair did not know until this morning when he read it in the daily paper what was contained in the protest, but if he had known under the rules of the House it was the duty of the Chair to entertain the question of privilege alleged by the gentleman from New York to the extent at least of submitting it to the House, and as it was a proposition upon which the House might be called upon to vote, the reading of the paper was a right which the gentleman from New York could demand. The only question decided by the Chair is that under the rules the reading of the paper is in order.

Mr. COX, of New York. I believe I have the floor, the gentleman from Texas having withdrawn the appeal from the decision of the Chair.

Mr. REAGAN. Of course it is understood that I shall have the right to answer.

Mr. BURCHARD. We have the right to know, Mr. Speaker, upon what ground the decision of the Chair is based.

The SPEAKER. That is a legitimate inquiry.

Mr. BURCHARD. I wish to be heard before the Chair rules. The point of order was made, not on the word of the gentleman from New York as a question of privilege in reference to a matter affecting himself, to rise and send up a paper and have it read, but whether any member of this House at any time has the right to rise and protest against the passage of a bill, announcing he has the right to take the floor as a question of privilege on that matter. That was the position, as I understand it, and upon that the point of order was raised.

The SPEAKER. No; the gentlemen from New York rose to a question of privilege and the Chair was bound to recognize him and take his word that the paper which he presented had at least the semblance of a question of privilege on which the House might be called to vote.

Mr. REAGAN. I withdraw the appeal, and I do so on condition I shall be permitted to respond to the remarks of the gentleman from New York.

The SPEAKER. It cannot be withdrawn conditionally.

Mr. COX, of New York. I do not make any conditions with the gentleman from Texas.

Mr. REAGAN. I do not ask it of the gentleman from New York, but I ask it of the House. I do not withdraw the appeal, if I am not to be heard. I only ask it in common fairness.

The SPEAKER. The gentleman from Texas cannot qualify the withdrawal of his appeal. He can submit the question whether or not afterward he shall be heard on the point of order.

Mr. REAGAN. Can I have common consent to be heard?

The SPEAKER. The Chair thinks the gentleman from Texas may be heard by consent.

Mr. SAYLER. I ask unanimous consent for that purpose.

The SPEAKER. The Chair thinks the gentleman from Texas has the right to be heard on a question of privilege.

Mr. GARFIELD. Let me call the attention of the Chair to the actual proceedings of yesterday as found in the RECORD on page 2717:

Mr. Cox, of New York. I rise, Mr. Speaker, for the purpose of presenting a protest against the passage of this bill, signed by members of Congress, and I ask to have it read.

The SPEAKER. The gentleman will read on, and not pick out a particular paragraph.

Mr. GARFIELD. I have read every word thus far from the beginning of the transaction.

The SPEAKER. Read a little further on, and the gentleman from Ohio will find that the gentleman from New York did raise a question of privilege.

Mr. GARFIELD. I will read:

Mr. HARRIS, of Virginia. I move the House adjourn.

Mr. CONGER. Has the gentleman any such right?

The SPEAKER. The right was established in the Thirty-ninth Congress by the democratic side of the House—

Here the Speaker was interrupted.

Mr. KENNA. I rise to a parliamentary inquiry.

Mr. COX, of New York. I have the floor on a question of privilege, and I do not yield for debate.

It will be seen that the gentleman [Mr. Cox, of New York] there assumes to have the floor—

The SPEAKER. On a question of privilege.

Mr. GARFIELD. He assumed to have the floor, assumes the right to have a protest against that bill read to the House; and that is all he asked at first, except that he wanted to make a speech as well. Now having clearly declared to the House his purpose and his only purpose, it seems to me the Speaker is bound upon that declaration

to rule whether the offer of such a protest is a question of privilege or not—

The SPEAKER. That appears to the Chair to be mere sophistry. The fact stands, nevertheless, that the gentleman from New York came to the Chair and was recognized by the Chair because he was taking the floor upon a question of privilege, otherwise he would not have been recognized. And the Chair stated that the gentleman rose to a question of privilege. Before he could state what that was he was interrupted by members on the floor.

Mr. HARRIS, of Virginia. I desire to say a word.

Mr. WADDELL. I demand the regular order.

Mr. GARFIELD. I respectfully appeal from the decision of the Chair which authorizes this paper to be read under the circumstances.

The SPEAKER. The gentleman from Ohio renews the appeal from the decision of the Chair.

Mr. COX, of New York. I was on the floor and did not yield it to the gentleman from Ohio.

The SPEAKER. The Chair is bound to recognize the appeal from his decision.

Mr. COX, of New York. The gentleman makes his speech on the appeal and I have no chance to respond. I am on the floor all the time and yet he cuts me off by making a motion.

Mr. FORT. I move to lay the appeal on the table.

The SPEAKER. The Chair desires to be heard for a few moments on the question:

Mr. FORT. I withdraw the motion to lay the appeal on the table that the Speaker may be heard.

The SPEAKER. The question before the House is a plain one. The gentleman from New York [Mr. Cox] presented a paper signed by members of the House, alleging it involved a question of privilege. Its reading was objected to upon the ground it could only be read by unanimous consent. The Chair decided it must be read so it could be determined whether it did or not involve a question of privilege. From this decision the gentleman from Texas [Mr. REAGAN] took an appeal. This morning he withdrew it, and it has been renewed by the gentleman from Ohio, [Mr. GARFIELD.]

Rule 141 provides that when the reading of a paper is called for and the same is objected to by any member it shall be determined by a vote of the House. But in the Digest it is expressly stated in the same connection that the rule above recited "is not construed to apply to the single reading of a paper or proposition upon which the House may be called upon to give a vote, or to the several regular readings of a bill, but to cases where a paper has been once read, or a bill has received its regular reading and another is called for, and also where a member desires the reading of a paper having relation to the subject before the House."

Mr. REAGAN. Mr. Speaker—

The SPEAKER. The Chair desires not to be interrupted. Further in relation to questions of privilege it is laid down in the Digest:

When a proposition is submitted which relates to the privileges of the House, it is his duty to entertain it, at least to the extent of submitting the question to the House as to whether or not it presents a question of privilege.

It will be observed that the Chair is compelled to entertain the gentleman's question of privilege "at least to the extent of submitting it," and as it is a proposition on which the House may be called upon to vote, the reading of the paper is in order.

It has been the practice where bills involving millions, of appropriations passed under a suspension of the rules without debate or amendment, to allow more than ordinary latitude to questions of order and privilege. But in this instance the Chair has accorded to the gentleman from New York [Mr. Cox] only his right to have read the paper in reference to which he claims his right to be heard on said question of privilege.

Mr. REAGAN. I desire to say that I withdrew the appeal not because I did not believe it was well taken, but as a matter of courtesy in order that all parties might be heard in reference to it.

Mr. FORT. I now renew the motion to lay the appeal on the table.

Mr. GARFIELD and Mr. COX of New York rose.

The SPEAKER. The gentleman from Ohio [Mr. GARFIELD] is recognized.

Mr. COX, of New York. I thought I had obtained the floor on the question of appeal.

The SPEAKER. The gentleman from Ohio [Mr. GARFIELD] who made the appeal should be heard in advance.

Mr. GARFIELD. As to what transpired between the gentleman from New York and the Speaker before the gentleman from New York appeared in the forum of the House of course I have no right to have any knowledge, and I have none except what the Speaker has stated.

The SPEAKER. The Chair only stated that as the reason of the recognition of the gentleman from New York, and then stated he took the floor on a question of privilege.

Mr. GARFIELD. That is all right. But what appeared in the House was simply this: the gentleman from New York arose and said he did so for the purpose of presenting a written protest, signed by members of the House, against the bill that had just been passed. Having thus declared to the Speaker and to the whole House the sole ground on which he claimed the floor, I hold that the Speaker and the House were perfectly able to judge whether that proposition constituted a question of privilege, and that it was the duty of the

Speaker to rule upon the case as put by the gentleman himself. The fact that the gentleman subsequently called it a question of privilege did not make it so.

Now the gentleman from New York claims that he had a further right to have read as a part of his remarks on the alleged question of privilege a paper; and my point is that for him to make any remarks, either oral or written, was to assume that he had the floor on an acknowledged question of privilege. I deny that it was a question of privilege; and I base that denial upon the statement with which he set out declaring his purpose; and I hold that the Speaker should have so ruled; and if the Speaker had so ruled there would have been no ground for the gentleman obtaining the floor to make a speech. The refusal of the Speaker to rule upon the question will result in allowing a speech—perhaps half a dozen speeches—which are not in order, if it shall finally be determined, as I believe it will be, that the offer of this protest is not a question of privilege. Any other view of our rules will result in disorder and serious delay to the business of the House, by allowing in this indirect and incidental way a debate upon a bill after it has passed and is no longer before the House. It is in behalf of good order and the public business that I have taken this appeal.

The SPEAKER. In reply, the Chair desires to say that his ruling ran only to the extent—and the gentleman from Ohio must not mistake that—that being on the floor on a question of privilege the gentleman from New York had a right to have that paper read as a part of his remarks, before the Chair could decide whether it embraced the question of privilege, and, as it seems to the Chair, before the House could be called upon to vote whether it was a question of privilege or not.

Mr. REAGAN. In the early part of this proceeding I find that the Speaker said: "Does the Chair understand that it is a protest against the bill?" and the gentleman from New York [Mr. Cox] responded that it was.

The SPEAKER. The Chair recognized it as a question of privilege nevertheless, or the gentleman from New York could not have got the floor.

The question now is upon the motion of the gentlemen from Illinois, [Mr. FORT], to lay upon the table the appeal from the decision of the Chair.

Mr. CARLISLE. Upon that question I call for the yeas and nays. The yeas and nays were ordered.

The question was taken; and there were—yeas 131, nays 101, not voting 59; as follows:

YEAS—131.

Baker, John H.	Davis, Joseph J.	Jones, Frank	Riddle,
Banning,	Dean,	Jones, John S.	Robinson, M. S.
Bayne,	Dickey,	Jones, James T.	Ryan,
Beebe,	Durham,	Killinger,	Saylor,
Bell,	Errett,	Kimmel,	Singleton,
Benedict,	Evins, John H.	Knapp,	Smith, William E.
Blackburn,	Finley,	Knott,	Southard,
Blair,	Forney,	Landers,	Sparks,
Blount,	Fort,	Lapham,	Springer,
Boone,	Franklin,	Ligon,	Steele,
Bragg,	Freeman,	Lockwood,	Stenger,
Bridges,	Fulfer,	Lottrell,	Stephens,
Bridges,	Gardner,	Mackey,	Thompson,
Bright,	Garth,	Maish,	Townsend, M. I.
Brown,	Gibson,	Manning,	Turner,
Bundy,	Glover,	Martin,	Turney,
Caldwell, John W.	Goode,	McKenzie,	Vance,
Caldwell, W. P.	Hamilton,	McKinley,	Walsh,
Candler,	Hardenbergh,	McMahon,	Warner,
Cannon,	Harmer,	Mills,	White, Harry
Carlisle,	Harris, Benj. W.	Mitchell,	White, Michael D.
Clarlin,	Harris, Henry R.	Morgan,	Whitthorne,
Clark of Missouri,	Hart,	Morrison,	Wigginton,
Clark of Kentucky,	Hartbridge,	Morse,	Williams, A. S.
Clark, Rush	Hartzell,	Muller,	Williams, James
Clymer,	Haskell,	Neal,	Williams, Jere N.
Cobb,	Hatcher,	O'Neill,	Willis, Albert S.
Collins,	Henderson,	Patterson, G. W.	Willis, Benj. A.
Cook,	Herbert,	Patterson, T. M.	Willits,
Covert,	Hewitt, Abram S.	Phillips,	Wilson,
Cox, Samuel S.	Hewitt, G. W.	Reilly,	Wood,
Culbertson,	James,	Rice, Americus V.	Wright,
Davidson,		Rice, William W.	

NAYS—101.

Acklen,	Crittenden,	House,	Randolph,
Aldrich,	Cummings,	Hubbell,	Rea,
Bacon,	Davis, Horace	Hunter,	Reagan,
Bagley,	Deering,	Humphrey,	Reed,
Ballou,	Denison,	Ittner,	Robbins,
Bicknell,	Dibrell,	Joyce,	Robinson, G. D.
Bisbee,	Douglas,	Keightley,	Ross,
Bland,	Dunnell,	Kelley,	Sampson,
Bliss,	Dwight,	Kenna,	Sapp,
Bonck,	Emes,	Lothrop,	Schott,
Boyd,	Elam,	Lindsey,	Shallenberger,
Brewer,	Evans, I. Newton	Loring,	Sinickson,
Burchard,	Felton,	McCook,	Siemons,
Cain,	Frye,	Metcalfe,	Smalls,
Camp,	Gause,	Monroe,	Starr,
Campbell,	Giddings,	Muldrow,	Stewart,
Caswell,	Gunter,	Norcross,	Stone, Joseph C.
Chalmers,	Hale,	Oliver,	Stone, John W.
Cole,	Hanna,	Overton,	Strait,
Conger,	Harris, John T.	Page,	Thornburgh,
Cox, Jacob D.	Hayes,	Peddie,	Throckmorton,
Crape,	Heude,	Pollard,	Townsend, Amos
Cravens,	Heury,	Pound,	Van Vorhes,

Waddell,	Watson,	Williams, C. G.
Walker,	Welch,	Williams, Richard
Ward,	Williams, Andrew	Yeates.

NOT VOTING—59.

Aiken,	Eden,	Keller,	Roberts,
Atkins,	Eickhoff,	Ketcham,	Robertson,
Baker, William H.	Ellis,	Lynde,	Scales,
Banks,	Ellsworth,	Marsh,	Schleicher,
Brentano,	Evans, James L.	Mayham,	Shelley,
Brogden,	Ewing,	McGowan,	Smith, A. Herr
Buckner,	Foster,	Money,	Swann,
Burdick,	Garfield,	Phelps,	Tipton,
Butler,	Harrison,	Potter,	Townshend, R. W.
Cabell,	Hazleton,	Powers,	Tucker,
Calkins,	Henkle,	Price,	Veeder,
Chittenden,	Hiscock,	Pridemore,	Wait,
Clark, Alvah A.	Hooker,	Pugh,	Wren,
Cutler,	Hungerford,	Quinn,	Young,
Danford,	Jorgensen,	Rainey,	

So the appeal from the decision of the Chair was laid upon the table.

During the roll-call the following announcements were made:

Mr. CABELL. I am paired with Mr. PUGH, of New Jersey. If he were here, I should vote "ay."

Mr. COVERT. My colleague, Mr. MAYHAM, is paired with Mr. HAZELTON. I do not know how they would vote. I desire also to announce that my colleague, Mr. VEEDER, is detained from the House by indisposition.

Mr. SHELLEY. I am paired with Mr. EVANS, of Indiana.

Mr. CALKINS. I am paired with Mr. CLARK, of New Jersey.

Mr. BAKER, of New York. I desire to state that I am paired with my colleague, Mr. QUINN. If he were here, I should vote "no."

Mr. RICE, of Massachusetts. I desire to announce that my colleague, Mr. BANKS, is paired with Mr. WILLIAMS, of Michigan.

Mr. ALDRICH. I desire to state that my colleagues, Mr. TIPTON and Mr. TOWNSEND, are paired; and also my colleagues Mr. BRENTANO and Mr. HARRISON.

The result of the vote was then announced as above stated.

Mr. COX, of New York. I ask that the paper which I send up to the Clerk's desk be now read.

The Clerk proceeded to read the paper, as follows:

We, the undersigned, members of the Forty-fifth Congress, protest against the passage of the substitute report of Mr. REAGAN, of Texas, to House bill 4226, making appropriation for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, for the following reasons:

1. The bill contains appropriations to the amount of \$7,293,700, and is of such large amount that the rules of the House should not be suspended to facilitate its passage without debate and consideration.

2. All our rules, and especially Rule 121, specially applicable to appropriations for works of internal improvement, are intended to guard against a vote in gross on such appropriations, and require, for wise purposes, separate votes on each item, under certain conditions. We protest against the infraction of so salutary a rule on a bill where the tendency is to combine for general spoliation upon the Treasury.

Mr. CONGER, (interrupting.) I claim that that part of the remarks of the gentleman from New York—for this paper is submitted as a part of his remarks—in which he charges the members of this House with the spoliation upon the Treasury shall be taken down in writing at the Clerk's desk.

Mr. MCCOOK. If it is proper in this connection, I desire to say that I shall rise to a question of privilege under the precedent set, to enter my protest against the action of the House and ask that it be read.

The SPEAKER. The Chair would have no objection, but there is one question of privilege pending.

Mr. CONGER. I ask that the last sentence, impugning the motives of members of this House, be taken down, as it forms a portion of the gentleman's speech.

The SPEAKER. That can be done after the paper is read.

Mr. CONGER. No, sir; the rule requires it to be done at once.

Mr. COX, of New York. I will modify it.

Mr. REED. There is no occasion to modify it.

The SPEAKER. The words will be taken down.

Mr. CONGER. I object to it as an insult to this House, and I call the gentleman to order for using that language, and I demand that he be not permitted to proceed further until the question of order is settled.

The SPEAKER. Rule 62 provides that—

If a member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be taken down in writing at the Clerk's table; and no member shall be held to answer, or subject to the censure of the House, for words spoken in debate, if any other member has spoken, or other business has intervened, after the words spoken, and before exception to them shall have been taken.

The Clerk will read the words excepted to by the gentleman from Michigan, [Mr. CONGER.]

The Clerk read as follows:

We protest against the infraction of so salutary a rule on a bill where the tendency is to combine for general spoliation upon the Treasury.

The SPEAKER. The Chair understands the gentleman from New York [Mr. Cox] to withdraw the words objected to.

Mr. COX, of New York. Certainly.

Mr. CONGER. I ask for a ruling upon the point of order which I raised.

Mr. CARLISLE. Those words do not charge that the members of the House—

Mr. COX, of New York. I have the floor now.

Mr. CONGER. I object to the gentleman's speaking until the question is decided whether he was out of order or not in using that language.

The SPEAKER. The gentleman from New York [Mr. Cox] is having this paper read as a portion of his remarks. If he should make remarks not in order the Chair thinks he can withdraw them and proceed in order.

Mr. CONGER. I wish the Chair to rule whether his remarks were in order.

The SPEAKER. That the Chair is not called upon to rule now. The Chair would say, however, that this only confirms the position he took this morning as to the propriety of having the paper read.

Mr. CONGER. That is a remark by way of argument or opinion. I raised the point of order that the gentleman was out of order in using that language.

The SPEAKER. And the gentleman from New York withdraws the words objected to.

Mr. CONGER. I object to his withdrawing them until the Chair has ruled upon it.

Mr. CARLISLE. The language referred to is only to the effect that the tendency of this legislation is so and so.

The SPEAKER. The Chair would not raise any such line of distinction, because the gentleman from New York withdraws the words.

Mr. CONGER. I am not done with this point of order yet.

The SPEAKER. The Chair has decided it.

Mr. CONGER. Then I demand that the gentleman from New York [Mr. Cox] cannot under the rule proceed with his remarks unless permitted by the House so to do, and I ask that that question be put to the House. That is a part of the rule of the House.

The SPEAKER. Rule 62 is not now applicable to any language used by the gentleman, for the reason that he has withdrawn the language objected to.

Mr. CONGER. But if he has used offensive remarks, he must obtain permission from the House to proceed, even if he withdraws those remarks.

The SPEAKER. The Chair thinks that the gentleman's withdrawal of the remarks leaves Rule 62 inoperative as against him.

Mr. CONGER. But it is for the House to determine whether it will permit him to go on.

The SPEAKER. He does go on naturally, occupying the floor, in order.

Mr. HALE. Allow me to make a suggestion on the point of order. The contest that has just been settled was upon the inclination or the ruling of the Chair to hear read the protest, in order to decide the question of privilege. The position of the Chair in that matter has been sustained by the House. The protest has been read.

Mr. COX, of New York. No, it has not.

Mr. HALE. The knowledge desired by the Chair has been brought to his mind by the reading of that protest. I now make the point of order, although it is always a pleasant thing, personally, to listen to the gentleman from New York, [Mr. Cox,] that the Chair should rule upon the question of privilege. Certainly all the knowledge that the Chair can ever have upon that question is already before him.

The SPEAKER. The paper has not been read through.

Mr. HALE. Comments cannot add to the knowledge.

The SPEAKER. Whenever it is proper for the Chair to decide the point, the Chair will decide or submit the question whether this paper is one of personal privilege or not.

Mr. CONGER. The point of order I made has not been decided by the Chair. I ask that Rule 61 be read.

The SPEAKER. Rule 61?

Mr. CONGER. Yes, sir.

The SPEAKER. The Clerk will read the rule.

The Clerk read as follows:

If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case, the member so called to order shall immediately sit down, unless permitted to explain; and the House shall, if appealed to, decide on the case, but without debate; if there be no appeal, the decision of the Chair shall be submitted to.

Mr. COX, of New York. I was not called to order by the gentleman. The Clerk read the remainder of the rule, as follows:

If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, he shall not be permitted to proceed, in case any member object, without leave of the House; and if the case require it, he shall be liable to the censure of the House.

The SPEAKER. The gentleman from Michigan [Mr. CONGER] called the attention of the Chair to Rule 62.

Mr. CONGER. No, sir; some one else did that.

The SPEAKER. The words objected to were read by the Clerk, and the Chair thinks that the gentleman from New York [Mr. Cox] was permitted to explain, for he withdrew the language to which objection was made.

Mr. BUTLER. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BUTLER. This protest is signed by twenty-six men. Can one of them withdraw a part of it without the consent of his associates?

Mr. REA. That is the point I was going to make.

The SPEAKER. That point is not well taken because this paper is being read as a part of the gentleman's remarks, and he chooses to modify or omit a part of his language just as a gentleman oftentimes does in reading a law-book, reading parts and omitting parts.

Mr. REA. I desire to call the attention of the Chair to this point: the gentleman in the course of his remarks is having read a paper signed by certain members of this House. He proposes now to withdraw from that paper the word "spoliation" and insert "exhaustion." I make the point that he has no right to make the signers of any paper say to this House what they have not said themselves.

The SPEAKER. The paper is read as a part of the gentleman's remarks. The gentleman withdraws the language excepted to by the gentleman from Michigan, and the Chair thinks he has the right to do so. As to the point that the withdrawal relates to language to which other names are signed, that is not a question for the Chair to determine. That is a question between the gentleman from New York himself and those whose names may hereafter be read as the signers of this paper.

Mr. WADELL. Can the gentleman withdraw the language without unanimous consent?

The SPEAKER. Undoubtedly he can withdraw or modify his language; it is his right to do so, the words being excepted to.

Mr. COX, of New York. I have the right to have that paper read under the ruling of the Chair; and these gentlemen who have appropriations in this bill ought to be a little modest when I come here and make a proper representation, withdrawing any word that they may think opprobrious. I stand here as a member of Congress to fight for honest, square practice in this House in the passage of money bills. I cannot be badgered by other members.

Mr. CONGER. I object to the gentleman proceeding without leave of the House.

Mr. COX, of New York, and others addressed the Chair.

The SPEAKER. Gentlemen will be seated, and the House will come to order.

[During the effort of the Speaker to obtain order an earnest colloquy took place between Mr. COX, of New York, Mr. HOUSE, and others, which the rapping of the Speaker's gavel rendered inaudible at the reporters' desk.]

The SPEAKER. (to Mr. Cox, of New York, who still endeavored to make himself heard.) The gentleman from New York will suspend.

Mr. ATKINS. Has the gentleman from New York the right to discuss the merits of this bill?

The SPEAKER. The Chair has asked the gentleman to be seated.

Mr. ATKINS. If the gentleman has not the right to do so he ought to take his seat.

Mr. COX, of New York. I am on the floor under the decision of the Speaker; and the gentleman from Tennessee [Mr. ATKINS] has no right to talk to me in that way.

Mr. ATKINS. I have the right to inquire whether the gentleman is in order in discussing the merits of this bill—

The SPEAKER. Gentlemen will be seated.

Mr. ATKINS. And if he is not, I have the right to object to his doing so.

Mr. COX, of New York. Mr. Speaker—

The SPEAKER. The gentleman from New York will suspend. The gentleman has made certain remarks to which the gentleman from Michigan [Mr. CONGER] objected. The gentleman from New York thereupon withdrew or modified the language objected to.

Mr. CONGER. Mr. Speaker, I say that he cannot withdraw the language so as to exempt himself from the action of the House; for the House may, if it chooses, censure him. Under Rule 61 the gentleman cannot proceed, if any member objects, unless the House gives consent. Whether the gentleman withdraws his remarks or not, he may be censured; whether he withdraws them or not, any member may object to them; and whether he withdraws them or not, the House may refuse to let him proceed. Under Rule 61, I object to his proceeding further with his remarks.

Mr. WILLIAMS, of Oregon. I desire to say a word upon the point of order. The Chair will observe the language of the rule, "he shall immediately sit down unless permitted to explain." Now, the gentleman could neither withdraw his remarks nor explain them without the consent of the House.

The SPEAKER. The Chair thinks he could.

Mr. WILLIAMS, of Oregon. He has not had the consent of the House. Consequently the point of order raised by the gentleman from Michigan must be decided. Before the gentleman from New York can proceed with his remarks, objection being made, he must have the consent of the House.

The SPEAKER. Why, it is the most natural proceeding in the world when a member of a legislative body makes remarks for which he is called to order that he should immediately withdraw the offensive language.

Mr. CONGER. He has not asked leave to withdraw it; he cannot get leave without the action of the House.

The SPEAKER. Surely nobody will object to the gentleman from New York withdrawing language which may be considered offensive.

Mr. CONGER. He cannot withdraw the language until the House has considered the case.

Mr. WILLIAMS, of Oregon. The gentleman from New York has not yet asked permission to withdraw the language.

The SPEAKER. On the contrary, he did.

Mr. WILLIAMS, of Oregon. He attempted to withdraw the language without asking permission of the House.

Mr. COX, of New York. I did withdraw the language.

Mr. CRITTENDEN. I wish to make a parliamentary inquiry. Was the gentleman from New York authorized to withdraw the remarks of other gentleman who had signed this paper?

Mr. COX, of New York. So far as the reading has proceeded no names have appeared.

The SPEAKER. The matter is one between the gentleman from New York and the other gentlemen concerned; and as the gentleman from New York suggests, no names have been read.

Mr. SPARKS. I am one of the signers of that paper and so far as I am aware none of the signers object to this withdrawal. Why can the gentleman not withdraw the language if nobody objects? There seems to be a great effort to prevent this simple protest from going into the RECORD. I think that members of this House have a right to make their protest against vicious legislation.

The SPEAKER. The Chair will submit the question raised by the gentleman from Michigan. The gentleman from New York [Mr. Cox] has made use of certain language to which the gentleman from Michigan objects. The gentleman from New York then desires to withdraw the language, and the gentleman from Michigan objects to the modification. The Chair now submits the question, shall the gentleman from New York proceed in order?

Mr. BURCHARD. Before that is decided I wish to inquire whether there is now pending a question of privilege—whether the gentleman has presented a question of privilege and whether he is making a speech on that question of privilege?

The SPEAKER. The gentleman claimed the right to have that paper read touching the question of privilege that was raised. The Chair decided he had the right to have it read. Whenever the question is raised whether that protest, as it has been generally styled, is a question of privilege or not, then the Chair will decide or submit the question to the House.

Mr. HALE. That was the question I raised a few moments ago.

The SPEAKER. Whenever the paper is read and is before the House, the Chair will decide or submit the question to the House.

Mr. REAGAN. I trust the gentleman from New York will be allowed to proceed and let us get out of this.

Mr. McMAHON. I call the attention of the Chair to this fact that neither the Speaker nor the House has yet determined that these words were out of order, and therefore I think the rule providing that the question shall be put to the House whether the gentleman shall proceed in order does not apply.

The SPEAKER. The Chair thinks the words might be construed into a reflection upon the House, and therefore the Chair recognized the gentleman from Michigan who took exception to the words.

Mr. CONGER. In order that there may be no question about the point I make—the Chair having decided the gentleman was out of order whether he changes his remarks or not, and that he could not do that without leave of the House under Rule 61, which says, if the decision be in favor of the member called to order he may proceed, but if otherwise, as the Chair has decided in this case, he shall not be permitted to proceed, in case any member objects, without leave of the House—now, sir, I rise as a member to object to his proceeding, and that is the question now for us to determine.

The SPEAKER. It is the constant practice of gentlemen upon the floor to withdraw anything that is offensive. The gentleman from Vermont the other day spoke of pettifogging, and the gentleman from Kentucky taking exception to it, the gentleman from Vermont was immediately allowed to withdraw the language. The Chair has never known that privilege denied.

Mr. CONGER. But the words were not taken down.

Mr. REED. No point of order was raised on the gentleman from Vermont; none at all.

The SPEAKER. Yes; the words were objected to by the gentleman from Kentucky.

Mr. REED. The Speaker will recollect no point of order was raised, but the gentleman from Kentucky objected, to be sure.

The SPEAKER. The facts are mainly alike in both cases.

Mr. REED. Here the point of order has been raised and the words have been taken down.

The SPEAKER. The question is, Shall the gentleman from New York be allowed to proceed in order, he having withdrawn or modified the language objected to?

The House divided; and there were—ayes 103, noes 72.

So the motion was agreed to.

The SPEAKER. The gentleman from New York will proceed in order.

Mr. COX, of New York. I call for the finishing of the reading of that paper and then I will submit a few remarks, and I will show by ordinary uniform usage in this House and in other legislative bodies it is in order.

Mr. HOOKER. As I understand it the Chair has not yet passed upon the question whether this is a question of privilege or not.

The SPEAKER. The Chair has not.

Mr. HOOKER. Then when that question comes up we shall be heard on it.

The SPEAKER. The Clerk will proceed with the reading.

The Clerk proceeded and read as follows:

3. The right of the House of Representatives to consider appropriations in Committee of the Whole House, or at least in the House itself, should be sacredly protected. This suspension of the rules deprives this House of our traditional privilege, and thus encourages similar attempts upon the Treasury to gratify local interests.

Mr. CONGER. I demand that the words just read be taken down.

The SPEAKER. What words?

Mr. CONGER. The words "and thus encourage similar attempts upon the Treasury to gratify local interests."

Mr. COX, of New York. I will not take those words back. [Laughter.]

Mr. CONGER. I make the point of order that those words impugn the character of the members of this House, and I call the gentleman to order for making remarks impugning the motives of members of this House.

Mr. CARLISLE. Mr. Speaker, I submit those words are not out of order; and to show what a late President of the United States himself has said in regard to a similar bill to this, I ask the Clerk to read a message which he sent to this House.

Mr. CUMMINGS. Is this question debatable?

The SPEAKER. The Clerk will read.

Mr. CARLISLE. I have marked what I ask to be read.

The Clerk read as follows:

To the House of Representatives:

In affixing my signature to the river and harbor bill, No. 3922, I deem it my duty to announce to the House of Representatives my objections to some features of the bill, and the reason I sign it. If it was obligatory upon the Executive to expend all the money appropriated by Congress, I should return the river and harbor bill with my objections, notwithstanding the great inconvenience to the public interests resulting therefrom, and the loss of expenditures from previous Congresses upon incomplete works. Without enumerating, many appropriations are made for works of purely private or local interest, in no sense national. I cannot give my sanction to these, and will take care that during my term of office no public money shall be expended upon them.

There is very great necessity for economy of expenditures at this time growing out of the loss of revenue likely to arise from a deficiency of appropriations to insure a thorough collection of the same. The reduction of revenue districts, diminution of special agents, and total abolition of supervisors may result in great falling off of the revenue. It may be a question to consider whether any expenditure can be authorized under the river and harbor appropriation further than to protect works already done and paid for. Under no circumstances will I allow expenditures upon works not clearly national.

U. S. GRANT.

EXECUTIVE MANSION, August 14, 1876.

Mr. CARLISLE. Now, Mr. Speaker, the House received that message from the President of the United States and gave it a respectful consideration, and I submit to the House that the language used in that message with reference to a bill very similar in its provisions to this is at least as strong as the language which thirty and odd members of this House proposed to use in reference to this bill.

Mr. O'NEILL. The President is not a member of the House.

Mr. CARLISLE. So much the greater reason why the House should not receive from him a disrespectful paper.

The SPEAKER. The Chair thinks the language objected to does not reflect upon the House. It rather suggests the idea that there might be a combination outside seeking to advance local interests.

The Clerk resumed the reading of the paper, and read as follows:

The eighth section of the first article of the Constitution, to "regulate commerce among the several States," is virtually abrogated, and the very authority under which our legislation is conducted defied by a bill of this nature, which appropriates money for improvements of rivers located wholly within one particular State and of no national importance. In a time of general depression and with the Treasury threatened with a deficit, it is unwise and unjust to the tax-payers to place such a burden, as this bill proposes, upon them.

S. S. COX.
J. PROCTOR KNOTT.
J. A. MCKENZIE.
J. C. S. BLACKBURN.
WM. M. SPRINGER.
J. K. LUTTRELL.
HIESTER CLYMER.
ALBERT S. WILLIS.
E. B. FINLEY.
G. M. BEEBE.
FRANK JONES.
J. G. CARLISLE.
WM. P. CALDWELL.
J. A. McMAHON.
ABRAHAM S. HEWITT.
G. L. FORT.

W. A. J. SPARKS.
JACOB TURNER.
HENRY S. NEAL.
MILLS GARDNER.
THOMAS M. BROWNE.
MILTON S. ROBINSON.
MILTON A. CANDLER.
WILLIAM S. STENGER.
A. V. RICE.
HENRY L. DICKEY.
ANDREW H. HAMILTON.
E. JOHN ELLIS.
JOHN H. BAKER.
LEVI MAISH.
E. G. LAPHAM.
S. A. BRIDGES.

The SPEAKER. The gentleman from Maine [Mr. HALE] raises the point that this is not a question of privilege.

Mr. COX, of New York. On that point I would like to say a few words.

The SPEAKER. The gentleman from Texas, [Mr. REAGAN,] the Chair is advised, desires to speak upon that point. The gentleman from Maine [Mr. HALE] will first state his proposition.

Mr. HALE. The Chair ruled that this paper might be read that the Chair might have knowledge of what was contained in it. Now, the paper having been read, that knowledge has come to the Chair. I have no objection whatever to the gentleman from New York stating the grounds why this is a question of privilege; but he cannot upon that go on and discuss the merits of the bill.

Mr. COX, of New York. I do not intend to do that.

Mr. HALE. To that I would object; because other gentlemen would wish to reply, and the result would be if a speech was allowed to be made with a protest as a part of it, in reference to any bill

passed of great or small importance, any member could make a protest and there would be no way of ending any subject-matter. Therefore, upon that ground, I call for the ruling of the Chair upon the question of privilege, whether this is one or not.

Mr. REAGAN. Before the Chair rules I desire to say a few words. In the first place I call attention to the following paragraph in the Digest:

It is not a matter of right and parliamentary privilege to have received and entered upon the Journal a protest of members against the action of the House.

So that the protest is directly in the face of and forbidden by a rule of the House. I call attention to what is found in the Congressional Globe of the proceedings in the Senate on the 14th of August, 1850, being the only case referred to in the Manual, and the only instance in which the question has come up for determination in either branch of Congress except the one referred to by the Speaker yesterday, when there was an unorganized House and when I understand no question was made as to the right of having the protest received and entered. The case in 1850 was upon the bill to admit California as a State of the Union and for other purposes. There is a paper signed by the two Virginia Senators, the two South Carolina Senators, Mr. Turney of Tennessee, Mr. Soulé of Louisiana, Mr. Jefferson Davis of Mississippi, Mr. Atchison of Missouri, and by the two Senators from Florida, protesting against the passage of the bill. Mr. Hunter, who presented this paper, used this language—and when I say Mr. Hunter I speak of one of Virginia's greatest and wisest sons:

I rise not to present a petition, but to address a motion to the courtesy of the Senate—a motion which I am aware I cannot make as a matter of right and parliamentary privilege. It is to ask that a protest, which has been prepared and signed by ten members of this body, against the passage of the bill admitting California into the Union as a State, which passed yesterday, may be received and spread upon the Journals of the Senate. We ask it, because we deem it one of the most, if not perhaps the most important measure that has passed during our experience here, and we wish to give whatever emphasis we legitimately can to our opposition to it. We wish, so far as we can, to break the force of a precedent which we regard as mischievous and dangerous for the admission of States into this Union. I ask that it may be read and spread upon the Journals of the Senate.

Upon that the President of the Senate, who, I believe, was Mr. King, of Alabama, made this decision, after some debate:

The Chair feels some difficulty in deciding a case of this kind where there is objection made. In the Constitution there is nothing to authorize the putting of a protest on the Journal. There never has been a case since the formation of the Government in which a protest has been entered on the Journal. There was at an early period of the Government an attempt made to authorize the entering of protests on the Journal, and it was refused. A motion was made that on the final question upon a bill the opposers of the measure shall have a right to enter a protest and dissent upon the Journal, with the reasons for such dissent and protest, provided that such protest be made within two days after the final passage of the bill. This was July 17, 1789. It was rejected by the vote of the Senate, and there has been no instance that I can find, or that the Secretary has been able to find, on the Journals since that date to show that any such action has been had.

With regard to the protest presented in the case referred to by the Senator from Massachusetts there is nothing on the Journal which shows that the protest was presented and refused. The only thing to be found in the Register of the Debates, in which his colleague at that time is reported to have said—

The Senator's colleague was Mr. Webster—

"And now, had the Constitution secured the privilege of entering a protest upon the Journal I should not say one word on this occasion; although, if what is now proposed shall be accomplished, I know not what would have been the value of such a provision, however formally or carefully it might have been inserted in the body of that instrument. But as there is no such constitutional privilege, I can only effect my purpose by thus addressing the Senate."

The rules of the Senate, I may say, did not forbid such debate after the passing of the bill.

"And I rise, therefore, to make that protest in this manner, in the face of the Senate, and in the face of the country, which I cannot present in any other form."

On that occasion the Senator proceeded to give his reasons why he was opposed to the measure, which opposition would have been in a form of a protest, had the Constitution authorized its being entered upon the Journal. The Chair stated when he rose that he was in doubt whether a single objection would be sufficient to cause him to decide against its being put upon the Journal. He thinks the Senate itself should decide the question.

And then, after a debate which ran through a number of pages, the vote of the Senate was taken upon the proposition to lay the protest on the table, and it was decided in the affirmative by a vote of 22 yeas and 19 nays.

I submit that this is the only case upon record in which such a privilege as is now asked has been accorded, and in that case it was decided against the right to file the protest. The House prescribes its rules of debate and action on bills, and when action has been taken upon a bill and the sense of the members has been expressed either by speech or vote upon the pending measure, the matter is determined; for if one man can be allowed to protest against the bill, then another must be allowed to state his reasons for supporting the bill, and the debate might go on endlessly after the bill has been passed. I believe that under the statement of the gentleman from New York the measure that came before the House for action is placed in an improper light. The gentleman from New York yesterday presented this protest and asked that it be read. His attention was afterward called to it by the Speaker, who said, "Is the Chair to understand it is a protest against the bill?" And the gentleman from New York answered, "It is;" and the Speaker afterward said that the gentleman from New York arose to a question of privilege. Nothing had before been said about its being a question of privilege. Under that idea the gentleman from New York proceeded to ask that the paper be read, not as a protest nominally, but as a question of privilege; and when he stated that he arose to a question of privilege it was mani-

fest from what had preceded that he really sought to enter a protest unwarranted by the Constitution and against the rules of the House and contrary to the decision of the Senate in its grandest and palmiest days. I shall now turn my attention to some of the other points made in this case.

Mr. HOOKER. I rise to a question of order. I ask the Chair if it is proper for a gentleman in this preliminary stage of the proceedings to discuss the merits of the bill? I have no objection to a gentleman speaking upon the point whether this is or is not a question of privilege; but if he intends to discuss the measure, then he anticipates the decision of the Chair as to whether this is a question of privilege or not.

Mr. REAGAN. I am not going to discuss the merits of the bill, but charges have been made against the committee. If it is not our privilege that we shall defend our honor as individuals and defend the honor of the House which passed the bill, then I do not know what a question of privilege can be. Written charges have been made against the action of the committee and against the one hundred and sixty-six members who voted for the passage of this bill. Are we to have our mouths closed and be denied the right to respond to that assault? [Cries of "Good!" "Good!"]

Mr. HOOKER. I should like to have a decision of the Chair as to whether this discussion is in order.

The SPEAKER. The discussion is in order as to the question, whether this is a question of privilege.

Mr. HOOKER. Is it in order to discuss the proposition upon the question whether the protest is privileged?

The SPEAKER. The Chair has not so said.

Mr. HOOKER. That is the point I make; until the protest is received by the House, either through the decision of the Chair, or by action of the House, I submit that it is not proper to discuss the contents of the paper. I shall ask to be heard upon the question whether this constitutes a question of privilege.

Mr. REAGAN. Does the gentleman think that when this paper has been read manhood or duty requires the committee to stand still and not reply to its allegations?

The SPEAKER. The gentleman from Texas has a right to discuss the question as to whether this is or is not a question of privilege.

Mr. HOOKER. I do not object to the gentleman speaking, but I do object to his speaking until the paper has been received. I cannot see how you can discuss a paper which has not yet been received.

The SPEAKER. The Chair decided that it should be read, and the paper is therefore on record in the CONGRESSIONAL RECORD, and it seems to the Chair that so far as the allegations therein contained are concerned, they are susceptible of debate by the gentleman from Texas. And, furthermore, the gentleman from New York yielded the floor to him.

Mr. REAGAN. The first ground of objection to this bill—

Mr. FORT. I rise to a question of order.

Mr. REAGAN. The gentleman from Illinois cannot take me off the floor when I am speaking.

Mr. FORT. I can when I make a point of order. I understand that the gentleman is proceeding to discuss the merits of the bill, and I inquire of the Chair whether that is in order?

Mr. REAGAN. I am not doing so and I do not propose to do so.

The SPEAKER. The gentleman from Texas is only answering the language used in the paper which has been read.

Mr. REAGAN. The gentleman from Illinois has attacked the committee and he ought not to be so unjust as to insist on shutting the mouths of the committee in reply.

Mr. FORT. I insist that I have not attacked the gentleman, nor have I impugned his motives or the motives of others.

Mr. REAGAN. There is a difference of opinion about that, and that is just what I wish to discuss.

The first objection in the protest is as follows:

The bill contains appropriations to the amount of \$7,293,700 and is of such large amount that the rules of the House should not be suspended to facilitate its passage without debate and consideration.

I admit that the bill is a large one and perhaps if I could individually have controlled it it would have been smaller, and I agree that the manner in which the bill came before the House is not a desirable one. I have thought much about the matter to see how we could get action upon the bill without a suspension of the rules. It was stated by the gentleman from New York that if the bill was passed in this way it would create a precedent. The gentleman has been long a member of this House and there are few members so familiar with precedents as he is and he must know the fact that bills of this kind have not passed during the last thirty years without a suspension of the rules; I mean general bills for this purpose. I do not say that they had been regularly passed during the last thirty years in this way, but I do say that from 1866 to the present year they have been so passed at each session without exception, until last year, when no bill was passed.

So that the precedent is established. As to the amount contained in the bill, I desire to call the attention of the House for a moment, without going further back, to the fact that in 1869-'70, Congress appropriated for this purpose \$3,947,900; in 1870-'71 it appropriated \$4,407,500; in 1871-'72 it appropriated \$5,588,000; in 1872-'73 it appropriated \$6,102,900; in 1873-'74 it appropriated \$5,193,000; in 1874-'75 it appropriated \$6,643,517.50, about a half million less than in this

bill; and in 1875-76 it appropriated \$5,015,000. In all of these cases and many preceding the bills were passed through this House under a suspension of the rules without debate.

At the last session of the last Congress the river and harbor bill did not receive a two-third vote and failed to pass. Consequently the public works were greatly the sufferers, as we learn through the proper official channels and by personal knowledge on account of the failure to pass that bill. So much, then, for the precedents. We are simply following established precedents, not of a pleasing kind I admit, but precedents fully established, and therefore the arguments rest against the whole system, and not against this particular bill.

I would say also in relation to this part of the protest that the bill for rivers and harbors having failed last year the public works seriously suffered for want of appropriations. If the amount appropriated by this bill had been divided between last year, when none was made, and this, they would have amounted to about three and a half millions annually, which would be much below the average of appropriations for this purpose. Some members of the committee and many members of the House sought to have the amount increased above the average, because of the failure of the bill last year and of the injury done to great public works in consequence of that failure, so that they might be restored and proceeded with.

Mr. CRITTENDEN. For what period of time does this bill appropriate?

Mr. REAGAN. It appropriates for one year; but there has been a year for which there was no appropriation.

Mr. CRITTENDEN. In fact it covers two years.

Mr. REAGAN. It covers two years; that is, it is all the appropriations that are made for two years. In connection with this I desire to say a word, if not objected to. Gentlemen will remember that in the report that comes from the Bureau of Statistics on the internal commerce of the United States it is stated that the internal commerce of this country amounts to from twenty-five to thirty billions of dollars annually; they will see that anything which will reduce the cost of transportation one-fourth of 1 per cent. will give back to the people a revenue or a saving infinitely larger than the amount of this appropriation.

There may be reasons which perhaps do not occur at present to the gentlemen from New York [Mr. Cox] why this appropriation should be made and why those who attempt to comprehend the commercial and material interests of the country, who take a broader and more comprehensive view and possibly a wiser view of the subject, should favor the passage of this bill.

Another thing. The gentleman from New York [Mr. Cox] I believe is understood to be the special friend of the laboring-man. Of all the bills that pass through this House this is the only one in these times of depression and pecuniary distress that goes directly to the people, that gives them employment, that pays them for it by improving the commercial facilities of the country, increasing the profits of the producers from the soil, and reduces the expenses of those who consume those products. That is all I desire to say on that subject.

Mr. COX, of New York. Mr. Speaker—

Mr. REAGAN. Wait a moment; I am not through yet.

Mr. COX, of New York. The gentleman is speaking in my time.

Mr. REAGAN. The second proposition of the protest which is made here as the ground of opposition to this bill is as follows:

2. All our rules, and especially Rule 121, specially applicable to appropriations for works of internal improvement, are intended to guard against a vote in gross on such appropriations, and require, for wise purposes, separate votes on each item under certain conditions. We protest against the infraction of so salutary a rule on a bill where the tendency is to combine for general spoliation upon the Treasury.

That language, I believe, has been modified by the gentleman from New York when the point of order was made against it. I did not wish to see him disciplined for it, for I regarded it as one of his figures of speech. He certainly did not mean to charge a combination for spoliation upon the Treasury against members of the committee who reported the bill or the one hundred and sixty-six members of the House who voted for its passage. Rule 121, to which reference is here made, is a good and salutary rule. I would be glad if it could be enforced on the river and harbor bill as well as on every other. But we are confronted with the practical fact that if the river and harbor bill should be reported to this House and referred to the Committee of the Whole, where it would be open to debate and amendment, it could not come out of that committee in such a shape as would enable any member to vote for it. I believe that fact may be assumed; hence it is that we have to pursue this extraordinary course.

But the vote yesterday was to suspend Rule 121 and all other rules, so as to take the sense of the House by a two-third majority as to whether this bill should be passed. The bill had been reported, printed, and laid on the table of member for weeks before they were called upon to vote on it. They had the means of knowing all its provisions, except some few items, embracing about \$160,000, which had been added to the bill after it had been reported. Therefore it cannot be said that any member was surprised.

I can have no objection to members exercising their judgment in disapproving a bill or the method by which it was proposed to pass it; that is their individual and representative right; but I do object that they should put in their statements that which is equivalent to

charging that there was a fraudulent and corrupt combination to plunder the Treasury for local benefit. The members of the committee considered this bill day after day and week after week for two or three months. They heard every member of the House who chose to come before it, some of the Senators, and many delegations from different parts of the country. They examined the two volumes of the reports of engineers and all the information which they could obtain in relation to these matters while they were engaged in the formation of this bill.

I state in the presence of all these members that I never yet asked a living man to vote for this bill and I never intimated to a living man that if his State or section received an appropriation he was expected to vote for the bill. On the contrary, the bill contains appropriations for parts of the country whose Representatives were known to be opposed to the bill.

Now, I want to call attention to a remarkable fact. One gentleman came before us asking for about \$1,000,000 for improvements in which his State was interested. This request was made after the bill had been matured. We gave him more than \$160,000, and he now signs the protest against this bill because of its extravagance! [Laughter and applause.]

Mr. PAGE. Can the gentleman name a similar case of any other member?

Mr. REAGAN. I do not mean to be personal. Another member asked for \$400,000—a hundred and fifty thousand dollars more than the estimate. We gave him \$50,000, and now he signs the protest against the bill on account of its extravagance! [Laughter and applause and cries of "Name him!"]

Another gentleman came to us asking an increase of a certain appropriation, and we increased it; and now he is so patriotic that he votes against the bill because it is a "plundering" bill.

These are samples. I might go on with them; but I will only say that the real explanation of the hostility on the part of some gentlemen (I do not say all) to this bill is that we have not "plundered the Treasury" enough. If we had followed the estimates we would have appropriated not less than fifteen or sixteen millions.

Mr. SPARKS. Will the gentleman allow me a moment? I ask him to state to the House the names of the gentlemen signing the protest to whom he has referred.

Mr. REAGAN. I will not because I do not propose to say anything personal. I state what I know and what all the members of the committee know and what gentlemen themselves know.

Mr. FINLEY. Will the gentleman allow me to ask him a question?

Mr. REAGAN. I decline to be interrupted. I was stating that if we had appropriated the amount estimated for by the engineer department the aggregate of the bill would have been sixteen or eighteen million dollars. Again, if we had consented to appropriate in this bill the amount urged upon us by various members, some of whom appealed to us to go beyond the estimates—

Mr. MITCHELL. I desire to ask the gentleman a question affecting the rights of members of this floor.

Mr. REAGAN. I hope the gentleman will not interrupt me; I will be through in a few minutes.

Mr. MITCHELL. I wish to inquire whether the remarks which the gentleman made in regard to certain members of this House related only to those who signed the protest or to those who voted against the bill.

The SPEAKER. The gentleman from Texas declines to be interrupted and is entitled to proceed without interruption.

Mr. MITCHELL. Then I will call the gentleman to order through the Speaker.

Mr. FORT. Has the gentleman from Texas a right to discuss the merits of the bill?

Mr. REAGAN. I call the gentleman to order. [Laughter.]

Mr. MITCHELL. I believe I have precedence in calling the gentleman to order. I understood him to say that certain members of this House had asked of the committee of which he is chairman certain appropriations and that those members had voted against the bill. I wish to know whether that statement related to any member who did not sign the protest.

Mr. REAGAN. I did not hear the gentleman's statement.

Mr. MITCHELL. I ask whether that statement of the gentleman related to any member who did not sign the protest.

Mr. REAGAN. I have stated all I have to say on that subject; and I do not care to continue the discussion.

Mr. MITCHELL. Well, Mr. Speaker, I insist as a matter of right upon having this question settled; for as I understood the remark of the gentleman from Texas, it was a reflection upon every member who voted against the bill. I am not personally interested in the bill one way or the other; but I understood the gentleman to make a remark here affecting all members who voted against this bill—

Mr. REAGAN. I call the gentleman to order.

The SPEAKER. The gentleman from Pennsylvania [Mr. MITCHELL] raises a question of order, and objects to certain language used by the gentleman from Texas.

Mr. MITCHELL. I understand the gentleman from Texas has withdrawn his statement so far as it might have been understood to apply to others than those who signed the protest. I understood the gentleman to reflect upon every member of the House who voted against the bill. There are certain members who he states appeared

before the committee and asked appropriations. Now, I desire to state that I asked no such appropriation, and yet I voted against the bill. If I understood correctly the gentleman's original remark, it would reflect upon me and my honor in that respect.

The SPEAKER. The Chair does not think the gentleman from Texas made any remarks reflecting on the House or on the gentleman.

Mr. REAGAN. I beg that I may be permitted to proceed.

The SPEAKER. The gentleman from Texas is speaking, as he stated when he rose, by permission of the gentleman from New York, [Mr. COX.] How much time he has the Chair is unable to say.

Mr. COX, of New York. I limit the gentleman to five minutes more.

Mr. REAGAN. I beg pardon; the gentleman from New York cannot fix my time now.

The SPEAKER. The gentleman from New York has fifteen minutes remaining.

Mr. COX, of New York. I retain the floor, and am entitled to resume it whenever I choose. I was extending my courtesy to the gentleman from Texas.

Mr. REAGAN. The House will give the gentleman all the time he may want. I did not know I was speaking in the gentleman's time.

The SPEAKER. The gentleman from Texas stated himself, when he took the floor, that it had been yielded to him by the gentleman from New York.

Mr. COX, of New York. I have given the gentleman all my time but fifteen minutes.

The SPEAKER. The gentleman from New York has fifteen minutes remaining.

Mr. BURCHARD. The gentleman from Texas took the floor on a point of order.

The SPEAKER. The gentleman out of his own mouth stated he was on the floor through the courtesy of the gentleman from New York.

Mr. REAGAN. The Speaker misunderstands me. I asked the gentleman from New York to give way to me to speak first, and that then he could answer me.

The SPEAKER. The gentleman from Texas could not get the floor unless the gentleman yielded to him.

Mr. REAGAN. I took the floor, and was willing to give him the floor to reply to me.

Mr. ITTNER. Mr. Speaker—

Mr. REAGAN. I hope by unanimous consent I may be allowed to finish, and the gentleman from New York can get unanimous consent to follow me.

Mr. ITTNER, (in a loud tone of voice.) Mr. Speaker. [Laughter.]

The SPEAKER. The gentleman from Missouri. Does the gentleman rise to a point of order?

Mr. ITTNER. I merely wish to remark that I do not think there will be any disposition on the part of the House to take the time consumed by the gentleman from Texas out of the time allowed to the gentleman from New York.

Mr. REAGAN. We will get him all the time that he may desire, and I hope I may be allowed to proceed.

The SPEAKER. If there be no objection the gentleman from Texas will proceed.

Mr. REAGAN. I was proceeding to say, Mr. Speaker, that if we had appropriated the amount of money sought by the members themselves and urged upon us from day to day, our bill would have been more than \$15,000,000, instead of \$7,000,000. We have not in the minds of most of those who came before us, all of them I might say, given them all they think they ought to have. I do not think any of them got quite as much as they sought. Protests, nevertheless, are made against our action on account of our not giving them as much as they asked; protests on the ground of our having given them too much when they know we have not given them as much as they sought.

Now, sir, we intended as a general rule in reference to these appropriations to give about 40 per cent. on the amount of each estimate. We went above that percentage in many instances, but that was the rule we adopted. The committee was urged with great ability and zeal to grant the whole of many appropriations in accordance with the estimates, and the most difficult of all the duties devolved upon the committee was to keep down appropriations instead of getting them up.

Now, in regard to the charge of a combination, I have only this to say, speaking for myself, that I never inquired in considering the measure whether the member in whose district the work for which an appropriation was made would vote for the bill or not. I never asked a member to vote for the bill. My idea was to get a bill which would be just and equitable and submit it afterward, when printed, to the judgment of the House to determine whether it was a just or equitable bill or not.

It is also urged as one of the grounds of the protest that we appropriated money for the improvement of rivers which had no water. I am sure that suggestion came from a failure to know what rivers were appropriated for and their capacity.

Now, what make the large aggregate in the bill are not appropriations for local objects, for small rivers and harbors, but for great national works of improvement in the country. For instance, we give \$350,000 for removing obstructions in East River and Hell Gate, New

York, the entrance to our greatest commercial city. We appropriate \$150,000 for the improvement of Harlem River and to give additional wharfage and facility for handling the grain and other produce of the West. We appropriate \$100,000 to improve Detroit River. We appropriate over \$100,000 for a harbor of refuge on Lake Michigan, for the protection of the vast shipping of the lakes. We appropriate \$175,000 for Sault Ste. Marie Canal; certainly not too much for a work of that magnitude, to accommodate the vast commerce of the lakes. We appropriate in one item \$250,000 for the improvement of the Mississippi River from the mouth of the Illinois to the mouth of the Ohio. We appropriate for other objects specified \$100,000 to improve the Mississippi River from the Des Moines Rapids to the mouth of the Ohio. We appropriate \$250,000 to improve the navigation of the Mississippi and deepen its channel from Saint Paul to Des Moines Rapids. We appropriate \$150,000 for the Mississippi and Arkansas Rivers below the mouth of the Ohio. We appropriate \$300,000 for the improvement of the Ohio River. We appropriate \$300,000 for the Tennessee River and to build the great canal around the Muscle Shoals. These and like appropriations included in this bill are for great national works of the most vital importance to the United States. The whole country will receive the benefit of the larger portion of these appropriations, and if gentlemen will look to the appropriations for the smaller rivers and harbors they will find them to be as low as they have been in any bill of money yet passed.

Not to tax the patience of the House further, I will come now to the last point alleged by the gentleman from New York in his protest. It is urged by him in the protest against the passage of the river and harbor bill that it is unconstitutional, because it provides for the improvement of rivers wholly within the territory of a single State. I presume the gentleman who made that statement is a lawyer, and if he is I wish to show him that if he is right the Supreme Court of the United States and a number of other courts in the land are stupidly ignorant of what the law is.

I happen to have it collated and right before me in some remarks that I delivered last year; and I will read from those remarks certain conclusions deduced from the decisions of the courts. I shall read these first and then I shall give a statement of the decisions; after which I shall cease to trespass upon the time of the House. I laid down these as maxims of law established by the highest courts in the land:

First. That all rivers are navigable in law which are navigable in fact.

Second. That they are public navigable waters in fact when they are used, or are susceptible of being used, in their ordinary condition, as highways of commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water.

Third. That the doctrine of the common law as to the navigability of waters has no application in this country.

Fourth. That the ebb and flow of the tides do not constitute the test of the navigability of waters in this country.

Fifth. That they constitute navigable waters of the United States within the meaning of the acts of Congress, in contradistinction from navigable waters of the States, when they form in their ordinary condition by themselves or by uniting with other waters a continued highway over which commerce is or may be carried on with other States or foreign countries in the customary modes in which commerce is conducted by water.

Sixth. That the true test as to whether Congress can appropriate money for such works is, whether the object be of local character and local use or whether it be of general use to the States.

Seventh. If it be purely local, Congress cannot appropriate money for it; but, if it be general, it matters not whether in point of locality it be in one State or several, or whether it be of large or small extent; its nature and character determine the right.

I now read extracts from some of the decisions of the courts and from elementary authority.

In the case of the General Cass, in United States district court for eastern district of Michigan, January term, 1872, Mr. Justice Long-yeon says:

Those waters are navigable in law which are navigable in fact, and they are public navigable waters in fact when they are used or are susceptible of being used in their ordinary condition as highways of commerce, or over which trade and travel are or may be conducted in the customary modes of trade and travel on water.

And he adds:

That the Saginaw River (in Michigan) from Saginaw City to its mouth, upon which the towage services are claimed to have been rendered, fully answers the description above given, there can be no dispute. It is therefore public, navigable water, and is clearly within the admiralty jurisdiction of this court.—*American Law Times Reports*, volume 5, page 13.

This river was navigable about forty miles and wholly within the State of Michigan.

In the case of Daniel Ball, in the Supreme Court of the United States, Mr. Justice Field, delivering the opinion of the court, (December term, 1870,) says, (and he is a strict constructionist:)

The doctrine of the common law as to the navigability of waters has no application in this country. Here the ebb and flow of the tide do not constitute the usual test, as in England, or any test at all of the navigability of waters.

After giving the reasons for this, he adds:

These rivers must be regarded as public, navigable rivers in law which are navigable in fact. And they are navigable in fact when they are used, or susceptible of being used, in their ordinary condition, as highways for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water. And they constitute navigable waters of the United States within the meaning of the acts of Congress, in contradistinction from the navigable waters of the States, when they form in their ordinary condition by themselves, or by uniting with other waters a continued highway over which commerce is or may be carried on with other States or foreign countries in the customary modes in which commerce is conducted by water.—10 Wallace, 563.

Mr. Justice Story, in his Commentaries on the Constitution, section 1273 of the edition of 1873, in treating the question of the appropriation of money for internal improvements, says:

The true test is, whether the object be of a local character and local use, or whether it be of general use to the States. If it be purely local, Congress cannot constitutionally appropriate money for the object. But, if it be general, it matters not whether in point of locality it be in one State or several; whether it be of large or small extent; its nature and character determine the right, and Congress may appropriate money in aid of it, for it is then, in a just sense, for the general welfare.

These authorities, and others of like kind, and these deductions settle the law, if any question can be settled by the adjudications of the highest courts, against the proposition of the gentleman from New York. And if he looks to the bill he will find there is no work appropriated for that does not come within the provisions of these definitions of the law as made by the supreme and circuit and district courts of the United States.

The portions of this protest which have for their object to impeach the patriotism and integrity of the committee which framed the bill and the patriotism and integrity of the members of the House who voted for it are not, it strikes me, words to be said upon this floor by any member of another. That committee is constituted of eleven members, representing different sections of the country, the conflicting interests of the different portions of the entire country, each standing guard upon the other that no one gets appropriations for particular works or for a particular section which would be inequitable or unjust. I do not know whether I should say it or not, but if I am permitted to speak for the members of the committee and not myself, I would say that the committee labored, under their convictions of duty, to give an honest bill, appropriating money where it was needed, and steadily refused to appropriate money where it would be merely an expenditure of money without benefiting the commerce of the country.

If I have ever served upon a committee that labored faithfully, diligently, and earnestly, I believe that this committee did it. I feel after three months of solid, undeviating, almost ceaseless toil in maturing a bill that gave us very great labor that the committee is at least entitled to be regarded as having tried to do its duty without being impeached by charges of combination and conspiracy for local interests to plunder the Treasury of the United States. If gentlemen can reconcile it to their own sense of justice to make such charges against their associates who framed the bill and against their associates who voted to pass the bill, let them do it; I have nothing to say about it.

Mr. Speaker, I have occupied more of the time of the House than I expected to do. I know that I have not done justice to the subject, but I feel that I ought not to take up any more of the time of the House.

Mr. COX, of New York. The gentleman from Texas need not have gone out of his way to affix an allegation of censure upon his committee. There was none growing out of this protest, except that which is plainly expressed of a public nature. There was no intention to call in question the honest intention and purpose of the gentleman and his committee. We grant that gentlemen here, upon all sides, act honestly according to their own belief. It is a part of the courtesy of our duty. When this committee brought in this bill they no doubt believed that they were acting in the public interest. Certainly, they thought it was in the interest of their own constituents, however it may affect others.

Admitting all this, am I censurable if I claim the right, if possible, by this protest to reform this bad and too common practice of legislation, which the mode of passing this bill illustrates? Does it follow that in doing so I am impugning the honesty or integrity of the gentlemen who so ably represent the House on the Committee on Commerce?

This practice has not, as has been said, been uniform of passing river and harbor bills by a two-third vote on Monday. We have had such bills, like other appropriation bills, often discussed, and with advantage.

Moreover, may I not say to gentlemen who are interested in this bill that they will in the end get more money, better applied, with less taxation justly levied, by fair discussions here, than by grinding such bills through by a two-third vote, with no challenge to wrong items and no amendment for any purpose? What do you do? Send this measure to the Senate to be riddled and ridiculed, torn to tatters and patched all over; and then to come out of a committee of conference changed in its items, sometimes for the worse, or, in the end, as was the case with some recent bills of this character, vetoed. It is not for the interest of localities or the country to drive the bill through under the whip and spur. Such hasty and ill-considered action recoils.

I did not intend to debate the merits of the bill; I intended to call

attention, Mr. Speaker, to the fact that in the nature of a question of privilege the opportunity has frequently arisen here of presenting protests. The case is pertinent, referred to by the Speaker yesterday, when Mr. Brooks presented a protest as to the organization of the House. That protest was accepted by the House so far as reading and printing in the RECORD. I also remember the case of the contested election of a member from Louisiana, Mr. Sypher; he had been admitted though not elected. While he was out of the House telegraphing home that he was admitted to his seat, I drew up a protest. It was signed by some twenty-five members. It was sent to the Clerk's desk without discussion, opposition, or comment. It was read; a motion to reconsider was entertained; and thereupon Mr. Sypher was debarred from membership.

Reference has been made to the case which occurred in the Senate in the Thirty-first Congress. In that case a protest was made by eminent Senators against the admission of California. True, the question was whether the protest should go, not into the record, but into the Journal. Mr. Hunter, reasoning philosophically upon the nature of such presentments, then said:

It does seem to me that there are occasions when members should be permitted thus to emphasize their opposition to a measure.

That is all intended by this protest. This bill was passed without discussion. We would emphasize our adverse unexpressed judgment to such a pernicious practice. Being debarred the usual debate, how else can we do it? We know that it contains an enormous and multifarious appropriation of money. We had no chance to show how inordinate some sections and localities were fed by this bill, and how others were compelled to pay for it without adequate consideration. In the bill Alabama gets less than half of Arkansas, and Connecticut less than Alabama; Florida twice that of Delaware, and Indiana only half of Illinois; Iowa but \$28,000, being one-tenth of Georgia, while Kansas received almost as meager a sum as Louisiana with her great commercial entrepôt; and each of these States a score less than Michigan with her bountiful \$569,000, which is ten times the slim Massachusetts bounty, with its many harbors on her coast. We know why New York should receive attention in these matters; but why should New Jersey get \$246,000 while New Hampshire gets \$4,400? Compare Ohio with her \$180,000, and North Carolina with her \$135,000, and Pennsylvania with her \$358,000, Tennessee with her \$461,000, Texas with her \$283,000, Virginia with her \$210,000, West Virginia with her \$272,000, and then as a climax Wisconsin with \$408,000, and you will be prepared to say what influences led to these varied sums for these peculiar localities. It does not appear to be a sectional bill. The North had in the printed bill \$3,789,300, and the South \$2,332,500, so that there is perfect impartiality in the general drain of money for such purposes. It is irrespective of any special favor on account of previous condition. But surely debate might have aided Congress to apportion more discreetly, if not to lessen, these sums according to the needs of commerce and the ability of the people to be taxed.

But there was no chance for comparison, debate, or deliberation on any one of the hundreds of items of the bill. We know that it was what in common parlance is called an omnibus bill, a log-rolling bill. The gentleman from Texas showed us that members came to him or his committee again and again to have amounts inserted or enlarged. Nay, it is asserted here that some of those who voted against the bill and signed the protest yesterday did so because they did not get the amounts they asked for. Does not this show that there is a tendency in such bills, as is shown in this protest, to combine for the exhaustion of the Treasury? Yes, and a tendency to fight when one is left out of the combination.

I shall now read from certain authorities to sustain the point of privilege in presenting the protest. I read first from Wilson's Parliamentary Law, on page 163, where it is said:

The entering of protests prevails in all of our legislative assemblies, and is generally regulated and secured by constitutional provisions.

On the next page the author says:

Members may not only express their opinion by vote, but also, with the grounds of it, by protest, which, with the names of all the members who concur in it, is entered in the Journal.

This rule is summarized in Cushing's Parliamentary Practice, where the protest is recognized generally as a parliamentary privilege, of great utility in the science of legislation.

Now, sir, I have an extract from the constitution of the State of Michigan upon this subject.

Mr. CONGER. The constitution of the State of Michigan provides that members of the Legislature may protest.

Mr. COX, of New York. I will come to that in a moment. It has been the custom in various States, as Cushing remarks, to admit protests both inside and outside of the organic law. The constitution of Michigan says:

Any member of either house shall have liberty to dissent from or protest against any act, proceeding, or resolution which he may think injurious to any person of the public, and have the reason for his dissent entered upon the Journal.

This goes to any act, proceeding, or resolution injurious to the public or to any person. It is an extensive privilege. We do not propose to enter this protest on the Journal. In the interest of the public we rise to a question of high privilege, not only to reserve the constitutional rights of Congress against the wrongful use of public money, but, if possible, to stop an insidious and, I was about to say, a corrupt system by the combination of localities against the Fed-

eral exchequer and the national interests. Is not such an attempt as this protest worthy of commendation from unselfish men bent on the common weal and not scared by mere local clamor?

There is a propriety, as well by acknowledged right as by custom of this House, to have the reasons emphasized by having them spread upon the record. This proceeding, I know, is *post mortem*. It is after the bill has passed the House and on its way to the Senate. But we cannot help that. Our protest looks to the future, and is in the interest of good legislation.

I could refer also to Alabama, where in her constitution the right of protest has been authorized, as follows:

Any member of either house shall have liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journal.

So in Florida, Iowa, New Hampshire, Vermont, North Carolina, Ohio, Tennessee, and in Illinois, where two members signing a protest may call the attention of the public or of the house to a flagrant violation of parliamentary rules or to the unwisdom of the proposed legislation against which the protest is offered. So much for that branch of the case.

The gentleman from Texas, [Mr. REAGAN,] to whom I yielded the floor, has entered upon an elaborate discussion of this bill as to its merits. We should have had it before its passage. I cannot avoid, though reluctantly, following him to some extent; but I will endeavor to be guarded as to how far. The bill will not bear much discussion. Was that the reason it was rushed through here without debate? Why was it placed here in this House to be put in a machine and to come out just as they brought it in? One honorable member, whom I have in my eye, gave me the reason yesterday. He voted for the bill, but said he did not like it; he voted for it because there was some money in it for his State. I will not mention names, either; but said he, "When we get a bill with only \$5,000,000 in it, it is generally lost. You have to put \$5,000,000 in it and distribute it pretty evenly in order to make it carry. But when you have \$7,000,000 in it, it is a sure thing; two-thirds will vote for it." This is a pregnant commentary on such legislation; but we know it is all too true.

And yet I have to stand here with my friends who have signed this protest and submit to the harsh language of gentlemen who are also friends, because I dare, in the line of dutiful yet unavailing remonstrance, to protest against this specious practice of appropriating money without deliberation. Nor am I amenable to any selfish charge, as my State has large appropriations in the bill, running up to \$753,000, Hell Gate included.

This bill only needs a little examination to show of what it is made. There are propositions here for surveys, \$140,000. For surveys? What are they but the entering wedge for future appropriations? I find in it propositions for surveying rivers in States where there are perhaps scarcely any navigable water courses, where I have been told that even men cannot get water when they dig a hole in the ground to boil potatoes. There is a provision here for the survey of a river in Kentucky, which a friend of mine near me says ought to be macadamized. [Laughter.] That is the only way to make it a thoroughfare. [Laughter.]

Mr. REAGAN. Is that the member who asked that it be inserted in the bill?

Mr. COX, of New York. No, it is a gentleman who opposes this questionable legislation on principle. He does not ask, he scorns to ask, for an appropriation at the expense of good legislation and fair precedents. He is with me here in protesting. I cannot get my eye on him just at this time, but he has filled the second office in the State of Kentucky and is a parliamentarian of approved skill and ability. His approbation of this protest is consolation enough for being with the minority.

Further than that, here are provisions for the survey of all sorts of little rivers, whose currents are local to States or districts of a State. I am somewhat of a traveler, if not a geographer; I have traveled pretty nearly all through our country. I have been to the State of Texas. With its bayous and large extent of sea-coast, I know there is some excuse for gentlemen there who have obtained \$23,000 of this appropriation. I will not complain of that, nor of the gentleman for looking to it. The population is largely a commercial people; their bayous run away up into the land. They are arms of the sea, and much is to be said for them of a general nature.

But if you would learn some of the prime merits of this bill go farther inland, where you find little "goose-creeks," trout streams, and almost waterless rivers, which are dry half the year. In some of these waters you can hardly find water enough to run a mill-race; and if you should undertake to go out and find anything of utility on some of these streams, to find a mill-site for instance, some one will tell you the old story, that you "Can't find a dam by a mill-site, and no mill by a dam site." [Laughter.] Many of the creeks and rivers in this bill are not worth a dam. [Great laughter.] If you examine them carefully you will find that there is not water enough in them to run the year round; and hence the *sequitur* of our logicians, that there is greater necessity of making an appropriation! They are navigable "by law," according to certain authorities, and the effort of this bill is to make them navigable in fact!

Some years ago an honorable member of Congress from Ohio, now upon the supreme bench of this District, Judge Cartter, brought in an amendment to appropriate \$10,000 for the Tuscarawas River, which

runs into the Muskingum, and the Muskingum River runs into the Ohio River. It joins with another creek to make the Muskingum at Coshocton, in the district of my honorable friend, [Mr. SOUTHARD.] It is the place where I had the happiness and honor to be born. I have many associations with "the banks of that beautiful river," the Muskingum. What was my surprise to find this stream, already improved at a great outlay by the State by dams, locks, and slack-water, for stern-wheelers, in this bill. What could be the reason for that appropriation? The Muskingum is hardly over a hundred and fifty miles from Coshocton to Marietta, all in one State. Perhaps it was the same reason Judge Cartter gave for one of its tributaries, the Tuscarawas, for which he asked a ten thousand, ironical, appropriation. He urged that it had been navigable since the deluge; that the Indians had had their canoes upon it, which ran both up and down on its bosom; that it was necessary as a tributary to the Muskingum; that the Muskingum poured its stream into the Ohio; that the Ohio gave its volumes to the Mississippi; and the father himself of waters gave his rolling flood to the everlasting ocean. This was the grand climax: that, therefore, Congress should give \$10,000 to the Tuscarawas River. [Laughter.] That is the nature of the argument that must be made here for most of these items.

Why, sir, everybody knows that in the good old days of strict construction of the Constitution, when we had southern statesmen here to defend the canons of interpretation of our sacred political faith; when they discriminated between national objects like "inland seas" and merely local objects like county creeks and State streams; when they had the power to enforce their philosophical rules of criticism upon all appropriations according to the meaning and intent of those who founded the Federal system—in those days—*ante bellum* days, if you please—no such argumentation as that made by the active and energetic gentleman from Texas [Mr. REAGAN] would ever have been tolerated. Gentlemen of the South, have those days gone to the rear and abyss forever? Are we to have no more of the strict construction of our Constitution and the rigid economies which such construction taught? Or are we to float on a limitless sea of legislation, or, worse, a mercenary element which, when it stagnates, becomes death to our institutions? I do not say that the great body of these appropriations in this bill belongs to the South. I have shown that it does not. Michigan, West Virginia, and Wisconsin get their big and respective shares. Why, we can tell the size of it in a moment when we see a gentleman from a favored State leap up in the air from his place and object to this protest. Minnesota gets her share; Wisconsin gets her share; Ohio, along the lakes, gets her share; Louisiana has her little share. All around, even in New England, there are nice little *douceurs* given for gentlemen in nearly every part of the country. This is a pretty arrangement.

Mr. REAGAN. New York gets more than any two of them.

Mr. COX, of New York. Yes; and I oppose this bill, although you appropriate so much to New York.

Mr. KENNA. How about your district?

Mr. COX, of New York. My district is in one sense the United States of America. [Laughter.] But my friend from West Virginia [Mr. KENNA] gets \$240,000 for the Big Kanawha and \$18,000 for the Little Kanawha. There is where his district comes in; and he supports the bill! He had better not interrupt me any more.

Mr. KENNA. I do not think the gentleman knows in whose district those streams are. A little knowledge of geography would help him wonderfully.

Mr. COX, of New York. Now, Mr. Speaker, in conclusion, this protest is in no sense offensive. It only calls the attention of the House and the country to a species of legislation that ought to be corrected; a species of legislation vicious beyond demonstration, even in full debate. The protest simply refers to the large amount involved in the bill and the propriety of its consideration according to a special rule made for the consideration of the items in bills of this kind, and that these appropriations should not be considered *en bloc*. Then it refers to our time-honored privilege in this House to debate these appropriation bills in Committee of the Whole and out of it. Then it comes down to the constitutional idea that the General Government was established for general purposes; that the States should take care of their local interests, and that in these regards there should be a line of demarcation strictly drawn.

Mr. Speaker, although this debate may go to the merits of the bill, and although the bill may not appear quite so presentable as before analyzed and protested, and although the bill as printed is not the same bill as written, although the bill now goes to the Senate baptized by the two-third, reasonable rule, I hope the Senate, with the aid of both parties and fair debate, will eliminate all the errors, all the "log-rolling" from it, and give us a bill that will inure to the benefit of such commercial interests as are under the Federal authority and at the same time protect our rightful immunity under the Constitution from unjust taxation at a time when the country suffers beyond example.

I now yield to the gentleman from Louisiana, [Mr. ELLIS.]

Mr. ELLIS. I would not now claim the attention of the House but for the fact that the chairman of the Committee on Commerce [Mr. REAGAN] in the course of his remarks alluded to certain gentlemen who had appeared before the committee and whom his nice sense of parliamentary propriety would not permit him to name; and a cry went up from a hundred lips, made brave in their utterances perhaps

because they were numerous, "Name him!" Were it not for this fact I would not now claim the attention of the House. In response to that cry, "Name him!" "Name him!" I respond, his name is "ELLIS;" he hails from Louisiana; and he confronts you now with words of which he is not ashamed and with thoughts that will bear the keen scrutiny of his watching countrymen.

In regard to this protest, Mr. Speaker, which has occasioned all this debate, I cannot for my life see why any one should object to it; the offensive language has been withdrawn, and I for one say that in signing it I meant no reflection upon the chairman of the Committee on Commerce nor upon any of the members of that committee, (most of whom I am proud to claim as my personal friends,) nor upon any gentleman who saw fit to vote for the bill.

Mr. Speaker, look at the protest. What is there in it, unless it be the enunciation of principles enshrined in the Constitution and made sacred by American usage? What is the first point made? It is that this bill appropriates the sum of \$7,000,000 and that the measure is hurried through without discussion and without the chance for that sharp, close investigation which members should ever bestow upon any measure which sweeps away the money of the people. We live in a broad country: four thousand miles one way and two thousand the other. It is impossible that members of this House can be familiar with the physical geography of all these rivers in the different States. Discussion clears away the mists. Truth is like a torch: the more you shake it the more it shines. Investigation affects injuriously only the guilty, never the innocent. When the people's money is to be voted away, when \$7,000,000 are to be appropriated, how strange, Mr. Speaker, that we, sent here to legislate for the country, with the whole summer before us, ay, even until December, if need be, to transact the legitimate business of the country, should shrink from full investigation and discussion of this important measure.

Mr. ROBERTS. I ask my friend to yield to me one minute simply for a question.

Mr. ELLIS. With great pleasure I yield to my friend for a question.

Mr. ROBERTS. The gentleman has signed a protest here in regard to a certain practice which has prevailed in this House for a long series of years and has received the sanction of very many very good men—even of one so good as himself. I ask the gentleman in this connection whether he will not consent to have read the names attached to this protest and also the names of those who voted in the affirmative upon the last river and harbor bill which came before the House and was passed in the same way?

Mr. ELLIS. Mr. Speaker, that is not a question, and I do not yield for it.

Mr. ROBERTS. It will occupy only a very few minutes.

Mr. ELLIS. I do not yield. My friend from Maryland, having obtained consent to ask me a question, tries to inject into my speech a portion of the record of the last Congress, and I decline to yield for that purpose.

Mr. ROBERTS. I have no doubt it will confirm all the gentleman has said.

Mr. ELLIS. Then, sir, I will answer you thus; and I will make confession which a good many of the gentlemen on this floor will have to make before their constituents next November. I was young and green then and did not pay attention to the real contents of that bill as I should have done.

Mr. ROBERTS. My friend should go further and make confession, as this is a day of confession, that he came to me and asked to get \$250,000 for the harbor at New Orleans and \$200,000 for Red River, instead of the amount appropriated.

Mr. ELLIS. I will come to that; I will pay my respects to that thought before I close; the gentleman need not be afraid. There beats nothing here in my heart in regard to the public interest which he and every citizen in this great Republic cannot look at and welcome. Now, sir, as to the second point of the protest. I ask the Clerk to read it.

The Clerk read as follows:

2. All our rules, and especially Rule 121, specially applicable to appropriations for works of internal improvement, are intended to guard against a vote in gross on such appropriations, and require, for wise purposes, separate votes on each item, under certain conditions. We protest against the infraction of so salutary a rule on a bill where the tendency is to combine for general spoliation upon the Treasury.

Retracting for myself the word "spoliation," Mr. Speaker, which was used there when I signed that protest, I ask could any rule be more salutary? I ask could any rule guard against combinations for large appropriations of this kind where the individual interests of the respective district, the interests of each member, are aggregated in the whole bill, each member fighting for his district alone but leaving out of sight for the moment the general weal of the whole country? This rule was made to meet that very spirit of log-rolling in which members meet to make up bills of this kind. Now I ask the Clerk to read the third point in the protest.

The Clerk read as follows:

2. The right of the House of Representatives to consider appropriations in Committee of the Whole House, or at least in the House itself, should be sacredly protected. This suspension of the rule deprives this House of our traditional privilege; and this encourages similar raids upon the Treasury to gratify local interests.

Mr. ELLIS. Certainly, sir. The privilege of discussing an immense appropriation in the Committee of the Whole, the privilege of exam-

ining into the claims of the little creeks and into small rivers in the country, and especially of some in Pennsylvania the very names of which the Speaker of this House is ignorant of, the names of which I do not find on the map of the United States—of rivers I never heard of.

Mr. DUNNELL. Does the gentleman refer to rivers for which an appropriation has been made?

Mr. ELLIS. They are named in the bill, and money poured out like water for their survey.

Mr. DUNNELL. Let me correct the gentleman for a moment. There is not a river or harbor in the bill that has not been surveyed by order of Congress by the Engineer Department of the Army, or for which a recommendation has not been made.

Mr. ELLIS. That may be. One hundred and fifty thousand dollars are appropriated for the survey of numerous creeks—for Otter Creek and a creek in Pennsylvania, a creek with an unpronounceable name.

Mr. DUNNELL. And in your State you have your full share of them.

Mr. ELLIS. No, sir; we asked nothing for creeks, but something we did not get for our great rivers. I am informed by my friend, the gentleman from Kentucky, in one of these streams for which appropriations are made you cannot float a saw-log except in rainy weather. [Laughter.]

Now, when we discuss these measures in Committee of the Whole, light is let in upon them.

Mr. REAGAN. If that is true, then I wish to say that the gentleman's colleague in asking for an appropriation for that creek committed an imposition upon us.

Mr. ELLIS. I am not here to defend the one or the other. Let the chairman of the Commerce Committee look to his own knowledge, for he is responsible. I now come to my part, the part I played before this committee in asking for an appropriation for the improvement of the harbor at New Orleans and for Red River—

Mr. DUNNELL. I insist the gentleman from Louisiana should address the Chair.

The SPEAKER. The gentleman from Louisiana will address the Chair.

Mr. ELLIS. I will endeavor to speak so the Chair can hear me. I did appear before that committee. I appeared before it in behalf of two great objects: one was the harbor at New Orleans, and the other the great needs of Red River; two objects which in importance language can scarcely overestimate.

The harbor at New Orleans, for which your original bill provided not one dollar—

Mr. REAGAN. For which there were no estimates and for which no money was asked.

Mr. ELLIS. Yes; my colleague, General GINSON, appeared before your committee and asked for an appropriation.

Mr. REAGAN. Not till after the bill was reported and printed.

Mr. ELLIS. But you got the estimates of the engineer officers of the United States; and it was shown that the harbor of that city is being undermined; that a portion of the river is wearing into its banks threatening the very harbor itself; a harbor where rides the commerce of twenty States; the harbor of the second exporting city of this Government; a harbor whose commercial importance cannot be overrated. Yet with the estimates of the engineers asking you for \$476,000, and with Licking River and the unmentionable river in Pennsylvania fully provided for, you dole out the miserable sum of \$50,000. Is this statesmanship? Is this looking after the great interests of the whole country?

Mr. REAGAN. The gentleman should not state what is not the fact. There is nothing for Licking River and nothing for what he calls the unmentionable river in Pennsylvania.

Mr. ELLIS. The gentleman forgets—

Mr. REAGAN. I do not forget. I state what is true.

Mr. ELLIS. Does the gentleman state that there is no item in the bill for Licking River?

Mr. REAGAN. There is an item for surveys of rivers and we did put into this bill the authority for surveys where members came before us with evidence which showed that the rivers or harbors in question ought to be surveyed.

Mr. ROBERTS. May I ask the gentleman from Louisiana to name the unmentionable river.

Mr. ELLIS. I will spell it, K-i-s-k-i-m-i-n-e-t-a-s. [Great laughter.]

Mr. REAGAN. Is there a dollar appropriated for that river? Or is it simply that a survey is ordered?

Mr. SPARKS. There is an order for a survey with a view to future appropriations.

Mr. WHITE, of Pennsylvania. The gentleman says he cannot pronounce these names. It is the Kis-k-i-min-e-tas River he stumbles at. [Laughter.] The honorable gentleman's education has been sadly neglected if he cannot pronounce that name. It is a musical Indian name, having a local association, and signifies, if I rightly remember, "sprightly stream." It is one of the tributaries of the Allegheny River. The survey of the Allegheny is provided for also. Of this stream, traversing the western extent of our State from Pittsburgh up into New York, I shall speak again. Steamboats have run up this stream from Pittsburgh to Olean in New York at different seasons of the year. It is one of the arteries of our wealth, if utilized. Twenty-seven miles above Pittsburgh the Kiskiminetas, so difficult for the

gentleman from Louisiana [Mr. ELLIS] to pronounce, empties into the Allegheny, being one of its main tributaries. The Kiskiminetas is formed by the junction of the Conemaugh and Loyalhanna at Saltsburgh, a town of considerable size some twenty-three miles above its mouth, and the Conemaugh, being called for a tribe of Indians of that name, has its source in the Allegheny Mountains. The Kiskiminetas and the Conemaugh form a continuous stream of some sixty miles east from the Allegheny River. If the gentleman will look at the report of the committee of the Senate of the United States, made in 1874, of which Mr. WINDOM, Senator from Minnesota, was chairman, on transportation routes to the seaboard, he will find these two rivers, Kiskiminetas and Conemaugh, mentioned and specially indicated by a distinguished engineer as links in the great chain of water communication between the Ohio and the Atlantic seaboard.

Mr. SOUTHARD. Is there a steamboat on those rivers?

Mr. WHITE, of Pennsylvania. There has been. I can bring evidence of a steamboat in former years when there was slack-water and canal navigation along these streams going up the Allegheny from Pittsburgh to the Kiskiminetas, thence up to Johnstown near the head of the Conemaugh.

Mr. SPARKS. A stern-wheel, was it not? [Laughter.]

Mr. WHITE, of Pennsylvania. It was not a steamer of the heaviest draught, but, sir, we want the examination by the Government to see how far artificial appliances can improve these streams for navigation and thus add to the wealth of the country.

Mr. WRIGHT. I wish to ask my colleague a question.

Mr. WHITE, of Pennsylvania. What is the question?

Mr. WRIGHT. I wish to know where that stream is; where is the stream that is called Conemaugh, Kiskiminetas, or some such name?

Mr. WHITE, of Pennsylvania. Why, the gentleman from Pennsylvania, my colleague, aspires to be the chief executive of that State, and if he does not know the location of these streams he is ignorant of the geography of his State and ought not to seek such a high position.

Mr. WRIGHT. I do not fish in such shallow waters for the nomination of governor. If I had to go into the trout streams of Pennsylvania for it I would abandon it. [Laughter.]

Mr. WHITE, of Pennsylvania. I am glad to have given the gentleman an opportunity of explaining. The people of Pennsylvania may agree with him in this respect and relieve him of his fishing.

Mr. WRIGHT. I do not know that these rivers have any existence.

Mr. WHITE, of Pennsylvania. I am surprised that my colleague, who claims some intelligence and to be the special friend of the working man and to know all about our industries, should declare before this House and the country that he does not know the location of the Kiskiminetas and Conemaugh Rivers. [Laughter.]

Mr. WRIGHT. It is a new name; I never heard of it before.

Mr. WHITE, of Pennsylvania. Whither are we drifting? The gentleman is an old democratic politician in Pennsylvania. He was famous when I was a child. He stood high in the councils of his party; so high that he presided, I believe, in 1844 over the national convention that nominated James K. Polk for President. Since then he has been in our State Legislature, member of Congress, chairman of democratic State committee, now candidate for governor, and yet does not know the location of these streams! The gentleman is older than he was, and his memory is possibly faithless to him. Let me give him a little history. Now, the gentleman cannot have forgotten the Pennsylvania Canal, the Pennsylvania public works, that the democratic party in our State controlled so long and manipulated so well to perpetuate their power. The Western Division ran from Pittsburgh to Johnstown, the western base of the Allegheny Mountains, thence over the mountains by the Portage Railroad to Hollidaysburgh, thence by the eastern base of the mountain, thence by canal to Harrisburgh, thence to Philadelphia, partly by canal and partly by rail; and when these were sold for \$7,500,000 the gentleman's party, he along with them, doubtless groaned and complained in sadness. Now, sir, the western division of this canal from Pittsburgh to Johnstown was up along the Allegheny to Freeport, thence along the Kiskiminetas and Conemaugh Rivers. They were its only feeders, and along them were a number of dams built by the State and slackwater navigation over them a portion of the way. From some time in 1830 to 1850 all the travel and traffic from Philadelphia to Pittsburgh, from early spring to late fall, was over these streams and canal. In the statute-books of our State from the commencement of internal improvements in Pennsylvania until this moment are to be found the names Kiskiminetas and Conemaugh Rivers in connection with some public legislation. My friend does not know enough of geography to be our governor, I fear.

Mr. WRIGHT. I wish to know from my colleague if a survey is ordered in the bill for these two little streams.

Mr. WHITE, of Pennsylvania. It is, and I am proud of my success on having obtained it.

Mr. WRIGHT. Are they navigable streams?

Mr. WHITE, of Pennsylvania. They can be a portion of the year, and it is practicable, in my opinion, and I have also the opinion of most distinguished engineers that they can be made navigable the greater portion, if not the whole, of the year. I want the survey to show this to the country for my part of the State.

Mr. WRIGHT. How wide are they?

Mr. WHITE, of Pennsylvania. At high water the gentleman could not swim across them; he would lose his wind before he got across.

Mr. BRIDGES. I wish to ask the gentleman whether at low water you cannot step across them.

Mr. WHITE, of Pennsylvania. No, sir. There are ferries and fordings for horses at low water in some places across the streams. Only last week, on a trip home, missing the train and walking into Blairsville, some two miles, I had to pay a ferry-boat my ten cents to row me across the Conemaugh. This was nearly forty miles above the mouth of the Kiskiminetas. The gentleman is an old, old democrat, too. He has forgotten his geography. He does not know his own State. Let him come away from his anthracite-coal fields of Eastern Pennsylvania and visit the great diversities of resources in Western Pennsylvania, across the mountains. Come out and see our coal-fields, our coke-ovens, our fire-brick works, our lumber-yards, our mills, our agricultural wealth, our furnaces and rolling mills run by natural gas welling up from the bowels of the earth; our oil wells, making wealth to the State and the country. Come, travel a little and learn what your State needs.

Mr. ELLIS. That is the way they slipped in so easily, being so well oiled.

Mr. BRIDGES. I know they are little insignificant streams.

Mr. WHITE, of Pennsylvania. The gentleman is an old man. I want to be respectful, but must say he does not know what he is talking about. I want it to go to the country that these gentlemen from the eastern part of our State who have spoken are against the improvement of our rivers, are against their examination and survey, are against giving us an opportunity of showing by scientific exploration that the Allegheny, the Kiskiminetas, the Conemaugh, can be made navigable at reasonable expense, and be of immense aid to our internal commerce.

The SPEAKER. The gentleman from Louisiana [Mr. ELLIS] will proceed.

Mr. ELLIS. I thank the gentleman from Pennsylvania very kindly for his interruption, for it affords me a new argument in opposition to this bill.

We have seen a gray-headed gentleman who has lived in Pennsylvania more than forty years and occupied some of the highest positions in that State, and who is always *right*, who never heard of this river; and I was assured by the honorable Speaker that he did not know that there was such a river in the State.

The SPEAKER. The Chair stated that he had never heard of this application for appropriation for this river, for he did not suppose the stream was navigable.

Mr. ELLIS. I stand corrected.

Mr. WHITE, of Pennsylvania. I am glad that the Chair has made that explanation, for his own sake.

Mr. ELLIS. Another gentleman from Pennsylvania, venerable in the public councils, contends that you can step over this river, and that it is not navigable at all. As I said before, the only way it crept into this appropriation bill was because it was oily.

Mr. KENNA. Will the gentleman allow me to ask him a question?

Mr. ELLIS. Certainly.

Mr. KENNA. I desire to ask the gentleman what harm can be done, even taking his own view of the character of the remarkable stream spoken of, by an appropriation for surveys or examinations? If the streams are of the character spoken of no money will be spent upon them; not a single dollar. The engineers, if the streams are of the character described, would so report. The reports of the engineering department would show for the last ten, twenty, or thirty years that the Engineer Corps has never expended a dollar on the surveys of rivers of the character alluded to. I want to say further that the Committee on Commerce did not insert in this bill any provision for a survey which was not based upon a statement made to them by some gentleman upon this floor or other satisfactory information of the importance and magnitude of the streams and their navigability such as would make it worth a liberal appropriation and active efforts to improve them. When a gentleman comes before the committee and asks for a survey of a river which he states is navigable and of commercial importance, how in the name of God can any committee be protected from imposition, if the facts are not represented, except by an official and proper survey?

Mr. ELLIS. I must decline to yield further. I have but little more to say.

Mr. FRANKLIN. I rise to a point of order. I ask that the gentleman from Louisiana address the Chair.

Mr. ELLIS. I did not know that there was any rule in this House that forbade a member from speaking to those whose hearts and consciences and judgments he wished to reach. I know that the Speaker is the organ of the House, but it is not the Speaker alone whom I wish to address, but it is the brains and the great hearts of all the members of this House that I desire to reach. And when I talk to a man I like to talk directly at him, and not through a third party. I propose now to meet the assertions and to answer the question of the gentleman from West Virginia, [Mr. KENNA.] In the first place he says it was impossible for the committee to guard against mistakes and that they are not responsible for the appropriation inserted in the bill for this unpronounceable river. Ay, sir, there is a way and that is by bringing the bill under the rules and under the constitu-

tional usage into Committee of the Whole on the state of the Union, so that we may bring the local geographical knowledge of members to bear upon these obscure points and it is only by close and searching investigation in the form of amendments and arguments when such a measure is before the House that such mistakes can be avoided.

Mr. FRANKLIN. I desire to ask the gentleman a question.

Mr. ELLIS. I decline to yield. I desire now to answer the question of the gentleman from West Virginia. He tells us that not a dollar is asked in the bill for the survey of rivers.

Mr. Speaker, do you not know, with your great legislative experience, does not every member of this House know that a survey is the entering wedge to an appropriation? The first step is to get a survey, to get the estimate of the Engineer Corps, and then base upon that estimate an appropriation the next year.

Mr. KENNA. The gentleman misconceives my statement. I have not stated that no money is asked for these improvements for which surveys are made. I say that, if upon proper survey it is found that the improvement is necessary to the interests of commerce, then it is appropriated for, and I am willing to vote for the improvement. If, however, the engineer, upon examination, survey, or otherwise, ascertains facts about the character of the stream which show it to be unnecessary to proper commercial facilities, he so reports and no appropriation is made. The survey is simply the official means of information.

Mr. ELLIS. The injustice of the bill is what I object to. I appeared before the committee and asked for an appropriation for the Red River, the second river in length of navigable waters on the continent; the Red River that floats upon its bosom the commerce of \$50,000,000; the Red River, the great artery of commerce for Western Arkansas, Indian Territory, and Western Louisiana; the Red River, which has twelve hundred miles of navigable waters and with two thousand miles of navigable waters tributary to it; the Red River, for which, upon the estimate of the Engineer Corps, \$400,000 was asked, and which must be improved unless the Government desires that the mouth of the river shall be actually closed; the Red River, which is dammed and choked year by year; the Red River, into whose mazy depths have been sunk within the last ten years sixty steamboats worth \$1,800,000, not including the value of the cargoes and of the precious lives that have been lost, for in one single instance two hundred and fifty souls went to the bottom because the steamboat was snagged; the Red River, which asked this appropriation, is doled out the miserable sum of \$100,000.

Mr. REAGAN. The gentleman addresses me.

Mr. DUNNELL. The gentleman from Louisiana opposes the bill, because the committee did not comply with his request.

Mr. ELLIS. Not at all.

Mr. DUNNELL. Then you should take your name from the protest.

Mr. ELLIS. If you had hearkened to me, if you had mourned when I lamented, had danced when I piped, I would have taken the bill in its present shape and made the best of it.

Mr. REAGAN. The gentleman addresses me as if he supposed that I do not comprehend the character of that river, the extent of its commerce, and the dangers of its navigation. Every member of the Committee on Commerce will bear me witness that long before the gentleman himself appeared before the Committee I urged that liberal appropriation be made for that river.

Mr. ELLIS. I am not putting the gentleman on his defense to-day; he must explain his course otherwise than here.

Mr. FRANKLIN. The gentleman said he would yield to me for a question.

Mr. ELLIS. I will do so.

Mr. FRANKLIN. The gentleman has signed this protest against the action of a majority of this House, and I desire to ask him a few questions. The confusion in this Hall has been so great that I could not hear all that he has said, but from what I could gather of the gentleman's remarks, one of his objections to this bill is that it was not allowed to be discussed in Committee of the Whole. Another objection was that it contains appropriations for some streams which he considers of not sufficient importance to have appropriations made for them. Now the questions which I desire to ask him are these: was he not a member of the Forty-fourth Congress, and did he not vote for a river and harbor bill which passed under a suspension of the rules, without reference to the Committee of the Whole; and did he utter any protest then? Again I ask him if the river and harbor bill that passed in the Forty-fourth Congress did not contain appropriations for streams just as insignificant as are these? And I ask him if he had obtained a million of dollars as he desired from this committee for his river would he not have voted for this bill?

Mr. ELLIS. The gentleman is barking on a cold trail; the same question has already been asked me and I have answered it.

In conclusion I desire to say that it is not the size of this bill that I grumble at. I do not believe the American people are a mean people; I do not believe they are stingy or narrow-minded. I believe that in the broad field of statesmanship there are prouder titles to be won than the very questionable one of watch-dog of the Treasury. I do not believe that statesmanship consists in meanness.

I believe the American Congress should endeavor to meet the wishes and aspirations of the people, to respond to the spirit of progress that is all abroad in the land. I will vote for ten, twelve, fifteen millions of dollars to employ idle hands and to develop the hidden resources

of this country. I would do that willingly provided the appropriations be just and wise and in accordance with the true object of legislation.

Mr. FRANKLIN. I ask that the gentleman answer my question.

Mr. TOWNSEND, of New York. I desire to ask a question of the gentleman from Louisiana.

Mr. COX, of New York. I yield five minutes to the gentleman from Illinois, [Mr. SPRINGER.]

Mr. TOWNSEND, of New York. Will the gentleman from Louisiana [Mr. ELLIS] allow me to ask him a question? Can he set a limit to the power of Louisiana to swallow up the public money?

Mr. SPRINGER. I cannot yield.

Mr. KENNA. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. KENNA. The gentleman from New York [Mr. Cox] having risen to a question of privilege, and the point of order having been raised that the protest read here is not proper as a part of his remarks, I ask how the gentleman now undertakes to control the floor?

The SPEAKER. The Chair recognized the gentleman from New York as entitled to the floor for an hour. The gentleman yielded to the gentleman from Texas, and it was understood that the time occupied by the gentleman from Texas [Mr. REAGAN] should not come out of the hour of the gentleman from New York.

Mr. HARRIS, of Virginia. I desire to ask another question. Under this new rule of passing a bill and debating it afterward, is there any limit to the debate? In saying this I do not mean to be understood as favoring the bill which passed on yesterday, for I do not; but, sir, I wish to bring this unprofitable debate to a close, and to enter my objection to the new rule adopted this morning.

Mr. SPRINGER. I believe I am entitled to the floor.

The SPEAKER. The gentleman from New York [Mr. Cox] is entitled to ten minutes of his hour remaining.

Mr. COX, of New York. I yield to the gentleman from Illinois, [Mr. SPRINGER.]

Mr. SPRINGER. I hope this question, so far as it relates to the right of presenting a protest against the action of the majority of the House, will be decided, not with any reference to the bill which was passed yesterday, but in view of the precedents that we may establish by such decision. There are some questions about which, or concerning which, the only remedy that members upon this floor can have is to present a protest in respectful language, and have it entered on the Journal. There are certain rights which members have under the Constitution; certain things which the Constitution prescribes with regard to legislation. When any of these things are disregarded by a majority of the House, it is the right of the minority to present and have entered upon the Journal their protest in respectful language against such action.

For instance, in article 1, section 5, of the Constitution, it is provided:

Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide.

Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member.

Each House shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy, and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the Journal.

Now, Mr. Speaker, suppose that upon the passage of a bill coming before this House one-fifth of the members present should demand that the yeas and nays be taken and the majority should refuse to let the yeas and nays be entered on the Journal, that would be a case in which the constitutional rights of the minority would entitle them to have the facts spread upon the record; and for the majority to deprive them of that right would be in utter disregard of the constitutional rights of the minority.

Suppose the House should undertake, by a majority vote, to expel a member. Would it not be a constitutional right of the minority to protest on the Journal against such action?

Now, whenever members deem a bill that is passed to be in violation of the terms of the Constitution, they have a right, and it is their only remedy, to place upon record their respectful dissent from such action. And especially is this the case when such bill was passed under a suspension of the rules, which admits of no discussion, and but one reading, and that from the Clerk's desk.

The gentleman from New York [Mr. Cox] has cited the precedents from the parliamentary authorities. I will not consume time by repeating them. But it has been said that it would be dangerous to establish such a precedent; that members would be constantly protesting and burdening the Journal with their grievances. This will not follow. It is presumed that members of Congress will not abuse a high privilege of this kind. In many of the States there are provisions in the State constitutions securing the right of protest to two or more members of the Legislature in all cases where they may deem their rights abridged in any manner. Such privileges have never been abused, so far as I have ever known.

I respectfully suggest, then, that the spreading of this protest upon the Journal can do harm to no one. It is an important principle of parliamentary right, which any member of the House may at any

time feel it his privilege to exercise, to have his respectful protest entered on the Journal. I ask the House to reflect seriously before a precedent is set which would deny this right to the humblest member of this body. We cannot tell whose turn it may next be to ask the privilege of entering a protest in this way. Let us decide this question without any reference to the bill upon which it now arises and with a view solely to the individual rights of members on this floor—rights which they cannot surrender without being derelict in their duty.

Mr. HARTZELL. Will my colleague allow me to ask him whether voting against a bill is not a respectful protest against the passage of the measure?

Mr. SPRINGER. That would be a silent protest. But a member's constituents could not understand why he had voted against a bill, which had many good provisions, but which he could not vote for on account of obnoxious provisions which he could not point out or expose. Further, this right of protest might be invoked when the yeas and nays were not called, although under the Constitution one-fifth of the members might demand to have the yeas and nays entered upon the record.

Mr. HARTZELL. Did you not have the yeas and nays on the passage of this bill?

Mr. SPRINGER. On this bill the yeas and nays were recorded. I am not speaking about that. My colleague's district has the Mississippi River on the one side and the Ohio River on the other. It is perfectly right that he should favor a liberal appropriation for those rivers. I do not object to that. But the next bill that comes up may not suit my colleague or the distinguished gentleman from Texas, [Mr. REAGAN.] It may not suit the gentleman from Missouri, [Mr. REA:] and each of these gentlemen may then desire to have their respectful protests entered on the record.

Mr. HARTZELL. Perhaps the appropriation for the improvement of the Illinois River was not satisfactory to my colleagues.

Mr. SPRINGER. I will answer my colleague. I have no fault to find with the bill on account of the amount appropriated for the Illinois River which washes my district on the west line for seventy-five miles. The Committee on Commerce have acted liberally by my district; and in my action on this bill I am not influenced one way or the other on account of the appropriation for the Illinois River.

[Here the hammer fell.]

Mr. COX, of New York. I yield five minutes to my colleague, [Mr. HEWITT, of New York.]

The SPEAKER. The gentleman has but five minutes, and the Chair understood him to yield five minutes to the gentleman from Mississippi, [Mr. HOOKER.]

Mr. COX, of New York. If my time can be extended I would be glad to yield to others all the time that may be given to me. If there be no objection, I hope time will be extended to these gentlemen.

The SPEAKER. The gentleman asks that his time be extended five minutes.

Several members objected.

Mr. COX, of New York. Then I yield all the time I have remaining to my colleague.

Mr. HEWITT, of New York. Mr. Speaker, there seems to be an impression that the protest to which some members (myself among them) have affixed their names is directed against the merits of the bill. That is not my case. I have had no chance to study the details of this bill; I do not know what it contains. The bill as it has passed this House is, I am informed, not in the shape in which it was printed.

Mr. REAGAN. Mr. Speaker—

Mr. HEWITT, of New York. I decline to be interrupted. I have had no chance to study the details of this bill; but I find that it appropriates the sum of \$7,000,000. This is the amount which it takes from the Treasury without discussion by a process of combination which is apparent upon the face of it. Now it is not against the bill, which may be right or may be wrong, but against the passage of it, right or wrong, without an opportunity to discuss its provisions in detail in the Committee of the Whole, according to the wise and well-settled rules of the House that we protest. These rules were made to protect the Treasury. The suspension of them leaves its doors unguarded and at the mercy of jobbers.

I have heard gentlemen denounced here because, having gone before the committee to present respectful applications for proper works, they have still thought fit to vote against the bill and protest against its passage. This seems to me most improper and unjust. For one I can say that the city of New York has no grievance in this matter. I find on looking over the bill that \$753,000 have been appropriated to works in the vicinity of the city of New York. It is the largest appropriation made for any locality in the bill. The district which I represent is more largely interested in these works than any district in this House. Yet I voted against the bill, not because my district is not fully cared for, but because I will never consent to any legislation which deprives this House of the opportunity of full and free discussion and denies to the people of the country the means of knowing how they are taxed, why they are taxed, and what is done with the proceeds of taxation. It is for this reason I protest, and I should blush to avail myself of the excuse that my district is taken

care of, and that therefore I should even tacitly assent to a kind of legislation which violates the fundamental principles of responsible government.

I do not know whether the protest comes strictly within the rules or not; I am inclined to think it does not; but I say there are occasions when precedents are made which are so dangerous that it becomes every man to do what he can to stop the progress of legislation which tends to take out of the Treasury—I will not say to spoliolate and rob it, but which tends to take out of the Treasury the hard earnings of the people without securing an adequate return for the expenditure. Hence I protest; and if the city of New York never gets another dollar for these public works which concern the country at large far more than they do her, I shall still, so long as I have a seat on this floor, vote and protest against legislation which appropriates large sums of money without being subjected to the crucible of discussion in this House. If it is right it need not fear discussion; if it is wrong it should never be enacted without it.

The SPEAKER. The gentleman from Maine [Mr. HALE] is recognized.

Mr. HALE. Mr. Speaker, I think we can get along without any more of this discussion, and it is time to call the previous question.

Mr. WRIGHT. I ask the gentleman from Maine to yield to me for ten minutes.

Mr. ELAM. I hope the gentleman will give me a few minutes. [Cries of "Vote!" "Vote!"]

Mr. WRIGHT. My name is not upon the protest, but I want to give my reasons for voting against the bill.

The SPEAKER. The gentleman from Maine asks the previous question.

Mr. REILLY. I rise to a parliamentary question. Upon what does the gentleman demand the previous question?

The SPEAKER. He raises the question of order as to this being a question of privilege.

Mr. REILLY. Has the Chair passed upon that?

The SPEAKER. The Chair has not.

Mr. REILLY. Would not that be the first thing in order?

Mr. WRIGHT. I ask my friend from Maine to withdraw the call for the previous question for ten minutes. But has the gentleman from Maine any right to demand the previous question?

The SPEAKER. The previous question would terminate debate if sustained, and that of course would bring the Chair to decide, so far as he saw fit, the question or to say whatever he may have to say on the subject of its being a question of privilege.

Mr. HALE. Have I an hour if I choose to occupy it? Not that I mean to do it.

The SPEAKER. The gentleman is recognized, and has a right to an hour if he chooses to occupy that time.

Mr. HALE. Very well; then I withdraw the previous question for the present. I will yield to the gentleman from Maryland five minutes.

Mr. WRIGHT. How much time has the gentleman got?

The SPEAKER. An hour.

Mr. WRIGHT. Will the gentleman give me a little time? I believe that he consents to that.

The SPEAKER. The gentleman from Maryland has the floor for five minutes.

Mr. ROBERTS. I desire to have order before proceeding.

Mr. WRIGHT. Have I the floor or not?

The SPEAKER. No, the gentleman from Maine has the floor for an hour, and he has yielded five minutes to the gentleman from Maryland.

Mr. WRIGHT. Then after the gentleman from Maryland has concluded I shall ask to be heard, and I hope the gentleman from Maine will yield to me.

Mr. ROBERTS. After the very thorough discussion we have had on this subject I do not wish to intrude any extended remarks of mine on the House, but I simply desire to make a personal remark with respect to my connection with this river and harbor bill, and that is this: although I am a member of the Committee on Commerce, and although I presume I have perhaps as large a water front in my district as in most of the districts provided for in the bill, yet I have not asked an appropriation of a single dollar for my district. [Here Mr. ROBERTS was interrupted by a colloquy upon the floor and by shouts of laughter, which were long-continued.] Mr. Speaker, if the House is not in a fit condition to draw a reasonable and very proper distinction it is no fault of mine. I have only that remark to make in this connection.

Now, Mr. Speaker, to resume, I repeat that I have not in connection with the discharge of my duties on the Committee on Commerce thought proper to ask a single dollar for the district which I represent. I admit that I did not vote for the last river and harbor appropriation bill, for the reason that I had grave doubts as to whether it was right and proper, and because of those doubts declined to give it my support.

But, sir, I have had ample and satisfactory means of information as to the contents of the bill just passed, and I know further that I have sought by every effort in my power to prevent any wrong getting into this bill in any shape or form, and I think my colleagues on the committee will bear me out in saying that I have always sought

to prevent the Government being used for improper purposes by appropriating money to hunt up streams not to be found on the map of the country.

But there is this to be said in connection with the vote on this bill: there are certain gentlemen who have to-day manifested great concern lest legislation may be taking a very improper course. I think if the river and harbor appropriation bill had provided certain sums of money for them there would have been a much larger vote than is at present recorded in favor of the bill. And in so far as my friend from Louisiana [Mr. ELLIS] is concerned I think I may say with justice to him as well as to myself that I earnestly sought to obtain for him all he desired, and he generously said that in the event of obtaining it he would give to the bill his earnest support. Not, however, receiving so much as he expected, but in lieu thereof only the sum of \$50,000, I find he is among the immaculates who are not willing to give their assent to the bill and must needs place upon record a protest against so great a wrong. I desire to send to the Clerk's desk my protest, which will explain the position occupied in the past by some of our protesting friends, and as part of it I ask the Clerk to read the second allegation in the protest and then the names which I have marked.

The Clerk read as follows:

2. All our rules, and especially Rule 121, specially applicable to appropriations for works of internal improvement, are intended to guard against a vote in gross on such appropriations, and require, for wise purposes, separate votes on each item, under certain conditions. We protest against the infraction of so salutary a rule on a bill where the tendency is to combine for general spoliation upon the Treasury.

Mr. ROBERTS. Let the names be read.

The Clerk read as follows:

WILLIAM P. CALDWELL.
MILTON S. ROBINSON.
ANDREW H. HAMILTON.
MILTON A. CANDLER.
E. JOHN ELLIS.

Mr. ROBERTS. Now, Mr. Speaker, I send to the Clerk's desk to have read that which I have marked on page 2359 of the CONGRESSIONAL RECORD of the Forty-fourth Congress.

The Clerk read as follows:

On the passage of House bill No. 3922 making appropriations for the construction, repair, preservation, and completion of certain public works of rivers and harbors, and for other purposes.

Mr. ROBERTS. Now read the names of those I have marked who voted in the affirmative on the passage of the bill, which was on the motion of Mr. HERFORD to suspend the rules.

The Clerk read as follows:

William P. Caldwell, Candler, Ellis, Andrew H. Hamilton, Robinson.

Mr. ROBERTS. Now, Mr. Speaker, I protest that in view of these facts the paper presented by the gentleman from New York, [Mr. COX,] as a characterization of the conduct of the Committee on Commerce and of those who have voted for this bill, is, to say the least of it, unwarrantable and improper.

Mr. WRIGHT, Mr. HAMILTON, and Mr. TURNER rose.

Mr. HAMILTON. I ask the gentleman from Maine to yield five minutes to me. [Cries of "Vote!" "Vote!"]

Mr. TURNER. I ask the gentleman to yield me one minute for a personal explanation.

The SPEAKER. To whom does the gentleman yield?

Mr. HALE. I yield five minutes to the gentleman from Pennsylvania, [Mr. WRIGHT.]

Mr. WRIGHT. I should have preferred it if the gentleman had given me ten minutes, but must make the most of the time he generously assigns me.

Now, Mr. Speaker, I do not want to take in this House a factious position. I do not want to throw any obstacle in the way of just and proper legislation. I voted against the passage of the bill, but refused to add my name to the protest. I think, however, it was no more than right that those of us who voted against the bill, if we did it in a proper and conscientious manner, should have the opportunity of stating the reasons why we voted against it.

Now, as far as regards the appropriation for rivers and harbors, if all these purposes were right and proper, I should not hesitate to vote for an appropriation of twenty or thirty millions of dollars. I believe it is a better way to expend the public money for proper and useful purposes in this hour of general calamity by giving laboring-men an opportunity of finding employment than to do almost any other thing. But what I protest against, and what I think must strike the judgment of the House with force and power, is that there are appropriations in this bill that ought never to have been introduced. I notice there are seventy-eight new items introduced into this bill where money is appropriated for the purpose of commencing new enterprises. Perhaps a large majority of these will terminate upon an examination. It will be seen that any outlay upon them would be a useless expenditure of money and they will be dropped. But why put them in at all?

Now, I do not want to say anything in opposition to the views of my colleague from Pennsylvania [Mr. WHITE] as to the appropriation for surveys of the two small streams on the Allegheny Mountains; but he knows and every one who is acquainted with the geography of Pennsylvania knows the fact that no good can result from an ex-

penditure of money for the exploration and survey of streams of this kind. Two small streams, the Kiskiminetas and Conemaugh, that are not sufficiently large in dry weather to turn an ordinary grist-mill, are not the subjects that ought to be introduced into general appropriation bills under the name of improvements of rivers and harbors. They are small creeks and cannot be made navigable for steamers. Why waste the money in the Treasury for such a purpose? Is it proper and just to do so? Is this wise legislation?

So far as regards the development of the Mississippi in making navigable "the great Father of Waters," I would appropriate millions without any hesitation at all. As regards the erection of fortifications and defenses for the protection of the country, I would not give my assent to do any act that would cut short what is necessary to put our harbors in a perfect state of repair to meet all emergencies. This is a national duty; it enters into the question of national safety and defense. What legislators would hesitate to appropriate money for this purpose? It would not only be remiss, but the act of bad faith to do so.

But what I want to bring to the attention, the judgment, and the reason of the House, if the House has its reason—and I begin to think from the last five or six hours' experience the House has lost its reason—what I want to bring to the attention of the House is that to these great measures of public necessities of making your great rivers navigable and putting your harbors in a state of perfect repair you should give and give liberally; but do not under this system of logging, plainly shown in this bill by granting money for surveys of inconsiderable streams that can amount to nothing with the expenditure of any sum and will only serve as an example in the future for wasteful expenditures of the public money. I know that the good sense of the House, if it can be brought to think of it as it ought, will take this view of the case. I am far from opposing any useful appropriation of money for the improvements of the rivers in Pennsylvania. I am not influenced by any other than sound judgment. Where money can be used properly for this purpose I will hold up both hands for it. Where it cannot be done I will oppose the waste of public money as well in my own State as any others.

This bill draws from the Treasury over seven millions, and that money, or at least half of it, can be appropriated to much better purposes. There are ways enough in which this can be done. There are none within the sound of my voice but can understand this.

I would have voted for the bill if there had not been introduced into it all these new subjects. But for these I should have given it a hearty support, and I only regret it was not in my power to do it. And I think we, the minority, must not be condemned for not voting for the bill, because there are measures in it which ought not to have received the attention of the committee nor the countenance of Congress. Strike them out, and this opposition to the bill will cease. We are not fighting against making a perfect navigation of the Mississippi and its great tributaries. We are not fighting against putting the seaboard and the lakes in a perfect state of defense. We would grant all the money that is necessarily required for these purposes. We are not fighting against such a line of policy, but we are fighting against a combination bringing new measures, which never can be of the least benefit to the public and because every dollar thus granted is absolutely thrown away. The public moneys should not be squandered by millions under such slender prettexts. There are famishing men to whom it would be more wise and provident to bestow it upon.

[Here the hammer fell.]

Mr. WRIGHT. Has my time expired?

The SPEAKER. The gentleman's time is out.

Mr. YOUNG. I move that the House adjourn.

Mr. HALE. I yield to the gentleman from Pennsylvania [Mr. WHITE] five minutes.

The SPEAKER. Does the gentleman from Maine yield for the motion to adjourn?

Mr. HALE. Not at present.

Mr. YOUNG. I withdraw the motion.

Mr. WHITE, of Pennsylvania. I am obliged to the gentleman from Maine [Mr. HALE] for his courtesy.

Mr. HALE. There is a general idea that the gentleman from Pennsylvania [Mr. WHITE] will finish the speech his colleague [Mr. WRIGHT] was not able to finish. [Laughter.]

Mr. WHITE, of Pennsylvania. That is my intention, but not in the way my colleague would have finished. I shall pursue a different vein of thought. I again thank the gentleman from Maine for the courtesy of the floor for a brief period.

Mr. Speaker, I am pleased my colleague [Mr. WRIGHT] made the apologetic speech he has just closed. Something of that kind was necessary after his utterances of a few moments ago. When we started on this discussion he was unable to pronounce the euphonious word Kiskiminetas. He has been instructed by the few minutes' discourse we have had. He now rapidly pronounces that musical word smoothly and sweetly. A little more debate about our rivers and the necessities and requests of Western Pennsylvania, and the geography of my colleague from the Wilkesbarre district will improve as rapidly as his pronunciation.

Now, sir, a few words about the policy of this bill. There may be some of its details objectionable and obnoxious to the severest criti-

cism. The amount appropriated is large, not too large, I trust, to embarrass the Treasury of the country. It will be drawn out gradually and will be distributed like the dews of heaven upon all sections of the country. I have no time to dwell in detail; if so, I could indicate various objections. But, sir, this measure is in the interest of public improvement—to make available for an internal commerce, at a time when labor is cheap and seeking some employment, the avenues for commercial intercourse constructed with such liberal hand by the Author of our being in different parts of the country.

A few years ago we did not have bills like this so general in their character. The earlier history of the country does not give us general river and harbor appropriation bills. But, sir, the policy of Government aid in internal improvements in the development of our resources has obtained in the country for many years, and has obtained after a long struggle among the earlier statesmen. I am too young to have known Henry Clay, but I was brought up in that old whig school of politics of which he was so conspicuous an exponent; which invited the fostering, powerful hand of the Federal Government in promoting commerce among the States and with foreign nations by making more navigable our rivers, and more safe our harbors. This attractive man, a liberal statesman, as early as 1824, in discussing "a bill authorizing the President to cause certain surveys and estimates to be made on the subject of roads and canals," said:

It is said that the power to regulate commerce merely authorizes the laying of imposts and duties. But Congress has no power to lay imposts and duties on the trade among the several States. The grant must mean, therefore, something else. What is it? The power to regulate commerce among the several States, if it has any meaning, implies authority to foster it, to promote it, to bestow upon it facilities similar to those which have been conceded to our foreign trade. All the powers of this Government should be interpreted in reference to its first, its best, its greatest object—the Union of the States. And is not that Union best invigorated by an intimate social and commercial connection between all parts of the confederacy?

The subsequent practices of the Government have sanctioned this policy. But, sir, I have no time for extended remarks. There can now be no doubt of the clear constitutional power of Congress to make general appropriations for the improvement of the navigation of the rivers of the country to make them convenient avenues for the trade of the people.

It is to be found in that eighth section of first article of the Constitution giving Congress "power to regulate commerce with foreign nations and among the several States." In a noted case, *Gibbons vs. Ogden*, 9 Wheaton, 196, Chief-Justice Marshall says:

This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution.

And if any doubt this there is ample authority to declare that the power to regulate commerce among the several States does not stop at State lines, but may be exercised within the territorial jurisdiction of a State. Says Justice Johnson in the same case:

The power of Congress does not stop at the jurisdictional lines of the several States. It would be a very useless power if it could not pass those lines. The commerce of the United States with foreign nations is that of the whole United States. Every district has a right to participate. The deep streams which penetrate our country in every direction pass through the interior of almost every State of the Union, and furnish the means of exercising that right. If it exists within the States then the power of Congress may be exercised within a State.

So, then, sir, there is ample authority in the practices of the Government and in the direct utterances of the highest Federal court of the power of Congress to make the appropriations of the character contemplated in this bill. It is wise at a time like this to do so. Sir, labor is at a standstill in many parts of the country. He is a public benefactor who invents some useful employment for the idle thousands.

It is said we are approaching hard-pan in the business of the country, indeed have arrived there; if so, let us now take a new departure on the hard-pan principle. Hard-pan prices have been reached; let the Government, then, at these low rates profit as well as the private citizen. Let the nation seize this opportunity to do so much good for itself and its idle subjects. Such, then, being a wise policy, why hesitate? Why find fault? The gentleman from Pennsylvania [Mr. WRIGHT] pauses at the threshold and complains at the appropriations for the survey of the Allegheny, of the Kiskiminetas and Conemaugh in Western Pennsylvania. Why this? I have before, a few moments since, spoken of this. Let the distinct issue be made with him and others who object, right here on the record. Why shall Government aid be not given to improve the navigation of the Allegheny if it is practicable to do so?

It is a stream, not merely local in its character, rising in New York. By steamboat navigation it has long since borne commodities from Olean, from Jamestown, and other points in that State to the Ohio and Mississippi. The Allegheny and Monongahela, uniting at Pittsburgh, form the Ohio. Much of the lumber trade to Pittsburgh comes down the Allegheny. Why, sir, steamboat navigation has existed on this stream from Pittsburgh up to Olean. Steamboats have run more than six months in the year more than a hundred miles up. At this very time, as I was informed a few days since, some of the manufacturers and steamboat-owners at Pittsburgh and vicinity are raising a fund among themselves—a few thousand dollars—to dredge out the channel at what is called Garrison's Island and Six Mile Island, above Pittsburgh, which, when done, will give a clear channel and steamboat navigation to the mouth of the Kiskiminetas, twenty-seven miles

above Pittsburgh. There are manufactories at Freeport, opposite, giving a market for staves which come up the Ohio from West Virginia to Pittsburgh.

There are some two hundred thousand of these in barges lying at Pittsburgh in the Allegheny, waiting the rising of the water to go up the river to a market. A few thousand dollars judiciously expended in dredging, and possibly in the erection of a few dams, would make this stream navigable all seasons of the year. Then, sir, it penetrates the great oil region. With this river navigable to that point for barges and heavy freights it would relieve the great question to some extent of the discrimination in freights which is now so much tormenting the trade of that region of country. Sir, the improvement of this stream helps the commerce of the nation. It is a feeder of the Ohio, the Ohio of the Mississippi, and thence to the ocean. With the improvement of the Allegheny, with such aid as will make it navigable at all seasons of the year, the improvement of the Kiskiminetas and Conemaugh will follow as tributaries to the trade of the Allegheny and Ohio.

Why, sir, I hold in my hand now an official document with maps and charts. It is the report of the Senate Committee (of 1874) on Transportation Routes to the Seaboard, a Senate document. The purpose of this committee was to discover and report upon such water routes of transportation between the States and to the ocean as were cheap and practicable. I find these very rivers, Kiskiminetas and Conemaugh mentioned favorably as links in the chain from the Ohio to Delaware Bay. Hear a moment from a distinguished engineer cited in this report, page 96. The subject of great water communication seems yet to have inspired no very active interest in Pennsylvania, yet I question whether there is a State in the Union which has better claims for notice in that particular at the hands of the General Government. After explaining the question he says:

The seaboard may be reached from the Ohio by three different routes commencing at Pittsburgh. The first ascends the Allegheny River to the mouth of the Kiskiminetas, and thence by the Conemaugh reaches the Allegheny Mountains, through which a tunnel would connect the eastern and western waters, and the Valley of the Juniata would be used to reach the Susquehanna and thence the sea at our new seaport on Delaware Bay, a distance of something over four hundred miles, say four hundred and twenty-five. A canal has existed on this whole line except through the summit of the mountain, which was overcome by a portage railway.

This route was spoken of favorably by the Senate committee. This engineer, who is more familiar with our State than my colleague, is Colonel James Worrall, who is in full life and activity. It was wise then in this bill to provide for the survey of these streams and call for an estimate from scientific engineers of the expense of their utilization for constant navigation. I have no time to dwell.

Mr. SOUTHWARD. I would like to ask the gentleman a question.

Mr. WHITE, of Pennsylvania. I cannot yield now. I have been induced to these remarks because of my colleague's characterizing these rivers inconsiderable streams.

Mr. WRIGHT. Do you say they are not?

Mr. WHITE, of Pennsylvania. I say they are not. I say that they are important and can be made valuable for internal commerce.

Mr. WRIGHT. How large?

Mr. WHITE, of Pennsylvania. I refer the gentleman to the report of distinguished engineers which I have in my hand, from which it appears that these streams are twice the width of this Capitol. I have the map here. If he will look he can see for himself.

Mr. WRIGHT. How large are they?

Mr. WHITE, of Pennsylvania. Not less than three hundred feet across.

[Here the hammer fell.]

Mr. HALE. I yield one minute to the gentleman from Kentucky [Mr. TURNER.]

Mr. TURNER. It was at my instance that the survey of the Licking River was placed in this bill. It has been stated that it is not a stream of any consideration. As far back as 1835 it was surveyed by order of the Kentucky Legislature by distinguished engineers and a report was made to the Legislature that it was navigable two hundred and fifty miles, slack-water navigation, opening up one of the richest fields for coal and iron and other resources.

Mr. HALE. I now yield for five minutes to the gentleman from West Virginia, [Mr. KENNA.]

Mr. KENNA. Mr. Speaker, I have no desire whatever to detain the House. I realize the condition of its sentiment in regard to this matter, but I regard it as a duty to the Committee on Commerce, who prepared and reported the bill under discussion, and to the members of this House who cast their votes for it, that I should say a word or two upon its merits.

I shall not partake of the spirit which has characterized the discussion which has been going on. My object is to say a few things about the manner in which the bill passed by the House was prepared by the Committee on Commerce. In the first place I want to repudiate the idea on my own behalf and on behalf of all the members of the committee that any log-rolling was indulged in or was necessary to secure the passage of this bill. The evidence has been ample here that if a resort to that system had been necessary the strength of this bill could have been increased to a very great extent. There is no item in the bill for which one single dollar was appropriated which has not been thoroughly examined, surveyed and reported upon favorably by the engineers of the Government and which the committee, upon full examination of the recommendations

of the Engineer Corps and of every other available means of information, did not believe would be important in its relation to the commercial facilities of the country. I can vouch personally for this much. And let me say in this connection that the principal hostility which has been displayed both toward this bill and toward the gentlemen who have supported it, has not come from the fact that the bill takes \$7,000,000 out of the Treasury, but from the fact that it fails to contain appropriations which the committee could not consistently and properly put in the bill, and which were asked for by members.

Mr. COX, of New York. That does not apply to me?

Mr. MAISH. Nor to me.

Mr. BLACKBURN. I rise to a question of personal privilege.

Mr. COX, of New York. I desire to make a point of order upon the remark of the gentleman.

Mr. KENNA. If gentlemen will let me proceed they will see that there is nothing in my statement, if adhered to strictly, that reflects upon any gentleman. I did not intend, and upon an examination of my language the idea cannot be maintained, that it is susceptible of such a construction as possibly to be an implication upon any gentleman. I do not accuse any gentleman on this floor of improper motive or action on this matter. But I do say and I mean what I say, and I stand by it, that there have been votes cast by gentlemen on this floor in opposition to this bill because of the fact that their propositions were not favorably entertained by the committee.

Mr. BLACKBURN. Name those men.

Mr. BEEBE. If the gentleman will not name the men, then, as one who voted against this bill and refused two years ago to support such a bill, I say that his statement does not apply to me.

Mr. KENNA. The gentleman's explanation is wholly unnecessary.

Mr. STENGER. I disclaim for myself.

Mr. RICE, of Ohio. And I also.

Mr. McMAHON. I signed that paper, and I do not think I was before the Committee on Commerce.

Mr. CLYMER. And I ask the gentleman to except me.

Mr. KENNA. If gentlemen insist upon imputing to me the idea of charging improper motives or conduct upon them in this matter, then it may be necessary for me to make myself better understood. But I have not intended to do any such thing and I have not done it. I have not used a word that indicates that any gentleman has been prompted in this matter by improper motives.

Mr. STENGER. Does the gentleman think it would not be improper to cast a vote against this bill simply because a man's district has not been recognized in it?

Mr. KENNA. That is just where the gentleman misunderstands me. I do not say that it was improper for any gentleman to cast any vote. I have not said that it was improper for any gentleman on this floor to vote according to his judgment either for or against this bill.

Mr. REILLY. Did not the gentleman say in language as plain as he could use that if more money had been in the bill it would have received more votes?

Mr. KENNA. I did say that, and I stand by it.

Mr. CLARK, of Missouri, and others. Give the names.

Mr. KENNA. I decline to be further interrupted or forced into a personal assault upon any member.

The SPEAKER. The time of the gentleman has expired.

Mr. KENNA. I have been interrupted and I ask the gentleman from Maine [Mr. HALE] to yield to me a little farther.

Mr. BLACKBURN. I rise to a question of personal privilege.

The SPEAKER. There is already one question of personal privilege pending.

Mr. KENNA. The gentleman from Kentucky [Mr. BLACKBURN] insists upon a privileged question, when he is not included in the remarks. He was not before the committee.

Mr. BLACKBURN. When I can be recognized I desire to rise to a question of personal privilege.

Mr. CARLISLE. I ask the gentleman from Maine [Mr. HALE] to yield to me for a few minutes.

Many MEMBERS. Vote! Vote!

Mr. HALE. I yield to the gentleman from West Virginia [Mr. KENNA] a few minutes further.

Mr. KENNA. I hope there may be order so that I can proceed without further annoyance. [After a pause.] I have stated clearly what I intended, and I want to be distinctly understood upon that proposition; I do not mean to be forced into personalities here, nor, if I know myself, do I intend to be forced out of the position I occupy into a false one.

I have repeatedly stated, and in order that it may be well understood, I will state it again, that applications were made to the Committee on Commerce, arguments were made before the committee for increase of appropriations already contained in the bill that was passed, and for additional appropriations not contained in it which were rejected. All of them I have no doubt were made in good faith. They were urged upon the committee, and passed upon after a fair, thorough, and laborious investigation of the merits of each and every item, which involved the reading, in open and full committee, during the three months devoted exclusively to this work, over fifteen hundred pages of reports and estimates of the engineers of the Army. Some of those items were rejected, and in other cases the commit-

tee refused to increase the amounts which had been allowed. The failure of the bill last year made larger appropriations this year absolutely necessary. Works in many instances were left in a half-completed condition. They were impaired by neglect, injured by time and storm, and hence a bill reported now, which practically covers two years, is necessarily large.

I know that in some instances dissatisfaction was created by the action of the committee. Some of the gentlemen thought the rights and needs of their section had not been recognized according to their merits. They were not content and acted accordingly. That is the extent to which I go, as far as I want to go or mean to go, and I cannot conceive that the statement can be contorted into a reflection upon any gentleman upon this floor.

One word further in regard to these surveys. I was chairman of the subcommittee appointed to consider and report upon them. I thought, and I confess that nothing has occurred to divest me of that confidence, that when a member on this floor stated to that subcommittee the facts upon which his application for a particular survey was based, the subcommittee had a right to believe those facts to be true and to act accordingly. I say now to you, Mr. Speaker, and to this House, that I have seen nothing to divest me of that opinion.

The bill provides for examinations or surveys as the case may be. One hundred and fifty thousand dollars is the aggregate sum appropriated for all the surveys authorized by the bill. Of that sum not one dollar is designated for any particular stream. The whole question of the propriety of surveying any stream is therefore left practically with the engineers, who of all men on earth ought to know their business. Moreover, if any stream named in the bill is of the character which has been so recklessly asserted here, the engineers without expense or cost will report that it is inexpedient to undertake its improvement.

I felt called upon to say this much in view of what has occurred in this House, and particularly in view of the very reckless and thoughtless declarations which have been made by members here and by the press throughout the country, declarations calculated to create the impression upon persons ignorant of the subject that the members of this House had combined together as a band of highway robbers for no other purpose on earth than to secure such a bill as would control a majority in its favor. God knows, sir, that no committee of the House has striven more assiduously to perform its labors honorably and fairly than the Committee on Commerce has done. As one of its members, I feel authorized to make a remark applicable to all who constitute that committee. I do so upon my personal knowledge of the facts. I do not believe that section or State or politics or any consideration has actuated them, save an honest desire to do their duty. The faithful performance of that duty has been abundantly vindicated by the action of this House.

If the bill does not happen to meet the approval of twenty or thirty gentlemen representing a minority on this floor, the majority of this body, representing nearly two hundred, ought no doubt to be very sorry for it. So far as I am concerned I have endeavored to do my part fairly and faithfully; and I believe that every other member of the committee has done likewise. I believe that the overwhelming majority which passed this bill has been prompted by the same spirit. [Here the hammer fell.] One moment more. I wish to add that of all the times in the history of this Government there never was a period when public work could be done so cheaply as now. The advantages to be derived from the increase of our commercial facilities will compensate tenfold for every dollar expended. The bill contains a provision authorizing the carrying on of the work by hired labor, and I desire to remind gentlemen here that it is the only bill passed or to be passed by this Congress in the present distressed and ruined condition of the country which appropriates a farthing that will reach the hands of actual labor. Under the provisions of this bill, while the Government realizes full value received for all it expends, every dollar of it will go to the relief of the unemployed millions in the land.

Mr. CARLISLE. I now ask the gentleman from Maine to yield to me for a few moments?

Mr. HALE. I yield five minutes to the gentleman from Louisiana, [Mr. ELAM.]

Mr. ELAM. I am very much obliged to the gentleman from Maine; but as I am allowed so brief a time, and as the House is evidently so desirous to come to a vote, I will not occupy time with any remarks.

Mr. HALE. I yield three minutes to the gentleman from Indiana, [Mr. HAMILTON.]

Mr. HAMILTON. Mr. Speaker, because we allow a leech to suck a few drops of blood from our arms, are we to let that leech remain there until the last life-drop is gone? Because in the Forty-fourth Congress some of us saw fit to vote to give for these small streams the appropriations then asked, are members from those localities to come here in the Forty-fifth Congress and demand more? Is there no generosity in the world? Has it fled from the earth? Are we always to continue to give because we have once given? Is this iniquitous legislation to continue? It was iniquitous legislation in the Forty-fourth Congress to attempt to pass the bill under a suspension of the rules. I do not propose to plead the "baby act" by any manner of means. But it was my first session in Congress; and I did believe then that committees might come with bills when it was a unanimous report which it would be safe to put through under a suspension of the rules. But, sir, I find I was woefully mistaken. I

now know that committees may report unanimously bills which we never ought to pass. At that time I had no opportunity of studying the bill. I did look over such provisions as affected parts of the country I knew something about; and I presumed that the bill was right because a proper sum was allowed to those portions of the country. I had no opportunity at that time to examine the bill; and I took it upon the faith of the committee.

The vote I gave in the Forty-fourth Congress I regret. I never would do it again. The vote I gave on this bill in this House I give cheerfully, and I put my name to the protest willingly, and especially because I have found that important bills appropriating money should be carefully considered in the House and not taken on the report of a committee simply. I will never take another bill simply on the report of any committee—never! never! never! [Laughter and applause.]

Mr. HALE. I now yield to the gentleman from Minnesota, [Mr. DUNNELL.]

The SPEAKER. The Chair desires to say that he thinks he could of his own volition bring this debate to a close; but as one side of the House has had one hour, he was willing that a like amount of time should be occupied by the other side. When, however, the gentleman from Maine yields to gentlemen who do not wish to speak, the Chair thinks the gentleman had better allow the question to be taken.

Mr. HALE. I would be very glad if the Chair had originally brought the matter promptly to a vote.

The SPEAKER. The Chair would have done so, had he not thought that it would not be exactly fair to both sides.

Mr. HALE. I announced to the House in the first place that I had no desire to use any time. I was immediately appealed to personally by many gentlemen, friends of mine, for a little time, which I could not well refuse, as I did not want to use it myself. I have been anxious all the time to obtain an early vote and to get rid of this matter as soon as possible. If the Chair is now inclined to interpose to arrest the progress of the debate and bring the matter to a conclusion, I shall not object.

The SPEAKER. The Chair is prepared to rule now upon the points involved. In so far as this paper is concerned—

Mr. DUNNELL. Is debate closed?

The SPEAKER. It is.

In so far as this paper alludes to the rules of the House, the Chair on yesterday decided that point: that a suspension of the rules vacated them and for that occasion made them inoperative.

So far as the constitutional point alluded to in this paper is concerned, the Chair on yesterday stated it was not within his province to construe the Constitution any more than it would be in the case of an amendment to cut off the House from determining whether such an amendment was contrary to law or not.

But in so far as this question of a protest is concerned and whether as a question of privilege it acquires the right to be read and the right to be placed upon the Journal, the Chair desires to refer to the proceedings of former Congresses. In the Third Congress, presided over by Mr. Muhlenberg, of Pennsylvania, Mr. Garnett, of Virginia, was allowed to spread upon the Journal the reasons of a vote given by him. In the Journal will be found the reasons in full, which the Clerk will read.

The Clerk read as follows:

Mr. Swift, of Maryland, moved that the House do reconsider the vote taken on Saturday last on the question Shall the declaration of Mr. Garnett then presented detailing the reasons for and motives of his vote on Thursday last on concurring with the Committee of the Whole on the state of the Union in their agreement to the first resolution subjoined to the report of the Committee on Foreign Affairs on the subject of a recognition of the independence of the late Spanish American provinces. And on the question Will the House reconsider the said vote? it passed in the affirmative.

And on the question Shall the said paper be placed on the Journal? it passed in the affirmative—yeas 89, nays 71.

The SPEAKER. The next precedent which the Chair has been able to consider was in the Twenty-eighth Congress, over which Mr. J. W. Jones, of Virginia, presided. New Hampshire, Georgia, Missouri, and Mississippi elected their Representatives by general ticket. Mr. Barnard, of New York, and forty-nine other members signed a protest against the admission of Representatives from said States. The Journal of the House says Mr. Barnard so framed his protest as to embody it in a resolution. Subsequently, on motion, the Journal was corrected so as to make it appear that the protest had got upon the Journal surreptitiously. It will be observed that the latter suggestion was the ground given for refusing it to be on the Journal. In both these cases, however, the papers were read and considered.

The next case to which the Chair has had his attention directed is a case in the Thirty-first Congress, and is the one occurring in the Senate alluded to in the Manual. The decision quoted in the Manual, page 249, under the heading of "Protest," was a protest on the part of certain Senators against the passage of a bill admitting California into the Union as a State. After extended debate the Senate decided by yeas 22 to nays 19 to lay the whole subject upon the table. This protest was signed by Senators Hunter and Mason of Virginia, Butler and Barnwell of South Carolina, Soule of Louisiana, Jefferson Davis of Mississippi, and other Senators. That paper appears of record, but did not go, the Chair presumes, on Senate Journal.

The next is a case in the Thirty-sixth Congress, when John B.

Clark, of Missouri, (I believe the father of a respected member of this House,) claimed the right to submit a preamble and resolution, but the Clerk in that case declined to entertain it, on the ground he had not the power to do so pending the organization of the House. The same was read however.

Again in the Thirty-ninth Congress, Mr. Brooks—it was the case alluded to yesterday—claimed the right to put upon the record a protest against the way in which the Clerk made up the roll of members. The record shows that it was inserted in the proceedings, but the Clerk declined to recognize it, because he was then acting under the operation of law which instructed him as to the making up of the roll of members.

It will thus be seen in every instance the Chair has mentioned the reading of the paper was allowed and that in one instance the Journal contains the protest.

The Chair, as an individual opinion, thinks that where a protest is respectful in terms no harm can come by allowing such courtesy as will place such respectful protest of record in the Journal, especially in a case where debate was not allowed and there was no possibility of amendment. Following, however, the rules which govern him in the administration of his duties as presiding officer, the Chair submits the question to the House itself to determine whether there is here presented or not a question of privilege. Those who think it involves a question of privilege will vote in the affirmative and those who are of a contrary opinion will vote in the negative.

The question being taken, the Speaker stated that the "noes" appeared to have it.

Mr. STINGER. I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were—yeas 39, noes 142.

So (the affirmative being more than one-fifth of the whole vote) the yeas and nays were ordered.

Mr. MILLS. I move to reconsider the vote by which the yeas and nays have been ordered. I wish to make a suggestion. I think the House will agree that the protest shall be received and filed as a matter of courtesy, not as a right.

Several members called for the regular order.

The question being taken on the motion to reconsider the vote by which the yeas and nays were ordered, it was decided in the affirmative.

The SPEAKER. The question recurs on taking the vote by yeas and nays.

The question being put, there were yeas 33, not one-fifth of the last vote.

Mr. BEEBE. I call for tellers on the yeas and nays.

Tellers were ordered; and Mr. HALE and Mr. MILLS were appointed. The House again divided; and the tellers reported yeas 47.

So (the affirmative being more than one-fifth of the last vote) the yeas and nays were ordered.

The SPEAKER. The Chair will state the question. Those who are of opinion that this paper contains a question of privilege and should be of record on the Journal will vote affirmatively and those of a contrary opinion will vote in the negative.

Mr. SAYLER. I desire to make an inquiry of the Chair. Does the proposition submitted by the Chair to the House involve this additional idea that the offering of a protest is a privileged question in the sense that it takes precedence of all other business of the House?

The SPEAKER. The Chair decides when a gentleman rises in his place and states he is on the floor on a question of privilege then the rule requires that that question should be disposed of at once, interrupting everything else.

Mr. SAYLER. In other words, that a vote in the affirmative is a vote to declare that the reception of a protest becomes a question of privilege when a gentleman rises to offer a protest.

The SPEAKER. The Chair submits to the House whether the matter presented in the protest is a question of privilege or not.

Mr. BURCHARD. That is, whether a protest of a member is a question of privilege.

Mr. KNOTT. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. KNOTT. I desire to know if the question now is whether a member has a right as a matter of privilege to ask that his protest be entered on the Journal. I wish to know whether that is in question or not.

The SPEAKER. The Chair asks the gentleman from Kentucky to repeat his question.

Mr. KNOTT. My question is this: If the question now submitted to the House is whether a member has a right as a matter of privilege to ask that his protest be received and entered of record.

The SPEAKER. The Chair will state the way in which the question arose. The gentleman from New York rose in his place and stated he rose to a question of privilege. He then submits a paper and asks that it be read as part of his remarks thereon. The question that the Chair now submits to the House—and it is submitted in the manner provided in the Manual—is this: Is there a question of privilege involved in the matter set forth in that protest or that paper?

Mr. RICE, of Ohio. The question submitted to the House, in other words, is whether a protest is a question of privilege.

The SPEAKER. It is whether the House will receive the matter

presented in the paper as a question of privilege, and not every protest that may be offered. The question stated by the gentleman from Ohio is not involved.

Mr. BLAIR. I wish to inquire whether the effect of this vote, if carried in the affirmative, is to receive and file the protest?

The SPEAKER. The effect of a vote in the affirmative is this, that the House declares that this paper, which is submitted by the gentleman from New York and which is described as a protest, is a question of privilege.

Mr. SPRINGER. And should go upon the record?

The SPEAKER. If the House decides that it is a question of privilege, it will go upon the Journal; not otherwise.

Mr. HEWITT, of Alabama. I rise to a parliamentary inquiry. I understand that the vote is simply upon the question of whether this protest is a question of privilege, and not upon the question whether it shall be entered upon the Journal.

The SPEAKER. The Chair repeats, if it is a question of privilege it will go upon the Journal.

Mr. HEWITT, of Alabama. But that is not the question now submitted to the vote of the House.

The SPEAKER. The question submitted is: is the matter in the protest a question of privilege?

Several members called for the regular order.

The question was taken; and there were—yeas 52, nays 180, not voting 59; as follows:

YEAS—52.

Baker, John H.	Cobb,	Jones, Frank	Rice, Americus V.
Beebe,	Collins,	Knott,	Robinson, M. S.
Benedict,	Cox, Samuel S.	Lapham,	Sparks,
Bragg,	Dickey,	Lockwood,	Springer,
Bridges,	Durham,	Luttrell,	Stenger,
Browne,	Errett,	Mackey,	Turner,
Caldwell, John W.	Finley,	Maish,	Turney,
Caldwell, W. P.	Fort,	Marsh,	Vance,
Canon,	Hamilton,	McKenzie,	White, Harry
Chalmers,	Hart,	Mitchell,	Whithorne,
Claffin,	Henderson,	Morse,	Willis, Albert S.
Clark, Rush	Henkle,	Nad,	Wright,
Clymer,	Hungerford,	Reilly,	Young,

NAYS—180.

Aeklen,	Denison,	Jones, John S.	Riddle,
Alblich,	Dibrell,	Joyce,	Robbins,
Atkins,	Douglas,	Keightley,	Roberts,
Bacon,	Dunnell,	Kelley,	Robertson,
Bagley,	Eames,	Kenna,	Robinson, G. D.
Baker, William H.	Elam,	Ketchum,	Ross,
Ballou,	Ellis,	Killingier,	Ryan,
Ball,	Evans, I. Newton	Kimmel,	Sampson,
Bicknell,	Ewins, John H.	Knapp,	Sapp,
Blackburn,	Ewing,	Landers,	Saylor,
Blair,	Felton,	Lathrop,	Shallenberger,
Bliss,	Forney,	Ligon,	Singleton,
Blount,	Franklin,	Lindsey,	Sinnickson,
Boone,	Freeman,	Lynde,	Slemmons,
Boock,	Frye,	Manning,	Southard,
Boyd,	Fuller,	Martin,	Starin,
Brewer,	Garth,	McCook,	Steele,
Briggs,	Giddings,	McMahon,	Stewart,
Bright,	Glover,	Metcalfe,	Stone, John W.
Buckner,	Gunter,	Mills,	Stone, Joseph C.
Burchard,	Hale,	Money,	Strait,
Cain,	Hanna,	Monroe,	Thompson,
Calkins,	Hardenbergh,	Morgan,	Thornburgh,
Camp,	Harmer,	Morrison,	Throckmorton,
Campbell,	Harris, Benj. W.	Muldrow,	Townsend, Amos
Candler,	Harris, Henry R.	Muller,	Townsend, M. I.
Carlisle,	Harris, John T.	Norcross,	Van Vorhes,
Caswell,	Hartbridge,	Oliver,	Waddell,
Clark of Missouri,	Hartzell,	O'Neill,	Walsh,
Clarke of Kentucky,	Hatcher,	Overton,	Ward,
Cole,	Hayes,	Page,	Warner,
Conger,	Hazleton,	Patterson, G. W.	Watson,
Cook,	Hendee,	Patterson, T. M.	Welch,
Covert,	Henry,	Peddle,	White, Michael D.
Cox, Jacob D.	Herbert,	Phillips,	Williams, Andrew
Cripe,	Hewitt, Abram S.	Pollard,	Williams, C. G.
Cravens,	Hewitt, G. W.	Potter,	Williams, James
Crittenden,	House,	Pound,	Williams, Jere N.
Cummings,	Hubbell,	Price,	Williams, Richard
Cotter,	Humphrey,	Rainey,	Willis, Benj. A.
Davidson,	Hunter,	Randolph,	Willits,
Davis, Horace	Hunton,	Rea,	Wilson,
Davis, Joseph J.	Ittner,	Reagan,	Wood,
Dean,	James,	Reed,	Wren,
Deering,	Jones, James T.	Rice, William W.	Yeates,

NOT VOTING—59.

Aiken,	Danford,	Hooker,	Shelley,
Banks,	Dwight,	Jorgensen,	Smalls,
Banning,	Eden,	Keifer,	Smith, A. Herr
Bayne,	Eickhoff,	Loring,	Smith, William E.
Bisbee,	Ellsworth,	Mayham,	Stephens,
Bland,	Evans, James L.	McGowan,	Swann,
Brentano,	Foster,	McKinley,	Tipton,
Brogden,	Gardner,	Phelps,	Townsend, R. W.
Bundy,	Garfield,	Powers,	Tucker,
Burdick,	Gause,	Pridemore,	Veeder,
Butler,	Gibson,	Pugh,	Wait,
Cabell,	Goodie,	Quinn,	Walker,
Chittenden,	Harrison,	Scales,	Wigington,
Clark, Alvah A.	Haskell,	Schleicher,	Williams, A. S.
Culberson,	Hiscock,	Sexton,	

So the paper presented by Mr. Cox, of New York, was decided not to involve a question of privilege.

During the roll-call the following announcements were made: Mr. DAVIS, of North Carolina. My colleague, Mr. BROGDEN, is still confined to his room by sickness.

Mr. CABELL. I am paired with Mr. PUGH, of New Jersey. Mr. WILLIAMS, of Michigan. I am paired with Mr. BANKS. I do not know how he would vote upon this question, and therefore I withhold my vote.

Mr. CHITTENDEN. I am paired with Mr. GIBSON, of Louisiana. If he were here, I should vote "no."

Mr. FORNEY. My colleague, Mr. SHELLEY, is paired with Mr. EVANS, of Indiana.

The result of the vote was then announced as above stated.

Mr. MILLS. I move that the protest be received and spread upon the Journal in courtesy to the members who signed it.

The question was taken and the motion was not agreed to.

INDIAN APPROPRIATION BILL.

Mr. SPARKS, from the Committee on Appropriations, reported a bill (H. R. No. 4549) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various tribes for the year ending June 30, 1873, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. SPARKS. I desire to give notice that I shall call up the bill immediately after the post-office appropriation bill shall have been disposed of.

Mr. BURCHARD. And I desire to reserve all points of order upon the bill.

DEFICIENCY APPROPRIATION BILL.

Mr. DURHAM. I rise to a question of privilege. I present a report of the committee of conference, which I ask to have read.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making appropriations for the same; also making appropriations for detecting trespasses on the public lands and for bringing into market public lands in certain States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment numbered 7, and agree to the same, with an amendment as follows: in lieu of "40" insert "20;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 8 and agree to the same, with an amendment as follows: in lieu of said amendment substitute the following:

For railway post-office clerks, route agents, and mail-route agents, \$7,000; and the Senate agree to the same.

M. J. DURHAM,

J. H. BLOUNT.

JNO. H. BAKER.

Managers on the part of the House.

WM. WINDOM,

S. W. DORSEY,

JAS. B. BECK.

Managers on the part of the Senate.

Mr. DURHAM. The House will remember that the balance of the bill has been agreed to by the two Houses, and this is a compromise upon the two clauses upon which the two Houses disagreed. I now move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was agreed to.

Mr. DURHAM moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS L. MOORE.

Mr. HUNTON, by unanimous consent, introduced a bill (H. R. No. 4550) to remove the political disabilities of Thomas L. Moore; which was read a first and second time.

Mr. HUNTON. I will state that the bill is accompanied by the usual petition.

The bill was ordered to be engrossed and read a third time; and was accordingly read the third time, and passed, two-thirds voting in favor thereof.

APPROVAL OF BILLS.

A message from the President of the United States, by Mr. PRUDEN, one of his secretaries, informed the House that the President had signed bills of the following titles:

A bill (H. R. No. 1135) to authorize the issue of a patent to certain lands in the Brothertown reservation, in the State of Wisconsin, to the persons selected by the Brothertown Indians; and

A bill (H. R. No. 4242) to authorize the restoration of George A. Armes to the rank of captain.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. No. 120) authorizing and directing the Secretary of the Treasury to issue an American register to the Canadian-built propeller East by the name of Kent;

A bill (S. No. 870) granting a pension to Rebecca and Augusta Mil-

ler, daughters of Brigadier-General James Miller, of the war of 1812; and

A bill (S. No. 1045) to provide for the administration of the oath of office to collectors and other officers of the customs in the district of Alaska.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. TUCKER, for four days; and
To Mr. PHELPS, for one week.

FORT MACON LIGHT-HOUSE, NORTH CAROLINA.

Mr. KENNA, by unanimous consent, from the Committee on Commerce, reported, as a substitute for House bill No. 2748, a bill (H. R. No. 4551) to establish a light-house near Fort Macon, North Carolina, and to provide day-beacons to mark the channels of Cove Sound; which was read a first and second time, and referred to the Committee on Appropriations.

EVENING SESSIONS.

Mr. BRIGHT. I ask unanimous consent to submit a resolution for consideration at this time. It is very important in relation to the public business.

The Clerk read as follows:

Resolved, That there shall be evening sessions of the House of Representatives, beginning at 7.30 o'clock p. m., Tuesday, Wednesday, Thursday, and Friday of this week; Tuesday evening for general debate only; Wednesday, Thursday, and Friday for the consideration of the Private Calendar. The call of the Calendar shall begin with the first bill and one objection shall prevent the passage of a bill unless it has been previously objected to, in which case it shall require five objections. After all bills not objected to have been disposed of the Calendar shall be called for consideration.

Mr. CONGER. There are several bills to which I shall object at evening sessions, notwithstanding five objections have been made to them already.

Mr. WHITE, of Pennsylvania, and Mr. FINLEY objected to the resolution.

Mr. THORNBURGH. I move that the House now adjourn.

The motion was agreed to; and accordingly (at five o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BRIDGES: The petition of 274 citizens of Lehigh County, Pennsylvania, for Congress to aid in the completion of the Texas and Pacific Railroad—to the Committee on the Pacific Railroad.

By Mr. CRAVENS: The petition of Isabel Richie, for a pension from the date of the death of her husband, James A. Richie—to the Committee on Invalid Pensions.

By Mr. FORNEY: The petitions of Hon. L. E. Hamlin and other citizens of Etowah County, and of Hon. T. W. McMinn and other citizens of Cullman County, Alabama, for the favorable consideration of House bill No. 1670—to the Committee of Ways and Means.

By Mr. HARMER: Memorial of merchants and manufacturers of Philadelphia, Pennsylvania, and vicinity, protesting against the passage of the tariff bill now before Congress on the ground that in the present depressed condition of the country such legislation would be injurious to the business community—to the same committee.

Also, memorial of the Philadelphia Board of Trade, remonstrating against the transfer of the life-saving and coast-guard service from the Treasury to the Navy Department—to the Committee on Commerce.

By Mr. HUMPHREY: Memorial of the Legislature of Wisconsin, for the improvement of the condition of the Oneida tribe of Indians—to the Committee on Indian Affairs.

By Mr. HUNTON: Papers relating to the claim of Charles Kirby—to the Committee on War Claims.

By Mr. LUTTRELL: The petition of Joseph B. Collins, that he be reappointed an officer in the United States Army and placed upon the retired list—to the Committee on Military Affairs.

By Mr. MACKEY: Concurrent resolutions of the Legislature of Pennsylvania, requesting the Senators and Representatives in Congress to aid in the passage of a bill for the payment of arrears of pension to soldiers of the late war—to the Committee on Invalid Pensions.

By Mr. O'NEILL: Memorial of the underwriters of Philadelphia, Pennsylvania, and other citizens interested in commerce, urging an appropriation to enable the Light-House Board to use the Courtenay automatic buoy as beneficial to navigation—to the Committee on Commerce.

By Mr. PRICE: Memorial and joint resolution of the Legislature of Iowa, in reference to securing a commercial highway by water between the Mississippi River and Lake Michigan via the valley of the Fox and Wisconsin Rivers—to the same committee.

By Mr. ROSS: The petitions of Richard Decker, Martha Fordham, and John W. Van Belt, for pensions—to the Committee on Invalid Pensions.

By Mr. RYAN: A paper relating to the claim of D. W. Boutwell—to the Committee on War Claims.

Also, papers relating to the claim of William O. Redden—to the Committee on Military Affairs.

By Mr. STEPHENS, of Georgia: The petition of B. H. Wright, for the early resumption of specie payments and proposing a plan to accomplish this object—to the Committee on Banking and Currency.

By Mr. THORNBURGH: A paper relating to the claim of John Blankenship—to the Committee on Military Affairs.

By Mr. VANCE: The petition of William W. Hubbell, that the Government purchase his patent musket for the use of the Army and Navy—to the Committee on Patents.

Also, the petition of William W. Hubbell, for reasonable compensation for the use of his inventions in breech-loading fire-arms and ammunition—to the same committee.

Also, papers relating to the claim of Edward Kolb, of Washington, District of Columbia, for compensation for board of Richard Field, Delegate from the Cherokee Nation—to the Committee on Appropriations.

By Mr. WILLIS, of New York: Remonstrance of Mackellar, Smiths & Jordan, and other type-founders of New York, Cincinnati, Richmond, Boston, Baltimore, and other cities, against that part of the tariff bill which relates to duties on type materials—to the Committee of Ways and Means.

By Mr. YOUNG: The petition of Lucy E. Dowdy, executrix, &c., for compensation for property taken by the United States Army—to the Committee on War Claims.

IN SENATE.

WEDNESDAY, April 24, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

THE JOURNAL.

The Journal of yesterday's proceedings was read.

Mr. MORRILL. I ask for the correction of the Journal in relation to the bill (H. R. No. 151) directing the Secretary of the Treasury to refund to the Society of the Sons of St. George, established at Philadelphia, the sum of \$1,440.25 in gold, being the amount paid by said society upon a colossal statue of St. George and the Dragon. It was reported from the Committee on Finance adversely instead of without amendment.

The PRESIDENT *pro tempore*. The Journal will be amended according to the correction suggested.

The Journal was approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in answer to a resolution of the 18th ultimo, a report relative to the necessity for erecting beacon-lights to mark the channel on the line of inland navigation through North Landing River, Currituck Sound, and North River, North Carolina; which, on motion of Mr. MERRIMON, was referred to the Committee on Commerce, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the Commercial Exchange Association of Philadelphia, against the transfer of the life-savings service from the Treasury Department to the Navy Department, and in favor of the passage of the bill on the subject introduced in the House of Representatives by Mr. ROBERTS; which were ordered to lie on the table.

Mr. WALLACE. I present a memorial of publishers and booksellers of Philadelphia, remonstrating against the reduction of duties proposed by the bill known as the Wood tariff bill, and in favor of a commission of inquiry upon the subject of duties upon imports. This memorial is largely signed by houses of repute, including such as Henry C. Lea, J. B. Lippincott & Co., Claxton, Remsen & Haffelfinger, Porter & Coates, and others, the whole book-publishing trade of the city of Philadelphia. The memorial is brief, and I ask that it be read for the information of the Senate. It presents the points distinctly and forcibly.

The PRESIDENT *pro tempore*. The memorial will be read, there being no objection.

The memorial was referred to the Committee on Finance, and read, as follows:

*To the Senate and House of Representatives
of the United States in Congress assembled:*

We, the publishers and booksellers of Philadelphia, do most respectfully and earnestly protest against the reduction of the duty on books proposed in the tariff bill now before Congress, and we pray your honorable bodies that if any change be made it may be in converting ad valorem into specific rates. The unequal competition endured by all manufacturers in a community so highly taxed as ours, struggling against the cheaper labor, capital, and production of Europe, is rendered especially oppressive in the article of books by reason of the nature of the business. The foreign producer, secure in his own market, whence his profit is derived, ships to this country his surplus, content with a fractional profit over the mere cost of paper and press-work, and under an ad valorem rate his invoice at such cost may not unfrequently enable him to introduce his goods at a duty of but 5 or 10 per cent. on the ordinary price, instead of 25 per cent., as is the intention of the existing tariff. Under such a competition the interests connected with the book manufacture, including printers, binders, paper-makers, and others, are already suffering severely, and the proposed reduction of the duty to 20 per cent. threatens still further prostration, while an alteration to a specific rate of twenty or twenty-five cents per pound or a judicious combination of specific and ad valorem rates would

put an end to undervaluations, would benefit the honest importer, would increase the revenues, and would lend a much-needed support to an industry which for moral as well as commercial reasons deserves the utmost consideration at your hands.

We further respectfully represent that, in our opinion, in the existing depressed condition of all the industries of the country, the agitation of the tariff question is ill-advised, and we especially deprecate the principle of the pending bill in placing on the free list all unenumerated articles, thus making free trade the rule and protection incidental. We therefore earnestly pray that the whole subject of tariff legislation be postponed until there may be an opportunity for careful investigation into details, and a measure can be framed which will be just alike to consumer and producer and may be regarded as permanent.

We also believe that in the bill for classification of mail matter, now before Congress, the clause allowing books to be imported free of duty through the mails threatens grave injury to all the industries concerned in the manufacture of books, and we therefore protest against it as a flagrant injustice and as a precedent of which the logical development would be to transfer a large portion of the importation of general merchandise from the custom-house to the post-office.

Mr. MORGAN presented the petition of Mary J. Padgett, of Allenton, Wilcox County, Alabama, praying compensation for property taken and appropriated by United States military forces during the late war; which was referred to the Committee on Claims.

He also presented the petition of the heirs of Thomas K. Beck, deceased, late of Wilcox County, Alabama, praying compensation for fifty-seven bales of cotton taken and appropriated by the officers of the United States Government during the late war; which was referred to the Committee on Claims.

Mr. CAMERON, of Wisconsin, presented a memorial of the Legislature of Wisconsin, in favor of the passage of an act by Congress for the equalization of bounties; which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the petition of Caspar Wolf, of Baltimore, Maryland, praying to be allowed arrears of pay as captain of the Fifteenth New York Artillery, in the late war, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the Committee on Claims, to whom the subject was referred, reported a bill (S. No. 1131) for the relief of E. C. Clements; which was read twice by its title; and he submitted a report thereon, which was ordered to be printed.

Mr. TELLER, from the Committee on Claims, to whom was referred the bill (S. No. 80) to reimburse the State of Kansas for expenses incurred by said State for the United States in repelling invasions and suppressing Indian hostilities, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (H. R. No. 888) for the relief of James McGregor, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the petition of M. L. Gager, praying compensation for property alleged to have been taken during the rebellion for the use of the Government, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. JONES, of Florida, from the Committee on Naval Affairs, to whom was referred the memorial of Lieutenant-Commander James H. Sands, praying to be advanced ten numbers in his grade, submitted a report thereon, accompanied by a bill (S. No. 1132) for the relief of Lieutenant-Commander James H. Sands, United States Navy.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. WHYTE, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 973) for the relief of Charles O. Allibone, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Commander William Gibson, United States Navy, retired, praying for reinstatement on the active list of the Navy, submitted a report thereon, accompanied by a bill (S. No. 1133) for the relief of William Gibson.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. MORRILL. I am instructed by the Committee on Finance, to whom the following bills were referred, to report them back to the Senate:

The bill (S. No. 71) to repeal the act entitled "An act to provide for the resumption of specie payments;" the bill (S. No. 597) to authorize the coining of silver dollars for circulation, and make the same a legal tender, and for other purposes; the bill (S. No. 565) authorizing the coining of the standard silver dollar, and providing that gold and silver jointly, and not otherwise, shall be a full legal tender; the bill (S. No. 453) to remit the tax on insolvent banks in certain cases; the bill (S. No. 237) to authorize the payment of customs duties in legal-tender notes; the bill (S. No. 225) supplementary to an act entitled "An act to provide for the resumption of specie payments," approved January 14, 1875; the bill (S. No. 157) providing for coining of silver dollars, and for making the same a legal tender; the bill (S. No. 86) to authorize the coining of a dollar of 412½ grains standard silver, and for other purposes; the bill (S. No. 70) to repeal section 3 of the act entitled "An act to provide for the resumption of specie pay-

ments," approved January 14, 1875; the bill (S. No. 68) authorizing the coining of the standard silver dollar, and restoring its legal-tender character; and the bill (S. No. 31) to authorize the payment of 50 per cent. of customs duties in legal-tender notes. These bills relate to subjects that have already been acted upon by the Senate, or upon which bills have been reported. I move that the Committee on Finance be discharged therefrom.

The motion was agreed to.

Mr. MORRILL. I am also instructed by the Committee on Finance, to whom was referred the bill (S. No. 273) to encourage and protect the shipping interest and to revive American commerce, to report it back. It is a bill that should originate in the House, if at all. I move that the committee be discharged from its further consideration.

The motion was agreed to.

BILLS INTRODUCED.

Mr. EUSTIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1134) to provide ocean-mail steamship service between the United States and Brazil; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1135) to create an additional land district in the Territory of Idaho; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1136) for the relief of Miguel D. Esalava; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1137) granting a pension to Harmon Vann; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1138) granting a pension to James E. Hargrove; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1139) granting a pension to Henry W. Altimus; which was read twice by its title, and referred to the Committee on Pensions.

Mr. EATON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1140) authorizing the Southern Pacific Railroad Company to construct, maintain, and operate a bridge across the Colorado River at Fort Yuma in the State of California, and in the Territory of Arizona; which was read twice by its title, and referred to the Committee on Commerce.

Mr. DENNIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1141) granting the right of way through the military reservation at Fort Yuma to the Southern Pacific Railroad Company; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1142) regulating the compensation for the transportation of mails on railroad routes; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1143) for the relief of Horace J. Gambrell; which was read twice by its title, and referred to the Committee on Commerce.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BAILEY, it was

Ordered, That the petition and papers of Mrs. Mary Ann Manning, of Tennessee, be taken from the files and referred to the Committee on Claims.

On motion of Mr. BARNUM, it was

Ordered, That Chester N. Case have leave to withdraw his papers from the files of the Senate.

SURVEY OF ARKANSAS BOUNDARY.

Mr. DORSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into and report to the Senate the result of the late survey of the western boundary of the State of Arkansas, and whether the title to any part of the public lands is in any way thereby affected, and, if so, whether any, and, if any, what further legislation is necessary on the subject.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The morning business is exhausted. Mr. DAVIS, of West Virginia. I ask that the Senate proceed with the Calendar.

The PRESIDENT *pro tempore*. The Calendar will be taken up, if there be no objection, and the first case on the Calendar will be reported.

Mr. McMILLAN. Before proceeding to the Calendar, I move to proceed to the consideration of the bill (S. No. 576) to amend the statutes in relation to immediate transportation of merchandise.

Mr. DAVIS, of West Virginia. Mr. President—

Mr. McMILLAN. If the Senator will permit me, I will state the reason why I make the motion. The bill is a matter of some public importance. It relates to the transportation of merchandise in small packages. It amends the statute in regard to the transportation of

imported merchandise so as to permit trunks and small packages of goods and bales corded and sealed to be transported under the regulations prescribed by the Secretary of the Treasury to inland ports where there are officers of appraisement, so that the goods shall not be detained at New York for appraisal.

Mr. DAVIS, of West Virginia. I ask the Senator whether or not the bill is on the Calendar.

Mr. McMILLAN. It is.

Mr. DAVIS, of West Virginia. Then it will be reached in the regular order. I think it due to Senators who are not in the habit of pressing their bills out of order, but wait for them to be reached on the Calendar regularly, that we should proceed with the Calendar. We gave way yesterday morning, and the whole day was consumed. The day before that the Senate also gave way. There is a special order to proceed with the Calendar. I hope the Senator from Minnesota will not press his motion.

Mr. McMILLAN. There is no local interest subserved in any way in my State by the bill. It is a bill of general importance, and I merely having reported it from the Committee on Commerce, desire to present the question so that the Senate may proceed to the consideration of it, if they will. I have discharged my duty, if there is objection made. I should be glad to have the Senate take up the bill. I appreciate the force of the remarks made by the Senator from West Virginia; but if he will, as to this particular measure, see proper to permit it to pass, I shall be obliged to him.

The PRESIDENT *pro tempore*. Does the Senator from Minnesota move to proceed to the consideration of the bill?

Mr. McMILLAN. I make that motion.

Mr. DAVIS, of West Virginia. I believe the Calendar is the regular order, is it not?

The PRESIDENT *pro tempore*. It is, after one o'clock. It is subject to the order of the Senate at any time.

Mr. DAVIS, of West Virginia. When the morning business was exhausted the Chair so announced, and I called for the Calendar. That I reckon has as high privilege as anything else. I do not want to make any special opposition in regard to this matter, as there is only half an hour left of the morning hour; but Senators will readily see that unless we proceed with the Calendar we shall not get through with it at all. The bill moved by the Senator from Minnesota will perhaps prove to be an unobjectionable case. We shall reach it certainly to-day or to-morrow, and a short time cannot make any difference. If each Senator has a special bill to be taken up out of its order on the Calendar, and it leads to controversy, we shall continue in the discussion of that class of bills, and the unobjectionable cases on the Calendar will not be reached, which I think would be wrong.

Mr. McMILLAN. If the matter leads to controversy, I shall withdraw the application, but I do not think it will.

Mr. DAVIS, of West Virginia. I ask that we proceed with the Calendar.

Mr. PADDOCK. I suppose one objection in the morning hour will not carry the bill over.

The PRESIDENT *pro tempore*. The Chair was about to state to the Senator from West Virginia that he called for the regular order, pending which the Senator from Minnesota moved to proceed to the consideration of the bill indicated, and the latter motion was entertained within the morning hour. At one o'clock, what is known as the Anthony rule being enforced, the Calendar would be before the Senate, when it would require a motion to displace it.

Mr. DAVIS, of West Virginia. I concur with the Chair perfectly. I moved that we proceed with the Calendar, and I insist that the Calendar would be before the Senate unless the Senator from Minnesota should move to lay aside that order, or to amend my motion, or something of the kind. My intention was to proceed to the Calendar. However, that is a question that is now settled by the Chair, and it is for the Senate to determine whether we shall go on with the Calendar now.

Mr. PADDOCK. I hope there will be no objection to the bill moved by the Senator from Minnesota. It is a bill that has been petitioned for very generally by business men in all the larger towns of the West, Northwest, and Southwest. It seems to me it ought to be considered at as early a day as practicable.

The PRESIDENT *pro tempore*. The Chair understands that the Senator from Minnesota has withdrawn his motion.

Mr. McMILLAN. No, sir, I have not withdrawn it.

The PRESIDENT *pro tempore*. The Senator from Minnesota moves the present consideration of the bill named.

Mr. DAVIS, of West Virginia. I hope the Senate will go on with the Calendar. The bill is on the Calendar and will be reached to-day or to-morrow.

Mr. McMILLAN. I see it will take more time to discuss this question than it would to pass the bill if it were properly before the Senate, and I withdraw my motion to proceed to its consideration.

The PRESIDENT *pro tempore*. The motion is withdrawn, and the consideration of the Calendar will be resumed at the point left off when it was last before the Senate.

RANCHO LAS CRUCES.

The CHIEF CLERK. The first bill on the Calendar at the point where its consideration is now resumed is the bill (S. No. 520) to authorize the claimants to certain lands in Santa Barbara County,

California, to submit their claim to the United States district court for that State for adjudication.

The Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the claimants to lands situated in Santa Barbara County, California, known as the Rancho Las Cruces, who de-claim title through the original Mexican grantee of the rancho, to present their claim to the United States district court in and for the district of California for examination; and if, upon hearing of the case, it shall appear to the court that the claim of the original grantee was good and valid under Mexican laws relating to such cases, the court shall by decree confirm the claim.

The bill was reported from the Committee on Private Land Claims with an amendment, to add to the proviso at the end of the first section:

Nor shall any decree of confirmation affect any valid adverse right of any other person or persons, or give to the confirmees, or any of them, any claim upon the United States for compensation for any land such confirmees may lose by reason of pre-emption or homestead claims or adverse rights as aforesaid;

So as to make the proviso read:

Provided, That no lands shall be confirmed to said claimants by said decree to which there are valid claims existing under the pre-emption or homestead laws of the United States at the date of the passage of this act, nor shall any decree of confirmation affect, &c.

Mr. GROVER. There is a written report from the Committee on Private Land Claims, which was unanimously presented upon the bill. I ask that it be read.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary read the following report, submitted by Mr. GROVER March 8:

The Committee on Private Land Claims, to whom was referred the bill (S. No. 520) to authorize claimants to certain lands in Santa Barbara County, California, to submit their claims to the United States district court for that State for adjudication, submit the following report:

The attorneys for the claimants have submitted a printed pamphlet containing their petition to Congress and copies of all affidavits and matters of record which have been filed in the office of the Commissioner of the General Land Office, for the purpose of procuring a withdrawal of the lands in question from disposal by the United States, pending this application, as well as for the purpose of perpetuating testimony. An examination of the original papers in the General Land Office has been made, and the printed copies have been compared with the originals and found to be true copies.

By these evidences it appears that Miguel Cordero, a Mexican citizen, in the year 1834, settled upon the lands since known as the Rancho Las Cruces, now in Santa Barbara County, California, but then within the domain of Mexico. That in the year 1837 said Cordero, on his petition, received from the proper authorities a grant, evidenced of record in the usual form, to said rancho, two leagues in length and one league in width, marked by certain distinct natural boundaries, which have since been definitely ascertained by survey, according to the public surveys of the United States. That the usual judicial possession was given by the neighboring alcalde in due form required by the laws of Mexico.

The keeper of the Spanish and Mexican archives in the United States surveyor-general's office for California certifies that the original documents in this case are genuine; that the copies are true translations; and that they constitute what would have been considered a perfect grant under the Mexican government of California. He further certifies that he is familiar with the section of country in which the said tract of land is located, and that the same can, without difficulty, be ascertained from the calls of the title papers and the accompanying map. In fact the record presents every link in the chain of a perfect expediente. The treaty of Guadalupe Hidalgo, concluded May 30, 1848, between the United States and Mexico, by which California was acquired by the United States, found Cordero and his family in possession of Las Cruces, improved with orchards, vineyards, and grain-fields, and largely stocked with cattle and horses.

The treaty provided (Article 8) that "Mexicans now established in territories previously belonging to Mexico and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic, retaining the property which they possess in said territories."

The cession did not impair the rights of private property. They were consecrated by the law of nations and protected by the treaty. (United States vs. Moreno, 1 Wall., 404.)

By act of Congress of March 3, 1851, authority is given for a board of commissioners to ascertain and settle private land claims in California, originating under the Spanish or Mexican Governments, and for a confirmation of the same, with right of review in the United States district courts and appeal to the Supreme Court of the United States. (9 Statutes, 63.)

Section 13 of this act provides, among other things, that "all lands, the claims to which shall not have been presented to said commissioners within two years after the date of this act, shall be deemed held, and considered a part of the public domain of the United States." This limit was subsequently extended to March 3, 1855.

In March, 1851, after the passage of the last named act, but before its promulgation in California, Cordero died intestate, in possession of the Rancho Las Cruces. The premises were distant from the sitting or the commission subsequently organized to pass upon this class of titles. The family spoke none but the Spanish tongue, read no newspapers, and were wholly illiterate. The Mexican authorities had cared for private titles with such certainty that no doubt was felt as to their rights. The limitation of the act of March 3, 1851, and its extension expired before the heirs of Cordero knew that their titles to Las Cruces was not fully protected. The Cordero title has been respected by all adjacent settlers from the time of his possession to the present day. The Commissioner of the General Land Office has directed the withdrawal of these lands from public disposal, and nothing stands in the way of justice to the heirs of Cordero, except the absence of statutory authority to recognize their rights.

Under these circumstances your committee recommend the passage of the bill with the following amendment:

At the end of section 1 of the bill add "nor shall any decree of confirmation affect any valid adverse rights of any other person or persons, or give to the confirmees, or any of them, any claim upon the United States for compensation for any land such confirmees may lose by reason of pre-emption or homestead claims or adverse rights as aforesaid."

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Committee on Private Land Claims.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PRIVATE LAND CLAIMS IN NEW MEXICO.

The next bill on the Calendar was the bill (S. No. 753) to confirm a certain private land claim in the Territory of New Mexico.

Mr. EATON. At my request the Senator having that bill in charge consents that it may go over for a day or two, and I shall then call it up.

The PRESIDENT *pro tempore*. The bill will be passed over.

WILLIAM W. SPIERS.

The next bill on the Calendar was the bill (S. No. 594) for the relief of William W. Spiers, late assistant surgeon United States Army; which was considered as in Committee of the Whole. It directs the Secretary of War to pay to William W. Spiers, late assistant surgeon in the United States Army, such additional sum of money as will make his entire compensation equal to that of assistant surgeon during the period of his active service in that capacity and of his imprisonment in rebel prisons as a prisoner of war, estimating the period from the date of his commission as surgeon.

Mr. MORRILL. I think there had better be an explanation on the part of the Senator who reported the bill.

Mr. CAMERON, of Wisconsin. I ask that the report be read. The bill, I see, is accompanied by a report.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary read the following report, submitted by Mr. PLUMB March 19:

The Committee on Military Affairs, to whom was referred the bill (S. No. 594) for the relief of William W. Spiers, late assistant surgeon United States Army, have had the same under consideration, and submit the following report:

It appears from the records of the War Department that on the 20th of September, 1863, Dr. Spiers was a private and acting hospital steward of Company H, Twenty-second Regiment Indiana Volunteers, on the battle-field of Chickamunga; that he was ordered to remain with the wounded, and in consequence was captured by the enemy and held until April, 1864, when he escaped, and entered the Union lines on the 10th of that month. Not being aware that he was in the hands of the enemy, the Secretary of War, September 21, 1863, appointed him an assistant surgeon of the Third United States Colored Troops, but he did not receive the notice of his appointment until after his return. In the mean time, the services of an assistant surgeon being required, another person was appointed to the position, and there was no vacancy for Spiers to fill upon his return. He was, however, appointed assistant surgeon of the One hundred and second Regiment United States Colored Troops, was mustered, and joined for duty June 6, 1864.

By the second section of the joint resolution of July 11, 1870, it was provided "that persons held as prisoners of war by the enemy, or who may have been in hospital by reason of wounds or disability at the time of the issuing of their commissions, shall be entitled to the same pay, emoluments, and benefits, under this resolution, as if actually performing the duties of the grade to which they were commissioned."

The third section of the same act provides "that this resolution shall not be construed to apply to cases in which, under the laws and army regulations existing at the time, there could have been no lawful muster into service, even after the actual receipt of the commission."

The Adjutant-General of the Army, in declining to afford relief under the said joint resolution of July 11, 1870, so construes the section last quoted as to entirely neutralize the effect of the statute and to make it inoperative for the relief of anybody. The act was intended to reach that highly meritorious class of soldiers who, having been captured by the enemy while in the discharge of their duty or confined in hospital on account of wounds received in service, were unable to present themselves for muster and duty. The Adjutant-General cites General Orders No. 48, series of 1863, which provides that "an officer must present his commission or appointment" under which he desires to be mustered. It could not have been the intention of Congress to make its legislation on this subject dependent upon that restriction, because in that case the legislation would have been entirely ineffective.

The same order also contains a provision that "no officer shall be mustered in to date back beyond the time that he has actually been performing the duties of the grade into which he desires to be mustered." We think it perfectly clear that Congress could not have intended that this order should apply to and control such cases as the one before us, otherwise its enactment would have been utterly without purpose, and the very class of persons whom it was designed to relieve could not possibly have been benefited by it.

The committee hold that the real intention of the third section of the act referred to was to prevent the muster in of officers to cover periods during which they could not have been mustered, if present, owing to the reduced strength of their commands or some other legal disability. In this case there can be no question of that kind. The appointment of Dr. Spiers directly by the Secretary of War would imply that within the knowledge of the Department the vacancy existed and could be legally filled. More than that, it was noted upon the letter of appointment signed by the Secretary of War that "acceptance of this appointment will be your muster into service." This we think is entirely conclusive as against any doubt that might otherwise have arisen as to the right of Dr. Spiers to be mustered at the time of his appointment.

The bill simply allows Dr. Spiers the difference between the pay that he did receive and the pay of an assistant surgeon during the seven months of his imprisonment, and the committee recommend its passage.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ROBERT COLES.

The next bill on the Calendar was the bill (S. No. 312) for the relief of Robert Coles; which was considered as in Committee of the Whole.

The preamble recites that, according to the laws of the State of Iowa, Robert Coles is the rightful owner of indemnity certificates No. 92, for two thousand three hundred and sixty-three acres and twenty-six hundredths of an acre, dated March 28, 1872, and No. 93, for thirty-six acres and thirty-six hundredths of an acre, dated April 10, 1872; and that the ownership of these certificates accrued to Coles by virtue of a contract between him and the board of supervisors of the county of Lucas, Iowa, dated November —, 1862, as provided by the laws of the State of Iowa; and that the list of swamp selections, upon which these indemnity certificates were subsequently issued, was

approved by the surveyor-general for the State of Iowa March 3, 1859, of which approval the county judge of Lucas County, Iowa, was notified by letter from the surveyor-general's office of that date, and of which approval the then agent for the State of Iowa and of Lucas County by affidavit testifies; and that the proof for indemnity under act of March 2, 1855, was submitted to the Commissioner of the General Land Office, and filed for action therein June 20, 1860; and that the surveyor-general failed to certify his approval of said list of selections to the Commissioner of the General Land Office, as required by the honorable Secretary of the Interior at the time of approval thereof; and that had the list of selections been certified up to the General Land Office at the time the same was approved by the surveyor-general, there were large quantities of public lands in the State of Iowa upon which indemnity certificates could have been located; and that a full and valuable consideration was paid by Coles for the interest of Lucas County in and to the swamp lands thereof, to wit, one thousand and ninety acres of land, valued at \$6,000; and that at the time the certificates were issued there were no vacant public lands in the State of Iowa upon which the same could be located, owing to the delay and neglect of the surveyor-general; and as a part of the terms of the contract between Coles and the board of supervisors of the county of Lucas that "if compatible with the public interest the patent for the lands granted in indemnity should be issued in his name."

The bill therefore requires the Commissioner of the General Land Office to issue warrants, in lieu of the indemnity certificates numbered 92 and 93, to Robert Coles, in accordance with the legal subdivisions of the public lands, in quantities not less than eighty acres, which may be located by Coles, his heirs or assigns, upon any of the public lands not mineral lands, or one-half the number of acres named in each warrant upon lands at \$2.50 per acre, if the locations do not interfere with prior pre-emption or homestead rights. And patents may issue therefor the same as provided for military bounty land warrants or lands sold for cash.

The Committee on Public Lands reported the bill with an amendment striking out, after the word "acres" in line 8, the words:

Which may be located by the said Robert Coles, his heirs or assigns, upon any of the public lands not mineral lands, or one-half the number of acres named in each warrant upon lands at \$2.50 per acre.

And in lieu thereof inserting:

Which warrants shall only be received from actual settlers in payment of pre-emption claims or in commutation of homestead claims, in the same manner and to the same extent as is now authorized by law in the case of military bounty land warrants.

Mr. ALLISON. I move to amend the amendment. I have shown this amendment to the members of the committee and there is no objection to it, I believe, on the part of the committee. I move, in line 8, after the word "acres," to insert the following:

Which may be located by the said Robert Coles, his heirs or assigns, upon any of the public lands not mineral or coal, or double-minimum lands, subject to entry by pre-emption or under the provisions of the homestead act.

And in line 12 of the committee's amendment to strike out the words "shall only" and insert "may also."

Mr. DAVIS, of West Virginia. I ask the Senator whether this is an amendment of the committee or an individual amendment of his own?

Mr. ALLISON. An amendment which I have shown to the committee and which they do not object to.

Mr. PADDOCK. It is not an amendment of the committee.

Mr. DAVIS, of West Virginia. If the committee accept it, very well.

Mr. ALLISON. I believe I did not show it to the honorable Senator from Nebraska, [Mr. PADDOCK,] but I have shown it to the other members of the committee, and I understand them not to object to it.

Mr. McDONALD. I think the amendment is in accordance with the purpose of the bill.

Mr. ALLISON. It is in accordance with the substantial purpose of the bill.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa to the amendment proposed by the committee.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment of the committee as amended.

The amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SUSAN ROBB.

The next bill on the Calendar was the bill (H. R. No. 847) for the relief of Susan Robb; which was considered as in Committee of the Whole. It is a direction to the proper accounting officers of the Treasury to adjust and settle the claim of Susan Robb, mother and nearest heir of Levi R. Robb, late second lieutenant of Company H, Forty-fifth Pennsylvania Volunteers, and allow her the sum of \$135, the same being "three months' extra pay proper," with a proviso that no charges stand against the officer on the books of the Treasury Department.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

RAILROAD FROM PORTLAND TO ASTORIA AND M'MINNVILLE.

The next bill on the Calendar was the bill (S. No. 306) amendatory

of the act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville, in the State of Oregon."

Mr. EDMUNDS. Let that go over. It is a general bill.

The PRESIDENT *pro tempore*. The bill goes over. The next case will be stated.

SOUTHERN PACIFIC RAILROAD.

The next bill on the Calendar was the bill (S. No. 474) to authorize the Southern Pacific Railroad Company to extend its railroad and telegraph line easterly from its present eastern terminus in Arizona to a point on the Rio Grande at or near El Paso, and to aid in building the same.

Mr. EDMUNDS. That is a bill of the same character. It is a general bill.

The PRESIDENT *pro tempore*. Objection being made, the bill goes over.

TEXAS PACIFIC RAILROAD.

The next bill on the Calendar was the bill (S. No. 942) amendatory of and supplementary to the act entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March 3, 1871, and the several acts amendatory thereof and supplementary thereto.

Mr. PADDOCK. Let that go over.

The PRESIDENT *pro tempore*. Objection being made, the bill goes over.

JOHN CUTLER.

The next bill on the Calendar was the bill (S. No. 906) releasing the title of the United States in a certain parcel of land to the assigns of John Cutler; which was considered as in Committee of the Whole. It releases to the assigns of John Cutler the title of the United States to that parcel of land containing thirty-eight and thirty-one hundredths acres, lying near Visalia, in the county of Tulare, State of California, which was conveyed to the United States by John Cutler on the 2d of October, 1865.

Mr. EDMUNDS. Let us hear the report.

Mr. BOOTH. There is no written report.

Mr. EDMUNDS. The Senator can explain it.

Mr. BOOTH. I can explain it in a moment. In 1863 there was a company of United States troops ordered to Visalia. Some of the leading citizens of that village subscribed and bought thirty-nine acres of land for an encampment which they supposed would be permanent. They made an instrument, as they supposed, leasing it to the United States without any pay during its occupation. The troops only remained for a short time. After they were ordered away, the citizens, not knowing that they had conveyed the title and not intending to convey it, sold it and reimbursed themselves. The purchaser supposed he had a perfect title until a year or two ago when he wanted to sell. Then the searcher of titles told him the fee was in the United States. The United States paid nothing for the property and paid nothing for its occupancy. This bill is to confirm the title to the man who purchased under them.

Mr. EDMUNDS. Are there any buildings on it?

Mr. BOOTH. I think not. The United States never put any improvements on it, never paid anything for it, and if the Senator will look at the bill again he will see that it is so guarded that unless it is the identical land described in the bill nothing will pass.

Mr. EDMUNDS. Let us hear the bill read again, Mr. President.

The PRESIDENT *pro tempore*. The bill will be read.

The Chief Clerk read the bill.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. G. M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 4550) to remove the political disabilities of Thomas L. Moore, of the State of Virginia; and

A bill (H. R. No. 4236) making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making appropriations for detecting trespass on public lands, and for bringing into market public lands in certain States, and for other purposes.

APPROPRIATIONS FOR DETECTING TRESPASSES, ETC.

Mr. WINDOM. I ask consent of the Senate to make a report from a conference committee.

The PRESIDENT *pro tempore*. The Chair will receive it.

Mr. WINDOM submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also making appropriations for detecting trespass on public lands, and for bringing into market public lands in certain States, and for other purposes, having

met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment numbered 7, and agree to the same, with an amendment as follows: in lieu of "40" insert "20;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 8, and agree to the same, with an amendment as follows: in lieu of said amendment substitute the following:

For railway post-office clerks, route agents, and mail route messengers, \$7,000; and the Senate agree to the same.

WM. WINDOM,

S. W. DORSEY,

JAS. B. BECK,

Managers on the part of the Senate.

M. J. DURHAM,

J. H. BLOUNT,

JNO. H. BAKER,

Managers on the part of the House.

Mr. WINDOM. The two items on which the second committee of conference disagreed, and which were referred to the committee whose report I now submit, were first \$40,000, a deficiency for collectors of internal revenue, and \$20,000 for additional post-route agents, &c. The conference committee have agreed to \$20,000 for the collectors' item, and \$7,000 for the mail-route agents' item; partly upon this ground, that so much time has elapsed since this deficiency was asked for, nearly one-half the time that it was designed to apply to, that the reduced items will probably answer for the service of the residue of the year. It was not in either case what may be called an absolute deficiency. It was a deficiency in this, that if the money were not appropriated the service could not be so efficiently conducted as with it. In the case of the collectors, for instance, the money appropriated is to pay additional service in collectors' offices in the various localities where there is an extraordinary pressure of business, and of course if they had not the money they could not employ them, and they have not been enabled to employ some that perhaps should have been for the last two months, but this will enable them to do so for the next two.

Mr. EDMUNDS. It is an efficiency bill.

Mr. WINDOM. It is an efficiency rather than a deficiency bill, as my friend from Vermont suggests.

The report was concurred in.

AMENDMENT TO POST-ROUTE BILL.

Mr. COCKRELL submitted an amendment intended to be proposed by him to the bill (H. R. No. 4286) to establish post-roads in the several States therein named; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

NATIONAL BANK OF WESTERN ARKANSAS.

The bill (S. No. 250) for the relief of the National Bank of Western Arkansas, was announced as the business next in order on the Calendar.

Mr. GARLAND. There is an adverse report in that case, and I ask that it go over.

The PRESIDING OFFICER. The bill will be passed over.

NICHOLAS WAX AND OTHERS.

The next bill on the Calendar was the bill (S. No. 913) for the relief of Nicholas Wax, Michael Granary, and Moline Lange; which was considered as in Committee of the Whole. It authorizes the Secretary of the Treasury to pay to Nicholas Wax, Michael Granary, and Moline Lange each the sum of \$500, in refundment of so much money exacted from them as joint obligors on a bond taken by Colonel D. A. Pardee, provost-marshal of the district of Baton Rouge, Louisiana, in the year 1863, for the appearance of one B. F. Rhodes, the payment of which was improperly and illegally enforced by the marshal.

Mr. EDMUNDS. I should like to hear the report in that case.

The PRESIDENT *pro tempore*. The report will be read.

The Chief Clerk read the following report, submitted by Mr. TELLER on the 20th of March:

The Committee on Claims, to whom was referred the petition of Michael Granary, Nicholas Wax, and Moline Lange, praying to have refunded to them \$500 each, being for the amount collected from them, respectively, on a bond given to the provost-marshal of the district of Baton Rouge, Louisiana, in 1863, for the appearance of one B. F. Rhodes to answer a criminal charge preferred against him, have had the same under consideration, and make the following report:

The facts connected with this claim, as ascertained from the proofs, documentary and otherwise, as well as the sworn petition of the claimants, are, that while the district of Baton Rouge, Louisiana, was under military law, a certain B. F. Rhodes was arrested by the order of Colonel D. A. Pardee, then provost-marshal of that district, and imprisoned upon a criminal charge; and that prisoner being sick, made application to claimants to enter into bond for his appearance when required in the sum of \$1,500, the claimants to be bound in the sum of \$500 each. The bond was executed, and the prisoner discharged; that, being sick at the time of his discharge, the prisoner went to the residence of his sister, where very soon he died of what was supposed to have been small-pox; that upon the application of claimants to be discharged from their bond they were told by the provost-marshal that they were still bound, notwithstanding the death of their principal, and that unless they paid the amount of the bond they would be imprisoned; that claimants declined to pay and were actually imprisoned, and thereby compelled to pay the required sum in order to be released from prison. Receipts were given to the claimants for the sum of \$500 each. The committee are satisfied that the bond taken was conditioned for the appearance of the prisoner, and that his death occurred before there was a forfeiture of the bond.

It appears by an extract furnished by the War Department that Pardee reported this fund as in his hands, and was charged with it in the settlement of account with the Provost-Marshal General.

As the money has gone into the Treasury, and the claimants were not in default, the committee recommend that it be returned to the claimants, and report the accompanying bill and recommend its passage.

The bill was reported to the Senate.
 Mr. KERNAN. Did the money go into the Treasury?
 Mr. EDMUNDS. The report says it did.
 Mr. TELLER. The report does say so.
 Mr. KERNAN. All right.
 The bill was ordered to be engrossed for a third reading, read the third time, and passed.

RICHMOND FEMALE INSTITUTE.

The next bill on the Calendar was the bill (S. No. 61) for the relief of the Richmond Female Institute of Richmond, Virginia.

Mr. EDMUNDS. Let us hear the report.

Mr. COCKRELL. I will state that that bill passed the Senate at the last session of the last Congress, having been reported favorably from the Committee on Claims by myself, and it is now reported by the Senator from Massachusetts [Mr. HOAR] at this Congress. The report may be read.

Mr. EDMUNDS. We have a chance to review that now. Let us hear the report.

The PRESIDENT *pro tempore*. The report will be read.

Mr. CAMERON, of Wisconsin. I ask that the bill go over.

The PRESIDENT *pro tempore*. The Senator from Wisconsin objects. The bill will go over.

JAMES FISHBACK.

The next bill on the Calendar was the bill (H. R. No. 2096) for the relief of James Fishback, late collector of internal revenue, tenth district, State of Illinois.

The PRESIDENT *pro tempore*. This bill has been before the Senate on a prior occasion, read the third time, and the question was on its passage, upon which the yeas and nays were ordered.

Mr. DAVIS, of Illinois. The Senator from Tennessee [Mr. HARRIS] has the bill in charge. The merits of the bill I do not want to say anything about. I objected to the bill being considered the last time it was before the Senate upon the ground that Mr. Fishback was a defaulter when he went out of office. As I said before, I know nothing about the merits of this particular claim. He was not technically a defaulter at that time. I have reason to believe from correspondence from Illinois that, in order to enable him to pay his indebtedness to the Government, he borrowed a considerable sum of money from his sureties, and that a good portion of that money has never been paid to them. The object I had when I objected to this bill before was to see if there could not be in some way a substitution of these gentlemen instead of Fishback for the moneys that they had paid in his behalf; but I have considered the subject since then, and I do not know that the Senate can settle the equities between these parties. So far as that is concerned, I abandon my opposition if the Senate is satisfied that the bill is a proper one to be passed.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered on the passage of the bill.

Mr. HARRIS. I desire to say simply that as the matter of the alleged defalcation of this officer has been mentioned in the Senate, it is perhaps due to him that certain communications from the Department that have been addressed to him should be submitted to the Senate, referring particularly to the facts of his accounts having been, in the various positions he has held under the Government, settled with the Government to the last cent of his liability. I believe the Senator from Illinois [Mr. OGLESBY] has the custody—

Mr. DAVIS, of Illinois. Allow me one minute. I have no doubt that all his accounts were settled with the Government, and I stated that I withdrew my opposition on the ground that he was a defaulter. I still have no doubt that he obtained money in order to settle with the Government, from gentlemen who were on his bond and that that money has not been paid back; but as I stated before, I withdraw all opposition on that account, on the ground that the Senate cannot settle the equities between the parties. I have no doubt of that at all.

Mr. HARRIS. I did not misunderstand the Senator from Illinois, and the suggestion I made was simply this: in view of the fact that the question of defalcation had been mentioned in connection with this party and this claim, I am inclined to think that it is perhaps due to the gentleman that the communications from the Department touching that question and clearly vindicating him, as the Senator immediately before me from Illinois [Mr. DAVIS] admits, should be read. However, the Senator from Illinois on my right [Mr. OGLESBY] has possession of these papers. I shall not ask for their reading. I have examined them, and am perfectly satisfied he has never been a defaulter to the Government.

Mr. OGLESBY. I had supposed after the remarks submitted by my colleague that there would be no objection in the Senate to passing this bill for relief. The Committee on Claims has reported it to the Senate, and there can be no doubt that so far as the claim is concerned it is entirely just and ought to be granted by Congress, and I suppose on a vote by yeas and nays the bill will pass. That being so, I do not care to get up and take up the time of the Senate by reading an affidavit or having read by the Clerk an affidavit of Mr. Fishback which explains very fully how he borrowed this money, whom he borrowed it from, and he has a communication from one of the gentlemen from whom he borrowed the money which—

Mr. DAVIS, of Illinois. If my colleague will allow me, what is the

use of going into this when it has nothing to do with the question whether the Senate shall pass this bill? I withdraw my opposition to it and admit that the claimant was not technically a defaulter.

Mr. OGLESBY. If my colleague will hear me a moment further, I will say that I did not intend to submit any remarks upon it; but the Senator from Tennessee very kindly alluded to me as having certain papers, and Mr. Fishback might feel that his interests had been entirely overlooked and neglected unless some explanation was made of the matter. I made up my mind not to ask the Clerk to read his affidavit and not to ask to encumber the Record with page after page of exculpatory evidence from all the Departments of the Government where he has ever served as clerk, as assessor, and as collector, showing an entire official acquittal of all liability on his part at any time as a public functionary. I did not care to have that read to encumber the Record and take up the time of the Senate; but it is perhaps no more than right to say in explanation of Mr. Fishback's connection with what has been said of his borrowing money to pay this deficit, that it is true he did borrow money from certain honorable gentlemen in Jacksonville, Illinois, who loaned to him to settle his balance \$2,000 or \$3,000 I believe. He settled the balance and gave them securities with which to make them secure. Those men and Mr. Fishback have not yet settled. That matter between them is purely a private transaction. I do not care to put all this on the record, for I suppose there is no real objection to granting the relief.

The PRESIDENT *pro tempore*. The question is on the passage of the bill. The roll-call will proceed.

The question being taken by yeas and nays, resulted—yeas 37, nays 6; as follows:

YEAS—37.

Allison,	Davis of Illinois,	Hereford,	Oglesby,
Bailey,	Davis of W. Va.,	Jones of Florida,	Paddock,
Beck,	Dawes,	Kirkwood,	Randolph,
Blaine,	Dennis,	Lamar,	Rollins,
Booth,	Eustis,	McDonald,	Sargent,
Cameron of Pa.,	Ferry,	McMillan,	Teller,
Cameron of Wis.,	Garland,	Matthews,	Windom.
Cockrell,	Gordon,	Maxey,	
Coke,	Grover,	Mitchell,	
Conover,	Harris,	Morgan,	

NAYS—6.

Anthony,	Edmonds,	Merrimon,	Morrill.
Burnside,	McCreery,		

AESSENT—33.

Armstrong,	Eaton,	Kernan,	Thurman,
Barnum,	Hamlin,	McPherson,	Voorhees,
Bayard,	Hill,	Patterson,	Wadleigh,
Bruce,	Hoar,	Plumb,	Wallace,
Butler,	Howe,	Ransom,	Whyte,
Chaffee,	Ingalls,	Saulsbury,	Withers.
Christiancy,	Johnston,	Saunders,	
Conkling,	Jones of Nevada,	Sharon,	
Dorsey,	Kellogg,	Spencer,	

So the bill was passed.

JOHN WATERS.

The next bill on the Calendar was the bill (S. No. 955) for the relief of the estate of John Waters, deceased; which was considered as in Committee of the Whole.

The bill appropriates \$1,825, to pay to the estate of John Waters, for the rent of a house in Nashville, Tennessee, from December, 1863, to January, 1865, for the use of the Army of the United States.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

W. B. GOSA.

The next bill on the Calendar was the bill (S. No. 956) for the relief of W. P. Grace, as the administrator of W. B. Gosa; which was considered as in Committee of the Whole. It provides for the payment of \$600, to pay to W. P. Grace, as the administrator of W. B. Gosa, for the rent of houses in Pine Bluff, Arkansas, from September, 1865, to February, 1866, for the use of the Army of the United States.

Mr. MCCREERY. I offer the following amendment:

Strike out all after the words "pay to," in line 5, and in lieu thereof insert: James Trabue, of Louisville, Kentucky, holder and owner of six certified accounts issued to W. B. Gosa, of Pine Bluff, Arkansas, as agent for said James Trabue.

Mr. SARGENT. Is that for the same transaction?

Mr. MORGAN. The amendment of the Senator from Kentucky was not before me when I made the report of the Committee on Claims. It is now suggested that there was an adverse claim. Inasmuch as that committee has had no opportunity to consider the case in the light of this claim, I move that the bill be recommitted to the Committee on Claims, with the amendment.

Mr. MCCREERY. I present the evidence in the matter to go with the bill.

The PRESIDENT *pro tempore*. The papers will accompany the reference. The question is on the motion to recommit.

The motion was agreed to.

MICHAEL CALLAHAN.

The next bill on the Calendar was the bill (S. No. 957) for the relief of Michael Callahan.

Mr. EDMUNDS. Let us hear the report on that case.

The Chief Clerk read the following report, submitted by Mr. MORGAN on the 20th of March:

The Committee on Claims, to whom was referred a bill for the relief of Michael Callahan, of Huntsville, Alabama, submit the following report:

The claimant presents five certified quartermasters' vouchers for rent of property at Huntsville, Alabama, during the months of August, September, October, and November, 1864, and January, February, March, April, May, June, August, September, November, and December, 1865, amounting to \$113.66.

The following is written on the face of the vouchers for the months prior to August 1, 1865:

"To be settled hereafter as the Government may direct, the claimant being considered loyal."

The accounting officers of the Treasury rejected this claim on the ground that it was among those prohibited to be paid by them under the act of Congress of February 21, 1867.

These claims were reported by the depot quartermaster at Huntsville, Alabama, as being due, and were so borne upon their accounts.

They were referred by the Third Auditor of the Treasury to the Quartermaster-General, by whom they were examined and found to be correct. In certifying the claims back to the accounting officers of the Treasury, the Quartermaster-General says: "Payment is not conditional on proof of loyalty. The services have been reported to this office as required by the regulations."

In this case the loyalty of the claimant is vouched for on the face of each certificate given him during the period of hostilities, and it is not to be presumed that the officers of the Army would improperly or heedlessly give such a certificate to a disloyal person.

Your committee recommend that the claim be allowed, and report as a substitute for the bill referred to them (S. No. 271) the following bill, and recommend its passage.

Mr. EDMUNDS. I should like to know why this is not a claim that falls within the jurisdiction of the southern claims commission; and in the absence of an answer I object to the bill.

The PRESIDENT *pro tempore*. The bill is objected to, and goes over.

ANNULMENT OF A TERRITORIAL ACT.

The next bill on the Calendar was the bill (S. No. 878) to disapprove and annul an act of the Legislative Assembly of the Territory of New Mexico, passed on the 18th of January, 1878, by a two-third vote of both houses over the veto of the governor of said Territory; which was considered as in Committee of the Whole.

The bill disapproves and makes null and void an act of the Legislative Assembly of the Territory of New Mexico, entitled "An act to incorporate the Society of the Jesuit Fathers of New Mexico," which passed both houses of the Assembly on or about the 18th day of January, 1874, over the veto of the governor, being in violation of section 1889 of the Revised Statutes of the United States, which declares, "The Legislative Assemblies of the several Territories shall not grant private charters or especial privileges," said bill being a grant of a private charter or act of incorporation, with the "especial privileges" of an unlimited power to acquire, hold, and transfer all kinds of property, both real and personal, and the exemption from taxation of all the effects and property of a corporation.

Mr. GARLAND. The Committee on Territories were unanimously of opinion that the act of the Legislative Assembly of New Mexico was in direct conflict with section 1889 of the Revised Statutes, which I send to the desk and ask the Secretary to read for the information of the Senate.

The Chief Clerk read as follows:

SEC. 1889. The Legislative Assemblies of the several Territories shall not grant private charters or especial privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits, or the construction or operation of railroads, wagon-roads, irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any benevolent, charitable or scientific association.

The bill was reported to the Senate, ordered to be engrossed for a third reading, and read the third time.

Mr. PADDOCK. Is there any explanation of this bill?

Mr. GARLAND. I stated that this act of the Territory of New Mexico is in direct conflict with section 1889, which the Secretary has just read, and the Committee on Territories, finding such to be the case, without a dissenting voice reported the bill. It is an act that grants special privileges without any limitation or restriction whatever, which is forbidden by section 1889 of the Revised Statutes.

Mr. PADDOCK. I did not hear the Senator before.

The bill was passed.

DEFICIENCY IN PRINTING APPROPRIATION.

Mr. WINDOM. I ask unanimous consent to take from the table the deficiency bill for public printing which I reported yesterday. There is a pressing necessity that action should be had on this bill, and I think it will require but a few moments.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4222) to provide for a deficiency in the appropriation for the public printing and binding for the current fiscal year.

Mr. WINDOM. The estimate for the printing and binding for the current year was \$1,991,727.51. The amount appropriated in the regular appropriation bill for that purpose was \$1,301,000, the amount received by the office from the sales of waste paper, &c., was \$26,424.78, making a total of \$1,327,424.78 available under the regular appropriation and the receipts from the source named for the year.

Mr. EDMUNDS. Do the sales of waste paper remain to be expended without being turned over to the Treasury?

Mr. WINDOM. I will say to the Senator that that is a fact entirely new to myself until this morning. I find it in a letter I have from the Printing Office.

Mr. EDMUNDS. I think it ought not to be so.

Mr. WINDOM. I think it is not right myself, and my attention was never called to it until this morning, and I have mentioned it in connection with the state of the accounts of the office. It is a matter which I think ought hereafter be examined myself. The amount then available for the year, was \$664,302.73 less than the amount estimated. We have already passed a deficiency of \$70,000; namely for the Post Office Department \$35,000, for the Congressional Library \$20,000, for the Supreme Court \$15,000. There is also pending in House bill No. 3740 which is now in conference, for the Interior Department \$40,000, for the War Department \$18,000, and for the Navy Department \$950. I will say, however, that these items, which are pending in that bill, are items which were put on by the Senate and have not yet been agreed to in conference.

Mr. DAVIS, of West Virginia. All of them?

Mr. WINDOM. I do not remember positively about that for the Interior Department, but I think it was not all added by the Senate. A portion of it was. The bill is not before me, and I cannot state exactly the amount added by the Senate.

Mr. DAVIS, of West Virginia. My recollection was that some portion was put on by the House.

Mr. WINDOM. I think the Senator from West Virginia is right, that some of that was included in that bill as it came from the House. I mention this, however, to show the amounts that have been asked for and are now pending. The total amount pending in House bill No. 3740 is \$58,950. The amount asked for by this bill is \$200,000, which will still leave the entire amount available for the year some \$360,000 less than the amount estimated for.

I have a letter from the Public Printer, stating more in detail the necessities of the office than the brief note which I read last evening. I think it is well to place it on record. It will take but a moment to read it. It is not addressed to me, but to the chairman of the Committee on Printing, in the House. I send it to the desk to be read.

The Chief Clerk read as follows:

OFFICE OF THE PUBLIC PRINTER,
Washington, March 25, 1878.

Sir: In compliance with your request I proceed to give the reasons why a deficiency of \$250,000 is asked for to pay the expenses of the Government Printing Office until the commencement of the next fiscal year.

The amount appropriated for the fiscal year ending June 30, 1878,	\$1,300,000 00
Appropriated December 15, 1877, for printing for United States	15,000 00
Supreme Court	26,424 78
Deposited by this office from sales of waste paper, &c.	1,341,424 78
Amount expended to March 25	1,061,277 74

Balance March 25	280,147 04
Estimated amount required to pay claims against the office to March 31 not less than	60,000 00
Estimated balance March 31	220,147 04

The expenditures for the next three months, commencing on the 1st of April, will exceed, by a large amount, any other three months of the present fiscal year, for several reasons:

First. The expense of the RECORD will increase as the session advances, because more work will be done in Congress. No one can tell when Congress will adjourn.

Second. There is now a very scant supply of the various papers used in printing for the Departments as well as for Congress on hand, and large orders must be given immediately to meet the demand of the Departments and Congress.

Third. The supply of materials for the binding is also low, and must be increased so as to bind 15,000 copies of the Revised Statutes now being printed as well as the volumes of the RECORD and other publications ordered, and to meet orders that may yet be given.

All paper and other materials ordered now must be paid for out of the appropriation for the present fiscal year.

It is possible that by deferring work that may be postponed without much detriment to the public interest until the next fiscal year, this office can make \$300,000 answer.

Very respectfully yours, &c.,
JNO. D. DEFREES,
Public Printer.

Hon. O. R. SINGLETON,
House of Representatives.

Mr. WINDOM. I will add a single word. The Senate will observe by the reading of the letter from the Public Printer that the amount asked for in this deficiency was \$250,000, while the bill provides but \$200,000. He closes the statement, however, by saying that by postponing a portion of the work until the next fiscal year he may possibly get through with it. That seems to be the usual policy nowadays, to postpone; and the Committee on Appropriations have agreed to in this regard.

Mr. EDMUNDS. I only wish to call attention to what now appears, that a large sum of money, twenty-six and odd thousands of dollars, has been received by the Public Printer for the sale of waste material and has been used by him, expended for the use of the office. I should be glad to inquire of the chairman of the Committee on Appropriations whether in his judgment that is according to law. There may be a statute—although my eye does not fall upon it at this moment—which authorizes the Public Printer to make these sales and to use the money instead of paying it into the Treasury. I do not see it. I do not say that it does not exist; but there is another statute of the United States which says that every officer of the United

States who receives any public money into his hands from any source whatever, except from an appropriation to pay it out, shall proceed immediately to pay it into the Treasury, as he ought to do.

Now I should be glad to know by what authority of law it is that the Public Printer sells what is called waste material of all sorts in large amounts, and then proceeds to expend the money obtained for that for the uses of the office. If it is the law, it ought to be corrected, because in every branch of the Government (unless some one has been omitted by accident or mistake) it has been hitherto provided that every sum of money that comes into the hand of every officer in the Army or anywhere else from the sale of property of the United States shall be paid into the Treasury, as it ought to be, and that enables us to know what becomes of this property and enables us to know what actually the public service costs in each Department.

I should be glad to have my honorable friend inform us what he understands to be the present state of the law on that subject as applied to the Public Printing Office.

Mr. WINDOM. I stated to the Senator a moment ago that my attention was first called to this item within the last ten or fifteen minutes. I have not examined the question and cannot give him the authority, if any exists, for the application of this fund. I had supposed, as he says, that the law required the proceeds of all sales of public property to be turned into the Treasury. I still know no reason why that is not the law, and am surprised to find this item in the account; but finding it there, and made by so reliable a gentleman as the Public Printer, I am inclined to think he must have some authority for it, and the Senator will have either to get a postponement of this bill or make inquiry into the statutes; I cannot give him the authority for it.

Mr. BECK. I would ask the chairman of the Committee on Appropriations if it would not be well, in view of the question which has been asked by the Senator from Vermont and the importance of knowing the facts relative to it, to have the bill recommitted to our committee, and the Public Printer can be sent for by to-morrow morning and all the facts ascertained. I am not able to answer the question put; and the chairman does not seem to be. I believe the law requires all money received from sales of public property to be paid into the Treasury. It is a mistake, if it does not. By to-morrow morning we can give all the information desired. I think we had better pursue that course perhaps.

Mr. WINDOM. I think very possibly we may get the information here and avoid the delay.

Mr. ANTHONY. The Revised Statutes, section 3818, provide:

The moneys received from sales of extra copies of documents, and from sales of paper-shavings and imperfections, shall be deposited by the Congressional Printer in the Treasury of the United States, to the credit of the appropriations for public printing, binding, and paper, respectively, as designated by him, and shall be subject to his requisition in the manner prescribed by law.

Mr. DAVIS, of West Virginia. I like the suggestion of the Senator from Kentucky. It will only cause a delay of one day, if any delay at all. I think the information asked for by the Senator from Vermont is proper. I agree with him and with the others who have spoken, that the law now requires that all receipts from the sale of any kind of materials shall be paid into the Treasury, and not taken out without an appropriation. I think it would be well for the Committee on Appropriations to ascertain all the facts. There may be other things than those which have been stated. I suggest to the Senator from Minnesota, the chairman of the committee, that it would be better to have the Public Printer before the committee to-morrow, and we can ascertain the fact here brought in question with one or two other facts that I have in my mind which it is unnecessary to go into here at present.

Mr. WINDOM. I think there is no necessity for that so far as this fact is concerned. If the Senator will give me his attention, I can convince him, I think, of that. If he has any other reasons, of course I cannot answer as to them. The statute read by the Senator from Rhode Island says:

The moneys received from sales of extra copies of documents and from sales of paper-shavings and imperfections shall be deposited by the Congressional Printer in the Treasury of the United States to the credit of the appropriations for public printing, binding, and paper, respectively, as designated by him, and shall be subject to his requisition in the manner prescribed by law.

His letter uses this language: "Deposited by this office from sales of waste-paper," which, I think, clearly means that he has deposited according to law. Certainly there is no indication that he has not. I would be entirely willing that the bill should go over were it not that there is a very great necessity for money there, as I understand. The letter that I have been quoting from at some length is dated March 25, a somewhat old document, that I received when I sent over to the House for further information with reference to this appropriation; but the note of April 20, 1878, addressed to me, reads as follows:

Sir: The House passed a bill yesterday providing for a deficiency for public printing, binding, &c. Will you please urge its passage by the Senate at once? as I cannot even order paper on which your bills are printed until passed.

Very respectfully yours,

J. D. DEFREES,
Public Printer.

The letter now in the hands of the Senator from Vermont is a month old. This letter was written on the 20th of the present month, and the necessity is very much more pressing now of course than it was

at that time. If any Senator has any doubt about the necessity for this, of course the bill ought to lie over; but I think it will be better to let it lie over until some time in the afternoon when the committee can consult upon any point they desire with the Public Printer and avoid the postponement of two days. If it goes over to to-morrow, a single objection will then carry it over to a second day. The Public Printer, I will say, can be brought here in fifteen minutes, and the committee can consult with him and give any information the Senate may desire.

Mr. EDMUNDS. The statute which the Senator from Rhode Island has said applies to moneys derived from the sales "of paper-shavings and imperfections," by which I suppose is meant prints that are not perfect, where the type has become irregular, or there is a blot, or whatever it may be; that is to be deposited. Now the Public Printer says "amount deposited by this office from sales of waste-paper, &c., \$26,424.78."

That is a very large sum from "paper-shavings and imperfections"—very large indeed. I do not by this mean to say that I doubt at all the propriety of the Printer paying into the Treasury everything that he gets from the sale of any waste material. There may be an old printing-press that is no longer of any use to him. It may be that the law authorizes him to sell it; I think it ought to; and I assume that it does; but if it does, there is a statute, to which I referred, that says he shall pay that money into the Treasury; but this statute does not say he can take it out again. The only money that he can take out again is the money from "paper-shavings and imperfections"—two particular descriptions.

Now, I should be glad to know (without meaning by this inquiry to impute the slightest want of diligence to the Printer) exactly how that thing is done, and how that item of \$26,000 is made up, so as to know for the future whether he is drawing upon the public funds under this section of the statute upon money derived from some other source than that which the statute authorizes him to draw upon. The bill being laid over for a little while will undoubtedly meet the purpose.

Mr. WINDOM. I am entirely willing that the bill shall be laid aside for the present, and we will get the information.

The PRESIDENT *pro tempore*. The bill will be laid aside temporarily and the Senate will proceed with the Calendar.

Mr. WINDOM. If Senators are not satisfied when the Public Printer is heard from, the bill can be laid over until to-morrow. Is that satisfactory to the Senator from West Virginia?

Mr. DAVIS, of West Virginia. I am satisfied. I think well of the suggestion of the chairman to make the inquiry now or at any time he can.

Mr. BECK. I suppose we can do it in half an hour.

Mr. EDMUNDS. Very likely.

The PRESIDENT *pro tempore*. The bill will be laid aside for the present and the consideration of the Calendar resumed.

Several SENATORS. All right.

CHINESE INDEMNITY FUND.

The PRESIDENT *pro tempore*. The next bill on the Calendar in order is the bill (H. R. No. 923) supplementary to the act entitled "An act to carry into effect the convention between the United States and China concluded on the 8th day of November, 1858, at Shanghai," approved March 3, 1859, and to give the Court of Claims jurisdiction in certain cases.

Mr. EDMUNDS. Let that go over.

The PRESIDENT *pro tempore*. The bill will be passed over.

DWIGHT W. HAKES.

The next bill on the Calendar was the bill (S. No. 644) for the relief of Dwight W. Hakes; which was considered as in Committee of the Whole. It directs the proper accounting officers of the Treasury to settle with Dwight W. Hakes, first lieutenant and regimental quartermaster of the Eighteenth Regiment Connecticut Volunteer Infantry, who was taken prisoner of war at the battle of Winchester, Virginia, June 14, 1863, and lost all his books, papers, funds, and vouchers, which fell into the hands of the enemy, upon such evidence as he may be able to offer and upon his own depositions, when no better evidence can be produced.

Mr. EDMUNDS. Let us hear the report.

The Chief Clerk read the following report, submitted by Mr. PLUMB on the 26th of March:

The Committee on Military Affairs, to whom was referred the accompanying bill (S. No. 64) for the relief of Dwight W. Hakes, respectfully submit the following report:

The said Dwight W. Hakes was, on the 18th day of June, 1863, in the military service of the United States as first lieutenant and regimental quartermaster of the Eighteenth Regiment Connecticut Volunteers. On said date he was taken prisoner by the confederate forces, having on his person certain vouchers for subsistence stores issued by him, which vouchers were then and there lost by reason of such capture. Lieutenant Hakes remained a prisoner for about twenty months. On his return to duty he found charged to him the sum of \$145.46, on account, as he alleges, of supplies issued by him and covered by the vouchers so as aforesaid lost. As the vouchers were never recovered and as, by lapse of time, other conclusive proofs could not be furnished by Lieutenant Hakes to show the proper issue of the supplies covered by this charge, he has never been able to settle his accounts and obtain the certificate of non-indebtedness necessary to enable him to draw his pay. The Commissary-General of Subsistence, referring to this bill, says: "From the affidavit of Lieutenant Hakes, I am of the opinion that it would be a matter of justice to pass the accompanying bill, S. No. 644, Forty-fifth Congress, second session." The Secretary of War also recommends the passage of the bill.

The affidavit of Lieutenant Hakes, with the corroborating circumstances, seems to show to a reasonable certainty the loss of the vouchers mentioned. This, coupled with the recommendation of the Commissary-General and the Secretary of War, seems to be sufficient to warrant the passage of the bill, which the committee therefore recommends.

Mr. EDMUNDS. I had the impression that there was a statute now which authorized the accounting officers to adjust accounts where vouchers were lost. I do not see in his seat the Senator who has charge of the bill. The case as stated is apparently a very meritorious one, but I dislike very much to set the precedent of authorizing an accounting officer at the War Department to settle an account on the affidavit of the person to whom the property has been intrusted. I should much prefer to avoid such a precedent and to simply provide that the proper officers of the proper Department may in their discretion, and upon such evidence as is satisfactory to them, settle these accounts. If in this instance, although it is a very small one and apparently a very proper one as far as we can judge, we say that the affidavit of the party concerned himself as to the loss of vouchers shall be sufficient evidence on which to relieve him from responsibility, then we have established a principle which would apply to all other cases of persons who were not in bad repute; that is, that a person who is bound to account for public property may be authorized by law and ought to be authorized by law to discharge himself on his own affidavit. Now, if we are satisfied from the general circumstances and the opinion of the Secretary of War, &c., that in this little matter this gentleman ought to be relieved, as I see no reason to doubt that he ought, I think it would be better to say in the statute either absolutely that he is relieved, or without saying that his affidavit shall be taken to say that the Department may receive such information as they believe, whatever it may be, is correct.

I only make this suggestion; I do not wish to interfere with the Military Committee; but to lay down the proposition on ever so small a case that a person who is bound to account for public property or public money may discharge himself on his own affidavit is rather a dangerous step to take.

Mr. BURNside. I suggest, as the Senator from Kansas who has charge of the bill [Mr. PLUMB] is not present and it is not a matter of sufficient magnitude to have made any impression on the other members of the committee—I have an indistinct recollection of it—it be passed over.

Mr. EDMUNDS. It is a very small matter, and this poor fellow very likely ought to be relieved, so let the bill be laid aside temporarily.

Mr. BURNside. That will do.

The PRESIDENT *pro tempore*. The bill will be laid aside temporarily.

DEPOSITS FOR LAND SURVEYS.

The next bill on the Calendar was the bill (S. No. 801) to amend section 2403 of the Revised Statutes of the United States, in relation to deposits for surveys.

Mr. BURNside. The Senator from Kansas who has charge of this bill [Mr. PLUMB] is absent. I suggest that it also go over.

The PRESIDENT *pro tempore*. The bill will be passed over.

Mr. SARGENT. Has the Senator from Rhode Island any objection to the bill being read? My opinion is that it is an important bill.

Mr. BURNside. No objection whatever.

The PRESIDENT *pro tempore*. The bill will be read.

The CHIEF CLERK. The Committee on Public Lands report an amendment, to strike out all after the enacting clause of the bill and in lieu to insert:

That section 2403 of the Revised Statutes of the United States be, and is hereby, amended so as to read as follows:

"Sec. 2403. Where settlers make deposits in accordance with the provisions of section 2401, the amount so deposited shall go in part payment for their lands situated in the townships the surveying of which is paid for out of such deposits: or the certificates issued for such deposits may be assigned by indorsement, and be received in payment for any public lands of the United States entered by settlers under the pre-emption and homestead laws of the United States, and not otherwise."

Mr. SARGENT. I think the Senator will see no objection to that bill.

Mr. BURNside. I have no objection to it.

Mr. PADDOCK. This bill was reported by the Senator from Kansas who is now not in his seat, and I suggest that the bill go over.

Mr. SARGENT. Nevertheless it is a bill very well understood by Senators who know anything about the deposits for surveys of the public lands.

Mr. PADDOCK. I have no objection to the bill.

Mr. MITCHELL. It is a matter of a good deal of importance to all the western country.

Mr. SARGENT. The privilege exists by law, on account of the inadequate appropriations made for public surveys, to the settlers in any township to have the township surveyed, to advance the money which is put into the hands of the United States surveyor-general, and they are credited with it in the purchase of their lands. This bill simply perfects the machinery.

Mr. PADDOCK. I understand the bill myself. I did not know but that it might be necessary to have an explanation from the Senator who reported the bill. It is all right, I think.

The bill was considered as in Committee of the Whole.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

H. A. MYERS.

The next bill on the Calendar was the bill (S. No. 260) for the relief of H. A. Myers; which was considered as in Committee of the Whole. It provides for the payment to H. A. Myers, late a private Eleventh Kansas Volunteers, of a sum that shall be equal to the pay of a private soldier from the 17th day of September, 1862, to the date of his discharge from the service of the United States, deducting therefrom any amount that may have been paid to him as such private soldier.

The Committee on Military Affairs reported an amendment to add to the bill the words "and any amount that may be due from him to the Government."

Mr. BURNside. There is a written report in that case which can be read if desired.

Mr. EDMUNDS. I should like to hear it.

The Chief Clerk read the following report, submitted by Mr. BURNside on the 26th of March:

The Committee on Military Affairs, to whom was referred the bill (S. No. 260) for the relief of H. A. Myers, have had the same under consideration, and submit the following report:

I suggest that the bill for the relief of H. A. Myers be recommended favorably, and refer for my reasons to the report of the Adjutant-General, attached hereto, which I desire to make a part of my report:

ADJUTANT-GENERAL'S OFFICE,
March 15, 1878.

Respectfully returned to the Secretary of War.

It appears from the records of this office that Hiram A. Myers was enrolled September 17, 1862, and mustered into service from that date as private Company D, Eleventh Kansas Cavalry, and served honorably from date of enrollment to July 7, 1864. On the muster-out roll of company, dated September 13, 1865, he is reported as follows:

"This man enlisted in good faith, served faithfully as a soldier from enlistment to July 7, 1864; his old enlistment papers were lost, new ones were made out, and upon examination he was rejected by T. Sinka, surgeon board examiners, district Northern Kansas, July 7, 1864, when he was dropped from company rolls."

"There is due him for use and risk of horse and equipments from date of last payment to June 20, 1864, and he is indebted to the United States for horse equipments \$31. He was last paid by Major Bowen to February 29, 1864."

There would appear to be no objection to this bill becoming a law.

E. D. TOWNSEND,
Adjutant-General.

It is clear, in view of this report, that the bill should pass.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM BOWLIN.

The next bill on the Calendar was the bill (S. No. 334) for the relief of William Bowlin, late of Company L, Second Arkansas Cavalry; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment to strike out in lines 7 and 8 the words "10th of October, 1863," and to insert "13th of February, 1864;" so as to make the bill read:

That the Secretary of the Treasury be, and he hereby is, directed to pay to William Bowlin, late of Company L, Second Arkansas Cavalry, out of any money in the Treasury not otherwise appropriated, a sum equal to the pay and emoluments of a captain of cavalry, from the 13th of February, 1864, to the 8th of March, 1864, deducting whatever pay he may have received for that period as an enlisted man.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CLAIMS FOR STORES AND SUPPLIES.

The next bill on the Calendar was the bill (H. R. No. 3068) for the allowance of certain claims reported by the accounting officers of the Treasury Department; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with amendments.

The PRESIDENT *pro tempore*. The Secretary will read the bill, and the amendments will be acted upon as reached.

Mr. EDMUNDS. Mr. President, I should prefer to wait until the chairman of the Committee on Claims comes in, who has the bill in charge, so that he can explain the amendments if necessary. I do not wish to ask that the bill go over because undoubtedly almost all these matters are meritorious things. Let the Clerk read through the bill and then let us take up the amendments afterward.

The PRESIDENT *pro tempore*. That course will be pursued.

The Chief Clerk read the bill.

The PRESIDENT *pro tempore*. The amendments of the committee will now be reported and acted upon.

The first amendment was, in the name of John R. Shackleford, line 111, to strike out "R" and insert "K."

The amendment was agreed to.

The next amendment was, in line 118, before the word "Smith," to strike out the word "Eliza" and insert "Elijah;" so as to read:

Elijah Smith, Whitley County, \$26.50.

The amendment was agreed to.

The next amendment was, in line 141, before "W. Alnutt," to strike out "Nathaniel" and insert "Nathan;" so as to read:

Nathan W. Alnutt, Montgomery County, \$189.

The amendment was agreed to.

The next amendment was, in line 215, before the words "L. King," to strike out "William" and insert "Samuel;" so as to read:

Samuel L. King, trustee of John Hager, Washington County, \$34.

The amendment was agreed to.

The next amendment was, in line 285, to reduce the appropriation to pay the claim of Archibald Bacome, Monroe County, from \$2,700 to \$2,400.

The amendment was agreed to.

The next amendment was, in line 401, before the word "deceased," to strike out "Lindsey Nathaniels" and insert "administrator of estate of Nathaniel L. Lindsey;" in line 402, before the word "Davidson," to strike out "estate" and insert "late of;" and in line 404, after the word "dollars," to insert "upon filing due proofs of his appointment;" so as to read:

Administrator of estate of Nathaniel L. Lindsey, deceased, late of Davidson County, \$1,875, upon filing due proofs of his appointment.

The amendment was agreed to.

The next amendment was, in line 539, before the word "Cullen," to strike out "Gabriel" and insert "Gilbert;" so as to read:

John P. Graver, administrator of the estate of Gilbert Cullen, deceased, late of Clermont County, \$50.

The amendment was agreed to.

The next amendment was, in line 558, to increase the appropriation to pay the claim of J. T. Fracker, Muskingum County, from \$75 to \$135.

The amendment was agreed to.

The next amendment was, in line 576, before "Hamilton," to strike out "Anthony Hiltz," and insert "Anthony Hiltz, junior;" so as to read:

Anthony Hiltz, junior, Hamilton County, \$100.

The amendment was agreed to.

The next amendment was, in line 578, after the word "Andrew," to strike out "Hoffman" and insert "Huffman;" so as to read:

Andrew Huffman, administrator of the estate of Cornelius Wilkins, deceased, late of Brown County, \$90.

The amendment was agreed to.

The next amendment was, in line 595, after the word "Daniel," to strike out "Leap" and insert "Leaf."

The amendment was agreed to.

The next amendment was, in line 639, after the word "Daniel," to strike out "Rondebush" and insert "Roudebush."

The amendment was agreed to.

The next amendment was, in line 651, after the word "William," to strike out "Svy" and insert "Sry."

The amendment was agreed to.

The next amendment was, in line 682, after the word "Alfred," to strike out "Trieze" and insert "Frieze."

The amendment was agreed to.

The next amendment was, in line 690, before "L. King," to strike out "Jones" and insert "Jonas."

The amendment was agreed to.

The next amendment was to insert as an additional section:

SEC. 2. No claim shall hereafter be allowed by the accounting officers, under the provisions of the act of Congress approved June 16, 1874, or by the Court of Claims, or by Congress to any person where such claimant or those under whom he claims shall willfully, knowingly, and with intent to defraud the United States, have claimed more than was justly due in respect of such claim, or presented any false evidence to Congress or to any Department or court in support thereof.

The amendment was agreed to.

Mr. McMILLAN. I desire to offer an amendment to the bill by striking out the word "allowed" in line 9 and inserting in lieu thereof the words "passed upon;" so as to read:

And the receipt of the same to be taken and accepted in each case as a full and final discharge of the several claims examined and passed upon by the proper accounting officers.

That is necessary to render the bill sensible.

The amendment was agreed to.

Mr. McMILLAN. In line 317, I move to insert the word "dollars" after the word "twenty-five;" so as to read:

David H. Dickey, Monroe County, \$725.

The amendment was agreed to.

Mr. McMILLAN. Those are all the amendments I wish made to the bill.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ROLLIN J. REEVES.

Mr. McMILLAN. Before proceeding with the Calendar again I desire, from the Committee on Claims, to report back the bill (S. No. 366) for the relief of Rollin J. Reeves, which was reported from the Committee on Indian Affairs and referred to the Committee on Claims. I move that the Committee on Claims be discharged from the further consideration of the claim. This motion is made at the

request of the claimant and for his convenience, that he may proceed with his claim before the House of Representatives.

The motion was agreed to.

DWIGHT W. HAKES.

Mr. PLUMB. I have been informed that during my absence the bill (S. No. 644) for the relief of Dwight W. Hakes was temporarily laid aside. If so, I ask that it be now considered.

By unanimous consent, the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The PRESIDING OFFICER, (Mr. ROLLINS in the chair.) The Senator from Vermont [Mr. EDMUNDS] proposed to amend the bill. The proposed amendment will be read by the Secretary.

The CHIEF CLERK. In lines 10, 11, and 12 it is proposed to strike out the words "evidence as he may be able to offer and upon his own depositions, when no better evidence can be produced," and insert "evidence or information as shall satisfy them that his claim is just;" so as to make the bill read:

That the proper accounting officers of the Treasury of the United States be, and hereby are, authorized to settle with Dwight W. Hakes, first lieutenant and regimental quartermaster of the Eighteenth Regiment Connecticut Volunteer Infantry, who was taken prisoner of war at the battle of Winchester, Virginia, June 14, 1863, and lost all his books, papers, funds, and vouchers, which fell into the hands of the enemy, upon such evidence or information as shall satisfy them that his claim is just.

Mr. PLUMB. I accept the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PHOEBE HENRIETTA GROESBECK.

The bill (S. No. 342) for the relief of Phoebe Henrietta Groesbeck was considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to Phoebe Henrietta Groesbeck, of San Antonio, Texas, \$300, being the amount due her for rent of property occupied under contract by the United States, and for which a proper voucher, now on file in the Treasury Department, was given.

Mr. MORRILL. Let the report be read.

The PRESIDING OFFICER. The reading of the report is called for.

The Chief Clerk read the following report, submitted by Mr. HARRIS March 27:

The Committee on Claims, to whom was referred the bill (S. No. 342) for the relief of Phoebe Henrietta Groesbeck, submit the following report:

That this claim is based upon a voucher issued by W. H. Brown, captain and assistant quartermaster of the United States Army, to the claimant (in the name of Henrietta Groesbeck) in September, 1865—

"For rent of one building at San Antonio, used for the headquarters and offices of the commander of the post at San Antonio from August 1 to September 30, 1865, two months, at \$150 per month, \$300."

To which is added the following:

"I certify that the above account is correct and just; that the services were rendered as stated; that they were necessary for the public service, and that the services have been reported by me according to the Army regulations, as per my report of persons, &c., for the month of September, 1865."

"W. H. BROWN,
Captain, Assistant Quartermaster."

This voucher was presented to the Quartermaster-General, who, on the 15th February, 1872, referred it to the Third Auditor of the Treasury, who, on the 25th March, 1872, rejected the claim, as follows:

"The claim, having originated in an insurrectionary district during the late war of the rebellion, is barred from settlement by act of Congress of February 21, 1867. It is therefore disallowed."

The committee, being of opinion that the claim is just and should be paid, report the bill back, with the recommendation that it pass.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

M. S. DRAUGHN.

The next bill on the Calendar was the bill (S. No. 471) for the relief of M. S. Draughn; which was considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to M. S. Draughn, of Tennessee, his heirs or legal representatives, \$60, in full of property rented from him and occupied under contract, and for which rent vouchers now on file in the Treasury Department were given.

Mr. HARRIS. That is exactly the same character of case as the one preceding it, which has just been acted upon; it stands upon the same character of vouchers.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

WILL R. HERVEY.

The next bill on the Calendar was the bill (H. R. No. 1224) for the relief of Will R. Hervey; which was considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay Will R. Hervey, of Louisville, Kentucky, \$3,639.25, in full satisfaction of loss occurring to him by the payment of a forged check, as cashier of the United States Depository at Louisville, Kentucky.

Mr. MORRILL. Let the report be read.

The PRESIDING OFFICER. The report will be read.

The Secretary read the following report, submitted by Mr. COCKRELL March 27:

The Committee on Claims, to whom was referred the bill (H. R. No. 1224) for the

relief of Will R. Hervey, have fully considered the same, and submit the following report:

This bill appropriates to claimant the sum of \$3,639.25, the amount of a forged draft, purporting to be drawn by H. C. Ransom, brevet lieutenant-colonel, chief quartermaster, Department of the Cumberland, and also depot quartermaster at Louisville, Kentucky, dated at Louisville, February 2, 1870, payable to Albert Fink, or bearer, and drawn on the depository of the United States at Louisville, Kentucky.

Claimant, Will R. Hervey, was cashier, and was appointed March 15, 1865, and served to June 30, 1874, when the depository was removed.

Claimant bases his rights upon certain alleged facts, to wit, that said check was upon the usual blanks furnished disbursing officers to be used in drawing money from said depository, and that it was payable to Mr. Fink, or bearer, and that Mr. Fink was a gentleman of business, to whom such checks were being given by disbursing officers, and that the signature to the same was such a perfect imitation of the genuine handwriting and signature of Colonel Ransom that he, as such cashier, by the exercise of due diligence and care, and without fault or neglect, failed to discover the forgery, and therefore paid it in the usual course of business, and after the forgery was discovered paid this said depository the said sum and used all possible means of tracing the forgery.

To sustain these allegations claimant produces the affidavit of the depository at the time, James P. Luse, as follows, to wit:

This affiant states that he is United States depository at Louisville, Kentucky; that a check, purporting to be drawn by H. C. Ransom, brevet lieutenant-colonel and quartermaster, on duty in Louisville, for \$3,639.25, was paid by Will R. Hervey, cashier, on the 2d day of February, 1870, which afterward proved to be a forgery; and, as soon thereafter as said Hervey could arrange to do so, he paid the full amount into the depository. He knows personally that said Hervey made every effort to discover the forgery, and has not yet remitted his efforts; but up to this time they have been unavailing. That, upon a rigid scrutiny of said check and a careful comparison of it with other checks of said Ransom known to be genuine, he found the imitation so perfect as almost to defy detection. He says that said Hervey has been cashier for a number of years, for the last four of which under affiant, and during that time has discharged his duties faithfully, devoting himself to his business and exercising all the care and attention which any could.

In testimony whereof the affiant has hereunto subscribed his name and made oath thereto, January 7, 1873.

JAMES P. LUSE,

United States Depository.

Subscribed and sworn to before me this 7th day of January, 1873.

JNO. T. MCQUIDDY,

Notary Public, Jefferson County, Kentucky.

Also the affidavit of A. Hoagland, special agent of the Government:

I do hereby certify that, in February, 1870, and for some time subsequent thereto, I was a special agent of the Treasury Department, my business being to detect frauds upon the Government, particularly in the Internal Revenue Department, by counterfeiting stamps and otherwise; that at the request of Mr. Luse, surveyor, and Mr. Hervey, cashier United States depository, and by the direction of the Secretary of the Treasury, I endeavored to discover the person or persons engaged in the forgery of a check purporting to be drawn by Brevet Lieutenant-Colonel H. C. Ransom, quartermaster, for \$3,639.25 on the United States depository, and which was paid by Mr. Hervey. I labored earnestly in this matter, with the assistance of Mr. Luse and Mr. Hervey, but could not obtain sufficient proof to fasten the charge upon any one, although I found enough to fix a strong suspicion upon some parties. It was the best executed forgery I ever saw, and from the nature of my business and long practice therein I consider myself an expert. The check used was taken from a book furnished by the Department for the use of disbursing officers. I satisfied myself that it did not come out of Colonel Ransom's book, but from that of another disbursing officer who occupied an apartment in the same building. The filling up and the signature were perfect imitations of Colonel Ransom's handwriting, and well calculated to deceive any one, even on close inspection; and several persons familiar with Colonel Ransom's writing expressed to me the same opinion.

A. HOAGLAND.

Subscribed and sworn to before me this 20th day of January, 1873.

W. A. MEREDITH,

United States Commissioner.

Also the affidavit of Walworth Jenkins, chief of police of the city of Louisville, Kentucky, and in February 1870, chief clerk to Colonel Ransom, to wit:

STATE OF KENTUCKY,
Jefferson County, et c:

Personally appeared before the undersigned, a duly-commissioned notary public in and for said State and county, Walworth Jenkins, of Louisville, Kentucky, who, being duly sworn, deposes and says that he is chief of police of the city of Louisville, Kentucky, and was formerly a captain and assistant quartermaster United States Army, and in February, 1870, was chief clerk in the office of the chief quartermaster of the Department of the Cumberland, then in charge of Bt. Lieut. Col. H. C. Ransom, quartermaster United States Army; that said Colonel Ransom was also depot quartermaster in said — and had two offices and sets of employes as chief and depot quartermaster; that affiant has known said Ransom for over twenty years, and is familiar with the handwriting of said Ransom; that he has frequently seen and examined a certain check, dated February 2, 1870, in favor of Albert Fink, for \$3,639.25, or thereabouts, purporting to be drawn on designated depository of the United States, at Louisville, Kentucky, by H. C. Ransom, brevet lieutenant-colonel and chief quartermaster, Department of the Cumberland, and paid at said depository by William R. Hervey, cashier of said depository; that the filling up and signature of said check are so well executed, and so similar to the handwriting of said Colonel Ransom that a close examination would not, in his opinion, detect a forgery. To all letters and official papers relating to the business of Colonel Ransom, as chief quartermaster of the department, the signature invariably was "H. C. Ransom, Bt. Lt. Col. & C. Qm. D. C.," and to all checks and papers relating to his business as depot quartermaster, the signature was "H. C. Ransom, Bt. Lt. Col. Qm.," the official designation being written below his name. This check was signed in the former manner, and I have compared the signature with his signature to letters in the copying-book, placing the letter over the check and the signatures in several cases fitted so closely that I was satisfied the forgery was done by tracing a genuine signature. I have always believed that the filling up and signature of the check were either original or traced from some of Colonel Ransom's original writing.

W. JENKINS,

Chief Police, Louisville, Kentucky.

Sworn and subscribed before me, this 8th day of January, 1873.

JAS. C. MONES,

Notary Public, Jefferson County, Kentucky.

Numerous witnesses testify to the high character and standing of Mr. Hervey, his close attention to business, and his great care, prudence, and diligence.

Your committee addressed a letter of inquiry to the Secretary of the Treasury, and received the following answer, to wit:

TREASURY DEPARTMENT, March 25, 1878.

Sir: Referring to your letter of the 15th instant and your conversation of the 23d

instant with the chief clerk of this Department, relative to House bill No. 1294, for the relief of Will R. Hervey, late cashier of the United States depository at Louisville, Kentucky, for having paid a check purporting to be drawn by Colonel Ransom upon that office February 2, 1870, in favor of Albert Fink, or bearer, for \$3,639.25, alleged to be a forgery, I have the honor to inform you that it appears from the records of this Department that Will R. Hervey was appointed in the office of the United States depository at Louisville, March 15, 1865, and that he remained in the office until it was abolished on June 30, 1874.

The blanks for checks drawn upon that office by all officers were furnished by the Department, and were uniform in design and color, and the check in question appears to have been drawn upon one of the usual blanks.

An examination of the paid checks of the depository in question on file in this Department shows that frequently large amounts were paid upon checks drawn to bearer without indorsement, and that the serial numbers of checks were frequently changed by the drawers.

At the time the depository was abolished the amount of public money turned over was found to be correct.

From July 1, 1865, to June 30, 1874, the office in which Mr. Hervey was cashier received about \$64,000,000 and disbursed about \$63,000,000.

The copy of the report of balances, herewith inclosed, shows the number of accounts, and to whom the money belonged on February 5, 1870, the date of the report nearest that of the alleged fraudulent check, from which it will be seen that the office had open accounts with forty-two disbursing officers.

The check in question inclosed in your letter is herewith returned as you request.

Very respectfully,

JOHN SHERMAN, Secretary.

Hon. F. M. COCKRELL,
United States Senate.

Mr. COCKRELL, for the committee, made a comparison of the forged check with genuine checks drawn by Colonel Ransom about the same time, and found the signature to the forged check an almost perfect imitation of the genuine signature, not only in general appearance, but also in the smallest minutiae and forms of the letters, &c. On February 5, 1870, according to the statement sent with letter of Secretary, there was on deposit at said depository in Louisville, the sum of \$631,751.84 in the names of some forty-two different depositories.

Your committee believe from the evidence that Mr. Hervey was attentive, diligent, and careful, and without fault, neglect, or want of care paid this forged check, honestly believing it genuine, and that the resemblance of the forged signature to the genuine was so very great and perfect that no business examination would detect the forgery, and that, as a matter of equity and fair dealing, the Government should refund the said principal sum to him.

Your committee therefore recommend the passage of said House bill, reported back without amendment.

Mr. DAVIS, of Illinois. This is a very dangerous precedent to set. Mr. COCKRELL. I will state to the Senator from Illinois that this is not a precedent. This is simply following what the Senate has done in more than fifty cases. Instead of establishing a precedent, it is rather following the rules and precedents which have heretofore been established. I made the report, and I confess very frankly that when I started into the investigation I did it for the purpose of killing the bill if it were possible. If I could have found any reasonable or just ground upon which I could have based an adverse report, I should have reported adversely upon it with a great deal of pleasure.

Mr. DAVIS, of Illinois. The objection I have to it is that no person ought to be relieved for paying a forged check, and the many officers of this Government who are charged with money should suffer the same as men suffer in private life. I do not see any difference between the two cases. I think it opens very widely the door to applications of this kind.

Mr. MORRILL. And prevents watchfulness.

Mr. DAVIS, of Illinois. And prevents watchfulness on the part of the public depositories. I do not know when the precedent was set, but whenever it was set it was a very bad one.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and read the third time.

Mr. MORRILL. I think we had better have the yeas and nays on the passage of the bill.

Mr. DAVIS, of Illinois. There is no use of the yeas and nays.

Mr. MORRILL. I would rather take the question by rising. I withdraw the call for the yeas and nays.

The PRESIDING OFFICER. Those who favor the passage of the bill will rise and stand until counted.

Mr. HARRIS. I thought the yeas and nays were demanded.

The PRESIDING OFFICER. The demand was withdrawn.

Mr. MORRILL. I do not want to break up a quorum, but I am not satisfied that this bill should pass unless a majority of the Senate are in favor of it, and I would rather let it go over until a majority is in the Senate, and then it may be taken up and I will ask for the yeas and nays upon its passage.

The PRESIDING OFFICER. The question is upon the passage of the bill.

Mr. MORRILL. I call for the yeas and nays if a vote is insisted upon, but I am willing the bill should be passed over.

Mr. SARGENT. Let us have the yeas and nays.

The PRESIDING OFFICER. The Chair did not understand the suggestion of the Senator from Vermont.

Mr. MORRILL. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CAMERON, of Wisconsin. This bill was reported by the Senator from Missouri, [Mr. COCKRELL.] There are a number of Senators on this side who were not present when the report was read and they desire that the Senator who reported the bill should make a statement in regard to the claim.

Mr. COCKRELL. Mr. Hervey was the cashier of the United States depository then located at Louisville, Kentucky, and he had charge of it from the time it was first established until it was removed; I have forgotten the exact dates; but during that time he received about \$64,000,000 of public funds and disbursed about \$63,000,000. These disbursements were made upon drafts or checks drawn by the

United States disbursing officers upon the United States depository at Lexington. He paid and accounted for every dollar of funds that came into his hands. In 1870 a forged draft or check was presented for the amount of this bill, \$3,639.25. He paid that check.

Mr. CHRISTIANCY. It was a check purporting to be drawn by whom?

Mr. COCKRELL. It was a check purporting to be drawn by Lieutenant-Colonel Ransom, a disbursing officer of the United States in that department, and the check purported to be payable to a gentleman by the name of Albert Fink, who was the superintendent or person in charge of the railroad from Louisville to Nashville, and in whose favor large drafts or checks were constantly being drawn by the different disbursing officers of the United States there. The check was drawn upon one of the printed embellished blanks of the Treasury Department, the blanks that are sent out, almost like a bank bill; and there was nothing upon the face of the draft or check which would lead any prudent, discreet, judicious man to suspect that it was a forgery. I sent to the Treasury Department and had the chief clerk bring to my room some thirty or forty of the original checks drawn by Colonel Ransom, just before and just after the payment of this forged check or draft. I compared the handwriting of the genuine draft with the handwriting of the forged draft, and I say it would take an exceedingly accurate expert to distinguish the difference between the signatures. There was but one point that I thought might have attracted his attention, and that was the number of the draft. I went so far as to compare the drafts. The Treasury Department assured me that there was no regularity in the numbering of the drafts which were drawn upon the United States depository there, that some officers would number them by months and some would number them by years, and some by shorter periods; that some would number them by a book; so that there was nothing in this forged draft which presented anything to give Mr. Hervey a clue to the forgery. As the report states, he paid it with the exercise of the utmost care, with the exercise of the utmost diligence, and no laches, no fault, no blame can attach to him. If he were the cashier of a private bank, or if he were the cashier of a corporate bank, I guarantee that there is not one in the United States that would undertake to hold him responsible for having paid such a draft or check as that out of the funds of the bank.

Mr. HOWE. Will the Senator allow me to ask him a question for information?

Mr. COCKRELL. Certainly.

Mr. HOWE. Was the depository a bank or not?

Mr. COCKRELL. It was a United States depository where large amounts of funds were deposited to be paid out to the various departments there.

Mr. HOWE. Was this check presented by a stranger to the depository?

Mr. COCKRELL. These checks had printed upon their face, "payable to" a certain person "or bearer."

Mr. HOWE. Very well.

Mr. COCKRELL. It was presented as other checks were being presented daily. They do not know by whom it was presented.

Mr. HOWE. He paid it, then, to a stranger?

Mr. COCKRELL. He paid it just as he paid all checks to the bearer and this was the only forged check that was ever presented. After that they changed the system. The blanks were printed here at the Treasury Department, being regular printed drafts and they had in print the words "or bearer," and never until after that did they change the drafts by substituting the words "or order."

Mr. HOWE. Is it the habit of depositaries or cashiers of banks to pay checks to strangers?

Mr. COCKRELL. It is where the check is made payable "to bearer." That was the universal rule there, and they paid out \$63,000,000 in the same way. Checks were drawn by quartermasters, by commissaries, and by paymasters for persons doing labor here and there in the various Departments, and they were payable to a certain person "or bearer," and were paid to the person who presented them at the depository.

Mr. HOWE. Is the Senator quite sure that he can get a check payable to bearer cashed at a bank in New York, where he is a stranger?

Mr. COCKRELL. I am not familiar with the rules there. I am not saying anything about that. I only say what was the rule here and what is the rule in the country banks, so far as I know—I do not know about the large city banks—that where a check or draft is payable "to bearer" whoever presents it gets the money, unless there is some suspicion to show that the man did not rightfully come by the check, or something of that kind. Mr. Fink was superintendent of the railroad and large checks or drafts were drawn in his favor. It is not known at the Treasury that he ever presented one of these drafts in his life in person. He was the superintendent, and they were drawn to him and presented by his clerk or employes in the office of the railroad company.

Mr. SARGENT. Is it not the rule of all banking institutions that where an instrument is drawn payable "to bearer" it is paid to the person presenting it without identification?

Mr. EATON. It is, if the signature is right. That is the only thing the cashier examines in such a case. He is to see that the signature is genuine.

Mr. COCKRELL. The signature to the draft or check?

Mr. EATON. Yes.

Mr. COCKRELL. I do not know what the rule is in New York but the rule all over the West is as I state it.

Mr. SARGENT. Is it not also the general rule or instruction of the Treasury Department that instruments of that kind shall be drawn to bearer?

Mr. COCKRELL. It was the rule up to that time.

Mr. SARGENT. Is it not now?

Mr. COCKRELL. I do not know how it is now. I understand that they changed the form, at least at that office, and made the drafts payable "to order."

Mr. SARGENT. My impression is that it is the rule of the Treasury Department now that an instrument shall be drawn to bearer on account of the great difficulty or trouble there is in reference to identification.

Mr. COCKRELL. I am not aware of that, but as I understand they changed the form at this office.

Mr. McMILLAN. In examining this claim the ground upon which it was allowed was that there was no negligence that could be imputed to the person who paid this draft. In all claims of this kind, if there is any ground which we regard as negligence at all in the party, that is always regarded as a sufficient ground for rejecting the claim. Whatever may be the judgment of the Senate in regard to the principle involved in the matter, that is the ground on which the claim rests.

Mr. MORRILL. I suppose that if any Senator here had a deposit in a bank he would hardly feel under any obligation to pay any forged checks that might be presented against him. The United States have these depositories all over the country; and if we shall set the example of liberating every person who shall take a forged check, I am very sure that there will be less care and scrutiny in these payments than there has been heretofore. It has been said that this person was not guilty of any neglect. I take it that there was a very decided neglect on his part in paying this money to a person whom he did not know; and, it being a forged check, he did not exercise that care which he ought to have taken in order to ascertain that the person to whom he was paying the money was a responsible party; and if he had exercised the proper care, the forged check might have been recovered from him if paid. Under these circumstances I do not see how it is possible for me to vote for this bill.

Mr. CHRISTIANCY. I differ somewhat with the Senator from Vermont in that respect. A check that is payable to bearer I think does not impose the duty of inquiring whether the person is a responsible party or not, unless there is some suspicious circumstance to call the cashier's attention to him, and I think it is found there was none in this case. I think the holder of such a check has the legal right to payment if it is a genuine check.

The PRESIDING OFFICER. The question is on the passage of the bill, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 31, nays 11; as follows:

YEAS—31.			
Allison,	Cockrell,	Hereford,	Patterson,
Bailey,	Coke,	Lamar,	Plumb,
Beck,	Davis of W. Va.,	Maxey,	Sargent,
Booth,	Dawes,	McCreery,	Teller,
Bruce,	Dorsey,	McDonald,	Voorhees,
Cameron of Pa.,	Garland,	McMillan,	Wallace,
Cameron of Wis.,	Gordon,	Mitchell,	Whyte,
Christiancy,	Grover,	Paddock,	
NAYS—11.			
Anthony,	Edmunds,	Howe,	Morrill,
Davis of Illinois,	Hamlin,	Kellogg,	Rollins,
Easton,	Harris,	Merrimon,	
ABSENT—34.			
Armstrong,	Dennis,	Kernan,	Saunders,
Barnum,	Eustis,	Kirkwood,	Sharon,
Bayard,	Ferry,	McPherson,	Spencer,
Blaine,	Hill,	Matthews,	Thurman,
Burnside,	Hear,	Morgan,	Wadleigh,
Butler,	Ingalls,	Oglesby,	Windom,
Chaffee,	Johnston,	Randolph,	Withers,
Conkling,	Jones of Florida,	Ransom,	
Conover,	Jones of Nevada,	Saulsbury,	

So the bill was passed.

GEORGE M. HAZEN.

The next bill on the Calendar was the bill (S. No. 1000) for the relief of George M. Hazen; which was considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to George M. Hazen, of Tennessee, \$175, in full settlement of his account for rent at Knoxville, Tennessee.

Mr. EDMUNDS. Let us hear the report read.

The PRESIDING OFFICER. The report will be read.

The Chief Clerk read the following report, submitted by Mr. TELLER March 27:

The Committee on Claims, to whom were referred the petition and accompanying papers of George M. Hazen, of Tennessee, have had the same under consideration, and make this report:

This claim of G. M. Hazen is for rent of building for officers and a stable in Knoxville, Tennessee, from August 1, 1865, to December 15, 1865.

A voucher was given Hazen for \$175 by the captain and assistant quartermaster, and the voucher was approved by command of Major-General Stoneman. It was reported to the office of the Quartermaster-General at Washington, and it appears that the contract for rent was neither allowed nor disallowed. The premises having been occupied under a contract made by the assistant quartermaster, and duly reported to the department at Washington, and not having

been disapproved, and the account and renting having been approved by General Stoneman, the committee think the claim should be allowed, and therefore report the accompanying bill.

Mr. EDMUNDS. I must ask that the bill go over, in order that we may see what this voucher is. If there was a written contract in advance, it is one thing; but if it was an occupation and an implied contract, of course it might be quite a different thing.

The PRESIDING OFFICER. Objection being made, the bill will go over.

Mr. HARRIS. I desire to say to the Senator from Vermont, if he will withdraw his objection, that the Senator from Colorado [Mr. TELLER] can inform him as to the character of the voucher now. It is simply the voucher of an assistant quartermaster, I take it for granted.

The PRESIDING OFFICER. Does the Senator from Vermont withdraw his objection?

Mr. EDMUNDS. For the time being, subject to the right to renew it.

Mr. TELLER. I will say that the case falls within the rule under which we have been allowing such claims. It was a contract made and approved by the commanding general, reported, and carried on the files without disapproval. I see no reason why the claim should not be paid. We have paid many other claims that were not as well supported.

Mr. EDMUNDS. So we have, a great many, too many other claims not as well supported as this; but I suppose we have got to stop somewhere. I do not know that this is the right place to stop, but I should like to inquire now whether this contract was implied, was not written?

Mr. TELLER. I do not recollect whether it was in writing or not, but it was certified to the Department. The voucher was approved by the commanding general, carried on the rolls of the Quartermaster's Department, as buildings on which the Government was to pay rent. The papers are clear. I do not remember whether the contract was in writing or not.

Mr. EDMUNDS. Are the papers with the case?

Mr. TELLER. I suppose so. They ought to be with it.

Mr. EDMUNDS. Let the bill go over, Mr. President, and I shall look at the papers. Of course a voucher can be given after there is an occupation, which may be called a contract; but it is not one. The mere fact that some quartermaster has given a voucher, a certificate stating that the party's property has been occupied, is not enough for my judgment in paying a southern claim. If we made an express contract after the war, or perhaps during the war, in advance, to pay a man a certain sum for the rent of his property, that of course stands upon a different ground, and it may be right to pay him; under general circumstances I should say it would be; but if you take possession of his property and occupy it, and he afterward wants a voucher to see what he can make out of it, and the voucher merely states that we have occupied that property and it is worth so much, that leaves the question entirely open as to whether he ought to be paid or not; and the exact character of the transaction, therefore, would decide as to which side of the line the case would fall. For that purpose I should like the bill to go over until we may see what the exact character of the case is.

Mr. TELLER. I should like to say to the Senator from Vermont that this is a case where the Government by the assistant quartermaster made a contract to pay a certain amount of rent before they took possession of the building, and issued a voucher, and thereupon the commanding general approved the voucher, it being a proper subject for a voucher. It is not a case where property was taken possession of by the Army by virtue of the war right, but it was a contract.

The PRESIDING OFFICER. Objection being made, the bill goes over under the rule.

SAMUEL H. CANFIELD.

The next bill on the Calendar was the bill (H. R. No. 2884) for the relief of Samuel H. Canfield, postmaster at Seymour, Connecticut, which was considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to Canfield \$352.12, for money-order funds to the amount of \$158.76, and postage-stamps to the amount of \$193.36, stolen from the post-office in Seymour, on the night of the 30th of March, 1874, without his fault, and for which stamps and money-order funds he has since that time fully accounted and settled with the Post-Office Department.

Mr. EDMUNDS. Let us hear the report.

The PRESIDING OFFICER. The report will be read.

The Secretary read the following report, submitted by Mr. BURN-
SIDE March 28:

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. No. 2884) for the relief of Samuel Canfield, postmaster at Seymour, Connecticut, having had the same under consideration, submit the following report: Samuel H. Canfield was postmaster at Seymour, Connecticut, and on the 30th day of March, 1874, a large iron safe in his office was blown open by burglars and money-orders to the amount of \$158.76 and postage-stamps amounting to \$193.36 were stolen therefrom. No part of this property has ever been recovered.

Investigations were made by the authorities of the Post-Office Department. Letters and reports from the special agent of the Post-Office Department, dated April 9, 1874, and from the Third Assistant Postmaster-General, dated January 23, 1875, and a second letter from the same source, dated March 1, 1876, and from the Auditor of the Treasury for the Post-Office Department, dated December 17, 1877, show that the amount of funds as stated in the bill is correct; that all due diligence and caution was used in the care and protection of the funds; that the accounts of Mr. Canfield have been settled with the Department, and that he was not indebted to

the United States at the time of the date of the letter of the Auditor of the Treasury for more than the amount the current business of his office required.

Your committee therefore recommend the passage of the bill without amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NATIONAL SECURITY LIFE INSURANCE COMPANY.

The next bill on the Calendar was the bill (S. No. 694) to incorporate the National Security Life Insurance Company, of Washington, District of Columbia; which was read by its title.

Mr. DAVIS, of Illinois. The Senator who reported the bill is not here. Probably it may be of some importance, and it had better be postponed I think.

The PRESIDING OFFICER. The bill will go over under the rule.

DIVORCES IN THE TERRITORIES.

The next bill on the Calendar was the bill (S. No. 242) in relation to the jurisdiction of district courts in the Territory of Utah in matters of divorce; which was considered as in Committee of the Whole.

The bill was reported from the Committee on the Judiciary with an amendment, to strike out all after the enacting clause and insert:

That the respective district courts in each of the following Territories of the United States, to wit, New Mexico, Utah, Wyoming, Washington, Dakota, Idaho, and Montana, shall have exclusive original jurisdiction in all matters, proceedings, and processes relating to divorce; and all process or proceeding now pending in any of the probate courts of any of such Territories shall henceforth be transferred, entered, and have day in the district court in each of said Territories in which such probate court is situated. And all petitions, bills, processes, or other proceedings instituted in any probate court in any of such Territories, in matters of divorce, shall be transferred and returnable to, and have day in, the district court of any such Territory in which such probate court is situated, next to be holden after the day to which the same would otherwise be returnable to such probate court or subject to be proceeded with therein; and writs of error, bills of exception, or appeals shall be allowed in all cases of divorce from the final decision of such district court to the supreme court of such Territories respectively, in the same manner as in all other civil cases heard or tried in said district courts: *Provided*, That such appeal or writ of error shall be taken within thirty days after the date of the judgment or decree. And the judgment or decree shall have no effect to authorize either party to marry again until the expiration of said thirty days. And in case such writ of error or appeal being taken, the judgment or decree of the district court shall be subject to reversal, affirmance, or modification by the supreme court.

In the Territory of Arizona, the supreme court alone shall have jurisdiction in all matters of divorce; and all cases and matters of divorce pending and undetermined in any other court of said Territory at the time of the passage of this act, shall be transferred to and triable and determinable in said supreme court; and all process issued in any matter of divorce from any other court of said Territory, and not yet returned, shall be returned to said supreme court of said Territory.

SEC. 2. And no divorce shall be granted in any of said Territories except for the following causes, duly proved by witnesses in open court or by depositions duly taken for that purpose, namely, first, for the cause of adultery of the party defendant, and not for this cause if it shall be made to appear to the court that complainant has been guilty of the like offense; second, for impotence; third, for extreme cruelty; fourth, for willful and unjustifiable desertion for the period of at least two years; and, fifth, for habitual drunkenness. And no decree of divorce shall be rendered upon the mere default or failure of any defendant to answer or plead to the allegations of the complainant's bill or declaration. Nor shall the admission of a defendant in any form authorize a decree of divorce. Nor shall such decree in any wise be rendered unless the court shall be satisfied, upon due proof, that there is no collusion between the complainant or plaintiff and the defendant or respondent. Nor shall any divorce be granted nor a suit for divorce entertained in behalf of any complainant or plaintiff who has not, for at least one year before the institution of the suit, been an actual and bona fide resident of the Territory; nor, if the defendant is not a resident of such Territory, until a copy of the bill, petition, or declaration shall have been served upon the defendant or respondent, if his or her residence shall be known, at least three months before any such case shall be heard, and such service duly proved. If the residence of the defendant or respondent be unknown, then, upon satisfactory proof, by affidavit, of that fact, and showing also the last place of residence of such defendant or respondent known to the complainant or plaintiff, the court shall make an order for publication of notice of the pendency and object of the suit, in some newspaper in said Territory, naming it, and also in the newspaper nearest the place of the last-known residence of such defendant or respondent, at least once in each week, for twelve successive weeks prior to the time when such defendant or respondent shall be required to appear and defend. And in such case, after such publication has been duly made and proved, the court may proceed with the case as upon a personal service, except that, if such non-resident defendant or respondent shall appear, in person or by counsel, and ask to defend, at any time prior to the final judgment or decree, he or she shall be entitled to make a full defense in the cause. No person shall be allowed to appear or act as attorney for either party in a suit for divorce without first filing in court a power of attorney duly executed by such party, with due proof of such execution.

SEC. 3. All laws of any of said Territories, so far as they may be inconsistent with any of the provisions of this act, are hereby repealed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

On motion of Mr. CHRISTIANCY, the title was amended so as to read: "A bill regulating divorces in the Territories of the United States."

Mr. CHRISTIANCY. I ask leave to report back from the Committee on the Judiciary, in order that they may accompany the divorce bill just passed, certain papers containing the evidence on the subject. I ask that the committee be discharged therefrom, so that the papers may go to the House with the bill.

The committee were discharged.

ALBERT TOWLE.

The bill (S. No. 51) for the relief of Albert Towle, postmaster at Beatrice, Nebraska, was considered as in Committee of the Whole. It appropriates \$365 to reimburse Albert Towle, postmaster at Beatrice,

Nebraska, for revenue-stamps stolen from his office at that place on the night of October 25, 1869.

Mr. EDMUNDS. Let us hear the report.

The Chief Clerk read the following report, submitted by Mr. FERRY on the 2d instant:

The Committee on Finance, to whom was referred the bill (S. No. 51) for the relief of Albert Towle, postmaster at Beatrice, Nebraska, respectfully report:

That on the night of the 25th of October, A. D. 1869, the post-office building at Beatrice, Nebraska, was entered by burglars, and United States revenue-stamps to the amount of \$365 and other property were stolen therefrom. These facts are stated in the memorial of Albert Towle, the postmaster. The affidavits of five prominent business men of Beatrice verify the sworn statement of Postmaster Towle. It appears from the papers that the utmost diligence, faithfulness, and care had been exercised in the administration of the affairs of the office; that the said post-office was kept in a new and substantially constructed building used exclusively for such purpose; that the doors were securely locked and the windows carefully fastened; that the stamps were deposited in the drawer of a table, which was locked. It being a small office there was no safe.

It further appears that one of the windows of the office was entirely broken out in the night-time, the drawer of the table forced open, the stamps taken therefrom, and other property of much greater value stolen from other parts of the office by the burglars. It also appears that prompt and most thorough efforts were made by the petitioner for the recovery of the property and the apprehension and punishment of the thieves. A communication from the Post-Office Department, showing that Postmaster Towle had at the time of the robbery a somewhat larger amount of stamps in his possession than that named in his memorial, accompanies this report. A petition, signed by all the prominent citizens within the post-office delivery, indorsing the high character of the petitioner as a man and a public officer, is also one of the papers accompanying this report. He is still the postmaster, and has had the longest continuous service of any officer in the State of Nebraska.

In view of all the facts in the case, the committee unanimously recommend that Albert Towle, postmaster at Beatrice, Nebraska, be reimbursed for the loss of revenue-stamps to the amount of \$365; and to secure that result present the accompanying bill, with the recommendation that it do pass.

Mr. KERNAN. I desire to inquire why there has been so much delay. Has this case been presented to Congress before?

Mr. PADDOCK. The same bill has passed this body twice, but failed in the other House.

Mr. KERNAN. When was it first presented?

Mr. PADDOCK. A year before I came here. It has been twice passed since I came, but failed in the other House.

Mr. KERNAN. Why were there so many stamps in that office?

Mr. PADDOCK. I will say to the Senator that the town is a small one; Mr. Towle was an agent of the Treasury Department as well as postmaster and had charge of the internal-revenue stamps at that time which were to be disposed of as business might require.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

REPAYMENT OF TONNAGE TAX.

The next bill on the Calendar was the bill (S. No. 185) to amend section 2931 of the Revised Statutes of the United States so as to allow repayment by the Secretary of the Treasury of the tonnage tax where it has been exacted in contravention of treaty provisions.

Mr. EDMUNDS. That is a general bill. It had better go over.

Mr. MORRILL. I hope my colleague will not object to it. I have all the papers and documents in relation to it, and I should like to say what I have to say upon it at the present time.

Mr. EDMUNDS. I will not object to my friend making a speech, of course; I am always glad to hear him.

The PRESIDING OFFICER. The objection is withdrawn.

Mr. EDMUNDS. Subject to renewal.

Mr. MORRILL. I am directed by the Committee on Finance to report an amendment to come in at the last part of the bill on page 2, striking out all after the word "nor," in line 14, and inserting what I send to the Chair.

The PRESIDING OFFICER. The Chair understands that is an amendment to an amendment reported by the committee.

Mr. MORRILL. It is a substitute for an amendment originally reported.

The PRESIDING OFFICER. The bill will be read and the amendments stated.

The bill was read, and considered as in Committee of the Whole. It declares that the provisions of section 2931, of chapter 6, title 34, of the Revised Statutes shall not apply to cases of the payment of tonnage tax on vessels where the Secretary of the Treasury shall be satisfied that the exaction of such tax was in contravention of treaty provisions; and he may draw his warrant for the refund of the tax so illegally exacted, as is provided in section 3012½ of said statutes. This act is not to be construed to authorize the refunding of any tonnage duties whatever exacted prior to the 1st day of June, 1862.

The first amendment reported by the Committee on Finance was, in line 6, after "Secretary of the Treasury," to insert "and Attorney-General."

The amendment was agreed to.

The next amendment was, to insert at the end of the bill:

Nor shall it apply to cases of the payment of tonnage tax heretofore made on vessels other than those of the Hanseatic Republics and Sweden and Norway.

Mr. MORRILL. That amendment is for the purpose of limiting the application of the bill so that there shall not be any other claims which it is proposed to adjust than those that have come to the knowledge of the Treasury Department.

Mr. President, I desire to say that this is a bill of some little importance. It relates to a matter that has been pending before the

Department of State and the Treasury Department and the Attorney-General's Office for some years. There can be no doubt in relation to the fact that these tonnage duties have been claimed from states and nations with whom we have treaties, in contravention of treaty stipulations, and even in some cases in contravention of positive law, for the law imposing duties provided for the exception of those countries with whom we had treaties. I will read a single article in relation to the matter now pending that occurs in the treaty with Belgium of July 17, 1858:

Steam-vessels of the United States and of Belgium engaged in regular navigation between the United States and Belgium shall be exempt in both countries from the payment of duties of tonnage, anchorage, buoys, and light-houses.

A similar provision exists in treaties with several other nations. With Sweden we have this article in the treaty of 1783:

The King and the United States engage mutually not to grant hereafter any particular favor to other nations in respect to commerce and navigation which shall not immediately become common to the other party, who shall enjoy the same favor freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional.

Some of these claims have been before the courts; the courts have decided in favor of them, and it was understood by the Department that the other claimants standing on the same basis should be guided by the decision of the courts. I have several communications here from the Treasury Department in relation to these claims, and I do not conceive that there is a particle of doubt that our treaties with the countries mentioned in the bill as amended have been violated, and that we are under obligations of law as well as of honor to pay back anything of this kind that has been unjustly and wrongfully demanded on the part of our custom-house officers.

Mr. EDMUNDS. How many years back does this go?

Mr. MORRILL. We have limited it to 1862, and then limited it to the Hanseatic Republics, and Sweden and Norway.

Mr. EDMUNDS. Has there been any diplomatic complaint from those countries?

Mr. MORRILL. Oh, yes. I have long reports here. I ask to have read the last communication from the Treasury Department, dated April 15.

The Chief Clerk read as follows:

TREASURY DEPARTMENT, April 15, 1878.

Sir: I have the honor to acknowledge the receipt of your communication of the 8th instant transmitting for my consideration (S. No. 185) a bill to amend section 2931, Revised Statutes, so as to allow repayment by the Secretary of the Treasury of tonnage tax exacted in contravention of treaty provisions.

The bill transmitted prohibits, by an amendment added to the original proviso, the refund "of any such duties, demand for repayment of which shall not have been duly made prior to January 1, 1878." And inasmuch as it was supposed that this amendment might prevent the refunding of any but a small part of the sums referred to in the letter of this Department addressed to you on the 21st of February last, you invite my attention to a substitute proposed for the amendment in question in the words following: "Nor shall it apply to cases of the payment of tonnage tax on vessels other than those of the Hanseatic Republics, and Sweden and Norway."

In the letter of this Department of the 21st of February last, an effort was made to estimate an approximate maximum sum which might possibly be claimed under the provisions of the bill. The sum estimated for claims of the Norse American line of steamships was \$6,447.60, and for the North German line \$124,058.19. On careful re-examination of the reports of the collectors, made two years ago, it is found that the claim of the latter line is likely to be \$130,800.09. But this Department sees no reason to review its estimate of the total amount, either of principal or interest, as likely to be claimed by the latter line under the provisions of the bill. That amount, it is believed, will not exceed \$180,000, and no claims are likely to arise except under the operation of the treaty with Belgium of July 17, 1858, and of the treaty with the Hanseatic Republics of December 30, 1837, or of the treaty with Sweden of April 3, 1783, or of the treaty of Sweden and Norway of July 4, 1827. The abrogation on July 1, 1875, of the treaty with Belgium cuts off all claims that were not already valid at the last-mentioned date.

The actual claim brought before this Department by the agents of the North German Lloyd's line was for a refund of \$758.40 tonnage tax taken at New York on the steamship of the same name, and for interest on that amount from August 14, 1866, to December 1, 1874, claimed to be \$377.56. As these sums comprise the total amount for refund of which application has in fact been made, the operation of the existing amendment (printed in italics) will be to declare this Department from making the repayment of ought but an insignificant portion of the amount recognized to have been taken from the company in violation of law and treaty provisions. Its entire claim was not presented by the company, but that which was put forward for refund of duties exacted of the steamship New York was regarded as a test case.

You further inquire whether, if nothing be said in the act about payment of interest, this Department would pay interest on the amounts originally exacted.

I reply that the question whether interest should be paid on the original claim would depend upon the obligations of this Government under the treaty stipulations referred to, as such stipulations are ordinarily construed by the law of nations. Even if it be decided by the proper Department that the stipulations of the treaties out of which these claims arise fairly involve an obligation to pay interest, it would not follow that the power given by the act to pay the principal would carry a similar power to pay interest. But whether interest should be paid would, notwithstanding the passage of the bill, still be an open question.

You further call my attention to the fact that in a communication from Secretary Fish it is alleged that the German minister pledged himself that no claim should be made on the part of the North German Lloyd line, provided the company was thereafter relieved from payment of the tax.

In a communication to this Department of the 12th of December, 1872, the Secretary of State transmitted a copy of a confidential note of the same date addressed to him by the German minister, in which the latter gave an assurance that his government would not intervene to press the claim of the German Lloyd line, if the tonnage tax then exacted on the steamers of that line should be thereafter discontinued. An exemption was granted the line in January, 1873; but the abrogation of the Belgium treaty July 1, 1875, compelled this Department to reimpose the tax. The North German Lloyd line of steamers, therefore, had the benefit of an exemption for but little more than two years, which was equivalent to relief from two payments on each steamer of the line, amounting, in round numbers, to about \$20,000. This was not such a discontinuance of the tax as was sought by

the company, nor does it appear to have been such a discontinuance as was contemplated by the German minister when his assurance of non-intervention was given.

Even if the confidential note addressed to the Secretary of State is to be regarded as an official document, and of sufficient force to modify the terms of a treaty, this Government never granted such an exemption from the tax as that to which reference was made in the note. And whether the German minister may or may not properly intervene through the ordinary diplomatic channels to press the claim, cannot affect the fact that the money of which refund is demanded was taken in violation of law and in contravention of treaty stipulation; and that the exaction was an infringement of the right of German citizens.

In conclusion, I would say that as some restriction of the power of this Department to make refunds in these cases is advisable, I approve of the prohibition contained in the amendment to refund tonnage tax on other vessels than those of the Hanseatic Republics and of Sweden and Norway; but would recommend that the amendment be still further restricted, and that it be made to read as follows:

"Nor shall it apply to cases of the payment of tonnage heretofore made on vessels other than those of the Hanseatic Republics and Sweden and Norway."

I return herewith the copy of the bill transmitted with your communication.

Very respectfully,

JOHN SHERMAN, Secretary.

Hon. JUSTIN S. MORRILL,

Chairman of the Committee on Finance, United States Senate.

Mr. EDMUNDS. I dislike very much to interfere with my colleague's wishes; but this is exactly one of that class of questions that are usually disposed of by an international commission. The claims of the subjects and citizens of Sweden, Norway, and the Hanseatic Republics against the United States for illegal exactions or any other injury to their property, if they take the course that the claims of other nations take, would be the subject of diplomatic intercourse and adjustment under a commission fixed in the treaty. Now, it is proposed by this statute to confide to the discretion of the Secretary of the Treasury or the Attorney-General of the United States, or some one person, an unlimited draft, within certain boundaries, upon the Treasury of whatever any foreigner in these various countries chooses to claim and which he chooses to believe falls within the spirit of this statute. I doubt very much the propriety of that species of legislation.

Mr. MORRILL. I call the attention of my colleague to the phraseology of the bill. It is provided here that there shall be a repayment of the tonnage tax "where the Secretary of the Treasury and the Attorney-General of the United States shall be satisfied that the exaction of such tax was in contravention of treaty provisions." I desire to ask him if it is possible that he is not willing to submit this to our own Attorney-General to say whether this money has been exacted in contravention of treaty stipulations. I may say that this subject was very thoroughly and carefully considered by every member of the Committee on Finance and the bill was reported unanimously in favor of, as it has been pushed by the different Departments of the Government, the State, the Treasury, and the Attorney-General's Office.

Mr. EDMUNDS. I will answer my respected colleague by saying that I am unwilling to allow the Attorney-General of the United States to take money at his pleasure and on his judgment, that has been once paid into the Treasury, and pay it back on his decision as to whether it falls on one side or the other of a line. We sometimes allow the accounting officers of the Treasury in respect of claims that are regulated and defined by law to settle them; we must; but here is an entirely different provision. You create a tribunal for this special purpose. Suppose the Attorney-General decides in favor of the Government, because these are pretty large sums, in respect of some important item of a claim; what then? Does that bind the citizen of the foreign country? Not a bit of it. The foreign government immediately makes complaint and says: "You must appoint a tribunal which we have a choice in the selection of; and the decision of your own Attorney-General and your own Secretary of the Treasury is not binding upon us in the forum of nations at all; you have not discharged your amicable duty to us as a friendly nation, and you cannot bind our citizens conclusively by refusing the payment of this money merely because two of your officers have said that it was legally paid; and we call upon you still to take the usual course among nations by creating a tribunal in the composition of which the government of Sweden and of Norway and of the Hanseatic Republics shall have a voice." So in a case of any dispute, where the decision is in favor of the Treasury, you have accomplished nothing in the diplomatic sense or in the sense of public law. Where it is against the Treasury of course the claimants will very readily take the money.

But if the Finance Committee think this is a good way to do things, I am altogether too modest to interpose my simple objection to it all alone.

The PRESIDING OFFICER. The question is on the amendment proposed by the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DEFICIENCY IN PRINTING APPROPRIATION.

Mr. WINDOM. I ask the Senate now to lay aside informally the Calendar and take up the appropriation bill that was partially disposed of this morning.

By unanimous consent, the Senate, as in Committee of the Whole,

resumed the consideration of the bill (H. R. No. 4222) to provide for a deficiency in the appropriation for the public printing and binding for the current fiscal year.

Mr. WINDOM. Mr. President, when this bill was under consideration this morning the only question that was raised with reference to it, I believe, was as to the deposit of \$26,424.78, being the proceeds of waste-paper, &c., mentioned in a letter of the Public Printer. Since the discussion occurred at that time the Committee on Appropriations has further investigated the matter, and has come to the conclusion that the account is entirely regular and in accordance with the statutes.

There are two classes of receipts. The proceeds of all property, except the items named in section 3818 of the Revised Statutes, are turned into the Treasury and cannot be drawn upon except by an appropriation from Congress; but the receipts from the sales of "extra copies of documents," sales of "paper-shavings and imperfections," are turned into the Treasury under that section, are credited to the amount appropriated to the appropriation for the printing, and are drawn upon by the Public Printer as any other appropriation for the purpose. The committee I think are unanimously of the belief that the proceedings are entirely regular under the law as it exists.

Mr. ANTHONY. I ask the chairman of the Committee on Appropriations if any portion of this \$200,000 is applicable to the use of the Patent Office and the Post-Office?

Mr. WINDOM. It is not.

Mr. ANTHONY. Those two Departments I understand are suffering and their business is suspended for want of appropriations for printing.

Mr. WINDOM. I will say to the chairman of the Committee on Printing that there is another bill pending which is now before a committee of conference, House bill No. 3740, which provides \$40,000 for the Interior Department, and we have already passed \$35,000 for the Post-Office Department. That was included in the bill passed this morning, I think. It is included in a bill already passed, certainly.

Mr. SARGENT. It is in a conference committee now, is it not?

Mr. WINDOM. I ought to have said with reference to the sales of paper-shavings, imperfections, &c., that the Public Printer gives notice once a year to a large number of firms, a dozen or more, who are engaged in the manufacture of paper, that bids will be received for the three classes of shavings which he has for sale. They are graded according to their value. He receives those bids, and the articles are sold to the highest bidder. For instance, the highest class sells, we are informed, for four and three-quarter cents per pound. With reference to the other two classes the Public Printer could not give us the exact facts, but they are sold for a fair price and upon public notice and public bidding.

Mr. EDMUNDS. Is all this \$26,000 derived from that source?

Mr. WINDOM. All derived from that source, unless there may be a few documents included in it.

Mr. SARGENT. There are a few surplus documents, which are named in the law, sold in the same way.

Mr. WINDOM. The entire proceeds come from the articles named in the section I quoted a moment ago. If a press is sold or any other article not mentioned in section 3818, the amount received is turned into the Treasury and cannot be drawn upon unless reappropriated. But as to these articles it needs no appropriation as the law now stands, as the committee believe.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN F. SUTHERLIN AND BROTHER.

Mr. VOORHEES. I report from the Committee on Finance, with an amendment, the bill (H. R. No. 1951) for the relief of John F. Sutherlin and Brother, of Parke County, Indiana. I desire to ask the action of the Senate on it at this time. It is a bill for relief that has been agreed to by the committee, and I presume there will be no objection to it.

The PRESIDING OFFICER. The Senator from Indiana reports a bill from the Committee on Finance and asks for its present consideration.

Mr. EDMUNDS. If it is reported to-day, I must object.

Mr. VOORHEES. It can hardly be said to be reported to-day.

The PRESIDING OFFICER. The bill will go on the Calendar.

Mr. EDMUNDS. It can be reached to-morrow on the Calendar.

Mr. VOORHEES. Well, let it go.

AMENDMENT TO THE POST-ROUTE BILL.

Mr. WALLACE submitted an amendment intended to be proposed by him to the bill (H. R. No. 4286) to establish post-roads in the several States therein named; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

EXECUTIVE SESSION.

Mr. ANTHONY. I move the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

After ten minutes spent in executive session the doors were reopened, and (at four o'clock and ten minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 24, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, and requested the concurrence of the House in, a bill of the following title:

A bill (S. No. 238) extending the time for the construction and completion of the Northern Pacific Railroad.

DAILY HOUR OF MEETING.

Mr. STEPHENS, of Georgia, from the Committee on Rules, reported back with an amendment, the following resolution:

Resolved, That for the purpose of a speedy settlement of questions of vital importance to the country this House will hereafter and until further notice meet for the transaction of business at eleven o'clock a. m. instead of twelve o'clock m. as heretofore.

The amendment was to strike out the words "hereafter and until further notice" and to insert in lieu thereof "on and after Tuesday, the 30th instant."

The question was upon agreeing to the amendment.

Mr. BURCHARD. I suggest that the resolution should be modified so as to read, "during the present session," and not make it a permanent rule for the next session. I think that during the present session it would be well for the House to meet at eleven o'clock.

Mr. STEPHENS, of Georgia. I have no objection to that modification and will make it by consent of the House.

There was no objection, and the resolution was modified accordingly.

Mr. O'NEILL. I would like also to suggest to the gentleman from Georgia that he add to the resolution the words "and continue in session until five o'clock in the afternoon," so as for the present at least to avoid night sessions.

Mr. STEPHENS, of Georgia. The House can determine that matter each day for itself.

Mr. O'NEILL. I presume that a session from eleven o'clock in the morning until five o'clock in the afternoon would enable us to do all the business that we could do by holding two sessions a day.

Mr. SAYLER. The objection to the proposition of the gentleman from Pennsylvania [Mr. O'NEILL] is that it would imply that the House necessarily should adjourn at five o'clock. Now it may be that the House will want to remain in session until seven o'clock or nine o'clock, or even eleven o'clock. Certainly the House is competent to determine the length of its session each day.

The SPEAKER. The Chair would suggest that there could be an agreement among members to sit until five o'clock. But as suggested by the gentleman from Georgia [Mr. STEPHENS] and the gentleman from Ohio, [Mr. SAYLER], the House might want to sit later than five o'clock, or it might want on some days to adjourn before that time.

Mr. O'NEILL. During a session of six hours a day we could do much more business, and do it more satisfactorily than by holding night sessions.

Mr. MILLS. We ought to have evening sessions for the consideration of the Private Calendar.

Mr. WOOD. I think it is desirable that the House should proceed to the consideration of some business.

Mr. COX, of New York. Then I call for the regular order.

Mr. WOOD. We have spent two days in proceedings highly creditable to the House, and I think we should now continue in session day and night, if necessary, in order to complete the business before us.

Mr. STEPHENS, of Georgia. I call the previous question.

The previous question was ordered and the main question was ordered; and under the operation thereof the amendment was agreed to, and the resolution, as amended, was adopted.

Mr. STEPHENS, of Georgia, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOSEPH B. COLLINS.

Mr. LUTTRELL, by unanimous consent, introduced a bill (H. R. No. 4552) for the relief of Joseph B. Collins; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MANAGERS OF NATIONAL SOLDIERS' HOME.

Mr. MAISH. I ask unanimous consent to report from the Committee on Military Affairs for immediate action a joint resolution to fill vacancies in the board of managers for the National Home for Disabled Volunteer Soldiers.

The SPEAKER. The resolution will be read, after which there will be opportunity for objection.

The Clerk read as follows:

Resolved by the Senate and the House of Representatives, &c., That Colonel Leonard A. Harris, of Ohio; Richard Coulter, of Pennsylvania; and Colonel John A. Martin, of Kansas, be, and they are hereby, appointed managers of the National

Home for Disabled Volunteer Soldiers, to fill the vacancies caused by the expiration on the 21st day of April of the terms of office of Louis B. Gunckel, of Ohio; James S. Negley, of Pennsylvania; and John S. Cavender, of Missouri.

The SPEAKER. Is there objection to the consideration of this joint resolution?

Mr. FORT. I object.

Mr. MAISH. It is a unanimous-consent report from the committee, and these appointments ought to be made now.

ASSISTANT COMMISSIONER-GENERAL, FRENCH EXPOSITION.

Mr. MONROE. I ask unanimous consent to make a report from the Committee on Foreign Affairs upon a little matter which must be acted upon speedily, if it is to do any good. It is simply to enable the Department of State to find a suitable person to write the great report which we all expect in regard to that exposition.

The SPEAKER. The report will be read, after which there will be opportunity for objection.

Mr. MONROE. I forward also a letter from the Secretary of State, explaining the necessity for this legislation. I ask that this letter, as well as the resolution, may be read.

The Clerk read as follows:

Resolved by the Senate and House of Representatives, &c., That the President, in appointing an assistant commissioner-general to the international industrial exposition to be held in Paris in 1878, with the powers and duties prescribed by the second section of the joint resolution of Congress in relation to said exposition, approved December 15, 1877, may select such assistant commissioner-general from the country at large, and not be restricted in such election to States from which no one of the additional commissioners provided for in said resolution is appointed.

Mr. MONROE. I now ask that the letter of the Secretary of State may be read.

The SPEAKER. Is there objection to the consideration of this resolution?

Mr. SPARKS. I object.

GENEVA AWARD.

Mr. KNOTT. The Committee on the Judiciary, to whom were referred sundry bills in relation to the distribution of the undistributed balance of the Geneva award, have instructed me to present a report and accompanying bill, and to ask that these be printed and recommended.

There being no objection, the bill (H. R. No. 4553) to provide for the further distribution of the moneys received under the Geneva award was read a first and second time, recommended to the Committee on the Judiciary, and, with the accompanying report, ordered to be printed.

Mr. KNOTT. I also ask that my colleague on the committee, the gentleman from Ohio, [Mr. McMAHON], have leave to submit in writing and have printed the views of the minority of the committee, and that my colleague, the gentleman from Maine, [Mr. FRYE], may have printed an amendment to the same bill.

There being no objection, leave was granted accordingly.

SUPPRESSION OF LIQUOR TRAFFIC.

Mr. BLAIR, by unanimous consent, presented the petition of Augustus Elwell, Mary A. Woodbridge, and 1,610 other citizens of the nineteenth congressional district of the State of Ohio, praying for the appointment of a commission of inquiry into the statistics of the liquor traffic and for an amendment to the Constitution so as to prohibit the manufacture and sale, importation, exportation, and transportation of distilled liquors, except for medicinal, mechanical, and scientific use, from and after the year 1900; which was referred to the Committee on the Judiciary.

Mr. BLAIR. I ask unanimous consent that this petition be printed in the RECORD.

Mr. THOMPSON. I object.

REPORT OF BOARD OF HEALTH, DISTRICT OF COLUMBIA.

Mr. SINGLETON, from the Committee on Printing, reported back, with an amendment, the following resolution of the Senate:

Resolved by the Senate, (the House of Representatives concurring.) That 1,500 copies of the report of the board of health of the District of Columbia for the year 1877 be printed for use and distribution by said board.

The amendment reported by the committee was read, as follows:

After the words "be printed" insert the following: "and bound in paper covers."

The amendment was agreed to.

The resolution, as amended, was concurred in.

Mr. SINGLETON moved to reconsider the vote by which the resolution was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRINTING THE REPORT OF SMITHSONIAN INSTITUTION.

Mr. BALLOU, from the Committee on Printing, reported back, with a favorable recommendation, the following resolution of the Senate:

Resolved by the Senate, (the House of Representatives concurring.) That 10,500 copies of the report of the Smithsonian Institution for the year 1877 be printed; 1,000 copies of which shall be for the use of the Senate; 3,000 copies for the use of the House of Representatives, and 6,500 copies for the use of the Smithsonian Institution; *Provided*, That the aggregate number of pages shall not exceed 500, and that there be no illustrations except those furnished by the Smithsonian Institution.

The resolution was concurred in.

Mr. BALLOU moved to reconsider the vote by which the resolution

was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MORNING HOUR.

Mr. COX, of New York. I demand the regular order of business. The SPEAKER. The regular order of business being demanded, the morning hour begins at twenty-five minutes past twelve o'clock, and the call rests with the Committee of Claims.

JAMES G. HARRISON.

Mr. WARNER, from the Committee of Claims, reported a bill (H. R. No. 4554) for the relief of James G. Harrison; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN M. DORSEY AND WILLIAM M. SHEPARD.

Mr. WARNER also, from the same committee, reported a bill (H. R. No. 4555) for the relief of John M. Dorsey and W. M. Shepard; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

CHARLES B. VARNEY.

Mr. DICKEY, from the same committee, reported back favorably the bill (S. No. 149) for the relief of Charles B. Varney, and asked it be now put on its passage.

The bill, which was read, authorizes and directs the Secretary of the Treasury to pay to Charles B. Varney, of Portland, Maine, the sum of \$200, out of any money in the Treasury not otherwise appropriated, as compensation for the use and occupancy of a certain piece of land situated in said city of Portland, belonging to said Varney, by the United States, during the years 1867, 1868, and a part of 1869.

The bill was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. DICKEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

F. W. GOLLODAY.

Mr. DICKEY also, from the same committee, reported a bill (H. R. No. 4556) for the relief of F. W. Golloday; which was read a first and second time.

The bill, which was read, directs the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to pay the sum of \$96 to F. W. Golloday, being compensation in full for services rendered by J. G. Golloday, the minor son of F. W. Golloday, as assistant doorkeeper from January 12, 1877, to March 1, 1877.

Mr. EDEN. Is that bill reported by a committee?

The SPEAKER. It is, by the Committee of Claims.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DICKEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

UNIVERSITY OF NOTRE DAME, INDIANA.

Mr. DICKEY also, from the same committee, reported back favorably a bill (H. R. No. 2323) refunding to the University of Notre Dame du Lac, of Saint Joseph County, in the State of Indiana, the sum of \$2,334.07 in gold coin, that being the amount paid on certain imported articles, &c.; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM G. FORD.

Mr. DICKEY also, from the same committee, reported a bill (H. R. No. 4557) for the relief of William G. Ford, of Memphis, Tennessee; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

FRANKLIN LEE AND CHARLES F. DUNBAR.

Mr. LOCKWOOD, from the Committee of Claims, reported back favorably a bill (H. R. No. 1284) for the relief of Franklin Lee and Charles F. Dunbar; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JOHN N. REED.

Mr. LOCKWOOD also, from the same committee, reported a bill (H. R. No. 4558) for the relief of John N. Reed; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

J. FRASER.

Mr. REILLY, from the Committee of Claims, reported back favorably a bill (H. R. No. 2217) for the relief of J. Fraser; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

COLUMBUS F. PERRY AND ELIZABETH H. GILMER.

Mr. REILLY also, from the same committee, reported back favorably a bill (H. R. No. 3624) for the relief of Columbus F. Perry and

Elizabeth H. Gilmer, of Chambers County, Alabama; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ESTATE OF NEHEMIAH GARRISON.

Mr. REILLY also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 966) for the relief of the executor or administrator of the estate of Nehemiah Garrison, assignee of Moses Perkins; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

THOMAS A. WALKER.

Mr. CUMMINGS, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 954) for the relief of Thomas A. Walker.

Mr. CUMMINGS. I ask that this bill be now put upon its passage. The bill was read.

Mr. EDEN. I make the point of order that as this bill makes an appropriation it must have its first consideration in Committee of the Whole.

The SPEAKER. The point of order is sustained. The bill will be referred to the Committee of the Whole on the Private Calendar.

Mr. CUMMINGS. There cannot be any objection to the bill, and I hope the gentleman from Illinois will withdraw the point of order. I ask the attention of the gentleman from Illinois. He does not seem to be hearing me.

Mr. EDEN. If the gentleman is making a speech for my benefit, he may as well dispense with it.

The SPEAKER. The gentleman from Illinois objects to the present consideration of the bill. It is referred to the Committee of the Whole on the Private Calendar, and the accompanying report will be printed.

PEKIN DISTILLING COMPANY.

Mr. CUMMINGS also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 2604) for the relief of the city distilling company of Pekin, Illinois.

Mr. CUMMINGS. As I suppose the gentleman from Illinois will again make the point of order, I ask that this bill be referred to the Committee of the Whole on the Private Calendar.

The bill was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

HEIRS OF ASBURY DICKINS.

Mr. CUMMINGS also, from the same committee, reported back, with an adverse recommendation, the bill (H. R. No. 1216) for the relief of the heirs of Asbury Dickins.

Mr. CUMMINGS. As this is a case of considerable importance, I ask that the bill and the adverse report thereon may be put upon the Private Calendar.

The bill was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

H. K. BELDING.

Mr. LINDSEY, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 737) for the relief of H. K. Belding; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

SABIN TROWBRIDGE.

Mr. LINDSEY also, from the same committee, reported a bill (H. R. No. 4559) for the relief of Sabin Trowbridge; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

AARON MILEY.

Mr. LINDSEY also, from the same committee, reported a bill (H. R. No. 4560) for the relief of Aaron Miley; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

D. D. WEAD.

Mr. LINDSEY also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 16) to reimburse D. D. Wead, postmaster at Sheldon, Vermont, for stamps and money stolen from him December 31, 1873; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

EBENEZER WALKER.

Mr. LINDSEY also, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 771) for the relief of Ebenezer Walker; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

EDGAR A. BEACH.

Mr. LINDSEY also, from the same committee, reported, as a substitute for House bill No. 17, a bill (H. R. No. 4561) to pay Edgar A. Beach, of Essex, Vermont, the sum therein named; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

PEASLEY AND McCLARY.

Mr. HENDERSON, from the Committee of Claims, reported back, with a favorable recommendation, the bill (S. No. 364) for the relief of Peasley and McClary, of Nashua, New Hampshire; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

SAMUEL W. ABBOTT.

Mr. HENDERSON also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 1761) for the relief of Samuel W. Abbott, postmaster at Menominee, Michigan; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

M. D. TITSWORTH.

Mr. HENDERSON also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 3539) for the relief of M. D. Titworth, postmaster at Adams Center, New York; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM J. PIPER.

Mr. HENDERSON also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 2200) for the relief of William J. Piper, of Frankfort, New York; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JOEL A. BILLUPS.

Mr. HENDERSON also, from the same committee, reported adversely upon House bill No. 245 for the relief of Joel A. Billups, and (by request) the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

R. W. CLARK.

Mr. HENDERSON also, from the same committee, reported adversely upon the petition of R. W. Clark, for relief; and the same was laid upon the table, and the accompanying report ordered to be printed.

Mr. HENDERSON moved to reconsider the vote by which the petition was laid upon the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FAVORABLE REPORTS.

Mr. HENRY, from the Committee on Claims, reported favorably the following; which were referred to the Committee of the Whole on the Private Calendar, and the accompanying reports ordered to be printed;

A bill (S. No. 99) for the relief of the estate of Amos Ireland, deceased; and

A bill (H. R. No. 917) for the relief of Sidney P. Luther.

ISAIAH PICKARD.

Mr. HENRY also, from the same committee, reported back, with an amendment, the bill (H. R. No. 916) for the relief of Isaiah Pickard; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JACOB J. FLEISHELL.

Mr. HENRY also, from the same committee, reported a bill (H. R. No. 4562) for the relief of Jacob J. Fleishell, of Washington City; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

FAVORABLE REPORTS.

Mr. DAVIS, of North Carolina, from the Committee of Claims, reported favorably upon the following; which were referred to the Committee of the Whole on the Private Calendar, and the accompanying reports ordered to be printed.

A bill (H. R. No. 1655) for the relief of Edwin De Leon, late United States consul-general in Egypt;

A bill (H. R. No. 2220) to provide for the adjustment and settlement of certain internal-revenue taxes erroneously assessed and collected from the Cumberland Valley Railroad Company; and

A bill (H. R. No. 2436) for the relief of William H. Rhett.

JENNIE K. MOORE AND OTHERS.

Mr. DAVIS, of North Carolina, also, from the same committee, reported the following bills; which were severally read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

A bill (H. R. No. 4563) for the relief of Jennie K. Moore;

A bill (H. R. No. 4564) for the relief of A. F. Whitman, administrator, &c., of Samuel Kimbro and E. V. Kimbro; and

A bill (H. R. No. 4565) for the relief of Lieutenant George M. Willis, Marine Corps.

EMIGRANT LINE TO LIBERIA.

Mr. REAGAN, from the Committee on Commerce, reported back a bill (H. R. No. 3808) to establish a line of mail and emigrant steam and sail vessels between certain ports of the United States and Liberia, Africa, and moved that the committee be discharged from its

further consideration and that the same be referred to the Committee on the Post-Office and Post-Roads.

The motion was agreed to.

LIGHT-HOUSE, RARITAN BAY.

Mr. ROSS, from the Committee on Commerce, reported back the bill (H. R. No. 3531) to erect a light-house on the shoals known as Great Beds, Raritan Bay, New Jersey, and moved that the committee be discharged from its further consideration, and that the same, with the accompanying report and communications from the Secretary of the Treasury and the Light-House Board, be referred to the Committee on Appropriations.

The motion was agreed to.

LIGHT-HOUSE, CHATHAM, MASSACHUSETTS.

Mr. OVERTON, from the Committee on Commerce, reported, as a substitute for House bill No. 3298, a bill (H. R. No. 4566) for the establishment of a light-house at Stage Harbor, Chatham, Massachusetts; which was read a first and second time, and, with the accompanying report of the committee, referred to the Committee on Appropriations.

FOG-WHISTLE AT POINT WILSON, WASHINGTON TERRITORY.

Mr. REA, from the Committee on Commerce, reported back a memorial of the Legislative Assembly of the Territory of Washington, asking an appropriation to build a fog-whistle and bell on Point Wilson in that Territory; which, with the accompanying report of the committee, was referred to the Committee on Appropriations.

NORTH LOUISIANA RAILROAD COMPANY.

Mr. REA also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 3268) to authorize the North Louisiana Railroad Company to construct a bridge over the Ouachita River at or near Monroe, Louisiana, and a bridge over the Red River at or near Shreveport, Louisiana, and asked for its present consideration by the House.

The bill was read, as follows:

Be it enacted, &c., That the North Louisiana Railroad Company, a corporation of the State of Louisiana, be, and is hereby, authorized to construct a bridge over the Ouachita River at or near Monroe, in the State of Louisiana, and a bridge over the Red River at or near Shreveport, Louisiana, on the surveyed line of said railroad. Sec. 2. That said company may build one or both of said bridges as a draw-bridge, with a pivot or other form of draw or with unbroken or continuous spans: *Provided*, That if the same shall be made of unbroken or continuous spans it shall not be of less elevation in any case than fifty feet above high-water mark, as ascertained at the point of location, to the bottom chord of the bridge, nor shall the spans of said bridge be less than two hundred feet in length, and the piers of said bridge shall be parallel with the current of the river, and the main span shall be over the main channel of the river, and not less than two hundred feet in length: *And provided also*, That if one or both of said bridges shall be built as a draw-bridge the same shall be constructed as a pivot draw-bridge with a draw over the main channel of the river at an accessible and navigable point and with spans of not less than one hundred and thirty feet in the clear on either side of the pivot-pier, the adjoining spans to be not less than two hundred feet in the clear, and said spans shall not be less than fifty-six feet above extreme low-water mark for the bridge over the Ouachita, and not less than thirty-six feet above extreme low-water mark for the bridge over the Red River, and not less than ten feet above extreme high-water mark, measuring to the bottom chord of the bridge; and the piers of said bridge shall be parallel to the current of the river: *And provided also*, That said draw shall be opened promptly upon reasonable notice or signal for the passage of boats, and in no case shall unnecessary delay occur in opening the said draw after the passage of trains.

Sec. 3. That the company or corporation authorized to construct the bridges referred to over the Ouachita and Red Rivers shall give notice, by publication for one week in newspapers having a wide circulation, in not less than two newspapers in the cities of New Orleans, Memphis, Little Rock, Monroe, and Vicksburg, and shall submit to the Secretary of War, for his examination, a design and drawings of the bridges and piers, and a map of their location, giving for the space of at least one mile above and one mile below the proposed location, the topography of the banks of the rivers, the shore-lines at high and low water, the direction of the currents at all stages, and the soundings accurately showing the bed of the streams, the location of any other bridge or bridges, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject by the Secretary of War; and if the Secretary of War is satisfied that the provisions of the law have been complied with in regard to location, the building of the piers may be at once commenced; but if it shall appear that the conditions prescribed by this act cannot be complied with at the locations where it is desired to construct the bridges, the Secretary of War shall, after considering any remonstrances filed against the building of said bridges and furnishing copies of such remonstrances to the board of engineers provided for in this act, detail a board composed of three experienced officers of the Corps of Engineers to examine the case, and may, on their recommendation, authorize such modifications in the requirements of this act, as to location and piers, as will permit the construction of the bridges, not, however, diminishing the width of the spans contemplated by this act: *Provided*, That the free navigation of the rivers be not materially injured thereby.

Sec. 4. That said bridges, when constructed under this act, shall be lawful structures, and shall be recognized and known as post-roads; and no higher charge shall be made for the transmission over the same of the mails, troops, and munitions of war of the United States than the rate per mile paid for their transportation over the railroads or public highways leading to said bridges; and in case of any litigation arising from any alleged obstruction of the navigation of the said river, created by the construction of said bridges, or in the construction of this act, the same shall be tried in the district court of the United States for the district in which said alleged obstruction is located.

Sec. 5. That all railway companies desiring to use the said bridges shall have and be entitled to equal rights and privileges in the passage of the same, and in the use of the machinery and fixtures thereof, and of all the approaches thereto, under and upon such terms and conditions as shall be prescribed by the Secretary of War, upon hearing the allegations and proofs of the parties, in case they shall not agree.

Sec. 6. That the structures herein authorized shall be built under and subject to such regulations for the security of the navigation of said rivers as the Secretary of War shall prescribe; and the said structures shall be at all times so kept and managed as to offer reasonable and proper means for the passage of steamboats and other vessels through and under said structures; and the said structures shall be changed, at the cost and expense of the owners thereof, from time to time, as the Secretary of War may direct, so as to preserve the free and convenient navigation

of said rivers; and the authority to erect and continue said bridges shall be subject to revocation by law whenever the public good shall, in the judgment of Congress, so require.

SEC. 7. That the right to alter or amend this act, in case of violation thereof by said company, or to prevent or remove all the material obstructions to the navigation of said rivers by the construction of said bridges, is hereby expressly reserved.

Mr. REA. I will not call for the reading of the report, unless some gentleman desires to hear it read. I will state, for the information of the House, that this bill has been submitted to the Engineer Department and its provisions have been approved by that department. I think the provisions of this bill protect, as far as they can, the commercial interests upon these rivers, and unless some member desires to hear the report read I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time, and it was accordingly read the third time and passed.

Mr. REA moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LIGHT-HOUSE AT GRAND MARAIS.

Mr. DUNNELL, from the Committee on Commerce, reported adversely upon the petition for the establishment of a light-house at Grand Marais, on Lake Michigan; and the same was laid on the table, and the report ordered to be printed.

Mr. DUNNELL moved to reconsider the vote by which the petition was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. O'NEILL. In connection with that report, I would like to ask the gentleman from Minnesota a question. I would like to ask whether, when a proposition to build a light-house carries with it an appropriation, it is proper that it should be referred and reported upon by his committee?

Mr. DUNNELL. It is customary to refer to the Committee on Commerce all petitions and memorials for light-houses, and upon the report of that committee depends whether an appropriation shall be made or not.

Mr. O'NEILL. That is the information that I wanted to obtain; but the Committee on Appropriations, I understand, have final jurisdiction over this matter of the establishment of light-houses.

Mr. DUNNELL. They have final jurisdiction according to the practice of the House.

EXTENSION OF THE OPERATIONS OF THE LIGHT-HOUSE BOARD.

Mr. KENNA, from the Committee on Commerce, reported back, with a recommendation that it do pass, the bill (H. R. No. 2486) extending the operations of the Light-House Board over the Illinois River, and for other purposes.

The bill was read. It provides that the jurisdiction of the Light-House Board, created by the act entitled "An act making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes," approved July 31, 1852, is thereby extended over the Illinois River, for the establishment of such lights, day-beacons, and buoys as may be necessary for the use of vessels navigating that stream; and the said board is thereby authorized to establish a new light-house district, to be composed of such part or parts of the Mississippi, Ohio, and Missouri Rivers as it may deem expedient, to be in all respects similar to the already existing light-house districts; and is thereby authorized to lease the necessary ground for all such lights and beacons as are used to point out changeable channels, and which, in consequence, cannot be made permanent; and, further, that the said Light-House Board is thereby authorized to use any balances remaining unexpended from any appropriations heretofore made for the maintenance of lights on the Mississippi, Missouri, and Ohio Rivers, not to exceed \$27,000, for the purpose of building a steam-tender for the use of the Light-House Board on the western rivers.

Mr. KENNA. I ask that the papers accompanying the bill may be read.

The Clerk read as follows:

TREASURY DEPARTMENT, February 18, 1878.

SIR: I have the honor to acknowledge the receipt of your letter of the 12th instant, inclosing for the views of this Department House bill No. 2486, introduced by you, providing for the extension of the operations of the Light-House Board over the Illinois River, and for other purposes.

In reply I have respectfully to transmit herewith a copy of a letter of the 14th instant from Captain J. G. Walker, United States Navy, naval secretary of the Light-House Board, in which it is stated that the results of the extension of the jurisdiction of the board over the Mississippi, Missouri, and Ohio Rivers have been so satisfactory that, in its opinion, the interests of commerce and navigation would be greatly benefited by the lighting and buoyage of the Illinois River under its direction in the same manner that the western rivers named are now cared for.

The board is of the opinion that as the bill provides that unexpended balances from appropriations heretofore made for the maintenance of lights on the Mississippi, Missouri, and Ohio Rivers not to exceed \$27,000 may be used for the purpose of building a steam-tender for the use of the Light-House Board on the western rivers, no additional appropriation will be necessary.

The bill transmitted by you is herewith returned.

Very respectfully,

JOHN SHERMAN, Secretary.

Hon. B. M. KNAPP, M. C.,
House of Representatives.

TREASURY DEPARTMENT.
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, D. C., February 24, 1878.

SIR: Herewith inclosed I have the honor to transmit a letter dated January 17, 1878, addressed to the Light-House Board by Hon. B. M. KNAPP, M. C., and H. R. bill 2486, referred to therein, providing for the extension of the operations of the Light-House Board over the Illinois River, and for other purposes.

Mr. KNAPP desires to be informed as to the views of the Light-House Board on the subject-matter of this bill and as to whether any appropriation will be needed to carry the same into execution.

In reply, I beg leave to say that the results of the extension of the jurisdiction of the Light-House Board over the Mississippi, Missouri, and Ohio Rivers have been so satisfactory that the Light-House Board is of the opinion that the interests of commerce and navigation would be greatly benefited by the lighting and buoyage of the Illinois River under the direction of the board, in the same manner that the western rivers named are now cared for.

As the bill provides that the unexpended balances from appropriations heretofore made for the maintenance of lights on the Mississippi, Missouri, and Ohio Rivers, not to exceed \$27,000, may be used for the purpose of building a steam-tender for the use of the Light-House Board on the western rivers, no additional appropriation will be necessary.

Very respectfully,

J. G. WALKER,
Naval Secretary.

Hon. SECRETARY OF THE TREASURY.

Mr. KENNA. I move the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time, and passed.

Mr. KENNA moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HAILING-PLACE OF UNITED STATES VESSELS.

Mr. ROBERTS, from the Committee on Commerce, reported back, with a favorable recommendation, the bill (H. R. No. 1968) to provide for vessels of the United States hailing from places where they are owned or built.

The bill was read. It provides that the hailing-place of every registered, enrolled and licensed, or licensed vessel of the United States, as provided in section 4178 and section 4334 of the Revised Statutes of the United States, may hereafter be the town or city where said vessel is built, or where the husband or managing owner or owners of said vessel shall reside; and the name of such town or city shall be painted on the stern of such vessel in the manner and subject to the penalties provided in said sections.

Mr. ROBERTS. I move the previous question on the passage of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ROBERTS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CUSTOMS-REVENUE LAWS.

Mr. ROBERTS also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 3228) to amend section 23 of the act approved June 22, 1874, entitled "An act to amend customs-revenue laws and to repeal moiety laws."

The bill was read. It provides that the twenty-third section of an act entitled "An act to amend customs-revenue laws and to repeal moiety laws," approved the 22d day of June, 1874, be, and the same is hereby, amended, to take effect from that date, as follows: after the words "to the naval officers of the districts of Boston and Charlestown, Massachusetts; and San Francisco, California; and Philadelphia, Pennsylvania," insert the words "and Baltimore, Maryland; and New Orleans, Louisiana;" and after the words "to the surveyors of the ports of Boston, Massachusetts; and San Francisco, California; and Philadelphia, Pennsylvania," insert the words "and Portland, Maine; and Baltimore, Maryland; and New Orleans, Louisiana."

Mr. GARFIELD. What committee does that bill come from?

The SPEAKER. From the Committee on Commerce.

Mr. GARFIELD. It seems to me that that is a matter that ought to have gone to the Committee of Ways and Means. I know nothing about the merits of the question, and it seems to me that it belongs to the Committee of Ways and Means.

Mr. ROBERTS. It was referred to the Committee on Commerce and has received the consideration of that committee, and we report it with a recommendation from the Secretary of the Treasury in favor of its passage.

Mr. GARFIELD. I reserve all points of order upon the bill until I can have an opportunity of examining it.

Mr. REAGAN. I desire to say for the information of the gentleman from Ohio [Mr. GARFIELD] that this subject was brought to the attention of the Committee on Commerce by a letter from the Secretary of the Treasury himself, supplemented by a communication from the Commissioner of Customs explaining the necessity for this change in the law. The reason for desiring the passage of this bill is that it will relieve the Treasury Department very much in keeping its accounts.

Mr. ROBERTS. I ask that the letters of the Secretary of the Treas-

ury and the Commissioner of Customs, together with the report of the committee, be read.

The Clerk read as follows:

TREASURY DEPARTMENT, February 28, 1878.

SIR: I have the honor to call your attention to the inclosed copy of a communication of this date from the Commissioner of Customs, suggesting an amendment to section 23 of the act approved June 22, 1874, commonly known as the act to repeal moiety, and to express my concurrence in his view that this amendment should be adopted.

Very respectfully,

JOHN SHERMAN, Secretary.

HON. S. J. RANDALL,
Speaker House of Representatives.

TREASURY DEPARTMENT,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D. C., February 28, 1878.

SIR: I have the honor to inclose a draft of a bill to amend the 23d section of the act approved June 22, 1874, entitled "An act to amend the customs-revenue laws and to repeal moiety," and to state my reason for calling your attention to the matter.

By the act above referred to a stated annual salary was provided for the collectors of customs of the districts of Portland, Maine; Boston, Massachusetts; New York; Philadelphia, Pennsylvania; Baltimore, Maryland; New Orleans, Louisiana, and San Francisco, California, and the naval officers of all of these ports excepting Baltimore, Maryland, and New Orleans, Louisiana, and for the surveyors of all excepting Baltimore, Maryland; New Orleans, Louisiana; and Portland, Maine.

There was apparently no reason for the omission, the omitted officers having been paid, prior to the passage of the act of 22d June, 1874, under the same law and the same rate of compensation as those included in the act. I therefore feel justified in supposing the omission to be accidental and should be corrected.

I also deem it but just to the parties interested that the correction should date from the time the omission occurred.

I would further state that, under a misconception of the law, collectors of customs have advanced money to the surveyors, which money has been retained by the surveyors to make up the deficiency of fees and now stands as balances against them, and while it is possible that these sums may be recovered in a suit at law the equities of the case seem to be in favor of the surveyors.

Besides, the business at the ports mentioned in the inclosed draft has so decreased that the fees, the only source of emolument to the officers designated, no longer afford the maximum compensation.

Very respectfully, your obedient servant,

H. C. JOHNSON,
Commissioner of Customs.

HON. JOHN SHERMAN,
Secretary of the Treasury.

The Clerk also read the report of the committee, as follows:

The Committee on Commerce, to whom was referred the bill (H. R. No. 3828) having considered the same, report that the amendment to section 23 of the act approved June 22, 1874, entitled "An act to amend customs-revenue laws and to repeal moiety," contemplated by said bill, is in the opinion of this committee one most proper to be made. There appears to be no justifiable reason why the amendment should not have been incorporated in the original act, and the committee agree with the Commissioner of Customs in supposing the omission to have been accidental, and should therefore be corrected. The letter of the Commissioner, addressed to the Secretary of the Treasury, suggesting the amendment covered by the said bill, is herewith submitted as a part of this report. The committee recommend the passage of the bill.

Mr. GARFIELD. I desire to say that I will not make any point of order—

Mr. BURCHARD. I reserve the point of order.

Mr. GARFIELD. Originally the subject manifestly belonged to the Committee of Ways and Means; but as it has been referred to the Committee on Commerce, who have had correspondence with the Secretary of the Treasury, which seems to me to indicate that the proposed change in the law should be made, I do not care to defend the rights of the Committee of Ways and Means in the matter, if no other member does.

Mr. BURCHARD. From the reading of these papers I am unable to say whether this bill should pass or not. The act of 1874, to which the bill refers, was passed by the House after a hearing of nearly two months before the Committee of Ways and Means. The subject was a long time under consideration in the House, and I think there was no mistake on the part of those who favored the action of the committee at that time. I was not a member of the subcommittee that had especial charge of this subject, but the bill then passed was, I think, purposely framed to apply only to the ports named in the act, because under the then existing law the custom officers at those ports received excessive fees, and the intention was to limit their compensation. It was the purpose, if my recollection is correct, not to extend the act any further. Now, as to the reasons for extending that legislation to the ports named in this bill, and what change it would make in the rates of compensation, I would like to hear from the committee.

Mr. REAGAN. I do not undertake to dispute the statement that the subject-matter of the original law may have been considered by the Committee of Ways and Means; but this bill proposes a simple change in the law to remedy an omission which, in the opinion of the Secretary of the Treasury, occurred through inadvertence. The omission of certain ports from the act of 1874 causes, as he says, difficulty and complication in keeping the accounts of the Department without any counterbalancing advantage. He simply asks that the customs officers at the ports named in the bill be brought under the same provisions of law which apply to officers of the same rank at other ports. His main reason for urging the passage of this bill is that under the existing laws he is required to keep two sets of accounts, involving unnecessary trouble. I do not think there is anything objectionable in the bill.

Mr. BURCHARD. I desire the chairman of the committee to state

the exact effect which this bill will have upon the salaries or compensation of the custom officers at the respective ports named. The object of Congress in passing the act of 1874 upon the recommendation of the Committee of Ways and Means was to limit the compensation paid to the collectors and naval officers at the ports named in that act. That compensation was found in certain cases to be excessive. The forfeitures and fines amounted in some instances to \$200,000 or \$300,000, so that the share of the customs officers was sometimes \$50,000 or \$100,000. By the act of 1874 we undertook to limit the compensation of these officers, and provided for paying them according to the terms of that act.

Mr. REAGAN. Does the gentleman see anything objectionable in this bill?

Mr. BURCHARD. If it tends to increase the compensation of these officers I object to it; if it tends to diminish it I have no objection. As to the effect of the bill upon the compensation of these officers I desire to hear from the chairman or the gentleman having charge of the bill.

Mr. ROBERTS. Mr. Speaker, I think my friend from Illinois [Mr. BURCHARD] is somewhat mistaken in regard to the original purpose in the passage of the act of 1874. So far as my information goes that act was prepared simply because of the fact that the fees had generally diminished all over the country; the compensation was uncertain and indefinite; and the Department recommended the passage of that act for the same reasons upon which it founds its recommendation of this bill.

The bill is reported at the special instance of the Treasury Department, in consequence of irregularities in the accounts of the surveyors at Baltimore and New Orleans and the naval officers at Portland, Baltimore, and New Orleans. The Department sees no reason for making any distinction between these ports and those named in the original act, and for that reason suggests the passage of this amendatory bill, in order that justice may be done to all without discrimination as to locality.

But, sir, without going further into the matter, as the House is pretty well acquainted with the facts and circumstances, I now demand the previous question.

Mr. WHITTHORNE. Has not the morning hour expired?

The SPEAKER. The morning hour has expired and the bill goes over.

ENROLLED BILLS SIGNED.

Mr. ELAM, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. No. 2818) to authorize T. and J. W. Gaff & Co. to use a certain building in the city of Aurora, Indiana, for the rectification of distilled spirits; and

A bill (H. R. No. 4394) to prohibit the coinage of the twenty-cent piece of silver.

HOUSE EMPLOYÉS.

Mr. COX, of New York. I move to go to the business upon the Speaker's table.

Mr. SPRINGER. I ask the gentleman to yield to me to introduce a resolution for reference only.

Mr. COX, of New York. I yield to the gentleman from Illinois for that purpose.

Mr. SPRINGER, by unanimous consent, submitted a resolution authorizing the Committee on Civil-Service Reform to ascertain the number of employés of the House and what changes are necessary, if any, to secure the efficiency of the service; which was referred to the Committee on Reform in the Civil Service.

ROSARIO AND CARMEN MINING COMPANY.

Mr. WILSON. I ask unanimous consent to submit a report in writing from the Committee on Foreign Affairs on the petition of the Rosario and Carmen Mining Company of California for some provision for the investigation and settlement of its claim against the government of Mexico for injury to its property and interest in Mexico in the year 1864 and to move that it be printed and referred to the Committee of the Whole on the state of the Union, to be considered in connection with the bill (H. R. No. 2117) to provide for the distribution of the awards made under the convention between the United States of America and the Republic of Mexico, concluded on the 4th day of July, 1868.

There was no objection, and it was ordered accordingly.

NAVAL APPROPRIATION BILL.

Mr. CLYMER. Mr. Speaker, I am instructed by the Committee on Appropriations to report back the amendments of the Senate to the bill (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes, and to ask for the present consideration of the subject.

The SPEAKER. The Clerk will read the report from the Committee on Appropriations.

The Clerk read as follows:

The Committee on Appropriations, to whom was referred the bill (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes, together with the amendments of the Senate thereto, having considered the same, beg leave to report as follows:

They recommend concurrence in the amendments of the Senate numbered 6, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 31, 32, and 36.

They recommend non-concurrence in the amendments numbered 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 19, 26, 27, 28, 29, 30, 33, 34, 35, 37, 38, 39, 40, and 41.

Mr. CLYMER. Mr. Speaker, as the naval appropriation bill passed the House it appropriated \$14,033,684. The Senate returned it to this House with amendments increasing the appropriation to the extent of \$300,844.70, making a total of \$14,339,528.70. The Committee on Appropriations have recommended concurrence in the Senate amendments amounting to \$30,902.20. They have recommended non-concurrence in amendments making appropriations to the amount of \$169,942.50.

If it be the desire of the House I will explain specifically each amendment of the Senate. I can only say now, however, that the Committee on Appropriations have given the subject grave and thorough consideration, and that if the House should adopt the report which I have submitted from that committee I do not think, from the knowledge which I have of the subject, the committee of conference between the two Houses will have much difficulty in coming to an agreement.

The SPEAKER. If there be no demand for a separate vote the question will be on the adoption of the report of the committee as a whole.

Mr. GARFIELD. I do not know anything about the merits of the several amendments, but I do not think it is a good practice for the House unless it is crowded for time near the end of a session to throw a whole batch of amendments before the House and act upon them in gross. It is substantially taking out of the supervision of the House all the matters embraced in the amendments of the Senate. We will be acting more intelligently, it occurs to me, to have the amendments separately read, and then, if desired, gentlemen can ask for a separate vote.

The SPEAKER. The gentleman from Ohio can demand a separate vote on any amendment as it is read. The Chair, however, would suggest that on the amendments of the Senate in which concurrence is recommended there be a single vote.

Mr. GARFIELD. Very well; let the vote be taken in gross on the amendments of the Senate in which concurrence is recommended, and then on the other amendments, in which non-concurrence is recommended, we can have a separate vote on each amendment.

The SPEAKER. The gentleman from Ohio demands a division of the question.

Mr. GARFIELD. Yes, sir.

The SPEAKER. The question then recurs on the amendments of the Senate in which concurrence is recommended by the Committee on Appropriations.

The motion was agreed to; and the amendments indicated were concurred in.

Mr. CLYMER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The question now recurs on the amendments of the Senate in which non-concurrence has been recommended, and the Clerk will read the first amendment?

Mr. GARFIELD. I am told by the gentleman from Pennsylvania these are minor amendments about which the committee generally are agreed, and that being the case I withdraw my objection to allowing the vote to be taken on the amendments in gross.

The SPEAKER. There being no further demand for a division of the question, the vote will now be taken on the amendments of the Senate in which non-concurrence is recommended.

The report of the Committee on Appropriations was agreed to, and the amendments of the Senate indicated were non-concurred in.

Mr. CLYMER moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SCHOONER GEORGE L. TREADWELL.

Mr. DOUGLAS, by unanimous consent, introduced a bill (H. R. No. 4567) allowing the owners of the schooner George L. Treadwell, of Baltimore, Maryland, to change the name to Nassau; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ROBERT T. CHAPMAN.

Mr. GIDDINGS, by unanimous consent, introduced a bill (H. R. No. 4568) to remove the political disabilities of Robert T. Chapman; which was read a first and second time.

The bill, which was read, provides, two-thirds of each House concurring therein, that the political disabilities imposed upon Robert T. Chapman, of Wharton County, Texas, by the fourteenth amendment of the Constitution of the United States, on account of participation in the rebellion, be removed.

Mr. WHITE, of Pennsylvania. Is that accompanied by a petition?

Mr. GIDDINGS. It is accompanied by the usual petition.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed, two-thirds concurring therein.

BUSINESS ON THE SPEAKER'S TABLE.

Mr. COX, of New York. I now insist on my motion that the House proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

BRIDGE ACROSS MISSOURI RIVER AT DECATUR.

The first business on the Speaker's table was a letter from the Secretary of War, transmitting report on bill (H. R. No. 3515) to provide for a bridge across the Missouri River at Decatur, Nebraska; which was referred to the Committee on Commerce.

INDIAN DEPREDAATION CLAIMS.

The next business on the Speaker's table was a letter from the Secretary of the Interior, transmitting Indian depredation claims of Manuel Trisani, William A. Rankin, Jones Russel & Co., Edward Morin, E. C. Whitcomb, Jacob Herman, Henry Carpenter, and Alexander Middlemist; which was referred to the Committee of Claims.

ABANDONMENT OF MILITARY POSTS.

The next business on the Speaker's table was a letter from the Secretary of War, transmitting copy of report of General Hancock respecting the abandonment of military posts in the military division on the Atlantic; which was referred to the Committee on Military Affairs.

FISH RESERVATION ON MCLOUD RIVER.

The next business on the Speaker's table was a letter from the Acting Secretary of the Interior, recommending an extension of the fish reservation on the McCloud River, California; which was referred to the Committee on Public Lands.

MILITARY WAGON-ROADS IN ARIZONA.

The next business on the Speaker's table was a letter from the Secretary of War, transmitting abstracts of reports in relation to proposed military wagon-roads in Arizona; which was referred to the Committee on Military Affairs.

CLERICAL FORCE IN DEPARTMENT OF THE INTERIOR.

The next business on the Speaker's table was a letter from the Secretary of the Interior, relative to proposed reduction of the clerical force in his Department; which was referred to the Committee on Appropriations.

GEORGE H. GIDDINGS.

The next business on the Speaker's table was a letter from the Postmaster-General, relative to an appropriation of \$14,583.33, to pay George H. Giddings for services rendered under a contract with the Post-Office Department; which was referred to the Committee on Appropriations.

CAPTAIN G. W. SMITH.

The next business on the Speaker's table was a letter from the Secretary of War, transmitting copies of the general court-martial records in the case of Captain G. W. Smith; which was referred to the Committee on War Claims.

MILEAGE OF DISTRICT ATTORNEYS.

The next business on the Speaker's table was the bill (S. No. 58) to prevent abuses in respect of the mileage of district attorneys of the United States; which was read a first and second time.

Mr. BUTLER. I ask that the bill be read.

The bill was read.

Mr. BUTLER. I move that the bill be referred to the Committee on the Judiciary.

Mr. LYNDE. I move that the bill be referred to the Committee on Expenditures in the Department of Justice.

Mr. BUTLER. I have no objection to that reference, and withdraw my motion.

The bill was referred to the Committee on Expenditures in the Department of Justice.

SECTIONS 3739, 3740, 3741, AND 3742 OF THE REVISED STATUTES.

The next business on the Speaker's table was the bill (S. No. 851) to amend sections 3739, 3740, 3741, and 3742 of the Revised Statutes of the United States; which was read a first and second time.

Mr. BUTLER. Let that bill be read.

The bill was read and referred to the Committee on the Judiciary.

UTE INDIANS IN COLORADO.

The next business on the Speaker's table was the bill (S. No. 706) authorizing the President of the United States to make certain negotiations with the Ute Indians in the State of Colorado; which was read a first and second time.

Mr. PAGE. I ask that the bill be read.

The bill was read. It authorizes and empowers the President of the United States to enter into negotiations with the Ute Indians, in the State of Colorado, for the consolidation of all the bands into one agency, to be located on the White River, or near said river, and for the extinguishment of their right to the southern portion of their reservation in said State, and to report his proceedings under the act to Congress for its consideration and approval; the expense of such negotiations to be paid by the United States, and to be hereafter appropriated.

Mr. PAGE. I have been instructed by the Committee on Indian Affairs to request that this Senate bill be put upon its passage in lieu of House bill No. 3021, which was referred to the committee. The bill has been carefully considered by the committee.

Mr. MILLS. I wish to inquire if there is anything in the bill providing for the removal of these Indians to the Indian Territory?

Mr. BOONE. There is not.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. PAGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CULTIVATION OF TIMBER ON THE PUBLIC DOMAIN.

The next business on the Speaker's table was the bill (S. No. 396) to amend section 2464 of the Revised Statutes, relating to cultivation of timber on the public domain; which was read a first and second time.

The bill was read. It amends section 2464 of the Revised Statutes so as to read as follows:

Every person being an adult citizen of the United States, or who has declared his intention to become a citizen, who plants, protects, and keeps in a healthy growing condition for ten years ten acres of valuable forest timber, the trees thereon not being more than four feet apart each way, on any quarter section of the public lands, shall be entitled to a patent for such quarter section at the expiration of ten years, on making proof of such fact by not less than two credible witnesses: *Provided*, That only one quarter in any section shall be thus granted, and only one quarter section shall be thus granted to any one person: *And provided further*, That any person who shall have heretofore planted and cultivated trees not more than twelve feet apart each way to the extent of twenty acres or more on one quarter section, and who shall in all other respects comply with the requirements of this act, shall be entitled to its privileges and benefits to the extent of one quarter section only.

Mr. COX, of New York. I move that the bill be referred to the Committee on Public Lands.

Mr. PATTERSON, of Colorado. I desire to say that that bill or a bill almost similar to it was considered by the Committee on Public Lands and that that committee ordered it to be reported to the House favorably, and I therefore move that this bill be put upon its passage. I believe it meets the unanimous approval of the Committee on Public Lands.

Mr. COX, of New York. If the bill has already been considered by the Committee on Public Lands I have no objection to its passage.

Mr. DUNNELL. It has been adopted by the Committee on Public Lands.

Mr. OLIVER. I move that the bill be referred to the Committee on Public Lands.

Mr. BEEBE. Does not this bill dispose of public property?

The SPEAKER. It does.

Mr. BEEBE. Then should it not have its first consideration in Committee of the Whole?

The SPEAKER. The point of order would be well taken if it had been made in time.

Mr. BEEBE. Cannot the question be raised upon a motion to commit?

The SPEAKER. If the point of order had been made in time it would have been held good.

Mr. BEEBE. I think it only right that a bill of this character should be referred to a committee.

Mr. DUNNELL. The subject has already been considered by the Committee on Public Lands and they have agreed to a bill almost the same as this.

Mr. WELCH. I call for the reading of the bill again.

The bill was again read.

Mr. BEEBE. There is nothing in that bill to prevent any person from planting a number of trees and taking up as many quarter sections of the public lands as he desires. There is nothing that requires that he shall reside upon the lands so taken up, either under the pre-emption or the homestead laws.

Mr. DUNNELL. The object of the bill is simply this: there has been a law in operation for the last five years granting the right to enter a quarter section of the public lands upon which trees were to be cultivated to the extent of forty acres, and after eight years of residence or cultivation, if the trees were found to be in good health and condition, a patent was to be issued to the party cultivating the land for the same. The bill now before us reduces the quantity of acres to be cultivated although it provides that the same number of trees shall be planted. It has been found by practice that a larger area was required for this number of trees by the law than was necessary.

Mr. BEEBE. I desire to inquire of the gentleman from Minnesota whether under the law as it now stands any individual can avail himself of more than one quarter section?

Mr. DUNNELL. No more.

Mr. CLARK, of Iowa. Is not this the bill which has been substantially agreed upon by the Committee on Public Lands of the House?

Mr. DUNNELL. I understand that it is substantially the same.

Mr. BEEBE. If an individual has already pre-empted a quarter section of land, is he allowed to pre-empt another quarter section under this law?

Mr. DUNNELL. He may; this is additional to the right to enter under the homestead or pre-emption law.

Mr. BEEBE. Are the Committee on Public Lands unanimous in their approval of this bill?

Mr. DUNNELL. I understand so; I am not a member of the Committee on Public Lands, but I would say further that under the existing law no claim has yet been completed.

Mr. BEEBE. I am given to understand that this bill is not the same in all its particulars as that agreed to by the Committee on Public Lands.

Mr. DUNNELL. In its general and essential features it is precisely the same bill, and I trust that it will be passed.

Mr. PATTERSON, of Colorado. I ask that the bill be put upon its passage.

Mr. EDEN. I think the bill had better be referred to the Committee on Public Lands, as there seems to be some difference as to its features.

The question was taken upon Mr. OLIVER's motion; and on a division there were—ayes 66, noes 53; no quorum voting.

Tellers were ordered; and Mr. BEEBE and Mr. WELCH were appointed.

The House again divided; and the tellers reported—ayes 87, noes 70. So the motion to refer was agreed to.

Mr. OLIVER moved to reconsider the vote by which the bill was referred to the Committee on Public Lands; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOSIAH H. PILLSBURY.

The next business on the Speaker's table was the bill (S. No. 653) for the relief of Josiah H. Pillsbury; which was read a first and second time, and referred to the Committee of Claims.

FORT FETTERMAN, WYOMING TERRITORY.

The next business on the Speaker's table was the bill (S. No. 961) to authorize the Secretary of War to relinquish certain portions of the United States military reservation of Fort Fetterman, Wyoming Territory; which was read a first and second time.

Mr. EDEN. I move that the bill be referred to the Committee on Military Affairs.

The motion was agreed to.

R. F. LEHMAN.

The next business on the Speaker's table was the bill (S. No. 767) authorizing the Secretary of War to allow the interment in the national cemetery at New Berne, in the State of North Carolina, of the remains of the late R. F. Lehman, late a commissioner of the United States circuit court in the eastern district of North Carolina; which was read a first and second time.

Mr. BEEBE. I move that the bill be now put upon its passage.

The bill was ordered to a third reading, read the third time, and passed.

Mr. BEEBE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS J. CHOATE AND OTHERS.

The next business on the Speaker's table was the bill (S. No. 333) for the relief of Thomas J. Choate, Erastus Foster, Milton Ladd, Clarence E. Haney, William A. Hilt, Kneeland F. Huckaby, and William Blackburn, late privates in Company F, Third Regiment Arkansas Cavalry Volunteers; which was read a first and second time.

Mr. BEEBE. I move that this bill be referred to the Committee on Military Affairs.

The motion was agreed to.

WILLIAM L. HICKAM.

The next business on the Speaker's table was the bill (S. No. 378) for the relief of William L. Hickam, of Missouri; which was read a first and second time.

The bill directs the Secretary of the Interior to cause the pension agent at Saint Louis, Missouri, to issue and deliver to William L. Hickam a duplicate of the check No. 61872 for the sum of \$1,616.33, in favor of William L. Hickam, the guardian of the minor children of Hilary J. Jenkins, for one lost in the mail November 30, 1876, provided that the Secretary of the Interior is satisfied that the same has not been paid, and that said Hickam give bond, with security approved by the Secretary of the Treasury, to hold the United States harmless against the payment of the original draft.

Mr. CLARK, of Missouri. I will state for the information of the House that a bill similar to this passed both Houses of Congress at the last session of the last Congress, but was not signed by the President. It is simply for the issue of a duplicate check in place of the original which was lost.

The bill was ordered to a third reading, read the third time, and passed.

Mr. CLARK, of Missouri, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM D. ADAMS.

The next business on the Speaker's table was the bill (S. No. 997) for the relief of William D. Adams; which was read a first and second time.

Mr. EDEN. I think this bill should be referred to the Committee of Ways and Means.

Mr. MILLS. Let it go to the Committee on Appropriations.

The SPEAKER. The Chair thinks it should be referred to the Committee of Claims.

Mr. EDEN. I make that motion.

The bill was accordingly referred to the Committee of Claims.

PACIFIC RAILROAD FUNDING BILL.

The next business on the Speaker's table was the bill (S. No. 15) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act; which was read a first and second time.

Mr. COX, of New York. I move to put this bill upon its passage.

Mr. BUTLER. Let it be read first.

The bill was read, as follows:

Whereas on the 1st day of July, A. D. 1862, Congress passed an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes;" and

Whereas afterward, on the 2d day of July, A. D. 1864, Congress passed an act in amendment of said first-mentioned act; and

Whereas the Union Pacific Railroad Company, named in said acts, and under the authority thereof, undertook to construct a railway, after the passage thereof, over some part of the line mentioned in said acts; and

Whereas, under the authority of the said two acts, the Central Pacific Railroad Company of California, a corporation existing under the laws of the State of California, undertook to construct a railway, after the passage of said acts, over some part of the line mentioned in said acts; and

Whereas the United States, upon demand of said Central Pacific Railroad Company, have heretofore issued, by way of loan and as provided in said acts, to and for the benefit of said company, in aid of the purposes named in said acts, the bonds of the United States, payable in thirty years from the date thereof, with interest at 6 per cent. per annum, payable half yearly, to the amount of \$25,885,130, which said bonds have been sold in the market or otherwise disposed of by said company; and

Whereas the said Central Pacific Railroad Company has issued and disposed of an amount of its own bonds equal to the amount so issued by the United States, and secured the same by mortgage, and which are, if lawfully issued and disposed of, a prior and paramount lien, in the respect mentioned in said acts, to that of the United States, as stated, and secured thereby; and

Whereas, after the passage of said acts, the Western Pacific Railroad Company, a corporation then existing under the laws of California, did, under the authority of Congress, become the assignee of the rights, duties, and obligations of the said Central Pacific Railroad Company, as provided in the act of Congress passed on the 3d of March, A. D. 1865, and did, under the authority of the said act and of the acts aforesaid, construct a railroad from the city of San José to the city of Sacramento, in California, and did demand and receive from the United States the sum of \$1,570,560 of the bonds of the United States, of the description before mentioned as issued to the Central Pacific Company, and in the same manner and under the provisions of said acts; and upon and in respect of the bonds so issued to both said companies the United States have paid interest to the sum of more than thirteen and a half million dollars, which has not been reimbursed; and

Whereas said Western Pacific Railroad Company has issued and disposed of an amount of its own bonds equal to the amount so issued by the United States to it, and secured the same by mortgage, which are, if lawfully issued and disposed of, a prior and paramount lien to that of the United States, as stated, and secured thereby; and

Whereas said Western Pacific Railroad Company has since become merged in and consolidated with said Central Pacific Railroad Company, under the name of the Central Pacific Railroad Company, whereby the said Central Pacific Railroad Company has become liable to all the burdens, duties, and obligations before resting upon said Western Pacific Railroad Company; and divers other railroad companies have been merged in and consolidated with said Central Pacific Railroad Company; and

Whereas the United States, upon the demand of the said Union Pacific Railroad Company, have heretofore issued, by way of loan to it and as provided in said acts, the bonds of the United States, payable in thirty years from the date thereof, with interest at 6 per cent. per annum, payable half yearly, the principal sum of which amount to \$27,236,512; on which the United States have paid over \$10,000,000 interest over and above all reimbursements; which said bonds have been sold in the market or otherwise disposed of by said corporation; and

Whereas said corporation has issued and disposed of an amount of its own bonds equal to the amount so issued to it by the United States as aforesaid, and secured the same by mortgage, and which are, if lawfully issued and disposed of, a prior and paramount lien, in the respect mentioned in said acts, to that of the United States, as stated, and secured thereby; and

Whereas the total liabilities (exclusive of interest to accrue) to all creditors, including the United States, of the said Central Pacific Company amount in the aggregate to more than \$26,000,000, and those of the said Union Pacific Railroad Company to more than \$28,000,000; and

Whereas the United States, in view of the indebtedness and operations of said several railroad companies, respectively, and of the disposition of their respective incomes, are not, and cannot without further legislation be, secure in their interests in and concerning said respective railroads and corporations, either as mentioned in said acts or otherwise; and

Whereas a due regard to the rights of said several companies, respectively, as mentioned in said act of 1862, as well as just security to the United States in the premises, and in respect of all the matters set forth in said act, require that the said act of 1862 be altered and amended as hereinafter enacted; and

Whereas, by reason of the premises also, as well as for other causes of public good and justice, the powers provided and reserved in said act of 1864 for the amendment and alteration thereof ought also to be exercised as hereinafter enacted; Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the net earnings mentioned in said act of 1862 of said railroad companies, respectively, shall be ascertained by deducting from the gross amount of their earnings, respectively, the necessary expenses actually paid within the year in operating the same and keeping the same in a state of repair, and also the sum paid by them, respectively, within the year in discharge of interest on their first-mortgage bonds, whose lien has priority over the lien of the United States, and excluding from consideration all sums owing or paid by said companies, respectively, for interest upon any other portion of their indebtedness; and the foregoing provision shall be deemed and taken as an amendment of said act of 1864, as well as of said act of 1862. This section shall take effect on the 30th day of June next, and be applicable to all computations of net earnings thereafter; but it shall not affect any right of the United States or of either of said railroad companies existing prior thereto.

SEC. 2. That the whole amount of compensation which may, from time to time, be due to said several railroad companies, respectively, for services rendered for the Government shall be retained by the United States, one-half thereof to be presently applied to the liquidation of the interest paid and to be paid by the United States upon the bonds so issued by it as aforesaid to each of said corporations severally, and the other half thereof to be turned into the sinking fund hereinafter provided, for the uses therein mentioned.

SEC. 3. That there shall be established in the Treasury of the United States a sinking fund, which shall be invested by the Secretary of the Treasury in bonds of

the United States, and the semi-annual income thereof shall be in like manner from time to time invested, and the same shall accumulate and be disposed of as hereinafter mentioned. And in making such investments the Secretary shall prefer the 5 per cent. bonds of the United States, unless for good reasons appearing to him, and which he shall report to Congress, he shall at any time deem it advisable to invest in other bonds of the United States. All the bonds belonging to said fund shall, as fast as they shall be obtained, be so stamped as to show that they belong to said fund, and that they are not good in the hands of other holders than the Secretary of the Treasury until they shall have been indorsed by him and publicly disposed of pursuant to this act.

SEC. 4. That there shall be carried to the credit of the said fund, on the 1st day of February in each year, the one-half of the compensation for services hereinafter named, rendered for the Government by said Central Pacific Railroad Company, not applied in liquidation of interest; and in addition thereto the said company shall, on said day in each year, pay into the Treasury, to the credit of said sinking fund, the sum of \$1,200,000, or so much thereof as shall be necessary to make the 5 per cent. of the net earnings of its said road payable to the United States under said act of 1862, and the whole sum earned by it as compensation for services rendered for the United States, together with the sum by this section required to be paid, amount in the aggregate to 25 per cent. of the whole net earnings of said railroad company, ascertained and defined as hereinafter provided, for the year ending on the 31st day of December next preceding.

That there shall be carried to the credit of the said fund, on the 1st day of February in each year, the one-half of the compensation for services hereinafter named, rendered for the Government by said Union Pacific Railroad Company, not applied in liquidation of interest; and in addition thereto, the said company shall, on said day in each year, pay into the Treasury, to the credit of said sinking fund, the sum of \$300,000, or so much thereof as shall be necessary to make the 5 per cent. of the net earnings of its said road payable to the United States under said act of 1862, and the whole sum earned by it as compensation for services rendered for the United States, together with the sum by this section required to be paid, amount in the aggregate to 25 per cent. of the whole net earnings of said railroad company, ascertained and defined as hereinafter provided, for the year ending on the 31st day of December next preceding.

SEC. 5. That whenever it shall be made satisfactorily to appear to the Secretary of the Treasury, by either of said companies, that 75 per cent. of its net earnings as hereinafter defined, for any current year are or were insufficient to pay the interest for such year upon the obligations of such company, in respect of which obligations there may exist a lien paramount to that of the United States, and that such interest has been paid out of such net earnings, said Secretary is hereby authorized, and it is made his duty, to remit for such current year so much of the 25 per cent. of net earnings required to be paid into the sinking fund, as aforesaid, as may have been thus applied and used in the payment of interest as aforesaid.

SEC. 6. That no dividend shall be voted, made, or paid for or to any stockholder or stockholders in either of said companies respectively at any time when the said company shall be in default in respect of the payment either of the sums required as aforesaid to be paid into said sinking fund, or in respect of the payment of the said 5 per cent. of the net earnings, or in respect of interest upon any debt the lien of which, or of the debt on which it may accrue, is paramount to that of the United States; and any officer or person who shall vote, declare, make, or pay, and any stockholder of any of said companies who shall receive any such dividend contrary to the provisions of this act, shall be liable to the United States for the amount thereof, which, when recovered, shall be paid into said sinking fund. And every such officer, person, or stockholder who shall knowingly vote, declare, make, or pay any such dividend, contrary to the provisions of this act, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding \$100, and by imprisonment not exceeding one year.

SEC. 7. That the said sinking fund so established and accumulated shall, at the maturity of said bonds so respectively issued by the United States, be applied to the payment and satisfaction thereof, according to the interest and proportion of each of said companies in said fund, and of all interest paid by the United States thereon, and not reimbursed, subject to the provisions of the next section.

SEC. 8. That said sinking fund so established and accumulated shall, according to the interest and proportion of said companies respectively therein, be held for the protection, security, and benefit of the lawful and just holders of any mortgage or lien debts of such companies respectively, lawfully paramount to the rights of the United States, and for the claims of other creditors, if any, lawfully chargeable upon the funds so required to be paid into said sinking fund, according to their respective lawful priorities, as well as for the United States, according to the principles of equity, to the end that all persons having any claim upon said sinking fund may be entitled thereto in due order; but the provisions of this section shall not operate or be held to impair any existing legal right, except in the manner in this act provided, of any mortgage, lien, or other creditor of any of said companies respectively, nor to excuse any of said companies respectively from the duty of discharging, out of other funds, its debts to any creditor except the United States.

SEC. 9. That all sums due to the United States from any of said companies respectively, whether payable presently or not, and all sums required to be paid to the United States or into the Treasury, or into said sinking fund under this act, or under the acts hereinafter referred to, or otherwise, are hereby declared to be a lien upon all the property, estate, rights, and franchises of every description granted or conveyed by the United States to any of said companies respectively or jointly, and also upon all the estate and property, real, personal, and mixed, assets and income of the said several railroad companies respectively, from whatever source derived, subject to any lawfully prior and paramount mortgage, lien, or claim thereon. But this section shall not be construed to prevent said companies respectively from using and disposing of any of their property or assets in the ordinary, proper, and lawful course of their current business, in good faith and for valuable consideration.

SEC. 10. That it is hereby made the duty of the Attorney-General of the United States to enforce, by proper proceeding against the said several railroad companies respectively or jointly, or against either of them, and others, all the rights of the United States under this act and under the acts hereinafter mentioned, and under any other act of Congress or right of the United States; and in any suit or proceeding already commenced, or that may be hereafter commenced, against any of said companies, either alone or with other parties, in respect of matters arising under this act, or under the acts or rights hereinafter mentioned or referred to, it shall be the duty of the court to determine the very right of the matter without regard to matters of form, joinder of parties, multifariousness, or other matters not affecting the substantial rights and duties arising out of the matters and acts hereinafter stated and referred to.

SEC. 11. That if either of said railroad companies shall fail to perform all and singular the requirements of this act and of the acts hereinafter mentioned, and of any other act relating to said company, to be by it performed, for the period of six months next after such performance may be due, such failure shall operate as a forfeiture of all the rights, privileges, grants, and franchises derived or obtained by it from the United States; and it shall be the duty of the Attorney-General to cause such forfeiture to be judicially enforced.

SEC. 12. That nothing in this act shall be construed or taken in any wise to affect or impair the right of Congress at any time hereafter further to alter, amend, or repeal the said acts hereinafter mentioned; and this act shall be subject to alteration, amendment, or repeal, as, in the opinion of Congress, justice or the public welfare may require. And nothing herein contained shall be held to deny, exclude, or impair any right or remedy in the premises now existing in favor of the United States.

SEC. 13. That each and every of the provisions in this act contained shall severally

and respectively be deemed, taken, and held as in alteration and amendment of said act of 1862 and of said act of 1864 respectively, and of both said acts.

Mr. BUTLER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. BUTLER. This bill, as nearly as I can ascertain by following the reading—the printed Senate bill I have ascertained is quite different in many respects from the manuscript bill which has just been read—this bill proposes that certain moneys due from several railroad companies to the United States, and which ought to go into the Treasury of the United States for the general use of the people of the United States, shall be put into a sinking fund and invested in that sinking fund for a long series of years, and that the sinking fund is to be used to pay certain private claimants against these railroad corporations who have an undermortgage. First, it takes out of the Treasury of the United States, or keeps from going into the Treasury, money that ought to go into it, and puts it into a sinking fund to be invested; and, secondly, it disposes of that money by paying it to private individuals without further appropriation by law.

Now, it may be answered that the United States would have to redeem that mortgage because it is an undermortgage. But that question ought to be determined when it comes up by the proper House of Representatives making an appropriation for that purpose. It may not be worth while when that question comes up to redeem that mortgage; the road may not be worth it in those days. It is here proposed by this bill to provide a sinking fund for the redemption of that mortgage, and the whole amount is hereby appropriated.

I think, if there ever was a bill that was a "money bill" in the language of the old law, a funding bill providing a sinking fund for the benefit of private mortgagees is one of those "money bills," and should receive its first consideration in Committee of the Whole.

The SPEAKER. The gentleman will be kind enough to direct the attention of the Chair to the exact language of the bill upon which he relies.

Mr. BUTLER. I will as nearly as I can, following the printed bill which does not in all respects correspond with the bill read by the clerk.

The first section of the bill provides:

That the net earnings mentioned in said act of 1862, of said railroad companies respectively, shall be ascertained by deducting from the gross amount of their earnings respectively the necessary and actual expenses of operating the same, and keeping the same in a state of repair, and not otherwise, and excluding from consideration all sums owing or paid by said companies respectively for interest upon any portion of their indebtedness; and the foregoing provision shall be deemed and taken as an amendment of said act of 1864, as well as of said act of 1862.

SEC. 2. That the whole amount of compensation which may from time to time be due to said several railroad companies respectively for services rendered for the Government shall be retained by the United States, one half thereof to be presently applied to the liquidation of the interest paid and to be paid by the United States upon the bonds so issued by it as aforesaid, to each of said corporations severally, and the other half thereof to be turned into the sinking fund hereinafter provided for the uses therein mentioned.

Then the third section provides:

That there shall be established in the Treasury of the United States a sinking fund, which shall be invested in bonds of the United States; and the semi-annual income thereof shall be in like manner from time to time invested, and the same shall accumulate and be disposed of as hereinafter mentioned.

The fourth section provides:

That there shall be carried to the credit of the said fund, on the 1st day of February in each year, the one-half of the compensation for services hereinafter named, rendered for the Government by said Central Pacific Railroad Company, not applied in liquidation of interest; and, in addition thereto, the said company shall, on said day in each year, pay into the Treasury, to the credit of said sinking fund, the sum of \$1,500,000, or so much thereof as shall be necessary to make the 5 per cent. of the net earnings of its said road payable to the United States under said act of 1862, and the whole sum earned by it as compensation for services rendered for the United States, together with the sum by the section required to be paid, amount in the aggregate to 25 per cent. of the whole net earnings of said railroad company, ascertained and defined as hereinafter provided, for the year ending on the 31st day of December next preceding.

Then the same provisions are applied to certain other railroads and their compensation.

Sections 5, 6, and 7, provide for supervision to see that the sinking fund gets what belongs to it. Then the eighth section provides:

That said sinking fund so established and accumulated shall, according to the interest and proportion of said companies respectively therein, be held for the protection, security, and benefit of the lawful and just holders of any mortgage or lien debts of such companies respectively, lawfully paramount to the rights of the United States, and for the claims of other creditors, if any, lawfully chargeable upon the funds so required to be paid into said sinking fund, according to their respective lawful priorities, as well as for the United States, according to the principles of equity, to the end that all persons having any claim upon said sinking fund may be entitled thereto in due order; but the provisions of this section shall not operate or be held to impair any existing legal right.

Then it is made the duty of the Attorney-General to prosecute; and what is rather remarkable (though it has not anything to do with the point of order) the bill directs the Supreme Court how they shall decide the question.

Restating my point of order, I would say there are certain moneys now due and to become due as compensation from the United States to certain railroads—very large amounts of money. Of these moneys a part is to be paid for a certain purpose into the Treasury of the United States and a part is to be devoted to other purposes. Now, this bill takes those moneys and puts them into the sinking fund to be held with all the interest accruing thereon by the Secretary of the Treasury, as custodian of the fund, and at the end to be paid to the private mortgagees of the road. Here is a fund to pay them in any event. Now, suppose that for any reason at the end of this time—

twenty years hence, as it will be I doubt not—this road, by reason of the improvements that may be made within the next generation, should not be worth to the United States or anybody else the amount of the first mortgage; yet that first mortgage is to be paid out of the sinking fund, not leaving to the men who shall come after us at that day the right to judge whether they will appropriate the money of the United States for that purpose at that time.

In stating my point of order, as the Speaker will observe, I have carefully avoided referring to other objections which I may have to the bill. I submit that the bill appropriates money which belongs to the Treasury of the United States, is therefore a money bill, and should receive its first consideration in Committee of the Whole.

Mr. CARLISLE. Is not the gentleman in error in insisting that this bill makes an appropriation from the Treasury of the United States of money belonging to the Government? Does it not simply provide what disposition shall be made of money belonging to the railroad companies, which is held by the United States in trust for them and their creditors?

Mr. BUTLER. I am very much obliged to my friend for the question. My proposition is that this money, or at least a portion of it, this compensation of the railroad companies, is now by law to go into the Treasury of the United States for the benefit of the Treasury. I do not say that the money is there now. But a bill appropriating the public lands of the United States is treated as a money bill, because it takes away what belongs to the United States and would go into the Treasury if not otherwise disposed of. Therefore I say that this bill takes from the Treasury money which belongs to the United States and diverts it to a sinking fund for the benefit of mortgagees, whom the Government is to pay, though the mortgage when it becomes due may not be worth the paper on which it is written.

Mr. MORRISON. I think that the gentleman from Massachusetts [Mr. BUTLER] is in error in saying that any money which now goes into the Treasury of the United States by the provisions of this bill will be paid into the sinking fund. Under the law as it now stands, the Government is to receive 5 per cent. of the net earnings and one-half of the cost of the carrying done for the Government. Now this bill does not provide that this one-half of the cost of service shall go into the sinking fund at all; nor does it provide that the 5 per cent. shall go into the sinking fund. But the one-half that is now paid to the Government, and the 5 per cent. are taken into consideration in making up the 25 per cent. The companies pay into the sinking fund only 25 per cent. after deducting what under existing law goes to the United States; and the Government continues to receive that sum.

Mr. BUTLER. The gentleman will allow me to call his attention to the provision of the bill in respect to one of these companies, the same provision being repeated as to the others:

That there shall be carried to the credit of the said fund, on the 1st day of February in each year, the one-half of the compensation for services hereinafter named, rendered for the Government by said Union Pacific Railroad Company, not applied in liquidation of interest; and, in addition thereto, the said company shall, on said day in each year, pay into the Treasury to the credit of said sinking fund, the sum of \$300,000, or so much thereof as shall be necessary to make the 5 per cent. of the net earnings of its said road payable to the United States, under said act of 1862, and the whole sum earned by it as compensation for services rendered for the United States, together with the sum by this section required to be paid, amount in the aggregate to 25 per cent. of the whole net earnings of said railroad company, ascertained, and defined as hereinafter provided, for the year ending on the 31st day of December next preceding.

Mr. MORRISON. Certainly.

Mr. BUTLER. Not only the half of the compensation but 25 per cent. in addition must go into the sinking fund.

Mr. MORRISON. No, sir; only the half of the cost of carrying for the Government which the Government does not now receive is to go into the sinking fund. The other half which the Government now receives is only mentioned in the bill for the purpose of ascertaining what shall be the 25 per cent.

Mr. BUTLER. The language of the bill is, "shall be paid in."

Mr. MORRISON. As to the point the gentleman makes as to taking money belonging to the United States and putting it into the Treasury for the purpose of paying ultimately the first-mortgage bonds, this bill is constructed upon the hypothesis that the first mortgage is a prior lien and must be first paid; and further, that the money which we propose to compel the companies to pay into the sinking fund is not the money of the United States, and never will be until that first mortgage, which is a prior lien, is extinguished. If this money is required to discharge the first mortgage it should be first applied to that purpose, as that mortgage is first in right; when that is discharged the Government will have the first right. This is not the money of the Government; it is not intended to be the money of the Government until this other mortgage is discharged.

Mr. BUTLER. I respectfully submit, then, Mr. Speaker, we have nothing to do with it.

The SPEAKER. The Chair is ready to decide the point of order. [Cries of "Question!"] The Chair thinks that the rule upon which the gentleman from Massachusetts relies, that all proceedings touching the appropriation of money and all bills making appropriations of money or property, or requiring such appropriations to be made, or authorizing payments out of appropriations already made, shall be first discussed in the Committee of the Whole, applies to public money, to public land, or to public property, and that, consequently, it does not apply to money coming into the Treasury of the United States in trust for purposes which are indicated. The rule evidently applies

to public money going out of the Treasury. This bill in its general scope is to bring money into the Treasury of the United States for particular trust purposes, and therefore, in the opinion of the Chair, Rule 112, which has just been quoted, does not apply to it. The point of order is overruled.

Mr. BEEBE. Now let us have the previous question.

Mr. COX, of New York. I demand the previous question.

Mr. HASKELL. I rise for the purpose of asking a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. HASKELL. Does the decision of the Chair, just made, cover the case where a trust fund in the hands of the Government is sought to be applied in a bill to any specific purpose?

The SPEAKER. The Chair, under the rule, is called only to decide upon questions before the House. He has decided the question raised upon the bill now pending. Whenever the case which the gentleman from Kansas may have in his mind comes up and the point of order is raised the Chair will rule upon it.

Mr. COX, of New York. I wish to ask a parliamentary question. If I call the previous question now will I be entitled to an hour after the main question has been ordered?

The SPEAKER. The rule provides only for the member reporting a measure to be heard after the previous question has been called. This bill is before the House for consideration, and as the gentleman has been recognized he is entitled to an hour if he chooses to take the floor for debate.

Mr. COX, of New York. Then I give notice that at the end of my hour I will demand the previous question.

Mr. CONGER. Under the rules is anybody entitled to debate a proposition after the previous question has been seconded and the main question ordered except the member reporting the measure?

The SPEAKER. The Chair has so decided, and such is the rule.

Mr. CONGER. How, then, does the gentleman from New York become entitled to the floor to debate this question for an hour?

The SPEAKER. By parliamentary courtesy the member upon whose motion a subject is brought before the House is first entitled to the floor, and as it was on the motion of the gentleman from New York the House went to the business upon the Speaker's table for the purpose of reaching the pending bill, the Chair has recognized him as first entitled to the floor.

Mr. CONGER. Does the rule apply to him as being entitled to an hour for debate after the previous question has been seconded?

The SPEAKER. The gentleman from New York did not report this measure, and therefore is not entitled to an hour after the previous question has been seconded. But that is not the case here. He has sought the floor on the pending bill and is recognized by the Chair, and is entitled to be heard for an hour to debate the question before calling the previous question.

Mr. COX, of New York. And I give notice that at the close of my hour I shall demand the previous question.

Mr. CONGER. I do not object to an hour now before the previous question is called and seconded.

The SPEAKER. The gentleman from New York would not be entitled to another hour after the previous question has been called, as he is not the reporter of the measure.

Mr. COX, of New York. I do not intend to occupy the whole of my hour.

The SPEAKER. The practice has been heretofore at times to test the sense of the House by making a demand for the previous question, and if the disposition of the House has been in favor of debate and the previous question has not been seconded, under the courtesy to which the Chair has referred the gentleman on whose motion the subject was brought before the House has been recognized.

Mr. BUTLER. How is the rule?

The SPEAKER. Only the reporter of a measure is entitled to an hour after the main question has been ordered. The gentleman from New York has an hour, the bill being under consideration.

Mr. COX, of New York. Very well; I will take my hour now and demand the previous question when I have concluded my remarks.

Mr. BUTLER. Will you divide the time with us?

Mr. COX, of New York. I intend to speak but a short time.

Mr. BEEBE. The gentleman says he will divide the time with you.

Mr. BUTLER. That is fair.

Mr. FRYE. I rise to make a parliamentary inquiry. The gentleman from New York has moved to pass this bill in concurrence with the Senate, and on that demands the previous question. I wish to inquire of the Speaker whether or not under Rule 54 the demand for the previous question will cut me off from making the motion provided there, to commit to the Judiciary Committee, as I have been instructed to do by that committee?

The SPEAKER. If the gentleman will read Rule 42 he will find it provides that when a question is under debate no motion shall be received but to adjourn, to lie on the table, for the previous question, to postpone to a day certain, to commit or amend, to postpone indefinitely; which several motions shall have precedence in the order in which they are arranged. The rule is express on that subject.

Mr. FRYE. Under Rule 54, if the Chair pleases, to be found on page 112, will be found the order to be observed when the House goes to the business on the Speaker's table at the expiration of the

morning hour. In the third place, under that rule, "that bills and resolutions from the Senate, on their first and second reading, be referred to committees and put under way," I think the motion to refer to the Committee on the Judiciary is clearly in order.

The SPEAKER. The rule goes on to provide "and if on reading a second time no motion being made to commit, they are to be ordered to their third reading, unless objection be made; in which case, if not otherwise ordered by a majority of the House," &c. The majority of the House can order otherwise; the majority of the House may refuse to second the demand for the previous question, and if the majority of the House does refuse to second the demand for the previous question the Chair will recognize the gentleman from Maine or any other gentleman to move to commit the bill.

Mr. FRYE. But does not the demand for the previous question cut off the motion to commit at this time?

The SPEAKER. If the demand for the previous question is seconded and the main question ordered, of course it will cut off the motion to commit.

Mr. FRYE. I ask the Speaker to read the first portion of article 3 under that rule. It is as follows:

3. Bills and resolutions from the Senate on their first and second reading, that they be referred to committees and put under way.

Is not that the first proposition, and does it not take priority over every other?

The SPEAKER. The gentleman's view is that a motion to commit is first in order. The Chair thinks not. The Chair thinks that Rule 42 is clear and distinct on that subject, and that the reservation made even in the paragraph of Rule 54 to which the gentleman directs the attention of the Chair, "if not otherwise ordered by a majority of the House," agrees practically with the order given in Rule 42, the principle being that a majority of this House have a right to conduct their business in the manner they see fit and to dispose of a bill as they shall see fit when it is up for consideration.

Mr. FRYE. Then I ask the gentleman from New York to allow me a word in relation to that motion to commit.

Mr. COX, of New York. If it does not come out of my time. My time is limited and I have agreed to give half of it to the other side.

Mr. FRYE. I will not take two minutes.

Mr. COX, of New York. I will give the gentleman two minutes.

Mr. FRYE. The Judiciary Committee, nine members being present and voting, instructed me to make the motion to commit this bill to the Judiciary Committee. Two members were absent. Those two absent members have since informed me that they were opposed to the committing of the bill to the Judiciary Committee, so that if they had been present and voted the motion would not have been made here in pursuance of a majority vote of the committee. But, under the instruction which I received at the regular meeting of the committee, I deem it my duty and propose now, if the opportunity is at any time offered, to move to commit this bill to the Judiciary Committee.

The SPEAKER. That can be done, if the House desires, by voting down the previous question.

Mr. COX, of New York. I yield for a moment to the gentleman from Ohio, [Mr. McMAHON.]

Mr. McMAHON. I desire to state in that connection that the Committee on the Judiciary had previously determined that the gentleman from New York should be permitted to move to proceed to business on the Speaker's table and pass this bill, and that this was agreed to by a vote in the full committee. The action adopted by the vote the gentleman from Maine speaks of was at a time when no member of the committee had notice that this particular matter was coming up; and it is true, as has been stated, that a majority of the Judiciary Committee prefer this bill to be acted upon and passed here.

Mr. COX, of New York. I now yield for a moment to the gentleman from Georgia, [Mr. HARTRIDGE.]

Mr. HARTRIDGE. I desire to make just one statement in addition to what my colleague on the committee has said. It is this: that four out of the nine who voted against this reference reserved to themselves the right to oppose the reference in the House.

Mr. COX, of New York. I now yield to the gentleman from Kentucky, [Mr. KNOTT.]

Mr. KNOTT. I desire simply to say that during the last Congress I devoted a great deal of time to the consideration of this subject, and was then in favor of the passage of a bill substantially the same as the bill now pending, which I believe passed the House with but nine dissenting voices. I am in favor of passing the bill as it has come to us from the Senate, and so voted in committee.

Mr. COX, of New York. I now yield to the gentleman from Pennsylvania, [Mr. STENGER.]

Mr. STENGER. I desire to say in this connection that I have examined the bill fully as a member of the Judiciary Committee. I am one of those who favor taking it up and passing it without any delay whatever.

Mr. COX, of New York. I yield a moment to my colleague, [Mr. LAPHAM.]

Mr. LAPHAM. Although I am in favor of this bill and expect to vote for it whenever the question comes before the House, yet it is a bill of such magnitude and importance that I thought it should take the usual course of a reference to the Judiciary Committee, and I

voted in the committee for the reference. I still hope it will be sent there by the House.

Mr. McMAHON. The trouble about the reference is this: if this bill is referred to the Judiciary Committee with the limited time now intervening between the probable call of that committee and the present time, the committee could probably give it no further consideration than they have already, and it would interfere with the other public business the committee has to consider.

Mr. CASWELL. I desire to remind the House that the Committee on the Pacific Railroad have had this same bill under consideration, and have agreed to and reported the same to this House.

Mr. CONGER. The other members on the Judiciary Committee having made their statements, if the gentleman from New York will yield to me I will make mine.

Mr. COX, of New York. I suppose all this comes out of my time; but I will yield for a moment to the gentleman from Michigan.

Mr. CONGER. Several members of the Judiciary Committee have stated their desire that this bill be referred to them. While I am in favor of the passage of the bill, I felt, as some others did, that it should have the consideration of the Judiciary Committee, and asked it be referred. But if that should delay or jeopardize the passage of the bill, I certainly do not care to have it referred.

Mr. COX, of New York. The House is in no sense responsible for any delay in passing this bill. We were about to reach it by a summary method when the Senate concurrent resolution for adjournment reached us. By the rules that resolution, being on the Speaker's table, had priority of this measure. An unscrupulous lobby had delayed action for years. It was not the fault of the popular branch, for the Lawrence bill, even more stringent than this, had passed the House in the last Congress. If we are to believe what is reported as to the lobby and what our own eyes have seen, the most impudent attempt ever made to prevent legislation on this subject has been persisted in up to this hour.

It was not and is not necessary to refer this bill to any committee. The committees which have jurisdiction of such subjects have already agreed to its provisions. It will be found, I trust, that the methods by which railroads have been stolen, watered, and gutted through the tameness or corruption of other Legislatures will not prevail now and here. Even yet we are threatened that, if this bill passes, the Supreme Court will be found pliable enough to nullify it in the interest of stock-jobbers and monopolists.

The dictation of railway kings may assume that Congress which created them is attempting to intrench upon their private property and corporate franchises; but, sir, no amount of money is compensation enough for this Government for allowing corporate irresponsibility. There is not money enough represented by the public debt to pay for the imminence of the danger to our institutions if we suffer such corporations not only to enrich wrongfully the few who control them, but to become masters of the people. One of these magnates boasted that he could win his way by electing his agents by corruption at the polls at less cost than at the seat of government. It has been his boast that even our best Senators had their price. Gentlemen should remember the uprising of last summer, when ten millions of people arose under a wild sense of injustice. It was a terrible protest against partial legislation, corporate chicanery, and over-reaching greed.

Our railways should be managed in harmony with commercial, industrial, and public interests. No reserved power of legislation should be given away which lessens or destroys this power either by compromise, inaction, or indifference.

Plausible attempts were made to turn over to the United States twelve millions of acres of the land it had given to propitiate opposition and make a fair-seeming compromise. The attempt was a failure.

A bill of this nature which passed this House last Congress had no party aspect. It reached into the higher equities, where no party lash could reach. It is very clear that under this bill the Government may be secured, and still there will remain assets and profits sufficient to cover the stock rightly computed and pay handsome dividends upon that stock at its real value.

This bill is important in the sums, interests, and questions involved. It involves \$120,000,000 at simple interest, and more—\$170,000,000—if the interest is compounded. It involves the public interests connected with the transportation between two oceans. It comprehends a trust of unexampled magnitude. It is bound up with the question of the power of Congress to restrain and control its great railroad creatures—corporate franchises of gigantic proportions. In its consideration we consider lands by the million of acres and money by the million of dollars. The East India Company, the Hudson Bay Company, and other great artificial bodies known to history are the only illustrations with which adequately to compare these enormous monsters of legislative creation, and yet England dealt with them summarily. These questions have been before us for two years. They have been thoroughly discussed; they are well understood. We should not hesitate to grasp promptly from the Speaker's table this bill so honorable to the Senate, and make secure the vast sums invested by the United States.

From the Senate report of 4th of March last we learn the magnitude of the sums and interests involved. It appears that the Government loaned the Union Pacific \$27,236,512. On this the Govern-

ment has paid as interest \$15,969,801. Deduct from these sums added—the interest repaid by half transportation and the balance due the Government January 31, 1878, exclusive of interest on interest, is \$38,071,985. These figures are not denied. They are authentic. The annual interest paid by the Government is \$1,634,190. There is a prior mortgage of about the same as the Government debt, with interest on this prior lien to the amount of \$1,634,190. The total funded indebtedness of this company is \$78,733,712. I need not indicate the nature of this indebtedness. It includes a floating debt of less than a million. It can easily be paid. So of the land-grant debt, as is abundantly shown by the government directors' report, (p. 821.) The average net receipts of this road, according to the Attorney-General's mode of computation, is \$6,547,149. But the companies endeavor, by a forced and selfish construction, to construe the net earnings to be what is left after paying all its debts and obligations.

This is a flagrant violation of the sixth section of the act of 1862. At any rate, as will be seen, Congress has the right to determine for the future what are net earnings. In determining that, we deduct in future the operating expenses and interest on the first mortgage. Taking the average net earnings of the past four years this interest and the 5 per cent. would be only \$245,661. The right to this should not and cannot be gainsaid. So, too, of the pay for Government services, the half of the average for six years per annum was \$421,311.87. It will increase. On page 5 of the Senate report the statement is made that after paying all the interest and the other half of the transportation service there will be left a dividend of 6½ per cent. of the present market price of the stock, while the United States will get the sum of \$1,938,283. This would sink the principal annually only \$304,092. Is this a harsh proceeding toward shareholders or the companies?

By similar computation as to the Central Pacific, about the same sum is to be paid into the fund. It is made up on page 8 of the report, at \$1,900,000. This, too, will leave handsome dividends for the stockholders. Why, this company has made 10 per cent. dividend on the nominal amount of their stock. After paying into the sinking fund, there will be still 6½ per cent. dividend on the nominal stock.

Who can complain of any severity in this law? Does the sinking fund do any one injustice, unless it be the United States? It is a sinking fund for all the creditors, and not of the Government alone. It changes no relation of other creditors to the fund. It would act as a chancellor, and marshal the assets and distribute them according to the equities. If the bill becomes a law it enhances the value of the first-mortgage bonds, which are preferred to the United States debt, for it gives them additional security. It is in other respects favorable to the roads. When in any one year 75 per cent. of the net earnings will not be sufficient to pay all the operating expenses and the interest on the first mortgage, an abatement may be made. In no event will more than 25 per cent. be required for that year; neither from the half-transportation account nor the 5 per cent.

The Senate report shows that the companies can pay all the interest to both preferred and inferior creditors, and all expenses, and have dividends for shareholders larger than any other railroads in the United States. They have little floating debt, and as things now go with them they will be richer in money, mines, and franchises than any railroads or corporations ever constituted. The eleventh section gives them time, in case of default, to make good their payments, and is not a harsh provision. Nor is it illiberal in regard to net earnings. As that question as to past earnings is before the courts, the bill accepts the wrong construction of the companies, and seeks only to define the net earnings of the future. Nor is it illiberal as to interest, for it does not compound; and thereby, whatever the right of the Government to interest on interest, the right is not claimed by this bill.

It is not a hard measure on these corporations to require them to make a sinking fund as prescribed by section 6 of the act of 1862. Not a dollar due the Government has been paid. This bill does not compel payment, as it might. It compels the net profits, not as defined by the companies, but as we all know it means—to be laid away in a sinking fund—as security; so that in 1898 the means shall be ready to save the Government from all loss by reason of speculations, insolvency, or other hazards with which the few owners of these roads may becloud or dissipate these properties.

But we are met with the question of reserved power. It would seem that nothing but the enormous private interests adverse to public rights could so distort the meaning of the laws of 1862 and 1864 as to make them irrevocable. No impartial man, or good lawyer, or honest judge, can doubt for a moment the power of Congress to amend or repeal such laws. It is asserted expressly in section 22 of the act of 1864. There is no question as to our right to add to, amend, or repeal these statutes.

The Supreme Court, in (1 Otto, 350) Union Pacific Railroad Company vs. Hall, held that the acts of 1862 and 1864 were to be taken together. But there is nothing in the act of 1864 to abridge, and much to strengthen, the eighteenth section of the act of 1862. It has been seriously argued that the unqualified reserved power to alter, amend, and repeal a charter does not carry with it a power to take away the possession, use, enjoyment, and proceeds of the property from the corporation. In other words, that when power is reserved it is no power at all; that rights are vested beyond the power to control, even when that very power to reserve was a part of the charter. A mere state-

ment of such a *non sequitur* is sufficient to show its sophistry. An unlimited power to amend is held to be limited according to the wishes and interests of those who desire no limitation. I hold that under the power reserved we may make new rules to capture, seize, ay, confiscate these roads; and it is not for the roads to set up any estoppel upon Congress, as the giver of the grants and the dictator of its uses forever. It is sovereignty; not to be abridged or despoiled.

Mr. Jefferson laid down the general proposition in his letter to Madison on the question "whether one generation could bind another?" No society can make perpetual law. The earth belongs to the living. Jeremy Bentham has enforced this principle with invincible sense and logic. But does our Constitution guard these roads against alteration of their charter? Certainly not. The charter was granted under that instrument and is still under it. There is no impediment but our own legislative negative, and that is within our control. Whether the terms of the laws of 1862 or 1864 allowed amendment or not, the right is as indestructible as society.

England has compelled the repeal of charters in the public interest—compelled. Massachusetts, Ohio, and other States have substantially reserved that power. We did the same in our banking law; and in 1870 we exercised the expressed reserved right to cut down the circulation, and without saying "by your leave" to the banks. No one can doubt, who reads the decisions quoted on pages 9, 10, and 11 of the Senate report, the principle that one Congress cannot limit the constitutional power of a subsequent Congress.

Ah! but it is claimed that it is sheer oppression and wrong to impair the grant by amendment and that they cannot be inflicted under the guise of alteration. Oppression to secure one's own! Wrong to exercise the power to make a generous Government safe in its investment! One looks in vain for such insolence and impudence outside of these pampered, law-defying, press-subsidizing, lobby-employing corporations, who for private ends disregard the public good. Who is to judge of the general welfare—the corporations or the conserving power of the Legislature? Are we to be limited in our regulation of these roads to the postal and military purposes, as to which these roads are specifically bound to render service? Why, if it be confessed that for such purposes we are bound to see these roads run honestly and run on forever, why may we not, by securing it against insolvency and even seizing the properties, assure the execution of these postal and military provisions?

I ask on this legal question to insert the report made on this subject from the report No. 459 Forty-fourth Congress first session:

Your committee entertain no doubt of the power of Congress to pass this bill. By the eighteenth section of said act of July 1, 1862, it is declared that—

"The better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the Government at all times (but particularly in time of war) the use and benefits of the same for postal, military, and other purposes, Congress may at any time, having due regard for the rights of said companies named herein, add to, alter, amend, or repeal this act."

It has been said that this is a very limited power to alter or amend the act, and that the act only authorizes the alteration or amendment in order to promote the construction of the railroad and telegraph line and keeping the same in working order, and to secure to the Government at all times (and particularly in time of war) the use and benefits of the same for postal, military, and other purposes. Were this limited interpretation placed on the reservation, it would not, in the opinion of your committee, defeat the bill they report. For, although said roads and telegraph lines have been constructed, yet it is manifest, having reference to their pecuniary condition, that some such measure as that now recommended is necessary in order to keep them in working order, and to secure to the Government at all times the use and benefits of the same. It needs no argument to prove that insolvent railroad corporations, or corporations in danger of insolvency, cannot be relied upon to furnish the Government the benefits contemplated by said act. In view of the liberal aid afforded by the Government to said companies, the objects to be attained by the construction of said railroad and telegraph lines, and the general principle of interpretation of corporate grants of power, your committee are of the opinion that the reservation of a right to add to, alter, or amend the said act ought to be liberally construed for the public benefit.

But whatever may be thought of the reserved right to alter, amend, or repeal in the act of 1862, it cannot be denied that the right reserved in the amendatory act of July 2, 1864, is as broad as words can make it.

Section 22 of this act is as follows:

"And be it further enacted, That Congress may at any time alter, amend, or repeal this act."

It has been argued that this right applies only to the act of 1864, and does not authorize any alteration or amendment of the act of 1862. Were this so, it would not defeat the bill of your committee, for it might well be sustained as an amendment to the act of 1864. But when the circumstances of the case are considered, when it is remembered that nothing had been done toward actual construction of said railroads under the act of 1862 and before the act of 1864, that the grants to the railroad companies named in the first act were greatly enlarged by the latter act, that the roads and telegraph lines have been constructed under the provisions of the two acts, and that those provisions were almost inseparably interwoven, it seems to your committee that said acts should be considered as *in pari materia*—as constituting for purposes of interpretation but one act, and that, consequently, the power to alter, amend, or repeal, reserved in the act of 1864, which is the last expression of the legislative will, applies to both said acts.

What, then, is the power thus reserved, that is to say, the general power to alter, amend, or repeal the charter?

It was defined by the Supreme Court of the United States in the case of *Tomlinson vs. Jessup* (15 Wallace, 458) as follows:

"The power reserved to the State by the law of 1841 authorized any change in the contract as it originally existed, or as subsequently modified, or its entire revocation. The original corporators or subsequent stockholders took their interests with knowledge of the existence of this power and of the possibility of its exercise at any time in the discretion of the Legislature."

"The object of the reservation, and of similar reservations in other charters, is to prevent a grant of corporate rights and privileges in a form which will preclude legislative interference with their exercise, if the public interest should at any time require such interference. It is a provision intended to preserve to the State control over its contract with the corporators, which without that provision would be irrevocable, and protected from any measures affecting its obligation."

This decision places the reservation upon its true ground. It gives to the Legislature the right to interfere when the public interests require interference. It preserves to the State control over its contract with the corporators, and the latter, by accepting the charter, agree in advance that such control shall exist. No one will deny that, if the bill now reported should become a law and be assented to by said railroad corporations, it would thenceforth be binding upon them. But their acceptance of their charter, containing the reservations aforesaid, is an assent beforehand to the bill now proposed, or to any similar measure that Congress in its discretion shall deem necessary for the protection of the Government or the creditors of said corporations. (Pa. College cases, 13 Wallace, 213 and 214.) In this latter case the court spoke of the reserved right to alter or amend a charter as a "reservation to the State to make any alterations in the charter which the Legislature in its wisdom may deem fit, just, and expedient to enact."

In the case of *Sherman vs. Smith* (1 Black, 593) the Supreme Court of the United States seem to recognize a right in the Legislature, when the power to alter or amend a charter is reserved, to add to the liabilities of the stockholders. They said:

"Another view of this question, even assuming that the stipulation of the stockholders in the article of association amounted to a contract, is equally conclusive against the stockholders."

"According to the fifteenth section the association was authorized to establish a bank of discount, deposit, and circulation upon the terms and conditions and subject to the liabilities prescribed in this act. It was not competent for the association to organize their bank upon any other terms or conditions or subject to any other liabilities than those prescribed in the general charter. Now, the thirty-second section, which reserved to the Legislature the power to alter or repeal the act, by necessary construction reserved the power to alter or repeal all or any one of these terms and conditions or rules of liability prescribed in the act. The articles of association are dependent upon and become a part of the law under which the bank was organized, and subject to alteration and repeal, the same as any other part of the general system."

In *Miller vs. The State* (15 Wallace, 498) the Supreme Court said:

"Power to legislate, founded upon such a reservation in a charter to a private corporation, is certainly not without limit, and it may well be admitted that it cannot be exercised to take away or destroy rights acquired by virtue of such charter, and which by a legitimate use of the powers granted have become vested in the corporation; but it may be safely affirmed that the reserved power may be exercised, and to almost any extent, to carry into effect the original purposes of the grant or to secure the due administration of its affairs so as to protect the rights of its stockholders and of creditors and for the proper disposition of the assets."

In *Holyoke vs. Lyman* (15 Wallace, 500) the court held that—

"The provision of the Revised Statutes of Massachusetts, chapter 44, section 23, and General Statutes, chapter 68, section 41, declaring that acts of incorporation shall be subject to amendment, alteration, or repeal, at the pleasure of the Legislature, reserves to the Legislature the authority to make any alteration or amendment of a charter granted subject to it, which will not defeat or substantially impair the object of the grant or any rights vested under it, and which the Legislature may deem necessary to secure either that object or other public or private rights."

Many decisions of the State courts might be referred to to the same effect, but it is unnecessary to cite them here. A number of them are cited in Report No. 440 of the Committee on the Judiciary of the House of Representatives at the present session. Your committee would also refer to that report for many important and valuable facts and tables relating to the subject under consideration.

If there was any room for doubt as to the power of Congress when that report was made, it has been completely removed by decisions of the Supreme Court since made in the following cases: *Munn vs. Illinois*, 4 Otto, 113; C. B. and Q. R. R. Co. vs. Iowa, 36, 135; *Peik vs. C. and N. W. R. R.*, 30, 164; C. M. and St. P. R. R. Co. vs. Ackley, 36, 179; *Winona and St. Peter R. R. Co. vs. Blake*, 36, 180; and *Stone vs. Wisconsin*, 36, 181.

Being fully satisfied that Congress, under the reserved right to alter, amend, or repeal the charter of these companies, possesses the right to pass this bill, we do not consider it necessary to say what would be the case were that reservation not in the charter. Had it been omitted, it might still be argued with much force that the power to alter, amend, or repeal legally existed. No State can make a law impairing the obligation of a contract, because that is prohibited by the Federal Constitution.

Because, Mr. Speaker, Congress has given imperial largesses for public purposes, it does not follow that Congress has not reserved her power to control. Otherwise, what consequences would follow? The answer to this is found in the judicious and judicial reasoning contained in the cogent extracts from the Senate report. The committee appointed in 1873 reported that such power existed. The best legal minds have so decided. How, then, shall the power be exercised?

The action of Congress by this bill may not give us all we should have to save public interests; but it does assert unmistakably that no consolidated power liable to be perverted and already perverted, already in full force here in the lobby, and subsidizing the press with venal and selfish devices, seeking political and worse objects with brazen audacity, that such power shall not be used for mere private or selfish purposes, at the expense of a forbearing and distressed people.

The grants of Congress were for grand, public, continental objects. Let us rescue them while we can. If this bill does not effectuate the object and make the Treasury secure, let us find supplemental means that will do it.

It is a contest between the brawn of this country aided at last by honest brain, and those speculators who have failed in a great trust. I hope Congress will not fail to distinguish where brawn and brain are, and where the corrupt speculation, where the general, commercial, industrial, national, and international interests are, and where the monopolizing and consolidating schemes are, and legislate accordingly.

Mr. HARTRIDGE. I had desired to discuss at some length the question involved in this bill, presenting as they do grave and serious questions not only of material interests and practical purposes, but of legal and constitutional points. But in the few moments which my friend's courtesy allows me I should be unable to do justice to the subject or to myself, and I shall therefore ask the permission of the House to print my remarks and shall confine myself to the simple announcement that I am opposed to the reference of this bill, believing that the people at large through the discussion of it elsewhere

have received all the light they desire upon the subject, and that there is hardly a member upon the floor who has not made up his mind how he shall act in regard to it. Under these circumstances, I am opposed to the reference of the bill and am in favor of its immediate passage.

Mr. COX, of New York. I yield now five minutes to the gentleman from Kansas, [Mr. PHILLIPS.]

Mr. PHILLIPS. I rise to say but a few words. I hope the previous question will be sustained upon the bill, and that it will not be referred to the Committee on the Judiciary, for the reason that at this stage of the session every experienced member of the House knows that if the bill be referred to the Committee on the Judiciary it is equivalent to saying that we shall not vote upon it at this session. The bill in brief is a measure to provide for securing the interests of the United States in the amount invested in this road. The Government advanced to the company upon its bond to the extent of \$27,500,000. They authorized, by law, the company to issue first-mortgage bonds which came in before the bond held by the United States for the same amount. In addition to this the Union Pacific Railway Company have added to it of bonded debts of various kinds some twenty-two millions more. It was provided that when this company should do the transportation for the Government it should repay to the Government half of all such amounts in payment, or to reimburse it for paying the interest which the Government pays annually upon its bonds.

Every one is familiar with the fact that the company has not paid the amount so required. The company has built it at a nominal cost much greater than the real cost, and has multiplied expenses and run in debt so as to prevent the United States Government from ever recovering any part of the money thus expended. In the report made to the Senate upon this subject I find that if the company was managed with rigid economy the Government is entitled to expect the interest would be paid upon the first-mortgage bond and also upon the bond guaranteed by the Government, and there would still be 4½ per cent. left to pay the interest on the stock at its nominal value, and 6½ per cent. per annum on its real value. It is very well known that this company has multiplied its expenditure, that it has so managed its business that if it were permitted to be carried on as it now is a debt of one hundred and fifty millions would be entailed and the Government would realize nothing of what is justly due to it.

This bill is in substance simply a measure by which the United States may step in, which by law it has a right to do through the provisions of the charter which gives Congress the right to alter, amend, or repeal, to provide that the road shall be so economically and honestly managed that the United States shall be so reimbursed in some degree at least. In the name of every just and legitimate enterprise we are called on to see that there is no sacrifice of the just interests of the Government and no sacrifice of the money of the people. Corporations have too long acted defiantly of law, and it is time they should be placed under its just restrictions. The bill is therefore eminently just; it is one that we as representatives of the people are called upon to vote for; it is one that will not cripple the road, if there is any fair effort to manage the road honestly and economically, and I hope the House will speedily pass it. It has been carefully considered by the Senate Judiciary Committee, a body of eminent lawyers; has been before Congress before, and I hope that its opponents will not shelter themselves by motions of delay. The unanimity of support it received by the Senate, and which I hope it will receive in the House, is one of the wholesome evidences that the power of corporations over legislators no longer exists.

Mr. GARFIELD. I desire to put a question to the gentleman from New York, [Mr. Cox.]

Mr. COX, of New York. I will hear it.

Mr. GARFIELD. I conceive that it is exceedingly important that a sinking fund for paying the indebtedness of these roads to the Government should be established. There is a great danger that spoliation and waste may come if we wait for the maturity of the bonds; but the thing I want to ask of any gentleman who may speak is this: are we sure that the bill here drafted and now before us is one that will stand the pressure of the courts and accomplish its object? I desire information on that point. We have had great misfortune in our legislation heretofore in this respect. I believe the United States has been beaten in almost every appeal to the courts in the legislation that we have passed in the attempt to limit and restrict the power of these roads and to protect the interests of the United States.

Now I desire very much that some gentleman who has studied this bill, as I have not, shall say to the House clearly, and give the grounds for it, that this bill is in a shape where we can safely trust the cause of the United States in the courts.

To make sure of this it seems to me that it would be safer to refer the bill to our Law Committee, with authority to report it back at any time; and unless that committee has considered the question and made up its mind that the bill will meet the objects we desire to reach, it ought to be so referred. But if it will secure the objects set out in its provisions, and secure them by means of the courts, then this bill should certainly receive the approval of a majority of this House. That is the simple question which I desire to ask.

I desire to say now that I am paired with the gentleman from Virginia [Mr. TUCKER] during his absence; and as I do not know how he would vote on this bill if he were present, I shall withhold my vote.

Mr. COX, of New York. I do not intend to take up any time in reply to the question of the gentleman from Ohio, [Mr. GARFIELD,] except to say that eminent lawyers of the Senate, including an ex-judge of the Supreme Court of the United States, have stated that they thought this bill would hold water in any court. I will not set up my legal opinion after the opinion which has been given.

Now as to the disposal of the time. I propose to hold the last ten minutes for this side of the House, and will yield twenty minutes to gentlemen on the other side.

Mr. BUTLER. Pardon me; no man has spoken against your proposition yet that I have heard, and I agreed with you that those opposed to passing the bill at this time should be allowed thirty minutes.

Mr. PRICE. I ask to be allowed five minutes on this bill.

Mr. COX, of New York. I was about to say—

Mr. BUTLER. If we are to be allowed half an hour—

Mr. COX, of New York. I will yield to the gentleman from Massachusetts [Mr. BUTLER] one-half of the hour, if he will settle the question with gentlemen on that side of the House.

The SPEAKER *pro tempore*, (Mr. VANCE.) There are only thirty minutes of the hour remaining.

Mr. BUTLER. Exactly; that is all I want.

Mr. COX, of New York. A great deal of the first half of the hour was taken up by preliminary discussion.

Mr. BUTLER. I hope that every one will consent that ten minutes additional be given to the gentleman from New York, [Mr. Cox.]

Mr. BEEBE. I ask unanimous consent that the time for debate be extended ten minutes, so that the gentleman from Massachusetts [Mr. BUTLER] will have thirty minutes, and that ten minutes be allowed to my colleague, [Mr. Cox.] And I give notice that I shall object to any further extension of the time after that.

The SPEAKER *pro tempore*. That requires unanimous consent.

No objection was made, and the time was extended accordingly.

The SPEAKER *pro tempore*. The gentleman from Massachusetts [Mr. BUTLER] is recognized as entitled to the floor for thirty minutes.

Mr. BUTLER. I yield five minutes to the gentleman from Iowa, [Mr. PRICE.]

Mr. PRICE. I have very little to say in reference to this bill. I will commence by saying that if the bill comes to a vote in its present shape I shall vote for it; but I shall regret very much being compelled to do so, for the reason that I have examined this bill carefully again, and again, and I undertake to say now without fear of successful contradiction that the fourth and fifth sections of this bill can be interpreted to mean two diametrically different things. If they shall become law they will open the door for just such litigation as we have had in the courts in years past in regard to these corporations. For that reason I thought and still think that this bill should go to the Committee on the Judiciary to be examined in reference to these matters so as to make the language of those two sections free of the ambiguity that now certainly attaches to it.

Gentlemen upon this floor know full well without my saying it that we are brought every now and then face to face with a proposition upon which we are compelled to cast our votes, and there is very great doubt in the minds of many gentlemen upon this floor how those votes should be cast. It is not a singular thing; but very frequently men on both sides of this Chamber are compelled by the rules of the House to vote upon a proposition when they are not certain whether the votes they give are in accordance with right and justice or not.

Now, I do not want to delay action on this bill. I am as anxious as any other gentleman upon this floor to get through with the legislation that is pressing upon us and to adjourn this Congress. And if the bill was right, or as near right as it could be made in my judgment, I should say that we should vote upon the bill as it is.

But believing as I do that it ought to have consideration by the Committee on the Judiciary, particularly in regard to the two sections to which I have referred, I must vote against the previous question so as to obtain a commitment of this bill. I might say in the language of another, familiar to us all, "if it were done, when 'tis done, then 'twere well it were done quickly." But the fear with me is that when we have done this it will not be the "be-all and end-all" of the matter, but it will come up in the courts in the future as in the past, especially in regard to these two sections.

Now, I make this prophecy, and I want gentlemen to mark it: if this bill shall pass in its present shape, I will risk all the judgment I possess upon railroad matters, and all the ability I have upon any question, that it will in the future, as it has in the past, give rise to litigation. For that reason and that reason alone I want this bill committed to the Committee on the Judiciary, so that they may examine these two sections particularly, and take from them the ambiguity and uncertainty which I believe is now in them, and give us a bill about which there will be no question; so that the Government will know what it has, the railroad companies will know what they have to do, and there will be no ground for litigation in the future upon these points.

Mr. HENDERSON. I hope my friend from Iowa, [Mr. PRICE,] if he has time, will point out the ambiguity of which he speaks, so that we may know what he means.

Mr. PRICE. The ambiguity is simply that sections 4 and 5, particularly section 4, are liable to two interpretations in reference to the

sinking fund, in reference to the 5 per cent. and the half that is due from the road and the 25 per cent. No man can tell whether that provision means one thing or another. I have not time, in my five minutes, to go into a detailed statement; if I had half an hour I might do so.

It has been urged as an objection to the reference of this measure that the Judiciary Committee will not have an opportunity to report it. Sir, that committee, judging from the course of business in this House during the last two weeks, will probably be called within the next two weeks. There are only about three committees ahead of them after the Committee on Commerce shall have concluded its reports. The Judiciary Committee will have ample time to examine the bill and report it back on the regular call of the committee, and no interest can suffer from this delay.

[Here the hammer fell.]

Mr. BUTLER. Mr. Speaker, I desire the ear of the House for the few minutes I have to speak. I shall not undertake to discuss the provisions of the bill. In the other branch of Congress it was discussed for weeks with great ability on the one side and on the other; but it was a discussion of generalities; there was no discussion such as this House gives to a measure when considering a bill section by section under the five-minute rule. I add my prediction to that of the gentleman from Iowa, [Mr. PRICE,] that this bill will not "hold water." The very men who drew it up were fearful that it would not "hold water," for they undertake to fix by legislation what the court shall do and how it shall decide. If I were a judge and such legislation came before me, I would say, "The legislative and the judicial departments of this Government are independent; the legislative department cannot legislate as to what the judiciary shall do or say." If that can be done the judiciary is gone. Observe this provision:

It shall be the duty of the court to determine the very right of the matter, without regard to matters of form, joinder of parties, multifariousness, or other matters not affecting the substantial rights and duties arising out of the matters and acts hereinbefore stated and referred to.

"Joinder of parties!" In other words, the court, in making a decision which may affect the rights of citizens or of the Government to the extent of millions, shall not see to it that proper parties are before the court. If the proper party is not before the court, the court is still by this bill ordered to go on and make adjudication without reference to that fact. Well, sir, unless the action of last winter has debased and debauched the Supreme Court far below what I believe it is and ought to be and ever has been, that court will throw this legislation back in your faces and say, "You cannot control our judgment by legislative direction; it is your part *jus dare*, it is ours *jus dicere*; you may make the law, but we must determine under the Constitution its construction, and to determine the rights of parties under the law, when, and when only, the party to be affected by our decision is properly before us."

But this is not for discussion now. It will be remembered that I stood here a short time ago one of an overwhelming majority of this House in the matter of the remonetization of silver and demanded that the House should consider that bill for itself. A panic had then seized the majority as it has now, and they would not listen to a single amendment or even to a consideration of the bill. The cry was, "Let us take what we can get now, and get what we can afterward." To that majority of three-fourths I said, "Let us stop and consider; this is the only bill we shall pass on the subject; let us get it as perfect as human ingenuity and human learning can make it, so that it may be a measure of relief to the financial distress of the people." But my appeal was in vain. Although the bill had been passed under a suspension of the rules in the House without debate, it was urged that it had been debated in the Senate, and that the Senate had got it just right. So men rushed like sheep over a wall, but without a leader, for they had no leader—rushed to make that silver bill a law. But, "like Dead Sea fruit which tempts the eye, it turns to ashes on your lips." The silver bill is not worth, for the purpose for which it was passed, the paper on which it is printed. By the Senate amendments to that bill all the relief to the people promised them by Congress to be given them by the bill was struck out.

Again, the gentleman from New York, [Mr. COX,] who is so anxious now to pass this bill without a word of debate except what he has written out and printed, occupied the time of the House all day yesterday to argue a bill after it was passed—to kick a dead horse—and his thesis was the danger of passing a bill involving \$7,000,000 without debate. Yet he tells us that this bill involves \$150,000,000, and we are not to debate it at all, for an hour's debate is naught; in that time members cannot even read the bill. Now I will venture to say, and I put it to the conscience of each man here, there is not a man of you that knows what is in that Senate bill that you are going to vote upon.

Mr. MORRISON. The gentleman is mistaken about that.

Mr. BUTLER. I am quite sure that I am nearly right. Gentlemen here do not spoil their eyes by reading written documents, and this bill has not been printed as it lies now on your table. I ask no man to accuse himself before the House, but how many of you have read that long written bill? There may be two or three, but I should be willing to be stoned by each of you who would get up and on your honor aver that you had read the bill on the Speaker's table, just as it stands, every word of it. I think I should be the safest man in the House.

Mr. CRITTENDEN. You have the "bricks" in your hat; we have not any.

Mr. BUTLER. Precisely so. But there are no "bricks" hard enough to throw at those who are in such a hurry to pass this bill.

Now, Mr. Speaker, I ask gentlemen to pause for another reason. I cannot discuss this bill. I should vote for some sinking-fund bill. I believe in dealing with this question. I believe in the right of Congress to deal with questions about these roads within certain limits; and I do not know but that this bill is within those limits. But I was amazed, nay, I was more than amazed, I was shocked, when I heard the learned and eloquent gentleman from New York, speaking of the railroad riots of last summer, say that they involved the loss of some \$10,000,000, the result of the "wild justice of the people." Gentlemen, do you follow that lead? Do you say that a strike which was organized by train hands of the railroads, because they were deprived of their fair wages for their labor, and was carried out finally by others in robbery, rapine, arson, murder, and death—destroying not only railroads but other property—do you agree that such acts are the "wild justice of the people," or only spoliation and robbery? And are you acting under the spur of that occasion in depriving these railroads of their property?

I do not agree to another thing which the gentleman has said, that Congress has the right to proceed "even to confiscation" of the property of these roads under the words "alter, amend, and repeal" a charter. None of your property is safe under such an interpretation. And here we are, without consideration, without reference of this question to the appropriate committee, about to pass upon these grave questions; true this Pacific Railroad Committee say they have examined it while upon the Speaker's table, but I am certain they examined it with clean hands, for if you look at the paper on which the bill is written you will not find a single finger-mark where they have turned over the leaves; but they say they have examined it.

Mr. DICKEY. Will the gentleman allow me to ask him a single question?

Mr. BUTLER. Yes, if it be not long.

Mr. DICKEY. It will not be a long question.

Mr. BUTLER. Very well, go on.

Mr. DICKEY. As I understand it, you are in favor of some measure requiring the settlement of this indebtedness.

Mr. BUTLER. I am.

Mr. DICKEY. Does not the gentleman believe these roads will litigate any measure Congress may pass, and delay and fight us in every effort to make them come to a settlement?

Mr. BUTLER. The gentleman's question, when resolved to its simple elements, is this: Do I believe these roads belong to men who act from selfish motives? Yes, I do.

Mr. DICKEY. So that any action on the part of Congress will be litigated by them and defeated if possible?

Mr. BUTLER. I should think it would. I believe it would, and if you had seen Congress as they have seen Congress year by year pass laws which when brought before the Supreme Court were decided to be utter nullities, you would be encouraged as they to keep on litigating the laws passed against them in the same way for the future. When they see Congress pass a law involving money, millions of property, without even referring it for revision to so poor a committee as the one I have the honor to be on, I should advise them, if they ask me to do that, to litigate this law, because we have never considered it; no one in the House knows anything about it; no one even debated it. I should not say there were ten men in the House who read the bill. There were not ten lawyers who read the bill at the time they voted on it, and they knew nothing of what was in it. And were I the court, when I came to consider it as a judge I would say we are not to attach much weight to the provisions of this bill, as it was passed without debate or consideration, it was passed without examination by the law committee of the House, as it was passed in the Senate on general debate only; therefore we are at liberty to use our own judgment as judges about it.

Do you want to vote this bill, as you are called on to do, as an act of "wild justice and confiscation"? Are these roads open to that? There are a great many things which can be objected against them. They are very open to objection and many of their acts are not well, but no such penalties as these can by you be enforced upon them. But it is objected they have paid no money into the United States Treasury, in accordance with their charter. Why? Because the Supreme Court of the United States said there was no clause in the act by which they should pay anything. Do you expect anybody, railroad men or others, to pay money that is not due under their contract, and which the United States courts say is not due? You say now they shall pay it in. That you perhaps may do. But what I say now is this, and I tell you, gentlemen, what I want: I want, if possible, to have a bill you cannot drive a coach-and-four through in double harness. That is the kind of bill I wish. The best legal minds in this House—and there are some as good on the other side of the House I know, for I have met them, as there are in the land—I want their examination of a bill to adjust its provisions so that litigation may be avoided. Something was said about this bill having been examined in the Judiciary Committee. It was never read in the Judiciary Committee, and no session of the committee was ever held in which its provisions were discussed for an hour—not for a moment. Therefore we stand here without any examination of the bill. What

is the use of us two hundred and eighty men if we are to vote a bill just as the Senate send it to us? Where is the old democratic pride for the independence of the House against the property-representative body, the Senate? You lie down before them, and a republican Senate, too, like whipped spaniels whenever they pass a bill. They sent you a silver bill and you gobbled it up as a duck would a frog. [Laughter.] They send you a funding bill and you jump at it as if you answered the dictate of your candidate for the Presidency.

Now, then, I want to say a word about those Pacific roads. As I have said they are human institutions, but this country owes them a debt of gratitude even if they should run away to-morrow with all they have received. I know some of you on the other side do not feel that debt of gratitude as strongly as I do; but in 1862 the future of the country was a little dark up here, and it was still darker on the southern border. A cloud no bigger than a man's hand was rising in the West. The doubt was whether California and the Pacific States would not come to think it best to set up for themselves an empire on the western ocean, and, as a war measure, as a measure to bind this country together with chains of iron and hooks of steel, we passed a Union Pacific Railroad bill, and a Central Pacific Railroad bill, and gave this Pacific Railroad endowments out of our Treasury when the very life-blood and treasure of the country was pouring out like water. We did it as a war measure to bind the North together from ocean to ocean, and it was a very successful measure. We did it to show you, my friends on the other side, that we meant business, and that we could carry on this Government and preserve our work with one hand and fight you with the other besides. We did it for the same reason that, when taxes were piling up on us—step by step, up, up, up—we went on with the building of this Capitol, appropriating year by year a half million of money; although we needed every dollar for war purposes and our currency had gone down to thirty cents on the dollar, we still steadily piled up the stones of these wings of the Capitol, in one of which I am now speaking, although the war was going on. And why? To show you that we meant business and that we felt ourselves strong enough to build a road to connect two oceans and build a Capitol which should be more grand and magnificent than any other public building of its kind on the surface of the earth.

Now is it possible that, without any thought or consciousness on the part of a portion of you, enmity—hostility will be a better word, want of confidence a better word still, for I do not mean to say anything harsh—toward these roads may arise from a little feeling about these roads being built at that time out of that money, the proceeds of the public lands, and would now in part be yours, and these roads are of no use to you? Do not you southern gentlemen want me to vote for a Texas Pacific road so as to make this matter equal for your section? I shall anyhow, whether you vote this bill down or not, because I go for fair play now that you are back with us. We gave away part of the public lands for this road and I am willing to give part of the public lands for the other. I mean to be fair if I know how. I wish to act with all fairness and justice. But I say look into your heart of hearts and see if part of your hostility against these roads is not your determination to crush even to confiscation the property of these roads. The managers of this have been too shrewd to put forward anybody from the South to say that; nobody down South talked about the "wild justice" of the people when depots were burned and men were murdered; but I say is it not the fact that a part of the hostility arises because the building of these roads was the most efficient of all the most efficient instruments in binding this country together at a time when everything seemed to go asunder? Now, why treat this great measure differently from what you would any other measure? Why not let it be examined? There is no such haste about it. You have got a majority. What do we ask? Simply that a committee, on which you have got a majority, shall examine the bill—a committee, too, a majority of whom do not want to examine it. I do not for one, but I think it due and right to advocate this course as I did on the silver bill. What do we ask? We ask you simply to let us examine this great measure covering millions. Let us have it examined by a committee, let us have it debated a reasonable time in the House, every objection being brought against it that can be, and then pass it.

I want but one thing more. I want this bill when so perfected to be a finality when it is done. I want to get a bill that will be final against the railroad, and which you will make final against yourselves. Stop the lobby—

Mr. BRIDGES. Will the gentleman allow me to ask him a question?

Mr. BUTLER. Certainly.

Mr. BRIDGES. The gentleman has asserted this bill has not been considered in the Committee on the Judiciary. Is that the fact?

Mr. BUTLER. It is. It never has been read in the committee. It never has been in the committee. Not a copy of it to-day is to be found in the committee-room or in the drawer of any member of the Judiciary Committee in this House.

Mr. ITTNER. I desire to ask the gentleman a question.

The SPEAKER *pro tempore*. Does the gentleman from Massachusetts yield?

Mr. BUTLER. I will for a moment. I believe I have five minutes more.

Mr. ITTNER. I ask the gentleman from Massachusetts if the only

reason he has for asking this bill to go to the Committee on the Judiciary is to perfect it and if he is in favor of the main principles of the bill.

Mr. BUTLER. I have already said I am in favor of the main principles of the bill; and I was saying when I was interrupted, before my friend asked the question, that whenever you pass these main features of the bill to indemnify everybody rightly and get it so it cannot be interfered with by the courts and then say this shall be final on this subject I will vote for it; but I will not vote for any man's property to be confiscated either by a republican Congress or by a democratic Congress whenever a lobby thinks it can make money by so doing or some dishonest servant of the company chooses to make charges against it, because no property is safe against such attacks as those.

I do not believe in the "wild justice" of the people. I do not believe that Congress is any better than the rest of the people; and I do not believe that Congress has a right to reserve the power of confiscation under the phrase "to alter, and amend, or repeal" the charter or to give the right of confiscation under our form of government. I will vote for a bill to put aside a proper amount to secure the mortgagees. I do not say this is not a proper and fair amount, carefully guarding other things; and let this thing be settled forever and I will give the best talent I have as a lawyer in perfecting such bill so that no court can find fault with its provisions.

One thing further. Do gentlemen remember—

[Here the hammer fell.]

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. WRIGHT. I ask unanimous consent that the gentleman be allowed ten minutes more.

Mr. FINLEY. I object.

Mr. WRIGHT. The objection comes too late.

The SPEAKER *pro tempore*. It was heard by the Chair in time.

Mr. BEEBE. I do not mean any discourtesy to the gentleman from Massachusetts, but when the original extension of ten minutes was made I gave notice that I would object to a further extension of time, but I think I can stand ten minutes more if that will be satisfactory to the gentleman.

Mr. BUTLER. I do not want to wear on the constitution of the gentleman from New York any more, but I warn him that he has a great deal to stand in the heat of the weather before we get through.

Mr. BEEBE. The gentleman refers to my constitution, and I insist upon my rights and object to a further extension of time.

Mr. STEELE. I also object and shall insist upon the objection.

Mr. COX, of New York. The gentlemen on the other side of this question have already occupied half of the time. The gentleman from Massachusetts complains that these things were done in war times. The act of 1864 giving priority to the twenty-seven-million mortgage bonds was passed during our troubles in the civil war. This bill has been pending for years. It has been upon the Speaker's table for over two weeks, and we all understand it; it is not a snap judgment on the House. I now yield five minutes to the gentleman from Mississippi, [Mr. CHALMERS.]

Mr. CHALMERS. I cannot undertake to discuss this question in five minutes. I thank the gentleman from New York for his courtesy, but will not avail myself of it for the purpose of discussing the bill. I could not undertake to discuss this question in five minutes and therefore I do not desire to enter upon any constitutional argument, but at the request of a colleague upon the Committee on the Pacific Railroad I desire to make this statement. A bill almost word for word as this which now comes to us from the Senate was examined and considered in the Committee on the Pacific Railroad, a committee which has upon it I believe lawyers of long standing, perhaps of as much standing as those who have the honor to be upon the Judiciary Committee, and I say that if this bill is committed or referred to any committee it should go to the Committee on the Pacific Railroad, and not to the Committee on the Judiciary. Sir, by the rules of the House the Committee on the Judiciary is only authorized to consider matters touching judicial jurisdiction and decisions. This question was sent to the Committee on the Judiciary in the Senate by a resolution. It went to the Committee on the Judiciary of this House in the Forty-fourth Congress by a resolution directing them to inquire into legal questions involved in the resolutions. From that grew up the bill. But the bill itself is a bill in regard to Pacific Railroads, and it should be properly referred, if at all, to the Committee on the Pacific Railroad. A similar bill has been referred to that committee and thoroughly considered by men who have some standing as lawyers at home, if not in this House. They have reported it almost unanimously, and therefore I think that it is almost treating that committee with contempt for a gentleman to rise and say that the House has not considered the question at all. The gentleman from Massachusetts might well say that he had not considered the subject, for he showed it by the first argument he made, that it proposed to take money from the Government, and a member of the Committee on the Pacific Railroad [Mr. MORRISON] showed that he did not understand the bill. He had no idea what was in it so far as he was concerned, and he has rightly said that he as one member of the House did not understand it.

Mr. BUTLER. Will the gentleman allow me to ask him a simple question?

Mr. CHALMERS. Certainly.

Mr. BUTLER. Did you read this bill in print or in manuscript?

Mr. CHALMERS. We read it in print?

Mr. BUTLER. It has never yet been printed, as it now lies on the Speaker's table; never.

Mr. CHALMERS. I say to the gentleman that, with the exception of some few verbal changes, this is the very bill introduced by myself, considered by our committee, and reported to this House. When the gentleman talks about this bill undertaking to dictate to the Supreme Court what they shall decide, it simply indicates that gentlemen like himself shall not be employed by these railroad companies to take advantage of legal technicalities. The bill says it shall be decided in the courts upon the very right of the case. When was it ever known that a law of that kind was either unconstitutional or ill-advised or was attempting to dictate to the courts? It is but a matter of pleading and practice, a practice adopted in many of the States. When important questions are to be decided, in the decision of which a large number of interests are involved, just such language is used; that no technical exceptions shall be taken on account of multifariousness, on account of parties, or anything of the kind, but the courts shall go to the very right and justice of the matter. That is all there is in it to which the gentleman now excepts.

I say to the gentleman that the whole spirit of this legislation is in the line of that which is sought when we have not a remedy for the evils of to-day, and Congress or the Legislature is called upon to provide a remedy. Here is a corporation growing in debt which at maturity will amount to \$177,000,000. The country has as security for that debt a second mortgage on about two thousand miles of road, or \$88,500 per mile.

No gentleman will pretend that this is security for the debt. Railroad men contend that a better new road could now be built for half this price. The stockholders are growing rich on the dividends they make annually to themselves. The Government and the people without some such legislation as this at the end of twenty years will be left without remedy for their money.

[Here the hammer fell.]

Mr. COX, of New York. I now yield to the gentleman from Illinois, [Mr. SPRINGER.]

Mr. SPRINGER. I shall give this bill my cordial support. It is important that it should at once be put on its passage without reference to a committee. It has received a most careful consideration in the Senate, and after one of the most learned and exhaustive debates on record has passed that body by a most decided majority. Perhaps there is no measure that will be considered this Congress which is of more consequence to the people than this bill. Its passage is a striking evidence of the fact that the power of the people is at last greater than that of the corporations. Having passed the Senate by a large majority, I hope this House will show that it is equally in earnest on this subject, and that the bill will pass here by such a majority as will make a veto unavailing. I believe it will pass. Its provisions are just to the railroads and at the same time fully secure the rights and protect the interests of the people.

For many years the people have looked in vain for some legislation in their interest. It is to be regretted that for fifteen years past the majority of the legislation of Congress has been in the interest of the protected and favored few at the expense of the great mass of the people. But now there is a change, and that, too, for the better. The people can now have their fair share of the benefits of wise legislation, and therefore I hail the passage of this bill as the dawn of a political millennium.

One word in reference to the fifth section of the bill and I will yield the balance of my time to my colleague [Mr. MORRISON] who is a member of the Committee on the Pacific Railroad and has much more carefully considered the subject than I have. The fifth section is apparently in conflict with the first section of the bill, in this: that upon a casual consideration there may be other liens recognized as prior to that of the United States than the first-mortgage bonds of the roads. A careful examination of all the provisions of the bill will show that this is not the case. The first section of the bill clearly indicates what lien shall be regarded as prior to that of the United States, in defining what shall be regarded as the net earnings of the road. I refer to the following provision in section 1:

That the net earnings mentioned in said act of 1862 of said railroad companies respectively shall be ascertained by deducting from the gross amount of their earnings respectively the necessary expenses actually paid within the year in operating the same and keeping the same in a state of repair, and also the sum paid by them respectively within the year in discharge of interest on their first-mortgage bonds, whose lien has priority over the lien of the United States, and excluding from consideration all sums owing or paid by said companies respectively for interest upon any other portion of their indebtedness.

If this section be compared with section 5, the apparent inconsistency will be seen. Section 5 is as follows:

Sec. 5. That whenever it shall be made satisfactorily to appear to the Secretary of the Treasury by either of said companies that 75 per cent. of its net earnings, as heretofore defined, for any current year are or were insufficient to pay the interest for such year upon the obligations of such company, in respect of which obligations there may exist a lien paramount to that of the United States, and that such interest has been paid out of such net earnings, said Secretary is hereby authorized, and it is made his duty, to remit for such current year so much of the 25 per cent. of net earnings required to be paid into the sinking fund, as aforesaid, as may have been thus applied and used in the payment of interest as aforesaid.

There can be no obligations paramount to that of the United States, according to section 1 of the bill, except the amount necessary to keep

the road in repair, to pay running expenses, and the interest on the first-mortgage bonds. I called on the author of this bill to-day, and asked an explanation of this apparent inconsistency. He informed me that section 5 was in the original bill as referred to the Committee on the Judiciary in the Senate; that section 1 as it passed was an amendment to the original section as referred; and that in the first section of the original bill the words "and also the sum paid by them respectively within the year in discharge of interest on their first-mortgage bonds, whose lien has priority over that of the United States" did not appear. After these words were inserted in the first section, then there was no longer any use for the fifth section. Hence the latter section may be considered as out of the bill. It forms no part of it as it now stands, and is mere surplusage. This explanation leaves the bill free from all ambiguity or possibility of misconstruction hereafter. I yield the remainder of my time to my colleague, [Mr. MORRISON.]

Mr. MORRISON. The purpose of the bill under consideration is to secure repayment of the money paid and to be paid by the Government on its bonds issued to aid the construction of the Pacific Railroad. Besides the grant of corporate powers, valuable franchises, and lands equal in acres to the seven smaller States of the Union, made by the acts of Congress of July 1, 1862, and July 2, 1864, the Government issued and delivered to the Pacific Railroad Companies bonds amounting to \$64,623,612 upon which we pay, and must continue to pay for thirty years from their date, interest exceeding \$3,000,000 per annum after deducting what the Government now receives from the railroad companies. We pay this excess of \$3,000,000 interest semi-annually, but it is to be repaid to us only at the maturity of the thirty-year bonds at which time principal and unpaid interest will far exceed the value of the railroad and property on which the Government has only a second lien, the railroad companies having issued, and secured by a first lien or mortgage, their bonds equal in amount to the bonds so issued to them by the Government. In short, without some amendment to said acts of Congress so controlling a portion of the earnings of the roads as to make such portion of their earnings applicable to the payment of the bonds issued in aid of the roads' construction, the money so paid and to be paid by the Government, amounting to many millions, will be lost.

What was the nature and purpose of this transaction and what are the relative rights of the Government and railroad companies under it? Certainly the Government did not issue and deliver its bonds to the railroad companies as an investment, for the Government was then a borrower, and the money paid for the railroads applied to its own obligations would have saved a hundred and fifty millions of dollars, even if the money and interest paid shall be refunded when the bonds are payable. Neither were these bonds issued as a donation, else it would not have been enacted in section 6 of said act of 1862 and section 5 of said act of 1864 that said companies might pay "in the same or other bonds, Treasury notes, or other evidences of debt of the United States, to be allowed at par;" that after said road should be completed "at least 5 per cent. of the net earnings" annually and half the compensation for services rendered the Government should be applied in payment until the whole amount of said bonds and interest is fully paid.

The national and public purpose of Congress in affording aid in building their roads by issuing bonds to said companies, as expressed in said acts, was "to secure to the Government at all times, (but particularly in time of war,) the use and benefit of the same for postal, military, and other purposes."

By the provisions of said acts, as well as from the reason of the thing, the Government had a right to have the roads kept in repair and use and to have preference in their use for the transportation of its mails, troops, and munitions of war for reasonable rates of compensation. For these purposes the railroad companies were the agents of the Government which gave them corporate existence, life, and sustenance. For these purposes they were instrumentalities which by the law of their creation the Government had a right to use. The power to enforce such a right would seem necessarily to go along with the right itself, but that there might be no misunderstanding about it Congress reserved to itself the right to "at any time alter, amend, or repeal" said acts.

That this expressly reserved power to amend, alter, and repeal may be exercised at any time to secure to the Government at all times the transportation of mails, troops, and public stores, does not appear to be seriously questioned. Whatever opinions may have been obtained in the past, now it is conceded apparently by the most strenuous advocate for the sacredness of vested rights that State Legislatures, as to corporations chartered by them, have, and that Congress, as to corporations chartered by it, has, power to compel corporations to do that for which they were created and for which they have been invested with a portion of the sovereign power; but it is insisted by the opponents of this bill that neither payment of debts nor keeping obligations to refund what has been advanced in the construction of their roads is among the duties which such corporations may be so compelled to perform.

When we would so amend said acts as to enforce the duty to carry the mails, troops, and stores of the Government we are admitted to be in the just and proper exercise of the reserved power of amendment. When we would so amend as to compel the application of a part of the road's earnings to the repayment of money which went into

its construction, without which there could be no earnings, then it is insisted by the opponents of this measure of justice and fair-dealing that we are breaking faith, impairing the obligation of contracts, and violating the Constitution.

The companies have a property in the franchise and road with which they earn money no less inviolable than in the money earned, and it is difficult to conceive a legal distinction in the exercise of the reserved right of amendment applicable to one and not to the other. The law itself makes no such distinction. Yet upon such distinction is based the argument advanced here and elsewhere that Congress, seeing the affairs of the road so administered as to endanger the right of the Government at all times, and especially in time of war, to have its troops and stores carried, may rightfully exercise its reserved power to amend or repeal the franchise, and may put the roads out of which come all the earnings into other hands; but that, seeing the earnings so misappropriated as to necessarily result in a loss of the Government advancements, Congress cannot so exercise its reserved power of amendment as to compel such just administration of the corporate rights conferred as will prevent such loss.

It is further said that this advancement of bonds was a mere contract of loan between the Government and railroad companies with the terms of payment unalterably fixed in the law itself, which exempt it from the power of alteration and amendment reserved in the same law; that while Congress has power to "borrow money on the credit of the United States," no power has been conferred to lend money. That it may and does borrow, therefore, as a sovereign, but can, like a bank or insurance company, only lend as a civil corporation.

Now, sir, I will not waste words to show that if power has not been conferred on Congress to lend money, then it cannot lend either as a civil corporation or a sovereign. I have already said that the Government did not issue and deliver its bonds to the railroad companies by way of investing the many millions of dollars it thereby obligated itself to pay for them while it was itself a borrower. Nor, sir, was it done as a loan. The Government exercises the power to build military and post roads through the instrumentalities of private corporations or otherwise, to provide for the common defense and promote the general welfare—if rightfully at all—as a sovereign. As a sovereign and to attain the purposes enumerated in said acts of Congress it created one corporation, recognized others, and issued and delivered the bonds as a means and incident to the end for which the sovereign power was exercised. This is true, or the whole transaction was without warrant in the Constitution. And so, Mr. Speaker, the effort to so divide the contract between the Government and its agencies as to limit its power of amendment, unlimited in the terms of the law, to the control of the franchise and the road, and forbid it as to the road's earnings, must fail, it seems to me, for want of law as well as lack of justice to support it. The reserved power to alter, amend, and repeal may be invoked to secure such a just and equitable administration of the affairs of the companies and such disposition of the earnings as will protect and enforce all the rights of the Government and the people. And I so understand the law to be interpreted by the courts as declared in *Tomlinson vs. Jessup*, 15 Wallace, 458:

The object of the reservation, and of similar reservations in other charters, is to prevent a grant of corporate rights and privileges in a form which will preclude legislative interference with their exercise, if the public interest should at any time require such interference. It is a provision intended to preserve to the State control over its contract with the corporations, which without that provision would be irrevocable, and protected from any measures affecting its obligation.

And in *Miller vs. The States*, 15 Wallace, 498:

Power to legislate, founded upon such a reservation in a charter to a private corporation, is certainly not without limit, and it may well be admitted that it cannot be exercised to take away or destroy rights acquired by virtue of such charter, and which by a legitimate use of the powers granted have become vested in the corporation, but it may be safely affirmed that the reserved power may be exercised, and to almost any extent, to carry into effect the original purposes of the grant or to secure the due administration of its affairs so as to protect the rights of its stockholders and of creditors, and for the proper disposition of the assets.

And by the whole current of authority as shown by numerous cases cited in its support at both ends of the Capitol pending the consideration of this question. And so, too, it would seem the railroad companies understood the law. It was shown by a report of a committee of this House in the Forty-third Congress (the Credit Mobilier investigation committee of which Hon. Jeremiah Wilson was chairman) that the Union Pacific Railroad and the Credit Mobilier were "identical in interest;" that Credit Mobilier stock paid dividends of 300 or 400 per cent.; and that the agent and representative of the railroad went about the Senate and House of Representatives distributing this stock among Members and Senators. Railroad companies are usually so managed as to get money for those who manage them, and yet it did appear that in this case they believed they put this valuable stock "where it would do most good" when so distributed. The railroad acts had been passed; the grants had been made; the bonds had been issued; what other "good" was to be obtained by so distributing Credit Mobilier shares but congressional forbearance in the exercise of the right to so alter and amend said acts as to compel the companies to surrender a part of their earnings in repayment of what the Government has advanced for them?

This reserved power to alter and amend has been exercised in relation to the national banks when some of them have been compelled to surrender part of their circulation, to which they had a right under their charters. It is by the exercise of this power alone that they

can be compelled to surrender their circulating notes before the expiration of their charters.

Good faith, it is said, requires that we should forbear the exercise of the power of amendment until the railroad companies are in default, and that they are not and will not be in default as to repayment of the money paid on the bonds issued to them until their maturity. The ability of the roads to pay is not and cannot be disputed. Yet Mr. Dillen, representing the Union Pacific, more than three years ago advised us of his purpose to pay in his own good time and upon his own condition when in a communication to the Secretary of the Treasury making an offer of adjustment wholly inadequate he said:

The bonds are accumulating an interest account, also uncollectible until the principal is due. Principal and interest, when due, will amount to the very large aggregate of over \$77,000,000.

For this very large amount the Government has only a second mortgage, and if it be allowed to accumulate without any provision being made to meet it, the company will probably be utterly unable to pay it.

At the same time it is equally manifest that the Government will be unable to collect it, except upon the assumption that it will advance the money to discharge prior mortgages and run the road on Government account—a policy which wise statesmanship could not advise.

Mr. Huntington, on the part of the other road embraced in the funding bill, the Central Pacific, advised us of a similar purpose on the part of his company when referring to principal and interest of the bonds. He said to the Senate Judiciary Committee:

By the time both mature and become payable it is not at all likely the property will be worth their aggregate sum, and if the shrinking and settling of prices should continue further it may happen that it will not suffice to pay more than the first mortgages.

With the ability to meet their engagements and notoriously making large dividends among stockholders, we have notice of their purpose to be in default, which is at once a default and a fraud. It is not on the part of either company a "due administration of its affairs."

What faith these companies have kept with the Government and the people will appear in the report of the Wilson Credit Mobilier committee, before referred to, wherein it is shown—

That the moneys borrowed by the corporation, under a power given them, only to meet the necessities of the construction and endowment of the road, have been distributed in dividends among the corporators; that the stock was issued, not to men who paid for it at par in money, but who paid for it at not more than thirty cents on the dollar in road-making; that of the Government directors some of them have neglected their duties and others have been interested in the transactions by which the provisions of the organic law have been evaded; that at least one of the commissioners appointed by the President has been directly bribed to betray his trust by the gift of \$25,000; that the chief engineer of the road was largely interested in the contracts for its construction; and that there has been an attempt to prevent the exercise of the reserved power in Congress by inducing influential members of Congress to become interested in the profits of the transaction.

The railroad companies which this bill is to affect received about \$11,000,000 annually of net earnings, after deducting all the costs of operating and management of their roads and the interest on their first-mortgage bonds. The reasonable and just provisions of this bill require them to apply or place a part not exceeding one-fourth of such net earnings where it may, with all its constantly accruing and compounding interest, be applied to the like just and reasonable demands of the Government that its money which built the roads shall be refunded.

More than this bill requires might in justice be demanded. And the fifth section ought not, in my judgment, to have been made a part of it; but we have still the power to alter, amend, and repeal, if the bill does not afford all the relief which justice demands.

Mr. Speaker, something has been said, and much more might be said, of the danger to be apprehended from the exercise by the National Government of ungranted power. I am not unmindful of that danger. I have witnessed its approach year by year and day by day with apprehension, quickened, I trust, with something of attachment for the good Government it may convert if not overthrow. But, sir, may I suggest that I have yet to see the first advance of this dangerous power in the direction of any undue restraint of overgrown grasping corporations and monopolies. It is said that no danger is to be apprehended from these, because there are agencies, Congress among them, by which they may be controlled. Let us then see to it that they do not control the agencies.

Mr. COX, of New York. I ask consent that members desiring to do so be allowed to print in the RECORD remarks on this funding bill.

There was no objection, and leave was granted accordingly. [See Appendix.]

Mr. SPRINGER. I now yield the remainder of my time to the gentleman from Ohio, [Mr. McMAHON.]

Mr. McMAHON. In the five minutes' time allowed me in the close of this debate it is impossible, of course, to make an argument upon a legal proposition. But where there are so many lawyers as there are in this House a short statement of one's views is sufficient to enable them to form their judgment on such a question.

The main objection to this bill, coming from the gentleman from Massachusetts, [Mr. BUTLER,] and implied in the question of my distinguished colleague from Ohio, [Mr. GARFIELD,] is that it violates a contract. They rely of course upon the law as laid down in the famous Dartmouth College case and in the line of decisions following it. Now let me put an analogous case. Take the settled law of the United States to-day, in the matter of bankruptcy, upon the power of a State to pass a bankrupt law in the absence of a general national bankrupt law. A State may pass a bankrupt law which will operate upon all

contracts entered into after its passage between citizens of the same State. But it cannot pass a bankrupt law which will operate upon any contract made prior to its passage. This is settled law to-day, as the gentleman from Massachusetts well knows, because when there is no bankrupt law of the United States in force, there is a State bankrupt law in his own State.

Now, why is a State bankrupt law which acts upon contracts entered into prior to its passage unconstitutional? Because it violates that provision of the Constitution of the United States which says that no State shall pass any law impairing the obligation of a contract. Therefore a bankrupt law affecting contracts entered into before its passage impairs the obligation of contracts. But a State can pass a bankrupt law, and it will operate upon contracts made between citizens of the same State after its passage, because the bankrupt law, in contemplation of law, enters into all contracts between the parties. And this is the law, although the parties contracting may be in fact ignorant of the existence of the law. The right to be discharged from the contract upon compliance with the bankrupt law is regarded as a part of its obligation. Hence such discharge does not violate its obligation.

The Pacific Railroad Companies stand precisely in this position under the laws organizing them. We passed certain laws which, under the unfortunate decision of the Supreme Court of the United States to which I have already alluded, were not only charters to the company but were as well contracts. But I would say to my friend from Massachusetts [Mr. BUTLER] that in the very so-called contract we reserved the right to alter, amend, or repeal the charter and the contract; and, having this absolute right, the exercise of it is a part of the contract and does not violate its obligation. But this is not simply a contract between individuals, but a charter, or, if you please, a contract entered into by the Government in its sovereign capacity, acting as a sovereign and using sovereign powers, in building under private instrumentalities great national highways to the Pacific coast. It did not intend to create a great monopoly beyond its control. It did not intend to donate the many millions of dollars it advanced. But it reserved the right to alter, amend, or repeal, not the franchise merely, but the whole law; not any particular section, but every section. Those who organized the companies under these laws took all the risks of amendment, alteration, or repeal. It was a part of their contract, compensated by its other liberal terms.

My friend says that "this bill will not hold water when it comes before the Supreme Court of the United States." I do not believe that he really expressed his opinion as a lawyer when he said so, because it was not five minutes afterward that he said, in answer to a question, that he was in favor of the main features of this bill.

I never took him to be a man who was in favor of anything that would not "hold water." But if he favors the main features of this bill he must favor the very parts of it which he pretends to say will not "hold water;" for they are not only the main features, but they are the only ones. All there is in this bill is contained in the very sections which he says will not hold water.

Now, Mr. Speaker, we do not want this bill to go to the Committee on the Judiciary. It would be safe there, but it is safer here. This democratic House is not following the bidding of the Senate of the United States, as the gentleman from Massachusetts says. We do not follow the bidding of any person. But there is one thing that a democratic House never yet did within my recollection. It never bowed down before the railroad corporations of this country. If the gentleman can say as much for the political party with which he now finds himself associated he will have to violate the truth of history. All the tremendous power of these great corporations was the voluntary gift of the republican party. History, as written by republican statesmen, says that every step taken by republican Congresses in their favor was marked by fraud and corruption. I welcome the day when some justice is to be done for the Government and the people.

It is true that we passed the silver bill as it came from the Senate. Why? Because we felt that the Senate was hostile to the general scope of the bill as passed by the House; that amendment would be absolute defeat of everything, and we took what we could get. This was sound policy. We do not propose to pass this bill at the dictation of the Senate. It meets our views exactly. The record of the House is far in advance of that of the Senate upon this question. As the Senate becomes more democratic it begins to do more justice to the people and leans less to corporations; and we welcome the passage of this bill by it as a good omen for the future. We take great pleasure under the circumstances in disregarding the warning of our friend from Massachusetts as to the fate of this bill in the courts. We prefer to take the judgment of the many able men who have given their opinion upon it at the other end of the Capitol; and the country, having almost implicit confidence in the ability, statesmanship, and integrity of the distinguished Senator from Ohio who led the fight in that body, will thank him and the democratic party for the sentiment which has finally compelled these enormous corporations to deal justly with their creditors, the people of the United States. There are millions in this bill, but for the first time it is millions for the people.

Mr. COX, of New York. I demand the previous question.

Mr. PRICE. I want to ask a question in reference to the condition of the bill before the House. Has it been read a second time?

The SPEAKER. It has not been; but it will be now read a second time.

Mr. PRICE. I only wanted to know whether the bill had been read the second time and now comes up on its third reading.

The SPEAKER. It has not yet been read a second time. The Clerk read the bill a second time by its title.

Mr. FRYE. The bill having now been read a second time, I move that it be referred to the Judiciary Committee and "put under way."

The SPEAKER. The gentleman is not on the floor for that purpose, the gentleman from New York having demanded the previous question.

Mr. COX, of New York. I do not yield to the gentleman.

Mr. FRYE. I make the point of order that under the rules the previous question cannot be demanded to preclude a motion of this kind. The rule declares distinctly and positively that this motion shall be first in order.

The SPEAKER. The Chair thinks that this bill, like every other, is under the control of the majority of the House. The bill has now been read a second time by its title, and the Chair thinks that it is in order under Rule 42 to demand the previous question on the engrossment.

Mr. COX, of New York. I insist on the demand.

Mr. SAMPSON. I wish to inquire what is the main question. Is it not on the third reading of the bill?

The SPEAKER. The bill is now on its third reading.

Mr. SAMPSON. Then that is the main question; and on that the gentleman demands the previous question. Now does not the motion to commit come in and take precedence of the previous question? Do not the rules of the House expressly so provide?

The SPEAKER. The Chair thinks not. On the contrary, Rule 42, providing the order in which motions shall be submitted, recognizes distinctly the priority of the demand for the previous question. That is the rule which has uniformly governed, in the experience of the Chair.

Mr. SAMPSON. It has been constantly held in this House, it seems to me, that the motion to commit takes precedence of a motion to postpone or a motion for the previous question.

The SPEAKER. Rule 42 states differently. The majority of the House, if they desire to commit the bill, have only to vote down the previous question.

Mr. SAMPSON. If the Chair will wait a moment, I am certain I can find the rule to which I refer.

The SPEAKER. Rule 42 is the rule that controls this question. The rule to which the gentleman refers may be Rule 132.

Mr. CALKINS. I am not in favor of a motion to commit; but it occurs to me that Rule 42 is a general rule—

The SPEAKER. The Chair thinks so.

Mr. CALKINS. And that this other rule is a special rule operating in a case of this kind and taking it out of the operation of Rule 42.

The SPEAKER. This bill is before the House, and is to be governed by the rules of the House. Rule 42 is as explicit as language can make it.

Mr. FRYE. I ask the Chair very respectfully—

The SPEAKER. The Chair understands that.

Mr. FRYE. I ask the Speaker, very respectfully, to state what Rule 54 means:

After one hour shall have been devoted to reports from committees and resolutions, it shall be in order, pending the consideration or discussion thereof, to entertain a motion that the House do now proceed to dispose of the business on the Speaker's table, and to the orders of the day—January 5, 1872; which being decided in the affirmative, the Speaker shall dispose of the business on his table in the following order, namely:

First. Messages and other executive communications.

Second. Messages from the Senate and amendments proposed by the Senate to bills of the House.

Third. Bills and resolutions from the Senate on their first and second reading, that they be referred to committees and put under way; but if, on being read a second time, no motion being made to commit, they are to be ordered to their third reading, unless objection be made.

Now, under the ruling of the Speaker, to which I respectfully submit, (for I simply ask this question for information,) what does this rule amount to?

The SPEAKER. It does not amount to what the gentleman supposes, in the face of a rule specifically stating that the previous question shall have priority of a motion to commit, and if sustained cuts off that motion.

Mr. SAMPSON. I call the attention of the Speaker to page 272 of the Manual, where he will find the positive language of the rule. As I understand, this bill after it had been read a second time was open to debate. That being the case, this rule steps in and provides—

When a question is under debate, no motion shall be received, but to adjourn, to lie on the table, for the previous question, to postpone to a day certain, to commit or amend.

It does seem to me that this is the positive language of the rule, which ought not to be violated. The gentleman from New York was recognized to make the motion for the previous question. Then any other gentleman had the right to rise and move to lay on the table or commit, and they must take precedence.

The SPEAKER. Rule 42 recognizes the right to lie upon the table but makes the motion to commit a subsequent motion to the demand for the previous question.

Mr. COX, of New York. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, and was accordingly read the third time.

Mr. COX, of New York, demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. BELL demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 243, nays 2, not voting 46; as follows:

YEAS—243.

Aldrich,	Danford,	Huntton,	Rice, Americans V.
Atkins,	Davidson,	Ittner,	Rice, William W.
Bacon,	Davis, Horace	James,	Riddle,
Bagley,	Davis, Joseph J.	Jones, Frank	Robbins,
Baker, John H.	Dean,	Jones, James T.	Roberts,
Baker, William H.	Deering,	Jones, John S.	Robertson,
Ballou,	Denison,	Joyce,	Robinson, George D.
Banning,	Dibrell,	Keightley,	Robinson, Milton S.
Bayne,	Dickey,	Kenna,	Ross,
Beche,	Donglas,	Ketcham,	Ryan,
Bell,	Dunnell,	Killgus,	Sampson,
Ecknell,	Durham,	Kimmel,	Sapp,
Bisbee,	Eames,	Knapp,	Sayer,
Blackburn,	Eden,	Knott,	Schleicher,
Blair,	Elam,	Landers,	Singleton,
Bliss,	Errett,	Lapham,	Sinickson,
Blount,	Evans, I. Newton	Lathrop,	Slemmons,
Boone,	Evins, John H.	Ligon,	Smalls,
Bouck,	Ewing,	Lindsey,	Smith, William E.
Boyd,	Felton,	Lockwood,	Southard,
Bragg,	Finley,	Loring,	Sparks,
Brewer,	Forney,	Luttrell,	Springer,
Bridges,	Fort,	Mackey,	Starin,
Briggs,	Franklin,	Maish,	Steele,
Bright,	Freeman,	Manning,	Stenger,
Browne,	Frye,	Marsh,	Stephens,
Buckner,	Fuller,	Martin,	Stewart,
Bundy,	Gardner,	McCook,	Stone, John W.
Burchard,	Garth,	McKenzie,	Stone, Joseph C.
Cabell,	Gause,	McKinley,	Strait,
Cain,	Gibson,	McMahon,	Thompson,
Caldwell, John W.	Giddings,	Metcalfe,	Thornburgh,
Caldwell, W. P.	Glover,	Mills,	Throckmorton,
Calkins,	Goode,	Mitchell,	Townsend, Amos
Camp,	Gunter,	Money,	Townsend, M. I.
Campbell,	Hale,	Monroe,	Turner,
Candler,	Hamilton,	Morgan,	Turney,
Cannon,	Hanna,	Morrison,	Vance,
Carlisle,	Hardenbergh,	Morse,	Waddell,
Caswell,	Harmer,	Muldrow,	Walsh,
Chalmers,	Harris, Benj. W.	Neal,	Ward,
Chittenden,	Harris, Henry R.	Norcross,	Warner,
Clafin,	Harris, John T.	Oliver,	Watson,
Clark of Missouri,	Hart,	O'Neill,	Welch,
Clark, Rush	Hartbridge,	Overton,	White, Harry
Clarke of Kentucky,	Hartzell,	Page,	White, Michael D.
Clymer,	Haskell,	Patterson, G. W.	Whitthorne,
Cobb,	Hatcher,	Patterson, T. M.	Wigginton,
Cole,	Hayes,	Peddle,	Williams, Andrew
Collins,	Hazelton,	Phillips,	Williams, C. G.
Conger,	Henderson,	Pollard,	Williams, James
Cook,	Henry,	Potter,	Williams, Jere N.
Covert,	Herbert,	Pound,	Williams, Richard
Cox, Jacob D.	Hewitt, A. S.	Powers,	Willis, Albert S.
Cox, Samuel S.	Hewitt, G. W.	Price,	Willis,
Crapo,	Hooker,	Pugh,	Wilson,
Cravens,	House,	Rainey,	Wood,
Crittenden,	Hubbell,	Rea,	Wren,
Culbertson,	Humphrey,	Reagan,	Wright,
Cummings,	Hungerford,	Reed,	Yeates,
Cutler,	Hunter,	Reilly,	

NAYS—2.

Butler,

Lynde,

NOT VOTING—46.

Acklen,	Ellsworth,	McGowan,	Tipton,
Aiken,	Evans, James L.	Muller,	Townsend, R. W.
Banks,	Forster,	Phelps,	Tucker,
Benedict,	Garfield,	Pridemore,	Van Vorhes,
Bland,	Harrison,	Quinn,	Veeder,
Brentano,	Hondea,	Randolph,	Wait,
Burdick,	Henkle,	Seaton,	Walker,
Burdick,	Hiscock,	Sexton,	Williams, A. S.
Clark, Alvah A.	Jorgensen,	Shallenberger,	Willis, Benj. A.
Dwight,	Kiefer,	Shelley,	Young,
Eckhoff,	Kelley,	Smith, A. Herr	
Ellis,	Mayham,	Swann,	

So the bill was passed.

During the vote,

Mr. HUNTON said: My colleague, Mr. TUCKER, who is absent by leave of the House, is paired with the gentleman from Ohio, Mr. GARFIELD. If he were here, he would vote in the affirmative.

Mr. WILLIAMS, of Michigan. I am paired with Mr. BANKS.

Mr. FORNEY. I wish to announce that Mr. WAIT is paired with Mr. PHELPS, and that Mr. SHELLEY is paired with Mr. EVANS, of Indiana.

Mr. BLISS. I desire to announce that my colleague, Mr. VEEDER, is detained from the House by severe illness.

Mr. O'NEILL. My colleague, Mr. SMITH, is absent by leave of the House, and if present, would vote in the affirmative. Judge KELLEY, who is temporarily absent, would also, if present, vote in the affirmative.

Mr. JONES, of Ohio. My colleague, Mr. VAN VORHES, is absent by leave of the House. If present, he would vote in the affirmative.

Mr. CALKINS. I am paired with Mr. CLARK, of New Jersey, on all political questions.

Mr. ALDRICH. Mr. TIPTON is paired with Mr. TOWNSEND, of Illinois, and Mr. BRENTANO with Mr. HARRISON. I believe they would all vote in the affirmative, if present.

Mr. HUNGERFORD. Mr. DWIGHT, of New York, is paired with his colleague, Mr. ECKHOFF.

Mr. LANDERS. My colleagues, Mr. WAIT and Mr. PHELPS, who are paired on all political questions, if present would both vote in the affirmative.

Mr. KEIGHTLEY. My colleagues, Mr. MCGOWAN and Mr. ELLSWORTH, who are absent, would, if present, vote in the affirmative.

The vote was then announced as above recorded.

Mr. COX, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPEAL OF BANKRUPT LAW.

The SPEAKER. The next business on the Speaker's table is a bill (S. No. 35) to repeal the bankrupt law, and the bill will be read.

Mr. MCMAHON. I desire to make a statement in regard to that bill.

The SPEAKER. The bill will first be read.

Mr. MILLS. I move the House do now adjourn. We can consider that to-morrow morning.

Mr. MCMAHON. It was to anticipate that I desired to make a statement. It is exceedingly important to the country that some action should be taken. Men are being driven into bankruptcy by the expected action of the House, which I think may be different from what the public generally expect, but we cannot tell. It is a bill which should be acted on right away.

The SPEAKER. The gentleman from Texas and the gentleman from Pennsylvania both move the House do now adjourn.

Mr. MCMAHON. Then I hope it will be voted down.

EVENING SESSION FOR DEBATE.

Mr. DURHAM. There are several gentlemen who desire to make speeches on various subjects and they ask the House to sit to-night for debate only, no business whatever to be transacted.

Mr. MILLS, and Mr. WHITE of Pennsylvania, withdrew the motion to adjourn.

The SPEAKER. Is there objection to a session this evening for debate only, no business whatever to be transacted?

There was no objection, and it was ordered accordingly.

ORDER OF BUSINESS.

Mr. STEPHENS, of Georgia. I give notice that immediately after the morning hour to-morrow I shall move to take up this Senate bill repealing the bankrupt law.

The SPEAKER. It will come up as unfinished business.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. VAN VORHES, for ten days, on account of important business; and

To Mr. DICKEY, for ten days, on account of important business.

APPOINTMENT ON COMMITTEE.

The SPEAKER announced the appointment of Mr. GIBSON as a member of the Committee on Coinage, Weights, and Measures, to fill a vacancy.

ORDER OF BUSINESS.

Mr. WHITE, of Pennsylvania. I move that the House now take a recess until half past seven o'clock.

Mr. MCMAHON. Before the question is taken on that motion, I wish to ask the Chair whether the bill repealing the bankrupt law will come up as unfinished business to-morrow?

The SPEAKER. The Chair thinks it will.

Mr. WOOD. I hope the Chair will investigate that and let us know positively. I doubt it.

Mr. WHITE, of Pennsylvania. I withdraw the motion for a recess to allow the consideration of the bill to repeal the bankrupt law.

Mr. MCMAHON. I ask that the bill be read.

The SPEAKER. The bill will be read.

Mr. KNOTT. I move that the House take a recess until half past seven o'clock this evening.

Mr. MCMAHON. I hope that will be voted down.

Mr. BURCHARD. Is not the bill on the Speaker's table?

The SPEAKER. It is not. It is before the House.

The question being taken on Mr. KNOTT's motion, there were—ayes 93, noes 89.

Several members called for tellers.

Tellers were ordered; and Mr. MCMAHON and Mr. KNOTT were appointed.

The House again divided; and the tellers reported ayes 103, noes not counted.

So the motion was agreed to.

The SPEAKER. The Chair desires to state that Mr. VANCE, of North Carolina, will occupy the chair at the evening session as Speaker pro tempore.

The result of the vote was then announced; and accordingly (at

four o'clock and fifty minutes p. m.) the House took a recess until seven o'clock and thirty minutes p. m.

EVENING SESSION.

The recess having expired, the House reassembled at seven o'clock and thirty minutes p. m., Mr. VANCE in the chair as Speaker *pro tempore*.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The session of the House this evening is for debate only, no business to be transacted. The gentleman from Texas [Mr. MILLS] is entitled to the floor.

TARIFF REFORM.

Mr. MILLS. Mr. Speaker, in their efforts to reform our revenue laws the Committee of Ways and Means have felt the force and proved the truth of the remark made by Burke to Adam Smith that "he might send forth his theories about the freedom of commerce as if he were lecturing upon pure mathematics, but legislators must proceed by slow degrees, impeded as they are by the friction of interest and the friction of prejudice." A hundred years have down since then, but the truth remains the same. The path of legislation is obstructed to-day by the same friction of interest and prejudice, and we are compelled to advance toward the emancipation of our people by gradual and tardy steps. Those who are interested in the spoil gathered by an onerous tariff have hung around the committee-room and interposed every impediment they could to its progress. Public demonstrations have been gotten up by the deluded victims of prejudice to manufacture public opinion, that most potent of all influences in a republican government.

The vast masses of the people whose prosperity and happiness are so inseparably connected with and dependent upon success in thorough reform have been so stunned and stupefied by their distress that they have remained silent and despondent spectators in the presence of the struggle. The committee have found themselves compelled to inquire what measure can we pass instead of what measure should we pass. The bill they have reported is a step and only a step in the line of march. It scatches but does not kill the snake. Perhaps it is all we could expect at the present time and under the pressure of the present circumstances. Before we can expect complete deliverance from our fetters the people must be aroused and public opinion must form and make its power felt for the vindication of their rights. When that is done and with such force and determination as to command obedience they will be freed from the slavery of the present revenue system. It is and has been our boast that we are a free people and enjoy the blessings of a free government. This is indeed a bright picture, and one upon which we love to look. But every time we fix our eyes upon it we see a black spot that mars its beauty. Our commerce is in fetters and our people are enslaved by cunningly devised revenue laws to merciless and grinding monopolies. Their revenue laws are not made in the interest of the people, but in the interest of a few thousand persons, and require annually of the millions a sacrifice of the products of their labor in value sufficient to pay three-fourths of the national debt.

Can such things be,
And overcome us like a summer's cloud.

How is this vast sum taken from the pockets of the laboring masses and deposited in the pockets of Government favorites? By the instrumentality of customs laws in whose arithmetic, as Adam Smith well says, "two and two instead of making four only make one." Protection, falsely so called, has run down our revenues, annihilated our commerce, filled the land with smugglers, swept our ships from the ocean, and overwhelmed the land with suffering and distress. It compels our people to purchase over four billions in value of the products of American manufactures at prices on an average of 33½ per cent. higher than they could purchase them in other markets to which they are forbidden to go. It exempts the wealthy from taxation for the support of the Government and lays all the crushing burden upon the shoulders of the poor. It robs the laboring people of more than five hundred millions annually to bestow as a bounty upon a few rich favorites, and to effect its object destroys for them over five hundred millions more. It influenced Congress to lay a tax of sixty millions on twenty millions' worth of whisky consumed by the people and that costs them in consumption not a farthing less than \$200,000,000. It caused Congress to lay a tax of forty millions on thirty millions' worth of tobacco consumed by them at a cost of not less than a hundred and fifty millions of dollars. The consumption of whisky, tobacco, and the products of manufactories protected against competition are made to cost the people of the United States at least sixteen hundred millions more than they otherwise would but for the infamous revenue laws that curse this land. This enormous spoliation is more than one-fourth of the annual products of all the labor of the country.

Our present revenue laws not only enhance the prices of all the articles we purchase but lower the price of all the articles we sell, and thus it marches upon us with both hands extended, binds the strong man, and spoils his goods. We cannot sell without we buy, and we cannot export (except to pay debt) without we import; and the foreigner cannot take our cotton, wheat, corn, and beef unless we take in exchange his iron, or cotton goods, or woolen goods, or whatever else he may have and we may want, and we must confine ourselves to an oversupplied home market and the limited few in foreign

markets who may be able to buy with money or exchange with articles whose prices are increased from fifty to a hundred per cent. above the price in the foreign market. The same protection that shuts out imports shuts in exports, and there being no sufficient demand for them they sink in value and the producer must take whatever he can get. If the people of England, France, and Germany could send us their woolens, cottons, silks, and hardware without Government hinderance they would gladly exchange them for our raw cotton, wheat, corn, beef, and bacon.

That would increase the demand, and the increased demand would increase the prices, and increased prices would encourage our labor, increase our productions, increase our wealth, and bring again contentment and happiness to the bosoms of our people. If protection, so called, did not prohibit us from building or buying ships, the ocean would be covered with our sails, a vast number of our people would find profitable employment, and the profits of the carrying trade would bring to the pockets of our people a hundred millions annually that are now taken from us. If it did not forbid the free movement of commerce our railroads would find employment at profitable rates for the largely increased transportation for all commodities going and coming whithersoever want invited them and paid for them the highest prices. Seventy thousand miles of railroads would rise out of bankruptcy and give employment to hundreds of thousands of persons now idle and miserable. If it did not forbid prosperity to the millions of consumers the American manufacturer would find markets all over the world for his wares at remunerative prices and make larger profits, do a more secure business, and give employment to many thousands of starving people. If the law would cease protecting forty millions of people out of fifteen or sixteen hundred millions of their earnings annually they would increase in wealth that much faster, and be able to buy and pay for the products of our manufactories and mines.

But until the present system of embargo on our commerce is abolished and all classes of labor emancipated we shall have prostration and distress throughout all our hive. Just in proportion as we lower our duties will we increase our imports and exports. The highest commerce would be reached by the repeal of all tariffs, but, as we must depend on taxing commerce to obtain a part of our revenue, some duties must be imposed, and to whatever extent they are they give an advantage to the American manufacturer. England obtains one-fourth of her revenue by customs, and that laid upon non-competing articles. France raises one-tenth, Belgium one-sixteenth, Austria one-eighteenth, Italy one-fifteenth, Russia one-tenth, Netherlands one-eighteenth, Turkey one-twelfth, and the United States largely over half, and until within the last two years over two-thirds. The committee, in revising the tariff, should have directed their attention to two objects: first, to relieve the people, and second, to replenish the Treasury. In solving the question of revenue they ought to have made the six propositions of Mr. Robert J. Walker the platform upon which they stood, and every step taken should have been in strict conformity to it. In his report as Secretary of the Treasury, dated December 3, 1845, he lays down the following general principles to be observed in imposing duties:

1. That no more money should be collected than is necessary for the wants of the Government economically administered.
2. That no duty be imposed on any article above the lowest rate that will yield the largest amount of revenue.
3. That below such rate discrimination may be made descending in the scale of duties, or for imperative reasons the article may be placed in the list of those free from all duty.
4. That the maximum revenue duty should be imposed on luxuries.
5. That all minimum and all specific duties should be abolished and ad valorem duties substituted in their place, care being taken to guard against fraudulent invoices and undervaluation and to assess the duty upon the actual market value.
6. That the duty should be so imposed as to operate as equally as possible throughout the Union, discriminating neither for nor against any class or section.

If we look simply to the question of revenue these propositions clearly enunciate the true doctrine. And in addition to these the Secretary informs us that "experience proves that as a general rule a duty of 20 per cent. ad valorem will yield the largest revenue." To this general rule he says there are a few exceptions above and many below this standard. As a general rule the committee ought to have adopted an ad valorem duty of 20 per cent., and gone more frequently below it than above. The bill they have reported is in all its features a protective tariff instead of a revenue tariff, though an improvement on the present law. There is another object to be kept in view in framing our tariff, not considered by the Secretary in his report and not considered by the committee in framing their bill, and that is, in my opinion, the chief object to be attained, and that is to lighten the burdens of taxation on the people, to increase consumption, to encourage trade and the growth and diffusion of wealth among the masses. To accomplish this some large portion of the necessary revenues must be obtained from other sources and fall on other people. We should not strive to find out the lowest duty that will bring the highest revenue, but fall as far below that as possible, and in doing so whatever loss to the revenue may occur should be supplied from some other source. We should remember that the lower the duties the greater will be the imports, and the greater the imports the greater will be the exports, and greater will be the values made both ways, and greater will be the satisfaction of wants and the enjoyment of comforts.

The tendency of all tariffs is to concentrate wealth in the hands of the few, and it should be prevented from doing so by every possible

means. The concentration of the wealth in a nation in the hands of a few produces congestion in business and paralyzes the whole industrial system. This is not all of its pernicious results. It is a menace to free government more dangerous than a standing army, because more insidious. The army is constantly before the eye, and moves toward its purpose upon the surface, where it may be seen and counteracted, but money moves underneath you by sapping and mining and lets down the fabric of government when no eye beholds it. The first question to be considered is how to increase our commerce, or, in other words, how to increase our imports and exports, for as we increase them we buy more and sell more and have more. When we go above 20 per cent. as a general rule we cut down imports, cut down exports, decrease the revenue, lessen consumption, and lessen the comforts of life to the poor, and depress and plunder the labor of the country. When we go below 20 per cent. we decrease the revenue derived by the tariff, but increase our commerce, increase consumption, add to the profits of labor, and produce the largest prosperity to the country. The loss to the revenue could be supplied more justly and more advantageously from other sources.

Let us examine the commercial policy of Great Britain and see how she has built up her enormous foreign trade which is to-day three and a half billions of dollars per annum while ours is only one billion. She has only thirty-two millions of people and we have forty-five. She tried both the protective and the free-trade systems. During the war with Napoleon her exchequer had sunk to the bottom under the heavy duties levied upon her foreign commerce in a vain effort to obtain money; but Pitt displayed as much wisdom in managing her finances as he did her diplomacy. He found her trade expiring under heavy duties. The country was greatly depressed and the revenues disappearing under the fostering care of protection. One-third of her imports were smuggled, the duties being so high that importers preferred running through the whirlpool rather than over the rocks. With a strong hand he cut down the duties, lowering tea from 120 per cent. to 12½. He supplied a large part of the revenue by imposing a tax on incomes. What was the result of this policy? The country and the revenue were soon recuperated, and he soon found money enough in the government coffers not only to defray the expenses of government, but to use lavishly as a powerful auxiliary in his foreign diplomacy. His policy did not look to revenue alone, but he sought to increase consumption by the British people, and that would increase their exports and thus give employment to the people, increase their wealth and the wealth of the nation, bring prosperity to their homes and happiness to their bosoms, and keep the national spirit alive in the terrible struggle in which they were engaged. For present revenues he did not hesitate to lay the hand of taxation on the piles of accumulated wealth.

In 1802 the income tax was abolished and reimposed in 1806, and continued until 1815, when it was again abolished and the burdens of government piled upon the shoulders of consumers. From 1815 until 1840 protection had a feast and the poor had a fast. During that period England passed the darkest night of her financial history. The landed property of the kingdom passed into the hands of a few as did all other kinds of property, and destitution and poverty were left as the inheritance of the poor. In the discussion of the tariff of 1832 Hon. John Bell, of Tennessee, a distinguished leader of the old whig party, opposed the protective policy, and in a speech delivered on the 8th of June of that year thus graphically describes the condition of Great Britain:

At the same period (1821) about 100,000 families were relieved in workhouses, 400,000 were permanently relieved in the common way, and 400,000 during a part of the year, showing that the number of 500,000 families received relief from the public during the whole year and that the whole number receiving relief during part of the year was 900,000, or nearly one-half the population.

In an average of five years, from 1816 to 1821, the population of England and Wales increased 35 per cent. In the same period, by the successful operation of the protective policy, by improvements in machinery and increased skill, the produce of British labor, consisting of manufactures only, more than doubled in quantity, as has already been shown. In the same term of twenty years it has also been shown that the prices of British manufactures fell one-half, or 50 per cent. But, strange as it may appear, it is a well-established fact that the number of paupers increased in the same or in a nearly equal ratio with the increase of production. Thus it is evident that in proportion to the increase of the articles of subsistence and comfort in that country the inhabitants declined in condition. To state the proposition in a different form: in proportion to the increase of the national wealth the mass of the population became more and more impoverished. Whatever increase of consumption took place in England in consequence of increased production was confined to the opulent and independent classes. The whole profits derived from increased labor, increased skill, and increased production went into the pockets of the capitalists. It is scarcely necessary to state that crime and the victims of the gibbet kept equal pace with the progress of paperism. Thus, sir, however inconsistent in terms it may appear, it is demonstrated to be true in fact that the operation of the British protective system has been to increase the two extremes of wealth and poverty. The rich have been made richer and the poor poorer. In proportion as wealth increased in the hands of the few the condition of the many became still more and more degraded.

In what a deplorable condition were the people of Great Britain, and how keenly do we appreciate it now. We are to-day where Great Britain was in 1821, and from precisely the same cause. We have obstructed commerce. We have destroyed values in the hands of the masses. We have cheapened the products of our laborers and increased the value of the products of others. We have destroyed our markets. We have transferred the earnings from the pockets of the millions to the pockets of the few. We have by enormous profits to manufacturers stimulated unnatural growth and production largely in excess of the home markets and destroyed all foreign markets. We have

made our people paupers, destroyed all our prosperity, and filled the land with distress, and all for protection! The unhappy condition of Great Britain continued till 1840, when the revenues had again gone down below the requirements for the annual expenditure, and deficiencies were staring the administration in the face in every department of the government. The same condition of affairs will continue with us until we shall remove the causes that produced them, as they did. Our revenues are sinking year by year, and the Secretary of the Treasury informs us there will be a deficiency of eleven millions at the end of the next fiscal year.

How did England extricate herself? Sir Robert Peel adopted Pitt's plan to restore the revenue and bring prosperity again to the people. He reduced the tariff and restored the income tax. What was the result? The deficiencies that were seen from 1841 to 1843 disappeared, and in 1844 there was a surplus of \$13,000,000 in the treasury, and it was increased in the following years. The exports of British produce that had fallen from two hundred and sixty millions in 1839 to two hundred and thirty millions in 1842 increased to two hundred and sixty millions in 1843, to two hundred and ninety millions in 1844, and three hundred and thirty millions in 1845. In the last-named year four hundred and thirty articles were stricken from the dutiable list, and in the succeeding year the duties on linen, woolen, cotton, and silk were reduced 50 per cent. In 1849 the corn laws and the navigation laws were abolished. The importation of grain was made free, and free competition for English freights with all vessels was permitted by law. Her protectionists could see nothing but disaster and ruin to her shipping interest, but she has not lost a spar by the abolition. On the contrary, it was a source of strength rather than weakness to her and the amount of freight now earned far exceeds what was received in former years. In 1852 the income tax was again repealed. A tax on wealth is a hard tax to retain. It is so hard to pay, so odious, so inquisitorial, so demoralizing, that there is a constant complaint against it by the few who pay it. It seems to them so much more just that the tax to support the government should all be paid by poor laboring people.

In 1853 Mr. Gladstone, finding Europe disturbed by the accession to the French throne of Napoleon III and requiring a largely increased revenue, began, like Pitt and Peel, by reducing the tariff and reimposing the income tax. He abolished the duty on soap; that brought to the treasury \$5,000,000; the duty on tea was reduced over 50 per cent., and duties on all duty-paying articles were cut down and 123 of the 424 duty-paying articles were transferred to the free list. In 1860 "the last anchor of protection" was swept away, and only 65 articles left on the duty-paying list; and to-day there are less than a score, and none of them competing with any British industry. Every dollar of taxation imposed upon the British people goes into the public treasury. What have been the results to her of this policy? Her commerce has been constantly increasing throughout the world. It increased from \$1,300,000,000 in 1855 to \$2,700,000,000 in 1870 and to \$3,500,000,000 in 1877. Mr. Léon Levi, in his history of British commerce, may well say that "a trade of that amount annually by a population of thirty-one millions of people (in 1870) means immense activity, large increase of comforts, and great accumulation of wealth."

The total annual exports of the world are about four and a quarter billions and one-third of that vast amount is exported by British traders from the United Kingdom and British India. The same author says:

Assuming the population of the world to be considerably over a thousand million human beings, that at the very minimum they will require food and clothing to the value of ten pounds (\$50) per annum each, and that not more than half that amount is produced in the same countries in which the consumption takes place, the aggregate exports would need to be above five thousand millions (of pounds) worth of produce and goods, whereas they are at present considerably under one thousand million.

So there seems to be no sufficient grounds for the fear that we will be drawn into overtrading by the emancipation of our commerce. How has the increase of English commerce affected the prosperity and happiness of the people? In 1849 5 per cent. of her population were paupers, now only 2 per cent. In 1854 only 2 per cent. of her population attended the primary school, now 8 per cent.; then one person in every thousand was committed for crime, now one in every two thousand; then there were a million and fifty thousand people who had deposits in savings-banks, now a million three hundred and eighty thousand.

In 1862 their property assessed for income amounted to seventeen hundred millions, and three years ago it amounted to twenty-eight hundred millions. In 1840 they consumed 15 pounds of sugar per head, now 41; then 1 pound of tea, now 3; then 42 pounds of wheat, now 124; then 1 pound of butter, now 4, and in the same proportion other articles of daily consumption. Do the advocates of commercial obstruction think these trifling facts? Do they not show a great increase of comforts by the people? Would not the protectionists of Pennsylvania prefer to see their laboring people eating more bread and meat, drinking more coffee and tea, and wearing more comfortable clothes, than to see them transported at Government expense to the wild lands of the West to prevent them from enduring hunger and starvation at home?

We have seen it in the papers that the kind-hearted gentleman from Pennsylvania [Mr. WRIGHT] on Christmas morning stood upon the steps of his door and gave to the poor two thousand loaves of

bread. However commendable to the warm and generous heart of the man, the fact that such a condition of things could exist in Pennsylvania to warrant it is a terrible sarcasm on protection. The condition of the working people of the United States to-day under the protective system is in fearful contrast with those of Great Britain under the free-trade system. The people of Great Britain now do a foreign trade of \$109 per head and we only \$25 per head. If our commerce were as great as that of Great Britain in proportion to population, it would amount to four and three-quarter billions instead of one as it now does. Instead of the gloomy picture of no navy, no shipping, no commerce, we should see our ships plowing all the waters of the earth, carrying our surplus products to exchange for the surplus products of others, giving employment to our people on sea and land.

In contemplating the results to Great Britain of the removal of all restrictions upon her foreign commerce, not the least gratifying feature is the diffusion of wealth among her poorer people. Before she embarked in free trade her wealth grew more slowly and was confined to the few. Now it is spreading among all the poorer people and accumulating with gigantic strides. The income-tax returns show that the number of persons assessed for incomes under \$1,500 increased from 1854 to 1870 at the rate of 47 per cent., those from \$1,500 to \$5,000 at 61 per cent., and those above \$5,000 at 63 per cent. In 1811 the people of Great Britain consumed foreign imports to the value of \$11 per head. In 1878 their imports had so increased that they consumed over \$60 per head. This seems to me a very satisfactory showing for a country of paupers, so called; it is an increase in consumption of 9 per cent. per head annually of foreign products. How is it with us under the beneficent (?) influences of protection? In 1860, the last year of low tariffs, we consumed foreign imports at the rate of \$11 per head, and in 1877, after sixteen years of protection, we consumed \$10 per head! While the national wealth increased over 100 per cent. the capacity of the people to satisfy their wants decreased!

This is exactly what occurred in Great Britain under protection, as stated by Mr. Bell in his speech before referred to. What a contrast between England under free trade and the United States under protection! While England increased her wealth 41 per cent. per head her people increased their capacity to satisfy their wants 600 per cent. per head. How are these foreign paupers able to live so highly while our protected laborers are fighting hunger at their doors, and over twenty thousand form one congressional district in Pennsylvania petitioning the Government to furnish them aid in fleeing from their homes to escape starvation? In 1850, under low tariffs, we consumed under \$6 per head of the products of foreign countries, and in 1879 had increased our consumption nearly 100 per cent. and the national wealth about 100 per cent. This was during a decade of the lowest tariffs we have ever had, and these figures show that the growth of that wealth was general throughout the land. In 1870, after ten years of high tariffs, the scene had changed materially. The national wealth had increased over 90 per cent., but the consumption of foreign goods only increased 5 per cent. per head— $\frac{1}{4}$ of 1 per cent. per annum.

The wealth of the country is increasing rapidly, but it is in the hands of the few, while poverty is the inheritance of the many. England exported \$30 per capita in 1861 and we \$7, and she exported \$43 per capita in 1877 and we \$13, and a large portion of ours to pay a foreign debt. The strange feature in all this odious system of free trade is that the English paupers sell four times and buy six times as much as we. The reason of this is they make more money by their free and unfettered labor than we do with our shackles on and use that money to purchase the comforts of life.

England took her taxation off of consumption, labor, and poverty and laid its exactions at the doors of wealth. For nearly forty years she has clung to that policy, and it has made her the most powerful nation in the world and her people the most prosperous and happy. England would consume more of our exports if we would take her exports in payment, and at much lower rates than we can get similar articles at home. She buys in the markets of the world one hundred millions of bushels of wheat every year, but we only supply forty of it; why may we not supply the other sixty? She buys fifteen hundred million pounds of cotton; but we only supply nine hundred; why may we not supply the other six? Only because we cannot under the tariff take her products in exchange and other countries will. She takes our exports just in proportion as we take hers. After exchanging with us to the extent of forty millions of bushels, she has to offer her wares elsewhere and finds them accepted by Russia, Germany, France, and other countries.

If we would remove the restrictions on our commerce it would grow just as the English commerce did. In 1852-'53 we had restrictions on our commerce with the Dominion of Canada, and our trade amounted to twenty millions. The next year a treaty of reciprocity was made, and the trade rose to thirty-three and a half millions, and continued to increase year by year till in 1866, when the treaty was repealed, it was eighty-four millions. The year after the repeal and the reimposition of the tariff, the trade fell from eighty-four to fifty-eight millions; and in 1877, eleven years after the repeal of the treaty and the large increase of wealth and population, and yet the trade was not as great as it was in 1866. We have the same results in our commerce with the Hawaiian Islands. In 1876, under tariff restrictions, our trade with them amounted to two millions annually. The year after their removal by treaty of reciprocity our trade was nearly four mil-

ions. It had increased 100 per cent. in one year. If to-day we could sweep all restrictions from our commerce and make it as free as the air, in one year our trade with foreign countries would amount to two billions of dollars instead of one; and in ten years we would have the largest commerce and the most prosperous people in the world.

How can we unfetter our commerce and obtain means sufficient to support the Government? We cannot levy direct taxes except in proportion to population, and that would be as odious, unjust, and oppressive as the tariff. Taxes should not be imposed in proportion to people, but in proportion to property. "Direct taxes" must be excluded from our plan. What are they? A capitation tax and tax on land. All other property in the country is at the disposal of Congress, and the sources of revenue are sufficiently large. The committee could have imposed duties at 20 per cent. as a general rule, making a few exceptions above that standard and many below, and raised one hundred millions, instead of one hundred and forty-one. The next year the same duties would bring one hundred and twenty millions, because the imports would be largely increased by the low duties. Our policy should be to take the smallest amount of taxes that we can by customs, and we should gradually decrease the amount until our customs taxes come alone from non-competing articles entering our custom-houses.

Our expenditures require two hundred and fifty millions annually, including the sinking fund, or two hundred and twenty millions excluding it. If we raise one hundred millions with the tariff we have only to raise one hundred and fifty by other means. We now have over a hundred millions from whisky and tobacco and other internal taxes, but they are on the same principle as the tariff taxes on consumption, and fall on the poor and should be largely decreased. Not over seventy-five millions should be raised from these sources. We lack yet seventy-five millions. Where is it to come from? There are two hundred and fifty thousand people in the United States who have an annual income of eight hundred millions. It would not be unjust to require of them the whole sum. It is the fairest tax that can be imposed. It comes out of clear profits, while a tax on consumption denies bread to the mouth and clothing to the back of the poor.

The income tax raised in 1866 about sixty millions. Those having incomes over \$5,000 paid thirty-four millions, and the same class can to-day easily pay forty millions, and that amount should be required of them. There are five billions of railroad property in the United States, enjoying an income of one hundred and eighty-five millions. It paid an income tax in 1866 over \$11,000,000, and could easily pay ten millions now. Insurance companies paid in 1866 two millions in income taxes, and can easily do the same to-day. Brokers, on sales of stocks and bonds, foreign exchange, and gold, paid in 1866 three and a half millions, and can do so again. There are two billions invested in manufactures in the United States, and they paid in 1866 over a hundred millions. It would not be oppressive to tax them ten millions now. Telegraph and express companies paid in 1866 one million, and can do it again. The tax on banks and other miscellaneous taxes bring us now eighteen millions, and by correcting the exemptions of savings banks two millions more may be obtained from the five hundred millions deposited and paying no taxes. There are seventeen hundred millions invested in bonds that should pay a tax, and could easily pay a tax of \$10,000,000, and it ought to be deducted from the hundred millions of interest we pay their owners annually.

Why may not a sufficient amount of money be obtained from all these sources to support the Government without destroying our commerce, destroying our labor, banishing our prosperity, and making our people poor, wretched, and miserable? Let the people of the United States answer these questions.

RESUMPTION OF SPECIE PAYMENTS.

Mr. SOUTHARD addressed the House on the subject of the resumption of specie payments. [His remarks will appear in the Appendix.]

TRANSFER OF INDIAN BUREAU TO WAR DEPARTMENT.

Mr. YOUNG. Mr. Speaker, I arise to address the House upon the bill providing for the transfer of the Indian Bureau to the War Department, profoundly impressed with the importance of the question it involves and the grave responsibility which its consideration and proper solution imposes upon me and the other members of this body. When it is considered that the practical operation of this or any other measure for the regulation and conduct of our Indian affairs affects and controls the well-being, civilization, and even the very existence under any conditions of a whole race of people, it will be readily conceded by every thinking man upon this floor and throughout the country without regard to party distinctions, that it should be most carefully examined, calmly and dispassionately discussed, before it receives the stamp of legislative sanction or disapproval. It should not be considered as a measure of partisan legislation nor as a mere experiment in governmental policy with no higher aim or purpose in view than to test the excellence of some particular theory in comparison with others as measured by the standard of economy, expediency, or convenience, but it should be looked at from a higher stand-point, commanding a survey of the entire field of policy and legislation back in the past and far in the future which is included within its scope.

That the members of this House should differ so widely in their judgment and opinions upon a measure of the significance and im-

portance which attaches to this one, and which is both favored and opposed by influences so respectable and reasons so cogent, is what might be expected and excites no surprise. While the differences in opinion exist, however, it is gratifying to know that they are defined by no party lines and arise from no sectional prejudices, but that they are engendered and grow out of honest convictions that have led minds equally candid and sincere to divergent conclusions. When a bill very similar to this one was offered in the Forty-fourth Congress—with the examination which I had then given the subject and the convictions I then had—I deemed it my duty to oppose it, but a closer study and more thorough understanding of the question it presented has led me to the conclusion that I should, perhaps, have pursued a different course. Candor compels me to say, however, that I am not giving my support to the present bill because I believe it to be the best one that could have been framed for the purpose, nor because it in any way meets the approval of my judgment, except as it is commended to me in the aspect of a choice between evils.

I confess that it is a matter of but little concern what particular methods are adopted or what special agencies are selected to carry out in detail any measure which may be proposed having reference to the Indian tribes upon our borders, unless it is intended to change the whole theory and policy of the Government in that respect. It is not therefore so much for the purpose of urging the passage of this bill that I address the House to-day as to denounce the false and wicked system of legislation upon this subject which has for a hundred years and more been a curse to the Indians and a shame to the white people of this country. It will not be denied that the policy and conduct of this Government toward the Indian race from the day when the white man first set his foot upon the shores of the New World down to the present hour have been marked by horrors, crimes, and outrages that shock the Christian sentiments of all mankind. No page of history records such gigantic wrongs, such scenes of murder, rapine, and outrage as we have perpetrated against these helpless and defenseless people. Our whole conduct toward them has been marked by a greed that knew no bounds, a rapacity that has never been staid, and a cruelty more ferocious than savages ever inflicted upon their enemies. We have pursued them with fire and sword from the shores of the Atlantic to the frozen regions of the Rocky Mountains, seizing their vast domain without compensation, driving them without scruple from their ancient homes, over the graves of their fathers, with apparently the constant purpose in view of their final and utter extermination.

In this march of violence, lawless conquest, and crime, we have violated every law, human and divine, outraged every principle of justice and humanity, and brought disgrace and reproach upon a Government that boasts of its greatness, progress, and enlightened civilization. If it be the purpose of the Government to continue this monstrous policy until the extinction of the race is accomplished, then it is wiser, cheaper, and more humane to select and put in operation the agencies that will attain this end as quickly as possible, and in that view, if in no other, I should advocate this measure. As an engine of sure and speedy destruction, an army of armed men would be more effective than a horde of robbers and murderers that will effect the purpose only slowly by deceit, false pretenses, plunder, and eventually death from starvation, and the vices which they originate and teach. For thirty years past the latter agents have been employed and the result is before the country, in a story of constantly recurring wars, wide-spread corruption, and debauchery in an important branch of the public service and a cost to the Government of more than \$400,000,000. That the work of pillage and murder has been well done, there can be no question, but the process is too slow and expensive; hence the necessity of selecting other and more speedy methods.

If the shadow of national death is still to hang over the Indians, if they are still to be followed up with the same relentless ferocity and cruel rapacity which has already bereft them of four-fifths of a great continent, destroyed nine-tenths of their race, and inflicted upon the remainder all the vices and taught them none of the virtues of civilization, then we should only look to the instrumentality most ready and convenient of use. If the decree of extermination which has gone forth against the Indians is to be irrevocable, and if it is the settled purpose of this Government to execute it, then, sir, let the terrible tragedy be enacted as quickly as possible. Do not protract the agony through another century of slow, wasting, cruel torture to the Indian and of shame and disgrace to ourselves. Do not stand still and see an entire race through long years of intolerable misery melt away with famine and want and the terrible diseases which the white man's civilization has planted everywhere among them.

The heartless, cruel process of total extinction has been protracted too long. Let us finish the work, commenced so many years ago, by a sharp and decisive stroke. Send the Army out over the plains and into the fastnesses of the mountains, to strike down and destroy the Indians of every age and sex until not one of that unfortunate people shall be left to tell the melancholy story of their wrongs, their sufferings, and of the least crime that has been committed against them, their destruction. Let their very name be forgotten among men and the record of their existence pass from history, and then let us, if we can, blot from the memory of mankind the shameful part we have played in this horrid drama of human woe, this appalling crime against civilization and the teachings of Christianity. Thus to end at once and forever this long, lingering agony with which a

powerful civilization has afflicted a rude and defenseless people for so many years will be a mercy to the Indians and a relief to the Christian sentiment of the country, which has so long been shocked by the monstrous barbarity of our conduct toward them.

With our refined ideas of Christian civilization we have looked with horror upon the cruelties sometimes practiced by the Indians upon those of our race who have fallen into their hands and been made the victims of their savage vengeance, but we have been blind to the cruelties, wrongs, and persecutions which provoked the savages to this stern and terrible system of retaliation. Our histories of Indian wars and outbreaks abound with graphic, startling pictures of wretched captives of the white race, bound to stakes and writhing in flames, but no historian has recorded in truthful terms the dark story of wrong which has brought the savage to inflict this frightful retribution upon those who were in some measure answerable for their perpetration. These savage acts naturally shock the feelings and arouse the passions of civilized men, when Indians are the actors, but when compared with the slow, yet constant torture with which we have for three centuries been gradually diminishing their numbers from more than five millions to less than three hundred thousand, the balance is not so much against the untutored savage as our civilized historians would lead us to believe.

It is a sad truth, but one abundantly proven to the satisfaction of every one who thinks fairly and impartially by facts and results that cannot be denied, that the policy of the white man toward the Indians of this country in wickedness and oppression has no parallel in the annals of history. Even in the darker ages of the world, when mankind were instigated by savage passions, the love of conquest or the lust of gain, to wage war upon each other, there is no authentic instance to be found where one race of people has pursued another to the extreme of total extinction, but it was reserved for one of the most powerful, progressive, and enlightened nations of modern times to present this anomaly in history and to inaugurate this horrid theory of progress.

I do not charge the long catalogue of crimes I have recounted to any party that has administered the Government, nor to any particular agency alone which has heretofore had charge of this department of the public service, but it is a sin which rests upon our whole people, and for which all parties and all agencies are equally responsible.

I am frank to admit that under the system now proposed many of the wrongs and abuses in the management of our Indian affairs which calls so loudly for redress had an existence and were fostered and encouraged for a long period of time, but under the one which succeeded it and which is now in force they have been increased and aggravated a hundred-fold, so that while no one of the evils of earlier origin has been removed a thousand new ones have been added to the list. When the Indian Bureau was formerly under the control of the War Department it was conducted better in this respect, at least. The petty pilfering, shoddy contracts, and general system of thieving and rascality which it is conceded now exists was in a measure unknown. The Indians were perhaps not so gently cared for and their rights so carefully preserved and protected as they should have been, yet the expenditure was not so lavish nor the irregularities so great as they have since grown to be.

I am free to grant that soldiers are not the best educators that could be selected to teach Indians the lessons of virtue, Christianity, and civilization, but if they are not so well qualified to teach them these things, neither are they so likely to teach them treachery, deceit, and robbery as their present guardians of the Interior Department, whose amazing villainies would astound the sturdiest felon. I have made a careful examination and comparison of both the systems of dealing with Indian affairs adopted at different times by the Government, and while both deserve unmeasured reprobation, I find that in every respect the one now proposed is preferable to the existing one. I am aware that it has been claimed upon high authority that to transfer the control of Indian affairs to the War Department means war instead of peace with the Indians, tumult instead of quiet, and finally the complete subjection of the Indian tribes by force of arms or their entire extermination. I deny that any such result would necessarily follow, but on the contrary these evils might be to a very great extent avoided, unless it should be a purpose of the Government to bring them about.

And I am supported in this belief, not only by the experience of the past but by the testimony of nearly every officer of the Army who has spoken upon that subject as well as by almost every one else at all acquainted with the Indian character, except those who have gone among them as agents, speculators, and contractors under the present system.

In 1849 the control of Indian affairs was transferred from the Department of War to the Department of the Interior, and for the thirty years that they have remained under the direction of the latter I think it can be easily shown that there have been more Indian disturbances, a larger and more wasteful expenditure of public money and with fewer good results, than during any former period. It is true that Indian wars were of frequent occurrence previous to this time and that large sums of money were expended in their prosecution, but then it must be remembered that the Indians were vastly superior in numbers to what they are now; that during most of the years preceding 1849 many of the Southern and Western States were in a

great part held by large and warlike tribes, and that these were reduced to subjection and removed westward of the Mississippi River previous to the transfer of the Indian question to the Interior Department. Four of the largest and most powerful of these tribes were placed upon a reservation west of the Arkansas, and have adopted the habits and customs of civilization under a stable government organized and conducted by themselves and which is suited to their social and political wants.

I have no data at hand from which I can estimate all the cost of conducting our Indian affairs and prosecuting our Indian wars during the period when the matter was exclusively under the control of the War Department. No doubt it was a vast amount, and I have no question but that much of it was needlessly and uselessly expended; but it will scarcely be pretended that any great portion was stolen by dishonest agents of the Government in so open and shameless a manner as is practiced at the present day. Whatever may have been the expenditures, faults, or crimes of any and all previous systems for the management of Indian affairs, it is scarcely possible that any which has ever existed, or may hereafter be devised, could be worse than or even half so bad as the present one. I have no disposition to speak harshly of any one, though justified in doing so by the most abundant cause; but I feel it a duty of the highest and most imperative character to denounce to the whole American people the brutal and unchristian conduct which has for years and is now being pursued toward the Indian race, and to hold up to the execration of all mankind the heartless miscreants who are every day perpetrating so many crimes against them and practicing so many frauds upon the Government. I am not the accuser of these base and unprincipled vampires. The story of their villainies is told by a thousand tongues and is recorded upon every page of Indian history for a quarter of a century past.

As ministers of peace, let us see how the agents of our Indian Bureau have succeeded. At the time they assumed control of Indian affairs profound quiet prevailed all along the line of our Indian frontier, and for a decade of years there was no serious disturbances between the white and the red man upon our borders, but the exactions, frauds, and deceptions which they soon began to practice finally drove the savages to madness and then to war. So in 1852 and 1854 the Sioux war, with all its horrors and savage outrages, burst upon the northwestern frontier, and which required the use of the Army for two years to conquer a peace at the cost of many hundreds of lives and \$40,000,000. Then followed, in 1864, the war with the Cheyennes, the inception and moving cause of which was the most devilish and diabolical crime ever before conceived by either savages or civilized men. The Cheyennes were a small tribe living in perfect peace and quiet in the northern part of Colorado Territory. In 1864, when the war between the States was being waged with terrible fury, a regiment of Colorado volunteers invaded their country and commenced an indiscriminate pillage and massacre of their people without giving the slightest warning of their bloody purpose; and finally, when they sought protection under the flag of the United States, their savage pursuers charged like demons among them and slew men, women, and children with a brutal ferocity never equaled by the most barbarous Indian tribes.

Upon a subsequent investigation of this cowardly and horrid massacre, the fact was disclosed that the bloodthirsty poltroons who perpetrated it were instigated to the monstrous crime solely by a desire to incite an Indian war in order that they might not be called to the field to fight for the maintenance of the Union, against a foe from whom more danger might have been apprehended than from a handful of unarmed and fleeing savages. I do not refer to this shameful butchery alone for the purpose of illustrating the inefficiency of our present vicious Indian system nor to demonstrate the superiority of the one proposed, though it might constitute some part of the argument to prove that proposition, but I mention it in support of what I have already said in reference to the faults of our entire policy in that respect. It would hardly be credited that civilized men in this age of the world could have been guilty of such a crime, unless it were proven by the most conclusive and overwhelming testimony. That testimony is found in the report of Major E. W. Wynkoop, the commanding officer at Fort Lyon, Wyoming Territory, under date of January 15, 1865, in which he says:

The affidavits of many persons show and agree in the statement that the most fearful atrocities were committed that were ever heard of. Women and children were killed and scalped, children shot at their mother's breast, and all the bodies mutilated in the most horrible manner. Numerous eye-witnesses have described to me scenes of the most disgusting and horrible character: the dead bodies of females profaned in such a manner that the recital is sickening.

All this, and more equally horrible, was testified to by numerous witnesses, whose truth there is no reason to doubt. No wonder the Indian should hate and detest a people that could be guilty of such a crime, and bear a fierce and implacable hostility to a government that would sanction and approve it by not inflicting upon the guilty perpetrators a merited punishment.

Following this came the war with the Sioux Indians of Dakota, which was equally unprovoked, attended with similar horrors, though not in such horrid and diabolical form.

Then came the war with the Navajos, in which more butcheries and massacres occurred and resulted well-nigh in the entire destruction of the tribe.

Then came the Sioux war of 1876, and the massacre by the Indians, this time of the gallant Custer's command, upon the banks of the Big Horn, and lastly the war with the Nez Percés, which is not yet ended. So that to-day under the so-called peace policy some part of nearly every tribe in the Northwest are engaged in hostilities with the Government or awaiting a favorable opportunity to engage in the conflict and avenge their wrongs. These wars that I have enumerated do not embrace one-half of the outbreaks and disturbances that have occurred. To recite them all with their attendant horrors would fill a volume so sickening in detail and so monstrous in the iniquities that it would disclose that Christians, civilized people, would be amazed by its perusal. I might add to the dark and bloody story an account of the shameful and fiendish massacre of an entire village of Oregon Indians, consisting of old men, women, and children, when they were wholly defenseless and a large number of them were sick with the small-pox. While in this condition, apprehending no harm save from the terrible plague which afflicted them, a detachment of American soldiers, belonging to a race of Christian, civilized people and led by an educated officer of the regular Army, marched stealthily in the night-time upon this undefended village and, without a single sentiment of pity or humanity, mercilessly slew the wretched, plague-stricken inhabitants of every age and sex, though the distress and sufferings of their situation should have appealed to the gentlest sympathies of the human heart.

And I might also tell of the war with the Modocs; how it was provoked by the most cruel and wanton injustice; how nearly the whole of that brave tribe was exterminated and their chief murdered when he had laid down his arms after the white man's manner of conducting Indian wars and dealing with Indian captives.

It may be said that if officers of the Army committed these crimes (for they were crimes of the most shocking character) it would furnish a very good argument why the Army should not be entrusted with the conduct of Indian affairs; but I answer that this is not so, for the disturbances which set the Army in motion were brought about by the improper workings of the civil agencies; and then the Army has to be kept on the scene anyway whether in sole control of matters on the border or merely subordinate to the worthless and inefficient agents of the Indian Bureau. And the Army and its officers must be taught respect for the wiser and more humane policy which I trust a more Christian public sentiment will soon compel the Government to adopt.

An accurate computation of the enormous cost of all this needless strife and bloodshed is impossible, but it may be safely estimated at more than three hundred millions of dollars. I will not undertake to say that some of these wars and disturbances would not have occurred and some of this vast sum of money would not have been expended if the Indian management had been under control of the War Department during the period mentioned, but I do say that there is the strongest reason to believe that the wars would have been fewer and the expenditure less if such had been the case.

Many witnesses have been examined upon this subject, and they concur almost unanimously in the belief that every Indian war for the past fifteen years at least has been provoked by the inefficiency, rapacity, and dishonesty of the agents in charge of Indian affairs. Among these witnesses I may mention Major-General Pope, Brigadier-General Carlton, Major Wynkoop, and the veteran mountaineer and plainsman, Colonel Christopher Carson, who spent nearly his entire life among the Indian tribes of the West.

The methods by which Indian agents, contractors, post-traders, and others sent out by the Indian Bureau, defrauded the Government, cheated and deceived the Indians and enriched themselves, are so curious and unique and were carried into effect with such boldness and ingenuity that it is difficult to tell which most excites our wonder, their amazing villainy or astounding hardihood and assurance.

A glance at some of their operations will demonstrate the correctness of this conclusion. On the 2d day of March, 1865, the two Houses of Congress created by resolution a joint committee charged with the duty of inquiring into the condition of the Indian tribes and their treatment by the civil and military authorities of the United States. This committee subsequently made a report, after a thorough investigation of the subject, which revealed a condition of affairs in the Indian Bureau and its mode of conducting its business which should at once have brought about its entire abolition. And while I do not coincide with all the views which they expressed or the conclusions which they reached, they satisfied me entirely that no more corrupt, faulty, or vicious system could exist than the one under which Indian affairs are at present managed.

Some of the operations of these Indian agents are of a somewhat amusing character, and serve to relieve the eye while contemplating the darker picture of their more heinous rascality. Senator Nesmith, a member of the committee to which I have referred, thus speaks of the doings of some of these worthies:

Another great cause of complaint is the worthless quality of the goods which are bought in the Atlantic States and sent out for distribution among the Indians. From the personal inspection which I have given these goods, and on comparing them with the invoices, I am thoroughly convinced that the contractors are guilty of the most outrageous and systematic swindling and robbery. Their actions can be properly characterized by no other terms. There is evidence also that the persons employed in the Department to make the purchases are accomplices in these crimes. I have examined invoices of purchases made by the Department or its agents in Eastern cities, where the prices charged were from 50 to 100 per cent. above the market value of good articles. Upon an examination of them, were

"steel spades," made of sheet iron; "chopping axes," which were purely cast-iron; "best brogans," with paper soles; "blankets," made of shoddy and glue, which came to shreds the first time they were wet, &c.

No doubt the Senator was convinced, as any other honest man would have been from the facts he relates, that the "Indian contractors and agents" are guilty of the most "outrageous and systematic swindling and robbery;" and nobody will doubt that he selected the proper terms to designate the character of their conduct. No milder words than swindling and robbery could have been truthfully used in describing the nature of these transactions. The worst feature of the matter is revealed in the statement "that there is evidence to show that persons employed in the Department to make the purchases are accomplices in these crimes." So it seems that this corruption, fraud, and rascality exists in one of the great Departments of the Government, and extends from the national capital all the way to the western plains. If the "swindling and robbery" denounced by Senator Nesmith had only been committed by contractors, speculators, and others owing no official obligation to the Government, the case would not have been so bad; but when sworn officers and agents of the Government are the accomplices and confederates of public plunderers, it becomes a crime of appalling turpitude.

The gentlemen who conducted the operations referred to certainly evinced no little enterprise and ingenuity in prosecuting their nefarious scheme, and are entitled to a forward position in the ranks of the most distinguished of shoddy cheats and thieves. No common operators would have undertaken or succeeded in palming off "sheet-iron" spades and "cast-iron" axes for the genuine article which the Government contracted to purchase, nor ventured upon the experiment of furnishing "brogan shoes" with "paper soles" and "blankets held together with glue;" but such achievements exhibit an experience and ability in rascality as well as nerve and audacity which none but veterans in this line of business could have acquired. Men who could perpetrate such impudent frauds must be possessed of both a cheek and conscience very like the material of their axes and spades. But perhaps they may have considered that as spades are implements for which Indians could have no possible use even if disposed to handle them, it was not a matter of much concern what kind they were supplied with, and that as under the present management the Indians are not much accustomed to use axes for any purpose except to scalp white men, they perhaps thought it better that they should be made of the least dangerous material.

Under the teachings, however, of the so-called peace agents and the habits of idleness and debauchery which have been inculcated by their example and have grown up with their system, it is not likely that the Indians will know by actual use within the next fifty years what materials enter into the manufacture of any article of industry or manual labor. But these are only small specimens of the frauds practiced in the purchase of Indian supplies, as will appear from a further examination of the testimony on this subject.

Senator Nesmith examined other invoices which contained a list of many curious articles purchased by Indian agents and contractors, the practical uses of which in the education and advancement of the Indians would be extremely difficult to discover. For instance, take the following:

Many articles—

Says that gentleman—

are purchased which would be utterly useless to the Indians if their quality was ever so good, such as iron spoons, mirrors, gimlets, Jew's-harps, hair-oil, finger-rings; and in one case which came under my observation forty dozen pairs of elastic garters were sent out to one tribe in which there was not a single pair of stockings.

Doubtless some of these articles were attractive to the ladies and children of the tribe, especially the mirrors, hair-oil, finger-rings, and Jew's-harps; but to clothe the belles in elastic garters alone without stockings would scarcely conform to the requirements of fashionable life, even in the wilderness; and to equip the braves with "cast-iron axes and gimlets" would not fit them very well for either the war-path or the avocations of peaceful husbandry. From the same report we learn that "one agent made a requisition for small steel plows" and they sent him "fancy mirrors." He asked for "harness for ponies" and they sent him "frying-pans" and "knitting-needles." He asked for "axes and grain-cradles" and they responded with "scissors and iron spoons." Perhaps the knitting-needles furnished in this latter invoice was designed to enable the Indian ladies to supply by their industry the omission of stockings in the former one, to be worn with the garters, which had already been sent in such large quantities, and possibly too scissors and iron spoons were thought to be more harmless and quite as useful as cast-iron axes.

It may have been concluded, also, by these quick-witted Indian purveyors that frying-pans would supply a better purpose than pony harness and grain-cradles. Cast-iron axes and iron spoons seem to have been a choice commodity with these Indian contractors, for we find in another place that one invoice of goods contained as many as six iron spoons for each Indian in the tribe, while in another case a large number of ax-handles were sent to a distant tribe, at heavy cost, without a single ax!

Whatever may be said, however, about the quality of the goods furnished to the Indians, no complaint can be made as to their abundant variety; for glancing over the invoices we find them to contain almost every imaginable article except such as would be of any practical

benefit or use to the Indians, and all furnished at the most enormous and extravagant prices. I shall not undertake to maintain that some abuses of this character would not exist if the Indian Bureau were transferred to the War Department as is proposed by this bill, but I scarcely think it probable that educated Army officers would be found making requisitions for spoons, gimlets, hair-oil, Jew's-harps, and such like articles for the use of the Indians, and they would certainly have a better idea of the fitness of things than to give them handles without axes, elastic garters without stockings, and frying-pans without rations.

But if the frauds and peculations in the Indian Bureau were confined to the purchasing and delivering to the Indians worthless, shoddy articles of clothing, and mechanical and agricultural implements of a kind and quality totally useless to them, the villainy would not be so enormous and unpardonable; but the provisions furnished for their support, as has been shown by abundant testimony, were more inferior than any other character of Indian supplies. To compel the Government to pay the most exorbitant prices for iron spades, shoddy blankets, gimlets, ax-handles, and iron spoons, and then compel the Indians to receive them at the same extravagant valuation is an offense against honesty and fair dealing that should receive the severest punishment; but to poison these poor creatures with unsound and tainted food is a horrible crime, for which its authors should answer upon the scaffold.

It has been shown in investigation directed by Congress, by testimony too emphatic and trustworthy to be doubted, that at many of the agencies where large numbers of Indians had been collected by order of the Indian Bureau or Commissioner the provisions furnished were not only far too scant in quantity to meet the demand, but so inferior in quality as to be unfit for human consumption. Moldy bread alive with vermin, flour and meal musty with age and exposure to weather, and tainted meat so far decomposed as to give out the most offensive odor before being removed even from the barrels and boxes in which it had been shipped, constituted the major part of many invoices of provisions. Fresh meat was supplied from the putrid flesh of beef-cattle slaughtered when nearly dead from starvation or disease and issued as rations to the hungry multitude. This loathsome, repulsive food, upon which wild animals would hardly banquet and from which vultures of the air would almost wing their flight in disgust, the Indians were compelled to eat or starve. If they complained it only brought curses, insults, and abuse, for the heartless knaves who had them in charge seem to have had neither mercy, honesty, nor conscience, and paid no heed to the demands of justice or the piteous supplications of helpless suffering. Shivering in their shoddy blankets before the freezing winter winds that sweep from icy mountains across the western plains and starving of hunger or sickening and dying from unwholesome food, the Indians have experienced all the horrors of cold and famine, and it is not surprising that they should leave their agency and go in quest of game to relieve the pangs of hunger.

But they are not permitted this poor resort, for no sooner do they leave the bounds of their prison than they are declared to be "hostiles," and the soldiers are sent out to hunt them down, bring them back disarmed to camp, and then if the Indian, exasperated to madness by this tyranny and wrong, makes the least resistance he is shot down like a wild beast. Forthwith an Indian war is proclaimed, and the work of butchery and destruction begins. Just such things as this, added to the perfidy of violated promises, broken treaties, and lawless invasion of their reservations, have precipitated half the Indian wars in the West that have occurred in the past fifteen years, and notably the Sioux war, which ended with the destruction of General Custer's command and the wonderful retreat of Sitting Bull and his escape across the line to Canada.

When we look at the cheats, frauds, robberies, and rascalities of Indian agents and contractors, the reproach they have brought on the Government and the evil they have wrought the Indians, one cannot forbear the wish that they had composed the little army that followed Custer in his fatal conflict with the stern chief of the Sioux, so that the latter might have carried some of their scalps as trophies of war with him into the domain of his mother, the British Queen. And the thought comes unbidden that if he should recross the border into his own country again, followed by any considerable number of his trusty braves, our good and patriotic President might invite them to Washington and utilize them with great public benefit in carrying out his cherished theory of civil-service reform.

If these adventurous savages could only have free entry into the Interior Department and be turned loose with their tomahawks and scalping-knives among the attachés of the Indian Bureau, they could accomplish more satisfactory results in reforming that branch of the civil service in one hour than could be attained in a whole lifetime by the utmost efforts of our metaphysical Cabinet minister who conducts that branch of the Government. If they were allowed to set up their stake in the corridors of the Interior building and roast some of the rascals who have been robbing their people so long, it would have a most wholesome effect in the future conduct of our Indian affairs. While it has been shown by the most indubitable proof that nearly every article furnished the Indians which it was proper and necessary for them to have was of the most inferior and worthless kind, it is equally well proven that they have been furnished in abundant quantities with arms and ammunition of the most

approved pattern with which to fight our soldiers and slaughter defenseless settlers on the border. In nearly every conflict with the western Indians, they were found to be better armed than the soldiers of the Government, with weapons and ammunition manufactured in our own arsenals, so that when driven by starvation and other wrongs to make war upon the whites they are first supplied with means for its successful and efficient prosecution.

Our present Indian system is a most complex and awkwardly constructed concern, the power to control and operate it being vested in the head of the Interior Department, the Commissioner of Indian Affairs, and a body styled the board of Indian commissioners, the latter having been created by act of Congress approved April 10, 1869, and is composed of nine persons, appointed by the President. It is, in my judgment, a proper subject of inquiry whether the large expense attendant upon the creation and continuance of this board is not largely inadequate to any good that it has or may accomplish in the discharge, however faithfully, of any functions which legitimately pertain to it. The most important duty with which it seems to be charged is to keep a vigilant watch over the Indian Bureau, to prevent as far as possible the frauds that are confessedly practiced and to eradicate the evils which are known to exist in that Department. How far it has succeeded in accomplishing this object after nine years of experiment let its chairman tell in the conclusion of his report for the year 1877:

INDIAN RINGS.

The belief is almost universal that the transactions of the Indian Bureau are tainted with fraud in every part, and that it is incumbent upon those who manage the Department to "break up the Indian ring," which is presumed to be enriched by the Government spoils. The idea of breaking up "rings," so long as the Government is a purchaser of supplies to the extent of millions annually, is a fallacy, and it should at once be dismissed from the public mind. Contractors would be more or less than human if, in view of operations of such magnitude, they did not enter into combinations or preconceived plans whereby they could obtain the best possible prices for their commodities. Such has ever been the case and ever will be, not only in this but in every other Government department which is under the necessity of contracting for large amounts. The most that can reasonably be expected of the Department officers is that every means available shall be used to detect fraudulent schemes and protect the Treasury and the Indians against the rapacity of contractors. It is in this direction especially that this board has endeavored to assist the Government in its pressing need, and, it may be fairly claimed, with a good degree of success. The measure of its efficiency must depend, manifestly, upon the degree of cordiality which may be maintained between it and the officers of the Department; for if the two work at cross-purposes both are sure to be hindered in their respective spheres of action.

Here we have the confession that the board of Indian commissioners has utterly failed of its mission, that the shameless debauchery which pervades our entire Indian system is incurable, and that rings and corruption in the administration of the Indian Bureau are evils which no remedy can reach.

No more emphatic condemnation of the present policy could be pronounced, for I cannot agree with the Commissioner in his conclusion that these abuses are unavoidable, nor can I accept as true the philosophy that there is a necessity for their longer endurance. Neither can I recognize as a fallacy the idea of breaking up rings and purifying the public service any more than I can agree with him in the opinion that the hope of doing so should be dismissed from the public mind, though I am frank to admit that if there is any single reform which may be regarded as hopeless it is most likely to be found in that one looking to the conversion of Indian agents into honest men. As such an undertaking does not promise any desirable results, the remedy easiest of application and most effective in its operation would be to adopt a system which will dispense with their further service.

I would not be understood as including all persons connected with the Indian service in the band of thieves and plunderers whose crimes have made it a reproach to the nation, for no doubt many honest and upright men have held positions in the Indian Bureau who have discharged their duties with scrupulous fidelity; but their number has been so small, and the system itself is so faulty and vicious, that they have been powerless to prevent the frauds and villainies that have been perpetrated under it. And I know that thousands of Christian men and women, animated by the broadest philanthropy and the highest and purest aims, have labored with a zeal and devotion that knew no limit to change the hideous, savage policy of the Government which has doomed the Indians to ceaseless outrage and utter extermination at a day near in the future. But until a stronger power than the Indian Bureau stands by to aid them in their good work, and drive back the ravenous horde of lawless marauders that carry debauchery, pestilence, and death to the Indians, the temples they erect will be profaned and the flowers of peace and civilization planted by Christian hands in the wilderness will wither and die.

I have had time to point out only a few of the evils and bad results that have attended the workings of our Indian system since it has been under control of one of the civil departments of the Government, and to show how far it has failed as an agency of peace and civilization. In the matter of economy its record is equally disparaging. I have not been able to examine this phase of the subject in detail, but these items and comparisons I gather from the able report of the Committee on Indian Affairs. From this I learn that there are eighty-two Indian agencies, which cost the Government in the aggregate \$802,907 annually for salaries of employes alone, without including the salaries paid the clerks, laborers, and messengers employed in the Indian

Bureau here in Washington, and as these latter compose a small army of themselves, the amount paid them must constitute another very considerable item of expense. I find in the sum I have mentioned one item of \$9,000 for salaries of three inspectors at large. What particular duty is assigned to these officials I am not advised, and am therefore left to the conjecture that it may be to examine and pass upon the quality of cast-iron axes, shoddy blankets, frying-pans, iron spoons, hair-oil, &c., furnished by contractors and agents for the use of the Indians. And perhaps the scope of their labors may embrace an inspection of the spoiled flour and tainted meat with which the Indians have been fed at many of the agencies. I have no information as to the manner in which these duties have been performed, nor that the evils of the Indian system have been in any way diminished by their efforts, but it may be hoped that the traffic in the articles I have mentioned will not be quite so flourishing in the future.

Another item of expenditure in addition to those I have enumerated is the sum of \$45,000 for printing distributed among one hundred and fifty newspapers. This amount is sufficient to have published the biography of every Indian chief on the plains, and more than enough to have printed spelling-books for every child in all the tribes. For the ten years preceding the transfer of the Indian Bureau to the Department of the Interior, it was conducted at a cost of \$17,611,837.98, and in the ten years following that period it was \$34,169,799.82, while for the latest period for which I have any estimate, that is from 1870 to 1876, the cost was \$44,303,332. It must be borne in mind that all the time of this rapid increase of cost the number of Indians was constantly decreasing, and the expense of their management, it would seem, should have grown less instead of greater. If the cost of Indian affairs continues to be graduated upward in the same ratio as their number continues to decrease, it may be reasonably estimated that by the time they are all destroyed, as is being done under our present system, the whole revenues of the Government will have been swallowed up in the Indian Bureau. After summing up all the items of expense, the Committee on Indian Affairs calculate that \$1,000,000 may be saved annually by making the proposed transfer to the War Department, and I see no reason to doubt the correctness of these figures.

Some portion of the present Indian machinery might be necessary under the changed system contemplated by this bill, but the larger, more expensive, and worthless part could be dispensed with, and a greater degree of both economy and efficiency be at the time secured. But after all there is something higher and better to be accomplished than a mere change of agencies. There must be a thorough and radical change in the entire policy of the Government and the prevailing sentiment of our people in respect to the Indian race. Justice and humanity must take the place of cruelty and wrong, the spirit of Christianity and civilization must prompt our actions instead of lawless conquest and unbridled violence. We must discard the monstrous doctrine that the Indians alone, among all the races of mankind, are beyond the reach and influences of civilization, and must therefore be singled out for the terrible doom of extermination. Such a belief and such a purpose is too repugnant to every noble and generous impulse of enlightened Christian men to find a moment's lodgment in any intelligent mind. It is contradicted by history, and must be discarded by reason and experience. Every other nation in the world, except our own, that has had to deal with savage tribes has brought them under the influences and taught them to accept the habits and conditions of civilized life.

Indian tribes, tributary to the British government, live all along the Canadian border, and for fifty years they have made no outbreak, and committed no violence. Mexico has them in large numbers within her territory, and they make no war upon the white race of that country. Even the fierce tribes of our western frontier, who now battle for their homes and country with such savage fury, lived in peace for a hundred years with the few whites among them, and quietly submitted to the mild away and Christian teachings of the Catholic priesthood. Let us see if we cannot do what others have done. Let us try the experiment of dealing fairly and justly with the Indians by observing the obligations of our treaties and respecting a few of their rights, and see the result. Put them in the charge of the Army, not to wage war upon them, but to protect them from the intrusion, the vices, and robberies of white men, and we may at last subdue their savage instincts and have peace upon our borders.

REPEAL OF BANKRUPT LAW.

Mr. WILLIS, of Kentucky, addressed the House on the proposed repeal of the bankrupt law. [His remarks will appear in the Appendix.]

Mr. ROBBINS. Mr. Speaker, it was not until after the House took the recess this evening that I had any idea of occupying even a moment's time on this occasion. But there is an important bill which the Speaker announced would come up to-morrow morning as unfinished business; and I desire to present a few points in relation to that subject by way of explaining my course upon it and to indicate also what I conceive the House ought to do.

The bankrupt act has many defects. It is a very faulty law and in its execution it works great hardships and great injustice in many particulars. One of its objectionable features is the great expensiveness of its administration and the great amount of assets of bankrupts that is consumed in paying costs. But, Mr. Speaker, faulty as

the law may be and wise as it may be to repeal it, I submit that the repeal of the voluntary bankruptcy feature ought not to take effect immediately on the passage of the act.

If there ever was an occasion when a bankrupt law was needed in this country—and it is very doubtful whether there ought not to be on the statute-book of the United States a permanent bankrupt law of some modified character—whatever necessity has existed for a bankrupt law, it certainly exists just at this time as greatly as it ever did. Every morning paper I pick up contains columns of notices of bankruptcies and failures on the part of men of business all over this land. The present policy which has been adopted and is being carried out now in opposition to the views of many of us here—the early resumption of specie payments by forced means—is producing widespread ruin from one end of the country to the other.

Now, I submit that this is not exactly the time when we ought to repeal that law; or at least if we repeal it now there ought to be inserted in our act a provision that the repeal shall not take effect until some time hence. If the bill is amended so as to take effect on the 1st of next January, and if other features of the bill do not strike me as wrong, I should probably be willing to support the repealing act. On the 1st of next January specie resumption is to begin according to the present policy. Let us give time, Mr. Speaker, from now till then for the men who will be ruined by hundreds and thousands in that process to find some refuge, even though it be no better refuge than the bankrupt act. This may at least save them from utter beggary.

But the special reason why I speak on this occasion is that in my own State there is a condition of affairs calling upon us to grant some time to men who are in distress before the bankrupt law is utterly destroyed. Ten years ago when the State of North Carolina was reconstructed those who established the new government inserted in the constitution a provision allowing a homestead of a thousand dollars' worth of land and an exemption of five hundred dollars' worth of personal property; and the language of the provision was that it should not be subject to execution for debt. I suppose that most lawyers would agree that this homestead and exemption could only have relation to debts contracted subsequently to the adoption of that constitution. But upon the broad language of the constitutional provision the question was raised whether the homestead provision of the North Carolina constitution was not retroactive, applying as well to debts contracted before as after it. Upon that question a case was taken to the supreme court of North Carolina about ten years ago, the case of Hill vs. Kessler, in which our supreme court decided that the homestead provision was retroactive, so that debts contracted prior to its enactment as well as subsequently were entitled to its benefit. That decision has been reaffirmed in several cases which have since gone to our supreme court involving substantially the same question. The people of North Carolina under this decision have been saved from being utterly crushed by their debts. Recently, however, a case involving this question was brought up by appeal from the supreme court of North Carolina to the Supreme Court of the United States, the case of Edwards vs. Kearsey; and just ten days ago the Supreme Court of the United States reversed the decision of the State court, which had been standing for ten years, and declared that the homestead provision of the constitution of North Carolina could not be construed as retroactive; that to hold it so would be in violation of the Constitution of the United States which declares that "no State shall pass any law impairing the obligation of contracts."

Under this decision of the Supreme Court of the United States, all debtors in North Carolina who have been allowed to retain a home for their families upon the homestead secured by State law are at the mercy of their creditors to-day. I need not undertake to depict what wide-spread ruin and distress is likely to fall on that land when all the executions which are now lying in court ready to be issued shall be issued in pursuance of this recent decision of the Supreme Court of the United States. Men will be sold out by the hundred, by the thousand—utterly ruined, beggared—their wives and children turned into the fields and woods without a home, without a spot upon which to plant their feet and call it theirs, almost without a dollar's worth of property to meet the ordinary necessities of life. For the old exemption law of North Carolina was of such a limited character—so small an amount of goods was exempt from execution of debt, no land whatever being included in the exemption—that when you take away the benefit of this homestead provision, as it is taken away by this recent decision, and remit men owing old debts to the small exemption which the State law previously allowed, the distress must be indeed extensive and demand our sympathies. There may be individuals who have used the homestead law as a shelter for fraud on their creditors; but to the great majority of those who resorted to it it was the sole refuge from real want.

Now I submit that if this decision be followed just at this moment by the repeal of the bankrupt act, and this repeal is made to go into effect immediately, you will greatly aggravate the distress and hardships which will overspread my State. I have not heard from my constituents on the subject, but in the views which I present I am following only my own judgment, guided as I always am by an eye single to the interests and needs of those who sent me here.

The people of North Carolina were ruined by the war. They were very much in debt when the war closed, and very nearly all their

property was gone except their lands. They were deprived by the results of the war of the means of paying their debts. The homestead provision was inserted in the constitution as an act of mercy. For whatever reason it was sustained by the supreme court of North Carolina, contrary to the opinion of most good lawyers as to the legal soundness of the decision, it was certainly almost a necessity then that it should be sustained, to prevent intolerable evils to the people.

I am glad the gentleman of the Judiciary Committee, the gentleman from Ohio, [Mr. McMAHON,] who has the bill in charge, is here to-night. What I desire to suggest to him is that a measure be offered in the nature of a substitute for the Senate bill, and that the substitute shall contain a provision postponing the time for the repeal to take effect to the 1st day of January next.

Mr. McMAHON. If the gentleman will allow me, I will read the third section of the bill which I have been instructed to offer:

This bill shall take effect from its passage as to all involuntary proceedings except as provided in the preceding section, and as to voluntary applications from and after the 1st day of January, 1879.

Mr. ROBBINS. Well, Mr. Speaker, I am very glad to know that the Judiciary Committee propose to do exactly what I wish done, and if that amendment is proposed to the bill and this House agrees to it, I believe as a compromise I shall feel warranted in giving my vote for the bill. But I am very frank to say that unless that is done I shall be entirely unable to record my vote in its favor. I concede much that has been said just now by the eloquent young gentleman from Kentucky [Mr. WILLIS] against the bankrupt law and in favor of its repeal. While I do that, I ask that this House adopt the suggestion of the Judiciary Committee and allow the people to have the benefit of the bankrupt law until resumption of specie payments has finished its ruin. Then we can fall back upon what ought possibly to be the normal law of the country and dispense with the bankrupt law. As to involuntary bankruptcies, I am perfectly willing that the repeal of that provision shall take effect from date. It is, as to the other, the voluntary feature of the law that I desire the postponement.

I am very much obliged to the House for the attention it has given me in these brief and unstudied remarks. All I desired to do was to express my sentiments on the subject because I supposed there would be no opportunity to do so to-morrow morning when the bill comes up for action. By way of explaining my own intended votes and for the purpose of influencing as far as I could the votes of other gentlemen in favor of delaying the day for the repeal to take effect, I have submitted these remarks to-night. To take the benefit of the bankrupt law is but a dreary refuge and a *dernier ressort*, it is true; but let us agree to leave it at least a little while longer to those who may find it necessary to fly to it as the only shield against actual beggary for themselves and their families. Extend mercy to the impoverished and unfortunate.

TARIFF AND ITS RELATION TO AGRICULTURE.

Mr. MULBROW. Mr. Speaker, I am liberal in my impulses toward every industry in this country. I believe that all should be encouraged, and that none should attempt to impede the progress and prosperity of the one by invidious discrimination in favor of another, but that the arm of each should be strengthened in proportion to the benefits to be derived for the prosperity of the country and happiness of the people.

Representing an agricultural district, and sincerely believing that of all the industries of the country it is the most deserving of the fostering care of the Government, in considering the pending measure I desire to make an appeal for it. In discussing the tariff bill now pending I desire to enlarge upon the interests of this industry, the greatest of all in this country, and show some of its general needs so far as Federal legislation is concerned.

The tariff bill now before Congress, in my judgment, while in many respects it is better than the present law, and I may vote for some of its provisions if no better are offered, is not what it should be, and before it reaches any degree of excellence must be shorn of many of its imperfections.

It does not conform, as a whole, in its average percentage of customs duties which prevailed under the Walker tariff of 23½ per cent. when the country was most prosperous, but is very far in excess of it. I could but notice the striking contrast and want of harmony between the admissions, statements, and arguments of the distinguished gentleman from New York, [Mr. WOOD,] who reported the bill, and the bill itself in reference to this. He admitted that the laws on the tariff, the creation of the last fifteen years, embracing the startling number of one hundred and eight in all, were for the creation of some special domestic interest or to subserve some partisan purpose, and yet the percentage, as a whole, of the bill reported by him is insignificantly smaller than that of the present law, which he decried so much, and which he declared to be so outrageous that it is difficult to speak of it with patience, and of the provisions of which he said—

They are immoral in theory, utterly indefensible in practice, and without any merits upon which their most ingenious and well-paid beneficiaries can maintain their defense.

Listening to the declaration of his ideas, theories, arguments, and statements of facts, one would have supposed that he never could conscientiously have reported such a bill, still bearing down with

such cruel force upon the masses of the people and the principal industries in which they are engaged as that brought in by his committee and now urged upon the House.

Mr. NEAL. Does the gentleman from Mississippi hold that the consumer pays the taxes imposed by the tariff?

Mr. MULBROW. I do hold that the consumer pays every tax imposed under the tariff system.

In presenting the following forceful picture, we are disappointed that the hand that could draw and the eye that could scan it, when he took the brush of the master to apply it to the correction of its defects, should fail in so many signal particulars. He says:

The farmer, whose whole mind is bent on his agricultural pursuits, has neither the time nor opportunity to investigate the influence of the tariff tax on his household expenses; it is a fact, however, that every article he uses is either directly subject to a tariff tax or enhanced by the tariff. Let us enumerate these burdens: the farmer's house in the West, where lumber is scarce, pays either a direct or enhanced tax of 20 per cent. on the lumber his house is built of; a tax of 35 per cent. on the paint it is painted with; of 90 per cent. on his window-glass; of 35 per cent. on the nails; of 53 per cent. on the screws; of 30 per cent. on the door-locks; of from 35 to 40 per cent. on the hinges; of 35 per cent. on the wall-paper; of from 60 to 70 per cent. on his carpet; of 40 per cent. on his crockery; of 35 per cent. on his iron hollow-ware; of 35 per cent. on his cutlery; 40 per cent. on his glassware; of from 35 per cent. to 40 per cent. on the linen he uses in the household; of 51 per cent. on the common castile soap he uses; 48 per cent. on the starch. When he goes into his stable, barn, or workshop he will find that he pays 35 per cent. on the iron he uses; 53 per cent. on the halter-chains; 45 per cent. on the files and rasps he may use; 47 per cent. on the backsaw; 49 per cent. on the cross-cut saw; 38 per cent. on the handsaw, and 35 per cent. on any sheet-iron he may require. On his medicines he pays 20 per cent.; on the quinine pills he swallows, 20 per cent.; on blue-pills 20 per cent., and 40 per cent. on any medicinal preparations. The female-portion of his house cannot even go into hysteria without paying a tax of 20 per cent. on asafetida that may be required to quiet their excited nerves. On his sugar he pays a tax of at least 60 per cent. As for the clothing he and his family uses, let me enumerate the tax separately: on his wool hat he pays from 60 to 80 per cent.; on his fur hat, from 45 to 60 per cent.; on his suit of woolen clothes, some 55 per cent.; on the leather for his boots and shoes, 25 per cent.; on his hosiery, 35 per cent.; on his wife's and daughter's common alpaca dress he pays 65 to 70 per cent.; on spool-thread, 70 per cent., and on the needles, 35 per cent. If I were inclined to pursue these topics further it would take up too much time; suffice it to say that the furnishing of his child's cradle and the coffin in which he is finally buried pay a direct tax or are enhanced in price by our tariff system.

The ruinous rates of taxation here presented are enough to startle the nation, and the wonder is that it has been so long endured by a patient and suffering people, and still greater the wonder that he who has presented it so forcibly has not applied the pruning-knife with a more liberal hand to correct the evil. While he shows the enormous tax of 20 per cent. on the lumber in the farmer's house under the present law, his bill still requires him to pay, by his own showing, 15 per cent.; while under the present law he must pay on his nails 35 per cent., under the proposed he must still pay 32 per cent., and about the same on his screws, hinges, and door-locks; while under the present law he must pay 40 per cent. on his crockery, he under the proposed must pay 38 per cent.; while under the present he pays 35 per cent. on his cutlery, under the proposed he must pay 32 per cent.; while under the present he pays from 35 to 40 per cent. on his linen, under the proposed he will still pay from 30 to 35 per cent.; while on the iron he uses in his shop under the present he pays 53 per cent., under the proposed he will pay 32 per cent., and in the same proportion upon every article of which iron is a component part; while on his sugar under the present he pays a tax of 60 per cent., under the proposed it cannot be less than the enormous sum of 80 or 90 per cent.; while under the present he must pay on his wool hat from 60 to 80 per cent., under the proposed he will pay from 50 to 70 per cent.; while under the present he pays on his fur hat from 45 to 60 per cent., under the proposed he must still pay almost in the same proportion; while under the present he pays 55 per cent. on his woolen clothes, under the proposed he must still pay 43 per cent.; on leather, 25 per cent. under the present and 20 per cent. under the proposed law, and so on to the end.

In some cases, for instance those of sugar, molasses, and sirups, there is an increase of the tax, and where reduction is made in the main it is so trifling as to afford but little relief. It is true that on cotton goods the reduction from nearly 54 to 25 per cent. is considerable, and if the remainder of the bill conformed to this standard it would be a vast improvement on the existing law, and for the present might meet with general acceptance and would approach what the people demand, tariff legislation for the purpose of revenue and not for the purpose of the protection and aggrandizement of the few at the expense of the many.

Under existing tariff legislation so onerous and blighting to all other industries than manufactures the average percentage on dutiable goods is less than 50 per cent., and under that which is proposed by the gentleman from New York it will still be nearly 40 per cent. Can any practical man see much relief in this?

The principle of protection is wrong. This Government has no moral right to tax the people of Illinois and Mississippi for the benefit of those of Georgia and Massachusetts. It has no moral right to tax the cotton-planters of Alabama and Texas for the benefit of the rice-producers of Carolina and the sugar-planters of Louisiana.

In the earlier history of the country it might have been more pardonable than now to give monopoly by the General Government to manufactures, because in case of war without manufactures the people would be unable to obtain comfortable clothing. But like other unjust and harsh rules the necessities of war should be tolerated only so long as demanded by the exigencies which give rise to their

adoption. Indeed most of the arguments in favor of this theory were bottomed upon the idea of the necessity of preparing for war in time of peace and making ourselves in the event of war independent of foreign powers.

Should the different States desire the erection of manufactories upon their own domain, let them by proper State legislation furnish such aid and assistance as may be compatible with the general welfare. I would be glad to see this country, North and South, dotted over with manufactories, and thus adding year by year to the common wealth of the people; but I protest against this sweeping and consuming taxation which an oppressed people have been forced to bear until ruin and devastation have marked the fairest fields and the happiest homes.

For nearly a hundred years manufactories have had the fostering care of the Government. It has stood watch over them by night and by day. It has been their faithful sentinel from infancy to mature manhood, watching first their tottering steps of infancy and afterward their proud strides of matured manhood. It has upheld and supported them until now they stand the peers of the proudest manufacturing establishments of the world, exporting annually large quantities of their goods rivaling in artistic beauty and intrinsic value the best fabrics of the eastern hemisphere. This is surely enough for the General Government to do for them, and they can now stand alone and fight the battle of competition, relying upon their own excellence and strength furnished to them by their foster-mother.

Mr. Speaker, the condition of affairs in our country is anything but promising. The conflict between the producers who support and the monopolists who have used this Government for their own aggrandizement is not yet ended. Each party is but resting to recruit his forces for another conflict. The passage of the silver bill in the shape in which it became a law has not given satisfaction to the people, and the battle must go on until there is a disposition shown by those who have not made, and yet have reaped the benefit of, the annual harvest of the husbandman, to legislate for the benefit of those whose earnings and toil make up the wealth of the Republic and furnish the revenues of the National Treasury. There is scarcely a lull in the storm; and the dark surroundings must awaken a solicitude as widespread as the continent and as all-pervading as the light that breaks with the opening of the day.

And in this connection the question occurs, What are the primary causes of this conflict; what the reasons for distress in the land? That there are many, it must be confessed; far too many to be dwelt upon in a single speech; but one of the greatest, in my judgment, is the legislation of the past several years against our agricultural industries. If there had been a settled determination on the part of capitalists through mercenary selfishness to prostrate and destroy this overshadowing interest, they could scarcely have succeeded better than to have adopted the policy which has been sanctioned by Congress and molded into law. That they are responsible for it can scarcely be questioned. At every session, armed with the powers of bonds, banks, and manufactories, they are seen moving through the corridors of the Capitol to control legislation. Mocking at the calamities of the people, they have turned aside almost every shield sought to be lifted up for their protection. Instead of its being a Government by the people and for the people, to insure domestic tranquility, and under which life, liberty, and property are made secure, with the seal of perpetuity impressed, as was intended when its rising glory was announced a century ago, it has become in many instances one of exactions, usury, and penalties.

For a decade and more it has been conducted in the interest of the few and in violation of the rights of the many. And not satisfied yet, but encouraged by success in the past, the mercenary favorites are ever here, both by representative and in proper person, to see what still can be utilized to themselves, from the results of the toils of the husbandman, and very often obtrude themselves upon committees whose time should be employed in devising ways and means to relieve the distress of a prostrate country and a suffering people.

But no one ever hears of the farmer in the lobbies of the Capitol. Petitions but seldom come from him. A distinguished man has pertinently said:

Delegations crowd the official chambers of the Government in behalf of every human enterprise except that which is greatest of all, the cause of labor.

To supply the coffers of capitalists, Congress has robbed the agricultural interests of this country of well-nigh all that it has been in its power to despoil them of. It could not take from them the science which is independent of legislation, independent of human agency since first evoked for the benefit of mankind, and which enters necessarily every department of industry, penetrates the bowels of the earth, enters the workshops, analyzes the soil, speeds along with the iron coursers of the rail, tramples upon the billows, and defies the tempest; but wherever it could strike a blow to cripple and blight the agricultural interests of the country it has fallen with relentless power. It has laid the mailed hand of the tariff upon it. It has taxed it both directly and indirectly. It has by its legislation aided and encouraged nearly all other industries, while it has paralyzed and prostrated this. It has bloated bondholders and piled up idle money in their vaults, to be put in circulation again only on gilded security. It has destroyed the value of their lands, and caused them to be sacrificed in many cases under the hammer of marshals and sheriffs, and they ejected from their homes and the homes

of their fathers in old age, and in penury sent adrift upon the heartless charities of the world. This and more have been enforced by the action of the Federal Congress.

The people have been made to yield to the exactions of the monopolists till patience has ceased to be a virtue, and crippled, care-worn, and sore though they are, they intend to have it understood that they are tired crouching between privileged masters, and demand that their interests must and shall be respected, and the cruel fingers of legislation taken from their throats. They are rapidly learning their strength. The progressive education they are receiving in all parts of the country is rapidly developing in them the laudable ambition to have their power recognized, and the place of advantage they hold in the prosperity of this country appreciated by every department of the Government. They know full well that when they desire it they can utilize an awakened power which has so long slumbered, and mold and shape legislation to conform to their interests. The hammer of Odin is in their hands, and with it, when they see fit to use it, they can repeat the stroke of Teutonic mythology, and shake from center to circumference the political fabric of this Government. It may be said that they are becoming impatient, and not without cause, so far as Federal legislation is concerned. Although there is no interest so deeply concerned in legislation, State and national, and none that so much deserves the careful study of legislators and statesmen and the fostering care of those whose duty it is to make and execute the laws, yet it has received less encouragement, less aid, and less protection in this country than in almost any other civilized country upon the habitable globe. Nearly all the countries of Europe are in advance of us in their appreciation of this interest. England, France, Belgium, Austria, and Germany have for many years applied themselves to its encouragement. There is indeed scarcely a country in continental Europe where the important interest of agriculture is not sheltered and encouraged by state patronage, and they have shown more disposition to regulate public affairs in accordance with the wishes of the people and in conformity with the real interest of the State than has agricultural America. Even monarchical Prussia, looking to the interests of commerce and the general prosperity of her realms, is in advance of us in protection to this industry, while France has annually expended very large sums of money to promote the science and give it encouragement, and Belgium is doing a work of incalculable benefit to her farmers in making a monthly publication of the agricultural statistics, giving information to the producers of the state of the crops, so at the time of harvest they can have the data upon which they can reckon their value and not be entirely at the mercy of brokers' reports and commercial corners.

The advancement and growth of every country is marked by the advancement of agriculture. It settles new states and gives employment to unemployed labor all over the land; it constitutes the basis of foreign and domestic commerce by furnishing the products of the soil to supply the demand both at home and abroad. It employs the tonnage of ship-builders and creates the necessity which demands the construction of railways, levees, and canals. All other industries are but its handmaids. Manufactories and commerce are fed upon its bounties. It furnishes food to the laborer who puts the wheel of the engine in motion; it supplies the fiber for the spindle, and it furnishes the life-blood of every human enterprise. It is difficult to magnify its importance upon the commerce of the world. The cotton trade alone seems to have been sufficient to revolutionize it. Wherever a bale of cotton goes, it is a symbol of the intelligence, industry, and power of our country. It has been said that the abolition of the corn laws of England, opening the ports of Great Britain to American breadstuffs and provisions, was a triumph achieved by American cotton-growers over the feudal aristocracy of the Old World. It has furnished bread to the laboring masses of Great Britain and Ireland, at the same time that it clothed them, and formed the first step toward the amelioration of their condition. Who, then, can fail to understand its importance?

It is admitted by all that this country is grievously oppressed with debt. Federal, State, municipal, corporation, and private indebtedness is estimated at one-half of the entire property of the country. The interest of this great debt, and eventually the debt itself, must be paid from the agricultural resources of the country. At no time in our history was it more important to foster this interest than now. We want a balance of trade with foreign countries. We want our shipment of cotton and breadstuffs and other products of the farm to Liverpool, Bremen, and Havre to more than balance the articles of merchandise which we must import; and this very desirable thing, if our country is prosperous, must be superinduced by the products of the field which leave our shores for foreign ports for sale or exchange. We should have international commerce and a foreign as well as a home market for every product of the soil; a commerce that will send our cotton, corn, and wheat to Europe, as well as to Lowell and New York, and transport to our shores in return the fabrics of the English looms and the wine of French vineyards; a commerce that will send to South America other needful products of our soil and bring back to us in return the raw hides of Buenos Ayres and Montevideo. Adam Smith has said that "a home trade is the best trade for agriculture," but we want both, and proper legislation and proper appliances in making treaties with foreign powers will give us both.

In order to create this balance in our favor it is necessary to pro-

tect, foster, and encourage this great industry. For this and other purposes during the present session I introduced a bill to make the Department of Agriculture, already created, an Executive department of the Government, with a commissioner at its head, to be appointed by the President, by and with the advice and consent of the Senate, and when so appointed to be recognized as a Cabinet officer. For the protection of the agricultural interests and to promote the general prosperity I believe that this Department should have a voice in that branch of the Government which exercises supervisory power to the extent of the veto over the legislation of Congress, and which with the concurrence of the Senate has the power to make treaties with foreign powers. When the question of establishing a separate department for agriculture was before Congress in 1862, it was admitted by even the enemies of the bill that there was no interest in this country comparable with it. A distinguished Senator at that time who opposed that measure said in a speech upon the floor of the Senate Chamber:

All agree that agriculture is the basis of our national prosperity; that it is a paramount interest.

It is singular that, with these admissions upon the part even of those who seem to have no disposition to foster and encourage it, it has received so little in the way of Federal legislation. For more than fifteen years petition after petition from honest farmers was sent to Congress asking for a recognition of their rights by the establishment of this department, and it is a shame that, when Congress was impressed with the importance of this great interest sufficiently to establish a separate department for its encouragement, it dealt out with a niggardly hand the small pittance of importance it was to receive. As if jealous of the rights of this great body of American freemen, although every other separate department was recognized in executive councils, this seemed to be purposely excluded.

When Mr. Thompson was Secretary of the Interior he manifested his appreciation of its importance to the country by appointing a special superintendent of agriculture; and this was the first distinctive recognition of it by any of the Departments at Washington. Himself largely interested as a southern planter, he appreciated the struggle that had been made for years by the farmers to obtain the recognition by the General Government of their important business—a business which annually yields more than \$4,000,000,000 and a pursuit in which nearly one-half of our entire population are engaged and directly interested.

When the question of a Department of Agriculture was before Congress in 1862 it was charged by the opponents of the measure that ultimately an effort would be made to elevate it into an executive department, with representation in the Cabinet of the President; and so little was the great proportion of this industry recognized, so little was the power of this class appreciated, that the timid advocates of the then pending bill were afraid to claim that if such demand should ever be made it was right and that it was an interest sufficiently important and powerful to justify such recognition.

The opponents of the bill attempted to defeat its passage altogether by the subtle and adroit representation that the farmers of the country wanted no such recognition as the establishment even of a separate Department for the protection of their interests; that all they wanted of the American Congress was to be let alone; that the interests of the agriculturists would not be promoted by the movement; that that policy is best for the farmer which does the least for and interferes the least with him. This statement of the case, cunning and adroit as it is, does not deceive the intelligent men of the country connected with agriculture; for, while the cry may be, "Let the farmer alone!" they know too well that the farmer has never yet been let alone, from the time the Government was formed to the present.

It is said that Mr. Webster, in the latter days of his life, attempted to extricate the question of manufactories and the tariff as related to manufactories from the political arena, and that he strenuously and perseveringly devoted himself to that end. It is too well known how little was his success in that direction to need affirmation. Almost every Congress from the formation of the Government down to this has had before it some scheme for a protective tariff for the benefit of manufactories, and every scheme ever yet devised has been in direct antagonism to the interest of the land-holders and agriculturists of the country. Legislation has at all times in the history of our country been for the protection and encouragement of commerce and manufactories to the exclusion of agriculture. By the consolidation of the power of their wealth, they have been enabled to command to the fullest extent the attention of the Government, to the great detriment of this interest, and this, too, while the census shows that it is not only the largest interest of the country, but involves more than every other branch of industry combined.

Professor Johnston in his lecture on agricultural chemistry says that "nine-tenths of the fixed capital of all civilized nations is embarked in agriculture." Even in the State of New York, which contains the great commercial metropolis of the continent, with its enormous wealth, the agricultural interest pays four-fifths of the taxes. Of the population of this country about 46.30 per cent., or nearly one-half, are immediately engaged in this industry, while in England only 15½ per cent., or less than one-sixth, are so engaged. And just here I desire to incorporate some statistics in order that this Congress may act advisedly, not only on the pending question before us but also upon all others which may hereafter arise affecting the interests of

this class of our people. The industry of our country, as shown by the census of 1870, is divided in the main between four great classes of occupations. By that census the population of the United States over ten years of age was 28,222,945; those engaged in all classes of occupation, 12,505,923, of which number 10,669,635 were males and 1,836,288 females. They were distributed as follows:

Engaged in agriculture	5,922,471
Engaged in manufactures and mechanical and mining industries	2,707,421
Engaged in professional and personal services	2,684,793
Engaged in trade and transportation	1,191,238

Total

Those engaged in agriculture were divided as follows:

Agricultural laborers	2,885,996
Artists	136
Dairy men and women	3,550
Farm and plantation overseers	3,609
Farmers and planters	2,977,711
Florists	1,065
Gardeners and nurserymen	31,435
Stock-drovers	3,161
Stock-herders	5,390
Stock-raisers	6,568
Turpentine farmers	361
Turpentine laborers	2,117
Vine-growers	1,112

Total

This exhibits that, as before asserted, nearly one-half of our people are engaged in agriculture, while in England and Wales, which are doing more for this interest than we are, less than one-sixth are so employed.

In England and Wales at the last census (in 1871) out of 22,712,266 persons, aged twenty and upward, there was the following distribution of the occupation of the people:

Professional classes under the government	242,777
Other professions	441,325
Commercial classes	528,260
Agricultural classes	1,656,934
Domestic classes	1,633,514
Industrial classes in manufactures, &c.	6,140,202
Persons of independent means	168,985

Total

These figures present the most striking and faithful picture which can be drawn to exhibit the grand proportions of this industry in our country and portray the prominent character it plays and the important bearing it has and is destined to have upon the commerce of the world. They are dull and dry ordinarily, but when compared with those of any other industry or interest they speak with an eloquence and a power greater than any language can express.

Again, take the figures in exports from the United States in 1866 and 1867, from the official report of the Bureau of Statistics to August 23, 1877:

Exports.	Twelve months ended June 30—	
	1876.	1877.
Bread and breadstuffs:		
Barley	\$210,586	\$708,541
Bread and biscuit	622,580	620,034
Indian corn	33,365,280	41,621,245
Indian corn meal	1,305,927	1,511,152
Oats	568,583	1,150,686
Rye	480,083	1,222,760
Rye flour	39,054	39,672
Wheat	68,382,899	47,135,562
Wheat flour	24,433,470	21,663,947
Other small grain and pulse	1,136,515	876,655
Cotton:		
Sea island	941,803	1,084,509
Cotton, other unmanufactured	191,717,459	170,033,599
Fruits:		
Apples, dried	67,915	930,292
Apples, green or ripe	291,764	9-6,112
Other fruit, green, ripe, or dried	210,177	268,282
Preserved in cans or otherwise	327,422	762,344
Hay	134,017	116,936
Hemp	8,318	12,182
Provisions:		
Bacon and hams	30,666,456	40,512,412
Beef, fresh	4,552,523	4,552,523
Beef, salted or cured	3,186,304	2,950,932
Butter	1,109,496	4,424,616
Cheese	12,970,083	12,700,627
Eggs	8,300	8,429
Lard	22,429,485	25,362,665
Mutton, fresh	36,480	36,480
Rice	30,918	78,112
Cotton seed	69,605	130,062
Clover, timothy, garden, and others	1,348,730	3,463,685
Sugar, brown	3,334	6,618
Sugar, refined	5,552,587	4,586,096
Molasses	1,138,565	504,547
Tobacco, leaf	22,737,383	28,825,551
Total	433,683,364	428,715,873
Total domestic exports	644,956,406	676,115,818

There were, then, during the years 1866 and 1867, ending June 30, of the product of the farm, shipped in the state in which it left the farmers' hands, more than two-thirds of the entire exports of every character, and from every source of the country, and this estimate does not include the manufactured cotton goods, amounting in value to the sum of \$7,722,978 for the year 1876 and \$10,235,843 for the year 1877, the product of our own looms, supplied exclusively by American cotton, and which should be added to the grand aggregate after deducting the cost of manufacturing. Of the 54,162,888 hundred-weight of wheat imported by the United Kingdom of Great Britain and Ireland in 1877 40 per cent. was imported from the United States and of the 1,356,635,728 pounds of raw cotton nearly 68 per cent. was taken from us.

Again, to show its importance, take the principal field crops for the past three years.

Crops.	1875.	1876.	1877.	Value of crops of 1877.
Corn	<i>Bushels.</i> 1,321,069,000	<i>Bushels.</i> 1,283,827,500	<i>Bushels.</i> 1,340,000,000	\$670,000,000
Wheat	292,136,000	289,356,500	360,000,000	360,000,000
Rye	17,722,100	20,374,800	22,000,000	22,000,000
Oats	354,317,500	330,884,000	330,000,000	195,000,000
Barley	36,908,600	38,710,500	35,000,000	35,000,000
Potatoes	166,877	124,827,000	140,000,000	140,000,000
Cotton	<i>Bales.</i> 3,832,991	<i>Bales.</i> 4,669,288	<i>Bales.</i> 4,885,000	244,250,000
Tobacco			<i>Pounds.</i> 440,000,000	88,000,000
Total				1,754,250,000

But this does not include the products of the garden, the dairy, and the orchard, which aggregate millions more, to say nothing of the hundreds of millions that are yearly added to the wealth of the country, by the raising of horses, cattle, hogs, poultry, grasses, and other products of the farm, making a grand aggregate of about four billions annually.

There has been no difficulty at all in procuring the acknowledgment upon the part of politicians and statesmen of the paramount importance and interest of this industry, but the difficulty has been to have accorded to it substantial acts of justice.

Mr. Webster, in his agricultural address at Boston upon his return from England, said:

No man in England is so high as to be independent of this great interest, no man so low as not to be affected by its prosperity or decline.

The same is true, emphatically true with us; agriculture feeds, to a great extent it clothes us; without it we would not have manufactures, we would not have commerce; they all stand together like pillars in a cluster, largest in the center, and that largest agriculture.

The able committee who reported the bill for the establishment of a department said:

It is conceded upon all sides that the farming interest is the basis of all other interests and the primary source of national prosperity. The outline of the rise and decay of the Roman Empire could have been written in the fields which surrounded the capital as well as in her libraries and historical records. The cultivation of the earth was the first duty assigned to man, and it will of necessity be his latest work. When its culture shall have reached its highest point of perfection under the guidance of science, art, and skill, man may hope to find the whole earth transformed into the beautiful garden that he left in the olden time.

Alexander Hyde, who has contributed so much to the cause of agricultural literature and knowledge, said of it:

The adaptation of agriculture to all ranks and conditions of society is not less wonderful. The king himself without any loss of dignity can be a farmer, most of the Presidents of the United States have retired from their high positions to the cultivation of their broad acres. * * * Of Washington as a farmer, we are almost as proud as of Washington the President. Adams on his farm at Quincy, Jefferson at Monticello, Jackson at the Hermitage, were just as dignified as when in the presidential chair. Van Buren prided himself as much upon his large patch of cabbage as upon his sharp diplomacy at Washington. Clay surrounded by his short-horns at Ashland, as when gazed upon with delight by his peers in the Senate Chamber. The massive intellect of Webster was as conspicuous in the guidance of his farm at Marshfield as when he guided the affairs of state.

Prince and peasant alike feel that in cultivating the soil they are fulfilling the mission which the Creator gave to man when he placed him in the Garden of Eden.

Stephen A. Douglas said of it:

Agriculture in this country is highly respectable, and at the same time a most attractive pursuit. It is not only resorted to as a means of acquiring an honest independence, but as a dignified and pleasurable occupation it is sought by men of science and letters, by statesmen and warriors, merchants and navigators; in short, by all who have gathered wealth, honor, and distinction in other pursuits of life.

You may recall with pride that illustrious race of cultivators who, from Cincinnati to Washington, graced and ennobled agriculture, and which in turn graced and ennobled them.

Agriculture stimulates every species of industry; it is the parent and supporter of them all. What, I would ask, would be the present condition of our foreign commerce had it not been stimulated by the increased productions of agriculture, what the condition of our mercantile navy, in steamers and sailing ships outstripping that of the first nation of the globe? It is the bulky products of agriculture that make up freights and furnish the principal portion of our foreign exchange.

The allusion of Mr. Douglas to a mercantile navy in steamers and

sailing-ships was when the legislation of Congress was more friendly to this industry than it has been for a past decade and more. It was when ships with a tonnage of over five millions lay ready in the ports of our country to bear the products of the labor of the people to all parts of the earth and bring back in exchange the necessities and luxuries which soil, climate, and the habits or necessities of other regions enabled them to produce for us more cheaply than we could for ourselves; ships that have been driven from the seas by our system of tariff taxation for the benefit only of manufacturers. It was at a time when our Republic was gradually pushing to the front among the foremost nations of the earth; when the white sails of our vessels were to be seen on every sea and our flag was floating in every port, the symbol of our rising grandeur; with a marine that was scarcely inferior to that of Great Britain, and manned by sailors and seamen whose prowess and dauntless courage was recognized with admiration by every people in every country, and with a place in their estimation of foemen worthy the steel of the gallant tars of a Van Tromp, a Nelson, or a Decatur.

The farming class justly complain that, while there has been no stint of words of adulation for them and their avocation, yet they are practically ignored. They now want substance, not shadow.

It is a singular fact that it has received so little recognition from the Government that it was not until 1840 that it was even noticed and included in the Federal schedule. Since the organization of the Government only \$3,216,114.37 have been appropriated for its promotion. As to its neglect in comparison with other Departments, the following table tells its own tale:

Expenditures for 1877 and 1878.

Departments, &c.	1877.	1878.
Department of State.....	\$1,188,797 50	\$1,147,660 48
Treasury Department.....	14,837,357 47	12,784,718 94
War Department.....	7,337,675 02	1,983,902 73
Military establishments.....	29,651,769 86	
Navy Department.....	388,588 24	365,966 67
Naval establishments.....	12,739,790 90	14,536,432 90
Department of the Interior.....	3,418,432 89	3,450,627 14
Indian affairs.....	5,147,897 63	4,877,960 00
Post-Office Department.....	567,860 29	930,540 20
Postal service.....	5,917,498 00	2,939,725 00
Department of Justice.....	385,876 20	412,622 05
Department of Agriculture.....	174,686 96	208,640 00

Yet our farmers have submitted to all of these discriminations against them almost without a murmur. This unobtrusive class of our population, with always power enough to dictate their own terms in the organization of the different departments of the Government as well as the legislation of Congress if they had been disposed to exercise it, either from inertia, indifference, or an overweening confidence in the rest of mankind, have until of very late years permitted their great avocation to be practically ignored in the administration of Federal power. But I repeat that the time is now rapidly coming when it can be no longer ignored. The population along the great Mississippi Valley and its tributaries, embracing a territory of over two-fifths of the national domain, to say nothing of the other great agricultural regions, are rapidly becoming educated to understand their interests and to insist upon their rights. They are learning to properly regard their calling, not as an art merely, in which the few are concerned, but a great avocation, worthy of the study of the best minds of the country, and that it is a substantial, powerful industry, deserving the fostering care of the Government which it supports and upholds. The farmers of Kansas and Illinois and Ohio and other great agricultural regions are moving with determination in the matter, and they have through their organized societies passed formal resolutions approving of the objects of the bill which I have introduced making the Department of Agriculture an Executive Department of the Government, and have earnestly requested their members of Congress, irrespective of party, to give their influence to and cast their votes in favor of the measure.

The greater the number of our people that can be turned into this channel of industry the more will our prosperity be apparent; but it is a painful and startling fact that the proportion of our population engaged in agriculture is becoming smaller year by year. The census of 1820 exhibited the fact that of our population for both sexes 83 per cent. were engaged in agriculture, while the census of 1840 shows only 77 per cent., in 1850 only 50 per cent., and in 1870 only 46.31 per cent. If therefore behooves those interested in this industry to arouse themselves to the necessities of the hour, and strike for the protection of their interests while they yet have the power. Every man who ceases to be a practical tiller of the soil, to that extent, by the axiomatic laws of political economy lessens the substantial wealth of the Republic. Ceasing to produce he yet consumes, and every ounce of food taken to sustain his life is so much extracted from the common wealth of the people. And not only those immediately interested, but every one who wishes to see "life in the old land yet," who desires her importance increased and her commerce extended, should engage in the task of encouraging this industry.

The influence of American agriculture upon the commerce of the world ought to be immense and it ought to be extended year by year

as its importance increases. Reciprocity treaties should be made with foreign countries, opening a market for their surplus productions. Restrictions, where they exist, should be removed and facilities afforded for seeking the best markets of the world in which to sell our surplus productions. In order to accomplish these desirable ends, a mind devoted to this subject at home and abroad, made comprehensive by study and research upon the great questions connected with this interest, and which will have the responsibility of its fostering care, should be in a position where it might be accomplished as far as human agency could effect it; a man who would be thoroughly posted as to the amount of subsistence in the country and its true value, tested by the laws of demand and supply, through a system of statistics which should be organized under his direction; one who could advise exportation and importation as the ability or wants of the country might demand, to prevent suffering on the one hand or extortion on the other; an officer who could advise the planters upon reliable data of the probable value of their crops and save to them millions which go into the hands of speculators annually in consequence of their want of information as to the value of their property; one who could be present in person when the subject of treaties is being discussed, and to see how they affect this great interest. It is difficult to magnify the importance of the treaty-making power as affecting agricultural industry. The diplomatic and consular systems seem to have been organized to regard only the interest of commerce and manufactures; but they could be made equally subservient to that of agriculture and its co-ordinate branches. The same reports which are required in reference to commerce and manufactures should also be required in regard to the different agricultural productions and the improvements which from time to time may be introduced in their culture, and such other general information as would tend to promote and encourage them. Not only this, but a great variety of legislative enactments need constantly the guiding hand and frequently the counsel of one whose mind is trained in these channels of interest, whose business it is to know all that concerns their prosperity, and whose duties require that he shall study and learn and watch all legislation that imperils them.

And at no period in the history of our country, I repeat, does this seem to be of more importance than now. Under the discriminations of Congress against it a general pervading gloom has been spread over the face of the country. In all that region which stretches itself from the shores of the Potomac to the Gulf of Mexico and across the Mississippi, where all the arts of civilized life once triumphed, the arm of industry is now paralyzed; large and ample estates, once the seats of opulence, which supported their proprietors in affluence and comfort, are now thrown out to waste and decay. And I am told that the effect is scarcely less perceptible in the great Northwest. Everywhere they are deplorable in the extreme. Property of all kinds is depreciated beyond example; a gloomy despondency beginning to prevail everywhere; estates are sacrificed to pay the last installment on obligations given for the purchase money; nobody will buy because there is no protection for the lauded proprietor. Who can look upon this horrible state of things, in a country upon which God has lavished the most splendid gifts of nature, without concluding that there are defects somewhere in the governmental machinery which prevent its people from being prosperous? What is it that withers and blasts these choicest bounties of nature except the miserable legislation enacted with a total disregard of the intelligence of these bounties? Who can believe that this disregard would have been so long persevered in had there been in the executive department of the Government, clothed with the power of the veto, and upon which, with the approbation of the Senate, is bestowed the power to make treaties with foreign countries, a wise man to invoke the aid of these powers when the interest of agriculture was imperiled? The legislation—at least much of it—which has infringed upon these interests I believe would have been spared had there been such a man in the Cabinet of the President whose duty it was to point out its danger and appeal for its safety. Who believes that the present tariff law, which trenches so harshly against the farmers of the country, would ever have been enacted, or, if enacted, would have been so long allowed to remain to spend its cruel force against them?

The tariff! this extortionate foe of agricultural industry, nurtured by the Government in the interest of manufactures, has pursued it with greedy and cruel exactions. The enormities of it have been very properly criticised by Sidney Smith, in language published many years ago, and the caustic criticism then made by him could be truthfully intensified if he had written after the existence of the present law. Says he:

We can inform Jonathan what are the inevitable consequences of being too fond of glory. Taxes upon every article which enters into the mouth, or covers the back, or is placed under the foot; taxes upon everything which is pleasant to see, hear, feel, smell, or taste; taxes upon warmth, light, and locomotion; taxes in everything on earth, or everything that comes from abroad or is grown at home; taxes upon the raw material; taxes on every fresh value that is added to it by the industry of man; taxes on the sauce which pampers man's appetite and the drug that restores him to health, on the ermine which decorates the judge and the rope which hangs the criminal, on the poor man's salt and the rich man's spice, on the brass nails of the coffin and the ribbons of the bride; at bed or board, couchant or levant, we must pay. The school-boy whips his taxed top, the headless youth manages his taxed horse, with a taxed bridle, on a taxed road, and the dying Englishman, pouring his medicine, which has paid 7 per cent., into a spoon which has paid 15 per cent., flings himself back upon his chintz bed, which has paid 22 per cent., and expires in the arms of an apothecary who has paid a license of a hundred pounds for the privilege of putting him to death. His whole property is then immediately

taxed from 2 to 10 per cent.; besides the probate large fees are demanded for burying him in the chancel; his virtues are handed down to posterity on taxed marble, and he is then gathered to his fathers to be taxed no more.

In this country under the name of tariff more than two thousand articles, the most of which either directly or indirectly are used by the farmer, are now subjected to this crucible; and a ceaseless stream is flowing from the veins of the husbandman, from wounds inflicted by the stealthy stiletto of the tariff.

A thrust at the system has been made with a keen and polished rapier in the hands of the gentleman from New York, [Mr. Cox.] He says:

The farmer starting from his work has a shoe put on his horse with nails taxed 67 per cent., driven with a hammer taxed 54 per cent., cut a stick with a knife taxed 50 per cent., hitches his horse to a plow taxed 50 per cent., with chains taxed 67 per cent. He returns to his home at night and lays his wearied limbs on a sheet taxed 50 per cent., and covers himself with a blanket that has paid a tax of 250 per cent. He rises in the morning, puts on his humble flannel shirt taxed 80 per cent., his coat taxed 50 per cent., shoes taxed 35 per cent., and hat taxed 70 per cent., opens family worship with a Bible taxed 35 per cent., and kneels to his God on a carpet taxed 250 per cent., sits down to his humble meal from a plate taxed 40 per cent., with a knife and fork taxed 35 per cent., drinks his cup of coffee with sugar taxed 70 per cent., seasons his food with salt taxed 130 per cent., pepper, 297 per cent., and spice, 397 per cent.; he looks around on his wife and children all taxed in the same way, takes a chew of tobacco taxed 100 per cent., and leans back in his chair and thanks his stars that he lives in the freest and best government under heaven.

More than two hundred millions annually are collected from the people by the tariff. Its iron fingers are on the throat of every man in the land, but upon none does it close them with such inexorable and merciless grasp as upon the tiller of the soil. Pretending to be for the purpose of revenue, tariff laws are for the protection of favored monopolists. They are deceptive in their title, fraudulent in their pretexts, oppressive in their exactions, partial and unjust in their operations, and ruinous alike to commerce and agriculture.

The progress of the tariff legislation in this country presents a study of great interest, and it is one of very deep concern to our entire people. So subtle has been its movements, so deceptive its demands, so artful its pretexts, so covert its attacks on other industries than manufactures, that but few of the people of the land have been aware of its stealthy tread, secret approaches, and its silent pressure and relentless grasp upon them.

In 1833 the rate on goods paying duties was 31 per cent., and this rate continued until modified by what was known as the Walker tariff in 1846, which continued in force until 1857, and under it the duty on imported goods was 23½ per cent., when it was again reduced to 19 per cent. In 1862, under the Morrill tariff, it rose to over 33 per cent., and in 1866 to 47 per cent. on dutiable imports. Since which time it has remained with but little modification or change, and its crushing power has been exercised and has been continued to grind agricultural industry into powder. But, say the protectionists, protection gives us a home market, and therefore a high tariff benefits the farmer. The fallacy of this idea is aptly and tersely stated by the gentleman from Illinois [Mr. MORRISON] in a speech delivered upon this subject in the last Congress. Says he:

The home market is another cheat and catchword of the protectionists. After protection unequalled for half a generation the home market has not come to us, but is as far as ever removed from the fields of agriculture; our surplus grain has outgrown the wondrous growth of our population, and it has not abated and will not abate. Not only is this true of the country generally, but it is true of Pennsylvania, the chief seat of protection. We now produce and export to the person about as much as in 1860. Pennsylvania produced to the person in 1860 4½ bushels of wheat, 9½ bushels of corn, and in 1875 4½ bushels of wheat and 11½ bushels of corn to the person; and so the pretense of building a home market for the products of grain fields is a sham and a cheat.

In 1860 5 per cent. of our manufactures had to seek a foreign market, in 1875 only 2 per cent. found a market abroad, 98 per cent. at home; for manufactures protection has given a home market. In 1860 not 10 per cent. of our own agricultural products were exported for market, estimating by export of wheat and corn; and in 1875 22 per cent. of our whole agricultural product had to find a foreign market in competition with the products grown by that "pauper labor" against which we have been protecting ourselves at a cost of unnumbered millions. For agricultural products protection has not and cannot give a home market.

Seek the world over and a parallel scarcely can be found where agricultural interests are so completely subordinated to those of manufactures as in this. Do our farmers know that to-day they pay for the protection of manufactures five times as much as the farmers of Great Britain, four times as much as those of France, six times as much as those of Germany, twice as much as those of monarchical Russia or Spain, four times as much as those of Italy, and twenty-five times as much as those of Belgium?

Under the system of a protective tariff established by the American Congress the agriculturists of this country must pay tribute to manufacturers year in and year out, and with all their numbers and their strength they have up to this time seemed powerless to resist it. Let Congress hereafter do justice to them by reducing the tariff on imported goods and aid them by placing in the executive council a friend to them and to their industry, whose position will entitle him to the ear of the President, and whose duty it will be to scrutinize every treaty with foreign powers and watch every act of legislation by Congress, and to advise him how far they encourage or militate against this interest.

I care but little what you may call him, whether a Commissioner or Secretary of Agriculture, it is substantial results which our farmers seek. Should it be said by those who oppose this proposition that it is an innovation upon established ideas, I reply that it is no new thing to add a Cabinet minister to the Executive Department when the interest of the people demand it. Go into the President's room

of the Capitol and upon the walls you first see the picture of Washington, and then on the panels around are the heads of five Departments: Thomas Jefferson, Secretary of State; Alexander Hamilton, Secretary of the Treasury; Henry Knox, Secretary of War; Samuel Osgood, Postmaster-General; and Edmond Randolph, Attorney-General; and all of these were not at first recognized as Cabinet officers. Indeed, the Postmaster-General was not recognized as an officer of the Cabinet for many years after the creation of that Department. His first recognition was, I believe, about 1830, by President Jackson. The Department of the Navy was not created until 1795, nearly nine years after Washington became President, and after the five Departments before named were created. And the Department of the Interior was not established until 1849. The idea, then, of creating a new Department is not novel, and the only pertinent question to be asked is, is it demanded by the necessities or best interests of the country? There are but few duties now devolving upon the present members of the Cabinet, when viewed with reference to substantial interests, at all comparable with those which would devolve upon a Secretary or Commissioner of Agriculture.

Under the present laws the Secretary of State is intrusted with the duties assigned to him by the President relative to foreign affairs, to correspondence, commissions or instructions to or with public ministers or consuls from the United States, or to negotiations with public ministers from foreign states or princes. The Secretary of War, to duties relative to military commissions, military forces, warlike stores, or other matters respecting military affairs; to collection of flags, transportation of troops; to meteorological observations and storm-signals. The Secretary of the Treasury, to digest and prepare plans for the improvement and management of the revenue and for the support of the public credit; superintend the collection of the revenue; grant warrants for moneys to be issued from the Treasury in pursuance of appropriations by law; and, generally such services relative to the finances as he shall be directed to perform; to the collection of duties and imposts and tonnage, and to regulate the appraisal of imports. The Attorney-General, to give his opinion to heads of Departments on any question of law arising in the administration of his Department; argue causes in the courts of the United States in which the Government is interested; exercise general superintendence and direction over the attorneys and marshals and other officers of the United States courts of all the districts in the United States and Territories as to the manner of discharging their respective duties, and publish his opinions at the expense of the Government. It is the duty of the Postmaster-General to establish and discontinue post-offices, to control the expenses incident to the service of the Department; to superintend generally the business of the Department, and execute all laws relative to the postal service and make postal arrangements and treaties with foreign countries. The Secretary of the Navy is to execute orders from the President relative to naval stores and materials and the construction, armament, equipment, and employment of vessels of war, as well as other matters connected with the naval establishment, collect flags, standards, and colors taken from the enemies of the United States by the Navy, and have prepared for navigators nautical books, charts, and maps relative to and required in navigation. The Secretary of the Interior is charged with the supervision of public business relative to the census, to the public lands of the Indians, to pension and bounty lands, to patents for inventors, to the custody and distribution of publications, to the office of education, to the Government Hospital for the Insane and the Columbia Asylum for the Deaf and Dumb, and to the exercise of the powers and duties prior to 1873 performed by the Secretary of State in relation to the Territories.

This constitutes a brief summary of all the duties of importance relating to the positions of the members of the Cabinet as at present organized; and while I am not disposed to belittle their importance or to detract from the magnitude of the duties confided to them, yet I submit that but few if any are of more commanding concern than those I have mentioned which would devolve upon the head of the Department of Agriculture should it be made an executive department of the Government.

It may then be pertinently asked again why does Congress with parsimonious hand dole out the protection and encouragement due to this great industry, and why bleed it year by year with the stiletto of the tariff? There is no interest, either great or small, that has ever asked and received so little from the Government. Modest and unpretensions in their demands, suffering from year to year for the benefit of every other interest in which any part of our people are concerned, it does seem that their patience and long suffering entitle them now surely to something more than a callous ear. When they ask that their great interest which underlies the prosperity of the whole Union shall receive the graceful recognition to which it is entitled, by giving it representation in the Executive Department of the Government, and by making annual appropriations commensurate with its importance, and arresting the greedy hands of tax-gatherers, these reasonable requests surely should be granted.

I know that this appeal will fall idly upon the ears of those who desire to use the Government for purposes of self aggrandizement and unhallowed gain, but I speak for those whose hands are unstained by plunder, upon whose shoulders the burdens of the nation must fall, and I can but indulge the hope that the dawn of a better day is at hand and that Congress will no longer refuse to accord the aid, encouragement,

and protection to this industry which is demanded by every consideration of patriotism, duty, and public policy. But should it be refused, I believe that the time will speedily come when they whose rights have been menaced and trampled under foot will dictate the imperial decree that they are the fountain of power and will take care that their interests are no longer jeopardized and their rights no longer violated. We should not wait for this, for when and only when agriculture is prosperous the country revives; only then languishing industries start into life, hope and confidence are inspired, poverty is converted into plenty, barrenness into fertility, stagnation into progress, idleness into industry, and despair into hope.

PROTECTION TO AMERICAN INDUSTRY.

Mr. TOWNSEND, of Ohio. Mr. Speaker, the tariff question is not a new subject of inquiry and controversy. It has received the profound study and earnest discussion of generations of statesmen, both in the Old and New World, and has vexed and perplexed the nations for centuries. The names of some of the most distinguished statesmen and publicists of England, France, and Germany are inseparably associated with the discussion of this subject and the antagonistic policies of protection and free trade which have proceeded from it. In our own country it has been, since the foundation of the Government, a fertile source of controversy, to which many of the most illustrious men in our history have contributed their great ability and high authority.

Remembering, therefore, the vast consideration, continued through generations, which these policies have received, the mass of argument, theoretical and practical, bestowed upon them, and the great ability with which their respective merits and demerits have been illustrated, I have not the presumption to suppose that in addressing myself to this subject at this time, which I shall do with as little elaboration as possible, I shall either add materially to the weight of what has hitherto been said in behalf of the cause that I espouse or greatly weaken the influence of what has been uttered in support of the opposing policy. But whatever the effect, whether it be much or little, I obey the promptings of a sense of duty as the representative of a community deeply interested in the action that Congress shall take upon this question of the tariff, when I seek to give direction to legislation in this particular, which I am convinced beyond all doubt is the best the highest interests of the country demand.

Sir, there is a very wide-spread apprehension, arising from the proposed bill by the majority of the committee, which I believe to be well-founded, that the policy of protection to American industry reinaugurated in 1861, and which for nearly seventeen years has stood as a grand bulwark against the overflow of the cheap-labor products of the furnace, the forge, and the factories of Europe, and behind which the inventive genius, the industrial energy, and the commercial enterprise of our people have been encouraged and permitted to grow and expand, is in imminent danger.

Mr. Speaker, the advocates of protection, the friends of American industry, of the laborer not less than the capitalist—for the latter is not more deeply concerned in this question than the former—must meet this issue, not with abstract theories that are comprehensible only to the learned few, but with the impressive and irresistible logic of facts and experience. Upon this plane the protectionists need have no fears or misgivings. The history of protection in the United States is a vindication of that policy complete and overwhelming, while that of free trade presents some of the darkest and most deplorable chapters in the nation's experience. Let me pass in brief review some of the salient facts of the record.

The policy of protection was first asserted in 1789. In March of that year, "the first petition presented to the first Congress, before Washington's inauguration, came from the mechanics and other citizens of what was then the town of Baltimore," asking that Congress by imposing protective duties on foreign manufactures would render the country "independent in fact as well as in name." The citizens of New York, Boston, Philadelphia, Charleston, and other cities presented petitions of like character. A bill introduced in the House of Representatives by James Madison embodied the views and wishes of the petitioners. This bill was passed, and on the 4th day of July, 1789, received the signature of Washington and became a law. It was our first protective tariff, "and it was the first act of general legislation passed under the new Constitution of the United States." This act settled the right as well as the expediency of impost duties. In 1791, Alexander Hamilton, then Secretary of the Treasury, sent to Congress an argument for protection to American industry, which in its masterly and statesman-like treatment of the subject has not been since surpassed, and which supplied the principles upon which the tariff legislation down to 1816 was chiefly based. It is to be observed, however, that the protection sought by the legislation of this period was but partially realized, for the reason that the advantage enjoyed by Europe in capital, skill, and other resources, was too great to be overcome by the duties imposed, the general range of which was not above 15 per cent. England continued to send us, up to the beginning of the war of 1812, large supplies of manufactured goods, which were thrown upon the American markets at prices less than the same articles were sold at in London or Liverpool, sacrificed to the object of repressing and breaking down our rising industries. With the doubling of duties at the beginning of the war of 1812 and the exigencies of the country, our manufacturing industries were greatly

stimulated, and in the succeeding three years grew vigorously—many new industries being created. The arrival of peace found the country, says Mr. Greeley in his *Political Economy*, "dotted with furnaces and manufactories which had suddenly grown up during the few last preceding years, under the precarious shelter of embargo and war. These, not yet fairly established in a country whose commerce was almost wholly external or confined to the seaboard, steam navigation being yet in its infancy, and canals or railroads unknown among us, found themselves suddenly exposed to a determined and resistless competition from abroad."

To meet this the tariff act of 1816, chiefly the work of John C. Calhoun, then a protectionist, and William Lowndes, was devised. But it proved utterly inadequate, except as to two or three comparatively unimportant industries. Great Britain continued to flood the American markets with the products of her manufactories at prices with which the home manufactories found it impossible to compete, and one by one in rapid succession American manufacturing establishments were closed and products of American manufacture disappeared from the markets. "All the devastation of the war," observes a distinguished writer, "had been nothing compared with the devastation and losses of manufacturing capital under the tariff of 1816." "Our manufactures" says another, "went down like grass before the mower, our agriculture and the wages of labor speedily followed. In New England I judge that fully one-fourth of the property went through the sheriff's mill, and the prostration was scarcely less general in any part of the country. I judge that more New England families were reduced from comfort to want in the years 1817-'20 than in the next half century." The testimony of this nature would fill volumes and illustrates most forcibly the disastrous effect of that sort of tariff legislation which is now demanded by a considerable faction under the specious title of a tariff for revenue with incidental protection. Under such a tariff from 1816 to 1824, a few unimportant industries did indeed escape the assaults of foreign competition, but these trifling exceptions were not sufficient to relieve this period of its memorable character as the most disastrous in our early history, a period referred to in 1832 by Henry Clay, as without a parallel since the formation of the Government in its exhibition of "wide-spread dismay and desolation." Out of this universal gloom of "dismay and desolation" the country was lifted by the tariffs of 1824 and 1828, and there ensued a period of seven years in striking contrast to a similar term that had just preceded. Never were the comparative merits of two antagonistic policies more fully and decisively illustrated. The energies of the country were revitalized, the spirit of enterprise again walked abroad in the land, capital sought labor, and labor responded to the appeal, and in their union and mutual efforts each won honorable and just reward. The nation grew in wealth and everywhere the people were prosperous, tranquil, and happy. At the very height of this grand fruition and splendid promise came the compromise tariff of 1833 with its provision for a gradual reduction of duties on manufactures to a revenue standard.

The cause of the business revulsion and the financial disaster of 1837 is as clear as the sun at noonday without a cloud in the sky, as the following figures will show:

Years.	Value of imports.	
	Free of duty.	Paying duty.
1832.....	\$14,247,453	\$86,779,813
1833.....	32,447,950	75,670,361
1834.....	68,393,180	53,128,152
1835.....	77,940,493	71,955,449
1836.....	92,056,481	97,923,584
1837.....	69,250,031	71,739,186
1838.....	60,860,005	52,857,399
1839.....	76,401,792	85,080,340
1840.....	57,196,204	49,945,315
1841.....	66,019,731	61,925,757
1842.....	30,627,846	69,534,061

These facts are worthy of careful study, and as like produces like, we ought to know that a reduction, as proposed by the bill before us, of the tariff in 1878 will produce the same effects upon the country that was produced by the ruinous tariff of 1832 and 1833. After its passage the country was flooded with foreign manufactures, and our manufacturers were driven to the wall and became bankrupt. There are hundreds living to-day and in active business, there are men in this House who still vividly remember the unhappy era from 1835 to 1842, with that desolating year of 1837 standing like a great, black, appalling chasm in a wilderness of wreck and ruin. This compromise measure, this "tariff for revenue only," bore its legitimate fruit in the final collapse alike of industry and revenue, and the despoiled and suffering country again turned to protection for the restoration of its crushed and shattered industries. It was given in the tariff of 1842, and for four years business revived, and by comparison the country was prosperous; but hardly had the wounds of the preceding disaster healed over when the act of 1846, reducing duties, stepped in to reverse the wheels and start the country again upon a retrograde march. Writing of the effects of the new tariff, Professor Bowen, in his *Principles of Political Economy*, states "that within three years

after they began to be felt one hundred and sixty-seven out of three hundred and four blast-furnaces in Pennsylvania were out of blast and the remainder produced 49 per cent. less iron than the quantity previously manufactured, while the product of the two hundred establishments for the manufacture of wrought iron in Pennsylvania was reduced 33 per cent." He estimates also that in the iron business of the country alone forty thousand laborers were thrown out of employment. England promptly accepted the invitation which the reduced tariff offered her, and flooded our markets with her products, at first at extremely low prices, but when American manufacturers were driven to the wall, former experience was repeated, "the prices of foreign commodities were advanced and the foreign manufacturer reaped a bountiful harvest." But in spite of this disastrous and humiliating experience, Congress in 1857 legislated in the still further interest of the foreign manufacturers, and the prompt response to this aggravation of folly was the financial crash of that year, predicted by the advocates of protection as an inevitable consequence of the abandonment by Congress of the industrial interests of the country.

We shall not find in our history any term of four years more prolific of evils to the material affairs of the people of the United States than were the years 1857, 1858, 1859, and 1860. At no previous time in the country's history did want and wretchedness hold so wide-spread a reign. Never before was industrial prostration so universal and complete. Never before was the investment of capital less profitable or the rewards of labor more meager. For fourteen years we had tried a tariff for revenue only and most expensive and bitter was the price the country paid for the experiment. The alternative presented was one of utter and universal bankruptcy, public and private, or a return to the policy of protection. The Morrill tariff became a law in 1861, and was the beginning of a series of protective enactments which are still in force. What that measure and those which have supplemented it accomplished for the country is within the experience and knowledge of every member of this House. It found the country prostrate, capital without confidence, and labor without demand, sloth in the marts of commerce, hungry thousands appealing for bread, profitless ventures sapping the foundations of wealth, the rust of inaction eating its way into the very vitals of the national being. The Government, sharing inevitably in the common disaster, found its resources insufficient to meet the regular and necessary demands upon it, and the administration of James Buchanan was compelled to borrow money at a rate of interest which bore humiliating testimony to the deterioration which the national credit had suffered. The remedy supplied for the cure of the prevailing evils operated with immediate and wholesome effect. It may be fairly assumed, I grant, that the occurrence of war coincident with the enactment of this tariff operated in an important degree as a stimulus to the growth of certain industries; but without attempting to estimate the force of this influence, I have the right to say, reasoning from analogous circumstances, that the general effect produced in the restoration of industrial activity and the return of the country to a condition of prosperity was due chiefly to the re-establishment of the policy of protection. The Morrill bill was reported to the House of Representatives in March, 1860, and passed that body in the following May; and my own recollection is that the work of improvement began in anticipation of its assured final adoption by Congress, so that when it passed the Senate in February, 1861, and received the approval of President Buchanan, the current of the new industrial life had already been set in motion.

No man at this day, I venture to presume, will assert that without this policy the country could have maintained its energies during the four years' desperate struggle from 1861 to 1865, or so speedily repaired the desolating effect of that contest after its close. The protective tariff of 1860-'61 was as necessary to the preservation of the National Government as were the courage, patriotism, and self-sacrificing devotion of the people, for it stimulated the development of those resources which supply the sinews of war, and rendered us in large measure independent of a nation whose capitalists generally were not, in that trying era, the friends of the Union; and when the bitter trial was passed it remained as a beneficial influence, encouraging the people to increased endeavor, keeping open the workshops of the land for the employment of the thousands returned from military to civil life, and adding month by month, and year by year, to the wealth, power, and prosperity of the nation. But, sir, the argument in behalf of protection does not stop when it is shown that it is the only policy under which this country has ever attained to prosperity or can hope ever to reach that development of its vast resources or acquire that commanding position among the nations of the earth which ought to be the aspiration of every patriotic American to hope it may yet achieve. The facts are no less conclusive in support of the proposition that a wise system of protection, such as we have had for the past seventeen years, ultimately cheapens the prices of commodities to consumers. A few points in illustration of this will be pertinent. The wholesale price of heavy domestic sheetings ranged as follows, after our cotton manufacturers were protected: 1816, 30 cents a yard; 1819, 21 cents; 1826, 13 cents; 1829, 8½ cents; 1843, 6½ cents. English calicoes made in Manchester once sold in this country at from 25 cents to 40 cents a yard. The printing of American calicoes was not successful until after the passage of the tariffs of 1816 and 1824, because not sufficiently protected. Since the latter year the prices by the package of Merrimac prints, equal to the best Manchester, have ranged as follows: 1825, 23 cents per yard; 1830,

16½ cents; 1835, 16 cents; 1840, 12 cents; 1845, 11 cents; 1850, 9½ cents; 1855, 9 cents; 1875, 8 cents, which is about the present figure.

Domestic brown drillings were first made about 1824, and sold at 15½ cents a yard by the package. In 1860 the price had fallen to 7½ and 9 cents. The domestic manufacture of linen lawn was introduced under the stimulus afforded by the tariff of 1812, and were first sold in 1847. Similar goods imported from England in 1846 were sold at from 28 cents to 30 cents. Both foreign and American lawns were sold in 1847 at from 12 cents to 15 cents. American lawns subsequently sold as low as 9 cents a yard, and foreign lawns were driven from the market. In 1842 the prices of towel-cotton fabrics declined from ½ to ¼ of a cent per yard. Within three months after the passage of the tariff, imported cotton of an inferior quality sold at 22 cents a yard before a single cotton mill existed in the United States. "When a protection duty of 8 cents a yard was imposed and cotton mills built, the competition between the English and American manufacturers soon reduced the price of cloth to 7 cents a yard." A similar state of facts might be cited respecting the course of prices of standard woolen goods under protective tariffs.

The record of prices in the steel and iron trade, under low and high tariffs, is still more forcible and convincing as to the cheapening effect of protection; and indeed there is hardly an article manufactured among us the production of which has grown up under protective tariffs that is not to-day sold at a greatly cheaper price than was paid for it when its supply came exclusively and chiefly from the foreign manufacturer. The conclusion is inevitable, therefore, that protection tends to lower the price of manufactured goods, while it tends also to increase the market value of agricultural products and the wages of labor. These irrefutable facts wholly dispose of the free-trade assumption that protective duties are a tax upon the consumer. Upon this head Mr. Greeley, summing up the results of his investigations, observes:

While there has been an advance in the prices of our agricultural staples since the passage of our first decidedly protective tariff in 1824, there is no single manufacture protected by that tariff and by its protective successors which has not been reduced in cost to the great mass of our consumers; and that reduction is generally greatest on the articles which have been most stringently and persistently protected. Iron and its manufactures, woolen fabrics of all kinds, window-glass, delaines, ginghams, and even salt illustrate this truth.

No less erroneous is the argument that protection is the servant of monopoly, the facts being that the fault is rather in the opposite direction, since it not unfrequently operates too vigorously as an incentive, and stimulates to competition. There is, perhaps, no locality in the country which furnishes a stronger illustration of all these propositions than the congressional district which I have the honor to represent. When the present tariff went into operation there was scarcely a respectable manufacturing establishment in or about Cleveland, and the value of the annual product of the generally starving apologetics for manufactories would be overrated at \$1,000,000. To-day, within a territory less in extent than that of the District of Columbia, there are a score or more of establishments, among the largest of their kind in the country, with a host of smaller ones, and in the five or six years preceding the panic of 1873 the value of the annual product of these establishments ranged from twenty-five to thirty-five millions of dollars. In the decade from 1864 to 1874 the production grew with wondrous rapidity, and the progress of the community in wealth and all the conditions which contribute to the prosperity, comfort, and happiness of a people furnishes a notable chapter in the history of the country's advance in material possessions and power.

In order to further illustrate the cheapening influence of protection, I would call your attention to an exhibit furnished by the Cleveland Rolling Mill Company, whose mills are among the largest in the United States, and who enjoy the enviable reputation of having continued in active operation throughout the period of business depression which began in 1873 and still prevails. In this exhibit will be found some very interesting data relating to the course of prices of the products of these mills:

Years.	Iron rails per ton.	Steel rails per ton.	Railroad spikes per pound.	Railroad bolts per pound.	Merchant and other iron per pound.
1864	\$49 00	.....	8½ cents	8½ cents	6½ cents
1865	42 50	.....	6½ cents	7½ cents	6 cents
1866	40 00	.....	.....	.....	5 cents
1868	35 00	\$145 00	.....	.....	5 cents
1870	33 00	105 00	4½ cents	5½ cents	.....
1876	22 00	60 00	.....	.....	.....
1877 .....	.....	45 00	.....	.....	.....
1878	Contracted	42 50	.....	.....	.....

The tariff question is simply one of protection to the American laborer; and view it as you may, sir, from any and from every standpoint of observation, it resolves itself into this, protection to the laborer, as the price of an article is according to the price of producing it. Now, it takes the same number of pounds of iron ore, the same number of pounds of lime-rock, the same number of pounds of coal, and the same number of days' work to make a ton of pig-iron in England or Germany as it does in Ohio. What makes the difference in the price in the market? Why is pig-iron worth more per ton in Ohio than in England or in Russia? Simply because the wages paid the laborer are higher in Ohio than in the countries named. In

the manufacture of iron the average weekly wages paid to puddlers (in gold) are \$16.24 in the United States, \$8.75 in England, \$8 in France, \$6 in Belgium, \$1.39 in Russia. (Special report of David A. Wells, in 1868.)

If the American laborer is willing to work for the same wages, to live in the same way, with as few of the comforts of actual life and with none of its luxuries, as the laborer in Europe, then let him ask for the removal of all duties on iron and its manufacture, and he will be at once accommodated, and his wife and his children will enter upon a new kind of existence, and if he does not they will soon find out the difference, and call loudly upon the Congress of the United States to protect the laborer in his wages, so as to give his family a better house, better food, better furniture, better clothes, and better everything that enters into the things that make life happy.

Sir, I stand up here to-day to speak for labor, always honorable, always useful; to speak for willing and skillful hands, educated well and thoroughly in all kinds of mechanical work, so that the profits may be divided between capital and labor, and both be benefited mutually. The laborer is only prosperous when capital is profitably employed; and the workman who is paid regularly his wages should remember that he assumes no risk, that he takes no hazard, that he invests not in furnaces and rolling-mills, shops, and factories; that he has no chances of destruction by fire or water, no fear of bad debts or failures, as the capitalist has who puts his money into business. He only wants to be sure of his wages, and he knows not of the sleepless nights or anxious days of the employer. When capital has good dividends and the laborer has good pay their interests are mutual and the same, and there should be no antagonism between them in this land, where the apprentice and the journeyman of to-day is in a few years, by industry and skill and economy, the capitalist and employer of to-morrow.

I represent, Mr. Speaker, a district largely interested in the production of iron and its manufactures, consisting of blast-furnaces, steel and iron rail mills, boiler-plate, sheet, and wire mills, foundries, bridge-works, spring-works, steel screws, &c. The number of tons of iron and steel of all kinds produced in these works per annum is 377,000 tons and the number of workmen employed some 7,000. I regret to say that all these industries are now greatly depressed and are anxiously waiting for the dawn of a better day. It will not come if the protection to labor is removed. The city of Cleveland contains about 160,000 inhabitants; 7,000 workmen are employed in the furnaces and mills. If each workman represents a family of 5 persons, then 35,000 of the 160,000 are supported directly by the capital invested in these iron and steel works; nearly one-fourth of the population of Cleveland are dependent for their daily bread upon these establishments. It is not strange, then, sir, that I am interested for the laborer and stand here to protect him and to ask for him good wages, in order that he may live well. I would call special attention to the production of one establishment in my district for the past year, The Cleveland Rolling Mill Company, and to the wages paid.

	Tons.
Iron rails.....	15,291
Steel ingots, (Bessemer).....	45,470
Steel ingots, (Siemen-Martin).....	5,654
Wire rods.....	11,651
Finished wire.....	11,250
Spring-steel splices, &c.....	16,070
Plate, iron and steel.....	3,416
Sheet-iron.....	1,930
Sheet-iron, galvanized.....	1,077
Steel rails.....	33,867
Pig iron, manufactured.....	32,000
Fuel consumed in producing the above: coal.....	149,323
Fuel consumed in producing the above: coke.....	43,350
Pay-roll during the year, \$1,123,174.44.	

Let the tariff duties on iron and steel alone; do not by reducing them cut the sinews of the right arm of the laborer, and when confidence is again restored, capital again employed profitably, and labor everywhere in demand, the pay-roll of this and all other establishments will be largely increased, and the agriculturist, the gardeners, the grocers, the merchants, the traders, will all again be prosperous. It is idle for an American Congress to talk about free trade or to undertake to legislate in behalf of free trade with two thousand millions of public debt upon us, the interest and principal of which must be paid, or our Republic be "a hissing and by-word among the nations of the earth."

Make changes where changes are demanded; let in raw material free of duty that we do not produce, and give our labor the profit of its manufacture, and all will be well. But to impose duty on raw material and to lessen the duty on the manufactured product, like the proposed duty of 10 per cent. (in the first bill) on raw silk, is a policy at once suicidal and ruinous to the silk manufacturers in our country, as the product of the silk factors amounted in value, for the year 1876, to \$26,953,103.

THE FARMER INTERESTED IN PROTECTION.

Here is an important fact, and one that clearly shows how much the farmer is interested in the success of manufactures and in the building up of manufacturing villages and cities. Fifty-seven of the counties in Ohio have each a less population than the iron and steel establishments and industries in the city of Cleveland give employment and support to. In other words, the families of the men employed in these iron and steel works consume more of farm products than either one of the fifty-seven counties in Ohio. The counties of Geauga and Lake, forming part of the district of my honorable colleague on this floor, [Mr. GARFIELD,] have not so large a population as is represented by the workers in the iron and steel establishments of Cleveland.

Can the free-traders say with any truth or reason to the farmers of Ohio, your interests lie in the direction of foreign markets for your wheat, corn, beef, pork, butter, and cheese? A home market is the best market, and this we can make only by protecting the labor of our country, employed in the manufacturing establishments, and by producing at home articles we consume in our families.

Mr. Speaker, a tariff bill in the interest of the importers of foreign goods, wares, and merchandise, and of a few hundred sugar plantations of the South, never can pass this House and become a law; neither is it reasonable to ask for such a law.

As a still further proof of the correctness of the position I take—that a protective tariff, properly adjusted, has a tendency to cheapen rather than increase the price of our manufactured products—I will call your attention to the better grades of cast steel, commonly called "best cast steel." In 1857 English manufacturers imported this steel and paid a duty of 12½ per cent. ad valorem. If we take the custom-house valuation of the steel, the rate of duty paid was about 1½ cents per pound. Notwithstanding that low rate of duty the consumer had to pay for "best cast steel," on an average, 15 cents per pound, the maximum price being 16½ cents, while now the same quality of "best cast steel" can be purchased from the same English steel manufacturers' agents on this side of the Atlantic at 13 cents per pound, and this, too, it must be remembered, when we have the highest rate of duties on steel ever before levied by the Government.

The question naturally arises, What has caused this reduction in the price of "best cast steel?" Why is it that the consumer can now purchase a quality of "best cast steel," equal to any ever imported to this country, at a cost equal to \$40 per ton less than he was compelled to pay under the lowest tariff ever levied on steel? The answer is plain; the cause is obvious. Immediately upon the enactment of our present tariff laws, capitalists, feeling encouraged, invested in the manufacture of steel about \$11,000,000. Workshop doors were thrown open to thousands of skilled artisans, who received employment at remunerative wages, and notwithstanding the many perplexities and vexations attendant upon the introduction of this then comparatively new branch of industry, with determination, energy, and perseverance, the venture was highly successful, and notwithstanding the sharp competition, home and foreign, which caused the enormous reduction in the price of cast steel to the consumer, the manufacturers received a fair living profit on their investments. The same can be said of the lower or cheaper grades of steel, which to-day can be bought at prices far below what the consumers were compelled to pay for cast steel of foreign manufacture when the duties levied upon the importations of this article were the very lowest.

Our protective tariff has done even more. Under its fostering influences our once sickly and weak industries have been enabled to grow up strong, and able to cope with their formidable adversaries on the other side of the Atlantic, so that now our manufacturers by reason of our improved machinery are gradually getting a footing for the sale of their products in the markets of foreign nations, as will be seen by reference to the following table:

IRON AND STEEL AND MANUFACTURES OF.

Countries.	Iron, and manufactures of.							Steel, and manufactures of.				
	Steam-engines, locomotives.	Steam-engines, stationary.	Boilers for steam-engines when separate from engines.	Machinery, not elsewhere specified.	Nails and spikes.	All other manufactures of iron.		Ingots, bars, sheets, and wire.	Cutlery.	Edge-tools.	Films and saws.	
	No.	Dollars.	No.	Dollars.	Dollars.	Pounds.	Dollars.	Dollars.	Pounds.	Dollars.	Dollars.	Dollars.
1 Argentine Republic.....					8,874	41,800	1,250	28,314				8,896
2 Austria.....					100							
3 Belgium.....					19,535			10,534				
4 Brazil.....	31	350,250	2	1,630	175,704	167,000	5,146	58,689		14,449	63,952	1,354

Iron and steel and manufactures of—Continued.

Countries.		Iron, and manufactures of.								Steel, and manufactures of.									
		Steam-engines, locomotives.		Steam-engines, stationary.		Boilers for steam-engines when separate from engines.		Machinery, not elsewhere specified.		Nails and spikes.		All other manufactures of iron.		Ingots, bars, sheets, and wire.		Cutlery.		Edge-tools.		Files and saws.
No.	Dollars.	No.	Dollars.	Dollars.	Dollars.	Pounds.	Dollars.	Dollars.	Dollars.	Pounds.	Dollars.	Pounds.	Dollars.	Dollars.	Dollars.	Dollars.	Dollars.	Dollars.	Dollars.
Central American states	1	2,000	2	936		22,132	46,975	1,575	29,330										
Chili						20,614	1,279,200	38,984	107,079										
China						3,844	82,500	2,775	18,891										
Denmark						3,500													
Danish West Indies						1,293	72,000	2,459	9,288									1,723	103
France						46,495	14,000	461	14,112						130			893	
French West Indies and French Guiana						60	2,000	77	1,549									68	
Miquelon, Langley, & St. Pierre Islands							54,000	1,827	7,551										
French possessions in Africa and adjacent islands						3,648	5,000	180	118						40			100	
French possessions, all other						713	40,200	1,625	10,346									1,136	65
Germany			2	457		340,896			196,441						710			22,105	759
Great Britain—England	1	6,700	8	2,760	1,350	444,564	2,500	72	208,807	42,400	5,010	2,051	168,327	12,175					
Scotland						145,752			22,440						40			16,431	
Ireland																			
Gibraltar						150			168										
Nova Scotia, New Brunswick, & Prince Edward Island	1	7,300	1	350	2,918	50,837	76,500	2,559	340,715						314			7,655	4,544
Quebec, Ontario, Rupert's Land, and the Northwest Territory	4	27,600	2	1,280	466	124,417	3,182,828	104,619	740,972	67,876	6,394	2,995	5,747	739					
British Columbia	1	8,602	4	2,405		31,105	253,562	10,548	56,666	2,296	180	852	3,521	2,135					
Newfoundland and Labrador						3,926	33,500	1,187	24,001									449	
British West Indies and British Honduras			3	2,581	300	14,590	352,091	12,657	27,291						501			13,530	177
British Guiana						1,845	28,700	1,176	6,733									1,803	235
British East Indies						24			677										
Hong-Kong						1,579	17,685	1,894	12,486									147	
British possessions in Africa						5,906	316,800	10,423	32,683				1,326	2,014				93	
British possessions in Australasia	3	29,250	1	350		102,681	195,367	7,888	407,281	6,248	724	229	135,229	5,988					
British possessions, all other																			
Greece																			
Hawaiian Islands						22,643	342,540	11,678	90,588	2,839	419	346	2,286	170					
Haiti			1	1,750		3,246	239,500	8,072	18,535									7,075	
Italy						1,734												200	
Japan						9,744	49,500	1,991	40,077									151	88
Liberia						342	27,800	1,014	321									970	
Netherlands			16	10,613	11,900	201,342	461,800	19,764	165,861	16,148	2,432	6,455	65,257	2,937					
Netherlands East Indies						40,548			17,869									736	
Dutch West Indies			1	532		445	17,500	594	3,921						20			913	
Dutch East Indies						52													
Peru	6	72,500			6,211	40,098	142,500	5,031	22,734						40			7,537	167
Portugal						2,942			75									45	
Azore, Madeira, and Cape Verde Islands						1,341	30,500	1,141	4,472										
Portuguese possessions in Africa and adjacent islands									26										
Russia on the Baltic and White Seas						255			216										
Russia on the Black Sea																			
Russia, Asiatic							21,500	959	2,299									1,867	48
San Domingo						11,321	36,629	1,288	15,868						68			2,825	
Spain						450	5,811		60										
Cuba	5	64,600	7	10,306	28,663	361,102	1,248,006	43,934	347,072	590	90	4,453	16,698	1,613					
Porto Rico			1	16,000	3,360	16,093	210,280	7,014	17,127									3,104	702
Spanish possessions in Africa and adjacent islands						1,084			284									367	
Spanish possessions, all other															115				
Sweden and Norway						210	151		50										
Turkey in Europe																			
Mexico									45										
Turkey in Asia																			
Turkey in Africa																			
United States of Colombia						1,000	316,839	106,085	5,741	144,290			1,534	120,846				215	
Uruguay						200	8,820	1,000	38	8,497			228	7,071				45	
Venezuela			2	2,088	12,990	69,743	42,461	1,407	87,632	2,229	412	1,052	19,715	267					
All other countries and ports in Africa, not elsewhere specified									1,000	50									
All other islands and ports, not elsewhere specified															94			1,072	67
Total	53	568,802	53	54,038	70,018	2,698,363	9,316,659	319,584	3,361,767	140,686	15,661	38,714	721,012	36,309					
Additions taken from Canadian reports									1,675,898										
Grand total									5,037,635										

This wonderful result, I submit, could never have been attained under the fallacious policy of free trade. But let us go a little further with a view to ascertain what has been accomplished by way of exportations in other branches of manufactures and industries.

DOMESTIC EXPORTS.

Countries.	Tar and pitch.		Oil-cake.		Oils.							
					Mineral, crude.		Mineral, refined or manufactured.					
					Crude, (including all natural oils, without regard to gravity.)		Naphthas, (benzine, gasoline, &c.)		Illuminating.		Lubricating, (heavy, paraffine, &c.)	
	Bbls.	Dolls.	Pounds.	Dolls.	Galls.	Dolls.	Galls.	Dolls.	Galls.	Dolls.	Galls.	Dolls.
1 Argentine Republic			12,105	280			11,165	2,837	850,972	228,374	10	20
2 Austria									8,703,104	1,841,091		

DOMESTIC EXPORTS—Continued.

Countries.	Tar and pitch.		Oil-cake.		Oils.							
					Mineral, crude.	Mineral, refined or manufactured.						
						Crude, (including all natural oils, without regard to gravity.)		Naphtha, (benzine, gasoline, &c.)		Illuminating.		Lubricating, (heavy, paraffine, &c.)
	Bbls.	Dolls.	Pounds.	Dolls.	Galls.	Dolls.	Galls.	Dolls.	Galls.	Dolls.	Galls.	Dolls.
Belgium	85	308			1,369,240	196,572	1,057,568	135,254	30,164,924	6,503,681	130,927	20,312
Brazil							25,212	3,566	3,539,733	900,025	1,512	23
Central American States							1,510	482	43,280	14,656	273	141
China	1,644	4,743					10,800	2,300	591,150	132,962	2,660	1,985
Denmark	559	1,365							1,327,970	317,704		
Danish West Indies	88	241							12,434,489	2,175,723	1,346	450
France	400	950	422,889	7,000	20,029,950	2,692,049	5,085,078	591,833	361,235	13,874		
French West Indies and French Guiana	40	88	2,346	40						71,157		
Miquelon, Langley, and Saint Pierre Islands	127	447							134,025	3,220	200	130
French possessions in Africa and adjacent islands									14,344	3,569		
French possessions, all other	29	123							354,407	85,705		
Germany					2,716,725	400,875	1,006,710	113,325	18,850	6,444		
Great Britain—England	31,955	58,918	227,897,778	4,028,599			5,228,589	634,654	87,357,471	17,962,964	40,781	29,841
Scotland	6,898	11,518	18,374,829	344,363					21,097,169	4,515,651	549,855	172,051
Ireland	20	29	22,440,069	343,479					14,963	3,614	142,762	56,197
Gibraltar	30	85			117,845	19,240	1,888,669	243,771	10,587,025	2,514,173		
Nova Scotia, New Brunswick, and Prince Edward Island	7,353	20,044	4,480	87	960	100			8,440,575	1,999,234	2,000	700
Quebec, Ontario, Rupert's Land, and the Northwest Territory	8,885	20,779	55,537	1,040	10,385	2,058	2,618	673	381,693	87,141	22,973	11,886
British Columbia	82	459	2,039	33					125,838	29,346	49,550	19,030
Newfoundland and Labrador	1,916	3,681					10	3	47,887	20,970	45	37
British West Indies and British Honduras	1,086	2,845	4,295,977	90,033					271,223	61,137	600	180
British Guiana	2,178	5,346	4,100	80			4,075	803	922,785	221,043	50	70
British East Indies	500	1,421					1,544	530	281,951	65,252	402	366
Hong-Kong									1,872,923	510,579		
British possessions in Africa									218,700	54,100		
British possessions in Australasia	210	556	56,798	900					640,580	148,837		
British possessions, all other									3,242,392	567,990	1,402	668
Greece									170,570	34,771		
Hawaiian Islands	272	1,361							892,820	190,170		
Haiti	246	693					259	880	87,731	28,700	180	89
Italy	2,371	6,835					10,000	1,800	134,741	38,061	860	622
Japan	178	827	6,720	109					11,421,725	2,460,377		
Liberia	13	29							2,148,551	494,323	100	53
Mexico	1,104	3,673				6	7	1,280	11,708	2,668		
Netherlands								332	784,102	221,894	1,789	920
Dutch West Indies									8,600,646	1,732,652	439,961	120,517
Dutch East Indies	290	756							156,936	38,054		
Peru	550	1,651							10,502,954	2,600,646		
Portugal	230	618					190	67	316,635	72,252	753	423
Azore, Madeira, and Cape Verde Islands	141	370							1,653,479	363,325		
Portuguese possessions in Africa and adjacent islands									104,494	22,845		
Russia on the Baltic and White Sea	20	76							1,500	338		
Russia on the Black Sea							50,796	4,092	4,444,729	675,560		
Russia, Asiatic									255,077	58,630		
San Domingo	27	75							11,460	3,735		
Spain	327	883			2,119,160	361,160	20,700	3,855	10,792,755	2,391,184		
Cuba	1,190	3,143	104,673	2,093	408,819	73,659	1,965	580	2,117,891	461,663	217,889	65,514
Porto Rico	250	708					1,543	239	278,243	64,431	928	427
Spanish possessions in Africa and adjacent islands	2,026	67							80,730	17,502		
Spanish possessions, all other	75	212							70,000	14,788		
Sweden and Norway					46,091	5,000	707,930	69,776	6,942,305	1,166,868		
Turkey in Europe									1,332,570	302,855		
Turkey in Asia									1,822,422	421,290		
Turkey in Africa									1,796,139	468,965		
United States of Colombia	835	2,189							172,519	43,936	350	209
Uruguay	60	137					21,040	5,638	676,020	148,511	40	70
Venezuela	483	1,334					80	41	330,669	78,048	531	313
All other countries and ports in Africa not elsewhere specified									169,000	40,525		
All other islands and ports not elsewhere specified	1	6							16,940	5,346		
Total	72,189	160,410	273,670,940	4,818,145	26,819,20	3,756,729	15,140,183	1,816,682	262,441,844	55,401,132	1,601,065	497,540
Additions taken from Canadian reports				778		37,751				26,410		
Grand total				4,818,923		3,784,480				55,427,542		

Under the influence of the policy of protection inaugurated in 1861, we are fast becoming a nation to whom the nations of the earth will pay tribute, and there is no reason why we cannot supply the markets of the world with everything our workshops

farms, and mines are capable of producing. The following table we are doing in the way of exporting some of the products of the of statistics, collated from the most reliable sources, shows what farm:

Table of statistics showing domestic exports to different countries.

PROVISIONS.											
Countries.	Bacon and hams.		Beef, salted or cured.		Beef, fresh.		Butter.		Cheese.		Condensed milk.
	Pounds.	Dollars.	Pounds.	Dollars.	Pounds.	Dollars.	Pounds.	Dollars.	Pounds.	Dollars.	
1 Argentine Republic.....	111,742	14,700									
2 Austria.....	30,846,638	3,243,453	227,091	15,371			17,660	3,331	11,256	1,500	
3 Belgium.....	2,382	341	9,900	665			3,470	832	1,551	233	2,495
4 Brazil.....	76,982	8,297	88,210	7,030			23,178	6,207	15,669	2,402	1,754
5 Central American states.....	2,500	344	129,000	8,405			440	130	30	4	547
6 Chili.....	34,266	5,380	15,633	687			23,331	7,464	34,433	5,576	3,132
7 China.....	183,905	25,500									
8 Denmark.....	140,010	16,363	161,860	10,665			139,411	26,909	32,843	3,741	805
9 Danish West Indies.....	23,167,236	2,041,520	226,227	16,212			12,250	1,406			30
10 France.....											
11 French West Indies and French Guiana.....	175,745	25,643	495,928	38,395			17,427	3,935	5,427	689	201
12 Miquelon, Langley, and Saint Pierre Islands.....	8,249	1,017	1,600	125			103,008	20,618	692	91	
13 French possessions in Africa and adjacent islands.....	2,093	300	36,408	2,116							
14 French possessions, all other.....	17,130	2,819	149,950	7,218			20,506	6,217	8,840	1,482	650
15 Germany.....	23,715,193	2,286,915	2,185,990	165,065			1,217,978	215,035	30,179	3,592	204
16 Great Britain—England.....	321,016,729	35,580,991	19,727,282	1,475,395	39,906,940	3,614,779	10,501,640	2,217,343	95,871,379	11,393,185	30,727
17 Scotland.....	31,193,969	3,285,145	5,887,774	505,331	9,304,050	937,744	4,526,737	904,522	9,069,693	1,100,099	1,137
18 Ireland.....	300	50	6,000	508							
19 Gibraltar.....	5,052	603	1,530	97			1,500	400	1,500	200	
20 Nova Scotia, New Brunswick, and Prince Edward Island.....	95,339	11,828	1,297,662	86,573			185,632	30,634	4,440	525	700
21 Quebec, Ontario, Rupert's Land, and Northwest Territory.....	3,279,802	390,099	260,863	21,021			906,893	186,231	1,198,810	123,442	449
22 British Columbia.....	201,009	30,401	2,200	124			73,255	21,095	26,292	4,128	2,465
23 Newfoundland and Labrador.....	56,314	7,327	554,178	32,798			532,384	88,400	7,870	853	157
24 British West Indies and British Honduras.....	1,241,484	152,687	2,774,804	214,848			1,277,945	250,134	404,411	57,345	8,592
25 British Guiana.....	227,037	25,678	1,042,150	77,570			17,134	3,772	150,227	19,079	
26 British East Indies.....											
27 Hong-Kong.....	30,637	4,708	170,700	7,673			2,138	25,663	4,217	8,964	235
28 British possessions in Africa.....	14,303	2,021	53,068	3,716			16,391	4,789	3,096	484	
29 British possessions in Australasia.....	55,128	7,821	10,100	555			400	75	35,677	4,709	37,509
30 British possessions, all other.....											
31 Greece.....											
32 Hawaiian Islands.....	48,815	8,032	109,151	5,035			4,041	1,392	9,279	1,358	353
33 Hayti.....	204,492	39,721	433,337	36,694			306,348	72,652	52,901	8,844	1,248
34 Italy.....	325	50	7,000	700							
35 Japan.....	51,706	8,429	76,956	3,369			57,681	13,082	23,743	4,076	12,984
36 Liberia.....	32,288	3,427	16,900	1,261			2,296	789	639	108	23
37 Mexico.....	64,360	9,091	1,570	97			61,738	17,211	29,280	4,855	370
38 Netherlands.....	4,442,709	477,666	813,871	62,177			14,422	2,771			
39 Dutch West Indies.....	144,086	14,701	829,115	49,381			179,220	38,056	5,837	908	288
40 Dutch East Indies.....	4,980	542					767	165			
41 Peru.....	4,330	615	20,300	1,548			1,673	631	208	36	715
42 Portugal.....	976	132	3,000	225							
43 Azores, Madeira, & Cape Verde Islands.....	6,222	803	44,900	3,013			5,992	1,328	766	88	60
44 Portuguese possessions in Africa and adjacent islands.....			2,000	150			842	227			
45 Russia on the Baltic and White Seas.....											
46 Russia on the Black Sea.....											
47 Russia, Asiatic.....	2,406	284	204,000	9,257			3,801	1,105	1,728	280	185
48 San Domingo.....	53,461	6,715	8,400	724			102,211	24,205	22,606	4,077	157
49 Spain.....	1,004,849	82,046	20,200	986							
50 Cuba.....	10,813,912	1,089,809	369,775	26,518			428,650	92,267	106,567	14,338	4,746
51 Porto Rico.....	610,341	81,502	23,400	1,694			411,533	71,277	119,565	17,149	5
52 Spanish possessions in Africa and adjacent islands.....	3,755	397					160	42	70	11	
53 Spanish possessions, all other.....	420	53	8,500	235							
54 Sweden and Norway.....	5,278,228	469,891	106,400	6,500			11,000	2,118			
55 Turkey in Europe.....											
56 Turkey in Asia.....											
57 Turkey in Africa.....											
58 United States of Colombia.....	46,956	6,331	367,068	33,719			142,477	41,937	36,255	4,536	862
59 Uruguay.....											290
60 Venezuela.....	271,006	39,452	59,913	5,460			137,294	32,756	13,123	2,078	88
61 All other countries and ports in Africa, not elsewhere specified.....											
62 All other islands and ports not elsewhere specified.....	5,429	801	113,300	5,006			5,774	1,924	2,201	329	33
Total.....	460,057,146	49,512,412	39,155,153	2,950,952	49,210,990	4,592,523	21,527,242	4,434,616	107,364,666	12,700,627	123,891
Additional taken from Canadian reports, (for list, see Statement No. 14).....										28,988	
Grand total.....										12,729,615	

In the exportation of the one article of cheese alone a wonderful progress is exhibited. Eighty-seven years ago the exportation of this article was 144,734 pounds, while for the fiscal year ending June

30, 1877, the exportations amounted in pounds to the enormous sum of 107,364,666. The progress made by this branch of industry will be best seen by reference to the following table, showing for every fifth

year the amount of cheese exported for that year and also for the years 1876 and 1877:

	Pounds.
1790.....	144,734
1795.....	2,343,093
1800.....	913,843
1805.....	843,005
1810.....	741,878
1815.....	468,609
1820.....	628,434
1825.....	1,230,104
1830.....	688,341
1835.....	887,000
1840.....	723,217
1845.....	7,941,187
1850.....	13,020,817
1855.....	4,846,568
1860.....	15,515,799
1865.....	53,089,468
1870.....	57,296,327
1875.....	101,010,853
1876.....	97,676,264
1877.....	107,364,666

Total..... 1,262,952,571

During the fiscal year ending June 30, 1877, the United States exported pork to sixty-two foreign countries, to the value of six millions and a quarter dollars; starch, nearly \$500,000; tobacco, nearly twenty-nine millions; sugar, four and a half millions. The amount realized in agricultural implements exported has been, for the year ending June 30, 1877, fanning-mills, \$10,534; horse-powers, \$24,297; mowers and reapers, \$765,249; plows and cultivators, \$129,235; all others, \$886,538; total, \$1,815,873. The Indian corn exported amounted to nearly forty-two millions; wheat, nearly twenty-two millions; glass and glassware, \$672,400; stoves and parts of stoves, \$742,300; wearing-apparel, nearly \$700,000; household furniture, \$1,700,412; merchandise, \$607,532,228; of which amount \$515,104,208 was carried by foreign vessels. That we are steadily gaining ground under the protective policy of the Government is readily seen by comparison of our exports when our manufacturers received little or no protection from the Government with those when the Government threw its protecting care around the industries of our country. Notwithstanding the depression in trade everywhere and business generally during the past year, a most encouraging showing is presented in the following table, compiled from the data collected by the Bureau of Statistics, showing exports and imports for the twelve months ending December 31, 1877:

Statement showing the imports and exports for the twelve months ending December 31.

Imports and exports.	For the month of December.	For the twelve months ending December 31.
Merchandise.		
1877.		
Exports, domestic.....	\$69,058,716	\$607,532,228
Exports, foreign.....	1,196,604	12,735,994
Total.....	70,255,320	620,268,222
Imports.....	30,530,173	480,224,876
Excess of exports over imports.....	39,725,147	140,043,346
1876.		
Exports, domestic.....	71,287,260	575,735,804
Exports, foreign.....	1,712,139	14,930,825
Total.....	72,999,399	590,666,629
Imports.....	32,580,760	427,347,165
Excess of exports over imports.....	40,418,639	163,319,464
Gold and silver coin and bullion:		
1877.		
Exports, domestic.....	1,544,003	37,434,218
Exports, foreign.....	380,451	10,883,006
Total.....	1,924,454	48,317,224
Imports.....	1,594,425	23,676,298
Excess of exports over imports.....	330,029	24,640,926
1876.		
Exports, domestic.....	2,136,311	47,973,762
Exports, foreign.....	1,256,551	8,380,713
Total.....	3,392,862	56,354,475
Imports.....	11,857,366	34,471,334
Excess of exports over imports.....		21,883,141
Excess of imports over exports.....	8,464,504	
Total merchandise and species		
1877.		
Exports, domestic.....	70,602,719	644,966,446
Exports, foreign.....	1,577,053	23,619,006
Total.....	72,179,774	668,585,446
Imports.....	32,124,598	503,901,174
Excess of exports over imports.....	40,055,176	164,684,272

Statement showing the imports and exports, &c.—Continued.

Imports and exports.	For the month of December.	For the twelve months ending December 31.
1876.		
Exports, domestic.....	73,423,571	623,709,506
Exports, foreign.....	2,968,690	24,311,336
Total.....	76,392,261	647,021,044
Imports.....	44,438,126	461,818,479
Excess of exports over imports.....	31,954,135	185,202,665

Mr. Speaker, in view of all these facts, which stand out along the pathway of our national history like so many beacon-lights to show us the way in safety to the harbor of our destination, prosperity; in the full light of all the lessons learned through hard and bitter struggles such as few other nations have ever experienced; in the vivid recollections of the cost of past blunders and in the presence of what we witness to-day as the result of a wise and judicious policy fairly tried and tested through a period of seventeen years, I ask shall we now, at the instigation of political ambition or from whatever influence or combination of influences, turn upon and rend ourselves by dashing down the barriers which staid the tide of desolation and ruin which threatened to engulf the nation, and whose maintenance has proved such a signal benefit to our people? I have not time during the hour allotted me to discuss in detail the provisions of the tariff bill reported to this House by the Committee of Ways and Means, and can only refer briefly to a few of its provisions.

On cotton goods, glass, iron, steel, and many other articles, the committee have reduced the rate of duties. On pig-iron the duty is now \$7 per ton, in the bill of the committee it is \$5 per ton, a reduction of \$2. Scrap-iron is now \$6, in this bill it is \$4 per ton, a difference of \$2. Wrought-iron is \$8, in this bill \$6, a difference of \$2. Is there any necessity, is there any reason for this reduction? Can our depressed iron interests stand up under this reduction? Can the Representatives on this floor from Tennessee, Missouri, Michigan, Ohio, Pennsylvania, New York, and New Jersey stand here and consent to see the great iron interests of their States thus slaughtered, and that, too, at an hour when hundreds of furnaces are out of blast and the machinery of rolling-mills is silent, and millions of capital and tens of thousands of laborers are awaiting anxiously the action of Congress on this bill? I confess to the greatest surprise when I heard my distinguished colleague [Mr. SAYLER] utter on this floor, during the debate upon this bill, on the 15th ultimo, the following language:

I would like to say to the gentleman from Pennsylvania that I represent probably as much iron as anybody; and when he makes the broad statement that the schedule proposed in this bill is destructive of the iron interests of the country he makes a statement that is not justified by the opinion of the most intelligent men engaged in that business.

If this be the sentiment of the iron manufacturers in his district, I answer him and this House, it is not the sentiment of those located in mine; they protest against this bill with unmistakable emphasis. I am told by those who are engaged in the manufacture of woolen goods that under the provisions of this bill three-fourths of all the woolen mills in the country would be compelled to stop operations. I submit the following carefully prepared table, showing the comparative duties under the present tariff and under that proposed by this bill:

Wool exhibit.

	Present duty.		Wood tariff.		Reduction.	
	Duty in cents.	Duty per ct.	Duty in cents.	Duty per ct.	In cts.	Per ct.
Mestiza wool, competing with California, Texas, and Oregon.	11.3	95	4.2	35	7	60
Australian wool, competing with Ohio.....	13.3	44	10.5	35	2.7	21
Carpet wools not grown in the United States.....	3	27	3.8	35	*.8	*26

*Increase.

The proposed bill puts the duty on Mestiza wools at .8 of a cent less than that imposed by the tariff of 1864, under which there were imported in 1866—

	Pounds.
Mestiza (South American) wools.....	37,000,000
Cape of Good Hope.....	7,500,000
Total.....	44,500,000

Nearly all are wools competing with our Merino wools.

In 1863, the year after the present tariff went into operation, the importation sank to 6,250,000 pounds, a diminution of 33,250,000 pounds, or sixth-sevenths of the whole amount imported in 1866.

The place of this diminished importation was supplied by the growth

of California and Texas wools which were stimulated by protection with the following results:

In 1860 the wool production was 60,000,000 pounds. In 1866 it reached—

	Pounds.
In the old States.....	120,000,000
In the Pacific States.....	17,000,000
Total.....	137,000,000
In 1877 it reached—	
In the old States.....	117,000,000
In the Pacific States.....	91,000,000
Total.....	208,000,000

A prodigious increase in the class of wools especially protected by the present tariff and especially injured by the Wood bill.

Ohio had in 1870 223 woolen mills; Massachusetts, 185; New York, 252; Connecticut, 108; Illinois, 109; Indiana, 175; Tennessee, 145; Pennsylvania, 457.

Can the Representatives from the New England States particularly permit this? Who is asking for this measure? I have watched with care the records of the present House, and can recall no interest which has demanded the passage of this bill; on the contrary, there has been an almost universal prayer from all classes for its prompt and certain defeat.

I will leave, for discussion, the specific articles in detail in the bill as they come up in their regular order, and will content myself at this time by saying that the average reduction of the duty on imported goods in this bill as compared to the present law is about 8 per cent.

By a careful computation, taking the receipts from customs for last year as a basis, the decrease in the revenue under this bill will be \$9,403,000. This is a long stride in the direction of free trade, and directly antagonizes the principles of protection to American manufactures, and is framed more in the interests of foreign nations than of our own country. I am confirmed in this opinion by the London Engineer of February 22, 1878, from which I quote an editorial article referring to this bill:

British ironmasters may take heart when Pittsburgh walls. An iron trade which maintains a tottering and miserable existence with all the help of a tremendous tariff, has little chance of a prolonged life; and our contemporary may rest assured that America cannot make iron as cheap as British ironmasters will make and sell it before they retire from the competition. As we have said, we must make and sell iron. America has no such necessity, and it is easy to see that, do what American ironmasters may, the end will be the same. They will be undersold by England until capital is driven out of the American trade, and its dimensions are reduced to reasonable limits, and its operations confined to the remunerative production of those special brands for which certain districts have long enjoyed a high reputation; and the end is probably not far off. Already the American iron trade is contracting. In the whole of Missouri and its borders not a pound of iron is being made, twenty-three furnaces having been put out of blast. Let but a moderate reduction be made in the tariff—and there is every prospect that the free-trade party will achieve at least a partial success—and the well-blown bubble will burst, and the iron trade of the United States will recede to the legitimate limits which we have indicated. The pinch may be felt severely for a time, but the country will be better without than with an exotic manufacture, which cannot live without what is, in plain terms, a national subsidy.

This is the construction England puts upon this bill—this is the exultation English capitalists feel at the now, what they term, "tottering" condition of the great iron interests of this country. Sir, is this the feast gentlemen on this floor are invited to attend? Is this the splendid banquet that the Congress of this nation is about to prepare for the iron manufacturers of this country? I greatly overestimate the intelligence of this body and mistake its sentiments if this premature exultation is not doomed to an early disappointment.

I do not plead for a prohibitory tariff. I believe in good, healthy, but not ruinous competition. I am not among those who would surround our country with a Chinese wall and declare all those not within its hallowed precincts barbarians or bandits and close the gates against all comers. On the contrary I would welcome to our shores, from whatever Christian land, all who elect to come possessing the skill and willingness to earn their bread by honest toil.

The beneficial influence of a protective policy in immigration is strikingly demonstrated in our history. While our industry remained almost exclusively agricultural we failed to attract any considerable immigration. The total number of immigrants for the forty years which followed the establishment of our independence did not exceed 300,000; while during the next forty years, by comparison the manufacturing era, our annual increase of population from this source amounted from a maximum of 10,199 to one of 427,833, and our aggregate accession of inhabitants from abroad was about 4,000,000. During the decade from 1860 to 1870, in spite of our great civil war, the gain to our population from immigration did not fall far short of 2,000,000. The greater portion of this addition was composed of skilled artisans and sturdy workers who entered our mines and our workshops and thus aided in the development of the resources of our country. The panic of 1873 struck a disastrous blow at this source of national gain, as it did at most others, but we have only to maintain the policy which hitherto has invited and stimulated the inflow of population to find the tide again turned in our favor and to swell to proportions which will satisfy every demand.

I am not solicitous in this matter chiefly or primarily with respect to the interests of capital. It may be stated as a general proposition that capital can take care of itself. There are, however, occasions

and conditions when capitalists are largely at the mercy of circumstances, when investments become unprofitable, and the withdrawal of capital or its transfer to other employments is accomplished only at sacrifices more or less severe; and at such times it may be expedient or necessary in the common interests that whatever relief is practicable through legislation should be extended. But as a rule special legislation in the interest of capital is undesirable, unnecessary, and, if persisted in, cannot fail ultimately to work harm to the mass of the people.

Labor, however, occupies a very different position. It is, to a greater or less degree, dependent; and while indeed national progress and individual comfort and prosperity are impossible of attainment without it, the bare fact of its necessity does not always determine the measure of its just reward. In a Government such as ours, where the power is in the hands of the people, and the well-being and prosperity of the nation depend upon the will of the people, it must appear to be the policy of wise statesmanship to do all that is possible to be done for improving the condition morally, socially, intellectually, and materially of that great body of the people which represents the ranks of what is commonly designated the working classes, are now and must, under aegis of republican institutions, be the arbiters of the political destinies of the nation. And how is this to be practically and surely accomplished unless by a policy which permits the growth and prominence of a system of diversified industries, which, while affording the widest scope for the investment and operations of capital, allows also the most liberal latitude for the employment of labor? A diversity of pursuits is indispensable to the general activity and enduring prosperity, and it is this principle which is at the very foundation of the American system inaugurated by the great and wise men who founded our Government, most of whom were farmers, but they recognized the fact that the upbuilding and diversification of manufactures among us was a necessity alike to the prosperity and growth of agriculture and the just recompense of labor, and with one voice they pronounced for protection as the only means by which to bring about a consummation of the desired end.

Sir, national industry is national wealth; and the policy which secures productive employment to the greater portion of a nation's population, consults her highest prosperity and most vital interests. It is the purpose of protection to do this, and history demonstrates most conclusively that it has never failed. As Mr. Clay said in 1832, so may we say to-day, that—

Protection has been to us a sheet-anchor of prosperity, a mainspring of progress.

Whenever we have abandoned it or made a compromise with the opposing policy, as we are being invited to do to-day by the friends of the British manufacturers, gloom, disaster, and misery have been the hard and bitter penalties of our folly. Whenever we have returned and adhered to the policy of protection, the sunshine of prosperity has illumined our pathway, and our people have been happy and contented. The great truth uttered by the late eminent statesman of France, Thiers, should be ever present with us as a motto and guide:

A nation never built up successfully a system of domestic manufactures without a protective tariff.

Sir, we have as yet reached but the first stage of the great destiny which awaits this nation, if the wisdom, the patriotism and the self-reliance that the past ought to teach us are not ignored. With territory capable of sustaining a population of two hundred millions; with the vast wealth of the nation; in possession of almost every kind of minerals that contribute to the necessities and comfort of man hardly explored beyond its surface; with a variety of climate which permits the cultivation of nearly every product of the soil that enters into the use of man, and with natural highways of commerce and travel, unequalled in any other portion of the globe—in view of all this, what is there in the range of possibility that a free, enterprising, and enlightened people thus favored, cannot accomplish for the still further advancement of their interests? To be sure, we have had some severe experience, but the native energy and pluck of the American people have outlived disaster; and those qualities are now slowly but surely lifting us out of the slough of business depression in which we, with other nations, have so long been struggling, and from the worst consequences of which we have been shielded by the beneficent guardianship of protection. Let us then cast no stone, however small, at the policy which has been the bulwark of our prosperity in the past, and which, in the light of all that has been done, we have the highest reason for believing, will be our security and safeguard in the future. "History repeats itself." Be it our task, then, to give such wise direction to events that the repetition shall be to the honor, glory, and increased prosperity of our country.

TAXATION.

MR. STEELE. Mr. Speaker, I propose to address the House for a short time upon a question of the very highest importance to the people of this country. The subject in all its bearings, in its magnitude and interest, is next to the preservation of constitutional liberty; and it well becomes the Representatives of the American people to bestow upon it their calmest and most earnest consideration. I allude, of course, to the subject of taxation.

In what I shall say I shall endeavor in the main to discuss the principles involved, and hence shall have no occasion to introduce tabular statements of trade and commerce, the prices of manufact-

ured articles at different times in the world's history, and matters of similar character. These I shall leave to such persons as prefer to conduct the discussion in that way, and who oftentimes draw from them conclusions which are not warranted by the premises which are laid down.

I do not wish that any one shall misunderstand the position which I shall assume, or the views which I entertain. For this reason I state, in the outset, that I have a direct personal interest in one of the manufacturing industries, and hence, besides public considerations, wish that all similar industries may flourish in every part of our domain where they may be established. I desire that the wealth of the country, of all kinds, shall be properly and healthfully developed, and that prosperity may attend all the avocations in which our people may engage. But I wish that no one industry shall feed upon the others and while it grows and fattens the others shrink and pine away, or at best do not improve. This gain of the one at the expense of others, is the great evil of our present financial system; an evil which has largely contributed to the stagnation of business, and the depressed condition of nine-tenths of the people of the country. So long as it is allowed to exist it will be vain, in my opinion, to expect a complete restoration of genuine prosperity.

I lay it down as a financial postulate, (alike applicable to the affairs of men individually and the aggregations of men called governments,) that whatever all men of business intelligence will do in the management of their private affairs, if allowed perfect freedom of action, is true wisdom. I do not think that this proposition can be gained. In matters of trade and business intercourse all men will "buy where they can buy cheapest and sell where they can get the best price." Even the most enthusiastic and apparently sincere advocates of the pursuit of what is called the protective policy on the part of the Federal Government will themselves adopt the very course which I have indicated, as is clearly shown by their petitions presented to Congress to admit free of duty all articles needed by them in the prosecution of their business. And this very wish illustrates the absolute impolicy on the part of Congress of a resort to the violation of this cardinal principle of political economy. Whenever Congress does so resort the evil effects of all infractions of the right will inevitably ensue; and though by the departure some few interests may flourish, the general prosperity is seriously affected.

Absolute free trade cannot be had so long as the country depends at all upon a tax on imports, to be paid by the consumer in order that the Government may be supported. Any tax upon goods brought into this country from other lands is an infraction of the laws of unrestricted trade, increases the prices which the consumer must pay for the articles imported, and hence is, *pro tanto*, protective. Now, to a just and equitable schedule of import duties, keeping in view steadily the legitimate purposes of the tax, and which bears equally upon all the industries of our people, no man can entertain any serious objection, provided he is willing to contribute in any way for the defense of his life, liberty, or estate. To such I am not opposed; but, on the contrary, I regard such a system as absolutely necessary, not only to supply the means of maintaining government, but to avoid what is to our people a more harassing and odious mode of taxation, and one against which the masses of mankind are much disposed to murmur. But I do object, in the name of the people whose interests I represent and whose views I regard it as my duty to reflect, in the name, as I believe, of nine-tenths of the American people who have any opinions which they dare call their own, to a system which protects and fosters a few industries and brings benefits to a comparatively small number of our population, while it places "burdens grievous to be borne" on the great mass of our people, who are thus forced to purchase what they may need at an advance in the price over what it would be if a more equitable policy marked the legislation of the country. The "protective policy" must increase the market value of the product which it shelters or those interested in making the product would not become its advocates. It must also affect in its operations and influence a majority of the people or it would really be no protection at all. It is therefore a tax on the consumer for the benefit of the producer. It is "robbing Peter to pay Paul." It is taking the substance of the majority to enrich the minority. Can such a system be right; can it be justified by any principle of equity? To my mind it is entirely indefensible.

I have admitted that absolute free trade is impracticable at this time, even if it were desirable. If adopted, it would produce a great shock to many industries which have grown up in the belief that the Government would continue to rely upon a tax on imports to raise its revenues, and thus increase the price of imported articles, giving an advantage to the extent of the tax imposed to such of them as might be manufactured in our own territory. No one proposes to admit all articles of foreign growth or manufacture free of duty. All agree that some tax should be laid upon many of them as a means of revenue, and all know that, to the extent to which this tax is imposed, advantage is given to the domestic producer. What I and those who concur with me desire is that these duties be laid in such a way as to raise sufficient funds for governmental support with the least burden upon the people, contending that such a levy will work injustice to none and advance the real interests of the great body of our fellow-citizens. On the other hand, they who advocate the enhancement of the price of articles imported, so that the domestic manufacturer can compete with the foreign one, who, to use their language,

employs "pauper labor," insist that by such a course we add to the wealth of the country by a development of its resources. This is the difference between us. Even if they are right in their statement of the effects of the policy, it does not follow that the Government would be warranted in producing such a desirable end by a violation of a principle of that equity which ought to be the foundation-stone of every political organization. Injustice should never be done in the expectation that some benefit shall ensue.

In my opinion, the people of the several States, when they ratified the Constitution of the United States, never intended that the power granted to Congress "to lay and collect taxes, duties, imposts, and excises" should be used for any other purpose than to provide a means of meeting the expenses of the Federal Government. Such must be the conviction, as I conceive, of every one who will read the articles in the *Federalist*, on the subject of taxation, written by Alexander Hamilton, who, it is well known, was disposed to claim for the United States the fullest powers which the most liberal or latitudinarian construction will warrant. The idea evolved in these papers is revenue; and nowhere is there the slightest allusion to a power of discrimination in the adjustment of the duties, which would enable the Congress to discard that principle altogether and establish a system tending to defeat the very objects of the grant. And yet, such has been and will continue to be the inevitable effect of a policy which is founded upon the idea which will allow a prohibition of the importation of all articles which can come into competition with the real or desired industry of American citizens; and thus force a resort to direct taxes, by which that small class who have a practical monopoly may entirely escape the touch of the tax-gatherer.

But, Mr. Speaker, the people were told years ago that the protective features of the revenue laws were only needed during the infancy of our manufacturing enterprises, and that in a short while these would arrive at the maturity of man's estate and need no further fostering care. In other words, the declaration was made that if the people would submit, in a spirit of patriotism, to the payment of higher prices for articles which they consumed, the manufacturers of those commodities on our side of the Atlantic would then be able to take care of themselves and enter into easy and successful competition with all the nations of the earth. These glowing promises were made as far back as sixty years ago. From the demands which are now made by the manufacturers, backed doubtless at their suggestion and under their influence by the persons in their employment, that happy period of manly strength has not yet arrived, and these interests will remain for many years to come in their swaddling clothes, depending in their helplessness upon the enforced contributions of a large majority of the people of this country. The plea used is covered under the shallow pretense of sustaining the interests of the laboring-man, and is a species of demagogism entirely too transparent to deceive. The schemes for continuing burdens upon the consumers are only using the laboring-man as a cloak under which they may continue to revel in an ill-gotten prosperity. They seem to forget that there is any other "laboring-man" except the one who works in a forge or a mill, and keep out of view the existence of the thousands who delve at other occupations and who are quite as much entitled to beneficent consideration. How much longer will the great bulk of this people submit to such unjust and iniquitous exactions? While the favored few have increased in wealth and power and the localities in which they live have attained great apparent prosperity the servient masses have been proportionately impoverished. The consumer has had no fair equivalent from the manufacturing class, but has been all the while a mere "hewer of wood and drawer of water."

In reply to this we are told that a diversity of industry is essential to the prosperity and independence of any country, and the agriculturist is especially the recipient of advantages in the consequent establishment of home markets for the sale of his surplus products. A diversity of pursuits is indeed highly desirable, but such diversity should be the result of the voluntary acts of the parties concerned and should not be the factitious consequence of unjust legislation. It will exist whenever it is to the interest of the people that it should, and all attempts to expedite it by the hot-bed process must be to produce injury to people in general. But the home market whose value is so earnestly urged does not, I apprehend, have much influence upon the price of agricultural products. This is regulated almost entirely by the demands of the foreign market.

According to my views, the whole system of protection is violative of those laws which the Almighty has established, in part, for the preservation of the peace of the nations, by the result of an interchange of commodities. It was never intended that they should be entirely independent of one another. If it had been, we should have seen each one capable of producing every article which it might need for its necessities or for its convenience. This, however, is far from being the case. We are mutually dependent, and "cannot live unto ourselves." It is the part of wisdom, therefore, not to interfere by legislation with the natural and necessary commercial intercourse, but allow the freedom of an exchange of commodities, so far as the same shall be consistent with the collection of revenue.

It may be a proper subject of inquiry, in order to determine the force of the argument used by the advocates of higher prices for manufactured goods, that protection (or higher prices) by diversifying industry establishes a home market, to see what are the real effects of the

policy which they advocate. By forcing the consumer to pay more for the clothing and other articles which he uses the domestic manufacturer is enabled to compete with foreign labor and skill, and hence he establishes a home market for the products of others instead of competing with them. This enhances the price of their commodities, and the result is that both manufacturer and consumer increase in wealth. This is the theory of the men who want others taxed for what they are pleased to call the mutual benefit. Is the theory a true one?

A very little examination, I think, will show that it cannot be. From whom does the manufacturer get the means of purchasing the products of his neighbor? He sells to the consumer the product of his looms for clothing and other domestic uses, at a certain percentage more per yard than it would cost but for the intervention of Congress in the imposition of protective, or partially or wholly prohibitive, duties. Now with this very money, thus obtained, he buys his bread from the consumers. If the consumer pays 25 per cent. more for his clothes, his shoes, "his spades, his mattocks, and his hoes," and all things else which he needs, to the persons who manufacture them under the bounty of the law than he would have to pay but for the law, and can get the same advance for his products out of the manufacturer to whom he sells and the mutual sales are equal, no damage is done. But the beautiful theory does not work out in that way. The partially prohibitive duty forces the farmer to buy at the advanced rates the manufactured article, while practically the manufacturer has the whole world from which to purchase what he wants. Protection is worth nothing to the great bulk of the produce of the soil, for no people can really compete with our agriculturists in the general line of his productions. This body of men is so large that they compete with themselves and they keep down the market, while the manufacturer is generally free from that law of trade by the operations of the tariff.

Indeed there never is really any competition between the protected manufacturers until their products become as large as or larger than the demands of the consumer. The agricultural product in this country is always much greater than the demand of the manufacturing consumer, and hence the price is not materially affected by the home market, but depends almost exclusively upon the wants of other nations. But the strangest part of the whole argument is that the protected class actually wants to beget competition by destroying competition, and thus creating a monopoly, which is "contrary to the genius of a free State, and ought not to be allowed."

Can a people become rich as compared with others who have little or no intercourse with the outside world? I admit that they may make themselves really self-sustaining. I admit that they may produce all which they consume by curtailing to some extent their wants, but this, so far as each individual is concerned, is but a revolving process, which is continually shifting money from one pocket to the other, enlarging the possessions of one while it diminishes those of another. The true increase above that which is rational, slow, and steady, comes from the balances of trade; from selling to others more than is purchased from them. Now, unjust discriminations against the trade of other nations is sure to beget retaliation and end in commercial disaster to the people who resort to it.

This country is now feeling the fatal influence of this suicidal policy in the partial destruction of its foreign trade, and it will continue to do so until a wiser and more liberal policy shall prevail. It is true that we now have this balance in our favor, but the great part of that is due to the depression which disables the large majority of our people from purchasing at all. The benefits of this accrue to a very small number of persons. The self-sustaining policy is not always wisdom; for it may be that it is purchased at a far greater cost than it is worth, and will result in making the great mass of our people really poorer than they would be by unrestrained intercourse. The approach which we now have to it, is maintained at the expense of the millions, and but very few indeed derive any substantial benefit.

But we are often told that high tariffs make cheap goods, and by this delusive statement, paradoxical in appearance and in reality, the consumers are to be cheated by the false hopes which it creates. Is the paradox true? If it is, is it not exceedingly strange that the men who manufacture are the advocates of a policy which cheapens the goods which they make? Are they the only patriots in the country—the only persons who are willing to sacrifice their personal interests that the land may become rich, powerful, and happy? Even if goods do get to be cheaper after some years of a high protective tariff, it does not follow by any means that the reduction in prices is the result of the cause which is alleged. It may come from various other causes, and especially from the development which exists all over the world. The light of advancement is not confined to one part of the western hemisphere. But suppose the reduced prices in one year or one decade are attributable solely to the high taxes on importations imposed at a preceding period, is it not clear that the great body of the people have only paid excessive rates for years in the purchase of their supplies in order that they may be able to buy at lower rates? Is it wise to pay 20 per cent. for money in the hope that after a while the borrower may be able to get it at 5 per cent.? What are the borrower's advantages from that? And yet this is just what the consumer is forced to do for the "glorious privilege of being independent." He is paying out of his pocket his earnings, whether hard or easy, to enable the manufacturer to engage in enterprises by which

he at least hopes to find profitable employment for his capital. Thus, to accomplish what we are told is a national policy—a policy of independence of all the nations of earth—the consumer is made to bear all the burdens which are held to be essential to its establishment.

But then it is said that the country gets richer even if the consumers perish, and the aggregate of wealth is the thing which should chiefly concern the legislative power; for it must as a matter of wise statesmanship so direct public affairs that we shall at least have a "splendid" if not "a happy land." This is indeed a joyous consolation to that class of our people. They should take pride in beholding the glories which follow the accretive wealth of others, even while they themselves "grunt and sweat under a weary life." Such is not my idea of the aim of government. My conception of it is that its object is "to provide for the common defense, promote the general welfare, and secure the blessings of liberty." I do not deny that under the protective policy certain kinds of wealth are vastly increased; but I am far from being convinced that there is any improvement in the general condition of the people growing out of the taxation of the consumer. The hoardings of one class are only what it has gained from the means of the other. The increase and prosperity are therefore only apparent, and the independent, glorious, and wealthy country "boasts of a florid vigor not its own."

As an evidence of the alleged beneficial results of the protective or taxing policy, we are often reminded that the skill and enterprise of American mechanism, sustained and nourished by that policy, is even now offering manufactured cotton goods for sale in the markets of England. My colleague on the Committee on Revolutionary Pensions and the War of 1812, [Mr. EVANS, of Pennsylvania,] recently made that fact (?) the subject of a part of his tariff speech in this House, and on it indulged in rhapsodies over the irrepressible genius of American industry, and its full capacity to wrestle with the energies of Great Britain, sustained as they are by what is called "pauper labor." Pennsylvania is a unit upon the subject of "protection," as it is generally believed, and its democracy even, to use the language of another, is "pure irony." To tax other people for the benefit of her industries, is indeed the "keystone" of her politics. Doubtless she thinks it is all WRIGHT, (right,) but I think it is KILLINGER, (killing her.)

Now, if the manufacturers of cotton goods can send their products to England for competitive sale in her markets, it is perfectly clear that that business needs no protection at all—not even that which a revenue tax would provide. The argument of the gentleman is therefore destructive of his own position, and shows the utter unsoundness of his illustration. If this is one of the results of protection, or high taxation, (and I do not admit it,) how long will it be before that same indomitable energy and intelligent skill will furnish the English people with their agricultural implements, their ships, their railroad iron, their cutlery, and thus destroy the manufacturing supremacy of the island empire? When that is done, what will poor England do? In what will her people engage so that they may be able to buy our surplus agricultural products? Being able now, as we are proudly told, to manufacture the raw cotton more cheaply than she is, what will become of the Liverpool cotton market, and where will the South find a competitor for her great staple? Neither France nor Germany will be, and our chief product, which was once falsely said to be "king," will be utterly and hopelessly dethroned, at the mercy of domestic speculators and gamblers. With this glorious future for America, we shall be obliged to abandon the use of the power to levy taxes upon imports, for there will be none of any consequence to be taxed, and resort to the hallowed system of "internal revenue" whereby to raise the "sinews" of peace as well as of "war." I confess that I do not think that "happy time is coming," for several generations at least; and I would deplore the fulfillment of the prophecy as one of the greatest curses which could befall the country.

As one of the reasons why this Congress should not touch the tariff at all, we are reminded that there has been no demand for it in the way of petitions upon the part of the people whose wrongs we allege, for they have not cried out in their distresses, and shown their sorrows by appeals for redress. It is true that they have sent up no memorials asking relief from the burdens which oppress them. The great body of the consumers of this country are unorganized, and have remained silent under the load which they carry, trusting that their Representatives would be watchful of their interests and endeavor to remove, gradually at least, the wrongs under which they are laboring. But if their silence on this subject is to be construed into acquiescence or submission, is not the hushed voice of the great body of the decent women of America to be regarded as in approbation of the blatant shrieks of those strong-minded and loud-mouthed aspirants for ballots and breeches who have been lounging about the corridors of the Capitol in the senseless and unsexed zeal for participation in the strifes and turmoils of a political election? They have sent no counter-petitions against the proposed innovation, which their native modesty and common sense teach them would be but "the direful spring of woes unnumbered," the entire destruction of that mighty influence which they now wield over the destinies of the human race.

"Capital is organized," and the "head center" of the Moloch of taxation, the Philadelphia Association, can and does send to all the manufacturing establishments of the country stereotyped petitions in favor of the continuation of their pet schemes for the further plunder of the great masses of the people. Because of the patient endurance

of the consumers, we are told that they are satisfied with the yoke which they wear; that they require and ask no relief from their struggling condition, but desire still to dwell in the happy tents of protection. They are not satisfied. They ought not to be satisfied. They ought to and do demand that the system of taxation shall be so arranged that all its burdens shall not rest upon them, and the self-constituted patriots shall no longer suck their life-blood in order that they may fatten upon the aliment. The voice of this outraged class will yet be heard, and if "judgment be not fled to brutish beasts and men have lost their reason" the potent argument of their oppressors will be met with the cry of "free trade and farmers' rights"—the stern and powerful remonstrance of the great agricultural interest of the country, which will teach a salutary lesson to the lawgivers and statesmen "who duncely manage their affairs in parliament."

We are warned that if Congress reduces the taxes upon imports we shall have a diminution of revenue, already hardly large enough for the wants of the Treasury. This assumption is necessarily based upon the idea that the present rates are at the point of greatest production, and hence any change would injuriously affect the public interest. If this is true, we have at last reached that happy period when no proposed protection is needed for the full development of the industrial avocations of the people, but all is accomplished in a tariff whose only object is to raise funds for the support of the Government. But I apprehend there is error in the statement. A reduction of the tax, in my opinion, would increase the importations to such an extent as to make up for any loss in the amount of the import rate, especially if the people shall have the means to become purchasers. And if something of the kind is not soon done I predict that our condition will become so crippled that importations will decrease and a financial collapse will add to the distresses of the country.

The great difficulty now experienced by our manufacturers is the want of a general diffusion of money and the consequent inability of a large number of persons to purchase what their convenience and desires suggest. This decreases consumption, and the consequent market demand for their products and stagnation of trade are the necessary result. Even at the low prices which rule the values of many of them millers cannot sell, and hence there is a stoppage, either partial or entire, of their operations. An increase of the tariff even would not help the matter at all. If a more liberal and just policy should be pursued, by which discriminations so great would not be made against foreign nations, their policy would be proportionally liberalized, an active trade would soon ensue, prosperity would come to the consuming classes, and the manufacturing enterprises would participate in the general advancement. Then business confidence would revive, the revenues would increase, and we should more than ever be the creditor nation, with the mass of the people as creditors, instead, as now, of a very few whose combined means enables them to control.

As I have already said, I do not desire any damage to befall the manufacturing industries of the country. I wish that they may all meet with the fullest prosperity consistent with the maintenance of the just rights of all other business. I should be glad to see a general diversity of pursuits in all parts of the land, brought about by the healthy demands of trade and the result of the uncontrolled action of the people. But I cannot consent that their enterprise shall flourish or be maintained at the expense of other callings which are equally entitled to the recognition of the Government; and my sincere belief is that if full and impartial justice shall be done to all the conflict will cease and that harmony will be established, which will insure the success of every interest of the country.

A few more words and I shall have done. The bill reported by the Committee of Ways and Means is far from effecting the radical changes in our financial system, which I regard as essential to the general welfare. But I know the difficulties with which they met. Their report shows that a majority of them are in harmony with the views of those who favor a freer and more unrestricted trade, and that they earnestly desire a nearer approach to the revenue standard, by which they believe that the great interests of the country will be more surely advanced. As a choice of evils it is my purpose to support their measure, trusting that it will demonstrate the wisdom and justice of lightening the burdens of taxation. In a few years I hope that a still more liberal policy will prevail and that out of it will flow an unending stream of prosperity and happiness to all parts and all interests of this great Republic.

BANKRUPT LAW.

Mr. BICKNELL. Mr. Speaker, the people demand the repeal of the bankrupt law. None but the large traders defend it. They defend it because it gives them despotic power over the great mass of their customers who are small traders and generally men of small means. In any period of contraction and depression when the small trader becomes embarrassed in his business the threat of the wealthy and powerful creditor, "I will put you into bankruptcy," makes the former substantially his servant, destroys his independence. The law ought not to create such a power and ought not to foster it. The creditor classes need no such power; they need no peculiar privileges. The same shrewdness and rigor and prudence that made them creditors enables them to take care of themselves, and they always do so.

It has been said that the chief object of government is to protect property. That may be true of despotisms, but it is not true of modern democracy. All our costly machinery of government, our legis-

lative bodies, our courts, our thousands of executive officers, are not established merely to defend the rich, but mainly to protect the defenseless poor man, powerless to protect himself. "To judge the people according unto right and defend the poor" will be the character of a truly democratic government forever.

I said that only the large creditors defend the bankrupt law; but there is another class who do it: the officers who take the fees. Except them, I have heard no man in my district advocate the present bankrupt law. For the last five years especially its results have been so fatal, so invariably have the assets of the bankrupt been squandered in fees and lawsuits and other expenses that few creditors pay any regard to the proceedings. They deem it useless even to prove their debts; there is nothing to be gained thereby. They throw their bankrupt notices into the fire and curse the law, and that is the end of it.

But not only has this law received the general condemnation of the people; it is wrong in principle. When the Constitution authorized Congress to make a bankrupt law bankruptcy had a specific meaning; it was not mere insolvency, it was fraudulent insolvency; there was villainy in it, not mere inability to pay debts. Lord Coke tells us "the name and the wickedness of bankruptcy were imported from foreign nations," but our bankrupt law abolishes all distinction between honest insolvency and fraudulent insolvency; puts the rogue and the honest man upon the same footing, gives them alike a discharge, the only difference being that the rogue can appropriate 50 per cent. of his creditors' property, while the honest man saves nothing. Such a law debauches and demoralizes the community; it sets at naught the moral principles that formerly upheld the sacredness of an honest debt.

Under bankruptcy, as originally defined, when a trader becomes a defrauder, a criminal, the Government comes in and administers on his estate as if he were dead; distributes it among his creditors and discharges him as if he were dead; commercially he is dead; his credit is gone; he begins *de novo*; if he is ever trusted again it is on the faith of a new character subsequently acquired; there is some plausibility in that; but to make a man a bankrupt for mere insolvency, failure to pay a note, is an outrage, and the wholesale discharge from debt is universal repudiation.

In voluntary bankruptcy, where a man may purchase twenty thousand dollars' worth of property and pay for half of it and keep the remainder for nothing, that is legalized robbery; it tends to overturn the foundations of social order.

You may take private property for public use, but the public must pay for it, while, under the bankrupt law, private property is taken for private use and nothing is paid for it. Every debt discharged without payment or release is so much property taken from the creditor and given to the debtor for nothing; as long as a single creditor objects to it the injury is done to him. It is no wonder that the honest farmers of the country are opposed to such a law. I mean the bone and sinew of the country, the men who own the small farms and do their own work. I have heard but one plausible argument in favor of the present bankrupt law, and that is founded on expediency only, to wit: that in this country we need a jubilee, a general discharge of debts at least once in a generation. If that be true, I submit that the present bankrupt law has fully done its work in that respect, and it is time to go back to first principles.

Our bankrupt law is not only essentially vicious in principle, but it has the bad pre-eminence of violating the rights of creditor and debtor both, and it also violates the rights of the States by annulling and making useless all their insolvent laws.

The people of the several States are not alike; they differ in their laws, in their social customs, in their habits of business, and to some extent even in their notions of right and wrong.

The several States had, and rightly had, their own insolvent laws; all laws have their origin in the social necessities of the people who make them; the insolvent laws of the States, alike in general, had specific differences, suited to the peculiar condition and circumstances and general legal system of the people who adopted them respectively; the foreign creditor who trusted citizens of any State for the sake of gain, had no right to complain that their insolvent laws were not such as he was familiar with at home; all he could justly demand was equal rights with a resident creditor under the State laws. But the bankrupt law, under pretense of regulating bankruptcy, has substantially swept away the insolvent laws of every State, and by introducing new principles gathered from English law and elsewhere, and unknown to our western communities, has unsettled the general system of mercantile business and has produced universal confusion.

Hence, although a certain class of politicians have been able three times since the year 1800 to procure the passage of a bankrupt law, yet in every instance the law has failed to satisfy the people, and has been repudiated after a very short trial. The bankrupt law of 1800 was repealed in less than two years; the law of 1841 was repealed in less than three years. The longer life of the present law can be justly ascribed to the general demoralization of the times, but the people will submit to it no longer. One of the chief objections to all these laws was that the people of the several States prefer their own systems of insolvent laws, and want no Federal officers interfering in their local domestic concerns.

But, besides interfering with various State laws regulating their internal policy, the bankrupt law, in its influence upon the private conduct and moral principles of men, has been eminently disastrous.

It has begotten and fostered a reckless disregard of debt, a spirit of extravagant and wild speculation, which sooner or later ends in complete dishonesty. It has made men familiar with the notion that obligations may be lawfully discharged otherwise than by honest labor and sacrifice of property and of personal comfort. It has destroyed that just sense of ultimate responsibility which is the best check upon hazardous undertakings, and the consequence has been a general destruction of confidence throughout the community; no man knows whom to trust; it is impossible to foresee how soon any debt may be satisfied by a bankrupt's discharge.

These disadvantages are not compensated by the establishment of an artificial uniformity of complex proceedings which few understand and nobody desires.

For the foregoing reasons, but especially because the people, who know what they want, demand the repeal of this law, it is our duty to repeal it. Let us abolish the premium for dishonesty, and restore, if we can, the old-fashioned doctrine, that an honest debt must be paid by honest labor and honest sacrifice.

THE NORTHERN PACIFIC RAILROAD.

Mr. WILLIAMS, of Oregon. Mr. Speaker, I propose in the short time I shall occupy to-night to offer some reasons why the time for the completion of the Northern Pacific Railroad should be extended in accordance with the application of that company.

This is a measure of great importance, not only to the people of Oregon but to the whole of our northwestern States and Territories, as by the passage of the bill and the successful completion of the road it is impossible to conjecture the benefits that must inevitably result to that section of our country. There is no subject of legislation which will be considered by this Congress that will so materially and directly affect their interests as will the passage of the bill extending the time for the completion of this road.

The practicability of the enterprise is conceded. The time has passed when the construction of a railroad from Lake Superior to the Pacific Ocean may be considered the idle dream of an enthusiast or adventurer. The construction and successful operation of a railroad from the Missouri River to the Golden Gate in California has effectually dispelled all such false and erroneous impressions, and demonstrated the wisdom and foresight of its projectors and of the Government in extending to it substantial aid. I will not discuss this bill and its provisions as though it were an original application of this company for a subsidy of lands out of the public domain to enable it to commence the construction of its road.

Whatever might be the merits of such an application, I know and understand too well the present temper of the public mind to ask the representatives of the people, chosen at such a time as this, to disregard it, although personally believing it to be an unwholesome prejudice to refuse to assist by legislative aid such and any and all such legitimate enterprises as assist to build up and develop our common country, give homes and remunerative employment to our people, so many of whom are now idle for want of it, besides tending to increase our commercial importance both at home and abroad. The company has a more substantial claim than would be involved in a new application.

The original charter of the Northern Pacific Railroad Company was granted by act of Congress approved July 2, 1864, by the provisions of which the company were authorized to construct its road from a point on Lake Superior to Puget Sound, in the Territory of Washington, with a branch to the city of Portland, in the State of Oregon. To assist it in doing so and for the purpose, as stated in the act, of "securing the safe and speedy transportation of the mails, munitions of war, and public stores over the route of said line of railway," a grant of the public lands was made to the company amounting to twelve thousand eight hundred acres per mile, through the States traversed by the road, and twenty-five thousand six hundred acres per mile through the Territories. By the terms of the act the road was to be completed in twelve years. By a joint resolution of Congress approved May 7, 1866, the time for the completion of the road was extended for two years longer. By a subsequent joint resolution, approved July 1, 1868, amending section eight of the original act, the time fixed for the completion and equipment of the road was again changed; though apparently conflicting with the previous joint resolution the times seem to have been shortened one year for the completion of the road. By joint resolution of Congress approved April 10, 1869, the company were authorized to extend their branch and connect the terminus thereof, which was at Portland, Oregon, to the terminus of their then main line on Puget Sound, upon the terms and conditions, and with the rights and privileges conferred upon the company by the original act of incorporation and all additional acts amendatory thereof.

By joint resolution of Congress approved May 31, 1870, that which had theretofore been known as the branch line was made the main line, since which time it has been located down the Columbia River Valley and to Puget Sound, and a portion thereof has been constructed. By the latter joint resolution the railroad company was authorized "to issue bonds to aid in the construction and equipment of its road, and secure the same by mortgage on its property and rights of property of all kinds and descriptions, real, personal, and mixed, including its franchise as a corporation."

The company claim that the time for the completion of its road

under the various acts and resolutions above referred to does not expire until July 4, 1879. The Commissioner of the General Land Office has adopted the view of the company in this respect, and has not reported this company as among those whose grants have lapsed by the expiration of the time for the completion of the road, leaving the company at this time in full possession of its rights under the grant, free to continue the construction of its road, with the right to receive a title to the newly earned portions of its grant unimpaired.

The company, prior to the time of its failure, constructed and equipped, in its eastern division, four hundred and fifty miles of its road, from Lake Superior west to Bismarck, in Dakota Territory, and in its western division, from Puget Sound to the Columbia River, one hundred and five miles.

In April, 1875, the company being then delinquent in the payment of its interest, legal proceedings were instituted by the holders of its bonds to foreclose their mortgage upon the road and property of the company; a decree was obtained under which the property and rights of the company, including its franchise to be a corporation, were sold and are now claimed and held by the persons who furnished the capital by which the enterprise was carried forward until the failure of the company. Since the sale under the decree of foreclosure the company has been reorganized completely and being now in full possession of the road, property, and franchises of the old company applies by petition to Congress for an extension of the time for the completion of the road, in accordance with the spirit of the original act of incorporation.

In the petition of the company presented to this House on the 6th day of December, 1877, for the purpose of obtaining an extension of time, I find this statement:

That since said reorganization and in the present year 1877 your petitioner has constructed and equipped and completed in all respects, as required by law, more than thirty miles of its branch road in Washington Territory, and has commenced the work of construction of the main line west of Bismarck, in Dakota Territory, and the same is now in progress; and it is the intention of your petitioner to proceed with said work as rapidly as a prudent use of means will permit, and to construct, equip, and complete the entire road and branch within such reasonable and sufficient time as Congress shall specify for that purpose.

At the first session of the present Congress a bill providing for an extension of the time to this company, in accordance with its petition, was introduced and referred to the Committee on the Pacific Railroad.

The committee have reported the bill recommending the extension of the time, and with several important amendments to which I will briefly refer. After confirming to the company the rights, privileges, and property as now claimed by it, it is required to complete one hundred miles of its main line per year, twenty-five miles of which shall be west of the Rocky Mountains. As has been before remarked, double the amount of land was given to the company where the line of their road is located in the Territories; under this provision of the act the company located its line of road in its western division, entirely on the north side of the Columbia River in the Territory of Washington. In the bill as amended, and reported by the committee with the knowledge, approval, and consent of the company, they are required to locate and construct so much of their line of road as lies between the city of Portland and the town of Umatilla, in the State of Oregon, on the south side of the river, thus changing the location of the road for a distance of over two hundred miles into the State of Oregon. This the company have done as a concession to the wants and requirements of the people of that State.

By this amendment they will have to abandon, for the distance above referred to, of the change of location, one-half their land grant, thereby restoring to the public domain about twenty-five hundred thousand acres of land. The bill has been further amended in the committee by requiring the company to sell its lands obtained under the grant to actual settlers at the same price and upon the same terms and conditions as the lands of the Government lying within the limits of the grant are sold. This amendment will remove a great obstacle to settlement on the public lands heretofore felt by persons settling upon railroad lands and those going upon new and unsettled public lands lying within the grant in advance of the Government surveys, by enabling them to obtain title to the land settled upon without embarrassment and at a reasonable and certain price. There is a further amendment, protecting private entries, homestead and pre-emption claimants whose rights attached prior to the receipt of the orders of withdrawal at the respective district land offices, and relieving all suspended claims on account of an increased price of the even sections within the grant by permitting the same to be carried into patent.

The bill was also amended in the committee by repealing the branch grant in Washington Territory by which the company will have to abandon over five million acres of land heretofore claimed by them. The company was further authorized, on the vote of two-thirds of the stockholders present at a meeting called for that purpose, to issue its bonds for the construction and equipment of its road, not to exceed \$25,000 per mile, and to secure the same by mortgage.

It is further provided that, if the company fail to construct the road and earn the lands, the settlers thereon may obtain titles under the homestead and pre-emption laws as if this grant had not been made. The bill contains the most liberal provision for settlers contained in any grant of the kind; and the committee have used commendable diligence and judgment in surrounding them with every possible guarantee for their future security. The following sections

are important and unusual in such grants: the seventh section of the amended bill declares the duty of the company to maintain at all times its road and telegraph line in good repair, and gives the Government the preference in the use thereof for specified purposes at reasonable rates, and authorizes the President, for willful neglect of the company to "transport promptly the mails, munitions of war, supplies, and public stores," to take possession of the railroad and telegraph line and their equipments and use the same to perform the required service. The eighth section provides that when the company shall sell or contract to sell or shall convey away any of the lands granted the same shall be subject to taxation in any State or Territory. The ninth section reserves the right to Congress to at any time "add to, alter, amend, or repeal this act, or the charter or resolutions" creating the corporation, and to "provide by law against unjust discriminations and excessive charges wherever the same shall be made by the company."

The advantage of these several amendments to the people living along the line of the road, to the Government and to the stockholders is obvious.

Other amendments were submitted by myself and other persons representing different localities and interests, but they have failed to receive the approval of the committee. I shall not antagonize the report of the committee for this reason.

The Senate bill which was this day laid upon our table contains substantially all of the provisions of the bill which I am now discussing, with many important additional provisions in which I concur, and I doubt not they will when the bill is reached be incorporated into the bill and will receive the assent of the committee and the House, as I understand they have of the company.

The present stockholders of the Northern Pacific Railroad Company became the creditors of the original company at the commencement of its active operations in the construction of the road. Having then confidence in its business management they advanced the money by which its operations were carried forward, believing that the completion and operation of the road would prove a remunerative investment, yielding them back not only the principal advanced but a reasonable interest thereon. This belief was the result in some measure, as was the lending of their money to the company, of the passage of the several acts of Congress making this munificent grant of land to the company. These creditors trusted the company with their money with as much expectation and confidence that the road would be prosecuted to completion as had Congress in making the grant which induced the commencement of the work.

The grant to the company created a credit for it, and the confidence of the creditors thus inspired they had a good and valid reason to hope and believe that the company would complete the road, earn and own the land, and that both the road and land would ultimately constitute a fund out of which their money would be repaid; and I respectfully submit that these persons should not be disappointed by any act of the Government in refusing this extension of the time for the completion of the road, especially now that they have had to take, in payment for their investment made in good faith, the property and effects of the unsuccessful venture of their debtors, the original projectors of the enterprise. No subsidy or Government aid of any kind is asked. Not a dollar of the public money. Neither a guarantee of principal or interest. It is simply asked that the time be extended, even by a surrender of a large portion of the grant and an increased obligation on the part of the company; that the time lost by the reverses of the company, so common within the last period to so much of the business of our country, reverses for which the present stockholders of the company are in no wise responsible, and which brought them to the ownership of the road, be extended, that they may, by further effort and expenditure, advance the present value of their property and accomplish the purpose for which the company was originally organized.

It is but an act of justice to these persons that this time should be extended, as by no possibility can the company hope to complete the road within the present limit of time, by their own construction of the law; especially is this so as the embarrassment of the old company was due in a great measure to the lamentable financial crisis in the country, against which the most prudent and thrifty have struggled heroically. The present owners of this road should not now be left with this great national enterprise on their hands incomplete; but they should be reassured in their just and reasonable expectations, by having this extension granted, so as to enable them to accomplish the object of the Government in encouraging the commencement of the enterprise and to realize their own expectations in the completion of the road.

I regard this land grant as a trust fund in the hands of the Government, set apart for the completion of this road, and not only is it an act of justice to the present owners, that this fund should be kept sacred, intact, and devoted to that purpose only, but common honesty demands that the thousands of persons who have left comfortable homes, business, and friends, and in good faith gone into the western wilderness to reclaim it from the possession of the Indians and to establish there the institutions of civilization, upon the expectation, created by the Government in making this grant, that the road would be constructed, should not be disappointed.

These settlers and frontiersmen, in doing as they have done, and if this time is extended will continue to do, render a service to the

Government, civilization, and the country which is seldom if ever adequately rewarded. They went there with the most implicit confidence and belief that this road would be constructed; it was one of the leading if not the only inducement for them to go, and surely this Government, which is proverbial for its liberality and magnanimity will not now disappoint them by refusing this extension of time to complete the road. Besides, in the event of refusal on the part of the Government to grant this extension they will be greatly if not irreparably injured by being left to live there after having expended their means upon unprofitable homes, without proper mail facilities and often without adequate protection and the indispensable means of transportation which the railroad if completed would afford. So important do I regard the duty of the Government to this class of its citizens, that, rather than they should be so disappointed and injured, the Government should do toward the construction of the road "any and all acts and things which may be needful and necessary to insure a speedy completion of said road," as it reserved the right in the original charter of this company to do on the failure of the company to perform the conditions thereof for a period of one year.

The advancement of the public service, the protection of the frontier, the settlement of the vast country traversed by this road, which were the primary reasons for the making of this grant, still remain to be accomplished.

The question is suggested as to what guarantee there is that this road will be completed, even if the time is extended for that purpose, as prayed for by the company. I freely admit that the time should not be extended, and the portion of the public domain applicable to this land grant should not be again tied up in the hands of this company for speculative purposes or without reasonable assurance that the road could and would be completed at the earliest day possible; certainly within the time specified in this act. It is the dictate of prudence to guard the public interest in this respect. We should look not only to the promises of the company after one failure, but we should also look after other reasonably satisfactory evidence of the intention and ability of the company to perform the work. By reference to the report of the Secretary of the Interior for the year 1877, on pages 26 and 27, I find the following statement concerning the reorganization of the Northern Pacific Railroad Company, its property, and its present financial condition, as compiled by him from their annual report:

The Northern Pacific Railroad Company was reorganized on the 29th of September, 1875, under a plan which had been adopted by the holders of the company's bonds, and under which the company's mortgage was foreclosed. On the 12th of August preceding all the company's property and franchises were sold under a decree of the United States district court for the southern district of New York, and purchased by a committee of the bondholders for the account of all the holders of the company's bonds and stock, pursuant to the provisions of said plan. This plan of reorganization, approved and confirmed by the said district court, provided for the conversion of the outstanding bonds of the company into "preferred stock" and its stock into "common stock." Up to June 30, 1877, there had been issued of preferred stock to bondholders who had surrendered their bonds for conversion, and also in settlement of claims and salaries, the amount of \$36,609,345.95. Of common stock there had been issued to the same date 139,453 shares, of \$100 each. The company is operating four hundred and fifty miles of its road from Duluth, at the west end of Lake Superior, to Bismarck; one hundred and five miles from Kalama to Tacoma, Washington Territory; and seventeen miles from Tacoma toward Wilkeson, thirty-one miles from Tacoma, to which point it was expected that the road would be finished by the 30th of October; and which, the president of the company informs me, is now completed.

The road is definitely located from the mouth of Heart River, on the Missouri, to the mouth of Glendive Creek, on the Yellowstone, a distance of two hundred and five miles. Between the last-named point and the junction of the Deer Lodge and Little Blackfoot Rivers, Montana Territory, the line has not been definitely fixed, though it will probably follow the Yellowstone as far as the mouth of Porcupine Creek, a distance of two hundred miles from the mouth of Glendive Creek. In Washington Territory the branch and main line both terminate at Tacoma, on Puget Sound. The cost of surveys during the year ending 30th June last, was \$11,785, making the total cost of surveys, \$1,124,728.55. This includes the purchase of the right of way. The amount received from transportation of passengers for the year ending 30th June, 1877, was \$283,915.78; of freight, \$663,205.05; from miscellaneous sources, \$63,930.60; total, \$1,011,042.43. The operating expenses for the year were \$477,451.40; leaving net earnings, \$533,596.03. The total cost of construction and equipment of the road to that date was \$19,421,977.56. The company's indebtedness to said date was \$309,730.81. As an offset to this debt the company had bills receivable, balances due from other railroad and transportation companies, and from the United States, \$229,100.54, leaving a net indebtedness of \$80,630.27.

Thus it will be seen the company is out of debt and owns five hundred and eighty-six miles of road, costing \$19,421,947, well equipped, yielding a net annual revenue of over \$300,000, besides its earned portion of the land grant unsold lying contiguous to the completed sections of the road, with a certain prospective increase of business sufficient to pay the interest on the cost of completing the road between Bismarck and Kalama, a distance of about fifteen hundred miles, an increase of business not only sufficient to pay the interest on the cost of the incomplete portion of the road but sufficient to yield a handsome profit besides, if we may rely upon the published dividends of the only railroad to the Pacific coast. Certainly all this affords some guarantee of the good faith of the application for the extension of time and of the intention and ability of the company to complete the road.

Permit me briefly to call attention to some of the advantages that have already accrued and will continue to accrue from the construction of this road. I know there is a growing apprehension of danger in the public mind from the existence and growing power of the great corporations; and for fear of evil results many hesitate to either create them, or give aid to them from the public fund. I assume, without at this time giving my reasons therefor, that Congress may do both

in the legitimate exercise of its constitutional power for any of the purposes mentioned in the law relating to this company. Speaking upon this subject, the committee say in their report upon the Texas and Pacific bill:

To hold that the Government cannot combine with private capital, retaining its general control over the work when completed, and to call to its aid individual enterprise and energy in securing a great national highway deemed essential to its interest and the security and prosperity of the country, would be to deny to the Government the employment of what it might conceive to be the cheapest, most expeditious and most efficacious means of accomplishing an object clearly and confessedly within the limits of its constitutional power.

No danger need be apprehended if in such legislation the public interests are carefully guarded. The great unanimity with which this House to-day in its action upon the Union and Central Pacific funding bill declared not only its power to protect the public interests but its disposition to do so will allay any apprehension of harm from this source in the public mind.

After thorough examination of the bill I must commend the wisdom of the committee for the careful manner in which they have guarded every interest of the Government, reserving to Congress, as they have done, full power to hereafter control the conduct of the company in many important respects in which that power has been heretofore disputed. Every authority conferred upon the company is properly hedged about with wholesome restrictions.

When this company commenced the construction of this road the region of country from Lake Superior to the Rocky Mountains was a wilderness entirely beyond the confines of civilization. A distinguished member of this House taxed his ingenuity in vain to ascertain the exact locality of the great city destined to be the eastern terminus of the road. What was the value of the public land granted to the company for the purpose of aiding in the construction of the road at that time? It had no market value, for there was neither a market nor demand for it, nor would not have been yet if the road had not been built. It could neither be profitably nor even safely occupied by the settler for any of the purposes contemplated by the public-land laws. The Indians who roamed over it were kept in subjection at great annual expense to the Government; even the surveyors of the company in locating the line of the road had to be protected by Government troops. How is it now and what has produced this result? A happy and prosperous population adorns with comfortable homes and improved farms the line of the road from Duluth to Bismarck, all of whom have gone there as a result of the construction of this road and many by reason of special inducements offered by the company. Life and property are as secure there as elsewhere. Territorial, county organizations, and courts are in perfect operation. The soldier and savage have alike given place for the plow, the work-shop, the church, and the school-house. On the line of the road the Government has three land offices at which within the limits of the grant during the last fiscal year it disposed of for settlement over three hundred thousand acres of land under the various acts for the disposition of the public lands. Equally great progress has been made in its Pacific division.

In contemplation of the passage of this bill and the early resumption of work on this road, there have been already this year over one thousand applications for lands for actual settlement made to the company in Washington and Idaho Territories. Where Chief Joseph wrought his murderous work within a year upon the settlers who had gone into that country expecting this road to be built, now settlements are being made with wonderful rapidity. That war would not have occurred had this road been completed, and its construction is a future perpetual guarantee against the recurrence of such wars upon our entire Northwestern frontier.

By a proper extension of our railway system upon our northern and southern border we secure our territory against any possible encroachment or raids from persons such as are now menacing our citizens upon either boundary.

The company sold land earned by the construction of this road, principally, however, in settlement of its indebtedness, for which it received \$1,695,714.46 between October 1, 1875, and July 31, 1877. The wheat crop on its eastern division last year was fifteen hundred thousand bushels. In the Pacific division an equal quantity was produced for foreign shipment within the limits of this grant.

The necessity declared by past legislation for additional competing transcontinental lines of railway is affirmed by the committee having our railway interests directly in charge, and yet the possibility of the destruction of competition by the southernmost of the contemplated lines is by their report admitted from the over-reaching cupid-ity of the giant monopoly now levying tribute by excessive charges upon the entire commerce of our Pacific States and Territories. The whole Pacific coast will be immeasurably benefited by destroying the monopolies that embarrass transportation there. This the competition of this road will do if it is completed. The purely local business upon either road from this cause will not be materially benefited, as the distance between them is so great and there are no connecting lines, but the large and increasing through trade from one coast to the other must be done at greatly reduced prices as the result of competition. This road should be constructed and maintained as an independent line, free as the interest of the company and its patrons shall demand to compete for its business, that it may prove what it is intended to be, a benefit and not injury to the people of the Northwestern States

and Territories. In this view it deserves not only the support and encouragement of the nation but of every local interest. It should be, as it is, forbidden to combine its business interests with other companies, thus defeating competitive transportation, which is the interest of both the Government and the people.

No section needs more the advantage of competition and increased facilities for transportation than Oregon, Washington, and Idaho. In addition to being heavily taxed with high charges by local companies and increased insurance, its commerce is laid under tribute to swell the large annual revenues of the two companies now holding a monopoly of the only means by which communication can be had with eastern cities, from which, as manufacturing there are yet in their infancy, supplies for that section are largely drawn.

Cheap transportation to the seaboard is a necessity to an early and proper development of the great interior region lying between our Atlantic and Pacific States. In the present condition of this section of country private enterprise alone is insufficient for this purpose. Yet when roads are constructed under the fostering care of the Government, with the rapid settlement and development of the country which follows immediately they will be able to make for themselves a business not only self-supporting, but remunerative. Our transportation, agricultural, and mining interests should be guarded and protected by legislation with the same care bestowed upon our manufactures. Our commerce with other countries and our ship-building interests upon the Pacific are to be largely augmented by the construction of this road.

Increased facilities and competition, besides stimulating a landable rivalry in business, must give reduced prices and improved accommodations. While drawing nothing from the public Treasury, the construction of this road affords a well-defined method of reducing our standing army and the current expenses of the Government, besides building up prosperous communities upon new territory, adding largely to its revenues and to our surplus productions, and relieving the people from a grasping and oppressive monopoly; and in its practical working will develop and demonstrate that commercial law of supply and demand which would otherwise have to be accomplished imperfectly by congressional legislation.

THE NORTHERN PACIFIC RAILROAD.

Mr. JACOBS. Mr. Speaker, the Northern Pacific Railroad Company was created by act of Congress, approved July 2, 1864. The company did not commence the work of actual construction until nearly six years afterward. An excuse for this long delay is to be found in the magnitude of the enterprise, the extent and expense of the necessary preliminary surveys, and the enormous sum of money involved in the construction and completion of the road. While the grant of land was liberal—every alternate section for twenty miles on each side of the road where its line ran through a State, and double the quantity where its line ran through the Territories—yet that land could not be made available, to any considerable extent, in the construction of the road. No subsidy in money, in any shape, was either asked or granted. It was a national enterprise, to be consummated by private means. Its paramount object and all its grander results are national; but the funds necessary for the accomplishment of this object and to secure these results are private.

The work of construction was commenced in earnest in 1870, at both ends of the line, and pushed with commendable vigor until the financial crash in 1873. That crash stopped the sale of the bonds of the company and carried Jay Cooke & Co., their bankers, into bankruptcy. In the mean time over five hundred miles of the road had been built and fully equipped.

It is manifest from this brief résumé and from current history that the company was not to blame for this sudden stoppage; but the times were out of joint and money could not be obtained for carrying on the work. The suspension of railroad building was general and not confined to this company alone.

The temporary suspension of this enterprise was a national misfortune, for it left unaccomplished the purposes had in view by its creation, while the reasons that prompted it remained as urgent and potent as ever. While their fault, if any, did not contribute to its suspension, to refuse them an extension of time now, after they have regained their feet and are ready to go on, and have given convincing evidence of their ability to go on by the construction of over one hundred miles of road in the past year, is like plundering a man because he is down.

The company are not asking a subsidy, but a mere extension of time in which to complete their road. They are in the condition of a mortgagor who has made default in payment, they are liable to a suit for foreclosure. A generous and judicious mortgagee, if he saw a disposition and ability to pay in the near future, would certainly extend the time for payment.

The land grant, while it is to some extent the basis for present credit, and is of ultimate value to the company, is no loss to the Government. The price charged by the Government for its lands is \$1.25 per acre; the moiety of land retained by the Government within the limit of this grant is raised to \$2.50 per acre. In other words, the one-half retained is to the Government of the same value as the whole would be without the road. Besides, the construction of the road secures the settlement of the public domain, the speedy development of its resources, the increase of material wealth, swells the vol-

time of taxable property, and opens up a broad highway for domestic and foreign trade and commerce.

This bill with the provisions for the surrendering of certain of the granted lands brings back the enterprise to its original design and purpose, a single transcontinental northern line connecting the great lakes with the Pacific Ocean. It restores to the public domain in Washington Territory all of the branch lands, amounting in the aggregate to over eight million acres, and on the main line, by reason of its change of route to the south side of the Columbia River, two millions and a quarter of acres more. This may be considered as a consideration for this extension of time. This bill in its provisions is far more liberal in its recognition of the rights of settlers than is the original charter. I believe it could safely have gone further in the recognition and confirmation of such rights, but I am not inclined to reject what it gives because I could not obtain more from the committee. All legislation is to some extent a compromise of conflicting claims and rights, and I accept the provisions of this bill as the best I could obtain.

Its provisions are liberal as compared with the vicious constructions of the past. Anything is preferable to the present condition of things. It would be a misfortune to defeat this bill and to rest there. The grant to this company is what lawyers call a grant *in presenti*; the title to the land is vested in the company. Mere non-performance of the conditions of the grant does not divest the company of their rights under it, nor restore the land to the public domain. There must be a legislative declaration of forfeiture or some governmental act equivalent thereto. Hence, unless this Congress is willing to go further than mere negative action, the effect will be to continue all the lands on the branch as well as on the main line in the possession and ownership of the company. Hence I say the defeat of this bill would be a misfortune unless Congress is prepared to assume the aggressive, and to declare this land grant forfeited for the non-performance of conditions subsequent.

But why should a forfeiture be declared under the facts of this case? The reasons which prompted this grant are as potential now as ever. This road cannot and will not be constructed without the aid of this land grant as a basis of credit.

One reason for the continuance of this grant of land and extension of time for the completion of the road is by its construction to settle the Indian question forever. There is a vast amount of human nature in the Indian. He believes that the Great Spirit is on the side of the heavy battalions; he respects power; he worships power; the name of his deity all over the Northwest is Sock-la-tie, or "The God of Power." While he has no virtue but bravery, and no vice but cowardice, his deity has no attribute but power.

He not only respects power, but his respect for power is heightened by its present and immediate effectiveness. Distant power has no terrors for him. A living, menacing, present force is what he fears and obeys. Present victory with its opportunities for immediate plunder is so sweet that he chooses it at the price of distant though ultimate defeat. To hold him, therefore, in subjection the force must be palpable and impending. He of all beings lives in the present and on the fruits of the present. He is reckless of the morrow and its results, whether they be victory or defeat. This disposition is what makes him a scourge to the pioneer and is an almost impassable barrier to his civilization. He cannot wait for future results; hence he never sows, because reaping is too distant. To him the facts of the present are the only factors of life; they are all that he knows, all he heeds.

The railroad and locomotive are to him the highest symbols of power. He understands the quickness with which forces can be concentrated along the line of the road, and hence the theater of his hostility is not there. There have been no Indian wars along the line of the Union or Central Pacific since they were constructed. The line of the Northern Pacific is through the country where dwell the most powerful and warlike tribes of Indians on this continent. Let this road be built, and all probability of danger from that source is forever past.

As I have said before, the Government really loses nothing by the land grant; it is in the condition of the proprietor of a town who gives away every alternate town lot on the condition that it shall be improved upon. By this means he increases both population and wealth, accelerates the growth of his town, and more than doubles the value of his remaining property. The Government gets the same sum of money for the half that it otherwise would for the whole; and besides it saves every year millions of dollars that would otherwise be necessarily expended for the suppression or prevention of Indian hostilities.

But the benefit to be derived is not in dollars and cents alone; human life is preserved; women and children are saved from horrid massacre; and brave men live for nobler deeds of valor. Had this railroad been built within the time prescribed by the existing law the noble Cuater and his brave band of heroic men would not now be sleeping the sleep of death on the wild slopes of the Rosebud Creek; nor would the Nez Percé "Joseph" and his band of Indians have made a trail marked with conflagration and death for nearly a thousand miles in length.

Again, another object had in view by the statesmen who first gave form and substance to this enterprise was to open up to settlement the vast domain lying between the lakes and Puget Sound, most of

it at that time a vast wilderness. This immense country is not only rich in mines of coal, iron, cinnabar, gold, and silver, needing but population and industry to develop them, but it is the great wheat belt of this continent. This rich slope of country stretching between the Rocky Mountains and the Mississippi is the foundation of strong and populous commonwealths yet to be. Their growth will be hastened by the completion or delayed by the defeat of this railroad. Without it their growth will be slow indeed.

The Government will receive its compensation for the donation of these lands and the extension of the time for the completion of the road, in the increase of population and material wealth; in the swelling of the volume of business; in the consumption of dutiable articles; and in the manufacture and use of the articles on which internal revenue is collected. Would it not be best and wisest to hasten the settlement of this country by the continuance of the land grants to the company, even though the Government should lose the price of the land, rather than to lose that constantly increasing and perpetual revenue which would be paid by a large and ever-growing population?

The line of the road crosses the Rocky Mountains at an elevation of not over five thousand feet. It descends the western slope of these mountains with an easy grade until it reaches the valley of the Columbia, and from thence on and down that valley to Portland and the Sound with no greater grade than that of flowing water. The sum of its elevations is about three times less than that of the Union and Central Pacific Road.

From the Rocky Mountains westward to The Dalles, in Oregon, at the eastern base of the Cascade range, the road will run through the center of the great Columbia River basin. This basin is fully six hundred miles in length by four hundred miles in width. It was once, no doubt, an immense inland sea. Beds of petrified oysters and other marine shells attest this fact. Indian tradition also corroborates it.

The soil of this basin is very largely composed of volcanic ash and carbonate of lime, much the same as the island of Sicily. All the elements necessary for the successful production of wheat and other cereals exist in inexhaustible quantities in the soil. In this regard its capabilities are sublimely great.

Continue this grant by the extension of time to the Northern Pacific, and thus secure the construction of this road, and in a quarter of a century this basin will be filled with many thousands of industrious and thrifty people who will send their surplus millions of grain to the markets of the world. The customs dues and internal-revenue tax which they will pay will be far more valuable to the Government than the revenue derived from the slow sale of the public lands.

Population is what is wanted; the wealth arising from the productive energies of labor is what enriches a country and makes it both strong and powerful, while land not made productive by labor enriches nobody. Hence Government gives away its domain to actual settlers on the lands, and this is done to encourage settlement and to increase the products of labor and thus to augment the material wealth of the country. It is the same principle which underlies the grant to this company; it is a sound principle, and care should be taken that the grant accomplishes this object, the settlement of the country. Hence I contend and have always contended, that the grantee should be limited in the price he could ask, and that he should be compelled to sell when that price was tendered; and I am sorry that this bill does not fully recognize this principle, for then it would be in full harmony with the liberal and settled policy of the Government in the disposition of its lands. It is always difficult at a single bound to reach ultimates; they must be approached by degrees. This bill, in its provisions upon this subject, is a long step in the right direction.

In this connection there is another proposed provision to which I wish to invite special attention. The bill submitted by the House committee, as well as by the Senate committee, and accepted in this regard by the company, make the main line of the road run down the south side of the Columbia River and permit the company to commence the construction of the road between Umatilla, Oregon, and the mouth of Snake River, in Washington Territory, and thence proceed eastward. It is well known to every man at all acquainted with this great river that the falls or rapids at The Dalles and lower down at the Cascades completely interrupt its continuous navigation. These out of the way and the navigation for good-sized steamers extends between five and six hundred miles beyond.

The men or company controlling the portages around the rapids have virtually and actually control of the navigation of that immense river and the large and constantly increasing commerce of the great Columbia River basin. The Oregon Steam Navigation Company now control these portages and have controlled them for years. The freight charges are very low now as compared to what they have been in former years. Yet now the freight charge is \$25 per ton from Portland to Wallula, a distance of about two hundred and twenty miles. If the railroad company commence the construction of the road at Umatilla or near the mouth of Snake River, and thence build eastward, it leaves the Lower Columbia locked with the keys still in the possession of the Oregon Steam Navigation Company, and this state of things must, unless this bill is amended, be continued for ten years more.

The possession of power which may be wielded to the detriment of the public and for the pecuniary aggrandizement of its possessor is

a dangerous lodgment for the rights and interests of the people. Corporations are no more fit guardians for the interests of the public than wolves are fit guardians of lambs. The result is always the same in each case—both are devoured.

It is in the power of Congress to remedy this evil, and a fit opportunity for the exercise of this power is now presented. Compel this railroad company in a reasonable time, say three years, to build portages around the rapids of the Cascades and The Dalles. Let them be free for all at reasonable charges, and the present monopoly is broken. It is no injustice to the railroad company to compel them to build these portages. It is in furtherance of their designs on the direct line of their route, and fifteen miles of road is all that is necessary. They must ultimately build this very road before Portland can be reached.

The railroad company assert that there is no combination between them and the Oregon Steam Navigation Company. I accept their disclaimer as true. Such being the case, nothing is more manifest than that it is the interest of the railroad company to build these portages at once. The iron and other material necessary for the construction of the four hundred miles of road beyond must pass over these portages. More than enough would be saved in the freight on iron alone to build them. The railroad company must either build the road or pay the enormous freight or else make special rates with the Oregon Steam Navigation Company. If special rates are granted they will be granted as a consideration for not building and for the continuance of this crushing monopoly. The interests of the sixty thousand people now living on the Upper Columbia and its affluents, a vast and productive basin into which a constantly increasing volume of immigration is pouring, ought not to be left dependent upon the option of the railroad company, but ought to be secured by law. Said company can no doubt secure cheap rates for its iron and other freights by contract, but an essential element of that contract, either express or implied, will be a denial of the same rates to others.

Congress is the guardian of the rights of the people, and when its equity powers are appealed to to continue a lapsed grant it ought to compel those to whom its generosity is extended to do equity, and not to leave it to the option of the donees of its generosity whether they will do equity or not.

Finally, there is another fact which ought always to be kept in view in connection with this enterprise. Time and distance are the great factors in the commerce of the world, both domestic and foreign. The saving of distance, other things being equal, is the saving of time, and hence the saving of cost. The distance from Puget Sound to the principal ports of China or Japan is from six to eight hundred miles shorter than from San Francisco or any other terminus of a transcontinental line of railroad. I think the saving is about one-fourth of the whole distance, but the exact proportion is not material. If the above estimate as to the proportion be correct, the immense saving in cost of transportation by vessels is manifest. One-fourth less marine tonnage would be necessary for the ocean carrying trade, and there could and would, under the law of competition, be a vast saving and deduction in the cost of transportation. This would necessarily cheapen the cost of articles of foreign production, and, as a consequence, increase their consumption, and thus swell the volume of customs revenue. Not only this, but our exports would be correspondingly increased.

I would be glad to elaborate this topic further, but time will not permit me. I hope, therefore, that this bill may pass.

CLAIMS AND WAR CLAIMS.

Mr. HANNA. Mr. Speaker, the subject of claims and war claims and the remedy for special legislation, it seems to me, is worthy of serious consideration. I propose to briefly call attention to what seems to me a prolific source of public corruption, one which, unless speedily remedied will surely sap the life of the Republic. I allude to the enormous and alarming proportions in number, amount, and character of the so-called private relief bills. It would seem to the critical observer that the American Congress, instead of convening for the consideration of great questions of public interest involving the general welfare of the nation, has degenerated into a mere conclave of claim agents; that the Representative as to each claim in which a constituent alleges an interest must act the part of judge, juror, advocate, and witness to such an extent that the vocation has become a disgusting feature of Congressional life. Since this Congress assembled, more than forty-four hundred bills have been introduced and printed at the expense of the people, and an examination of the files discloses the startling fact that the number, if considered either in committee or by the House, which are in part or in the nature of bills for private relief, claims or alleged claims of some sort, ancient or modern, fictitious or real, speculative or meritorious, is sufficient to swamp all consideration of general legislation. As a rule, these claims sound in damages to the people and the depletion of the Treasury. Observe, if you please, the unavoidably demoralizing effect of this species of legislation. A member, I care not how pure, honest, or patriotic he may be, introduces one or more bills of this character. He naturally regards the measure as his bantling. It receives his faithful attention and fostering care. The interested constituent from time to time not only reminds him that the bill is still pending, but appeals for earnest and efficient effort in its behalf. The feeling of the member becomes enlisted. He visits the committee-room, interviews the subcommittee, perchance appeals to the full commit-

tee, in short, labors as earnestly for a favorable report as though he were an attorney prosecuting or defending for client a cause in court. If the report be favorable, then with what vigilance he watches and presses the favorable consideration of the measure in the House. An objection from a brother member is easily tortured into an act of discourtesy, and soon, imperceptibly it may be to ourselves, we are transformed into the character of a miserable claim agent, plying a vocation we would scorn to follow at our respective homes. True, the member may not receive any pecuniary consideration for this service other than the salary paid him as such, nevertheless I aver the practice is demoralizing and degrading. Our theory of government is at war with the idea that the legislative department should assume to act in a dual character—legislative and judicial in matters of such vital concern, and especially as the evidence upon which we are required to act is in a great measure *ex parte* and furnished to hand by parties in interest. Sir, we approach Friday or private-bill day with hearts foreboding evil results and breathe freer when the Speaker announces the "House stands adjourned" until the noon of to-morrow. The practice of individuals resorting to Congress for legislative relief is a most pernicious one and can be in a great measure and should be speedily and effectually remedied. Wherever and whenever private or special legislation is tolerated the carrion crows of the lobby congregate to fatten and fatten upon the ill-gotten gains which too frequently by doubtful or tortuous means are filched from the people's Treasury. Bitter, blighting experience in this regard has taught many of the States the absolute necessity of prohibiting by constitutional provisions the passage of private or special acts and requiring the enactment of general laws under which by means of competent legal tribunals proper relief in all meritorious cases can be promptly administered. Examine if you will the constitutions of the several States of the Union and you will find some one of the following provisions: "No special or local law shall be enacted for the benefit of individuals or corporations in cases which are or can be provided for by a general law." "The General Assembly shall pass general laws under which local and private interests shall be provided for and protected." "In all cases where a general law can be made applicable no special law shall be enacted." "All laws shall be general and of uniform operation throughout the State." "The Legislature shall not audit nor allow any private claim or account." The time has come when the Congress of the United States may not defer longer to profit by the wisdom embodied in these provisions of our State constitutions and thereby avoid the ills to which the people of the States were subjected by the curse of special legislation. We owe it to ourselves, and much more we owe it to the people, to provide by law a barrier against this fearful inundation of private bills which submerge proper consideration of important and general interests.

Take, for illustration, that class of bills which are referred to the Committee on Claims, not war claims, but bills for the relief of parties having or desiring to have demands against the Government for moneys alleged to be due. The idea of a committee of lawyers, upon *ex parte* statements, attempting to mete out equal and exact justice between the Government and the claimant is simply preposterous. As a rule, either the one or the other will be wronged, and I very much fear the Government is most likely to be the victim. I submit, first, that stringent limitation laws, laws fixing a reasonable time within which claims of every character against the Government shall be presented, should be enacted, and that those laws, when once enacted, should be rigidly enforced and referred to as a rule upon every Department of the Government. When such laws, general in their application, are once enacted, let it be understood that no exceptional case can be made by subsequent legislation, but that when an alleged claim is once barred it is at an end forever without the hope of resurrection. I submit, further, that, instead of Congress attempting, by the passage of a multitude of private bills, to relieve innumerable claimants, legal tribunals of competent jurisdiction be created, whose duty it shall be to hear, try, and determine these claims upon legal evidence introduced for and against them, that the Government as well as the claimant may have a fair, full, and impartial hearing, to the end that the judgment rendered may be right. There are hundreds of bills now pending before the Committee of Claims and also before many other committees which are really in the nature of bills for private relief, that should never be disposed of by legislative enactment. Their merits should be adjudicated by a competent court according to the rules of law. And it is worse than a mockery of public justice to attempt to adjust and settle them by the passage of private relief bills. As to some matters we now have limitation laws, but the general subject should be thoroughly considered and broad, comprehensive, and effective provisions should be enacted in this regard, and then enforced in all coming time to the letter.

These statutes of repose are regarded by our system of jurisprudence with favor, and it is to them that the people of the United States must hereafter look as one of the means of self-protection. Such statutes, in connection with the creation of a tribunal for the consideration of all claims not barred by existing law, will prove of great service as a relief to the legislative department of the Government. Again, while I recognize the existing rule that the statute of limitation does not run against the sovereign, nevertheless I submit that it would be better for the interests of the people that the Government also subject herself to a rule of limitation also. It would

stimulate vigilance, insure prompt settlement of the accounts of all officials, and promptly visit upon all wrong-doers the penalties of the law. Stale claims, either against the Government or in her favor, should not be tolerated or regarded with favor. After the lapse of a given number of years the attempt of the Government to collect a claim is subject to the insolvency of the debtor and increased expense, and as a rule but little is realized. The law should absolutely require all actions to be commenced against principals as well as sureties within a given period, and in case of failure on the part of the Government to thus assert her right the same law should interpose as a quietus of all liability. The rigid enforcement of such a rule would insure the collection of a larger amount and of a greater proportion of the claims due the Government than the policy which has hitherto been practiced. I trust the Judiciary Committee will, as speedily as may be, submit for consideration comprehensive measures of relief, whereby not only Congress but the people will be relieved from the corrupting curse of private or special legislation. We may not longer, with a due regard for the best interests of the country, blind our eyes to the necessity for radical and thorough reform in this regard.

Again, sir, there is another class of claims, the consideration of which ought to be summarily and forever ended, if need be by constitutional prohibition. I allude to those commonly known as war claims. Ever since the suppression of the rebellion the persistence with which this class of claims has been pressed upon the attention of Congress has furnished well-grounded and grave fears in the mind of the people that it is the determined purpose of the democratic party in the event of ascendancy to compel the Government to assume and pay all losses and damages resulting from the prosecution of the war in defense of our nationality. Each succeeding year furnishes cumulative evidence in support of the truth of the charge that such is the well-settled purpose of those who control the action of that party. For a time the approaches to the Treasury were cautious, guarded, gradual, and well calculated to deceive the unsuspecting. In all time precedent has served an effective purpose. One act serves as a finger-board to point the way to commit another, and it in turn serves a like purpose, until soon you have a highway blazed and open in which the multitude travel to the desired haven. The first effort in behalf of this class of claims has been to nail up the finger-boards, to establish precedent. The character of claim best suited to successfully accomplish the purpose is pressed to the front. Our love for the school, our veneration for the church, our tender regard for whatever is of historic interest as connected with our early or colonial history is appealed to. The purpose of all this is so manifest that I will not attempt a criticism in the presence of the general intelligence of members of this House, but only say the people well understand it and will no longer be deceived. I am aware that some of our democratic friends deny that it is their purpose to hold the Government liable for the destruction of property by the Army or for use and occupation, but, gentlemen, acts speak louder than words.

Let me call attention to the extraordinary diligence with which this class of claims have been marshaled and presented. Consult, if you please, the record of the Court of Claims and of the southern claims commission and the files of the War Department, and take an inventory of the multitude of rejected claims which did not come within the provisions of the statute. Why filed, why presented to tribunals which did not have jurisdiction? It was one of the means resorted to for the purpose of asserting an alleged claim of right, of manufacturing evidence, of diligence in the assertion and prosecution of such claim, of creating and perpetuating a record of intention in the premises. Failing in the first instance before these tribunals, what has been the next step? Bills are introduced to extend or enlarge the jurisdiction of these tribunals so as to give relief in special cases, special bills for particular cases, the real object being to thereby extort and obtain an admission from the Government upon the question of liability. How persistently and with what consummate skill and ability this class of bills have been pressed upon the attention of committees. The adroit and skillful attorney knows full well that by procuring the enactment of such statutes he may hereafter stand upon them as solid ground and defiantly assert in the face of the Government that she is fully committed by her own deliberate, solemn legislative act to a liability to pay this class of claims, and that she is estopped to question liability by reason of the legislative recognition of liability to pay war claims. Consult your files and you will be astounded at the number of this class of bills, apparently fair and harmless but charged with deadly poison to national life. Then comes the terrible flood of private bills which threaten to submerge every interest—claims for use, loss, or damage to every conceivable

species of property. The men who supported and sustained the Government in the hour of peril are now threatened by force of law with a liability for all losses and damages sustained by those who failed in an effort to disrupt and destroy it, and this fearful threat which hangs to-day over the heads of the people is uttered by the controlling element of the democratic party.

The isolated exceptions here and there who aver that they do not and would not sanction this monstrous and wholesale robbery of the substance of the people would be utterly powerless to prevent it should that party obtain the controlling power in the administration of the Government. If it is not the purpose to press those claims to ultimate payment, why the record already made?

During the last presidential canvass the people to some extent were informed of the magnitude of this threatened assault upon the Treasury. True, they had not then and have not now a correct conception of the fabulous amount which would be extorted from them if this democratic raid upon the Treasury is successful. Nevertheless, they learned enough to give expression to such opinions as struck terror to the heart of Samuel J. Tilden and impelled him over his own signature through the public prints to assure the people that for their protection he would interpose his veto. I do not believe for one moment that he would have dared to exercise the veto power. His southern masters would have decreed otherwise and the backbone and knee of the northern democrat has so long been accustomed to unbinge and bend at the crack of the southern lash that I must be pardoned for expressing a want of confidence in expressions of individual independence. All the ills which afflict the country to-day could have been averted had the presidential chair from 1845 to 1861 been filled by a lion-hearted, Union-loving Jackson instead of one who in this presence shall be nameless. Some time since, as a matter of personal information, I concluded to examine the pile of bills introduced since this Congress convened, and to make an abstract of those referred to the Committee on War Claims, that abstract to give the number of the bill, the name of the member introducing the same, the name of the party for whose benefit or relief it was introduced, the residence of the claimant, on what account the claim was based, and the amount claimed. I have carefully examined thirty-seven hundred and ten of the bills introduced, and the abstract of the character stated of those referred to the Committee on War Claims I will, by leave of the House, print as a part of my remarks. It will be observed that over seven hundred bills yet remain to be examined, and the abstract of those examined only includes those referred in the first instance to the Committee on War Claims. It will indicate to some extent the number and character of the bills, and the amounts sought to be filched from the people. By reference thereto some of the older members may be enabled to recall the familiar sound of names which greeted their ears in the last and previous sessions of Congress. They have come again and will keep coming, and still more will come to join the multitudinous throng until the people rise in their majesty and imperiously demand that they be shut out forever by constitutional prohibition.

If, however, the people do not exercise a vigilance equal to the impending peril; if they send as representatives to these halls men who dare not fearlessly throttle this class of claims, then just so certain and so soon as the democratic party has the power to give them welcome, they will come to stay and gnaw at the vitals and quench their thirst with the life-blood of the nation. Sir, the fundamental theory upon which all these bills are based is that the Government of the United States and every soldier of the Union Army was a trespasser, a wrong-doer, from 1861 to 1865; that the moment the Union soldier planted his foot upon the soil over which the so-called confederate government attempted to usurp jurisdiction the nation became liable for all acts of the Army while engaged in suppressing the rebellion. Hence we are now asked to appropriate money to rebuild State-houses, court-houses, jails, and other county buildings; churches, school-houses, halls, buildings, towns: to pay for every species of personality, rents, or damages for use and occupation; yea, more, to repair or rebuild bridges, turnpikes, and macadamized roads alleged to have been seriously damaged by the tramp of Union soldiery and the banking over them of Union cannon and Army supplies. I am not prepared to indorse the theory upon which this class of claims is based. It embraces a heresy as obnoxious to our nationality as the doctrine of secession. I trust every patriot in the land will aid in rooting out forever every vestige and relic of a heresy which has cost us already quite enough blood and treasure; and I say to you, that no measure in the interest of peace and conciliation would accomplish more in that direction and to that end than an absolute bar against all such claims.

Abstract of war-claim bills introduced in Forty-fifth Congress.

No. of bill.	By whom introduced.	Relief of whom.	Locality.	On what account.	Amount.
50	Mr. Phelps.....	George Cowles.....	Connecticut.....	For schooner Champion and other property taken....	\$8,025 00
104	Mr. Cutler.....	Eliza H. Powers.....	Not stated.....	Not stated.....	2,000 00
121	Mr. Errett.....	James Millinger.....	Tennessee.....	Destruction and use of property.....	24,433 75
122	Mr. Errett.....	Nancy G. Miller.....	Pennsylvania.....	Injury and destruction of property.....	1,928 00
137	Mr. Hardenbergh.....	Charles B. Underhill.....	New York.....	Schooner Colelia, taken and used.....	1,500 00
140	Mr. Hardenbergh.....	M. B. Branchall.....	Georgia.....	Seventy-two bales cotton.....	Not stated.
148	Mr. Walsh.....	Methodist church.....	Maryland.....	Use and destruction.....	1,300 00

Abstract of war-claim bills introduced in Forty-fifth Congress—Continued.

No. of bill.	By whom introduced.	Relief of whom.	Locality.	On what account.	Amount.
144	Mr. Walsh.	Sons of Temperance.	Maryland.	Use of hall for hospital.	\$311 20
152	Mr. Walsh.	T. M. Macubbin.	do.	Property taken and used.	2,258 44
153	Mr. Walsh.	J. W. Anderson et al.	do.	Use and occupation of property.	Not stated.
156	Mr. Walsh.	James F. Pearce.	do.	Use and occupation of lands.	12,042 00
157	Mr. Walsh.	Ezra M. Thomas.	do.	do.	25,824 00
158	Mr. Walsh.	Robert K. Trasher.	do.	Property taken and used.	1,348 00
159	Mr. Walsh.	M. Culler.	do.	Use and occupation of lands.	12,050 00
160	Mr. Walsh.	George Thomas.	do.	do.	21,270 00
161	Mr. Walsh.	J. Kessler.	do.	Property taken and used.	310 10
162	Mr. Walsh.	H. A. Pumpfery.	do.	Use and occupation of lands.	4,647 50
163	Mr. Walsh.	S. T. Magruder.	do.	do.	3,306 17
164	Mr. Walsh.	W. T. Lewis, executor.	do.	do.	4,563 75
165	Mr. Walsh.	William Ronzer.	do.	do.	1,506 76
166	Mr. Walsh.	Howard Griffith.	do.	do.	1,781 00
167	Mr. Walsh.	G. E. Stonebraker.	do.	Timber taken and used.	4,740 00
168	Mr. Walsh.	C. Stonebraker.	do.	Use and occupation of lands.	21,487 50
169	Mr. Walsh.	R. T. West.	do.	do.	15,815 29
170	Mr. Walsh.	L. Sumners.	do.	do.	2,590 00
171	Mr. Walsh.	M. A. Hickman.	do.	do.	2,816 66
172	Mr. Walsh.	H. Talbert et al.	do.	do.	7,132 75
173	Mr. Walsh.	R. Rowzee.	do.	do.	6,113 13
174	Mr. Henkle.	M. A. Tolson.	do.	do.	8,590 00
175	Mr. Henkle.	H. Tolson.	do.	do.	3,800 00
176	Mr. Henkle.	M. E. Soper.	do.	do.	1,610 00
177	Mr. Henkle.	J. H. Forbes et al.	do.	do.	7,550 00
178	Mr. Henkle.	J. Forest.	do.	do.	21,574 39
179	Mr. Goode.	S. Ward's heirs.	Virginia.	Property taken and used.	2,935 00
184	Mr. Hinton.	L. Sumners.	do.	do.	10,568 75
194	Mr. Walker.	F. G. Coghill.	do.	Property seized.	150 00
200	Mr. Jorgensen.	A. T. Blicke.	do.	Property taken and used.	5,424 00
211	Mr. Yates.	H. Wiswall.	North Carolina.	Property used.	3,630 00
214	Mr. Seales.	M. Martin.	Mississippi.	Destruction of cotton.	6,521 00
215	Mr. Seales.	Davidson County.	North Carolina.	Destruction of court-house while used as barracks.	17,000 00
219	Mr. Seales.	Ely Perry.	do.	Burning of store-house.	3,000 00
242	Mr. Smith.	James Suttles.	Georgia.	Care and storage of cotton.	1,000 00
245	Mr. Bell.	J. A. Billups.	Not stated.	Property taken.	5,952 50
254	Mr. Hartridge.	H. F. Willink.	Georgia.	Capture and loss of property.	3,000 00
261	Mr. Hooker.	E. Leland.	Mississippi.	Property appropriated.	150 00
271	Mr. Ellis.	James A. Payne.	Louisiana.	Coal furnished.	7,000 00
288	Mr. Finley.	J. R. Richardson.	Ohio.	One-fourth of steamboat taken and used.	1,000 00
315	Mr. Danford.	J. H. Jones et al.	Pennsylvania.	Property taken and used.	22,927 00
319	Mr. Boone.	A. G. Lee.	Kentucky.	For use and occupation of mill, and destruction.	11,875 00
321	Mr. Boone.	R. C. Smith.	do.	Property destroyed by gunboats.	3,322 86
328	Mr. Carlisle.	L. M. Northcutt.	do.	Property taken.	4,286 00
331	Mr. Durham.	W. R. Boice.	do.	Corn, oats, hay, &c., purchased.	29,492 00
333	Mr. Durham.	G. Truinpell.	do.	Use and occupation of buildings.	2,600 00
334	Mr. Durham.	Madison Female Academy.	do.	Use and damage of the academy.	10,335 00
335	Mr. Durham.	Christian church.	do.	Use and occupation of church.	Not stated.
337	Mr. Durham.	Baptist church.	do.	Damages by occupation of church.	1,105 00
338	Mr. Durham.	W. F. Goggin.	do.	Wood and timber taken.	150 00
339	Mr. Durham.	J. S. Boswell.	do.	Stabling, keeping and taking care forty-three horses.	2,257 50
340	Mr. Durham.	E. Owsley.	do.	For wood and forage.	1,060 00
362	Mr. Whitthorne.	William Park.	Tennessee.	For property taken and used.	1,304 05
364	Mr. Whitthorne.	James Akin.	do.	Not stated.	4,772 50
365	Mr. Whitthorne.	C. Gilbert.	do.	Occupation and destruction of property.	700 00
366	Mr. Whitthorne.	A. J. Reed.	do.	Forty bales of cotton taken.	9,603 75
367	Mr. Whitthorne.	J. E. Tullies.	do.	Taking and destruction of property.	12,282 04
372	Mr. Bright.	M. A. Stevens.	do.	Not stated.	2,478 00
373	Mr. Bright.	A. P. James.	do.	Occupation and use of property.	12,000 04
385	Mr. Riddle.	G. W. Twidwell.	do.	Beef cattle taken.	1,567 50
386	Mr. Riddle.	Thomas White.	do.	Use and occupation of house.	375 00
391	Mr. Thornburgh.	H. Scaggs.	do.	Supplies furnished.	235 00
396	Mr. Thornburgh.	G. W. Dice.	do.	do.	Not stated.
402	Mr. House.	Duncan Marr.	do.	Wood and brick taken.	8,024 00
415	Mr. Dibrell.	J. M. Bragg.	do.	Quartermaster and commissary stores taken and used.	323 00
415	Mr. Dibrell.	R. C. Belcher.	do.	do.	131 00
415	Mr. Dibrell.	R. C. Belcher.	do.	do.	126 00
415	Mr. Dibrell.	G. Brown.	do.	do.	65 00
415	Mr. Dibrell.	W. Cummings.	do.	do.	125 00
415	Mr. Dibrell.	J. Collier.	do.	do.	120 00
415	Mr. Dibrell.	Stephen Cope.	do.	do.	15 20
415	Mr. Dibrell.	G. P. Cummings.	do.	do.	140 50
415	Mr. Dibrell.	N. Clendenin.	do.	do.	63 00
415	Mr. Dibrell.	John Evans.	do.	do.	25 00
415	Mr. Dibrell.	W. R. Eddings.	do.	do.	10 00
415	Mr. Dibrell.	J. M. Evans.	do.	do.	250 00
415	Mr. Dibrell.	G. Flanagan.	do.	do.	75 00
415	Mr. Dibrell.	W. Faulkner.	do.	do.	325 00
415	Mr. Dibrell.	G. Flanagan.	do.	do.	98 64
415	Mr. Dibrell.	B. Gamble.	do.	do.	52 50
415	Mr. Dibrell.	M. Gillentine.	do.	do.	102 00
415	Mr. Dibrell.	I. Grizzel.	do.	do.	90 00
415	Mr. Dibrell.	J. H. Hopkins.	do.	do.	198 00
415	Mr. Dibrell.	Temple Hayes.	do.	do.	73 20
415	Mr. Dibrell.	Dixon Hillis.	do.	do.	100 00
415	Mr. Dibrell.	J. Hooten.	do.	do.	264 84
415	Mr. Dibrell.	J. A. Jones.	do.	do.	25 00
415	Mr. Dibrell.	J. Locke.	do.	do.	110 00
415	Mr. Dibrell.	C. Little.	do.	do.	522 00
415	Mr. Dibrell.	T. B. Locke.	do.	do.	277 00
415	Mr. Dibrell.	G. C. Moffit.	do.	do.	471 00
415	Mr. Dibrell.	J. and J. K. Maccon.	do.	do.	270 80
415	Mr. Dibrell.	J. E. Medley.	do.	do.	338 00
415	Mr. Dibrell.	G. P. Moffit.	do.	do.	32 40
415	Mr. Dibrell.	A. W. Martin.	do.	do.	30 00
415	Mr. Dibrell.	G. W. McDaniel.	do.	do.	57 00
415	Mr. Dibrell.	T. Nibbete.	do.	do.	72 00
415	Mr. Dibrell.	J. Pinner.	do.	do.	570 20
415	Mr. Dibrell.	H. Patterson.	do.	do.	97 00
415	Mr. Dibrell.	L. Plumbee.	do.	do.	24 00
415	Mr. Dibrell.	W. Riggs.	do.	do.	417 00
415	Mr. Dibrell.	W. Reader.	do.	do.	10 00
415	Mr. Dibrell.	S. Ramsey.	do.	do.	150 00
415	Mr. Dibrell.	G. W. Ramsey.	do.	do.	32 00
415	Mr. Dibrell.	J. R. Shelton.	do.	do.	
415	Mr. Dibrell.	T. Stogall.	do.	do.	

Abstract of war-claim bills introduced in Forty-fifth Congress—Continued.

No. of bill.	By whom introduced.	Relief of whom.	Locality.	On what account.	Amount.
415	Mr. Dibrell	W. R. Stogall	Tennessee	Quartermaster and commissary stores taken and used.	\$85 00
415	Mr. Dibrell	A. Stone	do	do	292 00
415	Mr. Dibrell	M. Stopp	do	do	98 50
415	Mr. Dibrell	J. M. Smallman	do	do	225 00
415	Mr. Dibrell	M. Sparkman	do	do	240 00
415	Mr. Dibrell	W. O. Smith	do	do	68 00
415	Mr. Dibrell	H. Thomas	do	do	272 40
415	Mr. Dibrell	B. C. Thomas	do	do	280 00
415	Mr. Dibrell	N. Wheeler	do	do	250 00
415	Mr. Dibrell	E. B. Wheeler	do	do	354 00
415	Mr. Dibrell	H. E. Ward	do	do	75 00
415	Mr. Dibrell	M. Young	do	do	541 70
416	Mr. Dibrell	J. J. Cummings	do	Tannery and buildings burned	1,200 00
417	Mr. Dibrell	W. P. Martin	do	Seizure of cotton yarn	1,600 50
418	Mr. Dibrell	S. J. Walling	do	Use and occupation of property	550 00
419	Mr. Dibrell	A. Faulkner	do	House torn down	390 50
420	Mr. Dibrell	J. W. Eastwood	do	Cotton taken	852 50
422	Mr. Dibrell	J. Elliott	do	Money taken from him	351 00
426	Mr. Young	J. J. Busby	do	Supplies furnished	41,115 00
427	Mr. Young	N. P. Bradford	do	Property taken	4,655 00
429	Mr. Young	S. P. Vance	do	Property taken and used	2,460 00
468	Mr. Bicknell	Bartholomew County, Ind.	Indiana	Use and occupation and property taken	1,500 00
490	Mr. Bicknell	S. W. Nalley	do	Use and occupation of fair-grounds	1,500 00
508	Mr. Townsend	W. P. Holliday	Illinois	Supplies furnished	1,500 00
523	Mr. Hartzell	A. L. H. Crenshaw	do	Losses on account of steamer S. C. Baker	29,510 65
558	Mr. Franklin	E. Fisher	Missouri	Fifty-five mules taken	9,625 00
567	Mr. Clark, jr.	J. Diehl	do	Steam ferry-boat Jennie Thomson seized	6,500 00
581	Mr. Crittenden	R. M. Wyrick	do	Corn furnished	1,300 00
582	Mr. Crittenden	W. C. Thornton	do	Supplies received	296 75
582	Mr. Crittenden	H. M. Withers	do	do	455 00
582	Mr. Crittenden	H. Gasling	do	do	212 00
587	Mr. Morgan	W. A. Carr	do	Value of certain lumber	1,200 00
588	Mr. Morgan	J. A. Stevens's heirs	do	Houses, fencing, &c., destroyed	8,950 00
606	Mr. Gunter	E. B. Moore	Arkansas	Postage-stamps taken	325 00
612	Mr. Gunter	W. H. Engles	do	Losses sustained	2,450 00
660	Mr. Giddings	W. Hendly	Louisiana	Monies seized	2,500 00
670	Mr. Giddings	J. E. Wilson	Texas	Loss of steamboat Alpha	2,617 00
670	Mr. Giddings	J. E. Wilson	do	Loss of time, trade, and profits	2,617 00
763	Mr. Wilson	Methodist church	West Virginia	Use and occupation of church	2,100 00
766	Mr. Wilson	For West Virginia	do	Damage to turnpike and bridges by use of United States	200,000 00
770	Mr. Kenna	Methodist church	do	Use and occupation of church	7,000 00
851	Mr. Forney	Mobile Dock Company	Alabama	Use and occupation	Not stated
871	Mr. Muldrow	G. H. Lee	Mississippi	Cotton taken	2,400 00
876	Mr. House	M. A. Stevens	Tennessee	Not stated	2,478 00
877	Mr. House	D. W. Glass et al.	do	Fencing, timber, and logs consumed, &c.	4,179 00
878	Mr. House	James Scott	do	Stores and supplies	4,179 00
878	Mr. House	Jesse Burns	do	do	250 00
878	Mr. House	W. B. Ewing	do	do	422 00
878	Mr. House	N. Brown	do	do	1,267 40
878	Mr. House	James Winstead	do	do	310 00
878	Mr. House	J. R. Seaborn	do	do	1,079 85
878	Mr. House	A. J. Baker	do	do	340 00
878	Mr. House	M. A. Williams	do	do	456 00
878	Mr. House	William Glover	do	do	3,581 00
878	Mr. House	William Few	do	do	205 00
878	Mr. House	W. A. Giles	do	do	140 00
878	Mr. House	E. J. Scholes	do	do	140 00
878	Mr. House	K. J. Allison	do	do	3,601 00
878	Mr. House	W. W. Molan	do	do	1,231 00
878	Mr. House	S. B. Frost	do	do	150 00
878	Mr. House	J. W. Williams	do	do	1,137 00
878	Mr. House	W. Hickerson	do	do	458 00
878	Mr. House	W. T. Alexander	do	do	150 00
878	Mr. House	J. L. Baker	do	do	150 00
878	Mr. House	M. J. Crockett	do	do	450 00
878	Mr. House	A. Weaver	do	do	317 00
878	Mr. House	John Weaver	do	do	150 00
878	Mr. House	S. Feathers	do	do	2,000 00
878	Mr. House	E. Feathers	do	do	1,985 65
878	Mr. House	J. M. Thomson	do	do	7,708 00
878	Mr. House	Mrs. E. W. Hatch	Missouri	Not stated	20,000 00
889	Mr. Bland	H. B. Gardner	New Jersey	Property seized	75 00
931	Mr. Peddie	Episcopal Seminary	Virginia	Use and occupation for hospital	300 00
943	Mr. Hinton	A. B. Welch	North Carolina	Bacon furnished troops	210 00
954	Mr. Vance	J. J. Welch	do	Horses furnished troops	40 00
955	Mr. Vance	A. Cooper	do	Supplies furnished	35 00
955	Mr. Vance	Jesse Williams	do	do	30 00
955	Mr. Vance	J. McMerrell	do	do	37 00
955	Mr. Vance	N. Patten	do	do	46 25
955	Mr. Vance	L. Lytle	do	do	11 25
955	Mr. Vance	N. G. Allanan	do	do	30 25
955	Mr. Vance	S. Hampton	do	do	5,000 00
955	Mr. Vance	J. H. Plummer	do	do	5,000 00
965	Mr. Felton	Catholic church	Georgia	Property taken and used	285 00
968	Mr. Felton	J. E. Parrott	do	Expenses defending an action	300 00
997	Mr. Saylor	A. G. Collins	Ohio	Money wrongfully paid	1,000 00
1003	Mr. Gardner	B. D. Lakin	do	Not stated	20,800 00
1013	Mr. Van Vorhes	A. B. Battelle et al.	Not stated	Cattle furnished	4,199 66
1025	Mr. Turner	T. G. Garrard	Kentucky	Destruction of salt works	3,500 00
1025	Mr. Turner	J. W. Reid	do	do	5,000 00
1025	Mr. Turner	White, Horton, et al.	do	do	7,050 00
1025	Mr. Turner	Gibson et al.	do	do	7,500 00
1025	Mr. Turner	J. & D. White	do	do	422 00
1025	Mr. Turner	J. & D. White	do	do	1,600 00
1029	Mr. Carlisle	J. Armstrong	do	Wheat taken and destroyed	16,555 00
1030	Mr. Carlisle	James J. Parish	do	do	10,000 00
1030	Mr. Carlisle	L. Oxley, deceased	do	do	2,500 00
1030	Mr. Carlisle	G. Remington	do	do	1,100 00
1030	Mr. Carlisle	W. W. Trimble	do	do	18,350 00
1030	Mr. Carlisle	Henry Johnson	do	do	4,100 00
1030	Mr. Carlisle	C. A. Webster	do	do	12,600 00
1030	Mr. Carlisle	F. M. Gray	do	do	6,722 00
1030	Mr. Carlisle	J. S. Frizell	do	do	
1030	Mr. Carlisle	Frank Box	do	do	

The said payments to be in full satisfaction and

• Abstract of war-claim bills introduced in Forty-fifth Congress—Continued.

No. of bill.	By whom introduced.	Relief of whom.	Locality.	On what account.	Amount.
1030	Mr. Carlisle	Thomas English	Kentucky	discharge of all claims and demands by the said parties, or their heirs or representatives, for or on account of the loss or destruction of their property at the time of the attack made upon said city of Cynthia by the confederate forces, under the command of General John H. Morgan, on the 11th day of June, 1864, during which the United States forces, under command of Colonel Conrad Garvis, of the One hundred and sixty-eighth Regiment Ohio Infantry Volunteers, took shelter in the houses of said citizens, thereby causing them and their contents to be set on fire and destroyed by the enemy.	\$2,000 00
1030	Mr. Carlisle	T. A. Trazer et al	do		7,000 00
1030	Mr. Carlisle	S. Tomlinson	do		4,000 00
1030	Mr. Carlisle	J. L. Magee	do		18,000 00
1030	Mr. Carlisle	E. Bell	do		3,000 00
1030	Mr. Carlisle	H. Bohn	do		200 00
1030	Mr. Carlisle	D. A. Givens	do		15,747 00
1030	Mr. Carlisle	J. N. Webb	do		1,000 00
1030	Mr. Carlisle	J. E. Dickey	do		713 50
1030	Mr. Carlisle	J. Quinlan	do		120 00
1030	Mr. Carlisle	W. L. Northcutt	do		21,570 75
1030	Mr. Carlisle	J. N. Smith	do		5,113 00
1030	Mr. Carlisle	J. N. Smith, guardian	do		2,000 00
1030	Mr. Carlisle	H. C. Nebel	do		653 00
1030	Mr. Carlisle	J. Bruce	do		1,373 00
1030	Mr. Carlisle	M. A. Hall	do		420 00
1030	Mr. Carlisle	T. R. Hankin	do		6,563 00
1030	Mr. Carlisle	J. W. McIntosh	do		31,730 00
1030	Mr. Carlisle	R. C. Wheritt	do		32,000 00
1030	Mr. Carlisle	A. Murphy, deceased	do		4,000 00
1030	Mr. House	W. Phillips	Tennessee	14,000 pounds sugar taken	Not stated.
1032	Mr. House	W. Phillips	do	Supplies taken and used	4,250 00
1034	Mr. House	W. H. Fuqua	do	Property taken	3,400 00
1034	Mr. House	Thomas Hord	do	Supplies taken	58,395 00
1036	Mr. House	Shelby Medical College	do	Rent of college, property taken	29,614 30
1037	Mr. House	A. J. Duncan	do	Property taken and used	39,225 00
1040	Mr. Atkins	H. Johnson	do	Assessment of money levied	815 00
1040	Mr. Atkins	S. M. Johnson	do	do	815 00
1040	Mr. Atkins	D. J. Franklin	do	do	160 00
1040	Mr. Atkins	J. Franklin	do	do	195 00
1040	Mr. Atkins	N. Buckley	do	do	326 00
1040	Mr. Atkins	John Tull	do	do	391 00
1040	Mr. Atkins	E. Bray	do	do	459 00
1040	Mr. Atkins	Dr. Johnson	do	do	195 60
1040	Mr. Atkins	A. R. Jones	do	do	652 00
1040	Mr. Atkins	H. Tice	do	do	326 00
1040	Mr. Atkins	J. Crook	do	do	652 00
1040	Mr. Atkins	W. Arnold	do	do	6,000 60
1040	Mr. Atkins	A. McCorkle	do	do	429 00
1040	Mr. Atkins	G. L. Ross	do	do	1,630 00
1040	Mr. Atkins	S. L. Ross	do	do	1,630 00
1040	Mr. Atkins	L. M. Hart	do	do	652 00
1040	Mr. Atkins	W. A. Bruner	do	do	1,000 00
1040	Mr. Atkins	J. D. Smith	do	do	336 00
1040	Mr. Atkins	A. B. Crook	do	do	326 00
1040	Mr. Atkins	D. McCollum	do	do	326 00
1040	Mr. Atkins	J. Jones	do	do	163 00
1040	Mr. Atkins	J. Hendricks	do	do	195 00
1040	Mr. Atkins	F. McGill	do	do	195 00
1040	Mr. Atkins	J. Lebetter	do	do	195 60
1040	Mr. Atkins	W. Osier	do	do	652 00
1040	Mr. Atkins	E. Bond	do	do	336 00
1040	Mr. Atkins	J. Caushon	do	do	652 00
1040	Mr. Atkins	D. S. Hendricks	do	do	978 00
1040	Mr. Atkins	F. Caushon	do	do	391 20
1040	Mr. Atkins	J. Caushon	do	do	163 00
1040	Mr. Atkins	S. E. Grider	do	do	163 00
1040	Mr. Atkins	S. Grider	do	do	163 00
1040	Mr. Atkins	W. Hall	do	do	652 00
1040	Mr. Atkins	C. Beaver	do	do	652 00
1040	Mr. Atkins	J. West	do	do	815 00
1040	Mr. Atkins	J. Clifford	do	do	326 00
1040	Mr. Atkins	F. M. Ballard	do	do	300 00
1040	Mr. Atkins	C. McNight	do	do	250 00
1040	Mr. Atkins	H. McNight	do	do	250 00
1040	Mr. Atkins	A. S. Rogers	do	do	429 20
1040	Mr. Atkins	J. W. Swink	do	do	250 00
1040	Mr. Atkins	T. G. Morris	do	do	250 00
1040	Mr. Atkins	W. H. Bond	do	do	250 00
1040	Mr. Atkins	James Thomas	do	do	250 00
1040	Mr. Atkins	R. M. Jones	do	do	250 00
1040	Mr. Atkins	John Robinson	do	do	300 00
1040	Mr. Atkins	W. P. Walker	do	do	150 00
1040	Mr. Atkins	G. Massingill	do	do	150 00
1040	Mr. Atkins	J. G. Smith	do	do	100 00
1050	Mr. Atkins	J. G. Randolph	do	Subsistence stores furnished	533 00
1066	Mr. Hartzell	E. & W. Buder	Illinois	Goods and chattels taken	1,421 00
1078	Mr. Morgan	M. C. Henderson	Arkansas	Stores and supplies taken	1,314 00
1100	Mr. Cravens	H. Mickle	do	Property and supplies taken	14,365 00
1101	Mr. Cravens	W. Drake	do	Property taken	9,885 00
1102	Mr. Cravens	H. Core	do	do	1,943 00
1103	Mr. Cravens	C. Ayliff	do	do	9,985 00
1108	Mr. Willits	J. H. Russell	Michigan	Use and damage of steamboats	62,480 09
1108	Mr. Willits	M. Shields	Not stated	Rent, use, and occupation of property	15,400 00
1110	Mr. Williams	N. J. Yearie	Mississippi	Taking of cattle, hogs, fencing, &c	5,440 00
1111	Mr. Williams	John Kelley	Virginia	Supplies taken	9,407 65
1203	Mr. Tucker	Tono alms-house	Louisiana	Rent and destruction of house	84,400 00
1223	Mr. Gibson	M. T. Duncan	Kentucky	Use, occupation, &c	11,130 35
1225	Mr. Blackburn	V. Jeffrey	do	Occupation of property	15,000 00
1245	Mr. Dickey	S. V. R. Strider	Ohio	Property destroyed by fire	1,052 50
1260	Mr. Harris	N. H. Dunphe	Massachusetts	Sugar taken	4,655 00
1261	Mr. Harris	A. J. Eaton	do	Sugar and other property taken or destroyed	6,500 00
1268	Mr. McCook	M. L. Gager	Tennessee	Property taken	3,775 25
1306	Mr. Stenger	G. M. Evers	Maryland	do	1,256 00
1316	Mr. Walsh	R. W. Smoot	do	Property taken and used	9,126 50
1317	Mr. Walsh	P. E. Dye, executor	do	do	2,258 34
1319	Mr. Cabell	A. H. Herr	District of Columbia	Use and occupation of property	17,288 53
1320	Mr. Douglas	William Tabb	Virginia	Supplies taken	Not stated.
1325	Mr. Harris	C. Stockton	do	Stores and supplies taken	1,950 00
1332	Mr. Stephens	V. Richards et al	do	Property taken	270,000 00
1334	Mr. Blount	A. L. Maxwell	Georgia	do	800 00
1369	Mr. Neal	Milton Kennedy	Kentucky	Service of steamboat	Not stated.
1375	Mr. Blackburn	Mary Scott's estate	do	Lumber, fire-wood, &c	1,830 00
1387	Mr. Young	P. Targarona	Not stated	Two steamboats taken	103,740 00
1388	Mr. Young	R. S. Jones	Tennessee	Not stated	18,492 50
1389	Mr. Riddle	S. B. Colby	Not stated	Wood delivered	Not stated.

Abstract of war-claim bills introduced in Forty-fifth Congress—Continued.

No. of bill.	By whom introduced.	Relief of whom.	Locality.	On what account.	Amount.
1406	Mr. Springer	Gibbes & Co.	South Carolina.	Money deposited	\$4,576 92
1424	Mr. Bland	Andrew Wolcott	Missouri	Use and occupation	1,450 00
1425	Mr. Gunter	John Jackson	do	Property taken and used	11,390 81
1430	Mr. Cravens	P. E. Hogue	Arkansas	Property taken	3,422 00
1455	Mr. Williams	A. E. Hodges	Florida	do	24,000 00
1467	Mr. Martin	Methodist church	West Virginia	Use for hospital	1,040 50
1477	Mr. Stephens	E. Gallagher	Georgia	For use of buildings	9,000 00
1484	Mr. Boone	Allard & Crozier	Kentucky	Flour seized	1,500 00
1486	Mr. Boone	W. H. Slack	do	do	870 00
1486	Mr. Kiddle	M. A. Elliott	Tennessee	Furniture used and appropriated	500 00
1501	Mr. Schleicher	W. Longnecker	Texas	Rent of buildings occupied	4,200 00
1505	Mr. Schleicher	H. R. Alsbury	do	Damage and destruction of property	6,000 00
1531	Mr. Ryan	S. Sanford	do	Sugar seized	16,718 75
1540	Mr. Robbins	John F. Foard	North Carolina	Property used and destroyed	100,000 00
1557	Mr. Muldrow	M. J. Dunn	Mississippi	Property taken	1,900 00
1562	Mr. Davis	A. A. Whitaker	North Carolina	Stone taken and used	1,915 00
1592	Mr. Caldwell	R. D. Salmona	Kentucky	Wood, timber, rails, &c.	27,077 50
1593	Mr. Metcalfe	A. Mcmeineyer	Missouri	Hay and hay-presses destroyed	3,019 00
1594	Mr. Metcalfe	John Mooney	do	Property destroyed	6,124 20
1599	Mr. Kenna	Baptist church	West Virginia	Appropriation to Army uses	2,000 00
1600	Mr. Kenna	K. Smoot	do	Destruction of property	2,430 00
1601	Mr. Kenna	J. T. Hawkins	do	Use and occupation of buildings	5,000 00
1628	Mr. Tucker	M. Lacy	Virginia	Rent of warehouse	400 00
1635	Mr. Williams	J. T. Fisher et al	Not stated	Money taken	21,500 00
1634	Mr. Tucker	H. M. Hannon	Maryland	Use of sloop and boats	1,500 01
1654	Mr. Tucker	Polk & Winston	Virginia	Property burned and destroyed	9,500 72
1654	Mr. Tucker	William T. Xancy	do	do	6,255 92
1654	Mr. Tucker	J. H. C. Winston	do	do	1,000 00
1662	Mr. Stephens	R. C. Burkholder	do	do	1,467 30
1662	Mr. Stephens	S. I. Gustine	Georgia	Property converted	2,329 00
1668	Mr. Chalmers	A. N. Mechen	Mississippi	Rent and damage to property	800 00
1669	Mr. Chalmers	A. E. Anderson	do	Twenty-three bales cotton appropriated	Not stated.
1680	Mr. Caldwell	J. M. Elder	Kentucky	Fifty-three bales cotton destroyed	14,462 50
1686	Mr. Atkins	F. A. Lee	Tennessee	Use of property	2,472 00
1687	Mr. Atkins	M. M. Hammond	do	do	1,355 00
1690	Mr. Young	A. M. Cogswell	do	Property taken and used	15,303 00
1691	Mr. Young	D. H. Hilderbrand	do	do	1,025 00
1692	Mr. Young	M. A. Jones	do	do	1,225 00
1693	Mr. Young	W. B. Hamlin	do	Destruction of property	32,203 00
1694	Mr. Young	M. A. Bonner	do	Property taken	2,240 00
1695	Mr. Young	R. H. Cleere	do	do	200 00
1698	Mr. Young	M. W. Webber	do	Subsistence stores appropriated	1,808 00
1699	Mr. Young	M. H. Battle	do	do	Not stated.
1707	Mr. Gause	D. T. Wellburn	Arkansas	Commissary stores taken	6,410 00
1708	Mr. Gause	A. G. Clements	do	Rent of property	Not stated.
1711	Mr. Cravens	Mark Davis	Virginia	Rent of real estate	Not stated.
1712	Mr. Cravens	David Bold	Arkansas	Property taken	3,080 00
1713	Mr. Gunter	P. N. Lea	do	Services rendered	1,919 00
1722	Mr. Giddings	F. D. Allen	Texas	Destruction of property	5,000 00
1722	Mr. Giddings	Allen & Newman	do	do	3,500 00
1722	Mr. Giddings	V. Little	do	do	1,500 00
1722	Mr. Giddings	J. R. Campbell	do	do	1,500 00
1722	Mr. Giddings	N. F. Campbell	do	do	1,700 00
1722	Mr. Giddings	Compton & Brothers	do	do	25,000 00
1722	Mr. Giddings	John Dunning	do	do	225 00
1722	Mr. Giddings	Samuel Levison	do	do	27,800 00
1722	Mr. Giddings	McGary & Roff	do	do	5,000 00
1722	Mr. Giddings	D. L. McGary	do	do	500 00
1722	Mr. Giddings	G. M. Moor	do	do	35,000 00
1722	Mr. Giddings	Norris & McNeese	do	do	2,500 00
1722	Mr. Giddings	Pressly & Roff	do	do	1,000 00
1722	Mr. Giddings	C. & J. Stephenson	do	do	600 00
1722	Mr. Giddings	H. C. Surgher	do	do	15,149 00
1722	Mr. Giddings	Watkins & Stephenson	do	do	9,000 00
1722	Mr. Giddings	John B. Wilkins	do	do	1,500 00
1722	Mr. Giddings	Wyatt & McCrochlin	do	do	2,500 00
1734	Mr. Page	J. N. Onius	do	do	60,000 00
1743	Mr. Blackburn	William H. Davis	California	Destruction and use of wharves, &c.	1,125 00
1773	Mr. Henderson	Mary Quinn	Kentucky	Rent, use, and occupation	300 00
1797	Mr. Robinson	H. R. Parish	Illinois	Two horses taken	2,676 75
1818	Mr. Harris	S. Robinson	North Carolina	Property taken and used	2,635 00
1819	Mr. Harris	G. Chirman	Virginia	do	32,587 50
1822	Mr. Candler	H. L. Gallagher	do	do	9,000 00
1825	Mr. Chalmers	J. A. Stewart	Georgia	Use and destruction of mill	24,494 00
1852	Mr. Gause	H. F. Neally	Mississippi	Supplies appropriated	1,500 00
1853	Mr. Schleicher	R. Kinman	Not stated.	Stores and supplies taken	Not stated.
1859	Mr. Stone	A. Rossy	Texas	Twenty-one bales of cotton seized	6,500 00
1876	Mr. Herbert	A. Hine	Iowa	Loss of steamer Island City	3,280 00
1893	Mr. Shelley	A. Johnson	Alabama	Not stated.	12,714 40
1893	Mr. Shelley	C. A. Slocumb	Not stated.	Use and occupation	20,479 00
1893	Mr. Shelley	I. A. Richardson	do	do	5,467 15
1898	Mr. Ewing	C. A. Urquhart	do	do	15,754 00
1904	Mr. Eden	G. W. Cushman	Ohio	Property taken, used, and destroyed	2,648 88
1925	Mr. Covert	W. J. Johnson & Co.	Not stated.	Property taken	2,156 50
1926	Mr. Covert	T. F. Youngs	New York	Cotton used in fortification at Nashville	912 12
1952	Mr. Money	Max Beeber	do	do	27,657 50
1955	Mr. Henkle	A. H. Webster	Mississippi	Stores and supplies taken	1,500 00
2002	Mr. Walker	H. M. Hannon	Not stated.	Use of sloop and boats	4,200 00
2008	Mr. Candler	W. Greaner	Virginia	Use of building	10,000 00
2021	Mr. Robertson	B. O. Jones	Georgia	Property taken, used, and destroyed	75,000 00
2053	Mr. Gause	Louisiana	do	Damage to state-house	30,000 00
2054	Mr. Gause	Prairie County	Arkansas	Use and destruction of court-house and jail	2,700 00
2062	Mr. Throckmorton	Baptist church	do	Use, occupation, and destruction	625,000 00
2081	Mr. Dunnell	C. Backerville	Texas	Commission on cotton delivered to United States	20,979 00
2086	Mr. Kenna	Mount Savage Iron Company	Maryland	Iron appropriated	2,000 00
2112	Mr. Townshend	Methodist church	West Virginia	Use and occupation	2,809 00
2113	Mr. Crittenden	M. J. Eddie	Illinois	Use and occupation of land	23,341 97
2120	Mr. Yates	R. H. Hoffman	Missouri	Property burned	11,000 00
2140	Mr. Bright	N. M. Wise	North Carolina	Cotton seized	10,000 00
2187	Mr. S. S. Cox	Presbyterian church	Tennessee	Taken down and used	13,094 72
2188	Mr. S. S. Cox	S. E. Cady	Maryland	Use and occupation of lands, &c.	30,442 88
2189	Mr. S. S. Cox	C. A. Talbot	District of Columbia	do	7,475 00
2190	Mr. S. S. Cox	C. Heltnuller	do	do	30,561 00
2191	Mr. S. S. Cox	J. H. Smith	do	do	12,870 00
2192	Mr. Quinn	S. P. Waring	do	do	3,500 00
		S. E. Willard	New York	Use of buildings for hospital	

Abstract of war-claim bills introduced in Forty-fifth Congress—Continued.

No. of bill.	By whom introduced.	Relief of whom.	Locality.	On what account.	Amount.
2193	Mr. Hewitt	C. B. Phillips	Not stated	Half interest in boat confiscated.	Not stated.
2213	Mr. Smith	Tide-Water Canal Co. & al.	Pennsylvania	Bridge burned	\$100,000 00
2214	Mr. Smith	Columbia National Bank	do	Destruction of bridge	125,000 00
2225	Mr. Henkle	Catholic clergyman	Maryland	Use and occupation of property	23,363 34
2227	Mr. Henkle	Joseph Trimble	do	Use and occupation of lands	8,150 00
2228	Mr. Henkle	H. Stelle	District of Columbia	Use and occupation of lands, &c.	2,860 00
2230	Mr. Walsh	S. H. Meyers	New Jersey	Loss of canal boat	1,300 00
2231	Mr. Walsh	L. Rothermel	Pennsylvania	do	3,500 00
2235	Mr. Cabell	H. A. Butler	Not stated	Use and occupation of lands	do
2236	Mr. Cabell	Otho Henson	District of Columbia	do	2,334 50
2237	Mr. Cabell	S. M. Golden	do	do	6,991 00
2238	Mr. Cabell	J. C. Brook	do	Use and occupation of lands, &c.	2,699 16
2239	Mr. Cabell	R. S. Perkins	do	do	6,605 00
2255	Mr. Robbins	William Trimble	Not stated	do	20,921 00
2256	Mr. Robbins	H. A. Butler	do	do	3,578 90
2257	Mr. Robbins	C. F. F. Rosenthal	District of Columbia	do	1,700 00
2265	Mr. Blount	W. T. Hollinsworth	Georgia	Property taken	3,964 00
2268	Mr. Smith	St. Clair Deering	Not stated	Value of two horses	550 00
2279	Mr. Ellis	T. B. Harris	Louisiana	Appropriation of property	2,125 00
2292	Mr. Durham	N. C. Meadows	Kentucky	Use of ferry-boat	1,448 00
2312	Mr. Willis	A. L. Shotwell	do	Detention of steamboat	7,500 00
2316	Mr. Thornburgh	P. Dickinsen	Tennessee	Claim for cotton	64,128 00
2322	Mr. Caldwell	W. H. Tusley	Not stated	Seizure of steamer D. T. Hine	9,000 00
2341	Mr. Harrison	Samuel Browning	Illinois	Occupation and destruction of house at Memphis	1,400 00
2356	Mr. Crittenden	L. C. Field	Not stated	Eleven bales of cotton	2,500 00
2365	Mr. Gunter	William Trimble	Maryland	Use and occupation of lands, &c.	23,855 00
2366	Mr. Gunter	Joseph Trimble	do	do	9,350 00
2367	Mr. Gunter	G. W. Marshall	do	do	31,100 00
2368	Mr. Gunter	E. Sears	District of Columbia	do	20,731 00
2373	Mr. Stone	J. Hill	Arkansas	Eleven bales of cotton	3,564 00
2419	Mr. Martin	Methodist church	West Virginia	Use and destruction	3,000 00
2420	Mr. Martin	County Randolph	do	Damage to court-house, jail, &c.	10,000 00
2422	Mr. Martin	Odd-Fellows' Lodge	do	Destruction of building and furniture by fire	3,547 50
2431	Mr. Kidder	W. H. Arnold	District of Columbia	Property taken and used	12,520 00
2462	Mr. Banks	S. M. Blair	Massachusetts	Property taken	8,493 32
2465	Mr. Douglas	St. George church	Virginia	Damage to church	2,000 00
2473	Mr. Chalmers	S. A. Fox	Mississippi	Claim	6,874 00
2487	Mr. Douglas	L. Kruger	Virginia	Property taken	622 00
2497	Mr. Kiddie	A. W. Overton	Tennessee	Corn, hay, &c. taken	5,325 00
2509	Mr. Banning	S. & R. Roberts	do	For supplies taken from them	4,000 00
2547	Mr. Campbell	W. K. Piper	Pennsylvania	Feed and care of Army horses	1,060 00
2555	Mr. Hutton	J. Lykes	Virginia	Use and occupation of house	413 57
2559	Mr. Hutton	C. Terrett, heirs	do	Use and occupation of lands	1,500 00
2563	Mr. Pridemore	R. M. Eide, jr.	do	Supplies taken	20,000 00
2565	Mr. Cain	W. D. Plowden	Not stated	Service rendered	4,000 00
2568	Mr. Williams	A. R. Goodwin	do	Property taken	1,290 17
2568	Mr. Williams	J. P. Leckey	do	do	1,290 17
2568	Mr. Williams	J. R. Ely & Co	do	do	2,580 36
2568	Mr. Williams	T. M. White	do	do	2,580 36
2568	Mr. Williams	J. & J. Erwin	do	do	2,580 36
2568	Mr. Williams	Ellison & Ines	do	do	2,580 36
2574	Mr. Singleton	John Kyle	do	Seventy-eight bales of cotton taken	17,550 00
2574	Mr. Singleton	Elizabeth Withers	do	Thirty-one bales of cotton taken	8,775 00
2577	Mr. Elam	T. L. Teny	Arkansas	Personal property taken	9,998 30
2588	Mr. Carlisle	Masonic Lodge	Kentucky	Use and occupation	1,246 50
2589	Mr. Carlisle	Davis C. Peak	do	Amount claimed while prisoner of war	1,687 00
2590	Mr. Carlisle	W. B. Cliff	do	do	6,756 66
2591	Mr. Carlisle	David Dunsmuth	do	By reason of being a prisoner of war	6,750 00
2592	Mr. Carlisle	J. S. Scott	do	do	4,050 00
2593	Mr. Carlisle	W. Killip	do	Destruction of property	1,687 50
2609	Mr. Crittenden	J. F. Enneberg	Missouri	House torn down	4,815 00
2621	Mr. Gunter	M. McLaren	Arkansas	Property taken	60,101 52
2635	Mr. Williams	H. E. Sizer	Mississippi	Use, occupation, and destruction of property	2,500 00
2648	Mr. Martin	Presbyterian church	Virginia	Use and occupation	1,000 00
2649	Mr. Martin	Methodist church	do	Hardware and goods furnished	17,705 40
2660	Mr. Candler	T. G. Rawlins	Georgia	Property taken and used	69,846 00
2692	Mr. Stephens	S. I. Gustin	Not stated	Claim for property	14,129 73
2736	Mr. Lapham	F. W. Posthoff	Missouri	Property taken	1,705 00
2746	Mr. Davis	J. B. Sugg	North Carolina	Hay furnished	1,785 00
2778	Mr. Clarke	J. C. Herndon	Kentucky	Collected under color of commutation-money	3 00
2780	Mr. Carlisle	J. S. Wadsworth	do	do	300 00
2800	Mr. Carlisle	S. Colcord	do	do	300 00
2780	Mr. Carlisle	J. D. Trowbridge	do	do	300 00
2780	Mr. Carlisle	William Sender	do	do	300 00
2780	Mr. Carlisle	John Leech	do	do	300 00
2780	Mr. Carlisle	James Ingalls	do	do	300 00
2780	Mr. Carlisle	Jake Highfill	do	do	300 00
2780	Mr. Carlisle	J. J. Braun	do	do	300 00
2780	Mr. Carlisle	J. Bush	do	do	300 00
2780	Mr. Carlisle	W. M. Blasingame	do	do	300 00
2780	Mr. Carlisle	C. S. Keith	do	do	300 00
2780	Mr. Carlisle	W. A. Frakes	do	do	300 00
2780	Mr. Carlisle	J. T. Blackburn	do	do	300 00
2780	Mr. Carlisle	A. D. Blackburn	do	do	300 00
2780	Mr. Carlisle	J. Calcord	do	do	300 00
2780	Mr. Carlisle	W. Vastine	do	do	300 00
2780	Mr. Carlisle	W. Wadsworth	do	do	300 00
2780	Mr. Carlisle	J. N. Webb	do	Use and occupation	1,850 00
2780	Mr. Carlisle	Franklin Seminary	do	do	479 60
2780	Mr. Carlisle	W. A. McElwain	do	Property taken	484 00
2780	Mr. Carlisle	W. Greene	do	do	125 00
2780	Mr. Carlisle	J. W. Herndon	do	do	450 00
2780	Mr. Carlisle	Allen County	do	Occupation of court-house	1,607 60
2780	Mr. Carlisle	A. Bradshaw	do	Property taken	300 00
2780	Mr. Carlisle	Presbyterian church	do	Use and occupation of church	2,648 00
2780	Mr. Carlisle	A. Drain	do	Property taken	994 50
2780	Mr. Carlisle	C. T. and T. R. Eubank	do	do	3,680 00
2780	Mr. Carlisle	J. R. Middleton	do	do	2,000 00
2780	Mr. Carlisle	R. F. Guthrie	do	do	300 00
2780	Mr. Carlisle	J. P. McCollum	do	do	607 50
2780	Mr. Carlisle	H. T. Figg	do	do	463 75
2780	Mr. Carlisle	R. B. Walt	Tennessee	Not stated	5,625 00
2780	Mr. Carlisle	A. M. Boyd et al.	do	do	2,898 84
2801	Mr. Young	E. Taylor	Ohio	do	878 50
2803	Mr. Dibrell	William Clift	Tennessee	Wood taken and used	9,022 50
2804	Mr. House	Stewart College	do	Property taken	4,000 00

Abstract of war-claim bills introduced in Forty-fifth Congress—Continued.

No. of bill.	By whom introduced.	Relief of whom.	Locality.	On what account.	Amount.
2805	Mr. House	Masonic Lodge	Tennessee	Property taken	\$1,000 00
2806	Mr. House	W. Terrell	do	do	275 00
2807	Mr. House	J. C. Gillum	do	do	450 00
2808	Mr. House	D. Mumford	do	do	300 00
2809	Mr. House	Presbyterian church	do	do	1,241 00
2810	Mr. Tucker	E. B. Meredith	Virginia	Value of 90 barrels of flour	Not stated.
2811	Mr. Martin	William Lucas	West Virginia	Timber, fencing, and lumber used	9,832 00
2812	Mr. Knott	B. A. Stith	Kentucky	Property taken	504 00
2813	Mr. Knott	H. E. Pursey	do	do	1,121 00
2814	Mr. Knott	F. F. Woodward	do	do	675 00
2815	Mr. Knott	J. Jeffries	do	do	55 00
2816	Mr. Knott	J. P. McClure	do	do	657 00
2817	Mr. Knott	W. H. Brown	do	do	15,000 00
2818	Mr. Potter	E. Pickrell	Virginia	Property destroyed or taken	875 00
2819	Mr. Blackburn	J. H. Childs	Kentucky	Property taken	700 25
2820	Mr. Blackburn	W. C. Young	do	do	494 50
2821	Mr. Blackburn	L. Ardoy	do	do	175 00
2822	Mr. Blackburn	J. W. Sough	do	do	160 00
2823	Mr. Ward	N. Lary	do	do	1,620 00
2824	Mr. Boone	A. Warrall	Virginia	Occupation of property	330 00
2825	Mr. Willis	William Prichard	Kentucky	Property taken	500 00
2826	Mr. Caldwell	H. S. Saunders	do	do	270 00
2827	Mr. Caldwell	W. P. Hendricks	do	do	254 00
2828	Mr. Caldwell	S. Hatfield	do	do	521 87
2829	Mr. Caldwell	A. Dowson	do	do	2,896 00
2830	Mr. Caldwell	L. M. Dishman	do	do	550 00
2831	Mr. Caldwell	A. G. Williams	do	do	1,800 00
2832	Mr. Caldwell	V. S. Boisseau	do	do	1,729 00
2833	Mr. Caldwell	J. W. McClanahan	do	do	300 00
2834	Mr. Caldwell	G. W. Dickey	do	do	150 00
2835	Mr. Caldwell	J. E. Logan	do	do	3,644 10
2836	Mr. Carlisle	J. C. Frasier	do	Quartermaster stores taken	480 00
2837	Mr. Carlisle	J. H. Martin	do	Three horses taken	286 25
2838	Mr. Willis	N. A. Weatherby	do	Property taken	572 50
2839	Mr. Willis	J. Klatter	do	do	700 00
2840	Mr. Willis	L. C. Torrey	do	do	175 00
2841	Mr. Willis	N. Newman	do	do	13,466 66
2842	Mr. Young	T. C. Finnie	Tennessee	Rent of cotton-shed and warehouse	3,208 50
2843	Mr. Hicknell	E. P. Tuley	Indiana	Property taken	264 75
2844	Mr. Buckner	David Buner	Missouri	do	2,625 25
2845	Mr. Haskell	B. P. McDonald	Kansas	Claim for Army transportation	1,220 00
2846	Mr. Wilson	E. M. Hart	West Virginia	Loss of wagon-load of store goods	571 30
2847	Mr. Hinton	M. Shipman	Virginia	Property taken	5,500 00
2848	Mr. Durham	J. S. Kendricka	Kentucky	do	670 00
2849	Mr. Durham	J. P. Floyd	do	do	2,390 65
2850	Mr. Durham	F. F. Sdgall	do	do	637 50
2851	Mr. Durham	C. R. Allen	do	do	7,800 00
2852	Mr. Thornburgh	T. I. Powell	Tennessee	do	354 00
2853	Mr. Carlisle	W. W. Anderson	Kentucky	Quartermaster stores taken	4,094 50
2854	Mr. Walsh	Eli Stake	Maryland	Loss of canal-boats	3,999 50
2855	Mr. Walsh	S. D. Castleman	District of Columbia	Hire of canal-boat	Not stated.
2856	Mr. Seales	S. Porlew	North Carolina	Cotton seized and destroyed	955 00
2857	Mr. House	J. M. Higgins	Kentucky	Property taken and used	978 00
2858	Mr. Carlisle	T. V. Striman	do	Quartermaster stores taken	528 73
2859	Mr. Carlisle	J. F. Kinney	do	Quartermaster's vouchers	720 00
2860	Mr. Willis	T. Simmons	do	Ninety thousand bricks taken	1,042 61
2861	Mr. Fenn	W. Hall	do	Five bales of cotton abandoned to United States	4,016 64
2862	Mr. Keifer	J. Quastien	do	Loss of sutler's goods	24,257 31
2863	Mr. Caldwell	H. Johnson et al.	Tennessee	Not stated	23,150 00
2864	Mr. Caldwell	E. E. Hebert	Louisiana	Property and supplies taken	6,875 00
2865	Mr. Reilly	A. L. H. Crenshaw	Missouri	Mules taken	8,000 00
2866	Mr. Quinn	Daniel Leary	New York	Use, occupation, and destruction of property	5,743 49
2867	Mr. Hinton	Washington and O. R. E. Co.	Not stated	Railroad material and supplies	150 00
2868	Mr. Vance	E. Estes	North Carolina	Horse furnished	Not stated.
2869	Mr. Blackburn	Agricultural Association	Kentucky	Damage or destruction of property	21,270 00
2870	Mr. Walsh	George Thomas	Maryland	Use and occupation of lands	Not stated.
2871	Mr. Caldwell	James Boren	Kentucky	Property taken	Not stated.
2872	Mr. Caldwell	W. B. Camp	do	do	87 50
2873	Mr. Turner	M. B. Mosley	do	do	1,400 00
2874	Mr. Carlisle	T. D. Wright	do	Destruction of property	7,126 00
2875	Mr. Willis	Brandis Crawford	do	Losses sustained	Not stated.
2876	Mr. Willis	J. A. Moor et al.	do	Property taken	500 00
2877	Mr. Riddle	Presbyterian church	Tennessee	Appropriation for military purposes	235,000 00
2878	Mr. Aldrich	A. M. Woodruff	Arkansas	Use and occupation of boats, bridge, and ferry	Not stated.
2879	Mr. Young	J. M. Province, deceased	Tennessee	Rent and occupation of buildings	155 00
2880	Mr. Glover	W. L. Peddicord	Missouri	Property taken	12,440 00
2881	Mr. Buckner	George A. Moor	do	Seizure of ferry-boat	2,500 00
2882	Mr. Schleicher	Henry Haldin	Texas	Use and occupation of property	350 00
2883	Mr. Wilson	Lot Bowen	Not stated	Loss of wagon and two horses	7,000 00
2884	Mr. Ewing	John Dwyer	District of Columbia	Property taken	4,000 00
2885	Mr. Ligon	J. W. Hightower	Not stated	do	2,310 00
2886	Mr. Dibrell	John Henderson's estate	Tennessee	Property taken and used	1,000 00
2887	Mr. Freeman	William Smith et al.	New York	Property taken and destroyed	336 55
2888	Mr. O'Neill	E. M. Davis	Pennsylvania	Use and occupation of land	2,820 39
2889	Mr. Smalls	Saint Helena church	South Carolina	Use and occupation	330 33
2890	Mr. Stephens	Heirs of J. G. Gilmer et al.	Not stated	Claim for rent, bagging, and rope	Not stated.
2891	Mr. Stephens	J. C. McBarney	Georgia	Store-house used and occupied	635 00
2892	Mr. Felton	R. A. Johnson	Not stated	Stores taken from him	768 00
2893	Mr. Danford	T. K. McCann	Ohio	Property compelled to abandon	1,500 00
2894	Mr. Turner	A. B. Gilbert	Kentucky	Not stated	6,000 00
2895	Mr. Clark, jr.	E. V. Montague	Missouri	Cotton taken and used in building breastworks	12,166 67
2896	Mr. Gibson	Heirs of G. W. R. Bayley	Louisiana	Property used, occupied, and destroyed	1,800 00
2897	Mr. Durham	John H. Caldwell's estate	Kentucky	Rent of property at Crab Orchard Springs	
2898	Mr. Springer	Frederick Klor	Illinois	Property taken by soldiers	

DEPARTMENT OF COMMERCE.

Mr. PEDDIE. Mr. Speaker, I have introduced a bill to establish a Department of Commerce, to which I desire to call the attention of the House. The first section of that bill provides:

That there shall be established an Executive Department, to be called the Department of Commerce. Said Department shall be charged with the supervision and care of the commercial, manufacturing, and shipping interests of the United States, so far as the same may be confided to the National Government by the Constitution.

In the midst of the present business depression, I beg leave to say a few words in regard to the material interest of our country. The policy of encouraging lines of steamers by liberal compensation for carrying the mails has been discussed in this body and elsewhere. I shall not attempt to go into detail, but take this occasion to say I approve such a policy, and am prepared to support it with my vote. It seems to me discreditable to us, as a people, that our goods cannot go to the South American ports without first touching at Liverpool;

in a word, that this nation has not a single line of steamers to carry our products to those countries that geographically belong to us to supply.

I have been pleased to read the letters of our consuls abroad in response to orders from the honorable Secretary of State, whose earnest efforts in this direction have already been productive in throwing much light upon many matters bearing upon the export trade of our country. This is a step in the right direction, but we must do something more than this. It is a good thing to know that there are other countries waiting for the products of our mills and soil, but it is of little practical value unless we have the means of transporting those very goods. We not only want to establish steamship lines, but we want a Department of Commerce corresponding to the English Board of Trade, which extends its arm to every quarter of the globe, collecting and collating information which leads to the opening up of new markets for her overproductions; then follow her steamships and a trade which has made her the richest of nations and the common carrier upon the high seas.

The English government in its care for the trade interests of its people is like a great corporation. This is seen in the working of its board of trade; for be it understood the action of the Government in the interest of trade and commerce is through that department. When in London two years ago I noticed, in passing through her business streets, packages, bales, and boxes of goods marked to all parts of the world. On my return home I could but notice the difference, as our shipments were confined mostly within our own States. This is largely due to the sleepless watch and care of the department known as the board of trade, through which department her merchants have unlocked the doors of the most distant markets of the world. Go where you will you will find British ships and British wares.

Through the working of our protective tariff most of our manufacturing industries have been established so that we no longer fear foreign competition in our home market, and by adopting a more liberal scale of remuneration to our artisans than the European standard has resulted in developing superior skill and a greater perfection in its products. Lord Derby in an address to a meeting of some twenty thousand workmen in Edinburgh a few years since remarked that they must look well to their laurels, as the nation which paid the highest price for their labor was the one they had most to fear, not the cheap labor of other countries but the superior skill and ingenuity of the more liberally educated mechanics and artisans of America.

The exhibit of our late Centennial took the Old World by surprise; indeed the full measure of our progress had not been fully realized by our own people. We no longer need foreign stamps to recommend our goods. Let our manufacturers have their raw material duty free or as nearly so as possible, and let the Government extend a helping hand to build up our merchant marine and give us a department of commerce, with all its great future possibilities for good, then we shall soon find means for disposing of our overproductions, are bringing to our shores millions of dollars which are now diverted to other countries. Then we should be no longer pained with the fact that thousands and tens of thousands of honest labor are standing idle in our streets. Then the flagging energies of our people would wake to new life, when the spindles, looms, and all the implements of our varied industries would clang and hum again with activity.

This will solve the problem as to our ability to pay our debts and our taxes by giving us the means to pay with. Various causes have been assigned for this long-continued depression in business, but in my opinion the chief cause is that with the increased application of machinery in our manufactures our productive capacity has outstripped the wants of our people. The great want of the time is foreign markets for our products. We have them at our doors, but we have failed to improve as we should our opportunities. A new era is dawning; old issues have passed away; the great work before us is industrial and commercial developments. It is true that the teeming West will soon become the granary of the world; therefore we must open up new markets for her increased products, so that manufacturers and agriculturists will go hand in hand and help to restore the waste places, and with the blessing of a kind Providence cause our land again to rejoice with prosperity.

REPEAL OF BANKRUPT LAW.

Mr. HUMPHREY. Mr. Speaker, I desire briefly to give the reasons why I am in favor of the repeal of the bankrupt act. That act has stood upon the statute-book of the United States for many years; an act which when it was passed was supposed to grant relief to thousands of people of the United States, who would receive its benefits, and those benefits would not only be given to them, but through them flow out to the people of this country.

Mr. Speaker, I need not say that some sort of a provision should be made for honest men who desire when the day of misfortune has befallen them to extricate themselves. That would be a benefit to the people, who are desirous at all times to do their business in a manner not only honorable to themselves but alike honorable to the creditors with whom they deal. But an act like the present, stretching over this broad country, investing courts with powers which will call from distant counties and towns parties before them who have not the means nor the money to do so, has been, in my judgment, a greater wrong to the people of this country than all the benefits that flow from it in any manner whatever.

Why, sir, in the case of this company or that corporation, or this insurance company, mutual in character, that has failed in its business, its claims are placed before the bankrupt court; thousands of parties perhaps have taken policies in that insurance company and have given premium notes from \$10 to \$20. Now, when these companies fail their policies go for nothing and the policy-holders have a good and valid defense, so they need not pay one of the claims made upon them. They may be sued perhaps to the number of one thousand where the claims may be for \$10, the costs would amount to \$50 or \$60, on a judgment in the bankrupt court rendered against them, and without letting them in in any instance to set up a defense and never receive perhaps one cent by way of dividend. The assignee in bankruptcy and the officers of the court receive the fees perhaps of thousands of these victims scattered over a State. I have known of such instances, and I believe that the bankrupt act perpetrates more wrong upon the people than any benefit that could come from it.

Why, sir, in every State in this Union there is a law that provides that a claim under \$100 or \$200 shall be prosecuted in an inferior court, and if it is prosecuted in a court of original jurisdiction or a court of record there are no costs imposed on the judgment in case it amounts to less than the jurisdiction given in an inferior court.

But, sir, in a court of bankruptcy if there is a claim by the assignee in bankruptcy and he sues the party and brings him three hundred to four hundred miles, because the claim is small the man cannot afford to come and has to submit to the judgment against him and submit to costs of five times the amount of the judgment because he could not afford to travel this great distance to defend his case. Another case I will cite. There has never been in this country the case of a man or partnership that honestly failed in business, who were unable to meet their claims, whose creditors are not ready to say to them, "We will let you go along in business and wait for you;" but the case would be a rare exception when they would say, "We will have the last drop of blood from you, and we will hold judgment over your head and wait until you are successful again in business hereafter so we can recover against you the balance."

It is a matter of history that no man who ever failed in business was not met by his creditors on fair and equitable terms, and I will challenge the whole commercial world to show a case in which the spirit of equity and justice in all its transactions does not prevail. Let an honest man fail, and instead of his creditors refusing to compromise with him they will say, "We will make terms with you, believing you to be honest, so you may resume business. Now if there was a more beneficent plan adopted for honest debtors many business men, instead of going into bankruptcy, could go on with their business until prosperity again dawned upon them, enabling them to pay up in full and at the same time retain the confidence of the public."

Why, sir, I recollect of an instance in the great Chicago fire, of the great firm of Matson & Co., whom I have known since I was a small boy. I was told in June, 1876, by Mr. Matson that three days after that fire that gentleman, who had done a business of perhaps a million or two million dollars a year, I do not know how much, went to New York; that he went to the office of Enos Richardson & Co., the great jewelers of New York City, and to a great firm in Boston; that he went to Ball, Black & Co., and to Tiffany & Co., of New York, and that he told them he did not know he was worth one cent in the world. He had done business since he was a young man, first in the East, then in Milwaukee, and then in Chicago. They said to him: "Mr. Matson, we have done business with your firm for thirty years. You should not come here and talk to us about how much you are in our debt. We are acquainted with you. Take your stock of goods and go home; say nothing about your debts, and when you have made money enough to pay them, then there is time enough to talk to us about them." He selected his stock of goods, went back to the city of Chicago, had a place erected to go into trade again, and went on with his business. Enos Richardson, of New York City, called him into his counting-room and said: "Mr. Matson, here is my individual check for \$50,000; take it; you may need it, and I want you to use it." There is an instance of what confidence in business can do.

It may be true in certain cases that some wise provision might be made by act of Congress in reference to voluntary assignments. I earnestly believe if ever men are driven by voluntary assignment into bankruptcy under the bankrupt act that wise provisions of some act for the mode of carrying out voluntary assignment would be of great beneficence to the country by providing, when the assignee under voluntary assignment has honestly fulfilled his office as trustee and made his dividends and a fair showing can be made to a court of original jurisdiction in the State where the party lives, he may then apply to that court or the United States district court, if you please, and have all claims which have not been presented barred, because in equity and at common law, after the assignment is made and dividends have been distributed, he can apply to any court of original jurisdiction and get an order, if claims are not presented within six months or a year, according to circumstances, they may be barred and then the party who has gone into voluntary assignment of his property and effects can apply to some court of competent jurisdiction, and on the report of the proper officer or referee for that purpose be discharged from his debts. It would bring the debtor and creditor close at home. It would take away all the stigma which has been cast on this present bankrupt act in driving parties from one end of

the State to another, in giving fees to officers created by the act itself for that purpose, in giving fees to registers in bankruptcy, in giving a share to the assignee in bankruptcy, in giving fees to officers of the court to such an extent that in some cases when they have been ended the officers of the court have received all there was in the nut and the creditors have only received half of the shell. [Laughter.]

I say, Mr. Speaker, I believe one of the new eras which will dawn on this country will be that which will compel every man to stand upon his own credit and upon his own honesty, and when he stands there he will stand safely and he will need no bankrupt act. He will need no act of this character to help him out. It is an act which has offered a premium to dishonesty. It is an act which has enabled men to say to their creditors "If you receive such a percentage we will give it to you, but if you will not, then we will go into voluntary bankruptcy." The result has been, according to the experience of the commercial world, and especially in this country, as business men can testify, that rather than let the debtor go into bankruptcy they have been willing to accept what he offered; that the creditors have preferred rather to accept the certainty of the percentage offered than allow the debtor to go into bankruptcy with the result of having the proceeds go in the way of fees into the hands of the officers of the bankrupt court. Now, Mr. Speaker, how much time have I left?

The SPEAKER *pro tempore*. The gentleman has ten minutes remaining.

Mr. WHITE, of Pennsylvania. Will the gentleman allow me to interrupt him for a moment?

Mr. HUMPHREY. I have but five minutes more, as I have promised to yield a portion of the time to another.

Mr. WHITE, of Pennsylvania. Does not the gentleman think the bankrupt law has some good features? I have listened to his general denunciation. I have been led to believe by my experience and practice under the bankrupt law that it has some good features.

Mr. HUMPHREY. It would be strange, Mr. Speaker, if the bankrupt law did not have some good features.

Mr. WHITE, of Pennsylvania. I should like to hear from the gentleman from Wisconsin in reference to the matter of preferring creditors.

Mr. HUMPHREY. It has no feature in the matter of preferring creditors which the common law of the country does not give. In the case of a voluntary assignment the party has the right to prefer his creditors, if he desires, in certain cases. Under the bankrupt law a man can so provide in advance that he may prefer creditors before he goes into bankruptcy, so that nothing shall be left for common creditors after he has got through with his preferences.

I say, Mr. Speaker, that I believe to-day there is no feature about this bankrupt act which gives it such a character that we should retain it upon the statute-book. Men say there will be thousands of failures in the next six months. I say, if so, let them come. I would rather trust myself to-day in the hands of my creditors if I am honest than in the hands of registers in bankruptcy; and if I am dishonest I would rather trust myself with them than with my creditors.

I should have liked to spend some more minutes upon this question, but I have agreed to yield a portion of my time to the gentleman from Mississippi, [Mr. MONEY,] and therefore I cannot dwell on it much longer. I desire in closing to say that this bankrupt law is like many other laws that exist in the country that are made for honest men and are never used to any great extent by the class of men that they are made for. The bankrupt law is chiefly used by that class of men who are not forced into bankruptcy by their creditors, but go into voluntary bankruptcy, as thousands do. I say that the act offers a premium to the class of men in this country who in some cases I have known have taken the benefit of it twice while it has been in existence, and who will be ready to take the benefit of it again if, instead of its being immediately repealed, its operation is to be extended to the 1st day of January next. I find no fault with that extension. It may be a hard thing for a large class of people to come to it at once. But I hope that on the 1st day of January next the bankrupt act will cease to exist. I hope that a bankrupt act passed by the Congress of the United States will never exist on our statute-book again, but that some other provision may be made that will meet the wants of honest men, and that no provision will ever again be made that will be constantly meeting the wants of dishonest men.

CLAIMS AGAINST THE GOVERNMENT.

Mr. MONEY. Mr. Speaker, the attempt is being very industriously made to alarm the caution and economy of the northern people with the scarecrow of southern claims. Pinstaking newspaper correspondents, with great hope and little scruple, searching for sensation, have paraded before the public a long list of demands upon the Treasury in behalf of southern people and southern enterprises. They have been circumstantially minute in detail and exaggeratedly incorrect in the aggregate exhibit. To swell the amount to a startling total they have not failed to add together the amounts asked in all the bills for the same object, and present their duplicated and triplicated amounts most unblushingly as a fair and honest statement. The republican stump orators in Congress have perhaps simulated an alarm they did not feel, and solemnly and pathetically warned the North that the southern people would demand pay for every house that was burned, every mule that was lamed, every slave that was freed, and every bale of cotton that was captured in the late civil war.

Whether these gentlemen really believe what they say or not we cannot perhaps ascertain. The evident design, however, of their declamation upon this subject is to create an impression which the facts and tendency of legislation will not justify, with the ulterior object of convincing the country that it would be exceedingly unsafe for the democratic party to come into power, and that a democratic representation from the South is a standing menace to the integrity of the Treasury, and that each southern Representative is here simply as a claim agent to press every kind and manner of claims, just or unjust, fair or false, with an obtuse sense of duty, an acute sense of spoliation, and a total insensibility to the general good. Above all they teach the doctrine, clear and sharp, that republican domination is the national safety, insuring administrative economy and official honesty. It is, Mr. Speaker, a most dangerous and pernicious doctrine that a majority of the voters of the United States (not even including the disfranchised Catholics of New Hampshire and Rhode Island, and the disfranchised poor of Massachusetts and Rhode Island, denied the privilege of saying who shall be their rulers because of the unequal dispensation of fortune) are incompetent to the administration of public affairs. This is a Government of the people, by the people, and for the people, administered for the benefit of each citizen, and for the greatest good of the greatest number. The idea that these gentlemen teach, that the rule of the majority is dangerous to the welfare of the country, is a heresy not to be tolerated in a free republic.

To properly inform the House and the country of the real danger to the Treasury we will present an exhibit of the claims made by northern representatives for northern communities upon the nation's purse.

I do not deem it necessary to make a thorough exposition of the glaring errors, intentional or otherwise, that have been given to the press as truth. I will state parenthetically a few prominent examples of duplication and duplicity. The sum of three millions is duplicated for the Mississippi levees; a million duplicated in bills providing for the payment of arrearages due certain persons of the United States prior to the war; and bills for railroads over the same line have been aggregated to represent the amount asked.

Now, the question, Mr. Speaker, is, is it possible that these claims with which politicians frighten the credulous voter of the North may ever be paid? As far as the payment for slaves and debts of the Confederate States is concerned, that is forever settled by the latter part of the fourth clause of the fourteenth amendment to the Constitution, which holds this language:

But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

These gentlemen know that this clause cannot be amended except by two-thirds votes of both Houses and ratification of three-fourths of the States, or by act of a convention called by two-thirds of the States and ratified by the Legislatures of three-fourths of the States.

Only eleven States seceded from the Union; only fifteen owned slaves in 1861; and there are thirty-eight States in the Union. We might as well attempt to materialize the shadows of last year's clouds as to fix such claims as a charge upon the public Treasury. Coming down to another class of claims for service rendered, property converted, and bills for public improvements, will a careful exegesis show that there is anything unreasonable, unjust, unfair, or dishonest in these claims, or unwarranted by the Constitution and the laws as they exist? Is there anything in them that is not approved by a sound equity? I speak of these claims in their general character, and do not wish to be understood by any means to endorse each of them individually. Many of them are doubtless ill-founded, many false and fraudulent, not only of those pending, but also of many passed, adjudged, and paid.

The policy of some gentlemen in this House, and perhaps in executive position, is to decide a claim upon its locality. The idea of payment of claims is calculated for northern latitude exclusively. The southern claimant, poverty-stricken and almost hopeless, feels a growing sense of the injustice of the law's delay. My sympathies have not been very actively excited for those men of the South who prefer accounts against the Government for losses sustained during the war, backed by an oath that they never in any manner aided or assisted the rebellion or sympathized with the people engaged therein. A man of the South who, in that tremendous struggle in whose raging vortex was swept all the hopes, the fears, the aspirations, the prayers of his relatives, friends, neighbors, and fellow-citizens, yet stood unmoved, without the excitement of a natural sympathy, or one who, having felt himself moved to encourage and assist, and yet perjures himself simply for the refurbishing of his purse, is a man whose claim I can see fail with profound indifference.

But there is a class of claims which is a just indebtedness, and however much I doubt the policy, as I do, of vexing the ear of authority with cries for relief, yet this Government cannot afford to ignore them.

The proceeds of captured and abandoned property, after the payment of all expenses of collection, after payments made by the Secretary of the Treasury, and payments made under judgment of the Court of Claims, can yet be fairly estimated at \$14,000,000, held in the Treasury, by a decision of the Supreme Court, a trust fund, and not the property of the United States, whose fiduciary capacity must be terminated by payment to the owner who can establish his right of property. Proof of loyalty is demanded as well as proof of proprietorship, and the time for such proof was limited to two years.

The general pardon and amnesty of the 25th of December, 1868, proclaimed "restoration of all rights to property, except as to slaves, and in property cases rights of third parties shall have intervened, and the claimant whose disabilities were thus removed have an equitable claim upon the Government for their property held in trust by the Government." Immediately after the war, when the southern people were stunned and dazed by that great disaster, with the black track of invading armies marking all their territories, countless homes in ashes, fences destroyed, and fields laid waste, they with heart of hope addressed themselves to the task of rebuilding their broken fortunes. Then, when they needed the strong hand of Federal power to sustain them in their efforts, it fell upon them as heavily as the mailed gauntlet of war, taking from their impoverished resources in four years in the cotton tax the vast sum of \$83,000,000—a direct assault upon the great industry of the South. Our people realize that this tax will never be returned, but is it not worth the consideration of those gentlemen who scoff impatiently at the petitions for aid for southern improvements?

Would it not be an act of justice as well as of grace that some portion of this enormous confiscation should be returned in aid to internal improvements? As the hand of Federal power has rested heavily upon us in anger, would it not be wise and well for it to give one touch of benediction? This Government cannot afford to avoid an honest obligation. It cannot afford to do injustice to the meanest of its citizens. The highest duty of statesmanship is to so legislate and so administer the law that the Government may command the respect and affection of all its people. The people of the section which I have the honor in part to represent have realized how difficult a thing it is to placate the non-combatants of the war, gentlemen whose patriotism burned fiercely yet safely around their firesides, while the clangor of conflict resounded throughout the land, to flame still higher on the forum, in the hustings, in newspapers, and official positions, when gentle peace, white-winged, brooded like a dove over the reunited sections. We find it difficult sometimes to define our status in the Union. We feel that some of our brethren of the North consider that we are in the Union as to its burdens, out of it as to its benefits; in it as to taxation, out as to its privileges. Now we "would that thou wert either cold or hot." We desire to share with you whatever of good or evil our common destiny may bring us.

A little information easily accessible but steadily overlooked will show these economists who have constituted themselves the guardians of the public Treasury against every approach from any quarter than their own that there is some show of justice at least in the reasons urged for the assistance for southern improvements by the General Government.

I invite the attention of the House to the following:

Statement showing the amount of money expended by the Government of the United States from the adoption of the Constitution to 30th of June, 1873, in each State and Territory of the Union, for navy-yards, custom-houses, court-houses, and other public buildings; for the improvement of rivers and harbors, and for the construction of forts, arsenals, and armories, railroads, canals, and wagon-roads.

TOTAL RECAPITULATION—NORTHERN AND WESTERN STATES AND THE TERRITORIES.	
Maine.....	\$7,564,194 93
New Hampshire.....	4,864,954 02
Vermont.....	638,471 25
Massachusetts.....	19,667,639 45
Rhode Island.....	3,163,157 93
Connecticut.....	1,590,345 69
New York.....	38,836,791 93
New Jersey.....	1,790,826 69
Pennsylvania.....	2,293,152 46
Delaware.....	5,360,773 63
Ohio.....	4,994,388 06

Indiana.....	\$2,910,423 29
Illinois.....	10,500,645 29
Michigan.....	6,542,934 06
Wisconsin.....	2,718,369 97
Iowa.....	3,250,824 57
Minnesota.....	1,490,818 18
Kansas.....	2,538,806 76
California.....	18,567,310 29
Oregon.....	1,518,793 45
Nebraska.....	474,822 49
Nevada.....	422,681 23
Colorado.....	104,550 20
Territory of Arizona.....	246,415 20
Territory of Idaho.....	86,233 15
Indian Territory.....	7,920 00
Territory of Montana.....	41,553 09
Territory of New Mexico.....	335,718 67
Territory of Utah.....	76,197 55
Territory of Washington.....	496,428 26
Territory of Wyoming.....	77,454 92
Maine and Massachusetts.....	10,000 00
Connecticut and New Jersey.....	23,499 79
Wisconsin and Michigan.....	50,000 00
Utah, Nevada, and California.....	34,267,704 49
Utah, Nebraska, and Wyoming.....	34,550,703 70
Kansas and Colorado.....	7,766,212 11
Iowa and Nebraska.....	2,182,703 38

Total.....227,886,202 17

TOTAL RECAPITULATION—SOUTHERN STATES.	
Maryland.....	5,909,960 90
Virginia.....	16,034,724 99
West Virginia.....	5,094 25
North Carolina.....	3,314,899 58
South Carolina.....	4,808,155 08
Georgia.....	2,485,584 92
Florida.....	14,738,569 86
Alabama.....	3,792,201 22
Mississippi.....	1,857,430 46
Louisiana.....	12,032,075 24
Texas.....	846,369 26
Arkansas.....	976,105 22
Missouri.....	2,569,663 48
Kentucky.....	1,597,249 28
Tennessee.....	537,932 84
Maryland and Virginia.....	180,645 18
Louisiana and Arkansas.....	95,000 00

Total.....71,841,581 76

And to this, showing the number of acres of land granted the North and West for public improvements, in round numbers, one hundred and seventy-six million acres. For the Southern States, seventeen million acres.

As to the constitutional power of the Government to give its land, money on credit, I do not propose now to speak. However logical the argument deduced from the letter of the Constitution, either favorable or adverse to this power, the practice is well settled by long series of legislative and judicial acts. When we consider the vast domain that has been granted to northern enterprises—a territory equal in area to thirty-five such States as Massachusetts, enough to furnish a homestead to every homeless laborer in the United States—and the hundreds of millions of dollars lavished upon northern enterprises, we must admit that it is too late to argue the question of constitutionality, or at least too early, until the South has obtained a corresponding assistance.

The long list of southern claims that have been paraded through the papers and spoken of on this floor as some vast indefinite sum that was to bankrupt the Treasury, will, after it has been divested of the unveracious superfluities with which the imagination of speakers and writers has clothed it, appear insignificant compared with the following list of bills introduced during this Congress by northern men for the benefit of northern enterprises and northern people:

List of bills introduced during the Forty-fifth Congress by northern men for the benefit of northern enterprises and northern people.

BILLS INTRODUCED IN THE SENATE.

S. No.	Title of bill.	By whom introduced.	Amount asked for.
921.....	For relief of J. C. Smith and others.....	Mr. Mitchell.....	\$859 90
885.....	To amend the act approved September 27, 1850, creating the office of surveyor-general of Oregon, &c.....	Mr. Mitchell.....	.....
579.....	Making an appropriation for a survey of the waters of the Pacific Ocean, &c.....	Mr. Mitchell.....	.....
560.....	Providing for the survey of Alsea River, &c.....	Mr. Mitchell.....	3,000 00
500.....	For the improvement of Umpqua River.....	Mr. Mitchell.....	20,000 00
887.....	For the improvement of Coquille River.....	Mr. Mitchell.....	25,000 00
727.....	For the protection of the navigation of the Missouri River near Atchison, Kansas.....	Mr. Ingalls.....	56,000 00
554.....	For the improvement of Osage River in Missouri and Kansas.....	Mr. Plumb.....	.....
765.....	To provide for a military post for the protection of the citizens of the Black Hills.....	Mr. Spencer.....	150,000 00
622.....	Authorizing the survey of a water-route from the Atlantic to the Pacific, via the Upper Missouri and Columbia Rivers.....	.....	.....
838.....	For relief of settlers on certain lands in California.....	Mr. Grover.....	50,000 00
538.....	Extending the swamp-land act to the States of Nebraska and Kansas.....	Mr. Sargent.....	.....
484.....	To authorize the construction of a bridge abutment and approach within Fort Riley military reservation.....	Mr. Saunders.....	.....
622.....	To reimburse the States of Kansas, Texas, Nebraska, and Colorado for expenses incurred by said States for the United States in repelling invasions and suppressing Indian hostilities.....	Mr. Plumb.....	.....
735.....	For the erection of a light-house and fog-bell on Whale Rock, at the entrance of Narragansett Bay.....	Mr. Ingalls.....	35,000 00
758.....	For the relief of citizens of Montana who served with the United States troops in the war with the Nez Percés, and for relief of the heirs of such as were killed in such service.....	Mr. Burnside.....	.....
391.....	To donate the military reservation of Fort Hayes to the State of Kansas.....	Mr. Spencer.....	.....
928.....	For the relief of Cyrus W. Clark.....	Mr. Plumb.....	.....
94.....	For the construction of range-lights on Sand Island.....	Mr. Eaton.....	15,979 87
211.....	To improve the Mississippi River from the crossing of the Chicago, Milwaukee and Saint Paul Railroad bridge, above the city of La Crosse, Wisconsin, to the mouth of Root River, below the city.....	Mr. Mitchell.....	20,000 00
1005.....	For the relief of Patrick H. Jones.....	Mr. Cameron.....	50,000 00
1011.....	For the relief of Basil Moreland.....	Mr. Kernan.....	5,805 82
		Mr. Windom.....	5,560 00

List of bills introduced during the Forty-fifth Congress by northern men for the benefit of northern enterprises and northern people—Continued.

BILLS INTRODUCED IN THE HOUSE.

H. R. No.	Title of bill.	By whom introduced.	Amount asked for.
2708.	To establish a light-house at Hypocrites	Lindsey, of Mo.	\$15,000 00
4197.	For rebuilding tower for steam fog-signal on Wharf's Back, at the entrance of Portsmouth Harbor	Jones, of N. H.	15,000 00
2668.	For relief of Henry P. Role, of New Hampshire	Briggs, of N. H.	2,519 97
2108.	For relief of the legal representatives of R. W. Gibbs	Briggs, of N. H.	3,313 91
3090.	To continue construction of custom-house at Fall River	Crapo, of Mass.	6,000 00
3298.	To establish light-house at Stage Harbor, Chatham	Crapo, of Mass.	2,000 00
3029.	To complete the post-office at Boston	Morse, of Mass.	200,000 00
2402.	For relief of Samuel W. Blain, of Boston	Banks, of Mass.	8,493 62
3046.	Extending time to construct and complete the Northern Pacific Railroad	Rice, of Mass.	\$60,000,000 00
2476.	To remit the duties upon certain goods destroyed by fire at the late conflagration in Boston	Morse, of Mass.	25,000 00
1268.	For the construction of a light-house on Half-Way Rocks, Massachusetts	Loring, of Mass.	250,000 00
1976.	For the completion of custom-house at Hartford	Landers, of Conn.	12,000 00
2723.	To continue the improvement of the harbor of Bridgeport, Connecticut	Warner, of Conn.	7,500 00
2722.	To continue the improvement of the harbor of Norwalk, Connecticut	Warner, of Conn.	40,000 00
4148.	To improve New Haven Harbor, Connecticut	Phelps, of Conn.	90,000 00
1276.	To continue the improvement of the harbor at Stonington, Connecticut	Wait, of Conn.	2,000 00
4004.	To improve Salmon River, Connecticut	Phelps, of Conn.	75,000 00
52.	To continue improvement of Connecticut River at Saybrook, Connecticut	Phelps, of Conn.	10,000 00
51.	To improve improvement of Milford Harbor	Covert, of N. Y.	20,000 00
1980.	To improve Flushing Bay and Harbor	Covert, of N. Y.	912 12
1936.	For relief of Max Reber, of New York	Veeder, of N. Y.	21,420 51
3830.	For relief of Ross A. Cameron	Veeder, of N. Y.	10,000 00
1801.	For relief of Hall Colley	Hiscock, of N. Y.	95,033 00
2878.	For relief of Barker, Williams & Bangs	Hiscock, of N. Y.	50,000 00
4306.	To erect a public building at Syracuse, New York	Bliss, of N. Y.	1,872 00
2474.	For relief of F. L. Dallan, late United States marshal for eastern district of New York	Bliss, of N. Y.	500,000 00
2119.	To construct post-office, &c., at Brooklyn	Bagley, of N. Y.	25,000 00
3308.	For relief of Freeman and others, of Watertown	Hart, of N. Y.	10,190 00
2731.	For relief of D. Davis, of Charlotte, New York	Cox, of N. Y.	12,870 00
2191.	For relief of G. K. Wilfred Marshall	Ross, of N. J.	5,000 00
4012.	To survey Manasquan River, New Jersey	Ross, of N. J.	31,000 00
1967.	To improve navigation of Staten Island Sound	Ross, of N. J.	5,000 00
3395.	To survey Elizabeth River	Ross, of N. J.	5,000 00
3536.	To survey Rahway River	Ross, of N. J.	5,000 00
1965.	To improve navigation of Shrewsbury River	Ross, of N. J.	8,000 00
	For the relief of Private William Hines, Company F, Eighteenth United States Infantry, who lost his trousers and blanket by fire at Aiken, South Carolina	McCook, of N. Y.	8 65
2210.	To complete Government building at Trenton	Pugh, of N. J.	6,000 00
3310.	To remove obstructions in Delaware River	Sinnickson, of N. J.	10,000 00
3522.	To widen and deepen channel of Salem River	Sinnickson, of N. J.	20,000 00
2512.	To continue work on new post-office at Philadelphia	Freeman, of Penn.	200,000 00
2680.	To improve Youghiogheny River	Turney, of Penn.	150,000 00
1565.	To erect a public building at Erie, Pennsylvania	Watson, of Penn.	150,000 00
1942.	To construct a building for United States courts, &c., at Pittsburgh	Errett, of Penn.	900,000 00
122.	For relief of Nancy G. Miller, of Pittsburgh	Errett, of Penn.	1,928 00
2218.	For relief of certain citizens of Allegheny County, Pennsylvania	Errett, of Penn.	31,566 67
4215.	To improve Kiskiminetas, Conemaugh, and Allegheny Rivers	White, of Penn.	312,000 00
2145.	To provide for necessary and urgent repairs to ice-harbor at Chester, Pennsylvania	Ward, of Penn.	3,400 00
2217.	For relief of J. W. Frazer, for expenses of a trip from Philadelphia to Washington, and services in examining foundation of new jail	Harmer, of Penn.	3,000 00
2547.	For relief of W. K. Piper, of Hollidaysburgh, Pennsylvania, for compensation for feed and care of Government horses during the late war	Campbell, of Penn.	1,000 00
3634.	For a survey of a canal to unite the Upper Missouri with the Colorado River	Banning, of Ohio.	50,000 00
1898.	For the relief of G. W. Cushman	Ewing, of Ohio.	15,754 00
1013.	For relief of A. B. Mattello and G. D. Evans	Van Vorhis, of Ohio.	14,180 00
3437.	For relief of J. C. Douglas, of Allen County, Ohio	Rice, of Ohio.	800 00
1845.	To improve harbor at Quincy, Illinois	Knapp, of Ill.	50,000 00
1923.	For improvement of Illinois River	Knapp, of Ill.	100,000 00
509.	To construct a public building at Quincy	Knapp, of Ill.	150,000 00
2486.	Extending operations of Light-House Board over Illinois River	Knapp, of Ill.	27,000 00
2978.	To improve channel of Mississippi River	Knapp, of Ill.	2,020,000 00
518.	To continue public works on Mississippi River between Dickey Island and mouth of Ohio River	Hartzell, of Ill.	100,000 00
517.	To improve Mississippi River between Islands 14 and 15, near Kaskaskia, Illinois	Hartzell, of Ill.	50,000 00
1840.	To improve Ohio River at Grand Chain	Hartzell, of Ill.	100,000 00
3563.	Making partial appropriation for custom-house at Chicago, Illinois	Aldrich, of Ill.	200,000 00
2963.	To improve Galena River, &c.	Burchard, of Ill.	105,000 00
2875.	For relief of B. E. Dodson, of Illinois	Tipton, of Ill.	2,418 70
131 (rev.)	Directing survey and estimate to be made of Illinois River	Harrison, of Ill.	9,275 77
500.	To confirm to Chicago the title to certain public ground	Townsend, of Ill.	2,800 00
2042.	For relief of H. A. Bateman, of Chicago	Morrison, of Ill.	20,000 00
2112.	For relief of Mrs. Mary J. Eddy	Springer, of Ill.	1,800 00
2040.	For relief of the heirs of Colonel Stephen H. Long	Eden, of Ill.	2,648 88
3709.	For the relief of Frederick Klor	Cobb, of Ind.	150,000 00
1904.	For relief of William Johnson & Co.	Cobb, of Ind.	250,000 00
3839.	For relief of John Burke, of Indiana	Hanna, of Ind.	50,000 00
1514.	To improve White River	Calkins, of Ind.	100,528 53
1512.	To improve Wabash River	Browne, of Ind.	157,500,000 00
2849.	To establish a mint for the coinage of gold and silver at Indianapolis, Indiana	Williams, of Mich.	75,000 00
3189.	To extend harbor at Michigan City	Williams, of Mich.	10,000 00
2539.	Organizing the National Railway Company of the United States, for the purpose of constructing a double-track cheap-freight railway from New York to Chicago, Saint Louis, and Council Bluffs	Williams, of Mich.	200,000 00
1715.	To extend United States Government building at Detroit	Williams, of Mich.	30,000 00
2704.	To erect a light-house station at the head of Belle Isle, in Detroit River	Williams, of Mich.	6,000 00
2922.	To improve navigation of Detroit River	Bragg, of Mich.	20,000 00
1431.	For the improvement of Detroit River	Bragg, of Mich.	20,000 00
2074.	To improve harbor of Cheboygan, Michigan	McGowan, of Mich.	10,000 00
2975.	To continue improvement of harbor at Two Rivers, Michigan	Ellsworth, of Mich.	20,000 00
3381.	For relief of Henry O'Neill, Jr., of Jackson, Michigan, for injuries received by reason of illegal arrest and imprisonment by United States officers	Ellsworth, of Mich.	25,000 00
1913.	To construct a light-house at Alpena, Michigan	Ellsworth, of Mich.	50,000 00
647.	To construct a light-house at Little Traverse Bay, Michigan	Hubbell, of Mich.	10,000 00
1911.	To improve harbor at Cheboygan, Michigan	Hubbell, of Mich.	150,000 00
2061.	To rebuild the light-house at Eagle River, Michigan	Hubbell, of Mich.	50,000 00
1766.	To improve Saint Mary's River Canal	Hubbell, of Mich.	20,000 00
1772.	To improve harbor at Ontonagon	Hubbell, of Mich.	20,000 00
1771.	To improve Eagle Harbor, Lake Superior	Hubbell, of Mich.	20,000 00
1768.	To improve Ludington Harbor, Michigan	Hubbell, of Mich.	20,000 00
1770.	To improve Charlevoix Harbor, Michigan	Hubbell, of Mich.	20,000 00
1767.	To improve Manistee Harbor, Michigan	Hubbell, of Mich.	15,000 00
1764.	To erect a station and steam fog-signal at Mackinac, Michigan	Hubbell, of Mich.	5,000 00
1760.	To erect a keeper's dwelling at the light-house at Pent Water, Michigan	Hubbell, of Mich.	200,000 00
1759.	To erect a light-house and steam fog-signal at Stannard's Rock	Hubbell, of Mich.	200,000 00

*Estimated.

List of bills introduced during the Forty-fifth Congress by northern men for the benefit of northern enterprises and northern people—Continued.

BILLS INTRODUCED IN THE HOUSE.

H. R. No.	Title of bill.	By whom introduced.	Amount asked for.
2470	For relief of the heirs of the late W. A. Burt, inventor of the "solar compass".....	Hubbell, of Mich.....	\$150,000 00
4080	To improve Providence River.....	Eames, of R. I.....	100,000 00
1547	To authorize the Secretary of the Treasury to purchase a lot of land for the use of the Government in Providence, Rhode Island.....	Eames, of R. I.....	50,000 00
2288	To construct a harbor of refuge at the outlet of Sturgeon Bay.....	Lynde, of Wis.....	25,000 00
3672	For relief of R. P. Houghton, and others.....	Williams, of Wis.....	30,000 00
3684	To continue the improvement of the harbor at Racine, Wisconsin.....	Williams, of Wis.....	30,000 00
3688	To continue the improvement of the harbor at Kenosha, Wisconsin.....	Pound, of Wis.....	250,000 00
1496	To improve Chippewa River, Wisconsin.....	Price, of Iowa.....	1,093 44
3790	For relief of Fred Dant & Co., of Muscatine, Iowa.....	Price, of Iowa.....	5,000 00
2423	For relief of Amanda M. Cook.....	Oliver, of Iowa.....	5,830 50
3368	For relief of William Crompton.....	Oliver, of Iowa.....	9,800 00
3425	For relief of D. W. Dodson.....	Stone, of Iowa.....	600 00
4053	For relief of Richard Middleton, of Keokuk.....	Cummings, of Iowa.....	3,000 00
3257	For relief of William H. Merritt.....	Ryan, of Kans.....	6,500 00
3953	For relief of J. S. Friend.....	Haskell, of Kans.....	2,625 27
3015	For relief of B. P. McDonald, of Kansas.....	Phillips, of Kans.....	1,300,000,000 00
3239	To provide for a survey of and estimates for a ship-canal, with stone aides and bottom, from deep tide-water, near mouth of the Mississippi River, to Saint Louis, with branches to Pittsburgh, Chicago, Saint Paul, and Omaha.....	Phillips, of Kans.....	1,000,000 00
782	To provide for the payment of claims for Indian depredations.....	Luttrell, of Cal.....	1,174,212 00
781	To complete the stone dry-docks and other public works at Mare Island navy-yard, California.....	Luttrell, of Cal.....	25,000 00
861	To improve Feather River, California.....	Luttrell, of Cal.....	100,000 00
860	To improve Sacramento River, California.....	Luttrell, of Cal.....	200,000 00
2147	To improve harbor at Crescent City, California.....	Luttrell, of Cal.....	200,000 00
2146	To improve harbor at Humboldt Bay, California.....	Luttrell, of Cal.....	5,000 00
2626	For relief of August Lechinsky.....	Luttrell, of Cal.....	50,000 00
4067	For the consolidation of the Mission Indians.....	Pacheco, of Cal.....	500,000 00
2104	To provide for construction of a breakwater at San Luis Obispo, California.....	Pacheco, of Cal.....	500,000 00
2103	To provide for construction of a breakwater at Buenaventura, California.....	Patterson, of Colorado.....	250,000 00
2632	To build United States court-rooms, &c., at Denver.....	Wren, of Nevada.....	125,000 00
2680	To erect a post-office, &c., at Carson City, Nevada.....	Williams, of Oreg.....	300,000 00
1169	To continue construction of canal and locks at the Cascades of Columbia River.....	Williams, of Oreg.....	5,000 00
3444	To improve navigation of Rogue River, in the State of Oregon.....	Williams, of Oreg.....	5,000 00
3842	To improve Coquille River, Oregon.....	Kidder, of Dakota.....	12,524 00
2631	For relief of Thomas Bayne.....	Corlett, of Wyoming.....	50,000 00
3053	To complete the penitentiary in Wyoming Territory.....	Corlett, of Wyoming.....	18,000 00
3026	To survey northern boundary of Wyoming Territory.....	Maginnis, of Montana.....	150,000 00
3252	For building a military post for the protection of the northern frontier of Montana.....		
	Ten years' contracts with steamship lines for carrying the mails, as asked for:		
	Tom Scott's Liverpool line.....		9,672,000 00
	The Pacific Mail's several lines.....		29,570,000 00
	Grand total asked by and for the North.....		1,569,122,035 13

This sum is so stupendous that it bewilders the comprehension. The mind cannot entertain at one time the idea of even a thousand different objects, but when we reach hundreds of thousands, millions, hundreds of millions, billions, the impression is of vague vastness simply. To enable you to realize to some extent the amount of money these demands cover, I will ask you to consider this illustration: twenty-five hundred pounds' weight of silver dollars is a good load for four horses, one four-horse wagon on the road will occupy about seventeen yards, and the sum of money asked for by the northern people of this Congress will be a good load for a line of three hundred and seventy-five miles of four-horse wagons, as close as they could travel, each with twenty-five hundred pounds' weight of silver dollars. How many mortgaged farms and houses would this relieve, how many accounts it would balance, how many people it would save from misery! Gentlemen, look at this! How contemptibly insignificant appears the sum asked for by the South, compared with that demanded by the North. Even the reckless inexactness of the New York Tribune, with its duplication of bills, brings the aggregate amount asked for by the South to only \$150,000,000. Millions, indeed! It really appears ridiculous to speak of millions, and I am ashamed of the wretched poverty of the southern idea of appropriations when I view the magnificent and Titanic schemes of our large-natured neighbors of the North.

Our array compared with theirs is as Falstaff's ragged regiment to the purple and gold glittering myriads of the Persian monarch; a mere skirmish line to the grand array. They speak of the "southern maw;" what have they to say of the northern maw? The one to the other as the tiny eddy in the brook to the maelstrom of the Norway coast. This northern maw is omnivorous and insatiable. The millions of acres of public lands, and millions of public money have not appeared but only whetted its appetite.

In making this statement of northern claims I do not, as do the gentlemen of the republican party, take account of the bills for pensions. I shall not sectionalize the soldier for a party benefit, I will not drag the man who offered his life for his country into the arena of politics, and I resent the depraved demagoguery that would thus utilize him. If nothing else can escape their touch I ask gentlemen to at least keep "hands off" these monuments of a republic's gratitude.

Reading the list of bills presented we are struck by its comprehensive character. Nothing is too stupendous to be attempted, nothing too trifling to be overlooked. It has "ample scope and verge" for everything that can deplete the Treasury. It ranges from an atom to the universe; from a billion-and-a-quarter canal to an eight-dollar-and-sixty-five-cent pair of pants. We can, Mr. Speaker, but admire the vigorous imagination of the gentleman from Kansas which

spurns the dull possibilities of human achievement and soars into the empyrean of pure speculation. His canal bill seems the product of the brain of an oriental engineer delirious with hashish; a feverish dream mixed with recollection of the Arabian Nights; a canal, with its branches, over twenty-five hundred miles long, forty-five feet deep, and one hundred and fifty feet wide, (for it says that sea-going steamships must be able to pass each other;) to cross rivers and mountains, and whose bottom and sides are to be paved with stone. This beats Broddingnag. The Pittsburgh branch should be continued to New York and connect with a railroad across the Atlantic!

It would take all the quarries of all our mountains to pave this canal. It would engross all the labor of this hemisphere. Let De Lesseps hide his diminished head; his paltry canal would hardly be a respectable feeder for this magnificent water-way. Crops and Cephrenes were frugal of human labor in the comparison. As the antipodes of this we have the eminently practicable bill of the gentleman from New York, who moves the ponderous machinery of legislation to reimburse a soldier for loss of a blanket and pair of breeches destroyed by fire. Now, we will not ask what was this warrior doing walking to and fro on the face of the earth unbreeched? No objection will be made to the soldier's claim. Backed by the suavity of manner and energy in action of the gentleman from New York, it may already be counted successful. They tell us of southern raids on the Treasury! This is not a northern raid; it is a campaign, a siege. They have sat down before the Treasury and encompassed it round about, and the "gainful pillage" which paid their former efforts warrants their expectations of success.

Mr. Speaker, if the South could get one-fifth of the \$158,000,000 involved in the bill of the gentleman from Indiana, providing for a double-track railroad from New York to Council Bluffs, we would be glad to take it in full satisfaction as an offset to the treasure lavished upon the railroads, rivers, canals, and harbors of the North. I do not wish to be understood as advocating the enrichment of vast corporations from the public Treasury. I am simply instituting a comparison between the demands of the North and South that the country may see how little this outcry about southern claims is prompted by a true regard for economy, and to show that it is blatant demagoguery and political claptrap. As far as I am concerned I will cheerfully support a bill to remove every class of claims from Congress to a court of proper jurisdiction, for in my opinion it is neither wise nor safe that Congress should audit accounts and vote settlements with the individual creditors of the nation. For two reasons they should be removed from Congress; first, for judicial determination; and, second, to eliminate them from politics.

A look back over the history of the country will show which party has been the party of economy. - Go to the RECORD of the last three

Congresses, and the character of republicans and democrats as the disbursers of the public moneys stands attested in figures that cannot be put down by mere assertion or assumption. The Forty-second and Forty-third Congresses were both republican; the majority in both the Senate and the House was resistless. The republican party had the reins of government in its own hands, and the legislation bore the character they chose to stamp upon it. There was no cry of economy on their part; flushed with power, they did not see that the great public conscience had sickened at their profligacy. The claim business flourished; claim agents made fortunes. The honorable Secretary of the Treasury, when he was a Senator from Ohio, said in a speech made in the beginning of the campaign of 1875 that Congress had paid one hundred millions of war claims. What Congress? Republican! Republican Congresses had paid this amount without stunning the tympanum of the northern ear with howls about "confederate raids on the Treasury." Congressmen, with the thoughtful providence of Dugald Dalgetty, seized the opportunity to "provision the garrison." It was notorious that the bigger the claim and the smaller the reason for it the better its chance of success. It had to be "fat" enough to pay commissions and declare dividends. Do northern voters think that these are the gentlemen to raise the "raw head and bloody bones" of southern claims?

The carnival of public spoliation was not yet exhausted. In the Forty-second Congress the republicans allowed claims to the amount of \$1,133,869; in the Forty-third Congress to the amount of \$1,333,421. In 1876 the democrats held the House by the overwhelming majority of seventy-three; a great part of the majority were ex-confederates. The Southern States had at last sent their own sons to the national council; yet the Forty-fourth Congress allowed claims to the amount of only \$958,830. And what became of the great rings? It seems that the democratic party had put an end to the profits of the claim agent, the vast plunder of the rings, and the business of the lobby. The records of Congress show conclusively that the staunchest and most faithful guardians of the public Treasury, the strictest and most consistent economists, are the democrats. Before the South had a representation of her own people upon this floor, the history of legislation bears ample testimony to the vigilance and caution of northern democrats in protecting the Treasury from the many schemes that were planned against it. They stood as a bulwark against the wasteful flood of extravagance that in sixteen years had distinguished republican administrations. They had been too well grounded in the rudiments of the democratic faith taught by Jefferson and Madison to yield to the profligate tendency of their time, and there is nothing in their conduct to-day, or in the past, in this regard that does not invite the confidence of the people of the North and of the whole country. They stand to-day the advocates of retrenchment and reform, the champions of local self-government, that cornerstone of the Federal Union and conservator of free institutions.

Happy, indeed, for this country, that in its time of danger and trouble there existed a democratic party in the North who, maintaining the integrity of the Union, yet kept their judgments undimmed by prejudice; and loving the Union as a whole, loved too all its sections, and stood the agents of reconciliation to perfect the reunion of States and to protect the prostrate South from the vindictive oppression of those who in the fury and passion of civil strife lost sight of the very genius and character of that Union. In what have these democrats of the North shown themselves unworthy of the most generous trust? In every measure of legislation they have been the faithful champions of the people, whether in a hopeless minority or in a triumphant majority. They have been the enemies of corporations and rings, of centralization and despotism, waging the battle of popular rights, and maintaining the Constitution as our fathers gave it and as the years have made it.

The representative republican sentinel on the watch-tower is moved in season and out of season to preach his jeremiad upon the solid South. He lifts up his voice in lamentations; his knees smite together in the presence of this new danger. Macbeth was not more troubled when he saw Birnam wood come to Dunsinane. I beg these gentlemen not to be disturbed by imaginary dangers. There is nothing in the "solid South" that threatens danger to any principle of the Constitution or that will increase the afflictions of the long-suffering and sorely-tried people of this Republic. The "solid South" will not insist that the property restrictions which fetter the free action of the citizens of Rhode Island and Massachusetts shall be inflicted upon the people. She will not arrogate the prerogative of standing between the conscience of any man and his Maker; and she will never clasp hands in sympathy with Rhode Island and New Hampshire upon the disfranchisement of Roman Catholics.

What would gentlemen of the republican party have us of the South to do? What class of people could they reasonably expect to represent us in the Congress of the States? Is it a matter of wonder that southern men, identified with southern feeling and interest, should be selected to represent that feeling and interest? Do you not send from your own section those in accord with your people? You all know, and you do not regret it, that the day of the carpet-bagger is past. It must be that southern Representatives shall be those who moved with the great currents and tides of the southern mind, and in their representative and individual capacity, since they have resumed their places here, they have proved by their moderation and conservatism that their presence was a beneficent influence.

In the ordinary course of nature men are moved by the promptings of self-interest. For the sake of material and political prosperity the South works for peace and the things that make for peace. We are tired of being platformed upon; we are tired of being treated as a half-alien section. Our constant effort will be to remove every disturbing cause, every irritant that can heighten the fever of the body-politic. This is the interest, too, of the northern democracy.

When men's passions sink to rest then they begin to think, and this is the danger that threatens the republican party. The life of that party is in agitation, and if a cause for excitement cannot be found one must be imagined. Hence this yearning solicitude to preserve the fruits of the war. The fruits of the war cannot be endangered. The slave is freed and nothing can remand him to servitude, less than the power of Omnipotence. He has all the civil and political rights of the white man. Some republicans may desire his disfranchisement, but to the Southern States he is an element of power, an available strength in the electoral college and in Congress which we will not willingly give up. Putting it upon the ground of interest, the southern man has a stronger reason than any other can have in preserving the ballot in the hand of the negro.

The question of the supremacy of the Federal power has been decided through the arbitrament of the sword, and the constitution of my State declares that every citizen of Mississippi owes a paramount allegiance to the United States. What "fruits of the war" are threatened with destruction? Is this constant effort to prejudice southern representatives in the minds of northern people really necessary to republican success? Would not a wiser, more generous and magnanimous policy have fixed the scepter of power in republican hands through a long succession of administrations? Although born and reared in Mississippi, believing slavery was right, indoctrinated in the theory of "State rights," giving all I had to the confederacy, yet I can see that to the world the republican party, whether justified by the Constitution or not, occupied a position as the champion of human freedom that was not only commanding but almost inspired. They had the vantage-ground, but they have lost it by abuse of power, by licentious extravagance, by toleration of rings, by neglect of the interests of labor, by their conspicuous inability to realize that the war is over, and that peace, reconciliation, and good will are the essentials of public well-being.

The democratic party represents the interests of labor, the sentiments of the people, the spirit of our institutions. I appeal to the past. Go back down the shining years of our country's glory, and note the landmarks of the nation's progress. Every proud event in our history stands an eloquent memorial of democratic wisdom. Under the guidance of that party the thirteen feeble colonies, a mere fringe upon the Atlantic, have expanded into States and Territories that embrace a continent. Under it, Florida was acquired from Spain, Louisiana, stretching into the far northwest, from France; Texas, California, Nevada, Utah, Colorado, New Mexico, and Arizona from Mexico. Successful wars were waged, and in these changing years of peace and war and of almost unmixed prosperity the public expenditures never reached even half the amount of either of the last twelve years of peace. Through all that bright era the national honor was untarnished, not an insult unresented, nor a wrong unredressed.

It was its boast that under its care the Republic should receive no detriment. Then the broad hospitality of the American people found its fullest expression; the weary and oppressed of every land were invited to partake of our blessings. The fire upon the altar of liberty, kept burning with more than vestal vigilance, was the beacon blaze across the deep to light the nation's pilgrims to freedom's holy land. The splendid achievements of the democratic party are the pledges it offers. It pleads for a real union "of hearts and of hands," as well as "of lakes and of lands." It does not dwell upon the sorrowful spectacle of discordant and dissevered States, but to States harmonious and united; "distinct as the billows and one as the sea." It does not walk with averted face, beholding only an unhappy separation, but with eyes lighted with hope and fixed upon the future, taking in all its glorious possibilities. It recognizes that our career has only fairly begun; that the triumphs of our past endeavor are but the first fruits of that splendid harvest of results that awaits our honest trying.

It recognizes sectional lines only in geography, and its mission is restoration! Charles Sumner in all his life never did anything wiser or more patriotic than when he said he wished no inscription on battle-flags that perpetuated a jarring memory. The learned gentleman from Pennsylvania [Mr. KELLEY] in all his distinguished career never reached a more honorable eminence than when in the last Congress, in a fervid burst of impassioned eloquence, he exhorted the men of the North and of the South to cherish the mementos of their valor as a common heritage for the generations to come. No man of to-day can write the history of the last sixteen years. Orators and writers may state facts and express opinions, but the historian of these times is the product of another age. He who addresses himself to analyzing the contemporaneous record of these results, who notes the phenomena of the eccentric political movements, and studies the philosophy of the tendencies of thought and sentiment during the interstate war, will bring to the task a judgment unbiased by prejudice, a vision undimmed by the smoke and dust of conflict; and he will not see treason or rebellion, but he will see on both sides ardent devotion to principle, heroic courage in battle, manly fortitude in adversity, self-

abnegation, and generous love of country. The assaults that brought secession, secession itself, and the consequent carnival of death will seem the delirium of a strong young nation, flushed with pride and drunken with success—a midsummer madness upon which in sober calm of recovered reason it looks with sad regret, asking "respite and repentance from the memory" of its excesses.

The Republic calls upon all her sons; the brains and the patriotism of every section is invoked. In the multitude of her counsellors she expects the wisdom that will lead our happiness and prosperity to the brightest consummation. No good can come of that spirit that would keep alive sectional animosities, that would establish in governmental policy distinctions in classes and localities unknown to the Constitution. We of the South ask the consideration given to others. Let there be done exact and equal justice to all. We ask that the home as well as the foreign creditor receive his dues. We know that the affection of the citizen is more valuable than the respect of the alien. We shall exercise charity toward all, and "still in our right hand carry gentle peace to silence envious tongues." We may be assailed with epithets, but, so far as manhood will permit, will forbear the expression of even a just indignation. We confide in the public justice, and with patience and hope await the rich blessings that must come of a thorough reconciliation of a reunited people.

REFUNDING THE NATIONAL DEBT—POSTAL SAVINGS-BANKS.

Mr. BELL. Mr. Speaker, the financial question is the great economic problem of this country and of this age. Its satisfactory solution is the supreme desire of the American people. With a country the greatest in extent and richest in resources of ancient or modern times, under a system of government the most beneficent that human wisdom ever formed, we present to-day a sad spectacle of poverty, suffering, and distress. The stagnation of business, the paralysis of industry, the idleness of labor, the destruction of property in the shrinkage of values and existing and impending bankruptcy, are expressions with which we have become familiar by daily repetition in these halls since we met in October. Different causes have been assigned and various explanations given for this unfortunate condition of the country. There are those who suppose that they have found the cause in extravagant living, in overtrading, and in wild and reckless speculation. They suggest, of course, economy in personal and family expenditures as a panacea for all our ills. Others have ascertained that the "Iliad of our woes" comes from an inflated, irredeemable paper currency, and recommend as a sovereign specific the resumption of specie payment. This school of political philosophers teaches the paradoxical doctrine that you can relieve the poverty of the people by destroying their property and increasing their debts. This solution finds its equal in absurdity only in that other theory that attributes our troubles to what is called overproduction. The advocates of this theory would insist that the distress which the country now suffers results from the abundance of the products of our mines, fields, and factories.

If this grand discovery that so unceremoniously explodes the doctrines of Adam Smith be true, then the remedy, simple and complete, is at hand. We have only to destroy what we have and cease to produce any more. All this nonsense is worse than trifling with the gravest questions of public interest. The people of this country thoroughly understand the cause of their distress. They find it in the overwhelming indebtedness of the country—the Government and the people—and in the financial policy of the Government manipulated by syndicates in the interest of non-taxed capital, and against the property and labor, upon which class legislation has imposed enormous burdens of iniquitous taxation. That financial policy they have arraigned and denounced, and that financial policy it is the object of this bill to change and improve. A simple statement of what the legislation upon this subject has been is the clearest demonstration of its folly and of its injustice. The national bank act secures a monopoly of the banking business to the bondholders. This monopoly is protected by a prohibitory tax of 10 per cent. upon the issues of State banks. The Government pays to the bondholding bankers 6 per cent. in gold semi-annually, and gives them the use of \$90,000 on every \$100,000 in bonds deposited in the Treasury; and all this is done at an annual expense to the people of at least \$15,000,000.

Between the years 1862 and 1868 the Government of the United States issued and sold bonds amounting to the sum of \$2,059,975,700, for which it realized in gold or gold value \$1,371,424,238, a loss to the Government and a gain to the purchasers of the sum of \$678,551,460. The interest on this sum for ten years, at 6 per cent., amounts to the sum of \$407,130,876. There is therefore now a debt upon the American people, principal and interest, amounting to the gigantic sum of \$1,085,682,336—one-half of the public debt, for which, in fact, the Government never received one cent, and for which the creditors never paid one cent. And this is the fountain from which the bitter waters of distress now deluging the entire country have flowed; and this is the debt around which constitutional guarantees have been thrown. The fourteenth article of amendment to the Constitution declares, among other things, "That the validity of the public debt shall never be questioned." This debt was originally payable in paper money or lawful money. It was not originally payable in coin. The act of 13th of March, 1869, pledged the faith of the Government to its payment in coin; the act of 12th of February, 1873, demonet-

izing silver, left gold the only legal-tender coin in which it could be paid.

The financial policy which I arraign has fastened upon the people of this country this vast gold-bearing debt under which they are staggering and with which they are crushed, when the Government received nothing for it, and which in fact constitutes the spoils which war speculators coined out of blood. Since this debt was created and converted into a gold debt, the policy has been to constantly contract the volume of the currency, while the population of the country was rapidly increasing, and the wants and necessities of the people steadily multiplying. The amount of the currency outstanding in 1866, was \$1,606,987,643. In 1876 it was only \$748,912,072, a reduction in the volume of the currency in ten years of \$848,074,570, an annual average diminution for ten years of \$84,807,457.

The financial system or policy of the Government, manipulated by syndicates, gold rings, bondholders, and bullion brokers in the interest of capital at the sacrifice of every other interest, culminated in the passage of the act of June 14, 1875. This act required the Government to redeem in gold the outstanding legal-tender notes on the 1st day of January, 1879. To carry out the provisions of this act the Secretary of the Treasury informs us that he has purchased \$15,000,000 of coin by the sale of 4½ per cent. bonds, and \$25,000,000 with 4 per cent. bonds. The bonded debt of the United States is thus increased the sum of \$40,000,000, carrying an annual interest of \$1,670,000, to redeem and withdraw from circulation an equal amount of legal-tender notes which bear no interest. And the Secretary informs us that he must have fifty millions more of coin to make resumption practicable, which he proposes to purchase with 4½ per cent. gold bonds, thus increasing the public debt ninety millions, with an annual interest of \$3,650,000. And this is what it costs the people to enable the Government to deprive them of the means of paying their debts and prosecuting their business.

With the bonded debt of the United States converted by legislation, not by contract, into a coin debt at a high rate of interest and constantly increased; silver demonetized, leaving gold the only currency in which the debt could be paid; the legal-tender notes redeemed and destroyed or hoarded in the Treasury; State banks strangled, taxed out of existence, the people of this country, numbering nearly fifty millions, would have left to them \$320,000,000, to pay their debts and conduct their business, of national-bank notes, issued by the Government to the banks, to be let out or drawn in as their interest or caprice might dictate.

This legislation is very rapidly making the stock-jobbers, gold gamblers, and money rings the owners of the property and the masters of the people of this country. Thus the financial legislation stood at the meeting of the extra session of the Forty-fifth Congress, the result of which is seen in the fact that the Government securities were at a premium, the property of the country ruinously depreciated and its business destroyed. After this wicked scheme of class legislation, running through a period of ten years and indorsed by an administration distinguished for its appreciation of gifts, if for nothing else, had been accomplished, and while the saints who worship only at mammon's shrine, jubilant with triumph, were reveling in high carnival, in fancied security, Congress met and the "hand writing appeared on the wall." The people had cast the ballot into the scale like the sword of Brennus, and it outweighed their gold. And all at once there rings through the land, from these Halls and from a subsidized and prostituted press, the cry about plighted faith, public credit, and national honor.

And while the men of this generation and their children are writhing under the burdens this monstrous crime against humanity has imposed upon them, like Laocoön and his sons in the crushing coils of the serpent, it is just discovered that it is extremely unwise for Congress to legislate upon the subject of finance. Political economists and doctrinaires tell us that these questions are above legislative control; that they are matters to be regulated and adjusted by commercial values and the laws of trade. The Government contractors, speculators, and bounty-jumpers of the war period now serenely draw semi-annually in gold the interest on their bonds purchased at 50 per cent. of their nominal value and exempt from taxation, while the Government taxes even the match with which poor war widows, North and South, kindle the fire with which they cook their scanty meal. I repeat that the cause of the distress upon the country is to be found mainly in this stupendous national debt, largely contracted without an equivalent, and in that system of legislation which has constantly increased its amount by enhancing its value and diminishing the means of its payment.

Having intrenched themselves behind this legislation, conscious of the power with which these spoliations have invested them, the extent of their demands is only equalled by the offensiveness of their insolence. One of their organs has made the announcement that—

The American laborer must make up his mind henceforth not to be so much better off than the European laborer. Men must be content to work for low wages. In this way the workingman will be nearer to that station in life to which it has pleased God to call him.

This is an oracular *pronunciamiento* from the money power that the condition of the American laborer is a state of serfdom, and that God has been pleased to appoint him to a station of inferiority in all the

relations of life. This is the legitimate result of that class legislation in the interest of money and against all other interests in the country which I condemn and denounce. Yet the laborer pays the taxes and fights the battles of the country. And when we warn the people that this legislation is establishing a rich class and a poor class, and making a line of distinction in men in this Government of freedom and equality, and thus silently but certainly subverting our free institutions and destroying equality and ultimately liberty, arrogant capital, "invisible in war and invincible in peace," concealing its cormorant rapacity by a false pretense to the mild virtue of timidity, raises the cry of agrarianism and communism, and insists upon increasing the Army to preserve order and suppress strikes.

This Congress when it assembled addressed itself with commendable dispatch and earnestness to the relief of the anxiety and distress of the country, and commenced to change the mischievous legislation from which our troubles have sprung.

The passage of the silver bill and the bill to repeal the specie-resumption act, if it succeed, will break up the conspiracy between foreign and domestic bondholders to destroy the country. Stop the contraction of the currency and the shrinkage in the value of property. Utilize one of the great resources of the country, diminish the amount of the public debt by making it payable in a cheaper currency and make its ultimate extinction a possibility. The country can never have financial prosperity so long as foreign creditors backed by foreign governments control its financial policy in their own interest. We want the public securities held by our own people and at a lower rate of interest. When this shall have been accomplished and capital is made to bear its just share of taxation, then we can reform our revenue system, reduce taxation, and sooner or later discharge the entire public debt.

In my judgment the bill under consideration will contribute more to this most desirable result than any measure that has been presented or that can be suggested. That if it become a law it will afford practical and speedy relief to both the Government and people I do not entertain the slightest doubt.

In brief, it provides that any holder of money may deposit the same to the amount of \$10 in any postal money-order office in the United States, to whom the postmaster shall issue a postal order on the Treasury, which, when presented in sums of \$10 or any multiple thereof, shall be receivable in exchange for postal savings-bonds of the United States, to be issued by the Secretary of the Treasury in denominations of ten, twenty, fifty, and one hundred dollars, bearing interest at the rate of 3.65 per cent. per annum, the interest payable every three months. These savings-bonds are exchangeable for notes of the United States, and also for 4 per cent. bonds authorized to be issued under and by virtue of the act of 14th July, 1870. This bill makes every postal money-order office in the United States, for all practical purposes, a savings-bank in which the holder of money may deposit the same in a place of absolute security to him. It involves no additional expense. It requires no legal machinery except what may readily be provided by departmental regulation, adjustable to the test of trial and the suggestions of experience.

The liability of the Government to the depositor is the guarantee of his safety; and such bond as the Government may require under such regulations as the Department may adopt secures the Government against loss. It is a safe and convenient place of deposit, in which the earnings of labor and the acquisitions of industry can be preserved in sums of twenty-five cents and upward to as much as \$20 in a day. It will furnish an incentive to industry, encourage frugality, foster economy, and soon develop its beneficent results in sheltering the homeless, clothing the naked, and feeding the hungry. If it be true that recklessness and extravagance have been productive of all the mischief claimed, then the wisdom of that measure or policy that educates the people in the direction of economy and supplies them with a safe, convenient, and inexpensive means of preserving and increasing the rewards of their toil cannot be questioned.

In those sections of the Union where savings institutions exist it has been found to be true that by this means the daily wages of laborers among the poor have been carefully husbanded. Daily and weekly deposits of small amounts have been made until after a while the aggregate would surround them with comfort. And this has been the case while there was a painful apprehension of loss from the failure of the banks, which, unfortunately, in too many instances turned out to be well founded. And while losses in these institutions have been numbered by millions, and in the midst of wreck and ruin, there is now on deposit in the savings-banks of the Union, as shown by the report of the Secretary of the Treasury, the sum of \$843,154,804, deposited by 2,300,000. The American Almanac for 1878 shows the number of depositors in 1875 and 1876, in twelve States, comprising the New England States, New York, New Jersey, Pennsylvania, Maryland, Minnesota, and California, to be 2,414,952, and the amount deposited to be \$892,785,553. This is an average of \$369.69 to each depositor. The learned editor of this valuable book, after showing that but partial and incomplete returns have been made, says:

It may be safely stated, however, from the returns which do exist, that the amount of deposits in savings-banks throughout the United States reaches, if it does not exceed \$1,000,000,000 held by about 2,800,000 persons.

These facts show the popularity of these institutions. They also show that the depositors are the poor whom we always have with us,

and they further show what a vast sum may be saved by a wise system of economy and frugality. Can any one doubt, in the face of these facts, that an immense amount would soon be saved by the poor people of the United States if they had the facilities for secure deposit which this bill provides?

The savings-bank is an institution of recent origin. It had its birth in the present century. Its career has been marked by signal success and beneficence. The British government has in successful operation a postal savings-bank system similar in many respects to the one sought to be established by this bill. There were in 1876 in her savings-banks, on deposit, about \$350,000,000. The postal savings-bank, which this bill will establish, possesses the very decided advantage over ordinary savings-institutions of absolute security to the depositor. Money-orders are to be issued to depositors without interest, it is true, but negotiable by indorsement, and therefore valuable and convenient as a circulating medium and receivable in exchange for United States bonds bearing interest at the rate of 3.65 per cent. per annum of the denomination of ten, twenty, fifty, and one hundred dollars. These bonds have all the attributes of a medium and an investment. The amount, the facility with which the interest can be computed, and their negotiability by delivery will give them popularity with the people as money and as an investment.

If they should not circulate as a medium they are exchangeable for United States notes, so that they could be readily converted into money at the will or convenience of the holder. This exchangeable quality would make the currency adjust itself to the demands of trade and maintain steadiness in the value of property and products. During the business seasons, when crops are put upon the market, they could and would be exchanged for notes. And in the intervals of quiet the notes would be exchanged for bonds. The markets in this way would be relieved from the extortion and speculation of the banks. Thus the business necessities of the country would be supplied with a currency as occasion required and capitalists, large and small, with the means of a safe investment at a seasonably remunerative interest.

The fourth section of the bill provides that all moneys received into the Treasury in pursuance of this act shall be applied exclusively to the redemption of such bonds of the United States as are redeemable at the pleasure of the Government; and the Secretary of the Treasury shall call in of such bonds those that bear the highest rate of interest.

The object of this bill is to refund the public debt in securities bearing a lower rate of interest, payable in currency, change our foreign debt into a debt due to our people, and the postal savings-bank system is adopted as the means of raising the money to pay existing bonds. In discussing this bill and kindred measures two questions arise: Is the object desirable, and is the plan practicable? I maintain the affirmative of both propositions. Reference has already been made to the amount of the public debt and the unwise and unjust legislation with regard thereto as the principal cause of our present troubles. The total public debt, less cash in the Treasury, February 1, 1878, is \$2,044,287,366. Of this amount \$1,726,933,750 bears interest in coin at the following rates:

Bonds at 6 per cent.	\$748,667,100
Bonds at 5 per cent.	703,326,150
Bonds at 4½ per cent.	230,000,000
Bonds at 4 per cent.	75,000,000
Total principal.	1,726,933,750

The interest due on this debt on the 1st day of January, 1878, amounted to \$21,827,524. Of the 6 per cent. bonds \$660,000,000 are redeemable at the pleasure of the United States, and of the whole \$1,452,000,000 are redeemable on or before the 1st day of May, 1881. The amount of the public debt held by foreigners is variously estimated. The best English authorities, Seyd and Baxter, estimate the entire amount of the debts of this country held abroad, including public and private debts of all descriptions, at between twenty and twenty-two hundred millions of dollars. Mr. Edward Young, Chief of the Bureau of Statistics, estimates the national, State, municipal, and railroad debts held abroad at \$1,050,000,000. This does not, of course, include private or individual indebtedness. There is no means of ascertaining precisely the amount of this debt. All, however, agree that it is immensely large. The Secretary of the Treasury estimates the debt of the United States Government held abroad at six hundred millions.

There are many and cogent reasons why it is desirable that this debt should be changed from a foreign into a domestic debt, should be owned and held by our own people. Debt is but another name for slavery. The debtor is always to a greater or less extent in the power of the creditor. That a large amount of bonds was held in Germany I suppose was one of the reasons that induced the German Empire to demonetize silver. That its demonetization in the United States was procured here by the bondholders in conspiracy with the creditors there I do not doubt. The financial independence of the United States, therefore, requires the ownership of the public securities at home. The export of gold to meet the constantly accruing interest on this debt drains the life-blood from the heart of the nation.

If this debt were refunded in bonds held by our own people it would stop the exportation of gold to pay the interest. The balance of trade,

which last year amounted to the sum of \$47,202,682, would turn the tide in our favor and bring to us an annual influx of gold, varying only in amount with that balance. We would thus not only not send abroad large amounts of gold as now to pay interest, but it would be paid to our own people, and we would receive from abroad the excess of our exports over imports in coin. The people of no government on earth that owes a large foreign debt bearing a high rate of interest ever was or ever will be prosperous long. But it is true that great national prosperity may coexist with a large public debt held at home and for the reason already given.

The British Government is a signal illustration of this truth. The public debt of England to-day amounts to \$3,850,000,000. It is held by 126,331 of her own people. This debt bears only 3 per cent. interest. It consists of annuities sold by the Government to the people without any time fixed for redemption and with but little prospect that they will ever be redeemed. Yet with this immense debt upon the government the English are comparatively prosperous. This debt is kept at home and the interest is paid to the English people and constitutes that much of their general wealth. The vast commerce of the Kingdom brings into it constantly large quantities of coin and bullion, and the government maintains a financial policy that keeps all it gets. When we obtained the Geneva award of \$15,500,000 in gold, England kept the gold and paid us in our bonds. With our national debt amounting to but little more than one-half of that of Great Britain, owned by our own people and bearing a low rate of interest, we would be independent of foreign creditors and foreign governments. And with our immense resources, mineral, manufacturing, agricultural, and commercial wisely developed, we would speedily become the richest as well as the most powerful nation of the world.

The Republic of France is a still more striking proof of the proposition that a government may owe its own people a large debt and yet be prosperous. The civilized world beheld with amazement as well as with admiration what seemed almost a financial miracle in the payment of the Prussian war indemnity. France paid in less than two years, in gold and silver, \$1,000,000,000, at a time when her expenditures exceeded her revenues. It was paid at the close of a war in which two immense armies had trampled down the whole face of the country. Her capital was riddled with Prussian shells and reddened in communistic blood. The scepter was passing from a perishing dynasty and her unsettled form of government in transition through anarchy to a republic. How was this grandest financial achievement of all time and history accomplished?

It was done in this way: The French government put upon the market 5 per cent. *rentes* or bonds and appealed to the French to buy them, and they promptly took \$1,640,000,000, advancing to the government money therefor. A second loan was so eagerly sought by them that the subscriptions covered the amount called for thirteen times over, compelling the government to award the *rentes* among the subscribers *pro rata*. As long ago as 1867 the debt of France was held by 1,095,683 persons of her own people, and now by a much greater number. The public debt of France, with a population of only 36,905,788 and an area of only 201,900 square miles, amounts to the almost fabulous sum of \$4,095,600,000—more than twice as much as our own. Her revenues are \$614,605,716, while her expenditures reach the sum of \$519,334,162, an excess of expenditures over revenue of \$4,728,446. Yet France has never repudiated any portion of her debt, has never dishonored her own paper, which is now at par with coin, and has never passed a resumption act, and her people are prosperous and happy.

There must be some solution of this prosperity. It cannot be found in the extent or value of her commerce. I was astonished to find that for the year 1876 her imports were only \$4,111,000, and her exports \$9,280,000, leaving a balance in her favor of only \$5,179,000. It must be accounted for mainly by the fact that the national debt is due to the French people; that the interest is paid to them, and by them kept at home, constituting a part of the common wealth, and to the further fact that France floats a larger circulation *per capita* than any other civilized nation on earth. At all events, it is true that the national debt of France is held by the French people; that the circulation is more *per capita* than that of any other nation, and that her people are more prosperous and suffering less financial distress than those of any government in the world. This state of affairs does not result from the form nor the stability of the government. These are the facts of history, and the light they shed upon the question under consideration is worth infinitely more than the speculations of a thousand theorists. Who doubts that, with the public debt refunded at a lower rate of interest, owned by our own people, the country would soon be prosperous? The Government would certainly be independent of foreign capitalists and domestic stock-jobbers and bullion-brokers. The object of this bill is the accomplishment of this result.

The refunding of the public debt at a lower rate of interest, and the change of its ownership from foreigners to our own people, in the judgment of a majority of the Committee on Banking and Currency, in which I concur, will be secured by the passage of their bill. And if this object is attained the first important step will have been taken toward the ultimate extinction of the debt. But is this postal savings-bank system a practical one? Will it enable the Government to raise the money? The light of experience is always a safe guide. The test of trial affords some evidence of what may be accomplished.

I insist that this plan is feasible. The system proposed by the bill of the Committee on Banking and Currency is almost exactly the British system.

That system was inaugurated in Great Britain in 1863. It started with 301 postal savings-banks. It has since extended over Ireland and Scotland. In 1876 the number was 5,448 with 1,702,374 depositors, 1 in 19 of the whole population. The aggregate deposits amounted to the sum of \$134,982,750. Only the poor deposit in this institution; it was intended only for them. The law establishing them limited the amount that could be deposited by one person, and contained a prohibition against depositing in more than one bank. This system has been a success in Great Britain. Why should it not be a success here? It was a favorite with the people and continues to be. It greatly diminished the deposits in the independent savings-banks, showing its popularity over these independent savings-banks with the English people. It would no doubt do the same here. But what if it did? Who has a right to complain? Certainly the depositors have the right to place their money where, in their judgment, it will be safest.

The confidence of the American people in these institutions will be shown by the amount of money they place in them. What is that amount? The deposits now held by the savings-banks in twelve States of the Union, as far as can be ascertained, as has already been shown, are \$843,154,804. The report of the Comptroller of the Currency for 1875 shows that the deposits for that year in the savings-banks, State banks, and trust companies of the United States amounted to \$1,346,014,813. This estimate is based upon imperfect reports. The amount is unquestionably larger. It may be safely assumed to be \$1,500,000,000. I take it for granted that a very large portion of these deposits will be withdrawn, put into the institution created by this bill and invested in the bonds for the issue of which it provides, because of the superior security to the depositor and because of the facility with which the deposit can be changed into a currency or an investment.

There is very nearly enough money lying inactive or drawing a small interest in the savings-banks, State banks, and trust companies to pay the bonded debt of the United States. This bill makes it to the interest of the holders of this money to put it where the Government can use it for that purpose. The system we propose establishes forty-one hundred and forty-five postal savings-banks, located at convenient and accessible points in every State and Territory in the Union, affording facilities to almost every community in the entire country for the preservation and investment, without trouble and without expense, of the proceeds of the labor and industry of the people. And at the same time it enables the Government, without additional taxation, to raise the money to pay off the public debt now existing and refund it at an interest but little over one-half as much as it now pays. Does any one doubt the popularity of these savings institutions in the light of experience in Great Britain and the United States? And in view of their popularity does any one doubt that, with the increased facilities afforded and incentives inspired by this bill if it become the law, a sufficient sum would be raised to enable the Government to refund the public debt in the bonds proposed, and thus relieve the country from the high rate of interest it now pays, and that too within a very few years. With this accomplished, payment of the national debt, now pressing like an incubus upon the prosperity, the property, the hopes, and the hearts of the people of this country, would speedily follow. Then syndicates, money-rings, and combinations would be unable to shape the policy of the Government and control the destiny of the country. There is no conflict between capital and labor. Each is equally an important and indispensable factor in the solution of the problem of civilization. Each is the complement and the auxiliary of the other. Capital supplies labor with employment and rewards its endeavor. Labor furnishes to capital the means of profitable investment and opens new fields for adventurous enterprise. Each is equally entitled to legislative protection and encouragement, and to each is the world and the race equally indebted for their progress.

It is not against capital in the abstract nor when legitimately employed that complaint is made. But it is the corrupt and illegitimate use of money by bullion-brokers, stock-jobbers, and gambling combinations in the accomplishment of legislation in their own interest and against the public interest that the country condemns and denounces—that class of money-rings that produce corners in gold and panics in business to satiate an accursed thirst for gold that shames even that of Pizarro and his robber band. We have recently witnessed the humiliation of a great State by the bribery of the Legislature to enact a charter for the government of the greatest city in the Union that enabled one of these rings to rob the honest tax-payers of that city of millions of dollars. It is that greed for gain that acts from no motive but interest, that recognizes no law but selfishness, and worships no god but gold, that finds its fittest expression in the howlings of the maniacs around the counters of the exchange on Black Friday.

It is against these that the people of this country enter their solemn protest, and it is against these that every interest of this country demands protection. I honor the men who by energy and industry acquire fortunes, and who while they increase their means aid public enterprise and advance the public prosperity. And I honor men even more, like Peabody dead, and Corcoran living, who having ac-

quired fortunes by the same honorable means dedicate them to great benevolent and humanitarian purposes. But capital is protected. We must not forget protection to the poor, says Sisumundi in his political economy:

On whatever side we look the same lesson meets us everywhere—protect the poor—and ought to be the study of the legislator and the Government. Protect the poor, for in consequence of their precarious condition they cannot contend with their rich without losing every day some of their advantages. Protect the poor, that they may keep by law, by custom, by a perpetual contract, that share of the income of the community which their labors ought to secure to them. Protect the poor, for they want support that they may have some leisure for intellectual development in order to advance in virtue. Protect the poor, for the greatest danger to law, and to public peace and stability, is the belief of the poor that they are oppressed. Protect the poor, if you wish industry to flourish, for the poor are the most important of consumers. Protect the poor, if your revenues require to be increased, for after you have carefully guarded the enjoyments of the poor you will find them the most important of contributors.

This bill makes no distinction in classes. It is exactly equal in its operations on all, as all laws should be, and still its passage, in my judgment, would be a peculiar blessing to the poor for the encouragement to industry which it gives and the means of preserving the rewards of that industry which it affords. Again, if it should accomplish the results claimed for it, and I doubt not it will, it will supply the money to pay the foreign debt and refund the national debt at a lower rate of interest in securities that will be held by our people. It would enable us to accomplish another most desirable object, the reduction of taxation and the reform of a revenue system that is unjust in its discrimination, oppressive in its amount, unwise in its policy, and a disgrace to the civilization of the nineteenth century in the mode and instruments of its enforcement. Fruitless efforts are made at each session of Congress to mitigate the burdens which it imposes upon the people. We are informed by the Secretary of the Treasury that we must diminish appropriations or increase the revenues.

If the interest on the public debt can be reduced, as proposed, nearly one-half, the gold sent abroad to pay the interest kept at home and paid out to our own people, with the influx of gold from abroad which the balance of trade gives us, then taxation can and will be reduced. But so long as we are compelled to raise money to pay the interest on the public debt at its present rate I see but little hope of less taxation.

Another benefit resulting from this measure is the identification of all classes in every section of the Union and in almost every community of each section with the credit of the Government. They will scrutinize more closely its financial policy and guard more vigilantly its expenditures and hold to a more strict accountability its officers and agents, and may prevent the precipitation upon the country of the question of repudiation.

Nearly one-half of the families of France have money in the public funds—are creditors of the government. To have their names in the *grand livre* of the public debt is esteemed an honor. It is an honor that is eagerly sought, as the promptness with which the *rentes* were taken shows. One of the effects of this wide diffusion of the public securities among the people of France is to unite them in maintaining the public credit. Of course they look upon the public debt as a most sacred obligation. The reason is obvious; it is due to themselves, and for it they paid a full consideration. They therefore maintain the public faith from motives of interest as well as sentiments of patriotism.

This sentiment does not change with a change in the form of their government. It is the same in the republic and in the monarchy. In our system of government, based upon the popular will and resting for support upon the popular affection, it is of the first importance that the people should be identified in interest as well as in sympathy with the Government in its policy as well as in its principles. The public debt of the United States, held by nearly fifty millions of people scattered all over our vast territory, would take from the financial question its sectional element, with the animosities which will always attach to it so long as it remains sectional. It will take from it its class element. And if this debt is refunded it will avoid the question of the consideration of the debt, which the American people may be driven to the necessity of raising unless we change our financial policy.

Another vital result of this measure will be the general diffusion of the money paid out for interest over the whole country. It will not only not go out of the country as now, but it will not be concentrated in one or two great money centers. It will flow out from the Treasury, like the blood from the heart, to the extremities of the country in every direction and through all sections, vitalizing industry, rewarding labor, and stimulating enterprise.

My conviction is thorough that, with silver remonetized and that vast resource of national wealth utilized in currency, the resumption act repealed and any further contraction of the volume of the currency prevented, this bill passed into a law and faithfully administered, the whole public debt of the United States can be speedily refunded at a rate of interest but little more than half what we now pay, and the current of specie changed from foreign countries to us instead of from us to them, and that "gravitation shifting will turn the other way," from depression to activity, from bankruptcy and ruin to prosperity and wealth.

Then we can develop the grand and diversified resources of this magnificent country, whose vastness and variety defy and fatigue the computation of mathematics.

Then we can abolish a revenue system that violates the Constitution, that outrages popular sentiment, that wrings from honest toil the earnings of its sweat, and that exhausts the substance of the people by the enormity of its demands.

Then the sound of hammers, the blasts of furnaces, the whirl of wheels, the hum of spindles, and the whistle of engines will fill the land with the music of industry. Then the Government can demand her awards against foreign powers in gold, and not be compelled to receive them in its own bonds. And then the people of this country, disenthralled from the financial slavery fastened upon them through the forms of law by bondholders and syndicates, can reap the fruits of their toil, rest in the protection of the law, and rejoice in the prosperity of their country.

Mr. HUMPHREY. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at ten o'clock and five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BAYNE: Papers relating to the pension claim of James M. Boreland—to the Committee on Invalid Pensions.

By Mr. BUCKNER: A paper relating to the establishment of a post-route from Paris, via Welch's Store, to Tulip, Missouri—to the Committee on the Post-Office and Post-Roads.

By Mr. COX, of Ohio: The petition of William Rehberg and others, of Middle Bass, Ohio, against the passage of the bill providing for the establishment of a board of fish commissioners to regulate and protect the fisheries on the lakes and rivers of the West—to the Committee on Commerce.

By Mr. HARRIS, of Georgia: Two petitions of citizens of Campbell and Harris Counties, Georgia, for the passage of the Texas and Pacific Railroad bill—to the Committee on the Pacific Railroad.

By Mr. HOUSE: Memorial of the mayor and city council of Nashville, Tennessee, of similar import—to the same committee.

By Mr. HUMPHREY: Memorial of the Legislature of Wisconsin, for the equalization of soldiers' bounties—to the Committee on Military Affairs.

By Mr. LAPHAM: The petition of the Wool-Growers' Association of Ontario and Livingston Counties, New York, against any change in the tariff on wool—to the Committee of Ways and Means.

By Mr. LIGON: The petition of citizens of Tallapoosa County, Alabama, for the passage of House bill No. 1670—to the Committee of Ways and Means.

By Mr. O'NEILL: Memorial of the Philadelphia Maritime Exchange, against the transfer of the life-saving service from the Treasury to the Navy Department—to the Committee on Commerce.

By Mr. OVERTON: The petition of Henry Spencer, William Wright, and 93 other citizens of Wayne County, Pennsylvania, for an appropriation to aid in the erection of a monument over the grave of Samuel Meredith, the first Treasurer of the United States—to the Committee on Appropriations.

By Mr. ROBERTS: Resolutions of the Commercial Exchange Association of Philadelphia, approving the transfer of the life-saving service from the Treasury to the Navy Department—to the Committee on Commerce.

By Mr. VAN VORHES: The petition of B. F. Lambert and 66 other citizens of Reinersville, Ohio, against any change in the present tariff laws—to the Committee of Ways and Means.

By Mr. WADDELL: The petition of Nathan Mayer, for compensation as a clerk in the custom-house at Wilmington, North Carolina, during the month of July, 1874—to the Committee of Claims.

IN SENATE.

THURSDAY, April 25, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4550) to remove the political disabilities of Thomas L. Moore was read twice by its title, and referred to the Committee on the Judiciary; and

The bill (H. R. No. 4236) making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, was read twice by its title, and referred to the Committee on Commerce.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the 15th of January, 1878, a statement of the issues of loans and Treasury notes from March 4, 1861, to June 30, 1877, inclusive, with accompanying papers; which, on motion of Mr. COCKEILL, was referred to the Committee on Finance, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a letter from Colonel Z. B. Tower, Corps of Engineers, inviting attention to an inaccuracy in the printed sketch accompanying the published report of the board of engineers; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a letter from the Postmaster-General, transmitting, for the information of the Senate, copies of communications forwarded to the House of Representatives asking appropriations to supply deficiencies for the service of the Post-Office Department for the current fiscal year; which was referred to the Committee on Appropriations, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislature of Wisconsin, in favor of an appropriation by Congress for increased mail facilities between Wauzeka, in Crawford County, and Readstown, in Vernon County, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a joint resolution of the Legislature of Wisconsin, in favor of such legislation by Congress as will relieve the people from the oppression of patent-right monopolies; which was referred to the Committee on Patents.

He also presented two memorials of the Legislature of Wisconsin, remonstrating against the proposed reduction of the tariff on imported wool; which were referred to the Committee on Finance.

He also presented a memorial of the Legislature of Wisconsin, in favor of legislation by Congress whereby the Secretary of the Treasury, by and with the consent and advice of the President and his Cabinet, may be empowered to suspend specie payment whenever in their opinion it may be necessary to defeat combinations to deplete the Treasury of coin for speculative purposes; which was referred to the Committee on Finance.

He also presented a memorial of the Legislature of Wisconsin, in favor of the enactment of a law imposing a tax on incomes; which was referred to the Committee on Finance.

He also presented a memorial of the Legislature of Wisconsin, in favor of increased mail service on certain routes therein mentioned in Door and Kewaunee Counties; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of the Legislature of Wisconsin, in favor of the establishment of a weekly mail route from the village of Wilson, Saint Croix County, to Rock Elm Center, in Pierce County, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of the Legislature of Wisconsin, in favor of the establishment of a tri-weekly mail route from the village of Ferryville, in Crawford County, to De Soto, in Vernon County in that State; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of Nancy M. Richmond and 13 others, citizens of Michigan, praying that she be granted a pension; which was referred to the Committee on Pensions.

Mr. ALLISON presented resolutions adopted at a meeting of the Methodist Episcopal preachers of Philadelphia, Pennsylvania, against the proposed transfer of the Indian Bureau to the War Department; which were referred to the Committee on Indian Affairs.

He also presented a resolution, in the nature of a memorial, of the Legislature of Iowa, in favor of legislation for the establishment of a water line of transportation between the Mississippi River and Lake Michigan via the Valley of the Fox and Wisconsin Rivers; which was referred to the Committee on Commerce.

He also presented the petition of B. F. Overton, governor of the Chickasaw Nation of Indians, Thomas W. Johnson, and John E. Anderson, commissioners, praying the passage of an act of Congress to provide for arrears of interest due to that nation on their national trust fund held by the Government of the United States pursuant to the treaty of 1852; which was referred to the Committee on Indian Affairs.

Mr. CAMERON, of Pennsylvania, presented the memorial of John C. Young and 241 others, workingmen and women of Philadelphia, Pennsylvania, remonstrating against any reduction of the duties on imports and the reimposition of the war tax on tea and coffee; which was referred to the Committee on Finance.

He also presented the memorial of William B. Stephens and 54 others, workingmen of Manayunk, Pennsylvania, remonstrating against the passage of any act imposing a tax on incomes; which was referred to the Committee on Finance.

He also presented a memorial of the Board of Trade of Philadelphia, Pennsylvania, remonstrating against the transfer of the life-saving service from the Treasury Department to the Navy Department; which was ordered to lie on the table.

He also presented resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, against the construction of a bridge across the Mississippi River at Memphis, Tennessee, until the proposed location shall have been examined and reported upon by a competent board of engineers, and in favor of the appointment of such a board for that purpose; which were referred to the Committee on Commerce.

He also presented the petition of Joseph Ramsey, jr., and others, citizens of Bellwood, Blair County, Pennsylvania, and the petition

of Joseph Carl and others, citizens of Altoona, Blair County, Pennsylvania, praying for the passage of an act authorizing and granting aid in the construction of the Texas Pacific Railroad; which were referred to the Committee on Railroads.

Mr. KERNAN presented the petition of D. M. Nagle, of Brooklyn, New York, praying for a pension on account of services rendered the Government of the United States by his sons during the late war; which was referred to the Committee on Pensions.

Mr. JOHNSTON presented the petition of Thomas L. Moore, of Virginia, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. KERNAN, from the Committee on Patents, to whom was referred the bill (S. No. 879) for the relief of Luther Hall, reported it without amendment.

Mr. McDONALD, from the Committee on Public Lands, to whom was referred the bill (S. No. 748) to amend an act approved March 3, 1873, entitled "An act authorizing the award to the Vincennes University of certain vacant and abandoned lands in Knox County, Indiana," reported it with amendments.

REPORT ON FISH AND FISHERIES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print extra copies of the report of the Commissioner of Fish and Fisheries for 1876-77, reported it without amendment; and the resolution was considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate, (the House of Representatives concurring.) That there be printed 5,000 extra copies of the report of the Commissioner of Fish and Fisheries for the year 1876-77, of which 1,500 shall be for the use of the Senate, 2,500 for the use of the House of Representatives, and 1,000 copies for the use of the Commissioner of Fish and Fisheries.

BILLS INTRODUCED.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1144) granting a pension to Sarah E. Shaffer; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CHRISTIANCY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1145) to amend section 1485 and to repeal section 1486 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1146) for the relief of Monroe Donoho; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

AMENDMENTS TO POST-ROUTE BILL.

Mr. BUTLER, Mr. JOHNSTON, and Mr. MITCHELL submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 4286) to establish post-roads in the several States therein named; which were referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

SHIP-CHANNEL AT CHARLESTON HARBOR.

Mr. BUTLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate any information in his Department concerning the practicability and cost of constructing permanent works of improvement for the ship-channel at the entrance into the harbor of Charleston, South Carolina.

PROPOSED ADJOURNMENT TO MONDAY.

Mr. CAMERON, of Pennsylvania. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

The question being put, a division was called for.

Mr. ANTHONY. I think that the motion ought to prevail. There are now four standing committees of the Senate who have permission to sit during the sessions of the Senate, and to those committees is committed some of the most important business of the body. Their meetings during the sessions of the Senate make the Senate thin, and it would facilitate the public business if those Senators should have an opportunity to complete their deliberations in committee and report their conclusions to the Senate.

Mr. DAWES. It seems to me that so long as the Calendar is in its present situation we could not do better than to devote ourselves to it to-morrow. Really we can facilitate the business in that way, and I do not think the committees should be in session during the sitting of the Senate to-morrow. I believe it would very much impede the work upon the Calendar if we should adjourn over. I do not think certainly the Senate would be any thinner while the Calendar is being considered to-morrow than it is this morning while we are considering the question of adjourning over until Monday. I do hope that the Senate will not adjourn over.

The question being taken by a division, the yeas were 19 and the nays 17, no quorum voting.

The PRESIDENT *pro tempore*. The Chair thinks there is a quorum present.

Mr. ALLISON and Mr. EATON called for the yeas and nays, and

they were ordered; and being taken, resulted—yeas 20, nays 24; as follows:

YEAS—20.

Anthony,	Cameron of Pa.,	Kernan,	Morgan,
Bayard,	Cameron of Wis.,	Lamar,	Randolph,
Booth,	Garland,	McDonald,	Ransom,
Burnside,	Gordon,	Matthews,	Sargent,
Butler,	Johnston,	Mitchell,	Voorhees.

NAYS—24.

Allison,	Ferry,	McMillan,	Rollins,
Barnum,	Harria,	Maxey,	Saulsbury,
Dawson,	Hereford,	Merrimon,	Saunders,
Forney,	Howe,	Morrill,	Spencer,
Eaton,	Kirkwood,	Paddock,	Teller,
Edmunds,	McCreary,	Plumb,	Wadsworth.

ABSENT—32.

Armstrong,	Coke,	Hamlin,	Oglesby,
Bailey,	Conkling,	Hill,	Patterson,
Beck,	Conover,	Hoar,	Sharon,
Biazo,	Davis of Illinois,	Ingalls,	Thurman,
Bruce,	Davis of West Va.,	Jones of Florida,	Wallace,
Chaffee,	Dennis,	Jones of Nevada,	Whyte,
Christiancy,	Eustis,	Kellogg,	Windom,
Crorell,	Grover,	McPherson,	Withers.

So the motion was not agreed to.

DISTRICT SPECIAL-IMPROVEMENT TAXES.

Mr. ROLLINS. I wish to secure the attention of the Senate to Senate bill No. 1088. I move that the Senate proceed to the consideration of the bill at the present time.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1088) to provide for the revision and correction of assessments for special improvements in the District of Columbia, and for other purposes.

The bill was reported from the Committee on the District of Columbia with an amendment, to strike out all after the enacting clause and insert:

That the enforcement of the collection of the unpaid assessments prepared under the thirty-seventh section of the act of Congress entitled "An act to provide a government for the District of Columbia," approved February 21, 1871, be, and the same is hereby, suspended until the said assessments shall have been revised and corrected as hereinafter provided.

SEC. 2. That the commissioners of the District of Columbia shall carefully revise and examine all statements heretofore made of the cost of any and all improvements for any part of which assessments have been prepared, or, in the absence of such statements, shall inquire and determine the fair and just cost of any and all improvements heretofore made upon the streets, avenues, alleys, and roads of the District of Columbia which have been or are liable to be assessed under the said act, and make a new statement of the cost thereof, showing, as near as may be, the kind and character of the work done, which said statement, when completed, shall be signed by the said commissioners, or a majority of them; and in determining the cost of the improvement of any street or avenue, alley or road, the said commissioners shall deduct one-half the cost of the intersections, and charge the same over to the intersecting street or avenue. They shall also ascertain and determine the amount chargeable to any street railroad by the terms of their charters or the general law, and the amount charged to or paid by the United States or the District of Columbia for improvements in front of property belonging to it, both of which amounts shall be deducted from the cost as found by them.

SEC. 3. That said commissioners shall ascertain the number of linear feet of the street, avenue, alley, or road over which any improvement extends, and the cost per linear foot upon the basis of the statement aforesaid, and also the number of front feet of all the property adjoining such improvement not owned by the United States or the District of Columbia, and shall assess upon each lot or subdivision of such property so adjoining such improvement for each front foot thereof one-sixth of the cost per linear foot ascertained as aforesaid. But such property shall not be assessed twice for like improvements, nor shall it be assessed for repairs or for the lowering of water-mains or the relaying of service-pipes where such work is caused by change of grade, nor for haul of grading in excess of that which reasonably could have been obtained, and for the purpose of equalizing the assessments for sewers where sewers have been laid down as a part of such improvement, the cost charged shall be that of a fifteen-inch pipe sewer, and wherever the contract for any pavement required two feet of grading to be done by the contractor therefor, the cost of such grading shall be deemed to be included in the contract price for such pavement, and truncated or triangular lots or spaces not suitable for subdivision shall be assessed in accordance with rules to be prescribed by said commissioners, not inconsistent herewith, and not exceeding the rate prescribed for in this act. And the amount so found and assessed shall be deemed and taken to be the proper apportionment of the expense chargeable to each lot according to the benefit conferred; and the balance of said cost and expense shall be chargeable to and paid out of the general fund of the District of Columbia. And the said commissioners shall thereupon make out a revised assessment, which shall be substituted for said original assessment, and be valid and effective as of the date of said original assessment.

SEC. 4. That whenever it shall be found that the amount of any assessment paid upon any lot exceeds the sum found to have been due by such revised assessment, the commissioners of the District shall thereupon issue to the person entitled thereto a certificate reciting the amount so found to have been overpaid, with the number of the square and lot, which said certificate shall be receivable in payment of any assessment for special improvements due and unpaid, or be payable out of the proceeds of such revised assessments hereafter collected, after the payment of such outstanding certificates as have been by law made payable out of said fund.

SEC. 5. That immediately upon the completion of any revised assessment, the said commissioners of the District of Columbia shall cause demand of payment to be made therefor, as now provided by law. If no change shall be made in the amount of any such assessment, the tax-lien certificate heretofore issued shall remain in full force and effect; and if any such assessment shall be decreased, the tax-lien certificate issued thereon shall stand and be enforced for the amount found to have been due by such revised assessment; and if the assessment shall be increased, an additional certificate may be issued on such increase, which shall have the same force and effect as though issued at the date of the original certificate; and in all cases where such certificates have not been issued, the said commissioners of the District, upon default in payment within thirty days after demand, shall issue certificates in the mode and to be disposed of as now provided by law, in accordance with such revised assessment; and whenever by such revised assessment any change shall be required to be made in any certificates heretofore issued, and now held by the commissioners of the sinking fund of said District, they shall

be surrendered and canceled, and new certificates issued in accordance with such revised assessment, for the corrected amounts, bearing the same date and having the same force and effect as said original certificates. And any person holding any certificate or certificates issued on account of such original assessment, requiring to be changed to correspond to such revised assessment, may surrender the same to said commissioners, and receive in exchange therefor an equal amount of the certificates which may be issued under such revised assessment; and in case of such surrender, new certificates shall be issued as above provided in the case of the commissioners of the sinking fund.

SEC. 6. That any person who desires to contest or dispute any assessment heretofore made against his property on account of improvements may file with said commissioners a written statement, setting forth the grounds upon which he bases his claim; but in the case of all outstanding assessments, said statement shall be made within thirty days after the passage of this act; and within twenty days after the filing of said statement, unless further time be allowed by the commissioners, he shall submit such testimony as he may desire in reference thereto, which testimony shall be taken after notice to or in the presence of the attorney of the District, or some person authorized to act for him in the premises; and the said attorney shall have a reasonable time allowed him by said commissioners, before making their decision, if he shall so request, to answer the same. But any person aggrieved by the decision of said commissioners may, within ten days thereafter, appeal to the supreme court of the District of Columbia, whereupon the said commissioners shall certify the record of the case to said court, and the said supreme court shall proceed to hear and determine the questions involved as summarily as is consistent with justice and equity, giving such cases precedence upon the docket, and certify to the said commissioners the decision of said court.

SEC. 7. That all assessments for cost of work on unimproved streets, avenues, alleys, and roads hereafter made or authorized to be made shall be made by the commissioners of the District of Columbia, or their successors lawfully appointed, in accordance with the principles and rules heretofore prescribed. And all acts and parts of acts inconsistent herewith be, and the same are hereby, repealed: *Provided*, That nothing in this act shall be so construed as to affect the rights of either party in any suit or suits now pending.

Mr. ROLLINS. I desire to move an amendment to the second section, which is a mere correction.

Mr. BAYARD. Is the bill before the Senate?

The PRESIDENT *pro tempore*. It is before the Senate as in Committee of the Whole.

Mr. BAYARD. Then the Senate has taken it up?

The PRESIDENT *pro tempore*. It has.

Mr. BAYARD. I would say to the honorable Senator from New Hampshire that while I do not desire to embarrass the consideration of the bill, I do not wish to have it passed this morning. If, however, he will be good enough to make a statement and give an explanation of the effect and operation of this measure, I shall be very glad to hear him. My reason for objecting to its passage at this time is that I was called upon by two or three citizens of the District a few days since who stated to me that there were objections to the bill. I handed a copy of the bill to them, as it was reported prior to that time from the committee. They took it away for the purpose of making certain commentaries to enlighten me on the subject. I do not know what will be the nature of their criticism on the present measure; but I should feel better justified in my vote had I the opportunity of consultation with these parties in interest here. We all know that they have no local representative upon the floor of Congress, though they have a committee of course in either House, in charge of their particular affairs. I would suggest to the honorable Senator that it would be well for him to explain the object of the bill. I know that assessments for special improvements have been made in the past in this District absolutely ruinous in their amount to the poorer class of property-owners. The collection of the taxes so assessed has been contested in the courts of the District, and I believe that litigation is now pending in regard to it, if I am correctly informed.

Mr. ROLLINS. This bill would not interfere with any suits now pending at all.

Mr. BAYARD. I have been informed that it would.

Mr. ROLLINS. Every man's rights are fully protected.

Mr. BAYARD. I had a strong impression, and I can scarcely be mistaken in respect to it, that the collection of those taxes has been enjoined by the courts of the District, that property-holders applied for injunctions and obtained them. I may be wrong as to this fact, but the impression is very strong in my mind that such is the case.

Mr. ROLLINS. If the Senator will allow me, I will state that actually they are all enjoined, for no progress whatever has been made in the adjustment of these special-improvement taxes, and none can be made under the existing law. This bill undertakes to provide a way for the settlement of these special-improvement taxes and seeing that justice is done to the tax-payers.

Mr. BAYARD. I would be very glad indeed if the honorable Senator would state the purport and effect of the bill.

Mr. ROLLINS. It gives the commissioners of the District of Columbia power to revise the assessments and to reduce them where they are erroneous, to correct all errors and to do justice to the citizens, and if they do not do justice there is an appeal to the District supreme court which is ample to protect all their rights. There have been many errors no doubt in the assessment of these taxes in various parts of the city. In some instances the errors amount to a very large sum of money. This bill provides for the correction of errors that have occurred.

Mr. BAYARD. A very casual examination of the bill would seem to show—and I refer now to section 5 of the substitute proposed by the committee—that the tax-lien certificates which have been issued under prior assessments are to remain in full force and effect, and that any person holding any certificate issued on account of such original assessment requiring to be changed to correspond to such revised

assessment may surrender the same to the commissioners and receive in exchange therefor an equal amount of the certificates which may be issued under such revised assessment.

Mr. DORSEY. If the Senator from Delaware will take the bill together, and not select one section alone, he will understand more thoroughly to what the section from which he has just read alludes. To state briefly the object expected to be attained by the passage of the bill, I will say that under the thirty-seventh section of the act erecting the territorial government here, which organized the board of public works, the Legislature of the District were empowered with authority to levy taxes for special improvements. The Legislature passed an act to that effect August 10, 1871. Pursuant to that act the board of public works proceeded to make these extensive improvements. Whether that act clothed them with the full power to do what they did, I think at this late day it is hardly worth while to discuss. I doubt very much whether it did; but the fact was that they proceeded, either under the law or without the law, to make these extensive improvements and to levy these very onerous taxes, as the Senator from Delaware well says; for in many instances the tax upon outlying unimproved property was almost equal to its value at the time the improvements were made.

The object of the committee, which has devoted a great deal of time to the bill, was to begin right back in 1871, when these taxes were first levied, when these improvements were first made, and provide for reassessing and readjusting, as well as the commissioners can at this time, the taxes levied for these improvements; that is, to adjust now as near as they can, with the evidence they have before them, what the improvements were actually worth at the time and to assess against the property only what the improvements cost, and then to charge the District of Columbia two-thirds of the tax and the abutting and adjoining property one-third, as the law now is.

There were about \$7,000,000 altogether I think of assessments made. Three-fifths of that amount has been paid. My friend [Mr. ROLLINS] thinks \$5,000,000 will cover the total amount. My recollection is that the amount is about \$7,000,000. Whatever it is, three-fifths of the amount has been paid. Two-fifths of the amount remains unpaid, generally due from wealthy people, large property-holders. The poorer people, the small property-holders, have nearly all paid, and I fancy in almost one-half of the cases they have paid excessively. This bill authorizes the District commissioners to give the people who have paid these excessive rates a drawback, to which they are certainly entitled, because, as I said before, in many instances they have paid almost as much as their property was worth at the time. The bill therefore proposes to authorize the commissioners to readjust the tax so that those who have not paid shall pay the readjusted amount, whatever that may be, to be arrived at by the commissioners.

That I think is about the scope of the bill. In other particulars there may be some important points to which I have not alluded, but that is the general scope of it.

Mr. BAYARD. The Senator from Arkansas very rightly supposes that I do not understand the scope and effect of the bill, and that was the reason why I asked for an explanation of it. The facts stated, substantially, I believe, are these, and the warrant for the statement is partly to be found in the admissions of the Senator who has just taken his seat: in 1871 the board of public works of this District, as the Senator truly says, either with or without law, and as it seems in most cases without law, projected a scheme of improvement all over this city and District entirely out of proportion to the means of the inhabitants or to the rational expectation of return of the cost by taxation. Assessments were levied for those improvements. The improvements not being warranted by law, they were resisted by the property-owners, and the collection of those taxes has been successfully resisted until this time. The present proposition is that the assessments so made may be revised, but that the work which was done without authority of law, and ordered without authority of law, shall be confirmed. Why, sir, it strikes me that is giving up—

Mr. HARRIS. Will the Senator from Delaware allow me a moment?

Mr. BAYARD. Pardon me a moment. There was, as I said, a most extensive system of improvements which was not warranted by law; that is to say expensive and extensive avenues were ordered to be run through lands where there was no population, no habitation, no improvement that warranted it. The owners of those lands were then assessed, and the taxes were sought to be collected. They resisted the collection of the taxes upon the ground that the improvements were not authorized by law, and I believe they have been successful in establishing that proposition. Now, the present proposition is to legalize anew those improvements which were not legal at the time they were ordered.

Mr. HARRIS. If the Senator will allow me—

Mr. BAYARD. I will first state my proposition.

Mr. HARRIS. It is upon this precise point that I wanted to say to the Senator from Delaware that the bill which he holds in his hand legalizes no assessment that has been made in the District of Columbia heretofore or now.

Mr. BAYARD. But it proposes to legalize an improvement made without authority, which was the subject of assessment.

Mr. HARRIS. Again I beg to assure the Senator from Delaware that the bill is not intended to and does not accomplish that object.

There are two classes of objections to the assessments heretofore made. One class is assessments that were wholly unauthorized by law; the other is where the assessment was authorized by law but was excessive. This bill makes it the duty of the commissioners to re-examine all the assessments that have been made and correct them, not only as to those that were illegal in the beginning but those that were authorized by law but were excessive in amount.

Mr. BAYARD. May I ask the Senator does the present bill attempt to legalize the action of the board of public works in ordering the improvements to be made?

Mr. HARRIS. In nothing; to legalize no action of the board of public works; but so far as the acts of the board of public works were legal and binding it proposes to correct assessments that were made upon the work performed by the board of public works; but this bill does not legalize a single act of theirs, either where the assessment was authorized by law or where it was not authorized by law.

Mr. BAYARD. If I understand the Senator, then, the present bill in no way legalizes the action of the board of public works in authorizing improvements which were not based upon some law. Suppose, therefore, if I may state the case, a property had been opened and these expensive streets had been extended to it without authority of law for which assessments were laid upon the property-owners adjacent, does this bill affect those assessments or does it order a new assessment that shall still become a lien on that property?

Mr. HARRIS. This bill is intended to authorize the commissioners to re-examine all the assessments heretofore made. If they find that an assessment that has been heretofore made was wholly unauthorized by law, it does not authorize them to assess that property at all. If they find that an assessment has been authorized by law and has been made but is unjust because excessive, it is their duty to correct it. If they find that an error has been committed against the District by the assessment being too low, lower than it ought to have been, it is their duty to correct that error. But I will say to the Senator that when they have re-examined and reassessed, every citizen has a right to appeal from their decision to the supreme court of the District of Columbia, and this bill makes it the duty of that court to advance those causes upon its docket and hear them at the earliest moment it can with justice to parties.

Mr. BAYARD. Does that appeal lie from the decision of the commissioners as to the legality or illegality of the original improvement?

Mr. HARRIS. Yes, sir, as to all questions involved, the right to make the assessment originally and as to its amount. As to the suits that are pending, the Senator will find that the very last thing in the bill is a proviso that nothing in this bill shall be so construed as to affect the rights of the parties in those suits, but it leaves them to carry on their litigation before the courts in their own way and the courts will decide it hereafter.

Mr. JOHNSTON. I wish to ask a question. Suppose property has been assessed too much and that fact is ascertained and the tax has been paid, does this bill provide for refunding that money?

Mr. HARRIS. A drawback is allowed, which is available in abatement of any taxes assessed.

Mr. ROLLINS. I desire to move a slight amendment. In the second section, line 21, I move to strike out "it" and insert "them," and at the end of the last line of the section, line 22, to strike out "them" and insert "said commissioners."

Mr. EDMUNDS. Before we take any action on any amendments—

Mr. ROLLINS. These are merely verbal.

Mr. EDMUNDS. I presume they are all right in themselves; but I should like to call the attention of the Senate to one or two things about this business. I am one of the unfortunate people in this District in front of whose little house and lot a big canal was dug, for the purpose of general improvement I suppose, and I was called upon to pay for it. I resisted, and so did all my neighbors, because the old act provided, the act of the Legislative Assembly or the act of Congress, provided that the injury as well as the benefit should be taken into account, and I contended, as I thought with considerable force and rightfully, that the injury to me was five or six times, perhaps ten times, as great as the benefit that was conferred. I therefore respectfully submitted to the board of public works that the balance was quite the other way. After a great deal of fuss, and to avoid having a lawsuit to get the balance because I could not exactly see the fund out of which I was to get the balance, a compromise was effected and the matter so far as I am concerned, and I presume all the neighbors along there, was settled by mutual consent, and the amount of suffering that I and my neighbors have borne, therefore, has been condoned and ended; so that I suppose so far as I am concerned and I dare say the other people in that block where this enormous outrage was perpetrated, we have nothing at this present moment to complain of, nor could the commissioners probably under this bill reinvestigate the matter and do any of us justice because we have consented to a settlement and an adjustment.

Now let us come to what this bill in the main proposes to do. It proposes by the first section to have a reassessment made—that is what it says—upon all the property on all the streets where these improvements were carried on, a distance I am told of one hundred and sixteen miles or so, which doubling so as to cover the property on

both sides, would make two hundred and thirty-two miles of frontage. Taking twenty-five feet as the ordinary frontage of a lot in this town, you will get more than forty thousand separate lots. Some people of course have double lots, triple lots possibly, some perhaps have squares where lots have not been laid off. Making all allowance for that, and there will be from ten to twenty thousand probably at the very least—we ought to know it from the statistics, from the books of the District—ten or twenty thousand separate cases for investigation. It is a reassessment of the whole thing from top to bottom. Now, it is stated that three-fifths of these people have ended their affairs, some by composition as in the case I have referred to and others by payment. Some have brought suits to protect themselves; some have not.

Now you propose by this bill to open the whole subject from the beginning, and to have a readjustment over the whole city of the entire subject; and if it turns out that there is a balance due to anybody, as undoubtedly there would be in a great many instances if justice is done, that is to be paid out of the general fund, provided you cannot get it out of the people, who have not paid anything or who ought to pay more. If the people who have not paid anything or who ought to pay more, when this bill has passed and been gone through, act as they have done hitherto, those who have resisted, you will not get any money out of them until the end of a lawsuit. The consequence is, therefore, that you begin by an enterprise which is necessarily either to increase the taxation of the District or to increase its debt, one or the other. I do not intend to go into the question as to the wisdom and good conduct of the board of public works; whatever of misfortune there was about it is done and gone by; but I say that the inevitable consequence of this bill is either to increase the taxation on the already overburdened tax-payers of the District for the general fund, or to increase its debt, neither of which propositions is in my opinion at all tolerable.

In the next place, as I have already said, and I wish to repeat it, it seems to me to be an unnecessary and useless piece of legislation to undertake to overhaul and retry, after a period of six years or so, the question of whether an assessment was excessive or not excessive on a particular lot. It is too long ago, it has gone by, it has been settled and paid or composed in some way; and yet this bill purports to reopen the whole question. I think it is much better for the public interests of this District, much better for private interests taken as a whole, to let what has been accomplished and is finished by the payment of assessments or by settlement, stay. Injustice undoubtedly has been done in particular cases, a great many of them; but the trouble is that there is no fund out of which this injustice can be corrected, and it is extremely difficult after this length of time to go back for six years and take into view the exact circumstances, the benefits and the disadvantages as they existed at that time. It is better, therefore, in my opinion, that the people who have suffered should bear their suffering as it has gone by, than it is to reopen for litigation and dispute in the supreme court of the District by appeal every one of these ten or twenty thousand assessments. It is a good deal like many of the misfortunes that have happened in this country in the last fifteen years. A great many things were done that were done wrongly. Injustice was done on all sides and in all sorts of ways. The only thing we can do about it after this lapse of time is to do nothing. Let it go.

In my opinion, the bill is altogether too broad for the chief object that it has in view; and that is apparently to compel the people who have not paid and who are resisting either by their silence and omission or by active steps in the courts, to pay the assessments that were made as they shall be corrected. In what attitude do they stand with that provision, be it legal or illegal? The old provision was that when these assessments were made, if they were not paid within a certain length of time, the proper authorities should issue what is called a tax certificate, a special-tax assessment setting forth that the particular property in question was chargeable with so much money. That certificate I suppose was paid to the contractor who had done the work, and he sold it to somebody who bought it and raised money on it. That certificate is either a legal lien on that property, or it is not. If it is not a legal lien, the gentlemen in charge of this bill say they do not intend to make it a legal lien. They say, in response to the Senator from Delaware, "we do not propose by this bill to legalize anything that is not now legal; we do not propose to create any obligation on the part of the person who has not paid this assessment to pay, it that does not exist now; we only propose to find out whether that particular assessment has been excessive in point of the amount overcharged; if it is overcharged we propose to reduce it and get the money somewhere, either out of the general fund, or out of assessments where there was an undercharge to pay it."

Well, Mr. President, if these certificates are not now legal and binding, and the bill bears the construction that they say it does, which I doubt, or that they think it does, which I doubt, then when you have gone through with this reassessment, you leave it exactly where it was before.

The PRESIDENT *pro tempore*. The morning hour has expired.

Mr. SARGENT. I suggest that the bill under consideration had better go over. The important statement made in reference to it by the Senator from Vermont leads me to desire to examine the bill, and I certainly am not prepared to vote on it to-day.

Mr. EDMUNDS. Let us go to the Calendar.

The PRESIDENT *pro tempore*. The morning hour has expired, and the Calendar now comes up under the regular order.

Mr. ROLLINS. I desire to ask the Senate to consider this bill to-morrow. It is very important that an early decision should be reached with regard to it. If the bill is not to be passed, some other measure should be proposed for the purpose of adjusting these special-improvement taxes, and if this bill is to be passed it should be passed at once. No progress whatever is being made in the adjustment of these matters. They are of great importance to the city, and I think the bill should receive early consideration at the hands of the Senate, and I ask, if it go over now, that it may be considered to-morrow.

Mr. EDMUNDS. You can give notice.

Mr. ALLISON. Before we pass from this bill, I want simply to concur in the statement made by the Senator from Vermont. Whatever else we may do with these old taxes in this District, I think we never should undertake to reassess the cost of these improvements. It cannot be done in two years and done justly. It has been tried two or three times, first by the board of public works, next by the board of audit, and to undertake that work now will simply be to render "confusion worse confounded." It cannot be done.

Mr. ROLLINS. The Senator will allow me just a moment.

Mr. McMILLAN. I call for the regular order.

Mr. DORSEY. I hope we shall not be shut off in that way.

Mr. EDMUNDS. I have the floor if any speeches are to be made. I have a good deal to say yet.

Mr. ROLLINS. I seldom trouble the Senate with any remarks. I ask but a moment to reply to the suggestion of the Senator from Iowa. This work has been already very largely accomplished, and in a very few months it can be completed. This revision has been going on for months, and the clerical work is largely accomplished.

Mr. ALLISON. May I ask the Senator a question in relation to this bill?

Mr. ROLLINS. Certainly.

Mr. ALLISON. I see this bill provides for the assessment of sewer taxes. Of course I do not remember the exact details with reference to the action of 1873 and 1874, but my recollection is that the cost of those sewers has been paid out of the treasury of the District of Columbia through the 3.65 bonds, and now we are to ascertain the cost of that. How is that cost to be ascertained? Are we to take the par of the 3.65 bonds that were issued, or are we to take the cash value of those improvements at that time? It seems to me that it will be almost impossible to get at the accurate cost of these improvements.

Mr. DORSEY. The Senator is entirely mistaken.

Mr. EDMUNDS. If anybody is to have the floor on this question I want to finish my speech.

The PRESIDENT *pro tempore*. The Senator from Vermont is entitled to the floor on this bill.

Mr. EDMUNDS. The Chair had kindly given me the floor to make some observations.

Mr. BURNSIDE. The regular order has been called for by the Senator from Minnesota.

The PRESIDENT *pro tempore*. The Senator from Vermont holds the floor.

Mr. BURNSIDE. I demand the regular order.

The PRESIDENT *pro tempore*. The Senator from Vermont holds the floor. Does the Senator from Vermont yield to the Senator from Rhode Island?

Mr. BURNSIDE. Under the ruling, a Senator can be taken from the floor by a demand for the regular order in the midst of a speech. That can be done under a ruling here some two weeks ago; and I demand the regular order.

The PRESIDENT *pro tempore*. The Senator from Rhode Island objects to the further consideration of the bill.

Mr. BURNSIDE. I object to the further consideration of this bill.

Mr. EDMUNDS. Can I address the Chair? I want to speak to the point of order.

The PRESIDENT *pro tempore*. The Senator from Vermont speaks to the point of order raised by the Senator from Rhode Island. The Senator from Rhode Island has raised a point of order.

Mr. BURNSIDE. I call for the regular order.

Mr. EDMUNDS. I rise to a point of order on that.

The PRESIDENT *pro tempore*. The Senator from Vermont will state the point of order.

Mr. EDMUNDS. I state my point of order to be this: that by a standing order of the Senate, when one o'clock was reached, this bill went over, and that the Calendar in its regular order is in order. I think that is a good point and it coincides with what my friend from Rhode Island wishes.

Mr. BURNSIDE. I demand that we proceed with the consideration of the Calendar.

The PRESIDENT *pro tempore*. The first case on the Calendar at the point where it was left off yesterday will be laid before the Senate.

Mr. HARRIS. I desire to give notice that I will offer an amendment to the bill that has just gone over. While I do not think this bill can be properly construed into legalizing any of the acts or assessments of the board of public works, to put it beyond the possi-

bility of any such construction, I propose in line 3 of section 2 to amend by inserting after the word "all" the words "heretofore legally authorized."

The PRESIDENT *pro tempore*. The Senator gives notice of an amendment. The Calendar will be called in order.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1968) to provide for vessels of the United States hailing from places where they are owned or built;

A bill (H. R. No. 3268) to authorize the North Louisiana Railroad Company to construct a bridge over the Ouachita River at or near Monroe, Louisiana, and a bridge over the Red River at or near Shreveport, Louisiana;

A bill (H. R. No. 2486) extending the operations of the Light-House Board over the Illinois River, and for other purposes;

A bill (H. R. No. 4556) for the relief of F. W. Golladay; and

A bill (H. R. No. 4568) to remove the political disabilities of Robert T. Chapman, of Wharton County, Texas.

The message also announced that the House had agreed to the resolution of the Senate for the printing of 1,500 extra copies of the report of the board of health of the District of Columbia for the year 1877, for use and distribution by said board, with an amendment in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the resolution of the Senate for the printing of 10,500 copies of the report of the Smithsonian Institution for the year 1877.

The message further announced that the House had concurred in some and non-concurred in other amendments of the Senate to the bill (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes.

The message also announced that the House had passed the following bills:

A bill (S. No. 15) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act;

A bill (S. No. 149) for the relief of Charles B. Varney;

A bill (S. No. 378) for the relief of William L. Hickam, of Missouri, guardian of the minor children of Hillary J. Jenkins;

A bill (S. No. 706) authorizing the President of the United States to make certain negotiations with the Ute Indians in the State of Colorado.

A bill (S. No. 767) authorizing the Secretary of War to allow the interment in the national cemetery at New Berne, in the State of North Carolina, of the remains of the late R. F. Lehman, late a commissioner of the United States circuit court in the eastern district of North Carolina.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 120) authorizing and directing the Secretary of the Treasury to issue an American register to the Canadian-built propeller East, by the name of Kent;

A bill (S. No. 870) granting a pension to Rebecca and Augusta Miller, daughters of Brigadier-General James Miller, of the war of 1812;

A bill (S. No. 1045) to provide for the administration of the oath of office to collectors and other officers of the customs in the district of Alaska;

A bill (H. R. 2818) to authorize T. and J. W. Gaff & Co. to use a certain building in the city of Aurora, Indiana, for the rectification of distilled spirits; and

A bill (H. R. No. 4394) to prohibit the coinage of the twenty-cent piece of silver.

AUSTIN-TOPOLOVAMPO PACIFIC ROUTE.

The PRESIDENT *pro tempore*. The first bill on the Calendar at the point where its consideration was stopped yesterday is the bill (S. No. 213) to survey the Austin-Topolovampo Pacific route.

Mr. EDMUNDS. That may go over, Mr. President, under the circumstances.

The PRESIDENT *pro tempore*. The bill will be passed over.

THE MILITIA.

Mr. COKE. Senate bill No. 104, relative to the militia, was made a special order some time ago, and I ask that it be again made a special order for next Thursday.

Mr. EDMUNDS. No special orders. We ought not to have special orders.

The PRESIDENT *pro tempore*. The Senator from Texas moves that this bill be made the special order for Thursday next.

The question being put, the Chair declared that the yeas appeared to prevail.

Mr. COKE. I ask for a division.

The question being put, there were on a division—ayes 21, yeas 12; no quorum voting.

Mr. BLAINE. Let the bill be read. Let us know what it is.

The Chief Clerk read the title of the bill.

Mr. BLAINE. I do not know any more about it now than I did before.

Mr. ALLISON. It is a bill providing for a million of dollars for supplying arms, &c., to the militia.

The PRESIDENT *pro tempore*. The bill will be read at length.

The Chief Clerk read the bill.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Texas to make the bill the special order for Thursday next.

Mr. BLAINE. The merits of the bill I suppose are not debatable on the question of making it a special order; but I wish to ask the honorable Senator from Texas what is the exigency for making this a special order just now.

Mr. COKE. The day has passed which was fixed for the consideration of the bill. The Senate determined to take up the Calendar and go through it regularly. This bill has lost its place on the Calendar and I desire simply to move forward the day when it shall be taken under consideration. The bill is an important one.

Mr. McMILLAN. Will it not have its place at the foot of the Calendar, having gone over?

Mr. EDMUNDS. It is on the Calendar all the time. The Senator can move to take it up at any time.

The PRESIDENT *pro tempore*. It is subject to the order of the Senate.

Mr. BLAINE. In the present condition of the Treasury of the United States and the taxes, I do not know that I feel like voting a million dollars for an extra supply of arms. I do not know what there is in the condition of the country that calls for it. It seems to me that making it a special order is giving some sanction on the part of the Senate to its importance and its pressing need just at this moment, which I do not feel quite prepared to do.

Mr. COKE. The importance of the bill, I will say to the Senator from Maine, I think can be demonstrated whenever it is in order to discuss the merits of the bill. At all events it is of sufficient importance to be fully discussed. I only ask now that the time be fixed when it can be considered. As it stands now, it is not on the Calendar. The day for which it was set it was taken up but not disposed of. That day has passed, and I ask that another day be appointed for the consideration of the bill.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Texas that it is on the Calendar as a special order already, but has been displaced by the Anthony rule, so called. The Senate has ordered that it proceed at one o'clock each day with cases on the Calendar, setting aside all special orders.

Mr. BLAINE. If I understand it, then, the honorable Senator would not put his bill in any better position by the order he now asks than it holds. It is in just as good a position now as it will be by the Senator's motion.

Mr. COKE. I ask what position the bill now holds on the Calendar?

The PRESIDENT *pro tempore*. It stands as a special order fixed for the day named, but it has been displaced by the order under which the Senate is now acting, namely, the Anthony rule, so called. When it is through, that will still be a special order.

Mr. COKE. What will be its condition when the Calendar is finished?

The PRESIDENT *pro tempore*. It will be a special order to come up unless the Senate should otherwise order.

Mr. COKE. I withdraw the motion, then.

NAVAL APPROPRIATION BILL.

The Senate proceeded to consider the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes.

On motion of Mr. SARGENT, it was

Resolved, That the Senate insist upon its amendments, disagreed to by the House of Representatives to said bill, and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. SARGENT, Mr. DORSEY, and Mr. BECK.

On motion of Mr. SARGENT, it was

Ordered, That the bill (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes, be printed with the action of the House of Representatives, and the amendments thereto numbered.

AMENDMENTS TO BILLS.

Mr. PLUMB submitted an amendment intended to be proposed by him to the bill (S. No. 1103) declaring the true construction of a certain statute therein mentioned; which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. PLUMB submitted an amendment intended to be proposed by him to the bill (H. R. No. 4236) to establish post-roads in the several States therein named; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

PRINTING OF A MEMORIAL.

Mr. MITCHELL. On the 18th of the present month a memorial of the Missouri and Niobrara Railroad Company, praying the passage of a law authorizing the President of the United States to designate that company to construct the north branch of the Union Pacific Railroad as provided for by the act of July 2, 1864, was presented to the Senate and referred to the Committee on Railroads. It has not been printed. I now move in behalf of the Committee on Railroads that the Senate grant an order to print the petition.

The motion was agreed to.

TIMBER LANDS ON PACIFIC SLOPE.

The PRESIDENT *pro tempore*. The bills on the Calendar will be proceeded with.

The bill (S. No. 926) for the sale of timber lands in the States of California and Oregon and in Washington Territory was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment striking out in line 18 of section 4 the words "one year" and inserting "ninety days;" so as to read:

And the penalties herein provided shall not take effect until ninety days after the passage of this act.

The amendment was agreed to.

Mr. SARGENT. On line 4 of section 4, after the words "United States," I move to insert "in said States and Territory."

The amendment was agreed to.

Mr. SARGENT. In the first page, lines 12 and 13 of section 1, owing to this being a copy of an old bill, the words "and in all other Territories of the United States not exceeding forty acres to any one person" were inserted. I move to strike that out. This bill is confined solely to the States of Oregon and California and Washington Territory. I move to strike out all after the word "persons," in line 12 of section 1, down to and including "person," in line 13.

The amendment was agreed to.

Mr. SARGENT. I offer the following amendment as an additional section:

SEC. 5. That any person prosecuted in said States and Territory for violating section 2461, of the Revised Statutes of the United States who is not prosecuted for cutting timber for export from the United States may be relieved from further prosecution and liability therefor upon payment into the court wherein said action is pending of the sum of \$2.50 per acre for all lands on which he shall have cut or caused to be cut timber or removed or caused to be removed the same: *Provided*, That nothing contained in this section shall be construed as granting to the person hereby relieved the title to said lands for said payment, but he shall have the right to purchase the same upon the same terms and conditions as other persons as provided hereinbefore in this act: *And provided further*, That all moneys collected under this act shall be covered into the Treasury of the United States. And section 4751 of the Revised Statutes is hereby repealed so far as it relates to the States and Territory herein named.

I will state the effect of this amendment. Persons have been arrested for cutting this timber, who I have shown, I think conclusively to the Senate as well by their petitions as by statements made on the floor of the Senate of my own knowledge, who are pursuing an industry that is absolutely necessary to carry on mining, farming, &c., in the mining regions. Large portions of California and Nevada and a part of Utah would have to be depopulated and mining stopped unless this industry can go on. These persons tried in several ways to buy the land of the Government; but the Government, under the impression that this land two, three, four, five, six, or nine thousand feet in the region of perpetual frost might be taken up under the pre-emption and homestead laws, neglected to provide any means by which the land could be bought. Although this bill has substantially passed the House on two occasions and the Senate on one occasion, the two Houses never united and acted together at the same Congress. The parties endeavored to buy the land by means of discharged soldiers' homesteads. They found, however, to their sorrow, that those were fraudulent although they paid their money and lost their money for them. They tried to take up the lands under the pre-emption laws, and it was ruled that it was absurd to suppose a man could take up a pre-emption claim away up in the snow line, and they were rejected because they seemed to be fraudulent on their face, and there was unquestionably a technical fraud in the matter. They have tried every way they could to obtain title. We now propose, however, that they shall not be excused for these acts, but shall pay \$2.50 an acre on all land that they shall have cut one tree or a dozen trees, and that that shall not give them title to the land, but after that they shall have the privilege of buying the land on the same terms that any one else can at \$2.50 an acre, so that the Government gets for its land \$5 an acre and they can only be relieved from prosecution by paying this amount. Although the land has been stripped the Government nevertheless gets its price for it and a fair large price for the land. This seemed to be an equitable settlement, and therefore I have suggested the amendment with the concurrence of the Pacific coast delegation in the two Houses who have carefully considered the matter. I ask for the adoption of the amendment.

The amendment was agreed to.

Mr. MITCHELL. I ask the Senator from California if there should not be some provision like this:

That all acts inconsistent with this act are hereby repealed.

Mr. SARGENT. I have no objection to that, although perhaps it is unnecessary. Repeal all other laws so far as they conflict with this act.

Mr. MITCHELL. I offer this amendment, to come in at the end of the bill:

Provided, That all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

RANK OF SENIOR INSPECTOR-GENERAL.

The next bill on the Calendar was the bill (S. No. 824) establishing the rank of the senior inspector-general; which was considered as in Committee of the Whole. It provides that hereafter the rank of the senior inspector-general of the United States Army shall be brigadier-general; but no pay or allowances shall be made to him other than from the date of appointment under the act.

The bill was reported from the Committee on Military Affairs with an amendment, to add the following proviso:

And provided, That nothing herein enacted shall authorize any increase in the number or the rank of the other officers of the Inspector-General's Department, as fixed by the first section of the act of June 23, 1874.

Mr. CAMERON, of Wisconsin. Let the report be read.

Mr. RANDOLPH. Perhaps I can save the time of the Senate. The report is of considerable length, and I do not suppose that all the members of the Senate desire to hear it read. I will say that this bill passed the Military Committee unanimously as amended, that it makes the grade of the senior inspector of the Army that of brigadier-general from the time of the passage of this bill henceforward, that it conforms in this respect to that which has been done with reference to all of the heads of the Departments of the Army. The General-in-Chief of the Army, the Secretary of War, and others in authority have recommended that such a bill pass, so that hereafter there shall be at the head of the Inspector-General's Department a person holding equal rank with those at the head of the other Departments. The bill is simply to place upon terms of equality this officer with all other officers in equal service.

I think that statement contains substantially what is in the report. In addition, I may say that the record of General Marcy is set out at some length. It is a very notable record. In nearly fifty years of service he has served twenty-seven or thirty years on the frontier and in Mexico during the late war. The testimony in his behalf as a man, as an officer, is equal to that given to any other officer I presume; but the Military Committee base their action not upon the meritorious service of General Marcy but upon the fact that the head of this Department should hold an equal rank with the heads of all the other Departments of the Army, this being up to this time the exception.

Mr. McMILLAN. May I ask the Senator from New Jersey whether this bill increases the pay or increases the duties of the officer in any respect?

Mr. RANDOLPH. Not the duties that I am aware of. It will increase the pay perhaps to the extent of the difference between the pay now given to him as a colonel and that which he would receive as a brigadier-general, just as in all other cases.

Mr. McMILLAN. It increases the pay with the rank?

Mr. RANDOLPH. The pay with the rank. It has been done, as I have said, in the case of every other head of a department of the Army.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOHN H. EVANS.

The next bill on the Calendar was the bill (H. R. No. 1385) for the relief of the minor heirs of John H. Evans, deceased; which was considered as in Committee of the Whole. It provides for paying to the minor heirs of John H. Evans, deceased, late of McNairy County, Tennessee, the pay and bounty due him as if he had been enlisted and mustered into the service of the United States on the 6th of July, 1863.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

THE MARIETTA REUNION.

The next business on the Calendar was the joint resolution (H. R. No. 78) granting the use of artillery, tents, &c., at the national soldiers and sailors' reunion to be held at Marietta, Ohio; which was considered as in Committee of the Whole.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

SENECA LANDS IN NEW YORK.

The next bill on the Calendar was the bill (S. No. 690) to amend an act entitled "An act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany reservations, and to confirm existing leases," approved February 19, 1875.

Mr. DAVIS, of Illinois. Had not that better be passed over? I know nothing about it, but the Senator from Kansas [Mr. INGALLS] is not here, and it is presented with an amendment, I see.

The PRESIDENT *pro tempore*. The bill will go over.

TESTIMONY IN CASES OF PRIVATE CLAIMS.

The next bill on the Calendar was the bill (S. No. 43) providing for taking testimony and collecting information to be used by Congress; which was considered as in Committee of the Whole.

The bill was reported from the Committee on the Judiciary with an amendment, to strike out all after the enacting clause and insert:

That any committee of either House of Congress, before which any private claim against the United States may at any time be pending, being first thereto authorized by the House appointing them, may order testimony to be taken, and books and papers to be examined, and copies thereof proved, before any standing master in chancery of the circuit of the United States within the judicial district where such testimony or evidence is to be taken. Such master in chancery, upon receiving a copy of the order of such committee, signed by its chairman, setting forth the time and place, when and where such examination is to be had, the questions to be investigated, and, so far as may be known to the committee, the names of the witnesses to be examined on the part of the United States, and the general nature of the books, papers, and documents to be proved, if known, shall proceed to give to such private parties reasonable notice of the time and place of such examination, unless such notice shall have been or shall be given by such committee or its chairman, or by the attorney or agent of the United States, or waived by such private party. And such master shall issue subpoenas for such witnesses as may have been named in the order of such committee and such others as the agent or other representative of the United States hereinafter mentioned shall request. And he shall also issue subpoenas at the request of such private party or parties for such witnesses within such judicial district as they may desire: *Provided*, That the United States shall not be liable for the fees of any officer for serving any subpoena for any private party, nor for the fees of any witness on behalf of such party. Said committee may inform the district attorney of the United States for the district where the testimony is to be taken of the time, place, and object of such examination, and request his attendance in behalf of the Government in conducting such examination, in which case it shall be his duty to attend in person, or by an assistant employed by him, to conduct such examination on the part of the United States, or such committee may, at its option, appoint an agent or attorney, or one of its own members for that purpose, as they may deem best; and in that event, if the committee shall not be unanimous, the minority of the committee may also appoint such agent or attorney or member of such committee to attend and take part in such examination.

Sec. 2. It shall be the duty of the marshal of the United States for the district in which the testimony is to be taken to serve, or cause to be served, all subpoenas issued in behalf of the United States under this act, in the same manner as if issued by the circuit court for his district; and he shall, upon being first paid his fees therefor, serve any subpoenas that may be issued at the instance of such private party or parties. And the said master may, in his discretion, appoint any other person to serve any subpoena. Such master shall have full power to administer oaths to witnesses, and the same power to issue attachments to compel the attendance of witnesses and the production of books, papers, and documents, as the circuit or district court of his district would have in a case pending before it; and it shall be his duty to report the conduct of contumacious witnesses before him to the House of Congress appointing such committee. The compensation of such master in chancery, and of marshals and deputy marshals, and of any person appointed to serve papers, shall be the same as for like services in equity cases in the circuit court of the United States; and the compensation of witnesses shall be the same as for like attendance and travel of witnesses before such circuit courts; and all such fees and compensation of officers and witnesses on behalf of the United States, and other expenses of all investigations which may be had under the provisions of this act on the part of the United States, shall be paid out of the contingent fund of the branch of Congress appointing such committee. Said master, when the examination is concluded, shall attach together all the depositions and exhibits, and attach thereto his certificate setting forth or referring to the authority by which they were taken, any notices he may have given, the names of the witnesses for whom subpoenas or attachments were issued, the names of witnesses who attended, with the time of attendance and mileage and fees of each witness on behalf of the United States, which he may require to be shown by affidavit, his own fees, the fees of the marshal, his deputies or other persons serving papers, giving the items, and such other facts in relation to the circumstances connected with the taking of the depositions as he may deem material. He shall then seal up such depositions and papers securely, direct them to the chairman of such committee at Washington, stating briefly on the outside the nature of the contents, and place the same in the post-office, paying the postage thereon; and said package shall be opened only in the presence of such committee. The chairman of any committee ordering testimony to be taken under this act shall, at least ten days before the time fixed for such examination, and within two days after the adoption of such order, cause a copy thereof to be directed and delivered to the Attorney-General of the United States, or sent to him by mail at the Department of Justice, to enable him to give such instructions as he may deem best to the district attorney of the district where such testimony is to be taken, who may, and, if required by the Attorney-General, shall, though not requested by the committee, appear for the United States in person or by assistant, and take such part in such examination as the Attorney-General shall direct.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to provide for taking testimony to be used before Congress in cases of private claims against the United States."

THOMAS H. HALSEY.

The next bill on the Calendar was the bill (S. No. 337) for the relief of Thomas H. Halsey, paymaster United States Army; which was considered as in Committee of the Whole.

The Committee on Military Affairs reported an amendment to fill the blank by inserting "\$1,788;" so as to make the bill read:

That the proper accounting officers of the Treasury are authorized and directed to credit to the account of Thomas H. Halsey, paymaster United States Army, the sum of \$1,788, being the amount charged against him, and embezzled by the forgeries of his clerk, William F. Piper.

Mr. MORRILL. I have just read the report, and I have no doubt of the propriety of the passage of the act; but I wish to say one thing that does not appear in the report: that since the introduction of the bill Major Halsey has deceased, and he leaves no estate. The only effect of the passage of the bill will be to remove his name from among the list of defaulters. The fact that he attended to his duties faithfully and that this \$1,788 deficiency was caused by no negligence of his is sufficiently apparent from the report.

Mr. CAMERON, of Wisconsin. Let the report be read.

The Secretary read the following report, submitted by Mr. McMillan on the 3d instant:

The Committee on Claims, to whom was referred the bill (S. No. 337) for the relief of Thomas H. Halsey, paymaster, United States Army, have considered the same, and submit the following report:

A similar bill for the relief of the claimant, Thomas H. Halsey, was presented to the Senate at the second session of the Forty-fourth Congress, and the Committee on Claims, to whom the bill was referred, reported the same back at the same session, (report 630,) inserting the sum of \$1,788 in the bill, and recommended its passage. The bill passed the Senate. The report of the former committee contains a full and accurate statement of the facts in the case, and our views and conclusions are fully expressed therein. We therefore adopt the report of that committee as our report and recommendation in this case.

The report is as follows:

"Halsey is a paymaster in the United States Army, and has been for a number of years. William F. Piper became his clerk in 1863, and it seems as recommended very highly for capacity and integrity. This paymaster was ordered to San Francisco in 1868, and took Piper with him. During 1869 Halsey's health was very poor, so much so that at times it was impossible for him to be at his office. Having confidence in this clerk, who had given no cause for the least suspicion of his integrity, he left him in charge of his funds when unable to be present, and upon him devolved the duty of making payments and taking the proper vouchers, though usually the payments were made by Halsey in person. It seems that while only two vouchers were necessary, one to be retained by the paymaster and the other to be sent to Washington, yet Piper probably had these vouchers signed by the holders to whom he made payment; then, having access to the true voucher or that retained by the paymaster, destroyed it and changed the amount stated in the other two by forgery, so as to show a payment larger than that actually paid the person or persons signing the same. Thus, for instance, when the amount paid was, and the true voucher stated it to be, \$53, he would raise it to \$153, showing a payment of \$100 more than the true amount. These forgeries were so skillful or so well executed that some of them passed through the Department at Washington without being discovered. All this time Halsey had neither knowledge nor suspicion of what was going on. These alterations were all made between May, 1869, and January, 1870. Piper absconded in February, 1870, before there was any knowledge of his frauds, and has not since been found, though an effort has been made to ascertain his whereabouts.

"It seems that Halsey was dismissed the service, but after this order, upon the report of a board of officers exonerating him from the most material imputations touching these frauds, he was restored to the service, and is still engaged therein. This was done in March, 1870. The vouchers thus raised were in number twenty-five, and the forgeries amounted to \$1,788; that is, as charged, they showed payments to this amount over and above what was actually disbursed. These forgeries were not upon the vouchers in consecutive order, nor did they occur every month of the time covered, for we find that the frauds were confined to May, June, November, and December, 1869, and January, 1870, and their numbers are from 322 to 975, being, as already said, twenty-five in number.

"Your committee referred this bill to the proper department, and, in addition to the information already given, we have the following from the office of the Paymaster-General:

"The forgeries consisted in 'raised vouchers' by one W. F. Piper, Major Halsey's clerk, while he was stationed in San Francisco, from May, 1869, to January, 1870, altering the final statements of discharged soldiers so they would call for more than they were entitled to, he pocketing the difference. For instance, if the true statement called for \$53 retained pay, he would, by forgeries, make it read \$153, giving the soldier the right amount, but appropriating to his own use the \$100. Piper absconded from San Francisco before the crime was known, and diligent attempts to cause his arrest have been unsuccessful.

"Mr. Piper, Major Halsey says, had been with him seven years, during which time his standing and reputation were very good. I knew myself that his standing in New York as paymaster's clerk, in 1866, was very good, being in contact with him more or less for several months.

"It appears from the statement of Major Halsey, confirmed by other information in this office, that Major Halsey, although in poor health, continued to discharge his duties as paymaster, and, on account of the state of his health, placed more of the duties in the hands of his clerk than is usual with paymasters. It was the laudable ambition of Major Halsey not to surrender to his disease; not to give up his official duties. He placed money in his hands to make such payment, and hence the opportunity of this clerk to commit the crime.

"I am well aware that by strict principles of law the officer is held for the amount of any public funds feloniously taken from him, even when there has been no fault or negligence on his part, and that he is likewise, in strict law, held responsible for the derelictions of his clerk; but after the late war, in which such large disbursements were made with comparatively small loss to the Government, and in which disbursing officers had been compelled to incur such extraordinary hazards from robbery and other accidents, a law was passed, approved June 23, 1870, providing that the accounting officers could, in reference to disbursements prior to August 20, 1866, 'allow such credit for losses of funds, vouchers, and property as they may deem just and reasonable.' This was enlightened policy in Congress, and in thus relaxing the severity of abstract law toward disbursing officers real justice and equity were meted out to many meritorious officers. I think that the case of Major Halsey is of a similar character. Prior to the 1st of January, 1870, he had disbursed, since his first appointment, \$6,384,125, and he has been an industrious, vigorous, and faithful officer.

"Upon these facts your committee are of opinion that if relief should be granted to any one in this class of cases it should be in this, of course we do not pretend that this paymaster is not, in strict law, to be held for this money. It is true, however, that none the least negligence can be imputed to him. He seems to have been a most excellent, faithful, and honest officer. No suspicion whatever attaches to any single act of his long official life. He had a right to rely upon the integrity of this clerk. Such clerk was necessary to assist in the discharge of the duties of his office. Of course in law he is to be held responsible for the faithful discharge of his duties, and by the same law must respond for any losses sustained by the Government from his peculations and frauds touching the funds intrusted to him; but the Government has not always stood up to this rule in dealing with its officers. We have relieved from losses by fire, by flood, by the thefts of third persons, and by the dishonesty of subordinates. Numberless cases are to be found in the statutes where this has been done; and while we would not sanction such relief except in the very clearest cases, we are yet of the opinion that instances may occur, as they have heretofore, where it would be the grossest injustice to hold a party to the strict terms of his obligation or undertaking.

"Believing that this is a case which is so persuasive in its equities as to justify exceptional interference, we report this bill back and recommend its passage, with an amendment, filling the blank in the fifth line with '\$1,788.'

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WORKMEN AT POVERTY ISLAND LIGHT-HOUSE.

The next bill on the Calendar was the bill (H. R. No. 622) for the relief of workmen employed in the construction of the Poverty Island light-house, Lake Michigan.

Mr. CAMERON, of Wisconsin. I reported the bill the title of which has just been read from the Committee on Claims adversely, according to my recollection.

Mr. COCKRELL. I have the report before me, and recollect that it was reported adversely, and the report recommends the indefinite postponement of the bill. It is a mistake in the Calendar. I have the report lying here before me. The bill ought to be indefinitely postponed.

The PRESIDENT *pro tempore*. The Chair will put the question on the indefinite postponement of the bill.

The motion to postpone indefinitely was agreed to.

Mr. FERRY (Mr. ANTHONY in the chair) subsequently said: While I was occupying the chair, the bill (H. R. No. 622) for the relief of workmen employed in the construction of Poverty Island light-house, Lake Michigan, was indefinitely postponed. I move that the vote indefinitely postponing the bill be reconsidered. I want the bill placed on the Calendar.

The motion to reconsider was agreed to.

JOHN ETZELL.

The bill (S. No. 889) granting a pension to John Etzell was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of John Etzell, late a private in Company B, Second Minnesota Regiment Infantry.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

GIBBES & CO.

The next bill on the Calendar was the bill (S. No. 288) for the relief of Gibbes & Co., of Charleston, South Carolina; which was considered as in Committee of the Whole. It provides for the payment to Messrs. Gibbes & Co., of Charleston, South Carolina, \$4,576.92, being a balance due them on account of money deposited by them with the Secretary of the Treasury.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

DISTRICT METROPOLITAN POLICE.

The next bill on the Calendar was the bill (S. No. 319) for the relief of the Metropolitan police force of the District of Columbia; which was considered as in Committee of the Whole.

The preamble recites that Congress, by joint resolution of the 28th of February, 1867, granted to certain employes of the Government 20 per cent. additional compensation; that the Metropolitan police force of the District of Columbia were, by adverse rulings of the Departments, deprived of their portion; and that, by the decisions of the Supreme Court of the United States in the cases known as the "20 per cent. cases," it is settled that they were clearly entitled to the benefits of the joint resolution. The bill therefore directs the proper accounting officers of the Treasury Department to allow, and pay, to each of such persons who were officers, clerks, and employes of the Metropolitan police force on the 28th of February, 1867, a sum equal to 20 per cent. on the salary of such persons, for the time stated in the resolution.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

E. ROUFF.

The next bill on the Calendar was the bill (S. No. 1031) for the relief of the estate of E. Rouff; which was considered as in Committee of the Whole. It provides for the payment of \$45, without interest, to the administrator of the estate of E. Rouff, deceased, upon producing proper evidence of qualification as administrator of his estate, for rent of store-room in Lavaca, Texas, used for storing commissary stores from September 1, 1865, to October 31, 1865, occupied under contract with Rouff, and for which rent vouchers properly signed, certified, and reported by the proper quartermaster were given.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes.

HORACE A. STONE.

The next bill on the Calendar was the bill (S. No. 478) authorizing the Commissioner of Patents to extend the patent of Horace A. Stone for improvement in the manufacture of cheese; which was considered as in Committee of the Whole.

Mr. SARGENT. I ask for the reading of the report in that case.

The Secretary read the following report, submitted by Mr. MORGAN on the 4th instant:

The Committee on Patents, to whom was referred the bill (S. No. 478) authorizing the Commissioner of Patents to extend the patent to Horace A. Stone for improvement in the manufacture of cheese, have had the same under consideration, and submit the following report:

It appears that Horace A. Stone, of Michigan, obtained a patent on the 26th of March, 1861, running seventeen years, for a new process for making cheese, but, owing to ill-health and some infringements made upon said patent by his own agent, the process has never been much used, and he has consequently never received any profit of consequence from his said invention, and therefore asks an extension of seven years.

The process consists of cheese-making without pressure or weights, and is done by the use of a perforated hoop of tin or sheet-iron, being perforated on the top, bottom, and sides, and the cheese is made by settling in the hoop in three or four days.

If there is any virtue in the process, it will tend to cheapen the article as well as enrich it. There is no probability that the extension can prejudice the public. Your committee therefore recommend that the bill pass.

Mr. COCKRELL. I desire to record my vote against this bill; I vote against all these things. There is no equity, justice, or propriety in granting an extension for seven years to this man who has had a patent now for seventeen years.

Mr. MORGAN. If Congress see fit to stop now and establish the precedent that no man shall ever have an extension, I shall very cheerfully concur in that view; but it has not done so. Several patents have been extended. If there can be a meritorious case at all, there is merit in this case. I do not esteem this patent as being one of great value. It is not one that has gone into general use at all; but there are several persons who have used it. This man after getting his patent was sick and for many years was bed-ridden and dependent on the charity of a grown daughter for his support. During the time of his sickness this patent was pirated really by his own agent. He got a little income from it afterward, about \$500 a year. Now he is in an infirm state of health. That being the only reliance the man has for support in the world, he asks the Congress of the United States to give him the benefit of his invention for a longer period of time. It cannot do the country any harm. It is a beneficence to him. When you deny him this extension, you take from him all that he relies upon for a living, according to the evidence brought to the attention of the committee.

I do not concur in the position that no patentee is entitled to an extension of his patent under any circumstances. It is a property guaranteed to him under the Constitution of the United States and the laws of the United States, and there are cases where exceptions ought to be made. There are several cases pending now, and I think if they were brought to the attention of the Senate they would be considered exceptions to the doctrine as to the extension of patents which is generally held. Unless, indeed, the Senate now intends to stop and make a rule which is hereafter to be followed and which will amount to an instruction to the Committee on Patents that it must bring no more cases of extension here, I think it is not proper to apply a harsh rule in this case.

Mr. DAVIS, of Illinois. I vote for the bill because the committee have examined and recommended it.

The bill was reported to the Senate, ordered to be engrossed for a third reading, and read the third time.

A division being called for on the passage of the bill, the yeas were 22 and the nays 6; no quorum voting.

Mr. BECK and Mr. SARGENT called for the yeas and nays; and they were ordered.

Mr. MERRIMON. I should like to do this party justice, and while I am inclined now to vote against the bill, because I am against the extension of patents generally, I should like to hear the gentleman in charge of the bill give some explanation of its merits.

Mr. MORRILL. The Senator from Alabama [Mr. MORGAN] has just made an explanation.

Mr. MERRIMON. I am sorry I could not hear him.

Mr. KERNAN. I am on this Patent Committee, and it is a very laborious committee. I do not mean to say that if Congress were to take up the question, I would not vote for a law which should declare that a patentee should have a certain time and that there should be no renewal.

Several SENATORS. That is the law now.

Mr. KERNAN. No, the statute-book is full of laws allowing extensions. When a man by a mistake or some misfortune does not receive remuneration, he comes, according to the uniform practice in exceptional cases, to get an opportunity to comply out of time. All I mean to say is that I do not think the members of that committee are strenuous at all that there should be any such thing as extending patents. If Congress will only say to all patentees and all those who are hereafter to become patentees, that there shall be but a limited period fixed by the law, be it so. But as that is not the law now, that committee would be deemed very derelict to duty if they did not hear each man and see if there were equitable reasons why he should be relieved. We have no way but to bring the subject before the Senate, present the case, and let the Senate say whether it is within the line they have established, where they will authorize a party to go again before the Commissioner. I should be very glad to have this subject taken up, because a good many of these needy patentees, sometimes by the fraud of somebody, have not had a chance to get the benefit of their invention. For various reasons in many cases they have not reaped the benefit of their invention, and they have come before the committee and spent a good deal of time and money in laying before the committee the merits of their cases; and when the committee with great labor, rejecting all that they think have

not very exceptional reasons for being reported favorably, come here with a favorable report, it is said, "We are against all extensions." If we are, let us settle the question by a law that will relieve the committee from all this labor, relieve the inventors from all the expense of presenting evidence and attending to try to persuade the committee.

I say this, having no feeling except that, while the law is as it now is, we should not say that we are against all extensions. That may be a wise policy, and I do not say now it is not; I do not say whether upon examination I would not favor giving them a definite period and declaring by a law, which I would ask Congress to stand up to, that there should never be an extension.

I do not mean to find the least fault with those who say they will vote against all extensions. I only say this to call the attention of Senators to the subject, especially of those who think we had better not extend patents at all. Let there be a vote, and if we find that is the view of a majority, let us make a general law and relieve everybody from what is a very laborious duty to Congress and its committees and a very expensive thing to these inventors.

Mr. COCKRELL. Do I understand the Senator from New York to say that there is no law now providing a limit to a patent right?

Mr. KERNAN. There is one now since the term has been enlarged to seventeen years. But for all that, as to the old patents issued before that law, of which this is one, men come here under the old law to get an extension. Moreover, Congress is constantly passing special laws authorizing them to go before the Commissioner and on the terms prescribed in the Revised Statutes get an extension. I find no fault with the position that there had better be no extension at all.

Mr. GARLAND. I wish to call the attention of the Senator from New York to the fact that on the 18th of April a bill of this character for the relief of Stephen V. Benét was passed without any opposition or a call of the roll.

Mr. KERNAN. This morning I was instructed to, and did, present a report favoring the allowance of the privilege to a patentee to apply to the Commissioner for an extension. Why? It was an old patent. The patentee made a contract by which a firm that was infringing agreed that they would apply for an extension according to the law, they would bear the expense of the application and attend to all the details ninety days before the expiration of the patent and in consideration of that he agreed to certain things. They took him to their attorney and he signed all the papers. When the time ran out within which the application had to be made, they said the attorney had neglected it, and he lost the chance.

Mr. HARRIS. Is that this case?

Mr. KERNAN. No, but I reported such a one this morning. I am not so familiar with this. The Senator from Alabama [Mr. MORGAN] can explain it. I remember it generally. All I can say is that we are pressed with cases of an exceptional character where there has been apparently great wrong done to the patentee, where the evidence shows he has endeavored to reap the benefits of his invention and he asks that we give him leave by law to go before the Commissioner under the laws on the statute-book and apply to get his patent renewed. It would save great time and great expense if the Senate, not spasmodically by one man on one case calling for the yeas and nays, but by a general act, would declare that there should be no further extensions. By doing that you would say to all these parties: "Do not come here troubling the committee, at great expense to yourselves." I have no feeling. I only want to find out what the sense of the Senate is, and we will conform to it.

Mr. COCKRELL. I am very much astonished at the reasoning of the Senator from New York. He calls upon the Senate to pass a statute law to govern a committee and to govern Congress! The Senator knows perfectly well that we have a statute law prescribing the time patents shall run, and he knows that no one Congress can be bound by the acts of a precedent Congress. You have got the law before you, plainly and unmistakably laid down. It is for the committee to say whether that law shall be enforced or not. When that committee report to the Senate that the law is so and so, the Senate will be very apt to sustain them. I say here that I am not making this an exceptional case. I do not know anything about it. I never heard of it until I saw it on the Calendar and read the report, and I say there is no merit in it. It is not an exceptional case. What is it? Mr. Stone, on the 26th of March, 1861, obtained a patent running seventeen years—not an old fourteen-year patent, but the full length of time, seventeen years—

For a new process for making cheese; but, owing to ill health and some infringements made upon said patent by his own agent, the process has never been much used, and he has consequently never received any profit of consequence from his said invention, and therefore asks an extension of seven years.

He has not been able to make money out of it; he has not been able to make the people of the country use it, and thereby render him a profit. That is the excuse for him. Every man, then, to whom a patent has been granted, who has failed to make money out of it, has the same right to come in here that this applicant has. I say the law is explicit now. There are seventeen years allowed; a patent is confined to that length of time. I am not opposing this case specially; I have voted against every solitary one and expect to continue voting against them.

Mr. KERNAN. I knew, of course, what the law was, as my friend states it; but the committee do not mean to report anything except exceptional cases of hardship which are within the line of precedent

set by Congress. If Congress agree with my friend from Missouri—I find no fault—and will say "We will not listen to exceptional cases," there will be no further exceptions; the committee can deal with the parties. But now they press upon us. Congress does allow extensions in exceptional cases, and we go on here day after day frequently passing them without the slightest objection, and then there comes an objection, not that the case brought up is not an exceptional one, but the cry is, "I am against them all." If a majority say they agree with my friend from Missouri that there should not be any exception, so be it; we shall act accordingly. If, on the other hand, they think this not an exceptional case, very well. But if they do not mean to have the committee understand that there is no use of bringing any case here at all, then they will have to act on each case to see whether we are right or not in saying it is exceptional.

Mr. DORSEY. This is evidently going to lead to a good deal of debate, and I object to its further consideration.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) Objection being made, the bill goes over.

WILLIAM A. GRAHAM.

The next bill on the Calendar was the bill (S. No. 72) for the relief of the heirs of William A. Graham.

Mr. DORSEY. Let that go over.

Mr. EDMUNDS. I should like to hear the report before it goes over. That bill has a remarkable characteristic of keeping us carefully ignorant entirely of what the subject of the patent is. I should think the bill had been specially drawn for not allowing us to know what it is about.

The PRESIDING OFFICER. The report will be read if there be no objection.

Mr. DORSEY. I object.

The PRESIDING OFFICER. The next bill will be called.

HERMAN E. AND CHARLES H. DAVIDSON.

The next bill on the Calendar was the bill (S. No. 231) for the relief of Herman E. Davidson and the heirs of Charles H. Davidson; which was reported adversely from the Committee on Patents.

The PRESIDING OFFICER. The Chair will put the question on the indefinite postponement of the bill.

The bill was postponed indefinitely.

SURETIES OF GEORGE W. CLARKE.

The next bill on the Calendar was the bill (S. No. 1038) for the relief of Jesse Turner and others, sureties upon the official bond of George W. Clarke, formerly Indian agent.

Mr. EDMUNDS. Why not apply that relief to all cases?

Mr. DAVIS, of Illinois. I want the report read.

The Secretary read the following report, submitted by Mr. HERFORD on the 4th instant:

The Committee on Claims, to whom was referred the petition of Jesse Turner and others, asking to be relieved from liability as sureties on bond of George W. Clarke, report as follows:

George W. Clarke was appointed Indian agent and gave bonds as such August 19, 1854, in a penalty of \$40,000, with S. M. Hays, Phineas H. White, Charles F. Brown, S. F. Cotterell, Hiram Brodie, James M. Brown, Joseph J. Green, and Jesse Turner as sureties; all of the sureties are dead except James M. Brown, Charles F. Brown, and Jesse Turner.

The agent, Clarke, was found to be in default and relieved from duty on December 31, 1856. The amount of the defalcation is found to be \$1,245.77.

No further action was taken in this case until December 15, 1875, when each of the parties living was notified.

Suit was instituted March 6, 1877, in the United States district court for the western district of Arkansas.

The above are the facts as gathered from a letter of Hon. K. Rayner, Solicitor of the Treasury, bearing date February 7, 1878, in response to a letter from a member of this committee, to whom the subject had been referred. The following is an affidavit in the case, which is substantiated by several others:

STATE OF ARKANSAS, Crawford County, ss:

I, Augustus I. Ward, of Crawford County, State of Arkansas, do state upon oath, that I have resided at Van Buren, Crawford County, for the last thirty-four years. That I was well acquainted with George W. Clarke, and Samuel M. Hays, P. H. White, S. F. Cotterell, Hiram Brodie, J. J. Green, Charles F. Brown, James M. Brown, and Jesse Turner, his securities upon his bond as Indian agent, upon which his now reported defalcation occurred in December, 1856. I know that George W. Clarke was the owner of real estate at that time of considerable amount, but do not know what incumbrances, if any, existed against it. His family resided here during most of the time he was in Kansas as Indian agent. Clarke was an energetic man to raise money. All the persons who are named as the securities upon his bond were in solvent circumstances in December, 1856. Since that time, up to the time of the breaking out of the late war, the sum of \$1,500 could have been made out of any one of them. Since then, the results of the late war and other causes changed the circumstances of all the persons named as Clarke's securities, and most of them are unable to pay who survived the war.

P. H. White died about 1857; he was a merchant, engaged in business at this place; his estate was closed by administration since the war, and did not pay the creditors in full.

Joseph J. Green died in the spring of 1863; his estate was administered upon; after paying his debts but little was left, which was used or expended for the support of his children; the administration has been closed long since.

Samuel M. Hays, one of the securities upon Clarke's bond, died in 1871. His estate has been administered upon; not yet closed. He left some property, both real and personal, but after the payment of the debts probated against the estate I think there will be but little left.

Hiram Brodie, one of the securities on Clarke's bond, died in February, 1875. The estate is being administered upon, and I am informed and believe that after the payment of the debts probated against said estate there will be but little left. The property of the estate was small in amount.

Sutton F. Cotterell, another of the reported securities, died about November, 1875, at Little Rock, Arkansas. His estate was insolvent. Had no property, as I am informed.

Charles F. Brown, another of the named securities upon Clarke's bond, is insolvent; has no property; took the benefit of the bankrupt law since the war and has been discharged; paid his debts in that way.

James M. Brown left this county in 1862; had property in negroes and mules at the time he left here and some real estate, long since sold. His present circumstances I have no means of knowing, as he resides in the State of Texas.

Jesse Turner I have known intimately for thirty-four years. He is a practicing attorney at this place, advanced in life, has some real estate, and should he have this debt to pay it will greatly embarrass him and he can only pay it at a great sacrifice of his small amount of property.

I have been engaged in the business of a merchant, most of the time at my residence, at Van Buren, Crawford County, for the past thirty-four years, and have, as I believe, the means of knowledge of the matters hereinbefore stated by me.

AUGUSTUS J. WARD.

Sworn to and subscribed before me this 15th day of February, A. D. 1878.

JOHN B. OGDEN,

Notary Public.

From the letter of the Solicitor of the Treasury and this affidavit we obtain the following facts:

George W. Clarke, the Indian agent, became defaulter, and his default was known to the Government December 31, 1856. No further action was taken in the matter until December 15, 1875, a space of nineteen years lacking fifteen days, the sureties being uninformed of the default for that space of time. Suit was brought March 6, 1877, which is more than twenty years after the right of action had accrued. If the Government had used proper diligence it is quite probable all or a good portion of the amount could have been made out of the principal; certainly the other securities could have all been compelled to pay their *pro rata* of the amount and these securities relieved to that extent. The Government, by its own laches, has lost a part of its security, and to that extent has damaged the other remaining securities.

In a case in England it was declared by one of the judges "that long dormant claims have more of cruelty than justice in them, and that Christianity forbids an attempt at enforcing the payment of a debt which time and misfortune have rendered the debtor unable to discharge." (See *A. Lout v. Cross*, 3 Bing. 11, 329.)

Of the original eight sureties, five are dead and three living, and possessed of very limited means, perhaps none worth anything, unless it be Jesse Turner, who is a practicing attorney, advanced in years, and owning a small amount of real estate.

Under the circumstances the committee believe that great injustice has been done to the sureties by the delay on the part of the Government, and think that the remaining sureties should be relieved from liability on said bond, and therefore report the accompanying bill and recommend its passage.

Mr. EDMUNDS. That involves the whole question of the propriety of not having a statute of limitations against the United States. That is all there is to it. These sureties of course knew that they had signed this bond. They had the means of knowing whether the bond had been forfeited or not. They did not choose to inquire; and the agents of the Government were negligent in not prosecuting when they ought to have done so. According to the principle of law which has always held in the United States, that the United States is not within the statutes of limitations, then there has been no default on the part of the United States. If that is an unsound principle of law, we ought to change the law in general; and as that involves this general principle, I think this case ought to go over, because it goes to the bottom of the whole thing.

The PRESIDING OFFICER. The consideration of the bill is objected to, and it goes over.

Mr. GARLAND. Before the case goes over, with the permission of the Senator from Vermont and as part of the history to go with it, I wish to have a letter from the Secretary of the Navy on this subject read, to show that the principal, George W. Clarke, after this immense default, was appointed by the Government a purser of the Navy in 1858.

The PRESIDING OFFICER. The letter will be read, if there be no objection. The Chair hears no objection.

The Chief Clerk read as follows:

NAVY DEPARTMENT,
Washington, April 10, 1878.

Sir: I have the honor to inform you, in reply to your letter of the 9th instant, that George W. Clarke, of Arkansas, was appointed a paymaster in the United States Navy June 2, 1858; August 20, 1858, he was ordered to the Supply; May 16, 1859, detached and settle accounts; January 9, 1860, to the Pawnee; February 10, August 21, 1860, detached and to the Powhatan; March 28, 1861, detached and settle accounts; April 3, 1861, ordered to Washington to settle accounts; June 1, 1861, dismissed from the naval service, from April 2, 1861.

Very respectfully, &c.,

R. W. THOMPSON,
Secretary of the Navy.

Hon. A. H. GARLAND,
United States Senate, Washington, D. C.

Mr. EDMUNDS. Mr. Buchanan made a great mistake in appointing him; that was all.

Mr. GARLAND. The only point about that is to show that the United States Government at the time thought the man was good enough to be made a purser in the Navy.

Mr. EDMUNDS. The Navy Department did not know of the default, probably.

Mr. McMILLAN. The Senator from Vermont has correctly stated the principle involved in this bill; and believing that the statute of limitations does not run against the Government, the Senator from Wisconsin [Mr. CAMERON] and myself were unable to vote for the allowance of this claim in the committee, and therefore dissented.

Mr. HEREFORD. I desire to say a word, inasmuch as—

The PRESIDING OFFICER. The debate goes on by general consent, objection having been made to the consideration of the bill.

Mr. EDMUNDS. I am called out for a moment; I do not object to the Senator going on, and if he will give me leave to say a word I shall be obliged to him.

Mr. HEREFORD. Certainly.

Mr. EDMUNDS. I merely wish to add, without going into the de-

bate now, that this kind of relief is rather novel here. I remember that three or four or five years ago a case from Indiana very much like this one was presented to the Senate, and after great consideration, I think the Senate declined to give the relief asked for, and upon the principle I have stated. Of course that does not prove that we were not wrong then. I thank my friend from West Virginia for giving me leave to say this much.

Mr. HEREFORD. Inasmuch as it devolved on me as a member of the committee to examine this case and make the report, I will state very succinctly the facts.

Mr. Clarke was appointed Indian agent, and being a defaulter his default was known to the Government in 1856. The Government took no action at all to notify the securities in any way of the default until 1875, nearly nineteen years, and no suit was brought upon the bond until 1877, more than twenty years after the right of action accrued. During that time, as is shown by the report, five of the securities died being insolvent, and their estates were wound up. The other three securities are worth nothing except perhaps it be one, Mr. Jesse Turner, who is a man of very small means. The committee thought that, inasmuch as the Government had lain upon its oars this length of time, keeping the securities ignorant of this default, it was a great hardship to the securities, and that if there was any loss it ought to fall on the Government, which was more able to bear it than the securities. It is shown by the report that the money could have been made out of the principal himself if the Government officers had been diligent in the prosecution of their duties.

The Senator from Vermont says that these securities could have ascertained the default soon after the default occurred. But they were led astray even as to the investigation of that matter, for from the document that was sent to the desk a moment ago by the Senator from Arkansas, (and the same facts appear in that document as do in the papers in this case,) it seems that about a year after this default the Government appointed this same man to another office, and one of the same securities that was on the original bond went upon his new bond. That was very good evidence to the securities that this man's bond was not in default upon his first appointment, for no security would suppose that the Government would appoint this man Clarke to another important office if he was still in default. Perhaps the Department itself did not know it; I do not know; but his having been appointed a second time to an important office after his default was very well calculated to mislead the securities and lead them to believe that his accounts as Indian agent prior to the second appointment were all square and settled in the Department.

It seemed to me, and it seemed to the majority of the committee, that under these circumstances the Government, after laying upon its oars twenty years, should not make this money now off one of the securities, he being the only one out of the eight that is now living and worth anything, and he very little.

It is true, as the Senator from Vermont has said, that this brings up indirectly the question as to the policy of there being a statute of repose as against the Government to do away with the old common-law doctrine that no time runs against the king. I think we should have just such a law. I think there should be a statute of limitation against the General Government as well as against the private citizens thereof, and this is only carrying out that principle. I think the Government should not lay on its oars for twenty years and allow the principal and the other securities to dispose of their property and thereby throw greater burdens upon the remaining surety.

If a creditor holds several securities in his hands and he relinquishes any one of those securities, he relinquishes his right against all of the securities; some of the authorities say even to the extent of the whole debt. All the decisions do not go so far, but the current of the decisions is that he loses his right, not merely to the extent of the security thus received, but even to the whole debt. That is just this case. By the delay on the part of the Government, the Government has lost a part of its security. Only three out of the eight sureties are alive, and only one out of the three is worth anything. The Government could have made the debt, as I said before, if it had proceeded within a reasonable time after the default. It then could have made the whole debt out of the principal. Now they seek to make it out of one of the securities after all but one are insolvent and five out of the eight are dead. I think it presents a case of very great hardship, and it presents a case where the Government should interfere, and say that we will not make this debt off this one security.

Mr. EDMUNDS. With general consent I should like to say a word in reply to my honorable friend from West Virginia. What he said about the law between private persons where a creditor gives up a part of his security is undoubtedly true to a certain extent. If I have got a security from a debtor where there is a surety, that security of course is also for the benefit of the surety, and if I voluntarily give up that I have done a wrong to the surety, a legal wrong; but if I have a debt against a man with eight sureties, and merely sit still within the statute of limitations and do not sue, because one of the sureties becomes bankrupt and another runs away that does not excuse the other sureties either in law or morals. They have a right to pay the debt any time they please; they can come and pay me the moment it is due, and then they can turn around against the other sureties and say, "contribute."

My honorable friend proceeds on the principle that a man who signs

a bond to the United States as a surety is under no sort of obligation to pay it until he is squeezed into doing so. I deny the proposition. It is a business transaction. He engages that his principal shall pay over and respond for the public money that is intrusted to him, and it is his business to see in the time of it, knowing as he does that he is responsible for that money, to see to it that his principal keeps his engagement and does pay it. The moment he finds that he has not done so, as he can at any moment by inquiry at the proper office, then it is his moral as well as legal duty to make up the money himself. He does not choose to do it; he waits; the Government waits as it ought not to do for the protection of other people I agree, but the Government has to deal through agents, a great many agents, and the people employing these agents employ them with the statement to the persons who have signed as sureties, "You are bound all the time; six years do not let you off; ten years do not let you off; twenty years do not; you are bound to take some interest in this thing yourself, and to see to it that your principal does respond to his obligations." The Government has not acted. It was a part of the contract that it need not act. The sureties assumed the duty of seeing to it that the principal did pay over the money. They did not choose to take any interest in the matter, and it ran along; some of the sureties have died. That is no ground.

Now, then, on the general principle, Mr. President—because I do not want to delay the other cases that are not disputable by talking about this—the principle upon which the statute of limitations does not apply to the Government is this, as distinguished from individuals: as I understand, between private individuals evidence is lost; the means of defense go away; the evidence of liability is lost; and therefore the law says, where everybody is looking out for his own interest, there shall be a limit to disputes about dealings between man and man. With the Government the case stands differently. The liability of an officer of the Government is always found in the public records made at the time. The amount of money that is intrusted to him appears in the public records of the Treasury evidenced by his vouchers. The amount of his expenditures, if he does his duty, is evidenced by public vouchers which have to be filed by law, within very short spaces of time, from time to time with his accounts. So the record evidenced all the time shows in general—there may be a possible exception here and there—exactly what the liability of the man is. In such a case the policy of the law is, and I think it a right policy, that this man and the men who engaged with him shall see to it that some particular clerk in some Auditor's office in the Treasury shall not let the thing be obscured by omitting his duty and thus let the sureties escape. That is the principle on which it stands. It is entirely different from a statute of limitations in respect to private persons.

Mr. HEREFORD. Will the Senator from Vermont allow me to ask him a question? Does he not think the Government, when they ascertained this defalcation in 1856, should have notified the sureties of that fact?

Mr. EDMUNDS. No sir, the law imposed no such obligation.

Mr. HEREFORD. The law does not, it is true.

Mr. EDMUNDS. It was the affirmative duty of the sureties, and they were bound to know, just as much as the clerk was who settled the account, how the account stood. Now, the question is whether you are to visit the tax-payer with the default of the clerk, if you say it is a default; whether when two persons are in fault, the surety for not paying the money as he ought, and the clerk for not telling his principal, as he ought, which is to suffer?

Mr. HEREFORD. I should like to call the Senator's attention to another fact in this case, which perhaps he did not know before; and that is that after the defalcation on the first bond, the Government appointed Clarke again to another important office. Was not that likely to mislead the securities on the first bond?

Mr. EDMUNDS. Not in the least degree if the sureties did their duty.

Mr. HEREFORD. It so much misled them that one of the same men went on the second bond.

Mr. EDMUNDS. Probably he went on the second bond, if he understood his rights and wanted to protect them, on the principle that his principal was perfectly capable of paying up the whole debt. I do not agree that Mr. Buchanan did right in appointing this man over again, but probably Mr. Buchanan did not know anything about the default for the very reason that I have stated, that the President of the United States and the Secretary of the Treasury cannot know every man's transactions with the Government. The duty was on the surety just as much as it was on the officers of the Government, and the surety, supposing he knew as he was bound to know and could have known at any moment how the account stood, might very well have said, "This man owes the Government a thousand dollars; now he is perfectly responsible; out of the salary that he is going to get from this new office he will pay it up in three months," and signed the new bond. Certainly when he was called upon or asked by his friend to sign the new bond, he could very well have said, "Mr. Paymaster—if that was the man—" how is it about that transaction that I signed your bond for before? I think I will ask the accounting officer of the Treasury how your account stands." He does ask and finds how it stands, and has the choice to sign or not as he likes.

The difficulty with the proposition is, you are to say all the time that we are responsible for the neglect of some of the minor officers

of the Government to push these claims, and are entirely estopped by the fact that by reason of their not being pushed the President of the United States and the Secretary of the Navy, who knew nothing about the former transaction, have been cheated into appointing this man again with the same sureties. Mr. President, in the language of the Senator from Ohio, [Mr. THURMAN,] "that won't do." I am sorry for this particular gentleman. He ought to have attended to his interest when he could protect himself; but he did not choose to do it. It is his misfortune, but I am opposed to taxing the people to make good that misfortune. However, the thing is to go over and I will not go into it further.

The PRESIDING OFFICER. The next bill will be stated.

J. W. RICHARD AND J. S. BROWN & BROTHER.

The next bill on the Calendar was the bill (S. No. 88) for the relief of James W. Richard and J. S. Brown & Brother, Denver, Colorado; which was considered as in Committee of the Whole. It proposes to appropriate \$5,004 to pay James W. Richard and J. S. Brown & Brother, of the city of Denver, Colorado, for flour delivered to the Los Pinos Indian agency in Colorado during the year 1875.

The Committee on Indian Affairs reported the bill with an amendment, to insert before the words "four dollars" the word "twenty;" so as to make the amount \$5,024.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. HOAR. Is there any report accompanying that bill?

The PRESIDING OFFICER. There is; the report will be read.

The Secretary read the following report, submitted by Mr. OGLESBY on the 5th instant:

The Committee on Indian Affairs, to whom was referred the bill (S. No. 88) for the relief of James W. Richard and J. S. Brown & Brother, of Denver, Colorado, report:

That the testimony in the case shows that H. F. Bond, United States Indian agent for the Los Pinos agency in Colorado, entered into a contract with the firm of J. W. Richard & Co., of Denver, Colorado, for the purchase from said Richard & Co. of one hundred thousand pounds of flour, to be delivered by said firm to the new agency located in the Uncompahgre Valley, on or before 25th December, 1875, at the price of \$11.95 per one hundred pounds; that prior to said agreement with said firm the said Indian agent had advertised for bids for furnishing said flour, according to the regulations of the Indian Bureau, and received, under such notice, two bids, one to furnish said quantity of flour at \$9.50 per hundred pounds and the other to furnish it at \$8.50 per hundred pounds, but that subsequently both of said offers of contract were forfeited by the parties making the same. Thereupon said agent claims that he was forced to go into the market at Denver and offer to purchase the flour, and that said Richard & Co. made the lowest bid to furnish the same at the point first stated in this report. The evidence further shows that Richard & Co. delivered all of said flour at what is known as the "old agency," about ninety miles nearer the city of Denver than the Los Pinos agency, the point at which the flour was to have been delivered under the contract. Notice of this contract with Richard & Co. having been furnished to the Indian Department, the Commissioner refused to confirm the same, and notified the Indian agent and Richard & Co. of the fact.

In the mean time, however, the agent had issued to the Indians of the Los Pinos agency sixty-two thousand eight hundred pounds of said flour. The remaining thirty-seven thousand two hundred or three hundred and seventy-two sacks were by the agent returned to and accepted by the said J. W. Richard & Co. Afterward said firm of Richard & Co. agreed to accept from the Indian Department in payment in discharge of said sixty-two thousand eight hundred pounds, distributed to the Indians as aforesaid, eight cents per pound. The Commissioner of Indian Affairs accepted these terms and agreed that the amount should be recognized by the Department as a just claim for the amount of flour furnished in quantity and quality as set out in the contract.

The committee herewith inclose communication from the Commissioner of Indian Affairs upon this subject, dated February 15, 1877, addressed to Hon. WILLIAM R. ALLISON, United States Senate; and a further communication, dated February 22, 1878, from B. A. Hayt, Commissioner of Indian Affairs, addressed to Hon. H. M. TELLER, of the Senate, upon this subject, in which communication the Indian Bureau recognizes the justice of the claim, and recommends its payment.

But as said contract was not made in accordance with the regulations of the Indian Bureau the amount cannot be paid out of the regular appropriation for such purpose; a special act of Congress is deemed necessary in order to furnish the same.

The bill provides for an appropriation of \$5,004; the sum admitted to be due by the Indian Bureau is \$5,024.

The Committee on Indian Affairs have amended the bill accordingly, and, as amended, recommend its passage.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ROBERT PLATT.

The next bill on the Calendar was the bill (S. No. 797) for the relief of Acting Master Robert Platt, United States Navy; which was considered as in Committee of the Whole. By its terms the President of the United States is authorized to appoint Acting Master Robert Platt, United States Navy, for long and meritorious services, a master in the regular Navy of the United States, not in the line of promotion.

Mr. SARGENT. I think there will be no objection to this bill. This man rendered long and faithful service as an acting officer of the Navy. We propose that he shall retain the rank he now has without opportunity of promotion. He has rendered very great service in the Coast Survey, been engaged in the survey of nearly all of the Atlantic coast the last fifteen or twenty years. We thought it was an exceptional case, that he ought to have this recognition.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

SUBURBAN RAILWAY COMPANY.

The next bill on the Calendar was the bill (S. No. 532) to incorpo-

rate the Suburban Railway Company of Washington, in the District of Columbia.

Mr. ALLISON. I think that bill had better go over.

Mr. HARRIS. I hope my friend from Iowa will not object to the consideration of this bill. I do not think there can be any objection to it, and it is important to the parties interested in it that it be disposed of one way or the other. If this charter is to be granted it is very important that it should be at once, so that they may have the good weather of summer for the purpose of proceeding with the improvement.

Mr. ALLISON. I ask the Senator from Tennessee if there were modifications made in the bill?

Mr. HARRIS. Exactly according to the suggestions made by the Senator from Iowa.

Mr. ALLISON. I withdraw my objection.

The amendment reported by the Committee on the District of Columbia was read, being to strike out all after the enacting clause and insert:

That Joseph B. Bryan, Robert K. Elliott, J. Sayles Brown, B. F. Guy, George W. Linville, John J. Johnson, W. G. Palmer, Octavius Knight, Amos Hunt, Andrew Kremer, William H. Claggett, John C. McKelden, Walter R. Irwin, Leopold Luchs, John W. Boteler, Franklin Rives, Lewis Clephane, Clark Mills, and H. Nelson Chapman, their associates and successors, are hereby constituted a body-corporate by the name, style, and title of the Suburban Railway Company of Washington, in the District of Columbia, with power to sue and subject of being sued, plead and being impleaded; and cause to be made for the use of said company a seal, and the same to change at pleasure; with authority to construct a single or double track railway, with the appurtenances thereto belonging, within the city of Washington, and extending the same beyond the boundary of said city, as hereinafter described, within said District.

SEC. 2. The said railway shall commence at or near the junction of Nineteenth and E streets northeast, as represented and described on the survey and plat of Rosedale and Isherwood estates, additions to the city of Washington; thence northerly through said Nineteenth street to its termination at the Benning's Bridge road; thence in a northwesterly direction, so as to form an easy curve for the working of cars, and thence northerly and parallel with a private road owned and used by Bernard Guyer, John Ebert, Andrew Darr, Leonard Sells, Valentine Hess, — Phillips, and Joseph Miller; thence near the base and on the eastern side of "Mulligan Hill," thence through lands of Walter R. Irwin and lands belonging to the estate of the late William Hickey; and thence crossing the old turnpike at a point near the northwest corner of the farm upon which is located the Boys' Reform School, and continuing in a northerly direction to the most feasible point of crossing the tracks of the Baltimore and Ohio Railway Company, and through the lands of J. Sayles Brown to the State line of Maryland.

SEC. 3. There shall be two branches of said railway, namely: The first commencing at the western terminus of said railway, and running in a westerly direction, parallel with lands of William H. Claggett, described on the plat of Rosedale and Isherwood as No. 25, and lands of Andrew Kremer, to junction with F street and Fifteenth street, northeast; thence through said F street to its junction with New Jersey avenue; thence southward through said avenue to C street, northwest; thence through C street to First street, northwest; thence through Indiana avenue to a point at or near the front entrance of the east wing of the City Hall: *Provided*, That if, on an examination by a competent engineer, it shall appear that the public interests and convenience shall be subserved thereby, the said company are hereby authorized to lay a single track only from New Jersey avenue at its intersection with D street, and through said street northward to the intersection of the same with Indiana avenue to the point of terminus, as hereinbefore mentioned. The second branch of said railway shall commence from the aforesaid western terminus, and be located on Nineteenth street, east, passing in front of the jail of said District, to Georgia avenue; thence through said avenue to point near the northern entrance of the navy-yard, and no further.

SEC. 4. The said railway and its branches shall be deemed real estate, and, together with other real and personal property, shall be liable to taxation as other real and personal property, and to none other.

SEC. 5. That the capital of said company shall not exceed \$250,000, to be divided into shares of \$50 each, and shall be deemed personal property, and transferable in such manner as the by-laws of said company shall direct.

SEC. 6. That the said company are hereby authorized to appropriate, outside the limits of the city of Washington, a strip of land on the route of said road twenty-five feet in width, with a gauge of track not to exceed three feet in the clear, which said gauge shall be alike applicable to the branches, and shall furnish commodious and comfortable cars for use on said road; shall, also, provide shelter at stations for passengers, and ticket-offices as the business of the company shall require; and shall have the right to run public carriages thereon, propelled by steam or other approved motor power, receiving therefor a rate of fare not exceeding five cents a passenger within the city limits, and five cents additional to the line of the District: *Provided*, That in case of consolidation with any railway company belonging within the jurisdiction of Maryland, and leading from Hyattsville to the aforesaid District line, the fare shall not in the whole distance of the said consolidated railway exceed twelve cents per passenger.

SEC. 7. That nothing herein contained shall prevent the Government of the United States from altering the grade or otherwise improving the streets and avenues through which said railway track or tracks shall be laid, and in such event it shall be the duty of the said railway company to conform to such alterations and improvements. And it shall be the duty of said railway company to keep said tracks, and for the space of two feet beyond the outer rail thereof, and also the space between the tracks, at all times as well paved as other portions of said streets are paved, and in good order, without expense to the United States, the city of Washington, or the District of Columbia; and that said railway tracks shall be laid in the center of the streets, as near as may be, in the most approved manner adapted to street railways, with rails of the most approved pattern, to be determined by the chief executive authority of the District of Columbia; the rails to be laid upon an even surface with the pavement where the streets are paved, and where the streets are not paved, upon an even surface with the grade of the street; and the space between the tracks shall not be more than six feet within the city limits.

SEC. 8. In consideration of the concessions of the right of way through the streets and avenues of the city of Washington, as heretofore mentioned, by the Government of the United States, it shall be obligatory upon the said railroad company, upon the completion of the F street branch aforesaid, to place upon said track such prison van or vans as the Government shall provide, for the purpose of transmitting, from time to time, as the supreme court of the District of Columbia shall order and direct, all prisoners held in custody in the jail of the District of Columbia to the City Hall, and returning the same to said jail, for which service the said railway company shall be entitled to such compensation annually as shall be reasonable and just, to be paid as other expenses of the supreme court of the District of Columbia are paid.

SEC. 9. That whenever the owners of land through which it is proposed to build

said railway shall refuse to agree with the said company as to the price to be paid for the right of way contemplated in section 2 of this act, it shall be lawful for the said railway company to apply to the proper authority of said District for such relief as may be required, and in the manner provided in chapter 18, class 7, of the Revised Statutes of the United States for the District of Columbia, approved June 30, 1874, in relation to the condemnation of lands for railway purposes.

SEC. 10. That within thirty days after the passage and approval of this act the corporators herein named, or a majority of them, or if any refuse to act, then a majority of the remainder, shall cause books of subscription to so much of the capital stock of said company as shall be necessary to build and equip said railway, the amount to be determined by said corporators, to be opened and kept open in some convenient place or places in the city of Washington for a period to be fixed by said corporators, not less than two days; and said corporators shall give notice by advertisement in some daily paper published in said city, of the time and place where said books shall be opened; and subscribers to said stock on said books shall be held to be stockholders: *Provided*, That no person shall be permitted to subscribe for more than two hundred shares: *Provided further*, That each subscriber shall pay, at the time of subscribing, 15 per cent. of the amount subscribed to the treasurer appointed by said corporators, or said subscription shall be null and void. If at the end of twenty days a larger amount than is estimated to be sufficient to construct and equip the railway as aforesaid shall have been subscribed, the books shall be closed and the corporators herein named shall proceed to apportion the stock so taken among the subscribers *pro rata*, and make public proclamation of the number of shares allotted to each, which shall be completed on the day the books are closed: *Provided*, That nothing shall be received in payment of the percentage as aforesaid but money. When the books of subscription of stock shall be closed as aforesaid, the corporators, or a majority of them, and in case any of them refuse or neglect to act, then a majority of the remainder shall, within ten days thereafter, call the first meeting of the stockholders of said company to meet within ten days thereafter for the choice of seven directors, of which public notice shall be given for five days in some daily paper published in the city of Washington or by written or printed personal notices to each stockholder by the secretary of said company. And in all meetings of stockholders each share shall entitle the holder to one vote, which may be given in person or by proxy.

SEC. 11. That the government of the affairs of the said company shall be vested in a board of directors, who shall be stockholders, and who shall hold office for one year, and until others are duly elected and inducted to take their places. A majority of said directors, the president being one, shall constitute a quorum; shall elect a president of the board, who shall be president of the company; they shall also choose a secretary and treasurer, the latter giving bond with security to said company in such sum as shall be prescribed by the directors, for the faithful discharge of his trust. In case of a vacancy in said board by death, resignation, or otherwise, the same shall be filled by the remaining directors.

SEC. 12. That the directors shall have power to make such by-laws and regulations as shall be needful respecting the disposition and management of the stock, estate, and effects of said company, not contrary to this act or the laws of the United States, and especially those enacted for the government of the District of Columbia: *Provided*, That the directors of said company shall have power to require the subscribers to the stock to pay the amount subscribed at such time, after the first installment in such manner and in such amounts as they may deem proper; and if any stockholder shall refuse or neglect to pay any installment as required by resolution of the board of directors, after reasonable notice of the same, the said board of directors may sell at public auction, to the highest bidder, so many shares of his stock as shall pay said installments, under such general regulations as may be adopted in the by-laws of the company, or said body-corporate may sue and collect the same from any delinquent subscriber in any court of competent jurisdiction.

SEC. 13. That there shall be an annual meeting of the stockholders for the choice of directors, to be held at such time and place and under such conditions as the directors shall prescribe; and the said directors shall make a detailed report annually of their doings to the stockholders in general meeting.

SEC. 14. That all persons exercising municipal authority in said District, the officers or agents of any body-corporate within said District, are hereby prohibited from doing any act or thing to hinder, delay, or obstruct the construction or operation of said railway herein authorized.

SEC. 15. That said company shall have at all times the free and uninterrupted use of said railway. And if any person or persons shall willfully and wrongfully obstruct or impede the passage of, or destroy or injure the cars, depots, stations, or any other property belonging to said railway company, the person or persons so offending shall forfeit and pay for each such offense the sum of \$10 to said company, to be recovered and disposed of at such times and penalties as in said District, and shall remain liable, in addition to said penalty, for any loss or damage occasioned by his, her, or their act as aforesaid; but no suit shall be brought unless commenced within ninety days after said offense shall have been committed.

SEC. 16. That the construction of said railway shall be completed within two years after the passage of this act; otherwise all rights and privileges herein contained shall cease and be determined.

SEC. 17. That no person shall be prohibited the privilege to travel on any part of said railway, or ejected from the cars thereof, for any other cause than that of being drunk, profane, disorderly, unclean, contagiously diseased, or refusing to pay the legal fare demanded, or to comply with the general regulations of the company.

SEC. 18. That for the purpose of facilitating the construction of said railway and equipping the same, the said company is hereby authorized to borrow money to any amount not exceeding \$150,000, at a rate of interest not to exceed 8 per cent. thereon, payable annually for the first two years of the loan, and to issue coupon bonds therefor, in sums of \$20; and, to secure the payment of said bonds and the interest accruing thereon, shall execute and deliver to such trustee or trustees as shall be selected by the president and directors of said company, a mortgage or mortgages of all or any part of the property belonging to said company: *Provided*, That the interest accruing on said bonds after two years have expired as aforesaid shall be paid semi-annually.

SEC. 19. That the transit of the cars of said company on any portion of said railway within the city limits shall not exceed six miles per hour: *Provided*, always, That at all crossings of streets the momentum of the cars shall be reduced to a rate so slow as to be instantly stopped, and when receiving and discharging passengers the motion of the cars shall cease.

SEC. 20. That whenever the line of any railway of similar construction in the State of Maryland shall be desirous of passing cars over the railway hereby established without break or interruption, such foreign railway company is hereby authorized to consolidate with the railway company hereby created by entering into an arrangement, under the corporate seal of each, prescribing the terms and conditions thereof; the mode of carrying the same into effect; the name of the new corporation; the number of its directors, which shall not exceed thirteen, nor a less number than seven; the time and place of holding the first election for directors; to fix and establish the capital stock of said company, not exceeding \$300,000, the shares being limited to \$50 in amount; the manner of converting the shares of capital stock in said corporations in shares in such new corporation; the manner of compensating stockholders in each of said corporations who refuse to convert their stock into stock of the new corporation; with such other details as shall be necessary to perfect the consolidation of said corporations; and such new corporation shall possess all the powers, rights, and franchises conferred originally upon said corporations, and shall be subject to all the restrictions and perform all the duties imposed by this act.

SEC. 21. That this act may at any time be altered, amended, or repealed by the Congress of the United States.

Mr. HOAR. I should like to inquire of the Senator who reports this new draft of this bill whether this railroad track crosses any public property of the United States.

Mr. HARRIS. No, sir. The fact is that the route provided for by the bill does not touch, except the streets of the city so far as it passes over those, any public property.

Mr. HOAR. What is the length of the railroad and branches?

Mr. HARRIS. The northern branch I suppose is six or seven miles long; running through the country.

Mr. HOAR. Is it intended to be a horse railway or a steam-railway?

Mr. HARRIS. It is intended to be propelled by a dummy engine, by steam.

Mr. HOAR. The bill seems to provide for the construction of this railroad track through the streets of the city of Washington and the District of Columbia, and provides for one of the branches extending to a point out near the present depot of the Baltimore and Ohio Railroad, and the main line extending to a point where it crosses that road at the line of the State of Maryland, and it contains an authority to consolidate with any steam-railroad in the State of Maryland. It seems to me that this bill, in substance, might authorize the Baltimore and Ohio Railroad to extend its road along this track to any extent, and to use it as an ordinary steam-railroad, with the sole limitation that cars shall not go more than six miles an hour where they cross streets.

Mr. HARRIS. If the Senator from Massachusetts will carefully examine the section to which he refers I think he will see that such construction would be impossible; and, if possible, I should be glad if the Senator from Massachusetts would prepare such amendment as will effectually exclude the idea that he expresses, and I shall most cheerfully accept it.

Mr. HOAR. Will the Senator point out the clause in the bill which prevents that construction?

Mr. HARRIS. The section that authorizes consolidation confines the consolidation to a road of a similar character to the one that is here incorporated.

Mr. HOAR. That is a railroad constructed in the ordinary way, to be propelled by steam, and without any accountability to any public authority, the authorities of the District or any other. I think the bill had better go over, Mr. President.

The PRESIDING OFFICER. (Mr. CAMERON, of Wisconsin, in the chair.) Objection being made, the bill will be passed over.

Mr. HARRIS. I should be glad if the Senator would prepare an amendment excluding the possibility of that construction, and let the bill be acted on to-day. It is one in which I have no earthly interest, of course; but to the parties who are interested it is important, if they are to have this charter at all, that it be granted at the earliest day possible.

Mr. BLAINE. While the two Senators may agree on an amendment, I will call up a conference report.

Mr. HOAR. I think the bill had better go over.

The PRESIDING OFFICER. Objection being made, the bill will go over.

IMPROVEMENTS OF FOX AND WISCONSIN RIVERS.

Mr. MATTHEWS. I should like to interrupt the call of the Calendar for a moment in order to have a resolution passed requesting information from the Secretary of War. I offer the resolution:

Resolved, That the Secretary of War be, and he is hereby, directed to report to the Senate what amounts of money have been expended for improvements of the Fox and Wisconsin Rivers and intersecting canal or canals in the State of Wisconsin; also how much it will cost to complete the said improvements so as to make the same navigable and useful, and what public benefit has been or is likely to be derived from such improvements and expenditure; also how much money has been expended for procuring the right of way, flowage or damage to private property, and how much money has been expended for attorneys' fees in settling rights of way; the names of the attorneys and the names and salaries of all men employed as superintendents upon the said improvements.

Mr. CAMERON, of Wisconsin. I object to the present consideration of the resolution.

The PRESIDING OFFICER. (Mr. HOAR in the chair.) The resolution lies over under the rule until to-morrow.

DEFICIENCY APPROPRIATION BILL.

Mr. BLAINE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 15, 16, 18, 19, 25, 28, 30, 31, and 37.

That the House recede from its disagreement to the amendments numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 17, 20, 24, 26, 27, 32, 33, 34, 35, and 36, and agree to the same.

That the House recede from its disagreement to the amendment numbered 12, and agree to the same, with an amendment as follows: Strike out of said amendment the words "and binding," and strike out "forty" and insert in lieu thereof "thirty," and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 21, and agree to the same, with an amendment as follows: Strike out the word "fifteen" and substitute therefor the word "twelve," and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 22, and agree to the same, with an amendment as follows: Strike out the words "two thousand" and insert in lieu thereof "fifteen hundred;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 23, and agree to the same, with an amendment as follows: Amend the title of the bill by inserting after the word "years" in said title the words "for subsistence of the Army;" and the Senate agree to the same.

J. G. BLAINE,

JAS. B. BECK,

Managers on the part of the Senate.

EUGENE HALE,

JAMES H. BLOUNT,

Managers on the part of the House.

Mr. BLAINE. I will explain the report briefly. The conference report is signed by two members of the House and two of the Senate. The bill as it came from the House had thirty-seven amendments put upon it by the Senate. Those that the House refused to agree to and that the Senate conferees have receded from I will explain, which will be all that will be necessary.

In the case of the printing and binding for the Interior Department we agreed to strike out the words "and binding," so as to confine the appropriation to printing, and we agreed to reduce it from \$40,000 to \$30,000.

"For general repairs and improvements" for the Government Hospital for the Insane an appropriation of \$5,000 was added by the Senate which our conferees recede from. We have agreed that it may go over to be taken up in the general deficiency bill. These are only partial deficiency bills that we are now considering.

The appropriation for \$75,000 for the schools of the District of Columbia the Senate conferees recede from. I will explain this more at length in a moment.

From the appropriations for the Rocky Mountain surveys and for the geological and geographical surveys of the Territories, a deficiency of \$25,000, the Senate recede.

The Senate conferees agreed to change the amount in the amendment for the mint at San Francisco from \$15,000 to \$12,000, on the recommendation of Dr. Linderman. A similar change was made for the mint at Denver by reducing it from \$2,000 to \$1,500.

I will not speak of the numerous amendments which the House has receded from their disagreement to.

"For fertilizers, material, and labor on the Capitol grounds during the present fiscal year," the Senate amended the House bill by inserting \$20,000 instead of \$9,000. The Senate conferees were compelled to recede on that point.

"To ascertain the depth of water and width of channel secured and maintained from time to time by James B. Eads at the South Pass of the Mississippi River, and to enable the Secretary of War to report, during the construction of the work, the payments made from time to time, and the probable times of other payments, and to report," &c., the Senate put in an appropriation of \$7,500, which the Senate conferees have agreed to recede from, on the ground that they thought it required a little further investigation and it would be readily taken up and would be quite as available in the next bill.

"For printing and binding for the War Department, to be done at the Government Printing Office, a deficiency for the fiscal year 1878, \$18,000," is an amendment that the Senate recede from.

"To repay to the Smithsonian Institution expenses incurred in the transportation of public documents under the joint resolution approved July 25, 1868, \$1,781," is an amendment that the Senate recede from.

The only point upon which there was a very considerable reluctance on the part of the Senate conferees to recede was on the \$75,000 appropriated for the schools of the District of Columbia, and the \$25,000 for the Hayden survey. There was a little more disposition to recede because of the absolute impossibility, as it appeared, of securing an agreement with the House on the appropriation for the District schools, and a little more disposition also because of the fact that there was some misapprehension in the Senate when the provision was agreed to, owing to a statement made by the Senator who is chairman of the District Committee, also under a misapprehension, that the \$75,000 of last year had been repaid. The commissioners of the District frankly appeared before the Committee on Appropriations of the House and said that had not been done and that there was no expectation of it ever being done, and a letter from the Secretary of the Treasury stated the same thing. So this was regarded in the nature of a gratuity or an advance direct from the Treasury to the District. I should myself be entirely willing to vote for it on that ground; but it appeared to me that that was not the ground upon which the Senate voted for it, and my own views of propriety induced me to recede on that account, leaving it for the Senate to deal with it on this bill or hereafter as it may see fit. I certainly feel authorized to say that an agreement with the House upon it in the present attitude of the case is simply an impossibility, and therefore we had to take Hobson's choice.

Mr. EDMUNDS. What is the consequence? Will the schools stop?

Mr. BLAINE. I know nothing more than that the consequences, it seems to me, will be serious. There is a deficiency in the funds of the District, not a deficiency technically, as we had that question up when the appropriation was here before, not a deficiency which we are bound under the law to provide for, but there is a deficiency of resources to maintain the schools.

Mr. EDMUNDS. Does not the present law require the schools to be maintained?

Mr. BLAINE. There is no obligation whatever on the part of the Treasury of the United States, there is no obligation under which the United States have obliged themselves by law. I think probably that the Senator from Vermont will agree with me that there is a very strong moral obligation to do it which I am ready to vote to fulfill at any time, but that there is a statute obligation to do it I never contended.

Mr. EDMUNDS. I think my honorable friend misapprehended the question which I put in my seat. I do not maintain at all that the United States is under any legal obligation to appropriate this money; but my inquiry was whether under the state of the existing law applicable to the District it is not the duty of the District authorities out of the District funds to provide for these schools?

Mr. BLAINE. Yes; but they have not got the money.

Mr. EDMUNDS. But there is a general fund of taxation that brings in money every year.

Mr. BLAINE. There is undoubtedly, and we might just as well look the thing in the face, although probably this deficiency bill is not the precise place to discuss it. There is a chronic deficiency in the finances of this District. They are not able to maintain themselves and to fulfill the obligations which in the law they are expected to perform by the present available resources coming from taxation. The debt is so large, the times have been so hard, the shrinkage has been so great, that considering the amount of property available for taxation, notwithstanding municipal debt is the scourge of this country, Washington City has the largest debt in proportion to wealth of any city in the Union. I may be wrong, but I think it is so.

Mr. MERRIMON. Did I understand the Senator to say a moment ago that the advance made by the Treasury to the commissioners last year for the purposes of public schools has not been refunded?

Mr. BLAINE. It has not been, and the Senator will remember that a statement, which must have been made inadvertently, was made by the chairman of the Committee on the District of Columbia, and he made it in accordance with what I thought was the fact also, that it had been refunded. It was so stated here.

Mr. MERRIMON. I am very much astonished at that, because my information was that it had been refunded.

Mr. BLAINE. So I thought; and it was the influence of the Senator from North Carolina, I may say, that carried the amendment. It was somewhat debated, and the way it was reported was in the form in which the previous appropriation of \$75,000 had been made, to be paid out of the proceeds derived from taxation not needed for other purposes. That on its face was almost a giving away.

Mr. EDMUNDS. That put the schools at the foot of the list.

Mr. BLAINE. Oh, no; we advanced them \$75,000 to be repaid out of moneys raised by taxation in the District which were not needed for other purposes.

Mr. EDMUNDS. But all the money was needed for something else.

Mr. BLAINE. It would be very likely to be. It would be very much like an individual agreeing to pay \$10,000 when he found it convenient and had that amount on hand for which he had no other possible use.

Mr. DORSEY. I hope the Senator from Maine will allow me a word. The other day when this matter was up I stated that the \$75,000 which the United States advanced last year for the support of these schools had been repaid. I made that statement upon the authority of the school board, just as I recollected. At all events if they did not make the statement in so many words, they left the impression on my mind, and I think on the mind of all the members of the committee, that the money had been refunded that was advanced last year, and that this \$75,000 was to be refunded in the same way.

Mr. BLAINE. I shared in the mistake of the Senator and by silence I was just as much in a certain sense accountable for the error as he by speech. But as a matter of fact, it was not repaid, and the commissioners, Governor Dennison and Mr. Bryan (so the House conferees inform us) have appeared before their committee, honestly desiring to inform them that if there was any expectation of this money being repaid the foundation for such a hope was very fragile, and that there had never been an expectation that it would be repaid, and that is what induced me as one conferee on the part of the Senate to recede, because it seemed to me then that the appropriation had been made upon a misapprehension of facts, for a part of which misapprehension I had to charge myself. The Senator from North Carolina follows me, I am sure, in all this statement.

Mr. MERRIMON. Yes, sir; I am utterly amazed at what the Senator tells the Senate. I learned in committee—exactly how I do not now remember—that the money advanced last year had been refunded, and I had the impression that the law was peremptory requiring it to be refunded; and when I saw that there might be a loop-hole in the measure before the Senate by which persons desiring to do so might escape refunding the money, I made the motion I did the other day so as to make the law, if the bill should become a law, peremptory. I thought the law of last year was peremptory. I am astonished at this information.

Mr. BLAINE. I remember very well the Senator's statement, and it carried the appropriation beyond a doubt. I have said all that I feel called upon to say in regard to it.

Mr. SARGENT. I should like to ask the Senator from Maine if the \$2,000 payable to the Howard University for rent of the Freedmen's Hospital is retained?

Mr. BLAINE. Yes, sir; and I can in a moment tell what was put in. All the amendments, nine in number, relating to expenditures for the Senate were agreed to without dispute. The items for the Government Hospital for the Insane, of \$9,583 for deficiency, are agreed to. The rent for the Freedmen's Hospital is agreed to. All the appropriations for the mints, with the few changes I have alluded to, are agreed to. The appropriation for expenses incurred in obtaining abstracts and information of real estate acquired under the internal-revenue laws of \$600 is agreed to.

One item I have omitted. We amended the forty-thousand-dollar appropriation for surveyors and gaugers by making it \$100,000. That amendment is now receded from.

The appropriation "to complete the work of adapting the ponds in the Monument lot in the city of Washington to the culture of carp for distribution throughout the United States," the House agrees to.

The House agrees to the three-hundred-thousand-dollar advance for the subsistence of the Army, in order that there may be some advantage taken of the current of the Missouri, insisting, however, as the House did that the title of the bill should be changed, as that was not in any sense a proper deficiency; so that the title is changed so as to embrace that object.

Mr. EDMUNDS. Did we disagree to the title before?

Mr. BLAINE. No; but this changed the object of the bill so much that the House conferees in agreeing to it said that the title ought to be changed because it was not properly a deficiency.

Mr. EDMUNDS. The title was outside your authority.

Mr. BLAINE. Most decidedly not outside of our authority. The House agree to the expenses for the Des Moines Rapids; the House agree to the deficiency for the Marine Corps; the House agree to the appropriation for the observation of the solar eclipse in July, 1878; the House agree to the amendment to print a set of watch and station bills at the Government Printing Office, for the Navy; they agree to the deficiency appropriation for the New Brunswick and Canada Railway; and in fact the House conferees were very liberally and kindly disposed.

Mr. WINDOM. Mr. President, I had the honor to be a member of the conference committee whose report has just been submitted, and regret that I was unable to concur in the report. I will very briefly state some of the reasons.

There are several of the Senate amendments from which the conferees on the part of the Senate have receded which I think ought to have been insisted upon. In the first place, on page 9 of the bill the Senate inserted an amendment striking out \$10,000 and inserting \$100,000 "for salaries, expenses, and fees of store-keepers, agents, surveyors, gaugers, and miscellaneous expenses." Possibly I would have consented to recede from this amendment if it had been the only one about which there was difficulty. The action of the conference committee on this proposition amounts to simply this, that we shall have to appropriate another deficiency hereafter, it will probably make necessary the addition of another deficiency bill to the long list of that kind of bills which have come before the Senate this Congress. I think we have already had seven from the House of Representatives. The Commissioner of Internal Revenue tells us most distinctly and positively that unless he has from \$100,000 to \$150,000 more for this branch of the service the Treasury will suffer severe losses from his inability to properly guard the revenues, that this appropriation is necessary to enable him to collect the taxation imposed by the law upon the distillation of whisky, &c. Forty thousand dollars was appropriated for this by the House of Representatives; \$150,000 the officer in charge says is absolutely necessary. The Senate, in the exercise of its discretion, and of sound judgment in my humble opinion, increased it \$100,000. It ought to have been more, but even we temporized a little on that subject preferring to divide the sum into two or three rather than face the question squarely and appropriate what is absolutely necessary for the service. The conference committee yielded the \$100,000, making it \$40,000, thus providing for deficiency bill No. 8, or for a loss to the revenue several times greater than the sum asked for.

Now I enter this prophecy, Mr. President, and I ask the Senate to note it, that if we agree to this conference report, just so certainly as we remain here until the 30th of June we shall be informed of a loss of revenue or be compelled to appropriate another deficiency for this purpose. I am thoroughly weary of dividing these deficiency bills and subdividing them into eight, ten, fifteen, or twenty—nobody knows how many—when a single deficiency bill, or at most two, should cover the whole ground. When we know that a certain amount of money is necessary to carry on the Government, why not appropriate it at once instead of dividing it into half a dozen sums. That sort of division is not economy.

I made the suggestion some time ago that it would be an accommodation to the Senate to have the deficiency bills numbered. Lettering would not do, because there are only twenty-six letters in the alphabet, but numbers run on indefinitely, and will therefore be more convenient for this purpose.

There will probably be no great loss of revenue if we shall come in hereafter and appropriate in some other bill the amount which the conference has agreed to strike out; but I am tired of that sort of

thing. My chief objections were to one or two other propositions. The thirty-first amendment, for instance, was—

For printing and binding for the War Department, to be done at the Government Printing Office, being a deficiency for the fiscal year 1878, \$18,000.

Now what are the facts with reference to this item? The Senate, upon the recommendation of the Committee on Appropriations, inserted it in the bill. It was one of the items referred to the conference committee. A majority of the conferees on the part of the Senate have receded from that proposition. Under what circumstances? Let me tell you. There are no funds now at the command of the War Department for its printing. They estimated for 1878 \$149,850 for that purpose, and in harmony with our custom for two or three years past to reduce appropriations and call it economy, no matter what the service required, to provide for deficiency bills, and try to persuade somebody that we had thereby saved money, we appropriated for the year 1878, instead of \$149,000 or somewhere near the required sum, \$72,000 for printing for the War Department. They come in and tell us now that they cannot get along with less than from \$20,000 to \$25,000 more for that purpose.

Mr. EDMUNDS. Is there anything done in printing the rebellion records?

Mr. WINDOM. My impression is that they are carrying it on. The Secretary of War sent the following communication to the Committee on Appropriations:

[From War Department.]

WASHINGTON, March 28, 1878.

To Hon. WILLIAM WINDOM, United States Senate:

The appropriation for public printing for this Department is exhausted. I have asked an additional appropriation of \$25,000 to carry the Department through the remainder of the present fiscal year. The public service will be much obstructed if this appropriation is not soon made.

GEO. W. MCCRARY,
Secretary of War.

Bear in mind, Mr. President, that we cut them down last year from \$149,000 to \$72,000, and now the Secretary of War comes in and says that the public service "will be much obstructed" if we do not give them at least \$25,000 for this printing. I took occasion in addition to this information to telegraph to the Secretary of War to send down to the committee—

Mr. BAYARD. May I ask the honorable Senator whence came this estimate of \$149,000, or \$150,000 in round numbers, that is now to be satisfied by less than \$100,000 according to the appropriation by Congress and the estimate of the Secretary of War?

Mr. WINDOM. I suppose the answer to this question is this, that by encroaching upon the wants of next year they can get along with less this year. For instance, in the War Department as well as in the other Departments, but especially in the War Department, there is a very large amount required for printing blanks, blank-books, &c., which are distributed over the country, and I presume that a portion of those can be postponed to next year, and it will simply add to the amount of printing required at that time, so that they can get along with thirty or forty thousand dollars less than the estimate, but a large part of it will come in next year.

Mr. BAYARD. Then I respectfully submit to the honorable Senator that upon an estimate of \$150,000 an excess of some 33 per cent. has been discovered which can be dispensed with.

Mr. WINDOM. Can be postponed, not dispensed with.

Mr. BAYARD. With due respect to the Senator, it seems that there is in his mind a mere suggestion that the use of blanks and the like may be postponed the present year.

Mr. WINDOM. I think the Senator does not distinctly understand me and perhaps I did not make myself very clear.

Mr. BAYARD. There was an estimate of \$150,000. There was an appropriation of \$72,000. There is now a call for \$25,000 more, which makes \$97,000; and \$97,000 it is admitted will carry the Department through the expenses of printing for the present year instead of \$150,000.

Mr. WINDOM. Now I will try and make myself understood. I have no doubt that this difference can be accounted for in this way: There is a large number of blank-books and various kinds of blanks that are used by the Army permanently, and I presume that by letting the stock entirely run down and postponing until next year a large amount that can be postponed, and then providing for it next year you may reduce this somewhat more.

But I wanted to say a moment ago, when the Senator from Delaware kindly interrupted me—and I find no fault with it—that I have no doubt the estimates were large. They always are large. I have never defended and do not defend appropriating up to the full amount of the estimates; but a wise discretion should be exercised in that matter, and, unless the War Department was absolutely dishonest in this thing, \$72,000 was not a reasonable appropriation upon an estimate of \$149,000. They now ask for \$25,000 in addition to the \$72,000, and they tell us that there is absolutely no money at command to do their printing. Blanks which are necessary for the Quartermaster-General's Office and for the Commissary-General's Office, that have been sent to the Printing Office to be printed, have been suspended because there is not, as the chief clerk told me this afternoon, a dollar appropriated to pay for them. Now, what are you going to do? You are going to send all over the United States to the various posts ordinary stationery and require the men to rule it and make the headings, thereby imposing upon them great labor and expense in excess of

the cost of this printing; and this at the risk of a complication in the accounts and various other difficulties arising out of it.

This is only one of the items of printing. There is another with reference to the Army Register. I suppose that the printing of the Army Register could be dispensed with, and you need never print one. The Army Register for the 1st of January has not yet been printed for the want of money. What is this Register? It is a directory of the Army, which is as important to the Army as the directory in a city is to the inhabitants. It comprises what every man in the Army wants to know, and a great many hundreds of thousands of people outside of the Army. Of course you can dispense with it, but it will cause very great inconvenience.

My friend from Maine suggests that it was understood that this appropriation for printing should be put in another appropriation bill, the regular deficiency bill. The seven that we have had and the six or eight that are to come hereafter are the irregulars. When we get the grand regular deficiency bill, then we can put in these items. I do not know how many millions of deficiencies have already been appropriated, but I think the aggregate foots up five or six millions during this Congress.

The Senate has acted deliberately. It has placed amendments on this bill which are recognized by the statement of the chairman of the conference committee to be just and proper; and we are now asked to stultify ourselves by agreeing to strike them out in order that they may be put in some other bill that is to come hereafter, where they will be no more appropriate than they are in this one. I cannot agree to that sort of child's play.

I cannot agree either to the rejection of the thirtieth amendment of the Senate, which provided—

To ascertain the depth of water and width of channel secured and maintained from time to time by James B. Eads, at the South Pass of the Mississippi River, and to enable the Secretary of War to report, during the construction of the work, the payments made from time to time, and the probable times of other payments, and to report during the construction of the work all important facts relating to the progress of the same, materials used, and the character and permanency with which the said jetties and auxiliary works are being constructed, \$7,500.

Congress has authorized a contract with Captain James B. Eads for the improvement of the mouth of the Mississippi River, and it has agreed to make such examinations and surveys of that work as will inform the Secretary of War when the payments are due to Captain Eads. Unless those surveys and examinations are made, the Secretary of War cannot certify to the execution of the work and Captain Eads cannot receive his pay. I want to say that this work of Mr. Eads I think will be one of the grandest physical triumphs ever achieved on this continent. He has undertaken it at his own risk and expense, receiving no money until he produces certain results. We have agreed to provide the means whereby the Secretary of War shall know whether he has performed those conditions or not. The Secretary of War informs the Committee on Appropriations that this amount is necessary in order to carry on that examination. Let me read the communication from the Secretary of War dated March 21, 1878:

WAR DEPARTMENT,
Washington City, March 21, 1878.

The Secretary of War has the honor to transmit to the Senate a communication from the Chief of Engineers, dated March 16, 1878, recommending that an appropriation be made for continuing the examinations required by section 4 of the act of March 3, 1875, (18 Statutes, 463-466,) in connection with the construction of jetties at the South Pass of the Mississippi River.

The necessity for this appropriation is apparent when it is considered that payments to Mr. James B. Eads can only be made upon the report of the officer detailed to examine the works.

GEO. W. MCCRARY,
Secretary of War.

And he submitted with that letter a communication from General Humphreys, Chief of Engineers, as follows:

OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D. C., March 16, 1878.

SIR: On January 4, 1878, upon the recommendation of this office, the sum of \$3,500 was allotted from the appropriation for examinations and surveys and contingencies of rivers and harbors to enable the engineer officer detailed for the duty to continue the examinations in regard to depth of water and width of channel required by Congress in connection with the construction of jetties at the South Pass, Mississippi River, to March 31, 1878, in the expectation that before that period Congress would have made the necessary appropriation for the work. The allotment above mentioned will soon be exhausted, and it is necessary that funds for continuing the examinations be provided at an early day.

The estimate for the fiscal year ending June 30, 1878, was \$15,000. (Book of Estimates for 1878-79, page 22.)

It is respectfully suggested that the attention of Congress be called to the necessity for making the appropriation referred to, in order that the examinations in connection with the jetties may not be discontinued.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,
Brigadier-General and Chief of Engineers,

HON. GEORGE W. MCCRARY,
Secretary of War.

I addressed a telegram to the Chief of Engineers this afternoon on this point. I will read his answer:

[From War Department.]

WASHINGTON, D. C., April 25, 1878.

HON. WILLIAM WINDOM,
United States Senate:

The last appropriation for examination and surveys at South Pass, Mississippi River, was exhausted some time since, and funds have been provided temporarily from the appropriation for examinations and surveys and contingencies of rivers and harbors. This appropriation is not properly applicable to that object, and it

is a stretch of authority to use it in that way, which the Secretary of War ought not to be obliged to resort to, or the Chief of Engineers be compelled to recommend him. Please see Executive Document 46, Senate, present session.

A. A. HUMPHREYS,
Chief of Engineers.

The meaning of that, as I take it, reading the two communications together, is simply this: the first one intimates if this appropriation be not made the work of examination will have to be discontinued; the second communication says he believes it is a stretch of authority to use other funds for this purpose. The result of it will be if Congress refuses to make this appropriation—at least I fear it will—that these examinations will be discontinued, and when Captain Eads asks to have his certificate from the Secretary of War for services which he has fairly and honestly rendered to the Government in the achievement of one of the grandest results ever achieved in this country he will be told "There is no fund to make an examination and you must wait for your money." If that be the result of it, it will be one of the most contemptible acts of repudiation that any Government was ever guilty of. There is great danger that this is precisely what this conference report provides for, and hence I cannot consent to it.

But, Mr. President, with a brief reference to one other proposition in the bill I shall relieve the Senate, and I am very free to say that the item upon which I now propose to make a few remarks is the one which I was most reluctant to yield. It is the sixteenth amendment of the Senate:

District of Columbia:

That the Secretary of the Treasury be authorized and directed to advance to the commissioners of the District of Columbia \$75,000 for the support of the public schools of the District, to be available immediately; and said commissioners shall refund the amount so advanced out of any revenues of the District for the current fiscal year.

We have been told by the honorable Senator from Maine that one of the reasons why he was willing to yield this point was that a statement was inadvertently made to the Senate when the bill was on its passage which proves to have been incorrect. This is undoubtedly true. It was incorrect through inadvertence; but I submit to my honorable friend from Maine whether it would not have been as well to have allowed the Senate to reconsider its action with the benefit of the facts before it. This could have been done by a disagreement in the conference. For my part I did not vote for this proposition originally because the money had been paid back that was appropriated for 1877. I did not suppose when the \$75,000 was appropriated last year it ever would be paid back. The conditions of the bill were such that I did not expect it to be repaid. The provision was, as stated by the Senator from Maine, that it should be paid out of any funds not needed for other purposes. Everybody knows that there was no expectation that it would ever be repaid under those circumstances.

Mr. BAYARD. May I ask the honorable Senator was it not stated here in debate that the reason for the presence of that item in the bill was that the previous advance had been paid back?

Mr. WINDOM. I do not remember that it was so stated. I think not. I do not think that was stated as the reason. It was stated, however, as I said, through misapprehension that it had been paid back. I was astonished when I heard the statement, because I knew what the provision of the bill was, and I was surprised to hear that there had been \$75,000 of the funds of this District which were not needed for other purposes. I was surprised when informed that it had been paid back, and I expressed some surprise to the honorable Senator from Arkansas.

Mr. DORSEY. That was not the exact wording of the amendment of last year. It was that this money should be paid back out of the revenues raised by taxation not necessary for the current expenses of the District government.

Mr. WINDOM. That is a little more accurate than my statement; I had not the words before me, and I am obliged to the Senator for giving me the exact verbiage. I think it means precisely the same thing. "Not needed for actual current expenses of the District" meant the same thing as I stated.

Now I submit to the Senator from Maine that, finding that the Senate had acted upon a misapprehension and this being an important matter, it would have been as well for the committee on the part of the Senate in this conference to disagree and submit the question to the Senate, and if the Senate upon a deliberate vote and upon full information on the subject had rejected the proposition, of course it would have been acquiesced in by everybody.

But, Mr. President, I care not whether the \$75,000 was repaid or not; I insist that it is the duty of the Government to appropriate that much as a contribution to the support of the schools in this District. It is true the amendment under discussion does not make an appropriation as a contribution. By the amendment suggested, I think, by the honorable Senator from North Carolina, it was provided:

And said commissioners shall refund the money so advanced out of any revenues of the District for the current fiscal year.

Here is an imperative requirement that this money be repaid out of the receipts of the current fiscal year. It is no donation, no gift; it is a mere advance of funds, a loan which must be repaid. It is proposed to be made because the discussion in the Senate disclosed the fact that the schools must be closed if it be not made. Now, how do we stand on this proposition? With the statement distinctly made by the commissioners of the District and by the school board

that within a very few days, by the close of this month at least, the schools of this District will be closed unless we advance \$75,000 to be repaid out of the funds collected by the District, we deliberately say, "Close your schools for the next two months, turn the twenty thousand children on the street, for we will not advance the sum of \$75,000 or any other sum to the District of Columbia even though it be repaid in two or three months." That is precisely what this conference report means. It means that the schools of this District shall be closed; for, as we all know, a separate appropriation for this purpose will not pass. If it is not appropriate on this deficiency bill it will not be so on any other; and the same reasons which will defeat it now, will defeat it in any other bill. It is not the form but the substance of the amendment that provokes opposition. We may just as well meet the facts squarely now. If we mean that the schools in this District shall be suspended two months before the end of the school year, let us say so by agreeing to this conference report. There is no legal obligation resting upon us to appropriate anything for this purpose, but to refuse it is to repudiate a moral obligation much stronger than any mere legal obligation can be. This is no new thing. The obligation to contribute to support of schools in this District was recognized a quarter of a century ago.

Let me call attention to a report made on this subject in 1856 by Mr. Albert G. Brown, of Mississippi. After a careful examination of the question the Committee on the District of Columbia, through Mr. Brown, reported a great many very interesting facts showing the relation of this District to the General Government. This report was made in "the good old democratic days," I will say to my friend from Delaware, who did me the honor to give me his attention some time ago. The committee, I think, unanimously reported that the Government should contribute one-half the expense of supporting the schools in this District. The reasons assigned, among others, are because the Government owns one-half the property, because from the sale of lots alone reserved by the Government it had received the sum of \$707,190.69, and of this sum it had appropriated \$686,636.21 for the erection of public buildings. There are various other facts stated, showing that the Government ought in equity and fair dealing to make the contribution, and the Senate acting upon the report passed a bill, almost unanimously, appropriating one-half the funds necessary to support the schools.

Mr. BAYARD. What was the amendment?

Mr. WINDOM. The amount I do not now remember, but that has nothing to do with it, I will say to the honorable Senator. There was not the same reason then that Congress should do this thing that exists to-day, and the question as to whether it was \$10,000 or \$500,000 has nothing whatever to do with the equities of the case.

Mr. BECK. I desire to ask the Senator from Minnesota from what committee Mr. Brown made his report?

Mr. WINDOM. The Committee on the District of Columbia. The report is headed:

Report.—To accompany S. 214.

The Committee on the District of Columbia, to whom was referred "the memorial of the board of trustees of public schools of Washington City, District of Columbia, praying a donation of city lots for educational purposes, or that a portion of the proceeds of sales of lots heretofore made may be invested for that purpose," have had the same under consideration, and beg leave to report.

This heading is very suggestive, and I am very glad the Senator has called my attention to it. It seems that as long ago as 1856 the District of Columbia petitioned Congress to treat its people as it was treating the new States and Territories of the United States; that is, to make a donation out of property it held here, for the support of schools, or else to appropriate money for this purpose.

I will read the report:

The Committee on the District of Columbia, to whom was referred "the memorial of the board of trustees of public schools of Washington City, District of Columbia, praying a donation of city lots for educational purposes, or that a portion of the proceeds of sales of lots heretofore made may be invested for that purpose," have had the same under consideration, and beg leave to report:

That there remains unsold one hundred and ninety lots in the city of Washington, valued at \$15,615; but that they stand pledged for an indebtedness equal in amount to their entire value.—(See appendix, A and B.) The first prayer of the memorialists cannot, therefore, with propriety be granted.

The sales of lots heretofore made have produced, as near as can now be ascertained, the net sum of \$707,190.69. Of this sum, \$686,636.21 has been paid into the hands of various Commissioners of Public Buildings, and by them expended in the erection of the Capitol, President's house, Treasury, and War Offices, and in building wharves and bridges, repairing and opening streets, avenues, &c. (See appendix A.) The remaining \$21,554.48 was paid into the Treasury, and has been applied, under the twelfth section of the act of May 17, 1848, to amend the city charter, (see appendix C.) to opening, repairing, and keeping in order the streets, avenues, footways, &c., in the city of Washington. It thus appears that there remains unexpended no part of the fund arising from the sale of lots heretofore made in this city. The second prayer of the memorialists must, consequently, be denied.

Your committee appreciate the importance of education everywhere, and have therefore entered on the investigation of the subject, so far as it is embraced in the memorial, with a sincere desire to recommend some scheme that should advance the educational interests and prospects of the metropolis.

It has been ascertained that there were in attendance last year on the public schools in this city 2,170 scholars, consisting of nearly equal numbers of boys and girls. The number of schools was 32; teachers 38—females 33, males 5. It is estimated that the city requires accommodation for double the number of pupils now at school, and with sufficient pecuniary aid to enable the commissioners to build houses and employ teachers, 4,000 children would be put to school the present year. Only about one-half that now apply can be received. (See appendix D.)

The sum expended last year was \$25,291.66. This fund was raised as follows: 6 per cent. on the permanent school fund, \$3,030; the poll (or voting) tax of \$1 on each voter, \$5,330; appropriation from the city treasury, \$16,761. This sum is exclusive of the expenditures for houses. Since 1845, when the present school sys-

tem went into operation, the city has expended \$20,000 in the purchase and erection of school-houses. The deficiency of houses is still very great, and is in fact the chief source of embarrassment to the present system.

Your committee have found the schools in Washington in the main well conducted, and on a plan which gives satisfaction to the almost entire community.

With these facts before us, and with the full conviction that the present school fund is altogether insufficient to meet the demands upon it, your committee have felt it to be their duty to ascertain if some proper plan could not be devised for increasing the fund. They have found a healthy state of public opinion in Washington City on this subject, the largest property-holders coming forward and freely consenting to and even urging a tax for school purposes. A tax of this kind must necessarily fall, in a great degree, on those who have only a contingent or resulting interest in keeping up free schools. The rich can and will educate their own children. It must be the poor who pay no taxes who derive the first and immediate advantages from public schools.

The assessed value of real estate in this city is \$25,508 78. It is proposed to levy a special school tax of a mill on the dollar upon this property. This would raise a fraction over \$25,000 annually.

Your committee has no means of ascertaining accurately the value of Government property within the city limits, but it is believed to be nearly or quite equal to the value of the private property within the same limits. Your committee do not propose a tax on Government property; but they have thought, if private persons having only a remote interest in the education of the poor are willing to submit to a tax on their property for educational purposes, the Government, which has an equal or greater interest in the same subject, might make its contribution to that object.

It is fair to say that citizens of Washington have the same interest in whatever belongs to the Government as citizens of equal fortune in the States, and that they contribute *pro rata* to the contents of the Treasury. It follows that, in proportion to their numbers and wealth, they contribute as much of what may be expended by the Government for schools here as any like number of persons of like wealth anywhere else.

And then, if on account of their close proximity to the schools they pay a special tax for that special advantage, it would seem that they have obtained no special favor.

It may be said that Congress has no more right to appropriate money for schools in the District than it has to make like appropriations for like purposes in the States. Your committee forbear to discuss the question of power in this connection, or to draw the lines which mark the jurisdiction of Congress in the District and in the States. Nor will your committee dwell on the fact that in all the new States especially Congress has made the most munificent land grants to schools and colleges. If it shall be assumed that Congress is as much restricted in the District as in the States, then, we say, if Congress owns one-half the taxable property in a State, and means to hold it in perpetuity, it ought to submit to taxation on that property for the support of schools, or else contribute from the general fund a sum equal to the amount paid by private persons in the State for that object.

In accordance with the views here expressed your committee report a bill.

Sir, I am somewhat earnest on this subject, and I will tell you why. Among the reasons, I represent a State which has been dealt with munificently by this Government so far as schools are concerned. The Government donated to that State, and to nearly if not quite all the new States, one acre in every eighteen of the public domain. Sections 16 and 36 in every township was donated for that purpose. While this thing was being done in the new Territories and States the people of the District of Columbia, over which the Government has absolute control, as much so as it has over its arsenals, forts, or dock-yards, came to Congress and humbly asked the same generous treatment which the new States received. They said: "You have a large amount of property here. You have already sold over seven hundred thousand dollars' worth of it, and received it into the Treasury. Now give us a portion of these remaining lots for school purposes, or, if you will not do that, make an appropriation of money for that purpose."

The committee, as we have seen, recommended that a money contribution should be made, and the Senate approved that recommendation, as I am informed, although I have not seen the bill referred to. Senators can easily find it by reference to the files. The Senate did pass that bill, making an appropriation of one-half the funds necessary.

Mr. BAYARD. Twelve thousand five hundred dollars.

Mr. WINDOM. Twelve thousand five hundred dollars, my friend says. Does that make any difference? There were then about two thousand scholars in the District of Columbia enrolled. To-day there are some twenty-one or twenty-two thousand. Is this Government so poor that it will make the amount necessary to do an act of justice the condition upon which it shall be done? Shall it be said that it was proper enough in 1856 to appropriate \$12,500, but that it is improper now because the amount asked is \$75,000? This bill does not propose to appropriate one-half, it proposes only 20 per cent. of the amount necessary to support these schools, and that, as my friend from Massachusetts [Mr. DAWES] says, is to be paid back. This amendment does not propose to donate anything; it merely advances \$75,000 rather than close the schools, but expressly requires its repayment.

I said that it was only about 20 per cent. that we propose to advance as a temporary loan. Let us see. The total expenditure for 1877 for schools in this District was \$370,996.26. The total expenditure for this year will be, if the schools are not closed, about the same amount, \$370,000. Now, the proposition is to loan for a little while, until they can pay it back, \$75,000 or about one-fifth, 20 per cent. of the amount which the District raises for that purpose, and yet even that proposition finds objectors here!

Let us look for a single moment at some of the obligations that rest upon us in this matter. The whole number of scholars enrolled in this District is 21,264. Of these, there were white children, 14,026; colored children, 7,238. Why did those colored children come here in such large numbers? They were invited here by our own laws. They were induced to come here, many of them, because the educa-

tional advantages which we said should be given to them were greater here than elsewhere. In 1864 we passed the following act:

SEC. 16. *And be it further enacted*, That any white resident of said county shall be privileged to place his or her child or ward at any one of the schools provided for the education of white children in said county, he or she may think proper to select, with the consent of the trustees of both districts; and any colored resident shall have the same rights with respect to colored schools.

Then we provided further:

SEC. 17. *And be it further enacted*, That it shall be the duty of the said commissioners to provide suitable and convenient houses or rooms for holding schools for colored children, to employ and examine teachers therefor, and to appropriate a proportion of the school funds, to be determined by the numbers of white and colored children between the ages of six and seventeen years, to the payment of teachers' wages, to the building or renting of school-rooms and other necessary expenses pertaining to said schools, to exercise a general supervision over them, to establish proper discipline, and to endeavor to promote a thorough, equitable, and practical education of colored children in said county.

Then we provided again:

SEC. 18. *And be it further enacted*, That the first section of the act of Congress entitled "An act providing for the education of colored children in the cities of Washington and Georgetown, District of Columbia, and for other purposes," be, and the same is hereby, repealed; and that from and after the passage of this act it shall be the duty of the municipal authorities of the cities of Washington and Georgetown, in the District of Columbia, to set apart each year from the whole fund received from all sources by such authorities, applicable, under existing provisions of law, to purposes of public education, such a proportionate part thereof as the number of colored children, between the ages of six and seventeen years, in the respective cities bear to the whole number of children thereof, for the purpose of establishing and sustaining public schools in said cities for the education of colored children.

In 1864 we said to the colored people in the bordering States of Virginia and Maryland, which do not provide very liberally for their education, "Come over into this District; bring all your children here; and we will educate them." Ay, Mr. President, not we will educate them—no, sir, but "We will make the people of this District, who own only half the property in it, build school-houses for them; set aside one-third of all their funds to educate them; but we will not contribute a dollar toward it; nor will we even advance the small sum that may be necessary to keep those schools open when an overburdened people cannot raise the money to do it." When we have invited these people here, when we have filled the District with colored children because of our legislation, is it fair, is it honest, is it honorable on the part of this Government to refuse to make any contribution whatever toward their education? What unbounded liberality on our part to pass laws offering an education to all the colored children of Maryland and Virginia and elsewhere who chose to come here, and then refuse to pay any part of the expense! How generous to impose this entire burden on the people of the District! You have the power to do it, Mr. President, but is it honest, is it just, is it honorable?

The schools in this District have been as economically conducted as any in any other city, and there is no ground for objecting on that score. The total per annum expense is \$370,000; the average enrollment is about twenty thousand, making the cost per year per scholar only about \$18.50. This includes rent—amounting to more than \$25,000—fuel, teachers' salaries, and all other expenditures. I have a table making a comparative statement of the cost of education in this District with any other portion of the country, and with the permission of the Senate I will hand it to the Reporter without stopping to read it. It shows that the District is as economical in the management of its educational interests as any other city in the Union almost.

Mr. EDMUNDS. That is that the cost of the education of the children is not greater than elsewhere.

Mr. WINDOM. It is not as great *per capita* as in most cities. I think I will read it. "With a view of showing the comparative cost of education based on the average daily attendance of pupils in several large cities, the following table has been compiled from the report of the United States Commissioner of Education:"

	Cities.	Tuition.	Incidental expenses.	Total cost.
1	Boston.....	\$25 94	\$10 21	\$36 15
2	San Francisco.....	24 61	6 57	31 18
3	New York.....	21 99	5 64	27 63
4	New Orleans.....	21 90	5 12	27 02
5	Pittsburgh.....	16 00	10 00	26 00
6	Saint Louis.....	19 62	5 72	25 34
7	Cincinnati.....	20 80	3 50	24 30
8	Indianapolis.....	17 38	6 66	24 04
9	Washington and Georgetown.....	15 11	7 79	22 90

That was the expense of 1875, when the number of scholars was smaller, the number of school-houses required about the same, and the cost now is only about \$18.50 instead of \$22.90, as then—

10	Louisville.....	16 46	6 32	22 78
11	Cleveland.....	16 74	5 84	22 58
12	Chicago.....	16 39	3 39	19 78
13	Detroit.....	13 74	5 33	19 07

In this matter of tuition in this District, all the charges are included for incidentals, for the rent of buildings, which is large, and for fuel,

and various other incidental and necessary expenses of education. It comprehends the whole expense.

There is another reason which operates upon my mind in favor of making some fair and equitable contribution toward the expenses of the common schools in this District. I have said that about one-third of the pupils are colored; I have shown you by what assurances many of them were induced to come here. These people are poor; I presume there is not property enough owned by the parents of that one-third of the pupils of the common schools to pay for the support of a single school of the kind that is maintained up here. The schools for colored children as well as for white in this District are an honor to the country. There are very few places in the United States where they are better managed than they are here. In addition to the large number of colored pupils who by our own statute were induced to come here, and who were also thrown upon the District by thousands as the result of the war, we have another class of people here whose children we should not require the District to educate wholly at its own expense.

About 30 per cent. of the scholars in these schools are the children of officers and employes of various kinds of the Government of the United States—people who are brought here because the Government is here, people who are living upon salaries, and who have very little property which contributes to taxation. A very large proportion of them are clerks in the Departments who do not have a legal residence, who go home to vote. One-third nearly of all the scholars are children of that class of people. As my friend from Massachusetts suggests, they must be here or others in their places. Is it fair for us to impose on the people of this District, the tax-payers, the entire responsibility of educating this 30 per cent. of people who are brought here in that way, and who contribute very little, if anything, to the taxation of the District? I submit, then, to the sense of fair play of every Senator—and I know that whatever his vote may be in his heart he responds—that it is not fair or honorable that we should compel them to do this thing. Is it fair, is it right that the parents of one-third of the children of the District should be compelled to support the other two-thirds composed of the colored pupils who are brought here by our instrumentality, and the 30 per cent. of whites who are here continuously in the service of the Government, but who pay no taxes of any consequence. I think not. I cannot so vote, and hence could not give my consent to this conference report.

Mr. President, there are one or two other points that I want to suggest in connection with this subject. The District of Columbia is often spoken of in this body and elsewhere as a sort of mendicant, always in debt, always behind, always at the doors of Congress for assistance. This is simply a gratuitous libel on the people of your capital city, and as a citizen of this Republic I repel it. There is another side to this matter, Mr. President, as I will briefly show you. The facts that I present now are from a statement signed by eighteen of the most prominent citizens of the District of Columbia. I will not read their names but they are all well known. They are men whose word you would take on any subject, and I apprehend the facts they state are substantially correct. They are the representatives of the committee of one hundred chosen by the District of Columbia to present its case to Congress. Let me read one or two extracts from that statement:

A careful inquiry into the comparative expenditures by the local and Federal Governments, for streets, sewers, and other improvements for the common benefit, shows that while the appropriations by Congress for these objects, up to the present, do not exceed \$6,000,000, the District Government has expended for the same purposes not less than \$35,000,000; which sum is represented by a debt of about \$23,000,000, and the balance of \$12,000,000 has been furnished, in cash, by the tax-payers of the District.

Now, Mr. President, who owns these streets? The Government of the United States has so complete and absolute an ownership over every street and avenue in this District that it can close any one at pleasure; it can sell or lease it to anybody it pleases. It has the entire and absolute ownership of every street in the District, and yet for the improvement of our own streets and other purposes of internal improvement in a city where we own, as the best estimate shows, 50 per cent. of all the property the government of the District has paid \$35,000,000 and the Government of the United States \$6,000,000. Is the District of Columbia, then, wholly a mendicant begging at our doors for crumbs? No, Mr. President. The circumstances I have mentioned prove either that this so-called "mendicant" has contributed more than its share and this Government has declined to assume its fair share of responsibility. It has shirked its obligations because it had the power to do so.

I read again from this statement:

It further appears, that these expenditures by the local government, except \$9,000,000 expended prior to 1871, were made, and \$15,000,000 of this oppressive debt contracted by agents of the United States, over whom the citizens of the District had no control whatever, and for whose acts, therefore, they are in no manner responsible.

Here is another point well worthy of our consideration. With the exception of \$9,000,000 prior to 1871, this debt was contracted through our own agents. We appointed the board of public works. We authorized the people of the District of Columbia to elect a house of delegates, but they did not have control over the legislation of the District, because, if I recollect aright, we appointed the council, the so-called senate of the District of Columbia.

Mr. DAWES. Not "we."

Mr. WINDOM. Yes "we;" the President and the Senate of the United States did it. We appointed our own board of public works; we appointed the governor; we appointed the council which had a veto upon the acts of the lower house; and then, because we allowed them to elect delegates to the lower house, we said they are responsible for this vast debt, and therefore we will not contribute a cent toward it!

Mr. President, we had complete power over this District all the time this debt was being contracted. Our own agents incurred this debt. Our own agents piled this heavy load upon the people of this District, under which they are groaning to-day, and by reason of which they are unable to raise taxes enough to keep their schools open all the year; and after our own agents had imposed this burden upon them and these people come and say to us, "We cannot raise money enough to keep these schools open the entire year; loan us \$75,000 until the commencement of next year, when we can raise our taxes, and we will pay it back to you," we say, "No; you may close your schools and turn the twenty thousand children on the streets." This report of the conference committee says just that thing. I cannot assent to any such injustice as that, and I hope the Senate will not do it.

Take the proportion of expense which the Government bears for another purpose in this District. As I have said, we own all the streets, we own all these reservations in the District. Who pays for lighting these streets, and these reservations, and these public grounds? Congress does not do it.

Mr. EDMUNDS. Do they not pay part for the Avenue?

Mr. WINDOM. I do not know about that. I will read the statement of this committee.

Mr. EDMUNDS. I think Congress pays for one-third of lighting the Avenue.

Mr. WINDOM. Congress pays for one-third of lighting the Avenue, as I am informed by the chairman of the Judiciary Committee. I will read the figures with reference to the public lighting of the city:

Nearly the entire expense of lighting the cities of Washington and Georgetown, including lamps on streets around the public grounds and buildings, is paid by the District government. The United States pays for no lamps except those located on the public reservations.

I ought to add, as I am also informed by the Senator from Arkansas, [Mr. DORSEY,] that the Government pays for lighting one-third of the Avenue. It pays nothing for the lamps.

About \$163,000 were expended for light during the past year, and of this sum the Government paid but \$6,312.40.

Is it right, the Government owning one-half the property, owning all the streets and reservations which are lighted, that we should pay \$6,312.40 and require the District to pay \$163,000?

But again, it is not true that this District has contributed nothing to the support of the Government:

The people of this District have also, since 1863—

I read again from this document—

paid into the Treasury of the United States, under the internal-revenue law, \$4,635,119, or more than has been paid by all the other Territories combined—more than has been paid by the States of Arkansas, Florida, Kansas, Minnesota, Nebraska, or Oregon.

But how differently we treat this District, which is completely and absolutely under our control, from what we do these States! It has contributed more to the Government than any of them in money, but when we organized those States we gave them one acre in every eighteen for schools. In my own State, if we shall continue to husband the school fund as providently as heretofore, in a very few years it will pay the entire expense of maintaining the schools in the State.

Mr. DAWES. It does pay the expense in Michigan.

Mr. WINDOM. I am informed that the grant of public lands in the State of Michigan does already entirely support their common schools. How it is that Senators, especially those who come from new States where these munificent grants have been made for schools, can deny to this District the poor pittance they ask to-day in the shape of a loan for a few months, in order to avoid closing these schools, I cannot understand.

If the report of this conference committee is to be adopted, notwithstanding these claims, notwithstanding the injustice which is done to these people, the schools will be closed within the next ten days, and the children turned out upon the streets. Is that desirable in a political point of view, or in any other point of view? The two months that these children will lose now can never be regained; they are lost forever; they will be the poorer forever by our refusing to do justice as we are asked to do to-day by voting down this report of the conference committee and giving us another chance to ascertain whether the House of Representatives are willing to do justice in this matter or not.

Mr. BECK. Mr. President, I was a member of the conference committee, and as such desire to reply somewhat to the speech made by the Senator from Minnesota, our chairman, who was also a member of the conference committee. I think he has done both the House of Representatives and the conferees on the part of the Senate injustice in his presentation of the case; and I believe I can satisfy the Senate that he has. He began his opposition to the report by a tirade reflecting somewhat on the House of Representatives because of the unwarranted, improper, unprecedented manner, as he said, in which

they have sent deficiency bills here, intimating that they ought to be classified; that seven had come already, and others, perhaps many, were incubating, and that the unwarranted and unusual conduct of the House of Representatives in this regard ought to meet with the reprobation of the Senate; ought to be frowned down and discounted. The fact is, Mr. President, that the House of Representatives has sent over those deficiency bills from time to time, although a majority of that body is not in accord with the Administration, at the earnest, urgent request of the different Departments of the Government, who have assured that House that if the deficiency appropriations were postponed until the regular deficiency bill was considered they could not carry on the necessary work of their Departments. I hold the bills in my hand that the House sent here, and they will show for themselves that my statements are correct. The first—at the extra session—was the naval deficiency bill, \$2,240,000. The men of the Navy had been unpaid, and the service was suffering because of wrongs done by the misappropriations and illegal uses of money whereby these men were deprived of their pay. I do not propose to go into that.

Mr. SARGENT. I hope my friend will allow me one moment.

Mr. BECK. I do not want to go into these matters.

Mr. SARGENT. There was no such pretense made in any body that assembled in this Capitol. It was shown, and shown clearly, and was asserted that the deficiency was on account of the insufficient appropriation heretofore made.

Mr. BECK. I do not want to go into the details of that matter.

Mr. SARGENT. I merely correct the statement, and do not desire the Senator to go into the details if he does not wish to do so.

Mr. BECK. I repeat again that the money that was voted for one purpose was used for another, in plain violation of law.

Mr. SARGENT. That is entirely groundless.

Mr. BECK. I will not discuss it. Let the statement go for what it is worth. But the House of Representatives were in duty bound to send us that bill. I ask the Senator from California if they were not?

Mr. SARGENT. I think so.

Mr. BECK. Was it not just to the men in the Navy that the deficiency bill should be passed?

Mr. SARGENT. Unquestionably it was.

Mr. BECK. Then what I desire to show the Senator from Minnesota is that bill No. 1 is not liable to the criticism which he makes.

Mr. SARGENT. We do not agree. I want to say that in the previous year we had appropriated less than the estimates.

Mr. BECK. I do not care to speak about these things. I am answering the Senator from Minnesota. The next deficiency was a bill to pay judgments of the Court of Claims, and for the absolute necessities of the Government growing out of the extra session of Congress. It was sent by the House to this body, containing a few items for cases of urgent necessity, and was added to largely in this body; another was a bill, that we passed upon the other day, for temporary clerks, and to guard the timber lands of the United States, and for other purposes, requiring prompt action. The next, and that was the fourth, was a miscellaneous appropriation for the expenses of the House and Senate, which both Houses demanded, saying that they could not carry on the business of the two Houses without it. The other was one which the Senator from Minnesota himself had passed yesterday, appropriating \$200,000 for the public printing and binding, which he assured us was necessary and that unless it was done even the RECORD could not be published. These are all the bills of this character which the House has sent, except the bill now before us, and in sending these from time to time, the Senator from Minnesota has seen fit to endeavor to show to the Senate that the House had done wrong, and in some way violated established precedents; he desired to have them numbered and said he was tired of such conduct, and did not want them to anticipate the regular deficiency bill and give it in broken doses in the way they were doing. I say that he is unfair to the other House.

Mr. WINDOM. Will the Senator please repeat how many bills of this character he said we have received from the House?

Mr. BECK. The naval appropriation bill is one; the bill to pay judgments of the Court of Claims is two; for temporary clerks, three; the miscellaneous bill for the Senate and House, four; for printing and binding, five; and this one is six; each one of them being absolutely necessary on account of the demands made by the Departments of the Government on the two Houses of Congress.

Mr. WINDOM. It is possible that I may have made a mistake, and that there were only six instead of seven; but they have confused me so with their number that I am excusable if I am mistaken.

Mr. BECK. The reason that number has been sent here was because the Departments of the Government, with which the gentleman is in accord, have demanded the bills from the House. When this bill came before us it came, as the conferees on the part of the House, republicans and democrats, alike, assured us, because the heads of Departments appeared before them and said, "We cannot wait for the regular deficiency bill; these are things that must now be provided for." In this bill the Senate has provided for all the items, as the House has provided for all the items, necessary to carry on its business. The Patent Office declared that they could not go on unless they had \$30,000 or \$40,000 to supply what they lost by the fire, that the models could not be restored and patentees would be unable to obtain their rights unless we gave the Department something like what they de-

manded immediately. Therefore, the House, in anticipation of the regular deficiency bill, provided for that. The next thing the House provided for was in the Treasury Department for the storage of the silver dollar. We had passed a law making that absolutely necessary, and the officers could not wait for the regular deficiency bill. The next thing the House provided for was for carrying on the Coast Survey service and triangulations. The next was \$40,000 for surveyors, gaugers, and other expenses of the Internal Revenue department. The next was for the public buildings, the construction of which they believed could be carried on more cheaply now than ever before, and they made appropriations to be available immediately, so that the months of April, May, and June should not be lost when labor could be cheaply had and the people and the Government be equally benefited.

These things, together with some aid that they desired to give the Army in its transportation, is the whole bill with the exception of a few items for the navy-yard and the hospitals of the Navy that were sent here by the House in this bill. The committee of the House assured us that they were enabled to pass the bill through the House in advance of the regular deficiency bill which is now almost ready and will be reported before next week passes, and upon the assurance that they would put in nothing that was not absolutely and indispensably necessary and that wherever anything could wait for the regular deficiency bill it should wait, it was under those circumstances that the present bill was sent here by the House; yet complaint is made against them for doing that. I insist that the House of Representatives has acted toward this administration with great liberality and deserve commendation instead of censure. They have shown a desire to do all that was necessary for carrying on all the Departments of the Government and have indicated no desire to cripple them, and no desire to embarrass them, but on the contrary with every desire to aid them. Yet these bills are made the ground of accusation against the majority of the House.

When those bills came to us the officers of the different Departments appeared before our committee and they told us of other things that were necessary. The chief officer of the Insane Asylum appeared and said that so many insane people were being sent to his asylum that he was obliged to have more money or he could not provide for them. The representatives of the House agreed to that, although he had not appeared before them. When the managers of the Freedmen's Hospital showed us that they had a contract for rent whereby they were entitled to \$4,000 annual rent and had only received \$2,000 we showed the contract to the House conferees and they agreed to give that sum; they stood by the contract. When we came to consider the mint in California and at Denver and the assay office at Boisé City to determine what was necessary they consulted the Director of the Mint, and while we had made larger allowances than they thought it proper to make, they brought us the assurance of the Director of the Mint himself that the sums finally agreed upon were the sums which he said were satisfactory, and they agreed to all of them. When we came to the Light-House establishment and put in an appropriation of \$15,000 for Portsmouth Harbor, New Hampshire, showing that we had information that one of the signal-lights was about to be washed away and the light-house had become unsafe and it was necessary to make repairs immediately or shipwrecks might take place on that coast, the House at once agreed to it, and it is in this bill now. So in regard to nearly everything that we satisfied them was absolutely necessary they agreed to it.

When we showed them the provision we had made to advance \$300,000 to buy supplies for the Army necessary to go to the posts of the Upper Missouri and to be carried up the Missouri River while freights were low, during the month of June, instead of paying double rates in July and August, the House agreed to that and the \$300,000 is provided for in anticipation of the regular Army bill, because we were satisfied that we would save from fifty to one hundred thousand dollars by making the advance. When we took up the amendment for taking care of the Des Moines Rapids Canal, which is a great public work, in which all the people from New Orleans to Saint Paul and from Pittsburgh to the mouth of the Ohio are interested, the House conferees said that was right, and that too was inserted. So when they came to the deficiency for the Marine Corps the necessity of the appropriation was made plain and they agreed to it, and even for the expenses of the observation of the eclipse; indeed for all the matters that were necessary the House conferees agreed with us; and they further agreed to pay the government of Canada \$11,000 or \$12,000 for a deficiency rather than have a misunderstanding with that government in regard to carrying the mails; they were fair and liberal throughout.

Therefore I say, Mr. President, that when the Senator from Minnesota asks the Senate to vote against this bill because he did not get everything into it that he wanted, he is asking the Senate to do an unreasonable thing. It is not a regular deficiency bill and it does not pretend to be. The regular deficiency bill will be before us in a very short time, as the House conferees assured us, and then any item left out of this bill can be fairly considered by both committees, and can be passed upon with a full knowledge of all the facts after due investigation is had. To defeat this bill and deprive the Government of all the items that are therein given, which all the Departments have said are indispensable for them to have at the present time in advance of the regular deficiency bill, is not the part of wisdom, even

if the chairman of the Committee on Appropriations insists that the Senate shall defeat it because he thinks other things should be added. He does not object to anything that is done. His only objection is that we did not get all he wanted.

There were some other items which we would have liked to have had inserted. We agreed with the chairman of the committee, who declined to sign the report, that \$100,000 would have been better to have been given to the Commissioner of Internal Revenue for storekeepers, gaugers, surveyors, and others, than the \$40,000 allowed by the House; but the House conferees assured us that they would make a careful examination of that matter, and that they would see that justice was done the Commissioner. They had inserted \$40,000 because he needed that amount at present; and he does not pretend that a single distillery has been closed, that the business of the office has been embarrassed, or that it will be embarrassed in the course of the next month if we give him the \$40,000 that the House conferees agreed to give; and long before any embarrassment can come up, long before there will be enough demands made for the starting of new distilleries to need the \$100,000 inserted by the Senate, there will be other bills before both Houses, especially the regular deficiency bill, in which the Commissioner will be allowed, I have no doubt, every dollar that he asks for. Is this bill to be defeated because \$40,000 is given now in advance of the regular deficiency bill, for fear that the Commissioner may be embarrassed hereafter, because we do not make this the regular deficiency bill and appropriate every dollar that the Senator from Minnesota thinks he may want before the end of the year? I think surely not. The Commissioner does not want this bill defeated on that ground, I am very sure. No officer of the Government looking to the good of the service wants to defeat it. That because a Senator does not get all he wants, he would rather defeat the whole bill and get nothing than take the best terms the conferees could agree upon, that does not seem to me to be wise or good policy.

The next item referred to by the Senator from Minnesota is the appropriation to ascertain the depth of the water to be secured and maintained by James B. Eads in the South Pass of the Mississippi River. I agree with him that Mr. Eads is doing a remarkable work; and Mr. Eads will surely get his pay. The Engineer Corps of the Army have set apart, as General Humphreys says, three thousand and odd dollars in order to make these investigations. They want more. Perhaps they will need it, but an investigation into that question can be made by the House and by the Senate long before Mr. Eads will be entitled to or be demanding any more money. It is not, I repeat, a regular deficiency in any proper sense. It might be a very proper thing to insert in this bill or a very good thing to go in the next bill; it can do no harm to give the House time to examine; the Engineer Corps of the Army has very little to do except to attend to that business, and we make very liberal appropriations for all the work they do. I have no doubt they have money enough now to make any measurement or surveys that may be necessary to enable Mr. Eads to carry on his work. Whether they have or not, the House committee claimed the right to look into the matter themselves. They did not understand the subject well enough to act upon it at this time; we did not have sufficient information to satisfy them upon it; and therefore the Senator from Maine and myself thought rather than to lose the bill we would give them the opportunity to look into it, and they might report it in their next bill either in the sundry civil bill, or the regular deficiency bill, or any other bill in which it would be proper to report it after they have made the investigation. All they asked for was time to look into it, time to ascertain what the facts were, time to ascertain what the amount of work was that was really necessary, and when they found what sum it was necessary to appropriate we were assured that justice would be done in that regard. If this whole bill is to be defeated because that item is not agreed to now the Senate will make a great mistake, even if the chairman of the Committee on Appropriations does desire to defeat it rather than to get what it gives.

In regard to the printing and binding for the War Department, there is no doubt that the War Department needs money to carry on its public printing, but there is no doubt, as the conferees on the part of the House assured us, that there has been great extravagance, particularly in the binding, in the War Department, during the last year, that many expensive books were bound and sent all over the country; that they had reduced their appropriation by the extravagant binding of books. There are blanks necessary to be prepared now, and all the House conferees desired was that they should have an opportunity of looking still further to see where the money already appropriated had gone and what was the amount actually necessary, giving the same assurance that they did not understand why so much money should be expended especially for the binding of books in that Department and desiring further time. We could not force them to yield to us, and we thought that it was far better to pass the bill with the valuable provisions it contained than have the conference committee disagree and a new conference ordered, and perhaps the same thing gone over again, with all the other items stricken out finally, because we could not get all we wanted. We were not dealing with children. We had no right to dictate. We were dealing with representative men. They listened to us; we listened to them; and we agreed as far as we could and upon the points we could not agree we thought it was the part of wisdom, rather than

to defeat the whole bill, to let the House conferees look into the items still further and perhaps they would be satisfied that we were right. If not, when other bills come here, the Senate has the power of putting in the same items again, and we can then test the question over again.

I believe these are all the items with the exception of the \$75,000 for the schools of the District that have been commented upon and objected to by the Senator from Minnesota. It was obviously right under the circumstances, it seems to me, to strike that from this bill, and in doing so the conferees who agreed to report the bill without it neither intended nor do they now propose to offer any antagonism to the schools of the District. The conferees on the part of the House were unanimously opposed to it, earnestly, emphatically so, and the whole bill was to be lost, obviously so, unless that item was stricken out. They had the assurance of the commissioners and they had the assurance of the Secretary of the Treasury that the fact stated upon this floor, no doubt believed by the chairman of the Committee on the District of Columbia, the Senator from Arkansas, [Mr. DORSEY,] no doubt believed by the Senator from North Carolina, [Mr. MERRIMON,] when it was inserted in this bill, that the \$75,000 advanced last year had been paid back, was in fact not true, and the commissioners assured the House Committee that it was folly to be lending money with a view of getting it back any more. Therefore, as we had acted under a misapprehension, and as the bill had to be agreed to just as it is now or not at all, we thought that it was better to drop the item out of the bill rather than defeat it altogether. The Senator from Minnesota knows very well that when this item was before the Committee on Appropriations of the Senate we turned it over to the District Committee, refusing to report it from the Committee on Appropriations because it was not a deficiency in any sense. However just, however honest, however desirable it would be to furnish this money, it is a matter that ought to come from the Committee on the District of Columbia, and they admit that they were deceived as to the facts. That committee can meet this afternoon and report a bill for this purpose to-morrow morning, and the chances are that it would pass without unnecessary delay; it could be sent to the House before two o'clock to-morrow afternoon. Under all the circumstances, with the misapprehension that existed as to the fact that last year when we had a provision requiring them to pay it back, although assured on this floor that it had, it has not been paid back, with the assurance of the District commissioners that they are unable to pay it back if we advance, and that they do not propose to do it, and they, I believe, went so far as to say they did not want it if it had to be paid back, it was a proper thing to leave it out of the bill and let it come up as a separate proposition, when all the facts can be accurately ascertained.

All that the Senator from Minnesota says may be true. It may be our duty to do this. It may be that we have not given this District half as much as they are entitled to receive. It may be that we own half the property here. It may be that there are a great many things that ought to be considered, all of which can be considered, and will be considered when the question is submitted to us as a separate proposition; but in the first place all agree that it is not a deficiency. We are under no legal obligation to give this money. It is a separate matter altogether, a matter that must stand upon its own merits. It is either right or wrong; it has nothing to do with the deficiency bill, and ought not to be charged up as a part of the expenses of the Government to show the extravagance of either party in making appropriations. The measure ought to stand upon its merits. It is a thing that ought to be done or not done according as the Congress of the United States may think it is right or wrong to pass it.

I do not propose now to go into the management of the affairs of this District nor to inquire how many colored children are to be appropriated for, nor how many children of the employees of the Government or members of Congress are being educated, nor what the Government gets from its streets and public squares and avenues which it certainly owns and holds for the benefit of the community. There is not a gentleman who owns a fine house fronting a public square that would not pay 20 per cent. more for it because it does face that public square which is ornamented and maintained by the Government for his benefit and for the enjoyment and health of himself and his family. But these are not things necessary to discuss here. The question is not upon its merits as to whether we shall give this \$75,000 or not. It is sufficient for the purpose of this bill to say to the Senate that when the House conferees assured us that we had passed it in the Senate upon a false assumption of facts, when we were told that the last money had been paid back, and that this would be paid back, that it was simply a loan, and when the Secretary of the Treasury officially told them that was not the fact, and when the commissioners appeared before them and did not want to accept it upon any such ground, it was a proper thing for the members of the conference committee of both Houses to say, "Well, gentlemen, on that state of fact, we will leave it out of the deficiency bill and bring it before the House and before the Senate in a proper and independent form, so that it can be fairly considered without misunderstanding or without misrepresentation and with all the facts known." When that is done the speech of the Senator from Minnesota will have force. Then his arguments about what we ought to do will all be heeded, will be all carefully weighed. I think he has made his speech at the wrong time.

I am perhaps speaking longer than I ought. I merely desire to say further that, if it is the purpose of the Senate to pass this bill as the conferees agreed upon it, in my judgment they will reach the other items that the Senator from Minnesota wants in a manner much more likely to have them passed, either in an independent form or in some other bill, than they will have the chance to pass by rejecting this bill altogether or by running the risk of conference after conference when perhaps the whole bill will come to naught. There are many things in the bill that ought to become law at once, and because we are unable to get what some Senators think would be very desirable the bill should not be defeated. The question is, what is the best thing to do? My judgment is that it is best to take the bill as agreed upon by the conferees, to which there is very little if any objection as far as we have gone, and either instruct the Committee on the District of Columbia to report a bill that will enable us to aid those schools or rely upon the House of Representatives to do so in the next deficiency bill, or in the sundry civil bill, or in some other form, rather than that this bill should fail when after all the House yielded to as many things as they did and we yielded to them upon proper grounds for investigation of other things. I repeat that I think the conference committee was as free and full and our action was as carefully considered on both sides as either side could well ask, and that the matters that were left out were left out for ample and sufficient reasons.

Mr. BLAINE. Mr. President, I would go quite as far as my friend from Minnesota in doing anything possible for the schools of this District or for any other interest in it that it was proper for Congress to patronize and encourage; but I do not want the Senate to think that a mere disagreement to this conference report will secure that appropriation. The House of Representatives (and we are compelled to speak somewhat of it, because this brings us directly into conference with its members) is now considering the subject of the relation that should exist between the General Government and the District. I am disposed to think that the House is approaching the subject in a liberal spirit, and that it does not desire to take a mere piecemeal of an appropriation, to leave open the question whether it is a debt or a gift or an obligation this year or the next or the year after, but to settle it on some permanent basis.

Moreover, Mr. President, I think it is a misapprehension to suppose that the failure of this appropriation is going to close the schools. I do not believe that it can be shown that \$10,000 is necessary to keep the schools from closing. They need it, but I do not think there is the remotest possibility of the schools being brought summarily to a close if we fail in this appropriation.

Now, what are the reasons for passing the bill? Here is an appropriation of \$1,200,000 needed every hour for the Quartermaster's Department, for which they have been waiting now, in the most absolute need, for a period of more than sixty days. Here are several public buildings of great importance to many large States and communities, the construction of which is brought to a stand-still. Here are appropriations made "for labor and material for the following begun and unfinished public buildings." Here are \$100,000 for the custom-house at Chicago. Here are \$100,000 for the post-office and custom-house at Cincinnati. Here are \$100,000 for the court-house and post-office at Philadelphia. Here are \$100,000 for the post-office and sub-treasury at Boston. Here are \$100,000 for the custom-house and post-office at Saint Louis. Here are \$50,000 for the custom-house and post-office at Fall River. Here are \$40,000 for the post-office and custom-house at Nashville; \$75,000 for the custom-house and post-office at Hartford, and a great many others that I need not go over. The masons are waiting, trowel in hand, for the money to go on. Labor is absolutely suspended in all these communities, and on the part of these mechanics, for the lack of these appropriations.

Mr. SARGENT. And the Government needs the buildings.

Mr. BLAINE. And the Government needs the buildings, and is in hourly need of them. The Senator from Kentucky spoke very properly of an appropriation, which is not a deficiency in the exact sense, but which the House conferees very generously conceded. A most important light-house and fog-signal station for the coast of New Hampshire has become by the storms of the past winter so unsafe that the keepers cannot remain in it. There passes by that, you may almost say, the commerce of the whole Atlantic coast. The Secretary of the Treasury writes an urgent note that the work of reconstructing it should be begun immediately, and the light-house superintendent says the same thing. I might go over the whole bill. It is filled with matters of the most exigent importance. Here is a matter which the House was not disposed at first to concede to the Senate, an appropriation for the observation of the eclipse of the sun, upon which the Naval Observatory in Washington is in correspondence with all the scientific bodies of Europe, and we should feel in a very awkward condition to have the French Academy and the Royal Observatory at London and other scientific societies sending their agents over here for the eclipse to be observed within our own limits, and our own Government taking no notice of it whatever. To that the House have agreed, the appropriation being \$8,000. It is necessary that the preparation should be begun at once; there is no time to be lost.

I might go over the whole bill in this way. Now, should we lose so important a bill as that, involving so many interests to so many communities, on which both branches of Congress and both parties

are substantially united, simply because we think we might coerce somebody into granting something the necessity of which absolutely has not been demonstrated? I do hope that we shall accept this report; and, as the Senator from Kentucky has said, and as the House conferees said also, in the regular deficiency bill which is to be reported, as they think within the next seven or eight days, if there be anything here that has been left out that is of pressing importance it may be very easily taken up then and disposed of. But if we defeat this conference report on the idea that we can coerce the House in advance of their determining the whole relation of the District to the General Government, and that we shall be able to coerce the House into granting that appropriation, I think we are proceeding upon a foundation that we shall find is not firm beneath our feet.

Mr. WINDOM. I know the Senate is weary of this discussion, and I will not prolong it more than about two minutes and a half. The coolness with which the Senator from Maine and the Senator from Kentucky tell us that this thing is all right in reference to the schools, even if we did not grant it now, is very refreshing in this warm spring weather. I think both those Senators know perfectly well that no separate bill will ever pass for that purpose. I know as well as I know anything, that unless it be passed in an appropriation bill it will not be passed at all. The Senator says the schools will not be closed even if the appropriation be not made. I should like to know upon what fact he bases that statement.

Mr. BLAINE. I will say, if the Senator consents to an interruption, that there are about two months of the school year remaining. It cannot be shown certainly that there are \$75,000 needed for the salaries of teachers for two months in this city, because including the repairs and the fuel and the lights and every conceivable thing the annual expense is \$370,000 a year. Therefore it is absurd to say that in this summer season, during the warm weather, when no fuel is required, for two months' salary of teachers \$75,000 must be paid or the schools be closed. That \$75,000 is needed to keep these schools from closing for the next two months must be a misrepresentation, or a misapprehension, I will call it, on the part of the school board who give us that information. They do not sustain themselves and the figures do not balance at all.

Mr. WINDOM. The Senator's conclusion, then, seems to be based on very poor logic, I think. My information upon the subject is based upon the statement made by the school board, by the superintendent of the public schools, and by one of the commissioners of the District of Columbia, that unless this appropriation be made the schools will stop. I think that is better authority than the argument which the Senator makes based upon his figures. For aught we know, they have their rents to pay and all their ordinary expenses, except for fuel, during the warm weather, and there are two months, about one-fifth of the whole time, yet remaining, and that would make just about the proportion they need.

The Senator from Maine makes a somewhat fitting argument on the subject of the pressing items that exist in this bill. And the Senator from Kentucky, too, says the House passed the bill upon a statement made by the member who managed it that the bill contained items of the most pressing necessity. The Senator from Maine read some of those items which are of pressing necessity, which are for custom-houses in the various cities of the Union—for instance, "For labor and material for the following begun and unfinished public buildings;" and there are some fifteen or twenty of them; I do not remember the number.

Mr. EDMUNDS. That is more important than keeping up the schools!

Mr. WINDOM. Of course it is. Here is one item to which I should like to call attention:

Custom-house, New Orleans, Louisiana, for continuation of building, \$10,000.

My best information and belief is that they have been "continuing" that custom-house at New Orleans for the last forty years. Here is one of the pressing necessities more important than to maintain the schools in the District! Another pressing necessity is rather amusing, that is that we shall give \$8,000 to send somebody away off on the plains to watch the eclipse of the sun some time this summer. I am in favor of that proposition; I think it is a proper thing to do; but for a great nation that denies to the children under the shadow of the Dome of its own Capitol the privilege of education to spend money on such an expedition at a cost of \$8,000 seems to me absurd.

Mr. EDMUNDS. But perhaps the eclipse of the sun might stop, like the schools, and not come off, unless the appropriation were made!

Mr. BECK. Will the Senator allow me to say that a commissioner of the District, no longer ago than yesterday, assured the Committee on Appropriations of the House that the failure to pass this appropriation of \$75,000 in this bill would not necessarily stop their schools, although it would embarrass them, and furthermore that the commissioner said the requirement that they should pay the money back was simply a cheat; that they neither could nor would do it, and they did not intend to pay it back, and in that view we might as well look at the question fairly?

Mr. WINDOM. That is entirely different information from what I have. The Senator's information certainly must be second-hand on that subject, for he is not a member of the Committee on Appropriations of the House. Mine is first hand. My information comes very direct.

Mr. BECK. Mine comes from the members of that committee to whom the statement was made and it was repeated in the presence of the Senator from Minnesota and myself this morning.

Mr. WINDOM. I was present in committee this morning, and if the Senator says it was stated there it is true of course; but I did not hear that statement. I heard a portion of the statement, and it was this: it was said by a commissioner of the District that it was folly to suppose they could pay it back, but that he stated the schools would not close if the appropriation were withheld, I have no recollection. Of course I will not dispute what the Senator says.

But, Mr. President, to return to the scientific ideas of my friend from Maine. He proposes to send a commission off skylarking at an expense of \$8,000 to watch the eclipse of the sun while he is eclipsing these young intellects right here under the Dome of the Capitol. There is too much "moonshine" in this.

I have only one word more to say on this subject, and that is to correct what I said about the amount of these deficiencies. The honorable Senator from Kentucky has taken me to task a little with reference to my criticism of this deficiency bill. I think it is true I made a mistake. I made two mistakes in fact. I said there had been seven deficiency bills appropriating some four or five millions of dollars during this Congress. There have been only six deficiency bills, but the aggregate of deficiencies at this time already passed, and including those in this bill, foot up \$8,048,017.86; so that I was very far below the amount of deficiency. What I criticize is this: the deficiency bills come at us wrong end first. We ought to have had the large deficiency bill, covering everything that was really known to be necessary, and then if there was anything omitted, it could have been acted on afterward.

Mr. BECK. If the Senator from Minnesota will allow me, I desire to say that we did think we would make a saving, but it is impossible to make the Departments obey the law. Deficiencies are created by the Departments and the House of Representatives yields to their importunities and supplies the Departments with what they demand. Appropriations are made in this bill for public buildings. Those of course are not deficiencies. One of the items of which the honorable Senator now complains, running up to nearly half a million dollars, was inserted in the deficiency bill in the Senate, with his consent, with the consent of all of us, to carry on the State, War, and Navy Department building here in the city of Washington, upon the ground that we could get labor more cheaply now than we could at any other time, and that it would be for the interest of the Government to anticipate the regular appropriation bill and advance the money, just as we are anticipating and advancing \$300,000 now for transportation of subsistence supplies to the Upper Missouri in order to save money. And I would say now, if this is the way the House of Representatives are to be treated, because they are seeking to carry on the Government and enable the heads of Departments to carry on their business, if I were in the House of Representatives I would stop sending any further deficiency bills here rather than to send bills here to be made the subject of groundless complaint and for the House to be insulted by the Senate.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is, Will the Senate agree to the report of the committee of conference?

Mr. WINDOM and Mr. BLAINE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 36, nays 17; as follows:

YEAS—36.

Allison,	Cameron of Wis.,	Harris,	Merrimon,
Anthony,	Cockrell,	Hereford,	Morgan,
Barnum,	Coke,	Howe,	Plumb,
Bayard,	Davis of Illinois,	Johnston,	Randolph,
Beck,	Davis of W. Va.,	Jones of Florida,	Ransom,
Blaine,	Dennis,	Kernan,	Sargent,
Booth,	Eaton,	McCreery,	Teller,
Butler,	Garland,	McDonald,	Thurman,
Cameron of Pa.,	Grover,	Maxey,	

NAYS—17.

Bruce,	Edmunds,	Morrill,	Teller,
Burnside,	Ferry,	Paddock,	Windom.
Christianity,	McMillan,	Rollins,	
Dawes,	Matthews,	Saunders,	
Dorsey,	Mitchell,	Spencer,	

ABSENT—23.

Armstrong,	Gordon,	Kellogg,	Voorhees,
Bailey,	Hamlin,	Kirkwood,	Wadleigh,
Chaffee,	Hill,	Lamar,	Wallace,
Conkling,	Hoar,	McPherson,	Whyte,
Conover,	Ingalls,	Patterson,	Withers.
Eustis,	Jones of Nevada,	Sharou,	

So the report was concurred in.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. No. 1968) to provide for vessels of the United States hailing from places where they are owned or built;

A bill (H. R. No. 3268) to authorize the North Louisiana Railroad Company to construct a bridge over the Onachita River at or near Monroe, Louisiana, and a bridge over the Red River at or near Shreveport, Louisiana; and

A bill (H. R. No. 2486) extending the operations of the Light-House Board over the Illinois River, and for other purposes.

The bill (H. R. No. 4568) to remove the political disabilities of Robert T. Chapman, of Wharton County, Texas, was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 4556) for the relief of F. W. Golladay, was read twice by its title, and referred to the Committee on Appropriations.

DISTRICT BOARD OF HEALTH REPORT.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the resolution of the Senate for the printing of 1,500 copies of the report of the board of health of the District of Columbia for the year 1877 for use and distribution by said board.

The amendment of the House of Representatives was to insert after the words "be printed" the words "and bound in paper covers."

The amendment was agreed to.

WITHDRAWAL OF PAPERS.

On motion of Mr. SPENCER, it was

Ordered, That Rollin J. Reeves have leave to withdraw his petition from the files of the Senate.

ADJOURNMENT TO MONDAY.

Mr. CAMERON, of Pennsylvania. I move that the Senate adjourn until Monday.

The PRESIDING OFFICER. It is moved that the Senate do now adjourn until Monday next.

The question being put, a division was called for, and the yeas were 42.

Mr. ROLLINS and Mr. PADDOCK called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. McMILLAN, (when his name was called.) On this question I am paired with the Senator from Indiana, Mr. VOORHEES. If here, he would vote "yea" and I should vote "nay."

The Secretary concluded the call of the roll; and the result was announced—yeas 35, nays 16; as follows:

YEAS—35.

Allison,	Cameron of Pa.,	Grover,	Morgan,
Anthony,	Cameron of Wis.,	Harris,	Plumb,
Barnum,	Christianity,	Hoar,	Randolph,
Bayard,	Coke,	Johnston,	Ransom,
Beck,	Davis of Illinois,	Kernan,	Sargent,
Blaine,	Davis of W. Va.,	Kirkwood,	Teller,
Booth,	Dennis,	Lamar,	Thurman,
Bruce,	Edmunds,	McDonald,	Windom.
Burnside,	Garland,	Matthews,	
Butler,	Gordon,	Mitchell,	

NAYS—16.

Cockrell,	Ferry,	Merrimon,	Rollins,
Dawes,	Hereford,	Morrill,	Saulsbury,
Dorsey,	McCreery,	Oglesby,	Saunders,
Eaton,	Maxey,	Paddock,	Spencer.

ABSENT—22.

Armstrong,	Hamlin,	Kellogg,	Wadleigh,
Bailey,	Hill,	McMillan,	Wallace,
Chaffee,	Howe,	McPherson,	Whyte,
Conkling,	Ingalls,	Patterson,	Withers.
Conover,	Jones of Florida,	Sharon,	
Eustis,	Jones of Nevada,	Voorhees,	

So the motion was agreed to; and at (five o'clock and twenty minute p. m.), the Senate adjourned until Monday, April 29, at twelve o'clock m.

HOUSE OF REPRESENTATIVES.

THURSDAY, April 25, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 3068) for the allowance of certain claims reported by the accounting officers of the Treasury Department.

The message further announced that the Senate had agreed to the report of the conference committee on the disagreeing votes of the two Houses on the bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making appropriations for the same; also making appropriations for detecting trespass on public lands, and for bringing into market public lands in certain States, and for other purposes.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 51) for the relief Albert Towle, postmaster at Beatrice, Nebraska;

A bill (S. No. 185) to amend section 2931 of the Revised Statutes of

the United States so as to allow repayment by the Secretary of the Treasury of the tonnage tax where it has been exacted in contravention of treaty provisions;

A bill (S. No. 242) regulating divorces in the Territories of the United States;

A bill (S. No. 260) for the relief of H. A. Myers;

A bill (S. No. 312) for the relief of Robert Coles;

A bill (S. No. 334) for the relief of William Bowlin, late of Company L, Second Arkansas Cavalry;

A bill (S. No. 342) for the relief of Phoebe Henrietta Groesbeck;

A bill (S. No. 471) for the relief of M. S. Draughn;

A bill (S. No. 520) to authorize the claimants to certain lands in Santa Barbara County, California, to submit their claim to the United States district courts for that State for adjudication;

A bill (S. No. 594) for the relief of William Spiers, late assistant surgeon United States Army;

A bill (S. No. 644) for the relief of Dwight W. Hakes;

A bill (S. No. 801) to amend section 2403 of the Revised Statutes of the United States, in relation to deposits for survey;

A bill (S. No. 878) to disapprove and annul an act of the Legislative Assembly of New Mexico, passed on the 18th of January, 1878, by a two-third vote of both houses over the veto of the governor of said Territory;

A bill (S. No. 906) releasing the title of the United States in a certain parcel of land to the assigns of John Cutler;

A bill (S. No. 913) for the relief of Nicholas Wax, Michael Granary, and Moline Lange; and

A bill (S. No. 955) for the relief of the estate of John Waters, deceased.

The message also announced that the Senate had passed, without amendment, bills of the House of the following titles:

The bill (H. R. No. 4222) to provide for a deficiency in an appropriation for the public printing and binding of the current fiscal year;

The bill (H. R. No. 2884) for the relief of Samuel H. Canfield, postmaster at Seymour, Connecticut;

The bill (H. R. No. 2096) for the relief of James Fishback, late collector of internal revenue, tenth district, State of Illinois;

The bill (H. R. No. 1224) for the relief of Will R. Hervey; and

The bill (H. R. No. 847) for the relief of Susan Robb.

Mr. McMAHON. I call for the regular order.

REPEAL OF THE BANKRUPT LAW.

The SPEAKER. The regular order being demanded, it is the consideration of the unfinished business coming over from yesterday, the bill (S. No. 35) to repeal the bankrupt law.

Mr. KELLEY. Upon this matter of the regular order I desire to inquire of the Chair whether it would be in order to ask unanimous consent that the time for debate be fixed?

The SPEAKER. It has not been fixed so far.

Mr. KELLEY. I understand that it has been fixed at two hours.

The SPEAKER. Not in the House; that arrangement may have been made by some one, but not upon the floor of the House.

Mr. KELLEY. I think there should be some discussion of the bill. I find that there is an impression abroad that the debate upon the bill is to be limited to two hours and that those two hours have been apportioned between nine gentlemen. This is a grave question and I will ask for four hours' discussion upon it.

The SPEAKER. The Chair is advised that the Committee on the Judiciary have assigned to the gentleman from Ohio [Mr. McMAHON] the charge of this bill, and therefore the Chair recognizes the gentleman from Ohio as controlling the bill.

Mr. BUTLER. Allow me to remark that this bill was not discussed at all in the Senate, except that one gentleman made a short speech. It has never been discussed in either House. We have discussed it in the Committee on the Judiciary and have come to a conclusion upon it.

Mr. McMAHON. I would ask the Chair whether if the previous question is seconded there would be one hour for debate in addition to the two hours agreed upon?

The SPEAKER. The Chair thinks that in this instance there is no reporter of the measure.

Mr. McMAHON. I have been instructed by the Committee on the Judiciary to call the previous question after two hours of debate, and without further instruction from that committee I could not change that order.

The SPEAKER. The House has its remedy: it can vote down the previous question.

Mr. SAYLER. Of course the House can vote down the previous question.

Mr. McMAHON. I give notice, then, that at the end of two hours I shall call the previous question, and would say that when the gentleman from Pennsylvania [Mr. KELLEY] says that the discussion is to be limited to nine members he is entirely mistaken.

Mr. KELLEY. I shall ask that the previous question be voted down and the time extended two hours.

Mr. WILLIS, of New York. I would like to ask what amendments the committee mean to entertain and in what order.

Mr. McMAHON. The committee have instructed me to offer a substitute for the bill, which I hold in my hand.

The SPEAKER. The bill will first be read.

The Clerk read the bill, as follows:

That the bankrupt law approved March 2, 1867, and all acts in amendment or supplementary thereto or in explanation thereof, be, and the same are hereby, repealed.

Mr. HUNTON. I rise to a question of order, and it is whether it would be in order to move to refer this bill to the Committee on the Judiciary.

Mr. McMAHON. I do not yield the floor for that purpose.

The SPEAKER. The gentleman from Ohio declines to yield, but if the previous question be not sustained by the House then the motion to refer will be in order.

Mr. HUNTON. I desire, if I can have an opportunity, to move to refer it to the Committee on the Judiciary.

Mr. McMAHON. Before presenting the substitute I yield to the chairman of the committee for the purpose of offering an amendment that will perfect the Senate bill.

Mr. KNOTT. Mr. Speaker, I presume that the judgment of every member on this floor as to the policy or impolicy of repealing the bankrupt law has already been formed, and that no argument I might offer, even if I were allowed more than five minutes, would affect that judgment. The bill is short and simple. If the bankrupt law is an evil to commerce it ought to be repealed at once; if, on the contrary, it is a beneficent measure it ought not to be repealed. But upon the hypothesis that it ought to be repealed there are grave doubts in the minds of many as to whether the bill passed by the Senate will effect that object. It will be observed by section 5596 of the Revised Statutes that—

All acts of Congress passed prior to said 1st day of December, 1873, any portion of which is embraced in any section of said revision, are hereby repealed, and the section applicable thereto shall be in force in lieu thereof; all parts of such acts not contained in such revision, having been repealed or superseded by subsequent acts, or not being general and permanent in their nature: *Provided*, That the incorporation into said revision of any general and permanent provision, taken from an act making appropriations, or from an act containing other provisions of a private, local, or temporary character, shall not repeal, or in any way affect any appropriation, or any provision of a private, local or temporary character, contained in any of said acts, but the same shall remain in force; and all acts of Congress passed prior to said last-named day no part of which are embraced in said revision, shall not be affected or changed by its enactment.

The original bankrupt law of 1867 was repealed by the provision which I have just read. Singularly enough, however, the act of June 22, 1874, was passed after the adoption of the Revised Statutes, entitled "An act to amend an act establishing a uniform system of bankruptcy throughout the United States, and for other purposes, approved June 22, 1877," without referring to the Revised Statutes at all, so that it is thought by some that the original act having been repealed the act supplementary to and explanatory thereof has not been repealed.

Now, whether that be correct or not, in order that all doubts upon that score may be set at rest, I propose to amend the bill of the Senate by inserting after the words "that the bankrupt law approved March 2, 1867," the words "and title 61 of Revised Statutes, and an act entitled 'An act to amend and supplement the act entitled 'An act to establish a uniform system of bankruptcy throughout the United States, approved March 2, 1867,' and for other purposes,' approved June 22, 1874." That will remove all doubt as to whether the bill reported from the Senate will accomplish the object for which it was intended.

In my judgment, there is another defect in this bill. It makes no provision for the prosecution of any penal action or criminal prosecution that may have arisen out of any violation of the provisions of the bankrupt law. If the bankrupt law shall be repealed before a criminal prosecution shall be instituted for any violation of its provisions, of course upon very obvious and familiar principles no such prosecution can be maintained. I therefore move to further amend the Senate bill by inserting after the words "future proceedings therein," in line 10 of the amended bill, the words "and all penal actions or criminal prosecutions arising thereunder."

Mr. McMAHON. I now, by instructions of the Committee on the Judiciary, move as a substitute for the entire Senate bill that which I send to the Clerk's desk.

The Clerk read as follows:

SECTION 1. That title 61 of the Revised Statutes, regulating proceedings in bankruptcy, and all laws amendatory of or supplemental to the same, be, and the same are hereby, repealed.

SEC. 2. This act shall not affect pending suits, prosecutions, proceedings, or applications, nor subsequent petitions for discharge thereon, nor any right of action accruing therein to assignees or others.

SEC. 3. This act shall take effect from its passage as to all involuntary proceedings, except as provided in the preceding sections, and as to voluntary applications from and after the 1st day of January, 1879.

SEC. 4. All petitions filed by an insolvent debtor before the said 1st day of January, 1879, under the law regulating proceedings in cases of voluntary bankruptcy, shall be acted upon and proceeded in to final settlement, adjudication, distribution, and discharge under said title and the laws supplemental thereto or amendatory thereof, as though this act had not been passed.

Mr. CRAVENS. Are any other amendments in order at this time?

The SPEAKER. The gentleman from Ohio [Mr. McMAHON] has control of the first hour of the consideration of this bill. After the time of the gentleman shall have expired, then other amendments under the rules will be in order.

Mr. McMAHON. I cannot yield at present for any further amendments. It is important for the House to understand what is the situation of this controversy. I desire to say now that when I made the

statement awhile ago that I was not authorized to extend the time for debate upon this bill, I did so merely under instructions of the Committee on the Judiciary. So far as I am myself concerned, I shall not only be willing but rather desirous that the time for debate shall be extended, so that so important a subject as this shall not be disposed of without some understanding of what is proposed to be done.

There are three conflicting views in regard to a bankrupt law. One class of persons desire a permanent bankrupt law, and want the present law amended. All admit its errors and incompleteness. There is another class who favor unconditional and immediate repeal of the law. Then there is a third class, represented by the majority of the Committee on the Judiciary of this House, who want the law repealed, but in view of the present condition of the country and the steady decline in values they want the repeal as to voluntary proceedings in bankruptcy to take effect on the first day of January next, and not before.

I understand the chairman of the Committee on the Judiciary [Mr. KNOTT] to represent those who are in favor of the immediate and unconditional repeal, saving of course penal as well as civil suits and proceedings. I understand that there are other gentlemen on this floor who are in favor of a permanent bankrupt law, believing that the present law can be so amended as to answer all the wants of the people throughout the United States.

I speak here on behalf of those who believe that a bankrupt law as a permanent institution in this country is to a certain extent contrary to the spirit of our institutions, and in times past has proved a failure. We want to modify the repeal proposed by the Senate bill so as to give a limited time in which persons at present involved, or who may be hereafter oppressed by the business condition of the country, may apply and receive the benefit of the law.

In whatever shape we may pass any bill to-day, it must go back to the Senate. Should the amendment offered by the gentleman from Kentucky be adopted, which is more than verbal in its character, the bill must be returned to the Senate for concurrence? Should the substitute be adopted, which I have moved by instruction of the committee, of course the bill must be sent back to the Senate for concurrence.

I propose to speak now for a few moments upon the views entertained in part by those I represent. In my judgment a bankrupt law is a law peculiarly adapted to a commercial country. It is not adapted in my judgment to a country like this, where the great mass of our people are farmers, and where even a large portion of the persons who are engaged in commercial pursuits have never been educated up to the high idea of commercial promptness that exists in the cities of New York and Boston, and notably in the cities of Great Britain.

A bankrupt law has therefore always been against the sentiment of the people of the West and against the sentiment of a great portion of the people of the South as a permanent institution. And this sentiment has found expression in this branch of the Government by decided and overwhelming votes for unconditional repeal.

In the second place the bankrupt law has proved a failure in practice. I defy any gentleman upon either side of the House to dispute that fact. It is a failure in the distribution of the assets of the insolvent. I think I can say safely and challenge contradiction that the average percentage which is paid in the distribution of an insolvent's estate does not exceed, and has not for many years exceeded, 10 or 15 per cent. The great mass of the mercantile world feel that when a case has gone into bankruptcy they might as well give up their claims or sell them; their interest in the future of the bankrupt, both as to his person and his estate, is practically extinguished.

This is a very important and a very serious objection. It does not grow out of the costs and expenses of insolvency alone, although these in a great measure contribute to it, but it grows out of the very system itself. It grows out of the fact that by the existing law you prevent the ordinary attachment laws of the State from operating; you prevent levies and executions from being made; you prevent suits from being instituted. In other words, you prevent the debtor from being called to account except by proceedings in involuntary bankruptcy, which are so hampered as to be of little value to the creditor.

This being the case, the insolvent debtor is enabled to live out of the estate up to the very last moment; and he does live out of it until finally there is nothing left but the shell. He then goes into bankruptcy, or is thrown into bankruptcy; and when his assets come to be divided there is only enough left to pay the assignee, the clerk, the marshal, the register, and above all—last but not least—that ubiquitous gentleman, the lawyer.

This is one of the reasons why the law has been a failure. There is another reason why it has failed, and why it should not be a permanent system. The moment the assignee is appointed it becomes his duty to ascertain whether there has been any fraudulent sale or illegal preference within the period of time fixed by the statute. He is then compelled to institute suits wherever he may find a creditor who has had a preference—in the city of New York, in Boston, or elsewhere; and if anything is to be done, the assignee may have two, three, four, or perhaps a dozen suits pending in different circuit courts of the United States, or at home, employing as many different lawyers, so that by the time he is ready to settle up the estate, if that happy time ever does come, there is nothing left practically for the creditor. All this litigation is to be conducted in remote courts—the courts of

the United States. Suitors, witnesses, and all are to be dragged hundreds of miles away in many instances.

Therefore, for my part, I want to see the bankrupt law destroyed as a permanent act. But I do not wish to see it repealed to take effect to-morrow or next week or the 1st day of next July. To permit the repeal to take effect anywhere near the present time is substantially to shut off a large number of persons who may be compelled to seek its benefits within a very short period of time. In our past history and experience we have passed bankrupt laws after great periods of business depression, after great commercial crises, for the purpose of enabling the thrifty who have been unfortunate to get on their feet again so that society may not be deprived of the energy and ability of enterprising but unfortunate citizens. If this law which has been upon our statute-books for eleven years be now repealed, at the very time when we are entering upon a period of increased business depression, when we are constantly witnessing further decline in values, we are reversing our policy. My judgment is that we ought to give at least six months or a year—the Committee on the Judiciary says until the 1st day of next January, I would say March or July following—in order that this country may realize, before the voluntary feature is repealed, the full extent of the depression in business and decline in values and everything else which will be experienced. I think that this much is due to the commercial and manufacturing classes of the country, because it is by the legislation of Congress that this condition of affairs has been in part brought about. It is not alone by the mismanagement or misfortune of the merchant or manufacturer; it is not certainly by his misconduct in many instances. Whatever view gentlemen may entertain upon the question of the resumption act, I think no man will dispute the proposition that whether the resumption act be right or wrong, when resumption actually takes place, not simply equalization of paper and coin but resumption, when practically you will be reduced to that amount of currency which can be floated upon a specie basis, I say every man, whatever his views may be, must admit that when that comes there will be a much larger depreciation in values; and many men who are now engaged in prosperous commercial and manufacturing enterprises will then be compelled to seek the benefit of this act. I submit, therefore, that it would be exceedingly unfortunate and inopportune for us to make the repeal to take effect immediately. As against immediate repeal I will vote for any proposition limiting the repeal to take effect on or after January 1, 1879.

I now yield ten minutes to the gentleman from Michigan, [Mr. CONGER.]

Mr. CONGER. Mr. Speaker, the repeal of the bankrupt law is probably a foregone conclusion in this Congress. The absolute repeal so far as the other branch of Congress is concerned has already taken place. After the passage of the repealing act by the Senate the first action of the Judiciary Committee of this House was a vote of the committee recommending to this House concurrence in the Senate's action for the immediate and full repeal of the bankrupt law. During the period that has intervened between that action of the committee and the present time members have learned from the press or from letters and telegrams coming from their constituents that all over the country men are desirous of knowing the exact time when this repeal is to take effect, in order that they may have opportunity before that time to file their petitions for voluntary bankruptcy.

Any one who looks at the newspapers of our principal cities will learn that within the last few days there has been one continuous rush into the courts for voluntary bankruptcy as well as many cases of involuntary bankruptcy. I think—indeed I know—the views of some members of the Judiciary Committee were changed on this subject by what is passing in the country before their eyes and within their own knowledge, so much so that the committee concluded to reconsider its action and to recommend to this House the adoption of the substitute which has been reported by the gentleman from Ohio [Mr. McMAHON] recommending to the House to pass the act for repeal to take effect immediately as to involuntary bankruptcy upon the passage of the law, but postponing its action as to voluntary bankruptcy until the 1st of January next. That amendment meets my view of what is demanded by the circumstances by which we are surrounded; and although I should be in favor, unless this amendment can be adopted, of the repeal of the bankrupt law, yet I do think the condition of the country, the circumstances of the people, the uncertainty of our legislation, the threatening danger connected with legislation in regard to financial acts, especially the great and imminent and as I believe the overwhelming danger of ruin and injury to the country arising from what may be the action of Congress under the leadership of the gentleman from New York [Mr. WOOD] in disarranging the whole tariff of the country and destroying root and branch the interests of the country, agricultural, mechanical, manufacturing, and every interest around which the labor of the American people to-day gathers—I say these threatening and impending efforts of that class of enthusiasts who may be summed up in the character of communist, free-trader, inflationist, and representatives of all those political isms which threaten destruction to all the general interests and stability of the country would invite members of this body, whatever their desire or determination may have been, to pause a moment before they forced into voluntary or involuntary bankruptcy many of the citizens of the country who have been for years struggling as they have never struggled before to sustain their

credit, to pay their debts, to preserve something for their families in the hope that they may tide over the difficulty, but who see in the passage of this act their only possible chance to free themselves from life-long slavery to their creditors depends on the extension of time for voluntary bankruptcy.

Mr. BLAIR. Will the gentleman yield to me for a question?

Mr. CONGER. When my ten minutes are up I will yield for five minutes out of my time or anybody else's time to the gentleman from New Hampshire. [Laughter.]

Now, sir, there are gentlemen in this House who have shown to me within the last few days letters from their constituents saying they have worked night and day hoping to maintain their honor, hoping to preserve their credit, hoping to pay off their indebtedness, hoping to save a pittance out of the property which they once considered abundant for all debts and abundant for all necessities of their old age—saying that if this bill passes they desire to know the day and the hour and the minute when it takes effect, because they cannot struggle longer unless there be some opportunity hereafter offered for relief from all their labors and troubles if their best endeavors shall fail, and saying they wish to know the hour of its passage so they may not fail to take advantage of the bankrupt law before its repeal takes effect.

There is but one single proposition upon which the members of the committee differ. All of them are agreed that the bankrupt law will be repealed; that in the natural order of things it must be repealed. There is a majority of that committee, and I hope it will prove true that there is a majority of this House, in favor of extending to the 1st of January next the effect of this bill repealing the bankrupt law so far as voluntary bankruptcy is concerned.

Mr. Speaker, if we were living in a time when the future in the next few months could be foreseen with the same certainty it may be in ordinary times we might perhaps be justified in acting differently, but we have, as I have believed, arrived only at the beginning of the troubles of our finances and of our labor question in this country. Whatever may be the result, how soon hereafter it may be when this country will regain the lost road to prosperity, we must go through first the valley of uncertainty, of doubt, of greatly increased lack of confidence in the public mind beyond what we have already passed through, if that be possible. And I submit whether, as the guardians of the interests of the whole people, we should not provide that at least we shall not increase this doubt, this lack of confidence, this voluntary and involuntary bankruptcy, which, sir, from the action of this House to-day until this bill be signed by the President of the United States, if there be not this extension of time to the 1st of January next, will crowd our courts with rushing multitudes of men to take advantage of the bankrupt law proposed to be repealed before the last chance of escape from the life-long and hopeless servitude which unliquidated indebtedness has fastened upon them. Give youth and strength and energy one chance of escape. Give to our common humanity one chance, when the better times we hope for shall come, to enter again in the race for life, with the prospect of some usefulness and some prosperity in their future life.

[Here the hammer fell.]

Mr. McMAHON. I yield five minutes to my colleague on the Judiciary Committee, the gentleman from Maine, [Mr. FRYE.]

Mr. FRYE. Five minutes to discuss a great question like the repeal of the bankrupt act is simply an absurdity, and I shall not undertake to do it.

I differ from the majority of the Judiciary Committee wholly. In my opinion not only is it the constitutional right, but, further, it is the constitutional duty of the Congress of the United States to enact and keep upon the statute-book a bankrupt law. I hold that it is an absolute necessity to the commercial law of this land. That commercial law without it is as a man without an arm or without a leg.

But, sir, my views in the present condition of things, even if I had time to discuss them at length, would have no weight at all in this House. Why, sir, the Judiciary Committee of the Forty-third Congress spent two solid months of time in endeavoring to perfect this bankrupt law and remove from it its objectionable features; and yet when it came into this House, with that labor expended upon it, like a whirlwind, in a minute, the bankrupt law was absolutely repealed, and only the Senate of the United States saved it. And again, when the Judiciary Committee spent time and labor and brains in perfecting this bill and it came into the House there was, as with a whirlwind, swept through this House and sent to the Senate a repeal of the bankrupt law. In Heaven's name what encouragement has ever been given to a committee of this House to take this law and provide remedies where they do not exist, to correct imperfections, and to make a law which should stand through all time as a part of the commercial law of this country?

In this present Congress the Judiciary Committee of the House, relying upon the action of the Senate in the past, determined to amend, and while considering, heard from the Senate that the Judiciary Committee of that body had not recommended but would permit a repeal of the law; and knowing the temper of the House the committee stopped all further consideration of this bill and reported, because consideration was futile, because it was throwing away time, utterly throwing it away, they reported concurrence with the Senate or else this substitute.

Sir, I believe the action of Congress to be all wrong, radically

wrong. I believe the bankrupt law can be perfected. The men who have killed the law are the officers who have had its enforcement in their hands. The complaints against the law have been for exorbitant and exacting fees on the part of these officers, and when this law dies to-day in the Congress of the United States the very men who should have been its friends, the men who selfishly should have been its friends, may lay the unction to their souls that they by their avarice, that they by their greed have killed the bird that was laying for them, day by day, the golden egg. The law dies not because the law was in fault; the law dies because the officers enforcing the law were selfish and avaricious.

Sir, believing as I do that a bankrupt law should be a part of the commercial law of the country, but knowing that my views will not carry perhaps a score of voters in this House, I joined with the majority of the Judiciary Committee and recommend the substitute of the House bill for the Senate bill.

Mr. McMAHON. I yield fifteen minutes to my colleague on the Judiciary Committee, the gentleman from New York, [Mr. LAPHAM.]

Mr. LAPHAM. Mr. Speaker, it is provided in the Constitution of the United States that Congress shall have power to enact uniform laws regulating bankruptcy throughout the United States. And yet, as bearing upon this discussion, it is a most important historical fact that this power has been rarely exercised by Congress.

The first bankrupt law, Mr. Speaker, was passed on the 3d of April, in the year 1800. That law remained in force until the 19th of December, 1803, a period of a little over three years and a half. There was no other enactment of a bankrupt law until the 19th of August, 1841, and that law was repealed on the 3d of March, 1843; so that that law, enacted after the terrible commercial disasters of 1837, remained in force less than two years.

The present law, Mr. Speaker, was enacted on the 2d of March, 1867, and with its modifications has remained in force until the present time. It has so remained in force in view of the great disasters to business men, which grew out of the terrible conflict of arms in the recent rebellion. But in my judgment the time has now arrived when this law, as was the case with its predecessor, should be blotted from the face of the statute-book.

Mr. Speaker, I answer the eloquent gentleman from Maine [Mr. FRYE] by pointing to this practice of a hundred years of our history by the statesmen of all periods as an argument against the continuance of a permanent national system of bankruptcy. This House on two, if not three, occasions has passed a bill for the unlimited repeal of this law; but the Senate up to the present Congress has failed to act upon the subject. The Senate has now taken the initiative and has sent to us a bill for the unconditional repeal of the law; and, with the amendment proposed by the chairman of the Judiciary Committee [Mr. KNOTT] incorporating the sections of the Revised Statutes on the subject, the repeal will be complete.

Mr. Speaker, I am in favor of this repeal. The only object of a bankrupt law is an equal distribution of the property of those who are embarrassed at the time of its passage, an equal distribution of their property among all their creditors and the release of the debtor from his obligations. It never was designed that a bankrupt law should remain a permanent system, in view of which men may calculate their chances, intending, when the time comes, to avail themselves of its provisions. That division of property among those who were embarrassed at the time the law was passed in 1867 having become an accomplished fact, what occasion is there for a continuance of this law? Is there any other than to leave the door open for that system of frauds which are being perpetrated under it and which are as patent to the public gaze as the sun at noon-day? Postpone this repeal until the 1st of July next or until the 1st of January next, and more frauds will be perpetrated than have been perpetrated within the eleven years during which it has been enforced. What is the law to-day but a menace to creditors and an invitation to people to engage in reckless business speculations and to avail themselves of this law for their relief? And as to the involuntary provision, it is a menace to business men by which their creditors hold them in their grasp and may at any time destroy their business. Sir, we have come down, if I may use a common phrase, to "hard pan." There is a returning prosperity from one end of the country to the other. The difference between bank paper and specie is less than it ever has been since the war, and there never was a time when bank paper was so near to specie as it is now. We have arrived at a time when there is no occasion for the continuance of such a law.

Now, under the operation of this law it is a notorious fact that not a tithe of the debtor's property reaches his creditors. Careful estimates show that the average of the debtor's property that reaches the creditor is not 10 per cent. under the bankrupt law, while the average dividend under the insolvent laws of the States runs as high as 35 per cent. Then there is the delay. The great mass of the debtor's property under this law is by delay used up by the officials who have control of the operation of the law, and the result is that with a mere tithe of the debtor's property given to his creditors the debtor himself, after he obtains his discharge, turns up with a wife, a brother, or a friend, with a competency on which he can rely for the remainder of his life.

The frauds perpetrated at the present time in the administration of this law are enormous as is known by every observing citizen. I am therefore in favor of the adoption of the Senate bill, with the amend-

ments proposed by the chairman of the Judiciary Committee, including the section of Revised Statutes which makes the repeal effective.

I do not know that it is necessary for me to dwell longer on this subject. It is a subject which cannot be discussed thoroughly or elaborately in the brief space of time given to me; but it seems to me that the usage of the statesmen of the country under the Constitution for nearly a hundred years since its adoption and the known evils that grow out of the administration of the law at present call loudly upon this House, which has twice or thrice decided in favor of an unconditional repeal of the law, to repeal it now by adopting the Senate bill as amended.

Mr. McMAHON. I yield the remainder of my time to the gentleman from New York, [Mr. CHITTENDEN.]

Mr. CHITTENDEN. Mr. Speaker, I listened to the gentleman from Maine [Mr. FRYE] with admiration and with astonishment. I believe with him that a bankrupt law, a good bankrupt law, is an absolute necessity for our country. I believe that this substitute for the Senate bill is the most dangerous proposition of legislation that has been presented to the Forty-fifth Congress, and I do not say one careless or loose word in that assertion. I believe that if it should be adopted the whole country will deprecate and deplore it.

There is not a lawyer upon this floor, there is not an intelligent merchant in the whole country, who has watched the proceedings under the bankrupt law of the last four years, who can have failed to observe that few if any have been injured by the involuntary feature of the law, and here comes a proposition to repeal that and to allow the voluntary feature to extend until the 1st of January next. What is it that is involved in that proposition? It is nothing less than an invitation to a high carnival of disaster, default, and fraud.

Sir, in view of these facts, which are incontrovertible and notoriously so, it is proposed to repeal the involuntary feature of the present law immediately, allowing the other to remain in force for eight full months. I, for one, protest against it.

Under this bankrupt law fraud has become, if I may use the expression, an exact science. There is not a man familiar with its operation who does not know that it is perfectly easy for any dishonest man—I do not charge now that it has been done—but I say that any man can divide his property among his friends, reserving enough only to pay the officials who administer this law.

That is the invitation which this Congress proposes to give to the five hundred thousand, more or less, merchants and people in this country who have been involved in the ruin of war, inflation, and speculation during the last twenty years; that is the invitation which this Congress proposes to give to everybody for eight months longer. If there is any man on this floor who can justify that, if there is any man who can show that under the administration of the bankrupt law the average creditor ever gets justice or anything worth having, if there is any man on this floor who can disprove my statement that in nine cases out of ten not 1 per cent. is ever paid to the merchants of New York and Boston by their debtors who have gone into bankruptcy, then I will yield. I say 1 per cent., not 10 per cent., as was said by the gentleman from Ohio [Mr. McMAHON] who opened this debate.

Now, in the name of reason, after all the wild and fanatical bills offered in this Congress, I ask if we shall heap upon our reputation for common sense eternal contempt by inviting every man who feels that the resumption act, the war of the rebellion, has ruined him to go into bankruptcy and defraud his creditors of every cent that he owes them, with eight months for consideration.

I rose to my feet, Mr. Speaker, laboring under a physical weakness which I feared would bring me to my chair in less than a minute. I did not expect to do more than to set thinking some of the strong men of this House on this subject. I have stated facts in regard to the operation of this law which no man can deny. I say that this proposed substitute is the most dangerous proposition that has been before Congress, the most dangerous proposition that we can possibly adopt. It will lead to results which no man can foresee in respect to the record of bankruptcies of this country. I voted for the repeal of the bankrupt law in the whirlwind of feeling to which reference has been made by the gentleman from Maine, [Mr. FRYE.] I voted for it under the very deliberate instructions which I had then received experimentally in regard to the operation of the law. I desire to vote again for the repeal of the existing law because it cannot be amended and also because we can never get a good law until this is out of the way; but I beg the House to refuse to repeal the law by means of the proposed substitute. If we do it it will certainly come back upon us to confound us.

Human nature ever remains the same. In the demoralized condition of our country human nature cannot resist such an opportunity. I read in the papers of yesterday that in three or four of the large cities of this country some thirty applications had been made in one or two days to take the benefit of the bankrupt law. Pass this substitute, and before next January there will be ten thousand who will apply for the benefit of the bankrupt law. I do not mean to use an exaggerated expression; I believe my statement to be true to the letter.

Mr. LAPHAM. I now yield fifteen minutes to the gentleman from Ohio, [Mr. EWING.]

The SPEAKER. The time of the gentleman from Ohio [Mr. McMAHON] has not expired.

Mr. McMAHON. How much is left?

The SPEAKER. Four minutes.

Mr. LAPHAM. Then I will wait until those four minutes have been disposed of.

The SPEAKER. The gentleman from Ohio [Mr. McMAHON] gave notice that at the end of two hours he proposed to call the previous question. The Chair does not think that the gentleman from Ohio can claim under the rules the control of more than one hour. At the end of his hour, unless the previous question shall be called and sustained, the bill will be open to disposal under the rules of the House, open to amendment, and the Chair thinks also open to the motion of which the gentleman from Virginia [Mr. HUNTON] gave notice, to commit the bill to the Committee on the Judiciary.

Mr. HANNA. Would it be proper to move to extend the time for one hour longer?

The SPEAKER. No limit has yet been fixed for debate.

Mr. McMAHON. All the bills for the repeal or the amendment of the bankrupt law have been referred to the Committee on the Judiciary; and it is a question peculiarly proper for the Judiciary Committee. A subcommittee of that committee was considering all those different bills when the Senate passed the bill now before the House. We then took action as a committee, and I was authorized to appear in the House as the organ of the committee, and the Chair recognized me for that purpose. I do not know who would have control of this bill, if anybody has.

The SPEAKER. The House has control of the bill.

Mr. McMAHON. I have no objection to that whatever, but it seems to me that the persons to be recognized are those who have given the matter consideration, the members of the Committee on the Judiciary.

The SPEAKER. The Chair thinks there may be a great many members of the House not members of the Committee on the Judiciary who have given consideration to this subject.

Mr. McMAHON. The Chair must not understand that I desire to exclude other persons. On the contrary, I stated at the outset that I would myself vote against the previous question in order to extend the time for discussion.

Mr. HANNA. Then at the proper time—

The SPEAKER. The intimation was certainly made that at the end of two hours an effort would be made to close debate.

Mr. HANNA. I trust that will not be done.

The SPEAKER. The House can determine for itself when that question is presented. The Chair will recognize the gentleman from Virginia [Mr. HUNTON] to submit the motion of which he gave notice some time since.

Mr. HUNTON. I move to commit the bill with the pending amendments to the Committee on the Judiciary. That motion I believe is debatable, and I desire to say a few words upon it.

I agree with the gentleman from Kentucky [Mr. KNOTT] that if the bankrupt law is an unmitigated evil it ought to be repealed out and out. I am not one of those who believe it to be an unmitigated evil. I am one of that class referred to by the gentleman from Ohio [Mr. McMAHON] who believe that the country requires at the hands of the Congress of the United States a permanent, well-considered, well-digested bankrupt law.

I am unalterably opposed to many of the features of the existing bankrupt law; but I believe there is wisdom enough in this House, wisdom enough in the Judiciary Committee of the House, to frame a bankrupt law which will be free from the objections applicable to the existing law, and which will be such a measure as the commercial necessities of this country demand.

It appears to me singular that now, at the period of the greatest commercial distress that this country has known since the termination of the war, the bankrupt law, designed to relieve the necessities of the people, should be repealed out and out. I, for one, am not willing in the present condition of circumstances to vote for an unconditional or a conditional repeal. I desire to exhaust every effort on the part of this House through its proper committee to mature and perfect the bankrupt law, to rid it of its evils and make it what it was designed to be, a blessing to the country. I think this country has reached such a stage of commercial progress as to require a permanent system of bankruptcy; and I believe that if a law free from the objectionable features of the present act were framed it would be acceptable to the whole country and would be beneficent in its operation. I therefore move that this bill be referred to the Committee on the Judiciary.

I yield to my friend from Ohio [Mr. EWING] thirty minutes of my time.

Mr. EWING. I hope the motion of the gentleman from Virginia [Mr. HUNTON] will prevail. I regard this bill to repeal the bankrupt law as one of the most important measures we have had before us for consideration. It has not yet been debated, and the evident purpose of an overwhelming majority to pass it plainly indicates that debate is useless. Yet I cannot sit silent and see it pass without at least my protest.

This bill, Mr. Speaker, is a fit sequence of the resumption law, to complete the work of ruin it initiated. That law enacted, in effect, that all men who were so unfortunate as to have been much in debt during the past three years, and all who were so venturesome as to continue in business relying at all on credit, should be broken up, and their property taken from them and given to their creditors. This

bill supplements resumption by enacting that after the creditor shall have taken the debtor's property at less than half its nominal value he shall have a mortgage on his brain and muscle for the unpaid balance of the debt.

What is the condition of the mass of the business men of this country to-day? A condition of insolvency. Probably not one man in five, taking all classes of business men together, could at once settle his debts by selling his property. And what is the cause of this condition of general insolvency? Is it the fault of the debtors? Is it because they have been extravagant or reckless? Not at all. The cause is to be found in the legislation of Congress. I care not whether it be attributed to inflation or contraction or to the combined effect of inflation followed by contraction; still the cause of the unhappy condition of the most of the business men of this country lies in the finance measures of the General Government. Now if one-half of the property of the debtor classes had been swept from them by visitation of God, or by act of war, would we, on the instant of that sad and terrible event, repeal the merciful provisions of the bankrupt law? Would we say that that was the proper time to enact that he should not be acquitted of the remainder of the debt on surrendering all he had left of his property? No; we would say it was the worst of all times to repeal the law. We would say that if ever a people needed a bankrupt law that was the time. This, Mr. Speaker, is our situation to-day. The business men of this country who are in embarrassment and practical insolvency have not brought it on themselves. Very few of them have known even the cause of the great and constant fall in price of everything in which they deal, which fall has made enterprise in almost all kinds of business pernicious and ruinous.

Mr. COLE. Does the gentleman from Ohio [Mr. EWING] assert that the business men of this country are demanding that the bankrupt law shall still exist?

Mr. EWING. No, sir; I do not say that. They have given little expression on the subject. Interested men in certain business communities have sought expressions from the business men—

Mr. COLE. I would like to ask the gentleman another question. Does he assert that not one in five of the business men of this country to-day can pay his debts?

Mr. EWING. Yes, sir. I did assert that not one-fifth of the business men of the country, taking all classes of business together, could sell their property to-day for enough money to pay their debts.

Mr. COLE. Where do you get that kind of statistics from?

Mr. EWING. From the fact that there has been in the past three years a fall in the values generally to the extent on an average of not less than 50 per cent.

Mr. COLE. And still do you assert that not one in five of the business men of the country is daily discharging his obligations?

Mr. EWING. Not at all. On the contrary, a large part of them are discharging their obligations; and this is largely due to the fact that they are sustained from being actually swept out of business by this bankrupt law. Gentlemen talk about expressions on this subject from the business men of the country. Why, sir, when a petition is carried round by men interested in the repeal of the bankrupt law, every business man signs it. The men who are strong sign it because they are of the creditor class, and want the swiftest and promptest remedy against their debtors.

Mr. COLE. I should like to ask the gentleman from Ohio another question.

Mr. EWING. My friend will please allow me to continue.

The business men who are strong sign it, for they want to get rid of this bankrupt law, which is in practical effect a stay law, so that they may be the first to seize and secure the property of the debtors. And on the other hand the embarrassed business men sign it. Why? Because to refuse to sign is to bring upon them the suspicion of insolvency. And therefore you get both sides to sign a petition wherever it is handed round by an interested man. As to the mass of the men who have been already broken up, their opinions of course are of no account. They are fallen, and are treated by their business associates as the stricken deer in Shakspeare's play of *As You Like It*. It was treated by his fellows of the herd as they galloped by:

Sweep on, you fat and greasy citizens;
'Tis just the fashion: Wherefore do you look
Upon that poor and broken bankrupt there?

They tell us, Mr. Speaker, that the bankrupt law is only an inducement to rascality. But the tables of commercial failures for the first four or five years after its enactment show no increase of insolvency. From 1867 to 1871 bankrupts did not multiply.

Mr. CLAFLIN. I should like to ask the gentleman from Ohio a question.

Mr. EWING. Very well.

Mr. CLAFLIN. I should like to ask the gentleman from Ohio whether this law now existing was the law then in force?

Mr. EWING. It has been modified somewhat.

Mr. CLAFLIN. Has it not been modified essentially and have not all the objectional features of the bankrupt law been inserted in the last amendment?

Mr. EWING. What is the date of the last amendment?

Mr. CLAFLIN. Two or three years ago Congress passed amendments to the law which opened the door to all these frauds.

Mr. EWING. It was amended at various dates down to 1873, as the working of the law demonstrated the expediency of amendments.

Mr. CLAFLIN. That is one law and this is another.

Mr. EWING. But the whole history of the operation of the law shows that gentlemen are now saddling on it evils which did not come from it at all, but from the general fall of values consequent on the contraction involved in the resumption scheme. Bankruptcies commenced increasing from the day the resumption law passed, and have gone on increasing, considered relatively to the value of business, every month since. And to attribute these failures to the bankrupt law is unreasonable and unjust.

Now, as to these bankrupts not paying much—

Mr. BRIDGES. The gentleman has stated the commercial interests of the country require the existence of a bankrupt law. I beg leave to ask him whether the farming interests of the country require the existence of a bankrupt law—the farming interests, which constitute by far the greater majority of the people of the country?

Mr. EWING. They are comparatively little affected by the bankrupt law one way or the other.

Gentlemen say the creditors get little in bankruptcy cases. Very true. Why? From two causes, one of which we can remedy—indeed, both of which are within our power to remedy. First, the enormous costliness of the machinery by which the law is executed. Second, the steady and continuous fall of values arising from preparation for forced resumption. The creditors get little because since the resumption law passed men have been going on in business, growing more cautious it is true, but still going on, in the hope constantly of better times. Every opening season in New York has been hailed with false assurances that business was reviving, leading embarrassed men to struggle on, though falling behind each year and consuming their past accumulations, in the hope of better times. And when at last they sink into bankruptcy their remaining property has shrunk to a half or a third of its former value by the general fall of prices resulting from this attempt at forced resumption, so that when the lawyers, and marshals, and assignees have made their charges there is unfortunately little left for the creditor.

I notice that in speaking of this subject some of the newspapers tell us to "remit the matter to the States." But the difficulty is that a State has no power to pass an efficient bankrupt law. If we repeal this act and the States enact bankrupt or insolvent laws they can have no application to debts or contracts already existing, because of the inhibition in the Federal Constitution against State laws impairing the obligation of contracts. Moreover, the State bankrupt or insolvent laws cannot discharge the debtor from debts contracted outside of the State. Therefore, practically, so far as this relief is concerned, it rests solely with the General Government to grant it.

Mr. Speaker, I think the repeal of this law now is bad legislation considered broadly as a question of general policy. Its inhumanity alone makes it bad statesmanship. In the name of God, have not the struggling mass of business men in this country suffered enough? Is there not enough of angry discontent to-day? Is not the feeling of wrong inflicted by law sufficiently general and intense? Shall we aggravate it by telling these embarrassed men that hereafter when they break down under the oppression of our own enactments—

Mr. COLE. I would like to ask the gentleman a question.

Mr. EWING. I prefer not to be interrupted just now. Shall we aggravate it by telling them that hereafter when they shall break down—not through their fault, not through their recklessness, not through causes that they could control or even understand, but solely through mischievous legislation—that when they fall, they shall "fall like Lucifer, never to hope again?" Beware, Mr. Speaker, of adding anything more to the discontent which now pervades all classes of our people—business men, wage men, and the millions restively suffering in idleness because there is no work to do—beware of adding fuel to that fire already prepared for kindling which may sweep over our land beyond the power of Government to stay or extinguish it.

The repeal of this law is bad policy also because it consigns to business death a large part of a generation of business men as intelligent, as honest, as buoyant and spirited as was ever crushed by the greed of avarice or the blundering of heedless legislation. The country loses their services. They go out. For how can a man stripped of his property rise with a millstone of debt about his neck? You make the world a dungeon for him, and you chain him to the door. Shylock said:

You take my life,
When you do take the means whereby I live.

But the proud and ambitious man, in youth or middle life, would greatly rather lose his property than have a burden of debt upon him which makes it impossible that he shall ever again have enterprise or hope of honest accumulation.

[Here the hammer fell.]

Mr. HUNTON. I yield five minutes to the gentleman from Mississippi, [Mr. HOOKER.]

Mr. HOOKER. If we would listen to the argument which has just been made by the gentleman from Ohio [Mr. EWING] we would conclude that the functions and office of a bankrupt law were to relieve the debtor by making him incapable of paying his debts. I have thought that the functions and office of a bankrupt law were to take the property of the debtor honestly surrendering it and distribute it among his creditors. That is all that it proposes to do and that is all the operation of the law.

I am opposed to the proposition of my friend from Virginia to refer

this question back to the committee, and I am opposed to it because I believe that this House is prepared to pass upon this question. Twice has the House of Representatives by an overwhelming vote swept from the statute-book this nefarious act which, instead of being a protection to labor and to industry and the support of the business men of the country, has paralyzed that labor and that industry, and prostrated the great material resources of the country. The gentleman from Ohio [Mr. EWING] referred to the agricultural interest, that great interest which lies at the foundation of all others, that without the sustenance and support of which all others would fail and crumble to the earth; that great interest without which your vast commerce would perish and your magnificent docks from New York to Galveston would rot to the water's edge and your vessels, when you are reduced to a fifth-rate power, would be eaten up by the barnacles of the sea.

I say, sir, that the great agricultural interests of the country have been more injured and damaged by the bankrupt law than any other interest in the country, although it has been a protection to commercial men.

The gentleman from Ohio [Mr. McMAHON] offers a substitute for the Senate bill by which he proposes to revive the most nefarious feature of the act of 1870, the voluntary feature of the bill under which a man could go into bankruptcy and leave nothing to his creditors, his assets being taken by the assignee in bankruptcy and the officers under the bankrupt law.

I appeal to the House not to vote for the motion of the gentleman from Virginia [Mr. HUNTON] to refer this matter to the Committee on the Judiciary, but to accept the bill as it comes from the Senate. I know that one feature of the law is an engine of oppression against the debtor class, and that is the voluntary feature. The creditor, the reckless creditor, the heartless creditor, when forced into bankruptcy may defraud his creditors under this provision of the law. I have seen since the modification of the law many of the operations of it and the injury inflicted by the voluntary feature of the law which it is proposed to leave in operation.

The gentleman from Ohio proposes to continue practically the voluntary and the involuntary portions of the law. I am aware, as has been said, that it is a serious thing to be in debt, and that, in the language of the gentleman from Ohio, [Mr. McMAHON,] it is like being in a dungeon; I am aware of that.

A friend of mine once said: "I am under an iceberg of debt overdue and its glittering dew-drops have dripped day by day upon my head." But I am not aware that the debtor class of the community will confer any benefit by keeping the involuntary part of the law in operation; on the contrary you put the sword of Damocles into the hand of the creditor to oppress the debtor, and I know no class of the community in which it has been wielded with such oppression and prostration of industry as against the great farming interests of the country, upon which everything else depends. I hope the House will vote down the motion to refer the bill. I desire to add only that the Legislature of the State of Mississippi has unanimously passed a resolution requesting its Representatives to vote for this bill.

DEFICIENCY BILL.

Mr. HALE. I rise to a question of privilege. I desire to present a report from a committee of conference and it is important that it should be agreed to to-day and sent to the Senate.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 15, 16, 18, 19, 25, 28, 30, 31, and 37.

That the House recede from its disagreement to the amendments numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 17, 20, 23, 24, 26, 27, 32, 33, 34, 35, and 36, and agree to the same.

That the House recede from its disagreement to the amendment numbered 12, and agree to the same, with amendment as follows: Strike out of said amendment the words "and binding," and strike out "forty" and insert in lieu thereof "thirty;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 21, and agree to the same, with an amendment as follows: Strike out the word "fifteen," and substitute therefor the word "twelve;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 22, and agree to the same, with an amendment as follows: Strike out the words "two thousand" and insert in lieu thereof "fifteen hundred;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 29, and agree to the same, with an amendment as follows: Amend the title of the bill by inserting after the word "years," in said title, the words "for subsistence of the Army;" and the Senate agree to the same.

EUGENE HALE,
JAMES H. BLOUNT,
Managers on the part of the House.
J. G. BLAINE,
JAMES B. BECK,
Managers on the part of the Senate.

Mr. HALE. I move that the report of the committee of conference be agreed to.

The question was taken; and the report of the committee of conference was agreed to.

Mr. HALE moved to reconsider the vote by which the report of

the committee of conference was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPEAL OF THE BANKRUPT ACT.

Mr. HUNTON. I now yield fifteen minutes to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. I desire, Mr. Speaker, to indorse what was so well said by the gentleman from Maine [Mr. FRYE] as to the necessity of a bankrupt law as a part of the laws of every commercial nation. It is necessary and vital to such a body of laws. I desire also to invoke in favor of the proposition to send this bill to the Committee on the Judiciary what was said by the gentleman from New York [Mr. LAPHAM] touching the history of such laws in our past. Such a law, he said, has ever been passed to relieve the victims of a commercial crisis, after which they were repealed; and, he added, that having done that this law had done its work. I say, sir, that the American people have never been in so grand a commercial and manufacturing crisis as they now are. They were never suffering under a more portentous one than that which now overwhelms them. The gentleman said that we had reached a period when our paper money is nearer to gold than bank-notes ever were, and when he said that he told the truth, for the greenback or national-bank note will travel without discount through every State in the Union, and there never was a time under our old money system when bank-notes would travel a hundred miles from the State that had incorporated the bank that issues them without discount. But that fact does not attest the prosperity of the people. Look at Massachusetts with \$250,000,000 of deposits in savings-banks!

Mr. BUTLER. Two hundred and forty millions.

Mr. KELLEY. Well, \$240,000,000; that is a good round sum. I have been told by other gentlemen from that State that it is \$252,000,000. Be it either \$252,000,000 or \$240,000,000, it is held subject to a conditional stay law, enacted recently and precipitately, which provides that the directors of every savings-bank may invoke the offices of a commission who may say to them you must pay only such a percentage of their own money to depositors in every sixty days. I believe I state the provisions of the law correctly, and will be glad to be corrected if I have misstated them.

The depositors of this \$240,000,000 or \$252,000,000 are doing business in a time when the Legislature and governor of Massachusetts felt it necessary to pass such a law in order to save the State from commercial chaos; when to permit the thrifty laboring people or merchants or manufacturers to draw their own money in accordance with the laws under which they deposited it threatened bankruptcy, broad, sweeping, and universal. But in a period the aspects of which justify such legislation by so conservative a State as Massachusetts it is proposed to say to the debtor whose assets are thus impounded that the Government withdraws the protection it threw around its enterprising citizens eleven years ago and will leave him to be hunted into pauperism, while the bank commissioners direct the holders of his money to pay him but 5, 10, or 20 per cent. each sixty days.

When was business ever so stagnant? When was it ever universally conducted with so great a chance for loss? Each quarter brings new assurances from financial prophets that we have touched hard pan, and are now to rise into prosperity. Last year our great crops, greater than we ever gathered before, were to redeem us from depression. Those crops have passed away, and the report of the first quarter of this year announces the failure of thirty-three hundred and fifty-five business houses, giving us for the year above twelve thousand bankruptcies.

The total amount involved in these failures during the first quarter of this year is \$82,078,826, being \$18,000,000 more than for the same quarter of 1876 and \$28,000,000 more than for the same quarter of last year. If, as the gentleman from New York said, bankrupt laws are to afford relief at the end of a crisis, I pray you to permit this law to remain in operation; let it execute its legitimate purpose; let it remain until by the operation of our infernal laws those who feel that they stand shall have fallen, and until when after we shall have concentrated all the real estate, the machinery, and the corporate property in the country in the hands of a few cormorants we can give the masses of the business people at least the right, unembarrassed by judgment debts, to ply their energies in supporting themselves and in endeavoring to contribute to our revenues.

Look at the public revenues, shrinking, shrinking, shrinking day by day, week by week, month by month, because more and more of our people are forced into pauperism if they are laborers, and into bankruptcy if they are merchants or manufacturers, and become unable to consume dutiable or taxable goods and by such consumption to contribute to our revenues.

The receipts from internal taxes for this month are already a million dollars less than to the same date of the same month of last year, and by the end of the month they will be \$1,300,000 less. Already by comparison with last year we have lost more than six millions of internal revenue, and are likely to lose a total of ten millions before the close of the year.

I beg you to pause and not precipitate further bankruptcies and enforced idleness. I beg you to leave to the embarrassed business men a gleam of hope, a little lining to the portentous cloud, and not

force such men, men of intelligence, energy, and knowledge, into the ranks of those who look upon our Government as an oppressor and upon Congress as a wrong-doer. I beg you not to give to the discontented people disciplined and intelligent captains to lead them into open revolt.

[Here the hammer fell.]

The SPEAKER. The time of the gentleman is expired.

Mr. HUNTON. I now yield five minutes to the gentleman from Indiana, [Mr. HANNA.]

Mr. HANNA. In so far as the resolutions of a State Legislature are concerned, I am here under instructions from the Legislature of my State to vote for the unconditional repeal of the bankrupt law. But were I not so under instructions, and were left to consult my own judgment, I would vote for the repeal of that law.

I regret that in the discussion of this measure an attempt has been made to withdraw our minds from the law under consideration. I do not propose to be drawn off into a discussion of questions of finance or anything of that kind; and I again state my regret that an attempt has been made to give this debate that direction.

If I were to speak for myself, I would say that in my judgment a national bankrupt law is a standing insult to the intelligence of the State governments. If I look to the experience of the past, I find that that experience proves that a bankrupt law is utterly impracticable as a measure of relief even to the honest debtor.

Let us look for a moment simply to the operation of the bankrupt law. I sympathize as much with the debtor as any man; but let us see how that law operates. I say that under the law as administered, under every act passed by the American Congress as administered, it has proved a swindle to debtor and creditor. Why is that? It is because the machinery of our Federal courts is so heavy, it requires so much money to furnish the grease to run them, and the operations of those courts are so far from the men who are to be affected by the administration of the law, that in the administration of the law the property of the debtor is swallowed up by the officers of the courts, administer them as honestly and as best they may.

I lay it down as a principle that the nearer you can get to the people with your court the more efficient will be the remedy administered and the cheaper and better for both debtor and creditor.

What is now the practical operation of this law? Take for instance my own State, which is well supplied with railroads. A man goes into bankruptcy. An assignee is appointed at the city of Indianapolis. The bankrupt we will suppose resides in one of the outer counties. In so far as his creditors come forward and voluntarily pay their indebtedness, so far collections are made. As soon as the cream is thus skimmed off, what follows? Why, at the capital of the State the effects of the bankrupt are put up for sale. Who at Indianapolis knows what they are worth? Nobody. Some man perhaps from the locality of the bankrupt may slip in and bid what he chooses; and the entire assets of the bankrupt are thus swallowed up. The course pursued is a swindle upon the honest debtor as well as the honest creditor, because the honest debtor desires that his property shall go to pay his debts.

Has it come to this that the people of Indiana and of the other States have not intelligence enough to pass insolvent laws and assignment laws which will better subserve the interests of debtor and creditor than this legislation which we now propose to repeal? Why, suppose a man dies in one of the outer townships of your county; I submit to you as men of practical, common sense whether an administrator living in the immediate locality will not collect more money out of the assets of the deceased than will a man ten, fifteen, or twenty miles distant, who may not be conversant with all the surroundings of the deceased. I submit to you whether a court sitting in the county where the debtor resides is not in a position to be better conversant with the facts of the case than a court sitting away off at the capital of the State. I submit to you, taking mankind as ordinarily found, of average honesty, of average fairness—when an honest man comes forward and says to his creditors, "Here is all I have; take it and apply it honestly and fairly so far as it may go to pay my indebtedness," will not the creditors ordinarily say, "This man has done all he can; let us give him an acquittance."

[Here the hammer fell.]

Mr. HUNTON. I now yield five minutes to the gentleman from Missouri, [Mr. CRITTENDEN.]

Mr. CRITTENDEN. I yield my time to the gentleman from New York, [Mr. HEWITT.]

Mr. HEWITT, of New York. Mr. Speaker, so far as I have been able to follow this discussion, the opponents of the repeal of the bankrupt law seem to have confounded insolvency with bankruptcy. The provision of the Constitution under which this law was enacted relates to bankruptcy; it says nothing of insolvency. Now bankruptcy is that condition in which a debtor is unable to pay his debts; and it is a judicial question whether he is in such a condition or not. It is competent for Congress to pass a law which shall give to the courts of the United States the determination of the question whether a debtor is in a condition of bankruptcy or not; and this is all that it is competent for Congress to do. Such a law is eminently wise and judicious. I believe that a bankrupt law of such a character as that is indispensable in connection with commercial business. But the existing law is not such a law. It needs amendment which will give to the courts authority to decide the question whether the debtor is in

a state of bankruptcy or not, and if he be in such condition to distribute his assets among his creditors without preference.

In view of this consideration, I introduced early in the extra session a bill (H. R. No. 1529) proposing amendments to the bankrupt law which would have made it an efficient working bankrupt law, such as exists in Great Britain. That proposition was sent to the Judiciary Committee; and I to-day learn for the first time from the gentleman from Maine [Mr. FRYE] why the committee has taken no action on the subject. He has told us that after his experience of two years, after a great deal of honest, hard labor, he despaired of bringing this House and this country to a realizing sense of the nature of the legislation which is demanded by commercial interests. I agree with him; and this being so the next best thing, if we cannot properly amend the act, is to repeal it. I was astonished to hear him say to this House that he was in favor of the substitute introduced under the direction of the Committee on the Judiciary by the gentleman from Ohio, [Mr. McMAHON.] That substitute will aggravate every evil of the existing law. It puts it in the power of the dishonest debtor for eight months to come to hide away his assets and it takes from the honest creditor the power to compel a dishonest debtor to devote his assets to the payment of his indebtedness.

I am opposed to the substitute; and if proper amendments cannot be made to the existing law, I am in favor of the absolute and unconditional repeal of the act, without any other delay than for the adoption of the technical amendment suggested by the gentleman from Kentucky, [Mr. KNOTT.] Every hour that we delay this action is dangerous to the best interests of this country. We are marching steadily and surely back to prosperity. We are to-day on "hard pan." I was astonished to hear the gentleman from Ohio [Mr. EWING] and the gentleman from Pennsylvania [Mr. KELLEY] propound the doctrines which they have laid down here to-day. They seem to think that the distress in this country with the attendant shrinkage of values is something local. Let me tell those gentlemen that this condition of things exists all over the civilized globe. In Great Britain, where specie payments have not been interrupted for a long period, there is the same shrinkage of values. In France, where specie payments have been resumed under a scheme which has received the unqualified approbation of these gentlemen, there is great commercial distress. In Germany, where a sound system of currency has never been departed from, equal distress prevails. The business depression and the shrinkage of values are not local but universal. They are the reaction from a speculative era; and when you have had an era of speculation there is no remedy, but through much tribulation, through shrinkage, through liquidation of indebtedness, to get back to the point where we can begin upon the foundation of solid and real values and upon honest and true money.

[Here the hammer fell.]

Mr. HUNTON. I yield to the gentleman from Maine [Mr. FRYE] for five minutes.

Mr. FRYE. Mr. Speaker, again in five minutes of time there is an utter impossibility of arguing to this House the proposition which I approve and which in general I shall endeavor to sustain by my vote.

I desire now to say, Mr. Speaker, that the gentleman from Virginia having made the motion to refer this subject to the Judiciary Committee, I do not take the despondent views which have been expressed in this House by the gentleman from Ohio [Mr. EWING] and the gentleman from Pennsylvania, [Mr. KELLEY,] and I dissent entirely from the reasons they have given for their preference for the banking law. I do not believe that the return to resumption is the cause of the wide-spread ruin in this country to-day. I believe there can be found other better, greater reasons by far than the condition of things; else why do you find it in Canada? Else why do you find it in England? Why do you find to-day, out of one hundred and sixteen cotton mills in one single city in England one hundred of them I believe have stopped; their wheels not running; their employés on a strike? They have had no experience like ours in the return to resumption and in the contraction which gentlemen talk about. Contraction, in my opinion, was an absolute necessity to national health, as medicine now and then is an absolute necessity for man to recover his normal condition.

Sir, I look forward to the future with hope, for the nearer we approach to a gold basis the nearer we approach to that point where business men can look upon affairs as the shipmaster looks upon the compass and recognizes his position, the nearer we are to safety, to comfort, and to prosperity.

But, sir, I have derived new hope from the discussion of this measure in this House. I did not suppose there were so many gentlemen on the floor who entertained the views which I have hitherto expressed. I am encouraged, and say with all my heart and strength I will devote my time in the Judiciary Committee to the amendment of the bankrupt law providing this House will adopt the motion and refer it to that committee for consideration. The encouragement received here is such I believe the committee would put itself to the work of preparing a bankrupt law which would be relieved of all the objectionable features of the present one, and at this very session of the House report it back in that perfected condition. I hope, sir, that the House will adopt the motion of the gentleman from Virginia to refer this bill to the Committee on the Judiciary.

[Here the hammer fell.]

Mr. HUNTON. I yield now for three minutes to the gentleman from Pennsylvania, [Mr. WHITE.]

The SPEAKER. The gentleman has only six minutes remaining.

Mr. HUNTON. And I yield three minutes to the gentleman from Pennsylvania.

Mr. WHITE, of Pennsylvania. Mr. Speaker, I am obliged to the gentleman from Virginia [Mr. HUNTON] for the courtesy of a few minutes on this question. In the brief moments allowed me for discussion I cannot philosophize on the bankrupt system of the country. Lengthy detail must be abandoned.

What is the specific question before the House? The gentleman from Virginia has moved to refer the pending bill to the Judiciary Committee. This will certainly delay final action by this House, possibly defeat the passage of the measure this session. The bill itself is brief and provides for the repeal of the bankrupt law of 1867 and all its amendments and supplements, saving, however, the validity of pending proceedings in the different bankrupt courts of the country until they are finally disposed of. I shall vote for this bill. It has already passed the Senate and the sooner it becomes a law the better it will be for the country. Refer it to the Judiciary Committee and it will be weeks, I fear, before it will again get before the House.

Sir, it has been well said there should be some bankrupt system in a country like this. The Constitution saves to the Congress the right to pass uniform laws on the subject of bankruptcies throughout the United States. After a great convulsion like the war against rebellion it was wise to enact some law on this subject to relieve the mass of the people, particularly of one section of the country, from the weight of misfortune that crushed them, and start them upon a career of new enterprise and usefulness.

In the earlier period of its administration men who had lost all their substance in the casualties of actual conflict or through the accidents of war and derangements of trade, men who had nothing left but a willing heart to start again in the battle of life, came before the courts, made an honest showing of their assets, a full surrender, and were discharged from a mountain of debt so they could again go into the struggles of business and assist to promote the common weal. But, sir, latterly the bankrupt law has been employed as a trap in which to catch the honest business men of the country. It is full of devices, uncertainties, and perplexities. It is a dark shadow upon the fair face of the jurisprudence of the country. The sooner it is dispelled the better it will be for the currents of trade among the people. A uniform system of bankruptcy, forsooth! Uniform in what? In its invitations to the dishonest debtor to thwart and evade his honest creditor; to the relentless creditor to harass and destroy the honest debtor. I was a few years ago entertained, sitting in one of the United States courts, which is presided over by a most distinguished judge, as I listened to his honor seeking to elucidate one of the intricacies of this law from the bench to the counsel in the case, now one of the associate justices of the Supreme Court of the United States. When the judge concluded his explanation on the pending point, the counsel plaintively observed: "Well, your honor, I thought I knew something about the bankrupt law, but now discover I know nothing." Thus it is practically with the legal profession of the country. The justice of the case is lost in the tedious mazes of the endless proceedings.

Sir, I listened with surprise to the utterances of my experienced colleague [Mr. KELLEY] and the gentleman from Ohio [Mr. EWING] in their resistance to the repeal of this law. They seek to blind it with the financial issues of the hour. They say you will push the laboring-men to revolt by adding the repeal of this law to their woes. Sir, the laboring-men are not the persons who invoke the aid of the bankrupt law. They have not the surplus means at hand to defray the necessary counsel fees and officers' charges to begin the proceedings. No, sir; they are the sufferers from the injustice of this statute. The interest of the laboring-man is the integrity and prosperity of his employer. With prosperity to the employer the laborer is happy in "his basket and store." When disaster overtakes the honest employer the laborer still gets his dues. But, sir, gentlemen talk of the creditor and debtor classes of the country as distinct and at issue. There are none such distinctively in our business interests. The employer, whom you may designate as the capitalist, is the creditor of the workingman whom he hires for his labor; the laborer is the creditor of this capitalist for his wages. The laboring-man at the close of the week or the month, or it may be when he presents his voucher for his wages, gets payment if the employer is solvent; but if misfortune has overtaken the business and bankruptcy proceedings have been resorted to, the laborer gets practically nothing.

I have no time to dwell on this. Let us imagine a business enterprise employing scores of hands with dependent families. The management suddenly stop operations; the hands are idle, the families suffering; the adroit managers suddenly resort to bankruptcy proceedings, voluntary or involuntary—either can easily be inaugurated; the United States or bankrupt court is located possibly one hundred miles away; a schedule of assets and debts is prepared; the assignee is selected, whose duty it is to collect the assets and make equal distribution, with certain preferences for wages of labor and some other matters; it is suddenly discovered the title to the most valuable part of the real estate has been vested in the wife or son or some other relative or friend of a principal stockholder or conductor of the enterprise;

the creditors are shocked; the laboring-man with his ten, twenty, hundred dollars or more coming for his wages has no money to enter the contest; the court is too far away; the local attorney cannot afford to give his time and attention to begin a contest in a court so distant without expenses and compensation; in despair all is practically lost to the creditors, including the laboring-man; the assignee's account is settled and the bankrupt is finally discharged, his debts all wiped out, yet the bulk of the property still remains in the family.

This is no exaggerated picture. Away, then, with the pretense that this law is for the benefit of the laborer! It is against his interests to remain on the statute-book. Will gentlemen refer to the records of the bankrupt courts and tell me how many laboring-men have resorted to the bankrupt law to relieve their misfortunes? There are none. No, sir; let not gentlemen seek to raise the issue here that the law we would repeal is the poor man's friend. It has been his enemy. Why, sir, it has been in force since 1867, and yet business disasters have multiplied.

I would not say, no man can say, there are not many features of advantage in this law, and many instances of benefit to the individual and the community under its administration, but in the main now it is an incubus on our business society. Much money to-day lying idle would invest in mortgage or real estate security to start some new enterprise, to employ labor, were it not the fear of the perplexities and devices of bankrupt proceedings continually arising to discourage the investment. Sir, every lawyer in active practice knows he is invoked oftener to apply this law by the man who wants some improper advantage over his honest creditors than for any other purpose. It was enacted on the theory all a man's property when he failed should be taken and distributed to all his creditors. As it is administered it seeks to discover how little can be applied to honest purposes. Were this Congress to consult the interest of some lawyers, clerks, and marshals of United States courts this law would not be repealed. Consult the business public sentiment of the country—consult the men who in the private avenues of enterprise are risking their means and investing their labor, who want laws that will give certainty, honesty, and fair play to all classes, and we will not hesitate an hour to repeal this law and remove a cause of public discontent.

[Here the hammer fell.]

Mr. HUNTON. I yield two minutes to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. My friend [Mr. HARRY WHITE] who has just spoken, should he remain here as long as I have done, will get used to being surprised, and will not get knocked off his feet, as he was the other day by discovering that his colleague [Mr. H. B. WRIGHT] did not know of the Kiskiminetas and the Conemaugh Rivers.

Mr. WHITE, of Pennsylvania. I hope my colleague knows them now.

Mr. WRIGHT. What is that my colleagues are saying? [Laughter.] What is the question of my colleague?

Mr. KELLEY. I did not ask the gentleman any question. I avail myself of the two minutes allowed me to reply to the gentleman from Maine [Mr. FRYE] and the gentleman from New York [Mr. HEWITT] and to tell them why prices have fallen in every country, why machinery is idle and the laboring people of all countries are in poverty and are unable to consume each other's productions or to contribute to the revenues of their government. Prices, sir, the world over, had adjusted themselves to the volume of gold, silver, and paper money in circulation, and when Germany and the United States thrust silver, which was about one-half of the metallic money of the world, out of the category of money metals, when Germany prohibited the circulation of any bank-note under \$25, when the United States contracted its paper money from two thousand millions to practically less than five hundred millions, they decreed the terrible shrinkage of prices and consequent ruin which have taken place throughout America and Europe, and thus deprived the laboring people of the world of employment and of the ability to earn the means to contribute to the public revenues.

[Here the hammer fell.]

Mr. LAPHAM was recognized, and yielded fifteen minutes to Mr. BUTLER.

Mr. BUTLER. Mr. Speaker, I have listened with such care and attention as I might to the discussion and the various views which have been expressed. I do not think with my friend from Indiana [Mr. HANNA] that a uniform system of bankrupt laws is "an insult to the States;" because I have a very high respect for those old fathers of ours who framed the Constitution and made this a provision of the Constitution the exercise of which in my judgment is as necessary for the good of the people as its correlative in the same paragraph, a uniform system of naturalization, although I believe that last system may not be so popular in Indiana, as they have there a system of naturalization of their own.

Most of the arguments which have been used here are against the administration of the bankrupt law. I agree there never has been anything so faulty. I have tried as a member of the Committee on the Judiciary three times to amend the bankrupt law so as to do away with these evils; three times to amend its fees; three times to abolish its corps of officers; three times to make it more economical and for the benefit of the people. But whenever I have brought such a measure in here I have been met with the cry of repeal; the whole thing

has been taken out of the hands of the committee and all amendments voted down.

It is said to be a very defective system. That is because you will not allow any amendment. You hear of some register in bankruptcy who has made himself rich, some official assignee who is not provided for by law swallowing up all the assets; and you follow the rule that when you see a small wrong in the execution of the law you strike at the whole system itself without dealing with the particular source of that wrong. You strike at the whole system; you never amend. That has been the rule in Congress for many years. When we legislate, we legislate for a particular thing and not provide a system of laws. Some man rushes in here with a bill against a given crime which he hears of. But who has attempted to amend your crimes act of 1789? You have thereby got a thing of shreds and patches in your crimes act which no lawyer can understand nor which courts can construe.

Now, I do not understand the law as my friend does, that the assignee must be at the capital of the State. He is chosen by the creditors wherever they like to choose him, as most convenient to them and their interests.

Now, then, what shall we do? I am not going to be led into any discussion of finances upon this question. I give as part of my remarks a statement of the failures in the first quarter of the present year, compared with the two previous years, as follows:

As an indication of the course of business we give below the failures for the first three months of 1878, and at the same time, for the purpose of comparison, the failures for the corresponding period of 1877 and 1876. We regret that it is not more encouraging in its aspect, but it should be remembered that we have passed through an exceptional winter, probably the worst that has been experienced in its effect upon the general retail trade of the country during the past twenty years. The results anticipated from the abundant crops have not been realized and stocks purchased to supply wants have been absolutely unsalable, and moreover have had of necessity to be sacrificed. The shrinkage of resources during the past six months has undoubtedly, in the aggregate, been enormous and has contributed to swell the figures of the failures for the past quarter. It may also be borne in mind that the constant extension of the operations of the Mercantile Agency, by the opening of new offices, &c., has a tendency to bring into its classification a smaller class of traders whose wants are purely local, thereby increasing the number reported, and that this also contributes naturally to swell the number of failures.

Respectfully,

DUN, BARLOW & CO.,

335 Broadway and 80 Wall street, New York.

Statement of failures, by States and Territories, in the first quarter of the year 1878.

States and Territories.	Quarter ending March 31, 1878.		Quarter ending March 31, 1877.		Quarter ending March 31, 1876.	
	Number of failures.	Amount of liabilities.	Number of failures.	Amount of liabilities.	Number of failures.	Amount of liabilities.
Eastern States.....	539	\$11,016,974	418	\$6,798,408	447	\$14,208,093
Middle States.....	950	32,374,606	918	23,308,354	873	21,447,603
Southern States.....	483	11,699,029	384	6,666,391	469	9,737,600
Western States.....	1,218	25,014,081	969	15,545,398	918	17,610,996
Pacific States and Territories.....	165	2,074,136	180	2,219,519	80	1,639,862
Total.....	3,355	82,078,826	2,859	54,538,070	2,806	64,644,156
Dominion of Canada.....	555	9,100,929	572	7,576,511	447	7,417,338

It appears, therefore, that in the last quarter there were 3,355 bankruptcies with \$82,000,000 of liabilities, against, in the corresponding quarter of last year, 2,859 bankruptcies and \$54,000,000 of liabilities, and, in the same quarter of 1876, 2,806 bankruptcies with \$64,000,000 of liabilities. Is not this to go on in a still increasing ratio? Under these circumstances what will you do? My friends say here, repeal this bankrupt act and send cases of insolvency back to the State laws for adjudication.

No man can get a discharge from his debt under any State law, excepting the debt has been contracted in the State after the law existed and under the State assignment laws the bankrupt property was left to be swallowed up by neighbors, friends, relatives, wife, and children of the bankrupt and nothing went to the general creditors. If you go back to that there is no discharge for the man. If a man can come before his creditors and give up his property and get a discharge there is some inducement for him to do so; but if he can get no discharge then why should he do so.

Men will pay their debts as long as they can, and when they cannot they will, if they can get a discharge, give up their property to their creditors and start anew in life; if not they will retain their property, concealing it in the hands of their relatives or friends, and therefore you breed up dishonesty.

I was surprised to hear my friend from Pennsylvania [Mr. WHITE] say that the repeal of this law was the only relief for the laboring-man, so that he might get his wages when his employer fails. Now the bankrupt law provides preference in the settlement of the accounts of a bankrupt for the pay of the laborer.

Mr. FRYE. Fall River illustrates that.

Mr. BUTLER. Certainly; the great mills there are going to fail for millions in a week or two and all laborers—and there are thousands, men and women—under the bankrupt law will get their dues, but you let the old system of attachment and assignment take the place of the present law and the laboring-men will get nothing.

I thought, myself, last year that the repeal of this law would be right, and if I had been here I might have voted for it, because I thought then that the number of failures were decreasing and that we had touched bottom in bankruptcy; but I find that we have not. Some time before I die, if I live to the ordinary years of man, I shall discuss the causes of this universal bankruptcy; if not before this House, elsewhere. But the facts on the paper I sent to the Clerk's desk show that at this year we have a rate of bankrupts amounting to \$328,000,000 of bankrupt liabilities, while in 1857, the year of the greatest financial revulsion and distress ever known, the amount of bankrupt liabilities was only \$290,000,000; so that the crisis is upon us, and the question is, will the House, on this day and at this hour, put all these men—fourteen thousand in a single year, and bankrupt honestly, for we all agree that, for some cause or other, the war if you please, our financial policy if you please, inflation if you please, the general condition of the country; never mind the cause, the fact remains—beyond the reach of hope? I do not care what the cause is of these failures, but the fact is that property has depreciated and that men who thought themselves worth hundreds of thousands of

dollars find themselves in bankruptcy. Are we to outlaw these men? That is the question for all of us to consider.

If I dared to appeal to gentlemen who expect to go before their constituents next fall, I would tell them that those constituents who find, because of them, that they cannot get discharged from their debts when they have given up all their property, will be at the polls with nothing else to do except to defeat the men who placed them in that predicament. I do not care whether I stand alone upon this question. I like to stand alone. I would rather vote against this repeal if there was no one else in the House who would vote with me. I have simply a word further to say, and I want to call your attention to the fact that this bill has never been considered, and you had better send it to the Judiciary Committee for consideration. We had a little informal consideration of the bill in the Committee on the Judiciary, but we had no right to consider it, because it was upon the Speaker's table, and we only considered it because we feared that when it came before the House members would go over the fence like a flock of sheep in their votes upon it. It was said that we could not consider it, we should be obliged to take it as it came over from the Senate. There was but one short speech made upon the bill there, although our conclusion was that the bill was as faulty as all the other bills are that have come from the Senate which the House have passed without any examination whatever. This bill of the Senate does not repeal the bankrupt law at all, for the law of 1867 and the amendments to that law, which are mentioned in this bill, have been repealed for four years and six months; such is the bill that comes from the Senate. Let me refer you from the Revised Statutes, page 969, the bankrupt law of 1867 as there digested and codified. Now what does title 74 say?

All acts of Congress passed prior to said 1st day of December, 1873, any portion of which is embraced in any section of said revision, are hereby repealed, and the section applicable thereto shall be in force in lieu thereof; all parts of such acts not contained in such revision having been repealed or superseded by subsequent acts or not being general or permanent in their nature: *Provided*, That the incorporation into said revision of any general and permanent provision, taken from an act making appropriations or from an act containing other provisions of a private, local, or temporary character, shall not repeal or in any way affect any appropriation or any provision of a private, local, or temporary character contained in any of said acts, but the same shall remain in force; and all acts of Congress passed prior to said last-named day, no part of which are embraced in said revision, shall not be affected or changed by its enactment.

Thus you see all these acts mentioned have been repealed for four and one-half years, and the Revised Statutes provision now stands as the law, and the bill does not pretend to repeal that provision. You will not now consider this bill thoroughly, because this House is in the habit of overriding the committees, voting blindly for that which comes from the Senate, and running riot in its legislation. I speak plainly. The House is governed by newspapers, and not by reason and debate. Members are frightened at their shadow. We do not stand up here in the image of the God who made us and do legislation here like men who are sent here to deal with the greatest interests of the country, standing up here and saying that we will consider this question gravely, calmly, and quietly. We spend a day over a dog-fight, [laughter,] but not one hour over a great measure of legislation. We

gather ourselves together about speakers advocating something in regard to a little trout-brook and leave a whole river of corruption to continue flowing without consideration or debate.

Mr. WILLIS, of New York. I do not rise for the purpose of discussing this measure. The time allotted me precludes argument. All intelligent men, whether farmers of the West or merchants of the East, are of one opinion regarding this subject; they all demand the unconditional repeal of the bankrupt law.

The purpose of that act was beneficent and twofold. Its object on the one hand was to protect the debtor from the operations and exactions of the creditor, and on the other hand to secure an equal distribution of assets among the creditors. Its operation has failed to fulfill expectations. Instead of yielding generous protection to the debtor class, instead of being a measure of humanity, it has been freighted with curses. The voluntary feature has been an agency of fraud, the involuntary feature an instrument of robbery and oppression. Now, while I am in favor of the repeal of this law, I do not believe that it is just or proper to pronounce judgment and sentence in the same breath. With a view of remedying what I conceive in this respect to be a defect of the Senate bill, it is my purpose to submit an amendment that this act shall go into operation on the 1st day of July next, about ten weeks hence.

In arriving at this conclusion I have not been driven by popular clamor, I have not been influenced by newspaper denunciation. I speak for all the intelligent business men of the country, who know by experience everything respecting the operation of this bankrupt law. It is not a poor man's law. No one, unless he has resources, can avail himself of the benefits of its provisions; and all of this cry that the laboring-men are assailed has no real foundation.

I was not a little surprised when my distinguished friend from Ohio [Mr. EWING] saw fit in his discussion of this measure to intrude upon this House his peculiar notions upon finance and to undertake to speak here in behalf of my constituents, making the bold declaration that they are in favor of the repeal of the resumption act. Sir, this I flatly deny. My constituents are intelligent men; so intelligent that they view with utter indifference and contempt all the fierce denunciations of the gentleman from Ohio and his friends against the creditors of the country. They recognize the fact that the resumption of specie payment is to-day virtually accomplished. What is needed is the revival of confidence in the community and among the business men of the country. That confidence cannot be restored so long as this law remains in operation, whereby dishonest people can take advantage of its provisions and cheat their creditors. Statistics give us sufficient knowledge of what has been the operation of this law. Before it went into effect the dividends of bankrupts or insolvents amounted on an average to 33 per cent; since this act has been in operation they do not exceed 11 per cent. This statement in itself is a sufficient argument for the repeal of this law.

I concur with what has been said by my colleague [Mr. CHITTENDEN] in regard to the substitute that has been proposed for the Senate bill. I believe that is even more objectionable than the law which is to-day in force. It leaves in force the most vicious and obnoxious provisions of the act. Having made these remarks, I move the amendment which I have indicated, to add to the Senate bill the words "this act shall go into operation on the 1st day of July, 1878."

Mr. KELLEY. Will the gentleman allow me to ask him a question?

Mr. WILLIS, of New York. With pleasure.

Mr. KELLEY. I desire to ask the gentleman whether the assets of decedents, if they get into the hands of good lawyers in New York, usually leave 11 per cent. of the estate to the objects of their beneficence?

Mr. WILLIS, of New York. What I said has no reference to New York or Philadelphia; the statistics apply to and embrace the whole territory of the United States.

Mr. KELLEY. I thought that perhaps the gentleman knew that lawyers ate up estates, whether bankrupt or not.

Mr. WILLIS, of New York. The gentleman has many fancies; this is one of them; he has fancies no less strange and incomprehensible in regard to the protective tariff, and also in regard to inconvertible currency. The gentleman's inquiry is neither germane nor ingenious.

Mr. TOWNSEND, of New York. Will my colleague allow me to make a suggestion?

Mr. WILLIS, of New York. With pleasure.

Mr. TOWNSEND, of New York. Will the gentleman allow me to say in his speech that there is a class of men living out of the bankrupt law, who have not been mentioned here to-day, while we seem to be so anxious for the poor? I refer to a large body of lawyers who are able to exert influence even upon legislative bodies, and who live out of the bankrupt law.

Mr. WILLIS, of New York. As what my colleague has said does not seem to be a question, I have nothing to say in reply to it, except that I concur fully with his suggestion.

Mr. STENGER. I am opposed to the motion made by the gentleman from Virginia [Mr. HUNTON] to refer this bill to the Committee on the Judiciary. I trust that we are now within six weeks of the adjournment of the present session of Congress. In my judgment the best thing for this Congress to do is to pass the appropriation bills, repeal the bankrupt law, and go home. [Cries of "Good!" "Good!"]

The Committee on the Judiciary as well as every other committee of this House is now overwhelmed with work. What, then, does this reference to the Committee on the Judiciary mean? It means simply that this iniquitous law upon our statute-book, which no gentleman upon the floor of this House to-day has had the boldness to defend, must stand as the law of the land. I desire gentlemen of this House to understand that when they cast their votes to refer this bill to the Committee on the Judiciary they vote to leave in existence the bankrupt law as it stands at present. I do not think there can be a doubt upon that question.

Now, sir, I am opposed equally to the substitute offered by the majority of the committee. If this bankrupt law is to be repealed, I believe it ought not to stand another day; and therefore I am in favor of its absolute, unconditional repeal. Why? Because I believe if the acts repealing the bankrupt law which have been twice passed by the House of Representatives had become the law of the land, they would have done more to revive the business prosperity of this country than any other act that has been passed by the Forty-third or the Forty-fourth Congress.

I take the position that the existence of this bankrupt law tends to lock up capital; that it is decidedly at war with the interests of the laboring-men and of the men of moderate means throughout this country. I speak not for the large commercial cities; I speak for the agricultural, the rural districts; and I say there is not an attorney upon the floor of this House who does not know that when his client comes to him to ask counsel as to the loaning of money this bankrupt law comes up between the lender and the borrower always. Men having money to lend are afraid of it. Why? They fear that the men of New York, the colossal merchants of large cities, who have claims against the debtor residing in the rural districts, may come in ahead, sweeping him out of existence, and that thus those residing in his immediate neighborhood who have lent him money will lose it. Where is a man in the rural districts to look for the money that he wants? Not to those New York or Philadelphia or Boston merchants, but to the man who lives in his own community, who knows him, and because he knows him, will trust him.

I believe it to be one of the first duties of this House to repeal this law to-day; and in this mode we are benefiting the laboring men of the country. The distinguished gentleman from Ohio [Mr. EWING] has made his appeal here in behalf of the laboring classes. "You must not stir them up," he says. How are the laboring classes interested in this matter? Why, sir, I would if I could wipe out this law and leave the laboring masses of Ohio to the beneficent provisions of the law of that State, which, as I understand, gives every laboring-man and every debtor an exemption from levy and execution to the extent of one thousand dollars' worth of his property. Then the men who employ laborers would be able to borrow the money they need to carry on their business. It is folly to talk of labor prospering in antagonism to capital, and capital will only seek investments that are reasonably secure. It is exceedingly timid, and I firmly believe that, if money has been hoarded, as I do not doubt it has been to a large extent outside of commercial centers during the past decade, it has been owing chiefly to a fear of the provisions of the bankrupt law, to a dread or apprehension that the securities offered would not be good on account of the existence of this law. I may be wrong about this, but I know that the honest people of my district have regarded the law as an enemy against whose operations it behooved them to be always on guard.

But I care not at this point of the argument how the repeal may affect men who are tottering and ready to fall. The question with me is how does it affect millions upon millions of men of moderate means who want to get money to start in business, to set the wheels of enterprise in motion. To-day they cannot get the money simply because their neighbors say, "No, we will not lend money with this bankrupt law staring us in the face, under which creditors from abroad may come in and sweep all your property away from us."

But the distinguished gentleman from Massachusetts [Mr. BUTLER] says that this measure has been brought in here without consideration. Mr. Speaker, I am sorry that I do not see him in his seat, for I should like to address to him the question who is responsible for its being brought here without consideration. If it has been brought here in that way, I say, without violating any secrets of the committee, that upon his shoulders more than upon those of any other member of the committee the responsibility rests.

For my part, Mr. Speaker, I go further than most gentlemen here. I grant, of course, that a bankrupt law is constitutional, because the Constitution provides for the establishment of "uniform laws on the subject of bankruptcy throughout the United States." But I do not believe in the policy of putting that provision of the Constitution into operation. I do not believe in a bankrupt law. Upon principles of abstract justice, I can see no reason why a majority of a man's creditors should forgive the debt which he owes to other creditors. I believe that the true basis of credit and business prosperity rests upon the idea that when a man makes a promise to pay money or to do a certain act he will be held responsible to pay that money or to do that act. This is the true principle upon which all business should be carried on. If this principle were adopted we should not need any system of bankruptcy. For these reasons, I advocate the unconditional repeal of the law.

[Here the hammer fell.]

Mr. PHILLIPS. Mr. Speaker, there is probably not a single member on this floor, or certainly but very few, who would favor the retention of the bankrupt law as it now stands upon the statute-book. There are men like my friend from Pennsylvania [Mr. KELLEY] or my friend from Ohio [Mr. EWING] who, apprehending that universal bankruptcy was soon to be upon us, are willing that even the defective and mischievous machinery of the existing law should be used in the emergency as a shelter for bankrupts, however inadequate that law to shield from ruin or alleviate its calamities. There are gentlemen like my friend from Massachusetts [Mr. BUTLER] who desire to maintain uniform bankrupt laws in the country and who, deprecating various and inefficient State laws on the subject, would rather have the most wretched system that ever was devised than consent to the abolition of a law confessedly bad in whole and in part. I can understand the purpose of holding a bad law over us to spur Congress into making another only a degree better, under the theory that at all times we ought to have one of universal operation. There are men, too, like the gentleman from Maine, [Mr. FRYE], who, as the result of this day's debate, have become hopeful, have been stimulated by a diagnosis of the condition of the House into believing that some law may be framed which will obviate the defects of the existing act and furnish a more perfect bankrupt system for the country. The gentleman from Maine during six months' sittings of this House and of the Judiciary Committee has matured no bill, brought no completed measure into this House; but now in the closing days of this session he comes and proposes to do better in the next thirty days than he has done in the past six months. If they will only send these bills back to them good bills can speedily be matured, and bills that he seems to hope can be as speedily passed through both Houses.

What have the Judiciary Committee presented? They offer a substitute for the Senate bill which extends the voluntary clause of the bankrupt law until the 1st day of January next. That is all they offer us. Is that any better than the unconditional repeal? Is not that a direct invitation to every dishonest debtor in the country to go into bankruptcy? Would such a provision be better for any honest man engaged in business? Such a measure says to all the business men of the country who meditate on the possibility of bankruptcy, "You must hurry up and go into bankruptcy before the 1st day of January next or you cannot do it at all." I, for one, say, sir, that such a substitute does not really touch the question involved, is only pernicious in so far as it differs from the Senate bill. I prefer, and I hope this House will prefer, unconditional repeal.

What is the bankrupt law? Sir, that law in its practical operation has been a tissue of mischiefs and embarrassments to debtor and to creditor. Among the people of my own State it has proved simply a method of swallowing up estates in exorbitant fees. The estates of bankrupts under the existing law pay creditors 4, 8, and 10 per cent. at the utmost when they pay anything. The declaring of the dividend to the creditors is not really giving creditors the share of the estate belonging to them. The bankruptcy courts and lawyers and machinery have eaten it all. "It was an excellent oyster, gentlemen; the court awards you a shell each," and the beggarly percentage paid is simply the notification that the cumbrous machinery has done its work and that the property has been eaten up. The small dividend paid is merely an apology for closing the business. It is a system that has greatly embarrassed men in business, which has proved extravagant in its administration, and which ought to be summarily abolished whether we ever get a better law or not. Indeed I know of no portion of that bankrupt law which would make a foundation for a better or honester structure.

I have learned this morning from the gentleman who has charge of the bill in the Senate that after an effort of months the Judiciary Committee of that body was unable to report to the Senate any bill modifying the existing law. The only bill they could report was a bill for its unconditional repeal. I believe that this House ought to repeal that law by passing the bill which has come down to us from the Senate, as this will undoubtedly be our last opportunity this session. I believe that if the gentleman from Maine [Mr. FRYE] and the gentleman from Virginia [Mr. HUNTON] are sincere in what they tell us, if they are hopeful of the better light that has dawned on this committee, they can do better than they have done. They can mature a bill suitable to them and present it to the judgment of the House, which I hope will long and carefully ponder over it. The question here simply is in reference to the continuance of the present bankrupt law, and I hope the House will promptly pass the Senate bill providing for its repeal. I am sure the general sentiment of my State calls for this. I believe it is called for by the general sentiment of the country. If a good bankrupt law is needed, a good bankrupt law will be made.

[Here the hammer fell.]

Mr. CALKINS. I am obliged to the gentleman from New York for yielding to me five minutes to say to the House why I shall vote for the unconditional repeal of the bankrupt law. I, however, believe, Mr. Speaker, it is a good policy for the Government to pass bankrupt laws at intervals of a few years in order to relieve citizens who have become embarrassed from the debts which they have contracted, but I do not believe it is good policy to have a general bankrupt law extending through all time to come.

One thing, sir, seems to have been forgotten by gentlemen who have spoken of the bankrupt law as a benefit to the debtor class. Inci-

dentally I admit it is; but all bankrupt laws have been founded upon the idea it was the duty of the Government to seize the property of the individual bankrupt and distribute it proportionately among his creditors. It was on that idea the first bankrupt law was passed. Then the bankrupt became civilly dead. The moment the Government interfered and seized his property and parceled it out he became *civiler mortuus* and was liable, as all other debtors were at that time, to be imprisoned for debt. As an incident growing out of advancing civilization, the prison doors were after a while opened and the debtors allowed to go free. Thus crept into existence the bankrupt laws and debtors were discharged on their own application. Coming down to us founded on that theory our bankrupt laws have been passed. I assert that not one has been enacted on any other theory than it was a benefit to the creditor class, and not to the debtor class, except as a mere incident.

Now I say the present bankrupt law is for the benefit of persons who control large estates, and not for the small ones. To-day, although the gentleman from Ohio [Mr. EWING] grew eloquent over the fact that it was the only thing between them and ruin, blighting all their hopes for years to come, I say to him, no man can go into voluntary bankruptcy and be discharged from his debts without paying 30 per cent., unless he gets the petition of a majority of those who have proved their claims against him. To-day, sir, no man can be put into involuntary bankruptcy under the provisions of the existing law, unless he gets one-fourth in number and one-third in interest to petition for his bankruptcy, and then his debts have to amount to more than a certain sum prescribed in the act.

The gentleman from Massachusetts [Mr. BUTLER] said the laboring classes were protected; that the moment a person or corporation was put into bankruptcy theirs became preferred debts. I admit it, but, no matter how many are employed, the moment the court seizes the property of the bankrupt they are turned out and their labors are at an end. The moment this property is seized under the law that moment, no matter how many are employed, they are all turned out and their labor is at an end.

But, Mr. Speaker, without stopping to discuss further the provisions of the act, I must needs give my reasons for voting for the repeal without a discussion of the subject, the time being limited. The fact remains, under the operations of this law, while it has been upon the statute-book, it has been a constant and crying fraud upon all classes of people. In addition to those given by other gentlemen who have preceded me, I name one evil which directly flows from it. The moment the property of a bankrupt is seized his stock is put into the market and sold at bankrupt prices, and it comes into competition with every article manufactured at great cost. Every single article which is sold and sacrificed at these bankrupt sales comes into competition with every like article manufactured and produced. So it is all over the country.

Another abuse, Mr. Speaker, and a crying abuse, so that it has become almost a synonym over the country, is that, no matter how large the estate of a bankrupt may be, the moment the officers seize it, that moment it melts away so that none has paid to exceed 20 per cent. of the amount of the debts, although when they were marshaled it seemed as if in many instances they could pay dollar for dollar.

It will not do to say the Judiciary Committee shall perfect a bill which will run for all time to come, because if we are to judge of the future by the past the Judiciary Committee of the House and Senate will not do it. They have had ample opportunity, but they have always disagreed.

[Here the hammer fell.]

Mr. BURCHARD. Mr. Speaker, the subject of the repeal or amendment of the bankrupt act has been before Congress, I think, for over six years. I recollect in the Forty-second Congress, when the committee brought in a bill proposing to remedy some of the evils which have been portrayed to-day, the House by a vote of three to one decided to repeal the whole act instead of amending the objectionable portions of it. The judgment of the House from session to session has sustained the action at that time. It is the judgment of the country, the desire of the commercial world, creditors and debtors, and of all lawyers acquainted with the practical working of the law, that it should be repealed on account of the frauds, injustice, and injurious effects resulting from the law, and in obedience to the demands of the country it seems to me an imperative duty to repeal the act immediately. If the amendment proposed by the Judiciary Committee is not absolutely necessary I should like to have the House concur without sending the bill back for further action. If it is necessary, as members of the committee say, I am willing to vote for that amendment.

As to the amendment proposing to repeal the involuntary features of the law and to leave voluntary bankruptcy, I think that would make the act unfair, one-sided, and unjust. It would present an inducement for fraud. If there is such inducement now, greater inducements and opportunity would be offered under such a provision. If this is right, why should it not stand as a permanent part of the law? Nobody contends it should stand by itself, giving the bankrupt alone the right to avail himself of the provisions of a bankrupt law. Why leave it in force for a few months? Gentlemen advocating it have spoken of the distress of the country. I want to say a word on that subject. It is true there are individuals in distress. Always in the history of all countries there are increased failures upon a falling market. We have had in this country within thirty years three periods

of the inflation and decline of prices presenting similar phenomena and financial results—a rise in prices until 1837, a fall until 1861, again a rise from 1861 to 1865, and from the latter year until 1869 a decline. Again an advance up to 1872 and down again to the present period. When there was an advance in prices men thought they were making money. If they held their property during all the period from the rise to the fall they found themselves financially just where they were when they started; but if during that period they disposed of their property at the high prices they gained of course by the advance. The purchaser must by the decline lose all that the seller has made, and his investment may and often does involve him in liabilities that the property itself will not suffice to discharge. Loss and failures are the inevitable result of a falling market, and they will be the heavier and more frequent when the inflation of prices above the usual rates has been the greatest.

The country is in this condition to-day. It has returned from the speculative, unhealthy, and fictitious prices of 1872 to real values and prices such as ruled prior to 1860. It is the necessary and unavoidable road to a sound business prosperity, and failures must attend speculative purchases, visionary schemes, and even well-planned enterprises and investments rendered profitless by a decline in prices.

Let me say, Mr. Speaker, that while some individuals may be in distress in consequence of this condition of affairs, the country itself is prospering. It is going on increasing from year to year in the development of its mineral and agricultural resources, and is not retrograding in manufacturing production. Take all the great products of the field and farm and you will find they are increasing from year to year. I have here a statement from the Commissioner of Agriculture showing the amount of the great agricultural staples and the number of live animals in 1877. It shows an enormous increase since the census of 1870 was taken, and far greater than during the decade from 1860 to 1870, which gentlemen mistakenly refer to as a period of greatest prosperity because it was a period of inflated prices and speculation.

This statement shows that the farmers, who constitute 47 per cent. of all the laborers of the country, are busy in the field and not howling about the condition of the country. The aggregate quantity of land under the plow and in grass and pasture increased from ninety millions of acres in 1870 to one hundred and twenty-one millions of acres in 1877. It shows that somebody has been at work during the last year. Thirty millions of acres—one third more in cultivation now than eight years ago!

I noticed this cheering progress in remarks I made in the House two years ago. Desiring to ascertain if this progress still continued I addressed a letter to the Commissioner of Agriculture, whose reply and further answer I desire to submit to the House as it contains the statements to which I have alluded:

DEPARTMENT OF AGRICULTURE,
Washington, D. C., April 6, 1878.

SIR: The results of annual investigation of comparative numbers and values of farm animals made in January show an increase in numbers, except as to sheep, a reduction due to the destructive drought in California. Values have declined in the general shrinkages of all values of late, except as to cattle, which are more in demand for foreign shipment of beefs. The decline in value of sheep is scarcely appreciable. Aggregate numbers and average prices are as follows:

Animals.	Number.	Average prices.
Horses	10, 229, 700	\$58 16
Mules	1, 637, 500	63 70
Cows	11, 360, 100	26 41
Oxen and other cattle	19, 223, 300	17 14
Sheep	35, 740, 500	2 25
Hogs	32, 262, 500	4 98

The crop estimates, as far as perfected, show an increase in quantity of all crops except barley, and a decrease in average value in everything except wheat, the price of which has been kept up by the foreign demand. The cotton crop will be nearly as large as that of 1875, which was never exceeded except in 1860. The aggregate values of the crops of wheat, corn, and oats exceed, respectively, those of last year. The preliminary statement of quantities and values is as follows:

Crop.	Quantity.	Value.
Corn	1, 360, 000, 000 at 35 cents.	\$476, 000, 000
Wheat	360, 000, 000 at \$1.07.	385, 200, 000
Rye	22, 100, 000 at 60 cents.	13, 260, 000
Oats	405, 200, 000 at 28 cents.	113, 456, 000
Barley	35, 600, 000 at 60 cents.	21, 360, 000
Buckwheat	10, 500, 000 at 66 cents.	6, 930, 000
Potatoes	146, 000, 000 at 48 cents.	70, 080, 000
Tobacco	480, 000, 000 at 53 cents.	26, 400, 000
Hay	31, 500, 000 at \$9.50.	299, 250, 000

Yours, respectfully,

E. A. CARMAN,
Acting Commissioner.

Hon. H. C. BURCHARD,
United States House of Representatives.

DEPARTMENT OF AGRICULTURE,
Washington, April 16, 1878.

SIR: In response to your request for the acreage, as well as the quantity and value of crop of 1877, I repeat the table, with the areas in crops added, as reported

to me by a statistician of the Department. There was an inadvertent error in a single figure in the corn estimate, which is corrected in this table. There are minor details in the estimates of some of the more distant States not entirely completed, but they will not change the aggregates in any material degree. The table is as follows:

Crop.	Price.	Quantity.	Area, in acres.	Value.
Corn	\$0 35	1, 340, 000, 000	49, 800, 000	\$469, 000, 000
Wheat	1 07	360, 000, 000	26, 550, 000	385, 200, 000
Rye	60	22, 100, 000	1, 500, 000	13, 260, 000
Oats	28	405, 200, 000	13, 300, 000	113, 456, 000
Barley	60	35, 600, 000	1, 650, 000	21, 360, 000
Buckwheat	66	10, 500, 000	650, 000	6, 930, 000
Potatoes	48	146, 000, 000	1, 800, 000	70, 080, 000
Tobacco	54	480, 000, 000	600, 000	26, 400, 000
Hay	9 60	31, 500, 000	25, 500, 000	299, 250, 000
Cotton			121, 350, 000	
			12, 000, 000	

Respectfully,

Hon. H. C. BURCHARD,
House of Representatives.

WM. G. LE DUC, Commissioner.

A comparison of these figures furnished by the Commissioner with the last census returns will show the immense gain in this short period. I will submit the latter for convenient comparison:

Statement showing the number of live animals and the cereal and other farm products for the year 1870.

Number of horses	7, 145, 370
Number of mules	1, 125, 415
Number of milch-cows	8, 935, 332
Number of oxen and cattle	14, 885, 276
Number of sheep	28, 477, 951
Number of swine	25, 134, 569
Bushels of wheat	223, 884, 700
Bushels of corn	1, 094, 255, 000
Bushels of oats	247, 377, 400
Bushels of barley	26, 295, 000
Bushels of rye	15, 473, 000
Bales of cotton	4, 400, 000
Pounds of tobacco	250, 628, 000
Bushels of buckwheat	9, 841, 500
Tons of hay	24, 525, 000
Acreage	90, 771, 609

*The above crops except cotton.

The gentleman from New York referred the other day to the condition of the industries of the country. It is a fact that there was more coal mined in 1876 and 1877 than there was in 1870. In 1870 there were only twenty-nine million tons of coal mined in this country and last year there were forty-seven million tons of coal mined in the country. The miners are at work. I wish I had time to proceed to show the increasing production of manufactured articles, which indicates that the country itself is not going to destruction, although individuals are distressed, but I must take another occasion hereafter.

[Here the hammer fell.]

Mr. LAPHAM. I yield four minutes to the gentleman from Mississippi, [Mr. HOOKER.]

Mr. HOOKER. I am indebted to the gentleman from New York for the opportunity of continuing for a few moments the remarks I was making on the motion of the gentleman from Virginia, [Mr. HUNTON.]

If what is alleged in opposition to the bill which has passed the Senate, and which is now under consideration by the House, is to be listened to as an argument and a reason why we should not repeal the bankrupt law, that conviction would be produced by the extraordinary statement made by the gentleman from Massachusetts [Mr. BUTLER] who undertook to show that the number of bankruptcies and the amount had greatly increased within the past year. But if that is the case, so far from effecting its object after standing upon that statute-book for eleven years—an unprecedented period in our history—if that has been the way in which it has executed itself, then this law may be said to be rather a breeder of bankrupts than a discharger of bankrupts. It was enacted originally in 1867, amid the terrible disasters of the years which succeeded the war. It was intended, as all bankrupt laws under our system of Government have heretofore been intended, to give that form of temporary relief to the embarrassed condition of the country which it requires. As was well remarked by the gentleman from New York, [Mr. LAPHAM,] in the period following the terrible disasters and pecuniary distresses of 1857, probably more terrible than those which existed in 1867, you allowed the bankrupt law of that time to continue on your statute-book only for two years. In the last one hundred years this bankrupt law has stood upon your statute-book for eleven years, and I venture to assert, if its history could be traced, if its operations could be literally known, in every case which has transpired in every one of the Federal courts where the law has been applied in its involuntary aspect or by the voluntary applications of debtors, in every case investigated it would be found the great bulk of the debtor's property had not gone to the satisfaction of the creditor. In my own State I assert that the whole history of the bankrupt law there has not shown a dividend of 2 per cent. of the assets of the debtor to the creditor. In the State of Louisiana, as I am informed by my distinguished

friend from that State, [Mr. GINSON,] he does not think that even so much as 1 per cent. has been realized.

It is true that under the law a majority of the creditors have a right to indicate who the assignee shall be, and thus to that extent they choose their own representatives; but if they fail to agree upon an assignee the court appoints one, and in Louisiana they have a general commissioner in bankruptcy who has grown rich from the proceeds of this official service. And I am informed that the amount paid out of the assets of the debtor to the creditor represents only 1 per cent. Everywhere where the law has been attempted to be executed it has injured to the benefit of the officers who had charge of its execution, and not to the benefit of the creditors.

[Here the hammer fell.]

Mr. BACON. In the month of May, a year ago, the Legislature of my State passed a resolution, with almost entire unanimity, instructing its Representatives to vote for an unconditional repeal of the bankrupt law. I do not know that that resolution has been brought to the attention of the House, for it was passed after Congress had adjourned; but having been elected at the November election preceding I may well consider it as an instruction to me, and as such I receive it. Being in entire accordance with my own views long entertained, I accept the instructions and shall vote for the unconditional repeal of the law.

Mr. Speaker, I have seen and have felt the operation of the bankrupt act and I know it leads to very great abuses; upon one pretense or another the fees of the officers whose duty it is to execute the law have increased in enormous proportion. [Here the hammer fell.] I am sorry that I cannot have an opportunity to say a few words further, but I close by announcing that I am in favor of this bill and opposed to any amendments to it.

Mr. POTTER. The repeal of the bankrupt law is not a new question. It has been before Congress often and has been discussed much. We have in the past had occasion to form our opinions of the wisdom of continuing the law, and, for that matter, so have our constituents also. We are presented to-day with an opportunity to repeal it. This House never has had such an opportunity before. Congress after Congress this House has voted by a large majority that the bankrupt law be repealed and Congress after Congress the Senate has refused to concur with us. For the first time since the subject of repealing this law has been agitated the Senate has come to the conclusion that the law ought to be repealed. If we take advantage of this opportunity we can put an end to the law, but, as the gentleman from Pennsylvania [Mr. STENGER] said, if the motion of the gentleman from Virginia [Mr. HUNTON] prevails and this bill be sent to the Committee on the Judiciary that will be an end to its passage during this session or this year. The only practical alternative presented to us now, therefore, is shall the law be repealed or shall it be continued.

Mr. BRIGHT. I should like to know why if this bill be referred to the Committee on the Judiciary that committee may not report the bill back?

Mr. POTTER. They may not do it, because they are now full of bills which they have resolved to report to the House when called, which will be within a very few days, and they probably will not have another opportunity to report at all this session. It would take time to consider the bill in committee and to reconcile the conflicting views of the members of the committee, so that it cannot be hoped they would be prepared to report it at their next call, now just at hand.

As I said, Mr. Speaker, we have the alternative before us now, either to repeal the bill or let it stand, and that is the only choice we have. My colleague [Mr. HEWITT] stated that he was in favor of the bankrupt law if it could be properly amended. The present law has been eleven years in operation and it has never yet been so amended as to commend it to the people. I have hardly heard a single voice raised in defense of the law as it now is. If it has not been made defensible in eleven years what hope is there it will ever be made so? But grant that a good bankrupt law could be made, it could be made after this is repealed just as well as while this law continues on the statute-book. The question then is, whom does the pending law benefit, for what class ought it to be retained? I was surprised to hear the gentleman from Ohio [Mr. EWING] say that it should be retained for the struggling merchants and the laboring classes. The only class that it seems to me to benefit are the lawyers, the clerks, the registers, the marshals, and other officers who are connected with its administration. Of course each gentleman can judge best for his own locality, but speaking for mine I must say that while there is some difference of opinion on the subject I think the general judgment is, that this law injures creditors, is no advantage to honest debtors, embarrasses trade, enriches only the officers of the bankrupt courts, and ought to be repealed.

If we are to judge from the action of this House of Representatives, which is the nearest representative of the people, the people generally do not wish to retain the law, for bills repealing the law have been passed by this House in former Congresses almost unanimously. If we are to judge by the memorials from State Legislatures and the petitions which come to us from the people, we find, at least as far as my observation goes, a prevailing expression against instead of for the law. The gentleman from Ohio stated that petitions for the repeal of this law were gotten up by prosperous traders who desired to crush

out their rivals and that their weaker competitors joined in these petitions, while they really desired to preserve the law, for fear their pecuniary weakness would be suspected. I think this must have struck the House as a far-fetched suspicion. Indeed, the class interested in getting up petitions about this law are the class directly concerned to preserve it. It is the registers, the marshals, the clerks, the assignees, the lawyers in bankruptcy who stir round and mainly get up as I believe the remonstrances that come to us against the repeal of this law. I agree that there is some difference of opinion as to the law among all classes. But I think the prevailing and the better opinion is that it has been expensive, inefficient, and often oppressive, and that on the whole all classes except those concerned in conducting bankrupt proceedings would be better off without it. I think, therefore, we had better repeal it while we can. As to the substitute of the gentleman from Ohio, I agree with my colleague [Mr. CHITTENDEN] that that would be worse than the bill itself.

Mr. LAPHAM. I hope the time will come, even during this session, when the honorable gentleman from Ohio [Mr. EWING] and the honorable gentleman from Pennsylvania [Mr. KELLEY] can find a subject of discussion without appealing to the poor laborers of the country who get from one to ten cents a day for their labor under this law. I now call the previous question.

The previous question was seconded and the main question ordered. The first question was on the motion of Mr. HUNTON to refer the bill with the pending amendments to the Committee on the Judiciary.

The question was taken; and upon a division there were—ayes 44, noes 145.

Before the result of the vote was announced,

Mr. HUNTON called for tellers.

Tellers were not ordered, there being but 28 in the affirmative, not one-fifth of a quorum.

So the motion to refer was not agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed and requested the concurrence of the House in a resolution to print extra copies of the report of the Commissioner of Fish and Fisheries for the year 1876-77.

The message further announced that the Senate insisted upon its amendments, disagreed to by the House, to the bill (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes, and asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed as the conferees on the part of the Senate Mr. SARGENT, Mr. DORSEY, and Mr. BECK.

REPEAL OF BANKRUPT LAW.

The House resumed the consideration of Senate bill No. 35, to repeal the bankrupt law.

Mr. McMAHON moved to reconsider the vote by which the House refused to commit the bill to the Committee on the Judiciary; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next question was upon the amendments moved by Mr. KNOTT, to insert after the words "the bankrupt law, approved March 2, 1867," the words "title 61 of Revised Statutes, and an act entitled 'An act to amend and supplement an act entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' approved March 2, 1867, and for other purposes,' approved June 22, 1874;" also to insert after the words "future proceedings therein" the words "and all penal actions or criminal proceedings arising thereunder."

Mr. RANDOLPH. Is it in order to move an amendment in lieu of that?

The SPEAKER. It is not; the previous question is now operating. The amendments moved by Mr. KNOTT were then agreed to.

Mr. BUTLER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The amendment of Mr. WILLIS, of New York, was rejected.

The question then recurred upon the substitute moved by Mr. McMAHON for the Senate bill as amended.

Mr. LYNDE. I ask for a division of the question upon that substitute, and that a vote be taken separately upon the first two sections.

The SPEAKER. That is the gentleman's right.

Mr. CONGER. I raise the point of order that a substitute must be voted upon as an entirety.

The SPEAKER. The Chair overrules the point of order.

The Clerk read the first two sections of the substitute, as follows:

Be it enacted, etc., That title 61 of the Revised Statutes regulating proceedings in bankruptcy, and all laws amendatory of or supplementary to the same, be, and the same are hereby, repealed.

SEC. 2. This act shall not affect pending suits, prosecutions, proceedings, or applications, nor subsequent petitions for discharge therein, nor any right of action accruing therein to assignees or others.

The question was taken upon that portion of the substitute, and it was not agreed to.

The Clerk read the remainder of the substitute, as follows:

SEC. 3. This act shall take effect from its passage as to all involuntary proceed-

ings, except as provided in the preceding section; and as to voluntary applications from and after the 1st day of January, A. D. 1879.

SEC. 4. All petitions filed by an insolvent debtor before the said 1st day of January, A. D. 1879, under the law regulating proceedings in cases of voluntary bankruptcy shall be acted upon and proceeded in to final settlement, adjudication, distribution, and discharge under said title and the laws supplementary thereto or amendatory thereof, as though this act had not been passed.

The question was taken upon the latter portion of the substitute, and it was not agreed to.

Mr. CONGER. I now call for a vote on the substitute as a whole.

The SPEAKER. It has been voted down.

Mr. CONGER. Not as a whole; the separate parts of it have been voted down.

The SPEAKER. Then what remains of it?

Mr. CONGER. That is for the Chair to determine. The Chair ruled that the substitute should be divided.

The SPEAKER. The different parts of the substitute have been voted down, and there is nothing left of the substitute to vote upon. The question recurs upon ordering the bill as amended to a third reading.

Mr. FORT. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FORT. Has the motion been made to reconsider and table the vote by which the amendments moved by the gentleman from Kentucky [Mr. KNOTT] were adopted? I make the inquiry with the view if possible to reconsider the vote and reject those amendments, in order that the bill may not go back to the Senate.

The SPEAKER. The Chair is informed by the Clerk that a motion to reconsider was made and laid upon the table.

The bill was then ordered to a third reading and read the third time.

Mr. STENGER. I now call for the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

The bill, as amended, was read, as follows:

Be it enacted, &c., That the bankrupt law approved March 2, 1867, Title 61 of the Revised Statutes, and an act entitled "An act to amend and supplement an act entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' approved March 2, 1867, and for other purposes," approved June 22, 1874, and all acts in amendment or supplementary thereto or in explanation thereof, be, and the same are hereby, repealed: *Provided*, That such repeal shall in no manner invalidate or affect any case in bankruptcy instituted and pending in any court prior to the day when this act shall take effect; but as to all such pending cases and all future proceedings therein, and all penal actions or criminal proceedings arising thereunder, the acts hereby repealed shall continue in full force and effect until the same shall be fully disposed of, in the same manner as if said acts had not been repealed.

Mr. EWING and Mr. KELLEY called for the yeas and nays on the passage of the bill.

Mr. O'NEILL. I think there should be a record of the vote on such an important bill as this. I want to record my vote before this law is repealed.

The yeas and nays were ordered.

The question was taken; and there were—yeas 205, nays 40, not voting 46; as follows:

YEAS—205.

Acklen,	Covert,	Hiscock,	Patterson, G. W.
Aldrich,	Cox, Jacob D.	Hooker,	Patterson, T. M.
Atkins,	Cravens,	House,	Peddie,
Bacon,	Crittenden,	Humphrey,	Phillips,
Bagley,	Culbertson,	Hungerford,	Pollard,
Baker, John H.	Cummings,	Hunter,	Potter,
Baker, William H.	Dauford,	Ittner,	Pound,
Banning,	Davidson,	James,	Powers,
Bayne,	Davis, Horace	Jones, Frank	Price,
Beebe,	Deering,	Jones, John S.	Pugh,
Bell,	Dibrell,	Jones, James T.	Rainey,
Benedict,	Dunnell,	Jorgensen,	Randolph,
Bicknell,	Durham,	Joyce,	Rea,
Bisbee,	Eden,	Keightley,	Reagan,
Blackburn,	Elam,	Killingier,	Reilly,
Blair,	Errett,	Kimmel,	Rice, Americas V.
Boone,	Evans, I. Newton	Knapp,	Rice, William W.
Bouck,	Felton,	Knoft,	Riddle,
Boyd,	Finley,	Landers,	Roberts,
Bragg,	Forney,	Lapham,	Robertson,
Brewer,	Fort,	Lathrop,	Robinson, G. D.
Bridges,	Franklin,	Ligon,	Robinson, M. S.
Briggs,	Freeman,	Lockwood,	Ross,
Bright,	Fuller,	Loring,	Sampson,
Browne,	Gardner,	Mackey,	Saylor,
Bundy,	Garth,	Maish,	Schleicher,
Burchard,	Gilson,	Manning,	Sexton,
Burlick,	Giddings,	Marlin,	Shallenberger,
Cain,	Glover,	McCook,	Singleton,
Caldwell, John W.	Gunter,	McKenzie,	Simickson,
Caldwell, W. P.	Hamilton,	McKinley,	Smalls,
Calkins,	Hanna,	McMahon,	Smith, A. Herr
Camp,	Hardenbergh,	Metcalfe,	Southard,
Campbell,	Harmer,	Mills,	Sparks,
Candler,	Harris, Henry R.	Mitchell,	Springer,
Causton,	Hartzell,	Money,	Starin,
Carlsde,	Hatcher,	Monroe,	Stenger,
Caswell,	Hayes,	Morgan,	Stephens,
Chalmers,	Haskell,	Morrison,	Stewart,
Chittenden,	Hendee,	Morse,	Stone, Joseph C.
Chaffin,	Henderson,	Muldrow,	Stone, John W.
Clarke of Kentucky,	Henkle,	Muller,	Strait,
Clymer,	Henry,	Norcross,	Thompson,
Cobb,	Herbert,	O'Neill,	Thornburgh,
Cole,	Hewitt, Abram S.	Overton,	Throckmorton,
Conger,	Hewitt, G. W.	Pago,	Townsend, Amos

Townsend, M. I.
Turner,
Turney,
Walsh,
Ward,
Warner,

Watson,
White, Harry
White, Michael D.
Whithorne,
Wigington,
Williams, Andrew

Williams, C. G.
Williams, Jere N.
Willis, Albert S.
Willis, Benj. A.
Willits,
Wilson,

Wood,
Wren,
Wright.

NAYS—40.

Ballou,
Blount,
Buckner,
Butler,
Clark of Missouri,
Clark, Rush
Cook,
Crapo,
Cutler,
Davis, Joseph J.

Dean,
Douglas,
Eames,
Evins, John H.
Ewing,
Frye,
Gause,
Goode,
Hale,
Harris, Benj. W.

Harris, John T.
Hartridge,
Haskell,
Hubbell,
Huntton,
Kenna,
Lynde,
McGowan,
Oliver,
Reed,

Robbins,
Ryan,
Slemmons,
Smith, William H.
Steele,
Vauco,
Waddell,
Williams, Richard
Yeates,
Young.

NOT VOTING—46.

Aiken,
Banks,
Bland,
Bliss,
Brentano,
Brogden,
Cabell,
Clark, Alvah A.
Clark, Collins
Cox, Samuel S.
Denison,
Dickey,

Dwight,
Eickhoff,
Ellis,
Ellsworth,
Evans, James L.
Foster,
Gardfield,
Harrison,
Hart,
Keifer,
Kelley,
Ketcham,

Lindsay,
Luttrell,
Marsh,
Mayham,
Neal,
Phelps,
Fridemore,
Quinn,
Sapp,
Scales,
Shelley,
Swann,

Tipton,
Townshend, E. W.
Tucker,
Van Vorhes,
Veeder,
Wait,
Walker,
Welch,
Williams, A. S.
Williams, James.

So the bill was passed.

During the roll-call the following announcements were made:

Mr. HUNTON. My colleague, Mr. TUCKER, who is absent by leave of the House, is paired with the gentleman from Ohio, Mr. GARFIELD.

Mr. CABELL. I am paired with the gentleman from California, Mr. LUTTRELL. If he were here, I should vote "no."

Mr. DAVIS, of North Carolina. My colleague, Mr. SCALES, is paired with the gentleman from Ohio, Mr. VAN VORHES. My colleague, Mr. BROGDEN, is confined to his room by sickness.

Mr. FORNEY. Mr. WAIT is paired with Mr. PHELPS; and Mr. SHELLEY with Mr. EVANS, of Indiana.

Mr. WILLIAMS, of Michigan. I am paired with the gentleman from Massachusetts, Mr. BANKS. If he were present, I should vote "ay."

Mr. MARSH. I am paired with the gentleman from Delaware, Mr. WILLIAMS. If he were here, he would vote "ay" and I should vote "no."

Mr. HUNGERFORD. My colleague, Mr. DWIGHT, is paired with my colleague, Mr. EICKHOFF.

Mr. JOYCE. My colleague, Mr. DENISON, is absent on account of sickness. If present, he would vote "ay."

Mr. KEIGHTLEY. My colleague, Mr. ELLSWORTH, is absent on account of sickness. If present, he would vote "ay."

Mr. GARDNER. My colleagues, Mr. KEIFER and Mr. DICKEY, are absent by leave of the House.

Mr. METCALFE. My colleague, Mr. BLAND, is absent on account of sickness.

Mr. ALDRICH. My colleagues, Mr. TIPTON and Mr. TOWNSHEND, are paired; also my colleagues, Mr. BRENTANO and Mr. HARRISON. Mr. TIPTON and Mr. BRENTANO, if present, would vote "ay."

Mr. CALKINS. I am paired with Mr. CLARK, of New Jersey, on political questions; but not regarding this as a political question, I have voted.

The result of the vote was announced as above stated.

Mr. STENGER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. CLYMER. I move that the House insist upon its non-concurrence in the amendments of the Senate to the naval appropriation bill, and that the request of the Senate for a further conference be granted.

The motion was agreed to.

The SPEAKER announced as the conferees on the part of the House, Mr. CLYMER, Mr. BLOUNT, and Mr. HALE.

PROTECTION OF TEXAS BORDER.

Mr. SCHLEICHER, by unanimous consent, reported from the Committee on Foreign Affairs a joint resolution (H. R. No. 167) relative to the protection of the Mexican border in Texas; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, not to be brought back on a motion to reconsider, and, with the accompanying report, ordered to be printed.

VENEZUELAN MIXED COMMISSION.

Mr. HAMILTON, by unanimous consent, reported from the Committee on Foreign Affairs, as a substitute for House bill No. 1059, a bill (H. R. No. 4569) in relation to the Venezuelan mixed commission; which was read a first and second time, and, with the accompanying report, ordered to be printed and recommitted.

SEIZURES OF TIMBER IN LOUISIANA.

Mr. ACKLEN. I ask unanimous consent to offer for reference the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Speaker of the House of Representatives be, and is hereby, authorized to appoint a committee of three members of this House, who shall select a clerk and deputy sergeant-at-arms and proceed to the State of Louisiana at such time as said committee shall deem proper, with full power to send for persons and papers, to administer oaths, and take testimony, and employ such clerks or stenographers as may be needed, to investigate the charges of corruption and malfeasance in office preferred against M. A. Carter, special agent of the Department of the Interior, and charges preferred against other officials and parties connected with the Calcasieu log seizures as that committee may deem necessary to ascertain their truth, and report the results of said investigation to this House at its next session.

Mr. KILLINGER. I object to the introduction of the resolution.
REMOVAL OF NAVAL OBSERVATORY.

Mr. HARRIS, of Massachusetts. I ask unanimous consent to have taken up for consideration now a bill (H. R. No. 4129) reported by the Committee on Naval Affairs, to appoint a commission to ascertain the cost of removing the Naval Observatory. I think it will take but a short time.

The SPEAKER. Is there objection?

Mr. BURCHARD. Is it for consideration now?

Mr. HARRIS, of Massachusetts. It will not take any time. I should like to make a brief statement.

The SPEAKER. That is only in order by unanimous consent.

Mr. BLOUNT. I object.

FORT POINT, GALVESTON HARBOR, TEXAS.

Mr. REAGAN, by unanimous consent, from the Committee on Commerce, reported back favorably the bill (H. R. No. 4470) to provide for the erection of a light-house at Fort Point, Galveston Harbor, Texas, and moved its reference to the Committee on Appropriations. The motion was agreed to.

Mr. REAGAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CLAIMS.

Mr. BRIGHT. I move by unanimous consent to take from the Speaker's table a bill (H. R. No. 3063) for the allowance of certain claims reported by the accounting officer of the Treasury Department, returned from the Senate with sundry amendments and to move the amendments be concurred in. The amendments are immaterial.

There was no objection, and the bill was taken up and the amendments of the Senate concurred in.

Mr. BRIGHT moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEORGE R. DENNIS.

On motion of Mr. ROBERTS, by unanimous consent, the bill (S. No. 998) for the relief of George R. Dennis, of Maryland, was taken from the Speaker's table and referred to the Committee of Claims, not to be brought back by a motion to reconsider.

CENSUS.

Mr. COX, of New York. I ask unanimous consent to submit the following resolution.

The Clerk read as follows:

Resolved, That a joint committee to be denominated a joint committee on the census be appointed to consider and report upon a proper measure to be adopted for the taking of the census, and that said committee may report by bill or otherwise.

The SPEAKER. The gentleman should make it a concurrent resolution.

Mr. COX, of New York. I modify it so as to make it a concurrent resolution.

There was no objection, and the resolution was adopted.

Mr. COX, of New York, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EASTERN BAND OF CHEROKEE INDIANS.

Mr. TOWNSEND, of New York, by unanimous consent, was allowed to submit the views of the minority of the Committee on Indian Affairs on the bill (H. R. No. 228) to authorize and enable the eastern band of the Cherokee Indians to institute and prosecute a suit in the Court of Claims against the Cherokee Nation; which were ordered to be printed with the majority report.

ENROLLED BILLS.

Mr. RAINEY, from the Committee on Enrolled Bills, reported they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 547) for the relief of Susan Robb;

An act (H. R. No. 1224) for the relief of Will R. Hervey;

An act (H. R. No. 2006) for the relief of James Fishback, late collector of internal revenue, tenth district, State of Illinois;

An act (H. R. No. 2884) for the relief of Samuel H. Canfield, postmaster at Seymour, Connecticut;

An act (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making an appropriation for the same; also, making appropriations for detecting trespass on public

lands, and for bringing into market public lands in certain States, and for other purposes; and

An act (H. R. No. 4222) to provide for a deficiency in the appropriation for the public printing and binding for the current fiscal year.

BEN D. TERRY.

Mr. BOONE, by unanimous consent, submitted the following resolution; which was referred to the Committee of Accounts:

Resolved, That the Clerk of the House pay to Ben D. Terry \$111.35 for service rendered as messenger from the 1st of December, 1877, to the 10th of January, 1878, such sum to be paid out of the contingent fund of the House.

Mr. BOONE also, by unanimous consent, submitted the following resolution; which was referred to the Committee of Accounts:

Resolved, That the Clerk of the House pay to Ben D. Terry \$100 out of the contingent fund of the House for service as messenger for the month of April, 1878.

NAT Q. HENDERSON.

Mr. BOONE also, by unanimous consent, submitted the following resolution; which was referred to the Committee of Accounts:

Resolved, That the Clerk of the House be authorized and directed to pay to Nat Q. Henderson out of the contingent fund of the House the sum of \$200 for service as messenger of the House for the months of March and April, 1878.

Mr. CONGER. Are any of those resolutions for the so-called experiments?

Mr. BOONE. No, sir.

Mr. CONGER. If any were for them I should have objected.

JERSEY CITY A PORT OF ENTRY.

Mr. DUNNELL, by unanimous consent, from the Committee on Commerce, reported back, with a favorable recommendation, the bill (H. R. No. 136) constituting Jersey City a port of entry, and moved that it be referred to the Committee of the Whole on the state of the Union.

The motion was agreed to.

C. M. FAIRMAN.

The SPEAKER, by unanimous consent, laid before the House a letter from the chief clerk of the War Department, in the absence and by the direction of the Secretary of War, transmitting papers relating to the claim of C. M. Fairman; which was referred to the Committee of Claims.

PRINTING IN WAR DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a letter from the chief clerk of the War Department, transmitting a report of the chief clerk and heads of bureaus on the subject of public printing; which was referred to the Committee on Printing.

ROSETTA FREEL.

The SPEAKER also, by unanimous consent, laid before the House a letter from the chief clerk of the War Department, transmitting papers in the claim of Rosetta Freel; which was referred to the Committee on Military Affairs.

BREAKS IN MISSISSIPPI LEVEE.

The SPEAKER also, by unanimous consent, laid before the House a letter from the chief clerk of the War Department, transmitting estimates of cost of closing existing breaks in the line of levees of the Mississippi River; which was referred to the Committee on Levees and Improvement of the Mississippi River.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. BALLOU, for ten days;

To Mr. WILLIAMS, of Delaware, till Monday next;

To Mr. DENISON, for three days, on account of sickness;

To Mr. MORSE, for four days, on account of important business;

To Mr. ELLIS, for four days, on account of important business;

To Mr. COX, of New York, for one week;

To Mr. SEXTON, for one week, on account of important business;

To Mr. HENRY, for one week, on account of important business;

To Mr. YEATES, for four days; and

To Mr. HOOKER, for four days.

Mr. WADDELL. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: Memorial of the Legislature of Wisconsin, for the promotion of the deposit of savings and the refunding of the national debt—to the Committee on Banking and Currency.

Also, memorials of the Legislature of Wisconsin, against the reduction of the duty on wool; for the enactment of an income-tax law; against the proposed reduction of the tariff on imported wool—to the Committee of Ways and Means.

Also, memorials of the Legislature of Wisconsin, for the establishment of a post-route and tri-weekly mails from Ferryville to De Soto; for the establishment of a post-route and weekly mails from Wilson to Rock Elm Center; for increased mail service on certain routes in Door and Kewaunee Counties; and for increased mail facilities

between Wauzeka and Readstown, all in the State of Wisconsin—to the Committee on the Post-Office and Post-Roads.

Also, memorial of the Legislature of Wisconsin, for the amendment of the patent laws—to the Committee on Patents.

By Mr. BRAGG: Memorial of the Legislature of Wisconsin, for the promotion of the deposit of savings and the refunding of the national debt—to the Committee on Banking and Currency.

Also, memorials of the Legislature of Wisconsin, against the reduction of the duty on wool; for the enactment of an income-tax law; and against the proposed reduction of the tariff on imported wool—to the Committee of Ways and Means.

Also, memorials of the Legislature of Wisconsin, for the establishment of a post-route and tri-weekly mails from Ferryville to De Soto; for the establishment of a post-route and weekly mails from Wilson to Rock Elm Center; for increased mail service on certain routes in Door and Keweenaw Counties; and for increased mail facilities between Wauzeka and Readstown, all in the State of Wisconsin—to the Committee on the Post-Office and Post-Roads.

Also, memorial of the Legislature of Wisconsin, for the amendment of the patent laws—to the Committee on Patents.

By Mr. CAMPBELL: The petition of citizens of Martinsburgh, Pennsylvania, for the extension of the credit of the Government to aid in the construction of a railroad through the Southwestern Territories to the Pacific Ocean—to the Committee on the Pacific Railroad.

By Mr. CASWELL: Memorial of the Legislature of Wisconsin, for the promotion of the deposit of savings and for the refunding of the national debt—to the Committee on Banking and Currency.

Also, memorials of the Legislature of Wisconsin, against the reduction of the tariff on wool and for the enactment of a law imposing a tax on incomes—to the Committee of Ways and Means.

Also, memorial of the Legislature of Wisconsin, for the amendment of the patent laws—to the Committee on Patents.

By Mr. COX, of New York: A paper relating to the claim of J. H. Dougherty, for compensation for services rendered in the Doorkeeper's department of the House of Representatives—to the Committee of Accounts.

Also, the petition of D. M. Nagle, for a pension—to the Committee on Invalid Pensions.

Also, papers relating to the petition of William McGovern, for relief—to the Committee on Military Affairs.

By Mr. DAVIS, of California: Resolutions of the Legislature of California, communicated by telegraph, favoring the repeal of such parts of the revenue laws as create a distinction between the tax on deposits in savings-banks having a capital stock and those having none—to the Committee of Ways and Means.

Also, the petition of American ship-owners regarding the registration and license laws as embodied in the Wood tariff bill—to the same committee.

By Mr. ERRETT: Resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, favoring the erection of new public buildings in that city—to the Committee on Public Buildings and Grounds.

By Mr. HUMPHREY: Memorial of the Legislature of Wisconsin, for the promotion of the deposit of savings and the refunding of the national debt—to the Committee on Banking and Currency.

Also, memorials of the Legislature of Wisconsin, against the reduction of the duty on wool; for the enactment of an income-tax law, against the proposed reduction of the tariff on imported wool—to the Committee of Ways and Means.

Also, memorials of the Legislature of Wisconsin, for the establishment of a post-route and tri-weekly mail from Ferryville to De Soto; for the establishment of a post-route and weekly mails from Wilson to Rock Elm Center; for increased mail-service on certain routes in Door and Keweenaw Counties, and for increased mail facilities between Wauzeka and Readstown, all in the State of Wisconsin—to the Committee on the Post-Office and Post-Roads.

Also, memorial of the Legislature of Wisconsin, for the amendment of the patent laws—to the Committee on Patents.

By Mr. LINDSEY: Papers relating to the claim of Edward Hubbard—to the Committee of Claims.

By Mr. MULBROW: Papers relating to the claim of Eldred Nunnally—to the Committee on War Claims.

By Mr. POUND: Memorials of the Legislature of Wisconsin, for the imposition of a tax on incomes, to promote the deposits of savings and refunding of the national debt, against the proposed reduction of the tariff on wool and lumber, and against any reduction of the duty on wool—to the Committee of Ways and Means.

Also, memorial of the Legislature of Wisconsin, for the amendment of the patent laws—to the Committee on Patents.

By Mr. RICE, of Ohio: Papers relating to the pension claim of James Co—to the Committee on Revolutionary Pensions.

Also, the petition of Mrs. Sarah B. Franklin, for a pension—to the Committee on Invalid Pensions.

Also, the petitions of Samuel A. Wehr and of Sylvanus Walker, in behalf of aid for Mrs. Margaret B. Walker, for arrears of pension—to the same committee.

Also, resolutions of Forsyth Post, No. 15, Grand Army of the Republic, in regard to the bill (H. R. No. 3524) to increase pensions in certain cases—to the same committee.

By Mr. WILLIAMS, of Michigan: The petition of residents of South Washington, for the removal of the tracks of the Baltimore and Potomac Railroad on Sixth street west—to the Committee for the District of Columbia.

HOUSE OF REPRESENTATIVES.

FRIDAY, April 26, 1878.

The House met at twelve o'clock m. Prayer by Rev. JOHN B. VAN METER, chaplain United States Navy.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had agreed to the amendment of the House of Representatives to the resolution of the Senate to print 1,500 extra copies of the report of the board of health of the District of Columbia for the year 1877, for use and distribution by said board.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes.

The message also announced that the Senate had passed, without amendment, a joint resolution and a bill of the House of the following titles:

The joint resolution (H. R. No. 78) granting the use of artillery, tents, &c., at the national soldiers and sailors' reunion to be held at Marietta, Ohio; and

The bill (H. R. No. 1385) for the relief of the minor heirs of John H. Evans, deceased.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 43) to provide for taking testimony to be used before Congress in cases of private claims against the United States;

A bill (S. No. 88) for the relief of James W. Richard and J. S. Brown & Brother, of Denver, Colorado;

A bill (S. No. 288) for the relief of Gibbes & Co., of Charleston, South Carolina;

A bill (S. No. 319) for the relief of the Metropolitan police force of the District of Columbia;

A bill (S. No. 337) for the relief of Thomas H. Halsey, paymaster United States Army;

A bill (S. No. 797) for the relief of Acting-Master Robert Platt, United States Navy;

A bill (S. No. 824) establishing the rank of the senior inspector-general;

A bill (S. No. 889) granting a pension to John Etzell;

A bill (S. No. 926) for the sale of timber-lands in the States of California and Oregon and in Washington Territory; and

A bill (S. No. 1031) for the relief of the estate of E. Rouff.

ORDER OF BUSINESS.

Mr. BAKER, of Indiana. I call for the regular order.

Mr. BLOUNT. Mr. Speaker, I desire to move—

Mr. HUBBELL. I ask the gentleman from Indiana [Mr. BAKER] to withdraw his call for the regular order for a few minutes, in order that I may report from the Committee on Commerce a bill for consideration at this time. It is a very important bill; and, as I am obliged to leave the city soon, I desire to have it acted upon now.

Mr. BAKER, of Indiana. I will withdraw the call for the present.

VESSELS NOT PROPELLED BY STEAM OR SAIL.

Mr. HUBBELL. I am instructed by the Committee on Commerce to ask consent to report back, with amendments, for consideration at this time the bill (H. R. No. 1757) relating to vessels not propelled by steam or sail.

The bill, as proposed to be amended, was as follows:

Be it enacted, &c. That from and after the passage of this act all vessels employed in the navigable waters of the United States, not propelled by any internal appliances for propulsion, such as sail or steam, except vessels of this character engaged in trade with contiguous foreign territory, shall be exempt from admeasurement or enrollment: *Provided, however,* That the masters of registered, enrolled, or licensed vessels towing or propelling vessels of the character herein described shall be liable to produce manifests of the cargoes of vessels so towed or propelled to the collector at the port of entry or the surveyor or collector at any port of delivery nearest the place at which the delivery of any cargo of a vessel so towed or propelled shall be completed: *Provided, also,* That when not being propelled or towed by other vessels, and vessels of five tons burden or upward as have no internal appliances for propulsion, shall be subject to all the regulations for displaying lights, and to all the penalties for not displaying lights, which are provided for sail-vessels of the United States of the mercantile marine by sections 423 and 424 of the Revised Statutes of the United States.

SEC. 2. That for receiving such manifest, and filing the same, the collector or surveyor shall be authorized to collect a fee of twenty cents for each vessel towed or propelled; and for failing to deliver such manifest of cargo the master having such vessel in charge shall be liable to a fine of \$5 for every vessel unladen.

SEC. 3. That vessels not propelled by sail or steam, and not wholly owned by citizens of the United States, found transporting cargoes of American production

not destined for exportation in the same vessel, on navigable waters of the United States, between one collection district and another, or places in the same district, shall be liable with their cargoes to seizure and forfeiture in any district in which they may be found.

Mr. HUBBELL. This is a very important bill, and will take a burden off the commerce of the whole country so far as barges and such vessels are concerned.

Mr. BLOUNT. Does the gentleman propose to consider the bill at this time?

Mr. HUBBELL. That is what I asked.

Mr. BLOUNT. I must object to that.

Mr. DUNNELL. I hope the gentleman will not object.

Mr. BLOUNT. How long will it take?

Mr. HUBBELL. Not more than a minute or two.

Mr. REAGAN. I think if the gentleman will hear a brief explanation he will withdraw his objection.

Mr. HUBBELL. Under the law as it now stands, vessels and barges used mainly in navigating waters of a State are exempt from admeasurement and license, while barges not so used are subject to that fee. Therefore a barge used mainly on the waters of a State may go down the Mississippi River free from all these charges, while a barge not so used must pay admeasurement and license fee. This bill proposes to take this burden off such vessels and barges.

The amendments reported from the committee were agreed to, and the bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HUBBELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BAKER, of Indiana. I now insist upon the regular order.

The SPEAKER. The regular order is the morning hour, and the business in the morning hour of to-day is the call of committees for reports of a private nature.

Mr. BLOUNT. I move that the House now resolve itself into Committee of the Whole for the purpose of proceeding with the consideration of the post-office appropriation bill.

The SPEAKER. The Chair deems it his duty to state to the House that the effect of that motion, if agreed to, will be to cut off private business.

Mr. RICE, of Ohio. This is private-bill day, and I ask for the regular order.

The SPEAKER. The motion of the gentleman from Georgia [Mr. BLOUNT] is the regular order; the effect of the motion, if adopted, will be to cut off private business.

Mr. RICE, of Ohio. I know that; and I wish the House to vote down that motion.

Mr. SPRINGER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. This is Friday, and private-bill day; and the first business in order is the consideration of private bills.

The SPEAKER. This is the rule:

Friday in every week shall be set apart for the consideration of private bills and private business, in preference to any other, unless otherwise determined by a majority of the House.

Mr. WHITE, of Pennsylvania. This is objection day.

Mr. EDEN. I trust that we will go on with the appropriation bill.

The SPEAKER. The motion of the gentleman from Georgia is in order; but if the House desires to proceed with the consideration of private business it can do so by voting down that motion.

The question was taken upon the motion of Mr. BLOUNT; and upon a division there were—ayes 116, noes 34.

Before the result of this vote was announced,

Mr. RICE, of Ohio, said: This is objection day; and in order that the House may utilize it in the consideration of private bills I call for the yeas and nays on the motion to go into Committee of the Whole on the post-office appropriation bill.

Mr. BANNING. I understand that the Committee on Invalid Pensions is on call.

The SPEAKER. That is not in order.

Mr. RICE, of Ohio. I will withdraw the call for the yeas and nays. So the motion of Mr. BLOUNT was agreed to.

Mr. RICE, of Ohio. Before the House goes into Committee of the Whole I ask unanimous consent that to-night be set apart for the consideration of reports from the Committee on Invalid Pensions and for the consideration of pension bills in Committee of the Whole as on objection day.

Mr. ROBERTS. I move to amend so that all reports of a private nature from committees be in order to-night.

Mr. WHITE, of Pennsylvania. I object.

Mr. RICE, of Ohio. I will state further—

The SPEAKER. There is objection.

Mr. RICE, of Ohio. Who objects?

The SPEAKER. The gentleman from Pennsylvania [Mr. WHITE] on the left of the Chair.

Mr. RICE, of Ohio. He is the chronic objector.

Mr. WHITE, of Pennsylvania. Well, I do object; we have had already a great deal of special legislation.

The House accordingly resolved itself into Committee of the Whole, (Mr. MILLS in the chair.)

POST-OFFICE APPROPRIATION BILL.

The CHAIRMAN. The House is now in Committee of the Whole on the state of the Union and will resume the consideration of the bill (H. R. No. 4346) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes; and the pending amendment when the committee was last in session was that offered by the gentleman from Ohio, [Mr. TOWNSEND], to amend the paragraph commencing with line 120 so that it will read as follows:

For compensation to clerks in post-offices, \$3,640,000.

Mr. DUNNELL. This amendment now proposes to appropriate \$3,600,000 for this service, being \$100,000 less than the estimate asked for by the Post-Office Department. The gentleman from Georgia [Mr. BLOUNT] stated the other day that it was \$100,000 more than was appropriated last year, or in other words, to be more exact, that \$100,000 had been added to the appropriation to meet the especial demands for the increase of clerical force in the Post-Office Department.

I am informed by the Post-Office Department that there are to-day five hundred and seventy-five applications for increase of clerical force and that most of those five hundred and seventy-five applications have been presented at different times during the present fiscal year. Now it will be noticed that this \$100,000 additional would play a very insignificant part in meeting these five hundred and seventy-five cases in addition to the other cases which have arisen or will arise calling for this amount of money. The five hundred and seventy-five applications at \$100 apiece would amount to \$57,500. I know of many instances where the amount allowed ought to be \$200, \$300, or \$400.

When this bill was last before the House I called the attention of the committee to the necessity for a larger amount of money than is appropriated in this bill for this special item, and I trust that the gentleman from Georgia will concede to this amendment which may be regarded as a compromise between the amount proposed by him and by those who wish to make fuller provisions for this service. It is not a dollar more than the service needs, and I hope the gentleman will not make further opposition to the amendment offered by the gentleman from Ohio.

Mr. BLOUNT. If I take the gentleman's own statement there are five hundred and seventy-five applications and then the statement of the Department that the average hire of clerks in this service is \$300, that would leave too much money under the appropriation already made by the bill. Last year we appropriated \$3,440,000 and the amount expended was only \$3,233,000, leaving a surplus of \$67,000 of that amount unused.

They have, according to their own estimate, a sufficient sum to employ over six hundred men. It sometimes happens that it is very convenient for the Department, as they have said to the committee, to be able to say that they do not have sufficient appropriations. Gentlemen have friends who are unfortunate and want to be taken care of in these hard times and this is a convenient place for them to get in. But it makes no difference as to the motive; I believe that we have given an ample sum, especially in view of the fact of the falling off last year in the receipts from the Post-Office Department, and I hope that the committee will not consent to the addition of a single dollar, for I do not think there is a single member of the committee who upon examination will not feel that this appropriation is complete and ample.

The question was taken on the amendment offered by Mr. TOWNSEND, of Ohio, and no quorum voted.

Tellers were ordered; and Mr. DUNNELL and Mr. BLOUNT were appointed.

The committee again divided; and tellers reported—ayes 90, noes 65.

So the amendment was agreed to.

Mr. BLOUNT. I give notice that I shall ask a yea-and-nay vote in the House upon this amendment.

The Clerk resumed the reading of the bill, and read as follows:

For payment to letter-carriers, \$1,865,000.

Mr. CANNON, of Illinois. I move to strike out all after the word "carriers," in line 122, down to and including the word "dollars," in line 123, and to insert in lieu thereof the following:

Two million dollars: *Provided*, That letter-carriers of different classes shall each be paid a larger salary than they now receive.

Mr. BLOUNT. I raise the question of order upon that amendment that it is new legislation and increases expenses.

Mr. CANNON, of Illinois. I desire to be heard on that question of order. The gentleman makes the point of order that the amendment proposes to change existing law and is not in the direction of economy. The point of order is not well taken as I understand the law. The Revised Statutes, section 3865, provide as follows:

Letter-carriers shall be employed for the free delivery of mail matter, as frequently as the public convenience may require, at every place containing a population of fifty thousand and within the delivery of its post-office; and may be so employed at every place containing a population of not less than twenty thousand within the delivery of its post-office.

The next section provides as follows:

SEC. 3866. The salary of letter-carriers shall be fixed by the Postmaster-General, and shall not exceed \$600 per annum; but on satisfactory evidence of diligence, fidelity, and experience, he may increase their salary to any sum not exceeding \$1,000 a year each; and in San Francisco, California, he may pay such additional salaries to carriers as will secure the services of competent persons.

I hold in my hand an official statement of the number of letter-carriers in the United States, with their present salaries. These salaries, according to this statement, average \$771 per annum. The object of this amendment is to increase the total amount for carriers, looking toward an increase in the number of carriers, provided the Postmaster-General should see proper to employ an additional number; but the proviso prevents any increase of the salaries above that which the carriers are now receiving. This amendment does not increase the salaries beyond what the law now provides; on the contrary, it prevents any increase of salary beyond the amounts now paid. Hence the amendment, instead of looking toward an increase of expenditure, looks toward the permanent reduction of expenditures, and is therefore in order.

Mr. BANNING. I would like to say when this question comes up that there is certainly no class of employes of the Government so poorly paid—

The CHAIRMAN. The gentleman is discussing the merits of the amendment, not the point of order. The Chair is ready to rule on the question. He overrules the point of order made by the gentleman from Georgia.

Mr. BLOUNT. I wanted to be heard before the Chair announced his decision.

The CHAIRMAN. The gentleman ought to have claimed the floor before the decision was made. But the Chair will hear the gentleman.

Mr. BLOUNT. I regret very much that I was not heard before the Chair announced his decision.

The point of order that I raised was that the object of this amendment was to change existing laws, which would result in an increase of appropriations. What is the provision of the existing law?

The salary of letter-carriers shall be fixed by the Postmaster-General, and shall not exceed \$600 per annum; but on satisfactory evidence of diligence, fidelity, and experience he may increase their salary to any sum not exceeding \$1,000 a year each.

Now what does this amendment provide?

Provided, Letter-carriers of the different classes shall not be paid a larger salary than they now receive.

My impression is that this is an attempt to regulate the discretion of the Postmaster-General, and I do not think that it retrenches expenditures at all. I do not see how the amendment points to retrenchment, and it certainly changes existing law.

Mr. HANNA. The gentleman says that the object of this amendment is to reach the law regulating the discretion of the Postmaster-General. Now the law as the gentleman read it gives the Postmaster-General, as I understand, a discretion to increase the compensation of carriers from \$800 to as much as \$1,000 in particular instances. Now if we only appropriate enough to pay the minimum, do we not thereby in an appropriation bill deprive the Postmaster-General of the discretion which he now has under existing law? Would not that be the effect of the appropriation?

Mr. BLOUNT. So far as the appropriation is concerned, we are following the law; but this amendment undertakes to regulate directly the discretion of the Postmaster-General.

Mr. CANNON, of Illinois. The gentleman will allow me a moment. The amendment in no way interferes with the discretion of the Postmaster-General except to curtail that discretion. At this time letter-carriers throughout the United States are receiving on an average \$770 a year each. This being the amount they are now receiving by the regulation of the Postmaster-General, this amendment, instead of leaving him the discretion to increase this pay from \$800 to \$1,000 in particular instances, provides expressly that in no event shall he use that discretion to increase the pay of these carriers beyond the amount they now receive.

Mr. WADDELL. Does the gentleman mean to limit the maximum pay of letter-carriers to \$770?

Mr. CANNON, of Illinois. To what they are now receiving.

Mr. WADDELL. They now average \$770 annually; and if I understand the gentleman correctly his object is to fix the maximum pay of letter-carriers at \$770 per annum, doing away with the discretion of the Postmaster-General to grant an increase beyond that sum.

Mr. CANNON, of Illinois. The amendment proposes to fix the maximum pay of letter-carriers at just what they are receiving at this time.

Mr. WADDELL. Then why does the gentleman desire to increase the appropriation for letter-carriers, if he reduces the pay?

Mr. CANNON, of Illinois. I will explain that as soon as the point of order is out of the way.

The CHAIRMAN. The Chair understands the gentleman from Georgia to make the point of order on the amendment that it changes the existing law and is not in the direction of retrenchment of expenses.

Mr. BLOUNT. The ruling which has heretofore been made is, where there is a change of existing law proposed it must appear upon the face of the amendment; it retrenches expenditures, or otherwise it is out of order.

The CHAIRMAN. The gentleman is unquestionably right. The Chair, however, cannot see this changes existing law.

Mr. BLOUNT. I ask the Chair whether the discretion of the Postmaster-General to fix the salary at \$800 or any sum below that is not a matter of law, and whether the amendment proposed by the gentleman from Illinois does not restrain that discretion as to the amount to be paid these letter-carriers at this time, in some instances less and in one more, the object being to restrain their discretion. Is not that a change in the existing law?

The CHAIRMAN. The Postmaster-General may make an increase in the number, but he cannot make the appropriation of money. At last Congress must make the appropriation of money. Whatever the discretion the Postmaster-General may have in increasing or decreasing the number of letter-carriers Congress must make the appropriation of money.

Mr. BLOUNT. This will require a larger appropriation.

The CHAIRMAN. Then you must change the law as it exists, but this amendment does not propose that.

Mr. CANNON, of Illinois. Mr. Chairman, if I can get the attention of the committee I will try to make myself understood as to what I desire to accomplish by this amendment.

There are eighty-seven cities in the United States in which the letter-carrier system is operating. Outside of these cities the postage on a drop-letter is one cent. In the letter-carrier cities the postage on a drop-letter is two cents. Now this postage, as well as the postage on all other matter mailed for delivery in such city where mailed, is styled local postage, and if the local postage in a given city is as much as the salaries of the carriers the service in such city is claimed to be self-sustaining.

Now, in the city of New York the local postage exceeds the salaries of letter carriers, in round numbers.

In Philadelphia.....	\$742,000
In Boston.....	132,000
In San Francisco.....	5,000
	18,000

In the aggregate, say..... 1,897,000 while in the other eighty-three cities the local postages are eaten up entirely by the salaries of letter-carriers, and \$640,000 besides. To instance a few of them, (and I will only refer to the large cities in this connection, for I am satisfied in all cities of fifty thousand inhabitants and under the carrier system should be abolished.)

The local postages fell short of the salaries of letter-carriers in Baltimore, last year..... \$30,000

New Orleans.....	26,000
Saint Louis.....	53,000
Cincinnati.....	17,000
Chicago.....	52,000
Cleveland.....	12,000
Detroit.....	15,000
Louisville.....	13,000
Pittsburgh.....	9,000
Washington.....	11,000
Indianapolis.....	23,000

Now, if we can ascertain the cause of the profit in the four cities first named and the deficit in the other large cities, and by legislation place this system upon a self-sustaining basis in all the cities, it would be well so to do. In the city of New York where the profit is so large the force of carriers is sufficient to gather up from the mail-boxes and deliver the mail from five to seven times daily, and while the service is not so frequent in Philadelphia and Boston, yet it will average from three to five times daily. Now, this business is like any other, if it is worth attending to at all it is worth doing well; and in these cities where it is sufficient to satisfy the demand, as before stated, it is done at a profit of \$1,000,000 annually. Now, in Chicago, Saint Louis, and other cities the force of carriers is not large enough to make so frequent deliveries of letters and other mailable matter, the result is that other means of delivery are used by the citizens. I had an interview with the very competent postmaster at Chicago, Mr. Palmer, a few months ago, and he informed me while the carriers made from two to three deliveries of letters daily in the business part of the city, that in other parts of the city there was no certainty of more than one delivery daily; so to a large extent the people did not depend upon the carriers, but employed other messengers, and he expressed himself clearly of the opinion that an additional number of carriers would greatly improve the revenues from local postages; and I am informed by other persons conversant with this matter that such would be the case in the other large cities; so I am satisfied that it would be genuine economy to adopt this amendment.

The CHAIRMAN. The gentleman's five minutes have expired.

Mr. MCCOOK. I am anxious to hear this question discussed, and therefore take the floor and yield my five minutes to the gentleman from Illinois.

Mr. CANNON, of Illinois. I thank the gentleman. Having shown, as I think, the propriety of the first branch of my amendment, I now desire to speak to the second branch of the amendment, which has the effect, if the \$130,000 additional is appropriated for this service, that it shall be used for the employment of additional carriers in these cities and not for the increase of the salaries of those already employed; for the amount recommended by the Committee on Appro-

priations is sufficient to pay the present force of carriers the salaries they are now receiving; and unless the force of carriers is to be increased where it can be profitably done to the Government, then I am not for any increase of this appropriation. For, Mr. Chairman, while I am for paying everybody a fair salary, and while I do not underestimate the very important service of the letter-carriers, yet the fact is that the letter-carriers are paid, everything considered, a better salary than most other postal employes receive.

In cities of 100,000 population, and over, there are, in the aggregate 1,682 carriers—

168 of these receive now per annum	\$675
202 of these receive now per annum	775
1,222 of these receive now per annum	875

While in cities of less than 100,000 population there are—

72 carriers who receive per annum	\$575
51 carriers who receive per annum	675
470 carriers who receive per annum	775

Less, I should state, 5 per cent. on account of the reduction of the appropriation for the present fiscal year, and it is instructive to know that at the commencement of this fiscal year, when the appropriation was not sufficient to pay the number of carriers in the service, they universally preferred the reduction of salary by 5 per cent. to the discharge of 5 per cent. of the force. Now let us compare their salaries with some of the other postal employes, for instance the clerks in post-offices where the salaries of the postmaster is \$2,000 and upward. The Postmaster-General's report shows that these clerks number forty-four hundred and sixty-five, and their average annual compensation is \$724.11, while the average pay of the letter-carriers is \$770 per annum.

Mr. O'NEILL. Will the gentleman yield to me for a moment?

Mr. CANNON, of Illinois. Yes, sir.

Mr. O'NEILL. I wish to correct the gentleman or to make a suggestion to him that the clerks in the post-offices work but eight hours out of the twenty-four; in other words, they are divided into three classes and spell each other. The carriers, on the other hand, work from six o'clock in the morning until eight at night, every day and night.

Mr. CANNON, of Illinois. The gentleman may be right as regards Philadelphia; but generally the clerks in the post-offices throughout the country commence in the morning at seven o'clock and quit at seven in the evening.

Mr. O'NEILL. I think the gentleman is mistaken in his information.

Mr. CANNON, of Illinois. I know how it is at least in the great majority of the post-offices as regards this matter, the clerks are constantly on duty.

But to go on with the comparison. The annual compensation of the route agents in the United States, 1,065 in number, is \$335; 248 mail-route messengers, at \$694.50; 1,051 railway postal clerks, at \$1,163.36; (it will be recollected that these three last classes of employes are on expense away from home when on duty and subject to railway accident, while the carrier is free from that additional expense and danger;) 136 local agents, at an average annual compensation of \$775; 37,345 postmasters, at average annual compensation of \$195.06. So I say, in conclusion, that it appears from these facts, everything considered, the letter-carriers are better paid than most of the other postal employes; and while I think in a few large cities we need a few more letter-carriers at the present pay the salaries should not be increased. Hence I hope both the first and second clauses of my amendment will be adopted.

[Here the hammer fell.]

Mr. PAGE. I wish to ask the gentleman from Illinois a question. The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. O'NEILL. I do not desire to anticipate a discussion upon the subject of the increase of the pay of letter-carriers; but I think this is an attempt to forestall the action of the committee upon a bill which has been well digested by the Committee on the Post-Office and Post-Roads, and which has been reported favorably and is now on the Calendar and will soon be reached; reached, I hope, within a few days, if it should not be ruled in order as an amendment. Over two thousand ill-paid and fearfully worked men are anxiously awaiting the favorable action of Congress. I presume, however, after this amendment is disposed of, and I hope it will be voted down, that the gentleman from Ohio, from one of the Cincinnati districts, [Mr. BANNING,] will offer an amendment bringing up squarely before the Committee of the Whole now the question of the increase of the pay of the letter-carriers of the various cities where the free-delivery system has been established.

Wherever the free-delivery system exists in the large cities you find that it pays, in the aggregate, a million of dollars. The gentleman's [Mr. CANNON] illustration about other modes of communication in Chicago applies as well to other cities. In the cities of Philadelphia and New York they have the most complete system of local telegraphy, besides large numbers of messengers, also a private enterprise and very convenient, being regularly employed for delivering messages quickly by day and night. But when the gentleman undertakes to argue that letter-carriers under the free-delivery system are as well paid as any other set of men, I think the good sense of

this committee will not agree with him. To be a clerk in a post-office is to be engaged in quite a different line of duty from a letter-carrier. The post-office clerks in large cities are not engaged in duty from morning until night excepting a few of them. They may be so engaged in the offices which have not the free-delivery system; but in the post-office in the city of Philadelphia, and of course it must be so also in New York and Boston and Baltimore and Chicago, the clerks are necessarily spelled, not all of them, but most of them; and in Philadelphia I know they generally work but eight hours, there being a division of the hours of the day, so that while a proper proportion are on duty others are resting. Indeed the work of the clerks is very hard while they are doing it, and their compensation is by no means large when you take into consideration intelligence, reliability, and systematic business habits, such as I know the clerks in the Philadelphia post-office possess.

But what I wish to call the attention of the committee to is this: that should this amendment be adopted it will be considered as having forestalled and decided a question as to whether these hard-worked men, the carriers in the larger cities, or wherever they are, should not be paid a proper compensation for their labor. And in my opinion the gentleman from Illinois [Mr. CANNON] is seeking to commit members against the increase of the salaries of these overworked officials. He is pressing his amendment purposely to defeat the general proposition for increase. He need not tell me that the letter-carrier who works from early morning until late at night, exposed to all kinds of weather, and has a salary of seven or eight hundred dollars a year, is as well paid as a clerk in the Departments here at \$1,200 or a clerk in a post-office getting \$1,000 or more, measuring the labor by the number of hours of constant employment. Sir, the labor is entirely different. These letter-carriers perform a ceaseless duty which is a convenience to every man's business and which accommodates every citizen and gives every one an opportunity of corresponding frequently in relation to his business or other interests. I think the committee should be inclined to vote down this amendment, and then have an amendment offered providing directly for the increase of pay of letter-carriers.

Mr. LUTTRELL. One question; do you find any difficulty in employing men at the present rate of pay?

Mr. O'NEILL. We do not find any difficulty in employing men at the present rate, but that is no answer to what I have suggested. We want good reliable men in these places, and they ought to be well paid.

Mr. EDEN. Are we proceeding under the five-minute rule?

The CHAIRMAN. We are.

Mr. EDEN. I would be glad if the Chair would enforce the rule.

The CHAIRMAN. The Chair does not know to what particular departure from the rule the gentleman from Illinois refers.

Mr. EDEN. The rule is that one five-minute speech be allowed to an amendment in favor of it and one against it.

The CHAIRMAN. But if a gentleman obtains the floor and yields his five minutes to another, it has been the custom to allow that to be done.

Mr. EDEN. The rule is that five minutes be allowed on one side and five minutes upon the other.

The CHAIRMAN. The gentleman is correct; that is the rule; but the custom of the House has been otherwise.

Mr. BANNING. I offer the following amendment as a substitute for the amendment of the gentleman from Illinois, [Mr. CANNON:]

After line 123 insert as follows:

Provided, That there shall be two classes of letter-carriers; the first class to consist of all carriers who have served one year and the second class to consist of all carriers who have served less than one year. The salary of the first class shall be \$1,000 per annum and the salary of the second class shall be \$800 per annum; and all new appointments shall be made to the second class.

The CHAIRMAN. There is one amendment now pending.

Mr. O'NEILL. I withdraw the formal amendment I offered.

Mr. WADDELL. I ask the gentleman from Ohio before he proceeds to allow me to make an explanation.

Mr. BLOUNT. What is before the House?

Mr. WADDELL. I desire to state, as being somewhat familiar with this whole subject of letter-carriers, as chairman of the Committee on the Post-Office and Post-Roads, for the information of the House in regard to the condition of the question now before it on the pending amendment of the gentleman from Illinois, that there are one hundred and seven members of the House who represent districts where there are letter-carriers, but there is not one in the State which I represent, and therefore I have no personal interest in the matter. But I warn the gentlemen who do feel a personal interest in voting for the amendment of the gentleman from Illinois that in so doing they will be voting for an increase of the appropriation for letter-carriers to the amount of \$21,000 and at the same time voting for the reduction of the pay of letter-carriers to \$750 a year as the maximum.

Mr. BANNING. I now offer my amendment.

Mr. BLOUNT. I raise the question of order that that amendment changes the law and increases the compensation of these letter-carriers. The law provides that they shall have a salary not exceeding \$800 a year. The provision in section 3836 of the Revised Statutes

was read by the gentleman from Illinois, [Mr. CANNON,] and I will now read it again:

The salary of letter-carriers shall be fixed by the Postmaster-General, and shall not exceed \$600 per annum; but upon satisfactory evidence of fidelity and experience he may increase their salary to not exceeding \$1,000, and upon the Pacific slope the salary may be fixed higher than that.

Now, sir, the object of the gentleman from Ohio is to create two classes, the pay of one of which is absolutely fixed by law.

The CHAIRMAN. The Chair will hear the gentleman from Ohio [Mr. BANNING] upon that question.

Mr. BANNING. The statute does not fix the salary. It says:

The salary of letter carriers shall be fixed by the Postmaster-General and shall not exceed \$600 per annum, but upon satisfactory evidence of fidelity and experience he may increase their salary to not exceeding \$1,000, and upon the Pacific slope the salary may be fixed higher than that.

Now this amendment is possibly a reduction of expenditures rather than an increase. It determines certainly what the law is. Under the law now all the salary that is provided for in this amendment may be paid and more than \$800 a year may be paid if the carrier has shown diligence and acquired experience. The Postmaster-General may pay \$1,000, and on the Pacific slope more than \$1,000 may be paid. My amendment does not change the law, it determines what the law is; it does not increase expenditures, but states exactly what shall be the salary under the statute. I hope that my friend will be satisfied.

The CHAIRMAN. The Chair is ready to rule on the point of order. In the opinion of the Chair the amendment proposed by the gentleman from Ohio [Mr. BANNING] is clearly in violation of existing law, and is therefore excluded as not in order.

Mr. BANKS. I give notice that when the question is taken upon the amendment of the gentleman from Illinois [Mr. CANNON] I shall call for a division.

Mr. KELLEY. I move to strike out the last word, for the purpose of replying briefly to what has been said about the pay of the letter-carriers. I regard them, and I think I understand the subject, as the worst paid and most overworked of the employés of the Government. As my colleague [Mr. O'NEILL] has said, the clerks in the large distributing offices are divided into three classes. Many of them who are night clerks, working but eight hours, can devote part of the day to some other employment. A letter-carrier goes on duty for more than half the year before daylight. He is required in approaching the office to gather up the letters that have been deposited after the last collection of the preceding day, and to have them at the sub-office to which he reports in time to go to the main office for the earliest mailing. When his day is done, at seven o'clock in the evening, winter or summer, he must go out to his district and make the evening collection, for which he dare not open any box until after half past seven o'clock. Therefore on certain days of the week the letter-carriers are on duty from long before daylight during the winter until ten or eleven o'clock at night. They are also on duty on Sunday. They are originally appointed as substitutes; no original appointments are made. They may wait for months, going on for one, two, or three days' work a week, before they are regularly employed. The substitute is needed in the event of sickness. The regular carrier, though he has worked half a day, should he be stricken down by disease, sun-stroke, accident, loses his whole day's pay; and there is the chance of the substitute, who takes the entire day's pay.

And these carriers must wear a particular uniform. As the Department will not undertake to inspect old clothes, however careful or fortunate a carrier may be in saving his clothes, he must at stated periods pay for another suit though he already has two suits on hand. I know of instances of that kind where the carrier had one suit that he had never worn, and hoped to be relieved from taking another and paying for it; but he was informed that the Department has no system of inspecting clothes, that it must keep the carriers well dressed, and that on the average they require so many suits a year.

Now, I hope that the question of the letter-carriers' pay will be permitted to be discussed legitimately when the post-office bill comes up. This is an attempt adroitly to close that question on an incidental amendment to this bill. What I ask in justice to this ill-paid, over-worked, and profitable class of employés is that the question may have due consideration in the bill in which it should be properly disposed of. This discussion is forced upon us now by the attempt of the gentleman from Illinois [Mr. CANNON] to forestall the Post-Office Committee, and to decide in an appropriation bill one of the important features of the jurisdiction of the Committee on the Post-Office and Post-Roads.

[Here the hammer fell.]

Mr. BLOUNT. Mr. Chairman—

Mr. WRIGHT. I would like to ask the gentleman a question.

Mr. BLOUNT. Cannot the gentleman do it in his own time?

Mr. PAGE. I would like to ask the gentleman a question.

Mr. BLOUNT. I would like to go on.

Mr. PAGE. Just one question.

Mr. BLOUNT. There is another gentleman here who wants to ask a question.

Mr. PAGE. I wish to know how much was appropriated in the last Congress for this service.

Mr. BLOUNT. There was appropriated \$1,865,000.

Mr. PAGE. In the last Congress?

Mr. BLOUNT. Yes.

Mr. PAGE. How much was the estimate for this year?

Mr. BLOUNT. The estimate of the Department was \$2,100,000.

Mr. WRIGHT. Will the gentleman let me ask him a question now?

Mr. BLOUNT. Very well.

Mr. WRIGHT. What population is necessary for a town to have the carrier service introduced into it?

Mr. BLOUNT. The law now requires thirty thousand inhabitants. I have taken some pains to make a calculation of the increase in the amount of work done per carrier during the last fiscal year. I was somewhat surprised to find that the actual increase in the pieces handled per carrier in the course of last year was only seventeen; that is, seventeen letters or postal cards or pieces of mail-matter handled by each carrier last year more than the year before. There is not an increase in all the cities everywhere; there was some increase in certain cities.

While other sections of the country were needing service, while they have been denied it for years, this service has been urged forward by the mercantile interest until the Government has announced that in certain large cities the Post-Office Department of the country is actually doing the business of the merchants by carrying information to them six times a day.

Mr. O'NEILL. Well, is not that right?

Mr. BLOUNT. I hope the gentleman will not interrupt me; he will get his own time. I do not think that this kind of facility has been carried to as great an extreme as it should be, considering that other communities are utterly denied the facilities they need. But the proposition of the gentleman from Illinois [Mr. CANNON] does not interfere with this letter-carrier service at all. He brings before the House the service in Chicago, and tells what it would be there if he could get an increase of letter-carriers there. Now, it is somewhat singular that, while this service as established by the Post-Office Department is paying in certain cities, it is not paying in Chicago; and this House, on the statement of the postmaster at Chicago that in his opinion an increase of letter-carriers there will make the letter-carrier system a better paying institution, is asked to increase the appropriations in this bill all along the line. The gentleman from Illinois proposes to add over \$100,000; \$130,000 I think; and the only ground he puts it upon is the opinion of the postmaster at Chicago that, if this increase be made, the carrier system in that city will begin to pay something.

It will be utterly useless for the Committee on Appropriations to attempt to keep down expenditures, if these appropriations are to be increased, and increased in this direction. These extraordinary facilities are denied to the whole country, excepting eighty-seven cities which receive the exclusive benefit of this system.

Mr. BANKS. The proposition of the gentleman from Illinois [Mr. CANNON] is susceptible of division. The first branch proposes to increase the amount of the appropriation, which I think ought to be done. The second contemplates a change in the compensation of letter-carriers from what the law now authorizes. The pay of letter-carriers has been reduced by the Postmaster-General below the sum the law allows him to pay them on account of the diminished appropriations of last year. He had to reduce salaries or diminish the number of carriers and he chose, properly I think, to reduce salaries. This is in effect an evasion of the existing law caused by insufficient appropriations which ought not now to be sustained by the Committee of the Whole. What the committee should do, in my judgment, is to increase the amount of the appropriation, leaving the law as to the compensation of letter-carriers to remain as it now stands. At a proper time I will move to amend the amendment of the gentleman from Illinois by striking out the second clause of the proposition so that the carriers shall continue to receive the pay now authorized by law to which they are richly entitled, and the increased appropriation provided in the first clause will enable the Postmaster-General to pay them in accordance with the existing provisions of the statute. It will also enable him to extend the delivery of letters to many cities and towns in different parts of the country. It was never intended that the system should be restricted to those communities whose business would defray all expenses of delivery. It stands upon the same basis as the general Post-Office establishment. If there is an excess of receipts over expenses in one place it is applied to maintain the delivery of letters in others where the expenses must at first necessarily exceed the receipts, and thus it will be gradually extended until all populous communities are accommodated in every part of the country.

Mr. Chairman, the letter-carrier system thus becomes a constantly-increasing public benefit. Many gentlemen here probably fail to comprehend the great advantages and the vast saving to the Government that are secured by it. In the district which I represent if the letter-carrier system were discontinued the Government would be obliged in some instances to commence immediately the construction of large buildings for the accommodation of those who would be compelled to come to the post-office for their letters. The employment of letter-carriers obviates this necessity and saves the Government from this expense, and also from that attending a largely increased clerical service, which would be indispensable, especially in manufacturing towns or cities where the delivery of letters would

occur in the evening or at the close of the day's labor. The free delivery avoids both of these demands upon the Treasury and pays its own expenses at the same time.

As to the pay of the letter-carriers, one class, according to the contemplation of the law, ought to receive \$800 annually; and another class, for diligence and effective service, may receive \$1,000 per annum, if the Postmaster-General thinks them entitled to it. No men in the country are worked like these letter-carriers. I have had occasion to notice them again and again with admiration and astonishment. I am myself a good walker, having been accustomed to travel on foot all my life; but I have never yet seen men in civil or in military life who could march like one of these letter-carriers. He moves with a stride like an ostrich, his head forward, his eyes upon the ground, as if some important event was staked upon his covering the lean earth in a given time. His mind, energy, and capacity seem to be absorbed in the discharge of his duties. The letter-carrier is notoriously a silent man. You cannot get an unnecessary word out of him. I know that it may be difficult for a member of the House of Representatives to conceive that any man could be indisposed to talk, and still less to be wholly silent; but look at the first letter-carrier you meet on the street; see him as he speeds on his way; try to engage him in conversation, and you will find that he is too much devoted to his business to utter one superfluous word.

The integrity with which they discharge their obligations to the Government is worthy of notice, especially in these later days. There is nothing in the reports of the Department nor in the public journals of failure in the delivery of letters. Nothing would be more certain of notice and complaint than such a default. It does not occur. How much anxious care it requires to deliver each letter and to find a correspondent, resident, or visitor in the out-of-the-way places of cities and town, no one can know who has not made an experiment. And yet it is done—done with such success as to silence grumblers and satisfy our citizens and their Government.

The letter-carrier is obliged to clothe himself in the uniform prescribed by the Government; and, as the gentleman from Pennsylvania says, to provide for stress of weather or other accident he must have an extra suit in addition to the clothing of ordinary life which is indispensable when he is off duty. Thus he is subjected to a very considerable expense beyond that imposed upon other men employed in the civil service of the Government, which he is illy able to bear, and which ought not in justice to be put upon him. It is for the efficiency of the service and the security of the Government, not out of any vanity, caprice, or pride of his own that he is uniformed and he ought not to be saddled with its cost. At least he ought not to suffer an enforced reduction of salary in addition to the cost of uniform beyond what the law authorizes and contemplates on account of insufficient annual appropriations.

The letter-carriers are generally married men with families, and the salaries contemplated by law, which they do not now receive, are barely sufficient for their support. There is no "skilled labor" more arduous than theirs. Whenever they are unable to perform their duties they are required to supply and pay acceptable substitutes; they are allowed no "vacations" such as most other persons enjoy in public and private service. Their offices call for the performance of some official duty nearly every day in the year, not excepting Sundays. An act of Congress has signalized the importance of the duties of these officers by requiring sureties and bonds for their faithful performance.

The reduction of the appropriation last year, contrary to the advice of the Department, necessitated in the first place a reduction in the number of these letter-carriers and in the number of the post-offices to which they are attached. It also compelled the Postmaster-General to reduce the pay of the carriers below what the law contemplates. The statute provides for a salary of \$800 for one class and \$1,000 for another. The reduction of the appropriation compelled the Postmaster-General to despoil these men of what the law intended should be paid them, and what they eminently deserve.

I hope the Committee of the Whole will amend this proposition of the gentleman from Illinois so as to provide that the salaries shall be paid as now authorized by law, and that the appropriation shall be increased, as proposed, to \$2,000,000.

Mr. Chairman, the increased work and the reduced pay of the letter-carriers during the last year, according to the statement of the Postmaster-General, reduced the expenses and increased the receipts to the amount of nearly \$361,000. This is the amount which the Government has saved by taking from them what the law contemplated they should receive and by putting on them more work than the law contemplated they should perform. Now, when the bill that is to be reported by the Committee on the Post-Office and Post-Roads shall come up, we can consider the matter of compensation more fully; but let us increase the amount of this appropriation to \$2,000,000, as now proposed.

Mr. DURHAM. I desire to say only a word. The question is not now upon an increase or a decrease of the compensation of letter-carriers. The question, as I understand, is upon the increase of this appropriation and the enlargement of the number of carriers. As to the increase or decrease of compensation for carriers I have not a word to say; but in respect to the proposed increase of the amount of appropriation I wish to say something. I admit that the cities having these letter-carriers are by reason of the vast amount of

business done there entitled to some consideration; but gentlemen representing the cities ought to bear in mind that there is a vast country outside of the cities and that there are many places throughout the length and breadth of the land where they get but one mail a week, and where they have to ride eight and ten and fifteen miles for it.

It will be said by having these letter-carriers it will increase the amount of revenue to be derived by the Post-Office Department, but I apprehend there are but few gentlemen upon this floor who will advocate that the post-office system of the United States ought to be self-sustaining. I agree with my venerable friend from New York [Mr. TOWNSEND] this country is large, that intelligence ought to be distributed everywhere, and that the people ought to have their mail twice a week where now they only succeed in obtaining it once. By this appropriation you propose to carry intelligence to the doors of certain cities six times a day when there are many portions of the country where, as I have already stated, they do not get it but once a week.

I am opposed to this increase, and while I am not permitted to say what occurred in committee, I can state that while I support this appropriation coming from the Committee on Appropriations for \$1,800,000, nevertheless I must insist that amount shall not be increased, and that whatever increase may take place here shall be in the line of the argument advanced by my worthy friend the other day, and that is for the benefit of those portions of the country where they do not get intelligence but once a week.

I do not intend to say a word, as I have already said, about the compensation of these men. They may be working very cheaply; they may be overpaid, as has been said by one gentleman, but what I do insist upon is that you must keep down the compensation to letter-carriers and the amount appropriated therefor to a reasonable sum in order to give proper appropriation to what is called the star-route service, so the whole country may participate somewhat equally in the boon which the Government bestows in the dissemination of intelligence.

Mr. BANNING. Will the gentleman yield to me to ask him whether we have not taken good care of the star routes?

Mr. DURHAM. Yes, sir, tolerably good care, and that has been because we had a star-route committee, and we would do even a little better if we could. As I remarked awhile ago I cannot see why gentlemen in cities should want intelligence brought to their doors six times a day or three times a day when they do not have to walk a hundred yards for their mail.

Mr. FRANKLIN. The cities pay for it.

Mr. DURHAM. And we ought to have other things in the country that we do not have and for which we pay.

Mr. FRANKLIN. We are now talking about the postal business.

Mr. DURHAM. I am talking about the postal business too, and I say you must keep these appropriations within proper bounds. The \$1,840,000 appropriated is, in my judgment, rather in excess of what ought to be given for this purpose than below it.

[Here the hammer fell.]

Mr. BLOUNT. I move the committee rise for the purpose of closing debate on the pending paragraph and amendments thereto.

Mr. TOWNSEND, of New York. I hope I will be allowed five minutes before debate is closed.

The committee divided; and there were—ayes 89, noes 20.

So the motion was agreed to.

The committee accordingly rose; and Mr. BLACKBURN having taken the chair as Speaker *pro tempore*, Mr. MILLS reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration a bill (H. R. No. 4246) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes, and had come to no resolution thereon.

Mr. BLOUNT. I move, Mr. Speaker, that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of resuming the consideration of the post-office appropriation bill, and pending that motion I move all debate on the pending paragraph and the amendments thereto be closed in one minute.

Mr. CANNON, of Illinois. I move to amend by saying twenty minutes.

The SPEAKER *pro tempore*. The question will first be taken on the amendment, as, under the rules, it includes the longest time.

The House divided; and there were—ayes 25, noes 66.

Mr. CANNON, of Illinois. I raise the question that no quorum has voted.

The SPEAKER *pro tempore* ordered tellers; and appointed Mr. BLOUNT, and Mr. CANNON of Illinois.

The House again divided; and the tellers reported—ayes 57, noes 98. So the motion was disagreed to.

Mr. SPRINGER. I move to make it ten minutes.

The House divided; and there were—ayes 25, noes 79.

Mr. CANNON, of Illinois. I raise the question that no quorum has voted.

Mr. BANNING. I hope the gentleman from Georgia will yield to ten minutes.

Mr. EDEN. I object to debate.

Mr. SPRINGER. I withdraw my motion.

Mr. FRANKLIN. I renew it.

The SPEAKER *pro tempore* ordered tellers; and appointed Mr. SPRINGER and Mr. BLOUNT.

The House again divided; and the tellers reported—ayes 54, noes 94. So the amendment was disagreed to.

Mr. CANNON, of Illinois. I now move to make it five minutes.

Mr. BLOUNT. I am willing to agree to that as a modification of my motion.

The motion, as modified, was agreed to.

Mr. BLOUNT. I now move the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. MILLS in the chair.

The CHAIRMAN. By order of the House, debate on the pending paragraph and amendments thereto is limited to five minutes.

Mr. BANKS. I withdraw my formal amendment.

Mr. CANNON, of Illinois. I move *pro forma* to strike out the last word.

Now, Mr. Chairman, a word in reply to the gentleman from Pennsylvania, [Mr. KELLY,] who appears to think I have anticipated the action of the Committee on the Post-Office and Post-Roads in my amendment. I do not agree to the bill reported by that committee and on the Calendar and will antagonize it when it comes up for consideration. I doubt if it is reached this session, but, believing that the force of letter-carriers should be slightly increased without an increase of salary, this was the proper time to present the amendment now pending.

Now a word in reply to the gentleman from Massachusetts, [Mr. BANKS,] who speaks of extraordinary use of legs by the letter-carriers, and their onerous duties. I take it for granted that his great familiarity with this onerous service must be from his personal observation in the letter-carrier city in his district, namely, the city of Lynn, Massachusetts, which I find from the Postmaster-General's report has seven carriers in the service at the annual compensation of \$794.48 each, aggregating \$5,561.38. I find further that the total local postage on all the matter carried by these hard-worked, leg-worn seven carriers at \$794.48 each is \$1,791 per annum, or \$256 per carrier. That is, the Government pays these seven leg-weary men \$5,561.38 to earn \$1,791 in local postages, no more and no less. Oh, how we should be swift to heap more pay upon the gentleman's hard-worked constituent letter-carriers.

Mr. BANKS. If you will give us \$150,000 for a post-office we will dispense with the carrier service.

Mr. CANNON, of Illinois. There are a great many other small cities besides Lynn where the letter-carrier service should be dispensed with and where the credit and debit sides of the ledger growing out of this service do not show much better than Lynn, but no sooner do you mention the matter of abolishing or not increasing the pay of their unnecessary carriers than gentlemen who represent these small cities rise to protest; and to hear gentlemen talk one is filled with astonishment that persons can be found to perform the Herculean labor for the alleged small pittance of pay.

Mr. HANNA. I wish to say to the gentleman—

Mr. CANNON, of Illinois. I am not speaking about the gentleman's city of Indianapolis. It has over seventy-five thousand inhabitants, and needs the letter-carrier service. I wonder at the desire of many gentlemen to increase these salaries when it is recollected that their pay is more than skilled mechanics receive now in the United States, many of whom have difficulty to get constant employment; especially do I wonder at the gentleman from Pennsylvania, who has much to say from time to time about the hard times and the thousands of men out of employment, suffering for bread, but who in the next breath proposes to tax these same poverty-stricken men, while the wolf is at the door, to increase the salaries of men whose places they would gladly take at less pay. Sir, I have no desire to pay anybody an inadequate salary. I think the Government should pay every cent a service is worth, and I believe such payment is now being made for this service, but the truth is, thousands of perfectly competent, honest men would be glad to do this service for less than the salaries now received.

Mr. TOWNSEND, of New York. There are many men who would do the work of the gentleman from Illinois for one-fifth of what he does it for.

Mr. CANNON, of Illinois. That argument would apply to my venerable friend from New York as well as to me.

[Here the hammer fell.]

The CHAIRMAN. The time allowed for debate on the pending paragraph and amendments thereto has expired. The Clerk will report the pending amendment, which is that of the gentleman from Illinois, [Mr. CANNON.]

The Clerk read as follows:

Strike out all after the word "carriers," in the one hundred and twenty-second line, including "dollars" on the one hundred and twenty-third line, and insert as follows:

Two million dollars: *Provided*, Letter-carriers of the different classes shall each be paid a larger salary than they now receive.

Mr. BANKS. I ask for a division of the two branches of the amendment.

The question was first taken on the first portion of the amendment, as follows:

Strike out all after the word "carriers" and insert "\$2,000,000."

The question being taken, there were—ayes 49, noes 71.

So (further count not being called for) the amendment was not agreed to.

The question being taken on the second part of the amendment it was not agreed to.

The Clerk read as follows:

For wrapping paper, \$20,000.
For wrapping twine, \$45,000.
For marking and rating stamps, \$12,000.
For letter balances and scales, \$3,500.
For rent, light, and fuel, \$380,000.
For office furniture, \$15,000.
For stationery, \$50,000.
For miscellaneous and incidental items, \$80,000.

Mr. BLOUNT. I ask that by unanimous consent the clauses from line 120 to line 134 be transposed so as to be inserted in the bill after line 84. The object is that this part of the bill may be placed under the office of the First Assistant Postmaster-General, where it properly belongs, instead of the Second Assistant Postmaster-General.

There was no objection, and it was so ordered.

Mr. WARD. I offer the following amendment:

In line 133 strike out "\$80,000" and insert "\$100,000;" so that it will read:
For miscellaneous and incidental items, \$100,000.

I offer this amendment for the purpose of giving the Post-Office Department some lee-way in this matter. I would give the Department discretion in several matters, and will withdraw my amendment after making the remarks I endeavored to offer while the previous section was under discussion. I would give the Department some discretion in the direction of letter-carriers and the regulating of their salaries and their assignment to duty and the places within whose sphere their duties should be exercised. I believe as a class they are not paid an amount equivalent to the character of the men employed, the qualifications they require, and the services they perform. I believe there is no class of men as intelligent, as well disciplined, as courteous, who are required to perform such responsible duties, and suffer the exposure in all weathers during the long hours, providing at their own expense a prescribed uniform, that are paid anything like the low wages they receive. Fair wages to the men who do the work is both simple justice and wise legislation. And while upon that subject I desire to say in reply to the remarks of the able and very careful gentleman of the Post-Office Committee from the State of Illinois [Mr. CANNON] that the remedy he proposes does not effect the cure, nor is the complaint he makes legitimate to the subject. If any defect exists in the letter-carrier system by reason of men being employed in cities that do not pay, that is no argument why the men that are employed now and are performing their duties faithfully should have their wages reduced and should not be paid living salaries. The remedy should be rather in having the system regulated so that it shall be in force in places where it comes near being self-sustaining. There is no reason why in any city where the letter-carrier's service is required or is convenient for the public business it cannot be made very nearly self-sustaining.

I have in my eye small cities where this service would be legitimately performed, and with benefit to the public, and where the appropriation of a small proportion of the net revenues of the particular post-office could be applied to this fund, and the public convenience increased without detriment to the postal system or any drain upon the Treasury.

[Here the hammer fell.]

Mr. HANNA. I have no desire to speak upon this question, but I rise to ask the gentleman from Georgia, [Mr. BLOUNT,] who has charge of this bill, to explain what items this appropriation covers. The items which come under the head of miscellaneous or incidental expenses. I see by the estimates of the Post-Office Department that they ask \$140,000 for this purpose, while the committee report an appropriation of \$80,000. I do not desire to consume the time of the committee, but I would like to know what items are included under that appropriation.

Mr. BLOUNT. It covers many items, such as furniture, for instance, and carpets. I will say further that but \$60,000 was spent under this item last year; but of course the larger the appropriation is that we make the more they will spend.

Mr. HANNA. May I ask the gentleman if the Post-Office Department furnished the committee with a statement of the various items and the character of the expenses that would be covered by this appropriation?

Mr. BLOUNT. Nothing more than the general statement that I have given. As I have said, this will be sufficient for the purpose for which it is designed; but if you give them more of course they will spend more.

Mr. HANNA. Is it to be used in making the Post-Office Department service more effective?

Mr. BLOUNT. No, sir.

Mr. CUMMINGS. I move to strike out the last word and yield my time to the gentleman from Pennsylvania, [Mr. WARD.]

Mr. WARD. There are one or two other points in connection with this matter to which I wish to refer.

The CHAIRMAN. The gentleman from Illinois [Mr. EDEN] made the point of order a few minutes ago that under the rules of the House there could be only five minute's debate upon each side upon any amendment. That has not been the custom of the House, but it is the rule, and the gentleman cannot speak ten minutes on the same

side of a proposition. The attention of the Chair having been called to the rule, he must enforce it.

Mr. WARD. Then I will speak for five minutes against the amendment. I simply want to occupy the floor for a minute or two for the purpose of correcting what I think is an error, and an error which I am sure no one in this committee who understands the matter would wish to have made.

The Post-Office Department has been charged here with having indirectly increased the expenses of transportation by railways, and from a table I have prepared I find that the cost of mail transportation by these routes has not increased proportionately between the years 1860 and 1873 in view of the compensation paid under the act of 1873 compared with the rates paid in 1860. If the same remuneration were now paid the cost would be much more, and I will publish a table as a part of my remarks, showing the figures.

The following leading railroads were being paid in 1860 for 18,500 pounds per mile per annum, at the rate of \$375 per mile per annum, and are now the main roads which are being paid over \$375 per mile:

Railroads.	Present weight in pounds.	Present pay in weight.	Pay would be now in same proportion.
United railways of New Jersey.....	69,554	\$905	\$1,308
Pennsylvania Railroad.....	48,547	669	1,032
Lake Shore Railroad.....	37,385	533	750
New York Central Railroad.....	38,870	538	770
New York and New Haven Railroad.....	36,502	533	730
Pittsburgh, Cincinnati, and Saint Louis Railroad.....	29,913	459	568
Philadelphia, Wilmington, and Baltimore Railroad.....	25,000	433	500
Boston and Albany Railroad.....	24,849	403	502

I allude to this fact for the reason that my district is a sufferer from a misunderstanding between the Department and the railroad companies. In such a case it is not the Department or the railway company that suffers, but the people through whose territory the route runs. In my own district the mail service is deranged now, and it is a large and populous district, where the postal revenues are large, and large business and manufacturing interests depend upon regularity and certainty in mails, which is put to inconvenience by this misunderstanding between the Department and the railroad companies. It can do no good to have misunderstandings and mistaken notions in the true rate of compensation or on any other points involved in the discussion, and therefore I give these statistics. I now withdraw the amendment.

The Clerk resumed the reading of the bill, and read as follows:

For compensation to railway post-office clerks, \$1,275,000.

Mr. WILLIAMS, of Wisconsin. I offer an amendment to strike out in line 148 "\$1,275,000" and to insert in lieu thereof "\$1,300,000."

I offer this amendment because I understand that the mail-service division of the Post-Office Department desires \$25,000 upon this item and \$6,000 upon the following clause, and that their estimate is that these amounts are the very smallest sum upon which this service can be properly conducted. I have no desire to carp at or to criticize the work of the Committee on Appropriations. I know that the reduction of expenditures is at best an ungracious task; that wherever expenditures are reduced somebody is struck, and where a man's personal interests are involved it is hard to reason with him. But when the distinguished gentleman from Massachusetts [Mr. BANKS] was speaking of the hardships and of the low pay of these letter-carriers, who perform their duties at their homes and enjoy the usual comforts of home, I could not but reflect that these postal clerks and route agents, who are obliged to perform their duties on long lines of railroad, subject continually to the dangers of the road, required to be at their places hours before starting on the train, and perhaps arriving at their destination long past midnight, obliged to make their reports at offices far away from the station, and after an hour or two's sleep compelled to start on the return trip, and keep this up day after day and night after night through the entire week, is and must be most exhausting. Add to this the jar and motion of the car, a constant sense of danger and the most extreme tension on brain and muscle, is it any wonder that on an average of four years their health breaks down and many of them become physical wrecks? They are also denied the society of their families and nearly all social privileges, and as a reward for faithful service like this, a few years ago, those who had been receiving \$1,400 were cut down to \$1,300 per year, and those who were receiving \$1,200 were cut down to \$1,150 per year, while route agents were reduced to \$900 and mail messengers to less than \$600, while the distance run and the services performed were from 25 to 50 per cent. greater than the railroad companies required of the train men on the same cars.

This is the way the United States Government appreciates and rewards faithful service.

In the last three years the appropriation for this service, according to authentic statements which I hold in my hand, has not been increased on an average more than \$1,000, while the length of routes has been

increased 15 per cent. per annum, and the amount of mail matter handled upon the trains has been increased also 15 per cent.; an increase of 30 per cent. in all in distance and labor; and from 1876 to 1877 the increase was 11 per cent. in a single year. Notwithstanding all this, the increased appropriation is not asked with a view of increasing the salaries of these men, but of relieving them of some of this hard service. The Department has been obliged to transfer and place on new routes these employes who are obliged to learn daily the changes in the schedules and constantly shifting time-tables, and thus they are taxed physically and mentally to the utmost tension of their powers. No drudge or cart-horse is worked more mercilessly than they, and they are rewarded by the reduction of their salaries and by the cutting off of "helpers," which the Department has been compelled to do because of the smallness of the appropriation. The following is an authentic statement which I will make a part of my remarks:

The expenditures for railway postal clerks for 1876, 1877, and for the present fiscal year, 1878, is about the same, the variation between the different years not being \$1,000.

During these three years the miles of annual service performed by railway post-office clerks has increased not less than 15 per cent., the increase in 1877 over 1876 being over 11 per cent.

The amount of work performed on the trains, as shown by the actual weight of mails and by the statements made of work done in railway post-office cars by railway post-office clerks, has increased at least 15 per cent.

From actual weighings taken to fix the compensation of the route, the daily average weight of mail going over the roads leading from New York to the West and Southwest show that the daily average for February, 1877, was 108,000 pounds; for March, 1878, 124,000 pounds. During March, 1878, there were no official supplies moving, as there was in February, 1877.

This mail must be distributed while in transit, else there will be a delay, as is well understood.

The increase of mail distributed on the New York and Chicago Railway post-office is as follows: September, 1877, 34,261 sacks of papers and 226,594 packages of letters; January, 1878, 42,636 sacks of papers and 284,059 packages of letters; an increase of about 8,000 sacks of papers and nearly 60,000 packages of letters in four months.

In the New York and Pittsburgh division of the New York, Cincinnati and Saint Louis Railway post-office there were 88,041 sacks of papers distributed in February, 1878, against 54,086 sacks distributed in March, 1877, and 49,188 packages of letters distributed in February, 1878, against 25,362 packages of letters distributed in March, 1877.

The technical duty of a railway post-office clerk is to distribute the through work of route agents, and mail-route messengers to do the local work. Practically, however, the Department requires railway post-office clerks to do all work on the line, local and through, and route agents and mail-route messengers to do the same, or in other words each employe is required to do all the work that may be on his line. It has been the custom of the Department wherever railway post-office service was placed upon a line to take from that line all route agents and to instruct the railway post-office clerks to perform the local distribution in addition to their technical duty. In this way the route agent fund has always been relieved at the expense of the railway post-office fund. There having been no increase for the last two years in the railway post-office fund, the Department has been unable to do this, and the consequence is that the route agents have been retained on all the new railway post-office lines. Instead of the route agents' fund being diverted to the use of the railway post-office fund, the railway post-office fund has been diverted to the route agents. However, this is merely technical, there being practically no distinction whatever in the work performed.

Wherever there is a large amount of through distribution the line is at once made a railway post-office line if there are funds to do so. There is imperatively demanded for the proper performance of the work the establishment of a new railway post-office line from Saint Louis, Missouri, leading to the North and West, and one from Saint Louis leading to the Southwest in order that the distribution of the mails accumulating at Saint Louis for the sections supplied by these lines may be distributed before reaching the diverging points. Without some increase in the appropriation it will be impossible to do this.

The only details that have been made that were not made in the way above mentioned were in cases of relief route agents; in other words, where the run was considered too arduous for the agents upon any line, we had for several lines one agent who one day in four, five, or six would relieve the regular agent, giving him a short breathing spell. This has been discontinued and these relief agents ordered to duty on regular lines. The mail-route messengers' fund is one which requires particular attention.

Mail-route messengers are run upon short routes where there is but one agent or one messenger, or where one cannot make the round trip each day two who are on duty all the time, the length of the route determining the pay they receive, which is in all cases less than \$900 and averages perhaps \$600 per annum. This is the only distinction between mail-route messengers and route agents, route agents receiving \$900 and over and mail-route messengers less than \$900. When the reductions in the appropriations were made the appropriation for mail-route messengers was reduced equally with the appropriation for route agents. The reduction necessitated a decrease in the

pay; the consequence was that the reduction in route agents' pay threw a large number below \$900, decreasing the demand on the route agents' fund, but increasing the demand on the mail-route messengers' fund. The Department has therefore been unable to maintain service on many of the shorter lines upon which there has been service in the past, and almost absolutely unable to put service upon new lines as they are built.

The expenditure for the first six months of the present fiscal year was nearly \$4,000 more than half of the appropriation for mail-route messengers. For the next succeeding three months, or the first quarter of 1878, the third quarter of the fiscal year, it was very nearly \$3,000 more than one-quarter of the appropriation, making a surplus expenditure for mail-route messengers for the first three quarters of the present fiscal year of about \$7,000 more than three quarters of the appropriation. At the extra session of Congress \$10,000 were appropriated for employes on railroads. This fund has been, therefore, almost entirely appropriated to making good the deficiency in the appropriation for mail-route messenger service. There are at present roads upon which there should be service that will require an expenditure of at least \$8,000 for mail-route messengers. The increase in the extension of railroads and the completion of new ones is, as all well know, large; and consequently it is absolutely impossible to do more than maintain the present number of mail-route messengers unless the appropriation is increased to the amount asked for by the Department.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. BLOUNT. The gentleman complains that by reason of the smallness of the appropriation—

Mr. WILLIAMS, of Wisconsin. Excuse me; I did not complain; I simply stated the fact.

Mr. BLOUNT. Well, the argument of the gentleman, if he prefers that, is that by reason of the failure of Congress to appropriate enough for postal-car clerks there has been a withdrawal from other lines of mail-route messengers, route agents, &c. The gentleman has stated the absolute truth. The superintendent of railroad mail transportation has directed all his energies toward perfecting the postal-car system and the improvement of it on the great trunk lines, and distressing the remainder of the country for want of service. In his own statement he says that he has taken fifty messengers and put them on these great lines as clerks.

Now the trouble is not in this House, it is not in the character of our legislation, but it is in disregard of legislation by the officers in charge of this service in pandering to the fancies of those officers. What have we done? We have added to this appropriation the sum of \$50,000. Now let the officer in charge confine himself to the purpose of Congress; let him restore these route messengers and agents back to their lines; let the mail messengers go back to their lines. We have provided an increase for route agents, and an increase of about 15 per cent. for the mail-route messengers on these newly constructed lines.

Yet all this is brought into the simple question of postal-car service, for the purpose of arraying gentlemen from sections away from the lines of these great railroads to make a contest for the fast-mail service.

I hope this House will not entertain the amendment, but that the officer in charge of this service will be made to understand by some means or other, he and some of the other officials, that it is his duty to follow legislation and not to dictate it. It is high time that these little subordinate officials were made to understand that they cannot dominate in this land and dictate the character of this service in defiance of legislation.

Mr. DANFORD. I move to strike out the last word, for the purpose of saying a word in favor of this postal-car system that the gentleman from Georgia [Mr. BLOUNT] attacks so fiercely. I believe that the postal-car clerks are paid a reasonable compensation, but I favor an increase of that service. I believe that when the superintendent of that service withdraws route agents and places them upon postal cars as clerks he is acting for the best interest of the mail service of the country.

Mr. BLOUNT. Is he conforming to law in doing so?

Mr. DANFORD. Conforming to law? There is no law that he is violating in doing that. The gentleman complains that he is not following the line of appropriations here. In my judgment he is following in that matter the line of policy that gives to the country the best service with the money that Congress appropriates.

For instance, take the country west of the Ohio River. The great mails are made up in the cities of New York, Philadelphia, and Baltimore. Under the old system those mails were sent through in charge of route agents and were dumped down in mass into the general distributing office for Ohio, Indiana, and Illinois, and thereby twenty-four hours at least were lost in the delivery of every mail in the States of the West and the South.

Take the lines that run through the State of Ohio, the Pennsylvania road and the Baltimore and Ohio road, those lines that I know more about than the others. There are postal cars run on those railroad lines. A letter or a paper mailed in Washington or in Baltimore this evening will reach any post-office along the line of those roads west of the Ohio River to-morrow morning. Under the old system the mails would be sent to the distributing office in the city of Wheeling,

for instance, if there was intelligence enough in the clerks here in Washington and Baltimore to send it to the proper distributing office, and it would lose twenty-four hours in delivery along the line of that road; and possibly it might be sent to Columbus, Cleveland, or Cincinnati, to be returned to us twenty-four hours later. That is the system to which the gentleman from Georgia [Mr. BLOUNT] wants the superintendent of this service to return.

It is not only the post-offices along the lines of those roads that thus receive the advantage of twenty-four hours in the delivery of the mail, but every post-office on the cross-routes that run down into the country receive their mails twenty-four hours earlier. I believe that the system pursued by the superintendent of this service is the one that gives to the West and the South its mails at least twenty-four hours in advance of the old route-agent system. And it is for the purpose of adding to that system, giving us more postal-car clerks, that I advocate the amendment of the gentleman from Wisconsin, [Mr. WILLIAMS.]

Mr. PHILLIPS. I believe the gentleman who has this bill in charge complained some time ago when this same subject was under discussion, as he did to-day, of the concentration of postal clerks on these fast lines; that the Department had unduly multiplied the number of these clerks. Now, sir, what are the facts? From New York City alone some sixty tons of mail matter are sent every day. A part of these is for the Northwest, another part for the South. Different portions of this mail matter go out on different lines. This mail matter, instead of being sent out on one train, as the gentleman from Georgia would seem to desire, is sent out on the trains going in the particular direction of its destination. On every train this mail matter is carefully distributed while the train is going. I believe I am correct in stating that in the State of Georgia every railway line has its mail service and its postal clerks on every express or passenger train going through the State.

The gentleman from Georgia wishes to reduce the number of postal clerks on these railway cars because the clerks have been concentrated on the fast lines. Does he wish to destroy those fast lines? Does he desire that they should be crippled? Does he wish to weaken the efforts of the Postmaster-General so that the mails from the great business centers of the country shall be delayed one or two days? Is the small amount which the gentleman proposes to save in this bill worth saving, if it entails such inconvenience? Does not the business of the country require the maintenance of this system? I hope the amendment of the gentleman from Wisconsin will prevail. I only wish he had proposed twice the amount that his amendment names.

The pending *pro forma* amendment was withdrawn.

Mr. HUMPHREY. I renew the *pro forma* amendment. Mr. Chairman, I believe that no service provided for by our appropriations so greatly helps and benefits every class of people throughout this country as the postal service, unless it be the improvement of rivers and harbors. During the last week we have heard considerable said about the improvement of the small rivers in the country. Upon that I wish to make one single remark: every stream which by an appropriation of twenty-five or thirty thousand dollars can be made navigable, placing it for the purposes of transportation by the side of the railroads of the country, enables the farmer in that section of the country, whether North or South, East or West, to get five cents a bushel more for his wheat. I know this to be a fact. Such appropriations do more toward paying the taxes of the people and putting money into their pockets than any appropriations made by Congress, unless it be those which we make for maintaining the postal service.

Now, in regard to the amendment of my colleague from Wisconsin, [Mr. WILLIAMS,] it is an actual fact that in the West, ever since the 1st day of last July, so far as my knowledge goes, three postal clerks have had to do the work of four. In one case in my district a postal clerk has received, as I am informed, an injury of the spine, permanent in its character, because of the unceasing labor which he has had to perform on one of these lines.

Why should we hesitate upon an appropriation of \$25,000 for an important arm of our postal service, when there is reason to believe that by this appropriation we shall increase the efficiency of that service and enable these clerks, by allowing them proper rest, to do their labor well? I believe that if the Committee on Appropriations would assent to this extra appropriation of \$25,000 the country would be benefited. We should not upon so small an amount run the risk of impairing the efficiency of this important arm of the postal service.

Mr. CLYMER. The Committee on Appropriations want to do what is right; they do not want to cripple the service. The amount expended last year for railway postal clerks was \$1,223,000. We now propose to appropriate \$50,000 additional. If the service was well performed last year for \$1,223,000, I put it to the fair judgment of any member whether it is likely that in the present condition of the country the Post-Office Department will need a greater increase for this service than \$50,000.

Mr. HUMPHREY. I withdraw my *pro forma* amendment.

Mr. CANNON, of Illinois. I move *pro forma* to amend the amendment by striking out the last two words. I do this not for the purpose of advocating an increase of the appropriation for this service but in order to answer one or two statements made by the gentleman from Georgia which I think reflect improperly and without sufficient foundation upon the superintendent of the railway mail service. The statute provides that there shall be route agents appointed by the

Postmaster-General to convey the mails and that there shall also be postal clerks appointed to distribute the mails.

Now the object in having these postal clerks was that they should distribute the mails upon the trains while in transit, thereby doing away with the necessity for having this work done in the post-offices. The law did not contemplate in the first instance that these men should take care of the local mails passing along the different lines. Hence when the gentleman from Georgia speaks of the illegal diversion of route agents to this postal railway service I think he does an injustice to the superintendent of railway mail service, who, in my opinion, is a vigilant officer. I read from the report to which the gentleman has referred, "at present there are fifty route agents detailed for duty in the railway postal cars to perform the local work"—just such work as the statute contemplated they should perform.

He suggests to Congress the propriety of increasing slightly the number of railway post-office clerks, so while they do this great through-distribution work they may at the same time do the local work, and thereby the few route agents who have been detailed to do this local work may be sent back to other smaller lines. There is therefore no violation of law, there is no improper action on the part of this superintendent in this respect. I take it the gentleman from Georgia perhaps has not given that close, careful attention he ought to have given it before he made this wholesale, sweeping attack upon this officer for the manner in which he has performed his duties.

[Here the hammer fell.]

Mr. BLOUNT. Gentlemen seem to want a vote on the pending amendment, and if there be no objection I hope debate will be closed. Otherwise I will move the committee rise for that purpose.

The CHAIRMAN. The Chair hears no objection, and debate is closed.

Mr. CANNON, of Illinois. I withdraw the pending formal amendment.

The question recurred on the amendment of Mr. WILLIAMS, of Wisconsin.

The committee divided; and there were—ayes 54, noes 73. So the amendment was disagreed to.

Mr. GARFIELD. I offer the following amendment:

Add to the end of line 149:

Provided, That postal clerks, route agents, and mail-route messengers shall not be required to wear uniforms."

Mr. BLOUNT. Before the gentleman from Ohio proceeds I merely wish to say in relation to this matter, we have no information from the Department; and, as I understand from the chairman of the Committee on the Post-Office and Post-Roads, it is not objectionable, I will not make the point of order to which the amendment is liable.

Mr. GARFIELD. Mr. Chairman, I will make this statement in reference to the amendment: I appreciate highly, indeed, the postal-car service. I believe we have the best example of a real, genuine civil service in our railway postal service. The examinations relate to the efficiency of the men employed. It has thereby been brought to a high degree of efficiency. But I think in the desire of the Department to make this work thorough they have gone one step too far. I learn they have prescribed a cloth uniform to be worn by these officers, which in some portions of the country, indeed in all portions of the country in summer, would be burdensome to wear and expensive as well. These postal clerks are mostly employed in the postal cars, and do most of their work wholly shut up in the railway car, and to require them to wear a uniform would not only be expensive but sometimes inconvenient and burdensome. Furthermore, the train men on all lines of railroad wear a uniform of blue cloth, like the uniform proposed for these postal-car clerks. Even the pea-nut boys wear a uniform scarcely distinguishable from it. It is like the uniform of the police in most of our cities, and so far from being a protection from interference with the mails, I am not at all sure but it would rather make it easier for those who wish to steal to take advantage of some of the various uniforms and slip in and get a mail-bag without detection and carry it off. I believe the adoption of my proviso would be regarded generally as a good thing.

Mr. WADDELL. Let me make a suggestion.

Mr. GARFIELD. There is no objection in the world to authorizing and directing a badge to be worn, a cap, or something that is specially distinguishing, but to require a uniform throughout is, I think, too much.

Mr. WADDELL. I concur entirely in the motion made by the gentleman from Ohio, but I submit to him and to this committee whether it would not be better to so modify the amendment as to require that no employé of the Post-Office Department, letter-carrier, post clerk, or other, should wear any uniform or anything beyond a special cap or some distinguishing badge.

Mr. GARFIELD. I would object to that so far as letter-carriers are concerned. It may be where persons are intrusted with the duty of carrying mails about the streets, going and unlocking mail-boxes in our cities, they should wear some distinguishing uniform.

Mr. SPARKS. Is not a cap sufficient?

Mr. GARFIELD. Perhaps it might be.

Mr. BANKS. The uniform required is not for any mere personal gratification of the letter-carrier or the vanity of the Government, but it is a measure of security. In every place where these officers are required to perform their duty there are numerous persons who

are liable to, and on the least opportunity being afforded to them may and do, commit robberies; and if there is any position where there should be a distinction between one class of men and another, between those who have a right to be in the postal cars and those who have not, it is in such a case as this, a distinction that should be patent to everybody, like the uniform required of those engaged in the mail service. Every government has been compelled to adopt it. It would in my judgment be a great mistake, a misfortune, if the present provision of law should be repealed and the practice discontinued. When it was first proposed that this uniform should be worn I entertained the same views of the subject now expressed by the gentleman from Ohio. But I have since discovered from my own experience and from observation on the part of our own and other governments it is an indispensable precaution and security to individuals and the public. There must be some distinctive mark worn by these officers, who go everywhere on duty at all times of the day and night, and there is nothing for this purpose so effective, tasteful, and proper as a modest, durable, and inexpensive uniform. So imperative is this necessity that it has been found requisite to apply it to the attendants on street-cars in nearly all cities and towns of the country. There is nothing otherwise to prevent any person going into a street-car and collecting the fares from passengers unless the proper officers for this duty are distinguished by some designation or mark, and nothing is so effective and so pleasant and proper as an appropriately designed uniform. A badge or cap is not sufficient for that purpose. It can be easily and instantly changed. The clothing is a distinctive mark, and the assumption of such clothing would be an offense if not a crime on the part of any one not authorized who should assume to wear it.

Mr. CANNON, of Illinois. I desire to offer an amendment to the amendment by adding the words "other than a cap or badge."

I wish to say, Mr. Chairman, that there is very great propriety in having the letter-carriers wear a complete uniform, so that you can distinguish one of them as far as you can see; because they are upon duty when they come in contact with the general public, and persons professing to be letter-carriers might do great injury if there was no way to distinguish them. It is also important that local agents have a uniform; those are the agents who take the mail from the cars to the post-office. But there in my opinion the necessity for a uniform ceases.

Let us inquire for a moment what the duty of these postal clerks and route agents is. It is to go inside of a car, close the door, and distribute the mails with closed doors; and it is contrary to the regulations to let any other person whatever come into that car. The public does not have access to it; and if a postal clerk or route agent was to come in contact with the public in the performance of his duties anywhere, then he would be discharged under the regulations of the Department.

Where, then, is the necessity for the uniform? What is the use, with a view to the protection of the public, of his putting on a uniform when he is shut up out of sight of the public? When my friend from Massachusetts [Mr. BANKS] sees a postal clerk or a route agent he is not on duty at all. He has not the power to touch the mails in any respect whatever; and when he goes on duty then the eyes of my friend from Massachusetts are not good enough to see through the wooden doors where he is distributing the mail.

I am of opinion that the railway-mail service in the main is an admirable one; and while no doubt the Postmaster-General believed it was for the interest of the service to uniform these employés, I am satisfied that it entails an unnecessary expense upon a hard-worked and by no means overpaid class of employés. I hope the amendment will be adopted.

[Here the hammer fell.]

Mr. MCCOOK. I have no disposition to discuss this amendment at all. But if, as I understand to be the case, the uniform of our Army and our Navy is prescribed by regulation in the respective Departments, and not by positive enactment by Congress, it appears to me it is dignifying this matter a great deal too much to legislate in regard to it. If we do it at all it appears to me there should be a uniform law prescribing the uniform for every class of the public servants.

The question being taken on the amendment of Mr. CANNON, of Illinois, to the amendment of Mr. GARFIELD, it was agreed to.

The question being taken on Mr. GARFIELD's amendment as amended, there were—ayes 54, noes 18.

So (further count not being called for) the amendment was adopted.

The Clerk read as follows:

For route agents, \$1,020,000.

Mr. BAKER, of Indiana. I move to amend by striking out "\$1,020,000" and inserting "\$1,045,000."

I desire to say a word in reference to that amendment. It will be recollected that when the general discussion on this bill was going on, I took occasion to say that with the exception of two or three minor matters I believed the bill was right. This was one item in regard to which I stated that in my judgment it ought to be increased by the amount of \$25,000. The next item for mail-route messengers I think should be increased by the amount of \$6,000.

The Committee on Appropriations in preparing this bill allowed for the star service of the country the last dollar that was estimated for by the Post-Office Department. If this amendment is adopted there will still be on all the items for the carriage of the mail by the

railroads of the country quite a large reduction from the estimates. I think the \$25,000 added to this item would more appropriately come here than in connection with the item on which it was offered as an amendment a few moments ago and voted down; for the reason that the compensation allowed for route agents is less than the compensation that is allowed to postal clerks; so that the money if given for this service would accomplish more than it would if appropriated on the other item.

I desire to say further that before making up my mind to ask the committee to grant an increase of \$25,000 on this item I went to the superintendent of the railway mail service and with him went over all the items in reference to the service on all the railroads of the country, and I was assured by him that it would materially interfere with that efficient administration of this service that the country I think demands, to deny this increase. The amount is but small, and I submit that, while Congress proposes to give the last dollar that is asked for the purpose of carrying the mail by means of the star service, it would hardly be in keeping at the same time to insist that that very large and important interest that is represented by the mail service on the railroads of the country should be cut down so as to endanger its efficiency. I think, further, the gentlemen who are conversant with the operations of this Department and by personal observation have been brought to a knowledge in reference to it will agree with me that there is no service in the country more important in fostering the business interests of the country than this branch, and therefore I hope that this motion to increase the appropriation to \$25,000 will prevail.

Mr. WILLIAMS, of Wisconsin. In reply to the remarks of the gentleman from Pennsylvania, [Mr. CLYMER,] I would suggest that he examine the figures contained in the statement which I have submitted before contending that this appropriation should be denied by reason of the excess of funds. It is there shown that for the first six months of the present fiscal year the amount expended in this branch of the service exceeded the amount of the appropriation provided thereby by over \$4,000, and that for three-fourths of the fiscal year the expenditure exceeds the appropriation by over \$7,000, which of course means a deficiency bill at some time. As will be seen, these postal-route clerks distribute the through mails upon their lines, the route agents distribute the local mails, and the mail messengers distribute the mails upon the termini of the routes upon which they are engaged. That is the theory of the service, and ought to be the practice. Every man knows that when a clerk or employé becomes acquainted with and accustomed to his duties, when it becomes a mere repetition of the same thing day after day and week after week, it becomes almost second nature and tends to accuracy and efficiency in the service. But for want of this small appropriation this theory has to be broken up. The postal clerks are compelled to perform the duties of route agents and *vice versa*, and mail messengers perform the duties of both. For want of a proper appropriation men are constantly being transferred from one line to another, and compelled to learn their duties all over again.

Mr. Chairman, could a better plan be devised to promote confusion and inefficiency? If the committee are determined not to make this appropriation, it is not for me to contend with them; but I think we ought to do it, in view of the facts and the necessities of the service. [Here the hammer fell.]

The question was taken on the amendment offered by Mr. BAKER, of Indiana; and on a division there were—ayes 54, noes 63.

So the amendment was not agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For mail-route messengers, \$165,000.

Mr. MONROE. In line 152, I move to strike out "\$165,000," and to insert in lieu thereof "\$171,000," which will make the amount exactly the same as the estimate furnished by the superintendent of the railway mail service. I favored the amendment of the gentleman from Wisconsin [Mr. WILLIAMS] to add \$25,000 to the appropriation for the postal clerks, and regret that that amendment failed. I also voted for the amendment of the gentleman from Indiana, [Mr. BAKER,] but as that amendment also failed I propose that to this last item for the compensation of clerks this small amount be added, which will bring it up to the estimate furnished by the Department.

The gentleman from Georgia, [Mr. BLOUNT,] whose industry and attention to this matter I am very glad to give him the fullest credit for, has informed us that clerks from the lower classes have been transferred to the highest class to render service as distributing clerks. What was the reason, what was the motive for that? It has plainly been done for the good of the service, because it was unavoidable; because the superintendent found that for the work ordinarily done by the distributing clerks he had not a sufficient force, and that it would be less injurious to the service and more convenient to withdraw clerks from the lower classes than to leave the higher class unequal to its work. Now if it is necessary, on account of the small appropriation which we make, to withdraw clerks in this way from one class to another, I think we ought to add something to this appropriation for messengers. I hope the gentleman from Georgia will assent to this amendment, and then I think we can go on with the bill with more satisfaction.

Mr. BLOUNT. I have no doubt that that is so.

Mr. MONROE. I desire to say that it might have relieved us some-

what if the gentleman from Georgia, when these items came up, had stated to us the grounds upon which he had reached the precise amounts put in the bill. The gentleman has cut off so much of one item and so much of another, but he does not tell us how he obtained his figures; whereas we have in the report of the superintendent of the mail service what seems to be a very rational basis for his estimates. So far as I have heard, the gentleman from Georgia has given us no estimates. He has not his explanation, for instance, why the postal clerks are to have only \$1,275,000, why the route agents only \$1,020,000, and why the mail messengers only \$165,000. The committee seem to have made these reductions by a sort of hap-hazard blow struck at the estimates furnished by the Department. The gentleman, of course with the best intentions, has wished to reduce the amount and has happened to strike just here. He has not, so far as I know, given the reasons for this reduction, and I would be glad to be informed of the data upon which he reached his conclusions.

Mr. BLOUNT. The gentleman says that I have not given my figuring. In that respect I have yielded to the evident disposition of the Committee of the Whole, that there should not be much debate. The gentleman from Ohio [Mr. MONROE] need not assume that we have gone to work without any intelligence, or, to use his own language, in a hap-hazard way to determine the amounts which should be appropriated for these several services. The gentleman will find, on page 105 of the report of the Post-Office Department, that there has been an increase in railroad building during the last year of only about 3.04 per cent. He will find that during the last year the Department actually expended only about the sum of \$147,000 for this purpose, while we appropriated something more than that sum; I do not recollect the exact figures. We have allowed here an increase of 15 per cent., and we did it just because of the appeals which are continually being made for the service on the new lines that are being constructed. The item of increase in this amount is 15 per cent., while the increase of railroad building is only 3.04 per cent.

My friend talks about the way the estimates are made up in the Post-Office Department and in the several Departments. I wish he would take the pains to investigate how they are made up. In the last Congress they came before the committee with their estimate for a given sum for the item of railroad transportation, and on cross-examination they were compelled to admit that they had estimated for a million dollars more than the service actually needed. Take the compensation of postmasters and various other items, there was just the same loose method. They seem to go on the idea that they would ask largely, and though they might not get all they asked, perhaps they would get a pretty liberal sum. That is just about the system upon which these estimates have been made. We have taken the statement of the Sixth Auditor as to the amount expended in previous years, not for the last year only, and have watched the service in its various branches and thus reached our conclusion.

Mr. MONROE. May I just ask my friend, for I am desirous to get at the truth of this matter if I can, if he considers as too high the increase of 7 per cent. for postal clerks named at the top of page 6 of the report?

Mr. BLOUNT. I take great pleasure in saying emphatically that I do think so. If he will take up the reports of the Postmaster-General and of the Sixth Auditor for the last four or five years in all the midst of our business distresses he will find that they have been most prolific of promises that the business of the country was reviving. They have always seen signs of prosperity, and depression is always behind, and they looked forward to a large increase of business notwithstanding there was nothing which anybody else could see.

I remember that Mr. Jewell, while he was Postmaster-General, on one occasion proclaimed to the committee that he saw unmistakable signs of a return of prosperity to the country; he grew very happy over it. Yet notwithstanding all that the receipts fell off.

[Here the hammer fell.]

The CHAIRMAN. Debate on the pending amendment has been exhausted.

The question was taken upon the amendment of Mr. MONROE; and upon a division there were—ayes 43, noes 70.

Mr. MONROE. No quorum has voted. As this is a very small increase, I must call for tellers.

Tellers were ordered; and Mr. MONROE and Mr. BLOUNT were appointed.

The committee again divided; and the tellers reported that there were—ayes 85, noes 80.

So the amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following:

SEC. 2. That if the revenue of the Post-Office Department shall be insufficient to meet the appropriations made by this act, then the sum of \$4,056,274.72, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply deficiencies in revenue of the Post-Office Department for the year ending June 30, 1879.

Mr. DUNNELL. I should like to ask the gentleman from Georgia [Mr. BLOUNT] what amount was appropriated last year for deficiencies?

Mr. BLOUNT. I have not the statute before me, but I think it was less than three millions last year. I understand, however, that there will probably be a deficit. The amount which the House first appropriated was amended in the Senate so as to bring the sum down to

about three millions. The result is that an additional sum will have to be appropriated by way of deficiency.

I ask consent at this time to move an amendment or a modification to an amendment which was adopted on Saturday last. I move to amend the first proviso of that amendment by striking out the words "under section 3 of this act," and inserting in lieu thereof "under section 7 of the act of July 12, 1876."

There being no objection, the amendment was modified accordingly.

Mr. CALDWELL, of Kentucky. I move to add to the second section of this bill, just read, that which I send to the Clerk's desk.

The Clerk began the reading of the amendment, as follows:

Provided, That the disbursements of the moneys appropriated for the preparation and publication of post-route maps be made by a regularly appointed disbursing officer of the Post-Office Department, according to the laws, rules, and customs as recognized by the accounting officers of the Treasury Department: *And provided also*, That the pay-rolls—

Mr. BLOUNT. I desire to raise the point of order that we have passed that portion of the bill relative to post-route maps.

Mr. CALDWELL, of Kentucky. That portion of the bill was passed before the necessity for this amendment was known to the Committee on Expenditures in the Post-Office Department. The discovery has been made since that this amendment is absolutely necessary.

Mr. BLOUNT. I will reserve my point of order until the gentleman has made an explanation.

Mr. CALDWELL, of Kentucky. When the provision of the bill was under discussion which made an appropriation of \$25,000 for post-route maps, &c., it was not known by the Committee on Expenditures in the Post-Office Department that the money was disbursed by an officer who executed no bond. That fact has since been discovered, and I desire in justice to the Government and in justice to the employees themselves, that the money shall be disbursed by a bonded officer of the Government. That is all there is of the amendment.

The Clerk read the amendment, as follows:

Provided, That the disbursements of the moneys appropriated for the preparation and publication of post-route maps be made by a regular bonded disbursing officer of the Post-Office Department, according to the laws, rules, and customs as recognized by the accounting officers of the Treasury Department: *And provided also*, That the pay-rolls of the draughtsmen, clerks, female clerks, colored messengers, and other employees of the topographer's office shall be regularly made out by the chief of the topographer's office, examined, and checked by the appointment clerk of the Post-Office Department and the payments thereof made by a bonded disbursing officer of the Post-Office Department: *And also provided further*, That all purchases made by the chief of the topographer's office for the preparation and publication of post-route maps shall be accounted for by vouchers accompanied by affidavit; and the moneys therefor shall be disbursed by a disbursing officer of the Post-Office Department; and all of the above disbursements shall be paid out of the appropriation for the preparation and publication of post-route maps.

Mr. BLOUNT. I withdraw my point of order so as to allow the House to vote upon the amendment on its merits.

The amendment was agreed to.

Mr. CLARK, of Iowa. I move to amend by inserting the following as an additional section:

SEC. 3. Nothing in this or other acts shall prevent the payment of the per diem of \$5 to the chief of special agents appointed under section 4017 of the Revised Statutes; nor to such of said agents as may be specially detailed and stationed at particular localities for service and whose entire time may be so occupied under the direction of the Postmaster-General; but in such cases last mentioned the amount of per diem may be adjusted and allowed by the Postmaster-General, not to exceed \$5 per day.

Mr. BLOUNT. I raise the point of order that we have passed the subject to which this amendment relates.

Mr. CLARK, of Iowa. This amendment does not propose to go back to any previous portion of the bill. It is general in its character, relating to the chief of special agents and to those who are specially detailed and stationed in charge of particular divisions as at Chicago, Saint Louis, &c.

The CHAIRMAN. Has the paragraph which makes appropriation for those officers been passed?

Mr. CLARK, of Iowa. It certainly has been.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. CLARK, of Iowa. The amendment does not relate back to any previous portion of the bill.

The CHAIRMAN. The Chair rules the amendment out of order.

The Clerk read the last section of the bill.

Mr. BLOUNT. I move that the committee rise and report the bill, with the amendments, to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MILLS reported that the Committee of the Whole on the state of the Union had had under consideration the post-office appropriation bill, and had directed him to report the same with sundry amendments and recommend its passage.

Mr. BLOUNT. I demand the previous question on the bill and amendments.

The previous question was seconded and the main question ordered; which was first upon agreeing to the amendments.

Mr. BLOUNT. I ask that the several amendments be voted on separately.

The first amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

In line 10, after the words "one hundred," insert "and fifty;" so as to make the clause read:

For mail depredations and special agents, \$150,000.

The question being taken on agreeing to the amendment, there were—ayes 72, noes 77.

Mr. CANNON, of Illinois, called for tellers.

Tellers were ordered; and Mr. CANNON, of Illinois, and Mr. BLOUNT were appointed.

The House divided; and the tellers reported—ayes 94, noes 74.

Mr. BLOUNT. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 102, nays 92, not voting 97; as follows:

YEAS—102.

Aldrich,	Conger,	Jamea,	Sapp,
Bacon,	Cox, Jacob D.	Joyce,	Sinnickson,
Bagley,	Crapo,	Lapham,	Siemons,
Baker, John H.	Cummings,	Lathrop,	Smalls,
Baker, William H.	Danford,	Loring,	Starin,
Banks,	Davis, Horace	Marsh,	Stone, John W.
Bayne,	Davis, Joseph J.	McCook,	Stone, Joseph C.
Bisbee,	Deering,	McGowan,	Thornburgh,
Blair,	Dunnell,	McKinley,	Throckmorton,
Boyd,	Eames,	Mitchell,	Townsend, Amos
Brewer,	Errett,	Monroe,	Vance,
Briggs,	Evans, I. Newton	Neal,	Van Vorhes,
Browne,	Fort,	Norcross,	Waddell,
Burchard,	Freeman,	Oliver,	Ward,
Burdick,	Frye,	O'Neill,	Watson,
Cain,	Gardner,	Overton,	Welch,
Caldwell, W. P.	Garth,	Page,	White, Harry
Calkins,	Giddings,	Patterson, G. W.	White, Michael D.
Camp,	Haskell,	Phillips,	Williams, Andrew
Campbell,	Hayes,	Pollard,	Williams, C. G.
Cannon,	Hendee,	Pound,	Williams, Jere N.
Casswell,	Henderson,	Price,	Williams, Richard
Chittenden,	Henkle,	Rainey,	Willits,
Claffin,	Hubbell,	Rice, William W.	Wren.
Clark, Rush	Humphrey,	Robinson, M. S.	
Cole,	Ittner,	Sampson,	

NAYS—92.

Acklen,	Davidson,	Hewitt, Abram S.	Randolph,
Beebe,	Dibrell,	Hewitt, G. W.	Rea,
Bell,	Douglas,	House,	Reagan,
Benedict,	Durham,	Hungerford,	Rice, Americus V.
Bicknell,	Eden,	Jones, Frank	Robbins,
Blackburn,	Elam,	Jones, James T.	Roberts,
Bliss,	Evins, John H.	Kenna,	Rosa,
Blount,	Ewing,	Knapp,	Saylor,
Boone,	Felton,	Knott,	Singleton,
Bragg,	Finley,	Landers,	Smith, A. Herr
Bridges,	Forney,	Ligon,	Southard,
Bright,	Franklin,	Lockwood,	Sparks,
Buckner,	Gause,	Luttrell,	Springer,
Cabell,	Glover,	Lynde,	Steele,
Caldwell, John W.	Gunter,	Mackey,	Stenger,
Candler,	Hamilton,	Malsh,	Turner,
Clark, Alvah A.	Hardenbergh,	McKenzie,	Walker,
Clarks of Kentucky,	Harris, Henry R.	McMahon,	Warner,
Clymer,	Harris, John T.	Mills,	Wigginton,
Cobb,	Hart,	Morgan,	Willis, Albert S.
Cravens,	Hartzell,	Muldrow,	Wilson,
Crittenden,	Hatcher,	Peddle,	Wood,
Cutler,	Herbert,	Potter,	Wright.

NOT VOTING—97.

Aiken,	Evans, James L.	Kimmel,	Shallenberger,
Atkins,	Foster,	Lindsey,	Shelley,
Bailon,	Fuller,	Manning,	Smith, William E.
Banning,	Garfield,	Martin,	Stephens,
Blann,	Gibson,	Mayhain,	Stewart,
Bonck,	Goode,	Metcalfe,	Strait,
Brentano,	Hale,	Money,	Swann,
Brogden,	Hanna,	Morrison,	Thompson,
Bundy,	Harmer,	Morse,	Tipton,
Butler,	Harris, Benj. W.	Muller,	Townsend, M. I.
Carlisle,	Harrison,	Patterson, T. M.	Townsend, R. W.
Chalmers,	Hartridge,	Phelps,	Tucker,
Clark of Missouri,	Hazelton,	Powers,	Turney,
Collins,	Henry,	Tridmore,	Veeder,
Cook,	Hiscock,	Pugh,	Wait,
Covert,	Hooker,	Quinn,	Walsh,
Cox, Samuel S.	Hunter,	Reed,	Whitthorne,
Culberson,	Hunton,	Reilly,	Williams, A. S.
Dean,	Jones, John S.	Riddle,	Williams, James
Denison,	Jorgensen,	Robertson,	Willis, Benj. A.
Dickey,	Keifer,	Robinson, G. D.	Yeates,
Dwight,	Keightley,	Ryan,	Young.
Eickhoff,	Kelley,	Scales,	
Ellis,	Ketcham,	Schleicher,	
Ellsworth,	Killinger,	Sexton,	

So the amendment was agreed to.

During the roll-call the following announcements were made:

Mr. CALDWELL, of Tennessee. My colleague, Mr. ATKINS, has been compelled to leave the Hall on account of indisposition. If present he would vote "no."

Mr. DAVIS, of North Carolina. My colleague, Mr. YEATES, is paired with the gentleman from New York, Mr. BUNDY. My colleague, Mr. SCALES, is paired with the gentleman from Ohio, Mr. VAN VORHES. My colleague, Mr. BROGDEN, is detained from the House by sickness.

Mr. CHALMERS. I am paired with the gentleman from Pennsylvania, Mr. SHALLENBERGER.

Mr. HANNA. I am paired with the gentleman from Virginia, Mr. HUNTON. If he were present, he would vote "no" and I should vote "ay."

Mr. MULDROW. My colleague, Mr. HOOKER, is paired with the gentleman from New York, Mr. TOWNSEND.

Mr. CABELL. My colleague, Mr. TUCKER, is paired with the gentleman from Ohio, Mr. GARFIELD. Mr. TUCKER, if present, would vote "no."

Mr. SHELLEY. I am paired with the gentleman from Indiana, Mr. EVANS.

Mr. FORNEY. The gentleman from Connecticut, Mr. WAIT, is paired with his colleague, Mr. PHELPS.

Mr. BEEBE. My colleagues, Mr. COVERT and Mr. KETCHAM, are paired.

Mr. EDEN. Mr. COX, of New York, is paired with Mr. RYAN.

Mr. BOUCK. I am paired with my colleague, Mr. HAZELTON. If he were here, he would vote "ay" and I would vote "no."

Mr. RIDDLE. I am paired with Mr. HALE. If he were here, he would vote "ay" and I would vote "no."

Mr. FULLER. I am paired with Mr. SEXTON. If he were here, he would vote "ay" and I would vote "no."

Mr. HISCOCK. I am paired with Mr. ELLIS. If he were present, I would vote "ay" and he would vote "no."

Mr. PUGH. I am paired with Mr. MARTIN. If he were present, he would vote "no" and I would vote "ay."

Mr. JONES, of Ohio. I am paired with Mr. COOK.

Mr. POWERS. I am paired on all political questions with Mr. CARLISLE. If he were present, I would vote "ay."

Mr. THOMPSON. I am paired with my colleague, Mr. REILLY. If he were present, he would vote "no" and I would vote "ay."

Mr. ROBINSON, of Massachusetts. I am paired with my colleague, Mr. MORSE. If he were present, I would vote "ay."

Mr. DANFORD. Mr. HARRIS, of Massachusetts, is paired with Mr. WHITTHORNE.

Mr. METCALFE. I am paired with Mr. BLAND, who is absent on account of sickness.

Mr. EAMES. My colleague, Mr. BALLOU, who is paired, would if present vote in the affirmative.

Mr. PHILLIPS. My colleague, Mr. RYAN, is paired with Mr. COX, of New York.

Mr. LINDSEY. I am paired with Mr. HENRY.

Mr. HARMER. I am paired with Mr. GOODE. If he were present, I would vote "ay."

Mr. ALDRICH. My colleagues, Mr. TIPTON and Mr. TOWNSHEND, and Mr. BRENTANO and Mr. HARRISON are paired. If they were present, Mr. TIPTON and Mr. BRENTANO would vote in the affirmative.

Mr. DEAN. I am paired with Mr. PEDDIE. If he were here, he would vote "ay" and I would vote "no."

Mr. STRAIT. I am paired with Mr. WILLIAMS, of Delaware. If he were here, I would vote "ay."

Mr. BUNDY. I am paired with Mr. YEATES. If he were here, I would vote "ay." I am not advised how he would vote.

Mr. JORGENSEN. I am paired with my colleague, Mr. PRIDEMORE. If he were here, I would vote "ay."

Mr. CAMPBELL. My colleague, Mr. SHALLENBERGER, is paired with Mr. CHALMERS.

Mr. BREWER. Mr. DWIGHT is paired with Mr. EICKHOFF.

Mr. STEWART. On all political questions I am paired with Mr. MULLER. If he were here I would vote "ay."

The vote was then announced as above recorded.

Mr. WADDELL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next amendment was read, as follows:

In line 15 strike out the proviso which reads as follows:

Provided, That hereafter the per diem pay of all special agents appointed under section 4017 of the Revised Statutes shall be \$3, instead of \$5 as therein provided.

And insert in lieu thereof the following:

Provided, That hereafter the per diem pay of all special agents appointed under section 4017 Revised Statutes shall only be allowed when they are actually engaged in traveling on the business of the Department: And provided further, That \$20,000 of this appropriation, or so much thereof as shall be necessary, may be used in paying rewards for apprehension of mail robbers.

The House divided; and there were—ayes 86, noes 59.

Mr. EDEN demanded the yeas and nays, and Mr. BLOUNT demanded tellers on the yeas and nays.

Tellers were refused and the yeas and nays were not ordered.

So the amendment was agreed to.

Mr. RICE, of Ohio, moved that the House do now adjourn.

Mr. PAGE moved that when the House adjourns to-day it adjourn to meet on Monday next.

The House divided; and there were—ayes 79, noes 85.

Mr. THOMPSON demanded tellers.

Tellers were not ordered.

So the motion was disagreed to.

The House then refused to adjourn.

The next amendment reported from the Committee of the Whole was read, as follows:

In line 21, strike out "\$25,000" and insert "\$45,000," so that it will read: "For preparation and publication of post-route maps, \$45,000."

The question being taken on agreeing to the amendment, there were—ayes 89, noes 66.

Mr. BLOUNT. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. FINLEY. I move that the House do now adjourn.

The question being taken on Mr. FINLEY's motion, there were—ayes 68, noes 89.

So the House refused to adjourn.

The question recurred on agreeing to the amendment; and being taken, there were—yeas 89, nays 90, not voting 112; as follows:

YEAS—89.

Aldrich,	Conger,	James,	Sampson,
Bacon,	Cox, Jacob D.	Keightley,	Sapp,
Bagley,	Crapo,	Lapham,	Stinickson,
Baker, William H.	Cummings,	Lathrop,	Stemons,
Banks,	Danford,	Loring,	Starin,
Bayne,	Davis, Horace	Marsh,	Stewart,
Bisbee,	Deering,	McCook,	Stone, Joseph C.
Blair,	Dunnell,	McGowan,	Stone, John W.
Brewer,	Eames,	McKinley,	Thornburgh,
Briggs,	Errett,	Mills,	Throckmorton,
Brown,	Evans, I. Newton	Mitchell,	Townsend, Amos
Burchard,	Fort,	Monroe,	Waddell,
Burdick,	Freeman,	Neal,	Ward,
Cain,	Frye,	Norcross,	Welch,
Caldwell, W. P.	Garth,	O'Neill,	White, Michael D.
Camp,	Giddings,	Overton,	Williams, Andrew
Campbell,	Haskell,	Page,	Williams, C. G.
Cannon,	Hayes,	Patterson, G. W.	Williams, Richard
Caswell,	Henderson,	Phillips,	Willits,
Chittenden,	Hubbell,	Pollard,	Wren.
Cladin,	Humphrey,	Pound,	
Clark, Rush	Hungerford,	Price,	
Cole,	Itiner,	Rice, William W.	

NAYS—90.

Baker, John H.	Davidson,	Hewitt, G. W.	Roberts,
Bell,	Davis, Joseph J.	House,	Ross,
Benedict,	Dibrell,	Jones, Frank	Saylor,
Bicknell,	Durham,	Jones, James T.	Singleton,
Blackburn,	Eden,	Kenna,	Smith, A. Herr
Bliss,	Elam,	Knapp,	Southard,
Blount,	Evins, John H.	Knott,	Sparks,
Boone,	Ewing,	Landers,	Springer,
Boyd,	Felton,	Ligon,	Steele,
Bragg,	Finley,	Lockwood,	Stenger,
Bridges,	Forney,	Luttrell,	Turner,
Bright,	Franklin,	Lynde,	Vance,
Buckner,	Gause,	Mackey,	Walker,
Cabell,	Glover,	Maish,	Walsh,
Caldwell, John W.	Gunter,	McMahon,	Warner,
Candler,	Hardenbergh,	Morgan,	Wigginton,
Clark, Alvah A.	Harris, Henry R.	Patterson, T. M.	Williams, A. S.
Clymer,	Harris, John T.	Potter,	Williams, Jere N.
Cobb,	Hart,	Randolph,	Willis, Albert S.
Cravens,	Hartzell,	Rea,	Wilson,
Crittenden,	Hatcher,	Rice, Americus V.	Wright,
Culberson,	Herbert,	Robbins,	
Cutler,	Hewitt, Abram S.		

NOT VOTING—112.

Acklen,	Ellsworth,	Ketcham,	Ryan,
Aiken,	Evans, James L.	Killingier,	Scales,
Atkins,	Foster,	Kimmel,	Schleicher,
Ballou,	Fuller,	Lindsey,	Sexton,
Banning,	Gardner,	Manning,	Shallenberger,
Beebe,	Garfield,	Martin,	Shelley,
Bland,	Gibson,	Mayham,	Snalls,
Bouck,	Goode,	McKenzie,	Smith, William E.
Brentano,	Hale,	Metcalfe,	Stephens,
Brogden,	Hamilton,	Money,	Strait,
Bundy,	Hanna,	Morrison,	Swann,
Butler,	Harmar,	Morse,	Thompson,
Calkins,	Harris, Benj. W.	Muldrow,	Tipton,
Carlisle,	Harrison,	Muller,	Townsend, M. I.
Chalmers,	Hartridge,	Oliver,	Townsend, R. W.
Clark of Missouri,	Hazelton,	Peddie,	Tucker,
Clarke of Kentucky,	Hendee,	Phelps,	Turney,
Collins,	Henkle,	Powers,	Van Vorhes,
Cook,	Henry,	Pridemore,	Veeder,
Covert,	Hiscock,	Pugh,	Wait,
Cox, Samuel S.	Hooker,	Quinn,	Watson,
Dean,	Hunter,	Rainey,	White, Harry
Denison,	Hunton,	Reed,	Whithorne,
Dickey,	Jones, John S.	Reilly,	Williams, James
Douglas,	Jorgensen,	Riddle,	Willis, Benj. A.
Dwight,	Joyce,	Robertson,	Wood,
Eickhoff,	Kelifer,	Robinson, Geo. D.	Yeates,
Ellis,	Kelley,	Robinson, M. S.	Young.

So the amendment was not adopted.

During the roll-call the following announcements were made:

Mr. HOUSE. Mr. MCKENZIE, of Kentucky, is paired with Mr. OLIVER, of Iowa.

Mr. CHALMERS. I am paired with Mr. SHALLENBERGER, of Pennsylvania.

Mr. KNOTT. My colleague from Kentucky, Mr. CLARKE, is paired with Mr. WATSON, of Pennsylvania.

Mr. CABELL. My colleague from Virginia, Mr. TUCKER, is paired with Mr. GARFIELD, of Ohio. If he were present, Mr. TUCKER would vote "no."

Mr. BOUCK. I am paired with my colleague from Wisconsin, Mr. HAZELTON. If he were present, he would vote "ay" and I should vote "no."

Mr. RIDDLE. I am paired with Mr. REED, of Maine. If he were present, I should vote "no."

Mr. COBB. My colleague from Indiana, Mr. FULLER, is paired with my colleague, Mr. SEXTON. If they were present, Mr. FULLER would vote "no."

Mr. DEAN. I am paired with Mr. PEDDIE, of New Jersey.

Mr. POLLARD. Mr. CALKINS, of Indiana, and Mr. ACKLEN, of Louisiana, are paired.

Mr. PUGH. I am paired with Mr. MARTIN, of West Virginia. If he were present, I should vote "ay."

Mr. LANDERS. My colleagues, Mr. WAIT and Mr. PHELPS, are paired on all political questions.

Mr. WILLIAMS, of Oregon. The gentleman from Kansas, Mr. RYAN, is paired with the gentleman from New York, Mr. COX.

Mr. JONES, of Ohio. I am paired with Mr. COOK, of Georgia. If he were present, I should vote "ay."

Mr. BAKER, of New York. On political questions I am paired with my colleague, Mr. QUINN. If he were present, I would vote "ay."

Mr. GARDNER. I am paired on this question with my colleague from Ohio, Mr. DICKEY.

Mr. ROBINSON, of Massachusetts. I am paired with my colleague, Mr. MORSE, who is absent by leave of the House.

Mr. OLIVER. I am paired on all political questions with Mr. MCKENZIE, of Kentucky. As this seems to be regarded as a political question, I refrain from voting.

Mr. HANNA. I am paired with Mr. HUNTON, of Virginia. If he were present, I would vote "ay." I desire also to announce that my colleagues, Mr. HAMILTON and Mr. ROBINSON, are paired on this question.

Mr. DANFORD. Mr. HARRIS, of Massachusetts, and Mr. WHITTHORNE, of Tennessee, are paired.

Mr. JOYCE. I am paired with Mr. BEEBE, of New York.

Mr. PHILLIPS. My colleague from Kansas, Mr. RYAN, is paired with Mr. COX, of New York.

Mr. METCALFE. I am paired with my colleague from Missouri, Mr. BLAND.

Mr. LINDSEY. I am paired with Mr. HENRY, of Maryland. If he were present, I would vote "ay."

Mr. THOMPSON. I am paired with my colleague from Pennsylvania, Mr. REILLY. My colleague, Mr. HARMER, is paired with Mr. GOODE.

Mr. WHITE, of Pennsylvania. I am paired with the gentleman from Missouri, Mr. CLARK. If he were here, I would vote "ay."

Mr. HENDERSON. My colleagues, Mr. TIPTON and Mr. TOWNSEND, are absent, paired. My colleagues, Mr. HARRISON and Mr. BRENTANO, are also paired.

Mr. STRAIT. I am paired with Mr. WILLIAMS, of Delaware. If he were here, I would vote "ay."

Mr. BUNDY. I am paired with Mr. YEATES, of North Carolina, who is absent by leave of the House. If he were here, I would vote "ay."

Mr. JORGENSEN. I am paired with my colleague from Virginia, Mr. PRIDEMORE. If he were present, I would vote "ay."

Mr. WATSON. I am paired with Mr. CLARKE, of Kentucky. If he were here, I would vote "ay."

Mr. FORNEY. Mr. PHELPS, of Connecticut, is paired with his colleague, Mr. WAIT. Mr. SHELLEY, of Alabama, is paired with Mr. EVANS, of Indiana.

Mr. HISCOCK. I am paired with Mr. ELLIS, of Louisiana. If he had been present, I would have voted "ay" and he would have voted "no."

The result of the vote was then announced as above recorded.

The next amendment was to strike out, in lines 38, 39, 40, 41, 42, 43, and 44, as follows:

That the compensation of postmasters of the fourth class shall be the box-rents collected at their offices and commissions on other postal revenues of their offices at the rate of 60 per cent. on the first \$100 or less per quarter, 50 per cent. on the next \$300 or less per quarter, 40 per cent. on the excess above \$400 per quarter; the same to be ascertained and allowed by the Auditor in the settlement of the quarterly accounts of such postmasters: *Provided*, That when the aggregate annual compensation, exclusive of commissions on money-order business, of any postmaster of this class shall amount to \$1,000, the Auditor shall report such fact to the Postmaster-General, in order that such postmaster may be assigned to his proper class, and his salary fixed as heretofore provided.

And to insert in lieu thereof the following:

That the compensation of postmasters of the fourth class shall be the whole of the box-rents collected at their offices, and commissions on unpaid letter-postage collected, on amounts received from waste paper, dead newspapers, printed matter, and twine sold, and on postage-stamps, stamped envelopes, postal cards, and newspaper and periodical stamps canceled as postages on matter actually mailed at their offices, at the following rate, namely: On the first \$100 or less per quarter, 60 per cent.; on all over \$100 and not over \$300 per quarter, 50 per cent.; and on all over \$300 per quarter, 40 per cent.; the same to be ascertained and allowed by the Auditor, in the settlement of the accounts of such postmasters, upon their sworn quarterly returns: *Provided*, That when the compensation of any postmaster of this class shall reach \$1,000 per annum, exclusive of commissions on money-order business, and when the returns to the Auditor for four quarters shall show him to be entitled to a compensation in excess of that amount under section 3 of this act, the Auditor shall report such fact to the Postmaster-General, who shall assign him to his proper class, and fix his salary as provided by said section: *Provided further*, That in no case shall there be allowed to any postmaster of this class a compensation greater than \$250 in any one quarter, exclusive of money-order commissions.

The amendment was agreed to.

Mr. BLOUNT moved to reconsider the vote just taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. ROBBINS. I move that the House do now adjourn.

Mr. WHITE, of Pennsylvania. And pending that motion I move that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. KNOTT. I desire to ask the gentleman to modify his motion so that the House may, by unanimous consent, hold a session to-morrow for debate only. [Loud cries of "No!" "No!"]

Mr. EDEN. I understand that the Committee on Appropriations are ready to go on with their business.

Mr. SPARKS. We are ready to go on with the Indian Appropriation bill.

Mr. O'NEILL. There is scarcely a quorum here to-day, and there certainly will not be one here to-morrow.

Mr. WHITE, of Pennsylvania. I will accept the suggestion of the gentleman from Kentucky, [Mr. KNOTT.]

The SPEAKER. That motion can only be entertained by unanimous consent.

Mr. ALDRICH. I object, and propose to continue to object, for we ought to meet to-morrow to do business.

Mr. WHITE, of Pennsylvania. Then I insist upon my original motion.

The question was taken, and the motion was not agreed to.

Mr. PHILLIPS. I desire to move to reconsider the vote by which that motion was rejected; and also to move to lay the motion to reconsider on the table.

The SPEAKER. That motion is not in order.

Mr. CONGER. I hope it will be done if the gentleman from Kansas wishes it.

The question recurred on the motion of Mr. ROBBINS; and being put, the motion was not agreed to.

The next amendment was, in line 87, to strike out the words "and all other than railroad routes."

The question was put, and the amendment was agreed to.

Mr. BLOUNT moved to reconsider the vote just taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The next amendment was to strike out the proviso commencing with line 91 and down to line 99, inclusive, as follows:

Provided, That the Postmaster-General may employ such number of special agents, not exceeding six, as the good of the service and safety of the mails, as conveyed by the steamboat and star routes, may require; such agents to be paid out of the appropriation for said service at the rate of not more than \$1,600 a year each, and shall each be allowed for traveling and incidental expenses while actually employed in the service a sum not exceeding \$3 per day.

The question was put, and the amendment was agreed to.

Mr. PATTERSON, of New York, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next amendment was in line 112, to strike out the word "employed;" so that it will read as follows:

For traveling and incidental expenses while actually in the service, not exceeding \$5 per day.

The question was put; and upon a division there were—ayes 97, noes 73.

Mr. MONROE. I call for tellers.

Tellers were ordered, 33 members voting therefor, being more than one-fifth of a quorum.

Mr. MONROE and Mr. BLOUNT were appointed.

The House again divided; and the tellers reported—ayes 96, noes 60.

So the amendment was agreed to.

Mr. BLOUNT moved to reconsider the vote just taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The next amendment was to strike out the proviso, commencing in line 113 and ending in line 119, on page 6, as follows:

Provided further, That the Postmaster-General may appoint one agent to superintend the star and steamboat postal service, who shall be paid, out of the appropriation for said service, a salary at the rate of \$2,500 a year, with an allowance for traveling and incidental expenses while actually employed in the service not exceeding \$5 per day.

The question was put, and the amendment was agreed to.

Mr. BLOUNT moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The next amendment was in line 121, to strike out \$440,000 and insert in lieu thereof \$600,000; so that the clause will read as follows:

For compensation to clerks in post-offices, \$3,600,000.

The question was put; and on a division there were—ayes 77, noes 77.

Mr. DUNNELL. I call for tellers.

Tellers were ordered; and Mr. BLOUNT and Mr. DUNNELL were appointed.

The House again divided; and the tellers reported—ayes 83, noes 91.

So the amendment was not agreed to.

Mr. BLOUNT moved to reconsider the vote just taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The next amendment was to add to line 149 of the bill the following:

Provided, That postal clerks, route agents, and mail-route messengers shall not be required to wear a uniform other than a cap or badge.

The amendment was agreed to.

Mr. BLOUNT moved to reconsider the vote by which the amend-

ment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next amendment was to increase the appropriation for mail-route messengers from \$165,000 to \$171,000.

The amendment was not agreed to; upon a division—ayes 88, noes 94.

The last amendment reported from the Committee of the Whole was to add to section 2 the following:

Provided, That the disbursements of the moneys appropriated for the preparation and publication of post-route maps be made by a regular bonded disbursing officer of the Post-Office Department, according to the laws, rules, and customs as recognized by the accounting officers of the Treasury Department: *And provided also*, That the pay-roll of the draughtsmen, clerks, female clerks, and colored messengers, and other employees of the topographer's office shall be regularly made out by the chief of the topographer's office, examined and checked by the appointment clerk of the Post-Office Department, and the payments thereof made by a bonded disbursing officer of the Post-Office Department: *And also provided further*, That all purchases made by the chief of the topographer's office for the preparation and publication of post-route maps shall be accounted for by vouchers accompanied by affidavits, and the moneys therefor shall be disbursed by a disbursing officer of the Post-Office Department; and all of the above disbursements shall be paid out of the appropriations for the preparation and publication of post-route maps.

The amendment was agreed to.

Mr. BLOUNT moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. BLOUNT. I ask consent to change the total in section 2 from "\$4,056,274.72" to "\$4,106,274.72," in order to make it correspond with the money additions to the bill.

There was no objection, and the amount was changed accordingly.

The bill, as amended, was then ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. BLOUNT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 149) for the relief of Charles B. Varney;

An act (S. No. 378) for the relief of William L. Hickam, of Missouri, guardian of the minor children of Hillary J. Jenkins;

An act (S. No. 706) authorizing the President of the United States to make certain negotiations with the Ute Indians in the State of Colorado;

An act (S. No. 767) authorizing the Secretary of War to allow the interment, in the national cemetery at New Bern, in the State of North Carolina, of the remains of the late R. F. Lehman, lately a commissioner of the United States circuit court in the eastern district of North Carolina;

An act (H. R. No. 1385) for the relief of the minor heirs of John H. Evans, deceased;

An act (H. R. No. 3068) for the allowance of certain claims reported by the accounting officers of the Treasury Department;

An act (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, for subsistence of the Army, and for other purposes; and

A joint resolution (H. R. No. 78) granting the use of artillery, tents, &c., at the national soldiers and sailors' reunion to be held at Marietta, Ohio.

PERSONAL EXPLANATION.

Mr. PHILLIPS. I rise to a question of personal explanation for the first time in my life; not that I deem it a matter of very great importance. I find in the RECORD of this morning a speech printed, purporting to have been delivered by the honorable gentleman from Mississippi [Mr. MONEY] on Wednesday, the 24th instant. As I was here all that day and did not hear it, I presume it was either delivered at the night session of that day, or, as I understand, leave was given to print it. In that speech it is charged that bills have been introduced by northern men for the benefit of northern people, in which are asked \$1,569,122,035.13. But that is not the worst of it. According to that gentleman, I myself introduced a bill (H. R. No. 3239) which asks an appropriation of \$1,300,000,000; nearly the whole pabulum on which this indictment against northern Representatives is founded.

Mr. CHALMERS. Allow me to suggest to the gentleman that my colleague [Mr. MONEY] is now absent, and will be absent for a day or two. I hope the gentleman will postpone any remarks he has to make until my colleague returns.

Mr. PHILLIPS. My remarks will be in the RECORD.

The SPEAKER. The Chair will recognize the gentleman from Mississippi [Mr. MONEY] when he returns.

Mr. PHILLIPS. As I was saying, the amount which my bill is said to represent constitutes nearly the whole pabulum on which this indictment against northern Representatives is founded. It is a very respectable amount and looks well in print.

The SPEAKER. The gentleman will state his question of personal privilege.

Mr. PHILLIPS. I will state it. I have been charged with introducing a bill for an appropriation of \$1,300,000,000. [Great laughter.] I wish to show that I did not introduce any such bill; and in order that my bill may be correctly understood I here give a copy of it:

A bill to provide for a survey of and estimates for a ship-canal, with stone sides and bottom, from deep tide-water near the mouth of the Mississippi River, to Saint Louis, Missouri, with branches to Pittsburgh, Chicago, Saint Paul, and Omaha.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That there shall be appointed by the President two commissioners, who shall be practical engineers, to act with an officer of the Engineer Corps of the Army, and the three shall constitute a commission to make a survey of, together with plans and estimates for, a ship-canal to be constructed from deep tide-water, at the most practicable point near the mouths or outlets of the Mississippi River, thence up the valley of said river, on the best location; said plans and specifications shall be for a canal, with stone sides and bottom, large enough for two large ocean-steamers to pass each other; and they shall survey and make a plan and estimates for two basins, one at Memphis and one at Saint Louis, sufficient in capacity to harbor fifty sea-going vessels; and the said commission shall make their report at the earliest practicable moment, which report, plan of survey, and estimates shall be submitted to Congress.

Sec. 2. Having completed and submitted such plan and estimates for said canal, the commission shall without delay proceed to survey branches for said canal, and connecting therewith at suitable points, to Pittsburgh, by the valley of the Ohio River; to Chicago, by the most suitable route, connecting with deep water at the lakes; to Saint Paul, by the valley of the Mississippi River; and to Omaha, by the valley of the Missouri River; and shall report on each of these branches as they are respectively completed, under direction of the President.

Sec. 3. The said commission shall in their plans and estimates provide for the feeding of said canal from clear-water rivers and streams.

Sec. 4. The sum of \$30,000, or so much thereof as may be necessary, is hereby appropriated, out of any money not otherwise appropriated in the Treasury.

By reference to the last section of the bill it will be seen that it appropriates only the sum of \$30,000, or so much thereof as may be necessary. Now, they can do some very remarkable things in Mississippi, especially in the arithmetic of elections.

Mr. SINGLETON. I call the gentleman to order; he is not speaking upon a question of personal privilege.

Mr. PHILLIPS. It is personal to me. [Laughter.]

The SPEAKER. The gentleman will proceed in order.

Mr. PHILLIPS. Mr. Speaker, as I was saying, they can do some remarkable things in Mississippi, especially in the arithmetic of elections; but raising \$30,000 to \$1,300,000,000 is a remarkable feat even for Mississippi. I presume the gentleman's figures for the other little bagatelle of \$263,000,000 are equally accurate. What makes the matter a little harsh to me is that the \$30,000 asked for by the bill I introduced was, if obtained, not to be expended in the Northern States, as he charges, but between Saint Louis and the mouth of the Mississippi River—all in the South, and no inconsiderable portion in the State of Mississippi.

Mr. TURNER. I raise the point of order that this is not a question of privilege, and there is no pretext for claiming it to be such.

The SPEAKER. The Chair thinks it is hardly a question of privilege.

Mr. PHILLIPS. I submit that I am in order.

Mr. TURNER. I call upon the Chair to decide whether this is a personal explanation.

Mr. PHILLIPS. I shall finish in a moment.

Mr. TURNER. I do not think the gentleman himself will pretend that this is a personal explanation.

Mr. PHILLIPS. I desire to state—

Mr. FINLEY. I rise to a parliamentary inquiry. I want to know whether it is a "question of privilege" for a member of this House to show that the statements in another member's speech do not conform to the facts in the case. [Laughter.] If that is a "question of privilege," I can take one-half of the speeches of gentlemen on the other side and show that they are not true. [Laughter.]

The SPEAKER. The Chair thinks the gentleman from Kansas is overstepping the mark; that he is not speaking to any question of personal privilege.

Mr. McMAHON. I ask unanimous consent that the gentleman have leave to print.

The SPEAKER. The Chair desires that the gentleman will speak to the point.

Mr. PHILLIPS. A flagrant indictment has been brought against me personally as having introduced a bill proposing to appropriate \$1,300,000,000. [Laughter.] If the gentleman will persist in bringing a bill of indictment against me or against the republican party I would remind him that there is one item which he appears to have overlooked—\$5,000,000,000 for suppressing the rebellion and preserving the Union, all of which was taken from the Treasury or funded in debt by the votes of republicans, but which was chiefly expended, as would be the \$30,000 I ask to have appropriated, in the Southern States.

The SPEAKER. The Chair desires to say that he does not think the remarks of the gentleman from Kansas [Mr. PHILLIPS] involve a personal explanation or a question of privilege.

APPROPRIATIONS FOR THE POST-OFFICE DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a letter from the Postmaster-General, transmitting communications from the acting First Assistant Postmaster-General and the Third Assistant Postmaster-General, relative to certain appropriations for

that Department; which was referred to the Committee on Appropriations.

ELECTION CONTEST—LYNCH VS. CHALMERS.

The SPEAKER also laid before the House depositions in the contested-election case of Lynch vs. Chalmers, from the sixth congressional district of Mississippi; which were referred to the Committee of Elections.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:
To Mr. WHITTHORNE, for four days;
To Mr. TOWNSEND, of New York, for one week;
To Mr. MULLER, for five days, on account of important business;
To Mr. WILLIAMS, of New York, for ten days, on account of important business;
To Mr. MCCOOK, for four days, on account of business; and
To Mr. ITTNER, for one day.

DRY-DOCK AT MARE ISLAND NAVY-YARD.

Mr. CLYMER, by unanimous consent, reported from the Committee on Appropriations the following; which were referred to the Committee on Naval Affairs.

Concurrent resolution of the Legislature of the State of California, asking Congress to appropriate money for the completion of the stone dry-dock at Mare Island navy-yard; and

A bill (H. R. No. 721) to appropriate money for the completion of the stone dry-dock and other public works at Mare Island navy-yard, California.

JOHN HENDERSON.

Mr. SAYLER, from the Committee of Ways and Means, reported back, with a favorable recommendation, the bill (H. R. No. 1727) for the relief of John Henderson; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

Mr. LUTTRELL. I move that the House adjourn.

PROPOSED ADJOURNMENT TILL MONDAY.

Mr. PAGE. I move that when the House adjourns to-day it adjourn to meet on Monday next.

The motion of Mr. PAGE was not agreed to.

The motion of Mr. LUTTRELL, that the House adjourn, was agreed to; and accordingly (at five o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BOUCK: The petition of citizens of Wisconsin, for the repeal of the bankrupt law—to the Committee on the Judiciary.

By Mr. BRAGG: Memorial of the Legislature of Wisconsin, for the equalization of bounties—to the Committee on Military Affairs.

By Mr. CAMPBELL: The petition of citizens of White Township, Cambria County, Pennsylvania, that Congress extend the credit of the Government to the completion of a railroad through the southwestern Territories to the Pacific Ocean, and that the rates of transportation on the same shall forever remain under the direct control of Congress—to the Committee on the Pacific Railroad.

By Mr. DAVIS, of California: The petition of William T. Coleman and other citizens of San Francisco, California, for the extension of the Southern Pacific Railroad—to the same committee.

Also, the memorial of the Vallejo (California) Board of Trade, for an appropriation for the completion of the dry-dock at Mare Island—to the Committee on Appropriations.

By Mr. FREEMAN: The petitions of Eddystone Manufacturing Company, Grundy Brothers, and Champion, and many others, merchants of Philadelphia, and of Allen & Morris, William B. Stephens, and many others, merchants and manufacturers of Philadelphia and vicinity, against the passage of the Wood tariff bill—to the Committee of Ways and Means.

By Mr. GIDDINGS: Six petitions of citizens of Lavaca, Montgomery, Cherokee, Austin, Harris, Waller, and Jefferson Counties, Texas, for the division of that State into two judicial districts—to the Committee on the Judiciary.

By Mr. HARDENBERGH: Two petitions of merchants and others interested in commerce and navigation, of New York, for the passage of the proposed law abolishing compulsory pilotage—to the Committee on Commerce.

By Mr. HERBERT: The petitions of Malachi Riley and others, of Covington County; of John P. Hubbard and others, of Pike County; and of J. A. Reid and others, of Butler County, Alabama, that a certain fund be given to the States for educational purposes—to the Committee on Education and Labor.

By Mr. HEWITT, of New York: The petition of Carlos Butterfield, for leave to withdraw certain papers from the State Department in reference to his claim against the Mexican Government—to the Committee on Foreign Affairs.

By Mr. HUNGERFORD: The petition of George N. Palmer, of Elmira, New York, for a pension—to the Committee on Invalid Pensions.

By Mr. KIDDER: The petition of citizens of Dakota Territory,

against a division of that Territory on the one hundredth meridian, as proposed by the Saunders bill—to the Committee on the Territories.

By Mr. LUTTRELL: The petition of W. W. Montague & Co. and 550 other firms of San Francisco, California, that Congress pass such a law as will enable the Southern Pacific Railroad Company to extend their road across Arizona—to the Committee on the Pacific Railroad.

By Mr. LYNDE: Memorial of the Legislature of Wisconsin, for the promotion of the deposit of savings and the refunding of the national debt—to the Committee on Banking and Currency.

Also, memorials of the Legislature of Wisconsin, against the reduction of the duty on wool; for the enactment of an income-tax law; against the proposed reduction of the tariff on imported wool—to the Committee of Ways and Means.

Also, memorial of the Legislature of Wisconsin, for the amendment of the patent laws—to the Committee on Patents.

Also, memorial of the Legislature of Wisconsin, for the equalization of bounties to soldiers—to the Committee on Military Affairs.

Also, memorial of the Wisconsin State Grange, against the reduction of the duty on imported wools—to the Committee of Ways and Means.

By Mr. MAISH: The petition of numerous manufacturers of and dealers in tobacco and cigars, that no change be made in the tax on tobacco and cigars—to the same committee.

By Mr. MORSE: The petition of the board of government of the Boston Board of Trade, for an appropriation to enable the Light-House Board to place one or more of Courtenay's automatic signal buoys in such harbors or other positions as in the judgment of said board may be necessary—to the Committee on Commerce.

By Mr. PAGE: The petition of citizens of San Francisco, California, for the extension of the Southern Pacific Railroad eastward through the Territories of Arizona and New Mexico—to the Committee on the Pacific Railroad.

By Mr. SAMPSON: A paper relating to the pension claim of Nathan Udell—to the Committee on Invalid Pensions.

By Mr. SAYLER: The petition of L. M. Dayton and other citizens of Cincinnati, Ohio, against the reduction of the duty on iron—to the Committee of Ways and Means.

Also, the petition of John E. Kelly, for compensation as a messenger and doorkeeper for the Committee of Ways and Means of the House of Representatives—to the Committee of Accounts.

By Mr. SCHLEICHER: Petitions of citizens of Texas, against any change in the tariff on wool—to the Committee of Ways and Means.

By Mr. STEVENS, of Arizona: Two petitions of citizens of Arizona Territory, for legislation authorizing the Southern Pacific Railroad Company to extend their road across said Territory to its eastern boundary—to the Committee on the Pacific Railroad.

By Mr. WIGGINTON: The petition of S. R. Throckmorton and 110 other citizens of California, of similar import—to the same committee.

By Mr. WILLIAMS, of Wisconsin: The petitions of R. M. Morrison and 22 others, and of G. P. Hebard and 13 others, postal clerks, route agents, and mail messengers of Wisconsin, for an appropriation sufficient to increase their salaries—to the Committee on Appropriations.

By Mr. WILLIS, of New York: The petition of Elizabeth M. Devin, widow of Thomas C. Devin, late colonel of the Third Regiment United States Cavalry, for a pension—to the Committee on Military Affairs.

By Mr. WILLITS: Papers relating to the pension claim of Mary A. Allen—to the Committee on Invalid Pensions.

HOUSE OF REPRESENTATIVES.

SATURDAY, April 27, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

SETTLERS ON PUBLIC LANDS.

Mr. WIGGINTON, by unanimous consent, from the Committee on Public Lands, reported, as a substitute for House bill No. 3796, a bill (H. R. No. 4570) for the relief of settlers on the public lands, and to provide for the repayment of certain fees and commissions paid on void entries of public lands, and for other purposes; which was read a first and second time, ordered to be printed with the accompanying report, and recommitted.

STRENGTH OF IRON, STEEL, ETC.

Mr. LATHROP. I ask by unanimous consent to submit a resolution asking the President for information as to the action of the board appointed to make experiments in testing the strength and value of iron, steel, and other materials.

The SPEAKER. The resolution will be read.

The preamble and resolution were read, as follows:

Whereas by section 4, of chapter 123, of volume 18, Statutes at Large, approved March 3, 1875, the sum of \$50,000 was appropriated, and the further sum of \$45,000 appropriated in 1873, made available for the purpose of experiments in testing iron and steel; and by said section 4 the President was authorized to appoint a board to make such experiments, to consist of one officer of engineers of United States Army, one

officer of ordnance of United States Army, one line officer of United States Navy, one engineer of United States Navy, and three civilians, who should be experts, and by said section it was made the duty of said board when appointed to convene at the earliest practicable moment, at such place as might be designated by the President, for the purpose of determining by actual test the strength and value of all kinds of iron, steel and other metals which might be submitted to them or by them procured, and to prepare tables which should exhibit the strength and value of said materials for construction and mechanical purposes, to provide for the building of a suitable machine for establishing such tests; and

Whereas by chapter 226, of volume 19, of Statutes at Large, approved July 14, 1876, "for completing experiments in testing iron, steel, and other metals," as provided in above-mentioned section 4, there was appropriated the sum of \$19,396.98: Therefore,

Resolved, That the President be, and hereby is, requested to communicate to this House what action has been taken under said provisions of said acts; and if said board has made tests of the strength and value of iron, steel, and other metals, and prepare tables thereof, as contemplated by said section 4, that the results of such tests by said board may be communicated to this House.

The SPEAKER. The Chair will state to the gentleman that board was abolished by the very section of the law alluded to.

Mr. LATHROP. I am informed that the board have made the tests provided for, but that the conclusions at which they have arrived have never been reported to Congress.

The SPEAKER. The money has been all spent, and the Committee on Appropriations recommended the abolition of the board.

Mr. LATHROP. That may be true, but the results of those experiments have never been made known, and the resolution of inquiry which I have proposed is for the purpose of securing a report to Congress for publication.

The SPEAKER. The Chair only desired to state the fact so members of the House might be informed on the subject.

Mr. BURCHARD. Is it a resolution of inquiry?

The SPEAKER. It is.

Mr. BURCHARD. Let it be read.

The resolution was again read.

Mr. CONGER. There can be no harm in the adoption of that resolution calling for information.

The SPEAKER. The Chair understands the object of the resolution is to obtain the information received by that board. The Chair took the liberty of saying to the gentleman that Congress had abolished the board after an expenditure, as the Chair remembers, of \$69,000.

Mr. CONGER. Whatever result has been obtained ought to be communicated to Congress.

The resolution was adopted.

CARLOS BUTTERFIELD.

Mr. HEWITT, of New York, by unanimous consent, introduced a joint resolution (H. R. No. 168) requiring the Secretary of State to furnish information to Congress in reference to the claim of Carlos Butterfield against the government of Denmark; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

JOSEPH BAUMER.

Mr. HERBERT. I ask unanimous consent to submit the following resolution for reference to the Committee of Accounts:

Resolved, That the Clerk of the House be, and he is hereby, directed to pay Joseph Baumer out of the contingent fund of the House of Representatives the sum of \$71.17, for services due and unpaid while acting as messenger for the Forty-fifth Congress.

Mr. CONGER. These resolutions come in so frequently and we travel so fast without objection in their adoption that I think we ought now to wait until they are all put together, so we may see how many of them there are. I object.

JOSEPH BURT.

Mr. BREWER, by unanimous consent, introduced a bill (H. R. No. 4571) providing for an increase of pension to Joseph Burt, of Michigan, a lieutenant in the war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

RELIEF OF SETTLERS.

Mr. STEWART, by unanimous consent, introduced a bill (H. R. No. 4572) for the relief of settlers on the public lands; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

Mr. O'NEILL. As we are approaching the end of the session, and time becomes precious, and as Monday, under the rules, is devoted to introduction of bills for reference, I hope hereafter members will introduce bills at that time, and not take up the time of the House when such propositions are not in order. I do not object, as I am anxious to see gentlemen obliged, but I hope the presentation of bills will be made at the proper time.

JULIET LEEF AND JOHN M'KEE.

Mr. ROBERTS, by unanimous consent, from the Committee on Commerce, reported a bill (H. R. No. 4573) to provide for the settlement of the claims of Juliet Leef and John McKee; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

RYAN, GEARY, AND OTHERS.

Mr. ACKLEN, by unanimous consent, submitted the following res-

olution for the relief of Ryan, Geary, and others in the State of Louisiana; which was referred to the Committee on the Judiciary:

A resolution for the relief of Ryan, Geary, and others, and for the appointment by the Speaker of a committee of investigation.

Whereas in the parish of Calcasieu, in the State of Louisiana, there are numerous log-owners who are suffering illegal oppression under the exactions of the Department of the Interior, namely, Ryan, Geary, Perkins, Norris, and others, through the corrupt practices of a special agent of this Department, one M. A. Carter, aided and abetted by certain other officials, against whom charges have been preferred; Therefore,

Be it resolved, That the Speaker of the House of Representatives be, and is hereby, authorized to appoint a committee of three members of this House, who shall select a clerk and deputy sergeant-at-arms and proceed to the State of Louisiana at such time as said committee shall deem proper, with full power to send for persons and papers, to administer oaths, and take testimony, and employ such clerks or stenographers as may be needed, to investigate the charges of corruption and malfeasance in office preferred against M. A. Carter, special agent of the Department of the Interior, and charges preferred and to be preferred against other officials and parties connected with the Calcasieu log seizures as that committee may deem necessary to ascertain their truth, and report the results of said investigation to this House at its next session.

COMMERCIAL HIGHWAY.

Mr. BURDICK, by unanimous consent, presented a joint resolution of the Legislature of the State of Iowa, in reference to securing a commercial highway by water between the Mississippi River and Lake Michigan by the valleys of the Fox and Wisconsin Rivers; which was referred to the Committee on Commerce.

GEORGE L. SHRYOCK.

Mr. COLE, by unanimous consent, introduced a bill (H. R. No. 4574) to remove the political disabilities of George L. Shryock, of Missouri; which was read a first and second time.

The bill, which was read, removes all political disabilities imposed by the fourteenth article of amendments to the Constitution upon George L. Shryock, of Missouri.

Mr. HUBBELL. Is there a petition accompanying the bill?

Mr. COLE. There is.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed, two-thirds voting in favor thereof.

EVENING SESSION ON MONDAY.

Mr. FULLER. I ask that, by unanimous consent, there be an evening session on Monday, at seven o'clock and thirty minutes p. m., for the reception of reports from the Committee on Public Lands, no other business to be transacted.

Mr. FINLEY. Does that include the consideration of the reports by the House?

Mr. FULLER. Yes, sir.

There was no objection, and it was ordered accordingly.

Mr. FULLER moved to reconsider the vote by which the order was made; and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

GEORGE B. COSBY.

Mr. LUTTRELL, by unanimous consent, introduced a bill (H. R. No. 4575) to remove the political disabilities of George B. Cosby, of Butte County, California; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

LOWELL A. CHAMBERLIN.

Mr. BANNING, by unanimous consent, from the Committee on Military Affairs, reported a bill (H. R. No. 4576) for the relief of Lowell A. Chamberlin, First Lieutenant First Artillery, United States Army; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERTISING OF MAIL-LETTINGS.

Mr. WADDELL. I ask unanimous consent to report back, from the Committee on the Post-Office and Post-Roads, the bill (H. R. No. 3987) to regulate the advertising of mail-lettings, with Senate amendments. I am instructed by the committee to move non-concurrence in the amendments of the Senate.

Mr. DUNNELL. Let the amendments be read.

The amendments of the Senate were read.

The question being taken, the amendments were non-concurred in. Mr. WADDELL moved to reconsider the vote by which the amendments of the Senate were non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ESTIMATES FOR SUBSISTENCE OF THE ARMY.

The SPEAKER, by unanimous consent, laid before the House a letter from the chief clerk of the War Department, transmitting revised estimates for subsistence of the Army for the fiscal year ending June 30, 1879; which was referred to the Committee on Appropriations.

LEAVE OF ABSENCE.

The SPEAKER. The Chaplain of the House asks leave of absence for two weeks from Monday next to attend the general conference of the Methodist Episcopal Church South. His place will be supplied by Rev. Drs. Ames and Domer.

There was no objection, and leave was granted.

By unanimous consent, leave of absence was granted to Mr. SHALENBERGER for three days.

PERSONAL EXPLANATION.

Mr. MCGOWAN. I ask the privilege of making a short personal statement.

During my absence the past two weeks the chairman of the Committee of Ways and Means made a statement which will be found in the proceedings of the 16th instant, which I send to the Clerk's desk, and ask to have read the two paragraphs that are marked.

The Clerk read as follows:

Now, I can assure the gentleman from Michigan that I think I am the only sufferer by the omission referred to. The letter which was read, and to which the gentleman has referred, came to me under circumstances and disappeared under circumstances which I shall relate. As early as January last a colleague of the gentleman, with whom I had no personal acquaintance, wrote me a letter inclosing a letter from this firm transacting business at Jackson, in the State of Michigan, stating that so far as they were concerned they required no protection; that they manufactured very largely; that they exported their goods to Europe; and that they were doing very well. The gentleman from Michigan, [Mr. MCGOWAN,] the gentleman's colleague, indorsed in his letter to me the respectability of this firm, and gave in addition what appeared to me to be a full indorsement of the position which they had assumed. In preparing myself for the opening speech in the tariff debate, among other papers I came across this. I read it and saw that it was in the line of a discussion which I intended to pursue. But having no acquaintance with the gentleman, through my friend, his colleague, sitting on my left, [Mr. WILLIAMS,] I sought his acquaintance and sought his permission to have read as part of my speech the communication which he had sent to me. He gave it fully. Therefore, sir, upon that occasion I had that letter read; but when I came to revise my speech the next morning the letter was missing, and everything relating to it in the proceedings of the House was missing also. The explanation that I have been enabled to receive respecting it was that after the Clerk had read the letter from the desk it was handed to the reporters of the RECORD, and has disappeared and has never been seen since, with the additional recollection on the part of the gentleman in front of me that the gentleman from Michigan [Mr. MCGOWAN,] came to the Clerk's desk and inquired for the letter before I had concluded my speech; and the presumption is that he felt he had a right to recover that letter, and as he has left the city I presume he has taken it with him. Therefore if the letter did not appear, I am quite sure that in no way am I responsible for this omission from the RECORD, because I have never seen it since I sent it to the Clerk's desk.

Mr. MCGOWAN. Some time during last winter after I had sent the letter of General Withington to the gentleman from New York [Mr. WOOD,] I understood he allowed copies to be made both of that letter and of my letter to him; and the same were published in the Detroit Post and Tribune. I believe they are exact copies and I now send them to the Clerk's desk and ask that they be read.

The Clerk read as follows:

WASHINGTON, January 3, 1878.

DEAR SIR: I hand you this inclosed letter from Messrs. Withington & Cooley, a most worthy and successful firm of manufacturers in my district.

I am informed by these gentlemen that they have purchased bar steel in England, brought it to their place of manufacture, Jackson, Michigan, made it into forks and other farming tools, and, returning the manufactured tools, sold them in England, where they have established a market at a good profit.

I am, sir, with respect, your obedient servant,

J. H. MCGOWAN.

The Hon. FERNANDO WOOD.

JACKSON, MICHIGAN, December 13, 1877.

DEAR SIR: I notice by the papers that the Ways and Means Committee are in receipt of various communications from manufacturers and others protesting against reductions in the tariff, &c.

As a point on the other side will you please submit to the committee the fact that the manufacturers of hay and manure forks, cast-steel hoes, garden-rakes, and like tools are able not only to sustain themselves at home against foreign manufacturers, but to export their products to England, France, Germany, and other European countries. Not less than thirty thousand dozen hay and manure forks were shipped from this country to Europe last year, and I think more than that.

The chief cost of a fork is in the steel and the labor thereon. It is comparatively a plain tool and not protected by patents. England has been supposed to excel in the production of steel and goods therefrom. We ask no protection on our part against her or any other country.

Half of our product of forks last year went abroad.

Very truly, yours,

W. H. WITHINGTON,
Treasurer.

The Hon. JAMES H. MCGOWAN.

Mr. MCGOWAN. Now, Mr. Speaker, it is true that the day before the gentleman from New York made his speech he sent for me and courteously asked the privilege of using the letter of General Withington in his speech. I had no thought at the time that he desired to or would have occasion to use the letter I had written. I told the gentleman at the time that he would have to meet the charge that the manufactured articles spoken of in the letter of General Withington were manufactured by prison labor. The next day during the speech of the gentleman I heard my name read by the Clerk at the desk and I then understood that the Clerk had read my letter. Not remembering exactly what was contained in it I went to the Clerk's desk after the letters were both read and asked to see them. The Clerk informed me that they were in the hands of the reporters. I then remarked that I would find them in the RECORD the next day and went away. I did not see the letters. I did not take them away. I never have seen them since I sent them to the gentleman from New York. I should have thought it very unbecoming in me to have carried away from the House a portion of the gentleman's speech, and I am astonished that he should have supposed I did so or should have raised the presumption at all that I carried away the letters in question.

Mr. WOOD. I desire permission of the House to say one word. I think the gentleman from Michigan [Mr. MCGOWAN,] has not read carefully the remarks I made with reference to the letter of which he speaks, or he would not apprehend that I charged him with having taken it, for I did not. When I came to revise my speech the day

after its delivery that letter was missing, as also everything in connection with it. When I made inquiry for the letter, the only information I could procure was that the gentleman from Michigan had been to the Clerk's desk making inquiries about it. I did assume—it was merely an assumption upon my part—that the gentleman, as the letter was addressed to him, had possibly taken possession of it. I did not intend, however, to reflect upon the gentleman in any way, even if he had thought proper to take the letter. Therefore the House, I trust, will acquit me of any intention of making even an indirect charge against the gentleman. The letter was missing; it never was recovered; and the gentleman was the last person making inquiries in relation to it. It was but natural that I should suppose that he might have taken possession of it. I now acquit him of having taken it or of knowing anything about it.

Mr. MCGOWAN. I wish merely to say that it was an assumption which, had I been in the gentleman's place, I would hardly have made in regard to him, that he would carry away a part of my speech. I wonder that he assumed that I would carry away a part of his speech when I had no control over it.

TAX ON STATE BANKS.

Mr. DAVIS, of North Carolina, by unanimous consent, submitted the following memorial; which was referred to the Committee on Banking and Currency:

To the Congress of the United States:

We, the undersigned, believe that the tax of 10 per cent. on the circulating notes issued by banks chartered by the different States is unjust and against the best interests of the people, and therefore most respectfully petition Congress to repeal that clause in the national-bank law which levies a tax of 10 per cent. on the circulating notes of the State banks.

Mr. DAVIS, of North Carolina. I wish to say merely that this petition represents the wishes of nine-tenths of the people of North Carolina.

ORDER OF BUSINESS.

Mr. HALE. I now call for the regular order.

Mr. VANCE. I ask consent—

Mr. HALE. I called for the regular order, with the understanding that the gentleman from Illinois [Mr. SPARKS,] will move to go into the Committee of the Whole on the Indian appropriation bill.

Mr. VANCE. It will take me but a moment.

Mr. FRANKLIN. I insist upon the regular order.

Mr. SPARKS. I move that the rules be suspended and that the House now resolve itself into Committee of the Whole for the purpose of proceeding with the consideration of the Indian appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. POTTER in the chair.)

INDIAN APPROPRIATION BILL.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the bill (H. R. No. 4549) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1879, and for other purposes.

Mr. SPARKS. I ask that the first and formal reading of the bill be dispensed with.

There was no objection, and it was so ordered.

Mr. SPARKS. I will state to the Committee of the Whole that this bill has been under consideration for many months by the Committee on Appropriations and has been prepared with a great deal of care. It meets the approval of the Secretary of the Interior and of the Commissioner of Indian Affairs. It was the unanimous report of the subcommittee of the Committee on Appropriations and is the unanimous report of the Committee on Appropriations to this House. I can see no necessity for general debate, and ask that the Clerk now proceed to read the bill by paragraphs for amendment.

The Clerk proceeded to read the bill by paragraphs, and read the following:

Be it enacted, &c., That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian Department, and fulfilling treaty stipulations with the various Indian tribes, namely:

For pay of one superintendent of Indian affairs for the tribes in Dakota, \$2,000;
For pay of one clerk for the Dakota superintendency, \$1,200.

Mr. HAYES. I move to amend the last paragraph read, in relation to the clerk for the Dakota superintendency, by striking out "\$1,200" and inserting "\$1,600." I do not wish to make any speech on the subject, but will simply state that \$1,600 is the amount which the clerk of that agency now receives. I think, when we consider all the circumstances, that amount is little enough. I hope, therefore, that this item in the bill will be increased from \$1,200 to \$1,600.

Mr. SPARKS. The amount named in the bill is the amount fixed by the Commissioner of Indian Affairs himself, and is certainly sufficient for the clerk. That is all I have to say about it.

Mr. HAYES. I would like to ask the gentleman if the clerk of that superintendency does not now receive \$1,600 a year.

Mr. SPARKS. I will state to the gentleman that that superintendency has been abolished. It proved to be somewhat of a nuisance and has been abolished.

Mr. HAYES. As I understand, the superintendency of the Dakota Indians has not been abolished.

Mr. SPARKS. Ah! I am mistaken; I beg the gentleman's pardon; I thought he was referring to another agency. The central superintendency has been abolished; there is no clerk for it now.

Mr. HAYES. As I understand it, there is a clerk at the present time, or was about a week ago, who receives \$1,600 a year for his salary.

Mr. SPARKS. I will state to the gentleman that there is no estimate for any clerk at the Dakota superintendency.

Mr. HAYES. Is there not a clerk there now, and did not he receive \$1,600 last year?

Mr. SPARKS. That is in the central superintendency in Dakota.

Mr. HAYES. It is all the same, except a change of name.

Mr. SPARKS. The gentleman will find that there is no clerk at the Dakota superintendency.

Mr. HAYES. The two superintendencies have been consolidated and they are now under a new name. Last year they had a clerk for that superintendency who received \$1,600 a year, and that is all I ask for now.

The question was taken upon the amendment offered by Mr. HAYES, and it was not agreed to.

The Clerk resumed the reading of the bill, and read the following, in relation to the Chippewas of the Mississippi:

For thirty-second of forty-six installments, to be paid to the Chippewas of the Mississippi, per third article of treaty of August 2, 1847, and fifth article of treaty of March 19, 1867, \$1,000.

For fourth of ten installments of annuity in money, last series, per third article of treaty of February 22, 1855, and third article of treaty of 1854, \$20,000.

For the support of a school or schools upon said reservation during the pleasure of the President, in accordance with third article of treaty of March 19, 1867, \$1,000.

Mr. STEWART. I desire to amend the bill by adding, after line 323, under that heading, "For pay of a physician, \$1,500."

Mr. SPARKS. I will state to the committee, Mr. Chairman, that there has been no estimate from the Department for the pay of a physician at this place. We have so far as that matter is concerned simply made up this bill in keeping with the direction of the Department estimates submitted to us. I ask attention to page 97 of those estimates in which it will be seen that these Chippewa Indians have had appropriated for them in this bill for annuities \$25,400 and the number of them is very small. We think they have got enough.

Mr. STEWART. The treaty stipulations with these Indians provide for a physician, but the treaty expires in July of this year and the matter escaped attention of the Department. They informed me that they had requested of the committee an appropriation which they deemed necessary for a physician at this agency. That necessity is so obvious that it is hardly necessary to detain the House by discussing it, but I think it of the utmost importance that at an agency of this kind where there are nearly two thousand people there should be a medical attendant.

Mr. SPARKS. Did I understand the gentleman to say that the Department had called my attention to this matter?

Mr. STEWART. I was assured two weeks ago that they had called the attention of your committee to the matter, and again this morning I was told so.

Mr. SPARKS. If they ever attempted to do it they failed. My attention was never called to this matter until this morning. Do I understand the gentleman to say that the treaty requires the Government to furnish these Indians with a physician?

Mr. STEWART. I think so.

Mr. SPARKS. When does that treaty expire?

Mr. STEWART. In July, 1878.

Mr. SPARKS. Precisely; and this is one of those matters which, under the rule universally adopted in the Department when the treaty stipulations expire, drop them from the estimate. We are now appropriating for the fiscal year ending July 30, 1879. This stipulation of the treaty expires this year on the 1st of July, and these Indians have no claim for a physician, and to provide them with one would be a gratuity, and I think from my examination of the affairs of this tribe that gratuities ought not to be given to it.

Mr. STEWART. If it be a gratuity I think that this great Government can afford to pay \$1,600 to provide this agency with a physician.

Mr. SPARKS. You cannot do it in this case without doing it for a dozen others.

The question was taken on Mr. STEWART's amendment, and it was not agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For gilling-twine for nets, \$400; in all, \$25,400.

Mr. CONGER. I move to amend that clause by inserting after the word "dollars," the words:

Provided that such gilling-twine, if imported, shall be admitted free of duty.

But there are several provisions in this bill for the purchase of gilling-twine for the Indians.

Now, the only twine suitable for gill-nets is imported from Ireland and it pays, if I remember aright, 60 per cent. duty. The Government is paying several hundred dollars, as appears from this bill, for the Indians.

Mr. KELLEY. The duty upon gilling-twine is 40 per cent.

Mr. CONGER. The gentleman from Pennsylvania informs us that the duty is only 40 per cent. Now, the law provides that when the

Government imports anything for its own use it shall be admitted free of duty, but here we are providing for this gilling-twine for the Indians under treaty stipulations and there is 40 per cent. duty on it. I find in this item \$400 for gilling-twine, and again in other places in the bill various appropriations for gilling-twine. Inasmuch as that twine is the only one suitable for gill-nets there is no reason why the Government should pay 40 per cent. duty upon it.

I have asked this House from time to time to admit gilling-twine free of duty for the benefit of our fishermen. Such a provision has passed this House once or twice but has failed to meet the concurrence of the other branch. Our treaty stipulations with Great Britain provide that Canadian fishermen who are allowed to import their twine free of duty may bring their fish free of duty to compete with American fishermen and Indian fishermen; yet our fishermen and the Indian fishermen are compelled to pay 40 per cent. upon this most expensive part of the fishermen's apparatus. The American or the Indian fisherman who competes with the Canadian fishermen in the very waters where these gill-nets are used must pay twice as much for exactly the same outfit as the Canadian fisherman pays; and mainly because he has to pay 40 per cent. duty on this very expensive twine for his net.

Mr. EDEN. Does not the duty paid on this twine go into the Treasury?

Mr. CONGER. It goes into the Treasury; but the Government buys this twine for the Indians. Now all the property that the Government buys for itself is by the law of the land admitted free of duty; but when the Government is using the money of the Indians, as in this case, to buy gilling-twine, those Indians are obliged to pay 40 per cent. duty out of their own money.

Mr. EDEN. Might not the Indian just as well pay this duty as the white man? We make the white man pay it.

Mr. CONGER. But the Government pays the money of the Indian for twine which it buys for him, and in doing so it makes him pay this duty out of his money.

Mr. EDEN. I have made a point of order on the amendment.

Mr. BAKER, of Indiana. I desire to reserve the point of order, but I want to make a statement. It is not true, as stated by the gentleman from Michigan, that there is any treaty stipulation by which any definite sum of money is allowed to these Indians for gilling-twine. Four hundred dollars, the amount proposed in this bill, is the exact sum recommended by the Department as necessary to be expended for the purchase of gilling-twine for these Indians. If the provision suggested by the gentleman from Michigan should be inserted in the bill, the simple effect would be to enable the Government to purchase this twine without the payment of duty. The Government, when it purchases these imported goods, is compelled to pay the duty as a part of the price, that duty coming back into the Treasury. If these twines are to be admitted free of duty this appropriation should be cut down to \$300 or less, which would be all that would be needed; for, as I have said, no treaty with these Indians specifies that any particular amount of money shall be spent for gilling-twine; the provision simply is that the Government shall furnish the Indians with this twine. We propose by this bill to give the full amount of money that the Commissioner of Indian Affairs says is necessary in the present state of the market to buy this twine. If you remove the duty and allow the appropriation to remain as it is, you simply require that these Indians shall be furnished with more twine than the Department says they need.

Mr. CONGER. I move to amend the amendment by striking out the last word.

Mr. EDEN. I have made a point of order on the amendment, when first offered, that it proposes in an appropriation bill to change the tariff laws.

Mr. CONGER. Now, I make a further remark—

The CHAIRMAN. The Chair will hear the gentleman on the point of order.

Mr. CONGER. Not on the point of order. It is too late to raise that. The amendment has been debated.

Mr. EDEN. I made the point at the time the amendment was offered.

Mr. CONGER. Then I withdraw the motion and renew it.

Mr. BAKER, of Indiana. Now that the amendment is renewed, I make the point of order that it is new legislation and does not tend to a reduction of expenditures.

Mr. CONGER. Now, Mr. Chairman, I wish to correct the gentleman.

Mr. BAKER, of Indiana. I call for the decision of the Chair on the point of order.

Mr. CONGER. The gentleman has himself debated the motion, and should be the last man to insist on the point of order.

The CHAIRMAN. The gentleman from Michigan desires to be heard a moment on the point of order. The Chair thinks the committee will save time by hearing him. [Laughter.]

Mr. CONGER. I think so too. Now, in reference to the point of order, this provision is for the thirty-second of forty-six installments to be paid to the Chippewas of Mississippi by the third article of the treaty. This is money which by the treaty the United States Government is to expend for certain things for the benefit of the Indians. Whether this expenditure is more or less, it is treaty money, and if my amendment prevails it would require but \$260 to get for the Indians the exact amount of twine for which otherwise \$400 must be

paid, so that there would remain so much more money to be expended for the benefit of the Indians. This is the truth of the matter. This is no change of law. This is saying how a particular amount of money shall be expended, and, as I understand, it is the proper amount for this purpose.

The CHAIRMAN. The effect of the amendment is to specially relieve this Indian fund from the payment of a duty of 40 per cent. now imposed on twine of this description. Its effect will be to change the general law. It is therefore not in order to an appropriation bill. The Chair sustains the point of order and rules the amendment out. The Clerk proceeded with the reading of the bill.

Mr. SPARKS. I move to amend in line 961 under the heading of "Sacs and Foxes of the Mississippi," by inserting after the word "school" the words "a farmer for the Sacs and Foxes of the Mississippi at the agency in Iowa;" so it will read as follows:

For interest on \$200,000, at 5 per cent., per second article of treaty of October 11, 1842, \$40,000: *Provided*, That the sum of \$1,500 of this amount shall be used for the pay of a physician and for purchase of medicine, and the further sum of \$1,000 for the support of a school and a farmer for the Sacs and Foxes of the Mississippi at the agency in Iowa; in all, \$51,000.

The amendment was agreed to.

The Clerk read as follows:

REMOVAL, SETTLEMENT, SUBSISTENCE, AND SUPPORT OF INDIANS.

For support of industrial schools and for other educational purposes for the Indian tribes, \$60,000.

Support of Chippewas on White Earth reservation:

For this amount, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior, in the care and support of the Otter Tail, Pillager, Pembina, and Mississippi Chippewa Indians, on the White Earth reservation in Minnesota, and to assist them in their agricultural operations, \$5,000.

Mr. POUND. I move to insert after line 1343 the following:

Support of Chippewas of Lake Superior at the La Pointe agency:

For this amount or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior in erecting agency buildings, purchase of goods and supplies for the aged, sick, and infirm, or in any other respect to promote their civilization, comfort, and improvement, \$2,000.

I desire to have the attention of the committee and of the gentleman having this subject in charge.

Mr. BAKER, of Indiana. I did not quite catch the amendment moved by the gentleman from Wisconsin, and hope it will be again read, to see whether it is not amenable to the point of order.

The amendment was again read.

Mr. BAKER, of Indiana. I make the point of order that it is new legislation not in the interest of economy. It is not warranted by existing law. I desire to say to the gentleman from Wisconsin that he will find under the provisions of this bill, so far as the Chippewas of Lake Superior are concerned, every dollar is appropriated asked for in the Book of Estimates which I hold in my hand.

Mr. POUND. Mr. Chairman, I represent a few red men, and however unwarrantable the presumption may be, nevertheless I believe I will assume to know something about my constituency, including those red men. While I have the utmost confidence in the ability, integrity, and good intentions of the Committee on Appropriations, I think they have omitted this item from some misunderstanding of the situation. Now, in reference to this agency, known as the Chippewas of Lake Superior, I only desire to say—

Mr. BAKER, of Indiana. I wish to ask the gentleman from Wisconsin a question, and that is to ask him whether he claims this amendment is authorized by existing law?

Mr. POUND. I do.

Mr. BAKER, of Indiana. Where is the law for it?

Mr. POUND. I have not the time just now to hunt it up, but it will be found in the law of common sense. [Laughter.]

Mr. Chairman, this amendment relates to the Chippewas known as the Chippewas of Lake Superior at La Pointe, Wisconsin, and includes reservations known as Flambeau, Lac Courtes Oreilles, Bad River, Red Cliff, Grand Portage, Fond du Lac, and Boies Fort. The appropriation distinctively named in this bill includes the first six reservations as beneficiaries, the latter being included in another item. There is appropriated for this agency the sum of \$15,800 for all purposes. The amount estimated by the Department is \$17,800. The Department failed to include in their estimate the item recited in the amendment. Of this \$15,800, \$8,500 is required to pay employés for this agency, including these six reservations which I have named; leaving less than \$5,000 to be distributed among more than four thousand Indians. And I wish to say to the committee that it is the rule in this agency to distribute no moneys—

Mr. BAKER, of Indiana. I insist on my point of order.

Mr. POUND. I hope the gentleman from Indiana will not insist on the point of order. It is not often that I occupy the floor, and I think that the House might afford to hear me once for the space of five minutes. I was saying it is the rule of this agency to disburse no moneys except for labor actually performed, and the amount appropriated leaves the sum less than \$5,000 for more than four thousand Indians, none of which is to be distributed except for labor performed. Now, the important point I wish to reach is this, that the agency buildings have been destroyed by fire recently. In January last the agency buildings at Red Cliff were entirely destroyed, and within the last two years the blacksmith's house and the farmer's house at Bad River have been destroyed, and this small sum is required to rebuild the agency buildings, which are indispensable, and the farmer's and blacksmith's houses, which are also indispensable, and

for the further purpose, if there be anything left, of maintaining about four hundred old and infirm Indians who are unable to work, and therefore not entitled to any part of the appropriation applicable for labor.

Mr. SPARKS. I ask the ruling of the Chair on the point of order.

The CHAIRMAN. The gentleman from Wisconsin offers an amendment appropriating \$2,000 for the purpose therein stated. The gentleman from Indiana [Mr. BAKER] raises the point of order that there is no legislation authorizing such an appropriation—

Mr. POUND. I insist that it is a capitious point. The clause just read by the Clerk, to which this is an amendment, is equally liable to the same point of order.

Mr. BAKER, of Indiana. I should be very glad to accommodate the gentleman, but as we have provided in the bill the entire amount estimated for by the Department, I do not believe it is right to appropriate for the purpose named in the amendment.

The CHAIRMAN. The gentleman from Indiana made the point of order that there was no law authorizing the appropriation asked for by the amendment. The gentleman from Wisconsin insisted there was, and quoted the law of common sense, as the Chair understood him, as his authority. The Chair thinks that will hardly bring this amendment within the rule which requires appropriation authorized by statute law.

Mr. POUND. The common sense of this House will readily understand that the law applies just as much to my amendment as to the item which was last read.

The CHAIRMAN. The gentleman from Wisconsin now insists that if there be any provision of law for the paragraph reported by the Committee on Appropriations it may cover his amendment as well. That may be so. The Chair does not know whether it is so or not. The Chair thinks, therefore, the question will be most quickly and fairly disposed of by submitting to the committee whether they will receive this amendment of the gentleman from Wisconsin or not.

The question being taken on agreeing to the amendment, there were—ayes 50, noes 72.

Mr. POUND. I call for tellers.

Tellers were not ordered.

So the amendment was not received.

The Clerk resumed the reading of the bill, and read as follows:

For support of the Tonkawa Indians at Fort Griffin, Texas, \$2,000.

Mr. THROCKMORTON. I offer as a substitute for the paragraph just read the amendment which I send to the desk.

The Clerk read as follows:

That the sum of \$2,500 be, and the same is hereby, appropriated for the benefit of the Tonkawa Indians, now at the military post at Fort Griffin, Texas; that the money herein appropriated shall be expended for the benefit of such Indians by the commanding officer at Fort Griffin, under such directions as may be prescribed by the Commissioner of Indian Affairs: *Provided*, That no part of such fund shall be applied to the removal of said Indians from the vicinity of such military post to any Indian reservation: *And provided further*, That such appropriation shall be applied *pro rata* to such Lipan Indians as may have heretofore been incorporated into the Tonkawa tribe, and which still reside with such tribe.

Mr. SPARKS. I make the point of order on that amendment.

The CHAIRMAN. What is the gentleman's point of order?

Mr. SPARKS. My point of order is that there is an increase of \$500 for which there is no law, and it is not in the interest of economy.

Mr. THROCKMORTON. Before the gentleman makes the point of order, I ask that he will at least hear me while I state the reasons why I offer the amendment.

Mr. SPARKS. I am willing to hear the gentleman, of course.

The CHAIRMAN. The Chair overrules the point of order. The bill makes a distinct appropriation for the Tonkawa Indians. This amendment increases that particular appropriation. If there be any law authorizing this appropriation at all, it is in order for the committee to now increase it.

Mr. THROCKMORTON. I think the Chair is perfectly right in overruling the point of order; and I beg the committee to hear me state the reasons why I ask the increase of appropriation. I am quite satisfied if the committee understood the condition of those Indians and their situation they would not hesitate in agreeing with me in opinion on this subject. These Indians are not within any reservation provided by the Government for Indian tribes. They are Indians that belonged to Texas from the earliest settlement or knowledge of that country. They never have been at enmity with the white race. In all the Indian wars of Texas in the Southwest these Indians have always been on the side of the white people. Before the late war, the Federal Government removed these Indians to the reservation that was then at Fort Cobb, in the Indian Territory.

From the fact that these Indians have always been upon the side of the white people in the various wars with the Indian tribes, the Indians on the reservation at Fort Cobb in 1860 or 1861 made an attack upon these Tonkawa Indians and almost entirely destroyed them. After a fight of two days, there were less than one hundred and fifty left of a once powerful tribe. If there were no other reason than the fact that they have always been upon the side of the white people in the Indian wars, they ought to be taken care of. The remnant of the tribe fled from their reservation at Fort Cobb to Texas, and they were supported by the people of Texas until three years ago when Congress made an appropriation of \$2,000 for their support. At the last session they made an appropriation of \$2,500 in the precise form in which my amendment is drawn. It is the identical pro-

vision cut from the bill of last year. These Indians are far from the reservations and no provision has been made to school their children or to give them any of the advantages which are given to other tribes. I propose that the appropriation shall be increased \$500 and then I shall offer a further amendment that that \$500 shall be used for the purpose of purchasing not less than one hundred and sixty acres of land near a military post where the Indians can be located and can improve themselves in agriculture, &c.

I would say further that a few warriors belonging to this tribe have been since the war employed as scouts and trailers for the Army. They cannot go upon any of the Indian reservations because they have been at war for years with the wild tribes and they are obliged to remain in the white settlements or near a military post for protection. I hope, therefore, the committee will accept the amendment.

Mr. BAKER, of Indiana. How many of these Indians are there? Mr. THROCKMORTON. One hundred and thirty according to the last census reported by the Commissioner of Indian Affairs. An additional appropriation of \$500 would buy them one hundred and sixty acres of land, and in that way they can be located near a military post, and raise stock and make a subsistence for themselves. You have provided in one of the provisions immediately preceding this that Indians who have been in hostility to the Government shall be removed to reservations and provided with a home, and I trust the committee will adopt the amendment.

Mr. SPARKS. The point of order I made was certainly good, and I think the Chair would think so, if he would hear me upon it.

The CHAIRMAN. Certainly the Chair will hear the gentleman.

Mr. SPARKS. This appropriation is not based upon any treaty or any law governing this subject. There was an appropriation last year and the year preceding for this tribe, and it is called in the Book of Estimates an appropriation, but it is not stated to be under treaty or law. There is none. It is a gratuity, a gift, and we propose to give them this year \$2,000. Hence I presume that the appropriation in the bill would be subject to a point of order. It is not based upon any law or treaty, but if that point is not made, and I suppose it will not be made by the gentleman from Texas, and he proposes to increase the appropriation, I make the point of order that it is not founded on existing law, and increases expenditures in place of being in the direction of economy. That is all I have to say.

Mr. CLYMER. I desire to be heard one moment on the point of order. The practice is that when appropriation bills are referred to the Committee of the Whole on the state of the Union points of order are usually reserved, but I believe that was not the case in reference to this bill; hence the point of order could not be made upon any provision inserted in the bill by the committee to make donations of this kind. The point of order could not be made upon the provisions of the bill unless points of order had been reserved, and that not being the case the provision inserted by the committee is not subject to the point of order; but the uniform practice has been that if an attempt is made to increase the amount of such appropriation the increase is liable to a point of order.

Mr. REAGAN. There is already an appropriation in the bill of \$2,000 for these Tonkawa Indians. Last year an appropriation of \$2,500 was made for this tribe. I submit that the increase of an appropriation already in the bill is not subject to a point of order, for, if it were so, then the action of the Committee on Appropriations would be conclusive on the House, which cannot be permitted.

The CHAIRMAN. The Chair desires to say that there is no rule which makes the increase of an appropriation out of order. There are two general rules in regard to amendments; one is that amendments must be germane, and the other that they shall not change existing law. There is a further provision which permits amendments which do change existing law and which would therefore be out of order, provided they reduce expenses—

Mr. BAKER, of Indiana. This amendment does change existing law. It provides for new legislation that has not heretofore existed.

The CHAIRMAN. The pending amendment would be out of order provided it changes existing law; but the committee have introduced a clause upon the very subject to which the amendment relates, making provision for these identical Indians, and the amendment is certainly germane to that provision; it increases the amount from \$2,000 to \$2,500. Now the Chair understands the gentleman from Indiana [Mr. BAKER] to say that because there is no law for the appropriation recommended by the committee the amendment must be ruled out, although the recommendation may be acted on. Is the Chair right in so understanding the objection of the gentleman?

Mr. BAKER, of Indiana. The Chair will pardon me. The amendment not only proposes to raise the amount reported by the Committee on Appropriations from \$2,000 to \$2,500, but it goes on and makes specific directions as to how this money shall be disbursed; provides for the purchase of land for these Indians, and for placing them under the control of the War Office.

The CHAIRMAN. If that be so, the portion of the amendment directing how the appropriation shall be expended would be out of order, but not the mere increase of the amount appropriated. The point of order raised by the gentleman from Illinois [Mr. SPARKS] that the amendment increases the amount appropriated will be first ruled upon by the Chair. The Chair thinks that where a committee introduces a bill into this House making an appropriation, when the

House comes to consider the bill, whether the appropriation recommended by the committee be authorized by existing law or not, it is within the power of the committee to increase the amount proposed to be appropriated. If they can act on the subject at all, they can act on the amounts proposed. The Chair therefore thinks that the amendment is not out of order on the ground that it proposes to increase the amount recommended to be appropriated. As to the objection now raised by the gentleman from Indiana to the other part of the amendment, that it changes existing law in the limitation which it puts upon the method of expending the appropriation, the Chair would be glad to hear from the gentleman from Texas.

Mr. THROCKMORTON. I cut this amendment from the law of last year.

Mr. BAKER, of Indiana. That which the gentleman styles the law of last year was simply an appropriation which expires by its own terms at the expiration of the fiscal year.

Mr. THROCKMORTON. The gentleman from Indiana is mistaken in regard to my amendment relating to the purchase of land. I said that if this amendment should be adopted I had another which I propose to offer, directing that the additional \$500 should be expended in the purchase of land.

I will state another thing to the committee. I have not the law before me, but I will state that these Indians were included in treaties made with them by the United States before the late civil war. They were then removed with various other Indian tribes from Texas to the agency at Fort Cobb. They were at that agency at the time the late war began, and at the time they were driven out from there by the other Indians. They went back into Texas and have been taken care of by the people and State of Texas since that time, and no attention was called to them until about three years ago. Then for the first time since the war an appropriation was asked for them.

The CHAIRMAN. The Committee on Appropriations having brought in an appropriation of \$2,000 for the Tonkawa Indians, the gentleman from Texas moves to increase the amount to \$2,500 and to place a limitation upon its expenditure. The Chair holds that the amendment so far as it proposes to increase the appropriation is in order. In reference to the limitation upon its expenditure the Chair is not informed in regard to what the law is in reference to the restriction upon the appropriation. He will therefore give the committee the benefit of the doubt and rule the amendment in order.

The question was taken upon the amendment moved by Mr. THROCKMORTON; and upon a division there were—ayes 22, noes 48.

Mr. THROCKMORTON. I call for tellers.

Tellers were ordered; and Mr. THROCKMORTON and Mr. SPARKS were appointed.

The committee again divided; and the tellers reported that there were—ayes 34, noes 70.

No further count being called for, the amendment was not agreed to. Mr. THROCKMORTON. I will move as a substitute for the clause under consideration the amendment which has just been rejected changing the amount from \$2,500 to \$2,000.

Mr. SPARKS. I have no objection to that; it is the same that was in the last Indian appropriation bill.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following:

Payment to Flatheads removed to Jocko reservation, Montana:

For six of ten installments of \$50,000, to be expended under the direction of the President, for the Flathead Indians removed from Bitter Root Valley to the Jocko reservation, in the Territory of Montana, \$5,000.

Mr. MAGINNIS. I move to amend the paragraph just read by inserting that which I send to the Clerk's desk.

The Clerk read as follows:

Provided, That this amount shall be divided equally between those Indians who have removed to the Jocko reservation and those who remain in the Bitter Root Valley, if in the judgment of the President such division is consistent with existing obligations to said Indians.

Mr. MAGINNIS. I would like to explain this amendment for a moment. At the time the original treaty was made with the Indians in the Bitter Root Valley there was an additional reservation for the Flathead and other tribes. Some of the Indians settled in the Bitter Root Valley and some on the Jocko reservation. In order to settle the dispute between the Indians and the whites a commission was appointed in 1872, of which General Garfield was the head—I do not know but what he was the whole of the commission—to endeavor to get the Indians to give up their lands in the Bitter Root Valley and to remove to the Jocko reservation. A contract was made with them for that purpose, but only some seven families out of fifty-seven removed to Jocko. This money was paid these Indians for their land in the Bitter Root Valley. In order if possible to get the whole tribe to remove to the Jocko Valley this proviso was put in the first appropriation bill:

And provided further, That no part of said sum shall be paid to any Indian of said tribe who shall not have settled upon the Jocko reservation.

Now, this \$50,000 for the lands of these Indians belongs to all these Indians whether they come on the Jocko reservation or not. Up to this time only some seven or eight families have settled over on the Jocko, and they get all the \$50,000. The other Indians under Chief Charley still live in the Bitter Root Valley. When the Nez Percés, their relatives, came over into that valley, although they felt injured by the giving of all this money to the other families of their

tribe, Chief Charley and his Indians remained loyal to the United States. I have investigated this matter and I trust the House will see the justice of the amendment which I have proposed. It is all left to the discretion of the President, and I think the amendment should be adopted as a matter of justice to the Indians.

Mr. GARFIELD. I would not, for one, consent to this amendment at all if it could be construed into a violation of any treaty made with these Indians. It was considered very important at the time that the whole of this tribe should go on to the Jocko reservation. They were permitted by the Stevens treaty to remain in the Bitter Root Valley only temporarily until some permanent reservation could be established for them. When at last the Jocko reservation was selected and made their permanent residence, it was their duty under former treaties to go there.

Mr. MAGINNIS. But the law allowed such as chose to remain to take up homesteads in the Bitter Root Valley.

Mr. GARFIELD. Of course, I speak of them as a tribe. When I visited that tribe in 1872, under the direction of the President, for the purpose of negotiating their removal, I found this man Charley, the chief of the tribe, to be a very intelligent and enterprising man, and I found that down at the bottom of his feeling in this matter was a very strong desire to remain where his ancestors had lived—a feeling creditable to him. He was unwilling to leave that place, even for large pecuniary advantages. He gave up all his legal rights, I suppose, in the treaty except his right to take up a farm for himself in the Bitter Root Valley. But while he may have no legal claim on this \$5,000 a year, yet he and those with him in the Bitter Root Valley behaved so splendidly in the late Indian hostilities (he telling the other Indians that if they undertook to interfere with the whites at all he would himself join the whites and fight his own brethren) that if the President can find it consistent with the treaties to do what is here suggested, and pay Charley and his portion of the band remaining in the Bitter Root Valley a share of this money, I shall be very glad to see it done. For this reason I hope that the pending proposition, which is permissive only, will be allowed to pass.

I want to say a single other word on this subject. This tribe of Flathead Indians from the days when Lewis and Clarke in 1804 passed through that country on the grandest of American explorations, have been found not only very bright and intelligent but an exceedingly kind-hearted, generous people. They received Lewis and Clarke like old friends. It is the boast of that tribe that they have never slain a white man, have never been hostile to the white people. They are on the average far more intelligent than most of the Indians of that country. They live in one of the loveliest valleys I have ever seen; and I really do not blame them for desiring to remain there. It seems a little hard that those who from love of the old place stay by it and neglect to go to the reservation should get no part of this money. I think the amendment should prevail.

Mr. BAKER, of Indiana. I have made a point of order that the proposed amendment changes existing law and is not in the interest of economy. In reference to that point I wish to say that the agreement known as the "Garfield agreement," made on the 27th of August, 1872, for the purpose of inducing these Flathead Indians to remove from the Bitter Root Valley and settle in proximity to the Indian agents, was signed by only a portion of the Indians. As stated in the report of the Commissioner of Indian Affairs—

Charles, the son of Victor, and hereditary chief of the tribe, chose not to sign the agreement, and still resides in the Bitter Root Valley, where he cultivates the soil and refuses to leave the home of his fathers. The whole Flathead tribe, consisting of nearly four hundred souls, with the exception of the few families who removed to this agency, adhere to Charles and follow his fortunes, choosing rather to eke out a livelihood by their own exertions in the neighborhood of their venerated chief than to accept the bounty of the Government and leave their homes.

The Flatheads who have removed to the agency are alone entitled by the terms of the treaty to participate in this fund. I believe that the provision of the existing law forbidding the payment of any of this money to these Indians unless they settle at the agency is a wise one. It ought to be the policy of this Government to settle all the Indians of this country at agencies having known and fixed limits. I insist on the point of order.

Mr. MAGINNIS. I wish to say a word on the point of order. I insist that any provision of law which does not increase appropriations and which has a tendency to do justice to a loyal and worthy tribe of Indians, and probably prevent a long and expensive war, is decidedly in the interest of economy. And I beg to call the attention of the chairman to this point: that while the facts are as stated by the gentleman from Indiana, [Mr. BAKER,] those Indians were authorized by law to take up homesteads in the Bitter Root Valley; and if this money, the common proceeds of their common lands, belongs to these Indians, it is not right to say to them "You shall not have it unless you give up your homes and remove to an Indian reservation." I cannot see that the amendment will do any harm.

Mr. SPARKS. Why, sir, I can see that the amendment may do all the harm in the world. It will allow refractory bands of Indians to receive the same as those who obey and stand by the agreement. I understand the gentleman from Ohio [Mr. GARFIELD] to concede the fact that according to the agreement these Indians were to remove to the Jocko reservation, and if they did so were to receive \$5,000. Now, some pretty good Indians have refused to remove; yet if we give this \$5,000 to all alike, how do we treat the faithful Indians who

have kept their agreement? Most of these Indians have refused to go; so that those remaining in the Bitter Root Valley would receive the greater part of this appropriation, while those who have been faithful to the agreement would be in a great measure cut off.

Mr. MAGINNIS. Allow me to call the gentleman's attention for one moment—

Mr. SPARKS. If I am wrong in my statement, of course I desire to be corrected.

Mr. MAGINNIS. It simply says if in the judgment of the President it is in accordance with the provision of the treaty.

Mr. SPARKS. Precisely. Now, the last appropriation was exactly like this, and it has been up to this hour recognized: that portion of the Indians who have removed to the reservation according to the agreement and are upon it shall receive this money. It is within the power of those who have not removed to get their share as soon as they do remove to the reservation in accordance with the terms of the agreement. That is all there is of it.

Mr. GARFIELD. I would not make it obligatory upon the President.

The CHAIRMAN. The portion of the bill proposed to be amended provides for the payment of the sixth installment of \$50,000 to be expended for the Flathead Indians removed from Bitter Root Valley to the Jocko reservation in the Territory of Montana. The treaty providing for the payment provides that it shall be made only to the Indians upon their removal. It would obviously be a change of existing law to provide in this bill that a portion of the money so due should go to those who had not removed to the reservation. The amendment, therefore, is subject to the point of order that it changes existing law and must be ruled out unless it can be regarded as reducing expenditure. The gentleman from Montana Territory insists this amendment will prevent an Indian war and therefore is in the line of retrenchment. That possible result does not bring it within the terms of the rule. In the judgment of the Chair it must appear from the face of the amendment itself that it relates to amounts or otherwise tends directly to reduce expenditures. Therefore the amendment cannot on that ground be ruled to be in order.

The amendment further provides that the payment shall be made at the discretion of the President, should he find it in accordance with existing law. But since, according to the statement of the gentleman from Indiana, which is not disputed, the existing law does not authorize the payment, to give the President power to make an unauthorized payment provided he should think it authorized would not make the amendment in order. The Chair is therefore constrained to rule the amendment out of order.

The Clerk read as follows:

Incidental expenses of Indian service in Washington: For general incidental expenses of the Indian service and pay of employees and the support and civilization of Indians at Colville and Nisqually agencies, \$20,000.

Mr. SPARKS. I move in line 1465 to add the following:

Provided, That the sum of \$1,000 of said appropriation shall be applied to the support of a school for the Cœur d'Alène Indians in Idaho, attached by executive order to the Colville agency.

The amendment was agreed to.

Mr. SPARKS. I yield now, Mr. Chairman, to the gentleman from Ohio [Mr. MONROE] who wishes to make a statement.

Mr. MONROE. Mr. Chairman, while the reading of this bill was going on I received at the door a card from the Commissioner of Indian Affairs, which was handed to me because at the moment he could not reach the chairman of the committee. This card contains a proposition for a further reduction of the expenses for Indian affairs to the amount of \$3,100, a net reduction of that amount. As it is somewhat unusual for the heads of bureaus to pursue us into this Hall in order to get the total appropriations for their bureaus reduced, I think the proposition is worthy of a moment's unanimous attention from this Committee of the Whole.

The Commissioner of Indian Affairs says, in substance, on the card I hold in my hand, that he became convinced, on further inquiry and investigation this morning and upon meeting an inspector who had returned, I believe, from the West, that the Dakota superintendency of Indian affairs could be dispensed with; and hence he proposes there shall be no appropriation in this bill for either the superintendent or his clerk, or for incidental expenses for that superintendency for the coming fiscal year. This will reduce the amount appropriated in this bill \$2,000 for the salary of the superintendent, \$1,200 for the salary of his clerk, and \$800 for incidental expenses for the Dakota superintendency, making a total of \$4,000. But the Commissioner also proposes that the committee shall consent to restore the salaries of the three inspectors to the amount which they now receive. This bill reduces these salaries from \$3,000 to \$2,700, making a saving of \$300 on the salary of each inspector, or an aggregate saving of \$900. That amount deducted from \$4,000 of reduction makes a net saving of \$3,100.

Mr. SPARKS. I wish to say to my friend from Ohio, of course I cannot accept for the Committee on Appropriations the amendments he suggests, but so far as I am concerned I agree with him. I think the abolition of the superintendency of Indian affairs at Dakota would impose additional duties upon these inspectors and believe their salaries ought to be increased to the amount they now receive. So that I agree thoroughly with what the gentleman from Ohio suggests, though I cannot accept his amendment on the part of the

committee as I have no authority to do so. Personally I agree to it. The proposition of the gentleman, as I understand, is to strike out the appropriation for the Dakota superintendent and his clerk, amounting to \$3,200—

Mr. MONROE. And incidental expenses.

Mr. SPARKS. Yes, and incidental expenses—making \$800 more; and then to add \$300 to the salary of each of three inspectors. I think it is a good suggestion and concur in it.

Mr. JONES, of Ohio. Would it not be a good suggestion to make this reduction without at the same time increasing the salaries of the inspectors?

Mr. MONROE. No. These three inspectors, the Commissioner informs me, are the great safeguards of the Government against fraud in this department. The department wants men of the highest character and intelligence for that position and generally has them. These three men have to inspect all the transactions of the Indian department. They examine contracts; they inspect supplies; they visit Indian agencies; they take this whole responsibility of the protection of the Government against dishonesty and fraud upon themselves. They have been paid \$3,000 for this service. This bill proposes to reduce this salary to \$2,700. The Commissioner wishes the salaries to be restored to \$3,000. I ask unanimous consent to go back and offer the amendments which I have indicated.

There was no objection.

Mr. MONROE. I now move to amend by striking out lines 8, 9, 10, 11, as follows:

For pay of one superintendent of Indian affairs for the tribes in Dakota, \$2,000.
For pay of one clerk for the Dakota superintendency, \$1,200.

The amendment was adopted.

Mr. MONROE. I offer the following amendment:

In lines 218 and 219 strike out "\$2,700" and insert "\$3,000," and strike out "\$3,100" and insert "\$3,000;" so it will read:

For pay of three Indian inspectors, at \$3,000 per annum each, \$9,000.

The amendment was agreed to.

Mr. MONROE. I offer the following amendment:

In line 1455 strike out "\$15,000" and insert "\$14,200;" so that it will read: "Incidental expenses of Indian service in Dakota: For general incidental expenses of the Indian service and pay of employes, \$14,200."

The amendment was agreed to.

Mr. MAGINNIS. I ask unanimous consent to go back to lines 47 and 49 of the bill and transfer the amount \$1,800 from the Crow agency to the Blackfeet agency and the amount \$2,200 from the Blackfeet agency to the Crow agency; so that it will read:

At the Blackfeet agency, at \$1,800;

At the Crow agency, at \$2,200.

Mr. SPARKS. I have examined this matter, and I think that amendment ought to be made.

The amendment was adopted.

Mr. SPARKS. I move that the committee rise and report the bill. The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. POTTER reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being the bill (H. R. No. 4549) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1879, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

Mr. SPARKS. I move the previous question on the bill and amendments.

The previous question was seconded and the main question ordered.

The SPEAKER. The question will be first on the amendments, and if there be no separate vote demanded the Chair will submit the question upon the amendments in gross.

No separate vote was demanded.

The amendments were concurred in. The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SPARKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I move that the rules be suspended and that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. EDEN in the chair,) and proceeded to consider the bill (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes.

Mr. ATKINS. Mr. Chairman, the bill before the committee contains the vitalizing elements of the Government and in a large degree represents the measure of the nation's power, extent, and authority. The Government, sovereign in all the extent of its powers exercised within their constitutional spheres, without money, must sooner or later fail in the execution of its functions. Revenue, therefore, is its

mainspring, and its appropriation is that power in action by which its whole machinery is operated and its prerogatives enforced. Its consideration, then, very properly and logically suggests the whole range of subjects of political economy connected with our finances, taxation, and expenditures, and particularly where the delicate right and power of taxation are lodged by the Constitution.

At a later stage of my remarks I will take a glance at these general subjects. For the present I shall confine myself to the points in this bill which distinguish it from the present appropriation law. The reduction in this bill below the present law has been reached by reclassification and administrative changes and the abolition of a few offices rather than by the general scaling of salaries. I invite the attention of the Committee of the Whole to the following comparison: This bill foots up \$14,735,670, being \$682,263.33 less than the law of 1876-77, and \$714,875.30 less than the present law. It is also less than the legislative, executive, and judicial appropriation act of the last session of the Forty-third Congress by the large sum of \$4,166,566.93. And it is less than the same act passed the last session of the Forty-second Congress by the still larger sum of \$6,048,230.80.

The first consideration which challenged the attention of the Committee on Appropriations, and which now appeals to the sober judgment of this House in the action it is about to take on this the most important appropriation bill, is, whether the Government's expenditures shall be kept within the revenues and appropriations made to meet the demands of the public necessities or whether we shall launch upon a scale of extravagance to satisfy the wants of the artificial tastes of the admirers of a "high-mounted" government, and thus force the Treasury into a state of bankruptcy and endanger the credit of the Government.

The Secretary of the Treasury informs the country, in his annual report to this House on the 1st of December last, that there was on June 30, 1877, a deficit of \$3,389,225.51 in the Treasury after discharging the amount due to the sinking fund, which was \$33,729,833.20. He has likewise made an estimate of the probable revenues for the fiscal year ending June 30, 1878, approximating the probable sum of \$265,500,000. He also estimates for the whole service, ordinary and extraordinary, for the same fiscal year, amounting to \$233,430,643.72, which leaves a surplus revenue of \$33,069,356.28. After discharging the amount due the sinking fund, which is \$35,424,804.80, there will be a deficit on this account of \$2,355,448.52. The estimated revenue for 1879 is \$269,250,000 and the estimated expenditures are \$280,688,796.38. The estimate for the sinking fund for that year is \$37,196,045.04, which leaves a deficiency at the close of the fiscal year ending June 30, 1879, of \$11,438,796.38. The honorable Secretary is frank enough to admonish the House that we must fall in our appropriation bills below his estimates over \$11,000,000. I am sorry that he did not present us estimates gauged to the standard of the revenues, since he admits that the estimates are at least \$11,000,000 too high.

If the Secretaries, heads of bureaus, chiefs of divisions, and chief clerks in the civil Departments of this Government, who are or should be intimately acquainted with all of the intricate and abstruse machinery of Government, cannot or do not, or what is worse, will not inform the committee where its extravagances are, point out its supernumerary officers and employes, indicate its useless officers and the very many abuses that need correction—if, in a word, the departmental officials do not enter with your committee heartily and patriotically into the good work of retrenchment and reform, the labor of your committee, thus unaided, can be but partially and imperfectly done, let their efforts be ever so industrious and searching. And without intending to prefer a wholesale indictment against the entire administration, for that would be unjust, as some of the officials have shown a commendable disposition to exhibit the internal workings of their particular offices, and to ascertain what reforms could be safely made, it is but too true that very little advantage has accrued to this committee in the way of retrenchment by suggestions from these officials, with a few noteworthy exceptions.

ECONOMY OR INCREASED TAXATION.

Now there is no disguising the issue. The frankness of the Secretary of the Treasury forces upon this House the decision of either practicing rigid economy or of increasing the burden of taxes upon the people, now made desperate by the ruinous policy of contraction and the class legislation of the last decade, which has made the rich richer and the poor poorer.

In periods of great pecuniary distress it is a safe maxim for individuals to live within their means. It is a good maxim at any time. It is, in my judgment, equally wise in governments to do the same thing. Whatever the advocates of liberal and magnificent appropriations for public works and highly salaried officers may claim of the world's *éclat*, and however pleasant it may be to receive the flattery of the interested jobber and his coterie of satellites for having by one's vote lavished not one's own, but the people's money upon objects uselessly and extravagantly, like Gil Blas and Signor Manuel Ordonnez, who got rich by administering the funds of the poor, no patriot will deny that a deep sense of mortification and national shame would be felt over the announcement that our country's Treasury is bankrupt. Hence it should be the polar star of your Finance Committee, seconded by a frugal and discreet economy upon the part of the appropriating power, never to allow the budget of expenditures to exceed the sum of the revenues, in other words, always to preserve

intact the surplus fund. That it is now in great danger of extinction, we have only to read the report of the Secretary of the Treasury as already intimated. To this I will again recur.

I will briefly mention certain general principles which have guided the committee in casting this bill; not that we have found it practicable in every instance to conform to the principle, for exceptional cases cannot be so compromised and will demand independent consideration and action. These exceptions will, I trust, commend themselves to the just judgment of this House. First, then, wherever a consolidation could be made without injury to either interest—as, for instance, following the example in the last Congress in the case of the Divisions of Loans and Currency, we have combined the Division of Loans with the Treasurer's Office, and we have consolidated the bureau of the Fourth Auditor with that of the Second, and that of the Fifth with the First, dispensing with the Fourth and Fifth Auditors and their respective deputies. These consolidations, we have the best of reasons to believe, can be made without injury to the public service. The duties of the Fourth Auditor relate almost entirely to the Navy, and their accounts can be just as well attended to by the Second Auditor, who now has in part charge of Army matters. In the case of the Fifth Auditor, by reference to the appropriations for this bureau it will be seen that there has been for a number of years a decline both in the force and the amount appropriated, and it is fair to suppose that there is a diminution in the business of the bureau. In the Second Assistant Postmaster-General's bureau we have consolidated the Division of Equipment with that of Inspection. We have abolished the office of chief clerk to the Third Assistant Postmaster-General, one of the heads of division acting in that capacity as well without inconvenience.

We have tried to eliminate from the service all supernumerary and war appointments that have thus far lingered superfluously upon the public Treasury that it is practicable to reach or that the country would justify. With this view we have reduced but have not entirely abolished the Bureau of Military Justice, leaving the Judge-Advocate at its head and two clerks. This bureau might have been very necessary during the war when the Army numbered hundreds of thousands of men, but when reduced to a peace footing the committee fail to see more need for it now than there was before the war. The military establishment was conducted then very successfully without this bureau; true, we had less red tape in those days but quite as much efficiency. The Military Committee two years ago and now advise its discontinuance as a useless, inconvenient, and expensive mode of enforcing obedience and discipline in the Army. Under this head the office of naval solicitor may be classed, which is abolished by this bill. It is difficult to see what necessity there can be for such an officer in view of the well-organized Department of Justice, with the Attorney-General at its head and a corps of skilled assistants, upon whom the responsibility of able and just interpretations of the laws devolve. The decisions of a subordinate could not be accepted as final; nor would it be sound policy thus to divide responsibility between the Attorney-General and one of inferior grade, although confined to naval matters.

Under this rule I doubt not, if the facts could be known to this House, as they are known to officers in the different Departments, there would be a long list of dead heads that would fall into the official waste basket. Thirty years ago Mr. Benton said that one-half of the expenditures of this Government could be abolished without injury to the service. That may not be literally true to-day, and yet no fact is better known than that our civil service needs reformation, especially in the reduction of clerical force. It is not possible that this Government needs over ninety thousand civil officers to conduct its affairs. Reform is not likely to be accomplished under the present party management. The mistake lies at the very threshold of this Administration. In a large measure the Cabinet ministers have all undertaken to keep in office the same chiefs and heads of bureaus and other leading officers that they found in when they took charge of their respective portfolios. They did this in conformity to that much-talked-of civil-service reform order of Mr. Hayes, which, as applied to the men to whom I refer, it would have been greatly better for the purification of the public service if it had been more honored in the breach than in the observance. Some of these officers are not willing to point out where the service can be reformed or expenditures retrenched. Extravagance has become the normal condition of their administrations, and hence they protest against any changes. Formerly, in many instances, the laws solemnly enacted were openly and flagrantly violated with impunity until many officials came to look upon the resolves and laws of Congress as possessing no greater sanctity or authority than the orders of a town council or the address of a chamber of commerce. Lest I may not be regarded as reckless in my statement, let me refer the House to section 162 of the Revised Statutes, which recites the hours of labor for the Departments, and then to ask the question if it is enforced in a single Department or bureau in this city, and I answer emphatically, no! The clerks and employés and laborers of the Departments work only seven hours a day, while the men who are employed to labor on public works and in private enterprises toil ten hours per day at less wages than the laborer of the Departments gets for seven hours' work, or mere attendance, as the case may be.

VIOLATION OF LAW BY THE DEPARTMENTS.

I will be pardoned for adverting to another matter in which I am

sure there is a failure upon the part of some of the Departments. Section 193 of the Revised Statutes reads as follows:

The head of each Department shall make an annual report to Congress, giving a detailed statement of the manner in which the contingent fund for his Department, and for the bureaus and offices therein, has been expended, giving the names of every person to whom any portion thereof has been paid; and if for anything furnished, the quantity and price; and if for any service rendered, &c.

The object of that law is to enable Congress to supervise with accuracy and precision all expenditures of the moneys of the Government by the officials, appropriated under the indefinite head of contingent and miscellaneous. A strict conformity to that law would operate as a powerful check to extravagance and corruption. Is it strictly obeyed? Again, section 194 of the Revised Statutes requires that—

The head of each Department shall make an annual report to Congress of the names of the clerks and other persons that have been employed in his Department and the offices thereof; stating the time that each clerk or other person was actually employed, and the sums paid to each; also, whether they have been usefully employed; whether the services of any of them can be dispensed with without detriment to the public service, and whether the removal of any individuals, and the appointment of others in their stead, is required for the better dispatch of business.

Is there a single Department in the Government that ever pretends to comply with the requirements of that law? Is there one? I do not believe there is. I do not hesitate to express my belief that, if that law were complied with, a considerable reduction could be made in all of the Departments in the clerical force and other employes. I believe the enforcement of that law and of section 162 regulating the hours of labor would enable the Departments to do the public business with 33 per cent. less force, quite as efficiently as it is now done, and of course at greatly less cost. It may seem ungracious to mention those things, but when I know so many people in this country who labor from year's end to year's end for less than \$1 per day, I cannot acquit my conscience without reference to it.

Congress requires that no appropriation for a specific purpose shall be expended for another and a different object, and yet this law is not invariably observed. On the contrary, it has been often violated.

These derelictions and violations of law were boldly charged upon the late administration in the Navy Department. Worse still, contracts were made with personal and party favorites amounting to millions of dollars without even authority of law. The same is true in the management of the affairs in this District. The remedy for all this rests with the people at the ballot-box. Nothing less than rigid accountability for our stewardship to the people will secure reform.

EQUALIZATION OF SALARIES.

Again, we have, as far as we have been able, equalized the salaries of officers of cognate duties and of like degree. The committee is well aware that on this point they are trenching upon disputed territory. There are instances in the officers of this House and in the different Departments which deserve equalization of salaries, there being already an equality of duties or service. But the most glaring inequality in salaries and disproportion in service of officers of equal rank is to be found in the force employed by the Senate, as well as in their greatly enlarged force in proportion to the relative numbers in each body. This bill seeks to equalize that difference both in respect to salaries and the number of force employed. The reduction in the regular clerical force in the Senate is only eleven and the increase in the House is only six. The Senate has yet greatly the advantage in proportion to numbers.

In reference to salaries I may be permitted to say that the committee has not undertaken to travel over much of the ground unsuccessfully undertaken in the Forty-fourth Congress. Quite a large number of salaries were reduced by the last Congress, and many were attempted but the reduction failed. In this bill we have reduced the salaries of officers in a few instances which were in excess of amounts received by other officers of the same rank and dignity to the level of the lower sums. In the case of messengers of this House and like officers of the Senate we have increased moderately the salaries of those few doing annual service and decreased in the same proportion those employed only for or during the actual terms of the sessions of Congress, of which there is a large number. In the matter of the host of messengers and laborers in the Departments, we have increased the number, but diminished the salaries and wages, thus affording employment to a greater number.

The committee have introduced into departmental service a new feature, to wit, the employment of pages at \$40 per month in lieu of the same number of assistant messengers, which we doubt not will work equally well for the public, and at the same time cost the Government less and afford more relief to a greater number of needy people. We abolished the office of messenger in the Departments altogether. It was thought by that means a greater force could be employed for the same money if the requirements of the service demand it, and accordingly have slightly increased the force of assistant messengers and pages and laborers. The committee have likewise graduated the number of the higher class clerks to the lower classes, thus reducing the number of the higher classes and increasing the number of the first class and the more subordinate classes, and have provided for a one-thousand-dollar class. In most instances the difference in compensation of the higher classes above the lower is much greater than their service or qualifications are superior to those who fill the lower class. Hence we have scaled the number downward, leaving

the salaries of the different classes the same as now fixed by the law of 1853. There is no hardship in this to any one, as employment is voluntary. The Government should only be required to pay in proportion to the service rendered. Except to equalize salaries and services of cognate offices, the committee have avoided entering to any great extent upon the consideration of the general reduction of salaries, as the whole subject has been so fully and elaborately discussed in the Forty-third and the last Congress. The committee think that the great error lies in the excessive numbers over the real requirements of the service, but how to ascertain who are supernumeraries is the insoluble perplexity.

The salaries of assistant messengers and laborers under the law are the same. No one will deny that the position of assistant messenger requires some more responsibility and a greater degree of intelligence than is necessary for an ordinary departmental laborer, whose principal duty is to bring in fuel, sweep floors, and cultivate a few ornamental shrubs and flowers. It seems to me that \$600 is enough for that kind of labor. Really, the term laborer, as applied to all this class of employes, is a misnomer. Their duties do not amount to either labor of the head or of the hands. These departmental attachés called messengers and laborers do not represent labor in its broad and real meaning. When a man works the whole year at hard labor, as thousands of my constituents do for \$200 per annum, and as men do in this city at \$1.25 for ten hours, doing all kinds of manual work, I call that labor. These departmental laborers receive under this bill \$600 for seven hours' so-called service that my constituents would call mere play.

The salaries of the privates of the Capitol police have been reduced from \$1,100 to \$1,000 each, the work being very light and subjecting the person to little or no exposure whatever.

The salary of the Solicitor-General in the Department of Justice is \$7,500, almost as much as the Attorney-General's. This bill reduces that salary to \$6,000, believing as we do that it is ample and ought to be satisfactory.

The salaries of the examiner and computer of bullion have each been slightly increased on the ground that \$2,200 and \$2,500 are not enough for the talent necessary to fill those places; this bill gives them each \$2,500.

The secretary to the President to sign land patents is left out by this bill; also the stamp clerk at San Francisco; and the fractional-currency clerk, the registered-interest clerk, and the superintendent of the building at Philadelphia, are dispensed with.

Three years ago the Third Assistant Secretary of State was created. Part of the time there has been no incumbent, and there is none at this time. We are entirely persuaded that none is needed. There are at this time in the State Department five chiefs of bureaus, and we are satisfied that three are ample to effectually perform the service required. The salaries of assistant examiners in the Patent-Office have been reduced because we believe, from the best information we can obtain, that neither the nature nor extent of their duties justifies the excess now allowed them over other clerical force.

The bill transfers from the permanent appropriations the provisions for the payment of the salaries and other expenses of the southern claims commission to the list of the annual appropriations, and reduces the salaries of the commissioners from \$5,000 each to \$4,000, besides reducing the contingent expenses and other salaries in the aggregate about \$7,000. This was done for the reason that this tribunal is not equal in rank and dignity or responsibility with the Court of Claims, whose judges receive \$4,500 each.

The committee concur in the general reduction to the legal minimum of the number of territorial councilmen and representatives and reduce their per diem from six to four dollars. The maximum number of councilmen is thirteen and there are twenty-seven representatives, except in Washington Territory where the representatives are thirty. And in all of the other Territories, with one exception, I believe, the maximum number is adopted. The committee are of the opinion that territorial legislators should not be better paid than very many of the States pay their own senators and representatives, not being generally superior either in intelligence or other qualifications for the faithful discharge of representative duty, although they are generally very intelligent bodies of men no doubt. A like reduction has been made in the salaries of the clerks and other officers and employes and in the contingent expenses of the Territories, which were based upon inflation prices. I may be asked why the committee did not reduce the salaries of Senators and Representatives. I answer, because they have been reduced by the repeal of the act of the 3d of March, 1873, while those to which I refer have not yet been brought down. Besides, the Forty-third and Forty-fourth Congresses discussed the compensation of Senators and Representatives until the country was disgusted, and finally settled upon the old compensation, with which the people are entirely satisfied. The man who has the qualities of head and heart to represent the intelligence, majesty, dignity, and sovereignty of the people, who makes their laws and frames their institutions, ought to have talents that would command in the business walks of life more clear profit than the most economical and frugal Senator or Representative realizes out of his salary.

If, then, we have diminished some salaries and increased a few others and others again are left untouched, it has been done in obedience to the law of the adjustment of compensation to service. That there are some salaries too high I do not doubt, but as there is no reason-

able hope of reduction as circumstances now exist, no time or effort has been wasted in what would be a fruitless attempt.

CHANGE OF ADMINISTRATION ESSENTIAL TO EFFECT COMPLETE CIVIL-SERVICE REFORM.

The time I hope will come when this whole subject can be intelligently and fairly investigated. That cannot be done until an entire administrative change shall take place. But that depends upon the will of the American people when they come to choose a Chief Magistrate. Without the co-operation of the Executive and the Departments Congress is powerless to perform a radical and thorough reform.

There is no doubt that there is great need of reform in our civil service, both in respect to the force employed and also to the compensation. The mighty army of officeholders and employes and agents pensioned upon the public Treasury is not only a heavy burden upon the people who supply them, but the effect upon the public mind in directing the attention of other hundreds and thousands to quit a better and more profitable business and to seek office as a means of support is not only demoralizing but injurious to the productive interests of the nation. There should be officers enough to discharge with facility and thoroughness the public functions of the Government at a rate of compensation which will enable them to maintain themselves and families comfortably. But the compensation should not so exceed the compensation of private avocations in ordinary business as to become a source of political emulation. If the salary of an office has sufficient profit above the ordinary expenses of such office as to excite general cupidity, it may be taken for granted that such salary will bear a reduction to the point below which this greed will not manifest itself. Of course salaries must vary in proportion to the talent required to perform the duties of the office, and in proportion to the dignity, importance, and responsibilities of the trust imposed. Hence it is proper that one salary should be greater than another.

Heretofore, the force employed for the executive office consisted, in part, in details from the different Departments and it was difficult to know the exact number of persons whose services were required. It was thought best to collect the entire force and appropriate directly the money necessary for the payment of the same, so that hereafter there would be no uncertainty as to that expenditure. We have done so in this bill; also provided in future for the exclusion of all details.

The provisions formerly made in the legislative, executive, and judicial appropriation bill for the benefit of the District of Columbia have been eliminated from this bill and will be embraced along with the usual items for the District in the sundry civil appropriation bill. This is done that the whole subject of appropriations for the District of Columbia may be more easily seen and understood, thereby affording the popular mind at least greater facility in understanding just what Congress appropriates for each specific object, and showing in a compact form the general aggregate appropriated.

The committee had hoped to see effected a reform in the general system of permanent appropriations which would have enabled them to dispense with many supernumerary officers and agents. The tendency to increase the number of permanent appropriations and magnify the amount should be not only checked, but the whole system in my judgment should be abolished, except the annual interest on the public debt and the amount set aside for the sinking fund, unless it should be deemed wise policy to repeal the latter law or dispend temporarily with its enforcement under the present embarrassment of the Treasury. To these might be added the permanent appropriation for the Marine Hospital, being a fund which is accumulated by small monthly savings of the men, which belongs exclusively to the men, Government exercising no control over it except to preserve it from waste and destruction.

But all other objects of permanent appropriation should be made annual for the reason that a supervision given every year to these appropriations would lessen the opportunities for their abuse and misapplication. By giving to them through proper agents, an annual inspection, a stricter and more correct account of them will be rendered to the Treasury Department, necessarily preventing many frauds and much extravagance which the present system of permanent appropriation is well calculated to foster and promote. There are about \$143,000,000 annually expended under this head and distributed to forty-two different objects.

It is believed that this permanent system superinduces negligence and irresponsibility in the disbursement of so large a sum of money, which must lead to extravagance, waste, and possibly corruption. The largest item, being four-fifths of the whole amount, comes under the head of interest on the public debt. That was made permanent that assurance might be given to the holders of Government securities of the prompt payment of interest as fast as it accrued. That and the Marine Hospital fund should constitute the only exceptions to the abolition of the whole system. The sum of \$5,500,000 for the expenses of collecting the customs revenue especially demands annual supervision. As this appropriation is removed from the immediate care of Congress ignorance of its administration to some extent necessarily follows. The responsibility is thrown upon the Treasury Department, and of course the same strict accountability is not rendered were the appropriation annually made from the Treasury by act of Congress.

EXTRAVAGANCE IN THE CUSTOMS SERVICE.

One of the abuses that loudly calls for correction in connection with

this subject is in the expensive machinery connected with the collection of customs, in the large number of custom-houses and the very meager sums collected from many of them. There are to-day thirty-six custom-houses which collect less than \$500 per annum, several less than \$100, and a few less than \$20. And yet large salaries and other expenditures are incurred aggregating far more than is realized from those offices. This evil should be remedied. The apology for it is that they are necessary to prevent smuggling. There is force in the suggestion. But could not all the machinery involving so much expense be dispensed with, and a single officer, an inspector or watchman, be left on guard at each custom-house to detect and report smugglers to the nearest collector. By this means a large sum could be saved and there would be no corresponding loss of the revenue by illicit importations. Reform in this direction should be led by the able Committee of Ways and Means and will doubtless receive attention as soon as time will allow.

AN ONEROUS TARIFF.

Returning to the consideration of the surplus fund and the laws governing the condition of the Treasury, it is a fact that under the operations of the highest tariff known to our laws, a tariff from which the advocates predicted the most overflowing Treasury, the statistics show a constant decline of customs revenue and the deficit has been remedied by a resort to a burdensome system of excises upon American labor and industry. Agriculture, the noblest and the surest of all pursuits, has been made to bear the burden of government in an unequal and unjust degree, which a ruinous financial policy, harnessed to a decaying system of impost duties, has inflicted upon the country and is simply disastrous in its consequences, baffling all description. No parallel in all history equals the wide-spread apprehension which now threatens general financial disaster and bankruptcy, both to people and Government, unless it be at the close of the first quarter of the present century in England under the operation of similar laws and like causes which now so unhappily prevail in this country.

In but few instances in the history of the Government in time of peace has the surplus fund in the Treasury been totally absorbed until this instance, the immediate embarrassment of which is not felt because of the presence of the greater portion due the sinking fund and of the coin hoarded in the Treasury for resumption purposes. Each of these was preceded by a financial panic, which bowed for the time being every interest before it as with the fury of a tropical hurricane.

These panics were short lived, however, and were the result of a system of local banking without adequate guarantees to the note-holder and destitute of protection to the depositor, and in most instances were controlled by a spirit of gambling and reckless speculation, the sure precursors of irresponsibility and failure. This financial crisis does not result, like those referred to, from too much bad money, but from the opposite cause; from too little money at reasonable rates of interest, and from the unequal and unfair distribution of the circulation and other causes, which are drying up the resources of industry and labor and depleting private as well as public revenues. We are brought, unpleasant as it may be to acknowledge it, to confront the serious and embarrassing fact of constantly falling revenues. There were collected of duties in the following years the following amounts:

In 1852	\$212,030,727
In 1853	184,556,045
In 1854	160,185,382
In 1855	154,271,805
In 1856	144,982,447
In 1857	128,427,243

In addition, the recent letter of the Secretary of the Treasury addressed to this House recites the suggestion of a considerable decline in the internal revenue, principally from whisky and tobacco; all of which tends to cloud our financial horoscope. It is also noticeable that the daily reports of customs and internal revenue are not published regularly as in former days, which is at least an unhealthy sign.

With the lesson of this admonition before the committee let us exhibit the courage to do one of two things: either to resolve bravely to restrict our expenditures within our revenues or, like men, boldly declare for an increase of taxes. In the British Parliament the financial budget, answering to our appropriation bills, is always attended by a money bill or tax measure; so that whenever an outlay of expenditures is resolved upon the corresponding responsibility of taxing the people accompanies it. Hence, the people are never insensible to the cost or effect of any proposition which gains the assent of Parliament and becomes the law of the realm. Our practice is very different. With us it not unfrequently, indeed generally, happens that one set of legislators imposes the burdens and another set provides ways and means for their payment, and at different periods. But with our disappearing surplus, unless we are prudent and careful, our expenditures must be provided for by ourselves by an increase of taxes. The very best that is reasonable to hope for will be a suspension of payment to the sinking fund, to effect which bills are now pending in both Houses of Congress. I confess that I would prefer the discontinuance of the annual payment or setting aside of that fund to any proposition looking to revenue by an increase of taxes either by customs or excises.

The sinking fund has been overpaid largely over \$200,000,000 already, and it could be well suspended for a term of years without producing

any shock to the public credit, and at the same time greatly relieve the grievous burden of taxation now wearily borne by the people. If the bugbear of resumption were banished from the calculations of the Secretary of the Treasury by a repeal, and the large sum, \$65,000,000 to \$80,000,000, claimed by the Secretary to be now in the Treasury and in process of collection, intended to meet the demands which the execution of that law requires by the 1st of January, 1879, could be let loose, so that it could be utilized for the current expenditures of the Government, there certainly would be no necessity for an abatement of the annual appropriation of the sinking fund or of a resort to further taxation in order to preserve a surplus after meeting all demands. On the contrary the internal revenue collected from two of the great industries of the country, to wit: whisky and tobacco, might be diminished. That the revenue would be increased from both articles by a reduction of the tax on the former to fifty cents on the gallon, and upon the latter to sixteen cents on the pound, all experience attests.

The excise tax has never been popular in any country wherever it has been adopted. In England to this good day it is annoying to the people and difficult of execution. It is a very ancient system of taxation, having its origin far back in the mists of centuries. The Roman emperor Augustus first adopted it as a means of revenue, and Roman generals afterward collected tithes and excises from the people to maintain their armies. It was introduced into England in the seventeenth century. The usurper Cromwell, despite the consent of Parliament, levied excises upon the people. In this country I am not aware that it ever prevailed until during and since the late war. It is true that on account of the stamp act the Boston merchants disguised themselves during the existence of the confederation and threw the cargo of tea into the sea; from which patriotic act, as it was then and is now considered, the immediate hostilities ensued which ended so gloriously in the establishment of our present form of government. But the government of the colonies or of the United States did not adopt the system of excises as a means of revenue, except perhaps in a limited degree for a very short time.

But what I wish to say is that the system is unpopular and that as soon as a better system of import duties upon the principles of revenue can be devised, which I think is feasible and probable, there should be at least some abatement of the present one and eventually it may be abolished. In any event, I trust that the Representatives on this floor who have an agricultural and laboring constituency behind them, will be careful to see that if any interest is relieved by this Congress from taxation that the relief will be extended to them instead of being extended to the banks and bankers, who have their lobby here year after year importuning Congress to relieve them of the small tax of 1 per cent. upon their circulation, one-half of 1 per cent. upon their deposits, and also one-half of 1 per cent. of their capital stock not invested in United States bonds. As I am convinced that the banking monopoly is a standing menace to the prosperity of the people, I could not well treat of taxation and expenditure without recognizing their immediate relation to the same.

NATIONAL BANKS—CHAPTER OF ABOMINATIONS.

These institutions have grown plethoric by reason of the exclusive privileges with which Congress has surrounded them at the expense of all other interests in the land, by means of which they have amassed overgrown fortunes, and by collusion and conspiracy with other forms of capital have managed to destroy a market value for real estate and its products, and indeed every other kind of property, manufactures included, and by the same process of financial cunning and political legerdemain have succeeded in appreciating the purchasing power of money until that alone seems to possess any real value. And yet with their complete dominion over every other interest in the land, dictating as with the undisputed power of an absolute despot the fate of the creditor class, and dooming, as by an imperial ukase, to bankruptcy and ruin the entire debtor class, with all this power in their hands, beneath which millions of people, brave, good men, are staggering with their insupportable loads, and helpless women and children are growing anxious about their fate for the morrow, this privileged class, the nation's pets, are here urging Congress to relieve them of this small tax and let it be placed if necessary upon industry and labor. Although the tax is very small in per cent. yet the amount aggregated from this source last year amounted to the large sum of \$10,828,656.12. The representatives of this privileged class on this floor were found voting against the restoration of the income tax when that issue was presented a short time since, as they have already shown their hostility to any proposition looking to the relief of industry, especially agricultural and mechanical.

Leaving out of view the immense injury inflicted by the banks upon the people by their active agency in depreciating every species of property and prostrating all business in influencing the policy of contraction, for which they are mainly responsible, the usurious practices of the banks have wrought demoralization upon many in business circles and dried up the fountains of human sympathy and turned the hearts of thousands, under the plea of self-protection, into stones. Search the annals of history, either Christian or pagan countries, and no such unmixt monopoly was ever before granted to any class of citizens. To write their history would be a chapter of abominations. The tribute they have laid upon labor and the shameful manner in which they have exploited the Government and the people should arouse a just

indignation against them and sweep them out of existence as soon as it is practicable to substitute legal-tender United States Treasury notes or some other form of Government paper for their circulation. I will call the attention of the House to a quotation from the speech of an able republican member, delivered a few years since upon this floor, which will exhibit more perfectly the internal operations of these institutions than anything I can say. I have alluded to the politics of the member that it might not be considered as a picture limned with partisan prejudice or political antipathy:

Let me state the way a national bank got itself into existence in New England during the war, when gold was 200 and five-twenties were at par in currency or nearly that. A company of men got together \$300,000 in national bank bills and went to the Register of the Treasury, with gold at 200, and bought United States 5-20 bonds at par. They stepped into the office of the Comptroller of the Currency and asked to be established as a national bank, and received from him \$270,000 in currency, without interest, upon pledging these bonds of the United States they had just bought with their \$300,000 of the same kind of money. Now, let us balance the books, and how does the account stand? Why, the United States Government received \$30,000 in currency for which, in fact, it paid \$18,000 a year in gold interest, equal to \$36,000 in currency, for the use of this \$30,000. * * * This bank was made a public depository, and thereupon the commissaries, the quartermasters, the medical director and purveyor, and the paymasters were all directed to deposit their funds in this bank. Very soon the bank found that they had a line of steady deposits belonging to the Government of about a million dollars, and that the \$270,000 they had received from the Comptroller of the Currency would substantially carry on their daily business, and as the Government gives three days on all its drafts, if the bank was pressed it was easy enough to go on the street if they had good security. They took the million of Government money so deposited with them and loaned it to the Government for the Government's own bonds and received therefor \$60,000 more interest in gold for the loan to the Government of its own money, which in currency was equal to \$120,000. So that when we come to finally balance the books the Government is paying \$156,000 a year for the loan of \$30,000. And this is the system which is to be fastened forever on the country as a means of furnishing a circulating medium.

Nature in her wildest freaks never produced such a paradox nor art such a fraud as the national banks furnish in their internal workings. This banking system is the only instance known to human law which enables a man to draw interest on his capital and also on his debts at the same time. The banks lend their currency, which is their debt, have that same currency deposited in their vaults and relend it again and draw interest on the same money in each case, and at the same time draw from the Government 6 per cent. upon the bonds deposited, thus drawing interest three times at the same moment on the same capital. The substance of the people is being consumed faster than a candle is when lighted at both ends by that operation, which is their usual practice. The American Congress for the last decade has been controlled, I am sorry to admit, by bank influence. It was the bank influence that defeated the currency equalization bill of 1874, which fell by the stroke of a presidential veto. It is that influence which prevents a reduction of the internal-revenue taxes; it is that which prevents the restoration of the income tax; it is that which prevents a modification of the protective system, under the blighting influence of which our commerce languishes and our domestic energies are being enervated. How much longer shall banks and bankers rule the American Congress?

THE FINANCIAL TRINITY.

But I ask pardon for this brief seeming digression, and yet I cannot resist the conviction that this country cannot have monetary quiet and prosperity until this third person in the financial trinity is with the other two, resumption and silver demonetization, (the latter has been effected,) finally abated and made things of the past. These bankers and capitalists are just now very busy talking about the faith of contracts. I believe in the sanctity of contracts. Respect for the inviolability of contracts is as essential to national honor, as it is to private character and reputation. Waiving, for the sake of the argument, the injustice done to the people of the United States in pledging the faith of the Government to discharge its bonds in coin, as provided by the act of the 18th of March, 1869, when all the world knows that the principal of the 5-20 bonds was payable in currency or greenbacks, the pretense now attempted to be set up by the bondholders and bankers that the word "coin" means only gold is as flagrant perversion of the true intent and meaning of the act as it is possible for a conscience dead to all the sensibilities of justice and buried in the filthy mires of cupidity to conceive. These bondholders, not content with the immense sum of \$678,551,460, as estimated by reliable data, that was by a single congressional enactment poured into their vaults, (for which the people did not receive a dollar, but had this large sum added to their already burdened shoulders,) until lately, demanded gold in payment of these obligations, because silver was demonetized through their own agency in 1873, and since that time has declined in value by the side of gold until since its recent remonetization.

No such impudent infraction of the validity of contracts or violation of good faith can find a parallel in all the annals of American history, if indeed it can be found in the history of any enlightened land in Christendom. The demonetization of the old silver dollar was made an act of repudiation on the part of the Government, and an unjust discrimination against the tax-paying masses of American citizens in favor of a privileged class numbering but a few thousand in our own country and a like number of people in foreign lands.

Congress has partially restored the act so surreptitiously and fraudulently repealed in 1873, and by that means removed from the escutcheon of the Government the stain of repudiation in part.

The restoration of the silver dollar to its ancient and honorable position in American coinage, and the repeal of the odious resumption

law, that has its career thus far strewn with the wrecks of private fortunes, sinking millions of people once enjoying affluence and wealth into bankruptcy and hopeless ruin; peopling the prisons, insane asylums, and even suicidal graves with its thousands of victims; exposing the last remnants of property of the debtor class to the remorseless foreclosure of the creditor's mortgage; congesting all the currents of business as though they had passed beneath a paralytic stroke—these two measures of relief, passed by this House during the extra session, the people anxiously and prayerfully looked to become laws, that at the last moment they would be saved from financial shipwreck. Remonetization has at last been accomplished over a presidential veto, although hampered by limitations and restrictions which retard the good effects which would otherwise have followed the enactment. Still let us rejoice that a point has been gained from which other triumphs can be achieved; for these repeal measures, taken together, would indicate a change of policy that the anacrona grip of contraction had at least loosed its fatal hold upon the body-politic and allowed it to breathe freer. Their significance would be marked by the unlocking of capital everywhere, now so cautious as to shun investment, and every department of the business world would feel their impulse and respond to their auspicious auguries for the future.

Confidence, which always withdraws from amid the storms of panic and seeks shelter among the dark and lonely vales of a selfish privacy, denying the acknowledgments of the most sacred friendships or reciprocal obligations, would again appear to inspire the hopeful, to support the weak, assure the despondent, and cheer on the adventurous and enterprising.

The act of the 18th of March, 1869 requiring the 5-20 bonds to be paid in coin and the silver demonetization act of 1873 were done in violation of good faith. The first was in violation of the express stipulations under which the bonds were issued—changing the payment from greenbacks to coin; and the second was in disregard of that act or pledge of the Government, for it required payment to be made in gold alone. Both were acts of repudiation and broken faith; and in resentment for them the people have met them with mutterings of repudiation. The Government, being in the hands of unscrupulous capital, has been made to perform an ignoble part in this wholesale spoliation of the tax-payers of this country. But the Government belongs to the people, and they can drive these money-changers out and inaugurate an administration which will correct this evil of class legislation. This is the people's Government, and if it is mal-administered by any party or set of men, let the people recover it by legal means and correct the evils by counter-legislation.

Repudiation is not the remedy for the broken faith of the Government while in the hands of the representatives of insolent and grasping capital. Such a remedy might entail universal disorder and uncertainty and would in the end prove worse than the disease. This Congress has shown itself strong enough to wipe out silver demonetization, and, if it fails to do more, the people will see to it in the next elections of Senators and Representatives that a majority will come to this capital instructed to repeal the resumption act and the coin act of the 18th of March, 1869. It is true the authorities, in anticipation of this policy, have been industrious in changing the 5-20 bonds for other forms of securities, but whatever of them remains it is but fair and right that they be paid in United States legal-tender notes, because it was the contract.

RUINOUS POLICY OF CONTRACTION.

The Secretary of the Treasury in his anxiety to resume specie payment on the 1st of January, 1879, has proposed to borrow from the bankers of New York City \$50,000,000 in gold upon a four-and-a-half per cent. bond, the Government engaging to guarantee the bankers against any possible loss. Only \$10,000,000 of the loan has been taken. Suppose that it is all taken, then that will swell the coin in the Treasury, including currency, to \$224,324,459, as against \$460,527,374 of demand liabilities, using the Secretary's own figures. Less than one-half in assets to redeem more than twice that sum in liabilities. This done too by an increase of the interest-bearing debt of the country, all for the sake of maintaining the theory of resumption, which, after all, is a mere myth, a mere financial fancy, a kind of legalized fraud, to attain which has cost millions of people their all and covered a nation with gloom.

These calculations of the Secretary are all based upon the theory that no bonds will be sent from Europe for redemption in coin.

Suppose a short crop is made this year in this country, or suppose a great European war should illumine with its camp-fires the major part of Europe and create an extravagant demand for coin, then what becomes of the paltry sum hoarded by the Secretary for the purpose of effectuating this pet scheme of the republican party? Under the most favorable auspices the Treasury cannot be placed in condition to meet the demands of resumption without three things being specifically done.

One is to make the greenbacks by law receivable for customs dues, another is to require by positive enactment that they shall be reissued as fast as they are redeemed, and the third to repeal that portion of the resumption law which provides for the destruction of 90 per cent. of legal-tenders as 100 per cent. of national currency is issued.

If provision is made for the reissuance of the paper and the permanent retention of it in circulation, the holders of the paper would perhaps not desire to exchange it for coin only to a limited

extent. But without this guarantee of the reissuance of the legal-tenders, the small amount of coin would prove utterly futile to accomplish the work of resumption.

If resumption means redemption and cancellation and consequent contraction, it means, then, simply ruin. Has judicial blindness seized the Secretary and the President and the majority in the Senate, that they cannot or will not see the gulf before us, pause and retrace their steps, before all is lost? If within our power, measures of relief from this financial paralysis should be forced through Congress before the adjournment of this session. I trust that the House of Representatives at least will leave no part of its duty unperformed, throwing the responsibility entirely from our shoulders. Let us act upon these several propositions for relief now pending, and then and not till then, can we face our constituencies who groan beneath this burden of financial death.

If the legal-tenders should be made receivable for customs dues and should be required to be reissued as fast as they are redeemed, the evils of the resumption law would be very much mitigated. But as that law now stands upon the statute-book it is a standing menace to the business interests and commercial activities of the whole country. No upas tree ever shed a more baleful influence upon vegetable existence, drying up the very fountains of life, than does this resumption law upon all industrial business, as the daily bulletin of commercial failures abundantly attests.

FORCED RESUMPTION MEANS FORCED BANKRUPTCY.

The very anticipation of forced resumption has wrought this ruin. Forced resumption means forced bankruptcy both of the people and of the Government. Although greenbacks are nearly at par with coin, without additional legislation providing for their reissue after redemption, and without a substitute for the national currency after the 1st of January next, (thus depriving the people of all paper currency,) circulation would be limited to the small amount of gold and silver with which to conduct the vast volume of business in this country. If resumption is to bring such contraction as that, I repeat it, it is simple ruin now or hereafter.

Notwithstanding the failures for the first quarter of this year are much heavier than they were for the corresponding quarter of last year, yet every one feels that a propitious change is near at hand if these relief measures were adopted. Why not adopt them at once and give ease to the public apprehension? If we cannot repeal this resumption act, then stop contraction, provide for the reissue of the legal-tenders and make them receivable for customs dues, and the work is done. Confidence will at once take root again.

Wise statesmanship should avoid extremes. Capital and labor are both essential to the growth and development of free institutions and are not necessarily antagonistic on the contrary, they are mutual aids when governed and guided by laws which recognize the just rights of both. One thing it is very important for each to observe: capital should avoid being hedged about by class legislation and monopoly, while labor should sternly set its face against every appearance of agrarianism and communism.

Enact these measures of relief—restore to the Government its indisputable constitutional right to furnish its own people with currency, without delegating that important trust to a privileged monopoly of United States bondholders, and, with tariffs brought to the revenue standard, there can be no doubt of a speedy return of confidence and the establishment of that wanted prosperity once more for which the great heart of the people has bitterly sighed for the last five years. Let the people demand of their Senators and of their Representatives, before this session of Congress adjourns, that these enactments be made without limitations or restrictions; let it be done in obedience to the behests of an honest and contract-observing people, and we shall hear no more of the stifled threats of repudiation! Repudiation! Of all the people on God's foot-stool, the American people can least afford to fix upon themselves the brand of repudiation. With a territory surpassing in extent and natural wealth the imperial possessions of the Roman empire in the days of her Cæsars; with a resplendent historic renown uneclipsed by nations whose ages are frosted by hoary centuries; with a population self-governing and self-sustaining; with all the varied arts and industries developed in an unsurpassed degree by much older civilizations; with countless treasures above and below the surface of the earth, awaiting development at the hands of harmonious capital and labor, which will lift the masses of the people to a higher plane of civilization and individual prosperity than has ever fallen to the lot of any people in the book of time; with all these and innumerable other advantages, to even entertain the idea of repudiation is a folly from which we may not soon recover.

Repudiation will overthrow all respect for law and order, destroy all confidence between man and man, wipe out every vestige of credit, by which the poor man supports his family when sickness or other misfortune overtakes him, and leave him and his helpless ones beggars at the gates of the rich. It will rob the bench of its majesty and despoil the very altars of religion of their sacred canons and convert them into ridiculous mockeries. It saps the citadel of conscience and drives out the principles of truth and justice. It impudently demands for idleness the bread which industry has made with its own hands, and enthrones in all its bloody horrors the dark and damning spirit of communism over the ruins of government and society, engulfing the whole in the wildest anarchy and civil war.

Let not the people of the United States forget the sad story of

France in the days of her reign of terror, when communism and atheism with locked shields paraded the streets of her ill-fated metropolis, following the banner of an abandoned woman, filling the minds of the people with contempt for law and religion, until universal doubt seized the hearts of men and the blood of thousands of the best citizens of Paris was shed to appease the moloch of passion which had dethroned reason and robbed the human soul of its aspirations for immortality; destroying all human sympathies until the icy hearts of men were unmelted by the touch of pity and their leaden ears were deaf to the supplications of helpless innocence and of pleading humanity.

A PHENOMINAL INSANITY.

A phenomenal insanity seems to have seized the minds of the people of the Eastern States, that the measures of finance and taxation which would bring relief to the great sections of the West and South and to the whole producing population of this country would operate injuriously to them. No greater delusion ever beclouded the judgment of so enlightened a people. Are not the laws made for all? Are we not united under one flag? Are we not united by innumerable commercial relations and business interests, so interlocked and intertwined that, if the interests of one section of the country are sacrificed, while it might inure to the personal gain of a few persons or classes would nevertheless injure the great body of the people and the whole country? Why is it that distress and hard times are felt in New York and Boston and throughout the eastern cities to-day, notwithstanding the fact that their banks are full to overflowing with unused capital and their business houses are groaning with unbroken stocks of merchandise awaiting purchasers? Why does labor seek in vain employment where there is so much idle capital? Simply because the mistaken system of finance and taxation has prostrated the producing classes by reducing the price of their products below the actual cost of production, and thus curtailed their means of consumption. It is the old story of obtaining the golden egg.

It is the duty of the Government to recall into action its own functions and restore its own surrendered rights. It and it alone should furnish the people a currency without relegating that power to any corporation or set of men. It is the duty of the Government to furnish the currency with as little cost to the people as possible, while its system of taxation should be equitably distributed so as not to distress any of the industries nor oppress any classes of pursuit. A tariff adjusted so as to produce the greatest amount of revenue and afford the least incidental protection approaches nearer to the principle of the equitable distribution of taxation than any other system that has yet been devised. Under the most strictly revenue tariff this country has ever had, known as the "Walker tariff of 1846," being an average duty of 25 per cent., our revenues increased from \$23,747,864.66 in 1847 to \$64,022,863.50 in 1856. Under the protective tariff of 1842 customs fell off in 1845, the first year after it was enacted, from \$18,000,000 to \$7,000,000. Contrast that fact with the frightful decline in our customs for the last six years, as I had occasion to show in a table a while ago in another connection.

The stimulus given to increased importation by the large vacuum created by the war, especially in the West, but more particularly in the Southern States, is exceptional and must not be considered as a criterion by which to judge the present tariff as a means of producing revenue. It is fairly on trial now and has been for the last six years. Does any one wonder that a tariff duty high enough to prohibit imports will defeat revenue? With coarse blankets at 90 per cent. can the foreign article be brought here and pay that enormous duty and enter into successful competition with the American manufactured blanket of the same quality and texture? No one is surprised that absolutely no revenue is derived from foreign quinine because of the duty of 100 per cent. it has to pay before it can be offered for sale. Of course the American manufacturer engrosses the entire sale at a price equal to original cost, with the duty of 100 per cent. added thereto. Hundreds of similar instances might be adduced to illustrate the same principle.

Now, it is important that a sound and healthy system of finance and taxation be settled upon, so that the business interests of the country could gauge itself by it, and thus enable our business men to lay out their plans for the future without feeling, as they now do, a constant apprehension of sudden and radical changes, and what is more, a change from bad to worse, that may result in rapid ruin. With a fixed and reliable policy established, not only would the business interests of the people revive, but the Government itself would not be driven for absolute want of revenues to what some gentlemen who have magnificent ideas of a splendid government are pleased to style a niggardly parsimony. Just here I am reminded that but for the \$64,000,000 of reduction by the Forty-fourth Congress your Treasury at this moment might be without a surplus, and beyond the relief which the temporary suspension of the sinking fund would afford. Certainly there would be no appeal of the Secretary of the Treasury to the House of Representatives to reduce the expenditures in the round sum of \$11,000,000 below the aggregate of the estimated revenues for the next fiscal year.

Now I have thought it proper to thus allude to our financial policy and our system of taxation because the appropriations of the Government are so intimately blended with them, and indeed are made to depend upon them. For of what avail would it be to order the Sec-

retary of the Treasury to issue his warrant upon the Treasurer for an appropriation pursuant to law if there is not money provided to honor the draft? Hence a reasonable and intelligent economy in public expenditures becomes an important adjunct particularly at this time with our system of finance and taxation. Instead of adding to the burden may we not prudently and safely reduce it?

In the allusion, made a while since, to the administrative economy of the Senate, I did so with the highest respect for that august body. Its intellectual triumphs will compare favorably with the most renowned forums of earth; its glories every true American shares and rejoices in, for its great, honored names of the past are household words and sacred memories. But I approach a grave question of constitutional power; of organic structure. I do not deny that the Senate has the right to select its own officers, that power is distinctly granted, but I do deny that it has the sole right of fixing their salaries or their number, a practice grown up by a kind of common consent which has become quite popular of late years among fashionable politicians under the specious plea of "comity" between the two Houses, a usage unknown to the Constitution.

And as it cannot be denied that the House of Representatives has a right to an equal voice, to say the least of it, in fixing the salaries of the officers of the Senate, it follows that the House has a voice in determining the number of officers in that body, otherwise there would be no limit to appropriations necessary to their payment except such as the Senate alone should see proper to impose. While it is in no sense the province of this bill now under consideration to institute any legislation whatever affecting the powers of the two Houses or in any manner enlarging or restricting either of them, I will be pardoned if I offer a few thoughts upon what I conceive to be the encroachments of the Senate upon the peculiar prerogatives of the House, which have been suggested by the large sums added by way of amendments to the House appropriation bills of late years and which have led me to make a recent review of the proceedings of the constitutional convention of 1787. At that early day, when only a few millions of dollars were annually collected, there was intense feeling and interest felt over the question of taxation. Now when the great economic questions of finance, taxation, internal improvements, production and transportation, are justly engrossing the attention of the people and will do so for a term of years, to the exclusion of the sickly sentimentalities of politics that are no longer interesting—now, when race issues and sectional animosities are abjured and despised by good men North and South, this inquiry becomes pertinent and of absorbing interest.

AN OCCUPATION GONE.

The occupation of demagogues in either section who would still keep alive the embers of our past conflicts is gone, and the different States and geographical sections (for political sections are abolished) are more closely knit by a community of material interests and political doctrines than has existed within the last half century. Indeed, a mighty host is gathering beneath the banner of reform and millions of honest hearts East, West, North, and South, are inspired with but one sentiment, and that is, how, under the Constitution, shall we restore the national weal. It is, then, but natural that the public mind should rivet itself upon those subjects which most deeply affect their interests; and since the accumulation of debts, national, State, municipal, corporate, and individual is estimated at \$10,000,000,000, and the annual interest is \$600,000,000, consuming a large share of the profits of industry, economy in expenditures becomes an important factor in the rate of taxation which the people have to bear. The vast sum of the public debt and the annual large amount necessary to meet the interest on the same and defray the ordinary current expenditures of the Government, and the other varied sources of taxation, municipal, corporate, State, and individual, so far exhausts the surplus profits of the people's labor as to revive the anxious inquiry in the public mind concerning not only the amount of revenue to be raised, but the manner of the assessment, and indeed the inquiry extends to the root where the very power itself resides.

POWERS OF THE TWO HOUSES.

The jealousy with which the whole question of taxation is regarded in these days of national distress and individual bankruptcy suggests the propriety of an inquiry into the derivation of the power in order that the responsibility shall be placed where it justly belongs. The subject, then, must be viewed in its constitutional bearings, for it, like almost all other great powers of government, was duly considered by the very wise men who made our Federal Constitution, and wherever that responsibility is located by the Constitution the people ultimately will not fail to recognize it and will scrupulously exact a rigid performance of the duties which attach to the powers.

I submit these propositions:

First. The House having the sole right and power to originate revenue bills under the Constitution has as a necessary sequence the sole right to originate and introduce appropriation bills, otherwise the increased expenditures for appropriation bills would require the House to increase the revenue it had already provided.

Second. When the Senate has proposed an amendment and the House has non-concurred the Senate has exhausted its constitutional power and has no right to further insist, otherwise the House is again forced to consent to additional revenue to meet the Senate's increased demand.

Third. The Senate has no right to propose an amendment not germane to either a revenue or an appropriation bill, as that destroys the autonomy of the House's peculiar prerogative under article I, section 7.

Fourth. To concede equal power to the Senate over revenue and appropriation bills destroys the principle of taxation and representation, by the equal representation of the small with the large States in the Senate.

Fifth. The equal power of the Senate with the House over revenue and appropriation bills defeats the theory of popular sovereignty over the question of taxation. It also defeats the compromise agreed upon in the convention which gave birth to the Constitution, which was equal representation of the small with the large States in the Senate; while the House, which represents the people, should have exclusive control over the vital question of taxation.

In this country the power of taxation is inherent in the people and under the Constitution the right belongs, if not in express terms at least by analogy, alone to the House of Representatives. Article I, section 7, reads:

All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as in other bills.

The manifest purpose of this, the greatest of all constitutional prerogatives, was to retain this right or power as near to the people as possible. The Senators not being elected by the people and only once in six years, the great and wise men who framed our admirable political system reserved to the Representatives this delicate and vital power because they were elected immediately by the popular vote and because they are required to surrender every two years their legislative trust back to the people.

The Constitution having invested this House with the power of originating all revenue or money bills, as a necessary and logical deduction it has ever been the uniform practice of the Senate to concede to the House the right to originate the general appropriation bills with one or two exceptions, in which cases the House as promptly denied the power of the Senate and asserted its exclusive right to originate them: as in the Thirty-fourth Congress, the House failing for over two months to organize, the Senate passed two of the general appropriation bills and sent them down to the House, whereupon the House at once laid them upon the table, refusing either to consider or refer them to a committee. This power was again conceded by the Senate in the case of the tariff compromise bill of Mr. Clay, in 1833. The great lights of the Senate in that day took the ground that the bill trenching upon the prerogatives of the House and was therefore unconstitutional. Mr. Webster was prominent in declaring it unconstitutional, and Mr. Clay himself conceded it virtually by taking up an exactly similar bill that had passed the House and had it substituted for his own, laying his upon the table.

The power of the House to originate appropriation bills has been the practice of the Government from its origin and is fairly deducible from the clause of the Constitution already quoted, if indeed the language is not a direct and absolute constitutional mandate. Hence, the people have come to hold the Representatives responsible in a large measure for assessments and expenditures, and by usage as well as by theory overlook the action of the Senate and exculpate them from special responsibility, having no power to apply to Senators the corrective only through remote and indirect agencies of State Legislatures, which oftentimes misrepresent the people. But lest the view I have expressed should be controverted I will be pardoned for a slight historical sketch of this very interesting question. It is practically interesting in view of the frequent enormous amounts and questionable objects with which our appropriation bills are loaded by amendments in the other end of the Capitol. But more especially is it a subject of vital and momentous interest when the fact is recognized that our financial and revenue policy is in a great manner influenced by Senators representing a very small number of people. And for these reasons it has occurred to me that the consideration of the relative powers of each House in this connection and at this time would not be inapt or unessential, and might serve to familiarize the public mind with the peculiar constitutional functions of the two Houses of Congress. Although ours is a republic and the British government a limited monarchy, yet it is historically true that this identical feature of our Constitution was borrowed from English precedent. Mr. Justice Story in his commentaries on the Constitution of the United States in speaking upon this subject asserts that this feature of our Constitution is borrowed from the British House of Commons, section 874. He says:

The general reason given for this privilege of the House of Commons is, that the supplies are raised upon the body of the people and therefore it is proper that they alone should have the right of taxing themselves.

In speaking of Mr. Justice Blackstone's opinions on this feature of the British constitution, Mr. Story says, section 874:

It would therefore be extremely dangerous to give the lords any power of framing new taxes for the subject. It is sufficient that they have the power of rejecting if they think the commons too lavish or improvident in their grants.

Not only that the lords shall frame no new taxes, but that the power to reject is sufficient for them! For long years the issue existed between the Houses of Lords and the Commons in England, without being definitely settled. Both houses asserted the power to originate revenue bills, and both exercised that important function for a time,

each upon its own constituency. But in 1678 a resolution was adopted by the House of Commons to this effect:

That all aids and supplies and aids to his Majesty in Parliament are the sole gift of the Commons, and all bills for the granting of such aids and supplies, ought to begin with the Commons; and that it is the undoubted and sole right of the Commons to direct, limit, and appoint in such bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants which ought not to be changed or altered by the House of Lords.

This power, so tersely and comprehensively expressed in the resolution just quoted, may be regarded as the final struggle between the two Houses of Parliament over the long-disputed issue. The House of Lords acquiesced and the Commons ever since have triumphantly asserted the exclusive right to originate money bills, yielding only to the House of Lords the right not to amend either by reduction or addition, but to concur in or reject altogether.

Now, then, it will not be denied that this British precedent is the origin of that clause of our Constitution already quoted. It will be observed that the language of the resolution of the Commons, passed just two hundred years ago, and what is very remarkable passed upon the 3d of July, within one day of the anniversary of the natal day of American Independence, asserting the power, too, which in my judgment contains the very germ of republican government, restricts the Lords from any power except to concur and reject, while our Constitution authorizes the Senate to propose or concur with amendments. The word "propose" may seem to confer a greater power upon the Senate than the House of Lords have possessed for two centuries; but when it is remembered that we derived this power from the English government, and when the fact is brought out that this right was conceded to the House by the framers of the Constitution in compensation for other great and exclusive rights granted to the Senate, such, for instance, as the right to try impeachments, to ratify treaties, and to confirm appointments, such an assumption cannot be either historically or logically maintained.

This power was also conceded to preserve the equilibrium between the two Houses and was yielded to the House because the population of some of the States was much greater than that of others, thereby maintaining the principle of taxation and representation; while on the other hand the autonomy of the States was preserved by giving to each State equal representation in the Senate, no matter whether great or small. Every student of American history readily recalls the vexed questions which so perplexed the fathers of the Republic in framing and adjusting the dual system of government, which is our pride and our boast to-day, being a government where the ultimate sovereignty rests with the people, yet so arranged and restricted by Federal checks that small political communities like the New England sisterhood could exercise an effectual restraint upon political communities ten or twenty times their size, either in territory or in population, by their equal representation in the Senate. The Constitution was born of the spirit of compromise and is itself a series of compromises. The legislative, executive, and judicial departments of the Government, being each a check upon the other, were agreed upon as a compromise between extreme political theorists. And the power to regulate commerce was retained to the General Government for the protection of commerce at the urgent demand of the New England States, for which they in turn consented that the slave trade, which was desired by some other States, should be continued until the year 1808.

The power to originate tax bills, to say how much taxes should be collected, and, of course, how much should be expended, was conceded to the representatives of the people, and was therefore a concession to the larger States by the smaller States in compensation for equal representation in the Senate, by which the smallest State could in legislation counterbalance the largest State. This immense senatorial equality reserved and granted to a political organism called a State, with the exclusive right given to the Senate to try impeachments, to ratify treaties, and confirm appointments, was tendered as a compromise between a purely national Government and our present admirable federative system. The precise limitations of power to be placed in either House in the convention of 1787 were most difficult to define and adjust; so much so that the gravest apprehensions prevailed that the convention would fail to agree upon a different and "more perfect Union" than that of the old colonial government. In this anxious condition of affairs—moments pregnant with the mightiest events that have ever illustrated human annals, as shown in the majestic march of the grandest civilization and the greatest political power that ever found a place upon the map of nations—in this critical moment the spirit of liberty hovered over that illustrious convention and breathed upon the hearts of those patriot-statesmen, and imbued them with the love of the sacred rights of man, and their work became a mighty success.

I have not made reference to this subject because I entertain any prejudice against the smaller States or would in anywise affect their organism, but am actuated by the sole desire to see a growing evil checked, to wit: that of virtually conceding equal constitutional prerogatives to the Senate with the House of Representatives over the question of taxation, a question which for the next twenty years is destined to be the great and vitally absorbing issue of American politics. I simply desire that the practices of the Senate shall not be substituted for the written law of the Constitution. It may seem a strange matter at a cursory glance that I or any one else should deny to the Senate equal power over this one subject. But it did not seem so one hun-

dred years ago to the prescient and far-seeing statesmen of that day. Although the practical use of the power was doubtless of little value in that day compared with the present time; but now, when our flag floats almost over a continent and our population is rapidly increasing, swelling from three millions, one hundred years ago, to nearly fifty millions to-day, with an annual collection of \$300,000,000 from the pockets of the people, the subject becomes a serious one. It is not a little matter to the people of New York when they come to remember that in the last fifteen years they have paid into the Treasury of the United States in excises exclusive of customs \$463,450,337, while Delaware has paid only \$7,522,696. And yet on a question of taxation, upon the theory that the Senate has equal and co-ordinate power with the House, Delaware's power is equal to that of New York, although the one State has one Representative while the other has thirty-three. Grant the theory that the Senate has the right to insist, after the House has non-concurred in the Senate's proposed amendments, and the whole doctrine of the right of the people to control the measure of taxation is overthrown. The power of taxation is thereby wrested from the people and handed over to the States.

This particular power, the right of taxation, the exclusive right to originate money bills, without which origination there can be no taxation, proved to be a subject of paramount care and jealousy in the convention.

The immortal names of Benjamin Franklin, Elbridge Gerry, Mr. Rutledge, Mr. Mason, Mr. Ellsworth and six others were appointed a committee to whom the grave question involving the relative powers of the two Houses should be referred. Each State represented in the convention was represented on the committee. The subject had been exhaustively discussed, and among the wisest and greatest of the convention were selected to settle the principles on which the new Government was to start in its march to power and renown.

I will condense in as brief a space as possible certain leading features of the proceedings of the constitutional convention of 1787, as given in Elliott's debates on the Constitution, and Madison's notes, and which I think clearly demonstrate the spirit and animus of the convention, showing that it was only intended to give the Senate a limited power over money bills. These may be found in an appendix marked "A."

It will be observed by reference to these extracts that in the contest in the convention whether the House should have the right to originate money bills, it was always coupled with the power to fix salaries of officers. The two features were inseparable in the minds of the members, and the one was treated as a necessary requisite of the other—and why not?

It seems reasonable that if the House has the right to levy and collect taxes and originate bills for appropriations and disbursements, it necessarily includes the power to fix the salaries of officers; otherwise the Senate might influence and require such large salaries as to compel the House to unwillingly originate other and new revenue bills and thus to increase taxes, which would be a manifest violation of the exclusive prerogative of the House to "originate money bills." Because if the extravagance of the Senate forces the House to increase taxes or else have a bankrupt Treasury, of course the volition and will and right of the House is coerced and destroyed. The historical analogies and suggestions which the proceedings of that convention furnish, attested by limited discussions of the members of the body, all tend to establish the principle and fact that in controlling the revenues of the people limitations were placed upon the power of the Senate subordinating it to the House in this particular.

If then the phrase "may propose amendments" was intended to confer upon the Senate, over the purse, equal power with the House, wherein is there any limitation? Where any subordination? What, too, has become of the compromise which Mr. Madison said was made between the two Houses in agreeing to article 1, section 7, of the Constitution? And if the Senate has equal power with the House over the Treasury under that clause, why was there such a struggle in the convention to adjust the relative powers of each House, at one time threatening the disruption of the convention, which was only prevented by concessions to each House? The right to tax and the corresponding right to appropriate are prerogatives which the House of Representatives alone can initiate; but the Senate has the right of a veto by non-concurrence. The right to "propose" amendments is limited to that degree, which, if exceeded, would coerce the House to initiate an increase of taxes, and thus the Senate become an equal partner with the House in the origination of money bills, which would be in the teeth of both the spirit and letter of the Constitution. The literal construction of the language of the Constitution, unassociated with the historical events and parliamentary proceedings of the constitutional convention, which express its true spirit and indicate the extent of the powers designed to be conferred upon each House, may be stretched to the point of proposing amendments not materially increasing appropriations; but should the House non-concur the Senate has no right to insist, otherwise the power of the Senate over the public Treasury is equal with the House. This power, too, of the Senate is limited by another restriction: the amendment proposed must be germane to the subject-matter in which the House has asked its concurrence, otherwise the Senate might as well originate the proposition, which, if it is admitted on all sides, it does not possess under the Constitution. If the Senate can exercise an unrestricted will in proposing amendments, whether germane or not, then the Constitu-

tion contains the Jesuitical power of doing by indirection that which cannot be done by direction. Will any American statesman hazard his reputation by the assertion that any such power was designed by the framers of the Constitution to be inserted in that instrument? If the Constitution had been ordained in this Machiavellian age, such a pernicious and unsound doctrine might have obtained; but thus to conclude that in those primitive times, when a struggling people had just emerged from the baptismal fires of revolution and had by their heroic sacrifices rescued the genius of liberty and of political truth from the tyrant's grasp and had met in convention through their chosen delegates to forever consecrate and dedicate to themselves and to their posterity a Constitution every page of which is luminous with these immortal principles, is as illogical and absurd in argument as the theory is demoralizing in politics and the fact inveterate in history.

Let it not be forgotten that an appropriation bill, although strictly speaking not a revenue measure, is nevertheless inseparably connected with it, and the two operate reciprocally upon each other, for especially is an appropriation bill the gauge or measure of a revenue bill. The right of the Senate does not embrace the power to propose amendments not germane to the proposition or bill of the House, for that would be in effect to originate new money bills, which is expressly forbidden. Its action is partially concurrent in so far that it does not trench upon the volition of the House to originate a money bill, or shall operate to compel the House for the sake of conducting the machinery of government to yield to appropriations which require an increase of taxation. Article 1, section 1, of the Constitution provides that—

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

But this concurrent power must be construed in view of the limitations imposed by other provisions of the instrument. For who would say that the House has the power to try impeachments or ratify treaties, a power expressly vested in the Senate, notwithstanding article 1, section 1?

It must be remembered that the power to originate revenue bills lies at the very base of popular government. Shall it therefore be said that the word "propose" in our Constitution shall be so construed as to diminish the rights and powers of the House of Representatives below the standard of the prerogatives of the British House of Commons? Shall it be said that the people of the United States have less control over their own revenues, and therefore less control over all of their internal political relations, than the people of Great Britain exercise over their own affairs? And yet, if the Senate has the right to propose new amendments not germane and to increase indefinitely the appropriations, and thereby render necessary an indefinite increase of taxes, sustaining, as they do by their election, such a remote and partial responsibility to the people, who can logically or practically deny the proposition that the people of the United States are less free than the people of England and have less control over their own property? I have great respect for the dignity, ability, and patriotism of the United States Senate. I would not violate the "comity" of the two Houses. I would not detract from its rightful authority or diminish or deny any of its constitutional powers; but I am equally jealous of the rights and privileges of the House of Representatives.

The practice of late years in the Senate has been to amend appropriation bills most extravagantly, growing in a great measure out of what are amiably styled the "courtesies" of that body, as before intimated. I submit if that practice is not unwarranted by the Constitution. If the House must practically yield this fundamental right by conceding to the Senate all manner of amendments and of enormous amounts, of what value is the mere right to originate a revenue bill? In effect it might as well be originated in the one House as in the other; for the safeguard of the Treasury of the people is removed, to wit, the right to hold every two years the immediate Representatives responsible for the manner in which they discharge their trusts. This practice of unlimited amendment by the Senate practically defeats the compromise agreed upon in the constitutional convention. The small States, retaining equal representation in the Senate and usurping equal authority with the House over the purse of the people through the Senate, are thereby invested with undue power, to the extent of defeating the great American doctrine of the Revolution, that of taxation and representation.

Take for instance the six New England States, with a voting population of 671,665. Take the great State of Ohio; her voting population is 658,573, a small fraction less than in all of New England, and yet New England has twelve Senators and Ohio has two. Now it is plain to be seen that if the Senate has equal power and right with the House to declare what taxes shall be levied upon and collected from the people, it is equally clear that the property and rights of the people of Ohio are not under the guardianship of the immediate Representatives and Senators from Ohio, but are under the control and at the mercy of the Senate. It may be said that the superior numbers of Representatives in the House from Ohio and the large States may check the influence of the small States in the Senate. It is true they can only check them as the Senate may the House, but when it is known that almost all important legislation is the result of compromise and is shaped and fashioned by the manipulators of conference committees, each side or each body conceding a part, it may be read-

ily perceived what a great advantage on all questions of political economy, taxation, finance, &c., the few thousands of people represented by the Senators from the small States may exercise over the destinies of the many millions of people in the large States. I do not oppose our system of government; I would not detract one iota from the equal power given to the small States as prescribed by the Constitution, believing as I do from the teachings of history, as well as from the suggestions of analogy and the force of logic, that this great right of taxation was excepted from that equal jurisdiction.

Will any political economist who holds to the American doctrine of taxation and representation tell me that it is republican that the votes of the two Senators and one Representative of Delaware in Congress should, in the last event, have an equal voice with the two Senators and the thirty-three Representatives from the great State of New York over the purse of the people? I mention Delaware because she is the smallest of the sisterhood, not that I have not the profoundest respect for her history and her present renown. I would not in the slightest degree impair her autonomy or dim the luster of the little resplendent star that answers to her name upon the American banner. Look at the immense difference in revenue derived from each State, being in the last fifteen years about sixty-six times as great in New York as in Delaware in internal revenue, and doubtless in the same proportion in customs derived from consumption. It is not a sufficient answer to say that Delaware is as sovereign a State as New York. That I grant. But I would recall the attention of Delaware and the small States to the fact that they were allowed in this, as has been aptly styled by another the first great compromise, certain specified prerogatives: to try impeachments, to ratify treaties, and confirm appointments, and to have equal representation in the Senate with the larger States as a guarantee for the concession, on the other hand, that the House, which means the large States or, in other words, the masses or majority of the people who pay the taxes, should have control over their collection and disbursement; yielding to the Senate a veto power and a right to partially alter or amend, to perfect but not to materially increase the amount, otherwise there is no compromise, and no concessions whatever are made to the House by the Senate; yet the Senate's peculiar prerogatives remain all intact and its share of the compromise is maintained and constantly recognized, as in the matter of treaty-making, trying impeachments, &c.

Mr. Chairman, it is well enough to talk about the Constitution, whether we observe it or not. For my part I do not think there is any safety outside of it. If I lived in Delaware I should stickle and stand up for the spirit and letter of the Constitution, believing it to be the ark of safety and the palladium of liberty. The American Constitution designed that the subject of taxation should be controlled by public opinion, and as Representatives are subject to the ordeal of biennial elections this delicate trust for that reason was lodged with the House. Who pretends to say that the Senate represents public opinion? Elected for six years by a body mediatory between them and the people, they know nor care but little for the popular will, and yet if they misrepresent the popular will they do not give place as do the English ministry when defeated upon a given policy and allow those who truly represent the will of the people to fill their places. Public opinion is more potent in monarchical England than it is in republican America, for its summons and behests are more promptly obeyed.

The sanctity and jealous care with which the House of Commons regards the exclusive control over the treasury of the realm is illustrated in the frequent exercise of that right by withholding supplies from the crown when it refuses the exactions or demands of the commons. It is in the hands of the lower house of Parliament, the great conservator of popular liberty, and for two centuries the House of Lords, nor the Crown, nor the Queen's Bench have dared to question it. It is no less an American than it is a great British right, one which lies at the threshold of the temple of freedom and is sacred to the very hearthstone of the American citizen.

Now from the tenor of these appended citations from the proceedings of the convention of 1787, to which I again invite your careful perusal, it is clear that a compromise was effected by which the small States were to have equal representation in the Senate, and the House to have control of the purse and taxation. All of these various propositions recognized that compromise and frequently received the sanction of the convention. The compromise included the right of the House to fix the salaries of officers as well as the right to originate money bills.

It is true I do not assert the doctrine that the Senate has not an equal power with the House in fixing reasonable salaries, as the language in reference to salaries was at the last moment left out of the text of the Constitution, as I will hereafter show. Yet any extravagance on the part of the Senate in that respect would be a palpable usurpation, viewed from the standpoint of the constitutional convention of 1787, as its proceedings will show. Could the framers of the Constitution have been told that the American Senate, in the Forty-fourth Congress, would coerce the House to yield to the fixing the President's salary at \$50,000, I do not doubt but that the resolution reserving the feature of fixing salaries as one of the prerogatives of the House, reported back to the convention on the 5th of July by the grand committee of one from each State, with the recommendation that it pass, and which was afterward adopted and repeatedly endorsed, would in that very language have finally been ingrafted into

the text of the Constitution, which was only modified by the language at last agreed upon, but which the whole proceedings and the speeches of different members conclusively show was intended to have the same or tantamount signification with that resolution. The assumption of such a power for the Senate would have defeated the formation of the Constitution in the last resort.

At the very last, after the full draft of the Constitution was made, the phraseology was changed and abbreviated and adopted, retaining the power over the subject of taxation or money bills as the friends and advocates of the popular or first branch of Congress had all along contended. Which phraseology construed by the other forms of expression in which this power retained for the House was expressed, it is clear that the idea was intended to be conveyed that upon the subject of taxing the people or appropriating their money, including the fixing of salaries, the House had control except that the Senate might propose in an advisory manner or concur, but not insist upon amendments. And further, that it would not have the right to propose amendments not germane or that would require the House to consent to new or additional taxes. In other words, that the Senate should confine itself to perfecting the legislation concerning money bills by altering and amending but in the spirit which originally actuated the House in initiating and perfecting the proposition.

Otherwise, is it to be supposed that the advocates for the retention of this power in the House which had been the bone of contention and upon which there was at one time imminent danger of disruption as before stated, and which after long and elaborate consideration had resulted in a compromise, should thus have surrendered it, if it is contended that the Senate can increase an appropriation to any extent its fancy chooses? The friends of the House side of this question had been able upon every distinct vote in the convention to carry their point all along upon every phase of the issue from the beginning, and with the concession of their demand clearly set forth in the various resolutions that had been adopted, they only agreed to an abbreviation and alteration of the language, which seemed to contain all that they had claimed for the House and which was not controverted; and thus the language of the Constitution passed, and was at last adopted without serious opposition. The latter clause, giving the Senate the right to propose or concur in amendments, passed *nem. con.*; the first clause passed by a vote of 9 to 2, thus clearly showing that the friends of the popular or first branch of Congress construed the language adopted as carrying out in good faith the spirit of the compromise which lay at the base of the Constitution, namely: equal representation in the Senate of the small States with the large States; but the control of the purse by the House, with advisory power in the Senate only.

But, Mr. Chairman, that I may not be regarded as singular in the view I have taken of the powers of the respective Houses in reference to this great question of taxation and expenditure, I will quote the language of a gentleman whom our friends on the other side will be proud to recognize as authority. The speech I quote from was delivered in this House in May, 1858, and I have no doubt that I heard it, as I was then serving my first term in Congress. I quote:

Sir, retrenchment and reform are now matters of imperative necessity. It is not the mere cry of demagogues, but a problem demanding the consideration and worthy the highest attention of the representatives of the people. No party is fit to govern this country that cannot solve it. It is vain to look to executive officers for reform. Their power and influence depend upon executive patronage; and while we grant they will squander. The Senate is neither by the theory of our system nor by its constitution fitted for the task.

This House alone has the constitutional power to perfect a radical reform. The Constitution provides that "no money shall be drawn from the Treasury but in consequence of appropriations made by law;" and that "all bills for raising revenue shall originate in the House of Representatives." These provisions were designed to invest in this House the entire control over the public purse, the power of supply. This is invested in the House of Commons, and has been jealously guarded by it. It is the pearl beyond price, without which constitutional liberty in England would long since have fallen under the despotism of the Crown.

Instead of a representative republic, we are degenerating into a bureaucracy, governed by red tape and subaltern clerks.

This was the language twenty years ago of Representative John Sherman, now Secretary of the Treasury. If there was just apprehension then that the constitutional powers of this House were in danger of being wrested from it by the inroads of the Senate through amendments largely increasing expenditures, "being neither by the theory of our system nor by its composition fitted to the task" of reform; if we were in danger of our merging our "representative Republic into a bureaucracy governed by red-tape and subaltern clerks" then, what greater apprehension is there now, when this tendency has grown fourfold since that time.

If, Mr. Chairman, I have succeeded in calling the attention of this House to the necessity of reforming certain abuses in the practical legislation of Congress, and in suggesting the importance that this great and fundamental right of taxation should be preserved to the first or popular branch of the National Legislature, in accordance with the spirit and genius of the American Constitution; if, indeed, I shall have dropped a word which may hereafter direct the attention of some abler mind to this vital issue, I may say that I am more than content. It is a subject which will force itself into the practical politics of this country in the not very remote future.

One word more, sir. The Committee on Appropriations have sought to co-operate most cordially with the other committees of the House in

the reduction of public expenditures, and take pleasure in acknowledging that they have been greatly aided by the suggestions of several of them. Doubtless very many reforms might have been instituted which are omitted in this bill could the various committees have had time to submit their reports, of which we could have availed ourselves, but which for the present must be deferred, perhaps until another session. The subcommittee, consisting of Judge DURHAM and Mr. FOSTER, with myself, have addressed ourselves to this work laboriously and in no spirit of party. If it has merit, they are entitled to share the honor; if on the contrary, they alike share with me the responsibility for its demerits. At all events, the bill is the result of the harmonious action of the entire Committee on Appropriations, and as such we submit it to the candid judgment of this House, knowing full well that while that judgment will be fair, at the same time it will be searching.

[APPENDIX.]

On the 29th of June, 1789, in the Federal Convention at Philadelphia, Mr. Randolph introduced a series of resolutions. It was moved and seconded to amend the eighth resolution, as follows:

"Resolved, That in the second branch of the Legislature [meaning the Senate] of the United States each State shall have an equal vote."

No action was taken and the convention adjourned. On the 30th of June, the resolution was discussed at length and the convention adjourned until July 2, on which day the resolution was voted upon with the following result: yeas 5, nays 5, divided 1; and was passed in the negative. The journal states a committee was then appointed consisting of one member from each State, to whom was referred the eighth resolution and so much of the seventh resolution reported from the Committee of the Whole House as had not been decided upon. Upon the motion to appoint this committee the vote was—yeas 9, nays 2.

On the 5th of July the committee, consisting of a member from each State, to whom had been referred the resolutions, reported the following clause favorably:

"That all bills for raising or appropriating money and for fixing the salaries of the officers of the Government of the United States shall originate in the first branch of the Legislature, and shall not be altered or amended by the second branch; and that no money shall be drawn from the public Treasury but in pursuance of appropriations to be originated by the first branch."

On the vote as to whether it should stand as a part of the committee's report, there were—yeas 5, nays 3, divided 3.

And on the question as to whether the vote so standing was determined in the affirmative, it was decided as follows: yeas 9, nays 2.

And again, on July 16, 1787, a report from the grand committee, embodying the same clause, was adopted by a vote of—yeas 5, nays 4, divided 1.

And finally, on September 8, 1787, the following clause, which is the language of the Constitution, was adopted by a vote of 9 to 2:

"All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills."

In Mr. Madison's *Debates in the Federal Convention*, page 376, it is shown that on August 6, 1787, the committee of detail, to whom was referred on July 25 the proceedings of the convention, reported a draught of the Constitution, article 4, section 5, of which read:

"All bills for raising or appropriating money and for fixing the salaries of the officers of Government shall originate in the House of Representatives, and shall not be altered or amended by the Senate. No money shall be drawn from the public Treasury but in pursuance of appropriations that shall originate in the House of Representatives."

In the subsequent proceedings of the convention this section was struck out, upon which occasion Colonel Mason said, "To strike out the section was to unhinge the compromise of which it made a part. The duration of the Senate made it improper. He does not object to that duration; on the contrary he approved of it. But, joined with the smallness of the number, it was an argument against adding this to the other great powers vested in that body. His idea of an aristocracy was that it was the government of the few over the many. An aristocratic body, like the screw mechanics, working its way by slow degrees, and holding fast whatever it gains, should ever be suspected of an encroaching tendency. The purse-string should never be put into its hands."

Mr. Mercer said he "considered the exclusive power of originating money bills as so great an advantage that it rendered the equality of votes in the Senate ideal, and of no consequence."

On the next day Mr. Randolph "expressed his dissatisfaction at the disagreement on yesterday to section 5 concerning money bills, as endangering the success of the plan, and extremely objectionable in itself, and gave notice that he should move for a reconsideration of the vote."

Page 410. Mr. Randolph moved, according to notice, to reconsider article 4, section 5, concerning money bills, which had been struck out.

He argued, first, that he had not wished for this privilege while a proportional representation in the Senate was in contemplation; but since an equality had been fixed in that House, the large States would require this compensation at least. Secondly, that it would make the plan more acceptable to the people, because they will consider the Senate as the more aristocratic body, and will expect that the usual guards against its influence will be provided, according to the example of Great Britain. Thirdly, the privilege will give some advantage to the House of Representatives, if it extends to the originating only; but still more if it restrains the Senate from amending. Fourthly, he called on the smaller States to concur in the measure as the condition by which alone the compromise had entitled them to an equality in the Senate. He signified that he should propose, instead of the original section, a clause specifying that the bills in question should be for the purpose of revenue in order to repel the objection against the extent of the words "raising money," which might happen incidentally; and that the Senate should not so amend or alter as to increase or diminish the sum, in order to obviate the inconveniences urged against a restriction of the Senate to a simple affirmation or negative.

On the question to reconsider there were—yeas 9, nays 1, divided 1.

The question next came up (see page 510) in a report by Mr. Brearly, from the committee of eleven, as follows:

"All bills for raising revenue shall originate in the House of Representatives and shall be subject to alterations and amendments by the Senate. No money shall be drawn from the Treasury but in consequence of appropriations made by law."

Mr. Gouverneur Morris (page 511) moved to postpone its consideration, stating that "it had been agreed to in the committee on the ground of compromise, and he should feel himself at liberty to dissent from it if on the whole he should not be satisfied with certain other parts to be settled."

The motion to postpone was carried—yeas 9, nays 2.

On page 514 Mr. King observed "that the influence of the small States in the Senate was somewhat balanced * * * by the concurrence of the small States in the committee in the clause vesting the exclusive origination of money bills in the House of Representatives."

To which remarks Mr. Madison appends the following note:

"This explains the compromise alluded to by Mr. Gouverneur Morris. Colonel Mason, Mr. Gerry, and other members from large States set great value on this

privilege of originating money bills. Of this the members from the small States, with some from the large States, who wished a high-mounted Government, endeavored to avail themselves, by making that privilege the price of arrangements in the Constitution favorable to the small States, and to the elevation of the Government."

On page 529 the question was finally settled as follows:

"It was moved to strike out the words 'and shall be subject to alterations and amendments by the Senate,' and insert the words 'but the Senate may propose or concur with amendments, as in other bills,' which was agreed to *nem. con.*"

To which Mr. Madison appended a foot-note as follows:

"This was a conciliatory vote, the effect of the compromise formerly alluded to."

By unanimous consent, the first reading of the bill was dispensed with; and the Clerk proceeded to read the bill by paragraphs for amendments.

The following paragraph was read:

Capitol police:

For one captain, \$1,600; three lieutenants, at \$1,200 each; twenty-one privates, at \$1,000 each; and six watchmen, at \$900 each; in all, \$31,600, one-half to be paid into the contingent fund of the Senate, and the other half to be paid into the contingent fund of the House of Representatives.

Mr. ATKINS. I offer the following amendment:

Add after line 125 the following:

For contingent fund, \$100.

The amendment was agreed to.

Mr. DUNNELL. I offer the following amendment:

In line 120, strike out "\$1,000" and insert "\$1,100."

I understand the compensation of the privates of the Capitol police force at the present time is \$1,100. The captain receive \$1,600 and the lieutenants \$1,200 each. I think if the compensation of the privates be placed at \$1,000 it is too low.

The amount of compensation now allowed is certainly as low as ought to be given to any men performing the duties of policemen here about this Capitol. Most of these men are men with families, and the compensation here furnished is not equal to their wants. I have no personal interest in any watchman or policeman about this Capitol, but the former compensation was \$1,200 a year, and it was reduced in the last appropriation bill to \$1,100, and I propose to give the same compensation for the next year as was given for the last, and I hope the committee will agree to that.

Mr. ATKINS. We have simply reduced the salaries of the privates on the Capitol police force from \$1,100 to \$1,000. These gentlemen remain within the walls of this Capitol pretty much; they are protected from the weather and are not subjected to the same exposure or dangers as the police of cities are as a usual thing, and considering the great fall in prices of all the necessities of life and that we have got almost to bed-rock, so far as those necessities are concerned, I think this is good pay for the men who stand around this Capitol called policemen, with hardly any duties to perform. Besides that, if you will contrast the cost of the police force of this Capitol with the cost of the police force of the British Parliament you will see that we have been paying within the last four or five years more than twice as much as they pay in the British Parliament. I believe they pay there only \$14,000 a year for the entire police force of the Houses of Parliament, while we pay \$33,600.

Now it will be no argument for any gentleman to say, "Oh, will you compare free America with a monarchical government?" It is too late to make such arguments as that upon a question of dollars and cents.

The labor which these gentlemen perform is not greater than the same class of men performs in the British Parliament houses, and it seems to me that when we propose to give our policemen \$2.50 per day, while the police employed in the British houses of Parliament get only \$1 a day, I think we are quite liberal in the appropriation we have made.

The Clerk resumed the reading of the bill, and read as follows:

For one laborer, \$820; four laborers at \$600 each; one telegraph-operator, \$400.

Mr. ATKINS. In line 154 I propose, after the word "laborer," to insert the words "in the bath-room," and to strike out "8" and insert in lieu thereof "7," so that it will read:

For one laborer in the bath-room \$720.

I will state to the House that my object in offering this amendment is to assign this salary to the man who keeps the bath-room under the House of Representatives.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For clerk to the Committee of Ways and Means, \$2,500; assistant clerk, \$1,200; clerk to the Committee on Appropriations, \$2,500; assistant clerk, \$1,200; clerk to the Committee of Claims, clerk to the Committee on the Public Lands, clerk to the Committee on War Claims, and clerk to the Committee on Invalid Pensions, at \$2,000 each.

Mr. REAGAN. I would like to ask the chairman of the Committee on Appropriations whether the several committee clerks mentioned in this clause have received the compensation here provided heretofore?

Mr. ATKINS. Yes, sir; their salary is fixed by law.

The CHAIRMAN. Does the gentleman from Texas offer an amendment?

Mr. REAGAN. No, sir; I did not know that all the salaries of these clerks were fixed by law, although I knew that some of them were.

The Clerk resumed the reading of the bill, and read as follows:

For one chief engineer, \$1,400; two assistant engineers, \$1,300 each; five firemen, at \$900 each. And all engineers and others who are engaged in heating and ventilating the House shall be subject to the orders, and in all respects under the

direction of the Architect of the Capitol, subject to the control of the Speaker, and no removal or appointment shall be made except with his approval.

Mr. ATKINS. I move, in line 181, after the word "each," to insert the words "and one laborer."

The amendment was agreed to.

Mr. DUNNELL. I move to amend by adding to the clause the words "and except for cause," so that it shall read: "and no removal or appointment shall be made except with his approval and except for cause." That is in strict harmony with the theory of civil-service reform, and I think there can be no objection to it. It simply provides that there shall be no removals in this department except for cause.

Mr. ATKINS. I certainly do not think that the amendment ought to be offered because I think it is rather a reflection upon the appointing officer and the Speaker. Surely the Speaker would not approve of a removal unless for cause.

Mr. DUNNELL. The amendment applies to the Architect of the Capitol.

Mr. ATKINS. It applies both to the Speaker and to the Architect.

Mr. DUNNELL. I understand that there is good reason for the amendment, and I have offered it in good faith and with no expectation that it would reflect either upon the Architect or the Speaker.

Mr. ATKINS. It is very unusual to hamper the appointing power with any such restriction as that. I do not believe the gentleman can find, if he searches through all the Departments of the Government, any restriction of that sort; or if he does it will only be in some few cases. As a general thing the appointing power has no such restriction placed upon it.

I will state further that, as the House is aware, these officers were formerly under the Doorkeeper; but the Committee on Appropriations, after considering the subject mutually, thought that as the Architect of the Capitol has charge of the Capitol, and as these engineers are especially the persons in charge of the ventilation of the Hall and keeping it at the proper temperature, they should be placed under the control of the Architect of the Capitol instead of the Doorkeeper, who knows nothing about their business. The Architect knows all about their business, while the Doorkeeper, by virtue of his office, is not supposed to know anything about their duties. Hence we placed them under the control of the Architect.

Mr. REAGAN. As I shall vote for this amendment, I desire to state briefly my reason for doing so. I think the principle of the amendment proposed by the gentleman from Minnesota [Mr. DUNNELL] is correct. While it applies in this case to but a single officer, I am willing that it shall be applied to him, and I would be glad to have an opportunity of applying it in all cases, to all the subordinate officers about the Senate and House and in all the Departments. I think they should not be removed for mere capriciousness or from favor or for political considerations, but when appointed they should not be removed during the term for which they were appointed without cause, for misconduct or incapacity.

Mr. HOUSE. I move to strike out the last word, for the purpose of calling the attention of the gentleman who offered this amendment to the fact that it does not make sense, [laughter.] and for that reason I think it ought not to be adopted. His amendment says that no removal or appointment shall be made except with the approval of the Speaker or for cause. Now, does the gentleman want to provide that no appointment shall be made except for cause?

Mr. DUNNELL. I will modify my amendment.

Mr. HOUSE. I think it needs modification.

Mr. DUNNELL. I modify my amendment so that it shall read "no appointment shall be made except with his approval, and no removal except for cause."

The amendment, as modified, was not agreed to.

The Clerk resumed the reading of the bill, and read the following:

For fourteen messengers on the soldiers' roll, at \$1,000 each.

Mr. DEERING. I move to amend the clause just read by adding the following:

Provided, That the messengers served in the Union Army.

Mr. ATKINS. I am willing to accept that amendment.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following:

For eighteen messengers, at \$1,000 each; seven laborers, at \$600 each; ten laborers, during the session, at the rate of \$720 each per annum; one laborer, at \$600; one laborer, (Henry Douglas,) at \$840; one laborer, at \$600; and for one female attendant in ladies' retiring-room, \$600.

Mr. COX, of Ohio. I move to amend by inserting, after the words "one laborer at \$600," these words:

Eight laborers in charge of cleaning the Hall of the House, known as "cloak room men," at \$50 per month during the session.

My object in offering this amendment is to make this appropriation bill in this particular accord as nearly as possible with what has been the actual payments for this purpose during more than twelve years past, as is proved by evidence taken before one of the committees in this House on that subject. We have for this long period been in the habit of paying these cloak-room men by special resolution at the end of the session. That is an inconsistency which should cease.

The pay of these men has hitherto been larger than proposed by my amendment. I have made it \$50 per month so that it will accord with the sum fixed by the Committee on Appropriations for other laborers. I would say also that the number employed heretofore has been ten,

but the Committee on Civil-Service Reform have agreed to report in favor of eight, believing that to be a sufficient number.

Mr. ATKINS. Does this amendment come from the Committee on Civil-Service Reform?

Mr. COX, of Ohio. I have not been instructed to offer this amendment, but I know the Committee on Civil-Service Reform are unanimously in favor of it.

Mr. ATKINS. I will not object to the amendment.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following: For Chaplain of the House, \$900.

Mr. MCKENZIE. I move to amend by striking out "\$900" and inserting "\$1,000." I want to pay the man who prays for us as much as we pay for a man to open the door.

Mr. ATKINS. I believe this amendment is subject to the point of order that it changes existing law and is not in the line of retrenchment. The salary of the Chaplain has always been \$900.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk resumed the reading of the bill, and read the following: For twenty-five pages, while actually employed, (including three riding-pages,) at \$60 per month, and for hire of horses, (\$500,) \$6,500.

Mr. CRITTENDEN. I desire to say that members here are very much embarrassed by want of copies of this bill; half of us have no copies of the bill.

Mr. ATKINS. The usual number was printed. I do not know whose fault it is that copies cannot be obtained.

Mr. BLOUNT. The copies of the bill have been taken from the document-room.

The CHAIRMAN. Perhaps the gentleman will find the bill on his file.

Mr. CRITTENDEN. No; it is not on our files, and I shall soon move that the further consideration of this bill be suspended until we can obtain copies of it.

The Clerk read as follows:

For twenty-five pages while actually employed, (including three riding-pages,) at \$60 per month, and for hire of horses, (\$500,) \$6,500.

Mr. CHALMERS. I move to amend by striking out "twenty-five pages," and inserting "twenty-eight pages." The Committee of Accounts have given considerable examination and discussion to this subject. We find that there are now twenty-nine pages on this floor, twenty-eight being authorized by law and one by special resolution of the House. Members must all be aware that the present force is not greater than is needed. I hope, therefore, that we shall retain at least the number we now have.

Mr. ATKINS. I dislike very much to make a speech against the "boys," and I do not believe I will. Without making any suggestion at all I will allow the vote to be taken.

The amendment of Mr. CHALMERS was agreed to; there being ayes 71, noes not counted.

Mr. CLYMER. I move to amend by inserting after the words "riding-pages," in line 255, the words "and one telegraphic page."

Mr. ATKINS. Is it the design of the amendment that this telegraphic-page shall be one of the twenty-eight?

Mr. CLYMER. Yes, sir. Perhaps the amendment might be put in better form.

Mr. DURHAM. I move to amend by striking out the words "including three riding-pages" and inserting "three of whom shall be riding-pages and one of whom shall be page to the telegraphic operator."

Mr. CLYMER. That is more accurate; I accept it as a modification of my amendment.

Mr. McMAHON. I understand that we have never had more than one riding page.

Mr. ATKINS. If the gentleman from Pennsylvania [Mr. CLYMER] will withdraw his amendment I will offer one to cover the same object.

Mr. CLYMER. I withdraw it.

Mr. ATKINS. I move to amend so that the clause will read, "including two riding pages and a telegraphic page." These will be a part of the twenty-eight.

Mr. RANDALL, (the Speaker.) There is some mistake about this matter. We have never had more than one riding page. As to the other page who is removed from service on the floor, his duty is to receive and distribute documents coming from the Executive Departments. As these pages come directly under my official notice, I feel warranted in saying that I think there need be but one riding page.

Mr. ATKINS. I am very willing to modify my amendment so as to read "including one riding page and one telegraphic page."

Mr. RANDALL, (the Speaker.) Then another page can be assigned to the duty I have spoken of.

The amendment, as modified, was agreed to.

Mr. ATKINS. As this paragraph has been amended so as to authorize three more pages, it will be necessary to change the footing. I ask consent that the Clerk be authorized to do this.

There was no objection.

The Clerk read as follows:

For compensation of the Public Printer, \$13,600; for chief clerk, (whose appointment is hereby authorized,) \$2,900; two clerks of class four; one clerk of class three; one clerk of class two; one clerk of class one; in all, \$13,400.

Mr. FINLEY. I desire to inquire whether the "chief clerk" spoken of in this paragraph has been heretofore authorized by law.

Mr. ATKINS. I will state frankly to the gentleman that he has not been.

Mr. FINLEY. Then I make the point of order that this office cannot be created in the present bill. I wish to say—

Mr. ATKINS. There is no use making a speech upon the subject. If the point of order is insisted upon, the clause must go out.

Mr. FINLEY. I wish to inquire of the chairman of the Committee on Appropriations how many clerks are now in the employ of the Public Printer and what are their salaries.

Mr. ATKINS. This bill provides for the same number now employed.

Mr. FINLEY. I desire to say to the gentleman that within the last six months the Public Printer has increased the number of his clerks and increased their salaries, as I understand, without any authority of law and, as I believe from information in my possession, without any necessity. He has increased by two the number of salaried clerks, though there is no more business done in that office now than there was under his predecessor. He has also, as I have said, increased the salaries of these clerks. I am satisfied that the proper transaction of the business of the Public Printer does not require such a number of clerks. I am not captious about this matter; but I have been recently examining this question—

Mr. WHITE, of Pennsylvania. Is there not a point of order pending?

The CHAIRMAN. There is.

Mr. FINLEY. I thought the point of order was acceded to.

The CHAIRMAN. The point of order has not yet been disposed of. Will the gentleman again state it?

Mr. FINLEY. My point of order is that the bill in providing for a chief clerk whose salary is fixed at \$2,000 goes beyond the authority of existing law and proposes new legislation. The Committee on Appropriations admit, I understand, that there is no law authorizing the office of chief clerk of the Public Printer.

The CHAIRMAN. The Chair understands it to be conceded by the chairman of the Committee on Appropriations that this clause is a change of existing law. The Chair therefore sustains the point of order.

Mr. ATKINS. If the gentleman insists upon the point of order the clause must go out. The Committee on Appropriations was well aware that the paragraph was subject to a point of order, for there is no law authorizing us to increase the salary of this officer to \$2,000 and constitute him a chief clerk.

The CHAIRMAN. If the gentleman insists on the point of order the Chair has no alternative but to sustain it.

Mr. ATKINS. Does the gentleman insist on it.

Mr. FINLEY. I do.

The CHAIRMAN. Then the Chair sustains the point of order.

Mr. DURHAM. The bill will have to be changed. We reorganized that department. There were four clerks of class four and one clerk of class three, but we made a chief clerk, giving him \$2,000, and reduced the four clerks of class four to two. If that is stricken out, then there ought to be three clerks of class four to supply the deficiency.

Mr. FINLEY. Does it make an aggregate saving?

Mr. DURHAM. It does.

Mr. FINLEY. What is the pay of these clerks? This bill does not fix the pay of any of them except the salary of the chief clerk.

Mr. CLYMER. That is fixed by law, different pay for a different class of clerks.

Mr. ATKINS. The amount is exactly the same in this bill as in the present law, \$13,400, exactly the same amount.

Mr. POTTER. Only differently distributed?

Mr. ATKINS. Yes, sir. They are reclassified, that is all. If the gentleman insists on his point of order it will be necessary to have three clerks of class four instead of two clerks.

Mr. FINLEY. I was not aware of that fact. I thought the appropriation was an increase over the present law.

Mr. ATKINS. No, sir.

Mr. FINLEY. If there is no increase of appropriation then I withdraw my point of order.

Mr. ATKINS. It has not been increased a single dollar.

Mr. FINLEY. I withdraw my point of order.

The CHAIRMAN. The paragraph will stand as it is.

Mr. MILLS. I move the committee rise; this is Saturday and we have done a good day's work.

Mr. DURHAM. No; let us go on a half hour longer.

The committee refused to rise.

The Clerk proceeded with the reading of the bill.

Mr. BACON. I make the point of order we are proceeding without a quorum.

The CHAIRMAN. The Chair overrules the point of order.

Mr. BACON. Then I move the committee rise.

The committee divided; and there were—ayes 16, noes 105.

The CHAIRMAN. No further count being demanded the Chair will declare the motion rejected.

Mr. BACON. I make the point of order there is no quorum present.

Mr. McMAHON. That comes too late.

The CHAIRMAN. The Chair will order tellers, in order to determine whether there is a quorum present or not.

Mr. ATKINS. I ask the gentleman to allow us to run on until half-past four o'clock, and then we will agree to the motion that the committee rise.

The CHAIRMAN. The Chair hears no objection to that understanding, and the motion to rise is disagreed to.

The Clerk read as follows:

Commissioner of Customs: For Commissioner of Customs, \$4,000; deputy commissioner, \$2,250; two chiefs of divisions, at \$2,100 each; two clerks of class 4; four clerks of class 3; eight clerks of class 2; nine clerks of class 1; three clerks, at \$1,000 each; one assistant messenger; and one laborer; in all, \$46,770.

Mr. ATKINS. I move in line 459 to strike out "eight" and insert "ten," so it will read "ten clerks of class 2," instead of eight clerks of class 2.

The amendment was agreed to.

Mr. ATKINS. I now move that the amount appropriated be increased to correspond with the amendment just adopted.

The CHAIRMAN. The Chair hears no objection; and it is ordered accordingly.

The Clerk read as follows:

First Auditor:

For the First Auditor of the Treasury, \$3,600; deputy auditor, \$2,250; five chiefs of division, at \$2,000 each; four clerks of class 4; nine clerks of class 3; nine clerks of class 2; fourteen clerks of class 1; six clerks, at \$1,000 each; three clerks, at \$900 each; two assistant messengers; one page, \$460; and for laborers, \$2,400; in all, \$79,870. And so much of sections of the Revised Statutes numbered 276 and 277 as authorizes the appointment and fixes the salary of a Fifth Auditor for the Treasury Department is hereby repealed and the office is abolished. And all acts and parts of acts now in force relating to and prescribing the duties of the same shall apply to the office of the First Auditor of the Treasury Department; and their fulfillment shall devolve on and be performed under the direction of the incumbent of the said office, who shall be responsible for the same.

Mr. BRIGGS. I rise for the purpose of moving an amendment to that paragraph.

Mr. PAGE. I reserve the point of order until we hear what reason can be given by the committee for the abolition of the office of Fifth Auditor.

Mr. ATKINS. It is very evident this will lead to some contest, and therefore as we have now reached the adjourning hour I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. EDEN reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration a bill (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1879, and for other purposes, and had come to no resolution thereon.

Mr. ATKINS. I move by unanimous consent an additional number, say 300 copies, of the legislative appropriation bill be printed for the use of the House, as the number already printed has been exhausted.

There was no objection, and it was ordered accordingly.

SURVEYS OF CONNECTICUT RIVER.

Mr. ROBINSON, of Massachusetts, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to furnish to the House of Representatives as soon as practicable a report in detail of the surveys and examinations of the Connecticut River between Hartford, in Connecticut, and Holyoke, in Massachusetts, made since 1867 under the direction of the War Department.

Mr. WHITE, of Pennsylvania. I move that the House do now adjourn.

LEAVE OF ABSENCE.

Pending the motion to adjourn, by unanimous consent, leave of absence was granted, as follows:

To Mr. BAGLEY, for ten days;

To Mr. HUBBELL, for one week, from Monday next, on account of important business; and

To Mr. BRIGHT, indefinitely, on account of sickness in his family.

FRANÇOIS CAZEAU.

Mr. NORCROSS, by unanimous consent, from the Committee on Revolutionary Pensions, reported back the bill (H. R. No. 3060) for the relief of the heirs and legal representatives of François Cazeau, and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee of Claims.

The motion was agreed to.

The motion that the House adjourn was then agreed to; and accordingly (at four o'clock and twenty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BOUCK: The petition of the publisher of the Shawano County (Wisconsin) Journal, for the abolition of the duty on type—to the Committee of the Whole on the state of the Union.

Also, the petition of citizens of Wisconsin, relative to the price paid for labor on public works—to the Committee on Education and Labor.

By Mr. BRIDGES: The petition of William H. Snowden and over 2,000 other citizens of Lehigh Valley, Pennsylvania, against the passage of the Wood tariff bill—to the Committee of the Whole on the state of the Union.

By Mr. DIBRELL: The petition of 154 citizens of Chattanooga, Tennessee, that a pension be granted to James M. Allison, a veteran soldier of the Mexican war, on account of wounds received at Cerro Gordo—to the Committee on Invalid Pensions.

By Mr. FORNEY: The petition of G. A. Prinz, mayor of Callman, Alabama, and other citizens of said city, that aid be granted the Texas Pacific Railroad, provided its eastern terminus is located at Vicksburg, Mississippi—to the Committee on the Pacific Railroad.

By Mr. JONES, of Alabama: Resolutions of the Mobile (Alabama) Board of Trade, favoring the repeal of the 10 per cent. tax on the issues of State banks—to the Committee of Ways and Means.

By Mr. KETCHAM: The petition of 26 citizens of Poughkeepsie, New York, for the compilation and publication in text form of the data used by the War Department in compiling the maps of the battle of Gettysburg—to the Committee on Military Affairs.

By Mr. LOCKWOOD: The petition of the president and counselors of the Seneca Nation of Indians, to amend section 2139 of the Revised Statutes of the United States, relating to the sale of spirituous liquors to Indians—to the Committee on the Judiciary.

By Mr. LUTTRELL: The petition of General G. B. Cosby, for the removal of his political disabilities—to the same committee.

Also, memorial of the Board of Trade and citizens of Vallejo, California, for the completion of the stone dry-dock at Mare Island navy-yard—to the Committee on Naval Affairs.

By Mr. MCGOWAN: Papers relating to the bill for the relief of Henry O'Neill—to the Committee on Military Affairs.

By Mr. McMAHON: The petition of Michael Maegher, for a pension—to the Committee on Invalid Pensions.

By Mr. PAGE: The petition of B. N. Rowley, against an increase of the duty on wrought-iron lap-welded boiler flues and tubes—to the Committee of Ways and Means.

By Mr. RICE, of Ohio: Papers relating to the petition of David W. Stockstill, for relief—to the Committee on Military Affairs.

By Mr. SOUTHARD: The petition of Andrew Beard and 40 other citizens of Licking County, Ohio, against the reduction of the tariff on wool—to the Committee of Ways and Means.

By Mr. TUCKER: The petition of citizens of New York City, against the proposal to attach a coupon or stamp to each cigar in addition to the stamp on each box of cigars—to the same committee.

By Mr. WALSH: The petition of Theodore Luman and other citizens of Maryland, that a pension be granted Peter Yarnall—to the Committee on Invalid Pensions.

By Mr. WILLIAMS, of Michigan: Resolutions of the Enreka Council No. 4, of the District of Columbia, Sovereigns of Industry, favoring a law that will insure full weight to purchasers of coal, and for the appointment of a Government weigher of coal—to the Committee for the District of Columbia.

By Mr. WOOD: The petition of certain discharged soldiers, to have published certain compilations relative to the battle of Gettysburg—to the Committee on Military Affairs.

IN SENATE.

MONDAY, April 29, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of the proceedings of Thursday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the War Department, transmitting a report of Brevet Major-General G. K. Warren, major of engineers, upon the subject of bridging the Mississippi River; which was referred to the Committee on Commerce, and ordered to be printed, without the maps.

Mr. WINDOM moved that the maps accompanying the report be referred to the Committee on Printing; which was agreed to.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting a copy of a letter addressed to the Speaker of the House of Representatives in reference to the bill (H. R. No. 4292) to reduce the expense of the public printing and binding, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

FESTIVAL OF SHARPSHOOTERS' UNION.

The PRESIDENT *pro tempore* laid before the Senate the following communication; which was read, and ordered to lie on the table:

NEW YORK, April, 1878.

The third national shooting festival of the Sharpshooters' Union of the United States of North America will be held at the park in Union Hill, New Jersey, from the 16th to the 24th of June next.

You and the honorable body over which you have the honor to preside are most cordially invited to be present on that occasion. It is earnestly hoped that if your official duties will permit you to attend, that you will kindly signify to us your acceptance.

Most respectfully,

GEORGE AERY,
President.
J. H. BEHRENS,
Corresponding Secretary.

Hon. W. A. WHEELER,
Vice-President, &c., United States Senate, Washington, D. C.

CREDENTIALS.

Mr. McCREERY. Mr. President, I take pleasure in presenting the credentials of my successor in office, Hon. John S. Williams, who has been elected by the Legislature of Kentucky to a seat in the Senate for the term beginning on the 4th of March next. His experience in affairs and his acknowledged ability will render him a useful, and he will make himself an agreeable, member of this body.

The PRESIDENT *pro tempore*. The credentials will be read.
The credentials were read and ordered to be filed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a resolution of the Board of Trade of Mobile, Alabama, in favor of the passage of House bill No. 3385, to organize the life-saving service; which was ordered to lie on the table.

He also presented a memorial of the American Society of Civil Engineers, in favor of an appropriation for the purpose of continuing the triangulations of the Coast Survey where the Legislatures of the States shall make provision for the same; which was ordered to lie on the table and be printed.

He also presented a memorial of citizens of the United States, in favor of a commercial highway by water between the Mississippi River and Lake Michigan via the Fox and Wisconsin Rivers; which was referred to the Committee on Commerce.

Mr. McCREERY. Mr. President, I hold in my hand a petition signed by many of the most eminent citizens of Kentucky, of all professions and of all political parties, praying that Americus Symmes may be assigned to an official position in Captain Howgate's expedition to the north pole. His father was not only a meritorious naval commander, but he was a philosopher and devoted much of his time to the study of the polar regions. More than fifty years ago he delivered many lectures on the subject. His theories received little consideration at the time, but it is now contended by the petitioners that research and exploration have in some measure established the truth of what was then regarded as a speculation or a dream. The son, with becoming reverence and in the strict line of filial duty, anxiously seeks an opportunity of vindicating the memory of his father by placing his name where he believes it belongs, among the pioneers of a branch of knowledge still in its infancy.

Impelled by these high motives and armed with the facts and deductions of his celebrated ancestor, his presence in the expedition would be a touching tribute to the dead and an encouragement to the living patiently and cheerfully to endure the hardships and privations of a voyage from which there may be no return.

I have never seen a petition which presented in the signatures a more imposing array of talent and learning, nor one more heavily charged with intellectual and moral force. I feel a comforting assurance that the Committee on Naval Affairs will yield readily and gracefully to their wishes. I move its reference to that committee.

The motion was agreed to.

Mr. ANTHONY presented the petition of Mrs. Sarah C. Abbot, of Warren, Rhode Island, widow of the late Trevett Abbot, commander of the United States Navy, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. HOAR presented the petition of B. B. Taylor, commander in the United States Navy, praying for inquiry and suitable legislation to remedy an injustice, as he alleges, in passing him over in promotion; which was referred to the Committee on Naval Affairs.

He also presented the memorial of George W. Newball and others, citizens of Massachusetts, remonstrating against the passage of any act imposing a tax on incomes; which was referred to the Committee on Finance.

He also presented the memorial of Isaiah Chase and others, citizens of Barnstable, Massachusetts, masters in the merchant marine, and the memorial of the Boston Board of Underwriters, and the memorial of the Boston Board of Trade, remonstrating against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which were ordered to lie on the table.

He also presented the memorial of the Providence Tool Company, remonstrating against the passage of section 19 of the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes; which was referred to the Committee on Patents.

Mr. MATTHEWS. I present the petition of M. McCullough and others, owners and officers of steam-vessels at Cincinnati, Ohio, praying that Congress will take action on the House bill No. 2478, which has been pending before the Committee on Commerce since the 25th of January last, and asking that, inasmuch as in their opinion the provisions of the bill are so vital to steam-navigation interests all over the United States and especially to those of the Mississippi Valley, its passage may be immediate. I move the reference of the petition to the Committee on Commerce.

The motion was agreed to.

Mr. JOHNSTON presented the petition of T. G. Senseney and other heirs of the estate of Jacob Senseney, deceased, praying compensation for the use and occupancy of certain property belonging to the estate of the decedent at Winchester, Virginia, by United States troops during the late war; which was referred to the Committee on Claims.

Mr. THURMAN presented the memorial of Samuel M. White, jr., and others, citizens of Ohio, remonstrating against the proposed transfer of the life-saving service from the Treasury to the Navy Department; which was ordered to lie on the table.

Mr. SARGENT. I present a memorial from the Board of Trade and citizens of Vallejo, California, in favor of an appropriation to continue the construction of the stone dry-dock at the Mare Island navy-yard, for which purpose the appropriations have been slight or omitted of late. The memorialists state that these sectional docks are now twenty years old and suffering the weakness of age and use and deteriorating rapidly; that the greatest care is needed in operating them to prevent accidents with loss of property and life; that \$45,000 was the sum estimated to be required for their repair with an annual outlay of \$7,000 to maintain them in working order. They say that there has been over \$1,000,000 already appropriated for the stone dry-dock now building, and without the expenditure of enough more to complete it the amount already appropriated will have been substantially a total loss; that the coffer-dam put up for temporary purposes will stand but for a year or two and is liable to give way, in which case it would necessitate an enormous expense to the Government. They ask, therefore, that an appropriation may be made sufficient to complete this necessary work. I move the reference of the memorial to the Committee on Appropriations.

The motion was agreed to.

Mr. SARGENT presented a memorial of Ben Franklin & Co., publishers and proprietors of the Redding Independent, of Redding, California, in favor of a duty of thirty cents per pound being levied on all stereotype and electrotype plates imported into the United States, and remonstrating against any action being taken by Congress in favor of a petition presented in the interest of the foreign type-founders' agency in San Francisco for the abolition of the duty on printing-type; which was referred to the Committee on Finance.

Mr. INGALLS presented the petition of Thomas Cott and 55 other citizen Indians of Kansas, praying for an adjustment of their affairs with various tribes; which was referred to the Committee on Indian Affairs.

He also presented the petition of S. B. Cole and others, praying that arrears of pension be allowed to Charles Harrison, who served during the late war as a private in Company C, First Nebraska Volunteer Infantry; which was referred to the Committee on Pensions.

He also presented the petition of W. D. Sash and others, citizens of Rush County, Kansas, praying that Daniel Smith, a citizen of the same county, be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of James McCracken, of Camden, New Jersey, late a seaman in the United States Navy, praying for a pension; which was referred to the Committee on Pensions.

Mr. EDMUNDS. I present the petition of Mrs. Lucia B. Peck, of Burlington, Vermont, with sundry accompanying papers, praying for relief for what she considers to have been the illegal imprisonment of her husband in the old Capitol prison here during the war. I am a little in doubt whether it ought to go to the Committee on Claims or to the Committee on Military Affairs; but I rather think it should go to the Committee on Military Affairs, as it is not a definite claim.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on Military Affairs.

Mr. HOWE presented the memorial of F. C. Suhrer, remonstrating against the confirmation of a claim made by Anna M. Clark to certain lands in Florida; which was referred to the Committee on Private Land Claims.

Mr. CONKLING presented a memorial numerously signed by members of the Maritime Association of New York, in favor of an amendment of the laws of the United States touching commerce and navigation; which was referred to the Committee on Commerce.

Mr. COCKRELL presented additional papers in relation to the application of Emma Isabella Crain, formerly Smith, of McLean County, Illinois, for a pension; which was referred to the Committee on Pensions.

Mr. KIRKWOOD presented the memorial of George W. Clark and others, citizens of Iowa; the petition of Nicholas Grensel and others, citizens of Iowa; the petition of William Campbell and others, citizens of Iowa; and the petition of Noble Warwick and others, citizens of Iowa, remonstrating against the making of pensions payable in the city of Washington; which were referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. MAXEY, from the Committee on Military Affairs, to whom was referred the bill (S. No. 757) to provide for building a military post for the protection of the northern frontier of Montana, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

Mr. SAULSBURY, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. No. 150) for the relief of William McIndoe, postmaster at Lonaconing, in Alleghany County, Maryland, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 3071) for the relief of Samuel R. Atwell, late postmaster at Winchester, Virginia, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 1315) for the relief of C. H. Walker, postmaster at Frostburgh, in Alleghany County, Maryland, reported it without amendment.

Mr. ROLLINS. I am directed by the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 4425) to alter and amend a law of the District of Columbia relative to the inspection of flour, to report it with an amendment striking out in the twenty-seventh and twenty-eighth lines the word "inspection," and inserting "inspector;" and I ask that the bill may be considered at this time.

The PRESIDENT *pro tempore*. The bill will be read for information subject to objection.

The Chief Clerk read the bill.

Mr. COCKRELL. I trust that the members of the Committee on the District of Columbia will not insist upon reporting important measures and asking their present consideration. We shall be compelled, a number of us, to interpose objections to such an irregular mode of transacting very important business. We are not in the habit of proceeding to the present consideration of bills coming from other committees when they are reported, and I see no reason or excuse why bills coming from the Committee on the District of Columbia should always be brought up and acted upon as soon as reported. I ask that the bill take its regular course and that it be placed on the Calendar to come up as the other legitimate business of the Senate.

The PRESIDENT *pro tempore*. Objection is made to the present consideration of the bill, and it will take its place on the Calendar.

Mr. DORSEY. I think the statement of the Senator from Missouri is entirely uncalled for. The members of the Committee on the District of Columbia have not been in the habit of reporting bills and asking for their immediate consideration. On the contrary, I fancy the District Committee has occupied as little of the time of the Senate as any other committee of the body, and this is the first bill, I venture to say, this winter the immediate consideration of which was asked by the committee when it was reported. I did not know at the time that the Senator having charge of the bill was going to ask its immediate consideration; but the whole bill which the Senator says is so very important simply amounts to reducing the fee which the inspector of flour in the District gets from two cents a barrel to one cent a barrel. That is all the importance of the bill.

Mr. ROLLINS. Will the Senator from Missouri withdraw his objection that I may say a word?

Mr. COCKRELL. I rise to a question of order. The bill is not before the Senate.

The PRESIDENT *pro tempore*. The bill has gone over under the objection.

Mr. ROLLINS. Will the Senator from Missouri allow me to correct the error into which he has fallen?

Mr. COCKRELL. When the bill comes up in its regular order we can discuss its points.

Mr. ROLLINS. The Senator from Missouri ought not to have occupied the time of the Senate to make an erroneous statement.

The PRESIDENT *pro tempore*. Debate is not in order.

Mr. BAILEY, from the Committee on Pensions, to whom was referred the bill (S. No. 849) granting a pension to James C. Downer, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1975) to amend an act granting a pension to William Hartford, of South Yarmouth, Massachusetts, approved May 8, 1874, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 932) granting a pension to Cornelius Le Roy, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 978) granting a pension to Hiram M. Kuhn, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 524) granting a pension to Lemuel L. Lawrence, late second lieutenant Company B in the Sixth Regiment Illinois Cavalry Volunteers, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 13) for the relief of Amy King, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Portman Swafford, late of Company D, Fifth Tennessee Mounted Infantry, praying to be allowed a pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. BRUCE, from the Committee on Pensions, to whom was referred the petition of Otho W. Beal, praying to be allowed a pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the petition of Phebe Wilson, praying to be allowed a pension on account of the services of her husband, William Wilson, in the war of 1812, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the bill (S. No. 744) granting a pension to Sarah McCooly, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. CONKLING. I am instructed by the Committee on the Judiciary to make a report in answer to a resolution instructing that committee to inquire into the purposes for which the New York post-office building may properly be used. I may say that this is the unanimous report of the committee. I move that it be printed and laid upon the table.

The motion was agreed to.

Mr. WADLEIGH. The Committee on Military Affairs, to whom was referred the bill (S. No. 387) to correct the date of commission of certain officers of the Quartermaster's Department, have considered the same and instruct me to report adversely and recommend that the bill do not pass. There will be in this case a report of a minority of the committee, and I ask that both reports be printed.

Mr. MAXEY. I am instructed by the minority of the Committee on Military Affairs, to whom was referred the bill (S. No. 387) to correct the date of commission of certain officers of the Quartermaster's Department, to submit the views of the minority, and to move that they be printed with the report of the majority.

The motion was agreed to.

BILLS INTRODUCED.

Mr. McPHERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1147) for the relief of the Newark Stamping Company, of Newark, New Jersey; which was read twice by its title, and referred to the Committee on Patents.

Mr. MATTHEWS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1148) to amend section 619 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1149) to provide for the service of process in cases of interpleader in the courts of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. CHRISTIANCY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1150) to amend section 5447 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1151) to amend section 5497 of the Revised Statutes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1152) to provide for the payment of certain improvements on lands now embraced in the military reservation of Fort Cameron, in the Territory of Utah; which was read twice by its title.

Mr. COCKRELL. I introduce this bill at the request of the Delegate from Utah. I know nothing about its merits. I move the reference of the bill to the Committee on Military Affairs.

The motion was agreed to.

Mr. COCKRELL also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1153) to provide for ascertaining and reporting the expenses incurred by the Territory of Idaho, and the people thereof, in defending themselves from attacks and hostilities of the Nez Percé Indians in the year 1877, and for other purposes; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BECK (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1154) to incorporate the National Fair Grounds Association; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1155) for the relief of William Holloway; which was read twice by its title, and referred to the Committee on Claims.

Mr. HOAR (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1156) to amend section 4398 of the Revised Statutes; which was read twice by its title, and referred to the Committee on Patents.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1157) for the relief of Lieutenant Isaac S. Lyon; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1158) for the relief of Miller & Richard; which was read twice by its title, and referred to the Committee on Finance.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1159) to further define the rights of pre-emption entry within railroad limits; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1160) to amend section 2441 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. DAWES (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1161) for the relief of Marie Barton Greene; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. COCKRELL (by request) asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 27) providing for transportation by the military authorities of John J. Manuel and two infant daughters from Camp Howard, Idaho Territory, to Saint Charles, Missouri; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a resolution (S. R. No. 28) authorizing the Secretary of the Interior to lease certain Indian lands; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. KIRKWOOD (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1162) to amend the act relating to patents for inventions; which was read twice by its title, and referred to the Committee on Patents.

AMENDMENTS TO RIVER AND HARBOR BILL.

Mr. EUSTIS, Mr. CAMERON of Wisconsin, Mr. JOHNSTON, and Mr. GARLAND submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 4236) making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce and ordered to be printed.

AMENDMENTS TO POST-ROUTE BILL.

Mr. JOHNSTON, Mr. KELLOGG, Mr. MATTHEWS, Mr. SAUNDERS, Mr. BAILEY, Mr. COCKRELL, Mr. MERRIMON, and Mr. HILL submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 4236) to establish post-roads in the several States therein named; which were referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

AMENDMENT TO APPROPRIATION BILL.

Mr. EUSTIS submitted an amendment intended to be proposed by him to the bill (H. R. No. 4246) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

CHICKASAW PERMIT LAW.

Mr. ALLISON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into and report upon the validity of the so-called permit law which was enacted by the Legislature of the Chickasaw Nation on the 17th day of October, 1876.

Mr. ALLISON. I ask to file with the resolution a copy of the law. The PRESIDENT *pro tempore*. The accompanying paper will go with the resolution.

EXPENDITURES FOR THE DISTRICT OF COLUMBIA.

Mr. DORSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to furnish the Senate with a statement of all the appropriations and expenditures from the national Treasury for public and private purposes in the District of Columbia from July 16, 1790 to June 30, 1876, showing also the repayments, amounts carried to the surplus fund, receipts from sales of public lots, &c., with such notes and references as may be requisite for a full understanding of the transactions.

WASHINGTON MARKET COMPANY.

Mr. DORSEY. I offer the following order:

Ordered, That the Secretary of the Senate have printed for the use of the Senate 100 copies of the arguments and evidence relating to the alleged violation of their charter by the Washington Market Company.

The PRESIDENT *pro tempore*. The order will be referred to the Committee on Printing.

Mr. DORSEY. I should be glad to have it adopted.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none; and it is agreed to.

MAIL-ROUTES IN MAINE.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post-Offices and Post-Roads be directed to inquire into the expediency of establishing a mail-route from Anson to West's Mill, via Storck's, in the State of Maine.

Mr. HAMLIN also submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post-Offices and Post-Roads be directed to inquire into the propriety of establishing a mail-route from Hartford to Canton Village, in the county of Oxford, Maine.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1757) relating to vessels not propelled by steam or sail;

A bill (H. R. No. 4246) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes;

A bill (H. R. No. 4549) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1879, and for other purposes; and

A bill (H. R. No. 4574) to remove the political disabilities of George S. Shyrock.

The message also announced that the House had passed the bill (S. No. 35) to repeal the bankrupt law, with amendments, in which the concurrence of the Senate was requested.

The message further announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 3068) for the allowance of certain claims reported by the accounting officer of the Treasury Department.

The message also announced that the House insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HESTER CLYMER of Pennsylvania, Mr. JAMES H. BLOUNT of Georgia, and Mr. EUGENE HALE of Maine managers at the conference on its part.

The message further announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. No. 3967) to regulate the advertising of mail-lettings.

The message also announced that the House had passed a resolution for the appointment of a joint committee to be denominated "joint committee on the census" to consider and report upon the proper measures to be adopted for the taking of the next census; in which the concurrence of the Senate was requested.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 149) for the relief of Charles B. Varney;

A bill (S. No. 378) for the relief of William L. Hickam, of Missouri, guardian of the minor children of Hillary J. Jenkins;

A bill (S. No. 706) authorizing the President of the United States to make certain negotiations with the Ute Indians in the State of Colorado;

A bill (S. No. 767) authorizing the Secretary of War to allow the interment in the national cemetery at New Berne, in the State of North Carolina, of the remains of the late R. F. Lehman, late a commissioner of the United States circuit court in the eastern district of North Carolina;

A bill (H. R. No. 847) for the relief of Susan Robb;

A bill (H. R. No. 1224) for the relief of Will R. Hervey;

A bill (H. R. No. 2096) for the relief of James Fishback, late a collector of internal revenue, tenth district, State of Illinois;

A bill (H. R. No. 2884) for the relief of Samuel H. Canfield, postmaster at Seymour, Connecticut;

A bill (H. R. No. 1385) for the relief of the minor heirs of John H. Evans, deceased;

A bill (H. R. No. 3068) for the allowance of certain claims reported by the accounting officers of the Treasury Department;

A bill (H. R. No. 3102) authorizing the Secretary of the Treasury to employ temporary clerks, and making appropriations for the same; also making appropriations for detecting trespass on public lands, and for bringing into market public lands in certain States, and for other purposes;

A bill (H. R. No. 4222) to provide for a deficiency in the appropriation for the public printing and binding for the current fiscal year;

A bill (H. R. No. 3740) to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, for subsistence of the Army, and for other purposes; and

A joint resolution (H. R. No. 78) granting the use of artillery, tents, &c., at the national soldiers and sailors' reunion to be held at Marietta, Ohio.

ISLAND OF CUBA.

Mr. CONOVER. Mr. President, some weeks ago I submitted a resolution, which is now upon the Calendar, calling upon the President for special information relative to affairs in Cuba. I ask the Senate to take up that resolution now, in order to indulge me in some very brief remarks upon it.

By unanimous consent, the Senate proceeded to consider the following resolution, submitted by Mr. CONOVER March 20th:

Resolved, That the President is hereby requested to communicate to the Senate, if not incompatible with the public interest, such information as the Government has received respecting the terms and conditions under which the surrender of the Cuban insurgents has been made, together with such other information in his possession respecting the future policy of Spain in the government of the island of Cuba.

Mr. CONOVER. Mr. President, I desire to state very briefly the considerations which have induced me to call upon the President for the information referred to in this resolution. I shall not occupy the time of the Senate with any extended remarks.

It is the good fortune of this Government not only to be at peace

with all other nations, but to have set an example to the world of peaceful arbitration in great questions of national concern; and we are now conducting our diplomatic intercourse with all nations in a spirit of mutual concession and with an earnest determination to avoid all violent methods of redress.

We cannot lose sight of the fact, however, that the interests of this country in connection with the Spanish government are somewhat involved. The public policy of Spain in its colonial government on this continent has been for half a century of such a character as to greatly injure the commercial interests of the United States. It has been a policy of repression and rapacity. It is a traditional policy, deliberately conceived in a period when liberal ideas were only germinating.

The tenacity with which Spain resists all efforts to create mutual interests and its blind adhesion to old usages demonstrate the evil spirit which denies the universal demands of the age. The colonial policy of Spain has been the fruitful source of all the trouble experienced by this Government in regard to the rights of American citizens in Spanish dominions. No other government has so often and so seriously provoked the popular indignation of this country. No other government has so defiantly menaced the peaceful relations of the two countries. No other nation so persistently refuses to be guided in its public policy by those wise considerations recognized by the enlightened judgment of the world. For all these reasons, the people of this country are deeply concerned in whatever pertains to the political condition of Cuba.

It may seem surprising, but I think I am correct in the statement that our trade with Cuba, in the aggregate, is second only to what it is with Great Britain. It amounts to nearly \$100,000,000 annually, equal to one-tenth of the total export and import trade of South and Central America, the entire West Indies, and Mexico. But we sell to Cuba only \$15,000,000 to \$20,000,000 a year, while we purchase from \$75,000,000 to \$80,000,000 a year. This large traffic has grown out of the actual necessities of trade with Cuba, and in spite of the oppressive restrictions imposed by the Spanish government upon commercial intercourse with this country. The balance of \$50,000,000 in favor of Spanish merchants and planters in Cuba is the result of what is no more nor less than an infamous system of commercial pillage and administrative corruption.

The policy of Spain in Cuba has been tolerated by this Government through sheer necessity. In vain the United States has remonstrated through the customary channels of official intercourse. Equally useless have been the measures of retaliation, such as discriminating tonnage dues and prohibiting duties on Cuba coffee. Seven-tenths of the export trade of Cuba is with the United States. But what do we exchange in products of this country? American producers are confronted by a prohibitory impost on the introduction of flour into Cuba of seven or eight dollars a barrel, and by tonnage dues and port charges so excessive and arbitrary as to seriously injure the commerce of this country with that island.

The enormous tax upon American breadstuffs amounts to about 150 per cent., and yet to make good bread for the million and a half population of Cuba a competent authority says it is necessary to add to Spanish flour a fifth part at least of the American article. Not only flour, but rice, lard, butter, cheese, salt fish, and beef, common commodities, are subject to more or less rigorous imposts, only occasionally modified by necessity. Not one dollar, not the remotest advantage of this restrictive policy inures to the benefit of the real producer. The farmer in Spain gets not a penny more for his grain than if the ports of Cuba were open to the world. But the speculator is enriched, and between the speculating class and the Government officials in Cuba a system has been devised which cheats the Government itself of its revenues, creates local power in the hands of a grasping and unprincipled class of adventurers from Spain, who have the ability and the resources to defy all measures of commercial reform or of political progress.

It is hardly necessary, Mr. President, that I should add details to this general statement. Every Senator is aware of the condition of our commercial interests in Cuba and of the vast opportunity which might occur for the expansion of our trade and commerce in that direction. For years we have been trying to obtain a revision of the treaty of 1795 with Spain. It was generally understood, four years ago, that Mr. Cushing was sent to Spain by President Grant as much for this special object as for the amicable settlement of the Virginias case. But what has resulted in regard to the treaty? Absolutely nothing. Mr. Cushing was recalled and Mr. Lowell, the poet, is now supposed to be employed in negotiating a new treaty of commerce.

It may not be generally known, yet Senators will probably recur to the event, that in 1818 and for some years subsequent the commercial interests of this country with Cuba were on a vastly better footing than they are to-day. Restrictions on the trade of foreign nations with Cuba were then abolished. The island had a political representation. The population augmented wonderfully. Its prosperity received a remarkable impetus. A comparatively liberal and wise policy was then pursued by the Spanish government in the administration of its colonial affairs.

But there are higher considerations than these, Mr. President, which to my mind compel this Government to watch with careful solicitude the policy of Spain in regard to Cuba. The duty of the Government in protecting American rights and interests in Cuba has been attended

with many difficulties. The tendency has been to compromise the friendly relations which fortunately have been preserved, and I trust will ever exist, between the United States and Spain. We have always had a large class of individual interests to take care of. The settlement of these cases has involved reclamations and indemnities and apologies which seem to have kept the governing officials of both countries continually bowing to each other, with the disadvantage to the Spanish officials of having to occasionally put their hands in their pockets. But all these apologies and indemnities do not remove the cause of the perpetual trouble which this Government suffers at the hands of Cuba.

Apologies may gratify a sense of honor and dignity. Money indemnities may satisfy the wrongs of claimants. But do we wish a continuance of this state of things? Is there no safeguard by which a nation can secure justice and peace for the future? Does an indemnity of \$80,000 sufficiently compensate for the barbarous massacre in cold blood of the fifty-three passengers and crew of the *Virginus*? Is any such policy to be tolerated or such a practice in the administration of any civilized government recognized which allows first a wanton crime and then receives payment for it in gold and apologies?

Mr. President, the whole record of Spanish outrages, abuses, and injuries in Cuba has but one cause. There is one origin for all this wrong. There has never been an outrage upon justice, a deliberate defiance of international rights, a violation of international law, a want of respect for the universal sentiment of humanity, or any other arbitrary and unnatural course of conduct by the Spanish officials in Cuba that has not its origin in the policy of repression which the traditions of Spain still force upon the people of Cuba. Every assault upon the rights of American citizens and every act of injury to American interests is traceable directly to the malign spirit of oppression which has paralyzed every just and worthy aspiration of the Cuban people for improvement and self-government. You may take any instance of personal cruelty or of arbitrary exaction in the administration of that island and it will be found to be the legitimate offspring of the iniquitous colonial policy which is tolerated by other nations professing to be morally shocked at the crimes they tolerate. Why, sir, the liberal voice of the Spanish nation has proclaimed its utter detestation of the repressive measures of its colonial policy.

In the Spanish Cortes, in 1872, one of the most distinguished Spanish statesmen boldly asserted that the real rebels in Cuba were not the negro slaves seeking their personal freedom nor the native Cubans justly aspiring for civil liberty, but the real criminals were the Spanish volunteers—the resident slaveholders—who conspired to resist all measures of liberal reform. They were powerful enough to be able to check the successful execution of all intended reforms.

The line of public policy announced by Mr. Castellar in 1874 in regard to Cuba is an indication of what the liberal feeling in Spain recognizes and advocates.

First—

Said President Castellar—

the immediate abolition of slavery. Second, the autonomy of the islands of Porto Rico and Cuba, which shall have a parliamentary assembly of their own, their own administration, their own government, and a federal tie to unite them with Spain, as Canada is united with England, in order that we may found the liberty of those states and at the same time conserve the national integrity.

The Government of the United States, the people of this country, will joyfully hail the adoption of such a wise and just policy as this by the government of Spain. Time and again in its diplomatic intercourse with this country has the Spanish government assured us of its desire to establish liberal reforms in our commercial relations and in the political government of Cuba. But some excuse for inaction has invariably followed the expression of good intentions. The war of rebellion in Cuba since 1868, the civil war in Spain, the popular uprisings in Spanish provinces, seriously menacing the stability of the government, have been the pretexts for delay and evasion. These excuses no longer exist. Spain is at peace. It is now understood that the struggle of the Cubans has been abandoned by voluntary surrender. Overtures have been made by the Spanish government involving concessions which point substantially to the adoption of the reforms announced by Mr. Castellar. Is our information correct? Are we not concerned to know whether any such favorable change is to occur so vitally important to our commercial growth in Cuba and so suggestive of the beneficent progress of popular intelligence and good government?

Mr. President, I do not believe that any occasion can arise which would justify a departure from the well-settled American principle of non-interference in the domestic policy of other states. But I do believe that we may go a little further than Mr. Webster did in 1824 in interpreting the duty of this Government in relation to the Greek revolution. I think we can go a little further in the direction of a wise and just declaration of our American policy. The duty and mission of a popular representative government may be defined with larger latitude in this age of progress. Without violating our international obligations, without abusing the friendly character of our intercourse with nations, there are potential ways that should be adopted by which the popular judgment of this country may be impressed upon the civilization of the age. The interests of this country are not merely concerned as to who possesses the political sovereignty of Cuba. It is quite important to us to know how that sovereignty is to be exercised by whomsoever holds the *de jure* or *de facto*

government. Spain cannot afford to long defy the enlightened opinion of the world. She cannot afford to insult and abuse the average conscience of this age of moral progress and of popular rights. Nor can it afford much longer to resist those reciprocal tendencies which trade and commerce develop and which will force conviction upon the reason of the people in spite of the most determined obstinacy.

The present situation in Cuba seems to be especially favorable for most important reforms in our commercial intercourse, and such reforms as will have equally fortunate results in the cause of humane and just government for the future in that island. I think the country demands that this subject shall not escape the attention of Congress.

I move the adoption of the resolution.

The PRESIDENT *pro tempore*. The question is on the adoption of the resolution.

The resolution was agreed to.

HOUSE BILLS REFERRED.

On motion of Mr. WINDOM, the bill (H. R. No. 4246) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes, and the bill (H. R. No. 4549) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1879, and for other purposes, were severally read twice by their titles, and referred to the Committee on Appropriations.

BANKRUPT-LAW REPEAL.

Mr. CHRISTIANCY. I move to take from the table the bill to repeal the bankrupt law, which has been returned from the House of Representatives with two amendments.

The PRESIDENT *pro tempore*. The Chair will lay the amendments of the House before the Senate.

Mr. MATTHEWS. Does the Senator from Michigan propose to put that bill on its passage?

Mr. CHRISTIANCY. I propose to move concurrence in the first amendment and to offer an amendment to the second amendment of the House.

Mr. MATTHEWS. I object to the present consideration of the bill, if I have a right under the rules of order to do so.

The PRESIDENT *pro tempore*. The Senator from Ohio objects to its consideration to-day. It will go over.

Several SENATORS. Let it be referred.

Mr. MCCREERY. I object to the reference of the bill to repeal the bankrupt law.

Mr. McDONALD. There was no motion to refer.

The PRESIDENT *pro tempore*. The Senator from Ohio objected to the present consideration. Now the Senator from Kentucky objects to a reference to the committee.

Mr. CHRISTIANCY. I think a reference to the committee is entirely unnecessary. I believe the members of the committee have considered the amendments and agreed to the first amendment and to an amendment to be offered to the second amendment of the House of Representatives. I think a reference is wholly unnecessary. It will only lead to delay.

The PRESIDENT *pro tempore*. The amendments of the House will lie on the table with the bill.

THE CALENDAR.

The PRESIDENT *pro tempore*. The morning hour has expired, and the Senate proceeds to the consideration of the Calendar. The first case on the Calendar will be reported.

The CHIEF CLERK. The first case on the Calendar at the point where its consideration was left off on Thursday last is the bill (S. No. 864) to provide for the construction, maintenance, and operation of a military telegraph in Dakota and Montana Territories.

Mr. MATTHEWS. I inquire whether the resolutions on the Calendar do not come up in their order first.

The PRESIDENT *pro tempore*. We are not within the morning hour. The practice has been to take up bills after the expiration of the morning hour.

IMPROVEMENTS OF FOX AND WISCONSIN RIVERS.

Mr. MATTHEWS. Then I ask unanimous consent to consider and pass the resolution submitted by me on the 25th instant, asking for information.

The PRESIDENT *pro tempore*. The Senator can move to take it up.

Mr. MATTHEWS. I move to take it up.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the Secretary of War be, and he is hereby, directed to report to the Senate what amounts of money have been expended for improvements of the Fox and Wisconsin Rivers and intersecting canal or canals in the State of Wisconsin; also, how much it will cost to complete the said improvements so as to make the same navigable and useful, and what public benefit has been or is likely to be derived from such improvements and expenditure; also, how much money has been expended for procuring the right of way, dower or damage to private property, and how much money has been expended for attorneys' fees in settling rights of way; the names of the attorneys and the names and salaries of all men employed as superintendents upon the said improvements.

Mr. ALLISON. I suggest to the Senator from Ohio that he modify his resolution so as to ascertain the amount expended by the Government of the United States. This Fox River canal is a very old affair,

and a great deal of money was expended before the Government took charge of it. Perhaps the Secretary of War would not be able to furnish an accurate account of it.

Mr. MATTHEWS. I presume that is the meaning of the resolution. It does not ask the Secretary of War for information except such as he is able specifically to give. I have no objection to the insertion of the words necessary to make clear that idea.

Mr. ALLISON. I think that would make it more specific.

The PRESIDENT *pro tempore*. The resolution will be so modified.

Mr. HOWE. I think the amendment suggested by the Senator from Iowa is very proper, to relieve the Secretary of War from all doubt upon the point, though I should put the construction upon it which the Senator from Ohio does. I think it very proper that the Senate should have whatever information there is in the possession of the War Office on this point.

Mr. DAVIS, of West Virginia. I was unfortunate enough not to hear the resolution. If I understand it, it is a resolution calling for information only from the Secretary.

Mr. MATTHEWS. That is all.

The resolution was agreed to.

TERRITORIAL MILITARY TELEGRAPH.

Mr. ANTHONY. I call for the regular order.

The PRESIDENT *pro tempore*. The first case on the Calendar at the point where it is now to be considered is the bill (S. No. 864) to provide for the construction, maintenance, and operation of a military telegraph in Dakota and Montana Territories.

Mr. McMILLAN. The chairman of the committee reporting the bill is absent, and I ask that it go over.

Mr. COCKRELL. I hope the Senator will not object to that bill. There is a report which explains the whole matter, and it is considered by the Army a matter of material interest, and there are other members of the committee present as familiar with it as the chairman.

Mr. McMILLAN. I think the bill had better go over this morning. I should like to look into it further.

The PRESIDENT *pro tempore*. The Senator from Minnesota objects, and the bill will be passed over.

MISSOURI WAR CLAIMS.

The next bill on the Calendar was the bill (S. No. 893) to authorize the Secretary of the Treasury to examine the evidence of payments made by the State of Missouri since April 17, 1866, to the officers and privates of the militia forces of said State for military services actually performed in the suppression of the rebellion, in full concert and co-operation with the authorities of the United States, and subject to their orders, and to make report thereof to Congress; which was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

OSAGE COUNSEL FEES.

The next bill on the Calendar was the bill (S. No. 582) providing for the payment of counsel fees in Osage ceded land suits.

Mr. SARGENT. I object to that. It is too important to be considered under the five-minute rule.

The PRESIDENT *pro tempore*. The bill will be passed over.

WILLIAM S. DAVIS.

The next bill on the Calendar was the bill (H. R. No. 1780) granting a pension to William S. Davis, late private in Company E, Thirty-first Illinois Infantry Volunteers; which was considered as in Committee of the Whole.

Mr. SAULSBURY. Is there a written report in that case?

The PRESIDENT *pro tempore*. There is.

Mr. SAULSBURY. I should like to hear the facts.

The PRESIDENT *pro tempore*. The report will be read.

The Chief Clerk read the following report, submitted by Mr. BRUCE on the 10th instant:

The Committee on Pensions, to whom was referred the bill (H. R. No. 1780) granting a pension to William S. Davis, late private Company E, Thirty-first Illinois Volunteers, submit the following report:

The evidence submitted in this case shows that petitioner was a member of Company E, Thirty-first Illinois Volunteer Infantry, for one hundred days from October 15, 1864, and that while on a forced march from Marietta to Savannah, Georgia, in November, 1864, he received a gunshot wound in the left hand, which resulted in the total loss of the use of said hand. It further appears from the evidence that claimant, while in the hospital on account of his said wound, suffered from various relapses on his leg caused by hard marching, and was treated for this disease also while in said hospital.

It appears that when Davis was discharged, thinking the affection of his legs would be temporary, he did not apply for pension except on the ground of disability of his hand; but subsequently the affection of the leg grew much worse and became permanently disabling, until about three years since, when he became satisfied of the hopelessness of recovery and applied for a pension on the ground of *paris*.

Pension was allowed claimant for the disability of his hand, (see certificate 110-17,) but the claim for increase of pension on account of *paris* was rejected by the Commissioner of Pensions, because it was alleged that said increase "was barred under the provisions of section 4717." It is evident that claimant was a healthy man when he entered the service and that he left the service with his health permanently destroyed. It is further in evidence that he was a brave and faithful soldier and is deprived of the increase prayed for in his petition, not for lack of merit in the claim, but merely a technical point growing out of an innocent and unavoidable delay in filing his claim before the Department.

The circumstances considered, the committee recommend the passage of the House bill No. 1780.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

DOUGHTY & CARD.

The next bill on the Calendar was the bill (S. No. 1066) for the relief of Doughty & Card; which was considered as in Committee of the Whole. It provides for paying to Doughty & Card, attorneys, of Lake City, Minnesota, \$115.32, in full satisfaction of the fees and expenses of Hiram Powers, constable; W. J. Jacobs, justice of the peace, and the witnesses, and their own fees and charges, in and about the taking of depositions for the United States in the case of Parish & Co. vs. The United States, in the Court of Claims.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS M. SIMMONS.

The next bill on the Calendar was the bill (S. No. 1067) for the relief of Thomas M. Simmons; which was considered as in Committee of the Whole. It provides for paying to Thomas M. Simmons \$5,904.83, in full payment for the use and occupation of the premises known as the Alabama press yard No. 2 and the Crescent City press in New Orleans, in the years 1863, 1864, and 1865, by the United States troops, and in full satisfaction of any and all liability of the Government for rent, use, occupation, or damages.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

T. B. KELLY.

The next bill on the Calendar was the bill (S. No. 1068) for the relief of T. B. Kelly; which was considered as in Committee of the Whole. It provides for the payment to Second Lieutenant T. B. Kelly, late an officer in the Signal Corps, for services rendered by him from April 4, 1863, to September 15, 1864, during which period he was paid only the pay of a private soldier while performing the duties of an officer and supporting himself.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

TRANSPORTATION OF IMPORTED MERCHANDISE.

The next bill on the Calendar was the bill (S. No. 576) to amend the statutes in relation to immediate transportation of imported merchandise.

The bill was read.

Mr. DAVIS, of West Virginia. That appears to be a very important bill. It makes sundry changes in the Revised Statutes and confers additional privileges upon the Secretary of the Treasury; and it occurs to me that, without some explanation of the necessity of it or something from the Treasury Department showing the necessity, it ought not to pass. However, I will listen to the Senator who reported the bill if he wishes to say anything.

Mr. McMILLAN. Mr. President, this bill involves the amendment to a slight degree of several sections of the Revised Statutes. In the sections referred to the term "vehicle" is used as a means of transportation, and merchandise is to be transported in a sealed car. This bill provides for the transportation of small packages of merchandise in trunks and in the original packages, to be sealed and to be transported under such regulations as the Secretary of the Treasury shall direct.

Mr. DAVIS, of West Virginia. May I ask the Senator, to save time, whether there is a recommendation from the Secretary of the Treasury asking for this additional legislation?

Mr. McMILLAN. There is not. The matter was submitted to the Secretary of the Treasury, and a part of the bill does not meet with his approbation; and I called the attention of the Senate to the fact that such a communication had been received when I made the report. The communication of the Secretary of the Treasury is with the bill, and may be read.

Mr. DAVIS, of West Virginia. I think it is almost too important a bill to be discussed under the five-minute rule. I think it had better go over.

Mr. McMILLAN. The only reason why this matter should not go over is that it is desirable, if the bill is to pass, that it should pass early, in order to enable the companies having charge of the transportation of goods to make their arrangements for transporting the goods which shall come to this country from the Paris exposition. The bill provides for the transportation of merchandise in trunks and in packages sealed, instead of sealed cars, to inland ports of appraisal, and they are there to be appraised; and it seems to the committee that this method of transportation will secure the payment of import duties to a large extent that otherwise the Government would be defrauded of.

Mr. DAVIS, of West Virginia. While of course I ought to listen to the Senator if he desires to make any remarks, this is a bill which I learn from the Senator that the Secretary of the Treasury does not approve. It is certainly very important when we come to alter the revenue laws in sundry parts of the Revised Statutes that the matter be considered very carefully. In my judgment it ought to meet the approbation of those who have the duties to perform, the Secretary of the Treasury and the collector at the port of New York, for instance, but especially the Secretary, as he is the responsible man. It ought to meet his approval fully, or it ought not to pass. Neither the Senator from Minnesota nor myself knows anything about the

effect of the bill upon the collection of the revenue, and I think it ought to go over.

Mr. McMILLAN. The Senator from West Virginia will allow me to say that I suppose the policy of the Treasury Department is to prevent the transportation of merchandise to any of the inland ports without an appraisal at the original port of entry. We have our inland ports of appraisal established, and if goods are transported without any change they can go to those inland ports and be appraised and delivered to their consignee, or the person who is to receive the goods, with much less delay than is now occasioned; and this transportation is to be under the direction of the Secretary of the Treasury, according to such regulations as he may prescribe. It will only enable the recipients of freight at these inland ports to receive their goods at a much earlier day than they otherwise would; and it seems to me that there would be no inducement to defraud the revenue under those circumstances, there being no delay at the ocean ports, but the goods would be transported immediately, and those who would receive them would not object to the payment of duties.

Mr. PADDOCK. Is it not true also that all importers in the rural districts of the country are often subjected to annoying expenses on the part of those who have to do with putting through their goods?

Mr. McMILLAN. That is a frequent cause of complaint. If the Senator from West Virginia has no objection to it, I hope we shall act on the bill.

Mr. DAVIS, of West Virginia. I cannot consent to the bill being acted on now.

Mr. McMILLAN. Perhaps the communication from the Secretary of the Treasury had better be read.

The PRESIDENT *pro tempore*. Does the Senator from West Virginia object?

Mr. McMILLAN. I ask that the communication from the Secretary be read.

Mr. DAVIS, of West Virginia. I have no objection to that; but as at present advised, I shall object to the consideration of the bill.

The PRESIDENT *pro tempore*. The communication is not here; and the bill will be laid aside temporarily.

PIER-LIGHTS AT MISSISSIPPI JETTIES.

The next bill on the Calendar was the bill (H. R. No. 1639) making an appropriation for pier-lights at the entrance of the jetties in the South Pass of the Mississippi River; which was considered as in Committee of the Whole. It appropriates \$10,000 for the erection and maintenance of pier-lights, under the direction of the Light-House Board, at the entrance of the jetties in the South Pass of the Mississippi River.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SETTLERS ON PUBLIC LANDS.

The next bill on the Calendar was the bill (S. No. 1071) for the relief of settlers on the public lands.

Mr. SARGENT. I should like to have this laid aside temporarily. I desire to look at it. I do not object to the principle.

DISTRICT CHURCH PROPERTY.

The next bill on the Calendar was the bill (H. R. No. 3690) to relieve the churches of the District of Columbia and to clear the title of the trustees to such property.

The bill was reported from the Committee on the District of Columbia with amendments, in line 7, after the word "exemptions," to insert "from taxation;" and in line 8, after the word "property," to insert "which was actually held and used for the purpose of divine worship;" and in line 9, to strike out the words "from taxation;" so as to read:

That so much of an act of Congress entitled "An act for the government of the District of Columbia, and for other purposes," approved June 20, 1874, as was construed to authorize the commissioners of the District to set aside former exemptions from taxation of church property which was actually held and used for the purpose of divine worship, and to enforce a tax upon such property, be, and is hereby, repealed; and the title to such property is hereby declared to vest in the trustees, or such other persons as held the title to the same at the time of the passage of the act of 1874, or their successors in interest, notwithstanding the sale of such property for non-payment of taxes.

The next amendment was, to insert as section 2:

SEC. 2. That the commissioners of the District of Columbia be, and they hereby are, authorized and required to refund to the trustees or other proper officers of such church or churches as have paid the taxes assessed against them under the act of June 20, 1874, such sums respectively as were paid by each upon property actually held and used for the purpose of divine worship.

Mr. EDMUNDS. I should like to hear that explained. Is there any report? If there is, I should like to hear the report.

Mr. HARRIS. There is a report which can be read.

The Chief Clerk read the following report, submitted by Mr. HARRIS on the 15th instant:

The Committee on the District of Columbia, to whom was referred the bill (H. R. No. 3690) to relieve the churches of the District of Columbia and to clear the title of the trustees to such property, has had the same under consideration, and report:

That by referring to a letter addressed to your committee by the commissioners of the District of Columbia, it will be seen that under act of June 20, 1874, the church property within the District was valued at \$1,590,744 and that the taxes assessed upon the church property in the city of Washington amounted to \$42,773.82; in Georgetown, to \$2,891.37; in the county of Washington, to \$985.90, making an aggregate of \$46,651.09; of which amount \$2,566.68 has been collected, leaving \$44,084.41, with accrued penalty of \$3,360.82, making an aggregate of \$47,445.23 of unpaid taxes.

The property was advertised in June, 1875, at a cost to the District of \$744.15, which, added to unpaid taxes, makes \$48,189.38 as the aggregate charges against said property, at which price the District of Columbia became the purchaser at the tax sale, and now holds said property subject to redemption by the payment of said sum with interest at the rate of 10 per cent. per annum from 29th of June, 1875, the date of sale.

The bill under consideration repeals so much of the act of 20th June, 1874, as authorized the levy of this tax, and relinquishes the title acquired under the tax sale and reverts the same in the trustees of the several churches.

The committee report the bill back with an amendment, confining its operations to property actually held and used for the purpose of public worship.

Seriously doubting, as the committee does, the wisdom of the policy of taxing property held and used for the purpose of public worship, the committee recommends that the title to all such property be restored to the various churches and that the sum of \$2,566.68, heretofore collected under the said assessment by the commissioners of the District, be refunded to the trustees of the churches which paid the same, as it would be unjust to retain the funds so collected when the churches that failed to pay are released from liability.

Mr. EDMUNDS. I should like to hear the bill read again to show that part of it which provides for the refunding.

The Chief Clerk read the bill as proposed to be amended.

Mr. EDMUNDS. That involves a very broad question. After considerable discussion, as I remember, it was decided that, in the condition the District was, church property ought to pay taxes as well as other property, and accordingly the law provided for its taxation, and it was taxed. Sundry churches paid, as other citizens did, their taxes; others did not. Now, it is proposed to undo all that, and instead of requiring the churches that have not paid to pay or lose their property, to redeem the sales, to repay out of the funds of the District that which has been paid and to transfer the property that has been bought off at tax sales to the various boards of trustees that were the owners of it, by which the revenues of the District are to be diminished to the extent of about \$50,000, if I correctly noticed the sum.

Well, Mr. President, we have just shut up, or are about to shut up on Wednesday next, the public schools of the District because there is not fund enough derived from taxation to teach the youth of the District and to pay the teachers. Now it is a very serious question in my mind whether it would not be better to allow these delinquent churches, who set their faces against the law contrary to the Scripture, to pay up; whether the policy of church taxation is wise or not, to teach them obedience to law; and then let them go in the future, as I believe the law has been changed—but I am not sure about it—and let this money which would keep the schools running for the next two months be devoted, as it might be, out of the general funds of the District to teaching the youth. It is one part of Christianity, real Christianity, to teach the young. It does more for morals and religion probably than any other thing that can be done, and I am not altogether favorably impressed with the idea of recognizing the defiance of law which some of the owners of church property in the District have assumed to set up, while others have paid, and then after two or three years, after their property is sold and when it becomes necessary either to pay or lose the property, to then repeal the law and pay the money back. It is a bad principle of legislation. It encourages all people who do not wish to pay taxes to set up their faces against what the law plainly was, because, so far as I have heard, there does not appear to have been any dispute about the fact that they were taxable by law and that the taxation was regular upon their real estate. The money was due. Some paid; others refused, and their property was sold. Now the time is coming very near when they must either redeem this property or they will lose the title to it; and the money that they would have paid might have been devoted to the uses of education which come out of the general fund into which this goes, and these schools could have been kept up. I suppose when the estimates were made from time to time by the District government in order to carry on all branches of its operations, the available funds included these taxes against church property, because the law was plain and the taxation being upon real estate, there could be very little dispute about what it amounted to or the regularity of the proceedings; and on such estimates the commissioners of the District proceeded to arrange for their schools for the year and keep up their other operations of repairing the streets and carrying on the water operations and sanitary operations and all things of that sort. Now when we come to the actual realization of the money, the very organizations that will set up for the purpose of teaching us obedience to law set the law at defiance and decline to pay, allow the property to be sold, while some others, greatly to their credit I think, do pay. Now we are to come in at the end and crucify the schools in order to relieve the church property. I am not in favor of it, Mr. President, as at present advised, and I object to it.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The bill being objected to goes over.

Mr. HARRIS. Do I understand the Senator from Vermont to object to the consideration of the bill, or merely to object to the passage of the bill?

Mr. EDMUNDS. I object to the consideration. I want an hour or two to speak on that subject. I shall withdraw the objection to allow my friend to make an explanation.

Mr. HARRIS. I do not care about speaking if the bill cannot be considered.

SETTLERS ON PUBLIC LANDS.

The PRESIDING OFFICER. The Senate returns to the consider-

ation of the bill (S. No. 1071) for the relief of settlers on the public lands.

Mr. SARGENT. I have withdrawn my objection to that bill.

There being no further objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1071) for the relief of settlers on the public lands. It provides that where any settler upon the public lands shall have paid, under the pre-emption laws, double-minimum price for the land purchased by him, because such land was at the time within the double-minimum limits of a railroad grant, but which land was afterward thrown outside of the double-minimum limits of the grant by reason of a change in the route of the road recognized by the General Land Office in the adjustment of the grant, such settler, or, in case of his death, his widow or children, if he or they own the land at the time of his or their application for repayment, shall be entitled to repayment of the difference between the price paid and the minimum price of the land, on condition that the land would, if vacant at the time the application for repayment is made, be subject to sale or entry at the minimum rate of \$1.25 per acre. It also provides that where any settler shall have made entry, under the homestead laws, of eighty acres of double-minimum lands within the limits of a railroad grant, and which land shall, in the manner before set forth, have been thrown outside of the double-minimum limits of the grant, such settler, or, in case of his death, his widow, or, in case of her death, their minor children, shall, if residing upon and occupying the land at the time he, she, or they shall apply therefor, be permitted to enter under the homestead laws an additional eighty acres adjoining the land embraced in his entry, if such additional land be subject to entry; or if he, she, or they so elect, may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws, the same as if the surrendered entry had not been made. Any person so making additional entry of eighty acres, or new entry after the surrender and cancellation of his original entry, shall be permitted so to do without payment of fees and commissions, and the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five years' residence and cultivation required by law.

The bill was reported to the Senate, and ordered to be engrossed for a third reading.

Mr. EDMUNDS. Let that bill, as it is short, be read a third time at length.

The bill was read the third time, and passed.

SILAS M. NORTON.

The bill (H. R. No. 3859) for the relief of Silas M. Norton, postmaster at Bristol, Connecticut, was considered as in Committee of the Whole. It provides for crediting Silas M. Norton with \$187.70 in his account as postmaster at Bristol, Connecticut, being the amount of money-orders paid by him and destroyed by fire when his office was burned, April 13, 1873.

Mr. EDMUNDS. Is there a report in that case?

The PRESIDING OFFICER. There is. The report will be read.

The Chief Clerk read the following report, submitted by Mr. BURN-SIDE on the 15th instant:

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. No. 3859) for the relief of Silas M. Norton, postmaster at Bristol, Connecticut, have to report:

That Silas M. Norton, postmaster at Bristol, Connecticut, represents that the block in which was located the post-office at Bristol was destroyed by fire on the 13th of April, 1873. The fire originated in a store adjoining the post-office, and when first discovered had gained such headway that it was impossible to save anything from the post-office or other portions of the block. That among the property destroyed were money-orders amounting to the sum of \$378.53. Of this amount he has obtained receipts from persons to whom the money was paid amounting to \$392.83, which receipts have been received by the Post-Office Department in settlement of that proportion of his loss, leaving a balance due from him to the Government of \$187.70, for which he asks an appropriation. The correctness of his statement is vouched for and the amount called for verified (as the amount for which vouchers could not be returned) by J. J. Martin, Auditor of the Post-Office Department, under date of June 6, 1874. Your committee recommend the passage of the bill.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

DISTRICT JUSTICES AND CONSTABLES.

The next bill on the Calendar was the bill (H. R. No. 3969) regulating the appointment of justices of the peace, commissioners of deeds, and constables within and for the District of Columbia, and for other purposes; which was considered as in Committee of the Whole.

The bill was read.

Mr. CONKLING. I ask to have read again the clause early in the bill providing for the appointment of justices of the peace.

Mr. INGALLS. I suggest before it is read that the committee have recommended an amendment to that clause of the bill.

The PRESIDING OFFICER. The amendments reported by the Committee on the District of Columbia will be stated in their order.

The Chief Clerk read the first amendment, which was, in line 3 of section 1, to strike out "commissioners of the District of Columbia" and insert "President of the United States;" after the word "shall," in line 4, to insert "nominate, and by and with the advice and consent of the Senate;" after the word "appoint," in line 5, to strike out

"five" and insert "fifteen;" and in lines 6 and 7 to strike out "for said District" and insert "within and for the District of Columbia;" so as to read:

That the President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint fifteen justices of the peace and not exceeding twenty constables within and for the District of Columbia.

Mr. SAULSBURY. I should like to ask the Senator from Kansas, who reported this bill, whether this bill does not propose really to legislate out of office the present incumbents of the office of justice of the peace, and whether that is the object and purpose of the bill.

Mr. INGALLS. The object and purpose of the bill, I should say in response to the Senator from Delaware, is to reform the judicial system of the District so far as it relates to justices of the peace, and to secure an efficient administration of justice. It will undoubtedly have the effect of displacing those who are already in office. There are fifty justices of the peace at the present time, and complaint is very general that the condition of affairs in regard to small suits is exceedingly unsatisfactory. The bill reported from the committee in the House provided for five justices instead of the fifty that now exercise that power. The committee of the Senate thought that number was too small, considering that the population of the District is somewhere about one hundred and thirty or one hundred and forty thousand, and have increased the number to fifteen and provided for their distribution in the different parts of the District according to population. There being several suburban regions where there are independent communities, it was thought best to assign a magistrate to them as well as to the city of Washington.

Mr. SAULSBURY. There is no written explanation of the bill. I understand it provides for justices making transcripts of their dockets for litigants, or persons who have business on the dockets. I would suggest to the Senator from Kansas if it would not be better to require them to deliver over their records without subjecting parties who have business on their dockets to the expense of paying for transcripts that they may require.

Mr. INGALLS. The provision to which the Senator from Delaware refers occurs in the bill as presented from the House. The committee of the Senate amended it to provide that the dockets and papers of the retiring magistrates shall be deposited in the office of the clerk of the supreme court of the District, who shall, upon the demand of parties in interest, deliver transcripts properly certified. The difficulty in providing for the delivery of these dockets to the successors of those who are now in office was this: there are at present fifty justices; the new bill provides for but fifteen; and therefore it would be impossible to provide for the delivery to the successors by those who are now in office, the number being much smaller. The bill as presented from the House provided that the outgoing magistrates should retain possession of their own dockets and issue process upon the demand of persons interested. The committee thought that, inasmuch as those persons would not have any special interest in the custody of those dockets, it was advisable to provide some place where they could be securely retained and from which process could be issued in furtherance of proceedings already instituted. The subject is one of considerable importance and also of considerable difficulty, and the committee endeavored as far as possible to guard against the evils that have for a long time been a subject of complaint in the District of Columbia.

Mr. HOAR. Mr. President, I desire to ask the Senator who reported the bill whether it is worth while to impose upon the President of the United States and the Senate the duty of selecting constables for this District? This office is ordinarily filled by municipal authority, the selectmen of towns or other similar authorities in our part of the country. It struck me on reading the amendment that if it be adopted it will become the duty of the Senate to pass upon the fitness of every one of the twenty constables when he is originally nominated, and to pass upon all charges under the theory of the duty of the Senate in relation to such matters which is espoused by the distinguished chairman of the Judiciary Committee, if I understand him—

Mr. EDMUNDS. And several others.

Mr. HOAR. And many other members of the Senate. It will become the duty of the Senate to inquire into every charge which is made against a constable in office on which the President proposes to make a removal.

Mr. INGALLS. The suggestion of the Senator from Massachusetts is pertinent and one that occurred to the committee when they had this bill under consideration; but my understanding is that the Constitution imposes this duty upon the President, that it is not the act of the committee, and that the joint action of the two Houses cannot remove that duty from him. The Constitution provides that the President shall have power to nominate and, by and with the advice and consent of the Senate, to appoint officers of the United States. The committee believed that justices of the peace and constables in this District are officers of the United States, inasmuch as the Constitution has imposed upon Congress the duty of exclusive legislation for the District. The Constitution declares that the appointment of inferior officers may by law be confided either to the President alone or to the head of a Department. There was a difference of opinion in the committee as to whether this duty ought not to be imposed upon the President alone, as the Constitution plainly gives the power; but the opinion of the majority seemed to be that inasmuch as the duties of these magistrates were of very considerable import-

ance, and as they ought to be exercised by men of influence and discretion and learning and judgment, that it would be well to dignify them by making them a presidential appointment, with the advice and consent of the Senate. If the Senator will observe the provision of the Constitution, I think he will agree with the committee that it is not in the power of Congress to remove the appointment from the President and deposit it anywhere else.

Mr. HOAR. My inquiry related to the office of constable, not to the magistrates mentioned in the section. It seems to me that it would be more expedient either to give the power to the President alone or to the Department of the Interior, or some one of the heads of Departments.

Mr. INGALLS. It was my judgment that the power ought to be given to the President alone, but I was overslaughed in committee, and of course reported the bill under instructions. I am inclined to think myself that it is not necessary to require the advice and consent of the Senate in these matters; but inasmuch as the committee thought otherwise I discharge a duty in reporting the bill.

Mr. HOAR. I will venture to test the sense of the Senate by moving to amend by substituting the supreme court of the District of Columbia as the authority to appoint the constables in the District instead of the President and Senate.

The PRESIDING OFFICER. The Senator will send his amendment to the desk.

The CHIEF CLERK. It is proposed to strike out in line 6 the words, "and not exceeding twenty constables."

Mr. INGALLS. Stop there; and leave them to be provided for subsequently.

Mr. HOAR. I will move the amendment in that way.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. EDMUNDS. Let the amendment be read as it now stands.

The Chief Clerk read as follows:

That the President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint fifteen justices of the peace within and for the District of Columbia.

Mr. EDMUNDS. The constables are stricken out. Who is to appoint them?

Mr. INGALLS. That is to be subsequently provided for on the motion of the Senator from Massachusetts.

Mr. EDMUNDS. If I correctly understand the Senator from Massachusetts, his principal point was the question of removal in respect of inquiring into charges that might be made against these people within their terms. The bill now, if I correctly understand it, provides that they may be removed by the President by and with the advice and consent of the Senate. Am I right about that?

Mr. INGALLS. The bill now provides that these removals upon charges shall be by the supreme court of the District.

Mr. EDMUNDS. Then I have nothing to say because I think that is the proper tribunal to inquire whether these people, justices of the peace or constables, are misbehaving themselves, and to provide for their being expelled from office. I suppose no gentleman will doubt the constitutionality of that. The President is to appoint either alone or by and with the advice and consent of the Senate for a given term. That is one thing. Then to expel the person from office for misconduct is quite a different thing, which may be vested by law in any tribunal of proper inquiry that Congress, which fixes the tenure, may designate.

Mr. INGALLS. Section 4 does that.

Mr. EDMUNDS. That being done by section 4, it is exactly in accordance with what I think is a correct principle.

The PRESIDING OFFICER. The question is on the amendment of the committee as amended in the first section down to line 7.

The amendment was agreed to.

The next amendment reported by the Committee on the District of Columbia was after the words "District of Columbia," in line 7 of section 1, to insert:

Said justices of the peace shall be assigned as follows: two in the city of Georgetown, one in Tennallytown, one in Brightwood, one in Uniontown, and ten in the city of Washington.

The amendment was agreed to.

The next amendment was, in line 11 of section 1, to strike out "two" and insert "four;" so as to read:

Their term of office shall be four years, subject to removal for cause.

The amendment was agreed to.

The next amendment was, in section 2, to strike out, commencing in line 5, the words:

Have power thereafter to make and deliver transcripts of unfinished cases and business on their docket, and—

And in lieu thereof to insert:

Deposit their docket, books, papers, and records pertaining to their office in the office of the clerk of the supreme court of the District of Columbia, who,

So as to read:

They shall issue no process returnable on or after that day, and shall deposit their docket, books, papers, and records pertaining to their office in the office of the clerk of the supreme court of the District of Columbia, who shall, on demand of the parties in interest, deliver to them transcripts, duly certified, together with all papers left or filed with them by said parties in said case or proceeding.

Mr. EDMUNDS. May I inquire of the Senator in charge of the bill, under this section what will become of cases pending before the present justices on that day, returnable before that time, but not disposed of? The second section provides that they shall issue no process returnable after that day. Suppose they issue process returnable on the day before and the case thus brought before them is not disposed of, is there another provision of the bill for finishing up unfinished business?

Mr. INGALLS. The bill provides in the same section which declares when their terms of office shall expire.

Mr. EDMUNDS. But I see it imposes the duty of closing up pending cases on the new officers.

Mr. INGALLS. Yes, sir.

Mr. EDMUNDS. I do not know but that that will do.

The amendment was agreed to.

The next amendment was, after the word "proceeding," in lines 12 and 13 of section 2, to strike out "and pay to the proper persons all moneys in their hands that may be due them."

Mr. EDMUNDS. What is the meaning of striking that out?

Mr. INGALLS. Simply because we have provided for the transfer of these dockets and papers to the clerk of the supreme court of the District that clause is without meaning.

The amendment was agreed to.

The next amendment was, in section 4, to strike out, in line 1, "commissioners of said District" and insert "supreme court of the District of Columbia;" so as to make the section read:

SEC. 4. The supreme court of the District of Columbia shall have the power to fix the amount and form of the bail-bonds, and approve the same, to be given by said justices of the peace and constables, and make such further regulations as may be necessary to complete the transfer of the existing business from the present justices of the peace to those appointed under this act, and for the return of any writ, execution, or other process by the present justices of the peace to those appointed under this act, and may remove justices of the peace and constables from office for willful violation of law, or for gross misconduct, or for gross incompetency.

Mr. HOAR. I would inquire of the Senator from Kansas if the word "bail-bonds" is not a misprint. Ought it not to be "bonds" simply.

Mr. INGALLS. It is as the bill came from the House. I never paid special attention to that phrase.

Mr. EDMUNDS. That is a technical phrase really which does not apply to a justice of the peace or a constable.

Mr. INGALLS. I think the word "bail" and the hyphen should be stricken out. I make that suggestion.

The PRESIDING OFFICER. That amendment will be made if there be no objection; and the question is on the amendment of the committee as thus amended.

The amendment was agreed to.

The next amendment was in section 5, line 1, after the word "the," to strike out the words "commissioners of the District of Columbia" and insert "President of the United States;" in line 2, before the word "hereby," to strike out "are" and insert "is;" in line 4, after the word "as," to strike out "they" and insert "he;" in line 10, before the word "shall," to strike out "they" and insert "the President;" and in line 12, before the word "discretion," to strike out "their" and insert "his;" so as to make the section read:

SEC. 5. The President of the United States is hereby authorized to appoint as many commissioners of deeds throughout the United States as he may deem necessary, with powers to take the acknowledgment of deeds for the conveyance of property within the said District, administer oaths, and take depositions in cases pending in the courts of said District in the manner prescribed by law; to whose acts, properly attested by their hands and seals of office, full faith and credit shall be given. The President shall also have power to appoint such number of notaries public, residents of said District, as in his discretion the business of the District may require; said commissioners of deeds and notaries public to hold their offices for the period of five years, removable at discretion. All notaries public shall pay into the treasury of the District an annual license of \$5.

The amendment was agreed to.

Mr. EDMUNDS. I should like to call the attention of my honorable friend from Kansas to the provision about commissioners of deeds, whether it may not be advisable to limit the number? If you have the number unlimited, it may be said, and I think there is some force in the suggestion, that every person applying almost would be appointed, and it would run down into getting improper persons; whereas, if you limit the number to a sufficiency, so that the fees to each one would amount to something, you would be likely to get persons of more responsibility and character. No doubt the committee has considered it.

Mr. INGALLS. The Senator will observe that these officers are officers of the District resident in other States. They are not officers resident here. Consequently a restriction as to number appeared to be unnecessary.

Mr. EDMUNDS. I observed that, but the same principle would apply to commissioners of deeds here. Take the State of Vermont or Kansas, for instance; if the President may appoint thirty people in those two States, when there are not more than twenty-five deeds in a year to be acknowledged, if he had an unlimited scope, everybody who applied, who had proper recommendations no doubt would be appointed, as I think the practice is now. Would it not be advisable to limit the number to each State, not exceeding so many? I merely make the suggestion for the consideration of the committee.

Mr. INGALLS. I am inclined to think, inasmuch as these officers are required to provide seals of office and books of record, that there is hardly any danger to be apprehended that more would apply for

the office than could properly discharge the duty; but, if the Senator from Vermont wishes to make any suggestion, I have no objection.

Mr. EDMUNDS. I merely call the attention of the Senator to it. The next amendment was to strike out section 6, in the following words:

SEC. 6. For each official certificate by the secretary of the commissioners of the District, the party for whom the same shall be made shall pay the sum of \$1 to the account of the contingent fund of said District.

The amendment was agreed to.

Mr. INGALLS. It has been suggested to me by several parties in the District who are familiar with business affairs here that it would be unjust to impose the license fee of \$5 annually, provided for in section 5, upon notaries public in the District, making them an exception, and I will move to strike out that clause after the word "discretion" in line 15 to the end of the section, in the following words:

All notaries public shall pay into the treasury of the District an annual license of \$5.

Mr. EDMUNDS. Would it not be better, instead of striking that out, to add the justices of the peace if they have the same power, so as to make them pay in the \$5 to help up the school fund a little?

Mr. INGALLS. I have no objection. It seemed to me to be rather an invidious discrimination. As notaries are officers of great public convenience and frequently discharge their duties as a matter of accommodation, it seemed to be unnecessary to impose a burden upon them; but if the Senate thinks otherwise I have no objection.

Mr. EDMUNDS. It is only a question all around of raising revenue upon the business done in the District to carry on its operations, and so far as justices of the peace and notaries public do not a judicial business, (where they are bound and called upon to decide questions as justices are, and not notaries,) a business for profit, of course like every other business done for profit, if you have a license system it is a question whether they ought not to be in. This would apply to justices so far as their business is of a notarial character, if they charge compensation as conveyancers and scriveners, and so on. But very likely the Senator is right; there seems to be a general disposition to diminish the resources of the District as far as possible.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. HOAR. I move to amend the first section by inserting in the thirty-first line, after the word "office," the words:

The supreme court of the District shall have authority to appoint not exceeding twenty constables, who shall hold office for four years, subject to be removed by said court for cause upon hearing.

The amendment was agreed to.

Mr. EDMUNDS. Is there an amendment made in line 6 of section 1 striking out the number of constables where it there occurs?

Mr. INGALLS. There is not. We do not change the number of constables.

Mr. EDMUNDS. How does it now read in the fifth and sixth lines?

The Chief Clerk read as follows:

That the President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint fifteen justices of the peace within and for the District of Columbia.

Mr. EDMUNDS. That makes no provision there for the appointment of constables. Then it goes on and speaks of justices of the peace and "said officers respectively." The word "respectively" in line 14 would probably need to be out, though perhaps not. It might apply to the justices as well as constables, not then in the opening part of the section; and it provides for the succeeding justices taking up the unfinished business of the old ones. Now in line 31 it reads—

And said constables shall be the successors of the constables now holding office in the said District.

Is that still in the bill?

Mr. HOAR. An amendment has been inserted before that.

Mr. INGALLS. It is properly in the bill? The amendment of the Senator from Massachusetts precedes it.

Mr. EDMUNDS. Let us hear it with the amendment of the Senator from Massachusetts.

The Chief Clerk read as follows:

Upon the death or removal of any justice of the peace appointed under this act, his docket, books, and papers of office shall be delivered to his immediate successor in office. The supreme court of the District shall have authority to appoint not exceeding twenty constables, who shall hold office for four years, subject to be removed by said court for cause upon hearing. And said constables shall be the successors of the constables now holding office in said District.

Mr. EDMUNDS. That raises a question which I wish to propose to my honorable friend from Kansas as to what is to become of process in the hands of a constable who goes out of office. Does the bill make any provision for that? Suppose he has an execution unlevied or a mesne process unexecuted, does that fall?

Mr. INGALLS. The proviso of section 3 is "that they may duly execute and return all writs and processes in their hands at the time of the expiration of their term of office."

Mr. EDMUNDS. That only refers to the present constables.

Mr. INGALLS. Those who retire under this bill.

Mr. EDMUNDS. Yes; but I am inquiring in respect to those who are to be appointed and who are to have succession under the first

section of the bill. Suppose a vacancy occurs on the removal of one of these, is there any provision as to his disposing of the process?

Mr. INGALLS. I think there is not.

Mr. EDMUNDS. The question is whether it would not be wise to provide in the third section for either having the successor take all constable's duties, or having, as the usual course is with sheriffs and constables, the outgoing executive officer, as distinguished from a judicial one, finish up the business in his hands. I think it is the law of most of the States that if a sheriff's term of office expires and an unexecuted writ in his hands is still to be executed, whether it is mesne or final process, he and his sureties are liable for the due execution of it just as if his term had not expired.

Mr. INGALLS. Does not the proviso of section 3 cover that case?

Mr. EDMUNDS. I think not for the reason that it says "they," that is the constables now in office, "may duly execute and return all writs and processes in their hands at the time of the expiration of their term of office." That section is adapted entirely to the present constables who are by this bill to be removed from office by an abolition of their term, so that it would seem to make no provision for a change in the office of constable, on expiration of a term, or a removal of one appointed under this act.

Mr. INGALLS. If the language should be so changed as to say that "all constables may execute all writs and processes in their hands," &c., would not that cover it?

Mr. EDMUNDS. That would do it.

Mr. INGALLS. I would then suggest that the word "they" be stricken out after the word "however" in line 6 of section 3, and "all constables" inserted.

Mr. EDMUNDS. Strike out the words "provided however" and make a period there, and it will make it clear.

Mr. INGALLS. I will put the amendment in that form, and move it.

Mr. EDMUNDS. I think that will do.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. HOAR. I suggest that the amendment just inserted in the first section to the last clause of the original text be transferred to the beginning of the third section.

Mr. INGALLS. I can see no objection to that.

Mr. EDMUNDS. That will bring the constables all together.

The PRESIDING OFFICER. That transposition will be made if there be no objection.

Mr. HOAR. I move that the word "gross" in line 12 of section 4 before "incompetency" be stricken out. If the officer is incompetent for his duties, it seems hardly worth while to impose on the court that has authority to remove him the question of inquiring into the degree of incompetency.

Mr. EDMUNDS. Strike out the "gross" in both places.

Mr. HOAR. In both places on the twelfth line of section 4 where it comes before the word "misconduct" and before "incompetency."

The amendment was agreed to.

Mr. INGALLS. I move to strike out also the word "respectively" at the end of line 13 of section one.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

REPEAL OF RESUMPTION ACT.

The next bill on the Calendar was the bill (S. No. 1085) to repeal all that part of the act approved January 14, 1875, known as the resumption act, which authorized the Secretary of the Treasury to dispose of United States bonds and redeem and cancel the greenback currency.

Mr. MORRILL and Mr. HOAR. Let that go over.

The PRESIDING OFFICER. The bill is objected to, and will go over.

MONUMENT TO THOMAS JEFFERSON.

The next business on the Calendar was the joint resolution (H. R. No. 158) for the erection of a monument over the grave of Thomas Jefferson.

Mr. MORRILL. I think it would be proper to refer that resolution to some committee, perhaps the Committee on the Library.

Mr. HOWE. That resolution was reported from the Joint Committee on the Library to the House of Representatives, and passed there, and for that reason it was not referred in the Senate. The resolution as reported to the House recommended the appropriation of \$2,500, but in the House the appropriation was raised to \$5,000. It was thought upon information they had there, which was not communicated to me, that \$5,000 was probably as small a sum as would answer the purpose; but as the money is to be expended by the Secretary of State, it was assumed that there was no risk in appropriating the \$5,000; if it is not all necessary, it will not all be used.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution; which provides for expending under the direction of the Secretary of State \$5,000, or so much thereof as may be necessary, for the erection of a suitable monument over the grave of

Thomas Jefferson, at Monticello. The owners of the estate upon which the grave is situated are first to quitclaim to the United States all right of property to two rods square of the land surrounding and including the grave, and grant to the public the free right of access thereto.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

AMOS B. FERGUSON.

The next bill on the Calendar was the bill (S. No. 27) for the relief of Amos B. Ferguson; which was considered as in Committee of the Whole. It provides for the payment to Amos B. Ferguson, late second lieutenant Eightieth New York Infantry Volunteers, (called also Twentieth New York State Militia,) of a sum that shall be equal to the pay of a second lieutenant of infantry of the United States Army in active service, from the 23d of April, 1864, to the 26th of September, 1864, deducting therefrom any amount that he may have received as the pay of a non-commissioned officer or private for the same period of time.

Mr. EDMUNDS. Let us hear the report.

The Chief Clerk read the following report, submitted by Mr. PLUMB on the 16th instant:

The Committee on Military Affairs, to whom was referred the bill (S. No. 27) for the relief of Amos B. Ferguson, having had the same under consideration, submit the following report:

A bill substantially the same as the one under consideration passed the Senate during the closing days of the last session of Congress, (S. No. 27 of that session,) but was not acted upon by the House. It was also favorably considered and reported upon by the Senate Committee on Military Affairs of the Forty-third Congress (report No. 559, accompanying S. No. 765.)

The case, therefore, having once been favorably considered by the Senate, the committee adopt the views embraced in the report above referred to which is hereto appended, and recommend the passage of the accompanying bill.

Report of the Committee on Military Affairs of the Senate on bill for the relief of Amos B. Ferguson (S. No. 765,) submitted January 26, 1875:

The record in this case shows that the petitioner was promoted from the rank of sergeant to second lieutenant Eightieth New York Infantry, to date from April 26, 1864, and served as such officer with all the duties and responsibilities thereof from said date. Owing to some negligence on the part of the officers of the State government of New York, his commission was not received until September 26, 1864, at City Point, Virginia, and this bill provides for his payment as such second lieutenant, less any amount paid him as sergeant from April 20 to September 26, 1864.

As this officer was not supernumerary and the fault of non-muster as second lieutenant was not attributable to him, together with the fact that he performed duty as such second lieutenant, the committee recommend passage of the bill.

Mr. EDMUNDS. Was the preceding second lieutenant paid down to the same time or later?

Mr. PLUMB. No, sir. The rule the committee has adopted is to recommend no allowance where the officer was a supernumerary. The allowance is only in cases where he was not a supernumerary, and did the duty of a rank which he ought to have been mustered for, but on account of some obstacle which he could not overcome was not able to muster.

Mr. EDMUNDS. And for which no payment has been made to anybody else?

Mr. PLUMB. Certainly.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MINNESOTA SALT-SPRING LANDS.

The next bill on the Calendar was the bill (S. No. 1073) granting lands to the State of Minnesota in lieu of certain lands heretofore granted to said State; which was considered as in Committee of the Whole. It proposes to grant to the State of Minnesota, to be selected by the governor, twenty-four sections of land, out of any public lands of the United States not otherwise appropriated, in lieu and instead of twenty-four sections of the land granted to the State by the fourth subdivision of section 5 of an act entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and State government preparatory to their admission in the Union on an equal footing with the original States," approved February 26, 1857, and selected by the State, but which were subsequently otherwise disposed of by the United States, and to which the United States cannot make title to the State.

The bill was reported from the Committee on Public Lands with an amendment, to add the following proviso:

Provided, That the lands herein granted shall be selected within three years, and from unoccupied lands of the United States lying within the State of Minnesota.

Mr. EDMUNDS. I should like to hear the report.

The Secretary read the following report, submitted by Mr. JONES, of Florida, on the 16th instant:

The Committee on Public Lands, to whom was referred the memorial of the Legislature of the State of Minnesota, approved February 26, 1877, asking the passage of a law by Congress "granting to the State of Minnesota other lands within said State in lieu of lands of said State designated and known as 'salt-spring lands,' in which and to which there are any adverse claims by pre-emption filings, homestead, cash, or scrip entries," have had the same under consideration, and beg leave to submit the following report:

By the provisions of "An act to authorize the people of the Territory of Minnesota to form a constitution and State government preparatory to their admission in the Union on an equal footing with the original States," approved February 26, 1857, the boundaries of such future State are defined, &c., and section 5 of said act reads as follows:

"Be it enacted, That the following propositions be, and the same are hereby, offered to the said convention of the people of Minnesota for their free use, accept-

ance, or rejection, which, if accepted by the convention, shall be obligatory on the United States and upon the said State of Minnesota, to wit:—

The fourth subdivision of said section reads as follows:

"Fourth. That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining or as contiguous as may be to each, shall be granted to said State for its use; the same to be selected by the governor thereof within one year after the admission of said State, and when so selected to be used or disposed of on such terms, conditions, and regulations as the Legislature shall direct. Provided, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said State."—*United States Statutes at Large*, volume 11, pages 166, 167.

On the 29th of August, 1857, the people of said Territory did, by delegates elected for that purpose, form for themselves a constitution and State government, which is republican in form, and was ratified and adopted by the people at an election held on the 13th October, 1857, for that purpose, and by an act of Congress approved May 11, 1858, entitled "An act for the admission of the State of Minnesota into the Union," said State was declared to be one of the United States of America "and admitted into the Union on an equal footing with the original States in all respects whatever." (*United States Statutes*, volume 11, page 255.) From evidence submitted with said memorial in the printed reports of the auditor of said State of Minnesota, and from copies of correspondence between said auditor and Commissioner of General Land Office, furnished by Hon. J. A. Williamson, Commissioner of the General Land Office, at the request of your committee it appears:

That the governor of said State of Minnesota, on the 25th September, 1858, appointed two commissioners to make the selections of salt springs and lands to which the State was entitled by said act of February 26, 1857.

That said commissioners on the 27th of November, 1858, having made said selections according to instructions received from said governor in the letter of appointment, did on the 27th day of November, 1858, make report thereof to said governor.

That on the 1st day of December, 1858, said governor addressed a letter to the register and receiver of United States land office at Otter Tail City; accompanying the same was a list of the selections made by the commissioners; and that on the same day he also addressed a similar letter to Commissioner of General Land Office and requested that he would instruct local land officers to mark on tract-books the selections made; and that said Commissioner did on the 14th December, 1858, issue such instructions to said local land officers, as will appear from the following letter:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., December 14, 1858.

GENTLEMEN: His excellency the governor of Minnesota having advised this office that he had in a letter of the 1st instant designated to you the location of the twelve salt springs, with the land adjoining, to which the State is entitled under the provisions of the law of February 26, 1857, I have to request that you will mark upon the plats and tract-books, *plainly and distinctly*, those salt springs, with the land adjoining, as may fall within the limits of the Government surveys, and withhold them from entry or location until further advised by this office. Transcribe in one of your permanent records as much of the governor's report, giving the description of the locality of those salt springs, which are embraced in land not yet surveyed, so that when the plats of the townships which contain the said springs are received at your office and the tract-books open for entries no errors may occur in regard to the precise location of the springs.

Advise this office of the receipt of this letter.

Very respectfully,

THOMAS A. HENDRICKS,
Commissioner.

REGISTER AND RECEIVER,
Otter Tail, Minnesota.

Nothing further appears to have been done toward securing the title to these lands to the State till the 20th day of November, 1868, when the State auditor addressed a letter to Commissioner of the General Land Office, and to which he received the following reply:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., November 25, 1868.

SIR: I have to acknowledge yours of the 20th instant, making inquiry about the selections of salt-spring lands for the State of Minnesota.

In reply, I state that on the 1st of December, 1858, the governor of the State wrote to this office to the effect that he had written to the Otter Tail land office, designating "as nearly as possible" the location of the twelve salt springs, with the land adjoining or contiguous thereto, to which the State is entitled by the terms of the enabling act (so called) of Congress, approved February 26, 1857. In reply thereto we addressed a letter of instructions to the local officers at Otter Tail City to make such notes on their records as will clearly designate the lands selected, and to await further instructions. I inclose a copy of this letter.

No further action has been taken by the State authorities toward obtaining title to the lands, nor has this office issued any further instructions.

To bring the matter now properly before the Department, it is requested that the State will present, through the local officers, a list of the lands claimed for salt springs, with evidence of the existence of such springs; and if any of the springs are still in unsurveyed regions, diagrams should be forwarded showing their locality by proper metes and bounds. When these are received we will be enabled to take definite action.

Very respectfully, your obedient servant,

JOS. S. WILSON,
Commissioner.

Hon. CHARLES McILRATH,
Auditor and Land Commissioner, Saint Paul, Minnesota.

To which letter the State auditor made the following reply:

STATE OF MINNESOTA,
Land Office, Saint Paul, March 13, 1869.

SIR: In compliance with the instructions contained in your letter of the 25th of November, 1868, (89-419,) relating to the selections of salt-spring lands for the State of Minnesota, I herewith inclose the following papers, and respectfully request the action of the Department thereon, namely:

1. Copy of the affidavit of the commissioners who selected the said lands in 1858, certified to by the governor and attested by the secretary of said State, designating the lands by United States subdivisions where surveyed, and, where not surveyed, describing the same by metes and bounds.

2. Map of the lands, with field-notes of surveys by said commissioners, showing position of said springs in reference to United States section corners.

I have also sent to the local land office at Alexandria the copy of the letter from your office to the office at Otter Tail land office, dated December 14, 1858, requiring them to mark on their plats and tract-books said salt-spring lands, and accompanied same by a similar list to the one herewith transmitted, and diagram of the selections beyond the surveys.

Very respectfully, your obedient servant,

CHAS. McILRATH,
Commissioner State Land Office.

Hon. JOSEPH S. WILSON,
Commissioner General Land Office,
Washington, D. C.

NOVEMBER 27, 1858.

The following affidavit of Pierre Bottineau and James D. Skinner, commissioners heretofore appointed by the governor to select salt springs and lands, &c., for the State, were this day filed in this office, to wit:

STATE OF MINNESOTA,
County of Ramsey, ss:

Before me, a notary public in and for said county, personally came James D. Skinner and Pierre Bottineau, who, being duly sworn according to law, did depose and say that in the month of September last (1858) they were appointed by Henry H. Sibley, governor of the State of Minnesota, commissioners on the part of said State to select and mark out the twelve salt springs, with the land adjoining, granted by act of Congress approved February 26, 1857, to the said State; that they have discharged the duty thus imposed upon them, and have found salt springs on or adjacent to the following-described tracts or parcels of land included in the United States Government surveys, and which said tracts or parcels of land they have reported to the said governor, as claimed for and in behalf of said State under the act of Congress referred to, to wit: South half of section 21, south half of section 22, and sections 25, 26, 27, 34, and 35, in township 136 north, of range 45 west; sections 2, 3, 10, and 11, west half of section 1, west half of section 12, north half of section 14, north half of section 15, township 135, range 45; south half of section 20, south half of section 21, east half of section 30, east half of section 31, and sections 28, 29, 32, and 33, township 136, range 45; south half of section 19, south half of section 29, west half of section 28, and sections 30, 31, 32, and 29, and west half of section 33, township 136, range 44; sections 4, 5, and 9, east half of section 6, east half of section 7, and section 17, township 135, range 45; sections 12, 13, and north half of section 24, township 133, range 44; sections 1, 2, 11, and 12, north half of section 13, north half of section 14, township 135, range 46; sections 7, 18, and west half of section 8, north half of section 19, west half of section 20, township 133, range 43; west half of section 6, west half of section 7, township 135, range 45; sections 7 and 18, township 131, range 42; sections 12, 13, east half of section 11, east half of section 14, township 131, range 43; west half of section 5, west of section 17, township 131, range 44; section 6 and west half of section 5, township 131, range 42; west half of section 32, and section 31, in township 132, range 42; section 1 and section 2, township 131, range 43; section 35, township 132, range 43; also three salt springs outside of the lines of the Government surveys, with six sections of land to each, marked out by metes and bounds and described as eighteen sections of land lying south from the Wild Rice River, and traversed by the south branch of the said Wild Rice River, which arises along the eastern boundary of said tract, and closely adjoining and northwest from the crossing of the Red River trail so called. At said branch, posts were set and lines run out as per letter of instructions of the said governor, and a map or diagram of which selections accompanies this affidavit, marked A. And deponents further say that, according to the best of their knowledge and belief, no right to any of the said salt springs or lands claimed for the State as aforesaid has vested in any individual or individuals by reason of prior claim of settlement or pre-emption, or by any grant from the Government of the United States; that they have visited in person and examined said salt springs, and that they do exist on or adjacent to the lands above designated, and are of the kind or description contemplated by the act of Congress above referred to. And the said deponents further say that they have delivered to the said governor a general map of the country, which map or draught contains a designation of the particular location of the several salt springs so selected by them for the State as aforesaid, which correctly describes the location of the salt springs as they are marked on the said map or draught; and further deponents say not.

his
PIERRE + BOTTINEAU,
mark.
JAMES D. SKINNER.

Attest:

W. F. WHEELER.

Sworn to and subscribed before me this 27th day of November, 1858. Witness my hand and notarial seal.

[SEAL.]

WM. F. WHEELER,
Notary Public, Minnesota.

Attest:

WM. F. WHEELER, Private Secretary.

I hereby certify that the foregoing is a true copy of the original affidavit as recorded in book "A" of the record journal of this State.

[SEAL.]

WM. R. MARSHALL,
Governor of Minnesota.

H. C. ROGERS, Secretary of State.

Accompanying and attached to the foregoing report of the commissioners there is a plat showing the location of the three salt springs which were located outside the surveyed limits, designating the same by metes and bounds, mounds, and stakes.

It further appears from list of selections furnished to your committee by Commissioner of General Land Office that all of the lands embraced in the foregoing report of commissioners, and which were located within the surveyed limits, were approved January 4, 1871, and certified to the State, except as shown in the following letter from Hon. J. A. Williamson, Commissioner of General Land Office:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 6, 1878.

SIR: I am in receipt of your letter of the 28th ultimo, received at this office the 4th instant, requesting further information relative to Minnesota salt springs selections and in compliance therewith I have the honor to submit the following statement of—

1st. The quantity of lands selected for salt springs, but which have not been certified to the State, on account of portions thereof being covered by adverse claims;

2d. Quantity of lands selected which are covered by adverse claims; and, 3. Quantity of lands selected which are not embraced in such adverse claims and which may be certified to the State as saline lines, viz:

Tracts selected.	Section.	Township.	Range.	Area of tracts.	Quantity cov- ered by ad- verse claims.	Quantity which is clear and may be ap- proved.
West 1/2	5	131	42	315.03	155.00	160.03
All of	131	42	501.17	241.53	309.64	
All of	7	131	42	205.77	131.64	74.13
West 1/2	8	131	42	162.35	162.35	
West 1/2	17	131	42	305.94	238.43	67.50
All of	18	131	42	553.88	156.73	397.15
All of	1	131	43	635.39	635.39	
All of	2	131	43	629.74	309.74	320.00
East 1/2	11	131	42	320.00	161.00	160.00
All of	12	131	43	623.70	303.70	320.00
All of	13	131	43	590.09	391.24	198.85

Quantity of lands, &c.—Continued.

Tracts selected.	Section.	Township.	Range.	Area of tracts.	Quantity covered by adverse claims.	Quantity which is or may be approved.
East $\frac{1}{2}$	14	131	43	320.00	240.00	80.00
All of.....	31	132	42	576.25	140.00	437.25
West $\frac{1}{2}$	32	132	42	283.06	80.00	203.06
All of.....	35	132	43	640.00	.....	640.00
South $\frac{1}{2}$ of northeast $\frac{1}{4}$	24	133	44	80.00	.....	80.00
Total.....				6,932.36	3,394.75	3,437.61

The lands referred to in the report transmitted with my letter to you of the 19th ultimo, as having been selected June 6, 1870, as swamp lands, amounting in the aggregate to 120 acres, and the selection of lot 1 of section 7, township 131, range 42, containing 6.40 acres as school land cannot be considered as valid selections, the same having been made long subsequent to the date of the salt-springs selections. Hence the above are not included in the statement of interferences above.

The selection of the east half of section 10 and north half of section 14, township 135, range 45, for university purposes, May 7, 1872, was illegal, the said tracts having been approved to the State as saline lands, January 4, 1871. Hence the rescission of the tracts for university purposes was an error, and should not have been allowed. The paper submitted with your letter is herewith returned.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. C. W. JONES,
United States Senate.

From the foregoing, it appears that of the selections made inside the surveyed limits, and which have not been approved, there is 3,437.61 acres, to which there is no adverse claim, and which can now be approved and certified to said State. It also appears that there is 3,394.75 acres which are covered by adverse claims, for the greater portion of which patents have already issued, and to which title cannot now be made to the State; and that the 3,394.75 acres represents six sections by Government subdivisions as originally selected.

The "three salt springs outside of the lines of the Government surveys with six sections of land to each," as described in the report and diagram of selections made by the commissioners, on examination, are found to be within the limits of the White Earth Indian reservation. The Indian title to the land embraced within the present limits of said reservation was ceded to the United States by the treaty of February 22, 1855, between the United States and the Chippewa Indians of the Mississippi. (U. S. Stats. at Large, vol. 10, pp. 1163, 1166.)

By the treaty with said Indians of March 20, 1855, they ceded certain reservations made in the treaty of February 22, 1855, and a new reservation was set apart for them which included a small portion of northern part of what is now White Earth reservation. (U. S. Stats. at Large, vol. 13, p. 693.)

By the treaty with said Indians proclaimed April 18, 1867, they ceded to the United States the reservation set apart by treaty of March 20, 1855, and in lieu thereof the United States set apart the White Earth reservation. (See art. 2, treaty Mar. 19, 1867, U. S. Stat. at Large, vol. 16, pp. 719, 720, 721.)

As a summary of the foregoing your committee find as follows:

That said lands were granted to said State by act of February 20, 1857; that the selection thereof by the commissioners appointed by the governor of said State was proper and made within the time limited by said act; that the governor of said State served due and proper notice of selections made on the Commissioner of General Land Office and local land officers; that the Commissioner of General Land Office issued instructions to local land officers to mark said selections on tract-books and permanent records of their office; that through oversight or negligence of the local land officers adverse claims were permitted to attach to six sections of the lands selected within the surveyed limits, so that the United States cannot now make title to the State thereto; that ten years after the selection of the three springs and eighteen sections of land adjoining thereto which were located outside the surveyed limits, the United States made a treaty with the Mississippi bands of Chippewa Indians, whereby there was set apart from lands to which the United States acquired title by the treaty of February 22, 1855, thirty-six townships of land as a reservation, and which is now known as the White Earth reservation, and within the limits of which these lands are located; that the United States cannot now make title thereto; that the total amount of said selections to which the United States cannot now make title to the State is twenty-four sections.

Your committee are therefore of opinion that the State of Minnesota should be permitted and authorized to the public lands of the United States, not otherwise appropriated, twenty-four sections of land in lieu of that amount of lands to which said State of Minnesota was entitled as aforesaid, and to which the United States cannot make title to said State of Minnesota.

Your committee therefore recommend the passage of accompanying bill.

Mr. EDMUNDS. I should like to have somebody explain how it is that the grant of twelve salt springs to the State of Minnesota carries two sections of land with each salt spring, which appears to be the result of it, or perhaps more.

Mr. McDONALD. The quantity of land which is to go with each reservation is stated in the act.

Mr. EDMUNDS. Let us see the act.

Mr. McMILLAN. I think the Senator will find the answer to his question in the act referred to.

Mr. EDMUNDS. What is the date of the act?

Mr. McMILLAN. February 26, 1857.

Mr. McDONALD. That part of the act is printed in the report.

Mr. McMILLAN. It is in the fourth subdivision of section 5.

Mr. EDMUNDS. It is in volume 11 of the statutes, page 166:

That all salt springs within said State not exceeding twelve in number, with six sections of land adjoining or as contiguous as may be to each, shall be granted to said State for its use.

That is the clause; so that each spring carried six sections of land?

Mr. McDONALD. Yes, sir; and these are the sections that could not be obtained by reason of a subsequent reservation.

Mr. EDMUNDS. These two the governor located within the time, as I understand?

Mr. McMILLAN. Yes, sir.

Mr. EDMUNDS. And on land to which there was then no adverse claim?

Mr. McDONALD. None, except that which the Government afterward conferred by the Indian reservation referred to in the report.

Mr. EDMUNDS. Then some of these springs that the governor located were not on land that was open to location?

Mr. McMILLAN. No, the lands were all subject to location; they came within the act of Congress; but a portion of the land was not surveyed. There were three springs with six sections contiguous to each that were not within the limits of the surveyed portion of the State of Minnesota, but they were within the limits of the State on unsurveyed lands—lands which had been ceded to the United States by the Indian treaty of 1855; but owing to the fact that a description could not be given by Government subdivisions they had to be described and identified as they are in the report of the commissioners appointed by the governor of Minnesota. The three springs, with six sections contiguous, were subsequently embraced within the White Earth Indian reservation by a treaty made with the Indians in 1867; so that the three springs, with six sections of land contiguous to each, are now embraced within that Indian reservation and subject to settlement by the Indians, the reservation being surveyed into forty-acre tracts, and the Indians permitted to settle upon them and cultivate them and hold them during their life, but the lands are not transferable from the Indians. By this treaty the State of Minnesota is deprived of her selection of eighteen sections of land embraced in the act authorizing the Territory to form a State government. The other six sections are lands upon which adverse claims have arisen since they were selected by the State of Minnesota by pre-emptors and others. A large number of them have obtained their titles, and the State has been deprived of her title to twenty-four sections of the land. For that amount of land this bill proposes to grant to the State of Minnesota land in lieu of it.

Mr. McDONALD. Within the limits of the State.

Mr. McMILLAN. Within the limits of the State.

Mr. EDMUNDS. I do not see how that could be; but very likely it is so. Here was the act of 1857, which granted to the State twelve salt springs with six sections of land adjoining to be located by the governor within a year, but he was not to locate upon any spring or land the right whereof was vested in any individual or which might be confirmed as belonging to anybody else. If he did locate upon land that was free and followed the law, within the year, and made his report to the proper land office, the title of the State, I should have said, became perfect, and no subsequent treaty or act of the United States could oust the title of the State.

Mr. McMILLAN. The selections were not perfected so as to require the Commissioner of the General Land Office to certify the title to the State, owing to the fact, perhaps, that the war intervened in 1861, and during the same period the local land office at Otter Tail, embracing the records upon which the selections were noted, was destroyed by fire, and of course the records were destroyed with the office.

Mr. EDMUNDS. Is that in the report of the committee?

Mr. McMILLAN. Yes, sir; I think that is so stated in the communication.

Mr. EDMUNDS. I did not happen to notice that.

Mr. McMILLAN. I think that is in the report. It is the fact, I am sure.

Mr. EDMUNDS. The Senator will not find it in the report, I guess.

Mr. McMILLAN. Perhaps it may not be stated in the report, but it appears among the records on file in the case, and I know that to be the fact. It appears among these records. All the facts stated in the report are authenticated by the official records of the State, and also those of the General Government in the office of the Commissioner of the General Land Office.

Mr. EDMUNDS. This title, as it is stated, must have failed upon the ground that the governor located upon springs that he was not entitled to locate upon, and in that case the State would be entitled to no redress, (because they had fair warning by a proviso that they should be careful not to infringe upon anybody else, and to make their selection of clear titles within a year,) or else the defect in the title now must have arisen either from the wrong of the United States or the neglect of the State of Minnesota. It is said that the governor within the year appointed commissioners who made their selections and notified the proper land office. If that be so, as I said before, I am unable to perceive why the title of the State is not complete. If it be not so, then it is because the State failed to follow up that notice by the next step necessary, to have a proper description forwarded to the General Land Office so as to make their title complete. If it is the fault of the State, twenty years is rather a long time to correct that fault in favor of the party in default. If it is the fault of the United States, then of course it may present a different consideration.

Mr. McMILLAN. Mr. President, these salt springs were embraced, all of them, within the limits of the State. Three of them, as I before stated, were on the unsurveyed lands of the State. The land had been ceded by treaty to the United States in 1855, so that there was no Indian reservation at the time covering that portion of the State. The selection of these lands was made by commissioners appointed by the governor of the State, as is set forth in this report; and there is also set forth in the report a joint affidavit of two persons describing this selection very fully and minutely. The State did not obtain the title to those lands, and subsequently the United

States entered into a treaty with the tribes of Indians in our State by which a portion of the land embracing these three salt springs and the land contiguous to them was incorporated into the White Earth Indian reservation. That Indian reservation has been established; it is occupied by the Indians now; the agent of the United States is settled upon it; and all the operations of the Government are conducted there so far as they are connected with those Indians. The State cannot certainly obtain any title to those lands now. The Indians are settled upon those lands and each of them has a right to cultivate forty acres of land and obtain a title to it during his life.

Mr. EDMUNDS. Are the springs actually there on the reservation?

Mr. McMILLAN. The springs are on the reservation and the lands contiguous to them are all embraced in the reservation.

Mr. EDMUNDS. Are they actual salt springs?

Mr. McMILLAN. I never was there, but they are so reported. Here is the evidence before the Senate; and it is very full and distinct.

Mr. DAVIS, of Illinois. That is the presumption.

Mr. EDMUNDS. Yes, the presumption is that all springs are salt where there is a land grant.

Mr. McMILLAN. Where the lands are granted in connection with salt springs and the Government has certified one-half the lands it is to be presumed that they are salt springs.

In addition to that, here is an affidavit of the persons who selected the lands; and they state that—

They were appointed by Henry H. Sibley, governor of the State of Minnesota, commissioners on the part of said State to select and mark out the twelve salt springs, with the land adjoining, granted by act of Congress, approved February 26, 1857, to the said State; that they have discharged the duty thus imposed upon them, and have found salt springs on or adjacent to the following-described tracts or parcels of land included in the United States Government surveys, and which said tracts or parcels of lands they have reported to the said governor, as claimed for and in behalf of said State under the act of Congress.

Then they go on and describe the springs and lands within the surveyed limits of the State:

Also three salt springs outside of the lines of the Government surveys, with six sections of land to each, marked out by metes and bounds and described as eighteen sections of land lying south from the Wild Rice River, and traversed by the south branch of the said Wild Rice River, which arises along the eastern boundary of said tract, and closely adjoining and northwest from the crossing of the Red River trail, (so called.) At said branch points were set and lines run out as per letter of instructions of the said governor, and a map or diagram of which selections accompanies this affidavit, marked A.

And they go on with the other facts.

Mr. EDMUNDS. May I ask my honorable friend a question? It seems there were three springs wanting. The act granted to the State all the salt springs there were in the State not exceeding twelve. The State therefore has got nine, I suppose. Is there a single salt spring of the nine that is now worked as a salt spring, or is known as such, for any operation connected with salt?

Mr. McMILLAN. I am unaware of the facts in regard to these springs, except that I do know the State made a grant of one for a public purpose in the State with the six sections of lands adjoining.

Mr. EDMUNDS. What was the public purpose, working salt?

Mr. McMILLAN. No, sir.

Mr. EDMUNDS. No, I guess not.

Mr. McMILLAN. I forget the purpose. I know the party to whom the grant was made in our State. It was made by an act of the Legislature to a citizen of our own State.

Mr. McDONALD. As a saline grant this is just the same as the grants which were accepted by every State, nearly, west of the Ohio River, beginning with Ohio, and Indiana, and Illinois, and continued on. The lands have always been selected and the proper use made of them. What became of the springs, I do not know.

Mr. McMILLAN. In addition to that, I am also advised that this grant of land will pass to the State University under the action of our State. The lands granted under this bill will go to aid the State University. The State has disposed of the grant in that direction.

Mr. EDMUNDS. As a land grant to the State of Minnesota of two-thirds of a township of land in aid of a university the thing certainly has an appearance of merit. I should be glad to have a similar grant of lands in Minnesota for the benefit of the University of Vermont. But as making up, as an act of duty under this measure, a loss of an actual salt spring to the State of Minnesota, I am bound to say that I must be excused for having any faith in that sort of thing. My honorable friend says, and he understands it, that as far as he knows there is not a single one of the other nine springs that was ever used as a salt spring at all. One of them was granted to somebody else for some other purpose, some other good public purpose no doubt.

Mr. McMILLAN. I will answer the Senator that one of them was granted to a company in our State organized for the manufacture of salt.

Mr. EDMUNDS. That was probably the best spring. Now, can the Senator tell us how much salt that company produced?

Mr. McMILLAN. I am not informed.

Mr. EDMUNDS. Did the Senator ever hear of its producing any?

Mr. McMILLAN. I have not informed myself in regard to that fact, I will say to the Senator from Vermont.

Mr. CHRISTIANCY. I wish to make a suggestion to the Senator from Vermont, perhaps by way of a question. I wish to know

whether the grant originally of these sections of salt-spring land depended at all upon their ever making salt.

Mr. EDMUNDS. I do not know. The Senator can read English probably just as well as I can. What the statute says is—

That all salt springs within said State not exceeding twelve in number, with six sections of land adjoining or as contiguous as may be to each, shall be granted to said State for its use.

If that meant that it was a salted spring in order to give the State so much more land for its general purposes, that is one thing; but if it meant what the unsophisticated mind of an honest man would suppose it to mean, that it was granted like salt springs in the State of New York, for the public benefit, to supply people with salt and to be managed and controlled by the sovereignty of the State, then it would have said exactly what it does say. But the obvious fact is, plainly enough, after this explanation, that the State of Minnesota never did select twelve salt springs or any other number of salt springs within the fair meaning of that act, as I have described what I understand its meaning to be. It did get a certain amount of land and dispose of it for all sorts of purposes, never for the purposes of salt springs but on one occasion it seems, and that appears, so far as we know, to have been a failure. Now, then, after twenty years, it is proposed to take two-thirds of a township to be given to a university under color of making up three salt springs which have in the course of time disappeared if they ever existed. Of course, Mr. President, the Senate will pass the bill; it is always generous.

Mr. McDONALD. The Senator who reported this bill [Mr. JONES, of Florida] is not in his seat to-day. The original bill was referred to the Committee on Public Lands and by the committee referred to the Senator from Florida as a subcommittee, and he gave this question very careful consideration, as the report will show. The facts which the report discloses certainly establish this: that there were twenty-four sections of land granted to the State of Minnesota at the time of her admission into the Union as a State, to which she has never received a title, owing to the subsequent disposition of the lands by the Government, embracing eighteen sections of these lands, for an Indian reservation, and the balance making up the twenty-four sections of land covered by adverse claims acquired to the property after this grant was made.

The committee thought, under all the circumstances, that it was right and fair to the State of Minnesota to let her be remunerated for these lands, thus otherwise disposed of, by selecting the same number of sections within the limits of the State of public lands not now sold. The character of this grant is not new to the State of Minnesota. The same class of grants have been made to all the States in the Northwest. I know it was so in my own State. We have to this day a saline fund, forming a part of the common-school fund of our State, which sprang from the disposal of the lands that were granted to the State of Indiana in connection with the salt springs. I do not suppose there is a single spring in the State of Indiana that is now used or worked for the purpose of manufacturing salt, and perhaps none ever was to any very great extent, but it was among the perquisites which the General Government saw proper to tender to the people of a Territory when they were forming themselves into a State for the purpose of assuming the responsibilities of a State government, and we thought it was nothing more than fair in the case of Minnesota that, having been deprived in this way of this perquisite, to that extent she should be allowed to make it up in lands inside of her own limits. If the Senator who made this report were present, he could state much more in detail the circumstances that led to this conclusion than I can.

Mr. EDMUNDS. The facts are all stated in the report; all the report lacks is salt.

Mr. McDONALD. But the salt has lost its savor.

Mr. CHRISTIANCY. As the Senator from Indiana has remarked, this is no new species of grants. Most of the Northwestern States, if not all, have had grants of this kind connected with salt springs. The grant was not made because it was known that salt could be made at those springs, but because it was believed there was a fair prospect of obtaining salt. It was the general opinion that where salt springs were found, although the waters might not be strong enough for practical working as they came to the surface, yet by boring, salt might be found there. It was on a supposition of this kind that the grants were made. There were several salt springs in Michigan in connection with which similar grants were made; but it was found by experience that salt could not be obtained by boring, they were not within what is called the salt basin; and those lands have all been disposed of to individuals. Suppose it should turn out that there was no salt to be found in any of these cases, either in Michigan or in any of the other States, does the title to this land fail? If the argument of the Senator from Vermont is good for anything, the title must have failed because they failed to find waters salt enough to be worked for the making of salt. It does seem to me that there is nothing in the point raised by the Senator from Vermont.

Mr. EDMUNDS. I do not know that there is, because the point really is a little difficultly that I have in giving to the State of Minnesota two-thirds of a township of land for the purposes of a university, for that is what it comes to, to which she has not any claim, and never had; because all that was given to her was a salt spring. That is perfectly apparent to my mind. But the answer of my friend from Michigan has a great deal of force, I admit. He says if boring

will do it, then the title is good; but this happens to be boring for land instead of salt, and I have no doubt it will fetch the result.

The PRESIDING OFFICER. (Mr. INGALLS in the chair.) The question is on agreeing to the amendment reported from the Committee on Public Lands.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SAMSON GOLIAH.

The next bill on the Calendar was the bill (S. No. 1096) for the relief of Samson Goliah; which was considered as in Committee of the Whole. The bill revokes the sentence of the general court-martial in the case of Samson Goliah, late a private in company A, Fifty-fifth Regiment of Massachusetts Volunteers, (colored,) finding him guilty of mutiny, and sentencing him to confinement at hard labor during the remainder of his term of service, to forfeit all pay and allowances due or to become due, and to be dishonorably discharged the service of the United States, promulgated in General Orders No. 136, of September 19, 1864, headquarters of the Department of the South.

Mr. WADLEIGH. Is there a report in that case?

The PRESIDING OFFICER. There is a report.

Mr. WADLEIGH. I should like to hear it read.

The PRESIDING OFFICER. The Secretary will read the report.

The Secretary read the following report, submitted by Mr. MAXEY on the 16th instant:

The Committee on Military Affairs, to whom was referred the petition of Samson Goliah, late a private Company A, Fifty-fifth Massachusetts Colored Regiment, respectfully submit the following report:

Samson Goliah is a colored man. He was formerly, as shown by his sworn petition, a slave. He "was tried by general court-martial on the charge of mutiny, found guilty, and sentenced to be confined at hard labor for the remainder of his term of enlistment, to forfeit all pay and allowances then due or to become due, and then to be dishonorably discharged the service of the United States." (See transcript from Adjutant-General's Office, on file in this case.)

Of the proceedings of the court-martial, the Judge-Advocate-General says they appear to be regular, and the sentence also.

He states that the relief asked is beyond the power of the Executive Department, and that Congress alone has authority to indemnify the party for any injustice or undue punishment that he may have suffered, and it is to that branch of the Government that his appeal should be addressed. The sentence of the general court-martial in Goliah's case was promulgated under General Orders No. 136, of September 19, 1864, headquarters Department of the South, and under that sentence he was sent to Fort Clinch, Florida, September, 1864, to serve out his sentence, but his regiment, the record states, having been mustered out of service, he was released and dishonorably discharged before he had served the full time specified.

The sentence was severe, if not harsh, under any circumstances, and in the case of Samson Goliah was, in the judgment of the committee, altogether too harsh. He was, as shown by his sworn statement, born and raised a slave. "Ignorance of the law excuseth not" is a maxim the committee recognizes, but the committee submits that that maxim has never been extended beyond its plain import. Ignorance of law cannot be pleaded in justification or excuse, but under the general issue proof thereof would be clearly admissible in mitigation. Here the man had been born and reared a slave. In the very nature of things his knowledge of law must have been exceedingly limited. The law is not a bed of Procrustes, and he who so regards it knows nothing of its philosophy. This fact does not, so far as the transcript goes, appear to have been considered at all. It might well have been considered by the court-martial and by the final reviewing officers. It was not, nor does it seem to have been considered by the Adjutant-General or Secretary of War, who suggest that this is not a meritorious case for any action by Congress.

This question is one, the committee submits, upon which it differs with those officers. A point which the Adjutant-General makes against the man Samson Goliah is, that he stated that he received an honorable discharge and that it was burned in the law office of John W. Blake, at Indianapolis, (when that office was burned in March, 1874,) when in fact it was a dishonorable discharge. This point is by no means conclusive when we come to consider that he was without education; that he had to make his mark to the affidavit; that he was raised a slave, and in all likelihood did not know one sort of paper discharge from another. But the story told by Samson in his petition under consideration bears evidence of truth and candor.

Samson states that the trouble originated on board a propeller going from Jacksonville, Florida, to Hilton Head, South Carolina, out of a slight disturbance after taps. That one John Sylvester made the disturbance because he was hungry. No doubt John was hungry. Goliah says that he and John were lying together in the hold of the vessel; not a very comfortable place; that Lieutenant Bean, the officer on duty, came to him (Samson) and charged him (Goliah) with making a noise. Samson denied. Bean said he would arrest him. (Samson Goliah.) Goliah in his wrath said he would not be arrested, because he had done nothing. Doubtless this was wrong. Samson should have curbed his angry passions, and Goliah should have shown Christian meekness. Still there was human nature in it, and a good deal of it. The biblical history of the two remarkable men whose joint names he bears may have been read to him by the light of pine knots in his lowly cabin when he was a slave, and the unhappy man may have been emulating their illustrious and, as he supposed, righteous examples. At all events a better educated man than Goliah, a white man, raised under the shadows of the temple of justice, would, if a spirited man, have proved refractory. How much more reason for believing this ignorant negro, who believed his rights invaded, was honest in his refusal to be arrested. However, Bean and his guards did finally arrest him, and there was no one to give the note of warning—"The Philistines be upon thee, Samson." He was taken on deck and tied to the mast. Here the real trouble began. His friends finding out what had been done (they were colored like himself) raised a row and cut him loose. So his strength was not known. That is just what his people would have done if they believed he had been wronged. Samson says he remained on deck all night, and the next morning Lieutenant Bean came to him and told him that if he would get down on his knees and beg pardon he would release him and send him to his company. Samson, to his honor be it said, refused.

He states that charges were preferred, that he was tried, had no means of defense, or of getting witnesses; that he was utterly ignorant of what a court or court-martial was. He states that at Fort Clinch, under his sentence, he did double duty at hard labor until he was sent to his regiment.

Samson produces the affidavits of John H. Martin, George Johnson, Hamilton Curry, and William Jones, who state that they were on board; know of the disturbance; know it was raised by Sylvester and not by Samson, and know that he was a good and obedient soldier; that they complained to Sylvester; that he (Sylvester) was the man who created the disturbance, and not Samson, and that Syl-

vester admitted it to him; that Sylvester is dead, died at Indianapolis a few days after he returned from the Army after his discharge. Three other men, Nathan Lane, James Rhodes, and Solomon Moss, swear they were also on board at the time of the disturbance; that Sylvester was the man who made the noise, and they know it, and that Sylvester at different times confessed he was the guilty party, and that Samson was an orderly, obedient, and faithful soldier. It may be asked why was not this testimony produced on the trial? The answer is, the man on trial was a poor, ignorant negro, who had been raised a slave, was under arrest, and knew not the methods of the law. Samson files the statement of a number of citizens of Indianapolis that they have known him since the war, and that he is an orderly, industrious, faithful citizen. The attorney of Samson, John W. Blake, esq., of Indianapolis, is fully indorsed by the late Senator Morton, in a letter to the Secretary of War dated March 10, 1877. Mr. Blake says Samson is a faithful man, with a wife and four children, and is too poor to employ counsel; that he (Blake) has aided him in prosecuting his claim without fee or reward, and is prompted by friendship.

Upon the whole case, the committee is of opinion that Samson has suffered enough, wherefore the committee recommends that the sentence of the general court-martial in the case of Samson Goliah, late private Company A, Fifty-fifth Massachusetts Volunteers, colored, promulgated in General Orders No. 136, of September 19, 1864, headquarters Department of the South, be set aside; that the order or discharge dishonorably discharging him from the Army be revoked, and that the Secretary of War be directed to grant him an honorable discharge, to bear date as of the date of said dishonorable discharge, and the committee recommends the passage of the accompanying bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MILITARY POST IN THE BLACK HILLS.

The next bill on the Calendar was the bill (S. No. 785) to provide for building a military post for the protection of the citizens of the Black Hills region; which was considered as in Committee of the Whole. It appropriates \$150,000 for the purpose of building a military post or garrison at the foot-hills near the Black Hills, in either of the Territories of Wyoming or Dakota, at such point in that region as may be, in the judgment of the President, best adapted for the protection of the citizens of the Black Hills country from the hostile incursions of the Sioux and other Indian tribes congregated or operating in that locality.

Mr. SAULSBURY. I should like to know whether the bill has been recommended by the War Department.

Mr. MAXEY. I will state that it was recommended by the proper authorities of the War Department, and very urgently, and that the bill passed the Committee on Military Affairs of the Senate unanimously. There is a report in writing accompanying the bill, which can be read.

Mr. DAVIS, of West Virginia. I should like to hear the report in the case. This is appropriating a large amount of money and, it strikes me, unnecessarily.

The PRESIDING OFFICER. The Secretary will read the report.

Mr. DAVIS, of West Virginia. I think the bill had better go over.

The PRESIDING OFFICER. The bill goes over under objection.

Mr. DAVIS, of West Virginia, subsequently said: Upon the explanation of two Senators, I withdraw my objection to the bill, but I should like to have the report read.

Mr. MAXEY. I ask that the report be read. There is an urgent necessity for the passage of the bill.

The PRESIDING OFFICER. The Senate, as in Committee of the Whole, resumes the consideration of the bill, and the report will be read.

The Chief Clerk read the following report, submitted by Mr. SPENCER on the 16th instant:

The Committee on Military Affairs, to whom was referred the bill (S. No. 785) to provide for building a military post for the protection of the citizens of the Black Hills region, have had the same under consideration, and submit the following report:

Your committee, wishing to be apprised of the necessity for constructing a military post, as contemplated by the bill, addressed the honorable Secretary of War on the subject of date of February 26, 1878, to which the following reply has been received:

WAR DEPARTMENT, WASHINGTON CITY,
March 6, 1878.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th ultimo, inclosing Senate bill 785, "to provide for building a military post for the protection of the citizens of the Black Hills region," and requesting the Committee on Military Affairs to be advised as to the propriety of the passage of said bill, and beg to inform the committee that this bill is approved by the General of the Army, who reports upon the subject as follows:

"We must keep pace with our rapidly growing frontier; valuable mines now exist and are being developed in the Black Hills of Wyoming.

"Incidental thereto, farms and ranches are being opened (necessarily scattered and exposed to Indian depredations,) which will need military protection. Troops cannot exist in that region without shelter, and therefore a post seems necessary.

"The amount, \$150,000, is deemed ample."

Very respectfully, your obedient servant,

GEO. W. MCCRARY,
Secretary of War.

Hon. GEORGE E. SPENCER,

Chairman Committee on Military Affairs, United States Senate.

Inasmuch as the Secretary of War advises your committee that the bill is approved by the General of the Army, who considers the construction of such a military post in the region indicated necessary for the protection of the citizens of the Black Hills country and for the shelter of troops, also that the sum of \$150,000 is deemed ample for such purpose, your committee recommend the passage of the bill.

Mr. SAULSBURY. I have listened to the reading of the report. The whole thing is based upon the recommendation of the General of the Army. We have no information as to how far distant are any of the forts or military stations that are now existing in that country. There is Fort Laramie somewhere out in that country, not a very great distance from the Black Hills, I presume.

Mr. ALLISON. Only about two hundred miles.

Mr. SAULSBURY. We have no information now as to the number of troops that would be required to garrison the fort; and the report is not to my mind entirely satisfactory. We have no information from the General of the Army or from the War Department as to whether there is any absolute necessity to keep troops stationed at that point. There may be a great necessity for it, but the report does not show any such necessity. I should like to have some information upon the subject before we vote \$150,000 out of the public Treasury for this purpose; and I think the bill had better go over, so that we can obtain further information.

The PRESIDING OFFICER. The Senator from Delaware makes an objection, and the Secretary will report the next bill on the Calendar.

ISSUE OF ARMS TO TERRITORIES.

The next bill on the Calendar was the bill (H. R. No. 3697) to amend a joint resolution authorizing the Secretary of War to issue arms, approved July 3, 1876; which was read.

Mr. ALLISON. That is not clear. It would be necessary to have the statute read in order to understand how it is proposed to amend it. I object to the consideration of the bill at this time.

The PRESIDING OFFICER. The Senator from Iowa objects to the bill, and it goes over.

ALCOHOL FOR SCIENTIFIC PURPOSES.

The next bill on the Calendar was the bill (H. R. No. 1887) to extend the provisions of section 3297 of the Revised Statutes to other institutions of learning; which was considered as in Committee of the Whole. It authorizes the Secretary of the Treasury to grant permits, as provided for in section 3297 of the Revised Statutes of the United States, to any scientific university or college of learning created and constituted such by any State or Territory under its laws, though not incorporated or chartered, upon the same terms and subject to the same restrictions and penalties already provided by section 3297.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NORTHERN PACIFIC RAILROAD.

The PRESIDING OFFICER. The next bill on the Calendar will be reported.

The CHIEF CLERK. The next bill on the Calendar is the bill (S. No. 1015) extending the time to construct and complete the Northern Pacific Railroad; which was reported adversely from the Committee on Railroads.

Mr. MITCHELL. As that matter has been acted upon by the Senate, I move that the bill be indefinitely postponed.

The motion was agreed to.

DISTRICT PUBLIC SCHOOLS.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 4658) for the relief of the public schools of the District of Columbia; in which the concurrence of the Senate was requested.

Mr. WINDOM. I ask the consent of the Senate to take up the bill which has just been received from the House of Representatives for the purpose of present consideration.

By unanimous consent, the bill was read twice, and considered as in Committee of the Whole. It directs the commissioners of the District of Columbia to retain and use for the maintenance of the public schools of the District for the remainder of the current school year \$75,000, or so much thereof as may be necessary, out of any moneys due to the United States from the District under the provisions of the seventeenth section of the act approved March 3, 1877; but the sum named shall not be considered as in addition to the proportion of the expenses of the District of Columbia hereafter to be assumed by the United States, but shall be a part thereof.

Mr. EDMUNDS. Now let us hear the section of the law read.

Mr. WINDOM. I have consulted a majority of the Committee on Appropriations, and I believe all who are present of the committee unanimously recommend the passage of the bill. Section 17 of the act of March 3, 1877, referred to in the bill is as follows:

That the Secretary of the Treasury is hereby directed to advance to said commissioners, between the 1st day of July and the 1st day of November, 1877, such sums as may be from time to time required for the payment of interest on the old funded debt and for the current expenses of the District government, the aggregate sum so advanced not to exceed \$400,000; and the commissioners shall reimburse the Treasury the amount so advanced out of the revenues of the District on or before the expiration of the fiscal year ending June 30, 1878.

The sum of \$400,000 for the purpose of reimbursing the advances made by the Government under this section is in the Treasury, and the bill proposes to authorize the use of \$75,000 of that fund to aid in keeping open the schools of the District.

Mr. EDMUNDS. Does the Senator mean to say that this \$400,000 has been reimbursed and is in the Treasury of the United States?

Mr. WINDOM. I mean to say that it is at the command of the District commissioners.

Mr. EDMUNDS. Ah yes, not repaid to the Treasury.

Mr. WINDOM. I do not understand that it has been repaid, but it is ready to be reimbursed.

Mr. EDMUNDS. So that this bill provides available funds for the purpose of the schools?

Mr. WINDOM. It does, as I understand it.

Mr. BAILEY. I wish to ask the Senator from Minnesota a question. Do I understand that this money has been refunded to the Government of the United States? My reason for the inquiry is this: I understood, from the discussion which took place the other day at the other end of the Capitol, that it was announced by the commissioners that they did not expect to repay this money to the United States. For that reason I ask the Senator from Minnesota whether the Committee on Appropriations has any well-founded expectation that this money will be repaid to the Government?

Mr. WINDOM. I answer for myself that I have no very sanguine expectation in that direction. I do not think it ought to be repaid, and I do not very much expect that it will be.

Mr. BAILEY. Then I should like to know why the people of the United States are required to pay the expenses of the District of Columbia. I understand that the sole ground for this expenditure is a claim that the people here are so heavily taxed that they cannot afford to support their own school system; but I can say that the rate of taxation in the District of Columbia is not nearly so great as it is in many of the States of the Union. It is not nearly so great as it is in my own State in many of the towns and municipalities. In the little town in which I live we pay at least 1 per cent. more tax per annum than they pay here in the city of Washington. In the cities of that State and in many of the cities of the Union they pay twice and three times the rate of taxation that is paid in Washington; and no claim to be exempted from this burden that falls upon the people of other cities and other communities can be founded upon the idea that the rate of taxation here is so great that it is impossible for the people to support their own schools. I cannot understand why in the city of Washington there should be a claim upon the public Treasury of the United States for the support of common schools that does not exist in other communities, in other towns and places besides the city of Washington.

The bill was reported to the Senate without amendment.

The PRESIDING OFFICER. Shall the bill be ordered to a third reading?

The question being put, a division was called for.

Mr. DORSEY. Let us have the yeas and nays.

Mr. EDMUNDS. I ask for the yeas and nays.

Mr. ROLLINS. Let us take the yeas and nays on the passage of the bill.

Mr. EDMUNDS. On the third reading is just as well.

The yeas and nays were ordered; and the Chief Clerk proceeded to call the roll.

Mr. McDONALD, (when the name of Mr. VOORHEES was called.) My colleague [Mr. VOORHEES] is detained from the Senate by important engagements, which he could not avoid.

The roll-call having been concluded, the result was announced—yeas 42, nays 7; as follows:

YEAS—42.

Allison,	Christiancy,	Harris,	Maxey,
Anthony,	Coke,	Hereford,	Mitchell,
Barnum,	Conkling,	Hoar,	Morrill,
Bayard,	Conover,	Howe,	Paddock,
Beck,	Davis of Illinois,	Ingalls,	Rollins,
Blaine,	Dawes,	Johnston,	Saunders,
Booth,	Dorsey,	Kirkwood,	Teller,
Bruce,	Edmunds,	McDonald,	Wadleigh,
Luttrell,	Eustis,	McMillan,	Windom,
Cameron of Pa.,	Ferry,	McPherson,	
Cameron of Wis.,	Garland,	Matthews,	

NAYS—7.

Bailey,	Hill,	Merrimon,	Whyte.
Cockrell,	McCreery,	Saulsbury,	

ABSENT—27.

Armstrong,	Grover,	Morgan,	Sharon,
Burnside,	Hamlin,	Oglesby,	Spencer,
Chaffee,	Jones of Florida,	Patterson,	Thurman,
Davis of W. Va.,	Jones of Nevada,	Plumb,	Voorhees,
Dennis,	Kellogg,	Randolph,	Wallace,
Eaton,	Kernan,	Ransom,	Withers,
Gordon,	Lamar,	Sargent,	

So the bill was ordered to a third reading.

It was read the third time, and passed.

RESUMPTION OF SPECIE PAYMENTS.

The PRESIDING OFFICER. Resuming the Calendar, the next bill in order is the bill (H. R. No. 805) to repeal all that part of the act approved January 14, 1875, known as the resumption act, which authorized the Secretary of the Treasury to dispose of United States bonds and redeem and cancel the greenback currency; which was read by its title.

Mr. BAYARD. That had better lie over.

The PRESIDING OFFICER. The bill, being objected to, goes over.

Mr. FERRY. In this connection I desire to give notice that I shall ask the Senate to consider House bill No. 805, which was reported by the Committee on Finance with amendments on Wednesday. The committee have reported amendments to it, and I shall ask the Senate at one o'clock on Wednesday next to consider the bill and amendments.

GAMBLING IN THE ARMY.

The next bill on the Calendar was the bill (S. No. 112) to make an additional article of war; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and insert:

That the following be, and hereby is, made an additional article of war for the government of the Army of the United States: "Any officer serving with troops or any soldier not on furlough, who gambles, bets, or plays for money or other valuable stake or consideration at any game of cards or otherwise, shall be brought to trial by court-martial, and, upon conviction, punished as follows: If an officer, by dismissal from the military service, or such other punishment of less grade as may be inflicted by the sentence of the court-martial; if a soldier, at the discretion of the court: *Provided, however,* That any officer of the Army, whether or not serving with troops, who, by gambling, betting, or playing at cards or otherwise, shall win money from a junior or inferior officer, shall, upon conviction by a court-martial, be punished as hereinbefore provided in the case of an officer serving with troops.

SEC. 2. That any post trader who shall keep, have, let, or allow to be used in his trading store or establishment, or elsewhere, any building, room, or other place in which gambling, betting, or playing, for money or other valuable stake or consideration, at cards or otherwise, is, on any occasion, engaged in by officers or soldiers of the Army, either with each other or with civilians, shall have his appointment forthwith revoked by the Secretary of War.

SEC. 3. That it shall be, and is hereby made, the duty of every commanding officer of a post, station, detachment, or other place or body of troops strictly to enforce the provisions of this act by forthwith bringing to trial any soldier of his command who shall offend against the provisions of the first section, and by promptly reporting to the department commander, or, if there be none, to the Secretary of War, with a formal charge or charges preferred by him against the offender, any case of an officer of his command so offending. And it is further made the duty of every such commanding officer promptly to report to the Secretary of War any act or allowance on the part of a post trader at his post or station of the nature indicated in the second section. And for any failure or omission to comply with any of these injunctions, such commander shall be brought to trial as for a violation of the sixty-second article of war.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and read the third time.

The PRESIDING OFFICER. The question is on the passage of the bill.

The question being put, a division was called for; which resulted—ayes 29, noes 6; no quorum voting.

Mr. EDMUNDS, Mr. MITCHELL, and Mr. BURNSIDE called for the yeas and nays; and they were ordered.

Mr. HILL. I should like to hear the bill reported again.

The PRESIDING OFFICER. The bill will be again read.

The Chief Clerk proceeded to read the bill, and having read the first section,

Mr. HILL. The Secretary need read no further on my account.

Mr. HOAR. I wish to move to strike out the words "or otherwise" in the first section where they first occur.

Mr. EDMUNDS. Why so?

Mr. HOAR. It makes every bet of the smallest character undergo this heavy penalty.

Mr. MAXEY. I will state that this proposed law is the same as the corresponding law in regard to the Navy. The Committee on Military Affairs were of the opinion that for the first offense dismissal was, to say the least of it, rather severe; and, hence, gave the court-martial power to take into consideration surrounding circumstances, thus making a less penalty than dismissal for the first offense if the court thought it was proper and right to do so.

The PRESIDING OFFICER. The question on the third reading of the bill will be regarded as reconsidered for the purpose of amendment.

Mr. HOAR. I call the attention of the Senate to the fact that as the article is drawn it punishes by dismissal from the military service, or such other punishment as may be inflicted by the sentence of a court-martial, all bets of every kind, not merely a bet which accompanies a game of cards or gambling, but the most indifferent matter. It seems to me it is a very severe penalty.

Mr. EDMUNDS. I thought the words "or otherwise" referred to otherwise gaming, "at any game of cards, or otherwise," that is, some other game. I suggest to the Senator to make it read:

At any game of cards or other game of chance or hazard.

Mr. HOAR. That is better. I will accept that.

The PRESIDING OFFICER. The amendment will be reported.

Mr. CONOVER. I object to the present consideration of the bill. I think there are a good many unjust features in it, and many of us want more time to consider the measure. The Senator who reported the bill is not in his seat, neither is the chairman of the Committee on Military Affairs. I therefore object to the further consideration of the bill to-day.

The PRESIDING OFFICER. The bill being objected to goes over.

THOMAS M. SIMMONS.

Mr. EDMUNDS. I ask leave to enter a motion to reconsider the vote by which the bill (S. No. 1067) for the relief of Thomas M. Simmons was passed to-day. It is an Army claims bill, and it seems to include damages as well as a contract, and, on looking at the report, opens some doubt in my mind whether this was a case of contract and I should like to enter a motion to reconsider until it can be examined.

The PRESIDING OFFICER. The motion to reconsider will be entered.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. GEORGE

M. ADAMS, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 4658) for the relief of the public schools of the District of Columbia; and it was thereupon signed by the President *pro tempore*.

EXECUTIVE SESSION.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After fifty-five minutes spent in executive session the doors were reopened, and (at four o'clock and fifty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, April 29, 1878.

The House met at twelve o'clock m. Prayer by Rev. ALFRED H. AMES, of Washington, District of Columbia.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at twelve minutes past twelve o'clock. This being Monday, the first business during the morning hour is the call of States and Territories, beginning with the State of Maine, for bills and joint resolutions for introduction and reference to appropriate committees. During this call memorials and joint resolutions of State and territorial Legislatures are in order for reference.

ELIZABETH H. PIERCE.

Mr. HALE introduced a bill (H. R. No. 4577) granting a pension to Elizabeth H. Pierce; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HELEN M. STICKNEY.

Mr. JOYCE introduced a bill (H. R. No. 4578) granting a pension to Helen M. Stickney; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

STREET RAILROADS IN THE DISTRICT.

Mr. CLAFLIN introduced a bill (H. R. No. 4579) concerning street railroads in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

AMENDMENT OF DISTRICT LAW.

Mr. MAYHAM introduced a bill (H. R. No. 4580) to amend sections 682, 684, and 685 of an act approved June 22, 1874, relating to the District of Columbia; which was read a first and second time.

Mr. CLYMER. Let that bill be read.

The bill was read *in extenso*, and was referred to the Committee for the District of Columbia, and ordered to be printed.

ELIZABETH M. DEVIN.

Mr. WILLIS, of New York, introduced a bill (H. R. No. 4581) granting a pension to Elizabeth M. Devin, widow of Thomas C. Devin, late Colonel Third Regiment United States Cavalry and major-general of United States Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

TRADE-MARK GOODS.

Mr. CAMP introduced a bill (H. R. No. 4582) repealing sections 1 and 2 of chapter 274 of the laws of Congress, approved August 14, 1876, relating to the using and counterfeiting trade-mark goods; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ALBERT G. MURRAY.

Mr. LAPHAM introduced a bill (H. R. No. 4583) for the relief of Albert G. Murray, postmaster at Canandaigua, New York; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

FLORIAN GROSEJEAN.

Mr. MAYHAM (by request) introduced a bill (H. R. No. 4584) for the relief of Florian Grosejean; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

LAURENCE A. WILLIAMS.

Mr. WOOD (by request) introduced a bill (H. R. No. 4585) for the relief of Laurence A. Williams, of New York; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SARAH E. WEBSTER.

Mr. LOCKWOOD introduced a bill (H. R. No. 4586) for the relief of Sarah E. Webster, administratrix, &c., of Isaac A. Verplanck, deceased; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

SALE OF SPIRITUOUS LIQUORS TO INDIANS.

Mr. LOCKWOOD also introduced a bill (H. R. No. 4587) to amend

section 2139 of the Revised Statutes of the United States relating to the sale of spirituous liquors to Indians; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MRS. SARAH CONKLIN.

Mr. LOCKWOOD also introduced a bill (H. R. No. 4588) granting a pension to Mrs. Sarah Conklin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PATRICK SULLIVAN.

Mr. LOCKWOOD also introduced a bill (H. R. No. 4589) for the relief of Patrick Sullivan; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ROBERT MADIGAN.

Mr. HARDENBERGH introduced a bill (H. R. No. 4590) granting a pension to Robert Madigan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

INSOLVENCY OF RAILROAD COMPANIES.

Mr. CLARK, of New Jersey, introduced a bill (H. R. No. 4591) to prevent insolvency of railroad companies in the United States; which was read a first and second time.

Mr. PAGE. I ask that that bill be read in full.

The bill was read at length, referred to the Committee on the Judiciary, and ordered to be printed.

NEWARK STAMPING COMPANY.

Mr. CUTLER (by request) introduced a bill (H. R. No. 4592) for the relief of the Newark Stamping Company, of Newark, New Jersey; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

LYDIA H. MORRIS.

Mr. PUGH introduced a bill (H. R. No. 4593) granting a pension to Lydia H. Morris (widow) and Jennie H. and Louis Morris, minors; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ROBERT PATTERSON.

Mr. BRIDGES introduced a bill (H. R. No. 4594) granting an increase of pension to Robert Patterson, of Company H, Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NAVY PAY OFFICERS' CLERKS.

Mr. WARD introduced a bill (H. R. No. 4595) relating to pay officers' clerks in the United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

TARIFF.

Mr. SMITH, of Pennsylvania, presented a resolution of the Legislature of the State of Pennsylvania, in opposition to any change in the existing tariff; which was referred to the Committee of Ways and Means.

JOHN H. WORK.

Mr. WHITE, of Pennsylvania, introduced a bill (H. R. No. 4596) granting a pension to John H. Work, late of Company A, Sixty-first Regiment Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARY BOWMAN.

Mr. STENGER introduced a bill (H. R. No. 4597) granting a pension to Mary Bowman; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES W. BUTLER.

Mr. STENGER also introduced a bill (H. R. No. 4598) for the relief of James W. Butler; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

RACHEL T. ABBOTT.

Mr. WRIGHT introduced a bill (H. R. No. 4599) granting a pension to Rachel T. Abbott, of Pennsylvania; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

O. C. HOPKINS.

Mr. MITCHELL introduced a bill (H. R. No. 4600) granting a pension to O. C. Hopkins; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. SWANN introduced a bill (H. R. No. 4601) to amend section 3397 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. TUCKER (by request) introduced a bill (H. R. No. 4602) to amend and re-enact section 716 of the Revised Statutes of the United States; which was read a first and second time.

Mr. HARTTRIDGE. I ask that that bill be read.

The bill was read at length, referred to the Committee on the Judiciary, and ordered to be printed.

P. A. LEATHERBURY.

Mr. DOUGLAS introduced a bill (H. R. No. 4603) for the relief of P. A. Leatherbury, of Accomac County, Virginia; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

AMENDMENT OF THE REVISED STATUTES.

Mr. RAINEY introduced a bill (H. R. No. 4604) to amend section 3835 of the Revised Statutes; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

ISAAC P. SEWELL.

Mr. FELTON introduced a bill (H. R. No. 4605) for the relief of Isaac P. Sewell, of Cobb County, Georgia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ISAAC SEWELL.

Mr. FELTON also introduced a bill (H. R. No. 4606) for the relief of Isaac Sewell, of Cobb County, Georgia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

GREEN S. DUKE.

Mr. BELL introduced a bill (H. R. No. 4607) for the relief of Green S. Duke, of Jackson County, Georgia; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

SOLDIERS AND SAILORS OF WAR OF 1812.

Mr. MANNING introduced a bill (H. R. No. 4608) to amend section 5 of an act entitled "An act amending the laws granting pensions to the soldiers and sailors of the war of 1812 and their widows," approved March 9, 1878; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REPEAL OF "IRON-CLAD" OATH.

Mr. ACKLEN introduced a bill (H. R. No. 4609) to repeal sections 820 and 821 of the Revised Statutes, known as the "iron-clad" oath for jurors; which was read a first and second time, referred to the Committee on the Revision of the Laws of the United States, and ordered to be printed.

ANDREW HOOVER.

Mr. RICE, of Ohio, introduced a bill (H. R. No. 4610) for the relief of Andrew Hoover, late private Company C, Sixty-eighth Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REBECCA BROUGHNER.

Mr. RICE, of Ohio, also introduced a bill (H. R. No. 4611) granting a pension to Rebecca Broughner, widow of Aaron Broughner, of Company C, Eighty-fourth Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LEVI SMITH.

Mr. RICE, of Ohio, also introduced a bill (H. R. No. 4612) granting a pension to Levi Smith, a private in Company I, Fifty-seventh Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOSEPH MANNER.

Mr. RICE, of Ohio, also introduced a bill (H. R. No. 4613) granting a pension to Joseph Manner, late private Company —, Kansas Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY MILLER.

Mr. BANNING introduced a bill (H. R. No. 4614) granting a pension to Henry Miller; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LIEUTENANT JAMES T. LEAVY.

Mr. BANNING also introduced a joint resolution (H. R. No. 169) authorizing the payment of the accounts of Lieutenant James T. Leavy, an insane Army officer; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CLAIMS AGAINST THE UNITED STATES.

Mr. FOSTER introduced a bill (H. R. No. 4615) in relation to claims against the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

NATIONAL FAIR GROUNDS ASSOCIATION, DISTRICT OF COLUMBIA.

Mr. BLACKBURN introduced a bill (H. R. No. 4616) to incorporate the National Fair Grounds Association; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

CAROLINE E. SILENCE.

Mr. BLACKBURN also introduced a bill (H. R. No. 4617) for the relief of Caroline E. Silence, of Washington, District of Columbia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES.

Mr. TURNER introduced a joint resolution (H. R. No. 170) proposing an amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

He also introduced a joint resolution (H. R. No. 171) proposing an amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ASSESSMENTS FOR POLITICAL PURPOSES.

Mr. TURNER also introduced a bill (H. R. No. 4618) to prevent assessments or contributions for political purposes by the officials and employees of the United States Government; which was read a first and second time, referred to the Committee on Civil-Service Reform, and ordered to be printed.

DISTRICT TAX-LIEN CERTIFICATES.

Mr. DURHAM (by request) introduced a bill (H. R. No. 4619) to provide for the settlement of tax-lien certificates erroneously issued by the late authorities of the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

SALOME SMITH.

Mr. RIDDLE (by request) introduced a bill (H. R. No. 4620) granting a pension to Salome Smith; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CASH REGISTER FOR BAR-ROOMS, ETC.

Mr. HAMILTON (by request) introduced a bill (H. R. No. 4621) adopting a cash register to ascertain the cash receipts of bar-rooms and saloons, and levying a tax on the same; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

JAMES K. BIGELOW.

Mr. HANNA introduced a bill (H. R. No. 4622) for the relief of James K. Bigelow; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ADDITIONAL TRUSSES FOR SOLDIERS.

Mr. BOYD introduced a bill (H. R. No. 4623) to furnish additional trusses to soldiers who were ruptured while in the line of their duty during the war for the suppression of the rebellion; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ALBERT F. PADEN.

Mr. HENDERSON introduced a bill (H. R. No. 4624) to remove the charge of desertion from the military record of Albert F. Paden, late a private in Company D, Fifty-fifth Regiment Illinois Volunteer Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

HENRY MAPES.

Mr. HAYES introduced a bill (H. R. No. 4625) for the relief of Henry Mapes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM O. MORGAN.

Mr. CANNON, of Illinois, introduced a bill (H. R. No. 4626) granting a pension to William O. Morgan, sergeant of Company K, Thirty-seventh Regiment Illinois Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SOPHIA BUMP.

Mr. METCALFE introduced a bill (H. R. No. 4627) granting a pension to Sophia Bump, widow of Leonard Bump, late a private in Company I, First Missouri Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ENNO J. PRIUM.

Mr. STONE, of Michigan, introduced a bill (H. R. No. 4628) granting a pension to Enno J. Prium, late private of Company G, Twenty-First Regiment Michigan Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

M. FRANK GALLAGHER.

Mr. WILLIAMS, of Michigan, introduced a bill (H. R. No. 4629) for the relief of M. Frank Gallagher, late lieutenant and brevet captain Second United States Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SALES OF BUTTER AND CHEESE.

Mr. WILLIAMS, of Michigan, also introduced a bill (H. R. No. 4630) for the protection of dairymen and to prevent deception in the sales of butter and cheese in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

STATUE TO GENERAL G. A. CUSTER.

Mr. WILLIAMS, of Michigan, also introduced a joint resolution (H.

R. No. 172) to authorize the erection of a statue to the late General George A. Custer; which was read a first and second time, referred to the Committee on the Library, and ordered to be printed.

TAMPA, FLORIDA, A PORT OF ENTRY.

Mr. DAVIDSON introduced a bill (H. R. No. 4631) making Tampa, in the County of Hillsborough, State of Florida, a port of entry; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

PUBLIC LIBRARY, SAINT AUGUSTINE, FLORIDA.

Mr. BISBEE introduced a bill (H. R. No. 4632) to grant a lot of public land to the Public Library Association at Saint Augustine, Florida; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

H. H. BEARD, LIBERTY COUNTY, TEXAS.

Mr. THROCKMORTON (by request) introduced a bill (H. R. No. 4633) for the relief of H. H. Beard, of the county of Liberty, Texas; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BARNARD McNALLY.

Mr. PRICE introduced a bill (H. R. No. 4634) to authorize payment of the claim of Barnard McNally, of Sabula, Iowa; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

SIGNAL STATION, DES MOINES, IOWA.

Mr. CUMMINGS introduced a bill (H. R. No. 4635) to establish and maintain a signal-service station at the city of Des Moines, in the State of Iowa; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

TAX-LIEN CERTIFICATES, DISTRICT OF COLUMBIA.

Mr. CLARK, of Iowa, (by request,) introduced a bill (H. R. No. 4636) to provide for the settlement of certain tax-lien certificates erroneously issued by the late authorities of the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

UNITED STATES PATENT LAWS.

Mr. BOUCK presented a memorial of the Legislature of the State of Wisconsin, relative to the patent laws, and that damages for the interference with patents be limited to manufacturers; which was referred to the Committee on Patents.

TARIFF ON WOOL.

Mr. BOUCK also presented a memorial of the Legislature of the State of Wisconsin, against the reduction of the tariff on wool; which was referred to the Committee of the Whole on the state of the Union.

SPECIFIC TARIFF ON WOOL.

Mr. BOUCK also presented a memorial of the Legislature of the State of Wisconsin, for a specific tariff on wool; which was referred to the Committee of the Whole on the state of the Union.

INCOME-TAX.

Mr. BOUCK also presented a memorial of the Legislature of the State of Wisconsin, for a tax on incomes; which was referred to the Committee of the Whole on the state of the Union.

EQUALIZATION OF SOLDIERS' BOUNTIES.

Mr. BOUCK also presented a memorial of the Legislature of the State of Wisconsin, for the equalization of soldiers' bounties; which was referred to the Committee on Military Affairs.

SUSPENSION OF SPECIE PAYMENT.

Mr. BOUCK also presented a memorial of the Legislature of the State of Wisconsin, for the passage of a law authorizing the Secretary of the Treasury to suspend specie payment in certain contingencies in case of resumption; which was referred to the Committee on Banking and Currency.

MINNESOTA SWAMP LANDS.

Mr. STRAIT introduced a bill (H. R. No. 4637) to legalize certain settlements upon swamp lands in the State of Minnesota, and for other purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

FORT RIPLEY MILITARY RESERVATION.

Mr. STRAIT also introduced a bill (H. R. No. 4638) to restore to the public domain the military reservation known as Fort Ripley, Minnesota, and for other purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PUBLIC LANDS, PLATTSBURGH, NEW YORK.

Mr. STRAIT also (by request) introduced a bill (H. R. No. 4639) to authorize the Secretary of War to release certain lands of the United States to the people of the State of New York; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

BRIDGE OVER WILLAMETTE RIVER, OREGON.

Mr. WILLIAMS, of Oregon, introduced a bill (H. R. No. 4640) to authorize the construction of a bridge over the Willamette River, between Portland and East Portland, in the State of Oregon; which

was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

SYNDICATE CONTRACT SET ASIDE.

Mr. PHILLIPS introduced a bill (H. R. No. 4641) to set aside a certain alleged contract between the Secretary of the Treasury and certain persons; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

CHRISTOPHER WEIDNER.

Mr. RYAN introduced a bill (H. R. No. 4642) for the relief of Christopher Weidner; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

NEW YORK AND NEW JERSEY FERRY COMPANY.

Mr. MARTIN (by request) introduced a bill (H. R. No. 4643) to incorporate the New York and New Jersey Ferry Company; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MARTHA A. BEERBOWER.

Mr. WILSON introduced a bill (H. R. No. 4644) granting a pension to Martha A. Beerbower, of West Virginia; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN R. HOLLAND.

Mr. PATTERSON, of Colorado, (by request,) introduced a bill (H. R. No. 4645) for the relief of John R. Holland; which was read a first and second time.

Mr. EDEN. I ask that the bill may be read.

The bill was read at length, and was referred to the Committee of Claims.

ALBERT H. PFEIFFER.

Mr. PATTERSON, of Colorado, also introduced a bill (H. R. No. 4646) for the relief of Albert H. Pfeiffer, of Colorado; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ROSWELL SCOVILL.

Mr. CANNON, of Utah, introduced a bill (H. R. No. 4647) for the relief of Roswell Scovill, private soldier in the war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

REINSTATEMENT OF ARMY OFFICERS.

Mr. STEVENS, of Arizona, introduced a bill (H. R. No. 4648) to authorize the President to reinstate certain officers of the United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

LAND TITLES IN IDAHO.

Mr. FENN introduced a bill (H. R. No. 4649) to provide for perfecting land titles in the Territory of Idaho; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

NORTHERN BOUNDARY OF WYOMING TERRITORY, ETC.

Mr. CORLETT introduced a bill (H. R. No. 4650) for the survey of the northern boundary of Wyoming Territory and to fix the northern boundary of the Yellowstone National Park; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The call of States and Territories has been completed. The Chair will now, if there be no objection, recognize gentlemen who were not in their seats when their States were called.

There was no objection.

NANCY FLEANOR.

Mr. BUCKNER introduced a bill (H. R. No. 4651) for the relief of Nancy Fleanor, widow of Nicholas Fleanor, deceased; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LEWIS COLLIER.

Mr. CHALMERS introduced a bill (H. R. No. 4652) for the relief of Lewis Collier, of Company K, Fifty-second Regiment United States Colored Infantry Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

FREDERICK MYERS.

Mr. TOWNSHEND, of Illinois, introduced a bill (H. R. No. 4653) for the relief of Frederick Myers, late private Company L, Sixth Illinois Cavalry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN COSBY.

Mr. WILLIAMS, of Michigan, introduced a bill (H. R. No. 4654) for the relief of John Cosby; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

ORDER OF BUSINESS.

Mr. BLACKBURN. I desire to submit the bill which I send to the desk and move that the rules be suspended in order that it may be considered at the present time.

The SPEAKER. There are still some gentlemen who desire to introduce bills for reference. When the time comes for motions to suspend the rules the Chair must follow the list. He will, however, ask unanimous consent for the gentleman from Kentucky for the purpose he has indicated.

FREDERICK C. MARGERUM.

Mr. RICE, of Massachusetts, introduced a bill (H. R. No. 4655) granting a pension to Frederick C. Margerum, Company G, Fifteenth Regiment Massachusetts Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JACOB H. GROVE.

Mr. WALSH introduced a bill (H. R. No. 4656) to provide for the payment of the claim of Jacob H. Grove for quartermaster stores supplied to the Army of the United States; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

SARAH SEARLE.

Mr. JORGENSEN introduced a bill (H. R. No. 4657) for the relief of Sarah Searle, widow of Milton Searle, Seventy-first New York State Volunteers and Seventy-third New York State Veterans, for pension; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. Several gentlemen desire to ask unanimous consent for various purposes. The Chair will take the liberty of recognizing them. The House has the power to object. The Chair will first recognize the gentleman from Kentucky, [Mr. BLACKBURN.]

PUBLIC SCHOOLS OF THE DISTRICT.

Mr. BLACKBURN. The bill which I ask unanimous consent to have considered now looks to the prevention of the closing of all the public schools of the city of Washington to-morrow. It does not look to any appropriation. It simply authorizes the commissioners of the District of Columbia to retain the sum of \$75,000 from a fund of \$400,000 which the District of Columbia owes to the General Government, and it provides that the sum shall be deducted from the proportionate share of the expenses of the government of the District of Columbia which the Government of the United States may assume.

Mr. HALE. Then it is nothing but a loan.

Mr. BLACKBURN. It is nothing but a loan. I ask for the reading of the bill.

The Clerk read the bill. It directs the commissioners of the District of Columbia to retain and use, for the maintenance of the public schools of said District for the remainder of the current school year, the sum of \$75,000, or so much thereof as may be necessary, out of any money due to the United States from said District under the provisions of the seventeenth section of the act approved March 3, 1877; and it provides further that the sum named shall not be considered as an addition to the proportion of the expenses of the District of Columbia hereafter to be assumed by the United States, but shall be a part thereof.

Mr. BLOUNT. I must object to the bill.

Mr. CONGER. I desire to inquire of the gentleman whether this money is available. As I understand it, it is a part of a debt due by the District to the United States Government.

Mr. BLACKBURN. I will answer that question by saying that I am assured by the commissioners that this bill will afford all the relief that is wanted and that the money is available. I simply desire to say further that unless this or some such action is taken by Congress to-day we shall find twenty thousand children in this District turned out of school to-morrow and the schools closed.

Mr. CONGER. I would be willing to vote this sum out of the Treasury of the United States to keep open the schools in this District; but if this bill will answer the purpose then I am in favor of it.

Mr. BLACKBURN. I have the assurance of District Commissioner Bryan, given this morning, that if the bill which I submit meets the approval of the two Houses of Congress it will answer all the purposes and allow the schools to go on.

Mr. HALE. I suppose that the bill has been gotten up on conference with the authorities of the District of Columbia.

Mr. BLACKBURN. Mr. Commissioner Bryan was sitting here at my desk this morning, and when the bill was submitted to him he said that it was everything that the District authorities desired.

Mr. BLOUNT. I will withdraw my objection and let the bill be considered.

The bill (H. R. No. 4658) for the relief of the public schools of the District of Columbia was read a first and second time.

Mr. BLOUNT. I desire to say, if the House will allow me, that there is a great deal more in this bill than what it purports. We did this same thing last year with the understanding that the District of Columbia should refund the amount appropriated for the use of these schools. The Secretary of the Treasury informed the committee, in answer to inquiries on the subject, that it was utterly useless to provide legislation of that sort, on the idea that the appropriation would be refunded by the District of Columbia. The commissioners of the District of Columbia stated the same thing. It is nothing but a direct gift to the District of Columbia. This matter was considered in one

of the appropriation bills, and the conference committees of both Houses disagreed to the appropriation. It will amount to nothing in the world but a direct gift to the people of the District of Columbia. I will withdraw my objection to the consideration of the bill, but the House may rest assured that what I have stated will be the result. What is the proposition? The District of Columbia now owes \$400,000 to the Government, and this is a proposition to take from it the sum of \$75,000.

Mr. THOMPSON. I desire to reserve all objections until I hear the bill again read.

The SPEAKER. The Chair thinks it is too late to object now. The bill is properly before the House and under consideration.

Mr. BLACKBURN. The bill that was presented to me this morning to be offered to the House was a bill that looks to the anticipation of taxes by the commissioners of the District of Columbia, and in the nature of a loan. That bill I did not approve of, and the bill which I offer to the House now only proposes to allow the commissioners to draw this money from the \$400,000 which the District owes, and if the gentleman from Georgia is correct in his statement that that is a bad debt, why we are simply regranting them the temporary use of a portion of it. But the bill goes further and declares that whatever sum is taken from this loan and used for scholastic purposes shall be credited to the Government of the United States in any appropriation for the expenses of the District of Columbia that the Government may hereafter assume to pay.

Mr. BLOUNT. I desire only to say this, that when the fiscal year commenced the commissioners of the District of Columbia deliberately set apart a sum for this purpose, anticipating that a deficiency would occur and that Congress should supply something for the support of the schools. They did that deliberately, and now when the school year is nearly closed they appeal to the House for an additional appropriation and say that if you do not give it to them you are closing up the public schools.

Mr. MILLS. Is debate in order?

The SPEAKER. The Chair thinks so. The bill is before the House, without objection, for consideration.

Mr. BLOUNT. The whole purpose from the beginning has been to bring this House to just this position, where they can say that the schools will be closed unless we make an appropriation. For me, so long as such contrivances are resorted to for the purpose of extorting money from the public Treasury, I am ready to resist it, even if it results in closing the public schools. The commissioners of the District should follow the wishes of Congress.

The SPEAKER. The gentleman from Pennsylvania [Mr. THOMPSON] has asked that the bill be again read.

Mr. BLACKBURN. After which, unless it be the purpose or desire of some member of the House to discuss this measure, I will call the previous question upon it, the gentleman from Georgia [Mr. BLOUNT] having been heard.

The bill was read again.

Mr. BLACKBURN. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. BLACKBURN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BRANCH MINT AT CHICAGO.

Mr. ALDRICH, by unanimous consent, introduced a bill (H. R. No. 4659) to establish a branch mint of the United States at Chicago, in Illinois; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

BIRD L. FLETCHER.

Mr. HARMER, by unanimous consent, introduced a bill (H. R. No. 4660) for the relief of Bird L. Fletcher; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WARRANT OFFICERS OF THE NAVY.

Mr. HARMER also, by unanimous consent, introduced a bill (H. R. No. 4661) giving rank to warrant officers of the United States Navy; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PUBLIC CREDIT.

Mr. WILSON, by unanimous consent, introduced a bill (H. R. No. 4662) to repeal an act approved March 18, 1869, entitled "An act to strengthen the public credit;" which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

E. J. GURLEY.

Mr. MILLS. I move to suspend the rules and discharge the Committee of the Whole on the Private Calendar from the further consideration of House bill No. 658, for the relief of E. J. Gurley, of McLennan County, Texas, and that the same be now passed.

The bill was read, requiring the Secretary of the Treasury to pay E. J. Gurley, of McLennan County, Texas, the sum of \$1,000 for him-

self, and \$1,000 as trustee for the law firm of Bosker & Gurley, for legal services rendered the Government of the United States.

Mr. WHITE, of Pennsylvania. This bill was objected to in Committee of the Whole.

Mr. MILLS. It was objected to by the gentleman from Pennsylvania [Mr. WHITE] alone in the whole House.

Mr. WHITE, of Pennsylvania. Very well; I object to it again.

Mr. MILLS. The gentleman's objection is not so effective now; it takes one-third of the House.

Mr. BEEBE. Let the report be read.

The SPEAKER. That is not in order on a motion to suspend the rules.

Mr. MILLS. I ask unanimous consent to make a statement.

Mr. WHITE, of Pennsylvania. I object.

Mr. KEIFER. Cannot the report be read?

The SPEAKER. It can be read by unanimous consent only.

Mr. WHITE, of Pennsylvania. I object.

Mr. MILLS. The report is unanimous.

The question was taken upon the motion to suspend the rules; and upon a division there were—ayes 78, noes 60.

So (two-thirds not voting in favor thereof) the rules were not suspended.

UNITED STATES LEGAL-TENDER NOTES.

Mr. FORT. I move to suspend the rules and pass the bill which I send to the Clerk's desk, being a bill to forbid the further retirement of the United States legal-tender notes.

The bill was read. It provides that from and after the passage of the act it shall not be lawful for the Secretary of the Treasury or other officer under him to cancel or retire any more of the United States legal-tender notes, and that when any of said notes may be redeemed or be received into the Treasury under any law from any source whatever and shall belong to the United States, they shall not be retired, canceled, or destroyed, but they shall be reissued and paid out again and kept in circulation, provided that nothing therein shall prohibit the cancellation and destruction of mutilated notes and the issue of other notes of like denomination in their stead, as now provided by law, and that all acts and parts of acts in conflict with the act are hereby repealed.

Mr. CRAPO. I call for the yeas and nays.

The yeas and nays were ordered, there being 38 in the affirmative, more than one-fifth of the last vote.

Mr. HAYES. I ask that the bill be again read.

The bill was again read.

Mr. PAGE. I move to reconsider the vote by which the yeas and nays were ordered.

The motion to reconsider was agreed to.

The question recurred upon ordering the yeas and nays, and there were 58 in the affirmative.

So (the affirmative being more than one-fifth of the last vote) the yeas and nays were ordered.

The question was taken; and there were—yeas 177, nays 35, not voting 79; as follows:

YEAS—177.

Acklen,	Cummings,	Jones, James T.	Robbins,
Aiken,	Cutler,	Jones, John S.	Robertson,
Aldrich,	Danford,	Jorgensen,	Robinson, M. S.
Atkins,	Davidson,	Keifer,	Ryan,
Baker, John H.	Dean,	Keightley,	Sampson,
Banning,	Deering,	Kelley,	Sapp,
Bayne,	Dibrell,	Knapp,	Saylor,
Beebe,	Douglas,	Knott,	Shelley,
Bell,	Dunell,	Landers,	Singleton,
Benedict,	Durham,	Lashrop,	Slemmons,
Bicknell,	Elen,	Ligon,	Smalls,
Blackburn,	Elam,	Lockwood,	Smith, William E.
Blount,	Errett,	Luttrell,	Southard,
Boone,	Ewing,	Lynde,	Sparks,
Bouck,	Felton,	Mackey,	Springer,
Boyd,	Finley,	Malish,	Steele,
Briggs,	Forney,	Manning,	Stephens,
Bridges,	Fort,	Marsh,	Stone, John W.
Brogden,	Foster,	Martin,	Stone, Joseph C.
Brown,	Franklin,	Mayham,	Strait,
Buckner,	Fuller,	McGowan,	Swann,
Bundy,	Gardner,	McKenzie,	Thompson,
Burchard,	Garth,	McKinley,	Thornburgh,
Burdick,	Giddings,	McMahon,	Tipton,
Cabell,	Glover,	Metcalfe,	Townsend, Amos
Cain,	Gunter,	Mills,	Townsend, E. W.
Caldwell, John W.	Hale,	Mitchell,	Tucker,
Caldwell, W. P.	Hamilton,	Morgan,	Vance,
Campbell,	Hanna,	Morrison,	Walker,
Candler,	Hardenbergh,	Muldrow,	Walsh,
Cannon,	Harris, Henry R.	Noel,	Warner,
Caswell,	Harris, John T.	Oliver,	Welch,
Chalmers,	Hartbridge,	Overton,	White, Harry
Clark, Alvah A.	Hartzell,	Page,	White, Michael D.
Clark, Rush,	Haskell,	Patterson, G. W.	Wigginton,
Clarke of Kentucky,	Hatcher,	Patterson, T. M.	Williams, C. G.
Clymer,	Hayes,	Phillips,	Williams, Jere N.
Cobb,	Hazelton,	Pollard,	Willis, A. S.
Cole,	Henderson,	Pound,	Willits,
Conger,	Herbert,	Price,	Wilson,
Cook,	Hewitt, G. W.	Raney,	Wren,
Cox, Jacob D.	House,	Randolph,	Wright,
Cravens,	Humphrey,	Rea,	
Crittenden,	Hunter,	Reagan,	
Culbertson,	Itner,	Rice, Americus V.	

NAYS—35.

Racon,	Davis, Horace	Joyce,	Robinson, G. D.
Baker, William H.	Eames,	Ketcham,	Sinnickson,
Blair,	Eickhoff,	Lapham,	Smith, A. Herr
Briggs,	Frye,	Loring,	Stenger,
Camp,	Garfield,	Monroe,	Ward,
Chittenden,	Gibson,	Norcross,	Williams, Richard
Claffin,	Hendee,	Potter,	Willie, Benj. A.
Covert,	Hiscock,	Pugh,	Wood.
Crapo,	Hungerford,	Rice, William W.	

NOT VOTING—79.

Bagley,	Ellsworth,	Killinger,	Sexton,
Balou,	Evans, I. Newton	Kimmel,	Shallenberger,
Banks,	Evans, James L.	Lindsey,	Starin,
Bisbee,	Evins, John H.	McCook,	Stewart,
Bland,	Freeman,	Money,	Throckmorton,
Biss,	Gause,	Morse,	Townsend, M. I.
Brentano,	Goode,	Muller,	Turner,
Brewer,	Harmer,	O'Neill,	Turney,
Bright,	Harris, Benj. W.	Peddie,	Van Vorhes,
Butler,	Harrison,	Phelps,	Veeder,
Calkins,	Hart,	Powers,	Waddell,
Carlisle,	Henkle,	Pridemore,	Wait,
Clark of Missouri,	Henry,	Quinn,	Watson,
Collins,	Hewitt, Abram S.	Reed,	Whitthorne,
Cox, Samuel S.	Hooker,	Reilly,	Williams, A. S.
Davis, Joseph J.	Hubbell,	Riddle,	Williams, Andrew
Denison,	Hunton,	Roberts,	Williams, James
Dickey,	James,	Rosa,	Yeates,
Dwight,	Jones, Frank	Scales,	Young.
Ellis,	Kenna,	Schleicher,	

So (two-thirds voting in favor thereof) the rules were suspended, and the bill (H. R. No. 4663) was passed.

During the roll-call the following announcements were made:

Mr. DAVIS, of North Carolina. I am paired with the gentleman from Michigan, Mr. ELLSWORTH. If he were here, I should vote "ay." I presume he would vote "no."

Mr. HATCHER. My colleague, Mr. BLAND, is detained from the House by ill-health. If present, he would vote "ay."

Mr. ACKLEN. My colleague, Mr. ELLIS, who is absent, is paired with the gentleman from New York, Mr. HISCOCK. My colleague, if present, would vote "ay."

Subsequently, Mr. ACKLEN said: I desire to withdraw the announcement of the pair of Mr. ELLIS with Mr. HISCOCK, as I do not deem this a political question, and Mr. HISCOCK has voted.

Mr. STEELE. My colleague, Mr. SCALES, who is absent by leave of the House, would, if present, vote "ay."

Mr. CABELL. My colleague, Mr. HUNTON, is absent by leave of the House. If present, he would vote "ay."

Mr. ATKINS. My colleague, Mr. BRIGHT, has been called home by sickness in his family. If he were here, he would vote "ay."

Mr. MCKENZIE. My colleague, Mr. CARLISLE, is paired with the gentleman from Maine, Mr. POWERS. Mr. CARLISLE, if present, would vote "ay."

Mr. SHELLEY. I am paired generally with the gentleman from Indiana, Mr. EVANS; but as I am informed that, if present, he would vote "ay," I desire to vote "ay."

Mr. THROCKMORTON. I am paired with the gentleman from Pennsylvania, Mr. O'NEILL. If he were present, he would vote "no" and I should vote "ay."

Mr. KENNA. I am paired generally with Mr. EVANS, of Pennsylvania. I understand that if he were present he would vote "no." I should vote "ay."

Mr. RIDDLE. I am paired with the gentleman from Maine, Mr. REED; but I have voted, as I am informed that in all probability he would vote the same way I have done.

Mr. HALE. My colleagues, Mr. REED and Mr. POWERS, are absent. Mr. REED is paired with the gentleman from Tennessee, Mr. RIDDLE, and Mr. POWERS with the gentleman from Kentucky, Mr. CARLISLE. I do not know how either gentleman would vote.

Mr. RIDDLE. The gentleman from Maine [Mr. HALE] having announced that he does not know how Mr. REED would vote, I withdraw my vote.

Mr. CHALMERS. I am paired with the gentleman from Pennsylvania, Mr. SHALLENBERGER. I do not know how he would vote, and therefore I feel a delicacy about voting myself. If he were here, I should vote "ay."

Subsequently, Mr. CHALMERS said: After consultation with the friends of Mr. SHALLENBERGER, I feel at liberty to vote. I therefore vote "ay."

Mr. EDEN. The gentleman from New York, Mr. COX, is paired on all political questions with the gentleman from Kansas, Mr. RYAN.

Mr. WHITE, of Pennsylvania. I am paired with the gentleman from Missouri, Mr. CLARK, on political questions, but the gentleman whom he has authorized to determine such matters informs me that Mr. CLARK, on this question, would vote as I do.

Mr. POTTER. My colleague from New York, Mr. HEWITT, is unavoidably detained from the House. If present he would vote "no."

Mr. WAIT. I am paired with my colleague, Mr. PHELPS. If he were here, he would vote "ay" and I should vote "no."

Mr. RYAN. I am paired with the gentleman from New York, Mr. COX; but I have assurances that if he were here he would vote "ay." I therefore vote "ay."

Mr. STEWART. I am paired with the gentleman from New York, Mr. MILLER. If he were present, I should vote "no."

Mr. CALKINS. I am paired with the gentleman from New Jersey, Mr. ROSS. If he were present, I should vote "ay."

Mr. GARDNER. My colleague, Mr. DICKEY, is absent on leave. If present, he would vote "ay."

Mr. EAMES. My colleague, Mr. BALLOU, is absent by leave of the House.

Mr. DANFORD. The gentleman from Massachusetts, Mr. HARRIS, and the gentleman from Tennessee, Mr. WHITTHORNE, are paired.

Mr. HARMER. I am paired with the gentleman from Virginia, Mr. GOODE. If he were present, I should vote "no."

Mr. ALDRICH. My colleagues from Illinois, Mr. HARRISON and Mr. BRENTANO, are paired.

Mr. JOYCE. My colleague, Mr. DENISON, who is absent on account of sickness, would, if here, vote "no."

Mr. LINDSEY. I am paired with the gentleman from Maryland, Mr. HENRY.

Mr. EVINS, of South Carolina. I am paired with the gentleman from New York, Mr. MCCOOK. If he were present, I should vote "ay."

Mr. JONES, of Ohio. My colleague, Mr. VAN VORHES, is absent by leave of the House. If present, he would vote "ay."

Mr. JONES, of New Hampshire. I am paired with the gentleman from New York, Mr. BAGLEY. I am informed that if he were here he would vote "no."

The result of the vote was announced as above stated.

EVENING SESSION FOR DEBATE.

Mr. THROCKMORTON. I ask unanimous consent that there be a session on Wednesday evening next for debate only, no business whatever to be transacted.

There was no objection, and it was ordered accordingly.

ORDER OF BUSINESS.

Mr. PATTERSON, of Colorado. I ask unanimous consent to have several bills taken from the Speaker's table and referred.

The SPEAKER. The Chair desires to announce that as bills which ought to go to committees are accumulating on the Speaker's table he will, to-morrow morning immediately after the reading of the Journal, ask consent to dispose of such bills by taking them up in their order for reference only.

Mr. PHILLIPS. Does that dispense with the morning hour?

Mr. STEPHENS, of Georgia. I trust it will not be with that qualification, as there is one bill at least I wish to put on its passage, and that is in relation to the Hot Springs, Arkansas.

The SPEAKER. It would clear the way so on some other day the gentleman from Georgia might make the motion to go to the business upon the Speaker's table and pass that bill.

Mr. STEPHENS, of Georgia. I have given notice already I would make a motion to go to the business upon the Speaker's table for the purpose of taking up and putting that bill upon its passage.

The SPEAKER. There are some bills upon the Speaker's table which gentlemen desire to reach for the purpose of having them referred to the appropriate committees. There can be no objection to going to the Speaker's table for that purpose.

Mr. PATTERSON, of Colorado. There is one bill I should like to have referred at the present time.

Mr. RICE, of Ohio. I move that to-morrow an evening session be set apart for the consideration of bills from the Committee on Invalid Pensions as on objection day, and for reports from that committee.

Mr. MILLS. I object, unless it includes the whole Calendar.

REMOVAL OF TIMBER, COLORADO, ETC.

On motion of Mr. PATTERSON, of Colorado, by unanimous consent, an act (S. No. 20) authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

The SPEAKER. Not to be brought back by a motion to reconsider.

BILLS ON THE SPEAKER'S TABLE.

Mr. BRIDGES. I should like to know, Mr. Speaker, what is to be the order of taking up bills on the Speaker's table.

The SPEAKER. When a bill was reached upon the Speaker's table which a member did not want to have referred, all he would have to do would be to say that he objected to the reference of the bill, and it would remain upon the Speaker's table. Only bills will be taken up for reference to appropriate committees. The Chair will notify the House of the fact that on to-morrow the House meets at eleven o'clock instead of at twelve o'clock, as heretofore.

TIMBER LANDS—CALIFORNIA, ETC.

On motion of Mr. WIGGINTON, by unanimous consent, an act (S. No. 926) for the sale of timber lands in the States of California and Oregon and in Washington Territory was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

The SPEAKER. Not to be brought back by a motion to reconsider.

JOHN MONTGOMERY AND THOMAS E. WILLIAMS.

Mr. WHITE, of Pennsylvania, by unanimous consent, introduced a bill (H. R. No. 4664) for the relief of John Montgomery and Thomas E. Williams; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

METAL CASTINGS.

Mr. VANCE, by unanimous consent, from the Committee on Patents, reported, as a substitute for House bill No. 22, a bill (H. R. No. 4665) for the security of property in metal castings; which was read a first and second time, ordered to be printed, and recommitted.

The SPEAKER. Not to be brought back by a motion to reconsider.

TELEGRAPH OPERATORS.

On motion of Mr. LAPHAM, by unanimous consent, an act (S. No. 770) fixing the compensation of the telegraph operators of the Senate and House of Representatives was taken from the Speaker's table, read a first and second time, and referred to the Committee on Appropriations.

The SPEAKER. Not to be brought back by a motion to reconsider.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I move that the rules be suspended and that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. EDEN in the chair,) and proceeded to consider the bill (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes.

The CHAIRMAN. When the committee rose on Saturday last it had under consideration the paragraph which will be read by the Clerk.

The Clerk read as follows:

First Auditor:

For the First Auditor of the Treasury, \$3,600; deputy auditor, \$2,250; five chiefs of division, at \$2,000 each; four clerks of class 4; nine clerks of class 3; nine clerks of class 2; fourteen clerks of class 1; six clerks, at \$1,000 each; three clerks, at \$900 each; two assistant messengers; one page, \$450; and for laborers, \$2,400; in all, \$79,870. And so much of sections of the Revised Statutes numbered 276 and 277 as authorizes the appointment and fixes the salary of a Fifth Auditor for the Treasury Department is hereby repealed and the office is abolished. And all acts and parts of acts now in force relating to and prescribing the duties of the same shall apply to the office of the First Auditor of the Treasury Department; and their fulfillment shall devolve on and be performed under the direction of the incumbent of the said office, who shall be responsible for the same.

Mr. PAGE. I make the point of order on that paragraph that it changes existing law and is not in the interest of economy. I should like to hear from the chairman of the Committee on Appropriations some reason for the abolition of the Fifth Auditor's Office.

Mr. ATKINS. It is all true, Mr. Chairman, that this is new legislation, but it tends to reduction of expenditures, and under Rule 120 is admissible. Besides the proposition is entirely germane to the subject.

The CHAIRMAN. It abolishes the Fifth Auditor's Office.

Mr. ATKINS. Yes, sir, and merges it into another of a similar character, and reduces expenditures. Therefore it comes under Rule 120.

Mr. PAGE. I should like to ask the chairman of the committee whether it has been recommended by the Secretary of the Treasury?

Mr. ATKINS. I do not conceive that question is pertinent to the point of order which the gentleman has raised.

Mr. PAGE. I do not understand how it retrenches expenditure, and I should like to hear some explanation of it.

Mr. ATKINS. It retrenches expenditures so far as saving the salaries of the Auditor and his deputy, if in no other way.

Mr. PAGE. Will it not require the same number of clerks?

Mr. ATKINS. That may be so, but it does away with the necessity for appropriating for the salaries of the Fifth Auditor and his deputy, and to that extent retrenches expenditures.

Mr. PAGE. I am precluded from discussing the merits of the proposition.

The CHAIRMAN. Discussion must be confined to the point of order. The Chair overrules the point of order.

Mr. REAGAN. I ask whether the gentleman from Tennessee will consent to go back.

Mr. ATKINS. No, sir; I cannot consent to go back.

Mr. BRIGGS. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out from line 463 to line 490, and insert the following:

First Auditor:

For the First Auditor of the Treasury, \$3,600; deputy auditor, \$2,250; five chiefs of division at \$2,000 each; two clerks of class 4; six clerks of class 3; seven clerks of class 2; eleven clerks of class 1; one messenger and two laborers; in all, \$52,300.

Fifth Auditor:

For the Fifth Auditor, \$3,600; deputy auditor, \$2,250; two chiefs of division; two clerks of class 4; six clerks of class 3; four clerks of class 2; five clerks of class 1; four clerks, at \$900 each; one messenger and one laborer; in all, \$39,210.

Mr. BRIGGS. If I understand this bill that is reported from the Committee on Appropriations, they propose in the paragraph which

has been read to consolidate the Fifth Auditor with the First. Now, sir, that may be in the line of retrenchment and in the line of reform, but I fail to see it. I believe it will lead to confusion, and its result in the management of the business of the Department will be disastrous. The office of the Fifth Auditor of the Treasury originated over half a century ago, and I have yet to hear from any source either inside of the Treasury Department or outside of it any charge that that bureau in the Treasury is unnecessary and ought to be abolished. There has been no claim from any source for the destruction of this office; and I think every consideration not only of economy but of the proper and safe and judicious discharge of the duties in that Department requires that this office of the Fifth Auditor should be retained.

I wish to state simply the effect of the amendment I have proposed. I retain this bureau in the Treasury Department. I make provision in my amendment for the same service in the First Auditor's Office that existed last year. For the Fifth Auditor's Office I have reduced the expenses. I have reduced one clerk of the first class, \$1,200; one clerk of the second class, \$1,400; and added one clerk of the \$900 class; which leaves the net reduction \$1,700. And I submit that it is better for this House and it is better for the Government to retain and preserve this division in the Treasury Department of the country than to go to work and destroy it. To do so must lead to confusion, and there cannot be practically the saving of expense.

In adding the duties of this office to those of the First Auditor you increase the number of clerks, you enlarge the department; and I submit that in every instance in the management of public business—just as in the management of private business—the larger you build up these various Departments the more you increase the expense. This office of the Fifth Auditor was established in 1817, and has existed from that day to this; and the amount of the business which passes through that office ranges almost to the figure of \$300,000,000 a year. Yet for a mere paltry saving it is now proposed to destroy it. I say the effect will be to introduce confusion into the Treasury Department. There is no call for it from any public or private source, and I do not believe any valid or substantial reason can be given for it. I hope, therefore, that this amendment which I have introduced will be adopted.

Mr. ATKINS. I agree with the gentleman from New Hampshire in one remark that he made. I agree that there should be no expansion or aggrandizement for individual purposes. This part of the bill, Mr. Chairman, proposes to do away with the Fifth Auditor and his deputy, because the statistics of the Fifth Auditor's Office show that there has been a constant decline in the business of that office for the last ten or twelve years. I have some statistics here which I propose to print which will show that fact.

This office, Mr. Chairman, has charge of civil matters simply. So has that of the First Auditor, with which we propose to consolidate it. They report both of them alike to the First Comptroller. They also have their accounts reviewed by the Register. In other words, the Register is the book-keeper of both of these offices. They not only report to the First Comptroller alike, but the Register is the common book-keeper of both the First and Fifth Auditors. Now, then, sir, for the benefit of uniformity in decisions, I believe that the public service will be promoted by having one single head. As it is we have two.

It is true that this office was created a long time ago. I will admit that. But, sir, that is no reason why, if the usefulness of the office has ceased, it should not be abolished. The office was created at the same time the others were. That is so. But the business of that office has very much diminished while that of the others has increased. That is an answer so far as that point is concerned. Now another thing.

Mr. BRIGGS rose.

Mr. ATKINS. I hope the gentleman will not interrupt me just now.

Both of these bureaus, those of the First Auditor and the Fifth combined, do not equal some of the divisions that are in the Treasury Department. Mere divisions in the Treasury Department are larger, have more clerical force, and do a great deal more business than both of these offices combined. Why, sir, the Pension Bureau has at least three times as much clerical force as both of these offices combined. Now when the business of the Fifth Auditor is running down rapidly, not being more than half what it used to be, I assert that it seems to me to be wise and economical to assign the duties of both offices to one man who has the charge of the very same description and character of business; that is, the civil affairs of this country. I think these are good reasons for the change.

The gentleman from New Hampshire has said he has not heard one word of charge against this officer. Nor have I. I am not personal in anything that I may say here. I have nobody to punish; no enemies to punish nor friends to reward. In supporting this bill I am for what I believe to be economical, just, right, and fair, and which will conduce to the smooth and easy running of the machinery of the Government. I have heard no charges, I am happy to say, against this officer; but I will say to the gentleman that we are acting in a line of economy in this consolidation of the offices of the First and Fifth Auditor, for there is a saving of \$14,000. There can be but one earthly reason why the consolidation should not take place, and that is that the Fifth Auditor and his deputy may be retained in

office. That is the only reason on the face of the earth that can be given against it. As to this office having the sanctity of time, are we never to reform, never to retrench?

[Here the hammer fell.]

The following are the tables referred to in Mr. ATKINS's remarks:

Statistics of operations in the offices of the Fifth and First Auditors.

FIFTH AUDITOR.

Year.	Number of clerks and employes.	Number of requisitions drawn.	Number of accounts settled.	Amount involved.	Number of letters written.
1865	39		9,318	\$241,998,913 77	
1866	33		6,245	236,159,242 84	
1867					2,758
1868	39				2,354
1869					
1870		11,986		693,378,006 88	7,256
1871	56	18,404		890,308,679 60	18,436
1872		15,406		720,071,736 40	11,566
1873	44	15,799		829,742,602 42	13,053
1874		13,764			5,935
1875	35	11,697			3,906
1876		12,000		716,023,239 35	2,124
1877	35	11,571		945,624,519 83	2,550

FIRST AUDITOR.

Year.	Number of clerks and employes.	Number of requisitions drawn.	Number of accounts settled.	Amount involved.	Number of letters written.
1865	40	484	12,492	\$1,845,915,292 27	1,894
1866		318	15,451	2,194,159,132 77	1,969
1867	41	445	12,867	2,558,514,502 29	1,735
1868		273	12,760	2,164,892,212 32	1,737
1869	80	352	15,899	2,040,406,799 73	1,900
1870		349	15,071	1,584,709,068 38	2,393
1871	52	365	16,965	2,012,615,570 21	2,239
1872		584	19,804	2,251,978,780 23	2,356
1873	52	695	19,996	2,619,062,377 60	2,319
1874		608	23,921	2,159,479,431 04	1,905
1875	50	874	25,059	2,635,747,399 87	2,282
1876		935	23,462	2,886,525,933 10	2,048
1877	51	747	24,560	1,682,894,751 57	2,055

Mr. JONES, of New Hampshire obtained the floor and yielded his time to Mr. ATKINS.

Mr. SPRINGER. Will the gentleman from Tennessee allow me to ask him a question?

Mr. ATKINS. Certainly.

Mr. SPRINGER. Upon whom will the duties of this office devolve?

Mr. ATKINS. Upon the First Auditor.

Mr. SPRINGER. Will it cause any disarrangement in the transaction of the business which is now done in the Fifth Auditor's Office?

Mr. ATKINS. I think not. The duties performed in the Fifth Auditor's Office are of a civil character, that relate entirely to the internal revenue and foreign affairs and nothing else, and are entirely of a civil character, like those of the First Auditor.

Mr. SPRINGER. So far as the duties of this office relate to foreign affairs I have had occasion to examine the accounts there and I have always found the force in that office very willing to give information and very efficient in the discharge of their duties. I do not desire to vote for anything that would at all impair the efficiency of the work done in that respect; but, as the chairman states that this consolidation will not affect the efficiency of the Department so far as the examination of accounts is concerned, I have no objection to the proposed change.

Mr. ATKINS. The simple question is this: is one man as First Auditor sufficiently competent and able to preside over his own bureau and also over the business of the bureau of the Fifth Auditor, which is so rapidly diminishing. If the head of a division can do so much more work and attend to so much larger an establishment, both as to business and clerical force, why in the name of common sense may not one man called the First Auditor discharge the duties of his office and also those of the Fifth Auditor's Office, when both combined do not perform so much business as some of the heads of the divisions have in the Departments?

Now that is the question, and I put it to the gentleman from New Hampshire that he can give no reason why this consolidation should not be effected, except to save the salary of his friend, the Fifth Auditor. If he can, let him do it. The facts as I have stated them are irrefragable; they cannot be denied; they are gathered from the records of the Treasury Department, and I defy any one to deny it. If this be true, what object can there be for the continuation of the

office? We all say that we want reform and that we want retrenchment. If we do, let not individual interests stand in the way of retrenchment and reform.

Mr. WAIT. I desire to ask the gentleman a question. The gentleman states that there has been a great diminution of the business in this Department, that the duties have been lessened, that the labors to be performed have been very much reduced from what they have been. That is a mere declaration. Can the gentleman give us any facts or figures to sustain him, when the population of the country has been increasing, as it has been?

Mr. ATKINS. Well, sir, in 1865 the number of clerks employed was 39, in 1871 there were 56, and at the present time there are only 26 clerks.

Mr. BRIGGS. What is the amount of the business?

Mr. ATKINS. In 1867 there were 5,758 letters written in that bureau; in 1870 there were 7,256 letters written; in 1871 there were 18,436; in 1873 there were 13,053 letters written; in 1874 there were 5,935 letters; in 1876 there were 3,184 letters written, and in 1877 there were 2,550 letters written; showing a regularly diminishing amount of business in that bureau.

Mr. FOSTER. As a member of the subcommittee of the Committee on Appropriations I agreed to this proposition to abolish the Fourth and Fifth Auditors' Offices. I concede that it is a fair question for debate whether it ought to be done or not. My judgment is that it can be done without the Treasury Department suffering anything therefrom. The fact is that the force of the Fifth Auditor's Office is now composed of twenty-eight persons; two are messengers and two are the heads of the office, leaving twenty-four clerks.

I looked into this matter carefully. I know that the office is well managed. I have great respect for the man now at the head of it, but I believe that there is no doubt in the world that it can be consolidated with the First Auditor's Bureau without detriment to the public service.

Its age I do not think affects this question at all. It is true it has been in existence since 1817; but perhaps it ought not to have existed so long. Arguments are also made in favor of retaining it on account of the immense business it does.

The Auditor stands between the bureaus of the Government and the Comptrollers of the Treasury. This Fifth Auditor is charged with overseeing all the accounts of the Internal Revenue Bureau, which are very large. These accounts are first made up in the Internal Revenue Bureau, then referred to clerks in the Fifth Auditor's Office, by them examined and then turned over to the First Comptroller.

Now what do we propose here to do? We simply lop off the head of the bureau, which I think is not necessary, and we retain all the machinery of the bureau, the chiefs of the bureau, the chiefs of divisions, the clerks; we retain all the machinery in the Auditor's Office, except simply the head; which we think is unnecessary.

These remarks will apply as well to the Fourth Auditor as to the Fifth Auditor. I give it as my judgment that this consolidation can be done safely and without working any injury whatever to the Departments of the Government.

Mr. PAGE. Can you not abolish all the Auditors but one?

Mr. FOSTER. No.

Mr. PAGE. Why?

Mr. FOSTER. Because you would make that one too large.

Mr. BRIGGS. Why not consolidate the Second and Third Auditors?

Mr. FOSTER. That would make it too large.

Mr. PAGE. Is not the First Auditor the most important?

Mr. FOSTER. I think not; I think the Third Auditor is the most important.

Mr. HAYES. Will the gentleman tell us the number of clerks in the First Auditor's office, so that we can tell what number there will be when this consolidation is completed?

Mr. FOSTER. When this is done the number of clerks in the First Auditor's office will be fifty-nine.

Mr. HAYES. Fifty-nine altogether?

Mr. FOSTER. Yes.

Mr. RANDOLPH. How many does it add to the present force?

Mr. FOSTER. It adds twenty-six.

Mr. HANNA. Does the Secretary of the Treasury recommend this consolidation?

Mr. FOSTER. I do not know what his views are, but since the gentleman asks the question I will say that the suggestion for this consolidation comes from the Treasury Department.

Mr. BLAIR. Who in the Treasury Department recommends this?

Mr. FOSTER. I make the statement; I do not care to be more specific.

Mr. BLAIR. Did it come from the Secretary of the Treasury?

Mr. FOSTER. I think it came from the Secretary of the Treasury, but I think he has changed his views since New Hampshire went there.

Mr. BLAIR. New Hampshire has not been there; I doubt whether anybody but Ohio has any influence there. [Laughter.]

Mr. PAGE. Was this change recommended until after this Auditor went to New Hampshire at the time of the recent election?

Mr. FOSTER. Since the New Hampshire election is referred to as being the reason for this consolidation, I want to say to the House that this thing was agreed upon before the committee ever knew that Mr. Ela, the Fifth Auditor, had gone to New Hampshire. In fact the first that I heard of it was from Mr. HEWITT, in a statement made

here in the House by him, at least two weeks before the subcommittee reported in its favor.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired, and debate upon the pending amendment is exhausted.

Mr. JONES, of New Hampshire. I withdraw the *pro forma* amendment.

Mr. DUNNELL. I renew it. I understood the gentleman from Tennessee who has this bill in charge [Mr. ATKINS] to state that some \$14,000 will be saved by this consolidation. I am unable to see how that amount of saving can be secured. There is a certain amount of work to be done. If that work calls for thirty-one clerks, as now provided for by law, it cannot be performed by any less number of clerks after the consolidation shall have taken place. To be sure, the consolidation would save the salary of the Fifth Auditor and perhaps of one other leading officer or deputy. But how \$14,000 are to be saved by this consolidation it is very difficult for me to see.

This office has been in existence for a great many years. Its rules and methods of doing business are well understood; they have their place in the Treasury Department. All the blanks and accounts and machinery of the office have been created in harmony with existing law. The First Auditor has his duties to perform and so has the Fifth Auditor.

I do not think it is in the line of good legislation to consolidate the offices where the work of each is specific and where there is a line of distinction between the kinds of work which they are called upon to perform.

It is hardly fair to judge of this office or of its importance from the work that may now be done there, from the number of letters that are now written. The simple fact that a less number of letters are written there now than were written four or five years ago, may not prove that there is less work done in this office. We have now as many foreign consuls and as many ministers, save a few, as we had five or six years ago. Six or eight years ago the business of the office was largely increased because of the war.

If we look at the business of the office now and what it was twenty years ago, it will be found that the business of the office now is largely in excess of what it was twenty years ago. Our fathers established this office fifty years ago, and both parties have kept it in existence for the past fifty years.

Now in this age of "retrenchment and reform" it is proposed to do away with this office for the avowed and single purpose of getting rid of one man. Is this good legislation? In my judgment nothing is to be saved by it. On the contrary there will be occasioned in the Treasury Department a jostling and disarrangement of business, costing very much more than the salary of this officer.

[Here the hammer fell.]

Mr. DURHAM. The gentleman from Minnesota [Mr. DUNNELL] speaks about "disarrangement of business." There will be no disarrangement. As was very properly said by my colleague on the committee, the gentleman from Ohio, [Mr. FOSTER,] you will have the very same chief of division. The saving from consolidating these two divisions, striking out this auditor and his deputy, will amount to \$11,700. We do not strike down any of the clerks; we leave the very same clerical force; and the clerks will occupy exactly the same position under this consolidation that they now do. Having investigated this matter, I undertake to say that the present chiefs of these two bureaus are perfectly competent to take charge of the two when they are combined.

Let us look at this matter a moment. When you have combined, as now proposed, the Fifth Auditor's office with the First Auditor's you will have, as stated by the gentleman from Ohio, fifty-nine clerks. Now, how many clerks has the Third Auditor? He has one hundred and forty, nearly three times as many as will be thrown together by this consolidation. I might go on and give instances from the Land Office, from the Pension Office, from the Patent Office, where one man has charge of twice as many operatives as the First Auditor will have when these offices are combined.

Mr. DUNNELL. May I ask the gentleman a question?

Mr. DURHAM. Certainly.

Mr. DUNNELL. Does the gentleman from Kentucky think that the number of clerks that the head of a Department or bureau has under him gauges necessarily the work of that chief?

Mr. DURHAM. By no means.

Mr. DUNNELL. The gentleman's argument is based on that theory—that a man who has a given number of clerks must do a corresponding amount of work.

Mr. DURHAM. Well, he ought to do it, whether he does or not. I will say that much. The whole matter resolves itself into this question: whether or not by consolidating these two divisions the business will be so complicated that a single head cannot manage the whole of it? Upon this question I say that the records will show that the business of the Second Auditor's office is far more complicated and extensive than will be the business of these two divisions when consolidated; yet Mr. French manages that whole office.

I am sure, Mr. Chairman, that there would be no trouble about this matter if gentlemen could only consent that this Auditor and this deputy should "step down and out," because their services are not needed. I want to corroborate what has already been said on this subject. I never heard of this man going to New Hampshire in connection with politics until after we had agreed on this change; and

I corroborate what my friend from Ohio [Mr. FOSTER] has said, that this very suggestion came from a man in the Treasury Department who knows more about this matter than any other man.

Mr. BLAIR. Name him.

Mr. DURHAM. I will not do so. I am not going to put a subordinate in the hands of his chief by giving his name here. I honor him for the service he has rendered the Committee on Appropriations.

Mr. BLAIR. Why not give his name? The country requires his services as chief.

The *pro forma* amendment being withdrawn, the question was taken on the amendment of Mr. BRIGGS; and there were—ayes 42, noes 80.

Mr. PAGE. I make the point that no quorum has voted.

Tellers were ordered; and Mr. PAGE and Mr. ATKINS were appointed. The committee divided; and the tellers reported—ayes 58, noes 99. So the amendment was not agreed to.

Mr. GARFIELD. I desire to offer an amendment which I hope will be concurred in on all sides. I move to amend by inserting after the word "abolished" on line 479 these words:

And the President shall designate which of the two incumbents of the offices of First and Fifth Auditor shall be retained under the provisions of this paragraph.

My reason for offering this amendment is that I think this House should not be put in such an attitude as will allow anybody to say that we are striking at one man rather than another. For aught we know—I do not know both these gentlemen—it may be that the President may think one is a better man than the other; and we ought to give him the liberty of retaining the services of whichever one he may think most efficient. For us to say that one particular man shall absolutely go out would have, it seems to me, an invidious appearance.

Mr. ATKINS. I desire to say in answer to the remark made by some member—I now forget who it was—that perhaps the visit of the Fifth Auditor to New Hampshire just previous to the election in that State had something to do with this proposition—that has already been denied by the gentleman from Ohio [Mr. FOSTER] and by the gentleman from Kentucky, [Mr. DURHAM.]

Mr. GARFIELD. We do not intimate anything of that sort.

Mr. ATKINS. Two weeks before the election took place the proposition was agreed upon in the Committee on Appropriations. I hope I have not any such principle about me as would make me willing to attempt in an underhanded way to punish a man for his political principles. On the contrary, so far as that is concerned, I would rather honor a man for his boldness than otherwise in the avowal of his political principles.

I agree, however, with the gentleman from Ohio [Mr. GARFIELD] that it is proper the President shall make the selection between these two officers. I do not desire that any invidious discrimination shall be made by the legislation of this House against any man. I must say, so far as my personal relations with the two gentlemen are concerned, I am far more intimately acquainted with the Fifth Auditor than with the First Auditor; and if I had any personal feeling in the matter at all, I would be rather inclined toward the Fifth than toward the First Auditor. I am, Mr. Chairman, impersonal in this whole matter. I agree to the amendment of the gentleman from Ohio, so far as I am individually concerned.

Mr. BRIGGS. I wish to make one suggestion.

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. BRIGGS. I move to strike out the last word.

Mr. Chairman, the fact that the Fifth Auditor, who is a citizen of my State, went to New Hampshire just prior to the last election has been a subject of considerable comment in the press of the country and upon the floor of this House. I wish in justice to him to state this fact: Mr. Ela has a wife who has been confined to her room for two years. He had not been to New Hampshire for over six months. He went home previous to the last election, and while at home the citizens of his town invited him to deliver an address on the political questions of the day. He accepted that invitation and delivered that speech. That is all the speech he delivered during the last campaign, and that speech would have been delivered, no doubt, if the election had not been pending.

Mr. ATKINS. That speech has nothing to do with this legislation any more than the affairs of the moon.

Mr. BRIGGS. I withdraw the amendment to the amendment.

Mr. GARFIELD's amendment was agreed to.

The Clerk read as follows:

And so much of the act of March 3, 1875, as creates the offices of deputy auditor in the offices of the Fourth Auditor and of the Fifth Auditor of the Treasury Department is hereby repealed; and the said offices of deputy auditors are hereby abolished.

Mr. WILLIS, of New York. I move to strike out the words just read by the Clerk.

Mr. Chairman, it is always with reluctance I antagonize the Committee on Appropriations. I appreciate the zeal, the courage and the efficiency they have always displayed in their devotion to the public service; but in my judgment they have embodied in this bill a proposition which will interfere very seriously with the operations of the public service; that will not operate in the direction of economy, but will result in great inconvenience, prejudice, and loss to the Government. If there is anything required by the public interest beyond everything else it is that all new legislation, especially legislation affecting the machinery of the Government, should be thoroughly digested and discussed before becoming law.

The Fourth Auditor's Office has been in operation three quarters of

a century. Its functions are more important and more intricate than those which belong to any other bureau.

Mr. FOSTER. Why?

Mr. WILLIS, of New York. I will state, briefly, because the accounts are more intricate and complicated; because the amount of labor that is imposed upon it is greater than that which belongs to any other bureau as it has to adjust, audit, and settle all accounts pertaining to the Navy, all accounts kept with the purchasing agents of the Navy Department all over the country—accounts kept with every paymaster of every vessel in commission—accounts of every paymaster in every navy-yard throughout the country. Besides, those accounts are complicated, as officers and sailors are constantly transferred from one branch of the service to the other, and the accounts of the paymasters are consequently involved with each other.

It will cost millions of dollars to the Government if this change is brought about. The contemplated saving is \$32,850. It will cost five times that sum to move the tons of papers on file and procure a place for their storage. Gentlemen smile—there is a smile of incredulity upon their faces as I make these remarks. Let me add one more which will demonstrate the truth of all I have maintained. This bill proposes to amalgamate this office with the Second Auditor's. The Second Auditor has allowed claims within the last few years, and made rulings on claims which have been pending before him, which, if followed in the Fourth Auditor's Office, would cost this country several millions of dollars, not only in claims already rejected, but in the encouragement given to other parties to prefer like claims. Several claims to-day are pending now before the Fourth Auditor. If these rulings of the Second Auditor are followed, as they will be if the proposed change occurs, they will be paid.

[Here the hammer fell.]

Mr. BRIDGES. I move to amend by striking out the last word, and I yield my time to the gentleman from New York, [Mr. WILLIS.] Mr. WILLIS, of New York. These facts sufficiently show there will be no economy by the adoption of this proposition. Why, sir, in this bureau, which has been in existence three-quarters of a century, there are unprinted rulings and decisions which constitute the traditions of the office; and it is only by retaining that bureau in its integrity that the Government can have the benefit of those rulings and those traditions.

Then again, sir, what will be done with those tons of files which are now under the charge of the Fourth Auditor? There is no room for them in the Winder building, where the Second Auditor keeps his accounts; and besides it is not a fire-proof building. You are exposing all these files to conflagration. Neither is there room for these immense files and additional clerks in the Treasury building. There will be nothing but confusion, nothing but loss to the Government if you effect this change. It is well understood, though it has not been stated here by any gentleman representing the Committee on Appropriations, that it is the wish and desire alike of the Secretary of the Treasury and the Secretary of the Navy that these two officers should be retained and the bureaus be kept separate and apart; that there should be no amalgamation; that loss would accrue to the service in the event of the abolition of this bureau.

I believe, Mr. Chairman, I have demonstrated in the few remarks that I have made that the adoption of the proposition embodied in this bill to abolish the Fourth Auditor's Bureau would result in the loss of hundreds of thousands, ay, millions to the Government, and that it will result in inconvenience and confusion which will seriously prejudice the public interest.

Mr. ATKINS. The gentleman from New York deals in very large figures; sometimes he speaks of millions to be lost by this consolidation, then he comes down to hundreds of thousands and occasionally he drops down to the modest sum of thousands and I think once or twice to the hundreds. Which is it? Is it hundreds of thousands or millions?

Mr. WILLIS, of New York. The loss of thousands in as far as the administration is concerned, the loss of millions if the rulings of the Second Auditor are followed.

Mr. ATKINS. That is all a mere assertion of the gentleman.

Mr. WILLIS, of New York. No, sir; it is susceptible of demonstration. Go to the figures.

Mr. ATKINS. The gentleman has had ten minutes and has not used any of that time to demonstrate the generality he has put before the House. It is a mere generality he is indulging in.

Mr. WILLIS, of New York. I beg the gentleman's pardon. I speak from the record statistics.

Mr. ATKINS. The gentleman wishes to know what is to become of these records. I wonder if they would occupy any more room if placed under the charge of one man than if placed under the charge of another.

Mr. WILLIS, of New York. I will state to the gentleman this—The CHAIRMAN. Does the gentleman from Tennessee yield?

Mr. ATKINS. I do not.

Mr. WILLIS, of New York. I can explain that very readily, if you will give me an opportunity.

Mr. FOSTER. You get two additional rooms when you abolish the office of Auditor and deputy auditor.

Mr. ATKINS. The gentleman remarked that he saw gentlemen around him indulging in a smile. He will excuse me for being one of those gentlemen. I could not resist it when I heard the gentleman's speech.

Very much the same reasons could be offered for the abolition of the office of Fourth Auditor as were given for the abolition of that of the Fifth Auditor. The statistics of this office show that the number of letters written in 1865 was 66,321. In 1877 there were only 16,855.

Statistics of operations in the offices of the Fourth and Second Auditors.

FOURTH AUDITOR.					
Year.	Number of clerks and employes.	Number of requisitions drawn.	Number of accounts settled.	Amount involved.	Number of letters written.
1865	101	3,653	28,645		66,321
1866	129	2,947			79,866
1867	91	1,618	17,404	\$116,756,565 68	57,059
1868		1,553	11,610	44,961,515 18	50,337
1869	62	1,913	6,536	46,900,678 19	44,801
1870		1,740	7,756	38,181,644 24	42,244
1871	60	1,621	4,726	22,900,909 23	34,882
1872		1,606	4,646	26,259,698 96	45,979
1873	56	1,708	3,347	25,407,432 25	32,277
1874	53	2,192	4,534	32,872,134 61	40,544
1875		2,137	5,505	43,262,107 61	31,858
1876		2,404	5,650	34,334,011 45	21,456
1877	48	2,562	2,801	20,829,022 67	16,855

SECOND AUDITOR.					
Years.	Number of clerks and employes.	Number of requisitions drawn.	Number of accounts settled.	Amount involved.	Number of letters written.
1865	333	5,995	110,774	\$158,040,365 05	126,569
1866		2,698	91,300	177,536,134 24	370,030
1867	395	2,401	68,364	240,895,086 55	478,477
1868		1,868	210,293	196,952,639 67	603,698
1869	313	2,709	91,132	207,563,432 39	405,745
1870		2,842	58,735	154,648,298 32	363,556
1871	272	2,519	44,797	137,567,164 89	233,129
1872		2,606	27,974	139,911,580 61	209,658
1873	279	2,679	37,891	48,025,763 77	285,544
1874		3,261	32,679	30,566,710 35	237,465
1875	174	3,440	24,353	26,094,594 27	131,321
1876		3,386	16,417	25,912,519 00	101,140
1877	158	3,957	19,498	24,313,612 26	106,946

Mr. WILLIS, of New York. How in 1877-78? The number in that year is 28,802, more than there was in any year in the history of the bureau except two years during the war.

Mr. ATKINS. I am not gifted with prophecy and have not the figures for 1878.

Mr. WILLIS, of New York. I have them here.

Mr. ATKINS. That year has not yet expired.

Mr. WILLIS, of New York, rose.

Mr. ATKINS. I decline to be interrupted. This officer reports to the Second Comptroller just as the Second Auditor does. Both report to the same Comptroller; and I do not see any reason why the Second Auditor may not discharge all the duties of his own office and the duties of the Fourth Auditor quite as well. They are not so cumbersome or large as to make this a matter of any difficulty. And as was said in regard to the First Auditor, there are many divisions in several Departments of this Government that are very much larger than both these offices combined if you consolidate them.

Now, so far as the point is concerned which was made by the gentleman from New York, that this officer has charge of naval affairs, that is true. But is there any incongruity in one officer looking over Army matters and naval matters?

Mr. WILLIS, of New York. They are essentially different.

Mr. ATKINS. I can see no incongruity in one officer looking over the business of naval affairs and of Army affairs. It does not require any very great stretch of intellect to do that. The question is whether or not there is so much business that one man cannot overlook both. The statistics show there has been a gradual decline of business in the last ten years.

Mr. WILLIS, of New York. I beg the gentleman's pardon. That is not the case.

The CHAIRMAN. The time of the gentleman from Tennessee has expired. [Cries of "Vote!" "Vote!"]

Mr. SAMPSON. I move to strike out the last word.

The CHAIRMAN. Two amendments are already pending.

Mr. WILLIS, of New York. I withdraw the *pro forma* amendment.

Mr. ATKINS. I object to the withdrawal.

The CHAIRMAN. The pending amendment is that of the gentleman from Pennsylvania, [Mr. BRIDGES,] to strike out the last word. The question being taken, the amendment of Mr. BRIDGES was not adopted.

Mr. SAMPSON. I move to strike out the last word of the clause. The CHAIRMAN. That amendment has just been voted down.

Mr. SAMPSON. Then I move to strike out the last two words. I only offer this amendment for the purpose of making an inquiry of the Committee on Appropriations. I find on looking over the Book of Estimates for the next fiscal year that it was estimated by the officers in the Treasury Department that it would require in the Second Auditor's Office one hundred and sixty-one clerks to transact the business of that office. I find also in looking at the same Book of Estimates that it will require to transact the business in the Office of the Fourth Auditor fifty-six persons, or fifty clerks, dropping out the page, messengers, Auditor, and deputy auditor. I then find on looking at this bill now under consideration that the force provided for in the Second Auditor's Office is one hundred and sixty-one clerks. Thus we have a reduction here of fifty clerks below the estimate.

Mr. FOSTER. The gentleman is mistaken; the number provided for is one hundred and eighty-three.

Mr. SAMPSON. I can find only one hundred and sixty-one provided for in the present bill, and that would make a reduction in the clerical force in the Second Auditor's Office of fifty clerks.

Mr. FOSTER. The bill provides for one hundred and eighty-three.

Mr. SAMPSON. If the gentleman will be kind enough to look over the bill I will read the table that I have made out from it. I find provided for seven chiefs of divisions, seven clerks of class 4, thirty-two clerks of class 3, fifty-seven clerks of class 2, and thirty-five clerks of class 1.

Mr. DURHAM. No, thirty-nine.

Mr. SAMPSON. Well, that makes a difference of four. There are nineteen clerks at \$1,000, and four clerks at \$900. I am speaking of the clerical force, not of the laborers and messengers, and there is a reduction of fifty. All I desire is that the committee shall give us some satisfactory reason for this reduction. I am informed that the business of this office will not admit of this large reduction, and that the business cannot be transacted with this reduction in the number of clerks. [Loud cries of "Vote!" "Vote!"]

Mr. FOSTER. I repeat that the gentleman is mistaken. The number is one hundred and eighty-three.

Mr. WILLIS, of New York, rose.

Mr. SAMPSON. I withdraw my amendment.

Mr. WILLIS, of New York. I renew the amendment. I am not disturbed with too much warmth though it so seems to the gentleman from Tennessee, nor am I afflicted by the fact that he can laugh.

He smiles; and smiles in such a sort,
As if he mocked himself, and scorned his spirit,
That could be moved to smile at anything.

[Laughter.]

I am interested only in the facts connected with the proposition now presented. The gentleman in undertaking to defend the action of his committee accuses me of indulging in generalities. Sir, I know whereof I affirm. I have examined this matter completely. I am prepared to state to the House, from figures which I hold in my hand, that the number of letters received at the bureau of the Fourth Auditor in 1877 and 1878 was greater than in any year since 1868; that the letters written by the bureau were greater than in any year since 1866; that the allotments registered are greater than in any year since 1866; that the allotments discontinued are greater than in any year since 1867; that the disbursements involved an amount during the last year of \$32,635,000, an amount greater than any year since 1870; and now I ask the candid judgment of this House whether this array of figures indicates that the business of this bureau is constantly undergoing diminution or whether or not its functions are not increased and its field of usefulness enlarged.

Now, the gentleman says that we have room enough for these two bureaus to-day, the one of which is in Winder's building and the other in the Treasury Department. Is it not known to every member of Congress who has been under the disagreeable necessity of visiting the bureaus that every hour in the day warrants are brought to the Fourth Auditor for his signature, and papers for examination and signature. Sir, it is an absolute necessity that all of this business should be under one roof. And although the gentleman has asserted the fact to be such, he has not shown that the duties of the Second and Fourth Auditor are congruous. They are entirely incompatible with each other, and in addition to the increase of the duties that have devolved upon the Fourth Auditor during the last four or five years, the Committee on Appropriations in the naval appropriation bill have given him yet more to do.

Under the system of accounts proposed in that bill it will be necessary to open more than one hundred additional accounts with the different paymasters belonging to the Navy, and this can be more accurately done through experienced officers like those who have so long and successfully conducted the duties of the Fourth Auditor's Bureau.

On March 3, 1818, on account of the increase in the volume of its business, the Treasury Department was reorganized and placed upon its present basis. Previous to this time the auditing of the Army and Navy accounts was performed by the accountant and assistant accountant of the War Department and accountant of the Navy. By act of March 3, 1817, these offices were advanced into those of the present second, third, and fourth offices, respectively. The magnitude of the Army business rendered two accounting offices necessary

for its prompt dispatch, and while the duty of auditing the accounts for pay, clothing, bounties, and subsistence of officers of the Army was devolved on the Second Auditor, the accounts for subsistence of the Army and Quartermaster's Department were assigned to the Third Auditor.

Upon the Fourth Auditor was imposed the duty of auditing and adjusting all accounts connected with the Navy. This comprehends the examination and statement of the returns of the purchasing and disbursing agencies, those of the paymaster of each ship in commission and of those in the various navy-yards and naval stations; the examination and payment of bounty claims; also of all claims for longevity pay and difference of pay and the payment thereof; the adjustment of all Navy pension accounts; the distribution of prize-money; the record of issues of clothing, provisions, and stores; the record and adjustment of allotments of half pay; the report to the Commissioner of Pensions of the record of all applicants for Navy pensions; the daily correspondence with all parts of the world necessary to this vast business; the book-keeping to record and explain it in detail; and the preservation and proper arrangement of the enormous files containing the original record of these transactions.

From the peculiar nature of the naval service its money accounts are intricate and different from those of any other. To each ship is assigned a paymaster, who is also a quartermaster and commissary of subsistence. Unlike Army practice, which retains company organizations intact, both officers and men are constantly being transferred from one ship or station to another. Every such transfer carries its account with it. Hence the accounts of the different paymasters are involved with each other. To understand how to adjust and state these accounts so as to fully protect the interests of the Treasury requires a great amount of training and skill. This can only be obtained in a compact and thoroughly organized bureau.

The Fourth Auditor's Office, as at present constituted and conducted, with a corps of experienced and trained employes, meets these requirements. It does this, too, on a scale of economy not attainable through a foreign organization and with unaccustomed labor. For nearly a century it has performed admirably its part of the machinery of the Treasury Department, saving to the Government millions of money that might have been lost by inefficiency or less close scrutiny. During the past fifteen years the Fourth Auditor has passed upon accounts involving \$715,000,000 of disbursements and transactions connected therewith, and involving so small a loss of a fraction of one-tenth of 1 per cent.

It is now proposed in the annual legislative appropriation bill to abolish the bureau and to transfer the business to the Second Auditor. There are good and sufficient reasons why it should be continued and why it should not be abolished or emasculated by the transfer as proposed.

1. Its abolition or virtual abolition will not be in the interest of economy.

2. Neither the people nor employes in the Navy nor the exigencies of the public service demand this change.

3. This transfer will militate against the close scrutiny of public disbursements that the laws of Congress require by merging it into a bureau so large and so much overburdened with work as that of the Second Auditor is at present.

4. The same reasons that may be urged in favor of this measure may be given why all the bureaus of the different Departments might be consolidated.

5. It will retard and greatly confuse the public business by placing it in unskilled hands and by commingling it with another of an entirely different and distinct character.

The following table of statistics, to which I invite the attention of the House, will justify my statement as to the labor performed by the Fourth Auditor, and which disposes of the contradiction made by the gentleman from Tennessee, [Mr. ATKINS:]

Statement of work performed in the Fourth Auditor's Office.

Year.	Letters received.	Letters written.	Allotments registered.	Allotments discontinued.	Accounts settled.	Disbursements involved.	Cherks.	Copyists.
1863.....	23, 241	24, 946	8, 171	.....	1, 563	\$22, 117, 315 87	21	...
1864.....	45, 255	48, 349	8, 364	.....	21, 981	33, 365, 366 16	28	...
1865.....	60, 822	66, 321	7, 930	3, 888	32, 369	80, 367, 162 33	34	11
1866.....	70, 117	79, 866	3, 043	4, 955	31, 395	108, 890, 221 36	47	14
1867.....	36, 321	50, 341	1, 830	2, 322	17, 404	116, 758, 565 68	26	13
1868.....	23, 639	32, 733	934	1, 501	11, 610	44, 961, 515 18	24	14
1869.....	17, 983	23, 375	636	818	6, 536	46, 910, 678 19	31	9
1870.....	15, 590	21, 036	803	1, 077	7, 964	38, 555, 720 79	47	8
1871.....	14, 578	17, 716	837	1, 029	4, 951	23, 362, 923 78	47	8
1872.....	13, 477	15, 611	651	1, 113	3, 445	26, 259, 698 94	47	8
1873.....	16, 018	16, 211	641	804	3, 907	25, 497, 432 25	47	6
1874.....	17, 489	20, 472	794	771	4, 434	32, 872, 134 61	47	6
1875.....	17, 383	21, 830	656	772	5, 505	43, 264, 199 35	45	6
1876.....	16, 160	21, 438	1, 092	622	5, 659	34, 334, 011 45	45	6
1877-1878*.	28, 802	31, 537	2, 058	1, 763	6, 581	31, 665, 063 24	40	5
	422, 935	491, 941	38, 510	21, 505	164, 004	715, 030, 985 21		

* To February 20, 1878.

Mr. ATKINS. I will not prolong this debate, and will simply say in response to the gentleman from New York [Mr. WILLIS] that in 1865 there were written in this bureau 63,321 letters; in 1866, 79,866 letters; while in 1876 there were written only 25,458 letters, and in 1877, 16,885 letters.

Mr. WILLIS, of New York. I admit all that. The gentleman refers in his statement to the years just after the war. It is nevertheless true, as I have already stated, that the number of letters has greatly increased for 1877-78.

Mr. ATKINS. I submit these facts in corroboration of the statement which I made that the business of this bureau is declining and has been declining during the last decade.

Mr. WILLIS, of New York. And I have submitted figures to show the contrary.

The question was taken upon the motion of Mr. WILLIS, of New York, to strike out the paragraph; and upon a division there were—ayes 66, noes 69.

Mr. WILLIS, of New York. No quorum has voted, and I call for tellers.

Tellers were ordered; and Mr. WILLIS, of New York, and Mr. ATKINS were appointed.

The committee again divided; and the tellers reported that there were—ayes 74, noes 85.

So the motion to strike out was not agreed to.

The Clerk resumed the reading of the bill, and read the following:

Second Auditor:

For Second Auditor, \$3,600; deputy auditor, \$2,250; seven chiefs of division, at \$2,000 each; seven clerks of class 4; thirty-two clerks of class 3; fifty-seven clerks of class 2; thirty-nine clerks of class 1; nineteen clerks, at \$1,000 each; four clerks, at \$800 each; one assistant messenger; one page, at \$480; and for laborers, \$2,400; in all, \$242,450. And so much of sections of the Revised Statutes numbered 276 and 277 as authorizes the appointment and fixes the salary of the Fourth Auditor for the Treasury Department is hereby repealed, and the office is abolished. And all acts and parts of acts now in force relating to and prescribing the duties of the same shall apply to the office of the Second Auditor of the Treasury Department; and their fulfillment shall devolve on, and be performed under the direction of, the incumbent of the said office, who shall be responsible for the same.

Mr. FOSTER. I move to insert in line 509, after the words "and the office is abolished," the same amendment in substance which was offered by my colleague [Mr. GARFIELD] to a preceding paragraph.

The Clerk read as follows:

And the President shall designate which of the two incumbents of the offices of Second and Fourth Auditor shall be retained under the provisions of this paragraph.

The amendment was agreed to.

Mr. WILLIS, of New York. I move to amend the paragraph just read by striking out from and including the words "and so much of sections of the Revised Statutes No. 276 and 277," &c., to the end of the paragraph. That involves the same proposition which was discussed under my former amendment, and I am not disposed to debate it any further.

The motion to strike out was not agreed to.

The Clerk read the following:

Third Auditor:

For third auditor, \$3,600; deputy auditor, \$2,250; five chiefs of division, at \$2,000 each; six clerks class 4; twelve clerks of class 3; fifty clerks class 2; thirty-five clerks class 1; fifteen clerks at \$1,000 each; ten clerks, at \$800 each; and for laborers, \$2,400; and one female laborer, at \$480; in all, \$184,730.

Mr. ATKINS. I move to amend the paragraph just read by increasing the appropriation for laborers from \$2,400 to \$3,600; and by increasing the total at end of the paragraph in order to correspond, from \$184,730 to \$185,930.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following:

For the force employed in redeeming the national currency, namely: For superintendent, \$3,500; two principal tellers and one principal bookkeeper, at \$2,500 each; one assistant book keeper, \$2,400; and two assistant tellers, at \$2,600 each; two clerks of class 4; four clerks of class 3; four clerks of class 2; twenty-five clerks of class 1; twenty-four clerks, at \$1,000 each; twenty-six clerks, at \$800 each; three assistant messengers; two pages, at \$480 each; and three employees, at \$432 each; in all, \$114,816.

Mr. SHELLEY. I move to amend the paragraph just read so as to make it provide for thirty-six clerks of class 1; and thirteen clerks at \$1,000 each, instead of "twenty-five clerks of class 1; twenty-four clerks at \$1,000 each," as provided for by the bill. As this bureau is organized at present it has thirty-six clerks of class 1. The business of that branch of the service is increasing from year to year at the rate of \$30,000,000 a year. According to this bill the number of clerks of class 1 is reduced from thirty-six to twenty-five, and the number of clerks at \$1,000 each is increased from thirteen to twenty-four. I propose to amend the bill so as to give the bureau the same force, and of the same classes, as it now has.

Mr. ATKINS. We give this bureau the same force, that is in numbers, that it now has. It is true that we have reclassified the clerks to some extent, but we have done so no more in this bureau than we have in all the bureaus of the Government. It is true that the expense of this bureau is paid by the national banks; but much as I am opposed to the national banks, I am disposed to be just to them. I would treat this bureau as I would all the rest.

The amendment of Mr. SHELLEY was not agreed to.

MESSAGE FROM THE SENATE.

The committee rose informally; and Mr. BUCKNER took the chair as Speaker *pro tempore*.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed without amendment a bill of the House of the following title:

A bill (H. R. No. 4638) for the relief of the public schools of the District of Columbia.

THE LEGISLATIVE, ETC., APPROPRIATION BILL.

The Committee of the Whole resumed its session, and proceeded with the consideration of the legislative, executive, and judicial appropriation bill.

The Clerk read the following paragraph under the heading "Commissioner of Internal Revenue:"

For salaries and expenses of agents and surveyors, for fees and expenses of gaugers, for salaries of storekeepers, miscellaneous expenses, and for detecting, and bringing to trial and punishment persons guilty of violating the internal-revenue laws, or accessory to the same, \$1,575,000. And section 3132 of the Revised Statutes is hereby so amended as to permit of the employment of thirty-five agents in lieu of the number therein named.

Mr. ATKINS. I move as a substitute for the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

For salaries and expenses of agents and surveyors, for fees and expenses of gaugers, for salaries of storekeepers and for miscellaneous expenses, \$1,500,000. And hereafter the compensation of gaugers shall not exceed \$5 per day while actually employed. For detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws, or accessory to the same, \$75,000. And the Commissioner of Internal Revenue shall make a detailed statement to Congress once in each year as to how he has expended this appropriation. And section 3132 of the Revised Statutes is hereby so amended as to permit the employment of thirty-five agents in lieu of the number therein named.

Mr. DUNNELL. How many agents are now provided for by law?

Mr. ATKINS. There are twenty-five now provided for; this bill proposes to increase the number to thirty-five. The substitute which I have offered is simply for the purpose of dividing the subjects of this paragraph; it does not change the amount appropriated at all. The substitute was agreed to.

The Clerk resumed the reading of the bill, and read the following:

INDEPENDENT TREASURY.

Office of the assistant treasurer at New York:

For assistant treasurer, \$8,000; for deputy assistant treasurer, \$3,600; cashier and chief clerk, \$4,600; chief of coin division, \$3,600; chief of note-paying division, \$3,000; chief of note-receiving division, \$2,800; chief of check division, \$2,800; chief of registered-interest division, \$2,600; chief of coupon-interest division, \$2,400; chief of fractional-currency division, \$2,400; chief of bond division, \$2,250; chief of canceled-check and record division, \$2,000; two clerks, at \$2,250 each; six clerks, at \$2,100 each; ten clerks, at \$2,000 each; nine clerks, at \$1,800 each; four clerks, at \$1,700 each; four clerks, at \$1,600 each; two clerks, at \$1,500 each; ten clerks, at \$1,400 each; three clerks, at \$1,300 each; five messengers, at \$1,300 each; one messenger, \$1,200; keeper of building, \$1,800; chief detective, \$1,800; assistant detective, \$1,400; three hallmen, at \$1,000 each; six watchmen, at \$720 each; one engineer, \$1,000; one porter, \$300; in all, \$148,470.

Mr. BUTLER. I notice in this paragraph this clause in lines 744 and 745: "chief of fractional-currency division, \$2,400." Now, as there is no fractional currency to be dealt with, and as the House voted the other day they would not have any, why is it necessary to have a chief of that division over in New York at a salary of \$2,400 a year?

Mr. ATKINS. I sympathized with the gentleman the other day and voted for his bill; but this is estimated for in the Book of Estimates under this nomenclature; the nomenclature has not been changed. I understand the fact to be that all the fractional currency has not yet been taken up.

Mr. FOSTER. And this clerk performs other duties.

Mr. ATKINS. Yes, besides that, there are other duties assigned to the clerk.

Mr. BUTLER. This is an economical House?

The CHAIRMAN. Does the gentleman propose any amendment?

Mr. BUTLER. I move to amend by making the salary of this officer \$1,000. When the fractional currency was nearly \$50,000,000 there may have been required this chief, with a salary of \$2,500. Now, when this fractional currency has been reduced to \$13,000,000, (and that is all destroyed or cannot be found,) why should we keep this office still going? I know that the estimate for this officer is found in the Book of Estimates; and it would remain there forever if somebody did not call attention to it.

What is there for this man to do? He cannot possibly redeem more than \$13,000,000 of fractional currency, for that is all there is out, and most of that has been destroyed. It is now about four years since we have had any fractional currency in circulation. When one of these offices gets going it keeps going a good while. Years and years ago there was a man appointed down here in the crypt to watch the sarcophagus intended for General Jackson. The office was continued till I came into Congress, when I made some inquiry about the matter; and it would have continued until the present time if I or somebody else had not looked into it. Now this fractional currency has been as dead as General Jackson for some years; yet this officer is still employed at a salary of \$2,400.

Unless my friends on the Committee on Appropriations have some other information than that which is obtained from the Book of Estimates I hope they will allow this clause to be struck out. I modify my motion so as to strike out the words "chief of fractional-currency division, \$2,400."

Mr. ATKINS. So far as I am concerned, I have no objection to the amendment. I have already given to the Committee of the Whole

the reason why this provision has been retained in the bill. I suppose that this clerk is assigned to other duties in addition to those in connection with fractional currency. There is some fractional currency that has not been taken up. I do not know how much.

Mr. GARFIELD. Twelve million dollars.

Mr. BUTLER. But that is all lost.

Mr. GARFIELD. Not all of it.

Mr. FOSTER. I think I can explain this matter. The chairman of our committee will remember very well that this chief of the fractional-currency division now takes charge of fractional silver which has taken the place of the fractional currency. It cannot even be said that the name of the officer is incorrect because of the change from notes to silver, for "fractional currency" does not necessarily mean paper.

Mr. DURHAM. My friend from Massachusetts will find that we have struck out all provision for fractional-currency clerks. This is simply the head of the division.

Mr. FOSTER. And he has the fractional currency to handle.

Mr. BUTLER. If all the clerks are gone what do we want with a chief of division? If the clerks are not necessary, why continue this chief, when he has nobody under him?

[Here the hammer fell.]

The question being taken on the amendment of Mr. BUTLER, to strike out in lines 744 and 745 the words "chief of fractional-currency division, \$2,400," there were—ayes 78, noes 34.

Mr. FOSTER. I must call for tellers. This valuable and necessary clerk ought not to be struck down. I observe that the other side is carried by the gentleman from Massachusetts, [Mr. BUTLER.] [Laughter.]

No quorum having voted, tellers were ordered; and Mr. FOSTER and Mr. BUTLER were appointed.

The committee divided; and the tellers reported ayes 77, noes not counted.

So the amendment was agreed to.

Mr. ATKINS. In view of the amendment just adopted, I offer the following amendment, to make the total amount of the paragraph conform to the amendment:

In line 765 strike out "\$48,470" and insert "\$46,070."

The motion was agreed to.

ENROLLED BILL SIGNED.

The committee rose informally, and the Speaker having resumed the chair,

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 4658) for the relief of the public schools of the District of Columbia.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Committee of the Whole on the state of the Union resumed its session.

The Clerk read as follows:

For contingent expenses under the act of the 6th of August, 1846, for the collection, safe-keeping, transfer, and disbursement of the public money, \$50,000. And no part of said sum shall be expended for clerical services or payment of employes of any nature or grade.

Mr. BURDICK. I move to amend by adding after the paragraph just read the following:

Provided, That the Treasurer of the United States shall redeem, without discount on account of mutilation, all United States notes and fractional currency presented at the Treasury for redemption as now provided by law.

Mr. ATKINS. I raise the point of order that this amendment changes existing law, and is not in the direction of retrenchment. On the contrary, it would impose on the Government considerable expense—how much no one knows. I suppose the object of the gentleman is that when mutilated currency is presented it shall be redeemed as if whole, although a part may be gone.

The CHAIRMAN. The Chair is of the opinion that the amendment is not germane to the pending paragraph, and is new legislation. The point of order is well taken.

The Clerk read as follows:

United States mints and assay offices:

Office of the Director of the Mint: For Director, \$4,500; examiner, \$2,300; one computer of bullion, \$2,300; one assay clerk, \$1,800; one clerk of class 3; one translator, \$1,200; two copyists, \$900 each; one assistant messenger; one laborer; making in all the sum of \$16,730.

Mr. ATKINS. I move to amend by striking out in lines 877 to 879 the words "one clerk of class 3; one translator, \$1,200; two copyists, \$900 each," and inserting the following:

Two clerks of class 3; one translator, \$1,200; one copyist, \$900.

The amendment was agreed to.

Mr. ATKINS. I ask consent that the Clerk be authorized to correct the footing of this paragraph so as to conform to the amendment just made.

There was no objection.

The Clerk read as follows:

For contingent expenses of the United States mints and assay offices, namely: For specimens of coins, to be expended under the direction of the Secretary of the Treasury, \$200; for books, balances, and weights, and other incidental expenses, \$300. And refining and parting of bullion shall be carried on at the mints of the United States and at the assay office at New York. And it shall be lawful to apply

the moneys arising from charges collected from depositors for these operations pursuant to law so far as may be necessary to the defraying in full of the expenses thereof, including labor, materials, and wastage; but no part of the moneys otherwise appropriated for the support of the mints and the assay office at New York shall be used to defray the expenses of refining and parting bullion.

Mr. VANCE. I move to amend by adding to the paragraph just read the following:

Provided, That the Secretary of the Treasury be, and he is hereby, authorized to constitute any superintendent or assayer of any mint or assay office an assistant treasurer of the United States to receive gold coin and bullion on deposit for the purposes provided for in section 254 of the Revised Statutes.

Mr. ATKINS. I reserve the point of order on the amendment.

Mr. VANCE. I ask the Clerk to read section 254 of the Revised Statutes, to show what is the object of the amendment.

The Clerk read as follows:

SEC. 254. The Secretary of the Treasury is authorized to receive deposits of gold coin and bullion with the Treasurer or any assistant treasurer of the United States, in sums not less than \$50, and to issue certificates therefor, in denominations of not less than \$20, each, corresponding with the denominations of the United States notes. The coin and bullion deposited for or representing the certificates of deposits shall be retained in the Treasury for the payment of the same on demand. And certificates representing coin in the Treasury may be issued in payment of interest on the public debt, which certificates, together with those issued for coin and bullion deposited, shall not at any time exceed 20 per cent. beyond the amount of coin and bullion in the Treasury; and the certificates for coin and bullion in the Treasury shall be received at par in payment for duties on imports.

Mr. ATKINS. It seems to me that changes existing law.

Mr. VANCE. I will state that it has received the sanction of the Committee on Coinage, Weights, and Measures, and it was also suggested to me by Dr. Linderman, Director of the Mint. It will be a matter of convenience. There are one or two points where no assistant treasurer has yet been appointed. The amendment merely authorizes the Secretary of the Treasury to appoint superintendents of mints at those points where they have not already been appointed, for the purpose of receiving deposits of gold bullion and coin.

Mr. ATKINS. I inquire of the gentleman whether it will require additional expenses?

Mr. VANCE. It is not proposed to incur additional expense.

Mr. STEPHENS, of Georgia. I will state to the gentleman from Tennessee that this does not change existing law in any respect, except to provide for additional assistants without additional cost. There is no charge upon the Treasury and no change in existing law upon that subject.

Mr. ATKINS. I will agree if the committee will consent to pass over this part of the bill, together with the amendment, for the present.

Mr. STEPHENS, of Georgia. There is no objection to that.

Mr. VANCE. I am willing to agree to that.

Mr. ATKINS. But it is understood that I reserve my point of order. I should like to examine into the matter and understand it better than I do now.

Mr. THOMPSON. All points of order, I believe, are reserved.

The CHAIRMAN. They are. If there be no objection, that part of the bill from line 882 to 897, inclusive, together with the pending amendment, will be passed over for the present.

Mr. ATKINS. All points of order being reserved.

There was no objection, and it was ordered accordingly.

Mr. WHITE, of Pennsylvania, moved the committee rise.

The committee divided; and there were—ayes 35, noes 67.

So the committee refused to rise.

The Clerk read as follows:

Mint at Denver, Colorado:

For salaries of assayer in charge, \$2,500; melter, \$2,250; two clerks at \$1,600 each; in all, \$7,950.

For wages of workmen, \$7,500.

For fuel, lights, acids, chemicals, crucibles, repairs, and other necessities, \$3,000.

Mr. PATTERSON, of Colorado. In line 944 I move to strike out "\$7,500" and insert "\$10,000." I find the estimate of the Department for wages of workmen fixes the sum at \$10,000. The bill provides for the sum of \$7,500. I ask the chairman of the Committee on Appropriations why it is there is this reduction from the amount of the estimate to \$7,500?

Mr. ATKINS. We had the Director of the Mint before the committee and followed his suggestions. We inquired particularly on that point, and he suggested \$7,500 was enough; that almost everything was cheaper.

Mr. PATTERSON, of Colorado. Let me ask the gentleman from Tennessee a further question. Do I understand the amount appropriated for the wages of workmen is in accordance with the suggestion of the Director of the Mint?

Mr. ATKINS. Yes, sir.

Mr. PATTERSON, of Colorado. And in the succeeding paragraph, where there is an appropriation of \$3,000 when the estimates are \$4,000, is that also in accordance with the suggestion of the Director of the Mint?

Mr. ATKINS. Yes, sir.

Mr. PATTERSON, of Colorado. Then I withdraw the amendment and move to add the following at the close of the paragraph:

And for the purpose of enabling the said mint at Denver to make returns to depositors with as little delay as possible, the provisions of section 3545 of the Revised Statutes of the United States shall hereafter apply to said mint, as well as to the mints and assay office mentioned in said section, and the Secretary of the Treasury is hereby authorized to use, as far as he may deem it proper and expedient, for payment to depositors of bullion at said mint, coin certificates representing coin in the

Treasury and issued under the provisions of section 254 of the Revised Statutes of the United States; all of said acts and duties to be performed under such rules and regulations as shall be prescribed by the Secretary of the Treasury. And it shall be lawful to apply the moneys arising from charges collected from depositors at said mint pursuant to law to defraying the expenses thereof, including labor, material, wastage, and use of machinery; and only so much of the appropriations herein made shall be used for said mint as shall be necessary for the operations of the same after the moneys arising from the charges aforesaid shall have been exhausted as herein provided. But in no event shall the expenditures of said mint exceed the amount of the specific appropriations herein made for same.

Mr. ATKINS. I would inquire of the gentleman from Colorado if the text of that amendment—which seems to be very long, and I do not know if I understand it exactly—is the same as that of a similar amendment offered by the gentleman two years ago to the legislative appropriation bill then pending?

Mr. PATTERSON, of Colorado. I will answer the gentleman from Tennessee by stating it is precisely word for word the same, with one exception. In the amendment offered two years ago the assay office at Helena, Montana, was included. In this amendment the provisions are made to apply simply to the mint at Denver. I will state the reason of that. In a conversation with the Director of the Mint, some week or ten days ago, he stated he knew of no reasons why these privileges should not be extended to the mint at Denver, except for a doubt whether they were allowed by law to extend them to that mint. For that reason I introduced this amendment to make them applicable.

Mr. ATKINS. I would ask the gentleman if any additional expenditure is required by that amendment. The charges upon depositors, I suppose, will be deducted from the expenses.

Mr. PATTERSON, of Colorado. The gentleman asks me if any additional expenditure is required by the amendment. On the contrary, it will result I think in a reduction of expenditures; because it will produce a new revenue and this new revenue is used for the purpose of defraying the expenses of the mint.

Mr. WHITE, of Pennsylvania. What is the effect of the amendment?

Mr. PATTERSON, of Colorado. The effect of it is to place the mint at Denver, so far as the deposit of bullion is concerned, on the same footing as the mints at Carson, San Francisco, and Philadelphia. It is simply to put it on an equality with other mints in the United States. I trust there will be no objection to it. It passed the House two years ago, and bills of a similar import have passed two Congresses.

Mr. PAGE. I hope the chairman of the committee will not object to this amendment. It is to place this mint on an equality with others.

Mr. ATKINS. I have not objected. The amendment was adopted.

The Clerk read the following paragraph:

Assay-office at New York:

For salary of superintendent, \$4,500; for assayer, \$3,000; for melter and refiner, \$3,000; chief clerk, \$2,500; weighing clerk, \$2,500; paying clerk, \$2,000; bar clerk, \$1,800; warrant clerk, \$2,250; two calculating clerks, at \$1,800 each; assistant weigh clerk, \$1,600; for assayer's first assistant, \$2,250; for assayer's second assistant, \$2,150; for assayer's third assistant, \$2,000; in all, \$53,150.

Mr. BACON. I offer the following amendment:

After "\$4,500," in line 949, insert "for arrears of salary in the years 1877-'78, \$500."

Mr. ATKINS. The gentleman from New York is laboring under a mistake. His amendment might be offered to a deficiency bill but not to the pending bill. I desire to suggest that in the last legislative appropriation bill the words "in full compensation" were added. Therefore I think his man is paid in full.

Mr. BACON. I offered the amendment here because I saw that in another part of this bill provision is made for past deficiencies; and this is a deficiency which has been left in two appropriation bills, for which provision should have been made at the time. It is possible the point of order may be well taken as regards this bill, but I do not acquiesce in it.

The CHAIRMAN. The Chair is of the opinion that the amendment is not germane. He therefore sustains the point of order.

The Clerk read the following paragraph:

Mint at New Orleans, Louisiana:

For salaries: assayer in charge, \$2,000; and the assayer is hereby authorized, in case of necessity, to employ one clerk, at a compensation of not exceeding \$1,200 per annum; melter, \$2,000; wages of workmen, \$3,000; fuel, fluxes, acids, and other incidental expenses, \$2,000; in all, \$10,200.

Mr. GIBSON. I offer the amendment which I send to the desk.

Mr. MILLS. We have to come back again for a night session. I move that the committee rise.

Mr. ATKINS. Before the question is taken on that motion I ask unanimous consent to make a correction.

There was no objection.

Mr. ATKINS. At line 877, under the head "office of the Director of the Mint," instead of "two clerks of class 3," I desire to insert "one clerk of class 2 and one clerk of class 3." The change is made in the wrong place.

There was no objection, and the correction was made.

The motion of Mr. MILLS was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. EDEN reported that the committee had had under consideration the special order, being the bill (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of

the Government for the fiscal year ending June 30, 1879, and for other purposes, and had come to no resolution thereon.

Mr. LUTTRELL. I move that the House take a recess until half past seven o'clock.

LEAVE OF ABSENCE.

Pending the motion for a recess, by unanimous consent leave of absence was granted as follows:

To Mr. SWANN, for three days, on important business;
To Mr. KENNA, for one week; and
To Mr. CHALMERS, for ten days from Wednesday next, on account of important business.

WILLIAM GEISSEL.

On motion of Mr. WILLIS, of Kentucky, by unanimous consent, leave was granted to withdraw from the files of the House papers in the case of William Geissel, there being no adverse report thereon.

O. H. PERRY.

On motion of Mr. BLACKBURN, by unanimous consent, leave was granted to withdraw papers in the case of O. H. Perry, administrator of Mary Scott, of Kentucky, there being no adverse report thereon.

CHARLES L. BRADWELL.

On motion of Mr. COOK, by unanimous consent, leave was granted to withdraw papers in the case of Charles L. Bradwell, there being no adverse report thereon.

NAVAL APPROPRIATION BILL—CONFERENCE REPORT.

Mr. CLYMER. I rise to a question of privilege. I submit a report from the committee of conference on the disagreeing votes of the two Houses upon the naval appropriation bill, and ask that it be read.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 18, 19, 26, 27, and 28.
That the House recede from its disagreement to the amendments numbered 1, 2, 3, 4, 5, 9, 29, 33, 34, 35, 37, 38, 39, 40, and 41, and agree to the same.

That the House recede from its disagreement to the amendment numbered 5, and agree to the same, with amendment as follows:

Insert after the word "tax," in line 8, page 4 of the bill, the following: "secretaries to the Admiral and Vice-Admiral."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 10, and agree to the same, with an amendment as follows: after the word "Vice-Admiral" insert the words "when on sea service."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 11, and agree to the same, with an amendment as follows:

Add to the end of said amendment the words "on the termination of its cruise."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 30, and agree to the same, with an amendment as follows:

In lieu of the sum proposed insert "\$24,080.75."

And the Senate agree to the same.

HIESTER CLYMER.

JAMES H. BLOUNT,

EUGENE HALE,

Managers on the part of the House.

A. A. SARGENT,

S. W. DORSEY,

JAMES B. BECK,

Managers on the part of the Senate.

Mr. CLYMER. I propose to demand the previous question upon the adoption of the report, but before doing so I will remark that the sum in controversy between the two Houses was one hundred and sixty-nine thousand and odd dollars, of which amount the House has receded from \$83,000 and the Senate from about \$86,000. I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was agreed to.

Mr. CLYMER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EVENING SESSIONS.

Mr. CHALMERS. I ask unanimous consent that there be an evening session on Thursday night of this week at half past seven o'clock for debate, no business of any sort to be transacted.

Mr. PAGE. Wednesday night has already been set apart for debate.

Mr. CONGER. I must object until we have an evening session for the consideration of pension bills.

The SPEAKER. The Chair does not think that this proposition affects the pension bills at all. The Chair uniformly facilitates the passage of pension bills. The Chair thinks that this will give an opportunity to those gentlemen who desire to make speeches to do it in the evening sessions instead of occupying the time of the House during the day sessions.

Mr. CONGER. But we ought to have one night this week for the consideration of pension bills, as we lost the night set apart for that purpose last week.

The SPEAKER. There are other nights in the week not yet set apart: Friday, for instance.

Mr. CONGER. If the Chair thinks that general debate is more important than pension bills, so be it.

The SPEAKER. The Chair has never made expression nor has he

ever thought so; but the Chair thinks that, if gentlemen who desire to make speeches are not allowed an opportunity of doing it at evening sessions, they may make their remarks some time during the day sessions and thereby delay the business of the House.

Mr. RICE, of Ohio. I ask that Friday night be set apart for the consideration of pension bills, as an objection day.

The SPEAKER. Is there objection to the two propositions which have been made for evening sessions? The Chair hears none, and it is so ordered.

PERMANENT GOVERNMENT FOR THE DISTRICT OF COLUMBIA.

Mr. BLACKBURN. I desire to ask that on Saturday morning, immediately after the reading of the Journal, the bill establishing a permanent form of government for the District of Columbia, it having been amended in accordance with the wishes of the House, be taken up and disposed of, on the assurance that not more than one hour will be required for its final disposition.

The SPEAKER. The gentleman from Kentucky asks that one hour be set apart on Saturday morning, after the reading of the Journal, for discussion, and that the previous question shall then be called upon what is generally known as the District bill.

Mr. COX, of Ohio. I object.

Mr. BLACKBURN. I desire to move a suspension of the rules.

The SPEAKER. The Chair thinks that if he entertains a motion to suspend the rules he should recognize the gentleman who is next upon the list for that purpose.

Mr. BLACKBURN. I am sure that there are very few gentlemen in the House who are opposed to the bill; but if it is deferred until the third Monday in May it is hardly reasonable to suppose that any permanent form of government for the District of Columbia will be agreed upon by the two Houses at this session.

Mr. COX, of Ohio. The assumption is that the bill which this House has voted down will go through after one hour's discussion.

Mr. BLACKBURN. The bill has been amended in accordance with the directions of the House, and I am willing that the hour I propose to allow for debate shall be occupied by gentlemen who are opposed to the bill. I am willing that the gentleman from Ohio shall have every moment of the time.

Mr. THOMPSON. What directions did the House give to the committee as to the amendments to the bill?

Mr. COX, of Ohio. The gentleman from Ohio offered a resolution instructing the committee, but he withdrew it on the assurance that the bill should be so amended.

Mr. THOMPSON. The features of the bill in relation to the appointment of the three commissioners I understand are unchanged.

Mr. BLACKBURN. I simply desire that the opponents of the bill shall have all the time for debate that is allowed, and that then the House shall vote.

Mr. CONGER. Has the bill been changed in regard to the appointment of commissioners?

Mr. BLACKBURN. In no wise.

Mr. CONGER. Then I object to the bill.

Mr. BLACKBURN. Then I move to suspend the rules in order to make the order which I have indicated.

Mr. COX, of Ohio. I call for the regular order.

The SPEAKER. There is a motion pending by the gentleman from California [Mr. LUTTRELL] that the House now take a recess until half past seven o'clock.

Mr. BLACKBURN. Can I not make a motion to suspend the rules?

The SPEAKER. The Chair thinks that it is in order to move a suspension of the rules for the purpose of determining the order of business of the House. But if the Chair was at liberty to entertain a motion to suspend the rules, he would feel compelled first to recognize the gentleman from Alabama [Mr. SHELLEY] for that purpose.

Mr. WHITE, of Pennsylvania. I call for the regular order.

The SPEAKER. The motion of the gentleman from California [Mr. LUTTRELL] that the House now take a recess until half past seven o'clock is pending.

Mr. FINLEY. I will move to adjourn and then yield to the gentleman from Kentucky, [Mr. BLACKBURN.]

The SPEAKER. The gentleman cannot do that.

Mr. LUTTRELL. I will withdraw the motion for a recess.

Mr. BLACKBURN. I understand the motion for a recess is withdrawn. I ask the Chair how I can test the sense of the House by a two-third vote in regard to establishing some form of government for this District?

The SPEAKER. The Chair would recognize the gentleman from Ohio [Mr. FINLEY] who has indicated a desire to move that the House now adjourn, which motion is in order pending a motion to suspend the rules.

Mr. BLACKBURN. I desire to say that I am perfectly willing that the House shall resolve itself into Committee of the Whole and do its pleasure with the bill. I simply desire that it shall not die in the committee-room, and that of necessity will be the result unless it can be reported to the House prior to the third Monday in May.

Mr. COX, of Ohio. The trouble is with the assumption that there is any general agreement that the bill proposed is any improvement upon the present condition of things.

Mr. BLACKBURN. I do not propose to pass upon that point, but to submit the bill to the judgment of this House.

Mr. COX, of Ohio. The House has already passed upon it.

Mr. BLACKBURN. In answer to inquiries of gentlemen from the other side I desire to say that my purpose is to have this bill considered in the House as in Committee of the Whole, just as it was before, under the five-minute rule; that one hour shall be allowed for debate, or longer if the House shall desire; and that every minute of that time shall be given, so far as I am concerned, to the opponents of the bill.

The SPEAKER. The gentleman had better withdraw that portion of his proposition which limits the time for debate to one hour.

Mr. BLACKBURN. Very well, I will not make any limit at all.

Mr. COX, of Ohio. I feel bound to insist upon every reasonable objection to this bill, and the gentleman must take notice of it.

The SPEAKER. The gentleman from Ohio [Mr. COX] will recognize the fact that to-day is Monday, and that the gentleman from Kentucky [Mr. BLACKBURN] being on the floor and nobody else asking for a suspension of the rules but himself, he is in order in moving a suspension of the rules in relation to the conduct of the business of the House.

Mr. COX, of Ohio. I understood the motion for a recess was the regular order.

Mr. BLACKBURN. The gentleman from California [Mr. LUTTRELL] withdrew that motion and left me upon the floor.

Mr. COX, of Ohio. Then I move that the House take a recess until half past seven o'clock.

The SPEAKER. That motion is not strictly in order if objected to.

Mr. PRICE. Allow me to make a suggestion to the gentleman from Kentucky [Mr. BLACKBURN] and to other gentlemen, that it is not more than fair to give one hour for the consideration of the bill which he indicates, and if the bill be found objectionable to the House it can be voted down.

Mr. LUTTRELL. And if it is found to be a good bill we can pass it.

Mr. BLACKBURN. I only ask for a two-third vote of the House.

Mr. THOMPSON. I move that the House take a recess until half past seven.

The SPEAKER. The motion to suspend the rules, made by the gentleman from Kentucky, [Mr. BLACKBURN,] is prior to that motion.

Mr. THOMPSON. I suppose a motion to adjourn would be one of higher order.

The SPEAKER. The Chair having recognized the gentleman from Kentucky [Mr. BLACKBURN] to move to suspend the rules, (those on the Speaker's list not urging their right,) the Chair desires to say if the House should now take a recess until evening, such motion being admitted by consent to be made, then in such case the motion to suspend the rules as made by the gentleman from Kentucky will come up on Monday next as unfinished business. This evening is ordered to be for business to be reported from the Committee on Public Lands.

Mr. BLACKBURN. I ask that a vote be now taken on my motion.

Mr. CONGER. I object to the gentleman being recognized to move to suspend the rules until his turn comes.

The SPEAKER. The gentleman is too late.

Mr. CONGER. I made the objection in my place.

The SPEAKER. The gentleman from Kentucky declines to yield to a motion for a recess, and the question is upon the motion of the gentleman from Kentucky [Mr. BLACKBURN] to suspend the rules and assign one hour after the reading of the Journal on Saturday next for the consideration of the bill for a permanent form of government for the District of Columbia.

Mr. BLACKBURN. I leave out the limitation of one hour for debate.

The question was taken upon the motion as modified; and upon a division there were—ayes 93, noes 15.

Mr. COX, of Ohio. There is no quorum voting.

Mr. BLACKBURN. I trust that objection will not be made; if it is I shall have to insist upon the yeas and nays.

Mr. COX, of Ohio. I gave the gentleman notice that I should insist upon every reasonable objection.

Mr. BLACKBURN. If ninety-three members are to be overridden by fifteen, I shall then ask for a call of the House.

Mr. COX, of Ohio. I move that the House now adjourn.

Mr. BLACKBURN. I rise to a parliamentary inquiry. If the House now adjourns with the motion pending to suspend the rules, in what condition will the question be left?

The SPEAKER. It will come up next Monday.

Mr. BLACKBURN. Then I hope the House will not adjourn at the dictation of thirteen men.

Mr. COX, of Ohio. I hope the gentleman from Kentucky will not have greater opportunity for debating this motion than those opposed to it.

Mr. BLACKBURN. I am sure the gentleman from Ohio has no right to complain. He has been making five or six speeches in my time.

Mr. PATTERSON, of Colorado. I rise to a point of order. Last Saturday the House agreed by unanimous consent to hold a session this evening at half past seven o'clock for the purpose of considering reports from the Committee on Public Lands.

The SPEAKER. The House can vacate such order.

Mr. PATTERSON, of Colorado. Can a majority of the House reverse an order that was made by unanimous consent?

The SPEAKER. Undoubtedly. The House has the privilege of changing its mind in reference to that question.

Mr. PAGE. Is it not in order to amend the motion to adjourn so as to provide that the House now take a recess?

The SPEAKER. It is not.

Mr. BLACKBURN. I ask for tellers on the motion to suspend the rules.

The SPEAKER. The question is on the motion of the gentleman from Ohio, that the House adjourn.

The question being taken, the motion was not agreed to, there being—ayes 46, noes 83.

Mr. LUTTRELL. I now move that the House take a recess till half past seven o'clock this evening.

The SPEAKER. The Chair by consent admits this motion. The motion was agreed to.

The SPEAKER. The gentleman from Tennessee [Mr. CALDWELL] will occupy the chair this evening as Speaker *pro tempore*.

The House then (at five o'clock and ten minutes p. m.) took a recess till half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m., and was called to order by Mr. CALDWELL, of Tennessee, as Speaker *pro tempore*.

Mr. LUTTRELL. As there are very few members present, I move that the House take a recess of ten minutes.

The motion was agreed to.

The recess having expired, the House resumed its session.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The session of this evening is for the consideration of reports from the Committee on Public Lands.

PROTECTION OF HOMESTEAD AND PRE-EMPTION SETTLERS.

Mr. FULLER. I am directed by the Committee on Public Lands to report back with a favorable recommendation the bill (H. R. No. 1051) for the protection of settlers on the public lands of the United States.

The bill was read. It provides in the first section that when any person entitled to avail himself of the benefits of the pre-emption or homestead laws has made, or shall make, a *bona fide* settlement on lands subject to settlement under any such laws, such settlement shall be deemed to create a contract between the Government and the settler, and his claim shall constitute a vested right of property, only to be forfeited by his neglect or refusal to comply with the conditions prescribed by the law under which he claims.

The second section provides that when any such person shall have made settlement upon unsurveyed lands of the United States, the right to enter the quarter section or any lesser legal subdivision on which he shall be located by the survey shall date from his actual settlement upon the same; but no filing shall be required of any settler until such survey shall have been made.

Mr. EDEN. I would like to have the gentleman from Indiana [Mr. FULLER] explain the necessity for the passage of this bill and wherein it changes the existing law. But in the first place I would ask whether there is any written report accompanying the bill?

Mr. FULLER. There is not.

Mr. EDEN. I would like to reserve a point of order until I hear the explanation of the gentleman from Indiana.

Mr. FULLER. Mr. Speaker, this bill provides that any settler under the pre-emption and homestead laws who complies with the provisions of the laws shall be deemed to have a vested right in the land upon which he settles; in other words it provides the act of settlement shall be deemed to create a contract between him and the Government, conferring on him a vested right of property in the land, which can be divested only by his own failure to go in compliance with the conditions of the law. The Supreme Court has decided that the settlers have no rights but are mere tenants at will and can be turned out by the Government at any time before they make final payment and consummate their title.

Mr. EDEN. They may hold as tenants at will; but I presume that if they comply with the terms of the law their title is perfected. Is it not?

Mr. FULLER. The Supreme Court has decided that they hold as tenants at will and that the Government can remove them at any time before the expiration of the five years. That is the decision of the Supreme Court reported, I believe, in 21 Wallace.

Mr. EDEN. Has the court decided that the Government can at its own will, without any reason or cause, remove the settler and reclaim possession of the land?

Mr. FULLER. Yes, sir. Therefore this bill provides that a contract shall be regarded as existing between the homestead or pre-emption settler and the Government; that the man who enters land under the homestead or pre-emption laws shall not be divested of his rights. This bill has been twice passed unanimously, I think, by this House.

Mr. EDEN. I regret that the gentleman from Indiana has not presented in a report the necessity for the passage of the bill. I do not like to antagonize a measure of this kind. I am not very familiar with the operation of the homestead laws; but I had supposed that under the law as it now is, when the settler had occupied the land for the prescribed time and there was no other claimant, there was

no sort of difficulty in his acquiring the title. I do not know what the effect of this bill may be. According to the gentleman's explanation there is to be a contract between the Government and the settler. Why this relation should be established I cannot understand.

Mr. FULLER. I will inform the gentleman. This has always been believed to be the law until the Supreme Court decided the contrary.

Mr. EDEN. Can the gentleman cite the case in which the Supreme Court made that decision, and will he state the circumstances under which the decision was made?

Mr. FULLER. I cannot answer the gentleman further than to call his attention to the case of Mulingburg, in 21 Wallace, in which it was decided (and the decision has been repeated several times since) that a person settling on the public lands under the homestead or pre-emption laws is only a tenant at will and can be removed by the Government at any time.

Mr. EDEN. Under what circumstances has the Government ever removed persons from public lands who occupied as homestead settlers?

Mr. FULLER. I do not know they have, but the homestead settler feels dissatisfied at the present time.

Mr. EDEN. I do not think we should change this law, unless there is some necessity for it.

Mr. HASKELL. If the gentleman will pardon me, I will give him an instance. Two hundred homesteads on the Osage ceded lands were ordered canceled.

Mr. CONGER. We cannot hear what is going on, and I insist members shall address the Chair.

Mr. EDEN. In the case referred to by the gentleman from Kansas were they not canceled upon the ground that somebody else other than the Government had a right to the land? Let me inquire whether the object of this legislation is not to make the Government responsible to the settler if he goes and settles on the public lands, supposing it to belong to the Government, and it turns out to belong to some one else—whether the object of this legislation is not to create a liability upon the part of the Government to make compensation in a case of that sort?

Mr. FULLER. It is not.

Mr. HASKELL. I do not know about this bill. These settlers were on the public lands by virtue of a joint resolution of Congress. Without a decision of the courts, but simply on a decision of the Secretary of the Interior, these two hundred entries of land were canceled in favor of the railroad company.

Mr. DUNNELL. It is impossible to hear what is going on between gentlemen in a conversational tone of voice, and I insist gentlemen shall address the Chair, and the gentleman from Kansas has the physical ability to make himself heard in all parts of the Hall.

Mr. HASKELL. In these cases where grants have been made to railroads and where there are settlers on the public lands, the order of withdrawal from those lands has been made by the commissioners of the General Land Office, and the settlers cut out and barred from the right to homestead entry.

Mr. EDEN. If it should happen to turn out under this law that a person went to settle upon land supposing it to be public land and it should be developed afterward that it did not belong to the Government at all, is the object of this legislation to make the Government responsible?

Mr. FULLER. No, sir.

Mr. EDEN. Unless that is the object I cannot see what purpose can be attained by it.

Mr. FULLER. This provides where a man settles in good faith on the public lands—

Mr. EDEN. If I understand the law as it now is, where a person settles on public lands in good faith and there is no other claimant and he remains on it and complies with the law, he gets his title to it.

Mr. HEWITT, of Alabama. The gentleman is mistaken as to the law, that is all.

Mr. EDEN. I have been trying to get an explanation on that point ever since the introduction of the bill.

Mr. FULLER. The courts have decided that that is not the law.

Mr. HANNA. I can conceive of two classes of cases where it would be eminently proper to have on the statute-book an act of this character. I am not prepared to say the law as it now stands covers those cases or not. For instance, suppose a settler goes into a Territory, (I speak from personal observation in Kansas at an early day;) suppose a settler goes in good faith to make a settlement and secure a home; he may perchance go and squat upon a location that suits him, may make valuable and lasting improvements to the end of ultimately securing a home; and it may be in advance of actual survey of that land; but nevertheless he goes there in good faith and makes his improvements. Now, it has been the practice of the Government when the survey has been made to recognize the right of that squatter. It is an equitable right. His rights ought to be protected and it will do no harm. It will not do any harm to the Government to say where that settlement has been made in good faith it shall operate in the nature of a contract, so as to secure him in whatever improvements he has thus made in good faith. Then again, suppose where he has made that settlement, as there are divers instances in the West, and some have come under my observation—I am not now a resident of the extreme West—suppose under the prac-

In consideration of the premises your petitioner prays that he may have such relief as in equity and good conscience he is entitled to.

JOHN DONAHUE.

STATE OF MICHIGAN,
Saint Clair County, ss:

On this 16th day of November, 1877, personally appeared before me, a notary public in and for said county, John Donahue, the above-named petitioner, and who signed the said petition in my presence, and being by me first duly sworn, upon his oath says that he has heard the said petition, by him subscribed, read, and knows the contents thereof, and that the same is true.

[SEAL.]

CHARLES E. JOHNSTON,
Notary Public, Saint Clair County, Michigan.

Mr. LUTTRELL. The gentleman has stated a case in point. Hundreds of such cases have occurred in California under the law granting the sixteenth and thirty-sixth sections of the public lands for the benefit of the public schools of the State. I call one case to mind. A neighbor of mine settled upon a tract of land, I think, in 1850. He and his family resided upon that land for twenty-odd years; they have made costly improvements upon it; they have lived upon it in good faith, and only a few years since, when the surveys were extended and when they came to extend the surveys, they found that the homestead of my neighbor, with the costly improvements, the dwelling-house and the farm buildings, had come within the thirty-sixth section.

Mr. EDEN. Will the gentleman allow me to ask him one question about that case?

Mr. LUTTRELL. I will, in one moment, but not just now. This man had no opportunity whatever of locating this land as a pre-emptor, but was simply a settler in good faith, and expended long years of work and much money in improving it. He reared his family there. The first thing he knew a land-grabber had filed a claim on it, under the State act, which brought about litigation. There are hundreds of such cases in California, as my colleague will certify, and what we want is to protect just such settlers as these, who go in advance of civilization and settle on public lands and build their homes upon the far frontier; and they ask that Congress will grant them some protection like this.

Mr. EDEN. The case to which the gentleman from California refers arises under the grant of lands by the General Government for school purposes.

Mr. LUTTRELL. Yes, sir.

Mr. EDEN. Now, under this bill, if it becomes a law, I ask the gentleman from California whether, if a man goes and settles on lands that afterward are surveyed, turn out to be sixteenth or thirty-sixth sections, or any section which may be donated for school purposes, if this bill will be any protection to him in his claim for those lands?

Mr. LUTTRELL. We ask simply to be protected in the right of location and settlement, and to let the Government select other lands for school purposes when, by a subsequent survey, it turns out that a settler has settled upon a sixteenth or thirty-sixth section. The object of the bill is to protect the settler against the rapacious maw of the land speculators who go about the country for the purpose of hunting up just such cases.

Mr. EDEN. It is, then, to allow settlers to go upon the lands devoted to the education of the people?

Mr. FULLER. I now yield five minutes to the gentleman from Colorado, [Mr. PATTERSON.]

Mr. PATTERSON, of Colorado. In reply to the last inquiry made by the gentleman from Illinois [Mr. EDEN] I would state that it is already the law that where an individual settles upon either the sixteenth or the thirty-sixth section of the public lands before a survey of the lands is made, when that fact is discovered by the survey of the lands, the settler retains his title to the land upon which he has settled and the State is permitted to select new land in lieu thereof.

Mr. EDEN. That provision only applies to the homestead law, and not to the pre-emption law.

Mr. PATTERSON, of Colorado. It applies to both. Wherever men have settled upon lands before they had acquired a title and those lands turned out on survey to belong to the school land, they retain possession of the land and the State selects new land in lieu thereof.

Let me call the attention of the House to the great hardships that are liable to ensue unless some such bill as this shall be made law. In section 2401 of the Revised Statutes it is provided that a person may settle upon the public lands before they are surveyed; and if he desires to have surveyed the township within which he has settled he has the right to deposit a sum of money with the surveyor-general for the purpose of having that township surveyed; and thereupon it becomes the duty of the surveyor-general to survey that township. And section 2403 provides that where the settler makes a deposit of money in accordance with the provisions of a preceding section the amount so deposited shall go in part payment of his land situated in the township, the surveying of which is paid for out of such deposit.

Under the law as it now stands, as decided by the Supreme Court, settlers may go upon the public lands in good faith when they are still unsurveyed, and may make their deposits of money with the surveyor-general and the lands may be surveyed, and the Government may hold that money for the purpose of payment for conveying the title to the land. Yet before the title is perfected the Government by a subsequent grant may deprive the settler of the land upon which he has settled and for which he has in reality advanced the money to the Government.

The only object of this bill is to insure to the settler, when he enters either upon surveyed or unsurveyed public lands, protection in his title. The purpose is that the settler may feel, as he is plowing the land, building his fences, and erecting his dwelling and out-houses, that he is preparing a home for himself of which the Government cannot deprive him for the benefit of some railroad or other corporation; but so long as he continues in the occupation and improvement of that tract of land in good faith, with the ultimate purpose of obtaining a title to it for his benefit, his acts of entry and occupation and improvement shall constitute a contract between himself and the Government which will prevent his being deprived of his home.

This bill simply protects him in rights which he has acquired or is attempting to acquire under the law of the country and the invitation of the Congress of the United States. Now I say that not to pass such a law, not to protect settlers of this character, is simply gross injustice. The only wonder to me is that the proper steps have not been taken long ago to see that there should be no danger of despoiling these settlers of that which rightfully belongs to them.

Mr. FULLER. I now yield to the gentleman from Alabama, [Mr. HERBERT.]

Mr. HERBERT. The first section of this bill provides:

That when any person entitled to avail himself of the benefits of the pre-emption or homestead laws has made or shall make a *bona fide* settlement on lands subject to settlement under any such laws, such settlement shall be deemed to create a contract between the Government and the settler, and his claim shall constitute a vested right of property, only to be forfeited by his neglect or refusal to comply with the conditions prescribed by the law under which he claims.

It does not undertake to change in any manner the law as it now stands. Everything required now by law to be done to entitle a person to a pre-emption right is required by this bill.

The sole purpose of the bill, as I understand it, is to meet a decision of the Supreme Court of the United States which has been quoted here to-night, which decision is to the effect that a person acquiring a pre-emption right in public lands is no more than a tenant at will. Now every lawyer in this House knows that a tenant at will is one who may be ousted at the option of the grantor, simply by an entry. I suppose the decision of the Supreme Court which has been quoted here is simply a decision that in these cases of pre-emption an actual grant perfected and completed by the United States Government amounts to an ouster, and deprives the pre-emptor of his inchoate title to the land. It is just exactly that which this bill, as I understand it, seeks to provide against, and it seems to me that that statement clears away every difficulty that has been raised in this case. No change whatever is proposed to be made in the law, except it be in the last section, which provides:

That when any such person shall have made settlement upon unsurveyed lands of the United States the right to enter the quarter section or any lesser legal subdivision on which he shall be located by the survey shall date from his actual settlement upon the same; but no filing shall be required of any settler until such survey shall have been made.

If any change at all is proposed to be made in the law it is made by that section. I think no gentleman on this floor will deny that it is fair and equitable, when a pre-emptor has settled upon the land which, up to that time, has not been surveyed by the United States, his rights under the law as it now stands, and not proposed to be changed by this bill in any manner, shall date from the time of his actual settlement, and he shall not be required to file proofs until the survey is made, so that he can file definitely such proofs for location. It seems to me that statement clears up all the difficulties in regard to this bill.

Mr. FULLER. I now yield three minutes to the gentleman from Illinois, [Mr. BURCHARD.]

Mr. BURCHARD. If this bill simply gives a vested right of property and title to be enforced against any subsequent grantee, I see no objection to the first section of it.

Mr. FULLER. That is all that is intended.

Mr. BURCHARD. It provides that this settlement by the pre-emptor or settler shall create a contract between the Government and the settler. Now suppose the Government were to make a subsequent grant, and possession should be taken under that grant: under this provision of this bill cannot the party go to the Court of Claims or come to Congress and insist that by legislation of Congress or by some subsequent grant he has been ousted from his possession and the title to his land has been conveyed to some other party? Can he not come in here and present a claim, such as has been referred to by the gentleman from Michigan [Mr. CONGER] in an actual case? We ought not to legislate so that we will give opportunities for prosecuting the claims of parties in that manner.

Mr. LUTTRELL. Will not this bill prevent anything of the kind by throwing the strong arm of the Government as a shield around the settler?

Mr. BURCHARD. I am asking as to the construction to be given to this bill; I am making this inquiry of the committee who have given it a full examination. I fear that this provision creating a contract is too broad. I think it would be sufficient to say that such settlement shall constitute a vested right of property against any subsequent grant. If this were the language it would give the title to the settler, but it would not declare the existence of a contract. Under the law relating to the Court of Claims a contract can be enforced in that court.

As to the second section, objection has been made (and I do not know whether the objection has been fully answered) that this provision allows settlement upon unsurveyed lands; and it is claimed that this may allow entry upon mineral lands and upon reservations, because these are not excepted from the provisions of the bill.

Mr. FULLER. We have already by law excepted mineral lands.

Mr. BURCHARD. But this will be a later statute and may repeal those laws.

Several MEMBERS. Oh, no!

Mr. FULLER. I move the previous question.

Mr. HASKELL. Before the gentleman moves the previous question I desire to say just one word. Under the present homestead laws an occupant of the public lands has no rights whatever. In other words, a man may settle upon a quarter section of land in Kansas to-day, before or after it is put upon the market, and if another man living for instance in the city of Washington having a legal right to make homestead entry, makes his entry ahead of the prior settler the latter is divested of all his rights under his homestead settlement, although he may have been on the land for five years. In order to remedy this condition of the law I ask the consent of the committee to move an amendment to insert after "*bona fide*," on line 5, the word "prior;" so as to allow the prior occupant to make his entry.

Mr. FULLER. I agree that the gentleman's amendment may be offered.

Mr. DAVIS, of North Carolina. Will the gentleman from Indiana allow me to offer an amendment which it strikes me will cover the case?

Mr. FULLER. I cannot yield further; I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof, the amendment of Mr. HASKELL was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading; and was accordingly read the third time.

The question being taken on the passage of the bill, there were—ayes 53, noes 12.

Mr. EDEN. I make the point that no quorum has voted.

Mr. PAGE. I hope that this bill will be regarded as passed without raising any question upon the absence of a quorum, but that no motion will be made to reconsider the passage and to lay the motion to reconsider on the table; so that to-morrow in a full House, if any one feels disposed to enter the motion to reconsider, it can be done. But if the question is to be made as to whether a quorum is present, of course there is no quorum here, and I presume we might as well adjourn and go home.

Mr. BURCHARD. I hope no point will be made upon the absence of a quorum and that the right to move a reconsideration will be reserved.

The SPEAKER *pro tempore*. The Chair has no discretion but to order tellers if the presence of a quorum is insisted upon.

Mr. EDEN. The gentleman from North Carolina [Mr. DAVIS] proposed to offer an amendment which I supposed would probably make the bill unobjectionable; and the gentleman from Indiana [Mr. FULLER] did not allow him even to have it read. I am entirely willing that the rights of settlers should be protected fully; but I do not like the bill in its present form; and I have made the point upon the lack of a quorum because the gentleman in charge of the bill would not allow the amendment of my friend from North Carolina to be even read.

Mr. PATTERSON, of Colorado. I suggest that the amendment of the gentleman from North Carolina be read for the information of the House.

Mr. DAVIS, of North Carolina. I send my amendment to the desk. The Clerk read as follows:

Amend the first section so as to read as follows:

That when any person entitled to avail himself of the benefits of the pre-emption or homestead laws has made or shall make a *bona fide* prior settlement on lands subject to settlement under such laws, such settlement shall entitle the holder to pre-empt the same; and he may perfect his title thereto by complying with the provisions of the pre-emption and homestead laws when the survey of the same shall have been made, only to be forfeited by his neglect or refusal to comply with the conditions prescribed by the pre-emption laws.

Mr. HANNA. While I have no objection to the amendment of my friend from North Carolina, the whole spirit of that amendment is covered by existing law. It would simply re-enact what is already the law of the land.

Mr. DAVIS, of North Carolina. This provision will give to the settler all the rights he ought to ask of the Government.

Mr. CONGER. If it does not change the present law, it is of no use.

The SPEAKER *pro tempore*. No quorum having voted upon the last vote, the gentleman from Indiana [Mr. FULLER] and the gentleman from Illinois [Mr. EDEN] will act as tellers.

Mr. PAGE. If the point that there is no quorum present is to be insisted upon we might as well adjourn.

Mr. ALDRICH. I hope that the call for tellers will not be insisted upon.

The SPEAKER *pro tempore*. The point being made, it is the duty of the Chair to order tellers.

Mr. LAPHAM. If the presence of a quorum is insisted upon, I move that the House adjourn.

The motion of Mr. LAPHAM was not agreed to.

Mr. LUTTRELL. If the point as to the absence of a quorum is insisted upon, I shall move a call of the House.

Mr. FULLER. Will it be in order for me to withdraw this bill?

The SPEAKER *pro tempore*. It would not be, the previous question having been seconded and the main question ordered.

Mr. FULLER. I move to reconsider the vote by which the main question was ordered.

The motion was agreed to.

The demand for the previous question was then withdrawn, and the bill was recommitted to the Committee on Public Lands.

Mr. LUTTRELL. Now, Mr. Speaker, the question of a quorum has been raised, and if we are not to be allowed to transact any business it is quite unnecessary to sit here. Let us either have a call of the House or let us adjourn.

SOUTH AND NORTH ALABAMA RAILROAD COMPANY.

Mr. HEWITT, of Alabama, from the Committee on Public Lands, reported back favorably the bill (H. R. No. 972) for the relief of settlers on lands claimed by the South and North Alabama Railroad Company.

The bill, which was read, provides that in the adjustment of all land grants heretofore made to the State of Alabama for the benefit and use of the South and North Alabama Railroad Company, if any of said lands so granted be found in the possession of an actual settler whose entry or filing has been allowed under the homestead law of the United States subsequent to the time at which, by the decision of the land office, the right of said road was declared to have attached to such lands, the said railroad company shall be permitted, and shall have the right, to select an equal quantity of any other public lands, agricultural or coal, upon said railroad company relinquishing all claim to the lands entered or claimed by any actual settler as aforesaid, within the limits of the grant not otherwise disposed of or appropriated at the date of the selection, to which the said South and North Alabama Railroad Company shall receive title to the same extent as if the lands so selected had been originally granted to said railroad company; and any such entries or filings made by actual settlers as aforesaid, thus relieved from conflict, may be perfected into a complete title, as if such lands had not been granted to the State of Alabama for the use of said railroad company; and such actual settlers shall have two years from the passage of this act in which to make the final proof required by section 2291 of the Revised Statutes; provided that nothing in this act shall be so construed as to enlarge or extend any grant of lands to said railroad company, or to the said State for the use of said railroad company; and provided further, that this act shall not in any manner be so construed as to confirm or legalize any decision or ruling of the Interior Department under which lands have been certified to said railroad company when such lands have been entered by a pre-emption or homestead settler after the location of the line of said railroad and prior to the notice to the local land office of the withdrawal of such lands from market.

Mr. LAPHAM. I make the point of order that this is a private bill. Mr. HEWITT, of Alabama. That point does not apply this evening.

The SPEAKER *pro tempore*. The session this evening was set apart for the consideration of reports from the Committee on Public Lands, whether public or private.

Mr. EDEN. I should like to ask whether this is intended for the relief of settlers or the railroad company.

Mr. HEWITT, of Alabama. It is intended purely and solely for the relief of the settlers.

Mr. EDEN. Does it not increase the grant to the railroad company?

Mr. HEWITT, of Alabama. Not at all.

Mr. EDEN. Was this not granted originally to the State.

Mr. HEWITT, of Alabama. It was granted originally to the State.

Mr. EDEN. How can we change the law in reference to the grant.

Mr. HEWITT, of Alabama. We do not propose to change it at all. It will have to be by the consent of the railroad company, but we give the railroad company the power to select other lands if they see proper to do it on relinquishing the title to the settlers. We give the same amount of land to the railroad company on their relinquishing the title to the settlers. We cannot force them to do it, but we may enable them to do it, and I am assured if they are given the power to do it they will do it.

Mr. EDEN. I should like to ask the gentleman one more question, and that is whether the railroad company has forfeited the right to this land?

Mr. HEWITT, of Alabama. No, sir; the railroad company has not forfeited the right. The railroad is completed and is running. It was completed and running two years before the time expired in which it was to be built.

Mr. EDEN. The grant never lapsed.

Mr. HEWITT, of Alabama. It did lapse, but was afterward renewed.

Mr. CONGER. I ask the gentleman from Alabama to let me offer a slight amendment to the bill. I wish to move in two places where the words occur, "the State of Alabama"—I think they occur in two places—to strike out the words "State of Alabama," and in their place to insert, "any other State;" and to strike out the name of the railroad company, and in place thereof to insert, "any railroad company."

Mr. HEWITT, of Alabama. I do not yield for that amendment. I demand the previous question.

The previous question was seconded and the main question ordered. The question resurround on the engrossment and third reading of the bill.

The House divided; and there were—ayes 47, noes 20; no quorum voting.

Mr. SAPP and Mr. LUTTRELL moved that there be a call of the House.

Mr. MAISH moved the House adjourn.

The House refused to adjourn.

The motion that there be a call of the House was agreed to.

The Clerk proceeded to call the roll, and the following members failed to answer to their names:

Messrs. Acklen, Aiken, Atkins, Bacon, Bagley, John H. Baker, Ballou, Banks, Banning, Beebe, Benedict, Bicknell, Bisbee, Blackburn, Bland, Bliss, Blount, Boone, Boyd, Brentano, Bridges, Bright, Brogden, Buckner, Butler, Cabell, Cain, John W. Caldwell, Calkins, Camp, Campbell, Cannon, Carlisle, Caswell, Chalmers, Chittenden, Clavin, Clark of Missouri, Clymer, Collins, Cook, Samuel S. Cox, Crapo, Cummings, Danford, Denison, Dibrell, Dickey, Douglas, Dwight, Eames, Eickhoff, Elam, Ellis, Ellsworth, L. Newton Evans, James L. Evans, John H. Evans, Ewing, Felton, Finley, Fort, Foster, Freeman, Frye, Gardfield, Garth, Gibson, Goode, Hale, Harmer, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Hart, Hartridge, Haynes, Hazleton, Hendee, Henderson, Henkle, Henry, Abram S. Hewitt, Hiseck, Hooker, House, Hubbell, Hunter, Hutton, James, James T. Jones, Jorgensen, Joyce, Kelley, Kenna, Ketcham, Killinger, Kimmel, Knapp, Lockwood, Loring, Mackey, Manning, Marsh, Martin, Mayham, McCook, McKenzie, McMahon, Metcalf, Money, Monroe, Morgan, Morse, Muldrow, Muller, O'Neill, Overton, Peattie, Phelps, Pollard, Potter, Powers, Pridemore, Quinn, Rainey, Rea, Reagan, Reed, Reilly, Americus V. Rice, William V. Rice, Roberts, Robertson, Milton S. Robinson, Ross, Scales, Schleicher, Sexton, Shallenberger, Shelley, Singleton, Siskinck, Slemmons, Small, Southern, Sparks, Springer, Starin, Stephens, Joseph C. Stone, Swann, Thompson, Thornburgh, Tipton, Martin I. Townsend, Tucker, Turner, Turney, Vance, Van Vorhes, Veeder, Waddell, Wait, Walker, Walsh, Harry White, Michael D. White, Whitthorne, Andrew Williams, Charles G. Williams, James Williams, Albert S. Willis, Benjamin A. Willis, Wood, Yeates, and Young—179.

Before the result of the call was announced the following proceedings took place:

Mr. FULLER. I move to dispense with further proceedings under the call.

The SPEAKER *pro tempore*. That motion is not now in order.

Mr. DAVIS, of North Carolina. I desire to state that my colleague, Mr. SCALES, is absent by leave of the House.

The SPEAKER *pro tempore*. That announcement is not now in order.

Mr. COX, of Ohio. I move that the House do now adjourn.

Mr. CONGER. I ask that the Chair announce the result of the call. Mr. BELL. I rise to a parliamentary inquiry. I desire to know whether it is in order to submit an excuse for an absent member who is detained on account of sickness.

The SPEAKER *pro tempore*. That is not now in order.

Mr. COX, of Ohio. I demand the regular order, which is my motion that the House do now adjourn.

The question being taken on the motion of Mr. Cox of Ohio, it was not agreed to.

Mr. HUMPHREY. I move that all further proceedings under the call be dispensed with.

Mr. SAYLER. I rise to a question of order. I submit that before anything else is done the Chair should announce the result of the call. There may be a quorum present. The result of the call should be announced before any motion is entertained.

Mr. HUMPHREY. Would not a motion to dispense with further proceedings take precedence?

Mr. FRANKLIN. I think we should enforce the presence of absent members or else abandon these night sessions altogether.

The SPEAKER *pro tempore*. The names of the members having been called over by the Clerk and the absentees noted, and the names of the absentees having again been called over, the roll-call shows 112 members present—not a quorum.

Mr. SAMPSON. I move that all further proceedings under the call be dispensed with.

The question being taken on Mr. SAMPSON's motion, there were—ayes 38, noes 52.

The SPEAKER *pro tempore*. The motion is not agreed to.

Mr. BELL. I call for the yeas and nays.

The SPEAKER *pro tempore*. In accordance with the rule the Door-keeper will now close the doors.

Mr. WILSON. Is a motion to adjourn now in order?

The SPEAKER *pro tempore*. It is.

Mr. WILSON. Then I move that the House do now adjourn. We cannot meet at eleven in the forenoon and sit here until midnight.

Mr. MILLS. I move that the Sergeant-at-Arms be directed to send for and take into custody absent members.

Mr. EDEN. Pending that I move that all further proceedings under the call be dispensed with.

Mr. PAGE. That motion has just been voted down. I submit that it is not in order.

The SPEAKER *pro tempore*. The Clerk will read Rules 36 and 37. The Clerk read as follows:

36. Upon the call of the House, the names of the members shall be called over by the Clerk, and the absentees noted, after which the names of the absentees shall again be called over, the doors shall then be shut, and those for whom no excuse or insufficient excuses are made may, by order of those present, if fifteen

in number, be taken into custody as they appear, or may be sent for and taken into custody, wherever to be found, by special messengers to be appointed for that purpose.—November 13, 1789, and December 14, 1795.

37. When a member shall be discharged from custody and admitted to his seat, the House shall determine whether such discharge shall be with or without paying fees; and in like manner, whether a delinquent member, taken into custody by a special messenger, shall or shall not be liable to defray the expenses of such special messenger.—November 13, 1794.

Mr. MILLS. Does the Chair entertain my motion?

The SPEAKER *pro tempore*. The Chair will first, in accordance with the rule, permit excuses to be offered for absent members.

Mr. DAVIS, of North Carolina. My colleague, Mr. SCALES, is absent by leave of the House. My colleague, Mr. BROGDEN, has been quite unwell for some days and is unable to be here to-night.

Mr. CONGER. I make the point of order that when members are absent by leave of the House no excuse is proper. They need none.

The SPEAKER *pro tempore*. The Clerk will read the list of those who were absent by leave of the House, and for them no excuse will be expected.

Mr. CONGER. Even without that being done their names could not be inserted in the warrant.

The Clerk read the list of members absent by leave of the House, as follows:

Messrs. BAGLEY, BALLOU, BRENTANO, BRIGHT, COX of New York, DICKEY, ELLIS, ELLSWORTH, EVANS of Indiana, HARRISON, HENRY, HOOKER, HUBBELL, JAMES, KENNA, MCCOOK, MORSE, MULLER, PHELPS, SCALES, SHALLENBERGER, SWANN, SEXTON, THORNBURGH, TOWNSEND of New York, VAN VORHES, WILLIAMS of New York, WHITTHORNE, and YEATES.

Mr. DURHAM. The gentleman from Tennessee, Mr. ATKINS, is in very feeble health, as the members of the House know, and was very much exhausted by his labors to-day. I move that he be excused.

Mr. DURHAM's motion was agreed to.

Mr. WILSON. My colleague, Mr. MARTIN, has just returned from West Virginia, having been for two nights traveling all night on the cars and is quite unwell to-day. I move that he be excused.

The motion was agreed to.

Mr. BELL. My colleague from Georgia, Mr. HARRIS, is absent on account of indisposition. I move that he be excused.

Mr. DUNNELL. Was not the gentleman here to-day?

Mr. BELL. He was; but he left the House on account of indisposition.

The motion was agreed to.

Mr. HARDENBERGH. My colleague from New Jersey, Mr. ROSS, was called home on Saturday by the severe illness of his child. I move that he be excused.

The motion was agreed to.

Mr. COVERT. I move that all further proceedings under the call be dispensed with.

The question being taken on Mr. COVERT's motion, it was not agreed to.

Mr. HUMPHREY. So many of the members are out of order to-night that I move that they all be excused.

The SPEAKER *pro tempore*. Gentlemen will take their seats and the House must be in order.

Mr. CONGER. I move that messengers be sent out for the purpose of bringing in the absent members.

The SPEAKER *pro tempore*. If any gentlemen desire to make further excuses they will be heard first.

Mr. WARD. I move that my colleague, Mr. O'NEILL, be excused. He is absent from the city. I received a letter from him to-day saying that he was absent in attendance at the funeral of a dear friend.

[Cries of "Name!" "Name!"] That is the reason why he is not here.

The question was taken on Mr. WARD's motion, and it was agreed to.

So Mr. O'NEILL was excused.

Mr. COX, of Ohio. I move that my colleague, Mr. MONROE, be excused. He is not well enough to be here this evening; I saw him at four o'clock.

The question was taken on the motion of Mr. COX, of Ohio, and it was not agreed to.

Mr. SAPP. I move that my colleague, Mr. CUMMINGS be excused. Mr. CUMMINGS has had a surgical operation performed upon him within a few days, and is actually sick and unable to be here.

[Laughter.]

The question was taken on Mr. SAPP's motion, and it was agreed to.

Mr. HUMPHREY. I move that the House do now adjourn.

Mr. FULLER. It is evident that we cannot do any business here this evening, and I move that the House adjourn.

Mr. CONGER. The gentleman has not the floor for that purpose. I held the floor on the motion which I have made to send for the absentees.

The SPEAKER *pro tempore*. The Chair recognized the gentleman from Indiana to make the motion.

Mr. HANNA. Pending that motion, I ask that the honorable gentleman from Georgia [Mr. STEPHENS] be excused.

The question was taken on Mr. HANNA's motion; and, there being no objection, it was agreed to.

Mr. PATTERSON, of Colorado. I desire to state to the House that there are a great many bills of importance in the hands of the mem-

bers of the Committee on Public Lands that require action at the hands of the House.

Mr. FRANKLIN. No debate is in order.

The SPEAKER *pro tempore*. But the gentleman from Colorado asks to make a statement.

Mr. PATTERSON, of Colorado. I understand that if further proceedings under the call are dispensed with—

Mr. FRANKLIN. I object to any debate.

The SPEAKER *pro tempore*. Then the gentleman cannot proceed.

Mr. STONE, of Michigan. I desire to say that my colleague, Mr. ELLSWORTH, is sick at his home in Michigan; and I move that he be excused.

The motion was agreed to; and Mr. ELLSWORTH was excused.

Mr. WARD. I move to excuse my colleague, Mr. EVANS. He is absent from the city attending the courts.

The question was taken on Mr. WARD's motion; and it was agreed to.

Mr. CONGER. If there are any further excuses I will yield for them.

Mr. HUMPHREY. What has become of my motion to adjourn? I insist upon it.

The question was taken on Mr. HUMPHREY's motion; and the House refused to adjourn.

Mr. CONGER. I claim that I hold the floor on a motion I have made to send messengers for absentees. I will yield merely for excuses, but for no other motion.

The SPEAKER *pro tempore*. It is thought that under the rule excuses are first in order.

Mr. CONGER. I say that I yield for excuses.

Mr. ALDRICH. I move that my colleague, Mr. TIPTON, be excused. He was on the cars all night, returning to the city, and he is not able to be here this evening.

The motion was agreed to; and Mr. TIPTON was excused.

Mr. SAYLER. I move that my colleague, Mr. RICE, be excused, on account of the sickness of a child.

The motion was agreed to; and Mr. RICE, of Ohio, was excused.

Mr. STONE, of Iowa. I ask to be excused from further attendance to-night. [Loud cries of "Object!" and "No!" "No!"]

Mr. RIDDLE. I move that my colleague, Mr. DIBRELL, who is indisposed and unable to be in attendance upon the House this evening, be excused.

The question was taken, and the motion was not agreed to.

Mr. CONGER. I now ask that my motion be put.

Mr. DAVIS, of North Carolina. The gentleman will allow me to make an excuse before he presses his motion. My colleague, Mr. BROGDEN, has been confined to his house for three weeks, and to-day was the first day upon which he has been out. I move that he be excused.

The question was taken, and the motion was not agreed to.

Mr. FRANKLIN. I now demand the regular order.

Mr. EDEN. I rise to a privileged motion. I move that the House do now adjourn, and upon that motion I call for the yeas and nays.

Mr. FRANKLIN. I submit that no business has intervened since that motion was last submitted to the House.

Mr. EDEN. Why, certainly; the House has voted upon motions to excuse members.

Mr. CONGER. I ask now that the motion which I made and upon which I am holding the floor be put. I did not yield to the gentleman from Illinois for the motion to adjourn.

The SPEAKER *pro tempore*. It is a privileged motion.

Mr. CONGER. Yes, but he had not the floor to make it.

Mr. EDEN. I demand the yeas and nays upon the motion to adjourn.

Mr. MILLS. I ask unanimous consent that General HARRY WHITE be excused, and I hope that nobody will object. [Cries of "Object."]

Mr. EDEN. I insist on the motion to adjourn.

Mr. COVERT. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. COVERT. Can the yeas and nays be ordered and taken in the absence of a quorum?

The SPEAKER *pro tempore*. It does not require a quorum to determine a motion to adjourn, and one-fifth of the members present can direct that the yeas and nays shall be taken.

The question was taken upon ordering the yeas and nays; and there were 17 in the affirmative, not one-fifth of the last vote.

Before the result of this vote was announced,

Mr. EDEN called for tellers on ordering the yeas and nays.

Tellers were not ordered, there being but 16 in the affirmative, not one-fifth of a quorum.

So the yeas and nays were not ordered; and the motion to adjourn was not agreed to.

Mr. CONGER. I now insist upon my motion that the Sergeant-at-Arms be directed to go for the absentees who have not been excused.

Mr. EDEN. I call for the yeas and nays on that motion.

The SPEAKER *pro tempore*. According to the rule, fifteen members can direct the Sergeant-at-Arms be sent for the absentees.

Mr. EDEN. If only fifteen members are present, but if there are more it requires a majority of those present to make such an order.

Mr. SAMPSON. Is it the decision of the Chair that where a hun-

dred members are present fifteen of those members have a right to send for the absentees?

The SPEAKER *pro tempore*. The Chair was in error; it requires a majority of those present if there be more than fifteen.

The question was taken upon the motion of Mr. CONGER; and upon a division there were—yeas 59, noes 36.

Before the result of the vote was announced,

Mr. EDEN called for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division there were—yeas 20, noes 73; more than one-fifth in the affirmative.

Before the result of this vote was announced,

Mr. SAYLER called for tellers upon ordering the yeas and nays.

Mr. CONGER. Have not the yeas and nays been ordered?

The SPEAKER *pro tempore*. According to the count of the Chair the yeas and nays have been ordered, more than one-fifth voting in the affirmative; but the gentleman from Ohio [Mr. SAYLER] called for tellers upon ordering the yeas and nays, thus disputing the count of the Chair.

Mr. SAYLER. I beg the Chair's pardon; I did not dispute his count.

Mr. CONGER. I think it was impertinent to the Chair to dispute his count. [Laughter.]

The SPEAKER *pro tempore*. It was equivalent to disputing the count of the Chair; but the Chair will excuse the gentleman on account of his short service in the House. [Laughter.]

Tellers were ordered; and Mr. SAYLER and Mr. CONGER were appointed.

The House again divided; and the tellers reported that there were—yeas 21, noes 87.

So (one-fifth not voting in the affirmative) the yeas and nays were not ordered.

The motion of Mr. CONGER was accordingly agreed to.

The SPEAKER *pro tempore*. A list of those absent and not excused will be prepared for the use of the Sergeant-at-Arms.

Mr. RANDOLPH. I ask that Rule 65 be read.

The Clerk read the rule, as follows:

While the Speaker is putting any question, or addressing the House, none shall walk out of or across the House; nor in such case, or when a member is speaking, shall entertain private discourse; nor while a member is speaking shall pass between him and the Chair. Every member shall remain uncovered during the session of the House. No member or other person shall visit or remain by the Clerk's table while the yeas and noes are calling or ballots are counting. Smoking is prohibited within the bar of the House or gallery.

Mr. RANDOLPH. It is the latter part of the rule to which I wish to call the attention of the Chair. If I am to be compelled to remain in the Hall to-night, I want that portion of the rule enforced.

Mr. CLARK, of Iowa. I move that all further proceedings under the call be dispensed with. I desire to state that I make that motion for the purpose of moving afterward to have a recess until ten o'clock to-morrow morning, which will give us an hour for the transaction of business before the daily hour of meeting.

The SPEAKER *pro tempore*. Less than a quorum cannot take a recess.

Mr. CLARK, of Iowa. It is in order, at all events, to move that further proceedings under the call be dispensed with.

The SPEAKER *pro tempore*. That motion is in order.

The motion was not agreed to.

Mr. MILLS. I move to reconsider the vote by which the House refused to excuse General HARRY WHITE, of Pennsylvania. [Laughter.]

Mr. WRIGHT. I move to lay that motion on the table.

The SPEAKER *pro tempore*. No motion for excuse or in regard to excuses is now in order.

Mr. KEIFER. Is it too late to make a motion to excuse a gentleman who is absent?

The SPEAKER *pro tempore*. It is now too late.

Mr. KEIFER. I desired to make a motion to excuse my colleague, [Mr. FINLEY.] [Laughter.]

The SPEAKER *pro tempore*. It is now too late. The House is engaged in executing the order adopted on the motion of the gentleman from Michigan [Mr. CONGER] that absent members not excused be sent for.

Mr. EDEN. While the officer is executing the order of the House, I ask unanimous consent that the gentleman from Pennsylvania, [Mr. WRIGHT,] who is a member of the Committee on Public Lands, be allowed to address the House.

Mr. CONGER. What time does he ask?

Mr. WRIGHT. Only an hour. [Laughter.]

Mr. CONGER. I object to that length of time; I will not object to five minutes.

Mr. FRANKLIN. Say twenty minutes.

Mr. BURCHARD. I object to longer than five minutes.

Mr. WRIGHT. I want the gentleman from Michigan [Mr. CONGER] to withdraw his objection.

Mr. BURCHARD. We must insist upon the five-minute rule.

Mr. CONGER. I will withdraw my objection if the time be limited to twenty minutes and the gentleman addresses the House from the Clerk's desk.

Mr. WRIGHT. I have my speech all primed and right; let me deliver my speech. [Laughter.]

The SPEAKER *pro tempore*. The motion is made that the gentleman from Pennsylvania [Mr. WRIGHT] be allowed to address the House from the Clerk's desk.

Mr. BURCHARD. I object to more than ten minutes. If we like his speech we can extend his time. [Laughter.]

Mr. MILLS. If the gentleman is going to make any remarks upon the Kiskiminetas I think he should wait until his colleague, General WHITE, is here. [Laughter.]

Mr. CONGER. It must be a speech; not a written essay.

The SPEAKER *pro tempore*. Those in favor of the motion that the gentleman from Pennsylvania [Mr. WRIGHT] be allowed to address the House for twenty minutes will say "ay."

Mr. BURCHARD. I object to more than ten minutes.

Mr. HUMPHREY. And I object to his reading any speech.

Mr. BURCHARD. No gentleman has a right by unanimous consent to address the House at this time. Unanimous consent has not been given to interrupt the regular proceedings.

Mr. WRIGHT. You do not hear such a speech every day as I have here. [Laughter.]

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. BURCHARD] is correct in his point of order.

Mr. BURCHARD. We are here to-night to attend to legislation; the Committee on Public Lands have a right to make reports for the consideration of the House.

The SPEAKER *pro tempore*. The point of order is well taken.

Mr. WRIGHT. This speech is on public lands.

Mr. BURCHARD. If we are to wait until a quorum is obtained for the purpose of proceeding with legislation, I have no objection. But I think we have already done enough to-night. The names of gentlemen who are absent will go the country, and that will be a sufficient punishment. I do not think it is necessary for us to remain here till midnight.

The SPEAKER *pro tempore*. Debate is not in order. The Chair will again put the question, is there objection to the motion that the gentleman from Pennsylvania be allowed twenty minutes to address the House?

Mr. PAGE. Let him print his speech.

Mr. WRIGHT. This evening was assigned for the purpose of receiving reports from the Committee on Public Lands. It is not treating the committee with proper respect to refuse to receive such reports, as this session was ordered at their particular request.

Mr. PATTERSON, of Colorado. I desire to state that the speech of the gentleman from Pennsylvania [Mr. WRIGHT] is upon a bill from the Committee on Public Lands.

Mr. WRIGHT. Upon business which the House has met here to consider.

Mr. PATTERSON, of Colorado. If the gentleman is not permitted to go on now, he must deliver his speech at some future time when this committee is called. Why should not the House let him proceed to-night, so far as it may see fit to listen to him? It will save time, because his speech relates to a bill from the Committee on Public Lands.

Mr. BURCHARD. I object until gentlemen we have sent for are here to have the pleasure of hearing his speech.

Mr. FRANKLIN. The speech is printed, and all who desire can get a copy and read it.

Mr. WARD. I move that the House now adjourn.

The question being taken on the motion of Mr. WARD, there were—ayes 48, noes 54.

Mr. WARD called for tellers.

Mr. KNOTT. I call for the yeas and nays.

Mr. KEIFER. I rise to make an inquiry. Would it be in order to move that the doors be opened and that gentlemen now sitting in the gallery be admitted?

The SPEAKER. It would not be in order.

The question was taken; and there were—yeas 51, nays 58, not voting 182; as follows:

YEAS—51.

Bayne,	Davidson,	Jones, Frank	Price,
Bell,	Davis, Horace	Jones, John S.	Pugh,
Brewer,	Davis, Joseph J.	Knott,	Randolph,
Bundy,	Dean,	Landers,	Sampson,
Burchard,	Deering,	Lapham,	Smith, William E.
Burdick,	Dunnell,	Lathrop,	Steele,
Clarke of Kentucky,	Durham,	Ligon,	Stone, John W.
Cole,	Eden,	Mayham,	Stone, Joseph C.
Covert,	Forney,	Mitchell,	Townshend, R. W.
Cox, Jacob D.	Haskell,	Morrison,	Ward,
Crittenden,	Hewitt, G. W.	Neal,	Williams, Jere N.
Culbertson,	Humphrey,	Norcross,	Wilson.
Cutler,	Hungerford,	Oliver,	

NAYS—58.

Aldrich,	Cobb,	Gunter,	Luttrell,
Blair,	Conger,	Hamilton,	Lynde,
Bouck,	Cravens,	Hanna,	Malsh,
Bragg,	Errett,	Hardenbergh,	McGowan,
Briggs,	Franklin,	Hartzell,	McKinley,
Browne,	Fuller,	Herbert,	Mills,
Caldwell, W. P.	Gardner,	Ittner,	Patterson, G. W.
Candler,	Gause,	Keifer,	Patterson, T. M.
Clark, Alvah A.	Giddings,	Keightley,	Phillips,
Clark, Rush	Glover,	Lindsey,	Pound,

Riddle,
Robbins,
Robinson, G. D.
Sapp,
Saylor,

Smith, A. Herr
Stenger,
Stewart,
Strait,
Throckmorton,

Townsend, Amos
Warner,
Watson,
Welch,
Wigginton,

Williams, A. S.
Willits,
Wren.

NOT VOTING—182.

Acklen,
Aiken,
Atkins,
Bacon,
Bagley,
Baker, John H.
Baker, W. H.
Ballou,
Banks,
Banning,
Beche,
Benedict,
Bicknell,
Bisbee,
Blackburn,
Bliss,
Blount,
Boone,
Boyd,
Brentano,
Bridges,
Bright,
Brooklyn,
Buckner,
Butler,
Cabell,
Cain,
Caldwell, John W.
Calkins,
Camp,
Campbell,
Cannon,
Carlisle,
Caswell,
Chalmers,
Chittenden,
Clafin,
Clark of Missouri,
Clymer,
Collins,
Cook,
Cox, Samuel S.
Crapo,
Cummings,
Danford,

James,
Jones, J. T.
Jorgensen,
Joyce,
Kelley,
Keena,
Ketcham,
Killingier,
Kimmel,
Knapp,
Lockwood,
Loring,
Evans, James L.
Mackey,
Manning,
Marsh,
Martin,
McCook,
McKenzie,
McMahon,
Metcalfe,
Money,
Monroe,
Morgan,
Goode,
Hale,
Harmer,
Harris, B. W.
Harris, Henry R.
Harris, John T.
Harrison,
Hart,
Hartbridge,
Hatcher,
Hayes,
Hazleton,
Hendee,
Henderson,
Henkle,
Henry,
Hewitt, Abram S.
Hiscock,
Hooker,
Homes,
Hubbell,
Hunter,
Huntton,

Ross,
Ryan,
Scales,
Schleicher,
Sexton,
Shallenberger,
Shelley,
Singleton,
Sinnickson,
Slemmons,
Smalls,
Southard,
Sparkes,
Springer,
Staria,
Stephens,
Swann,
Thompson,
Thornburgh,
Tipton,
Townsend, M. I.
Tucker,
Turner,
Turney,
Vance,
Van Vorhes,
Veeder,
Waddell,
Wait,
Walker,
Walsh,
White, Harry
White, Michael D.
Whithorne,
Williams, Andrew
Williams, C. G.
Williams, James
Williams, Richard
Willis, Albert S.
Willis, Benj. A.
Wood,
Wright,
Yeates,
Young.

So the motion to adjourn was not agreed to.

During the roll-call the following announcements were made:

Mr. WRIGHT. I am paired with the gentleman from New York [Mr. HEWITT] on all political questions. [Laughter.] If he were here, he would vote "ay" and I should vote "no."

Mr. PAGE. I am paired with the gentleman from Kentucky, Mr. BOONE.

Mr. STEELE. I beg to announce that my colleague, Mr. SCALES, is absent by leave of the House; my colleague, Mr. BROGDEN, is absent on account of sickness; and my colleague, Mr. VANCE, looks wistfully from the gallery. [Laughter.]

Mr. HAMILTON. The gentleman from Kentucky, Mr. TURNER, is paired with the gentleman from Georgia, Mr. BLOUNT.

Mr. BELL. My colleague, Mr. HARRIS, is detained at his room on account of indisposition.

Mr. RYAN. I am paired with the gentleman from New York, Mr. COX.

Mr. BAKER, of New York. I am paired on all political questions with my colleague, Mr. QUINN.

Mr. CONGER. Mr. Speaker, where gentlemen are paired with gentlemen who are in the galleries I suggest that the gentlemen in the galleries be brought in so as to break the pairs.

The SPEAKER *pro tempore*. The Sergeant-at-Arms will do so soon. [Laughter.]

Mr. ALDRICH. My colleagues, Mr. HARRISON and Mr. BRENTANO, are paired.

Mr. KEIFER. My colleagues, Mr. VAN VORHES and Mr. DICKEY, are both absent by leave of the House.

Mr. COLE. I move to suspend the rules and allow the gentlemen in the galleries to vote. [Laughter.]

Mr. ITTNER. That is out of order during roll-call.

The SPEAKER *pro tempore*. It is not in order.

Mr. KEIFER. I move the reading of the names be dispensed with.

Mr. FRANKLIN. I object.

Mr. ALDRICH. Is it not in order for gentlemen in the galleries to come down and vote by unanimous consent?

The SPEAKER *pro tempore*. It is not.

Mr. FRANKLIN. I withdraw my objection to dispensing with the reading of the names.

The vote was then announced as above recorded.

Mr. MILLS. Is it in order to move that the Sergeant-at-Arms be directed to take into custody the absentees who are now in the galleries?

The SPEAKER *pro tempore*. The Sergeant-at-Arms is now in the discharge of that duty.

The deputy sergeant-at-arms appeared at the bar of the House having in custody, under the order of the House, Mr. THORNBURGH, Mr. VANCE, Mr. HEWITT of New York, Mr. BISBEE, and Mr. THOMPSON.

The SPEAKER *pro tempore*. Mr. THORNBURGH, you have been absent from the sessions of the House without its leave. What excuse have you to offer?

Mr. THORNBURGH. Mr. Speaker, I was unaware of a meeting of the House to-night, because I did not happen to be in at the time the order was made. I learned by telegraph a call of the House had been made about an hour ago, and like Japhet in search of his father I have been searching for some one to arrest me ever since. [Laughter.] A few moments ago I succeeded in finding a clerk who was willing to do that service, and I have been brought before the House. That is my excuse.

Mr. EDEN. I move the gentleman from Tennessee be excused. The motion was agreed to.

Mr. WRIGHT. Do you not put the costs on him. [Laughter.]

The SPEAKER *pro tempore*. The gentleman has been excused.

Mr. VANCE, you have been absent from the sessions of the House without its leave. What excuse have you to offer?

Mr. VANCE. Mr. Speaker, I am one of those who at the beginning of the session drew a seat just a little this side of the North Pole, [laughter,] and I cannot always hear what is going on at the head of navigation. Therefore I did not exactly understand the character of this meeting to-night. I thought it was to receive reports merely.

Mr. STEELE. And you are now making one. [Laughter.]

Mr. VANCE. But when I was informed the House was in session I came here. If I am permitted I will tell an anecdote. [Cries of "Go on!"]

The SPEAKER *pro tempore*. It is not in order for the gentleman to tell an anecdote.

Mr. STEELE. I think the gentleman can frame his excuse exactly as he wishes.

Mr. SAYLER. He has the right to make his excuse in his own way.

Mr. STEELE. And an anecdote is always the very best illustration.

The SPEAKER *pro tempore*. It is not in order.

Mr. FRANKLIN. He can make such excuse as he pleases, and frame it in such words as he chooses.

Mr. VANCE. I will withdraw the application, as there seems to be objection. I am here to discharge my duty. I would have been here before if I had understood the character of the meeting to-night better.

Mr. EDEN. I move the gentleman from North Carolina be excused. The motion was agreed to.

Mr. PATTERSON, of New York. I move all the gentlemen at the bar of the House under arrest be excused.

Mr. CONGER. No; I wish to hear each individual excuse.

The SPEAKER *pro tempore*. Mr. HEWITT, of New York, you have been absent from the sessions of the House without its leave. What excuse have you to offer?

Mr. HEWITT, of New York. I have no other excuse to offer, Mr. Speaker, except that, having general permission as a member of the Committee on Appropriations to be absent during the sittings of the House, and finding it important, in order that I might perform my duty during the coming week continuously, to go to New York and return, I went on Saturday to New York; arrived on Saturday night; left there to-day, and seeing the light in the dome and knowing therefore from the House was in session I came directly here to perform such duty as might be assigned to me. I humbly crave to be pardoned by the House and ask to be assigned to whatever duty may be deemed proper.

Mr. ITTNER. I move the gentleman be excused.

Mr. CONGER. The permission to the Committee on Appropriations to sit during the sessions of the House does not include permission to visit New York.

The motion was agreed to; and Mr. HEWITT, of New York, was excused.

The SPEAKER *pro tempore*. Mr. BISBEE you have been absent from the sittings of the House without its leave. What excuse have you to offer?

Mr. BISBEE. I have no excuse to offer except the example of older members who I supposed would not lead me into difficulty. But I may state in addition that I had arranged with my colleague [Mr. DAVIDSON] to telegraph me in case there was a call of the House ordered. I received his dispatch and came immediately, but arrived a few minutes too late.

Mr. McKINLEY. I move that the gentleman be excused.

The motion was agreed to.

The SPEAKER *pro tempore*. Mr. THOMPSON you have been absent from the sittings of the House without its leave. What excuse have you to offer?

Mr. THOMPSON. I was present when the session of this evening was fixed and understood it was for the sole purpose of receiving reports from the Committee on Public Lands. Not being interested directly or indirectly to any great extent in that, and having a previous engagement, I did not come until I heard I was desired, and then with my friends I have appeared here.

Mr. EDEN. I move that the gentleman be excused.

Mr. WRIGHT. I wish to ask the gentleman a question.

The SPEAKER *pro tempore*. That is not in order, the gentleman from Pennsylvania [Mr. THOMPSON] being under arrest.

The motion of Mr. EDEN was agreed to; and Mr. THOMPSON was excused.

Mr. TOWNSEND, of Ohio. I move that the House adjourn.

The question being taken; there were—ayes 60, noes 62.

Mr. KNOTT. I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were—ayes 24, noes 75.

So (the affirmative being more than one-fifth of the whole vote) the yeas and nays were ordered.

The question was taken; and there were—yeas 52, nays 60, not voting 173; as follows:

YEAS—52.

Bayne,	Davis, Horace	Hungerford,	Price,
Bell,	Davis, Joseph J.	Jones, Frank	Pugh,
Bundy,	Dean,	Jones, John S.	Sampson,
Burchard,	Deering,	Knott,	Smith, William E.
Burdick,	Durham,	Landers,	Steele,
Clarke of Kentucky,	Eden,	Latham,	Stenger,
Cole,	Errett,	Mayham,	Stone, John W.
Covert,	Forney,	McKinley,	Townsend, Amos
Cox, Jacob D.	Glover,	Mitchell,	Townsend, R. W.
Crittenden,	Hartzell,	Morrison,	Ward,
Culberson,	Haskell,	Neal,	Williams, Jere N.
Cutler,	Hewitt, Abram S.	Patterson, G. W.	Williams, Richard
Davidson,	Hewitt, G. W.		Wilson.

NAYS—60.

Aldrich,	Franklin,	Lynde,	Stewart,
Baker, William H.	Fuller,	Maish,	Stone, Joseph C.
Bisbee,	Gardner,	McGowan,	Strait,
Blair,	Gause,	Mills,	Thompson,
Bonck,	Giddings,	Norcross,	Thornburgh,
Bragg,	Gunter,	Oliver,	Throckmorton,
Brewer,	Hamilton,	Page,	Vance,
Briggs,	Hanna,	Patterson, T. M.	Warner,
Browne,	Hardenbergh,	Phillips,	Watson,
Caldwell, W. P.	Herbert,	Pound,	Welch,
Candler,	Humphrey,	Randolph,	Wigington,
Clark, Alvah A.	Itner,	Riddle,	Williams, A. S.
Clark, Rush	Keifer,	Robbins,	Willits,
Cobb,	Keightley,	Robinson, G. D.	Wren,
Conger,	Ligon,	Sapp,	Wright.
Cravens,	Lindsey,	Saylor,	
Dunnell,	Luttrell,	Smith, A. Herr	

NOT VOTING—173.

Acklen,	Denison,	Hunton,	Robertson,
Aiken,	Dibrell,	Jones, James T.	Robinson, M. S.
Atkins,	Dickey,	Jorgensen,	Ross,
Bacon,	Douglas,	Joyce,	Ryan,
Bagley,	Dwight,	Kelley,	Scales,
Baker, John H.	Eames,	Kenna,	Schleicher,
Ballou,	Eickhoff,	Ketcham,	Sexton,
Banks,	Ellis,	Killingier,	Shallenberger,
Banning,	Ellsworth,	Kimmel,	Shelley,
Bebee,	Evans, I. Newton	Knapp,	Singleton,
Benedict,	Evans, James L.	Lockwood,	Sinnickson,
Bucknell,	Evins, John H.	Loring,	Stemons,
Blackburn,	Ewing,	Mackey,	Smalls,
Bland,	Felton,	Manning,	Southard,
Bliss,	Finley,	Marsh,	Sparks,
Blount,	Fort,	McCook,	Springer,
Boone,	Foster,	McKenzie,	Starin,
Boyd,	Freeman,	McMahon,	Stephens,
Brentano,	Frye,	Metcalfe,	Swann,
Bridges,	Garfield,	Money,	Tipton,
Bright,	Garth,	Monroe,	Townsend, M. I.
Brogden,	Gibson,	Morgan,	Tucker,
Buckner,	Goode,	Hale,	Turner,
Butler,	Hamer,	Harris, Benj. W.	Turney,
Cabell,	Harris, Henry R.	Harris, John T.	Van Vorhes,
Cain,	Hart,	Harrison,	Veeder,
Caldwell, John W.	Hartbridge,	Hatch,	Waddell,
Calkins,	Hatcher,	Hayes,	Wait,
Camp,	Hazen,	Henderson,	Walker,
Campbell,	Hendee,	Henkle,	Walsh,
Cannon,	Henry,	Hiscock,	White, Harry
Carlisle,	Hooker,	House,	White, Michael D.
Caswell,	Hubbell,	Hunter,	Whithorne,
Chalmers,			Williams, Andrew
Chittenden,			Williams, C. G.
Claffin,			Williams, James
Clark of Missouri,			Willis, Albert S.
Clymer,			Willis, Benj. A.
Collins,			Wood,
Cook,			Yeates,
Cox, Samuel S.			Young.
Crapo,			
Cummings,			
Danford,			

So the House refused to adjourn.

During the roll-call the following announcements were made:

Mr. WILSON. I desire to announce that my colleague from West Virginia, Mr. KENNA, is paired with Mr. EVANS, of Pennsylvania.

Mr. FULLER. My colleague from Indiana, Mr. SEXTON, is absent by leave of the House.

Mr. WARD. My colleague from Pennsylvania, Mr. O'NEILL, is paired with the gentleman from Texas, Mr. THROCKMORTON.

Mr. RYAN. I am paired with the gentleman from New York, Mr. COX.

The result of the vote was then announced as above recorded.

Mr. WILSON. On account of the advanced age and infirm health of Mr. STEPHENS, of Georgia, I ask that he be excused.

The SPEAKER *pro tempore*. He has already been excused by the unanimous vote of the House.

Mr. BRAGG. I ask unanimous consent that the gentleman from Pennsylvania, from the Luzerne district, while the Sergeant-at-Arms is executing the order of the House, be permitted to address the

House for twenty minutes on the duties of the American Congress to the unemployed labor of the country.

Mr. BURCHARD. I object to anything but the regular order, the bringing in of the absentees.

Mr. WRIGHT. I move that while the Sergeant-at-Arms is executing his duty outside of the House we have the maps of the Kiskiminetas and the Conemaugh placed upon the Clerk's table for examination.

The SPEAKER *pro tempore*. That is not in order.

Mr. WRIGHT. It ought to be in order.

Mr. THORNBURGH. I move that when the House adjourns it be to meet on Wednesday next; and on that motion I call for the yeas and nays.

The SPEAKER *pro tempore*. Less than a quorum of the House cannot adjourn over.

Mr. THORNBURGH. Does the Chair hold that my motion is not in order?

The SPEAKER *pro tempore*. Less than a quorum of the House can only adjourn from day to day.

Mr. THORNBURGH. Is it in order to appeal from that decision?

The SPEAKER *pro tempore*. It is not in order; the gentleman is too late.

Mr. CLARK, of Iowa. I move that all further proceeding under the call be dispensed with.

The question was taken and the motion was not agreed to.

Mr. PAGE. Is it in order to move to go into Committee of the Whole on the state of the Union upon the legislative appropriation bill?

The SPEAKER *pro tempore*. It is not in order; less than a quorum can do no business.

Mr. WRIGHT. I understand that the Sergeant-at-Arms has some half dozen persons at the door and I move that they be brought in.

Mr. BURCHARD. That motion is not necessary; it is the duty of the Sergeant-at-Arms to bring them in.

Mr. WRIGHT. I was told that the distinguished gentleman from Massachusetts [Mr. BUTLER] was out there making terms with the officers to avoid being brought in. [Laughter.]

The SPEAKER *pro tempore*. The Chair thinks that the gentleman from Pennsylvania must be misinformed.

Mr. BURCHARD. It is not to be presumed that the Sergeant-at-Arms would neglect his duties.

The SPEAKER *pro tempore*. The presumption is that he is discharging his duty.

Mr. BURCHARD. I think that we have punished ourselves sufficiently for the absence of others, and I move that the House do now adjourn.

The question was put; and on division there were—ayes 45, noes 66.

Mr. EDEN. I call for tellers.

Tellers were ordered; and Mr. BURCHARD and Mr. PAGE were appointed.

The House again divided; and the tellers reported—ayes 55, noes 56.

Mr. EDEN. I call for the yeas and nays.

The yeas and nays were ordered, 28 members voting therefor.

Mr. CLARK, of Iowa. I move that all further proceedings under the call be dispensed with.

The SPEAKER *pro tempore*. That motion is not in order pending the motion to adjourn.

The question was taken; and there were—yeas 41, nays 76, not voting 174, as follows:

YEAS—41.

Bayne,	Cutler,	Haskell,	Morrison,
Bell,	Davis, Horace	Hewitt, Abram S.	Neal,
Blair,	Davis, Joseph J.	Jones, Frank	Patterson, G. W.
Bundy,	Dean,	Jones, John S.	Price,
Burchard,	Deering,	Knott,	Sampson,
Burdick,	Durham,	Landers,	Smith, William E.
Clarke of Kentucky,	Eden,	Lapham,	Ward,
Clark, Rush	Errett,	Lathrop,	Wilson.
Cox, Jacob D.	Forney,	Ligon,	
Crittenden,	Gunter,	Mayham,	
Culberson,	Hartzell,	McKinley,	

NAYS—76.

Aldrich,	Fuller,	McGowan,	Stone, John W.
Baker, William H.	Gardner,	Mills,	Stone, Joseph C.
Bisbee,	Gause,	Mitchell,	Strait,
Bouck,	Giddings,	Norcross,	Thompson,
Bragg,	Glover,	Oliver,	Thornburgh,
Brewer,	Hamilton,	Page,	Throckmorton,
Briggs,	Hanna,	Patterson, T. M.	Townsend, Amos,
Browne,	Hardenbergh,	Phillips,	Townsend, R. W.
Caldwell, W. P.	Herbert,	Pugh,	Vance,
Candler,	Hewitt, G. W.	Randolph,	Warner,
Clark, Alvah A.	Humphrey,	Riddle,	Watson,
Cobb,	Hungerford,	Robbins,	Welch,
Cole,	Itner,	Robinson, G. D.	Wigginton,
Conger,	Keifer,	Sapp,	Williams, A. S.
Covert,	Keightley,	Saylor,	Williams, Jere N.
Cravens,	Lindsey,	Smith, A. Herr	Williams, Richard
Davidson,	Luttrell,	Steele,	Willits,
Dunnell,	Lynde,	Stenger,	Wren,
Franklin,	Maish,	Stewart,	Wright.

NOT VOTING—174.

Acklen,	Bagley,	Banning,	Blackburn,
Aiken,	Baker, John H.	Beebe,	Blair,
Atkins,	Ballou,	Benedict,	Bland,
Bacon,	Banks,	Bicknell,	Blount,

Boone,	Evins, John H.	Killinger,	Ryan,
Boyd,	Ewing,	Kimmel,	Seales,
Brentano,	Felton,	Knaapp,	Schleicher,
Bridges,	Finley,	Lockwood,	Sexton,
Bright,	Fort,	Loving,	Shallenberger,
Brogden,	Foster,	Mackey,	Shelley,
Buckner,	Freeman,	Manning,	Singleton,
Butler,	Frye,	Marsh,	Sinnickson,
Cabell,	Garfield,	Martin,	Siemons,
Cain,	Garth,	McCook,	Smalls,
Caldwell, John W.	Gibson,	McKenzie,	Southard,
Calkins,	Goode,	McMahon,	Sparks,
Camp,	Hale,	Metcalfe,	Springer,
Campbell,	Harmer,	Money,	Starin,
Cannon,	Harris, Benj. W.	Monroe,	Stephens,
Carlisle,	Harris, Henry R.	Morgan,	Swann,
Caswell,	Harris, John T.	Morse,	Tipton,
Chalmers,	Harrison,	Muldrow,	Townsend, M. I.
Chittenden,	Hart,	Muller,	Tucker,
Clafin,	Hartridge,	O'Neill,	Turner,
Clark of Missouri,	Hatcher,	Overton,	Turney,
Clymer,	Hayes,	Peddie,	Van Vorhes,
Collins,	Hazellon,	Phelps,	Veedor,
Cook,	Hendles,	Pollard,	Waddell,
Cox, Samuel S.	Henderson,	Potter,	Wait,
Crapo,	Henkle,	Pound,	Walker,
Cummings,	Henry,	Powers,	Walsh,
Danford,	Hiscock,	Pridmore,	White, Harry
Denison,	Hooker,	Quinn,	White, Michael D.
Dibrell,	House,	Ramey,	Whitthorne,
Dickey,	Hubbell,	Rea,	Williams, Andrew,
Douglas,	Hunter,	Reagan,	Williams, C. G.
Dwight,	Huntton,	Reed,	Williams, James
Eames,	James,	Reilly,	Willis, Albert S.
Eckhoff,	Jones, James T.	Rice, America V.	Willis, Benj. A.
Elam,	Jorgensen,	Rice, William W.	Wood,
Ellis,	Joyce,	Roberts,	Yeates,
Ellsworth,	Kelley,	Robertson,	Young.
Evans, I. Newton	Kenna,	Robinson, M. S.	
Evans, James L.	Ketcham,	Ross,	

So the motion to adjourn was not agreed to.

During the roll-call the following announcements were made:

Mr. WRIGHT. My colleague, Mr. CLYMER, is paired with my colleague, Mr. BRIDGES. If they were here, I do not know how they would vote. [Laughter.]

Mr. WILSON. I desire to announce again that my colleague, Mr. KENNA, in addition to being absent by leave of the House, is paired with Mr. EVANS, of Pennsylvania.

The result of the vote was then announced as above stated.

Mr. CONGER. I now demand order until the prisoners are brought in.

The deputy sergeant-at-arms again appeared at the bar of the House and announced that in accordance with the order of the House he had arrested and had now at the bar of the House Mr. BANNING of Ohio, Mr. BUTLER of Massachusetts, Mr. TURNEY of Pennsylvania, Mr. CANNON of Illinois, and Mr. CALDWELL of Kentucky.

Mr. WRIGHT. Where is HARRY WHITE? [Laughter.]

The SPEAKER *pro tempore*. Mr. BANNING, you have been absent from the session of the House this evening without its leave. What excuse have you to offer?

Mr. BANNING. I regret exceedingly that I was absent to-night; but I did not suppose there would be any legislation that would require my presence, and therefore I did not come.

Mr. EDEN. I move that the gentleman be discharged.

Mr. WRIGHT. I move to amend by adding "on payment of costs."

Mr. BANNING. You will lend me the money?

Mr. WRIGHT. Yes. [Laughter.]

The amendment was not agreed to.

The motion of Mr. EDEN was then agreed to.

The SPEAKER *pro tempore*. Mr. BUTLER, what excuse have you to offer for being absent from the session of the House this evening without its leave?

Mr. BUTLER. None but this, Mr. Speaker: that I am generally in so small a minority in this House that I did not think my being absent would make much difference. [Laughter.]

Mr. BANNING. I move that the gentleman be excused.

The motion was agreed to.

The SPEAKER *pro tempore*. Mr. CANNON, you have been absent from the session of the House this evening without its leave. What excuse have you to offer?

Mr. CANNON, of Illinois. Mr. Speaker, I really did not suppose there would be so many industrious, good-looking gentlemen here to-night as to make them desire a quorum. I had some work to do in my room and I proceeded to do it. I would have been in the Hall here some time ago, but I met a very stubborn man at the door who would not let me in. [Laughter.]

Mr. HARDENBERGH. I move that that "cannon" be discharged. [Laughter.]

The motion of Mr. HARDENBERGH was agreed to.

The SPEAKER *pro tempore*. Mr. CALDWELL, you have been absent from the session of the House this evening without its leave. What excuse have you to offer?

Mr. CALDWELL, of Kentucky. As my colleague from Kentucky [Mr. KNOTT] would say, frankness compels me to state that I have no excuse. I have uniformly been in my place during the sessions of this House; I have never until to-night missed a roll-call. If the House will excuse me now, I think this is the last time I will vote for a recess to enable any committee of this House to make a report.

Mr. EDEN. I move that the gentleman be excused.

Mr. WRIGHT. Is that motion debatable?

The SPEAKER *pro tempore*. It is not.

The motion of Mr. EDEN was agreed to.

Mr. WRIGHT. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. WRIGHT. I desire to make the inquiry in advance of whatever sentence may be imposed upon the next delinquent. I want to know why, when a motion is made to excuse a culprit, it cannot be debated by members of this House.

Mr. CONGER. There are some other gentlemen at the door waiting to come in; I hope business will proceed.

The SPEAKER *pro tempore*. Mr. TURNER, you have been absent from the session of the House this evening without its leave. What excuse have you to offer?

Mr. TURNER. Without designing any contempt of the House, I will say that having been reasonably regular in my attendance here, and having some business to transact at home, I left the city on Friday night. I returned to-night about half an hour before I met the officer of this House. As soon as I came here I noticed the light in the Dome of the Capitol, and I inquired what particular business was engaging the attention of the House to-night. I was told by a man, whom I supposed entirely posted, that the session to-night was merely for the purpose of receiving reports from the Committee on Public Lands. Being tired, I did not think it necessary to come; but I fell into the clutches of the Sergeant-at-Arms and was brought here.

Mr. CONGER. I think the gentleman is entirely too credulous.

Mr. WRIGHT. I move that the gentleman be excused.

Mr. BANNING. You do not propose to make him pay costs?

Mr. WRIGHT. Oh, no.

The motion of Mr. WRIGHT was agreed to.

The deputy sergeant-at-arms again appeared at the bar and reported that in accordance with the order of the House he had arrested and now had at the bar of the House Mr. HENDERSON, of Illinois.

The SPEAKER *pro tempore*. It is my duty to inquire of you, Mr. HENDERSON, what excuse you have to offer for being absent from the session of the House this evening without its leave?

Mr. HENDERSON. The only excuse I have to offer is that I was not present when this evening session was ordered, and did not understand the terms of the order. I understood it was simply for debate, and I have not been in the habit of attending any such sessions.

Mr. WILSON. I move that the gentleman be discharged.

The motion was agreed to.

Mr. BANNING. I move that the House now adjourn.

The motion was agreed to; and accordingly (at eleven o'clock and ten minutes p. m.) the House adjourned until to-morrow at eleven o'clock a. m.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ALDRICH: The petition of Charles J. Hardy and 45 others, bankers and business men of Chicago, Illinois, for the establishment of a branch mint at Chicago—to the Committee on Coinage, Weights, and Measures.

By Mr. BELL: The petition of Green S. Duke, to have refunded taxes illegally collected from him as a licensed distiller—to the Committee of Claims.

By Mr. BREWER: A paper relating to the pension claim of Joseph Burt—to the Committee on Revolutionary Pensions.

By Mr. BUCKNER: The petition of Nancy Fleanor, for a pension—to the Committee on Invalid Pensions.

By Mr. BUTLER: The separate petitions of Samuel M. Freeman and James Dolon, for the correction of their military record—to the Committee on Military Affairs.

Also, the petition of Joanna Judge, for the correction of the military record of her late husband, Peter Judge—to the same committee.

Also, the petition of 1,760 inmates of the central branch of the National Home for Disabled Volunteer Soldiers at Dayton, Ohio, for the reappointment of Hon. L. B. Gunckel as manager—to the same committee.

Also, the petition of Mrs. Louisa C. Lowe, for a pension—to the Committee on Invalid Pensions.

Also, the petition of William Craig, for compensation for losses sustained while transporting Government property—to the Committee of Claims.

Also, the petition of George W. Digett and Samuel Barlow, that greenbacks be received in payment of duties—to the Committee of Ways and Means.

Also, the petition of James Freeman and 23 others, that six hours be made a legal day's work—to the Committee on Education and Labor.

Also, the petition of William Wickersham, that letters-patent of the United States numbered 4785 and 4786 may be extended—to the Committee on Patents.

By Mr. CAMPBELL: The petition of citizens of Logan Township,

Blair County, Pennsylvania, for the extension of the credit of the Government to aid in the completion of the Texas Pacific Railroad—to the Committee on the Pacific Railroad.

By Mr. COX, of Ohio: The petition of citizens of Toledo, Ohio, and vicinity, against the passage of the bill (H. R. No. 3689) on the subject of lake and river fisheries—to the Committee on Commerce.

By Mr. CUMMINGS: The petition of pensioners of Iowa, against abolishing pension agencies—to the Committee on Invalid Pensions.

By Mr. CULBERSON: The memorial of the Grayson County (Texas) Council of the Patrons of Husbandry, for the protection of the property of citizens of Texas from depredations of Indians upon reserves—to the Committee on Indian Affairs.

By Mr. FELTON: Papers relating to the war claim of James M. Lee—to the Committee on War Claims.

By Mr. GIDDINGS: Ten petitions from citizens of Panola, Upshur, Smith, Polk, Trinity, Ellis, Hardin, Falls, Newton, and Angelina Counties, Texas, for the division of said State into two judicial districts—to the Committee on the Judiciary.

By Mr. JOYCE: The petition of Helen M. Stickney, for a pension—to the Committee on Invalid Pensions.

By Mr. KIMMEL: The petition of Anton Höflich, for a pension—to the same committee.

By Mr. LOCKWOOD: Papers relating to the claim of Gustavus A. Scroggs, late provost-marshal of the thirteenth district of New York—to the Committee of Claims.

By Mr. MANNING: Papers relating to the war claims of Mrs. Sarah West and Patrick McDermott—to the Committee on War Claims.

By Mr. MONROE: A paper relating to the establishment of a post-route from Medina, by Abbeyville, to Liverpool, Ohio—to the Committee on the Post-Office and Post-Roads.

By Mr. PATTERSON, of Colorado: Papers relating to the claim of John R. Holland—to the Committee of Claims.

By Mr. PHILLIPS: The petition of John J. Tallman, for an increase of the compensation of mail messengers and other postal officials—to the Committee on the Post-Office and Post-Roads.

By Mr. PRICE: The petition of Barnard McNally, for compensation for services rendered the Government in 1848 and 1849—to the Committee of Claims.

By Mr. RICE, of Massachusetts: The petitions of Philip L. Moen and others of the Board of Trade of Worcester, Massachusetts, against an income tax—to the Committee of Ways and Means.

By Mr. ROBERTSON, of Louisiana: The petitions of the publishers of the Amite City (Louisiana) Independent, and of the Washington (Louisiana) Enterprise, for the abolition of the duty on type—to the same committee.

By Mr. TOWNSHEND, of Illinois: The petition of 76 citizens of Coles County, Illinois, for the passage of the bill to repeal the law authorizing the removal of cases from State to Federal courts—to the Committee on the Judiciary.

By Mr. WATSON: The petition of the passed assistant engineers of the United States Navy for a change in the method of grading their pay—to the Committee on Naval Affairs.

By Mr. WILLIS, of Kentucky: Papers relating to the pension claim of Robert S. Goodall—to the Committee on Invalid Pensions.

By Mr. WILLIS, of New York: The petitions of Major-General H. A. Barnum and others; of J. C. Pinckney, late colonel Sixty-sixth New York Volunteers and brevet brigadier-general United States Volunteers and others, and of M. A. Reed and others, soldiers in the late war, for the compilation of data relating to the battle of Gettysburg—to the Committee on Military Affairs.

By Mr. WRIGHT: The petition of officers of the Union Army in the late war, of similar import—to the same committee.

IN SENATE.

TUESDAY, April 30, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4574) to remove the political disabilities of George S. Shyroek, was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 1757) relating to vessels not propelled by steam or sail, was read twice by its title, and referred to the Committee on Commerce.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes.

The message also announced that the House had passed a bill (H. R. No. 4663) to forbid the further retirement of United States legal-tender notes; in which it requested the concurrence of the Senate.

BANKRUPT-LAW REPEAL.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill (S. No. 35) to repeal the bankrupt law; which were read.

Mr. MERRIMON. I move that the amendments be referred to the Committee on the Judiciary.

Mr. BECK. On that motion I shall call for the yeas and nays. I object to the amendments going to the committee. I think we ought to pass the bill now as it came from the House.

Mr. MERRIMON. There are various questions which I think ought to be seriously considered before the amendments of the House are concurred in.

Mr. BECK. The amendments do not change the character of the bill at all.

Mr. CHRISTIANCY. I hope the bill will not be again referred to the Committee on the Judiciary. I do not know of any Senator desiring the passage of the bill who wishes it so referred. The first amendment is one which I presume will meet the immediate concurrence of the Senate, and to the second amendment I propose to offer an amendment. I hope, therefore, the motion for a reference will be voted down.

Mr. BUTLER. I ask that the amendments of the House be reported.

The PRESIDENT *pro tempore*. The amendments will be again read.

The CHIEF CLERK. The first amendment is, in line 2 of the bill, after the word "sixty-seven," to insert "title 61 Revised Statutes, and an act entitled 'An act to amend and supplement an act entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' approved March 2, 1867,' and for other purposes,'" approved June 22, 1874.

The second amendment is, in line 8 of the bill, after the word "therein," to insert "and all penal actions or criminal proceedings arising thereunder."

So that the bill of the Senate, as proposed to be amended by the House, would read:

That the bankrupt law approved March 2, 1867, title 61, Revised Statutes, and the act entitled "An act to amend and supplement an act entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' approved March 2, 1867, and for other purposes,'" approved June 22, 1874, and all acts in amendment or supplementary thereto or in explanation thereof be, and the same are hereby, repealed: *Provided, however*, That such repeal shall in no manner invalidate or affect any case in bankruptcy instituted and pending in any court prior to the day when this act shall take effect; but as to all such pending cases and all future proceedings therein, and all penal actions or criminal proceedings arising thereunder, the acts hereby repealed shall continue in full force and effect, until the same shall be fully disposed of, in the same manner as if said acts had not been repealed.

Mr. CHRISTIANCY. As the question is now on the motion for reference, I suppose an amendment to the amendments of the House would not be in order until that question is disposed of.

Mr. MERRIMON. I beg to inquire of the Chair whether the bill came from the House this morning.

The PRESIDENT *pro tempore*. It came yesterday.

Mr. MERRIMON. And was read yesterday?

The PRESIDENT *pro tempore*. It came yesterday and was submitted this morning.

Mr. MERRIMON. I object, then, to its present consideration.

Mr. INGALLS. Does the Chair hold that the bill cannot be discussed on the motion to refer?

The PRESIDENT *pro tempore*. The Chair does not.

Mr. INGALLS. So I understood.

Mr. MERRIMON. I suppose that my objection, as the bill was only laid before the Senate this morning, carries it over.

Mr. CHRISTIANCY. I suppose not.

The PRESIDENT *pro tempore*. The bill is properly before the Senate. The objection is too late. The question is on referring the amendments to the bill to the Committee on the Judiciary, which is open to discussion.

Mr. BECK. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HILL. I will only say that I hope this bill will not be referred. It seems to me that the amendments of the House make no real change, and are simply to perfect the bill more thoroughly than it was supposed was done by the original bill. Therefore I can see no necessity for a reference.

Mr. CONKLING. Will the Senator let me make an inquiry? What objection occurs to him to referring the bill to the committee?

Mr. HILL. Simply because I do not understand that there is anything in the amendments which requires the review of a committee. The amendments proposed by the House are simple; they are formal amendments.

Mr. CONKLING. If it would not interrupt the Senator, I could make in a moment a statement of fact to him which I think would modify his opinion in that regard. The amendments made by the House, I agree with the Senator, are not such as to require review in committee; but many persons, lawyers and judges in the country, are disturbed by a belief, which has been announced to me a good many times in telegrams and at other times by letter, that the saving clause of the bill as it passed the Senate and as it comes back now from the House is too narrow to save certain classes of actions deemed

very meritorious—actions which no doubt the Senator meant to save, as I did, when we voted together for the bill with the saving clause, and especially actions and rights of actions which have accrued to assignees in bankruptcy.

The Senator from Georgia will see that neither he nor I would be content to pass an act productive of an effect, particularly such an effect, not intended by us or by anybody when the votes were given. It is true we might amend here in the Senate; and I know the Senator from Michigan [Mr. CHRISTIANCY] has prepared an amendment for the purpose to which I refer, which amendment has not been printed. We could hear it read from the Clerk's desk, and very likely we might be able to make the bill exactly what we would have it. But still as committees in this body may report at any hour of any day, I am strongly inclined to think that it would be more prudent to let this bill go to a committee and let this needed amendment be read and revised in committee and then come here.

I say in conclusion that I should feel, as one member of the Senate, rather mortified if it should occur a second time on this same bill that the Senate fell into an error. We did fall into an error in the first instance in the repealing clause; and now if after our attention being called to this error, owing to the hasty mode of action in general Senate in place of going to a committee, we should again commit a blunder I think the Senator from Georgia, quite as much as I, would be annoyed at the repetition of such an occurrence.

Mr. HILL. I suppose that under the operation of the saving clause, to which the Senator from New York refers, no proceedings in bankruptcy instituted previous to the passage of this act will be in any respect affected by its passage. If, as the Senator from New York suggests, able jurists in the United States have doubts as to whether that saving clause is sufficient, I concur with him that we ought to be certain upon that subject. I agree with him that if we should make a mistake and by defective phraseology not accomplish what it is the manifest desire and purpose of the Senate should be accomplished, I should regret it. I concede too that a few days' delay will make no difference. I cannot see myself any necessity for haste. If there is any real necessity why the bill should be referred, I have no objection to a reference. I imagined there was none; but if there be a real reason, as the Senator from New York suggests—and I think the suggestion is wise—I can see in the public interest no necessity for hurrying the bill through to-day. After his suggestion, which had not occurred to me, of which I was not aware, and to avoid all possibility of mistake, I think it reasonable that the bill should be referred as the Senator from New York suggests.

Mr. BECK. Mr. President, I opposed the reference of the bill and called for the yeas and nays upon the question on the ground that if there was any good to be accomplished by the passage of the bill, the sooner it is passed the better. I have information from large numbers of persons all over the country which shows the importance of immediate action upon the bill. I hold a letter in my hand now, in which I am advised by lawyers of prominence that men are filing petitions hour by hour, and all sorts of fraudulent schemes are being concocted to get into bankruptcy before the bill is passed, and that every days' delay adds to the mischief that results from the discussion of this question. The letter which I have suggests that every day of delay costs the commercial interests of the country millions of dollars. Everything has been already suggested and debated in both Houses, and there is nothing which can be done by the Committee on the Judiciary which cannot be done as well in open Senate now. If any Senator here should suggest a needed amendment it would pass the Senate and the House could concur in it by to-morrow. I know how it is when such matters are referred. This bill was held by the Committee on the Judiciary from the time my colleague introduced it for three or four months. I know other committees receive matters of importance and hold them for months before a report is made.

Mr. HILL. If my friend will allow me, I understand the Committee on the Judiciary are favorable to this bill. They reported the original repealing bill, and there is no probability that it will be delayed in committee.

Mr. BECK. I do not find any fault with the committee, but there is nothing which the Committee on the Judiciary can now suggest by way of amendment which has not already been suggested, or, if not, let it be suggested now in open Senate and let us pass upon the question to-day. I know delay is possible in committee, and I know the mischief that would follow any delay. Therefore, I shall insist on the yeas and nays.

Mr. CHRISTIANCY. I wish to explain what the additional amendment is which I propose to add to the second House amendment, and if any Senator can find anything else that ought to be inserted I can see some reason why perhaps it may be required to be sent back to the committee. I ask the Clerk to read the last amendment to the bill as it came from the House.

The CHIEF CLERK. In line 8 of the bill, after the word "therein," it is proposed to insert:

And all penal actions or criminal proceedings arising thereunder.

Mr. CHRISTIANCY. The amendment which I propose is to insert before that amendment the following words:

And all rights and proceedings incident thereto, or growing out of or dependent thereon, including all rights of and suits by and against assignees under any of said acts.

Then would follow the words of the amendment just read by the Clerk, so as to read:

But as to all such pending cases and all future proceedings therein, and all rights and proceedings incident thereto, or growing out of or dependent thereon, including all rights of and suits by and against assignees under any of said acts, and all penal actions or criminal proceedings arising thereunder, the acts hereby repealed shall continue in full force and effect until the same shall be fully disposed of, in the same manner as if said acts had not been repealed.

It is difficult for me to conceive what can be saved beyond what this language will save. My own opinion is that the original saving clause was sufficient to cover the entire case by general language. I had supposed that when an enactment was made as to a principal thing, the incidents followed without enumeration; but as the House by its amendment has enumerated some things, in order to prevent the implication that others are excluded by that enumeration, I shall offer the amendment which I have suggested.

Mr. INGALLS. In my judgment, the clamor for the repeal of the bankrupt law comes from the creditors in this country, and not from the debtors. A well-regulated bankrupt law is the only thing to-day that stands between a very large class of the mercantile and trading people in this country and absolute destruction. Since the action of the Senate upon this measure a few days ago, the records of the courts in every commercial community in the country will bear me out in the statement that it is the only refuge to which men are looking for escape from grasping and avaricious creditors, and that if this measure of repeal is consummated we are going to have a period of distress and of commercial ruin which, in my judgment, has not heretofore been paralleled. I passed through Chicago the other day and talked with some gentlemen there who are in the legal profession, and they told me that the rush of unfortunate debtors into the bankrupt courts at the present time, in anticipation of the repeal, was something without precedent in the history of that part of the country.

It is the creditors who are demanding this repeal for the purpose of enabling them to enforce terms with their debtors. The debtors want a bankrupt law; and it is an anomaly in civilization that a great commercial country like ours, with its thousands of millions of commerce, should remit to the conflicting decisions of State insolvent courts the question whether or not a debtor shall be relieved from the payment of his debts upon the surrender of all his assets. If we repeal this law and provide no substitute for it, the result will be that every debtor will be forever at the mercy of his creditors, because under a State insolvent law there can be nothing that will save a man from the enforcement of subsequent judgments against him.

Now, sir, I have been accustomed heretofore to believe in the infallibility of the Judiciary Committee of this body. I believed that, next to the Pope, they have claimed and exercised a greater infallibility than any other body perhaps in this country; and yet here in a matter confessedly of the last importance, a bill upon which they have reflected for months, which has been digested and redigested comes back here from the House with the statement that it is entirely ineffectual to carry out the wishes of that committee. Well, sir, my confidence is at least somewhat impaired. If the Judiciary Committee were unable to report a simple measure of repeal and these amendments come back from the House, is it not just that we should simply refer this matter back to them again for consideration in order that we may at last have their deliberate judgment as to what will be a repeal of this law?

Mr. THURMAN. Would it not be better to send it to some other committee?

Mr. INGALLS. Well, I think it would. [Laughter.] I have no doubt it would be. I think, as the Senator from Indiana [Mr. McDONALD] suggests to me, it might be better to send it to the Committee on Pensions. I am very confident we could report a bill that would repeal the bankrupt law; but inasmuch as this is a bill that has been amended by the House, and as the Senator from Michigan confesses that the amendment is necessary and proposes still further to amend the amendment of the House, I am inclined to think that we ought at least to give it some further deliberation.

Mr. CHRISTIANCY. Will the Senator allow me to say that I have confessed nothing of that kind? I say the amendment made by the House having gone into particulars I shall propose this amendment to it, because otherwise there might be an implication that we having enumerated some particulars excluded others.

Mr. INGALLS. Does the Senator from Michigan believe that the amendments that have been reported here from the House are necessary and essential?

Mr. CHRISTIANCY. I believe they are very proper amendments, but I do not believe either one of them necessary.

Mr. INGALLS. Why were they not put in the bill reported from our Judiciary Committee?

Mr. CHRISTIANCY. Because I did not believe them necessary.

Mr. INGALLS. Then if these amendments are not necessary, if the original bill is sufficient, why does the Senator not move to non-concur?

Mr. CHRISTIANCY. Because, although not necessary, the amendments are very proper.

Mr. INGALLS. And yet the Senator from Michigan proposes to amend one of them that is not proper.

Mr. CHRISTIANCY. Certainly. The amendment already made

by the House seems in my opinion to render that further amendment necessary.

Mr. INGALLS. Then I think that very plainly this matter ought to go to the committee, and I shall vote to refer it.

Mr. McMILLAN. Mr. President, I think the facts stated by the Senator from Kentucky and the applications for discharge under the existing bankrupt law show very clearly that there is a great necessity for the existence of such a law in this country. I believe with the Senator from Illinois who sits before me [Mr. DAVIS] that a great nation of this character cannot get along for any extensive period of time without some general system of bankruptcy, and I believe that this reference to the Judiciary Committee at this time is one altogether proper, for the matter is so involved that, although the Senator from Michigan can see his way clearly, yet other members of the Senate have not had the time or opportunity to examine the amendments of the House so as to be able to come to his conclusion. I think it would be imprudent to pass an amendment of this kind or to adopt this repeal without the matter being very fully examined. Already we see that there have been imperfections, in the view of the House of Representatives, in the bill repealing the act as reported in the Senate. I trust that for this purpose this bill will be referred to the Senate Judiciary Committee; and my own desire would be gratified if the Judiciary Committee could report a bill which would relieve the existing law from all its objections, as I believe they can be removed, the defects existing more in the administration than in the law. If the Judiciary Committee can report a substitute for the existing law, it seems to me it would meet the wants of the country and that the business community would find relief from it.

Mr. DAWES. Mr. President, if the bankrupt law is repealed we shall go on until some commercial revolution shall find the debtor class of the country so burdened with its load that it will cry out and compel Congress in some unconsidered and hasty measure to adopt a new bill which for awhile will continue until its imperfections and its burden and injustice shall work its repeal, as they have worked the repeal of this law.

A commercial nation cannot live without a bankrupt law in some way or other. A periodic and spasmodic bankrupt law is of the worst possible character in commercial transactions, and it is so to the debtor and the creditor classes throughout the country. It is a great pity, sir, that we cannot frame a law which shall stand the test of the necessities of a commercial community like ours. Nothing surprises me so much as the current of public opinion at this time upon this subject. The repeal of this bankrupt law, imperfect as it is, is throwing the debtor class of this country, as the Senator from Kansas says, at the mercy of the creditor class. We have heard a great deal this winter in behalf of the debtor class of this country and we have heard much outcry and condemnation of the creditor class; and there have been times when the debates in this body and in the other seemed to take a sectional view, and section has been arrayed against section in the interest of the debtor class against the creditor class. If the cry for the repeal of the bankrupt law had come from the East instead of from the West, I should have expected to hear it said on the part of the great debtor class of the West to the East that this was but another of those measures in the interest of the creditor for the purpose of holding in a tighter grasp the debtors of this country; and I do not think, had it so originated, it would have been carried through this body or the other in the manner in which it has been.

Mr. DAVIS, of Illinois. Will the Senator from Massachusetts tell me what State in the West has petitioned strongly for the repeal of the bankrupt law? The Senator from Michigan and some others may have done it. Illinois has not done it. I recollect the Senator from New York presented a great many petitions at the commencement of the session for the repeal of the bankrupt law, but I am unaware of many from the West who have done it.

Mr. DAWES. The sentiment has been stronger in the western part of the country. I do not speak of it in a reproachful sense; I do not desire to say anything that would be unkind toward the western part of the country in these remarks, but I have had the belief that there was a much stronger sentiment for the repeal of the bankrupt law in the West and the South than in the East, and it has amazed me always because I recognize the fact that there are a great many debtors to the East in the West and in the South. I have felt that there was a disposition in some quarters to keep that fact before the public in a manner to excite unpleasant feeling. I do not think this is any part of it; and I only speak of it as a matter of surprise to me that this measure, which can have no other effect than to put the debtor in the power of the creditor, should have its origin where I supposed least of all it would be likely to have that origin. That is why I alluded to it; and I think it is true now that public sentiment in the East, being more commercial than the West, is stronger in favor of some bankrupt law than it is in the West. Nevertheless, it is true that those who favor the repeal of this law without some sort of substitute for it by which the unfortunate debtor, when he is below the water and unable to meet his debts and is willing to surrender everything he has, is still held by his creditors under until he ceases to breathe, put him in that position in which he will be placed the moment this law is repealed. I submit to Senators that it were better for us to take more time and to take it when there is less necessity for such a law than in the very jaws of a commercial convulsion. All the bankrupt laws that have been passed in this country have been

passed when least we have had time or patience or calm consideration to provide the necessary safeguards to preserve as a permanent system a bankrupt measure. But now this law has had ten years or more of existence. Its defects are manifest; the remedy, it seems to me, can be applied; and out of it all can come a moderate, wise, just, and beneficial law that will be alike beneficial to the debtor and to the creditor; for, after all, in the long run, it is of no benefit to the creditor to set a watch upon the debtor wherever he may be, and be ready to spring upon him that he may be the first to seize what little he has, with no ability on the part of the debtor or a more patient creditor to share, share and share alike, with all creditors in the proceeds of an estate which the debtor is ready to surrender to his creditors and asks only that he may have a further opportunity to live and labor and strive.

That is the issue which is raised by this bill to repeal the bankrupt law, without any substitute for it whatever; and that is the result which is as sure to follow, and by and by the debtor will come to see it, and the burden will be so great upon him, that he will force upon Congress a new consideration of this subject. I only hope it will be at a time when the circumstances and the pressure of business and of the commercial world will not be such that an inconsiderate and unwise measure may again pass Congress so unwise that it cannot live as a permanent system.

Mr. DAVIS, of Illinois. Mr. President, if I could say anything that would arrest the repeal of this law I would gladly say it, for I think it is a great mistake as well as a great wrong. There cannot be a member of the Senate that does not concede the principle upon which the bankrupt law is based. It is to allow every unfortunate debtor who is unable to pay his debts to be discharged upon the surrender of his property; and also to allow the creditor to put into bankruptcy every dishonest debtor who is secreting his property and is unwilling that it should be given toward the payment of his debts. Can there be any Senator on this floor who does not willingly accede to the justice of this principle?

This is the basis upon which the bankrupt law is framed. To repeal it now without leaving anything in its stead, is to leave, as I believe with the Senator from Kansas, the great mass of unfortunate debtors to the mercy of their creditors. Why repeal this bill now in hard times when we have not yet got from under the great business depression caused by the revulsion of 1873? Thousands of men in this country unwilling to acknowledge that they were unable to pay their debts have by extensions of time and by struggles endeavored to advance their interests so as to ultimately be able to pay their debts. One by one is falling by the wayside. The feeling is honorable that prompted them to the course of endeavoring so to conduct their affairs that they could pay their debts. They are unable to do it. It would have been much better that they should not have made those extensions and endeavored to manage their affairs themselves so as to be able to pay their creditors, but they did it honestly; they did it from a proper motive; and are these persons to be left out now? When we know that thousands of men have already taken the benefit of the law, are these persons to be left out?

Why, sir, since this repeal bill was passed in the Senate, as the Senator from Kansas said, in every commercial community there has been a rush to get the benefit of the present law, such as was never heard of before in this country; and does not that argue that there are plenty behind? I have received letters and telegrams without number urging for God's sake to give them time to prepare their papers; if there was to be a repeal of the bankrupt law they would yield at once, and make no further effort to fix their affairs so that they could ultimately pay their debts, because if they could not do that then they knew the bankrupt law was before them, by which they could get relief. You take from them all hope of relief.

Mr. President, as the Senator from Kansas said, the clamor in relation to the repeal of this law does not grow out of the principle of this law itself. The people of this country concede, and have conceded that in the various laws which have been passed on this subject. It is simply that the administration of it has not been in accordance with public sentiment. That much I concede willingly. The law is too expensive in its administration, it is too cumbersome; but it can be simplified, it can be made less expensive. Time and experience have shown in what respect it should be amended. The Judiciary Committee can prepare a bill which I believe will satisfy the Senate and satisfy the country. Why should they not have an opportunity to do so? It is true they had this bill before them for a long time, and did not very soon report to the Senate upon the subject. The reason they did not report it sooner was that there was a disagreement in opinion upon the question of whether the law should be repealed or not. I was always opposed to its repeal, and had by correspondence with different judges throughout the country got their various suggestions in relation to the modification and amendment of it; but it was useless to embody those in the form of a bill when it was too evident, from what had been said in the Senate and from what was the opinion of the Judiciary Committee, that the law itself would be repealed.

Now, Mr. President, I have no hope of arresting the repeal of the law and do not say what I have said in any sense to cast censure on any gentleman who differs with me upon this subject. I have charity enough, I think, as I grow older, to believe that differences of opinion

are honestly entertained. When I was a young man I had some doubt upon that subject; but as I grow older, I have not any doubt about it at all.

But, sir, if this law is to be repealed, why the haste to do it to-day? Why the great haste for it? The only object of doing it to-day is to cut off some few poor people who have not got their papers ready to file before the proper officers. That is all. Although I am opposed to the repeal, and earnestly opposed to it, believing that this country, commercial nation as it is, should have a bankrupt law constantly in existence, yet I really think that this bill as it now is should be referred to the Judiciary Committee to see whether if the law is to be repealed every saving has been incorporated into it that should be incorporated. I hope every gentleman who hears me will believe me when I say that I should devote every attention to that subject and that I have no disposition to keep the bill in the committee with a view of changing the sentiment of the Senate upon the subject, because I suppose that has been sufficiently marked already, the vote on the subject was so decided.

But, sir, the Senator from Kansas has spoken about the haste with which this was done in the Judiciary Committee, and said that the Judiciary Committee should have seen that the provisions were properly made. Well, sir, for one I can simply say that I cared nothing about it; as I saw that the law was to be repealed I cared very little about the details of the bill, and did not give any attention to them, and I presume almost every other gentleman of the committee will say the same thing. But there seems to be a difference of opinion in the House upon what it was intended to effect by this bill, and I cannot see any reason why it should not be referred to the Judiciary Committee, and why the delay of two or three days can make any difference.

Mr. BECK. Mr. President, I rose in the first instance to oppose the reference of this bill to the Judiciary Committee because I supposed it had gone so far after its passage by the Senate by such a majority as it did, and after its passage by the House by such a majority as it did, that the repeal in some form was a foregone conclusion, and the Senator from Illinois has very properly said that he thinks so, and any amendment that may now be suggested to perfect it may be done in open Senate just as well as in the Judiciary Committee. I am more than ever convinced, after what has been said by the Senator from Massachusetts [Mr. DAWES] and the Senator from Illinois, [Mr. DAVIS,] that a reference of this bill to the Judiciary Committee means that we shall see it no more in the Senate at this session.

I am not opposed to a well-regulated bankrupt law if such is presented, and I think the Committee on the Judiciary could frame a far better law unembarrassed by the provisions of the existing law after the repeal of the present one than they could by any effort to patch it up, or seek to make it available for the purposes which the country may desire.

The Senator from Illinois has said that the law is too expensive. Not only is that true, but in very many cases the assets are divided among the officers and retainers of the bankrupt courts. The law has been perverted in every form so that fraudulent debtors frequently manage to get in debt for the very purpose of escaping the payment of their obligations and becoming bankrupts. The machinery of this law is in such a shape now that any effort to patch it up would be a failure. The idea that the Judiciary Committee shall take the bill back to patch it up and run in the old ruts, with the old machinery, according to the old precedents, is folly; it can do nothing but the grossest injustice and will still continue to divide assets of debtors among a few officers. I hope it will never go to that or any other committee. Let us act on it now. The Senator from Illinois can to-day prepare a bill, introduce it in the morning, and refer it to his own committee and report it back the next day if he pleases, unembarrassed by any of the bad features of the existing law and its amendment. He may be able to present something that will prevent the oppression of men who are honestly in debt and perhaps ought to be released. That will be a great deal easier than to attempt now, after this bill has passed through both Houses, to have it taken again into committee to be patched up or to be kept away because they do not want the law repealed at all. I think we had better begin *de novo* on a bankrupt law with all the experience the country has had so as to avoid the errors into which legislation has heretofore fallen, avoid the abuses of the present law and its amendments, instead of attempting to patch it up now after the repeal bill has been peremptorily ordered by the House and Senate.

Mr. ALLISON. Mr. President, after what has been said by Senators with reference to this law, I think we ought to test the sense of the Senate in regard to the continued existence of a bankrupt law. I am clear that it is not to the interest of this people to have the law repealed absolutely at this time, and I believe that is the judgment of the Senate upon the subject; but as has been stated by the Senator from Illinois, who seems to have had some charge of this bill, the Judiciary Committee were divided in sentiment with reference to the propriety of repeal, and also were laboring under the impression that the Senate was opposed to a further continuance of the law, and therefore no effort was made by the committee to amend the law so as to make it more effectual and more acceptable to both creditor and debtor. I have faith that the Judiciary Committee of this body can so amend the law as to make it a satisfactory one upon the statute-

book, and I believe that it is no time now to repeal this law and trust to the Senate and the House or to some future Senate and House to enact a new law.

We have been told over and over again in this Chamber and elsewhere that the process the people of this country are undergoing now is a grinding process which will result in universal bankruptcy. How often have we heard on this floor during this very session that the steps which are being taken by the Government to resume specie payment are to result in January next in universal bankruptcy unless that process is arrested by legislation? Now, in the face of that, are we to place it beyond the power of the debtor class to protect themselves by an honest surrender of their property to their creditors? It seems to me that whatever may be proper in the future, it is wise to allow this law to stand at least another year on our statute-books until these experiments, whatever they may be, whether of bankruptcy or prosperity, shall have developed themselves.

Mr. President, I desire for one to test the sense of the Senate with reference to the propriety of making amendments to this law; and I offer the following amendment to the motion to refer to the Judiciary Committee:

That said bill and amendments be referred to the Committee on the Judiciary, with instructions to report such amendments as will relieve the existing law of the defects which experience has disclosed.

Mr. MATTHEWS. Mr. President, I very much hope that the Senate will reconsider its action recently taken in the final vote on the passage of the bill now returned to us from the House of Representatives, so far at least as to consent to the reference of the bill, with the amendments, to the Committee on the Judiciary, with the hope and in the trust that before we wipe that statute entirely from the statute-book another effort may be made by that committee to present to Congress a measure in substitution of the existing law which shall be better than the provisions of the existing law or their entire repeal; for I am satisfied now more than ever that the real path of true and wise legislation is between these two extremes, the *via media* which shall seek on the one hand to meet all the just objections which can be arrayed against the existing provisions of the law and which shall not on the other hand by its complete and unconditional repeal remit the country to that chaos of varying and inconsistent State legislation on insolvents and insolvent laws which will be necessarily the substitute for our present bankruptcy system.

I do not despair, Mr. President, that the wisdom of this body and of the other branch of Congress is equal to the occasion and can provide for the emergency. Certainly there is no such inherent difficulty in the subject as that we should regard it as insurmountable, particularly in view of the experience which since 1867 we have actually gone through with under the present existing statute. Gentlemen point out with great readiness, and with great clearness, and with great force, the objections to that system. But I do not understand that any of those objections go to the principle which is essential to the idea of a bankrupt law. Is there any Senator who believes that an honest debtor unfortunate in contracting obligations beyond his ability to pay, who freely surrenders all his property for equal distribution among all his creditors, ought to be visited with the extreme penalty of being obliged to labor for the rest of his life, not merely for his wife and children, but for those who still hold him in chains as their debtor? Is there any Senator who believes that a dishonest debtor who has gone on from day to day, and from week to week, and month to month, and year to year, it may be, fraudulently contracting obligations which he never intended to pay, or fraudulently disposing of property which he sought to conceal from his creditors, ought not by some exigent, summary, and painful process, be brought to book in order that he may render an account and settle with his creditors under the eye and by force of the law, so that he may mete out to his creditors that which he unjustly withholds?

The PRESIDENT *pro tempore*. The morning hour has expired.

Mr. MCCREERY. I move to postpone the pending and all prior orders until the bill before the Senate is disposed of.

The PRESIDENT *pro tempore*. Is there objection?

Mr. SARGENT. I object. That is to say, I have no objection to taking this up a little later. I think we ought to have an opportunity to do some morning business, which we have not had this morning; and I wish to present a report of a committee of conference also. That necessary business being done, I shall then have no objection to going on with this measure.

The PRESIDENT *pro tempore*. According to the order of the Senate, the morning hour having expired, the Calendar is before the Senate.

Mr. DAVIS, of Illinois. I hope the Calendar may be postponed so that this subject may be disposed of.

Mr. VOORHEES. I hope by unanimous consent the morning hour may be extended for half an hour.

The PRESIDENT *pro tempore*. The Senator from Indiana proposes that the morning hour be extended for half an hour for general business. Is there objection?

Mr. EDMUNDS. I am in favor of that, and I am in favor also of what the Senator from Kentucky has stated of making this bill the next business so as to dispose of it by having the committee fix up the amendments as they ought to be, or else by passing upon it here.

Mr. VOORHEES. I have no objection to that.

Mr. EDMUNDS. I think now that we have entered on the discus-

sion of this question we can do much better by disposing of it before we take up anything else except the conference report and morning business.

Mr. SARGENT. If there is no objection to the course I have suggested, the Calendar may be laid aside informally.

Mr. VOORHEES. When I spoke of allowing half an hour I simply meant to extend the morning hour until the morning business should be transacted.

Mr. HILL. Then, I suppose the understanding will be that as soon as the morning business is transacted we shall return to the bill now before the Senate.

Several SENATORS. Certainly.

The PRESIDENT *pro tempore*. Is that the understanding, that the Calendar be temporarily laid aside?

Mr. ANTHONY. Informally.

The PRESIDENT *pro tempore*. Informally, for the purpose of prosecuting morning business; and when that is concluded the bankrupt bill to be resumed.

Mr. MATTHEWS. And I have the floor on that, I believe.

The PRESIDENT *pro tempore*. The Senator from Ohio has the floor on that question. The Chair hears no objection to that course being pursued.

CREDENTIALS.

Mr. KIRKWOOD presented the credentials of Hon. WILLIAM B. ALLISON, chosen by the Legislature of Iowa a Senator from that State for the term beginning March 4, 1879; which were read, and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. SARGENT presented three petitions of citizens of San Francisco, California, praying for the passage of such laws as will enable the Southern Pacific Railroad Company to extend its road east from the Colorado River at Fort Yuma through Arizona and New Mexico, and until an eastern connection is made with the Gulf of Mexico; which were referred to the Committee on Railroads.

Mr. DAVIS, of West Virginia, presented the petition of Mrs. Mary Nee, widow of Thomas Nee, deceased, late private in the Sixth Regiment of West Virginia Volunteer Infantry, praying for a pension; which was referred to the Committee on Pensions.

Mr. WALLACE presented a memorial of the Chamber of Commerce of Pittsburgh, Pennsylvania, in favor of the passage of a bill to aid in the construction of the Texas and Pacific Railroad; which was referred to the Committee on Railroads.

He also presented the memorial of Council No. 4, Order of United American Mechanics of Philadelphia, Pennsylvania; the memorial of Council No. 249, Order of United American Mechanics of Lehigh, Pennsylvania; and the memorial of Council No. 132, Order of United American Mechanics of Boiling Springs, Pennsylvania, remonstrating against any tariff legislation in the present depressed condition of the country; which were referred to the Committee on Finance.

Mr. McPHERSON presented the memorial of Council No. 21, Order of United States Mechanics of Salem, New Jersey, remonstrating against any change in the present tariff system; which was referred to the Committee on Finance.

He also presented the memorial of the Norfolk and New Brunswick Hosiery Company, of New Brunswick, New Jersey, and others, remonstrating against any legislation affecting the duties upon imports which is not based upon a thorough preliminary investigation of details, and in favor of such investigation; which was referred to the Committee on Finance.

Mr. KIRKWOOD presented the petition of John Edwards, of Arkansas, praying for the passage of a law placing him on the retired list of the Army with the rank of brigadier-general; which was referred to the Committee on Military Affairs.

Mr. INGALLS presented the petition of Mrs. Carrie E. Anderson, of Shawnee County, Kansas, praying for a pension; which was referred to the Committee on Pensions.

Mr. BRUCE presented the petition of Adelino Shirley, of Warren County, Mississippi, praying compensation for property taken near Vicksburg, in 1863, by the military authorities of the United States for the use of the Army; which was referred to the Committee on Claims.

Mr. CAMERON, of Pennsylvania, presented five memorials of certain mechanical associations of Philadelphia, Lancaster, Cumberland, and Lehigh Counties, Pennsylvania, remonstrating against the passage of the Wood tariff bill; which were referred to the Committee on Finance.

He also presented a resolution of the Chamber of Commerce of the city of Pittsburgh, Pennsylvania, in favor of the extension of aid for the completion of the Texas and Pacific Railroad; which was referred to the Committee on Railroads.

He also presented a memorial of the Philadelphia Maritime Exchange, urging the continuation of the life-saving service in the Treasury Department and opposing its transfer to the Navy Department as against the interests of commerce and navigation; which was ordered to lie on the table.

He also presented the petition of Daniel K. Morgan and others, citizens of Allegheny County, Pennsylvania, engaged in the manufacture of tin-plate, praying for such legislation as will protect that industry

as against the introduction of the imported material at a reduced rate of duty; which was referred to the Committee on Finance.

Mr. BOOTH presented the petition of P. J. Thomas and others, citizens of San Francisco, California, praying for the passage of such a law as will enable the Southern Pacific Railroad Company to extend its road east from the Colorado River at Fort Yuma and through Arizona and New Mexico to an eastern connection with the Gulf of Mexico; which was referred to the Committee on Railroads.

Mr. DORSEY presented a resolution of Eureka Council No. 4, of the Sovereigns of Industry of the District of Columbia, representing 319 families, in favor of the enactment of such a law by Congress as will insure full weight to purchasers of coal, and compel coal-dealers to send the certificate of a properly appointed Government weigher with every load of coal delivered; which was referred to the Committee on the District of Columbia.

Mr. PLUMB presented additional papers in relation to the application of Elizabeth A. Bailey, guardian of Alice H. Peabody, minor heir of Captain David G. Peabody, deceased, for a pension; which were referred to the Committee on Pensions.

Mr. McDONALD presented the memorial of Isaac B. Hymer, of Indiana; Joseph K. Rickey, of Missouri; Jacob D. Felthousen, of Illinois; and George D. Rice, of Massachusetts, praying for the passage of the bill (S. No. 1082) providing for the construction of a national line of railway from the Atlantic seaboard to the Pacific Ocean; which was referred to the Committee on Railroads.

THE TENTH CENSUS.

The PRESIDENT *pro tempore* laid before the Senate the following concurrent resolution from the House of Representatives.

Resolved by the House of Representatives, (the Senate concurring therein,) That a joint committee to be denominated "joint committee on the census," be appointed to consider and report upon the proper measures to be adopted for the taking of the next census; and that said committee may report by bill or otherwise.

Mr. MORRILL. I move to refer that to the special committee appointed by the Senate on the subject of the tenth census.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. MAXEY, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1114) to amend the one hundred and third article of war, reported it with amendments, and submitted a report thereon, which was ordered to be printed.

Mr. MAXEY. I am instructed by the same committee, to whom was referred the bill (S. No. 1094) for the pardon of certain deserters from the United States Army in 1848, to report it back and to say that the bill just reported, No. 1114, fully covers the object sought to be attained by this bill 1094. The committee therefore ask to be discharged from its further consideration.

The committee were discharged from the further consideration of Senate bill No. 1094, and it was postponed indefinitely.

Mr. MORRILL. The Committee on Finance instruct me to report back the resolution in relation to the repeal of the sinking fund. I will say that it is a concurrent resolution, and among other things it seems to contemplate the repeal of a certain existing law and to give certain instructions to the Secretary of the Treasury which cannot be done by concurrent resolution. Therefore I am instructed to report adversely.

The PRESIDENT *pro tempore*. The adverse report will be placed on the Calendar.

Mr. VOORHEES, from the Committee on Pensions, to whom was referred the bill (H. R. No. 1451) granting a pension to George W. Wickwire, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 2515) granting a pension to John Sheiber, late a private in the Twelfth Regiment Pennsylvania Volunteer Cavalry, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 3114) providing for an increase of pension to Charles H. Day, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 3105) granting a pension to Ruth Isabelle Naylor, widow of Captain Charles Naylor, of the Second Regiment of Pennsylvania Volunteers in the Mexican war, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Mary McAdams, praying to have her name restored to the pension-roll, submitted a report thereon accompanied by a bill (S. No. 1165) granting a pension to Mary McAdams.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 969) granting a pension to Mrs. N. E. Belrichards, reported it without amendment, and submitted a report thereon, which was ordered to be printed.

Mr. VOORHEES. The same committee, to whom was referred the bill (H. R. No. 4422) to amend section 4695 of the Revised Statutes of the United States, have instructed me to report it favorably with an amendment. One word of explanation may not be improper. When the law providing for pensions to naval officers was first enacted, the rank of lieutenant-commander did not exist. After the passage of that act that rank was created, and after the creation of the rank,

the steamer Oneida went down in the Bay of Yokohama, bearing an officer of that rank to the bottom. Under existing law, there is no provision for a pension to those that he left behind him. The object of this bill is to provide for that deficiency, and I ask that it be placed upon the Calendar with a favorable recommendation.

The PRESIDENT *pro tempore*. The bill will be placed upon the Calendar.

Mr. BUTLER, from the Committee on Military Affairs, to whom was referred the bill (S. No. 605) for the relief of William M. Kendall, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

Mr. BAILEY, from the Committee on Pensions, to whom was referred the petition of Mary E. Parker, widow of Solomon M. Parker, late a private in Company D, Second Regiment New Jersey Cavalry, submitted a report thereon accompanied by a bill (S. No. 1163) granting a pension to Mary E. Parker.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. HAMLIN. The Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 4) to allow Lieutenant D. F. Tozier a gold medal awarded by the President of the French Republic, have directed me to report it back and recommend its passage without amendment. I will take this occasion to say that this gift was for gallant services rendered in preserving a certain bark and the lives of the persons thereon.

Mr. WALLACE, from the Committee on Finance, to whom was referred the bill (H. R. No. 2132) to pay for clerical services and extraordinary expenses, under the seventh section of the act of August 18, 1856, in the Pawnee land district in Kansas, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. McMILLAN, from the Committee on Commerce, to whom was referred the bill (S. No. 435) to establish a board of local inspectors of steam vessels for the collection districts of Minnesota and Duluth, reported it without amendment.

Mr. BOOTH, from the Committee on Public Lands, to whom was referred the bill (S. No. 989) for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees and commissions paid on void entries of public lands, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, to whom was referred the petition of David Dimmick, a soldier of the war of 1812, praying to be allowed a pension, submitted a report thereon, accompanied by a bill (S. No. 1164) granting a pension to David Dimmick.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. COCKRELL. The Committee on Military Affairs, to whom was referred the bill (H. R. No. 4245) authorizing the President of the United States to appoint James Shields, of Missouri, a brigadier-general in the United States Army on the retired list have considered the same, and I am instructed to report it back to the Senate favorably and recommend its passage. It is not a unanimous report. The members of the committee not favoring the bill reserve freedom of action to themselves when it comes up.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

NAVAL APPROPRIATION BILL.

Mr. SARGENT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 18, 19, 26, 27, and 28.

That the House recede from its disagreement to the amendments numbered 1, 2, 3, 4, 8, 9, 23, 33, 34, 35, 37, 38, 39, 40, and 41, and agree to the same.

That the House recede from its disagreement to the amendment numbered 5, and agree to the same, with an amendment as follows:

Insert after the word "for," in line 8, page 4 of the bill, the following: "secretaries to the Admiral and Vice-Admiral."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 7, and agree to the same, with an amendment as follows:

After the word "Admiral" insert the word "or," and after the word "Vice-Admiral" insert the words "when on sea service."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 10, and agree to the same, with an amendment as follows:

After the word "Vice-Admiral" insert the words "when on sea service."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 11, and agree to the same, with an amendment as follows:

Add at the end of said amendment the words "on the termination of its cruise."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 30, and agree to the same with an amendment as follows:

In lieu of the sum proposed insert "\$24,080.75."

And the Senate agree to the same.

A. A. SARGENT,

S. W. DORSEY,

JAMES B. BECK,

Managers on the part of the Senate,

HESTER CLYMER,

JAMES H. BLOUNT,

EUGENE HALE,

Managers on the part of the House.

Mr. SARGENT. The differences between the House and the Senate were very slight indeed, and they were compromised to the entire satisfaction of the conferees on the part of the Senate. I can give a detailed explanation if necessary, but the items are unimportant.

The report was concurred in.

BILLS INTRODUCED.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1166) granting a pension to Mary Mitchell; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CHRISTIANCY (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1167) for the relief of the heirs of Sheldon McKnight, deceased, late of Detroit, Michigan; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1168) to amend section 1225 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. McPHERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1169) for the relief of George H. Cook and James Jenkins; which was read twice by its title, and referred to the Committee on Patents.

Mr. HOWE (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1170) to authorize the restoration of Calvin T. Speer to the rank of second lieutenant United States Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1171) granting a pension to Nancy E. Bell; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BRUCE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1172) for the relief of A. C. Crawford; which was read twice by its title, and referred to the Committee on Claims.

WITHDRAWAL OF PAPERS.

On motion of Mr. ANTHONY, it was

Ordered, That Mrs. Catherine Hunt have leave to withdraw her petition and papers from the files of the Senate.

Mr. OGLESBY. I ask for an order to have taken from the files the petition of 50 citizens of Plana, Kendall County, Illinois, for the granting of a pension to Mrs. Mary E. Lowe, wife of Captain John H. Lowe. This petition was referred to the Committee on Pensions, January 22, 1878, and March 18 the committee was discharged from its further consideration. I desire to introduce a bill, for reference to the Committee on Pensions, with the additional proofs in the case, and for that purpose I move that this petition be taken from the files and recommitted to the Committee on Pensions.

The motion was agreed to.

AMENDMENTS TO BILLS.

Mr. COKE submitted an amendment intended to be proposed by him to the bill (S. No. 942) amendatory of and supplementary to the act entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March 3, 1871, and the several acts amendatory thereof and supplementary thereto; which was ordered to be printed.

Mr. BUTLER submitted an amendment intended to be proposed by him to the bill (H. R. No. 805) to repeal all that part of the act approved January 14, 1875, known as the resumption act, which authorized the Secretary of the Treasury to dispose of United States bonds and redeem and cancel the greenback currency; which was ordered to be printed.

Mr. DAVIS, of West Virginia, submitted an amendment intended to be proposed by him to the bill (H. R. No. 4286) to establish post-roads in the several States therein named; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. GARLAND, Mr. MITCHELL, Mr. CONOVER, and Mr. MATTHEWS submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 4286) making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

PRINTING OF STATEMENTS.

On motion of Mr. PADDOCK, it was

Ordered, That 300 copies of the statement of John Roach before the Committee on Post-Offices and Post-Roads on the subject of ocean steamship service between the United States and Brazil be printed for the use of the Committee on Post-Offices and Post-Roads.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the act (S. No. 1080) authorizing the issue of passports free to colored citizens going to Brazil.

BANKRUPT-LAW REPEAL.

The PRESIDENT *pro tempore*. If there be no further morning business the Senate resumes the consideration of the amendments of the House of Representatives to the bill (S. No. 35) to repeal the

bankrupt law, the Senator from Ohio [Mr. MATTHEWS] being entitled to the floor.

Mr. MATTHEWS. Mr. President, I think the Senate ought to pause deliberately before taking this final and irrevocable step. This measure and this subject are still within our control, and will remain so if the reference prevails, as long as the bill is under consideration in the committee and it is in a position in which it can be molded to meet the actual, the real, and the final view of the Senate, whatever that may turn out to be; but if we now act we act once and for all, and the matter passes beyond our jurisdiction.

It is idle and vain for Senators to say that a new bill can be introduced at any time and by any Senator, and can then be referred to the proper committee and considered by that committee and reported back for action. While according to parliamentary law that can be done, as a matter of fact we know that it cannot be done efficiently with any expectation of success, and therefore will not be done at all. But as long as the matter stands before us in its present attitude it is forced upon our consideration and we are bound to come to some conclusion. Now while it is in that condition, while it is in debatable land, while we have not actually reached our final conclusion, certainly it is not the part of ordinary prudence and wisdom in legislative matters not to formulate that conclusion in the shape of an irrevocable decision until we are clear and certain that that is a conclusion from which we may not wish to recede? It is much easier while the subject is exciting the attention that has been aroused for the Judiciary Committee to take hold of it, to consider it under the pressure of the feeling on the part of the Senate and of Congress and of the country that something positive and substantial and decisive ought to be done and accomplished, than it is to wipe out all legislation on that subject and begin *de novo*, for with that much of the interest of the occasion ceases, and we have given ourselves up into that hopeless condition in regard to the possibility of successful legislation which of itself will defeat all attempts at legislation.

Now, Mr. President, I have confidence that if the Judiciary Committee will take hold of this subject in that spirit and with that desire they will produce something which will be acceptable to the Senate and which will be better than the bankrupt law as it now is and far better than the absolute and unconditional repeal of it. I believe that the causes, the uncertainties, the indecisions which resulted in the disagreement of that committee and the present posture of the subject will have been removed by the discussion which has taken place, by the new developments of public sentiment, and by the expressed wish of the Senate that the Judiciary Committee shall bend their energies to the task of perfecting instead of repealing the law. If it is competent for Senators to express in clear and unmistakable language the various objections which they have to the provisions of that act, then it is competent for the Judiciary Committee to remove those objections by a change in the law, either by repealing the voluntary provisions, leaving the rest of the statute to remain, or substituting for them improvements which shall meet the difficulty.

Let us therefore give the matter one more trial; let us make one more experiment. The subject is worth it. No more important question, none affecting the interests of the community from one end of country to the other irrespective of sections and classes, none lying more nearly at the foundation of the public weal exists or has been considered by the Senate than this very question of a proper and efficient bankrupt system. The country has tried to do without it, and it has been compelled periodically to return to it and return to it each time under circumstances of all others the most unfavorable for wise and judicious legislation; under the impulse and the pressure of great public calamities and distress, and inspired either by feelings of deliverance from the burden of debt and the inability of debtors overwhelmed by calamities which overcame the whole community or by the cries of creditors who were deprived by the multitudinous frauds of their debtors of their just dues.

Now, when we still have the system and are experiencing its evil effects, let us not throw away the possible good which exists in order to remedy evils which are not remediable in that way, but which may be remedied in some other way. Let us not resort to amputation as long as there is a possibility of saving the limb. I know it is a maxim in some surgery always to cut, but the wisest is the remedial system which seeks to restore to soundness and to save. I believe it is impossible to believe otherwise than that the Judiciary Committee of this body, the select lawyers not only of the Senate but of the country, comprising the very highest order of talent and the most varied experience and the widest learning, are able to take this subject up and to treat it in a scientific and a successful way, and I am not willing as a Senator, not a member of that committee, to confess for them their incapacity in this respect. On the contrary, I have more faith in them than they seem to have in themselves, believing it is only a want of self-confidence on their part that has compelled them to recoil from the attempt to perform a task that I know is certainly within the compass of their powers.

It is said, Mr. President, that the present bankrupt act is the hopeless resort and protection and refuge for all manner of fraud and villainy, and that that is a reason why it ought to be hurried out of sight, to be instantaneously wiped out of existence, to be blotted from the statute-book, because there are so many fraudulent debtors who are crowding into the courts seeking to obtain the benefit of its

provisions and discharge. No doubt that is largely so. No doubt there will be fraudulent debtors under any amended bankrupt system. I do not expect, I dare not hope, that any statute that we may pass can ever either prevent or sufficiently punish the frauds which arise from day to day between debtor and creditor. I look for the cure of that disorder as I do for the cure of other political and social disorders, to a medicine that is far deeper and less superficial than any legislation we are competent to consider or to pass. But it is no argument against this bankrupt act, it is no argument against any bankrupt act that it will not prevent, detect, remedy, or punish possible frauds. Do the Senators who are urging the immediate repeal of this act flatter themselves with the idea that when it is repealed there will no longer be frauds committed by debtors against creditors? Manifest as those frauds in my opinion have been and as often as the very provisions of the law have been made to cover a retreat for them, I nevertheless venture on the prediction that the absolute and unconditional repeal of the act will be simply uncovering the box of Pandora, and instead of the frauds that can now be enumerated and carried on in the list of bankruptcies they will be so thick and so many that they will darken the air and you cannot count them.

Will not the provisions of the State system of insolvencies be resorts of the same character? Will there not be confessions of judgment where there was no debt? Will there not be feigned mortgages to cover property from real creditors? Will there not be fraudulent conveyances made to hinder, delay, and defraud those whose debts are matured and whose claims have ripened into judgments? Will there not be every device, every resort, every stratagem that the ingenuity of fraud always can invent and contrive as well under the numerous, various, and multiplied systems of insolvency, of assignment laws to which we are relegated and remitted by the repeal of the bankrupt act, as under any bankrupt act which can or may be devised?

In addition to those frauds which will be common to every system, the repeal of this act will breed oppression of its own. What shall we have instead? I venture on another prediction. The result will be that the very rich creditors out of the number of creditors of a given debtor, who are able by threats or promises to make it appear to the failing or insolvent debtor that his interest lies in preferring the strongest creditor, in every case of insolvency will be found to have appropriated to themselves, to the exclusion of the general creditors, all that remains of the debtor's estate. You will have unjust and inequitable preferences. You will have judgments confessed and mortgages given to secure preferred creditors, and that preference will either be dictated by natural affection or by that which is in many cases stronger even than natural affection, the self-interest of the debtor and the fear of the creditor by attachment seizing the property in advance, by judgments voluntarily confessed, by collaterals hypothecated, by mortgages given, by absolute deeds, transfers, and conveyances of every description. The large firms, the A. T. Stewart & Co., the H. B. Claflin & Co., and such immense establishments, will swallow up the rights and the interests of all other creditors of moderate and smaller means; so that instead of avoiding the difficulty you are simply precipitating and increasing it; you are not only legislating against the honest debtor but you are legislating in such a way as to present a temptation almost too great to be overcome to honest debtors to become dishonest in the sense which I have described by delivering up themselves and their estate to the custody and the care of one creditor out of many in order that they may have his protection.

In the light of our experience, in the presence of the condition of the country, which certainly, more than in almost any other period of its history before, demands legislation of this sort, are we proving ourselves equal to our task and equal to our duty in surrendering, without an attempt rightly and wisely to exercise it, this great constitutional jurisdiction, this jurisdiction expressly conferred in order that we may, by the establishment of a uniform rule on the subject of bankruptcies, prevent the confusion, the disorder, the loss, the treachery, and the fraud which may be practiced through the instrumentality of State systems of insolvent laws? Are we not yielding to an unreal and merely fancied necessity when the real and the urgent necessity ought to drive us in the opposite direction?

I do most solemnly and earnestly protest against the hasty action of the Senate in this regard. I do most earnestly and sincerely urge and appeal to Senators that we make another effort in order to establish a wiser and better system than that under which we have been living, and not give it up altogether; for there is no reason urging us in that direction which does not amount to a declaration on our part that we abdicate now and forever, for all time to come, the exercise of this power given us by the foresight of the founders of the Constitution.

Mr. HILL. Mr. President, I believe that there ought to be a uniform system of bankruptcy in this country. I believe the framers of the Constitution intended that there should be one. I think the present bankrupt law has been of immense service to very many people. I think it has been a general good; but while I so think I believe the present existing bankrupt laws ought to be entirely repealed. In listening to the discussion this morning one would suppose that the motion before the Senate was to reconsider the action of this body had a week or two since.

Mr. ALLISON. That is one motion before the Senate, to instruct the committee to report amendments to the present law.

Mr. HILL. It does not seem to me that that discussion is exactly proper. It is in order I admit, but the Senate by a vote of six to one have expressed their desire to repeal the existing law. The House have concurred in that expression of desire by the Senate, by an overwhelming vote of three or four to one. I think in view of that large expression of desire both in the House and Senate to repeal absolutely the existing bankrupt laws, it is not to be expected that there will be a change of opinion upon the subject sufficient to prevent the repeal.

The only proper question before the Senate is one very limited in its character, and that is whether the amendments proposed by the House are of such a character as to authorize the reference of this bill again to the Judiciary Committee. Although the discussion has gone into the whole field, I am not going to follow it except to assign briefly the reasons why I favor the repeal of the existing bankrupt laws while at the same time I favor the existence of a uniform system of bankruptcy.

The administration of the present law has been subjected to immense abuse. In my judgment a machinery has grown up in the administration of this law by which the estate of a debtor goes to some persons other than his creditors. In my country they rarely prove their debts. I think the majority of creditors never prove their debts in bankruptcy. They take it for granted when they receive a notice in bankruptcy that they will get nothing; that if the debtor has anything to distribute it will be distributed among those who are authorized to take it before it can get to the creditors. As to what are the particular defects in the law under which these frauds can be committed, I shall not take up the time of the Senate to discuss. I simply state the fact that they exist.

I believe after full consideration that I concur in much that has been said by the Senator from Ohio, [Mr. MATTHEWS.] While I do believe that it would be a calamity to a great commercial country like this not to have a uniform system of bankruptcy, while I believe that such a system is almost a necessity, while I believe in a large measure that wrongs and oppressions may grow up if the existing laws are unconditionally repealed, still, in view of the frauds that exist, in view of the maladministration of the present laws, I believe it will be in accord with the desires of the country, both creditors and debtors, that the present system should be wiped out. I believe that to be the only effectual remedy, and therefore I am prepared to vote for the repeal.

I do not think it is altogether right that gentlemen who are opposed to the repeal, after the expression of opinion that has taken place in the Senate and the House, should resort to any measure to prevent the perfection of the bill now before us.

I wish simply to add that I think the Judiciary Committee, in whose ability we all concur, immediately upon the repeal of this law ought to take into consideration the enactment of a bankrupt law more simple in character, one less liable to fraud and corruption, one better adapted to carry out the real purpose of such a law and to afford the relief for which a system of bankruptcies is intended.

On the immediate question before the Senate, of reference to the Committee on the Judiciary, my idea at first was that the bill ought not to be referred, because there is nothing in the amendments proposed by the House which requires a review by the Judiciary Committee. The Senator from New York [Mr. CONKLING] made a suggestion which I thought reasonable. I thought that his suggestion was correct and that the bill ought to go to the Judiciary Committee. I was then of the opinion, in which I seem to have been mistaken, that the committee were almost unanimously in favor of the repeal of the bankrupt law. It seems that that is a mistake. I am assured again by the Senator from Michigan, [Mr. CHRISTIANCY,] a very able and distinguished member of that committee, that the amendment proposed by him will relieve the difficulties suggested by the Senator from New York completely, and that therefore there is no necessity really for the bill to go back to the committee. If there is no necessity growing out of the amendments proposed by the House to refer the bill back to the committee, I do not think it is exactly proper to refer the bill for the purpose of reviewing the already expressed desire of the Senate and of the House. I do not think that it is exactly proper to bring into the question the whole original subject of the bankrupt law and its repeal. If it be true that the amendment stated by the Senator from Michigan will relieve the difficulties suggested by the Senator from New York and perfect the bill, there is no necessity for referring it. If that is not so, let some Senator show that it is not so. If there is a necessity to refer the bill, we ought to refer it, because we should make no mistake. The saving clause should be complete to carry out the purpose of the two Houses. If there is no necessity for referring the bill, then we ought not to refer it. We ought to carry out what is the expressed will of the Senate and of the House, who I take it for granted fairly represent the will of the people.

I confess that I have had great trouble upon this subject. I believe that much said by gentlemen on the other side is worthy of weighty consideration. I have doubted myself very seriously the propriety of repealing this law absolutely; but I do not believe we can get rid of its defective administration; I do not believe that we can effect-

ively get rid of the rings of office that have gathered around the administration of this law in the different States without wiping out the law entirely and beginning again; therefore I have finally concluded that I shall vote for the repeal; and while I sincerely desire to carry out that purpose I do not wish to refer the bill unless there is a reason for it. When a distinguished and able member of the Judiciary Committee proposes an amendment before us simple in its character to relieve the difficulty suggested by the Senator from New York, I really see no good reason why the bill should be referred.

Mr. McDONALD. Mr. President, the reference of the amendments of the House at this time to the Judiciary Committee is unquestionably a decision on the part of the Senate that the bankrupt law is not to be repealed at the present session. The bill is one simply for the repeal of that law. It was referred at an early period in the session to the Judiciary Committee, and remained there for a considerable time, during which time resolutions, petitions, and memorials were received by the Senate on this subject and referred to that committee. The committee were in receipt of communications from various parts of the country in respect to the repeal of the law. It was determined by a majority of the committee at least that there was no practicable remedy in our hands except the repeal of the law. The bill was reported back with such a saving clause as we believed to be sufficient to save all pending cases involved.

The repeal of a law is certainly no very difficult question to be grappled with. It involves simply the ascertainment of the law to be repealed and the declaration that it is repealed, and then, if it is desirable to save any part of it so far as pending proceedings under it are concerned, a saving clause is all that is requisite. This measure has such a saving clause. If there is any difficulty at all in regard to the saving clause, certainly it is very easy to insert language in it or to make suggestions in regard to it that will clear it of all ambiguity.

It is not my purpose to discuss the general principles of a bankrupt act. The power to pass such a law resides only in the Congress of the United States. The States are inhibited from passing such acts; yet we all know that in times of ordinary prosperity our people are able to and do transact their business in a very satisfactory manner and settle their affairs under the various laws of the States relating to what are termed insolvent acts and voluntary assignments, and other modes of adjustment of that kind between an insolvent or failing debtor and his creditors. It is only when we have such times as have been upon us since 1873 that our people look to a general bankrupt act for relief, and then as such an act is drawn with reference to the surroundings at that time it is in its very nature and character unfitted to become a permanent law in regard to the principles of bankruptcy and assignments. That this law disclosed that kind of defects in the course of its prosecution is evidenced by the fact that Congress at every session since it was passed has been called upon to pass remedial acts for the purpose of perfecting it as far as possible, until it has reached a point where in the judgment of those who have given it the most careful consideration it is impossible to ingraft upon it such remedies as can make it a proper permanent law for this country. It is in that view precisely that the majority of the committee made the report upon this bill, and the Senate by a very large majority concurred in it. If the Senate has undergone a change upon the subject, if Senators do not think now as they did then, as a matter of course they can return the bill to the committee with such instructions and directions as they see proper to give, but in my judgment a vote of reference now is a defeat of the repeal of the act at this session.

Mr. SAUNDERS. Mr. President, I voted against the repeal of the bankrupt law, not because I like the law, not because I desire that it shall remain as it is on the statute-book, but because I thought it possible that by voting down the bill before the Senate an amendment could be brought in of some kind which would give us a bankrupt law that would better serve the interests of both debtor and creditor than the present law. I shall vote for the reference of the amendments of the House to the Committee on the Judiciary in the same hope that something may be done to give us a law which will satisfy the demands of the people on this subject. If I were called upon now to say whether we should have the present law or none, I should vote for a repeal, because I do not like the present law; but I do not think we are driven to that position at present. I will give my reason for this belief in a few words.

Bankrupt laws are generally passed to relieve the people after panics. The first to be relieved in such a case are the great body of merchants and traders and manufacturers around and near the great cities. After that, the effects are felt more in the interior, in the farming and other communities than in the cities. Such is the effect to-day. The large debtors have gone into bankruptcy or have been forced into bankruptcy and have made some kind of settlement with their creditors, but the smaller ones are still struggling in the country, owing probably but a small amount, but yet large to them, and they are trying to get through. If you repeal the law at the present time and throw it open so that "first come first served," as the old saying is, more suits will be brought, in my opinion, within the next six or twelve months than have been brought within the last three years, for the very reason that creditors will say now, "Nothing can prevent us; if we sue first, we shall get our money." But with the present or some similar law of the kind standing upon the statute-

book, these men will stand back, knowing that if they bring suit they will be forced to take the same that others take, and therefore they will get no advantage by prompt or early suing. I am not a prophet and I do not want to prophesy unless for good; I do not want to prophesy for evil; but I predict that in the next six or twelve months, if the law is repealed, more suits will be brought and more small traders will be broken up, than, as I said before, have been brought in the last three years. Believing that, I think the committee ought to take the subject into consideration and try if possible to give us a law that shall protect alike as near as possible the debtor and the creditor. For that reason I shall vote to refer the amendments to the committee, with the hope that they may give us some improvement on the present law, so as not to allow a majority of the debtors to get out of the courts with merely the costs and fees, as at present, but one which, while it protects the debtor, shall at the same time look to the interests of the creditor. If I fail in that, then as a matter of course I shall take my chances for the other.

Mr. HOAR. Mr. President, if I were to obey the expression of the will of the people of my own State, or to act merely with regard to the interest of the people of that State alone, I should vote for the early repeal of the bankrupt law. We have in Massachusetts what will be revived by the repeal of the United States bankrupt law, an insolvent system which had been matured with great care, the product of long experience of a commercial and agricultural and manufacturing people, and which was, in my judgment, as perfect and complete an insolvent system as the wit of humanity could devise. The only objection to it was that it did not afford a discharge to debtors from debts due to persons residing out of the State, and it did not afford a remedy to creditors dwelling in Massachusetts against debtors residing in other States, when those State laws afforded no sufficient remedy for giving the creditor an equal share of all the debtor's property in case of his insolvency; but still to balance those two evils was the completeness of the system as a State insolvent system and the fact that the insolvent law was at every debtor's door. The man who failed in some small contract, the carpenter who had taken a contract for building a block for \$10,000 or \$20,000 and had miscalculated, could very often have his entire estate administered at an expense of \$75 or \$100 by some neighbor, or some honest young lawyer, the whole distribution made in three months, the discharge effected, and substantially the whole estate without delay or without cost or tax divided among the creditors.

The experience of the United States bankrupt law has been very different. There was a very strong desire on the part of our people for a bankrupt law. All the lawyers who had been educated at the feet of Judge Story had learned from him to desire what was his favorite measure of public policy, a well-constructed United States bankrupt law. I believe Judge Story was the author substantially of the United States bankrupt law of 1841. But experience of the present law has changed that opinion. It has been clumsy, costly, tedious, and insufficient. The estates have gone very largely in costs. The trials of all disputed facts are at the seat of government, in Boston, so that every witness, debtor, creditor, attorney, and assignee has to travel at every step half way across the State; and of course if in a little, compact State like Massachusetts that is true, it must be still more true in the large States of the West and South.

Therefore, balancing the evils with the advantages, I should be prepared to vote for a repeal of this bankrupt law, unless there were promise of a very great improvement in the mechanism which it provides for the discharge of debts; but it seems to me that it is a very inopportune time to make this repeal. What is the result? Have Senators who voted the other day for the immediate repeal of this law reflected upon the condition in which the people of the United States will be left? Not only in future can there be no discharge of a debtor from any debt due to a citizen of a State where he does not reside, but, as I understand the old decisions of the Supreme Court of the United States, there can be no discharge whatever under the operation of any State insolvent law from a debt contracted prior to the enactment or to the revival.

Mr. EDMUNDS. Prior to the repeal of this act?

Mr. HOAR. Prior to the enactment or to the revival of the State insolvent law or the State bankrupt law.

Mr. EDMUNDS. The State has no power over that.

Mr. HOAR. In other words, if this repeal take effect next week or next month every existing debt contracted in this country is incapable of discharge except by payment in full or by the will of the creditor. To select for such an enactment as that the quarter coming at the end of a period of business depression and bankruptcy such as has existed in this country since the year 1873 is unwise. It is the quarter in which there have been a greater number of actual bankruptcies than have occurred, if I am not mistaken, at any time since the foundation of the Government, and in this statement I do not include persons who have hurried into bankruptcy in consequence of the intended repeal of this law. Unless I am misinformed there has been a larger number of actual bankruptcies brought to pass in the ordinary course of business within the recent month through which we have just passed than in any other similar period since the foundation of the Government. Whatever desire I or my people may have to get rid of the clumsy and costly and tedious mechanism of the existing United States bankrupt law, I cannot bring myself at this time to vote for plunging every debtor throughout this entire coun-

try, in this time when our business future is so doubtful and hazardous, into this condition which I have described.

Mr. EDMUNDS. Mr. President, the Senator from Massachusetts [Mr. HOAR] has alluded to a point to which I wish to call the attention of the Senate; and that is, that the present repeal of the bankrupt act, although it revives the insolvent systems of all the States, does not revive them as to any existing debt, or any existing credit, which, of course, is the corresponding attitude. The relations of every creditor and every debtor now existing, this act being repealed to-day, will continue to exist in spite of State laws. No debtor, therefore, can be discharged so that he can begin business again and aid in the general welfare and prosperity of the community, without being exposed to an immediate suit at law by his creditor for his unpaid debt, however perfect the State system, as in Massachusetts it is, may be as applied to the citizens of its own State.

More than that, Mr. President, it operates in exactly the same way in respect of insolvency as to future debts, in effect; for how is a debtor to have a just discharge in future insolvency and how is the creditor to have a just proportion of that debtor's estate, if at the same time there is left behind as to all these existing debtors this old incubus hanging upon them? Now, out of the business people of the United States, which I estimate at five million persons, probably one-eighth of all the population in the United States in some form or other are engaged in business transactions. Suppose it is only one-twentieth; suppose you say one million even of the citizens of the United States—put it at its lowest—are engaged in business transactions to-day, upon their prosperity and success and fidelity and honesty depend the prosperity of the whole commonwealth. The moment you take out of the active forces of society the industry, the intelligence, and the business capacity of the great body of its commercial and business citizens, and hamper and embarrass them, that moment you have struck a great blow at the prosperity of the Republic. Nobody can dispute that.

Now, then, in that view of a statement which I am sure everybody will agree to, those who wish for repeal and those who do not, let us calmly look the thing exactly in the face and see what we are going to do. We are going to say as to every one of these debtors and these creditors now existing, "You are remitted to the common law" that that applies in all the States, or something like it, and that is "first come first served;" whoever sues and gets a judgment, and in some States, as in mine, whoever sues first and afterward gets a judgment takes the whole of the debtor's estate, and excludes all the other creditors, when everybody knows that is unjust and wrong. But supposing it to be done, and the debtor is wound up, what is he going to do then; or take those who are not sued and are not wound up, who keep on for a little while, for a year if you please, with these old debts still unpaid, and then this continuance of trouble in this country not being disposed of, they are forced to settle with their creditors and wind up their business; how are their new creditors to stand? Where are they to get the new credit upon which new creditors will lend? Because the new creditor sees "if this man goes into a state of insolvency a year hence, during this year the old creditor who cannot be touched by any repeal of the bankrupt law may take the very money and property that I advanced to this business man to help him benefit the people, honest as he is, in carrying on his affairs, will be taken to pay the old debt." The toil of many, the contributions of many are made the gain of a few. What becomes of the debtor's credit then, a man who under existing conditions, or under normal conditions without a bankrupt law, if you take future debts alone, the old ones being paid off, could get credit. The consequence will be, as I believe the necessary consequence in the present state of business in the country will be (however much we may dislike the expensiveness of these wipings-out by bankruptcy, however much we may dislike the fact that they pay so little and are discharged so often) to drive into a state of actual bankruptcy—I am not now speaking of legal bankruptcy—from the diminution of credit, the incapacity to borrow money and keep on, hundreds of thousands of business men of this country engaged in farming and manufacturing and mining and everything. Bad as is the law now in respect to these great expenses, bad as it is now in respect to the fraudulent compositions as it is said, you will by its repeal drive into actual bankruptcy hundreds of thousands of people who, if you keep the law bad as it is now, will go on and no expenses will have to be paid because they will not go into bankruptcy; the creditors will not force them into bankruptcy for the reason that they see, as the opponents of the bankrupt law say, that they will get nothing if they do, because all will be eaten up in expenses; and the voluntary man if he be honest—and the great majority of business men are honest—will say "I will not go into bankruptcy for the reason that so long as my creditors will keep their hands off, knowing that there will be equality if they come in and discharge the debt and they will not get anything because of the expenses, I can struggle on and when the sunshine of prosperity comes I can pay every dollar that I owe." Mr. President, when you spread debt through a hundred thousand or a million hands all over this great Republic, we ought to consider very carefully what sort of effect we are going to produce in this time of distress by the step we are to take.

I opposed the repeal of this law in committee. I said nothing about it in the Senate for the same reason undoubtedly that the committee

did not undertake amendments to rectify the evils that do exist; and that was the idea, real or mistaken, that the Senate through the influence of a public opinion, not well founded in respect of the principle upon which it rested, but uneasy under abuses that they saw, had so impressed itself upon us that the law was going to be repealed anyhow, and that any labor of the committee in undertaking to rectify the evils and abuses which exist would be merely labor thrown away; and so this bill for repeal was reported against my vote and that of my honorable friend from Illinois [Mr. DAVIS] and perhaps one or two others; and so the minority of the committee must be excused from taking any responsibility in respect of the imperfections that are supposed to exist in the repealing act.

So much, Mr. President, for the attitude of the general question, with this addition which I will here state, because I wish to be as brief as possible. It is said that it is generally acknowledged that there ought to be a bankrupt law for the reason that commerce and business know no State lines, that whatever may be said about State rights and State sovereignty (in all of which I agree as it is usually stated) in respect of business intercourse and the commercial relations of the people of this Republic there are no State lines; we are a nation and nothing else. There are no barriers that divide the State of Vermont from the State of New York; there are none that divide the State of Georgia from the State of South Carolina or any other of the States. We are one people. And yet, as the Senator from Massachusetts [Mr. HOAR] has pointed out, under the Constitution as it exists and has been expounded, there is no power in any one or in all the States acting as States to regulate the business transactions between their citizens and those of other States. They are utterly beyond the power of the States. Therefore any State system that may exist is necessarily founded upon a false principle, if the principle of bankruptcy is correct at all, and is necessarily ineffectual in respect of the great public objects of relieving an honest and industrious debtor who has met with misfortunes and enabling him to turn his industry and talent again to the benefit of the Republic in carrying on business. There is no power, I repeat, in any of the States to completely regulate those affairs. Therefore every State system must be necessarily defective in principle and imperfect in its execution. Everybody agrees to that; and yet because the present law, the act of 1874, is found in certain respects to be excessive in respect of its expenses (and that is the fault of the judges of the Supreme Court, I will say, because they have the whole control of that by rules and regulations; they can diminish them by rules and regulations; or the law could do it now if we had a chance,) or because in respect of the relations between the debtor and his creditor in regard to compositions, voluntary bankruptcy, discharges on the payment of certain percentages it is found to be wrong, we are to wipe it all out. If we find that the customs laws are, as it is claimed, wrong, now, the argument would be just as strong to repeal the whole system of customs laws at once and begin again. The internal-revenue laws are said to be wrong; we regulate them every year; they are oppressive here; they are too indulgent there; therefore wipe them all out, and wait until you can get a new law! That is not reasonable, Mr. President.

The state of the present law in the defects to which I have referred, aside from the expensiveness of it and the distance that people are sometimes obliged to go under the present system to have their cases tried, arises from the very fact that in 1874 the Judiciary Committee of this body were impelled by the same wind—I do not mean wind in the sense that we talk about oratory—but by the same tide of a temporary public opinion reflected here, that the old bankrupt law was too favorable to the creditor, in order to save it, to go too far in the direction of favor to the debtor as it is claimed. It was in order to save the law at all that the distance to which we went in that direction was reached. Whether we went too far is another question; but we went that far in respect of the ease with which a person could get out who had been forced into involuntary bankruptcy and in other respects in regard to the number of creditors that must agree to a composition, &c., on the ground that it was useless to put it upon what we thought were the perfectly philosophical principles of the thing, for the reason that the Senate would not agree to it. That is not a good way to legislate, I admit, but we did it. If we had not done it, the bankrupt law would have been repealed three years ago, and would have been re-enacted two years ago in my opinion, beyond all question. So we stand.

Now, Mr. President, I am glad that the Senator from Iowa [Mr. ALLISON] has made this motion, because it will enable the Senate to determine, definitely and affirmatively and in advance, whether it is desirable to absolutely repeal the whole law. If they say it is, and disagree to his amendment instructing the committee to make inquiry into the methods of perfecting it, then one simple question will remain of providing the amendment proposed by the House and the other amendments necessary to make this repeal what everybody agrees it ought to be. Now what ought it to be? Everybody agrees as to that, that it ought to preserve the present law for every existing purpose—crimes, penalties, assignments, suits—everything. The bill as it passed the Senate undoubtedly did not do it. The bill as it is amended by the House of Representatives is just as far off from doing it. If anybody will take this thing and run his eye over it, he will see that the amendments proposed by the House of Repre-

representatives, as stated by the Senator from Michigan, only make what was perhaps doubtful and difficult before more doubtful, and more difficult, and more imperfect. Take the amendment proposed by the Senator from Michigan in the place where he proposes to put it in and in my humble judgment, stated upon the spur of the moment and without time to discuss it privately and to think of nothing else, it will still leave it open in respect to questions that will arise as to criminal prosecutions, as to suits brought by assignees in respect of matters hereafter to occur, and as to suits under the old law even by assignees, to the greatest possible doubt as to whether those suits are saved.

What, then, is the best thing to do in such a case? The simple thing would be to refer the matter to some committee. If the Senate has lost confidence in the Judiciary Committee, very well—it may very rightly perhaps, not particularly in respect to this matter, but in respect to all matters—then send it to some other committee to endeavor by careful study, where there is nothing else to be done for an hour or two, to perfect the language in such a way as to cover all these points. After the vote of the Senate that they wish to repeal this law and do not wish to authorize the committee to consider whether it can be amended, no Senator need be in the least afraid that the Committee on the Judiciary or any other committee to which you may send this matter will not at once consider and perfect the House amendments so as to report immediately. I should have no objection, if it is the pleasure of the Senate to have this perfected by the Committee on the Judiciary, to act under an instruction that we shall report immediately, which means just as soon as the matter can be considered. No Senator need be afraid that his repeal is going to be swamped by the fact that it is sent to a committee, after the sense of the Senate is ascertained that they are for repeal, to perfect the necessary machinery for protecting all rights.

Mr. CONKLING. Mr. President, this debate to-day has been very interesting and instructive to me, but no more instructive than surprising. It is a debate waged chiefly to shed light upon the question whether the bankrupt law should continue or should be repealed. Had all these speeches been made the other day when this question was before the Senate, they would have been in order, and I cannot doubt they would have produced as much effect as they can possibly produce to-day. I had supposed, I do now suppose, whatever may be the cogency of the reasons on the other side, that the repeal, the immediate and total repeal of the bankrupt law is something decreed by the judgment, the expressed judgment of an overwhelming majority of both Houses and of each House. I do not remember the vote exactly in the Senate the other day; the Senators around me may.

Mr. THURMAN. Thirty-seven to six.

Mr. CONKLING. Thirty-seven to six. On what day was that, will the Senator tell me?

Mr. THURMAN. April 16, I think.

Mr. DAVIS, of Illinois. There were three or four of us paired with gentlemen who were absent.

Mr. CONKLING. Still that would preserve the proportion.

Mr. DAVIS, of Illinois. Thirty-seven to nine.

Mr. THURMAN. If the pairs had been here, the vote would have been forty-one to ten.

Mr. CONKLING. Forty-one to ten. That would have been four to one, and a fraction over; and that was on the 16th of this month.

Mr. EDMUNDS. The 15th.

Mr. CONKLING. The 16th the Senator from Ohio says. Surely there is no newly discovered evidence, there is no new state of the case; on the contrary everything informs us that the majority which in the House and in the Senate said that this law should cease exists now. Therefore although, as I say, I have listened, for one, with great pleasure and great instruction to the very cogent reasons which have been assigned *pro* and *con*, I humbly conceive that the question really before the Senate is not the question embraced by this wide debate.

Some time ago the bill which is the foundation of the proceeding to-day was introduced by the Senator from Kentucky, [Mr. McCREERY.] I am not going to say, in the face of what the House has done, that that bill as he drew it or introduced it designated properly the act to be repealed. I have a very clear judgment, however, as to what any intelligent court would have said on that topic had the House not amended the bill. However, the bill came to the Committee on the Judiciary; and as one member of that committee I wish to dissent entirely from any allegation or admission that it is blamable in respect of this bill. The bill was referred to the committee, not to ascertain whether the Senator from Kentucky who drew the bill had cited the proper page in the book or not; not to ascertain whether his reference was to the Statutes at Large and not to the Revised Statutes; but for a very different purpose, to ascertain whether the thing the bill undertook to do should be done or not. That was referred to the Judiciary Committee, and referred to a subcommittee; and I confess freely that it never occurred to me to take the bill and go to the volume and verify the mere reference to the act. That is the thing which a copyist does when he copies a paper; two persons usually compare it; but when a bill is referred to a committee of this body, it is not for the purpose of seeing whether some error in copying has taken place, or whether by misadventure an erroneous page or title has been referred to. I admit that that ought to be included, but I

insist that that was not the object of this reference or the thing referred.

After a great deal of consideration it was determined by the committee, virtually without any recommendation at all *pro* or *con*, because there never was an affirmative report made on this subject, that it was appropriate, respectful, and deferential to the Senate and to the occasion for the Judiciary Committee to come back with the facts stated and without recommendation leave the Senate to pass upon it. So it did; and the Senate by a great majority declared for a repeal and declared it in the terms employed by the draughtsman of the original bill. The honorable Senator from Michigan, [Mr. CHRISTIANCY,] who, unlike some other members of the committee, had no hesitation in his judgment adverse to the law, had confided to him the duty of making the report, and confided to him also, at the suggestion of the committee, the duty of reporting a saving clause, which I may say, for one, was never read in my hearing until it was read in the Senate. That was adopted by the Senate.

The House of Representatives came to the conclusion that the Revised Statutes should have been referred to, and not the Statutes at Large; and therefore, for abundant caution, or for industry, as lawyers would say, they changed that phrase, and then they undertook to analyze and particularize in respect of the saving clause, and they so made it that lawyers in the Senate and beyond the Senate believed that that clause as presented to us now perfected in a law would leave unsaved some of the most conspicuously meritorious of existing rights; and therefore the Senator from Michigan offers an amendment to cure that supposed defect; and the question which seemed to me the only question practically before the Senate was and is whether we had better now, in the face of these alleged oversights, attempt in open Senate, hap-hazard, on an unprinted amendment, to do all that need be done, or whether we had better employ the services of some one of the committees of the Senate to insure us against future error. That being the question, I cannot understand, any more than the honorable Senator from Georgia [Mr. HILL] was able to understand, why any time practically should be spent over such a question. Had it been referred as a matter of course to the Committee on the Judiciary in the face of what had occurred, a speedy report would have come back. Had any delay been attempted, certainly a majority of four to one could enforce that rule of the Senate which suggests that a committee may at any time be discharged from a measure, and it may be brought back. Therefore, there was not the ghost of a danger of the repeal of this law being postponed; there is not now; and there is not, that I can see, the slightest objection practically to our doing what we do with all important bills, and that is subject it to this scrutiny.

My honorable friend from Iowa, [Mr. ALLISON,] during a moment when I was diverted—I did not hear his resolution read—proposed, as I understand, instructions directing the committee to revise the bankrupt act. The honorable Senator is sending for the doctor after the man is dead. There is nothing except death and quarter-day that I can think of more certain than the absolute repeal of the bankrupt law, and that presently; and the only question to which it is worth while for him and me to address ourselves is what concerns the appropriate and effectual mode of doing that and doing nothing else.

Mr. ALLISON. It is not dead yet.

Mr. CONKLING. No, Mr. President, it is not dead yet, but its death is decreed beyond all peradventure. Now, for my own part, I do not care whether this bill goes to a committee or not except on the general account. I do not believe that the amendment which I have heard read hastily, to be proposed by the honorable Senator from Michigan, is the amendment that he himself would prefer or approve if he had the opportunity thoroughly to revise this matter and to listen to the various conflicting suggestions which arise in the consideration of a committee; and therefore I say that I think the bill should be referred.

I will only add, Mr. President, in answer to a remark which I think fell from the honorable Senator from Massachusetts—who sits in front of me [Mr. HOAR] that my own vote upon the bankrupt law was and is guided, not by my own judgment alone, nor by my estimate of such considerations as the Senator (very appropriately, as I thought) suggested; but it is influenced chiefly by the fact that the Legislature of the State whose vote in part I am permitted to cast here, has with great emphasis of numbers and of phrase instructed me to vote for the repeal of the bankrupt law; and thus instructed I do not feel at liberty on a question of this sort to set up my judgment, had I a judgment in conflict with that. So much I conclude without going into the general differences which prevail as to the extent of the legitimate doctrine of instruction. I think upon a question of this sort, applying the rule to myself, I am not at liberty to speculate upon what would be wise, or to do anything except give the vote which seems to be expected of me; and therefore, in favoring the motion to refer, I have no purpose of any sort either to delay or defeat the action of the Senate, but simply to take the readiest and speediest mode of arriving surely at the result which the Senate desire.

Mr. PLUMB. Mr. President, I have in my hand a statement by a register in bankruptcy which I shall have read at the Clerk's desk for the purpose of illustrating, as I think, the necessity for immediate action on this question, and for the purpose of accounting to some extent for the number of bankruptcies which have been spoken of as occurring recently, and for the purpose of bringing to the front

besides a small and very worthy class of people who feel very great interest in the repeal of the bankrupt act: the registers in bankruptcy. I ask the Secretary to read the circular.

Mr. McMILLAN. May I ask the Senator whether that is a newspaper or a printed circular?

Mr. PLUMB. It is from a newspaper; but the name of the register is signed to it.

The Chief Clerk read as follows:

To the Editor of The Tribune:

MORRISON, ILL., April 25.—I inclose a card which has been sent to every business man in this city. The merchants here are unanimously indignant that a United States official should recommend and send all over the country circulars making robbery easy and safe at the expense of all honest men, and would like to have the matter shown up in the strongest light.

HARDWARE.

OFFICE OF UNITED STATES REGISTER IN BANKRUPTCY,
Freeport, Ill., April 22, 1878.

DEAR SIR: Within the next few days the bankrupt law will, no doubt, be repealed. The bill repealing it has passed the United States Senate and has gone to the House, where it is almost certain to be passed without debate. On the approval by the President of that bill, the law will then stand repealed.

The repeal of this law may deprive many persons of the opportunity of availing themselves of its benefits who desire to do so. To such, if any there be, it is the purpose of this card to say that, if their petitions are filed in the United States court of Chicago before the repeal takes effect, such repeal cannot prevent their going through bankruptcy. All persons who have got their petitions on file will be safe, and the repeal will in no wise affect them.

A person can go through and get a discharge whose assets amount to 30 per cent. of his debts; or, if he can get one-quarter of his creditors holding one-third in amount of his debts to consent to it, he can get such discharge without any assets whatever; he pays only the costs of the proceeding. * * * I have never yet known a case where a bankrupt has tried to get the consent and failed to do so. This feature of the bankrupt law makes it just about as easy to now go through, on payment of costs only, as it was when the law was first enacted and discharges were allowed on payment of only the costs.

The costs are dependent on the number of creditors, and are usually, in voluntary cases, somewhere about \$100 to \$125. A deposit is required, on filing the petition, of \$75 and the marshal's fees.

Parties can come to my office, at Freeport, to swear to their petitions and schedules, or go to Chicago for that purpose, or swear to them before a United States commissioner, as may be most convenient.

Within the last few days there has been quite a rush of filing petitions, in anticipation of the repeal, and it behooves those interested to act promptly. So far as is possible the public, in my district, is herewith notified of the situation, and parties interested will govern themselves accordingly.

J. A. CRAIN, Register.

Mr. THURMAN. I ask that the motion of the Senator from Iowa may be read.

The Chief Clerk read as follows:

That said bill and amendments be referred to the Committee on the Judiciary, with instructions to report such amendments as will relieve the existing law of the defects which experience has disclosed.

Mr. THURMAN. I move to strike out all after the words "Committee on the Judiciary," that part which gives instructions and insert:

And that said committee report the same, with such amendments as it may propose, to the Senate to-morrow.

Mr. EDMUNDS. Let me suggest to my honorable friend from Ohio to say "day after to-morrow," because he may remember that there is a special meeting to-morrow for another purpose.

Mr. THURMAN. Yes, I will say day after to-morrow. Mr. President, if the motion of the Senator from Iowa—

Mr. HOAR. I should like to have the amendment of the Senator from Ohio read from the Clerk's desk before the Senator addresses the Senate.

The PRESIDENT pro tempore. The Senator from Ohio moves to amend the instructions in the manner which will be reported.

The CHIEF CLERK. It is proposed to strike out all after the word "Judiciary" and insert:

And that said committee report the same, with such amendments as they may propose, to the Senate the day after to-morrow.

Mr. THURMAN. Mr. President, a vote in favor of the motion of the Senator from Iowa to send the bill to the Judiciary Committee with instructions to amend the law as is contemplated in that motion is a vote not to repeal the bankrupt law. It would be an instruction of the Senate to the Judiciary Committee to attempt what that committee attempted four years ago; that is, to so amend the bankrupt law as to preserve it; and, consequently, the motion is directly adverse to the bill which is now under consideration. The bill proposes to repeal the law; the instruction of the Senator from Iowa proposes to preserve it with amendments. I cannot vote for the instruction. I cannot do so because I believe that the people of Ohio are almost unanimously in favor of a repeal of the law.

I cannot do so for another reason. Four years ago, nearly five, we were flooded with petitions to repeal the bankrupt law. Those petitions did not come from the class of persons that it is supposed are adverse to a repeal to-day. The Senator from Massachusetts on my right and nearest to me [Mr. DAWES] spoke of the bankrupt law as if it were particularly in the interest of the debtor and its preservation necessary for him. Now, sir, in December, 1873, when the House passed a bill to repeal the law, when we were flooded with petitions for its repeal, almost all of them came from the debtors. The creditors did not ask for the repeal. The debtors asked for it; and why did they ask for it? "Because," they said, "this bankrupt law makes it impossible for us to make arrangements by which we can carry on our business; we cannot borrow money and give security

that this bankrupt law may not set aside; we cannot sell property to raise money to carry on business, because the sale may be vacated within four months under the operation of this bankrupt law; we cannot make any composition with our creditors who would be disposed to make compositions with us and to aid us in our business and enable us to go on, because of this bankrupt law that sets all of them aside; and therefore, although nine-tenths of our creditors may be in favor of such composition or such an arrangement with them as will enable us to continue our business and get out of our difficulties, there may be a tenth creditor who insists on levying black mail on us in order that his assent may be obtained." And thus, sir, it was that the petitions that came here were generally from the debtors who said "this law stands in the way of our making such arrangements with our creditors as will enable us to continue our business."

And I say now that in respect to a large number of debtors, men who do not want to go into bankruptcy, men who do not want to become voluntary bankrupts, but who want to make such arrangements as will enable them to carry on their business—in respect of all that class of men their cry is still the same; they do not want the law to stand, because it interferes with those arrangements which would be necessary to carry on their business. The cry, then, for the repeal of the bankrupt law heretofore, since 1873, has been more on behalf of the debtors than on behalf of the creditors. I do not deny that there is a large number of debtors who want the law to remain, many of them very meritorious men, and some of them not so meritorious, and I do not deny that their wishes ought to be taken into consideration, that their necessities ought to be taken into consideration; nor have I any doubt whatever that if we repeal this law, whenever the country becomes deeply indebted again, whenever such a crisis takes place as took place in 1873 or before that in 1837, there will be just as much or more clamor for a bankrupt law as there is now for its repeal.

For, Mr. President, ever since the discovery made in 1841, that it was competent for Congress to pass what is called a voluntary bankrupt law—a thing never heard of before in any country, that I am aware of—that it was competent for Congress to pass a bankrupt law and allow not only traders, but everybody of his own mere motion, on the surrender of his effects, to be relieved from the payment of his debts—ever since that I have never had any doubt that whenever the country became deeply indebted, or when a large body of the people of the country became deeply indebted, their appeals to Congress would produce the enactment of a bankrupt law of that character; and I have come to the conclusion that the legislation of this country in the future on this subject will somewhat bring us to the idea of the Hebrew jubilee, the fiftieth year, when the debtors went free. We will not wait fifty years for that; only about fifteen or twenty years. Repeal this law now, and there are men in this Senate young enough to see another bankrupt law enacted and the debtors go free, that is, to have another year of jubilee, and when it shall have achieved its task, it will be repealed, and some fifteen or twenty years after that another year of jubilee will be ordained. But so far as the present feelings of the country are concerned, so far as the present opinion of the American people is concerned, it does seem to me, and I do not think I can be mistaken about it—I think the vote in this Senate and the vote in the House of Representatives show it—the present opinion of the country is adverse to the continuance of this law upon the statute-book.

Mr. President, I said that in 1873 we had many appeals to us to repeal this law, and a bill actually passed the House for that purpose, and another one passed the House since that, and each time by large majorities. Now, I think it is pretty safe to say that the House of Representatives, so close to the people, understands the wishes of the people pretty well, and would not from time to time send us bills passed by immense majorities to repeal this law if that was not the sentiment of the country. I think it is also pretty certain that the Senate would not have voted as it did to repeal the law if Senators had not convinced themselves of the opinion of the country in respect to it.

Now let me say to those who think it such an easy thing for the Judiciary Committee to frame a bankrupt law which will satisfy everybody, that if they will try to perform that task themselves they will find they never entered upon a more difficult undertaking. I can say for myself, I can say for the chairman of the Judiciary Committee, I can say for another member of that committee, who was on the subcommittee which considered the subject then, and who reported it to the whole committee, and who bestowed two months of as diligent work as men ever performed in trying to so amend the bankrupt law as to preserve it and to make it more beneficial and less harmful, I can say that no men ever did work harder than they did; and if the law which now is on the statute-book, and which is the bill as they amended it and reported it to the Senate, and which passed without the dotting of an *i* or the crossing of a *t*, I believe, through this body and the House of Representatives, is as imperfect and bad as it has been described to be, I, for one, wish to say that I am wholly incompetent to perform that task which the Senator from Iowa proposes to impose upon us.

I shall never undertake again to amend this law and make it satisfactory either to the Senate or the House or the people. I would rather try to make a new one. Why, sir, take one provision in the amendment that we reported, one great amendment that we reported,

that of providing for a composition with the creditors, and which we borrowed from a recent British statute and which came ably commended to us. This very day on this floor a Senator told me that that was what made the law so obnoxious, that that was utterly indefensible, and yet I could show him in the committee-room letter after letter from lawyer after lawyer and judge after judge to the effect that that is the very best feature in the law. So the profession differ, some of them thinking as the Senator who spoke to me thinks, that that provision was just as bad as it could be and that it ought to be stricken out of the law; others that that is the very best provision in the law.

But, sir, that is only one out of many things. The great objection to this law that is usually urged is that nothing comes out of it to the creditor; he gets absolutely nothing; it is all eaten up in costs and expenses and he gets nothing. That is the great objection that is usually made to the law.

There is an objection that is not publicly uttered. It may exist in the mind; it is no doubt in the minds of many of the creditor class who are endeavoring to exact the last penny; and that is the voluntary feature of the law. These men do not want a voluntary bankrupt law at all: they want a real bankrupt law such as was known to this country before the act of 1841, when we had no bankrupt law but such as was known in England and on the continent of Europe. That is what they want; a law wholly in the interest of the creditor; but our bankrupt laws now and since the act of 1841 are almost wholly in the interest of the debtor, as is supposed by many.

Why, Mr. President, it would have very much surprised an Englishman or a subject of one of the continental powers of Europe, unacquainted with our laws, to have heard what has been said on this floor to-day in respect to a bankrupt law—to hear a bankrupt law spoken of as one of the beatitudes of the debtors of the country. Why, there is no such thing as a voluntary bankrupt law except in the United States, so far as I know or ever heard. All the bankrupt laws in Europe, so far as I know or have heard, are laws for the creditor to compel the debtor into a bankrupt court, and not for the debtor to go voluntarily into bankruptcy and obtain a discharge from his obligations. So severe are those laws that the old maxim in Italy, where bankrupt laws originated, when Venice and Genoa were the great commercial cities of the world, was that every failure of a merchant to pay his debts was to be esteemed fraudulent until the contrary was proved.

Every trader unable to pay his debts and who came within the scope of the law was deemed to be a fraudulent debtor, a fraudulent bankrupt until the contrary was proved. The burden lay on him to show that it was misfortune and not fraud that made him a bankrupt. The thing was expressed in a single sentence of the bankrupt law of that day, in the Latin language in which it was written, "*decoctus semper dolosus præsumitur in iudicio civili, donec contrarium probetur.*" The failing man was always deemed to be fraudulent in the court until it was proved to the contrary, and pains and penalties followed that presumption and his being declared a bankrupt, not to say anything of the criminal punishment to which he was subjected. The moment he became a bankrupt he was almost civilly dead, he could receive no attorneyship or *mandatum* as it was called, no agency; he could do little or no business whatsoever. That also was expressed in another short sentence, which I need not trouble the Senate to hunt up. That was the kind of bankrupt law they had and that is the kind of bankrupt law that existed in England. Now undoubtedly it has been greatly modified on the continent of Europe and in England. It is by no manner of means as severe as it once was; but when I hear Senators speak about a bankrupt law being in the interest of the debtor, I cannot help thinking that they never read what bankrupt laws are on the continent of Europe or in Great Britain whence we derive the idea of a bankrupt law.

A bankrupt law is the very last thing that a debtor on the continent of Europe or a debtor of Great Britain desires to exist. But I grant you that such a bankrupt law as ours of 1841, which was a voluntary bankrupt law as we call it, and the voluntary part of the bankrupt law now in existence are things that a multitude of debtors may desire. That is very true, and I do not say that there may not be times when it is necessary that we should have such laws. I think that there have been and may be. I do not deny that there may be times of such great distress and calamity that we ought, like the ancient Jews, to repeat what I once before said, to have a year of jubilee and let the honest debtor go free upon a surrender of his effects.

My impression is that the general idea now in this country, of men who have reflected on this subject, is that it is better from time to time to pass such a law on account of the peculiar circumstances of the times, and when better times come to repeal it, than it is to attempt to keep it on the statute-book all the time. I confess I do not very much like that idea. My friend from Delaware [Mr. BAYARD] suggests that it never was intended to be a permanent law in this country. Whatever may be considered upon that subject, whether it is advisable to make a permanent law or try to make a permanent law or not, of one thing I feel very well satisfied, that the people are now determined that this law shall be torn up root and branch, and then if you can find anybody who can make a good law that will stand forever or for a long while, let him try his hand at it.

It is in deference, therefore, to what I believe to be the wishes of

my constituents and to what I believe to be the general popular sentiment of the country, that I wish to repeal this law. I believe, however, that I may live long enough if the law shall be repealed, as it probably will be, to find just as much clamor here for a new bankrupt law as there is now for the repeal of this one—that is, when times shall be such that the debtors will be sufficiently strong and sufficiently numerous to demand the enactment of such a law.

Mr. President, there is one objection that occurred to me at first about referring this bill back to the Judiciary Committee; and that is, that if it were referred back and they should frame amendments to it, (that is to the repealing bill,) as they no doubt would—for the bill is to some extent artificial for the reasons stated by the Senator from New York—it would necessitate the bill going back to the House. But I think that the Senator from Michigan has demonstrated that the amendment made by the House compels us to make other amendments, for, otherwise, the presumption might arise that from the enumeration of cases put by the House the cases not enumerated were excluded from the saving clause in the bill. Therefore, the amendment made by the House makes it necessary that there should be the amendment of the Senator from Michigan or some similar amendment, and, that being the case, as the bill will have to go back to the House anyhow, if the Senate should take this view of the subject and should adopt the amendment of the Senator from Michigan or any similar amendment, I feel indifferent whether we attempt to amend the bill here in the Senate, or whether we send it to the Judiciary Committee with instructions to report it back day after to-morrow, which the committee can very well do.

There would be one advantage in sending it to the committee, and that would be this: if sent to the committee and it should be the sense of the Senate that the bill ought not to take effect *instantly* but ought to take effect at some future day, ninety days or six months hence, they could report such an amendment as that, which perhaps it would not be competent to do now. I do not know whether it would be competent to do that now or not, but certainly the committee could report it back with such an amendment, because they might almost reform the bill. I feel, therefore, somewhat indifferent whether the bill is referred to the committee or not, provided the committee is instructed, as I propose to instruct it, to report the bill back day after to-morrow.

Mr. CHRISTIANCY. Mr. President, the Senator from Ohio has relieved me of much of what I wished to say upon this matter. It has been asserted here that a permanent bankrupt law is a necessity to a commercial nation. In reply to that I will say that it is somewhat singular that the American people never discovered that fact. For more than seven-eighths of the time since the institution of this Government we have had none. There is one other fact which I assert, (at least it is my deliberate opinion,) that on looking back over the history of this country, the most prosperous periods in business matters in all commercial relations have been those periods when we had no bankrupt law.

Mr. HOAR. And your family is always most healthy at the time when you do not send for the doctor.

Mr. CHRISTIANCY. Possibly.

Upon the point of referring this bill back to the Committee on the Judiciary I wish to note one remarkable fact, that every Senator who has taken grounds in favor of that reference, with the single exceptions of the Senator from New York [Mr. CONKLING] and the Senator from Ohio, [Mr. THURMAN,] have done so on the ground that they were opposed to the repeal, and were in favor of an attempt to perfect the present law by amendment. If the bill is sent back to that committee or any other committee of the body for that purpose, it is equivalent to saying at all events that nothing will be passed at this session upon this subject. That at least is my deliberate opinion. This bill was before the Judiciary Committee from October until the time when it was reported here, and while some of the committee were in favor of an immediate repeal the majority of the committee were then in favor of attempting to amend the act so as to render it acceptable to the public. Various suggestions were made from various quarters as to what amendments ought to be made; but it so turned out that what one suggested as an improvement another complained of as the greatest evil, and there was no unanimity, no concert, no agreement upon anything. Then to go to work at this late period of the session with any idea of reforming the bankrupt act is totally preposterous, if it be referred with the intention or with the expectation that anything will be done at this session. Therefore it may just as well be understood that all Senators who vote for a reference with any purpose of that kind vote with the intention of preventing the repeal of the act.

While for myself I am quite willing and in fact individually would prefer that the bill should be referred back to the committee with instructions to report day after to-morrow, according to the amendment of the Senator from Ohio [Mr. THURMAN,] yet I am not at all sure that it would not be better to take the question broadly upon the amendment proposed by the Senator from Iowa [Mr. ALLISON] and test the Senate upon that question. But upon that point I am ready to take the advice of those who are in favor of the repeal of this law, as I am. I suggest to the Senator from Ohio whether we had not as well take the vote upon the motion of the Senator from Iowa which would decide the whole question at once as to take it upon his amendment. I understand that some friends of the repeal here

are opposed to having the bill referred at all; but I leave that to the judgment of the Senator from Ohio.

Mr. THURMAN. I think that the vote had better be taken on my amendment that the committee shall report the bill back day after to-morrow, which I offer as an amendment in the nature of an instruction. If the vote is in favor of my amendment, that does away with all instructions to the committee, and then those who are opposed to any reference at all may vote down the motion to refer as amended.

Mr. EDMUNDS. Those who wish to leave it entirely uncertain can do that.

Mr. BAYARD. Mr. President, a measure of this importance should at least pass in proper shape. It is evident from what has occurred here in debate that the form of this measure of repeal is at present defective. It will not do to allow interests so grave as depend upon the proper wording of a law of this character to stand in doubt. I do not think I was here when the measure of repeal was passed. Had I been here, I should have voted in favor of it. I am desirous now that the present bankrupt law should cease to exist. At the same time deliberation should accompany all measures of such importance. Therefore I shall vote for the proposition of the Senator from Ohio for the reference of the bill, with the understanding that it shall be reported back to the Senate for its action in the course of two days. I think it will effectuate the objects of the honorable Senator from Kentucky and those who agree with him in desiring a prompt repeal of the bankrupt law to have a reference which shall secure the repeal in proper form. For that reason I trust those who desire the repeal of this law, or even those who may not but may favor some short prolongation of its existence, will agree that the bill shall now go to the Committee on the Judiciary for the purpose of reformation in form at least.

Mr. ALLISON. I desire to say a word to the Senator from Ohio [Mr. THURMAN] with reference to his amendment. As I understand the position of the question, the first motion was to refer the bill with the amendments of the House to the Judiciary Committee. To that I offered an amendment to the effect that the committee be instructed to prepare amendments to remedy the defects of the existing law. I offered that amendment for the purpose of testing the sense of the Senate again whether or not it is the judgment of the Senate that the law should be repealed. The purpose in view can as well be ascertained, and much better, by the amendment proposed by myself than by that proposed by the Senator from Ohio, because even under his amendment as proposed the Judiciary Committee, if they see proper, can bring in amendments to perpetuate this law instead of amendments to abolish it.

Although there was a light vote on the passage of this bill some days ago, yet it must be remembered that only a small majority of the Senate was in the Chamber when the bill passed. I believe the total vote was 40 to 8, but little over a majority of the Senate. It was taken as a foregone conclusion that the judgment of the Senate was in favor of repeal. The gentlemen who argued in opposition to repeal stated that the subject had been held for months in the Committee on the Judiciary, because they were awaiting what appeared to be the judgment of the Senate upon the question whether a repeal should take place or whether amendments should be attempted. I think, with all due respect to Senators, that there has been some change in public sentiment since the action of the Senate was taken two weeks ago. I think there has been a reflection of public sentiment against the unconditional repeal of the law, and I think that sentiment is strengthened from the fact that it is the belief of many of the people in this country that a bankrupt law is necessary and essential, even at this time, in order to protect debtors against creditors when we are passing through what is regarded by many as a crisis in our fate. It is proposed to absolutely repeal this law when we are on the verge, as has been often prophesied in this Chamber and elsewhere, of a condition of general bankruptcy. Then it is said we must repeal this law in order that this bankruptcy may be made absolute and certain, because that will be the effect of a repeal. It will place the debtors of this country under the absolute control of the creditors. No State insolvent law will protect them as to existing debts or as to future debts to some extent, as was so well stated by the honorable chairman of the Committee on the Judiciary. Now, eight months before the time for specie resumption, on the 1st of January next, at the most critical period in the history of our country with reference to credits, it is proposed to add to our difficulties by placing every debtor in the United States under the absolute dominion of the creditor class.

Is it fair at this time to rush through with the hot haste of a two days' consideration in the Judiciary Committee a proposition of this character? Why is it that Senators who are in favor of repeal are so anxious to preserve absolutely everything in the law as it affects existing bankrupts? If this law is so obnoxious and so detrimental to the public interest, why is this? The bill passed the Senate and went to the House. The House modified the bill for what purpose? For the purpose of preserving the rights of existing bankrupts. The bill comes back here, and now it is again considered for that purpose. A week, or two weeks, or a month even, of the best consideration of the Judiciary Committee to see whether or not it is possible to amend the law so as to make it acceptable to the business community, we are told, is not practicable. If such consideration by the committee is not possible, then we can vote for its absolute repeal.

Are we willing to confess that it is not within the power of the Senate to put upon the statute-book a bankrupt law acceptable to the people of this country? I believe every Senator who has spoken in favor of repeal has said that a bankrupt law in a country like ours is necessary; and yet we propose now to absolutely repeal this law and then start anew again.

Mr. President, it seems to me—and to say this was my only purpose in rising—that we can better test the sense of the Senate by a direct vote upon the amendment which I propose, and all I desire is to test the Senate upon the question.

Mr. THURMAN. I was out of the Senate when the motion to refer to the committee was made, and I was under a misapprehension as to who made that motion. I thought the motion was made by the Senator from Iowa [Mr. ALLISON] to refer with instructions and that it was one entire motion. I find now that the motion to refer was made by the Senator from North Carolina on my left [Mr. MERRIMON] and that the Senator from Iowa moved to amend by adding instructions. That necessitates perhaps a little change in the motion which I made to amend the motion of the Senator from Iowa; and I shall put it in such form that there may be no difficulty about it. I move to strike out all after the word "report," in the amendment of the Senator from Iowa, and to insert, "the same, with such amendments as they may propose, to the Senate on Thursday next;" so as to read:

With instructions to report the same, with such amendments as they may propose, to the Senate on Thursday next.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio [Mr. THURMAN] to the amendment of the Senator from Iowa, [Mr. ALLISON.]

Mr. BECK. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MCCREERY. Mr. President, I can say all I have to say in a single sentence. In my opinion the fate of the bill depends upon voting down these motions. The Committee on the Judiciary had this bill before it for six months. All that it reported is now before the Senate, and we can amend it as well to-day as the committee can amend it day after to-morrow or any other day. The whole object of reference to that committee is postponement, and the friends of repeal had better vote down these propositions if they wish to save the bill.

Mr. BAILEY. Mr. President, I agree with the Senator from Kentucky that the fate of this bill depends upon the action the Senate may take to-day, for it is very evident that all who are opposed to the repeal of the bankrupt law advocate a reference of the bill to the Judiciary Committee. If it goes to the committee, in my opinion, as the Senator from Kentucky says, it will decide the fate of the bill, for that will be the end of it.

Mr. BAYARD. Mr. President, after what has been stated in debate here, I should be very sorry to refuse my vote in favor of the reference of this bill. I think it ought to be referred for the purpose of having the reformatory legislation which is desired and which is advocated in perfectly good faith, made efficient. Believing that the Judiciary Committee, those members who have spoken from it, intend to act in perfectly good faith for the abolition of the bankrupt law, I shall vote to place the bill in their hands that they may report it back for the purpose of having the law abolished effectually.

Mr. WINDOM. Mr. President, I shall vote for a reference for precisely opposite reasons from those mentioned by the Senator from Delaware. I hope that the committee may suggest amendments that will prevent the repeal of the present law, but will cure its defects. I regret exceedingly that a direct vote cannot be taken on the motion made by the Senator from Iowa that the sense of the Senate may be tested directly upon the question.

Mr. HOWE. The amendment to the motion will test the sense of the Senate as well.

Mr. WINDOM. I am a little fearful that a vote against the amendment to the amendment would be considered as in favor of passing the bill as it came from the House. I shall vote for the amendment to the amendment for the purpose of expressing an opinion that the law ought not to be repealed. I do not know whether that is a correct expression or not, but it is so stated by the Senator who had charge of the bill [Mr. MCCREERY] and by the Senator from Tennessee, [Mr. BAILEY.]

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio [Mr. THURMAN] to the amendment of the Senator from Iowa, [Mr. ALLISON,] on which the yeas and nays have been ordered.

Mr. SAULSBURY. Let the amendment to the amendment be read.

The PRESIDENT *pro tempore*. It will be reported.

The CHIEF CLERK. It is proposed to strike out all after the word "report," in the amendment of Mr. ALLISON, and to insert, "the same, with such amendments as they may propose, to the Senate on Thursday next;" so that, if amended and the motion to refer be agreed to, it would read:

That said bill and amendments be referred to the Committee on the Judiciary, with instructions to report the same, with such amendments as they may propose, to the Senate on Thursday next.

Mr. BAYARD. Cannot the motion be divided so that we may take the question upon the reference without the instruction to report on Thursday? Is the amendment an entirety?

The PRESIDENT *pro tempore*. It is an entirety. The motion to refer is only amendable by instructions, and it is moved to amend the instructions.

Mr. BAYARD. Is there not a motion pending before the Senate, offered by the Senator from Ohio, that the bill be committed without instructions?

Mr. THURMAN. No; I can tell my friend exactly how the question stands. The Senator from North Carolina [Mr. MERRIMON] moved to refer the bill to the Committee on the Judiciary. That was all of his motion. The Senator from Iowa [Mr. ALLISON] moved to amend the motion by giving instructions to amend and perfect the bankrupt law. Such is the effect of his amendment. I move to strike out the instructions really of the Senator from Iowa and insert in lieu of those instructions an instruction to report the bill with such amendments as the committee may deem proper to propose on Thursday next. My amendment is the pending question, and is plainly indivisible.

Mr. HOWE. Mr. President, I should not say a word if it did not seem to me that there is a misunderstanding as to the particular vote we should give to reach a particular result. The Senator from Iowa, if I understood him, moved his instructions with a view of testing the sense of the Senate as to whether it wants an amended bankrupt law preserved or not.

Mr. ALLISON. I did that, the Senator will allow me to say, in view of the fact that the Senator from Illinois said that the Judiciary Committee did not wish to take the labor of preparing an amendment if the sentiment of the Senate was adverse to amendment. Therefore I wanted to test the sense of the Senate.

Mr. HOWE. Precisely; and I think the motion of the Senator from Iowa is admirably calculated to get at the sense of the Senate on that point; but it seems to me that purpose is flanked completely by the amendment proposed by the Senator from Ohio, provided that amendment be agreed to; and I suppose that is his intention, for I take it no one understands that an amended bankrupt law can be reported back here on Thursday next. Those who think we should have an amended bankrupt law and hold on to it, it seems to me, should vote against the amendment of the Senator from Ohio and for the motion of the Senator from Iowa. I make this suggestion because I hear others about me say that they are afraid, if they do not vote for the amendment of the Senator from Ohio, they will not get any reference at all. I do not see what anybody wants with a reference if we are to have the bill reported back on Thursday next. Every amendment that is necessary for repeal is right here before the Senate now.

I am myself quite indifferent as to what the Senate may finally determine as to the vote on the bankrupt law. I never was more evenly divided, I think, upon any question of legislation which has been before us during my time; and I think the people of Wisconsin, if I can judge anything from what they have said to me, are just about as evenly divided as I am myself. I have been urged by merchants, by bankers, by farmers, by debtors, by creditors, both to support the repeal and to oppose the repeal. I have not taken a census of either class and I have not figured up very accurately on my own judgment. I do say, as others have said before, that I think a sound bankrupt law would be a part of the necessary polity of every commercial nation, and I have that confidence in the profession to believe that if we have constancy we can get some time or other a sound bankrupt law on our statute-book; so that, if there is a disposition here to make one more effort at amendment, I shall acquiesce in that effort. Therefore I think I myself shall vote against the amendment proposed by the Senator from Ohio and vote for the proposition moved by the Senator from Iowa.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio to the amendment of the Senator from Iowa, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. EDMUNDS, (when the name of Mr. DAVIS, of Illinois, was called.) The Senator from Illinois [Mr. DAVIS] was obliged to leave the Chamber and is paired upon this question with the Senator from Indiana, [Mr. McDONALD,] and requested me to say so. The Senator from Illinois would vote in favor of having the bill reconsidered by the Committee on the Judiciary with a view to amendment. As to this particular form of the question, I do not know how he would vote.

Mr. McDONALD. The understanding is that whenever I feel inclined to vote one way, I shall take it for granted the Senator from Illinois would vote the other way, and I am not to vote at all.

Mr. INGALLS, (when his name was called.) The Senator from Louisiana [Mr. KELLOGG] left the chamber a few moments ago, and requested me to pair with him during his absence. He informed me that he would vote against the motion to refer.

Mr. TELLER, (when his name was called.) I am paired with the Senator from South Carolina, [Mr. PATTERSON.] I should vote against the amendment to the amendment, if he were present.

Mr. JOHNSTON, (when the name of Mr. WITHERS was called.) I wish to announce that my colleague [Mr. WITHERS] is detained at his home by sickness, and is unable to be in his seat.

The Secretary concluded the call of the roll.

Mr. CONKLING. Is this a vote on the instruction, will the Chair be kind enough to state? I was in committee.

The PRESIDENT *pro tempore*. The vote is on the amendment of

the Senator from Ohio [Mr. THURMAN] amending the instructions moved by the Senator from Iowa, [Mr. ALLISON.]

Mr. CONKLING. I vote "nay" as I vote against such instructions in all cases.

Mr. MCCREERY. The two Senators from Florida are paired on this question. The junior Senator [Mr. JONES] is in favor of the repeal of the bankrupt law and the senior Senator [Mr. CONOVER] is opposed to the repeal.

Mr. BAILEY. May I ask a question? I understand that if the amendment to the amendment as now voted upon shall be carried, still the question will be before the Senate upon the adoption of the amendment as amended.

The PRESIDENT *pro tempore*. The Senator is correct.

Mr. BAILEY. Then I vote "yea."

The result was announced—yeas 19, nays 34; as follows:

YEAS—19.

Anthony, Bailey, Bayard, Booth, Burnside,	Butler, Davis of W. Va., Dorsey, Eustis, Grover,	Johnston, McPherson, Merrimon, Mitchell, Morrill,	Ransom, Saulsbury, Thurman, Voorhees.
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NAYS—34.

Allison, Beck, Bruce, Cameron of Pa., Cameron of Wis., Chaffee, Christiancy, Cockrell, Coke,	Conkling, Dawes, Eaton, Edmunds, Ferry, Garland, Harris, Hereford, Hill,	Hoar, Howe, Kirkwood, McCreery, McMillan, Matthews, Maxcy, Oglesby, Paddock,	Plumb, Rollins, Sargent, Saunders, Wallleigh, Wallace, Windom.
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ABSENT—23.

Armstrong, Barnum, Blaine, Conover, Davis of Ill., Dennis,	Gordon, Hamlin, Ingalls, Jones of Florida, Jones of Nevada, Kellogg,	Kernan, Lamar, McDonald, Morgan, Patterson, Randolph,	Sharon, Spencer, Teller, Wheeler, Withers.
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So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment proposed by the Senator from Iowa [Mr. ALLISON] to the motion to refer.

Mr. INGALLS. Let it be reported.

The PRESIDENT *pro tempore*. It will be again reported.

The CHIEF CLERK. It is proposed to add to the motion to refer:

With instructions to report such amendments as will relieve the existing law of the defects which experience has disclosed.

Mr. EATON. We shall want the yeas and nays also upon that question.

Mr. INGALLS. I ask for a division of the question.

Mr. THURMAN. There can be no division yet. If the amendment shall be adopted, then there may be a division, and the question be taken first on the motion to refer without instructions.

Mr. CONKLING. Oh, no.

Mr. INGALLS. It is subject to division now. It contains two propositions, and under the rules it can plainly be divided.

Mr. THURMAN. The question now is on the adoption of the amendment. There is a simple motion to refer and a motion to amend that motion by adding instructions. The question now is, will the Senate add the instructions? There is nothing to divide about it.

Mr. CONKLING. That is a mere matter of fact, I suggest. Does the Senator from Iowa move as a substitute to refer with instructions?

The PRESIDENT *pro tempore*. No, simply to amend.

Mr. THURMAN. The motion to refer was made by the Senator from North Carolina [Mr. MERRIMON] and the Senator from Iowa moved to add instructions.

Mr. CONKLING. Then the Senator is clearly right. I understood the motion to be an entire motion to refer with instructions.

Mr. THURMAN. No.

Mr. INGALLS. It is, as I understand, a full resolution in the handwriting of the Senator from Iowa to refer with instructions.

Mr. THURMAN. No; only the instructions.

The PRESIDENT *pro tempore*. The Senator from North Carolina made a motion to refer and the Senator from Iowa moved to amend the motion. The question is upon the amendment proposed by the Senator from Iowa. If that amendment be adopted, the question will then recur upon the motion of the Senator from North Carolina as amended by the Senate.

Mr. THURMAN. I wish to say one word. The remark made by my friend from Kentucky a while ago in regard to another amendment is equally applicable to this. I moved to strike out the amendment of the Senator from Iowa and require the Committee on the Judiciary to report the repeal bill back with such amendments to the repeal bill as they might see fit by Thursday next—not amendments to the bankrupt law, but amendments to the repeal bill. The instructions now moved require the Judiciary Committee to go to work and cure all the defects in the existing bankrupt act, and that means not to repeal the act at all.

Mr. BAYARD. And by next Thursday?

Mr. THURMAN. Not by next Thursday, but at this session. To vote for the instructions of the Senator from Iowa is to vote against repealing the bankrupt act.

Mr. COCKRELL. I ask for the yeas and nays upon that question. The yeas and nays were ordered.

Mr. CHRISTIANCY. I agree entirely with the Senator from Ohio. Those who wish to prevent the repeal of the bankrupt law of course will vote for the amendment of the Senator from Iowa. Those who are for the repeal will naturally vote against it.

Mr. INGALLS. I wish to understand this question. Whichever way the vote results on the amendment, does not the question then recur on the motion to refer with instructions?

Mr. ALLISON. Or without instructions if my amendment is voted down.

The PRESIDENT *pro tempore*. If the amendment of the Senator from Iowa be voted down, the question will then be on the motion to refer simply. If the amendment be adopted, the question will be upon the reference with instructions, as proposed by the Senator from Iowa. In both cases there will be two questions. The question now is upon the amendment of the Senator from Iowa to the motion to refer, which is to add instructions as he has proposed, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. EDMUNDS, (when the name of Mr. DAVIS, of Illinois, was called.) The Senator from Illinois [Mr. DAVIS] is paired with the Senator from Indiana [Mr. McDONALD.] The Senator from Illinois would vote in favor of this proposition and the Senator from Indiana would vote against it, I suppose.

Mr. INGALLS, (when his name was called.) Upon this question I am paired with the Senator from Louisiana, [Mr. KELLOGG.] He would vote against the reference.

Mr. McDONALD, (when his name was called.) As has been stated, I am paired with the Senator from Illinois, [Mr. DAVIS.] If he were here, I should vote "nay."

Mr. TELLER, (when his name was called.) On this question I am paired with the Senator from South Carolina, [Mr. PATTERSON.] If he were present, I should vote "nay."

The roll-call having been concluded the result was announced—yeas 18, nays 36; as follows:

YEAS—18.

Allison,	Dorsey,	Kirkwood,	Sargent,
Anthony,	Edmunds,	McMillan,	Saunders,
Burnside,	Hamlin,	Matthews,	Windom.
Chaffee,	Hoar,	Merrimon,	
Dawes,	Howe,	Ransom,	

NAYS—36.

Bailey,	Cockrell,	Harris,	Oglesby,
Bayard,	Coke,	Hereford,	Paddock,
Beck,	Conkling,	Hill,	Plumb,
Booth,	Davis of W. Va.,	Johnston,	Rollins,
Brewer,	Eaton,	McCreery,	Saulsbury,
Butler,	Eustis,	McPherson,	Thurman,
Cameron of Pa.,	Ferry,	Maxey,	Voorhees,
Cameron of Wis.,	Garland,	Mitchell,	Wadleigh,
Christiancy,	Grover,	Morrill,	Wallace.

ABSENT—22.

Armstrong,	Gordon,	Lamar,	Spencer,
Barnum,	Ingalls,	McDonald,	Teller,
Blaine,	Jones of Florida,	Morgan,	Whyte,
Conover,	Jones of Nevada,	Patterson,	Withers.
Davis of Illinois,	Kellogg,	Randolph,	
Dennis,	Kernan,	Sharou,	

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the motion made by the Senator from North Carolina, [Mr. MERRIMON,] that the bill, with the amendments of the House of Representatives, be referred to the Committee on the Judiciary, on which the yeas and nays have been ordered.

Mr. EDMUNDS. I suggest to the Senator from Ohio, judging from the state of these two votes, that if he were now to make his motion as an independent one, as an amendment to the motion to refer to that committee or some other to perfect this saving clause, he would probably have no difficulty in carrying it, with instructions to report day after to-morrow.

Mr. THURMAN. I got little encouragement in my former attempt, although I can stand being in the minority as well as any other man, having had large experience in that way.

Mr. RANSOM. I hope the Senator from Ohio will renew his amendment, for I am satisfied that a number of votes were given upon it before under a mistake. I think his amendment would now prevail.

Mr. THURMAN. The Senator may renew it.

Mr. RANSOM. I will renew it with the consent of the Senator from Ohio.

Mr. PADDOCK. I voted against the amendment of the Senator from Ohio and I shall continue to do so. I shall also continue to vote against the motion to refer, because I believe that the Senate is competent to consider the bill and settle the question one way or the other to-day. I believe that the condition of the country to-day is such as to demand of the Senate that this matter shall be settled definitely one way or the other this very day before the Senate adjourns.

The PRESIDENT *pro tempore*. The Senator from North Carolina [Mr. RANSOM] moves as an amendment that the committee be instructed to report day after to-morrow, using the language of the former amendment of the Senator from Ohio, as the Chair understands.

Mr. RANSOM. Yes, just the same.

The PRESIDENT *pro tempore*. It will be reported.

The CHIEF CLERK. It is proposed to add to the motion to refer the following words:

With instructions to report the same, with such amendments as they may propose, to the Senate on Thursday next.

The PRESIDENT *pro tempore*. The question is on agreeing to this amendment.

The CHIEF CLERK. So that, if the motion to refer be agreed to, it will read:

That said bill and amendments be referred to the Committee on the Judiciary with instructions to report the same with such amendments as they may propose, to the Senate, on Thursday next.

The PRESIDENT *pro tempore*. The question is on agreeing to this amendment.

Mr. COCKRELL. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. MORRILL. I shall very cheerfully vote to refer this bill to the committee, but I think it ought to be referred to them without any instructions whatever. It seems as though it was an eminently proper case to be considered. After certainly some confusion in relation to the proper repeal of the law and the expressions of opinions that have been given here, it is not a clear question that the proposition which has been made is sufficient to answer the purpose after all. I hope, therefore, it will be referred to the committee without any instructions.

Mr. CONKLING. I understand this motion to be to instruct the committee to report the bill back day after to-morrow, perfecting the saving clause?

The PRESIDENT *pro tempore*. With such amendments as the committee may deem fit.

Mr. EDMUNDS. That is what is meant.

Mr. CONKLING. I wish to say that I cannot vote for it, although that is precisely what I should like to see occur; and as my statement may seem a paradox, I will say that I can conceive of no instance in which the Senate should instruct, as I believe it never has instructed, a committee of the Senate in this way. There is an implication which, it seems to me, is entirely inadmissible. I think I may say that I know that if this were referred to the Judiciary Committee that committee would report it back promptly; but to order the committee to report day after to-morrow implies one of two things, either that they are to make report before they can do so properly and conscientiously, or that without such instruction they would be derelict and would not promptly make report as soon as they should. I cannot vote for either theory. I believe this bill should go to the committee. The vote has shown again to-day that the Senate is determined to repeal the bankrupt law. What committee would be contumacious or absurd enough to attempt by holding the bill to thwart that purpose? As is suggested to me, it has been voted down; and that is a very good reminder that I ought not to multiply words about it, and I will not do so; but I submit to all Senators, however eager they may be to dispose of the bankrupt law, that even time will be consulted by allowing this to go to the committee and have a report made which will accomplish the object effectually. Here we adopt an amendment anew, and it goes back to the House. Suppose the amendment happens to be unsatisfactory when you come to examine it, then delay occurs in the House. So that, absolutely in expediting the repeal, we had better do it in the regular way; but as I say, I will not multiply words about it. I would vote for the instructions but that I think it unseemly and unfair to instruct a committee in this way.

Mr. RANSOM. Mr. President, I am opposed to the repeal of the bankrupt law; I desire to see it amended. The vote upon the amendment of the Senator from Iowa [Mr. ALLISON] satisfied me that the Senate would not refer the bill to the committee with instructions to amend the law generally. I thought from the character of the vote given upon the amendment of the Senator from Ohio [Mr. THURMAN] that there was a mistake upon the question, and that gentlemen divided upon that vote who hold the same views. For instance, the Senator from Iowa and I who agree in the general policy voted on different sides of the amendment of the Senator from Ohio, and that amendment was defeated. Then the amendment of the Senator from Iowa was defeated. It then occurred to me that gentlemen who were willing to refer to the committee with that instruction and gentlemen who desired the law to be amended could unite upon the amendment of the Senator from Ohio after the defeat of the amendment of the Senator from Iowa; that we might take a last chance at getting some improvement on this legislation before the Judiciary Committee, and with that view I renewed the amendment of the Senator from Ohio. But I see it has not met with the concurrence I supposed it would from gentlemen with whom I thought I agreed. That being the case, I do not care to take up the time of the Senate with having the vote repeated again, and I am willing to withdraw the amendment.

The PRESIDENT *pro tempore*. With the permission of the Senate the motion may be withdrawn, the yeas and nays having been ordered. Is there objection?

Mr. HAMLIN. Yes; objection is made.

The PRESIDENT *pro tempore*. Objection being made, the amendment cannot be withdrawn.

Mr. EDMUNDS. I am not quite able to agree with the Senator from New York in respect of the implication in this instruction. The Committee on the Judiciary as well as many other committees of this body, is overloaded with business. An instruction, therefore, to re-

port this particular measure in two days I construe merely to be an instruction that we should act upon this in preference to other measures that the House has already sent to us, and not as an implication that we should undertake to pocket the bill if it were sent to the committee. And in respect to what has been the practice, I think that in the earlier history of the Senate it will be found, although I am not perfectly sure of it, that it was a frequent motion to refer to a committee with instructions to report on a certain day, for the purpose of fixing details. But my friend says that he thinks I am mistaken about that. Perhaps I am; I think I am not; but the substance of the thing is clearly now that the Senate desires to repeal this law *in toto*; it desires to repeal it with such a saving clause as will save all rights on every side. Everybody seems to agree to that. There is difficulty, as the House has found and as the Senator from Michigan in charge of the bill has found, in undertaking to make an additional amendment in arranging the phraseology. Now, then, it plainly, I think, is better to send it to some committee, a special committee or some other, and in an hour's quiet discussion over the difficulties of the point, each member being able to see exactly in writing what is proposed, the matter can be put in a shape that will be satisfactory to everybody. Done here, I confess that I am not able to appreciate all the dangers and all the slips that would be left in the law as proposed by the House, and as proposed by the Senator from Michigan. Perhaps they would turn out to be imaginary; but I am very strongly impressed with the notion that both with the House amendment, which is plainly insufficient, as has been stated by the Senator from Michigan, and with his also, there would be found to be two or three wide gaps that would still have to be covered. That is my reason for voting in favor of this reference, with a distinct understanding that the committee will take it up in preference to everything else and report it day after to-morrow, with whatever light we can throw upon it, be it much or little.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from North Carolina, [Mr. RANSOM,] upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Louisiana, [Mr. KELLOGG.]

Mr. TELLER, (when his name was called.) On this question I am paired with the Senator from South Carolina, [Mr. PATTERSON.] If he were present, I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 27, nays 27; as follows:

YEAS—27.

Allison,	Cameron of Wis.,	Grover,	Ransom,
Anthony,	Chaffee,	Hamlin,	Sargent,
Bayard,	Christiency,	Hoar,	Saulsbury,
Booth,	Davis of W. Va.,	Howe,	Saunders,
Bruce,	Dorsey,	Kirkwood,	Thurman,
Burnside,	Edmunds,	McPherson,	Windom,
Butler,	Eustis,	Merrimon,	

NAYS—27.

Bailey,	Eaton,	Matthews,	Paddock,
Beck,	Ferry,	Maxey,	Plumb,
Cameron of Pa.,	Garland,	McCreery,	Rollins,
Cockrell,	Harris,	McMillan,	Voorhees,
Coke,	Hereford,	Mitchell,	Wadleigh,
Conkling,	Hill,	Morrill,	Wallace,
Dawes,	Johnston,	Oglesby,	

ABSENT—22.

Armstrong,	Gordon,	Lamar,	Spencer,
Barnum,	Ingalls,	McDonald,	Teller,
Blaine,	Jones of Florida,	Morgan,	Whyte,
Conover,	Jones of Nevada,	Patterson,	Withers,
Davis of Illinois,	Kellogg,	Randolph,	
Dennis,	Kernan,	Sharon,	

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from North Carolina [Mr. MERRIMON] to refer the bill and amendments to the Committee on the Judiciary, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 23, nays 22; as follows:

YEAS—23.

Allison,	Dawes,	Hoar,	Merrimon,
Anthony,	Dorsey,	Howe,	Morrill,
Bayard,	Edmunds,	Kirkwood,	Ransom,
Burnside,	Ferry,	McMillan,	Sargent,
Chaffee,	Grover,	McPherson,	Windom,
Conkling,	Hamlin,	Matthews,	

NAYS—22.

Bailey,	Coke,	Hill,	Plumb,
Beck,	Davis of W. Va.,	Johnston,	Randolph,
Booth,	Eaton,	McCreery,	Rollins,
Butler,	Eustis,	Maxey,	Saulsbury,
Cameron of Pa.,	Garland,	Mitchell,	Voorhees,
Cameron of Wis.,	Harris,	Oglesby,	Wadleigh,
Cockrell,	Hereford,	Paddock,	Wallace,

ABSENT—25.

Armstrong,	Dennis,	Lamar,	Teller,
Barnum,	Gordon,	McDonald,	Thurman,
Blaine,	Ingalls,	Morgan,	Whyte,
Bruce,	Jones of Florida,	Patterson,	Withers,
Christiency,	Jones of Nevada,	Saunders,	
Conover,	Kellogg,	Sharon,	
Davis of Illinois,	Kernan,	Spencer,	

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is—

Mr. EDMUNDS. I move to refer this bill, with the amendments, to a special committee of which the Senator from Michigan [Mr. CHRISTIENCY] shall be chairman, so that the friends of the bill shall not have any fears about its being swamped—a special committee of three, which will be enough probably to perfect this matter of the saving clause.

The PRESIDENT *pro tempore*. The Senator from Vermont moves that the bill and amendments be referred to a special committee of three, of which the Senator from Michigan shall be chairman.

Mr. McMILLAN. I hope no such reference will be made after the vote refusing to refer to the Judiciary Committee. That committee has had charge of the bill at all its stages; and if it is to be perfected in a committee it should be perfected by that committee. I certainly shall oppose any reference to a special committee.

Mr. CHRISTIENCY. I am also opposed to the motion. For myself I would have preferred to have had this bill referred back to the Judiciary Committee; but I saw that there was generally among those who favored the repeal of the act an indisposition to send it back to the committee. I have felt somewhat embarrassed. Individually I would rather it should go back to the Committee on the Judiciary now, but if it is not to go to the Judiciary Committee I prefer that it should be referred to some committee of which I should not be a member.

Mr. EDMUNDS. I made the motion for this reason: in the time I have had to look at the House amendments and the original bill and the amendments to be proposed by my friend from Michigan, I am satisfied in my own mind that whatever is done here and now in the way of amendments, as far as they have been suggested, will, instead of helping matters, only leave them as bad as confessedly they are now. I do not wish to be responsible for that; and with the best efforts that I can make in the method that we have here of perfecting such language, I can contribute nothing affirmatively. I can find fault with what is proposed; I can find fault sincerely; I can raise objections and difficulties; but I should not be able on the spur of the moment to supply the language that I should believe myself would be sure to cure them. Therefore my motion is made in perfect good faith and with entire respect to the Senate, and particularly to my friend from Michigan. I suggested him as the chairman of the committee because he reported the bill and had charge of it; and it is fit, therefore, if the Senate is willing to have this saving clause made right by a careful study of it for a few hours by a committee of its own selection, that he should be at the head of that committee.

Mr. ALLISON. I think we can get over the difficulty very easily by adjourning now, and that will allow the Judiciary Committee informally to look into the matter to-morrow morning.

Mr. EDMUNDS. We should not undertake to take any jurisdiction over it after the vote of the Senate.

Mr. ALLISON. I move that the Senate do now adjourn.

Mr. SARGENT. We ought to have these amendments printed, or we shall be no farther ahead to-morrow than we are now.

The PRESIDENT *pro tempore*. If there be no objection the order to print will be made. ["Agreed."]

Mr. MATTHEWS. Will the Senator from Iowa withdraw his motion for a moment?

The PRESIDENT *pro tempore*. The order to print has been made.

Mr. CHRISTIENCY. The amendment I mean to offer will be sent to the desk.

The PRESIDENT *pro tempore*. There are no amendments at the desk now except the amendments made by the House of Representatives.

Mr. SARGENT. The Senator from Michigan has an amendment in his hand which, if he proposes to offer, I suggest that he send to the desk and have printed so that we may see them all in the morning.

Mr. CHRISTIENCY. Is the motion to adjourn withdrawn?

Mr. ALLISON. Only to allow the printing of the amendments.

Mr. CHRISTIENCY. If Senators will permit me, I will read here the amendment proposed and then send it to the desk. I propose to insert these words before the House amendment:

And all rights and proceedings incident thereto or growing out of or dependent thereon, including all rights of debtors and creditors and all rights and suits by and against assignees under any or all of said acts in any case heretofore or now pending.

And that will make the clause in reference to criminal matters also relate to any cases now or hereafter pending.

Mr. THURMAN. Mr. President, after the declaration made by the Senator from Vermont that in his judgment the amendment offered by the Senator from Michigan, with the amendment made by the House, will not relieve the bill of the objections that have been made to it, it does seem to me that a few hours may be spared to consider what will make the bill perfect, especially as no time whatever can be lost in the passage of the bill through the House. I think that if we now adjourn until to-morrow the Senator from Michigan and the Senator from Vermont can prepare such provisions as will be satisfactory to everybody in the Senate, at least all who are in favor of passing the bill; and I think that the bill as it comes from the House, as amended by the House, which is a very short bill, and the amendment proposed by the Senator from Michigan ought to be printed, so that we may have them on our desks to-morrow morning when, as we all know, the bill can be passed. There is such a majority here that there is no doubt about the passage of the bill. It can be passed to-morrow, and we can act understandingly if we have the bill printed as amended by

the House and the amendment offered by the Senator from Michigan also printed, and he and the Senator from Vermont can confer and to-morrow morning we can pass the bill in fifteen minutes as I verily believe, or in half an hour at the outside. I therefore move that the bill as amended by the House and the amendment offered by the Senator from Michigan be printed, and that the Senate do now adjourn.

The PRESIDENT *pro tempore*. Is there objection to the order for printing?

Mr. GARLAND. I object to that motion.

Mr. EDMUNDS. I do not think that after the vote of the Senate it is to be expected that I shall withdraw my time from the duties of the Judiciary Committee to devote myself to this bill. The Senate has refused to commit it to the Judiciary Committee either with instructions or without instructions, or to report at a particular time, in all forms. I therefore feel relieved from all responsibility by the distinct vote of the Senate. Of course I shall be glad as one member, if I have nothing else to do, to contribute what I can to carry out the wishes of the majority sincerely and in good faith; but inasmuch as I am not specially called upon, and the Senate has specially excused me, having other duties, from giving any attention to it, my first duty is to obey the orders of the Senate in disposing of matters that are already before the committee. If the Senate is unwilling to send it to the committee to have it perfected, then I must be excused from taking any personal responsibility except in debate, in endeavoring to perfect it overnight.

Mr. THURMAN. I am sorry to hear the Senator from Vermont say that, because there is one responsibility which he is not relieved from and which no member of the Senate feels more strongly than he does, and that is his responsibility to do what is best for the country; and that, I should think, would be quite sufficient to make him endeavor to perfect a bill which he sees must pass. But if he will not act, if other obligations prevent his acting, I am quite willing to trust the Senator from Michigan. I think myself the best thing we can do is to print the bill as it came from the House amended and the amendment of the Senator from Michigan, and then take it up to-morrow morning and pass it.

Mr. EDMUNDS. The pending question is on my motion to refer, I believe.

Mr. ALLISON. Pending that, I move that the Senate adjourn.

Mr. SARGENT. Has the order to print been made?

The PRESIDENT *pro tempore*. The motion of the Senator from Iowa is that the Senate do now adjourn.

Several Senators addressed the Chair.

The PRESIDENT *pro tempore*. The question is not debatable.

Mr. THURMAN. I made a previous motion that the bill as it came from the House be printed.

The PRESIDENT *pro tempore*. Objection was made to printing by the Senator from Arkansas, [Mr. GARLAND,] which would necessitate submitting that question to the Senate. The pending motion to adjourn has priority.

Mr. CONKLING. I rise to a question of order.

The PRESIDENT *pro tempore*. The Senator from New York will state his point of order.

Mr. CONKLING. I remind the Chair that on the request of the Senator from California the order was made to print all the amendments. The Senator inquired of the Chair whether that included the amendment of the Senator from Michigan, not then offered, and the Chair replied no; nothing but the bill and the House amendments. Surely I am not mistaken; I think the record will show that I am right. Now, when subsequently the suggestion was made by the Senator from Ohio, and the Senator from Arkansas objected, my point is that the order of the Senator previously made stands and is not overthrown by an objection made to a subsequent proposition.

The PRESIDENT *pro tempore*. The Chair replies to the Senator from New York that the Senator from California asked that the bill and amendments be printed. The Chair responded that there were no amendments at the desk except the amendments made by the House. Then he turned to the Senator from Michigan, as he held an amendment in his hand, and asked if he desired to have that printed, pending which other motions were made.

Mr. CONKLING. Now, my point is that the Chair expressly announced twice over in reply to the Senator from California that the order to print had been made, and I ask the stenographer to read his notes that it may be seen whether I am right or not.

The PRESIDENT *pro tempore*. The Chair will wait till the notes are read. The Chair thinks he called the attention of the Senator from California to the fact that there were no amendments at the desk except those by the House. The record, however, will show the facts.

The Official Reporter read from the short-hand notes the remarks and statements made in connection with the suggestion of Mr. SARGENT as to the printing of amendments.

The PRESIDENT *pro tempore*. The Reporter's notes show that the Senator from New York is in the main correct, that the amendments made by the House have been ordered to be printed; but nothing else, the Chair thinks.

Mr. SARGENT. At that time I intended that the amendment of the Senator from Michigan should be printed, and I subsequently asked the Chair if his amendment had been sent to the desk in order

to be sure that it might be printed. The Chair informed me that it had not yet reached the desk; but by fair intendment the order that I asked for and that was made by the Senate was that all the amendments, not only those of the House but that of the Senator from Michigan, should be printed.

Mr. CHRISTIANCY. That was the reason why I then rose and sent the amendment to the desk after reading it, supposing that it would come within that order. But whether it comes within the order or not, I am in favor of the motion of the Senator from Ohio that it be printed, that the bill with the House amendments be printed and also with the amendments which I sent to the Chair.

The PRESIDENT *pro tempore*. The order of the Senate is clear; the amendments made by the House have been ordered to be printed. Is there objection to including the amendment of the Senator from Michigan in the order to print? The Chair hears none, and that is included in the order.

Mr. THURMAN. I wish to inquire if the order now for printing the House amendments will not be executed by printing the bill as amended by it.

The PRESIDENT *pro tempore*. Is there objection to including the bill?

Mr. CONKLING. It cannot be executed otherwise.

The PRESIDENT *pro tempore*. The Chair hears no objection to the order including the bill, the amendments of the House, and the amendment of the Senator from Michigan.

Mr. ALLISON. I renew my motion.

The PRESIDENT *pro tempore*. The Senator from Iowa renews his motion that the Senate do now adjourn.

Mr. BECK called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. PADDOCK, (when his name was called.) For the same reason that I voted against the motion to refer the amendments, I now vote against adjournment, because I believe this matter ought to be closed up to-day.

The roll-call having been concluded, the result was announced—yeas 36, nays 19; as follows:

YEAS—36.

Allison,	Christiancy,	Hoar,	Morrill,
Anthony,	Conkling,	Howe,	Oglesby,
Bayard,	Conover,	Ingalls,	Plumb,
Booth,	Dawes,	Johnston,	Sargent,
Burnside,	Dorsey,	Kirkwood,	Saulsbury,
Butler,	Eustis,	McMillan,	Teller,
Cameron of Pa.,	Ferry,	Matthews,	Thurman,
Cameron of Wis.,	Grover,	Merrimon,	Wallace,
Chaffee,	Hamlin,	Mitchell,	Windom.

NAYS—19.

Bailey,	Eaton,	Hill,	Rollins,
Beck,	Edmunds,	McCreery,	Sanders,
Cockrell,	Garland,	Maxey,	Voorhees,
Coke,	Harris,	Paddock,	Wadleigh.
Davis of W. Va.,	Hereford,	Randolph,	

ABSENT—21.

Armstrong,	Gordon,	McDonald,	Spencer,
Barnum,	Jones of Florida,	McPherson,	Whyte,
Blaine,	Jones of Nevada,	Morgan,	Withers.
Bruce,	Kellogg,	Patterson,	
Davis of Illinois,	Kernan,	Ransom,	
Dennis,	Lamar,	Sharon,	

So the motion was agreed to; and (at four o'clock and thirty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, April 30, 1878.

The House met at eleven o'clock a. m. Prayer by Rev. ALFRED H. AMES, of Washington, District of Columbia.

The Journal of yesterday was read and approved.

SOUTH AND NORTH ALABAMA RAILROAD COMPANY.

Several members called for the regular order.

The SPEAKER. The regular order is the unfinished business of last night. When the House found itself without a quorum the Chair is informed the main question had been ordered and the question was on the passage of the bill (H. R. No. 972) for the relief of settlers on lands claimed by the South and North Alabama Railroad Company reported by the gentleman from Alabama, [Mr. HEWITT,] from the Committee on Public Lands. The bill will be again read so that the House may understand what they are voting on.

The bill was read.

Mr. SAMPSON. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SAMPSON. I wish to inquire whether a motion was made last night to reconsider the vote by which the main question was ordered?

The SPEAKER. It was not, so far as the Chair knows.

Mr. GARFIELD. Can a point of order be made on this bill now?

The SPEAKER. It cannot.

Mr. HEWITT, of Alabama. I claim the floor as the reporter of this bill.

Mr. SAMPSON. I think there should be some discussion on it. I move to reconsider the vote ordering the main question.

The SPEAKER. The Chair entertains that motion.

Mr. HEWITT, of Alabama. I desire to make one or two remarks in explanation of the bill, and I promise to be brief.

Mr. SAMPSON. Is the motion to reconsider debatable?

The SPEAKER. The gentleman from Iowa [Mr. SAMPSON] has been recognized to move to reconsider the vote by which the main question was ordered.

Mr. SAMPSON. Is that motion debatable?

The SPEAKER. It is not debatable. The gentleman from Alabama [Mr. HEWITT] desires to be heard by consent before the Chair submits that motion to the House.

Mr. ATKINS. I rise to a parliamentary inquiry. Was it not understood when this order was made the other day that the business should be transacted without debate?

The SPEAKER. The Chair thinks not. This bill comes over from last night. The main question having been ordered on it, it comes up this morning as unfinished business.

Mr. SAMPSON. If the motion to reconsider is not debatable, I ask for a vote.

Mr. ATKINS. Is it too late to raise the question of consideration, so that we may proceed to something else?

The SPEAKER. The main question has been ordered, and the gentleman from Iowa has moved to reconsider the vote ordering the main question.

Mr. HEWITT, of Alabama. Is not that a debatable motion?

The SPEAKER. It is not.

Mr. BUTLER. I rise to a point of order.

Mr. HEWITT, of Alabama. I did not yield the floor to the gentleman from Iowa to make his motion.

The SPEAKER. The motion made by the gentleman from Iowa is a privileged one; and the motion to reconsider is not debatable if the question proposed to be reconsidered is not debatable.

Mr. HEWITT, of Alabama. But I rose for the purpose of discussing this question upon the passage of the bill.

The SPEAKER. The main question was ordered and all debate was cut off. The gentleman had no right to rise for the purpose of debate.

Mr. HEWITT, of Alabama. I was entitled to my hour, having reported the bill.

The SPEAKER. The Clerk will read Rule 49.

The Clerk read as follows:

When a motion has been once made, and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof on the same or succeeding day; and such motion shall take precedence of all other questions, except a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House; and thereafter any member may call it up for consideration.

The SPEAKER. The Chair desires to say that an examination of the Journal shows that the operation of the previous question was exhausted on the engrossment and third reading of the bill. The bill, it appears from the Journal, was engrossed and read a third time. Now the gentleman from Alabama is right in claiming his time; but the motion made by the gentleman from Iowa is a motion that has priority.

Mr. HEWITT, of Alabama. I rise to a point of order.

Mr. BUTLER. I rose to a point of order some time ago.

The SPEAKER. There is one point of order pending already.

Mr. PATTERSON, of Colorado. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. PATTERSON, of Colorado. Has a gentleman who voted in the minority on ordering the main question a right to move a reconsideration?

The SPEAKER. There is no record of that vote.

Mr. HEWITT, of Alabama. I ask the gentleman from Iowa [Mr. SAMPSON] if he voted in the majority?

The SPEAKER. There is no record of the vote; any member can move to reconsider.

Mr. HEWITT, of Alabama. I rose and addressed the Speaker, having the right to the floor, and never yielded to the gentleman from Iowa to make the motion to reconsider.

Mr. SAMPSON. Is the motion to reconsider debatable?

The SPEAKER. It is not.

Mr. SAMPSON. Then I object to debate.

Mr. BUTLER. I rise to a question of order.

Mr. HEWITT, of Alabama. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. HEWITT, of Alabama. It has been the custom of the Speaker to recognize the one who reports a bill to the House in preference to all other members. This morning, before the gentleman from Iowa [Mr. SAMPSON] addressed the Chair, I arose and addressed the Chair for the purpose of discussing this bill, a right which I have, as the reporter of the bill, under the rules and under the practice of this House. Having the floor, and not yielding it at all to the gentleman from Iowa, [Mr. SAMPSON,] my point of order is that he cannot take me off the floor to make the motion which he proposes to make.

The SPEAKER. The Chair recognized the gentleman from Alabama, [Mr. HEWITT,] but the gentleman from Iowa [Mr. SAMPSON] has made a motion which takes precedence. There never has been

any practice different in the House that the Chair is aware of. If the motion to reconsider the vote by which the main question was ordered upon the engrossment and third reading of the bill shall not be carried, then the Chair will recognize the gentleman from Alabama, [Mr. HEWITT.]

Mr. HEWITT, of Alabama. Then all I have to say is that I hope the House will not reconsider.

Mr. SAMPSON. This is a bill granting land to a railroad company, and I think the House should have an opportunity to fully consider it.

Mr. HEWITT, of Alabama. I say it makes no appropriation of land to a railroad company.

The question was taken upon the motion to reconsider; and upon a division there were—ayes 92, noes 74.

Before the result of this vote was announced,

Mr. HEWITT, of Alabama, called for tellers.

The question was taken upon ordering tellers, and there were 30 in the affirmative.

So (the affirmative being one-fifth of a quorum) tellers were ordered; and Mr. HEWITT, of Alabama, and Mr. SAMPSON were appointed.

The House again divided; and the tellers reported that there were—ayes 81, noes 62.

No further count being called for, the motion to reconsider was agreed to.

The SPEAKER. The question now recurs upon ordering the main question upon the engrossment and third reading of the bill.

Mr. BEEBE. Pending that, is it in order to move to recommit this bill?

The SPEAKER. It will be, if the main question is not ordered.

Mr. BEEBE. Then I make that motion.

Mr. HEWITT, of Alabama. I claim the floor.

Mr. SAMPSON. I claim the floor, Mr. Speaker, having submitted the motion to reconsider the main question, which has been carried.

The SPEAKER. The question recurs upon ordering the main question upon the engrossment and third reading of the bill. That must be decided before any member can take the floor for debate.

The question was taken, and the main question was not ordered.

Mr. BEEBE. Is a motion to recommit the bill to the Committee on Public Lands now in order?

The SPEAKER. It is.

Mr. BEEBE. Then I make that motion.

Mr. HEWITT, of Alabama. I rise for the purpose of discussing that question.

Mr. SAMPSON. I claim the right to be recognized, having made the motion which the House has agreed to, divesting this bill of the operation of the previous question.

The SPEAKER. The Clerk will read Rule 124.

The Clerk read as follows:

After commitment and report thereof to the House, or at any time before its passage, a bill may be recommitted; and should such recommitment take place after its engrossment, and an amendment be reported and agreed to by the House, the question shall be again put on the engrossment of the bill.

Mr. BEEBE. I call the previous question on the motion to recommit.

Mr. CONGER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. CONGER. I make the point of order that according to parliamentary practice the gentleman who has charge of the reconsideration when carried should be recognized by the Chair.

The SPEAKER. The gentleman from Iowa [Mr. SAMPSON] is not in charge of the bill.

Mr. CONGER. The gentleman from Iowa [Mr. SAMPSON] has led the action of the House up to this point, and has charge of the point which the majority of the House claims to control. He made the motion to reconsider for the purpose of obtaining the floor.

The SPEAKER. The gentleman from New York [Mr. BEEBE] has made a motion to recommit the bill.

Mr. SAMPSON. I desire to make a request of the gentleman from New York, [Mr. BEEBE.] I would prefer to have this bill referred to the Committee of the Whole.

Mr. BEEBE. That motion would take precedence of mine.

Mr. SAMPSON. Then I move that this bill be referred to the Committee of the Whole on the state of the Union, and on that motion I call for the previous question.

Mr. HEWITT, of Alabama. Is that motion debatable?

The SPEAKER. It is not. The previous question having been called upon it.

Mr. HEWITT, of Alabama. If this bill goes to the Committee of the Whole it is equivalent to the defeat of the bill.

Mr. SAMPSON. I object to debate.

The question was taken upon seconding the previous question; and upon a division there were—ayes 81, noes 48.

No further count being called for, the previous question was seconded.

The main question was then ordered, and under the operation thereof the motion of Mr. SAMPSON, to refer the bill to the Committee of the Whole, was agreed to.

Mr. SAMPSON. I move to reconsider the vote by which the bill was referred to the Committee of the Whole, and also move that the motion to reconsider be laid on the table.

Mr. HEWITT, of Alabama. I rise to debate that question.

The SPEAKER. It is not debatable.

The motion to lay on the table the motion to reconsider was agreed to.

Mr. HEWITT, of Alabama. I now move that the House go into Committee of the Whole for the purpose of considering this bill.

The SPEAKER. The first part of the motion of the gentleman from Alabama is in order; the second is not.

Mr. SAMPSON. I call for the regular order.

Mr. HEWITT, of Alabama. I have one remark to make—

Mr. REAGAN. I hope we shall have a morning hour this morning.

Mr. HEWITT, of Alabama. I remember distinctly that during this session a motion was made to go into Committee of the Whole for the purpose of taking up a particular bill, no objection having been made; and in Committee of the Whole it was held that that action of the House was binding on the committee.

The SPEAKER. That must have been a general appropriation bill, in reference to which such a motion would be in order. Apart from that the only motion admissible under the rules is a motion that the House resolve itself into the Committee of the Whole House on the state of the Union. When that motion is agreed to the disposition of business in the Committee of the Whole is regulated by the committee, and not by the Chair.

Mr. HEWITT, of Alabama. If I can have permission to explain this bill for fifteen minutes I feel satisfied that even the gentleman from Iowa [Mr. SAMPSON] himself would not vote against it.

The SPEAKER. The gentleman from Alabama moves that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. HOOKER. I rise to a point of order. I understood the Chair to indicate to the gentleman from Alabama that the first portion of his motion was in order.

The SPEAKER. That is the part the Chair put to the House.

Mr. HOOKER. So I understand. Now I rise to a parliamentary inquiry. Why is it not in order to move to go into Committee of the Whole for the purpose of taking up this special bill?

The SPEAKER. Because it is a change of the order of business; and the Committee of the Whole has the right to control its own business.

Mr. HOOKER. Is it not in the power of the House to change the order of its business and indicate what order shall be pursued?

The SPEAKER. The order of business can be changed in the manner provided for by the rules. The House cannot upon a motion made in this way change the order of business as established by the rules.

Mr. GARFIELD. If we should go into Committee of the Whole will not the business of the Committee on Appropriations have priority?

The SPEAKER. The legislative appropriation bill pending in Committee of the Whole is the unfinished business.

Mr. HALE. Does the chairman of the Committee on Appropriations propose to give way for this bill?

The SPEAKER. The Chair is not advised on that subject.

Mr. ATKINS. In response to the inquiry of the gentleman from Maine [Mr. HALE] and the gentleman from Ohio, [Mr. GARFIELD,] I desire to say that it is not my wish to give way for this bill, and I have so indicated.

Mr. HEWITT, of Alabama. The gentleman's wish is very evident, because he has voted every time to get my bill out of the way in order to consider his own.

Mr. ATKINS. And I did so in obedience to what I deem my duty to the public.

The question being taken on the motion to go into Committee of the Whole on the state of the Union, it was agreed to, there being ayes 132, noes not counted.

The House accordingly resolved itself into Committee of the Whole, (Mr. EDEN in the chair.)

Mr. ATKINS and Mr. HEWITT of Alabama addressed the Chair.

Mr. HEWITT, of Alabama. I rise to a point of order. The House having gone into Committee of the Whole upon my motion, I submit that, according to the practice of the House, I am entitled to recognition in preference to the gentleman from Tennessee, [Mr. ATKINS.]

Mr. ATKINS. In response to the gentleman's point I wish to say that many members, including myself, voted to go in Committee of the Whole for the purpose of taking up the legislative, executive, and judicial appropriation bill. I now move—

The CHAIRMAN. The Clerk will read Rule 114.

The Clerk read as follows:

In Committee of the Whole on the state of the Union, the bills shall be taken up and disposed of in their order on the Calendar; but when objection is made to the consideration of a bill, a majority of the committee shall decide, without debate, whether it shall be taken up and disposed of, or laid aside: *Provided*, That general appropriation bills, and, in time of war, bills for raising men or money, and bills concerning a treaty of peace, shall be preferred to all other bills, at the discretion of the committee; and when demanded by any member, the question shall first be put in regard to them; and all debate on special orders shall be confined strictly to the measure under consideration.

Mr. ATKINS. I rise to a parliamentary inquiry. Is not the legislative, executive, and judicial appropriation bill the unfinished business in Committee of the Whole, and does it not come up first for consideration?

The CHAIRMAN. The Chair rules that the legislative, executive,

and judicial appropriation bill is the unfinished business before the Committee of the Whole, and is therefore entitled to preference.

Mr. HOOKER. But the majority of the Committee of the Whole has the right to determine what business it will consider. I object to the consideration of the legislative appropriation bill, and hope that the committee will take up the bill of the gentleman from Alabama.

The CHAIRMAN. Objection being made, the question is: will the committee proceed to consider the legislative, executive, and judicial appropriation bill?

Mr. HALE. And that question is not debatable.

The CHAIRMAN. The question of priority of business is not debatable.

Mr. HEWITT, of Alabama. I rise to a question of order. I having made the motion to go into Committee of the Whole for the purpose of taking up a particular bill, and that motion having prevailed, I submit that the Committee of the Whole has no right to set aside an order of the House.

The CHAIRMAN. The fact of the gentleman from Alabama [Mr. HEWITT] having made a motion to go into Committee of the Whole does not change the order when the House resolves itself into Committee of the Whole. If there had been no unfinished business the gentleman from Tennessee [Mr. ATKINS] would have been recognized to make a motion to go into Committee of the Whole to consider the general appropriation bills, they having preference, and if that motion did not prevail then the bills would be taken up in their order.

The question now is, Will the committee consider the legislative, executive, and judicial appropriation bill?

The question was put; and on a division there were—ayes 119, noes 40.

So the motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The committee accordingly resumed the consideration of the bill (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes.

The CHAIRMAN. The pending amendment is the amendment offered by the gentleman from Louisiana [Mr. GIBSON] to strike out from lines 966 to 974 and insert in lieu thereof the following:

Mint at New Orleans:

For salary of the superintendent, \$3,500; for the assayer, melter, refiner, and coiner, four in all, at \$2,500 each; cashier, \$2,000; chief clerk, \$2,000; weigh clerk, deposit clerk and book-keeper, at \$1,600; assayers' clerk, \$1,600; in all, \$23,900.

For wages of workmen and adjusters, \$57,000.

For fuel, fluxes, light, lead, copper, acids, chemicals, crucibles, and for incidental and contingent expenses, \$30,000.

For repairs and machinery, \$75,000.

Mr. CONGER. I raise a point of order on that amendment, and it is that it is new legislation.

Mr. HANNA. I desire to speak to the point of order, and it is this: that it is an attempt by the gentleman—and I say it with all due respect to him—to forestall the legislation, to forestall the action of the committee who are now considering this question as to the establishment of new mints or as to the reopening of mints at given localities. The practical effect of the adoption of this amendment is to take from the committee which is now considering this question jurisdiction over the subject and to establish by legislation in an appropriation act that which has been sought to be effected in the proper committee.

It cannot be pretended that the existing condition of the mint at New Orleans requires any such appropriation as this; and in addition to that, this amendment—

The CHAIRMAN. The gentleman from Indiana must confine himself to the question of order.

Mr. HANNA. In addition to that it contemplates an appropriation largely in excess of the present demands of the law and the present condition of the mint at New Orleans, and is in effect establishing the mint again or of enlarging it after it has ceased to be of any use. I object to the establishment of a mint at any point in an appropriation bill. Let all the localities have a fair sweep and when the committee reports the House can act upon the matter.

I understand further that this appropriation is not in accordance with the provisions or requirements of any law now in existence.

Mr. GIBSON. I desire to say a word upon the question of order in reply to what has been said by gentlemen on the other side of the House. I would state that there is no new legislation in this amendment. The mint at the city of New Orleans was established as early as the 3d of March, 1834, and continued in operation until April, 1861. During that period of time it coined \$70,000,000. It stands to-day as one of the mints of the United States, authorized by existing law. More than that, sir, this very question of the reopening of the mint at the city of New Orleans was before the Senate Committee on Finance and was thoroughly and fully discussed by the gentlemen composing that committee, and they agreed unanimously to report a bill in favor of making the necessary repairs and for conducting coinage at this mint at New Orleans.

The bill was submitted to the Senate and the Senate unanimously passed it, as recommended by the committee of the Senate. It came to the House in due course and was referred to the Committee on Coinage, Weights, and Measures, and it was there fully discussed;

and that committee authorized me yesterday to report the bill as it came from the Senate, appropriating the sum of \$75,000 to make the necessary repairs on the mint at New Orleans.

Sir, this question has been as fully considered, as regularly considered as any question of like importance that ever arose in the American Congress.

Now what do I propose to do here in addition to the amount thus appropriated? I propose to authorize simply the payment of the salaries of the necessary officers and workmen, and to provide for the various appliances for conducting coinage in that city. The same is done in New York; the same is done in Philadelphia; the same is done in Carson City, and in San Francisco. What, therefore, is extraordinary in this? Why, sir, the Director of the Mint sent a special agent to investigate the condition of the mint at New Orleans. I hold his report in my hand. The amount in comparison with the great public object to be accomplished by conducting coinage at New Orleans is really insignificant.

Mr. ALDRICH. I rise to a question of parliamentary inquiry.

The CHAIRMAN. The gentleman cannot do that while the gentleman from Louisiana is upon the floor.

Mr. ALDRICH. Then I call the gentleman from Louisiana to order as he is not discussing the point of order, but the merits of the proposition.

Mr. GIBSON. I am endeavoring to reply as briefly and as clearly as I can to the objections made by the gentleman on the other side.

The CHAIRMAN. The Chair would suggest to the gentleman from Louisiana to confine his remarks to the point of order.

Mr. GIBSON. The point of order was made that this was not a mint under the law; that the object of this amendment was to form new legislation. Nay more than this, the gentleman insinuated this was an attempt to forestall action in this House; that under the shield and cover of an appropriation bill an attempt was being made here to forestall the action of this House and inject into an appropriation bill new legislation for the purpose of founding a mint in New Orleans with a view to defeat purposes which the gentleman and others may have in other parts of the country to get legislation to establish mints in their cities or States. Sir, I repudiate this entirely. If the gentleman knew me better, if he knew the Representatives who compose the Committee of Finance in the Senate, or of the Committee on Coinage, Weights, and Measures in this House, he would be loath to make an insinuation which is as unbecoming to him as it is unjust to me.

The CHAIRMAN. The gentleman's time has expired.

Mr. GIBSON. I will read the law.

The CHAIRMAN. The gentleman's time has expired.

Mr. PATTERSON, of Colorado. I rise, Mr. Chairman, to a parliamentary inquiry, and it is this: that where a point of order is being discussed the five-minute rule does not apply.

Mr. MAISH. I rise to debate the point of order and will yield my time to the gentleman from Louisiana.

The CHAIRMAN. The Chair will recognize the gentleman from Louisiana in the time of the gentleman from Pennsylvania.

Mr. GIBSON. I have no desire to occupy one moment of the attention of this House unnecessarily, and I feel in replying to the objection—

Mr. ATKINS. I do not believe the five-minute rule does apply to discussion on the point of order.

Mr. GIBSON. I have no desire to occupy for one moment the attention of this House unnecessarily. I come before it always with great reluctance, but I believe it to be my duty not only as a representative of New Orleans, but as a member of this Congress, interested not only—

Mr. BUCKNER. I insist, Mr. Chairman, that the gentleman from Louisiana must address his remarks to the point of order and not to the merits of the proposition.

Mr. GIBSON. It is important to the people of the country this coinage should be conducted in the city of New Orleans. The gentleman stated, if I understood him correctly, we had ample mint facilities for the production of coin in the country. He labors under a great mistake. The production of bullion in this country is about \$50,000,000 of gold and \$40,000,000 of silver.

Mr. DUNNELL. Is the gentleman discussing the point of order or the merits of the proposition?

The CHAIRMAN. The gentleman must confine his remarks to the point of order.

Mr. GIBSON. I will content myself, then, by merely reading the law as it stands upon the statute-book. I read section 3495:

SEC. 3495. The different mints and assay offices shall be known as—
First. The mint of the United States at Philadelphia.
Second. The mint of the United States at San Francisco.
Third. The mint of the United States at New Orleans.
Fourth. The mint of the United States at Carson.
Fifth. The mint of the United States at Denver.
Sixth. The United States assay office at New York.
Seventh. The United States assay office at Boise City, Idaho.
Eighth. The United States assay office at Charlotte, North Carolina.

In addition I may be permitted to state that the city of New Orleans in 1834 donated to the Federal Government a handsome square in the front part of the city, looking out upon the Mississippi River, valued at that time at half a million of dollars, to establish a mint of the United States. The mint to-day is one of the largest, one of the

handsomest buildings in the city of New Orleans, and if coinage is conducted there the operations of that mint will confer great commercial facilities not only upon the city of New Orleans, but the people through the whole Mississippi Valley will feel its beneficial influence.

Mr. HANNA. Just one word more.

Mr. CONGER. I desire to be heard on the point of order. The gentleman from Indiana has spoken once.

The CHAIRMAN. The Chair would suggest that any debate must be confined to the point of order.

Mr. HANNA. I merely wish to make a suggestion. I do not desire to say a word in discussing the comparative merits of these various localities. The point of order I wish to have brought distinctly to the mind of the Chair is this: I say that the amendment proposed is in practical effect a substitution of the bill which passed the Senate, and is now in the hands of the Committee on Coinage, Weights, and Measures; and it does seem to me, with all due respect to my friend from Louisiana, that the practical effect of adopting his amendment is to forestall legislation upon these matters, and that I do say ought not to be done.

Mr. GIBSON. I would like to ask the gentleman a question. Does not the gentleman know that the Committee on Coinage, Weights, and Measures has agreed unanimously to report this bill favorably; the bill which passed the Senate unanimously?

Mr. HANNA. I do not know what that committee has determined upon and I have no right to know until it makes its report.

Mr. SAYLER. I desire to say a word on the point of order.

Mr. CONGER. I raised the point of order myself and I have had no opportunity to speak to it.

The CHAIRMAN. The Chair will hear the gentleman from Michigan.

Mr. CONGER. I raised the point of order so that the gentleman offering the amendment might state whether existing laws recognize a mint at New Orleans; whether providing for the usual officers of a mint there was in accordance with existing laws; or whether this was new legislation. Now, if there be a mint at New Orleans and if the usual officers for a mint at New Orleans are not provided for in this bill, I do not claim that it is new legislation to provide for them, whether they have been left out by inadvertence or by design. But if there be no mint there organized; if this is the establishment of a mint instead of an assay office as this bill provides for, then it will be new legislation. It was because I did not know what the law was upon that subject that I suggested to the Chair that it was new legislation.

Now I understand the gentleman from Louisiana [Mr. Gibson] to read from the law which is unrevoked, as I understand him, to claim the establishment of a mint at New Orleans and to claim that the officers provided for in this amendment are the proper legal officers of this institution. If that be so, I cannot insist upon the point of order that it is new legislation.

Mr. GIBSON. This appropriation for the officers of the mint at New Orleans meets the concurrence of the Director of the Mint and is based upon the report of an agent of the Director of the Mint who recommends the appointment of these officers at the salaries I have named.

Here the committee informally rose; and Mr. CALDWELL, of Tennessee, took the chair for the purpose of receiving a

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 3969) regulating the appointment of justices of the peace, commissioners of deeds, and constables within and for the District of Columbia, and for other purposes.

The message further announced that the Senate had passed without amendment a joint resolution and bills of the House of the following titles:

The joint resolution (H. R. No. 158) for the erection of a monument over the grave of Thomas Jefferson;

The bill (H. R. No. 1639) making an appropriation for pier-lights at the entrance of the jetties in the South Pass of the Mississippi River;

The bill (H. R. No. 1780) granting a pension to William L. Davis, late private in Company E, Thirty-first Illinois Infantry Volunteers;

The bill (H. R. No. 1887) to extend the provisions of section 3237 of the Revised Statutes to other institutions of learning; and

The bill (H. R. No. 3859) for the relief of Silas M. Norton, postmaster at Bristol, Connecticut.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 27) for the relief of Amos B. Fergusson;

A bill (S. No. 893) to authorize the Secretary of the Treasury to examine the evidence of payments made by the State of Missouri since April 17, 1866, to the officers and privates of the militia forces of said State for military services actually performed in the suppression of the rebellion in full concert and co-operation with the authorities of the United States and subject to their orders, and to make report thereof to Congress;

A bill (S. No. 1066) for the relief of Doughty & Card;
 A bill (S. No. 1068) for the relief of T. B. Kelly;
 A bill (S. No. 1071) for the relief of settlers on the public lands;
 A bill (S. No. 1073) granting lands to the State of Minnesota in lieu of certain lands heretofore granted to said State; and
 A bill (S. No. 1096) for the relief of Samson Goliah.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Committee of the Whole resumed its session and proceeded with the consideration of the legislative, executive, and judicial appropriation bill.

Mr. ATKINS. I do not believe, Mr. Chairman, that this amendment is subject to the point of order raised by the gentleman from Indiana, [Mr. HANNA.] As to the propriety of the amendment, as to whether it is policy on the part of this committee to adopt the amendment of the gentleman from Louisiana, that is a question which I do not propose to discuss now, but I do not believe that the point of order can lie against the amendment.

Mr. GIBSON. The point of order of the gentleman from Michigan [Mr. CONGER] has been withdrawn, as I understand it.

Mr. HANNA. I have not withdrawn my point of order.

The CHAIRMAN. The Chair understood the gentleman from Michigan [Mr. CONGER] to withdraw his point of order.

Mr. CONGER. No; I said that if it appeared that the law authorized this to be maintained as a mint and that these were the officers properly provided for, the point of order would not lie against the amendment.

Mr. ATKINS. Section 3495 of the Revised Statutes established a mint at New Orleans and that law has not been repealed. The last legislation upon the subject was in the last appropriation bill. It treated the mint at New Orleans as a mere assay office, but I do not pretend to say that that was or could be construed to be a repeal of the law establishing the mint.

Mr. SAYLER. I would like to ask the gentleman from Tennessee a question in order to get at the facts in the case. The gentleman understands that the operations of the mint in New Orleans have been suspended for a number of years and suspended by law.

Mr. ATKINS. By what law?

Mr. SAYLER. It has been used only as an assay office, and the mere fact that there is now pending a bill from the Senate for the purpose of re-establishing the mint at New Orleans is an evidence that additional legislation is required in order to constitute it a mint.

Mr. ATKINS. I yielded to the gentleman to ask a question and he is making a speech. I asked him what law there was repealing the section of the Revised Statutes establishing this mint. There is no such law. The gentleman cannot point to a law that repeals that act.

Mr. CRITTENDEN. I desire to ask the gentleman a question.

Mr. ATKINS. I only propose to occupy about five minutes, and I cannot give all my time for questions; however, let the gentleman go on with his question.

Mr. CRITTENDEN. My question is, if the mere fact of the bringing in here of a bill from the Senate as stated by the gentleman from Louisiana [Mr. GIBSON] appropriating the sum of \$75,000 to put this mint in running operation does not make the amendment offered by the gentleman from Louisiana amenable to the point of order raised by the gentleman from Indiana, [Mr. HANNA?]

Mr. ATKINS. The gentleman means to say this: that because sometimes Congress re-enacts a law that is evidence that the law has been repealed. That thing is done in many instances.

Mr. CRITTENDEN. This is no re-enactment of the law.

Mr. FRANKLIN. Can the gentleman from Tennessee tell me the reason why Congress should re-enact a law which is still in existence?

Mr. ATKINS. I am not responsible for any folly Congress may adopt. If Congress re-enacts laws which are already in existence I am not responsible for it.

Mr. FRANKLIN. Then the gentleman wishes to say that this was a piece of folly on the part of the Senate?

Mr. ATKINS. The amendment is germane and is an appropriation within existing law; it only increases the expenditure and therefore I think it is not liable to a point of order. The policy of adopting the proposition is another question upon which I may possibly agree with the gentlemen who oppose it.

Mr. PATTERSON, of Colorado. I think I can show by the statutes of the United States that this amendment does propose new legislation. I think I can show by the statutes, that the officers of the mints of the United States are expressly provided for, and that many of the offices created by the amendment are not provided for in the statutes.

Let us admit, for the sake of argument, that there is a mint at New Orleans and then let us see what officers the statutes of the United States say shall be employed at such a mint. Section 3496 of the Revised Statutes, provides that:

The officers of each mint—

That is specific language—

shall be a superintendent, an assayer, a melter and refiner, and a coiner; and, for the mint at Philadelphia, an engraver; all to be appointed by the President, by and with the advice and consent of the Senate.

Sir, we all know the old maxim of law, *expressio unius est exclusio alterius*.

Now, the law provides that certain offices shall exist, and that excludes the idea that others shall exist unless special legislation is had. Let us see what new offices are proposed by the gentleman from Louisiana: first, a cashier; next, a chief clerk; next, a weigh clerk; next, a deposit clerk; next, a book-keeper; next, a coiner; and next, an engraver. Here are six or seven different offices created by the amendment, not recognized by the statute at all. Gentlemen may claim that in various appropriation bills appropriations for the mints at Philadelphia, Carson, and San Francisco have provided for these officers. If that be so, then it was only a repeal or amendment to section 3496 of the Revised Statutes in so far as that legislation applied to those particular mints. Hence I say that this amendment is clearly liable to a point of order; it is new legislation and increases the expenditures.

Mr. DURHAM. I propose to confine myself strictly to the point of order. The proposed amendment is in one regard and one regard only subject to a point of order. If the gentleman from Louisiana [Mr. GIBSON] will strike out of his amendment the officer there termed an engraver, then it will be in strict accordance with law. But his amendment with the engraver in it is subject to a point of order, because it comes directly in the teeth of the section of the Revised Statutes quoted by my friend from Colorado, [Mr. PATTERSON.]

Allow me to say to the gentleman from Colorado [Mr. PATTERSON] that it cannot be made a point of order against an amendment that it provides for clerks to carry on the operations of this mint, and that in that way officers are created who are not recognized by law. If that were so, then every clause of this bill providing for the several Departments would be subject to a point of order. Take the Treasury Department: for instance, the law does not say that there shall be so many clerks, so many laborers, messengers, assistant messengers, and pages in the Treasury Department; not at all. But those officers become necessary for the purpose of running the Department by virtue of the statutes creating the Department. But when you provide for an officer such as an engraver, in opposition to the statute itself, then the amendment is subject to the point of order as stated by my friend from Colorado, [Mr. PATTERSON.] I simply make the suggestion that with that exception the amendment is in order.

Mr. ATKINS. Will my colleague on the Committee on Appropriations [Mr. DURHAM] allow me to have read in his remarks a paragraph from the appropriation act of 1874?

Mr. DURHAM. While I think this amendment is subject to the point of order which I have suggested in the respect I have mentioned, I desire to say that when the amendment comes up for consideration and action I shall exercise my best judgment as to whether I will vote for it or not.

Mr. HANNA. Does the gentleman regard this amendment as in the line of economy and retrenchment?

Mr. DURHAM. I yield now to have read the clause of the appropriation bill referred to by the gentleman from Tennessee, [Mr. ATKINS.] The Clerk read as follows:

To reopen the branch mint at New Orleans, to be conducted hereafter as a mint, subject to the provisions and restrictions of the coinage act of 1873, the following appropriations are made: For salaries of superintendent, \$3,500; assayer, who shall perform the duties of melter, \$2,500; wages of three workmen, \$3,000; for fuel, lights, acids, chemicals, and crucibles, \$2,000; and for repairs and apparatus necessary to put the mint in condition, \$5,000; in all, \$16,000.

Mr. ATKINS. That legislation recognizes the mint at New Orleans as a mint as late as 1874, which was after the demonetization act of 1873.

Mr. SAYLER. Allow me to suggest to the gentleman that the provision of the appropriation bill which has just been read was for the use of the building at New Orleans for an assay office only.

Mr. ATKINS. It specially provides for "the branch mint at New Orleans."

Mr. SAYLER. It only provides for its operation as an assay office.

Mr. REAGAN. On the point of order I desire to say a word. Section 3495 of the Revised Statutes has been referred to. It provides that "the different mints and assay offices shall be known as," &c. Then it mentions "third, the mint of the United States at New Orleans." There has just been read from the Clerk's desk a provision of legislation as late as 1874, making an appropriation for the purpose of carrying on the mint at New Orleans as an assay office. It is now objected that a proposition to carry on that mint as a mint will be in the nature of new legislation. The gentleman from Colorado [Mr. PATTERSON] supports his objection by the statement that this amendment proposes an appropriation for officers not appropriated for in the legislation of last year or the year before.

Mr. PATTERSON, of Colorado. Allow me to correct the gentleman. The point of order I made is that this amendment creates officers not recognized by any statute or by any previous legislation for mints.

Mr. REAGAN. This amendment neither creates nor recognizes officers unknown to the law in carrying on mints. It provides for officers known to the law, officers habitually employed in the carrying on of mints, and the point of order no more lies against this amendment in that respect than it would lie against any appropriation bill acted upon by this committee which increases or reduces the number of officers in any bureau or Department.

Mr. PATTERSON, of Colorado. May I ask the gentleman a question?

Mr. REAGAN. Certainly.

Mr. PATTERSON, of Colorado. When the statute expressly provides that the officers of a certain institution shall be those named in that statute, then if any other officers than those named in that statute are subsequently provided for, is not that new legislation? Now, then, as I said before, if you will look—

Mr. REAGAN. I yielded to the gentleman for a question; but I cannot yield to him to make a speech.

Mr. PATTERSON, of Colorado. Certainly not. But I wish to call attention to section 3496 of the Revised Statutes. It will be there found that such officers as engraver, chief clerk, weigh clerk, deposit clerk, and book-keeper are not mentioned in the Revised Statutes at all.

Mr. REAGAN. The point of the gentleman is that we cannot create officers for carrying on the Mint, that we cannot provide such instrumentalities as are needed for that purpose. Such an objection as that would apply with equal force and validity to every bill that comes before the House from the Committee on Appropriations, proposing to increase the number of clerks or other officers in any other department of the service.

That is the only point I desire to make. We habitually increase or reduce the number of clerks or other officers in the different bureaus and Departments of the Government, and no one thinks of making a point of order upon it. It seems to me that the point of order cannot lie in this case. If gentlemen object to the amendment, the proper way for them to do is to vote against it upon its merits, and not attempt by indirection to defeat it by a forced construction of the rules of order.

Mr. CLYMER. My colleague on the Committee on Appropriations, the gentleman from Kentucky, [Mr. DURHAM,] has stated the point of order so clearly that I conceive it hardly necessary for me to repeat. I believe with him that if the gentleman from Louisiana [Mr. GIBSON] will modify his amendment according to his suggestion, it will then come clearly within the rule.

I fortify my view that the provision for additional clerks in the subsequent part of the amendment does not bring it within the operation of the point of order by the fact that by section 3499 of the Revised Statutes it is provided that "there shall be allowed to the assistants and clerks of the several mints such annual salaries as the Director of the Mint may, with the approbation of the Secretary of the Treasury, determine." Thus the general law clearly provides that there shall be such assistants and clerks as may be necessary for the good order and efficiency of the Mint; and if by law no salaries are attached to the offices the Director of the Mint, in conjunction with the Secretary of the Treasury, is authorized to pay such wages as may seem reasonable and just. A further portion of the section to which I have just referred authorizes the employment of necessary workmen, &c., for performing the duties of the Mint. Hence I am clearly of opinion that with the exception of the matter of engravers the amendment is not liable to the point of order.

Mr. PRICE. I rise to a parliamentary inquiry. Is there not some limit to discussion on the point of order?

The CHAIRMAN. The Chair is now ready to decide the point of order. Under Rule 120 there can be no legislation changing existing law in an appropriation bill unless it is germane and retrenches expenditures. The Chair is in some doubt upon the question which has been raised; but as the law recognizes the existence of a mint at New Orleans, the Chair is inclined to hold that the necessary legislation to operate that mint is not new legislation in the sense of the rule and that consequently such a provision is in order as an amendment to this bill. The Chair therefore overrules the point of order.

Mr. DURHAM. I understand that the provision for engravers has been struck out.

The amendment, as modified, was read.

Mr. O'NEILL. Mr. Chairman, some weeks ago I offered, in the interest of economy and to afford the requisite mint facilities, a resolution, which was referred to the Committee on Coinage, Weights, and Measures, requesting that committee to examine into the expediency of enlarging the Philadelphia mint. Now, in regard to the pending proposition gentlemen may say what they please, but it is an easy way of establishing a mint. But have gentlemen considered the cost of carrying on this mint at New Orleans? The mint at Philadelphia can be enlarged so as to give facilities for coinage that would answer for years, at an expense of about \$175,000 for land adjoining it, which amount would include the expense of connecting the present building with a large building, a church which stands upon the lot; and in my opinion we should not hesitate to make an appropriation for the immediate purchase of the same. The lot has a front of about one hundred and four feet on the east side of Broad street, and runs eastwardly about one hundred feet to the west line of the mint property. The amount mentioned above would not only purchase the ground, but would be sufficient to alter the church building and to connect it with the mint for the purposes of transacting business conveniently under the pressure of work now doing there and which is likely to be done for a long while to come.

I do not wish to aid in defeating the proposition for re-establishing the mint at New Orleans, but I will say that, in the interest of economy and for the purpose of giving requisite facilities for coinage, nothing so reasonable can be done as to extend the mint in the city of Philadelphia. Why, Mr. Chairman, the annual expense suggested by the gentleman from Louisiana in his amendment for carrying on

the New Orleans mint would almost be enough to make the purchase in Philadelphia my proposition suggests. The expense for the enlargement of the Philadelphia mint would be almost nothing as compared with the expense of establishing a new mint. Manifestly it would be for the interest of the Government to make this extension. There is no better time for the favorable purchase of property than the present.

I hope yet to have an opportunity to appear before the Committee on Coinage, Weights, and Measures—not especially in the interest of Philadelphia or in the interest of the locality which I in part represent here, but in the interest of our country and of economical expenditure of money. The first mint established in the United States was at Philadelphia, and the coinage there has become immense. For a comparatively trifling expense we can so extend the building as really not to require a new mint anywhere in the United States.

The railroad communications with Philadelphia are such that bullion can be brought just as conveniently to Philadelphia as to New Orleans or to almost any other part of the country. Yet we find in this committee, which I believe thinks that it desires to legislate in the interest of economy, an evident disposition to establish new mints. I hope that the committee, if it wishes to save money, will consider favorably, when it comes formally before it, the proposition for enlargement of mint facilities which I have suggested.

Mr. STEPHENS, of Georgia. Mr. Chairman, I wish to say only a few words upon the subject referred to by the gentleman from Philadelphia, [Mr. O'NEILL.] The Committee on Coinage, Weights, and Measures have before them not only the resolution to which he refers but divers other propositions for the increase of the mint power of the United States. A number of these propositions are for the establishment of new mints in different parts of the country. The Director of the Mint thinks the present mint capacity cannot turn out more than three and a half million silver dollars per month. It is a matter of very great importance, I think, to have the coinage capacity of the country doubled. Dr. Linderman, the Director of the Mint, thinks that to do this will require the reopening of the mint at New Orleans, as well as the erection of at least two other mints. In view of the trade with Mexico and South America and the flow of silver and gold bullion from those countries, he thinks the mint at New Orleans ought to be put in operation immediately if the coinage of silver is to be doubled over present capacity. It was in view of the Mexican and South American trade and our supply of silver and gold bullion from those sources, coming directly to that port, that New Orleans was at first selected as a proper location for a mint. That mint can be made, says Dr. Linderman, in a short time to turn out \$1,500,000 per month. This he thought could be done at a cost of \$75,000. This is the estimate and this is the expenditure proposed in the Senate bill which the Committee on Coinage, Weights, and Measures have unanimously authorized the gentleman from Louisiana to report. His object is to effect that end in this way without waiting the call of the committee.

Mr. O'NEILL. Let me ask the gentleman from Georgia whether the adoption of this provision will have the effect of destroying any prospect of new mints anywhere throughout the country or of securing the extension of the Philadelphia Mint.

Mr. STEPHENS, of Georgia. It will not. As chairman of the committee, I do not feel at liberty to indicate their ultimate decision upon a question which has not yet been thoroughly discussed; but I will state for myself that I am in favor of doubling the present coinage facilities. According to the statement of the gentleman from Pennsylvania, the cost of so doing can be less than that involved in enlarging the Philadelphia Mint. That, he says, will be \$175,000. We have before us propositions to establish a mint at Indianapolis, Indiana, with a building larger and better than the one in Philadelphia, belonging to the Government, without the cost of anything but machinery, and with coining power equal to that of Philadelphia. This can be put in operation immediately. This is a Government building, now ready, and in no real use.

Mr. O'NEILL. The chairman of the committee understands there will be no additional expense required for additional machinery if the mint building in Philadelphia should be enlarged, but simply for ordinary expenses for carrying on the mint.

Mr. STEPHENS, of Georgia. If you increase your power you must increase the machinery, and you must have machinery to supply that power after the building has been enlarged in Philadelphia, as much as in Indianapolis, or Saint Louis, or other places where the Government owns the buildings now, or where they are offered without charge, as in Kansas City and other places.

Mr. O'NEILL. Permit me to say, and I dislike to interrupt the gentleman from Georgia, that the mint at Philadelphia is now carried on day and night. Men are working day and night—two or three sets of men. The extension of the building would not require new machinery further than new belting to connect the enlargement with the present building.

Mr. STEPHENS, of Georgia. Yes; and it is admitted that these will cost \$175,000, besides the delay in the enlargement. One word more, Mr. Chairman. I suppose that they are now using at the Philadelphia Mint all the power they can command. Of course if you enlarge the building you will have to enlarge or increase the machinery.

Mr. FOSTER. Let me ask the gentleman from Georgia a question.

Mr. STEPHENS, of Georgia. Certainly.
Mr. FOSTER. Is an increase of coinage facilities absolutely necessary at this time?

Mr. STEPHENS, of Georgia. It is, if you extend the coinage to the amount authorized by the silver bill which became the law at this session.

Mr. FOSTER. Are not the present facilities sufficient to comply with the law?

Mr. STEPHENS, of Georgia. Dr. Linderman and the Secretary of the Treasury think not. The mint capacity for this purpose they both say at this time is only \$3,500,000 per month. I am for doubling this.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. STEPHENS, of Georgia. I would like to say a word further.
Mr. GIBSON. I had a conversation with Dr. Linderman, and the present facilities are considered far short of what are necessary.

Mr. O'NEILL. I did not understand that the Director of the Mint desired an extension of mint facilities anywhere, and therefore the enlargement at Philadelphia even, in his estimation, is not necessary.

Mr. BUCKNER. This discussion is going on entirely out of order.
Mr. SAYLER. I move to strike out the last word.

I have no disposition, Mr. Chairman, to antagonize the proposition of the gentleman from Louisiana [Mr. GIBSON] in regard to the mint at New Orleans. I think, however, while that office is technically denominated in the law as a mint, its principal use in the future will be that of an assay office, and for that purpose, an enlarged assay office, it will be specially valuable when the time comes, as I think it will come before long, when our supply of bullion will have to be drawn from Mexico.

In response to the proposition of the gentleman from Pennsylvania, [Mr. O'NEILL,] I wish to say this: it is not the mere consideration of the temporary cost of the construction of a mint which should enter into this question; it is the question of the facility for the supply of bullion and the facility for the distribution of coin. I undertake to say Philadelphia is not so situated with reference to the rest of the country that it possesses these facilities to any extent, and certainly to no extent greater than the work it is now doing. The city of New Orleans, in my judgment, is too far south to supply that grand empire which lies on the other side of the Allegheny Mountains and which is commonly known as the Mississippi Valley, embracing a large number of the richest States of the Union and in seven or eight of which States about one-half or more of the manufacturing industries of this country are conducted, and in which in the very near future there is an absolute demand for a first-class mint for coinage both of gold and silver.

I say I do not antagonize the operations of the mint at New Orleans because I believe them to be essential for carrying out and contributing to the necessities of this people. But the mint itself that shall supply that country with the necessary coinage must be farther north and in a more central portion of the great industrial interests of the Mississippi Valley.

Mr. GIBSON. Let me ask the gentleman a question.

Mr. SAYLER. Certainly.

Mr. GIBSON. Does the gentleman know that the bullion coined at the mint of New Orleans from its establishment to its close came from Mexico, and that the supplies for that mint will be drawn chiefly from Mexico, and that therefore it does not interfere?

Mr. SAYLER. I have so suggested, Mr. Chairman, that the mint at New Orleans would be valuable in that respect, yet I regard it chiefly as an assay office, but the coinage should be done nearer the commercial center of the Mississippi Valley. And some such relation might subsist between a farther north position and the city of New Orleans as now exists between the city of Philadelphia and the city of New York in that regard. I think, therefore, Mr. Chairman, that we should not undertake at the present time to re-establish a mint at New Orleans, but we should rather undertake at the present time to keep this mint building at New Orleans in a proper and suitable condition for extensive assay work, because in the near future it will be largely needed for that purpose.

Mr. STEPHENS, of Georgia. The object of the amendment before the committee is not to re-establish this mint. The mint has never been disestablished. It is simply to put it in operation. The mint stands there and has stood there ever since it was in operation. Its operation was suspended in 1861. The object of this amendment is simply to repair it and put it in operation again.

I desire to make a few further observations which I had not the opportunity to make when I had the floor, before being cut off by the expiration of my five minutes. I wish to say to the gentleman from Philadelphia [Mr. O'NEILL] that in the Committee on Coinage, Weights, and Measures we have had the proposition of the enlargement of the mint at Philadelphia before us and we expect to have all the testimony that will be offered by intelligent business men of that city as to the probable cost and the propriety of the enlargement. The committee have propositions before them, besides the New Orleans mint, for one at Cincinnati, for a new mint at Quincy, Illinois; for one at Omaha, for one at Springfield, Rock Island, as well as at Indianapolis and Saint Louis; Charlotte, North Carolina; and Kansas City, three in Georgia, and several other places. All these matters

are yet before the committee. I suppose they will make their report in the course of ten days.

All these propositions will have to be duly considered; but we think the mint power will have to be largely increased, especially if Congress should pass the silver-bullion-certificate bill, which I trust will be passed. That bill has been set down for consideration on the 9th of next month—next Thursday week.

That is all I have to say. We intend to give consideration to all these matters; but the committee are unanimously in favor of the proposition offered by the gentleman from Louisiana to start the New Orleans mint immediately.

Mr. COLE. I renew the amendment. I dislike exceedingly, Mr. Chairman, to antagonize any of these interests which appear upon this floor, because I recognize in them substantial and worthy competitors. All of them are cities with which most of us are very familiar, and each one of them would like very much to have a mint. But in looking at the estimates of the committee this morning I observe, if we should go back to the operations of the New Orleans mint, which extended through a period of twenty-three years, coming in that time seventy millions of gold and silver, the expenses themselves, according to the estimates of this committee and rated in the same proportion, would cost the Government 4 per cent. on each dollar coined. This is a very extravagant amount, and certainly it would seem that the expenses of coining in the city of New Orleans must be at least three or four times as much as they would be in many other cities.

Now, I would like very much to call the attention of this Congress to the fact that in Saint Louis, the city which I have the honor in part to represent, you have a magnificent building now which will soon be vacated, and could be vacated at once; a building which cost some \$2,000,000, which will have to be put up and sold, and would not to-day, I believe, bring \$50,000. It is a fire-proof building, one hundred and twenty-five by eighty feet, five stories high, built of stone, large enough to make one of the finest mints in the United States.

Mr. FRANKLIN. How much is that building worth, did the gentleman state?

Mr. COLE. I suppose it would not bring, as it is not adapted to business purposes, more than \$40,000 or \$50,000 if put up at sale. It cost about \$2,000,000, as nearly as I can recollect.

Mr. FRANKLIN. Then would it not be economy on the part of the Government to sell that building and cover the money into the Treasury and place the new mint that is to be put in the West at some city which offers to furnish a mint building free of charge?

Mr. COLE. That might be so if that city possessed the cheapest coal, the cheapest labor, cheapest food, the largest means of distribution at the lowest cost; if it had all the skilled artisans and machine-shops in it that are necessary; if it was the healthiest city in the world, which Saint Louis is proved to be by a comparison of vital statistics as compared with other cities. If it had all those advantages and more which I now have not time to enumerate, then it might be considered fairly as a competitor to be duly considered.

Mr. FRANKLIN. I think the Committee on Coinage, Weights, and Measures will come to the conclusion that there is a point west of Saint Louis where the mint can be carried on much better.

Mr. PATTERSON, of Colorado. And that point is Denver. [Laughter.]

Mr. FRANKLIN. That point is Kansas City.

Mr. COLE. I wish to say that Saint Louis, according to the last census, is the fourth city in population in the United States, (and at this time containing a population of over five hundred thousand,) and the third in the production of manufactured goods. It manufactures new goods of all kinds to the extent of \$200,000,000 per annum and distributes the proceeds of property from the vast area tributary of several hundreds of millions more which are sold and remitted back either in money or other commodities.

[Here the hammer fell.]

Mr. ALDRICH obtained the floor and yielded his time to Mr. COLE.

Mr. COLE. I thank the gentleman from Illinois for his courtesy; and I wish to say further that every chemical which is used in assaying and parting metals, in refining bullion and in coining it, is made in our city, and to-day is sold cheaper there, as the Director of the Mint told me himself, than at any other city of the United States. In that city, too, are made to-day all the metals which enter into these combinations in coining; with sixteen trunk lines of railways, the greatest number radiating from any center in the world; with eighteen thousand miles of water-ways, traversed by her steamers, distributing her commerce and drawing the same to and from all parts of the Union at the lowest practicable rates; with reduction works now successfully producing many millions of bullion annually, and penetrating by her railways the richest bullion-ore districts of the world. Now you may say that this is antagonism to the proposition. It is not. I am only telling you that Saint Louis is the best place in the country for a mint, and I wish you could all agree with me. When you make a mint put it where it ought to be, (so that in its location you may reach the largest populations in the shortest time and by the cheapest transits,) and make a good one of it, which can be done for the expense which would be incurred here in renewing the machinery of the mint at New Orleans.

Let me recall your attention to another fact. There is a doubt about the title to the property on which this mint at New Orleans stands. It is a question whether the title has not lapsed, because it was ceded to the Government by the city of New Orleans on condition that a mint should be continually operated there, and the mint has not been operated as a mint since 1861. This is only incidental.

Mr. GIBSON. I want to say to the gentleman that the city of New Orleans has formally relinquished all right and interest in this property.

[Here the hammer fell.]

Mr. COLE. I withdraw my formal amendment.

Mr. HOOKER. I renew the amendment. I desire to say a word, Mr. Chairman, in reference to the proposition which is offered to amend the bill so as to continue the mint at New Orleans and not to re-establish it, as has been well said by the distinguished gentleman from Georgia, because it has never been discontinued, and in reference to the remarks which fell from the gentleman last upon the floor, just before he took his seat.

I understand that it is not true that there has been any attempt to question the fact that this property was relinquished by the city of New Orleans to the Government on the ground that it has not been continually occupied as a mint. On the contrary, it was never used for any other purposes than those for which it was ceded, and it was reopened as a mint in the year 1874.

In answer to the argument of my distinguished friend from Ohio, [Mr. SAYLER,] in reference to the fact that this mint for the coinage of silver at New Orleans is not properly located, because it is not in the interior of the country, but in a city which is the great *entrepôt* for that interior, I beg to say that the argument of the gentleman from Pennsylvania [Mr. O'NEILL] might as well be that the mint at Philadelphia ought to be removed to Pittsburgh as that the mint at New Orleans ought to be removed to the interior of the Mississippi Valley.

Mr. O'NEILL. I did not say that I was not going to vote for this proposition.

Mr. HOOKER. Nor did I say so; but I want to say that the mint at Philadelphia, on the seaboard, coins the bullion of the country and distributes it to the interior, and the argument might as well be made that it ought to be removed to Pittsburgh as that the mint at New Orleans should be removed.

Mr. SAYLER. I should like to ask the gentleman a question. Does he not know that Philadelphia is the center of the population of Pennsylvania at the present time, and if he does not know that the population of the States up the Mississippi River is about three or four to one as to that of the States below; that almost the entire manufacturing and commercial interests of that great valley are within the limits of seven or eight States north?

Mr. HOOKER. In answer to the inquiry of the gentleman I beg to say that the city of New Orleans, like Philadelphia and New York and the other cities on the seaboard, is the great point from which the commerce must go out upon the seas and come back, and therefore it is the proper position for a mint. You do not ship a particle of grain or coal or anything that you raise out of the earth or anything that you produce, whether by manufacturing or mining, that does not pass through the port of New Orleans by natural law, and that therefore New Orleans is the great *entrepôt* of the commerce of the Mississippi Valley and the point at which a mint should be located. This great commercial town is adjacent to the mouth of that great river and its hundreds of tributaries which is the source of the commerce of all that region of country, and you might as well argue that the mint should be removed from Philadelphia to Pittsburgh as that it should be removed from New Orleans to anywhere else.

Mr. FRANKLIN. We do not propose to send our gold and bullion abroad to be coined.

Mr. HOOKER. But you need it to pay for the produce that you purchase abroad.

Mr. HANNA. It occurs to me, and I think it will occur to every impartial mind on this floor, that the discussion has already developed the fact that we ought not in an appropriation bill to attempt to legislate as we are now asked to legislate. I want to be fair with all these contending points and I intend to be so, and my hope has been that this measure would not be sprung upon the House until it would have the benefit of a report from the Committee on Coinage, Weights, and Measures.

I have great confidence in that committee and in the chairman of the committee that they will do what is fair and right. And I hope that when their report comes into this House it will be a report not only in favor of reopening to some extent the mint at New Orleans, but also in favor of establishing additional branch mints. I believe that the public interest requires that that should be done. Let that committee fairly and impartially and justly consider the claims and advantages of all these rival points, including the one I immediately represent, and when they have done that I will be content with their judgment.

The Committee on Appropriations come in here with their bill asking us to appropriate for the mint at New Orleans \$10,362. An amendment is thrust in our faces asking us to appropriate \$128,900 for that purpose, an excess of \$118,000. Now I say in the face of that, without attempting to disparage any other rival point, that at the city of

Indianapolis there are seventy-eight acres of ground, of which the title is perfect, with buildings equal to those at Philadelphia or at any other point, which the United States Government can have, and where we can, at an expense of \$50,000, equal to-day the coinage of the mint at Philadelphia. I do not say this for the purpose of prejudicing any other point. I state it simply as a fact and to show the injustice of attempting in an appropriation bill to fix and settle forever any one point in advance of any law.

A few days ago the Senate passed a bill upon this subject, and by my vote and those of others of us here that bill was referred to the Committee on Coinage, Weights, and Measures. Why? Because we wanted to have the benefit of the judgment of that committee; we wanted that committee to hear the representatives of all these rival points, and, when they had done that, to impartially consider the subject and to bring before us their fair, full, and impartial report, so that we could have the benefit of it. But instead of that, upon the *ipse dixit* of some of my friends from the South, we are asked to-day, in advance of legislation, in advance of any report from that committee, in advance of any recommendation on their part, to take at once \$118,000 out of the Treasury and put it down in New Orleans. I ask is that fair and right toward Saint Louis, Cincinnati, Springfield, Chicago, and Indianapolis? It seems to me it is not.

Mr. VANCE. Will the gentleman answer a question?

Mr. HANNA. I will.

Mr. VANCE. Does not the gentleman think that the demands of the country require further mint capacity than will be supplied at New Orleans?

Mr. HANNA. I believe it does. As members very well know I have at all times since I have occupied a seat upon this floor announced myself as an unlimited free-silver-coinage man. We must come to that, and the sooner the country understands it the better. Hence, I say, wait patiently until we get a report from my friend from Georgia [Mr. STEPHENS] who heads the Committee on Coinage, Weights, and Measures, and let us avail ourselves of the benefit of the experience of that committee. I trust my friend from Louisiana [Mr. GIBSON] will not attempt, I will not say designedly, to do that which is to inure to the advantage of New Orleans only, without considering the claims of other points.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. ATKINS. I wish to inquire if we cannot by some sort of agreement obtain in Committee of the Whole a limitation to the debate on this amendment?

Mr. REAGAN. I wish the gentleman from Tennessee [Mr. ATKINS] would allow me at this point to occupy the floor for a few minutes.

Mr. ATKINS. I do not propose to cut off debate. I simply wish to ask the committee to give consent that debate be limited, without going into the House to obtain an order for that purpose.

Mr. BUTLER. I would like to ask the gentleman from Tennessee, [Mr. ATKINS,] before he asks for any limitation of debate, to allow me about two minutes to state what I understand to be the reason why any mint was ever established at New Orleans. I have listened in vain for that statement to be made by some other gentleman.

Mr. ATKINS. I do not propose to cut off debate entirely; I merely wish to ascertain whether the committee will consent to some limitation.

Mr. GARFIELD. Say twenty minutes on the pending paragraph and on the amendments thereto.

Mr. ATKINS. I am willing to agree to that, if by common consent we can fix the limit of debate to twenty minutes.

Mr. PATTERSON, of Colorado. Say thirty minutes instead of twenty.

The CHAIRMAN. Is there objection to the proposition of the gentleman from Tennessee [Mr. ATKINS] that debate upon the pending paragraph and amendments thereto be limited to twenty minutes.

Mr. CRITTENDEN. I object to anything of the kind.

Mr. ATKINS. Then I move that the committee rise for the purpose of obtaining from the House an order limiting debate. I will state that I desire to accommodate the wishes of the majority of the House.

Mr. VANCE. I think thirty minutes will be agreed to.

Mr. ATKINS. I move that the committee rise.

Mr. FRANKLIN. I hope the motion will be voted down.

The motion of Mr. ATKINS was agreed to; upon a division, yeas 98, noes not counted.

The committee accordingly rose; and Mr. SPRINGER having taken the chair as Speaker *pro tempore*, Mr. EDEN reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1873, and for other purposes, and had come to no resolution thereon.

Mr. ATKINS. I move that when the House shall again resolve itself into Committee of the Whole on the legislative, executive, and judicial appropriation bill all debate upon the pending paragraph and amendments thereto shall be limited to twenty minutes.

Mr. FRANKLIN. I move to amend so as to make it—

Mr. ATKINS. Well, I wish to accommodate the House, and will say thirty minutes.

The motion of Mr. ATKINS limiting debate was agreed to. Mr. GARFIELD moved to reconsider the order just made limiting debate; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ATKINS. I now move that the rules be suspended and the House resolve itself into Committee of the Whole on the state of the Union for the purpose of proceeding with the consideration of the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole, (Mr. EDEN in the chair.)

The CHAIRMAN. By order of the House all debate upon the pending paragraph and amendments thereto has been limited to thirty minutes.

Mr. REAGAN. I only wish to say a word, because it seems to me that the course which the debate has taken may divert attention from the true issue involved in the amendment. The proposition of the amendment is simply to make the necessary appropriations to continue an existing mint. This seems to be antagonized first by the gentleman from Philadelphia, [Mr. O'NEILL,] who thinks his city can do the coinage for the country.

Mr. O'NEILL. I have not antagonized the proposition for the New Orleans mint at all.

Mr. REAGAN. Then it is antagonized by several other gentlemen: by the gentleman from Indiana [Mr. HANNA,] who thinks that the coinage ought to be done in Indianapolis; by a gentleman from Ohio, who thinks it had better be done in Cincinnati; by another gentleman from Missouri, who thinks the proper place for carrying on our mint business is in that State; by my friend from Colorado, who thinks that it ought to be done at Denver. Each of these gentlemen is struggling for the establishment of a new mint in opposition to continuing in operation an existing mint.

Now, it seems to me this is not a question that should arise now; that we ought simply to consider at this time whether the necessities of its country, its commerce and its coinage, justify and require a continuance of the operations of the mint at New Orleans with increased facilities for larger coinage. We are assured by the distinguished gentleman from Georgia, [Mr. STEPHENS,] the chairman of the Committee on Coinage, Weights, and Measures, that in his judgment, as also in the judgment of Dr. Linderman, the Director of the Mint, increased coinage facilities are required. If this be so, why should we on an appropriation bill, which provides simply for continuing in operation an existing mint, embarrass the action of the House by undertaking to determine whether new mints shall be established? When the bill on that subject is reported by the Committee on Coinage, Weights, and Measures it will be time enough to consider the question of an additional mint or mints, disengaged from all questions such as the one now before us.

I have a word to say in relation to the necessity of the mint at New Orleans. It is at the mouth of our greatest river. It is at the city second or third in the amount of its exports among the cities of the Union. It is at a city of vast commerce both with the interior and with foreign ports. It is where coin is required. It is where the means of exchange, of credit, of commercial operations are required to accommodate the vast Valley of the Mississippi and its great tributaries, the Red River, the Arkansas, the Tennessee, the Cumberland, the Ohio, the Missouri, and all that vast region of country. Besides, the report of the Secretary of the Treasury shows that very considerable amounts of bullion come from Mexico into that city, entering into the commerce, the assay, and the coinage of the country.

Now, with a million of dollars or more of bullion coming in annually from Mexico, with a prospect of a very large increase, with the large foreign and domestic trade at that city, why should we strike down the coinage facilities of a region of country lying a thousand miles south of any other place named for a mint? Why should we strike down vast commercial interests there, by refusing to appropriate for an existing mint simply on the ground that it may interfere with the establishment of mints in other parts of the country where there are already minting facilities which largely accommodate the necessities of those various sections?

It seems to me that if we intend to be governed not by local interests but by the great commercial interests of the country, we cannot do more wisely than make this appropriation for the mint at New Orleans, which has a large import of bullion and a large import and export of products and other manufactured articles.

I think it worthy of consideration that that great commercial center lies far remote from every other mint and from every other point where it is proposed to establish one. I presume there can be no question that if there were not a mint there now the commercial interests of the country would demand the establishment of one there if the question were determined by the consideration of the commercial interests of the country alone.

[Here the hammer fell.]

Mr. FRANKLIN. Mr. Chairman, I think that the question of the establishment of a new mint is directly involved in the consideration of this question. I am not opposed to the re-establishment of the mint at New Orleans; but if we vote this appropriation it is equivalent to the establishment of a new mint, from the fact that the one at New Orleans, as I understand, has not been in operation for years.

No move should be made in this direction until the Committee on Coinage, Weights, and Measures have considered this whole matter and have decided where these additional mints, if any, shall be established; for I believe it is generally conceded that the interests of the country demand additional mints.

Mr. GIBSON. Does not the gentleman know that the Committee on Coinage, Weights, and Measures have had this matter under consideration and have unanimously authorized me to report this bill?

Mr. FRANKLIN. Certainly, I am aware of that. I think that the interests of the country demand that additional mints be established; and it is highly probable that the city of New Orleans is a proper point for one. But I hold that for the coining of the silver and gold product of our country it is an absolute necessity that a mint be established farther west than any that has been spoken of yet to-day, and the whole question should be disposed of at once.

Now, the gentleman from Indiana, [Mr. HANNA,] in speaking of the claims of different localities for new mints, says that Indianapolis presents advantages superior to any competing point. He tells us that the Government has there seventy acres of land with buildings suitable thereon for conducting the business of a mint. Let me tell the gentleman that if the Government has seventy acres of land there and a building suitable for this purpose, and has no other use for it than to establish a mint, it would be economy on the part of the Government to sell that land with the buildings, cover the money into the Treasury, and establish a mint at some point like Kansas City, where we will give the Government ground free of charge and erect thereon a building according to the plans and specifications furnished by the Director of the Mint.

In this connection I will state that at a meeting of the Board of Trade of Kansas City, held on the 19th day of February, 1876, the following resolutions were passed. They were presented by me to this House on the 28th of February, 1876, and are of record on page 1350, volume 14, CONGRESSIONAL RECORD, Forty-fourth Congress, first session:

At a meeting of the Board of Trade of the City of Kansas, Missouri, held on the 19th day of February, 1876, the following resolutions were unanimously adopted, after a thorough canvass and discussion of the subject to which they relate:

Resolved, That the president and secretary of this Board of Trade be, and are hereby, instructed to offer to the Secretary of the Treasury, and through him to the Government, all the grounds desired, and a building prepared and fitted up for the purposes of the proposed mint to be established in the Mississippi Valley, free of cost; or to offer, if more desirable, the necessary grounds and a building for said mint, to be erected new, upon plans prescribed by the Director of the Mint, free of cost, on condition that said mint be located in Kansas City, Missouri.

Resolved, That this offer will be made good at any time within not less than ninety days from the notice given of the definite location of the mint in this city, if so required.

Now, therefore, we the undersigned president and secretary of the Board of Trade of Kansas City, Missouri, do hereby certify that the above is a correct copy of the resolutions adopted by said Board of Trade on the 19th day of February, 1876.

In testimony whereof we have hereunto set our hands and affixed the seal of said association.

Done at Kansas City, Missouri, this 23d day of February, 1876.

[SEAL.]

F. B. NOFSINGER, President.
W. H. MILLETT, Secretary.

This offer has been renewed. It exists to day, and will be cheerfully performed whenever the conditions are complied with.

This is an effectual answer to that portion of the argument of gentlemen when they state that the Government owns grounds and buildings in their cities that can be used for mint purposes. It will take about as much money to reconstruct these old buildings in order to make them suitable for this purpose as to build new ones.

Mr. Chairman, it is impossible for me in the limited time allowed me in this debate to discuss this question as it deserves, and I shall not attempt it. At the proper time, when the proper occasion presents itself, when the question of the establishment of a branch mint in the West is before the House, I will address myself to the subject in all its bearings and shall attempt to show that Kansas City has advantages for its location not possessed by any of the competing points. This city has better facilities for reaching the gold and silver fields than any other; in fact, none of the points east of the Missouri asking for the mint can reach the ores of Colorado, New Mexico, and Arizona except by using the railways built west from Kansas City; and as a point for distributing coin to the various points in the Mississippi Valley it possesses superior advantages.

The location of the mines naturally determines this question in her favor. A branch mint can be operated at this point cheaper than at any other. As a point for cheap food supply and cheap fuel no city in the West possesses equal advantages, and it is nearer than any other to the ores and to the zinc and sulphur deposits of the United States.

I think the Government should immediately establish new mints, for our mint capacity at present is evidently not sufficient. Perhaps the one at New Orleans should be put in successful operation and an additional one, or perhaps two, established.

We well remember that when the silver bill was under discussion the Senate in one of the prominent arguments made against the unrestricted coinage of silver was that we had not the mint capacity to coin more than from two to four millions per month.

We should by the establishment of additional mints eliminate this objection to unrestricted coinage, and afford facilities for coining all the gold and silver our mines produce. Why not utilize our silver product in the payment of our national debt?

I hold there is as much logic, just as much reason, just as much

statesmanship in saying that we will restrict the field of agriculture within certain limits as to say that we will not afford facilities for utilizing the entire silver product of the country.

[Here the hammer fell.]

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. REAGAN. I withdraw the formal amendment.

Mr. BUTLER. I renew it. I only desire, Mr. Chairman, to say a single word and I do not know I should have said anything if I understood what the chairman of the Committee on Coinage, Weights, and Measures had said. I did not understand him, but I believe he has anticipated me in that. I desire simply to say the matter of the establishment of a mint at New Orleans was argued before this House a goodly number of years ago and was established there upon one proposition only, the coinage of the silver and gold, largely silver, which comes from Mexico making New Orleans its port of entry in the United States. The reason which put the mint there exists now except so far as our commerce has somewhat fallen off and the mining of silver has not so largely increased in Mexico as it was supposed it would do. But there is no place now, and there never has been, where so much silver bullion strikes this country from abroad as at New Orleans from Mexico. We have a mint there now, with everything, all the machinery of a mint except mint power—the power of minting—the building, superintendent, assaying—all it wants is pressing and milling machinery.

Without antagonizing any other place, I am willing to establish mints in other places, hoping minting will very soon stop; that is to say, that people will be content with having silver and gold in bars, ingots stamped and laid away, if they are so foolish as to lay them away, or sent as other merchandise is across the waters, for it never goes abroad, silver or gold, without being put into the melting-pot on one side or the other, using, as we are now using instead of gold and silver, gold and silver certificates of bullion value. I therefore think, as we shall never get farther this session of Congress than renewing the mint at New Orleans, we had better take this opportunity to do so. I yield the remainder of my time to the gentleman from Illinois.

Mr. HENDERSON. Mr. Chairman, thanking the gentleman from Massachusetts [Mr. BUTLER] for his courtesy, I have only time to say that I regret very much this question has been sprung upon the committee at this time. While other gentlemen have been talking of various localities for a new mint, I desire to say that in my opinion Rock Island, Illinois, presents superior advantages for the location of such mint, if one is to be established. There is on Rock Island a most excellent building already constructed and well adapted to the uses of a mint, and which is owned by the Government. It is on the Mississippi River, and on one of the great through lines of railroad running from the Atlantic to the Pacific. The island lies in between the cities of Davenport, Rock Island, Moline, cities containing a population of near fifty thousand inhabitants, and is the property of the United States. It is in the midst of rich and inexhaustible coal-fields and of one of the richest agricultural regions in the world.

As an armory and arsenal are located on the island, if this mint is established on it, there will always be a sufficient force on the island to give it protection. But, Mr. Chairman, I more particularly rose to say that the advantages which Rock Island possesses for the location of a mint, have been presented by the gentleman from Iowa [Mr. PRICE] and myself to the Committee on Coinage, Weights, and Measures, as have also the advantages of other localities, and I think we should await the action of that committee. And I trust the amendment proposed will not be adopted.

Mr. GARFIELD. Mr. Chairman, during the several years while I was chairman of the Committee on Appropriations, when there was not enough coinage being done to require the rehabilitation of any mint, and even when we were providing for the sale of mints at Charlotte and Dahlonega and other points, we still kept the New Orleans mint alive by keeping up the form of appropriation giving a small sum of money, because if we had not done so under the terms of the grant it would revert to its former owners. We are bound while we own it to keep it a mint.

Now so far Congress has held it alive. I believe it ought to keep it alive for active and positive reasons. If there were nothing at New Orleans, if there were no plant, I should say if the United States were to establish a new mint it ought to establish it there; and as we have the plant for a still stronger reason we ought to maintain it there. It was established, as the gentleman from Massachusetts [Mr. BUTLER] said, because of its nearness to our great foreign supply of silver. I was told this morning by a gentleman who happened to be here, connected with a banking house in New York, that in the last ten days his house had received \$100,000 of Mexican silver delivered to that house alone. Since our recent legislation the flow of silver is beginning from Mexico in its old way. Why, then, ship it to New York, when by this rehabilitation of the mint at New Orleans we can do the work there?

If the time ever comes, as come it doubtless will, when we shall have a southern line of Pacific Railroad completed we shall have a way opened to what I believe to be the richest silver country on this globe. I mean Southern Arizona. Its natural flow to the United States will be along the line of that road. That country will naturally pour its treasures into New Orleans as the first great point of deposit. And for that reason, in addition to the reason named in re-

gard to Mexico, however many other mints we may see fit to establish, we ought certainly to rebuild this mint in New Orleans. It was proper enough to strike down the mints at Charlotte and Dahlonega because the gold mines in that region had been worked out. But the mint at New Orleans is one of the great necessities of this country, made more so by recent developments and recent legislation. And whatever may be done as to other places, however it may affect my State—and I know Ohio is asking for a mint—I would be ashamed to strike down this mint which for good reasons ought to be continued in the hope that thereby I might save something for Ohio. I believe this amendment ought to prevail.

Mr. PATTERSON, of Colorado. I have a firm conviction that if this amendment is adopted it will be the last legislation having in view the establishment of additional mint facilities for ten years to come. And believing as I do that the necessities of the country demand that the new mint should be established in another section than the extreme southern portion of the country, I am opposed to the amendment. The excuse for the establishment of the mint at New Orleans was its proximity to the silver of Mexico and of South America. At that time there were no silver products west of the Mississippi River, and the Government was only justified in establishing this mint because it was then at the door of its nearest bullion supply. But why did this mint fall into disuse? Because since its establishment gold and silver are both produced within the limits of our own country, upon the Pacific coast and in the central regions of the Rocky Mountains, in greater quantities than can now be coined under existing laws.

We raise from the mines of this country annually seventy-five million dollars' worth of silver. And yet if we should coin every dollar of silver money provided for by existing laws we would consume but \$48,000,000 of this product, leaving \$27,000,000 of the product of our own mines wandering around in search of a mint or market, while we are engaged in putting in operation a mint at New Orleans to gather in the silver of Mexico and South America. Sir, I assert that such a policy is un-American. One object of the bill passed at the early part of this session was the furnishing of a market for the silver produced by our own mines, and thereby give a fair profit to those who were engaged in this American industry.

Might I say a word about the proper location of the new mint? Most assuredly it requires to be somewhere in the region of the country producing the bullion and in the vicinity of the Mississippi Valley; it ought to be in the direct line of the flow of silver produced in the Rocky Mountain region. It may be Saint Louis is the place, perhaps Cincinnati or Indianapolis, but I believe when the true interests of the country are consulted the capital of the State I represent on this floor will be selected as the point. It is situated at the very base of the eastern slope of the Rocky Mountains, and is most convenient for receiving the bullion products of Colorado, Wyoming, Utah, New Mexico, and Arizona. Every line of railroad that enters the Rocky Mountains leading to the State and Territories I have named originate, with one exception, at the city of Denver, and every ounce of bullion that will come to the East for coinage, except that which passes over the Union Pacific road, must first pass through Denver.

Colorado and the Territories tributary to it will supply every ounce of bullion that can be coined in whatever new mint is established. Already their products amount to \$25,000,000 per annum. All materials for manufacturing this into coin are indigenous to Colorado. The greatest possible facilities exist for gathering the bullion together at Denver and then for distributing the coin to the commercial centers of the continent. The Atlantic and Pacific coasts have their mints. Why should the very heart of the continent, the center of the gold and silver products of the country, be cast aside to erect one more mint upon the country's ragged edge? Why should the products of American mines be left out in the cold that foreign bullion may find a market? When the mines of Colorado and the Territories adjacent to it are exhausted or are not capable of supplying the bullion needed then will Congress be justified in establishing a mint at New Orleans to receive the products of Mexican and South American mines; until then it fills its measure of usefulness as an assay office for the section in which it is located. Experience should teach legislators as well as men of business that as it is more economical and profitable, for reasons patent to all, to manufacture the iron of Pennsylvania in Pennsylvania, so is it more economical and profitable to the Government and the people to manufacture their coin at the places where the bullion is produced and from whence it can be speedily and economically distributed throughout the land. Denver is superior to all other points for the purpose of coinage, and I will never consent to its exclusion from the privilege until the House, after full discussion, shall see fit to decide otherwise. It is not right to forestall deliberate action upon a matter of so great importance by forcing through an amendment to a mere money bill, even with the sanction of the Committee on Appropriations, and on Coinage, Weights, and Measures, where debate upon the proposition is limited to five minutes to each member who may desire to be heard.

[Here the hammer fell.]

Mr. FRANKLIN. Does the gentleman from Colorado pretend to say that coal and food are as cheap in Denver as in Saint Louis?

Mr. PATTERSON, of Colorado. Yes; I say that coal and food and everything else are as cheap in Denver as in Saint Louis. Why, we

have seventy-five thousand square miles of coal land in Colorado and we supply the gentleman's market with every pound of beef that his constituents eat.

Mr. FRANKLIN. That is simply absurd. I do not think the gentleman understands the markets of his own State.

Mr. PATTERSON, of Colorado. I think I do, better than the gentleman does his.

[Here the hammer fell.]

Mr. BUTLER. I withdraw my amendment.

Mr. DURHAM. I renew the amendment. I do not rise for the purpose of opposing the mint at New Orleans or to advocate a mint at Saint Louis or even at Louisville, in my own State, but what I desire to say in reference to this amendment is, that while I believe that the Chair ruled rightly in regard to the point of order, and it is germane to the bill, I cannot support it. When this appropriation bill was under consideration by a subcommittee we had Dr. Linderman, who ought to know what is necessary in regard to these matters, before us, and I violate no secret of the committee in stating, and I know that my two associates on the subcommittee will bear me out in the statement, that we gave Dr. Linderman for the mints every single dollar he asked for.

I will state further that I oppose the amendment because it has not had the sort of consideration that I believe it ought to have had. Gentlemen may say that the Committee on Coinage, Weights, and Measures have considered it and have come to the conclusion that it is important. I answer that this House has not so determined. If the House determines that it is necessary in the face of the recommendations in regard to mints made by Dr. Linderman, then I would be willing to vote for this appropriation.

I would say furthermore that if I had the selection of a mint for the reasons given by the distinguished gentleman from Massachusetts [Mr. BUTLER] and others, I believe that of all points New Orleans is the very point where a mint ought to be located.

Mr. HOOKER. I would ask the gentleman if Dr. Linderman, who is the head of the mints, is not opposed to the coinage of silver, and therefore is opposed to the increase of minting facilities?

Mr. DURHAM. I do not know about that, but I will say in justice to Dr. Linderman that he said he would make such recommendations for the mints that he could coin every single dollar that the law authorized, and that it was not necessary to reopen the mint at New Orleans. I would say that, being "an original silver man," if I believed it necessary to reopen the mint at New Orleans I would vote for a larger amount for the purpose than that proposed by this amendment. I would vote for it now if I believed it were necessary, or if the House had passed upon the question. And when the House does say so, after the question has been presented to us by the proper committee, then, as a member of the Committee on Appropriations, I will be one of the first to make the appropriation needed. I oppose it not because of the rivalry between Cincinnati, Chicago, and Saint Louis, but upon the ground that it is not necessary at this time to put in operation this mint. I repeat again, that if I believed it was I would vote for this appropriation, or for a large sum for the purpose of reopening this mint.

I yield the residue of my time to my colleague upon the committee, [Mr. SPARKS.]

Mr. SPARKS. The proposition before the committee is not whether or not there shall be other mints established, but it is simply whether the mint at New Orleans shall be put in working order and run. I must on this occasion differ from my friends on the Committee on Appropriations who have expressed themselves in opposition to the amendment. I think that the amendment is one eminently proper, and that the coining power of all of the mints ought to be put to work at this particular time in our country's history. I am told that the power of all the mints we have have a capacity which will not exceed \$40,000,000 per annum, and that the bullion of the country is perhaps in the neighborhood of \$100,000,000. Now when our productions of bullion are \$100,000,000 and our capacity for coinage is but \$40,000,000, it strikes me as very important that the whole capacity of the mints should be utilized. Hence, I am in favor of this amendment.

[Here the hammer fell.]

The CHAIRMAN. The time to which the debate was limited has now expired.

Mr. ALDRICH rose.

Mr. FRANKLIN. I hope the time for debate will be extended by unanimous consent to allow the gentleman who represents Chicago to be heard.

The CHAIRMAN. The Chair has no discretion in the matter.

Mr. ALDRICH. I only want two minutes.

The CHAIRMAN. The Chair cannot give the gentleman any additional time.

Mr. ALDRICH. I think it only fair that after all the small towns have been heard from Chicago should be heard for a moment. It is proper that the large towns should come in after the small ones.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Louisiana, [Mr. GIBSON.]

The question was taken upon the amendment of Mr. GIBSON; and upon a division there were—ayes 66, noes 80.

Mr. ELAM. No quorum has voted, and I call for tellers.

Tellers were ordered; and Mr. GIBSON, and Mr. PATTERSON of Colorado were appointed.

The committee again divided; and the tellers reported that there were—ayes 71, noes 96.

So the amendment was not agreed to.

The committee rose informally, and Mr. SPRINGER took the chair as Speaker *pro tempore*.

MESSAGE FROM THE PRESIDENT.

A message from the President was communicated to the House by Mr. PRUDEN, one of his secretaries, informing the House that he had approved and signed bills of the House of the following titles:

An act (H. R. No. 535) for the relief of the executors of the estate of John S. Miller, deceased;

An act (H. R. No. 536) for the relief of W. C. Snyder, of Illinois;

An act (H. R. No. 1411) to prevent the sale of policy and lottery tickets in the District of Columbia;

An act (H. R. No. 1432) providing for the recording of deeds, mortgages, and other conveyances affecting real estate in the District of Columbia;

An act (H. R. No. 2291) for the relief of Thomas W. Collier;

An act (H. R. No. 3712) to provide for the erection of a public building in the city of Kansas, in the State of Missouri;

An act (H. R. No. 3739) to prevent the introduction of contagious or infectious diseases into the United States;

An act (H. R. No. 4222) to provide for a deficiency in the appropriation for the public printing and binding for the current fiscal year; and

An act (H. R. No. 4658) for the relief of the public schools of the District of Columbia.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Committee of the Whole resumed its session and proceeded with the consideration of the legislative, executive, and judicial appropriation bill.

The Clerk read the following:

GOVERNMENT IN THE TERRITORIES.

That the councils of each of the Territories of the United States shall not exceed nine members, and the houses of representatives of each shall not exceed eighteen members, and the members of each branch of the several territorial Legislatures shall receive a compensation of \$4 per day each during the sessions provided for by law, and they shall receive such mileage as the law provides: *Provided*, That the president of the council and the speaker of the house of representatives shall each receive \$6 per day for the same time. And the governors of each of said Territories are hereby authorized and directed, prior to the next election for members of the Legislature thereof, to divide their respective Territories into as many council and representative districts as they are herein entitled to, which districts shall be as nearly equal as practicable, taking into consideration population, except Indians not taxed: *Provided*, That any of the Legislatures which may meet before said next election may make the said districts and apportionment: *And provided further*, That the legislative assemblies respectively of said Territories may readjust and apportion the representation to the two houses thereof among the several counties and districts in such manner, from time to time, as they may deem just and proper; but the members of either house as authorized herein shall not be increased, and all parts of sections 1847, 1849, 1853, and 1922 of the Revised Statutes, in conflict with the provisions herein, are hereby repealed.

Mr. JACOBS. I desire to offer an amendment.

Mr. CONGER. Before any amendment is offered, I make a point upon the paragraph just read; that it is new legislation and does not retrench expenditures. I wish to say a word in regard to that.

The CHAIRMAN. The Chair will hear the gentleman, and will state that he desires that gentlemen shall confine their remarks strictly to the point of order.

Mr. CONGER. I do not wish to discuss the provisions of this paragraph, but to state the grounds for my point of order.

The CHAIRMAN. The Chair will be glad to hear the gentleman.

Mr. CONGER. That this paragraph proposes to change the existing law of course will be admitted by all. It repeals certain sections of the Revised Statutes and inaugurates new provisions of law in their stead. In regard to the question of retrenchment, I desire to say that there is but one territorial Legislature now provided for which has the number of members of the council and of the house of representatives, that is, nine and eighteen, that is provided for by this paragraph. Some of them have a less number, seven and fourteen instead of nine and eighteen, and one or two of them have a greater number. The aggregate number now provided for by law I think is less than the number which this paragraph provides for. Therefore in that respect this paragraph does not retrench expenditure.

Again, this paragraph provides no limitation upon the length of sessions of the territorial Legislatures; it is left practically unlimited by this bill, and the per diem of the members of the Legislature, \$4 each, would of course run during the entire length of an unlimited session of the territorial Legislature. Of course in this respect, without any such limitation, there can be no retrenchment of expenditure.

There is another change of law by this paragraph which has no reference to expenditures. In the law as it now stands there is a limitation upon the acts of the territorial Legislature; there is a provision that Congress may revise the redistricting of the Territories. This paragraph proposes to change that law, and to repeal all laws in conflict with this paragraph, thus giving the territorial Legislature the absolute power to fix the districts in the Territory, after they

shall have been first established by the governor of the Territory, in spite of any law of Congress and without any restriction upon such redistricting as now exists.

I do not enumerate all the points particularly in which this paragraph is new legislation. There are many particulars in which it is new legislation, that have no reference to retrenchment whatever. In those respects this paragraph is evidently subject to a point of order.

If the Chair had not limited me to five minutes, I should have given the points upon which this paragraph is subject to a point of order, without reference to the question of retrenchment.

The CHAIRMAN. The Chair will hear the gentleman on that point.

Mr. CORLETT. I would suggest to the gentleman from Michigan [Mr. CONGER] that sections 1847, 1849, and 1922 fix the number of members of the territorial Legislatures.

Mr. CONGER. There are several sections of the Revised Statutes to which I might call the attention of the Chair. Section 1922 provides for the number of members of the Legislatures of the Territories of New Mexico, Utah, Washington, Colorado, Dakota, Arizona, Idaho, and Montana. The Legislatures of New Mexico and Utah are to consist of thirteen members of the council and twenty-six members of the house of representatives. The Washington territorial Legislature consists of nine members of the council and eighteen members of the house of representatives, which may be increased to thirty. Colorado and Dakota have legislatures consisting of nine members of the council, which may be increased to thirteen, and thirteen members of the house of representatives, which may be increased to twenty-six. The Legislature of Arizona consists of nine members of the council and eighteen members of the house of representatives. That is the only one of the Territories that has the number of its members of the Legislature fixed unchangeably by the Revised Statutes. In Idaho and Montana the council of each consists of seven members and the house of representatives of thirteen members, with power to increase.

Mr. DURHAM. The gentleman does not read that exactly right. Let him read it again.

Mr. CONGER. "The councils of Idaho and Montana shall each consist of seven members, which may be increased to thirteen, and the house of representatives of thirteen members, which may be increased to twenty-six."

Mr. DURHAM. Now you have it right.

Mr. CONGER. That is what I said before, seven councilmen and thirteen representatives, with the power to increase the number.

Another committee in charge of this subject has had under consideration the preparation of a bill providing some uniform law for the Territories in regard to their legislative and judicial officers. That bill, which has received considerable attention, is somewhat different from this provision, and I think much better. I believe that this provision is subject to a point of order, and I make it the more readily because I think the committee in charge of the subject should report their bill and let it be considered apart from an appropriation bill.

Mr. CORLETT. I want to direct the attention of the gentleman to the fact that a bill upon this subject has already been reported and acted upon by the House, as will be seen by reference to the CONGRESSIONAL RECORD, page 1236. That bill, which provided a uniform rule as to the number of members of the Legislature in all the Territories, passed this House and is now pending in the Senate.

Mr. CONGER. It has not been passed in the Senate.

In addition to what I have already stated, this provision proposes a change of law in regard to the right of Congress to revise the districting of the Territories, which is, in my judgment, a very important reservation. That power would exist in Congress without the passage of any of these laws; and it is a proper and salutary restraint upon the legislative bodies of the Territories.

As I have said, there are several points in this provision each of which is subject separately to a point of order; and to some of these the matter of retrenchment cannot by any possibility apply. As this provision contains no limitation upon the length of the session, and as it increases in several Territories the number of members of the council and representatives, it does not upon its face show retrenchment; on the contrary, it shows a necessarily increased expenditure.

Mr. ATKINS. Mr. Chairman, I think that the point of order raised by the gentleman from Michigan cannot be sustained. Congress has supreme control over the Territories. It has given to them territorial forms of government, and it can repeal these whenever it may desire to do so. The Territories are mere creatures of the General Government. Now, Congress has provided that the people of the Territories may be represented by a certain number of councilmen and a certain number of representatives, and on this subject it has fixed a sliding scale. These territorial governments, instead of adopting the minimum number or any intermediate number, have in almost every instance adopted the maximum number allowed by Congress. Now, it seems to me entirely within the province and the power of Congress to require these Territories to adopt an intermediate number of councilmen and representatives or the minimum number already provided by law; and if we should do so there would of course be economy in it, expenditures would necessarily be retrenched. This proposition simply restricts these territorial governments, except perhaps in one or two instances, to the lowest number of councilmen and representa-

tives, and in doing so we retrench expenditures. Therefore, under Rule 120, the provision is entirely admissible and in order.

Mr. CONGER. Does the gentleman claim that there is now any law paying the president of the council and the speaker of the house \$6 a day each? This bill provides that rate of pay, while the present law pays them only \$4 a day.

Mr. ATKINS. The speaker of the house and the president of the council each receive under the existing law, as I understand, \$10 a day. This bill proposes to reduce their per diem to \$6. Again while representatives and councilmen get \$6 a day each under the present law, this bill proposes to reduce their per diem to \$4.

Mr. HANNA. I would like to inquire of the chairman of the Committee on Appropriations whether he finds any statute providing for a chaplain. I see that this bill provides for one at a per diem of \$1.50, which I think would not pay his board.

Mr. ATKINS. We will talk about that directly. I do not care to be diverted from the pending point of order. If the gentleman from Indiana [Mr. HANNA] does not want to have prayers for those people out there, I do not know that I shall disagree with him.

Mr. HANNA. I do want to have prayers; but I want to pay what they are worth.

Mr. ATKINS. I submit that this provision of the bill is entirely in order because Congress has supreme control over this question and because this proposition contemplates a retrenchment of expenditures. It seems to me that under Rule 120 there cannot be a doubt that the provision is in order.

Mr. DURHAM. I suppose it will not be denied by any gentleman on this floor that the Territories are the creatures of the Congress of the United States. We may go so far as to annul entirely their whole territorial governments; and in most instances Congress has reserved to itself expressly the power to supervise all their laws. In the same manner Congress prescribes the number and compensation of their members of council and their representatives.

Now, I will say to my friend from Michigan [Mr. CONGER] that having had this matter especially in charge as a member of the subcommittee I adopted the law in regard to Arizona as the law applicable to every one of these Territories. Under the existing law there is with reference to each Territory except Arizona a sliding scale as to compensation, so that the pay of these representatives and councilmen may be more than it is in Arizona. And consequently, if it is a reduction of one single one of these councilmen or these representatives, it is not subject to the point of order.

Mr. CORLETT. Is the gentleman aware of the fact that this House at this session has passed a law providing that the Legislature of Arizona shall consist of thirteen members of the council and twenty-six of the house of representatives, and that that bill was reported from the Judiciary Committee of this House?

Mr. DURHAM. I understand that; but has that bill passed the Senate?

Mr. CORLETT. I am not aware that it has.

Mr. DURHAM. Then it is not the law. I am talking about the law. This House passes a great many things the Senate does not pass. Consequently there is no conflict of law excepting in so far as it affects the Revised Statutes. I say this House can as well pass this as to pass the other. Without discussing the merits of the proposition, but merely referring to what bears on the point of order, the reduction here, I will say, in the number of councilmen and in the number of representatives shows on the face of the proposition itself that it is in the interest of economy, because the Congress of the United States has to make provision for each one of these representatives and each one of these councilmen. The face of the bill itself shows the matter of economy, and comes clearly, as my colleague on the committee has shown, within the provisions of Rule 120.

When it comes to the merits of the question as to the propriety or impropriety of what is suggested I have a great deal to say about it.

Mr. HALE. It seems to me it is not subject to the point of order. All the provisions about legislative powers in the Territories are clearly reductions in numbers in some cases and in salaries in others. The only thing which struck me as having any force in what was alluded to by the gentleman from Michigan is the power to redistrict the Territories, which is undoubtedly an extension of the present law. The Chair will remember that is only an incident to the main proposition of the section, which is to reduce. Following that reduction it proposes, in order to adapt the reduction to the wants of the Territory, that this temporary redistricting may be made. For instance, if we made a reduction in the Treasury Department of so many divisions, clearly there may be by law another provision that the Secretary shall distribute the work, that is, that he should comply with the main provision, which is reduction. Therefore I do not think there is any point of order on that. Possibly one may lie in reference to the chaplain, which is a new office not provided for by law, but that could be easily remedied.

Mr. DURHAM. That is not in the present section.

Mr. HALE. As I understand, that will be struck out by the gentleman in charge of the bill.

The CHAIRMAN. Is it in this section?

Mr. DURHAM. It is not.

Mr. ATKINS. If gentlemen do not desire a chaplain out there to pray for them it can easily be dropped out of the bill.

The CHAIRMAN. It is apparent on the face of the paragraph that the number of members in the Assembly of the Territory is reduced and that their salary is reduced. The Chair is unable to see in the paragraph where it increases expenditures in any manner whatever. Therefore as the subject-matter is germane to the bill, and the change in the law retrenches expenditures, the Chair holds that it is in order.

Mr. JACOBS. I move to strike out from line 998 to 1027, as follows:

GOVERNMENT IN THE TERRITORIES.

That the councils of each of the Territories of the United States shall not exceed nine members, and the houses of representatives of each shall not exceed eighteen members, and the members of each branch of the several territorial Legislatures shall receive a compensation of \$4 per day each during the sessions provided for by law, and they shall receive such mileage as the law provides: *Provided*, That the president of the council and the speaker of the house of representatives shall each receive \$6 per day for the same time. And the governors of each of said Territories are hereby authorized and directed, prior to the next election for members of the Legislature thereof, to divide their respective Territories into as many council and representative districts as they are herein entitled to, which districts shall be as nearly equal as practicable, taking into consideration population, except Indians not taxed: *Provided*, That any of the Legislatures which may meet before said next election may make the said districts and apportionment: *And provided further*, That the Legislative Assemblies respectively of said Territories may readjust and apportion the representation to the two houses thereof among the several counties and districts in such manner, from time to time, as they may deem just and proper; but the members of either house as authorized herein shall not be increased, and all parts of sections 1847, 1849, 1853, and 1922 of the Revised Statutes, in conflict with the provisions herein, are hereby repealed.

Now, Mr. Chairman, it is true, as was stated by the chairman of the Committee on Appropriations, that the Legislatures of the Territories are now up to the full number, or the maximum number, provided in the organic acts. This is proposed to be changed by this bill, but there are certain reasons which I wish to present in opposition to that change.

There are two objections to this proposed change which ought to have weight with this committee.

First. The organic acts are the constitutions of the Territories, the fountain of their legislative, executive, and judicial powers. The same reasons that ought to be operative to prevent a hasty and inconsiderate change of the fundamental law in the States ought to be operative here in the prevention of this change. Upon those organic acts is built up the whole superstructure of local laws. If you remove a portion of the foundation, you must of necessity destroy or disintegrate a part of the superstructure. Such will be the inevitable result of this change. There is no subject-matter of legislation more delicate and more difficult of adjustment than the districting of a State or Territory so as to give a voice and representation to all its conflicting interests in the Legislative Assembly. The whole system of laws upon this subject in the Territories, settled after much controversy and by mutual compromise, is swept out of existence, here and now, and an absolute power given to one man, in many cases a stranger or carpet-bagger in the worst sense of the term, to redistrict the Territories as he may deem right and proper. But it is answered that this is only to remain until the meeting of the Legislature. But the objection still remains that the whole body of laws upon that subject are swept out of existence by the fiat of Congress, and the redistricting controversy is reopened with renewed bitterness. Carpet-bagism as applied to the Southern States was obnoxious and irritating, but do the gentlemen who have but recently been released from its dominion propose to re-establish it in the Territories with an added intensity, with the power of redistricting at pleasure?

But again, secondly, the grant of legislative power to the Territories has the same formula in all the organic acts; it extends to all rightful subjects of legislation, limited only by the Constitution and the laws of Congress. The expression "all rightful subjects of legislation" has been defined by the courts to include all the subject-matters over which the State Legislatures have jurisdiction. These interests are as diversified in the Territories as in the States, and in most of the Territories more so. Yet it is proposed to commit all of these interests to the governor and what might be justly styled his privy council. This body would be just small enough to be dangerous and not large enough to be representative. Thirty men gathered from an area of seventy thousand square miles is not too large a number to properly represent the fast developing interests and resources of such a vast region. Again, the number of members in the Legislative Assemblies of the Territories in most cases was fixed, maximum and minimum, years ago. While the settlements were confined to a small portion of the Territory, the smaller number was thought to be and was sufficiently representative. The power to increase the number in the popular branch, as the settlements extended, so as to preserve its truly representative character, was given. This principle has been sanctioned and sanctified by the concurrence of years. Its soundness is recognized to-day. It is embodied in the constitution of every State and is found in the Constitution of the United States. It is a part of the common and fundamental legislative law of this country, but is surrendered in this bill to satisfy the insatiable demand of economy. Is there nothing so sacred, nothing so embodied in the wisdom of the past as to be exempt from the demands of this law? I am solaced by the reflection that there is: it is the salary of a Congressman.

[Here the hammer fell.]

Mr. CORLETT. I move to strike out the last word. I desire especially to call the attention of the distinguished gentleman, chairman of the Committee on Appropriations, who reported this bill, to

one particular feature of it, because I believe that it creates a change in existing laws relating to the constitution of the territorial Legislatures which will hereafter produce unfortunate and, so far as the committee reporting this bill is concerned, unanticipated consequences. Commencing on line 1008 I find this provision in the bill, evidently inserted to provide for the new order of things:

And the governors of each of said Territories are hereby authorized and directed, prior to the next election for members of the Legislature thereof, to divide their respective Territories into as many council and representative districts as they are herein entitled to, which districts shall be as nearly equal as practicable, taking into consideration population, except Indians not taxed.

Now what does this mean? It means nothing unless it is that the Territories hereafter shall be divided into nine council districts—one councilman to be elected in each district—and into thirteen representative districts—one representative to be elected from each district. Have gentlemen in charge of this bill considered what this proposition involves? Take for instance the Territory of Wyoming where the settlements as a general thing are largely in towns. In the very nature of things a town if very large would have to be divided into several council and a still larger number of representative districts, one only to be elected from each district. Now I say, inasmuch as this law fails to provide the additional machinery whereby an election could be conducted and held in each of these districts, the law is defective and does not provide for its own execution.

Under the present existing order of things as fixed by section 1847 and section 1849 of the Revised Statutes the governor in the first instance was authorized to divide the Territory not into as many representative and legislative districts as there are councilmen or members of the lower house, but simply to divide the Territory into council and legislative districts and assign to each district its proper representation in the Legislature in proportion to the population.

If this law is adopted the effect of it will be this, that a new division will have to be made by which each Territory will have to be divided into nine districts for council purposes and thirteen districts for representative purposes; and without a further provision in the law by which polls can be provided for in each district by which judges and clerks of election can be provided for in each district, I say this law could not be executed in its present shape. I allude to this at this time merely for the purpose of showing that in proposing this new legislation it seems to me that the Committee on Appropriations have considered only one matter; and that is the reduction of expenses. Any proper reduction in the expenses of the Government I apprehend the people of the Territories are willing to aid in making so far as it does not prejudice or injure their interests. But I submit in all candor to the Committee on Appropriations that in thus changing substantial provisions of existing law, in thus changing the organic laws of our Territories it would be exceedingly proper that they should take into consideration other questions than those involving a mere reduction of expenses.

I submit that there is no provision of existing law under which members of the Legislatures in the Territories can be elected under the new apportionment which will have to be made if this bill passes in its present form. Can the governor of a Territory in the absence of authority given by express law designate the places in the legislative districts where the elections shall be held, and appoint the judges and clerks of elections, or prescribe the manner in which they shall be appointed or chosen? I apprehend not. But we are told, or will be told, that the existing legislation is ample in providing for these matters, and that by virtue of such legal provision the governor of a Territory can provide for the difficulty which I suggest. I take occasion to say, however, that the difficulty is not thus to be avoided. Section 1847 of the Revised Statutes, before referred to, only confers such power on the governor of a Territory as to the first election held in a Territory after its organization, as will be seen from such portion of that section as I now read:

SEC. 1847. Previous to the first election for members of the Legislative Assembly of a Territory in which Congress may hereafter provide a temporary government, the governor shall cause a census of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken by such persons and in such mode as he may designate. * * * And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who superintend such election and the returns thereof, as the governor may direct.

The law just read is ample in conferring the requisite authority upon the governor of a Territory to furnish all the machinery by which elections could well be held and the results thereof canvassed and properly returned where legal provision did not already exist therefor, but unfortunately the authority conferred by that law is by its own express terms confined to the first election held in such Territories as should be organized by Congress after the adoption of the Revised Statutes. All the Territories now represented here were, I believe, organized before the passage of the Revised Statutes. So that none of the now existing Territories will, I contend, be able to hold an election for members of their Legislatures without further action by Congress. I do not allude to this matter because it particularly concerns the Territory which I have the honor of representing here. Our Legislature does not convene until the year 1879, so that opportunity will hereafter exist to remedy the defects of the proposed legislation, when the practical operation of the law shall have made them more apparent, but it is due to the people of those Territories whose Legislatures will have to be chosen during the present year

that this glaring omission in this proposed new legislation should be pointed out now in order that it may be rectified.

But there are features about this new legislation proposed for the Territories much more obnoxious than the one I have just adverted to. I did not anticipate that it would be necessary to again discuss in this House at this session the question which is involved in the proposition now before us. As I have already said in another connection, the Committee on the Judiciary of this House have had the whole matter before them at the present session upon a bill introduced into this House early in the session by the gentleman from Arizona, [Mr. STEVENS,] which bill was intended to give to Arizona the right to increase its representation in its Legislature so as to be on an equality with the other Territories.

The Judiciary Committee thus having this subject committed to it on the 21st of February last reported to this House a bill intended to remove this inequality. When, however, that bill was reported to the House, I observed that it had the effect of temporarily reducing the number of members in all the territorial Legislatures. I at once called the attention of the House and the gentleman reporting the bill [Mr. HARTIDGE] to what the effect of that bill would be, and the intention to effect any such action was at once disclaimed and the bill was amended in such a manner as not to interfere with the Legislatures of Territories as they then existed, with the exception of Arizona, and the bill was passed by the House.

This bill expressly permitted Arizona to increase the number of members in her Legislature to correspond with the representation in the other Territories. I have thought that this action on the part of this House at this session indicated its deliberate judgment; but if it does not, then we must of course again consider the subject on its merits, and I therefore beg the attention of the committee for a short time while I endeavor to state some of the reasons why the Delegates from all the Territories feel constrained to protest against the very radical change in the fundamental law of the territorial organizations, which is now proposed.

The legislation heretofore adopted by Congress, embraced in the organic act of each Territory, has usually provided that the first Legislature in the Territory should consist of a certain small number, either seven or nine in the council and thirteen or eighteen in the house of representatives, with authority in the legislative authority thus established to increase its own number to thirteen members of the council and to twenty-six or twenty-seven in the house. The power thus conferred on the local Legislature has usually been exercised by increasing the numbers of each house to the maximum permitted. The Committee on Appropriations now propose that the membership in these Legislatures shall be reduced to the number of nine and thirteen, respectively, in the council and house; that the compensation of members be reduced from \$5 to \$4 a day; that the officers necessary to the expeditious dispatch of business in these legislative bodies be reduced as well as their pay, and in order that the new condition of things thus created may be in other respects provided for, the governors of the Territories are authorized to divide them into new council and representative districts and apportion representatives thereto upon the basis of the supposed population and the new constitution of the Legislative Assembly.

I believe that the Committee on Appropriations in thus proposing important modifications of the laws relating to the local concerns of the people of the Territories has usurped functions which more properly and appropriately appertain to the Committee on Territories. Had the Delegates from the Territories supposed or had any reason to suppose that such legislation as this would be proposed by the Committee on Appropriations they would have sought a hearing before that committee before the bill was presented to the House.

But we submit that we were under no obligation to suppose that such legislation as is now incorporated into this bill would be offered in an appropriation bill, for which reason we have had no hearing before the Appropriation Committee upon the subject. Indeed we have sought no such hearing; for, having no information of the contemplated action of the committee and having no reason to expect such action from a committee not having the subject specifically before it, we did not anticipate what has been done. The consequence, then, is that a powerful committee of the House, in an appropriation bill over which they have the control in the House, have proposed legislation affecting the Territories, as we believe, in a vital manner, without giving us any opportunity to be heard. It is a mere mockery to say that we may be heard in the House. Under the practice of the House we may not be heard at all, and at best we are not likely to get any such hearing as will enable us to place the matter before members of the House in its proper light.

Besides, the measures affecting our interests having been reported to the House with the approval of the committee will have all the prestige which such a condition of things gives any proposed legislation, and with many members who may be indifferent upon the subject, as not affecting their immediate constituents, such a report will of itself be controlling. The changes proposed in our organic laws are undoubtedly sought to be made in the interest of economy, and because the present condition of the business of the country and its diminishing revenues demand such economy. I fully appreciate this plea, and am entirely satisfied to submit to any cutting down of the expenses of the territorial governments where it can be done without injury to our people. But I do most earnestly object to the proposed legis-

lation by which our Legislative Assemblies shall be so reduced in numbers as to make them mere mockeries so far as they are intended to be in any sense representative of the people.

By reference to the map and to the facts concerning the Territories, it will be seen that they embrace vast areas of country generally sufficient to include several of the older States of the Union. These vast areas of land are settling up with populations scattered over all parts of the Territories, the settlements being numerous and still at such distances from each other that there cannot be proper representation of the people at all if the membership is to be reduced as proposed. It is a fact well known to me that under the present condition of things the council and representative districts in the Territories are so large, embracing settlements so remote from each other, that the people find it very difficult and often impossible to have that conference and union of action which is so necessary to the selection of proper persons as representatives who will clearly reflect and express the wishes of those whose interests are to be acted upon.

As a consequence of this we often witness the spectacle of a horde of candidates being voted for for these places, and the result controlled far more by accident than by the deliberate choice of the voter. All must concede that such a condition of things ought not to be. Again, these districts are often so large that they are occupied by different settlements and communities having diverse and antagonistic interests. In such a condition of things candidates are often supported and elected because of the locality in which they live rather than their fitness to discharge the responsible duties of an important trust. Here again we find a difficulty which constantly works to the disadvantage of the people. The locality having a mere numerical preponderance of numbers controls the district and elects its man upon a mere sectional consideration and motive. By lessening the size of the districts these motives would not enter into the mind of the elector, and he would be permitted to make his choice of a representative upon considerations relating to the fitness of the man for the place he is to occupy.

The proposition as contained in the new legislation now proposed looks toward an increase instead of a diminution of the evil just mentioned.

Again, I believe it is generally conceded that the more numerous is a legislative body, provided it be not so large as to be incapable of easy and expeditious action, the less liable is it to be controlled by those agencies which are ever active and which ever tend to corrupt and poison the very fountain of our free institutions. I allude to the efforts to control legislation in the interest of special, private, and unworthy interests to the detriment of the public good.

Any proposition to reduce the present meager number of our Legislative Assemblies excites our concern, and indeed grave solicitude, because such a project tends not only to afflict us with the evils just named, but diminishes the probability of our Legislatures being representative in their character by substituting accident and chance for choice in the matter of the election of members. At present our Legislatures are not so large as to be unwieldy or incapable of expeditious action. Hence no advantage can come from diminishing the number, while every evil incident to the existence of a small Legislative Assembly is likely to follow such reduction of numbers as is now proposed.

I fear the importance of a territorial Legislature to the people is but inadequately kept in the view of those whose good fortune it is to live under the permanent and fixed government of a State. I therefore beg to direct attention to the magnitude of the interests committed to the charge of these Legislatures. In the first place let me say that all rightful subjects of legislation with some slight limitation is necessarily conferred upon them. Gentlemen will perhaps understand it better when I say that what a State Legislature is to a State a territorial Legislature is to a Territory. In fact it may be said that the limitations placed upon the power of a territorial Legislature by Congress are less by far than those which are usually imposed upon a State Legislature by its constitution.

Except as to such crimes as are cognizable by Federal authority, (which are precisely the same in a Territory as in a State,) the whole subject of criminal jurisprudence is controlled by those local Legislatures. Our Legislatures not only determine what shall constitute a crime but the procedure by which it shall be detected and punished, subject to nothing but the Constitution of the United States and such scanty legislation as Congress has provided or may provide. Hence our lives and our liberties are in the keeping of these Legislatures. Again, subject only to the imitations already mentioned, all rights of property, the methods of its acquisition, enjoyment, and transmission, are in the control of these Legislatures, all questions of the inheritance of property and control over the same by will are also within the jurisdiction of the legislative power, which is sought to be reduced to a mere collection of a few persons having no resemblance to a legislative body.

All questions of rights and wrongs, so far as the same are not defined and secured to all the people of the United States, with a very few exceptions, are under the control of these Legislatures. They regulate the procedure of the courts in all cases, by which rights are protected and wrongs redressed. They create corporations and prescribe their capacities, powers, and modes of actions, their duration, the rights and liabilities of their stockholders, and the remedies of third persons against them while living and after their dissolution,

subject only to the limitations of the Federal Constitution and the legislation of Congress; they regulate the right of suffrage, the right to hold office in the Territories, and all those rights which are dependent upon or grow out of the domestic relations of parent and child, guardian and ward, husband and wife, and master and apprentice. They may determine and fix the competency of witnesses in courts of justice, and in general exercise a control over the people of the Territory so vast in its proportions as to call imperatively for the best wisdom attainable in selecting the members thereof.

The policy which would, in such a matter as the constitution of a Legislature having such power as is here mentioned, subordinate every consideration of the public good to the sordid matter of expense could never, we apprehend, originate among men who had given the subject that profound examination which it justly merits. I fear that the Committee on Appropriations, in reaching a conclusion to cut down the Legislatures in the Territories, have allowed but a single consideration to have weight in the determination of the question: the mere matter of economy and the saving of expense to the General Government. If this be so, it illustrates the impropriety of a committee undertaking to legislate upon a subject not specially within its cognizance. I submit that the question ought as well to be considered in the light of its probable effect upon and among the people who necessarily will be affected by the proposed change.

Will the proposed change in the law give the people of the Territories better Legislatures and better legislation? Will it have the probable effect of selecting men with reference to their probity and their fitness to conceive and adopt such measures as will be conducive to the public good rather than with reference to the question as to whether they live on one side of a river or mountain or on the other side? Will it be more likely to get men into the Legislature who are representatives of ideas rather than of localities? Will it be more likely to get a Legislature that will be more difficult to control by corrupt, corrupting, and private interests? Will it be likely to assemble legislators who will bring to the discharge of their duties a knowledge of the wants of all sections of the vast country for which they legislate and all the interests which are found therein, as well as a disposition to promote the well-being of the entire Territory? I apprehend that every one of these questions will have to be answered in the negative, and yet I cannot but believe that the Committee on Appropriations must have wholly ignored all these important interests which, in my judgment, vastly outweigh the mere matter of expense to the General Government.

The Territories of the United States are considered and treated as in a condition of childhood or pupillage, to be accorded an equal right and privilege in the Federal Union as soon as their respective populations and circumstances fit them for such right and privilege. Upon no other theory or reason could their equal right with other people in the Union to representation therein be denied, while we boast of living in a Government republican in form. If, therefore, the Federal Government exacts from us the obligations of a condition of pupillage and childhood, we may reasonably exact in return such protection and aid at all times as our dependent condition requires for our development and welfare. While this relation continues we insist that it is unfair and unjust on the part of the General Government to furnish us only with an inadequate form of local government, subject to all the evils which statesmanship in the construction of government labors to avoid, upon the ground and plea that it is done to save expense. But the General Government has no right to complain of the matter of the expense of the territorial governments, as we believe the figures will show.

I submit herewith a table showing what amount of taxes have been exacted from the people of the Territories in the form of internal revenue since the establishment of that system of taxation.

Amount of internal revenue collected from the present Territories, exclusive of adhesive stamps.

Territories.	Year internal revenue first reported.	Number of years reported.	Amount collected.
Arizona.....	1867	12	\$137,329 56
Dakota.....	1867	12	104,976 00
Idaho.....	1866	13	567,484 12
Montana.....	1865	14	733,304 68
New Mexico.....	1863	16	575,164 11
Utah.....	1863	15	606,791 70
Washington.....	1863	16	594,335 11
Wyoming.....	1869	10	112,655 09
Total.....		115	3,475,613 37
To which add approximate amount received from adhesive stamps.....			438,741 35
Total.....			3,914,354 72

Average collections of each Territory named for each year internal revenue has been collected, \$30,222.

From this table it will be seen that the average amount collected from each Territory annually is \$30,222. This includes nothing but internal-revenue taxes. Whatever the people of the Territories as consumers of imported goods pay to the General Government is a contribution in addition to the figures just named. Now an examination of the appropriations as made for the Territories during the same period will show that the amount annually appropriated for each Territory does not exceed \$25,000. Hence we may reasonably claim that taken all together we have not been such a burden upon the Treasury as some gentlemen may have been led to suppose.

May we not at least ask in view of the showing that if we must submit to taxation without representation, which is sometimes said to be tyranny, if we cannot for a while have republican forms of government, we shall at least be furnished by those who insist upon caring for us with good governments, so contrived as, according to human experience and observation, to escape so far as possible the evils which lie in the way of proper protection to life, liberty, property, and the pursuit of happiness?

There are many minor objections to special features of the legislation against which we protest. I will content myself for the present by referring to one of them.

If the new legislation is adopted the Territories must of course be newly districted and new bases of representation fixed. This the bill undertakes to provide for by investing the governors of the Territories in the first instance with the authority to make the new appointments and designate the new districts.

No census being required the whole matter of the comparative representation of different portions of the Territory is practically absolutely in the hands of the governor, an official that does not represent our people, and who is in no legal way responsible to them. His power to do injustice to a portion of the people of the Territory for the benefit of another portion is therefore clear, without any responsibility on his part to the people who may thus be wronged, and the wrong which may thus be done is in the first instance invested with the power to perpetuate itself; because if any section of a Territory found itself in possession of an undue proportion of the legislative power and at the same time invested with the ability to retain what it had, all experience teaches that a voluntary surrender of privileges thus once tasted is not likely to be made.

For the reasons which I have thus undertaken to recite I protest against those features of the bill now before the committee to which I have alluded, not with any large degree of hope, I confess, that my protest or the protests of others similarly situated are likely to receive any very serious consideration. I say this because I notice on the part of leading members of this House a sort of fondness for iterating and reiterating the absolute and despotic power which Congress possesses and may exercise over the Territories and their inhabitants.

Gentlemen allude to the absolute power of Congress over the Territories as though it were something to be proud of under a republican form of government. But I wish to assure gentlemen that it is just as true now as it was when Jefferson wrote and Washington fought for the establishment of these free institutions that all governments derive their just powers from the consent of the governed; that taxation without representation is tyranny; that a government without responsibility to the governed soon learns to disregard the interests of the governed, and that these maxims apply with redoubled force where the governors are numerous and powerful and the governed are few in number and weak in ability to resist injustice. If any one doubts the value of the elective franchise as a substantial means of protection to the citizen, let him occupy a seat upon this floor while as a territorial Delegate and those doubts will surely be removed.

Mr. FENN. It appears to me that the Committee on Appropriations in looking around for some place where to exercise their spirit of economy have thought they would experience the least difficulty in exercising it upon the Territories, which have no power here and have no right to these appropriations except as doled out by the Government of the United States. But I am fearful that members of the committee have forgotten the fact that the Territories of this nation are themselves the great feeders of revenue in proportion to their population. Now let me bring to their minds a fact which they do not seem to know: that what to-day are Territories of this nation have paid to this Government while they have been Territories—leaving out those that have become States in the mean time—the enormous sum of \$3,914,354.72 as internal revenue.

Let me say to the gentlemen of the Committee on Appropriations that my little insignificant Territory of Idaho, which in 1870 had a population of 14,909, as shown by the United States census, paid in that year between \$65,000 and \$70,000 internal revenue to this Government—between \$4 and \$5 per capita. Let me say to these gentlemen also that the Territory of Montana, with her twenty thousand population, paid over \$5 per capita. Let me say to the same gentlemen—for I have not time to go through with all these facts as I would like to, but will print the tables as part of my remarks—let me say to the gentlemen that while Idaho paid that amount of internal revenue in proportion to population in that year, the State of Vermont paid only at the rate of \$1.12 per head, the State of Maine \$1.27 per head, the State of Minnesota \$1.06 per head, the State of Iowa \$1.15 per head, the State of Kansas ninety-four cents per head, the State

of South Carolina fifty-eight cents per head, and the State of Arkansas seventy-six cents per head. These tables will furnish valuable information:

TABLE NO. 1.—Table showing the amount of internal revenue collected from the present Territories, exclusive of adhesive stamps. (See report of the Commissioner of Internal Revenue, 1877, pages 138, 139, 140, 141.)

Territories.	Year internal revenue first reported.	Number of years reported.	Amount collected.
Arizona	1867	12	\$137,339 56
Dakota	1867	12	108,976 00
Idaho	1866	13	567,484 12
Montana	1865	14	732,394 68
New Mexico	1863	18	515,164 11
Utah	1863	18	606,791 70
Washington	1863	18	504,355 11
Wyoming	1869	10	112,655 39
Total		110	438,741 35
To which add approximate amount received from adhesive stamps			3,475,613 37
Average collection of each Territory for each year that territorial revenue has been collected			3,914,354 72
			33,585 04

TABLE NO. 2.—Table showing the population of several States and Territories, as per census of 1870, and relative amounts of internal revenue paid in that fiscal year per capita.

States and Territories.	Population in 1870.	Amount of internal revenue collected.	Amount per capita of population.
Vermont	314,120	\$352,316 65	\$1 12
New Hampshire	318,300	632,407 38	1 91
Maine	626,915	807,324 36	1 27
Kansas	364,399	343,831 15	94
Minnesota	439,706	467,879 15	1 06
Iowa	1,194,029	1,379,981 34	1 15
South Carolina	705,606	412,039 59	58
Arkansas	454,471	369,284 10	76
Idaho Territory	14,999	65,224 05	4 34
Montana Territory	20,595	103,555 55	5 02
Washington Territory	23,955	83,272 63	3 48

TABLE NO. 3.—Table showing the amount of internal revenue collected in the Territories for the fiscal year 1877, exclusive of adhesive stamps, and in some of the States for the same year.

Territories and States.	Amount collected.
Arizona Territory	\$15,520 49
Dakota Territory	22,305 76
Idaho Territory	16,561 60
Montana Territory	20,729 58
New Mexico Territory	17,710 76
Utah Territory	24,438 13
Washington Territory	21,373 46
Wyoming Territory	15,204 45
Vermont	50,093 11
Maine	79,620 89
Kansas	139,763 33
South Carolina*	103,632 56
Arkansas†	85,850 09

* Population in 1860, 705,606.

† Population in 1870, 484,471.

Now let it be borne in mind also that we are the great producers of the precious metals of this nation. By our industry and our enterprise we produce the material which opens up every channel of trade and gives vitality to every branch of business in our country.

I desire to say one word in regard to this provision which cuts us down to nine members of the council and thirteen members of the House and gives to the governor of the Territory the right to apportion the districts. Under our original organic acts it was always required that the governor should first have a census taken before he apportioned. But this bill leaves it entirely to his will. Now the Territory which I have the honor to represent includes eighty-six thousand square miles; Dakota has nearly two hundred thousand square miles; and the people are scattered in settlements of one, two, or three hundred miles apart in different portions of the Territory. It is utterly impossible under these circumstances to have a summary reduction of legislative representation to nine councilmen and thir-

teen representatives and have the varied interests of the people properly represented. Let me say here that these original acts were fixed with a sound understanding of the fact that the Territories were going to increase and require increased representation. I wish to say this: that it is as impossible for the sun to rise in the west as it is for nine members in a territorial council to represent all the various interests of a Territory, diversified as they are and the settlements so widely apart.

Another fact should be borne in mind.

[Here the hammer fell.]

Mr. FENN. I would like to say a word or two further.

Mr. BUCKNER. I offer a formal amendment and yield my five minutes to the gentleman from Idaho.

Mr. FENN. As I have said already, our Territory embraces an area of eighty-six thousand square miles and the Territory of Dakota an area of two hundred thousand square miles.

Mr. BRAGG. I desire to know whether the increase of the pay of chaplains in the Idaho Legislature and the general encouragement of chaplains in that Territory will not have a tendency to prevent Indian incursions?

Mr. FENN. Oh! my friend, we are not interested in the \$1.50 a day for chaplains; we are not very thankful to the Committee on Appropriations for extending that kindness to us.

Let me state further in regard to this matter that the Legislature has but forty days to sit, and can hold only biennial sessions. Now, I leave it to the good sense of any man in the House to say if he considers that a Legislature representing the varied interests which are represented by those legislators can discharge the duties devolved upon them in a term of forty days once in two years and with this reduced representation? It is utterly as impossible to do so, as I said just now, as for the sun to rise in the west.

Why, your little city councils which have only to deal with municipal matters sit longer than that during the course of a year, while our Legislature has to deal with great and varied interests.

Mr. Chairman, there is one thing more which I wish to say in regard to the provision made by the committee, that the Government shall readjust and apportion the districts. We are under pupillage, we are minors and the wards of the Government; our governors are sent to us without our request or choice and without our knowledge. If the governor chooses to do so under this law he can so apportion the districts of his Territory as to keep power in the hands of himself and a few individuals to the exclusion of the people of the whole Territory and perpetuate his power.

Let me say one word in regard to the idea that we in the Territory have no rights. I have always supposed that every American citizen had some rights. True we have not the right to vote for President, but we have some local rights, some rights belonging to the people who go there and imperil their lives to advance the interests of the nation, but it seems to me that the Committee on Appropriations look upon the Territories as their servants, or very much as a guardian would who had been appointed as such over some half dozen female infants, and when they had labored for his interests until they had reached the age of fifteen years he drives them out into the streets and makes them submit themselves to prostitution to gratify his greed.

[Here the hammer fell.]

Mr. DURHAM. I desire to say a word in reply to the argument made by my friend from Idaho who has just taken his seat. If he will look at sections 1847 and 1849 of the Revised Statutes he will find that in them is contained the precise language of the present bill, and when he makes the point that there is no provision made for an election in these various representative and council districts provided for in the bill, I would say to him that we do not repeat that much of those sections to which I have referred at all.

Mr. CORLETT. This matter ought to be understood. If the gentleman will look at the first portion of the statute he will see that it is a provision relating exclusively to the first election in the Territories and has no application whatever to subsequent elections. The whole matter in relation to subsequent elections has been regulated by territorial laws since the passage of that act of Congress.

Mr. DURHAM. The gentleman must not interfere with me any longer. He is mistaken about it. This bill only provides for the first election, because it reserves expressly to the Legislature which may convene the power to apportion the Territory. We place a Territory precisely as it was created originally when it was in a state of chaos. We direct the governor to apportion it, taking into consideration population, territory, &c.

My friend says that the representatives and councilors will all be apportioned to the towns. If the governor does that he will violate the plain provisions of the law, because he is required to take into consideration not only territory but population in the apportionment. Now, I would say to my friend who was last upon the floor that I think the Territories need a little spanking myself. I believe they are children and ought to be regulated. He has talked about his own Territory paying so much. Do we not pay for the governor, the judges, members of the Legislature their mileage, and do we do it for Arkansas, Iowa, or for any State? Not at all.

Mr. WILLIAMS, of Oregon. Do not the Federal authorities appoint the governors of the Territories?

Mr. DURHAM. Oh, yes; you are children incompetent to take care of yourselves, as all of us have been; you are passing through the papilage that every Territory ought to go through, but you are undertaking in some of the Territories to put on airs, and very extravagant ones.

You in the Territories want to have more members of the house of representatives and of the council than many States of this Union have in their Legislatures. I will take my own great State, with a million and a half of population; its Legislature is composed of one hundred representatives and thirty-eight senators. The great State of Ohio has in its Legislature one hundred and ten representatives and thirty-two senators. Yet you in the Territories want almost as many members in your Legislature as the great State of Ohio has in its Legislature. Is that fair and right? And the Government is to be taxed for it.

The idea upon which this bill has been framed is that the Territories shall have a fair representation in both branches of their Legislatures, and we say to them at the same time that they shall not be extravagant and give their representatives 50 per cent. more than representatives in many of the Legislatures of the great States now receive.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. CANNON, of Utah. New Mexico and Utah were organized as Territories twenty-eight years ago, and in the organic acts of those Territories the number of the council of the Legislature was fixed at thirteen, and of the house of representatives at twenty-six in each Territory. There was no sliding scale in either of the organic acts. The territorial Legislature in each Territory was organized with the number of members prescribed in the organic acts.

By their organic acts, forty days annually was the time fixed for the length of sessions of the Legislature. A few years ago Congress changed the law in this respect, probably in the interest of economy, and provided that the session of the Legislature in each of the Territories should not exceed forty days biennially. That is the law at the present time. We can meet in our Territories every two years and continue in session for forty days only, for the purpose of transacting all the legislative business connected with the vast, growing, and varied interests in those Territories.

I represent a Territory which has now a population of at least one hundred and fifty thousand. Taking the ratio of increase from 1860 to 1870, as shown by the last census, and applying it to the past eight years, it would show that there is a population in Utah Territory today of one hundred and fifty thousand.

A few days ago I received a memorial adopted by the Legislative Assembly of my Territory and signed by the governor, asking Congress to increase the length of session of the territorial Legislature from forty to sixty days, for the reason that a session of forty days in two years is entirely inadequate to enable our Legislative Assembly to perform the necessary duties devolved upon it in connection with the growing interests of the Territory. That memorial has been referred to the Committee on the Judiciary. We need an extension of time; forty days in two years is entirely too short a time in which to transact the business that the Legislative Assembly of the Territory has to attend to.

I am of the opinion that every man acquainted with the Territory which I represent, with its condition, with the requirements and necessities constantly arising for legislation upon various subjects, will say that sixty days in two years is little enough and that forty days is too short a time.

It is proposed by the paragraph of the bill now under consideration to reduce the number of members of the territorial Legislative Assemblies. It is here proposed to have twenty-seven men do the work in forty days which thirty-nine men have heretofore done. The thirty-nine now complain that they cannot do the necessary work in forty days, and ask for sixty to do the work in. Is it reasonable to suppose that twenty-seven men can do the work more efficiently and speedily than thirty-nine can? I am aware that there are times and circumstances when small bodies will transact business to better advantage than large ones; we all know that. But I question whether reducing the number of the council from thirteen to nine, and of the lower house from twenty-six to eighteen, will be in the interest of the speedy and proper transaction of the legislative business. On the contrary, I think it will be found that the Legislature will be overburdened with work, and when the session shall close it will be found that the legislators have not been able to complete the labor devolved upon them.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. CANNON, of Utah. I would like a few minutes more.

Mr. POUND. I will take the floor and yield to the gentleman from Utah.

Mr. CANNON, of Utah. I thank the gentleman. I have a proposition in the interest of economy upon this subject. As the law now stands, the salaries of the members of the Legislative Assemblies of the Territories for one session amounts to \$9,360. By the pending paragraph of this bill it is proposed to reduce this amount to \$4,320, that is by making the salary \$4 a day for forty days and for twenty-seven members.

Now if the Committee on Appropriations desire only to save the money of the Government, I will propose that for the Territory of

Utah the per diem of the members of the Legislative Assembly shall be reduced to \$3 a day. At that rate, if the number of members of the Legislature of the Territory be left as at present, the cost to the Government would be \$4,680 for one session; a difference of only \$360 between the proposition submitted by the Committee on Appropriations and the amount that would be required to lower the per diem of the members to \$3 and to let the number of the members of the council and the house stand as at present and as they have been for twenty-eight years.

Since this paragraph has been under consideration I have conversed with most of the Delegates from the Territories, and I find them nearly unanimous in the opinion that if any change has to be made they would much prefer that the per diem of the members of the Assembly be lowered than that the number of members shall be changed. At the present time, there are in the aggregate three hundred and two members in the eight councils and eight houses of representatives in the eight Territories of the United States. If their per diem were to be reduced to \$3 a day for forty days, it would require \$36,240 to pay them. The Committee on Appropriations in the pending paragraph propose to reduce our councils to nine members and our houses to eighteen, making twenty-seven members of both bodies for each Territory, which in the aggregate would be two hundred and sixteen for the eight Territories. They propose to pay each member \$4 a day for forty days. This will amount to \$34,560. Now, I submit that if economy be the object of the committee, by the plan I propose—reducing the per diem, and not the members—they can accomplish their object equally well and not disturb the condition of affairs which exists at the present time in the Territories, and save the necessity of the redistricting of this immense area of country; for the difference between the sum required, if the per diem be lowered, and the sum which the committee propose in the pending paragraph is only \$1,680, and this divided among the eight Territories and only required every two years. If the Government cannot afford to pay this additional \$1,680 every two years I have no doubt the Territories themselves would gladly make it up rather than this breaking up of all the districts and the labor involved therein should occur.

For my own Territory I may say that I am sure the legislators of that Territory would rather consent to that reduction of their per diem, if compelled to do so, and it be necessary in the interest of economy, than that the legislative business of the Territory should be crippled. I will not say anything as to the cost of the territorial government, although much might be said in reply to the criticism of the gentleman from Kentucky [Mr. DURHAM] in that respect. I know that in my own Territory we would gladly bear all our legislative expenses and pay the salaries of our governor and judges if we had the privilege of electing them. But so long as they are selected for us, and our legislation is supervised, and no bill can become law, however unanimously passed, without the sanction of the governor, then I think that the Government which appoints the men should pay them. Change this rule and we would gladly pay our officers ourselves.

The CHAIRMAN. Debate has been exhausted upon the pending amendment.

Mr. DURHAM. I withdraw my *pro forma* amendment.

Mr. KIDDER. I had not thought of making any remarks at all until I heard the gentleman from Utah, [Mr. CANNON,] and in following out a suggestion which he has made I will say that so far as the Territory of Dakota is concerned I will consent that the per diem of members of the Legislature shall be only \$3. It may be enough; I do not know but that it is. True the per diem has been \$6 heretofore, but the Committee on Appropriations, undertaking to go upon the scale of economy, propose to reduce it to \$4. Of course if we can reduce the salary and allow the members of the territorial Legislature enough to pay for their bread and cheese while at the capital, we might as well do it. It will perhaps give some of our clever fellows a little more opportunity to become great men as members of the Legislature. Of course they think as much of those positions as the honorable members of this committee do of theirs. Some of them, too, I wish to say, are very competent. A few years ago many gentlemen now on this floor were living in Territories and were perhaps no more respectable and, if I may be allowed to say it, no more competent for the official positions they then held than some of us who now reside in the Territories.

Almost one-third, certainly one-fourth, of the entire area of the United States belongs to the Territories. Why is it that this Committee on Appropriations desire to belittle us—to make us smaller? Out in that western country we are enlarging and expanding; and if these gentlemen would go out there and see with their own eyes what has been done and what is now doing there, they would be astonished. I could show them one farm of ten thousand acres of wheat; another of eight thousand; others not much smaller. Why should the Committee on Appropriations undertake to cripple us?

I will say frankly that it is very much more easy to learn to nurse than it is to be weaned. [Laughter.] When we have now our thirteen members of the territorial council it strikes us as a little uncivil that this number should be cut down to only nine. A few years ago when Dakota Territory was organized we had only six thousand people; now we have nearly one hundred thousand, and we have an extent of territory of one hundred and seventy thousand square miles. I find no fault with the Committee on Appropriations because they

go upon the scale of economy; but I will say to them that when they can run this Government without paying anything it will be after this session. [Laughter.]

I do not know what one distinguished gentleman representing the Committee on Appropriations meant by referring to the people of the Territory as "putting on airs" and as needing "spanking." I do not know whether he intended to refer to the Delegates here; but I believe the territorial delegation have behaved about as well as almost anybody; I have never heard any fault found with them. Some of us have grown almost too old to be "spanked." I do not appreciate the application of the phrase if the gentleman meant to apply it literally. That gentleman and myself are warm friends and I would be the last one to undertake to tackle him; his arms are too long.

Mr. DURHAM. I referred to members of the territorial Legislature as "putting on airs," not to members of the Congressional delegation.

[Here the hammer fell.]

Mr. ATKINS. Mr. Chairman, I have no prejudices whatever against the Territories. I recognize them as the germs from which future States of this great Republic are to spring. I respect the hardy pioneer; I respect the settler who goes out and braves the dangers of the frontier. I respect the intelligence and the patriotism of all such men; and I have no criticism to make upon them in any way. The position which I took in arguing the point of order was a legal, a constitutional position. It was simply that under the theory of our Government the Congress of the United States has supreme control over the Territories. Twenty years ago, when I stood here as a member of the minority, that whole question was discussed more fully than it has ever been discussed before or since, and it was then settled by the popular mind that the Congress of the United States has supreme control over the Territories. That position cannot now be denied. In view of this, I take the ground that it is perfectly competent for this House to decide how many representatives and councilmen each Territory should have. Why not, if we pay for them; if we foot the bills? I will say to my friend from Dakota [Mr. KIDDER] that it does not come with very good grace from him to sneer at the Committee on Appropriations because we stand here advocating economy in the administration of the territorial governments when the Government of the United States is called upon to provide the means for paying those expenses.

Mr. KIDDER. Mr. Chairman—

Mr. ATKINS. I cannot be interrupted now. As to population, I will say that in my own State, for instance, one representative represents about twelve thousand people and one senator fifty thousand. Yet gentlemen here from the Territories complain that their councilmen are to be reduced to nine and their representatives to eighteen, though not one Territory represented on this floor had as many as one hundred thousand people in 1870. The gentleman admits that in his Territory the population is only fourteen thousand, so that there is one councilman to almost every one thousand people, while in my State a senator represents fifty thousand people. As to extent of territory, what is true in regard to my State applies still more strongly to other States—New York, Ohio, and one or two others. One senatorial district of my State is one hundred and fifty miles long, and a mountainous country at that.

How does the pay we propose to allow to territorial Legislatures compare with the pay allowed in the States? In my State we give our members of the Legislature \$4 a day; and I think it will be found that this is about the rate in most of the States. But in the Territories the members of the Legislature have voted themselves \$6 a day—out of our pockets. If they had voted it out of their own pockets there might have been some propriety in it. But as this money comes from the Treasury of the United States it does not seem improper that the Committee on Appropriations, charged with the regulation of the expenditures of Government, should have some humble voice in saying how much these members of the territorial Legislatures shall receive from the United States.

Now, then, I intend to read in the single moment of time I have left something of the population of the different Territories. The gentleman from Utah says he represents 150,000 people. How does he know he has 150,000 people in that Territory? We have taken no census of Utah and how does he know that? There were only 99,000 under the census of 1870.

[Here the hammer fell.]

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. CANNON, of Utah. I move to strike out the last word to show how I know there are 150,000 people in Utah.

Mr. CALKINS. I move to strike out the last word.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana. [Mr. CALKINS.]

Mr. CALKINS. Now, Mr. Chairman, I rise to protest again, as I have on several occasions, against the Committee on Appropriations absorbing the entire legislation of this House. I want to say to the younger members of this body the time has come when they will have to assert themselves, or will come before long. We have the Committee on Territories specially charged with the duty of seeing how many officers the Territories should have and all that sort of thing, and yet I find in the appropriation bill a committee charged exclusively with making appropriations to meet the necessary expenditures of the Government putting into their bill how many territorial offi-

cers the Territories shall have. They have not only done that but they have gone into all sorts of legislation. There is not an appropriation bill which comes in which is not loaded down with general legislation; not one. The time will come when the House will revolt against such things as that. I thank the gentleman for that word.

I have no objection to the House limiting the Territories and the number of senators and representatives they ought to have, but I rise simply to protest against this practice. If I were allowed a suggestion, being a young member of this body, I would say to the venerable gentleman who is at the head of the Ways and Means Committee he had better go to the Appropriation Committee if he wants to pass his tariff bill and have it put on as a rider upon one of the appropriation bills. I would suggest, too, to the chairman of the Military Committee, when he wants to extinguish the Army and blot it out, that he had better go to the Appropriation Committee and make arrangements with them to put it on an appropriation bill. And so with all these other committees.

Here is the Committee on Territories charged with this duty. They are charged with investigation into it. They are charged to see to it in the interest of economy and every other interest that these Territories are run in a proper manner and form, and yet upon this appropriation bill there stands the substantive legislation, so many members of the Legislature and no more shall be allowed to teach. I simply rise to-day for the purpose of protesting against that sort of legislation.

Mr. FOSTER. I agree, Mr. Chairman, with much that the gentleman from Indiana has said about general legislation upon appropriation bills, but his speech ought to be addressed to another subject. It is well known to this House and to the gentleman from Indiana this Committee on Appropriations is invested with the power of legislation on appropriation bills.

Mr. CALKINS. And I will be glad when the House takes it away from that committee.

Mr. FOSTER. That is where your speech should be made—to that point and that purpose. The Committee on Territories have not introduced a resolution or bill of any sort reducing the expenditures of running the Territories. All there is of this proposition is this: the Committee on Appropriations believe and feel, and I believe this House feel, these Territories have been exceedingly extravagant, and in times of reform they have felt it was their duty to put the knife in to reduce expenses. I think myself, after examination of all the subjects which have come before the committee, that not one appears to me to be so extravagant as these Territories. All the committee propose to do is to reduce the number of representatives from about forty to about thirty. The Territory of Idaho has a representative for every three hundred of her people. Is not that extravagant? Ought not this House in some way to take hold of this matter? The Committee on Territories has not brought the proposition here. The Committee on Appropriations, under the rules of the House, have brought it here. I do not believe the rule is a wise one, and I voted against it and so did most of those on this side. It is within the rules when the committee reports this legislation. It is in the interest of economy. It is right, and I hope the House will sustain it.

Mr. CALKINS. I withdraw my formal amendment.

Mr. RANDALL, (the Speaker.) Mr. Chairman, I would not have ventured to say a word in this connection except for the remark of the gentleman from Indiana when he expressed the hope that the House would soon alter the rules and strip the Committee on Appropriations of the power it now possesses to reduce the expenditures of the Government in the interest of the people.

Mr. CALKINS. Oh, no; the gentleman misunderstood me; it was to put general legislation upon appropriation bills.

Mr. RANDALL, (the Speaker.) I understand that. That rule, sir, was one of the most salutary ever enacted. The remarkable spectacle existed prior to the Forty-fourth Congress of the ability of the House to add any amendment changing existing law on appropriation bills which increased the number of employes or increased the salaries paid to them.

The Forty-fourth Congress at its first session changed the rule right about face, and said, "You may alter law in the direction of economy, but you shall not alter law in the direction of extravagance." And that is one of the chief jewels in the crown of a democratic House.

Mr. HAZELTON. The only one.

Mr. RANDALL, (the Speaker.) Perhaps it may be as suggested by the gentleman from Wisconsin, that it is the only one. However, it is brighter than all others; for I tell the gentleman you would be more than \$50,000,000 behind to-day in the revenues of the Government but for that very rule. And the democratic side of the House can well afford to stand literally and steadily by the enactment of that rule; and I hope they will always find enough on this (the republican) side to aid them in the practical enforcement of it.

And just let me say here what I dislike to see constantly. I dislike to see the republican side of the House whenever a question of expenditure is concerned voting for large amounts. There are men among you here who believe in reducing the expenditures of the Government; and when a fraction falls off from the other side instead of herding yourselves together and promoting extravagance you ought to discriminate, you ought to aid those who want economy. This is not a partisan question and you should not allow it to be made a political one. It is as much your duty as representative republicans

to go in behalf of economy as it is of democrats to go in the direction of economy; and I do not believe you gentlemen on this side represent your constituents faithfully when you come here and herd together in behalf of extravagance.

Mr. GARFIELD. I renew the amendment. Mr. Chairman, I do not propose to say anything about this "herding" together on this floor.

Mr. RANDALL, (the Speaker.) That was said respectfully, of course.

Mr. GARFIELD. Of course; but I had proposed to say that knowing, as I do, the history of the Appropriations Committee and its struggles, and how naturally it calls down upon itself the fire of all the other committees, it was, in my judgment, a very heavy load to require that committee to carry in addition to the general antagonism they encounter, to make that the committee which was to rectify all the legislation of the country. I believe it was a fatal mistake to put into the hands of that committee the power to change all the laws, any of the laws anywhere as they pleased. I have always believed that.

Mr. RANDALL, (the Speaker.) In the direction of economy.

Mr. GARFIELD. In the direction of economy. But what will the gentleman say in case something comes up that makes it necessary for the public service to increase an expense? Ought not the committee to be permitted to do that if necessary? Are they to be shut up only to the business of cutting down? It is not the supreme end of a Congress to be economical. It is the supreme end of a Congress to sustain the Government wisely. If economy can be had too, that is well; but if larger expenses are needed to carry on the Government wisely Congress ought to have full liberty to do that. And to shackle a committee so that it can only reduce, without having any power to enlarge in case of necessity, is to say we are not fit to be trusted, and that we need to be shackled in advance.

Now I believe that the rule to which the Speaker has referred has brought unnecessary odium upon the Committee on Appropriations. It has, as we have seen day by day, drawn out attacks by all the other committees. If the Committee on Appropriations undertakes to reform judicial expenses by cutting down courts, they antagonize the Judiciary Committee. If they undertake to reorganize the Army, they antagonize the Military Committee. And so they are compelled in pursuance of the playing of this rôle to antagonize every leading committee of this House. They have to antagonize the House in regard to expenditures. I am glad to support them whenever I can in the direction of economy, and I am equally glad to support them in the direction of enlarged expenditures, if such enlargement is necessary. I did not at the time the rule was adopted believe it to be wise. I am more convinced by the experience of the last year it was unwise.

I want to say another word. I think the Speaker is quite wrong when he says this side of the House is constantly resisting reduction of expenditures and resisting economy. I hold that statement is utterly incorrect and unwarranted by the facts of our legislation. Has not the Committee on Appropriations found my colleague [Mr. FOSTER] with them many and many a time in the reduction of expenses? Have they not found me, although not on the committee, generally willing to assist them in their reductions? It is a charge not to be borne on this side to say we herd together to oppose economy. We do nothing of the sort. I point with satisfaction to the fact that in 1872 and from that time forward the expenditures of this Government have been on a descending scale, and that, too, by the action of Congress, not only before the present party came into power in this House, but since. I give that party credit for continuing a work that was well, fairly, earnestly, and honestly begun while we were in power.

It seems to me not the thing to lecture this side of the House as though we were resisting economy. We believe in two things: the support of this Government, cost what it may; and all the economy that is possible in connection with the honest, fair, and reasonable support of the Government.

Mr. RANDALL, (the Speaker.) I take issue on the facts distinctly with the gentleman from Ohio, and I refer to the observation of members on all sides of this House, whether in the main the republican side of the House have not made their efforts as a party against the economy demanded by the Committee on Appropriations, and I believe the record will show it on the yea-and-nay votes. I confess that I have from time to time chafed under such action by my political opponents in this House. I know that their motives are pure. I know that there are as good men upon one side as upon the other side of the House. I have heard the views of many of them on this subject, and many of them have said we are, as it were, misplaced in this respect. I think that many republicans in this House believe their course proper, and it is with no disrespect that I appeal to such no longer to persist in their opposition to economy in expenditures, but that on the contrary they should co-operate with members on all sides and from all sections and of all political opinions in the work of economy.

It is due that I should at the same time award praise, especially in this Congress, to the minority of the Committee on Appropriations for the manner in which they have co-operated in the committee and in the House with the full committee, and their recommendation to reduce expenditures; but I say that in the main, as a general proposition, the republican members of that committee have not been sustained as they should have been sustained by their party associates upon this floor.

Mr. HALE. I am obliged to the Speaker for the compliment he has seen fit to bestow upon the minority of the Committee on Appropriations, but I am not willing as a member of that minority to take any credit at the expense of my party of an unjust criticism in the face of what I believe to be the record of this House.

The gentleman from Pennsylvania (the Speaker of this House) is an honest economist; he believes in it, but he has never had upon his hands so hard a task as he has had this winter, not with this side of the House, but in controlling the other side of the House in their tendency toward bankrupting the Treasury. The whole machinery of this House is in the hands of its committees, and its committees were constituted by the Speaker after long experience in this body and knowledge of the gentlemen composing it, so that in making up the organization of the committees he should be presumed to know where he would find the representatives of his economy. There has not been a measure reported by any committee of this House that involves danger to the public credit or to the public Treasury except at the hands of the majority of his party, and not of ourselves.

Ours is the duty to follow and not to lead here. It was not a republican committee that reported the river and harbor bill, about which so much has been said here, and which the gentleman so strongly opposed.

Mr. RANDALL, (the Speaker.) You voted for it.

Mr. HALE. I did, but I was not responsible for its being reported. The gentleman does not believe in that bill. Why did he not stop it? I believe that there were great and good features in the bill; but I am talking now as to the responsibility of its report. Not a democrat on the Committee on Commerce opposing it. The republicans did not report it, and it would never have stalked into this House and received recognition but at the hands of the committee which he appointed. It was not a republican committee that reported the bill giving pensions to the soldiers of the Mexican war and the soldiers in the various straggling Indian wars upon our frontier, which would take millions and millions a year out of our Treasury, against all the precedents as to time set by all other pension bills. The opposition to that bill was lead by a gentleman upon this side of the House, my colleague, [Mr. POWERS,] a republican, and he was sustained by this side of the House; and when the vote comes up on that bill my friend, the Speaker, who is an honest economist, will be gratified to see that almost every man on this side of that dividing aisle will stand up against it, while a chosen few will oppose it on the other side of the House. The effort for economy upon that side of the House is of the cheese-paring kind, that pinches clerks in their salaries and turns out men and women needed for the work of the Departments. It was not upon this side of the House that an effort was made to force through the claims of southern mail contractors. It was not the republicans who insisted that the clause in that bill should be stricken out which provided that payment should not be made when the confederacy had already paid the claims. It was a democrat who made that motion, and it was a republican on this side of the House who detected and exposed the danger, and showed that these old southern mail contractors were trying to get pay a second time when they had been once paid. And so with everything that threatens danger to the Treasury the opposition will be found here, and not upon the other side.

[Here the hammer fell.]

Mr. TOWNSEND, of Ohio, obtained the floor and yielded his time to Mr. HALE.

Mr. HALE. The truth is that the expenditure of the strength and influence of the Speaker in the direction in which he is looking should be made upon his fellow-members on the other side of the House. It is not worthy of the dignity of his position to descend to the floor and lecture us because we do not believe in such parsimonious nibblings as taking a clerk at \$1,200 and cutting him down to \$1,100, or for the sake of saving a few thousands to cripple a Department of the Government which is honestly striving to do the public service and promote the public good by its best endeavors so that his constituents and mine and those of every member shall have their proper business attended to properly.

It is not proper economy to paralyze the work in the Pension Office, in the Surgeon-General's Office, in the office of the Adjutant-General of the Army, so that men who are suffering and have been for years for the want of their honest pensions, long since due them, shall be kept out of them until at last death strikes them down and nobody is left to represent them. In these things it is good economy to give a fair, indeed an ample force, to perform the work which is required, and while we are doing that, to stand upon guard, as gentlemen upon this side stand and have stood early and late, to see that huge appropriations shall not be taken for the benefit of one section of the country, or that insidious laws do not creep into the statute-book which in an indirect way represent not \$1,000, or \$10,000, or \$100,000, but millions upon millions, and in the end will bankrupt the Treasury.

I say to my friend from Pennsylvania, the Speaker, and I use the word advisedly for he has no better friend on this floor, and my hand joins with him in almost all his efforts—I say to him that if he will visit some of his censure upon that side of the House in public, as I know he has often felt like doing in private, it will come with much better grace than any denunciations which he may feel inclined to pour upon this side of the House. We shall not sit still and bear that.

Mr. BEEBE. I will not detain the committee long; I merely desire

to draw the attention of my friend from Ohio [Mr. GARFIELD] who has spoken of the great reduction of expenditures of the Government from 1872, and who took occasion to felicitate himself and the country upon the fact that since the democratic party obtained control of this House it had only continued the work commenced by his party to the official figures upon that subject. By reference to page 16 of the last finance report gentlemen will find a statement of the expenditures of this Government. In 1872 we find that the expenditures of the Army were \$35,000,000; in 1873, under this extraordinary system of economy the expenditures of that branch of the service rose to \$46,000,000. When we look at the Navy we find that in 1872 its expenditures were \$21,000,000; in 1873 they rose to \$23,000,000, and in 1874 they rose to \$30,000,000. So we might go on through all the expenditures of the Government in detail.

I will come now to the aggregate net expenditures of the Government. In 1872 the net expenditures of the Government as given in this official document were \$153,000,000; in 1873 they were \$180,000,000; and in 1874, still under this novel system of economy, they had swelled to \$194,000,000.

The people of the country understand this thing; and when a distinguished member of the democratic party arises in his place in this House and states to his fellow-members on this floor and to the country that it was only with the advent of the democratic party in authority here that the era of economy dawned upon this country, he states what the people know, although the gentleman from Ohio [Mr. GARFIELD] may be ignorant of the fact.

I am not here for the purpose of arraigning my fellow-members in this House. I believe that they all have a sincere, honest purpose to administer this Government in that direction which shall best subserve the interests committed to their charge. But when the attention of the country is called to the fact that the democratic party has addressed itself with all its great energies and with a devotion which merits the praise of democrats and republicans, and, in short, of the whole people, and has devoted its energies to the work of retrenchment of expenditures of the Government, I say it is not exactly the thing for a gentleman who holds so largely the public confidence as does my friend from Ohio [Mr. GARFIELD] to undertake to claim that it was while the republican party was in power that the doctrine of economy found support. I see that the estimates of the Departments and the official documents bear me out in the statement that prior to the accession of the democratic party to power in this House the expenses of the Government were increasing from year to year. And while the republican House did in some degree check that tendency, it did not, as has the democratic party since it obtained control of this House, reduce those expenditures millions upon millions.

In order that the truth as to the expenditures of the Government during the closing years of republican rule in this House and since the accession of the democrats to power here may be made entirely clear I submit, Mr. Chairman, the following tables taken from the official reports of the Secretary of the Treasury:

Year.	Estimates of expenditures.	Amount of interest on the public debt.	Amount paid for pensions.	Estimates of expenditures exclusive of amounts paid for interest and pensions.
1871.....	\$328,360,032 62	\$125,576,565 93	\$34,443,894 88	\$168,339,571 81
1872.....	309,639,319 61	117,357,839 72	28,553,492 76	163,745,077 13
1873.....	301,705,036 99	104,759,688 44	29,329,436 86	166,594,921 69
1874.....	308,323,256 27	107,119,815 21	29,638,414 66	172,165,026 40
1875.....	319,198,736 82	103,093,544 57	29,456,216 22	186,648,976 03
1876.....	310,630,769 89	100,243,271 23	28,257,395 69	181,530,103 00
1877.....	314,612,608 48	97,124,511 58	27,963,752 27	189,524,344 63
1878.....	299,611,671 00			

The foregoing shows how the account stands as to the Department estimates. Now I submit from the same official sources a statement showing what the actual expenditures have been, less the amounts paid for interest and for pensions:

1871.....	\$123,139,932 70
1872.....	124,608,453 43
1873.....	161,129,210 04
1874.....	165,080,570 34
1875.....	142,073,632 05
1876.....	136,600,417 67
1877.....	116,246,211 01

Thus it is apparent, that from 1870 to 1875 the expenses of the Government, exclusive of the pension and interest accounts, steadily and enormously increased. And the difference between the expense in 1874 (\$165,080,570 34) and 1877 (\$116,246,211 01) shows what democratic economy has done for the country.

Mr. ATKINS. I would like to see this debate closed as soon as possible, and I would like to have a vote on the pending proposition this evening. If it is agreeable to both sides of the House, I would suggest that debate upon the pending paragraph and amendments thereto be closed in thirty minutes.

Mr. GARFIELD. All right.

Mr. FINLEY. Make it forty minutes.

Mr. HARRIS, of Virginia. Make it fifteen minutes.

Mr. ATKINS. As there seems to be objection, I move that the

committee rise for the purpose of obtaining an order from the House limiting debate.

Mr. HARRIS, of Virginia. I think the objection is to the length of time proposed by the gentleman; if he will say fifteen minutes I think it will be agreed to.

Mr. FINLEY. Oh, no.

Mr. ATKINS. Then I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. EDEN reported that pursuant to the order of the House the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1879, and for other purposes, and had come to no resolution thereon.

Mr. ATKINS. I move that when the House again resolves itself into Committee of the Whole upon the legislative appropriation bill all debate upon the pending paragraph and amendments thereto shall be closed in thirty minutes.

Mr. FINLEY. I move to amend so as to make it forty minutes.

The amendment was not agreed to.

The motion of Mr. ATKINS limiting debate was then agreed to.

Mr. ATKINS. I now move that the rules be suspended and the House resolve itself into Committee of the Whole for the purpose of proceeding with the consideration of the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. EDEN in the chair.)

The CHAIRMAN. By order of the House all debate upon the pending paragraph and amendments thereto is limited to thirty minutes.

Mr. FOSTER. I withdraw the formal amendment.

Mr. HOOKER. I renew it. In reply to what has fallen from the gentleman from Maine [Mr. HALE] in response to the remarks of the gentleman from Pennsylvania, [Mr. RANDALL,] in which he claimed that the compliment paid to the minority of the Appropriations Committee, because of their hearty union in the effort for economy on this side was not deserved, I desire to say that those remarks come with singular ill grace from a gentleman who himself voted in favor of the main proposition to which he has referred as evincing an indisposition on the part of the democratic side of this House to enforce economy; I allude to the river and harbor bill, for which he voted himself. It is well known to members of this House that the last river and harbor bill failed entirely, and that the river and harbor bill which was reported the other day from the Committee on Commerce by its chairman received the sanction of a two-third vote of the House of Representatives. Gentlemen on the other side of the Chamber, to the extent to which they gave their support to that bill, have conceded that the measure was no departure from the line of economy inaugurated on this side of the House. For myself, speaking for the section of country which I represent, I voted somewhat reluctantly for that bill, because I felt that the appropriation which it made in reference to the region of country I have the honor in part to represent was not a fair appropriation for the improvement of rivers and harbors upon which the commerce of the country so largely depends. But that bill was sustained by many men on this side of the House, as it was doubtless sustained by gentlemen upon the other side, because they felt satisfied with the appropriations which it contained.

Another measure has been alluded to by the gentleman from Maine as evincing an indisposition on the part of this side of the Chamber to enforce in truth and sincerity an economical administration of the affairs of the Government. I refer to the bill granting pensions to the soldiers of the war with Mexico. I was astonished to hear the intelligent gentleman from Maine say that this side of the Chamber had supported that proposition because it looked to pensioning the people residing in certain regions of the country. On the contrary, it embraced in its provisions every soldier of that war, whether from the North or the South, the East or the West. It proposed simply a tardy act of justice to those men who served our country in that contest. It proposed to pension the survivors of that war some thirty years after its termination. In this it cannot be said that there was any disposition on the part of the majority of this House to recede from the doctrine of economy and retrenchment which was inaugurated in the Forty-fourth Congress for the first time in the administration of the affairs of the Government.

[Here the hammer fell.]

Mr. FOSTER. Mr. Chairman, the gentleman from Mississippi [Mr. HOOKER] says that the doctrine of economy and reform was first inaugurated in the Forty-fourth Congress. I have in my hand a table, the accuracy of which will not be doubted by any one who examines it. It shows that this reduction of expenses commenced in 1866 and ran along steadily through every year except one until 1877. In 1876 the reduction of expenses over the previous year was more than \$16,000,000.

Mr. BLOUNT. What is the gentleman quoting from?

Mr. FOSTER. From a table contained in a speech prepared by myself last year.

Mr. BLOUNT. What does it represent? Appropriation bills?

Mr. FOSTER. It represents the whole expenses of the Government.

Mr. BLOUNT. Is it the statement of the Register of the Treasury?
Mr. FOSTER. It is copied from the records of the Register of the Treasury, and is absolutely correct.

Now, I make the statement that in every year from 1866 down there was a reduction of expenses below the preceding year, except the year 1873. For the year ending June 30, 1876—the last year for which the republican Congress appropriated—the reduction over the preceding year was more than \$16,000,000.

Last year our democratic friends, and among them the gentlemen whose remarks to-day have brought on this debate, stated with a great flourish of trumpets that they had reduced expenses \$30,000,000. At that time I declared and proved that this statement was a mistake or a fraud.

Mr. RANDALL, (the Speaker.) If the gentleman alludes to me, I never said that. I said we had reduced the appropriations—

Mr. FOSTER. I decline to yield. On every stump all over the country as well as on this floor the gentleman and all his party stated that they had made a reduction of expenses of \$30,000,000 a year. I can find the statement of the gentleman from Pennsylvania in which he said that if the country would give his party the control of this House for another term they would reduce expenses ten or twenty millions more. What are the facts? When the year was closed and the books posted there was exhibited a reduction of \$19,000,000. But what next? Why, we have passed \$8,000,000 of deficiencies, and perhaps there are \$8,000,000 more to come—I do not know how many. The Committee on Appropriations did well; but as has been stated by the gentleman from Maine, this extravagant House is to blame for these large expenditures. I say to the country that there never was in the history of this Government so extravagant a House as the last one and this one. Why, Mr. Chairman, if gentlemen on the other side should be given loose rein, if it were not for the men on this side who "herd together" to oppose extravagance, the expenses would be so enormous as to break down the Government. To-day members here "herded together" and prevented an appropriation of \$75,000 being placed upon this bill. How was it two years ago? It is true this side of the House did "herd together" against reductions then proposed. Why? Simply because they were carried to too great an extent. And what do you find now? The very bill we are considering to-day appropriates in the aggregate nearly \$2,000,000 more than the bill reported by the gentleman from Pennsylvania two years ago. It provides for eight hundred more clerks than did that bill.

[Here the hammer fell.]

Mr. HOOKER. The gentleman from Ohio [Mr. FOSTER] will allow me to ask him how he voted on the river and harbor bill?

Mr. FOSTER. I was not here; but if present, I should have voted for it. I will ask, in reply, what committee reported it?

Mr. McMAHON. Mr. Chairman, I do not propose to go into any discussion of the comparative records of either side of this House upon the appropriation bills. I think the country is thoroughly well posted on that question. I think any man who reads the figures knows that the country has profited by the incoming of a democratic House. To offset this bad record on the subject of economy our friends on the other side have recently been talking a great deal about certain claims against the United States Government coming from the Southern States; and to apologize to the people for their own want of support of the economical policy of our party in the past, they constantly allude to what the democratic party is going to do with these claims in the future. That inevitable future, when the war claims are to be paid by us, even to the bankruptcy of the United States Treasury, is the great bugbear which is always held up in answer to that ineffaceable past of extravagance and corruption which the gentlemen on that side are solely responsible for. An uninformed person would be led to believe that these war claims were something new and startling—utterly unknown to the virtuous and economical days of republican supremacy, and the result of a rebel conspiracy against the money of the North just to be inaugurated for the first time. What is the fact?

The truth is that war claims are held by "loyal men." The law does not permit "rebels" to be paid. Proof of active, positive loyalty is an indispensable link in the proof. And the raid of war claims upon the Treasury has been made by "loyal men" exclusively, aided by their copartners of the North having an interest in the proceeds.

But more than that: so far from being a new raid upon the Treasury, it is one of long standing. It was first organized by republicans. Its successes were greatest under radical rule. The Treasury was attacked on all sides, and the money of the people flowed from every quarter into the pockets of the pets of the republican party for ten long years. When the democratic party came into possession of this House in 1875 war claims began at once to be at a discount. Comparatively few came favorably reported from the committee, and fewer still passed the House. And what has this House done? It has been in session more than six months. Not a single claim has passed as yet; nor are the chances good. This House has been in our power for three years. The "danger" ought to have ripened long ago.

That I may not be suspected of wild talk upon this subject let me give gentlemen on that side of the House some good republican authority. I hold in my hand and show to the House an important little document. On the outside I find the following: "Speech of

Hon. John Sherman, at Marietta, Ohio, August 12, 1876, on dangers of restoration of democratic party to power."

This speech was the key-note of the campaign in the famous election of 1876. It was carefully prepared; and the chief object of the illustrious Senator was to warn the country against the danger the Treasury was in from the success of the democratic party. Most of us received a copy from the honorable Senator just before leaving for our homes. The document which I hold in my hand is the original one sent me just before starting for the West, and was no doubt honestly intended to warn one of my youth and inexperience and economical tendencies against the support of the democratic party in the famous battle it was about to make in Ohio that year. I read the speech carefully, Mr. Chairman, but the effect was different from that anticipated by the honorable Senator.

On page 4 I found the following confession as to the record of his own party on this subject, and I lost all confidence in its honesty:

When the war closed innumerable claims against the United States were made from the lately rebel States, and Congress in the most liberal spirit made provision for the payment of all that by the well-settled rules of civilized war could be properly made against the United States. The officers of the Departments, the Supreme Court, the Court of Claims, and the southern claims commission were authorized to adjust and pay different classes of claims, and Congress passed many acts for equitable relief, so that it may with safety be said that more than \$100,000,000 was paid after the war was over to citizens of the South for losses caused by the rebellion.

Mr. Chairman, observe the figures as to the claims paid by the republican party, one hundred millions. Now if that document had had indorsed upon the back of it "Dangers of the restoration of the republican party to power," I could have understood it.

Mr. GIBSON. I wish to ask the gentleman from Ohio a question, and that is whether a dollar of that amount was paid to any southern people not in accord with the Government during the war?

Mr. McMAHON. No. The money all went to your "loyal" citizens of course, men who could prove that they were "Union men" during the war. All that was necessary to be shown was that they were good republicans, and then their bills were paid. And they were paid to the tune of \$100,000,000! Now what honest or intelligent member on that side of the House will presume for one moment to claim that our troops destroyed even ten millions of property belonging to the Union men of the South? No one! It is a base slander upon the troops. Yet our Treasury was bled by republicans to the extent of \$100,000,000, and for losses alone! Why, sir, in my judgment you could have purchased all the property of the true Union men of the South for one-fifth of that amount.

Gentlemen on the other side must change their tactics. With this record they cannot expect to be credited with sincerity. And when they become so nervous and apprehensive as to the millions that the "rebel" may appropriate to pay the "loyal" men of the South, let them moderate their fears as to the future of the country by contemplating the fact that it has survived even their corruption and ordinary extravagance.

Mr. KEIFER. I do not propose, Mr. Chairman, to undertake to answer in a general way or a special way many things said here on this subject. I want, however, to say that I should like to see this House and the Congress of the United States go one step further than has been advocated by the distinguished member from the State of Pennsylvania, the Speaker of this House; I should like to see the time, and I trust I will see the time when no appropriation bill will contain or be permitted to contain any general legislation. I have very recently looked at most of the constitutions of the States of the United States and I believe that in twenty-four of the States of this Union they have found it wise to say in their organic acts in effect that all legislation in an appropriation bill other than that which pertains directly to the matter of appropriation shall be void. It would be found to be the highest kind of wisdom to have a rule, a constitutional rule, that would inhibit all legislation in an appropriation bill, save such as pertained directly to the appropriation of money.

I want to say further that we should stop legislation of every character in an appropriation bill, and then it would become the duty of an appropriation committee to look to the existing laws of the land and legislate with reference to them in their appropriation bills. I wish to say a word more. I am one of those that are classed here to-day as belonging to a "herd" that are voting against economy. I deny the charge. I deny it because I do not believe that stunted legislation in the way of paying for what we ought to pay for, in the way of making appropriations for the construction of public buildings in this country is economy at all. I know that now we are paying in the shape of rent in the city of Washington larger sums annually than would pay the interest at 20 per cent. on all the money it would take to build good fire-proof buildings to preserve all the public records here. I know too that we could build these buildings here, and if needed elsewhere over the country, at this time when material is cheap, when labor is being tendered all over the country and is going without a demand anywhere, and in so doing would relieve many thousands of people. And if any man says it is economy to say we should pay out large sums in rent instead of building the necessary buildings; if any man says it is economy to let these hundreds of thousands of men go without work when we could furnish the work by erecting the necessary public buildings, I say it is not true economy; it is the

meanest kind of economy, if it can be called that at all. That is what I think about it. Parsimony is not economy; in politics it is demagogery.

The democratic party by failing to make the needful appropriations in the Forty-fourth Congress for public buildings threw out of employment many thousands of laborers. I am in favor of economy, that is, paying only the proper and ordinary wages to men who are employed by the Government. I do not believe I would pay Congressmen any more than they are paid now. Yet the gentleman [Mr. RANDALL] who has spoken of the party I belong to as a "herd" voting against economy, has stood on the floor of this House and advocated the payment of \$7,500 a year, including two years' back pay, to himself and others. [Applause from the republican side.]

[Here the hammer fell.]

Mr. HEWITT, of New York. The gentleman from Ohio [Mr. KEIFER] who has just taken his seat has been suddenly smitten with a feeling of objection to legislation on appropriation bills. I have had occasion within the last few weeks rather carefully to examine the legislation upon appropriation bills when the gentleman from Ohio, [Mr. GARFIELD,] who does not now appear to be in his seat, was the chairman of the Committee on Appropriations; and I find that if legislation on appropriation bills is wrong then that gentleman who now expresses his inveterate dislike to it is more responsible for such legislation than any other man in public life; for I do not think that he ever reported an appropriation bill to this House which did not contain some special legislation.

The appropriation bill for the support of the Army, passed in 1870, reorganized the Army in that year; and it is upon that appropriation bill only, thus reorganizing the Army, that the other side can claim any credit for economy whatever; for that is the year in which the great reduction was made in the expenses of the Army, and which I trust may be repeated by a similar process this year.

The gentlemen on the other side who now object to legislation on appropriation bills in the direction of economy are doubtless not un mindful of the fact that every Department of this Government is filled with their partisans; and they object possibly to cutting down the salaries of these men because of the recent declaration of the President that he would be pleased to be permitted in spite of his civil-service order to contribute to the election expenses. A gentleman on that side of the House is reported in the public newspapers—and it is not denied—to have gone to the President of the United States and asked how the next campaign was to be carried on if they were not permitted to assess the office-holders, and thereupon the President came down from his lofty civil-service platform and said not only might the office-holders be assessed but he would be glad to put his hand into his own pocket and out of his \$50,000 salary contribute to the expenses of the next campaign. "How are the mighty fallen!"

Now, Mr. Chairman, I want to call the attention of these gentlemen who are so afraid of claims to the comparative record which I hold in my hand and will make part of my remarks that they may answer me hereafter if they see fit, showing that in the first session of the Forty-third Congress—a republican Congress—a republican Committee of Claims reported favorably one hundred and nine cases for damage in the Southern States, aggregating over \$8,000,000. They are for horses, for cotton, for mills, for steamboats, for stores, for nursery stock, for damages under contract, for pay as pilot, for every conceivable thing on which a claim could be based, amounting in the aggregate to over \$8,000,000. In fact, if the republicans had carried the Forty-fourth Congress this list is very suggestive of the rapid increase which might have been expected in the crop of loyalty in the South under such a course of ample remuneration. Carpet-bagging, although a profitable branch of industry, must have sunk into comparative insignificance alongside of this "new way to pay old debts."

Now, compare that with the record in the first session of the Forty-fourth Congress, when the democrats for the first held power. There were fifty-two cases reported favorably, involving the sum of \$215,361 only; and out of those fifty-two cases there were only passed by the House seventeen, amounting to \$74,453, against over \$8,000,000 reported favorably by a republican Congress and all war claims and most of their southern war claims.

Mr. PAGE. How much was appropriated for that purpose by the Forty-third Congress?

Mr. HEWITT, of New York. The amount reported by the committee favorably in the Forty-third Congress was over \$8,000,000.

Mr. PAGE. But how much was actually appropriated?

Mr. HEWITT, of New York. These are the amounts reported favorably by the republican committee of the Forty-third Congress.

Mr. PAGE. Did any of them pass the House and become a law?

Mr. HEWITT, of New York. I cannot tell you, but a reference to the statutes will show the gentleman what is the fact. I will repeat, however, that favorable reports were made in cases amounting in the aggregate to only \$215,000 by a democratic House.

Mr. SMITH, of Pennsylvania. Will the gentleman from New York allow me to ask him from what he is reading?

Mr. HEWITT, of New York. I am reading from a statement carefully prepared by the clerk of the Committee on War Claims of the Forty-third Congress, and the items are taken from the official records

of that committee. I will ask permission to attach the paper to my remarks.

[Here the hammer fell.]

Mr. PAGE. I shall object to the gentleman printing the whole of that document in a five-minute speech.

Mr. HEWITT, of New York. I ask permission to print the table only.

Mr. PAGE. There is no objection to that.

Mr. HUMPHREY. I think the objection should prevail, as it is in the line of economy.

There was no objection.

The table referred to by Mr. HEWITT, of New York, is as follows:

Bills reported favorably at the first session of the Forty-third Congress by a republican committee.

Claimant.	Number of bill.	Amount.	Nature of claim.
William F. Kerr*.....	H. R. 1404	\$150 00	For one horse.
Victor Mylius*.....	H. R. 1405	.....	Pay as second lieutenant New York Volunteers.
William Stoddard* ..	H. R. 154	360 00	Money improperly collected by United States.
C. C. Spalding*	H. R. 1522	.....	For pay as second lieutenant Illinois Volunteers.
Chas. J. McKinney*.....	H. R. 1583	100 00	Leather taken by United States troops.
Seth Lamb's heirs*....	H. R. 1585	400 00	Meals furnished United States troops.
John T. Watson*.....	H. R. 1271	3,962 00	Steamboat lost in United States service.
Jane Northedge*.....	H. R. 2091	7,500 00	Expense of equipping regiment New York Volunteers.
John W. Divine*.....	H. R. 2092	738 83	Services as surgeon United States Volunteers.
Robert F. Winslow*.....	H. R. 2223	813 82	Services as colonel Illinois Volunteers.
I. C. Riskey*.....	H. R. 799	.....	Services as second lieutenant Indiana Volunteers.
Iron-clad contractors	H. R. 217	5,000,000 00	Claims for compensation over contract price.
John Aldredge*.....	H. R. 1104	9,606 00	Reimbursement of losses by rebel raid.
Albert F. Yerby*.....	H. R. 2628	5,000 00	Stores and supplies taken by United States troops in Virginia.
Emile Lapage*.....	H. R. 2629	.....	For cotton, 25 bales, taken by United States troops.
W. J. McIntyre*.....	H. R. 311	.....	Pay as second lieutenant Illinois Volunteers.
Mark Davis*.....	.....	27,958 00	For reimbursement of rents improperly collected by United States Government.
Randall Brown*.....	H. R. 633	1,200 00	For mules, wagons, &c., taken by rebels while in United States service.
Flora A. Darling*.....	.....	5,000 00	Reimbursement money taken from her by United States soldiers.
Thomas Day*.....	H. R. 1283	640 00	For nursery stock destroyed by United States soldiers.
Sidney Tinker*.....	H. R. 1840	.....	Pay as lieutenant Indiana Volunteers.
Robert Tison & Co.*.....	H. R. 2609	33,000 00	Damages in fulfilling contract with United States.
B. C. Bailey*.....	H. R. 428	2,816 00	Damages for loss of vessel.
John J. Hayden*.....	H. R. 2798	150 00	Extra services as United States mustering officer.
Louisa Eldis*.....	H. R. 2891	691 00	Damage to building by United States troops.
Daniel F. Dulaney*.....	H. R. 1627	555 00	Property destroyed by United States troops.
George Cowles*.....	H. R. 2992	8,625 00	Property destroyed by rebels.
Cora A. Slocumb et al.*	H. R. 2993	38,500 00	Rents improperly collected by United States officers.
Norman Wiard.....	H. R. 609	113,942 00	Damages under contract with United States.
Michael Mulholland.....	H. R. 2994	3,400 00	Property destroyed by United States troops in Tennessee.
Emma A. Porch*.....	H. R. 2995	650 00	Services and losses as United States scout.
Daniel Wormer*.....	H. R. 2996	4,500 00	Losses on horse contract with United States.
George A. Schreiner*.....	H. R. 2997	.....	Pay as pilot.
Thomas Niles*.....	H. R. 2998	6,000 00	Damages on account of fort and earthworks built on his farm.
Selden Conner*.....	H. R. 2704	200 00	For horse lost in United States service.
John L. T. Jones*.....	H. R. 1620	4,000 00	Property destroyed by United States troops.
John R. Hamilton*.....	H. R. 2506	300 00	Refund of commutation money.
Leopold Straus*.....	H. R. 801	500 00	For clothing taken by United States soldiers.
Children of Baker White*.....	H. R. 3178	660 00	Pay as pilot.
John S. Williams*.....	H. R. 3179	7,000 00	For hay destroyed by rebels.
John H. Dunphe*.....	H. R. 3180	6,180 00	For sugar taken by United States troops.
Mary A. Thayer*.....	H. R. 3181	2,000 00	Services as nurse, United States volunteers.
Jas. Barnett, heirs of*.....	H. R. 3182	.....	Five years' pay as first lieutenant continental army.
J. D. Hale*.....	H. R. 3183	3,425 00	Services as Union scout.
Francis Dodge*.....	H. R. 2444	10,000 00	Schooner destroyed by rebels.
Montgomery & Burbridge.	H. R. 3184	131,000 00	Stores and supplies taken by United States troops.

Bills reported favorably at the first session of the Forty-third Congress by a republican committee—Continued.

Claimant.	Number of bill.	Amount.	Nature of claim.
Nolan S. Williams....	H. R. 3185	.....	Stores and supplies taken by United States troops in Louisiana.
Treadwell S. Ayres*.	H. R. 3186	\$5,000 00	Occupation of building in Memphis, Tennessee, by United States troops.
David R. Haggard....	H. R. 2939	.....	Six months' pay as colonel Kentucky Volunteers.
A. L. H. Crenshaw*..	H. R. 3269	5,500 00	Fifty-five mules taken by United States troops.
John B. Tyler.....	H. R. 1660	160 00	Horse lost in United States service.
Sewell B. Corbett....	H. R. 3782	30,000 00	Crops, fences, and timber destroyed, and damage to land and use thereof by fort and earthworks.
Edward Gallagher...	H. R. 3784	13,660 00	Use of buildings in Augusta, Georgia, by United States Army.
Newman & Vanhoofman.	.....	20,000 00	Rent of mills in Alexandria, Virginia.
Thomas Hoard.....	H. R. 329	22,000 00	Stores and supplies taken by United States Army in Tennessee.
Emily Miller.....	H. R. 900	10,000 00	Cotton taken by United States Army.
R. B. Conner & Bro..	H. R. 3785	3,500 00	For land taken by United States Treasury agents.
Charles W. Adams*..	H. R. 3781	35,800 00	Gold and ship's stores taken by United States Army.
Harriet Tubman.....	H. R. 3786	2,000 00	Services as Union scout and nurse.
Harriet Haines*.....	H. R. 3787	1,000 00	Property taken and used by United States troops.
Mary E. Purnell.....	H. R. 3788	.....	Two hundred and forty bales cotton, used in constructing batteries at Port Hudson.
Joseph H. Maddox....	H. R. 3789	100,000 00	For tobacco taken by United States troops.
Maryville College, Tennessee.	H. R. 3790	2,000 00	Use of and damage to by United States troops.
Samuel Ruth et al....	H. R. 3791	30,000 00	For services as Union scouts.
James M. Wells.....	H. R. 3792	3,525 00	Stores and supplies taken by United States troops in Louisiana.
John E. Bauman.....	H. R. 3794	22,500 00	Use and occupation of mills at Nashville, Tennessee, by United States troops.
Robert J. Edelen.....	H. R. 3793	95 00	Repairs of carriage for United States quartermaster.
Charles C. Gould.....	H. R. 3796	2,000 00	Reimbursement money loaned Union prisoners.
Barbary Hurdle.....	H. R. 3797	191 00	Use and occupation of land by United States troops.
R. T. Morrell.....	H. R. 3798	1,372 00	Do.
Dr. Mary E. Walker....	H. R. 3799	2,000 00	Pay as surgeon United States volunteers.
Joseph Anderson.....	H. R. 3800	5,000 00	Lumber taken for use of United States Army in Tennessee.
F. C. Buffington.....	H. R. 3801	125 00	Horse lost by Morgan raid.
R. H. Buckner*.....	H. R. 3802	3,500 00	Reimbursement on account of tax sale.
R. J. Henderson*.....	H. R. 3803	7,253 00	For wood taken by United States Army in Tennessee.
Washington & Ohio Railroad Company.	H. R. 3804	4,900 00	Supplies furnished United States Army.
Henry S. French.....	H. R. 3805	.....	Three hundred and thirty-six bales cotton taken by Sherman's army at Atlanta, Georgia.
John McLaughlin.....	H. R. 3806	.....	Pay as private Missouri volunteers.
William South.....	H. R. 3806	.....	Do.
John Herndon.....	H. R. 3807	.....	Pay as hospital steward United States Army.
Charles Valier.....	H. R. 3808	.....	Pay as second lieutenant Illinois Volunteers.
B. T. Swart.....	H. R. 4467	20,000 00	Use and occupation of land and timber taken by United States troops.
War claims, New Mexico.	H. R. 1505	.....	For expense of raising United States troops.
Wm. D. Striker.....	H. R. 4840	500 00	Money paid by him for Gov't. For one horse.
Henry Z. Eaton.....	H. R. 4210	150 00	Do.
W. W. Van Antwerp...	H. R. 4209	160 00	Do.
Sarah W. Jones.....	H. R. 4145	10,000 00	Damage to real estate in Tenn. Bounty, United States soldiers.
George F. Sellick.....	H. R. 2434	217 00	Do.
M. H. Amesburg.....	H. R. 2360	590 00	For damage to barrel factory, &c., in Tennessee.
William L. Nance.....	H. R. 4338	6,000 00	For money advanced in subsidizing Thirtieth Delaware Vols.
Charles H. Frank.....	H. R. 4339	13,600 00	Pay as quartermaster.
D. W. McClung.....	H. R. 4340	.....	Pay as scout.
Andrew Jackson.....	H. R. 4341	368 00	Money advanced his company in the United States service.
Almont Barnes.....	H. R. 815	150 00	Pay of first lieutenant, infantry, four months.
Walter J. Lee.....	H. R. 4464	.....	Pay as Army officer.
John W. Gall's heirs.	H. R. 4465	.....	For goods furnished Union men in Missouri.
J. W. McClurg.....	H. R. 162	2,500 00	United States bonds taken by raiders from Canada.
First National Bank, Saint Albans, Vt.	H. R. 4726	25,650 00	

Bills reported favorably at the first session of the Forty-third Congress by a republican committee—Continued.

Claimant.	Number of bill.	Amount.	Nature of claim.
John J. Anderson....	H. R. 4870	\$6,163 00	For cotton taken and damaged by United States soldiers for fortifying Nashville, Tennessee.
Butler, Miller & Co., and Hawk, Miller & Co.	H. R. 1088	7,224 00	For cotton taken and damaged by United States soldiers for fortifying Nashville, Tennessee.
James Lindsey.....	H. R. 4871	874 00	For three guns furnished United States Army.
Bartholomew Agricultural Society.	H. R. 4879	1,550 00	For occupation and damages to fair-grounds.
Sterling A. Martin....	H. R. 3046	86 00	Extra pay for extra service as a soldier.
William Phillips.....	H. R. 1662	.....	For 14,020 pounds of sugar taken by United States Army at Huntsville, Alabama.
Margaret Jane Burleson.	H. R. 4886	15,450 00	Property taken and used at Decatur, Alabama; referred to southern claims commission.
James Williams.....	H. R. 4887	2,500 00	Pay as scout.
Mrs. Eliza Porter.....	H. R. 4888	10,000 00	For nursing Union soldiers at Charleston, South Carolina.
Isaac Taylor.....	H. R. 2319	10,000 00	For loss of bark Alvarado, alleged to have been burned by United States naval authorities; southern claims commission.

* House of Representatives.

RECAPITULATION.

One hundred and nine cases reported favorably by the Committee on War Claims of the House in the Forty-third Congress, the aggregate amount involved being over \$2,000,000, including the cotton cases and all those where the amounts could not be definitely ascertained, in which cases the amounts are estimated after careful examination. Specifically where the amounts can be ascertained the amount involved in the bills and reported favorably is \$5,881,000.

This list does not include the two bills making appropriations for cases reported allowed by the commissioners of claims; that in the first session appropriating \$963,768 and that in the second session appropriating the sum of \$721,535.

Now contrast the foregoing with the following table of cases reported favorably by the Committee on War Claims of the Forty-fourth Congress:

Bills reported favorably at the first session of the Forty-fourth Congress by a democratic committee.

Claimant.	Number of bill.	Amount.	Nature of claim.
First National Bank, Saint Albans, Vermont.	S. 58	\$28,650 00	United States bonds taken by raiders from Canada. Passed House, Forty-third Congress.
R. H. Buckner*.....	H. R. 2161	*†	To refund money paid on account of "direct-tax sale."
James G. Williams..	H. R. 2457	*2,241 00	Services as Union scout. Reported favorably in Forty-third Congress.
Bartholomew County, Indiana, Agricultural Society.*	H. R. 2458	*11,500 00	Use of grounds by United States. Passed House, Forty-third Congress.
Purviance & Wyeth..	S. 192	*4,500 00	Rent of building, Saint Joseph, Missouri. Favorably in Forty-third Congress.
John W. Gall.....	H. R. 262	*	Pay as first lieutenant in United States Volunteers for ten months. Favorably in Forty-third Congress.
Joseph Anderson*...	H. R. 2693	*15,000 00	Lumber furnished Government. Favorably in Forty-third Congress.
W. W. Van Antwerp*	H. R. 2604	*160 00	Horse lost in United States service. Favorably in Forty-third Congress.
Almart Barnes*.....	H. R. 1200	*150 00	Rations furnished United States soldiers. Favorably in Forty-third Congress.
Eliza E. Hebert*.....	H. R. 2832	*121,000 00	Stores and supplies furnished Do.
Susan P. Vance*.....	H. R. 2833	*13,000 00	Do.
Sewell B. Corbett*...	H. R. 2334	*6,566 00	Wood furnished United States Army under contract.
R. J. Henderson*.....	H. R. 2835	*17,253 00	Mules furnished United States Army.
Joseph Wilson*.....	H. R. 2836	*15,300 00	Refunding money improperly taken.
Flora A. Darling*.....	H. R. 401	*15,000 00	For steamboat lost while in the United States service.
Joseph R. Shannon..	H. R. 3185	18,000 00	To settle accounts as paymaster. To refund rents improperly collected.
Philip Pendleton*...	H. R. 735	*	For supplies furnished United States Army.
Mark Davis.....	H. R. 402	*	Referring to Commissioner of Claims.
J. M. Bragg et al.....	H. R. 877	.....	Teams, wagons, &c., taken while in United States service.
Margaret Janet Burleson.*	H. R. 3186	*	Salt, supplies, &c., for United States Army.
Randall Brown, colored.*	H. R. 890	*†1,500 00	
C. C. Campbell*.....	H. R. 429	*†6,000 00	

Bills reported favorably at the first session of the Forty-fourth Congress by a democratic committee—Continued.

Claimant.	Number of bill.	Amount.	Nature of claim.
Mrs. E. J. Brosnan*.	H. R. 3273	*† \$5,000 00	Supplies taken for use of United States Army.
Samuel E. Willard*.	H. R. 3373	*† 3,500 00	Rent of property by United States Army.
Harry E. Eastman*.	H. R. 3374	639 00	Pay as lieutenant-colonel of Wisconsin Volunteers.
Harry L. Clock.....	H. R. 3380	*215 00	Services, &c., as farrier in United States Army.
A. F. & N. C. St. John	H. R. 1125	54 00	Oats furnished United States Army.
Marvin H. Amesbury	H. R. 3008	*302 00	Veteran bounty, Cam. Volunteers.
Cora A. Slocum et al. reimbursement of States for expenses incurred in late rebellion.	H. R. 3434	*2,429 00	Refund of rents improperly collected by United States.
George W. Spotes....	H. R. 3492	*3,242 00	Stores and supplies for United States Army.
George Calvert.....	H. R. 3493	*500 00	For use by United States of ferry.
Newman & Van Hoffmann.	H. R. 1654	*18,430 00	Rent of Pioneer Mills in Alexandria, Virginia.
Amelia A. H. Richards.	H. R. 3507	6,335 00	Stores and supplies for United States Army.
Amanda Rains.....	H. R. 2218		For medical services rendered United States soldiers.
William C. O'Brien..	H. R. 3680	2,000 00	Use of saw and grist mill by United States forces in Kansas.
B. B. Connor & Bro...	H. R. 3681	*4,420 00	Land improperly seized, sold, and proceeds paid into the United States Treasury.
Wm. J. Alexander....	H. R. 255	250 00	Pay as United States detective.
Kenna A. Porth.....	H. R. 102	*500 00	Services as Union scout.
B. F. Reynolds*.....	H. R. 1237	*	Six months' pay as captain of United States volunteers.
Henry S. French.....	H. R. 473	*	Cotton claim referred to Court of Claims.
Gerald Wood.....	H. R. 3786		Revolutionary claim.
Protestant Orphan Asylum, Natchez, Mississippi.	H. R. 3804	*1,750 00	Rent of by United States forces during late war.
Pickrell & Brooks...	H. R. 3267	3,524 00	Tobacco improperly seized and sold by Treasury agents.
William Buckley.....	H. R. 1626	*1,738 00	Supplies furnished United States prisoners.
Mrs. Mary Scott, Kentucky.	H. R. 4062	23,437 00	Stores and supplies furnished by United States.
John T. Armstrong..	H. R. 4081	1,840 00	Use of wharf in Alexandria by United States.
Dr. A. G. Tebault...	H. R. 4082	*1,000 00	Services rendered and medicines furnished "contrabands."
Thomas Burke.....	H. R. 1136	*1,100 00	Services carrying United States mail.
A. L. H. Creham... ..	H. R. 2317	*6,875 00	Mules furnished United States.
Dr. Mary E. Walker	H. R. 4089	*2,000 00	Services as surgeon United States volunteers.
Moses F. Carlton...	H. R. 2386		For eight months' service as lieutenant, Michigan Volunteers.
		215,361 00	

RECAPITULATION.

Here are fifty-two cases reported favorably by a democratic committee, of which number forty-four were reported favorably by the republican Committee on War Claims of the preceding Congress; and of this number but seventeen cases passed the House, one being a Senate bill for \$28,630.

The amount involved in the fifty-two cases reported favorably is \$215,361, and the amount involved in the seventeen House cases passed is \$74,453, or, including the Senate bill, is \$103,103.

The cases marked with a * were reported favorably by the Committee on War Claims of the last republican House; those marked with a † have passed the present House, and those marked with a ; have either passed the Senate or are on the Senate Calendar with a favorable report.

Mr. BLOUNT obtained the floor.

Mr. CONGER. I understood that the time allowed for debate was to be divided between the two sides.

The CHAIRMAN. The gentleman from Michigan claims that there was an understanding that the time should be divided equally between the two sides of the House. The Chair has not been following that rule but has been recognizing the members of the Committee on Appropriations in preference to other gentlemen, no matter to which party they belonged. The Chair did not understand that the time was to be equally divided.

Mr. BLOUNT. That was not the understanding, I think.

Mr. MILLS. I desire to inquire if the Committee on Appropriations have any higher rights than other members to debate upon this floor?

The CHAIRMAN. The Chair understands that the members of the committee having charge of a bill have a right to be recognized.

Mr. CONGER. When the gentleman in charge of this bill asked the House to limit debate I supposed he asked it with the understanding that the time should be divided equally, otherwise it would not have been agreed to.

Mr. ATKINS. I do not recollect whether I said anything about that, but I am free to say that I expected that the general rule would be observed, giving half the time to each side.

The CHAIRMAN. The Chair will then ask the gentleman from Georgia [Mr. BLOUNT] to yield to the gentleman from Michigan. If there was any understanding that the time should be divided the Chair desires to carry it out. The Chair has not been acting upon that rule, but has been giving the floor to the members of the Committee on Appropriations in preference to others, but if that was the understanding the Chair hopes that the gentleman from Georgia will yield to the gentleman from Michigan and let the understanding be carried out.

Mr. BLOUNT. I take pleasure in adopting any suggestion of the Chair, and resign the floor.

Mr. CONGER. Mr. Chairman, I have one or two words to say to which I call the attention of the honorable Speaker of the House. It is not the first time within the recollection of many of us when the gentleman from Pennsylvania has thought it to be his duty to come down from the Chair or to rise in his place on this floor and after making, as he is capable of making, an eloquent, earnest, and forcible appeal to the House, and especially to the country, showing his zeal for economy, a zeal which leads him beyond all party consideration whatever in behalf of economy, to wind up the rhapsody by turning to this side of the House commenting upon their conduct and being their Speaker denouncing them collectively and individually to the country as lending their influence and their votes and all the power they have against the onward glorious rush of democratic economy and democratic reform.

Sir, I had thought at times that if the gentleman would go and attend the frequent caucuses of his own party and say to them what he says here on the floor of the House—more to the country than for them or for us, if he has the influence he claims, if he has the influence with his party we believe he has, if he has the influence we believe he ought to have—one hour of private devotional labor in the caucuses of the democratic party, with his voice thundering in the ears of his colleagues there, as it does here, would promote the object he seems so earnestly to desire.

Why should the Speaker of the House come down from his place to lecture me or you or any other man personally or as a partisan. I submit to it because the gentleman's voice when he speaks as a politician is potent in this land; I submit to it because the overshadowing of a presidential nomination gives his voice power all over the land, and whips in his reluctant followers with that kind of gratitude which has been defined to be "the expectation of favors to come." [Laughter.]

Now, sir, the gentleman has admitted time and again, as the Globe and the RECORD will show, for years past, and has stated that year by year the decreasing business of the Government, with the decreased expenditures necessary with the decreased industry, a reduction of from \$11,000,000 to \$23,000,000 a year could be made in a year, and now he dare not claim here that there has been any greater proportionate reductions in the years when he has been the leader of the majority than in any preceding year. There has not been since the democratic party came into power any greater proportionate reduction than there were in the preceding years, and that reduction, as every man who can read knows, has been made mainly by clipping off from the salary of men drawing less than \$1,800.

Sir, I like to hear the gentleman's voice, and I like to hear him preach economy; but it is not to control this House. Why did not the gentleman uplift his voice against the \$75,000 appropriation to-day? He had not one word to say upon that subject.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. RANDALL, (the Speaker.) When the rule under which all these reductions were made was attacked, then I thought it was time I should speak.

Mr. CONGER. To what does that remark apply mainly? [Laughter.]

The CHAIRMAN. The time allowed by the order of the House for debate on the pending paragraph and all amendments thereto has expired.

The question was taken upon the motion of Mr. JACOBS to strike out the paragraph, and it was not agreed to; upon a division—ayes 53, noes 101.

The Clerk resumed the reading of the bill, and read the following:

That the subordinate officers of each branch of said territorial Legislatures shall consist of one chief clerk, who shall receive a compensation of \$6 per day; one enrolling and engrossing clerk, at \$5 per day; sergeant-at-arms and doorkeeper, at \$5 per day; one messenger and watchman, at \$4 per day each; and one chaplain, at \$1.50 per day. Said sums shall be paid only during the sessions of said Legislatures; and no greater number of officers or charges per diem shall be paid or allowed by the United States to any Territory. And section 1861 of the Revised Statutes is hereby repealed, and this substituted in lieu thereof: *Provided*, That for the performance of all official duties imposed by the territorial Legislatures, and not provided for in the organic act, the secretaries of the Territories respectively shall be allowed such fees as may be fixed by the territorial Legislatures. And in no case shall the expenditure for public printing in any of the Territories exceed the sum of \$2,500 for any one year.

Mr. FORT. I move to amend in line 1034 by striking out, "\$1.50" and inserting in lieu thereof "\$4," as the compensation of the chaplain. It occurs to me that if the territorial Legislature needs a chap-

lain at all, it needs one that can pay four dollars' worth a day. [Laughter.] I think it is an invidious distinction to pay members of the territorial Legislature \$4 a day and to pay the chaplain only \$1.50. It would have been far better to have provided no pay whatever for the chaplain, than to give him only \$1.50 a day in a country like that.

These territorial Legislatures will sit but a very short time. In a country where the ministry, I have no doubt, is not very well sustained, if we provide for a chaplain at all, my judgment is that we ought to give him enough money to pay his board; and he cannot do that with \$1.50 a day. I will not detain the committee longer than to ask that my amendment be adopted.

Mr. ATKINS. I call for a vote. [Cries of "Vote!" "Vote!"]

Mr. CALKINS. I move to amend the amendment so as to make it \$5 a day.

Mr. FORT. The pay of a member of the Legislature is \$4 a day. Mr. CALKINS. I would not again claim the attention of this committee upon this bill but for the fact that I was the gentleman referred to as having attacked the rule which I protested against at an early period of this session of Congress and which I expect to protest against as long as I am a member of Congress. That is the rule which gives the Committee on Appropriations power to ingraft new legislation on appropriation bills.

As said by the honorable gentleman from Pennsylvania, the Speaker of this House, we are all in favor of economy. There is not a member upon this floor if you put the question to him but what would say that he was in favor of economy. But economy as used by politicians is a relative term. What one man would call economy another would call parsimony, and not economy at all.

Now, without desiring to be offensive, I send up to the Clerk's desk and ask to have read a paragraph from the CONGRESSIONAL RECORD which I have marked.

The Clerk read as follows:

Mr. RANDALL. When I went into this conference on this bill I found that there were three overshadowing questions beyond all others which were in controversy between the two Houses. The first one that met us in committee was this question of salaries. Upon that question I have uttered no doubtful sound and have made no doubtful record in this House. I have declared to the country and to my constituents that I believed I have earned \$7,500 a year since I have been in this Congress, and that I could not live here for less with my family with any sort of decency. I do not know how it may be with members from the rural districts to which my friend from Indiana [Mr. Niblack] has referred, but I could not go into a conference and suggest that there should be any difference in this respect between rural members and those who come from cities.

Mr. CALKINS. I have no doubt that the honorable gentleman from Pennsylvania voted for the raising of the salaries of members of Congress from \$5,000 to \$7,500 a year in the interest of economy. I have no doubt that he voted to make the increase extend back over a year in the interest of economy.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. RANDALL, (the Speaker.) The gentleman from Indiana [Mr. CALKINS] has not the merit of originality in causing to be read the paragraph just read by the Clerk; it has been read more than once before in this House. I have uniformly had one reply to make in respect to what has been read. I still think that my services were worth \$7,500 a year. I advocated that proposition sincerely and honestly at that time. But when I went back to the people and they condemned it, as a faithful public servant I gave up my opinion in that respect and adhered to their instructions. That is what I want the republican party to do. [Applause on the democratic side.]

Mr. CALKINS. Will the gentleman allow me—

Mr. RANDALL, (the Speaker.) That is what I want you to do, to adhere to the instructions of the people in behalf of economy. Be as straightforward as I think I have tried to be in regard to my salary vote, and give up as I did promptly my individual views in that respect.

Mr. CALKINS. Will the gentleman allow me to ask him a question?

Mr. RANDALL, (the Speaker.) Certainly.

Mr. CALKINS. I was not allowed to finish what I had to say. I was not impugning your motives.

Mr. RANDALL, (the Speaker.) Oh, no; but you were impugning my consistency, and I was answering that assault. I say that when my conduct here as a Representative in this particular was condemned by the people I yielded to their authority and submitted to their control, as I am always ready to do.

Mr. CALKINS. Did the gentleman cover back his increase of salary into the Treasury?

Mr. RANDALL, (the Speaker.) And the man who continues in error does more injury to himself than to any other, and does not realize the true character that a Representative should always occupy.

Mr. CALKINS. Did the gentleman pay back the extra \$5,000 into the Treasury?

Mr. RANDALL, (the Speaker.) I never did. In looking over my whole record I can say truthfully that I have never cast in this House a vote which was prompted by any personal consideration. I say I did not pay back the money, because the law had given it to me; and I devoted it to the honest expenditures of myself and those connected with me. This is all I have to say on the subject of salary. Being condemned, I yielded like a man; and I would like to see the same spirit exhibited by republican Representatives here who claim that

they are in favor of economy but draw a distinction between "economy" and "parsimony."

Mr. WILLIAMS, of Wisconsin. Will you allow me a question?

Mr. RANDALL, (the Speaker.) Certainly.

Mr. WILLIAMS, of Wisconsin. When you had stated that you believed \$7,500 was justifiable as salary for yourself and other members, why did you return to this House and move to cut down that salary to \$4,500? Did the people demand that?

Mr. RANDALL, (the Speaker.) I will answer the gentleman. I did not propose to cut the salary down to \$4,000.

Mr. WILLIAMS, of Wisconsin. Forty-five hundred dollars, I said.

Mr. RANDALL, (the Speaker.) The Committee on Appropriations recommended \$4,500 as the salary for members of Congress, and I took the ground that as the people had condemned an increase of salaries, it was not consistent in members of Congress to be cutting down the salaries of other officers unless they reduced their own in something like the same proportion.

Mr. WILLIAMS, of Wisconsin. Why do you not cut down your salaries now?

Mr. RANDALL, (the Speaker.) Whenever the gentleman makes a proposition to cut down salaries generally, I will probably be found with him to cut my own.

Mr. WILLIAMS, of Wisconsin. Why does not your Committee on Appropriations do it before you lecture us on economy?

Mr. RANDALL, (the Speaker.) I say deliberately that I believe rather in cutting down the number of employes than in reducing salaries. I believe to-day that if the law in regard to the hours of labor in the Departments is adhered to—seven hours a day during six months of the year and eight hours a day during the remainder—the number of employes in the Departments can be reduced 20 per cent. [Here the hammer fell.]

Mr. TOWNSHEND, of Illinois. I desire to ask the gentleman from Pennsylvania what party was in the control of Congress when the bill increasing salaries was passed?

Mr. RANDALL, (the Speaker.) The republican party was in control, but the measure was supported by members on both sides; the vote was not a party vote. While very many exhibited a desire to have the salary increased, a great number had not the nerve to vote for it.

The CHAIRMAN. Debate on the pending amendment is exhausted.

Mr. FINLEY. I move to amend the amendment by striking out the last word. I make this motion for the purpose of saying a few words in reply to the gentleman from Ohio [Mr. FOSTER] who has stated here to-day that we have appropriated \$5,000,000 of deficiencies. Of the three bills brought into this House one was reported by the gentleman from Ohio himself. That was House bill No. 3740, and upon its face it was "A bill providing for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes." I desire to say that the greater part of that bill was "for other purposes;" and the gentleman from Tennessee, [Mr. WHITTHORNE,] as the gentleman from Ohio well knows, moved to amend the title of the bill for the reason that the appropriations it contained were to a large extent not deficiencies. The gentleman admitted upon this floor that nearly one-half of that bill was not for deficiencies. Yet he comes upon this floor to-day and says, as he has done heretofore, that the democratic party has passed deficiency bills to the amount of \$5,000,000.

As to the other bills which have been referred to, every bill reported in this House from the Committee on Appropriations has contained, to a large extent, appropriations other than deficiencies. When the gentleman rose here and proclaimed to the country that this democratic House had reported and passed "deficiency bills in the sum of \$5,000,000 and God knows how much more," he took good care not to say that the bill reported by himself had for its purpose the making of appropriations of nearly \$2,000,000, more than one-half of which was not in the nature of a deficiency.

I withdraw the *pro forma* amendment.

The question being taken on the amendment of Mr. FORT, it was not agreed to.

Mr. REAGAN. I move to amend the paragraph by striking out the last word. I make this motion for the purpose of referring to some remarks of the gentleman from Maine because they are of such a character and on such a subject that it seems to me they ought at some time to be responded to. The gentleman from Maine cited, as others have done, as an evidence of democratic extravagance in this House, the fact that a committee of the House had reported a bill having for its object the pensioning of soldiers of the Mexican war. Who are to receive pensions under that bill? Soldiers in a war which ended thirty years ago—soldiers in a war against a foreign power—soldiers by whose valor our banners were carried victoriously through Mexico—soldiers by whose efforts we were enabled to consummate treaties which secured to us the cession of a vast region of territory, embracing most valuable deposits of the precious metals and other most important elements of material wealth.

That war resulted in achievements of material interest to this country. The men who participated in that war have now grown old. Whatever may be said of them it cannot be said they were not loyal to their flag which they carried in triumph into a foreign land.

It has been said this bill ought not to pass because men who live in the South would be benefited by it. In order to execute ven-

geance against those in the South they would refuse to do justice to the men who served the country with equal valor in the North. They are willing to strike down the interests of the men of Pennsylvania, of Indiana, and other northern States who participated in this war and who achieved glory for themselves and for their country. It is not sufficient that sectional hate should be carried to the point of refusing to do justice to men who happen to live in the South, but it must go to the point of refusing justice to northern men who stood by their side on the battle-field contending for their country's right and promoting its honor and interest. I do not wish to hear the words so often repeated that it is a reproach to the democratic party; it has had honor enough to refuse to be sectional and honor enough to propose to do justice to all men in all localities.

Another point referred to as evidence of democratic extravagance is that a committee here reported a bill proposing to pay the claims of southern mail contractors. Is that wrong? Is it an object of reproach that the credit of the Government, that its just debts, that its plighted honor shall be preserved and protected? If that be so we live in strange times. That bill only proposed to pay those who had done service in times of peace to the Government under contracts. I do not know but that the gentleman from Maine himself voted for it, as gentlemen on that side very generally voted for it. It only proposed to pay men who had not been paid for their service. It proposed to pay those who had rendered service in time of peace and who had not been paid for it. It was under a contract with the Government. The service was rendered and consideration was received by the Government and pay was asked by those who now pay their taxes to the Government and who then paid taxes to the Government like other citizens. Is it a reproach to any party, is it a dishonor to the Government to comply with its contracts?

[Here the hammer fell.]

Mr. FENN. I move to strike out from the beginning of line 1028 to and including "per day each," in line 1033. The words I move to strike out are as follows:

That the subordinate officers of each branch of said territorial Legislatures shall consist of one chief clerk, who shall receive a compensation of \$6 per day; one enrolling and engrossing clerk, at \$5 per day; sergeant-at-arms and doorkeeper, at \$5 per day; one messenger and watchman, at \$4 per day each.

The statute allows for a clerk, an assistant clerk, an engrossing and enrolling clerk, a doorkeeper, a sergeant-at-arms, a watchman, and a porter. I propose to strike out the words in the bill and allow the law to stand as it now is. I will say that it is utterly impossible within the forty days of the session for a Legislature to attend to its duties without this small force allowed, of a clerk, an assistant clerk, and enrolling and engrossing clerk. There never has been a session in our Territory for years but the people out of their own money have been compelled to pay for additional clerical force in the last days of the session to properly finish up the work. Under the provisions of this act one officer will have to perform duties now performed by two. I am in favor, therefore, of striking it out.

A few words in addition in regard to the pittance which has heretofore been allowed to the Territories. I have looked over the appropriations for the last few years, and I find that the average for the last three years has been between twenty-five and twenty-six thousand dollars appropriated for territorial officers, such as governor, secretary, judges, and members of the Legislature, and territorial contingent expenses. Allow me to say that every Territory in this Union, during their territorial existence, on an average has paid during the same time on account of internal-revenue taxation \$35,000 per annum to the Government of the United States.

[Here the hammer fell.]

Mr. DUNNELL. I have not taken any time to-day in the debate, but I wish to reply in just a single word to the remarks of the gentleman from Texas. I have for the gentleman from Texas a very high personal regard, and I believe he is aware of that fact. I think he has wholly mistaken the sentiment of the House upon the pending Mexican pension bill. I deny that hate characterized the debate on this side of the House. I am compelled, Mr. Chairman, to deny that there was exhibited anything like ill-will or ill-feeling on the republican side of the House toward the Mexican bill. The House has voted to restore to the pension list soldiers of the war of 1812 who participated in the rebellion. The opposition to the Mexican bill is not because it includes those from Texas or from Alabama or from the Southern States. It embraces as many in the Northern States as in the Southern States. I have risen simply to correct the statement of the gentleman from Texas, [Mr. REAGAN.] All opposition to that bill is not born of hate. There is not a feeling of hostility to that bill because it takes in men who were in the rebellion.

Mr. FINLEY. Will the gentlemen yield to me for one question?

Mr. DUNNELL. Yes, sir.

Mr. FINLEY. Has not every gentleman on that side of the House who has spoken on the subject assigned that as his reason for opposing the bill?

Mr. DUNNELL. No, sir.

Mr. FINLEY. Did not the gentleman from Vermont [Mr. JOYCE] assign that as his chief reason?

Mr. DUNNELL. I will admit that the gentleman from Vermont took an extreme view.

Mr. FINLEY. And did not the gentleman from Illinois [Mr. HAYES] take the same ground?

Mr. DUNNELL. I do not admit at all that hate in any way characterized the debate on this side of the House or on the part of anybody. On the contrary, there was manifested a broad, generous liberality on the part of the republican side of the House; a large spirit of forgiveness. I am willing to-day to vote, as I did before, to restore men who were in the rebellion to the pension list. I voted for the restoration of those who fought in the war of 1812; and when the time comes—I think it has not yet come—I am willing to pass the Mexican bill, as I believe as much as any man in giving pensions to soldiers.

Mr. RIDDLE. Did not the gentleman from Minnesota and all the republican members on that side, including the gentleman from Maine, vote for that bill without a dissenting voice?

Mr. DUNNELL. I presume I did.

Mr. RIDDLE. The record so shows.

Mr. DUNNELL. I have said all that I desire to say. I rose simply to correct the gentleman from Texas, [Mr. REAGAN.]

Mr. ATKINS. I call for a vote on the pending amendment. The committee believe there is sufficient clerical force provided for these Territories.

The amendment was not agreed to.

Mr. JACOBS. I offer the following amendment:

In lines 1045 and 1046 strike out "\$2,500" and insert "\$4,000," so that it will read: And in no case shall the expenditure for public printing in any of the Territories exceed the sum of \$4,000 for any one year.

The amount heretofore appropriated for public printing in the Territories has been about \$4,000. Now, if Congress desires to make an appropriation to pay for the expense of the printing of the Legislative Assembly of a Territory, I ask any gentleman who is acquainted with that business whether the sum of \$2,500 is sufficient to defray the expense of printing for a Legislature for forty days. Does not every man know that the amount is not sufficient? That is all I desire to say.

Mr. ATKINS. There is a great deal of elasticity in this matter of printing. The committee duly considered this matter and think \$2,500 enough for any of the Territories.

The amendment was not agreed to.

Mr. DUNNELL. I move that the committee rise.

Mr. DURHAM. Let us go on to the end of this section before we rise.

Mr. DUNNELL. Very well. I withdraw the motion.

The Clerk resumed the reading of the bill, and read to the close of the paragraph making appropriations for the expenses of the Territory of Arizona, line 1060.

Mr. ATKINS. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. EDEN reported that the committee had had under consideration the special order, being the bill (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. ELAM, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the House of the following titles; when the Speaker signed the same:

An act (H. R. No. 1887) to extend the provisions of section 3297 of the Revised Statutes to other institutions of learning;

An act (H. R. No. 1780) granting a pension to William S. Davis, late private in Company E, Thirty-first Illinois Infantry Volunteers;

An act (H. R. No. 3859) for the relief of Silas M. Norton, postmaster at Bristol, Connecticut;

An act (H. R. No. 1639) making an appropriation for pier-lights at the entrance of the jetties in the South Pass of the Mississippi River; and

A joint resolution (H. R. No. 158) for the erection of a monument over the grave of Thomas Jefferson.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the Senate of the following title; when the Speaker signed the same:

An act (S. No. 15) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act.

Mr. WHITE, of Pennsylvania. I move that the House do now adjourn.

LAND LOCATED WITH MILITARY WARRANTS.

Pending the motion to adjourn,

Mr. SAPP, by unanimous consent, from the Committee on the Public Lands, reported back, accompanied by a report in writing, the bill (H. R. No. 4239) to authorize the Secretary of the Interior to ascertain the amount of land located with military warrants in the States described therein, and for other purposes; and moved that the bill and report be recommitted, and that the report be printed.

The motion was agreed to.

PAVEMENTS IN THE DISTRICT.

The SPEAKER, by unanimous consent, laid before the House a letter from the commissioners of the District of Columbia in response to a resolution of the House, transmitting tables giving information as required in the case of the bituminous and the wood-block pavements, together with maps of all the bids and awards requested; which was referred to the Committee for the District of Columbia.

GEOLOGICAL SURVEYS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, in reply to a resolution of the House of the 8th instant calling for information in regard to the geological surveys conducted during the last ten years, transmitting the report of Major J. W. Powell on the subject; which was referred to the Committee on Appropriations, and ordered to be printed.

PUBLIC PRINTING.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury relating to the public printing; which was referred to the Committee on Printing.

EXTENSION OF HOMESTEAD ACT.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs in relation to the extension of the benefits of the homestead act of May 20, 1862; which was referred to the Committee on Indian Affairs.

QUARTERMASTER-GENERAL'S DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting revised estimates from the Quartermaster-General's Department, in accordance with the provisions of House bills Nos. 3941 and 4032, in response to a resolution of the House; which was referred to the Committee on Appropriations.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. WILKINS for two weeks, on account of important business.

WITHDRAWAL OF PAPERS.

On motion of Mr. OVERTON, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Zebulan Vincent, no adverse report having been made thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes.

MARY MITCHELL.

Mr. WELCH, by unanimous consent, introduced a bill (H. R. No. 4366) granting a pension to Mary Mitchell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BOUNDARIES OF COLORADO AND NEW MEXICO.

Mr. PATTERSON, of Colorado, by unanimous consent, reported from the Committee on Public Lands as a substitute for the bill H. R. No. 4357 a bill (H. R. No. 4667) to provide for the survey of the boundary line between the State of Colorado and the Territory of Utah, with a report in writing, and moved that the same be referred to the Committee on Appropriations.

The motion was agreed to.

Mr. ATKINS. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at five o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BANNING: The petition of 1,042 late volunteer soldiers, inmates of the Central National Home for Discharged Volunteer Soldiers, at Dayton, Ohio, representing twenty-six States, for the appointment of Colonel Leonard A. Harris, of Ohio, as the resident manager of that home—to the Committee on Military Affairs.

By Mr. BAYNE: The petition of manufacturers and other business men of Allegheny County, Pennsylvania, for the establishment of steamship lines as asked for in the memorial of the national convention of the United States export trade—to the Committee on Commerce.

By Mr. BURDICK: Joint resolution of the Legislature of Iowa, favoring the granting of arrears of pension to James A. Guthrie—to the Committee on Invalid Pensions.

Also, the petition of C. R. Wallace, H. P. Brown, and 60 other citizens of Iowa, for the removal of the duty on quinine—to the Committee of Ways and Means.

By Mr. CHALMERS: Papers relating to the war claims of R. D. Fort and of Seth R. and Charles W. Strong—to the Committee on War Claims.

By Mr. CLAFLIN: The petition of 57 merchants and other citizens of Massachusetts, against reviving the income tax—to the Committee of Ways and Means.

By Mr. CLARK, of Iowa: Joint resolution of the Legislature of Iowa, favoring the granting of arrears of pension to James A. Guthrie—to the Committee on Invalid Pensions.

By Mr. CUMMINGS: Joint resolutions of the Legislature of Iowa, of similar import—to the same committee.

By Mr. FOSTER: Three petitions of citizens of Put-in-Bay, North Bass, and Sandusky, Ohio, against the passage of the bill establishing a board of fish commissioners, &c.—to the Committee on Commerce.

By Mr. HEWITT, of New York: The petition of the Maritime Association of New York City, and other citizens, for the maintenance of the Signal Service, and for an increase of the number of signal stations on the coast—to the Committee on Appropriations.

By Mr. HUNTON: Papers relating to the war claim of Charles Kirby—to the Committee on War Claims.

By Mr. KIDDER: The petition of George W. Kellogg and others, against the division of Dakota Territory as proposed by the Saunders bill—to the Committee on the Territories.

By Mr. MANNING: Papers relating to the war claims of Thomas L. Garrett and Andrew M. F. Harding—to the Committee on War Claims.

By Mr. MULBROW: Papers relating to the war claim of Mrs. Jane R. Prince—to the same committee.

By Mr. OLIVER: Joint resolution of the Legislature of Iowa, favoring the granting of arrears of pension to James A. Guthrie—to the Committee on Invalid Pensions.

By Mr. O'NEILL: The petition of a number of officers of volunteers of the State of Pennsylvania who were engaged in the battle of Gettysburg, for the publication of the maps made by Colonel J. B. Bachelder—to the Committee on Military Affairs.

Also, preamble and resolutions of General Marion Council, No. 117, order of United American Mechanics, indorsed by Eagle Council, No. 19, of the same order, of Philadelphia, Pennsylvania, against the passage of the Wood tariff bill and against any attempt to make labor appear hostile to capital—to the Committee of Ways and Means.

By Mr. SAMPSON: Memorial of the Legislature of Iowa, asking that arrears of pension be granted James A. Guthrie, a soldier of the Mexican war—to the Committee on Invalid Pensions.

By Mr. SPRINGER: The petition of George W. Watson, for a pension—to the same committee.

By Mr. WILLIAMS, of Michigan: The petition of John Winchell, for a pension—to the Committee on Revolutionary Pensions.

By Mr. WILLIAMS, of Alabama: The petition of citizens of Henry and Dale Counties, Alabama, for a post-route from Columbia, by way of Pleasant Plains and Headland, to Newton, Alabama—to the Committee on the Post-Office and Post-Roads.

By Mr. WILLIS, of Kentucky: The petition of importers of and dealers in foreign merchandise in Louisville, Kentucky, for a new immediate transportation law—to the Committee on Commerce.

Also, papers relating to the pension claim of Margaret A. Ward—to the Committee on Invalid Pensions.

IN SENATE.

WEDNESDAY, May 1, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.
The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of Equity Council, No. 5, Sovereigns of Industry, of the District of Columbia, praying for the enactment of a law by Congress to insure full weight to purchasers of coal, and compel coal-dealers to send the certificate of a properly appointed Government weigher with every load of coal delivered; which was referred to the Committee on the District of Columbia.

Mr. WALLACE presented the memorial of Council No. 233, Order of United American Mechanics, of Pittsburgh, Pennsylvania; the memorial of Council No. 74, Order of United American Mechanics, of Hamburg, Berks County, Pennsylvania, and the memorial of Council No. 23, Order of United American Mechanics, of Olney, Berks County, Pennsylvania, remonstrating against any change in the present tariff laws; which were referred to the Committee on Finance.

Mr. DAVIS, of Illinois. I present a petition signed by a large number of merchants in Chicago, praying for the passage of a law giving permission to any and all persons and companies, without preference, to land telegraphic cables on the shores of the United States, and through them keep up telegraphic communication between this and other countries, to abolish the monopoly. I move its reference to the Committee on Foreign Relations.

The motion was agreed to.

Mr. GARLAND presented a memorial of the Choctaw Nation, ask-

ing for a settlement of their claims arising under the treaty of 1875; which was referred to the Committee on Indian Affairs.

Mr. HOAR presented a resolution of the Board of Trade of Boston, Massachusetts, in favor of an appropriation to enable the Light-House Board to introduce into such harbors or other positions as they may deem best one or more of the Courtenay automatic signal buoys; which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. COCKRELL, from the Committee on Claims, submitted a report, accompanied by a bill (S. No. 1173) for the relief of R. W. Corbin.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. McMILLAN, from the Committee on Claims, to whom was referred the bill (S. No. 965) for the relief of Eunice J. Stockwell, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Mrs. Mary Dove, of Utica, New York, praying compensation for the use and occupancy of her property in Nashville, Tennessee, by United States forces during the late war, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. HARRIS. The Committee on Claims, to whom was referred the bill (S. No. 714) for the relief of Joseph E. Moore, have had the same under consideration and instruct me to make an adverse report. The bill was introduced by the Senator from New Jersey [Mr. CAMPBELL] who is not now in his seat. I should like to reserve to him the right to have the bill placed upon the Calendar if he should desire it.

The PRESIDENT *pro tempore*. The bill will be placed upon the Calendar.

Mr. HARRIS. But I am instructed to ask that it be indefinitely postponed.

Mr. BECK. Let it go on the Calendar.

Mr. HARRIS. Very well.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. McMILLAN. I ask that the same order be made with regard to the petition of Mrs. Mary Dove, which I have just reported.

The PRESIDENT *pro tempore*. It is so ordered.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (S. No. 367) for the relief of Louisa Albertson, of Dallas, Texas, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. MAXEY, from the Committee on Commerce, to whom was referred the bill (S. No. 1044) granting a site for a dry-dock in the city of Baltimore, upon certain conditions, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. HOAR, from the Committee on Claims, to whom was referred the petition of Nannie Hall, a citizen of Yazoo County, Mississippi, praying compensation for cotton seized and appropriated by United States forces during the late war, submitted a report thereon, accompanied by a bill (S. No. 1174) for the relief of Nannie Hall.

The bill was read twice by its title, and the report was ordered to be printed.

BILLS INTRODUCED.

Mr. McMILLAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1175) for the relief of the assignees of John Link, S. J. Harper, Aaron Link, David Evans, and Thomas Loveless; which was read twice by its title, and with the accompanying papers, referred to the Committee on Claims.

Mr. GARLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1176) providing for a commission to examine into the subject of the tariff, with a view of facilitating legislation in reference thereto; which was read twice, and referred to the Committee on Finance.

Mr. CONKLING (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1177) for the relief of Florian Grosjean; which was read twice by its title, and with the accompanying petition, referred to the Committee on Patents.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BAILEY, it was

Ordered, That the petition and accompanying papers of James H. Johnson, for recruiting, &c., be taken from the files of the Senate and referred to the Committee on Military Affairs.

AMENDMENT TO POST-ROUTE BILL.

Mr. PADDOCK submitted an amendment intended to be proposed by him to the bill (H. R. No. 4286) to establish post-roads in the several States therein named; which was referred to the Committee on Post-Offices and Post Roads, and ordered to be printed.

ELIZA A. SEMPLE.

Mr. VOORHEES. The bill (H. R. No. 989) granting a pension to Mrs. Eliza A. Semple was reported adversely on the 18th of March by the Senator from Kansas [Mr. INGALLS] and indefinitely postponed. I wish to move that the indefinite postponement of it be reconsidered and the bill be recommitted to the Committee on Pensions. I do this

because I am advised that there are additional facts which ought to be considered by the committee, and I do it with the concurrence of the Senator from Kansas.

The PRESIDENT *pro tempore*. Is there objection to the reconsideration of the vote by which this bill was indefinitely postponed? The Chair hears none, and the bill is recommitted to the Committee on Pensions.

TARIFF LEGISLATION.

Mr. BLAINE. I move to take up the resolution which I offered a week since on the subject of the tariff.

The motion was agreed to; and the Senate proceeded to consider the following resolutions, submitted by Mr. BLAINE on the 22d instant:

Resolved, That any radical change in our present tariff laws would, in the judgment of the Senate, be inopportune, would needlessly derange the business interests of the country, and would seriously retard that return to prosperity for which all should earnestly co-operate.

Resolved, That in the judgment of the Senate it should be the fixed policy of this Government to so maintain our tariff for revenue as to afford adequate protection to American labor.

The PRESIDENT *pro tempore*. The pending question is on the amendment of the Senator from Arkansas, [Mr. GARLAND,] which will be reported.

The CHIEF CLERK. It is proposed to add to the resolution:

And the Committee on Finance is instructed to report a bill at as early a day as possible providing for a commission to examine into the subject of the tariff and report the result of such examination, with such suggestions as it may consider proper, at the next session of Congress.

Mr. BECK. I ask if discussion will necessarily close upon these resolutions at the end of the morning hour?

The PRESIDENT *pro tempore*. Discussion will close at the expiration of the morning hour.

Mr. BLAINE. I was in hopes that the Senate might be willing to vote upon the question without any prolonged discussion. The very object of the resolutions was, as the Senator from Kentucky will observe, to really avoid discussion.

Mr. BECK. I desire to say that the resolution in my judgment ought to be discussed and fully discussed. I propose myself, before it is disposed of, to be heard as fully as I can upon it. I do not know that I can be heard in the morning hour, but I can in two or three morning hours.

Mr. BLAINE. Do I understand that the Senator from Kentucky has a speech three hours in length upon the subject?

Mr. BECK. I have no speech prepared of any length; but I think I can show very good reasons why there should be what I would call a very radical change made in the tariff, and I do not propose to have the resolutions passed through the Senate without giving those observations as fully as I can. I would rather not go on with the discussion this morning, but to-morrow morning I shall be prepared, and I will endeavor to be as brief as I can.

Mr. BLAINE. Some arrangement can be made, of course, by which the Senator can be heard.

Mr. BECK. I desire to say that there are some authorities in the Library which I have not at my desk, and it would take me perhaps fifteen minutes to get them together. I doubt whether I could proceed this morning in justice to myself, but to-morrow morning, if the Senate will allow me, I shall endeavor to state my objections to the resolutions as briefly as I can. I shall certainly seek to be heard before the subject is finally disposed of.

Mr. BLAINE. I should be glad if the Senate would make some arrangement by which the resolution could be placed where discussion would not be limited by the morning hour.

Mr. BECK. I would be very glad of that myself.

Mr. BLAINE. Would there be any objection, Mr. President, to these resolutions coming up as the unfinished business immediately after the disposition of the bankrupt bill to-day?

Mr. DAVIS, of West Virginia. I would inquire whether to-day was not fixed by general consent to consider what is called the resumption bill?

The PRESIDENT *pro tempore*. The Chair will state that there was no such formal expression on the part of the Senate. The present occupant of the chair stated that he would call up the bill at the expiration of the morning hour, at one o'clock to-day, for the purpose of proceeding to its consideration, and no objection was made. That might be considered as common consent.

Mr. BLAINE. Was that an understanding which is binding on the Senate? Of course if it was, I do not desire to interfere with it.

Mr. BECK. If the Senator from Maine will allow me, I desire to say that I received a dispatch this morning, dated West Philadelphia, in these words:

Please state to the Senate the failure of train to connect prevents my reaching Washington in time to speak to-day.

JOHN B. GORDON.

I understood that the Senator from Georgia desired to be heard upon that bill to-day but he will not be here, and therefore to-day the resumption bill will not be likely to be in the way.

Mr. BLAINE. Then why not permit these resolutions to be proceeded with? I ask that the resolutions may be made the order to succeed the disposition of the bankrupt bill.

Mr. FERRY, (Mr. ANTHONY in the chair.) I would say to the

Senator from Maine that last week several Senators urged the early consideration of what is known as the resumption bill. I then stated that there was no disposition on the part of any members of the Committee on Finance to prolong the time before consideration, and so far as I am concerned I was ready to consider the measure last week. I availed myself of an early opportunity to apprise the Senate of my desire to ask the Senate to proceed to its consideration. I understood, there being no objection, that it was tacitly admitted the bill should be taken up to-day. So far as the Senator from Georgia is concerned, if the subject is taken up to-day there will be time hereafter for him to be heard. I understand that the Senator from Indiana [Mr. VOORHEES] desires to express his views upon the subject and will occupy more or less time. I hope the Senator from Maine will not press his objection, but allow the business to come up naturally as was understood.

Mr. MORRILL. I will say that the Senator from Michigan [Mr. FERRY] is prepared to go on this morning as soon as the unfinished business is out of the way, and I understand that the Senator from Indiana [Mr. VOORHEES] will follow him.

Mr. BLAINE. Of course if that be the understanding, I do not want to interfere with it. Then, Mr. President, I ask that if not previous to that time disposed of in the morning hour, these resolutions may be considered by consent of the Senate to follow immediately the disposition of the resumption bill.

Mr. SARGENT. Can the question not be laid aside temporarily and not fix the time for its further consideration?

Mr. DAVIS, of West Virginia. I think there had better be no such understanding. We have been on the Calendar for some time, and there are a number of unobjected cases still undisposed of. I think we ought to go through with them before we enter on new questions. It is well known to all Senators that the Senator from Tennessee [Mr. BAILEY] gave way on some motion which he was about to submit to the Senate to take up a bill, with the understanding that we should go through with the Calendar and that his measure would come up as a special order when the unobjected cases on the Calendar were disposed of. It was, however, believed at that time that before to-day we should get through with the Calendar; but other things have prevented. At the same time the Senator from Michigan [Mr. FERRY] gave notice that to-day he would call up what is known as the resumption bill, and that was agreed to by common consent. I think it due to the unobjected cases on the Calendar that we should go on until the Calendar is finished, and that we should come to no general understanding until it is finished. The resumption bill is to come up to-day, and the bankrupt bill is pending and will have to be acted upon.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Senator from West Virginia objects to the proposition of the Senator from Maine, and it can only be entertained by unanimous consent.

Mr. WALLACE. I have prepared a substitute for the resolutions of the Senator from Maine and the amendment of the Senator from Arkansas, which I ask to have printed, to be presented when the resolutions of the Senator from Maine come up again for consideration.

Mr. MORRILL. Let it be read.

The PRESIDENT *pro tempore*. The Secretary will report the suggested amendment.

The CHIEF CLERK. It is proposed to strike out all after the word "Resolved," where it first occurs, and insert—

That legislation upon the subject of the tariff at the present session of Congress is inopportune and inexpedient.

Mr. WALLACE. This, I think, would be sufficient in view of the fact that all of the memorials which have come to us on the subject of tariff legislation at the present session of Congress have prayed for a commission of inquiry, and we cannot legislate and legislate intelligently until we have such an inquiry and report from a commission. Besides that, the Senator from Arkansas, [Mr. GARLAND,] in accordance with his amendment, has prepared a bill providing for a commission, and this, it seems to me, ought to be a sufficient expression of opinion upon the subject by the Senate. I hope we shall have a vote without division on this subject when it shall be reached.

Mr. BLAINE. I think one of the most mischievous measures in its effects, not of course so designed by the gentleman who may move it, would be to have a roving commission on the idea that when they get through running hither and thither over the country and examining this way and that way about the tariff, certain recommendations are to be made, and certain changes are to take place. Nothing would more effectually unsettle the business of the country than that. That is only having the agitation of the subject which is now disturbing the country by its appearance in Congress transferred to a commission. You only elongate the evil, you only increase it, you only keep drawing it out over a long time. There is no form, in my judgment, which the tariff discussion or tariff legislation could take that would be fraught with more mischief to the country than to have a commission sitting upon it. After they had made their report, it could not affect legislation here or influence the opinion of any person in either branch of Congress one way or the other. We have had a great many of these commissions upon divers and sundry subjects, and I have never known them to do a particle of good, so far as producing a result in practical legislation. It is the very measure which the honorable Senator from Arkansas has moved as an amendment to mine which I should most entirely and thoroughly oppose, and I am

very sorry to hear the Senator from Pennsylvania indicate that he is in favor of it, because it seems to me, as I have said, to multiply and exaggerate the evils which this resolution of mine is intended to eradicate.

Mr. WALLACE. It seems to me that we want information. Certainly neither the Senator from Maine nor myself can say that we know all about this subject. We want men skilled in each vocation heard upon oath before a commission duly constituted to examine experts in that vocation, to report the testimony upon the subject as they know it from the one side and the other upon the iron trade, the woolen trade, chemicals, whatever is to come before us for examination. When the testimony is reported here, when we have it in print before us, we do not need to pay any attention to the conclusions they deduce from the testimony. On the contrary, we can draw from the testimony itself our judgment as to what the proper legislation should be upon the subject.

I want light. Although I presume I know as much as any gentleman on the floor about the peculiar industry of my own State, I want the Senate to hear from men skilled in the art, from men who take different views upon the subject. I desire to bring here sworn testimony by which intelligent legislation may be had upon the subject. How else can you get it? I do not want a roving commission. Gentlemen from this body and the House of Representatives conjoined with three or five other gentlemen to be selected by them would take up each branch of the subject and investigate it and obtain sworn testimony upon it, and report the testimony. If the Senate sees fit, there is no need that they shall report their opinion; but let us have the facts and the testimony upon which we can make up our judgment. This is my view with reference to a commission.

Mr. EATON. I should like to state in relation to what has fallen from the lips of my friend from Maine that I differ entirely with him. I believe the manufacturing interests of New England differ entirely with him upon this subject. I stated three months ago what in my judgment was the true course, and at the proper time, not now, when the measure to appoint a commission is before the Senate, I shall hope to be heard upon the subject, for I have no sort of question that if a proper commission is established a great deal of valuable information could be obtained upon which legislation can be properly had. If any great subject of this character were agitating the people of Great Britain it would have been in a commission years ago, and the most intelligent manufacturers would have been heard for the purpose of enlightening Parliament upon all the great industries of the country. I shall hope to be heard at length on this subject by and by.

Mr. GARLAND. In furtherance of the view expressed in the amendment which I offered the other day, I wish now to introduce a bill. I ask that it be read the first time at length and referred to the Committee on Finance, and when it comes before the Senate I shall give my reasons in brief for proposing the measure.

By unanimous consent, leave was granted to introduce a bill (S. No. 1176) providing for a commission to examine into the subject of the tariff, with a view of facilitating legislation in reference thereto; which was read the first time at length, as follows:

Be it enacted, &c., That a commission is hereby authorized and constituted, to consist of three Senators to be appointed by the Senate, three members of the House of Representatives to be appointed by the Speaker of the House, and three others not members of either House to be selected by and associated with them, with authority to determine the times and places of meeting, to employ a stenographer, and to take evidence, and whose duty it shall be to inquire—

First. Into the relative effects of the tariff under the existing law upon the different industries of the country;

Second. Into the relative effects of the present tariff upon the consumer and producer;

Third. As to the relative merits of the specific and the *ad valorem* systems;

Fourth. What, if any, improper discriminations exist under the present laws;

Fifth. What, if any, changes are necessary to be made to insure a wholesome and judicious law on the subject and to secure its proper enforcement; and especially, if the law cannot be greatly simplified, and the list of dutiable articles diminished, and the law executed at much less expense than it is at present;

Sixth. Into and review the whole tariff system as now existing;

Seventh. The said commissioners to report the results of their examination into the subject above referred to, with such suggestions and recommendations as to them may seem proper to Congress at the earliest day practicable after the next meeting thereof.

The bill was read the second time by its title, and referred to the Committee on Finance.

Mr. BECK. When the Senator from Maine introduced these resolutions the other day I objected to them. I do not propose to make my argument against them now if I can help it. I objected then to the resolutions being acted upon without a full hearing before the Senate. It is a matter which must originate in the House and does not now belong here. I speak only for myself, not proposing to bind any member of the Senate, no matter to what party he belongs, by any views I may entertain or by anything I may say. I believe that all the mischiefs that now press upon us in this country, the reason why we have no commerce, why we are a poor subsidiary nation on the high seas, almost without a ship on the ocean in the foreign trade of any consequence, the reason why we are paying foreign nations a hundred millions a year to do our carrying trade when they used to be and ought to be tributary to us, is because we have built a wall, a Chinese wall, around ourselves and are confining our trade to and among ourselves. In our efforts to exclude the so-called pauper nations of Europe from trading with or selling to us we have given up all the

trade of the world to these very paupers. The wall we have erected is just as high on one side as it is on the other. While we have kept them from reaching us with their goods we have prevented ourselves from reaching all the rest of the world with ours. With such a tariff tax as we now have it is impossible for us to compete with any other nation for the trade of any other people. While we are taxing ourselves so as to compel American citizens to produce everything they seek to export at the highest possible cost and make our own people pay 50 per cent. more than any other people in the world for all they consume, we are by the same act debarring those very people from seeking markets and having commerce and trade abroad by preventing the landing on our shores of everything which can be had in exchange for our products. Until that system is changed there will be no prosperity to this country. I do not care what you may do about greenbacks or gold or anything else, the restrictions on trade are tightening around us every day and we are becoming poorer and poorer while other nations are becoming steadily enriched at our expense.

We are practicing a fraud upon our people. We are not protecting human labor by our protective tariff. We are protecting machinery. We are protecting machinery that is the slaves of the men who own it. That machinery is driving out of the manufacture of products hundreds and thousands of human beings every year. We have machinery to-day in this country that can do the work of one hundred and seventy-five million men. I think it can do the work of two hundred millions, but the report shows one hundred and seventy-five millions. Each machine that is invented and put in operation drives from the manufacture of the articles that it manufactures all the human labor that formerly did its work. I repeat that hundreds and thousands of human beings were at one time earning an honest living by doing the work that machinery now performs. That machinery needs no protection. That machinery is equal to any machinery in the world, and it is all owned by two or three thousand people who receive all the profits of the protection given. They have a monopoly to-day of the trade of this country, and when they have by their machinery manufactured enough to supply the wants and demands of this country they stop until the stock is so far reduced that they can go on and manufacture more, or they run on half time and pay diminished wages and keep their poor laborers starving until they can start their slaves again. Why should all the people be taxed to protect machinery, which neither eats, drinks, nor requires clothing when idle.

That is what we are protecting, and a few men who are seeking to maintain the present protective system say it is against all the interests of the country that we should modify our present tariff and take the burdens off trade and allow the people of this great country to deal as all other people deal, with the people of the world selling and buying on the best terms instead of being confined to our own operations with each other. I, as a member of the democratic party, was in the Saint Louis convention in 1876, and when that great party met it unanimously declared that—

Reform is necessary in the aim and modes of Federal taxation to the end that capital may be set free from distrust and labor lightly burdened. We denounce the present tariff levied upon nearly four thousand articles as a masterpiece of injustice, inequality, and false pretense. It yields a dwindling not a yearly rising revenue. It has impoverished many industries to subsidize a few. It prohibits imports that might purchase the products of American labor. It has degraded American commerce from the first to an inferior rank on the high seas. It has cut down the sales of American manufactures at home and abroad and depleted the returns of American agriculture and industry followed by half our people. It costs the people five times more than it produces to our Treasury; obstructs the processes of production and wastes the fruits of labor. It promotes fraud, fosters smuggling, enriches dishonest officials, and bankrupts honest merchants. We demand that all Custom-House taxation shall be only for revenue.

Every word and syllable of that is true, and I can maintain its truth and make it good.

Mr. WALLACE. Will the Senator answer me whether the same party, at its preceding convention, did not remit the whole subject to the congressional districts?

Mr. BECK. It did, and I want it to remain so, to see if gentlemen are elected or defeated upon the question whether they are in favor of a few manufacturers and monopolies against the whole people. I am not interfering with the districts. But does the Senator mean to say that it could be remitted to the districts to legislate upon it? How could the districts legislate? Where can they act except in Congress? If an evil system is upon us, such as is set forth in the bill which was read a moment ago, can any any power but Congress relieve the people from its effects.

Mr. SARGENT. Will the Senator allow me a question?

Mr. BECK. Certainly.

Mr. SARGENT. Did not the previous convention remit it to the districts because they were embarrassed by the fact that they had nominated the chief exponent and defender of protection in the United States?

Mr. BECK. Oh, well, I do not want to go into a squabble about that; perhaps they did. We have been run for the last seventeen years under all sorts of rings and combinations of wealth. Bondholders and national bankers and private monopolies and all sorts of rings have controlled the legislation of this country. It may be that they had power at one time in the democratic party to make it hesitate on a great question like this. I would not be surprised if they had; but at the last convention they made the issue fairly, and in the

resolution which I have just read, every word of which I affirm is true, they said that American labor ought to be protected, not these combinations. I have before me a statement which I cut out of a paper, made, I will not say where, not in this hall, but by a very distinguished man, which I shall read. Perhaps Senators will see where it came from:

I am reminded in this connection of a single petition, signed by over one hundred thousand laboring-men of this country—coming from seventeen States of the Union, brought here by three of its own number, demanding an increase of at least 10 per cent. upon the present rates of duty.

Mr. Chairman, I doubt if any of the gentlemen of this House have read the memorial of these laboring-men, for by a single objection it was excluded from the pages of the RECORD, and I propose at this time to read it:

To the Senate and House of Representatives of the United States of America in Congress assembled:

"We, citizens of the United States, believing that the permanent prosperity of the people of the United States can be secured only by the complete protection against foreign competition of all domestic industry, do respectfully petition for a revision of existing tariff laws by an increase of at least 10 per cent. of the present rates, and especially that, to prevent frauds, the same imports be levied upon old as upon new railroad iron; and that all imported iron shall be subject to a protective duty.

We do further petition that in such revision the rates upon all imports be adjusted to accomplish, as nearly as possible, these results: first, absolute protection of all domestic products in the domestic market; second, the largest revenue upon all imported luxuries not produced in this country; and, third, to permit all uncompetitive articles of necessity or of general use, as tea and coffee, to go to the people untaxed."

This, I say, was signed by over one hundred thousand laboring-men of the country. And you will observe that it does not demand a reduction of the duties upon imports, but it demands an increase, and in case of a revision of the tariff it announces the true principles on which such revision should be made; and these principles have been wholly ignored by the committee which prepared this bill, as I shall show hereafter.

That is the character of petitions which are obtained by manufacturers from the laboring-men of this country, a petition to do what is absolute destruction to them, signed, I have no doubt, in many instances by the orders of their employers. There are petitions here, and I have presented some of them, by the hundred where all the signatures were in the handwriting of one man, and he perhaps the manager of the manufacturing establishments. We have had protection. God knows we have had nothing else for the last twelve years. I would like to know where all the immense profits made by the manufacturers by virtue of the protection they have unjustly maintained in the last twelve years have gone. It is obvious that their employes have not been the beneficiaries. They are, it is claimed, in a starving condition. Thousands are reduced to beggary, and have become tramps instead of industrious operatives. Protection has not protected them. Each new protected machine which performs their work drives them out of the workshops in which they earned their daily bread, and their former employers care for them no more. But the palatial residences, the magnificent equipages, the princely style of living of these protected owners of that machinery attest where the profits of their sweat and toil and the money of the tax-payers all over the land has gone. And the clamor they are making in these halls, the lobbies they have organized, the newspapers they have subsidized, the arrogance with which they demand the maintenance of these bounties in perpetuity attest equally their insolence and their confidence in their power.

They have the audacity to require their operatives, the victims of their greed, to petition the representatives of the people for a continuation of the system which has produced these results, and they set themselves up as the special guardians of the laboring poor. Representatives in these halls are threatened with defeat if they dare to oppose and are lured by promises of promotion if they obey their orders. "The poor are becoming poorer and the rich richer, extreme poverty and immense fortunes are brought in sharp contrast, and the masses are used by their masters to influence legislation to still further enrich the already over-protected few and to add to their own poverty and degradation.

If the manufacturer, instead of getting 50 per cent., which he gets now by a tariff-tax upon the people of this country, had to content himself with 10 per cent. above the value of his goods in open market, which he could obtain by fair competition in the markets of the world, he could not close his establishments when he pleased, but his laborers would have employment day by day and every day in the year at full, fair, honest wages. It is because he can control a restricted market for his goods, which he can glut as often as he pleases, because our machinery has increased to such an extent that it can produce four times—yes, ten times—what the people of this country can consume, that when it has produced as much as can be safely held, without reducing the price below the foreign cost and the tariff added, the mills and factories can be closed and the workmen left to starve. The laborers are the victims of protection; it does not protect them.

The clamor of protection to labor and home industry is all a fraud; the tariff is not in the interest of laboring people, but in the interest of the owners of the machinery that manufactures all. The laborers only manage it and oversee it. When it stands idle it neither eats nor drinks nor requires clothing. The original cost is all the cost or expense there is about it, and its owners can let it stand idle until the market is sufficient to enable them to get their profits again by excluding competition with the people of all other nations, making the unprotected masses of this people pay for all.

A great parade was made the other day, and very properly, at the

lanch of the City of Para. The President and his Cabinet were there; distinguished Senators and Representatives went. That will serve as an illustration of my position on the effect of tariff taxation. Mr. Roach may be able to build his ship as cheaply as it could be built on the Clyde, if you please, and Mr. Atkinson and others of Boston may be able to load her with cotton goods as cheaply as an English ship of equal size could be loaded from Manchester or Liverpool, if you choose; she and the English ship may meet at the capes of Delaware, and may sail side by side to Valparaiso in Chili, and they may offer their goods in the same market at the same price. The English would sell their goods promptly; but Mr. Roach cannot sell at all. Why? Because the people of Chili have no money, but they have copper ores and all other sorts of ores, they have wool and a thousand other things, all of which the English merchant is glad to get and exchange his goods for. All trade is barter; he takes what these people have in exchange for his cotton goods, reloads his ship, gets his freight both ways, and carries it to England and lands it free of duty. What follows? He starts the mills in Birmingham and Manchester, employs these very paupers that we are all so much afraid of and their products are started out again on a new adventure made out of the material thus obtained.

Mr. Roach cannot sell his goods. Why? I have said those people have no money and do not pretend to have. He cannot take what they have to sell because he can neither land his copper, his wool, nor anything else that he might obtain in exchange for his cargo at any port of the United States until he has paid 40, or 50, or 60, or 70 per cent. in gold for the privilege of landing it. Therefore our factories which need all these things stand idle and our operators are beggars while the English ship has returned with her goods and started the masses of their people to work. Chili is a small country with only two millions of people. Her trade is \$73,000,000 a year. England sends her fifty-five million yards of cotton goods every year and we send less than five million although we are much nearer that country. What is the case there is the case everywhere else. I only selected that as an illustration. Every market in the world is closed to us by our own folly. You may build ships, you may send them out, you may tax the people to subsidize them, but they cannot bring return cargoes home because of this infernal tariff. That is why our operatives are lying idle and starving; and yet Senators gravely rise up here and tell us that it is a great mistake to open up the trade of the world or to change a system which is producing such results.

The time is rapidly arriving—it may not be here quite yet, but it is coming and coming very soon—when the men on this floor and at the other end of the Capitol, who so legislate as to protect the machinery of any set of monopolists and make the people of this country pay for everything they need and are compelled to have nearly double what the people of any other country pay, and then forbid them to sell them in the markets of the world by refusing to take in exchange what other people have to give in exchange for them, will not be in their places here any longer. Other men will come who will remove restrictions from trade and enact a revenue instead of a protective tariff. There is no justice, there is no equality, there can be no fairness in a tariff like this, and nobody here pretends that there is. Many years ago Sydney Smith gave good advice to the American people. I will read it; it has been often read before. We are in exactly the condition that he said we would be in.

Mr. President, I did not expect to proceed with this argument to-day. The Senator from Maine [Mr. BLAINE] now asks me not to occupy all the residue of the morning hour. I will not, but as I started to do so I will read one or two extracts. I shall begin with that from Sydney Smith in which he was giving Brother Jonathan good advice, and as I said I will continue to resist the resolution of the Senator from Maine if I have to speak ten, twenty, or any other number of minutes each morning hour. The resolution shall not pass without opposition. I wish I could get a fair hearing. Sydney Smith said:

We can inform Jonathan what are the inevitable consequences of being too fond of glory. Taxes upon every article which enters into the mouth, or covers the back, or is placed under the foot; taxes upon everything which it is pleasant to see, hear, feel, smell, or taste; taxes upon warmth, light, and locomotion; taxes on everything on earth and the waters under the earth—on everything that comes from abroad or is grown at home; taxes on the raw material; taxes on every fresh value that is added to it by the industry of man; taxes on the sauce which pampers man's appetite, and the drug that restores him to health—on the emine which decorates the judge and the rope which hangs the criminal—on the poor man's salt and the rich man's spice—on the brass nails of the coffin and the ribbons of the bride—at bed or board, couchant or rampant, we must pay. The schoolboy whips his taxed top, the boardless youth manages his taxed horse, with a taxed bridle, on a taxed road; and the dying Englishman, pouring his medicine, which has paid 7 per cent. into a spoon that has paid 15 per cent., flings himself back upon a chintz bed which has paid 22 per cent., and expires in the arms of an apothecary who has paid a license of a hundred pounds for the privilege of putting him to death. His whole property is then immediately taxed from 2 to 10 per cent. Besides the probate, large fees are demanded for burying him in the church; his virtues are handed down to posterity on taxed marble, and he is then gathered to his fathers to be taxed no more. In addition to all this, the habit of dealing with large sums will make the government avaricious and profuse; and the system itself will infallibly generate the base vermin of spies and informers and a still more pestilent race of political tools and retainers of the meanest and most odious description; while the prodigious patronage which the collecting of this splendid revenue will throw into the hands of government, will invest it with so vast an influence and add such means and temptations to corruption, as all the virtue and public spirit even of republicans will be unable to resist.—*Wit and Wisdom of Rev. Sydney Smith*, pages 187, 188.

My friend, Mr. Marshall, of Illinois, a few years ago presented the facts to the American people, in a speech made in the House of Rep-

resentatives, in which the condition of our people is as truthfully described as in the epigrammatic presentation of Sydney Smith. Mr. Marshall said:

Take the strongest man, in the vigor and health of a robust manhood; tap the smallest of his veins from which a drop of blood can be taught to flow; conceal the puncture from him, and day by day, drop by drop, let this imperceptible stream continue to flow, and the strong man, though unconscious of the loss, will be exhausted, and if it is not stopped decay and death are inevitable.

So it is with the people of the West. They have been tapped by the protective system. A ceaseless stream flows ever from their veins, unconsciously to many of them. They are paying taxes every day of their lives on every tool they use, on everything they eat, drink, or wear.

The farmer starting to his work has a shoe put on his horse with nails taxed 67 per cent., driven by a hammer taxed 54 per cent.; cuts a stick with a knife taxed 50 per cent.; hitches his horse to a plow taxed 50 per cent., with chains taxed 67 per cent. He returns to his home at night and lays his wearied limbs on a sheet taxed 58 per cent. and covers himself with a blanket that has paid 250 per cent. He rises in the morning, puts on his humble flannel shirt taxed 80 per cent., his coat taxed 50 per cent., shoes taxed 35 per cent., and hat taxed 70 per cent.; opens family worship by a chapter from his Bible taxed 25 per cent., and kneels to his God on a humble carpet taxed 150 per cent. He sits down to his humble meal from a plate taxed 40 per cent., with knife and fork 35 per cent., * * * with sugar 70 per cent.; seasons his food with salt taxed 100 per cent., pepper 297 per cent., or spice 359 per cent. He looks around upon his wife and children all taxed in the same way, takes a chew of tobacco taxed 100 per cent., or lights a cigar taxed 120 per cent., and then thanks his stars that he lives in the freest and best Government under heaven. If, on the Fourth of July, he wants to have the star-spangled banner on real hunting, he must pay the American Bunting Company of Massachusetts 100 per cent. for this glorious privilege. No wonder, sir, that the western farmer is struggling with poverty and conscious of a wrong somewhere, although he knows not whence the blow comes, that is chaining him to a life of endless toil and reducing his wife and children to beggary.—*Hon. S. S. Marshall, of Illinois, on tariff, March 29, 1870: Congressional Globe, second session, Forty-first Congress, page 240.*

Hon. FERNANDO WOOD the other day, in a speech which he made, gave a list of taxes paid by the farmer varying somewhat from those given by Mr. Marshall, which are equally potent and very well presented. He said:

The farmer, whose whole mind is bent on his agricultural pursuits, has neither the time nor opportunity to investigate the influence of the tariff tax on his household expenses; it is a fact, however, that every article he uses is either directly subject to a tariff tax or enhanced by the tariff. Let us enumerate these burdens: the farmer's house in the West, where lumber is scarce, pays either a direct or enhanced tax of 20 per cent. on the lumber his house is built of; a tax of 35 per cent. on the paint it is painted with; of 90 per cent. on his window-glass; of 35 per cent. on the nails; of 53 per cent. on the screws; of 30 per cent. on the door-locks; of from 35 to 40 per cent. on the hinges; of 35 per cent. on the wall-paper; of from 60 to 70 per cent. on his carpet; of 40 per cent. on his crockery; of 38 per cent. on his iron hollow-ware; of 35 per cent. on his cutlery; 40 per cent. on his glassware; of from 35 per cent. to 40 per cent. on the linen he uses in the household; of 51 per cent. on the common Castile soap he uses; 48 per cent. on the starch. When he goes into his stable, barn, or workshop he will find that he pays 35 per cent. on the iron he uses; 53 per cent. on the balter-chains; 45 per cent. on the files and rasps he may use; 47 per cent. on the backsaw; 49 per cent. on cross-cut saw; 38 per cent. on the landsaw, and 35 per cent. on any sheet-iron he may require. On his medicines he pays 20 per cent.; on the quinine pills he swallows, 20 per cent.; on blue pills, 40 per cent., and 40 per cent. on any medicinal preparations. The female portion of his house cannot even go into hysteria without paying a tax of 20 per cent. on asafetida that may be required to quiet their excited nerves. On his sugar he pays a tax of at least 60 per cent. As for the clothing he and his family uses, let me enumerate the tax separately: on his wool hat he pays from 60 to 80 per cent.; on his fur hat, from 45 to 60 per cent.; on his suit of woolen clothes some 55 per cent.; on the leather for his boots and shoes, 25 per cent.; on his hosiery, 35 per cent.; on his wife's and daughter's common alpaca dress he pays 65 to 70 per cent.; on spool-thread, 70 per cent., and on the needles, 35 per cent. If I were inclined to pursue these topics further it would take up too much time; suffice it to say that the furnishing of his child's cradle and the coffin in which he is finally buried pay a direct tax or are enhanced in price by our tariff system.

These illustrations show the condition of the people of the country. How, I ask, can we produce anything we are compelled to sell as cheaply as other people when the wages that the men of other countries obtain will buy double what the wages paid to our people will buy for them. Men do not work for money; they work for what money will buy. The money they obtain is only the pound weight, the yard-stick, the bushel measure; if they pay \$6 for a coat that is worth \$3, or pay \$3 for a calico dress, for their wives, worth \$1.50, and so in proportion for all the thousands of articles necessary for family use, it takes double the wages to enable them to earn as much as it does people who have the privilege of buying at what the thing is worth. What use is high wages if they will not buy what people must have? The whole trouble is in our high protective tariff system, maintained in order to build up and enrich the manufacturers, not the laborers, and to enable them through their machinery, their slaves, I repeat, that neither eat nor drink nor wear, to furnish this country with everything, by closing the markets of the world to our products, and driving into starvation by the use of this very machinery the people that had been employed before to do the work; that has brought us all to poverty and our workmen to beggary; that has driven our ships from the seas, given our commerce into the hands of other nations, and made us now dependent upon foreign powers to reach any other country, and when we get there, as everybody knows, with what we do raise, we are compelled to sell at the foreign market price, unprotected, five-sixths of all our exports being agricultural products that are not protected and cannot be protected, we cannot exchange or trade without paying 44 per cent. average tariff tax to home manufacturers for the privilege, and if we buy goods to bring home we must put them on board foreign ships, after we have sold everything we have to sell as cheaply as any paupers from the Mediterranean or from Russia or anywhere else will sell the same things in the same market. We are crippled both ways by the folly, to use no harsher word, of our own tariff legislation. But I have no

time to discuss anything. I was forced into this without preparation, but it shall be discussed if I have to speak, as I said, every day.

I intend, rather than this question shall pass without full discussion, to take the three reports made by Hon. Robert J. Walker, Secretary of the Treasury, and read them as part of my remarks. I wish Senators would read them—made in 1845 and 1846, and especially his great report of December, 1847. They show how in the midst of the Mexican war he overthrew by the force of his arguments the protective tariff of 1842 and inaugurated the tariff of 1846, which remained, with slight modification in 1857, until 1860, and was overthrown only after the war began. He showed by those reports in a way that no man can answer how protection everywhere and at all times and in every form is fatal to the labor of the country; how reduced tariffs increase the wages of the laborer and increase the revenue and prosperity of the country; nothing is more certain than this: that until we pull down all the barriers that prevent us from getting a fair share of the world's commerce we shall be a poor, subsidiary nation. The whig statesmen of that day tried to make the country believe that in time of war it could not be done; yet it was done, and after a year's experience he made the report of 1847, a portion of which I intend to read to the Senate before this resolution is acted on, so that it shall get on the record once more and the laborers who are now petitioning us to still further oppress them will see what is the truth and what is their true interest. His facts and arguments have never been answered, never will be answered, and never can be answered, for they are founded upon truth and justice.

Mr. President, I promised the Senator from Maine that I would quit speaking before the close of the morning hour and would leave him a few minutes of the hour; but I desire to say that I will resume this subject at the earliest opportunity and make good what I stated, that the democratic platform of 1876 contains the truth and nothing but the truth; that there can be no prosperity in this country until we adopt and maintain all its principles. I know the disadvantage of discussing questions like this by snatches, but I cannot help it and must make the most of it.

Mr. BLAINE. The honorable Senator from Kentucky was to have left me ten minutes; but in the ardor of debate he was carried a little beyond it.

Mr. BECK. That is true; I beg pardon.

Mr. BLAINE. I ask the Senate simply for ten minutes.

Mr. BECK. I expected to leave more time for the Senator.

The PRESIDENT *pro tempore*. Is there objection to the Senator from Maine being allowed to proceed? The Chair hears none.

Mr. BLAINE. Mr. President, the honorable Senator from Kentucky [Mr. BECK] quite prematurely, and without my expectation, launched forth into an argument on the subject of the tariff; and very naturally, taking the side he does, he quarrels with the civilization of the nineteenth century. He says it is the machinery that is to blame. We have got machinery in this country, he says, that will do the work of one hundred and seventy-five million men, and there is where all the trouble is. Of course the logical result of the Senator's argument is to abolish the locomotive, the steam-engine, and all the modern appliances of transportation and manufacture, and go back to the hand-loom and the wagon.

Mr. BECK. Oh, no; I beg pardon.

Mr. BLAINE. I did not interrupt the Senator, and I hope he will allow me to get through my argument.

Mr. BECK. You surely will not say that I intended any such thing as that.

Mr. BLAINE. I do not see any other result. The Senator says the whole trouble grows out of the fact that we have labor-saving machinery.

Mr. BECK. Allow me to put the Senator right there. My argument was that we need no protection, because we have machinery equal to any other machinery and that machinery can compete in the markets of the world. I wish we had more.

Mr. BLAINE. The Senator said—he may correct his argument now—that we had the machinery here, which was the slave of the owners of it, that they could command it to stand still or to turn when they chose, that the laborer was their servant, and that he had no independence outside of the machinery. I do not understand any logical result or see how the Senator can free the laborer from the position he puts him in, but by abolishing the machinery. I do not understand it otherwise. And I think among the anomalies that American politics turn up—and we meet many of them in this Chamber—among the strange contradictions that history develops is that the seat of Henry Clay in the Senate of the United States should be the place from which a free-trade argument to overthrow the American system and take the side of the free-trader should be made. It is one of the anomalies of American politics; and the argument of the Senator from Kentucky goes right back to what was said before the war by a distinguished southern man, that he hoped to see the day when the old barter between the English ship that was anchored in the Savannah or the Potomac or the Cooper or the Ashley should be resumed with the planter who shipped directly to England; and it is that spirit to-day which holds in manacles and paralyzes the development of the southern country.

The Senator recalled to us the great tariff of Robert J. Walker and cited to us the vast achievement of political philosophy and economy that man presented to us in his three reports of 1845, 1846, and 1847.

Well, the tariff of Robert J. Walker had abundant opportunity to "run and be glorified" in this country, and it ran us into bankruptcy and want and ruin. It was modified in 1857, going still further in the same direction. The years 1857, 1858, 1859, and 1860 were years of prostration and financial ruin and wide-spread disaster and want, in which the laborer was not employed. Those four years were much more severe in many portions of this country than even the four past years which we have just gone through.

So, when the Senator presents to us the fact that Robert J. Walker established the tariff of 1846, he presents it as a beacon of warning to every man who remembers its effect throughout the length and breadth of the manufacturing industries of this country.

There we see developed a little collision between our friends on the other side. When the Senator from Kentucky was laying down the Simon Pure democratic doctrine as it was announced at the last national sanhedrim of that party, the Senator from Pennsylvania put in an exception, and the Senator from Pennsylvania said that it was fully understood that the free-trade side of the tariff question was not to be a democratic doctrine, but that all the congressional districts were to be left to determine that matter for themselves. Everybody knows that was a contrivance got up for the benefit of gentlemen placed exactly in the delicate attitude of the Senator from Pennsylvania, who have protective-tariff constituents behind, allied with the free-trade party in the country at large, and the guise which was made and attempted for the benefit of Mr. Greeley in his campaign was boldly thrown off at Saint Louis when Mr. Tilden became the standard bearer.

The Senator from Kentucky warned us that the trouble is radical, and he called up the fact of an American ship being launched a few days since on the Delaware; and he said you may build that ship at the same rate that an English ship is, load her with goods manufactured in this country as cheaply as in England, and send her to her port, and the trouble is she has nothing to bring back. I wish the Senator would give me his attention this moment.

Mr. BECK. I am trying to.

Mr. BLAINE. The trouble is that we have nothing to bring back, the Senator says. Well, he was singularly unfortunate in his allusion, because of a total export annually from Brazil of less than \$90,000,000 we take \$40,000,000; of a total export from Brazil of \$500,000,000 within the last six years we have taken well-nigh \$250,000,000. The Senator says the trouble is that we may sail our ships wherever we please but we can get no return cargo. I suppose the idea is that we had better take our coffee and dyewoods and other things of that sort from Brazil in British bottoms.

Mr. BECK. Will the Senator allow me to say that I referred to vessels sailing to Valparaiso and trading with Chili? and every fact I stated is true, and I hold evidence in my hand, compiled by Mr. Wells in a little work that the Senator from Maine would do well to read, giving exactly the facts that I stated. As to Brazil, we have more trade with her because coffee has been made free lately; and that is the only reason we trade with Brazil.

Mr. BLAINE. We took scarcely less coffee when it was taxed.

Mr. BECK. I never mentioned Brazil in my remarks.

Mr. BLAINE. The Senator mentioned the City of Para and the port to which she was destined to run. The City of Para was launched for a Brazilian line, and all the parade of Congress and the President that went over there was to inaugurate that line. Is not that the fact? You may mention any other South American port, but you do not change the argument a particle. We take a great deal more from all these countries than we send to them, and yet the Senator says the trouble is we can get no return cargo. His argument does not stand at all.

Mr. President, there is no more hurtful agitation to-day in this country than the agitation of the tariff. The Senator talks of a lobby being here. That is always the cry. When anything comes up "there is a lobby!" Has the Senator seen a tariff lobby here?

Mr. BECK. I served upon the Committee of Ways and Means in the House under the distinguished Senator from Massachusetts [Mr. DAWES], and our room was full of them from the time we met until we adjourned demanding more protection.

Mr. BLAINE. When the gentleman was on the Committee of Ways and Means the persons interested in the tariff were coming there to give testimony, they were coming to give just what you propose now to get a commission to give. They were coming in there to give you voluntarily what you propose to get a roving commission rambling all over the country to inquire into.

Mr. BECK. I am not a member of the present Committee on Finance, and how far their rooms are filled I cannot tell, but I know that there are men here from all parts of the country resisting the reduction of the tariff.

Mr. BLAINE. Very well. Now I ask the Senator from Kentucky another question. Does he know of, has he seen a petition presented in either House of Congress at the present session for a repeal or modification of the present tariff?

Mr. BECK. I will answer the Senator that the great unorganized mass of the people have nobody to speak for them.

Mr. BLAINE. Ah!

Mr. BECK. It is only the classes that are interested who come here. Did the Senator ever know of petitions asking for a reduction of taxes?

Mr. BLAINE. What is to hinder the great unorganized mass of

people out in Kentucky sending petitions to their distinguished Senator to be presented here?

Mr. BECK. Because they have to rely on their representatives on this floor and the other to speak for them; but it is men who want something, special protection, to tax all the people to give them more, that are always here asking for more. Of course the people who are interested are scattered all over the country, and can neither organize nor get together. They have no clubs, they have no rings, they have no associations through which they can speak.

Mr. DAWES. The Senator from Kentucky has alluded to his service upon the Committee of Ways and Means in the House of Representatives, and said that the room of the Committee of Ways and Means was crowded with men demanding more protection. Does the Senator mean to say that there was one more man in the room of the Committee of Ways and Means demanding protection than there were men demanding that the tariff should be reduced? Does not the Senator know that there were organizations represented before the committee, whose sole purpose it was to institute just such a tariff as the tariff of 1846? They had their organs here; they had their office in this city; they had their bureau; they had their men employed on a salary here who were in the room of the Committee of Ways and Means day in and day out urging their consideration upon the committee; and the result of it all was that they were discomfited and routed in the argument, and they have been quiet from that day to this.

Mr. BECK. I never heard of organizations of that sort. There may have been, and the Senator from Massachusetts may know of them.

Mr. DAWES. If the Senator from Kentucky has forgotten the names of those who represented those organizations, I can give them to him.

Mr. BECK. What organizations were they?

Mr. DAWES. There was an organization represented by a man of the name of Grosvenor from Missouri here, who had a bureau on Pennsylvania avenue, and who urged upon that committee a system of tariff which would put the manufactured article below the raw material in the duty; and when I suggested to him to make a tariff and bring it to the committee-room which would raise a revenue that would defray the expenses of the Government and pay the interest of the national debt upon his principle and I would submit it, he utterly failed and confessed his inability to do it. The Committee of Ways and Means had to meet this question to raise revenue for the country and pay the interest of the public debt and say whether they would put the duty for that purpose on the raw material or upon the manufactured article, and the Committee of Ways and Means came to the conclusion, after having heard all parties, that it was wiser to put it upon the manufactured article than upon the raw material; and the policy of that committee was to put the raw material, wherever it was produced, at the door of the shop of the manufacturer as cheaply as it was possible to do it, taking off the duty and reducing the transportation, putting it at the door of the manufacturer as cheaply as possible, and put the duty upon tea and coffee and upon the manufactured articles to meet the exigencies of the country.

Mr. BLAINE. But there was one very remarkable exception of raw material, and that was hemp, which was produced by the State of Kentucky. While they took good care to make almost all other raw materials cheap, I think the honorable Senator from Kentucky wisely looked out for his own State and got a very large duty put on hemp, jute, and all kindred grasses.

Mr. BECK. I desire to say to the Senator from Maine and the Senator from Massachusetts that they are unfortunate in their facts, because they are not true. That is a sufficient answer to them, and the record will show it; and I will show it here when I get an opportunity.

Mr. BLAINE. All I know on that point is that the Senator from Kentucky was a member of the Committee of Ways and Means and that in the tariff bill reported there was a very large protection, which I believe still exists, on hemp. It was exceptionally large, as contrasted with the other raw materials needed for the manufactures of this country, and I always gave credit to the Senator from Kentucky, who is a watchful and able and zealous representative of his constituents, for getting that protection put in. He took good care to have his own door-step swept very clean, but seems to have cared very little about what became of his neighbors.

Mr. BECK. That is all very smart. I have answered that the facts are not so, and I will show it to-morrow when I get a chance.

Mr. BLAINE. If the Senator can show that there has not been from the time he was a member of the Committee of Ways and Means an exceptionally heavy duty on hemp, then he can show that I am mistaken and I will very gracefully, or as gracefully as I can, acknowledge it; but I think the Senator from Kentucky will not be quite able to show that fact.

I do not want to trench upon the time given to other measures before the Senate; but this matter I hope will come up when we can have a freer discussion.

Mr. HILL. I think we ought to have the regular order.

Mr. CHRISTIANCY. I call for the unfinished business.

The PRESIDENT *pro tempore*. The unfinished business is before the Senate.

BANKRUPT-LAW REPEAL.

The Senate resumed the consideration of the amendments of the House of Representatives to the bill (S. No. 35) to repeal the bankrupt law.

Mr. CHRISTIANCY. I move that the Senate concur in the first amendment of the House.

Mr. EDMUNDS. I had made a motion to refer that bill to a special committee, I believe.

The PRESIDENT *pro tempore*. The Senator is correct. The question is on the motion of the Senator from Vermont to refer the bill and amendments to a special committee of three.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Michigan, that the Senate concur in the first amendment of the House of Representatives.

Mr. HOAR. Let it be reported.

The CHIEF CLERK. The first amendment is to insert after, "1867," in line 4 of the printed bill, the words:

Title 61, Revised Statutes, and an act entitled "An act to amend and supplement an act entitled 'An act to establish a uniform system of bankruptcy throughout the United States, approved March 2, 1867, and for other purposes,' approved June 22, 1874."

The amendment was concurred in.

Mr. CHRISTIANCY. I now move an amendment to the second amendment of the House. The amendment is printed already in connection with the bill. It is to come in immediately preceding the House amendment.

The PRESIDENT *pro tempore*. The Secretary will report the amendment.

The CHIEF CLERK. It is proposed to amend the second House amendment by inserting before the word "and," the first word in amendment, the following words:

And all rights and proceedings incident thereto or growing out of or dependent thereon, including all rights of debtors and creditors, and all rights of, and suits by and against, assignees, under any or all of said acts, in any case heretofore or now pending.

Mr. MATTHEWS. I rise to a question of order, or rather to a parliamentary inquiry. Is that proposed amendment in order? Does it purport to be an amendment of the House amendment or of the original text?

The PRESIDENT *pro tempore*. Of the House amendment.

Mr. CHRISTIANCY. It is an amendment to the House amendment.

Mr. MATTHEWS. It does not affect the language of the House amendment at all. It comes in the bill merely antecedent to it; but it does not amend the provision inserted by the House.

Mr. CHRISTIANCY. I understand that question very differently.

The PRESIDENT *pro tempore*. The amendment to the amendment is in order.

Mr. CHRISTIANCY. The amendment made by the House consisted of enumerating a certain class of cases which, without that amendment, would, as I contend, have been covered by the general language. They enumerate a certain class of cases, which renders it necessary to add the enumeration of some others in order to make the meaning of the amendment of the House entirely clear, as well as of the bill.

Mr. MATTHEWS. I do not yield to the opinion of the Senator from Michigan on the question I have raised. The House proposes an amendment to the text of this bill. That amendment is printed in italics, and is in lines 16 and 17, and consists in the insertion of these words:

And all penal actions or criminal proceedings arising thereunder.

Now, the proposition of the Senator from Michigan is not to change either in form or substance the proposition of the House.

The PRESIDENT *pro tempore*. Before the Senator proceeds further the Chair will say that he is correct. The text of the bill cannot now be touched. The only question of difference between the two Houses is the amendment of the House of Representatives which is now pending. The Senator from Michigan will have to modify his amendment to attach it to the amendment of the House, not to the text of the bill.

Mr. SARGENT. Does it make any difference whether it is attached to one end or the other?

The PRESIDENT *pro tempore*. It does not; only it should be an amendment to the amendment of the House. The Chair understands the Senator from Michigan to move to amend the bill.

Mr. CHRISTIANCY. No; my motion was to amend the House amendment by inserting these words prior to it, at the beginning of it.

Mr. SARGENT. It is just as much of an amendment as though the words followed it.

Mr. CHRISTIANCY. It is an amendment to the House amendment.

Mr. SARGENT. Let me illustrate it in this way: suppose the House amendment had left off the words "and all," so that it read "penal actions or criminal proceedings," could it be said it was not in order to attach the words "and all" before "penal," so as to make good grammar and good sense? It makes no difference whether you prefix or affix. If the Chair will look at the bill, suppose the House amendment had come over without the words "and all" which now precede

it, would it not have been proper to prefix those words to make good sense?

The PRESIDENT *pro tempore*. The Chair understood that the Senator from Michigan desired to touch the text of the bill. The Chair now understands that he proposes to amend the amendment of the House. It makes no difference whether the amendment is placed before or after. The amendment of the Senator from Michigan is in order unless some other point be made.

Mr. MATTHEWS. I still insist on the point. It is no more an amendment to the House amendment because it happens to precede it, than it would be if it preceded it with an interval of another sentence and was put in another part of the bill. I admit that it makes no difference whether it is before or after. If it is either before or after, it is no amendment to the amendment; it is an amendment to the text of the bill. It is putting something into the bill other than that which is included in the amendment and otherwise than by changing the amendment of the House. If we agree to the House amendment, it inserts the words that are italicized in the print. It is proposed in addition to those words, without change of those words, to add a new amendment of a different character to the bill itself, not at all germane to the proposed amendment of the House. Now I submit, if I understand the rules of order, that cannot be done.

Mr. CHRISTIANCY. If the Senator will allow me, I will modify the amendment by proposing to insert it immediately after the words "and all" in the House amendment in line 16, and then to add the words "and all" at the end of my amendment, so as to put it in the body of the amendment of the House.

Mr. CONKLING. How would that read? Let us hear it.

The PRESIDENT *pro tempore*. The Secretary will report the amendment to the amendment, as modified.

The CHIEF CLERK. After the words "and all," in the House amendment—

Mr. CHRISTIANCY. I will strike out the first words "and all" in my amendment.

The CHIEF CLERK. After the words "and all," in the first line of the second amendment of the House, which begins in line 16 of the printed bill, it is proposed to insert "rights and proceedings incident thereto or growing out of or dependent thereon, including all rights of debtors and creditors, and all rights of, and suits by and against, assignees, under any or all of said acts, in any case heretofore or now pending, and all;" so that, if amended, the House amendment will read:

And all rights and proceedings incident thereto or growing out of or dependent thereon, including all rights of debtors and creditors, and all rights of, and suits by and against, assignees, under any or all of said acts, in any case heretofore or now pending, and all penal actions or criminal proceedings arising thereunder.

Mr. MATTHEWS. Now, is it in order to move to amend the amendment?

The PRESIDENT *pro tempore*. It is.

Mr. MATTHEWS. Then I move to insert after the word "pending," in the amendment proposed by the Senator from Michigan, these words:

This act, however, not taking effect until the 1st day of January, 1879.

And now, Mr. President—

Mr. THURMAN. Let my colleague's amendment be reported. Is it an amendment to the amendment of the Senator from Michigan?

The PRESIDENT *pro tempore*. It is.

Mr. THURMAN. I only wanted to know where it comes in.

The PRESIDENT *pro tempore*. It will be read.

The CHIEF CLERK. After the word "pending," in the amendment of the Senator from Michigan, the proposition is:

This act, however, not taking effect until the 1st day of January, 1879.

Mr. CHRISTIANCY. Allow me to suggest to the Senator that that amendment could not possibly come in there without destroying the whole meaning of the amendment, because my amendment comes in before most of the amendment of the House. The amendment which the Senator wishes to propose would come in at the end of the whole bill.

Mr. MATTHEWS. No, I do not wish it to come in there. I wish it to come in as a part of the amendment of the Senator from Michigan.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio to the amendment of the Senator from Michigan.

Mr. CONKLING. May I inquire whether this amendment to the amendment is in order. To point my inquiry, I call the attention of the Chair to the fact that the text of the bill as agreed on by the two Houses contains these words:

And all acts in amendment or supplementary thereto or in explanation thereof, be, and the same are hereby, repealed.

We know what that means. The Constitution tells us what it means; the statutes tell us what it means. That provision having been agreed upon, the Senator from Ohio [Mr. MATTHEWS] proposes to change it entirely, and to provide that, in place of that being true immediately upon the approval of the act, as the act agreed upon by the two Houses and the Constitution together declare shall be, it shall not be true until a year or some time hence. I submit to the

Chair that if anything can change the text of the bill as agreed upon by the two Houses, that will do it; and the fact that the Senator offers it as an amendment to another amendment produces no impression upon my mind except this: the bankrupt law and the attempt to repeal it seem to be by fate set apart as the occasion for accumulating all the confusion that can well surround one measure.

The PRESIDENT *pro tempore*. The Chair rules that the Senator from Ohio has moved to amend the amendment proposed by the Senator from Michigan. The reason suggested by the Senator from New York would be a good reason for the rejection of the amendment to the amendment, but would not be proper ground for the Chair to rule the amendment out of order. The Senator from Ohio has a right to move to amend the amendment, and so he offers it, as the Chair understands. The Chair cannot rule upon construction—

Mr. CONKLING. May I understand, then, whether the Chair means that an amendment being offered which is in order because it does not change the text, the rule can be avoided which precludes the changing of the text by simply offering an amendment to that amendment? If I can make myself clear now, manifestly I think the Chair would agree with me that it would not be in order for me to move as an amendment to the bill that this act should not take effect until a year after the two Houses have said already it should take effect. That would not be in order.

Mr. THURMAN. Why not?

Mr. CONKLING. Because it would change the text as agreed upon already by the two Houses; and the one question before us now is the amendments made by the House. I hope my friend will not stop me upon that, because I assume that as a premise which nobody will deny.

Mr. THURMAN. Let us see. We pass a bill and send it to the House. The House sends it back with certain amendments. We may be willing to concur in their amendments, provided the taking effect of the bill shall be postponed to the 1st of January, 1879; but without such a provision as that, we might not be willing to agree to their amendments. Therefore, it seems to me, with due deference, and with the repeated statement that I know nothing about the rules, that the amendment offered by my colleague might be put anywhere in this bill. I think it is clearly admissible as an amendment to the amendment of the Senator from Michigan; but I say that it could be put in anywhere, because we have not yet agreed to the last of the House amendments. The question now is, shall we amend that amendment, and we may say "Yes, we can take that amendment, provided this bill shall not take effect until the 1st of January, 1879."

Mr. CONKLING. The Senator from Ohio, I think, was not quite as brave as he usually is in argument. I understood him to begin by taking issue with me upon this proposition, that where the two Houses had agreed upon the text of the bill, they could not afterward amend it. He denied that; and then, in place of maintaining his denial, he proceeded to argue that such an amendment as he suggested would not be to change the text of this bill.

Mr. THURMAN. What does the Senator mean by speaking of changing the text of the bill?

Mr. CONKLING. Now, the Senator comes back fairly to the question he put to me originally, and I repeat what I said in the first place. I understand the rules of the Senate and the parliamentary law to declare that so much of the text as the two Houses have agreed upon is no longer amendable. I attempted to state that position—I think I did—with some clearness, and the Senator took issue, and then proceeded to argue, not his side of that issue, but that such an amendment as his colleague offered would not infringe upon that rule. He cannot very well argue the two things together. If the Senator denies that the rule precludes changing the text of the bill as agreed on by the two Houses, that is one thing; if he admits that that is the rule, and argues that despite that rule this amendment is in order because it does not violate the rule, that is another thing.

Resuming what I endeavored to present to the Chair, I maintain first that every part of this bill which the Senate adopted and which the House also adopted cannot be changed. I do not hear the Senator from Ohio deny that; I do not think any Senator will deny it.

Mr. THURMAN. I do.

Mr. CONKLING. You do? Well, Mr. President, I think we had better have that settled, if we can get it settled; because if the rule upon this particular bill is that the whole bill is now open to amendment, I should like to know that. It would enable me to see much more clearly than I see now a way out of the trouble in which the Senate is involved, because I do believe, referring to this amendment which is now pending offered by the Senator from Michigan, that no member of this body can tell with any certainty what any court will say it means. I do not know what it means. I have conferred with several Senators in regard to it, and all the lights I have gained do not enable me at all to answer one way rather than the other questions, naturally, in my judgment, to arise upon this so-called saving clause. Now, if the bill is open to amendment, if we can go back and substitute another bill for this, as the Senator from Ohio would argue when he says no part of the text is beyond our reach, then, I repeat, I can see a much safer way out of this difficulty than I see now, hampered as I understand we are by the rules; because I think I may safely affirm that the Senator from Michigan or any other Senator, certainly any lawyer in the Senate may sit down now *de novo*

and draw a bill which in the first place would repeal the bankrupt law, and which, in the second place, would save pending vested and existing rights. I myself think I could draw such a bill as that, but I am sure any other Senator could do it; and, if that is what we have a right to do, as the Senator from Ohio insists, let us know it, and let us substitute for what has come to be a very cumbersome and obscure bill for a purpose so plain, something brief and intelligible to everybody.

Mr. HOAR. I desire to call the attention of the Senator from New York to the question whether he is not in his argument taking as equivalents two things which are not equivalent; to wit: the changing the text which the two Houses have agreed upon, and the introducing into the part of the text in dispute an amendment which affects the meaning of what the two Houses have agreed upon.

Now, the two Houses agreed upon a portion of the text of this bill, and you cannot strike out those words which have been agreed to, or insert in those parts which have been agreed to other words. But the two Houses have not yet agreed upon a meaning, even when they have agreed upon that text, because the part of the bill which they have not agreed to provided to what extent this repeal should go, one House excepting one thing which the Senate did not originally except, and the Senate now proposing to except other things which the House did not originally except from the effect of the repeal. Now, the Senate might well desire that the repeal should take effect at one time if it is to operate to a certain extent, and take effect at a later time if it is to operate to a larger or a smaller extent. Therefore it is perfectly competent within the rules, if you do not meddle with the text which has been agreed upon, to so frame the amendment, the extent of which is in dispute as shall qualify or control the meaning of the text agreed upon.

Mr. CONKLING. Everybody must see the force of what the Senator from Massachusetts says. I wish, however, he had said it to the Senator from Ohio to whom it belongs, and not to me. The Senator would see, had he attended before to this little colloquy, that I am not the Senator amenable to the criticism suggested by his remarks. I was in the act of proving, if I could, to the Senate that this amendment did go further than the Senator from Massachusetts now suggests. In doing that I began by assuming that we had no right to change the text agreed upon. Thereupon the Senator from Ohio denied that, took issue with that, and he proceeded to state his view on the other side, and I was led into a colloquy with him. I had supposed I might assume as my premise that rule of parliamentary law, but the Senator challenged it, and that led to a colloquy in that regard. Now my answer to the Senator from Ohio, as far as I think one can be made, is this: I have no doubt he is right in the theory he suggests, limiting the disability of the Senate to change the text which the House and the Senate have agreed upon; but in the text are found words agreed on by the two Houses which do explicitly declare the present repeal of the bankrupt law. Why do I say that? First the language clearly imports that, as the Senator will see on line 11 of the first print before him; but in addition to that, the Constitution declares the meaning of those words; this repeal is declared to be one which shall take effect immediately when this bill speaks. Now it is proposed to change that and in lieu to declare that another year, a future time, one year or five years hence, this repeal shall take place. Does it not change the text? Does it not change the meaning not only, but the letter of the bill?

Mr. MATTHEWS. Will the Senator allow me a moment?

Mr. CONKLING. Certainly.

Mr. MATTHEWS. I merely wish, right on that point, to say that I think there is a distinction which the Senator has overlooked. I do not believe that it does change the text in the sense of that parliamentary rule, although it has the effect of changing the meaning of the text.

Mr. CONKLING. That is the distinction which the Senator from Massachusetts points out, and I submit to both Senators that if the language here was, "shall be repealed, the repeal to go into operation the moment this bill is approved," the bill would contain only what it does now, because this is the formal mode of stating that, and if it were attenuated in that way there would not be one syllable here which the constitutional construction does not put upon the words as they stand. Suppose these words were "that this repeal shall take effect on the day and at the hour when the President signs this bill," the argument of both Senators would be just as good as it is now; and would either of them say that to put a provision in the latter part of the bill that, despite those words, the reverse should be true, that the law should not take effect at that time and should not take effect until a subsequent Congress came here, or a subsequent date had arrived, would not change the text? The argument which would prove that would prove that you can make any possible change. Why not? If the whole purpose was to construe this, if there were an ambiguous phrase, and you proposed to supplement it by an amendment construing that phrase, there would be room for the argument made by both Senators to take effect; but when you propose a flat contradiction, when you propose to overthrow entirely one of the provisions contained in the text that both Houses have agreed on, how can you say you do not change the text? I do not see that.

Now, Mr. President, as I am on my feet and do not mean to say anything about this matter again unless driven to it, which I do not expect to be, I venture to make one suggestion to the Senate and

especially to the Senator from Michigan. It is within the rules to amend the House amendment by striking out the whole of it—I speak of the second amendment—and substituting something in its place; and it seems to me that instead of retaining these words of particularization, "and all penal actions or criminal proceedings arising thereunder," it would be safer to dispense with them. The presence of these words imports into this bill a danger growing out of a doctrine which lawyers express in the phrase, "*expressio unius est exclusio alterius*." Having put in a part of that they mean, it is deemed by Senators incumbent upon us to put in all the rest and residue; and in the attempt to put in all the residuum of desired reservation the Senator from Michigan in a carefully drawn amendment has, in my fear, exposed himself and us to disappointment in the construction which hereafter may be given to that amendment; and he has been driven to that by the stress to which I have referred. He would not have felt called upon to propose such an amendment at all but for the particular nature of the amendment to which I refer made by the House. If now he will dispense with that, if he will move to strike out these words of particular specification and substitute for them such general words as he will then be able, it seems to me that it will simplify the work and greatly increase the assurance we shall have that the bill, when it comes to be tested in the courts, will mean what we intend it to mean, and not mean, as is already alleged by lawyers not of the Senate but who have pretty sharp discernment about matters of this sort, a variety of things which would not be acceptable or approved probably by any single member who shall be called upon to vote on it.

Mr. McMILLAN. Mr. President, it is very apparent that this bill, repealing this law, is a matter of very great importance. Here are two able Senators upon the floor, not only able Senators but able lawyers, who disagree as to the construction of the amendment offered, and which will affect very seriously the character of this bill. It shows that it is very important that any matter of this kind should pass under the supervision of a committee of the Senate, and the appropriate committee. I therefore move that the bill be referred to the Judiciary Committee, with all the amendments.

The PRESIDENT *pro tempore*. The Senator from Minnesota moves the reference of the bill and amendments to the Committee on the Judiciary.

Mr. HOAR. I ask leave to say one word in reply to the Senator from New York; and it seems to me that the point can be illustrated by a simple supposition. Suppose the Senate pass a bill to repeal a certain chapter of the Revised Statutes, excepting the third, fourth, and fifth sections. That goes down to the House, a present repeal. The House passes the bill adding the sixth, seventh, and eighth sections to the exception. Now it is manifest that the two branches have agreed to nothing in substance whatever. Nothing indicates that the Senate proposes the present repeal of that chapter if six of its sections are to stand. Nothing indicates that the House has assented to the present repeal of that chapter if three only of its sections are to stand, or to stand for a fixed time, stand until certain proceedings under them have been completed. Then when it comes back from the House, certainly there is no rule of substance which prohibits the Senate from concurring with the House amendment by saying that if that is to be added to the bill and that is to be the scope and effect of the repeal, the law shall stand twelve months instead of six, or stand twelve months instead of a present repeal.

Mr. CONKLING. Is it not also true of the statement the Senator makes, taking it just as he makes it, that any possible amendment that would ever be in order would be in order then?

Mr. HOAR. No, sir. I have no doubt that I should answer the question of the Senator from New York in the affirmative so far as relates to an amendment of this kind. I have no doubt whatever that where a bill contains a clause that it shall take effect at a particular time, or its effect be postponed to a particular time, or operate as a present enactment without postponement on its passage, the adoption of any amendment in the House whatever, makes it in order to add to the bill when it comes back so amended, to add to that amendment a provision postponing the taking effect of the act, or fixing a time when it shall take effect if the bill otherwise did not.

Mr. CONKLING. My question was wholly different from the one the Senator answers.

Mr. HOAR. Allow me to finish the statement I propose to make. The technical parliamentary law as to where you shall put that amendment and that you shall not put it in a part of the text which both branches have agreed to, is a different one; and that is a verbal rule.

Mr. BLAINE. Will the Senator from Massachusetts allow me to say a word just there?

Mr. HOAR. I am under obligation to the Senator from New York.

Mr. BLAINE. I beg pardon.

Mr. CONKLING. I want to get the distinction of the Senator from Massachusetts, if there is one, in this regard. He began by stating very clearly a case. The Senate has passed a bill proposing a repeal of certain titles of the Revised Statutes excepting chapters. It goes to the House and the House adds other exceptions. The bill comes back, and his statement was that the two Houses have agreed upon nothing whatever, nothing of substance has been agreed to. Now I ask him whether it does not result palpably from it, that the whole bill, every part of the text, is as open to amendment as it ever was; and if it does, why does the Senator say that the result of his argu-

ment is to show that you may change the time. In that case I submit to him you might change anything that is ever changeable in the bill. Why? Because his statement is that nothing has been concurred in by the two Houses, their minds have met upon no matter of substance; it is all open. But if he takes the other case before us and concedes that a portion of the text, including that now in question, has been agreed to by the two Houses, then I ask him to point out to me how it results that you may, despite the rule putting it beyond reach, not only alter it but change it radically as he suggests?

Mr. HOAR. Because the limitation on the right of the Senate to amend a bill when it comes back amended from the House is not simply because the two Houses have agreed to something and that has passed beyond their power. It is because there is nothing in order, nothing before the Senate, except the question of concurrence with the House amendment, either with or without an amendment which the Senate adopts; and therefore any amendment which is in order on that question of concurrence must of course be something germane to the House amendment or naturally resulting from it.

Mr. BLAINE. Is not this the way it stands; and as the original case is a plain one, there is no use of looking for illustration? The Senate absolutely repeal the law, to take effect on the approval of the bill. The House say "We will agree that this repeal shall take effect on the approval of the bill if you will agree to this amendment." The Senate takes it up and sees something in it that should change the time of taking effect, and it sends word back to the House "We will agree to your amendment provided you extend the time." They are as germane as two propositions can be. They hang so closely together that they are absolutely inseparable.

Mr. HOAR. That is the precise argument I was making, better stated.

Mr. THURMAN. Mr. President, what is the question?

The PRESIDENT *pro tempore*. On the motion to refer.

Mr. THURMAN. I thought there was a question of order.

The PRESIDENT *pro tempore*. The Chair ruled on that. The debate is on the merits of the case. The pending motion is to refer the whole subject to the Committee on the Judiciary.

Mr. INGALLS. What has this recent discussion been about?

The PRESIDENT *pro tempore*. The subject of reference.

Mr. INGALLS. On the subject of reference—

The PRESIDENT *pro tempore*. The Senator from Kansas wishes to speak on the subject of reference.

Mr. INGALLS. On the subject of reference, I rise to say that the difficulty which has heretofore occurred appears to me to have arisen out of a misunderstanding as to the meaning of the term "text of the bill." My understanding is that the text of the bill at the present time is the bill as originally passed by the Senate with the amendments of the House, because the bill of the Senate as amended by the House is the only text of the bill that they have agreed to. Therefore the text of the bill in the parliamentary sense of that term is the bill as amended now before us. Let me read in support of that, from Jefferson's Manual, and I ask the attention of the Senators who have discussed this matter to that proposition:

When on a bill from the originating House—

That is the Senate in this instance—

the other at its second reading—

That is the House of Representatives—

makes an amendment; on the third reading this amendment is become the text of the bill.

That is to say, when this bill was read the third time in the other House and agreed to with that amendment, then as amended that was the text of the bill. Consequently it appears to me that when the bill comes here with the amendment, the amendment offered by the Senator from Ohio being only in the second degree, is plainly receivable and can be placed in any portion of the bill. But as the matter has been decided and the question is on the motion to refer, I suppose this is superfluous.

The PRESIDENT *pro tempore*. The Chair has already so ruled. The question now is on the motion of the Senator from Minnesota [Mr. McMILLAN] to refer the bill and the amendments to the Committee on the Judiciary.

The question being put, a division was called for, and the ayes were 23.

Mr. COCKRELL. Let us have the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. TELLER, (when his name was called.) On this subject I am paired with the Senator from South Carolina, [Mr. PATTERSON.] If he were present, I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 22, nays 30; as follows:

YEAS—22.

Allison,	Dawes,	Ingalls,	Morrill,
Anthony,	Dorsey,	Kirkwood,	Ransom,
Burnside,	Ferry,	McMillan,	Sargent,
Cameron of Wis.,	Hamlin,	Matthews,	Windom.
Conkling,	Hoar,	Merrimon,	
Davis of Illinois,	Howe,	Mitchell,	

NAYS—30.

Bailey,	Beck,	Cameron of Pa.,	Cockrell,
Barnum,	Butler,	Christiancy,	Coke,

Dennia,	Hereford,	Moxey,	Thurman,
Eaton,	Hill,	Paddock,	Voorhees,
Eustis,	Johnston,	Plumb,	Wadleigh,
Garland,	Kellogg,	Randolph,	Wallace.
Grover,	McCreery,	Rollins,	
Harris,	McPherson,	Saulsbury,	

ABSENT—24.

Armstrong,	Conover,	Kernan,	Saunders,
Bayard,	Davis of W. Va.,	Lamar,	Sharon,
Blaine,	Edmunds,	McDonald,	Spencer,
Booth,	Gordon,	Morgan,	Teitel,
Bruce,	Jones of Florida,	Oglesby,	Whyte,
Chaffee,	Jones of Nevada,	Patterson,	Withers.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Ohio [Mr. MATTHEWS] to the amendment of the Senator from Michigan, [Mr. CHRISTIANCY.]

Mr. MATTHEWS. I call for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. EDMUNDS. I feel it a duty to say in the present attitude of this question and in the state of imperfection that I feel sure these amendments are between the two Houses together with the amendments proposed here, that the correct thing to do, in my opinion, as the Senate is disinclined to send this to any committee of its own, is for the Senate to disagree to the House amendments and ask for a committee of conference. A committee of conference can then adjust the amendments perfectly and satisfactorily to the two Houses; and it will speed the bill more, although I do not want it sped myself; but if this thing is to be done, I do not know any reason why it should be put off at all unless the day is extended. Everybody will understand that the report of a committee of conference here by courtesy is privileged and is acted upon at once, although not privileged by the rules; but a majority can take it up any time; and in the House of Representatives by their rules it is a matter of high privilege. I think the friends of immediate repeal would make much more expedition in having this matter of these saving clauses put in perfect shape, by a committee of conference than in any other way; and therefore I shall vote against agreeing to any amendment in the hope that the Senate will be willing to send the bill to a conference which will end the bill quicker than anything, except agreeing to the House amendment, would do, which all agree would not be right.

Mr. RANSOM. Did the Senator from Vermont make a motion?

Mr. EDMUNDS. I cannot make the motion I suggested because the motion to concur with an amendment is entitled to preference over a motion to disagree and ask for a conference.

Mr. RANSOM. Mr. President, the question now, I believe, is upon the amendment offered by the Senator from Ohio to the amendment offered by the Senator from Michigan.

The PRESIDENT *pro tempore*. The Senator is correct.

Mr. RANSOM. That amendment provides that this act shall not take effect until the 1st of January next, in substance. I feel very great anxiety upon the result of the vote of the Senate on this amendment. I had prepared this morning a similar amendment, but was anticipated by the Senator from Ohio. I am glad he has offered it.

Every Senator must have some doubt in his mind as to the propriety of the repeal of a law which has been in operation since 1867, eleven years, which has been of general effect upon the people of this country, and which has been of such great demand that it has stood now for eleven years. I say, sir, that upon a general change of legislation of that sort there ought to be some hesitancy in the minds of Senators, some deliberation. But apart from that there is a peculiar reason affecting the representatives from North Carolina upon this question which compels me to appeal to the Senate, and I hope the Senate will pardon me a moment while I endeavor to explain to them why it is that the Senators from North Carolina feel so much interest in this amendment.

Before the war the people of North Carolina had no homestead or property exemption. The laws of the State had exempted a few articles of personal property from execution. It is known to the whole world that the results of the war destroyed everything like property in the Southern States, and upon no State did the calamities of that war fall more heavily than they did upon North Carolina. In 1868, by a constitutional convention a homestead-exemption clause for the first time was placed in our constitution. That clause allowed every head of a family in the State to retain five hundred dollars' worth of personal property and a thousand dollars' worth of real estate. The constitution was adopted by a large majority of the popular vote. In that clause of the constitution there was universal concurrence. Soon after it was adopted the question was carried before the courts of the State; and the supreme court, the highest court of appeals in North Carolina, decided that that clause of the constitution was good against old as well as against new debts; that it was an exemption against all indebtedness. The supreme court of North Carolina repeated that decision of theirs in not less than four instances, and thousands of our people, the best people in the country, availed themselves of this beneficence of the constitution, the homestead exemption. So approved was it by all classes and all men in the State that there has not been a candidate for office in North Carolina since August, 1868, who has not committed himself to the homestead exemption. It has been a permanent plank in the platforms of both political parties. No man to-day in North Carolina could receive the vote

of the people for judge or for any other office in the State, of whom it was believed that he was even doubtful upon that question.

There has always been doubt in the minds of the legal gentlemen of the State as to the correctness of the decision in point of law, most of them inclining to the opinion that has just been rendered by the Supreme Court of the United States. After our people have been relying upon that homestead exemption for ten years, week before last, in a decision which I shall not criticise, for I must say it stands upon the foundation of all the precedents, the Supreme Court of the United States reversed the decisions of the State of North Carolina for the last ten years and has declared, perhaps properly, that the homestead exemption was not good as against old debts. What is the result? The hundreds, the thousands, the tens of thousands of good men in North Carolina, good women, and good children, who had these homes set apart to them by the law will be suddenly turned from their homes without a shelter. You know, sir, the world knows, that an execution at law has no mercy; it has no consideration; it marches to its duty over everything; and I know of no power in the State or out of the State (except the action of this Senate to-day in giving these good men until the 1st of January to save their homesteads by availing themselves of the bankrupt law) which can save our people from ruin.

My distinguished colleague and myself and our colleagues in the House have received application after application from all parts of the State to try to do something for the people. The papers are full of it; the mails are full of it. The whole State is crying out for relief. The State cannot give the people relief in this matter. The national bankrupt law does give them relief, essential, absolute, unmistakable relief. Am I wrong in asking the Senate that this act of great beneficence, however erroneous it may have been in some respects, which has already protected thousands and thousands of the people of the South, may be extended until the 1st of January, when these good, honest men in North Carolina can save their homes for themselves in their old age and for their wives and their children? What harm will it do to allow this act, which has been on the statute-book eleven years, to continue six months longer? What harm can it do when here is a great piece of legislation affecting all the commercial and mercantile interests of this country and all other interests to permit the present law to remain six months longer? Will it not give the country time to consider its effect? Will it not give Congress time to consider it? Will it not give us all time to see whether the law should be absolutely repealed or not? I hope, sir, neither the conscience nor the sense of duty of Senators will prevent them voting for this extension.

Mr. CHRISTIANCY. I ask that the amendment offered by the Senator from Ohio be read in connection with my amendment and with the rest of the bill as amended, so as to show how it will read if all are inserted together.

The PRESIDENT *pro tempore*. The Secretary will report it.

The CHIEF CLERK. The amendment of the House reads as follows: And all penal actions or criminal proceedings arising thereunder.

If amended as proposed by the Senator from Michigan it will read:

And all rights and proceedings incident thereto or growing out of or dependent thereon, including all rights of debtors and creditors, and all rights of, and suits by and against, assignees, under any or all of said acts, in any case heretofore or now pending; and all penal actions or criminal proceedings arising thereunder.

If amended as proposed by the Senator from Ohio, the amendment of the House, amended by the amendment of the Senator from Michigan, will read as follows:

And all rights and proceedings incident thereto or growing out of or dependent thereon, including all rights of debtors and creditors, and all rights of, and suits by and against, assignees, under any or all of said acts, in any case heretofore or now pending; this act, however, not taking effect until the 1st day of January, 1879; and all penal actions and criminal proceedings arising thereunder.

Mr. CHRISTIANCY. And then will follow the following language:

The acts hereby repealed shall continue in full force and effect until the same shall be fully disposed of, in the same manner as if said acts had not been repealed.

It makes the whole section nonsense to introduce the amendment at that particular place. That is what I wished to call the attention of the Senate to. I have not the slightest objection to taking the vote. I am perfectly willing to come to a vote at any moment on the proposition of the Senator from Ohio if he will present it where it will not thus make nonsense of the whole bill. If he will offer it as an amendment at the conclusion of this section, I shall have certainly no objection to that.

Mr. MATTHEWS. The interposition of the words which I have offered as an amendment in the place in which I propose to insert them, I admit makes an awkward sentence; but if I understand the meaning of the word "nonsense," it does not have that effect.

Mr. CHRISTIANCY. What I wished to call the attention of the Senator to is that it comes in immediately before the words "the acts hereby repealed shall continue in full force and effect." The bill as it would be if amended as I propose will read:

And all rights and proceedings incident thereto or growing out of or dependent thereon, including all rights of debtors and creditors, and all rights of, and suits by and against assignees under any or all of said acts in any case heretofore or now pending; and all penal actions or criminal proceedings arising thereunder.

That is, as to those, "the acts hereby repealed shall continue in full force and effect." The previous language of the section shows

that to be the meaning; and by inserting the amendment of the Senator from Ohio here it does make nonsense of the whole section.

Mr. MATTHEWS. I will explain, if the Senator will permit me, why it does not make nonsense. I admit that it would be better in a rhetorical point of view, and perhaps in a grammatical point of view, to insert the words at the end of the clause; and if there is unanimous consent to permit that to be done, I am willing to do it; but I am not willing to risk the question of order by having the change made without that unanimity.

Mr. EDMUNDS. If the Senator will permit me on that point, it is something more than a question of order; it is a question of privilege between the two Houses. The House of Representatives would have a right to say that whatever we may do unananimously has no effect on it, and is a violation of its privilege.

Mr. MATTHEWS. The Senator from Vermont must undoubtedly be right on that point; so that I cannot yield the point. If the effect said to follow from this amendment being adopted is correctly described by the Senator from Michigan, still the Senate would have a perfect right to adopt it, and then reject the entire amendment as amended. But the Senator from Michigan and the Senate will perceive that the words which I propose as an amendment are in their nature parenthetical, and when inserted they constitute a mere parenthesis in the body of the text of the bill; so that there would be no difficulty whatever in the construction of the language, the fore part of the sentence being still grammatically connected with the latter part of the sentence, the parenthesis inserted in the mean time having no effect upon that construction.

Mr. MERRIMON. I suggest to the Senator from Ohio that he offer his amendment as an additional section. I see no parliamentary rule or regulation that prohibits that. The House proposes to the Senate to amend the bill agreed to in the Senate. The Senate, instead of declining to accept their amendment, says to the House "We will agree to your amendment if you will accept another which we suggest;" and what difference does it make logically whether it comes in at the point as designated or comes in as an additional section? It does not change the substance of the bill at all except as to the time when the law, if it becomes a law, shall take effect. It seems to me that in point of principle logically it makes no difference where it comes in, that the Senator can offer his amendment as an additional section; and then it will be orderly.

Mr. MATTHEWS. I will explain to the Senator from North Carolina why I think that cannot be done. The principal question pending here, and the only one that gives us jurisdiction over this subject and measure at all, is this: we passed a bill in a particular form and sent it to the House requesting its concurrence. The House has returned the bill with a message, in which it informs us that it concurs in the bill with an amendment. Now, the question before us is whether we will concur in the amendment of the House. We may do that unconditionally, and that completes the circuit and closes the whole legislative operation upon the bill, and the minds of the two bodies have come to a perfect unanimity of agreement; or we may dissent and refuse to concur in the amendment of the House, and upon notice to the House the House may then recede or it may insist and ask for a committee of conference, and then, the whole subject being in that committee, as I understand, a committee of conference might agree upon a completely new substitute for the whole bill and report it back for the action of the two Houses. But whether that be so or not, if we take the only other course open to us, which is to concur in the amendment of the House with an amendment or amendments, then what are we limited to? We are limited to making amendments to the amendment of the House, and unless the proposition made here and under discussion is properly an amendment to the proposed amendment of the House, I understand it not to be in order.

Mr. MERRIMON. But the point I make is that this amendment is germane to the amendment made by the House.

Mr. MATTHEWS. But it is not an amendment to the amendment. It is an amendment to the original bill.

Mr. MERRIMON. It is not essential that it shall come immediately after to be an amendment.

Mr. MATTHEWS. No, but it must be attached to it and be a part of it.

Mr. MERRIMON. I do not think so.

Mr. MATTHEWS. That is my understanding of parliamentary law.

Mr. HOAR. I had supposed, before the Senator from Ohio made his motion, that an amendment which would accomplish his end would obviate the objections made by several Senators. I should like his permission to read it for his information, that he may see whether he will assent to it.

Mr. MATTHEWS. With great pleasure.

Mr. HOAR. Add to the words enumerating what is saved, namely, "but as to all such pending cases and all future proceedings therein, and all penal actions or criminal proceedings arising thereunder," the words "and all acts of bankruptcy which may be committed or petitions which may be filed before the 1st day of January, 1879." That is what I propose that would save the act, keep the act in full force in regard to its effect on all acts of bankruptcy committed and all petitions filed before January 1, 1879. That would avoid the

verbal awkwardness which the present form of the Senator's amendment seems to involve.

Mr. MATTHEWS. I think it does meet the difficulty. Then the section as amended would read thus:

But as to all such pending cases and all future proceedings therein and all rights and proceedings incident thereto or growing out of or dependent thereon, including all rights of debtors and creditors, and all rights of, and suits by and against, assignees, under any or all of said acts, in any case heretofore or now pending, and all penal actions or criminal proceedings arising thereunder, and all acts of bankruptcy which may be committed or petitions which may be filed before the 1st day of January, 1879, the acts hereby repealed shall continue in full force and effect until the same shall be fully disposed of, in the same manner as if said acts had not been repealed.

I am quite willing to adopt this as a substitute for my proposition, although I have been informed while on my feet, and since my last remarks to the Senator from North Carolina, by the senior Senator from Maine, [Mr. HAMLIN,] who is perfectly familiar with the practice and law of parliamentary proceeding, that the Senator from North Carolina is undoubtedly right in his statement that it would be in accordance with that practice and law to add the provision as a new section, as an amendment to the House amendment.

The PRESIDENT *pro tempore*. The Senator is correct that it is concurring in the House amendment to add to that amendment an amendment in the form of a section; but he cannot add a new section to the text of the bill. It must be an amendment to the House amendment, whether in the form of a section or otherwise.

Mr. MATTHEWS. In order to obviate all question on the point, and because it entirely, as I think, in a very neat way, covers the whole case, I am quite willing, with the consent of the Senate, to substitute the proposition of the Senator from Massachusetts instead of my own, for it meets the case fully.

Mr. SARGENT. I should like to inquire of the Senator from Ohio if he is very clear that construing that amendment with line 11 the repeal is postponed until the time stated in the latter amendment. It seems to me there is a difficulty of construction.

Mr. MATTHEWS. I think it is a matter of construction. Of course the whole act will have to be construed as one and the several parts will have to be taken together; and the absolute and unconditional repeal, as it would be standing upon so much of the act as occurs before the proviso, would be modified by the language in the proviso, which excepts from the operation of that repeal all actions or petitions and bankruptcies occurring after the passage of the act and prior to the 1st of January, 1879. I think there can be no doubt about that meaning.

Mr. CHRISTIANCY. I ask that that portion of the bill commencing with the proviso be read in connection with all the proposed amendments, the House amendments and all other proposed amendments, as they would come in as now proposed.

The Chief Clerk read as follows:

Provided, however, That such repeal shall in no manner invalidate or affect any case in bankruptcy instituted and pending in any court prior to the day when this act shall take effect; but as to all such pending cases and all future proceedings therein, and all rights and proceedings incident thereto or growing out of or dependent thereon, including all rights of debtors and creditors, and all rights of and suits by and against assignees, under any or all of said acts, in any case heretofore or now pending, and all penal actions or criminal proceedings arising thereunder, and all acts of bankruptcy which may be committed or petitions which may be filed before the 1st day of January, 1879, the acts hereby repealed shall continue in full force and effect until the same shall be fully disposed of, in the same manner as if said acts had not been repealed.

Mr. CHRISTIANCY. Although that makes a somewhat cumbersome sentence, yet I must say it would not entirely destroy the meaning of the section, as it would as at first proposed; and perhaps it is in as good a form now to take the vote upon it and test the view of the Senate upon the point presented by the amendment as any other. I therefore hope we may come to a vote.

Mr. SARGENT. I ask for the yeas and nays upon the amendment.

The PRESIDENT *pro tempore*. Is there objection to this modification being made? The Chair hears none. The question is on the amendment of the Senator from Ohio, [Mr. MATTHEWS,] as modified, to the amendment of the Senator from Michigan, [Mr. CHRISTIANCY,] upon which the yeas and nays have been ordered.

Mr. PADDOCK. Before I vote upon this amendment, I should like to inquire of the Chair whether, if the amendment of the House should be non-concurred in by the Senate and a committee of conference should result from that non-concurrence, it would be competent for that committee of conference to report a new bill as a substitute for this bill repealing the present law?

The PRESIDENT *pro tempore*. The conference would only be upon the matter in dispute between the two Houses.

Mr. COCKRELL. What is the motion now?

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio to the amendment proposed by the Senator from Michigan.

Mr. CHRISTIANCY. Making the act take effect on the 1st of January next. That is the effect of it.

Mr. COCKRELL. I hope it will not be agreed to.

Mr. HOAR. Mr. President, I do not propose to continue the debate upon this question except to appeal in one word to Senators who are in the majority in regard to this question to consider what can be lost in accomplishing what they desire—the total destruction of the bankrupt law—by consenting to a brief delay in the time of its taking

effect. Gentlemen have been informed by a Senator from one State that the effect of the immediate repeal of the bankrupt law is to destroy the humane provision of a homestead-exemption law, under the existing decisions of the Supreme Court of the United States in that State for every debtor in the State of North Carolina. Now, what is to be gained by insisting upon the immediate destruction of this law, in contradistinction from a repeal to take effect in eight or nine months from the present time, which will counterbalance an evil of that magnitude?

Another evil of equal magnitude, it seems to me Senators must see, will be the result of this action; and that is this: every debtor in this country whose affairs are in the least embarrassed and to whom the question presents itself as a question of doubt whether or not he must go into bankruptcy, must hurry in to take advantage of this act within the next few days or lose all benefit of the act forever. Between the time of the passage of this act through the Senate and its signature, if it receives the signature of the President, every person who otherwise if he had a few months might hope to make terms with his creditors, might hope to make favorable arrangements in regard to his property which would enable him to escape bankruptcy and disaster, must go into bankruptcy or lose his chance. In other words, the hurry with which this law is to be repealed—and this is a question entirely independent of the merits of the bankrupt law itself—is to bring infinite mischief and evil upon a most meritorious and most numerous class of our citizens, those who are embarrassed deeply by debt.

I appeal to the distinguished Senator from Michigan himself, who I know has no other than a pure and patriotic purpose, and whose wisdom in regard to a matter of this kind I cheerfully bear my testimony to, that he should as having this bill in charge consent to the policy which I believe was approved by the Judiciary Committee of another body whose concurrence is necessary, and it is desired by so large a number of the Senate that a brief delay shall be interposed until the 1st of January.

Mr. BLAINE. I hope Senators will consent to that.

Mr. CHRISTIANCY. In reply to the remarks of the Senator from Massachusetts—

Mr. HOAR. I will say I am not particular about the delay being so long; but I think a brief delay, a few months, should be allowed.

Mr. CHRISTIANCY. In reply to the Senator from Massachusetts and his appeal for putting off the time when this act shall take effect, I will say briefly that I look upon the existence of the bankrupt law as a great evil to this country, as tending more than any other one thing to paralyze the business and the commerce of the country to-day, and I look upon every day of its continuance as an evil and as tending to continue the same troubles in which we are now involved. To put this off one month or nine months or till the 1st day of January next will only be concentrating within that short period the evil that would otherwise be spread over perhaps as many years. It is inviting all persons who have any doubt of their position and think they may make anything by going into bankruptcy to rush forward and get the benefit of those proceedings and get a discharge. On the other hand, creditors will do the same, and I say it will concentrate what I consider to be great evils, which would otherwise be spread over a longer time, into a shorter period and make them still more intolerable.

Now, Mr. President, I think there is something in the experience of this country to show that the repeal of this bankrupt law will be beneficial. The commencement of the revival of prosperity after our former bankrupt law was contemporaneous with the repeal of that law, and in my opinion had much to do with it; and in my opinion to-day the credit of western men, of merchants, the credit of everybody anywhere would be better without this bankrupt law than with it, much better. It is simply for this reason that I am opposed to continuing for a single day after the passage of this act the time of its taking effect.

Mr. HOAR. Does the Senator from Michigan mean to be understood as expressing the opinion that the credit of those citizens of the Western States who are bankrupt would be better if they did not get a discharge from their existing debts than if they did?

Mr. CHRISTIANCY. I meant to refer to this fact, that the credit of men who seek to compromise honestly with their debtors is better than that of those who seek to compromise dishonestly, as they may every day under this bankrupt law.

Mr. INGALLS. Mr. President, my conviction that the demand for this repeal does not come from the debtors of this country, but rather from its creditors, has been very much strengthened by the events of the past two days. I cut from the papers this morning some dispatches from various quarters of the country showing what had been done since this agitation has been in progress here in Congress. I read a dispatch from Chicago dated the 29th day of April:

The following failures were announced to-day: W. & G. Woods, liabilities, \$25,000. H. A. Davis, liabilities, \$43,000. Upton T. Vose, liabilities, \$27,000. Luther L. Mills & Co., liabilities, \$17,000. Logan F. Rose, liabilities, \$16,300. Aaron F. Bates, liabilities, \$10,000. Henry Deverman, liabilities, \$17,000. Horton Page, liabilities, \$29,000. C. H. Vehmeyer, of Englewood, liabilities, \$43,000. H. D. Monroe, liabilities, \$97,000. Luthers and W. N. Mills, secured debts, \$9,000; unsecured, \$1,300; assets none. John N. Babcock, secured debts, \$44,400; unsecured, \$37,384.25; assets nil. W. G. Gould, liabilities, \$6,012.36; assets nil. Louis Rubens, secured debts, \$10,000; unsecured, \$3,000; assets, \$14,630. Lewis Beck, of Englewood, filed a petition in bankruptcy to-day. Secured liabilities, \$57,000; unsecured, \$140,000. No assets beyond exemptions.

From Indianapolis come similar reports; from Chicago additional reports, as follows:

H. H. Walker has filed a petition in bankruptcy. His preferred debts amount to \$10,000; unsecured debt, \$111,000; and secured, \$621,000; discounted paper, \$194,000. His assets are in lands, \$21,000; claims against Samuel J. Walker, also in bankruptcy, \$200,000.

From New York:

New York, April 29.—Benjamin Wood has been adjudicated a voluntary bankrupt. His failure is said to be mainly due to depreciation in real estate. His liabilities are \$233,956, and his assets are \$103,600.

Daniel J. Kennedy, of 54 Third avenue, is in bankruptcy, with liabilities amounting to \$340,000. His embarrassments are the result of depreciation in real estate. His assets consist of real estate valued at \$1,009,000, but heavily mortgaged.

Theodore Reid, who is in bankruptcy, has liabilities amounting to \$2,200,000, of which \$46,535 are secured, and nominal assets.

Michael Norton, ex-senator, has filed a petition in voluntary bankruptcy, with liabilities at \$50,000 and assets about \$2,200.

From Indianapolis this morning:

There were twenty-six petitions in bankruptcy filed yesterday, among which the following are the most important: A. Mitzar, liabilities \$50,000, of which \$42,000 are secured; assets \$97,000, including \$15,000 of unencumbered real estate. J. J. Palmer, liabilities \$22,000, of which \$18,500 are secured; assets \$22,500. A. Natner, liabilities \$150,000; assets in real estate to the same amount. A. F. Raftert, liabilities \$53,000; assets in real estate \$100,900.

From New York a special dispatch to the Washington Post says:

New York, April 30.—Seventy-three failures are reported in this city during the month of April, with liabilities amounting to \$7,658,276, and assets of \$2,752,653. The expected repeal of the bankrupt law has had a good deal to do with making delinquent debtors file petitions in bankruptcy to get rid of old debts.

Also there is sent by the Associated Press from Cincinnati a long list of failures and voluntary petitions in bankruptcy, amounting in the aggregate to several hundred thousand dollars.

Another from New York:

New York, April 30.—The assignment of James Lawrence, Silbery Lawrence, George W. Lawrence, William Lawrence, and Henry Lawrence, composing the firm of Henry Lawrence & Sons, dealers and manufacturers of cordage at 192 Front street, was filed to-day. The liabilities are set down at \$250,000, and the assets at \$140,000.

Now, Mr. President, if the bankrupt law is one that is not desired by the debtors of this country, why is it that when its immediate repeal is threatened they flock to the bankruptcy courts for relief? What is the reason that, unless this demand is made by the creditors for the purpose of enforcing their claims against the debtors of the country, the only instructions that have been made by Legislatures and forwarded to this body have been from States like New York and others in the East that are very largely creditor States?

This country has had on two occasions, as has been before stated, bankrupt laws. The first one lasted about three years. The second one, that of 1841, going into effect on the 2d of February, 1842, was repealed on the 3d of March of the following year, being in force about thirteen months. During that period of time, it is estimated that the number of voluntary bankruptcies was thirty-nine thousand, and that the amount of debts that were discharged by its operation was something in excess of \$440,000,000. Now, we are in a condition very much like that, at this present time. The credit of this country is in a condition of unstable and uncertain equilibrium. It is tottering, and liable at any time to fall. The most critical period of our financial history, in my opinion, will be that between the present time and the date of the resumption of specie payments on the 1st of January, 1879.

Now, sir, in view of what is being done at present, in view of the disclosures that have been made for the necessity of a bankrupt law, why should any person, no matter what may be his opinion as to the method of administration, resist an amendment that offers a certain space of time within which, notice being given to all persons, debtors and creditors, a time may be had for those who desire to do so to avail themselves of the benefits of the present statute? No person claims that there is any difficulty with this law except in its administration. It is alleged that is expensive; that when estates are thrown into bankruptcy there is a small return. But if that is true, it does not remove the fact that here is a great class of insolvent debtors who are unable to discharge their obligations, and if this law is repealed they will all be remitted to the operation of the voluntary assignment laws in the several States, varying in their provisions, the results of which are that no matter what a man may receive by virtue of the operations of the law within the States, its jurisdiction does not go a single step beyond its territorial area. A man in Kansas or in Nebraska or in any other State availing himself of the provisions of a voluntary assignment or State insolvent law gets no discharge whatever from the payment of his debts that is worth anything beyond the area of the State where it is granted. The consequence will be that judgments will be obtained by the creditors against their debtors; they will be held over them, and no man who is unfortunate or who had been unable to pay his debts will ever be able to resume business again except with the assent of his creditors.

Mr. President, it does seem to me, notwithstanding all that has been said against this law, and I admit that it is open to objection, that there is every reason in the world for a time to be allowed within which the benefits of it can be availed of by those who desire to do so in view of the disclosures that have been made since this agitation began.

Mr. President, there is one other subject to which I desire to allude in connection with this law. I said yesterday that my confidence in the infallibility of the Judiciary Committee had been somewhat

shaken; that they had shown themselves either unable or unwilling to report a bill that would repeal an existing statute. We have spent two days in endeavoring to cure the defects of an act reported by the Judiciary Committee, and one member of that committee yesterday in arguing against the continuance of this law made what seemed to me then to be an extraordinary statement, that in no other country in this world was the system or principle of voluntary bankruptcy known. I will repeat his language. I refer to the Senator from Ohio, [Mr. THURMAN:]

Why, Mr. President, it would have very much surprised an Englishman or a subject of one of the continental powers of Europe, unacquainted with our laws, to have heard what has been said on this floor to-day in respect to a bankrupt law—to hear a bankrupt law spoken of as one of the beatitudes of the debtors of the country. Why, there is no such thing as a voluntary bankrupt law except in the United States, so far as I know or ever heard.

England has had a bankrupt law in some shape ever since 1543. Its statutes are those upon which our bankrupt laws have been enacted, and from which they have been taken; and, when the Senator from Ohio made that statement as a reason why this law should not be continued in force, I confess that I was very much surprised; and in order to ascertain whether this distinguished member of the Judiciary Committee was at all advised upon this subject, whether his opinions were valuable upon a measure confessedly of such vast importance, I took the trouble this morning to go to the Library and obtain the public general statutes of Great Britain of 24 and 25 Victoria, 1861, which contains the last enactment of the British Parliament upon the subject of bankruptcy. I wish to call the attention of the Senate to its provisions for the purpose of showing how utterly without foundation the statement of the Senator from Ohio was, that no country but ours ever had anything like a voluntary system of bankruptcy, by which I understand he meant to say that no country but ours allowed a bankrupt to petition himself into bankruptcy.

Mr. EDMUNDS. I see the Senator from Ohio is not in his seat. I think the Senator intended to be understood as applying to such a voluntary system as ours, which is not confined, as I believe the English acts are, to merchants, or traders, or some narrow class of individuals.

Mr. INGALLS. I am very glad the Senator from Ohio has a polyglot edition of his speech here, with marginal notes made by the Senator from Vermont.

Mr. EDMUNDS. I must be excused from being considered an edition of anything. But the Senator from Ohio himself is here now.

Mr. INGALLS. Section 56 of chapter 134 of the statutes of 24 and 25 Victoria, 1861, reads as follows:

Any debtor may petition for adjudication of bankruptcy against himself, and the filing of such petition shall be an act of bankruptcy without any previous declaration of insolvency by such debtor.

The previous eighty-five sections provide for proceedings that are instituted by a creditor against a fraudulent debtor. Section 93 is:

Every debtor petitioning against himself shall file in court a full, true, and accurate statement, verified by the oath of the petitioner, of his debts and liabilities of every kind, and of the names and residences of his creditors, and of the causes of his inability to meet his engagements, within such time after filing his petition and in such form as general orders shall direct.

Not only can a debtor in Great Britain go into bankruptcy voluntarily and obtain his discharge, but the statutes go further even than that and allow a debtor who is imprisoned for debt and without the money to deposit for the payment of fees and costs to file this petition, as the statute says, *in forma pauperis*, and obtain his discharge. So, Mr. President, this provision of voluntary bankruptcy is not peculiar to the United States; it is a part of the bankruptcy system of Great Britain which goes a great deal further than ours and enables an unfortunate debtor to go into bankruptcy upon his own motion and obtain his discharge without any reference whatever to the amount of his liabilities, and if he is not able to pay permits him to sue *in forma pauperis* and obtain his discharge.

If, then, any argument can be employed against the bankrupt law as it now stands I have yet to hear it advanced, and if any good reason can be given why, when its beneficent operations are shown to be so actively employed as they are at present, the amendment offered by the Senator from Ohio [Mr. MATTHEWS] should not prevail, I certainly shall be very glad to hear it stated.

Mr. MCCREERY. Mr. President, this debate and the number of amendments seem to promise an interminable consumption of time. I will therefore express the hope that the amendments will be voted down and that the Senator from Michigan will withdraw his amendment, and that the Senate will disagree to the last amendment of the House and ask for a committee of conference. I think that is the speediest way of coming to a conclusion on this subject.

Mr. WALLACE. Mr. President, the only reason why I shall oppose the proposition of the Senator from Ohio [Mr. MATTHEWS] consists in the fact that the bankrupt bill is in itself an obstruction to business in the State which I represent in part on this floor. Outside of the cities there are numbers of men owning real estate of large value without incumbrance, and owing an indebtedness equal to from one-tenth to one-half of the value of that real estate. They are unable to obtain any money upon the security of that real estate either in the form of mortgage or judgment. They are being carried by loans from the banks. If they attempt to obtain money on mortgage they are confronted with the answer at once, "a mortgage given by you puts you under the ban of the bankrupt statute, and these

creditors of yours can put our obligations into the general pool; we cannot lend you any money."

Take the class of men who in that State constitute the connecting link between labor and capital, the active, energetic, live men of business, those who employ labor, and hire capital. This is a meritorious class who want freedom from this threat, in order that they may be able to borrow money and go forward with their enterprises and employ the labor of that State. The law now is an impediment in the way of the restoration of business confidence; it is turning out of labor thousands of men every month; it is giving us great, serious, and growing difficulty in the way of going forward in the process of reconstructing our material business interests. Money we have in abundance in the Commonwealth; there is abundance of valuable real estate upon which that money would find security of investment; but the bankrupt law stands in the way of the investor, and is a menace to his interest and his security.

Now, if the amendment of the Senator from Ohio is to prevail, we are kept upon the rack for months. No, sir, the people whom I represent, this class of people, the men who employ the laborers of that State, ask an open door to pledge their realty as security for money to carry them forward and to get rid of high rates of interest paid to the men who are taking the business life out of them through the banks and the shaving-shops; they want to pledge their realty, they want to be able to say to those who are willing to lend money upon the security of their real estate, "There is no bankrupt law in the way; my creditors cannot put me into bankruptcy, although I do owe one-fifth or one-half the value of my real estate." This is the cause, the practical cause, of the desire of the people that I represent for the repeal, the unconditional and immediate repeal, of the bankrupt statute. I shall be but performing their behest when I vote for its unconditional repeal.

Mr. HOAR. I should like to inquire of the Senator from Pennsylvania what the peculiarity of the law of his State is which prevents that now; what there is in the bankrupt law which prevents it?

Mr. WALLACE. A mortgage upon the real estate of a debtor that is indebted at once puts the debtor in the power of the creditor who has not a security. It is a pledge of real estate which can be avoided within four months.

Mr. HOAR. A mortgage made without intent to defraud for a present consideration moving at the time?

Mr. WALLACE. Clearly not; but the fact that a mortgage has been given is to be tested in court, and in a great many cases can be overturned. Our practical experience is that to attack is to overthrow it. That is the fault and vice of the administration of this law.

Mr. HOAR. I should like to ask the Senator from Pennsylvania if he can name any possible case or state of facts in which a mortgage of the kind he has mentioned would be void against the bankrupt law where it would not be void against the legal process of a single creditor on common-law principles or in chancery, if there were no bankrupt law.

Mr. WALLACE. I have only to repeat my statement that our practical experience is that the mere giving of a mortgage by a debtor who has a number of debts unsecured is that it is treated as a preference, and the man who is called on to lend money on that security will not take the risk. That is the practical difficulty.

Mr. HOAR. If I understand the law—and I suppose it is the same in Pennsylvania as everywhere else—a conveyance made in fraud of creditors, that is made with a view of diverting the property from the payment of pre-existing debts, is only void against the bankrupt law when it is void against the common-law remedy of a creditor who sues where there is no bankrupt law. A conveyance such as the Senator from Pennsylvania has described, a mortgage to borrow money, is not a preference. A new mortgage, a new transaction, a new loan, though it is, it would not be void against a single creditor; and it is equally true that it would not be void as against the bankrupt law. The only possible case of a mortgage given by a debtor in Pennsylvania or anywhere else which the bankrupt law would interfere with is not the case put by the Senator from Pennsylvania, but is the case where a person, bankrupt or insolvent, unable to pay all his creditors, proposes to prefer one to the exclusion of the others. In that case I suppose that the Senator would not say that he desired it should be lawful.

Mr. WALLACE. No, sir; I do not think I would, but the fact is that the bankrupt law in substance declares that any such conveyance shall be void. In substance it so declares, while under the State law or in the administration of the common law it becomes a question of fact to be tried by a jury. In the case put by the Senator of the mere loan, the creditor, the man who is about to put his money upon the security of real estate, has a questionable security tendered to him; he will not take the risk. It is this that puts itself in the way. So far as our State laws are concerned our people are entirely satisfied with them, because the question of fraud becomes a question of fact to be tried by a jury, while, under the bankrupt law, the issue is made up against them, the *prima facies* are against them, and practice there has demonstrated that to give such a preference in five cases out of six is to put them under the harrow of bankruptcy proceedings.

Mr. HOAR. The only case in which such a mortgage as the Senator has described would be held void under the bankrupt law is where

it is intended to give a fraudulent preference or make a fraudulent conveyance. In that case the rights of the parties holding the mortgage debt as against the assignee representing the creditors would be tried by a jury and be governed by precisely the same rules and proceedings as if there were no bankrupt law. I cannot conceive, therefore, how the abolition of the bankrupt law or the delay of that abolition for a few months can in the least have the effect which the Senator describes.

Mr. BAYARD. Does not the Senator from Massachusetts recognize the fact that one of the attendant evils of the bankrupt law is to prevent a man in failing and embarrassed circumstances from receiving that precise aid which his exigency makes essential to him? Such is the result practically. Every man who has been accustomed to consider the affairs of an embarrassed merchant or trader by the light of the existing bankrupt law, will see the great difficulty of a man obtaining aid at the very moment that he most needs it. Any security, whether by way of mortgage conveyance or by way of confession of judgment, is so open to impeachment that he who proposes to lend aid to the struggling debtor finds himself faced by the fear of having his security questioned, and therefore he withdraws it. I think the honorable Senator is himself but too well aware of the great difficulty that the bankrupt act as it now stands presents to a man struggling in embarrassment. It has the effect of making securities doubtful that at common law would be without that doubt.

Mr. HOAR. I do not understand that the bankrupt law impairs or affects any security which the common law does not impair or affect, except security for pre-existing debts, security intended not to enable the debtor to proceed with his business, but intended simply to give one creditor a preference.

Mr. BAYARD. But does it not throw upon every loan made to a man in embarrassed circumstances the *onus* of proving that it was not within the description of the act?

Mr. HOAR. I do not understand that it has any effect on the burden of proof whatever.

Mr. BAYARD. It seems to me very plain, and I have considered the subject by the light of practical experience, that where the question is presented to legal counsel whether it would be safe to advance money to an embarrassed man, the question to be decided at the risk of the proposed loaner is whether the man is absolutely insolvent at that time or not, and if it shall turn out to be that at the time this security was given for the sake of extricating the debtor from his temporary embarrassment he was insolvent, the man who lends the money finds himself in the possession of a security which is open to question, subject to a lawsuit, and which therefore impels him to withdraw the very aid that he would have given if the features of this act did not confront him.

Mr. THURMAN. The Senator from Massachusetts, I think, will certainly agree that there is nothing in the common law that prevents a debtor from creating preferences. He may pay a debt to one creditor and deprive himself of all means to pay his other creditors, and that may be known to the person who receives payment of the debt. He may give a security to one creditor which will have the effect to prefer that creditor, and the person who takes the security may know that the debtor is insolvent and that taking that security will result in depriving the other creditors of the payment of their debts. All that is permitted at common law.

Mr. HOAR. That is precisely what I said and stated was the difference. That was not what the Senator from Pennsylvania said.

Mr. THURMAN. That is not the bankrupt law by a long way. The bankrupt law is very different from that. Let us see what it is.

Mr. HOAR. Before the Senator from Ohio proceeds I should like to state that I am afraid he does not understand the exact point. The Senator from Pennsylvania said that the continuance of the bankrupt law until next January would prevent a large and meritorious class of persons in his State who desire to borrow capital with which to employ labor from receiving such assistance in their business as they desire, giving security for the money loaned to them for that purpose, which would stand upon their real estate or other property; to which my reply was that no security of that kind good against the common law was in the least impaired or affected by the bankrupt law, but that the only thing the bankrupt law prohibited which the common law permitted was exactly what the Senator from Ohio now states, to wit, the giving by a man insolvent and unable to pay all his creditors preference to one; and that was not of course what the Senator from Pennsylvania desired to secure for the meritorious class of persons to which he adverted. That was the point.

Mr. THURMAN. I do not quite comprehend the view of the Senator from Massachusetts. I repeat that at common law it is perfectly competent for a debtor to prefer a creditor. The mere preferring a creditor does not constitute a conveyance with intent to defraud creditors under the statutes of frauds. We all know that. Neither is the payment of a debt out and out to one creditor, leaving the others unpaid, a transfer of property in contravention of the statute of frauds. That has been changed a great deal in some of the States; in my own State, for instance, where a man cannot make an assignment, if he is in contemplation of insolvency, with intent to prefer any one creditor before any other, and if he does it goes for the benefit of all his creditors. That is by statutory law; but the common-law right to prefer creditors is really taken away by the bankrupt law.

Mr. RANSOM. That is what the Senator from Massachusetts says.

Mr. THURMAN. I understood him to say that it was not.

Mr. HOAR. Did the Senator from Ohio understand me to say anything in conflict with what he states?

Mr. THURMAN. Did I understand the Senator to say that the common-law right of preferring creditors is not taken away by the bankrupt law?

Mr. HOAR. Not in the least.

Mr. THURMAN. Not in the least.

Mr. HOAR. On the contrary I affirmed as clearly as I could the precise proposition that the Senator from Ohio now states. I suppose it is as elementary a principle as could possibly be stated.

Mr. THURMAN. We still misunderstand each other, I fear. Does the Senator say that the right of a debtor in contemplation of insolvency or actually insolvent to prefer a creditor, which existed at common law, still exists notwithstanding the bankrupt law?

Mr. HOAR. No, Mr. President, I said nothing of the kind, but the contrary.

Mr. THURMAN. Then we agree.

Mr. HOAR. The Senator from Pennsylvania argued that it would be unjust to the business men of his State who desire to borrow money, to employ laborers, and re-establish business, that the bankrupt law should continue in force until the 1st of next January, because so long as it continued in force the mortgages which they made to secure new loans, not in fraud of anybody, not giving a preference to anybody, but made to secure new loans for a new present consideration then advanced, would be void, or at any rate exposed to danger if the bankrupt law continued, while they would not be exposed to danger if the common law were revived, or the local law of Pennsylvania; to which I replied that the bankrupt law did not in the least affect, impair, or endanger such a transaction; that there was no difference whatever between the common law and the bankrupt law in regard to a *bona fide* loan of money; and that the only mortgage security given by a debtor which the bankrupt law made void, which the common law permitted to stand, was the class which the Senator from Ohio alludes to, of a preference of one creditor by a man in insolvent circumstances; and the Senator from Pennsylvania of course would not contend that such a mortgage should be permitted.

Mr. THURMAN. The proposition stated by the Senator from Massachusetts is no new one to me or, I think, to any person who has studied the bankrupt law, even as we amended it in 1874, and made it more favorable in this respect than it was before; but I think that he will find upon a careful examination of sections 5128 and 5129 of the Revised Statutes that there is very great doubt whether his opinion is correct on that subject. What is section 5128?

If any person, being insolvent, or in contemplation of insolvency, within four months before the filing of the petition by or against him, with a view to give a preference to any creditor or person having a claim against him, or who is under any liability for him, procures or suffers any part of his property to be attached, sequestered, or seized on execution, or makes any payment, pledge, assignment, transfer, or conveyance of any part of his property, either directly or indirectly, absolutely, or conditionally, the person receiving such payment, pledge, assignment, transfer, or conveyance, or to be benefited thereby, or by such attachment, having reasonable cause to believe such person is insolvent, and that such attachment, payment, pledge, assignment, or conveyance is made in fraud of the provisions of this title, the same shall be void, and the assignee may recover the property, or the value of it, from the person so receiving it, or so to be benefited.

SEC. 5129. If any person, being insolvent, or in contemplation of insolvency or bankruptcy, within six months before the filing of the petition by or against him, makes any payment, sale, assignment, transfer, conveyance, or other disposition of any part of his property to any person who then has reasonable cause to believe him to be insolvent, or to be acting in contemplation of insolvency, and that such payment, sale, assignment, transfer, or other conveyance is made with a view to prevent his property from coming to his assignees in bankruptcy, or to prevent the same from being distributed under this act, or to defeat the object of, or in any way impair, hinder, impede, or delay the operation and effect of, or to evade any of the provisions of this title, the sale, assignment, transfer, or conveyance shall be void, and the assignee may recover the property, or the value thereof, as assets of the bankrupt.

The first of these sections prohibits preference of existing creditors, and perhaps does not meet the case of an original loan such as was suggested by the Senator from Massachusetts; but the Senator will see that the next section, section 5129, does not relate alone to existing debts or existing creditors, but provides in general that whoever "makes any payment, sale, assignment, transfer, conveyance, or other disposition of any part of his property," not to a creditor to prefer him, but "to any person who then has reasonable cause to believe him to be insolvent or to be acting in contemplation of insolvency," and so on.

Mr. HOAR. But the "and so on" is a very important part of the section.

Mr. THURMAN. I know; and that he does that with the intent to put the property out of the operation of the bankrupt law. That is all very true; there is that provision in the section; but the effect of that may be to withdraw the property from the operation of the bankrupt law by the creation of a new debt, and the fact that it is a new debt, that he receives money for it, may be one of the very strongest reasons in the mind of the judge adjudicating under the bankrupt law to show that the thing was done to prevent the operation of the bankrupt law, and therefore fraudulent; for it may be said, "here is a man insolvent, or in danger of becoming insolvent; he sees an opportunity to sell a piece of property, or to mortgage it and get the money for it, and put the money in his pocket and clear out and leave that property free from the operation of the bankrupt law."

Mr. HOAR. Will the Senator from Ohio allow me to remind him of two things? First, that the title of the mortgagee in such circumstances can only be affected by the verdict of a jury, (not that the judge has no power to settle the question of the validity of the conveyance;) and, second, that what that statute declares is nothing more than the rule of law in every case where the common law exists under the statute of Elizabeth and which Lord Coke declared in his Third Institutes, I think, was the common law of England before the statute of Elizabeth, to wit, that a conveyance made for value to a third person, but made to enable the debtor to defraud, delay, or defeat his creditors, is void.

Mr. THURMAN. I do not think that it would be of any service to prolong this discussion about what the law is now. Whatever may be the actual fact of the adjudication, the Senator from Pennsylvania never was more correct in his life than in saying that the law does operate to deter people from rendering that aid to debtors in distressed circumstances which otherwise they would be inclined to render; therefore, the practical effect of it is just as bad as the Senator from Pennsylvania thinks it is. Nevertheless, I do not say this for the purpose of opposing the motion of my colleague to make this proposed law take effect on the 1st day of January next. If I had been present in the Senate when the original bill was passed, it was my purpose to move an amendment to provide that the act should not take effect immediately on its passage. Whether the 1st of January next is too far off, or whether a shorter day ought to be fixed, I am not perfectly clear; but the fact is that, until the passage of this bill by the Senate, I do not think the country generally expected the bankrupt law to be repealed at this session of Congress. I think it took the country somewhat by surprise. There had been nothing said in either branch of Congress, except the very able speech of my friend from Kentucky [Mr. McCREERY] in introducing the bill, that looked very much like a repeal of the bankrupt law. He introduced his bill and made a speech; the bill was referred to the Judiciary Committee; it lay there a long time—four months, I believe—before it was reported; and I think very few petitions came to us one way or the other—scarcely any. Therefore I am safe in saying that before the Judiciary Committee reported the bill favorably and recommended a repeal of the law the country generally did not expect it to be repealed during this session. Under those circumstances, I intended to move an amendment to the bill, if I had been in the Chamber when it passed, providing that it should not take effect immediately, but fixing some future day. How long a period ought to be allowed I do not pretend to say.

While I am on my feet I want to notice a criticism which I am told was made this morning by my friend from Kansas [Mr. INGALLS] on some remarks of mine yesterday. I was out, and came in just at the close of the remarks of the Senator from Kansas, and did not hear what he said in reference to a statement made by me; but I have been told what it was, and I beg leave to refer to it very briefly. I spoke yesterday of what a bankrupt law was and perhaps yet is on the continent of Europe, and of what it was in Great Britain up at least to the time when we passed our voluntary bankrupt law of 1841; of what it was when our fathers put into the Constitution the clause that Congress should have power to pass uniform laws on the subject of bankruptcy, and I said:

For, Mr. President, ever since the discovery made in 1841, that it was competent for Congress to pass what is called a voluntary bankrupt law—a thing never heard of before—

That is, before 1841—

in any country, that I am aware of—that it was competent for Congress to pass a bankrupt law and allow not only traders, but everybody of his own mere motion, on the surrender of his effects, to be relieved from the payment of his debts, &c.

No one has disputed, I think, that that is a correct statement. The Senator from Kansas has read from a British statute passed twenty years afterward, which allows in certain cases a debtor to petition against himself.

Mr. INGALLS. Shall I disturb the Senator if I interrupt him for a moment?

Mr. THURMAN. Certainly not.

Mr. INGALLS. I read from the CONGRESSIONAL RECORD, page 2960, where the Senator said:

Why, there is no such thing as a voluntary bankrupt law except in the United States, so far as I know or ever heard.

Mr. THURMAN. I did say that.

Mr. INGALLS. I think that is a mistake.

Mr. THURMAN. I said that; but when I said it I did not recollect for the moment this British act of 1861, or I should have made an exception of that act.

Mr. INGALLS. That is the one now in force.

Mr. THURMAN. That is the one now in force.

Mr. INGALLS. Our act of 1867 was based on that.

Mr. THURMAN. Yes. What I said was that before the idea of voluntary bankruptcy was introduced by our act of 1841 there was no country that I was aware of in which any such system prevailed; and I did say further, on page 2960, as the Senator has read, that I did not know of any such country now, except the United States. In making that statement, in the haste of speaking, I forgot for the moment the act of 1861 of Great Britain. It would be very easy to show, if it were at all material and would not be a waste of the time of the Senate, that the act of the British Parliament of 1861 was very far less wide in its scope than is our act of 1841 or the present bank-

rupt law in this country. But it would be a waste of the time of the Senate to do that and I refrain from the attempt.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The question is on the amendment of the Senator from Ohio [Mr. MATTHEWS] to the amendment of the Senator from Michigan, [Mr. CHRISTIANCY,] on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. CAMERON, of Wisconsin, (when his name was called.) I am paired on this question with the Senator from Alabama, [Mr. SPENCER.] If he were present, I should vote "nay."

Mr. CHAFFEE, (when his name was called.) On this question I am paired with the Senator from Illinois, [Mr. OGLESBY.] If he were present, I should vote "yea" and he would vote "nay."

Mr. GARLAND, (when his name was called.) On this question I am paired with my colleague, [Mr. DORSEY,] who, if here, would vote "yea" and I should vote "nay."

Mr. INGALLS, (when his name was called.) I am paired on this question with the Senator from Virginia, [Mr. WITHERS,] who is detained from the Chamber by illness. If he were present, I should vote in favor of this amendment.

Mr. PLUMB, (when his name was called.) On this question I am paired with the Senator from Massachusetts, [Mr. DAWES,] If he were present, he would vote "yea" and I should vote "nay."

Mr. PADDOCK, (when the name of Mr. SAUNDERS was called.) I desire to say on behalf of my colleague [Mr. SAUNDERS] that he is detained from the Senate to-day by serious illness in his family.

The roll-call having been concluded, the result was announced—yeas 25, nays 22; as follows:

YEAS—25.

Allison,	Davis of W. Va.,	Lamar,	Ransom,
Anthony,	Edmonds,	McMillan,	Sargent,
Bayard,	Ferry,	McPherson,	Saulsbury,
Blaine,	Grover,	Matthews,	Thurman,
Burnside,	Hamlin,	Merrimon,	
Cameron of Pa.,	Hoar,	Mitchell,	
Davis of Illinois,	Howe,	Paddock,	

NAYS—22.

Bailey,	Coke,	Hill,	Rollins,
Barnum,	Dennis,	Kellogg,	Voorhees,
Beck,	Eaton,	McCreery,	Wadleigh,
Booth,	Eustis,	McDonald,	Wallace,
Christiancy,	Harris,	Maxey,	
Cockrell,	Hereford,	Morrill,	

ABSENT—29.

Armstrong,	Dorsey,	Kirkwood,	Spencer,
Bruce,	Garland,	Morgan,	Teller,
Butler,	Gordon,	Oglesby,	Whyte,
Cameron of Wis.,	Ingalls,	Patterson,	Windom,
Chaffee,	Johnston,	Plumb,	Withers,
Conkling,	Jones of Florida,	Randolph,	
Conover,	Jones of Nevada,	Saunders,	
Dawes,	Kernan,	Sharon,	

So the amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question recurs upon the amendment of the Senator from Michigan [Mr. CHRISTIANCY] as amended.

Mr. CHRISTIANCY. If in order, I shall withdraw the amendment, (though I suppose it is not now in order to do so,) and move to non-concur in the amendment of the House of Representatives.

Mr. ALLISON and others. Oh, no.

Mr. CHRISTIANCY. That question I suppose will be open after adopting the amendment as amended.

Mr. EDMUNDS. What is the pending question?

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan.

Mr. EDMUNDS. As amended?

The PRESIDING OFFICER. As amended.

Mr. EDMUNDS. Will not the effect of agreeing to that as amended be to agree to the House amendment with an amendment, and will not that end the question and leave the bill entirely imperfect?

Mr. BLAINE. It will go back to the House.

Mr. EDMUNDS. I know it goes back to the House, but the Senate agree to their amendment with our amendment to it.

Mr. CHRISTIANCY. I do not know what the fact is, but I understood the amendment of the Senator from Ohio to be an amendment to my amendment. If it were an independent amendment the question, of course, would be a very different one.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan as amended.

Mr. EDMUNDS. I should like to make a parliamentary inquiry before I vote upon this question. I voted in favor of the amendment proposed by the Senator from Ohio to the amendment of the Senator from Michigan, because I believe that if the law is to be repealed it is better to fix a future day. A majority of the Senate has so voted. What I wish to ask of the Chair is, supposing the Senate votes to agree to the amendment of the Senator from Michigan to the House amendment, as amended, whether it will not finish the question on that House amendment and be a concurrence in the House amendment with that amendment of the Senate.

The PRESIDING OFFICER. The question will then be on the amendment of the House as amended.

Mr. EDMUNDS. If the Chair rules that way, then there is no difficulty, but I think the law is the other way.

The PRESIDING OFFICER. The amendment of the House would

then be amended by the amendment of the Senator from Michigan and by the amendment to that amendment which was moved by the Senator from Ohio, and which has been adopted.

Mr. HAMLIN. That is right.

Mr. EDMUNDS. As the amendment of the Senator from Ohio has been agreed to, there is now but one amendment pending to the amendment of the House; and as it strikes me, without looking at the books, a vote in favor of an amendment to the House amendment is a vote to agree to the House amendment thus amended. If I am right in that, then though the amendment proposed to the House amendment is imperfect, as I think it is, you have finished so far as the Senate is concerned the consideration of the question.

Mr. BLAINE. The Senator is wrong.

Mr. HOAR. Would it not be perfectly in order, after this amendment to the House amendment offered by the Senator from Michigan is agreed to, for other Senators to offer further amendments to the House amendments?

Mr. BLAINE. It must be entirely in order, after this amendment is agreed to, to offer other amendments to the House amendment.

The PRESIDING OFFICER. Undoubtedly.

Mr. BLAINE. This is an amendment to the House amendment. That does not preclude other amendments to the House amendment. It does preclude these words which the Senate will now vote in from being further amended; but that any other part of the House amendment can be amended is perfectly apparent.

Mr. EDMUNDS. What I desire to get at, although it does not concern me so much as it does those who wish to pass the bill and to pass it right, is, supposing no other amendment be offered, which is a different question, and we agree to the amendment as it now stands, whether it is then competent to disagree to the House amendment as we have amended it.

Mr. BLAINE. Of course.

The PRESIDING OFFICER. Undoubtedly.

Mr. EDMUNDS. If that be so, then there is no difficulty in the question, which I very much doubt.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan [Mr. CHRISTIANCY] as amended.

The question being put, there were, on a division—yeas 30, nays 17.

Mr. BECK. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHAFFEE, (when his name was called.) On this question I am paired with the Senator from Illinois, [Mr. OGLESBY.] If he were here, I should vote "yea."

Mr. GARLAND, (when his name was called.) On this question I am paired with my colleague, [Mr. DORSEY,] who, if here, would vote "yea" and I should vote "nay."

Mr. INGALLS, (when his name was called.) On this question I am paired with the Senator from Virginia, [Mr. WITHERS,] If he were here, I should vote in the affirmative.

Mr. PLUMB, (when his name was called.) I am paired with the Senator from Massachusetts, [Mr. DAWES,] If he were here, I should vote "nay."

Mr. TELLER, (when his name was called.) On this question I am paired with the Senator from South Carolina, [Mr. PATTERSON,] If he were here, I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 29, nays 23; as follows:

YEAS—29.

Allison,	Ferry,	McPherson,	Sargent,
Anthony,	Grover,	Matthews,	Saulsbury,
Bayard,	Hamlin,	Merrimon,	Saunders,
Blaine,	Hoar,	Mitchell,	Thurman,
Burnside,	Howe,	Morrill,	Windom,
Cameron of Wis.,	Kirkwood,	Paddock,	
Davis of Illinois,	Lamar,	Randolph,	
Edmonds,	McMillan,	Ransom,	

NAYS—23.

Bailey,	Coke,	Hereford,	Maxey,
Barnum,	Conkling,	Hill,	Rollins,
Beck,	Dennis,	Johnston,	Voorhees,
Booth,	Eaton,	Kellogg,	Wadleigh,
Christiancy,	Eustis,	McCreery,	Wallace,
Cockrell,	Harris,	McDonald,	

ABSENT—34.

Armstrong,	Davis of West Va.,	Jones of Florida,	Plumb,
Bruce,	Dawes,	Jones of Nevada,	Sharon,
Butler,	Dorsey,	Kernan,	Spencer,
Cameron of Pa.,	Garland,	Morgan,	Teller,
Chaffee,	Gordon,	Oglesby,	Whyte,
Conover,	Ingalls,	Patterson,	Withers,

So the amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question recurs on the House amendment as amended.

Mr. McDONALD. I desire to offer an amendment to No. 2 of the House amendments, in line 17. I move to strike out the word "arising," and insert "now pending or that may arise;" so as to make the House amendment read:

And all penal actions or criminal proceedings now pending or that may arise thereunder.

As the sentence stands in the House amendment, it only applies to criminal proceedings that may arise thereunder, and does not save pending cases. The object of my amendment is to save criminal prosecutions that are now pending under the law.

Mr. HAMLIN. Is it competent to amend the amendment which we have already agreed to, by inserting words?

The PRESIDING OFFICER. The second amendment of the House has not been agreed to.

Mr. HAMLIN. I thought the House amendment had been agreed to as amended.

Mr. INGALLS. There are two amendments.

Mr. THURMAN. I am a little afraid that the amendment suggested by the Senator from Indiana might possibly have the effect to limit these words instead of to extend them. It strikes me that the amendment needed here is the one suggested by the Senator from Vermont, and which I should be glad if he would put in words, and that is to save causes of action as well as actions. The House amendment seems only to include actions or criminal proceedings, and the amendment of the Senator from Indiana has the same scope only. I suggest to the Senator from Vermont, as it was his suggestion and not mine, that he formulate something to save both classes of actions.

Mr. EDMUNDS. I believe that the amendment of the Senator from Indiana is open to the criticism which the Senator from Ohio has stated; but the suggestion which I have to make to the Senate and that I hope the Senate will agree to in the interest of finishing this bill at the earliest moment and finishing it right, is to now disagree to the House amendments as amended and ask the House for a conference on the subject, which can settle it. It would be a matter of high privilege in the House and could be disposed of more speedily in that than in any other way.

Mr. McDONALD. If that motion is made I shall withdraw my amendment.

Mr. CHRISTIANCY. I make that motion.

Mr. BLAINE. I think the full effect of that motion should be observed by Senators. It entirely destroys the action in regard to postponing the operation of this bill until January next, and leaves no other action to be communicated by the Senate to the House, except that we disagree to their amendments, so that we shall have really marched up the hill simply to march down again.

Mr. WALLACE. But would not the committee of conference take these votes as an instruction in the performance of its duty?

Mr. ALLISON. Does the Senator from Pennsylvania think they ought to do so?

Mr. WALLACE. Would they pay no attention to them?

Mr. DAVIS, of Illinois. This bill would then go to the committee of conference without our amendment to the House amendment?

Mr. BLAINE. Of course.

Mr. EDMUNDS. So it would, unquestionably, because disagreeing to the House amendment as amended, of course the whole amendments of the Senate drop, and the conference committee is then put into exactly the same attitude that the Senate is now occupying. The Senate conferees can ask the House conferees to put in the very provision that they are instructed by this vote of the Senate, and that a majority of the Senate wish to put in. If the House conferees are willing, they can assent to it; if they are not willing, representing the views of their House, then they will fail to get it all. That is all there is to it. It does not hurt anybody.

Mr. HAMLIN. It seems to me much the wiser course for the Senate to pursue will be to agree to the amendment as amended, and then send it to the House and allow them to ask for a committee of conference.

Mr. INGALLS and others. That is it.

Mr. HAMLIN. And then the provision would go before the committee of conference as the Senate have adopted it.

Mr. BLAINE. Then we should have something to insist upon.

Mr. HAMLIN. If my colleague will allow me, then the committee of conference would have legitimately and directly before it the action of the Senate. If we disagree to the House amendment all the action of the Senate is set aside, and it will be new matter to be proposed by the conferees on the part of the Senate for the consideration of the committee. A wiser course would be, I think, for the Senate to agree to it in its terms, and let the whole subject, as the Senate have perfected it, go to a committee of conference. That is my opinion.

Mr. EDMUNDS. That would be perfectly true if the other portion of this amendment that we have been on, the saving clauses of this bill which everybody agrees to be important, were in a proper condition; but I think almost everybody sees that they are not. Suppose, then, that we agree to the House amendment with our amendment just as it stands in its imperfect shape, to take effect on the 1st of January. Suppose the House of Representatives agree to that; we have no reason to suppose that they will not or that they will; suppose they do; then we have become parties with the House of Representatives in asking them to unite with us in passing a law which does not have the proper saving clauses, and there is the end of it, and we are responsible for this mischievous and vicious legislation as much as anybody else. The only way to perfect the saving-clause part of this performance is in a conference between the two Houses, as this body has refused to have any committee consider it.

Mr. HOAR. I desire to suggest to the Senator from Vermont that the effect of the course he proposes is to put the bill still more into the power of the House, because if they recede from their amendment we having disagreed to it, the bill passes unamended. The Senator certainly does not want that; nobody wants it. In other words, if the

course suggested by the Senator from Vermont is taken the Senate sends the bill back with its last formal declaration that it has changed its mind and does not desire the amendment to the bill that we have just voted to put on to it. If we send it back in the mode suggested by the Senator from Maine, [Mr. HAMLIN,] then the committee of conference will be appointed in all probability. Practically everybody knows that it will. The House will disagree and confer, and the bill then goes to a committee of conference with the expression of the Senate's opinion adhered to.

Mr. EDMUNDS. That suggestion has great force, I admit, but the answer to that would be at once, we have agreed to the House amendment with this amendment; therefore that part of the House amendment that we agree to becomes agreed to between the Houses, and the conference committee cannot touch it, and you have tied up yourself in that way.

Mr. HOAR. That is not the parliamentary result.

Mr. EDMUNDS. I think it is.

Mr. BLAINE. The Senator from Vermont, I think, is suggesting some very novel parliamentary law.

Mr. EDMUNDS. It may be.

Mr. DAVIS, of Illinois. I do not know whether a motion to refer is now in order; and I do not know whether the Senate is ready to trust the Judiciary Committee, but since this amendment has been put upon the bill postponing the operation of the repeal until the 1st of January, I think that if the bill were referred to the Judiciary Committee they would report it back to-morrow; the chairman could get it in proper shape about the saving clause, and there would be no trouble about it at all. We have voted upon this question of reference once or twice, but that was before the amendment of the Senator from Ohio [Mr. MATTHEWS] was added. I think the Senate now is in a frame of mind to refer the bill to the Judiciary Committee to get it in shape so that there shall not be any dispute as to what the law has repealed, and that there may be a sufficient saving clause to it. I make that motion now.

Mr. BLAINE. With instructions to report it back to-morrow?

Mr. DAVIS, of Illinois. Not with instructions, but I think they will be able to report it to-morrow.

Mr. CHRISTIANCY. My motion is pending.

The PRESIDING OFFICER. The Senator from Illinois moves to refer the bill, with the amendment of the House, to the Judiciary Committee.

Mr. CHRISTIANCY. Does that take precedence of my motion?

The PRESIDING OFFICER. It does.

Mr. BECK. There have been a good many suggestions made as to the effect of sending this bill to a committee of conference and the limitations that would be put upon that committee by the action of the Senate. I should like to know whether there would be any obstacle now in the way of the House withdrawing its amendment in the committee of conference. We have merely amended their amendment, as I understand. If the question is to be made one of instructions, based upon the action of the Senate, and the House conferees should see fit to withdraw the amendment which they put to the bill, of course that would carry with it the amendment which we have now added to their amendment. I should like to read for the edification of the proposed conferees the number of Senators who voted for and against this bill originally. There were 37 yeas, being Messrs. ARMSTRONG, BECK, BLAINE, BOOTH, BUTLER, CAMERON of Pennsylvania, CAMERON of Wisconsin, COKE, CONKLING, DAVIS of West Virginia, EATON, EUSTIS, FERRY, GARLAND, GORDON, GROVER, HARRIS, HEREFORD, INGALLS, JOHNSTON, JONES of Florida, KERNAN, LAMAR, MCCREERY, McDONALD, MCPHERSON, MAXEY, MITCHELL, MORGAN, MORRILL, OGLESBY, PLUMB, ROLLINS, TELLER, WADLEIGH, WALLACE, and WHYTE. The nays were Messrs. ALLISON, ANTHONY, BURNSIDE, CONOVER, McMILLAN, and SAUNDERS; it being a vote of 37 to 6.

Mr. BAILEY. I desire to state to the Senator that although my name is not recorded I voted for the repeal of the law, and the next morning I stated the fact that my name was omitted, and the RECORD was corrected accordingly.

Mr. BECK. I am glad to know that. That makes 38 to 6. Therefore if the House should be obliging enough to withdraw their amendment, that we have now amended, our conferees would have very strong instructions from the Senate in this vote to tell them that the original bill was right.

Mr. ALLISON. Will not the Senator have read also the number of Senators who did not vote at all on this bill, showing that a majority did not vote for the bill?

Mr. BECK. Those who did not vote at all were simply not doing their duty. We only know what those meant who voted.

Mr. DAVIS, of Illinois. Will the Senator from Kentucky allow me one moment. I did not vote, but I had paired with the Senator from Michigan, [Mr. CHRISTIANCY.] The senior Senator from Ohio [Mr. THURMAN] was paired also with the junior Senator from Ohio, [Mr. MATTHEWS.]

Mr. MATTHEWS. I desire to say that I was paired with my colleague, and that I announced the pair while the vote was being taken.

Mr. PADDOCK. I also was one of those who did not vote.

Mr. HILL. I desire to say that I intended to vote and should have voted in the affirmative, but somebody called me out of the Chamber for a moment, and the vote was taken while I was gone and sooner

than I expected. I regretted it very much; but as there were thirty-seven who voted in the affirmative, I was satisfied.

Mr. BECK. There were four pairs announced, which would have made 41 to 10.

Mr. WALLACE. What is the Senator's point?

Mr. BECK. There was some suggestion made to the effect that our action to-day would be an instruction to the House upon their action in conference. The House conferees might regard it that the Senate had given a very positive instruction to repeal this law. A good deal has been said about the effect of our action upon the conference proposed.

Mr. CHAFFEE. I desire to say to the Senator from Kentucky that I was one of the Senators who did not do their duty, and if I had been present I should have voted "nay." That would have made seven.

Mr. SARGENT. I do not understand the logic of the proposition of the Senator from Kentucky. He says that the House conferees, in committee of conference, instructed by a former large vote of the Senate contrary to its present action and subsequent vote, would withdraw their amendment. I do not understand that when the Senate amends a House amendment the House has any power to withdraw its amendment. It can agree with the Senate in the matter which the Senate has put on as an amendment to the House amendment; but a committee of conference has no further power. The House in conference has not the power, neither has the Senate in conference the power. Anything that is done must be by the concurrence of both parties, or else there is a disagreement.

It may be true that on the 16th of April a large number of Senators were in favor of repealing the bankrupt law absolutely. I find that my name is not recorded there. I dare say if I had been here I should have voted in favor of the repeal, but I have seen enough in the journals of the country since that time, notice enough of men hurrying to take advantage of the law before it is repealed, to be satisfied that the law answers a present purpose of the country. I have further been satisfied by arguments brought forward by different Senators here, notably by the remarks of the Senator from Iowa, [Mr. ALLISON,] that there is a necessity that this law should be extended, especially in the unsettled state of the business of the country, especially in view of the fact that the gradual approach toward specie payment has left many a man who incurred debts some years ago overwhelmed in such a position that some relief is necessary for him by a bankrupt law. If at any time during the last ten years such a law has been necessary now is the time, and the necessity is likely to continue during the next six months, when business is endeavoring to resume its normal condition, and these helps of the legislation of Congress are necessary in order to enable the debtor to free his shoulders of an overwhelming burden.

These arguments have come to my mind with great force, and that is the reason why I have now voted to postpone the time of the repeal of this law. It seems to me that if the Senate now throws away all that it did yesterday and to-day, especially that which has been done to-day, and takes back the proposition that the repeal of this law shall be delayed some months, and simply sends this bill back to the House of Representatives with amendment No. 1 concurred in and amendment No. 2 non-concurred in, the very natural action of the House, judging by its former course, would be to recede from its amendment, which is really one of form rather than substance in the view of those who desire this repeal, and then leave the law substantially repealed from the passage of the bill.

Now, sir, I want to avoid that. I want to see if in a reasonable conference of the two Houses there cannot be such a compromise made on this bill as that three or four or six months, if possible, shall be allowed before the bankrupt act is absolutely repealed. That is the logic of the attitude of the Senate to-day. It makes no difference what the attitude of the Senate was sixteen days ago; that is its present position; and I do not want to see it surrendered, because it has been fought up to by means of arguments upon the floor and among Senators. The debates show that they have influenced Senators' minds. Before this matter came up on the House amendments we had very little debate. There was a very able, though a very short, speech made by my friend from Kentucky [Mr. MCCREERY] in favor of repeal, wherein one side of the matter was presented with a great deal of picturesqueness, and I might say with very considerable eloquence and ability; but the other side of the position was scarcely debated at all, certainly not so much as it should have been. I believe this is one of those debates which sometimes take place that instruct the Senate and influence Senators' minds; not written speeches read from their desks; not speeches prepared in Senators' studies, but a conflict of mind against mind in the propositions involved, short, crisp speeches, carrying conviction to the minds of Senators. After the influence of such a debate and after the vote of the other day, no doubt reversed in numbers, has been reversed in effect, I do not believe there is a Senator here to-day who has voted for the extension of time when this repeal shall take effect who is not prepared, in view of the light that has been thrown upon the question in this debate and in the state of the business of the country during the last two weeks to justify his vote in favor of extending the law, even though he may have voted the other way before.

Mr. BECK. Will the Senator allow me to say a word before he sits down?

Mr. SARGENT. Certainly.

Mr. BECK. I made the remarks I did and read the record I did because I understood and still understand that the Senators who succeeded in having the amendment passed regarded it as being somewhat of a limitation upon the power of the House or the power of the Senate conferees to a full and free conference upon the whole bill. I endeavored to show that the vote of the Senate was so absolute upon the bill as it passed the Senate, and I might have said the vote of the House, as shown by the RECORD, of 205 to 39, was so absolute in favor of the bill, that I did not desire it to be understood that the conferees would receive the impression of a change of mind on the part of the Senate. I do not believe it exists, nor do I want the conferees to do anything else than have a full, free, and fair conference upon all the questions of difference between the two Houses.

But I rose particularly to say that when I was asked the question in regard to the number of absentees, and made the remark that those who were absent failed to do their duty to the Senate, I meant by that no disrespect. It was not a proper statement to be made, and I did not intend to make it in that sense. I meant simply to say they were absent and you could not tell what they would have done if they had been here. It is often impossible for Senators to be here. I did not mean to reflect upon any Senator for being absent that day, whether by reason of business, sickness, or anything else. The moment the suggestion was made to me that there was impropriety in that form of language, I said I would rise and take it all back, and, if necessary, apologize to any Senator who was absent for using any such form of expression, as I now do.

Mr. DAVIS, of Illinois. I need not say that I make the motion to refer in good faith, not with any view to smother the bill and keep it in committee, but to report it back as soon as the chairman may call the committee together, and have a proper saving clause and a proper repealing clause adopted.

Mr. McDONALD. That motion takes precedence over my motion to amend the amendment of the House, I understand.

The PRESIDING OFFICER. It does.

Mr. EDMUNDS. I do not ask the Senate to refer this bill, but I simply wish to say that if the Senate choose to refer it I think I can state that they shall have a report to-morrow morning, if four members of the committee can be got together, as I have no doubt they can.

The PRESIDING OFFICER. The question is on the motion to refer the bill and amendments to the Committee on the Judiciary.

Mr. BECK. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BAILEY. Mr. President, yesterday I voted against the reference of this bill to the Judiciary Committee. My vote was cast then under the impression that we could very speedily dispose of all the questions that were then pending before the Senate. I myself believed that the bill as originally passed by the Senate and as it was sent to the House protected all interests and all rights that depended upon the previous administration of the bankrupt law. The House chose, however, to put an amendment to it, out of more abundant caution, to save and protect these rights. I was willing myself to recognize that amendment and I believed that here we could in a few minutes settle all questions that arose upon it. But the experience of yesterday and to-day leads me to believe that, although practical men and lawyers as most of us are, while we might in a conversation of five minutes settle every question either of construction or of phraseology that can properly arise in an endeavor to perfect this bill, still sitting as a legislative body it has seemed impossible to do so; and under the assurance that has been given to us by the chairman of the Judiciary Committee I shall vote to send this bill to that committee in order that it may be reported back in the morning in such shape that the Senate can act intelligently upon it.

Mr. TELLER. I have said that I am paired with the Senator from South Carolina [Mr. PATTERSON] who voted several times yesterday for a reference of the bill to the Judiciary Committee. I feel at liberty, therefore, to vote as I shall vote to refer the bill to the committee, although I am exceedingly anxious that the law should be repealed. I vote to refer upon the statement made by members of the committee that the bill shall not be smothered in the committee.

Mr. THURMAN. I wish to make what they call in the House a parliamentary inquiry. If this bill be referred to the Committee on the Judiciary will that committee be in any way bound by the votes that have been taken to-day on amendments?

Mr. SARGENT. They will take the bill in its present state.

Mr. DAVIS, of Illinois. Undoubtedly.

Mr. THURMAN. Suppose, for instance, that the Judiciary Committee should want to report the bill with a shorter time or a longer time than the 1st of January, 1879.

Mr. DAVIS, of Illinois. I would suggest to the Senator from Ohio that that is hardly a practical question. The Judiciary Committee have the sense of the Senate that the 1st day of January is the period fixed by the Senate for this bill to go into operation. They certainly would report that time; and the other question is simply a matter of phraseology.

Mr. ALLISON. Whatever the committee may report will be open to amendment in the Senate.

The PRESIDING OFFICER. The Secretary will call the roll on the motion to refer the bill and amendments to the Committee on the Judiciary.

The question being taken by yeas and nays, resulted—yeas 37, nays 16; as follows:

YEAS—37.		
Allison,	Davis of Illinois,	Kirkwood,
Anthony,	Davis of W. Va.,	Lamar,
Bailey,	Eaton,	McMillan,
Bayard,	Eustis,	McPherson,
Blaine,	Ferry,	Matthews,
Bruce,	Grover,	Merrimon,
Burnside,	Hamlin,	Mitchell,
Cameron of Wis.,	Hoar,	Morrill,
Christianscy,	Howe,	Ransom,
Conkling,	Ingalls,	Rollins,
NAYS—16.		
Beck,	Coke,	Hereford,
Booth,	Denniss,	Hill,
Cameron of Pa.,	Garland,	McCreery,
Cockrell,	Harris,	McDonald,
ABSENT—23.		
Armstrong,	Dorsey,	Kellogg,
Barum,	Edmunds,	Kernan,
Butler,	Gordon,	Morgan,
Chaffee,	Johnston,	Oglesby,
Conover,	Jones of Florida,	Patterson,
Dawes,	Jones of Nevada,	Plumb,

So the motion to refer was agreed to.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 1857) to extend the provisions of section 3297 of the Revised Statutes to other institutions of learning;

A bill (H. R. No. 3859) for the relief of Silas M. Norton, postmaster at Bristol, Connecticut;

A bill (H. R. No. 1639) making an appropriation for pier-lights at the entrance of the jetties in the South Pass of the Mississippi River;

A bill (H. R. No. 3222) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes;

A bill (S. No. 15) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act; and

A joint resolution (H. R. No. 158) for the erection of a monument over the grave of Thomas Jefferson.

AMENDMENT TO POST-ROUTE BILL.

Mr. WINDOM submitted an amendment intended to be proposed by him to the bill (H. R. No. 4256) to establish post-roads in the several States herein named; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

RESUMPTION OF SPECIE PAYMENTS.

Mr. MATTHEWS. I move that the Senate do now adjourn.

Mr. HAMLIN. I ask the Senator from Ohio, if he will give me his ear, to allow me to submit a motion to go into executive session for a few moments.

Mr. DAVIS, of West Virginia. That is better.

Mr. ALLISON. I ask the Senator from Ohio and the Senator from Maine to yield to me that I may call up the bill to amend the resumption act, in order that it may be the unfinished business at one o'clock to-morrow. I do this at the request of the Senator from Michigan, [Mr. FERRY.]

Mr. CONKLING. Let me understand for what purpose? To enable some Senator to make a speech or to press it to a vote?

Mr. ALLISON. Not to press it to a vote to-morrow.

The PRESIDING OFFICER. The bill (H. R. No. 805) to repeal all that part of the act approved January 14, 1875, known as the resumption act, which authorized the Secretary of the Treasury to dispose of United States bonds and redeem and cancel the greenback currency, will be regarded as before the Senate as in Committee of the Whole, if no objection be made.

Mr. HAMLIN. I insist on my motion for an executive session.

Mr. MATTHEWS. I give way to the Senator from Maine for that purpose.

The PRESIDING OFFICER. The Senator from Maine moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened, and (at four o'clock and twenty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 1, 1878.

The House met at eleven o'clock a. m. Prayer by Rev. ALFRED H. AMES, of Washington, District of Columbia.

The Journal of yesterday was read and approved.

THE TARIFF.

Mr. O'NEILL. I ask unanimous consent of the House to present a memorial from the operatives on textile manufactures in Philadelphia and its vicinity, praying for the defeat of what is known as the Wood tariff. The memorial is signed by 5,553 male operatives and by 1,199 female operatives, making 6,752 petitioners.

Mr. EDEN. Does the gentleman ask that it be printed in the RECORD? Why not introduce it through the box?

Mr. O'NEILL. Oh, no, I do not ask that it be printed, but I simply ask to be allowed to present it in open House.

There was no objection, and the petition was received and referred to the Committee of Ways and Means.

LIGHT-HOUSE AT COLD SPRING HARBOR, LONG ISLAND.

Mr. COVERT, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved. That the Secretary of the Treasury be, and he is hereby, requested to inform this House what amount, if any, is necessary, in addition to the sum heretofore appropriated, for the erection and completion of a proper and sufficient light-house on the middle ground at the entrance of Cold Spring Harbor, Long Island.

Mr. COVERT moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FRACTIONAL SILVER COIN.

Mr. CHITTENDEN, by unanimous consent, introduced a bill (H. R. No. 4668) providing for the exchange of fractional silver coin for United States notes; which was read a first and second time.

Mr. CHITTENDEN. I move that the bill be referred to the Committee on Banking and Currency, and ordered to be printed.

Mr. BREWER. That bill should be referred to the Committee on Coinage, Weights, and Measures, which has the subject now under consideration.

Mr. STEPHENS, of Georgia. That subject is already before the Committee on Coinage, Weights, and Measures, and the Committee have agreed upon a bill which they are ready to report to the House.

Mr. CHITTENDEN. The Committee on Banking and Currency have this same subject under consideration, and this proposition is involved in a bill before that committee. It seems that it is eminently proper that the bill should be referred to that committee. My object is to get prompt action upon it, for the bill is very much needed in some of our larger business cities.

Mr. STEPHENS, of Georgia. It belongs eminently to the Committee on Coinage, Weights, and Measures. We have the matter under consideration and a bill agreed upon which we will report at the very first opportunity.

The SPEAKER. The question will be first taken upon the motion to refer to the Committee on Coinage, Weights, and Measures.

The motion was agreed to; and the bill was accordingly referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

PROCEEDS OF SALE OF PUBLIC LANDS FOR EDUCATIONAL PURPOSES.

Mr. WILLIS, of Kentucky, by unanimous consent, presented the petition of 10,000 citizens of the State of Kentucky, in favor of the educational bill now pending before Congress; which was referred to the Committee on Education and Labor.

DISABLED SOLDIERS IN THE DEPARTMENTS.

Mr. CLARK, of New Jersey, by unanimous consent, submitted the following resolution:

Resolved. That the Secretary of War, the Secretary of the Treasury, and the Secretary of the Interior, respectively, be directed to furnish this House with a list of the names of all persons holding positions in their respective Departments who were honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty, and when such service of such persons, respectively, commenced.

The SPEAKER. The Chair would suggest that the word "requested" be used instead of the word "directed."

Mr. CLARK, of New Jersey. I have no objection, and will modify the resolution in accordance with the suggestion of the Chair.

The resolution, as modified, was adopted.

Mr. CLARK, of New Jersey, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BUCKNER. I ask unanimous consent that Senate bill No. 893 be taken from the Speaker's table and referred—

The SPEAKER. The Chair would state that he was about to submit a request to the House that unanimous consent be given that Senate bills upon the Speaker's table be read by their titles in their order and referred to their appropriate committees. The Chair would say that under this request, if any member desires to have a bill remain upon the Speaker's table, an objection to its reference would leave it there. There are a great number of bills on the Speaker's table which should be considered by the appropriate committees and the order of proceeding suggested by the Chair is in the interest of facilitating business.

Mr. HALE. It will be a reference by unanimous consent.

The SPEAKER. A reference by unanimous consent, not to be brought back upon a motion to reconsider. The Chair does not propose that the bills shall be taken up for consideration or action.

Mr. WOOD. And to be referred without discussion?

The SPEAKER. Without discussion.

Mr. PAGE. When will there be a morning hour? I am desirous that there shall be a morning hour.

The SPEAKER. The morning hour can be had after this reference of bills on the Speaker's table.

Mr. PAGE. Very well.

There was no objection, and it was so ordered.

BUSINESS ON THE SPEAKER'S TABLE.

The following bills were then taken up, read a first and second time, and referred as indicated:

A bill (S. No. 134) making further appropriations for continuing the improvements of Galveston Harbor, State of Texas—to the Committee on Commerce.

A bill (S. No. 859) for the relief of Charles L. Davenport—to the Committee on Public Lands.

A bill (S. No. 933) to authorize the commissioners of the District of Columbia to refund a certain tax erroneously collected—to the Committee for the District of Columbia.

A bill (S. No. 1021) for the relief of certain settlers on the public lands—to the Committee on Public Lands.

A bill (S. No. 1047) regulating the appointment of cadet midshipmen in the Naval Academy at Annapolis—to the Committee on Naval Affairs.

A bill (S. No. 927) to authorize the construction of a narrow-gauge railroad from Bismarck to the Black Hills—to the Committee on Railways and Canals.

The Clerk read the following by its title:

A joint resolution (S. No. 23) providing for the distribution and sale of the new edition of the Revised Statutes of the United States.

The SPEAKER. If there be no objection this joint resolution will be referred to the Committee on Printing.

Mr. ACKLEN. I desire that joint resolution to remain on the Speaker's table. When I get the opportunity I shall ask unanimous consent that it be taken up and considered by the House.

The SPEAKER. The bill will remain upon the Speaker's table.

The Clerk read the title of the following:

A bill (S. No. 148) to confirm the term for the period of seventeen years from the date of its original grant of the patent of Thomas A. Weston.

The SPEAKER. If there be no objection the bill will be referred to the Committee on Patents.

Mr. VANCE. I ask that that bill remain upon the Speaker's table, as I propose in due time to ask consent that it be taken up and put on its passage.

The SPEAKER. It will require unanimous consent for its consideration, and it really will facilitate the passage of the bill to refer it at this time.

Mr. VANCE. The committee have considered the subject of the bill, and are ready to recommend action upon it.

The SPEAKER. The bill will remain upon the Speaker's table.

The following bills were read a first and second time and referred, as indicated:

A bill (S. No. 258) to retrocede to the State of Florida jurisdiction over lands reserved for a dock-yard in the county of Escambia, in said State—to the Committee on Public Lands.

A bill (S. No. 259) to revive and extend the provisions of an act approved June 8, 1872, granting the right of way through the public lands of the United States to the Pensacola and Louisville Railroad Company—to the Committee on Railways and Canals.

A bill (S. No. 330) explanatory of section 1819 of the Revised Statutes of the United States, and to ratify and confirm certain territorial legislation, and for other purposes—to the Committee on the Judiciary.

A bill (S. No. 365) for the relief of Francis Gilbeau—to the Committee of Claims.

A bill (S. No. 398) extending the act of July 2, 1862, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," to the State of Colorado, and for other purposes—to the Committee on Public Lands.

A bill (S. No. 394) to place the name of Daniel H. Kelly upon the muster-roll of Company F, Second Tennessee Infantry—to the Committee on Military Affairs.

A bill (S. No. 350) to enable citizens of the State of Florida to transfer a portion of their pre-emptions and homesteads to aid in the construction of railroads—to the Committee on Railways and Canals.

A bill (S. No. 455) for the relief of Patrick Sullivan—to the Committee on Military Affairs.

A bill (S. No. 612) for the relief of John A. Torrence—to the Committee of Claims.

A bill (S. No. 800) for the relief of the heirs of Major D. C. Smith—to the Committee of Claims.

A bill (S. No. 902) for the relief of Carl Jussen—to the Committee on Military Affairs.

A bill (S. No. 909) to authorize the Secretary of War to accept an

absolute gift of land necessary for military purposes—to the Committee on Military Affairs.

A bill (S. No. 51) for the relief of Albert Towle, postmaster at Beatrice, Nebraska—to the Committee of Claims.

A bill (S. No. 242) regulating divorces in the Territories of the United States—to the Committee on the Judiciary.

The Clerk read the title of the bill (S. No. 490) to authorize the appointment of commissioners to determine claims, and for other purposes, at Hot Springs, in the State of Arkansas.

Mr. STEPHENS, of Georgia. I ask that this bill lie on the table for the present. I want to have it put on its passage without any reference.

The Clerk read the title of the bill (S. No. 187) authorizing the Commissioner of Patents to rehear the application of Stephen V. Benét for a patent for cartridges.

Mr. BUTLER. I object to the reference of this bill.

The Clerk read the title of the bill (S. No. 426) for the relief of the Masonic Hall Company of Atlanta, Georgia.

Mr. CANDLER. I ask that this bill be referred to the Committee of the Whole on the Private Calendar.

The SPEAKER. It is a Senate bill, and has had no consideration by any committee of this House.

Mr. CONGER. I think it should go to the Committee on War Claims.

The SPEAKER. The Chair thinks that to refer the bill now to the Committee of the Whole on the Private Calendar would be a step in advance of the regular proceedings.

Mr. CANDLER. Then I ask that it be referred to the Committee of Claims. It is not a war claim.

Mr. CONGER. If I remember that bill correctly, it relates to payment for damages growing out of the war.

The SPEAKER. It is for the occupation of buildings since the war, and the Chair thinks it should properly be referred to the Committee of Claims.

Mr. CONGER. It is for occupation of buildings by the military.

Mr. CANDLER. I believe the buildings were occupied by the military; but it was in 1866, and took place under a contract arrangement.

Mr. CONGER. I do not insist upon the reference to the Committee on War Claims.

The bill was read a first and second time, and referred to the Committee of Claims.

The Clerk read the title of the bill (S. No. 238) extending the time for the construction and completion of the Northern Pacific Railroad.

Mr. RICE, of Massachusetts. I ask that this bill remain on the Speaker's table.

The SPEAKER. Objection being made to the reference, the bill will remain on the table.

Mr. RICE, of Massachusetts. I ask that the bill be ordered to be printed.

There being no objection, it was ordered accordingly.

Mr. LUTTRELL. I ask that this bill be referred to the Committee on the Pacific Railroad.

The SPEAKER. There is objection to the reference, and, under the arrangement agreed to by the House, it must remain on the table. The bill can be reached whenever the House goes to the Speaker's table by motion under the rule. The gentleman from California [Mr. LUTTRELL] can make that motion.

Mr. LUTTRELL. I move that the bill be referred to the Committee on the Pacific Railroad.

The SPEAKER. That motion is not in order now; it will be whenever the House proceeds to the Speaker's table under the rule. These bills are now being taken up by unanimous consent for reference only.

The Clerk read the title of the bill (S. No. 655) to incorporate the Cheyenne and Black Hills Railroad and Telegraph Company.

The SPEAKER. If there be no objection, this bill will be referred to the Committee on Railways and Canals.

Mr. CORLETT. I ask that the bill be printed.

Mr. BURCHARD. I ask that all bills referred under the present proceeding be printed.

The SPEAKER. All bills referred under this arrangement will be ordered to be printed.

The bill was read a first and second time, and referred to the Committee on Railways and Canals.

The Clerk read the title of the bill (S. No. 185) to amend section 2931 of the Revised Statutes of the United States so as to allow repayment by the Secretary of the Treasury of the tonnage tax where it has been exacted in contravention of treaty provisions.

Mr. WILSON. I am directed by the Committee on Foreign Affairs by a resolution unanimously adopted to ask that this bill remain on the Speaker's table to be taken up and put on its passage.

The SPEAKER. Objection being made to the reference, the bill will remain on the table.

The Clerk read the title of the bill (S. No. 312) for the relief of Robert Coles.

Mr. SAPP. I ask that this bill remain on the Speaker's table. It has been thoroughly examined by the Committee on Public Lands.

The SPEAKER. Objection being made to the reference, the bill will remain on the table.

The Clerk read the title of the bill (S. No. 337) for the relief of Thomas H. Halsey, paymaster, United States Army.

Mr. JOYCE. I ask that this bill remain on the Speaker's table.

The SPEAKER. Objection being made to the reference, the bill will remain on the table.

The following bills were read a first and second time and referred as indicated:

A bill (S. No. 260) for the relief of H. A. Myers—to the Committee on Military Affairs.

A bill (S. No. 312) for the relief of Robert Coles—to the Committee on Military Affairs.

A bill (S. No. 334) for the relief of William Bowlin, late of Company L, Second Arkansas Cavalry—to the Committee on Military Affairs.

A bill (S. No. 342) for the relief of Phoebe Henrietta Groesbeck—to the Committee of Claims.

A bill (S. No. 471) for the relief of M. S. Draughn—to the Committee of Claims.

A bill (S. No. 520) to authorize the claimants to certain lands in Santa Barbara County, California, to submit their claim to the United States district courts for that State for adjudication—to the Committee on the Judiciary.

A bill (S. No. 594) for the relief of William W. Speirs, late assistant surgeon United States Army—to the Committee on Military Affairs.

A bill (S. No. 644) for the relief of Dwight W. Hakes—to the Committee on Military Affairs.

A bill (S. No. 801) to amend section 2403 of the Revised Statutes of the United States, in relation to deposits for surveys—to the Committee on Public Lands.

A bill (S. No. 878) to disapprove and annul an act of the Legislative Assembly of New Mexico, passed on the 18th of January, 1873, by a two-third vote of both houses over the veto of the governor of said Territory—to the Committee on the Judiciary.

A bill (S. No. 906) releasing the title of the United States in a certain parcel of land to the assigns of John Cutler—to the Committee on Public Lands.

A bill (S. No. 913) for the relief of Nicholas Wax, Michael Granery, and Moline Lange—to the Committee on the Judiciary.

A bill (S. No. 955) for the relief of the estate of John Waters, deceased—to the Committee on War Claims.

A bill (S. No. 43) to provide for taking testimony to be used before Congress in cases of private claims against the United States—to the Committee on the Judiciary.

A bill (S. No. 88) for the relief of James W. Richard and J. S. Brown & Brother, of Denver, Colorado—to the Committee of Claims.

A bill (S. No. 288) for the relief of Gibbs & Co., of Charleston, South Carolina—to the Committee on the Judiciary.

A bill (S. No. 319) for the relief of the Metropolitan police force of the District of Columbia—to the Committee of Claims.

A bill (S. No. 797) for the relief of Acting Master Robert Platt, United States Navy—to the Committee on Naval Affairs.

A bill (S. No. 824) establishing the rank of the senior inspector-general—to the Committee on Military Affairs.

A bill (S. No. 889) granting a pension to John Etzell—to the Committee on Invalid Pensions.

A bill (S. No. 1031) for the relief of the estate of E. Rouff—to the Committee of Claims.

A bill (S. No. 27) for the relief of Amos B. Ferguson—to the Committee on Military Affairs.

A bill (S. No. 893) to authorize the Secretary of the Treasury to examine the evidence of payments made by the State of Missouri since April 17, 1866, to the officers and privates of the militia forces of said State for military services actually performed in the suppression of the rebellion in full concert and co-operation with the authorities of the United States and subject to their orders, and to make report thereof to Congress—to the Committee on War Claims.

A bill (S. No. 1066) for the relief of Doughty & Card—to the Committee on War Claims.

A bill (S. No. 1068) for the relief of T. B. Kelly—to the Committee on Military Affairs.

A bill (S. No. 1071) for the relief of settlers on the public lands—to the Committee on Public Lands.

A bill (S. No. 1073) granting lands to the State of Minnesota in lieu of certain lands heretofore granted to said State—to the Committee on Public Lands.

A bill (S. No. 1096) for the relief of Samson Goliah.

A bill (S. No. 3969) regulating the appointment of justices of the peace, commissioners of deeds, and constables within and for the District of Columbia, and for other purposes—to the Committee for the District of Columbia.

STEPHEN V. BENÉT.

Mr. BUTLER. I withdraw my objection to the reference of Senate bill No. 187.

The bill (S. No. 187) authorizing the Commissioner of Patents to rehear the application of Stephen V. Benét for a patent for cartridges was then taken from the Speaker's table, read a first and second time, referred to the Committee on Patents, and ordered to be printed.

FORECLOSURE OF MORTGAGES.

Mr. LYNDE, by unanimous consent, introduced a bill (H. R. No. 4669) to regulate the foreclosure of mortgages and deeds of trust in the District of Columbia and to prevent fraudulent releases; which

was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PACIFIC MAIL STEAMSHIP COMPANY.

Mr. CALDWELL, of Tennessee, by unanimous consent, from the Committee on the Post-Office and Post-Roads, reported back a bill (H. R. No. 3009) to authorize the payment of balance due to the Pacific Mail Steamship Company; which was referred to the Committee on Appropriations.

ROAD FROM DULUTH TO PIGEON RIVER.

Mr. CALDWELL, of Tennessee, also, by unanimous consent, from the same committee, reported back petition for appropriation for a road from Duluth to Pigeon River; which was also referred to the Committee on Appropriations.

Mr. CONGER. It is understood that all these references are not to be brought back by a motion to reconsider.

The SPEAKER. Such has been the understanding.

PACIFIC RAILROAD.

Mr. FULLER, by unanimous consent, from the Committee on Public Lands, reported back favorably a bill (H. R. No. 747) to amend the act entitled "An act to amend an act to construct a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 2, 1864; which, with the accompanying report, was ordered to be printed, and recommitted, not to be brought back by a motion to reconsider.

ORDER OF BUSINESS.

Mr. STEPHENS, of Georgia. I demand the regular order of business, so as to have a morning hour.

Mr. ATKINS. I want the House to go into the Committee of the Whole on the state of the Union, to proceed with the consideration of the legislative, &c., appropriation bill.

Mr. DUNNELL. I ask unanimous consent to suggest to the gentleman from Tennessee to allow a morning hour to-day. The Committee on Appropriations has had a very good day in court so far.

Mr. ATKINS. I myself allow nothing; it is the House which allows it. There are a great many gentlemen here pressing me to proceed with the appropriation bill. I propose to submit the proposition to the House.

The SPEAKER. The Chair will submit the proposition, which is a privileged one, and if the House wishes to have a morning hour it will vote down the motion to go into Committee of the Whole on the state of the Union.

Mr. ATKINS. I move the House resolve itself into Committee of the Whole on the state of the Union.

The motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. EDEN in the chair,) and proceeded to the consideration of the bill (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes.

The CHAIRMAN. The reading of the bill will be proceeded with. The Clerk read as follows:

Territory of Washington:
For salaries of governor, chief justice, and two associate judges, at \$2,600 each; and secretary at \$1,800, \$12,300.
For legislative expenses, namely: For rent of secretary's office, hire of messenger, light, fuel, stationery, postage, office furniture, repairs, and other incidentals, \$1,000.
For contingent expenses of the Territory, to be expended by the governor, \$500.

Mr. JACOBS. I offer the following amendment:

In line 1128 strike out "\$500" and insert "\$1,500;" so that it will read:
For contingent expenses of the Territory, to be expended by the governor, \$1,500.

In section 1958 of the Revised Statutes, which is a law unrevoked and still in force, it is provided that there shall be appropriated annually \$1,500 for Washington Territory, to be expended in like manner and for like purposes as are specified in section 1935.

Section 1935 relates to other Territories but specifies the purposes and object for which this appropriation shall be made. It is to provide a clerk for the governor and for rent of an office for the governor, and \$500 is not sufficient for that purpose.

Mr. ATKINS. All the governors except this one originally got \$1,000 apiece. I believe the governor of Washington Territory got \$1,500; but we do not see why there should be any discrimination in his favor over the others. Besides, two years ago the amount was reduced to \$500. It is really an addition to the governor's salary which he can dispose of as he chooses. That is the whole of it.

The amendment was not agreed to.

The Clerk read the following paragraph:

In the office of the Quartermaster-General:
One chief clerk, at \$2,000; eight clerks of class 4; one draughtsman, at \$1,600; nine clerks of class 3; twenty clerks of class 2; forty clerks of class 1; twelve clerks, at \$1,000 each; thirty copyists, at \$900 each; one female messenger, at \$30 per month; two assistant messengers; one page, at \$40; for laborers, \$3,600; one engineer, at \$1,200; one fireman; and for watchmen, \$3,000; in all \$158,400.

Mr. ATKINS. I offer the following amendment:

In line 1182, strike out "twelve" and insert "twenty;" in line 1183, strike out "thirty" and insert "twenty;" and in line 1189, strike out "\$158,400" and insert "\$157,400;" so that it will read:
Twenty clerks at \$1,000 each; twenty copyists at \$900 each; in all, \$157,400.

The amendment was adopted.

Mr. HASKELL. I would like to inquire of the chairman of the Committee on Appropriations why in line 1184 one female messenger is put down at \$30 per month and immediately following two assistant messengers at \$480 a year and one page, meaning a boy, at the same rate?

Mr. ATKINS. This woman has been a scrubber and cleaner in the Department, and this is the usual sum that has been given her. There is nothing new in it at all. She has been a scrubber and cleaner all the time and at the same pay.

The Clerk read the following paragraph under the heading "Office of Commissary General:"

For contingent expenses, namely: Rent of building, repairs, and miscellaneous items, \$6,000.

Mr. ATKINS. I offer the following amendment:

Strike out "\$6,000" and insert "\$5,000."

The amendment was adopted.

The Clerk read the following paragraph:

In the Office of the Surgeon-General:

One chief clerk, at \$2,000; six clerks of class 4; four clerks of class 3; five clerks of class 2; seventy clerks of class 1; twenty-eight clerks, at \$1,000 each; twenty-eight clerks, at \$900 each; one anatomist at the Army Medical Museum, at \$1,600; one engineer in division of records and museum, at \$1,400; one assistant messenger; and for watchmen and laborers, \$13,800; in all, \$180,920: *Provided*, That the Secretary of War, if the public necessity so require, may detail not exceeding twenty enlisted men for clerical service in this bureau. And the entire clerical force now employed on the Medical and Surgical History of the War shall be employed on the work necessary to the prompt payment of pensions.

Mr. ATKINS. I offer the following amendment:

In line 1216, after the word "force," insert "three excepted."

I do not intend to debate this at all. This exception is made for the purpose of enabling the Surgeon-General to go on with the preparation of the Surgical and Medical History of the War. The paragraph as it stands in the bill provides that all the force of the Surgeon-General's Office shall be employed on the work necessary to the payment of pensions, so as to bring up the arrears in the pension work. But the committee did not feel they were willing entirely to stop the work on the Surgical and Medical History of the War—a work which is so valuable to the country, to the medical profession, and to everybody, and of great importance to the interests of science. We did not feel willing to stop that work entirely, and therefore by this amendment we provide that the Surgeon-General may detail a force of three to keep up that work while the rest of his clerical force is detailed to bring up the arrears of pensions.

Mr. GARFIELD. The proviso in this paragraph authorizes the use of enlisted men as clerks. I wish to ask the gentleman whether that is now being done in the office of the Surgeon-General or whether it is introduced here as a new feature? I make this inquiry for the purpose of calling the attention of the gentleman to the fact that two years ago we sought to do away with the employment of enlisted men in that way, because it had grown into a great evil to such an extent that really in some of the divisions of the War Department there was given almost an unlimited power of employing clerks by detailing enlisted men. It seems to me there is some danger in entering upon this plan. We would have the control of the appropriation more in our hands if we kept the force of enlisted men in the field and did not permit them to be detailed for clerical service.

Mr. ATKINS. In reply to the gentleman from Ohio I will state that formerly the Surgeon-General had as many as two hundred enlisted men detailed for service in his bureau.

Mr. GARFIELD. I know he had.

Mr. ATKINS. But we have restricted him to twenty. This is simply continuing the practice that has existed for many years and we have cut the number down to twenty.

Mr. GARFIELD. Has the Surgeon-General any men detailed now?

Mr. ATKINS. Yes; he has twenty.

Mr. GARFIELD. They are already there?

Mr. ATKINS. Yes, sir.

Mr. GARFIELD. I would be in favor of putting an end entirely to this system.

Mr. ATKINS. I fully concur with the gentleman in the view he takes of this matter; and in much of this bill we have acted in accordance with what he suggests. We did so in regard to the executive department. The executive office was in the habit of having many details. We cut off all the details and appropriated directly for the force necessary to run the office, and we have cut off the details in the War Department. There were one hundred and seventy details in the War Department and we have cut them all off. I concur entirely with the gentleman in his views, but in the present condition of the office of the Surgeon-General, the office being so far in arrears in regard to pensions, the Surgeon-General is exceedingly anxious that this system shall continue. We have increased the force considerably, some thirty-three clerks, and we did not feel willing to increase it still further, as it would have been necessary to do if we had cut off the details.

Mr. CANNON, of Illinois. What pay do these detailed men get?

Mr. ATKINS. The same pay that they would get in the Army.

Mr. CANNON, of Illinois. No more?

Mr. ATKINS. No more.

[Here the hammer fell.]

Mr. FINLEY obtained the floor.

Mr. CANNON, of Illinois. I want to ask the gentleman if it be true—

Mr. FINLEY. I decline to yield to the gentleman.

Mr. CANNON, of Illinois. I am not asking the gentleman from Ohio to yield to me. I am asking a question of the gentleman from Tennessee, [Mr. ATKINS,] who yielded to me for that purpose.

The CHAIRMAN. The gentleman from Ohio [Mr. FINLEY] has the floor.

Mr. CANNON, of Illinois. But the gentleman from Tennessee yielded to me.

The CHAIRMAN. The time of the gentleman from Tennessee had expired, and the gentleman from Ohio had been recognized.

Mr. FINLEY. I move to strike out all after the word "bureau," in line 1216, to the close of the paragraph; as follows:

And the entire clerical force now employed on the medical and surgical history of the war shall be employed on the work necessary to the prompt payment of pensions.

The CHAIRMAN. Does the gentleman from Ohio offer that as an amendment to the amendment of the gentleman from Tennessee?

Mr. FINLEY. Yes, sir; and I desire to say in this connection that it has been repeatedly stated on this floor—

Mr. SAMPSON. I rise to a question of order. The gentleman from Tennessee, [Mr. ATKINS,] chairman of the Committee on Appropriations, offered an amendment which has not been voted upon, I believe.

The CHAIRMAN. The amendment of the gentleman from Tennessee has not been voted on, but the gentleman from Ohio offers an amendment, which, if adopted, would supersede the amendment of the gentleman from Tennessee.

Mr. SAMPSON. The amendment of the gentleman from Tennessee is for the purpose of perfecting the text, and it seems to me that the question must first be taken upon that amendment, and no vote has yet been taken upon it.

The CHAIRMAN. The amendment offered by the gentleman from Ohio is for the purpose of perfecting the original text.

Mr. SAMPSON. But the object of the amendment of the gentleman from Tennessee is to perfect that portion of the paragraph which the gentleman from Ohio proposes to strike out entirely. Now, it seems to me that the question should first be taken upon the amendment of the gentleman from Tennessee.

The CHAIRMAN. The point of order would have been well taken if it had been taken in time. The vote must necessarily first be taken upon the amendment of the gentleman from Tennessee, but the point of order was not made until after the gentleman from Ohio had commenced to debate his amendment, and therefore it comes too late.

Mr. SAMPSON. That is the result of the fact that the Chair recognized the gentleman from Ohio before a vote had been taken on the amendment of the gentleman from Tennessee.

The CHAIRMAN. The Chair could not know what the amendment of the gentleman from Ohio was until it had been read.

Mr. ATKINS. There was so much confusion on the floor at the time, the gentleman from Illinois [Mr. CANNON] addressing questions to myself and the gentleman from Ohio claiming the floor, that really my attention was so distracted between the two that I never observed that the amendment had been offered by the gentleman from Ohio at all.

Mr. FINLEY. I will then withhold my amendment, and move to strike out the last word, in order to say what I desire to say upon this question.

It has been frequently asserted on this floor by gentlemen upon the other side that the democratic Congress reduced the force in the Surgeon-General's Office, and that in consequence of that reduction of force the payment of pensions has been delayed. That has been repeatedly asserted upon the republican side of the House. What influence that assertion, made so many times, may have had upon the committee in putting this clause in the bill I do not know; but I desire to say, in the first place, that the assertion is not true. I desire to say to the House that the reduction of the force in the Surgeon-General's Bureau was made by the republican Congress in 1874. In that year the force in the Surgeon-General's Office was one hundred and eighty clerks, and at that time there were nine hundred and seventy-five cases unanswered; or, in other words, the current work of the office was within nine hundred and seventy-five cases of being complete. On the 30th of June of that year the republican Congress reduced the force in the Surgeon-General's Office from one hundred and eighty to one hundred and thirty-four, within two of what it is now. The result was that at the end of that year the Surgeon-General's Office fell behind fifty-seven hundred and sixty-five cases, for want of sufficient clerical force to answer letters.

At the close of the next year after that reduction was made by the republican Congress, the Surgeon-General's Office fell in arrears a little over ten thousand cases; that is to say, five thousand in each year.

The Surgeon-General's Office is now in arrears about eighteen thousand cases, which arrears extend over a period from 1874 to 1877; ten thousand of the cases having occurred from 1874 to 1876. It is true that the democratic House, in 1876, reduced the number of clerks in the Surgeon-General's Office to one hundred and twelve; but in 1877 they again restored the number to one hundred and thirty-four, where

it now stands. Whatever falling off, therefore, there was between 1876 and 1877, the democratic House is accountable for, and for no more. The bill under consideration increases the number of clerks from one hundred and thirty-two, as it now is, to one hundred and sixty-two, being an increase of thirty clerks. As I understand it, about six clerks are usually employed on the Medical and Surgical History of the War, sometimes not more than three. Suppose six are constantly employed for that purpose, there would be left one hundred and fifty-six clerks to examine the records in pension cases, a very much larger number than has been employed for that purpose since the first reduction by a republican Congress in 1874, and a sufficient number, as I am informed by persons connected with that department, to finish up the pension cases now in arrears within a reasonable time; in fact as many as can profitably be employed in that branch of the business as the office is at present conducted.

If we pass this bill as reported by the committee and require all the force in the Surgeon-General's Office to be employed on the work of the Pension Office, we will stop the work on the Medical and Surgical History of the War altogether, which, in view of what has already been done toward its publication and the little additional expense required to complete it, together with the value of the work in a medical and scientific point of view, I think ought not to be done.

This work, the printing the first part of which was authorized by Congress in March, 1869, and its completion authorized in June, 1872, is now more than half printed. It was to consist of three parts, each embracing a medical and surgical volume; that is, six volumes in all. Three volumes have been issued; a fourth is being printed and is nearly completed. The work of completing and printing the third part only will then remain, and I am told that the greater portion of the expense of the preparation and publication of the work has already been incurred, and to stop the work at the present time would destroy the value of a good deal of work already paid for.

The object of the work is to utilize not only for the Army but for the country and humanity the medical and surgical knowledge acquired during the recent civil war.

We can form an idea of the usefulness of the completed work by observing the uses to which the parts hitherto published have been put in recent European wars. Professor Virchow, of Berlin, in an address delivered in August, 1874, declared that the very small losses by disease of the German army in the war with France (1870-71) were due to a great extent to the fact that they enjoyed "the priceless experience of the Americans," and praised in the highest terms the parts of the American Medical and Surgical History issued up to that time, which he declared "had created a new epoch in military medicine and surgery." In point of fact, guided by these publications, the medical administration of the German army during that war was revolutionized by the American experience; and so far as the experience of our war had been made known by our publications, they profited by the American example, and did not hesitate to acknowledge their debt to us.

The approval of European science has not been more marked than that of medical and other scientific men in our own country.

Probably every member of this House knows how favorably this work is regarded by such men in his own district, and is besieged by applications for forthcoming volumes. The medical press of this country has been unanimous in its approval of the parts of the work hitherto published and in the expression of wishes for its completion in the style in which it was commenced. It occurs to me, therefore, that it would be short-sighted policy in us to stop the publication of so valuable a work, now so far on its way toward completion, simply in order to save the salary of three to six clerks for the short time necessary to complete it; and I am sure that in allowing the necessary clerks to be used by the Surgeon-General for this purpose we will not in any manner impede or delay the work in the Pension Office.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. SAMPSON. It is my purpose, Mr. Chairman, to offer an amendment at the proper time to a portion of the pending paragraph. Prior to the passage of House bill No. 3102, known as the bill providing for the employment of temporary clerks in the Treasury Department and providing means for the detection of trespasses upon Government timber land, and for other purposes, the clerical force in the Surgeon-General's Office was one hundred and thirty-two.

The Surgeon-General informed the Committee on Appropriations that the force he then had was insufficient. In a communication to that committee, dated February 12, 1878, he stated that there were about nineteen thousand applications unanswered for soldiers' records in his office in connection with the subject of pensions.

When that bill was under consideration in the Senate an amendment was offered and adopted adding to the force in the Surgeon-General's Office one clerk of class 4, one clerk of class 3, two clerks of class 2, and twenty-eight clerks of class 1, increasing the force in the Surgeon-General's Office to one hundred and sixty-four.

On the 1st day of April, the report of the committee of conference on that bill being under consideration by this House, a motion was made to concur in that Senate amendment adding to the clerical force of the Surgeon-General's Office. This House concurred in the Senate amendment by a vote of 184 yeas to 41 nays.

By the operation of that amendment the clerical force in the Surgeon-General's Office is now one hundred and sixty-four, and the Surgeon-General is engaged in organizing and arranging his force under that bill. Final action was taken on that bill on the 24th day of April. I do not know whether it has yet been signed by the President or not; if it has been signed by the President, it was within the last few days, so that the bill has just become law.

The Surgeon-General is now engaged in examining applicants for clerkships and arranging and classifying the force in his office under the provisions of that bill which has just gone into effect. That bill was passed by the House, but some time ago the amendment to which I have referred was adopted, since this appropriation bill now under consideration was reported from the Committee on Appropriations. The question in my mind is whether we should change the law again before the Surgeon-General has had an opportunity to arrange the force in his office under the law just passed, and get down to work under it for a period of less than sixty days.

I am in favor of allowing the Surgeon-General whatever force he says is necessary to enable him to properly conduct the business of his office. Every member of this House who has had occasion to look after pensions for his constituents realizes the fact that the work in the Surgeon-General's Office has not been done promptly for want of a sufficient force. I believe it is the true policy to leave the Surgeon-General to organize, classify, and continue the force in his office as now authorized by law.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired and debate upon the pending amendment has been exhausted.

Mr. FINLEY. I withdraw my *pro forma* amendment.

Mr. ATKINS. I desire to submit only one or two remarks. In the deficiency bill which recently passed Congress forty-two additional clerks were given to the Surgeon-General to aid him in bringing up the work in his own office. By this bill we propose to give him thirty-three additional clerks; or, instead of one hundred and thirty-five, we propose to give him one hundred and sixty-eight for the next fiscal year. Besides the thirty-three additional clerks which we propose to give him, we authorize the Secretary of War to detail for service in that bureau twenty enlisted men.

I have given a great deal of attention to this subject. I have frequently been in the Surgeon-General's Office; I have conferred with him and with his subordinates. We have had him and two or three of his subordinate officers before the Committee on Appropriations and have investigated this matter pretty fairly.

I want to say to the House that there has been no evidence of the slightest disposition on the part of any member of the Committee on Appropriations to curtail the force necessary to bring up the arrears of pension business in the different bureaus. Not one solitary whisper have I heard in that committee in opposition to a sufficient force not only in the Surgeon-General's Office but in the Pension Bureau and in the Adjutant-General's Office. Wherever the subject has been treated there has not been the first whisper of opposition to granting a sufficient force for that purpose.

Now, I might say one word more; I do not know that I ought to say it, but I will because it is not a secret. I do not make the statement for the purpose of provoking discussion; I hope it will not do so. I simply state it for the information of the House, not that I desire to make any criticism upon it at all, nor do I make the statement in a criticising mode.

The Commissioner of Pensions has stated to the Committee on Appropriations that if the hospital books and all the papers connected with the subject of pensions he referred to the Pension Bureau, he would in one year with the force provided for in this bill, without any additional force such as is proposed to be given to the Surgeon-General, bring up all the arrears of pension business. Upon that subject there was some difference of opinion between the Surgeon-General and the Commissioner of Pensions. How much pride of office had to do with that difference of opinion I do not pretend to suggest; but I have given the statement of the Commissioner of Pensions, whom I have found to be a very intelligent, very sensible, and very business-like man. I do not pretend to say that the Surgeon-General is not. I know that he is wedded to this work of bringing up the medical and surgical history.

Mr. SAMPSON. Will the gentleman yield to me a moment?

Mr. ATKINS. I yield for an inquiry.

Mr. SAMPSON. I infer from the remarks of the gentleman that he supposes I am contending for an increase in the force. Am I correct?

Mr. ATKINS. I did so understand.

Mr. SAMPSON. No, sir. The amendment I propose to offer leaves the force just as it is, except that it adds two clerks only. It brings the bill into conformity with the provisions of the law; that is all.

Mr. ATKINS. I thought the gentleman was going to ask me a question.

[Here the hammer fell.]

Mr. ATKINS. I hope we shall have a vote on this proposition.

Mr. COX, of Ohio. I wish to say a few words with regard to the Medical and Surgical History of the War, and I take as a text this statement: that of all the scientific work which the Government of the United States is doing, and rightly doing, and to which it is applying without stint, as it ought, hundreds of thousands of dollars,

I believe absolute truth and verity would show that none of it is more vitally important to the people of this whole country than the very work now being done upon this Medical and Surgical History of the War. This work is not at all a mere matter of interesting science. It is applying the vast stores of knowledge which were accumulated during the war to the preservation of the life and health of the people of every part of this country as well as to the improvement of the health of our Army. It has attracted the attention of scientific men all over the world, and has elicited from the first authorities expressions of admiration which are strong and unqualified.

I hold in my hand the translation of part of an address made by Professor Virchow, of Germany, the editor of the leading medical and surgical review of that country, and who may properly be declared to be, if not the very first, one of the first scientific authorities on this subject. I send this extract to the Clerk to be read, and as it contains various references complimentary to this country and to its scientific medical men I hope the time which it may occupy will not be grudged by the House.

The Clerk read as follows:

Speaking of the increased rank and power assigned of late years in European armies to the medical staff, he says:

"Such great changes, and many other examples might be brought forward, are the necessary results of the progress of science. It can truly be said that it has been bitter need, the sternest of all teachers, that by the severest punishments has opened the eyes of men and compelled them to see what they really did not wish to see. Yea, indeed, it is horrible to think what a school of suffering armies have had to pass through before the truth was generally acknowledged. In the Crimean war the French army lost one man in every three of its entire force, and it is estimated that of the 96,815 men who lost their lives only 10,240 fell before the enemy. About the same number of wounded died in the hospitals. The rest, more than seventy-five thousand men, fell a sacrifice to pestilence. In the American war of secession ninety-seven thousand men were killed in battle and one hundred and eighty-four thousand died of pestilence and disease. What immeasurable sorrow and suffering, what a sea of blood and tears lie locked up in these figures! But also how many defective regulations, prejudices, and misunderstandings! It is not necessary to sum up the long list of these errors and crimes; fortunately they are sufficiently well known to serve as a terrible warning to others.

"But here it must be stated that it was not the need alone which disclosed the evil and brought help. That the French learned little or nothing in the Crimea and the North Americans in their civil war so much that from that time a new era of military medicine begins, this did not result from the greatness of the needs from which the Americans suffered, for these were not more considerable than the French experienced in the Crimea. It was rather the critical, truly scientific spirit, the common sense, the sound, practical intelligence which in America gradually permeated all circles of army administration, and, with the wonderful assistance of an entire people, reached the highest degree of humane effort ever yet attained in a great war. Whoever takes up and examines the comprehensive publications of the American military medical staff will be constantly astonished at the wealth of the experiences recorded in them. The extreme accuracy in detail, statistics careful in the minutest particulars, a learned presentation of the subject, embracing all sides of medical experience, are here united to preserve in the most complete manner possible and make known to the present age and posterity the knowledge purchased at so dear a price.

"The German army had, during the last French war, out of a strength of 913,967 men, a total loss of 41,969. Of these, 17,573 fell before the enemy, 10,710 died later of their wounds, 12,253 fell a sacrifice to disease and pestilence; certainly a very favorable proportion. But we had before us the experiences of two recent wars which had been well discussed and taken advantage of, both scientifically and administratively. We possessed the inestimable experience of the Americans, and, finally, we had German science."

[During the reading of the foregoing the time of Mr. Cox, of Ohio, expired, when Mr. GARFIELD obtained the floor and yielded his five minutes to Mr. Cox, of Ohio. The Clerk then concluded the reading.]

Mr. COX, of Ohio. The high compliments which in the extract just read are paid to the medical staff of our regular and volunteer Army, and to the value of what has already been done in our Medical and Surgical History of the War, are from the stand-point of general philanthropy looking to the benefits received by the whole human race as well as to the assistance received in the sanitary administration of armies from the volumes of this great work already published. The portion of the work which is now going on is even more decidedly in that direction than anything we have done heretofore. The present labors of the medical staff have reference particularly to those diseases of the camp which are intimately connected with the current health of the people everywhere: diseases of the alimentary system, dysenteries, and the large class of similar diseases. The experience of the camp and of our hospitals during the war furnished an unprecedented amount of most valuable data and material for observation which has been preserved in the admirable manner testified to by Dr. Virchow, and the gentlemen in charge of the history are now working out the lessons of this vast experience in a manner promising results of the last degree of importance.

I venture the assertion, from a rather careful examination of the matter and from testimony that has come to me from widely varied sources, that what I said in the beginning is absolutely true—there is no estimating the value of this work. Hence what I desire to urge upon the House is that we shall not cut down the little force now engaged in this duty. The persons thus engaged are trained and skilled; some of them are medical men, who are acting as clerks because of the partial assistance they thus obtain in professional knowledge. This is not mere clerical labor; it is skilled, scientific work, done for clerk's wages, but done with an earnest love of the labor that money cannot buy. I simply urge that we shall do what my colleague from Ohio [Mr. FINLEY] has suggested—strike out this proviso which transfers this little force to other work. There are only eight or ten clerks engaged upon this duty. Let the work go on. The country wants it and the whole world wants it.

[Here the hammer fell.]

Mr. BAKER, of Indiana. I wish to say a word in reference to the organization and number of the force in the record and pension division of the office of the Surgeon-General of the Army. The remarks of the gentleman from Ohio in reference to the aggregate number of clerks employed in the Surgeon-General's Office are calculated to convey an erroneous impression in reference to the actual needs in that division of the Surgeon-General's Office which has relation to the pension service.

It is true that the republican party did in 1874 reduce the number of clerks from ninety-four to sixty-six in that division which affected the pensioners of the country, the number having stood at ninety-four up to the 1st of July, 1874. It is also true that with knowledge of the fact that this reduction had caused during two years an accumulation of 12,919 cases which were awaiting examination, the Forty-fourth Congress went to work and cut down the force from sixty-six, to which it had been reduced by the republicans, to forty-six, so that on the 1st of July, 1878, the number of cases awaiting examination was 18,823, and to-day the number of cases is not less than twenty thousand.

Mr. FINLEY. Will the gentleman yield?

Mr. BAKER, of Indiana. I cannot yield, as I have but a moment. I want to say that the average number of cases examined annually during the last seven years in that division of the Surgeon-General's Office is 20,280, so that to-day there are enough unanswered requisitions on that department for information to employ the average number of clerks, sixty-six, for one whole year in bringing up that service.

It shows further, Mr. Chairman, instead of leaving twenty-three of the forty-six, as is now proposed, to keep the current work up, there ought to be at least thirty-six added to the present force to keep the current work up, and the Surgeon-General of the Army (and I refer to his report) says there ought to be fifty in addition for the purpose of bringing up the twenty thousand accumulated cases which await answer. I do not make these statements for the purpose of arraiging party against party here, but I do want to say this: that if this House, controlled as it is by the democratic party, fail in this bill to make provision ample and sufficient for the speedy answer of the twenty thousand requests on file, and also fail in addition to that to employ a sufficient clerical force to keep this work up, from this time forward at least they can be charged as wantonly and willfully obstructing the pensioning of these men who periled life and health in the service of their country.

Mr. BEEBE. Did not the Commissioner of Pensions say he could keep up all this work with the present force employed by the Surgeon-General?

Mr. BAKER, of Indiana. He did not.

I wish to say further, Mr. Chairman, these statistics of seven years show what can be done by a given number of clerks. It is seven years' experience. It is as plain a mathematical computation as can be to ascertain to a man how many it will take next year to answer the requests. It can be demonstrated how many men it will take to keep up with the current business. It will average next year as for the seven years past.

[Here the hammer fell.]

Mr. RIDDLE. In regard to the increase of the force of the Surgeon-General's Office I have to say that I was appointed chairman of the subcommittee by the Committee on Invalid Pensions to look into the matter, and I can corroborate every word that has been said to the committee this morning by the chairman of the Committee on Appropriations. The Surgeon-General informed us that fifty additional clerks would enable him to bring up this work within one year. In the deficiency bill I believe thirty-eight clerks were allowed, and that will carry the work up to the 30th of June next, the termination of the present fiscal year. Then we have an appropriation in this bill for thirty-three for the next year with the discretion on the part of the Secretary of War to increase it twenty more. So, then, according to his own statement, he would have ample force in the next twelve or fifteen months to bring up the entire arrears in that office.

Before I take my seat, Mr. Chairman, I wish to supplement the authorities furnished to this House by the gentleman from Ohio, [Mr. COX,] in regard to the value of the medical statistics contained in the Medical and Surgical History of the War, by the following, which have been translated from the German by Dr. Woodward, connected with the Surgeon-General's Office:

Opinions expressed by foreign savants with regard to the Medical and Surgical History of the War.

Professor E. Gurit, of Berlin, in the Jahresbericht über die Leistungen und Fortschritte in der gesamten Medizin für 1876, Bd. II, p. 330, remarks of the second annual volume of the Medical and Surgical History of the War of the Rebellion: "This manner of treating the gigantic material of the war, conjoined with the utilization of everything relating thereto that can be found in literature, offers an inexhaustible mine for the study of all kinds of injuries that could hardly be more productive." He also refers, in Kriegerhehl, Berlin, July, 1877, to the works issued from the Surgeon-General's Office, as "the numerous epoch-making surgical publications of the utmost value for the science of surgery, among which the yet unfinished Medical and Surgical History of the War of the Rebellion takes the highest rank."

Prussian Stabsarzt (staff surgeon) Dr. Bruberger, of Berlin, (Deutsche mil.-ärztl. Zeitschr., 1877, Bd. VII, p. 81), remarks: "We can designate this work as a treasure-mine of experiences with regard to injuries received in war, their treatment and results; and civil as well as military surgeons for all time to come must constantly refer to it."

Professor Nussbaum, of Munich, (Rapport über die med. und chir. Geschichte

des Amer. Reb.-Kriege, Munich, 1875, p. 4.) remarks: "In fact, a subterranean tunnel does not give better testimony to man's intellect and industry than does this gigantic work. Good as my opinion is of German science and German industry, I must confess that the Germans do not possess such a work."

R. Virchow Die Fortschritte der Kriegsbeilkunde, besonders im Gebiete der Infektionskrankheiten. Rede gehalten zur Feier des Stiftungstages der militärärztlichen Bildungs-Anstalten am 2. August, 1874, Berlin, p. 7.) remarks: "Whoever takes up and examines the comprehensive publications of the American military medical staff will be constantly astonished at the wealth of the experiences recorded in them. The extreme accuracy in detail; statistics, careful in the minutest particulars; a learned representation of the subject, embracing all sides of medical experience, are here united to preserve in the most complete manner possible, and make known to the present age and to posterity, the knowledge purchased at so dear a price."

"The German army had, during the last French war, out of a strength of 913,967 men, a total loss of 44,980. Of these 17,572 fell before the enemy, 10,710 died later of their wounds, 12,253 fell a sacrifice to disease and pestilence; certainly a very favorable proportion. But we had before us the experience of two recent wars, which had been well discussed and taken advantage of both scientifically and administratively. We possessed the inestimable experience of the Americans; and, finally, we had German science."

Professor E. Spillmann, of the Medico-Military School at Val-de-Grâce, in Étude analyt. et crit. du rapport sur la résection de la tête du fémur, Paris, 1870, p. 3, refers to the publications of the Surgeon-General's Office: "They constitute a series of memoirs in which the facts observed in practice are related with a science and good faith to which we cannot accord too much praise."

Professor John Eric Erickson, in his address, "Impressions of American surgery," delivered at University College Hospital, November 9, 1874, remarks: "But there is one museum which is so unique, so admirably arranged, and so interesting that I must direct your attention to it for a few minutes. It is the Museum of the Army Medical Department at Washington. This magnificent collection, illustrating not only every possible variety of gunshot and arrow injury, but also those diseases which are more fatal than the bullet to an army in the field or in camp, has been most admirably arranged and catalogued. * * * The collection itself is well known in Europe through the medium of those beautifully illustrated and ably collated medical histories of the great war of the rebellion, which have been published under the superintendence of the Medical Department of the United States Army. Many of the specimens in this museum are quite unique."

I think it is highly important this work should be continued. I have orders for the Medical and Surgical History of the War from nearly every physician in my district, and when the number to which I was entitled was exhausted I went to the Surgeon-General's Office, if possible, to procure additional copies, and found it impossible to get them. It is a work of practical value. I hold in my hand a paper prepared also by Dr. Woodward, which shows that before the commencement of this work the mortality per thousand in our troops was twenty-six; that is, on the 30th of June, 1868. As the result of these medical statistics that mortality has been reduced to eight per thousand. As stated by the gentleman from Ohio, it is a work of philanthropy. It is doing more good to the country, perhaps, than any other book published under the authority of the American Congress, and I would exceedingly regret to see the discontinuance of its publication.

Here are Dr. Woodward's figures.

Deaths in the United States Army in ratio per 1,000 of mean strength.

	White troops.		Colored troops.	
	Disease.	Wounds.	Disease.	Wounds.
Year ending June 30, 1868.....	*26	4	*51	5
Year ending June 30, 1869.....	10	3	13	5
Year ending June 30, 1870.....	8	4	15	4
Year ending June 30, 1871.....	13	5	11	4
Year ending June 30, 1872.....	11	4	18	4
Year ending June 30, 1873.....	10	7	18	3
Year ending June 30, 1874.....	9	4	10	5
Year ending June 30, 1875.....	7	4	13	3
Year ending June 30, 1876.....	8	16	8	5
Year ending June 30, 1877.....	8	3	7	8

* In this year epidemics of cholera and yellow fever occurred, causing 12.5 deaths per 1,000 of mean strength among the white troops and 24 per 1,000 among the colored, which are included in the above figures. (From the annual reports of the Surgeon-General.)

According to the report of Coolidge, (Statistical Report of the Sickness and Mortality in the Army of the United States, Washington, 1860, page 324,) the mortality of the United States Army during eighteen years of peace (not including, therefore, the years of the Mexican war) was 23.9 per 1,000 of mean strength annually from disease and 2.3 per 1,000 annually from wounds.

Mr. CONGER rose.

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. CONGER. I move to strike out the last word.

The CHAIRMAN. That is the amendment now pending.

Mr. CONGER. Let it be withdrawn as usual.

The CHAIRMAN. It is not withdrawn.

Mr. CONGER. Then I demand a vote on it.

Mr. BAKER, of Indiana. I withdraw the formal amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee in charge of the bill.

Mr. CONGER. That gentleman has spoken three times on this subject already.

The CHAIRMAN. The gentleman from Michigan is out of order.

Mr. CONGER. I rise to a point of order.

Mr. ATKINS. Does the gentleman from Michigan keep count how

many times I speak? I have not spoken upon this floor one-tenth of the time that the gentleman from Michigan has spoken; no, not one-twentieth.

The CHAIRMAN. The gentleman from Michigan will state his point of order.

Mr. CONGER. I will so soon as the gentleman from Tennessee is through.

Mr. ATKINS. But as the gentleman from Michigan is so anxious to occupy the floor, although the chairman had recognized me, I willingly yield to him.

The CHAIRMAN. The gentleman from Michigan will state his point of order.

Mr. CONGER. My point of order is that the rules declare that when a member has spoken once he shall not speak again on the same subject when another member desires to speak on it.

Mr. ATKINS. "I thank thee, Jew, for that word." I will remember.

Mr. CONGER. The gentleman from Tennessee has spoken three times, and I desire to speak.

The CHAIRMAN. The Chair overrules the point of order. The gentleman from Tennessee had not spoken at all on the pending question and was recognized by the Chair in accordance with the uniform practice as having charge of the bill.

Mr. ATKINS. I did not rise for the purpose of speaking, but for the purpose of asking for a vote. If the committee is ready for a vote I should like to have it vote on this proposition. I avoid everything like political allusions or partisan allusions upon appropriation bills. I do not intend to reply to the speech of the gentleman from Indiana, [Mr. BAKER,] nor to any other political allusion made on this floor in connection with this bill. And I did not rise for the purpose of speaking at all. These remarks I am now submitting not on this bill, but in response to the gentleman who has raised the point of order, if indeed there be a point of order before the committee. I call for a vote.

Mr. CONGER. What is the pending amendment?

The CHAIRMAN. The pending amendment is that of the gentleman from Tennessee, [Mr. ATKINS,] which the Clerk will report.

The Clerk read as follows:

In line 1216, after the word "force," insert "three excepted," making it read: "and the entire clerical force, three excepted, now employed on the Medical and Surgical History of the War, shall be employed on the work necessary to the prompt payment of pensions."

Mr. CONGER. I move to strike out the last word of the amendment.

I desire, Mr. Chairman, to take the floor at this time because I wish to impress upon the House and upon the country the admissions which have been made here on all sides that twenty thousand applicants for pension, demanding to be heard through the regular organs where their applications are sent by law, are waiting action through those organs, and that the work is one year behind, and the assertion by many gentlemen and the admission by others that there is not force enough provided in all these propositions, or in any of them, to bring up that work in less than at least six months.

Now, sir, I wish to intensify the remark of the gentleman from Ohio, [Mr. FINLEY,] or the admission that he makes here, that there are twenty thousand poor, disabled, sick, maimed citizens of the United States who believe under the law they are entitled to pensions that have not been heard for the past year and cannot be heard for the next six months according to any proposition that has been submitted by the Committee on Appropriations.

That is the condition of things. Let the country know that there cannot be appropriated money to provide the means by which these twenty thousand men can be heard.

Mr. BRAGG. I desire to ask the gentleman from Michigan a question.

Mr. CONGER. I do not yield for a question. If the gentleman wants any time let him fight for it as I do. He has been a soldier and can do that.

Now, has it come to this, that the House of Representatives with all these facts before the House and before the country has to resort to the pitiful device of withdrawing from one branch of the Government six men to turn them over to the Surgeon-General's Office, and from another branch of the Government twelve men for the same purpose? Has it come to this, that the House of Representatives has to resort to the pitiful device of borrowing clerks? My God! cannot this Congress furnish clerks to do the work to enable these soldiers to get their pensions? Must they borrow a few men from the Surgeon-General's Office from the work on the Medical and Surgical History of the War? Must they borrow a few men from another branch of the Army for this purpose? Has it come to this, that the credit of the country is so poor that we cannot pay money for clerks to do this work, but must borrow the clerks from ourselves? That is what this amounts to.

Now, I wish to have this question answered distinctly; not as by the chairman of the Committee on Appropriations by the statement that enough force has been given to bring up these cases in six months, but I desire to have it answered distinctly that enough force has been given to bring up the work in the speediest possible time. Sir, every month that passes by, ay, every day that passes by, one and another of these poor, waiting, sick, disabled, wounded soldiers,

losing the hope of life, goes down to his grave; and that is the relief the country gets from paying these pensions. Oh, that is the economy of this House of Representatives! We save money to the Treasury by withholding pensions until the poor pensioner gets beyond the reach of our sympathy and beyond the reach of our assistance.

[Here the hammer fell.]

Mr. DURHAM. I do not want by any means to prolong this discussion. But there is not a single gentleman upon this floor who can rise in his place and say this clerical force is not enough. Now if you are determined to have the Medical History of the War completed in place of getting the work done which is necessary for the prompt payment of pensions, then vote for the proposition of the gentleman from Ohio, [Mr. COX.]

Mr. RIDDLE. That does not interfere at all with the work on pensions.

Mr. DURHAM. If you adopt the proposition of the committee that is not interfered with at all. It gives you three clerks to carry on the medical work and we admit the importance of that work. It ought to be done, but not in detriment to the bringing up of the pension cases. Now, if you do not take too much of the clerical force of the Surgeon-General's Office and put it on the medical work, there is not a man who can rise and say that with the appropriation for the unexpired term of this fiscal year and the appropriation that we provide for the next fiscal year the force is not sufficient.

Mr. COX, of Ohio. How many clerks are now employed upon the Medical and Surgical History of the War?

Mr. ATKINS. I would ask my colleague on the committee, from Kentucky, if the Surgeon-General did not state to the committee that there were two or three clerks, or that there were a few. I think he said he could go on very well with the Medical and Surgical History of the War.

Mr. COX, of Ohio. I want an answer to my question. I ask it because I claim to be informed about this matter. I want to know how many clerks are now employed upon the Medical and Surgical History of the War. I want the House to know exactly what this issue is.

Mr. DURHAM. The Surgeon-General was never candid enough to tell us.

Mr. FINLEY. I understand that there are about six clerks employed upon the medical report.

Mr. DURHAM. When the subcommittee of the Committee on Appropriations waited upon the Surgeon-General and asked him how many he wanted detailed upon this favorite work of his, a work which is admitted to be a work of great merit, he said two or three. That was all he asked for, and the question now is whether you will cripple the service of the office in regard to pensions in order to hurry up this work as hastily as the Surgeon-General desires to do.

Mr. CONGER. Why not do both?

Mr. DURHAM. If you detail three clerks for this service, as provided in this bill, then the pension service is amply provided for by the force here provided, and the medical work can go on, although it may not be completed in the hasty time that the Surgeon-General may wish.

It is not the fault of the Committee on Appropriations if the Pension Bureau is not brought up, because, as I stated, one hundred and sixty-eight clerks had been detailed for the purpose of bringing up the pension business, which we believe to be right and proper. We have been liberal and exceedingly liberal toward this bureau so far, and we desire to be so unless the friends of the medical work, for the purpose of rushing it through, should cripple the pension department.

Mr. CONGER. I withdraw my amendment.

Mr. CHITTENDEN. I renew the amendment. I have nothing partisan to say, no reflections, no criminations of any sort to make upon this subject; but when the Union was in danger, when the men who now ask for pensions honestly due were called upon to protect their flag, nobody asked whether nine clerks or ninety-nine should be employed. What I say is that we owe to these pensioners precisely the same fidelity which the soldiers who fought our battles rendered to their country in the time of its exigency.

It is no answer to say that economy is necessary when men, women, and children—widows and orphans of dead soldiers—are dying for the want of this pittance which Congress owes them. That is wholly independent of the question of this medical work. It is the duty of Congress, and the people demand of Congress, that this pension business shall be brought up.

I had a case in my hand to-day, an appeal for information in regard to a complicated case which requires thorough examination, and that appeal has been pending for six months. It is a shame and disgrace to the nation, to our flag, to Congress, and to the Committee on Appropriations that men enough are not employed to bring to a conclusion such cases as that.

Mr. DURHAM. Do you say that there is not enough force provided for in this bill for the Surgeon-General's Office?

Mr. CHITTENDEN. I say there is responsibility somewhere for the delay.

Mr. DURHAM. Do not lay it upon the Committee on Appropriations when they have provided the force asked for.

Mr. CHITTENDEN. I am speaking in general terms. If we are called upon to-morrow to protect this capital we are to protect it, and

the pensioners to whom this pittance is due call on the Government which they protected and preserved to pay their honest dues.

Mr. DURHAM. Does the Surgeon-General ask for a single further clerk for his Department? [Cries of "He does."]

Mr. CHITTENDEN. I am not discussing the Surgeon-General; I am simply stating what is patent to the whole country, that for some reason or other somebody is responsible for the delay in solving these complicated questions in respect to pensioners whose dues result from the great war for the Union. I ask that the question shall be considered, not in connection with this medical and surgical work. If that work is worth doing, do it. But that is a dead question as compared with the living souls who are starving and suffering for want of more efficient action on the part of the Pension Bureau.

Mr. RICE, of Ohio. Does not the gentleman know that the force deemed necessary, after investigation by the Committee on Invalid Pensions and recommended by them, has been given by the Committee on Appropriations?

Mr. CHITTENDEN. I have not discussed the Surgeon-General's Office at all.

Mr. BRAGG obtained the floor.

Mr. COX, of Ohio. I desire, to say—

The CHAIRMAN. The gentleman from Wisconsin [Mr. BRAGG] is entitled to the floor.

Mr. BRAGG. I am not surprised to hear the most patriotic outbursts coming from gentlemen who kept farthest away from the scenes of action during the war. It is high time that gentlemen who represent the soldiers of Michigan should come to the front and participate with them in the toils and sufferings of those who went into the war.

Mr. TOWNSEND, of New York. Did you belong to those who "robbed the cradle and the grave?" [Laughter.]

Mr. BRAGG. I regret exceedingly to have disturbed my friend from New York [Mr. TOWNSEND] while paying my respects to the distinguished soldier from Michigan [Mr. CONGER] whose war record seems to be made up of fighting the battles of the rebellion over again here in the House from a quiet and comfortable seat, where he is drawing \$5,000 a year and where the bullets used are composed of wind and paper and of no more substantial material. [Laughter.]

In determining this question as to what should be done for the Pension Office we must consider how many men can be practically and profitably used there. A given number of men in a given space can accomplish vastly more work than a much larger number who shall interfere with those who otherwise would work to advantage.

The number of men who can be profitably used for the purpose of answering letters must measurably correspond to the number of indexes that are furnished, so that those men can have proper facilities for doing their work. It is no answer to say that you must put on more men and more men to enable the office to supply the deficiency in replying to communications.

When you come to the real question you will find the difficulty to be this: this bureau, like all the other bureaus and Departments of the Government, when an attempt is made to reduce its patronage and expenditures, undertakes to carry out that order of Congress by taking the force off from the particular work which the public will feel the most in order that it may then come to Congress with the cry of the people at its back and say, see what is the effect of your reduction of our force. Now, in my judgment, when the force of any bureau is reduced or decreased the reduction should be made as this bill provides, directing where the force left shall be used, as this bill does, so as to bring up arrears of pensions. When that is done the Surgeon-General cannot misapply the force and apply it to anything else.

I hold that it is of more consequence that the communications to the Surgeon-General's Office in relation to pensions shall be answered than it is that any book shall be prepared and published, although it may result in the glory of the Surgeon-General's Office and may contain information in regard to flesh wounds and other wounds which possibly may be of use in some future war.

I have had an opportunity to examine most of these gentlemen under oath, as to the necessities of their bureaus and the reasons why these delays have occurred in the transaction of business. I have satisfied myself from the examination of the surgeon having this particular division in charge, that the delay in a great measure grows out of the lack of administrative ability. The indexes have not been completed. Those indexes which relate to cases that have gone into the Medical History of the War are complete, but the indexes relating to private soldiers who have suffered from diseases not of a sufficiently marked character to attract the attention of the surgeon engaged in this work have been passed over, so that when an application comes from the soldier for a pension the index does not show his name and the particulars of his case, and therefore the hospital record giving a history of his case cannot be turned to in order that the letter may be answered and the necessary information given.

Now, these cases coming up in that manner obstruct all further communication. For instance, a pension case may come immediately after the one which is not indexed, in regard to which, by turning to the index which is prepared, the name may be found and the case can be examined and the answer given at once. But according to the rule of the office the letter in that case cannot be answered, because the letter in the case preceding it in order has not been yet disposed of. I myself made this suggestion to the surgeon having

that subject in charge, Surgeon Woodward: would it not be well when you find that these cases are not indexed to refer them to experts familiar with the business of looking up hospital records in order that they may answer them quickly, and thus reduce the volume of applications unanswered? He answered at once: "Certainly, that would be a glorious thing; it never occurred to me before."

I also said to him: would it not be well to detail a force to complete these indexes, so that upon opening a general index showing the name of the regiments and of the men and the number of each hospital report which is filed, you can turn to a particular page and there see, as you do in a law-book, the digest of all volumes upon the subject all the references in connection with the case? He said in reply: "Certainly; we contemplate doing that." But when? I suppose when the history of the war is finished.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired and the debate upon the pending amendment is exhausted.

Mr. CHITTENDEN. I withdraw the *pro forma* amendment.

Mr. BUTLER. I renew the amendment. I do not know that there is any blame on the part of the Committee on Appropriations; I do not mean to charge any. I simply want to state a fact to the House. A soldier in my district some three months ago sent me his papers for a pension and I sent them to the Pension Office. After waiting about three months the soldier thought he had waited long enough, and wrote me to know when his pension would be got. I referred that letter to the Commissioner of Pensions and received a reply from him that at the rate the work was going on then it would be about the 1st of May, 1879, before that case would be examined.

Now, I do not know who is in the wrong about this. But I think it costs no more to employ a hundred clerks one day than it does to employ one clerk a hundred days. I am in favor of having clerks enough to do this part of the work right at once. I wish the Committee on Appropriations would manage that. If the Surgeon-General will not be frank with them, then let them ascertain in some other way what force is required and supply it, so that these pensioners may be properly attended to.

Mr. ATKINS. We have given all the force they asked.

Mr. BUTLER. I yield the remainder of my time to the gentleman from New York. [Mr. TOWNSEND.]

Mr. TOWNSEND, of New York. I wish to say one word in regard to this matter, and I desire to give it a political turn. [Laughter.] The political majority in this House have the responsibility resting upon them. The same political party has had the control here for the last two years; and the state of things now exhibited in the Pension Office and in the Surgeon-General's Office existed then, and it will exist unless the political majority of this House shall furnish force sufficient and devise ways and means sufficient to hasten the examination of applications for pensions. The responsibility rests upon the political majority in this House; and while I do not want to say one unkind word in regard to it, I hope this responsibility will be shouldered and that the work will be done. I want to commend it to that portion of the political majority here who are disposed to vote pensions to the able-bodied men that participated in the war with Mexico. Let us at all events take care of the sick, the wounded, those who have become enfeebled in the service of the country, whether we take care of the able-bodied or not.

Mr. COX, of Ohio. I desire to offer an amendment which I think will test this last question which has been raised.

Mr. BUTLER. I withdraw my *pro forma* amendment.

Mr. COX, of Ohio. The chairman of the Committee on Appropriations has said that he would offer or has offered an amendment providing for the transfer to other work of the whole of the present clerical force except three. I wish to amend that amendment by striking out "three" and inserting "six," which after some examination I am prepared to state is about the number actually necessary to make any reasonable progress with this work.

Mr. DURHAM. May I ask a question?

Mr. COX, of Ohio. Yes, sir; and before I sit down I am going to answer for the gentleman a question that I asked him.

Mr. DURHAM. Does the Department pretend to say that that is the number employed on this work?

Mr. COX, of Ohio. I have my information from the head of one of the bureaus in the Department, where I have made personal inquiry.

Mr. DURHAM. I am asking what the Surgeon-General says.

Mr. COX, of Ohio. I insist that to go on with this work with the same rapidity as in the past would require a force of eight or ten. You might as well take off the whole force as reduce it to three.

Mr. DURHAM. Will the gentleman answer my question? Does the Surgeon-General state that six clerks are all that are employed on this work now?

Mr. COX, of Ohio. No, sir.

Mr. DURHAM. Does he tell you how many there are?

Mr. COX, of Ohio. I have not asked the Surgeon-General. I say that I have been to the heads of bureaus—

Mr. DURHAM. The Surgeon-General will not tell you so.

Mr. COX, of Ohio. And I assert upon official information as a member of the House that to allow less than six clerks for this work will be equivalent to stopping it altogether and to carry on the work as it has gone on heretofore would require nine. I insist that there never

was anything so absolutely petty as to stand upon this question of nine clerks in a matter of this importance. I insist that this is exactly the kind of thing that is disgracing this House in its pretense of economy. We have plenty of propositions for the appropriation of large sums. We vote without hesitation \$100,000 for a survey or to send a ship to the north pole; but a matter of this kind you treat as of small importance, and attempt to get rid of it by trying to lead the people of the country to believe that the pensions cannot be paid unless you do it. Gentlemen do not come here boldly and say "We want to stop this Medical and Surgical History of the War;" but they insert in an appropriation bill a clause like this: "Provided that all the force now employed upon the Medical and Surgical History shall be put upon pension work." The question asked by the gentleman whether the Surgeon-General could go on with his work with the clerical force which the Committee on Appropriations proposed to give him can only be answered in this way: if you give him the whole of this force to work at pensions, he can get the work up within some reasonable time, unless the business should increase with unexpected rapidity. But I assert it here as within my own knowledge that the Surgeon-General never said to the Committee on Appropriations that he did not ask to have this work upon the Medical and Surgical History continued by proper appropriations.

Mr. DURHAM. You did not understand us as saying so, did you?

Mr. COX, of Ohio. I understood it to be stated on behalf of the committee that the force here given, and in the manner here given, was all that the Surgeon-General wanted. That is not so.

Mr. DURHAM. You did not understand aright.

Mr. COX, of Ohio. Then let the House understand the real state of the case.

Mr. DURHAM. The gentleman shall not misrepresent me.

Mr. COX, of Ohio. I do not so intend, but the gentleman shall not escape from the actual fact.

Mr. DURHAM. I stated that the force here given for work upon pensions was enough and that no gentleman on this floor could deny it, but that if you took a part of this force away and put it upon the Medical and Surgical History there would not be enough.

Mr. COX, of Ohio. We are not taking it away; that is where the misrepresentation is. The committee are proposing to take force away from this work on the Medical and Surgical History, and it is that I am trying to oppose. I am not opposing the allowance of a proper force for work on pensions. I say give all the clerks that ought to be given for that work, but at the same time I insist that it is an injury to the public service to stop the work on the Medical and Surgical History of the War, and that is what the Committee on Appropriations are proposing to do.

[Here the hammer fell.]

Mr. ATKINS. I ask for a vote.

Mr. BAKER, of Indiana. I want to answer a suggestion made by the gentleman.

Mr. ATKINS. If anybody is to discuss this question further, I would like to say something myself.

Mr. BAKER, of Indiana. I deny that the present bill furnishes enough clerks for the work in the Pension Office and the Surgeon-General's Office, and, if permitted, I can sustain my position by the record.

Mr. ATKINS. I cannot permit the gentleman to make a speech in my time. How many men were employed in the Surgeon-General's Office in the last session of the Forty-third Congress under republican rule?

Mr. BAKER, of Indiana. I will state to the gentleman—

Mr. ATKINS. I did not ask the gentleman from Indiana.

Mr. BAKER, of Indiana. You asked the question, and I will answer it.

Mr. ATKINS. I do not desire an answer from the gentleman. I will answer myself. I do not want this debate to degenerate into a political discussion. I have no desire whatever to make any capital for the democratic party out of this bill so far as pensioners are concerned or any other feature in it. We have brought this bill forward for the purpose of administering the civil affairs of this Government. We believe we have appropriated enough in this bill for that purpose. This bill falls below in its general aggregate the present law of between six and seven hundred thousand dollars. We have not cut off in one single instance in this bill, hoping or expecting the Senate will increase the amount either of money or of force. We have presented this bill as we desire it to become a law. That is not the sentiment merely of the chairman of the committee or of the democratic members of the committee, but it is the sentiment of the entire committee, unless perchance it may be the gentleman from Indiana, whose course this morning I do not exactly understand.

I asked how many clerks were in the Surgeon-General's Office during the last session of the Forty-third Congress. The regular force was one hundred and thirty-six.

Mr. FINLEY. One hundred and thirty-four.

Mr. ATKINS. What is the regular force now? One hundred and thirty-five. What kind of course, then, is pursued by the gentleman from New York and the gentleman from Michigan, or any other gentleman who desires to make petty, party, political capital out of this matter? What sort of a course is it that leads them to make such charges as they have done, and especially the gentleman from New York who talked without knowing anything at all about what he

said? [Laughter.] He said, "I am not talking about the Surgeon-General's Office;" and that was the very subject before the House under consideration. He is as wild as a March hare. [Laughter.] We have given the force which the Surgeon-General asked. What has he asked? He has asked an increase of his force. We have given it to him. Why? I wish to say, Mr. Chairman, I hope the committee will come down quietly to hear what I am going to say here on this point. I say it was a question before the committee as to how much additional force should be given the Surgeon-General. Why? Because all the high functionaries in charge of this pension business, the Commissioner of Pensions and the Surgeon-General, differed as to how this matter should be administered.

Mr. BURCHARD rose.

Mr. ATKINS. I cannot yield; the gentleman can speak in his own time. I wish to say the Surgeon-General and the Commissioner of Pensions differed in regard to this matter, and it was a question with the committee as to who was right.

I repeat what I stated in my opening remarks on this subject, that the Commissioner of Patents said to the Committee on Appropriations in open session that it was in his power, in his judgment, within one year's time to bring up the entire arrear of pensions without the increase of a single additional man, provided the medical records could be transferred from the Surgeon-General's Office to the Pension Bureau. I state that as a fact, and no man on this floor will gainsay it. The gentleman from Indiana will not gainsay it. Then when the Commissioner of Pensions has made this statement before the Committee on Appropriations I wish to know if any fair-minded gentleman on that side—I ask whether the distinguished gentleman from Ohio, whom I respect as highly as any gentleman on this floor, I wish to know whether he will question it.

The CHAIRMAN. The gentleman's time has expired.

Mr. BLOUNT took the floor and yielded his five minutes to Mr. ATKINS.

Mr. COX, of Ohio. If the gentleman will permit me it will give me great pleasure to answer him.

Mr. ATKINS. I will.

Mr. COX, of Ohio. I will say this to the gentleman: I have myself seen the correspondence to which he refers, and no one thing which has been said here to-day so astounds me as the conclusion which the gentleman seems to draw from it.

Mr. ATKINS. Very good. I cannot help the operations of the gentlemen's minds. When the Commissioner of Pensions states to the Committee on Appropriations that if the medical records are transferred from the Surgeon-General's Office to the Pension Bureau he could bring up these arrears of pension in one year, if the gentleman cannot understand that, I am not responsible for it.

One word more. It is a fact that there are forty-five clerks in the office, whose duty it seems to be to paste vellum on the backs of the muster-rolls of the Army which have become worn. Forty-five have been detached from bringing up the arrears of pensions for the purpose as I have stated of pasting vellum on the backs of the muster-rolls of the Army. If there is such a redundancy of force, who is responsible then for these arrears? As was well said by the gentleman from Wisconsin, [Mr. BRAGG,] my own opinion is, and I do not as the gentleman from New York did make it as a political remark, but I offer it as my honest conviction, that the great trouble in this matter has been the administration of this force. I am authorized to state right here in my place, and I do state it on the authority of the able Commissioner of Pensions, that it is the fault of the administration of this force that there are these arrears in these pension matters.

Mr. BAYNE, Mr. CHITTENDEN, and others rose.

Mr. ATKINS. I have not yielded the floor. I hope these gentlemen will allow me to go on until I finish my five-minute speech.

Now, with these facts before this committee what is the use, I ask, of gentlemen presenting this question in any other light than the facts will justify? I do not believe, on my honor I do not believe, that there is a man upon this floor, let him hail from the East, from the West, from the North, or from the South, let him have followed the Stars and Stripes, or let him have followed the conquered banner—I do not believe there is a man on this floor who desires to obstruct in the least degree the bringing up of the arrears of pensions so that every man who fought beneath the Stars and Stripes and is entitled to a pension may promptly have it.

[Here the hammer fell.]

Mr. SAMPSON. I desire to make one inquiry of the gentleman.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. FINLEY. I desire to submit a substitute for the amendment of the gentleman from Ohio before the vote is taken.

The CHAIRMAN. The Chair has recognized the gentleman from Indiana, [Mr. BAKER.]

Mr. BAKER, of Indiana. I renew the amendment of the gentleman from Ohio. I am amazed that anybody should be of the opinion that I have said anything to-day for the purpose of making party capital.

Mr. ATKINS. When you see your speech you certainly will not be amazed at that.

Mr. BAKER, of Indiana. I trust I shall never be compelled for party purposes to intrench myself behind the graves of the dead or

behind the maimed and diseased frames of those who served in the war. And I want to say another thing. I utterly disregard the charge that was made on the other side that they were unable to comprehend my course this morning. I want to say that my course this morning is the same as my course always will be; that I go for the appropriation of only so much out of the public Treasury as is needed for the honest and faithful administration of the Government—so much and no more.

I say now that I hope to be able in the five minutes allotted to me to demonstrate to the chairman of the committee that there are not enough men provided for in the whole of the Surgeon-General's department to bring up the work in the division of records and pensions within the whole twelve months. There are provided for in this bill, including the chief clerk, one hundred and forty-two clerks. These one hundred and forty-two clerks are assigned to the three or four divisions of the Surgeon-General's Office. Now, then, I hold the report, the last one, revised recently by the Surgeon-General for me, with interlineations, which shows that with ninety-four clerks that department during the course of four years was on the average able to answer less than twenty thousand inquiries, namely, about nineteen thousand; ninety-four clerks could do that. Further, I hold the information here in my hand, in this report of the Surgeon-General, that on the 1st day of January, 1878, there were 18,823 unanswered cases; so that, according to the experience of that office for four years, it would take at least ninety clerks one whole year to answer the letters that are now waiting answers. It would take on the same basis to carry on the current work another ninety; making one hundred and eighty clerks in order within one year to bring up this work and keep up the current work. These are deductions from official data. Now, gentlemen may say they are astonished. I insist it is economy to employ men to do this work and to do it at once.

Mr. DURHAM. I desire to ask the gentleman a question.

Mr. BAKER, of Indiana. I yield to the gentleman for a question.

Mr. DURHAM. If that be true, why did not the Surgeon-General ask for an increased force? We have given him all he asked for.

Mr. BAKER, of Indiana. I cannot say. But I will say that this information was before our committee and I urged, as the gentleman knows, that money should be appropriated long, long ago for this service to put on at least fifty additional clerks; and I believe I was met by a point of order by my friend from Kentucky when I offered the proposition here in the House; I am not permitted to say what occurred elsewhere. We have an official document before us which shows the position of this work for years and years, and we ought to have sense enough to draw deductions from it and reach a conclusion; and I say we ought to-day to put on the records and pensions division forty more clerks than are provided for in this bill for all the divisions in the Surgeon-General's Office.

[Here the hammer fell.]

Mr. GARFIELD. I always regret when anything like party discussion arises upon an appropriation bill. I deeply regretted that the Speaker, the Speaker of the whole House, saw fit to come down and rather begin that sort of discussion yesterday. But I had thought we had disposed of that and that this morning we would be able to proceed with the consideration of the appropriation bill without introducing these party discussions.

I shall not deal with that phase of the matter any further. But I will say this: there are two suggestions about this particular clause which I think the House ought to think of. The gentleman in charge of this bill or some gentleman on that side says if the rolls of the Surgeon-General's Office were in the Pension Office they could get along with the force they have; that it is the fault of administration and not of legislation. I think gentlemen must see at a single glance it will be utterly impossible and impracticable to turn over the rolls of the Surgeon-General's Office to the Pension Bureau. They are needed for other purposes than pensions and are part of the archives of the War Department; they are necessary for the back pay of soldiers, for the bounty of soldiers; they need to be consulted about a variety of matters, and cannot be separated.

Mr. ATKINS. I want to say to the gentleman that we provide an additional force of thirty-three.

Mr. GARFIELD. These records which were gotten up originally for scientific purposes were found to be incidentally valuable for the decision of pension cases. You cannot disjoin the archives of the War Department by tearing them out and transferring them to the Interior Department. If the Pension Office were attached to the War Department you might get on better and with less force, but it will not do to say that we can with any propriety take them away from the War Department and put them in the Pension Bureau.

There is another thing that I desire to say. We have passed bills this session that have enlarged the number of pensioners. I am told that already since we passed the bill in reference to the soldiers of the War of 1812 seven thousand applications have been filed, and that they are coming in all the time. That, of course, increases the work of the office, and all we do in the way of enlarging the pension list adds to the labors of the office, and I hope that we shall add enough to the appropriation to enable that office to discharge its functions.

Mr. ATKINS. That does not apply to the Surgeon-General's Office, but to the Pension Office.

Mr. GARFIELD. We have the whole subject before us.

Mr. ATKINS. When we reach the appropriations for the Pension Office we propose to offer an amendment to increase the force in that office.

Mr. GARFIELD. Another thing. There is now no general index, no list of the pensioners. This morning I received a letter from a pensioner in my district, who wrote to me stating that there had been a mistake in a reply made in the Pension Office and wanted me to rectify it. I sent his letter to the Pension Office, supposing that the case would be remembered and that I should receive a prompt reply, and they wrote me back that it was utterly impossible for them to do so, unless the pensioner wrote again, and stated the number of the case or his regiment and company. If we had that one work done, namely, the preparation of a perfect general index of all the pension claims, it would facilitate the work 20 per cent. and I think we ought to put on a sufficient force to index the list of pensioners, and when that is done we shall save more in a single year than the amount of the whole additional appropriation that would be required.

Mr. DURHAM. I will state that we have given all that was asked for.

Mr. RANDALL, (the Speaker.) Mr. Chairman, except for a remark of the gentleman from Ohio [Mr. GARFIELD] I should not again be on the floor. He expresses regret that on yesterday I should have come down on the floor and introduced politics. Let me remind the House we were then in Committee of the Whole on the state of the Union, as we now are. The gentleman misplaces me entirely. I neither introduced politics nor personalities. If I had done the latter I might, as I was under great provocation to do, have ripped up some of the legislation of the past that would have shown that my record, taking it all in all, is quite as good as that of some who might have been alluded to more pointedly.

Now, as to the question of politics, I say deliberately that there ought not to be any politics when it comes to the expenditure of money, that we should all unite, one with the other, in seeking to save as far as possible the public funds.

As to the matter immediately under consideration, I think that this work of the Medical and Surgical History of the War should be conducted without interruption. I think so far as pensions are concerned that my experience proves to my mind clearly that the Pension Bureau should be transferred to the War Department; but, if it is not so transferred, then all the books in the possession of the Surgeon-General's Office should be handed over to the Commissioner of Pensions. In that way the number of clerks may be decreased and the work will be done in greatly less time, and current applications would be answered promptly and we should not be, as we are, continually receiving letters of the same character from two bureaus giving the same information.

Mr. CHITTENDEN obtained the floor.

Mr. BAYNE. I rise to a question of order. A few gentlemen seem to be allowed to carry on all the debate here. The gentleman from New York has made one speech upon the question before the House and now the Chair recognizes him again.

The CHAIRMAN. The gentleman from New York [Mr. CHITTENDEN] has not spoken on the pending amendment; therefore the Chair overrules the point of order.

Mr. BAYNE. I desire to make a statement before the Chair overrules the point of order. The gentleman from New York has spoken substantially upon the question involved in the paragraph under consideration. There may be some technical point by which you may get around that fact, but the fact remains that he has spoken upon this question.

The CHAIRMAN. The Chair is not seeking any technical point to give the gentleman from New York the floor, but the gentleman has not spoken upon the pending amendment and is therefore entitled to the floor.

Mr. MILLS. I hope that the chairman of the Committee on Appropriations will move that the committee rise and close this debate.

Mr. CHITTENDEN. When I rose before I sincerely and explicitly stated that I had no partisan views to express; I brought no reflection upon anybody, and if the gentleman from Tennessee [Mr. ATKINS] in the use of the word "demagogue" meant to apply it to me he does not know what he is talking about, and it is wholly unnecessary for me to reply to that.

Mr. ATKINS. I used no such word in reference to the gentleman.

Mr. CHITTENDEN. You certainly used the word "demagogue."

Mr. ATKINS. I did not positively.

Mr. CHITTENDEN. Then I beg your pardon. I certainly understood you to use the word "demagogue."

Mr. ATKINS. No; I do not consider the gentleman a demagogue by any means. A demagogue is a friend of the people.

Mr. CHITTENDEN. The gentleman used the word "wild" in application to my remarks. Now I will show him, if I have the time, that he is wild, and that I did know what I was talking about. I said substantially that there was not force enough in the Pension Bureau to do the work faithfully and promptly. I did not apply censure to the Committee on Appropriations alone; I applied it to Congress and to the country for thus neglecting the men and the remains of the men who fought for their country. I did know what I was talking about, and the gentleman himself unwittingly has confirmed my position. I ask him to listen to me to convict him of it

before the House. He said that two years ago there were one hundred and thirty-five clerks in the bureau and that now there are one hundred and thirty-six. As if the fact that there were one hundred and thirty-six clerks proves that there has been no failure on the part of the Government of the United States to do its duty to its pensioners promptly. I convict the gentleman here on his own statement and prove everything that has been charged against Congress and the Government in respect to the delay.

One hundred and thirty-five men were not enough; they permitted the business to fall so far in arrears that the gentleman from Massachusetts [Mr. BUTLER] in answer to a letter from an honest pensioner is obliged to write him that his case would not be investigated until May, 1879. I have a parallel case to that in my pocket, received this morning.

I say to the chairman of the Committee on Appropriations that I am prepared to take back what I said. There is serious fault somewhere. It is preposterous to stand here before the country with two years' work undone and say that there were one hundred and thirty-five clerks two years ago and there are one hundred and thirty-six now, and give that as a reason why this work should be longer delayed. I am ashamed of my country before God; I am ashamed that these pensioners are put off with weak, unmeaning apologies like these.

I say to the gentleman from Tennessee [Mr. ATKINS] that I have never, unless unconsciously, uttered a partisan word on this floor. I may have given votes which appeared partisan; undoubtedly I have; but God is my witness that I do not care for party; I have never cared for party in discussing questions of this sort. I stand here today absolutely independent and free to do what my conscience dictates. [Here the hammer fell.]

Mr. BAYNE. Mr. Chairman—

Mr. ATKINS. If the gentleman will allow me a minute, I wish to ask the Committee of the Whole to consent to limit debate upon the pending paragraph and all amendments thereto.

Mr. BANNING. Before the gentleman submits his proposition I have an amendment to offer.

The CHAIRMAN. No further amendment is now in order.

Mr. BANNING. I desire to offer an amendment and to explain it. Mr. ATKINS. Will the Committee of the Whole consent to limit debate to ten minutes?

Mr. SAMPSON. Before any arrangement is made I would like to say a word.

Mr. ATKINS. I am willing to give all that time to that side of the House if they want it.

Mr. BREWER. Make the limit twenty minutes; I think that will be satisfactory.

Mr. ATKINS. If twenty minutes will be sufficient, I will agree to divide it so that ten minutes shall be given to that side of the House and ten minutes to this.

Mr. TOWNSEND, of Ohio. Say thirty minutes.

Mr. BANNING. I ask consent to submit an amendment.

The CHAIRMAN. No further amendment is now in order.

Mr. ATKINS. I will ask if consent is given to limit debate on the pending paragraph to twenty minutes?

Mr. SAMPSON. Before that consent is given I would like to say a word. The Committee on Appropriations evidently do not understand the object of the amendment which I propose to offer, but which I have not yet had an opportunity to offer. My amendment is to make this paragraph conform to the law as we have enacted it within the last ten days. That is the only purpose of my amendment, to let the office of the Surgeon-General go on under existing law as he now has it.

Mr. ATKINS. The gentleman will have ample time to offer his amendment.

Mr. SAMPSON. I want an opportunity to explain it.

Mr. FINLEY. Is the Committee of the Whole the place to fix the limit upon debate?

Mr. ATKINS. I move that the committee now rise for the purpose of obtaining an order from the House limiting debate upon the pending paragraph.

The question was taken; and upon a division there were—ayes 92, noes 11.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. EDEN reported that pursuant to the order of the House the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June, 30, 1879, and for other purposes, and had come to no resolution thereon.

Mr. ATKINS. I move that when the House again resolves itself into Committee of the Whole upon the legislative appropriation bill all debate upon the pending paragraph and amendments thereto shall be closed in twenty minutes, ten minutes on each side.

Mr. SAMPSON. I move to amend so as to make it thirty minutes. The amendment was not agreed to.

The motion of Mr. ATKINS limiting debate was then agreed to.

ENROLLED BILL SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that

they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 3822) making appropriations for the naval service for the year ending June 30, 1879, and for other purposes.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I now move that the rules be suspended and the House resolve itself into Committee of the Whole for the purpose of proceeding with the consideration of the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. EDEN in the chair.)

The CHAIRMAN. By order of the House debate on the pending paragraph and all amendments thereto is limited to twenty minutes. Debate upon the amendment to the amendment, offered by the gentleman from Ohio, [Mr. COX,] is exhausted.

Mr. COX, of Ohio. I withdraw the amendment, with the understanding that it shall be renewed.

Mr. CANNON, of Illinois. Mr. Chairman, as debate has been limited on this paragraph, I desire to give notice that when the pending amendments are disposed of I will offer an amendment to authorize the Secretary of War to detail a number of enlisted men for clerical service in this bureau sufficient to perform the work necessary to insure the prompt hearing and disposal of claims filed for pensions, and the payment of the same.

Mr. Chairman, there has been much said by the gentleman from Ohio and others on both sides of the House as to the reason why claims for pension have to wait fourteen months from the time they are filed before they can be heard. The facts are that a democratic House of Representatives, which always originates appropriation bills, was elected nearly four years ago, and that House was succeeded by the present democratic House, and the further fact is that this business has fallen behind since that time for want of a sufficient clerical force in the offices to pass upon the pension claims. But I do not desire to talk further as to whom the fault rests upon; but it is the duty of the House to give a sufficient force to promptly do this work and enable the pensioner to get his claim allowed in this life. The gentleman from Tennessee tells us that these enlisted men when detailed for this duty get the same pay they do when on duty in the Army proper, and perhaps there are more than enough who are disabled from active service in the field to do this clerical service; if so, the Government is not out anything. But whether it costs or not, the law gives disabled soldiers, their widows and orphans, pensions, and it is a shame for us to refuse the pittance necessary to pay the clerks to file and pass upon their claims when presented. I hope my amendment will be adopted. I now yield the balance of my time to the gentleman from Iowa, [Mr. SAMPSON.]

Mr. SAMPSON. Mr. Chairman, I am satisfied from the remarks which have been made by members of the Committee on Appropriations and several other gentlemen that the amendment I propose to offer has not been understood.

Mr. ATKINS. Let it be read.

Mr. SAMPSON. I send it to the Clerk.

The Clerk read as follows:

Strike out after the word "dollars," in line 1203, down to and including the word "each," in line 1207, and insert in lieu thereof the following: "Eight clerks of class 4; six clerks of class 3; nine clerks of class 2; one hundred and twenty clerks of class 1, twenty-eight of whom shall be temporary."

Mr. SAMPSON. This amendment will leave the force in the Surgeon-General's Office precisely as it is to-day regulated by law and by the bill which has passed both Houses within the last ten days, and which I have no doubt by this time has received the approval of the President. The Surgeon-General is now arranging and adjusting the force in his office in accordance with that enactment. That action was taken by this House after the present bill was reported. Now I ask that the arrangement made in that bill may continue; that we may have permanence in the administration of that office for at least ninety days. Let the force as arranged and classified by the Surgeon-General under our legislation remain.

Under this arrangement only two additional clerks are allowed to that office. It may be said that it increases the compensation; that is true, but it is only the compensation of those men who are now receiving \$1,200 a year and which the committee proposed to reduce, some to \$1,000 and some to \$900. Who on this floor will say that an annual salary of \$1,200 is more than is absolutely necessary with the strictest economy to support a family in the city of Washington? I am aware that the committee propose to reduce the salaries of clerks in the Executive Departments now receiving only \$1,200. But even if they intend to adopt that course with every other office and bureau, I ask them to let this office remain as it has been adjusted during the present session.

On examination of a letter dated February 12, and addressed to the Committee on Appropriations, I find that this amendment adjusts the force and fixes the number of clerks precisely as the Surgeon-General has requested in that communication. The Committee on Appropriations express themselves as willing to give the force required by the Surgeon-General, and I ask why not let him adjust it? In other Departments and bureaus clerks of class 4 and class 3 are given in greater proportion than in this, and the Surgeon-General in his letter claims

that the service of this bureau is as important as that of the other bureaus, requiring as high an order of talent and experience, and I am disposed to believe he is entirely correct in this, and I do not see why we should allow to other bureaus so much larger proportion of clerks of classes 3 and 4 than we allow here.

[Here the hammer fell.]

Mr. BANNING. I desire to offer an amendment.

The CHAIRMAN. There is already pending an amendment to the amendment.

Mr. CANNON, of Illinois. I renewed the amendment of the gentleman from Ohio [Mr. COX] on the express condition that I would not withdraw it unless somebody else renewed it.

Mr. BANNING. Then I will renew that amendment; and I desire to read for information an amendment which I will offer whenever it is in order. It is to strike out all after the word "that," in line 1213, down to and including "and," in line 1216; and, in line 1206, to strike out the words "twenty-eight" and insert "forty-eight."

This detailing of men from the Army for civil duty should be stopped. We have now forty regiments of all arms, embracing in all about twenty-one thousand men. Of these only about fourteen thousand are privates on duty with their regiments. So that some companies in the service are reduced below twenty men. I am opposed to making these details, particularly under the bad organization we now have. This amendment strikes out the provision for detailing twenty men from the line of the Army, and increases the twenty-eight clerks to forty-eight, putting clerks in place of the detailed men.

I think this provision which I submit ought to be adopted. There is no economy in detailing these men from the Army. They are no cheaper and no better than citizen clerks; and when we take into consideration the weak condition of the companies and regiments at present, we certainly ought not to make these details.

When General Gibbon, who had commanded a corps in our Army, went to fight Joseph, he took a regiment with one hundred and forty-six men. Now it is proposed to take away twenty more men from the Army and use them as clerks in this bureau.

I hope, Mr. Chairman, that the House will adopt this amendment. All are in favor of giving enough men to the Medical Department to push forward the application for pensions. I am glad to be able to say to the House that since the agitation of the question in Congress the work has been pushed more rapidly forward in the Surgeon-General's Office, and the applications sent there now are returned to the Pension Office much sooner than before the agitation was begun.

One word, Mr. Chairman, in addition. I quite agree with gentlemen on the other side. We should push forward the claims of these men who were wounded and disabled in the service of the country. The gentleman from New York says this side of the House is responsible for this work. If that be so, and the Surgeon-General says, as has been alleged here, that if the provisions of this bill are carried out, then all these claims of pensioners can be brought up and settled and satisfied in the next year, why not add the amendment I propose and let the bill go through?

Gentlemen say the publication of the Medical History of the War is an important matter. So it is. I am in favor of continuing this publication. But, Mr. Chairman, when I find it necessary to choose between publishing this medical history now or pushing rapidly along with all the force of clerks in the Department these claims of disabled soldiers, which I understand are some twelve thousand behind, or awaiting the action of the Medical Bureau, I am for suspending for the time being the publication of this work and putting all the clerks of the Department at work upon the applications for pensions. This is the proposition of the committee. Those who sustain the committee are in favor of the early settlement of the claims for pensions. Those who are against the committee are against the claims of the sick and disabled soldiers. I stand with the committee and the soldiers, and so does this side of the House.

Mr. WAIT. I should like to inquire of the gentleman from Tennessee if the twenty men are not now detailed from the Army and acting in the office of the Surgeon-General, and whether the effect of his amendment will not be to throw these men out who are experienced and trained men and put in men who are not trained and who will not be as efficient.

Mr. BANNING. These are twenty additional men.

Mr. ATKINS. The gentleman is mistaken; they are already there. I will say to the House they are generally crippled and disabled men.

Mr. WAIT. Very well; I ask the chairman of the committee whether the result of the amendment will not be to send those men to the ranks of the Army and put new and inexperienced men in their places.

Mr. ATKINS. I do not know about sending them to the ranks of the Army. But it will turn them out.

Mr. WAIT. I hope the amendment will not prevail.

Mr. ATKINS. I will take the floor and yield four of my five minutes to the gentleman from New York, [Mr. BEEBE.]

Mr. BEEBE. I am much obliged to the gentleman from Tennessee for his courtesy. I simply desire, Mr. Chairman, to call attention to what seems to have been overlooked by our friends on the other side. I hold in my hand House Miscellaneous Document No. 93, Forty-fourth Congress, first session. In it I find detailed in the report of the Committee on Pensions to that House some of the reasons why

this work of examining pension claims has fallen off in the Pension Bureau. I will read:

Since the 4th day of March, 1875, there have been one hundred and twenty-eight employes of this office, many of them among the most experienced, whose political backers had "stepped down and out," removed to make way for ninety-six new ones or reappointments. The chiefs of the bureau are selected on the same principle. With great frankness the late Commissioner, Mr. Atkinson, in his testimony before your committee, stated that prior to his appointment he had no experience whatever or knowledge of the duties of the office to which he was appointed, and yet "the President informed him that he had selected him because he thought there was some one needed to straighten the bureau out."

Now, as to matter of frauds:

Soon after the appointment of the late Commissioner, he issued an order to John Stiles, who was a clerk in the Pension Bureau, drawing an annual salary of \$1,200 per year from the Government, detailing him to act as clerk for the republican congressional committee. In obedience to this detail, Stiles, from the 13th day of May, 1875, to the 4th or 5th day of November, devoted his time to the clerical duties of the committee, and, with the exception of from thirty to fifty days during which he worked a part of his time at his desk, did not go to the Pension Office at all, except to draw his pay monthly, and on the 1st of January, 1876, was promoted to the position of appointment clerk in the Interior Department, at a salary of \$2,000 per year, which he now holds. Another, William Caffrey, during the last summer was enrolled on the pay-roll of the bureau, and from June till September drew pay at the rate of \$100 per month and did no duty in the bureau, but was employed by the republican congressional committee.

That is what is the matter with this bureau.

Now, in order that our republican friends may understand that the sworn testimony taken by that committee fully sustains the report from which I have read, I will give a few extracts from the testimony. Mr. Atkinson, the former Commissioner of Pensions, testified:

Question. How did you acquire your position as Commissioner of the Pension Bureau; was it at your own solicitation or at the request of somebody else?

Answer. I suppose I was appointed by the President. I knew nothing about it until I was telegraphed to to know if I would accept the office. The President informed me on my arrival here that he had selected me because he thought there was some one needed to straighten the bureau out, and he desired me to undertake it.

Q. After you were appointed, did you pay any compensation toward the political fund?

A. Not as Commissioner of Pensions. I paid it voluntarily as an individual.

Q. Do you know General Stiles?

A. Yes.

Q. Was he an employe in the Pension Bureau last summer?

A. Yes, sir.

Q. Was he not clerk of the congressional committee last summer?

A. He was employed by that committee, I believe.

Q. Do you know two clerks named Darling and Soule?

A. Yes, sir.

Q. Were they not engaged in editing a departmental journal last summer?

A. Yes.

Q. Has that journal any connection with the Pension Bureau?

A. No, sir.

Q. This paper, then, was an enterprise of their own?

A. Entirely. The office had nothing to do with it. That is my understanding. In fact that is the case. It is simply a private enterprise of their own, which they expect to make a little something out of.

Q. Do you know a man named Doolan?

A. Yes.

Q. Did he do any work last summer?

A. Yes; he is an examiner.

Q. Did he do any work in the examination-room?

A. He was a portion of the time detailed as telegraph operator at headquarters.

Q. Then one-half of his time he was off on the other duty, and one-half he should have been at his examining-desk?

A. Perhaps so.

Now, here is "richness:"

Question. Do you know William Caffrey?

Answer. Yes.

Q. Was he in the employment of the Pension Bureau at that time?

A. Yes.

Q. What work did he do?

A. He was employed by the congressional committee, and, by the verbal directions of the Assistant Secretary, he and Stiles were so assigned, as that was customary, as I understood by all parties, and hence was not considered improper.

Q. And while he was on that he drew his pay from the Pension Office?

A. Yes.

Q. For what length of time?

A. I think from June to September.

And this we are coolly told is customary! Then, as showing the utter disregard of law prevailing in this bureau under this Commissioner, I submit again his own testimony:

Question. In the grading of clerks, or in their number, you were not guided by the law?

Answer. No, sir.

Q. Did you not get clerks of a different grade from that fixed by law and a larger number than was allowed by law?

A. I did not employ clerks of different grades, but I employed more of a certain grade than the law authorized.

Q. Why did you not comply with the law? What was the difficulty?

A. The only difficulty was the pressure for office.

Q. Did you know a man in the employment of the Pension Bureau named Lantone?

A. Yes, sir.

Q. What duty did he do, if any?

A. He was part of the time an examiner, and was formerly chief of that division.

Q. Did he do any work last session?

A. Yes; he did work on the special service.

Q. What special service?

A. He was in Ohio during a short time.

Q. In the political campaign?

A. He had an election leave for the campaign, I suppose.

Q. And the expense of his returning and going back was paid by the Government?

A. Yes, sir; but his detail was to a specific time.

Q. Are you acquainted with Mrs. Throckmorton?

A. Yes, sir; I think there were originally five of those ladies who did copying for the office at home, but on the reorganization of the Bureau they were ordered

to the office, and all the work which had previously been sent out was, with a solitary exception, done in the office, and the work which thirteen clerks previously did is now done by four.

Q. They were maintained on the pay-rolls of the bureau, while they did no work, for a considerable length of time?

A. Yes.

The foregoing, as I have said, is taken from the testimony of Ex-Commissioner of Pensions Atkinson. Now I invite the attention of the committee, and particularly of those republicans who have so touchingly wailed over democratic neglect of the "poor pensioners," to the following testimony given before the same committee by John Stiles:

WASHINGTON, D. C., February 15, 1876.

JOHN STILES SWORN and examined.

By the CHAIRMAN:

Question. State whether you were in the employment of the Pension Bureau last summer.

Answer. Yes, sir.

Q. From what date to what date?

A. From the 1st January, 1875, right through the year.

Q. During the summer what were you doing?

A. During a portion of the summer I was detailed on special duty.

Q. Were you not clerk of the republican congressional committee?

A. I was writing for the committee.

Q. How much of your time did you consume in writing for the republican congressional committee?

A. I think from the 13th May to the 4th or 5th November.

Q. During all that time you were working for the republican congressional committee under a detail from the office?

A. Yes, sir.

Q. How much salary did you draw?

A. I drew my usual salary—\$1,200 a year.

Q. After the 4th of November, were you not promoted from the Pension Bureau to a clerkship of a higher grade in the Interior Department?

A. Yes, sir.

Q. And you are holding that now?

A. Yes, sir.

By Mr. BLISS:

Q. At whose instance were you detailed as clerk to the republican congressional committee?

A. The order came to me, I think, from Mr. Atkinson. It came in the form of a telegram for me to report to Mr. Atkinson, and I believe it was signed by him.

By Mr. RUSK:

Q. Where were you when you received the telegram?

A. At my desk, in the Pension Bureau.

Q. And you reported to Mr. Atkinson?

A. Yes, sir; and he ordered me to report to Judge Edmunds.

Q. How long were you engaged in that way?

A. From the 13th May till the 4th or 5th November.

Q. Who was Judge Edmunds?

A. Judge John M. Edmunds, city postmaster of the city of Washington, and secretary of the republican congressional committee.

Q. Did you receive anything for your clerkship except from the Pension Bureau?

A. Yes, sir.

Q. How much did you receive from the republican congressional committee?

A. Fifty dollars a month in addition to my regular salary.

Q. What salary do you get now?

A. I am paid at the rate of \$2,000 a year.

Then we have the following from the testimony of one O. P. J. Clark, also an employe of the bureau:

Question. Do you know Mr. Richards?

Answer. Yes.

Q. What work does he do?

A. Mr. Richards has been a sort of general-utility man; he is an apt clerk and is qualified for almost any position.

Q. What position does Richards hold?

A. I stated that he was a sort of general-utility man. He is assigned to various duties. He is a very valuable man and writes a fine hand; is a good scholar and a ready man.

Q. He has no specific duties assigned him?

A. No. I do not think that I can say that he is an examiner or anything else?

The foregoing I think will be sufficient to indicate the real reason why the payment of the pensioners' claims is so long delayed. While these employes were detailed for service to the republican congressional campaign committee work and for campaign service in Ohio and other "doubtful" States the work in the Pension Office was, as Mr. Atkinson himself testified, so far behind that over eighty-two thousand claims were pending and awaiting settlement. Let the truth go forth to the country. Clerks paid out of the National Treasury are put to work for republican campaign service or kept dangling around idle, and even engaged in private newspaper and other enterprises. Yes, sir, the truth is, the delay in adjusting pension accounts is attributable rather to republican corruption and mismanagement than to the parsimony of a democratic House, and the sworn testimony I have read from proves it.

Mr. PAGE. What document did the gentleman read from?

Mr. BEEBE. Miscellaneous Document No. 93, House Representatives, Forty-fourth Congress, first session, part I. These are statements which were sworn to before a committee in the last Congress charged with investigating the proceedings of this bureau. This, gentlemen on the republican side of the House, is what is the matter; the bureau must be deprived of its working force in order to run your congressional campaign committee! Remember, it was republican Representatives and Senators who connived at this, and for shame's sake let us hear no more of your charges against us for the delays in adjusting pension claims.

The CHAIRMAN. Does the gentleman from Ohio [Mr. GARFIELD] desire to occupy the five minutes to which he was entitled?

Mr. GARFIELD. Yes, sir, and I yield to my colleague, [Mr. Cox, of Ohio.]

Mr. COX, of Ohio. There are two or three things which have been referred to and which I would like to notice. It has been stated here that it is the fault of administration in the Surgeon-General's Office that the records of the Army hospitals, &c., have not been indexed. I have made personal inquiry into that matter with this result: The vast number of volumes of records there, I presume, have been seen by very few members of this House. I made special inquiry as to what would be the labor required to go through the whole of those records of hospitals and regiments and index them, and I was informed that it would take more than one hundred clerks more than two years to do the work, and that Congress has never begun to make the appropriations necessary for the purpose. It will thus be seen that the force employed upon the Medical and Surgical History of the War, which I believe has never exceeded eight or ten, could have done but a small part of what is required.

Then, sir, in regard to the work actually done by the Pension Office and the Surgeon-General's Office respectively, there is really little or no loss of labor between the two offices. Allow me to state that a printed form is filled up, making the inquiries to which the Pension Office needs answers; this is sent to the Surgeon-General's Office with no more loss of time or labor than would be expended if the inquiry were sent from one room to another in the same bureau. The answers are also returned upon a printed form, showing the various items of information required, properly filled up by the clerks in charge of the several divisions of the records; so that if you transfer the records of the Surgeon-General's Office to the Pension Bureau, you could not dispense with a single man who is doing that work, unless you are able to prove that the clerks are not doing their work industriously, which I am sure is not the case.

I have looked into that matter and I am satisfied that the men are working industriously. They have to look at the records to find what is recorded there in regard to the medical history of the man whose case is presented, or whether anything is recorded there, for sometimes there is nothing. This work is so extensive, running through so many volumes of records that I understand that one clerk can only report upon from one to three cases a day.

I wish to say further, that I saw myself the correspondence between the head of the Pension Bureau and the head of the Department which has been referred to, and I know that when he came to speak of his own knowledge he did not pretend to know what was the work done in the Surgeon-General's Office nor did he affect to judge of the extent or necessity of the work in another bureau. He is too just and too intelligent an officer to do that in a case where he had made no personal investigation.

He relies upon a subordinate of his, who does his own work well, no doubt, and I think highly of both these gentlemen. He gave the opinion of that subordinate, that in his opinion the work might be done more economically if the records were transferred, but it turned out upon investigation that it could not be done in the manner proposed and that the Surgeon-General's records could not leave the War Department. I should be exceedingly glad to have an intelligent committee of the House give the time necessary to find out exactly how the whole work is done. I am satisfied from my knowledge of the Interior Department and from personal observation of this part of the Surgeon-General's Office that the labor is well performed there. The question before us simply is, shall a few clerks, from eight to ten, be taken for the important work referred to, and not at all whether the Surgeon-General's Office shall be transferred to the Pension Bureau, or the latter to the War Department. I trust, therefore, that what we shall do will be to strike out the last clause of this paragraph and let the matter stand as it is now and has been since the end of the war.

Mr. ATKINS. I will state in reply to the gentleman from Ohio [Mr. BANNING] that these soldier clerks are already detailed, and many of them are one-legged men and Army men and not fit for Army service. I will state that the committee propose in this bill that only sixty men shall be detailed, whereas the War Department has at this time one hundred and eighty-seven.

In regard to the administrative discharge referred to by the gentleman from Ohio [Mr. GARFIELD] I would state that when I spoke of that I spoke upon the authority of the Commissioner of Pensions. I now ask for a vote.

Mr. COX, of Ohio. I withdraw my amendment so that the question may be taken upon striking out the last clause.

The CHAIRMAN. The question, then, is first upon the amendment of the gentleman from Tennessee, to insert after the word "force," in line 1216, the words "three excepted."

The question was taken; and on a division there were ayes 69, noes not counted.

So the amendment was agreed to.

Mr. FINLEY. I now move to strike out the clause as amended, as follows:

And the entire clerical force, three excepted, now employed on the Medical and Surgical History of the War, shall be employed on the work necessary to the prompt payment of pensions.

The question was taken; and on a division there were—ayes 88, noes 52.

Mr. ATKINS. I call for tellers.

The CHAIRMAN. No quorum having voted, the Chair will appoint tellers.

Mr. ATKINS and Mr. FINLEY were appointed tellers.

The committee again divided; and the tellers reported—ayes 104, noes 67.

So Mr. FINLEY's motion was agreed to.

Mr. ATKINS. I give notice that I shall demand a vote upon this question in the House by yeas and nays.

Mr. SAMPSON. I now move the amendment which was read a few minutes since by the Clerk.

The Clerk read the amendment, as follows:

Strike out of the pending paragraph these words: "six clerks of class 4; four clerks of class 3; five clerks of class 2; seventy clerks of class 1; twenty-eight clerks, at \$1,000 each; twenty-eight clerks, at \$900 each," and insert in lieu thereof the following:

Eight clerks of class 4; six clerks of class 3; nine clerks of class 2; one hundred and twenty clerks of class 1, twenty-eight of which shall be temporary.

The question was taken upon the amendment of Mr. SAMPSON; and upon a division there were—ayes 80, noes 62.

Before the result of this vote was announced,

Mr. ATKINS said: No quorum has voted, and I call for tellers.

Tellers were ordered; and Mr. ATKINS and Mr. SAMPSON were appointed.

The committee again divided; and the tellers reported that there were—ayes 87, noes 75.

So the amendment was agreed to.

Mr. DURHAM. I give notice that I will call for a separate vote upon this amendment in the House.

Mr. ATKINS. I hope the gentleman will not call for a separate vote; I request that he will not.

Mr. CANNON, of Illinois. I move to amend the pending paragraph by adding to it the following:

That the Secretary of War, if the public necessity so require, may detail a number of enlisted men for clerical service in this bureau sufficient to do the work necessary to the prompt examination of claims for pensions and payment of the same.

Mr. DURHAM. I rise to a point of order on that amendment.

The CHAIRMAN. The gentleman will state it.

Mr. DURHAM. It changes existing law, and does not upon its face show that there is any economy in it. The paragraph now provides that the Secretary of War may detail twenty enlisted men; and by the last amendment adopted just now six or seven more clerks have been given to this bureau than was asked for.

Mr. CANNON, of Illinois. If I caught the amendment of the gentleman from Iowa, [Mr. SAMPSON,] it struck out the provision authorizing the detail of twenty enlisted men.

Mr. DURHAM. That clause was not stricken out.

Mr. CANNON, of Illinois. Then I will withdraw that amendment and offer the one which I send to the Clerk's desk.

The Clerk read the amendment, as follows:

Strike out of the proviso the words "twenty enlisted men for clerical service in this bureau" and insert in lieu thereof the following:

A number of enlisted men for clerical service in this bureau sufficient to do the work necessary to the prompt examination of claims for pensions and payment of the same.

Mr. DURHAM. I do not make any point of order upon that amendment.

Mr. ATKINS. I call for tellers on the amendment.

The question was taken upon ordering tellers; and there were 43 in the affirmative, more than one-fifth of a quorum.

So tellers were ordered, and Mr. CANNON, of Illinois, and Mr. ATKINS were appointed.

The committee divided; and the tellers reported that there were—ayes 82, noes 65.

So the amendment was agreed to.

Mr. SAMPSON. I ask consent that the Clerk be authorized to change the total of this paragraph so as to correspond with the amendments which have been adopted.

The CHAIRMAN. That will be done if there is no objection.

There was no objection.

The Clerk resumed the reading of the bill, and read the following in relation to the building occupied by the Paymaster-General:

For rent of the building, \$3,500.

Mr. ATKINS. I move to amend by striking out "\$3,500" and inserting "\$4,500."

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following:

PUBLIC BUILDINGS AND GROUNDS.

For clerk in the Office of Public Buildings and Grounds, \$1,400; and for messenger in the same office, \$340. And the Secretary of State is hereby directed to cause rooms in the wing of the building occupied by the Department of State to be assigned for the use of the clerical force employed under the Chief of Engineers of the Army upon the public buildings and grounds of the Government of the United States in the District of Columbia for office for records and for transaction of business relating to the same.

Mr. ATKINS. I move to amend the paragraph just read by striking out the words "and the Secretary of State is hereby directed to cause rooms in the wing of the building occupied by the Department of State to be assigned," and to insert in lieu thereof the words "for rent of building known as the Towson House; also, to add to the paragraph '\$900.'"

Mr. WHITE, of Pennsylvania. How will the clause read if so amended?

The Clerk read the clause as proposed to be amended, as follows:

For rent of building known as the Towson House for the use of the clerical force employed under the Chief of Engineers of the Army upon the public buildings and grounds of the Government of the United States in the District of Columbia for office for records and for transaction of business relating to the same, \$900.

Mr. ATKINS. The Committee on Appropriations originally intended to put the Superintendent of Public Buildings and Grounds for the District of Columbia in the State Department building. The Secretary of State objected; did not think there was room enough in the building for him, and this amendment is made for the purpose of renting another building for him.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following:

NAVY DEPARTMENT.

For compensation of the Secretary of the Navy, \$8,000; for compensation of the chief clerk of the Navy Department, \$2,500; one disbursing clerk, \$2,000; three clerks of class 4; two clerks of class 3; one clerk of class 2; four clerks of class 1; four clerks, at \$1,000 each; one assistant messenger; one page, \$480; and for laborers, \$1,300; in all, \$33,700.

Mr. GOODE. I move to add to the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

And the Secretary of the Navy shall have authority, whenever in his opinion the public interest shall require it, to assign to the chief clerk of the Navy Department the duty of assisting him in the affairs of his office; and whenever he shall perform such duty his compensation shall be at the rate of \$3,000 per year, and the clerk assigned to perform the duties of such chief clerk shall be entitled to compensation at the rate of \$500 per year in excess of his salary as fixed by law; and the sum of \$1,000 or so much thereof as may be necessary is hereby appropriated therefor.

Mr. ATKINS. That amendment, I believe, is subject to a point of order; it creates a new office and is not in the line of retrenchment.

Mr. GOODE. I offer that amendment by direction of the Committee on Naval Affairs. We were aware that it might be liable to the point of order raised by the chairman of the Committee on Appropriations, [Mr. ATKINS.]

The CHAIRMAN. The Chair will hear the gentleman on the point of order, not upon the merits of the amendment.

Mr. GOODE. The Committee on Naval Affairs believe that the proposition I have submitted is really in the line of economy. The Secretary of the Navy, being now perhaps the most overworked man in the Government, certainly one of its most laborious officers, is obliged to have assistance, and we had indulged the hope that this point of order would not be raised. I submit the question to the decision of the Chair.

Mr. ATKINS. I do not think the subject needs any debate on our side.

The CHAIRMAN. It may possibly be in the line of economy to create new offices and affix salaries to them; but the Chair is bound by what appears from the face of the amendment, and this amendment does not appear on its face to be in the line of economy. The Chair therefore sustains the point of order.

Mr. GOODE. I know that if the point should be raised the Chair would be obliged to sustain it; but I felt bound to offer the amendment by direction of the Committee on Naval Affairs.

The Clerk read as follows:

Bureau of Construction and Repair:

For chief clerk, \$1,800; draughtsman, \$1,800; one clerk of class 4; one clerk of class 3; one clerk of class 2; one clerk of class 1; and one clerk, at \$1,000; one assistant messenger; and one laborer; in all, \$11,920.

Mr. ATKINS. I move to amend the paragraph just read by striking out, in lines 1374 and 1375, the words "and one clerk at \$1,000," and by striking out, in line 1376, the word "eleven" and inserting "ten;" so as to make the total correspond.

The amendment was agreed to.

The Clerk read as follows:

Bureau of Steam-Engineering:

For chief clerk, \$1,800; one draughtsman, at \$1,800; one assistant draughtsman, at \$1,600; one clerk of class 2; one clerk of class 1; one assistant messenger; and one laborer; in all, \$9,120.

Mr. ATKINS. I move to amend the paragraph just read by inserting, after the word "one" where it first occurs in line 1383, the words "one clerk, at \$1,000," and by changing the total so as to read "\$10,120."

The amendment was agreed to.

The Clerk read as follows:

Department of the Interior:

For compensation of the Secretary of the Interior, \$8,000; Assistant Secretary, \$3,500; chief clerk \$2,500; six clerks, at \$2,000 each, one of whom shall be disbursing clerk; four clerks of class 4; four clerks of class 3; two clerks of class 2; four clerks of class 1, one of whom shall be the telegraph operator of the Department; two clerks, at \$1,000 each; five copyists; two assistant messengers; two pages, \$480; for laborers, \$2,400; for one captain of the watch, \$4,000; and for watchmen, \$20,400; to be allotted to day or night service, as the Secretary of the Interior may direct; in all, \$79,900.

Mr. ATKINS. I ask the Clerk to read an amendment, which I offer on behalf of the committee, to this paragraph.

The Clerk read as follows:

In line 1413, after the word "dollars" where it first occurs, insert "\$200 additional as superintendent of the Patent-Office building;" in lines 1416 and 1417, strike out the words "one of whom shall be the telegraph operator of the Department;" in line 1417, strike out "two" and insert "three;" in line 1418, strike out "five" and insert "six;" in the same line, strike out "two assistant messengers" and insert "one assistant messenger;" in line 1419, insert the word "each" after the word "dollars;" in line 1421, insert "four" after the word "twenty;" in line 1423,

strike out the words "four hundred;" in line 1424, strike out "\$79,900" and insert "\$85,280."

Mr. ATKINS. This somewhat enlarges the force and makes a slight increase in the amount of appropriation. It is somewhat of a rearrangement.

The amendment was agreed to.

Mr. CHALMERS. I move to amend by striking out "four clerks of class 4" and inserting "three clerks of class 4." I make this motion with the view of moving to amend a subsequent paragraph by restoring the pay of the superintendent of packing and distributing public documents, which has been changed from \$2,500 to \$1,400, an additional clerk of class 4 having been given, as I understand, to perform the duty now assigned to this superintendent. This officer has charge of the preparation of what is known as the Blue Book, and, if I am correctly informed, his duties are such as to entitle him to the compensation now allowed under the Revised Statutes. In order that there may be no increased appropriation in this bill, that on the contrary it shall effect a retrenchment of expenses, I ask to strike out the provision for one clerk of class 4 at \$1,800, in order that we may restore the officer I have named to his position and salary at \$2,500. There will thus be a saving of \$700 to the Government. I make this statement that gentlemen may understand the object of my present motion.

Mr. ATKINS. When we have proceeded two or three paragraphs further with this bill we shall reach the office for which the gentleman from Mississippi [Mr. CHALMERS] desires to provide. He proposes to dispense with one clerk of class 4 in order to increase the salary of the superintendent of packing and distributing documents. I think we had better stand by the text of the bill. We have provided for four clerks of class 4, and we do not desire that there shall be but three. Nor do we wish to give \$2,500 salary to this superintendent of packing and distributing documents; we propose to give him \$1,800. I do not think we should strike down one clerk in order to increase the salary of another man to whom we propose to give \$1,800.

Mr. CHALMERS. In order to reply to the gentleman, I move to amend the amendment by striking out the last word. I want to say that the Committee on Appropriations have increased these clerks of class 4 from two to four, and this is not the only increase of clerical force; there are other additions all through this part of the bill. The law as passed by the last Congress allowed but two clerks of class 4; the committee now propose to authorize four. Three clerks were just now added in line 1417; and in line 1418 the committee have added two messengers not included under the law as adopted by the last Congress. An examination of this bill will show that the committee have increased expenditures in this Department \$20,000.

Now, I insist that my motion is in the interest of economy. If one clerk will do the duty now expected to be done by two, and will receive \$700 less than will be paid if the work is done by two, I see no reason why we should stick to the text of the bill.

The amendment was not agreed to.

Mr. CONGER. I wish to ask a question of the chairman of the Committee on Appropriations. I see no provision for a solicitor of the Interior Department, and I observe that the committee in providing for the office of the Attorney-General have reduced by one the number of assistant attorneys-general. There is an assistant attorney-general provided by law, I think, who is Solicitor of the Interior Department. I inquire whether it is intended to abolish that office?

Mr. DURHAM. There has never been a solicitor for the Interior Department.

Mr. CONGER. But there is an assistant attorney-general who acts as solicitor.

Mr. DURHAM. And he still remains there.

Mr. CONGER. But I understand there is a reduction of one. I did not know but that it had reference to this Department.

Mr. DURHAM. The committee recommended the restoration of three instead of two.

Mr. ATKINS. It is provided for in another part of the bill.

The Clerk read, under the heading of "Department of the Interior," as follows:

For superintendent of the same, \$1,400; and sections 507 and 450 of the Revised Statutes are hereby repealed.

Mr. ATKINS. I am instructed by the committee to move to strike out what has just been read and in lieu thereof to insert the following:

For the salary of superintendent of the same, \$1,800; and so much of section 507 of the Revised Statutes as provides for such salary and section 450 of the Revised Statutes are hereby repealed.

The amendment was adopted.

The Clerk read as follows:

For rent of one building for use of the Pension Office and for the Bureau of Education, \$14,000.

Mr. ATKINS. I move to insert, after line 1436, the following:

For rent of the building at the northeast corner of Eighth and G streets, known as Wright's building, \$7,500.

Mr. WAIT. Do you change the location?

Mr. ATKINS. Not at all.

The amendment was adopted.

The Clerk read as follows:

General Land Office:

For the Commissioner of the General Land Office, \$4,000; chief clerk, \$2,000; law clerk, \$2,000; recorder, \$2,000; three principal clerks, at \$1,800 each; five clerks of class 4, eighteen clerks of class 3, thirty-five clerks of class 2, sixty clerks of class 1, twenty-six clerks, at \$1,000 each; one draughtsman, \$1,600; one assistant draughtsman, \$1,400; three assistant messengers, two pages, at \$450 each; eight laborers and two packers; in all, \$212,560: *Provided*, That the Secretary of the Interior, in his discretion, shall be and he is hereby authorized to use any portion of said appropriation for piece-work, or by the day, month, or year, at such rate or rates as he may deem just and fair, not exceeding a salary of \$900 per annum.

Mr. DUNNELL. I move to strike out in line 1452, after the word "four," down to line 1453, to the word "one," and in lieu thereof to insert "twenty-two clerks of class 3, forty clerks of class 2, and seventy clerks of class 1."

Mr. Chairman, the bill now pending reduces the clerical force in the Land Office, in the three classes named in my amendment, nineteen clerks. There were in the last appropriation bill twenty-two clerks of class 3, forty clerks of class 2, and seven clerks of class 1, this bill making, as I have already stated, a reduction of nineteen clerks in the General Land Office. I desire to call the attention of the committee to the very great wrong which will be done to the material interests of the country if this bill is allowed to pass with the large reduction here proposed to be made.

I was amazed to ascertain, as I did this morning at the office of the Commissioner of the General Land Office, that to-day we have about twenty clerks less than we had in the Land Office in 1855. They have twenty clerks less force than they had in 1853.

Now, Mr. Chairman, with me you will realize the immense increase in the business of the General Land Office in the last twenty-five years, and I am utterly astonished that this department is able to run with the small force now there when I consider the amount of business it has to do. I have a statement of the number of clerks who have been there since 1855. We had in that year one hundred and eighty-one clerks; and I desire the gentlemen who have charge of this bill shall give attention to these statistics. In 1855 the administration of the Government was with the other side of the House, and there were then one hundred and eighty-one clerks in the General Land Office. Consider the fact that in 1853 but three land grants had been made, while since then there have been made eighty-four. There are one hundred and fourteen acts of Congress relating to public lands passed since 1853 when the office for which we are now legislating had one hundred and eighty-one clerks. It is now proposed to give it one hundred and forty-two. In no branch of the Government has there been such a reduction in clerical force as in the General Land Office, and to-day, while a great deal has been said about the Surgeon-General's Office, and rightfully perhaps, but it is a little more popular, and about which more have desired to speak for home consumption, but there is no department to-day that is suffering from the want of clerical force as this.

There are gentlemen from the Southern States who know this as a result of the act of the last Congress throwing open certain public lands for settlement and sale in the South. That act was rendered inoperative and absolutely void until this House passed a special provision to help the Department out. The current correspondence with the Department to-day is six months behindhand; that is, letters written six months ago cannot be answered because there is such lack of clerical force.

I desire to make these tables a part of my remarks. They show that in 1855 there were one hundred and eighty-one clerks. The largest number was in 1867, one hundred and eighty-four. Now this bill reduces the number down to one hundred and forty-two.

I desire also to call the attention of the committee to this fact: since 1855 there never has been such an immigration into the West as during the present year. In the single State of Minnesota, within the last six months, two million five hundred thousand acres of railroad and public lands have been entered under the homestead and pre-emption acts.

[Here the hammer fell.]

Mr. JOYCE obtained the floor and yielded five minutes to Mr. DUNNELL.

Mr. DUNNELL. Within the past month of March in the land office of the State of Minnesota five hundred and fifty thousand acres of the public lands have been entered under the homestead, pre-emption, and timber-culture laws. Now it can very readily be seen that this large settlement of the Territories and of the frontier States will devolve upon the General Land Office a large amount of increased business. Within the past fifteen years the Territories of the country—and you have only to turn your eyes to the map on the wall to see how vast the territorial section of the country is—have been surveyed and are now being surveyed. There is work to-day in this office that ought to have been done fifteen years ago. There are unsettled matters relating to the swamp-land acts that affect to-day the State of Illinois; and the Commissioner of the Land Office says that he could employ a hundred men for an entire year in adjusting matters that have been left entirely alone for the last fifteen years for the want of clerical force.

Further than this, the committee should remember that the mining acts of Congress which have passed since 1853 call for clerical work equal to at least one-third of the work in the entire office in 1853. Again, the land grants to States and Territories during this period

amount to over two hundred millions of acres, when prior to that time they were but twenty millions of acres. Again, the great homestead act has been passed since 1853 and under it hundreds of thousands of quarter sections have been entered, calling for adjudication of claims and the issuance of patents. Time fails me to draw a comparison between the work of the General Land Office in 1853 and 1858.

Mr. Chairman, it ought to be realized by this House that a vast army of men, heads of families, who are holding their title to their homesteads issued by the Commissioner of the General Land Office, cannot get out their patents. I am in receipt every day of letters begging me to go to the Land Office and get a patent for a piece of land that was proved upon one, two, and three years ago. They have not the ability to answer the demands made upon them in that Department, and there is no Department in which there is better work and harder work done.

And I say, Mr. Chairman, that it is not quite right for the gentleman from Tennessee or the gentleman from Kentucky to say that the business of the committee is to see with how small an amount of money the Government can be run. That is not the question. The question, I would say to the gentleman, is how well it can be run. And if it takes one hundred and ninety clerks to run that Department, why reduce the force to one hundred and forty-two?

The gentleman from Kentucky and the gentleman from Tennessee will admit with me to-day that the business in the General Land Office in 1853 was as nothing compared with the land-office business at the present time. They know it. They cannot deny it. It cannot be denied by anybody. And yet they had one hundred and eighty-one clerks then, and it is now proposed to give them one hundred and forty-two.

I have here also some other statistics in connection with this to which, before the hammer falls, I would like to call the attention of the committee. In 1858, under a democratic administration, the contingent expenses of the Land Office were \$83,600. In the next year, 1859, the contingent expenses of the office were \$76,600. Last year they were \$27,500, and this year \$21,500; only 25 per cent. of what they were in 1858 and 1859. No one who knows the present officers of that Department will say that they are not competent or faithful to their trust.

[Here the hammer fell.]

The following are the tables referred to in Mr. DUNNELL's remarks:

Statement showing number of employés of the General Land Office from 1855 to 1877.

Year.	Number of employés.	Year.	Number of employés.
1855.....	181	1867.....	184
1856.....	182	1868.....	184
1857.....	182	1869.....	184
1858.....	184	1870.....	171
1859.....	184	1871.....	171
1860.....	184	1872.....	171
1861.....	184	1873.....	171
1862.....	184	1874.....	171
1863.....	184	1875.....	206
1864.....	184	1876.....	161
1865.....	184	1877.....	161
1866.....	184		

Statement showing the contingent expenses and salaries of the General Land Office from 1858 to 1878, as derived from United States Statutes.

Year.	United States Statutes, volume and page.	Contingent.	Salaries.
1858.....	Volume 11, page 211....	\$83,600	\$230,490 00
1859.....	Volume 11, page 301....	76,600	231,090 00
1860.....	Volume 11, page 415....	65,000	223,090 00
1861.....	Volume 12, page 96.....	44,000	232,290 00
1862.....	Volume 12, page 136....	44,000	233,840 00
1863.....	Volume 12, page 300....	32,000	233,840 00
1864.....	Volume 12, page 699....	4,000	233,840 00
1865.....	Volume 13, page 151....		233,840 00
1866.....	Volume 13, page 451....		236,840 00
1867.....	Volume 14, page 197....		234,080 00
1868.....	Volume 14, page 447....		226,840 00
1869.....	Volume 15, page 100....	10,000	226,840 00
1870.....	Volume 15, page 291....	8,000	226,840 00
1871.....	Volume 16, page 243....	10,000	224,360 00
1872.....	Volume 16, page 467....	30,000	224,360 00
1873.....	Volume 17, page 75.....	30,000	224,360 00
1874.....	Volume 17, page 563....	30,000	224,360 00
1875.....	Volume 18, page 103....	30,000	224,360 00
1876.....	Volume 18, page 364....	30,000	278,093 33
1877.....	Volume 19, page 163....	27,500	213,640 00
1878.....	Volume 19, page 313....	21,500	223,640 00

Mr. ATKINS. I have but a word to say in regard to this matter. I am aware that the work of the Land Office is growing. I will admit that; and we have in this bill proposed to give the Land Office seven additional clerks and laborers together over and above what

